

DISTRICT COURT, CITY AND COUNTY OF DENVER, STATE OF COLORADO Court Address: 1437 Bannock Street Denver, Colorado 80202	DATE FILED: January 18, 2022 9:46 AM FILING ID: D37F00A96E12D CASE NUMBER: 2022CV30137
Plaintiff: DILLON COMPANIES, LLC d/b/a KING SOOPERS Defendants: UNITED FOOD AND COMMERCIAL WORKERS UNION LOCAL NO. 7; ALL THOSE ACTING IN CONCERT WITH LOCAL NO. 7; and DOES 1-8000	☐ COURT USE ONLY ☐
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VERIFIED COMPLAINT FOR TEMPORARY RESTRAINING ORDER, PRELIMINARY AND PERMANENT INJUNCTION, AND DAMAGES	

Plaintiff, Dillon Companies, LLC d/b/a King Soopers (“King Soopers” or the “Company”), for its Verified Complaint for a Temporary Restraining Order, Preliminary and Permanent Injunction, and Damages, alleges as follows:

JURISDICTION AND VENUE

1. Now and at all times material hereto, Plaintiff maintains its main office at 65 Tejon Street, Denver, CO 80223.

2. Defendant United Food and Commercial Workers Union Local No. 7 (“Local 7,” or “Union”) is an unincorporated association engaged in representing employees, including

Plaintiff's employees. Local 7 maintains its Denver office at 7760 West 38th Avenue, Suite 400, Wheat Ridge, CO 80033.

3. The Defendant Union, all those acting in concert with Local 7, and Does 1 through 8000 (collectively "Defendants") are members, representatives, and agents of a class of persons, which class is very numerous, making it impractical to bring them all before this Court; the named Defendants have been fairly chosen and will ensure adequate representation of such class of persons who are members of the Union, and certain numbers of which class of persons are presently engaged in some or all of the unlawful activities set out below.

4. Venue is proper in Denver County, Colorado, pursuant to Colo. R. Civ. P. 98(a) and (c) because Plaintiff's corporate office is there, the actions on which this Complaint is based took place there, and one or more of the Defendants reside there.

5. This Court has jurisdiction over this action because the unlawful conduct occurred within the State of Colorado, and Colo. R. Civ. P. 65 and the Colorado Labor Peace Act, Colo. Rev. Stat. § 8-3-110(1), gives this Court jurisdiction to grant equitable or legal relief such as that requested herein. Plaintiff further addresses this Court's jurisdiction in its concurrently filed Motion for Temporary Restraining Order and Preliminary and Permanent Injunction.

GENERAL ALLEGATIONS

6. Plaintiff owns and operates grocery stores across the Denver metro area, including but not limited to store numbers 5, 7, 8, 14, 22, 24, 26, 27, 29, 30, 36, 40, 41, 49, 55, 63, 85, 90, 92, 93, 96, 100, 114, 115, 123, 124, and 131 (the "Stores") located throughout the City and County of Denver, the Denver metropolitan area, and surrounding areas.

7. Defendant Union represents a unit of Plaintiff's employees and entered into collective bargaining agreements for the unit for a term ending on January 8, 2022.

8. At approximately 5:00 am on January 12, 2022, the Union commenced picketing and other activity against Plaintiff and urged all employees represented by it to engage in such activity at more than seventy of Plaintiff's stores.

9. The picketing and other activity continued on January 12, 13, 14, 15, 16, and 17, 2022, and continues to the present time.

10. The picketing has included multiple incidents of picketers impeding ingress and egress to Plaintiff's parking lots and stores, including:

a. Store #5, 1355 Krameria, Denver. On January 12, 2022, at 7:00 am and 2:00 pm, approximately 5 picketers were actively blocking the street entrances and prohibiting vehicles from entering the parking lot. The picketers directed vehicle traffic to the Safeway grocery store across the street. Later in the afternoon of January 12, 2022, approximately 30 picketers patrolled the front of the store, the parking lot, and near the street entrances, impeding the travel ways for both vehicle and pedestrian traffic. Eight picketers formed two lines of four people each, and walked back and forth in a scissoring type formation, which had the effect of stopping people and vehicles from entering and exiting the premises. On January 13, 2022,

between 7:00 to 9:00 am, picketers were again directly blocking vehicles from entering the parking lot. The picketers directed vehicles to the Safeway store across the street. Ex. 1, ¶¶ 1-4 (Declaration of Rob Miller).

b. Store #7, 5125 West Florida, Denver. On January 12, 2022, at approximately 8:20 am, 15 to 20 picketers massed on the sidewalks, near the parking lot entrances and exits, the fire lane, and the main driving lane separating the parking lot and the front of the store. All vehicle and pedestrian traffic must pass through these areas in order to enter the store. The picketers moved in a formation that could be described as patrolling the entrance perimeter. This pattern seemed to deter people and vehicles from using the main driving lane or fire lane. Ex. 2, ¶¶ 2-4 (Declaration of Stephanie McClanahan).

c. Store #8, 2205 West Wildcat Reserve Parkway, Highlands Ranch. From 5:00 to 11:00 am on January 12, 2022, approximately 8 to 10 picketers gathered at the front entrance of the store. The picketers steadfastly remained directly in front of the air door. Ex. 3, ¶ 2 (Declaration of Bryan Burkey).

d. Store #14, 655 Peoria Street, Aurora. On January 12, 2022, and every day since, groups of 10-20 picketers have paced back and forth in front of the store's main entrance, blocking customers' ability to enter and exit. Ex. 4, ¶¶ 2-3 (Declaration of Rachael Dewey).

e. Store #27, 9551 South University Boulevard, Highlands Ranch. Beginning January 12, 2022, and each day since, groups of 12-15 picketers have paced between the main entrance and main walkway to the parking lot, impeding customer access to the store. On January 14 and 15, 2022, two picketers repeatedly stopped their vehicles in the main driving lane in the parking lot, often honking their horns, and forcing customers to wait for the picketers to move. Ex. 5, ¶¶ 2-3 (Declaration of Don LaGuardia).

