

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

MITCHELL KEITH GOODRUM,

Case No. 3:20-cv-00173-MMD-WGC

Plaintiff,

**SCREENING ORDER ON
AMENDED COMPLAINT**

NEVADA, STATE OF, *et al.*,

Defendants.

11 Plaintiff, who is incarcerated in the custody of the Nevada Department of
12 Corrections (“NDOC”), has submitted a first amended civil rights complaint (“FAC”)
13 pursuant to 42 U.S.C. § 1983. (ECF No. 7-1.) The Court accepts the FAC as the operative
14 complaint in this case. Plaintiff has filed three applications to proceed *in forma pauperis*.
15 (ECF Nos. 7, 9, 10.) The Court denies Plaintiff’s first two applications to proceed *in forma*
16 *pauperis* as moot in light of his third application. The Court defers decision on Plaintiff’s
17 third application to proceed *in forma pauperis*. Plaintiff has also filed two motions for
18 appointment of counsel. (ECF Nos. 7-2, 11.) The Court now screens the FAC under 28
19 U.S.C. § 1915A and addresses Plaintiff’s motions.

20 I. SCREENING STANDARD

21 Federal courts must conduct a preliminary screening in any case in which an
22 incarcerated person seeks redress from a governmental entity or officer or employee of
23 a governmental entity. See 28 U.S.C. § 1915A(a). In its review, the Court must identify
24 any cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a
25 claim upon which relief may be granted, or seek monetary relief from a defendant who is
26 immune from such relief. See *id.* §§ 1915A(b)(1), (2). *Pro se* pleadings, however, must
27 be liberally construed. See *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir.
28 1990). To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential

1 elements: (1) the violation of a right secured by the Constitution or laws of the United
2 States; and (2) that the alleged violation was committed by a person acting under color
3 of state law. See *West v. Atkins*, 487 U.S. 42, 48 (1988).

4 In addition to the screening requirements under § 1915A, under the Prison
5 Litigation Reform Act (“PLRA”), a federal court must dismiss an incarcerated person’s
6 claim if “the allegation of poverty is untrue” or if the action “is frivolous or malicious, fails
7 to state a claim on which relief may be granted, or seeks monetary relief against a
8 defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2). Dismissal of a
9 complaint for failure to state a claim upon which relief can be granted is provided for in
10 Federal Rule of Civil Procedure 12(b)(6), and the Court applies the same standard under
11 § 1915 when reviewing the adequacy of a complaint or an amended complaint. When a
12 court dismisses a complaint under § 1915(e), the plaintiff should be given leave to amend
13 the complaint with directions as to curing its deficiencies, unless it is clear from the face
14 of the complaint that the deficiencies could not be cured by amendment. See *Cato v.*
15 *United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

16 Review under Rule 12(b)(6) is essentially a ruling on a question of law. See
17 *Chappel v. Lab. Corp. of Am.*, 232 F.3d 719, 723 (9th Cir. 2000). Dismissal for failure to
18 state a claim is proper only if it is clear that the plaintiff cannot prove any set of facts in
19 support of the claim that would entitle him or her to relief. See *Morley v. Walker*, 175 F.3d
20 756, 759 (9th Cir. 1999). In making this determination, the Court takes as true all
21 allegations of material fact stated in the complaint, and the Court construes them in the
22 light most favorable to the plaintiff. See *Warshaw v. Xoma Corp.*, 74 F.3d 955, 957 (9th
23 Cir. 1996). Allegations of a *pro se* complainant are held to less stringent standards than
24 formal pleadings drafted by lawyers. See *Hughes v. Rowe*, 449 U.S. 5, 9 (1980). While
25 the standard under Rule 12(b)(6) does not require detailed factual allegations, a plaintiff
26 must provide more than mere labels and conclusions. See *Bell Atl. Corp. v. Twombly*,
27 550 U.S. 544, 555 (2007). A formulaic recitation of the elements of a cause of action is
28 insufficient. See *id.*

1 Additionally, a reviewing court should “begin by identifying pleadings [allegations]
2 that, because they are no more than mere conclusions, are not entitled to the assumption
3 of truth.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). “While legal conclusions can provide
4 the framework of a complaint, they must be supported with factual allegations.” *Id.* “When
5 there are well-pleaded factual allegations, a court should assume their veracity and then
6 determine whether they plausibly give rise to an entitlement to relief.” *Id.* “Determining
7 whether a complaint states a plausible claim for relief . . . [is] a context-specific task that
8 requires the reviewing court to draw on its judicial experience and common sense.” *Id.*

