

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

Court of Appeals of New Mexico  
Filed 10/21/2024 10:59 AM

2 **DAVID DERRINGER,**

3 Plaintiff-Appellant,



Ramon J. Maestas  
Chief Clerk

4 v.

**No. A-1-CA-41825**

5 **BENJAMIN BENAVIDEZ, JR.,**  
6 **JUSTIN GRAY, MANUEL MONTE,**  
7 **and GEORGE MENDOZA,**

8 Defendants-Appellees.

9 **APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**

10 **Beatrice J. Brickhouse, District Court Judge**

11 David Derringer  
12 Albuquerque, NM

13 Pro Se Appellant

14 The D'Amato Law Firm, P.C.  
15 John J. D'Amato, Jr.  
16 Albuquerque, NM

17 for Appellee Benavidez, Jr.

18 **MEMORANDUM OPINION**

19 **ATTREP, Chief Judge.**

20 {1} Plaintiff appeals from the district court's order dismissing his complaint. [RP  
21 68] We entered a notice of proposed disposition, proposing to affirm. Plaintiff filed  
22 a memorandum in opposition to that notice, which we have duly considered.  
23 Unpersuaded, we affirm.

1 {2} In his memorandum, Plaintiff does not address any of our proposed  
2 conclusions and does not respond in any way to the rationale proposed for  
3 affirmance. *See State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759  
4 P.2d 1003 (stating that “[a] party responding to a summary calendar notice must  
5 come forward and specifically point out errors of law and fact,” and the repetition of  
6 earlier arguments does not fulfill this requirement), *superseded by statute on other*  
7 *grounds as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374.  
8 Consequently, we are unpersuaded that the calendar notice was in error. To the  
9 extent Plaintiff is attempting to move for sanctions in his memorandum in opposition  
10 [MIO 24-30], such a request was not made to the district court and thus is not  
11 properly before this Court. *See Campos Enters. v. Edwin K. Williams & Co.*, 1998-  
12 NMCA-131, ¶ 12, 125 N.M. 691, 964 P.2d 855.


13 {3} Additionally, Plaintiff’s memorandum in opposition is replete with baseless  
14 and vituperative accusations about this Court and the New Mexico judiciary in  
15 general. Such accusations will not be considered by this Court. Including these types  
16 of accusations in future pleadings may result in this Court not considering or  
17 rejecting Plaintiff’s pleadings altogether.

18 {4} For the reasons stated in our notice of proposed disposition, we affirm.

19 {5} **IT IS SO ORDERED.**

20   
21 **JENNIFER L. ATTREP, Chief Judge**

1 **WE CONCUR:**

2   
3 **JANE B. YCHALEM, Judge**

4   
5 **GERALD E. BACA, Judge**