

<p>DISTRICT COURT, ARAPAHOE COUNTY, COLORADO 7325 S. Potomac Street Centennial, CO 80112</p>	<p>DATE FILED March 7, 2025 3:25 PM FILING ID: D61F36FC3138E CASE NUMBER: 2025CV30241</p>
<p>Plaintiffs: John Doe and Jane Roe, individuals, v. Defendant: Avi Schwalb and Nancy Dominguez, individuals; PHS Rent, a limited liability corporation.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p><i>Attorneys for Plaintiffs:</i></p> <p>Timothy R. Macdonald, #29180 Emma Mclean-Riggs, #51307 Anna I. Kurtz, #51525 American Civil Liberties Union Foundation of Colorado 303 E. 17th Ave., Suite 350 Denver, Colorado 80203 tmacdonald@aclu-co.org emcleanriggs@aclu-co.org akurtz@aclu-co.org (720) 402-3151</p> <p>Kelly L. Reeves, #58170 CED Law 1600 N Downing St. Suite 500 Denver, CO 80218 kelly.reeves@cedlaw.org (720) 248-6492</p> <p>Alec P. Harris, #47547 Alexandra K. Lewis, #60266 Faegre Drinker Biddle & Reath LLP 1144 15th Street, Suite 3400 Denver, Colorado 80202 alec.harris@faegredrinker.com alecks.lewis@faegredrinker.com (303) 607-3500</p>	<p>Case Number: 2025CV30241 Div: 204</p>
<p>AMENDED COMPLAINT AND JURY DEMAND</p>	

Plaintiffs John Doe and Jane Roe,¹ through undersigned counsel, state as follows:

1. Colorado’s Immigrant Tenant Protection Act, C.R.S. § 38-12-1201 et seq., (the “Act”) expressly prohibits landlords from disclosing or threatening to disclose to law enforcement, including immigration enforcement, information regarding their tenants’ immigration or citizenship status. It further forbids landlords from harassing, intimidating, or retaliating against their tenants for efforts to enforce that legal protection. And it specifically proscribes influencing or attempting to influence a tenant to surrender possession of a dwelling unit, or taking steps to evict a tenant, based in part on their immigration or citizenship status, real or perceived.

2. Plaintiffs are a Venezuelan couple who live with their two sons in Aurora and have pending applications for asylum in the United States. Defendants are the landlords of the apartment building where Plaintiffs reside. Over the last several months, Defendants have engaged in almost every form of misconduct the Act proscribes. They have repeatedly threatened to report Plaintiffs to immigration authorities, wielded that threat coercively to discourage Plaintiffs from asserting their rights, intimidated and harassed them, derided their Venezuelan national origin, and retaliated against them for engaging in protected conduct.

3. Plaintiffs bring this civil action to seek redress for their landlords’ clear violations of Colorado law and to prevent them from engaging in further abusive practices.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this case pursuant to Colo. Const. art. VI, § 9(1); C.R.S. §§ 13-1-124(1)(b), 13-51-105; and C.R.C.P. 57 and 65.

5. This Court is vested with jurisdiction over Defendants pursuant to C.R.S. § 13-1-124(1)(a) and (c) because Defendants transact business and own, use, or possess real property situated in this state.

6. Venue is proper in this Court under C.R.C.P. 98(b)(1) and (c)(1).

PARTIES

7. Plaintiff John Doe is a resident of the City of Aurora, where he lives with his partner, Plaintiff Jane Roe, and their two sons, aged 15 and 3 years old. Plaintiffs are a Venezuelan couple with pending applications for asylum in the United States. Plaintiffs are tenants under the meaning of C.R.S. § 38-12-1202(6). They live in Aurora in a residential apartment (the “Apartment”) they lease from Defendants that is a “dwelling unit” under the meaning of C.R.S. § 38-12-1202(1).

¹ John Doe and Jane Roe are participating in this action pseudonymously pursuant to the Court’s January 29, 2025, Order Granting Motion for Leave to File Complaint Under Pseudonym.

