

New Mexico Court of Appeals Employment Cases

Henning v. Rounds

171 P.3d 317 (N.M.App. 2007) (1st Imp.) 8/29/2007

A tenured teacher in a public elementary school, alleging her principal and assistant principals had spitefully and unfairly evaluated her over a period of several years, sued them and the local board of education. Among other things, she claimed their actions had breached the obligation of good faith and fair dealing that the law imposes on the parties to any contract. The trial court dismissed her claim. On appeal, a divided Court of Appeals panel affirmed this dismissal. The obligation to show good faith and deal fairly, the majority ruled, requires that neither party injure the rights of the other to receive the benefit of their contract. Fair or unfair, the evaluations had not cost the teacher her job, her pay raises, or her rank. The dissenting judge acknowledged the plaintiff's case was "thin," but he suggested the negative evaluations would affect her progress in her current school system and impede any attempt she might make to move to a different one. There should be a trial, he argued.

The judges in the majority in this case are given positive scores for their refusal to let disputes over the fairness of performance evaluations become lawsuits. In the words of their opinion, "to allow such suits would unnecessarily involve courts in the employer-employee relationship and potentially subject employers to torrents of unwarranted and vexatious suits filed by disgruntled employees at every juncture in the employment process."

Disposition: Affirmed

Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bustamante	Concur/Dissent	-

New Mexico Court of Appeals Additional Employment Cases

DeArmond v. Halliburton Energy Servs., Inc.

81 P.3d 573 (N.M.App. 2003) 9/25/2003

Disposition: Reversed and remanded
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bustamante	Concur	-
Castillo	Wrote Opinion	-
Fry	Concur	-

Gormley v. Coca-Cola Enters.

85 P.3d 252 (N.M.App. 2003) (1st Imp.) 12/16/2003

Disposition: Affirmed in part, reversed in part, remanded
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Castillo	Wrote Opinion	+
Kennedy	Concur	+

Spencer v. University of New Mexico Hosp.

91 P.3d 73 (N.M.App. 2004) 2/12/2004

Disposition: Affirmed
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Castillo	Concur	+
Sutin	Concur	+
Wechsler	Wrote Opinion	+

Vigil v. Public Serv. Co. of New Mexico

94 P.3d 813 (N.M.App. 2004) 5/13/2004

Disposition: Reversed
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bustamante	Wrote Opinion	+
Kennedy	Concur	+
Sutin	Concur	+

Whittington v. State Dep't of Pub. Safety

100 P.3d 209 (N.M.App. 2004) 8/27/2004

Disposition: Reversed and remanded
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bustamante	Concur	-
Castillo	Wrote Opinion	-
Fry	Concur	-

Horanburg v. Felter

99 P.3d 685 (N.M.App. 2004) 8/31/2004

Disposition: Reversed and remanded
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Vigil	Concur	+
Wechsler	Wrote Opinion	+

Callahan v. New Mexico Fed'n of Teachers-TVI

104 P.3d 1122 (N.M.App. 2005) (1st Imp.) 1/6/2005

Disposition: Reversed
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Kennedy	Wrote Opinion	-

Talamante v. Public Employees Ret. Bd.

131 P.3d 76 (N.M.App. 2005) (1st Imp.) 1/31/2005

Disposition: Remanded
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bustamante	Wrote Opinion	+
Fry	Concur	+
Sutin	Concur	+

New Mexico Court of Appeals Additional Employment Cases

Aguilera v. Board of Educ. 114 P.3d 322 (N.M.App. 2005) 4/6/2005	Judge Sutin Vigil	Judge's Ruling Concur Wrote Opinion	Judge's Rating - -
Disposition: Reversed and remanded Negative Effect			

Salazar v. Torres 122 P.3d 1279 (N.M.App. 2005) 9/12/2005	Judge Vigil	Judge's Ruling Concur	Judge's Rating -
Disposition: Reversed and remanded Negative Effect			

Director, Labor & Indus. Div. v. Echostar Communications Corp. 134 P.3d 780 (N.M.App. 2006) (1st Imp., NDO) 2/28/2006	Judge Kennedy Vanzi Vigil	Judge's Ruling Concur (Ruled @ trial) Concur	Judge's Rating - (-) -
Disposition: Affirmed Negative Effect			

Farmington Police Officer's Ass'n Communication Workers of Am. Local 7911 v. City of Farmington 137 P.3d 1204 (N.M.App. 2006) 5/17/2006	Judge Fry	Judge's Ruling Concur	Judge's Rating +
Disposition: Reversed and remanded Positive Effect			

Sisneros v. Citadel Broad. Co. 142 P.3d 34 (N.M.App. 2006) 6/21/2006	Judge Bustamante Fry Sutin	Judge's Ruling Concur Wrote Opinion Concur	Judge's Rating - - -
Disposition: Reversed Negative Effect			

Street v. Alpha Constr. Servs. 143 P.3d 187 (N.M.App. 2006) (1st Imp.) 6/22/2006	Judge Bustamante Kennedy	Judge's Ruling Wrote Opinion Dissent	Judge's Rating - +
Disposition: Reversed and remanded Negative Effect			

Sedillo v. New Mexico, Dep't of Pub. Safety 149 P.3d 955 (N.M.App. 2006) (1st Imp., NDO) 10/31/2006	Judge Bustamante Fry	Judge's Ruling Concur Concur	Judge's Rating + +
Disposition: Affirmed Positive Effect			

Gingrich v. Sandia Corp. 165 P.3d 1135 (N.M.App. 2007) 6/15/2007	Judge Bustamante Kennedy	Judge's Ruling Concur Concur	Judge's Rating + +
Disposition: Affirmed in part, reversed and remanded in part Positive Effect			

