

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

EMMA SERNA d/b/a SERNA &
ASSOCIATES CONSTRUCTION CO., LLC,

Plaintiff,

vs.

No. CIV 17-0020 JB/WPL

MARGETTE WEBSTER; DAVID WEBSTER;
STATE OF NEW MEXICO, U.S. Judicial
Court Division; CLAYTON CROWLEY;
ALEX CHISHOLM; CARL BUTKUS; CINDY
MOLINA; ALAN MALOTT; BEATRICE
BRICKHOUSE; BOBBY JO WALKER;
JAMES O'NEAL; ROBERT BOB SIMON;
ESTATE OF PAUL F. BECHT; CARL A.
CALVERT; JOEY MOYA; AMY MAYER;
GARCIA MADELIENE; ARTHUR PEPIN;
MONICA ZAMORA; CHERYL ORTEGA;
JOHN DOE #1; PAT MCMURRAY;
MARTHA MUTILLO; SALLY GALANTER;
NEW MEXICO CONSTRUCTION
INDUSTRIES DIVISION; ROBERT "MIKE"
UNTHANK; MARTIN ROMERO; AMANDA
ROYBAL; NAN NASH and JOHN WELLS,

Defendants.

**MEMORANDUM OPINION AND ORDER ADOPTING THE MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

THIS MATTER comes before the Court on: (i) the Plaintiff's Motion [sic] District Court's Hearing of January 12, 2017, filed January 12, 2017 (Doc. 11), which the Court construes as a request to refile a lien that the state district court expunged; (ii) the Plaintiff's Request Order for Injunctive Relief from Second Judicial District Court 18 U.S.C. § 1033, 1034, & 1035, filed February 2, 2017 (Doc. 20), which the Court construes as a motion for injunctive relief from the Second Judicial District Court, County of Bernalillo, for the State of New

Mexico; (iii) the Plaintiff's Request Order for U.S.C. 18 Dismissal of Expungement of Public Records, filed February 2, 2017 (Doc. 21), which the Court construes as a motion for an order directing the Bernalillo County Clerk to "dismiss the expungement" of a lien; (iv) Defendant Clayton Crowley's Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(1), (b)(4), (b)(5), and (b)(6), filed on February 6, 2017; (v) Plaintiff's Proof to Support Need of Injunction, filed February 8, 2017 (Doc. 24), which the Court construes as a second motion for injunctive relief; (vi) the Plaintiff's Motion for Entry of Default and Default Judgment as to Defendant Crowley, filed February 9, 2017 (Docs. 26, 27); (vii) the Plaintiff's Motion for Entry of Default and Default Judgment as to Defendant Margette Webster, filed February 9, 2017 (Doc. 28); (viii) the Plaintiff's Motion for Entry of Default and Default Judgment as to Defendant David Webster, filed February 9, 2017 (Doc. 29); (ix) the Plaintiff's Motion for Entry of Default and Default Judgment as to Defendant Alex Chisholm, filed February 9, 2017 (Doc. 30); (x) the Plaintiff's Motion for Entry of Default and Default Judgment as to Defendant Carl Calvert, filed February 9, 2017 (Doc. 31); (xi) the Plaintiff's Motion for Entry of Default and Default Judgment as to Defendant Robert Simon, filed February 9, 2017 (Doc. 32); (xii) Defendants Judge Monica Zamora, Judge Beatrice Brickhouse, Judge Carl Butkus, Judge Alan Malott, Joey Moya, Amy Mayer, Madeline Garcia, Lynette Rodriguez¹, Arthur Pepin, Cheryl Ortega, James Noel, Cindy Molina, Bobby Jo Walker, and the State of New Mexico ("Judicial Defendants")'s Judicial Defendants' Motion to Dismiss Complaint, filed February 9, 2017 (Doc. 33); (xiii) Defendant Calvert's Motion of Carl A. Calvert to Dismiss Complaint, filed

