

MONTGOMERY V. BOULWARE, 1969-NMSC-071, 80 N.M. 323, 455 P.2d 189 (S. Ct. 1969)

**GLYNN MONTGOMERY, et al., Plaintiffs-Appellants,
vs.
TOM BOULWARE, et al., Defendants-Appellees**

No. 8777

SUPREME COURT OF NEW MEXICO

1969-NMSC-071, 80 N.M. 323, 455 P.2d 189

June 09, 1969

APPEAL FROM THE DISTRICT COURT OF UNION COUNTY, McINTOSH, Judge

COUNSEL

ETHAN K. STEVENS, Clayton, New Mexico, Attorney for Appellants.

KREHBIEL & ALSUP, Clayton, New Mexico, Attorneys for Appellees.

JUDGES

TACKETT, Justice, wrote the opinion.

WE CONCUR:

Irwin S. Moise, J., John T. Watson, J.

AUTHOR: TACKETT

OPINION

TACKETT, Justice.

{1} This case is before us as a result of a dismissal by the trial court under Rule 41(e), Rules of Civil Procedure (§ 21-1-1(41)(e), N.M.S.A. 1953 Comp.).

{2} The instant case is controlled by the recent case of Southwest Underwriters v. Montoya, 80 N.M. 107, 452 P.2d 176 (1969).

{3} The order of dismissal is affirmed.

{4} IT IS SO ORDERED.

WE CONCUR:

Irwin S. Moise, J., John T. Watson, J.