IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ALEJANDRO MORALES RENTERAL,	)	
	)	
Plaintiff,	)	
vs.	)	Case No. 23-cv-2191-TC-TJJ
	)	
JNB TRANSPORT, LLC,	)	
BLUE FREIGHT LOGISTICS, INC.,	)	
AND LUIS ORLANDO GUTIERREZ-GUEVARA	)	
	)	
Defendants.	)	

ORDER EXTENDING TEMPORARY RESTRAINING ORDER

On May 16, 2023, the court conducted a hearing via Zoom videoconference on Plaintiff's request for preliminary injunction. Plaintiff appeared through counsel, Jeffrey A. Wilson. All Defendants appeared through counsel, Kevin McMaster.[1] After hearing from the parties, the court enters the following Order:

1. Defendants object to Plaintiff's request for preliminary injunction arguing, among other things, this court lacks subject matter jurisdiction. Defendants contend Plaintiff has not satisfied the requirement of 28 U.S.C. § 1332(a) to show "the matter in controversy exceeds the sum or value of $75,000, exclusive of interest and costs," so as to establish diversity jurisdiction in this case. Defendants' deadline to answer or file a pleading in response to Plaintiff's Complaint pursuant to Fed. R. Civ. P. 12(b) has not yet expired.[2]

[1] Mr. McMaster entered his appearance on May 16, 2023, prior to the court's hearing. The court finds that Defendants, through their counsel of record, were provided proper and timely notice of the May 16, 2023 hearing.

[2] At the time of the hearing, counsel were not aware of the date(s) on which the Defendants were served but believed the service date(s) was/were on or about May 8, 2023.

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2. Given the jurisdictional issue raised by Defendants, rather than rule on the request for preliminary injunction at this time, the court finds good cause to extend the Temporary Restraining Order (ECF No. 9) entered on May 4, 2023 to allow Defendants time to file a motion to dismiss with proper legal authorities asserting their subject matter jurisdiction defense prior to final hearing on the motion for preliminary injunction. Pursuant to Fed. R. Civ. P. 65(b)(2) and with the consent of Defendants, the court extends the Temporary Restraining Order (ECF No. 9) —temporarily enjoining and restraining Defendants from destroying, deleting or altering, and ordering Defendants to preserve, all items, documents, information and ESI listed in the TRO in their possession, custody, or control—until **June 14, 2023**.[3] The court will continue the preliminary injunction hearing to June 14, 2023, as well.

3. During the May 16th hearing, the court also requested updates from counsel. Defendants' counsel advised that the dashcam and black box from the truck at issue in the subject accident are currently in his custody. Pursuant to the TRO, the truck's dashcam and black box are to be preserved in their current condition, and the court orders that they shall remain in Mr. McMaster's custody until the parties reach an agreement regarding the downloading and preservation of the ESI contained therein or until otherwise ordered by the court.

4. The court instructed counsel to confer in good faith regarding an ESI Protocol to govern all electronic discovery in the case, including specifically the logistics and timing of the

[3] At the May 16th hearing, Defendants agreed to the extension to June 14, 2023, which is more than 14 days from entry of the Temporary Restraining Order, in order to allow Defendants sufficient time to file a motion to dismiss before final hearing on Plaintiff's request for preliminary injunction. Defendants therefore also agreed, if they are going to file a motion to dismiss based upon lack of subject matter jurisdiction, they will do so prior to June 14, 2023. Counsel for the parties also briefly discussed the possibility that further continuance of the preliminary injunction hearing might be necessary if Defendants do file a motion to dismiss, in order to allow the motion to be fully briefed prior to hearing. However, no agreement was reached regarding this during the hearing.

imaging of the cell phone and devices at issue, and for downloading the truck dashcam and black box ESI.

5. Counsel shall be prepared to report on the status of their proposed ESI Protocol at the next hearing, unless they submit their proposed ESI protocol to the undersigned's chambers prior to the hearing.

6. The preliminary injunction hearing is continued to **June 14, 2023 at 1:30 PM, in person,** before the Honorable Toby Crouse, United States District Judge, in Courtroom 401 of the Federal Courthouse located at 444 S.E. Quincy, Topeka, Kansas 66683.

IT IS SO ORDERED.

Dated May 18, 2023, at Kansas City, Kansas.

Teresa J. James
U. S. Magistrate Judge