


Mark Reynolds

IN THE NEW MEXICO COURT OF APPEALS

ANITA REINA,

Plaintiff/Appellee,

v.

**Court of Appeals No. A-1-CA-36351
Dist. Ct. No. D-202-CV-2012-07211**

**LIN TELEVISION CORPORATION,
d/b/a KRQE and LARRY BARKER,**

Defendants/Appellants.

ANSWER BRIEF

**Appeal from the Second Judicial District Court
County of Bernalillo, State of New Mexico**

Trial Judge: The Honorable Denise Barela Shepherd

Plaintiff/Appellee believes oral argument is not necessary.

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APPELLEE'S COURSE OF PROCEEDINGS

The Defendants/Appellants have already lost on this issue twice, in a motion for summary judgment and a motion to dismiss. In each of those motions the Appellants argued that Appellee was not a public official, that Defendant's slander was true and that the Appellee could not meet her burden of proof. The Appellee not only denied she was a public official, but presented an abundant amount of evidence that the TV broadcasts and website reporting was untrue and harmful. There were also actions by the Defendants that constituted actual malice and injury to the Plaintiff/Appellee (RP 399).

The Appellant LIN Television complained to the court about a letter from Albuquerque City Attorney to Plaintiff confirming she was not covered by the City's Personnel Regulations and Rules (RP 483). They were actually advised on August 18, 2016 about the June 4, 2012 letter from the City of Albuquerque when Plaintiff/Appellee's portion of the Pretrial was presented to Defendant. The Defendants never filed its Pretrial portion but, only fought to avoid trial at all costs in this case. The essence of the City Attorney's letter confirms the clear words of the Ordinance under which Plaintiff Reina was appointed. Albuquerque Ordinance 2-7-8-3(F) states that the Independent Office of Hearings, other than the hearing officers, and the City Hearing Officer shall be employees subject to the personnel

rules and regulations of the City (RP 235, Exhibit "B") (RP 399, Exhibit "3"). The court gave Defendant/Appellants additional time to investigate the letter and postponed the trial.

The Appellant's defamatory statements included the fact that Plaintiff was "bilking" (i.e. "cheating") the taxpayers by not following the City of Albuquerque employee rules and regulations, among other false claims (RP 404). The Court's two denials of Appellant's motions for summary judgment are included at (RP 492 and RP 526). After Appellants developed their "additional" evidence that Appellee should be considered a "Public Official", the Court again denied that motion.

Pursuant to the ordinance, the Independent Office of Hearings was neither part of the City's executive nor legislature branches, Section 2-7-8-3(C) (RP 399, Exhibit "3"). Pursuant to Section 2-7-8-3(F), "all hearing officers within the Independent Office of Hearings will be called upon to hear cases of nuisance violations involving speeding or a failure to comply with traffic signs or signals." Also pursuant to that section, it states, "Employees of the Independent Office of Hearings, other than hearing officers ... shall be City employees subject to the Personnel Rules and Regulations of the City" (emphasis added). These hearing officers were City employees basically in name only and were later classified as

unclassified employees (RP 399, Exhibit "2"). Further pursuant to ordinance section 2-7-8-3(E), the City Hearing Officers shall not be removed from the position during the four year term except for malfeasance or misfeasance in office determined by a majority vote of the all members of the City Counsel following a public hearing conducted under such procedures as the Counsel may adopt. Such removal shall not be effective until all options, including judicial review have been exhausted, Section 2-7-8-5(E) (RP 401). Rob Perry, Chief Administrative Officer for the City of Albuquerque, on April 12th (RP 428, Exhibit "5", Larry Barker's notes) confirmed Roberto Albertorio had the exclusive authority to discipline Anita Reina and that the mayor cannot put Independent Hearing Officers on leave or issue any discipline. All of these facts are pursuant to the city ordinance and confirmed in part by the City Attorney's letter of June 4, 2012.

STATEMENT OF FACTS RELEVANT TO THE ISSUE

Anita Reina applied for the job as a hearing officer under the Independent Office of Hearings after seeing a newspaper ad and a Bar Bulletin ad describing the position (RP 425).

