

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

NANCY HENRY,

**Plaintiff,**

vs.

**No. D-202-CV-2019-04033**

NM GENERAL SERVICES DEPARTMENT,  
VICTORIA GARCIA, Records Custodian,

**Defendant.**

**AMENDED COMPLAINT FOR PRODUCTION OF PUBLIC RECORDS,  
DAMAGES, AND WRIT OF MANDAMUS**

COMES NOW, Nancy Henry, by and through counsel of record Western Agriculture, Resource and Business Advocates, LLP (A. Blair Dunn, Esq.), with her *Amended* Complaint for Production of Public Records, Damages, and Writ of Mandamus against the New Mexico General Services Department, and states the following:

**PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff Nancy Henry is a resident of Bernalillo County, State of New Mexico.
2. Defendants New Mexico General Services Department and Records Custodian Victoria Garcia (hereinafter “GSD” or “Defendants”) is the agency that holds the responsibility of furnishing essential resources and services that support state government operations in New Mexico. with its principal office located in Santa Fe, County of Santa Fe, State of New Mexico.
3. Defendant is a “public body” as defined in NMSA §14-2-6(F) and is, therefore, subject to the Inspection of Public Records Act (“IPRA”) and to a suit to enforce the law through its Records Custodian, Victoria Garcia.
4. The incidents that are the subject of this action took place in the State of New Mexico.

5. This action arises under IPRA, NMSA §§14-2-1 through 14-2-12.
6. Jurisdiction and venue in this Court are proper.

### **BACKGROUND**

7. This action arises out of violations by Defendant GSD of Plaintiff's requests to inspect public records pursuant to IPRA, NMSA §§14-2-1 through 14-2-12.

8. Plaintiff is a citizen journalist, an equine/public advocate who advocates for members of the public, horses and wild horses. She is also a watchdog who researches and reports on the NM Livestock Board (NMLB).

9. In September of 2017 Plaintiff learned of a lawsuit filed in Federal Court against the NMLB by Diane Kretschmer. The Defendants unlawfully withheld the settlement records for 360 days, 180 days past the 180 days allowed under NMSA 15-7-9. Defendants also unlawfully withheld attorney billing invoices of the Hinkle, Shanor firm from the Plaintiff, which are not protected under NMSA 15-7-9, and misled Plaintiff to believe they were.

10. In May of 2019, Plaintiff also requested the billing invoices of Nancy Long and Long, Komer & Associates which were also improperly withheld under NMSA 15-7-9, and improperly denied. Defendants have not produced the requested billing invoices in either case.

11. Additionally, Plaintiff learned of a lawsuit filed in State Court against GSD by Jeff Proctor. The Defendants unlawfully withheld the settlement records after the 180 days allowed under NMSA 15-7-9.

### **RELEVANT FACTS**

12. In September of 2017 Plaintiff learned of a lawsuit filed in Federal Court against the NMLB by Diane Kretschmer. The case settled in April of 2018. Plaintiff requested the settlement records on May 13, 2018, from the GSD. *See* Email, attached hereto as Ex. 1.

13. On May 23, 2018 Plaintiff received a final reply stating the settlement records “*are still protected under NMSA 15-7-9, and therefore are ineligible for release at this time.*” See Email, attached hereto as Ex. 2.

14. NMSA 15-7-9 allows for certain claims and settlement records to be withheld for 180 days, however that does not apply to attorney billing invoices.

15. Plaintiff waited the 180 days required by NMSA 15-7-9. On November 17, 2018 the records were requested again. Request was for “*any and all records pertaining to the settlement of lawsuit case # CIV NO 17-962 SMV/GJF, Kretschmer vs. Barry Allen et al and NM Livestock Board. Also the amount that was paid to Plaintiff, a copy of the check and related documentation.*” See Email, attached hereto as Ex. 3.

16. Many past due violations took place by the Defendant and records custodian at that time, Patrick Hall. The history of that is detailed in emails dated November 20<sup>th</sup>, 2018 through December 4, 2018. See Email String, attached hereto as Ex. 4.

17. On December 4, 2018, Plaintiff finally received an email response from Alexis H. Johnson, General Counsel for the GSD, claiming Plaintiff would need to wait yet another 180 days, that the claim was not placed on “closed status” until November 19, 2018. Plaintiff’s IPRA request was dated November 17, 2018, and the alleged closed date of November 19, 2018 was suspicious and highly doubtful. Apparently, an attempt to withhold the settlement details for 360 days rather than the allowed 180 days. Defendant closed her request. See Email, attached hereto as Ex. 5.

18. On the same day Plaintiff responded that the request should not be closed as the 180 allowed days had passed since the date of settlement. Plaintiff asked for “*... what document you are relying on that this case just closed. It closed in May 2018.*” See Email attached hereto as Ex. 6.

19. On the same day December 4, 2018, Plaintiff did not receive a written response, however a telephone call from Alexis Johnson, General Counsel, who tried to convince her that a contract law firm billing invoice was received in November therefore the closed date was changed to November 19, 2018. Plaintiff did not know at that time NMSA 15-7-9 does not protect attorney billing invoices.

20. Directly after that telephone call Plaintiff emailed the records custodian, copied Alexis Johnson, and requested “...a copy of the document(s) proving a “closed status” date...” There was no response, a violation of the required 3-day response. Plaintiff emailed the records custodian again on December 11, 2018, advising of the violation. *See* Email, attached hereto as Ex. 8.

21. After much arguing back and forth that went nowhere, on December 12, 2018, Plaintiff received a response from Michael Bebeau, Sr. Litigation Attorney for the GSD. He claimed he would need to “analyze” her request and would be back with her by December 21, 2018. *See* Email, attached hereto as Ex. 9.

22. Therefore, on December 22, 2018, Plaintiff requested all invoices submitted by the contract law firm Hinkle Shanor LLP. On December 26, 2018 she received a response stating more time would be needed until January 8, 2019. *See* Email, attached hereto as Ex. 10

23. On January 9, 2019, Plaintiff once again experienced a 3-day violation by the Defendants and emailed the records custodian requesting a response. On January 10, 2019, a response was received denying the billing invoices, withheld under NMSA 15-7-9. Plaintiff did not receive a proper and required denial letter, nor the invoices which are not protected under NMSA 15-7-9. *See* Email, attached hereto as Ex. 11.

24. On January 10, 2019, Plaintiff tried again, this time requesting just the last invoice with any redaction the Defendant might find necessary, to prove a very late invoice was submitted

in November of 2018. On January 10, 2019 the Defendants responded they would respond on January 24, 2019. On January 11, 2019, the Defendants responded and denied the request, again withheld under NMSA 15-7-9. On January 12, 2019, Plaintiff replied asking for a proper denial letter, and disagreed with the withholding of the invoice even with redaction. There was no response. *See* Email, attached hereto as Ex. 12.

25. Plaintiff proceeded to make complaints to Governor's Director of Constituent Services, and on February 5, 2019 received a denial letter from the Defendants which in part stated:

*"On January 10, 2019, you requested, in relevant part, "...a copy of the last invoice for work performed, submitted by the below, for defending the NMLB, et al., in the Kretschmer lawsuit, Cause No. 2:17 CV-00962 SMV/GJF...Hinkle Shanor LLP..." a. On January 11, 2019, the Department responded, in relevant part,*

*"The record you are requesting is subject to NMSA Section 15-7-9(A)(2). The entirety of the invoice, including the date, is a "[record] pertaining to claims for damages or other relief against [a] government entity. Since statute prohibits the General Services Department from disclosing the any responsive records at this time, your request is denied under NMSA Section 14-2-1(A)(12)."*

*For the production letters issued above, Michael Bebeau, Senior Litigation Attorney, was responsible for the denials." See Denial Letter, attached hereto as Ex. 13*

26. After submitting complaints to the Governor's Director of Constituent Services, Plaintiff spoke with the new Cabinet Secretary, Ken Ortiz, on March 6, 2019. Mr. Ortiz claimed that a mistake was made and the Kretschmer case was not properly closed. However, Plaintiff was still not provided the settlement records or the requested billing invoices.

27. On May 10, 2019, after requesting and reviewing the Hinkley, Shanor contract, Plaintiff emailed Cabinet Secretary, Ken Ortiz, and pointed out that if the law firm submitted an invoice many months late, they would have breached their contract and that should not change the closed date of the claim, and was not the public's problem. There was no response. *See* Email, attached hereto as Ex. 14.

28. The Defendants never provided a lawful reason to withhold the settlement records another 180 days beyond the 180 days that had already passed and misled the Plaintiff in regard to attorney billing invoices being protected under NMSA 15-7-9.

29. The New Mexico Attorney General's Office opined on a similar issue, in response to a complaint from a reporter and found that payment records (invoices, etc.) were not "automatically" privileged, and that GSD had violated the law by failing to provide a timely response to IPRA requests, failing to send a proper denial letter and withholding records subject to inspection. This was also in reference to a lawsuit where the GSD provided a contract attorney for *Santa Fe Reporter v. Governor Martinez*.

30. "The Department should have provided, at a minimum, copies of the billing records requested with redaction of specific details of the attorney services which constitute attorney-client privilege," Assistant Attorney General Joseph Dworak wrote in a December 2016 letter to GSD's general council. *See* Determination Letter, attached hereto as Ex. 15.

31. Plaintiff also made IPRA requests for billing invoices of another contract attorney and law firm, Nancy Long and Long, Komer & Associates.

32. On May 5, 2019, Plaintiff emailed an IPRA request to the Defendant for "*all invoices submitted for payment by Nancy Long and Long, Komer & Associates, between 2/15/19 and 5/10/19.*" *See* Email String, attached hereto as Ex. 16.

33. On May 6, 2019, Defendants responded and stated they would respond again on or before May 9, 2019. On May 9, 2019, at 4:58pm anticipating yet another 3-day violation, Plaintiff emailed the Defendants asking for the response. At 5:05pm Defendants responded that the response was sent via US Mail, despite the fact the request was made via email and the Defendants had always emailed records and letters to her. Plaintiff finally received via mail, not the records

sought however a denial letter. *See* Denial Letter, attached hereto as Ex. 17.

34. On May 13, 2019, Plaintiff emailed the Defendant stating she did not understand the denial, as it was a blanket denial. The denial letter did not describe the records that existed, and which were being withheld, nor did it list the names and titles of those responsible for the denial. The letter stated that 180 days had not elapsed therefore all records were withheld under NMSA 15-7-9.

35. On May 16, 2019, there had been no response. Plaintiff left a voice mail for records custodian, Victoria Garcia. She expressed her concerns about the lack of a response and confusion over what exactly was being denied.

36. On May 16, 2019, Defendants responded via email that Plaintiff would need to submit a new request. On the same day Plaintiff responded that her request was clear “*You asked me below to create and submit a new request, there is no need. My request as you agree was “all invoices submitted for payment by Nancy Long and Long, Komer & Associates, between 2/15/19 and 5/10/19.”*” Plaintiff also addressed the improper denial issues. There was no response. *See* Email String, attached hereto as Ex. 16.

37. On May 28, 2019 Plaintiff sent an IPRA request to GSD seeking “...a copy of the settlement agreements for the following case: D-101-CV-201701531, Jeff Proctor vs. GSD”. *See* Email request attached hereto as Ex. 18

38. In her request, Plaintiff stated “[T]his case settled over 180 days ago. I am requesting the records electronically, the exist in e-format, and I would like them sent via email.”

39. On May 31, 2019, Defendants responded, improperly denying Plaintiffs records request asserting that “According to the court’s docket, the case has not yet been dismissed and is still considered active.” *See* Email response to IPRA request attached hereto as Ex. 18.

40. To date, there has been nothing filed in this case for well over a year. *See* docket attached hereto as Ex. 19.

41. The Defendant never proved a lawful reason to withhold the invoices and misled the Plaintiff in regard to attorney billing invoices being protected under NMSA 15-7-9.

42. This Complaint seeks production of certain public records Plaintiff has requested from the GSD and for which the Defendants still have not fulfilled their obligations of inspection, or properly denied.

43. This Complaint also seeks damages for the GSD's violations of IPRA, as well as requesting a writ of *mandamus* and/or injunctive relief under IPRA and applicable law.

**RELEVANT PROVISIONS OF THE  
INSPECTION OF PUBLIC RECORDS ACT (IPRA)**

44. IPRA declares it is the public policy of the State of New Mexico that "all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees." NMSA §14-2-5.

45. IPRA gives every person the right to inspect the public records of the State. NMSA §14-2-1.

46. IPRA defines public body as "the executive, legislative and judicial branches of state and local governments and all advisory boards, commissions, committees, agencies or entities created by the constitution or any branch of government that receives any public funding...." NMSA §14-2-6(F).

47. IPRA defines public records as "all documents, papers, letters, books, maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of any public body and relate to public business...." NMSA §14-2-6(G).



