

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

JOSEPH HERRERA

Plaintiff,

v.

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

REGULATION & LICENSING DEPARTMENT

Defendant.

**PLAINTIFF'S MOTION TO SHORTEN TIME FOR RESPONDING TO REQUESTS FOR
ADMISSION PURSUANT TO RULE 1-036(A) AND REQUEST FOR EXPEDITED RULING**

Plaintiff Joseph Herrera, through his counsel the Law Office of Matthew J. Bouillon Mascareñas LLC (Matthew J. Bouillon Mascareñas, Esq.), hereby moves this Court to shorten the time limit for Defendant Regulation & Licensing Department (RLD) to respond to his requests for admission regarding matters addressed at the hearing held on September 29, 2025 from 45 days from the date of service of the summons and complaint to 14 days from today, pursuant to Rule 1-036(A) NMRA. The requests for admission are attached to this motion as Exhibit 1. In support of his motion, Mr. Herrera states as follows:

FACTUAL BACKGROUND

1. Defendant RLD was properly served with a copy of the summons and complaint in this case on September 24, 2025.
2. The Court held an expedited hearing on Mr. Herrera's Application for Preliminary Injunction at 9:30 a.m. on September 29, 2025 in which Mr. Herrera testified and both sides presented argument.

3. Mr. Herrera testified that the code bond claim process was already underway based on the Homeowner's comments that they had sought three bids from outside contractors.

4. During cross-examination, Defendant pointed to a lack of evidence as to whether an uncorrected code violation certification or a Notice of Contemplated Action (NCA) were in progress or were imminent as to Mr. Herrera.

5. Defendant contended at the hearing that the harm to Mr. Herrera was speculative, rather than imminent.

6. Prior to handing down its ruling, the Court stated that it was not clear what exactly Mr. Herrera was asking it to enjoin, to which his counsel responded: the licensing disciplinary action and the code bond certification process since both are based on a fraudulent premise, namely, the material misstatements contained in the Construction Industries Commission Memorandum dated May 21, 2025, which intentionally and maliciously prejudiced Mr. Herrera in the eyes of the Commission and corrupted Defendant's internal administrative workflow.

7. The Court ultimately ruled that Mr. Herrera's request for injunctive relief was not ripe for decision due to the lack of evidence clearly indicating the status of each of the two processes.

8. Defendant presently has actual and constructive knowledge as to whether the uncorrected code violation certification process is ongoing as to Mr. Herrera and whether an NCA against him has been issued, or will imminently issue.

LAW AND ARGUMENT

- I. **RLD knows whether its Construction Industries Division is about to certify an uncorrected code violation as to Mr. Herrera and whether it will imminently move forward with a licensing action against him; accordingly, it must produce this information as soon as possible.**

Under Rule 1-036(A) NMRA, a defendant is not required to serve answers or objections to a request for admission prior to the expiration of 45 days from the date of service of the summons and complaint. However, the district court may shorten (or lengthen) this period for good cause. *Id.*

Here, the Court should not hesitate to abbreviate the time frame for RLD's responses to these ten requests. First, the department is exploiting the very same "hide the ball" strategy it has successfully employed against Mr. Herrera from the start. By basing its opposition to preliminary injunctive relief on information which it possesses and which Mr. Herrera does not, it has placed its own lack of transparency directly at issue. Rather than being speculative, the real harm is present, ongoing uncertainty which can be fully clarified with minimal effort. Second, Mr. Herrera already has a good faith basis to believe the bond process is rolling. That no one at RLD has mentioned it to him is consistent with its one-sided communications thus far in the face of substantive issues of serious magnitude. Indeed, whether the harm happened earlier today or is moments away from happening tomorrow is part of an integral constellation of facts that he is entitled to discover without delay. Preliminary relief having been denied, it is not enough that Defendant now simply file its answer in which it will no doubt "lack sufficient information to admit or deny" Mr. Herrera's discrete allegations. It should instead respond to the Court's well-reasoned inquiry and tell Plaintiff the true status of these matters, under oath, as soon as possible.

Finally, the department's systematic failure to honor its own rules is presently injecting unprecedented uncertainty into the state's most important industry. Since RLD will suffer no prejudice from a 14-day response period; most, if not all, the information Mr. Herrera seeks can be obtained directly from Ms. Roybal in a single sitting; RLD's delay and silence continue to

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of September, 2025, the foregoing was electronically filed via the Odyssey File and Serve system, with a courtesy copy via email to:

James J. Grubel, Esq.
Park & Associates, LLC
jgrubel@parklawnm.com & jertsgaard@parklawnm.com

/s/ MJB

Matthew J. Bouillon Mascareñas

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REGULATION & LICENSING DEPARTMENT

Defendant.

**PLAINTIFF JOSEPH HERRERA'S
FIRST REQUESTS FOR ADMISSION TO RLD**

Plaintiff Joseph Herrera, through his counsel the Law Office of Matthew J. Bouillon Mascareñas LLC (Matthew J. Bouillon Mascareñas, Esq.), submits the following set of admission requests to Defendant Regulation & Licensing Department.

