

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Raymond P. Moore**

Civil Action No. 21-cv-00498-RM-KLM

JORY CASS,

Plaintiff,

v.

EVELYN ENCISO,

Defendant.

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**ORDER**

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Before the Court is Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction (ECF No. 2). The Court denied Plaintiff's request for a temporary restraining order on March 3, 2021 (ECF. No. 16), but his request for a preliminary injunction remained pending and has now been fully briefed (ECF Nos. 21, 28, 29). Plaintiff has also filed a Motion to Amend Verified Complaint for Damages and Injunctive Relief Under F.R.C.P. 15 (ECF No. 34), and Defendant has filed a motion seeking an extension of today's deadline to file an answer or otherwise respond to the Verified Complaint (ECF No. 37).

Former Defendant Airbnb has been dismissed from this case, and Plaintiff concedes that his initial request for injunctive relief to prevent Defendant from using his property as an Airbnb rental is now moot. (ECF No. 28 at 6.) Nonetheless, Plaintiff asserts that injunctive relief is warranted based on allegations contained in an affidavit attached to his Reply in support of his motion for a preliminary injunction. However, the Court declines to consider these additional

allegations in the context of evaluating Plaintiff's motion for injunctive relief. A motion for a preliminary injunction cannot be a moving target that seeks different relief each time a new pleading is filed. As originally filed, the motion sought to enjoin the use of Plaintiff's property as an Airbnb rental. As briefed, Plaintiff seeks different relief based on new allegations that are not included in the Verified Complaint. Accordingly, the Court denies Plaintiff's request for a preliminary injunction.

Defendant has not responded to Plaintiff's motion to amend the complaint except to seek an extension contingent on a ruling on the motion. In the interest of moving this case forward, the Court will grant Plaintiff's motion and deny Defendant's as moot.

Therefore, the Court ORDERS as follows:

- (1) Plaintiff's motion for a preliminary injunction (ECF No. 2) is DENIED;
- (2) Plaintiff's motion to amend (ECF No. 34) is GRANTED, and the Clerk is directed to docket the proposed Amended Verified Complaint (ECF No. 34-1) as a separate entry; and
- (3) Defendant's request for an extension (ECF No. 37) is DENIED AS MOOT, and her response to the Amended Verified Complaint is due within fourteen days. *See* Fed. R. Civ. P. 15(a)(3).

DATED this 26th day of April, 2021.

BY THE COURT:



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RAYMOND P. MOORE  
United States District Judge