

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES F. MENEFIELD,  
Plaintiff,

No. C 08-00751 CRB (PR)

**ORDER**

v.

JAMES E. TILTON,  
Defendant.

On February 11, 2009, the Court granted Plaintiff James F. Menefield’s motion to file a Second Amended Complaint. As indicated in its previous Order, the Court will proceed with screening of the case pursuant to 28 U.S.C. § 1915A upon receipt of Plaintiff’s new pleading.


Plaintiff has also submitted a Motion for Preliminary Injunction, which is hereby DENIED without prejudice for failure to satisfy the notice requirements of Federal Rule of Civil Procedure 65. Prior to granting a preliminary injunction, notice to the adverse party is required. Fed. R. Civ. P. 65(a)(1). A motion for preliminary injunction therefore cannot be decided until the parties to the action are served, and they have not yet been served here. See Zepeda v. INS, 753 F.2d 719, 727 (9th Cir. 1983).

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If after reviewing the Second Amended Complaint the Court determines service is warranted, then Plaintiff may renew his motion for injunctive relief.

**IT IS SO ORDERED.**

Dated: February 12, 2009

  
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CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE