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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-39986

KRISTEN WEDDLE,

Plaintiff-Appellant,

v.

**CITY OF TRUTH OR
CONSEQUENCES,**

Defendant-Appellee.

**APPEAL FROM THE DISTRICT COURT OF SIERRA COUNTY
Mercedes C. Murphy, District Judge**

Western Agriculture, Resource
and Business Advocates, LLP
A. Blair Dunn
Jared R. Vander Dussen
Albuquerque, NM

for Appellant

Jarmie & Rogers, P.C.
Cody R. Rogers
Las Cruces, NM

for Appellee

MEMORANDUM OPINION

ATTREP, Judge.

{1} Plaintiff asserts the district court erred by dismissing Count 1 of her complaint, brought pursuant to the New Mexico Whistleblower Protection Act (WPA), NMSA 1978, §§ 10-16C-1 to -6 (2010). We issued a notice of proposed summary disposition proposing to affirm. Plaintiff filed a memorandum in opposition to our proposed summary affirmance, which we have duly considered.

{2} Plaintiff's memorandum in opposition has not asserted any fact, law, or argument that persuades us that our notice of proposed disposition was erroneous. See *State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003 (stating that a party responding to a summary calendar notice must come forward and specifically point out errors of law and fact, and the repetition of earlier arguments does not fulfill this requirement), *superseded by statute on other grounds as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374; see also *Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 ("Our courts have repeatedly held that, in summary calendar cases, the burden is on the party opposing the proposed disposition to clearly point out errors in fact or law."). Accordingly, for the reasons stated in our notice of proposed disposition and herein, we conclude that Plaintiff failed to demonstrate error on appeal. *Farmers, Inc. v. Dal Mach. & Fabricating, Inc.*, 1990-NMSC-100, ¶ 8, 111 N.M. 6, 800 P.2d 1063 (stating that the burden is on the appellant to clearly demonstrate that the trial court erred); *State v. Aragon*, 1999-NMCA-060, ¶ 10, 127 N.M. 393, 981 P.2d 1211 (stating that there is a presumption of correctness in the rulings or decisions of the trial court, and the party claiming error bears the burden of showing such error). We therefore affirm.

{3} IT IS SO ORDERED.

JENNIFER L. ATTREP, Judge

WE CONCUR:

KRISTINA BOGARDUS, Judge

SHAMMARA H. HENDERSON, Judge