



IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

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

Plaintiff-Applicant/Respondent,

**Supreme Court No. S-1-SC-41418
Ct. App. No. A-1-CA-42633
Dist. Ct. No. D-202-CV-2024-04027**

v.

**KATINA WATSON, in her official
capacity as Records Custodian for the
Second Judicial District Court,**

Defendant-Respondent/Applicant.

DEFENDANT-RESPONDENT/APPLICANT'S REPLY BRIEF

**COA Order Certifying to the New Mexico Supreme Court: June 17, 2025
Order Denying Defendant's Motion for Judgment on the Pleadings: February 10, 2025
Second Judicial District Court Honorable Francis J. Mathew**

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STATEMENT OF COMPLIANCE

This Reply Brief was prepared utilizing Word, Microsoft Office 365. The body of this Brief in Chief is 15 pages and was prepared using 14-point Times New Roman, a proportional-spaced typeface. In addition, the body does not exceed 4,400 words. Defendant-Respondent/Applicant certifies that this Reply Brief complies with NMRA 12-305, 12-318 and 12-502.

REPLY ARGUMENTS

I. Defendant's Interlocutory Appeal was Accepted by this Court on July 27, 2026.

Plaintiff contends that none of the three questions of law certified for interlocutory appeal were accepted by an appellate court and that “[t]he question of whether to accept Defendant’s interlocutory appeal is therefore a threshold question for this Court.” (STATE OF NEW MEXICO’S ANSWER BRIEF at 1). Plaintiff is incorrect.

Pursuant to this Court’s July 27, 2026, Order and Rule 12-606 NMRA, the certification of Defendant’s appeal to the Supreme Court by the Court of Appeals was accepted by the Court and the parties were ordered to engage in expedited briefing. Order, *State v. Watson*, S-1-SC-41418 (NMSC, July 27, 2026).

II. Plaintiff's IPRA Enforcement Action Directly Challenges New Mexico Supreme Court Order No. 22-8500-034 (“NMSC Order”) and the Authority of this Court to Control Judicial Records Management and Administration in the District Courts.

Plaintiff contends that its IPRA enforcement action “does not challenge this Court’s authority or the NMSC Order.” (STATE OF NEW MEXICO’S ANSWER BRIEF at 2). The specific allegations in Plaintiff’s complaint and their own briefing in this matter belie this contention.

As more fully detailed in Defendant’s Brief in Chief, Plaintiff’s IPRA complaint alleges that the NMSC Order is “a clear departure” from NMSA § 31-3-12, that the “expansion constitutes an enlargement of a substantive right or law,” and that “[i]n

this context, the Order represents a massive departure,” and “[a]s a result, the Order violates IPRA.” (emphasis supplied) [RP 11 at ¶¶35, 36; RP 13-15 at ¶¶ 44, 45, 46]; [RP 108 (“the State indeed contends that the Order exceeds the scope of IPRA”)] Plaintiff’s IPRA enforcement action alleges that the NMSC Order is an improper exercise of power reserved to the Legislature. [RP 14-15 at ¶¶ 45, 46]

Pursuant to the NMSC Order, “Pretrial services supervision records” (“PTS Records”), that is, “*all information contained in a defendant’s pretrial services file maintained*” by Defendant, “*shall not be made a part of any public record [...].*” [RP at 88, 90 (emphasis supplied)] As alleged in the complaint, Defendant relied upon the language in this Order and NMSA 1978, § 31-3-12 (2022), and responded to the Barker and Laughlin records requests stating in part that “global positioning system data with respect to a defendant on pretrial release *shall not be made a part of any public record* and that “all information contained in a defendant’s pretrial services file” is exempt from IPRA. [RP 6 at ¶19 (emphasis supplied); RP 8 at ¶ 27] Defendant’s responses were proper and consistent with the language of the NMSC Order and were proper and consistent with IPRA because the records sought were not governed by IPRA at all; further, the records were not “public records” under IPRA because the Supreme Court ordered that they “shall not be made a part of any public record [...].” [RP at 88, 90]

The New Mexico Supreme Court has “superintending control over all inferior courts,” which includes the authority over administrative matters in the district courts and the authority to issue administrative orders and to perform administrative functions. Defendant’s Brief in Chief at 15-17; N.M. Const. art. VI, § 3; *Dist. Court of Second Judicial District v. McKenna*, 1994-NMSC-102, ¶ 3, 118 N.M. 402 (citing *Russillo v. Scarborough*, 935 F.2d 1167 (10th Cir. 1991)). The NMSC Order governing PTS Records maintained by Defendant Watson, as records custodian for the Second Judicial District Court (“SJDC”), is well within the Court’s authority over the judiciary and Ms. Watson was and is obligated to follow the Court’s Order.