New Mexico Court of Appeals Additional Employment Cases

Lessard v. Coronado Paint & Decorating Ctr., Inc.			
168 P.3d 155 (N.M.App. 2007) 6/20/2007	Judge	Judge's Ruling	Judge's Rating
	Castillo	Wrote Opinion	-
Disposition: Affirmed in part, reversed in part, remanded	Fry	Concur	-
Negative Effect			
Beggs v. City of Portales			
167 P.3d 953 (N.M.App. 2007) 6/29/2007	Judge	Judge's Ruling	Judge's Rating
	Castillo	Concur	+
Disposition: Affirmed	Vigil	Dissent	-
Positive Effect			
Howse v. Roswell Indep. Sch. Dist.			
188 P.3d 1253 (N.M.App. 2008) (1st Imp.) 4/21/2008	Judge	Judge's Ruling	Judge's Rating
	Vigil	Concur	-
Disposition: Reversed	Wechsler	Concur	-
Negative Effect			
Talbott v. Roswell Hosp. Corp.			
192 P.3d 267 (N.M.App. 2008) (1st Imp., NDO) 6/4/2008	Judge	Judge's Ruling	Judge's Rating
	Fry	Concur	-
Disposition: Affirmed	Vigil	Concur	-
Negative Effect	Wechsler	Wrote Opinion	-
Granberry v. Albuquerque Police Officers Ass'n			
189 P.3d 1217 (N.M.App. 2008) 6/5/2008	Judge	Judge's Ruling	Judge's Rating
	Kennedy	Concur	-
Disposition: Reversed	Sutin	Concur	-
Negative Effect			
Ovecka v. Burlington N. Santa Fe Ry. Co.			
194 P.3d 728 (N.M.App. 2008) (NDO) 7/9/2008	Judge	Judge's Ruling	Judge's Rating
	Bustamante	Concur	+
Disposition: Affirmed	Kennedy	Wrote Opinion	+
Positive Effect			
Weise v. Washington Tru Solutions, L.L.C.			
192 P.3d 1244 (N.M.App. 2008) (1st Imp., NDO) 8/7/2008	Judge	Judge's Ruling	Judge's Rating
	Castillo	Wrote Opinion	+
Disposition: Affirmed	Vigil	Concur	+
Positive Effect	Wechsler	Concur	+

New Mexico Court of Appeals Insurance Cases

Rehders v. Allstate Ins. Co.

135 P.3d 237 (N.M.App. 2006) 6/5/2006

A general contractor and his wife ran his business as a sole proprietorship for some years. He bought his commercial automobile insurance policies from Allstate and paid separate premiums for uninsured motorist coverage for each vehicle owned by the business. In 2001 he changed the business from a proprietorship to a sub-chapter S corporation. At his request Allstate changed the insurance policy to reflect this: the new policy stated the "insured" now was the new corporation and stipulated that uninsured motorist insurance would cover only the corporation's employees, directors and stockholders and only in accidents that occurred when they were in a vehicle owned by the corporation. Some months later, the contractor's adult son (who lived with his parents) was badly injured when an uninsured motorist hit an auto owned by another party in which he was a passenger. His parents demanded he be paid uninsured motorist benefits under their corporation's policy. Allstate refused because the son was not an officer, director, or stockholder, nor was he riding in one of the corporation's cars. Suing, the parents claimed that under the old policies issued to their business when it was a sole proprietorship he would have been covered and that the uninsured motorist insurance premiums under the old and new policies were virtually identical. The trial court granted them summary judgment. A divided Court of Appeals panel reversed. The parents, the Court majority reasoned, had changed their business to a sub-chapter S corporation to gain such benefits as more favorable tax treatment and limited personal liability, and the new insurance policy was clear and unambiguous.

Judge	Judge's Ruling	Judge's Rating
Castillo	Concur	+
Fry	Dissent	-
Vigil	Wrote Opinion	+

The judges in the majority are given positive ratings because, in the opinion of the evaluators, their decision to hold the parties to the terms of their contract, the insurance policy, will tend to limit the spread of civil liability in New Mexico law.

Disposition: Reversed and remanded

Positive Effect

New Mexico Court of Appeals Additional Insurance Cases

Azar v. Prudential Ins. Co. of Am.

68 P.3d 909 (N.M.App. 2003) (1st Imp.) 1/17/2003

Disposition: Affirmed in part, reversed in part, remanded
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Castillo	Concur	+
Fry	Wrote Opinion	+
Kennedy	Concur	+

Montano v. Allstate Indem. Co.

68 P.3d 936 (N.M.App. 2003) 1/27/2003

Disposition: Affirmed
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bustamante	Concur/Dissent	-
Sutin	Wrote Opinion	+

Hovet v. Lujan

66 P.3d 980 (N.M.App. 2003) (1st Imp.) 2/19/2003

Disposition: Reversed and remanded
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bustamante	Concur	-
Wechsler	Concur	-

Slack v. Robinson

71 P.3d 514 (N.M.App. 2003) (1st Imp., NDO) 5/1/2003

Disposition: Affirmed
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Castillo	Concur	+
Kennedy	Concur	+
Sutin	Wrote Opinion	+

Risk Mgmt. Div. v. Farmers Ins. Co. of Arizona

75 P.3d 404 (N.M.App. 2003) (1st Imp.) 5/30/2003

Disposition: Reversed and remanded
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bustamante	Concur	-
Castillo	Wrote Opinion	-
Fry	Concur	-

Romero v. Pueblo of Sandia/Sandia Casino

80 P.3d 490 (N.M.App. 2003) 9/29/2003

Disposition: Reversed and remanded
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Fry	Wrote Opinion	-
Sutin	Concur	-

Smoot v. Physicians Life Ins. Co.

87 P.3d 545 (N.M.App. 2003) 11/21/2003

Disposition: Affirmed in part, reversed in part, remanded
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Castillo	Wrote Opinion	+
Fry	Concur	+
Kennedy	Concur	+

Miera v. State Farm Mut. Auto. Ins. Co.

92 P.3d 20 (N.M.App. 2004) 3/16/2004

Disposition: Affirmed in part, reversed in part
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Kennedy	Wrote Opinion	-
Vigil	Concur	-

New Mexico Court of Appeals Additional Insurance Cases

Battishill v. Farmers Alliance Ins. Co.

