

1 preliminary injunction are identical.” *Haw. County Green Party v. Clinton*, 980 F. Supp. 1160,
2 1164 (D. Haw. 1997); *cf. Stuhlberg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7
3 (9th Cir. 2001) (observing that an analysis of a preliminary injunction is “substantially identical”
4 to an analysis of a temporary restraining order).

5 A preliminary injunction will not issue unless necessary to prevent threatened injury that
6 would impair the court’s ability to grant effective relief in a pending action. *Sierra On-Line, Inc.*
7 *v. Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th Cir. 1984); *Gon v. First State Ins. Co.*, 871
8 F.2d 863 (9th Cir. 1989). A preliminary injunction represents the exercise of a far reaching
9 power not to be indulged except in a case clearly warranting it. *Dymo Indus. v. Tapeprinter, Inc.*,
10 326 F.2d 141, 143 (9th Cir. 1964). To be entitled to preliminary injunctive relief, a party must
11 demonstrate “that he is likely to succeed on the merits, that he is likely to suffer irreparable harm
12 in the absence of preliminary relief, that the balance of equities tips in his favor, and that an
13 injunction is in the public interest.” *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir.
14 2009) (citing *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 129 S. Ct. 365, 172 L. Ed. 2d
15 249 (2008)). The Ninth Circuit has also held that the “sliding scale” approach it applies to
16 preliminary injunctions—that is, balancing the elements of the preliminary injunction test, so that
17 a stronger showing of one element may offset a weaker showing of another—survives *Winter* and
18 continues to be valid. *Alliance for the Wild Rockies v. Cottrell*, 622 F.3d 1045, 1050 (9th Cir.
19 2010). “In other words, ‘serious questions going to the merits,’ and a hardship balance that tips
20 sharply toward the plaintiff can support issuance of an injunction, assuming the other two
21 elements of the *Winter* test are also met.” *Id.* In cases brought by prisoners involving conditions
22 of confinement, any preliminary injunction “must be narrowly drawn, extend no further than
23 necessary to correct the harm the court finds requires preliminary relief, and be the least intrusive
24 means necessary to correct the harm.” 18 U.S.C. § 3626(a)(2).

25 Plaintiff fails to meet that standard. Plaintiff alleges in his complaint that defendants at
26 the California Medical Facility left him handcuffed in his cell for 24 hours because of his
27 participation in a hunger strike, and that he was subsequently denied medical care despite his
28 “obvious” need for medical attention. *See* ECF Nos. 16, 19. His motion for injunctive relief does

1 not involve the California Medical Facility, the defendants in this action, or his Eighth
2 Amendment claims. Because his motion addresses conduct that is not a subject of this civil
3 action, it does not demonstrate either a likelihood of success or a serious question going to the
4 merits of his complaint. Generally, such unrelated allegations must be pursued through the prison
5 administrative process and then litigated in a separate action. *See McKinney v. Carey*, 311 F.3d
6 1198, 1199-1201 (9th Cir. 2002) (per curiam) and *Rhodes v. Robinson*, 621 F.3d 1002, 1004-07
7 (9th Cir. 2010) (together holding that claims must be exhausted prior to the filing of the original
8 or supplemental complaint); *Jones v. Felker*, No. CIV S-08-0096 KJM EFB P, 2011 U.S. Dist.
9 LEXIS 13730, at *11-15 (E.D. Cal. Feb. 11, 2011). In addition, plaintiff fails to show that he will
10 suffer irreparable harm in the absence of the requested relief. Although plaintiff claims that his
11 life will be in “imminent danger” if he is transferred to Salinas Valley State Prison, he provides
12 no evidence to substantiate or further clarify these speculative and conclusory allegations. For
13 these reasons, plaintiff’s motion for a temporary restraining order and/or preliminary injunction
14 must be denied.

15 Accordingly, it is hereby RECOMMENDED that plaintiff’s motion for a temporary
16 restraining order and/or preliminary injunction (ECF No. 101) be denied.

17 These findings and recommendations are submitted to the United States District Judge
18 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
19 after being served with these findings and recommendations, any party may file written
20 objections with the court and serve a copy on all parties. Such a document should be captioned
21 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the
22 objections shall be served and filed within fourteen days after service of the objections. The
23 parties are advised that failure to file objections within the specified time may waive the right to
24 appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*
25 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

26 DATED: January 17, 2017.

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28 EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE