

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

IA AMERICAN WARRANTY CORP.,
et al.

Defendants-Petitioners,

v.

No. S-1-SC-41286
Dist. Ct. No.: D-101-CV-2019-01712

THE HONORABLE BRYAN BIEDSCHEID,

Respondent,

STATE OF NEW MEXICO *ex rel.* RAÚL
TORREZ,

Plaintiff – Real Party in Interest

KEVIN WOODRUFF,

Qui Tam Plaintiff – Real Party in Interest

SOUTHWEST REINSURE (NM), Inc., *et al.*,

Defendants – Real Parties in Interest.

PETITIONERS' SUPPLEMENTAL BRIEF REGARDING NMSA 1978, § 44-9-3(E)

*First Judicial District Court
Santa Fe County
The Honorable Bryan Biedscheid*

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TABLE OF CONTENTS

	Page
INTRODUCTION	1
ARGUMENT	2
I. DOES NMSA 1978, § 44-9-3(E) APPLY TO THE CLAIMS ASSERTED IN THE UNDERLYING QUI TAM ACTION?.....	3
A. Plaintiffs’ Claims are Tax Claims.	4
B. The Import of Section 44-9-3(E) Does Not Turn on Timing.....	5
1. FATA Has Never Authorized—and Has Always Excluded—Qui Tam Tax Collection.	6
a. FATA has never authorized qui tam collection of premium taxes.....	6
b. Section 44-9-3(E) has always prohibited qui tam collection of premium taxes.	9
2. If Timing Does Matter, By the Time This Action Was Refiled, Premium Tax Had Already Been Moved Under Chapter 7.	11
3. Current Law—Not the Law of 2019—Governs the Underlying Action.....	14
II. HOW DOES SECTION 44-9-3(E) AFFECT THE DISTRICT COURT’S JURISDICTION OVER THE QUI TAM ACTION AND THE ISSUES AND ARGUMENTS RAISED IN THE PETITION FOR WRIT OF SUPERINTENDING CONTROL?.....	16
III. THE VIEWS OF THE NEW MEXICO TAXATION AND REVENUE DEPARTMENT ON THE QUESTIONS ASKED BY THE COURT.	17
CONCLUSION	18

TABLE OF AUTHORITIES

	Page
CASES	
<i>Anderson v. State</i> , 2022-NMSC-019	19
<i>Arbaugh v. Y&H Corp.</i> , 546 U.S. 500 (2006).....	19
<i>Bankers Tr. Co. of Cal. v. Baca</i> , 2007-NMCA-019, 141 N.M. 127	14, 15
<i>Barajas v. Northrop Corp.</i> , 147 F.3d 905 (9th Cir. 1998)	6
<i>Colfax County v. Angel Fire Corp.</i> , 1993-NMCA-015, 115 N.M. 146	2, 8
<i>Foster v. Sun Healthcare Group, Inc.</i> , 2012-NMCA-072, 284 P.3d 389	13, 14, 15
<i>Galloway v. New Mexico Off. of Superintendent of Ins.</i> , 2025-NMSC-012	8, 10
<i>Guzman v. Laguna Dev. Corp.</i> , 2009-NMCA-116.....	18
<i>In re Hildebrand’s Estate</i> , 1953-NMSC-113, 57 N.M. 778, 264 P.2d 674.....	16
<i>Johnson & Johnson v. Wilson</i> , 2025-NMSC-003	7
<i>King v. Lujan</i> , 1982-NMSC-063, 98 N.M. 179	13
<i>Lissack v. Sakura Glob. Capital Markets, Inc.</i> , 377 F.3d 145 (2d Cir. 2004)	12

TABLE OF AUTHORITIES
(continued)

