

**INSTITUTE FOR ESSENTIAL HOUS., INC. V. MCKNIGHT, 1966-NMSC-068, 76 N.M.
498, 416 P.2d 379 (S. Ct. 1966)**

**INSTITUTE FOR ESSENTIAL HOUSING, INC., a New Jersey
Corporation, Defendant-Cross-Plaintiff and Appellant,
vs.
LAWRENCE E. McKNIGHT, Defendant-Cross-Defendant and Appellee**

No. 7758

SUPREME COURT OF NEW MEXICO

1966-NMSC-068, 76 N.M. 498, 416 P.2d 379

April 11, 1966

Appeal from the District Court of Lincoln County, Zimmerman, Judge

Motion for Rehearing Denied July 25, 1966

COUNSEL

BOYCE & FETTINGER, Alamogordo, New Mexico, Attorneys for Appellant.

FRAZIER, CUSACK & SCHNEDAR, Roswell, New Mexico, Attorneys for Appellee.

JUDGES

NOBLE, Justice, wrote the opinion.

WE CONCUR:

DAVID W. CARMODY, C.J., DAVID CHAVEZ, JR., J.

AUTHOR: NOBLE

OPINION

NOBLE, Justice.

{1} Institute for Essential Housing, Inc. has appealed from a summary judgment dismissing its cross-complaint against Lawrence E. McKnight. The facts are identical with those in Institute for Essential Housing, Inc. v. Keith, 76 N.M. 492, 416 P.2d 157, in which an opinion was filed this day. Upon authority of that decision, this case must be

reversed, summary judgment vacated and the trial court directed to proceed further in a manner not inconsistent with the opinion in Institute for Essential Housing, Inc. v. Keith.

{2} IT IS SO ORDERED.

WE CONCUR:

DAVID W. CARMODY, C.J., DAVID CHAVEZ, JR., J.

MOTION FOR REHEARING

PER CURIAM.

The motion for rehearing is denied. The following is in addition to the opinion heretofore filed.

OPINION ON REHEARING

NOBLE, Justice.

{3} The question of whether any acts prohibited by the statute affect the consideration or validity of the obligation sued upon is not before us on this appeal, and we express no opinion thereon.

WE CONCUR:

DAVID W. CARMODY, C.J., DAVID CHAVEZ, JR., J.