2026 IL App (1st) 262203-U
No. 1-26-2203
Order filed October 13, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

FIFTH DIVISION

DAWN DAVIS; JOHN R. DAVIS, III, not individually but as trustee of the John R. Davis III Revocable Trust dated April 30, 2014 and the John Davis Trust u/a/d December 19, 2012; and RICHARD DAVIS, individually, as trustee of the Richard Davis Stock Trust u/a/d December 19, 2012; and each derivatively on behalf of Davis Bancorp, Incorporated, Plaintiff-Appellants,

v.

JOHN R. DAVIS, JR. and DAVIS BANCORP, INCORPORATED, Defendant-Appellees

Appeal from the Circuit Court of Cook County.
Honorable David B. Atkins, Judge, Presiding.
No. 2024-CH-10101

JUSTICE WILSON delivered the judgment of the court.
Justices C.A. Walker and Donnelly concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court did not abuse its discretion in denying the defendant's motion for a temporary restraining order.

¶ 2 This interlocutory appeal arises from a dispute over the ownership and control of Davis Bancorp, Incorporated (DBI), and defendant John R. Davis Jr.'s (John Jr.) alleged misuse of DBI's assets. Plaintiffs Dawn Davis (Dawn), John R. Davis III (John III), and Richard Davis (Richard) moved for a temporary restraining order (TRO) to prevent further dissipation of DIB's assets while their separate motion to appoint an interim receiver was pending. The circuit court denied the TRO,

finding no need for immediate injunctive relief and no apparent reason any losses could not be recovered through monetary damages if plaintiffs prevailed. Plaintiffs appeal pursuant to Illinois Supreme Court Rule 307(d) (eff. Oct. 15, 2026). We affirm.

¶ 3 I. BACKGROUND

¶ 4 DBI is an Illinois corporation established in 1992 that provides armored-car, ATM, and currency-handling services to financial institutions and other businesses. DBI has operated as a family business involving Dawn, her husband John Jr., their sons, John III and Richard, and John Jr.'s daughter from a prior marriage, Melissa Davis. Dawn and John Jr. were DBI's only directors until December 2024. Dawn served as corporate secretary, John Jr. as chief executive officer, John III as president, and Richard as executive vice president.

¶ 5 According to plaintiffs, the events leading to this litigation began in October 2024, when Dawn learned that John Jr. had engaged in extramarital relationships with DBI employees. Dawn subsequently filed for divorce in the circuit court of Cook County, where that proceeding remains pending. In re Marriage of Davis, No. 2024-D-7900 (Cir. Ct. Cook County). Around that time, plaintiffs reviewed DBI's financial records and allegedly discovered substantial payments that served no legitimate business purpose and lacked board authorization. These payments included approximately $1.09 million to a longtime employee, $1.08 million to John Jr.'s former wife Laura Davis, hundreds of thousands of dollars to other women (including current and former employees), and payments to John Jr. himself.

¶ 6 Plaintiffs further allege that, after they questioned these expenditures, John Jr. claimed majority control of DBI based on a purported 2016 assignment of Dawn's Class A voting shares, representing 51% of DBI's voting stock, to himself. Dawn denies signing the assignment, asserting

that she underwent surgery in Florida the day it occurred. John Jr. maintains that she signed it in his presence before the procedure.

¶ 7 Plaintiffs further allege that John Jr. relied on his claimed majority ownership to oust them from their positions at DBI and deny their ownership interests. He terminated their employment and subsequently called a special shareholders' meeting, where he purported to remove Dawn from the board and replace her with his brother, Thomas Davis. John Jr. has also taken the position that John III surrendered his shares and that Richard transferred his shares to Dawn. Plaintiffs dispute both claims.

¶ 8 Plaintiffs commenced this action in November 2024. Their second-amended complaint contains five counts seeking declarations concerning ownership of the disputed DBI shares (counts I through V) and a derivative count alleging that John Jr. breached his fiduciary duties by misappropriating and wasting DBI's assets (count VI).

