

Exhibit A

STATE OF NEW MEXICO
FIFTH JUDICIAL DISTRICT
COUNTY OF EDDY

MARGARET DOWLING,

Plaintiff,

v.

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

Defendants.

NOTICE OF APPEAL

Defendants by and through their undersigned counsel of record hereby submits this

Notice of Appeal pursuant to Rule 12-201 and Rule 12-202 NMRA and states as follows:

1. Defendants Johnathan Samaniego, Black Gold Developers LLC, and American Energy Resources LLC are the parties taking this appeal.
2. This appeal is being taken against Plaintiff Margaret Dowling.
3. This appeal is taken from the Fifth Judicial District of Eddy County (Hon. Jane Shuler-Gray, presiding) to the New Mexico Court of Appeals.
4. A copy of the District Court's July 12, 2024 Order granting summary judgment in favor of Plaintiff that Defendants appeals is attached hereto.

xc: Appeal Clerk

FILED
5th JUDICIAL DISTRICT COURT
Eddy County
8/12/2024 7:24 PM
MARTHA HUEREQUE
CLERK OF THE COURT
Lasey Garcia

Respectfully submitted,

CANDELARIA LAW LLC

/s/ Jacob R. Candelaria

Jacob R. Candelaria
Attorney for all Defendants
P.O. Box 27437
Albuquerque, New Mexico 87125
Ph: 505-295-5118
jacob@jacobcandelaria.com

CERTIFICATION

I hereby certify that I filed a true and correct copy of the foregoing document with the Court's Odyssey Electronic File and Serve System on August 12, 2024 which thereafter caused a true and correct copy of the same to be electronically and promptly served upon all parties entitled to notice of the same.

/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
7/12/2024 10:35 AM
MARTHA HUEREQUE
CLERK OF THE COURT
Gwyneth Gadbury

Margaret Dowling,
Plaintiff,

vs.

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

No. D-503-CV-2023-00669

FINAL SUMMARY JUDGMENT ENTERED UNDER NMRA 1-056

SUBMITTED BY:

Martin, Dugan & Martin
Kenneth D. Dugan
W.T. Martin, Jr.
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XC Clerk of the Court

¹
ATTACHMENT A

CAME ON, for hearing on July 8, 2024, Plaintiff's Motion for Summary Judgment ("Motion") filed by Plaintiff William Scott Simpson ("Plaintiff") on May 1, 2024, against Defendants Jonathan Samaniego ("Samaniego"), BlackGold Developers, LLC ("BlackGold") and American Energy Resources, LLC ("AER") (collectively, "Defendants"). Plaintiff and Defendants were represented by counsel and provided opportunity to present all appropriate matters.

After considering all proper matters, the Court finds and hereby **ORDERS** that there are no disputed issues of material fact and judgment as a matter of law should be **GRANTED** to Plaintiff against Defendants as follows.

1. Summary judgment is properly granted when no genuine issues of material fact exist and the movant is entitled to judgment as a matter of law. *Self v. United Parcel Serv., Inc.*, 1998-NMSC-046, ¶ 6, 126 N.M. 396. The movant must make a *prima facie* showing that summary judgment is merited. *Roth v. Thompson*, 1992-NMSC-022, 113 N.M. 331. "By a *prima facie* showing is meant such evidence as is sufficient in law to raise a presumption of fact or establish the fact in question unless rebutted." *Romero v. Philip Morris Inc.*, 2010-NMSC-035, ¶ 10, 148 N.M. 713 (quoting *Goodman v. Brock*, 83 N.M. 789, 792-93, 498 P.2d 676, 679-80 (1972)). Upon such a *prima facie* showing, the burden shifts to the party opposing summary judgment to provide specific admissible evidence that creates "a reasonable doubt as to whether a genuine issue for trial exists." *Koenig v. Perez*, 1986-NMSC-066, ¶ 9, 104 N.M. 664. *Id.* General assertions of a triable issue are insufficient. *Clough v. Adventist Health Sys., Inc.*, 108 N.M. 801, 803, 780 P.2d 627 (1989). "New Mexico law requires that the alleged facts at issue be material to survive summary judgment." *Romero*, 2010-NMSC-035, ¶ 11. The inquiry's focus should be on whether, under substantive law, the fact is necessary to give rise to a claim. *Id.*; *Martin v. Franklin Capital Corp.*, 2008-NMCA-152, ¶ 6, 145 N.M. 179 ("An issue of fact is 'material' if the existence (or non-existence) of the fact is of consequence under the substantive rules of law governing the parties'").

dispute.”). “Mere argument or contention of existence of material issue of fact ... does not make it so.” *Spears v. Canon de Carnue Land Grant*, 1969-NMSC-163, 80 N.M. 766. Rather, “[t]he party opposing the summary judgment motion must adduce evidence to justify a trial on the issues.” *Clough v. Adventist Health Sys., Inc.*, 108 N.M. 801, 803, 780 P.2d 627, 629 (N.M. 1989).

