

BAR BULLETIN

Official Publication of the STATE BAR of NEW MEXICO

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Happy New Year!



**2008 License
and Dues Notice**
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*Hats Off
to Our
Volunteer Attorneys*

Special thanks to the following attorneys for donating their time to assist with the Consumer Debt/Bankruptcy Workshops in 2008.

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Daniel Behles

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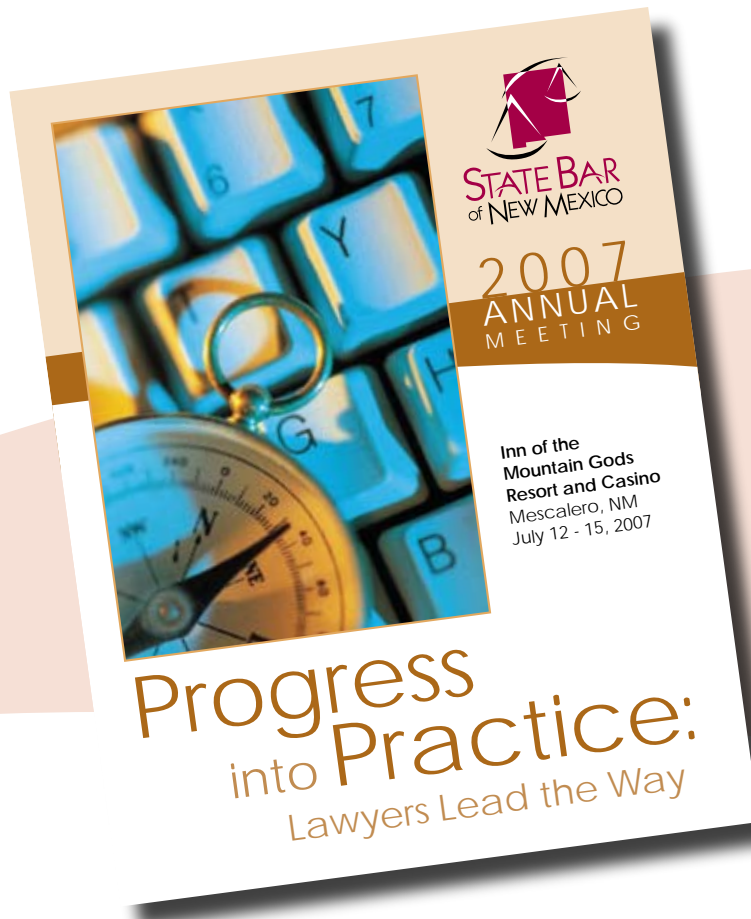
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• Professionalism Tip •

With respect to parties, lawyers, jurors and witnesses:

I will be considerate of the time constraints and pressures imposed on lawyers by the demands of trial practice.

Meetings

January

- 7**
 Attorney Support Group,
 5:30 p.m., First United Methodist Church
- 9**
 Children's Law Section Board of Directors,
 11:30 a.m., Albuquerque Hotel
- 9**
 Criminal Law Section Board of Directors,
 noon, State Bar Center
- 10**
 Board of Editors,
 8 a.m., State Bar Center
- 10**
 Public Law Section Board of Directors,
 noon, Risk Management Div., Santa Fe
- 10**
 Business Law Section Board of Directors,
 4 p.m., State Bar Center
- 14**
 Taxation Section Board of Directors,
 noon, via teleconference
- 16**
 Committee on Women and the Legal
 Profession, noon, Lewis and Roca Jontz
 Dawe LLP

State Bar Workshops

January

- 23**
 Consumer Debt/Bankruptcy Workshop
 6 p.m., State Bar Center, Albuquerque
- 31**
 Consumer Debt/Bankruptcy Workshop
 5:30 p.m., Branigan Library, Las Cruces

February

- 27**
 Consumer Debt/Bankruptcy Workshop
 6 p.m., State Bar Center, Albuquerque
- 28**
 Consumer Debt/Bankruptcy Workshop
 5:30 p.m., Branigan Library, Las Cruces

March

- 26**
 Consumer Debt/Bankruptcy Workshop
 6 p.m., State Bar Center, Albuquerque
- 27**
 Consumer Debt/Bankruptcy Workshop
 5:30 p.m., Branigan Library, Las Cruces

April

- 23**
 Consumer Debt/Bankruptcy Workshop
 6 p.m., State Bar Center, Albuquerque

NOTICES

Address Changes

All New Mexico attorneys must notify both the Supreme Court and the State Bar of any changes in address or telephone number.

Supreme Court

E-mail: suprvn@nmcourts.com; or
Fax: (505) 827-4837; or
Mail to: PO Box 848
Santa Fe, NM 87504-0848

State Bar

E-mail: address@nmbar.org; or
Fax: (505) 828-3755; or
Mail to: PO Box 92860,
Albuquerque, NM 87199;
or go to www.nmbar.org

COURT NEWS

N.M. Supreme Court Board of Legal Specialization Comments Solicited

The following attorney is applying for recertification as a specialist in the area of law identified. Application is made under the New Mexico Board of Legal Specialization, Rules 19-101 through 19-312 NMRA, which provide that the names of those seeking to qualify shall be released for publication. Attorneys and others are encouraged to comment upon any of the applicant's qualifications within 30 days after the publication of this notice. Address comments to New Mexico Board of Legal Specialization, P.O. Box 93070, Albuquerque, NM 87199.

Mark J. Riley

Trial Specialist in Civil Practice

R.E. Thompson

Civil Trial Practice

Quality of Life Quote

May all your troubles last as long as your New Year's resolutions.

Joey Adams

Committee Vacancies Judicial Education and Training Advisory Committee

Three vacancies exist for judges on the Judicial Education and Training Advisory Committee (JETA) due to the expiring terms of three members. JETA provides general oversight and feedback, policy direction, budget oversight and constituency communication for the Judicial Education Center. Judges interested in volunteering time on this committee may send a letter of interest and/or resume to:

Kathleen Jo Gibson, Chief Clerk
PO Box 848

Santa Fe, N.M. 87504-0848.

Deadline is Jan. 4, 2008.

Law Library

Open Monday–Friday, 8 a.m.–6 p.m.

Closed Saturdays and Sundays

Closed Dec. 31—Jan. 1

Phone: (505) 827-4850

Fax: (505) 827-4852

E-mail: libref@nmcourts.com

Web site: www.supremecourtlawlibrary.com.

Second Judicial District Court

Nominating Commission

Two applications have been received in the Judicial Selection Office as of 5 p.m., Dec. 17, for the judicial vacancy on the 2nd Judicial District Court due to the retirement of the Honorable Mark Macaron. Lisa A. Torracco has submitted a late application due to exigent circumstances. The Commission will determine whether or not to officially accept the late application when

it meets in January. The District Judicial Nominating Commission will meet at 9 a.m., Jan. 9, 2008, at the County Courthouse, Courtroom 616, Albuquerque, to evaluate the applicants for this position. The Commission meeting is open to the public. Those wishing to make public comment are requested to be present at the opening of the meeting. The names of the applicants in alphabetical order are:

Robin S. Hammer

Stanley D. Harada

Lisa A. Torracco

Bernalillo County Probate Court

The Bernalillo County Probate Court will close at noon Dec. 31 due to the county's holiday schedule. The Probate Court will be open all other weekdays in December. The Court reopens on Jan. 2, 2008. Plan filings accordingly.

Tenth Circuit Court of Appeals

The 10th Circuit Court of Appeals, the United States District Court for the Western District of Oklahoma and the Oklahoma offices of the Federal Public Defender will present *Practical Matters for the Criminal Defense Practitioner in Federal Court (2007)*, from 9 a.m. to 5:30 p.m., Jan. 23, 2008, in Oklahoma City. Depending on registrations, the program will tentatively be held in the jury pool room at the U.S. Courthouse at 200 NW Fourth Street, Oklahoma City. CLE credit has been applied for. Registration is free. For more information and to R.S.V.P., e-mail SueAnn_Fitch@ca10.uscourts.gov.

Destruction of Exhibits

Pursuant to the Judicial Records Retention and Disposition Schedules, exhibits filed with the court for the years and courts shown below, including but not limited to cases that have been consolidated, are to be destroyed. Cases on appeal are excluded. Counsel for parties are advised that exhibits can be retrieved by the dates shown below. Attorneys who have cases with exhibits may verify exhibit information with the Special Services Division at the numbers shown below. Plaintiff(s) exhibits will be released to counsel of record for the plaintiff(s), and defendant(s) exhibits will be released to counsel of record for defendant(s) by Order of the Court. All exhibits will be released in their entirety. Exhibits not claimed by the allotted time will be considered abandoned and will be destroyed by Order of the Court.

1st	Judicial District Court (505) 827-4735	Exhibits in criminal, civil, Children's Court, domestic incompetency/mental health, probate cases, 1973–1994	May be retrieved through Jan. 8, 2008
2 nd	Judicial District Court (505) 841-7596/5452	Exhibits in probate and guardian and conservatorship cases, 1977–1998	May be retrieved through Jan. 3, 2008

STATE BAR NEWS Attorney Support Group

The Attorney Support Group offers two meeting opportunities:

- Afternoon meeting, 5:30 p.m., Jan. 7, 2008 (meets regularly on the first Monday of the month)
- Morning meeting, 7:30 a.m., Jan. 28, 2008 (usually meets regularly on the third Monday of the month; changed this month due to holiday)

Both groups meet at the First United Methodist Church at Fourth and Lead SW, Albuquerque. For more information, contact Bill Stratvert, (505) 242-6845.

The Honorable Pamela B. Minzner 2008 Leadership Training Institute

Applications are now being accepted for The Honorable Pamela B. Minzner 2008 Leadership Training Institute. The fast-track program trains lawyers on what it means to be a leader and how to communicate, motivate, inspire and succeed for future opportunities in leadership roles. The Institute takes place over one and one-half days each month for four months and is scheduled for March 7-8, April 3-4, May 2-3, and June 5-6. The tuition is \$350, and the class size is limited through a competitive selection process, depending on the number of applications received by the deadline of Jan. 18, 2008. For more information and an application form, visit the State Bar's Web site at www.nmbar.org.

Paralegal Division Monthly Brown-Bag CLE for Attorneys and Paralegals

The Paralegal Division invites members of the legal community to bring a lunch and attend *Ethics for Paralegals*, presented by Joel Jacobson, Esq., Offices of the N.M. Attorney General. The program will be held from noon to 1 p.m., Jan. 9, 2008, at the State Bar Center and offers 1.0 general CLE credit (pending MCLE approval). Registration begins at the door at 11:30 a.m. The cost is \$16 for attorneys and \$15 for paralegals and support staff. For more information, contact Cheryl Passalacqua, (505) 872-7469 or Evonne Sanchez, (505) 222-9356.

Young Lawyers Division/ UNM Mock Interview Program

The Young Lawyers Division is seeking volunteer attorneys to serve as interviewers at the 18th Annual Young Lawyers Division-UNM Mock Interview Program to be held at the UNM Law School Clinic from 9 a.m. to 1 p.m., Feb. 23, 2008. The mock interviews and constructive critiques help prepare UNM law students for actual interviews. Attorneys are needed from small and large commercial and civil firms, solo practitioners, the district attorney's office, the public defender's office and public interest firms. Judge volunteers are also needed to provide mock interviews. A training session on the "do's and don'ts" of interviewing prospective attorneys will be held preceding the interviews from 8:15 to 8:50 a.m. Interested attorneys should contact Briana Zamora at bhzamora@btblaw.com or Martha Chicoski at mchicoski@cabq.gov

OTHER BARS Albuquerque Bar Association Luncheon and CLE

The Albuquerque Bar Association's Membership Luncheon will be held at noon, Jan. 8, 2008, at the Hyatt Regency Hotel, 330 Tijeras NW, Albuquerque, with speaker, Mayor Martin J. Chavez. *Issues Facing Lawyers with Elderly Family Members and Elderly Clients*, presented by attorney Mary Ann Green, (1.0 General CLE credits) will follow the luncheon from 1:30 to 2:30 p.m.

Lunch only: \$25 members/\$35 non-members with reservation; Lunch and CLE: \$45 members/\$65 non-members with reservation; CLE only: \$20 members/\$30 non-members

Register for lunch by noon, Jan. 3. To register:

1. log on to www.abqbar.com;
2. e-mail abqbar@abqbar.com;
3. by fax to (505) 842-0287;
4. call (505) 842-1151 or (505) 243-2615; or
5. mail to PO Box 40 Albuquerque, NM 87103-0040

UNM School of Law 2008 Children's Law Institute

The 2008 Children's Law Institute will present *Trauma: Impact, Response and Resilience* Jan. 9-11, 2008, at the Hotel Albuquerque (formerly the Old Town Sheraton). The program features Dr. Bruce Perry, an internationally recognized authority on child trauma and the effect of child maltreatment. The conference is co-sponsored by the Supreme Court's Court Improvement Project, the Judicial Education and Children's Law Centers at the UNM Institute of Public Law, the Children, Youth and Families Department, the NMSU School of Social Work and the New Mexico Child Advocacy Networks. Judges and attorneys can earn as many as 12.0 CLE credits at this annual event. The brochure, which includes a registration form, can be found on the Children's Law Center's Web site, <http://ipl.unm.edu/childlaw>.