9 Finally, all or part of a complaint filed by an incarcerated person may be dismissed
10 *sua sponte* if that person’s claims lack an arguable basis either in law or in fact. This
11 includes claims based on legal conclusions that are untenable (e.g., claims against
12 defendants who are immune from suit or claims of infringement of a legal interest which
13 clearly does not exist), as well as claims based on fanciful factual allegations (e.g.,
14 fantastic or delusional scenarios). See *Neitzke v. Williams*, 490 U.S. 319, 327-28 (1989);
15 see also *McKeever v. Block*, 932 F.2d 795, 798 (9th Cir. 1991).

16 **II. SCREENING OF FAC**

17 In the FAC, Plaintiff sues multiple defendants for events that took place while
18 Plaintiff was incarcerated at Northern Nevada Correctional Center (“NNCC”). (ECF No.
19 7-1 at 1, 5.) Plaintiff sues Defendants Steve Sisolack, McDaniels, Baca, and three John
20 Does. (*Id.* at 1-3.) Plaintiff alleges two counts and seeks declaratory, monetary, and
21 injunctive relief. (*Id.* at 6-15.)

22 The FAC alleges the following.¹ On or about March 23, 2019, John Doe 3, whose
23 employee number is 1005, set into motion a plan to have six African American inmates
24 rape Plaintiff. (*Id.* at 6.) The plan included forcing Plaintiff to perform oral sex on John Doe
25 3, and the threat of removing Plaintiff’s testicles if he failed to comply. (*Id.* at 7.) That same
26 day, Baca, the warden, learned of the plan. Baca, together with John Doe 2, confronted
27 John Doe 3. (*Id.* at 8.) John Doe 3 admitted to Baca that he was planning Plaintiff’s rape,

28 ¹The Court notes that the allegations in FAC are not always easy to understand,
but the Court does its best to understand and summarize Plaintiff’s factual allegations.

1 and he said that he had brought condoms so that there would be no evidence. (*Id.*) Rather
2 than disciplining John Doe 3, Baca decided to cover up the issue. (*Id.*) This allowed John
3 Doe 3 “to continue the planned rape with the inmates.” (*Id.*)

4 On March 24 and March 25, 2019, five of the six inmates were sitting in front of
5 Plaintiff’s cell at a table, discussing how to go about the act of raping Plaintiff. (*Id.* at 7.)
6 As a result of the planned rape, Plaintiff suffered from heart-related stress, extreme
7 depression, and nightmares. (*Id.*) Plaintiff has been seeing a heart specialist and a
8 psychiatrist for treatment related to the stress and anxiety. (*Id.*) John Does 1-3 refused
9 Plaintiff’s calls for help. (*Id.* at 9.)

10 Plaintiff filed a grievance over the issue, but Baca refused to take responsibility
11 and denied that the incident ever took place. (*Id.* at 10.) Baca refused to address the issue
12 of a correctional officer raping an inmate. (*Id.*) Prison officials improperly rejected
13 Plaintiff’s grievances on the grounds that they were untimely or that something was
14 missing from the grievance, without addressing the underlying issue. (*Id.*) In December
15 2019, Plaintiff notified Governor Sisolack about the incident and asked for his help. (*Id.*)
16 Neither Sisolack, nor NDOC director McDaniels, have done anything to address the issue.
17 (*Id.* at 10-12.)

18 The Court notes that the FAC is not clear on whether the plan to rape Plaintiff came
19 to fruition. Some of the allegations would seem to suggest that the plan went through to
20 completion, such as the allegation that Baca’s cover up allowed John Doe 3 “to continue
21 the planned rape with the inmates.” But Plaintiff never clearly articulates that he was
22 raped, and he seeks damages for “attempted rape.” (*Id.* at 13.) Based on this, the Court
23 construes FAC as alleging that for reasons unknown to Plaintiff, the plan to rape him was
24 foiled, and that he was not raped.

25 On the first page of the FAC, Plaintiff indicates that he is bringing claims of
26 “deliberate indifference” under the Eighth Amendment, cruel and unusual punishment
27 under the Fourteenth Amendment, a negligence tort claim, a failure to protect claim, and
28

1 a *Bivens* claim.² (*Id.* at 2.) In the body of the FAC, Plaintiff also refers to an equal
2 protection claim, a due process claim, and First and Eighth Amendment claims based on
3 the failure to protect him from verbal sexual harassment. (*Id.* at 8.) The Court notes that
4 deliberate indifference is not a claim, but a legal standard, and Plaintiff's claim that he
5 was subjected to cruel and unusual punishment is grounded in the Eighth Amendment,
6 not the Fourteenth Amendment. Plaintiff's claim that the Defendants failed to protect him
7 from sexual harassment is also grounded in the Eighth Amendment, rather than the First
8 Amendment, and the Court dismisses any First Amendment claim without prejudice.

