

1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 Opinion Number: _____

3 Filing Date: December 7, 2015

4 **NO. 34,006**

5 **NATIONAL ROOFING, INC.,**
6 **MIDTOWN METALS, LLC, and**
7 **BUILDING ENVELOPE SERVICES, LLC,**

8 Plaintiffs-Appellants,

9 v.

10 **ALSTATE STEEL, INC., HUGHES &**
11 **ASSOCIATES, INC., REID & ASSOCIATES,**
12 **LLC, MASON CORPORATION, MERILLAT**
13 **LP, MASCO CABINETRY, LLC, JOHN DOE,**
14 **and STUDIO SOUTHWEST ARCHITECTS,**
15 **INC., formerly known as DESIGN**
16 **COLLABORATIVE SOUTHWEST,**

17 Defendants-Appellees.

18 **APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**

19 **Nan G. Nash, District Judge**

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20 for Appellee Mason Corporation

1 **OPINION**

2 **VANZI, Judge.**

3 {1} Subject to various exceptions, “[a]n action for damages resulting from a tort
4 can only be sustained by the person directly injured thereby, and not by one claiming
5 to have suffered collateral or resulting injuries.” *Loucks v. Albuquerque Nat’l Bank*,
6 1966-NMSC-176, ¶¶ 46-47, 76 N.M. 735, 418 P.2d 191. Nevertheless, National
7 Roofing (Plaintiff) has sued several defendants in strict liability and negligence for
8 damages allegedly resulting from physical injuries to its employees. The district court
9 dismissed Plaintiff’s claims against all Defendants on the ground that no duty exists.
10 Plaintiff argues on appeal that the district court impermissibly relied on principles of
11 foreseeability in dismissing its claims, contrary to *Rodriguez v. Del Sol Shopping*
12 *Center Associates*, 2014-NMSC-014, 326 P.3d 465. We hold that the principle stated
13 in *Loucks* remains good law, entirely consistent with the duty analysis set forth in
14 *Rodriguez*, and we affirm.

15 **I. BACKGROUND**

16 {2} Plaintiff has alleged the following facts, which we accept as true. *See Env’tl.*
17 *Improvement Div. v. Aguayo*, 1983-NMSC-027, ¶ 10, 99 N.M. 497, 660 P.2d 587
18 (“[I]f a district court grants a motion to dismiss pursuant to Rule [1-0]12(b)(6)
19 [NMRA], then the allegations pleaded in the complaint must be taken as true for

1 purposes of an appeal.”). In March 2010 employees of Plaintiff were injured while
2 repairing the deck of a canopy at a cabinet manufacturing facility owned by Masco
3 Cabinetry, LLC and Merillat LP. The canopy was designed and manufactured by
4 Mason Corporation and/or Studio Southwest Architects, Inc., and installed by Alstate
5 Steel, Inc., Hughes & Associates, Inc., and/or Reid & Associates, LLC. Plaintiff and
6 its affiliates sued all seven entities (collectively Defendants) in strict liability and
7 negligence for damages Plaintiff sustained as a result of the injuries to its
8 employees—specifically, increased workers’ compensation premiums, sums paid to
9 reduce its insurance rating or modifier, and “los[t] income and future income”
10 resulting from its now deficient safety record.¹ Because Plaintiff itself suffered no
11 physical injury or property damage, the district court granted Defendants’ motion to
12 dismiss all counts, precipitating this appeal. Plaintiff now asserts as a matter of law
13 that *Rodriguez* precludes dismissal. Our review is de novo. *Delfino v. Griffio*, 2011-
14 NMSC-015, ¶ 9, 150 N.M. 97, 257 P.3d 917.

15 **II. DISCUSSION**

16 {3} In *Rodriguez*, our Supreme Court held that “foreseeability is not a factor for
17 courts to consider when determining the existence of a duty, or when deciding to limit
18 or eliminate an existing duty in a particular class of cases.” 2014-NMSC-014, ¶ 1. In

19 ¹ It has been conceded on appeal that National Roofing’s affiliates are not
20 proper parties to this action, and they are hereby dismissed.