2. Where the facts are undisputed, the rights of the party are determined as a matter of law. *Aktiengesellschaft Der Harlander Buamwollspinnrie und Zwirn-Fabrik v. Lawrence Walker Cotton Co.*, 60 N.M. 154, 288 P.2d 691 (N.M. 1955)(granting summary judgment); *Spears v. Canon de Carnue Land Grant*, 80 N.M. 766, 769, 461 P.2d 415, 418 (1969); 23 *Williston on Contracts*, § 63:15 (4th ed.). The construction of a deed and its legal effect is also a matter of law. *Pacheco v. Martinez*, 1981-NMCA-116, ¶ 41, 97 N.M. 37, 45, 636 P.2d 308, 316.

3. Plaintiff met her burden, and Defendants did not meet their burden once the burden shifted.
4. Plaintiff filed suit against Defendants for allegedly, wrongfully taking her real property in Eddy County.

5. As used herein, the term “Property” shall be as defined as follows:

The W1/2 W1/2 of Section 27, Township 22 South, Range 28 East, N.M.P.M. in Eddy County, New Mexico, consisting of 160 acres of fee land and all mineral rights.

6. Plaintiff sought summary judgment on Count One (failure of acknowledgment), Count Four (failure of consideration) and County Five (declaratory judgment).
7. Section II of Plaintiff’s Motion set forth a concise statement of 30 material facts as to which Plaintiff contended there was no genuine issue of material fact.
8. Defendants filed no response to Plaintiff’s Motion.
9. Pursuant to NMRA 1-056(D), as a result of failing to file a response, the 30 material facts set forth in Section II of the Motion “shall be deemed admitted.”

10. Moreover, Plaintiffs' 30 material facts were supported by one or both of (a) the Affidavit of Margaret Dowling attached to the Motion and/or (b) the deemed admissions attached to the Motion as Exhibits 2, 3 and 4.
11. The unrefuted Affidavit of Margaret Dowling proves conclusively (a) Ms. Dowling did not execute the Deed (attached as Exhibit A to the Complaint, the Motion and this Order) and (b) that Deed was not executed in the presence of a notary. (Ex. 1, ¶¶8-9).
12. The unrefuted Affidavit of Ms. Dowling further proves conclusively Ms. Dowling received no consideration for that Deed or transfer of the Property. (Ex. 1, ¶10).
13. Pursuant to NMRA Rule 1-036(A), a matter is deemed admitted if a party fails to serve answers to requests for admission within the required thirty (30) day period. Pursuant to NMRA Rule 1-036(B), the deemed matter is "conclusively established."
14. It is undisputed Defendants failed to answer the Requests for Admission (Exs. 2, 3 and 4) within the required time. Those requests are deemed admitted. Those deemed admissions conclusively establish Plaintiff is entitled to judgment as requested in the Motion.
15. Plaintiff requested in her Complaint a declaration that the deeds at issue are "unenforceable, null, void and/or voidable." (Complaint, ¶104). Among other doctrines, Plaintiff pleaded the deeds are void and/or voidable based on failure of consideration (Complaint, ¶¶100-101) and failure to notarize the Deed in Plaintiff's presence (Complaint, ¶¶ 54-58).
16. Defendants admitted the relevant facts in their deemed admissions. Defendants American Energy and BlackGold admitted the deeds at issue (Exs. A, E and F) are void and voidable. (Exs. 2 and 3, Adm. 23-28). All of the Defendants admitted Defendant Samaniego is the alter ego of the BlackGold and American Energy. (Exs. 2, 3 and 4, Adm. 18). The same counsel represents all Defendants. Accordingly, the admissions of BlackGold and American Energy are binding on Defendant Samaniego herein.

17. Even without such vicarious admissions, however, that is the practical result of the other deemed admissions. All of the Defendants admitted facts sufficient to void the deeds (Exs. A, E and F) for lack of consideration. All of the Defendants admitted the Property is worth over \$1,000,000. (Exs. 2, 3 and 4, Adm. 3). All Defendants admitted no consideration was given for any of the three deeds at issue – Exhibits A, E and F. (Exs. 2, 3 and 4; Adm. 1, 2, 13, 15, 20, and 22). An instrument for which no consideration was given is unenforceable, void and/or voidable and cannot pass title. *Primus v. Clark*, 1944-NMSC-030, ¶ 33, 48 N.M. 240; *Cordova v. World Fin. Corp. of NM*, 2009-NMSC-021, ¶ 14, 146 N.M. 256; *Bencoe v. Bencoe*, 1956-NMSC-126, ¶ 11, 62 N.M. 95, 100; *Morgan v. Thompson*, 1942-NMSC-028, ¶ 14, 46 N.M. 282; *Knoebel v. Chief Pontiac, Inc.*, 1956-NMSC-020, ¶ 8, 61 N.M. 53.

