

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

2 **SOUTHWEST ENERGY EFFICIENCY PROJECT,**
3 **ENVIRONMENT NEW MEXICO, SUNDANCER**
4 **CREATIONS CUSTOM BUILDERS, LLC, eSOLVED,**
5 **INC., the SIERRA CLUB, TAMMY FIEBELKORN,**
6 **FAREN DANCER, SANDERS MOORE, ERIKA WOLF,**
7 **and SOMMER BATTERSON,**

COURT OF APPEALS OF NEW MEXICO
ALBUQUERQUE
FILED

MAY 30 2013

Wendy Evans

8 Appellants,

9 v.

**NO. 31,383, consolidated
with 31,384; 31,385; and
31,386**

12 **THE NEW MEXICO CONSTRUCTION INDUSTRIES**
13 **COMMISSION, the NEW MEXICO CONSTRUCTION**
14 **INDUSTRIES DIVISION, and RICHARD W. TAVELLI,**

15 Appellees.

16 **ORDER ON MOTION FOR CONTEMPT**

17 The original panel has considered Appellants' Motion for an order holding the
18 Construction Industries Division (CID) and Katherine Martinez in contempt in light
19 of Appellees' response to the motion as well as subsequent filings culminating in
20 Appellees' "Notice of Completion."

21 The Court finds:

22 1. CID's initial response to the Opinion was both unfortunate and
23 inappropriate. The Opinion was clear in its analysis and effect and the end result was
24 readily predictable given our case law.

1 2. It is clear from Appellees' Motion for Rehearing that Appellees made no
2 plans for a course of action in the event it lost the case.

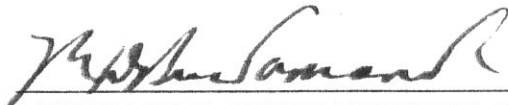
3 3. It is also clear that Appellees do not question the basic rationale of the
4 Opinion. Rather what they desired was a stay of its effective date in order to avoid
5 the consequences of their failure to plan for contingencies.

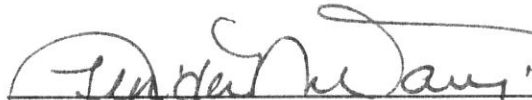
6 4. Thus, Appellants' motion was not inappropriate, but was likely filed too
7 hastily.

8 5. Events have overtaken the basis for Appellants' motion. Appellees have
9 apparently reacted with reasonable promptness to the Opinion.

10 We conclude that there has been no flouting of the Court's ruling or authority
11 in this relatively short time frame which requires the exercise by the Court of its
12 contempt power.

13 The motion is therefore DENIED.

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MICHAEL D. BUSTAMANTE, Judge

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LINDA M. VANZI, Judge

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TIMOTHY L. GARCIA, Judge