1 so holding, the Court expressed concern that a determination of “no duty” based on
2 an improbable or remote nature of risk invites a court to weigh the particular facts of
3 a case, usurping the jury’s role in determining legal cause and breach. *See id.* ¶¶ 18-
4 19, 22. In short, foreseeability is simply not subject to categorical analysis by a court
5 because “[w]hat may not be foreseeable under one set of facts may be foreseeable
6 under a slightly different set of facts[.]” *id.* ¶ 1, and facts are appropriately weighed
7 by the jury, *see Romero v. Philip Morris Inc.*, 2010-NMSC-035, ¶ 9, 148 N.M. 713,
8 242 P.3d 280. Nonetheless, “[c]ourts are not powerless to dismiss cases as a matter
9 of law[.]” *Rodriguez*, 2014-NMSC-014, ¶ 24. A court may still (1) articulate policy
10 reasons (unrelated to foreseeability) that justify a categorically limited duty, or no
11 duty rule, *id.* ¶ 5; or (2) decide, as a matter of law, that no reasonable jury could find
12 legal cause or breach, *id.* ¶ 24.

13 {4} This framework was adopted from the Restatement (Third) of Torts: Liability
14 for Physical and Emotional Harm § 7 cmt. j (2010). *Rodriguez*, 2014-NMSC-014, ¶ 1.
15 Cases that do not involve physical or emotional harm to the plaintiff are treated
16 separately in the Restatement. *See* Restatement (Third) of Torts: Liability for
17 Economic Harm § 1(a) (Tentative Draft No. 1, 2012) (“An actor has no general duty
18 to avoid the unintentional infliction of economic loss on another.”).² Comments to

19 ² This section was approved by the membership of the American Law Institute
20 (ALI) at the 2012 Annual Meeting. The related section specific to economic loss from

1 Section 1 recognize that “[a]n actor ordinarily has a duty of care when engaged in any
2 activity that creates a risk of physical harm to others[,]” but that “[d]uties to avoid the
3 negligent infliction of economic loss are notably narrower.” *Id.* cmt. a.
4 Thus—specifically relevant to this case—a plaintiff normally cannot recover for
5 economic loss caused by “unintentional injury to another person[,] or unintentional
6 injury to property in which the [plaintiff] has no proprietary interest.” Restatement
7 (Third) of Torts: Liability for Economic Harm § 7 (Tentative Draft No. 2, 2014).

8 These limits

9 are related applications of the same principle, and they apply to facts
10 that usually have certain features in common. The plaintiff and
11 defendant typically are strangers. The defendant commits a negligent act
12 that injures a third party’s person or property, and indirectly though
13 perhaps foreseeably—causes various sorts of economic loss to the
14 plaintiff: lost income or profits, missed business opportunities,
15 expensive delays, or other disruption. The plaintiff may suffer losses, for
16 example, because the defendant injured someone with whom the
17 plaintiff had a contract and from whom the plaintiff had been expecting
18 performance, such as an employee or supplier. Or the plaintiff may be
19 unable to make new contracts with others, such as customers who cannot
20 conveniently reach the plaintiff’s business because the defendant’s
21 negligence has damaged property that now blocks the way. The common
22 law of tort does not recognize a plaintiff’s claim in such circumstances.

23 injury to a third person or property not belonging to the plaintiff, which will be
24 discussed in this Opinion, was approved by the ALI’s membership at the 2014
25 Annual Meeting. According to the Institute, both sections represent the most current
26 statements of the ALI’s position on the subject and may be cited in opinions or briefs
27 until the official text is published. Torts: Liability for Economic Harm, American Law
28 Institute, <https://www.ali.org/projects/show/torts-liability-economic-harm-3rd/> (last
29 visited October 22, 2015).

1 *Id.* cmt. a. (citations omitted)³

2 {5} The ALI’s position, while often framed in different ways, is not novel. The rule
3 against recovery for harm to another is typically associated with *Robins Dry Dock &*
4 *Repair Co. v. Flint*, where the plaintiffs—time charterers of a ship owned and
5 possessed by a third party—sued the defendant for negligently damaging the ship’s
6 propeller, and thereby causing them to lose profits while the propeller was being
7 repaired. 275 U.S. 303, 307 (1927), *superseded by statute on other grounds as stated*
8 *in Slaven v. BP America, Inc.*, 786 F. Supp. 853 (C.D. Cal. 1992). The United States

