**FOR IMMEDIATE RELEASE**
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# AG Balderas Secures Early Dismissal of Former Secretary of State's IPRA Lawsuit

*Albuquerque, NM*---Today, Attorney General Hector Balderas announced a recent district court order entering summary judgment against former Secretary of State Mary Herrera, declaring that as a matter of law there was no basis for her Inspection of Public Records Act (IPRA) lawsuit against the Office of the Attorney General. Herrerra alleged that the Office violated IPRA, and the Court found that she "failed to provide any reliable evidence" to support her allegations.

"Public agencies should absolutely comply with the rule of law and be transparent to the public, and this ruling is an important confirmation of my office's dedication to those principles," said Attorney General Balderas. "Public officials, current and former, also have a burden to strongly consider the impact frivolous lawsuits have on our already overburdened courts that should be focusing on keeping communities safe and bringing access to justice to New Mexicans who truly need it."

A copy of the order is attached.

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FILED
1st JUDICIAL DISTRICT COURT
Santa Fe County
7/30/2019 1:43 PM
STEPHEN T. PACHECO
CLERK OF THE COURT
Victoria Neal

**STATE OF NEW MEXICO**
**COUNTY OF TORRANCE**
**SEVENTH JUDICIAL DISTRICT COURT**

**MARY HERRERA,**

**Plaintiff,**

**v.** **No. D-101-CV-2017-002306**

**NEW MEXICO ATTORNEY GENERAL'S OFFICE,**

**Defendants.**

**~~PROPOSED~~ ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

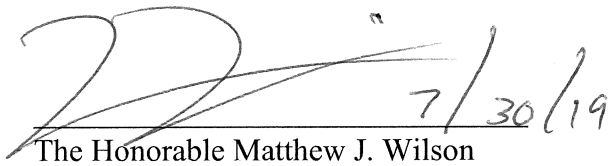
THIS MATTER, having come before the court on Defendant's Motion for Summary Judgment. The Court having read briefs, heard argument and otherwise being fully advised in the matter FINDS that Defendant's Motion for Summary Judgement is well taken, and hereby GRANTED.

Rule 1-056(C) NMRA provides that judgment should be rendered if "the pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgement as a matter of law. Defendant has made a prima facie showing that there is no genuine dispute as to the material facts presented, and Plaintiff has failed to provide any reliable evidence in order to rebut that showing. This court also finds that additional discovery in this matter is unnecessary and will not reasonably lead to evidence that will create a genuine dispute as to the material facts.

Additionally, this Court finds that Plaintiff's Complaint is barred by *res judicata* and collateral estoppel. To prevail on a *res judicata*, the party asserting it must show four elements:

"(1) the parties must be the same, (2) the cause of action must be the same, (3) there must have been a final decision in the first suit, and (4) the first decision must have been on the merits." *Kirby v. Guardian Life Ins. Co. of Am.*, 2010-NMSC-014, ¶ 61, 148 N.M. 106, 124, 231 P.3d 87, 105 (internal quotation marks omitted). This matter was resolved in D-101-CV-2017-00775 when that Court granted The New Mexico Attorney General's Office's Motion for Summary Judgment on the substantially similar issues, which became final when the decision was not appealed. Plaintiffs assertion that one additional fact was presented in the new Complaint, known to Plaintiff for almost the entirety of the pendency of D-101-CV-2017-00775, is insufficient to establish a new cause of action.

IT IS THEREFORE ORDERED, that Defendant's Motion for Summary Judgement is GRANTED and this matter is dismissed.



7/30/19

The Honorable Matthew J. Wilson

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