18. Unless a party is a good faith purchaser, he may acquire no greater title than his grantor. *O'Brien v. Chandler*, 1988-NMSC-094, ¶ 13, 107 N.M. 797. A bona fide (good faith) purchaser is a party that has acquired property for valuable consideration in good faith without notice of defects in the chain of title to the property, including adverse rights or claims of other parties. See *Jeffers v. Doel*, 1982-NMSC-116, ¶ 7, 99 N.M. 351. Defendants American Energy and BlackGold could not be good faith purchasers without notice because all Defendants admit Samaniego was the alter ego of Defendants. (Exs. 2, 3 and 4, Adm. 18). Notice by Samaniego is imputed on Defendants American Energy and BlackGold. Moreover, Defendants American Energy and BlackGold both admitted they are not good faith purchasers of the Property. (Exs. 3 and 4, Adm. 19 and 21). Accordingly, their respective deeds are unenforceable and voidable by Plaintiff.

19. Additionally, Defendants Samaniego, American Energy and BlackGold all admitted the Deed under which Samaniego acquired his interest, Exhibit A, was not executed in the presence of a notary. (Ex. 2, 3 and 4, Adm. 7). A deed is unenforceable if it is not notarized in the presence of

the affiant. NMSA § 14-14-1, et seq; NMSA § 14-12-1, et seq. The notarization of the Deed outside of Plaintiff's presence is illegal. NMSA § 14-12A-11. Under N.M.S.A. § 14-8-4, the Deed should not have been recorded and "may not be considered of record" because it was not properly acknowledged in the presence of a notary.

20. Plaintiff is entitled to judgment declaring her the legal owner of the Property. The Affidavit of Margaret Dowling, Exhibit 1, confirms Plaintiff's title in the Property. Mrs. Dowling acquired her interests pursuant to Exhibits B and D attached to the Motion. (Ex. 1, ¶4).

21. Because the deeds at issue are void and voidable, Plaintiff is entitled to a judgment declaring her the rightful owner of the Property. Also, Defendants BlackGold and American Energy admitted Plaintiff is entitled to a judgment herein declaring that Plaintiff is the rightful owner of the Property as against Defendants and all other unknown claimants. (Exs. 3 and 4, Adm. 29, 32-33). Defendants BlackGold and American Energy admitted they have no legal or equitable interest in the Property and that title in the Property should be quieted in Plaintiff. (Exs. 3 and 4, Adm. 30-34).

22. Accordingly, this Court shall enter judgment declaring Plaintiff is the lawful owner of the Property and that title to the Property be established in Plaintiff against Defendants and all other unknown claimants. (Exs. 3 and 4, Adm. 31-34).

23. Further, this Court shall enter judgment declaring the deeds attached to the Complaint and hereto as exhibits A, E, and F are unenforceable, void, and voidable, and striking them from the real estate records.

ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED, DECLARED AND DECREED:

A. The deeds attached to the Complaint and hereto as Exhibits A, E and F are unenforceable, voidable, void, null, and of no effect, and they are hereby stricken from the real estate records.

B. The Court hereby declares:

- a. Plaintiff is the lawful owner of the Property, both fee and mineral interests, and her title to the Property and mineral interests is hereby established against the Defendants and all other claimants; and
- b. Each Defendant is barred and forever estopped from having or claiming any lien or other interest upon any right or title to the Property or mineral interests; and
- c. Plaintiff is declared 100% owner of the Property and mineral interests; and
- d. Title to the Property and mineral interests is forever quieted and set at rest in Plaintiff's name.

C. It is further hereby declared and judgment is entered that Defendants are ejected from the Property and must immediately vacate the Property, and ownership and possession of the Property shall lie solely and exclusively with Plaintiff; and

D. It is further declared and judgment is entered that this Judgment is entered pursuant to N.M.R.A. 1-070 and has the effect of a conveyance executed in due form of law, dating back to February 21, 2017.

E. This is a final judgment.

IT IS SO ORDERED.

