

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

GMS INDUSTRIAL SUPPLY, INC.

Plaintiff,

v.

Civil Action No. 2:19-cv-324

**G&S SUPPLY, LLC, WESTLY L. GREER,
SABRINA GREER, GREER GROUP, LLC,
GREGORY K. SPIRES, COUNTY ROADS, LLC,
THOMAS HAYES, GREGORY S. SPIRES, MIKE
WELTON and WAYNE SIDE**

Defendants.

**CERTIFICATION OF PLAINTIFF'S COUNSEL
PURSUANT TO FED. R. CIV. P. 65(b)(1)(B)**

I, William A. Lascara, Esq., counsel for plaintiff GMS Industrial Supply, Inc. ("Plaintiff") hereby certify pursuant to Fed. R. Civ. P. 65(b)(1)(B) that: (1) notice to Defendants G&S Supply, LLC, Westly Greer, Sabrina Greer, Greer Group, LLC, Gregory Greg Spires, County Roads, LLC, Thomas Hayes, Gregory S. Spires, Mike Welton, and Wayne Side (collectively, "Defendants") of Plaintiff's Motion for Temporary Restraining Order ("TRO") and Preliminary Injunction (the "Motion") should not be required in this instance, and (2) a TRO should be issued without advance written or oral notice to Defendants because, as shown in the accompanying Verified Complaint, the facts show that immediate and irreparable injury, loss or damage will result to Plaintiff before all ten Defendants, none of which are currently in the Commonwealth of Virginia, can be located and provided a hearing in opposition to the TRO.

Plaintiff will be irreparably harmed if the Court does not expeditiously enter a TRO. As stated in the Complaint, Defendants have violated and continue to violate a number of federal

and state statutes in their efforts to steal business from Plaintiff. They are in continuous breach of valid and enforceable contractual protections that were intended to protect Plaintiff's confidential information and competitive advantage and for which there is no available remedy at law. Defendants are scattered throughout the country and are using trade secrets they misappropriated from Plaintiff and infringing Plaintiff's trademark in order to regularly make sales to Plaintiff's customers to its detriment. The Court's issuance of a TRO is necessary to stay the matter and to prevent Defendants from continuing their improper conduct until such time as Plaintiff has a chance to present its case for a preliminary injunction.

Judging from their past behavior, I believe that providing Defendants with advance notice of the Motion will potentially result in them concealing, destroying or otherwise transferring to others Plaintiff's property and Trade Secrets, causing additional harm to Plaintiff. Plaintiff, through counsel, has sent all of the Defendants cease-and-desist letters requesting they cease using Plaintiff's propriety and Trade Secret data and soliciting Plaintiff's customers, but they have refused to do so. Furthermore, on behalf of Plaintiff, I sent defendant Westly Greer several cease-and-desist letters demanding that he return Plaintiff's computer and other confidential information. Despite having several notices and a contractual duty, Westly Greer has refused to return all of Plaintiff's proprietary data resident on GMS' computers in his possession, has previously destroyed Plaintiff's data and property by use of a File Shredder program he installed on GMS' computers without authority, and secured GMS' tablet computer

in his possession by an undisclosed password, all as set forth more fully in the Verified Complaint filed herein.

By entering the TRO prior to service of the Complaint, Motion, Memorandum, and the TRO itself, the Court will lessen the chances that the Defendants will further conceal or destroy Plaintiff's property and confidential information while at the same time protect Plaintiff from the ongoing and immediate harm caused by the Defendants' continuing violations of the law.

Despite this danger, on behalf of Plaintiff, I will undertake providing notice of the Motion for TRO and Preliminary Injunction, and related Memorandum in Support of such Motion by overnight delivery to be sent out on Saturday June 22, 2019, to the Defendants, with the understanding that reasonable notice is necessary for the Court to grant a preliminary injunction. However, as the ten Defendants are scattered all over the country and are often traveling as part of their attempt to convert Plaintiff's customers, it will be difficult for notice to be provided to Defendants in time to avoid additional harm accruing.

Should this Court enter a Temporary Restraining Order without notice to Defendants, then pursuant to Fed. R. Civ. P. 65(b)(3) a preliminary injunction hearing is to be set for the earliest possible time. Pursuant to Fed. R. Civ. P. 65(b)(3) (4), Defendants will have the opportunity to appear and move to dissolve or modify the Temporary Restraining Order at that hearing, which will minimize any potential prejudice or harm they may experience.

GMS INDUSTRIAL SUPPLY, INC.

By: /s/ William A. Lascara
William A. Lascara, Of Counsel

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