

fulltime paralegal duties for LRPA. My major was Classical Studies and I graduated “cum laude,” having maintained a 3.53 gpa.

3. My paralegal duties have included performing electronic filing for various clients in many different federal and state venues since I first started employment with LRPA, as well as managing LRPA’s PACER account. Any documents that have been electronically filed by myself are first reviewed and approved by the firm attorney assigned to that particular case.

4. I have personal knowledge of the matters stated in this Affidavit.

5. Pursuant to the Preliminary Procedural and Scheduling Order (Doc. No. 1188), our office prepared Notices of Intent to Participate and a Subproceeding Entry of Appearance for filing on October 26, 2007. The resulting document was an Adobe Acrobat “.pdf” document that comprised 114 pages inclusive of the scanned Notices of Intent. I was able to successfully file an Entry of Appearance and Notice of Intent for our client Ramah Land & Irrigation Company on October 26, 2007. *See* Doc. No. 123.

6. Due to the CM/ECF “file size” limitations, I split the document that we intended to file on behalf of various defendants collectively known as the Western New Mexico Water Preservation Association into pieces and attempted to file electronically. However, I experienced many difficulties in accessing the CM/ECF website, and when I finally did gain access, after going through most of the filing procedure, I received an error message stating that there was an “error at the site” and to try re-submitting the document and then, if still unsuccessful, to contact the help desk. After another unsuccessful attempt, I attempted to contact the help desk by both telephone and email. *See* email, dated October 26, 2007, attached hereto as Exhibit “A.” To provide evidence of timely filing of the Notices of Intent, I attached both our Subproceeding Entry of Appearance and the scanned Notices of Intent to my request for help.

7. On the morning of Saturday, October 27, 2007 at approximately 5:30 a.m., I was able to successfully file the Notices of Intent to Participate. Because I misinterpreted the filing procedure, I filed the items as four separate documents, rather than as one lead document with four attachments. *See* Doc. Nos. 124, 125, 126, and 127.

8. On Monday, October 29, 2007 I received a response to my email request from Phyllis Rael that stated “You may have to try again this morning. The system may have been down for a short time.” *See* email, dated October 29, 2007, attached hereto as Exhibit “B.”

9. Subsequently, I spoke with Data Manager Karla Bruner, who advised that many filers experienced problems with filing on the deadline date. Ms. Bruner advised that our filing should be amended in order to combine the four filings into one single filing, and to assist the Court and the plaintiffs in file management due to the large number of participants. I collaborated with Ms. Bruner and also with Ms. Sara Ellen Heath (*see* email, dated November 16, 2007, attached hereto as Exhibit “C”) and developed an Amended Entry of Appearance and filed that document on November 21, 2007. *See* Doc. No. 136. I also worked with Ms. Bruner and filed several Entry of Appearance forms in the main proceeding that Ms. Bruner deemed a model for other participants. *See Zuni Adjudication*, N.M.D.C. No. 01cv00072, Doc. Nos. 1367 – 1373 and Doc. No. 1394.

10. On January 31, 2008, our office prepared an Answer on behalf of various defendants to the U.S. Subproceeding Complaint and Statement of Claims and to the Zuni Indian Tribe’s Supplemental Subproceeding Complaint (“Answer”). I attempted to electronically file the Answer and experienced problems accessing the CM/ECF site that appeared similar to those that I had experienced on October 26, 2007. After several failed attempts, I again attempted to contact the help desk by both telephone and email. *See* email, dated October 31, 2008, attached

hereto as Exhibit "D." In order to ensure that the parties entitled to notice also received the Answer, I copied those parties on that email message and attached a copy of my error notice and a copy of the Answer and indicated that the Answer would be filed electronically as soon as possible. A "read receipt" was returned to my email program by Mr. Bradley Bridgewater at 4:52 p.m. on the same day. *See* read receipt, dated January 31, 2008, attached hereto as Exhibit "E." Due to continued problems with accessing the CM/ECF site, I was unable to successfully file the Answer on January 31, 2008 before leaving at 5:10 p.m.

11. The help desk responded to my email request for help at 5:37 p.m. and suggested that our ISP was experiencing problems and also suggested that I try "clearing the cache within your browser." After following that instruction the following morning, I was still unable to access the CM/ECF site.

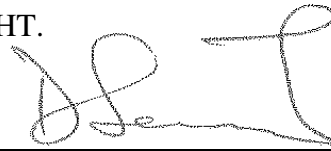
12. On February 1, 2008, I attempted to file the Answer and experienced the same problem from three separate computers in our office. I attempted and was successful in filing the Answer from a computer belonging to a local copy shop. *See* Doc. No. 185. I contacted our computer system consultant and his explanation to me was that it was unlikely that the problem was on our end, and he guessed that the problem was an inadvertent error on the CM/ECF site's side that was causing it to block our ISP address. I also received two other responses from other help desk individuals afterward explaining that these persons would contact our office to assist when they returned on either February 1 or February 4, 2008. All three email responses have been collectively attached hereto as Exhibit "F."

13. I was unable to determine the cause of our Internet problems and by the afternoon of February 1, 2008, I was not experiencing any problems in accessing the CM/ECF site. The help desk did not return my call or other wise contact me. I followed up with two phone calls to

the help desk and when I spoke with a technician was advised that without having an existing problem that determining the source of the past filing difficulties was not possible. I have not experienced any further problems with the CM/ECF site. My general experience has been that using the CM/ECF system is relatively easy, though sometime generic and inflexible. However, it appears to me that the difficulties can be generally associated with peaks in site access requests.

14. A scanned image of the Notary confirmation below is attached hereto as Exhibit "G." The original will be kept on file at the LRPA offices.

FURTHER AFFIANT SAYETH NAUGHT.



DAVID LERWILL
Paralegal
Law & Resource Planning Associates, P.C.

SUBSCRIBED AND SWORN TO before me this _____ day of February, 2008 by David Lerwill.

Notary Public

My Commission Expires: