



1 of twenty percent of the preceding month's income credited to plaintiff's prison trust account.  
2 These payments will be forwarded by the appropriate agency to the Clerk of the Court each time  
3 the amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C.  
4 § 1915(b)(2).

5 II. Motion for Temporary Restraining Order

6 Plaintiff seeks a temporary restraining order against various individuals at High Desert  
7 State Prison, and requests that they be ordered to stop harassing, intimidating, and threatening  
8 him. ECF No. 7.

9 A temporary restraining order is an extraordinary measure of relief that a federal court  
10 may impose without notice to the adverse party if, in an affidavit or verified complaint, the  
11 movant "clearly show[s] that immediate and irreparable injury, loss, or damage will result to the  
12 movant before the adverse party can be heard in opposition." Fed. R. Civ. P. 65(b)(1)(A). The  
13 standard for issuing a temporary restraining order is essentially the same as that for issuing a  
14 preliminary injunction. Stuhlbarg Int'l Sales Co. v. John D. Brush & Co., 240 F.3d 832, 839 n.7  
15 (9th Cir. 2001) (analysis for temporary restraining orders and preliminary injunctions is  
16 "substantially identical").

17 Federal Rule 65(b)(1) permits issuance of a temporary restraining order without notice to  
18 the adverse party only if:

19 (A) specific facts in an affidavit or a verified complaint clearly  
20 show that immediate and irreparable injury, loss, or damage will  
21 result to the movant before the adverse party can be heard in  
opposition; and

22 (B) the movant's attorney certifies in writing any efforts made to  
give notice and the reasons why it should not be required.

23 Plaintiff has not provided the certification required by this rule, nor are the vague and conclusory  
24 allegations sufficient to demonstrate that he will suffer an immediate and irreparable injury or  
25 loss if the motion is not granted. Accordingly, the request for a temporary injunction is defective  
26 and should be denied.

27 The motion should also be denied as moot. The California Department of Corrections and  
28 Rehabilitation's inmate locator shows that plaintiff has been transferred from High Desert State

1 Prison in Susanville to California Medical Facility in Vacaville.<sup>1</sup> An inmate’s transfer from a  
2 prison facility generally moots claims for injunctive relief against officials of that facility. Nelson  
3 v. Heiss, 271 F.3d 891, 897 (9th Cir. 2001) (“[W]hen a prisoner is moved from a prison, his  
4 action will usually become moot as to conditions at that particular facility” (citing Dilley v. Gunn,  
5 64 F.3d 1365, 1368-69 (9th Cir. 1995))); Johnson v. Moore, 948 F.2d 517, 519 (9th Cir. 1991)  
6 (claims for injunctive relief related to conditions of confinement were moot where prisoner was  
7 transferred to another facility and “demonstrated no reasonable expectation of returning to [the  
8 original facility].” (citing Darring v. Kincheloe, 783 F.2d 874, 876 (9th Cir. 1986))). Therefore,  
9 to the extent plaintiff seeks an injunction against individuals who works at High Desert State  
10 Prison, his claims for relief are moot in light of his transfer to California Medical Facility and an  
11 absence of evidence that he will be subject to those conditions again.

12 III. Motion to Amend

13 “The liberal notice pleading of Rule 8(a) is the starting point of a simplified pleading  
14 system, which was adopted to focus litigation on the merits of a claim.” Swierkiewicz v. Sorema  
15 N.A., 534 U.S. 506, 514 (2002); Fed. R. Civ. P. 8. Rule 8 requires that a complaint contain a  
16 “short and plain” statement setting forth the basis for federal jurisdiction (that is, why the lawsuit  
17 is filed in this federal court rather than a state court), and the basis for plaintiff’s claims (that is,  
18 who did what to plaintiff and how he was harmed).

