

GUTIERREZ V. FIRST CHOICE CASH LOANS, LLC

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JOLENE and JOHNNY GUTIERREZ,
Plaintiffs-Appellees,
v.
FIRST CHOICE CASH LOANS, LLC,
Defendant-Appellant.

No. 32,887

COURT OF APPEALS OF NEW MEXICO

December 3, 2014

APPEAL FROM THE DISTRICT COURT OF MCKINLEY COUNTY, Robert A. Aragon,
District Judge

COUNSEL

DNA - People's Legal Services, Inc., Mahlon Wigton, Crownpoint, NM, for Appellees

The Kassakhian Law Offices, Harutiun Kassakhian, Gallup, NM, L. Helen Bennett PC,
L. Helen Bennett, Albuquerque, NM, for Appellant

JUDGES

RODERICK T. KENNEDY, Chief Judge. WE CONCUR: MICHAEL D. BUSTAMANTE,
Judge, JONATHAN B. SUTIN, Judge

AUTHOR: RODERICK T. KENNEDY

MEMORANDUM OPINION

KENNEDY, Chief Judge.

{1} Defendant, First Choice Cash Loans, LLC, appeals from the district court's order granting partial summary judgment in favor of Jolene and Johnny Gutierrez for alleged violations of the New Mexico Uniform Commercial Code. This Court's first notice

proposed to conclude that partial summary judgment was proper and that there was no abuse of discretion in denying a continuance or in calculating damages. First Choice filed a memorandum in opposition relying on the same arguments and averments made in the docketing statement. [MIO 2] “Our courts have repeatedly held that, in summary calendar cases, the burden is on the party opposing the proposed disposition to clearly point out errors in fact or law.” *Hennessey v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683. First Choice does not respond to this Court’s proposed disposition. *See State v. Johnson*, 1988-NMCA-029, ¶ 8, 107 N.M. 356, 758 P.2d 306 (stating that, when a case is decided on the summary calendar, an issue is deemed abandoned where a party fails to respond to the proposed disposition of that issue). Rather, First Choice repeats the same arguments asserted in the docketing statement and raises no new arguments. *See State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003 (stating that a party responding to a summary calendar notice must come forward and specifically point out errors of law and fact, and the repetition of earlier arguments does not fulfill this requirement). Because First Choice has not convinced us that our proposal is erroneous, we affirm, in accordance with our proposal and for the reasons given above.

{2} IT IS SO ORDERED.

RODERICK T. KENNEDY, Chief Judge

WE CONCUR:

MICHAEL D. BUSTAMANTE, Judge

JONATHAN B. SUTIN, Judge