

SANDELIN V. LANGWORTHY

This memorandum opinion was not selected for publication in the New Mexico Appellate 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 Please see Rule 12-405 NMRA for restrictions on the citation of unpublished memorandum opinions.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.

**LILLA SANDELIN, as trustee of the
LILLA SANDELIN TRUST; DANIEL
BAILET and REBECCA BAILET, his
wife; STEVEN TRUEMPER and
CYNTHIA JO TRUEMPER, his wife;
FEROL BECKNER, as trustee of the
BECKNER FAMILY TRUST; AARON
RATLIFF; SHARA BANE; and CARMEN
WILSON,
Plaintiffs-Appellees,
v.
GENEVA LANGWORTHY,
Defendant-Appellant.**

No. A-1-CA-36282

COURT OF APPEALS OF NEW MEXICO

December 27, 2017

APPEAL FROM THE DISTRICT COURT OF COLFAX COUNTY, Emilio J. Chavez,
District Judge

COUNSEL

Gary Alsup, Clayton, NM, for Appellees

Geneva Langworthy, Clear Lake, WA, Pro Se Appellant

JUDGES

JONATHAN B. SUTIN, Judge. WE CONCUR: M. MONICA ZAMORA, Judge, EMIL J.
KIEHNE, Judge

AUTHOR: JONATHAN B. SUTIN

MEMORANDUM OPINION

SUTIN, Judge.

{1} Appellant Geneva Langworthy appeals from the district court's grant of injunctive relief pursuant to its partial final judgment and decree entered on February 21, 2017. [2 RP 431, 437] This Court issued a notice of proposed disposition proposing to dismiss Appellant's appeal for lack of a final, appealable order. Appellant has filed a memorandum opposing this Court's notice of proposed disposition that we have duly considered. Unpersuaded, we dismiss Appellant's appeal.

{2} As we pointed out in this Court's notice of proposed disposition, "[t]he general rule in New Mexico for determining the finality of a judgment is that an order or judgment is not considered final unless all issues of law and fact have been determined and the case disposed of by the trial court to the fullest extent possible." *Zuni Indian Tribe v. McKinley Cty. Bd. of Cty. Comm'rs*, 2013-NMCA-041, ¶ 16, 300 P.3d 133 (internal quotation marks and citation omitted). We noted that, while Appellant filed a "Request for Final Order" the same day the order was entered, asking the district court to enter a final order so that she could begin the appeal process [2 RP 434], it did not appear from our review of the record proper or of additional proceedings via Odyssey that a final order has been entered. Furthermore, from our review of the proceedings in Odyssey, it appears that the Appellees filed a motion for entry of damages on July 10, 2017, which has yet to be ruled on. See *Valley Imp. Ass'n v. Hartford Acc. & Indem. Co.*, 1993-NMSC-061, ¶ 8, 116 N.M. 426, 863 P.2d 1047 ("When the issue of damages is before the district court, whether the action pursues coercive or declaratory relief, a judgment or order that reserves the issue of assessment of damages for future determination is not a final judgment for purposes of appeal."). Furthermore, it appears that there is currently a motion for default judgment on the issue of damages pending, and a hearing is scheduled for January 9, 2018.

{3} In her memorandum in opposition, Appellant informs this Court that she has not received a copy of a final order. Appellant does not contradict this Court's proposal that no final order has been entered. See *Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 ("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."). Accordingly, we dismiss Defendant's appeal for lack of a final order.

{4} IT IS SO ORDERED.

JONATHAN B. SUTIN, Judge

WE CONCUR:

M. MONICA ZAMORA, Judge

EMIL J. KIEHNE, Judge