

<p>DISTRICT COURT, COUNTY OF ARAPAHOE, COLORADO</p> <p>7325 S. Potomac Street Centennial, CO 80112</p>	<p>DATE FILED March 21, 2025 8:09 PM FILING ID: E7D595C1C427C CASE NUMBER: 2025CV30241</p>
<p>Plaintiffs: John Doe and Jane Roe, individuals</p> <p>v.</p> <p>Defendants: Avi Schwalb and Nancy Dominguez, individuals; PHS Rent, LLC, a limited liability company</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <p>Case No.: 2025CV30241</p> <p>Div: Ctrm.:</p>
<p>Attorneys for Defendants Avi Schwalb and PHS Rent, LLC:</p> <p>Name: Hamilton Faatz, PC Refugio Perez, #47459</p> <p>Address: 5105 DTC Parkway, Suite 475 Greenwood Village, CO 80111-2674</p> <p>Tel. No.: 303-830-0500</p> <p>Email: rperez@hamiltonfaatz.com</p>	
<p>DEFENDANTS AVI SCHWALB’S AND PHS RENT, LLC’S ANSWER TO PLAINTIFFS’ AMENDED COMPLAINT</p>	

Defendants, **AVI SCHWALB** and **PHS RENT, LLC** , by and through counsel, Hamilton Faatz, PC, hereby submit their Answer to Plaintiffs’ Amended Complaint and Jury Demand as follows:

1. In response to paragraph 1 of Plaintiffs’ Amended Complaint and Jury Demand (“Plaintiffs’ Complaint”), Defendants state that said paragraph contains averments of legal rather than factual matters which call for a legal conclusion, and to which no response is required. To the extent said paragraph could be construed to contain factual averments, they are denied.

2. In response to paragraph 2 of Plaintiffs’ Complaint, Defendants state that PHS Rents, LLC (“PHS”) is the landlord for several properties. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 2 of Plaintiffs’ Complaint, and therefore deny the same. Defendants deny any and all

other averments contained in paragraph 2 of Plaintiffs' Complaint which are not expressly admitted herein.

3. In response to paragraph 3 of Plaintiffs' Complaint, Defendants state that said paragraph contains averments of legal rather than factual matters which call for a legal conclusion, and to which no response is required. To the extent said paragraph could be construed to contain factual averments, they are denied.

JURISDICTION AND VENUE

4. In response to paragraph 4 of Plaintiffs' Complaint, Defendants state that said paragraph contains averments of legal rather than factual matters which call for a legal conclusion, and to which no response is required. To the extent said paragraph could be construed to contain factual averments, they are denied.

5. In response to paragraph 5 of Plaintiffs' Complaint, Defendants state that said paragraph contains averments of legal rather than factual matters which call for a legal conclusion, and to which no response is required. To the extent said paragraph could be construed to contain factual averments, they are denied.

6. In response to paragraph 6 of Plaintiffs' Complaint, Defendants state that whether or not venue or jurisdiction is proper in Arapahoe County, Colorado, calls for a legal conclusion which Defendants are not qualified to make. Defendants deny any and all other averments contained in paragraph 6 of Plaintiffs' Complaint which are not expressly admitted herein.

PARTIES

7. In response to paragraph 7 of Plaintiffs' Complaint, Defendants state that they are without knowledge or information sufficient to form a belief about which "Apartment" is referenced therein, and therefore deny the same. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 7 of Plaintiffs' Complaint and therefore deny same. Defendants deny any and all other averments contained in paragraph 7 of Plaintiffs' Complaint which are not expressly admitted herein.

8. In response to paragraph 8 of Plaintiffs' Complaint, Defendants admit that Avi Schwalb is the registered agent for PHS Rent LLC, and that he does not employ Plaintiffs. Defendants further state that paragraph 8 of Plaintiffs' Complaint contains averments of legal rather than factual matters which call for a legal conclusion, and to which no response is required. To the extent said paragraph could be construed to contain factual averments, they are denied. Defendants deny any and all other averments contained in paragraph 8 of Plaintiffs' Complaint which are not expressly admitted herein.

9. In response to paragraph 9 of Plaintiffs' Complaint, Defendants are without knowledge or information sufficient to form a belief about which "Apartment" is referenced

therein, and therefore deny the same. Defendants further state Nancy Dominguez assists PHS Rent LLC with the management affairs thereof, and any residential leases referenced in Plaintiffs' Complaint speak for themselves. Defendants deny any and all other averments in paragraph 9 of Plaintiffs' Complaint not expressly admitted herein or which are inconsistent with any relevant leases.

10. In response to paragraph 10 of Plaintiffs' Complaint, Defendants state that they are without knowledge or information sufficient to form a belief about which "Apartment" is referenced therein, and therefore deny the same. Defendants further state that paragraph 10 of Plaintiffs' Complaint contains averments of legal rather than factual matters which call for a legal conclusion, and to which no response is required. To the extent said paragraph could be construed to contain factual averments, they are denied. Defendants deny any and all other averments contained in paragraph 10 of Plaintiffs' Complaint which are not expressly admitted herein.

