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Special Insert

New Mexico Lawyer
Giving Back: New Mexico Lawyers
Pay it Forward in Local Communities

www.nmbar.org

Soul Mates by Sarah Hartshorne (see page 5) Matrix Fine Art, Albuquerque
“Democracy cannot flourish amid fear. Liberty cannot bloom amid hate. Justice cannot take root amid rage. We must go against the prevailing wind…The legal system can force open doors and sometimes even knock down walls, but it cannot build bridges. That job belongs to you and me…” - Justice Thurgood Marshall

Lawyers are known for telling “war stories” and Justice Marshall was a rhetorical raconteur of extraordinary skill and power. He also possessed a keen legal intellect. His perspective on the Constitution, which he loved despite its flaws, was unique and he knew and understood it as few others do. Justice Marshall constantly challenged others to cut through the patriotic fervor surrounding the document and dig into the dynamic, changing and growing legal foundation for our society. A living constitution was the one on which he focused and the one which he sought to apply. Thurgood Marshall’s Coming! is a montage of story, powerful emotions, playfulness, legal and personal triumphs and failures. It celebrates the life and vitality of Thurgood Marshall, the man, and his historic accomplishments as a lawyer.

12:30 p.m. Registration
1:00 p.m. ACT I The Making of a Lawyer in the Era of Jim Crow
Reflections on Brown v. Board of Education
1:45 p.m. Break
1:50 p.m. ACT II In the Wake of Brown
Reflections on the Judiciary and the Constitution
2:30 p.m. Break
2:35 p.m. Panel Discussion
3:55 p.m. Adjourn

THURGOOD MARSHALL’S COMING!
(VIDEO REPLY)

Tuesday, November 23, 2010 • State Bar Center, Albuquerque
2.6 General CLE Credits
☐ Standard Fee $109

INTERNET: www.nmbarcle.org FAX: (505) 797-6071, 24 hour access

Name ___________________________________________________________________ NM Bar # _________________________________
Street __________________________________________________________________________________________________________
City/State/Zip _____________________________________________________________________________________________________
Phone ____________________________________________________ Fax  ____________________________________________________
E-mail ____________________________________________________________________________________________________________
Credit Card # ________________________________________________________________ Exp. Date ________________ CVV# ________________
Authorized Signature  _______________________________________________________________ Billing Zip Code ___________________
2010 REAL PROPERTY INSTITUTE

Friday, December 3, 2010 • State Bar Center, Albuquerque
6.5 General CLE Credits

☐ Standard Fee $219  ☐ Real Property, Estate, and Trust Section Member, Government, Legal Services Attorney, Paralegal $189

Co-Sponsor: Real Property, Estate, and Trust Section

8:00 a.m.  Registration
8:25 a.m.  Introductory Remarks and Course Overview
Linda Isaidea Leyba, Leyba Law Firm, P.C.
8:30 a.m.  Mortgages and Deeds of Trust
Orlando Lucero, Esq., Stewart Title of Albuquerque LLC
9:30 a.m.  Real Estate Contracts
Orlando Lucero, Esq.
10:30 a.m.  Break
10:45 a.m.  Update on Real Property Law
Robert L. Lucero, Esq., Rodey Dickason Sloan Akin & Robb PA
11:45 p.m. Lunch (provided at the State Bar Center)

12:45 p.m.  Commercial Real Estate Loan Sales
Mark Styles, Hurley Toevs Styles Hamblin & Panter PA
1:15 p.m.  ECR’s, CCR’s, and OEA’s- What Are They?
Lawrence Wells, Campbell & Wells PA
2:15 p.m.  Title Matters
Edward J. Roibal, Roibal Law Firm
2:30 p.m.  Head Banging: Highly Negotiated Commercial Lease Provisions
Bruce Castle, Attorney at Law
Meg Meister, Modrall Sperling Roehl Harris & Sisk PA
3:30 p.m.  Adjourn

TWO WAYS TO REGISTER
INTERNET: www.nmbarcle.org  FAX: (505) 797-6071, 24 hour access
Please Note: For all WEBCASTS, you must register online at www.nmbarcle.org

Name ____________________________________________ NM Bar # ________________________________

Street ______________________________________________________________________________________

City/State/Zip _________________________________________________________________________________

Phone ____________________________________________ Fax ____________________

E-mail ____________________________________________

Credit Card # ____________________________________ Exp. Date _______________ CVV# ________________

Authorized Signature ______________________________ Billing Zip Code ________________________
Please join the Equal Access to Justice Board of Directors to honor three outstanding advocates for civil legal services to the needy.