97 P.3d 620 (N.M.App. 2004) 6/29/2004

Disposition: Reversed
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Sutin	Wrote Opinion	-
Vigil	Concur	-

Enfield v. Old Line Life Ins. Co. of Am.

98 P.3d 1048 (N.M.App. 2004) 7/23/2004

Disposition: Affirmed in part, reversed in part, remanded
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bustamante	Wrote Opinion	+
Fry	Concur	+

Berry v. Federal Kemper Life Assurance Co.

99 P.3d 1166 (N.M.App. 2004) 7/23/2004

Disposition: Affirmed in part, reversed in part, remanded
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bustamante	Wrote Opinion	+
Fry	Concur	+

Dellaira v. Farmers Ins. Exch.

102 P.3d 111 (N.M.App. 2004) (1st Imp.) 10/5/2004

Disposition: Affirmed in part, reversed in part, remanded
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Fry	Concur	-
Sutin	Wrote Opinion	-
Wechsler	Concur	-

State Farm Mut. Auto. Ins. Co. v. Luebbers

119 P.3d 169 (N.M.App. 2005) (1st Imp.) 6/14/2005

Disposition: Reversed and remanded
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bustamante	Wrote Opinion	-
Sutin	Concur	-

Krieger v. Wilson Corp.

131 P.3d 661 (N.M.App. 2005) 11/30/2005

Disposition: Affirmed in part, reversed in part, remanded
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bustamante	Wrote Opinion	-
Sutin	Concur	-

Maes v. Audubon Indem. Ins. Group

127 P.3d 1126 (N.M.App. 2005) (1st Imp.) 12/21/2005

Disposition: Reversed
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Castillo	Concur	+

State Farm Mut. Auto. Ins. Co. v. Jones

135 P.3d 1277 (N.M.App. 2006) (1st Imp., NDO) 3/8/2006

Disposition: Affirmed
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bustamante	Wrote Opinion	+
Vigil	Concur	+

Demir v. Farmers Texas County Mut. Ins. Co.

140 P.3d 1111 (N.M.App. 2006) 6/28/2006

Disposition: Reversed and remanded
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Vigil	Concur	-
Wechsler	Wrote Opinion	-

New Mexico Court of Appeals Additional Insurance Cases

Terrazas v. Garland & Loman, Inc.			
142 P.3d 374 (N.M.App. 2006) 7/26/2006	Judge	Judge's Ruling	Judge's Rating
	Bustamante	Concur	+
Disposition: Reversed and remanded	Robles	(Ruled @ trial)	(-)
Positive Effect			
City of Santa Rosa v. Twin City Fire Ins. Co.			
143 P.3d 196 (N.M.App. 2006) (1st Imp., NDO) 8/8/2006	Judge	Judge's Ruling	Judge's Rating
	Fry	Wrote Opinion	+
Disposition: Affirmed			
Positive Effect			
Davis v. Farmers Ins. Co. of Arizona			
142 P.3d 17 (N.M.App. 2006) (1st Imp., NDO) 9/13/2006	Judge	Judge's Ruling	Judge's Rating
	Castillo	Concur	+
Disposition: Affirmed	Kennedy	Wrote Opinion	+
Positive Effect			
Southwest Steel Coil, Inc. v. Redwood Fire & Cas. Ins. Co.			
148 P.3d 806 (N.M.App. 2006) 11/2/2006	Judge	Judge's Ruling	Judge's Rating
	Bustamante	Concur	-
Disposition: Reversed and remanded	Castillo	Wrote Opinion	-
Negative Effect			
Ferrell v. Allstate Ins. Co.			
150 P.3d 1022 (N.M.App. 2006) 11/29/2006	Judge	Judge's Ruling	Judge's Rating
	Castillo	Concur	+
Disposition: Reversed in part, remanded	Kennedy	Concur	+
Positive Effect			
Nakashima v. State Farm Mut. Auto. Ins. Co.			
153 P.3d 664 (N.M.App. 2007) (1st Imp., NDO) 1/18/2007	Judge	Judge's Ruling	Judge's Rating
	Castillo	Concur	+
Disposition: Affirmed	Fry	Concur	+
Positive Effect			
*Garcia v. Underwriters at Lloyd's London			
156 P.3d 712 (N.M.App. 2007) (1st Imp.) 1/26/2007	Judge	Judge's Ruling	Judge's Rating
*Judge Wechsler disagreed with the majority's decision to institute a presumption that actual notice triggers an insurer's duty to defend.	Fry	Concur	-
	Vigil	Wrote Opinion	-
Disposition: Affirmed in part, reversed in part	Wechsler	Concur*	+
Negative Effect			
King v. Allstate Ins. Co.			
159 P.3d 261 (N.M.App. 2007) 2/20/2007	Judge	Judge's Ruling	Judge's Rating
	Kennedy	Wrote Opinion	+
Disposition: Reversed and remanded	Wechsler	Concur	+
Negative Effect			

New Mexico Court of Appeals Additional Insurance Cases

Bird v. State Farm Mut. Auto. Ins. Co.

165 P.3d 343 (N.M.App. 2007) (1st Imp., NDO) 5/31/2007

Disposition: Affirmed in part, reversed in part, remanded
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Castillo	Wrote Opinion	-
Sutin	Concur	-

Pincheira v. Allstate Ins. Co.

164 P.3d 982 (N.M.App. 2007) (1st Imp.) 6/13/2007

Disposition: Reversed and remanded
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Castillo	Wrote Opinion	+
Fry	Concur	+
Vigil	Dissent	-

New Mexico Pub. Schs. Ins. Auth. v. Arthur J. Gallagher & Co.

170 P.3d 998 (N.M.App. 2007) 8/20/2007

Disposition: Affirmed
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bustamante	Concur	+
Sutin	Concur	+
Vigil	Wrote Opinion	+

Durham v. Guest

171 P.3d 756 (N.M.App. 2007) (1st Imp.) 8/31/2007

Disposition: Affirmed
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Castillo	Wrote Opinion	+
Kennedy	Concur	+
Vigil	Concur	+

Barrington Reinsurance Ltd., LLC v. Fidelity Nat'l Title Ins. Co.

