

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 MARGARET RUDIN,

4 Plaintiff

Case No. 2:18-cv-00822-JCM-PAL

ORDER

5 v.

6 DZURENDA et al.,

7 Defendants

8
9 **I. DISCUSSION**

10 On February 27, 2019, the Court issued a screening order permitting some claims
11 to proceed, dismissing some claims with prejudice, and dismissing other claims with leave
12 to amend. (ECF No. 11 at 12-13). The Court granted Plaintiff 30 days from the date of
13 that order to file a second amended complaint curing the deficiencies of the amended
14 complaint. (*Id.* at 13). The Court specifically stated that if Plaintiff chose not to file a
15 second amended complaint, the action would proceed on count II-First Amendment
16 incoming mail violations against defendants Parkerson and Piccinini and count III-First
17 Amendment incoming mail violations against defendant Parkerson only. (*Id.* at 13-14).
18 Plaintiff has not filed a second amended complaint. Pursuant to the screening order, this
19 action will proceed on count II-First Amendment incoming mail violations against
20 defendants Parkerson and Piccinini and count III-First Amendment incoming mail
21 violations against defendant Parkerson only.

22 **II. CONCLUSION**

23 For the foregoing reasons, IT IS ORDERED that, pursuant to the Court's screening
24 order (ECF No. 11), this action will proceed on count II-First Amendment incoming mail
25 violations against defendants Parkerson and Piccinini and count III-First Amendment
26 incoming mail violations against defendant Parkerson only.

27 IT IS FURTHER ORDERED that given the nature of the claim(s) that the Court has
28 permitted to proceed, this action is STAYED for 90 days to allow Plaintiff and Defendant(s)

1 an opportunity to settle their dispute before the \$350.00 filing fee is paid, an answer is
2 filed, or the discovery process begins. During this 90-day stay period, no other pleadings
3 or papers will be filed in this case, and the parties will not engage in any discovery, nor
4 are the parties required to respond to any paper filed in violation of the stay unless
5 specifically ordered by the court to do so. The Court will refer this case to the Court's
6 Inmate Early Mediation Program, and the Court will enter a subsequent order.
7 Regardless, on or before 90 days from the date this order is entered, the Office of the
8 Attorney General will file the report form attached to this order regarding the results of the
9 90-day stay, even if a stipulation for dismissal is entered prior to the end of the 90-day
10 stay. If the parties proceed with this action, the Court will then issue an order setting a
11 date for Defendants to file an answer or other response. Following the filing of an answer,
12 the Court will issue a scheduling order setting discovery and dispositive motion deadlines.

13 IT IS FURTHER ORDERED that "settlement" may or may not include payment of
14 money damages. It also may or may not include an agreement to resolve Plaintiff's issues
15 differently. A compromise agreement is one in which neither party is completely satisfied
16 with the result, but both have given something up and both have obtained something in
17 return.

18 IT IS FURTHER ORDERED that if the case does not settle, Plaintiff will be required
19 to pay the full \$350.00 filing fee. This fee cannot be waived. If Plaintiff is allowed to
20 proceed *in forma pauperis*, the fee will be paid in installments from his prison trust
21 account. 28 U.S.C. § 1915(b). If Plaintiff is not allowed to proceed *in forma pauperis*, the
22 \$350.00 will be due immediately.

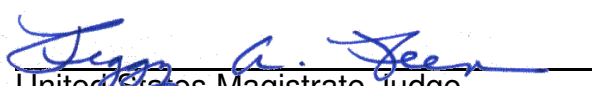
23 IT IS FURTHER ORDERED that if any party seeks to have this case excluded from
24 the inmate mediation program, that party will file a "motion to exclude case from
25 mediation" on or before 21 days from the date of this order. The responding party will
26 have 7 days to file a response. No reply will be filed. Thereafter, the Court will issue an
27 order, set the matter for hearing, or both.

28 IT IS FURTHER ORDERED that the Clerk of the Court will electronically SERVE

1 a copy of this order, the original screening order (ECF No. 11) and a copy of Plaintiff's
2 amended complaint (ECF No. 12) on the Office of the Attorney General of the State of
3 Nevada, by adding the Attorney General of the State of Nevada to the docket sheet. This
4 does not indicate acceptance of service.

