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6 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

7 **DANIEL W. COOK,**

8 Defendant-Appellant,

9 v.

NO. 29,523

10 **WELLS FARGO BANK, N.A.,**
11 **SUCCESSOR TO WELLS FARGO BANK**
12 **NEW MEXICO, N.A.,**

13 Plaintiff-Appellee.

14 **APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**
15 **Ted Baca, District Judge**

16 Daniel W. Cook
17 Albuquerque, NM

18 Pro Se Appellant

19 Sutin, Thayer & Browne, P.C.
20 Michelle K. Ostrye
21 Jay D. Hertz
22 Albuquerque, NM

23 for Appellee

24

MEMORANDUM OPINION

1 **WECHSLER, Judge.**

2 Appellant appeals an order granting summary judgment and an order denying
3 various motions filed by Appellant. We proposed to dismiss the appeal in a calendar
4 notice. After the orders were entered below, Appellant filed motions to vacate the
5 summary judgment, to stay the judgment, to hold a new hearing, and to reconsider the
6 summary judgment order. We explained that the orders appealed from were not final
7 for purposes of appeal. In response, Appellant filed a Request for Return of Case to
8 District Court, and Appellee filed a response to Appellant's request. Appellee agrees
9 that the case should be dismissed and remanded to the district court.

10 Based on the discussion in our calendar notice, we hold that the orders
11 appealed from are not final. We dismiss the appeal and remand the case to the district
12 court.

13 **IT IS SO ORDERED.**

14 _____
15 **JAMES J. WECHSLER, Judge**

16 **WE CONCUR:**

17 _____
18 **CELIA FOY CASTILLO, Judge**

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2 **MICHAEL E. VIGIL, Judge**