

This memorandum opinion was not selected for publication in the New Mexico Appellate Reports. Please see Rule 12-405 NMRA for restrictions on the citation of unpublished memorandum opinions. Please also note that this electronic memorandum opinion may contain computer-generated errors or other deviations from the official paper version filed by the Court of Appeals and does not include the filing date.

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

2 **BOKF, N.A., A NATIONAL BANKING**
3 **ASSOCIATION, d/b/a BANK OF**
4 **OKLAHOMA, AS SUCCESSOR IN**
5 **INTEREST BY MERGER TO BANK**
6 **OF OKLAHOMA, N.A.,**

7 Plaintiff-Appellee,

8 v.

NO. A-1-CA-36266

9 **ROY A. METZGAR, YVONNE M.**
10 **METZGAR, EQUIFIRST CORPORATION,**

11 Defendants,

12 and

13 **MUKHTIAR KHALSA,**

14 Putative Intervenor-Appellant.

15 **APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**

16 **Nan G. Nash, District Judge**

17 Richard M. Leverick
18 Albuquerque, NM

19 for Appellee

20 Mukhtiar Khalsa
21 Santa Cruz, NM

1 Pro Se Appellant

2 **MEMORANDUM OPINION**

3 **VANZI, Chief Judge.**

4 {1} Mukhtiar Khalsa appeals from the district court's order denying his motion to
5 intervene following default judgment in favor of BOKF, N.A. (Plaintiff). [DS 2; RP
6 231, 244] This Court issued a notice proposing to summarily affirm. Khalsa has filed
7 a memorandum in opposition, which we have duly considered. Remaining
8 unpersuaded, we affirm.

9 {2} Khalsa raises two primary contentions on appeal: (1) the district court
10 improperly denied his motion to intervene, and (2) Plaintiff lacked standing to
11 foreclose upon the subject property. [DS 3-4] This Court proposed to affirm on the
12 grounds Khalsa failed to demonstrate how the district court erred in denying his
13 motion to intervene, and Khalsa lacks standing to challenge the merits of the
14 foreclosure judgment. [CN 2-3]

15 {3} Khalsa argues in his memorandum in opposition the district court erred in
16 denying his motion to intervene because Plaintiff failed to respond to his motion.
17 [MIO 6] In support of this argument, Khalsa cites Rule 1-058(D) NMRA, which
18 addresses examination of an order by counsel before it is signed, and *Lujan v. City of*
19 *Albuquerque*, 2003-NMCA-104, ¶¶ 15-17, 134 N.M. 207, 75 P.3d 423, in which this

1 Court discussed a previous version of Rule 1-007.1(D) NMRA and the proper manner
2 in which to request entry of summary judgment and dismissal with prejudice based
3 on a failure to timely respond. We note the applicable version of Rule 1-007.1(D)
4 states, “Unless otherwise specifically provided in these rules, any written response. . .
5 shall be filed within fifteen (15) days after service of the motion. If a party fails to file
6 a response within the prescribed time period the court may rule with or without a
7 hearing.” Therefore, the lack of Plaintiff’s response to the motion to intervene does
8 not provide a basis for granting Khalsa’s motion. Thus, Khalsa has not demonstrated
9 the district court erred in denying his motion.

10 {4} Accordingly, for the reasons set forth in our notice of proposed disposition and
11 explained herein, we affirm.

12 {5} **IT IS SO ORDERED.**

13
14

LINDA M. VANZI, Chief Judge

15 **WE CONCUR:**

16
17

MICHAEL E. VIGIL, Judge

18
19

STEPHEN G. FRENCH, Judge