5 IT IS FURTHER ORDERED that the Attorney General's Office will advise the Court
6 within 21 days of the date of the entry of this order whether it will enter a limited notice of
7 appearance on behalf of Defendants for the purpose of settlement. No defenses or
8 objections, including lack of service, will be waived as a result of the filing of the limited
9 notice of appearance.

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11 DATED THIS 10th day of April 2019.

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13 United States Magistrate Judge

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1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 MARGARET RUDIN,
4

Plaintiff

Case No. 2:18-cv-00822-JCM-PAL
REPORT OF ATTORNEY GENERAL
RE: RESULTS OF 90-DAY STAY

5 v.
6

7 DZURENDA et al.,
8

Defendants

9 **NOTE: ONLY THE OFFICE OF THE ATTORNEY GENERAL SHALL FILE THIS FORM.
10 THE INMATE PLAINTIFF SHALL NOT FILE THIS FORM.**

11 On _____ [*the date of the issuance of the screening order*], the Court
12 issued its screening order stating that it had conducted its screening pursuant to 28 U.S.C.
13 § 1915A, and that certain specified claims in this case would proceed. The Court ordered
14 the Office of the Attorney General of the State of Nevada to file a report ninety (90) days
15 after the date of the entry of the Court's screening order to indicate the status of the case
16 at the end of the 90-day stay. By filing this form, the Office of the Attorney General hereby
17 complies.

18 **REPORT FORM**

19 [Identify which of the following two situations (identified in bold type) describes the case,
20 and follow the instructions corresponding to the proper statement.]

21 **Situation One: Mediated Case: The case was assigned to mediation by a court-**
22 **appointed mediator during the 90-day stay.** [If this statement is accurate, check **ONE**
of the six statements below and fill in any additional information as required, then proceed
to the signature block.]

23 _____ A mediation session with a court-appointed mediator was held on
24 _____ [*enter date*], and as of this date, the parties have
25 reached a settlement (*even if paperwork to memorialize the settlement*
26 *remains to be completed*). (*If this box is checked, the parties are on notice*
that they must SEPARATELY file either a contemporaneous stipulation of
dismissal or a motion requesting that the Court continue the stay in the case
until a specified date upon which they will file a stipulation of dismissal.)

27 _____ A mediation session with a court-appointed mediator was held on
28 _____ [*enter date*], and as of this date, the parties have not
reached a settlement. The Office of the Attorney General therefore informs
the Court of its intent to proceed with this action.

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_____ No mediation session with a court-appointed mediator was held during the 90-day stay, but the parties have nevertheless settled the case. *(If this box is checked, the parties are on notice that they must SEPARATELY file a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in this case until a specified date upon which they will file a stipulation of dismissal.)*

_____ No mediation session with a court-appointed mediator was held during the 90-day stay, but one is currently scheduled for _____ [enter date].

_____ No mediation session with a court-appointed mediator was held during the 90-day stay, and as of this date, no date certain has been scheduled for such a session.

_____ None of the above five statements describes the status of this case. Contemporaneously with the filing of this report, the Office of the Attorney General of the State of Nevada is filing a separate document detailing the status of this case.

* * * * *

Situation Two: Informal Settlement Discussions Case: The case was NOT assigned to mediation with a court-appointed mediator during the 90-day stay; rather, the parties were encouraged to engage in informal settlement negotiations. [If this statement is accurate, check **ONE of the four statements below and fill in any additional information as required, then proceed to the signature block.]**

_____ The parties engaged in settlement discussions and as of this date, the parties have reached a settlement *(even if the paperwork to memorialize the settlement remains to be completed)*. *(If this box is checked, the parties are on notice that they must SEPARATELY file either a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in this case until a specified date upon which they will file a stipulation of dismissal.)*

_____ The parties engaged in settlement discussions and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

_____ The parties have not engaged in settlement discussions and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

_____ None of the above three statements fully describes the status of this case. Contemporaneously with the filing of this report, the Office of the Attorney General of the State of Nevada is filing a separate document detailing the status of this case.

Submitted this _____ day of _____, _____ by:

Attorney Name: _____
Print Signature

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