8. Defendant Avi Schwalb owns the Apartment. He is the registered officer of PHS Rent LLC. He is a “landlord” within the meaning of C.R.S. § 38-12-1202(3). Defendant Schwalb is not Plaintiffs’ employer in any capacity.

9. Defendant Nancy Dominguez manages the Apartment. She is the assistant manager at PHS Rent LLC. She is a “landlord” within the meaning of C.R.S. § 38-12-1202(3). On behalf of PHS Rent, Defendant Dominguez signed a year-term residential lease governing Plaintiffs’ tenancy, entered on September 20, 2024. Defendant Dominguez is not Plaintiffs’ employer in any capacity.

10. Defendant PHS Rent, LLC rents the Apartment to Plaintiffs. Defendant PHS Rent LLC is a “landlord” within the meaning of C.R.S. § 38-12-1202(3). Defendant PHS Rent LLC is not Plaintiffs’ employer in any capacity.

11. During all times relevant to this action, Defendants together operated as the landlord and property manager of the Apartment.

FACTUAL ALLEGATIONS

Lease

12. Plaintiffs moved into the Apartment in early October 2024.

13. Plaintiffs entered into a written Residence Lease (the “lease”) on September 20, 2024, with a lease term of September 23, 2024, to September 30, 2025.

14. The lease names PHS RENT LLC as landlord, and John Doe and Jane Roe as tenants. It is signed and initialed by Defendant Nancy Dominguez as landlord and by Ms. Doe as tenant. The lease clarifies that all references to “landlord” mean either PHS RENT LLC “and/or its authorized agents, contractors, or employees.”

15. The rent for the unit is \$1800 per month.

Living Conditions

16. When the family moved into the property, uninhabitable conditions existed in the Apartment, including, but not limited to a window with a significant crack through the glass that allowed rain, wind and the elements into the Apartment, an infestation of roaches, unsanitary conditions including a saturation of urine in the area around the Apartment, and security issues including a lack of adequate fencing and lighting.

17. The uninhabitable conditions impacted the life health and safety of the family. Soon after Plaintiffs moved into the home, their three-year-old child became ill and a small laceration on his foot became infected.

18. Mr. Doe and Ms. Roe informed the landlord about the conditions through conversation and by physically showing the conditions to Defendants.

19. Defendants did not complete timely remediation or address the sources of uninhabitable conditions at the Apartment.

20. Defendants informed Mr. Doe that he needed to pay for repair of the broken window.

21. Contrary to Colorado law, the Parties' lease states that tenants, "shall be responsible for the cost and condition of all improvements, repairs and maintenance relating to all structural components, interior and exterior walls, floors, ceiling, roofs, sewer [sic] connections, plumbing, wiring, appliances and glass used in connection with the Premises."

22. Upon information and belief, the illegal lease terms are part of Defendants' standard form lease used at PHS Rent LLC properties.

23. Defendants own and lease more than four hundred rental units to families in Colorado.

Illegal Lock Out

24. On or around December 4, 2024, Mr. Doe and Ms. Roe's fifteen-year-old son came home from school to find that the locks on the Apartment had been changed. There had been no notice to Mr. Doe or Ms. Roe and there was no valid court order for possession of the property.

25. That night, Mr. Doe and the couple's fifteen-year-old son were forced to sleep in their car overnight in the winter cold. The next day, they were able to access the Apartment through a window. Ms. Roe called the landlord's office to ask for an explanation for this unlawful act. She spoke with Defendant Dominguez, who responded that Mr. Doe and Ms. Roe could not do anything about it because they are not "from here," are Venezuelan, and have no rights.

26. Defendant Dominguez intended to scare Mr. Doe and Ms. Roe. She intended to use threats about her perception of Plaintiffs' immigration or citizenship status to intimidate and coerce them not to assert their rights as tenants.

27. While locked out from their home, Mr. Doe, Ms. Roe and their family were unable to access or use their personal property.