Spanish-English Compendium of Law

by Bonifacio Contreras and
Brad Leutwyler

This Spanish-English legal dictionary is intended to assist legal professionals in communicating with the Spanish-speaking community. It puts legal terms in the context of sentences and conversations, making it a one-of-a-kind reference book. Along with single-word entries, the dictionary also translates into Spanish common phrases ("run a red light") and sentences ("what you did is against the law"). In addition, there are chapters on practical applications by subject that will assist the attorney in determining whether further questioning or referral to an expert practitioner is required.

Available at the State Bar Lending Library
Call (505) 797-6033 or e-mail membership@nmbar.org.

KEYS to Law Office Management



SPECIALIZATION OR A MARKETING NICHE?

By Donald D. Becker, Co-Chair
Law Office Management Committee

While a licensed attorney has a broad range of possible services that he or she is entitled to offer, attorneys are more and more thinking of either limiting their practice (i.e., not handling certain types of cases or clients) or specializing (i.e., being expert at handling cases or clients in a narrow area of legal work). For purposes of locating and keeping desirable cases or clients, this may be considered a marketing niche.

Part of an effective marketing plan will screen cases and clients and eliminate those that:

- cannot be handled for professional reasons, such as conflicts of interest or lack of competence to handle the matter;
- are not consistent with your mission statement/business plan;
- are not within a given geographical area; or
- involve a type of matter you do not want to handle (criminal cases, divorce cases, taxation cases, bankruptcy cases, security law cases, etc.).

By identifying cases or clients that you don't want, you and your staff won't spend time and money targeting those matters. Being able to professionally recognize and decline various matters is helpful for the firm and is in the best interest of those parties being clearly, promptly, and politely rejected.

An effective marketing plan will identify a target market or the types of clients/cases considered desirable for the firm. There may be a need for ranking or prioritizing clients/cases. For example, a firm may want to avoid having too many of a particular type of case or too many cases with a particular client.

Diversity in cases/clients can help stabilize the economic and work demands for a firm. A firm handling many cases or legal matters for a particular client might consider itself an economic hostage (being a de facto in-house counsel) and find it difficult to exercise needed professional independence. A firm with too many of a particular type of case may be susceptible or vulnerable to outside uncontrollable events, such as court calendars, changes in law or procedures, loss of personnel, etc.

An effective marketing plan will identify and define the cases/clients that are desired and will promote some degree of specialization. Specialization generally improves the quality and value of the legal services being provided. It also helps to better define the target market as well as the development and maintenance of effective systems. This identification of the clients/matters being sought is a focal point for many business/marketing plans and helps with the day-in, day-out decisions that must be made.

2008 LICENSE AND DUES FEES

- The 2008 license and dues forms have been mailed.
- License and dues fees are payable on Jan. 1, 2008 and are late after Feb. 1, 2008.
- Members who have not received the form by mid December should notify the State Bar office, (505) 797-6092 or (505) 797-6035.
- Fees may also be paid online through secured eCommerce at www.nmbar.org.
- License and disciplinary fees are mandatory and must be paid to maintain license status.
- Without exception, fees are due, whether or not you received your form.

**Late fees may be assessed
if payment is not postmarked by Feb. 1, 2008.**

UNM Law Library

Winter Library Hours

Building and Circulation

Monday–Friday 8 a.m.–6 p.m.

Saturday 9 a.m.–6 p.m.

Sunday Noon–6 p.m.

Reference

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Dec. 31 through Jan. 1, 2008

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WRITS OF CERTIORARI

AS UPDATED BY THE CLERK OF THE NEW MEXICO SUPREME COURT

Kathleen Jo Gibson, Chief Clerk New Mexico Supreme Court
PO Box 848 • Santa Fe, NM 87504-0848 • (505) 827-4860

EFFECTIVE DECEMBER 31, 2007

PETITIONS FOR WRIT OF CERTIORARI FILED AND PENDING:

	Date Petition Filed
NO. 30,814 State v. Baca	(COA 27,768) 12/17/07
NO. 30,813 State v. Martinez	(COA 26,489) 12/17/07
NO. 30,812 Hine v. Sadler	(COA 27,840) 12/17/07
NO. 30,811 State v. Vacek	(COA 27,881) 12/17/07
NO. 30,810 McIntire v. Janecka	(12-501) 12/17/07
NO. 30,809 State v. Medina	(COA 26,499) 12/17/07
NO. 30,808 Montoya v. Tecolote Land Grant	(COA 26,170) 12/14/07
NO. 30,787 Cable v. Wells Fargo Bank	(COA 26,357) 12/14/07
NO. 30,806 State v. Ramirez	(COA 27,630) 12/13/07
NO. 30,805 State v. Cordova	(COA 26,364) 12/13/07
NO. 30,802 Owen v. State	(12-501) 12/12/07
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NO. 30,800 State v. Gutierrez	(COA 26,454) 12/12/07
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NO. 30,793 State v. Prather	(COA 27,607) 12/7/07
NO. 30,792 State v. Smolky	(COA 27,760) 12/6/07
NO. 30,789 State v. Olsson	(COA 27,028) 12/4/07
NO. 30,788 State v. Haskie	(COA 27,863) 12/3/07
NO. 30,786 Lopez v. Hatch	(12-501) 12/3/07
NO. 30,781 State v. Hargraves	(COA 26,753) 11/29/07
NO. 30,779 Burdex v. Tapia	(12-501) 11/28/07
NO. 30,778 State v. Thrasher	(COA 26,808) 11/27/07
NO. 30,777 State v. Baca	(COA 27,496) 11/27/07
NO. 30,783 State v. Senaida C.	(COA 26,545) 11/26/07
NO. 30,775 Siler v. Goodwin	(COA 27,692) 11/26/07
NO. 30,774 Newell v. Whitehead	(COA 27,895) 11/26/07
NO. 30,651 Davis v. State	(12-501) 11/29/07
NO. 30,773 State v. Neal	(COA 26,879) 11/26/07
NO. 30,766 State v. Jones	(COA 27,342) 11/19/07
NO. 30,771 O'Gorman v. O'Gorman	(COA 27,841) 11/16/07
NO. 30,755 State v. Glascock	(COA 26,337) 11/13/07
NO. 30,754 J.R. Hale Contracting v. Union Pacific RR	(COA 26,422) 11/13/07
Response due	12/28/07
NO. 30,731 Rudd v. Cortez Gas	(COA 26,476) 10/29/07
Response filed	11/20/07
NO. 30,729 State v. Ervin	(COA 25,887) 10/29/07
NO. 30,670 State v. Anaya	(COA 27,112) 9/26/07
Response filed	12/13/07
NO. 30,569 Groh v. Village of Cuba	(COA 26,412) 8/8/07
Response filed	10/1/07
Simultaneous briefs filed	12/17/07

CERTIORARI GRANTED BUT NOT YET SUBMITTED TO THE COURT:

(Parties preparing briefs)

	Date Writ Issued
NO. 30,044 State v. O'Kelly	(COA 26,292) 11/13/06
NO. 30,169 Cook v. Anding	(COA 27,139) 1/30/07
NO. 30,148 Cook v. Anding	(On reconsideration) (COA 27,139) 3/7/07
NO. 30,232 State v. Watts	(COA 26,738) 3/26/07
NO. 30,267 State v. Ortiz	(COA 27,113) 4/2/07
NO. 30,269 State v. Martinez	(COA 23,710) 4/2/07
NO. 30,287 State v. Montoya	(COA 26,483) 4/9/07
NO. 30,318 State v. Trujillo	(COA 25,898) 4/20/07
NO. 30,288 State v. Cortez	(COA 25,406) 5/11/07
NO. 30,386 Colony Insurance Company v. McLean	(COA 27,321) 6/12/07
NO. 30,349 Franklin v. Coyote Canyon Rehabilitation Ctr.	(COA 27,159) 6/25/07
NO. 30,424 Fiser v. Dell	(COA 25,862) 6/26/07
NO. 30,317 Muniz v. Janecka	(12-501) 7/6/07
NO. 30,415 ACLU v. City of Albuquerque	(COA 26,143) 7/20/07
NO. 30,463 State v. Williams	(COA 25,519) 7/20/07
NO. 30,465 State v. Flores	(COA 27,180) 7/20/07
NO. 30,467 State v. Verdugo	(COA 25,534) 7/20/07
NO. 30,474 State v. Burke	(COA 27,109) 7/20/07
NO. 30,483 State v. Bettencourt	(COA 27,151) 7/27/07
NO. 30,490 Pincheira v. Allstate Insurance Company	(COA 26,044) 7/27/07
NO. 30,520 State v. Thompson	(COA 27,051) 7/31/07
NO. 30,346 State v. Owens	(COA 27,093) 8/1/07
NO. 30,473 Hidalgo v. Ribble	(COA 27,358) 8/1/07
NO. 30,517 State v. Snell	(COA 26,655) 8/8/07
NO. 30,524 State v. Lee	(COA 25,822) 8/8/07
NO. 30,526 State v. Maddox	(COA 25,404) 8/8/07
NO. 30,533 State v. Sandoval	(COA 25,841/25,842) 8/8/07
NO. 30,539 State v. Dylan A.	(COA 26,283) 8/8/07
NO. 30,540 State v. Sena	(COA 24,156) 8/8/07
NO. 30,542 State v. Rivera	(COA 25,798) 8/8/07
NO. 30,555 State v. Silva	(COA 24,273) 8/15/07
NO. 30,571 Salazar v. DWBH, Inc.	(COA 25,928) 8/15/07
NO. 30,575 State v. Zador	(COA 27,412) 9/17/07
NO. 30,559 State v. Rodriguez	(COA 25,778) 9/17/07
NO. 30,558 Beggs v. City of Portales	(COA 26,903) 9/17/07
NO. 30,548 State v. Leyba	(COA 27,478) 9/17/07
NO. 30,537 Lessard v. Coronado Paint	(COA 26,005) 9/17/07
NO. 30,592 Gushwa v. Hunt	(COA 26,887) 9/17/07
NO. 30,564 State v. Ross	(COA 26,239) 9/17/07
NO. 30,568 Tafoya v. Rael	(COA 26,774) 9/17/07

NO. 30,536	Cordova v. World Finance	(COA 27,436)	9/24/07	NO. 30,272	State v. McClagherty	(COA 24,409)	10/17/07
NO. 30,543	Primetime v. City of Albuquerque	(COA 25,616)	9/25/07	NO. 30,129	Heath v. La Mariana Apts.	(COA 24,991)	10/17/07
NO. 30,620	State v. Nozie	(COA 25,481)	9/25/07	NO. 30,016	State v. Ochoa	(COA 24,720)	10/29/07
NO. 30,608	Marchand v. Marchand	(COA 26,558)	10/15/07	NO. 28,954	State v. Schoonmaker	(COA 23,927)	10/29/07
NO. 30,640	Dewitt v. Rent a Center	(COA 27,596)	10/15/07	NO. 30,263	State v. Downey	(COA 25,068)	11/26/07
NO. 30,643	NM Public Schools v. Gallagher	(COA 26,251)	10/29/07	NO. 30,258	State v. Ellis	(COA 26,263)	11/26/07
NO. 30,654	State v. Belanger	(COA 26,771)	10/29/07	NO. 30,245	Garcia v. Lloyd's of London	(COA 25,985)	11/26/07
NO. 30,656	Durham v. Guest	(COA 26,123)	10/29/07	NO. 30,127	State v. Armendariz	(COA 24,448)	11/26/07
NO. 30,693	Urrea v. Bosque Asset Corp.	(COA 27,541)	10/30/07	NO. 30,351	State v. Bounds	(COA 25,448)	11/26/07
NO. 30,698	Ullrich v. Blanchard	(COA 27,130)	11/5/07	NO. 30,131	State v. Vargas	(COA 24,880)	11/26/07
NO. 30,657	State v. Nick R.	(COA 27,145)	11/7/07	NO. 30,193	State v. Hand	(COA 25,931)	11/26/07
NO. 30,696	State v. Jose S.	(COA 24,988)	11/7/07	NO. 30,209	Varoz v. Varoz	(COA 25,935)	11/26/07
NO. 30,619	State v. Kincaid	(COA 27,021)	11/8/07	NO. 30,343	Moya v. City of Albuquerque	(COA 26,382)	11/26/07
NO. 30,663	State v. Hubble	(COA 26,452)	11/20/07	NO. 30,278	Sanders v. FedEx	(COA 25,577)	12/10/07
NO. 30,685	State v. Barraza	(COA 26,222)	11/20/07	NO. 30,225	State v. Montoya	(COA 26,067)	12/10/07
NO. 30,709	State v. Marquez	(COA 25,711)	11/20/07	NO. 30,292	Peters Corp. v. N.M. Banquest Investors Corp.	(COA 25,276)	12/10/07
NO. 30,710	Marbob v. NM Oil	(COA 27,871)	11/20/07	NO. 30,380	State v. Rowell	(COA 26,429)	12/11/07
NO. 30,715	State v. Garza	(COA 27,731)	11/20/07	NO. 30,425	Computer One v. Grisham	(COA 25,732)	12/12/07
NO. 30,716	State v. Boyle	(COA 27,185)	11/20/07	NO. 30,391	Hamberg v. Sandia National Laboratory	(COA 26,559)	12/12/07
NO. 30,717	Cortez v. Cortez	(COA 27,629)	11/20/07	NO. 30,370	State v. Trudelle	(COA 25,476)	12/12/07
NO. 30,722	State v. UU Bar Limited	(COA 26,194)	11/20/07	NO. 30,381	State v. Bomboy	(COA 26,687)	12/12/07
NO. 30,723	State v. Carrasco	(COA 25,669)	11/20/07	NO. 29,951	State v. Cardenas	(COA 26,238)	12/12/07
NO. 30,691	Platte v. First Colony	(COA 25,401/25,402/25,409/25,412)	11/30/07	NO. 30,199	State v. Stephen F.	(COA 24,077)	1/14/08
NO. 30,735	Salas v. Mountain States	(COA 26,385)	12/4/07	NO. 30,140	State v. Jimenez	(COA 25,056)	1/30/08
NO. 30,746	State v. Andrade	(COA 27,746)	12/4/07	NO. 30,523	State v. Lohberger	(COA 26,195)	1/30/08
NO. 30,747	Bianco v. Horror One	(COA 27,887)	12/4/07	NO. 30,321	State v. Salas	(COA 27,083)	1/30/08
NO. 30,750	State v. Tafoya	(COA 27,825)	12/10/07	NO. 30,496	Wimberly v. City of Clovis	(COA 26,219)	1/30/08
NO. 30,766	State v. Jones	(COA 27,342)	12/17/07	NO. 30,497	Sommerville v. SW Firebird	(COA 27,444)	1/30/08
				NO. 30,293	State v. Campbell	(COA 24,899)	1/30/08