Reina was appointed to the office after an interview with the Honorable Ted Baca, Chief Judge of the District Court, pursuant to the statute and ordinance (RP 419).

The Independent Office of Hearings was a separate office and pursuant to the ordinance was not subject to the City's executive or legislative branch nor were the hearing officers subject to the personnel rules and regulations of the City and not subject to the Mayor (RP 425).

Reina's only supervisor was Roberto Albertorio who was the City Hearing Officer and Chief Hearing Officer in the Independent Office of Hearings (RP 425).

During the course of Ms. Reina's work at the Independent Office of Hearings she never missed a hearing or failed to cover any hearing as a result of her work at San Felipe Pueblo (RP 425).

When hearings for Red Light Cameras and Traffic violations lessened Anita Reina volunteered to do zoning and other types of hearings and was assigned those hearing by my supervisor, Roberto Albertorio (RP 426).

Prior to Reina's attempting to work at the Pueblo of San Felipe, her supervisor told her to fill out a form titled "Request for Permission to Engage in Employment Outside the City of Albuquerque." Ms. Reina filled out the form on August 29, 2011 and was told by Roberto Albertorio that it was approved and that both he and City Chief Administrative Officer Rob Perry had signed it the next day (RP 426).

Reina never sent the Form to anyone other than giving it her supervisor.

Initially, during the first month Reina worked for San Felipe Pueblo (September 2011) she took leave from the City but was later told by her supervisor, Roberto Albertorio, that this was not necessary and at first he told her she only needed to advise him orally of days she would be out working at the Pueblo (RP 426).

Later, in approximately December of that year (2011) he requested that Reina write him a memo indicating when she would be out during each month that she was working at the Pueblo and dates she would be unavailable, which Ms. Reina did (RP 426, Exhibit "4").

When Anita Reina was approached by Larry Barker about giving an on camera interview, on at least two occasions, she told him she would give a written response to his questions which he then told her was not acceptable (RP 426).

During the time Ms. Reina worked for the Independent Office of Hearings she filled out no time cards and was not required to keep track of her time (RP 426).

Roberto Albertorio met with Mr. Perry frequently each month to discuss what was happening with the Independent Office of Hearings consisting of himself and Ms. Reina. The hearings conducted by that office were always at specific times and were posted as to those times (RP 426).

Larry Barker's investigator who followed Ms. Reina unto the Pueblo violated tribal law by taking photos without permission and such law is posted on the road leading into the Pueblo (RP 426).

Larry Barker's investigator lied to gain access to the San Felipe Tribal Court (RP 426).

Reina never quietly or secretly did anything with regard to the Pueblo of San Felipe. Everyone in the office knew what was happening and knew Ms. Reina had permission to do so (RP 426).

Ms. Reina was never required by her supervisor Roberto Albertorio to take leave (RP 426).

Reina never "cheated" the taxpayers in any way as she understood she had permission from her supervisor and even the Chief Administrative Officer of the City, but she also understood she was not subject to the City Personnel Rules pursuant to the ordinance.

In one of Dick Kniffing's lead ins to the defamatory television publications involving Reina, Dick Kniffing's lead ins used the term "Cheating Judge".

Reina requested the records of all promos, out takes and other things involved with the defamatory publications within thirty (30) days of the broadcast and these were ignored (RP 427).

In the Christmas/New Years time frame in 2012, Defendant KRQE repeated the same defamatory shows after they had been sued about them and after they should have known that the facts stated therein were incorrect. This repeat show was called "The Best of Larry Barker of 2012" (RP 427).

Following the defamatory publication by Defendants in April of 2012, the San Felipe Tribal Counsel held a meeting that Ms. Reina was required to attend, to discuss her termination from the job with San Felipe, for which she had permission. During an all day hearing, where Ms. Reina was totally humiliated, in having to appear for a hearing where her job at San Felipe Pueblo was at stake in front of the whole Tribal Counsel because of Defendant's publication (RP 427).

