VERMONT SUPERIOR COURT
Washington Unit
65 State Street
Montpelier VT 05602
802-828-2091
www.vermontjudiciary.org

CIVIL DIVISION
Case No. 25-CV-05788

AMPS, LLC et al v. Whitehill Invention Five, LLC et al

ENTRY REGARDING MOTION

Title: Motion for a Temporary Restraining Order EMERGENCY / EX PARTE (Motion: 1)
Filer: Elizabeth Conolly
Filed Date: December 30, 2025

The motion is GRANTED.

Plaintiffs AMPS, LLC, Anna Black, and Joseph Pensak have filed a preliminary injunction and request for a temporary restraining order in conjunction with their complaint for breach of contract, tortious interference with contractual rights, wrongful eviction, nuisance/interference with quiet enjoyment, intentional infliction of emotional distress, and injunctive relief.

The Vermont Supreme Court has noted that injunctive relief is an extraordinary remedy not routinely granted unless the right to relief is clear. *Committee to Save the Bishop's House v. Medical Hospital of Vermont*, 136 Vt. 213, 218 (1978). A temporary restraining order will only be granted "if it clearly appears from specific facts shown by affidavit . . . that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party . . . can be heard in opposition." V.R.C.P. 65. The essential elements for a preliminary injunction require Plaintiffs to address four factors. *Taylor v. Town of Cabot*, 2017 VT 92, ¶ 19. The moving party must demonstrate: "(1) the threat of irreparable harm to the movant; (2) the potential harm to the other parties; (3) the likelihood of success on the merits; and (4) the public interest." These factors also apply to a Temporary Restraining Order with an additional requirement that the harm sought to be avoided must be "immediate and irreparable . . . [which] will result to the applicant before the adverse party or that party's attorney can be heard in opposition." V.R.C.P. 65(a).

Plaintiffs' complaint arises from harms to their business that they claim will arise if Defendants are permitted to interfere with their pre-planned New Year's events at the commercial space that they rent from Defendants. Plaintiffs represent that the damage will not

merely be the loss of income but damage to the business that would likely cause it to fail and lose the ability to continue as an event space.

The balance of harm favors Plaintiffs for the present *ex parte* motion. They and their sub-tenants risk the loss of substantial income, the ability to continue their business, and their reputation in the community. Defendants' timetable appears largely self-imposed and comes with minimal notice. It is premised on monetary issues that can be resolved through the present litigation.

Plaintiffs have also met their burden on the issue of likelihood of success on the merits as they have demonstrated in their pleadings and exhibits a contractual right to occupy the space, regular payments of rental amounts, and uses that appear compliant with the terms of their leases. While the Court has not analyzed the more extreme claims in Plaintiff's complaint, such as nuisance and intentional infliction of emotional distress for purposes of the present motion, Plaintiffs have made out a strong claim for breach of contract and wrongful termination.

The Court finds that the public policy tends to favor orderly cessation to leases and that the present notices to prevent Plaintiffs' pre-planned business events on short notice and without an opportunity to cure are contrary to public policy favoring orderly cessation of commercial leases.

Finally, the Court finds a danger of immediate harm. Plaintiffs received notice of Defendants' intentions and demands less than seven days ago, and the notice gave them less than 10 days to comply with its terms. These terms appear timed to inflict the greatest consequences at a busy time of year during a substantial event. Even if the Court sought to schedule a hearing, it could not in the timeframes largely created by Defendants' actions.

Based upon these preliminary findings, Plaintiffs are entitled under V.R.C.P. 65(a) to a limited, temporary restraining order on an *ex parte* basis.

ORDER

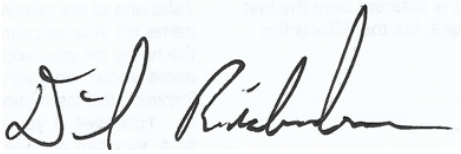
Plaintiff's request for a Temporary Restraining Order against Defendant is GRANTED. The Court hereby ORDERS as follows:

1. Defendants shall not lock Plaintiffs or their subtenants or agents out of the Leased Premises located at 5 Stowe Street and 7 Stowe Street in Waterbury, Vermont or interfere with Plaintiffs or their subtenants or agents use and occupancy of the premises, until further hearing and order of the court can be held.

2. Defendants shall not enforce their proposed "Building Rules and Regulations" against Plaintiffs or their subtenants or agents, until further hearing and order of the court can be held.
3. Defendants shall not prevent or interfere with Plaintiffs holding pre-planned events and bookings, including but not limited to Plaintiffs' New Years Eve party scheduled for December 31, 2025 at The Phoenix located at 5 Stowe Street in Waterbury, Vermont, until further hearing and order of the court can be held.
4. Defendants shall have no direct communications regarding the use and occupancy of the 5 Stowe Street and 7 Stowe Street premises with any subtenants or third-parties that have contracted with the Plaintiffs for use or temporary occupation of the Leased Premises located at 5 Stowe Street and 7 Stowe Street, until further hearing and order of the court can be held. To the extent Defendant wishes to communicate regarding any subtenants or third-parties with contractual relations with the Plaintiffs, Defendants may communicate with Plaintiffs' Counsel to the extent necessary.
5. This temporary order shall continue until January 12, 2026, and the Court shall set this matter for a 90-minute preliminary injunction hearing at its earliest available date.

DATED at Montpelier, Vermont this 30th day of December 2025.

Electronically signed on 12/30/2025 4:44 PM pursuant to V.R.E.F. 9(d)



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Daniel Richardson
Superior Court Judge