CERTIORARI GRANTED AND SUBMITTED TO THE COURT:

			Submission Date
(Submission = date of oral argument or briefs-only submission)			
NO. 29,953	State v. Day	(COA 25,290)	4/9/07
NO. 29,786	Case v. Hatch	(12-501)	8/15/07
NO. 29,947	State v. Padilla	(COA 25,380)	8/27/07
NO. 30,162	McNeill v. Burlington	(COA 25,469)	9/10/07
NO. 30,035	Blancett v. Dial Oil	(COA 26,951)	9/11/07
NO. 29,799	Albuquerque Commons v. City of Albuquerque	(COA 24,425)	9/11/07
NO. 29,791	Albuquerque Commons v. City of Albuquerque	(COA 24,026/24,027/24,042)	9/11/07
NO. 30,165	Ferrell v. Allstate Ins. Co.	(COA 26,058)	9/11/07
NO. 29,649	State v. Garcia	(COA 26,118)	9/12/07
NO. 29,909	State v. Quintana	(COA 25,107)	10/15/07
NO. 30,301	State v. Moreland	(COA 25,831)	10/15/07
NO. 29,881	State v. Carpenter	(COA 25,999)	10/16/07
NO. 30,180	State v. Funderburg	(COA 25,591)	10/16/07

PETITION FOR WRIT OF CERTIORARI DENIED:

NO. 30,770	State v. Olguin	(COA 27,461)	12/17/07
NO. 30,768	State v. Sanchez	(COA 27,661)	12/17/07
NO. 30,767	State v. Villa	(COA 27,659)	12/17/07
NO. 30,764	State v. Terrell	(COA 27,801)	12/17/07
NO. 30,765	State v. Duran	(COA 27,416/27,781)	12/17/07
NO. 30,761	State v. Clark	(COA 27,570)	12/17/07
NO. 30,759	State v. Lopez	(COA 26,174)	12/17/07
NO. 30,757	State v. Vargas	(COA 27,572)	12/17/07
NO. 30,752	State v. Abeyta	(COA 27,876)	12/17/07
NO. 30,762	Maheshwar v. Progressive	(COA 28,007)	12/17/07
NO. 30,769	Jaramillo v. Ulibarri	(12-501)	12/17/07

WRIT OF CERTIORARI QUASHED:

NO. 30,342	Brown v. Janecka	(12-501)	12/13/07
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OPINIONS

AS UPDATED BY THE CLERK OF THE NEW MEXICO COURT OF APPEALS
Gina M. Maestas, Chief Clerk New Mexico Court of Appeals
PO Box 2008 • Santa Fé, NM 87504-2008 • (505) 827-4925

EFFECTIVE DECEMBER 19, 2007

PUBLISHED OPINIONS

Date Opinions Filed

No. 26116	11th Jud Dist San Juan LR-05-299, STATE v T WILLIE (reverse)	12/17/2007
No. 26726	7th Jud Dist Torrance CV-02-193, O GATES v TAX & REV (affirm)	12/17/2007
No. 26970	13th Jud Dist Valencia DM-04-241, G CHERINO v S CHERINO (reverse)	12/18/2007
No. 25896	AA HWB-04-11, CITIZEN ACTION v SANDIA CORP (affirm)	12/19/2007

UNPUBLISHED OPINIONS

No. 25770	3rd Jud Dist Dona Ana CR-04-1083, STATE v L MITCHELL (affirm)	12/17/2007
No. 27592	12th Jud Dist Otero CR-05-186, STATE v M MARTINEZ (affirm)	12/17/2007
No. 27660	12th Jud Dist Otero CR-05-614, STATE v J JOHNSON (affirm)	12/17/2007
No. 27678	3rd Jud Dist Dona Ana JQ-04-39, CYFD v CRAIG p (affirm)	12/17/2007
No. 27713	9th Jud Dist Curry CR-06-634, STATE v J GALLEGOS (affirm)	12/17/2007
No. 27743	12th Jud Dist Otero CR-06-90, STATE v B KIRK (affirm)	12/17/2007
No. 27813	3rd Jud Dist Dona Ana CR-06-1408, STATE v M FAVELA (affirm)	12/17/2007
No. 27824	8th Jud Dist Taos CR-06-9, STATE v C STURY (affirm)	12/17/2007
No. 27866	11th Jud Dist San Juan JR-06-229, JR-06-251, JR-06-285, STATE v LORENZO M (affirm)	12/17/2007
No. 27298	2nd Jud Dist Bernalillo CR-06-38, STATE v A RAEL (reverse)	12/18/2007
No. 27593	8th Jud Dist Union CV-06-19, DOUBLE A FEEDERS v A ATCHLEY (affirm)	12/18/2007
No. 27620	11th Jud Dist San Juan DM-04-652, R PEACOCK v S PEACOCK (affirm in part,reverse in part)	12/18/2007
No. 27669	3rd Jud Dist Dona Ana CR-05-367, STATE v J BELL (affirm)	12/18/2007
No. 27817	2nd Jud Dist Bernalillo DM-01-2753, DV-01-907, DV-02-74, R WHITE v T WHITE (dismiss)	12/18/2007
No. 27916	3rd Jud Dist Dona Ana CR-07-177, STATE v J RAMOS (reverse)	12/18/2007
No. 27972	WC-01-61303, J ALVARENGA v G MARTIN (affirm)	12/18/2007
No. 28001	3rd Jud Dist Dona Ana CR-06-1337, STATE v I COBOS (reverse and remand)	12/18/2007
No. 26759	9th Jud Dist Curry CV-05-56, E ADKINS v LAUREL HEALTHCARE (affirm)	12/19/2007
No. 26894	2nd Jud Dist Bernalillo LR-05-141, STATE v J ORTIZ (affirm)	12/19/2007
No. 27053	2nd Jud Dist Bernalillo LR-06-1, STATE v L ARELLANO (affirm)	12/19/2007
No. 27161	2nd Jud Dist Bernalillo JQ-05-48, CYFD v JAMES E (affirm)	12/19/2007
No. 27322	2nd Jud Dist Bernalillo JQ-06-34, CYFD v MICHELLE GS (reverse and remand)	12/19/2007
No. 27510	3rd Jud Dist Dona Ana CV-06-1853, W GROSS v J VALENTINE (affirm)	12/19/2007
No. 27674	12th Jud Dist Lincoln CR-06-35, STATE v F OCHOA (affirm)	12/19/2007
No. 27683	2nd Jud Dist Bernalillo CR-05-1579, STATE v E VALLEJOS (affirm)	12/19/2007
No. 27697	9th Jud Dist Curry CR-05-689, STATE v R RUSSELL (affirm)	12/19/2007
No. 27973	6th Jud Dist Luna JQ-03-11, CYFD v FRANCES C. (affirm)	12/19/2007
No. 27879	3rd Jud Dist Dona Ana CR-07-443, STATE v V ARTIAGA (reverse)	12/19/2007
No. 27702	11th Jud Dist San Juan JQ-03-23, CYFD v DONNA J (affirm)	12/19/2007
No. 27495	6th Jud Dist Luna DM-01-70, R HETHCOX v A SALAIZ (affirm)	12/19/2007

Slip Opinions for Published Opinions may be read on the Court's Web site:

<http://coa.nmcourts.com/documents/index.htm>

NO. 07-8300-34

IN THE MATTER OF THE AMENDMENTS OF RULES 2-103, 2-308, 2-601, 2-805, 6-103, 6-105, 6-106, 6-401, 6-601, 6-703, 8-103, 8-401, 8-703, 9-102, 9-102A, 9-102B, 9-103, 9-103A, 9-212A, 9-212C, 9-312, AND 9-312A FOR COURTS OF LIMITED JURISDICTION

ORDER

WHEREAS, this matter came on for consideration by the Court upon the recommendation of the Rules for Courts of Limited Jurisdiction Committee to adopt amendments to Rules 2-103, 2-308, 2-601, 2-805, 6-103, 6-105, 6-106, 6-401, 6-601, 6-703, 8-103, 8-401, 8-703, 9-102, 9-102A, 9-102B, 9-103, 9-103A, 9-212A, 9-212C, 9-312, and 9-312A for Courts of Limited Jurisdiction, and the Court having considered said recommendation and being sufficiently advised, Chief Justice Edward L. Chávez, Justice Patricio M. Serna, Justice Petra Jimenez Maes, and Justice Richard C. Bosson concurring;

NOW, THEREFORE, IT IS ORDERED that the amendments to Rules 2-103, 2-308, 2-601, 2-805, 6-103, 6-105, 6-106, 6-401, 6-601, 6-703, 8-103, 8-401, 8-703, 9-102, 9-102A, 9-102B, 9-103, 9-103A, 9-212A, 9-212C, 9-312, and 9-312A hereby are APPROVED;

IT IS FURTHER ORDERED that the amendments to Rules 2-103, 2-308, 2-601, 2-805, 6-103, 6-105, 6-106, 6-401, 6-601, 6-703, 8-103, 8-401, 8-703, 9-102, 9-102A, 9-102B, 9-103, 9-103A, 9-212A, 9-212C, 9-312, and 9-312A shall be **effective for cases filed on or after January 22, 2008**;

IT IS FURTHER ORDERED that the Clerk of the Court hereby is authorized and directed to give notice of the amendments by publishing the same in the *Bar Bulletin* and NMRA.

DONE at Santa Fe, New Mexico, this 28th day of November, 2007.

Chief Justice Edward L. Chávez
Justice Patricio M. Serna
Justice Petra Jimenez Maes
Justice Richard C. Bosson

2-103. Rules and forms.

A. **Rules.** Each magistrate court or division thereof may from time to time make and amend rules governing its practice not inconsistent with law, these rules or regulations prescribed by the administrative office of the courts. Such rules may relate to office hours and procedures, to the performance of clerical duties by clerical assistants and to other procedures for effecting a just, speedy and inexpensive determination of causes pending before such court. Proposed rules or amendments shall be submitted to the director of the administration office of the courts and shall not become effective until approved by the director.

B. **Forms.** Forms used or distributed by the magistrate courts shall be submitted to the director of the administrative office of the courts and shall not become effective until approved by the director. A party may file a pleading or paper that is substantially

in the form approved by the Supreme Court. Forms may be combined.

2-308. Offer of settlement.

Except as provided in this rule, at any time more than ten (10) days before the trial begins, any party may serve upon any adverse party an offer to allow an appropriate judgment to be entered in the action in accordance with the terms and conditions specified in the offer. A claimant may not make an offer of settlement under this rule until thirty (30) days after the filing of a responsive pleading by the party defending against that claim. If within ten (10) days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon such judgment may be entered as the court may direct. An offer not accepted shall be deemed withdrawn and evidence thereof is not admissible except in a proceeding to determine costs.

If an offer of settlement made by a claimant is not accepted and the judgment finally obtained by the claimant is more favorable than the offer, the defending party must pay the claimant's costs, excluding attorney fees, including double the amount of costs incurred after the making of the offer. If an offer of settlement made by a defending party is not accepted and the judgment finally obtained by the claimant is not more favorable than the offer, the claimant shall pay the costs, excluding attorney fees, incurred by the defending party after the making of the offer and shall not recover costs incurred thereafter.

The fact that an offer has been made but not accepted does not preclude a subsequent offer. When the liability of one party to another has been determined by verdict or order or judgment, but the amount or extent of the liability remains to be determined by further proceedings, any party may make an offer of settlement, which shall have the same effect as an offer made before trial if it is served within a reasonable time not less than ten (10) days prior to the commencement of hearings to determine the amount or extent of liability.

2-601. Conduct of trials.

A. **Continuances.** Continuances shall be granted for good cause shown at any stage of the proceedings.

B. **Evidence.** Evidence shall be admitted in accordance with the New Mexico Rules of Evidence. At his own expense and for the purpose of preserving testimony, a party may cause a record, as defined in Rule 2-109, to be made. The trial shall be conducted expeditiously, but each party shall be permitted to present his position amply and fairly.

