

STATE OF NEW MEXICO  
THIRTEENTH JUDICIAL DISTRICT  
COUNTY OF VALENCIA

THE SOCORRO ELECTRIC COOPERATIVE, INC.  
Plaintiff,

v.

CHARLENE WEST, et al  
Defendants.

Case No: D-1314-CV-2010-849  
Judge: Albert J. Mitchell, Jr.

And

CHARLES WAGNER, individually and as  
Class representative, etc.,

Cross Claim Plaintiff,

v.

SOCORRO ELECTRIC COOPERATIVE, INC.,  
et al.,

Cross Claim Defendants.

**DEFENDANT'S MOTION TO ABATE RESPONSE TO  
PLAINTIFF'S JANUARY 25, 2012, DISPOSITIVE MOTIONS**

Charles Wagner, individually and as class representative, ("Defendant"), file this motion to abate its response to Socorro Electric Cooperative, Inc.'s ("Plaintiff") five motions filed on January 25, 2012.<sup>1</sup> In support, Defendant will show:

1. The parties to this matter held a telephonic status hearing on December 2, 2011, before Judge Mitchell. At that hearing Judge Mitchell stated that a hearing certifying the putative

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<sup>1</sup> Plaintiff's Motion to Dismiss for Failure to Join an Indispensible Party, Motion to Dismiss Claims for Lack of Subject Matter Jurisdiction Under New Mexico Rural Electric Cooperative Act, Plaintiff's Motion to Dismiss for Lack of Standing, Motion to Dismiss Claims and for Judgment on the Pleadings Based on Failure to Plead Under Rule 1-009(b), and Plaintiff's Motion for Partial Summary Judgment as to All Claims Involving Voting Rights

class would need to be conducted before the Court would hear any dispositive motions. *See* transcript log and CD of hearing from December 2, 2012.

2. Moreover, Plaintiff made it clear to the court that they would be occupied most of the spring with other matters. This was the reason why the court and other parties agreed to conduct the certification hearing in September 2012.

3. Because Plaintiff's motions are dispositive, they are premature. Defendant respectfully requests that the Court abate Defendant's response date until after the parties have completed class discovery, prepared class memorandum, and have held a hearing to determine class certification.

4. Rule 1-023(C)(1), NMRA 2010, states that as soon as practicable after an action is brought as a class action the court shall determine whether that action may be so maintained. Until this Court has an opportunity to rule on the issue of class certification, no dispositive motions should be heard nor filed.

For these reasons, Defendant respectfully requests that the Court abate Defendant's response date until after the parties have completed class discovery, prepared class memorandum, and have held a hearing to determine class certification.

Respectfully submitted,

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\_\_\_\_\_"Electronically filed" /s/ William Ikard\_\_\_\_  
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**CERTIFICATE OF SERVICE**

This is to certify that the foregoing was served on the persons identified below on the date and in the manner stated.

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Date: \_\_\_\_\_ 2/8/12 \_\_\_\_\_

\_\_\_\_\_/s/ Shiloh M. Pallante\_\_\_\_\_  
Shiloh M. Pallante