

**GUTIERREZ V. GUTIERREZ**

This memorandum opinion was not selected for publication in the New Mexico Reports. Please see Rule 12-405 NMRA for restrictions on the citation of unpublished memorandum opinions. Please also note that this electronic memorandum opinion may contain computer-generated errors or other deviations from the official paper version filed by the Court of Appeals and does not include the filing date.

**JOE GUTIERREZ, JR.,  
Plaintiff-Appellant,**

v.

**ORLANDO and ROSA  
GUTIERREZ,  
Defendants-Appellees.**

NO. 29,926

COURT OF APPEALS OF NEW MEXICO

February 2, 2010

APPEAL FROM THE DISTRICT COURT OF LINCOLN COUNTY, Karen L. Parsons,  
District Judge

**COUNSEL**

The Rose Law Firm, P.C., Timothy L. Rose, Alto, NM, for Appellant

Alan P. Morel, P.A., Alan P. Morel, Ruidoso, NM, Butt Thornton & Baehr PC, Emily A. Franke, Albuquerque, NM, for Appellees

**JUDGES**

MICHAEL D. BUSTAMANTE, Judge. WE CONCUR: CELIA FOY CASTILLO, Judge,  
TIMOTHY L. GARCIA, Judge

**AUTHOR:** MICHAEL D. BUSTAMANTE

**MEMORANDUM OPINION**

**BUSTAMANTE, Judge.**

Plaintiff appeals from the district court's denial of his motion to disqualify the judge as well as an order granting summary judgment and awarding sanctions against him. We

proposed to affirm on both issues. Both Plaintiff and Defendants have timely responded to our proposal. Defendants agree with our proposal. Plaintiff recognizes that his issues implicate the district court's wide discretion and he does not dispute our application of the law to the facts. Nevertheless, he requests that we reconsider our proposal. We decline to do so.

Therefore, for the reasons stated in the calendar notice, we affirm.

**IT IS SO ORDERED.**

**MICHAEL D. BUSTAMANTE, Judge**

**WE CONCUR:**

**CELIA FOY CASTILLO, Judge**

**TIMOTHY L. GARCIA, Judge**