

AFSCME LOCAL 2499 V. BOARD OF COUNTY COMMISSIONERS

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**AFSCME LOCAL 2499,
Plaintiff-Appellant,
v.
BOARD OF COUNTY COMMISSIONERS
OF BERNALILLO COUNTY,
Defendant-Appellee.**

NO. 34,431

COURT OF APPEALS OF NEW MEXICO

September 1, 2015

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Beatrice J.
Brickhouse, District Judge

COUNSEL

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for Appellee

JUDGES

TIMOTHY L. GARCIA, Judge. WE CONCUR: LINDA M. VANZI, Judge, J. MILES
HANISEE, Judge

AUTHOR: TIMOTHY L. GARCIA

MEMORANDUM OPINION

GARCIA, Judge.

{1} Plaintiff-Appellant AFSCME Local 2499 (the Union) appeals from the district court's order dismissing its petition for enforcement of a grievance between itself and the Defendant-Appellee Board of County Commissioners of Bernalillo County (the County). This Court issued a notice proposing to affirm the district court's dismissal. Following the Union's filing of a memorandum in opposition, this Court issued a second notice proposing to reverse. The County filed a memorandum in opposition, which we duly considered. Unpersuaded, we reverse.

{2} In this Court's second notice of proposed disposition we recognized that, even if the district court lacked jurisdiction under the Uniform Arbitration Act to enforce the Union's grievance disposition, the district court has general jurisdiction to enforce the grievance if the Union's petition raised matters of common law or equity. *See Moriarty Mun. Sch. v. Pub. Sch. Ins. Auth.*, 2001-NMCA-096, ¶ 29, 131 N.M. 180, 34 P.3d 124 (stating district courts are courts of general jurisdiction with authority over matters of common law and equity). [2d CN 2–3] In proposing to reverse, we noted New Mexico's liberal notice pleading standards and that the County's response to the Union's petition specifically addressed the enforceability of the grievance claim as a contract. [RP 21; 2d CN 3–4]

{3} The County does not argue the Union's petition did not meet our notice pleading standards or that the County lacked notice of a potential breach of contract or other common law claim. Instead, the County asks this Court to consider for the first time the substantive arguments in its response below and to affirm the district court's dismissal under a right-for-any-reason analysis. [MIO 1–2] "Our courts have repeatedly held, in summary calendar cases, the burden is on the party opposing the proposed disposition to clearly point out errors in fact or law." *Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683. Therefore, because the County has failed to respond to this Court's proposed conclusion that the Union's petition met our notice pleading standard, we rely on the analysis contained in our second notice of proposed disposition and conclude the Union's petition was sufficient to invoke the district court's jurisdiction over common law claims.

{4} To the extent the County requests this Court apply a right-for-any-reason analysis, we note this Court "will not assume the role of the trial court and delve into fact-dependent inquiries." *Meiboom v. Watson*, 2000-NMSC-004, ¶ 20, 128 N.M. 536, 994 P.2d 1154 (alterations, internal quotation marks, and citation omitted). Because we believe there are fact issues inherent in resolving the grounds for dismissal articulated by the County below, we decline to engage in such a review. Rather, we reverse the district court's ruling and remand for consideration of the County's arguments in the first instance.

{5} Accordingly, we reverse and remand for further proceedings.

{7} **IT IS SO ORDERED.**

TIMOTHY L. GARCIA, Judge

WE CONCUR:

LINDA M. VANZI, Judge

J. MILES HANISEE, Judge