

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

Court of Appeals of New Mexico
Filed 3/27/2025 9:12 AM

2 **MARC GRANO, as Personal Representative**
3 **of the Estate of ISIDRO ERNIE LUCERO,**



Stephanie Latimer Davis
Acting Chief Clerk

4 Plaintiff-Appellant,

5 v.

No. A-1-CA-41221

6 **BOARD OF REGENTS OF THE UNIVERSITY**
7 **OF NEW MEXICO; UNITED HEALTHCARE**
8 **SERVICES, INC.; UNITED HEALTHCARE OF**
9 **NEW MEXICO, INC.; OPTUM CARE, INC.;**
10 **OPTUMHEALTH CARE SOLUTIONS, LLC;**
11 **OPTUM MEDICAL SERVICES, P.C.; OPTUM**
12 **CLINICAL SERVICES, INC.; OPTUMCARE**
13 **HOLDINGS NEW MEXICO, LLC; OPTUMCARE**
14 **NEW MEXICO, LLC; and LAURA BELLEW, CNP,**

15 Defendants-Appellees.

16 **APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**
17 **Elaine P. Lujan, District Court Judge**

18 Law Office of James H. Wood, PC
19 Zacary E. Wilson-Fetrow
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23 for Appellant

24 Riley Keller Alderete Gonzales
25 Spirit A. Gaines
26 Albuquerque, NM

27 for Appellee Board of Regents of the University of New Mexico

1 Lewis Roca Rothgerber Christie LLP
2 Robert M. Kort
3 Phoenix, AZ

4 for Appellees United Healthcare Services, Inc., United Healthcare of New Mexico,
5 Inc., Optum Care, Inc., Optumhealth Care Solutions, LLC, Optum Medical Services,
6 P.C., Optum Clinical Services, Inc., and OptumCare Holdings New Mexico, LLC

7 Miller Stratvert P.A.
8 Thomas R. Mack
9 Kelsey D. Green
10 Max A. Jones
11 Laureana A. Larkin
12 Albuquerque, NM

13 for Appellee OptumCare New Mexico, LLC

14 Hinkle Shanor LLP
15 Kathleen Wilson
16 Hari-Amrit Khalsa
17 Albuquerque, NM

18 for Appellee Laura Bellew, CNP

19 **MEMORANDUM OPINION**

20 **IVES, Judge.**

21 {1} Plaintiff Marc Grano, as personal representative of the wrongful death estate
22 of Decedent Isidro Lucero, initially filed an action against the Board of Regents of
23 the University of New Mexico (Regents), United Healthcare Services, Inc., United
24 Healthcare of New Mexico, Inc., Optum Care, Inc., Optum Healthcare Solutions,
25 LLC, Optum Medical Services, P.C., Optum Clinical Services, Inc., OptumCare
26 Holdings New Mexico, LLC, OptumCare, New Mexico, LLC, and Laura Bellew,

1 CNP, (collectively, Defendants) in the First Judicial District Court in March 2021.
2 The case was dismissed for improper venue in October 2021 by a stipulated order
3 that included a twenty-one-day refiling deadline. Plaintiff did not file within the
4 twenty-one days; he refiled in the Second Judicial District Court seven months after
5 the stipulated deadline. The district court dismissed the claims in the second action
6 as time-barred. Plaintiff appeals, arguing that the second dismissal was improper and
7 the action was timely filed because (1) the relevant statutes of limitation were tolled
8 during the pendency of the claims in the First Judicial District Court, (2) the
9 dismissal for improper venue did not have a preclusive effect, and (3) the discovery
10 rule applies to the claims brought under the Tort Claims Act, NMSA 1978, §§ 41-4-
11 1 to -30 (1976, as amended through 2020). However, Plaintiff fails to cite any
12 authority or develop any argument to establish that the stipulated deadline should
13 not have been enforced. Because Plaintiff has failed to rebut the presumption that
14 the district court’s ruling is correct, we affirm. *See Corona v. Corona*, 2014-NMCA-
15 071, ¶ 26, 329 P.3d 701 (“The appellate court presumes that the district court is
16 correct, and the burden is on the appellant to clearly demonstrate that the district
17 court erred.”).

18 **BACKGROUND**

19 {2} Plaintiff filed a complaint against Defendants in the First Judicial District
20 Court in March 2021, alleging negligence, wrongful death, and medical malpractice,

1 among other claims. Regents filed a motion to dismiss for improper venue, arguing
2 that, by statute, it had to be sued in Bernalillo County. With no response from
3 Plaintiff after several months, Regents asked the First Judicial District Court to rule
4 on its motion to dismiss for improper venue. In October 2021, Plaintiff stipulated to
5 an order which dismissed the action with prejudice for improper venue, but allowed
6 twenty-one days to refile in the proper venue—the Second Judicial District. Plaintiff
7 failed to refile within the twenty-one-day period, and instead refiled in the proper
8 venue in May 2022, approximately seven months after the stipulated order was
9 entered.