TIMOTHY SHEEHAN, ESQ.
F. DOUG MOELLER, ESQ.
MONTGOMERY ANDREWS PA

If you are a civil legal service provider, we would be honored if you would be our guest for this breakfast. All attendees must RSVP. Please see the invitation below.

Nearby reasonable hotels: the Pyramid Marriott ($150) or La Quinta ($79).
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### Meetings

#### November

- **8**
  - Taxation Law Section BOD, noon, via teleconference
- **9**
  - Appellate Practice Section BOD, 12:30 p.m., Scott Davidson's Law Office
- **10**
  - Children's Law Section BOD, noon, Juvenile Justice Center
  - Criminal Law Section BOD, noon, State Bar Center
  - Committee on Diversity in the Legal Profession, 3 p.m., State Bar Center
- **11**
  - Intellectual Property Section BOD, noon, Law Office of Diane Albert
- **12**
  - Family Law Section BOD, 9 a.m., via teleconference

### State Bar Workshops

#### November

- **10**
  - Estate Planning Workshop
  - 6 p.m., State Bar Center, Albuquerque
- **17**
  - Lawyer Referral for the Elderly Workshop
  - 10:30–11:30 a.m., Presentation
  - 1:30–4 p.m., Clinics
  - Belen Senior Center, Belen

#### December

- **8**
  - Consumer Debt/Bankruptcy Workshop
  - 6 p.m., State Bar Center, Albuquerque

#### January

- **26**
  - Consumer Debt/Bankruptcy Workshop
  - 6 p.m., State Bar Center, Albuquerque

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*A Note From the Cover Artist: Sarah Hartshorne’s work captures the unique in the ordinary, the beauty in the mundane. Like the impressionists, she paints in oil from everyday life and the world around her, sharing what often goes unnoticed and exploring the play of light and shadow. To see the cover art in its original color, visit www.nmbar.org and click on Attorneys/Members/Bar Bulletin.*
NOTICES

COURT NEWS

N.M. Supreme Court
Board of Bar Examiners

Vacancy

One vacancy exists on the Board of Bar Examiners due to the resignation of one member. Persons interested in volunteering time on this board may send a letter of interest and/or resume to Kathleen Jo Gibson, Chief Clerk, PO Box 848, Santa Fe, NM 87504-0848. Deadline for submissions is Nov. 19.

Board of Legal Specialization

Comments Solicited

The following attorney is applying for certification 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. Further, 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, PO Box 93070, Albuquerque, NM 87199.

13th Judicial District Court

Change in Business Hours for all Clerks’ Offices

The clerks’ offices in Cibola, Sandoval and Valencia counties will have new business hours on Fridays beginning Nov. 19. The new Friday hours are 9 a.m. to noon. The front counters will be closed from 1 to 5 p.m. on Fridays only. The new hours will not affect court hearings or the business hours of the judges’ offices. Due to inadequate staffing and an increase in filings, the Friday afternoon closures of the front counters will assist the clerks’ offices in processing cases and documents. The district appreciates everyone’s cooperation in advance and anticipates these hours to be a temporary measure due to the current budget crisis.

U.S. District Court for the District of New Mexico

Proposed Revisions to Local Rules of Civil Procedure

Proposed revisions to the Local Rules of Civil Procedure of the United States District Court for the District of New Mexico are being considered. A “redline” version (with proposed additions underlined and proposed deletions stricken out) with an index of changes, and a clean version are posted on the Court’s website at www.nmcourt.fed.us. Comments may be submitted via e-mail to localrules@nmcourt.fed.us or by mail to U.S. District Court, Clerk’s Office, Pete V. Domenici U.S. Courthouse, 333 Lomas Blvd. NW, Suite 270, Albuquerque, NM 87102, Attn: Local Rules. All comments must be received no later than Nov. 24.

