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

7 **INARA CEDRINS,**

8 Plaintiff-Appellant,

9 v.

**NO. 31,407**

10 **RAMESH KUMAR SHRESTHA,**

11 Defendant-Appellee.

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

13 **Valerie Mackie Huling, District Judge**

14 Inara Cedrins

15 Chicago, IL

16 Pro Se Appellant

17 Ramesh Kumar Shrestha

18 Albuquerque, NM

19 Pro Se Appellee

20 **MEMORANDUM OPINION**

21 **FRY, Judge.**

22 Plaintiff, pro se, appeals from the district court's order of dismissal. We issued  
23 a notice of proposed summary disposition proposing to dismiss based on a late notice  
24 of appeal. Plaintiff has responded with a timely memorandum in opposition, which  
25 we have duly considered. We remain unpersuaded, and we therefore affirm.

1 To properly invoke this Court’s jurisdiction, a party must comply with the  
2 appellate rules governing the time and place in which to file the notice of appeal. *See*  
3 *Govich v. N. Am. Sys., Inc.*, 112 N.M. 226, 230, 814 P.2d 94, 98 (1991); *see also*  
4 *Trujillo v. Serrano*, 117 N.M. 273, 277-78, 871 P.2d 369, 373-74 (1994) (establishing  
5 that the timely filing of a notice of appeal is a mandatory precondition to our exercise  
6 of jurisdiction to hear an appeal). Rule 12-201(A)(2) NMRA requires the appellant  
7 to file a notice of appeal in the district court clerk’s office within thirty days of the  
8 district court’s entry of its final judgment. Pro se litigants must comply with the rules  
9 and orders of the court and will not be treated differently than litigants with counsel.  
10 *See Bruce v. Lester*, 1999-NMCA-051, ¶ 4, 127 N.M. 301, 980 P.2d 84.

11 In this case, the district court entered its final order of dismissal on June 1,  
12 2011. [RP 111] Plaintiff then had thirty days from the date of entry of that order in  
13 which to file the notice of appeal. *See* Rule 12-201(A)(2). Plaintiff did not file the  
14 notice of appeal until July 6, 2011. [RP 118] The notice of appeal is therefore not  
15 timely. Only in exceptional circumstances beyond the control of the parties will we  
16 entertain an untimely appeal. *See In re Estate of Newalla*, 114 N.M. 290, 296, 837  
17 P.2d 1373, 1379 (Ct. App. 1992) (stating that “[o]ne such exceptional circumstance  
18 might be reasonable reliance on a precedent indicating that the order not timely  
19 appealed was not a final, appealable order”); *see also Trujillo*, 117 N.M. at 278, 871

1 P.2d at 374 (holding that exceptional circumstances are those beyond the control of  
2 the parties, such as delay caused by judicial error).

3 In her memorandum in opposition, Plaintiff asserts that the appeal was timely  
4 filed on June 29, 2011. [MIO 1] Plaintiff refers to two motions that she filed in this  
5 Court on that date asking this Court to add a party and to substitute the district court  
6 judge. However, we do not believe that the fact that Plaintiff filed unrelated motions  
7 in this Court within the time frame for filing the notice of appeal relieved her of her  
8 obligation to timely file a notice of appeal in accordance with the rules of procedure.  
9 We therefore dismiss this appeal. *See State v. Upchurch*, 2006-NMCA-076, ¶ 5, 139  
10 N.M. 739, 137 P.3d 679 (“Because there is no indication that unusual circumstances  
11 justify our discretion to entertain this untimely appeal, we do not overlook this grave  
12 procedural defect.”). Additionally, Plaintiff’s motion to substitute the district court  
13 judge, which was held in abeyance pending a decision on appeal, is denied.

14 **IT IS SO ORDERED.**

15 \_\_\_\_\_  
16 **CYNTHIA A. FRY, Judge**

1 **WE CONCUR:**

2 \_\_\_\_\_  
3 **JONATHAN B. SUTIN, Judge**

4 \_\_\_\_\_  
5 **MICHAEL E. VIGIL, Judge**