¶ 9 On May 4, 2026, plaintiffs filed a verified motion to appoint an interim receiver and an emergency motion for a TRO. The TRO was meant to restrain further dissipation of DBI's assets while the court considered the receivership motion. Plaintiffs alleged that, after removing them from their positions, John Jr. exercised unilateral control over DBI's finances and used corporate funds for his own benefit. Among other things, they alleged that he doubled his annual compensation from approximately $800,000 to $1.6 million beginning in November 2024, received an additional $540,000 outside regular payroll between January and April 2025, and obtained another $1,193,000 in purported shareholder loans between May and December 2025.

¶ 10 Plaintiffs also alleged that John Jr. charged more than $450,000 to DBI's credit card, including a $59,000 jewelry purchase and charges for travel, restaurants, and other personal expenses. They further alleged that he caused DBI to pay approximately $495,441 in 2025 for

work on a boat they described as his personal boat and used corporate funds to benefit women with whom he had personal relationships. Plaintiffs maintained that the expenditures threatened DBI's solvency and that John Jr. lacked sufficient assets to satisfy a judgment against him.

¶ 11 On June 1, 2026, the circuit court declined to hear the TRO motion on an emergency basis. The court observed that the alleged misuse of corporate assets had "been part of an ongoing pattern for well over a year (and essentially since this matter's inception)" and found "no compelling reason to consider it an emergency now, many months later and after numerous motions in the interim." The court permitted the TRO motion to be briefed in connection with the receivership motion.

¶ 12 In later briefing, plaintiffs cited new financial records that, they asserted, showed continued misuse of DBI's assets in 2026. Those records included $475,000 in payments to John Jr. outside regular payroll between February 2 and April 17 and another $251,407 in transfers to him between May 7 and June 5, after the TRO motion was filed. Plaintiffs also identified additional alleged personal expenditures on DBI's credit cards, including travel, luxury retail purchases, and entertainment.

¶ 13 John Jr. denied that these transactions constituted misappropriation. He asserted that the 2026 transfers were advances on his shareholder-loan account, recorded on DBI's ledger and approved by a director he described as disinterested. He maintained that the advances were used to satisfy obligations imposed by the divorce court, including payment of plaintiffs' legal fees in this action, as well as his own and DBI's litigation expenses. Although he acknowledged charging personal expenses to DBI's credit cards, he maintained that those charges were accounted for as amounts owed to DBI through his shareholder-loan account. He also pointed to DBI's reported net income of $388,518 for the first half of 2026.

¶ 14 On October 28, 2026, the circuit court heard argument on the pending motions. The court deferred consideration of the receivership motion and set it for further argument on December 17, 2026.

¶ 15 The next day, the court entered a written order denying the TRO motion, finding no need for immediate relief to prevent irreparable harm. The court explained that plaintiffs relied largely on the same alleged self-dealing and personal expenses that had continued since the case began and "certainly since the Motion itself was filed over five months prior to the instant hearing."

¶ 16 The court also noted plaintiffs' assertion that John Jr. received a salary exceeding $1 million per year and concluded that there was "no apparent reason to believe they will not be able to recover any loss should they be successful." Although the court found that plaintiffs had "raised a likelihood of success on the merits," it saw no need for an injunction before further consideration and resolution of the receivership motion.

¶ 17 Plaintiffs timely filed notice of interlocutory appeal and petition on November 2, 2026. We have jurisdiction under Illinois Supreme Court Rule 307(a)(1), (d)(1) (eff. Oct. 15, 2026), which provides for expedited interlocutory review of orders granting or denying temporary restraining orders.

¶ 18 II. ANALYSIS

¶ 19 Before reaching the merits, we address plaintiffs' failure to provide a report of proceedings from the October 28, 2026, hearing. An appellant bears the burden of presenting a sufficiently complete record to establish the claimed error. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391–92 (1984). Absent such a record, we presume that the circuit court's ruling conformed with the law and had a sufficient factual basis, resolving any doubts arising from the incomplete record against the appellant. *Id.* at 392.

