

THE TULAROSA COMMUNITY DITCH V. DAVALOS

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**THE TULAROSA COMMUNITY
DITCH, a Corporation,
Plaintiff-Appellee,
v.
MICHAEL DAVALOS, JR.,
Defendant-Appellant.**

NO. 29,909

COURT OF APPEALS OF NEW MEXICO

December 29, 2010

APPEAL FROM THE DISTRICT COURT OF OTERO COUNTY, James Waylon Counts,
District Judge

COUNSEL

A.J. Olsen, Roswell, NM, for Appellee

Sheehan & Sheehan, P.A., Susan C. Kery, Albuquerque, NM, for Appellant

JUDGES

CELIA FOY CASTILLO, Judge. WE CONCUR: LINDA M. VANZI, Judge, TIMOTHY L. GARCIA, Judge

AUTHOR: CELIA FOY CASTILLO

MEMORANDUM OPINION

CASTILLO, Judge.

Defendant Michael Davalos, Jr. appeals the district court's denial of his motion to reconsider nunc pro tunc. On August 5, 2010, this Court filed a notice of proposed summary disposition proposing to dismiss the appeal for lack of a final order. On August

30, 2010, Defendant filed a memorandum in support of proposed summary disposition, which requests dismissal of the appeal and remand to the district court for further proceedings.

Accordingly, for the reasons set forth in our notice of proposed summary disposition, we dismiss Defendant's appeal and remand to the district court for further proceedings. Mandate shall issue forthwith.

IT IS SO ORDERED.

CELIA FOY CASTILLO, Judge

WE CONCUR:

LINDA M. VANZI, Judge

TIMOTHY L. GARCIA, Judge