



1 to the adverse party or that party's attorney only if: (1) it clearly appears from specific facts  
2 shown by affidavit or by the verified complaint that immediate and irreparable injury, loss  
3 or damage will result to the applicant before the adverse party or the party's attorney can  
4 be heard in opposition, and (2) the applicant's attorney certifies in writing the efforts, if any,  
5 which have been made to give notice and the reasons supporting the claim that notice  
6 should not be required. See Fed. R. Civ. P. 65(b).

8 The standards for a TRO are essentially the same as that for a preliminary  
9 injunction. To be entitled to preliminary injunctive relief, a party must demonstrate "that he  
10 is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence  
11 of preliminary relief, that the balance of equities tips in his favor, and that an injunction is  
12 in the public interest." Stormans, Inc. v. Selecky, 586 F.3d 1109, 1127 (9th Cir. 2009)  
13 (citing Winter v. Natural Res. Def. Council, Inc., 129 S.Ct. 365, 374 (2008)). The Ninth  
14 Circuit has also held that the "sliding scale" approach it applies to preliminary injunctions  
15 as it relates to the showing a plaintiff must make regarding his chances of success on the  
16 merits survives Winter and continues to be valid. Alliance for Wild Rockies v. Cottrell, 622  
17 F.3d 1045, 1052-53 (9th Cir. 2010). Under this sliding scale, the elements of the  
18 preliminary injunction test are balanced. As it relates to the merits analysis, a stronger  
19 showing of irreparable harm to plaintiff might offset a lesser showing of likelihood of  
20 success on the merits. Id.

23 In cases brought by prisoners involving conditions of confinement, any preliminary  
24 injunction "must be narrowly drawn, extend no further than necessary to correct the harm  
25 the court finds requires preliminary relief, and be the least intrusive means necessary to  
26 correct the harm." 18 U.S.C. § 3626(a)(2).

1 **III. ANALYSIS**

2 In the Motion, Plaintiff states that he has been harassed the entire month of August  
3 because he filed this action, that he prepared motions for summary judgment and  
4 discovery but they were trashed, and that his cell has been searched every time he leaves  
5 it.  
6

7 In the instant motion, Plaintiff fails to meet all of the legal standards required to be  
8 granted a restraining order. To succeed on a motion for such relief, Plaintiff must establish  
9 that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the  
10 absence of relief, that the balance of equities tips in his favor, and that an injunction is in  
11 the public interest.  
12

13 Plaintiff fails to address any of the four elements necessary to be granted relief. He  
14 also fails to attribute responsibility of the allegations to any named Defendants. In fact,  
15 Plaintiff does not name any individual in his Motion. Orders for preliminary injunctive relief  
16 can only bind the parties, the parties officers, agents, servants, employees, and attorneys,  
17 and other persons who are in active concert or participation with the aforementioned  
18 persons. Fed. R. Civ. P. 65(d)(2).  
19

20 The Court also notes that this appears to be related to a retaliation claim. Plaintiff's  
21 First Amended Complaint is only proceeding on an Eighth Amendment claim. This does  
22 not appear to have any relation to the proceeding claim. Thus, the Court lacks jurisdiction  
23 to address it.  
24

25 Based on the foregoing, the Court finds that Plaintiff's motion for a temporary  
26 restraining order should be denied.  
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1           Accordingly, it is HEREBY RECOMMENDED that Plaintiff's motion for a temporary  
2 restraining order be DENIED WITHOUT PREJUDICE.

3 IT IS SO ORDERED.

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5 Dated: September 19, 2011

  
6 \_\_\_\_\_  
7 UNITED STATES MAGISTRATE JUDGE