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For Opinion See: [261 F.3d 970](#)

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Court: US COURT OF APPEALS FOR THE TENTH CIRCUIT
Case Title: LEWIS, ET AL v. DEPT. OF HEALTH, ET AL
Appeal From: UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
NEW MEXICO

Date Filed: 05/08/2000

CASE INFORMATION

Case Number: [00-2154](#)

Fee Status: PAID

Case Type: APPEALS

Case Subtype: CIVIL
PRIVATE

Nature of Suit: 3444

Key Nature of Suit: APPEALS (030)

NAMES

Name: BEN LEWIS

Type: PLAINTIFF - APPELLEE

Attorney: [DUFF H. WESTBROOK](#)

Firm Address: 812 MARQUETTE, NW
ALBUQUERQUE, NM 87102

Firm Phone: 505-243-2243

Name: AARON NORRID

Type: PLAINTIFF - APPELLEE

Attorney: [V. COLLEEN MILLER](#)

Attorney: [MICHAEL C. PARKS](#)

Firm Name: PROTECTION & ADVOCACY SYSTEM

Firm Address: 1720 LOUISIANA, N.E.
SUITE 204
ALBUQUERQUE, NM 87110

Firm Phone: 505-256-3100

Attorney: SANDRA L. GOMEZ

Firm Name: PROTECTION & ADVOCACY SYSTEM

Firm Address: 1720 LOUISIANA, N.E.
SUITE 204
ALBUQUERQUE, NM 87110

Firm Phone: 505-256-3100

Attorney: MAUREEN A. SANDERS

Firm Name: SANDERS & WESTBROOK

Firm Address: 102 GRANITE NW
ALBUQUERQUE, NM 87102-2310

Firm Phone: 505-243-2243

Attorney: DUFF H. WESTBROOK

Name: BILLY JO QUISENBERRY

Type: PLAINTIFF - APPELLEE

Attorney: V. COLLEEN MILLER

Attorney: MICHAEL C. PARKS

Attorney: SANDRA L. GOMEZ

Attorney: MAUREEN A. SANDERS

Attorney: DUFF H. WESTBROOK

Name: ARC OF NEW MEXICO, AS LEGAL GUARDIAN AND NEXT
FRIEND OF FRED ROMERO

Type: PLAINTIFF - APPELLEE

Attorney: V. COLLEEN MILLER

Attorney: MICHAEL C. PARKS

Attorney: SANDRA L. GOMEZ

Attorney: MAUREEN A. SANDERS

Attorney: DUFF H. WESTBROOK

Attorney: V. COLLEEN MILLER

Attorney: MICHAEL C. PARKS

Name: JUDY LIDDELL, AS PARENT AND LEGAL GUARDIAN OF
BREANNE LIDDELL

Type: PLAINTIFF - APPELLEE
Attorney: SANDRA L. GOMEZ
Attorney: MAUREEN A. SANDERS
Attorney: DUFF H. WESTBROOK
Attorney: V. COLLEEN MILLER
Attorney: MICHAEL C. PARKS

Name: JIM ALLEN, AS PARENT AND LEGAL GUARDIAN OF MATTHEW ALLEN

Type: PLAINTIFF - APPELLEE
Attorney: SANDRA L. GOMEZ
Attorney: MAUREEN A. SANDERS
Attorney: DUFF H. WESTBROOK

Name: ANGELA ALLEN, AS PARENT AND LEGAL GUARDIAN OF MATTHEW ALLEN

Type: PLAINTIFF - APPELLEE
Attorney: V. COLLEEN MILLER
Attorney: MICHAEL C. PARKS
Attorney: SANDRA L. GOMEZ
Attorney: MAUREEN A. SANDERS
Attorney: DUFF H. WESTBROOK
Attorney: V. COLLEEN MILLER
Attorney: MICHAEL C. PARKS

Name: FAYE MORGAN

Type: PLAINTIFF - APPELLEE
Attorney: SANDRA L. GOMEZ
Attorney: MAUREEN A. SANDERS
Attorney: V. COLLEEN MILLER
Attorney: MICHAEL C. PARKS

