

FILED IN

AUG 11 2023

**STATE OF NEW MEXICO
COUNTY OF LEA
IN THE MAGISTRATE COURT**

**MAGISTRATE COURT
LEA COUNTY DIVISIONS I & II**

**NATGAS, INC.,
Plaintiff,**

vs.

No. M-26-CV-2023-288

**NM MEDICAL OFFICES LLC.
Defendant.**

RESPONSE TO MOTION TO DISMISS

COMES NOW, Plaintiff, by and through D'nae L. Robinett, undersigned counsel of record, and moves this Honorable Court to deny the motion allegedly filed by the Defendant in the above numbered cause.

As grounds therefore, the Plaintiff would show to the Court as follows:

1. Attorney for Plaintiff filed a complaint under NMSA 35-10-1 for unlawful detainer;
2. Allegedly on behalf of Defendant, Ross R. Bettis filed a motion to dismiss in the above captioned matter;
3. No entry of appearance has been filed on behalf of Defendant as required under the rules in the above matter;
4. The motion alleges that a District Court complaint was filed on July 4th, 2023 between the parties which is false;
5. The motion further alleges the District Court complaint is for the same cause of action which is also false;
6. The motion further alleges that the motion was served on Plaintiff's counsel as required by the rules which is false;
7. Plaintiff's counsel discovered the filing on Odyssey and to date has not been served with the filing;

8. Plaintiff commenced a civil action for forcible entry or unlawful detainer of real property by the filing of a civil complaint in the Magistrate Court;
9. Complaints for unlawful detainer are purely statutory and are outlined in the statutes governing the Magistrate Court NMSA Chapter 35;
10. As outlined in NMSA 35-10-1, **concurrent** original jurisdiction is given to the Magistrate and District Courts for civil actions for forcible entry or unlawful detainer of real property;
11. The alleged attorney for the Defendant falsely asserted the claim in front of the Magistrate Court is same breach of contract NM Offices LLC has filed in District Court;
12. Breach of contract is a separate cause of action not found in the specific statutory scheme in NMSA 35-10-1;
13. Therefore, Plaintiff is exercising their right to have the matter heard in Magistrate Court where the statute specifically authorizes jurisdiction;

WHEREFORE, counsel prays this Honorable Court deny the Motion for Dismissal allegedly filed on behalf of Defendant, and for such other and further relief as the Court deems proper.

Respectfully submitted:
D'nae L. Robinett

/s/ D'nae L. Robinett 8/11/23

By: D'nae L. Robinett
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Hobbs, New Mexico 88240
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Counsel for Defendant

Certificate of Service

I hereby certify that a true and correct copy of the foregoing pleading was mailed to NM Medical Offices LLC at 1601 N. Turner Suite 420, Hobbs, NM 88240 the address provided and agreed upon for notice per the lease agreement on August 11, 2023.

/s/ D'nae L. Robinett 8/11/23
D'nae L. Robinett