

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ASSOCIATED BUILDERS AND CONTRACTORS,)
NEW MEXICO CHAPTER, et al.)
) Docket No. 1:09-cv-546 WJ-RHS
Plaintiffs,)
vs.)
)
STATE OF NEW MEXICO, ex rel.)
)
Defendants.)
_____)

**PLAINTIFFS' OPPOSED MOTION TO FILE SURREPLY
TO DEFENDANTS' REPLY**

COME NOW Plaintiffs and move the Court pursuant to Local Rule 7.4(b) to allow them to file a surreply to Defendants' reply in connection with Defendants' Motion to dismiss. In the surreply, Plaintiff would address four points as follows:

- The Court may consider documents outside the pleadings in connection with a motion to dismiss.
- Defendants' counsel's "testimony" on pages 8 – 10 of Defendants' reply.
- Proposed regulations by Defendants which absolutely establish that Defendants will use wage rates in collective bargaining agreements negotiated by private parties to set prevailing wage rates in New Mexico.
- Surreply to Defendants' arguments concerning Plaintiffs' standing and exhaustion of administrative remedies.

Defendants' counsel was contacted on October 22, 2009 relative to opposition of this motion and opposes the motion.

For reasons stated above, Plaintiffs request that their motion to file a surreply to Defendants' reply be granted.

Respectfully submitted by:

BINGHAM, HURST & APODACA, P.C.

Filed electronically
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was sent via first class mail to all counsel entitled to notice as follows on this 23rd day of October, 2009:

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