9 The Court construes the FAC as bringing a failure to protect claim under the Eighth
10 Amendment, an equal protection claim under the Fourteenth Amendment, a due process
11 claim under the Fourteenth Amendment, and a negligence tort claim. The Court will
12 consider these claims in turn.

13 **A. Failure to Protect**

14 Under the Eighth Amendment, prison officials have a duty to protect prisoners from
15 violence at the hands of other prisoners. *Farmer v. Brennan*, 511 U.S. 825, 833 (1994).
16 To establish a violation of this duty, the prisoner must establish that prison officials were
17 deliberately indifferent to serious threats to the inmate's safety. *Id.* at 834. To demonstrate
18 that a prison official was deliberately indifferent to a serious threat to the inmate's safety,
19 the prisoner must show that "the official [knew] of and disregard[ed] an excessive risk to
20 inmate . . . safety; the official must both be aware of facts from which the inference could
21 be drawn that a substantial risk of serious harm exists, and [the official] must also draw
22 the inference." *Id.* at 837. Prison officials may not escape liability because they cannot,
23 or did not, identify the specific source of the risk; the serious threat can be one to which
24 all prisoners are exposed. *Id.* at 843.

25

26 ²Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403
27 U.S. 388 (1971), a plaintiff may sue a federal officer in his or her individual capacity for
28 damages for violating the plaintiff's constitutional rights. The FAC does not include any
allegations against federal officers. As such the FAC cannot state a *Bivens* claims, and
the Court dismisses any *Bivens* claims with prejudice, as amendment would be futile.

1 The Court finds that Plaintiff states a colorable failure to protect claim. The Court
2 liberally construes the FAC as alleging that John Doe 3 initiated a plan to have other
3 inmates rape Plaintiff and force Plaintiff to perform oral sex on him. Baca and John Doe
4 learned about this plan and confronted John Doe 3 about it. Although John Doe 3
5 admitted the plan to them, they failed to prevent John Doe 3 from moving forward with his
6 plan, and instead covered it up. Over the next couple of days, five inmates sat at a table
7 outside of Plaintiff's cell and talked about how they would rape him. Plaintiff yelled for
8 help, but John Does 1-3 ignored his pleas for help. As a result of this experience, Plaintiff
9 suffered a variety of serious medical ailments, including stress to his heart, extreme
10 depression, and nightmares. Plaintiff has been seeing a heart specialist and a psychiatrist
11 for treatment related to the stress and anxiety from the planned rape.

12 Based on these allegations, these Defendants knew of a serious threat to Plaintiff's
13 safety and disregarded that threat. As a result, Plaintiff experienced both physical and
14 mental harm. These allegations are sufficient to state a colorable claim on screening. This
15 claim will proceed against Defendants Baca and John Does 1-3, when Plaintiff learns
16 their identities.³

17 The Court finds that Plaintiff fails to state a colorable claim against Defendants
18 Sisolack and McDaniels. Plaintiff alleges that in December 2019, roughly 9 months after
19 the attempted rape, he informed Sisolack about the incident, and Sisolack failed to do
20 anything about the incident. Plaintiff also appears to allege that at point he informed
21 McDaniels about the incident, and McDaniels failed to do anything about the incident.

22 A defendant is liable under 42 U.S.C. § 1983 "only upon a showing of personal
23 participation by the defendant." *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989). "A
24 supervisor is only liable for constitutional violations of his subordinates if the supervisor

25 ³Although the use of "Doe" to identify a defendant is not favored, flexibility is
26 allowed in some cases where the identity of the parties will not be known prior to filing a
27 complaint but can subsequently be determined through discovery. *Gillespie v. Civiletti*,
28 629 F.2d 637, 642 (9th Cir. 1980). If the true identity of any of the Doe Defendant(s)
comes to light during discovery, Plaintiff may either move to substitute the true names of
Doe Defendant(s) or move to amend the FAC to assert claims against the Doe
Defendant(s) at that time.