STATE BAR NEWS

Attorney Support Group

• Nov. 15, 7:30 a.m.–Morning groups meet regularly on the third Monday of the month.
• Dec. 6, 5:30 p.m.–Afternoon groups meet regularly on the first Monday of the month.

Both groups meet at the First United Methodist Church at Fourth and Lead

Judicial Records Retention and Disposition Schedules

Pursuant to the Judicial Records Retention and Disposition Schedules, exhibits (see specifics for each court below) filed with the courts 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 (see specifics for each court below) 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.

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<td>County of Chaves</td>
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<td>(575) 622-2565, x120</td>
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Professionalism Tip

With respect to the courts and other tribunals:
I will communicate with opposing counsel in an effort to avoid litigation or to resolve litigation.

Local Government Law

Adren Robert Nance

Judicial Performance Evaluation Commission

The Judicial Performance Evaluation Commission was created by the New Mexico Supreme Court to provide voters with fair, responsible and constructive evaluations of trial and appellate judges and justices seeking retention in general elections. The results of the evaluations also provide judges with information that can be used to improve their professional skills as judicial officers. The next regular meeting will be from 8 a.m. to 5 p.m., Dec. 10, at the State Bar Center.
Children’s Law Section
Noon Knowledge
The Children’s Law Section is sponsoring a Noon Knowledge presentation from noon to 1 p.m., Nov. 12, at the John Brown Juvenile Justice Center, 5100 2nd Street NW, Albuquerque. The presenter will be Professor Barbara Bergman and the discussion will cover the rules of evidence as they apply to electronic media in children’s court cases. There will be time for questions and discussion. The presentation is open to all and there is no registration fee. CLE credit is not being given. Feel free to bring a lunch. The Corinne Wolfe Children’s Law Center will be taping the program and will make DVDs available to people who are interested in the topic but cannot attend. To obtain a DVD, contact Tracey Kincaid, (505) 277-9170 or Tkincaid@unm.edu.

Paralegal Division
Luncheon CLE Series
The Paralegal Division invites members of the legal community to bring a lunch and attend Understanding the Law of Damages (1.0 general CLE credit) presented by David Fine, Fine Law Firm. The program will be held from noon to 1 p.m., Nov. 10, at the State Bar Center. The registration fee is $16 for attorneys, $10 for members of the Paralegal Division, and $15 for non-members. Registration begins at the door at 11:45 a.m. For more information, contact Cheryl Passalaqua, (505) 247-0411, or Evonne Sanchez, (505) 222-9356.

Senior Lawyers Division
2010 Election Results
No petitions were submitted to challenge the slate set forth by the nominating committee. The 2011 Senior Lawyers Division board of directors is as follows:

- William J. Arland, III 2011-2013
- Daniel J. Behles 2011-2013
- John P. Burton 2011-2013
- Virginia L. Ferrara 2011-2013
- David L. Mathews 2011-2013
- Anita P. Miller 2011-2013

In addition, Adjunct Board Member Victor E. Carlin will continue to serve.

Trial Practice Section
CLE Tuition Waived for Qualifying Members
The Trial Practice Section will welcome Todd Winegar of Salt Lake City on Dec. 15 for a CLE entitled Trials of the Century—Why Are They Famous? What Can We Learn From Them? Winegar is a dynamic speaker and practicing attorney who emphasizes civil trial litigation. For more information visit http://toddw.com/index.htm. The section is awarding free tuition to five Trial Practice Section members to attend this CLE.

Law Student Writing Competition
The Trial Practice Section is sponsoring a writing competition for UNM law students. The goal of the competition is to encourage and reward law student writings on legal subjects within the scope of the section and of general and current interest. It is also designed to attract students to the civil trial field and to strongly encourage scholarship in these areas. The deadline to submit entries is Nov. 19. For complete contest rules, visit http://www.nmbar.org/AboutSBNM/sections/TrialPractice/trialpracticesection.html.