C. **Oath of witnesses.** The magistrate shall administer the following oath to each witness: "You do solemnly swear (or affirm) that the testimony you give is the truth, the whole truth and nothing but the truth under penalty of perjury?"

D. **Competence of court interpreter.** Any party in interest or the court on its own motion may question the interpreter under oath as to the interpreter's fitness, competence or impartiality. If the judge finds that the interpreter is incompetent, partial or otherwise unfit, the interpreter shall be prohibited from acting as an interpreter during the hearing. Interpreters certified by the Administrative Office of the Courts are presumed competent.

Committee Commentary

This rule is meant to operate in reference to the Court Interpreters Act, Sections 38-10-1 to 38-10-8 NMSA 1978.

2-805. Mediation.

A. Purpose. The purpose of mediation programs in the magistrate courts is the early, efficient, cost-effective and informal resolution of disputes.

B. Administration. Mediation shall be administered by a court. Mediators shall be volunteers who have been (1) certified by the Administrative Office of the Courts as qualified to conduct mediations in the magistrate courts and (2) approved by the local presiding judge.

C. Order required. All referrals to mediation require a written court order. When the court orders mediation, notice shall be provided and the parties shall appear and mediate in good faith. Nothing in the rules governing the mediation programs shall be construed to require settlement. Nothing in the rules governing the mediation programs shall be construed to discourage or prohibit parties from stipulating to private alternative dispute resolution.

D. Immunity. Persons certified by the Administrative Office of the Courts to serve as mediators under these rules are appointed to serve as arms of the court and as such are immune from liability for conduct within the scope of their appointment.

E. Confidentiality. Mediation proceedings shall be held in private and shall be confidential as provided by law.

F. Report to the court. No report of the content of mediation shall be made to the court. The mediator shall inform the court by written report of the result of the mediation session. If the mediation process is successful, the mediator shall reduce the agreement to writing on a form to be signed by the parties.

G. Costs. If a party fails to appear as ordered by the court for mediation, and the other party or parties appear, the court may, after a hearing, assess costs against a party who fails to appear as ordered for a mediation to reimburse the party or parties who did appear for attorney fees or lost wages.

Committee Commentary

The committee feels that mandatory attendance at mediation serves the same purpose as mandatory attendance at a pretrial conference and will serve to encourage voluntary settlement.

6-103. Rules and forms.

A. Rules. Each magistrate court or division thereof may from time to time make and amend rules governing its practice not inconsistent with law, these rules or regulations prescribed by the administrative office of the courts. Such rules may relate to office hours and procedures, to the performance of clerical duties by clerical assistants and to other procedures for effecting a just, speedy and inexpensive determination of causes pending before such court. Proposed rules or amendments shall be submitted to the director of the administration office of the courts and shall not become effective until approved by the director.

B. Forms. Forms used or distributed by the magistrate courts shall be submitted to the director of the administrative office of the courts and shall not become effective until approved by the director. A party may file a pleading or paper that is substantially in the form approved by the Supreme Court. Forms may be combined.

6-105. Assignment and designation of judges.

A. Assignment. In those courts which have a presiding magistrate, the presiding magistrate shall assign cases among the

judges of the court as equitably as possible on a random basis. Once a judge is assigned to hear a case that judge shall have sole responsibility for the case and no other judge may take any action on the case except:

(1) at arraignment or first appearance;

(2) in cases where the judge has been reassigned because the assigned judge has been recused, is excused, is sick or otherwise unavailable and another judge has been assigned; or

(3) with the approval of the assigned judge and all of the parties.

B. Reassignment.

(1) Courts with presiding magistrates. In magistrate courts which have a presiding magistrate, upon receipt of a notice of excusal or upon recusal, the magistrate or clerk of the magistrate court shall give written notice to the parties to the action.

(a) Recusal. Upon recusal, the presiding magistrate of the court shall assign another magistrate judge to preside over the case.

(b) Excusal. Upon the filing of a notice of excusal, the judge or clerk of the court shall give written notice to the parties to the action. Upon the filing of a notice of excusal, the parties or their counsel may agree to another judge of the magistrate district to preside over the case and this agreement shall be contained in the notice of excusal.

(c) Reassignment. If the parties fail to agree on a judge, the presiding judge shall, within ten (10) days, randomly reassign the case unless the presiding judge determines that there are other justifiable reasons to assign a case to a particular judge and the reason is included in the notice of reassignment.

(d) Certification to district court. If all magistrates in the district have been excused or have recused themselves, within ten (10) days after service of the last notice of excusal or recusal, the presiding magistrate shall certify that fact by letter to the district court of the county in which the action is pending and the district court shall designate another magistrate to conduct any further proceedings. The district court shall send notice of its designation to the parties or their counsel, to the excused or recused magistrate and to the designated magistrate.

(2) Other courts. In magistrate courts which do not have a presiding magistrate, upon receipt of a notice of excusal or upon recusal, the magistrate shall give written notice to the parties to the action.

(a) Recusal. Upon recusal, another magistrate judge of the magistrate district shall be randomly assigned to preside over the case.

(b) Excusal. Upon the filing of the notice of excusal, the parties or their counsel may agree to another judge of the magistrate district to preside over the case. This agreement shall be contained in the Notice of Excusal. Upon excusal, another magistrate judge of the magistrate district shall be randomly assigned to preside over the case.

(c) Certification to district court. If all the magistrates in the magistrate district have recused themselves or been excused, within ten (10) days after filing of the last notice of recusal or excusal, the magistrate of the court where the action was first filed shall certify that fact by letter to the district court of the county in which the action is pending and the district court shall designate another magistrate to conduct any further proceedings. The district court shall send notice of its designation to the parties or their counsel, to the excused magistrate and to the designated magistrate.

C. **Assignment out-of-district.** If a criminal proceeding is filed against a judge or an employee of the magistrate district in which a criminal proceeding is pending, no judge of the magistrate district may hear the matter without written agreement of the parties. If within ten (10) days after the proceeding is filed, the parties have not filed a stipulation designating a judge to preside over the matter, the clerk shall request the district court to designate a judge. The district court shall send notice of its designation to the parties or their counsel and to the magistrate court.

D. **Reassignment to multiple cases.** The district judge may designate a magistrate from another magistrate district to sit in actions arising in a particular magistrate district for a specific period of time.

E. **Subsequent proceedings.** All proceedings shall be conducted in the original magistrate court, except that with the consent of all parties and the assigned judge, proceedings may be held in another magistrate court in the same judicial district in which the original magistrate court is located. The clerk of the original magistrate court shall continue to be responsible for the court file and shall perform such further duties as may be required. Within five (5) days after assignment or designation of a new judge, the clerk shall make a copy of the court file for the designated judge.

F. **Unavailability of judge.** At any time during the pendency of the proceedings if the assigned judge is unavailable, the assigned judge may designate another judge of the magistrate district to hear any matter that is not dispositive of the case or the parties may agree on another judge to hear any matter, including the merits of the case. The agreement is subject to the approval of the assigned judge and the judge agreed upon by the parties. If another judge is agreed upon to hear the merits of the case, the case shall be reassigned to that judge.

6-106. Excusal; recusal; disability.

A. **Definition of parties.** "Party" as used in this rule means the defendant, the state, a municipality, a county or person filing the complaint or an attorney representing the defendant, the state, county, municipality or other party.

B. **Excusal.** Whenever a party to any criminal action or proceeding of any kind files a notice of excusal, the judge's jurisdiction over the cause terminates immediately.

C. **Limitation on excusals.** No party shall excuse more than one judge. A party may not excuse a judge after the party has requested that judge to perform any discretionary act other than conducting an arraignment or first appearance, setting initial conditions of release or a determination of indigency. No judge may be excused from conducting an arraignment or first appearance or setting initial conditions of release. Any excusal of a judge scheduled to hear a preliminary hearing must be filed at least four (4) days prior to the hearing.

D. **Excusal procedure.** A party may exercise the statutory right to excuse the judge before whom the case is pending by filing with the clerk of the court a notice of excusal. The notice of excusal must be signed by a party and filed within ten (10) days after the later of:

(1) arraignment or the filing of a waiver of arraignment; or

(2) service on the parties by the court of notice of assignment or reassignment of the case to a judge.

E. **Notice of reassignment; service of excusal.** If the case is reassigned to a different judge, the court shall give notice of the reassignment to all parties. Any party electing to excuse a judge

shall serve notice of such election on all parties.

F. **Recusal; procedure.** No magistrate shall sit in any action in which the judge's impartiality may reasonably be questioned under the provisions of the Constitution of New Mexico or the Code of Judicial Conduct, and the judge shall file a certificate of recusal in any such action. Upon receipt of notification of recusal from a judge, the clerk of the magistrate court shall give written notice to each party. Upon recusal, another judge shall be assigned or designated to conduct any further proceedings in the action in the manner provided by Rule 6-105 NMRA.

G. **Failure to recuse.** If a party believes that the judge's impartiality may reasonably be questioned under the provisions of the Constitution of New Mexico or the Code of Judicial Conduct, the party may file a notice of facts requiring recusal. The notice shall specifically set forth the constitutional grounds alleged. Upon receipt of the notice, the judge may file a certificate of recusal in the action or enter an order finding that there are not reasonable grounds for recusal. If within ten (10) days after the filing of notice of facts requiring recusal, the judge fails to file a certificate of recusal in the action, any party may certify that fact by letter to the district court of the county in which the action is pending with a copy of the notice of recusal. No filing fee shall be required for the filing of a letter certifying grounds for recusal described in Paragraph F of this rule. The party's certification to the district court shall be filed in the district court not less than five (5) days after the expiration of time for the magistrate court judge to file a certificate of recusal or not less than five (5) days after the filing of an order in the magistrate court finding the grounds alleged in the notice of recusal do not constitute reasonable grounds for recusal, whichever date is earlier. A copy of the letter shall also be filed with the magistrate court. The district court shall make such investigation as the court deems warranted and enter an order in the action, either prohibiting the magistrate court judge from proceeding further or finding that there are insufficient grounds to reasonably question the magistrate court judge's impartiality under the provisions of the Constitution of New Mexico or the Code of Judicial Conduct.

H. **Stay.** If a letter is filed with the district court and magistrate court certifying the issue of recusal to the district court pursuant to Paragraph G of this rule, the magistrate court judge may enter a stay of the proceedings pending action by the district court. If the magistrate court judge fails to stay the proceedings, the party filing the letter in the district court may petition the district court for a stay of magistrate court proceedings. The district court may grant a stay of the proceedings for not more than fifteen (15) days after the filing of a letter certifying a recusal issue to the district court. Unless a stay is granted, the magistrate court judge shall proceed with the adjudication of the merits of the proceedings.

I. **Inability of a judge to proceed.** If a trial or hearing has been commenced and the judge is unable to proceed, any other judge of the district may proceed with it upon certifying familiarity with the record and determining that the proceedings in the case may be completed without prejudice to the parties. The successor judge may recall any witness. If no other judge is available in the district, either party may certify that fact by letter to the district court of the county in which the action is pending. The district court may make such investigation as the court deems warranted. If the court finds that the magistrate is in fact disabled or unavailable, the court shall designate another judge to preside over the case.

6-401. Bail.

A. Right to bail. The court shall not deny bail before conviction to a person charged with an offense within the court's trial jurisdiction. Pending trial, any person bailable under Article 2, Section 13 of the New Mexico Constitution, shall be ordered released pending trial on his personal recognizance or upon the execution of an unsecured appearance bond in an amount set by the court, subject to any release conditions imposed pursuant to Paragraph C of this rule, unless the court determines that such release will not reasonably assure the appearance of the person as required. If the court finds that the defendant poses a danger to the complaining witness or alleged victim, the court may refuse to allow the complaining witness or alleged victim to post bond for the defendant. This rule does not prevent the use of community funds to post a bond. If the court determines that release on personal recognizance or upon execution of an unsecured appearance bond will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community, in addition to any release conditions imposed pursuant to Paragraph C of this rule, the court shall order the pretrial release of such person subject to the first of the following types of secured bonds which will reasonably assure the appearance of the person as required and the safety of any person and the community:

(1) the execution of a bail bond in a specified amount executed by the person and secured by a deposit of cash of ten percent (10%) of the amount set for bail or secured by such greater or lesser amount as is reasonably necessary to assure the appearance of the person as required. The cash deposit may be made by or assigned to a paid surety licensed under the Bail Bondsmen Licensing Law [59-51-1 NMSA 1978] provided such paid surety also executes a bail bond for the full amount of the bail set;

(2) the execution of a bail bond by the defendant or by unpaid sureties in the full amount of the bond and the pledging of real property as required by Rule 6-401A NMRA; or

(3) the execution of a bail bond with licensed sureties as provided in Rule 6-401B NMRA or execution by the person of an appearance bond and deposit with the clerk of the court, in cash, of one-hundred percent (100%) of the amount of the bail set, such deposit to be returned as provided in this rule.

Any bail, property or appearance bond shall be substantially in the form approved by the Supreme Court.