Name: DEBORAH EMINGER

Type: PLAINTIFF - APPELLEE
Attorney: SANDRA L. GOMEZ
Attorney: V. COLLEEN MILLER
Attorney: MICHAEL C. PARKS

Name: PROTECTION & ADVOCACY SYSTEM

Type: PLAINTIFF - APPELLEE
Attorney: SANDRA L. GOMEZ
Attorney: V. COLLEEN MILLER
Attorney: MICHAEL C. PARKS

Name: DEPARTMENT OF HEALTH, STATE OF NEW MEXICO
Type: DEFENDANT - APPELLANT
Attorney: SANDRA L. GOMEZ
Attorney: MARGARET E. DAVIDSON
Attorney: KURT WIHL
Attorney: CHARLES A. PHARRIS
Attorney: GARY JOHN VAN LUCHENE
Firm Name: KELEHER & MCLEOD P.O. DRAWER AA
 ALBUQUERQUE, NM 87103
Firm Phone: 505-842-6262

Name: J. ALEX VALDEZ, SECRETARY OF THE DEPARTMENT OF
 HEALTH AND SECRETARY DESIGNEE OF THE DEPART-
 MENT OF HUMAN SERVICES IN HIS OFFICIAL CAPACITIES
Type: DEFENDANT - APPELLANT
Attorney: BARBARA GREGG GLENN
Attorney: ROBYN B. HOFFMAN
Firm Name: NEW MEXICO DEPARTMENT OF HEALTH GENERAL COUN-
 SEL P.O. BOX 26110
 SANTA FE, NM 87502
Firm Phone: 505-827-0002
Attorney: BARBARA GREGG GLENN
Attorney: ROBYN B. HOFFMAN
Firm Name: NEW MEXICO DEPARTMENT OF HEALTH GENERAL COUN-
 SEL P.O. BOX 26110
 SANTA FE, NM 87502
Firm Phone: 505-827-0002
Attorney: MARGARET E. DAVIDSON
Attorney: KURT WIHL
Attorney: CHARLES A. PHARRIS
Attorney: GARY JOHN VAN LUCHENE

Name: GARY JOHNSON, GOVERNOR, IN HIS OFFICIAL CAPACITY
Type: DEFENDANT - APPELLANT

Attorney: BARBARA GREGG GLENN
Attorney: ROBYN B. HOFFMAN
Attorney: BARBARA GREGG GLENN
Attorney: ROBYN B. HOFFMAN
Attorney: MARGARET E. DAVIDSON
Attorney: KURT WIHL
Attorney: CHARLES A. PHARRIS
Attorney: GARY JOHN VAN LUCHENE

Name: NEW MEXICO DEPARTMENT OF HUMAN SERVICES
Type: DEFENDANT - APPELLANT
Attorney: JOHN H. CLOUGH
Attorney: JOHN H. CLOUGH
Attorney: MARGARET E. DAVIDSON
Attorney: KURT WIHL
Attorney: CHARLES A. PHARRIS

Attorney: GARY JOHN VAN LUCHENE
Attorney: GARY JOHN VAN LUCHENE
Attorney: RUMALDO R. ARMIJO
Attorney: JOHN H. CLOUGH
Attorney: ROBYN B. HOFFMAN

DOCKET PROCEEDINGS

ENTRY #:	DATE:	DESCRIPTION:
--	05/31/2002	[1515252] CASE FILE CLOSED. SHIPMENT TO RECORDS CENTER DUE 5/30/04 (ERB)
--	09/12/2001	[1446522] MANDATE RECEIPT FILED. (MAV)
--	09/07/2001	[1445691] MANDATE ISSUED. MANDATE RECEIPT DUE 10/9/01. (KLP)
--	08/16/2001	[1440050] TERMINATED ON THE MERITS AFTER ORAL HEARING; AFFIRMED; WRITTEN, SIGNED, PUBLISHED. TACHA, AUTHORIZING JUDGE; POLITZ; LUCERO. [00-2154] (KLP)
--	07/16/2001	[1430925] CASE ARGUED BY KURT WIHL FOR THE AP-

PELLANT; MAUREEN SANDERS FOR THE APPELLEE,
AND SUBMITTED TO JUDGES TACHA, POLITZ,
LUCERO. (HRS)

