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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Court of Appeals of New Mexico
Filed 11/9/2026 9:47 AM
Mark Reynolds

LARISSA LOZANO, ESQ., as Personal Representative of the Estate of BYRON SAUER and KATHERINE ROEHL, ESQ., as Personal Representative of the Wrongful Death ESTATE OF ALICE SAUER,

Plaintiffs-Appellees,

v. **No. A-1-CA-43382**

PRESBYTERIAN HEALTHCARE SERVICES; DR. THOMAS BOCKMAN; DR. ANDREW HEMMEN; and HOSPITALIST MEDICINE PHYSICIANS OF TEXAS PLLC d/b/a SOUND PHYSICIANS OF NEW MEXICO II, LLC,

Defendants,

and

LOUIE MUNIZ and VICTORIA MUNIZ,

Intervenors-Appellants.

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY
Denise Barela Shepherd, District Court Judge

Curtis & Co.
Isela Anchondo
Albuquerque, NM

for Appellees

Louie and Victoria Muniz
Albuquerque, NM

Pro Se Appellants

MEMORANDUM OPINION

BACA, Judge.

{1} Louie and Victoria Muniz (Intervenors), self-represented litigants, appeal the district court's order identifying Byron Sauer as a "surviving spouse" under the Wrongful Death Act (WDA). In our notice of proposed summary disposition, we proposed to affirm. Intervenors have filed a memorandum in opposition, which we have duly considered. As we are not persuaded by Intervenors' arguments, we affirm.

{2} In our notice of proposed disposition, we proposed to conclude that the district court properly applied *In re Est. of Sumler*, 2003-NMCA-030, 133 N.M. 319, 62 P.3d 776, to interpret the WDA's use of the term "surviving" under the facts in this case. [CN 5] In the memorandum in opposition, Intervenors continue to argue the district court erred in its application of *Sumler* to the facts of this case, and seek to factually distinguish this case from *Sumler* based on the type of familial relationship. Intervenors also assert that the district court's decision is contrary to the legislative intent behind the WDA. [MIO 2] According to Intervenors, the circumstances of this case are such that the district court's application of *Sumler* was so literal and rigid

that it has produced an "absurd and unjust result that contradicts the clear legislative purpose." [MIO 4] We disagree.

{3} As explained in our calendar notice, NMSA 1978, Section 41-2-3(A) (2001) of the WDA provides that the proceeds of any judgment obtained in a wrongful death action shall be distributed "if there is a surviving spouse and no child, then to the spouse." *Sumler* considered what the Legislature meant by the term "surviving" and held that the interests of a beneficiary who is entitled to share in the recovery for a wrongful death become "absolutely vested" upon the decedent's death. 2003-NMCA-030, ¶ 26 (citing *Frampton v. Santa Fe Nw. Ry. Co*., 1930-NMSC-036, ¶ 1, 34 N.M. 660, 287 P. 694). Our calendar notice also pointed out that Intervenors had not explained why *Sumler* is inapplicable or why this case is distinguishable from *Sumler*. [CN 4]

{4} In response, the memorandum in opposition seeks to factually distinguish this case from *Sumler* by pointing out that unlike in *Sumler*, which involved a daughter predeceasing a mother, this case involves Alice Sauer's (Decedent) "unrelated in-law siblings." [MIO 2] In making this argument, Intervenors suggest the district court should have reached a different outcome because the beneficiary of Byron Sauer's estate lacked any biological relationship to, or emotional bond with, Decedent. [MIO 3] We are unpersuaded. Decedent's husband, Byron Sauer, was the only statutory beneficiary under the WDA at the time of Decedent's death. [RP

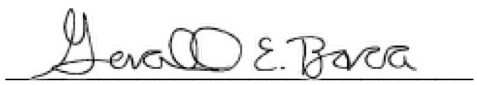
1104] Intervenors have not challenged that fact. *See Carlsbad Irrigation Dist. v. D'Antonio*, 2024-NMCA-024, ¶ 39, 544 P.3d 276 ("An unchallenged finding of the district court is binding on appeal."). The question before the district court, then, was whether Byron Sauer was the surviving spouse under the WDA despite having passed away prior to the settlement of decedent's estate. As discussed in our proposed disposition, Byron's interest in the recovery for decedent's wrongful death became absolutely vested upon decedent's death under *Sumler*. *See* 2003-NMCA-030, ¶ 26. [CN 2-5] Intervenors have not explained why the family dynamic between decedent and the beneficiary of Byron Sauer's estate is relevant to the question that was before the district court or how it renders *Sumler*'s holding inapplicable. Moreover, Intervenors have not identified any authority to support their assertions on this point. *See Curry v. Great Nw. Ins. Co.*, 2014-NMCA-031, ¶ 28, 320 P.3d 482 ("Where a party cites no authority to support an argument, we may assume no such authority exists."). Accordingly, we conclude that Intervenors' attempt to distinguish this case from *Sumler* based on decedents' lack of a biological and emotional relationship with the beneficiary is unpersuasive.

{5} Intervenors also assert that the district court's decision is contrary to the foundational purpose of the WDA. [MIO 3] According to Intervenors, the purpose of the WDA is to "compensate those family members left behind who are genuinely hurt and injured by the untimely passing of a loved one," and the district court's

decision runs afoul of that purpose. [MIO 3] Again, however, Intervenors have cited no authority to support their assertion. *See Curry*, 2014-NMCA-031, ¶ 28; *ITT Educ. Servs., Inc. v. Tax'n & Revenue Dep't*, 1998-NMCA-078, ¶ 10, 125 N.M. 244, 959 P.2d 969 (stating that this Court will not consider propositions that are unsupported by citation to authority). Furthermore, insofar as compensation is part of the WDA's purpose, we understand Intervenors to advocate for an assessment of a family's dynamic in WDA cases. [MIO 3-4] Intervenors have again failed to identify any supporting authority, and we are aware of none. *See Curry*, 2014-NMCA-031, ¶ 28; *ITT Educ. Servs., Inc.*, 1998-NMCA-078, ¶ 10. As discussed above, Byron Sauer was the statutory beneficiary of decedent, thereby indicating that the district court's decision accomplished the WDA's purpose. *See Est. of Brice v. Toyota Motor Corp.*, 2016-NMSC-018, ¶ 20, 373 P.3d 977 (stating that one of the WDA's two purposes is "to *compensate the statutory beneficiaries* and to deter negligent conduct" (emphasis added) (internal quotation marks and citation omitted)).

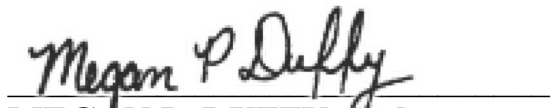
{6} For the reasons stated in our notice of proposed disposition and herein, we affirm.

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

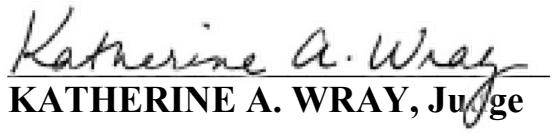


GERALD E. BACA, Judge

WE CONCUR:



MEGAN P. DUFFY, Judge



KATHERINE A. WRAY, Judge