For several years Appellee Reina had to deal with KRQE's website which had been set up about the TV Broadcasts and this site requested comments. Many of the comments were calling Reina a "criminal" and claiming "She should be prosecuted". These websites continued to be posted on KRQE's website with the solicited comments for several years up until very recently (RP 427).

The defamatory publication still comes up on various websites as of January 29, 2015 and Ms. Reina believes the incident will follow her for life (RP 427).

When Ms. Reina resigned from the City she felt compelled to do so as she was aware that KRQE was about to publish false information about her. As a

result of that resignation she lost her health benefits which she received when she worked in the Independent Office of Hearings (RP 427).

Defendant/Appellant's statements about Appellee's employment are irrelevant since Reina was not governed by Section 310 of the City of Albuquerque Personnel Code (RP 422). Further, the application to engage in outside employment was signed in two places by Rob Perry, the Chief Administrator Officer of the City and was signed prior to Reina's attempting to work at the Pueblo of San Felipe (RP 35).

Appellant's Brief in Chief further relies on inadmissible hearsay evidence supposedly contained in a report by Robert Caswell Investigations which interviewed various witnesses who were not named as witnesses in this case. Based on this hearsay evidence the investigator makes speculative findings which are not based on any admissible evidence (see Appellant's Brief, pages 12-14).

Plaintiff Anita Reina is suing for defamation based on news broadcasts aired by KRQE News 13 on April 26, 2012 and a follow-up story on April 27, 2012. Plaintiff is further suing because these stories were then posted on Defendant's website where comments were encouraged and many of the comments, as a result of these stories, claimed Plaintiff Anita Reina, should be placed in prison, should be sued criminally and was in fact, a criminal engaging in criminal activity

(RP 444-448, Exhibit "4" of Barker deposition). Plaintiff is also suing on the basis that she filed suit in August of 2012 regarding the news stories of April 26 and 27, 2012, and following that suit, the Defendants in the time frame of Christmas and New Year 2012, again re-broadcast the story in its entirety under a promotion of the Ten Best Larry Barker stories for the year 2012. These republications again reinforced the erroneous and slanderous materials put forth in the April television broadcasts (RP 427).

All hearing officers under the Independent Office of Hearing ordinance had a special status within the City. Defendant Larry Barker, on behalf of KRQE 13, was unaware of this special status or Ordinance at the time he conducted his investigation and was still unaware of it at the time his deposition was taken (RP 436-438, Barker deposition pages, 46, 51-53, 56).

The hearing officers of the Independent Office of Hearings were salaried officers with working hours between 8 - 5 p.m., Monday through Friday. No time cards or other requirements, keeping track of their time or location were required (RP 426). The sole person in charge of Anita Reina was the Chief Hearing Officer Roberto Albertorio (RP 425). It became clear at this time that the Independent Hearing Officers were totally autonomous of the City, and Albertorio reported to no one at the City other than Albertorio. Mr. Albertorio had frequent meetings

with Rob Perry, Chief Administrative Officer of the City, to detail what was happening in the Office (RP 426).

Over the years political and other complaints raged about the City's Red Light Cameras, (of which the Independent Office of Hearings officers had the sole authority to conduct), and the Red Light Camera Hearings became more and more reduced. The time necessary to conduct those hearing became less and less. Hearings were designated at specific limited times during the week and all were conducted with regard to Red Light Cameras by Albertorio or Plaintiff Reina (RP 425-426). As there became less and less for Reina and Albertorio to do they volunteered to perform zoning, environmental health, and other hearings in order to help the other non-independent hearing officers and keep themselves busy (RP 426). In August 2011, Plaintiff was approached by the Pueblo of San Felipe to work part-time as an interim judge on an ad hoc basis for various hearings that might be conducted at the Pueblo of San Felipe Plaintiff Reina had previous jobs as Pro Tem and/or tribal judge with the Pueblo's of Laguna and Acoma and other experience dealing with other Indian tribes throughout the state (RP 426).