28. Management informed Mr. Doe that they would give him a new key if he made an additional payment.

29. Mr. Doe made a payment of \$1000. Based on management's statements, he believed he would be given a key. He was not. About a week later he made a second payment of

\$300. After Mr. Doe made the \$300 payment, management finally put a new key in Plaintiffs' mailbox.

Misleading Demand for Purported Nonpayment of Rent

30. On or about January 15, 2025, Defendant Dominguez knocked harshly on Plaintiffs' door. When they answered, Defendant Dominguez shoved some papers through the door and misleadingly told Plaintiffs they had "ten days to move out."

31. The papers purported to be a form Demand for Compliance-Residential Eviction Notice, JDF 99A. As grounds for eviction, the demand listed past due rent in the amount of \$4200 from missed payments between November 1, 2024 and January 31, 2025. It indicated that unless Plaintiffs cured the purported arrears, their tenancy would be terminated as of January 29, 2025, at 10:00 am.

32. Defendants served the demand and threatened that Plaintiffs had ten days to move out in part based on their perception of Plaintiffs' immigration or citizenship status and national origin.

Violent Entry and Illegal Threats

33. On January 24, 2025, at or about 11:00 a.m., Defendant Schwalb showed up at the Apartment. When Ms. Roe began to open the door, Defendant Schwalb slammed it back, hitting Ms. Roe in the face. Though she tried to lean out of its path, it struck her on her nose and between her eyebrows. If she had not leaned back, the force of the door would have broken her nose.

34. Defendant Schwalb had visited the Apartment for maintenance purposes on prior occasions. At those times, he had also shouted at Plaintiffs. Defendant Schwalb had also previously harassed Plaintiffs' former neighbors, who were also Venezuelan. And Defendant Schwalb had degraded Plaintiffs' Venezuelan national origin to Plaintiffs' neighbors.

35. When he showed up on January 24, 2025, Defendant Schwalb had a handwritten paper in his hand that he alleged showed what the Plaintiffs owed, but he did not show them the paper. Instead, he raised his voice, stating in broken Spanish that they owed him money and if they did not have money, they were going to go outside to the street, in the cold. He said they had "one hour, two hours" to "get out." When Plaintiffs told Schwalb that this was illegal, he escalated by threatening that they would be taken outside by immigration enforcement. Defendant Schwalb threatened that immigration would come "here," to the Apartment.

36. When Plaintiffs cited their right to an order before being evicted, Defendant Schwalb responded that immigration would "come here [to the Apartment] today." He warned that once immigration came, they would be "out." During the encounter, Plaintiff Doe told Defendant Schwalb that demanding they leave within hours was illegal, and Schwalb repeated that immigration enforcement would come and get them out. Later in the encounter, he followed up with: "Migra today." Migra is Spanish slang that refers to immigration enforcement officials.

37. Defendant Schwalb shouted at Mr. Doe and Ms. Roe that they did not have papers, and that while good immigrants come to the United States, as Venezuelans, all they did was cause problems. Before getting in his car, he again threatened that they had a couple of hours to move out, that they had better go sleep outside in the cold, and that the police would come today.

38. Defendant Schwalb intended to scare Mr. Doe and Ms. Roe into surrendering possession of the Apartment without legal process. He intended to use threats of calling immigration enforcement to intimidate and coerce Plaintiffs not to assert their rights as tenants.

39. Defendant Schwalb's escalation of the management office's prior threats left Mr. Doe and Ms. Roe terrified for themselves and their sons. Upon information and belief, Defendants routinely use threats of unlawful removal against tenants of substantially less sophistication and bargaining power than Defendants, including harassment based on tenants' perceived immigration status and coercive conduct to deprive tenants of their legal right to possess their rental property.

Fraudulent Eviction Notice

40. On January 28, 2025, Plaintiffs filed their Original Complaint in this case, along with a motion for a temporary restraining order and preliminary injunction.

