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### FTC Brings Action Alleging False PPE Delivery Claims



#### Key Takeaways:

- The Federal Trade Commission (FTC) is actively using the COVID-19 Consumer Protection Act to protect consumers, with a new [case](#) alleging the defendant failed to timely deliver masks and failed to process refunds or cancellation requests. The complaint also alleges the defendant promised N95 masks but delivered cloth masks instead.
- The [FTC's Mail Order Rule](#) requires a seller to notify customers when a delay is discovered, make adjustments to website content to give appropriate notice, and offer the right to cancel with an adequate refund.

The Federal Trade Commission (FTC) recently [announced](#) additional claims against defendant Frank Romero (dba Trend Deploy), alleging that certain PPE sale operations violated the Mail Order Rule and the FTC Act, including the following set forth in the [complaint](#):

- **Mail Order Rule Violations:** The FTC alleges that Mr. Romero (1) made false representations to consumers about the speed of his company's shipping; (2) failed to update his website and notify customers when shipping delays were evident; and (3) failed to refund consumers for items that were received extremely late or never shipped. For example, the website advertised that in extreme cases, orders may take "40 days" to arrive. However, multiple customers received their masks well past the 40-day threshold, some as late as 84 days. In these instances, customers were not offered the ability to consent to a delay or receive a valid refund.
- **False Certification Claims:** The complaint alleges that Mr. Romero claimed the mask products were certified by government regulators both verbally and online, but there is no basis for these assertions. In particular, the advertisement depicted certification by the National Institute for Occupational Safety and Health, which had not been obtained.

- **False Quality and Efficacy:** The complaint alleges that the advertised N95 masks had high levels of efficacy, but, in reality, the actual masks delivered were often cloth masks of inferior quality.

The FTC is seeking refunds for consumers, injunctive relief, and civil penalties. According to the FTC's [press release](#), the committee authorized the complaint 4-0, and the case is now filed in the Middle District of Florida.

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