11. In response to paragraph 11 of Plaintiffs' Complaint, Defendants state that they are without knowledge or information sufficient to form a belief about which "Apartment" is referenced therein, and therefore deny the same. Defendants further state that Defendants operate as landlords of certain real estate. Defendants deny any and all other averments contained in paragraph 11 of Plaintiffs' Complaint which are not expressly admitted herein.

FACTUAL ALLEGATIONS

12. In response to paragraphs 12 through 15 of Plaintiffs' Complaint, Defendants state any residential lease between Plaintiffs and Defendants speaks for itself. Defendants deny any and all other averments contained in paragraphs 12 through 15 of Plaintiffs' Complaint which are not expressly admitted herein.

13. Defendants deny the averments contained in paragraph 16 of Plaintiffs' Complaint.

14. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 17 of Plaintiffs' Complaint.

15. Defendants deny the averments contained in paragraphs 18 through 20 of Plaintiffs' Complaint.

16. In response to paragraph 21 of Plaintiffs' Complaint, Defendants state any residential lease between Plaintiffs and Defendants speaks for itself. Defendants deny any and all other averments contained in paragraph 21 of Plaintiffs' Complaint which are not expressly admitted herein.

17. Defendants deny the averments contained in paragraph 22 of Plaintiffs' Complaint.

18. Defendants deny the averments contained in paragraph 23 of Plaintiffs' Complaint.

19. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraphs 24 and 25 and therefore deny the same.

20. In response to paragraph 26 of Plaintiffs' Complaint, Defendants state that said paragraph is not directed at Defendants, and therefore no response is required. To the extent paragraph 26 of Plaintiffs' Complaint could be construed as directed at Defendants, Defendants deny all averments contained in said paragraph.

21. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraphs 27 and 28 therefore deny the same.

22. Defendants deny the averments contained in paragraph 29 of Plaintiffs' Complaint.

23. In response to paragraph 30 of Plaintiffs' Complaint, Defendants state that said paragraph is not directed at Defendants, and therefore no response is required. To the extent paragraph 30 of Plaintiffs' Complaint could be construed as directed at Defendants, Defendants deny all averments contained in said paragraph.

24. In response to paragraph 31 of Plaintiffs' Complaint, Defendants state that any documents referenced therein speak for themselves. Defendants deny any and all other averments contained in paragraph 31 of Plaintiffs' Complaint which are not expressly admitted herein.

25. Defendants deny the averments contained in paragraphs 32 through 39 of Plaintiffs' Complaint.

26. Defendants admit the averments contained in paragraph 40 of Plaintiffs' Complaint.

27. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 41 therefore deny the same.

28. In response to paragraphs 42 and 43 of Plaintiffs' Complaint, Defendants state that any documents referenced therein speak for themselves. Defendants deny any and all other averments contained in paragraphs 42 and 43 of Plaintiffs' Complaint which are not expressly admitted herein.

29. Defendants deny the averments contained in paragraph 44 of Plaintiffs' Complaint.

30. In response to paragraphs 45 and 46 of Plaintiffs' Complaint, Defendants state that any documents referenced therein speak for themselves. Defendants deny any and all other averments contained in paragraphs 45 and 46 of Plaintiffs' Complaint which are not expressly admitted herein.

31. Defendants deny the averments contained in paragraph 47 of Plaintiffs' Complaint.

32. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 48 therefore deny the same.

33. Defendants deny the averments contained in paragraph 49 of Plaintiffs' Complaint.

34. Defendants deny the averments contained in paragraph 50 of Plaintiffs' Complaint.

FIRST CLAIM

35. In response to paragraph 51 of Plaintiffs' Complaint, Defendants incorporate herein by reference the foregoing paragraphs of Defendants Answer.

36. In response to paragraphs 52 through 56 of Plaintiffs' Complaint, Defendants state said paragraphs contain averments of legal rather than factual matters which call for a legal conclusion, and to which no response is required. To the extent said paragraphs could be construed to contain factual averments, they are denied.

37. Defendants deny the averments contained in paragraphs 57 through 62 of Plaintiffs' Complaint.

SECOND CLAIM

38. In response to paragraph 63 of Plaintiffs' Complaint, Defendants incorporate herein by reference the foregoing paragraphs of Defendants Answer.

39. In response to paragraphs 64 through 66 of Plaintiffs' Complaint, Defendants state said paragraphs contain averments of legal rather than factual matters which call for a legal conclusion, and to which no response is required. To the extent said paragraphs could be construed to contain factual averments, they are denied.

40. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 67 therefore deny the same.

41. In response to paragraph 68 of Plaintiffs' Complaint, Defendants state that any documents referenced therein speak for themselves. Defendants deny any and all other

averments contained in paragraph 68 of Plaintiffs' Complaint which are not expressly admitted herein.

42. Defendants deny the averments contained in paragraphs 69 through 71 of Plaintiffs' Complaint.

43. In response to paragraphs 72 and 73 of Plaintiffs' Complaint, Defendants state said paragraphs contain averments of legal rather than factual matters which call for a legal conclusion, and to which no response is required. To the extent said paragraphs could be construed to contain factual averments, they are denied.

