

LUCERO V. TRUJILLO

This memorandum opinion was not selected for publication in the New Mexico Reports. Please see Rule 12-405 NMRA for restrictions on the citation of unpublished memorandum opinions. Please also note that this electronic memorandum opinion may contain computer-generated errors or other deviations from the official paper version filed by the Court of Appeals and does not include the filing date.

CONSUELO LUCERO,
Plaintiff-Appellant,
v.
DAVID TRUJILLO, SAFECO INSURANCE
COMPANY OF AMERICA, and PROGRESSIVE
HALCYON INSURANCE COMPANY,
Defendants-Appellees.

NO. 29,859

COURT OF APPEALS OF NEW MEXICO

January 7, 2010

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Ted Baca,
District Judge

COUNSEL

Law Office of Geoffrey R. Romero, Geoffrey R. Romero, Albuquerque, NM, Garcia & Vargas, LLC, Ray M. Vargas, II, David P. Garcia, Santa Fe, NM, for Appellant

Modrall, Sperling, Roehl, Harris & Sisk, P.A., Douglas G. Schneebeck, Albuquerque, NM, for Appellees

JUDGES

MICHAEL D. BUSTAMANTE, Judge. WE CONCUR: JAMES J. WECHSLER, Judge,
JONATHAN B. SUTIN, Judge

AUTHOR: MICHAEL D. BUSTAMANTE

MEMORANDUM OPINION

BUSTAMANTE, Judge.

Insured appeals the grant of summary judgment in favor of Insurer. We proposed to reverse based on our recent decision in *Romero v. Progressive Northwestern Ins. Co.*, No. 28,720, slip op. (N.M. Ct. App. Oct. 26, 2009). In response, Insurer asks that we stay the case until the petition for writ of certiorari filed in *Romero* is decided by our Supreme Court. We point out, however, that *Romero* is the latest pronouncement from this Court, and although certiorari has been filed and may be granted, the Supreme Court has not reversed or overruled this Court's decision in *Romero*. Until the Supreme Court does so, *Romero* remains controlling precedent on which our courts are entitled to rely. See *Arco Materials, Inc. v. Taxation & Revenue Dep't*, 118 N.M. 12, 14, 878 P.2d 330, 332 (Ct. App. 1994), *rev'd on other grounds by Blaze Constr. Co. v. Taxation & Revenue Dep't*, 118 N.M. 647, 884 P.2d 803 (Ct. App. 1994).

For the reasons explained in our calendar notice, we reverse the district court's order granting summary judgment in favor of Insurer, and remand for further proceedings.

IT IS SO ORDERED.

MICHAEL D. BUSTAMANTE, Judge

WE CONCUR:

JAMES J. WECHSLER, Judge

JONATHAN B. SUTIN, Judge