¹The Plaintiff specifically lists "predicate acts" that Rodriguez committed and describes Rodriguez as a "proximate cause" to the allegations in this case, but chose not to list Rodriguez in the caption of the complaint. See Complaint Pursuant to 42 U.S.C. § 1983, 28 U.S.C. § 1343(a)(2), 28 U.S.C. [sic] 1331, 18 U.S.C. § 1964, 27 U.S.C. § 151, 18 U.S.C. § 1341 Compensatory Damages, Injunctive Relief, Quantum Damages, General Damages, and Punitive Damages White Collar Crime at 22, filed January 9, 2017 (Doc. 1)("Complaint"). Nonetheless, the Court assumes that Serna intends to bring a claim against Rodriguez and thus disposes of that claim herein.

February 9, 2017 (Doc. 34); (xiv) Defendants New Mexico Construction Industries Division (“CID”), Robert Unthank, Sally Galanter, Martha Murillo, Pat McMurray, Martin Romero, and Amanda Roybal (“CID Defendants”)’s Joint Motion to Dismiss, filed February 10, 2017 (Doc. 36); (xv) Defendant Simon’s Motion for More Definitive Statement, filed February 10, 2017 (Doc. 38); (xvi) Defendant Judge Nan Nash’s Motion to Dismiss Complaint, filed February 10, 2017 (Doc. 40)²; (xvii) the Plaintiff’s Motion to Have the Honorable Browning Hear All Dismissal Briefs, filed February 21, 2017 (Doc. 53), which the Court construes to be a motion for hearing; (xviii) the Plaintiff’s Supplemental to Judicial Defendants Dismissal Answer, filed February 23, 2017 (Doc. 58), which the Court construes to be the Plaintiff’s motion for sanctions against counsel for the Judicial Defendants for failing to disclose his employment status; (xix) the Plaintiff’s Objection to Dismissal of Complaint Against C.I.D. Defendants, filed on February 24, 2017 (Doc. 61); (xx) Plaintiff’s Motion for Entry of Judgment on Default Judgments as to all Defendants, filed March 1, 2017 (Doc. 66); (xxi) the Plaintiff’s Proof of Service to Defaulted Defendants, filed March 9, 2017 (Doc. 77); (xxii) the Plaintiff’s Reply in Further Support to Hear Complaint, filed March 14, 2017 (Doc. 83); (xxii) the Judicial Defendants’ Motion to Strike Plaintiff’s “Reply in Further Support to Hear Complaint,” filed March 14, 2017 (Doc. 84); (xxiii) the Plaintiff’s Completion of Plaintiff’s Briefings and Request Entry of “Reply in Further Support to Hear Complaint,” filed March 21, 2017 (Doc. 90); (xxiv) the Plaintiff’s Attorney for Judicial Defendants Made a False Statement to the Court, filed March 21, 2017 (Doc. 91), which the Court construes to be Plaintiff’s second motion for sanctions against counsel for the Judicial Defendants (Doc. 91); (xxv) the Plaintiff’s Waiver of Service of Summons Has Been Mailed to the Websters, filed on March 23, 2017 (Doc. 92);

²For the remainder of this Memorandum Opinion and Order, the Court considers Judge Nash to be part of the Judicial Defendants.