9 ³ The parties and the district court have conflated this doctrine with the
10 “economic loss rule.” In New Mexico, that term has been relegated to a different (but
11 related) context that calls for doctrinally policing the line between tort and contract.
12 *Utah Int’l, Inc. v. Caterpillar Tractor Co.*, 1989-NMCA-010, ¶ 17, 108 N.M. 539,
13 775 P.2d 741 (“[I]n commercial transactions, when there is no great disparity in
14 bargaining power of the parties, economic losses from injury of a product to itself are
15 not recoverable in tort actions; damages for such economic losses in commercial
16 settings in New Mexico may only be recovered in contract actions.” (citation
17 omitted)). *Compare* Restatement (Third) of Torts: Liability for Economic Harm § 3:
18 Preclusion of Tort Liability Arising from Contract (Economic Loss Rule) (Tentative
19 Draft No. 1, 2012), which is paradigmatically rooted in products liability and has its
20 own section in the Restatement, *with* Restatement (Third) of Torts: Liability for
21 Economic Harm § 7, titled “Economic Loss from Injury to a Third Person or to
22 Property Not Belonging to the Claimant.” *See also* Dan B. Dobbs, *An Introduction*
23 *to Non-Statutory Economic Loss Claims*, 48 Ariz. L. Rev. 713, 714 (2006)
24 (identifying two distinct rules limiting recovery of stand-alone economic loss).
25 Professor Dobbs would call the principle discussed in this Opinion the “stranger
26 economic loss rule.” Dobbs, *supra*, at 714. It is an often unstated principle of tort law,
27 tethered to rationales that have little to do with doctrinal policing, and it applies with
28 equal force when the plaintiff and defendant are strangers without any contractual
29 relationship. Dobbs, *supra*, at 715.

1 Supreme Court held that the plaintiffs lacked standing to sue in negligence because
2 they had no proprietary interest in the damaged ship. *Id.* at 308-09. Thus, Justice
3 Holmes famously wrote, even assuming that the plaintiffs' loss "flowed directly"
4 from the injury to the propeller, "a tort to the person or property of one man does not
5 make the tort-feasor liable to another merely because the injured person was under
6 a contract with that other unknown to the doer of the wrong. The law does not spread
7 its protection so far." *Id.* at 309 (citation omitted).

8 {6} The dominant justification for the continued reliance on this general rule is
9 pragmatic: liability for indirect (but foreseeable) consequences to third parties
10 resulting from negligent harm could be limitless given society's proliferation of
11 commercial relationships and the corresponding potential for unbounded actual and
12 prospective economic harm flowing from a single negligent act. *See, e.g., Barber*
13 *Lines A/S v. M/V Donau Maru*, 764 F.2d 50, 54 (1st Cir. 1985) ("The number of
14 persons suffering foreseeable financial harm in a typical accident is likely to be far
15 greater than those who suffer traditional (recoverable) physical harm."); Restatement
16 (Third) of Torts: Liability for Economic Harm § 7 cmt. b ("Recognizing claims for
17 those sorts of losses would greatly increase the number, complexity, and expense of
18 potential lawsuits arising from many accidents. In some cases, recognition of such
19 claims would also result in liabilities that are indeterminate and out of proportion to

1 the culpability of the defendant.”); *see generally* Fleming James, Jr., *Limitations on*
2 *Liability for Economic Loss Caused by Negligence: A Pragmatic Appraisal*, 25 Vand.
3 L. Rev. 43, 45, 48-55 (1972).

4 {7} For its part, the Restatement (Second) of Torts treated the type of claim for lost
5 profits advanced in *Robins* as a nonactionable assertion of negligent interference with
6 contracts and prospective contractual relations. *See* Restatement (Second) of Torts
7 § 766C (1979). In essence, one cannot typically sue another in negligence for conduct
8 that causes a third person to breach a contract with the plaintiff; or that causes the
9 plaintiff’s performance of a contract to be more expensive or burdensome; or that
10 interferes with the plaintiff’s ability to acquire potential contractual relationships with
11 third persons—e.g., lost profits. *Id.* Applying Section 766C, for example, the
12 Supreme Court of Iowa has concluded that an employer’s claim in negligence for
13 increased workers’ compensation premiums resulting from injuries to its employees
14 caused by a third party tortfeasor was nonactionable. *Anderson Plasterers v.*
15 *Meinecke*, 543 N.W.2d 612, 613-14 (Iowa 1996). Indeed, such actions, whether the
16 harm alleged is foreseeable or not, have been “almost universally denied.” *Id.* at 614;
17 *accord Ore-Ida Foods, Inc. v. Indian Head Cattle Co.*, 627 P.2d 469, 473 (Or. 1981)
18 (en banc) (rejecting employer’s claim to recover workers’ compensation benefits

1 based on the prevailing rule “that a plaintiff may not recover for economic loss
2 resulting from negligent infliction of bodily harm to a third person”).

