

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION

DFW LINQ TRANSPORT, INC.,

PLAINTIFF

VS.

CIVIL ACTION NO. 1:22cv184-DMB-DAS

Jury Trial Demanded

UNITED FURNITURE INDUSTRIES, INC.,  
and U F I TRANSPORTATION, LLC

DEFENDANTS

---

**VERIFIED PETITION FOR PERMANENT AND TEMPORARY  
INJUNCTION AND TEMPORARY RESTRAINING ORDER**

---

COMES NOW, DFW LinQ Transport, Inc., (“LinQ” or “Plaintiff”), and files its Petition for Permanent and Temporary Injunction and Temporary Restraining Order pursuant to Rule 65 of the Federal Rules of Civil Procedure against United Furniture Industries, Inc., (“United Furniture”) and U F I Transportation, LLC (“UFI” or collectively, “Defendants”), and submits as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Plaintiff, DFW LinQ Transport, Inc. is a Texas corporation with its principal place of business located at 2004 L Don Dodson Dr., Bedford, Texas 76021-5788.
2. Defendant, United Furniture Industries, Inc., is a foreign corporation organized and existing under the laws of the State of Ohio, with its principal place of business located at 5380 Highway 145 South, Tupelo, Lee County, Mississippi. United Furniture may be served with process through its registered agent, C.T. Corporation System, located at 645 Lakeland East Drive Suite 101, Flowood, MS 39232.
3. Defendant, UFI, is a limited liability company organized and existing under the

laws of the State of Mississippi, with its principal place of business located at 5380 Highway 145 South, Tupelo, Lee County, Mississippi. Upon information and belief, UFI is a wholly owned subsidiary. Upon information and belief, none of UFI's members are citizens of Texas. UFI may be served with process through its registered agent, C.T. Corporation System, located at 645 Lakeland East Drive, Suite 101, Flowood, MS 39232.

4. This Court has subject matter jurisdiction over this controversy pursuant to 28 U.S.C. § 1332, inasmuch as there exists complete diversity of citizenship between Plaintiff and all Defendants and the amount in controversy is in excess of \$75,000.00, exclusive of interest, costs and attorney's fees.

5. Venue for this action properly lies in the United States District Court for the Northern District of Mississippi, Aberdeen Division since the acts giving rise to this Complaint occurred in Tupelo County, Mississippi.

### **FACTS**

6. LinQ is a broker who obtains, maintains, and manages property in need of transportation.

7. UFI is a trucking company engaged in interstate commerce.

8. Plaintiff and UFI entered into a contract of "carrier and broker" on December 10, 2019. *See Exhibit A, Carrier and Broker Agreement.* Plaintiff and UFI mutually desired to enter into a contract for the transportation and service of property as permitted by 49 USC § 14101(b), and for the transportation and service of non-regulated property. *See Exhibit A.*

9. In or around November of 2022, Plaintiff brokered a Southwire load from Denton, Texas to Starkville, Mississippi, using Defendants as the carrier.

10. The load, which Defendants were to transport, consisted of 44059 pounds of

copper.

11. On November 19, 2022, Defendants collected the copper from Southwire in Denton, Texas. Defendants were to deliver the copper on November 21, 2022, to Southwire in Starkville, Mississippi. *See Exhibit B, Bill of Lading.*

12. Pursuant to the contract, Defendants were responsible for timely transporting the copper from the pick-up location to the proper destination.

13. On or about November 21, 2022, Defendants ceased business and terminated approximately two thousand plus (2,000+) of its employees.

14. Defendants had approximately two-hundred forty-five (245) drivers employed and instructed them all to bring their trucks and trailers to Defendant's location in Tupelo, Mississippi. The drivers were instructed to drop off all equipment, whether the trailers contained a load or not.

15. On or about November 21, 2022, Plaintiff dispatched one of its employee drivers to the Defendants' location in Tupelo, Mississippi to reclaim the copper in order to complete the deliver to Southwire in Starkville, Mississippi. However, Plaintiff's employee was denied access to the copper.

16. On the same day, November 21, 2022, Hector Dayer ("Dayer"), Plaintiff's Chief Financial Officer, informally contacted a previous UFI employee, Hope Moffat Johnson, a UFI Transportation Driver Manager, who informed Dayer that she had been terminated and could not help Plaintiff retrieve the copper. *See Exhibit C, Facebook Messenger communication between Dayer and Johnston.*

17. Defendants wrongfully detain the copper for which the Plaintiff has requested possession. To date, the copper is detained by Defendants in Tupelo, Mississippi.

18. Plaintiff is even willing to pay the freight charges in full for Defendants transporting

the copper – even though it was never properly delivered – in order to acquire the copper and properly deliver it to Southwire in Mississippi. All of Plaintiff's attempts to obtain the copper from Defendants have failed due to Defendants' conduct.

19. Additionally, due to thousands of Defendants employees being terminated, the copper is not in a secured and guarded location. As such, there is an immediate possibility that the copper will be lost, damaged, or stolen. Plaintiff has no information suggesting that the Defendants have assets sufficient to answer for theft or damage to the copper, which has an expected fair market value of approximately \$147,000.00.

