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| <p>DISTRICT COURT, ARAPAHOE COUNTY, STATE OF COLORADO</p> <p>7325 S Potomac St #100 Centennial, CO 80112</p> | <p>DATE FILED February 12, 2025 10:21 AM CASE NUMBER: 2025CV30241</p> <p>▲ FOR COURT USE ONLY ▲</p> |
| <p>Plaintiffs: JOHN DOE and JANE ROE,</p> <p>vs.</p> <p>Defendants: AVI SCHALB, NANCY DOMINGUEZ, and PHR RENT, LLC.</p> | <p>Case No.: 2025CV30241</p> <p>Division: 204</p> |
| <p style="text-align: center;">ORDER GRANTING PRELIMINARY INJUNCTION</p> | |

THIS MATTER comes before the Court on Plaintiffs’ Motion for Entry of Preliminary Injunction. The Court, having reviewed the Motion, supporting documentation, conducted a hearing in open court on February 11, 2025, and the applicable law, hereby FINDS and ORDERS as follows:

I. FINDINGS OF FACT

Based on the Motion, Verified Complaint, and the evidence and argument presented at the hearing in open court on February 11, 2025, the Court makes the following FINDINGS of FACT:

The Plaintiffs, John Doe and Jane Roe, are tenants in a dwelling unit leased to them by Defendants Ari Schwalb and PHR Rent, LLC. This unit is managed by Defendant Nancy Dominguez.

This dwelling unit is located in Aurora, Colorado, in Arapahoe County. Plaintiffs reside in the unit with their two sons, ages 3 and 15 years old.

The lease has a term of one-year and was entered into on or about September 20, 2024.

Plaintiffs are a Venezuelan couple with pending applications for asylum in the United States.

Plaintiffs allege that, in December of 2024, and January of 2025, Defendants repeatedly threatened to notify government immigration authorities of Plaintiffs’ immigration status and to evict them without due process and without following Colorado law. According to Plaintiffs, this has included locking Plaintiffs and their sons out of the unit without following proper legal process in the middle of the Colorado winter (leaving Mr. Doe and Plaintiffs’ 15-year-old son to spend the night in their car) and giving them “notice” that they were going to be evicted within a matter of hours – and if they failed to leave, they would be reported to United States immigration authorities. Defendants deny these allegations.

The Court takes judicial notice of the fact that over the past two weeks, large scale operations to arrest persons that are unable to produce documents that confirm they are in the United States legally, including Venezuelans, have been taking place in Aurora, Colorado.

On January 29, 2025, this Court issued a Temporary Restraining Order (“TRO”), which Plaintiffs subsequently served on Defendants.

In accordance with Colorado law, this Court conducted a hearing on Plaintiffs’ Motion for Entry of Preliminary Injunction in open court on February 11, 2025. Appearing for Plaintiffs were a number of counsel, and the Plaintiffs appeared remotely via WebEx, with Spanish interpreters providing translation of the proceedings for the benefit of Plaintiffs. Defendants Avi Schwalb and Nancy Dominguez appeared and represented themselves pro se.

During the hearing, Defendants Schwalb and Dominguez both consented to the issuance of a Preliminary Injunction if the language of that injunction duplicated the language of the TRO. Because of this consent, the Court deemed it unnecessary to receive testimony from Plaintiffs or the other witness Plaintiffs were prepared to call to testify.

II. LAW AND CONCLUSIONS OF LAW

A preliminary injunction is appropriate where: (1) the parties seeking relief have a reasonable probability of success on the merits; (2) there is a danger of real, immediate and irreparable injury that may be prevented by injunctive relief; (3) there is no plain, speedy, and adequate remedy at law; (4) the granting of a temporary injunction will not disserve the public interest; (5) the balance of equities favors the injunction; and (6) the injunction will preserve the status quo pending trial on the merits. *Rathke v. MacFarlane*, 648 P.2d 648, 653 (Colo. 1982).

