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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KURT BENSHOOF,

Plaintiff,

v.

MOSHE ADMON, DANIEL
AUDERER, JUSTIN BOOKER, FREYA
BRIER, CITY OF SEATTLE, NATHAN
CLIBER, ZACHARY COOK.
BENJAMIN COOMER, ANITA
CRAWFORD-WILLIS, JENNY
DURKAN, JAMES ERVIN, DAVID
ESTUDILLO, MARSHALL
FERGUSON, MICHAEL FOX, COREY
FOY, AMY FRANKLIN-BIHARY,
WILLIAM GATES, III, STEVEN
GONZALEZ, TYLER GOSLIN, WILLIE
GREGORY, OWEN HERMSEN, JAY
INSLEE, DAVID KEENAN, GABRIEL
LADD, DANIEL LENTZ, MAGALIE
LERMAN, MARY LYNCH, SARAH
MACDONALD, ANTHONY
MARINELLA, RICHARDO
MARTINEZ, BRADLEY MOORE,
KATRINA OUTLAND, JESSICA
OWEN, PCC NATURAL MARKETS,
KYLE REKOFKE, STEVEN ROSEN,
BLAIR RUSS, UMAIR SHAH,
SPROUTS FARMERS MARKET,
MICHAEL THURSTON, JARED
WALLACE, and SANDRA WIDLAN,

Defendants.

CASE NO. 2:23-cv-1392

ORDER DENYING PLAINTIFF'S
MOTIONS FOR PRELIMINARY
INJUNCTION AND GRANTING
LEAVE TO AMEND HIS
COMPLAINT

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1. INTRODUCTION

This matter is before the Court on its own motion. Plaintiff Kurt Benshoof, proceeding pro se and in forma pauperis, filed a civil rights complaint on September 19, 2023, naming 42 Defendants and pleading over 40 causes of action. *See generally* Dkt. No. 9. As explained below, the Court ORDERS Benshoof to replead his claims to comply with Fed. R. Civ. P. 8. The Court also DENIES Benshoof’s two separately pending “Emergency Petitions for Preliminary Injunction.” Dkt. Nos. 14, 15.

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2. BACKGROUND

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2.1 Factual allegations.

Benshoof’s complaint spans 280 pages, contains over 1,000 paragraphs in its statement of facts, and includes over 2,000 pages in attachments. *See* Dkt. Nos. 9, 13. It is hard to make out the exact nature of his conflict among all of the irrelevant, conclusory, and confusing details, but Benshoof appears to allege Defendants violated his due process rights during multiple legal proceedings in Seattle Municipal Court and King County Superior Court. Dkt. No. 9 at 204-216. These cases include King County Superior Court Case No. 21-5-00680-6, a parentage action between Jessica Owen and Benshoof. *See* Dkt. Nos. 9 at 81-82; 13-2 at 13-18.

Owen and Benshoof are the parents of A.R.W. Dkt. No. 13-2 at 15. Benshoof alleges Owen and her attorneys made false statements about him, which led to a restraining order. Dkt. Nos. 9 at 82; 13-2 at 2-6. Under the restraining order, Benshoof cannot contact A.R.W. and he “may only effect service of process [on

1 Owen], for any and all legal proceedings, through use of either Pegasus Process
2 Service or ABC Legal Services.” Dkt. No. 13-2 at 4 (emphasis in original).

3 Beyond allegations about his family law cases, Benshoof brings claims about
4 the implementation and enforcement of COVID-19 mask mandates.

5 Benshoof states his beliefs in his complaint:

6 The Breath of Life is sacred and shall not be restricted nor impeded
7 . . . [and] [t]he human body is a vessel of the Divine. God designed and
8 created human bodies with innate immune systems enriched from the
9 mother’s breast milk.