	Page
<i>Lopez v. Presbyterian Healthcare Services,</i> 2025-NMSC-031	19
<i>New Mexico State Inv. Council v. Weinstein,</i> 2016-NMCA-069, 382 P.3d 923	10
<i>Rodriguez as Next Friend of Rodarte v. Sanchez,</i> 2019-NMCA-065, 451 P.3d 105	15
<i>Seabury v. City of New York,</i> 2006 WL 1367396 (E.D.N.Y. May 18, 2006).....	12
<i>State ex rel. Balderas v. Bristol-Myers Squibb Co.,</i> 2019-NMCA-016	6
<i>State ex rel. Foy v. Austin Cap. Mgmt., Ltd.,</i> 2015-NMSC-025, 355 P.3d 1	11, 17
<i>State ex rel. Gibson v. Fernandez,</i> 1936-NMSC-027	8
<i>State ex rel. Hannah v. Armijo,</i> 1933-NMSC-087, 38 N.M. 73, 28 P.2d 511.....	17
<i>State ex rel. King v. Behavioral Home Care, Inc.,</i> 2015-NMCA-035, 346 P.3d 377	10
<i>State ex rel. Stalter v. NCO Fin. Sys., Inc.,</i> No. A-1-CA-42148, mem. op. ¶ 36 (N.M. Ct. App. May 27, 2026).....	13
<i>State of New Mexico ex rel. Raúl Torrez v. W. New Mexico Univ. Bd. of Regents,</i> D-608-CV-2025-000007 (6th Jud. Dist. Ct. Aug. 22, 2025), ¶¶ 17– 18.....	9

TABLE OF AUTHORITIES
(continued)

	Page
<i>State of New Mexico Uninsured Employers’ Fund v. Gallegos</i> , 2017-NMCA-044, 395 P.3d 533	13, 14
<i>State v. Block</i> , 2011-NMCA-101	8
<i>State v. Cortez</i> , 2007-NMCA-054, 141 N.M. 623, 159 P.3d 1108.....	10
<i>State v. Jimenez</i> , 2017-NMCA-039, ¶ 32-34.....	9
<i>Stockard v. Hamilton</i> , 1919-NMSC-018, 25 N.M. 240, 180 P. 294.....	16
<i>U.S. ex rel. Lissack v. Sakura Glob. Capital Markets, Inc.</i> , 2003 WL 21998968 (S.D.N.Y. Aug. 21, 2003).....	11
<i>United States ex rel. Jallali v. Nova Se. Univ., Inc.</i> , 2011 WL 13175105 (S.D. Fla. Aug. 12, 2011)	6
<i>United States ex rel. U.S.-Namibia Trade & Cultural Council v. Africa Fund</i> , 588 F. Supp. 1350 (S.D.N.Y. 1984)	11
<i>United States v. Quest Diagnostics Inc.</i> , 734 F.3d 154 (2d Cir. 2013)	6
 STATUTES	
31 U.S.C. § 3729(d)	11, 12
Federal False Claims Act	10
Fraud Against Taxpayers Act	1

TABLE OF AUTHORITIES
(continued)

	Page
Chapter 59A of the New Mexico Statutes	5, 17
NMSA 1978, § 8-5-2	8
NMSA 1978, § 9-11-3	8
NMSA 1978, § 44-9-3(E)	1, 3
Chapter 7 NMSA 1978	passim
Tax Administration Act	3
 RULES	
Rule 1-012(B)(6).....	3
Rule 1-041(E)(2).....	14, 15
 OTHER AUTHORITIES	
N.M. Const. art. VIII, § 1.....	2, 7, 16
Franziska Hertel, <i>Qui Tam for Tax? Lessons From the States</i> , 113 Colum. L. Rev. 1897, 1908 (2013).....	11

INTRODUCTION

The Court requested briefs addressing two questions. The answer to the first question of whether NMSA 1978, § 44-9-3(E) (2015) applies to the claims asserted in the underlying action is yes: Section 44-9-3(E) bars the claims asserted here, which seek to collect premium taxes through a qui tam lawsuit, circumventing both the state agency properly empowered to collect taxes and the procedures, rights, and remedies granted to taxpayers under New Mexico's system of tax administration. The Legislature's decision to deny private citizens—and the Attorney General—a cause of action to enforce the tax laws is consistent with its deliberate centralization of tax-administration authority under the Governor's branch of the divided executive, in the Taxation and Revenue Department ("TRD"). For the same reason the Attorney General cannot dictate whether or how executive agencies like TRD collect taxes, it cannot use the Fraud Against Taxpayers Act ("FATA") to skirt these agencies and collect taxes itself through litigation.