48. IPRA states that “A custodian receiving a written request shall permit the inspection immediately or as soon as is practicable under the circumstances, but not later than fifteen days after receiving a written request. If the inspection is not permitted within three business days, the custodian shall explain in writing when the records will be available for inspection or when the public body will respond to the request....” NMSA §14-2-8(D)

49. Under IPRA, a written request includes requests made by email. NMSA §14-2-8(F).

50. Under IPRA, “If a custodian determines that a written request is excessively burdensome or broad, an additional reasonable period of time shall be allowed to comply with the request. The custodian shall provide written notification to the requester within fifteen days of receipt of the request that additional time will be needed to respond to the written request. The requester may deem the request denied and may pursue the remedies available pursuant to the Inspection of Public Records Act if the custodian does not permit the records to be inspected in a reasonable period of time.” NMSA §14-2-10.

51. Under IPRA, “Unless a written request has been determined to be excessively burdensome or broad, a written request for inspection of public records that has not been permitted within fifteen days of receipt by the office of the custodian may be deemed denied. The person requesting the public records may pursue the remedies provided in the Inspection of Public Records Act.” NMSA §14-2-11(A).

52. Under IPRA, “A custodian who does not deliver or mail a written explanation of denial within fifteen days after receipt of a written request for inspection is subject to an action to enforce the provisions of the Inspection of Public Records Act and the requester may be awarded damages. Damages shall: (1) be awarded if the failure to provide a timely explanation of denial is determined to be unreasonable; (2) not exceed one hundred dollars (\$100) per day....” NMSA

§14-2-11(C).

53. Under IPRA, an action to enforce IPRA can be brought by a person whose request has been denied. NMSA §14-2-12(A).

54. Under IPRA, “A district court may issue a writ of mandamus or order an injunction or other appropriate remedy to enforce the provisions of the Inspection of Public Records Act.” NMSA §14-2-12(B).

55. Exhaustion of administrative remedies is not required under IPRA. NMSA §14-2-12(C).

56. Under IPRA, “The court shall award damages, costs and reasonable attorneys’ fees to any person whose written request has been denied and is successful in a court action to enforce the provisions of the Inspection of Public Records Act.” NMSA §14-2-12(D).

**COUNT I**  
**VIOLATIONS OF THE INSPECTION OF PUBLIC RECORDS ACT (IPRA)**

57. Plaintiff hereby incorporates by reference all of the foregoing facts and allegations contained in her Complaint.

58. Plaintiff has made numerous requests to inspect public records pursuant to IPRA for which requested records have yet to be produced or denied via letter.

59. IPRA requires public agencies like the GSD to allow inspection of public records pursuant to a written IPRA request.

60. Defendants have failed to produce public records requested by the Plaintiff as required by IPRA.

61. Denials were unlawful as the requested records are a matter of public record.

62. Pursuant to NMSA §14-2-12(B), Plaintiff is entitled to a writ of mandamus or an injunction ordering the Defendants to produce all relevant documents in the Defendants’ custody

or control as provided in the Plaintiff's requests.

63. Plaintiff is further entitled to injunctive relief enjoining the Defendants from withholding documents requested, as well as similar documents requested in the future, and further that Defendants adopt policies and procedures sufficient to correct the policies and practices that resulted in the improper denials in this case.

64. Plaintiff is further entitled to recover her attorney fees, costs and damages in pursuing this action, pursuant to NMSA §14-2-12(D).

**WHEREFORE**, Plaintiff prays as follows:

A. The Court issue a writ of mandamus compelling Defendants to produce all requested records and/or injunctive relief ordering the Defendants to produce all outstanding records requested, and ensuring speedy and full compliance by Defendants of future records requests under IPRA;

B. Award statutory damages as provided in the Inspection of Public Records Act;

C. Award attorney fees and costs as provided in the Inspection of Public Records Act;

and

D. Such other and further relief as may be just and proper.

Respectfully Submitted,

WESTERN AGRICULTURE, RESOURCE  
AND BUSINESS ADVOCATES, LLP

*/s/ A. Blair Dunn*

\_\_\_\_\_  
A. Blair Dunn, Esq.  
400 Gold Ave SW, Suite 1000  
Albuquerque, NM 87102  
(505) 750-3060  
[abdunn@ablairdunn-esq.com](mailto:abdunn@ablairdunn-esq.com)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 14<sup>th</sup> day of June, 2019 I filed the foregoing via the New Mexico E-filing system, and caused a copy to be served upon the Defendants via USPS as follows:

Victoria Garcia  
Records Custodian  
Joseph Montoya Building  
1100 S. St. Francis Drive, Room 2073  
Santa Fe, NM 87502

New Mexico General Services Department  
Joseph Montoya Building  
1100 S. St. Francis Drive, Room 2073  
Santa Fe, NM 87502

/s/ A. Blair Dunn  
A. Blair Dunn, Esq.

# EXHIBIT 1

**From:** Kemsley, Wyndham <Wyndham.Kemsley@state.nm.us>  
**Sent:** Friday, May 18, 2018 8:23 AM  
**To:** nlhenry@mindspring.com  
**Subject:** Re: PAST DUE FW: IPRA Request - NM Livestock Board  
**Importance:** High

Dear Ms. Henry,

Please accept my most sincere apologies for the delay in this email. I am currently in an area with somewhat spastic internet coverage, and I tried to send our reply on Wednesday, but it appears as though my initial email never made it. Again, I am very sorry for this miscommunication.

The General Services Department has received your request for inspection of public records, specifically for "any and all records pertaining to the settlement of lawsuit case # CIV NO 17-962 SMV/GJF, Kretschmer vs. Barry Allen et al and NM Livestock Board, as well as the amount that was paid to Plaintiff" and is now in the process of reviewing and compiling all responsive material in relation to your request. This request is logged into our records as RMD18-010. Per the New Mexico Inspection of Public Records Act Compliance Guide, please allow a period of 15 days from the date we received your request for a response from our team. This means that you can expect further communication from us on or before May 25, 2018.

Please feel free to contact me with any questions you may have. Thank you so much for your patience.

Sincerely,

Wyndham Kemsley  
Public Information Officer  
Department of Information Technology  
General Services Department  
(505) 795-0994  
[wyndham.kemsley@state.nm.us](mailto:wyndham.kemsley@state.nm.us)

**From:** "[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)" <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>  
**Date:** Friday, May 18, 2018 at 3:54 AM  
**To:** Wyndham Kemsley <[wyndham.kemsley@state.nm.us](mailto:wyndham.kemsley@state.nm.us)>  
**Subject:** PAST DUE FW: IPRA Request - NM Livestock Board

Dear Risk Management, I did not receive a 3 day response to the below records request...

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>  
**Sent:** Sunday, May 13, 2018 8:22 AM  
**To:** '[Wyndham.Kemsley@state.nm.us](mailto:Wyndham.Kemsley@state.nm.us)' <[Wyndham.Kemsley@state.nm.us](mailto:Wyndham.Kemsley@state.nm.us)>  
**Subject:** IPRA Request - NM Livestock Board

Dear Risk Management,

I am requesting **any and all records** pertaining to the **settlement** of lawsuit case # **CIV NO 17-962 SMV/GJF, Kretschmer vs. Barry allen et al and NM Livestock Board**. Also the **amount that was paid to Plaintiff**. I am requesting these records in electronic format, as they should already exist in that form

Thank you,

**Nancy L. Henry**, Taxpayer - *Public business is the public's business*  
NM for Equine Rights & Open Government  
<https://www.facebook.com/NewMexicoAgainstHorseSlaughter/>  
505.250.9457, PO Box 56644, ABQ NM, 87187

*“... there will be an opportunity to determine if those who have been entrusted with the affairs of government are honestly, faithfully and competently performing their function as public servants.” ~ NM Supreme Court*

# EXHIBIT 2

**From:** Kemsley, Wyndham <Wyndham.Kemsley@state.nm.us>  
**Sent:** Wednesday, May 23, 2018 4:21 PM  
**To:** nlhenry@mindspring.com  
**Subject:** IPRA Request - NM Livestock Board

Dear Ms. Henry,

After substantial review, it is evident that the records that you have requested, specifically "any and all records pertaining to the settlement of lawsuit case # CIV NO 17-962 SMV/GJF, Kretschmer vs. Barry Allen et al and NM Livestock Board, as well as the amount that was paid to Plaintiff" are still protected under NMSA 15-7-9, and therefore are ineligible for release at this time.

To understand this better, I recommend reviewing page 16 of the New Mexico Inspection of Public Records Act Compliance Guide, which outlines when documents protected under NMSA 15-7-9 become releasable.

Please do not hesitate to reach out to me with any questions that you may have.

Sincerely,

Wyndham Kemsley  
Public Information Officer  
Department of Information Technology  
General Services Department  
(505) 795-0994  
[wyndham.kemsley@state.nm.us](mailto:wyndham.kemsley@state.nm.us)

# EXHIBIT 3

**From:** nlhenry@mindspring.com <nlhenry@mindspring.com>  
**Sent:** Saturday, November 17, 2018 6:10 AM  
**To:** 'Patrick.Hall@state.nm.us' <Patrick.Hall@state.nm.us>  
**Subject:** IPRA Request - NMLB & Kretschmer

Dear Risk Management,

I am requesting **any and all records** pertaining to the **settlement** of lawsuit case # **CIV NO 17-962 SMV/GJF, Kretschmer vs. Barry Allen et al and NM Livestock Board**. Also the **amount that was paid to Plaintiff, a copy of the check and related documentation**. I am requesting these records in electronic format, as they should already exist in that format, and there is no associated cost.

It is to my understanding that Risk Management records are to be made public after 6 months.

Thank you,

**Nancy L. Henry**

*Lead Administrator & Equine/Public Advocate*

NM for Equine Rights & Open Government

<https://www.facebook.com/NewMexicoAgainstHorseSlaughter/>

505.250.9457, PO Box 56644, ABQ NM, 87187

*“... there will be an opportunity to determine if those who have been entrusted with the affairs of government are honestly, faithfully and competently performing their function as public servants.” ~ NM Supreme Court*



# EXHIBIT 4

**From:** nlhenry@mindspring.com <nlhenry@mindspring.com>  
**Sent:** Tuesday, December 4, 2018 2:58 PM  
**To:** 'Hall, Patrick, GOV' <Patrick.Hall@state.nm.us>; 'Hatch, Loren, GOV' <Loren.Hatch@state.nm.us>  
**Cc:** 'Stackpole, Matthew, GOV' <Matthew.Stackpole@state.nm.us>; 'Goldbogen, Judy, GOV' <Judy.Goldbogen@state.nm.us>; 'Johnson, Elisabeth, GOV' <Elisabeth.Johnson@state.nm.us>  
**Subject:** COMPLAINT RE: [EXT] PAST DUE RE: IPRA - NMLB & Kretschmer  
**Importance:** High

**Patrick**, you have still not complied with the *Inspection of Public Records Act*. I have still not received a letter w/ a date for production of the requested records. (or a simple email w/ that date in writing) I also do not understand why you are listed as the Records Custodian for Risk Management however also listed at LinkedIn as the Director of Boards!

Maybe that is why both of my IPRA requests are being mishandled, including the one I sent to the Governor's office for records pertaining to the new NMLB Board Members, and the process as well. That request worked by Elisabeth Johnson was returned w/ no records exist. Hard to believe, and I am now searching for them elsewhere, as the records retentions law is for many years, not a few weeks!

You are not doing a good job, and by your LinkedIn resume certainly not qualified to be Director of Boards (however most have been young, new, and are quickly gone) **I do need you to comply with your statutory obligations and properly process my IPRA request.** I enjoy teaching, no problem.

**Nancy L. Henry**  
*Lead Administrator & Equine/Public Advocate*  
NM for Equine Rights & Open Government  
<https://www.facebook.com/NewMexicoAgainstHorseSlaughter/>  
505.250.9457, PO Box 56644, ABQ NM, 87187

***“... there will be an opportunity to determine if those who have been entrusted with the affairs of government are honestly, faithfully and competently performing their function as public servants.” ~ NM Supreme Court***

**From:** nlhenry <nlhenry@mindspring.com>  
**Sent:** Tuesday, December 4, 2018 11:52 AM  
**To:** Hall, Patrick, GOV <Patrick.Hall@state.nm.us>  
**Cc:** Stackpole, Matthew, GOV <Matthew.Stackpole@state.nm.us>; Unknown <nlhenry@mindspring.com>  
**Subject:** Re: Read: [EXT] PAST DUE RE: IPRA - NMLB & Kretschmer

Patrick, I need you to reply to me in writing and tell me when the requested records will be produced. Although I finally got you to give me a date on the phone a few minutes ago, that's not how it works. You do need to reply and provide a date for production, which has been my complaint and you have ignored it.

There is nothing in the IPRA that says I'm supposed to have to keep calling a records custodian leaving messages being Ignored etc. until I finally get them on the phone.