f. Store #30, 1155 South Havana, Aurora. On January 15, 2022, from approximately 11:00 am to 1:00 pm, 13 picketers, none of whom work at the store, aggressively blocked the front entrance and exit by moving in a circle, impeding the ingress and egress of people coming into and going out of the store. Ex. 6, ¶¶ 2-5 (Declaration of Adan Gonzalez). Later in the afternoon of January 15, 2022, 15 picketers formed a solid line across the entire front entrance, prohibiting ingress and egress to the store. The picketers ignored numerous requests to stop blocking the entrance. The store called the police to assist in moving the picketers away from the entrance, but the police never arrived. Ex. 7, ¶¶ 2-6 (Declaration of Dave VonFeldt).

g. Store #40, 12043 West Alameda Parkway, Lakewood. On January 12, 2022, about 30 picketers were on the premises. Around 4:30 pm that day, about 14 of the picketers were walking back and forth across the entrance and exit, effectively preventing people from entering and exiting the store. While picketers had respected requests to move away from the door earlier in the day, after a Union representative told the picketers they did not have to move, the picketers refused to move from the area and ignored repeated requests to do so. On January 13, 2022, 42 picketers were at the store from 11:00 am to 12:00 pm, with approximately 20 of the 42 walking back and forth directly in front of the entrance, impeding people trying to enter and exit the store. On January 14, 2022, more than 50 picketers were at the store from 11:00 am to 6:00 pm. Twenty of those picketers blocked the front entrance by walking in a circle

formation, impeding people trying to enter and exit the store. On January 15 and 16, 2022, about 20 picketers again impeded ingress and egress by walking back and forth directly in front of the store entrance. Ex. 8, ¶¶ 3-4, 8-11, 15-16, 18-19, 23-24 (Declaration of Sherri Mathews).

h. Store #41, 6760 South Pierce Street, Littleton. On January 12-17, 2022, picketers have walked in a line back and forth in front of the doorway, impeding customers from entering the store. Ex. 9, ¶¶ 2-5 (Declaration of Laurie Chavez).

i. Store #49, 17000 East Iliff Avenue, Aurora. On January 15, 2022, picketers paced in front of the vehicle and store entrances, delaying and obstructing people and vehicles entering and exiting the premises. Ex. 10, ¶¶ 2-8 (Declaration of Ben Choe).

j. Store #55, 9983 Wadsworth Parkway, Westminster. On January 15, 2022, from 5:00 am to 1:00 pm, at least 10 picketers were outside the store's main entrance at all times, with the number rising to as many as 30 picketers at one time. The picketers walked back and forth 5 to 8 feet in front of the entrance in a crisscross or scissoring pattern, impeding people entering and exiting the store. Many customers turned around and left without entering the store. Ex. 11, ¶¶ 2-7 (Declaration of Lisa Evans).

k. Store #63, 8200 South Holly, Centennial. On January 12, 13, 14, and 15, 2022, the number of people picketing the store ranged from 10-30 between the hours of 7:00 am to 9:00 pm. Each day, groups of 15-22 picketers paced at the store's main entrance, which interfered with people trying to enter the store. Picketers also occasionally stood in vehicle traffic ways, including the fire lane. Ex. 12, ¶¶ 2-6 (Declaration of Tony Daymil).

l. Store #90, 1725 Sheridan Boulevard, Edgewater. On January 12-17, 2022, approximately 20-40 picketers were present each day, with the majority gathering at the main entrance. At the main entrance, up to 10 picketers would form a line and walk back and forth, impeding people from entering the store. Ex. 13, ¶¶ 2-5 (Declaration of Alyssa McNerney).

m. Store #92, 4850 East 62nd Avenue, Commerce City. On January 12, 2022, approximately 17 picketers huddled in front of the store, blocking the entrance. As a result, approximately half of the approaching customers turned around and walked away. Every day since January 12, picketers have paced back and forth in front of the main entrance and driving lane, impeding access to the store and parking lot. Ex. 14, ¶¶ 3, 18 (Declaration of Michael Busby).

n. Store #93, 2810 Quebec Street, Denver. On the morning of January 12, 2022, picketers at the store's main entrance (led by someone from the international Union who is not a store employee) walked back and forth in front of the door, which interfered with people entering and exiting the store. Later that day and the next day, picketers huddled in front of the entrance to the point where multiple customers asked whether the store was open. Ex. 15, ¶¶ 3-7 (Declaration of Endri Guxo).

o. Store #115, 1950 Chestnut Place, Denver. On the morning of January 15, 2022, approximately 15-25 picketers stood in a formation within 2-3 feet of the doors at the main entrance, forcing customers to go around them to enter the store. Ex. 16, ¶¶ 2-3 (Declaration of

Matthew Vega).

p. Store #123, 10406 East Martin Luther King Junior Boulevard, Denver. From 5:00 to 10:30 am on January 12, 2022, approximately 8 to 10 picketers massed at the front entrance. The picketers moved in a circle directly in front of the entrance and exit of the store, effectively prohibiting people from entering and exiting the premises. Almost every person who attempted to enter and exit the store was interfered with by the picketers' moving circle. Customers and employees were prevented from using the main access route to enter or leave the Store. The picketers were asked multiple times to move, but they refused to stop obstructing the entrance and exit of the Store. Ex. 17, ¶¶ 2-4 (Declaration of Rhonda Conway).

