

DISTRICT COURT, ARAPAHOE COUNTY, COLORADO 7325 S. Potomac Street Centennial, CO 80112	DATE FILED January 28, 2025 11:40 AM FILING ID: F810C2B6B3D43 CASE NUMBER: 2025CV30241
<p><b>Plaintiffs:</b> John Doe and Jane Roe, individuals,<sup>1</sup></p> <p>v.</p> <p><b>Defendant:</b> 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 600          Denver, CO 80238          kelly.reeves@cedlaw.org          (720) 248-6492</p>	<p>Case Number:</p> <p>Div:</p> <p>Ctrm:</p>
<b>VERIFIED COMPLAINT AND JURY DEMAND</b>	

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<sup>1</sup> John Doe and Jane Roe are pseudonyms. Concurrent with the filing of this Complaint, Plaintiffs have moved pursuant to Colo. R. Civ. P. 10(a) to file this matter pseudonymously.

Plaintiffs John Doe and Jane Roe, 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 or intimidating their tenants or retaliating against them 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, and derided their Venezuelan national origin.

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).

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. They received rental assistance to pay initial rent and move-in costs.

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.

#### *Illegal Lock Out*

16. 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.

17. 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.

18. Ms. Doe 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.

19. 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.

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

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

22. 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*

23. 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."

24. 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.

25. 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*

26. On January 24, 2025, at or about 11:00 am, 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. Defendant Schwalb’s escalation of the management office’s prior threats left Mr. Doe and Ms. Roe terrified for themselves and their sons.

### **FIRST CLAIM**

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

33. All paragraphs in this Complaint are incorporated herein by reference.

34. 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.

35. 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.”

36. 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.

37. 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.

38. 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."

39. 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.

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

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

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

43. Defendants' threats are ongoing. They intend unlawfully to disclose to immigration or law enforcement authorities information about Plaintiff's immigration or citizenship status.

44. 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**  
**Removal Without Process (C.R.S. § 38-12-510)**

45. Colorado law prohibits self-help evictions.

46. If a landlord "willfully and unlawfully removes the tenant . . . the tenant may seek any remedy available under the law."

47. 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."

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

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

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

51. 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.

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

53. 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.

### **THIRD CLAIM**

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

54. All paragraphs in this Complaint are incorporated herein by reference.

55. 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.

56. 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.

57. 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.

58. 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.

59. 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.

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

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

61. All paragraphs of this Complaint are incorporated herein by reference.

62. 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.

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

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

**REQUEST FOR JURY DEMAND**

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

**PRAYER FOR RELIEF**

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

- A. an order declaring Defendants' conduct unlawful;
- B. preliminary and permanent injunctive relief;
- C. actual and statutory damages, in amounts to be proven at trial;
- D. costs and prejudgment interest;
- E. an award of attorney's fees; and
- F. any additional relief the Court deems just.

Respectfully submitted this 28th day of January 2025.

/s/ Anna I. Kurtz

*Attorneys for Plaintiffs:*

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## VERIFICATION

I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Executed on the 27th day of January 2025, at Aurora, Colorado.

**John Doe**  
*/s/John Doe<sup>2</sup>*

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<sup>2</sup> The Verified Complaint and Jury Demand has been filed with a Motion for Leave to File Under Pseudonym. John Doe is a pseudonym. Undersigned counsel possess a verification under John Doe's true name, which John Doe will provide to the Court subject to an appropriate protective order.

## VERIFICATION

I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Executed on the 27th day of January 2025, at Aurora, Colorado.

Jane Roe<sup>3</sup>  
/s/Jane Roe

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<sup>3</sup> The Verified Complaint and Jury Demand has been filed with a Motion for Leave to File Under Pseudonym. Jane Roe is a pseudonym. Undersigned counsel possess a verification under Jane Roe's true name, which Jane Roe will provide to the Court subject to an appropriate protective order.