

EXHIBIT A

**IN THE COURT OF APPEALS
OF THE STATE OF NEW MEXICO**

MARGARET DOWLING,

Plaintiff-Appellee,

Case No. D-503-CV-2023-00669

v.

COA No.

**JOHNATHAN SAMANIEGO,
BLACK GOLD DEVELOPERS LLC,
and AMERICAN ENERGY RESOURCES LLC,**

Defendant-Appellants.

DOCKETING STATEMENT

Appellants Johnathan Samaiego, Black Gold Developers LLC, and American Energy Resources LLC (hereafter referred to collectively as “Samaniego” and individually by name) respectfully submits this *Docketing Statement* pursuant to Rule 12-208 NMRA.

I. NATURE OF PROCEEDING AND STATEMENT OF TIMELY FILING, PRIOR OR RELATED APPEALS, AND AUDIO RECORDING

1. This case involves a dispute over ownership of a tract of real property located in Eddy County and its associated mineral rights.
2. Samaniego appeals the District Court's *Order* granting Dowling's *Motion for Summary Judgment* filed on July 12, 2024.
3. Samaniego filed a *Notice of Appeal* on August 12, 2024. A copy of which is attached hereto.
4. On the same day, Samaniego filed a timely Rule 1-060 (B) NMRA *Motion to Reconsider* the District Court's grant of summary judgment and decision to deem Dowling's *Requests for Admission* as admitted.
5. The District Court conducted a hearing on the *Motion to Reconsider* on May 15, 2025.
6. The District Court entered its final *Order* denying Samaniego's *Motion to Reconsider* on June 2, 2025. Samaniego's *Notice of Appeal* became effective pursuant to Rule 12-208 (B) NMRA.
7. This *Docketing Statement* is therefore timely filed pursuant to the same Rule.

8. There are no related or prior appeals.
9. The hearing on Dowling's *Motion for Summary Judgment* of July 8, 2024 and hearing on Samaniego's *Motion to Reconsider* of May 15, 2025 were audio recorded.

II. SUMMARY OF MATERIAL FACTS

10. Dowling filed her *Complaint* on August 11, 2023. Therein, Dowling alleges that a deed purportedly conveying her interest in a tract of real property in Eddy County to Johnathan Samaiego is void and voidable due to the fact that, inter alia, Dowling allegedly received no consideration from Samaniego for the property and because Dowling did not personally sign the deed in front of a notary public.
11. Dowling attached this deed as an Exhibit to her *Complaint*. The deed is facially valid. It has what appears to be Ms. Dowling's signature, and bears the signed verification of a notary and the notary's seal.
12. Dowling further alleged that a subsequent deed whereby Johnathan Samaniego conveyed the property to Black Gold Developers was void and voidable. Dowling further argued that

Black Gold Developers was not a good faith purchaser. Samaniego refers to these three conveyances collectively as the “deeds,” and individually by name.

13. Dowling also alleged that a deed by Black Gold Developers conveying the property to American Energy Resources was also void and voidable, and that American Energy Resources was likewise not a good faith purchase.
14. Samaniego answered the *Complaint* on December 7, 2023.
15. Dowling served her *First Set of Requests for Admission* upon Johnathan Samaiego through Odyssey on February 21, 2024.
16. Dowling served her *First Set of Requests for Admission* upon Black Gold Developers LLC and American Energy Resources on March 27, 2024.
17. Sameniego’s counsel did not receive service of any of Dowling’s *Requests for Admission* through Odyssey on either February 21, 2024 or March 27, 2024.
18. On April 30, 2024, undersigned counsel emailed counsel for Dowling to ask for an extension to respond to all three (3) sets of *Requests for Admission* by May 6, 2024.

19. Undersigned counsel made Dowling's counsel aware that an extension was required because undersigned counsel had yet to receive a copy of the *Requests for Admission* from Dowling.
20. Undersigned counsel informed opposing counsel that he became aware of the existence of the *Requests for Admission* during a routine check of the case docket, and that undersigned counsel was working with Odyssey to diagnose and fix whatever error resulted in undersigned counsel not receiving service of Dowling's *Requests for Admission*.
21. Undersigned counsel also asked Dowling's counsel for a copy of the *Requests for Admission* by email.
22. Dowling's counsel refused to grant Samaniego's request for an extension and also refused to send the undersigned counsel a copy of the *Requests for Admission* by email. Dowling had previously served her *First Set of Interrogatories and Requests for Production* upon undersigned counsel by email.
23. Undersigned counsel did not receive a copy of Dowling's *Requests for Admission* until May 1, 2024 as an attachment to Dowling's *Motion for Summary Judgment*.

