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

2 **Filed: August 4, 2016**

3 **JOSE CASTRO-MONTANEZ,**

4           Worker-Respondent,

5 v.

**NO. S-1-SC-35609**

6 **MILK-N-ATURAL, LLC,**

7           Employer-Petitioner,

8 and

9 **NEW MEXICO UNINSURED EMPLOYERS' FUND,**

10          Statutory Third Party-Respondent.

11 **ORIGINAL PROCEEDING ON CERTIORARI**

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15 Roswell, NM

16 for Petitioner

17 New Mexico Center on Law and Poverty

1 Timothy M. Davis  
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3 for Worker-Respondent

4 **DISPOSITIONAL ORDER OF REVERSAL**

5 **CHÁVEZ, Justice.**

6 {1} This Court granted Milk-N-Atural, LLC's (Milk-N-Atural) petition for writ of  
7 certiorari and held it in abeyance pending the outcome of *Rodriguez v. Brand West*  
8 *Dairy (Rodriguez II)*, 2016-NMSC-\_\_\_\_, \_\_\_\_ P.3d \_\_\_\_ (Nos. S-1-SC-35426 & S-1-SC-  
9 35438, June 30, 2016). *See Castro-Montanez v. Milk-N-Atural, LLC*, No. S-1-SC-  
10 35609, order 1-2 (N.M. Sup. Ct. Jan. 19, 2016). On June 30, 2016, we filed an  
11 opinion in *Rodriguez II* holding that the farm and ranch laborer exclusion contained  
12 in NMSA 1978, Section 52-1-6(A) (1990) of the New Mexico Workers'  
13 Compensation Act is unconstitutional and directed that our holding be prospectively  
14 applied to any injury that manifests after the date that our mandate issued in *Rodriguez*  
15 *II* pursuant to Rule 12-402(B) NMRA. *Rodriguez II*, 2016-NMSC-\_\_\_\_, ¶¶ 2, 51.  
16 Because the injury alleged by Castro-Montanez manifested itself before the date we  
17 issued the mandate in *Rodriguez II*, our holding in *Rodriguez II* does not inure to his  
18 benefit.

1 {2} All of the Justices having concurred that there is no reasonable likelihood that  
2 a written decision or opinion would affect the disposition of this appeal or advance the  
3 law in New Mexico, we enter this dispositional order of reversal of the Court of  
4 Appeals and affirm the entry of summary judgment in favor of Milk-N-Atural by the  
5 worker's compensation judge (WCJ). *Castro-Montanez v. Milk-N-Atural, LLC*, No.  
6 34,772, mem. op. ¶¶ 3-4 (N.M. Ct. App. Oct. 28, 2015) (non-precedential).

7 {3} Castro-Montanez alleges that on November 22, 2014, he injured his shoulder  
8 and knee after being thrown by a bull while employed as a milker and pusher at Milk-  
9 N-Atural's dairy. Castro-Montanez filed a complaint seeking workers' compensation  
10 on January 2, 2015. On April 17, 2015, Milk-N-Atural filed a motion for summary  
11 judgment claiming that Castro-Montanez's claim was barred by the farm and ranch  
12 laborer exclusion. On May 28, 2015, the WCJ granted Milk-N-Atural's motion for  
13 summary judgment. Castro-Montanez subsequently filed a notice of appeal with the  
14 Court of Appeals on June 18, 2015. Several days later, on June 22, 2015, the Court  
15 of Appeals issued its decision holding that the farm and ranch laborer exclusion was  
16 unconstitutional in *Rodriguez v. Brand West Dairy (Rodriguez I)*, 2015-NMCA-097,  
17 ¶ 7, 356 P.3d 546, cert. granted, 2015-NMCERT-008. The workers in *Rodriguez I*  
18 had filed workers' compensation complaints two years prior to Castro-Montanez's

1 complaint, in February and March 2013 respectively.

2 {4} On October 28, 2015, the Court of Appeals reversed the WCJ's decision to  
3 grant Milk-N-Atural's motion for summary judgment based on the Court of Appeals's  
4 decision in *Rodriguez I. Castro-Montanez*, No. 34,772, mem. op. ¶ 2 (non-  
5 precedential). This Court issued a writ of certiorari to the Court of Appeals and  
6 ordered that *Castro-Montanez* be held in abeyance pending our resolution of  
7 *Rodriguez II*.

8 {5} This Court's opinion in *Rodriguez II* will apply prospectively to all injuries  
9 suffered by farm and ranch laborers that manifest *after* the date that the mandate in  
10 *Rodriguez II* issues, with the exception of the workers' claims in *Rodriguez II*. 2016-  
11 NMSC-\_\_\_\_, ¶ 51. Therefore, the farm and ranch laborer exclusion applies to the  
12 claim filed by Castro-Montanez, and the WCJ was correct to grant summary judgment  
13 to Milk-N-Atural.

14 **IT IS THEREFORE ADJUDGED THAT:**

15 {6} The Court of Appeals is reversed and the summary judgment entered by the  
16 WCJ in favor of Milk-N-Atural is affirmed.

17 {7} **IT IS SO ORDERED.**

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**EDWARD L. CHÁVEZ, Justice**

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**CHARLES W. DANIELS, Chief Justice**

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**PETRA JIMENEZ MAES, Justice**

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**BARBARA J. Vigil, Justice**

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**JUDITH K. NAKAMURA, Justice**