

State of New Mexico
County of Sandoval
Thirteenth Judicial District

Kenneth and Kathleen DeHoff,
Appellants

vs.

No. D-1329-CV-2023-1382

Linda Gallegos in her role as Sandoval County Assessor
Appellee

Motion to Enforce the Rules of the Court and Disregard Appellee's Untimely Request for Hearing

On December 1st Appellants received two documents from Appellee via US Mail: Opposition to Appellant's Motion to Dismiss November 17 documents for being improperly served; and a request for hearing. Appellants ask the court to disregard Appellee's request for hearing as it violates two rules that govern Appellee's ability to communicate with the court, 1-074(O) NMRA and LR13-122. Appellants additionally request timely support from the court in ensuring an equitable review of Appellant's matter by enforcement of the rules as defined by 1-074 NMRA as Appellants identify the specifics of a second violation of that rule by Appellee.

The Appellant properly completed briefing in accordance with 1-074(O) NMRA on November 17. On the matter of running of time and Appellee's November 17 Objection to Appellant's Completion of briefing, Appellants note the running of time had elapsed for all Appellee responses on November 16 based on 1-006(A)(1) NMRA and 1-074(J)(2) NMRA. Appellants did not file their completion of briefing per 1-074(O) until after Appellee's time window for response had closed. Appellee completion of briefing on their request for more time of November 17 is recorded in the court's record as occurring after the Appellant's completion of briefing and Appellee November 17 Objection to this, stating "Gallegos has a pending motion to extend her time" is a misrepresentation of the facts; as any motion, not completed, is not ripe nor pending. A trivial extrapolation of Appellee's logic in their objection would infer that by simply asserting any frivolous motion for more time, that this is sufficient to indefinitely delay judicial review and this clearly is not what the court intends. Appellants finally note that 1-006(B)(1)(a) requires any extension request to be made before the original time expiration, which was November 16.

This December 1 filing by the Appellee is beyond the briefing completion date, is untimely, lacks legal validity and should be deemed irrelevant, improper, and therefore, disregarded by the court.

Regarding violation of 1-074(O) NMRA, Appellants note the Appeals Process rule, 1-074 NMRA provides the sole mechanism for all oral argument requests in this action as 1-074(O) NMRA. As Appellee's request for hearing is untimely per 1-074(O) NMRA, its filing constitutes a second violation of 1-074 NMRA by Appellee, the first being the failure to produce the record per 1-074(H) NMRA. Appellants restate their expectation that 1-074(X)(2) NMRA be applied to all Appellee filings subsequent to October 17 and they not be heard except by explicit authorization from this court. Due to this additional violation, of 1-074(O), Appellants ask the court to apply 1-074(X)(4) NMRA as the court sees fit, based on Appellee's attempt to convolute this matter with procedural noise and a needless delay resulting in a substantial impact on Appellant's right to timely justice.

Finally, regarding violation of LR13-122, Appellants review the movant details from the Appellee's requested hearing agenda topics. These topics are all based on motions previously declared ripe, with briefing completions filed with the court prior to the introduction of this hearing request, with no requests for hearing by Appellee or Appellant. These prior completion filings render this December 1 hearing request to be a frivolous waste of both the court's and appellant's time. Appellants note that requests for hearing are an extraordinary request of the court's time and resources and must be justified by movant and Appellee has failed to provide any rationale for their extraordinary requests.

LR13-118 (A) Package procedure. At the expiration of all responsive times under Rules 1-007.1 and 5-120 NMRA, the movant shall submit to the judge a copy of the motion, response, any reply, and the request for hearing in a package. The submission of the package alerts the court that the motion is ripe for decision.

Additionally Appellants note LR13-122 which is very straightforward:

LR13-122 No change in matters filed.

No alterations, deletions, additions, or corrections will be made to any document filed unless by approval of the court.

Appellants dispose the five agenda topics requested within the Appellee's request for hearing relative to LR13-118 and LR13-122 NMRA:

- a. Sandoval County Assessor's Motion to Strike Appellants/Cross-Appellees' Notice of Appeal and Certificate of Service, filed September 26th, 2023.

Appellees filed a completion of briefing for this matter with the court on November 27, 2023. At that time the Appellees were required to request a hearing on the matter if one was desired. This subsequent request for hearing not associated with the motion constitutes a material change to this motion previously filed and completed, in violation of LR13-122.

- b. DeHoffs' Motion to Dismiss Cross-Appeal for Lack of Standing, filed October 2nd, 2023.

Appellants, not Appellees are the movant on this item and filed a completion of briefing on October 19, 2023. Appellants, not Appellees, were responsible for identifying a request for hearing at the time of completion and they did not. Appellee request for hearing on this topic would constitute a material change they are not authorized to make on this motion and in addition would be a violation of LR13-122.

- c. Sandoval County Assessor's Petition for a Writ of Certiorari to the Sandoval County Valuation Protests Board, filed October 3rd, 2023.

Appellees filed a completion of briefing for this matter with the court on October 17, 2023. At that time the Appellees were required to request a hearing on the matter if one was desired. This subsequent request for hearing not associated with the motion constitutes a material change to this motion previously filed and completed, in violation of LR13-122.

- d. Sandoval County Assessor's Opposed Motion for More Time to File the Statement of Appellate Issues and Respond to the DeHoff s Statement of Appellate Issues, filed October 26th, 2023.

Appellees filed a completion of briefing for this matter with the court on November 17, 2023. At that time the Appellees were required to request a hearing on the matter if one was desired. This subsequent request for hearing not associated with the motion constitutes a material change to the motion previously filed and completed, in violation of LR13-122.

- e. Sandoval County Assessor's Motion to Strike Appellants/Cross-Appellees/Respondents' Statement of Appellate Issues, filed October 26th, 2023.

Appellees filed a completion of briefing for this matter with the court on November 17, 2023. At that time the Appellees were required to request a hearing on the matter if one was desired. This subsequent request for hearing not associated with the motion constitutes a material change to the motion previously filed and completed, in violation of LR13-122.

Appellants certify that on December 5 this document was served in compliance with 1-005.2 NMRA to Appellee Representative via electronic transmission.

Kenneth and Kathleen DeHoff

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A handwritten signature in blue ink that reads "Kathleen J. DeHoff". The signature is written in a cursive style with a large, stylized initial 'K'.A handwritten signature in blue ink that reads "Kenneth DeHoff". The signature is written in a cursive style with a large, stylized initial 'K'.