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

2 **STATE OF NEW MEXICO, ex rel.**  
3 **VILLAGE OF LOS LUNAS and**  
4 **VILLAGE OF LOS LUNAS COUNCIL,**

5                           Plaintiffs-Appellees,

6 **v.**

**No. A-1-CA-36877**

7 **COUNTY OF VALENCIA and**  
8 **BOARD OF VALENCIA COUNTY**  
9 **COMMISSIONERS,**

10                           Defendants,

11 **and**

12 **CITY OF BELEN and CITY OF**  
13 **BELEN COUNCIL,**

14                           Defendants-Appellants.

15 **APPEAL FROM THE DISTRICT COURT OF VALENCIA COUNTY**  
16 **Valerie A. Huling, District Judge**

17 Griego & Guggino  
18 Laurence P. Guggino, Jr.  
19 Los Lunas, NM

20 for Appellees

21 The Barela-Gutierrez Law Firm, LLC

1 Renee Barela-Gutierrez  
2 Corrales, NM

3 for Appellants

4 **MEMORANDUM OPINION**

5 **HANISEE, Judge.**

6 {1} The City of Belen and the City of Belen Council (Defendants) seek to appeal  
7 from an order granting a motion for summary judgment. We previously issued a  
8 notice of proposed summary disposition in which we proposed to dismiss for want of  
9 a final order. Defendants have filed a memorandum in opposition, which we have  
10 duly considered. Because we remain unpersuaded that this matter is properly before  
11 us, we dismiss the appeal.

12 {2} As we observed in the notice of proposed summary disposition, the right to  
13 appeal is generally restricted to final judgments and decisions. *See* NMSA 1978, §  
14 39-3-2 (1966). Generally, “an order or judgment is not considered final unless all  
15 issues of law and fact have been determined and the case disposed of by the trial court  
16 *to the fullest extent possible.*” *Clinesmith v. Temmerman*, 2013-NMCA-024, ¶ 35, 298  
17 P.3d 458 (emphasis added) (internal quotation marks and citation omitted).  
18 Moreover, “all final orders must be written, must be formal, and must contain  
19 ‘decretal language.’ ” *State v. Lohberger*, 2008-NMSC-033, ¶ 20, 144 N.M. 297, 187  
20 P.3d 162. The order entered below does not satisfy this standard. Although it clearly

1 reflects that Plaintiffs’ motion for summary judgment has been granted, and although  
2 it appears to resolve a critical issue, it lacks decretal language carrying the decision  
3 into effect. *See generally Khalsa v. Levinson*, 1998-NMCA-110, ¶ 13, 125 N.M. 680,  
4 964 P.2d 844 (observing that decretal language “carries the decision into effect by  
5 ordering that something happen”).

6 {3} In their memorandum in opposition Defendants acknowledge this deficiency.  
7 [MIO 3] However, they suggest that a ruling may constitute a final order even in the  
8 absence of decretal language, citing *Moffat v. Branch*, 2002-NMCA-067, 132 N.M.  
9 412, 49 P.3d 673, as support for this proposition. [MIO 3] However, the appeal in that  
10 case was from orders dismissing a complaint in its entirety for failure to state a claim.  
11 *See id.* ¶¶ 2, 8-9. Such orders are unquestionably final. *See, e.g., Turner v. First N.M.*  
12 *Bank*, 2015-NMCA-068, ¶ 7, 352 P.3d 661 (explaining that an order dismissing a  
13 complaint for failure to state a claim is a final, appealable order). Nothing in *Branch*  
14 indicates that decretal language is superfluous. And the situation at hand is readily  
15 distinguishable: the district court’s ruling on the motion for summary judgment does  
16 not entail either the dismissal of the action, or any other formalized, final resolution  
17 of the pending claims. As such, we remain unpersuaded that the matter is properly  
18 before us at this juncture.

1 {4} Defendants also invoke the doctrine of practical finality, contending that the  
2 district court’s ruling on the motion for summary judgment “concluded the litigation  
3 around one specific issue” in a manner which will “dictate the future of the case.”  
4 [MIO 3-4] Even if we were to assume that this is so, we nevertheless deem it  
5 inappropriate and imprudent to preempt further, final action by the district court  
6 carrying its decision into effect. *See Heinsen*, 2005-NMSC-035, ¶ 15, 138 N.M. 441,  
7 121 P.3d 1040 (observing that “practical finality is the exception, rather than the rule”  
8 and the doctrine is applied only “cautiously, in limited circumstances”). We therefore  
9 decline to entertain the instant appeal under the auspices of the doctrine of practical  
10 finality.

11 {5} Accordingly, for the reasons stated above and in the notice of proposed  
12 summary disposition, we conclude that the district court’s order is not immediately  
13 reviewable. The appeal is therefore summarily dismissed.

14 {6} **IT IS SO ORDERED.**

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**J. MILES HANISEE, Judge**

17 **WE CONCUR:**

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1 **MICHAEL E. VIGIL, Judge**

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3 **DANIEL J. GALLEGOS, Judge**