q. Store #124, 4600 Leetsdale Drive, Glendale. On January 12, 2022, from 9:15 to 10:15 am, approximately 40 picketers massed in front of the store parking lot, including the driveway and handicap parking area. The picketers directly impeded the travel ways for vehicle and pedestrian traffic from the parking lot. The picketers moved in barricade-like formations which had the effect of blocking both people and vehicles entering and exiting the premises. These barricades consisted of more than 20 people and were formed in front of the store entrance and in areas of the parking lot. The picketers ignored several requests by store management to not block the entrance to the store, the parking lot, and the handicap parking areas. Ex. 18, ¶¶ 2-6, 9 (Declaration of Scott Brinson). On January 13, 2022, following a rally organized by UFCW and beginning around 1:45 pm and for about one hour, a group of 40-50 people massed in the store's parking lot, handicap parking areas, fire lane, and front entrance area, impeding the movement of numerous vehicles and people entering and exiting the premises. The picketers ignored at least five requests to stop impeding vehicles and people and stop blocking the fire lane and handicap parking. Ex. 19, ¶¶ 2-7 (Declaration of Travis Thoms). On January 15, 2022, picketers directly blocked the store entrance with a large sign. When asked not to block the entrance with the sign, the picketer yelled that the picketers can do whatever they want to do. Then, people associated with another Union, the SEIU, gathered picketers to block the entrance. Ex. 18, ¶¶ 11-12 (Brinson Dec.).

r. Store #131, 100 West Littleton Boulevard, Littleton. On January 12, 2022, 15-30 picketers were on the premises at any given time. Several times throughout the day, the picketers walked in a circular pattern or stood in a huddle formation directly in front of the main entrance. Both of these patterns had the effect of impeding customers from entering and exiting the store. Each time the picketers were advised they could not block the entrance, the picketers dispersed, only to recongregate in front of the entrance again. On the morning of January 13, 2022, approximately 23 picketers circled directly in front of the store, blocking the entrance and exit. At approximately 9:45 am, two picketers walked toward each other across the entrance to the parking lot, deliberately walking very, very slowly so as to block the entrance. On January 15 and 15, 2022, there were as many as 50 picketers at the store, with the majority circling in front of the main entrance, impeding customers' access. Picketers also walked through the parking lot and main drive, impeding customers' ability to drive through the lot and park. Ex. 20, ¶¶ 2-8, 11-14 (Declaration of Dirk Steinsiek).

11. The picketing has included multiple incidents of picketers physically blocking parking spaces, including handicap parking spaces, resulting in at least one complaint from a disabled customer who was unable to park in a parking space reserved for handicapped

customers:

a. Store #29, 1155 East Ninth Avenue, Denver. On January 16, 2022, a large group of picketers blocked parking areas. Ex. 21.

b. Store #40, 12043 West Alameda Parkway, Lakewood. On January 13, 2022, the manager of a neighboring business, ARC Thrift Store, complained that picketers were interfering with its customers' ability to use the parking lot. Ex. 8, ¶ 14 (Mathews Dec.).

c. Store #124, 4600 Leetsdale Drive, Glendale. On January 12, 2022, picketers blocked areas of the parking lot, including the handicap parking area. At least one customer reported that he was unable to use the handicap parking because picketers were blocking the area. The picketers ignored requests by store management to not block parking spaces and the handicap parking area. Ex. 18, ¶¶ 4-5, 9 (Brinson Dec.). On January 13, 2022, picketers again blocked the handicap parking area and ignored requests to move. Ex. 19, ¶ 7 (Thoms Dec.).

12. The picketing has included multiple incidents of picketers falsely telling customers that Plaintiff's stores are closed, including:

a. Store #14, 655 Peoria Street, Aurora. On January 13, 2022, picketers were telling customers the store was closed. The store was not closed. Ex. 4, ¶¶ 5-6 (Dewey Dec.).

b. Store #27, 9551 South University Boulevard, Highlands Ranch. Beginning January 12, 2022, and each day since, picketers have told customers some version of, "go to Safeway, go to Walmart, they are both open," implying that the store is closed. Ex. 5, ¶ 6 (LaGuardia Dec.).

c. Store #30, 1155 South Havana, Aurora. On January 15, 2022, picketers approached people in their cars and aggressively told them to leave and the store was closed. Ex. 6, ¶ 7 (Gonzalez Dec.). Picketers also yelled at customers to not shop at the store and the store was closed. Ex. 7, ¶ 5 (VonFeldt Dec.).

d. Store #40, 12043 West Alameda Parkway, Lakewood. On January 13, 2022, a customer complained that a picketer approached her in her vehicle and told her not to shop at the store and that the store was closed. On January 14, 2022, picketers used a megaphone to chant various misrepresentations including that the store was closed. On January 15, 2022, picketers continued to tell customers attempting to enter that the store was closed. Ex. 8, ¶¶ 12, 17, 20 (Mathews Dec.).

e. Store #110, 8673 South Quebec, Highlands Ranch. Beginning January 12, 2022, and each day since, picketers have told customers not to go into the store, everything is closed. The store is open. Ex. 22, ¶ 5 (Declaration of Corynne Jones).

f. Store #115, 1950 Chestnut Place, Denver. On January 15, 2022, picketers repeatedly flagged down customers and told them the store was closed. Ex. 16, ¶ 4 (Vega Dec.).

g. Store #124, 4600 Leetsdale Drive, Glendale. On January 12, 2022, a

customer was stopped by picketers at the entrance and told that he could not shop at the store and the store was closed. The store was not closed. On January 15, 2022, picketers chanted into a bull horn “the store is closed” and “you can’t shop here.” Ex. 18, ¶¶ 7, 14 (Brinson Dec.).

h. Store #131, 100 West Littleton Boulevard, Littleton. On January 13, 2022, at approximately 8:00 am, picketers repeatedly told customers the store was closed. The store was not closed. Ex. 20, ¶ 6 (Steinsiek Dec.).