B. Factors to be considered in determining conditions of release. The court shall, in determining the type of bail and which conditions of release will reasonably assure appearance of the person as required and the safety of any other person and the community, take into account the available information concerning:

(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug;

(2) the weight of the evidence against the person;

(3) the history and characteristics of the person, including:

(a) the person's character and physical and mental condition;

(b) the person's family ties;

(c) the person's employment status, employment history and financial resources;

(d) the person's past and present residences;

(e) the length of residence in the community;

(f) any facts tending to indicate that the person has strong ties to the community;

(g) any facts indicating the possibility that the person will commit new crimes if released;

(h) the person's past conduct, history relating to drug or alcohol abuse, criminal history and record concerning appearance at court proceedings; and

(i) whether, at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial, sentencing, appeal or completion of an offense under federal, state or local law;

(4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release; and

(5) any other facts tending to indicate the person is likely to appear.

C. Additional conditions; conditions to assure orderly administration of justice. The court, upon release of the defendant or any time thereafter, may enter an order, that such person's release be subject to:

(1) the condition that the person not commit a federal, state or local crime during the period of release; and

(2) the least restrictive of, or combination of, the following conditions the court finds will reasonably assure the appearance of the person as required, the safety of any other person and the community and the orderly administration of justice:

(a) a condition that the person remain in the custody of a designated person who agrees to assume supervision and to report any violation of a release condition to the court, if the designated person is able reasonably to assure the court that the person will appear as required and will not pose a danger to the safety of any other person or the community;

(b) a condition that the person maintain employment, or, if unemployed, actively seek employment;

(c) a condition that the person maintain or commence an educational program;

(d) a condition that the person abide by specified restrictions on personal associations, place of abode or travel;

(e) a condition that the person avoid all contact with an alleged victim of the crime and with a potential witness who may testify concerning the offense;

(f) a condition that the person report on a regular basis to a designated pretrial services agency or other agency agreeing to supervise the defendant;

(g) a condition that the person comply with a specified curfew;

(h) a condition that the person refrain from possessing a firearm, destructive device or other dangerous weapon;

(i) a condition that the person refrain from excessive or any use of alcohol and any use of a narcotic drug or other controlled substance without a prescription by a licensed medical practitioner;

(j) a condition that the person undergo available medical, psychological or psychiatric treatment, including treatment for drug or alcohol dependency, and remain in a specified institution if required for that purpose;

(k) a condition that the person submit to a urine analysis or alcohol test upon request of a person designated by the court;

(l) a condition that the person return to custody for specified hours following release for employment, schooling, or other limited purposes;

(m) a condition that the person satisfy any other condition that is reasonably necessary to assure the appearance of the person as required and to assure the safety of any other person and the community.

D. Explanation of conditions by court. The release order of the court shall:

(1) include a written statement that sets forth all the conditions to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the person's conduct;

(2) advise the person of:

(a) the penalties for violating a condition of release, including the penalties for committing an offense while on pretrial release;

(b) the consequences for violating a condition of release, including the immediate issuance of a warrant for the person's arrest; and

(c) the consequences of intimidating a witness, victim or informant or otherwise obstructing justice; and

(3) unless the defendant is released on personal recognizance, set forth the circumstances which requires that bail be set.

E. Detention. Upon motion by the state to detain a person without bail pending trial, the court shall hold a hearing to determine whether bail may be denied pursuant to Article 2, § 1 of the New Mexico Constitution.

F. Review of conditions of release. A person for whom conditions of release are imposed or bail is set by the magistrate court and who after twenty-four (24) hours from the time of transfer to a detention facility continues to be detained as a result of his inability to meet the conditions of release or bail set, shall, upon application, be entitled to have a hearing to review the conditions imposed or amount of bail set. Unless the release order is amended and the person is thereupon released, the court shall state in the record the reasons for continuing the amount of bail set. A person who is ordered released on a condition which requires that he return to custody after specified hours, upon application, shall be entitled to have a hearing to review the conditions imposed. Unless the requirement is removed and the person is thereupon released on another condition, the court shall state in the record the reason for the continuation of the requirement. A hearing to review conditions of release pursuant to this paragraph shall be held by the court imposing the conditions.

G. Amendment of conditions. The court ordering the release of a person on any condition specified in this rule may amend its order at any time to increase or reduce the amount of bail set or impose additional or different conditions of release. If such amendment of the release order results in the detention of the person as a result of his inability to meet such conditions or in the release of the person on a condition requiring him to return to custody after specified hours, the provisions of Paragraph F of this rule shall apply.

H. Return of cash deposit. If a person has been released by executing an appearance bond and depositing a cash deposit set pursuant to Subparagraph (1) or (3) of Paragraph A of this rule, when the conditions of the appearance bond have been performed and the defendant for whom bail was required has been discharged from all obligations, the clerk shall return to the payor as indicated in the cash receipt.

I. Petition to district court. A person charged with an offense which is not within magistrate court trial jurisdiction and who has not been bound over to the district court may file a petition at any time after his arrest with the clerk of the district court for

release pursuant to this rule. Jurisdiction of the magistrate court to release the accused shall be terminated upon the filing of a petition for release in the district court. Upon the filing of the petition, the district court may proceed in accordance with Rule 5-401 of the Rules of Criminal Procedure for the District Courts. Any bail set or condition of release imposed by the magistrate court shall continue in effect pending determination of conditions of release by the district court. If, after forty-eight (48) hours from the time the petition is filed, the district court has not taken any action on the petition, the court shall be deemed, at that time, to have continued any bail set or condition of release imposed by the magistrate court.

J. Release from custody by designee. Any or all of the provisions of this rule, except the provisions of Paragraphs E, F and G of this rule, may be carried out by responsible persons designated in writing by the presiding judge of the magistrate court. The designated responsible person must utilize the form of receipt authorized by the Supreme Court. No person shall be qualified to serve as a designee if such person or such person's spouse is:

(1) related within the second degree of blood or marriage to a paid surety who is licensed to sell property or corporate bonds within this state; or

(2) employed by a jail or detention facility unless designated in writing by the presiding judge of the magistrate district in which the jail or detention facility is located.

K. Evidence. Information stated in, or offered in connection with, any order entered pursuant to this rule need not conform to the Rules of Evidence.

L. Forms. Instruments required by this rule shall be substantially in the form approved by the Supreme Court.

M. Judicial discretion. Action by any court on any matter relating to bail shall not preclude the statutory or constitutional disqualification of a judge.

6-601. Conduct of trials.

A. Continuances. Continuances shall be granted for good cause shown at any stage of the proceedings.

B. Evidence. Evidence shall be admitted in accordance with the New Mexico Rules of Evidence. The trial shall be conducted expeditiously, but each party shall be permitted to present the position of that party amply and fairly.

C. Oath of witnesses. The court shall administer an oath or affirmation to each witness substantially in the following form: "Do you solemnly swear or affirm that the testimony you give is the truth, the whole truth and nothing but the truth, under penalty of perjury"?

D. Record of proceedings. With prior approval of the judge, a party in a magistrate court proceeding or any person with a claim arising out of the same transaction or occurrence giving rise to the magistrate court proceeding may, at the party's or person's expense, make a record of the testimony in the magistrate court proceeding. Any person causing a record of testimony to be made pursuant to this rule shall make a copy of the transcription available to all parties in the magistrate court proceeding.

E. Use at trial. A record of the testimony of a witness may only be used in the magistrate court in:

(1) civil proceedings when permitted by the Rules of Civil Procedure for the Magistrate Courts; and

(2) criminal proceedings if it is admissible under the Rules of Evidence.

F. Form of record.

(1) If the record is a stenographic or voice to print real time transcript, the court reporter shall transcribe the record prior to use in the magistrate court.

(2) If the record is an audiotape or videotape recording made pursuant to this rule, the person seeking to use the record in the magistrate court pursuant to this rule shall be responsible for having available appropriate playback equipment and an operator.

(3) If only part of the record of the proceedings is offered in evidence, any adverse party may require the offeror to offer any other part relevant to the part offered, and any party may introduce any other parts, subject to the Rules of Evidence.

G. Copies. At the request of any party to the proceeding or the deponent, a person who makes an audio or video record of testimony in the magistrate court shall:

(1) permit any other party or the deponent to review a copy of the audiotape or videotape and the original exhibits, if any; and

(2) furnish a copy of the audiotape or videotape in the format in which it was recorded to the requesting party on receipt of payment of the reasonable cost of making the copy.

H. Definition. As used in this rule, "record" means:

(1) stenographic notes which must be transcribed prior to use pursuant to this rule;

(2) a realtime voice-to-print recording which must be transcribed prior to use pursuant to this rule;

(3) a statement of facts stipulated to by the parties; or

(4) any audio or video recording.

I. Competence of court interpreter. Any party in interest or the court on its own motion may question the interpreter under oath as to the interpreter's fitness, competence or impartiality. If the judge finds that the interpreter is incompetent, partial or otherwise unfit, the interpreter shall be prohibited from acting as an interpreter during the hearing. Interpreters certified by the Administrative Office of the Courts are presumed competent.

Committee Commentary

This rule is meant to operate in reference to the Court Interpreters Act, Sections 38-10-1 to 38-10-8 NMSA 1978.

6-703. Appeal.

A. Right of appeal. A party who is aggrieved by the judgment or final order in a criminal action may appeal, as permitted by law, to the district court of the county within which the magistrate court is located. The notice of appeal shall be filed in the district court within fifteen (15) days after the judgment or final order appealed from is filed in the magistrate court clerk's office. The three (3) day mailing period set forth in Rule 6-104 NMRA does not apply to the time limits set forth above. A notice of appeal filed after the announcement of a decision, or return of the verdict, but before the judgment or order is filed in the magistrate court clerk's office, shall be treated as timely filed. Notwithstanding any other provision of this rule, no docket fee or other cost shall be imposed against the state or its political subdivisions or against a defendant who is represented by a public defender or court appointed counsel.

B. Notice of appeal. An appeal from the magistrate court is taken by:

(1) filing with the clerk of the district court a notice of appeal with proof of service; and

(2) promptly filing with the magistrate court:

(a) a copy of the notice of appeal which has been endorsed by the clerk of the district court; and

(b) unless the appeal has been filed by the state, a political subdivision of the state or by a defendant represented by a public defender or court appointed counsel, a copy of the receipt of payment of the docket fee.

C. Content of the notice of appeal. The notice of appeal shall be substantially in the form approved by the Supreme Court.

D. Service of notice of appeal. At the time the notice of appeal is filed in the district court, the appellant shall:

(1) serve each party or each party's attorney in the proceedings in the magistrate court with a copy of the notice of appeal in accordance with Rule 5-103 of the Rules of Criminal Procedure for the District Courts; and

(2) file proof of service with the clerk of the district court that a copy of the notice of appeal has been served in accordance with Rule 5-103 NMRA.

E. Docketing the appeal. Upon the filing of the notice of appeal and proof of service and payment of the docket fee, if required, the clerk of the district court shall docket the appeal in the district court.

F. Record on appeal. Within fifteen (15) days after the appellant files a copy of the notice of appeal in the magistrate court pursuant to Paragraph B of this rule, the magistrate court shall file with the clerk of the district court the record on appeal taken in the action in the magistrate court. For purposes of this rule, the record on appeal shall consist of:

(1) a title page containing the caption of the case in the magistrate court and the names and mailing addresses of each party or, if the party is represented by counsel, the name and address of the attorney;

(2) a copy of all papers and pleadings filed in the magistrate court;

(3) a copy of the judgment or final order sought to be reviewed with date of filing; and

(4) any exhibits.

The magistrate court clerk shall give prompt notice to all parties of the filing of the record on appeal with the district court.

Any party desiring a copy of the record on appeal shall be responsible for paying the cost of preparing the copy.

G. Correction or modification of the record. If anything material to either party is omitted from the record on appeal by error or accident, the parties by stipulation, or the magistrate court or the district court, on proper suggestion or on its own initiative, may direct that the omission be corrected and a supplemental record transmitted to the district court.

H. Conditions of release. At the time of the entry of the judgment and sentence, the magistrate court shall review the conditions of release pending appeal to assure the conditions are sufficient to secure the appearance of the defendant and the judgment of the magistrate court. The magistrate court may utilize the criteria listed in Paragraph B of Rule 6-401 NMRA, and may also consider the fact of defendant's conviction and the length of sentence imposed. The conditions of release shall be included on the judgment and sentence. A defendant released pending trial shall continue on release pending an appeal to the district court under the same terms and conditions as previously imposed, unless the court determines that other terms and conditions are necessary to assure the defendant's appearance or to assure that the defendant's conduct will not obstruct the orderly administration of justice. In the event the court requires a bail bond in the same amount as that established for release pending trial, the bond

previously furnished shall continue pending appeal or disposition of a motion for a new trial, unless the surety has been discharged by order of the court. If the court determines that the previously imposed conditions are not sufficient to assure the appearance of the defendant or the orderly administration of justice, the court may increase the amount of the bond on appeal or terminate the conditions of release to assure the appearance of the defendant or the orderly administration of justice. Nothing in this rule shall be construed to prevent the court from releasing a person not released prior to or during trial. Upon filing of the notice of appeal, the bond shall be transferred to the district court pending disposition of the appeal. The district court shall dispose of all matters relating to the bond until remand to the magistrate court.

I. Review of terms of release. If the magistrate court has refused release pending appeal or has imposed conditions of release which the defendant cannot meet, the defendant may file a petition for release with the clerk of the district court at any time after the filing of the notice of appeal. A copy of the petition for release which has been endorsed by the clerk of the district court shall be filed with the magistrate court. If the district court releases the defendant on appeal, a copy of the order of release shall be filed in the magistrate court.