Plaintiff alleges that Defendant cited to and relied upon the NMSC Order in responding to and denying the Barker and Laughlin records requests. [RP 6, 8, 16, 18, ¶¶ 19a, 25, 27b, 52, 53, 61, 62]. Defendant’s motion for judgment on the pleadings sought dismissal of the IPRA enforcement action on the grounds that the allegations specifically challenged the validity or constitutionality of the NMSC Order and on the grounds that Defendant’s denials of the records requests based in part on the NMSC Order were not wrongful and not in violation of IPRA. [RP 82, 84; *Dunn v. Brandt*, 2019-NMCA-061, ¶ 10, 450 P.3d 398 (denial of an IPRA records request “in accordance with an enforceable court order can hardly be wrongful”)]. Defendant’s motion should have been granted because the allegations challenge the NMSC Order

and because the allegations fail to state a claim upon which relief can be granted under IPRA.

III. Defendant Sought Judgment on the Pleadings and Dismissal of the IPRA Enforcement Action Based upon All of the Allegations in the Complaint – Not Just Plaintiff’s So-Called “Five Factual Allegations” – on the Basis of Failure to State a Claim Upon Which Relief Can be Granted.

Plaintiff repeatedly and mistakenly contends that its allegations do not challenge the validity or constitutionality of the NMSC Order but instead challenge Defendant’s “misapplication and misinterpretation” of the Order. (STATE OF NEW MEXICO’S ANSWER BRIEF at 2, 8, 10, 21, 23). Citing to paragraphs 36, 44-47 in the complaint and referring to those allegations as the “Five Factual Allegations,” Plaintiff contends that “[n]one of those paragraphs allege that Defendant’s IPRA violations are due to the NMSC Order’s expanded confidentiality protections.” (Id, at 8) Plaintiff contends that its action is instead based on “Defendant’s *misinterpretation* of the NMSC Order” and on the “Order being an improper basis for an IPRA denial, as it is not a valid *exception* under 14-2-1(N).” (Id, 8 (emphasis in original)) Importantly, Plaintiff fails to cite allegations in the complaint where allegations are advanced that Defendant *misinterpreted* the NMSC Order.

Conversely, allegations in the complaint – in addition to the “Five Factual Allegations” – are that “SJDC’s reliance on [...] the Order to deny production of documents [...] was unreasonable and improper” because the Order is not an

“adequate basis for an exception to IPRA’s disclosure requirements.” [RP 16, 18, ¶¶ 53, 62] Plaintiff further alleged that SJDC’s “*reliance*” on the NMSC Order is “misplaced;” [t]he Order is not a valid exception to IPRA.” [RP 16, 18, ¶¶ 52, 61 (emphasis supplied)] Contrary to these assertions, Plaintiff’s IPRA enforcement action is not based on allegations that Defendant misinterpreted the NMSC Order, Plaintiff’s action is based on allegations that “the Order violates IPRA” and that Defendant’s reliance on the Order to deny the requests was therefore “unreasonable and improper.” [RP 14, 15, 16, 18, ¶¶ 47, 52, 53, 61, 62)]

Judgment on the Pleadings Should Have Been Granted Because Plaintiff’s IPRA Enforcement Action Challenges the Constitutionality or Validity of the NMSC Order and Because Plaintiff’s Allegations Fail to State a Claim Under IPRA.

As noted previously, and in Defendant’s Brief in Chief at 13-15, Plaintiff’s allegations directly and unambiguously challenge the validity and constitutionality of the NMSC Order and have sought review of arguments challenging the validity of that Order. For this reason alone, the district court should have granted Defendant’s motion for judgment on the pleadings. [RP 77-79]. Moreover, Plaintiff’s complaint fails to state a claim under IPRA.

