

GREEN V. CASA BELLA APARTMENTS

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**WANDA GREEN, JOHN E. GREEN,
L. BALLARD, (minor child),
Plaintiffs-Appellants,
v.
CASA BELLA APARTMENTS
(a.k.a Plaza Dorado), THE NEIDERS
COMPANY,
Defendants-Appellees.**

NO. 34,393

COURT OF APPEALS OF NEW MEXICO

October 6, 2015

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Alan M. Malott,
District Judge

COUNSEL

Derek V. Garcia, Albuquerque, NM, for Appellants

Ada B. Priest, Justin D. Goodman, Peter J. Eicker, Albuquerque, NM, for Appellees

JUDGES

TIMOTHY L. GARCIA, Judge. WE CONCUR: MICHAEL E. VIGIL, Chief Judge,
RODERICK T. KENNEDY, Judge

AUTHOR: TIMOTHY L. GARCIA

MEMORANDUM OPINION

GARCIA, Judge.

{1} Plaintiffs appeal from the district court's order denying reconsideration of its order granting summary judgment in favor of Defendants and dismissing Plaintiffs' complaint with prejudice. We issued a notice of proposed summary disposition, proposing to reverse in part and affirm in part. We proposed to summarily reverse summary judgment as to (1) the negligence claim brought by Plaintiff minor child (grandchild of the tenants), who was separately named, and (2) the claim brought by the Greens Plaintiffs, the tenants, for the return of their security deposit. We proposed to summarily affirm summary judgment as to all the other claims the Greens Plaintiffs raised relative to their occupancy and lease, on the basis that the rescission was an effective waiver of those claims. No memorandum opposing summary reversal or summary affirmance has been filed, and the time for doing so has expired.

{2} For the reasons set forth in the notice, summary judgment is reversed in part and affirmed in part. We remand for further proceedings relative to the claim brought by Plaintiff minor child and the claim brought by the Greens Plaintiffs for return of their security deposit.

{3} IT IS SO ORDERED.

TIMOTHY L. GARCIA, Judge

WE CONCUR:

MICHAEL E. VIGIL, Chief Judge

RODERICK T. KENNEDY, Judge