In approximately the March/April time frame of 2012, Defendant Larry Barker began his cursory investigation of this situation (RP 426). He was and is unaware of the statute or the ordinance under which Anita Reina was working

(RP 435-437). He also had little knowledge of the facts under which she had sought permission from the City and had been given permission to engage in this outside employment and had been given permission from Reina's supervisor that she did not need to file leave slips and only needed to advise him of when she was going to be off, as long as it did not interfere with her work at the Independent Office of Hearings (RP 426, Exhibit "4", #10, 11). It is also clear that everyone working at the City Department where she was working, was aware that she was taking off and working as an interim Pro Tem Judge at the Pueblo of San Felipe for many, many months prior to Larry Barker's involvement in this matter (RP 426, Exhibit "4", #10, 11).

Plaintiff identified the following statements as defamatory;

Promotional advertisements by KRQE, approximately one week before the offending reports were first published indicated that this report would involve a "Cheating Judge" (RP 427). Those promotional materials have been destroyed by Defendants and are not available. The defamatory reports indicated that "she was disappearing from work and taking off on a kind of secret mission and no one seems to know where she goes" (RP 319-320). Barker then indicated in his report that his investigation finds "since October last year Anita Reina has quietly been bilking the City of Albuquerque out of thousands of dollars by failing to take leave

from the city to work at her job at San Felipe Pueblo” (see Defendant’s Exhibit “S”, pages 2, 3, 4) (RP 320-322).

“The stakes were all part of an under the table deal cooked up by Anita Reina” (RP 321). This statement is also untrue. Larry Barker admits that the word “bilking” means “cheating” (RP 439). In effect, the defamatory reports state that Anita Reina was secretly, quietly, cheating the City of Albuquerque. Ms. Reina’s activities were not done quietly. Those activities were done with permission from her only supervisor, Roberto Albertorio and City Administrative Officer, Rob Perry (RP 35) and (RP 426). She was not cheating the taxpayers or the City of Albuquerque out of anything (RP 427, Exhibit “4”, #19). KRQE set up a website for comments and the ensuing comments called her a crook and asked that she be put in jail (RP 444-448). Those comments were constantly posted on the website for KRQE for a number of years after this incident (RP 427). The same slanderous remarks were again re-broadcast and re-published at approximately Christmas of the year 2012, months after the lawsuit had been filed (RP 427).

Plaintiff Reina declined to speak on camera with Defendant Larry Barker, but offered to give a written statement with regard to this matter before broadcast (RP 426). This offer was refused by Defendant Barker because it was “not the same” and obviously was “not good television”.

APPELLEE'S ARGUMENT

A. Plaintiff is not a public figure or public official

(1) Public Figure

The Defendants have claimed again that plaintiff was a public figure and/or a public official and therefore a "malice scrutiny status" is necessary. It is obvious that a person such as Anita Reina was not a public figure. Mr. Barker himself indicated in his deposition (RP 432), that he had never heard of her before he was informed by a confidential informant of who she was or what was happening. Barker also later was unable to name any hearing officer from the City of Albuquerque in any department (RP 432).

The fact that a hearing officer whose name is totally unknown to even an investigative reporter could be a public figure is preposterous. William Marchiondo, a very well known and respected attorney, was not deemed to be a public figure (*Marchiondo v. Brown*, 98 NM 282 (1982)). New Mexico Jury Instruction 13-1002 with regard to what is required to state a *prima facie* case of Defamation (No. 7), says only that the Defendant "negligently failed to recognize that the communication was false". If the Defendant is not a public figure or official, such negligence is a factual issue in this case.

(2) Public Official

Defendants claim that any City employee who conducted hearings became a “public official”. Public officials are rarely defined by statutes but NMSA 31-18-15.4 defines “public official” as a person elected to an office in an election covered by the Campaign Reporting Act, 1-19-25 to 1-19-36, or a person appointed to an office that is subject to an election covered by that Act (emphasis added). Other statutes state that an official must be an official of a local public body (NMSA 10-5-9). Numerous other states define public officials as those who are elected and not members of the general public or public employees. In *Anderson v. Stallings*, 119 NM 478 (1995), Anderson was a public official as an elected member of the Village Counsel.

