

"A preliminary injunction is an extraordinary remedy never awarded as of right." *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 24 (2008) (citation omitted).
"The proper legal standard for preliminary injunctive relief requires a party to demonstrate
'that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the
absence of preliminary relief, that the balance of equities tips in his favor, and that an
injunction is in the public interest." *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th
Cir. 2009) (quoting *Winter*, 555 U.S. at 20).

To show irreparable harm, the "plaintiff must show that he is under threat of suffering 'injury in fact' that is concrete and particularized; the threat must be actual and imminent, not conjectural or hypothetical; it must be fairly traceable to the challenged action of the defendant; and it must be likely that a favorable judicial decision will prevent or redress the injury." *Summers v. Earth Island Inst.*, 555 U.S. 488, 493 (2009) (citing *Friends of Earth,*  Inc. v. Laidlaw Environmental Servs. (TOC), Inc., 528 U.S. 167, 180-181 (2000)). In sum,
 an injunction "may only be awarded upon a clear showing that the plaintiff is entitled to
 relief." *Winter*, 555 U.S. at 22.

In general, "[a] federal court may issue an injunction if it has personal jurisdiction
over the parties and subject matter jurisdiction over the claim; it may not attempt to
determine the rights of persons not before the court." *Zepeda v. INS*, 753 F.2d 719, 727
(9th Cir. 1985). One "becomes a party officially, and is required to take action in that
capacity, only upon service of summons or other authority-asserting measure stating the
time within which the party served must appear to defend." *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 350 (1999).

## B. Analysis

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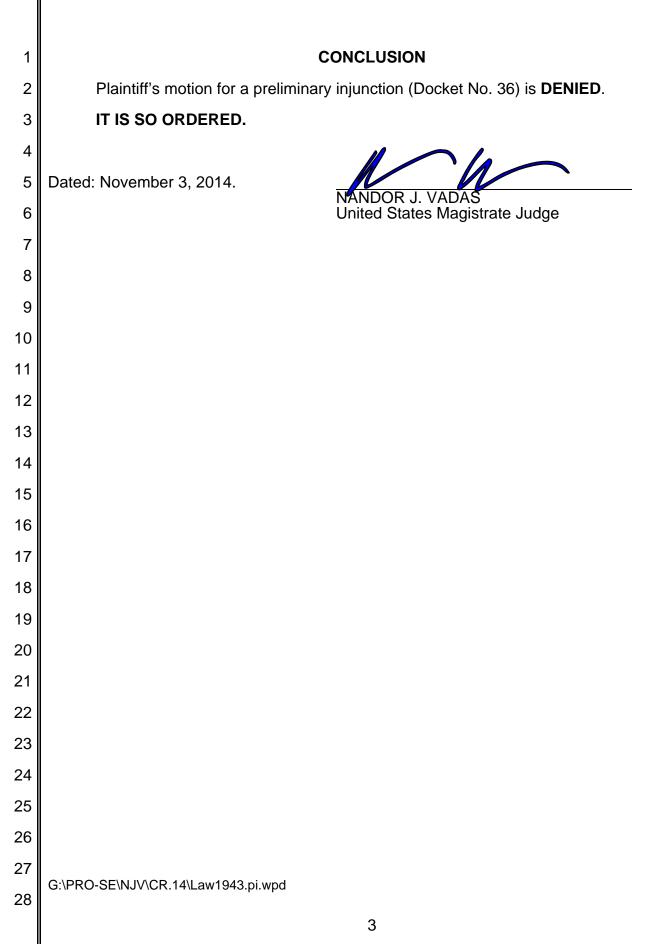
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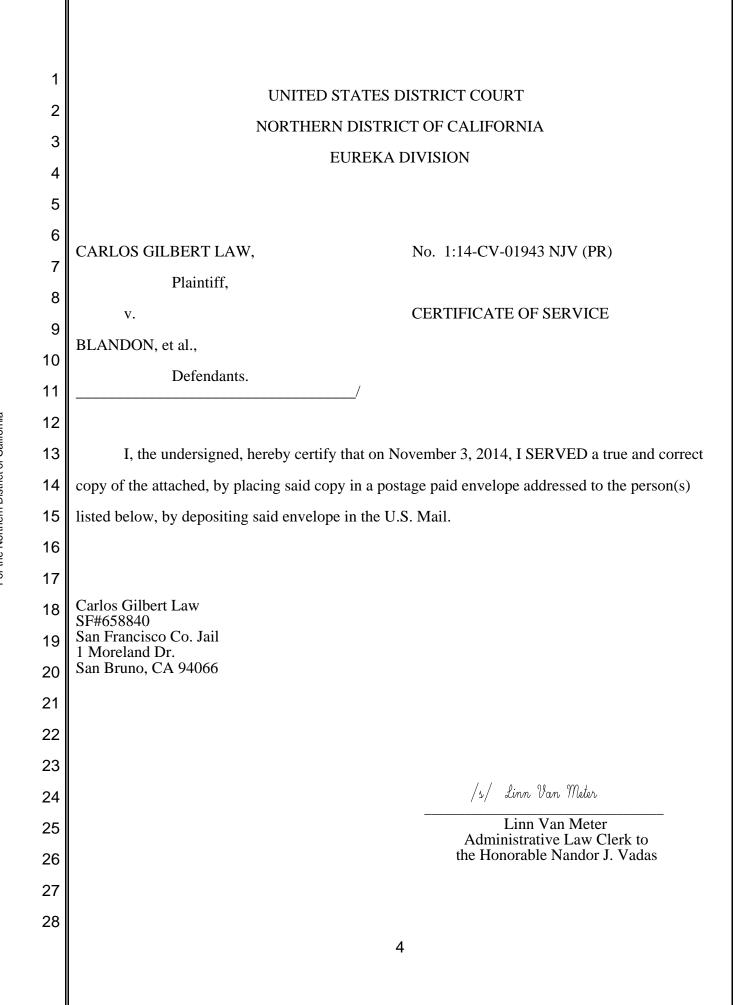
This action continues on plaintiff's allegations that a deputy failed to protect him from
being assaulted by other inmates. The incident appears to have occurred at the San
Francisco County Jail located at 850 Bryant Street in San Francisco, and the defendant
was a deputy at that location. Plaintiff has been moved several times and now resides at
the San Francisco County Jail located at 1 Moreland Dr. in San Bruno.

17 In this motion, plaintiff seeks a preliminary injunction to protect him from future 18 assaults by other inmates and retaliation by Defendant. The motion must be denied 19 because the only the defendant in this action, who has not yet been served, does not 20 appear able to provide the injunctive relief that plaintiff seeks. The defendant does not 21 work at the facility where plaintiff is housed and there is no other named defendant in this 22 action that could provide the relief plaintiff seeks. Even assuming there was an appropriate 23 defendant, plaintiff only presents general allegations that he is in danger and at risk for 24 retaliation, which is insufficient. His conclusory allegations do not show a concrete and 25 particular threat to justify the issuance of such an extraordinary remedy.

For the Northern District of California

United States District Court





United States District Court For the Northern District of California