As to the second question regarding the effect of Section 44-9-3(E) on the district court's jurisdiction and the issues raised in the petition, the Section 44-9-3(E) bar mandates dismissal of the underlying action. Read broadly, it strips the district courts of subject-matter jurisdiction over FATA actions brought to collect taxes; read narrowly, it provides that such actions do not state a cognizable claim. The issues raised in the writ petition are not mooted, however. The district court order

barring TRD from completing its administrative proceeding interferes with TRD’s independent statutory authority to adjudicate tax claims. This Court should thus grant the writ, vacate the district court’s order, and remand with instructions directing the dismissal of the FATA action with prejudice under Section 44-9-3(E) or, for the reasons established in the writ petition, resumption of the pending TRD alternate remedy proceeding.

ARGUMENT

New Mexico’s Constitution mandates uniform taxation. N.M. Const. art. VIII, § 1(A). To that end, the authority “to administer all laws and exercise all functions relating to taxation” is generally centralized in a “single, unified” cabinet department: TRD. NMSA 1978, §§ 9-11-3, -4, and -6. Without a “specific and explicit” statutory grant, others are forbidden from enforcing tax obligations. *Colfax County v. Angel Fire Corp.*, 1993-NMCA-015, ¶¶ 10–11, 14–15, 115 N.M. 146 (holding that the absence of such a statutory grant precluded county treasurer from enforcing tax obligations). The Legislature has sometimes granted such authority, as when it previously permitted the Office of the Superintendent of Insurance (“OSI”) to administer premium taxes, *see* NMSA 1978, §§ 59A-2-8(C)–(D) (2019); §§ 59A-4-1 to -21 (2019); §§ 59A-6-1 to -8 (2019), but it has never extended it to the public at large—or the Attorney General. FATA, which authorizes private citizens and the Attorney General to sue those who have defrauded the State in

business transactions, contains no explicit grant of authority to enforce premium tax obligations; to the contrary, Section 44-9-3(E) explicitly bars tax-related claims. The underlying action, invoking FATA to collect taxes, thus fails.

I. DOES NMSA 1978, § 44-9-3(E) APPLY TO THE CLAIMS ASSERTED IN THE UNDERLYING QUI TAM ACTION?

Yes. Section 44-9-3(E) provides that FATA “does not apply to claims, records or statements made pursuant to the provisions of Chapter 7 NMSA 1978.” Chapter 7, referenced explicitly in Notices served on Petitioners to initiate alternate remedy proceedings, contains the tax imposition laws and the procedures for enforcement. It covers all state taxes, including the premium taxes at issue here. NMSA 1978, §§ 7-1-1; 7-1-2(A)(22); 7-40-3. Claims involving premium taxes thus fall within Chapter 7 and—per Section 44-9-3(E)—outside FATA.

The Attorney General and the relator (collectively, the “Plaintiffs”) attempt to escape Section 44-9-3(E) on two grounds.¹ First, they contend they do not attempt to recover taxes. Second, they argue that, contrary to legislative enactments to ensure centralized, uniform tax collection, FATA authorizes qui tam enforcement of premium tax obligations and Section 44-9-3(E) does not prevent it, despite barring

¹ Petitioners moved to dismiss the case in the district court in light of the Section 44-9-3(E) tax bar. Briefing is complete, but the motion has not yet been heard. Given this case’s unusual procedural history, Plaintiffs’ motion to halt the alternate remedy became ripe before the Rule 1-012(B)(6) motions.

claims for all other taxes. The first argument contradicts the complaint and statements made by Plaintiffs in court. The second relies improperly on the timing of legislation that moved premium tax from the insurance code into the tax code. Both arguments fail.

A. Plaintiffs' Claims are Tax Claims.

Plaintiffs' complaint begins by accusing defendants of "concealing, decreasing, and avoiding their obligation to pay money to the State of New Mexico in the form of unpaid premium taxes," *see* Second Amended Complaint, **Exhibit G** to the Petition, at 2, and ends by seeking damages in multiples of "the amount of unpaid premium taxes owed to the State of New Mexico." *Id.* at 40. In between, Plaintiffs repeatedly cite alleged tax obligations as the basis for relief. *E.g., id.* at 20 (alleging "Avoidance of New Mexico Premium Tax"); ¶ 54 (alleging that defendants violated "an obligation and duty to withhold premium taxes, and to report and pay those taxes to the State of New Mexico"); ¶¶ 122, 124, 126, 127, 135-139, 140-143 (all alleging obligations and deadlines to report and remit taxes).

