

**SUPREME COURT  
STATE OF NEW MEXICO**

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No. S-1-SC-37231

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**SUSAN L. SIEBERT,**  
*Plaintiff-Appellee,*

VS.

**REBECCA C. OKUN, M.D., AND  
WOMEN'S SPECIALISTS OF NEW MEXICO, LTD.,**  
*Defendants-Appellants.*

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**DEFENDANTS-APPELLANTS' RESPONSE TO PLAINTIFF-APPELLEE'S  
MOTION FOR SANCTIONS FOR FAILURE TO COMPLY BY EIGHT PAGES  
WITH RULE 12-318(F)(2)**

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Plaintiff-appellee Susan Siebert's motion for sanctions should be denied because the Brief in Chief of defendants-appellants Rebecca C. Okun, M.D., and Women's Specialists of New Mexico, Ltd. ("Defendants") complied with the 11,000-word length limit of Rule 12-318(F)(2)-(3) NMRA 2019.

1. A month and a half after Defendants filed their Brief in Chief on February 20, 2019, Siebert moved for sanctions because the brief exceeded 35 pages. Siebert ignored Defendants' certification on

page 3 of the brief that it was 10,655 words in length and therefore complied with the 11,000-word type-volume limitation in Rule 12-318(F)(3).

2. Siebert's motion quotes Rule 12-318(F)(2), including its clause recognizing the alternative word limit in Rule 12-318(F)(3). As the comment to the rule indicates, that alternative word limit was adopted *twelve years ago* "[i]n an effort to provide additional options for producing more readable documents." Rule 12-318 NMRA cmt. Defendants' Brief in Chief was prepared using the New Century Schoolbook font, which is proportionally spaced and easy to read but consumes more space than Times New Roman.

3. Siebert would have been *further* alerted to the alternative word limit had her counsel heeded the Court's requirement that, "[p]rior to filing a motion, the moving party shall attempt to ascertain whether the motion will be opposed by any other party." Rule 12-309(C) NMRA 2019. Siebert's counsel made no such attempt, nor did Siebert's motion recite, as the rule requires, "whether, on inquiry by counsel for the movant, any other party has expressed an intention to oppose or not

oppose the motion or why the position of another party was not obtained after reasonable effort.” *Id.*

For the foregoing reasons, Siebert’s motion must be denied.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing response was electronically filed in the Court's Odyssey filing system, which in turn caused all counsel of record to be electronically served, on this 5<sup>th</sup> day of April, 2019.

/s/ Dana S. Hardy