

G & G SERVS. INC. V. AGORA SYNDICATE INC., 129 N.M. 520, 10 P.3d 843 (S. Ct. 2000)

**G & G SERVICES, INC., Plaintiff-Respondent,
vs.
AGORA SYNDICATE, INC., Defendant-Petitioner.**

NO. 26,116

SUPREME COURT OF NEW MEXICO

129 N.M. 520, 10 P.3d 843

October 06, 2000, Decided

OPINION

ORDER

WHEREAS, this matter came on for consideration upon petition for writ of certiorari and response thereto, and the Court having considered said pleadings and being sufficiently advised, issued its writ of certiorari on February 18, 2000, and, after further consideration of the petition, response, and briefs, the judgment of the Court is that the writ shall be quashed, Chief Justice Pamela B. Minzner, Justice Gene E. Franchini, Justice Patricio M. Serna, and Justice Petra Jimenez Maes concurring, Justice Joseph F. Baca recusing;

WHEREAS, the Court intended to grant certiorari only on the issue of whether the trial court erred in trebling the damages under the Unfair Practices Act, in the absence of a finding of willful violation of the Act; and

WHEREAS, having reviewed the transcript, record proper, and briefs filed in the Court of Appeals, as well as the Court of Appeals opinion, the Court is persuaded that the jury was instructed that it needed to find willfulness and, therefore, the award of treble damages appears to have been supported by an appropriate finding; in other words, having been properly instructed, the jury returned a verdict for the plaintiff on a count under the Act and thus should be viewed as having made the necessary finding. The Court of Appeals reached the same or a similar conclusion in denying defendant-appellant's motion for rehearing: "Based on the instructions, the jury necessarily found that Appellant willfully violated the Unfair Practices Act"

NOW, THEREFORE, IT IS ORDERED that the writ of certiorari issued on February 18, 2000, hereby is QUASHED.

IT IS SO ORDERED.