¶ 20 But an incomplete record does not require dismissal or summary affirmance "where the issues can be resolved on the record as it stands." *Villa Dubois, LLC v. Sabeel El*, 2020 IL App (1st) 190182, ¶¶ 21–22. Here, the parties have submitted an extensive supporting record, and the circuit court's written order states its grounds for denying the TRO. We therefore address the merits, resolving any doubts arising from the incomplete record against plaintiffs. *Foutch*, 99 Ill. 2d at 392.

¶ 21 A TRO is an extraordinary remedy intended to preserve the status quo pending further proceedings. *Delgado v. Board of Election Commissioners of the City of Chicago*, 224 Ill. 2d 481, 483 (2007). Such relief is appropriate where an emergency exists and serious harm would otherwise result. *Callis, Papa, Jackstadt & Halloran, P.C. v. Norfolk & Western Ry. Co.*, 195 Ill. 2d 356, 365–66 (2001). The movant must raise a fair question concerning (1) a clearly ascertainable right requiring protection, (2) irreparable injury without an injunction, (3) the absence of an adequate remedy at law, and (4) a likelihood of success on the merits. *Mohanty v. St. John Heart Clinic, S.C.*, 225 Ill. 2d 52, 62 (2006).

¶ 22 On appeal, our inquiry is limited to whether the movant has made a *prima facie* showing that a "fair question" exists as to each required element and that preserving the status quo is warranted until the case can be decided on the merits. *Travelport, LP v. American Airlines, Inc.*, 2011 IL App (1st) 111761, ¶ 33. The showing must rest on facts, not mere opinions or conclusions. *Somer v. Bloom Township Democratic Organization*, 2020 IL App (1st) 201182, ¶ 20. At this preliminary stage, we do not resolve controverted rights or facts or determine the merits of the case. *Buzz Barton & Assocs., Inc. v. Giannone*, 108 Ill. 2d 373, 386 (1985).

¶ 23 We review the denial of a TRO for an abuse of discretion. *Mohanty*, 225 Ill. 2d at 62–63. A court abuses its discretion only when its ruling is arbitrary, fanciful, or unreasonable, or when

no reasonable person would take its view. *Seymour v. Collins*, 2015 IL 118432, ¶ 41. We ask only whether the record supports the denial of interim relief, not whether plaintiffs will ultimately prevail. *Callis*, 195 Ill. 2d at 366.

¶ 24 In this case, plaintiffs primarily contend that John Jr.'s continuing depletion of DBI's assets constitutes irreparable harm that monetary damages cannot adequately remedy. They maintain that discovery revealed more than $2.4 million in payments and advances to John Jr. beyond his regular salary between January 2025 and June 2026. Of that amount, $251,407 was allegedly transferred after they filed the TRO motion. In plaintiffs' view, these transactions show an ongoing pattern of self-dealing that threatens DBI's assets before their claims can be resolved. We disagree and conclude that the circuit court acted within its discretion in denying immediate relief.

¶ 25 The irreparable-harm and adequate-remedy requirements overlap. An injury is irreparable when the injured party cannot be adequately compensated in damages or when damages cannot be measured by a certain pecuniary standard. *Wilson v. Wilson*, 217 Ill. App. 3d 844, 855 (1991). A continuing course of conduct may qualify if it recurs so constantly and frequently that no redress can be had at law. *Id*. A remedy at law is adequate if it is "clear, complete, and as practical and efficient to the ends of justice and its prompt administration as the equitable remedy." *Id*. at 856.

¶ 26 The possibility that the case will end in a money judgment does not itself bar interim relief but interim relief is unwarranted where damages would make the plaintiff whole. *Ron & Mark Ward, LLC v. Bank of Herrin*, 2024 IL App (5th) 230274, ¶ 62. "Where the only remedy sought at trial is damages, the two requirements—irreparable harm, and no adequate remedy at law—merge. The question is then whether the plaintiff will be made whole if he prevails on the merits and is awarded damages." (Internal quotation marks omitted.) *Id*. (quoting *Roland Machinery Co. v. Dresser Industries, Inc.*, 749 F.2d 380, 386 (7th Cir. 1984)).