APPROVED AS TO FORM ONLY:

By 
Kenneth D. Dugan
Attorney for Plaintiff


HONORABLE JUDGE JANE SCHULER-GRAY

By ___/s/ by email 7-10-24 (attached)_____
Jacob Candelaria
Attorney for Defendants

Wednesday, July 10, 2024 at 14:28:50 Mountain Daylight Time

Subject: Re: Notification of Service for Case: D-503-CV-2023-00669, Margaret Dowling v. Jonathan Samaniego, et. al.
Date: Wednesday, July 10, 2024 at 12:21:25 PM Mountain Daylight Time
From: Jacob Candalaria
To: Ken Dugan

Good afternoon-

You may note my approval as to form.

In the event this Order is not overturned on a Motion to Set Aside deemed admissions, a Motion to Reconsider and Set Aside Summary Judgment, or on Appeal, when does your client plan on returning the \$25,000.00 my clients paid her?

Best
JRC

On Tue, Jul 9, 2024 at 4:15PM Ken Dugan <kdugan@lawmdm.com> wrote:

Please respond to this e-mail request. Thank you.

Ken

From: Ken Dugan <kdugan@lawmdm.com>
Date: Monday, July 8, 2024 at 12:16 PM
To: Jacob Candalaria <jacob@jacobcandalaria.com>
Subject: Re: Notification of Service for Case: D-503-CV-2023-00669, Margaret Dowling v. Jonathan Samaniego, et. al.

Mr. Candalaria:

Attached is the draft Judgment. Please confirm you approve it as to form only. Thank you.

Ken

Page 1 of 1

1702709

03/09/2017 09:12 AM

Eddy County, New Mexico

QUITCLAIM DEED

Margaret V. Dowling a single woman, whose address is 1829 Georgia, NE, Albuquerque, N.M. 87110, for consideration paid, grants to Jonathan Samaniego, a single man. The following described real estate in Eddy, County, New Mexico:

W1/2 W1/2 of Section 27, Township 22 South, Range 28 East, N.M.P.M., the following deed dating August 25, 1976.

Witness its hand and seal this 21st day of February, 2017.

STATE OF NEW MEXICO)
)SS
COUNTY OF BERNALILLO)

Clerk's Certificate
Certified this 10th day of August,
2023 as a true and correct copy of the
document recorded in this office.

CARA A COOKE
Eddy County Clerk, NM
Deputy

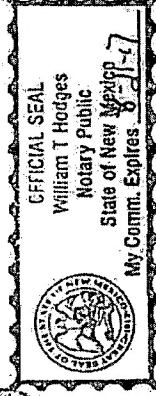
Margaret V. Dowling
Margaret V. Dowling

The foregoing instrument was acknowledged before me this 21st day of February, by Margaret V. Dowling.

William T. Hodges
Notary Public



Reception: 1702709 Book: 1092 Page: 0727 Pages: 1
Recorded: 03/09/2017 08:12 AM Fee: \$10.00
Eddy County, New Mexico - Robin Van Natta, County Clerk



My Commission Expires

8-21-17

JONATHAN SAMANIEGO
WILL PICK UP



Eddy County, New Mexico

2110893

Page 1 of 1

09/07/2021 03:35 PM

DEED

I, Jonathan Samaniego, as ("GRANTOR"), for Consideration Paid, Grants to BlackGold Developers, LLC, as ("GRANTEE") address: P.O. BOX 425 Loving, N.M. 88256, All that Right, the Rights, Title and Interests in that certain real property situated in the County of Eddy, State of New Mexico and described as follows:

W1/2 W1/2 of Section 27, Township 22 South, Range 28 East, N.M.P.M., the following deed dating August, 25 1976.

Witness my hand and seal this 7th day of September, 2021.

Jonathan Samaniego
JONATHAN SAMANIEGO

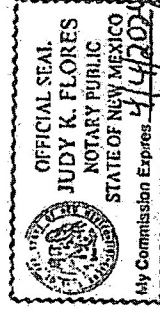
STATE OF NEW MEXICO)
) ss:
COUNTY OF EDDY)

This instrument was acknowledged before me on 17th day of September, 2021.
By Jonathan Samaniego.

