

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

The Hon. Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

XPO LOGISTICS, INC., a Delaware corporation, and XPO LOGISTICS FREIGHT, INC., a Delaware corporation,

Plaintiffs,

v.

THOMAS MICHAJLA,

Defendant.

CASE NO. 2:17-cv-01346-RSL

~~PROPOSED~~ STIPULATED
PRELIMINARY INJUNCTION

Plaintiffs XPO Logistics, Inc. and XPO Logistics Freight, Inc. (together, “XPO”) and Defendant Thomas Michajla (“Defendant”), by and through their undersigned attorneys, stipulate to, and respectfully request that the Court enter, the following Stipulated Preliminary Injunction (the “Order”):

1. To obtain a preliminary injunction, a party must show (1) “that [it] is likely to succeed on the merits,” (2) “that [it] is likely to suffer irreparable harm in the absence of preliminary relief,” (3) “that the balance of equities tips in [its] favor,” and (4) “that an injunction is in the public interest.” *Arc of Cal. v. Douglas*, 757 F.3d 975, 983 (9th Cir. 2014) (quoting *Winter v. NRDC*, 555 U.S. 7, 20 (2008), and *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011)) (internal quotation marks omitted).

~~PROPOSED~~ STIPULATED PRELIMINARY
INJUNCTION - PAGE 1

ANGELI LAW GROUP LLC
121 S.W. Morrison Street, Suite 400
Portland, Oregon 97204
Telephone: (503) 954-2232
Facsimile: (503) 227-0880

1 2. XPO has demonstrated a likelihood of success on the merits of its claims. The
2 information that Defendant forwarded from his XPO company email account to his personal
3 email account likely derives independent economic value, actual or potential, from not being
4 generally known to, and not being readily ascertainable through proper means by, other persons
5 who can obtain economic value from the disclosure or use of the information, and XPO likely
6 has taken reasonable measures to protect the secrecy of such information. Defendant likely
7 misappropriated the information by forwarding it from his XPO company email account to a
8 personal email account and retaining it following the termination of his employment.

9 3. Unless a preliminary injunction is granted on the terms set forth herein, XPO
10 likely will suffer irreparable harm through the use or disclosure of such information.

11 4. The harm to XPO in the absence of a preliminary injunction likely will be
12 significant, in that its interest in maintaining the confidentiality of its trade secrets likely will be
13 irreversibly compromised. Defendant, by contrast, likely will suffer minimal harm, if any, if the
14 proposed preliminary injunction is entered. Thus, the balance of equities favors entry of a
15 preliminary injunction.

16 5. The public interest, which recognizes the protection of trade secrets, favors entry
17 of a preliminary injunction.

18 Accordingly, based on the stipulation of the parties, and for good cause, it is hereby
19 ORDERED as follows:

20 1. Defendant is hereby enjoined from using, disclosing, or accessing any XPO trade
21 secrets currently in his possession, custody, or control, including, but not limited to, (i) any
22 confidential business information related to XPO's customers, revenue, pricing, finances, or
23

1 marketing, and (ii) any information in emails that Defendant forwarded from his XPO company
2 email account to any personal email account under his direct or indirect control.

3 2. Pursuant to Federal Rule of Civil Procedure 65(c), the parties stipulate and agree
4 that XPO need not post a security in connection with this Order.

5 3. A preliminary injunction is “not a final decision on the merits.” *See Los Angeles*
6 *Mem’l Coliseum Comm’n v. Nat’l Football League*, 634 F.2d 1197, 1200 (9th Cir. 1980).

7 Accordingly, nothing in this Order operates or should be construed as a finding or admission by
8 either party concerning any aspect of, and may not be offered as evidence on, the merits of
9 XPO’s claims or Defendant’s defenses.

10 ///

11 ///

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

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

4. This Order shall remain in effect until further order of the Court.

IT IS SO ORDERED.

Dated this ___ day of September, 2017

UNITED STATES DISTRICT JUDGE

So stipulated:

s/
DAVID H. ANGELI, WSBA No. 43741
david@angelilaw.com

s/
EDWARD A. PIPER, Or. Bar No. 141609
(admitted pro hac vice)
ed@angelilaw.com
ANGELI LAW GROUP LLC
121 S.W. Morrison Street, Suite 400
Portland, Oregon 97204
Telephone: (503) 954-2232
Facsimile: (503) 227-0880

s/
RYLAN WEYTHMAN, WSBA No. 45352
FOSTER PEPPER PLLC
1111 3rd Ave Ste 3000
Seattle, Washington 98101
Telephone: (206) 447-6225
Facsimile: (206) 749-2137

Attorneys for Plaintiffs XPO Logistics, Inc.
and XPO Logistics Freight, Inc.

s/
WILLIAM B. FOSTER, WSBA No. 8270
bfosteresq@comcast.net
WILLIAM B. FOSTER, INC., P.S.
1907 Everett Ave.
Everett, WA 98201
Telephone: (425) 776-2147
Facsimile: (425) 776-2140

Attorney for Defendant Thomas Michajla

1 4. This Order shall remain in effect until further order of the Court.

2 IT IS SO ORDERED.

3 Dated this 21st day of September, 2017.

4
5 
6 UNITED STATES DISTRICT JUDGE

7 So stipulated:

8 s/David H. Angeli

9 **DAVID H. ANGELI**, WSBA No. 43741

10 david@angelilaw.com

11 s/Edward A. Piper

12 **EDWARD A. PIPER**, Or. Bar No. 141609

13 (admitted pro hac vice)

14 ed@angelilaw.com

15 ANGELI LAW GROUP LLC

16 121 S.W. Morrison Street, Suite 400

17 Portland, Oregon 97204

18 Telephone: (503) 954-2232

19 Facsimile: (503) 227-0880

20 s/Rylan Weythman

21 **RYLAN WEYTHMAN**, WSBA No. 45352

22 FOSTER PEPPER PLLC

23 1111 3rd Ave Ste 3000

Seattle, Washington 98101

Telephone: (206) 447-6225

Facsimile: (206) 749-2137

Attorneys for Plaintiffs XPO Logistics, Inc.
and XPO Logistics Freight, Inc.

s/

WILLIAM B. FOSTER, WSBA No. 8270

bfosteresq@comcast.net

WILLIAM B. FOSTER, INC., P.S.

1907 Everett Ave.

Everett, WA 98201

Telephone: (425) 776-2147

Facsimile: (425) 776-2140

Attorney for Defendant Thomas Michajla