

**DAIGLE V. ELDORADO COMMUNITY IMPROVEMENT ASSOCIATION, INC.**

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**CLAUDIA DAIGLE,  
Plaintiff-Appellant,  
v.  
ELDORADO COMMUNITY  
IMPROVEMENT ASSOCIATION, INC.,  
A New Mexico non-profit corporation,  
Defendant-Appellee.**

No. A-1-CA-36345

COURT OF APPEALS OF NEW MEXICO

December 21, 2017

APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY, Sarah M. Singleton,  
District Judge

**COUNSEL**

Claudia Daigle, Santa Fe, NM, Pro Se Appellant

Hays & Friedman, P.A., John P. Hays, Laurie Ann Longiaru, Santa Fe, NM, for Appellee

**JUDGES**

JONATHAN B. SUTIN, Judge. WE CONCUR: M. MONICA ZAMORA, Judge, HENRY  
M. BOHNHOFF, Judge

**AUTHOR:** JONATHAN B. SUTIN

**MEMORANDUM OPINION**

**SUTIN, Judge.**

{1} Plaintiff Claudia Daigle appeals following the district court's dismissal of her complaint based on Rule 1-012(B)(6) NMRA and her motion based on Rule 1-060(B)

NMRA. [DS 1] This Court issued a notice of summary disposition, proposing to affirm. Plaintiff filed a memorandum in opposition that we have duly considered. Remaining unpersuaded, we affirm.

**{2}** Based on Plaintiff's informal docketing statement, this Court determined Plaintiff appeared to raise five issues on appeal: (1) the denial of Plaintiff's motion to void the judgment based on Rule 1-060(B); (2) the denial of Plaintiff's motion for an extension of time to file a response; (3) the denial of Plaintiff's motion to reconsider the denial of her Rule 1-060(B) motion; (4) the award of attorney fees to Defendant incurred in defending Plaintiff's Rule 1-060(B) motion; and (5) the denial of Plaintiff's request for findings of fact and conclusions of law. [See DS 1; CN 5] In her memorandum in opposition, Plaintiff opposes this Court's proposed disposition only as to the first and fourth issues. [MIO 1] We therefore affirm as to the remaining issues. See *Taylor v. Van Winkle's IGA Farmer's Mkt.*, 1996-NMCA-111, ¶ 5, 122 N.M. 486, 927 P.2d 41 (recognizing that issues raised in a docketing statement but not contested in a memorandum in opposition are abandoned).

**{3}** In opposition to this Court's proposed disposition regarding the denial of her Rule 1-060(B) motion, Plaintiff first argues the standard of review for denial of a Rule 1-060(B) motion is whether the denial of the motion was erroneous, not whether it was an abuse of discretion. [MIO 2] However, as we noted in our notice of proposed disposition, this Court reviews the denial of a Rule 1-060(B) motion for abuse of discretion. [CN 5-6] *James v. Brumlop*, 1980-NMCA-043, ¶ 9, 94 N.M. 291, 609 P.2d 1247 ("An appeal from the denial of a Rule [1-060(B)] motion cannot review the propriety of the judgment sought to be reopened; the trial court can be reversed only if it is found to have *abused its discretion* in refusing to grant the motion." (emphasis added)). Therefore, we are unconvinced by Plaintiff's misstatement of the law and decline to apply a different standard of review.

**{4}** In our notice, this Court proposed to decline to entertain Plaintiff's collateral attack on a judgment in a case not before this Court on appeal, to hold Plaintiff's failure to sign her complaint in a prior case does not pose a ground to declare void a subsequent judgment in a separate case on res judicata grounds, and to conclude the district court did not err in denying Plaintiff's motion for reconsideration because we proposed to hold that the district court did not abuse its discretion in denying the Rule 1-060(B) motion. [CN 7] Plaintiff continues to argue in her memorandum in opposition that the district court erred in denying her motion based on lack of subject matter jurisdiction, resulting from Plaintiff's failure to sign her complaint in a previous lawsuit in 2014. [MIO 2-9] We understand Plaintiff's arguments to be based on various misapprehensions of the law. "Although *pro se* pleadings are viewed with tolerance, a *pro se* litigant, having chosen to represent himself, is held to the same standard of conduct and compliance with court rules, procedures, and orders as are members of the bar." *Newsome v. Farer*, 1985-NMSC-096, ¶ 18, 103 N.M. 415, 708 P.2d 327 (citation omitted). This Court will review *pro se* arguments to the best of its ability, but cannot respond to unintelligible arguments. See *Clayton v. Trotter*, 1990-NMCA-078, ¶ 12, 110 N.M. 369, 796 P.2d 262. We are unable to discern from Plaintiff's memorandum in opposition any errors in fact or

law in this Court's notice of proposed disposition. See *Hennessey 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."). We therefore conclude that the district court did not abuse its discretion in denying Plaintiff's Rule 1-060(B) motion.

{5} Plaintiff next continues to argue that the district court erred in awarding attorney fees to Defendant Eldorado Community Improvement Association, Inc. because Plaintiff believed she had good grounds for filing the Rule 1-060(B) motion at the time she filed it, and Plaintiff was unaware at the time she could not collaterally attack a previous judgment through such a motion in a separate, subsequent case. [MIO 9-10] As we noted earlier, a self-represented litigant "is held to the same standard of conduct and compliance with court rules, procedures, and orders as are members of the bar." *Newsome*, 1985-NMSC-096, ¶ 18. We are therefore unconvinced that Plaintiff's lack of knowledge about the groundlessness of her Rule 1-060(B) motion either demonstrates that the district court abused its discretion in awarding Defendant attorney fees or provides any basis for reversal of the fee award.

{6} Therefore, for the reasons set forth in our notice of proposed disposition and in this opinion, we affirm.

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

**JONATHAN B. SUTIN, Judge**

**WE CONCUR:**

**M. MONICA ZAMORA, Judge**

**HENRY M. BOHNHOFF, Judge**