Plaintiff acknowledges that pursuant to precedent, “this Court could reach the question of whether [Defendant’s] motion was properly denied [...]” (STATE OF NEW MEXICO’S ANSWER BRIEF at 14-15 (*citing Curry v. Great NW. Ins. Co.*, 2014-NMSC-031, ¶ 8)). Regardless, Plaintiff argues that this Court “should decline

‘to address an issue that was neither the basis for the district court’s order nor specifically certified for interlocutory appeal.’” (Id, (*quoting Curry*, at ¶ 8)). Plaintiff’s limited argument is not supported by *Curry* or other precedent, which make clear that New Mexico appellate courts are not confined to the particular questions certified by the district court for interlocutory appeal. *Curry*, at ¶ 8; *Armijo v. Wal-Mart Stores*, 2007-NMCA-120, ¶ 19, 168 P.3d 129 (“scope of review may extend beyond the question posed”)(*citing In re of Begay*, 1988-NMCA-081, ¶ 20, 765 P.2d 1178)). The scope of review, however, “must be limited to the issues fairly contained in the order;” that is, issues that are not “wholly unrelated to the issues identified by the district court.” *Curry*, at ¶ 8; *Armijo*, at ¶ 19.

The district court’s order makes clear that two of the questions of law certified for interlocutory appeal formed the basis for denial of Defendant’s motion. The district court clearly stated, “the denial of Defendant’s Motion involves” the specific questions of law certified for interlocutory appeal, namely “[d]oes the district court have the authority to determine whether a record custodian properly interpreted a NMSC Order [and] [d]oes the NMSC Order provide a valid exception under NMSA 1978, Section 14-2-1(L) (2023) that authorizes/permits a records custodian to determine that all pre-trial services files remain confidential and, as such, permit the records custodian to issue a blanket denial of an IPRA Request [...]” (emphasis supplied) [RP 338-39]

Moreover, the New Mexico Court of Appeals recognized that “Defendant seeks interlocutory review of the district court’s order denying her motion for judgment on the pleading,” and stated that the application for interlocutory appeal asks whether the NMSC Order “allows a records custodian to determine that all pretrial services files remain confidential and to deny any requests pursuant to” IPRA. Order Certifying to the New Mexico Supreme Court, *State v. Watson*, No. A-1-CA-42633, June 17, 2025, at ¶ 1. The Court of Appeals further stated that “[t]he issues certified for interlocutory appeal challenge the scope” of the NMSC Order and that “[a] party’s challenge regarding the interpretation and validity of a Supreme Court order should be directed to our Supreme Court.” *Id.*, at ¶ 3. The Court of Appeals concluded that certification of this matter to the Supreme Court is appropriate because “these applications for interlocutory appeal present issues that require the interpretation of New Mexico Supreme Court Order No. 22-8500-034 and its scope with respect to discovery.” *Id.*, at ¶ 4.

The Supreme Court accepted certification on July 27, 2026, and thereafter ordered that the parties’ briefing “shall address the issues as presented in their respective applications for interlocutory appeal filed in the Court of Appeals.” Order, *State v. Watson*, No. S-1-SC-41418, filed August 25, 2026, at pp. 1-2. Defendant’s application for interlocutory appeal contended that the district court erred in denying the motion for judgment on the pleadings because the IPRA enforcement action

improperly challenges the NMSC Order because the complaint alleges that the Order violates IPRA and “constitutes an enlargement or modification of a substantive right or law.” [Defendant’s Application for Interlocutory Appeal, at pp. 4, 8-12]

The issue of whether the district court erred in denying Defendant’s motion is within the scope of issues “fairly contained” in the court’s order and is not “wholly unrelated to the issues identified by the district court” in its order certifying the matter for interlocutory appeal. Because the allegations are that Defendant *relied* upon the NMSC Order as a basis for denying the Barker and Loughlin requests, because the allegations are that Defendant *relied* upon an Order argued to be in violation of IPRA, and because the district court’s finding that the NMSC Order “is a basis for good-faith denial by a records custodian,” judgment on the pleadings on all IPRA claims, *based upon all of the allegations in the complaint taken as true*, should have been granted by the district court.

Plaintiff’s allegations challenge the scope and validity of the NMSC Order and challenge the appropriateness of Defendant’s reliance on that Order in denying the Barker and Loughlin records requests. The scope of review necessarily encompasses the question of whether Defendant’s motion was properly denied and after such review, the district court’s order should be vacated and this matter should be remanded with instructions to dismiss all claims with prejudice.

IV. District Courts Should Not Interpret a New Mexico Supreme Court Order When Allegations Require that the Lower Court Entertain Arguments Regarding the Validity or Constitutionality of the Order.

