

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

OWNER OPERATOR INDEPENDENT	:	
DRIVERS ASSOCIATION, INC., <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	Case No. 1:18-CV-00608-YK
	:	
vs.	:	Judge Yvette Kane
	:	
PENNSYLVANIA TURNPIKE	:	Electronically Filed Document
COMMISSION, <i>et al.</i> ,	:	
	:	
Defendants.	:	

PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs, pursuant to Fed. R. Civ. P. 65, respectfully move this Court for a Preliminary Injunction enjoining, *pendente lite*, the Pennsylvania Turnpike Commission, PTC’s individual commissioners and its Executive Officers in their official capacities (hereinafter “PTC Defendants”) from: (1) transferring to the Pennsylvania Department of Transportation (PennDOT) any further sums derived from Pennsylvania Turnpike toll revenue to satisfy PTC’s obligations under Act 44/89 or for any other purpose except operating, maintaining, or improving the Turnpike; (2) using any sums derived from such toll revenue to pay the cost of debt service for any bonds issued by PTC for any purpose other than operating, maintaining, or improving the Turnpike; and (3) issuing or causing to be issued additional bonds or other debt obligations for the purpose of making further payments to PennDOT pursuant to Act 44/89. Plaintiffs request that, *prior to April*

30, 2018, the Court order PTC to hold all toll revenue in excess of that which is needed to pay for the operation and maintenance of the Turnpike in PTC's Revenue Fund pending the final disposition of this case.

Plaintiffs further move for a preliminary injunction enjoining and restraining Defendants Leslie S. Richards, Secretary of the Pennsylvania Department of Transportation (PennDOT), and Governor Tom Wolf (hereinafter "Commonwealth Defendants") in their official capacities from further acquiring or spending any funds originating from tolls collected by PTC Defendants in payment of putative obligations of PTC under Act 44/89 pending final disposition of this case.

These proposed injunctive provisions are intended to preserve the *status quo* pending resolution of the underlying issue of whether the imposition of excessive tolls on Plaintiffs and others similarly situated violates their rights under the United States Constitution.

Timely action on this Motion is warranted. PTC Defendants are currently required to make Act 44/89 transfer payments to PennDOT on **April 30, 2018** under their Amended Lease and Funding Agreement. Moreover, they are required to make interest payments on or about **June 1, 2018** on bonds issued previously to secure Act 44/89 payments to PennDOT. Further, the Commonwealth Defendants continue to entertain applications for funding numerous projects throughout the Commonwealth with Act 44/89 money obtained from PTC. The requested

preliminary injunction is intended to preserve the *status quo* and prevent Plaintiffs from suffering irreparable harm, which will surely occur unless funds collected by PTC during the course of this litigation from excessive tolls imposed upon the Plaintiffs are safeguarded until the litigation is concluded.

In support of this Motion, the Court is respectfully referred to the declarations of Katherine Quiniola, Todd Spencer, and Gary Biller, and accompanying Memorandum of Law, which are incorporated by reference.

The Declaration of Katherine Quiniola, an attorney with The Cullen Law Firm, PLLC, includes 38 exhibits which the Declaration authenticates. Exhibit 1 is an “Annotated Complaint.” This document is essentially identical to the Complaint filed herein (Doc 1) except for the addition of references to supporting documents primarily published on the public record by Defendants and certain officers and agencies of the Commonwealth. Those references have been inserted in various paragraphs of the Annotated Complaint to which they apply, and are identified by Exhibit numbers 2 through 38.

Exhibits 2 through 38 to the Quiniola Declaration are numerous documents or excerpts from documents primarily published on the public record by the Defendants and other officers and agencies of the Commonwealth. Each document has its own Exhibit number and a hyperlink to the location on the Internet at which the full original document may be found.

The Declaration of Todd Spencer, Acting President of the Owner-Operator Independent Drivers Association, Inc. (OOIDA), and Gary Biller, President of the National Motorists Association (NMA), are included to confirm for the record that status of each organization and their standing to act in a representative capacity as Plaintiffs in this proceeding.

Respectfully submitted,

/s/ Kevin J. McKeon

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Dated: April 2, 2018

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that, on April 2, 2018, I electronically filed the foregoing document with the Clerk of the Court for the United States Court District Court for the Middle District of Pennsylvania by using the ECF system. Pursuant to LR 5.7, participants in the case who are registered ECF users will be served by the ECF system.

I further certify that the following individuals have been served by United States First Class Mail:

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