9 Dkt. No. 9 at 20.

10 Benshoof also alleges his “invisible disabilities” preclude him from wearing a
11 mask. *Id.* at 23. Specifically, he “was sexually abused as a child by someone in a
12 position of trust and authority; as such, demands by [D]efendants that [he] restrict
13 his breathing or cover his face were perceived by [Benshoof] as particularly **abusive**
14 and **triggering**.” *Id.* (emphasis in original). Benshoof alleges that being denied
15 access to grocery stores and courts because of his refusal to wear a face mask
16 violated his First Amendment right of religious expression and his rights
17 guaranteed by the Americans with Disabilities Act. *See id.* at 188-191, 233-235.

18 **2.2 Benshoof’s first emergency petition for a preliminary injunction.**

19 Benshoof asks the Court to bar the City and Seattle Police Department (SPD)
20 officers from arresting and prosecuting him “under the family court Final
21 Restraining Order for effecting service of process to 849 NE 130th ST [sic], Seattle,
22 WA 98125 pursuant to Fed.R.Civ.P.4. [sic].” Dkt. Nos. 14 at 8; 14-1 at 2. According
23 to Benshoof, Owen resides at the 849 NE 130th St. address. Dkt. No. 14 at 2.
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1 Benshoof says both ABC Legal Services and Pegasus Process Service have refused
2 to do business with him. *Id.*

3 **2.3 Benshoof's second emergency petition for a preliminary injunction.**

4 Benshoof seeks to enjoin the City and SPD officers from arresting and
5 prosecuting him for charges levied in Seattle Municipal Court Case No. 656748.
6 Dkt. No. 15 at 1. The municipal court docket shows Benshoof faces four charges of
7 criminal trespass in the first degree, all of which are pending. *See City of Seattle v.*
8 *Benshoof*, Case No. 656748 (Municipal Court of Seattle Nov. 13, 2020).¹ The matter
9 is still pending although a warrant appears to have expired on August 29, 2023.

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11 **2.4 Procedural history.**

12 Around a week after filing this lawsuit, Benshoof filed two “Emergency
13 Petitions for Preliminary Injunction,” and three motions for a temporary restraining
14 order (TRO) on successive days between October 2-4, 2023. Dkt. Nos. 14, 15, 16, 20,
15 23. On October 6, 2023, the Court denied all three TRO motions. Dkt. No. 29.

16 In the past year, Benshoof has filed two other cases in this District that have
17 raised similar issues about his family law disputes and objections to mask
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19 ¹ Under Rule 201(b), courts may take judicial notice of a fact that is not subject to
20 reasonable dispute because it “can be accurately and readily determined from
21 sources whose accuracy cannot be reasonably questioned.” Fed. R. Evid. 201(b)(2).
22 Taking judicial notice of publicly available information provided by a government
23 agency meets the requirements for judicial notice under the Rules. *See Santa*
24 *Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1025 n. 2 (9th Cir.
2006) (holding facts contained in public records are considered appropriate subjects
of judicial notice). Therefore, the Court takes judicial notice of the municipal court
docket in *City of Seattle v. Benshoof*, Case No. 656748 (Municipal Court of Seattle
Nov. 13, 2020) (available at <http://web.seattle.gov/SMC/ECFPportal/default.aspx>).

1 mandates. The court dismissed both actions. *See Benshoof v. Keenan, et al.*, No. 23-
2 cv-751-RAJ, Dkt. No. 22 (W.D. Wash. Jun. 12, 2023); *Benshoof v. Fauci, et al.*, No.
3 22-cv-1281-LK, Dkt. Nos. 7 (W.D. Wash. Oct. 31, 2022).

4 3. DISCUSSION

5 3.1 Legal standards.

6 When a litigant proceeds in forma pauperis (“IFP”), “the court shall dismiss
7 the case at any time if the court determines that . . . the action . . . (i) is frivolous or
8 malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks
9 monetary relief against a defendant who is immune from such relief.” 28 U.S.C.
10 § 1915(e)(2)(i)–(iii); *see Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000) (internal
11 citation omitted) (“[S]ection 1915(e) not only permits but requires a district court to
12 dismiss an [IFP] complaint that fails to state a claim.”). “The standard for
13 determining whether a plaintiff has failed to state a claim upon which relief can be
14 granted under § 1915(e)(2)(B)(ii) is the same as the Federal Rule of Civil Procedure
15 12(b)(6) standard for failure to state a claim.” *Watison v. Carter*, 668 F.3d 1108,
16 1112 (9th Cir. 2012) (citing *Lopez*, 203 F.3d at 1122).