13. The picketing has included multiple incidents of picketers making false and inflammatory statements to customers about the safety of Plaintiff’s stores and products, including:

a. Store #27, 9551 South University Boulevard, Highlands Ranch. Beginning January 14, 2022, and each day since, picketers near the main entrance have loudly chanted, “2-4-6-8 your product is out of date.” Ex. 5, ¶ 7 (LaGuardia Dec.).

b. Store #40, 12043 West Alameda Parkway, Lakewood. On January 14, 2022, picketers used a megaphone to chant at customers that the food in the store was expired. On January 15, 2022, picketers stopped customers attempting to enter the store and told them the food was expired. Ex. 8, ¶¶ 17, 20 (Mathews Dec.).

c. Store #110, 8673 South Quebec, Highlands Ranch. Beginning January 12, 2022, and each day since, picketers have told customers not to go into the store, the food is rotten and spoiled. The food is not spoiled. Ex. 22, ¶ 5 (Jones Dec.).

d. Store #115, 1950 Chestnut Place, Denver. On January 15, 2022, several customers reported that picketers told them the store did not put dates on its meat products and was selling poor quality products. Ex. 16, ¶ 8 (Vega Dec.).

e. Store #124, 4600 Leetsdale Drive, Glendale. On the afternoon of January 13, 2022, picketers yelled at customers to not shop at King Soopers and that there was COVID in King Soopers. Ex. 19, ¶ 8 (Thoms Dec.).

14. The picketing has included multiple incidents of picketers harassing and intimidating customers as they entered or exited Plaintiff’s stores resulting in numerous customer complaints conveyed to store management, including:

a. Store #5, 1355 Krameria, Denver. On January 12 and 13, 2022, the Store Manager received numerous complaints from customers stating that picketers harassed them when they entered and exited the store, and that picketers refused to allow them into the store. Ex. 1, ¶ 5 (Miller Dec.).

b. Store #7, 5125 West Florida, Denver. On January 12, 2022, the picketers harassed customers coming into the store, including a brother and sister who reported the picketers screamed at them, “support us, support us.” The female customer reported a male picketer was “super aggressive” toward her, yelling at her with an angry face. Ex. 2, ¶¶ 5-7 (McClanahan Dec.).

c. Store #14, 655 Peoria Street, Aurora. On January 14, 2022, and every day since, picketers have played very loud music from a boombox directly to the side of the store's main entrance. Three customers complained that the music was too loud. Ex. 4, ¶¶ 9-10 (Dewey Dec.).

d. Store #22, 9731 West 58th Avenue, Arvada. On the evening of January 15, 2022, as two contract workers were walking into the store following a break, a picketer said, "there goes those nigga scabs again." Ex. 32 (Boun Keosongka Incident Report).

e. Store #24, 750 East 104th Avenue, Thornton. On January 15, 2022, store management received approximately six customer complaints that the picketers were aggressive and "almost relentless." Ex. 23, ¶ 7 (Declaration of Chelsey Rasmussen).

f. Store #26, 6470 East Hampden Avenue, Denver. From January 12-16, 2022, a UFCW representative from California has picketed the store each day. Customers complained this UFCW representative was harassing them by yelling and screaming at them to "shop somewhere else" and "why are you here." Ex. 24, ¶¶ 2-3, 6 (Declaration of Demi Gulley).

g. Store #27, 9551 South University Boulevard, Highlands Ranch. Beginning January 12, 2022, and each day since, approximately 16-17 customers have complained each day about the picketers' loud and aggressive conduct. Ex. 5, ¶¶ 4, 8-9 (LaGuardia Dec.).

h. Store #30, 1155 South Havana, Aurora. On January 15, 2022, picketers aggressively approached people in their cars, telling them to leave and to shop elsewhere. Picketers had a megaphone and yelled and chanted, and harassed customers as they walked from their cars to the store. Ex. 6, ¶¶ 6-7 (Gonzalez Dec.).

i. Store #40, 12043 West Alameda Parkway, Lakewood. On January 12, 2022, a customer who is an Instacart shopper reported that picketers blocked her and her two young children from entering the store.¹ The Instacart shopper stated that she was scared the picketers would not allow her into the store and that she was concerned for her safety and the safety of her children. On January 14, 2022, picketers used a megaphone to chant at customers, including that the customers were selfish and "just care about themselves." On January 16, 2022, two customers complained that the picketers were hostile toward them and told them they were "selfish" and did not care about store employees. Ex. 8, ¶¶ 6-7, 17, 25 (Mathews Dec.).

j. Store #41, 6760 South Pierce Street, Littleton. Multiple customers have complained about picketers blocking access to the store. On January 16, 2022, a picketer called an elderly male customer an "asshole" for shopping at the store. The customer responded that he was 75 years old and the picketer should show some respect. The picketer laughed and called the customer an "asshole" again. On January 17, 2022, two picketers with a megaphone taunted customers with inappropriate and offensive comments such as "Vagisil is in aisle 12," or "Monistat is on the right side of the store make sure you rub it in the right area." One picketer called a customer a "pussy." Ex. 9, ¶¶ 6, 11-12 (Chavez Dec.).

¹ Instacart is a shopping and delivery service.

k. Store #49, 17000 East Iliff Avenue, Aurora. On January 15, 2022, picketers booed, whistled, and yelled at customers who entered the store. Ex. 10, ¶¶ 9-10 (Choe Dec.).

l. Store #55, 9983 Wadsworth Parkway, Westminster. On January 15, 2022, from 5:00 am to 1:00 pm, picketers shouted loudly and booed at customers as they entered and left the store. Picketers also played loud music from a boombox and honked in the parking lot. Throughout the day, several customers complained to the Store Manager that they felt unsafe due to the picketers and requested that a store employee escort them to their cars to ensure their safety. Ex. 11, ¶¶ 10-13 (Evans Dec.).

