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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ROBERT JANUARY,

Plaintiff,

v.

MARY KEPPLER, et al,

Defendants.

No. C09-5459 BHS/KLS

ORDER STRIKING NOTING DATE ON  
PLAINTIFF’S MOTION FOR  
TEMPORARY RESTRAINING ORDER

This civil rights action has been referred to United States Magistrate Judge Karen L. Strombom pursuant to Title 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Before the Court is Plaintiff’s Motion for Preliminary Injunction. Dkt. 1-2. Plaintiff filed his motion on July 28, 2009, the same day he filed his motion for leave to proceed *in forma pauperis* on July 28, 2009. Dkt. 1. By separate Orders, the Court is granting Plaintiff’s motion for leave to proceed *in forma pauperis* and is directing that Plaintiff’s complaint be served on the named Defendants. However, as Defendants have not yet been served with the complaint and Plaintiff has not served Defendants with his motion for preliminary injunction, the Court will not consider the motion for

ORDER - 1

1 preliminary injunction at this time. Plaintiff is advised that, pursuant to Federal Rule of Civil  
2 Procedure 65(a)(1), no preliminary injunction can be issued without notice to the opposing party.

3 A temporary restraining order may be granted under Rule 65(b), but only if:

- 4 1) it clearly appears from specific facts shown by affidavit or by the verified  
5 complaint that immediate and irreparable injury, loss or damage will result  
6 to the applicant before the adverse party or that party's attorney can be  
7 heard in opposition, and  
8 2) the [applicant] certifies to the court in writing the efforts, if any, which  
9 have been made to give the notice and the reasons supporting the claim  
10 that notice should not be required.

11 Fed. R. Civ. P. 65(b).

12 Accordingly, the Court finds that Plaintiff's motion should be stricken from the Court's  
13 docket. Plaintiff may re-note his motion after Defendants have been properly served with the  
14 complaint and have appeared in this action, by filing a notice and serving it on the Defendants or  
15 their counsel. The motion may be scheduled on the Court's calendar for the third Friday after  
16 filing and service of the motion.

17 The Clerk is directed to send copies of this Order to Plaintiff and any Defendants who  
18 have appeared of record.

19 DATED this 1st day of September, 2009.

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22 Karen L. Strombom  
23 United States Magistrate Judge  
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