Definitions

1. The term “you” shall include the Defendant and each representative and agent the Defendant has retained or otherwise hired to furnish services to it or on its behalf in connection with the subject matter of this case, including, without limitation, his counsel of record.

2. “RLD” means the Regulation and Licensing Department.

3. “CID” means the Construction Industries Division of the Regulation and Licensing Department.

4. “CIC” means the Construction Industries Commission.

5. “CIC Memo” means the Construction Industries Commission Memorandum dated May 21, 2025 pertaining to Mr. Herrera.

6. “NOV” means Notice of Violation.
7. “CVD” means Code Violation Determination.
8. “CUV” means Certificate of Uncorrected Violation.
9. The “Subject Property” means the property located at 277 Tano Road, Santa Fe, NM 87506.
10. The “Complaint” refers to the Verified Complaint filed with the First Judicial District Court on September 15, 2025, which commenced this litigation.
11. The term “communication” means any written, electronic, or oral transmission of information (in the form of facts, ideas, inquiries, or otherwise), and it includes any communication under any circumstances whatsoever, whereby information of any nature was stated, written, recorded, or in any manner transmitted or transferred, including but not limited to any writing or recording, electronic mail, communication by computer, oral statement, conversation, meeting, or conference, formal or informal, at any time or place.
12. The term “document and other tangible thing” means a physical object on which information of any kind is recorded by any means, including but not limited to, electronically stored or digital information, documents or other papers, audio recordings, video recordings, email and email attachments, and any other written or non-written record of information.
13. The term “Homeowner” refers collectively to Julie Garcia and Carollette Winstead unless otherwise specified.

Instructions

1. The following rules of construction shall apply to these Requests:
 - (a) The terms “all” and “any,” whenever used separately, shall be construed as “any and all.”

(b) The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the Request all responses that might otherwise be construed to be outside of its scope.

(c) The term “including” shall always be construed to mean “including, but not limited to,” or “including, without limitation.”

(d) The present tense shall also include the past tense.

(e) The use of the singular form of any word includes the plural and vice versa. These terms shall be construed to provide for the broadest possible discovery.

2. Pursuant to Rule 1-036, NMRA, you are required to respond in writing to each request within 45 days of service of the summons and complaint upon you, unless another time is ordered by the Court, otherwise the matter set forth in the request is deemed admitted. If objection is made to the request, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why you cannot truthfully admit or deny the answer. A denial shall fairly meet the substance of the requested admission. In the event you must qualify your answer or deny only a part of the matter of which an admission is requested, you shall specify so much of it as is true and qualify or deny the remainder.

4. You may not give lack of information or knowledge as a reason for failure to admit or deny unless you state that you have made reasonable inquiry and that the information known or readily obtainable by you is insufficient to enable you to admit or deny. A matter about which you have personal knowledge, or which is presumptively within your knowledge, cannot be denied on information or belief, but must be answered positively or such denial may be disregarded as evasion. *Aktiengesellschaft Der Harlander, etc. v. Lawrence Walker Cotton Co.*, 60 N.M. 154, 288 P.2d 691 (1955).

5. Each request shall be deemed to be continuing in nature, and the answers to each request shall be changed in accordance with the New Mexico Rules of Civil Procedure. Any admission made under Rule 1-036, NMRA, is for purposes of the pending action only and may not be used in any other proceeding.

REQUEST NO. 1: Admit that RLD will not certify an uncorrected code violation against Mr. Herrera until the Homeowner submits three compliant bids.

RESPONSE:

REQUEST NO. 2: Admit that as of September 29, 2025 the Homeowner has already received guidance from RLD about how to obtain compliant bids.

RESPONSE:

REQUEST NO. 3: Admit that as of September 29, 2025 RLD has not told Mr. Herrera whether the Homeowner has submitted any bids for purposes of correcting code violations or when such bids are due.

RESPONSE:

REQUEST NO. 4: Admit that as of September 29, 2025 RLD has determined that Mr. Herrera either refused or failed to correct the code violations in his CVD within the meaning of section 14.5.9.10(A) NMAC.

RESPONSE:

REQUEST NO. 5: Admit that the CIC Memo states: “A Notice of Violation (NOV) was mailed out on December 18, 2024, with listed violations and deadline of January 25, 2025, and CID did not receive a response and corrections were not made.”

RESPONSE:

REQUEST NO. 6: Admit that no NOV or CVD was mailed or otherwise sent to Mr. Herrera on December 18, 2024.

RESPONSE:

REQUEST NO. 7: Admit that no delivery record exists in RLD’s files for the December 18, 2024 NOV or CVD.

RESPONSE:

REQUEST NO. 8: Admit that Ms. Roybal authored the CIC Memo.

RESPONSE:

REQUEST NO. 9: Admit that Ms. Roybal wrote on December 18, 2024: “Mailed out NOV.” Then, immediately below, she wrote: “Put on hold, did not mail out.”

RESPONSE:

