

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

AQUAPAW BRANDS LLC,

Plaintiff,

v.

FED STORE, *et al.*

Defendants.

2:23-CV-01460-CCW

**ORDER FOR PLAINTIFF’S *EX PARTE* MOTION
TO EXTEND THE TEMPORARY RESTRAINING ORDER, CONTINUE THE ORDER
TO SHOW CAUSE HEARING, AND MODIFY SCHEDULE**

On this day the Court considered Plaintiff’s *Ex Parte* Motion to Extend the Temporary Restraining Order, Continue the Order to Show Cause Hearing, and Modify Schedule. Having reviewed the Motion with supporting legal authority, and the Declaration of Brian Samuel Malkin, the same having established that good cause exists for granting Plaintiff’s Application, Plaintiff’s Application is hereby **GRANTED** as follows (the “Order”):

ORDER

A. Defendants are hereby ORDERED to show cause before this Court in the United States District Court for the Western District of Pennsylvania, via ZoomGov videoconference on the **13th day of September at 1:00 p.m.**, why a preliminary injunction, pursuant to FRCP 65(a), should not issue. The Temporary Restraining Order shall remain in effect until further Order of this Court. **Defendants are on notice that failure to appear at the hearing may result in the imposition of a preliminary injunction against them.**

B. IT IS FURTHER ORDERED that opposing papers, if any, shall be filed electronically with the Court and served on Plaintiff's counsel by delivering copies thereof to the office of Ference & Associates LLC at 409 Broad Street, Pittsburgh, Pennsylvania 15143 before **September 5, 2023**. Plaintiff shall file any Reply papers on or before **September 8, 2023**.

C. IT IS FURTHER ORDERED, in anticipation of the show cause hearing regarding a preliminary injunction, after Plaintiff's counsel has received confirmation from the Third Party Service Providers and Financial Institutions or otherwise, regarding the restraint of funds directed herein, Plaintiffs shall serve copies of the Complaint, the Application, this Order, and any Discovery on each Defendant via their corresponding email/online contact form provided on the Internet based e-commerce stores operating under the respective Seller IDs, or by providing a copy of this order by e-mail to the marketplace platform, which in turn notifies each Defendant of the Order, or by other means reasonably calculated to give notice which is permitted by the Court.¹ In addition, Plaintiffs shall post copies of the Complaint, Application, this Order, any Discovery, and all other pleadings and documents filed in this action on a website designated by Plaintiff, and shall provide the website address to Defendants via e-mail/online contact form, and such notice so given shall be deemed good and sufficient service thereof. Plaintiffs shall continue to provide notice of these proceedings and copies of the documents on file in this matter to Defendants in accordance with the Alternative Service Order.

¹ Rule 65 has been interpreted to require that a party have notice of the motion and hearing; perfecting service on a defendant is not a prerequisite to the entry of a preliminary injunction order. *Pate v. Gov't of the Virgin Islands*, 2015 WL 1937701 n.9 (VI Sup. Ct. April 17, 2015); *Corrigan Dispatch Co. v. Casa Guzman, S.A.*, 569 F.2d 300, 302 (5th Cir. 1978).

SO ORDERED.

SIGNED this 25th day of August, 2023, at 1:30 p.m.
Pittsburgh, Pennsylvania

/s/ Christy Criswell Wiegand
Christy Criswell Wiegand
UNITED STATES DISTRICT JUDGE