3 {8} Consistent with *Robins* and the Restatements, our Supreme Court recognizes
4 both the distinction between negligent and intentional interference with contractual
5 relations, *see Anderson v. Dairyland Ins. Co.*, 1981-NMSC-130, ¶ 11, 97 N.M. 155,
6 637 P.2d 837 (“[E]ither an improper motive (solely to harm plaintiff), or an improper
7 means is required for liability” (internal quotation marks and citation omitted)), and
8 the general rule that “[a]n action for damages resulting from a tort can only be
9 sustained by the person directly injured thereby, and not by one claiming to have
10 suffered collateral or resulting injuries[,]” *Loucks*, 1966-NMSC-176, ¶ 46. As
11 recently as 2003, the Court acknowledged “the prevailing rule in America[,]” that “a
12 plaintiff may not recover in negligence for economic loss resulting from bodily harm
13 to another.” *Berlangieri v. Running Elk Corp.*, 2003-NMSC-024, ¶ 22, 134 N.M. 341,
14 76 P.3d 1098 (internal quotation marks and citation omitted).

15 {9} There are numerous “exceptions” to this principle of negligence law—which
16 are probably better described as situations in which the pragmatic justification for
17 limiting liability is simply absent. For instance, claims alleging intentional (as
18 opposed to negligent) interference with contractual relations are actionable, but
19 liability in those instances is inherently limited by the doctrine’s intent requirement.

1 See *Anderson*, 1981-NMSC-130, ¶ 11. Similarly, a loss-of-consortium claimant can
2 sue for physical harm to another by demonstrating, in part, that “the claimant and the
3 injured party shared a sufficiently close relationship,” a requirement that itself
4 categorically limits liability to a particular class of relationships of mutual
5 dependence. See *Wachocki v. Bernalillo Cty. Sheriff’s Dep’t*, 2011-NMSC-039, ¶¶ 5,
6 10, 150 N.M. 650, 265 P.3d 701. Recovery for wrongful death is provided for and
7 carefully circumscribed by statute. See NMSA 1978, § 41-2-3 (2001). And while an
8 insurer may claim as subrogee, the claim is brought in the “shoes of the insured,” and
9 the defendant is not subject to potentially infinite strings of liability. *Amica Mut. Ins.*
10 *Co. v. Maloney*, 1995-NMSC-059, ¶ 9, 120 N.M. 523, 903 P.2d 834. “[I]n insurance
11 subrogation cases . . . there is but one cause of action for the entire recovery,
12 including the subrogated amount, and that cause of action lies in the name of the
13 insured.” *Id.* ¶ 11.

14 {10} At common law, the English cause of action *per quod servitium amisit*
15 provided a remedy in the employment context for a master to recover for the loss of
16 services of a servant injured by a third party. See *B.V. Merrow Co. v. Stephenson*, 300
17 N.W.2d 734, 735 (Mich. Ct. App. 1980) (per curiam) (citing *Mary’s Case*, 9 Coke
18 111b (5 Coke’s Reports 201, 204); 77 Eng. Rep. 895 (1612)). But the action was
19 based on the outdated social concept that domestic servants were the property of their

1 masters, *id.*, and the assertion of such claims has long since been abandoned. *See*
2 Restatement (Second) of Agency § 316 cmt. b (1958) (“For several hundred
3 years . . . there have been few cases in which a master has brought an action for
4 negligent harm to a servant not a member of his family.”); *see also Cont’l Cas. Co.*
5 *v. P.D.C., Inc.*, 931 F.2d 1429, 1431 (10th Cir.1991) (concluding that New Mexico
6 would reject a claim that an employer faced with a diminished work force due to
7 employee injury has a cause of action against the tortfeasor).

8 {11} While Plaintiff’s injured employees might state a claim against Defendants for
9 their physical injuries, Plaintiff itself, which has suffered neither a physical injury nor
10 property damage, is alleging collateral or resulting harm—increased premiums, an
11 increased ratings modifier, and lost profits resulting from unsuccessful bids on new
12 jobs—based on its status as employer of those injured, and on its commercial
13 relationships with existing and potential customers and with its workers’
14 compensation insurance carrier. Plaintiff has made no allegation that Defendants
15 intentionally and improperly interfered with these contractual relations, *see Anderson*,
16 1981-NMSC-130, ¶ 11; Plaintiff certainly has made no claim on damages for loss of
17 consortium; and this is not a claim on any subrogated interest—nor could it be.
18 *Liberty Mut. Ins. Co. v. Salgado*, 2005-NMCA-144, ¶ 9, 138 N.M. 685, 125 P.3d 664

1 (“[O]ur courts have historically held that an employer/insurer does not have a
2 statutory assignment or subrogation interest in a worker’s third-party claim.”).