Nancy Henry

**From:** nlhenry@mindspring.com <nlhenry@mindspring.com>  
**Sent:** Monday, December 3, 2018 4:58 PM  
**To:** 'Stackpole, Matthew, GOV' <Matthew.Stackpole@state.nm.us>  
**Subject:** FW: PAST DUE RE: IPRA - NMLB & Kretschmer  
**Importance:** High

Matthew, this mess below caused by Patrick Hall, allegedly of Risk management, is what helps to give Records Custodians a very bad rap. I pointed out multiple times he violated the IPRA, no response, he flat out does not care...

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>  
**Sent:** Monday, December 3, 2018 4:33 PM  
**To:** 'Hall, Patrick, GOV' <[Patrick.Hall@state.nm.us](mailto:Patrick.Hall@state.nm.us)>  
**Cc:** 'Hatch, Loren, GOV' <[Loren.Hatch@state.nm.us](mailto:Loren.Hatch@state.nm.us)>  
**Subject:** PAST DUE RE: IPRA - NMLB & Kretschmer  
**Importance:** High

Patrick Hall, despite voice messages since Friday, this morning, and two emails, my concerns have not been responded to, nor have I received the records. Please fulfill your statutory obligations to me and properly handle this records request...

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>  
**Sent:** Friday, November 30, 2018 4:07 PM  
**To:** 'Hall, Patrick, GOV' <[Patrick.Hall@state.nm.us](mailto:Patrick.Hall@state.nm.us)>  
**Subject:** RE: [EXT] DUE TODAY - FW: IPRA  
**Importance:** High

I have pasted back in the history. Please do not start new emails so it is all in one place. I was under the impression you were fulfilling this today, "Nov 30th." **I need an actual date that you are committed to, per the IPRA.** You responded "**we will follow up with your information next week.**" **I do need a date.**

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>  
**Sent:** Saturday, November 17, 2018 6:10 AM  
**To:** 'Patrick.Hall@state.nm.us' <[Patrick.Hall@state.nm.us](mailto:Patrick.Hall@state.nm.us)>  
**Subject:** IPRA Request - NMLB & Kretschmer

Dear Risk Management,

I am requesting **any and all records** pertaining to the **settlement** of lawsuit case # **CIV NO 17-962 SMV/GJF, Kretschmer vs. Barry Allen et al and NM Livestock Board**. Also the **amount that was paid to Plaintiff**, a **copy of the check** and **related documentation**. I am requesting these records in electronic format, as they should already exist in that format, and there is no associated cost.

It is to my understanding that Risk Management records are to be made public after 6 months.

Thank you,

**Nancy L. Henry**

*Lead Administrator & Equine/Public Advocate*

NM for Equine Rights & Open Government

<https://www.facebook.com/NewMexicoAgainstHorseSlaughter/>

505.250.9457, PO Box 56644, ABQ NM, 87187

*"... there will be an opportunity to determine if those who have been entrusted with the affairs of government are honestly, faithfully and competently performing their function as public servants." ~ NM Supreme Court*

**From:** Hall, Patrick, GOV <[Patrick.Hall@state.nm.us](mailto:Patrick.Hall@state.nm.us)>

**Sent:** Friday, November 30, 2018 4:02 PM

**To:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)

**Subject:** Re: [EXT] DUE TODAY - FW: IPRA

Nancy:

As we are in the process of compiling information for this request, we will follow up with your information next week.

-Pat

Get [Outlook for iOS](#)

On Fri, Nov 30, 2018 at 3:57 PM -0700, "[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)" <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)> wrote:

Patrick, just a reminder this records request is due today, thank you,

**Nancy L. Henry**

*Lead Administrator & Equine/Public Advocate*

NM for Equine Rights & Open Government

<https://www.facebook.com/NewMexicoAgainstHorseSlaughter/>

505.250.9457, PO Box 56644, ABQ NM, 87187

*“... there will be an opportunity to determine if those who have been entrusted with the affairs of government are honestly, faithfully and competently performing their function as public servants.” ~ NM Supreme Court*

**From:** Hall, Patrick, GOV <[Patrick.Hall@state.nm.us](mailto:Patrick.Hall@state.nm.us)>

**Sent:** Tuesday, November 20, 2018 10:34 AM

**To:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)

**Subject:** IPRA

Nancy:

We've received your IPRA request and will be in touch on or before November 30th with more information. Thank you.

-Pat

Patrick Hall

Public Information Officer

General Services Department

(505) 476-2208

# EXHIBIT 5

**From:** Johnson, Alexis, GSD <Alexis.Johnson@state.nm.us>  
**Sent:** Tuesday, December 4, 2018 4:07 PM  
**To:** 'nlhenry@mindspring.com' <nlhenry@mindspring.com>  
**Cc:** Hall, Patrick, GOV <Patrick.Hall@state.nm.us>  
**Subject:** IPRA Request - NMLB & Kretschmer

Dear Ms. Henry:

The General Services Department received your Inspection of Public Records Act request for “any and all records pertaining to the settlement of lawsuit case # CIV NO 17-962 SMV/GJF, Kretschmer vs. Barry Allen et al and NM Livestock Board. Also the amount that was paid to Plaintiff, a copy of the check and related documentation.” Your request was received on November 17, 2018, (a Saturday).

Pursuant to NMSA 1978, § 15-7-9, the General Services Department cannot release any responsive information at this time. Specifically, NMSA 1978, § 15-7-9(A)(2)(d) prohibits the General Services Department from disclosing any information related to this case until 180 days after “the date the claim has been placed on closed status.” As this claim was placed on closed status on November 19, 2018, the statutorily required 180 days has not elapsed.

Since the General Services Department cannot produce any responsive records, we are now considering this request closed.

Please contact me with any questions related to this request.

Sincerely,

Alexis H. Johnson

General Counsel  
NM General Services Department  
Santa Fe, NM

Tel: 505-827-0402

# EXHIBIT 6

**From:** nlhenry@mindspring.com <nlhenry@mindspring.com>  
**Sent:** Tuesday, December 4, 2018 4:19 PM  
**To:** 'Johnson, Alexis, GSD' <Alexis.Johnson@state.nm.us>  
**Cc:** 'Hall, Patrick, GOV' <Patrick.Hall@state.nm.us>  
**Subject:** NOT CLOSED RE: IPRA Request - NMLB & Kretschmer  
**Importance:** High

That is not correct. That case closed 6 months ago, **see attached**. I have a PACER account for Federal Court and all of the documents. I am feeling very harassed by you folks. I am very aware of the 6 month rule and it has been six months.

“State law also prohibits the disclosure of Risk Management Division settlements within 180 days. After the six-month waiting period, however, the documents can be released under the Inspection of Public Records Act.”

You do owe me the records. I will file a complaint w/ the OAG/OGD. You show what document you are relying on that this case just closed. It closed in May 2018.

**Nancy L. Henry**

*Lead Administrator & Equine/Public Advocate*

NM for Equine Rights & Open Government

<https://www.facebook.com/NewMexicoAgainstHorseSlaughter/>

505.250.9457, PO Box 56644, ABQ NM, 87187

*“... there will be an opportunity to determine if those who have been entrusted with the affairs of government are honestly, faithfully and competently performing their function as public servants.” ~ NM Supreme Court*

# EXHIBIT 7

designated by RMD shall have the ultimate responsibility for the assigned matter and will be the person with whom contract counsel will have their **primary** working relationship in terms of litigation strategy, attorney impressions, work product, and contract oversight, approval of costs, settlement authority requests, and other day-to-day administrative issues.

## **III. Media Relations and Promotion**

- A. Any media inquiry relating to an assigned matter or RMD's relationship with the Contractor must be referred immediately to RMD. The Contractor shall not make statements to the media regarding RMD matters without securing advance approval from RMD through the General Services Department's Public Information Officer. If time is of the essence and neither the RMD contact nor the General Services Department's Public Information Officer can be reached, contact in the following order, the RMD Director, the RMD Legal Bureau Chief, or the GSD Cabinet Secretary to discuss the matter prior to making any statement to the media.
- B. RMD does not authorize the Contractor to advertise or promote its relationship with RMD or the State of New Mexico, other than listing RMD as a client.

## **IV. Billing Requirements**

### **A. Hourly Billing Rates – General Requirements**

#### **1. Monthly Due Date, 90-Day Limit, and End of Fiscal Year Billing**

- A. The firm shall submit invoices to RMD for services rendered and expenses incurred on a monthly basis using prescribed submission mechanism.
- B. Bills must be submitted on or before the 10<sup>th</sup> day of the month following the month that services were rendered or expenses were incurred.
- C. Should the 10<sup>th</sup> day of the month fall on a weekend or on a holiday recognized by the State of New Mexico, bills may be submitted on the next consecutive business day.
- D. RMD reserves the right to refuse payment of bills or invoices submitted more than 90 days after the date that services were rendered or the date that expenses were incurred.
- E. Invoices for services rendered or expenses incurred during the last month of a Fiscal Year as defined by the State of New Mexico are subject to DFA closing procedures. Firms must follow all DFA and RMD guidance when submitting expenses subject to the DFA closing procedure.
- F. In compliance with the terms set forth in Exhibit B, Contractor must submit a detailed statement accounting for all services performed and expenses incurred.
  - 1. If the Agency finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action.



# EXHIBIT 8

**From:** nlhenry@mindspring.com <nlhenry@mindspring.com>  
**Sent:** Tuesday, December 11, 2018 3:59 PM  
**To:** 'Hall, Patrick, GOV' <Patrick.Hall@state.nm.us>; 'Patterson, Loren, NMLB' <Loren.Patterson@state.nm.us>  
**Cc:** 'Johnson, Alexis, GSD' <Alexis.Johnson@state.nm.us>  
**Subject:** PAST DUE! IPRA - Kretschmer - Closed Status Date Document  
**Importance:** High

Records Custodian Patrick Hall, I received no 3 day response to this request, was due yesterday 12/10, nor any records. This is another a violation of the IPRA. Please respond and fulfill your statutory obligations to me.

**Nancy L. Henry**

*Lead Administrator & Equine/Public Advocate*

NM for Equine Rights & Open Government

<https://www.facebook.com/NewMexicoAgainstHorseSlaughter/>

505.250.9457, PO Box 56644, ABQ NM, 87187

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>  
**Sent:** Tuesday, December 4, 2018 6:25 PM  
**To:** 'Hall, Patrick, GOV' <[Patrick.Hall@state.nm.us](mailto:Patrick.Hall@state.nm.us)>  
**Cc:** 'Johnson, Alexis, GSD' <[Alexis.Johnson@state.nm.us](mailto:Alexis.Johnson@state.nm.us)>  
**Subject:** IPRA - Kretschmer - Closed Status Date Document

Dear Records Custodian,

I am requesting a copy of the document(s) proving a "closed status" date, for settlement in the following case:

**DIANE KRETSCHMER,**  
Plaintiff,  
**v. Cause No. 2:17 CV-00962 SMV/GJF**  
**BARRY ALLEN,**  
**SHAWN DAVIS,**  
**ROWDY SMITH, and**  
**NEW MEXICO LIVESTOCK BOARD,**  
Defendants.

This should exist in electronic format, therefore attached and emailed.

**Nancy L. Henry**

*Lead Administrator & Equine/Public Advocate*

NM for Equine Rights & Open Government

<https://www.facebook.com/NewMexicoAgainstHorseSlaughter/>

505.250.9457, PO Box 56644, ABQ NM, 87187



# EXHIBIT 9

**From:** Bebeau, Michael, GSD <[Michael.Bebeau@state.nm.us](mailto:Michael.Bebeau@state.nm.us)>  
**Sent:** Wednesday, December 12, 2018 4:26 PM  
**To:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)  
**Cc:** Johnson, Alexis, GSD <[Alexis.Johnson@state.nm.us](mailto:Alexis.Johnson@state.nm.us)>  
**Subject:** IPRA Requests

Good afternoon Ms. Henry,

I just wanted to contact you and follow up on our conversation from this morning.

As you know, NMSA 1978, § 15-7-9 imposes strict penalties for any improper disclosure of information in violation of the statute. Therefore, to ensure compliance with our obligations under State statute, I need to review your requests and analyze the applicable law before taking any other action.

Though I will be out of the office tomorrow and several days next week, I anticipate that GSD can provide you with an update on your requests no later than December 21, 2018.

Thank you,

Mike  
**MICHAEL R. BEBEAU**  
Senior Litigation Attorney  
State of New Mexico Risk Management Division

This message (including attachments) constitutes a confidential attorney-client or is otherwise a confidential communication from the State of New Mexico's Risk Management Division, that is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521, NMSA § 15-7-9, and is intended solely for the use of the individual(s) or entity to whom it is addressed. It is not intended for transmission to, or receipt by, any unauthorized person. If you are not the intended recipient or received these documents by mistake or error, please do not read it and immediately notify us by collect telephone call to (505) 827-2036 for instructions on its destruction or return. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, action or reliance upon the contents of the documents is strictly prohibited.