A public official is further defined in *Monitor Patriot Company v. Roy*. 401 US 265 (1971) as not only an elected official but a candidate to be an elected official for a political office. This is a clarification of *New York Times v. Sullivan*, 376 US 254 (1964).

Defendant further argues that Plaintiff is a limited public figure for defamation purposes. Defendants are apparently referring to the fact that they may have a qualified privilege in this case. Defendants have not previously been raised such a privilege but that privilege requires a “good faith” publication in discharge

of a “public” or “private duty” when the same is legally or morally motivated (UJI 13-1012). There is no evidence of a public or private duty of KRQE, legally or morally to present publishing this story, particularly when they were unaware of many pertinent facts.

In any event, *Mahona-Jojanto Inc., v. The Bank of New Mexico*, 79 NM 293 (1968) and New Mexico Jury Instruction 13-1012, regarding abuse of qualified privilege states “Defendant published this communication to a person to whom it was not reasonably necessary to publish in order to accomplish the proper purpose for which the communication was made, [or] the Defendant published a communication when it was not reasonably necessary to do so to accomplish the proper purpose for which the communication was made.” Because of the above, Plaintiff does not have to meet the malice standard but only the standard that Defendant negligently failed to recognize that its publication contained false material.

Appellant’s claim that Anita Reina made decisions on the constitutionality of the Red Light Camera Ordinance. This is no more than the hearing officer citing the case of *Victor Titus v. The City of Albuquerque*, 149 NM 556 (May 3, 2011), wherein the Court of Appeals and the Supreme Court determined that the Red Light Camera Ordinance was constitutional. When people challenged the

constitutionality of the ordinance in front of any hearing officer they merely denied it based on the District Court's rulings and the Appeals Court's ruling in this matter. No hearing officer of any sort would reexamine or rule on their own whether an ordinance was constitutional or not. This issue is a "red herring" and should be ignored.

According to the Defendants any hearing officer who makes any sort of administrative decisions becomes a "Public Official" when they are not elected, but merely employees or independent contractors. The City of Albuquerque has a large number of ordinances where the City Office of Administrative Hearings is called on to provide hearings to be conducted by independent hearing officers, city employees, and independent contractors ([www.cabq.gov/Office of Administrative Hearings](http://www.cabq.gov/Office_of_Administrative_Hearings)) (see Exhibit "1" attached).

Roberto Albertorio, the Chief Hearing Officer in charge of Reina, had the responsibility to see that all Red Light Camera administrative hearings were properly and timely conducted and could adopt and publish rules for the conduct of hearings, not inconsistent with the rules established by the ordinance. There are at least 25 City ordinances that require hearing officers. For example; Abandoned Inoperable Vehicle Appeal (Sec. 8-5-2-3), Alarm Permit Suspension (Sec. 9-3-14), Animal Breeder Permit Appeal (Sec. 9-2-7-1), Water Service Termination/Failure

to Pay Solid Waste Fee Appeal (Sec. 6-2-10), Weeds, Liter, Snow Appeal (Sec. 9-8-28), Wrecker Rotation Appeal (Sec. 7-7-17) etc. A list of the hearing officers ordinances under which they are authorized are online at www.cabq.gov/Office of Administrative Hearings and attached.

Hearings are conducted pursuant to City Ordinances by independent hearing officers such as the Plaintiff, city employees, or independent contractors (see website). In fact, Mr. Esquivel, Appellees attorney, has admitted that his office was previously an independent contractor conducting various hearings for the City of Albuquerque. Under the Defendant's claim, every independent hearing officer, city employee and/or independent contractor (eg. attorneys or law firms) who made any decision with regard to personnel board, restaurant license, etc., become a public official subject to the Malice Rules under *New York Times v. Sullivan*, 376 US 254 (1964).

