

COPY

IN THE COURT OF APPEALS FOR THE STATE OF NEW MEXICO

LEON KARELITZ, et al,

Plaintiff,

vs.

DOCKET NO. 31,235

THE REGENTS OF THE UNIVERSITY OF
NEW MEXICO, et al,

Defendants.

COURT OF APPEALS OF NEW MEXICO
FILED

NOV 22 2011

Wendy E. Jones

APPEAL FROM THE EIGHTH JUDICIAL DISTRICT COURT, COLFAX
COUNTY, NEW MEXICO

CASE NO. 2005-51-CV

THE HONORABLE SHERI A. RAPHAELSON, PRESIDING

**DEFENDANT-APPELLEE ATTORNEY GENERAL'S
ANSWER BRIEF**

GARY K. KING
Attorney General for the
State of New Mexico

P. CHOLLA KHOURY
Assistant Attorney General
Attorneys for Defendant-Appellee
408 Galisteo St
Santa Fe, NM 87501
(505)827-6088

CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and correct copy of the foregoing to all parties on 11-22-11 via First Class Mail at the following address:

Robin C. Blair
Robin C. Blair, Atty. at Law
PO Box 10
Raton, New Mexico 87740-0010
Attorney for Plaintiff Leon Karelitz
(505) 445-2744
505-445-2745 (Facsimile)

Terrance R. Kamm
Kamm & McConnell, LLC
Post Office Box 1148
Raton, New Mexico 87740
(575) 445-5575
(575) 445-5621 (Facsimile)

Angelo Artuso
Modrall, Sperling, Roehl, Harris & Sisk, PA
PO Box 2168, 500 Fourth Street, NW, Suite 1001
Albuquerque, New Mexico 87103-2169
Attorney for Defendant University of New Mexico Foundation
(505) 848-1894
505-849-1891 (Facsimile)

Robert M. St. John
Rodey, Dickason, Sloan, Akin & Robb, PA
PO Box 1888
Albuquerque, New Mexico 87103-1888
Attorney for Defendants Regents of the University of New Mexico and Suellyn Scarnecchia
(505) 768-7337
505-768-7395 (Facsimile)

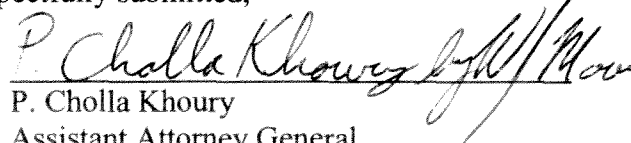
P. Cholla Khawry by W/Moon

Plaintiff-Appellant's Brief in Chief makes no claim of any error of the District Court's granting of the Defendant Attorney General's Motion to Dismiss. The Appellant seeks no relief as to the Attorney General's Motion to Dismiss. Any relief fashioned by this Court should not disturb the ruling below as Appellant has failed to raise issue with the granting of the Defendant Attorney General's motion to dismiss.

Even if there was some claim of error in the dismissal of the Attorney General from this action, the record below makes clear that no such error exists. The Attorney General was dismissed from this case below because the Plaintiffs had failed to state a claim against him. In fact, in the initial complaint Plaintiffs affirmatively disavow making any claim against the Attorney General.(RP 3). With the existence of such facts, it is clear that there was no error in the District Court's order granting the Attorney General's Motion to Dismiss.

WHEREFORE, this Court should not disturb the ruling below as to the dismissal of the Attorney General for Plaintiffs' failure to state a claim upon which relief can be granted.

Respectfully submitted,



P. Cholla Khoury
Assistant Attorney General
New Mexico Attorney General's Office
408 Galisteo Street
Santa Fe, NM 87501
(505)827-6088 – Telephone
(505)827-6036 – Facsimile

*Attorney for Defendant,
The Attorney General*