# EXHIBIT 10

**From:** Bebeau, Michael, GSD <Michael.Bebeau@state.nm.us>  
**Sent:** Wednesday, December 26, 2018 11:22 AM  
**To:** nlhenry@mindspring.com  
**Cc:** Valdez, Jacqueline, GSD <Jacqueline.Valdez2@state.nm.us>  
**Subject:** FW: [EXT] IPRA Request - Invoices & Contract - Hinkle Shanor LLP

Dear Ms. Henry:

I am providing this reply on behalf of our records custodian who is out of the office.

On December 24, 2018, the General Services Department received your Inspection of Public Records Act Request for:

“**all invoices** for work performed, submitted by the below, for defending the NMLB, et al., in the **KRETSCHMER** lawsuit, **Cause No. 2:17 CV-00962 SMV/GJF**. Also all **contracts** to perform this work.”

We will require additional time to respond. We anticipate providing you with an update on or before January 8, 2018.

Sincerely,

Michael R. Bebeau

**From:** nlhenry@mindspring.com <nlhenry@mindspring.com>  
**Sent:** Saturday, December 22, 2018 8:30 AM  
**To:** 'Valdez, Jacqueline, GSD' <Jacqueline.Valdez2@state.nm.us>  
**Subject:** IPRA Request - Invoices & Contract - Hinkle Shanor LLP

Dear Records Custodian,

I am requesting all **invoices** for work performed, submitted by the below, for defending the NMLB, et al., in the **KRETSCHMER** lawsuit, **Cause No. 2:17 CV-00962 SMV/GJF**. Also all **contracts** to perform this work.

**HINKLE SHANOR LLP**

/s/ Stephen S. Shanor

Stephen S. Shanor, Esq.

Chelsea R. Green, Esq.

Ann C. Tripp, Esq.

P.O. Box 10 Roswell, NM 88202-0010

I will calendar the 3 day response for 12/27/18.

**Nancy L. Henry**

*Lead Administrator & Equine/Public Advocate*

NM for Equine Rights & Open Government

<https://www.facebook.com/NewMexicoAgainstHorseSlaughter/>

505.250.9457, PO Box 56644, ABQ NM, 87187

*“... there will be an opportunity to determine if those who have been entrusted with the affairs of government are honestly, faithfully and competently performing their function as public servants.” ~ NM Supreme Court*

# EXHIBIT 11

**From:** Valdez, Jacqueline, GSD <Jacqueline.Valdez2@state.nm.us>  
**Sent:** Thursday, January 10, 2019 8:15 AM  
**To:** nlhenry@mindspring.com  
**Subject:** Re: [EXT] PAST DUE FW: IPRA Request - Invoices & Contract - Hinkle Shanor LLP

Dear Ms. Henry:

We received your Inspection of Public Records Act request for:

**“all invoices** for work performed, submitted by the below, for defending the NMLB, et al., in the **KRETSCHMER** lawsuit, **Cause No. 2:17 CV-00962 SMV/GJF**. Also all **contracts** to perform this work.”

While the invoices on the case you have cited are subject to the NMSA Section 15-7-9 disclosure prohibition, the General Services Department is able to provide the underlying contracts and amendments for the firm. As such, this request is now considered closed.

Sincerely,

**Jackie Valdez**  
Executive Administrative Assistant  
General Services Department  
Office of the Secretary  
1100 St. Francis  
Santa Fe, New Mexico 87502  
(505) 827-2000 / Phone  
(505) 827-2041 / Fax  
[Jacqueline.Valdez2@state.nm.us](mailto:Jacqueline.Valdez2@state.nm.us)

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>  
**Sent:** Wednesday, January 9, 2019 5:32 AM  
**To:** Valdez, Jacqueline, GSD <[Jacqueline.Valdez2@state.nm.us](mailto:Jacqueline.Valdez2@state.nm.us)>  
**Subject:** [EXT] PAST DUE FW: IPRA Request - Invoices & Contract - Hinkle Shanor LLP  
**Importance:** High

Records Custodian and Supervisors, the records request below was **not responded to on deadline date of 1/8/19/**. I do need a response as required under the Inspection of Public Records Act. “We anticipate providing you with an update on or before January 8, 2018.” Please note that words like “anticipate” as the clever Mr. Bebeau wrote, do not apply. An actual date must be given, and that is the latest due date w/o asking for more time, reasonable time, and why.

All of my request to the GSD have been late and I must nudge you folks. This is unacceptable!

# EXHIBIT 12

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>  
**Sent:** Tuesday, January 15, 2019 5:32 AM  
**To:** 'Valdez, Jacqueline, GSD' <[Jacqueline.Valdez2@state.nm.us](mailto:Jacqueline.Valdez2@state.nm.us)>  
**Subject:** FW: IPRA Request - Last Invoice w/ Dates  
**Importance:** High

Jackie, this issue has not been responded to...

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>  
**Sent:** Saturday, January 12, 2019 5:15 AM  
**To:** 'Valdez, Jacqueline, GSD' <[Jacqueline.Valdez2@state.nm.us](mailto:Jacqueline.Valdez2@state.nm.us)>  
**Subject:** RE: IPRA Request - Last Invoice w/ Dates  
**Importance:** High

Dear Jackie,

I do not believe that a blanket denial is lawful. A date is just that, a date. Rather than arguing this with you, as you are doing what you are told to do... **who can I call in regards to this matter? No lawyers. Who is in charge?**

The GSD has still not proven to me an administrative close date of 11/19/18. The case was over in May of 2018. Again, who should I call with my complaint, name, title, and phone number.

Also, the below response is not a lawful denial as **who is responsible for the denial is missing and that person's titles.** Please provide a proper denial letter.

B. If a written request has been denied, the custodian shall provide the requester with a written explanation of the denial.

**The written denial shall:** (1) describe the records sought; (2) **set forth the names and titles or positions of each person responsible for the denial;** and (3) be delivered or mailed to the person requesting the records within fifteen days after the request for inspection was received.

**From:** Valdez, Jacqueline, GSD <[Jacqueline.Valdez2@state.nm.us](mailto:Jacqueline.Valdez2@state.nm.us)>  
**Sent:** Friday, January 11, 2019 5:01 PM  
**To:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)  
**Subject:** RE: [EXT] IPRA Request - Last Invoice w/ Dates

Dear Ms. Henry:

The record you are requesting is subject to NMSA Section 15-7-9(A)(2). The entirety of the invoice, including the date, is a "[record] pertaining to claims for damages or other relief against [a] government entity."

Since statute prohibits the General Services Department from disclosing the any responsive records at this time, your request is denied under NMSA Section 14-2-1(A)(12).

Thank you,

**Jackie Valdez**

Executive Administrative Assistant  
General Services Department  
Office of the Secretary  
1100 St. Francis  
Santa Fe, New Mexico 87502  
(505) 827-2000 / Phone  
(505) 827-2041 / Fax  
[Jacqueline.Valdez2@state.nm.us](mailto:Jacqueline.Valdez2@state.nm.us)

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>  
**Sent:** Thursday, January 10, 2019 1:28 PM  
**To:** Valdez, Jacqueline, GSD <[Jacqueline.Valdez2@state.nm.us](mailto:Jacqueline.Valdez2@state.nm.us)>  
**Subject:** RE: [EXT] IPRA Request - Last Invoice w/ Dates

Received, thank you.

**From:** Valdez, Jacqueline, GSD <[Jacqueline.Valdez2@state.nm.us](mailto:Jacqueline.Valdez2@state.nm.us)>  
**Sent:** Thursday, January 10, 2019 1:27 PM  
**To:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)  
**Subject:** RE: [EXT] IPRA Request - Last Invoice w/ Dates

Good afternoon Ms. Henry, GSD is in receipt of your request will be in touch with you on or before January 24, 2019.

**Jackie Valdez**

Executive Administrative Assistant  
General Services Department  
Office of the Secretary  
1100 St. Francis  
Santa Fe, New Mexico 87502  
(505) 827-2000 / Phone  
(505) 827-2041 / Fax  
[Jacqueline.Valdez2@state.nm.us](mailto:Jacqueline.Valdez2@state.nm.us)

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>  
**Sent:** Thursday, January 10, 2019 1:26 PM  
**To:** Valdez, Jacqueline, GSD <[Jacqueline.Valdez2@state.nm.us](mailto:Jacqueline.Valdez2@state.nm.us)>  
**Subject:** [EXT] IPRA Request - Last Invoice w/ Dates

Dear Records Custodian,

I am requesting a **copy of the last invoice** for work performed, submitted by the below, for defending the NMLB, et al., in the **KRETSCHMER** lawsuit, **Cause No. 2:17 CV-00962 SMV/GJF**. **Redaction** might be necessary, however **the date** of it

is a matter of public record. The **invoice must show the date it was submitted, and any other type of date information on the invoice.**

**HINKLE SHANOR LLP**

/s/ Stephen S. Shanor

Stephen S. Shanor, Esq.

Chelsea R. Green, Esq.

Ann C. Tripp, Esq.

P.O. Box 10 Roswell, NM 88202-0010

I will calendar the 3 day response for 1/15/19. The invoice would exist in e-format and I would like it emailed in same format.

Thank you,

**Nancy L. Henry**

*Lead Administrator & Equine/Public Advocate*

NM for Equine Rights & Open Government

<https://www.facebook.com/NewMexicoAgainstHorseSlaughter/>

505.250.9457, PO Box 56644, ABQ NM, 87187

*“... there will be an opportunity to determine if those who have been entrusted with the affairs of government are honestly, faithfully and competently performing their function as public servants.” ~ NM Supreme Court*

# EXHIBIT 13



## State of New Mexico General Services Department

**MICHELLE LUJAN GRISHAM**  
GOVERNOR

**KEN ORTIZ**  
CABINET SECRETARY

ADMINISTRATIVE SERVICES DIVISION  
(505) 476-1857

FACILITIES MANAGEMENT DIVISION  
(505) 827-2141

PURCHASING DIVISION  
(505) 827-0472

RISK MANAGEMENT DIVISION  
(505) 827-2036

STATE PRINTING & GRAPHIC SERVICES BUREAU  
(505) 476-1950

TRANSPORTATION SERVICES DIVISION  
(505) 827-1958

Date: February 5, 2019

To: Nancy Henry

From: Jackie Valdez, *Public Records Custodian*, General Services Department

Re: IPRA Requests

Dear Ms. Henry,

To date, the General Services Department (hereinafter "Department") has received the following IPRA Requests from you since December of last year:

1. On December 28, 2018, you requested, in relevant part, "...all documentation and records pertaining to Michael Bebeau's written comment to me: 'Risk Management Division staff attorneys and adjusters make the determinations and do the data entry.' As it pertains to this case/settlement...Diane Kretschmer..."
  - a. On January 18, 2019, the Department responded, in relevant part, "...the General Services Department was unable to locate any responsive records to your request. To the extent that records may be related to you (sic) only tangentially, such as internal communications or internal memoranda, the General Services Department is unable to provide those documents under NMSA 15-7-9 and other applicable privileges."
2. On January 10, 2019, you requested, in relevant part, "...a copy of the last invoice for work performed, submitted by the below, for defending the NMLB, et al., in the Kretschmer lawsuit, Cause No. 2:17 CV-00962 SMV/GJF...Hinkle Shanor LLP..."
  - a. On January 11, 2019, the Department responded, in relevant part, "The record you are requesting is subject to NMSA Section 15-7-9(A)(2). The entirety of the invoice, including the date, is a "[record] pertaining to claims for damages or other relief against [a] government entity. Since statute prohibits the General Services Department from disclosing the any responsive records at this time, your request is denied under NMSA Section 14-2-1(A)(12)."

For the production letters issued above, Michael Bebeau, Senior Litigation Attorney, was responsible for the denials. Because we have received several emails from you inquiring about the status of your requests, we provide this additional letter in hopes of resolving any remaining confusion on your part.

Thank you,

Jackie Valdez



# EXHIBIT 14

**From:** nlhenry@mindspring.com <nlhenry@mindspring.com>  
**Sent:** Friday, May 10, 2019 7:16 AM  
**To:** 'Ortiz, Kenneth, GSD' <kenneth.ortiz@state.nm.us>  
**Cc:** 'Peter S' <peter.stcyr@gmail.com>  
**Subject:** Hinkley Contract & KRETSCHMER Records  
**Importance:** High

Dear Ken Ortiz,

**Based upon the Hinkley contract, page 13**, it is even more unbelievable that the KRETSCHMER case closed w/ GSD in November due to a VERY late law firm invoice. I believe these records are 6 months past due. I would like the settlement records at this time. The history below is pitiful and there is more not in this thread, months worth. Apparently I have been misled.

IF the Hinkley firm submitted an invoice in November (very doubtful) they breached their contract and that is not the public's problem. ~ Nancy Henry

**NOTE:** GSD pings and pongs between closed November due to a rogue invoice AND the excuse that it was not properly closed (a mistake) and that delayed the close date. We never cleared that up, and either way not the public's problem. Please provide the records I am entitled to by law.