172 P.3d 168 (N.M.App. 2007) (1st Imp., NDO) 9/18/2007

Disposition: Affirmed
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Castillo	Wrote Opinion	-

Salas v. Mountain States Mut. Cas. Co.

173 P.3d 35 (N.M.App. 2007) (1st Imp.) 10/10/2007

Disposition: Reversed
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bustamante	Wrote Opinion	-
Fry	Concur	-
Vigil	Dissent	+

Truong v. Allstate Ins. Co.

182 P.3d 814 (N.M.App. 2008) 2/25/2008

Disposition: Affirmed
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bustamante	Wrote Opinion	+
Vanzi	(Ruled @ trial)	(+)
Vigil	Dissent	-
Wechsler	Concur	+

McAlpine v. Zangara Dodge, Inc.

183 P.3d 975 (N.M.App. 2008) (1st Imp., NDO) 3/26/2008

Disposition: Affirmed
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bustamante	Concur	-
Castillo	Wrote Opinion	-
Fry	Concur	-

New Mexico Court of Appeals Additional Insurance Cases

Sheldon v. Hartford Ins. Co.			
189 P.3d 695 (N.M.App. 2008) (1st Imp., NDO) 6/16/2008			
	Judge	Judge's Ruling	Judge's Rating
	Kennedy	Concur	+
Disposition:	Affirmed	Sutin	Concur
Positive Effect			+
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Hart v. State Farm Mut. Ins. Co.			
193 P.3d 565 (N.M.App. 2008) 6/26/2008			
	Judge	Judge's Ruling	Judge's Rating
	Castillo	Concur	+
Disposition:	Reversed and remanded	Robles	(Ruled @ trial)
Positive Effect		Vigil	(-)
		Wechsler	Wrote Opinion
			+
		Concur	+
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Marckstadt v. Lockheed Martin Corp. Missiles & Fire Control			
194 P.3d 121 (N.M.App. 2008) (1st Imp., NDO) 7/8/2008			
	Judge	Judge's Ruling	Judge's Rating
	Bustamante	Wrote Opinion	+
Disposition:	Affirmed	Castillo	Concur
Positive Effect		Vigil	Concur
			+
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Martin v. Franklin Capital Corp.			
195 P.3d 24 (N.M.App. 2008) 9/16/2008			
	Judge	Judge's Ruling	Judge's Rating
	Fry	Wrote Opinion	+
Disposition:	Affirmed		
Positive Effect			
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Martinez v. Cornejo			
2008 WL 5638264 (N.M.App. 2008) (1st Imp.) 11/14/2008			
	Judge	Judge's Ruling	Judge's Rating
	Fry	Wrote Opinion	-
Disposition:	Affirmed in part, reversed in part	Kennedy	Concur
Negative Effect		Vigil	Concur
			-

New Mexico Court of Appeals Medical Malpractice Cases

Brenneman v. Board of Regents of Univ. of New Mexico		Judge	Judge's Ruling	Judge's Rating
84 P.3d 685 (N.M.App. 2003) 11/17/2003		Bustamante	Concur	-
Disposition: Reversed		Vigil	Concur	-
Negative Effect				
Payne v. Hall		Judge	Judge's Ruling	Judge's Rating
98 P.3d 1030 (N.M.App. 2004) 7/1/2004		Bustamante	Dissent	-
Disposition: Affirmed		Castillo	Wrote Opinion	+
Positive Effect				
Jaramillo v. Heaton		Judge	Judge's Ruling	Judge's Rating
100 P.3d 204 (N.M.App. 2004) 8/17/2004		Bustamante	Concur	-
Disposition: Reversed and remanded		Wechsler	Concur	-
Negative Effect				
Maestas v. Zager		Judge	Judge's Ruling	Judge's Rating
105 P.3d 317 (N.M.App. 2004) (1st Imp.) 11/30/2004		Bustamante	Concur/Dissent	-
Disposition: Affirmed		Kennedy	Concur	+
Positive Effect		Sutin	Wrote Opinion	+
Williams v. Stewart		Judge	Judge's Ruling	Judge's Rating
112 P.3d 281 (N.M.App. 2005) (1st Imp.) 3/22/2005		Vigil	Concur/Dissent	-
Disposition: Reversed and remanded		Wechsler	Wrote Opinion	+
Positive Effect				
Estate of Eric S. Haar v. Ulwelling		Judge	Judge's Ruling	Judge's Rating
154 P.3d 67 (N.M.App. 2007) (1st Imp., NDO) 2/1/2007		Castillo	Concur	+
Disposition: Affirmed		Sutin	Wrote Opinion	+
Positive Effect		Vigil	Concur	+
Zavala v. El Paso County Hosp. Dist.		Judge	Judge's Ruling	Judge's Rating
172 P.3d 173 (N.M.App. 2007) 9/25/2007		Bustamante	Concur	+
Disposition: Affirmed in part, reversed in part, remanded		Castillo	Concur	+
Positive Effect		Robles	(Ruled @ trial)	(-)
		Wechsler	Wrote Opinion	+
Chavez v. Lovelace Sandia Health Sys., Inc.		Judge	Judge's Ruling	Judge's Rating
189 P.3d 711 (N.M.App. 2008) 6/27/2008		Bustamante	Concur	+
Disposition: Reversed		Kennedy	Concur	+
Positive Effect		Sutin	Wrote Opinion	+

