

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ALFONSO HERNANDEZ,

Plaintiff,

v.

CIV 14-0964 KG/SCY

ANDY FITZGERALD,

Defendant.

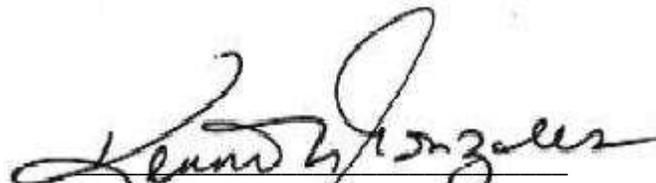
ORDER TO REMAND

This matter comes before the Court upon Plaintiff's Motion and Memorandum in Support of Motion to Remand to State Court, filed January 20, 2021. (Doc. 322). Defendant filed a notice on January 25, 2021, (Doc. 325) notifying the Court and opposing counsel that he does not oppose a remand to state court.

Under 28 U.S.C. § 1367(c)(3), a district court has the discretion to decline to exercise supplemental jurisdiction over state claims if “the district court has dismissed all claims over which it has original jurisdiction.” The Tenth Circuit has “generally held that if federal claims are dismissed before trial, leaving only issues of state law, the federal court should decline the exercise of [supplemental] jurisdiction...” *Brooks v. Gaenzle*, 614 F.3d 1213, 1229 (10th Cir. 2010). “Notions of comity and federalism demand that a state court try its own lawsuits, absent compelling reasons to the contrary.” *Thatcher Enterprises v. Cache Cnty. Corp.*, 902 F.2d 1472, 1478 (10th Cir. 1990). Moreover, the interests of judicial economy, convenience, fairness, and comity would not be served by retaining supplemental jurisdiction over the state claims brought under the New Mexico Tort Claims Act, the remaining claims in this lawsuit. *Id.* Taking into consideration those factors, and following Tenth Circuit precedent, the Court declines to exercise

supplemental jurisdiction over Plaintiff's claims brought under the New Mexico Tort Claims Act.

THEREFORE, IT IS ORDERED that this lawsuit is remanded to the Second Judicial District Court, County of Bernalillo, State of New Mexico.



UNITED STATES DISTRICT JUDGE