STATE OF NEW MEXICO  
OFFICE OF THE ATTORNEY GENERAL



EXHIBIT 15

HECTOR H. BALDERAS  
ATTORNEY GENERAL

TANIA MAESTAS  
Deputy of Civil Affairs

SONYA CARRASCO-TRUJILLO  
Chief of Staff for Policy and Public Affairs

SHARON PINO  
Deputy of Criminal Affairs

December 15, 2016

Alexis Johnson, General Counsel  
General Services Department  
1100 St. Francis Drive, Room 1004  
P.O. Box 6850  
Santa Fe, NM 87502-0110

**Re: Inspection of Public Records Act Complaint – Determination**

Dear Mr. Johnson:

Thank you for responding to our request for information regarding a complaint filed by Ms. Julie Ann Grimm (the "Complaint"), which alleges the General Services Department (the "Department" or "GSD") and other public bodies of the executive branch violated the New Mexico Inspection of Public Records Act ("IPRA" or the "Act"), NMSA 1978, Sections 14-2-1 to -12. The Complaint specifically alleged the Department did not respond within three days of receiving her request, inspection was not allowed within fifteen days of the request, and a sufficient written explanation was not provided by GSD when it denied the production of responsive records. Our office reviewed the Complaint and associated documents, as well as the Department's response to our inquiry, and has determined the Department violated the IPRA when it failed to provide timely and adequate responses and when it did not provide responsive records to the request.

At the center of this complaint are a number of records requests directed to the Governor's Office and sent, either directly or forwarded, to several executive agencies, including the General Services Department, Department of Finance and Administration, Risk Management Division, and the Department of Information Technology. For the purposes of this complaint, our analysis is focused on the most recent request, emailed June 17, 2016, to GSD because it is the agency that proved to possess the records in question. The specific request asked for:

Any records of payment – such as contracts, invoices, bill, or other records – from the state of New Mexico to Paul Kennedy and Associates PC, a law firm, from September 3, 2013 through the date this request is processed for legal services,

consulting services or any other services. For your convenience, Mr. Kennedy is representing Governor Martinez in state District Court case D-101-CV-3013-02328, as well as in a number of other matters. The records provided by the state should include payments [sic] the afore-cited case, as well as any other matters in which Mr. Kennedy is providing services for the state for the time period enumerated in this request.

### **1. GSD Failed to Send A Timely Three-Day Letter**

The Department did not respond timely to the records request made by Jeff Proctor, sent on June 17, 2016. Section 14-2-8(D) of the IPRA requires that a records custodian “permit the inspection immediately or as soon as practicable under the circumstances,” and only “if the inspection is not permitted within three business days, the custodian shall explain in writing when the records will be available for inspection or when the public body will respond to the request.”

The Department acknowledged it passed the deadline for responding to the request by two days. The Department stated that it was untimely due to an IT error that sent the request to a “junk folder” in the records custodian’s email. By not issuing a proper three-day letter to the requester by June 22, 2016, GSD failed to comply with the requirements of IPRA. The Department did ultimately respond to the requester by sending its response on June 24, 2016. Although response timelines were not fully complied with initially, the remedial actions taken demonstrate that the Department is in substantial compliance with the requirements of Section 14-2-8(D). See Derringer v. State, 2003-NMCA-073, 133 N.M. 721 (2003).

### **2. GSD Failed to Send a Proper Denial Letter**

The Department issued denial letters that lacked the minimum requirements under the IPRA and failed to explain the reason for the denial. The language of the Act is clear that when a written request is denied, a records custodian must provide a written denial that includes “the names and titles or positions of each person responsible for the denial.” NMSA 1978, § 14-2-11(B). The Department’s failure to provide such response until only after the requester specifically asked for such information is a violation of the IPRA. Furthermore, public bodies should also explain the reason for denying the request, which was also not provided until only after specifically requested. See N.M. Att’y Gen. Inspection of Public Records Act Compliance Guide at 49, Form V (8<sup>th</sup> ed. 2015).

### **3. GSD Withheld Responsive Records Subject To Inspection**

Finally, the Department violated the IPRA when it improperly withheld responsive records subject to inspection. Only copies of several professional service contracts and corresponding amendments were provided. It is understood the Department maintained documents related to payments made to Mr. Kennedy but that the records were withheld and claimed to be exempt as attorney-client communication and work product.

The legislative intent and underlying policy of the IPRA is “that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees.” NMSA 1978, §14-2-5. Our state law defines public records in very broad terms, to include all documents and other materials “that are used, created, received, maintained or held by or on behalf of any public body and relate to public business[.]” Section 14-2-6(G). We are provided a presumption which favors disclosure unless the record is subject to an exception under the IPRA. See State ex rel. Newsome v. Alarid, 1977-NMSC-076, ¶34, 568 P.2d 1236 (“We hold that a citizen has a fundamental right to have access to public records. The citizen’s right to know is the rule and secrecy is the exception”).

It is agreed that the Department maintained, or at least had access to responsive records to the request, which included “any records of payment-such as contracts, invoices, bills, or other records” from the State of New Mexico to the law firm Paul Kennedy and Associates PC. These records were specifically mentioned in an email from GSD Director of Communications Estavan J. Lujan on July 25, 2016 to journalist Jeff Proctor. Mr. Lujan’s email stated that “invoices, bills and other records prepared by counsel in the context of litigation are confidential attorney-client communications and work product and are not considered public records.” A similar response was provided by the Department on January 11, 2013, by Records Custodian Tim Korte in a denial letter to Santa Fe Reporter Justin Horwath. Similar requests were made by reporters associated with the Santa Fe Reporter between December 2012 and April 2016. From the information provided to our office, all other agencies except the Department replied that they did not have any responsive records. The Department’s response in January 11, 2013, indicated responsive records “cannot be disclosed because they are considered attorney-client work product.”

Certain documents created as part of an attorney-client relationship are inherently confidential and not subject to disclosure under the IPRA, but this exception is not without limit. Attorney-client privilege is established by Rule 11-503 NMRA, and incorporated under Section 14-2-1(A)(8) of the IPRA. Whether billing information is considered confidential attorney-client communication is not overtly stated in the IPRA or Rule 11-503. However, we find guidance from the New Mexico Supreme Court on the issue. The court’s analysis in Schein v. N. Rio Arriba Elec. Co-op., Inc., examined shareholders access to corporate documents, and akin to IPRA, while shareholders are generally entitled to inspect records to ensure accountability of the company, the court held that corporate documents subject to attorney-client privilege may be withheld from shareholders. Schein v. N. Rio Arriba Elec. Co-op., Inc., 1997-NMSC-011, ¶9, 932 P.2d 490. The court further explained that while certain “billing information was ‘sensitive’ and ‘intended to be confidential,’ the information requested falls outside of the attorney-client privilege.”

This exact issue of application of attorney-client privileges in the context of billing records under the IPRA has not been reviewed by New Mexico appellate courts, but courts in other jurisdictions have generally held that billing records are not automatically privileged and exempt from disclosure. See Cohen v. Uniroyal, Inc., 80 F.R.D. 480, 483 (E.D.Pa 1978) (holding that privilege

does not attach where documents reveal only dates that services were rendered, time allotted, and nature of work performed), Cypress Media, Inc. v. City of Overland Park, 268 Kan. 407, 997 P.2d 681 (2000) (narrative statements in attorney billing are not per se privileged; rather, parties claiming the privilege must demonstrate applicability of the privilege); Clarke v. American Commerce National Bank, 974 F.2d 127, 130 (9th Cir. 1992) (attorney billing statements which only contained a description of “the general nature of the services performed” along with the amount of the fee, identify of the client and case name were not protected by privilege); See also 81 American Jurisprudence 2d Witnesses 379 (November 2016) (citing O’Neal v. U.S., 258 F.3d 1265 (11th Cir. 2001)) (finding it is generally accepted that the attorney-client privilege does not always extend to an attorney’s fee agreement, billing records, or expense reports).

We believe that this persuasive authority would lead a New Mexico court to find the Department’s blanket invocation of the exception to withhold records improper. Although we recognize that certain billing records, or portions of those records, may be privileged and not subject to inspection under the IPRA, by denying the request without producing any billing records or redacting non-exempt records, the Department circumvents its obligations under the IPRA to closely scrutinize responsive records and produce all non-exempt records responsive to a request. Blanket invocation of the attorney-client communication and attorney work product exceptions when responsive records could be provided is also an infringement on the legislative intent of the IPRA that “all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees.” NMSA 1978, §14-2-5.

### **Conclusion**

The Department violated the IPRA by failing to properly respond to IPRA requests and by refusing to provide responsive records which are subject to inspection. The Department’s initial failure to provide the names and titles of the persons responsible for the denied request as well as an explanation for the denial required by Section 14-2-11(B) was cured when the Department subsequently provided such information to the requestor. However, because of the failure to ultimately produce any responsive records, the Department has violated Section 14-2-8(D).

The Department should have provided, at minimum, copies of the billing records requested with redaction of specific details of the attorney services which constitute attorney-client privilege information. This approach follows the Office of the Attorney General’s recommendation for public bodies to redact records when possible instead of withholding, and follows the preferred practice followed by other jurisdictions.

Our office urges the Department to review its practices and procedures for receiving, reviewing, and responding to IPRA requests in order to help prevent similar violations in the future. We request proper training be provided to the Department’s records custodian(s) regarding their legal obligations under Section 14-2-8(E) of the Act. In order to cure this violation the Department should immediately provide records responsive to the IPRA request, including copies of billing

records determined to be non-privileged, even if some information pertaining to specific attorney-client privileged communication or attorney work product is redacted.

For more information about IPRA you may refer to the Office of the Attorney General's Inspection of Public Records Act Compliance Guide, available on our website at [www.nmag.gov](http://www.nmag.gov). If you have any questions about the specific matters addressed in this letter or about the Inspection of Public Records Act in general you may contact me directly or the Office of the Attorney General Open Government Division.

Thank you for your attention to this important matter.

Sincerely,



Joseph M. Dworak  
Assistant Attorney General

cc: Julie Ann Grimm (w/o enclosures)

**INSPECTION OF PUBLIC RECORDS ACT ("IPRA") COMPLAINT FORM**  
New Mexico Office of the Attorney General  
Open Government Division

**YOUR CONTACT INFORMATION:**

First Name: Julie Ann Grimm Last Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Email: \_\_\_\_\_

**IPRA REQUEST TO THE PUBLIC BODY:**

Name of the Public Body that is the subject of this complaint (including city/town, county or region, if applicable): NM General Services Dept., et. al.

Format of IPRA Request:  Written  Oral

Date IPRA Request was Submitted to the Public Body: Multiple, from December 2012 through June 2016.

Date of all Responses Received from the Public Body: Multiple (same date range.)

**ALLEGED VIOLATIONS OF IPRA BY THE PUBLIC BODY:** Please select from the following list the violations you allege the public body committed. Check all that apply.

**RECORDS:**

- No records were provided.
- The agency provided some but not all of the records responsive to the request.
- Records were provided, but they were not responsive to the request.
- The public body does not have custody or responsibility for the records, and the records custodian did not forward the request to the proper custodian.
- The request was for records in electronic format and although the records are available in electronic format, the copies of the public records were not provided in an electronic format.

DENIED REQUESTS TO INSPECT PUBLIC RECORDS

- Although some records were provided, the custodian did not include a written explanation for denying the production of exempt records or for redacting confidential information from records.
- No records were provided and the records custodian did not deliver or mail a written explanation to the requester within fifteen (15) calendar days after receiving the request that included a description of the records sought, the names and titles of each person responsible for denying the request, and a description of the reasons for the denial.

NOTICE

- Public body did not post in a conspicuous location at its administrative office or on the public body's website a notice setting forth: the rights of any person to inspect the public body's public records, the public body's responsibility to make public records available for inspection, the procedures for requesting inspection of public records, the procedures for requesting copies of public records, and/or reasonable fees for copying public records

DEADLINES (For purposes of deadlines imposed by the IPRA, the date the request is received is not counted)

- Inspection was not allowed within three (3) business days and the public body did not timely send a written "three-day letter" to the requester explaining when the records would be available or when the public body would respond to the request.
- The public body did not allow inspection or otherwise respond to the request within fifteen (15) calendar days from the date the custodian received the request.

FEES

- The public body charged fees in excess of \$1.00 per printed page for documents 11"X17" or smaller, or charged fees that exceeded the actual costs to copy the records.
- The public body did not provide a receipt upon request.

**DETAILED EXPLANATION OF ALLEGED IPRA VIOLATIONS** (Required): Please provide a description of the actions taken by the public body that violated the IPRA, including specific dates and why you believe the IPRA has been violated.

See attached letter regarding serial violations.

---

---



July 18, 2016

Office of the Attorney General  
Open Government Division  
P.O. Drawer 1508  
Santa Fe, NM 87504-1508

Dear Ms. Roller,

This letter serves as a formal complaint against the state of New Mexico and Governor Susana Martinez' administration for repeated violations of the state Inspection of Public Records Act (IPRA).