41. On January 29, 2025, the Court granted Plaintiffs' request for a temporary restraining order. The Court subsequently set a hearing on Plaintiffs' request for preliminary injunction for February 11, 2025.

42. On or about Saturday, February 8, 2025, three days before the preliminary injunction hearing, Defendants served on Plaintiffs an eviction summons purporting to set a return date for an eviction hearing for Plaintiffs on Monday, February 10, 2025, at 9:30 a.m.

43. This eviction summons arose from a case that did not name the Plaintiffs as parties. It had no legal force as to Plaintiffs and should not have been requested from the Court or served on Plaintiffs.

44. Upon information and belief, Defendants used this fraudulent eviction summons to further intimidate and harass Plaintiffs, in hopes of forcing Plaintiffs to leave the Apartment and/or stop Plaintiffs' lawful activities to enforce their rights.

Retaliatory Eviction Action

45. On February 11, 2025, after a hearing, this Court entered a stipulated preliminary injunction in Plaintiffs' favor.

46. Later that same day, Defendants filed an eviction action seeking to remove Plaintiffs from the Apartment.

47. Upon information and belief, this eviction action was motivated in whole or in part by Defendants' animus toward Plaintiffs, their immigration status, and their lawful activities to protect and promote their rights.

Defendants' Retaliation for Organizing Activities

48. Throughout Plaintiffs' interactions with Defendants, they have participated in organizing activities with a local community advocacy organization focused in part on promoting tenant rights.

49. Upon information and belief, Defendants' illegal conduct directed toward Plaintiffs has been motivated in part as retaliation for this lawful organizing activity including Plaintiffs' other efforts to protect and promote their rights.

50. Upon information and belief, Defendants' illegal conduct directed toward Plaintiffs has been motivated in part as retaliation for Plaintiffs' efforts to assert, enforce, and protect their rights under Colorado law.

FIRST CLAIM

Violation of Immigrant Tenant Protection Act (C.R.S. § 38-12-1201, et seq.)

51. All paragraphs in this Amended Complaint are incorporated herein by reference.

52. The Immigrant Tenant Protection Act, C.R.S. § 38-12-1201, et seq., forbids landlords from threatening, harassing, and retaliating against tenants on the basis of their actual or perceived immigration or citizenship status.

53. Section 1203(b) provides that a landlord shall not "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."

54. Section 1203(c) provides that a landlord shall not "harass or intimidate a tenant or retaliate against a tenant" for exercising their rights under the Tenant Protection Act or opposing any conduct it prohibits.

55. Section 1203(d) and (e) provide that a landlord shall not interfere with a tenant's rights under the Act, including "influencing or attempting to influence a tenant to surrender possession of a dwelling unit" or otherwise "preclud[ing] a tenant from occupying a dwelling unit," based solely or in part on the tenant's actual or perceived immigration or citizenship status.

56. Section 1203(f) proscribes "bringing an action to recover possession of a dwelling unit based solely or in part on the immigration or citizenship status of a tenant."

57. Defendants took advantage of Plaintiffs' perceived immigration or citizenship status and sought to use fear tactics to coerce Plaintiffs into refraining from exercising their rights as tenants.

58. Defendants unlawfully threatened to disclose information about Plaintiffs' immigration or citizenship status to immigration and law enforcement.

59. Defendants unlawfully harassed and intimidated Plaintiffs on the basis of their immigration or citizenship status.

60. Defendants attempted to influence Plaintiffs to surrender possession of their home based on their immigration or citizenship status.

61. Defendants' threats and other unlawful conduct are ongoing. They intend unlawfully to disclose to immigration or law enforcement authorities information about Plaintiff's immigration or citizenship status.

62. Plaintiffs are entitled to damages for the harm they have endured at Defendants' hands as well as an order restraining Defendants from further violating Plaintiffs' rights under the Immigrant Tenant Protection Act.

SECOND CLAIM
Retaliation (C.R.S. § 38-12-509)

63. All paragraphs in this Amended Complaint are incorporated herein by reference.

64. Colorado law prohibits a landlord from retaliating against a tenant in response to "[o]rganizing or becoming a member of a tenants' association or similar organization."