1 participated in or directed the violations, or knew of the violations and failed to act to
2 prevent them. There is no respondeat superior liability under [§]1983.” *Id.*; see also
3 *Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009) (holding that “[b]ecause vicarious liability is
4 inapplicable to *Bivens* and § 1983 suits, a plaintiff must plead that each Government-
5 official defendant, through the official’s own individual actions, has violated the
6 Constitution”).

7 “A showing that a supervisor acted, or failed to act, in a manner that was
8 deliberately indifferent to an inmate’s Eighth Amendment rights is sufficient to
9 demonstrate the involvement—and the liability—of that supervisor.” *Starr v. Baca*, 652
10 F.3d 1202, 1206-07 (9th Cir. 2011). “Thus, when a supervisor is found liable based on
11 deliberate indifference, the supervisor is being held liable for his or her own culpable
12 action or inaction, not held vicariously liable for the culpable action or inaction of his or
13 her subordinates.” *Id.* at 1207. As such, “a plaintiff may state a claim against a supervisor
14 for deliberate indifference based upon the supervisor’s knowledge of and acquiescence
15 in unconstitutional conduct by his or her subordinates.” *Id.*

16 The FAC does not allege that Sisolack and McDaniels directed the alleged
17 violations, nor does it allege that they knew about the alleged violations and failed to act
18 to prevent them. The FAC alleges that Plaintiff informed Sisolack and McDaniels about
19 the attempted rape well after it occurred. As such, it would have been impossible for
20 Sisolack or McDaniels to prevent the alleged violations. Therefore, the FAC fails to state
21 a supervisory liability claim against these Defendants, and the Court dismisses Sisolack
22 and McDaniels from this claim without prejudice.

23 **B. Equal Protection**

24 The Equal Protection Clause of the Fourteenth Amendment is essentially a
25 direction that all similarly situated persons be treated equally under the law. *City of*
26 *Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985). In order to state an
27 equal protection claim, a plaintiff must allege facts demonstrating that defendants acted
28 with the intent and purpose to discriminate against him based upon membership in a

1 protected class, or that defendants purposefully treated him differently than similarly
2 situated individuals without any rational basis for the disparate treatment. *Lee v. City of*
3 *Los Angeles*, 250 F.3d 668, 686 (9th Cir. 2001); *see also Vill. of Willowbrook v. Olech*,
4 528 U.S. 562, 564 (2000).

5 The Court finds that Plaintiff fails to state a colorable equal protection claim.
6 Plaintiff does not allege that the Defendants acted with the intent to discriminate against
7 him based upon membership in a protected class, or that Defendants treated him
8 differently than similarly situated individuals. As such, the allegations do not support an
9 equal protection claim, and the Court dismisses this claim without prejudice.

10 **C. Due Process**

11 It is not clear, but it appears that Plaintiff is attempting to bring a due process claim
12 based on the failure to properly investigate and respond to his grievances following the
13 attempted rape. Prisoners have no stand-alone due process rights related to the
14 administrative grievance process. *See Mann v. Adams*, 855 F.2d 639, 640 (9th Cir. 1988)
15 (holding that a state's unpublished policy statements establishing a grievance procedure
16 do not create a constitutionally protected liberty interest); *Ramirez v. Galaza*, 334 F.3d
17 850, 860 (9th Cir. 2003) (holding that there is no liberty interest in the processing of
18 appeals because there is no liberty interest entitling inmates to a specific grievance
19 process).

20 The Court finds that Plaintiff fails to state a colorable due process claim against
21 any of the Defendants for failing to properly investigate and respond to his grievances.
22 Based on the law, Plaintiff does not have a right to have prison officials process or
23 investigate an inmate grievance in any specific way. As such, the Court dismisses this
24 claim with prejudice, as amendment would be futile.

25 **D. Negligence**

26 Plaintiff brings a state law negligence tort claim. Under Nevada law, the State of
27 Nevada has generally waived sovereign immunity for state tort actions in state court. NRS
28 § 41.031(1). In order to sue the State of Nevada or a state employee, the plaintiff is

1 required to sue the State of Nevada or appropriate political subdivision. NRS § 41.031(2)
2 (“In any action against the State of Nevada, the action must be brought in the name of
3 the State of Nevada on relation of the particular department, commission, board or other
4 agency of the State whose actions are the basis for the suit.”).

