

BERMAN V. ORDUNO

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**DIANE BERMAN,
Plaintiff-Appellee,
v.
ROBERT ORDUNO,
Defendant-Appellant,**

NO. 34,799

COURT OF APPEALS OF NEW MEXICO

September 24, 2015

APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY, David K. Thomson,
District Judge

COUNSEL

Diane Berman, Santa Fe, NM, Pro Se Appellee

Robert Orduno, Santa Fe, NM, Pro Se Appellant

JUDGES

M. MONICA ZAMORA, Judge. WE CONCUR: JAMES J. WECHSLER, Judge,
TIMOTHY L. GARCIA, Judge

AUTHOR: M. MONICA ZAMORA

MEMORANDUM OPINION

ZAMORA, Judge.

{1} Defendant has appealed from a final order. We previously issued a notice of proposed summary disposition in which we proposed to reverse and remand for further proceedings. Defendant has filed a memorandum in support and Plaintiff has filed a

memorandum in opposition. After due consideration, we adhere to our initial assessment.

{2} Because we previously set forth the pertinent background information and applicable principles of law in the notice of proposed summary disposition, we will avoid undue reiteration here. Instead, we will focus on the content of the responsive memoranda.

{3} Defendant continues to take issue with the jurisdiction of the district court over the subject matter and his person. [Defendant's MIS 1-3] The argument(s) are incomprehensible. As previously stated, we perceive no principled basis for the jurisdictional challenge.

{4} However, the absence of notice remains a critical concern. Although we understand Plaintiff to suggest that Defendant received notice of the trial setting, [Plaintiff's MIO 1] the document sent by the district court did not indicate that the matter had been set for trial. [RP 188] And although Plaintiff appears to have sent a copy of a draft pretrial order to Defendant via certified mail, [Plaintiff's MIO Exhibit 1A-C] this document was neither signed by the judge nor filed. As such, it cannot be regarded as official notice of a firm trial setting. Absent such notice, we remain of the opinion that the judgment must be set aside.

{5} Accordingly, for the foregoing reasons, as well as the reasons set forth in the notice of proposed summary disposition, we reverse and remand for further proceedings.

{6} IT IS SO ORDERED.

M. MONICA ZAMORA, Judge

WE CONCUR:

JAMES J. WECHSLER, Judge

TIMOTHY L. GARCIA, Judge