17 Thus, the complaint “must contain sufficient factual matter, accepted as true,
18 to state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662,
19 678 (2009) (internal citation and quotation marks omitted). This standard “does not
20 require ‘detailed factual allegations,’ but it demands more than an unadorned, the-
21 defendant-unlawfully-harmed-me accusation.” *Id.* (quoting *Bell Atl. Corp. v.*
22 *Twombly*, 550 U.S. 544, 555 (2007)).
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1 **3.2 Benshoof’s complaint is deficient.**

2 Benshoof’s complaint is sprawling. His causes of action are numbered within
3 the complaint—46 in all—but they are not so clearly delineated as the enumeration
4 would suggest. His claims can be roughly summarized as follows:

- 5 • Benshoof seeks declaratory judgment on 17 questions. *See* Dkt. No. 9 at
6 173-176 (“First Cause of Action”).
- 7 • Benshoof pleads Constitutional violations, including several 42 U.S.C. §
8 1983 claims, *Bivens* claims, a denial of service under the 1964 Civil Rights
9 Act, conspiracy under 42 U.S.C. § 1985(2)-(3) and 42 U.S.C. § 1986, and a
10 related RICO action under 18 U.S.C. § 1962(c)-(d). *See id.* at 177-217, 218-
11 268 (Benshoof’s second through 22nd and 24th through 42nd causes of
12 action).
- 13 • Benshoof seeks four preliminary injunctions, which he styles as his 43rd-
14 46th causes of action. *See id.* at 268-277.
- 15 • Benshoof pleads two state-law claims: common law fraud and common law
16 conspiracy. *See id.* at 220-224 (22nd and 23rd causes of action).

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18 Some of these claims are deficient on their face. Others are impossible to
19 understand as pled.

20 **3.2.1 The Court lacks jurisdiction over Benshoof’s “First Cause of
21 Action” for “Declaratory Judgment.”**

22 The Uniform Declaratory Judgment Act, 28 U.S.C. § 2201, provides “[i]n a
23 case of actual controversy within its jurisdiction . . . any court of the United States
24 . . . may declare the rights and other legal relations of any interested party seeking

1 such declaration, whether or not further relief is or could be sought.” 28 U.S.C.
2 § 2201(a). “A lawsuit seeking federal declaratory relief must first present an actual
3 case or controversy within the meaning of Article III,” and “must also fulfill
4 statutory jurisdictional prerequisites.” *Gov’t Emps. Ins. Co. v. Dizol*, 133 F.3d 1220,
5 1223 (9th Cir. 1998) (citing *Aetna Life Ins. Co. of Hartford v. Haworth*, 300 U.S. 227,
6 239–40 (1937); *Skelly Oil Co. v. Phillips Petroleum Co.*, 339 U.S. 667, 672 (1950)).
7 Because “[t]he Declaratory Judgment Act does not provide for its own subject
8 matter jurisdiction,” a plaintiff “must establish federal question jurisdiction or
9 diversity jurisdiction before a district court can consider a request for declaratory
10 judgment.” *Fluke Corp. v. Ratner*, No. C07-1921-JPD, 2008 WL 11342997, at *2 n.2
11 (W.D. Wash. Apr. 18, 2008).

