

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

VICTOR ANDREW APODACA, SR,

Plaintiff,

v.

Civ. No. 19-388 JB/GJF

BETTY JUDD, *et al.*,

Defendants.

ORDER REGARDING INITIAL REVIEW

THIS MATTER is before the Court on the “Defendants’ Motion to Screen Complaint and Stay Proceedings” [ECF 3] (“Motion”), filed by Defendants B. Judd, A. Jim, and Valdez. These defendants removed Plaintiff’s *pro se* tort complaint to this Court on April 26, 2019. *See* ECF 1. Because Plaintiff is an inmate who “seeks redress from a governmental entity or officer,” the Court is required to screen his complaint. 28 U.S.C. § 1915A(a). During such a screening, the Court must “identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint (1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief from a defendant who is immune from such relief.” §1915A(b).

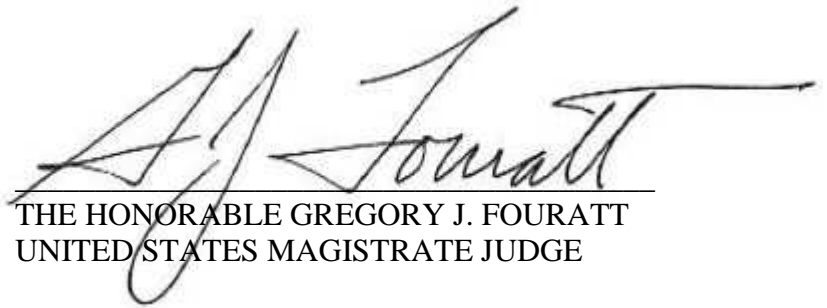
In addition, pursuant to 42 U.S.C. § 1997e(g)(1)-(2), a defendant may “waive the right to reply to any action brought by a prisoner” until the Court orders a response. Furthermore, under the Court’s local rules, the pre-trial case management procedures do not apply to prisoner petition cases. *See* D.N.M. LR-Civ. 16.3. Consequently, the Court will GRANT the Motion in part¹ by excusing all of the defendants’ pre-screening obligations while the Court first reviews Plaintiff’s

¹ Although the above-named defendants have asked this court to “stay further proceedings . . . until the Court completes its pre-screening review,” Mot. 1, the Court will not stay these proceedings entirely, as it will continue to enter orders as part of its initial review process.

complaint. Once its screening is complete, the Court will enter a separate order, either dismissing Plaintiff's complaint or requiring the defendants to file a responsive pleading.

IT IS THEREFORE ORDERED that the defendants' Motion is **GRANTED IN PART AND DENIED IN PART**. Until further order by the Court, the parties are excused from all pre-screening obligations, including filing an answer or responding to other parties' motions.

IT IS SO ORDERED.



THE HONORABLE GREGORY J. FOURATT
UNITED STATES MAGISTRATE JUDGE