In the district court, Plaintiffs explained that they reverted to TRD "for one reason alone: to collect premium taxes from the Defendants in this case." Attorney General Reply, Sept. 18, 2025, **Exhibit D** to the Petition, at 3. Here they concede that "a dispositive issue" is whether the policies are "subject to premium tax collection." Attorney General's Response to Petition, Mar. 6, 2026, at 20. Thus,

there is no serious dispute that the underlying action is an attempt to collect premium taxes on behalf of the State.

B. The Import of Section 44-9-3(E) Does Not Turn on Timing.

Before 2020, the act imposing premium tax resided in Chapter 59A, not Chapter 7, and the Legislature assigned premium tax collection to OSI, not TRD. *See* 2019 H.B. 162 Fiscal Impact Report, at 2, <https://www.nmlegis.gov/Sessions/19%20Regular/firs/HB0162.PDF>. In 2018, before the lawsuit was filed, the Legislature voted to move premium tax under TRD’s purview (2018 H.B. 223), and into Chapter 7 (2019 H.B. 162). Sections 7-1-2(22), 7-40-1 to -10. Both bills passed before the June 2019 lawsuit was filed, but their effective date was delayed until January 1, 2020. Aware of and likely seeking to exploit this delayed effective date, relator filed this lawsuit after the bills were ratified, but before they took effect.

Plaintiffs’ reliance on this timing loophole fails for at least three reasons. First, FATA has never provided “specific and explicit” authority to collect premium taxes through qui tam actions, and in any event, Section 44-9-3(E) has always barred all tax claims, regardless of where the tax obligations are codified. Second, the original complaint was dismissed and then refiled as a new action after premium tax was relocated to Chapter 7. And finally, even assuming the bills relocating premium tax to Chapter 7 did fundamentally change the meaning of FATA (which is not indicated by any authority), the current statutory scheme—not a prior one—applies.

**1. FATA Has Never Authorized—and Has Always Excluded—
Qui Tam Tax Collection.**

Qui tam actions permit private citizens to stand in the shoes of the Attorney General and sue on behalf of the government. *See State ex rel. Balderas v. Bristol-Myers Squibb Co.*, 2019-NMCA-016, ¶ 2, 436 P.3d 724. Because both their claims and the standing to assert them flow from the government’s injury, relators cannot assert rights or remedies not available to the government itself. *See id.*; *Barajas v. Northrop Corp.*, 147 F.3d 905, 910 (9th Cir. 1998). In other words, qui tam relators have no more authority in such actions than the Attorney General has himself. *E.g.*, *United States ex rel. Jallali v. Nova Se. Univ., Inc.*, 2011 WL 13175105, at *10 (S.D. Fla. Aug. 12, 2011) (holding that the FCA does not afford a relator “the powers to enforce compliance usually exercised by the Department of Education”).

In New Mexico, the Attorney General lacks authority to adjudicate and recover taxes. Lacking a specific, explicit grant of authority to collect taxes, FATA does not expand the Attorney General’s statutory authority into the realm of taxation. Section 44-9-3(E) confirms this conclusion.

**a. FATA has never authorized qui tam collection of
premium taxes.**

For the same reason the Attorney General cannot dictate how or when TRD collects taxes, it cannot use FATA to circumvent TRD and collect taxes itself. New Mexico’s Constitution separates the Attorney General and the Governor as

independent executives. N.M. Const. art. V, § 1. Thus, “[n]o matter how extensive the Attorney General’s powers have become, they still must be reconciled with those of the Governor, who . . . enjoys the even more expansive charge of assuring that the laws are faithfully executed.” *Johnson & Johnson v. Wilson*, 2025-NMSC-003, ¶ 21, 563 P.3d 841 (citation omitted). The Attorney General has no common-law powers; his “duties are determined entirely by statute” and are “limited or conditioned” where “otherwise provided by law.” *State v. Block*, 2011-NMCA-101, ¶ 15, 150 N.M. 598 (quoting NMSA 1978, § 8-5-2 (1975)).

