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1           **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 **GEORGE MENDOZA,**

3           Plaintiff-Appellant,

4 v.

**NO. 33,913**

5 **LUCINDA HUBER,**

6           Defendant-Appellee.

7 **APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY**

8 **Manuel I. Arrieta, District Judge**

9 Lahann Law Firm, LLC

10 Christopher Cardenas

11 Las Cruces, NM

12 for Appellant

13 The Pickett Law Firm, LLC

14 Stephen T. Swaim

15 Lawrence M. Pickett

16 Las Cruces, NM

17 for Appellee

18   **MEMORANDUM OPINION**

19 **VANZI, Judge.**

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

1 {2} For the reasons discussed above and in our calendar notice, we dismiss the  
2 appeal.

3 {3} DISMISSED.

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

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**LINDA M. VANZI, Judge**

7 **WE CONCUR:**

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**MICHAEL D. BUSTAMANTE, Judge**

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**JONATHAN B. SUTIN, Judge**