-- 07/02/2001 [1427726] APPELLEE'S MOTION VOLUNTARY PARTIAL
DISMISSAL RE ADA CLAIMS SUBMITTED TO THE AR-
GUMENT PANEL. (SS)

-- 07/02/2001 [1427723] APPELLEE'S MOTION [00-2154] FOR VOLUN-
TARY PARTIAL DISMISSAL (OF THEIR ADA RELATED
CLAIMS, COUNTS III& IV) FILED BY BEN LEWIS, ET AL.
ORIGINAL AND 3 COPIES. C/S: Y (SS)

-- 06/13/2001 [1423491] APPELLANTS' SUPPLEMENTAL AUTHORITY
FILED BY DEPT. OF HEALTH, J. ALEX VALDEZ, GARY
JOHNSON, DEPT. OF HUMAN SER. AND SUBMITTED TO
COURT. ORIGINAL AND 7 COPIES. C/S: Y. (KLP)

-- 04/16/2001 [1407584] HEARING SET FOR JULY 12, 2001 SESSION, AT
SANTA FE, NEW MEXICO. (HRS)

-- 03/29/2001 [1403912] ERRATA SHEET TO REPLY BRIEF OF APPEL-
LANT'S FILED BY DEPT. OF HEALTH, J. ALEX VALDEZ,
GARY JOHNSON, DEPT. OF HUMAN SER. ORIGINAL
AND 7 COPIES. C/S: Y. (JAL)

-- 03/21/2001 [1402190] APPELLANTS' REPLY BRIEF FILED BY DEPT.
OF HEALTH, J. ALEX VALDEZ, GARY JOHNSON AND
DEPT. OF HUMAN SER. ORIGINAL AND 7 COPIES. C/S: Y
(AFW)

-- 03/01/2001 [1396304] APPELLEES' BRIEF FILED BY BEN LEWIS,
AARON NORRID, BILLY JO QUISENBERRY, ARC OF
NEW MEXICO, JUDY LIDDELL, JIM ALLEN, ANGELA
ALLEN, FAYE MORGAN, DEBORAH EMINGER, AND
PROTECTION. ORIGINAL AND 7 COPIES. C/S: Y.
SERVED ON 2/28/01. ORAL ARGUMENT? YES. APPEL-
LANTS' OPTIONAL REPLY BRIEF DUE 3/19/01 FOR DEPT.
OF HUMAN SER., GARY JOHNSON, J. ALEX VALDEZ,
AND DEPT. OF HEALTH. (GAH)

-- 01/30/2001 [1388922] APPELLANT'S BRIEF FILED BY DEPT. OF
HEALTH, J. ALEX VALDEZ, GARY JOHNSON, DEPT. OF

HUMAN SER.. ORIGINAL AND 7 COPIES. C/S: Y. SERVED ON 1/29/01. ORAL ARGUMENT? Y. APPENDIX FILED. ORIGINAL AND 1 APPENDIX COPY. APPENDIX PAGES: 475 (VOLUMES 1 AND 2). APPELLEE'S BRIEF DUE 3/5/01 FOR PROTECTION, DEBORAH EMINGER, FAYE MORGAN, ANGELA ALLEN, JIM ALLEN, JUDY LIDDELL, ARC OF NEW MEXICO, BILLY JO QUISENBERRY, AARON NORRID, AND BEN LEWIS. (JAL)