Regarding the first question certified, Plaintiff contends that state district courts regularly “interpret and apply this Court’s Orders,” and argues that “the district court here can interpret and apply the NMSC Order.” (STATE OF NEW MEXICO’S ANSWER BRIEF at 19). However, the key distinction “here” is that Plaintiff’s enforcement action specifically contends that the Order “violates IPRA.” [RP 14-15, ¶ 47)].¹ Defendant has consistently challenged the district court’s authority to entertain Plaintiff’s IPRA enforcement action *because* it directly challenges the NMSC Order and *because* inferior courts are “precluded from reviewing arguments challenging the constitutionality or validity of New Mexico Supreme Court orders [...]” [RP 72, 77-79; Defendant’s Application for Interlocutory Appeal, at 9-12; Defendant’s Brief in Chief at 12-13]

Under these circumstances, where it is specifically alleged that the NMSC Order is in violation of the law, the district court is *precluded* from reviewing an IPRA claim predicated on Defendant’s alleged “unreasonable and improper” reliance upon the Order. Accordingly, the district court does not have the authority to determine

¹ Plaintiff’s weak assertion in his Answer Brief at 22 that his complaint alleges “that the NMSC Order *may not* be valid” is directly contradicted by the allegation that “the Order violates IPRA.” [RP 14-15, ¶ 47)]

whether a records custodian properly interpreted and relied upon a NMSC Order that is alleged to be invalid or unconstitutional.

V. The NMSC Order is a Valid Exercise of the Court's Power of Superintending Control Permitting Exclusion from IPRA of Pretrial Services Supervision Records As Not a Part of Any Public Record or Permitting a Confidentiality Exception.

Plaintiff contends that the NMSC Order is not a valid IPRA exception and that even if valid, it does not permit a blanket denial of pretrial supervision records maintained by district courts. (STATE OF NEW MEXICO'S ANSWER BRIEF, at 25, 27) Moreover, this Court has "superintending control over all inferior courts" and possesses the unquestioned authority to issue administrative orders such as the NMSC Order at issue here, wherein the Court defined the management, administration, and confidentiality of PTS Records maintained by the district courts. Defendant's Brief in Chief at 15-17; N.M. Const. art. VI, § 3; *McKenna*, at ¶ 3, 118 N.M. 402 (*citing Russillo*, 935 F.2d 1167 (10th Cir. 1991)). Accordingly, the NMSC Order provides a valid exemption from IPRA governance or a valid exception under IPRA and requires a records custodian to deny production of all PTS Records.

The plain language of the NMSC Order is that "pretrial services supervision records [...] shall not be made a part of any public record [...]." Because the Order defines PTS Records as not public records, such records are not governed by IPRA and are thus exempted from IPRA's coverage. Further, even if the PTS Records were

deemed to be subject to IPRA, the NMSC Order provides a valid exception under Section 13-2-1(L)(2023) in that the PTS Records are deemed confidential.

Moreover, because the allegations here are that the Barker and Laughlin requests were denied in-part on the basis of reliance upon an Order of the Supreme Court, Plaintiff failed to state a claim under IPRA. *See Dunn v. Brandt*, 2019-NMCA-061, ¶¶ 9, 10, 450 P.3d 398 (“nothing in IPRA’s plain language or in IPRA case law suggesting that our Legislature intended to require a governmental entity to disclose public records in defiance of a court order”). The NMSC Order specifically applies to Defendant as records custodian for the pretrial services supervision program at the Second Judicial District Court. [RP 5, ¶ 14; RP 88] The New Mexico Court of Appeals stated in *Dunn*, “a party may prevail on an IPRA enforcement action under Section 14-2-12 only if the custodian’s denial of the request is ‘wrongful’ [...] [h]owever, a denial in accordance with an enforceable court order can hardly be wrongful.” *Dunn*, at ¶ 10.

Moreover, Defendant denied the IPRA requests on the basis of a “reasonable, good-faith belief” that pursuant to the NMSC Order, the records requested were either not a part of any public record or that the records requested were confidential and properly within one of IPRA’s enumerated exceptions. Plaintiff’s allegations fail to state a claim under IPRA and the motion for judgment on the pleadings should have been granted.

VI. The NMSC Order Permits a Records Custodian to Issue a Blanket Denial of an IPRA Request for Pretrial Services Supervision Records Because Such Records are not Public Records Governed by IPRA.

