

**Arlen FRICK, Plaintiff-Appellant,
vs.
George R. VEAZEY, Helen Aragon, et al., Defendants-Appellees**

No. 14,822

COURT OF APPEALS OF NEW MEXICO

1993-NMCA-119, 116 N.M. 246, 861 P.2d 287

September 09, 1993, Decided

APPEAL FROM THE DISTRICT COURT OF VALENCIA COUNTY, WILLIAM A. SANCHEZ, District Judge

Certiorari not Applied for

COUNSEL

James M. Curry, IV, Albuquerque, for plaintiff-appellant.

Steven J. Clark, Peralta, for defendants-appellees.

JUDGES

Hartz, Judge. Bivins and Flores, JJ., concur.

AUTHOR: HARTZ

OPINION

{*246} OPINION

{1} Our original opinion in this case was filed on August 24, 1993. We affirmed the district court after Appellant failed to file a memorandum in response to our calendar notice proposing summary affirmance. On August 27, 1993, Appellant filed a motion for extension of time in which to file a brief in chief. Because the motion was filed after the filing of our opinion, we treat the motion as a motion for rehearing pursuant to SCRA 1986, 12-404 (Repl.Pamp.1992). We deny the motion.

{2} The calendar notice filed on July 16, 1993, placed this case on our summary calendar. The different calendars upon **{*247}** which a case can be placed by this Court are described in SCRA 1986, 12-210 (Repl.Pamp.1992). When a case is placed on our

summary calendar, the parties do not file briefs. Rather, the parties have ten days from date of service of the calendar notice to file a memorandum in opposition to the disposition proposed in the calendar notice. SCRA 1986, 12-210(D)(3). Failure to file a memorandum in opposition constitutes acceptance of the disposition proposed in the calendar notice.

{3} Appellant's Motion To Extend Time was filed almost a month after the due date for a memorandum in opposition to the calendar notice. Yet the motion recites no reason why we should consider such an untimely filing. No excuse is provided for not filing a memorandum in opposition. Moreover, the motion does not indicate any error in the calendar notice, either in the notice's recitation of the facts or its statement of the law.

{4} In these circumstances, we have absolutely no basis upon which to grant Appellant's motion. The motion is denied.

{5} IT IS SO ORDERED.