The Legislature has “otherwise provided” that tax-collection belongs under the Governor, with TRD. Consistent with the constitutional mandate of uniform taxation, the Legislature created TRD as a “single, unified department to administer all laws and exercise all functions relating to taxation.” Section 9-11-3. This grant has been recognized as an “exclusive power” for nearly a century, *State ex rel. Gibson v. Fernandez*, 1936-NMSC-027, ¶ 11, 40 N.M. 288, and without a contrary grant “in specific and explicit terms,” no other entity may exercise it, *Colfax County*, 1993-NMCA-015, ¶¶ 11, 14–15. Though the Legislature did, at one point, grant such authority to OSI, it never extended it to the Attorney General.

Nothing in FATA amounts to the “specific and explicit” statutory authorization necessary to enforce tax obligations. This Court has recognized that FATA stems from the federal False Claims Act (“FCA”), which was designed to

remedy “gross abuses” and “stupendous frauds” committed by contractors doing business with the government during the Civil War. *Galloway v. New Mexico Off. of Superintendent of Ins.*, 2025-NMSC-012, ¶ 9, 572 P.3d 855. Consistent with its history and purpose, the plain language of FATA addresses fraud and payment obligations in the transactional context. For example, Section 44-9-3(A) focuses on claims related to “contractor[s], grantee[s] or other recipient[s] of state . . . funds”; false records to “obtain or support . . . payment on” claims ((A)(2)); delivering less “property or money” than indicated on a state receipt ((A)(5)); and buying “public property” from those not authorized to sell it ((A)(7)). None of these “obligation[s] to pay or transmit money or property to the state” resemble a tax obligation, which makes sense considering enforcement of tax obligations is governed under a separate statutory scheme and entrusted almost exclusively to TRD. Statutory terms are “known by the company [they] keep” and so the provisions of Sections 44-9-3(A)(4) and (A)(8) must be read in context, and limited to obligations arising from transactions, not taxation. *See State v. Jimenez*, 2017-NMCA-039, ¶¶ 32–34, 392 P.3d 668 (“a word may be known by the company it keeps,” and courts confine statutory terms “to a meaning kindred to that of the words with which it is associated”) (citations omitted).

Independently, New Mexico’s centralization of tax collection authority—and separation of powers—precludes the Attorney General from substituting its

judgment for that of TRD in tax matters. *See, e.g., State of New Mexico ex rel. Raúl Torrez v. W. New Mexico Univ. Bd. of Regents*, D-608-CV-2025-000007 (6th Jud. Dist. Ct. Aug. 22, 2025), ¶¶ 17–18 (reasoning that the Attorney General’s authority under § 8-5-2(B) “does not override the exclusive powers constitutionally and statutorily delegated” to other state entities). Any contrary conclusion would render uniform tax collection impossible, dividing it between competing departments and opening the door for ad hoc enforcement by private relators. Section 44-9-3 must be interpreted in line with the rest of New Mexico’s statutes, not as a paradoxical backdoor permitting Plaintiffs to collect premium taxes through litigation.²

b. Section 44-9-3(E) has always prohibited qui tam collection of premium taxes.

FATA closely tracks the federal FCA and New Mexico courts look to FCA cases for guidance in construing FATA. *State ex rel. Foy v. Austin Capital Mgmt., Ltd.*, 2015-NMSC-025, ¶¶ 16, 25, 355 P.3d 1. Here, FATA’s tax bar is virtually identical to the FCA. *Compare* § 44-9-3(E) (“This section does not apply to claims, records, or statements made pursuant to the provisions of Chapter 7 NMSA 1978.”)

² Only one other FATA case involved insurance premium taxes, *Galloway*, but the tax bar was never raised. The underlying claims were resolved out of court, some by settlement and the rest via an alternate remedy in lieu of litigation. *Galloway*, 2025-NMSC-012, ¶¶ 16–17. The only issue considered by this Court in *Galloway* was whether the Attorney General must share funds recovered in the alternate remedy proceeding with the relator. *See id.* ¶ 22.

with 31 U.S.C. § 3729(d) (“This section does not apply to claims, records, or statements made under the Internal Revenue Code of 1986.”). The Legislature simply replaced the federal tax code with its own.