20. Plaintiff considers the taking of the copper to be an act of theft and conversion by the Defendants.

21. Copper is a raw material. Raw materials are the inputs used in the production process to create finished products that are ready to sell to consumers, making raw materials a vital piece of the global economy and international trade. Defendants ceasing the delivery of the copper will halt manufacturing of other products for which copper is needed in the beginning of the production process. Therefore, Plaintiff risks being liable for those manufacturing delays and damages.

22. Pursuant to the contract, "Carrier (UFI) shall assume full and complete responsibility and liability for any and all loss and/or damage to, or delay of, any shipment while in the possession or control of Carrier. . . ." *See Exhibit A, page 3.*

23. Plaintiff's damages are ongoing inasmuch as Plaintiff's inability to fulfill its duty to Southwire by ensuring the delivery of the copper as a result of Defendants' actions, and because manufacturing is delayed until the manufacturers receive of the copper. Plaintiff may also suffer the loss of a client who Plaintiff maintains a strong relationship with as a result of Defendants'

actions of wrongfully detaining the copper.

### **CAUSES OF ACTION**

#### **COUNT I – BREACH OF CONTRACT**

24. The preceding paragraphs of the Complaint are hereby re-alleged as if fully set forth herein.

25. Plaintiff and Defendants Carrier and Broker Agreement create a valid and enforceable contract. *See Exhibit A.*

26. Plaintiff has fully complied with any and all obligations and duties under the contract.

27. Defendants breached the contract by failing and/or refusing to deliver entirely and/or timely deliver the copper to its destination in Starkville, Mississippi.

28. As a result of the Defendants' breach, Plaintiff has been damaged, in an amount in excess of \$75,000.00.

#### **COUNT II – CONVERSION**

29. The preceding paragraphs of the Complaint are hereby re-alleged as if fully set forth herein.

30. Defendants are wrongfully exercising control over the copper without Plaintiff's consent and, despite demand, have refused to return or release the copper to Plaintiff, thereby denying Plaintiff of the value, transportation, and/or use of the copper.

31. Defendants' conduct constitutes conversion.

32. Plaintiff was damaged and is entitled to damages against Defendants for the conversion of the copper in an amount in excess of \$75,000.00.

33. Defendants are liable to Plaintiff for such actual damages. Because Defendants'

conduct was committed knowingly and/or with reckless disregard for Plaintiff's rights, Defendants are also liable for exemplary damages.

### **COUNT III – REPLEVIN**

34. The preceding paragraphs of the Complaint are hereby re-alleged as if fully set forth herein.

35. As alleged herein, Defendants are in wrongful possession of the copper.

36. Plaintiff seeks a writ of replevin ordering the immediate return of the copper to Plaintiff.

### **COUNT IV – MALICIOUS AND INTENTIONAL INTERFERENCE WITH A CONTRACT**

37. The preceding paragraphs of the Complaint are hereby re-alleged as if fully set forth herein.

38. Defendants are liable for malicious interference of a contract by causing Plaintiff the inability to perform their part of the contract with Southwire by failing to deliver the copper to the Southwire Mississippi location.

39. Defendants are liable for the tort of malicious, intentional interference with a contract. The following elements are met: (a) Defendants actions were intentional and willful; (b) Defendants actions were calculated to cause Plaintiff damages; (c) Defendants actions were done for the unlawful purpose of causing Plaintiff damage and loss without right or justifiable excuse; (d) Plaintiff suffered actual loss and damage resulted; and (e) Defendants maliciously interfered with a valid and enforceable contract.

40. The contract, requiring Plaintiff to broker the load from Southwire Texas to Southwire Mississippi, would have been performed but for the interference of the Defendants and their conduct described herein.

**COUNT V – INJUNCTIVE RELIEF**

41. The preceding paragraphs of the Complaint are hereby re-alleged as if fully set forth herein.

42. Defendants are in possession of the copper which is being improperly held by Defendants. Defendants' conduct is completely without right or entitlement because Defendants' conduct is in breach of the contract.

43. Defendants are refusing to release the copper to Plaintiff. This conduct constitutes conversion.

44. Plaintiff will suffer immediate and irreparable injury, loss, or damage if the copper is not immediately returned to Plaintiff.

45. Defendants will suffer no harm by Plaintiff obtaining the copper and delivering it to its intended location.

46. There are no economic consequences to the Defendants in the release of the copper to Plaintiff.

47. Plaintiff has no adequate remedy at law for the damages described above. The losses and damages are continuing with each moment that Defendants refuse to release the copper.

48. The copper is unique and irreplaceable, so that it will be impossible to accurately measure, in monetary terms, the damages caused by the Defendants' conduct. The losses to the Plaintiff from Defendants' conduct are likely to exceed the financial worth of the Defendants, so as to prevent any adequate compensation to the Plaintiff, even if money damages were a sufficient remedy.

