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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-37706

ROSSANA CONLEY,

Plaintiff-Appellant,

v.

**DEPUTY JAMAR COTTON, and
THE BOARD OF COUNTY
COMMISSIONERS OF THE COUNTY
OF DOÑA ANA,**

Defendants-Appellees.

**APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY
James T. Martin, District Judge**

The Pickett Law Firm
Mark L. Pickett
Las Cruces, NM

for Appellant

Holt Mynatt Martinez P.C.
Damian L. Martinez
Las Cruces, NM

for Appellees

MEMORANDUM OPINION

HANISEE, Judge.

{1} Plaintiff appeals from the district court's order granting summary judgment in favor of Defendant and dismissing Plaintiff's complaint with prejudice. We issued a notice of proposed summary disposition, proposing to reverse on grounds that Plaintiff presented a material factual dispute relative to her claim of abuse of process under the

procedural impropriety theory. Plaintiff has filed a memorandum in support. Defendant has not filed any response to our notice, and the time for doing so has expired. “Failure to file a memorandum in opposition constitutes acceptance of the disposition proposed in the calendar notice” *Frick v. Veazey*, 1993-NMCA-119, ¶ 2, 116 N.M. 246, 861 P.2d 287.

{2} For the reasons set forth in our notice, we reverse the district court’s order of summary judgment and remand for further proceedings.

{3} IT IS SO ORDERED.

J. MILES HANISEE, Judge

WE CONCUR:

BRIANA H. ZAMORA, Judge

ZACHARY A. IVES, Judge