New Mexico Court of Appeals Medical Malpractice Cases

Ortiz v. Shaw

193 P.3d 605 (N.M.App. 2008) 8/21/2008

Disposition: Reversed and remanded

Positive Effect

Judge
Garcia
Wechsler

**Judge's
Ruling**
(Ruled @ trial)
Concur

**Judge's
Rating**
(-)
+

New Mexico Court of Appeals

Other Liability Lawsuits

Derringer v. State				
68 P.3d 961 (N.M.App. 2003) (1st Imp., NDO) 3/27/2003				
		Judge	Judge's Ruling	Judge's Rating
		Bustamante	Concur	+
Disposition:	Affirmed	Wechsler	Concur	+
Positive Effect				
Celaya v. Hall				
71 P.3d 1281 (N.M. App. 2003) 4/29/2003				
		Judge	Judge's Ruling	Judge's Rating
		Fry	Wrote Opinion	-
Disposition:	Reversed and remanded			
Negative Effect				
*McElhannon v. Ford				
73 P.3d 827 (N.M.App. 2003) (1st Imp., NDO) 5/16/2003				
*On issue of negligent nondisclosure.				
		Judge	Judge's Ruling	Judge's Rating
		Castillo	Concur	+
		Sutin	Concur	+
Disposition:	Affirmed in part, reversed in part, remanded			
Positive Effect				
Portales Nat'l Bank v. Ribble				
75 P.3d 838 (N.M.App. 2003) 5/23/2003				
		Judge	Judge's Ruling	Judge's Rating
		Wechsler	Concur	-
Disposition:	Reversed and remanded			
Negative Effect				
Fitzjerrell v. City of Gallup				
79 P.3d 836 (N.M.App. 2003) (1st Imp.) 8/28/2003				
		Judge	Judge's Ruling	Judge's Rating
		Bustamante	Concur	-
		Kennedy	Wrote Opinion	-
Disposition:	Reversed and remanded	Sutin	Concur	-
Negative Effect				
Haas Enters., Inc. v. Davis				
82 P.3d 42 (N.M.App. 2003) 9/24/2003				
		Judge	Judge's Ruling	Judge's Rating
		Bustamante	Concur	+
Disposition:	Reversed and remanded	Kennedy	Wrote Opinion	+
Positive Effect				
Blake v. Public Serv. Co. of New Mexico				
82 P.3d 960 (N.M.App. 2003) (1st Imp., NDO) 10/30/2003				
		Judge	Judge's Ruling	Judge's Rating
		Castillo	Concur	+
Disposition:	Affirmed	Vigil	Concur	+
Positive Effect				
Valles v. Silverman				
84 P.3d 1056 (N.M.App. 2003) (1st Imp.) 12/12/2003				
		Judge	Judge's Ruling	Judge's Rating
		Castillo	Wrote Opinion	-
Disposition:	Reversed and remanded	Wechsler	Concur	-
Negative Effect				

New Mexico Court of Appeals

Other Liability Lawsuits

Sam v. Estate of Sam				
84 P.3d 1066 (N.M.App. 2003) 12/12/2003		Judge	Judge's Ruling	Judge's Rating
		Castillo	Concur	-
Disposition:	Affirmed in part, reversed in part	Kennedy	Wrote Opinion	-
Negative Effect		Vigil	Concur	-
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Young v. Van Duyne				
92 P.3d 1269 (N.M.App. 2004) 4/28/2004		Judge	Judge's Ruling	Judge's Rating
		Kennedy	Concur	-
Disposition:	Affirmed in part, reversed in part	Sutin	Wrote Opinion	-
Negative Effect		Wechsler	Concur	-
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Griffin v. Thomas				
95 P.3d 1044 (N.M.App. 2004) (1st Imp.) 5/20/2004		Judge	Judge's Ruling	Judge's Rating
		Bustamante	Concur	-
Disposition:	Affirmed in part, reversed in part	Sutin	Concur	-
Negative Effect				
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Sublett v. Wallin				
94 P.3d 845 (N.M.App. 2004) (1st Imp., NDO) 5/24/2004		Judge	Judge's Ruling	Judge's Rating
		Fry	Concur	+
Disposition:	Affirmed	Vigil	Concur	+
Positive Effect				
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Sanchez v. Santa Ana Golf Club, Inc.				
104 P.3d 548 (N.M.App. 2004) (1st Imp., NDO) 11/22/2004		Judge	Judge's Ruling	Judge's Rating
		Castillo	Concur	+
Disposition:	Affirmed	Wechsler	Concur	+
Positive Effect				
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Bogle v. Summit Inv. Co., LLC				
107 P.3d 520 (N.M.App. 2005) 1/5/2005		Judge	Judge's Ruling	Judge's Rating
		Bustamante	Wrote Opinion	+
Disposition:	Affirmed in part, reversed in part	Kennedy	Concur	+
Positive Effect		Vigil	Concur	+
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Romero v. Philip Morris Inc.				
109 P.3d 768 9N.M.App. 2005) (1st Imp., NDO) 2/8/2005		Judge	Judge's Ruling	Judge's Rating
		Bustamante	Concur	-
Disposition:	Affirmed	Sutin	Wrote Opinion	-
Negative Effect				
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Seeds v. Lucero				
113 P.3d 859 (N.M.App. 2005) 3/30/2005		Judge	Judge's Ruling	Judge's Rating
		Fry	Wrote Opinion	+
Disposition:	Affirmed in part, reversed in part, remanded	Sutin	Concur	+
Positive Effect				

