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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-38609

**CITY OF GALLUP, New Mexico, a
municipal corporation,**

Plaintiff/Counterdefendant-Appellee,

v.

PHILLIP HART,

Defendant/Counterplaintiff-Appellant.

**APPEAL FROM THE DISTRICT COURT OF MCKINLEY COUNTY
Robert A. Aragon, District Judge**

Stelzner, Winter, Warburton,
Flores & Dawes, P.A.
Juan L. Flores
Jaime L. Dawes
Albuquerque, NM

for Appellee

Johanna C. Cox
Albuquerque, NM

for Appellant

MEMORANDUM OPINION

HANISEE, Chief Judge.

{1} Defendant appeals from the district court's final judgment granting Plaintiff's motions for summary judgment on Defendant's counterclaims for harassment, retaliation, and defamation. We issued a notice of proposed summary disposition, proposing to affirm. Plaintiff filed a memorandum in support of our notice. Defendant, however, has not filed a 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. Accordingly, for the reasons set forth in our notice, we affirm.

{2} IT IS SO ORDERED.

J. MILES HANISEE, Chief Judge

WE CONCUR:

JENNIFER L. ATTREP, Judge

BRIANA H. ZAMORA, Judge