The Colorado Immigrant Tenant Protection Act (“ITPA”), enacted in 2020, prohibits landlords (such as Defendants here) from engaging in certain activities. Specifically, C.R.S. § 38-12-1203 provides, in pertinent part:

(1) On and after January 1, 2021, except as otherwise provided in this section or required by law or court order, **a landlord shall not:**

(b) **Disclose or threaten to disclose information regarding or relating to the immigration or citizenship status of a tenant to any person, entity, or immigration or law enforcement agency;**

(c) **Harass or intimidate a tenant or retaliate against a tenant for:**

(I) Exercising the tenant's rights under this part 12; or

(II) **Opposing any conduct prohibited by this part 12;**

(d) **Interfere with a tenant's rights under this part 12, including influencing or attempting to influence a tenant to surrender possession of a dwelling unit or to not seek to occupy a dwelling unit based solely or in part on the immigration or citizenship status of the tenant; ...**

C.R.S. § 38-12-1203(1)(b), (c), and (d) (emphasis added).

The Court FINDS and CONCLUDES that Plaintiffs have demonstrated that immediate and irreparable injury, loss, or damage will result if Defendants disclose anything about Plaintiffs' immigration or citizenship status – real or perceived – to anyone, or make any threats to disclose such information, or take any action to exclude Plaintiffs from their unit without following Colorado law and due process.

Given the facts referenced above and the law quoted above, Plaintiffs have demonstrated a reasonable probability of success on the merits with respect to the question of whether Defendants have violated and are at risk of continuing to violate the ITPA unless they are expressly enjoined from doing so. There is no plain, speedy, and adequate remedy at law available to Plaintiffs before a trial on the merits other than a Preliminary Injunction.

The balance of equities favors granting the Preliminary Injunction due to the need to enforce Colorado law and the risk to Plaintiffs and their young sons if the ITPA is not strictly enforced. Balancing the equities favors granting the requested Preliminary Injunction since Plaintiffs are entitled to appreciate the protections afforded by Colorado law and no reason has been given to justify not enforcing the ITPA.

Granting the TRO will preserve the status quo pending a trial on the merits since the status quo is that Plaintiffs are continuing to reside in the unit and their immigration or citizenship status has not, to the Court's knowledge, been reported by Defendants to immigration or other authorities.

The Court incorporates herein, as if fully set forth, the Findings and Conclusions included in the January 29, 2025, TRO.

In light of the Findings and Conclusions referenced above, the Court FINDS and CONCLUDES that Plaintiffs have satisfied each of the above six (6) *Rathke* factors.

III. ORDER

Based on the foregoing Findings of Fact and Conclusions of law, IT IS HEREBY ORDERED:

Plaintiffs' Motion for Entry of a Preliminary Injunction is GRANTED.

Defendants, Avi Schwalb, Nancy Dominguez, and PHS Rent, LLC, and any persons acting in concert with them, are hereby enjoined from:

Disclosing or threatening to disclose information regarding or relating to the immigration or citizenship status of Plaintiffs or their minor children to any person, entity, or immigration or law enforcement agency; and shall not harass or intimidate Plaintiffs or their minor children, or retaliate against them for exercising their rights as tenants under the ITPA, or for opposing any conduct prohibited by the ITPA; and shall not interfere with Plaintiffs' rights under the ITPA, including influencing or attempting to influence Plaintiffs to surrender possession of the dwelling unit based solely or in part on Plaintiffs' immigration or citizenship status.

Plaintiffs have already posted the security required by this Court's January 29, 2025, Order. This Court FINDS that no further security is required at this time.

This Preliminary Injunction will remain in effect until a further Order from this Court or a trial on the merits, whichever first occurs.

DONE this 12th day of February, 2025.

BY THE COURT:

A handwritten signature in black ink, appearing to read "T. W. Henderson", written over a horizontal line.

Thomas W. Henderson
District Court Judge