5 In *Craig v. Donnelly*, the Nevada Court of Appeals addressed whether a plaintiff
6 had to name the State as party in a state court case and held that “while a plaintiff must
7 name the State as a party to any state tort claims in order to comply with NRS 41.031
8 and NRS 41.0337, this statutory requirement does not apply to 42 U.S.C. § 1983 claims,
9 even when brought in the same complaint as a plaintiff’s state tort claims. 439 P.3d 413
10 (Nev. App. 2019). “Indeed, the State cannot be named as a party to a plaintiff’s § 1983
11 civil rights claims.” *Id.* at 414.

12 With respect to federal court cases, the State of Nevada does not waive its
13 sovereign immunity. NRS § 41.031(3). Generally, the State of Nevada and arms of the
14 state cannot be sued in federal court. See *O’Connor v. State of Nev.*, 686 F.2d 749, 750
15 (9th Cir. 1982) (holding that “Nevada has explicitly refused to waive its immunity to suit
16 under the eleventh amendment . . . The Supreme Court has made it clear that section
17 1983 does not constitute an abrogation of the eleventh amendment immunity of the
18 states”). In *Stanley v. Trustees of California State University*, the Ninth Circuit held that
19 28 U.S.C. § 1367 does not abrogate state sovereign immunity for supplemental state law
20 claims. 433 F.3d 1129, 1133-34 (9th Cir. 2006). Although the State of Nevada may
21 consent to federal court jurisdiction for state law claims through removal, this is not a
22 removed case. See *Lapides v. Bd. of Univ. Sys. of Ga.*, 535 U.S. 613 (2002) (holding that
23 state’s removal of suit to federal court constitutes waiver of its sovereign immunity).

24 For this reason, the Court finds that Plaintiff must raise his negligence state law
25 tort claim in state court and dismisses this claim without prejudice. See *Hirst v. Gertzen*,
26 676 F.2d 1252, 1264 (9th Cir. 1982) (holding that, where Montana law deemed
27 governmental entities indispensable parties in a state tort claim against a state employee,
28

1 the federal court had no supplemental jurisdiction over the state tort claim if it had no
2 jurisdiction over the indispensable party).

3 **III. MOTIONS**

4 Plaintiff has filed two motions for appointment of counsel. (ECF Nos. 7-2, 11.) A
5 litigant does not have a constitutional right to appointed counsel in 42 U.S.C. § 1983 civil
6 rights claims. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). Pursuant to 28
7 U.S.C. § 1915(e)(1), “[t]he court may request an attorney to represent any person unable
8 to afford counsel.” However, the court will appoint counsel for indigent civil litigants only
9 in “exceptional circumstances.” *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (§
10 1983 action). “When determining whether ‘exceptional circumstances’ exist, a court must
11 consider ‘the likelihood of success on the merits as well as the ability of the petitioner to
12 articulate his claims *pro se* in light of the complexity of the legal issues involved.” *Id.*
13 “Neither of these considerations is dispositive and instead must be viewed together.” *Id.*
14 In the instant case, the Court does not find exceptional circumstances that warrant the
15 appointment of counsel. The Court denies the motions for appointment of counsel without
16 prejudice.

17 **IV. CONCLUSION**

18 For the foregoing reasons, it is ordered that a decision on Plaintiff’s most recent
19 application to proceed *in forma pauperis* (ECF No. 10) is deferred. Plaintiff’s previous
20 applications to proceed *in forma pauperis* (ECF Nos. 7, 9) are denied as moot.

21 It is further ordered that Plaintiff’s motions for appointment of counsel (ECF Nos.
22 7-2, 11) are denied.

23 It is further ordered that the Court accepts the FAC (ECF No. 7-1) as the operative
24 complaint in this case. The Clerk of the Court shall file the FAC and send Plaintiff a
25 courtesy copy of the FAC.

26 It is further ordered that Plaintiff’s Eighth Amendment failure to protect claim will
27 proceed against Baca and John Does 1-3, when Plaintiff learns their identities.

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1 It is further ordered that Plaintiff's Fourteenth Amendment equal protection claim
2 is dismissed without prejudice.

3 It is further ordered that Plaintiff's Fourteenth Amendment due process claim is
4 dismissed with prejudice, as amendment would be futile.

5 It is further ordered that Plaintiff's state law negligence tort claim is dismissed
6 without prejudice.

7 It is further ordered that Plaintiff's Bivens claim is dismissed with prejudice, as
8 amendment would be futile.

9 It is further ordered that Plaintiff's motions for appointment of counsel (ECF Nos.
10 7-2, 11) are denied without prejudice.