UNM
School of Law
Fall Library Hours
To Dec. 18
Building and Circulation
Reference

Monday–Thursday 8 a.m.–10 p.m.
Friday 8 a.m.–6 p.m.
Saturday 8 a.m.–5 p.m.
Sunday Noon–8 p.m.

Monday–Friday 9 a.m.–6 p.m.
Saturday No Reference
Sunday Noon–4 p.m.

Member Benefit of the Week
Law Firm Merchant Account

Trust your transactions to the only payment solution recommended by the State Bar of New Mexico.

- Correctly safeguard and separate client funds into trust and operating accounts.
- Credit cards attract clients, improve cash flow, and reduce collections.
- Members save up to 25% off credit card processing fees.

Call 1-866-376-0950 or visit http://www.affiniscape.com/nmbar.

Pro Hac Vice
Registration Information
Pursuant to Rule 24-106 NMRA, attorneys who are authorized to practice law before the highest court of record in any state or country and who wish to appear before a New Mexico court in a civil matter should be familiar with New Mexico’s pro hac vice rules. Instructions, rules, and the latest updated registration certificate are available at www.nmbar.org. Click on the pro hac vice link.

Direct questions regarding this process to the Office of General Counsel, (505) 797-6050.

Other News
Center for Civic Values
Mock Trial Coaches Needed
Attorneys are needed at New Mexico high schools to provide legal expertise as coaches for the 2011 Gene Franchini High School Mock Trial program:

- Alamogordo High School
- Animas High School
- Piedra Vista High School, Farmington
- Cleveland High School, Rio Rancho

The Río Rancho team will meet at an elementary school located at the corner of Southern and Unser.

The time invested will be decided by the attorney/coach and the teacher advisor, but
teams usually meet at least once each week. Regionals are February 25–26 and state finals are March 25–26. Your mission will be to help your team with the finer points of presenting their case before panels of judges and jurors. The case problem and rules were published on October 4 so the teams have just begun their preparation. Information about the role and responsibilities of attorney/coaches is available on the “Tips and Advice” pages in the mock trial section of the Center for Civic Values’ website at www.civicvalues.org. If you have a few hours a week to devote toward helping to provide an outstanding educational experience to New Mexico high school students or would like to know more, contact Michelle Giger, (505) 764-9417, ext. 11. The 33rd annual mock trial program is a co-sponsored activity of CCV, the State Bar of New Mexico and the UNM School of Law.

Santa Fe Neighborhood Law Center

CLE Conference

New Mexico Supreme Court Justice Charles W. Daniels and New Mexico Attorney General Gary K. King will be featured at the 3rd Annual Neighborhood Law Center CLE. The conference will be held from 8 a.m.—4:30 p.m., Dec. 9–10, at the Santa Fe Community Convention Center. Tuition is $325, reduced to $300 for early registrations received by Nov. 19. A free continental breakfast and box lunch will be provided for CLE attendees and faculty. Conference attendees will earn 12.0 CLE credits (including 1.0 E and 1.0 P credits). The conference is free to the public to the extent seating is available; however, pre-registration is required plus optionally $25 for box lunches. View the complete CLE schedule at http://www.santafenn.com/images/UploadFiles/NLC_2010_Conference_Program.doc. The registration form may be found at http://www.santafenn.com/images/UploadFiles/NLC_2010_Conference_Registration_Form.doc. E-mail or fax registration forms to Peter Dwyer, Program Director, Pdwyer@bbpcnm.com, or fax to (505) 992-6170. Make checks payable to the Santa Fe Neighborhood Law Center and mail to Santa Fe NLC, PO Box 32024 Santa Fe, N.M. 87594.

13th Judicial District Court

The E-Filing Master Service Contact List

How to ensure you get all your case information and notifications by e-mail

On July 1, e-filing became mandatory in civil cases in the 13th Judicial District Court. Attorneys involved in a case must enter their e-mail contact information on the Master Service Contact List for each case in which they are involved; otherwise, attorneys will not receive e-mail notification of filings involving their cases. The Master Service Contact List should also include contact for support staff.

