

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

JOHN L AMARO

Plaintiff,

v.

ASTAR AIR CARGO, INC., et al.,

Defendants.

Case No. CV 10-156-N-BLW

**MEMORANDUM DECISION
AND ORDER**

MEMORANDUM DECISION

The Court has before it a motion by defendant Astar to continue the hearing on the motion for preliminary injunction filed by plaintiff Amaro. The hearing is set for May 25, 2010, to determine whether the Court's TRO enjoining Astar from cancelling Amaro's COBRA coverage should be dissolved or expanded into a preliminary injunction. Astar seeks additional time to explore settlement and investigate a matter explained below.

Amaro objects to any continuance because he believes Astar may try to terminate his coverage in the interim. He points to an Astar letter – dated two days after the TRO was issued – stating that the portion of his policy that reimbursed him for travel and lodging “has been termed.” *See Exhibit to Affidavit of Amaro.*

Memorandum Decision & Order - 1

The letter goes on to state that reimbursement would be made only through December 17, 2009, which might mean that this provision of the policy was “termed” near the end of 2009 rather than after the TRO was issued. That is not clear, however, and counsel have informed the Court that they are investigating this matter.

The Court’s TRO was issued to ensure that no portion of Amaro’s COBRA coverage is reduced, modified, “termed”, cancelled, or changed in any way until the preliminary injunction motion is resolved. Because the Court will not permit Astar to take any such action, there is no reason to fear that Astar will terminate Amaro’s coverage before the hearing. The Court will obviously be very interested in the outcome of the investigation by counsel into Astar’s conduct.

Examining all the circumstances, the Court finds that a continuance is warranted. Amaro states that he is unavailable until September of 2010. Accordingly, the Court will set the hearing for September 8, 2010, at 8:30 a.m. in the Federal Courthouse in Coeur d’Alene, Idaho.

ORDER

In accordance with the Memorandum Decision set forth above,
NOW THEREFORE IT IS HEREBY ORDERED, that the motion to continue (docket no. 28) is GRANTED.

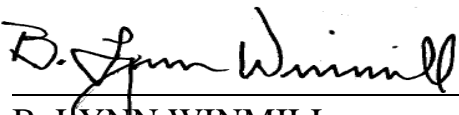
IT IS FURTHER ORDERED, that the hearing on preliminary injunction now set for May 25, 2010, is VACATED.

IT IS FURTHER ORDERED, that a new hearing on preliminary injunction be set for **September 8, 2010, at 8:30 a.m.** in the Federal Courthouse in Coeur d'Alene.

IT IS FURTHER ORDERED, that the Temporary Restraining Order (TRO) presently in place (docket no. 12) enjoins Astar from cancelling, reducing, modifying, terming, or changing in any way any portion of Amaro's COBRA coverage, and shall remain in effect until the preliminary injunction issue is resolved.



DATED: **May 20, 2010**



B. LYNN WINMILL
Chief Judge
United States District Court