New Mexico Court of Appeals

Other Liability Lawsuits

Cagan v. Village of Angel Fire				
113 P.3d 393 (N.M.App. 2005) 4/14/2005		Judge	Judge's Ruling	Judge's Rating
		Castillo	Concur	+
Disposition:	Affirmed in part, reversed in part, remanded	Kennedy	Wrote Opinion	+
Positive Effect		Wechsler	Concur	+
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Henderson v. City of Tucumcari				
114 P.3d 389 (N.M.App. 2005) 4/20/2005		Judge	Judge's Ruling	Judge's Rating
		Bustamante	Concur	-
Disposition:	Reversed and remanded	Sutin	Concur	-
Negative Effect		Wechsler	Wrote Opinion	-
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*Upton v. Clovis Mun. Sch. Dist.				
115 P.3d 795 (N.M.App. 2005) 4/20/2005		Judge	Judge's Ruling	Judge's Rating
*Judge Sutin called on the legislature to change the law governing this case.		Bustamante	Concur	+
Disposition:	Affirmed	Sutin	Concur*	-
Positive Effect		Wechsler	Wrote Opinion	+
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Chavarria v. Fleetwood Retail Corp. of New Mexico				
115 P.3d 799 (N.M.App. 2005) 5/6/2005		Judge	Judge's Ruling	Judge's Rating
		Castillo	Concur	+
Disposition:	Affirmed in part, reversed in part, remanded	Fry	Concur	+
Positive Effect		Kennedy	Wrote Opinion	+
		Robles	(Ruled @ trial)	(-)
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U.S. Xpress, Inc. v. New Mexico Taxation & Revenue Dep't				
116 P.3d 846 (N.M.App. 2005) 5/17/2005		Judge	Judge's Ruling	Judge's Rating
		Kennedy	Concur	-
Disposition:	Reversed and remanded	Sutin	Concur	-
Negative Effect		Vigil	Wrote Opinion	-
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Santa Fe Custom Shutters & Doors, Inc. v. Home Depot U.S.A., Inc.				
113 P.3d 347 (N.M.App. 2005) 5/24/2005		Judge	Judge's Ruling	Judge's Rating
		Kennedy	Concur	+
Disposition:	Reversed and remanded	Sutin	Concur	+
Positive Effect				
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Jacobo v. City of Albuquerque				
118 P.3d 189 (N.M.App. 2005) 6/16/2005		Judge	Judge's Ruling	Judge's Rating
		Bustamante	Concur	-
Disposition:	Reversed and remanded	Kennedy	Wrote Opinion	-
Negative Effect		Sutin	Concur	-
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Talbott v. Roswell Hosp. Corp.				
118 P.3d 194 (N.M.App. 2005) 6/22/2005		Judge	Judge's Ruling	Judge's Rating
		Kennedy	Concur	+
Disposition:	f			
Positive Effect				

New Mexico Court of Appeals

Other Liability Lawsuits

Doe v. Santa Clara Pueblo		Judge	Judge's Ruling	Judge's Rating
118 P.3d 203 (N.M.App. 2005) 9/7/2005		Fry	Concur	-
Disposition:	Affirmed	Sutin	Dissent	+
Negative Effect		Vigil	Wrote Opinion	-
McNeill v. Rice Eng'g & Operating Inc.		Judge	Judge's Ruling	Judge's Rating
128 P.3d 476 (N.M.App. 2005) (1st Imp.) 11/22/2005		Fry	Concur	+
Disposition:	Affirmed in part, reversed in part	Sutin	Wrote Opinion	+
Positive Effect				
Amica Mut. Ins. Co. v. McRostie		Judge	Judge's Ruling	Judge's Rating
134 P.3d 773 (N.M.App. 2006) 2/3/2006		Bustamante	Concur	-
Disposition:	Reversed and remanded	Sutin	Wrote Opinion	-
Negative Effect				
Celnik v. Congregation B'Nai Israel		Judge	Judge's Ruling	Judge's Rating
131 P.3d 102 (N.M.App. 2006) (1st Imp., NDO) 4/4/2006		Bustamante	Wrote Opinion	+
Disposition:	Affirmed	Kennedy	Concur	+
Positive Effect		Vigil	Concur	+
Starko, Inc. v. Gallegos		Judge	Judge's Ruling	Judge's Rating
140 P.3d 1085 (N.M.App. 2006) 4/26/2006		Fry	Wrote Opinion	+
Disposition:	Reversed and remanded	Sutin	Concur	+
Positive Effect				
Montoya v. Pearson		Judge	Judge's Ruling	Judge's Rating
142 P.3d 11 (N.M.App. 2006) (1st Imp., NDO) 5/30/2006		Castillo	Concur	+
Disposition:	Affirmed in part, reversed in part	Wechsler	Concur	+
Positive Effect				
Lopez v. Las Cruces Police Dep't		Judge	Judge's Ruling	Judge's Rating
137 P.3d 670 (N.M.App. 2006) (1st Imp.) 6/29/2006		Robles	(Ruled @ trial)	(+)
Disposition:	Affirmed in part, reversed in part, remanded	Sutin	Concur	-
Negative Effect				
Baldonado v. El Paso Natural Gas Co.		Judge	Judge's Ruling	Judge's Rating
176 P.3d 286 (N.M.App. 2006) (1st Imp.) 6/29/2006		Castillo	Concur	-
Disposition:	Affirmed in part, reversed in part, remanded	Sutin	Concur	-
Negative Effect				
Ruegsegger v. Board of Regents of W. New Mexico Univ.		Judge	Judge's Ruling	Judge's Rating
154 P.3d 681 (N.M.App. 2006) (1st Imp., NDO) 8/16/2006		Fry	Concur	+
Disposition:	Affirmed	Kennedy	Concur	+
Positive Effect				