J. Trial de novo appeals. Trials upon appeals from the magistrate court to the district court shall be de novo.

K. Notice; trial de novo appeals. In trial de novo appeals, the clerk of the district court shall give notice to all parties of the time and date set for a trial de novo not less than ten (10) days prior to the date set for trial. If the defendant is represented by counsel, the clerk shall give written notice to the defendant and the defendant's counsel. Notice to the defendant shall be mailed to the defendant's last known address.

L. Disposition; time limitations. The time for trial in the district court on a de novo appeal shall be within six (6) months after the filing of the notice of appeal or the events described in Rule 5-604(B)(2), (3), (4) or (8) of the Rules of Criminal Procedure for the District Courts. Any appeal pending without disposition upon expiration of the time for trial shall be dismissed and the cause remanded to the magistrate court for enforcement of its judgment.

M. Extension of time. The time limit specified in Paragraph L of this rule may be extended one time for a period not exceeding ninety (90) days upon a showing of good cause to a justice of the Supreme Court. The party seeking an extension of time shall file with the clerk of the Supreme Court a verified petition for extension concisely stating the facts petitioner deems to constitute good cause to extend the time period for trial. The petition shall be filed within the six (6) month period, except that it may be filed within ten (10) days after the expiration of the six (6) month period if it is based on exceptional circumstances beyond the control of the party or trial court which justify the failure to file the petition within the six (6) month period. A party seeking an extension of time shall promptly serve a copy on opposing counsel. Within five (5) days after service of the petition, opposing counsel may file an objection to the extension setting forth the reasons for the objection. No hearing shall be held except upon order of the Supreme Court. If the Supreme Court finds that there is good cause for the granting of an extension beyond the six (6) month period, it shall fix the time limit within which the defendant must be tried. No other extension of time shall be allowed.

N. Procedure on appeal. Unless there is a conflict with this rule or Rules 6-702, 6-704 or 6-705 of these rules, the Rules

of Criminal Procedure for the District Courts shall govern the procedure on appeal from the magistrate court.

O. Disposal of appeals. The district court shall dispose of appeals by entry of a judgment or order disposing of the appeal. The court in its discretion may accompany the judgment or order with a formal or memorandum opinion. Opinions shall not be published and shall not be used as precedent in subsequent cases. A mandate shall be issued by the court upon expiration of whichever of the following events occurs latest:

(1) fifteen (15) days after entry of the order disposing of the case;

(2) fifteen (15) days after disposition of a motion for rehearing; or

(3) if a notice of appeal is filed, upon final disposition of the appeal.

P. Remand. Upon expiration of the time for appeal from the judgment or final order of the district court, if the relief granted is within the jurisdiction of the magistrate court, the district court shall remand the case to the magistrate court for enforcement of the district court's judgment.

Q. Appeal. Any aggrieved person may appeal from a judgment of the district court to the New Mexico Supreme Court or Court of Appeals, as authorized by law in accordance with the Rules of Appellate Procedure. The conditions of release and bond approved or continued in effect by the district court during the pendency of the appeal to the district court shall continue in effect pending appeal to the Court of Appeals, unless modified pursuant to Rule 12-205 of the Rules of Appellate Procedure.

R. Return of record. After final determination of the appeal, the clerk of the district court shall return the record on appeal to the magistrate court clerk.

8-103. Rules; forms; fees.

A. Rules.

(1) Each municipal court or division thereof may from time to time make and amend rules governing its practice not inconsistent with law or these rules. Such rules may relate to office hours and procedures, to the performance of clerical duties by clerical assistants and to other procedures for effecting a just, speedy and inexpensive determination of causes pending before such court.

(2) To be effective any rule promulgated by a municipal court and any amendments thereto shall be filed with the clerk of the court and made readily available to members of the public.

B. Forms. Forms used or distributed by the municipal courts shall be in the form approved by the Supreme Court. A party may file a pleading or paper that is substantially in the form approved by the Supreme Court. Forms may be combined.

C. Costs or fees prohibited. No costs or fees of any kind shall be collected by any court for any filing or proceeding under Rule 8-105 or 8-106.

8-401. Bail.

A. Right to bail. The court shall not deny bail before conviction to a person charged with an offense within the court's trial jurisdiction. Pending trial, any person bailable under Article 2, Section 13 of the New Mexico Constitution, shall be ordered released pending trial on his personal recognizance or upon the execution of an unsecured appearance bond in an amount set by the court, subject to any release conditions imposed pursuant to Paragraph C of this rule, unless the court determines that

such release will not reasonably assure the appearance of the person as required. If the court finds that the defendant poses a danger to the complaining witness or alleged victim, the court may refuse to allow the complaining witness or alleged victim to post bond for the defendant. This rule does not prevent the use of community funds to post a bond. If the court determines that release on personal recognizance or upon execution of an unsecured appearance bond will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community, in addition to any release conditions imposed pursuant to Paragraph C of this rule, the court shall order the pretrial release of such person subject to the first of the following types of secured bonds which will reasonably assure the appearance of the person as required and the safety of any person and the community:

(1) the execution of a bail bond in a specified amount executed by the person and secured by a deposit of cash of ten percent (10%) of the amount set for bail or secured by such greater or lesser amount as is reasonably necessary to assure the appearance of the person as required. The cash deposit may be made by or assigned to a paid surety licensed under the Bail Bondsmen Licensing Law [59A-51-1 NMSA 1978] provided such paid surety also executes a bail bond for the full amount of the bail set;

(2) the execution of a bail bond by the defendant or by unpaid sureties in the full amount of the bond and the pledging of real property as required by Rule 8-401A NMRA; or

(3) the execution of a bail bond with licensed sureties as provided in Rule 8-401B or execution by the person of an appearance bond and deposit with the clerk of the court, in cash, of one-hundred percent (100%) of the amount of the bail set, such deposit to be returned as provided in this rule.

Any bail, property or appearance bond shall be substantially in the form approved by the Supreme Court.

B. Factors to be considered in determining conditions of release. The court shall, in determining the type of bail and which conditions of release will reasonably assure appearance of the person as required and the safety of any other person and the community, take into account the available information concerning:

(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug;

(2) the weight of the evidence against the person;

(3) the history and characteristics of the person, including:

(a) the person's character and physical and mental condition;

(b) the person's family ties;

(c) the person's employment status, employment history and financial resources;

(d) the person's past and present residences;

(e) the length of residence in the community;

(f) any facts tending to indicate that the person has strong ties to the community;

(g) any facts indicating the possibility that the person will commit new crimes if released;

(h) the person's past conduct, history relating to drug or alcohol abuse, criminal history and record concerning appearance at court proceedings; and

(i) whether, at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending

trial, sentencing, appeal or completion of an offense under federal, state or local law;

(4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release; and

(5) any other facts tending to indicate the person is likely to appear.

C. Additional conditions; conditions to assure orderly administration of justice. The court, upon release of the defendant or any time thereafter, may enter an order, that such person's release be subject to:

(1) the condition that the person not commit a federal, state or local crime during the period of release; and

(2) the least restrictive of, or combination of, the following conditions the court finds will reasonably assure the appearance of the person as required, the safety of any other person and the community and the orderly administration of justice:

(a) a condition that the person remain in the custody of a designated person who agrees to assume supervision and to report any violation of a release condition to the court, if the designated person is able reasonably to assure the court that the person will appear as required and will not pose a danger to the safety of any other person or the community;

(b) a condition that the person maintain employment, or, if unemployed, actively seek employment;

(c) a condition that the person maintain or commence an educational program;

(d) a condition that the person abide by specified restrictions on personal associations, place of abode or travel;

(e) a condition that the person avoid all contact with an alleged victim of the crime and with a potential witness who may testify concerning the offense;

(f) a condition that the person report on a regular basis to a designated pretrial services agency or other agency agreeing to supervise the defendant;

(g) a condition that the person comply with a specified curfew;

(h) a condition that the person refrain from possessing a firearm, destructive device or other dangerous weapon;

(i) a condition that the person refrain from excessive or any use of alcohol and any use of a narcotic drug or other controlled substance without a prescription by a licensed medical practitioner;

(j) a condition that the person undergo available medical, psychological or psychiatric treatment, including treatment for drug or alcohol dependency, and remain in a specified institution if required for that purpose;

(k) a condition that the person submit to a urine analysis or alcohol test upon request of a person designated by the court;

(l) a condition that the person return to custody for specified hours following release for employment, schooling, or other limited purposes;

(m) a condition that the person satisfy any other condition that is reasonably necessary to assure the appearance of the person as required and to assure the safety of any other person and the community.

D. Explanation of conditions by court. The release order of the court shall:

(1) include a written statement that sets forth all the conditions to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the person's conduct;

(2) advise the person of:

(a) the penalties for violating a condition of release, including the penalties for committing an offense while on pretrial release;

(b) the consequences for violating a condition of release, including the immediate issuance of a warrant for the person's arrest; and

(c) the consequences of intimidating a witness, victim or informant or otherwise obstructing justice; and

(3) unless the defendant is released on personal recognizance, set forth the circumstances which requires that bail be set.

E. Review of conditions of release. A person for whom conditions of release are imposed or bail is set by the municipal court and who after twenty-four (24) hours from the time of transfer to a detention facility continues to be detained as a result of his inability to meet the conditions of release or bail set, shall, upon application, be entitled to have a hearing to review the conditions imposed or amount of bail set. Unless the release order is amended and the person is thereupon released, the court shall state in the record the reasons for continuing the amount of bail set. A person who is ordered released on a condition which requires that he return to custody after specified hours, upon application, shall be entitled to have a hearing to review the conditions imposed. Unless the requirement is removed and the person is thereupon released on another condition, the court shall state in the record the reason for the continuation of the requirement. A hearing to review conditions of release pursuant to this paragraph shall be held by the court imposing the conditions.

F. Amendment of conditions. The court ordering the release of a person on any condition specified in this rule may amend its order at any time to increase or reduce the amount of bail set or impose additional or different conditions of release. If such amendment of the release order results in the detention of the person as a result of his inability to meet such conditions or in the release of the person on a condition requiring him to return to custody after specified hours, the provisions of Paragraph E of this rule shall apply.

G. Return of cash deposit. If a person has been released by executing an appearance bond and depositing a cash deposit set pursuant to Subparagraph (1) or (3) of Paragraph A of this rule, when the conditions of the appearance bond have been performed and the defendant for whom bail was required has been discharged from all obligations, the clerk shall return to the payor as indicated in the cash receipt.

H. Release from custody by designee. Any or all of the provisions of this rule, except the provisions of Paragraphs E and F of this rule, may be carried out by responsible persons designated in writing by the presiding judge of the municipal court. The designated responsible person must utilize the form of receipt authorized by the Supreme Court. No person shall be qualified to serve as a designee if such person or such person's spouse is:

(1) related within the second degree of blood or marriage to a paid surety who is licensed to sell property or corporate bonds within this state; or

(2) employed by a jail or detention facility unless designated in writing by the presiding judge of the municipal court.

I. Evidence. Information stated in, or offered in connection with, any order entered pursuant to this rule need not conform to the Rules of Evidence.

J. Forms. Instruments required by this rule shall be substantially in the form approved by the Supreme Court.

K. Judicial discretion. Action by any court on any matter relating to bail shall not preclude the statutory or constitutional disqualification of a judge.

8-703. Appeal.

A. Right of appeal. A party who is aggrieved by the judgment or final order of the municipal court may appeal, as permitted by law, to the district court of the county within which the municipal court is located. The notice of appeal shall be filed in the district court within fifteen (15) days after the judgment or final order appealed from is filed in the municipal court. The three (3) day mailing period set forth in Rule 8-104 NMRA does not apply to the time limits set forth above. A notice of appeal filed after the announcement of a decision, or return of the verdict, but before the judgment or order is filed in the municipal court, shall be treated as timely filed. Notwithstanding any other provision of this rule, no docket fee or other cost shall be imposed against the municipality or against a defendant who is represented by a public defender or court appointed counsel.

B. Notice of appeal. An appeal from the municipal court is taken by:

(1) filing with the clerk of the district court a notice of appeal with proof of service; and

(2) promptly filing with the municipal court:

(a) a copy of the notice of appeal which has been endorsed by the clerk of the district court; and

(b) unless the appeal has been filed by the municipality or by a defendant represented by a public defender or court appointed counsel, a copy of the receipt of payment of the docket fee.

C. Content of the notice of appeal. The notice of appeal shall be substantially in the form approved by the Supreme Court.

D. Service of notice of appeal. At the time the notice of appeal is filed in the district court, the appellant shall:

(1) serve each party or each party's attorney in the proceedings in the municipal court with a copy of the notice of appeal in accordance with Rule 5-103 of the Rules of Criminal Procedure for the District Courts; and

(2) file proof of service with the clerk of the district court that a copy of the notice of appeal has been served in accordance with Rule 5-103 NMRA.

E. Docketing the appeal. Upon the filing of the notice of appeal and proof of service and payment of the docket fee, if required, the clerk of the district court shall docket the appeal in the district court.

F. Record on appeal. Within fifteen (15) days after the appellant files a copy of the notice of appeal in the municipal court pursuant to Paragraph B of this rule, the municipal court shall file with the clerk of the district court the record on appeal taken in the action in the municipal court. For purposes of this rule, the record on appeal shall consist of:

(1) a title page containing the caption of the case in the municipal court and the names and mailing addresses of each party or, if the party is represented by counsel, the name and address of the attorney;

(2) a copy of all papers and pleadings filed in the municipal court;

(3) a copy of the judgment or final order sought to be reviewed with date of filing; and

(4) any exhibits.