12 Benshoof asserts 17 questions that he labels “federal questions.” But none of
13 these questions are federal questions within the meaning of 28 U.S.C. § 1331. Nor
14 does Benshoof allege diversity jurisdiction. Questions 1, 2, 3, 4, 6, 11, 12, 13, 16, and
15 17 ask the Court to interpret the Washington Constitution and Washington state
16 statutes or court rules. *See* Dkt. No. 9 at ¶¶ 1281, 1282, 1283, 1284, 1286, 1291,
17 1292, 1293, 1296, 1297. Question 5 involves the jurisdiction of a family court, which
18 is not a federal question. *See id.* ¶ 1285. Questions 8 and 14 relate to Benshoof’s
19 allegations against King County Superior Court Judge David Keenan and United
20 States District Judge Richard Jones, however, the Court finds Benshoof’s
21 allegations against Judges Keenan and Jones are likely barred by absolute
22 immunity so there is no live controversy between the parties. *See* Dkt. No. 9 at ¶¶
23 1288, 1294; *see also infra* Section 3.2.3. Because the Court finds Benshoof’s
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1 allegations against William Gates to be deficient under Fed. R. Civ. P. 8(a),
2 independent subject matter jurisdiction also does not exist for Questions 9 and 10,
3 which ask the Court to decide whether Gates acted jointly with “state actors
4 pursuant to 42 U.S.C. §§ 1983; 1985(2)(3)” and whether “the Bill and Melinda Gates
5 Foundation is a ‘person’ under 18 U.S.C. § 1961(3) subject to 18 U.S.C. § 1962(d).”
6 *See* Dkt. No. 9 at ¶¶ 1289, 1290; *see also infra* Section 3.3. Questions 7 and 15 are
7 merely hypothetical. Question 7 asks whether a child can consent to receiving a
8 COVID-19 vaccine and Question 15 asks whether the Ninth Circuit can “adjudicate
9 Plaintiff’s claims under 42 U.S.C. § 1983 when the facts evidence a prima facie case
10 that judges of the U.S. District Court for the Western District of Washington acted,
11 individually and in concert, to allow, enable, facilitate, or perpetrate violations of
12 constitutional prohibitions?” *See* Dkt. No. 9 at ¶¶ 1287, 1295. These questions aren’t
13 tied to any live claim raised in this suit.

14 Accordingly, Benshoof does not meet the Declaratory Judgment Act’s
15 requirements, and he thus fails to state a claim for declaratory relief.

16 **3.2.2 Benshoof’s Section 1983 claims against private persons fail as a**
17 **matter of law.**

18 To state a Section 1983 claim, a plaintiff must “plead that (1) the defendants
19 acting under color of state law (2) deprived plaintiffs of rights secured by the
20 Constitution or federal statutes.” *Gibson v. United States*, 781 F.2d 1334, 1338 (9th
21 Cir. 1986). As for the first element, a defendant acts under the color of state law
22 where they “exercised power ‘possessed by virtue of state law and made possible
23 only because the wrongdoer is clothed with the authority of the state.’” *West v.*
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1 *Atkins*, 487 U.S. 42, 49 (1988) (quoting *United States v. Classic*, 313 U.S. 299, 326
2 (1941)). Generally, private parties are not acting under color of state law unless
3 they conspire with state officials to deprive others of constitutional rights. *Price v.*
4 *State of Hawaii*, 939 F.2d 702, 707-08 (9th Cir. 1991) (“[P]rivate parties are not
5 generally acting under color of state law”); *Simmons v. Sacramento Cnty. Superior*
6 *Ct.*, 318 F.3d 1156, 1161 (9th Cir. 2003). Conclusory allegations, however, are not
7 enough to state a claim of conspiracy. *Simmons*, 318 F.3d at 1161 (finding a
8 plaintiff’s “conclusory allegations that the lawyer was conspiring with state officers
9 to deprive him of due process . . . insufficient.”).

10 Benshoof brings Section 1983 claims against Owen, her current partner,
11 Lerman, and her friend, Hermsen, alleging they conspired to deny Benshoof his
12 parental rights and extort him for the value of his FJ Cruiser. Dkt. No. 9 at ¶¶ 416–
13 418. Owen, Lerman, and Hermsen are private individuals and Benshoof alleges
14 nothing beyond private action and conclusory claims of conspiracy with the
15 municipal court and police officers. Therefore, Benshoof cannot maintain Section
16 1983 claims against Owen, Lerman, and Hermsen.

17 Benshoof’s claims against Brier, Cliber, Franklin-Bihary, Marinella, Rekofke,
18 and Russ, who are all private attorneys, similarly fail. *See Simmons*, 318 F.3d at
19 1161 (holding plaintiff could not sue counsel under § 1983 because he was a “lawyer
20 in private practice who was not acting under color of state law” and conclusory
21 conspiracy allegations were insufficient).

