

**BANK OF COLORADO V. LL&D**

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**BANK OF COLORADO d/b/a  
PINNACLE BANK f/k/a  
WESTERN BANK OF GALLUP,**  
Plaintiff-Appellee,  
v.  
**LL and D, INC., d/b/a RESPOND  
NEW MEXICO,**  
Defendant-Appellant.

NO. 30,841

COURT OF APPEALS OF NEW MEXICO

April 13, 2011

APPEAL FROM THE DISTRICT COURT OF MCKINLEY COUNTY, Robert A. Aragon,  
District Judge

**COUNSEL**

Mason & Isaacson, P.A., Thomas Lynn Isaacson, Gallup, NM, for Appellee

Everett Law, Peter Everett, IV, Albuquerque, NM, for Appellant

**JUDGES**

MICHAEL E. VIGIL, Judge. WE CONCUR: CELIA FOY CASTILLO, Chief Judge,  
JONATHAN B. SUTIN, Judge

**AUTHOR:** MICHAEL E. VIGIL

**MEMORANDUM OPINION**

**VIGIL, Judge.**

Appellant (Defendant) appeals from the district court's order that strikes his answer on the basis that it was untimely filed. [RP 160] Our notice proposed to dismiss for lack of a final order. In addition, our notice proposed to deny Appellee's (Plaintiff) request for attorney fees.

Defendant did not respond to our notice. See *Frick v. Veazey*, 116 N.M. 246, 247, 861 P.2d 287, 288 (Ct. App. 1993) (explaining that the failure to file a memorandum in opposition to calendar notice constitutes acceptance of proposed disposition). For reasons set forth in our notice, we dismiss for lack of a final order. While Plaintiff filed a response opposing our proposed denial of its request for attorney fees, we remain unpersuaded by Plaintiff's arguments, and therefore deny its request.

**IT IS SO ORDERED.**

**MICHAEL E. VIGIL, Judge**

**WE CONCUR:**

**CELIA FOY CASTILLO, Chief Judge**

**JONATHAN B. SUTIN, Judge**