

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

**THOMAS E. PEREZ, SECRETARY)
OF LABOR, UNITED STATES)
DEPARTMENT OF LABOR,)**

Plaintiff,)

vs.)

CIVIL ACTION NO. 15-0205-CG-M

**LEAR CORPORATION EEDS AND)
INTERIORS, and RENOSOL)
SEATING, LLC,)**

Defendants.)

**ORDER GRANTING TEMPORARY RESTRAINING ORDER
AND SETTING A PRELIMINARY INJUNCTION HEARING**

This matter is before the Court on Plaintiff's Motion for a Temporary Restraining Order and to Show Cause Why a Preliminary Injunction Should Not Issue. (Doc. 1). Defendants promptly filed a Motion for a Hearing and Motion for Leave to File a Response. (Doc. 2). The Court, having considered the pleadings and record in this case, has determined that Plaintiff should be granted a Temporary Restraining Order as set forth below, and Defendants' motion is due to be granted, in part.

I. BACKGROUND

On April 15, 2015, Plaintiff filed his motion for a temporary restraining order and to show cause why a preliminary injunction should not issue. (Doc. 1). Plaintiff alleges that Defendants are retaliating against employees for exercising their right

to provide information to the Secretary of Labor and others regarding concerns relating to occupational safety and health, including but not limited to: air quality, chemical exposure, and potentially related health effects. (Doc. 1, pp. 1 – 2).

Plaintiff further argues Defendants must immediately be prevented from continuing such unlawful conduct less their threats be carried out and employees lose their livelihood or suffer other harm. (Doc. 1, p. 2).

II. LEGAL STANDARD

This Court previously noted the applicable standard for preliminary injunctive relief in Hammock ex rel. Hammock v. Keys et al., 93 F. Supp. 2d 1222 (S.D. Ala. 2000):

A party seeking a preliminary injunction must establish the following four factors: (1) a substantial likelihood of success on the merits; (2) a threat of irreparable injury; (3) that its own injury would outweigh the injury to the nonmovant; and (4) that the injunction would not disserve the public interest. Tefel v. Reno, 180 F.3d 1286, 1295 (11th Cir. 1999); McDonald's Corp. v. Robertson, 147 F.3d 1301, 1306 (11th Cir. 1998). The Court should be mindful that a preliminary injunction is an extraordinary and drastic remedy not to be granted unless the movant has clearly satisfied the burden of persuasion as to the four requisites. McDonald's, 147 F.3d at 1306; Northeastern Fl. Chapter of the Ass'n of Gen. Contractors of Am. v. City of Jacksonville, 896 F.2d 1283, 1285 (11th Cir. 1990).

Id., at 1226-27. “The same standard applies to a request for a temporary restraining order as to a request for a preliminary injunction.” Morgan Stanley DW, Inc., v. Frisby, 163 F. Supp. 2d 1371, 1374 (N.D. Ga. 2001) (citing Ingram v. Ault, 50 F.3d 898, 900 (11th Cir. 1995)). Upon consideration of the evidence presented, the Court concludes Plaintiff has met his burden.

III. ANALYSIS

1. Likelihood of success on the merits

The Court finds Plaintiff has established a likelihood of success on the merits. As alleged, it appears OSHA will prevail on the retaliation claims, which are the basis for the whistleblower investigation. Plaintiff must show that an employee engaged in protected activity, the employer was aware of that activity, the employer took adverse action against the employee, and a causal connection exists between the protected activity and the adverse action. In this case, it appears employees spoke openly about the health and safety conditions where they worked, and Defendants subsequently transferred or terminated them for doing so.

2. Threat of irreparable injury

The Court finds that the harm risked by failure to enjoin Defendants' conduct is severe. If Plaintiff's allegations are true, Defendants are dissuading and attempting to prevent employees from initiating discussions with the Secretary of Labor and others about their work environment. This chilling effect also limits Plaintiff's ability to investigate related claims.

3. That its own injury would outweigh the injury to the nonmovant

The Court will set a hearing in this matter for **April 29, 2015**, in the courtroom of the undersigned. By enjoining Defendants' conduct herein, the Court prevents Defendants from engaging in the conduct described below for a period of **14 days**. The Court finds that, given the severe threat of the particularized harm alleged by Plaintiff and the relatively minor cost to Defendants of refraining from

the disputed activity for **14 days**, a temporary restraining order is appropriate.

4. That the injunction would not disserve the public interest

The Court finds no reason to believe that the contemplated injunctive relief would disserve the public interest.

The Court has balanced the four factors appropriate for consideration of a temporary restraining order and finds Plaintiff should be granted a Temporary Restraining Order. Therefore, **IT IS HEREBY ORDERED** as follows:

1. Defendants are enjoined from terminating, suspending, harassing, suing, threatening, intimidating, or taking any other discriminatory or retaliatory action against any current or former employee based on Defendants' belief that such employee exercised any rights he or she may have under the Occupational Safety and Health Act;
2. Defendants are enjoined from telling any current or former employee to not speak to or cooperate with representatives of the Secretary of Labor;
3. Defendants are enjoined from obstructing any investigation by the Secretary of Labor or its designee;
4. Defendants are enjoined from initiating one or more law suits against current or former employees because of those individuals' complaints about health and safety or because they engaged in protected activity under the Occupational Safety and Health Act.

It is further **ORDERED** that on **April 29, 2015, at 9:00 a.m.** in the courtroom in the United States District Court for the Southern District of Alabama, Room **2B**, located at 113 St. Joseph Street, Mobile, Alabama 36602, Defendants shall appear and show cause, if there be any, why a Preliminary Injunction implementing the full relief requested by Plaintiff shall not issue. Defendants' motion for a hearing and motion for leave to file a response is therefore **GRANTED**. Defendant's response shall be filed no later than April 22, 2015. Any response by plaintiff must be filed no later than April 27, 2015.

Plaintiff must immediately serve Defendants, their agent, or their counsel with a copy of this Order and all relevant pleadings, and within twenty-four (24) hours certify to the Court that he has done so.

DONE and ORDERED this 15th day of April, 2015.

/s/ Callie V. S. Granade
UNITED STATES DISTRICT JUDGE