The decision to adopt verbatim the language of the FCA tax bar indicates that the Legislature intended to adopt its meaning too, and the FCA bar precludes all claims sounding in tax—not just those brought under a certain chapter of code. Franziska Hertel, *Qui Tam for Tax? Lessons From the States*, 113 Colum. L. Rev. 1897, 1908 (2013) (collecting cases) (“Claims that may in any way be characterized as ‘tax fraud’ . . . may be brought neither as qui tam actions specifically, nor under the FCA more generally.”); see, e.g., *United States ex rel. U.S.-Namibia Trade & Cultural Council v. Africa Fund*, 588 F. Supp. 1350, 1351 (S.D.N.Y. 1984) (noting that the FCA is an improper vehicle to enforce “the tax laws.”); *U.S. ex rel. Lissack v. Sakura Glob. Capital Markets, Inc.*, (Sakura I), 2003 WL 21998968, at *7 (S.D.N.Y. Aug. 21, 2003) (rejecting an argument that the tax bar was limited to income tax claims because the bar “does not limit claims by the nature of the tax liability”); *U.S. ex rel. Lissack v. Sakura Glob. Capital Markets, Inc.*, (Sakura II), 377 F.3d 145, 156 (2d Cir. 2004) (“the evident purpose of the Tax Bar . . . is to prevent private litigants from interfering with the IRS’s efforts to enforce the tax laws.”); *Seabury v. City of New York*, 2006 WL 1367396, at *5 (E.D.N.Y. May 18, 2006) (private citizens cannot enforce the Tax Code; that is the duty of the Secretary,

charged with administering and enforcing it, including allegations of suspected fraud). Indeed, before the tax bar was codified in the FCA, courts consistently held that tax claims were reserved for exclusive enforcement by the federal tax department. *Sakura I*, 2003 WL 21998968, at *5.

Section 44-9-3(E) thus reflects the Legislature’s intent that FATA not be a device for tax collection. In the same way FATA has always impliedly required false statements to be material, its tax bar has always impliedly prohibited the Attorney General and private citizens from using FATA to collect premium taxes. *See, e.g., State ex rel. Stalter v. NCO Fin. Sys., Inc.*, A-1-CA-42148, mem. op. ¶ 36, (N.M. Ct. App. May 27, 2026) (nonprecedential) (“Although FATA, in Section 44-9-3(A)(2), has not adopted the FCA’s clarifying amendments [requiring false claims to be material] . . . [a] requirement of materiality was always implicit in FATA’s language[.]”). The Legislative decision to move premium tax to Chapter 7 merely made this implied prohibition express.

2. If Timing Does Matter, By the Time This Action Was Refiled, Premium Tax Had Already Been Moved Under Chapter 7.

Plaintiffs’ arguments that the Court should construe Section 44-9-3(E) without regard to premium tax are mooted entirely by the dismissal of relator’s 2019 lawsuit for failure to prosecute under Rule 1-041(E)(2) NMRA. “When a case is dismissed without prejudice for failure to prosecute, the dismissal operates to leave

the parties as if no action has been brought at all.” *Foster v. Sun Healthcare Group, Inc.*, 2012-NMCA-072, ¶ 25, 284 P.3d 389; *King v. Lujan*, 1982-NMSC-063, ¶ 7, 98 N.M. 179. To revive such an action, “a party must first do one of two things.” *State of New Mexico Uninsured Employers’ Fund v. Gallegos*, 2017-NMCA-044, ¶ 29, 395 P.3d 533. The first option is to revive the prior action pursuant to an applicable rule. *Id.*; e.g., Rule 1-041(E)(2) NMRA (“Within thirty . . . days after service of the order of dismissal, any party may move for reinstatement of the case.”). The second option is to “file a new cause of action if the statute of limitations has not run,” *Gallegos*, 2017-NMCA-044, ¶ 29, in which case “the first suit has no bearing on the later action,” *Foster*, 2012-NMCA-072, ¶ 25. There is no third option. *See Bankers Tr. Co. of Cal. v. Baca*, 2007-NMCA-019, ¶ 6, 141 N.M. 127 (a case dismissed under Rule 1-041(E)(2) “cannot proceed except by leave of the court granted for good cause shown on a motion for reinstatement.”).

Here, after the district court dismissed relator’s complaint on December 13, 2022, Plaintiffs never moved to reinstate the case. Instead, the relator simply filed an amended complaint into the already-dismissed case. Under these circumstances, an amended complaint is a “nullity on which the district court [cannot] act.” *Gallegos*, 2017-NMCA-044, ¶ 30. As a matter of law, the second amended complaint did not reinstate the case. And without a properly filed motion for reinstatement, Rule 1-041(E)(2) did not permit revival.

