

1 that the balance of equities tips in his favor, and that an injunction is in the public
2 interest.” Am. Trucking Ass’ns, Inc. v. City of Los Angeles, 559 F.3d 1046, 1052 (9th Cir.
3 2009) (quoting Winter, 555 U.S. at 20).

4 The Court screened Plaintiff’s complaint and concluded that, while Plaintiff’s
5 allegations of retaliatory drug tests state a viable claim, he had not properly linked that
6 claim to any defendant. Plaintiff heretofore has failed to state a cognizable claim and
7 there presently is no operative pleading in this matter. Thus, the Court cannot conclude
8 that Plaintiff is likely to succeed on the merits of any claims or that he may seek
9 injunctive relief against the named defendants.

10 Plaintiff also fails to suggest a real and immediate threat of irreparable injury. See
11 City of Los Angeles v. Lyons, 461 U.S. 95, 101–102 (1983) (plaintiff must show “real and
12 immediate” threat of injury, and “[p]ast exposure to illegal conduct does not in itself show
13 a present case or controversy regarding injunctive relief . . . if unaccompanied by any
14 continuing, present, adverse effects.”). He fails to explain how he will be irreparably
15 harmed by the continued drug testing.

16 Furthermore, the Court finds nothing to tip the balance of equities in Plaintiff’s
17 favor. And, while the public has an interest in preventing arbitrary and retaliatory conduct
18 by prison officials, the record before the Court does not justify the Court substituting its
19 judgment for that of correctional staff.

20 The relevant criteria not having been met, Plaintiff is not entitled to preliminary
21 injunctive relief. Accordingly, it is **HEREBY RECOMMENDED** that Plaintiff’s motion for
22 injunctive relief be **DENIED**.

23 The findings and recommendation will be submitted to the United States District
24 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1).
25 Within fourteen (14) days after being served with the findings and recommendation, the
26 parties may file written objections with the Court. The document should be captioned
27 “Objections to Magistrate Judge’s Findings and Recommendation.” A party may respond
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1 to another party's objections by filing a response within fourteen (14) days after being
2 served with a copy of that party's objections. The parties are advised that failure to file
3 objections within the specified time may result in the waiver of rights on appeal.
4 Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v. Sullivan, 923
5 F.2d 1391, 1394 (9th Cir. 1991)).

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7 IT IS SO ORDERED.

8 Dated: January 15, 2017

1st Michael J. Seng
UNITED STATES MAGISTRATE JUDGE

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