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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

10 SERGEANT GARY A. STEIN, United States) Case No.:
11 Marine Corps, Camp Pendleton, California 92055;)
12 Plaintiff,) **PLAINTIFF STEIN'S *EX PARTE* MOTION**
13 v.) **FOR TEMPORARY RESTRAINING ORDER,**
14 COLONEL C.S. DOWLING, Commander,) **AND ORDER TO SHOW CAUSE WHY A**
15 Weapons and Field Training Battalion, Camp) **PRELIMINARY INJUNCTION SHOULD**
16 Pendleton, California 92055; RAY MABUS,) **NOT ISSUE**
17 SECRETARY OF THE UNITED STATES)
18 NAVY, The Pentagon, Washington, D.C.;)
19 UNITED STATES DEPARTMENT OF)
20 DEFENSE, The Pentagon, Washington, D.C.;)
21 UNITED STATES OF AMERICA; and,)
22 BRIGADIER GENERAL DANIEL YOO.)
23 Defendants.)

1 **TO THE COURT AND ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF**
2 **RECORD:**

3 Plaintiff U. S. Marine Corps Sergeant Gary A. Stein (“STEIN”), hereby makes this ex parte
4 application to the Court for issuance of a Temporary Restraining Order(“TRO”) and Order to Show Cause
5 re Preliminary Injunction to stop and enjoin Defendants, COLONEL C.S. DOWLING, RAY MABUS,
6 SECRETARY OF THE UNITED STATES NAVY, UNITED STATES DEPARTMENT OF DEFENSE,
7 UNITED STATES OF AMERICA, and, BRIGADIER GENERAL DANIEL YOO, as set forth in more
8 detail in the accompanying points and authorities in support, from: (1) proceeding with administrative
9 separation proceedings against STEIN.

10 This motion is based upon Federal Rules of Civil Procedure 65(b); upon the attached
11 Memorandum of Points and Authorities; upon the Declaration of STEIN, and upon the Declaration of
12 Gary G. Kreep, all filed herewith.

13 This Application for preliminary injunctive relief as set forth in the proposed TRO, filed
14 herewith, is made upon the grounds that the conduct sought to be enjoined, if allowed to occur, will cause
15 immediate and irreparable injury to STEIN, in that Defendants have scheduled administrative separation
16 proceedings against STEIN on Thursday, April 5, 2012, which will result in his immediate discharge
17 from the U.S. Marine Corps, under “less than honorable conditions.” Issuing the TRO without notice will
18 preserve the status quo pending a hearing on the requested Preliminary Injunction, as, given the intent of
19 Defendants to discharge STEIN from service in the Marine Corps on Thursday, April 5, 2012, there is
20 insufficient time for a noticed motion and hearing thereon.


21 STEIN also requests the Court to issue an Order to Show Cause affording DEFENDANTS the
22 opportunity to appear and show cause why a Preliminary Injunction should not issue restraining and
23 enjoining them in the same manner for the remainder of this litigation.

24 A copy of this Application, the accompanying Memorandum of Points and Authorities,
25 supporting papers and the Summons and Complaint in this action, shall be sent to Defendants' and/or their

1 legal counsel, as applicable, by e-mail and/or overnight delivery and within one business day after the
2 date of the filing of this Application. See the Declaration of Gary G. Kreep. STEIN is not, as of yet, aware
3 as to whether Defendants will oppose this Application. See the Declaration of Gary G. Kreep.

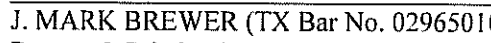
4 Dated: April 2, 2012

5 Respectfully submitted,

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