While Plaintiff believes it meets the "malice" requirement as a result of Appellant's having a 3 year website about this matter and/or re-publishing the offending news report after they were sued, Plaintiff believes Appellants contention about Public Officials would lead to an impossible situation where people, even in the position of Mr. Esquivel who formerly was a independent contractor hearing officer, would all be public officials. Stating that Ms. Reina and

all these others were public officials as well, would lead to preposterous results. Almost all hearing officer decisions are subject to appeal. The hearing officers do not become public officials by denying a petitioner's claim their ordinance is unconstitutional based on District and/or Appeals Court decisions.

Even assuming that Plaintiff was required to meet an actual malice standard, the materials which Plaintiff complained about in its lawsuit were continually published on their defamatory website for more than a year after the lawsuit was filed with the same facts repeated. It was published, despite obvious reasons to doubt the veracity of the informant and to doubt the veracity of the article or the accuracy of its report itself. Further, Defendant re-published the video at Christmas 2012 as one of its Top Ten stories of the Year when Defendants should have been aware that the Plaintiff had violated no laws and was not "cheating" the taxpayers.

Further, Defendant Barker has relied on an investigative memorandum compiling of 52 pages completed after the defamatory broadcasts (Appellant's Brief, pages 12-14). The vast majority this report is hearsay and/or opinions of an investigator based on hearsay or other information of which Defendants or their investigator have no personal knowledge. These "facts" are not allowable under Rule 1-056(E) which state, "supporting and opposing affidavits shall be made on

personal knowledge and shall set forth such facts as would be admissible as evidence and shall show affirmatively that the affiant is capable of testifying on matters stated therein” (emphasis added). Further, all of the statements and materials provided in the investigator’s report are not in conformance with Rules of Evidence 602 and they are not facts made on personal knowledge or facts that would be admissible as evidence and should be disregarded.

B. Plaintiff can establish that the reports were false

Plaintiff has testified by affidavit and otherwise that the promos for the broadcast showing her were headlined “the Cheating Judge”.

Larry Barker has indicated that he wrote the entire script that was published on the 26th of April, 2012 (RP 433). In fact, he states, Anita Reina has been disappearing from work and taking off for some kind of secret mission. These facts, of course, are false (RP 320) What Anita Reina did was not secret and in fact, it was her employer supervisor and City of Albuquerque officers from City Chief Administrative Officer on down who gave her permission to perform outside employment and everyone in the hearing office knew what she was doing. Rob Perry, who was the City’s Chief Administrator Officer, signed off on her request twice (RP 426).

During the broadcast the Chief Administrator Officer was never shown the outside employment document which he signed off on and asked why he had done so since he claimed Plaintiff assertion was “deceitful” (RP 322). “Our investigation found that since October of last year Anita Reina has quietly bilking the City out of thousands of dollars by failing to take leave from her Albuquerque job to work at San Felipe Pueblo.” Mr. Barker admits that the word “bilking” means cheating (RP 439). He cannot point to any statute, ordinance or relevant regulations that she violates (RP 435). Anita Reina did not cheat the City of Albuquerque out of anything.

“This was an under the table deal cooked up by Anita Reina and covered up by her boss.” Cooked up by Anita Reina is false. The publication further states she is required to take vacation (RP 322). This fact is also false since Ms. Reina was not required to follow the city personnel requirements because of her unique status as an Independent Hearing Officer. Asked what statutes or ordinances she violated, Larry Barker indicated he did not know (RP 435). Apparently the City found no violations since they did not charge her or otherwise bring a claim against her. There is no doubt the publication by Defendants was and is false in numerous ways.

C. Plaintiff can establish that her reputation was injured

Section 13-1009 (B) UJI states that to support a claim for defamation, the Defendant must have been negligent when the Defendant published the communication. The Defendant must have negligently failed to check on the truth or falsity of the communication prior to publication. For an act to be negligent, it must be such that a reasonably prudent person would foresee as involving risk of injury to the reputation of another in which a person, in the exercise of ordinary care, would not do. To support a claim for defamation, the defamatory meaning of the communication must be understood by the person to whom it was communicated, UJI 13-1008.

Under the damage instruction, UJI Section 13-1010, actual injury to the Plaintiff would include, (1) loss of business profits or (2) loss of salary. Plaintiff was forced to resign as a result of this investigation and was without employment for many months. She also lost her health benefits (RP 141).