- 12/20/2000 [1380037] ORDER FILED BY PF (KTC) REFERRING ORDER CONSIDERING CASE FOR SUMMARY DISPOSITION [1329272-1], REFERRING APPELLEE'S MEMO BRIEF [1344471-1], REFERRING APPELLANT'S MEMO BRIEF [1344474-1]. REFERRED TO PANEL ON THE MERITS. APPELLANTS' BRIEF AND APPENDIX DUE 1/29/01 FOR DEPT. OF HUMAN SER., FOR GARY JOHNSON, FOR J. ALEX VALDEZ, AND FOR DEPT. OF HEALTH. PARTIES SERVED BY MAIL. (GAH)
- 08/02/2000 [1344474] APPELLANTS' MEMORANDUM BRIEF FILED BY DEPT. OF HEALTH, J. ALEX VALDEZ, GARY JOHNSON, AND DEPT. OF HUMAN SER. ORIGINAL AND 7 COPIES. C/S: Y. (GAH)
- 08/02/2000 [1344471] APPELLEES' MEMORANDUM BRIEF FILED BY BEN LEWIS, AARON NORRID, BILLY JO QUISENBERRY, ARC OF NEW MEXICO, JUDY LIDDELL, JIM ALLEN, ANGELA ALLEN, FAYE MORGAN, DEBORAH EMINGER, AND PROTECTION. ORIGINAL AND 7 COPIES. C/S: Y. (GAH)
- 06/28/2000 [1336485] ON THE COURT'S OWN MOTION AND PURSUANT TO [10TH CIR. R. 33.1](#), ORDER FILED BY (PF) TO EXTEND TIME TO FILE MEMORANDUM BRIEFS UNTIL 8/2/00. [00-2154] PARTIES SERVED BY MAIL. (GAH)
- 06/14/2000 [1332842] ON THE COURT'S OWN MOTION AND PURSUANT TO [10TH CIR. R. 33.1](#), ORDER FILED BY (PF) TO EXTEND TIME TO FILE MEMORANDUM BRIEFS UNTIL 7/17/00. [00-2154] PARTIES SERVED BY MAIL. (NAK)
- 06/08/2000 [1331065] NOTICE OF APPEARANCE FILED BY MAUREEN A. SANDERS, DUFF H. WESTBROOK AS ATTORNEY FOR BEN LEWIS, AARON NORRID, BILLY JO QUISEN-

BERRY, ARC OF NEW MEXICO, JUDY LIDDELL, JIM ALLEN, ANGELA ALLEN. CERT. OF INTERESTED PARTIES (Y/N): N. (GAH)

-- 06/02/2000 [1329615] ORDER FILED BY PF NOTICE OF APPEARANCE FORM DUE 6/12/00 FOR ANGELA ALLEN, JIM ALLEN, JUDY LIDDELL, ARC OF NEW MEXICO, BILLY JO QUISENBERRY, AARON NORRID AND BEN LEWIS. (ATTORNEY WESTBROOK) PARTIES SERVED BY MAIL. (AFW)

-- 06/02/2000 [1329608] NOTICE OF APPEARANCE FILED BY MICHAEL C. PARKS AND V. COLLEEN MILLER AS ATTORNEYS FOR BEN LEWIS, AARON NORRID, BILLY JO QUISENBERRY, ARC OF NEW MEXICO, JUDY LIDDELL, JIM ALLEN, ANGELA ALLEN, FAYE MORGAN, DEBORAH EMINGER AND PROTECTION. CERT. OF INTERESTED PARTIES (Y/N): N. (AFW)

-- 06/02/2000 [1329605] NOTICE OF APPEARANCE FILED BY SANDRA L. GOMEZ AS ATTORNEY FOR BEN LEWIS, AARON NORRID, BILLY JO QUISENBERRY, ARC OF NEW MEXICO, JUDY LIDDELL, JIM ALLEN, ANGELA ALLEN, FAYE MORGAN, DEBORAH EMINGER AND PROTECTION. CERT. OF INTERESTED PARTIES (Y/N): N. (AFW)

-- 06/01/2000 [1329272] ORDER FILED BY PF (KTC) CONSIDERING THIS CASE FOR SUMMARY DISPOSITION UNDER 10 CIR. R. 27. PARTIES' SIMULTANEOUS MEMORANDUM BRIEFS DUE 7/3/00 FOR DEPT. OF SER., GARY JOHNSON, J. ALEX VALDEZ, DEPT. OF HEALTH, PROTECTION, DEBORAH EMINGER, FAYE MORGAN, ANGELA ALLEN, JIM ALLEN, JUDY LIDDELL, ARC OF NEW MEXICO, BILLY JO QUISENBERRY, AARON NORRID, BEN LEWIS. PARTIES SERVED BY MAIL. (NAK)

-- 05/30/2000 [1329164] FILED NOTICE RECORD IS COMPLETE 5/25/00. APPELLANT'S BRIEF AND APPENDIX DUE 7/5/00 FOR DEPT. OF HUMAN SER., FOR GARY JOHNSON, FOR J. ALEX VALDEZ, FOR DEPT. OF HEALTH. (PDW)