m. Store #63, 8200 South Holly, Centennial. On January 12 and 13, 2022, a picketer believed to be from the international Union in California, was observed walking and even running up to customers as they attempted to enter the store, sometimes coming within a foot of their faces, and telling them to shop elsewhere. On each day of the strike, picketers have played loud music on a Bluetooth speaker from the hours of 7:00 am to 3:30 pm. Ex. 12, ¶¶ 8, 11 (Daymil Dec.).

n. Store #90, 1725 Sheridan Boulevard, Edgewater. On January 15, 16 and 17, 2022, picketers used cowbells and air horns and played loud music fairly consistently throughout the day. On January 16, the store received at least three calls from neighbors complaining about the noise. After each complaint, the store manager asked the picketers to please keep the noise down. Picketers responded, “the union told us we don’t have to” keep it down and they “don’t need to be quiet.” Ex. 13, ¶¶ 7-9 (McNerney Dec.).

o. Store #92, 4850 East 62nd Avenue, Commerce City. On January 12, 2022, a customer reported that a picketer aggressively shouted at her to not shop at the store, and when the customer proceeded toward the store, the picketer threw down her sign at the customer’s feet, got in the customer’s face, and stared her down in a fighting stance. The customer was very upset by the confrontation. On January 14, 2022, around 5:00 pm, a female picketer shouted at a male customer, “you need to fucking shop at Walmart.” The male customer shouted back, “I can fucking shop wherever I want.” The picketer and the customer then flipped each other off. When the store manager approached the picketer to ask about the confrontation, he noticed that she was livestreaming the encounter. A security guard reported that he had received several complaints about this same picketer’s aggressive conduct toward customers. Ex. 14, ¶¶ 4-5, 9-13 (Busby Dec.).

p. Store #96, 6000 South Holly Street, Greenwood Village. On January 12, 13, 14, 15, and 16, 2022, store management has received from 10-15 customer complaints each day asking the store to have picketers move away from the walkway and quiet down. On January 17, 2022, a customer made a written complaint about an incident the day before in which a male picketer with a blond Mohawk haircut blocked her path, got close to her, and yelled at her. The customer reported that she asked a store manager to escort her to her car and that the experience made her physically and emotionally sick. Ex. 25, ¶ 6, 8 (Declaration of Leigh Fauth).

q. Store #110, 8673 South Quebec, Highlands Ranch. On January 17, 2022, a customer who was in tears reported that picketers “got their hands in [her] face” as she tried to

enter the store and that she did not feel safe because of the picketers' aggression and close proximity to her in light of COVID-19. Ex. 22, ¶ 7 (Jones Dec).

r. Store #114, 15051 East 104th Avenue, Commerce City. On January 14, 2022, approximately 6:10 pm, an enraged male customer called the store to complain that his wife was verbally attacked by picketers, who made "very personal" comments to his wife. The store manager told the customer that he could not order the picketers to leave the premises, and advised the customer to call the police if he felt the picketers had endangered his wife's safety. The customer told the store manager that if he could not do anything, the customer would come take care of it himself, and made a statement to the effect of, "it is behavior like this that prompts situations like Boulder to occur." The customer was referring to the 2021 shooting at a Boulder King Soopers which resulted in ten deaths. The Commerce City Police were notified, and the picketers were notified of the potential that an angry customer may confront them. In addition to this complaint, approximately 15-20 additional customers complained that day about being harassed by picketers, including picketers using profanity, berating them, getting in their faces and invading personal space, and that the picketers were relentless. Customers complained they felt unsafe and their children feared the picketers. Ex. 26, ¶¶ 4-7 (Declaration of Russell Savage).

s. Store #115, 1950 Chestnut Place, Denver. On January 13, 2022, several customers reported that picketers had encouraged them to steal from the store. On January 15, 2022, several customers complained that they felt intimidated by the picketers' attempts to approach them in the parking garage. Ex. 16, ¶¶ 6-7 (Vega Dec.).

t. Store #123, 10406 East Martin Luther King Junior Boulevard, Denver. On January 12, 2022, several customers complained about being harassed by picketers who booed loudly at them and tried to prevent them from entering or exiting the store. One store employee was harassed by picketers as she tried to enter the store to work. The employee left the premises crying and stated she would not return. Ex. 17, ¶¶ (Conway Dec.).

u. Store #124, 4600 Leetsdale Drive, Glendale. On January 12, 2022, several upset customers complained about the conduct of the picketers, including one who was intimidated by the mass of picketers at the front entrance. The customer was escorted out by a store employee. Ex. 18, ¶ 8 (Brinson Dec.). The harassment continued on January 13, 2022, with picketers yelling and chanting at customers. Ex. 19, ¶ 8 (Thoms Dec.). On January 15, 2022, a customer complained that a picketer told her she "should not fucking shop here." The customer was intimidated and requested to be escorted out of the store. Ex. 18, ¶ 10 (Brinson Dec.). On January 16, 2022, a customer complained that a picketer cursed at him as he entered the store. A store security person offered to escort the customer out of the store. As they exited the store, they encountered same picketer. The customer said to her, "see, all I bought was eggs and milk." The picketer replied, "good, I hope you choke on that shit." Ex. 31, ¶¶ 1-8 (Declaration of Norman Suazo).

v. Store #131, 100 West Littleton Boulevard, Littleton. On January 14, 15, and 16, 2022, customers complained about picketers following them around the parking lot and standing intentionally close to them at the fuel center after they had asked picketers to leave them alone. One customer complained that picketers had followed him to his nearby bank and

harassed him as he attempted to do his banking. Ex. 20, ¶¶ 9-10, 15 (Steinsiek Dec.).