19 The proposed amended complaint does not contain a “short and plain” statement of the  
20 claims. Instead, the proposed amended complaint is fifty-eight pages, not including the additional  
21 sixty-four pages of exhibits; names fourteen to seventeen individual defendants;<sup>2</sup> and includes  
22 long, detailed summaries of the defendants’ responsibilities, the events upon which the complaint  
23 is based, and policies plaintiff believes have been violated. ECF Nos. 9, 10. The motion to  
24 amend will therefore be denied as to the proposed amended complaint because it does not comply

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27 <sup>1</sup> The Clerk of the Court will be directed to update plaintiff’s address of record. However,  
28 plaintiff is advised that in the future, he must update the court when his address changes.

<sup>2</sup> The caption lists sixteen individuals while the list of defendants within the complaint includes  
only fourteen, one of which is not included in the caption. ECF No. 9 at 1, 4-10.

1 with Rule 8. However, plaintiff will be given an opportunity to file an amended complaint that  
2 complies with Rule 8.

3 Plaintiff is cautioned that if he chooses to amend the complaint, he must eliminate from  
4 his pleading all preambles, introductions, argument, speeches, explanations, stories, griping,  
5 vouching, evidence, attempts to negate possible defenses, summaries, and the like or face  
6 dismissal of the complaint. See McHenry v. Renne, 84 F.3d 1172, 1180 (9th Cir. 1996)  
7 (affirming dismissal of § 1983 complaint for violation of Rule 8 after warning); Crawford-El v.  
8 Britton, 523 U.S. 574, 597 (1998) (reiterating that “firm application of the Federal Rules of Civil  
9 Procedure is fully warranted” in prisoner cases (citations and internal quotation marks omitted)).  
10 The court (and defendants) should be able to read and understand plaintiff’s pleading within  
11 minutes. See McHenry, 84 F.3d at 1177 (pointing out that the form complaint for negligence  
12 previously provided in the Federal Rules “can be read in seconds and answered in minutes”). If  
13 plaintiff chooses to amend the complaint, he does not need to walk the court through every detail  
14 of what happened, and while he should identify what kinds of claims he is bringing (e.g.  
15 retaliation, due process, etc.), he does not need to provide legal arguments. Instead, plaintiff  
16 should focus on providing a brief explanation of what each defendant did that he believes violated  
17 his rights.

18 Accordingly, IT IS HEREBY ORDERED that:

19 1. Plaintiff’s request for leave to proceed in forma pauperis (ECF No. 2) is granted.  
20 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. Plaintiff  
21 is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C.

22 § 1915(b)(1). All fees shall be collected and paid in accordance with this court’s order to the  
23 Director of the California Department of Corrections and Rehabilitation filed concurrently  
24 herewith.

25 3. Plaintiff’s motion to amend (ECF No. 8) is granted to the extent that plaintiff will be  
26 given an opportunity to file an amended complaint that complies with Federal Rule of Civil  
27 Procedure 8. The motion is denied as to the request to file the proposed first amended complaint.

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1           4. The proposed first amended complaint (ECF No. 9) will be disregarded.

2           5. Within thirty days of the service of this order, plaintiff may file an amended complaint  
3 that complies with Federal Rule of Civil Procedure 8. If plaintiff does not file an amended  
4 complaint, the court will proceed to screen the original complaint.

5           6. The Clerk of the Court is directed to send plaintiff a copy of the prisoner complaint  
6 form used in this district.

7           7. The Clerk of the Court is directed to update plaintiff's address of record to California  
8 Medical Facility, P.O. Box 2000, Vacaville, CA 95696-2000.

9           8. The Clerk of the Court is directed to randomly assign a district court judge to this  
10 action.

11           IT IS FURTHER RECOMMENDED that plaintiff's motion for a temporary restraining  
12 order (ECF No. 7) be denied.

13           These findings and recommendations are submitted to the United States District Judge  
14 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
15 after being served with these findings and recommendations, plaintiff may file written objections  
16 with the court and serve a copy on all parties. Such a document should be captioned "Objections  
17 to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file  
18 objections within the specified time may waive the right to appeal the District Court's order.  
19 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

20 DATED: September 30, 2019

21   
22 ALLISON CLAIRE  
23 UNITED STATES MAGISTRATE JUDGE  
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