Note that the Master Service Contact List is different from the Firm Service Contact List. The Firm Service Contact List:

• is not attached to a specific case;
• is not used to notify parties by e-mail of any filings in any given case; and
• can be used to transfer or paste contact information to the Master Service Contact List.

Only the names entered in the Master Service Contact List for each case will receive e-mail notifications of any documents that are e-filed and served (EFS).

For example, Plaintiff A files a complaint against Defendants B and C. Attorney for A is listed on the Firm Service Contact List but does not enter or transfer his/her e-mail contact information from the Firm Service Contact List to the Master Service Contact List. Attorney for B files an answer and enters his/her e-mail contact information in the Master Service Contact List for that case. Attorney for C files an answer and enters his/her e-mail contact information in the Master Service Contact List for that case. Because both the attorney for B and the attorney for C are on the Master Service Contact List, they each receive by e-mail a copy of the answer each of them filed. Attorney for A receives nothing by e-mail because he/she never transferred their e-mail contact information from the Firm Service Contact List to the Master Service Contact List for that case.

The 13th Judicial District also encourages attorneys utilizing e-filing to check their e-mails frequently to ensure that any e-mails from the e-filing service provider, Wiznet, are not being categorized as spam and going unopened.

2nd Judicial District Attorney’s Office Retirement Celebration

Adolph C. Sutton, a long-time prosecutor of 25 years, is retiring from the 2nd Judicial District Attorney’s office. There will be a customary celebration at 3:30 p.m., Nov. 19, at the District Attorney’s office followed by a farewell gathering at the Copper Lounge, Albuquerque.

Welcome, New Members of the State Bar

New member packets have been mailed to all new admittees to the State Bar of New Mexico. The packet includes the 2010–2011 Bench & Bar Directory, a description of services offered by the State Bar, and the 2010 registration fee statement. Visit http://www.nmbar.org/Attorneys/dues/dues.html for more information, due dates, and instructions on paying online. If you need assistance, call (505) 797-6035.
**COMMISSION/BOARD VACANCIES**

**Client Protection Fund Commission**
The Board of Bar Commissioners will make one appointment to the Client Protection Fund Commission (http://www.nmbar.org/Attorneys/CPF/ClientProtectionFund.pdf) for a three-year term. Send a letter of interest and brief resume by Nov. 19 to Executive Director Joe Conte, State Bar of New Mexico, PO Box 92860, Albuquerque, NM 87199-2860; fax to 828-3765; or e-mail jconte@nmbar.org.

**DNA People’s Legal Services, Inc.**
The Board of Bar Commissioners will make one appointment to the DNA People’s Legal Services, Inc., board for a partial term due to the resignation of the board’s appointee. The term will expire May 31, 2011. Send a letter of interest and brief resume by Nov. 19 to Executive Director Joe Conte, State Bar of New Mexico, PO Box 92860, Albuquerque, NM 87199-2860; fax to 828-3765; or e-mail jconte@nmbar.org.

**New Mexico Legal Aid**
The Board of Bar Commissioners will make two appointments to the New Mexico Legal Aid Board (http://www.nmlegalaid.org/). One of the terms is for one year and the other term is for three years. Send a letter of interest and brief resume by Nov. 19 to Executive Director Joe Conte, State Bar of New Mexico, PO Box 92860, Albuquerque, NM 87199-2860; fax to 828-3765; or e-mail jconte@nmbar.org.

**Judicial Performance Evaluation Commission**
There is one vacancy on the Judicial Performance Evaluation Commission (http://www.nmjpec.org/) for a five-year term. The State Bar president is the nominating authority for this appointment, which will be made by the Supreme Court. The Court seeks geographic diversity for the commission and is specifically requesting candidates from the 4th and 11th judicial districts for this vacancy. Send a letter of interest and brief resume by Nov. 8 to Executive Director Joe Conte, State Bar of New Mexico, PO Box 92860, Albuquerque, NM 87199-2860; fax to 828-3765; or e-mail jconte@nmbar.org.