65. Colorado law defines "organizing" as "any lawful, concerted activity by a tenant or tenant's guest or an invitee for the purpose of mutual aid or establishing, supporting, or operating a tenants' association or similar organization or exercising any other right or remedy provided by law." C.R.S. § 38-12-502(6.3).

66. Prohibited retaliation includes: "[t]erminating or not renewing a rental agreement or contract without written consent of the tenant; [b]ringing or threatening to bring an action for possession" and "[t]aking action that in any manner intimidates, threatens, discriminates against, harasses, or retaliates against a tenant." Under Colorado law, a tenant "does not need to prove that retaliation was the sole reason a landlord engaged in any of the[se] activities," only "that the tenant's protected activity...was a motivating factor" for the landlord's activities.

67. Throughout their interactions with Defendants, Plaintiffs have participated in organizing activities with a local community advocacy organization focused in part on promoting tenant rights.

68. Plaintiffs filed the instant case on January 28, 2025, asserting their rights under Colorado’s Immigrant Tenant Protection Act, Colorado’s Anti-Discrimination Act, and Colorado’s prohibition on unlawful eviction.

69. Defendants retaliated against Mr. Doe and Ms. Roe in response to their protected organizing activity by serving the family with a summons alleging Mr. Doe was the defendant in an eviction case in which Mr. Doe was not named in the complaint.

70. Defendants further retaliated against Mr. Doe and Ms. Roe in response to their protected organizing activity by filing an eviction case naming Mr. Doe on February 11, 2025, just hours after the preliminary injunction hearing in the instant case.

71. Defendants have retaliated against Mr. Doe and Ms. Roe on at least two occasions.

72. Mr. Doe and Ms. Roe are entitled to recover damages in an amount not greater than three months’ periodic rent or three times their actual damages, whichever is greater for each violation.

73. Plaintiffs are entitled to damages plus an award of their costs and reasonable attorney’s fees and any other relief the Court deems appropriate.

THIRD CLAIM
Removal Without Process (C.R.S. § 38-12-510)

74. All paragraphs in this Amended Complaint are incorporated herein by reference.

75. Colorado law prohibits self-help evictions.

76. If a landlord “willfully and unlawfully removes the tenant . . . the tenant may seek any remedy available under the law.”

77. Where a civil action is brought and an unlawful removal is found to have occurred, “the tenant must be awarded statutory damages equal to the tenant’s actual damages and the higher amount of either three times the monthly rent or five thousand dollars, as well as any other damages, attorney fees, and costs that may be owed.”

78. On or about December 4, 2024, Defendants willfully excluded Plaintiffs from the Apartment by changing the locks to the premises.

79. Plaintiffs had not been absent for any extended period of time.

80. The locks were not changed for any maintenance purpose.

81. As a result of Defendants’ extrajudicial lockout, Plaintiff John Doe and his fifteen-year-old son were forced to sleep overnight in their car, outside in the cold, in the middle of winter.

82. On January 24, 2025, Defendants again threatened that they would remove Plaintiffs from the Apartment without process.

83. Plaintiffs are entitled to an award of actual and statutory damages, an order declaring these exclusions unlawful, and an order restraining Defendants from further violating Colorado law.

FOURTH CLAIM

Unfair Housing Practice (Colorado Anti-Discrimination Act, § 24-34-501 et seq.)

84. All paragraphs in this Amended Complaint are incorporated herein by reference.

85. The Colorado Anti-Discrimination Act (CADA) prohibits discrimination on the basis of national origin in the terms, conditions, or privileges pertaining to any housing, including the rental or lease of housing, and in furnishing facilities or services in connection with housing.

86. When Defendants locked Plaintiffs out of their unit without process, they specifically cited their Venezuelan national origin as a motivation for the misconduct. Defendants acted on the belief that Plaintiffs' national origin and perceived immigration status would insulate their misconduct from any consequences.

