

ZUBKOFF V. COTHAM

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SANDRA ZUBKOFF,
Plaintiff-Appellant,
v.
RICK COTHAM and
TIM HARVEY,
Defendants-Appellees.

NO. 30,627

COURT OF APPEALS OF NEW MEXICO

November 30, 2010

APPEAL FROM THE DISTRICT COURT OF EDDY COUNTY, Jane Shuler Gray,
District Judge

COUNSEL

Law Office of Marcus Garcia, Marcus E. Garcia, Albuquerque, NM, for Appellant

Yarbro & Associates, P.A., Roger E. Yarbro, Cloudcroft, NM, for Appellees

JUDGES

CELIA FOY CASTILLO, Judge. WE CONCUR: MICHAEL E. VIGIL, Judge, ROBERT E. ROBLES, Judge

AUTHOR: CELIA FOY CASTILLO

MEMORANDUM OPINION

CASTILLO, Judge.

Plaintiff appeals from the district court's June 22, 2010, order granting summary judgment (order) in favor of Defendants. [RP 201] Our notice proposed to dismiss for lack of a final order on the basis that both the summary judgment order, as well as the

district court's subsequent order denying Plaintiff's motion to reconsider, lack the requisite final, decretal language. However, our notice also provided that if Plaintiff secures an order from the district court and provides this Court with a copy thereof within the time frame for filing a memorandum in opposition to the notice that satisfies finality requirements, then we will proceed to calendar the case on the merits. In response to our notice, Plaintiff filed a timely memorandum, but did not provide this Court with a order from the district court that satisfies finality requirements. Instead, Plaintiff's memorandum provides (1) that she does not oppose a remand to the district court to give her an opportunity to secure an order with final, decretal language and (2) that upon entry of such order, Plaintiff plans to file another motion for reconsideration.

Because Plaintiff failed to secure an order that satisfies finality requirements as directed by our notice, see *High Ridge Hinkle Joint Venture v. City of Albuquerque*, 119 N.M. 29, 37, 888 P.2d 475, 483 (Ct. App. 1994) (providing that final, appealable orders must contain decretal language), *rev'd on other grounds*, 1998-NMSC-050, 126 N.M. 413, 970 P.2d 599, we dismiss Plaintiff's appeal without prejudice. We express no opinion on the merit of any motion for reconsideration that Plaintiff may seek to file in the district court. And if Plaintiff seeks to appeal from any subsequent order entered by the district court, a new filing fee must be paid to docket the appeal in this Court.

IT IS SO ORDERED.

CELIA FOY CASTILLO, Judge

WE CONCUR:

MICHAEL E. VIGIL, Judge

ROBERT E. ROBLES, Judge