¶ 27 Plaintiffs rely principally on *Greenspan v. Mesirow*, (138 Ill. App. 3d 294 (1985)), arguing that John Jr.'s alleged misconduct constitutes irreparable harm because it involves "transgressions which are of a continuing nature" and that monetary damages are inadequate where preventing the ongoing dissipation of assets would be more practical and efficient than seeking compensation afterward. *Id.* at 300. We are unpersuaded that *Greenspan* required the circuit court to grant relief here.

¶ 28 In that case, two trustees of family trusts, who also served as directors of a related family fund, used trust and fund assets to pay their legal expenses while defending allegations of fiduciary misconduct. *Id.* at 295. The circuit court dissolved an existing TRO and denied a preliminary injunction after accepting the defendants' personal bonds to repay the funds if ultimately found liable. *Id*. This court reversed, first determining that the defendants were not legally entitled to advance payment of their litigation expenses. *Id*. at 296–99. We then held that the continuing withdrawals constituted irreparable injury and that the defendants' assurances of repayment did not provide an adequate remedy at law. *Id*. at 299–301.

¶ 29 *Greenspan*, however, is distinguishable. There, we determined from the governing corporate and trust provisions that the challenged advances were unauthorized as a matter of law. *Id.* at 296–99. No comparable determination is available here. Whether the challenged payments and advances were properly authorized, subject to repayment, or fair to DBI depends on disputed factual questions. Those questions are further complicated by the underlying ownership dispute, in which Dawn alleges that John Jr. improperly transferred her shares to himself to obtain majority control of DBI. Unlike in *Greenspan*, resolving these questions would require determinations of disputed facts and rights beyond the limited purpose of a TRO proceeding. See *Buzz Barton*, 108

Ill. 2d at 386 (interim injunctive relief is not meant "to determine controverted rights or to decide controverted facts or the merits of the case").

¶ 30 We recognize that plaintiffs were not required to establish their ultimate entitlement to relief. They needed only to raise a "fair question" concerning their claimed right and demonstrate that preserving the status quo was warranted pending a decision on the merits. *Id.* at 382, 386. But they still had to make a sufficient showing of irreparable harm and the lack of an adequate remedy at law. *Id.* at 386–87.

¶ 31 The circuit court could reasonably find that showing insufficient, particularly given plaintiffs' delay in seeking interim relief. Delay bears on whether an emergency warrants immediate intervention. See *Naxon Telesign Corp. v. Selig*, 38 Ill. App. 2d 242, 244 (1962) (affirming the denial of a temporary injunction where the plaintiff waited nearly a year after filing suit "without a sufficient showing of some excuse for the delay").

¶ 32 Plaintiffs filed this action in November 2024, alleging misappropriation of DBI funds. By April 2025, their second amended complaint alleged that John Jr. had made "large and extraordinary payments to himself" without board approval. Yet plaintiffs did not seek a TRO until May 4, 2026, and their motion rested principally on payments made in 2025. The circuit court noted as much, observing that the alleged self-dealing had been ongoing "since the case's inception."

¶ 33 Plaintiffs explain that the full extent of the payments emerged only through discovery. They rely on *Home Savings & Loan Ass'n of Joliet v. Samuel T. Isaac & Associates, Inc.*, 99 Ill. App. 3d 795, 797, 801 (1981), which rejected the argument that a seven- to 10-month delay" negated the urgency needed for equitable relief because the emergency "evolved over a period of time." But *Home Savings* affirmed a decision granting relief and deferred to the circuit court's discretion in

doing so. *Id.* It shows that a court may grant relief despite delay, not that it must. The same deferential standard governs our review here, where the circuit court reached the opposite conclusion on this record.

¶ 34 The 2026 payments plaintiffs identified were of the same nature as those alleged for 2025. Plaintiffs do not explain how the transactions disclosed in discovery materially heightened the threat to DBI or otherwise created a need for immediate restraint. The circuit court could reasonably view them, even in their cumulative amount, as a continuation of the alleged misconduct rather than a new or heightened emergency.