4/4/2024

My Commission Expires

Notary Public



Reception: 2110893 Book: 1152 Page: 0418 Pages: 1
Recorded: 09/07/2021 03:35 PM Fee: \$25.00
Eddy County, New Mexico - Darlene Rosprich, County Clerk

JONATHAN SAMANIEGO
WILL PICK UP



MINERAL DEED

KNOW ALL MEN BY THESE PRESENTS:

THAT **BLACKGOLD DEVELOPERS LLC.**, WHOSE ADDRESS IS P.O. BOX 114 HAGERMAN, N.M. 88232, HEREINAFTER CALLED GRANTOR, FOR AND IN CONSIDERATION OF THE SUM OF TEN AND MORE DOLLARS (\$10.00) CASH IN HAND PAID AND OTHER GOOD AND VALUABLE CONSIDERATIONS, THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, DOES HEREBY GRANT, BARGAIN, SELL, CONVEY, TRANSFER, ASSIGN AND DELIVER UNTO **AMERICAN ENERGY RESOURCES LLC.**, OF 3103 NATIONAL PARKS HWY, CARLSBAD, N.M. 88220, HEREINAFTER CALLED GRANTEE, ALL OF GRANTOR'S RIGHT, TITLE AND INTEREST IN AND TO ALL DEPTHS, OF ONLY THE OIL, GAS, IN AND UNDER AND THAT MAY BE PRODUCED FROM THE FOLLOWING DESCRIBED OIL AND GAS MINERALS SITUATED IN EDDY COUNTY, STATE OF NEW MEXICO, TO-WIT:

W1/2 W1/2 OF SECTION 27, TOWNSHIP 22 SOUTH, RANGE 28 EAST, N.M.P.M., THE FOLLOWING MINERAL DEED DATED AUGUST 25, 1976.
TOWNSHIP 22 SOUTH, RANGE 28 EAST

SECTION 27: ALL

CONTAINING 160 ACRES, MORE OR LESS, TOGETHER WITH THE PURPOSE OF EXPLORING, OPERATING AND DEVELOPING SAID MINERALS OF ONLY THE OIL AND GAS IN AND UNDER TO ALL DEPTHS.

THIS SALE OF MINERALS OF ONLY THE OIL AND GAS GIVES NO ENTITLMENT TO SURFACE USE.

THIS CONVEYANCE IS MADE SUBJECT TO THE TERMS OF ANY VALID AND SUBSISTING OIL, GAS, AND OTHER MINERAL LEASE OR LEASES ON SAID LAND, AND GRANTOR HAS GRANTED, TRANSFERRED, ASSIGNED, AND CONVEYED, AND BY THESE PRESENTS DOES GRANT, TRANSFER, ASSIGN AND CONVEY UNTO GRANTEE, THEIR HEIRS, SUCCESSORS AND ASSIGNS, THE ABOVE STATED INTEREST OF GRANTOR'S INTEREST IN AND TO THE RIGHTS, RENTALS, ROYALTIES AND OTHER BENEFITS ACCRUING TO SUCH OIL, GAS, AND OTHER MINERALS LEASE OR LEASES FROM AND AFTER THE EFFECTIVE DATE HEREOF.

GRANTOR AGREES TO EXECUTE SUCH FURTHER ASSURANCES AS MAY BE REQUISITE FOR THE FULL AND COMPLETE ENJOYMENT OF THE RIGHTS HERREIN GRANTED.

TO HAVE AND TO HOLD SAID OIL AND GAS ONLY, TOGETHER WITH ALL AND SINGULAR THE RIGHTS AND APPURTENANCES THERETO AND IN ANYWISE BELONGING UNTO GRANTEE, ITS HEIRS, SUCCESSORS AND ASSIGNS FOREVER.

EXECUTED AS OF THE DATE OF THE ACKNOWLEDGED BELOW, BUT EFFECTIVE FOR ALL PURPOSES AS OF THE 14 DAY OF February, 2023.

JOHN SAMANIGO
SAME DAY PICKUP



Reception: 2301896 Book: 1166 Page: 0524 Pages: 2
Recorded: 02/23/2023 11:38 AM Fee: \$25.00 *CLC*
Eddy County, New Mexico — *Carm Cooke*, County Clerk

AC



Eddy County, New Mexico

02/23/2023 11:38 AM

2301896

Page 2 of 2

WITNESS MY HAND AND SEAL THIS 14 DAY OF FEBRUARY, 2023.


JONATHAN SAMANIEGO
AUTHORIZED REPRESENTATIVE OF
BLACKGOLD DEVELOPERS LLC

ACKNOWLEDGEMENT

STATE OF NEW MEXICO)
) ss:
COUNTY OF Eddy)

CHERYL A. BARTLETT
NOTARY PUBLIC
STATE OF NEW MEXICO
COMMISSION # 1078290
COMMISSION EXPIRES: 07-01-2024

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON 14 DAY OF FEBRUARY, 2023. BY
JONATHAN SAMANIEGO AUTHORIZED REPRESENTATIVE OF BLACKGOLD DEVELOPERS
LLC.

07-01-2024 Cheryl A Bartlett
My Commission Expires Notary Public