

CACH, LLC V. RILEY

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CACH, LLC,
Plaintiff/Counter-Defendant/Appellee,
v.
DAVID W. RILEY,
Defendant/Counter-Plaintiff/Appellant

No. 32,931

COURT OF APPEALS OF NEW MEXICO

September 17, 2013

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Denise Barela
Shepherd, District Judge

COUNSEL

Modrall, Sperling, Roehl, Harris & Sisk, P.A., Jennifer G. Anderson, Emil J. Kiehne,
Albuquerque, NM, Kanter & Grubestic, P.A., Dana K. Grubestic, Albuquerque, NM, for
Appellee

Law Offices of Roger Moore, Roger Moore, Albuquerque, NM, for Appellant

JUDGES

MICHAEL D. BUSTAMANTE, Judge. WE CONCUR: JAMES J. WECHSLER, Judge,
JONATHAN B. SUTIN, Judge

AUTHOR: MICHAEL D. BUSTAMANTE

MEMORANDUM OPINION

BUSTAMANTE, Judge.

{1} Defendant/Counter-Plaintiff seeks to appeal from the district court's order granting his motion for summary judgment due to lack of standing and denying his

motion for reconsideration of the court's ruling on attorney fees related to Plaintiff's claim. We issued a notice of proposed disposition, proposing to summarily dismiss for lack of a final, appealable order, due to outstanding counterclaims and a lack of certification language that could make the order immediately appealable under Rule 1-054(B)(1) NMRA. Plaintiff/Counter-Defendant has filed a response to our notice, supporting our proposed summary disposition. Defendant/Counter-Plaintiff has not filed a response. "Failure to file a memorandum in opposition constitutes acceptance of the disposition proposed in the calendar notice." *Frick v. Veazey*, 1993-NMCA-119, ¶ 2, 116 N.M. 246, 861 P.2d 287. We, therefore, summarily dismiss Defendant/Counter-Plaintiff's appeal for lack of a final, appealable order for the reasons set forth in our notice.

{2} IT IS SO ORDERED.

MICHAEL D. BUSTAMANTE, Judge

WE CONCUR:

JAMES J. WECHSLER, Judge

JONATHAN B. SUTIN, Judge