The municipal court clerk shall give prompt notice to all parties of the filing of the record on appeal with the district court.

Any party desiring a copy of the record on appeal shall be responsible for paying the cost of preparing the copy.

G. Correction or modification of the record. If anything material to either party is omitted from the record on appeal by error or accident, the parties by stipulation, or the municipal court or the district court, on proper suggestion or on its own initiative, may direct that the omission be corrected and a supplemental record transmitted to the district court.

H. Conditions of release. At the time of the entry of the judgment and sentence, the municipal court shall review the conditions of release pending appeal to assure the conditions are sufficient to secure the appearance of the defendant and the judgment of the municipal court. The municipal court may utilize the criteria listed in Paragraph B of Rule 8-401 NMRA, and may also consider the fact of defendant's conviction and the length of sentence imposed. The conditions of release shall be included on the judgment and sentence. A defendant released pending trial shall continue on release pending an appeal to the district court under the same terms and conditions as previously imposed, unless the court determines that other terms and conditions are necessary to assure the defendant's appearance or to assure that the defendant's conduct will not obstruct the orderly administration of justice. In the event the court requires a bail bond in the same amount as that established for release pending trial, the bond previously furnished shall continue pending appeal or disposition of a motion for a new trial, unless the surety has been discharged by order of the court. If the court determines that the previously imposed conditions are not sufficient to assure the appearance of the defendant or the orderly administration of justice, the court may increase the amount of the bond on appeal or terminate the conditions of release to assure the appearance of the defendant or the orderly administration of justice. Nothing in this rule shall be construed to prevent the court from releasing a person not released prior to or during trial. Upon filing of the notice of appeal, the bond shall be transferred to the district court pending disposition of the appeal. The district court shall dispose of all matters relating to the bond until remand to the municipal court.

I. Review of terms of release. If the municipal court has refused release pending appeal or has imposed conditions of release which the defendant cannot meet, the defendant may file a petition for release with the clerk of the district court at any time after the filing of the notice of appeal. A copy of the petition for release which has been endorsed by the clerk of the district court shall be filed with the municipal court. If the district court releases the defendant on appeal, a copy of the order of release shall be filed in the municipal court.

J. Trial de novo appeals. Trials upon appeals from the municipal court to the district court shall be de novo.

K. Notice; trial de novo appeals. In trial de novo appeals, the clerk of the district court shall give notice to all parties of the time and date set for a trial de novo not less than ten (10) days prior to the date set for trial. If the defendant is represented by counsel, the clerk shall give written notice to the defendant and the defendant's counsel. Notice to the defendant shall be mailed to the defendant's last known address.

L. Disposition; time limitations. The time for trial in the district court on a de novo appeal shall be within six (6) months after the filing of the notice of appeal or the events described in Rule 5-604 (B) (2), (3), (4) or (8) of the Rules of Criminal Procedure for the District Courts. Any appeal pending without disposition upon expiration of the time for trial shall be dismissed

and the cause remanded to the municipal court for enforcement of its judgment.

M. Extension of time. The time limit specified in Paragraph L of this rule may be extended one time for a period not exceeding ninety (90) days upon a showing of good cause to a justice of the Supreme Court. The party seeking an extension of time shall file with the clerk of the Supreme Court a verified petition for extension concisely stating the facts petitioner deems to constitute good cause to extend the time period for trial. The petition shall be filed within the six (6) month period, except that it may be filed within ten (10) days after the expiration of the six (6) month period if it is based on exceptional circumstances beyond the control of the party or trial court which justify the failure to file the petition within the six (6) month period. A party seeking an extension of time shall promptly serve a copy on opposing counsel. Within five (5) days after service of the petition, opposing counsel may file an objection to the extension setting forth the reasons for the objection. No hearing shall be held except upon order of the Supreme Court. If the Supreme Court finds that there is good cause for the granting of an extension beyond the six (6) month period, it shall fix the time limit within which the defendant must be tried. No other extension of time shall be allowed.

N. Procedure on appeal. Unless there is a conflict with this rule or Rules 8-702, 8-704 or 8-705 of these rules, the Rules of Criminal Procedure for the District Courts shall govern the procedure on appeal from the municipal court.

O. Disposal of appeals. The district court shall dispose of appeals by entry of a judgment or order disposing of the appeal. The court in its discretion may accompany the judgment or order with a formal or memorandum opinion. Opinions shall not be published and shall not be used as precedent in subsequent cases. A mandate shall be issued by the court upon expiration of whichever of the following events occurs latest:

(1) fifteen (15) days after entry of the order disposing of the case;

(2) fifteen (15) days after disposition of a motion for rehearing; or

(3) if a notice of appeal is filed, upon final disposition of the appeal.

P. Remand. Upon expiration of the time for appeal from the judgment or final order of the district court, if the relief granted is within the jurisdiction of the municipal court, the district court shall remand the case to the municipal court for enforcement of the district court's judgment.

Q. Appeal. Any aggrieved person may appeal from a judgment of the district court to the New Mexico Supreme Court or Court of Appeals, as authorized by law in accordance with the Rules of Appellate Procedure. The conditions of release and bond approved or continued in effect by the district court during the pendency of the appeal to the district court shall continue in effect pending appeal to the Court of Appeals, unless modified pursuant to Rule 12-205 NMRA of the Rules of Appellate Procedure.

R. Return of record. After final determination of the appeal, the clerk of the district court shall return the record on appeal to the municipal court clerk.

9-102. Certificate of excusal or recusal.

[For use with District Court Rule 5-106
Metropolitan Court Rule 7-106
STATE OF NEW MEXICO

[COUNTY OF _____]
[CITY OF _____]
_____ COURT

No. _____

[STATE OF NEW MEXICO]
[COUNTY OF _____]
[CITY OF _____]

v.
_____, Defendant

CERTIFICATE OF EXCUSAL OR RECUSAL

I hereby certify that I have (been excused) (recused myself) from presiding in the above case and ten (10) days have passed since the parties were notified of such recusal or excusal and that the parties were notified and the parties have not filed a stipulation agreeing to another judge of the district to hear the case.

It is requested that another judge be designated according to law.

_____,
Date _____ Judge _____

USE NOTE

1. Each party must be served with a copy of this notice. See Criminal Form 9-221 for the certificate of service and affidavit of service.

9-102A. Certificate of excusal or recusal.

[For use with Magistrate Court Rule 6-106]
STATE OF NEW MEXICO

[COUNTY OF _____]
_____ COURT

No. _____

[STATE OF NEW MEXICO]
[COUNTY OF _____]

v.
_____, Defendant

CERTIFICATE OF EXCUSAL OR RECUSAL

I hereby certify that I have (recused myself) (been excused without an accompanying stipulation from the parties requesting a specific judge be assigned to the case) from presiding in the above case.

I request that another judge be designated according to law.

_____,
Date _____ Judge _____

USE NOTE

1. Each party must be served with a copy of this notice. See Rule 6-209 NMRA. See Criminal Form 9-221 for the certificate of service and affidavit of service.

9-102B. Certificate of recusal.

[For use with Municipal Court Rule 8-106]
STATE OF NEW MEXICO

CITY OF _____
_____ COURT

No. _____

STATE OF NEW MEXICO
CITY OF _____

v.
_____, Defendant

CERTIFICATE OF RECUSAL

I hereby certify that I have recused myself from presiding in the above case.

I request that another judge be designated according to law.

_____,
Date _____ Judge _____

USE NOTE

1. Each party must be served with a copy of this notice. See Rule 8-208 NMRA. See Criminal Form 9-221 for the certificate of service and affidavit of service.

9-103. Notice of excusal.

[For use with District Court Rule 5-106
STATE OF NEW MEXICO

COUNTY OF _____
_____ COURT

No. _____

STATE OF NEW MEXICO
v.

_____, Defendant

NOTICE OF EXCUSAL¹

The undersigned hereby notifies the court that the Honorable _____ is excused from presiding over the above-captioned case.

Dated this _____ day of _____, _____.

Party or attorney for the party

USE NOTE

1. Each party must be served with a copy of this notice. See Criminal Form 9-221 for the certificate of service and affidavit of service.

NEW FORM

9-103A. Notice of excusal.

[For use with Magistrate Court Rule 6-106]
STATE OF NEW MEXICO

COUNTY OF _____
_____ COURT

No. _____

STATE OF NEW MEXICO
COUNTY OF _____

v.
_____, Defendant

NOTICE OF EXCUSAL¹

The undersigned hereby notifies the court that the Honorable _____ is excused from presiding over the above-captioned case.

Dated this _____ day of _____, _____.

Party or attorney for the party

OPTIONAL STIPULATION

By our signatures below we stipulate that the Honorable _____ be assigned to preside over the above captioned case.

Dated this _____ day of _____, _____.

Party or attorney for the party
Dated this _____ day of _____, _____.

Party or attorney for the party

USE NOTES

1. The parties must stipulate to a statutorily authorized judge.
2. If the parties agree to request a different judge, the court must be informed of the agreement when the notice of excusal is filed. *See* Rule 6-105 NMRA.
3. Each party must be served with a copy of this notice. *See* Rule 6-209 NMRA. *See* Criminal Form 9-221 for the certificate of service and affidavit of service.

9-212A. Bench warrant.

[For use with Metropolitan Court Rule 7-207

STATE OF NEW MEXICO

[COUNTY OF _____]

[CITY OF _____]

_____ COURT

No. _____

[STATE OF NEW MEXICO]

[COUNTY OF _____]

[CITY OF _____]

v.

Defendant

DOB: _____

Address: _____

S.S.# _____

BENCH WARRANT

THE (STATE OF NEW MEXICO) (MUNICIPALITY OF _____)

TO ANY OFFICER AUTHORIZED TO EXECUTE THIS WARRANT:

YOU ARE HEREBY COMMANDED to arrest the above-named defendant and bring the defendant before this court to answer the following charges checked below unless released as indicated in the return:

(check applicable box and describe facts below)

failure to appear as ordered by this court on _____;

failure to appear as required by a subpoena issued by this court for _____;

failure to appear in accordance with the conditions of release imposed by this court for _____;

conditions of release previously imposed should be revoked or reviewed;

contempt of court for _____;

failure to pay fines or costs previously imposed by order entered _____ (date);

failure to comply with conditions of probation as set forth in an order entered _____ (date);

failure to appear at first offender program on _____;

other _____.

(set forth any additional essential facts underlying issuance of this warrant)

(check and complete, if applicable)

The defendant failed to appear either on a traffic citation (other than a citation issued for a violation listed in Section 66-8-122 or 66-8-125 NMSA 1978) or a citation issued by an official authorized by law and may be released on a plea of guilty and payment of \$_____ plus a \$100 bench warrant fee;¹
OR

The defendant failed to pay fines and costs and the defendant may be released upon payment of the outstanding fine and court costs in the amount of \$_____ plus a \$100 bench warrant fee;¹
OR

The defendant may be released on bond in the amount of \$_____. The bench warrant fee will be collected on appearance.

THIS WARRANT MAY BE EXECUTED:

in any jurisdiction;

anywhere in this state;

anywhere in this county;

anywhere in this city.

The clerk of this court shall cause this warrant to be entered into a law enforcement information system²:

maintained by the state police.

_____ *(identify other law enforcement information system).*

Date

Judge

RETURN

The defendant was arrested and taken into custody on the _____ day of _____, _____.

The defendant was released on bond in the amount set forth above.

The defendant was released upon receipt of the fine and court costs set forth above. I have caused this warrant to be removed from the law enforcement information system identified in this warrant.

Signature

Title

USE NOTES

1. A \$100 bench warrant fee is assessed in the metropolitan court pursuant to Section 34-8A-12 NMSA 1978.

2. All metropolitan court felony misdemeanor and driving while under the influence of intoxicating liquor or drugs warrants must be entered into a law enforcement information system.

9-212C. Bench warrant.

[For use with Magistrate Court Rule 6-207

and Municipal Court Rule 8-206]

STATE OF NEW MEXICO

[COUNTY OF _____]

[CITY OF _____]

_____ COURT

No. _____

[STATE OF NEW MEXICO]

[COUNTY OF _____]

[CITY OF _____]

v.

_____, Defendant

DOB: _____

Address: _____

S.S.# _____

BENCH WARRANT

THE (STATE OF NEW MEXICO) (MUNICIPALITY OF _____)

TO ANY OFFICER AUTHORIZED TO EXECUTE THIS WARRANT:

YOU ARE HEREBY COMMANDED to arrest the above-named defendant and bring the defendant before this court to answer the following charges checked below unless released as indicated in the return:

(check applicable box and describe facts below)

[] failure to appear as ordered by this court on _____;

[] failure to appear as required by a subpoena issued by this court for _____;

[] failure to appear in accordance with the conditions of release imposed by this court for _____;

[] conditions of release previously imposed should be revoked or reviewed;

[] contempt of court for _____;

[] failure to pay fines or costs previously imposed by order entered _____ (date);

[] failure to comply with conditions of probation as set forth in an order entered _____ (date);

[] failure to appear at first offender program on _____;

[] other _____.

(set forth any additional essential facts underlying issuance of this warrant)

(check and complete, if applicable)

[] **1. BOND:** The defendant may be released on **bond** in the amount of \$ _____. The bench warrant fee will be collected upon appearance.

