

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

-against-

BROOKLYN SLEEP PRODUCTS, INC. and
FRANCISCO CHAVEZ,

Defendants.

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Roslynn R. Mauskopf, United States District Judge.

MEMORANDUM AND ORDER
10-CV-2980(RRM)(CLP)

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ **OCT 05 2010** ★

BROOKLYN OFFICE

On September 21, 2010, on application of the United States, this Court issued a Temporary Restraining Order (“TRO”), a copy of which is attached hereto.¹ The TRO temporarily enjoins Brooklyn Sleep Products, Inc. (“Brooklyn Sleep”) and its president, Francisco Chavez (“Chavez”) (collectively, “Defendants”), and all of their directors, officers, agents, employees, successors, assigns, and all persons or entities in active concert or participation with any of them, from, *inter alia*, directly or indirectly manufacturing for sale, renovating for sale, selling, or offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported, in commerce, or selling or delivering after a sale or shipment in commerce of any mattress, mattress set, or mattress pad that does not conform to applicable safety rules, regulations, or standards under the Flammable Fabrics Act (“FFA”), 15 U.S.C. §§ 1191-1204, or any other Act enforced by the Consumer Product Safety Commission (“CPSC”), 15 U.S.C. §§ 2051-2084. Said TRO expires this day, October 5, 2010 at 3:30 p.m.

¹ Although the United States originally sought preliminary injunctive relief, it consented at the hearing to temporary relief, pending the hearing on its original application.

At the September 21st hearing, Chavez appeared *pro se*; Brooklyn Sleep did not appear through counsel. At that time, this Court advised Chavez that, as a corporate entity, Brooklyn Sleep could appear in this action only through counsel, and issued temporary injunctive relief, in part to afford both Brooklyn Sleep and Chavez the opportunity to obtain counsel. By letter dated October 4, 2010 (Docket No. 16), the United States advised the Court that Chavez indicated that neither Defendant could afford to retain counsel. To date, no attorney has entered an appearance for either Defendant, nor has either Defendant responded to the United States' application for preliminary injunctive relief.

To provide Defendants with one final opportunity to obtain counsel and to respond to the United States' application, and pursuant to Federal Rule of Civil Procedure 65(b)(2), the Court hereby ORDERS that:

1. The aforesaid TRO, a copy of which is attached hereto, shall be extended for an additional 14-day period, until October 19, 2010 at 3:30 p.m., at which time all parties shall appear before this Court in Courtroom N6F on the Sixth Floor of the United States Courthouse for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York and Show Cause why preliminary injunctive relief should not be granted;
2. Any attorney appearing on behalf of either Defendant shall enter electronically on the docket a formal notice of appearance by October 14, 2010;
3. Any Defendant wishing to file papers in opposition to the United States' application for preliminary injunctive relief shall so do by October 15, 2010; and
4. Defendants shall provide notice of this Order, together with a copy of the attached TRO, in the following manner upon entry of this Order:

- a. Provide a copy of this Order, together with the attached TRO, personally, or when necessary, by certified mail, return receipt requested, to each of their officers, agents, employees, successors, assigns, attorneys, and any persons in active concert of participation with any of them (who shall receive a copy of the Order in English, Spanish, or other language(s) as needed for the Order to be understood); and
 - b. Post a copy of this Order, together with the attached TRO in English, Spanish, and any other language(s) so that it is understood by all employees, on a bulletin board in the employee common area at the Defendants' plant, and shall ensure that the Order remains posted so long as the Order remains in effect.
5. The United States shall personally serve a hard copy of this TRO on Defendants and file proof of service via ECF.

SO ORDERED.

Dated: Brooklyn, New York
October 5, 2010
Time: 12:00 p.m.

s/Roslynn R. Mauskopf

UNITED STATES DISTRICT JUDGE