(xxvi) the Plaintiff's Defendant Nash in Violation of Jurisdiction and Authority and RICO Act, filed March 23, 2017 (Doc. 94), which the Court construes as the Plaintiff's third motion for injunctive relief; (xxvii) the Plaintiff's Request: Order for Dismissal of Expungement, of Mechanic's Lien, Filed by State District Court at County Clerks Office, filed April 3, 2017 (Doc. 96); (xxviii) the Plaintiff's Request Emergency Temporary Injunction on Second Judicial District State Court, Albuquerque, filed April 6, 2017 (Doc. 98); (xxix) the Judicial Defendants' Motion to Impose Filing Restrictions on Plaintiff, filed April 6, 2017 (Doc. 99); (xxx) the Plaintiff's Complaint to Judge Browning: Judge Nash in Noncompliance of Lawsuit in Federal Court and Holding an Arbitration Hearing to Change a 2 Yr. Old Award, filed April 17, 2017 (Doc. 104), which the Court construes as the Plaintiff's fourth motion for injunctive relief; (xxxi) the Plaintiff's Judge Nash's Ruling in State District Court Without Jurisdiction and Authority, filed April 19, 2017 (Doc. 105), which the Court construes as another motion for injunctive relief; (xxxii) the Plaintiff's Motion for Entry of Default and Default Judgment as to Defendant John Wells, filed May 3, 2017 (Doc. 115); (xxxiii) the Plaintiff's motions to amend complaint, filed January 10, February 9, February 15, February 24, March 17, and March 23, 2017 (Docs. 7, 8, 25, 47, 61, 87, 93, 94); (xxxiv) the Plaintiff's Second Proposed Findings and Recommended Disposition, filed May 4, 2017 (Doc. 118)("Second PFRD"), which addresses all of the above motions (Doc. 118); (xxxv) the Defendants David and Margette Webster's Motion to Dismiss Complaint, filed May 8, 2017 (Doc. 120); (xxxvi) the Plaintiff's Request to the Honorable Judge Browning: Temporary Restraining Order Filed on State District Court and Evidentiary Hearing and Recusal of the Judge Lynch for Fraud Upon the Court, filed May 8, 2017 (Doc. 121); (xxxvii) the Plaintiff's Request to Judge Browning: Emergency Order to Cease and Desist Collections on False State District Court Award," filed on May 11, 2017, which the

Court construes as another motion for injunctive relief (Doc. 123); (xxxviii) the Plaintiff's Objection to Dismissal of Complaint, filed May 12, 2017 (Doc. 125), which the Court construes as a motion for discovery and for sanctions; (xxxix) the Plaintiff's Emergency Request from Judge Browning: Order to Bernalillo County Sheriff's Department to Return Serna's Funds, filed May 12, 2017 (Doc. 126), which the Court construes as a motion for injunctive relief (Doc. 126); (xl) the Plaintiff's Relief From Default Judgment Under Rule 55 and 60(b) as per Defendant Wells, filed May 15, 2017 (Doc. 127); (xli) the Plaintiff's Relief from Default Judgment Under Rule 55 and 60(b) as per Defendant Simon, filed May 15, 2017 (Doc. 128); (xlii) the Plaintiff's Relief from Default Judgment Under Rule 55 and 60(b) as to Defendant Chisholm, filed May 15, 2017 (Doc. 129); the Plaintiff's Relief from Default Judgment Under Rule 55 and 60(b) as to Defendant Webster, filed May 15, 2017 (Doc. 130); (xliii) the Plaintiff's for default judgment as to Margette Webster, filed on May 15, 2017 (Doc. 131); Relief from Default Judgment Under Rule 55 and 60(b) as to Defendant Crowley, filed May 15, 2017 (Doc. 132); (xliv) the Plaintiff's Corrections to Defendant's Codes per the Courts Entry of May 04, 2017, filed May 30, 2017, which the Court construes as a motion to amend (Doc. 134); (xlv) the Plaintiff's Objections to the Second Proposed Findings and Recommended Disposition and Grant Judgment in Favor of the Plaintiff on the Findings, filed May 30, 2017 (Doc. 135)("Objections"); (xlvi) the Plaintiff's Objections and Answers to Proposed Findings and Recommendations and Motion to Withdraw the Limited Liability Company Until Counsel is Procured, filed June 13, 2017 (Doc. 137); (xlvii) the Plaintiff's Request for this Objection as Timely on Objection to Dismissal of Defendant Chisholm and Accept His Default Judgment, filed June 15, 2017 (Doc. 138), which the Court construes as another motion for default judgment; (xlviii) Defendant Simon's Motion to Strike and Dismiss Plaintiff's Compliant Pursuant to Fed. R. Civ. P. 12 (e), filed July 24, 2017

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