On June 17, 2016, Jeff Proctor, working on behalf of the Santa Fe Reporter (SFR), sent an IPRA request via email to the state General Services Department, the Risk Management Division and the Department of Information Technology. The request read as follows:

Any records of payment — such as contracts, invoices, bills, or other records — from the state of New Mexico to Paul Kennedy and Associates PC, a law firm, from September 3, 2013 through the date this request is processed for legal services, consulting services or any other services. For your convenience, Mr. Kennedy is representing Governor Martinez in state District Court case D-101-CV-3013-02328, as well as in a number of other matters. The records provided by the state should include payments the afore-cited case, as well as any other matters in which Mr. Kennedy is providing services for the state for the time period enumerated in this request.

The only response to this request came from Mr. Estevan J. Lujan, of the Department of Information Technology, who wrote on June 24 apologizing for what he characterized as his three-day letter getting stuck in his draft folder. Lujan indicated he would respond by July 5.

Mr. Proctor responded on June 27 asking for the original three-day response letter—as opposed to a cut-and-paste of that response—and noting that he would look forward to the state's response by July 5. Mr. Proctor followed up with two telephone calls, neither of which was returned. Mr. Proctor has received no further correspondence from the state.

This is the third time that the governor's office has refused to disclose this information. Rather than provide the records, the state has employed a series of diversionary tactics. A brief history:

132 East Marcy  
Santa Fe  
NM 87501

Front desk  
505.988.5541

Classifieds  
505.988.5541

Editorial  
505.988.7530

Fax  
505.988.5348

Former SFR staff writer Justin Horwath made a similar request to records custodian Pamela Cason, of the governor's office, on Dec. 13, 2012. That request was assigned the IPRA number 12-089. SFR received the following response on Dec. 27:

The Office of the Governor does not have any responsive documents to your request. The Department of Finance and/or Risk Management (a division of the General Services Department) may have documents that are responsive to your request. You may contact their record's custodian Tim Korte via e-mail at [tim.korte@state.nm.us](mailto:tim.korte@state.nm.us) or by phone at 505-827-3881. I have also included him on this e-mail.

Steven Hsieh, a current SFR staff writer, made a similar request on April 5, 2016. On April 21, the governor's office issued a similar response:

The Office of the Governor does not have any responsive records for your request. The Department of Finance and Administration may have documents that are responsive to your request. Please contact their record's custodian, Julia Ruetten at [Julia.ruetten@state.nm.us](mailto:Julia.ruetten@state.nm.us). I have also included her on this e-mail.


On April 26, DFA assigned Mr. Hsieh's request the IPRA number 16-010 and wrote Mr. Hsieh to say the state needed until May 6 to respond. On that date, DFA wrote that it had "recovered no responsive records" and "considers your request closed" and did not refer the request to another custodian.


We believe this most recent example represents a longstanding pattern and practice of the governor's administration to hide the details of its taxpayer-funded dealings with Mr. Kennedy and his law firm. We fully expect your office to investigate this complaint, to prosecute those who continue to ignore the law, and ultimately to secure immediate release of these clearly public records.

These serial IPRA violations and continued failure to comply with the law mean the hardworking people of New Mexico are deprived of relevant information about their government.

As the state's designated enforcer of New Mexico's sunshine laws, we trust that you will take this matter seriously. Please advise soonest.

Sincerely,

  
Julie Ann Grimm  
Editor

  
Jeff Proctor  
Independent Journalist

Cc: Hector Balderas, James Hallinan

# EXHIBIT 16

**From:** nlhenry@mindspring.com <nlhenry@mindspring.com>  
**Sent:** Thursday, May 16, 2019 2:01 PM  
**To:** 'Garcia, Victoria, GSD' <Victoria.Garcia@state.nm.us>  
**Cc:** 'Ortiz, Kenneth, GSD' <kenneth.ortiz@state.nm.us>; 'Ruybal, Matt, GOV' <Matt.Ruybal@state.nm.us>  
**Subject:** FW: PAST DUE RE: [EXT] RE: IPRA Request - Long, Komer & Associates - Billing Invoices  
**Importance:** High

**Victoria Garcia and GSD:** You once again removed the email thread history and started a new email. I have pasted in your reply below into the actual running email thread. **You asked me below to create and submit a new request, there is no need.** My request as you agree was **“all invoices submitted for payment by Nancy Long and Long, Komer & Associates, between 2/15/19 and 5/10/19.”**

Therefore, you should provide any records that are not required to be withheld. You would then write a denial letter that you have withheld certain records and why however provided the attached. That is how it works. Instead you provided what is known as a “blanket denial.” Please properly fulfill my records request, and fulfill your statutory obligations to me. My request is clear, and your obligations to me are clear. ~ Nancy Henry

**From:** Garcia, Victoria, GSD <[Victoria.Garcia@state.nm.us](mailto:Victoria.Garcia@state.nm.us)>  
**Sent:** Thursday, May 16, 2019 1:41 PM  
**To:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)  
**Cc:** Custodian-GSD, Records, GSD <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>; Ortiz, Kenneth, GSD <[kenneth.ortiz@state.nm.us](mailto:kenneth.ortiz@state.nm.us)>  
**Subject:** Follow up-IPRA request

Dear Ms. Henry,

On May 5, 2019 you requested **“all invoices submitted for payment by Nancy Long and Long, Komer & Associates, between 2/15/19 and 5/10/19.”** The Department denied your request pursuant to NMSA §15-7-9(A)(2):

A. The following records created or maintained by the risk management division are confidential and shall not be subject to any right of inspection by any person not a state officer, member of the legislature or state employee within the scope of his official duties:

(2) records pertaining to claims for damages or other relief against any governmental entity or public officer or employee; provided such records shall be subject to public inspection by New Mexico citizens one hundred eighty days after the latest of the following dates:

- (a) the date all statutes of limitation applicable to the claim have run;
- (b) the date all litigation involving the claim and the occurrence giving rise thereto has been brought to final judgment and all appeals and rights to appeal have been exhausted;
- (c) the date the claim is fully and finally settled; or
- (d) the date the claim has been placed on closed status.

The invoices you requested relate to claims that have not yet exhausted the 180 days required before releasing.

Based on your voicemail, it appears you would instead like to request **all invoices submitted for payment by Nancy Long and Long, Komer & Associates** pertaining to New Mexico Livestock Board claims. Should this be the case, it would be construed as a new request and we would respectfully request you to submit this request in writing.

In your voicemail, you also alluded to work you purport attorney Long may or may not be doing day to day for the NM Livestock Board. We do not have that type of information. That is a question for the Livestock Board.

Thank you,

Victoria Garcia

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>  
**Sent:** Thursday, May 16, 2019 8:50 AM  
**To:** 'Custodian-GSD, Records, GSD' <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>; 'Garcia, Victoria, GSD' <[Victoria.Garcia@state.nm.us](mailto:Victoria.Garcia@state.nm.us)>; 'Ortiz, Kenneth, GSD' <[kenneth.ortiz@state.nm.us](mailto:kenneth.ortiz@state.nm.us)>  
**Cc:** 'Ruybal, Matt, GOV' <[Matt.Ruybal@state.nm.us](mailto:Matt.Ruybal@state.nm.us)>  
**Subject:** RE: PAST DUE RE: [EXT] RE: IPRA Request - Long, Komer & Associates - Billing Invoices  
**Importance:** High

**Records Custodian, Victoria Garcia, Ken Ortiz and GSD:** I just left a detailed voice mail for Victoria Garcia regarding this IPRA issue. Between the VM and this email thread, answers should be provided. The IPRA, and the NM COA agrees, does not allow for vague responses. I am owed a response so I can decide what I might need to do from there. I do not appreciate your continued unprofessionalism. ~ Nancy Henry

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>  
**Sent:** Wednesday, May 15, 2019 5:03 AM  
**To:** 'Custodian-GSD, Records, GSD' <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>; 'Garcia, Victoria, GSD' <[Victoria.Garcia@state.nm.us](mailto:Victoria.Garcia@state.nm.us)>; 'Ortiz, Kenneth, GSD' <[kenneth.ortiz@state.nm.us](mailto:kenneth.ortiz@state.nm.us)>  
**Cc:** 'Ruybal, Matt, GOV' <[Matt.Ruybal@state.nm.us](mailto:Matt.Ruybal@state.nm.us)>  
**Subject:** RE: PAST DUE RE: [EXT] RE: IPRA Request - Long, Komer & Associates - Billing Invoices  
**Importance:** High

Records Custodian and GSD: I do need a response as the denial letter is not clear and a blanket denial. The concerns, as you know, are detailed below. You are required to be responsive. ~ Nancy Henry

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>  
**Sent:** Monday, May 13, 2019 4:50 PM  
**To:** 'Custodian-GSD, Records, GSD' <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>; 'Garcia, Victoria, GSD' <[Victoria.Garcia@state.nm.us](mailto:Victoria.Garcia@state.nm.us)>  
**Cc:** 'Ortiz, Kenneth, GSD' <[kenneth.ortiz@state.nm.us](mailto:kenneth.ortiz@state.nm.us)>

**Subject:** RE: PAST DUE RE: [EXT] RE: IPRA Request - Long, Komer & Associates - Billing Invoices  
**Importance:** High

Records Custodian and GSD,

Your denial letter of May 8, 2019 was a blanket denial. **What is it that you are denying?** Invoices for a current lawsuit(s), **or** for legal advice provided to the NM Livestock Board pertaining to various everyday matters while they have no counsel? **?** As the latter would be public record, actually I believe both would be.

**I do need a response as the denial letter is not clear and a blanket denial.** I need responses via email not postal mail.

**Nancy L. Henry**

*Lead Administrator & Equine/Public Advocate*

NM for Equine Rights & Open Government

<https://www.facebook.com/NewMexicoAgainstHorseSlaughter/>

505.250.9457, PO Box 56644, ABQ NM, 87187

*“... there will be an opportunity to determine if those who have been entrusted with the affairs of government are honestly, faithfully and competently performing their function as public servants.” ~ NM Supreme Court*

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>

**Sent:** Thursday, May 9, 2019 5:20 PM

**To:** 'Custodian-GSD, Records, GSD' <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>

**Cc:** 'Ortiz, Kenneth, GSD' <[kenneth.ortiz@state.nm.us](mailto:kenneth.ortiz@state.nm.us)>

**Subject:** PAST DUE RE: [EXT] RE: IPRA Request - Long, Komer & Associates - Billing Invoices

**Importance:** High

Records Custodian, I could be out of town for all you know. Out of the country. This was due **today**, and via US mail who knows **when** or **if** I will receive it or if you even sent it. Please fulfill my request via email. ~ Nancy Henry

**From:** Custodian-GSD, Records, GSD <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>

**Sent:** Thursday, May 9, 2019 5:05 PM

**To:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)

**Subject:** RE: [EXT] RE: IPRA Request - Long, Komer & Associates - Billing Invoices

Ms. Henry,

**Your response to this request was sent via US MAIL on 5/8/2019.**

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>

**Sent:** Thursday, May 9, 2019 4:58 PM

**To:** Custodian-GSD, Records, GSD <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>

**Cc:** Ortiz, Kenneth, GSD <[kenneth.ortiz@state.nm.us](mailto:kenneth.ortiz@state.nm.us)>; Ruybal, Matt, GOV <[Matt.Ruybal@state.nm.us](mailto:Matt.Ruybal@state.nm.us)>

**Subject:** [EXT] RE: IPRA Request - Long, Komer & Associates - Billing Invoices

Ken Ortiz and Records Custodian, apparently this will be yet another *past due*. It is 4:57pm, no records, no response due today.  
~ Nancy Henry

**From:** Custodian-GSD, Records, GSD <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>  
**Sent:** Monday, May 6, 2019 9:34 AM  
**To:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)  
**Subject:** IPRA Request - Long, Komer & Associates - Billing Invoices

Nancy Henry  
[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)

Re: Request to Inspect Public Records

Dear Henry,

This letter is the New Mexico General Services Department's (GSD) is a follow up to your request for:

- "all invoices submitted for payment by Nancy Long and Long, Komer & Associates, between 2/15/19 and 5/10/19"

We will respond on or before **May 9, 2019**. Your understanding is appreciated.

Sincerely,

Records Custodian  
General Services Department

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>  
**Sent:** Sunday, May 5, 2019 3:23 PM  
**To:** Custodian-GSD, Records, GSD <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>  
**Subject:** [EXT] **EDITED:** IPRA Request - **Long, Komer & Associates - Billing Invoices**

Dear Records Custodian, I am changing the date range below to **between 2/15/19 and 5/10/19**.

