

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

2 **ROBERTO RODRIGUEZ,**

3 Petitioner-Appellant,

4 v.

**No. A-1-CA-42111**

5 **STATE BAR OF NEW MEXICO**

6 **CLIENT PROTECTION FUND**

7 **2023 COMMISSION,**

8 Respondent-Appellee.

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

10 **George P. Eichwald, District Court Judge**

11 Roberto Rodriguez

12 Chaparral, NM

13 Pro Se Appellant

14 Raúl Torrez, Attorney General

15 Santa Fe, NM

16 for Appellee

17 **MEMORANDUM OPINION**

18 **WRAY, Judge.**

19 {1} Petitioner appeals from the district court's order denying review of final  
20 decision of the State Bar of New Mexico Client Protection Fund Commission's  
21 (CPFC) denial of Petitioner's claim for reimbursement. This Court issued a calendar  
22 notice proposing to affirm. Petitioner filed a memorandum in opposition, which we  
23 have duly considered. Unpersuaded, we affirm.

Court of Appeals of New Mexico

Filed 3/3/2026 7:57 AM



Mark Reynolds

1 {2} Petitioner maintains that the district court mistakenly determined that it could  
2 not review CPFC’s denial under NMSA 1978, Section 39-3-1.1 (1999) because  
3 CPFC is not an agency as defined in Section 39-3-1.1(H)(1). [MIO 1-15] This Court  
4 proposed to conclude that the district court correctly denied Petitioner’s request for  
5 two reasons. First, Rule 17A-013 NMRA states that a petitioner has no further right  
6 to appeal after requesting reconsideration and that request is denied. [CN 2-3]  
7 Second, Section 39-3-1.1(A) states that the “provisions of this section shall apply  
8 *only* to judicial review of agency decisions that are placed under the authority of this  
9 section by specific statutory reference.” (Emphasis added.) [CN 3] Our review  
10 showed that Rule 17A does not contain the requisite “specific statutory reference”  
11 and CPFC is created by Supreme Court rule. [CN 3] *Cf. City of Rio Rancho v.*  
12 *Mazzei*, 2010-NMCA-054, ¶ 5, 148 N.M. 553, 239 P.3d 149 (“When the language  
13 in a statute is clear and unambiguous, we give effect to that language and refrain from  
14 further statutory interpretation.” (internal quotation marks and citation omitted)).

15 {3} Petitioner now argues that Section 39-3-1.1(H)(2) allowed for review because  
16 the CPFC’s denial was a final decision as required by statute. [MIO 5-6; 9-10] *See*  
17 *id.* (defining “final decision” for purposes of review). But regardless of the finality  
18 of CPFC’s decision, Section 39-3-1.1(A) requires the final decision be made by an  
19 “agency” that is “placed under the authority of this section by specific statutory  
20 reference.” *Cf. Baker v. Hedstrom*, 2013-NMSC-043, ¶ 24, 309 P.3d 1047 (“This

1 Court must interpret a statute so as to avoid rendering the Legislature’s language  
2 superfluous.”). As we discussed in our notice of proposed disposition, Rule 17A-  
3 013 itself does not allow for further review of the CFPC’s decision, and Rule 17A  
4 in total does not contain a “specific statutory reference” to Section 39-3-1.1 such  
5 that a district court may review the decision.

6 {4} Petitioner additionally argues that his relationship with his previous attorney  
7 qualifies as an “agency” relationship, and therefore review is appropriate. [MIO 6-  
8 8] We disagree. Section 39-3-1.1 does not allow review because the attorney-client  
9 relationship meets the legal definition of “agency” for representation purposes.  
10 Instead, Section 39-3-1.1(H)(1) only allows for review of “agency” decisions—  
11 defining “agency” as “any state or local public body or officer placed under the  
12 authority of this section by specific statutory reference.”

13 {5} Finally, Petitioner argues that Section 39-3-1.1(H)(2) contains a specific  
14 statutory reference and references rule making, and therefore review was  
15 appropriate. [MIO 8-9] It is not, however, Section 39-3-1.1’s own internal statutory  
16 reference that is required. Rather, the statute or rule that provides the basis of a  
17 petitioner’s claim must contain the specific statutory reference to Section 39-3-1.1  
18 or other statement allowing district court review. *See, e.g.*, NMSA 1978, § 7-1B-  
19 9(D) (“If the protestant or the secretary of taxation and revenue is dissatisfied with  
20 the decision and order of the hearing officer, the party may appeal pursuant to the

1 provisions of Section 39-3-1.1.”). Here, as previously discussed, Rule 17A does not  
2 contain a similar provision, and Rule 17A-013 explicitly disclaims a further right to  
3 appeal.

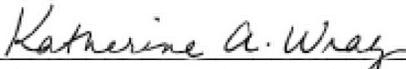
4 {6} Petitioner suggests that (1) a conflict exists between Rule 17A-013, which  
5 does not permit further appeal, and Section 39-3-1.1, which allows for appeals of  
6 agency decisions; and (2) that Section 39-3-1.1(H)(1) and (2) conflict with each  
7 other. [MIO 11-12] As we have explained, there is no conflict, because the statute  
8 applies only to certain proceedings. To have an appeal under Section 30-3-1.1, the  
9 decision must be (1) made by an agency, *see* § 39-3-1.1(A); (2) a statute or rule must  
10 make a “specific statutory reference” to Section 39-3-1.1; (3) the agency must meet  
11 the definition of “agency” that is set forth in Section 39-3-1.1(H)(1); and (4) the  
12 agency decision must be final decision. *See* § 39-3-1.1(A).

13 {7} Petitioner also attached exhibits to his memorandum in opposition that he  
14 argues supports his claim for reimbursement. [MIO 10-12; MIO PDF 16-22] To the  
15 extent Petitioner’s exhibits present new information, our review is limited to only  
16 the information and arguments presented to the district court at the time. *See King v.*  
17 *Allstate Ins. Co.*, 2004-NMCA-031, ¶ 20, 135 N.M. 206, 86 P.3d 631 (noting that  
18 we do not consider “documents that were not part of the record below”). To the  
19 extent that the attachments are directed to our analysis now on appeal, we remain  
20 unpersuaded.

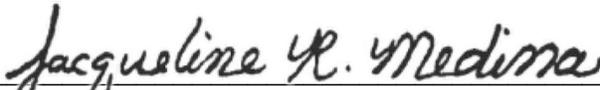
1 {8} Petitioner does not otherwise direct this Court to any new fact, law, or  
2 argument that persuades us that our notice of proposed disposition was incorrect.  
3 *See Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 (“Our  
4 courts have repeatedly held that, in summary calendar cases, the burden is on the  
5 party opposing the proposed disposition to clearly point out errors in fact or law.”);  
6 *State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003 (stating  
7 that a party responding to a summary calendar notice must come forward and  
8 specifically point out errors of law and fact, and the repetition of earlier arguments  
9 does not fulfill this requirement), *superseded by statute on other grounds as stated*  
10 *in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374. We therefore refer Petitioner  
11 to our previous analysis in our proposed summary disposition.

12 {9} For the reasons stated in our notice of proposed disposition and herein, we  
13 affirm.

14 {9} **IT IS SO ORDERED.**

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

17 **WE CONCUR:**

18   
19 **JACQUELINE R. MEDINA, Chief Judge**

20   
21 **ZACHARY A. IVES, Judge**