

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

3M COMPANY,

Plaintiff,

-against-

PERFORMANCE SUPPLY, LLC,

Defendant.

Case No.: 1:20-cv-02949 (LAP)(KNF)

Jury Trial Demand

**[PROPOSED] ORDER
TO SHOW CAUSE FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION AGAINST PERFORMANCE SUPPLY, LLC**

WHEREAS, the Court, having considered Plaintiff 3M Company's ("3M") Memorandum of Law Support in Support of its Application for a Temporary Restraining Order and Preliminary Injunction (the "Application") against Defendant Performance Supply, LLC ("Defendant"), together with the supporting Declarations of Charles Stobbie, David A. Crist, and A. John P. Mancini (collectively, the "Declarations"), as well as the record and proceedings to date in the above-captioned action.

IT IS HEREBY ORDERED that 3M's Application is **GRANTED** in its entirety. It is hereby further **ORDERED** that:

1. Defendant appear before The Honorable Loretta A. Preska District Judge, United States District Court for the Southern District of New York, on May 4, 2020, at 11:00 am/pm, by telephone at a dial-in number to be provided in the United States Courthouse, 500 Pearl Street/40 Foley Square, New York, New York 10013; and show cause (the "Show Cause Hearing") as to why the Court should not enter an Order, pursuant to FED. R. CIV. P. 65(a), that:

a. Preliminarily enjoins Defendant, its agents, servants, employees, officers and all persons and entities in active concert and participation with them from using the "3M" trademarks

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(the "3M Marks"), the slogan "3M. Science Applied to Life" (the "3M Slogan"), and any other word, name, symbol, device, or combination thereof that is confusingly similar to the 3M Marks and/or the 3M Slogan, for, on, and/or in connection with the manufacture, distribution, advertising, promoting, offering for sale, and/or sale of any goods or services, including, without limitation, Plaintiff's 3M-brand N95 respirators, during the pendency of this action, and

b. Preliminarily enjoins Defendant, its agents, servants, employees, officers and all persons and entities in active concert and participation with them from engaging in any false, misleading, and/or deceptive conduct in connection with 3M and its products, including, without limitation, representing itself as being an authorized distributor, vendor, agent, representative, retailer, and/or licensee of 3M and/or any of 3M's products (including, without limitation, 3M-brand N95 respirators); falsely representing to have an association or affiliation with, sponsorship by, and/or connection with, 3M and/or any of 3M's products; falsely representing that 3M has increased the price(s) of its 3M-brand N95 respirators; and offering to sell any of 3M's products at a price and/or in a manner that would constitute a violation of NEW YORK GENERAL BUSINESS LAW § 369-R, during the pendency of this action.

2. Sufficient reason having been shown therefor, from the date of this Order, through and including the date of the Show Cause Hearing, Defendant, its agents, servants, employees, officers and all persons and entities in active concert and participation with them, are hereby temporarily restrained, pursuant to FED. R. CIV. P. 65(b), from engaging in any of the acts and/or conduct described in Paragraphs 1(a) and 1(b) of this Order.

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3. Pursuant to this Court's equitable powers and discretion, 3M need not post a bond. *because of its financial situation*

4. 3M and/or its authorized representative(s) must serve a copy of this Order, together with 3M's Memorandum of Law, and the Declarations, in Support of 3M's Application, on

Defendant and/or Defendant's registered agent via personal service and/or ~~First Class Mail~~ ^{overnight courier or mail} at 3
 Westbrook Way, Manalapan, New Jersey 07726, on or before April ^{delivered 5:00pm} 25, 2020 at ~~_____pm~~

The foregoing shall constitute proper service and notice of this Order.

5. This Court shall retain jurisdiction to hear and determine all matters arising out of, relating to, and/or otherwise concerning the interpretation and/or enforcement of this Order.

SO ORDERED this 24th day of April, 2020. at 11:45 am

Sherry A. Presler
 United States District Judge

6. Opposition papers shall be filed no later than noon on April 30; reply papers, if any, shall be filed no later than noon on May 2.