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>  
**Sent:** Sunday, May 5, 2019 6:10 AM  
**To:** 'records.custodian-gsd@state.nm.us' <[records.custodian-gsd@state.nm.us](mailto:records.custodian-gsd@state.nm.us)>  
**Subject:** IPRA Request - Long, Komer & Associates - Billing Invoices

Dear Records Custodian,

I am requesting all **invoices submitted for payment by Nancy Long and Long, Komer & Associates, between 2/15/19 and ~~5/6/19~~ 5/10/19**.

I will **calendar the 3 day response for 5/9/19**. Please note there has been a very frustrating history of deadline violations by the GSD/RM.

**Nancy L. Henry**

*Lead Administrator & Equine/Public Advocate*

NM for Equine Rights & Open Government

<https://www.facebook.com/NewMexicoAgainstHorseSlaughter/>

505.250.9457, PO Box 56644, ABQ NM, 87187

*“... there will be an opportunity to determine if those who have been entrusted with the affairs of government are honestly, faithfully and competently performing their function as public servants.” ~ NM Supreme Court*

# EXHIBIT 17



**MICHELLE LUJAN GRISHAM**  
GOVERNOR

**KEN ORTIZ**  
CABINET SECRETARY

## State of New Mexico General Services Department

ADMINISTRATIVE SERVICES DIVISION  
(505) 476-1857

FACILITIES MANAGEMENT DIVISION  
(505) 827-2141

PURCHASING DIVISION  
(505) 827-0472

RISK MANAGEMENT DIVISION  
(505) 827-2036

STATE PRINTING & GRAPHIC SERVICES BUR  
(505) 476-1950

TRANSPORTATION SERVICES DIVISION  
(505) 827-1958

May 8, 2019

Nancy L. Henry  
Lead Administrator & Equine/Public Advocate  
NM for Equine Rights & Open Government  
PO Box 56644  
Albuquerque, NM 87187

RE: IPRA Request submitted on May 5, 2019

Dear Ms. Henry,

On May 5, 2019, you made a document request pursuant to The Inspection of Public Records Act (IPRA), NMSA 1978 Section 14-2-1. You requested the following from the State of New Mexico General Services Department:

- 1) "All invoices submitted for payment by Nancy Long and Long, Komer & Associates, between 2/15/19 and 5/10/19."

Upon review, your request has been denied under NMSA 1978, Section 15-7-9 (Risk Management Division; Confidentiality of Records). Specifically, your request for invoices regarding payments by Nancy Long and Long, Komer & Associates is denied under 15-7-9(A)(2). Per 15-7-9(A)(2), one hundred eighty (180) days must elapse from one of the enumerated dates and the dates you provided do not fall within the required time period.

For the forgoing reason, your request is denied at this time.

Sincerely,

A handwritten signature in cursive script that reads "Victoria Garcia".

Records Custodian  
General Services Department



# EXHIBIT 18

---

---

**From:** Custodian-GSD, Records, GSD <Records.Custodian-GSD@state.nm.us>  
**Sent:** Tuesday, June 11, 2019 8:43 AM  
**To:** nlhenry@mindspring.com; Ortiz, Kenneth, GSD <kenneth.ortiz@state.nm.us>  
**Cc:** stcy, peter <peter.stcy@gmail.com>; Garcia, Victoria, GSD <Victoria.Garcia@state.nm.us>; Vigil, Linda, GSD <Linda.Vigil2@state.nm.us>; Ruybal, Matt, GOV <Matt.Ruybal@state.nm.us>  
**Subject:** RE: [EXT] PAST DUE - RE: IPRA - Settlement Agreement - Jeff Proctor

Dear Ms. Henry,

Per NMSA 1978, §15-7-9, we cannot legally release the requested document until all of the statute's requirements are fulfilled. **The case isn't considered closed until the dismissal paperwork is filed.** Once the order of dismissal is entered, the requirements will be fulfilled.

Sincerely,

**Susan Bergman**  
Paralegal to the  
Office of the General Counsel  
General Services Department  
1100 St. Francis Drive (Joseph Montoya Bldg.)  
Santa Fe, NM 87502  
[Susan.Bergman2@state.nm.us](mailto:Susan.Bergman2@state.nm.us)  
(505) 476-1812

---

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>  
**Sent:** Saturday, June 8, 2019 5:26 AM  
**To:** Custodian-GSD, Records, GSD <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>; Ortiz, Kenneth, GSD <[kenneth.ortiz@state.nm.us](mailto:kenneth.ortiz@state.nm.us)>  
**Cc:** stcy, peter <[peter.stcy@gmail.com](mailto:peter.stcy@gmail.com)>; Garcia, Victoria, GSD <[Victoria.Garcia@state.nm.us](mailto:Victoria.Garcia@state.nm.us)>; Vigil, Linda, GSD <[Linda.Vigil2@state.nm.us](mailto:Linda.Vigil2@state.nm.us)>; Ruybal, Matt, GOV <[Matt.Ruybal@state.nm.us](mailto:Matt.Ruybal@state.nm.us)>  
**Subject:** [EXT] PAST DUE - RE: IPRA - Settlement Agreement - Jeff Proctor  
**Importance:** High

## **Records Custodian and GSD:**

In the below IPRA thread, many excuses were made to not release the **settlement** for the **Jeff Proctor v GSD** case. The case settled well over 180 days ago. There is no District Court requirement

for the case to be closed or dismissed by the court, there was never an appeal possibility and would have long passed anyhow, and there is no lawful reason to withhold this record that I and the public have a legal right to.

Your last excuse was “and will not until the court dismisses the case.” The court does not have to dismiss the case, it **settled** over 180 days ago. The court has long forgotten this case. No further court action is required.

I ask that you fulfill your statutory obligation to me and provide the requested record without any further unlawful delay.

**Nancy L. Henry**

*Lead Administrator & Equine/Public Advocate*

NM for Equine Rights & Open Government

<https://www.facebook.com/NewMexicoAgainstHorseSlaughter/>

505.250.9457, PO Box 56644, ABQ NM, 87187

*“... there will be an opportunity to determine if those who have been entrusted with the affairs of government are honestly, faithfully and competently performing their function as public servants.” ~ NM Supreme Court*

---

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>

**Sent:** Wednesday, June 5, 2019 3:53 PM

**To:** 'Custodian-GSD, Records, GSD' <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>; 'Ortiz, Kenneth, GSD' <[kenneth.ortiz@state.nm.us](mailto:kenneth.ortiz@state.nm.us)>

**Cc:** 'stcy, peter' <[peter.stcy@gmail.com](mailto:peter.stcy@gmail.com)>; 'Garcia, Victoria, GSD' <[Victoria.Garcia@state.nm.us](mailto:Victoria.Garcia@state.nm.us)>; 'Vigil, Linda, GSD' <[Linda.Vigil2@state.nm.us](mailto:Linda.Vigil2@state.nm.us)>; 'Ruybal, Matt, GOV' <[Matt.Ruybal@state.nm.us](mailto:Matt.Ruybal@state.nm.us)>

**Subject:** RE: [EXT] RE: IPRA - Settlement Agreement - Jeff Proctor

**Records Custodian:** In addition to my response below, see attached examples from the Kretschmer case. Nancy Long never submitted the required documents, Order for the judge, etc. to the court in November when it settled.

In the attached case the proper legal work was executed. The records should not be delayed due to the intentional maneuverings of contract attorneys and GSD/RM. It's all very obvious what is happening here. ~ Nancy Henry

---

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>

**Sent:** Wednesday, June 5, 2019 3:37 PM

**To:** 'Custodian-GSD, Records, GSD' <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>; 'Ortiz, Kenneth, GSD' <[kenneth.ortiz@state.nm.us](mailto:kenneth.ortiz@state.nm.us)>

**Cc:** 'stcy, peter' <[peter.stcy@gmail.com](mailto:peter.stcy@gmail.com)>; 'Garcia, Victoria, GSD' <[Victoria.Garcia@state.nm.us](mailto:Victoria.Garcia@state.nm.us)>; 'Vigil, Linda, GSD' <[Linda.Vigil2@state.nm.us](mailto:Linda.Vigil2@state.nm.us)>; 'Ruybal, Matt, GOV' <[Matt.Ruybal@state.nm.us](mailto:Matt.Ruybal@state.nm.us)>

**Subject:** RE: [EXT] RE: IPRA - Settlement Agreement - Jeff Proctor

Dear Records Custodian: I have and am already well aware of 15-7-9, as you know. The case settled in November and the court was never updated. What actions have you taken to get that date and to direct Nancy Long to do her job? All open government advocates agree that the date is from date of settlement. The settlement cannot be appealed. So, it's long over. ~ Nancy Henry

---

**From:** Custodian-GSD, Records, GSD <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>

**Sent:** Wednesday, June 5, 2019 3:29 PM

**To:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com); Ortiz, Kenneth, GSD <[kenneth.ortiz@state.nm.us](mailto:kenneth.ortiz@state.nm.us)>

**Cc:** stcy, peter <[peter.stcy@gmail.com](mailto:peter.stcy@gmail.com)>; Garcia, Victoria, GSD <[Victoria.Garcia@state.nm.us](mailto:Victoria.Garcia@state.nm.us)>; Vigil, Linda, GSD

<[Linda.Vigil2@state.nm.us](mailto:Linda.Vigil2@state.nm.us)>; Ruybal, Matt, GOV <[Matt.Ruybal@state.nm.us](mailto:Matt.Ruybal@state.nm.us)>

**Subject:** RE: [EXT] RE: IPRA - Settlement Agreement - Jeff Proctor

Dear Ms. Henry,

My May 31 email to you is the denial letter. As records custodian, I am responsible for this denial.

The date of the settlement agreement is only one of four dates required by NMSA 1978, §15-7-9. Until the requirements of NMSA 1978, §15-7-9 are fulfilled, the General Services Department cannot legally release the settlement agreement. I attach a copy of NMSA 1978, §15-7-9 for your convenience. It is currently unknown when the records will be releasable as we don't yet have a date from which to calculate the 180 days and will not until the court dismisses the case.

Sincerely,

**Susan Bergman**

Paralegal to the

Office of the General Counsel

General Services Department

1100 St. Francis Drive (Joseph Montoya Bldg.)

Santa Fe, NM 87502

[Susan.Bergman2@state.nm.us](mailto:Susan.Bergman2@state.nm.us)

(505) 476-1812

---

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>

**Sent:** Wednesday, June 5, 2019 5:09 AM

**To:** Ortiz, Kenneth, GSD <[kenneth.ortiz@state.nm.us](mailto:kenneth.ortiz@state.nm.us)>

**Cc:** stcyr, peter <[peter.stcyr@gmail.com](mailto:peter.stcyr@gmail.com)>; Garcia, Victoria, GSD <[Victoria.Garcia@state.nm.us](mailto:Victoria.Garcia@state.nm.us)>; Vigil, Linda, GSD <[Linda.Vigil2@state.nm.us](mailto:Linda.Vigil2@state.nm.us)>; Custodian-GSD, Records, GSD <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>; Ruybal, Matt, GOV <[Matt.Ruybal@state.nm.us](mailto:Matt.Ruybal@state.nm.us)>

**Subject:** [EXT] RE: IPRA - Settlement Agreement - Jeff Proctor

**Importance:** High

**Dear GSD, Ken Ortiz and Records Custodian:** Please read and respond to my reply to you from **Sent: Monday, June 3, 2019 10:42 AM** below. Also fulfill your statutory obligations to me and provide the requested records no longer protected under 15-7-9, as way over 180 days has passed since the settlement was signed. This case is closed. ~ Nancy Henry

---

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>

**Sent:** Monday, June 3, 2019 1:10 PM

**To:** 'Ortiz, Kenneth, GSD' <[kenneth.ortiz@state.nm.us](mailto:kenneth.ortiz@state.nm.us)>

**Cc:** 'Peter St. Cyr' <[peter.stcyr@gmail.com](mailto:peter.stcyr@gmail.com)>; 'Garcia, Victoria, GSD' <[Victoria.Garcia@state.nm.us](mailto:Victoria.Garcia@state.nm.us)>; 'Vigil, Linda, GSD' <[Linda.Vigil2@state.nm.us](mailto:Linda.Vigil2@state.nm.us)>; 'Custodian-GSD, Records, GSD' <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>; 'Ruybal, Matt, GOV' <[Matt.Ruybal@state.nm.us](mailto:Matt.Ruybal@state.nm.us)>

**Subject:** FW: IPRA - Settlement Agreement - Jeff Proctor

**Importance:** High

**Dear Ken Ortiz,** now that I am off my cell for email, I see you were not copied. The Proctor settlement record dispute continues below, my response on top to Susan Bergman. Again my stance is "**GSD has the settlement document. THAT is what the GSD/RM should be relying on.**" Not a court docket of which Nancy Long failed to update the court regarding the settlement made in November. ~ Nancy Henry

---

**From:** nlhenry <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>

**Sent:** Monday, June 3, 2019 10:42 AM

**To:** Custodian-GSD, Records, GSD <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>

**Cc:** Garcia, Victoria, GSD <[Victoria.Garcia@state.nm.us](mailto:Victoria.Garcia@state.nm.us)>; Vigil, Linda, GSD <[Linda.Vigil2@state.nm.us](mailto:Linda.Vigil2@state.nm.us)>; stcyr, peter <[peter.stcyr@gmail.com](mailto:peter.stcyr@gmail.com)>

**Subject:** RE: [EXT] IPRA - Settlement Agreement - Jeff Proctor

... Apparently the docket was never updated so the public would be confused about when this case settled. It was settled sometime in November and the settlement itself considering other settlements I've seen there is absolutely no option for an appeal.

