

IN THE COURT OF COMMON PLEAS FOR MAHONING COUNTY, OHIO

VIVIAN G. KOVEIN :
Plaintiff, :
v. : Case No. _____
DIRECT TRANSIT, INC., et al. : JUDGE _____
Defendants. : REQUEST FOR ORAL HEARING
 : ENDORSED HEREON
 :

PLAINTIFF'S MOTION FOR RESTRAINING ORDER

Plaintiff requests that the Court issue an order requiring Defendants, Direct Transit, Inc., John Doe 1, Administrator of the Estate of Rodger A. Roberts, and John Does 2 through 10, to preserve, maintain, and refrain from destroying, altering, or otherwise mutilating any of the documents identified in Plaintiff's First Request for Production of Documents, including the logbooks of Defendant, Rodger A. Roberts, to make such documents available for copying and inspection at a time and place mutually agreeable to the parties. Plaintiff further requests the Court to order the Defendant, Direct Transit, Inc., to take all reasonable and necessary steps to protect the 1995 Volvo Tractor, license plate no. PR26012, and trailer, the vehicles which are the subject matter of this action, from theft, vandalism, and the natural elements until Plaintiff has had a reasonable opportunity

to inspect the same. Plaintiff also requests a hearing on the matters raised herein. The grounds for this Motion are fully set forth in the supporting Memorandum below. Plaintiff attaches hereto a copy of his First Request for Production of Documents as Plaintiff's Exhibit 1.

CLARK, PERDUE, ROBERTS & SCOTT

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MEMORANDUM IN SUPPORT

Prior to the filing of this action, Plaintiff requested Defendant, Direct Transit, Inc., to preserve certain evidence relevant to the accident of June 14, 1995, in which Vivian G. Kovein was seriously injured. See letter from Douglas S. Roberts to Defendant, a copy of which is attached hereto as Plaintiff's Exhibit 2. To date, said Defendant has failed to advise Plaintiff that it is willing to preserve the requested evidence, including the logbooks of Rodger A. Roberts. In light of this, Plaintiff asks the Court to order the Defendants to preserve, maintain, and

refrain from destroying, altering, or otherwise mutilating any of the documents identified in Plaintiff's First Request for Production of Documents, including the logbooks of Rodger A. Roberts for June 4, 1995 and the two weeks immediately preceding. Plaintiff further requests the Court to order the Defendant, Direct Transit, Inc., to take all reasonable and necessary steps to protect the 1995 Volvo Tractor, license plate no. PR26012, and trailer, the vehicles which are the subject of this action, from theft, vandalism, and the natural elements pending Plaintiff having a reasonable opportunity to inspect the same.

WHEREFORE, Plaintiff requests that the Court issue an order requiring Defendants to preserve, maintain, and refrain from destroying, altering, or otherwise mutilating any of the documents identified above and to make such documents available for copying and inspection at a time and place mutually agreeable to the parties. Plaintiff further requests the Court to order the Defendant, Direct Transit, Inc., to take all reasonable and necessary steps to protect the 1995 Volvo Tractor, license plate no. PR26012, and trailer, the vehicles which are the subject of

this action, from theft, vandalism, and the natural elements pending Plaintiff having a reasonable opportunity to inspect the same.

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REQUEST FOR HEARING

Plaintiff hereby requests a hearing on the matters raised herein.

CLARK, PERDUE, ROBERTS & SCOTT

DOUGLAS S. ROBERTS
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Attorney for Plaintiff

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CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing Motion for Restraining Order and for Oral Hearing was served upon the Defendants in the same manner and at the same time they received summons and a copy of the Complaint in this action.

CLARK, PERDUE, ROBERTS & SCOTT

DOUGLAS S. ROBERTS
Supreme Court No. 0023353

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

VIVIAN G. KOVEIN :
Plaintiff, :
v. : Case No. 4:95CV-02054
DIRECT TRANSIT, INC., et al. : JUDGE ECONOMUS
Defendants. :

RESTRAINING ORDER

Pursuant to Motion by Plaintiff for a restraining order, and upon the agreement of the parties, Defendants, Direct Transit, Inc., John Doe 1, Administrator of the Estate of Rodger A. Roberts Name Unknown; and John Does 2 through 10 Names Unknown, are hereby ordered to preserve, maintain, and refrain from destroying, altering, or otherwise mutilating any of the documents identified in Plaintiff's First Request for Production of Documents, including the logbooks of Rodger A. Roberts, and to make such documents available for copying and inspection at a time and place mutually agreeable to the parties. The Court attaches hereto and incorporates herein a copy of Plaintiff's First Request for Production of Documents as Exhibit "A."

To the extent that the tractor and trailer are within the control or possession of Defendant, Direct Transit, Inc., the

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Court orders said Defendant to take all reasonable and necessary steps to protect the 1995 Volvo Tractor, license plate no. PR26012, and trailer, which are the subject of this action, from theft, vandalism, and the natural elements until further order of the Court.

Upon further agreement of the parties, the Court gives Plaintiff leave to amend her pleadings to designate Cheryl Scales as the Administratrix of the Estate of Rodger A. Roberts.

IT IS SO ORDERED.

DATED:

JUDGE

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APPROVED:

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