

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

THOMAS E. PEREZ, Secretary of Labor, )  
United States Department of Labor, )  
 )  
Plaintiff, )  
v. ) 1:15-cv-00455-JAW  
 )  
SULLIVAN GRANITE CO., LLC and )  
CONRAD J. SMITH, )  
 )  
Defendants. )

**ORDER ON MOTION FOR TEMPORARY RESTRAINING ORDER**

On November 10, 2015, Thomas E. Perez, Secretary of Labor, United States Department of Labor (DOL), filed a complaint in this Court together with a motion for temporary restraining order (TRO) against Sullivan Granite Co., LLC and Conrad J. Smith. *Compl.* (ECF No. 1); *Mot. for Temporary Restraining Order, Preliminary Inj. and Permanent Inj.* (ECF No. 4). On November 17, 2015, the DOL served Conrad Smith through Paul E. McPhail, Deputy Sheriff of the Hancock County Sheriff's Office, with a summons in a civil action. *Summons in a Civil Action* (ECF No. 6). In addition, the DOL served on Mr. Smith a Notice of Hearing, informing him that the DOL intended to bring the motion for TRO to a hearing at the United States District Court located at 202 Harlow Street, Bangor, Maine on November 18, 2015 at 1:00 p.m. before Judge John A. Woodcock, Jr. *Notice of Hr'g* (ECF No. 8). On November 18, 2015 at 1:25 p.m., the Court held the scheduled hearing on the motion for TRO. Attorney James L. Polianites, Jr. appeared on behalf of the Secretary of Labor.

Neither Mr. Smith nor anyone representing Mr. Smith or Sullivan Granite Co., LLC appeared at the hearing. In view of the failure of the Defendants to appear at the scheduled hearing and defend the pending motion for TRO, the Court has taken as true the allegations of the DOL, as confirmed by the affidavits filed by the DOL in support of the motion for TRO.

The Court has carefully reviewed the DOL's motion for TRO with its supporting documents, including affidavits, and notes that the DOL is requesting only that Mr. Smith stop interfering with their attempts to inspect the quarry and enforce the law. The Court is satisfied that the DOL has established its entitlement to a TRO. *See Puerto Rico Hosp. Supply, Inc. v. Boston Scientific Corp.*, 426 F.3d 503, 507 (1st Cir. 2005) (delineating standard for preliminary injunction); *Northwest Bypass Group v. U.S. Army Corps of Eng'rs*, 453 F. Supp. 2d 333, 337 (D.N.H. 2006) (noting the TRO standard is the same as the preliminary injunction standard).

The Court ORDERS that Conrad J. Smith, doing business as Sullivan Granite Co. LLC, his agents, employees, and all others in active concert and participation with him, are hereby temporarily enjoined from interfering with, hindering, and delaying the Secretary of Labor or his authorized representative in carrying out the provisions of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 *et seq.* Specifically, the Court ORDERS that Conrad J. Smith, doing business as Sullivan Granite Co. LLC, his agents, employees, and all others in active concert and participation with him, are hereby temporarily barred from refusing entry into a mine of the Secretary's authorized representatives who are attempting to conduct

inspections authorized by the Act, and this Court further bars Conrad J. Smith, doing business as Sullivan Granite Co. LLC, his agents, employees, and all others in active concert and participation with him, from violating Orders issued by the Secretary of Labor pursuant to the Act.

The Court ORDERS that the United States Marshal shall serve a copy of this Order by delivering the same to Conrad J. Smith and by conspicuously posting the same at the quarry identified as Brown's Meadow Quarry at the end of Track Road, Sullivan, Maine 04664.

This Order will remain effective pending further Order of the Court.

SO ORDERED.

/s/ John A. Woodcock, Jr.  
JOHN A. WOODCOCK, JR.  
UNITED STATES DISTRICT JUDGE

Dated this 18th day of November, 2015

**Plaintiff**

**SECRETARY OF LABOR  
UNITED STATES  
DEPARTMENT OF LABOR**

represented by **JAMES L. POLIANITES, JR.**  
U.S. DEPARTMENT OF LABOR  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**SULLIVAN GRANITE CO LLC**

**Defendant**

**CONRAD J SMITH**