1 **3.2.3 Benshoof’s claims against immune parties also fail as a matter**
2 **of law.**

3 “Judges are absolutely immune from damage actions for judicial acts taken
4 within the jurisdiction of their courts[.]” *Schucker v. Rockwood*, 846 F.2d 1202, 1204
5 (9th Cir. 1988) (per curiam) (citations omitted). Indeed, a judge retains absolute
6 immunity even when the judge erroneously interprets jurisdiction. *See Sadoski v.*
7 *Mosley*, 435 F.3d 1076, 1079 (9th Cir. 2006) (upholding immunity where a judge
8 “acted in excess of his jurisdiction” but did “not act in clear absence of all
9 jurisdiction.”). Benshoof alleges several municipal and superior court judges acted
10 without personal jurisdiction over him and further alleges he “did not consent to
11 family court adjudicating his family affairs.” *See* Dkt. No. 9 at 81, 146, 154. Even
12 taking his allegations as true, Benshoof does not establish that any judges acted in
13 clear absence of all jurisdiction. Thus, Benshoof’s Section 1983 claims against
14 Seattle Municipal Court judges and King County Superior Court judges all fail.
15 Similarly, to the extent Benshoof alleges a *Bivens* claim against United States
16 District Judge Richard Jones for his decisions in a prior habeas case, judicial
17 immunity also blocks this claim. *See* Dkt. No. 9 at 172-173.

18 Benshoof sues United States District Judges David Estudillo and Ricardo
19 Martinez, Washington State Supreme Court Chief Justice Steven González, and
20 Seattle Municipal Court Judge Willie Gregory for issuing mask mandates in their
21 courthouses. “Administrative decisions, even though they may be essential to the
22 very functioning of the courts,” are not within the scope of judicial immunity.
23 *Forrester v. White*, 484 U.S. 219, 228–30 (1988). Even if the Court assumes without
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1 deciding that these claims relate to administrative decisions for which judges are
2 not immune, Benshoof's claims are moot. Benshoof has not alleged these mandates
3 remain active or that he has suffered some actual harm. As a result, he lacks
4 standing to bring a moot or hypothetical claim. *TransUnion LLC v. Ramirez*, 141 S.
5 Ct. 2190, 2200 (2021) ("No concrete harm, no standing.").

6 Benshoof's Section 1983 claims against MacDonald and Outland are also
7 barred by prosecutorial immunity. Prosecutors are absolutely immune from Section
8 1983 actions when performing functions "intimately associated with the judicial
9 phase of the criminal process." *Imbler v. Pachtman*, 424 U.S. 409, 430 (1976). In
10 other words, a "prosecutor is fully protected by absolute immunity when performing
11 the traditional functions of an advocate. *Kalina v. Fletcher*, 522 U.S. 118, 131
12 (1997). "[T]he functional nature of the activities being performed, not the status of
13 the person performing them, is the key to whether absolute immunity attaches."
14 *Stapley v. Pestalozzi*, 733 F.3d 804, 810 (9th Cir. 2013).

15 Benshoof alleges City of Seattle Prosecutor MacDonald provided the court
16 with insufficient evidence, engaged in ex parte communications with the judge
17 during his court proceedings, failed to provide exculpatory evidence, and deceived
18 the jury. Dkt. No. 9 at ¶¶ 954, 960, 995-997, 999, 1031-1034, 1047-1048. Benshoof
19 alleges City of Seattle Prosecutor Outland failed to provide the Seattle Municipal
20 Court evidence of proof of personal service or proof that Benshoof violated the law.
21 Dkt. No. 9 at ¶¶ 1151-1155. The alleged conduct by MacDonald and Outland falls
22 within the traditional function of an advocate, therefore, immunity precludes
23 Benshoof's Section 1983 claims.
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1 **3.3 Benshoof's complaint violates Rule 8(a), so the Court orders him to**
2 **replead his claims in compliance with the Civil Rules.**

