

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202</p> <hr/> <p>JOHN DOE, an individual</p> <p>Plaintiff,</p> <p>v.</p> <p>STATE OF COLORADO, ex rel. the Executive Director of the Colorado Department of Health Care Policy & Financing, the Executive Colorado Department of Local Affairs, and the Colorado Governor.</p> <p>Defendants.</p>	<p>COURT USE ONLY</p>
<p>Attorney Name Address Telephone FAX E-mail *Counsel of Record</p>	<p>Case No. Div.:</p>
<p align="center">PLAINTIFF’S PETITION FOR PRELIMINARY & PERMANENT INJUNCTION</p> <p align="center">[Person with a Cognitive Disability, Meeting CO Medicaid Long Term Care Criteria, who is Homeless & will Suffer Irreparable Harm if Placement & Services are not provided Immediately]</p>	

Plaintiff, John Doe, (hereinafter the “Plaintiff”), by and through the Plaintiff’s attorney of record ([Blank](#)), moves this Court for a preliminary injunction pursuant to

- **Tile II of the Americans with Disabilities Act**, 42 U.S. Code § 12132 et seq.
- **Section 504 of the Rehabilitation Act of 1973**, 29 U.S.C. § 794
- **Olmstead v. L.C.**, 527 US 581, 119 S. Ct. 2176, 144 L. Ed. 2d 540 (Sup. Ct. 1999) [“Olmstead”], subsequent caselaw & guidance from the US Department of Justice
- **Federal Fair Housing Act**, 42 U.S.C. § 3601 et seq.
- **Colorado Fair Housing Law**, CRS 24-34-502 et seq.

and **C.R.C.P. 65** [Colorado Rule of Civil Procedure governing Injunctions],

I. RELIEF SOUGHT

The Plaintiff respectfully requests a Preliminary Injunction against Defendants which provides in the alternative:

1. **Immediate** Temporary Nursing Home Placement,
2. **Immediate** Temporary Assisted Living Residence Placement, or
3. **Immediate** Temporary Motel Vouchers in combination with Intensive Services

For a period of **90 days** to allow for Comprehensive Placement and Service Planning in which Housing is obtained or Nursing Home of Assisted Living Residence Placement is made permanent if desired by the Plaintiff.

I. FACTS IN SUPPORT

- A. **Plaintiff is a person with a cognitive disability satisfying Colorado Medicaid’s criteria for Long Term Care. Plaintiff is homeless, is on Medicaid and is a recipient of Supplemental Security Income [SSI] as a**

person with a disability, specifically [mental illness, brain injury, developmental disability, etc.]

II. DISABILITY CIVIL RIGHTS LAWS IN SUPPORT

III. CRITERIA FOR ISSUANCE OF PRELIMINARY INJUNCTION

A. C.R.C.P. 65(a) Preliminary Injunction

(1) Notice. No preliminary injunction shall be issued without notice to the adverse party.

(2) Consolidation of Hearing with Trial on Merits. Before or after the commencement of the hearing on an application for a preliminary injunction, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application. Even when this consolidation is not ordered, any evidence received upon an application for a preliminary injunction which would be admissible upon a trial on the merits becomes part of the record on the trial and need not be repeated upon the trial, this subsection (a)(2) shall be so construed and applied as to save the parties any rights they may have to trial by jury.

B. Elements for a Preliminary Injunction under Colorado Caselaw. See *Gitlitz v. Bellock*, 171 P.3d 1274 (Colo. App. 2007).

- 1. a reasonable probability of success on the merits of the case;**
- 2. a danger of real, immediate, and irreparable injury which may be prevented by injunctive relief;**
- 3. that there is no plain, speedy, and adequate remedy at law;**
- 4. that the granting of a preliminary injunction will not disserve the public interest;**

5. that the balance of equities favors the injunction; and

6. that the injunction will preserve the status quo pending a trial on the merits.

a) **Housing - Legal Status Quo** – The State of Colorado has Federal LEGAL CURRENT DUTIES to provide housing to people with disabilities to avoid institutionalization or the inherent risk of institutionalization inherent in homelessness, Title II of the ADA & Olmstead.

b) **Fair Housing – Legal Status Quo** – The State of Colorado and the Colorado Department of Health Care Policy & Financing is under current Federal legal obligations to ensure that all its Medicaid providers comply with Federal Law, including Federal Fair Housing Laws.

c) **Equitable Estoppel/Waiver/Unclean Hands** – The State of Colorado should be equitably prevented from arguing current violation of the law or current homelessness of the Plaintiff(s) as “preservation of the status quo” because the State has affirmed it is complying with these Federal Laws in order to receive numerous Federal benefits, etc.

i. **Colorado Caselaw**

WHEREFORE, the State requests that this Court enter Preliminary & Permanent Injunctions which order the Defendants to:

Respectfully submitted this (date) day of (month), 2019.

Plaintiff's Attorney Name, Reg. #

s/ _____
*Counsel of Record

Attorney Address, Etc.