

**TAOS SKI VALLEY, INC. V. ELLIOTT, 1972-NMSC-037, 83 N.M. 763, 497 P.2d 974
(S. Ct. 1972)**

**TAOS SKI VALLEY, INC., a corporation, and, AMERICAN
EMPLOYERS' INSURANCE COMPANY, a corporation,
Petitioners,**

vs.

ELIZABETH A. ELLIOTT, Respondent

No. 9434

SUPREME COURT OF NEW MEXICO

1972-NMSC-037, 83 N.M. 763, 497 P.2d 974

June 02, 1972

Original Certiorari Proceeding

COUNSEL

MITCHELL, MITCHELL & ALLEY, Santa Fe, New Mexico, MONTGOMERY, FEDERICI,
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Albuquerque, New Mexico, Attorneys for Respondent.

JUDGES

McMANUS, Justice, wrote the opinion.

WE CONCUR:

J. C. Compton, C.J., LaFel E. Oman, J., Donnan Stephenson, J., Samuel Z. Montoya,
J., not participating.

AUTHOR: MCMANUS

OPINION

McMANUS, Justice.

{1} By decision dated March 3, 1972, the Court of Appeals reversed the trial court's
directed verdict in favor of the defendants herein, and ordered a new trial. Elliott v. Taos
Ski Valley, Inc., 83 N.M. 575, 494 P.2d 1392. On March 23, 1972, this Court granted

certiorari. After a careful review of the opinion, briefs and all pertinent material, we are of the opinion that the writ of certiorari was improvidently issued and we now affirm the decision of the New Mexico Court of Appeals.

{2} In the decision of the Court of Appeals there appears language as follows:

"Taos Ski Valley raised the defense of assumption of risk. We cannot determine whether the directed verdict included this defense. However, since this case must be tried over, the defense is controlled by *Williamson v. Smith*, 83 N.M. 336, 491 P.2d 1147 (1971)."

{3} In order that there be no confusion involved we merely state that *Williamson*, supra, as concerns the defense of assumption of risk, unequivocally stated that such defense was prospective from the date of the {764} *Williamson* decision, December 13, 1971, and not retroactive.

{4} The writ previously granted is hereby quashed.

{5} IT IS SO ORDERED.

WE CONCUR:

J. C. Compton, C.J., LaFel E. Oman, J., Donnan Stephenson, J., Samuel Z. Montoya, J., not participating.