24. Samaniego served responses to all three (3) sets of *Requests for Admission* to counsel for Dowling by email on May 2, 2024.
25. Dowling moved for summary judgment as to Count One (Failure of acknowledgment), Count Four (Failure of consideration), and Count Five (Declaratory judgment) on May 1, 2024.
26. Therein, Dowling argued that summary judgment was supported primarily by Samaniego's failure to timely respond to Dowling's *First Set of Requests for Admission*.
27. Dowling also offered her own affidavit for the limited purpose of "proving up the deeds granting title to Ms. Dowling" that were attached as exhibits to the *Complaint*.
28. The remainder of Dowling's allegedly undisputed material facts were supported solely by Plaintiff-Appellee claim that its *First Set of Requests for Admission* were automatically deemed admitted and were binding upon the trial court.
29. Most relevant to the issues on appeal, Dowling relied exclusively on Samaniego's purported admissions to attempt to establish that there was no genuine factual dispute that: 1)

Dowling did not sign the deed conveying title over the subject property to Johnathan Samaniego in front of a Notary; 2) that the property at issue is worth over One Million Dollars; 3) that the same deed fails because of inadequate consideration; 4) all deeds are voidable and void; 5) the deeds should be stricken from the real estate records; 5) Dowling is entitled to an order quieting Samaniego's title in the property; 6) Dowling is entitled to a declaratory judgment confirming her as the sole owner of the property, and that Samaniego has no legal or equitable interest in the property; and, 7) that Black Gold Developers and American Energy Resources were not good faith purchasers.

30. The District Court conducted a hearing on Dowling's *Motion for Summary Judgment* on July 8, 2024.

31. At that hearing, Samaneigo argued that Dowling had not met her burden of establishing a prima facie case for summary judgment as to the three Counts at issue.

32. First, Plaintiff attached a facially valid deed to her *Complaint* that bears the stamp and signature of a notary, as well as what appears to be Dowling's signature. Samaniego argued that

whether or not Dowling's signature is on the document is a matter that requires expert testimony.

33. A rational fact finder could conclude, based on this evidence, that Dowling did in fact sign the deed conveying title of the property at issue to Johnathan Samaniego in front of a notary; and reject Dowling's self-serving allegations to the contrary as not credible in light of the facially valid and notarized deed.
34. Dowling was therefore not entitled to summary judgment as to Count One (Failure of acknowledgment) because inclusion of the aforementioned facially valid and notarized deed as an integral part of Plaintiff's *Complaint* gives rise to a genuine factual dispute which should be resolved by the finder of fact at trial.
35. Samaniego also argued that Dowling's self-serving allegation that she received no consideration for the subject property ultimately required an assessment of Dowling's credibility at trial by the finder of fact, and so could not give rise to a prima facie claim for summary judgment as to Court Four (Failure of consideration).

36. Dowling's affidavit makes only a conclusory allegation that she did not receive consideration from Samaniego for the property that is not supported by factual averments or other evidence in the record.
37. Samaniego argued that the untimely response to Dowling's *Requests for Admission* is excusable and the District Court should exercise its discretion to not deem them admitted for the reasons set forth in paragraphs 15-25 *supra*.
38. Samaniego contended that even without a written response opposing summary judgment, the District Court was obligated to verify the existence of a sufficient legal and factual basis for granting summary judgment, which Samaniego asserted was absent in this instance for the reasons stated above.
39. Samaniego also brought to the District Court's attention that not filing a written response does not constitute waiver of the right to respond. *See Freeman v. Fairchild*, 2018-NMSC-023, parag. 17, 416 P.3d-023.
40. The District Court entered an *Order* granting summary judgment in favor of Dowling as to Counts One, Four, and Five of

her *Complaint* on the following grounds: 1) the District Court found that Dowling had met her burden to establish a prima facie case that she was entitled to summary judgment as to these counts; 2) Samaiego did not file a written response to the *Motion for Summary Judgment* such that all undisputed material facts set forth in Dowling's *Motion for Summary Judgment* were deemed admitted; 3) Plaintiff's undisputed material facts are supported by Dowling's affidavit (as to the issues of no consideration and that Dowling did not sign the deed in front of a notary); and, 4) Plaintiff's *Requests for Admission* which were automatically deemed admitted.

41. Despite Dowling's *Motion for Summary Judgment* explicitly stating that her affidavit was not offered to support summary judgment on the issues of lack of consideration and acknowledgment, the District Court relied on it for those very points.