3 {12} Despite the requirements of these settled doctrines, Plaintiff argues that our
4 Supreme Court’s adoption of the Restatement’s duty analysis in *Rodriguez* now
5 authorizes it to sue in negligence and strict liability for economic loss based entirely
6 on physical harm to another. For the reasons stated herein, we do not believe
7 *Rodriguez* contemplated such a result. *See Dominguez v. State*, 2015-NMSC-014,
8 ¶ 16, 348 P.3d 183 (“The general rule is that cases are not authority for propositions
9 not considered.” (alteration, internal quotation marks, and citation omitted)).⁴ We
10 agree with the district court that public policy has historically—and
11 appropriately—justified a categorical no duty rule under the present circumstances,
12 and we conclude that application of the rule stated in *Loucks* and subsequently
13 recognized in *Berlangieri* defeats Plaintiff’s claims as a matter of law.

14 ⁴ The ALI is apparently in accord with our conclusion that the doctrine
15 prohibiting recovery for economic loss resulting from physical injury to another,
16 applied by our Supreme Court in *Loucks*, is entirely consistent with the duty analysis
17 set forth in *Rodriguez*. As discussed above, the Institute has included both doctrines
18 in the Restatement (Third) of Torts, without yet noting any conflict between them.
19 *See* Restatement (Third) of Torts: Liability for Economic Harm § 1 cmt. a (“Duties
20 to avoid the negligent infliction of economic loss are notably narrower.”); *Id.* § 7 cmt.
21 b (“A collision that sinks a ship will cause a well-defined loss to the ship’s owner; but
22 it also may foreseeably cause economic losses to wholesalers . . . and then to
23 suppliers, employees, and customers of the retailers, and so on. Recognizing claims
24 for those sorts of losses would greatly increase the number, complexity, and expense
25 of potential lawsuits arising from many accidents.”).

1 {13} Indeed *Rodriguez* itself provides that there are “exceptional cases, when an
2 articulated countervailing principle or policy warrants denying or limiting liability in
3 a particular class of cases,” and in those cases “a court may decide that the defendant
4 has no duty or that the ordinary duty of reasonable care requires modification.” 2014-
5 NMSC-014, ¶ 13 (internal quotation marks and citation omitted). Cases alleging
6 liability in negligence or strict liability arising only from physical harm to another,
7 constitute one such class of cases. *Loucks*, 1966-NMSC-176, ¶¶ 46-47. No fact-
8 specific analysis is necessary to dismiss them. *See La. ex rel. Guste v. M/V Testbank*,
9 752 F.2d 1019, 1023 (5th Cir. 1985) (en banc) (describing the rule as a pragmatic
10 limitation on liability even when losses to third parties without a proprietary interest
11 are “certainly foreseeable”); *Aikens v. Debow*, 541 S.E.2d 576, 592 (W. Va. 2000)
12 (“It is a question of public policy.”).

13 {14} For a number of reasons, and without exception, other jurisdictions have
14 uniformly rejected the precise claims Plaintiff advances. Some have held that an
15 employer’s lost profits and/or increased workers’ compensation premiums resulting
16 from a third party tortfeasor’s injuries to employees are harms that are not foreseeable
17 or are otherwise too remote to be subject to liability. *See Crab Orchard Improvement*
18 *Co. v. Chesapeake & O. Ry. Co.*, 115 F.2d 277, 282-83 (4th Cir. 1940) (applying
19 West Virginia law); *Fischl v. Paller & Goldstein*, 282 Cal. Rptr. 802, 804 (Ct. App.

