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HOUSE BILL 88

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO MAGISTRATE COURT; ALLOWING NONPREVAILING PLAINTIFFS
TO BE AWARDED SERVICE OF PROCESS COSTS IN CERTAIN
CIRCUMSTANCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1. MAGISTRATE COURT--CIVIL COSTS--SERVICE OF
PROCESS COSTS AWARDED TO NONPREVAILING PLAINTIFF IN CERTAIN
CIRCUMSTANCES.--**

A. The court may award a nonprevailing plaintiff
the costs of service of process if:

(1) the defendant knew or should have known
that the defendant was being served a summons and complaint in
a civil action by certified mail, return receipt requested; and

(2) the plaintiff had to pay for additional
service by the sheriff or other person as provided by the Rules

.188030.1

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1 of Civil Procedure for the Magistrate Courts because the
2 defendant failed to acknowledge service by mail.

3 B. The plaintiff shall provide the court with proof
4 that the plaintiff sent the summons and complaint by certified
5 mail, return receipt requested.

6 C. The costs of service of process include the cost
7 of certified mail and the cost of personal service.