

DISTRICT COURT, CITY AND COUNTY OF DENVER, STATE OF COLORADO Court Address: 1437 Bannock Street Denver, Colorado 80202	DATE FILED: January 19, 2022 9:55 AM 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	<input type="checkbox"/> COURT USE ONLY <input type="checkbox"/>
	Case Number: 2022CV030137 Ctrm. 409:
AMENDED¹ ORDER GRANTING IN PART TEMPORARY RESTRAINING ORDER AND SETTING DATE FOR PRELIMINARY INJUNCTION HEARING	

THIS MATTER, having come before the Court on Plaintiff Dillon Companies, LLC d/b/a King Soopers' ("King Soopers") Motion for Temporary Restraining Order, Preliminary and Permanent Injunction ("Motion"), and its Verified Complaint, filed herein on January 18, 2022. The Court, having reviewed the same, having heard argument of counsel for Plaintiff and Defendant United Food and Commercial Workers Union Local No. 7, and being fully advised of its premises, HEREBY FINDS AND ORDERS as follows:

1. Based on the facts alleged in King Soopers' Verified Complaint and the Motion and supporting affidavits, King Soopers has established the following requisite elements for a Temporary Restraining Order pursuant to C.R.C.P. 65(b):

¹ This Amended Order is issued *sua sponte* pursuant to C.R.C.P. 60(a) to correct an omission in Paragraph 2(b) related to public sidewalks.

- a. King Soopers has demonstrated it has a reasonable probability of success on the merits. Specifically, for the purpose of issuance of the Temporary Restraining Order, King Soopers has established that employees, customers and vendors have been threatened with violence and have been made to feel fear and intimidation; additionally, King Soopers has made a showing that the mass picketing has obstructed the ingress and egress of access to certain King Soopers stores in violation of C.R.S. § 8-3-108(2)(a) & (f);
- b. There exists a danger of real, immediate, and irreparable injury that may be prevented by entry of a temporary restraining order. Certain employees and certain customers and certain vendors have felt physically threatened by the acts of the picketers, and that threat to physical safety is a real, immediate, and irreparable injury for those individuals. Specifically, this Court finds credible that the following actions on the part of picketers constitute a threat to the physical safety of employees, customers and vendors:
 - i. preventing customers from parking in handicap parking spaces;
 - ii. aggressively approaching customers while the customers are in their vehicles;
 - iii. refusing to allow customers into the store;
 - iv. referring to employees utilizing a racial epithet that has a long history of accompanying violence towards members of

that racial group; the Court specifically finds that use of such racial epithet, by its very nature, constitutes a threat of violence;

- v. physically blocking the entrance of children to a store, making the children fear for their safety;
- vi. making offensive comments regarding the genitals of a customer;
- vii. yelling and coming within a foot of customers faces during the COVID pandemic;
- viii. throwing a picket sign in the vicinity of a customer;
- ix. physical assuming a “fighting stance” towards a customer;
- x. physically confronting a customer and yelling at her to the point of making the customer “physically and emotionally sick”;
- xi. use of profanity directed at customers and employees;
- xii. following customers to a gas station and a bank after customer left the store;
- xiii. threatening employees with statements such as “I know where you live”;
- xiv. driving recklessly in a store parking lot near an employee; and
- xv. leaving nails near the tires of an employee’s vehicle.

- c. There is no plain, speedy, and adequate remedy at law outside of the requested injunction because of the irreparable mental anguish associated with being subjected to threats of violence;
- d. The Court finds that peaceful labor protests and picketing are in the public interest, and any injunction issued by the court will necessarily impact that public interest. However, given the acts and threats of violence that are alleged to have occurred, an injunction is necessary to preserve the rights of customers, employees and vendors at various King Soopers to participate in their employment and their ability to shop for necessities without fear of violence to their physical safety. The court intends to protect the important public interest, namely the important rights of picketers to protest what they view as unfair labor conditions, by narrowly drafting the Temporary Restraining Order in a manner that maximizes the public interest in a peaceful protest while protecting the physical safety of customers, employees and vendors.
- e. The balance of equities favors the granting of the injunction given the allegations regarding the threats of violence. By narrowly tailoring the temporary restraining order, the Defendants will still be permitted a broad ability to picket consistent with their first amendment rights, with only minimum restrictions to protect public and employee safety.

- f. An injunction will preserve the status quo of employees, customers and vendors being able to remain safe while working and conducting their necessary business.
- g. The Court finds, based on the allegations of King Soopers, that the stores which have had more than ten picketers at one time are the stores which have experienced the highest volume of threatening conduct.
- h. Shouting at an individual within 20 feet of that individual is inherently intimidating.

2. Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion IS GRANTED IN PART, and this Court enters its Temporary Restraining Order pursuant to C.R.C.P. 65(b) and the Labor Peace Act (C.R.S. § 8-3-110(1)). Defendant United Food and Commercial Workers Local No. 7, its officers, agents, members, and others acting in concert are enjoined and restrained 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 King Soopers' facilities in any manner other than by the maintenance of 10 or fewer pickets on the premises and perimeter of each one of King Soopers' 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 King Soopers' facilities, including delivery vehicles, and shall not in any manner

impede the ingress or egress of any vehicle, including delivery vehicles;²

- c. Interfering with, injuring, menacing, threatening, molesting, intimidating, shouting at any person within 20 feet of that person, or physically obstructing, in any manner whatsoever, any person employed by King Soopers or any customer, supplier, visitor, officer, representative, for-hire carrier, or agent of King Soopers, or any other person with a lawful right of entry to King Soopers' facilities; and
 - d. Following any vehicle or employee of King Soopers or its customers, suppliers, and carriers, or any person leaving King Soopers' facilities, off said premises in any manner whatsoever.
3. This Court further ORDERS:
- a. Defendants to instruct their members, officers, agents, servants, attorneys and employees to refrain from the conduct subject to the injunction as described in Paragraphs 2.a-e., which includes but is not limited to advising picket captains of this injunction;
 - b. The scope of this temporary restraining order extends to the Denver Metropolitan Area, including the following counties: Denver, Arapahoe, Boulder, Jefferson, Adams, Douglas, Broomfield, and Elbert.

² As addressed on the record on January 18, 2022, this 10 picket limitation does not apply to the public sidewalks immediately adjacent to public streets.

4. If necessary, a hearing on King Soopers' Motion for Preliminary Injunction will be held on **January 28, 2022** at **9:00 a.m.** in Division 409 of the District Court of the City and County of Denver, Colorado located at 1437 Bannock Street, Courtroom 409, Denver, Colorado 80202.

5. Plaintiff's counsel shall meet and confer with Defendants' counsel, regarding the preliminary hearing logistics, including whether the hearing will be conducted in person, via videoconference, or both.

SO ORDERED THIS 19th day of January 2022 at 9:30am, *nunc pro tunc* to January 18, 2022 at 3:30pm.

BY THE COURT:



Marie Avery Moses
DENVER DISTRICT COURT JUDGE