

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

2 **SYLVIA ADELE RIFFLE and**
3 **ANTHONY LOUIS BONAGUIDI,**

Court of Appeals of New Mexico
Filed 4/29/2024 11:33 AM



Ramon J. Maestas
Chief Clerk

4 Plantiffs-Appellants,

5 v.

No. A-1-CA-41509

6 **DOMNICK CODY RIFFLE a/k/a**
7 **DOMINICK CODY RIFFLE;**
8 **JAMES J. MASON; MASON &**
9 **ISAACSON, P.A.; BRITTANY LUJAN;**
10 **and UNKNOWN PERSONS 1**
11 **THROUGH 100,**

12 Defendants-Appellees.

13 **APPEAL FROM THE DISTRICT COURT OF MCKINLEY COUNTY**
14 **Sarah V. Weaver, District Court Judge**

15 Law Offices of William G. Stripp
16 William G. Stripp
17 Ramah, NM

18 for Appellants

19 Moses, Farmer, Glenn, Gutierrez & Werntz, P.C.
20 Joseph L. Werntz
21 Albuquerque, NM

22 for Appellee Dominick Cody Rifle

1 **MEMORANDUM OPINION**

2 **BOGARDUS, Judge.**

3 {1} Plaintiffs appeal the district court’s order granting Defendant’s motion for
4 judgment on the pleadings. In this Court’s notice of proposed disposition, we
5 proposed to summarily affirm. Plaintiffs filed a memorandum in opposition, which
6 we have duly considered. Remaining unpersuaded, we affirm.

7 {2} In the memorandum in opposition, Plaintiffs maintain that the district court
8 erred in concluding that the challenge to the revocable trust should be determined in
9 the parallel probate proceeding, rather than via the separate civil action in the instant
10 case. [MIO 2] Plaintiff has failed, however, to assert any new facts, law, or argument
11 that persuade this Court that our notice of proposed disposition was erroneous. *See*
12 *Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 (“Our
13 courts have repeatedly held that, in summary calendar cases, the burden is on the
14 party opposing the proposed disposition to clearly point out errors in fact or law.”);
15 *State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003 (stating
16 that a party responding to a summary calendar notice must come forward and
17 specifically point out errors of law and fact, and the repetition of earlier arguments
18 does not fulfill this requirement), *superseded by statute on other grounds as stated*
19 *in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374. Plaintiff’s continued
20 references to the general statutory scheme pertaining to revocable trusts do not

1 convince us that *Wilson v. Fritschy*, 2002-NMCA-105, ¶ 27, 132 N.M. 785, 55 P.3d
2 997, is inapplicable to the instant case. *See Corona v. Corona*, 2014-NMCA-071,
3 ¶ 26, 329 P.3d 701 (“The appellate court presumes that the district court is correct,
4 and the burden is on the appellant to clearly demonstrate that the district court
5 erred.”).

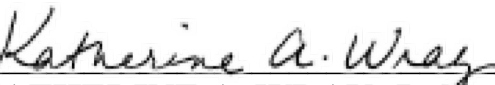
6 {3} Accordingly, for the reasons stated in our notice of proposed disposition and
7 herein, we affirm.

8 {4} **IT IS SO ORDERED.**

9
10 
KRISTINA BOGARDUS, Judge

11 **WE CONCUR:**

12 
13 **GERALD E. BACA, Judge**

14 
15 **KATHERINE A. WRAY, Judge**