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| DISTRICT COURT, ARAPAHOE COUNTY,<br>STATE OF COLORADO<br><br>7325 S Potomac St #100<br>Centennial, CO 80112         | DATE FILED<br>January 29, 2025 3:25 PM<br>CASE NUMBER: 2025CV30241<br><br><b>▲ FOR COURT USE ONLY ▲</b> |
| Plaintiffs: JOHN DOE and JANE ROE,<br><br>vs.<br><br>Defendants: AVI SCHALB, NANCY<br>DOMINGUEZ, and PHR RENT, LLC. | Case No.: 2025CV30241<br><br>Division: 204  |
| <b>ORDER GRANTING RENEWED MOTION FOR TEMPORARY RESTRAINING<br/>         ORDER</b>                                   |   |

THIS MATTER comes before the Court on Plaintiffs’ Renewed Motion for a Temporary Restraining Order in accordance with Colorado Rule of Civil Procedure 65(b) (“Motion”).<sup>1</sup> The Court, having reviewed the Motion, supporting documentation, and the applicable law, hereby FINDS and ORDERS as follows:

**I. FINDINGS OF FACT**

Based on the Motion and Verified Complaint, 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.

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

In December of 2024, and January of 2025, Defendants have repeatedly threatened to notify government immigration authorities of Plaintiffs’ immigration status and to evict them without due process and without following Colorado law. 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”

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<sup>1</sup> The Motion also includes a request for entry of a Preliminary Injunction. This request is addressed at the end of this Order.

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.

As recently as less than one week ago, Defendants again threatened Plaintiffs that they would be reported to United States immigration authorities if they refused to leave the unit by today, even though the term of their lease does not expire until sometime in September of 2025 (absent some material breach).

The Court takes judicial notice of the fact that it is being widely reported yesterday and today that a large scale operation to arrest persons that are unable to produce documents that confirm they are in the United States legally, including Venezuelans, will begin tomorrow in Aurora, Colorado, known as “Operation Aurora”.

In an effort to keep Defendants from reporting or otherwise notifying immigration authorities, or any other legal authority, of Plaintiffs’ immigration or citizenship status, Plaintiffs yesterday filed a Verified Complaint and Motion for Temporary Restraining Order, based in part on Plaintiffs’ allegations that Defendants have already violated and to enjoin them from further violating Colorado’s Immigrant Tenant Protect Act, found at C.R.S. § 38-12-1201, *et seq.*

## II. LAW AND CONCLUSIONS OF LAW

C.R.C.P. 65(b), (c), and (d) govern the issuance of temporary restraining orders (“TROs”) in Colorado. Specifically, Rule 65(b) provides, in pertinent part:

A temporary restraining order may be granted without written or oral notice to the adverse party or his attorney only if: (1) It clearly appears from specific facts shown by affidavit or by the verified complaint or by testimony that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing or on the record the efforts, if any, which have been made to give the notice and the reasons supporting his claim that notice should not be required. Every temporary restraining order granted without notice shall be endorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry not to exceed 14 days, as the court fixes, unless within the time so fixed, the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period.

C.R.C.P. 65(c) addresses the giving of security as a condition of the issuance of a TRO.

Rule 65(c) provides, in pertinent part:

No restraining order or preliminary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained. ...

C.R.C.P. 65(d) provides some additional requirements for a TRO. This subpart of Rule

65 provides:

Every order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

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:**

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(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 the Defendants disclose anything about Plaintiffs’ immigration or citizenship status – real or perceived – to anyone, or make further threats to disclose such information, or take any action to exclude Plaintiffs from their unit without following Colorado law and due process.

The Court further FINDS and CONCLUDES that the above-described injury, loss, and damage will result to Plaintiffs before the Defendants can be heard in opposition, which justifies issuing this TRO without first giving Defendants the opportunity to be heard.

In Plaintiffs’ Renewed Motion, Plaintiffs’ counsel has certified to the Court the notice they have already given to Defendants of the lawsuit Plaintiffs filed yesterday, as well as of the instant

Motion. Because of the imminent danger posed to the health and wellbeing of Plaintiffs if Defendants are not immediately enjoined from violating the ITPA, the Court FINDS and CONCLUDES that just cause exists to issue this TRO without first giving Defendants the opportunity to be heard.

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.

The balance of equities favors granting the TRO due to the need to enforce the Colorado law and the risk to Plaintiffs and their young sons if the ITPA is not strictly enforced.

Granting the TRO will preserve the status quo pending a hearing on the Motion for Preliminary Injunction since the status quo is that the 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.

### III. ORDER

Based on the foregoing findings of fact and conclusions of law, IT IS HEREBY ORDERED:

Plaintiffs' Motion for a Temporary Restraining Order 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.

As security, Plaintiffs are ordered to post a cash bond in the amount of one dollar (\$1.00). The Court finds this nominal sum to be proper because it does not appear that Defendants will suffer a compensable loss if this injunction is later determined to have been wrongfully issued. *See Kaiser v. Market Square Discount Liquors, Inc.*, 992 P.2d 636, 642-43 (Colo. App. 1999).

This TRO will remain in effect for as long as fourteen (14) days from today, or until a hearing on the Motion for Preliminary Injunction takes place, whichever first occurs.

This Order does not address the pending Motion for Preliminary Injunction. After Plaintiffs serve Defendants with this Order, the parties shall forthwith contact the Division Clerk at [18division204@judicial.state.co.us](mailto:18division204@judicial.state.co.us) to schedule an evidentiary hearing for purposes of addressing the Motion for Preliminary Injunction, which hearing shall take place within 14 days of today.

DONE this 29th day of January 2025.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Thomas W. Henderson". The signature is written in a cursive style with a horizontal line underneath it.

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Thomas W. Henderson  
District Court Judge

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