

**STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
FIRST JUDICIAL DISTRICT COURT**

**JOSEPH HERRERA,**

**Plaintiff,**

v.

**Case No. D-101-CV-2025-02352**

**NEW MEXICO REGULATION AND  
LICENSING DEPARTMENT,**

**Defendant.**

**MOTION TO CONTINUE EXPEDITED HEARING**

COMES NOW Defendant New Mexico Regulation and Licensing Department (“RLD”), by and through its counsel of record, Park & Associates, LLC (Alfred A. Park and James J. Grubel), and for its Motion to Continue Expedited Hearing states as follows:

1. The Complaint was filed by Plaintiff on September 15, 2025.
2. Plaintiff’s Emergency Motion for Temporary Restraining Order, Application for Preliminary Injunction, Request for Expedited Hearing, and Memorandum in Support (Motion) was filed on September 16, 2025.
3. A Request for Hearing on Plaintiff’s Motion was filed on September 18, 2025.
4. On September 19, 2025, the Court issued a “Notice of Expedited Hearing on Complaint” setting a hearing on the Plaintiff’s Application for Preliminary Injunction for the date of September 29, 2025.
5. RLD was first served with Plaintiff’s Complaint, Motion and the Court’s Notice of Expedited Hearing on Complaint on September 25, 2025.
6. The shipping envelope from Federal Express utilized by Plaintiff’s counsel for service of the Complaint, Motion and Notice of Expedited Hearing in this matter bears a shipping

label indicating that initiated shipping of the documents on September 23, 2025, and that the envelope was actually shipped via “Priority Overnight” deliver at 10:30 A.M. on the date of September 24, 2025, finally being delivered to Defendant RLD on September 25, 2025.

7. By even the most generous interpretation of these facts, it is clear counsel for Plaintiff not only chose to delay providing Defendant Regulation and Licensing Department knowledge of the filing of the Complaint and Motion in this matter, but knowingly sat on the Notice of Expedited Hearing set by the court in this matter for not less than four (4) days, thereby intentionally depriving Defendant Regulation and Licensing Department of critical time necessary to prepare for the expedited hearing.
8. As a result, RLD has been allowed only one business day to retain legal counsel prior to the hearing. This is patently insufficient time for legal counsel to be retained, review the file and prepare for a hearing on Monday, September 29, 2025.
9. Moreover, contrary to Plaintiff’s claim of imminent and irreparable injury if an injunction is not immediately granted, Plaintiff will not suffer material prejudice from a short continuance because:
  - (i) RLD cannot take adverse action against Plaintiff’s license absent compliance with the Uniform Licensing Act, NMSA 1978, §§ 61-1-1 to -17, including notice and a hearing before a hearing officer;
  - (ii) a request for a Notice of Contemplated Action is pending with the New Mexico Department of Justice, and until an NCA issues, no contested case hearing can be scheduled; and

- (iii) pursuant to 14.5.9 NMAC, the CVD process affords a correction window and appeal, and any discipline proceeds separately under 14.5.8 NMAC following notice.

WHEREFORE, RLD respectfully requests that the Court continue the September 29, 2025 hearing to a date convenient to the Court and the parties, preferably by two to three weeks, or to the next available civil motions setting.

Respectfully Submitted,

PARK & ASSOCIATES, LLC

*/s/ James J. Grubel*

James J. Grubel  
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I hereby certify a true and correct copy of the above pleading was filed and served by the Courts e-filing system on this 26<sup>th</sup> day of September 2025 to all counsel of record.

*/s/ James J. Grubel*  
James J. Grubel