-- 05/23/2000 [1327009] NOTICE OF APPEARANCE FILED BY JOHN H. CLOUGH AS ATTORNEY FOR DEPT. OF HEALTH, J. ALEX VALDEZ, GARY JOHNSON, DEPT. OF HUMAN

SER.. CERT. OF INTERESTED PARTIES (Y/N): N. (NAK)

-- 05/19/2000 [1326310] NOTICE OF APPEARANCE FILED BY BARBARA GREGG GLENN AS ATTORNEY FOR DEPT. OF HEALTH, J. ALEX VALDEZ. CERT. OF INTERESTED PARTIES (Y/N): Y. (NAK)

-- 05/18/2000 [1326280] NOTICE OF APPEARANCE FILED BY MARGARET E. DAVIDSON AND GARY JOHN VAN LUCHENE AS ATTORNEYS FOR DEPT. OF HEALTH, J. ALEX VALDEZ, GARY JOHNSON AND DEPT. OF HUMAN SER. CERT. OF INTERESTED PARTIES (Y/N): Y. (AFW)

-- 05/18/2000 [1326274] NOTICE OF APPEARANCE FILED BY RUMALDO R. ARMIJO AS ATTORNEY FOR GARY JOHNSON AND DEPT. OF HUMAN SER. CERT. OF INTERESTED PARTIES (Y/N): Y. (AFW)

-- 05/18/2000 [1326269] NOTICE OF APPEARANCE FILED BY KURT WIHL AND CHARLES A. PHARRIS AS ATTORNEYS FOR DEPT. OF HEALTH, J. ALEX VALDEZ, GARY JOHNSON AND DEPT. OF HUMAN SER. CERT. OF INTERESTED PARTIES (Y/N): Y. (AFW)

-- 05/18/2000 [1326264] NOTICE OF APPEARANCE FILED BY ROBYN B. HOFFMAN AS ATTORNEY FOR DEPT. OF HEALTH, J. ALEX VALDEZ AND DEPT. OF HUMAN SER. CERT. OF INTERESTED PARTIES (Y/N): Y. ATTORNEY BARBARA GREGG GLENN TERMINATED FOR DEPT. OF HUMAN SER., J. ALEX VALDEZ AND DEPT. OF HEALTH. (AFW)

-- 05/12/2000 [1324902] NOTICE RECEIVED FROM APPELLANTS DEPT. OF HEALTH, J. ALEX VALDEZ, GARY JOHNSON AND DEPT. OF HUMAN SER. THAT A TRANSCRIPT IS NOT NECESSARY THIS APPEAL. NOTICE DUE THAT RECORD IS COMPLETE 5/22/00 FOR MARTHA VAZQUEZ. (KF)

-- 05/12/2000 [1324899] DOCKETING STATEMENT FILED BY DEPT. OF HEALTH, J. ALEX VALDEZ, GARY JOHNSON AND DEPT. OF HUMAN SER. ORIGINAL AND 4 COPIES. C/S: Y. (KF)

-- 05/08/2000 [1322931] CIVIL CASE DOCKETED. PRELIMINARY RECORD FILED. DATE RECEIVED: 5/5/00. TRANSCRIPT OR-

DER FORM DUE 5/18/00 FOR KATHLEEN MARQUARDT
PURSUANT TO R.42.1. DOCKETING STATEMENT DUE
5/18/00 FOR DEPT. OF HUMAN SER., FOR GARY JOHN-
SON, FOR J. ALEX VALDEZ, FOR DEPT. OF HEALTH. NO-
TICE OF APPEARANCE DUE 5/18/00 FOR DEPT. OF HU-
MAN SER., FOR GARY JOHNSON, FOR J. ALEX VALDEZ,
FOR DEPT. OF HEALTH, FOR PROTECTION, FOR DE-
BORAH EMINGER, FOR FAYE MORGAN, FOR ANGELA
ALLEN, FOR JIM ALLEN, FOR JUDY LIDDELL, FOR ARC
OF NEW MEXICO, FOR BILLY JO QUISENBERRY, FOR
AARON NORRID, FOR BEN LEWIS. (PDW)

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