

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

Opposition to Motion to Strike Appellant's statement of the Issues

Appellants received on October 26, 2023 Appellee motion to strike Appellant's Statement of the Issues. Appellants ask the court to deny Appellee's Motion to Strike Appellant's Statement of the Issues because it is frivolous and without merit because it is based on misstatements of law, inaccurate characterizations of Appellant statements and unsubstantiated innuendo.

Appellee enumerated three justifications for striking Appellant's Statement of the Issues. We dismiss each as without merit based on review of the relevant rules.

1. Scandalous Material, a Rule 1-011 NMRA violation

The Appellee's motion lacked the factual basis necessary to constitute an actionable argument in support of their claims regarding scandalous material within the Appellant's Statement of the Issues. To meet the criteria set by Black's Law Dictionary, the Appellee was required to make fact-based arguments to support a legitimate defamation claim, an irrelevance claim, and to identify specific materials unbecoming of the dignity of the court. Appellant's Statement of the Issues must be limited to a review of the record and legislative immunity safeguards Appellant's ability to highlight the alleged Appellee misdeeds without the risk of a defamation claim, within the context of the record, making it impossible for Appellee to establish any defamation claim. Further, Appellees made no factual argument regarding either irrelevance or materials unbecoming of the dignity of the court. Hence the scandalous material claim is without merit.

2. Improper Formatting, a Rule 1-100 NMRA Violation

Appellee misstated to the court the text of Rule 1-100 NMRA by excluding the introductory phrase: "*Except exhibits and papers filed by electronic transmission pursuant to Rule 1-005.2 NMRA of these rules...*". This clearly exempts electronically filed PDF documents from the rule Appellee complained about. All filings by Appellants have been electronically filed to berdissues@nmcourts.gov as Adobe Acrobat 'pdf' files, including the pdfs emailed directly to Appellee representatives as required by 1-005.2 NMRA. The misstatement by Appellee of ignoring the exclusionary introduction of 1-100 NMRA renders this claim without merit.

3. Improper Formatting, a Rule 1-074(K) NMRA Violation

A mischaracterization of the content of Appellant's statement of issues in declaring the failure to follow the structure as identified within 1-074(K) renders this claim without merit. Appellants provide two arguments. First, Appellee is simply wrong. All four sections as required by 1-074(K) are present and labelled within the statement of issues. Second, Appellants note the well-founded precedent that Appeals should be heard on the merits and not rejected due to missing 'niceties of pleadings' that Appellants may have neglected to provide: *WAKELAND V. NEW MEXICO DEP'T OF WORKFORCE SOLUTIONS*, 2012-NMCA-021, 274 P.3d 766 ¶19.

Based on fundamental mischaracterizations of the facts of Appellant's Statement of the Issues, Appellee's Motion to Strike is without merit and should be denied.

We certify that on 11/10/2023 we did also provide this document to Appellee's legal representative

Kenneth and Kathleen DeHoff

505-301-5629

66 Bad Coyote Place, Corrales NM 87048

A handwritten signature in blue ink that reads "Kathleen DeHoff". The signature is written in a cursive style with a large, looped initial "K" and a large "D" for "DeHoff".A handwritten signature in blue ink that reads "Kenneth DeHoff". The signature is written in a cursive style with a large, looped initial "K" and a large "D" for "DeHoff".