

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

BNSF RAILWAY COMPANY	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 4:22-CV-00052-P
	§	
INTERNATIONAL ASSOCIATION OF	§	
SHEET METAL, AIR, RAIL AND	§	
TRANSPORTATION WORKERS –	§	
TRANSPORTATION DIVISION and	§	
BROTHERHOOD OF LOCOMOTIVE	§	
ENGINEERS AND TRAINMEN,	§	
	§	
Defendants.	§	

**PLAINTIFF’S MOTION TO EXTEND
TEMPORARY RESTRAINING ORDER AND BRIEF IN SUPPORT**

Pursuant to Federal Rule of Civil Procedure 65(b)(2) and Local Civil Rule 7.1, Plaintiff BNSF Railway Company (“Plaintiff” or “BNSF”) respectfully requests that the Court extend the temporary restraining order entered on January 25, 2022 [ECF No. 30] enjoining International Association of Sheet Metal, Air, Rail and Transportation Workers–Transportation Division (SMART-TD) and Brotherhood of Locomotive Engineers and Trainmen (BLET) (collectively, “the Defendants” or “the Unions”) from the conduct described therein. The temporary restraining order expires on February 8, 2022, and good cause justifies a 14-day extension of the temporary restraining order to February 22, 2022.

Federal Rule of Civil Procedure 65(b)(2) allows a court to extend a temporary restraining order for a period of 14 days if good cause exists. Courts have found good cause to extend temporary restraining orders where the court needed time to fully consider the various arguments and motions of the parties. *S.E.C. v. AriseBank*, No. 3:18-cv-186-M, 2018 WL 10419828, at *1

(N.D. Tex. Mar. 9, 2018). Courts have also extended a temporary restraining order when the grounds for originally granting the temporary restraining order continue to exist. *See* 11A Charles Alan Wright et al., *Federal Practice and Procedure* § 2953 (3d ed. 2021); *see also RA Glob. Servs., Inc. v. Apps*, No. 3:07-CV-1562-L, 2007 WL 9717686, at *1 (N.D. Tex. Sept. 20, 2007) (finding good cause where the circumstances supporting the state court’s grant of a TRO had not changed so as to justify a refusal to extend).

On January 25, 2022, the Court entered a Scheduling Order which sets forth the briefing schedule and a possible hearing date on Plaintiff’s Motion for Preliminary Injunction. [ECF No. 31]. The Court has expressed its intent to rule on Plaintiff’s Motion for Preliminary Injunction by February 19, 2022. Good cause exists to extend the temporary restraining order because it will expire before the Court can rule on whether a preliminary injunction is warranted following the reply brief deadline on February 10, 2022, or the potential evidentiary hearing set for February 14, 2022. Good cause also exists to extend the temporary restraining order to avoid risking irreparable injury and to maintain the status quo in this case pending resolution of Plaintiff’s Motion for Preliminary Injunction. The Unions unequivocally expressed their intent to strike upon implementation of the Hi Viz Attendance Program by BNSF—intentions thwarted by the Court’s Temporary Restraining Order. Now that Hi Viz is implemented and in effect, BNSF fully anticipates the Unions would engage in an unlawful strike and cause further damage to an already sensitive situation if the temporary restraining order is allowed to lapse before the Court can rule on BNSF’s Motion for Preliminary Injunction [ECF No. 39]. Based on the Court’s scheduling order, proposed ruling date, and the continued threat of an unlawful strike, good cause exists to extend the temporary restraining order.

Plaintiff respectfully requests that the Temporary Restraining Order be extended until February 22, 2022.

Respectfully submitted,

/s/ Taylor J. Winn

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**ATTORNEYS FOR PLAINTIFF
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CERTIFICATE OF CONFERENCE

On February 1, 2022, attorneys for Plaintiff conferred with Sanford Denison and James Petroff, attorneys for Defendants, regarding the Motion to Extend Temporary Restraining Order. An agreement could not be reached, as Plaintiff and Defendants disagree about whether Plaintiff may unilaterally implement the new attendance standards. Plaintiff's Motion to Extend Temporary Restraining Order is opposed.

/s/ Taylor J. Winn
Taylor J. Winn

CERTIFICATE OF SERVICE

On February 3, 2022, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Taylor J. Winn
Taylor J. Winn