Shortly thereafter, without a motion, a finding of good cause, or entry of a scheduling order, the district court *sua sponte* entered a reinstatement order on January 9, 2023. Absent these prerequisites, the unexplained order cannot have reinstated the case. See Rule 1-041(E)(2) NMRA (requiring a proper motion, a finding of good cause, and a pretrial scheduling order); *Vigil v. Thriftway Mktg. Corp.*, 1994-NMCA-009, ¶ 12, 117 N.M. 176 (“Where a rule of civil procedure addresses the specific situation before a court, a trial judge is not free to ignore the dictates of the rule and rely instead on inherent authority.”); *Baca*, 2007-NMCA-019, ¶ 6 (an action dismissed under Rule 1-041(E)(2) cannot proceed “except by leave of the court granted for good cause shown on a motion for reinstatement”); *Rodriguez as Next Friend of Rodarte v. Sanchez*, 2019-NMCA-065, ¶ 19, 451 P.3d 105 (emphasizing the mandatory nature of a scheduling order). Making matters worse, Petitioners were not served or otherwise made aware of these procedural irregularities, and had no opportunity to be heard.

Even if every inference is drawn in Plaintiffs’ favor, the second amended complaint constitutes a new case—one which does not relate back to the time of the original complaint. And by the time it was filed on December 15, 2022, premium tax fell squarely under Chapter 7.

3. Current Law—Not the Law of 2019—Governs the Underlying Action.

Plaintiffs’ reliance on the rule against retroactive application of statutes is misplaced. Even if the Court concludes that FATA somehow supplies a specific, explicit grant of statutory authority to collect premium taxes, and that Section 44-9-3(E) does not extend to premium tax, Plaintiffs’ arguments still fail because this case does not engage the rule against retroactive application.

That rule, N.M. Const. art. IV, § 34, was designed with a particular purpose in mind—to stop legislators from enacting legislation designed to “win cases in the courts by legislation which changed the rules of evidence and procedure.” *Stockard v. Hamilton*, 1919-NMSC-018, ¶ 9, 25 N.M. 240. It does not apply when it does not further this purpose, or when a statutory change merely makes express a concept that was already latent in the law. *See, e.g., id.; In re Hildebrand’s Estate*, 1953-NMSC-113, ¶ 10, 57 N.M. 778 (both declining to apply the retroactivity bar when it did not fulfill the purpose); *see also State ex rel. Hannah v. Armijo*, 1933-NMSC-087, ¶ 40, 38 N.M. 73 (holding that Art. IV, § 34 did not bar retroactive application because the change merely “vitalized” a concept already present in New Mexico law).

This result is all the more necessary given that the Legislature intended for FATA to apply retroactively. *See Foy*, 2015-NMSC-025, ¶ 1 (upholding FATA’s retroactivity provision, which authorizes civil actions for pre-enactment conduct).

Plaintiffs’ timing defense—that Section 44-9-3(E) does not bar premium-tax claims because in June 2019 premium tax was in Chapter 59A—assumes that FATA liability is determined under the law that exists at the time the case is filed. But *Foy* acknowledged that FATA applies retroactively, based on whether conduct satisfies FATA today, not whether it did so in the past. *See* 2015-NMSC-025, ¶ 25 (quoting § 44-9-12(A)). Once again, the Legislature’s centralization of tax collection authority points in the same direction: Upon transfer, TRD necessarily enjoyed the right to assess premium tax retroactively, even for periods during which the premium tax was located under Chapter 59A. Now that premium tax is under Chapter 7, and its administration and enforcement is vested in TRD, there is no loophole for Plaintiffs to exploit. Section 44-9-3(E) squarely bars the claims in the underlying action.

Finally, Plaintiffs are estopped from arguing that the claims fall outside Chapter 7 because the lawsuit was filed before premium tax was moved to it. The alternate remedy Plaintiffs elected invoked Chapter 7, not its former resting place, and in doing so agreed that the “conduct alleged in the complaint” “may be most appropriately pursued by TRD.” Attorney General’s Notice, Dec. 20, 2022, **Exhibit B** to the Petition. Having secured relief addressing the claims under Chapter 7, Plaintiffs cannot now reverse course to avoid FATA’s tax bar. *See, e.g., Guzman v.*

Laguna Dev. Corp., 2009-NMCA-116, ¶ 11, 147 N.M. 244 (finding party estopped from taking inconsistent position).

