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

2 **WESTERN AGRICULTURE, RESOURCE**
3 **AND BUSINESS ADVOCATES, LLP,**

4 Plaintiff-Appellant,

5 v.

No. A-1-CA-36840

6 **HECTOR BALDERAS, IN HIS OFFICIAL**
7 **CAPACITY AS NEW MEXICO ATTORNEY**
8 **GENERAL, and BRITTNEY MARTINEZ,**
9 **CUSTODIAN OF RECORDS FOR NEW**
10 **MEXICO ATTORNEY GENERAL,**

11 Defendants-Appellees.

12 **APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**
13 **Valerie A. Huling, District Judge**

14 Western Agriculture, Resource and Business Advocates, LLP
15 A. Blair Dunn
16 Albuquerque, NM

17 for Appellant

18 Office of the New Mexico Attorney General
19 Ari Biernoff, Assistant Attorney General
20 Olga Serafimova, Assistant Attorney General
21 Santa Fe, NM

22 for Appellees

1 **MEMORANDUM OPINION**

2 **HANISEE, Judge.**

3 {1} Plaintiff Western Agriculture, Resource and Business Advocates, LLP, appeals
4 an adverse summary judgment. Our notice of proposed summary disposition
5 addressed each of the issues raised in Plaintiff’s docketing statement, ultimately
6 proposing to affirm. [CN 8] Defendants New Mexico Attorney General Hector
7 Balderas and Custodian of Records Brittney Martinez have filed a memorandum in
8 support of that proposed summary disposition [MIS 1], and Plaintiff has filed a
9 memorandum in opposition [MIO 1]. Having duly considered those filings, we now
10 affirm.

11 {2} Our calendar notice noted that Plaintiff’s response to the motion for summary
12 judgment in the district court failed to establish any dispute as to any material facts
13 below, and Plaintiff’s memorandum in opposition does not dispute that reading of the
14 record below. [CN 3-5] Thus, our analysis in this appeal is limited to the question of
15 whether Defendants were entitled to judgment as a matter of law on the basis of the
16 undisputed facts. [CN 3]

17 {3} Having established that analytical framework, we proceeded to address the
18 appellate issues raised by Plaintiff. [CN 5-8] Thus, we proposed to conclude that the
19 common interest doctrine, upon which the district court relied, does not require any

1 particular agreement or contract, and that its application is not limited to the parties
2 in ongoing litigation. [CN 5-6] Then, relying upon *In re Adoption of Doe*, 1984-
3 NMSC-024, ¶ 2, 100 N.M. 764, 676 P.2d 1329, we also proposed to hold that there
4 is no temporal limitation on that doctrine. [CN 6-7] And, finally, we proposed that
5 under the undisputed facts established below, there was no basis upon which the
6 Defendants’ custodian or the district court could have distinguished between the
7 various communications at issue in this case for purposes of the Inspection of Public
8 Records Act (IPRA), NMSA, 1978, §§ 14-2-1 to -12 (1971, as amended through
9 2013).

10 {4} Plaintiff’s memorandum in opposition to that proposed summary disposition,
11 however, does not address any of those issues. Instead, Plaintiff argues, generally,
12 about the importance of the IPRA. As Plaintiff’s memorandum makes no attempt to
13 respond to the actual bases of our proposed disposition of the issues raised in the
14 docketing statement, those issues are “deemed abandoned.” *State v. Johnson*,
15 1988-NMCA-029, ¶ 8, 107 N.M. 356, 758 P.2d 306. Ultimately, because Plaintiff is
16 opposing a notice of proposed summary disposition, it has the burden to “come
17 forward and specifically point out errors of law and fact.” *State v. Mondragon*, 1988-
18 NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003, *superseded by statute on other*
19 *grounds as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374. Having

1 chosen not to even address the law and facts discussed in our notice of proposed
2 summary disposition, Plaintiff has failed to meet its burden on appeal and the
3 summary judgment entered below is affirmed.

4 {5} **IT IS SO ORDERED.**

5 _____
6 **J. MILES HANISEE, Judge**

7 **WE CONCUR:**

8 _____
9 **MICHAEL E. VIGIL, Judge**

10 _____
11 **STEPHEN G. FRENCH, Judge**