

**SUMNER & MOLESWORTH V. ZIMMERMAN, 1966-NMSC-240, 77 N.M. 148, 420
P.2d 133 (S. Ct. 1966)**

**SUMNER and MOLESWORTH, a Co-Partnership, and HARTFORD
ACCIDENT AND INDEMNITY CO., a corporation,
Petitioners,
vs.
HONORABLE GEORGE ZIMMERMAN, Judge of the Third Judicial
District in and for the County of Dona Ana, Respondent**

No. 8224

SUPREME COURT OF NEW MEXICO

1966-NMSC-240, 77 N.M. 148, 420 P.2d 133

November 14, 1966

Original Mandamus Proceeding

COUNSEL

RICHARD C. CIVEROLO, H. L. CUSHING and C. LeROY HANSEN, Albuquerque, New Mexico, Attorneys for Petitioners.

GARLAND, MARTIN & MARTIN, Las Cruces, New Mexico, Attorneys for Respondent.

JUDGES

MOISE, Justice, wrote the opinion.

WE CONCUR:

DAVID W. CARMODY, C.J., DAVID CHAVEZ, JR., J., M. E. NOBLE, J., J. C. COMPTON, J.

AUTHOR: MOISE

OPINION

MOISE, Justice.

{1} Except that in Sitta v. Zinn, 77 N.M. 146, 420 P.2d 131, decided this day, a writ of {*149} mandamus and prohibition was sought, whereas here petitioners seek only a writ

of mandamus, the issues and controlling facts presented are identical. The two cases were argued at the same time.

{2} Judge W. T. Scoggin, the original respondent herein, having retired, the Honorable George Zimmerman, Judge of the Third Judicial District, was substituted as respondent in his stead.

{3} For the reasons stated in *Sitta v. Zinn*, supra, the alternative writ heretofore issued is made permanent.

{4} IT IS SO ORDERED.

WE CONCUR:

DAVID W. CARMODY, C.J., DAVID CHAVEZ, JR., J., M. E. NOBLE, J., J. C. COMPTON, J.