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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

CHARLES and JOANN DOUGHERTY,
husband and wife,

Plaintiffs-Appellees,

v. **NO. 32,687**

MARK AND JACKIE DAVIS,

Defendants-Appellants.

APPEAL FROM THE DISTRICT COURT OF CIBOLA COUNTY
Camille M. Olguin, District Judge

Rosebrough Law Firm, P.C.
Robert F. Rosebrough, Esq.
Gallup, NM

for Appellees

Lakins Law Firm, P.C.
Charles N. Lakins, Esq.

Albuquerque, NM

for Appellants

MEMORANDUM OPINION

WECHSLER, Judge.

{1} Defendants appeal the district court's judgment awarding damages to Plaintiffs. We issued a calendar notice proposing to affirm the judgment. Defendants' attorney has not filed a response to that calendar notice. However, Defendant Mark Davis did e-mail a document entitled "Comments: TO JAMES J WECHSLER" to the court system's help desk. The e-mail was then forwarded to the Court of Appeals clerk's office, and a paper copy of the e-mail has been placed in this Court's file. Despite the unusual route this document has taken to come before the Court, we will consider its contents.

{2} The document e-mailed by Defendant Mark Davis attacks the district court's judgment mainly by asserting that the Special Master's decision was contrary to the evidence. According to the document, Plaintiffs' witnesses lied to the Special Master, and the Special Master was "unable to read a topo map." In other words, the document essentially asks this Court to overturn the Special Master's credibility determinations and re-weigh the evidence in favor of Defendants rather than Plaintiffs. However, as we explained in the calendar notice, this Court is required to view the

evidence in the light most favorable to the decision below. *See Robertson v. Carmel Builders Real Estate*, 2004-NMCA-056, ¶ 28, 135 N.M. 641, 92 P.3d 653. We may not overturn credibility determinations made by the district court, since we were not present to see the witnesses testify or, as in this case, to personally view the physical location of the dispute. *See New Mexicans for Free Enter. v. City of Santa Fe*, 2006-NMCA-007, ¶ 71, 138 N.M. 785, 126 P.3d 1149; *Evans v. Taxation & Revenue Dep't*, 1996-NMCA-080, ¶¶ 9, 10, 122 N.M. 216, 922 P.2d 1212. Therefore, the arguments raised in the e-mailed document are not a sufficient basis for reversal of the district court's judgment.

{3} For the reasons discussed in this opinion and in our calendar notice, we affirm the judgment entered below.

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

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JAMES J. WECHSLER, Judge

WE CONCUR:

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MICHAEL D. BUSTAMANTE, Judge

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LINDA M. VANZI, Judge