1 1991); *RK Constructors, Inc. v. Fusco Corp.*, 650 A.2d 153, 157 (Conn. 1994);
2 *Southland Constr., Inc. v. Greater Orlando Aviation*, 860 So.2d 1031, 1033-34, 1036
3 (Fla. Dist. Ct. App. 2003) (too remote and foreclosed by Pennsylvania’s workers’
4 compensation scheme); *Unique Paint Co. v. Wm. F. Newman Co.*, 411 S.E.2d 352,
5 353 (Ga. Ct. App. 1991); *N. States Contracting Co. v. Oakes*, 253 N.W. 371, 372
6 (Minn. 1934); *Whirley Indus., Inc. v. Segel*, 462 A.2d 800, 804 (Pa. Super. Ct. 1983)
7 (“[A]n increase in an employer’s [W]orkmen’s [C]ompensation premiums following
8 an automobile accident is not reasonably foreseeable by a driver.”); *Higbie Roth*
9 *Constr. Co. v. Houston Shell & Concrete*, 1 S.W.3d 808, 812-13 (Tex. App. 1999).
10 {15} Other courts have held that the exclusivity provisions of the various workers’
11 compensation acts impliedly forbid such recovery. *Erie Castings Co. v. Grinding*
12 *Supply, Inc.*, 736 F.2d 99, 103-104 (3d Cir. 1984) (applying Pennsylvania law);
13 *Southland Constr., Inc.*, 860 So. 2d at 1035-36; *Pro-Staffers, Inc. v. Premier Mfg.*
14 *Support Servs., Inc.*, 651 N.W.2d 811, 815-16 (Mich. Ct. App. 2002); *Multiplex*
15 *Concrete Co. v. Besser Co.*, 380 A.2d 708, 710 (N.J. Super. Ct. App. Div. 1977) (per
16 curiam) (action prohibited in both strict liability and negligence); *M.B. Haynes Corp.*
17 *v. Strand Electro Controls, Inc.*, 487 S.E.2d 819, 820-21 (N.C. Ct. App. 1997);
18 *Schipke v. Grad*, 1997 SD 38, ¶ 13, 562 N.W.2d 109, 112 (“[W]e find ourselves in
19 agreement with those courts that have denied recovery on the ground that the

1 employer, having no more rights under the workers' compensation statutes against
2 a negligent third party than the employee injured by the third party's negligence, has
3 no right to sue for increased premiums.”).

4 {16} While we join these jurisdictions, we do so in agreement with courts that have
5 ruled on the more basic ground that public policy categorically prohibits recovery
6 under these circumstances. *Am. River Transp. Co. v. KAVO KALIAKRA SS*, 206 F.3d
7 462, 465 (5th Cir. 2000) (stating that an employer cannot recover in admiralty for
8 increased workers' compensation premiums resulting from injuries to employees
9 because “economic damages are not recoverable in negligence untethered to an injury
10 to a property interest”); *Anderson Plasterers*, 543 N.W.2d at 613-14 (discussed
11 above); *R.L. Whipple Co. v. Pondview Excavation Corp.*, 887 N.E.2d 1095, 1097
12 (Mass. App. Ct. 2008) (stating that an employer cannot maintain a negligence claim
13 to recover increased workers' compensation premiums from the third party who
14 injured its employee because “purely economic losses are unrecoverable in tort . . .
15 actions in the absence of personal injury or property damage” (alteration in original)
16 (internal quotation marks and citation omitted)); *Cincinnati Bell Tel. Co. v. Straley*,
17 533 N.E.2d 764, 771 (Ohio 1988) (“We do not find that a duty to an injured
18 employee's employer exists by virtue of the pronouncements of common law, by
19 legislative enactment, or by operation of law. It would appear that such a duty could

1 only exist based on contract or warranty.”); *Ore-Ida Foods, Inc.*, 627 P.2d at 473
2 (citing the prevailing rule “that a plaintiff may not recover for economic loss resulting
3 from negligent infliction of bodily harm to a third person”); *Vogel v. Liberty Mut. Ins.*
4 *Co.*, 571 N.W.2d 704, 708 (Wis. Ct. App. 1997) (holding, as a matter of public
5 policy, that allowing damages to an employer for economic consequences arising
6 from injuries to an employee would “enter a field with no sensible stopping point”).
7 {17} This conclusion is consistent with both *Loucks*, 1966-NMSC-176, ¶¶ 46-47,
8 and *Rodriguez*, 2014-NMSC-014, ¶¶ 24-25, and therefore, the district court
9 appropriately dismissed Plaintiff’s claims.

10 **III. CONCLUSION**

11 {18} Affirmed.

12 {19} **IT IS SO ORDERED.**

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LINDA M. VANZI, Judge

15 **WE CONCUR:**

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MICHAEL E. VIGIL, Chief Judge

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MICHAEL D. BUSTAMANTE, Judge