THIRD CLAIM

44. In response to paragraph 74 of Plaintiffs' Complaint, Defendants incorporate herein by reference the foregoing paragraphs of Defendants Answer.

45. In response to paragraphs 75 through 77 of Plaintiffs' Complaint, Defendants state said paragraphs contain averments of legal rather than factual matters which call for a legal conclusion, and to which no response is required. To the extent said paragraphs could be construed to contain factual averments, they are denied.

46. Defendants deny the averments contained in paragraph 78 of Plaintiffs' Complaint.

47. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 79 therefore deny the same.

48. Defendants deny the averments contained in paragraphs 80 through 83 of Plaintiffs' Complaint.

FOURTH CLAIM

49. In response to paragraph 84 of Plaintiffs' Complaint, Defendants incorporate herein by reference the foregoing paragraphs of Defendants Answer.

50. In response to paragraph 85 of Plaintiffs' Complaint, Defendants state said paragraph contains averments of legal rather than factual matters which call for a legal conclusion, and to which no response is required. To the extent said paragraph could be construed to contain factual averments, they are denied.

51. Defendants deny the averments contained in paragraphs 86 through 91 of Plaintiffs' Complaint.

52. In response to paragraph 92 of Plaintiffs' Complaint, Defendants state said paragraph contain averments of legal rather than factual matters which call for a legal

conclusion, and to which no response is required. To the extent said paragraph could be construed to contain factual averments, they are denied.

FIFTH CLAIM

53. In response to paragraph 93 of Plaintiffs' Complaint, Defendants incorporate herein by reference the foregoing paragraphs of Defendants Answer.

54. In response to paragraphs 94 and 95 of Plaintiffs' Complaint, Defendants state said paragraphs contain averments of legal rather than factual matters which call for a legal conclusion, and to which no response is required. To the extent said paragraphs could be construed to contain factual averments, they are denied.

55. Defendants deny the averments contained in paragraph 96 of Plaintiffs' Complaint.

56. In response to paragraphs 97 through 100 of Plaintiffs' Complaint, Defendants state said paragraphs contain averments of legal rather than factual matters which call for a legal conclusion, and to which no response is required. To the extent said paragraphs could be construed to contain factual averments, they are denied.

SIXTH CLAIM

57. In response to paragraph 101 of Plaintiffs' Complaint, Defendants incorporate herein by reference the foregoing paragraphs of Defendants Answer.

58. Defendants deny the averments contained in paragraph 102 of Plaintiffs' Complaint.

59. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 103 therefore deny the same.

60. In response to paragraph 104 of Plaintiffs' Complaint, Defendants state that said paragraph is not directed at Defendants, and therefore no response is required. To the extent paragraph 104 of Plaintiffs' Complaint could be construed as directed at Defendants, Defendants deny all averments contained in said paragraph.

61. Defendants deny any and all averments of Plaintiffs' Complaint not specifically admitted in Defendants Answer.

AFFIRMATIVE DEFENSES

The Colorado Rules of Civil Procedure require every defendant to set forth potential affirmative defenses at the time the answer is filed, or risk a determination the potential affirmative defenses are waived, even though no disclosures have been exchanged, and no right of discovery exists at the time the answer is filed. Therefore, Defendants necessarily assert the

following affirmative defenses based only upon information and belief. Defendants reserve the right to add, withdraw, and/or modify affirmative defenses after disclosures are made, discovery is received, or other information is obtained. In identifying the following as “affirmative defenses,” Defendants do not imply that the burden of proof or of going forward with evidence has shifted, as that is a matter for Court determination. Plaintiffs’ claims are barred or diminished by the following affirmative defenses which Defendants hereby assert:

1. Plaintiffs have failed to state a claim upon which relief can be granted.
2. Plaintiff’s claims are barred or diminished by any one or more of the admissions, denials, qualifications, allegations, and statements set forth in the foregoing Answer.
3. Plaintiffs’ claims are barred by their failure to mitigate their damages, if any.
4. Plaintiffs’ claims are barred by Plaintiffs’ breach of their contract(s), if any, with the Defendants.
5. Plaintiffs’ claims are barred by the doctrine of first material breach.
6. Plaintiffs’ claims are barred by Plaintiffs’ own unclean hands, fraud, bad faith, or other tortious acts.
7. Plaintiffs’ claims are barred by Defendants’ right to possession of the property.
8. Plaintiffs’ claims are barred because Defendants did not possess the requisite intent required under Plaintiffs’ claims.

Respectfully submitted this 21st day of March 2025.

HAMILTON FAATZ, PC

s/ Refugio Perez

Refugio Perez, #47459

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of March, 2025, a true and correct copy of the foregoing **DEFENDANTS AVI SCHWALB'S AND PHS RENT, LLC'S ANSWER TO PLAINTIFFS' AMENDED COMPLAIN** was forwarded to Colorado Courts E-Filing System for e-service upon the following:

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