

BALCOM V. EAGLE NEST

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**STACY L. BALCOM, a/k/a LIBERTY
PRODUCTION AGENCY,**

Plaintiff-Appellant,

v.

**BETTY FLEISSNER of EAGLE NEST
REAL ESTATE, DAVID and LAJUANA
COURLAS, XREALTY for JACK
SCHWEITZER, NORTH COUNTRY
REAL ESTATE for ROGER MEEKER,
PAUL PITT, ATTORNEY for GANT
FAMILY RANCH and ROGER MEEKER
a/k/a EAGLE NEST RANCH, LLC,
Respondents-Appellees.**

NO. 29,395

COURT OF APPEALS OF NEW MEXICO

January 5, 2010

APPEAL FROM THE DISTRICT COURT OF COLFAX COUNTY, Sam B. Sanchez,
District Judge

COUNSEL

Stacey L. Balcom, Pro Se Appellant

Stephen Natelson, Taos, NM, for Eagle Nest Real Estate

David and LaJuana Courlas, and Betty Fleissner, Robin C. Blair, Raton, NM, for Gant Family Ranch

Paul Pitt, X Realty, Eagle Nest, NM, Pro Se Appellee, North County Real Estate, Angel Fire, NM, Pro Se Appellee, Frank Belichick, Eagle Nest, NM, Pro Se Appellee, Stan Samuels, Angel Fire, NM, Pro Se Appellee

JUDGES

RODERICK T. KENNEDY, Judge. WE CONCUR: CYNTHIA A. FRY, Chief Judge, TIMOTHY L. GARCIA, Judge

AUTHOR: RODERICK T. KENNEDY

MEMORANDUM OPINION

KENNEDY, Judge.

Plaintiff is appealing, pro se, from a district court order dismissing out the remaining party or parties in her lawsuit involving land and real estate transactions in Colfax county. We issued a calendar notice proposing to affirm. Plaintiff has responded with a memorandum in opposition. To the extent that Plaintiff is requesting that we reconsider our previous ruling on her motion to attach exhibits, we hereby deny the motion to reconsider. Not persuaded that our calendar notice was incorrect, we affirm the district court.

Plaintiff is appealing from a district court dismissing her civil complaint. Because matters outside of the pleadings were considered [RP 45-76], Defendants' motions to dismiss were converted to motions for summary judgment. See *Knippel v. Northern Communic'ns, Inc.*, 97 N.M. 401, 402, 640 P.2d 507, 508 (Ct. App. 1982). "Summary judgment is proper if there are no genuine issues of material fact and the movant is entitled to judgment as a matter of law." *Roth v. Thompson*, 113 N.M. 331, 334, 825 P.2d 1241, 1244 (1992). When a party makes a prima facie showing of summary judgment, the burden shifts to the party opposing the motion to come forward with specific material facts that would make a trial necessary. *Id.* at 334-35, 825 P.2d at 1244-45. We look to the whole record to see if a material fact issue exists. *Id.* at 335, 825 P.2d at 1245.

Plaintiff filed this action on behalf of her corporation, Liberty Production Agency. [RP 1] Defendants filed motions to dismiss based on two independent grounds for dismissal: the fact that Plaintiff may not represent the corporation because she is not an attorney and on the claim that her Colorado-based company does not have a certificate of authority to transact business in the state. [RP 257; 287; 293] Our calendar notice proposed to hold that both of these grounds independently supported dismissal of her complaint. See NMSA 1978, § 36-2-27 (1999) (prohibiting the unauthorized practice of law); NMSA 1978, § 53-17-20(A) (1969) (requiring certificate of authority as prerequisite for corporation to maintain litigation).

In her memorandum in opposition, Plaintiff does not establish any factual or legal errors in our calendar notice. *State v. Sisneros*, 98 N.M. 201, 202-03, 647 P.2d 403, 404-05 (1982) ("The opposing party to summary disposition must come forward and specifically point out errors in fact and in law."). Accordingly, we affirm.

IT IS SO ORDERED.

RODERICK T. KENNEDY, Judge

WE CONCUR:

CYNTHIA A. FRY, Chief Judge

TIMOTHY L. GARCIA, Judge