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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Clinton Lee Spencer,
10 Plaintiff,

No. CV 14-0032-PHX-SMM (ESW)

11 v.

ORDER

12 K. Clark, et al.,
13

14 Defendants.
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16 On January 7, 2014, Plaintiff Clinton Lee Spencer, who is confined in the Arizona
17 State Prison Complex-Tucson, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C.
18 § 1983 and an Application to Proceed *In Forma Pauperis*. In a September 10, 2014
19 Order, the Court granted the Application to Proceed and dismissed the Complaint
20 because Plaintiff had failed to state a claim. The Court gave Plaintiff 30 days to file an
21 amended complaint that cured the deficiencies identified in the Order. On September 24,
22 2014, Plaintiff filed his First Amended Complaint. In a January 13, 2015 Order, the
23 Court dismissed the First Amended Complaint and this action for failure to state a claim.
24 That same day, the Clerk of Court entered judgment and dismissed this case with
25 prejudice. On January 20, 2015, Plaintiff filed a Motion for Order to Show Cause for a
26 Preliminary Injunction and a Temporary Restraining Order (Doc. 29). The Court will
27 deny the motion and this action shall remain closed.

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1 In his motion, Plaintiff asks the Court to order the Defendants to provide Plaintiff
2 with the treatment he “need[s] to receive for his diabetes.” Before seeking injunctive
3 relief, Plaintiff must first have a complaint pending before the Court. *See Stewart v.*
4 *United States Immigration & Naturalization Serv.*, 762 F.2d 193, 198 (2d Cir. 1985)
5 (“Only after an action has been commenced can preliminary injunctive relief be
6 obtained.”); *see also Devose v. Herrington*, 42 F.3d 470, 471 (8th Cir. 1994) (per curiam)
7 (a party seeking injunctive relief must establish a relationship between the claimed injury
8 and the conduct asserted in the complaint).

9 In addition, a temporary restraining order without notice may be granted only if
10 “specific facts in an affidavit or verified complaint clearly show that immediate and
11 irreparable injury, loss, or damage will result to the movant before the adverse party can
12 be heard” and the movant certifies to the court in writing any efforts made to give notice
13 and the reasons that notice should not be required. Fed. R. Civ. P. 65(b)(1). A “court
14 may only issue a preliminary injunction on notice to the adverse party.” Fed. R. Civ. P.
15 65(a)(1).

16 Plaintiff has not provided notice, nor does he explain why notice should not be
17 required. Moreover, because the Court has dismissed this action, there is currently no
18 complaint pending before the Court. Accordingly, Plaintiff’s motion is not properly
19 before the Court, and it will be denied.

20 **IT IS ORDERED:**

21 (1) Plaintiff’s Motion for Order to Show Cause for a Preliminary Injunction
22 and a Temporary Restraining Order (Doc. 29) is **dismissed**, and this case shall remain
23 closed.

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