

**STATE OF NEW MEXICO
THIRTEENTH JUDICIAL DISTRICT
COUNTY OF VALENCIA**

**THE SOCORRO ELECTRIC
COOPERATIVE, INC.
Plaintiff,**

No. D1314-CV-2010-849

v.

CHARLENE WEST, et al.,

Defendants.

and

**CHARLES WAGNER, Individually,
and as Representative of the Class of
“unnamed Defendants, being owner/members
of the Socorro Electric Cooperative, Inc.”**

Cross Claim Plaintiff,

v.

SOCORRO ELECTRIC COOPERATIVE, INC., et al.

Cross Claim Defendants

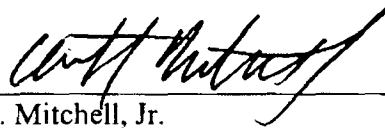
(2nd PROPOSED) ORDER DISMISSING DEFENDANT DON KLEIN, JR.

This matter comes before the Court pursuant to various Motions filed by Defendant Don Klein, Jr., including Motions to Quash Service, to Dismiss for Mislaid Venue, and to Dismiss Plaintiff's Complaint. Each of Defendant Klein's Motions was filed on or about August 19, 2010. Plaintiff timely responded to these Motions, filing a Consolidated Response on or about September 10, 2010. In its Response, Plaintiff did not contest Defendant Klein's assertion that Plaintiff had not provided proper service of its Complaint on Defendant Klein. Plaintiff also

stated in its Response that all other arguments presented by Defendant Klein were moot and without any legal effect.

The Court set a hearing on Defendant's Motions for February 25, 2011, and all relevant parties were notified of said hearing. However, neither Defendant Klein nor his counsel was present at the February 25th hearing. Based on Defendant Klein's failure to participate in the litigation of his claims and defenses, and further recognizing Plaintiff's willingness to dismiss its claims against Defendant Klein, this Court hereby determines that all pending Motions brought by Defendant Klein are now MOOT. The Court further orders that Defendant Don Klein is DISMISSED from the current lawsuit. Defendant Klein shall bear his own costs and attorney's fees.

IT IS SO ORDERED.



Albert J. Mitchell, Jr.
District Court Judge

REVIEWED AND APPROVED AS TO FORM BY:

/s/ Don Klein, Jr. (via telephonic approval 3/14/2011)

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