The settlement once signed is final, and a check would have been issued.

The 180 days has long passed and due to the nature of these types settlements, appeals are not an option. Please provide the requested settlement record.

In addition, Ken Ortiz should direct the contract attorney Nancy Long to update with the court as she should have done back in November.

It also appears that you as a paralegal are taking sole responsibility for this denial and it is reasonable to believe an attorney there has directed you to do so, therefore if the record continues to be denied I do need a denial letter and I need a date these records will be available and name and title of who is denying the record.

Nancy Henry

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** "Custodian-GSD, Records, GSD" <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>

**Date:** 6/3/19 10:24 AM (GMT-07:00)

**To:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)

**Cc:** "Garcia, Victoria, GSD" <[Victoria.Garcia@state.nm.us](mailto:Victoria.Garcia@state.nm.us)>, "Vigil, Linda, GSD" <[Linda.Vigil2@state.nm.us](mailto:Linda.Vigil2@state.nm.us)>, "stcyr, peter" <[peter.stcyr@gmail.com](mailto:peter.stcyr@gmail.com)>

**Subject:** RE: [EXT] IPRA - Settlement Agreement - Jeff Proctor

Dear Ms. Henry,

For clarification purposes, attached please find the docket for D-101-CV-2017-01531. Please note a dismissal has not yet been filed, meaning the case is still active. The documents related to this case cannot be released pursuant to NMSA 1978, §15-7-9(A)(2)(b): "(b) the date all litigation involving the claim and the occurrence giving rise thereto has been brought to final judgment and all appeals and rights to appeal have been exhausted". It is currently unknown when the records will be releasable as we don't yet have a date from which to calculate the 180 days. As previously stated, as records custodian, I am responsible for this denial.

Sincerely

**Susan Bergman**

Paralegal to the

Office of the General Counsel

General Services Department

1100 St. Francis Drive (Joseph Montoya Bldg.)

Santa Fe, NM 87502

[Susan.Bergman2@state.nm.us](mailto:Susan.Bergman2@state.nm.us)

(505) 476-1812

---

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>

**Sent:** Friday, May 31, 2019 5:40 PM

**To:** Custodian-GSD, Records, GSD <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>

**Cc:** Garcia, Victoria, GSD <[Victoria.Garcia@state.nm.us](mailto:Victoria.Garcia@state.nm.us)>; Vigil, Linda, GSD <[Linda.Vigil2@state.nm.us](mailto:Linda.Vigil2@state.nm.us)>; stcy, peter <[peter.stcy@gmail.com](mailto:peter.stcy@gmail.com)>

**Subject:** RE: [EXT] IPRA - Settlement Agreement - Jeff Proctor

**Importance:** High

In addition to the below, what she is relying on is “the court docket.” That was never updated, we all know that. Why is she relying on an incorrect court docket? GSD has the settlement document. THAT is what the GSD/RM should be relying on. This is ridiculous. Do answer my questions below, and provide the settlement record, or a date if there are a couple days left, that would be about it. ~ Nancy Henry

---

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>

**Sent:** Friday, May 31, 2019 4:59 PM

**To:** 'Custodian-GSD, Records, GSD' <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>

**Cc:** 'Garcia, Victoria, GSD' <[Victoria.Garcia@state.nm.us](mailto:Victoria.Garcia@state.nm.us)>; 'Vigil, Linda, GSD' <[Linda.Vigil2@state.nm.us](mailto:Linda.Vigil2@state.nm.us)>; 'stcy, peter' <[peter.stcy@gmail.com](mailto:peter.stcy@gmail.com)>

**Subject:** RE: [EXT] IPRA - Settlement Agreement - Jeff Proctor

**Importance:** High

Dear Susan Bergman:

I do not appreciate having to remind you that this was just about past due. Due to past history you folks should be on your toes, very unprofessional.

1. Based on an article I read beginning of December this case is not pending, it had concluded, settled, etc.
2. Please provide a record that proves your claims that these settlement records are not available for inspection
3. Also provide a date they will be available
4. And the name / title of who has instructed you to deny the records

**Nancy L. Henry**

*Lead Administrator & Equine/Public Advocate*

NM for Equine Rights & Open Government

<https://www.facebook.com/NewMexicoAgainstHorseSlaughter/>

505.250.9457, PO Box 56644, ABQ NM, 87187

*“... there will be an opportunity to determine if those who have been entrusted with the affairs of government are honestly, faithfully and competently performing their function as public servants.” ~ NM Supreme Court*

---

**From:** Custodian-GSD, Records, GSD <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>

**Sent:** Friday, May 31, 2019 4:52 PM

**To:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)

**Cc:** Garcia, Victoria, GSD <[Victoria.Garcia@state.nm.us](mailto:Victoria.Garcia@state.nm.us)>; Vigil, Linda, GSD <[Linda.Vigil2@state.nm.us](mailto:Linda.Vigil2@state.nm.us)>; stcyr, peter <[peter.stcyr@gmail.com](mailto:peter.stcyr@gmail.com)>

**Subject:** RE: [EXT] IPRA - Settlement Agreement - Jeff Proctor

Dear Ms. Henry,

On May 28, 2019 we received your request for the settlement agreement in Jeff Proctor v. GSD, D-101-CV-2017-01531. We cannot permit inspection of these records because they are exempted from disclosure for the following reason: **According to the court's docket**, the case has not yet been dismissed and is still considered active. Pursuant to NMSA 1978, §15-7-9(A)(2), the General Services Department cannot release any responsive information at this time. Specifically, NMSA 1978, §15-7-9(A)(2)(b) prohibits the General Services Department from disclosing any information related to the case until 180 days after “the date all litigation involving the claim and the occurrence giving rise thereto has been brought to final judgment and all appeals and rights to appeal have been exhausted”. As this claim is still pending in court, the statutorily required 180 days has not elapsed.

Since the General Services Department cannot produce any responsive records, we consider this request closed. As records custodian, I am responsible for this denial.

Sincerely,

**Susan Bergman**

Paralegal to the

Office of the General Counsel

General Services Department

1100 St. Francis Drive (Joseph Montoya Bldg.)

Santa Fe, NM 87502

[Susan.Bergman2@state.nm.us](mailto:Susan.Bergman2@state.nm.us)

(505) 476-1812

---

**From:** [nlhenry@mindspring.com](mailto:nlhenry@mindspring.com) <[nlhenry@mindspring.com](mailto:nlhenry@mindspring.com)>  
**Sent:** Tuesday, May 28, 2019 7:09 AM  
**To:** Custodian-GSD, Records, GSD <[Records.Custodian-GSD@state.nm.us](mailto:Records.Custodian-GSD@state.nm.us)>  
**Cc:** stcy, peter <[peter.stcy@gmail.com](mailto:peter.stcy@gmail.com)>  
**Subject:** [EXT] IPRA - Settlement Agreement - Jeff Proctor

Dear GSD:

I am requesting a copy of the **settlement agreement(s)** for the following case:

**D-101-CV-201701531**

**Jeff Proctor vs. GSD**

This case settled over 180 days ago. I am requesting the records electronically, they exist in e-format, and I would like them sent via email. Thank you!

**Nancy L. Henry**

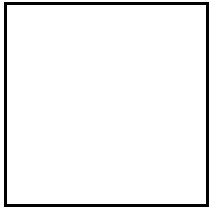
*Lead Administrator & Equine/Public Advocate*

NM for Equine Rights & Open Government

<https://www.facebook.com/NewMexicoAgainstHorseSlaughter/>

505.250.9457, PO Box 56644, ABQ NM, 87187

*“... there will be an opportunity to determine if those who have been entrusted with the affairs of government are honestly, faithfully and competently performing their function as public servants.” ~*  
NM Supreme Court



This email has been checked for viruses by Avast antivirus software.  
[www.avast.com](http://www.avast.com)



# EXHIBIT 19

[Skip to Main Content](#) [Logout My Account](#) [Search Menu](#) [Search Refine Search](#) [Back](#)

Location : [All Courts](#) [Images](#)

## REGISTER OF ACTIONS

[CASE No. D-101-CV-2017-01531](#)

Jeff Proctor v. State of New Mexico General Services Department

§  
§  
§  
§  
§  
§  
§  
§

Case Type: **Civil Violations, Statutes, Ordinances**  
 Date Filed: **06/01/2017**  
 Location:  
 Judicial Officer: **Ortiz, Raymond Z.**

### RELATED CASE INFORMATION

**Related Cases**

D-101-CV-2009-03907 (See For Background)

### PARTY INFORMATION

**Defendant**      **State of New Mexico General Services Department**

**Attorneys**  
**Nancy R. Long**  
*Retained*  
 505-982-8405(W)

Jonas M. Nahoum  
*Retained*  
 505-982-8405(W)

**Plaintiff**      **Proctor, Jeff**

**David Herrera Urias**  
*Retained*  
 505-842-9960(W)

Frank T. Davis, Jr.  
*Retained*  
 505-842-9960(W)

### EVENTS & ORDERS OF THE COURT

- OTHER EVENTS AND HEARINGS**
- 06/01/2017 **Cause Of Actions** Statutes, Ordinance Violations, Miscellaneous (Count I Violation of the New Mexico Inspection of Public Records Act)  
 Action Type Action
  - 06/01/2017 **Cause Of Actions** Declaratory Relief (Count II Declaratory and Injunctive Relief)  
 Action Type Action
  - 06/01/2017 **[OPN: COMPLAINT](#)**  
*Complaint for Production of Public Records, Damages and Mandamus*
  - 06/02/2017 **[SUMMONS ISSUED](#)**  
*Summons Issued*
  - 06/12/2017 **[SUMMONS RETURN](#)**  
*Return of Summons*
  - 06/20/2017 **[ENTRY OF APPEARANCE](#)**  
*Notice of Entry of Appearance*
  - 07/27/2017 **[ANSWER](#)**  
*Defendant's Answer to Plaintiff's Complaint*
  - 09/22/2017 **[CERTIFICATE OF SERVICE](#)**  
*Certificate of Service*
  - 09/26/2017 **[CERTIFICATE OF SERVICE](#)**  
*Certificate of Service*
  - 09/26/2017 **[REQUEST FOR HEARING/ SETTING](#)**  
*Request for Hearing RE: Rule-16 Scheduling Conference*
  - 09/28/2017 **[NTC: HEARING](#)**  
*Notice of Hearing: Scheduling Conference*
  - 10/16/2017 **[NTC: HEARING \(VACATE & RESET\)](#)**  
*Notice Vacating and Resetting Hearing Scheduling Conference*
  - 11/09/2017 **SCHEDULING CONFERENCE** (2:30 PM) (Judicial Officer Ortiz, Raymond Z.)  
 Non-Jury  
[Parties Present](#)  
*11/08/2017 Reset by Court to 11/09/2017*  
 Result: Held
  - 11/14/2017 **[ORD: RULE 16B SCHEDULING/FORM](#)**  
*Rule 16(B) Scheduling Order Non Jury July 23, 2018*
  - 02/28/2018 **[MTN: MOTION/ PETITION TO EXTEND TIME](#)**  
*Unopposed Motion to Enlarge Discovery and Dispositive Motions Deadlines*
  - 03/06/2018 **[ORD: ORDER GRANTING](#)**  
*Order Granting Unopposed Motion to Enlarge Discovery and Dispositive Motions Deadlines*
  - 05/03/2018 **[NTC: HEARING \(VACATE & RESET\)](#)**  
*Notice Vacating and Resetting Pre-Trial Conference June 19, 2018 at 1:30PM*

06/19/2018 | **CANCELED PRE-TRIAL CONFERENCE** (1:30 PM) (Judicial Officer Ortiz, Raymond Z.)  
*Settled Issues*  
*July 23, 2018 Non-Jury*  
*06/18/2018 Reset by Court to 06/19/2018*

07/23/2018 | **CANCELED DOCKET CALL** (9:00 AM) (Judicial Officer Ortiz, Raymond Z.)  
*Settled Issues*

---

**FINANCIAL INFORMATION**

---

	<b>Plaintiff</b> Proctor, Jeff		
	Total Financial Assessment		132.00
	Total Payments and Credits		132.00
	<b>Balance Due as of 06/14/2019</b>		<b>0.00</b>
06/02/2017	Transaction Assessment		132.00
06/02/2017	File & Serve Payment	Receipt # SFED-2017-6449	(132.00)
		Proctor, Jeff	