II. HOW DOES SECTION 44-9-3(E) AFFECT THE DISTRICT COURT'S JURISDICTION OVER THE QUI TAM ACTION AND THE ISSUES AND ARGUMENTS RAISED IN THE PETITION FOR WRIT OF SUPERINTENDING CONTROL?

No New Mexico court has interpreted the jurisdictional nature of Section 44-9-3(E). This Court has said in other contexts that limitations are not jurisdictional unless the Legislature clearly says so. *Anderson v. State*, 2022-NMSC-019, ¶¶ 16, 19, 518 P.3d 503. Thus, when jurisdictional language is omitted, the restriction is non-jurisdictional. *Accord Arbaugh v. Y&H Corp.*, 546 U.S. 500, 515–16 (2006). Here, however, the Court must consider New Mexico's centralization of tax-collection authority in the executive branch under the Governor. These factors divest Plaintiffs of standing to bring the claims, and also arguably strip the district court of jurisdiction.

District courts have jurisdiction over only two categories of claims: common-law claims and claims created by statute. *Lopez v. Presbyterian Healthcare Services*, 2025-NMSC-031, ¶ 6, 578 P.3d 1089. The underlying qui tam action fits neither category. It raises no common-law or equitable claims; it exists, if at all, only because FATA creates a statutory cause of action allowing a relator to sue on the State's behalf. But Section 44-9-3(E) provides that the claims created by the statute

categorically exclude efforts to collect taxes. Because the claims fall outside FATA, there is no statutory basis in which to ground district court jurisdiction.

Regardless, Section 44-9-3(E) unquestionably limits the boundaries of a cognizable FATA claim: a complaint does not state a claim under FATA when it alleges tax claims. The complaint thus fails to state a claim and must be dismissed. Both avenues—jurisdiction and failure to state a claim—foreclose Plaintiffs’ claims.

Mere dismissal will not, however, resolve the issues raised in the writ petition. The district court order erroneously construing the Attorney General’s powers under FATA has implications beyond the scope of the lawsuit. FATA aside, it precludes TRD from fulfilling its statutory obligation to adjudicate tax claims and completing its administrative review. The writ petition challenges the propriety of the district court’s order not only under FATA, but also under New Mexico tax law and the separation of powers doctrine under New Mexico’s divided executive.

Thus, however this Court construes Section 44-9-3(E), the district court’s improper termination of the TRD administrative tax review at the request of the Attorney General must still be promptly corrected.

III. THE VIEWS OF THE NEW MEXICO TAXATION AND REVENUE DEPARTMENT ON THE QUESTIONS ASKED BY THE COURT.

TRD supports Petitioners’ arguments that it is the Secretary’s exclusive authority to administer and collect taxes and the application of FATA to tax actions.

In addressing these issues, TRD requests the Court to consider important policy considerations. *See City of Eunice v. State of New Mexico Tax'n & Revenue Dep't*, 2014-NMCA-085, ¶ 20, 331 P.3d 986 (supporting the Court's statutory construction in part based on important policy considerations). TRD is responsible for ensuring uniform compliance and enforcement of the tax laws. It is inconceivable to conclude the Legislature intended to allow qui tam premium tax claims when it barred all others. This important policy consideration weighs in favor of construing the tax bar to cover all taxes, which is the only reasonable interpretation in accordance with New Mexico tax law and tax policy that does not render the clause unreasonable and unjust. *Id.* ¶ 8 (“Tax statutes, like any other statutes, are to be interpreted in accordance with legislative intent and in a manner that will not render the statutes’ application absurd, unreasonable, or unjust.”) (internal citation omitted).

CONCLUSION

The Court should grant the petition for writ of superintending control, vacate the district court's order lifting the stay, and remand with instructions to dismiss the action and allow TRD—the only entity with statutory authority to determine and collect premium tax in New Mexico—to complete the pending assessment proceedings.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that the foregoing document was filed through the Odyssey File-and-Service electronic filing system on June 16, 2026, which caused all parties and counsel of record to be served as detailed in the Notice of Electronic Filing.

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