

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ANTHONY ABUZEIDE, Special  
Administrator for the Estate of Jack Berry  
Dane,

Plaintiff,

v.

OPENROAD AUTO GROUP, INC., a  
Washington corporation d/b/a BELLEVUE  
LAMBORGHINI ROLLS-ROYCE  
BENTLEY,

Defendant.

Case No. C17-583 RSM

ORDER GRANTING PRELIMINARY  
INJUNCTION AND SETTING SECOND  
PRELIMINARY INJUNCTION HEARING

This matter comes before the Court on Plaintiff’s Second Motion for Temporary Restraining Order (“TRO”) and Preliminary Injunction. Dkt #8.

On April 14, 2017, Plaintiff Anthony Abuzeide, Special Administrator for the Estate of Jack Berry Dane (“The Estate”) filed this action. The Estate has since filed two Motions seeking a TRO. The Court granted a TRO in this matter on April 19, 2017, and incorporates by reference the facts discussed in that Order. Dkt. #13. In that TRO Order, the Court set a Preliminary Injunction Hearing for April 27, 2017, and directed the Estate to serve a copy of the Order on Defendant Openroad Auto Group, Inc. (“Openroad”). Openroad has failed to

ORDER GRANTING PRELIMINARY INJUNCTION AND SETTING SECOND  
PRELIMINARY INJUNCTION HEARING - 1

1 respond to these Motions, failed to attend the Preliminary Injunction Hearing, and failed to  
2 contact the Court in any fashion.

3 At the Preliminary Injunction Hearing, the Court learned from the Estate that it had  
4 communicated with Openroad or its agent the previous day, and that Openroad said it was still  
5 gathering records and seeking counsel. Openroad also indicated to the Estate that it would  
6 abide by the current TRO and not transfer the vehicle at issue in this case. Accordingly, the  
7 Court ruled that it would extend the existing TRO to allow Openroad to appear at a Second  
8 Preliminary Injunction Hearing, to be set for May 11, 2017, at 2:30 P.M.<sup>1</sup>

9  
10 However, the Estate also requested at the hearing that the current TRO be modified to  
11 restrain Openroad from transferring possession of the vehicle. The Court believes such an  
12 amendment is proper given the record, but now finds that it cannot extend the existing TRO  
13 and make that modification. Such a modification would fundamentally alter the previous TRO.  
14 Accordingly, the Court will instead consider the Estate's Motion for a Preliminary Injunction as  
15 set forth below and keep the Second Preliminary Injunction Hearing to allow Openroad to  
16 challenge or modify this injunction.  
17  
18

19 To obtain a preliminary injunction, the moving party must show (1) "he is likely to  
20 succeed on the merits, (2) he is likely to suffer irreparable harm in the absence of preliminary  
21 relief, (3) the balance of equities tips in his favor, and (4) an injunction is in the public interest."  
22 *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 24-25, 129 S. Ct. 365, 172 L. Ed. 2d 249  
23 (2008). "[S]erious questions going to the merits and a balance of hardships that tips sharply  
24 towards the plaintiff can support issuance of a preliminary injunction, so long as the plaintiff  
25

---

26 <sup>1</sup> The duration of a temporary restraining order issued without notice may not exceed 14 days but may be extended  
27 once for an additional 14 days for good cause; in addition, the reasons for such an extension must be entered in the  
28 record. Fed. R. Civ. P. 65(b)(2). When a temporary restraining order is issued with notice and after a hearing,  
however, the 14-day limit for such orders issued without notice does not apply. See *Horn Abbot Ltd. v. Sarsaparilla Ltd.*, 601 F. Supp. 360, 368 n.12 (N.D. Ill. 1984). Nevertheless, absent consent of the parties, "[a] court may not extend a 'TRO' indefinitely, even upon notice and a hearing." *Id.*

1 also shows that there is a likelihood of irreparable injury and that the injunction is in the public  
2 interest.” *Alliance for Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011). “Plaintiffs  
3 must establish that irreparable harm is likely, not just possible.” *Id.* at 1131. Given the record  
4 before it, the Court again finds that the Estate has sufficiently demonstrated a likelihood of  
5 success on the merits, made a sufficient showing of irreparable harm, and otherwise shown that  
6 the balance of equities tips in its favor and that an injunction is in the public interest. *See* Dkt.  
7 #13. Taken together, the stronger showing of factors one, three, and four outweigh the weaker  
8 showing as to irreparable harm.  
9

10 Having considered Plaintiff’s Motion, the declarations and exhibits attached thereto,  
11 and the remainder of the record, the Court hereby finds and ORDERS that:  
12

13 (1) Plaintiff’s Second Motion for Temporary Restraining Order and Preliminary  
14 Injunction (Dkt. #8) is GRANTED IN PART as to Plaintiff’s request for a  
15 Preliminary Injunction.  
16

17 (2) Defendant Openroad is RESTRAINED from selling, transferring, or assigning  
18 ownership or title of the Porsche 918 Spyder with VIN WPOCA2A13FS800236, or  
19 otherwise transferring possession of said vehicle, while this litigation is pending  
20 unless otherwise ordered by the Court.  
21

22 (3) Plaintiff’s request for expedited discovery is DENIED at this time.  
23

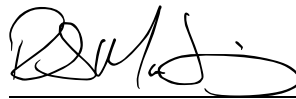
24 (4) A Second Preliminary Injunction Hearing is set for **2:30pm on Thursday, May 11,**  
25 **2017**, before the Honorable Ricardo S. Martinez, where the Court will hear oral  
26 argument from the parties as to any necessary modification of this Order.  
27

28 (5) The matter of bond shall be reserved until the Second Preliminary Injunction  
Hearing.

1 (6) Any supplemental briefing from either party must be filed no later than noon on  
2 Monday, May 8, 2017, and may not exceed twelve (12) pages.

3 (7) Plaintiff must certify with the Court no later than noon on Friday, April 27, 2017,  
4 that it has served this Order on Defendant.  
5

6  
7 DATED this 27<sup>th</sup> day of April 2017.  
8

9  
10 

11 RICARDO S. MARTINEZ  
12 CHIEF UNITED STATES DISTRICT JUDGE  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28