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

2 **DIANE BERMAN,**

3 Plaintiff-Appellee,

4 v.

NO. 34,799

5 **ROBERT ORDUNO,**

6 Defendant-Appellant,

7 **APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY**

8 **David K. Thomson, District Judge**

9 Diane Berman

10 Santa Fe, NM

11 Pro Se Appellee

12 Robert Orduno

13 Santa Fe, NM

14 Pro Se Appellant

15 **MEMORANDUM OPINION**

16 **ZAMORA, Judge.**

17 {1} Defendant has appealed from a final order. We previously issued a notice of
18 proposed summary disposition in which we proposed to reverse and remand for
19 further proceedings. Defendant has filed a memorandum in support and Plaintiff has

1 filed a memorandum in opposition. After due consideration, we adhere to our initial
2 assessment.

3 {2} Because we previously set forth the pertinent background information and
4 applicable principles of law in the notice of proposed summary disposition, we will
5 avoid undue reiteration here. Instead, we will focus on the content of the responsive
6 memoranda.

7 {3} Defendant continues to take issue with the jurisdiction of the district court over
8 the subject matter and his person. [Defendant's MIS 1-3] The argument(s) are
9 incomprehensible. As previously stated, we perceive no principled basis for the
10 jurisdictional challenge.

11 {4} However, the absence of notice remains a critical concern. Although we
12 understand Plaintiff to suggest that Defendant received notice of the trial setting,
13 [Plaintiff's MIO 1] the document sent by the district court did not indicate that the
14 matter had been set for trial. [RP 188] And although Plaintiff appears to have sent a
15 copy of a draft pretrial order to Defendant via certified mail, [Plaintiff's MIO Exhibit
16 1A-C] this document was neither signed by the judge nor filed. As such, it cannot be
17 regarded as official notice of a firm trial setting. Absent such notice, we remain of the
18 opinion that the judgment must be set aside.

1 {5} Accordingly, for the foregoing reasons, as well as the reasons set forth in the
2 notice of proposed summary disposition, we reverse and remand for further
3 proceedings.

4 {6} **IT IS SO ORDERED.**

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6

M. MONICA ZAMORA, Judge

7 **WE CONCUR:**

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JAMES J. WECHSLER, Judge

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TIMOTHY L. GARCIA, Judge