

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

August 16, 2021

FOR THE TENTH CIRCUIT

Christopher M. Wolpert
Clerk of Court

FRANKLIN J. MORRIS, as personal
representative of the wrongful death estate
of Marcellino Morris, Jr. (deceased),

Plaintiff - Appellant,

v.

GIANT FOUR CORNERS, INC., d/b/a
Giant #7251,

Defendant - Appellee.

No. 19-2071
(D.C. No. 1:15-CV-00055-JCH-LF)
(D. N.M.)

ORDER AND JUDGMENT*

Before **PHILLIPS**, **BALDOCK**, and **MORITZ**, Circuit Judges.

This matter is before the court on the parties' *Joint Motion to Dismiss Appeal and Remand Proceedings to District Court*. The parties ask us to reverse the judgment of the district court and remand for proceedings consistent with the New Mexico Supreme Court's answer to the question of state law that we certified on November 1, 2019.

* In light of the parties' joint motion, oral argument is not necessary. Accordingly, the appeal is submitted on the briefs. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

Upon consideration, the motion is granted as follows. The judgment of the district court is reversed, and this matter is remanded for further proceedings consistent with the New Mexico Supreme Court's decision in *Franklin J. Morris v. Giant Four Corners, Inc.*, No. S-1-SC-37997 (N.M. July 19, 2021).

The Clerk shall issue the mandate forthwith.

Entered for the Court
CHRISTOPHER M. WOLPERT, Clerk

A handwritten signature in black ink, appearing to read "Jane K. Castro", with a long horizontal flourish extending to the right.

by: Jane K. Castro
Chief Deputy Clerk