

Corrections to this opinion/decision not affecting the outcome, at the Court's discretion, can occur up to the time of publication with NM Compilation Commission. The Court will ensure that the electronic version of this opinion/decision is updated accordingly in Odyssey.

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

2 **CATHY GUNTER (TRUSTEE), et al.,**

Court of Appeals of New Mexico
Filed 3/5/2024 10:59 AM

3 Plaintiff/Counterdefendant-Appellant/
4 Cross-Appellee,



Cynthia A. Hernandez-Madrid
Acting Chief Clerk

5 v.

No. A-1-CA-41296

6 **KIM AUDETTE,**

7 Defendant/Counterplaintiff-Appellee/
8 Cross-Appellant,

9 **IN THE MATTER OF THE ESTATE OF**
10 **ROBERT V. AUDETTE, Deceased.**

11 **APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**
12 **Daniel E. Ramczyk, District Court Judge**

13 Cathy Gunter
14 Tijeras, NM

15 Pro Se Appellant/Cross-Appellee

16 Kim Audette
17 Truth or Consequences, NM

18 Pro Se Appellee/Cross-Appellant

19 **MEMORANDUM OPINION**

20 **HANISEE, Judge.**

21 {1} Appellant/Cross-Appellee, Cathy Gunter (Appellant), and Appellee/Cross-
22 Appellant, Kim Audette (Cross-Appellant), appealed from the district court's order
23 dismissing the case with prejudice. We issued a notice of proposed summary

1 disposition proposing to affirm in both the appeal and the cross-appeal. Appellant
2 has timely filed a memorandum in opposition, which we have duly considered. We
3 remain unpersuaded that our initial proposed disposition was incorrect. Cross-
4 Appellant has not filed a memorandum in opposition, and the time for doing so has
5 expired. Accordingly, the issues raised in the cross-appeal are deemed abandoned.
6 *See Taylor v. Van Winkle's IGA Farmer's Mkt.*, 1996-NMCA-111, ¶ 5, 122 N.M.
7 486, 927 P.2d 41 (recognizing that issues raised in a docketing statement, but not
8 contested in a memorandum in opposition are abandoned).


9 {2} Additionally, Cross-Appellant filed a motion with this Court on January 19,
10 2024, asking that we impose sanctions against Appellant. This motion is **DENIED**.
11 We invite Cross-Appellant to review Rule 12-208(I) NMRA (stating that no
12 response to the docketing statement is allowed).

13 {3} Appellant's memorandum in opposition raises issues related to the litigation
14 that occurred before this case was dismissed with prejudice on November 10, 2022.
15 Neither party appealed from the district court's order dismissing the case with
16 prejudice, and the district court reopened this matter on February 24, 2023, for the
17 limited purpose of considering Appellant's motion seeking enforcement of the
18 parties' settlement agreement. [RP 2335] *See Hall v. Hall*, 1992-NMCA-097, ¶ 38,
19 114 N.M. 378, 838 P.2d 995 (stating that as a general rule, a court has jurisdiction
20 after the judgment to enforce that judgment). As explained in our notice of proposed

1 summary disposition, however, issues related to the litigation occurring before the
2 parties entered into the settlement agreement and before the district court entered its
3 order dismissing the case were not before the district court on the limited reopening
4 of the case, and we do not consider them on appeal now. *See generally Alba v.*
5 *Hayden*, 2010-NMCA-037, ¶ 7, 148 N.M. 465, 237 P.3d 767 (“The doctrine of law
6 of the case . . . relates to litigation of the same issue recurring within the same suit.
7 Under the law of the case doctrine, a decision on an issue of law made at one stage
8 of a case becomes a binding precedent in successive stages of the same litigation.”
9 (internal quotation marks and citations omitted)); *Turner v. First N.M. Bank*, 2015-
10 NMCA-068, ¶ 6, 352 P.3d 661 (“Claim preclusion bars relitigation of the same claim
11 between the same parties or their privies when the first litigation resulted in a final
12 judgment on the merits.” (internal quotation marks and citations omitted)).

13 {4} For these reasons, and those set out in our notice of proposed summary
14 disposition, we affirm the district court.

15 {5} **IT IS SO ORDERED.**

16 
17 **J. MILES HANISEE, Judge**

18 **WE CONCUR:**

19 
20 **JACQUELINE R. MEDINA, Judge**

21 
22 **ZACHARY A. IVES, Judge**