42. Samaneigo filed a timely *Motion to Reconsider* pursuant to Rule 1-60(B) NMRA.

43. Samaniego argued that the District Court abused its discretion by deeming Dowling's *Requests for Admissions* as admitted. Alternatively, Samaniego asked the Court to set aside any such admissions.
44. Samaniego lastly argued that the District Court should set aside summary judgment for Dowling because Plaintiff-Appellee had not set forth a prima facie basis for summary judgment for the reasons otherwise set forth herein.
45. Dowling *Response* opposing withdrawal of the deemed admissions included a conclusory allegation that doing so would expose Plaintiff-Appellee to prejudice; but this argument was not developed or supported by factual averments.
46. The District Court entered its final *Order* denying Samaniego's *Motion to Reconsider* on June 2, 2025. The District Court did not make any findings that allowing Samaniego to withdraw the deemed admissions would prejudice Dowling or that allowing withdrawal would subvert the presentation of the merits of this action.

III. ISSUES ON APPEAL

ISSUE ONE: Did the District Court err in granting Dowling's *Motion for Summary Judgment*? In order to resolve this ultimate question, the Court must:

1) Decide if the District Court abused its discretion by refusing to permit withdrawal of Samaniego's admissions, considering the court made no finding of prejudice to Plaintiff-Appellee or subversion of the case's presentation on the merits. Additionally, Dowling did not present any developed argument to the District Court that permitting withdrawal of these admissions would cause her to suffer prejudice; and,

2) Decide if Dowling set forth a prima facie case for summary judgment if the Court decides that Dowling's *Requests for Admissions* should not have been deemed admitted.

Samaniego raised this Issue and its component parts in their *Motion to Reconsider*, and at oral arguments on July 8, 2024 and on May 15, 2025.

IV. LIST OF AUTHORITIES

New Mexico Case Law

Fannie Mae ("Fannie Mae") v. Trissell, 2022-NMCA-001, parag. 6, 503 P.3d 381 (A summary judgment movant bears the "initial burden of establishing a prima facie case for summary judgment. A movant establishes a prima facie case when the motion is supported by such evidence as is sufficient in law to raise a presumption of fact or establish the fact in question unless rebutted).

Freeman v. Fairchild, 2018-NMSC-023, parag. 17, 416 P.3d 023 (The district court cannot rely on the non-moving party's failure to file a timely response opposing summary judgment as the sole basis to grant summary judgment for the moving party. Before granting summary judgment, the district court must nonetheless determine if the moving party has satisfied their burden under Rule 1-056 NMRA) and parag. 34 (the failure to file a timely response does not constitute waiver of the non-moving party's right to respond).

Martinez v. Martinez, 2017-NMCA-032, parag. 17 ("[T]o reverse the district court under an abuse of discretion standard "it must be shown

that the court's ruling exceeds the bounds of all reason or that the judicial action taken is arbitrary, fanciful, or unreasonable.") (internal citation and quotation omitted).

Potter v. Pierce, 2015-NMSC-002, parag. 8 ("Summary judgment is appropriate where there are no genuine issues of material fact and the movant is entitled to judgment as a matter of law. N.M. R. Ann. 1-056(C). A grant of summary judgment is reviewed de novo. In reviewing an order on summary judgment, courts examine the whole record, considering the facts and drawing all reasonable inferences in a light most favorable to the nonmoving party. Whether the elements of claim preclusion are satisfied is a legal question, which is also reviewed de novo.").

Valerio v. San Mateo Enters., Inc., 2017-NMCA-059, 15, 400 P.3d 275 ("We generally review a district court's decision on a motion to withdraw a Rule 1-036 admission for an abuse of discretion.").

Valle v. New Mexico Dep't of Transportation, 2024 N.M. App. LEXIS 71 (December 23, 2024) parag. 7 ("Rule 1-036(B) provides that, "the court may permit withdrawal or amendment *when* [(1)] *the presentation of the*

merits of the action will be subserved thereby[;] and [(2)] the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits. We refer to this test as the 19 “Rule 1-036(B) two-pronged test.”) and parag. 8 (“Unlike the excusable neglect standard of Rule 1-006(B)(1), where the burden is on the party seeking relief pursuant to that rule, under the Rule 1-036 (B) two-pronged test, the burden is on the party opposing withdrawal . . . to satisfy the court that it would be prejudiced by the amendment.”).

New Mexico Rules of Civil Procedure for the District Court

Rule 1-036 (A) and (B) NMRA (Requests for Admission, procedures and process for withdrawing admissions deemed admitted by default).

Rule 1-056 NMRA (Standard and procedure for summary judgment).

Rule 1-060 (B) NMRA (Standards and process regarding reconsideration and relief from a judgment or order).

Federal Case Law

Cf. Hall v. Bellmon, 935 F.2d 1106, 1111 (10th Cir. 1991) (conclusory and self-serving statements are insufficient to defeat summary judgment).