10 {3} Defendants filed motions to dismiss, arguing that Plaintiff’s complaint was
11 untimely, considering the twenty-one-day refiling period had lapsed, and that in any
12 event, the statutes of limitation had run on Plaintiff’s claims under the respective
13 statutes for each claim. At the hearing on Defendants’ motions to dismiss, Plaintiff’s
14 counsel conceded that he had stipulated to the order and that he had erred by doing
15 so.

16 {4} The district court dismissed the claims against all Defendants for Plaintiff’s
17 failure to timely file the complaint in the Second Judicial District Court. In its order
18 dismissing Plaintiff’s claims, the district court found that:

- 19 1. Plaintiff originally filed a lawsuit in the First Judicial District
20 Court on March 4, 2021. However, the First Judicial District
21 Court dismissed the case with prejudice because of improper
22 venue. The parties stipulated and the First Judicial District Court

1 ordered that should Plaintiff wish to refile it needed to be done
2 within twenty-one (21) days of the Court’s Order, which was
3 filed on October 5, 2021.
4

- 5 2. The stipulation and dismissal of the first case in the First Judicial
6 District did not give Plaintiff unbridled discretion to elect when
7 to file in the correct venue.

8 **DISCUSSION**

9 {5} The various Optum and United Healthcare Defendants argue that the twenty-
10 one-day timeline in the stipulated order entered into by the parties was enforceable
11 and that Plaintiff cites no authority to suggest that the stipulated order was
12 unenforceable. We agree.

13 {6} Parties have the right to enter into stipulations, including those that “reduce
14 their respective rights and priorities.” *Freedman v. Perea*, 1973-NMSC-124, ¶ 4,
15 85 N.M. 745, 517 P.2d 67 (text only) (citation omitted). Those stipulations “ha[ve]
16 all the binding effect of findings of fact and conclusions of law made by the court
17 upon evidence.” *Id.* (text only) (citation omitted); *see Lea Cnty. Good Samaritan*
18 *Vill. v. Wojcik*, 1988-NMCA-102, ¶ 22, 108 N.M. 76, 766 P.2d 920 (“[S]tipulations
19 accepted by the court are considered conclusive and binding as to the matters
20 embraced therein.”). New Mexico courts “look with favor upon stipulations
21 designed to simplify, shorten, or settle litigation and save time and costs to the
22 parties, and such stipulations will be encouraged by the courts, and enforced by
23 them, unless good cause is shown to the contrary.” *S. Union Gas Co. v. Cantrell*,

1 1953-NMSC-092, ¶ 6, 57 N.M. 612, 261 P.2d 645. Plaintiff has failed to show that
2 there was good cause for the Second Judicial District Court to disregard the order he
3 stipulated to.

4 {7} As a general rule, stipulations will be enforced as long as the “stipulations are
5 not unreasonable, [or] against good morals or sound public policy.” *Id.* (text only)
6 (citation omitted). Here, although Plaintiff makes the conclusory assertion that the
7 order he stipulated to “impermissibly restricts [his] causes of action,” he does not
8 develop an argument that the stipulated order is unreasonable or that it goes against
9 good morals or public policy, and we will not develop an argument for Plaintiff. *See*
10 *Elane Photography, LLC v. Willock*, 2013-NMSC-040, ¶ 70, 309 P.3d 53 (“We will
11 not . . . guess at what a party’s arguments might be.”) (text only) (citation omitted).
12 Plaintiff also does not cite to any authority which suggests that the twenty-one-day
13 refiling deadline in the stipulated order was against public policy or good morals, or
14 that the time limitation was unreasonable. *See In re Adoption of Doe*, 1984-NMSC-
15 024, ¶ 2, 100 N.M. 764, 676 P.2d 1329 (explaining that where arguments are not
16 supported by cited authority, we presume counsel was unable to find supporting
17 authority and will not research authority for counsel).

18 {8} Because Plaintiff has failed to meet his burden to show that the district court
19 erred, *see Corona*, 2014-NMCA-071, ¶ 26, we affirm.

1 **CONCLUSION**

2 {9} We affirm.

3 {10} **IT IS SO ORDERED.**

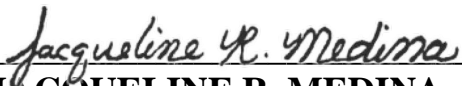


ZACHARY A. IVES, Judge

6 **WE CONCUR:**



8 **J. MILES HANISEE, Judge**



10 **JACQUELINE R. MEDINA, Judge**