Plaintiff contends that neither the NMSC Order nor IPRA allow a records custodian to determine that the language of the Order supports a blanket denial of an IPRA request. (STATE OF NEW MEXICO’S ANSWER BRIEF, at 30) As set forth in her Brief in Chief, Defendant correctly relied upon and applied the NMSC Order in denying the Barker and Laughlin requests and correctly adhered to IPRA requirements that a review and separation of exempt and nonexempt records occur. (DEFENDANT’S BRIEF IN CHIEF, at 19, 21-23). Notably, documents that are maintained as part of Defendant’s records that are not “public records” under IPRA need not be disclosed at all and only those documents that are “public records” that contain information that is both exempt and nonexempt from disclosure, need be separated by the custodian prior to inspection. NMSA 1978, 14-2-9(A).

The NMSC Order is unambiguous, “all information contained in a defendant’s pretrial services file maintained” by Defendant is deemed “confidential” and “shall not be made a part of any public record [...]” [RP 88, 90] The records or information requested by Barker and Laughlin are not public records and in relying upon the NMSC Order in denying their requests, as specifically alleged, Defendant at all times acted in accordance with IPRA and with a “reasonable, good-faith belief” that the records requested were not public records per the NMSC Order.

Finally, and contrary to Plaintiff's assertion at page 31 of Plaintiff's Answer Brief, Defendant has always asserted that "the NMSC Order defines all PTS Records as not public records." Specifically, in her motion for judgment on the pleadings, Defendant stated that Plaintiff failed to state a claim under IPRA "because as a matter of law the records requested by Barker and Laughlin did not, and do not qualify as a public record under IPRA [...]." [RP 72, 75, 77, 79-82, 84-85] Defendant has also consistently argued that pursuant to the NMSC Order *everything* in a defendant's pretrial services file is not "a part of any public record." [RP 74-75 (PTS Records "means all information contained in a defendant's pretrial services file")]

VII. Plaintiff's IPRA Enforcement Action is Premised on Allegations Challenging the Validity and Constitutionality of the NMSC Order and Should Have Been Dismissed by the District Court.

Plaintiff implies that before relying on the NMSC Order in responding to the Barker and Laughlin requests, Defendant should have sought "clarification from this Court" and states that Defendant "simply drew an erroneous conclusion of law and, subsequently, manufactured a battle between the Attorney General and the judiciary." (STATE OF NEW MEXICO'S ANSWER BRIEF, at 26). Plaintiff's characterization of events and incorrect finger-pointing is not supported by the record.

Conversely, the record demonstrates that once Defendant moved for judgment on the pleadings on the basis of Plaintiff's allegations challenging the validity and constitutionality of the NMSC Order, Plaintiff could have easily altered the course of

this IPRA litigation by simply amending the complaint to delete the so-called “Five Factual Allegations” and could have removed this issue from the proceeding. In fact, Plaintiff confidently asserts that “if those five paragraphs were struck from the Complaint, the remaining facts would fully support Plaintiff’s IPRA claims, and the Complaint would again survive a Rule 1-012 motion.” (STATE OF NEW MEXICO’S ANSWER BRIEF, at 10) However, Plaintiff did not file an amended complaint and instead doubled-down on denying that the allegations required the district court to entertain arguments regarding the validity or constitutionality of the NMSC Order. [RP 107] Subsequently, Plaintiff created a new argument, stating that allegations that “the Order violates IPRA” have no legal import because they “are from the ‘Legal Background’ portion of the Complaint.” [Response to Defendant Katina Watson’s Application for Interlocutory Appeal, p. 6)]

Moreover, on a motion for judgment on the pleadings, all well-pleaded allegations in the complaint *must be accepted as true*. Further, in responding to the complaint, Defendant did not have the option of guessing that Plaintiff’s “Five Factual Allegations” were of no legal import and were not intended by Plaintiff to support the IPRA claims. There simply is no factual or legal support for the wrongful statement that Defendant “manufactured” any battle between the Attorney General and the judiciary;” Defendant appropriately responded to allegations in Plaintiff’s

complaint that, taken as true, asserted a challenge to the validity and constitutionality of the NMSC Order.

Conclusion.

The complaint alleges that in denying the Barker and Laughlin requests for records in PTS files that Defendant Watson unreasonably and improperly relied upon the NMSC Order which violates IPRA. The district court specifically found that the NMSC Order “is a basis for good-faith denial by a records custodian” under IPRA but erred in failing to grant judgment on the pleadings.

Respectfully submitted,

WALZ AND ASSOCIATES, P.C.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of October, 2026, the foregoing was electronically filed with the Court and served on all counsel of record via the Tylerhost system.

/s/ Jerry A. Walz
JERRY A. WALZ