New Mexico Court of Appeals

Other Liability Lawsuits

<p>Fort Knox Self Storage, Inc. v. Western Techs., Inc. 142 P.3d 1 (N.M.App. 2006) (1st Imp.) 8/29/2006</p> <p>Disposition: Affirmed in part, reversed in part, remanded Positive Effect</p>	<p>Judge Fry Kennedy</p>	<p>Judge's Ruling Wrote Opinion Concur</p>	<p>Judge's Rating + +</p>
<p>Johnstone v. City of Albuquerque 145 P.3d 76 (N.M.App. 2006) (1st Imp., NDO) 9/25/2006</p> <p>Disposition: Affirmed Positive Effect</p>	<p>Judge Kennedy Vanzi Vigil</p>	<p>Judge's Ruling Wrote Opinion (Ruled @ trial) Concur</p>	<p>Judge's Rating + (+) +</p>
<p>Heath v. La Marina Apartments 151 P.3d 903 (N.M.App. 2006) 11/2/2006</p> <p>Disposition: Affirmed Positive Effect</p>	<p>Judge Kennedy Wechsler</p>	<p>Judge's Ruling Concur Concur</p>	<p>Judge's Rating + +</p>
<p>In re New Mexico Indirect Purchasers Microsoft Corp. Antitrust Litig. 149 P.3d 976 (N.M.App. 2006) (1st Imp.) 11/15/2006</p> <p>Disposition: Affirmed Negative Effect</p>	<p>Judge Castillo Sutin</p>	<p>Judge's Ruling Wrote Opinion Concur</p>	<p>Judge's Rating - -</p>
<p>Chavez v. Desert Eagle Distrib. Co. of New Mexico, LLC 151 P.3d 77 (N.M.App. 2006) (1st Imp.) 12/1/2006</p> <p>Disposition: Affirmed Positive Effect</p>	<p>Judge Wechsler</p>	<p>Judge's Ruling Concur</p>	<p>Judge's Rating +</p>
<p>McNeill v. Burlington Res. Oil & Gas Co. 153 P.3d 46 (N.M.App. 2006) 12/4/2006</p> <p>Disposition: Reversed and remanded Negative Effect</p>	<p>Judge Bustamante Fry</p>	<p>Judge's Ruling Wrote Opinion Concur</p>	<p>Judge's Rating - -</p>
<p>Rivera-Platte v. First Colony Life Ins. Co. 173 P.3d 765 (N.M.App. 2007) 5/22/2007</p> <p>Disposition: Reversed and remanded Negative Effect</p>	<p>Judge Castillo Kennedy Wechsler</p>	<p>Judge's Ruling Concur Concur Wrote Opinion</p>	<p>Judge's Rating - - -</p>
<p>Santa Fe Pac. Gold Corp. v. United Nuclear Corp. 175 P.3d 309 (N.M.App. 2007) (1st Imp., NDO) 8/22/2007</p> <p>Disposition: Affirmed and remanded Negative Effect</p>	<p>Judge Bustamante Castillo</p>	<p>Judge's Ruling Concur Wrote Opinion</p>	<p>Judge's Rating - -</p>

New Mexico Court of Appeals

Other Liability Lawsuits

Bishop v. Evangelical Lutheran Good Samaritan Soc'y				
179 P.3d 1248 (N.M.App. 2008) (1st Imp.) 1/10/2008		Judge	Judge's Ruling	Judge's Rating
		Castillo	Concur	+
Disposition: Reversed and remanded		Sutin	Concur	+
Positive Effect				
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Niederstadt v. Town of Carrizozo				
182 P.3d 769 (N.M.App. 2008) 1/24/2008		Judge	Judge's Ruling	Judge's Rating
		Fry	Wrote Opinion	-
Disposition: Reversed and remanded		Wechsler	Concur	-
Negative Effect				
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Concerned Residents of Santa Fe N., Inc. v. Santa Fe Estates, Inc.				
182 P.3d 794 (N.M.App. 2008) 2/6/2008		Judge	Judge's Ruling	Judge's Rating
		Bustamante	Concur	-
		Fry	Concur	-
Disposition: Affirmed		Garcia	(Ruled @ trial)	(-)
Negative Effect		Sutin	Wrote Opinion	-
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Gregory Rockhouse Ranch, L.L.C. v. Glenn's Water Well Serv., Inc.				
191 P.3d 548 (N.M.App. 2008) 4/22/2008		Judge	Judge's Ruling	Judge's Rating
		Fry	Concur	+
Disposition: Reversed and remanded		Vigil	Wrote Opinion	+
Positive Effect				
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Capco Acquisub, Inc. v. Greka Energy Corp.				
198 P.3d 354 (N.M.App. 2008) 8/4/2008		Judge	Judge's Ruling	Judge's Rating
		Bustamante	Wrote Opinion	+
Disposition: Affirmed in part, reversed in part, remanded		Kennedy	Concur	+
Positive Effect				
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Castillo v. City of Las Vegas				
195 P.3d 870 (N.M.App. 2008) (1st Imp.) 8/27/2008		Judge	Judge's Ruling	Judge's Rating
		Castillo	Wrote Opinion	+
Disposition: Affirmed in part, reversed in part		Fry	Concur	+
Positive Effect				
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Martin v. Middle Rio Grande Conservancy Dist.				
194 P.3d 766 (N.M.App. 2008) (1st Imp.) 9/11/2008		Judge	Judge's Ruling	Judge's Rating
		Bustamante	Concur	-
Disposition: Reversed and remanded		Kennedy	Concur	-
Negative Effect				
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Limacher v. Spivey				
198 P.3d 370 (N.M.App. 2008) (1st Imp., NDO) 9/12/2008		Judge	Judge's Ruling	Judge's Rating
		Bustamante	Concur	+
Disposition: Affirmed		Kennedy	Wrote Opinion	+
Positive Effect				

New Mexico Court of Appeals

Other Liability Lawsuits

Woodhull v. Meinel				
202 P.3d 126 (N.M.App. 2008) 10/24/2008		Judge	Judge's Ruling	Judge's Rating
		Bustamante	Wrote Opinion	-
Disposition:	Reversed and remanded	Castillo	Concur	-
Negative Effect		Fry	Concur	-
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Carlsbad Hotel Assocs., L.L.C. v. Patterson-UTI Drilling Co., L.P., L.L.L.P.				
199 P.3d 288 (N.M.App. 2008) (1st Imp.) 10/30/2008		Judge	Judge's Ruling	Judge's Rating
		Kennedy	Dissent	+
		Sutin	Wrote Opinion	-
Disposition:	Affirmed			
Negative Effect				
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Medina v. Holguin				
197 P.3d 1085 (N.M.App. 2008) 10/31/2008		Judge	Judge's Ruling	Judge's Rating
		Kennedy	Wrote Opinion	-
Disposition:	Reversed and remanded	Wechsler	Concur	-
Negative Effect				
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Romero v. Philip Morris, Inc.				
203 P.3d 873 (N.M.App. 2008) 11/18/2008		Judge	Judge's Ruling	Judge's Rating
		Fry	Concur	-
Disposition:	Affirmed in part, reversed in part	Kennedy	Concur	-
Negative Effect				

New Mexico Court of Appeals

Product Liability Cases

Fiser v. Dell Computer Corp.

