

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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DANIEL W. BURRITT,

*Plaintiff,*

**SO ORDERED  
STIPULATION**

-against-

08-cv-605

NEW YORK STATE DEPARTMENT OF  
TRANSPORTATION; ROBIN DISBRO, in  
her official capacity as Real Estate Specialist  
for the New York State Department of  
Transportation, Region Seven, Watertown,  
New York

TJM/GJD

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*Defendants.*

WHEREAS, Plaintiff has presented an Order to Show Cause in the within action dated June 10, 2008 seeking, *inter alia*, a temporary restraining order and preliminary injunction pending a hearing and determination of this action: (1) Enjoining the Defendants from requiring that Plaintiff register and obtain a permit for the subject property which Plaintiff identifies in his papers as being a tractor trailer and the Defendants contend to be a sign under New York Highway Law Sections 86 and 88 and 17 NYCRR Part 150, (2) Enjoining the Defendants from classifying the subject property in Defendants' records as illegal signs or as a public nuisance subject to removal, and (3) Enjoining the Defendants from removing the subject property (which Plaintiff identifies in his papers as being a tractor trailer and Defendants contend is a sign) pursuant to alleged violation of Defendants' policies and practices; and

WHEREAS, C. Harris Dague, Esq., Assistant Attorney General State of New York, as counsel for the Defendants represented that the Defendants agree to hold in abeyance, pursuant to the terms of this Stipulation, any actions under the color of New York Highway Law Sections 86 and 88 and 17 NYCRR Part 150 with respect to the subject property, which Plaintiff identifies in

his papers as being a tractor trailer and Defendants contend is a sign, including but not limited to removal of the subject property from the Plaintiff's land pursuant to 17 NYCRR Part 150.3; and

WHEREAS, based upon the above representation on behalf of Defendants, the Plaintiff withdraws his request for a temporary restraining order, but does not withdraw his request for a preliminary injunction; and

WHEREAS, the parties seek to have the dispute between them resolved on the merits as expeditiously as possible;

IT IS HEREBY STIPULATED that the Defendants agree to hold in abeyance any actions pursuant to New York Highway Law Sections 86 and 88 and 17 NYCRR Part 150 with respect to the subject property, which the Plaintiff identifies in his papers as being a tractor trailer and Defendants contend is a sign, including but not limited to removal of the subject property from the Petitioner's land pursuant to Section 150.3, until thirty (30) days following the entry of an order or judgment by this Court determining the merits of Plaintiff's request for Preliminary Injunction or alternatively ruling on Defendants' Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6) or 12(c); and it is further

STIPULATED, that Plaintiff agrees to withdraw his request for a temporary restraining order, while maintaining his request for a preliminary injunction; and it is further

STIPULATED, that Defendants shall have sixty (60) days from the So Ordered date of this Stipulation for the service and submission of all responsive papers, to include, *inter alia*, Defendants' Opposition to Plaintiff's Request for Preliminary Injunction, Defendants' Answer, and/or Defendants' Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) or Defendants' Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(c); and it is further

STIPULATED, that Plaintiff shall have thirty (30) days from date of service of Defendants' papers to serve and file a response or reply to the motion papers; and it is further

STIPULATED, that Defendants shall have five (5) days from the date of service of Plaintiff's response or reply to the motion papers with which to file any reply papers; and it is further

STIPULATED, that due service in accordance with the Order to Show Cause, of the Order to Show Cause and the papers upon which it was based and the Summons and Complaint are hereby acknowledged by the Attorney General of the State of New York on behalf of the Defendants; and it is further

STIPULATED, that this Stipulation may be executed in counterparts, and transmitted by facsimile or pdf document, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument. A facsimile or pdf copy of this Stipulation shall be treated as an original. Service via CM/ECF shall be appropriate.

Dated: June 11, 2008

Dated: June 11, 2008

By: s/ Matthew S. Bowman

Jeffrey A. Shafer (513236)  
Matthew S. Bowman (514227)  
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By: S/ C. Harris Dague

C. Harris Dague (513292) on behalf of  
Honorable Andrew M. Cuomo  
New York State Attorney General  
The Capitol  
Albany, New York 12224  
(518) 473-6082  
Email: Harris.Dague@oag.state.ny.us

Dated: June \_\_\_\_, 2008  
SO ORDERED,

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United States Judge