

*Supreme Court  
State of New York*



*Richard Platkin  
Acting Justice*

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July 26, 2024

VIA NYSCEF

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**Re: Albany County Supreme Court  
*Ariel X. Burt v Lluís Torrent Jerez*  
Index No.: 910717-23**

Dear Counselors:

Pending before the Court is the motion of plaintiff Ariel X. Burt for a preliminary injunction (i) restraining defendant Lluís Torrent from effectuating any further sales or transfers of the assets of Atlas Renewables LLC (“Atlas”) without plaintiff’s consent, and (ii) requiring the proceeds of any such sales or transfers to be escrowed. The motion was returnable on July 5, 2024 (*see* NYSCEF Doc No. 57).

Given the *prima facie* showing made by plaintiff and the sharp factual conflicts presented by the parties’ affidavits (*see* NYSCEF Doc Nos. 22, 58, 89 [collectively, “Affidavits”]), the Court finds that an evidentiary hearing is warranted to determine “whether each of the elements required for issuance of a preliminary injunction exists” (CPLR 6312 [c]; *see Darwish Auto Group, LLC v TD Bank, N.A.*, 224 AD3d 1115, 1117 [3d Dept 2024]).

I am therefore scheduling an **in-person** evidentiary hearing in the Albany County Courthouse to begin on **Thursday, August 8, 2024 at 9:30 a.m.** The hearing will continue day-to-day until concluded. (The parties shall be on notice of the Court’s intention to consider the imposition of a temporary restraining order in the event that they are unable to timely proceed to the hearing.)

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At the hearing, the Court will receive the parties' Affidavits as direct testimony under Commercial Division Rule 32-a. Thus, after a party witness reaffirms their affidavit(s) and orally supplements their affidavit testimony with any new developments, the other side will proceed to cross examination. In addition, the exhibits annexed to the Affidavits will be deemed part of the hearing record absent a particularized objection.

I am scheduling a **remote** pre-hearing conference for **August 1, 2024 at 9:00 a.m.** to ensure that the parties are fully prepared to move forward with the evidentiary hearing in an efficient manner.

Finally, the pendency of this motion practice does not affect the parties' obligation to comply with discovery orders. In this regard, I believe that the parties' July 3, 2024 update regarding ESI search terms is seriously overdue. You are directed to come into compliance.

So Ordered!



Richard Platkin



07/26/2024