165 P.3d 328 (N.M.App. 2007) (1st Imp.) 4/30/2007

The plaintiff bought a computer through Dell's Texas website. Some months later, claiming the computer had less memory than advertised, he tried to begin a class action lawsuit. One of the terms of his purchase, however, was an agreement to arbitrate any claims. Another term was that Texas law would apply. At the time of purchase, he had been told of these terms by email, by the website, and in writing. The trial court suspended the lawsuit and ordered him to bring his individual claim to arbitration. He appealed, claiming New Mexico public policy would allow him to proceed with a class action lawsuit since his own damages were so small, between ten and twenty dollars, it would not be worth his time and expense to arbitrate. He also argued the purchase contract was unenforceable because it was "unconscionable." The unanimous Court of Appeals panel rejected his positions. It is New Mexico public policy to honor the terms of the contracts parties enter into, the Court wrote. He and the company had contracted to be governed by Texas law and to arbitrate; only in "extremely limited" circumstances, such as the violation of a fundamental principle of justice, would the Court nullify a contract. And, the Court concluded, there was nothing unconscionable here: each party had its obligations—Dell to provide the computer, warranties and service, and the purchaser to pay for the computer and to be bound by the terms of the purchase agreement, including the agreement to arbitrate any claims he might have. If the plaintiff disliked the terms he could have rejected them and bought his computer from some other company. (A unanimous New Mexico Supreme Court later reversed this decision and allowed the class action lawsuit to proceed.)

Judge
Vigil

**Judge's
Ruling**
Concur

**Judge's
Rating**
+

The judge is given a positive rating because, in the opinion of the evaluators, decisions such as his tend to slow the proliferation of lawsuits and expansion of liability in New Mexico.

Disposition: Affirmed

Positive Effect

New Mexico Court of Appeals Additional Product Liability Cases

Apodaca v. AAA Gas Co.

73 P.3d 215 (N.M.App. 2003) (1st Imp., NDO) 3/11/2003

Disposition: Affirmed

Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bustamante	Wrote Opinion	+
Fry	Concur	+
Kennedy	Concur	+

New Mexico Court of Appeals Workers' Compensation Cases

Breen v. Carlsbad Mun. Schs. 67 P.3d 980 (N.M.App. 2003) (1st Imp.) 2/12/2003	Judge Castillo	Judge's Ruling Concur	Judge's Rating +
Disposition: Affirmed Positive Effect			
Flores v. J.B. Henderson Constr. 76 P.3d 1121 (N.M.App. 2003) 7/18/2003	Judge Bustamante Vigil	Judge's Ruling Concur Wrote Opinion	Judge's Rating + +
Disposition: Reversed Positive Effect			
Jouett v. Tom Growney Equip. Co. 85 P.3d 260 (N.M.App. 2003) 12/16/2003	Judge Castillo Fry Vigil	Judge's Ruling Concur Concur Wrote Opinion	Judge's Rating - - -
Disposition: Reversed and remanded Negative Effect			
Grine v. Peabody Natural Res. 114 P.3d 329 (N.M.App. 2005) 4/8/2005	Judge Bustamante Castillo	Judge's Ruling Concur Wrote Opinion	Judge's Rating + +
Disposition: Affirmed Positive Effect			
Medina v. Hunemuller Constr., Inc. 122 P.3d 839 (N.M.App. 2005) 8/11/2005	Judge Bustamante Wechsler	Judge's Ruling Concur Dissent	Judge's Rating - +
Disposition: Vacated and remanded Negative Effect			
Sanchez v. Zanio's Foods, Inc. 123 P.3d 788 (N.M.App. 2005) 10/20/2005	Judge Fry Sutin Wechsler	Judge's Ruling Concur Wrote Opinion Concur	Judge's Rating + + +
Disposition: Remanded Positive Effect			
Howell v. Marto Elec. 148 P.3d 823 (N.M.App. 2006) 11/9/2006	Judge Sutin Wechsler	Judge's Ruling Concur Concur	Judge's Rating - -
Disposition: Reversed and remanded Negative Effect			
Grimes v. Wal-Mart Stores Inc. 154 P.3d 64 (N.M.App. 2007) 1/29/2007	Judge Fry Sutin Vigil	Judge's Ruling Concur Wrote Opinion Concur	Judge's Rating - - -
Disposition: Reversed Negative Effect			

New Mexico Court of Appeals Workers' Compensation Cases

Griego v. Patriot Erectors, Inc.				
161 P.3d 889 (N.M.App. 2007) 2/27/2007		Judge	Judge's Ruling	Judge's Rating
		Bustamante	Concur	-
Disposition: Reversed and remanded		Kennedy	Concur	-
Negative Effect				
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Moya v. City of Albuquerque				
159 P.3d 266 (N.M.App. 2007) 3/16/2007		Judge	Judge's Ruling	Judge's Rating
		Castillo	Wrote Opinion	+
Disposition: Affirmed in part, reversed in part				
Positive Effect				
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Johnson v. Hoyt & Son Tree Serv.				
161 P.3d 894 (N.M.App. 2007) 3/19/2007		Judge	Judge's Ruling	Judge's Rating
		Bustamante	Concur	-
Disposition: Reversed and remanded		Wechsler	Wrote Opinion	-
Negative Effect				
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Baber v. Desert Sun Motors				
164 P.3d 1018 (N.M.App. 2007) 6/14/2007		Judge	Judge's Ruling	Judge's Rating
		Castillo	Concur	-
Disposition: Reversed and remanded		Sutin	Wrote Opinion	-
Negative Effect				
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Benny v. Moberg Welding				
167 P.3d 949 (N.M.App. 2007) 6/28/2007		Judge	Judge's Ruling	Judge's Rating
		Bustamante	Wrote Opinion	-
Disposition: Reversed and remanded		Fry	Concur	-
Negative Effect		Kennedy	Concur	-
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Hall v. Carlsbad Supermarket/IGA				
177 P.3d 530 (N.M.App. 2007) (1st Imp., NDO) 12/6/2007		Judge	Judge's Ruling	Judge's Rating
		Fry	Concur	-
Disposition: Affirmed		Vigil	Wrote Opinion	-
Negative Effect				