

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

-----oo0oo-----

MATTHEW M. LAKOTA,
Plaintiff,
v.

No. 2:07-cv-2094-MCE-DAD-PS
ORDER

CHIEF JUSTICE RONALD M. GEORGE
(individually and in his
capacity as head of The
Judicial Council of
California,
Defendant.

-----oo0oo-----

On October 5, 2007, Plaintiff filed his Verified Complaint for Temporary Injunctive Relief and Preliminary Injunctive Relief in this matter, which appears to allege that Plaintiff's constitutional rights have been violated as a result of being declared a vexatious litigant, by the Superior Court of the State of California, County of Butte, in accordance with the provisions of California's vexatious litigant law as codified by California Code of Civil Procedure Section 391, et seq.

1 Concurrently with his Verified Complaint, Plaintiff filed an Ex
2 Parte Motion for Temporary Injunction demanding that Defendant
3 Ronald M. George, as head of the Judicial Council of California,
4 remove Plaintiff from the list Defendant George has purportedly
5 prepared which delineates those individuals declared to be
6 vexatious litigants.

7 Although initially styled as an "Ex Parte Motion for
8 Temporary Injunction", the Court construes Plaintiff's request as
9 a demand for a temporary restraining order; in fact, both the
10 proposed notice to be given to Defendant George and Plaintiff's
11 proposed order characterizes Plaintiff's request as one for
12 issuance of a temporary restraining order.

13 Plaintiff's request for a temporary restraining order is
14 procedurally defective and must be denied on that basis alone.
15 First, to the extent that Plaintiff seeks an ex parte request for
16 a temporary injunction (as Plaintiff states in the caption to his
17 motion), he has proffered no "extraordinary circumstances" to
18 justify such release in the absence of actual notice to the
19 Defendant. See Local Rule 65-231(a). While Plaintiff's papers,
20 at apparent odds with his ex parte designation, also appear to
21 contemplate a hearing being scheduled on his request, he has made
22 no effort to schedule a hearing date, let alone notify Defendant
23 and/or his counsel of that date.

24 In addition, contrary to the provisions of Local Rule 65-
25 231(c)(5), Plaintiff has failed to submit an affidavit in support
26 of the existence of an irreparable injury justifying immediate
27 injunctive relief.

28 ///

1 While Plaintiff has provided a declaration, that declaration does
2 not support the existence of an irreparable injury which may
3 inure to Plaintiff if the emergency equitable relief he requests
4 is not granted.

5 Plaintiff's Motion is accordingly DENIED, without prejudice
6 to Plaintiff's right to renew her application in accordance with
7 the provisions of Rule 65-231.

8
9 IT IS SO ORDERED.

10 Dated: October 10, 2007

11
12 

13 MORRISON C. ENGLAND, JR.
14 UNITED STATES DISTRICT JUDGE
15
16
17
18
19
20
21
22
23
24
25
26
27
28