15. The picketing has included multiple incidents of picketers blocking and attempting to block King Soopers and third-party vendor deliveries to Plaintiff's stores, including:

a. Store #7, 5125 West Florida, Denver. On January 12, 2022, Plaintiff received a report that picketers were blocking a Pepsi truck delivery to the store. Ex. 2, ¶ 1 (McClanahan Dec.).

b. Store #26, 6470 East Hampden Avenue, Denver. On January 15, 2022, around 8:30 am, a UFCW representative from out of state blocked a vendor delivery by blocking the delivery dock with his vehicle, which had Florida license plates. The UFCW representative cursed at the delivery driver and refused to move his car until the store manager threatened to call the police. Ex. 24, ¶¶ 7-11 (Gulley Dec.).

c. Store #40, 12043 West Alameda Parkway, Lakewood. On January 13, 2022, picketers blocked store deliveries scheduled between 6:00 to 9:00 am. 7-Up and Budweiser delivery trucks were blocked and drove away without dropping off their loads. On January 15, 2022, beginning around 5:45 pm, picketers stood behind a King Soopers perishables truck, blocking it from the delivery dock for at least 30 minutes. The police were called after one picketer refused to move to allow the truck to park and unload. When police arrived, the picketer finally moved. Ex. 8, ¶¶ 13, 21-22 (Mathews Dec.); Ex. 27, ¶¶ 2-10 (Declaration of Alexis Starr).

d. Store #41, 6760 South Pierce Street, Littleton. On January 15, 2022, the strike captain at the store used his vehicle to block a delivery truck from the dock. Ex. 9, ¶ 10 (Chavez Dec.).

e. Store #49, 17000 East Iliff Avenue, Aurora. On January 15, 2022, picketers stood in front of trucks trying to deliver goods to the store to prevent the trucks from reaching the store and force the drivers to stop and talk to the picketers. Ex. 10, ¶ 11 (Choe Dec.).

f. Store #63, 8200 South Holly, Centennial. On January 12 and 13, 2022, between 5:00 to 9:00 pm, a picketer believed to be with the international Union in California led groups of up to 5 picketers to the back of the store and blocked delivery trucks from the dock. Delivery drivers were told by picketers that "they need not deliver" and to "support [the] strike." Ex. 12, ¶ 9 (Daymil Dec.).

g. Store #115, 1950 Chestnut Place, Denver. On January 15, 2022, picketers blocked access to the store's loading dock with a semi-truck, preventing the store from receiving deliveries for more than an hour. The picketers moved their truck only after the Denver Police Department responded and threatened to issue them citations for trespassing. Ex. 16, ¶ 5 (Vega Dec.).

16. The picketing has included multiple incidents where the physical health or safety of picketers, employees, and customers has been threatened or jeopardized, including:

a. Store #30, 1155 South Havana, Aurora. On January 15, 2022, a group of about ten picketers was threatened by a person in a gold SUV. The person yelled at picketers that he would shop at the store whenever he wanted, that he would return every day, and that when he returned, he would bring his gun and shoot the picketers. One of the picketers reported that the man in the SUV used the “n-word” toward one of the Black picketers. Ex. 28, ¶¶ 1-6 (Declaration of Justin Loburgio). Also on January 15, 2022, a circle of picketers blocking the store entrance aggressively yelled at the store manager to hit them with carts, trying to provoke a confrontation as the manager was trying to bring shopping carts into the store. Ex. 6, ¶ 5 (Gonzalez Dec.).

b. Store #36, 8031 Wadsworth Boulevard, Arvada. On January 14, 2022, a picketer reported in a Facebook post that a couple of picketers had been shot with a BB gun. Ex. 19, ¶¶ 11-12 (Thoms Dec.).

c. Store #85, 15200 West 64th Avenue, Arvada. On January 14, 2022, a picketer reported on her Facebook post that a customer had brandished a gun at picketers. Ex. 19, ¶¶ 11, 13 (Thoms Dec.).

d. Store #92, 4850 East 62nd Avenue, Commerce City. On January 16, 2022, a group of approximately 14 screaming and chanting picketers surrounded the store manager and a temporary employee at the exterior doorbell. Ex. 14, ¶ 17 (Busby Dec.).

e. Store #110, 8673 South Quebec, Highlands Ranch. On January 10, 2022, a Union business agent stated to the store manager, “I looked you up, and I know where you live.” Ex. 22, ¶ 2 (Jones Dec.).

f. Store #115, 1950 Chestnut Place, Denver. On the morning of January 17, 2022, one picketer was seen smoking marijuana near the receiving dock, and four picketers were seen in the parking garage pouring shots of vodka, even inviting the store manager to “come take a shot with [them].” Ex. 16, ¶¶ 9-10 (Vega Dec.).

g. Store #131, 100 West Littleton Boulevard, Littleton. At approximately 11:30 am on January 12, 2022, a picketer driving a hot rod performed a “burnout” directly in front of the store’s main entrance, driving dangerously close to a working King Soopers employee who was returning shopping carts. Ex. 20, ¶ 3 (Steinsiek Dec.).

17. The picketing has included at least one incident of Union business agents entering Plaintiff’s store and intimidating an employee with special needs to leave his post and join the picketers outside:

a. Store #8, 2205 West Wildcat Reserve Parkway, Highlands Ranch. On January 12, 2022, two Union business agents entered the store about 10:00 am, following a courtesy clerk with special needs. The Union agents aggressively tried to convince the courtesy clerk to leave work and join the picketers outside, despite the Courtesy Clerk’s repeated statements that he wanted to work. The Store Manager asked the agents to leave the clerk alone, but they persisted, and the clerk eventually left work to join the picketers. Ex. 3, ¶¶ 3-5 (Burkey

Dec.).