[] **2. PAYMENT:** The defendant failed to appear either on a traffic citation (other than a citation issued for a violation listed in Section 66-8-122 or 66-8-125 NMSA 1978) or a citation issued by an official authorized by law and may be released on a plea of guilty and **payment** of \$ _____ plus a \$100 bench warrant fee¹.

[] **3. PAYMENT:** The defendant failed to pay fines and costs as ordered by the court and defendant may be released upon **payment** of the outstanding fine and court costs in the amount of \$ _____ plus a \$100 bench warrant fee¹.

THIS WARRANT MAY BE EXECUTED:

[] in any jurisdiction;

[] anywhere in this state;

[] anywhere in this county;

[] anywhere in this city.

The clerk of this court shall cause this warrant to be entered into a law enforcement information system²:

[] maintained by the state police.

[] _____ (identify other law enforcement information system).

Date

Judge

RETURN

The defendant was arrested and taken into custody on the _____ day of _____, _____.

[] The defendant was released on bond in the amount set forth above.

[] The defendant was released upon receipt of the fine and court costs set forth above.

I have caused this warrant to be removed from the law enforcement information system identified in this warrant.

Signature

Title

USE NOTES

1. A \$100 bench warrant fee is assessed in the magistrate court pursuant to Section 35-6-5 NMSA 1978.
2. All magistrate court felony misdemeanor and driving while under the influence of intoxicating liquor or drugs warrants must be entered into a law enforcement information system.
3. The warrant may be executed in "any jurisdiction" only if it is a felony warrant.
4. If the court checks alternative 1, it must also check alternative 3. If the court checks alternative 3, it may but is not required to check alternative 1.

9-312. Cash bond receipt and conversion after arrest on bench warrant.

[For use in the metropolitan court]

STATE OF NEW MEXICO

COUNTY OF _____

IN THE METROPOLITAN COURT

No. _____

[STATE OF NEW MEXICO]

[COUNTY OF _____]

[CITY OF _____]

v. _____, Defendant

CASH BOND RECEIPT AND

CONVERSION AFTER ARREST ON BENCH WARRANT

Defendant information:

Arrest date: _____

Date of birth: _____

Social security number: _____

Mailing address: _____

City, state & zip code: _____

Address (physical): _____

City, state & zip code: _____

Bond information:

Date bond posted: _____

Amount posted: _____

Bond posted by¹: _____

Date of birth: _____

Social security number¹: _____

Person paying bond's

mailing address¹: _____

City, state & zip code¹: _____

PERSON OTHER THAN DEFENDANT PAYING BOND:

(check applicable alternative and sign)

I agree I do not agree

that the cash I have posted may be used to pay any fines, fees or costs that the court may order the defendant to pay after the defendant's release from custody.

Signature of person posting cash

DEFENDANT: *(check applicable alternative and sign)*

I agree to appear in the _____ court on _____, _____ (date) at _____ (a.m.) (p.m.)

(This alternative may be used only when authorized by the bench warrant and by the person posting the bond.)

I plead guilty to the charges. I ask the court to use the bond for payment of fines, fees and costs instead of requiring me to appear before the court.

Signature of defendant

BOND RECEIVED BY:

Signature of clerk or bail designee

Title

Date

COURT EMPLOYEE RECEIVING PAYMENT:

Signature

Title

Date

USE NOTE

1. Complete if person posting bond is not the defendant.

NEW FORM

9-312A. Cash receipt.

[For use in the magistrate and municipal courts]

STATE OF NEW MEXICO

[COUNTY OF _____]

[CITY OF _____]

COURT No. _____

[STATE OF NEW MEXICO]

[COUNTY OF _____]

[CITY OF _____]

v. _____, Defendant

CASH RECEIPT

Defendant information:

Arrest date: _____

Date of birth: _____

Mailing address: _____

City, state & zip code: _____

Address (physical) (if different from mailing address): _____

City, state & zip code: _____

(include current mailing address in case a refund is due) (to be filled in only if \$10,000 or more is tendered in cash; required by Internal Revenue Service)

Social Security number of Defendant: _____

Complete if person posting cash is not Defendant

Cash information:

Date cash posted: _____

Amount posted: _____

Cash posted by: _____

Mailing address of person paying cash: _____

City, state & zip code: _____

(include current telephone number or contact information in case a refund is due)

PERSON OTHER THAN DEFENDANT PAYING CASH:

I understand that the cash I have posted will be used to pay any fines, fees or costs that the defendant owes if the court has ordered that the defendant may only be released upon the payment of such fines, fees and costs and that if this is so I will not be entitled to a refund, regardless of what I have checked below. If the court has not ordered that the defendant will only be released upon payment of fines, fees, and costs,

I agree

I do not agree

that the cash I have posted may be used to pay any fines, fees or costs that the court may order the defendant to pay after the defendant's release from custody.

Signature of person posting cash
(required)

DEFENDANT: *(If the defendant has been arrested on a failure to pay warrant, the defendant's signature is not required.)*

(This alternative may be used only when the defendant has failed to appear, the bench warrant authorizes release on payment of fines and fees, and the person posting the cash has checked the "I agree" box above.)

I plead guilty to the charges. I ask the court to use the cash for payment of fines, fees and costs instead of requiring me to appear before the court.

(This alternative may be used only when the bench warrant authorizes release of the defendant on bond, instead of payment of fines and fees.)

I agree to appear in the _____ court on _____, _____ (date) at _____ [a.m.] [p.m.]

Signature of defendant

CASH RECEIVED BY:

Signature of clerk or bail designee

Date

COURT EMPLOYEE RECEIVING PAYMENT:

Signature

Date

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New Mexico Court of Appeals opinions,
visit the Supreme Court's Web site at:

www.supremecourt.nm.org



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Ninth Judicial District – Prosecutor

The Ninth Judicial District Attorney's Office is seeking two prosecutors interested in prosecuting violent crimes, gang related crimes and/or narcotic cases. Applicants must be professional, self-motivated, able to work closely with law enforcement officers, and well rehearsed in their courtroom etiquette and trial skills. Further qualifications and salary range are pursuant to the New Mexico District Attorney's Personnel & Compensation Plan. Resumes may be faxed to District Attorney Matthew Chandler at 505-742-2083, mailed to the Ninth Judicial District Attorney's Office, ATTN District Attorney Matthew Chandler, 417 Gidding, Suite 200, Clovis, New Mexico 88101, or emailed to mchandler@da.state.nm.us.

Assistant Trial Attorney

Assistant Trial Attorney wanted for immediate employment with the Seventh Judicial District Attorney's Office, which includes Catron, Sierra, Socorro and Torrance counties. Minimum Qualifications: Based on the New Mexico District Attorney's Personnel and Compensation Plan, and admission to the State Bar of New Mexico. Salary will be commensurate with experience and budget availability. Send resume to: Seventh District Attorney's Office, Attention: J.B. Mauldin, P.O. Box 1099, 302 Park St., Socorro, New Mexico 87801.

Assistant District Attorney

The Fifth Judicial District Attorney's office has immediate positions open to new as well as experienced attorneys in Carlsbad, Eddy County and Hobbs, Lea County. Salary will be based upon experience and the District Attorney Personnel and Compensation Plan with starting salary range of an Assistant District Attorney to a Senior Trial Attorney (\$38,384.00 to \$55,000.00) dependent upon experience. Please send resume to Floyd D. "Terry" Haake, District Attorney, 102 N. Canal Suite 200, Carlsbad, NM 88220 or e-mail to thaake@da.state.nm.us.

City of Hobbs City Attorney

The City of Hobbs is accepting applications for the position of City Attorney. Directs all civil and criminal work of the City. Serves as legal advisor to the City Commission, Mayor, City Manager and department heads. Attends commission meetings, gives advice on legal questions involved, including advice as to alternative legal and administrative approaches to the solution of major city problems. Represents the City in court and before quasi-judicial or administrative agencies of government. Serves as a liaison between outside legal counsel and City Commission, Mayor, City Manager and department heads. Applicants must have graduated from an accredited school of law with a Juris Doctor degree in law; five (5) years of experience as a practicing attorney performing high level legal work, preferably in a municipality or in a public entity. A license to practice law in the state of New Mexico; member in good standing of the State Bar of New Mexico. Valid state issued driver's license. Admission to the State Bar of New Mexico. Starting salary: \$96,012.80 -- \$110,780.80 DOQ. Annual salary is based upon 2080 hours per year. We will consider part-time employment (approximately 24 hours per week). Salary would be adjusted appropriately. APPLY IMMEDIATELY: Position open until filled. A City application is required and may be obtained online at: <http://hobbsnm.org/> or by calling: (575) 397-9230 or from: Human Resources Department, 200 E. Broadway, Hobbs, NM 88240. An Equal Opportunity Employer/Smoke & Drug Free Workplace.

Assistant Trial Attorney and Senior Trial Attorney Third Judicial District Attorney's Office

The Third Judicial District Attorney's Office has vacancies for Assistant Trial Attorney and Senior Trial Attorney. Qualifications and salary are pursuant to the New Mexico District Attorney's Personnel & Compensation Plan. Resumes may be faxed to Kelly Kuenstler at (505) 524-6379, or mailed to the Third Judicial District Attorney's Office, ATTN: Kelly Kuenstler, District Office Manager, 845 N. Motel Blvd., 2nd Floor, Ste D, Las Cruces, NM 88007.

Litigation Attorney

Downtown insurance defense firm seeking associate with one to three years experience in civil litigation. This person should have strong research and writing skills and the ability to work independently. Salary competitive and commensurate to experience. Inquiries will be kept confidential, please forward letter of interest and resume to: Ada B. Priest, Esq., Madison, Harbour & Mroz, P.A., P. O. Box 25467, Albuquerque, NM 87125-5467.

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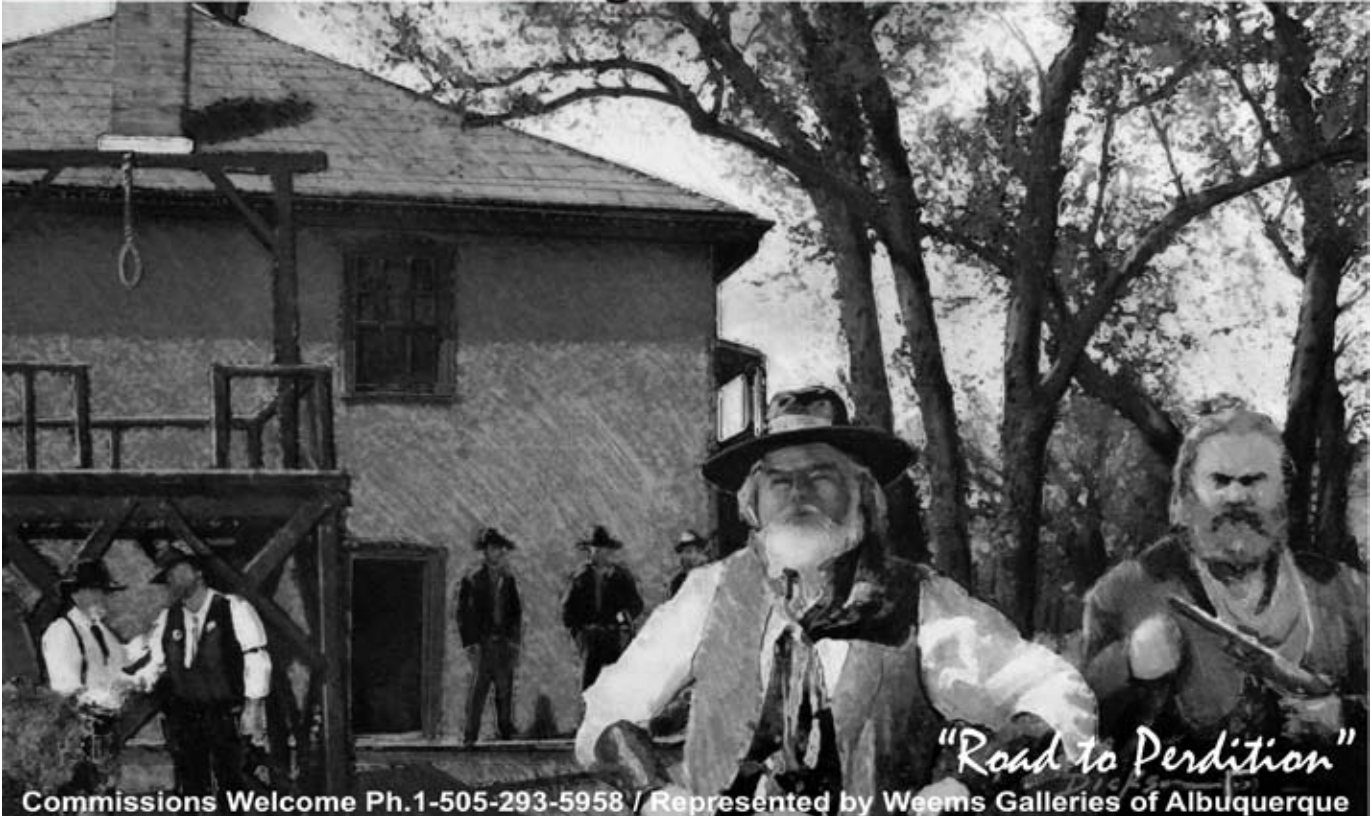
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