87. When Defendants told Plaintiffs they needed to be out within ten days of delivering the demand for purportedly unpaid rent, even though that was not true, they did so in part on the basis of Plaintiffs' national origin and perceived immigration status.

88. When Defendants demanded that Plaintiffs get out of the Apartment within hours or else they would call immigration authorities, they specifically cited the tenants' Venezuelan national origin.

89. When Defendants threatened to again exclude Plaintiffs from the Apartment without process if they didn't leave within hours, they did so in part on the basis of Plaintiffs' national origin and perceived immigration status.

90. When Defendants served a fraudulent eviction summons on Plaintiffs purporting to notify Plaintiffs of an eviction action against them, Defendants did so in part on the basis of Plaintiffs' national origin and perceived immigration status.

91. When Defendants subsequently initiated a removal action against Plaintiffs, they did so in part on the basis of Plaintiffs' national origin and perceived immigration status.

92. Plaintiffs are entitled to damages for Defendants' discriminatory treatment as well as an order restraining Defendants from further violations of CADA.

FIFTH CLAIM
Breach of the Covenant of Quiet Enjoyment

93. All paragraphs in this Amended Complaint are incorporated herein by reference.

94. Mr. Doe and Ms. Roe enjoyed the right to the quiet enjoyment of the Apartment they inhabited as tenants.

95. Colorado law states that a “written rental agreement must not include: [a] waiver of: [t]he implied covenant of quiet enjoyment” as it relates to actions under the reasonable control of the landlord.

96. Mr. Doe and Ms. Roe lived in unsafe and unsanitary conditions at the Apartment.

97. Defendants’ failure and refusal to provide a safe and sanitary environment in the Apartment was a breach of the covenant of quiet enjoyment.

98. Mr. Doe and Ms. Roe endured harassment, threats, being locked out, and other conduct by Defendants that impeded their quiet enjoyment of the Apartment and breached the covenant of quiet enjoyment.

99. Mr. Doe and Ms. Roe are entitled to recover damages in the amount of the difference between the value of the Apartment in its unsanitary and unsafe condition, and what was actually paid for the unit.

100. Plaintiffs are entitled to damages plus an award of their costs and reasonable attorney’s fees and any other relief the Court deems appropriate.

SIXTH CLAIM
Declaratory and Injunctive Relief under C.R.C.P. 57 & 65

101. All prior paragraphs in this Amended Complaint are incorporated herein by reference.

102. Defendants continue to disregard Plaintiffs’ rights as tenants on the basis of their perceived immigration or citizenship status and national origin. Their threats to call immigration or law enforcement and to remove Plaintiffs from the Apartment without process are ongoing.

103. Plaintiffs face a real and immediate threat of irreparable injury as a result of Defendants’ continuing misconduct.

104. Plaintiffs respectfully request a declaration that Defendants’ ongoing threats and discriminatory treatment are unlawful and an order enjoining Defendants from further violating Colorado law.

JURY TRIAL DEMAND

Plaintiffs respectfully request a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs John Doe and Jane Roe respectfully request that the Court grant them the following relief:

- A. an order declaring Defendants' conduct unlawful;
- B. an order declaring that Plaintiffs owe no rent to Defendants for the Apartment;
- C. preliminary and permanent injunctive relief;
- D. actual and statutory damages in amounts to be proven at trial;
- E. costs, pre-judgment and post-judgment interest;
- F. an award of attorney's fees; and
- G. any additional relief the Court deems just.

Respectfully submitted this 7th day of March, 2025.

/s/ Alec P. Harris

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CERTIFICATE OF SERVICE

I certify that on March 7, 2025, a true and correct copy of the foregoing was filed via e-file, and served on counsel of record for Defendants Avi Schwalb and PHS Rent LLC as follows:

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I further certify that on March 7, 2025, a true and correct copy of the foregoing was served on counsel for Defendant Nancy Dominguez via email, as follows:

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s/ Veronica Thomas

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