18. The picketing has included multiple incidents of misuse of, or damage or threatened damage to, Plaintiff's, its landlords', or its employees' property, including:

a. Store #7, 5125 West Florida, Denver. On January 12, 2022, picketers piled their coffee, donuts, snacks, Bud Light, and trash in the parking lot. Ex. 29.

b. Store #24, 750 East 104th Avenue, Thornton. On the evening of January 14, 2022, the store manager discovered a small cardboard box placed under one of the front tires of her car. She used her foot to pull the box from under her tire and found the box was filled with screws. The store manager had received a warning earlier that day to "watch out, there are nails and screws in the street." Ex. 23, ¶¶ 4-5 (Rasmussen Dec.).

c. Store #36, 8031 Wadsworth Boulevard, Arvada. On January 12, 2022, picketers left a trail of food, drinks, and litter along the store's front wall. Ex. 30.

d. Store #63, 8200 South Holly, Centennial. On January 12, 2022, picketers tied a Union banner to bushes on private property. Ex. 12, ¶ 10 (Daymil Dec.).

e. Store #92, 4850 East 62nd Avenue, Commerce City. On January 12, 2022, shortly after 5:00 pm, a picketer commandeered a King Soopers motorized handicap accessibility scooter and used it to patrol the store's entrance while screaming at shoppers. The next day around noon, the same picketer again commandeered the scooter to patrol the front of the store. The store manager confronted the picketer, told her that her behavior was unacceptable, and returned the scooter to its proper place. The scooter has since been out of commission because the power cord has vanished. Ex. 14, ¶¶ 6-8 (Busby Dec.).

f. Store #93, 2810 Quebec Street, Denver. On January 12, 2022, picketers placed a large Union banner on the store's front wall. On the evenings of January 13 and 14, 2022, picketers left a trail of litter in front of the store, including food residue, packaging, trash, empty alcohol bottles and beer boxes. Ex. 15, ¶¶ 9, 12 (Guxo Dec.).

g. Store #110, 8673 South Quebec, Highlands Ranch. On January 15, 2022, the store's bathroom was vandalized with graffiti. Ex. 22, ¶ 6 (Jones Dec.).

h. Store #123, 10406 East Martin Luther King Junior Boulevard, Denver. At 5:00 am on January 12, 2022, picketers affixed banners on the front wall of the store. After several requests to remove the banners, the picketers did so, but then affixed the banners to the cart corral in the store's parking lot. Ex. 17, ¶ 5 (Conway Dec.).

i. Store #131, 100 West Littleton Boulevard, Littleton. On January 16, 2022, several shopping carts were discovered flipped on their sides with their wheels locked up because the carts had been taken too far away from the store. The same day, both of the store's motorized handicapped accessibility scooters disappeared. One was later found at the Taco Bell, and the other at the Porsche dealership. Ex. 20, ¶¶ 16-17 (Steinsiek Dec.).

19. The number of persons massed at the Stores has varied from time to time, with

larger numbers gathered around 7:00 am to 11:00 am when employees coming to perform services for Plaintiff arrive at and depart from the Store. During this time, there has been as many as 50 persons in the immediate vicinity of a given store.

20. Pickets at the entrances and exits have physically blocked access to the Stores, yelled at and threatened passersby, and have harassed and intimidated individuals in an attempt to prevent them from entering and exiting the Stores. See paragraphs 11-15, above.

FIRST CLAIM FOR RELIEF

21. King Soopers incorporates by reference the allegations set forth in paragraphs 1-20, above.

22. The conduct of the Defendants, by and through the Union, its officers, agents, members and persons in concert and participation with it, is in violation of the Colorado Labor Peace Act. Specifically:

a. The Colorado Labor Peace Act makes it an unfair labor practice for an employee, individually or in concert with others, to: “(a) Coerce or intimidate an employee in the enjoyment of his legal rights, including those guaranteed in section 8-3-106, or to intimidate his family or any member thereof, picket his domicile, or injure the person or property of such employee or his family or of any member thereof; . . . (f) Hinder or prevent, by mass picketing, threats, intimidation, force, or coercion of any kind, the pursuit of any lawful work or employment; or to obstruct or interfere with entrance to or egress from any place of employment; or to obstruct or interfere with free and uninterrupted use of public roads, streets, highways, railways, airports, or other ways of travel or conveyance; . . . (h) Take, retain, or remain in unauthorized possession of property or any part thereof of the employer, or to engage in any concerted effort to interfere with production, except by leaving the premises in an orderly manner for the purpose of going on strike; (i) Engage in a sit-down strike on the premises or property of the employer; . . . (k) Commit any crime or misdemeanor in connection with any controversy as to employment relations. . . .” Colo. Rev. Stat. § 8-3-108(2) (a), (f), (h), (i), and (k).

b. The Colorado Labor Peace Act makes it “an unfair labor practice to do or cause to be done, on behalf of or in the interest of employers or employees, or in connection with or to influence the outcome of any controversy as to employment relations, any act prohibited by . . . this section.” Colo. Rev. Stat. § 8-3-108(4).

23. If permitted to continue, the acts of the Defendants and those in concert with them will cause further unlawful interference with the operations of Plaintiff’s stores and may result in escalating incidents of intimidation or violence.

24. The unlawful acts described in this Verified Complaint were engaged in by Defendants for the purpose of inflicting injury upon the property and business of Plaintiff, its employees, customers, suppliers, and carriers servicing Plaintiff and to coerce or intimidate such persons into not entering Plaintiff’s premises.

25. The unlawful acts of Defendants have been committed and will continue to be committed unless enjoined. As to each item of relief requested below, greater injury will be inflicted upon Plaintiff by the denial of such relief than will be inflicted upon the Defendants in the granting of such relief.

26. Defendants are involved in a labor dispute with Plaintiff. After their unlawful activities are enjoined, Defendants will still be free to pursue all lawful actions against Plaintiff, to distribute information peacefully and lawfully to Plaintiff's customers or any other members of the public, or otherwise to publicize their dispute with Plaintiff in a lawful way.