3 Benshoof alleges more—he alleges Section 1983 claims against SPD Officers
4 Auderer, Coomer, Foy, Ladd, Lentz, and Wallace, Jane Adams Middle School Vice
5 Principal Booker, Durken, Inslee, and Shah; he also alleges claims under Title II of
6 the Civil Rights Act, 42 U.S.C. § 1985(2)-(3), 42 U.S.C. § 1986, and 18 U.S.C. §
7 1962(d). But the “prolixity,” argumentativeness, redundancy, and often plain
8 confusing nature of Benshoof's complaint makes it difficult to discern what the
9 circumstances were that supposedly give rise to these claims. *See Cafasso, U.S. ex*
10 *rel. v. Gen. Dynamics C4 Sys., Inc.*, 637 F.3d 1047, 1059 (9th Cir. 2011) (upholding
11 district court's dismissal of complaint without leave to amend because plaintiff
12 violated Rule 8; explaining, “[o]ur district courts are busy enough without having to
13 penetrate a tome approaching the magnitude of War and Peace to discern a
14 plaintiff's claims and allegations.”).

15 Rather than straightforwardly stating his claims and allegations, as required
16 by Rule 8, Benshoof saddles the Court and Defendants with a nearly 300-page
17 complaint and 2,000 pages of exhibits. A complaint so confusing that its “true
18 substance, if any, is well disguised” may be dismissed sua sponte for failure to
19 satisfy Rule 8. *Herns v. San Bernardino Police Dep't*, 530 F.3d 1124, 1131 (9th Cir.
20 2008) (quoting *Gillibeau v. City of Richmond*, 417 F.2d 426, 431 (9th Cir. 1996)).

21 Instead of dismissal, however, the Court orders Benshoof to replead his
22 claims. *Agnew v. Moody*, 330 F.2d 868, 870 (9th Cir. 1964) (“[T]he district court was
23 entirely justified in holding that the complaint did not comply with Rule 8(a), and in
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1 ordering [the plaintiff] to replead.”); *see also Johnson Enter. of Jacksonville, Inc. v.*
2 *FPL Grp., Inc.*, 162 F.3d 1290, 1332 n.94 (11th Cir. 1998) (“District courts have the
3 inherent authority to demand repleader *sua sponte*.”)

4 Any amended complaint must address—if possible—the deficiencies
5 identified above and comply with Fed. R. Civ. P. 8 by providing a short plain
6 statement of each of Benshoof’s claims. For example, statements identifying (1) the
7 right violated, (2) the name of the defendant who violated that right, (3) the specific,
8 wrongful acts of the defendant, and (4) the resulting injuries, would suffice. It may
9 be necessary to repeat this process for each named defendant.

10 **3.4 Benshoof is not entitled to the injunctive relief sought in his**
11 **separately pending motions.**

12 Rather than leaving the question open during the pendency of an amended
13 complaint, the Court addresses Benshoof’s separately pending motions for
14 injunctive relief. Dkt. Nos. 14, 15.

15 A preliminary injunction is an “extraordinary remedy that may only be
16 awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v.*
17 *Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). A party seeking a preliminary
18 injunction must establish four elements: (1) they are “likely to succeed on the
19 merits,” (2) they will likely “suffer irreparable harm in the absence of preliminary
20 relief,” (3) “the balance of equities tips in [their] favor,” and (4) “an injunction is in
21 the public interest.” *Id.* at 20.

22 In his first motion, Benshoof asks the Court to exempt him from a restraining
23 order issued by King County Superior Court Judge David Keenan that bars
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1 Benshoof from serving Owen except with process completed by Pegasus Process
2 Service or ABC Legal Services.² See Dkt. Nos. 13-2 at 4; 14. The restraining order
3 originated from a parentage action, Case No. 21-5-00680-6. This matter is beyond
4 the Court’s subject matter jurisdiction, however, because the subject of Benshoof’s
5 request and the relief sought are inextricably linked to his family law case. “It is
6 well-settled that federal district courts have no jurisdiction over child custody
7 issues, which are exclusively matters of state law.” *Benshoof v. Keenan*, No. C23-
8 751-RAJ, 2023 WL 4142956, at *1 (W.D. Wash. June 12, 2023) (citing *Ankenbrandt*
9 *v. Richards*, 504 U.S. 689, 702–04) (1992) (affirming the domestic relations
10 exception “divests the federal courts of power to issue divorce, alimony[,] and child
11 custody decrees.”). Because this Court likely lacks jurisdiction to grant the relief
12 Benshoof seeks, he fails to establish he is likely to succeed on the merits and the
13 Court DENIES his first motion for a preliminary injunction.