UJI 13-1010(6) also includes the harm to her good standing in the community. Comments posted on the website of KRQE based on the KRQE Broadcasts claim she is a criminal and should be prosecuted and/or sued or jailed for her actions. These comments are by numerous people in the community (RP 444-448). This is an actual damage under UJI 13-1010(6).

Plaintiff has also testified she suffered personal humiliation (UJI 13-1010(7)) (RP 235). She had to sit through a complete hearing by the San Felipe Tribal Court to determine whether she would be fired or relieved of duty as a result of the publication of this (RP 427).

UJI 13-1010(8) allows damages for mental anguish and suffering. Reina sought medical help and has named an expert witness, Dr. Susan Danto (RP 122, Exhibit "E"), with regard to her mental anguish and suffering related to Defendant's publication. **CONCLUSION**

The District Court's assessment twice correctly concluded Appellee/Reina was NOT a public official. Hearing officers are required to act in a fair and impartial manner and swear in witnesses. They can be city employees, independent hearing officers or independent contractors. They cannot, along with Appellee Reina all be public officials. The court should uphold the District Court's findings that appellee was NOT a public official for the purpose of the defamation claim against the Appellants.

The case should be remanded to the District Court to proceed to trial on this matter.

Respectfully submitted,

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Office of Administrative Hearings

Information about the Office of Administrative Hearings.

The Office of Administrative Hearings is responsible for conducting all hearings specifically assigned to it by a City Of Albuquerque ordinance or where and ordinance provides that a hearing is to be conducted by a "Hearing Officer."

The City Of Albuquerque has a large number of ordinances that the Office of Administrative Hearings is called upon for hearings to be conducted by independent hearing officers, city employees, and independent contractors.

Chief Hearing Officer

There is no actual or perceived influence from the City's administration and the Hearing Officer has the autonomy in the performance of all assigned duties.

The Hearing Officer has the responsibility to see that all administrative hearings are properly and timely conducted and may adopt and publish rules for the conduct of hearings, not inconsistent with any rules established by an ordinance.

Hearings Conducted by the Office of Administrative Hearings	Ordinance Code
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Abandoned Inoperable Vehicle Appeal	§8-5-2-3 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter8trafficcode?f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_8-5-2-3) (/about/offsi
Alarm Permit Suspensions Appeal	§9-3-14 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter9healthsafetyandsanit?f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_9-3-14) (/about/offsi
Animal Breeder Permit Appeal	§9-2-7-1 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter9healthsafetyandsanit?f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_9-2-7-1) (/about/offsi
Body Art Permit Appeal	§11-5-16 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter11moralsandc?f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_11-5-16) (/about/offsi
Disabled Parking Appeal	§8-5-1-30 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter8trafficcode?f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_8-5-1-30) (/about/offsi

