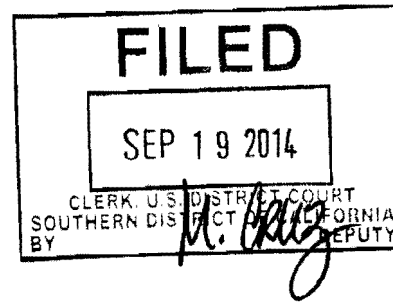


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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

<p>MICHAEL DOUGHTY, an individual,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>DEPARTMENT OF THE NAVY, a Federal agency,</p> <p style="text-align: right;">Defendant.</p>		<p>CASE NO. 14cv2221-WGH-BLM</p> <p>ORDER</p>
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HAYES, Judge:

The matter before the Court is the Ex Parte Motion for Temporary Restraining Order and Preliminary Injunction filed by Plaintiff Michael Doughty. (ECF No. 3).

On September 17, 2014, Plaintiff initiated this action by filing the Complaint. (ECF No. 1). On September 18, 2014, Plaintiff filed the Ex Parte Motion for Temporary Restraining Order and Preliminary Injunction. (ECF No. 3). The Motion requests that the Court “[d]eclare that [the Navy’s] de-mobilization and discharge of Plaintiff violates the Due Process Clause of the Fifth Amendment to the Constitution of the United States and enjoin Defendant from de-mobilizing and discharging Plaintiff until he has a proper opportunity to respond to the periodic investigation,” “[i]ssue preliminary and permanent injunctions enjoining [the Navy] from de-mobilizing and discharging Plaintiff until he has had a proper opportunity to respond to the periodic investigation,” and “[o]rder [the Navy] to reinstate Plaintiff to the pre-deployment

1 training he was undergoing when his security clearance was revoked without cause.”  
2 (ECF No. 3-1). The Motion is accompanied by Plaintiff’s de-mobilization orders,  
3 which he received on September 18, 2014.

4 Rule 65 of the Federal Rules of Civil Procedure provides:

5 (a)(1) The court may issue a preliminary injunction only on notice to the  
6 adverse party....

7 (b)(1) The court may issue a temporary restraining order without written  
8 or oral notice to the adverse party or its attorney only if:

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

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

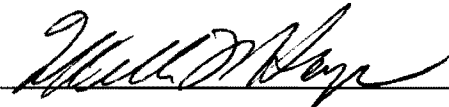
16 Fed. R. Civ. P. 65(a)(1) & (b)(1).

17 To the extent Plaintiff seeks a preliminary injunction, Plaintiff has failed  
18 demonstrate that Defendant has received notice of the factual basis for the Motion.  
19 Fed. R. Civ. P. 65(a)(1). The docket does not reflect that Defendant has been served.  
20 To the extent Plaintiff seeks a temporary restraining order without giving notice to the  
21 opposing party, Plaintiff has failed to show “immediate and irreparable injury” that will  
22 result “before the adverse party can be heard in opposition,” Fed. R. Civ. P.  
23 65(b)(1)(A), and Plaintiff has failed to “certif[y] in writing any efforts made to give  
24 notice and the reasons why it should not be required.” Fed. R. Civ. P. 65(b)(1)(B).  
25 Plaintiff has failed to comply with the requirements of Rule 65. *See Reno Air Racing*  
26 *Ass’n, Inc. v. McCord*, 452 F.3d 1126, 1131 (9th Cir. 2006) (“The stringent restrictions  
27 imposed by Rule 65 on the availability of ex parte temporary restraining orders reflect  
28 the fact that our entire jurisprudence runs counter to the notion of court action taken  
before reasonable notice and an opportunity to be heard has been granted both sides of  
a dispute.”) (quotation omitted).

IT IS HEREBY ORDERED THAT Plaintiff’s Ex Parte Motion for a Temporary  
Restraining Order and Preliminary Injunction (ECF No. 1) is DENIED without

1 prejudice to Plaintiff filing a proof of service of the Complaint and Motion or providing  
2 grounds as to why notice to Defendant should not be required.

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4 DATED: 9/19/14

  
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**WILLIAM Q. HAYES**  
United States District Judge

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