Cf. Salguero v. City of Clovis, 366 F.3d 1168, 1177 n.4 (10th Cir. 2004) (holding that a sworn affidavit based only on personal knowledge is insufficient to create a triable issue of fact if it is self-serving and not otherwise supported by the record).

Cf. Sanchez v. Vilsack, 695 F.3d 1174, 1180 n.4 (10th Cir. 2012) (stating that an affidavit resting on personal knowledge and setting forth admissible facts “is legally competent to oppose summary judgment, irrespective of its self-serving nature”).

Respectfully submitted,

CANDELARIA LAW LLC

/s/ Jacob R. Candelaria

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Attorney for Defendant-Appellants

CERTIFICATE OF SERVICE

I hereby certify that I filed a true and correct copy of the foregoing document with the District Court's Odyssey File and Serve System on June 26, 2025 which caused a true and correct copy of the same to be served upon the Clerk of Court, the trial judge, and the Court monitor.

I further certify that I sent a true and copy of the foregoing document to counsel of record for Dowling by U.S. Mail, first class sufficient postage pre-paid, on June 26, 2025 to the following address:

Martin Law Firm
Kenneth D. Dugan
W.T. Martin, Jr.
P.O. Box 2168
Carlsbad, New Mexico 88221

/s/ Jacob R. Candelaria

Jacob R. Candelaria

**FIFTH JUDICIAL DISTRICT COURT
COUNTY OF EDDY
STATE OF NEW MEXICO**

FILED
5th JUDICIAL DISTRICT COURT
Eddy County
6/2/2025 8:44 AM
MARTHA HUEREQUE
CLERK OF THE COURT
Renee Lopez

Margaret Dowling,
Plaintiff,

vs.

**Jonathan Samaniego and
BlackGold, Developers, LLC
American Energy Resources, LLC**
Defendants.

No. D-503-CV-2023-00669

ORDER ON PLAINTIFF'S MOTION FOR RECONSIDERATION

Submitted by:

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CAME ON, the Motion Reconsider Summary Judgment for Plaintiff and Order Deeming Plaintiff's Requests for Admission as Admitted ("*Motion*") filed on or about August 12, 2024, by **Defendants Jonathan Samaniego** and **BlackGold Developers, LLC** and **American Energy Resources, LLC** (collectively, "*Defendants*").

After having considered all appropriate matters, the Court finds and rules that the Motion should be and hereby is **DENIED**.

IT IS SO ORDERED.


HONORABLE DISTRICT JUDGE JANE SHULER-GRAY

APPROVED AS TO FORM ONLY:

By _____/s/ KDD
Kenneth D. Dugan
Attorney for Plaintiff

By ___/s/ by email 5-21-25 (attached)_____
Jacob Candeleria
Attorney for Defendants

Thursday, May 22, 2025 at 10:13:36 Mountain Daylight Time

Subject: Re: D-503-CV-2023-00669, Margaret Dowling v.Jonathan Samaniego, et. al.

Date: Wednesday, May 21, 2025 at 12:44:16 PM Mountain Daylight Time

From: Jacob Candelaria

To: Ken Dugan

CC: Adam Overstreet

Approved as to form only

Sent from my iPhone. To typo is human, to forgive, divine.

On May 21, 2025, at 11:15AM, Ken Dugan <kdugan@lawmdm.com> wrote:

Mr. Candelaria:

Attached is the draft Order. Please provide your approval to the form only. Thank you.

Ken

From: Ken Dugan <kdugan@lawmdm.com>

Date: Friday, August 16, 2024 at 11:29 AM

To: Jacob Candelaria <jacob@jacobcandelaria.com>

Cc: Adam Overstreet <aoverstreet@lawmdm.com>

Subject: Re: Notification of Service for Case: D-503-CV-2023-00669, Margaret Dowling v.Jonathan Samaniego, et. al.

Dear Mr. Candelaria:

Ms. Dowling proposes to settle this entire case for payment by her to Mr. Samaniego of \$25,000 within 7 days of entry of an agreed, non-appealable judgment, as attached. The proposed Judgment is attached and is similar to the one in Simpson.

This offer is non-negotiable and may only be accepted by signing and returning by e-mail the attached judgment by August 21, 2024. Any counter-offer will be a rejection of the offer and will not be responded to. This is the only offer Mr. Samaniego will receive. This exceeds the likely attorneys' fees in responding to the frivolous motion to reconsider and notice of appeal. However, for certainty alone, my client has authorized this offer (like in Simpson). I look forward to receiving your signed judgment.

Kenneth D. Dugan