

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

JOSEPH RASCON,

Plaintiff,

v.

No. CV 15-0067 MV/CEG

DONALD DOUGLAS, MAUREEN BIXENMAN,
and DR. LISA STABLER,

Defendants.

ORDER DENYING PLAINTIFF'S MOTION FOR A RESTRAINING ORDER

THIS MATTER is before the Court on *Plaintiff's Motion for a Specified Restraining Order* ("Motion"), filed on October 5, 2015. (Doc. 23). In the Motion, Plaintiff raises concerns about Defendants' ability to produce a complete and accurate *Martinez* Report because Defendant Douglas, who oversees and has access to Plaintiff's records, has made fraudulent filings pertaining to Plaintiff's medical care. (*Id.* at 4). Specifically, Plaintiff asserts that Defendant Douglas fraudulently created a document showing that Plaintiff had refused certain medical care when he had not. (*Id.* at 3 (citing Doc. 12 at 6)). Because of his concerns, Plaintiff requests that the Court appoint a "Special Master to authenticate compliance [sic] to the Courts [sic] [Order for Initial Martinez Report]" (*Id.* at 4). The Court therefore construes Plaintiff's filing as a Motion to Appoint a Master.

Under the applicable subsection of Federal Rule of Civil Procedure 53, a master may be appointed to "address pretrial . . . matters that cannot be effectively and timely addressed by an available district judge or magistrate judge of the district." FED. R. CIV. P. 53(a)(1)(A). Even assuming Plaintiff's assertion that Defendant Douglas created a

fraudulent document is correct, Plaintiff has not presented any reason, and the Court is aware of none, as to why his concerns cannot be effectively addressed by this Court. As such, the Court will not appoint a master to oversee the compiling and filing of the *Martinez* Report. Plaintiff will, of course, have an opportunity to address, rebut, and raise questions about the completeness and accuracy of the evidence put forth in Defendants' *Martinez* Report after it is produced. Upon completion of the parties' filings addressing the *Martinez* Report, the Court will entertain and resolve any pertinent issues that Plaintiff raises.

IT IS THEREFORE ORDERED that *Plaintiff's Motion for a Specified Restraining Order* ("Motion") , (Doc. 23), construed as a Motion to Appoint a Master, is **DENIED**.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a long horizontal flourish extending to the right.

THE HONORABLE CARMEN E. GARZA
UNITED STATES MAGISTRATE JUDGE