

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MADAM)
)
JUSTICE PAPAGEORGIU)

FRIDAY THE 15TH
DAY OF DECEMBER 2023

B E T W E E N:

(Court Seal)

CANADIAN NATIONAL RAILWAY COMPANY

Plaintiff

and

JOHN DOE, JANE DOE and PERSONS UNKNOWN

Defendants

ORDER

THIS MOTION, made by the Plaintiff, Canadian National Railway Company (“CN”), for an interlocutory injunction and for Order to continue the Order dated December 4, 2023 against the defendants, John Doe, Jane Doe and Persons Unknown, was heard this day by way of judicial videoconference via Zoom at Toronto, Ontario.

ON READING the Notice of Return of Motion, the Affidavit of Rick Misra, sworn December 1, 2023, the Affidavit of Mark Glynn, sworn December 1, 2023, the Supplementary Affidavit of Mark Glynn sworn December 4, 2023, the Second Supplementary Affidavit of Mark Glynn sworn December 4, 2023, Third Supplementary Affidavit of Mark Glynn sworn on December 8, 2023, the Fourth Supplementary Affidavit of Mark Glynn sworn on December 12, 2023, the Affidavit of Service of Richard DuPont sworn on December 8, 2023, the Affidavit of Ryan Deane sworn

December 12, 2023, the factum of the Plaintiff and the Undertaking as to Damages of CN, and on hearing the submissions of counsel for the Plaintiff, and having regard to the urgency of the situation,

THIS COURT ORDERS THAT the Order of the Honourable Madam Justice Papageorgiou dated December 4, 2023 shall be extended and shall remain in effect and continue, until varied or vacated by this Court, prohibiting the Defendants, or any of them, and any person under their counsel, direction or instruction, or anyone aiding or assisting them, and any and all other persons having notice of this Order, from engaging in the following conduct at or in the vicinity of CN's operations in Ontario, including rail lines, yards, and rights of way (defined as extending 50 feet from either side of the railway tracks, measured from the centre of the outer tracks) (collectively, the "**CN Operations**") until further order of this Court:

- i. trespassing on the CN Operations;
- ii. physically obstructing, impeding, delaying or in any way physically interfering with, or counselling others to obstruct, impede, delay or in any way interfere with, the operation of the Plaintiff's trains or other vehicles on the CN Operations;
- iii. physically preventing, impeding, restricting or in any way physically interfering with, or counselling others to impede, restrict or in any way physically interfere with, the Plaintiff's carrying on of its business and in particular its right to operate trains in Ontario;
- iv. physically preventing, impeding, restricting or in any way physically interfering with, or counselling others to prevent, impede, restrict or in any way physically

interfere with the removal of any objects from the CN Operations; or the maintenance, reconstruction or alteration of the Plaintiff's railway lines in Ontario;

- v. threatening or intimidating the Plaintiff's employees, servants, agents, customers or other persons having business with the Plaintiff;
- vi. physically interfering with or counselling others to physically interfere with the performance by the Plaintiff of its contractual relations with its employees, servants, agents or other persons having business with the Plaintiff;
- vii. creating a nuisance by physically obstructing the Plaintiff from carrying on its railway operations; and
- viii. aiding, abetting, counselling, procuring, or encouraging in any fashion, any person or entity to commit or attempt to commit the actions described in the subparagraphs above.

1. **THIS COURT FURTHER ORDERS** that the Defendants and any persons having knowledge of this Order shall forthwith remove any and all obstructions or foreign objects placed or created or imposed by them that restrict in any manner CN's full use of its lands, premises, facilities and equipment on the CN Operations.

2. **THIS COURT DIRECTS** that the Sheriff is to immediately enforce and execute all of the terms of this Order and, if necessary, to seek the assistance of the local police service or peace officer to accompany the Sheriff and assist in the execution and enforcement of this Order.

3. **THIS COURT FURTHER ORDERS** that the Ontario Provincial Police and any police service or peace officer with jurisdiction on the lands referenced herein is granted full authority to enforce the injunction, and arrest, or arrest and remove, any person who has knowledge of this Order and who the police service or peace officer has reasonable and probable grounds to believe is contravening or has contravened the provisions of this Order. For greater certainty, such a police service or peace officer retains his or her discretion to decide whether to arrest or remove any person pursuant to this Order.

4. **THIS COURT FURTHER ORDERS THAT** any police service or peace officer who arrest or arrests and removes any person pursuant to this Order be authorized to:

- (a) Release that person from arrest upon that person agreeing in writing to abide by this Order and to appear before this Court at such time and place as may be fixed for the purpose of being proceeded against for contempt of Court or fixing a date for such proceeding;
- (b) Where such person has refused to give a written undertaking to abide by this Order or to appear before this Court, or where in the circumstances the peace officer considers it appropriate, to bring forthwith such person before this Court in Toronto, Ontario or such other place as the Court may direct, for the purpose of being proceeded against for contempt of Court or for fixing a date for such a proceeding; or
- (c) Detain such person in custody until such time as it is possible to bring that person before this Court.

5. **THIS COURT FURTHER ORDERS THAT** nothing in this Order is intended to or shall preclude the Defendants, their members or any other person, or organization, acting under their direction or control or on their behalf in association with or in support of them from conducting a peaceful, non-violent demonstration provided that such demonstration does not take place on the Plaintiff's property or railway lines or interfere in any way with the CN Operations.

6. **THIS COURT FURTHER ORDERS THAT** this Order may be served by giving a copy to the Defendants or their counsel, or by posting a copy of the Order in conspicuous places in the vicinity of the CN Operations.

7. **THIS COURT FURTHER ORDERS THAT** CN shall post this Order at the following CN Operations: Brampton Intermodal Transport, MacMillan Yard, and the CN Operations in London, Ontario near Maitland St. and York St. Further, CN shall post this Order on its website www.cn.ca and on its X (Twitter) account.

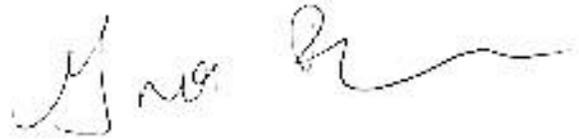
8. **THIS COURT ORDERS** that the terms of this Order shall remain in effect and continue until varied or vacated by a further Order of the Court.

9. **THIS COURT FURTHER ORDERS THAT** CN is at liberty to apply to vary the terms of this Order, and the Defendants and any person affected by this Order may apply to the Court at any time to vary or discharge this Order or so much of it as affects such person, but anyone wishing to do so shall provide CN's solicitors with at least two days' notice thereof, and no such motion shall in any way excuse that person from compliance with the terms of this Order.

10. **THIS COURT FURTHER ORDERS THAT** the requirement for service of CN's motion record be and is hereby waived in the urgent circumstances hereof, and that the time for filing of CN's motion record be and is hereby abridged.

11. **THIS COURT FURTHER ORDERS THAT** the costs of this motion are reserved to trial or a later motion brought by CN.

12. **THIS COURT ORDER** is effective and in force immediately as of signing without any further formality.

A handwritten signature in black ink, appearing to be "J. No. 2" followed by a long horizontal flourish.

(Signature of judge, officer or registrar)

CANADIAN NATIONAL RAILWAY COMPANY
Plaintiff

- and -

JOHN DOE et al.
Defendants

ONTARIO

SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

ORDER

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