

<b>MENDOZA V. HUBER</b>
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**GEORGE MENDOZA,**  
Plaintiff-Appellant,  
v.  
**LUCINDA HUBER,**  
Defendant-Appellee.

No. 33,913

COURT OF APPEALS OF NEW MEXICO

May 27, 2015

APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY, Manuel I. Arrieta,  
District Judge

**COUNSEL**

Lahann Law Firm, LLC, Christopher Cardenas, Las Cruces, NM, for Appellant

The Pickett Law Firm, LLC, Stephen T. Swaim, Lawrence M. Pickett, Las Cruces, NM,  
for Appellee

**JUDGES**

LINDA M. VANZI, Judge. WE CONCUR: MICHAEL D. BUSTAMANTE, Judge,  
JONATHAN B. SUTIN, Judge

**AUTHOR:** LINDA M. VANZI

**MEMORANDUM OPINION**

**VANZI, Judge.**

{1} Plaintiff appeals from a district court judgment resolving Plaintiff's quiet title complaint in Defendant's favor. We issued a calendar notice proposing to dismiss for lack of a final order because the district court has not ruled on Plaintiff's motion for

reconsideration. Plaintiff did not file a memorandum in opposition to that calendar notice, and we issued a memorandum opinion affirming the district court. This Court then granted Plaintiff's motion for rehearing, in effect giving Plaintiff another opportunity to respond to our calendar notice. In his post-rehearing order memorandum, Plaintiff agrees that the appeal should be dismissed for the reasons stated in the calendar notice. Defendant, on the other hand, has argued that the district court order should be considered final because the motion for reconsideration has been automatically denied. See NMSA 1978, § 39-1-1 (1917) (providing that the district courts retain jurisdiction over their judgments for a period of thirty days; motions directed against such judgments may be filed within this period of time, but if the district court fails to act upon such motions within thirty days, they are deemed denied). We disagree with Defendant's argument. See *Rosales v. N.M. Taxation & Revenue Dep't*, 2012-NMCA-098, ¶ 11, 287 P.3d 353 (observing, based on the committee commentary associated with Rule 1-054.1 NMRA, that "the automatic denial provision in Section 39-1-1 no longer applies in any civil case").

**{2}** For the reasons discussed above and in our calendar notice, we dismiss the appeal.

**{3}** DISMISSED.

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

**LINDA M. VANZI, Judge**

**WE CONCUR:**

**MICHAEL D. BUSTAMANTE, Judge**

**JONATHAN B. SUTIN, Judge**