EXHIBIT

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Food/Vending Permit Suspension/Revocation Appeal	§9-6-1-14 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter9healthsafetyandsanit:f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_9-6-1-14) (/about/offsite)
Fund Raiser License Appeal	§13-10-9 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter13businessandoccupat:f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_13-10-9) (/about/offsite)
Humane and Ethical Animal Rules & Treatment Inspections & Hearings	§9-2-7-1 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter9healthsafetyandsanit:f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_9-2-7-1) (/about/offsite)
Labor Board Hearings	§3-2-10 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter3cityemployee:f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_3-2-10) (/about/offsite)
Lobbyist Registration Hearings	§2-3-7 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter2government?f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_2-3-7) (/about/offsite)
Lodger's Tax Exemption & Assessment Appeal	§4-4-8 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter4revenueandtax:f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_4-4-8) (/about/offsite)
News Rack Appeal	§6-7-8 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter6watersewersan:f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_6-7-8) (/about/offsite)
Old Town Portal Market Permit Appeal	§13-3-2-98 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter13businessandoccupat:f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_13-3-2-98) (/about/offsite)
Personnel Board Hearings	§3-1-4 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter3cityemployees?f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_3-1-4) (/about/offsite)
Public Housing/Section 8 Housing Appeal	24 CFR §982.554 (http://www.ecfr.gov/cgi-bin/text-idx?SID=c9ff9f894079da8363ba01f6b6ba9d10&node=pt24.4.982&rgn=div5&se24.4.982_1554#se24.4.982_1) (/about/offsite.html)
Restaurant License Revocation	§13-3-1-98 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter13businessandoccupat:f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_13-3-1-98) (/about/offsite)
Syringe Exchange Facility Permit Appeal	§9-15-9 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter9healthsafetyandsanit:f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_9-15-9) (/about/offsite)
Towed Vehicle Appeal	§8-5-2-10 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter8trafficcode?f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_8-5-2-10) (/about/offsite)
Swimming Pool Permit Suspensions/Revocation Hearings	§10-3-5-5 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter10amusementrecreat:f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_10-3-5-5) (/about/offsite)
Vehicle Pollution Management Revocation	§7-12-5 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter7transportationvehicle?f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_7-12-5) (/about/offsite)
Vehicle Seizure Probable Cause Hearing	§7-6-5 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter7transportationvehicle?f=templates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_7-6-5) (/about/offsite)

Waste Water Discharge Permit Appeal	\$6-5-2-29 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter6watersewersandstreetemplates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_6-5-2-29) (/about/offsite)
Water Service Termination/Failure to Pay Solid Waste Fee Appeal	\$6-2-10 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter6watersewersandstreetemplates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_6-2-10) (/about/offsite)
Weeds, Litter, Snow Appeal	\$9-8-28 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter9healthsafetyandsanitemplates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_9-8-28) (/about/offsite)
Wrecker Rotation Appeal	\$7-7-16 (http://library.amlegal.com/nxt/gateway.dll/New%20Mexico/albuqwin/chapter7transportationvehicleemplates\$fn=default.htm\$3.0\$vid=amlegal:albuquerque_nm_mc\$anc=JD_7-7-16) (/about/offsite)

Administrative Hearings Schedule and News

Labor-Management Relations Board Meeting August 7, 2017 at 9:00 AM
(<https://www.cabq.gov/clerk/administrative-hearings/administrative-hearings-schedule-news/labor-management-relations-board-meeting-august-7-2017-at-9-00-am>)

Read More... (<https://www.cabq.gov/clerk/administrative-hearings/administrative-hearings-schedule-news/labor-management-relations-board-meeting-august-7-2017-at-9-00-am>)

Labor-Management Relations Board Meeting July 27, 2017 at 9:00 AM
(<https://www.cabq.gov/clerk/administrative-hearings/administrative-hearings-schedule-news/labor-management-relations-board-meeting-july-27-2017-at-9-00-am>)

Read More... (<https://www.cabq.gov/clerk/administrative-hearings/administrative-hearings-schedule-news/labor-management-relations-board-meeting-july-27-2017-at-9-00-am>)

Labor-Management Relations Board Meeting July 17, 2017 has been vacated. (<https://www.cabq.gov/clerk/administrative-hearings/administrative-hearings-schedule-news/labor-management-relations-board-meeting-july-17-2017-has-been-vacated>)

Read More... (<https://www.cabq.gov/clerk/administrative-hearings/administrative-hearings-schedule-news/labor-management-relations-board-meeting-july-17-2017-has-been-vacated>)

Marie Julienne elected to the Personnel Board on July 11, 2017
(<https://www.cabq.gov/clerk/administrative-hearings/administrative-hearings-schedule-news/marie-julienne-elected-to-the-personnel-board-on-july-11-2017>)

STATEMENT OF COMPLIANCE

Pursuant to Rule 12-213(A), (F) and (G), Plaintiff/Appellee' counsel states that the total word count contained in the body of the response brief is 4974 words, Times New Roman and 14 point font as determined by Corel Word Perfect 3X.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Plaintiff/Appellee' Response Brief will be sent by email on 16 October 2017, to the parties listed below.

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