¶ 35 Nor did the parties' competing evidence concerning DBI's financial condition compel immediate relief. Plaintiffs presented evidence of losses in 2024 and 2025, which they attribute to John Jr.'s conduct. Defendants, on the other hand, presented evidence that DBI reported net income of $388,518 during the first half of 2026. Although we do not resolve the disputed causes or significance of those results, the competing evidence did not compel a finding that DBI faced imminent insolvency or other injury requiring immediate intervention.

¶ 36 Plaintiffs also contend that John Jr. would be unable to satisfy a future judgment. They primarily challenge the circuit court's reliance on his annual DBI salary exceeding $1 million, arguing that this income would cease if he were found liable and removed as an officer. They also cite to his January 2025 financial affidavit, which they maintain shows expenses and debts exceeding his income; real estate that secures a line of credit but is subject to division in the pending divorce proceeding; and his reliance on DBI advances to meet personal and divorce-related obligations. Defendants respond that the same affidavit reflects substantial monthly income and real-estate equity.

¶ 37 Plaintiffs rely on *Keeshin v. Schultz*, 128 Ill. App. 2d 460, 469 (1970), which recognized a court's "duty, when requested, to attempt preservation of the property or fund in controversy so that ultimate success by plaintiffs may not result in a meaningless victory." But *Keeshin*, like *Home Savings*, affirmed the circuit court's exercise of discretion in granting equitable relief. Moreover, summary judgment on liability had already been entered against one defendant. *Id.* at 467–69. Plaintiffs' remaining authorities likewise affirmed equitable relief on more fully developed records. See *Bowman Shoe Co. v. Bowman*, 21 Ill. App. 2d 423, 440–41 (1959) (affirming, as modified, a temporary injunction barring payment of officers' salaries, entered after a multiday evidentiary hearing); *Frederickson v. Blumenthal*, 271 Ill. App. 3d 738, 741–42 (1995) (affirming the imposition of a constructive trust over a savings account after a bench trial on stipulated facts).

¶ 38 In any case, we agree that the circuit court's reliance on John Jr.'s annual salary exceeding $1 million does not, standing alone, establish his ability to satisfy a future judgment. That income derives from DBI and may not continue if plaintiffs prevail. Nevertheless, we may affirm the circuit court's ruling on any basis supported by the record, regardless of its stated reasoning. *Lake Environmental, Inc. v. Arnold*, 2015 IL 118110, ¶ 16.

¶ 39 The record supports the conclusion that plaintiffs had not sufficiently established the absence of an adequate legal remedy. Their argument rests largely on two anticipated outcomes: that John Jr. will lose this litigation and, with it, his DBI income and access to corporate advances; and that the divorce court will divide the marital assets in a manner that leaves him unable to satisfy a judgment. Although the circuit court's finding of a likelihood of success lends some support to the first premise, John Jr.'s asserted inability to satisfy a judgment remains speculative, particularly because the division of marital assets is unresolved in a separate proceeding. Apart from his DBI income and stock, his financial affidavit lists jointly owned real estate with approximately $6

million in equity and vehicles worth more than $100,000. Given these assets and the uncertainty surrounding their ultimate disposition, the circuit court could reasonably find plaintiffs' showing insufficient.

¶ 40 Finally, the limited duration of the requested relief provides further support for the circuit court's decision. The proposed TRO would have remained in effect until the court ruled on the receivership motion, which was set for further argument on December 17, 2026, approximately seven weeks after the TRO was denied. That motion addresses the same alleged conduct and seeks interim control over DBI's finances. The court reasonably considered that those disputes would be resolved in the receivership proceeding, on a fuller record, rather than through overlapping emergency restraints in the meantime.

¶ 41 We express no view on the merits of plaintiffs' claims in their second amended complaint, whether an interim receiver should be appointed, or whether future interim relief may become appropriate. Nothing in this order limits the circuit court's authority to grant such relief as circumstances warrant. We hold only that the circuit court did not abuse its discretion in denying the TRO.

¶ 42 III. CONCLUSION

¶ 43 For the reasons stated, we affirm the judgment of the circuit court of Cook County.

¶ 44 Affirmed.