14 This is not the first time Benshoof has sought federal injunctive relief related
15 to his child custody issues. See *Benshoof*, No. C23-751-RAJ, 2023 WL 4142956, at
16 *1. In denying Benshoof’s motion for a temporary restraining order and dismissing
17 his complaint, the Honorable Richard A. Jones cautioned Benshoof that “federal
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19 ² At one point in his motion, Benshoof argues due process requires that he be able to
20 effect service of process through the U.S. Marshals. Dkt. No. 14 at 4. He further
21 argues that the Court should enjoin the City of Seattle from detaining, arresting,
22 imprisoning, or prosecuting the U.S. Marshals from serving process on Owen in this
23 case. *Id.* at 1. The Court does not decide, at this time, whether the restraining order
24 issued by Judge Keenan would allow service of process by the U.S. Marshals
because Benshoof has yet to plead a claim against Owen. As the Court explained,
Benshoof’s Section 1983 claims against Owen fail because they involve only private
action and, regardless, Benshoof must amend his complaint to comply with Fed. R.
Civ. P. 8(a) before the Court will issue summonses.

1 courts are not courts of appeal from state decisions.” *Id.* The Court reiterates this
2 caution, as a pattern of unmeritorious litigation may lead to a bar order limiting
3 Benshoof’s ability to bring suit.

4 In his second motion, Benshoof asks the Court to enjoin the SPD from
5 enforcing a bench warrant issued in the ongoing Seattle Municipal Court Case No.
6 656748. Dkt. No. 15. Federal courts will not interfere where “(1) there is an ongoing
7 state judicial proceeding; (2) the proceeding implicate[s] important state interests;
8 (3) there is an adequate opportunity in the state proceedings to raise constitutional
9 challenges; and (4) the requested relief seek[s] to enjoin or has the practice effect of
10 enjoining the ongoing state judicial proceeding.” *Arevalo v. Hennessy*, 882 F.3d 763,
11 765 (9th Cir. 2018) (internal quotation marks omitted) (quoting *ReadyLink*
12 *Healthcare, Inc. v. State Comp. Ins. Fund*, 754 F.3d 754, 758 (9th Cir. 2014)).

13 Here, the proceedings implicate local interests because the charges concern
14 the City’s ability to enforce local trespass laws. Benshoof does not allege the
15 municipal court forum prevented him from raising his constitutional and
16 jurisdictional claims. The requested relief would effectively disrupt and invalidate
17 the municipal court proceedings even though Benshoof has not established bad
18 faith, harassment, or extraordinary circumstances that would justify the Court
19 setting aside abstention under the *Younger* abstention doctrine. Thus, Benshoof
20 fails to show likelihood of success on the merits and the Court DENIES Benshoof’s
21 second motion for a preliminary injunction.
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4. CONCLUSION

In sum, the Court orders as follows:

- The Court ORDERS Benshoof to file an amended complaint within 21 days of the date of this order that provides a short, plain, and concise statement of the factual basis for each of the claims as required by Fed. R. Civ. P. 8.
- The amended complaint will operate as a complete substitute for Benshoof's original pleading. Thus, any amended complaint must not cross-reference the original complaint, and must clearly identify the claims, the specific facts that support each claim, which allegations are relevant to which Defendants, and the specific relief requested.
- Failure to file a proper amended complaint within 21 days of the date of this order will result in dismissal of this action without prejudice.
- The Court DENIES Benshoof's emergency petitions for a preliminary injunction. Dkt. Nos. 14, 15.

Dated this 31st day of October, 2023.



Jamal N. Whitehead
United States District Judge