

DISTRICT COURT, CITY AND
COUNTY OF DENVER, COLORADO
1437 Bannock Street
Denver, CO 80202

DATE FILED: December 4, 2018
CASE NUMBER: 2018CV34469

STATE OF COLORADO, EX REL. CYNTHIA H.
COFFMAN, ATTORNEY GENERAL

PLAINTIFF,

V.

DENVER CUSTOM FOOD TRUCKS, LLC;
DENVER CUSTOM FOOD TRUCKS & R.E.D.;
BROTHERS CUSTOM FOOD TRUCKS LLC;
CUSTOM MOBILE KITCHEN COLORADO, LLC;
RESTAURANT EQUIPMENT DENVER #2;
LARRY PEREZ, AN INDIVIDUAL, AND RUDY
MARTINEZ, AN INDIVIDUAL,

DEFENDANTS.

▲ COURT USE ONLY ▲

Case No. 18 CV 34469
Div.: 4/4

**[PROPOSED] ORDER ON STATE'S MOTION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

This matter came before the Court on the *State's Motion for Temporary Restraining Order and Preliminary Injunction*.

Having reviewed the record and considered the sworn written testimony provided by the State's witnesses, this Court finds and concludes that a Temporary Restraining Order against Defendants is necessary.

1. This Court has jurisdiction in the matter presented herein by virtue of Colo. Rev. Stat. § 6-1-110(1).
2. This Court is expressly authorized by C.R.S. § 6-1-110(1) to issue a temporary restraining order to prevent ongoing violations of the CCPA:

Whenever the attorney general or a district attorney has cause to believe that a person has engaged in or is engaging in any deceptive trade practice listed in section 6-1-105 or part 7 of this article, the attorney general or district attorney may apply for and obtain, in an action in the appropriate district court of this state, a temporary restraining order or injunction, or both, pursuant to the Colorado rules of civil procedure,

prohibiting such person from continuing such practices, or engaging therein, or doing any act in furtherance thereof. The court may make such orders or judgments as may be necessary to prevent the use or employment by such person of any such deceptive trade practice or which may be necessary to completely compensate or restore to the original position of any person injured by means of any such practice or to prevent any unjust enrichment by any person through the use or employment of any deceptive trade practice.

C.R.S. § 6-1-110(1).

3. The State has shown from specific facts by affidavit and testimony that Defendants' deceptive practices are injurious to the public and that continued violations, if not enjoined, will cause immediate and irreparable injury, loss or damage. *Baseline Farms Two, LLP v. Hennings*, 26 P.3d 1209, 1212 (Colo. App. 2001); *Lloyd A. Fry Roofing Co. v. State Dept. of Air Pollution*, 553 P.2d 200 (Colo. 1976); *Rathke v. MacFarlane*, 648 P.2d 648 (Colo. 1982).

4. In view of the continuing harm to consumers established in the evidence and affidavits submitted by the State, the entry of a temporary restraining order is necessary and appropriate.

5. Pursuant to C.R.C.P. Rule 65(c), the State is not required to provide a security bond.

6. The State has shown that it provided written and oral notice to Defendants of its petition for an temporary restraining order.

IT IS HEREBY ORDERED PURSUANT TO C.R.S. § 6-1-110(1) AS FOLLOWS:

Defendants LARRY PEREZ, DENVER CUSTOM FOOD TRUCKS, LLC, DENVER CUSTOM FOOD TRUCKS & R.E.D.; CUSTOM MOBILE KITCHEN COLORADO, LLC, RESTAURANT EQUIPMENT DENVER #2, RUDY MARTINEZ, AND BROTHERS CUSTOM FOOD TRUCKS, LLC and their officers, directors, agents, servants, employees, independent contractors and any other persons, in active concert or participation with Defendants, who receive actual notice of the Court's order are ENJOINED from:

1. Engaging in any activity related to the fabrication, repair or sale of food trucks and trailers for profit.
2. Acting as a "Motor vehicle dealer" as defined in C.R.S. §44-20-102(18) unless

licensed to do so pursuant to C.R.S. § 44-20-124(2).

SO ORDERED THIS ^{JTH} 4 DAY OF December, 2018. @ 2:56 p.m.

THIS TEMPORARY RESTRAINING ORDER 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, PURSUANT TO RULE 65(b). ACCORDINGLY, THIS ORDER SHALL EXPIRE ON 12/12/, 2018. A 2-DAY PRELIMINARY INJUNCTION HEARING SHALL TAKE PLACE ON 12/12-13, 2018 IN COURTROOM 414.


DISTRICT COURT JUDGE