49. On the basis of the foregoing, Plaintiff is entitled to preliminary injunctive relief, including the issuance of an order granting preliminary injunction for the immediate return of the

copper to Plaintiff. Plaintiff is also entitled in the alternative, to preliminary injunctive relief enjoining Defendants, including their respective agents, employees, employers, officers, servants, attorneys, and representatives, irrespective of whether such individuals are named as parties to this action, from directly or indirectly, or alone or in concert with others, engaging in the following activities: moving, relocating, selling, marketing, conveying, damaging, destroying, obstructing, or transferring the copper while this action regarding Plaintiff's claimed rights for the return of the copper are being determined in this action.

50. Preliminary injunctive relief is appropriate in this cause because the Plaintiff has shown a likelihood of success on the merits; the Plaintiff will likely suffer irreparable harm if a preliminary injunction is not granted; the balance of equities favors granting the injunctive relief in favor of Plaintiff; and the granting of the preliminary injunctive relief favors public interest.

51. Upon the final hearing on the merits, Plaintiff will be entitled to an Order that the Defendants return the copper to the Plaintiff.

52. Wherefore, Plaintiff prays for the following relief:

a. For a preliminary injunction enjoining Defendants, including their respective agents, employees, employers, officers, servants, attorneys and representatives, irrespective of whether such individuals are named as parties to this action, from directly or indirectly, or alone or in concert with others, engaging in the following activities: moving, relocating, selling, marketing, conveying, damaging, destroying, obstructing, or transferring the copper while this action regarding Plaintiff's claimed rights for the return of the copper are being determined in this action.

b. For a permanent injunction, upon the final hearing on the merits that Defendants return the copper to Plaintiff.



### **COUNT VI – TEMPORARY RESTRAINING ORDER**

53. The preceding paragraphs of the Complaint are hereby re-alleged as if fully set forth herein.

54. Plaintiff requests that a temporary restraining order be issued pursuant to Rule 65(b) of the Federal Rules of Civil Procedure to preserve the status quo and prevent further irreparable harm to Plaintiff.

55. Plaintiff has a substantial likelihood of success on the merits due to the copper being wrongfully detained. A temporary restraining order will not greatly harm Defendants. Defendants do not own the copper and have no need for its use. Defendants' only connection to the copper, is to transport it. Plaintiff obtaining the copper will not disserve the public interest but aid the public interest by ensuring the manufacturing of other products, that need copper before production begins, will continue.

56. Notice is not required. As the facts contained herein show that Plaintiff is suffering and will continue to suffer irreparable harm and damages until the copper is returned and delivered to its intended location, as well as other damages and damages resulting to third parties, if Defendants are not enjoined from interfering with Plaintiff obtaining the copper.

57. Plaintiff requests the Court grant a temporary restraining order of at least fourteen (14) days.

### **COUNT VII – PUNITIVE DAMAGES**

58. The preceding paragraphs of the Complaint are hereby re-alleged as if fully set forth herein.

59. Defendants have acted maliciously, knowingly, fraudulently, and with the intent to harm Plaintiff, or with conscious indifference to the consequence of its actions. Consequently,

Plaintiff is entitled to recover punitive damages from Defendants in an amount to be determined at trial, in excess of \$500,000.00.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests the following relief:

1. That this Court issue a writ of replevin and preliminary injunctive relief ordering Defendants to immediately return the copper to Plaintiff;
2. That Plaintiff be awarded compensatory damages incurred, or to be incurred, against Defendants for an amount in excess of \$500,000.00 exclusive of interest, costs and attorneys' fees;
3. That Plaintiff be awarded punitive damages in an amount in excess of \$500,000.00;
4. That Plaintiff be awarded reasonable costs of litigation, including attorneys' fees incurred in bringing this action; and
5. That Plaintiff be awarded such other relief as is just and proper under the circumstances.

THIS the 2<sup>nd</sup> day of December, 2022.

Respectfully submitted,

DFW LINQ TRANSPORT, INC.

By Its Attorneys

DunbarMonroe, PLLC



Clark Monroe

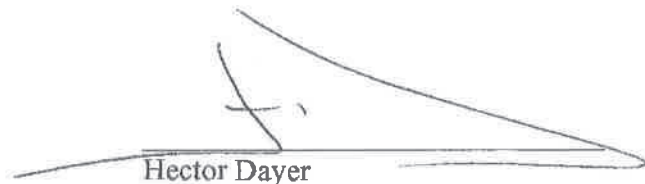
OF COUNSEL:

G. Clark Monroe II (MSB No. 9810)  
Lauren T. Carpenter (MSB No. 106275)  
DunbarMonroe, PLLC1872001  
270 Trace Colony Park, Suite A  
Ridgeland, Mississippi 39157  
Telephone: (601) 898-2073  
Facsimile: (601) 898-2074  
Email: [gcmunroe@dunbarmonroe.com](mailto:gcmunroe@dunbarmonroe.com)  
[lcarpenter@dunbarmonroe.com](mailto:lcarpenter@dunbarmonroe.com)

**VERIFICATION**

I, Hector Dayer, have reviewed the Verified Petition for Permanent and Temporary Injunction and Temporary Restraining Order and declare under penalty of perjury that the foregoing is true and correct.

THIS, the 2<sup>nd</sup> day of December, 2022.



Hector Dayer