

1  
2  
3  
4

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

7 BENJAMIN W. ESPINOSA et al.,

8 || Plaintiffs,

V.

10 JOSEPH STOGNER et al.,

## Defendants.

Case No. 3:16-cv-00141-RCJ-WGC

## ORDER

## 13 || I. DISCUSSION

14 Plaintiff is a prisoner in the custody of the Nevada Department of Corrections (“NDOC”).  
15 (ECF No. 8 at 2). On October 5, 2016, Plaintiff, represented by counsel, filed an amended civil  
16 rights complaint pursuant to 42 U.S.C. § 1983.<sup>1</sup> (ECF No. 8). In a previous order, the Court  
17 granted Plaintiff’s application to proceed *in forma pauperis*. (ECF No. 6 at 7).

18        The general rule under 28 U.S.C. § 1915A is that “[t]he court shall review . . . a  
19        complaint in a civil action in which a prisoner seeks redress from the governmental entity or  
20        officer or employee of a governmental entity” and “shall identify cognizable claims or dismiss  
21        the complaint, or any portion of the complaint” if it is “frivolous, malicious, or fails to state a  
22        claim upon which relief can be granted; or . . . seeks monetary relief from a defendant who is  
23        immune from such relief.” 28 U.S.C. § 1915A(a), (b).

24 Section 1915A does not expressly differentiate between represented and  
25 unrepresented prisoner cases with regard to screening, and there is no authority addressing  
26 this issue. This Court typically does not screen § 1983 prisoner cases where the Plaintiff is  
27 represented by counsel. For one thing, the pleading obligations of an attorney under Fed. R.

<sup>1</sup> Plaintiff initiated this case as a *pro se* plaintiff. (ECF No. 1).

1 Civ. P. 11 tend to substantially reduce the incidence of claims that are frivolous or otherwise  
2 patently noncognizable on their face. Pro se litigants are not attorneys and should not be  
3 expected to know how to draft pleadings as if they were. Judicial screening of prisoner  
4 complaints serves to prevent prisoner complaints which are truly difficult, if not impossible to  
5 understand, from being served upon defendants. Screening of represented cases to decipher  
6 the allegations and claims is usually unnecessary. See, e.g., *Nordstrom v. Ryan*, 762 F.3d  
7 903, 907 n.1 (9th Cir. 2014) (noting that the “purpose of § 1915A is to ensure that the targets  
8 of frivolous or malicious suits need not bear the expense of responding”); *O’Neal v. Price*, 531  
9 F.3d 1146, 1153 (9th Cir. 2008) (explaining that the PLRA’s screening provision was intended  
10 to “conserve judicial resources by authorizing district courts to dismiss nonmeritorious prisoner  
11 complaints at an early stage”). As such, the Court will not screen this counseled prisoner  
12 case. This case shall proceed on the normal litigation track as guided by the Federal Rules  
13 of Civil Procedure.

14 **II. CONCLUSION**

15 For the foregoing reasons, IT IS ORDERED that the Court will not issue a screening  
16 order on the amended complaint (ECF No. 8) in this case.

17 IT IS FURTHER ORDERED that this case shall proceed on the normal litigation track  
18 as guided by the Federal Rules of Civil Procedure.

19 IT IS FURTHER ORDERED that, in light of this Court’s order (ECF No. 6) granting  
20 Plaintiff’s application to proceed *in forma pauperis*, Plaintiff shall **not** be required to pay an  
21 initial installment fee. Nevertheless, the full filing fee shall still be due, pursuant to 28 U.S.C.  
22 § 1915, as amended by the Prisoner Litigation Reform Act. The movant herein is permitted  
23 to maintain this action to conclusion without the necessity of prepayment of fees or costs or  
24 the giving of security therefor. This order granting *in forma pauperis* status shall not extend  
25 to the issuance and/or service of subpoenas at government expense.

26 IT IS FURTHER ORDERED that, pursuant to 28 U.S.C. § 1915, as amended by the  
27 Prisoner Litigation Reform Act, the Nevada Department of Corrections shall pay to the Clerk  
28 of the United States District Court, District of Nevada, 20% of the preceding month’s deposits

1 to the account of **Benjamin Espinosa, #74296** (in months that the account exceeds \$10.00)  
2 until the full \$350 filing fee has been paid for this action. The Clerk shall send a copy of this  
3 order to the attention of **Albert G. Peralta, Chief of Inmate Services for the Nevada**  
4 **Department of Prisons**, P.O. Box 7011, Carson City, NV 89702.

5 IT IS FURTHER ORDERED that, even if this action is dismissed, or is otherwise  
6 unsuccessful, the full filing fee shall still be due, pursuant to 28 U.S.C. §1915, as amended by  
7 the Prisoner Litigation Reform Act.

8 IT IS FURTHER ORDERED that Plaintiff American Humanist Association is ordered to  
9 pay the full \$400 filing fee for a civil action on or before **Friday, October 21, 2016**. If Plaintiff  
10 American Humanist Association fails to pay the full \$400 filing fee by this date, the Court will  
11 dismiss Plaintiff American Humanist Association, with prejudice, from this case.

12 DATED: October 12, 2016.

13 *Walter G. Cobb*  
14

15 UNITED STATES MAGISTRATE JUDGE  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28