27. By reason of Defendants' unlawful conduct, Defendants have prevented Plaintiff from conducting its business, and have and will cause Plaintiff, its employees, customers, suppliers, and carriers to suffer property damage and economic injury. As a further result of Defendants' unlawful conduct, Plaintiff is suffering immediate, grievous, and irreparable harm for which it has no adequate remedy at law. Unless Defendants are restrained and enjoined by this Court, both temporarily and permanently, from continuing their unlawful acts and from illegal picketing in the vicinity of the Plaintiff's premises, Plaintiff will continue to suffer irreparable harm, injury, loss, and damage of such amount and nature as is incapable of ascertainment in money damages, but is in excess of several thousand dollars per day, and such loss will increase each day that Defendants' illegal acts continue.

28. Plaintiff is likely to succeed ultimately on the merits. Plaintiff is prepared, in connection with its requested relief, to file bonds in such amounts and with such security as required by this Court. Moreover, the interim relief requested by Plaintiff is necessary to preserve the status quo pending a determination on Plaintiff's application for a temporary and permanent injunction, and an injunction is in the public interest.

29. No item of relief sought by Plaintiff in this Complaint would prohibit, directly or indirectly, any person from doing, whether singly or in concert, anything which legally may be done under the law of the United States or the State of Colorado. Further, no relief sought by Plaintiff in this Complaint is in violation of the requirements of the Colorado Labor Peace Act, Colo. Rev. Stat. § 8-3-118.

Prayer for Relief

WHEREFORE, being without adequate remedy at law, Plaintiff requests equitable relief and prays that, until a full and complete hearing of this action can be had, the Court:

1. Issue a temporary restraining order immediately, which specifically enjoins and restrains Defendant UFCW, its officers, agents, members, others acting in concert and participating with it, and Does 1-8000, from:

a. Impeding the ingress or egress of any customer, employee, vendor, or vehicle;

b. Picketing, congregating, loitering, or gathering in front of, on, or near the Plaintiff's facilities in any manner other than by the maintenance of 5 or fewer pickets on the

premises and perimeter of each one of Plaintiff's facilities, provided that such pickets shall not block or stand in front of entrances, shall not block or stand in front of vehicles entering or leaving Plaintiff's facilities, and shall not in any manner impede the ingress or egress of any vehicle;

c. Interfering with, injuring, menacing, threatening, molesting, intimidating, shouting at, or obstructing, in any manner whatsoever, any person employed by Plaintiff or any customer, supplier, visitor, officer, representative, for-hire carrier, or agent of Plaintiff, or any other person with a lawful right of entry to the Plaintiff's facilities;

d. Interfering with the use of or damaging vehicles, tires, driveways, roadways, buildings, machinery, equipment, or any property owned by or in the possession and control of Plaintiff, its employees, customers, suppliers, and carriers, or any person attempting to enter or leave Plaintiff's facilities;

e. Following any vehicle or employee of the Plaintiff or its customers, suppliers, and carriers, or any person leaving Plaintiff's facilities, off said premises in any manner whatsoever;

f. Contacting, in person, by telephone, or by electronic mail, any employee other than employees participating in the strike, customer, supplier, carrier, or any person leaving Plaintiff's facilities, at an individual's place of residence;

g. Advising, encouraging, assisting, or participating in the types of conduct otherwise enjoined; and

h. Taking, retaining, or remaining in unauthorized possession of property of Plaintiff, including but not limited to, real property;

2. Directs Defendants to instruct their members, officers, agents, servants, attorneys, and employees to refrain from the conduct subject to the injunction as described in Paragraphs 1.a–h.

3. Directs Defendants to publicly disavow all acts and conduct described in Paragraphs 1.a–h.

4. Directs Defendants to rescind any orders or instructions they may have issued directing or permitting others to engage in any of the conduct enumerated in Paragraphs 1.a.–h.

5. Directs Defendants to limit their activity to no more than 5 persons at a time at facilities of Plaintiff in Denver County, Colorado peacefully picketing at a distance no less than 10 feet from the premises, including parking lots and walkways.

6. Directs Defendants to post and maintain a copy of the order at a conspicuous place at the site of the protesting.

7. Directs the Sheriff of Denver County to serve a copy of the order on all Defendants and all persons engaged in protesting at King Soopers' facilities in the cities and

counties in which it conducts its business.

8. Directs that Public Law Enforcement Officers shall be empowered to enforce the Temporary Restraining Order entered by the Court.

WHEREFORE, Plaintiff further requests that the Court set a date for a hearing on a motion for entry of a preliminary injunction restraining and enjoining Defendants, as set forth above.

WHEREFORE, Plaintiff further requests that upon final hearing of this cause, Defendant Union and its officers, agents and persons acting in concert with it, and Does 1-8000 be permanently enjoined and restrained in the manner herein described.

WHEREFORE, Plaintiff further requests that Plaintiff be awarded such damages as may be shown at trial.

WHEREFORE, Plaintiff further requests that Court grant Plaintiff such other and further relief as the Court deems just and proper.

DATED this 18th day of January 2022.

SHERMAN & HOWARD L.L.C.

/s Raymond M. Deeny

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VERIFICATION

[illegible]

Athar Bilgrami, being duly sworn, and in my capacity as the Human Resources Leader of King Soopers, I have authorized the filing of this Complaint. I have reviewed the allegations made in the complaint, and to those allegations of which I have personal knowledge, I believe them to be true. As to those allegations of which I do not have personal knowledge, I rely on the declarations and other exhibits to this Complaint, and I believe them to be true.

Athar Bilgrami

STATE OF COLORADO)
) ss
CITY AND COUNTY OF DENVER)

Subscribed and sworn to before me this 18th day of January, 2022, by Athar Bilgrami, in his capacity as Human Resources Leader of King Soopers.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

[SEAL]

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **VERIFIED COMPLAINT FOR TEMPORARY RESTRAINING ORDER, PRELIMINARY AND PERMANENT INJUNCTION, AND DAMAGES** was sent via e-mail, this 18th day of January, 2022, addressed to the following:

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s/ Mary Ann Meise

Mary Ann Meise, Practice Assistant