

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

2 **ANNAMARIA IRIZARI,**

3 Plaintiff-Appellant,

4 v.

5 **TRUE VINE PROPERTY SOLUTIONS, LLC,**

6 Defendant-Appellee.

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

8 **Marie C. Ward, District Court Judge**

9 Annamaria Irizari

10 Albuquerque, NM

11 Pro Se Appellant

12 Calvert Law Firm, P.C.

13 Sean R. Calvert

14 Albuquerque, NM

15 for Appellee

16 **MEMORANDUM OPINION**

17 **WRAY, Judge.**

18 {1} Plaintiff appeals from the district court's order denying her motion to reopen
19 her case and file amendments to the judgment. We issued a calendar notice
20 proposing to affirm. Plaintiff has filed a memorandum in opposition, which we have
21 duly considered. Unpersuaded, we affirm.

Court of Appeals of New Mexico

Filed 3/3/2026 8:45 AM



Mark Reynolds

No. A-1-CA-42976

1 {2} Initially, we note that Plaintiff attached exhibits to her memorandum in
2 opposition in support of her arguments rather than providing citations to the record
3 proper. An appellate court reviews only matters that were presented to the trial court.
4 *See Campos Enters. v. Edwin K. Williams & Co.*, 1998-NMCA-131, ¶ 12, 125 N.M.
5 691, 964 P.2d 855; *see id.* (“This Court reviews the case litigated below, not the case
6 that is fleshed out for the first time on appeal.” (alteration, internal quotation marks,
7 and citation omitted)). “Matters outside the record present no issue for review.”
8 *Kepler v. Slade*, 1995-NMSC-035, ¶ 13, 119 N.M. 802, 896 P.2d 482 (internal
9 quotation marks and citation omitted). To the extent that Plaintiff’s exhibits are
10 contained in the record proper, we note that they were considered in our review.

11 {3} In her memorandum in opposition, Plaintiff continues to argue that the district
12 court erred by denying her motion to reopen the case, pursuant to Rule 1-060
13 NMRA, because there was newly discovered evidence of fraud and financial
14 exploitation. [MIO 4-5] Specifically, Plaintiff contends that the loan agreement she
15 entered into with Defendant was executed “by a single signatory in direct violation
16 of the entity’s [o]perating [a]greement requiring two authorized members for
17 binding obligations.” [MIO 4] Plaintiff argues that without the required
18 authorization, “liability extends to personal finances and assets, the unauthorized
19 signatory and associated officers, partners, and beneficiaries.” [MIO 4] Plaintiff
20 further argues that the record proper establishes “improper use, concealment, and

1 denial of access to [her] sole retirement funds for Defendant[’s] personal gain over
2 four years of nonpayment and obstruction.” [MIO 4] Because of this newly
3 discovered evidence, Plaintiff argues that “the [district] court’s failure to consider
4 mandatory restitution with extended liabilities and lawful remedy principles in light
5 of post-judgment financial discoveries evidencing substantial personal gains
6 constitutes legal errors, imposes abuse of discretion, resulting in manifest injustice.”

7 [MIO 4]

8 {4} In our calendar notice, we proposed to affirm on three different bases. First,
9 Plaintiff did not demonstrate how her claims of fraud, concealment, and other
10 misconduct prevented her from fully and fairly presenting her original case. [CN 7]
11 Second, Plaintiff did not explain why her evidence regarding Defendant’s
12 involvement in other legal cases could not have been discovered before the
13 complaint was filed or before the final judgment was entered. [CN 7] Third,
14 Plaintiff’s complaint and her motion for summary judgment both sought the \$40,000
15 plus interest that she was owed pursuant to the loan agreement, and Plaintiff did not
16 explain why the additional costs she sought, amounting to almost an additional
17 \$350,000, could not be included in either filing when those costs were purportedly
18 based on terms in the same loan agreement. [CN 7-8]

19 {5} In her memorandum in opposition, Plaintiff has not provided this Court with
20 any other facts or authority to demonstrate why the newly discovered evidence

1 prejudiced her case, could not have been discovered before entry of the final
2 judgment, or why the large amount sought could not have been included in either
3 her complaint or motion for summary judgment. A party responding to a summary
4 calendar notice must come forward and specifically point out errors of law and fact,
5 and the repetition of earlier arguments does not fulfill this requirement. *See State v.*
6 *Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003, *superseded by*
7 *statute on other grounds as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d
8 374; *see also Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d
9 683 (“Our courts have repeatedly held that, in summary calendar cases, the burden
10 is on the party opposing the proposed disposition to clearly point out errors in fact
11 or law.”). Accordingly, we conclude that Plaintiff has not met her burden in
12 demonstrating that the district court erred when it denied her motion to reopen her
13 case because of newly discovered evidence.

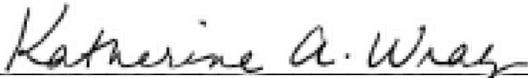
14 {6} Finally, Plaintiff raises a new issue that was not presented in the docketing
15 statement, which we construe as a motion to amend the docketing statement. This
16 Court will grant such a motion to include additional issues if the motion (1) is timely,
17 (2) states all facts material to a consideration of the new issues sought to be raised,
18 (3) explains how the issues were properly preserved or why they may be raised for
19 the first time on appeal, (4) demonstrates good cause by explaining why the issues
20 were not originally raised in the docketing statement, and (5) complies in other

1 respects with the appellate rules. *See State v. Rael*, 1983-NMCA-081, ¶¶ 7-8, 10-11,
2 14-17, 100 N.M. 193, 668 P.2d 309.

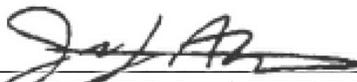
3 {7} Plaintiff asserts that the “truncated [thirty]-minute hearing failed to address
4 motions . . . and is therefore incomplete and unresolved.” [MIO 5] Plaintiff further
5 argues that “[t]he thirty-minutes time limit of the hearing prevented meaningful
6 consideration of complex, statutory and financial issues, resulting in incomplete and
7 unresolved ruling on Rule 1-059 [NMRA] exclusively is biased and prejudicial that
8 failed to address the merits of Rule 1-060.” [MIO 5] Plaintiff, however, has not
9 demonstrated that she raised this issue before the district court or explained how any
10 time limitation prevented her from explaining why she was entitled to relief under
11 Rule 1-060. *See* Rule 12-321 NMRA (addressing preservation); *Gerke v. Romero*,
12 2010-NMCA-060, ¶ 18, 148 N.M. 367, 237 P.3d 111 (explaining that the
13 preservation rule permits the district court to correct errors, allows the opposing
14 party an opportunity to respond, and creates a record for the appellate court to
15 review). Accordingly, we deem this issue nonviable and deny Plaintiff’s motion to
16 amend. *See State v. Moore*, 1989-NMCA-073, ¶¶ 36-51, 109 N.M. 119, 782 P.2d 91
17 (stating that this Court will deny motions to amend that raise issues that are not
18 viable), *superseded by rule on other grounds as recognized in State v. Salgado*,
19 1991-NMCA-044, 112 N.M. 537, 817 P.2d 730.

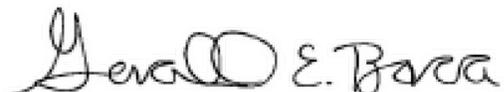
1 {8} For the reasons stated in our notice of proposed disposition and herein, we
2 affirm.

3 {9} **IT IS SO ORDERED.**

4 
5 **KATHERINE A. WRAY, Judge**

6 **WE CONCUR:**

7 
8 **JENNIFER L. ATTREP, Judge**

9 
10 **GERALD E. BACA, Judge**