

**SEVENTH JUDICIAL DISTRICT COURT
COUNTY OF CATRON
STATE OF NEW MEXICO**

JESSE CHILDERS, INDIVIDUALLY
Plaintiff,

v.

Case No.: D-728-CV-2024-00026

**ALAN DUGAN, EX-PRESIDENT;
JIM FEEHAN, EX-SECRETARY AND EX-DIRECTOR;
CARMEN BRONOWSKI, EX-TREASURER;
JERRY FOWLER, EX-DIRECTOR;
GREG BRONOWSKI, EX-DIRECTOR;
RON RACICOT, EX-DIRECTOR;
MITZY LADRON-NICHOLS, EX-DIRECTOR;
STEVE MALVITZ, EX-DIRECTOR;
RACHEL PONDER, EX-DIRECTOR;
ANDY RHOMBERG, EX-DIRECTOR;
Defendants.**

MOTION TO RECONSIDER AND SET ASIDE ORDERS

COMES NOW Plaintiff, Jesse W. Childers, appearing pro se, and pursuant to **Rule 1-060(B)**

NMRA and the Court's inherent authority, respectfully moves this Honorable Court to
reconsider and set aside its prior orders, including but not limited to:

- The Order Denying Plaintiff's Motion for Extension of Time to Respond and Obtain Counsel,
- Orders granting Defendants' motions to dismiss, substitute parties, or for other relief.

In support thereof, Plaintiff states as follows:

1. Procedural Background

Plaintiff was ordered by this Court on August 1, 2024, to retain legal counsel to proceed in this complex matter. Plaintiff complied and retained counsel. However, due to a conflict of interest that arose when the Court determined that the Defendants actually controlled the Association central to this litigation, Plaintiff's counsel was compelled to withdraw. Plaintiff has diligently attempted to retain new counsel but has been unable to secure representation to date due to the remote location of the subdivision and limited financial resources. Plaintiff believes that proceeding without counsel would result in significant prejudice and would hinder Plaintiff's ability to adequately present this complex case. As a result, Plaintiff was left unrepresented in direct contradiction to the Court's prior order and was unable to respond adequately to critical motions, resulting in rulings against Plaintiff without the benefit of representation or full argument on the merits.

2. Grounds for Reconsideration Under Rule 1-060(B) NMRA

Under **Rule 1-060(B)(1)**, the Court may relieve a party from a final order for “mistake, inadvertence, surprise or excusable neglect,” and under **1-060(B)(6)** for “any other reason justifying relief.” New Mexico courts recognize that this rule is to be liberally applied to achieve substantial justice. *See Edington v. Alba*, 1967-NMSC-020, 5, 77 N.M. 520, 424 P.2d 403 (stating that Rule 60(b) should be liberally construed to secure the ends of justice).

Plaintiff's inability to comply with deadlines and respond fully was the result of excusable neglect and circumstances beyond Plaintiff's control: the involuntary loss of court-ordered legal representation due to an ethical conflict. This deprived Plaintiff of a fair chance to be heard, which constitutes good cause to set aside the orders in the interest of due process and justice. *See, e.g., Orion Technical Res., LLC v. Los Alamos Nat'l Sec., LLC*, 2012-NMCA-097, 9, 287 P.3d 967 (recognizing due process concerns warranting relief under Rule 1-060(B)).

3. Manifest Injustice

New Mexico courts have emphasized that Rule 1-060(B) exists to prevent manifest injustice. *See Gonzalez v. Gonzalez*, 1970-NMSC-111, 7, 82 N.M. 340, 481 P.2d 401. Here, manifest injustice arises because the Plaintiff was not afforded the representation the Court itself found necessary, while complex dispositive motions were resolved. This undermines the fairness and integrity of the proceedings.

4. No Undue Prejudice to Defendants

Granting this motion will not cause undue prejudice to Defendants. It will simply allow the case to be decided on the merits rather than by default or technicality resulting from lack of counsel — a fundamental goal of Rule 1-060(B). *See Resolution Trust Corp. v. Ferri*, 1995-NMCA-055, 7, 120 N.M. 320, 901 P.2d 738 (courts favor resolving cases on their merits).

5. Good Faith

Plaintiff has acted diligently and in good faith by immediately seeking replacement counsel and notifying the Court of the situation. Plaintiff respectfully requests that the Court allow time for proper representation to comply with the Court's directives and ensure fair proceedings.

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. Reconsider and set aside its prior orders as described above;
- B. Allow Plaintiff sixty (60) days to retain new counsel and permit that counsel time to review the file and respond to pending issues;
- C. Stay further proceedings and deadlines during this period; and
- D. Grant any such other and further relief as this Court deems just and proper.

Respectfully submitted this 20th day of June, 2025.

/s/ Jesse W. Childers
Jesse W. Childers, Pro Se
25 Victoria Ct.
Pie Town, NM 87827
(505) 898-1175

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of June, 2025, I served a true and correct copy of the foregoing Motion to Reconsider and Set Aside Orders upon all counsel of record via electronic filing/email].

/s/ Jesse W. Childers