11 It is further ordered that, given the nature of the claim(s) that the Court has
12 permitted to proceed, this action is stayed for 90 days to allow Plaintiff and Defendant(s)
13 an opportunity to settle their dispute before the \$350.00 filing fee is paid, an answer is
14 filed, or the discovery process begins. During this 90-day stay period and until the Court
15 lifts the stay, no other pleadings or papers may be filed in this case, and the parties may
16 not engage in any discovery, nor are the parties required to respond to any paper filed in
17 violation of the stay unless specifically ordered by the court to do so. The Court will refer
18 this case to the Court's Inmate Early Mediation Program, and the Court will enter a
19 subsequent order. Regardless, on or before 90 days from the date this order is entered,
20 the Office of the Attorney General must file the report form attached to this order regarding
21 the results of the 90-day stay, even if a stipulation for dismissal is entered prior to the end
22 of the 90-day stay. If the parties proceed with this action, the Court will then issue an
23 order setting a date for Defendants to file an answer or other response. Following the
24 filing of an answer, the Court will issue a scheduling order setting discovery and
25 dispositive motion deadlines.

26 It is further ordered that "settlement" may or may not include payment of money
27 damages. It also may or may not include an agreement to resolve Plaintiff's issues
28 differently. A compromise agreement is one in which neither party is completely satisfied

1 with the result, but both have given something up and both have obtained something in
2 return.

3 It is further ordered that if the case does not settle, Plaintiff will be required to pay
4 the full \$350.00 filing fee. This fee cannot be waived. If Plaintiff is allowed to proceed in
5 forma pauperis, the fee will be paid in installments from his prison trust account. See 28
6 U.S.C. § 1915(b). If Plaintiff is not allowed to proceed in forma pauperis, the \$350.00 will
7 be due immediately.

8 It is further ordered that if any party seeks to have this case excluded from the
9 inmate mediation program, that party must file a “motion to exclude case from mediation”
10 on or before 21 days from the date of this order. The responding party will have seven
11 days to file a response. No reply may be filed. Thereafter, the Court will issue an order,
12 set the matter for hearing, or both.

13 The Clerk of Court is directed to electronically serve a copy of this order, and a
14 copy of Plaintiff’s FAC, on the Office of the Attorney General of the State of Nevada, by
15 adding the Attorney General of the State of Nevada to the docket sheet. This does not
16 indicate acceptance of service.

17 It is further ordered that the Attorney General’s Office must advise the Court within
18 21 days of the date of the entry of this order whether it will enter a limited notice of
19 appearance on behalf of Defendants for the purpose of settlement. No defenses or
20 objections, including lack of service, will be waived as a result of the filing of the limited
21 notice of appearance.

22 DATED THIS 30th Day of March 2021.

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26 MIRANDA M. DU
27 CHIEF UNITED STATES DISTRICT JUDGE
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3 **UNITED STATES DISTRICT COURT**

4 **DISTRICT OF NEVADA**

5 MITCHELL KEITH GOODRUM,

6 Plaintiff,

7 v.

8 NEVADA, STATE OF, *et al.*,

9 Defendants.

Case No. 3:20-cv-00173-MMD-WGC

REPORT OF ATTORNEY GENERAL
RE: RESULTS OF 90-DAY STAY

10 **NOTE: ONLY THE OFFICE OF THE ATTORNEY GENERAL WILL FILE THIS FORM.
11 THE INMATE PLAINTIFF MAY NOT FILE THIS FORM.**

12 On March 30, 2021, the Court issued its screening order stating that it had
13 conducted its screening pursuant to 28 U.S.C. § 1915A, and that certain specified claims
14 in this case would proceed. The Court ordered the Office of the Attorney General of the
15 State of Nevada to file a report 90 days after the date of the entry of the Court's screening
16 order to indicate the status of the case at the end of the 90-day stay. By filing this form,
17 the Office of the Attorney General hereby complies.

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REPORT FORM

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

Situation One: Mediated Case: The case was assigned to mediation by a court-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.]

____ A mediation session with a court-appointed mediator was held on _____ [enter date], and as of this date, the parties have reached a settlement (even if 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 the case until a specified date upon which they will file a stipulation of dismissal.)

____ A mediation session with a court-appointed mediator was held on _____ [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.

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.)

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

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

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

11 Submitted this _____ day of _____, _____ by:

12 Attorney Name: _____

13 Print

14 Signature

15 Address: _____

16 Phone: _____

17 _____

18 _____

19 _____

20 _____

21 Email: _____

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