

ROMERO V. HONE

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 Please see Rule 12-405 NMRA for restrictions on the citation of unpublished memorandum opinions.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.

**MICHAEL P. ROMERO, dba
SANGRE DE CRISTO MOUNTAIN;
STONE & EXCAVATION,**
Petitioner-Appellee,
v.
**LINDA HONE, and
CHACHALACA, LLC,**
Respondent-Appellant.

NO. 32,975

COURT OF APPEALS OF NEW MEXICO

February 17, 2014

APPEAL FROM THE DISTRICT COURT OF TAOS COUNTY, Jeff Foster McElroy,
District Judge

COUNSEL

Lee Booth, Taos, NM, for Appellee

Richard S. Mackenzie, Santa Fe, NM, for Appellant

JUDGES

TIMOTHY L. GARCIA, Judge. WE CONCUR: RODERICK T. KENNEDY, Chief Judge,
J. MILES HANISEE, Judge

AUTHOR: TIMOTHY L. GARCIA

MEMORANDUM OPINION

GARCIA, Judge.

{1} Ms. Linda Hone has filed a pro se notice of appeal, seeking to appeal from district court orders in a foreclosure action against her limited liability company (LLC), Chachalaca, LLC. We issued a notice of proposed summary disposition, proposing to dismiss for an ineffective notice of appeal. A memorandum in opposition to our notice was filed by counsel on behalf of Appellant, which appears to be Chachalaca, LLC. Plaintiff also filed a response to our notice proposing dismissal. We have considered the parties' responses and remain unpersuaded to accept the notice of appeal as properly triggering an appeal on behalf of Chachalaca, LLC. We, therefore, dismiss.

{2} Our calendar notice made several observations about the pro se notices of appeal that Ms. Hone filed in this appeal. First, we observed that she attempted to appeal from two separate district court actions in this single appeal. Second, we observed that the district court cases were not consolidated and are not properly appealed together. Third, we observed that the notice of appeal filed in D-820-CV-2009-186 was not timely filed from any order in that district court case. Fourth, we observed that the notices of appeal list two orders that it wishes to challenge on appeal, and both of them were entered in D-820-CV-2012-118, the foreclosure case. Thus, our notice proposed to address only the foreclosure case. Fifth and lastly, we observed that Ms. Hone was not a named party in the foreclosure case and was seeking to appeal on behalf of Chachalaca, her LLC. We proposed to dismiss the appeal on the grounds that Ms. Hone's notice of appeal constituted the unauthorized practice of law and was ineffective to trigger an appeal on behalf of the LLC. *See Martinez v. Roscoe*, 2001-NMCA-083, ¶¶ 7-15, 131 N.M. 137, 33 P.3d 887.

{3} In response to our notice, Chachalaca, LLC, offers reasons why Ms. Hone was confused about the existence of two separate cases and argues that the district court treated her unfairly and wrongfully denied Chachalaca, LLC relief under Rule 1-060(B) NMRA. [MIO unpaginated 2-4] With respect to our proposed dismissal, Chachalaca, LLC, argues that Ms. Hone is the "real party in interest" as the sole owner and member of the LLC. [MIO unpaginated 3] This does not change the result that by filing the appeal on behalf of Chachalaca, LLC, Ms. Hone was engaged in the unauthorized practice of law because she was not a named party or a licensed attorney, and our case law requires artificial legal entities, including limited liability companies, to be represented by a licensed attorney. *See Martinez*, 2001-NMCA-083, ¶¶ 8-15. Ms. Hone's attempt to appeal on behalf of an LLC does not properly trigger Chachalaca, LLC's right to appeal, nor does it properly invoke our jurisdiction to consider the appeal. *See id.*

{4} Chachalaca, LLC, asks this Court to exercise its jurisdiction and remand the foreclosure case to the district court with instructions to set aside default judgment and to consider the Rule 1-060(B) motion. [MIO unpaginated 4] Chachalaca, LLC, further requests, in the event we determine that we do not have jurisdiction to do so, that we dismiss the appeal without prejudice and grant it the opportunity to appeal within ten days. [MIO unpaginated 4-5] We cannot fulfill this request. We lack authority and jurisdiction to grant an extension to file the notice of appeal, and any notice of appeal that may be filed would be untimely. *See Rule 12-201(A)(2) NMRA* (requiring the notice

of appeal to be filed within thirty days of the final order from which the appellant seeks to appeal); Rule 12-201(E)(1) (“Before the time for filing a notice of appeal has expired, upon a showing of good cause, the *district court* may extend the time for filing the notice of appeal by any party for a period not to exceed thirty (30) days from the expiration of the time otherwise prescribed by this rule.” (emphasis added)). Chachalaca, LLC, must seek some other form of post-judgment relief.

{5} For the reasons stated in this opinion and in our notice, we dismiss the appeal.

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

TIMOTHY L. GARCIA, Judge

WE CONCUR:

RODERICK T. KENNEDY, Chief Judge

J. MILES HANISEE, Judge