**Ethics Advisory Committee**
The State Bar Ethics Advisory Committee (http://www.nmbar.org/legalresearch/ethicsadvisoryopinions.html) meets once a month to analyze and respond to specific requests for ethics advisory opinions from members of the State Bar. Work is done throughout the month via e-mail. Committee members outside of Albuquerque can participate via teleconference or video conference. Contact Richard Spinello, rspinello@nmbar.org.

**Board of Editors**
Five attorney positions on the Board of Editors will expire at the end of 2010. New appointees will serve two-year terms (January 2011 to December 2012), with the option of serving a second two-year term. The Board of Editors reviews and approves articles submitted for publication in the *Bar Bulletin* and the *New Mexico Lawyer*. Board members are asked to be available to review articles regularly, work with writers when needed, and attend quarterly board meetings in person or by teleconference. Interested attorneys with experience in publishing/editing should send resumes by Nov. 22 to Dorma Seago, dseago@nmbar.org. Appointments are made by the president of the Board of Bar Commissioners. Visit http://www.nmbar.org/AboutSBNM/Committees/boardeditorscommittee.html.

**Have you told your client you’re not insured?**
Rule 16-104 (C) NMRA requires New Mexico attorneys who do not maintain professional liability insurance within specified limits to disclose that fact in writing to all clients. The Lawyers Professional Liability and Insurance Committee has information to assist members regarding questions and compliance with this disclosure rule. For more information, visit http://www.nmbar.org/AboutSBNM/Committees/LPL/LPL.html.
Summary Suspensions
Total number of attorneys summarily suspended ..................... 1

New Mexico Supreme Court entered a Summary Suspension in a sealed matter and an inventorying attorney has been assigned to take possession of the client files, documents, materials and records of respondent.

Disability Suspensions
Total number of attorneys placed on disability suspension ...... 0

Charges Filed
Charges were filed against an attorney for allegations of failure to provide competent representation to a client, failure act with reasonable diligence and promptness in representing a client, failure to keep a client reasonably informed about the status of a matter, failure to reasonably expedite litigation consistent with the interests of a client, failure to respond to a lawful demand for information from a disciplinary authority, failure to give full cooperation to disciplinary counsel, and engaging in conduct which is prejudicial to the administration of justice.

Charges were filed against an attorney for allegations of failure to provide competent representation to a client, failure to act promptly and diligently on behalf of a client, failure to make reasonable efforts to ensure that the firm had in effect measures giving reasonable assurance that the staff’s conduct was compatible with the attorney’s professional obligations, asserting frivolous claims and issues, making a false statement of fact or law to a tribunal and failing to correct a false statement of material fact previously made to the tribunal, offering evidence that the attorney knew was false, failure to make reasonable efforts to expedite litigation consistent with the interests of the client, knowingly disobeying an obligation under the rules of a tribunal, making statements with reckless disregard as to truth or falsity concerning the integrity of a judge, engaging in a concurrent conflict of interest by undertaking to represent client when there was a significant risk that the representation would be materially limited by the attorney’s responsibilities to other clients, and engaging in conduct prejudicial to the administration of justice.

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Petitions for Reinstatement Filed
Petitions for reinstatement filed ............................................. 1

Matter of John W. Fisk, Disciplinary No. 09-2010-601
Petition for Reinstatement filed August 12, 2010; Order of Remand from the New Mexico Supreme Court filed August 12, 2010.

Matter of David Housman, Disciplinary No. 10-2010-604,
Petition for Reinstatement filed September 2, 2010; Order of Remand from the New Mexico Supreme Court filed September 3, 2010.

Formal Reprimands
Total number of attorneys formally reprimanded ................... 0
Informal Admonitions

Total number of attorneys admonished ........................................... 4

An attorney was informally admonished for failing to provide competent representation to a client; failing to act with reasonable diligence in representing a client; failing to abide by client's decisions concerning the objectives of representation; and failing to consult with the client about the means by which they are to be pursued in violation of Rules 16-101, 16-102, and 16-104 of the Rules of Professional Conduct.

An attorney was informally admonished for failing to provide financial assistance to a client in connection with pending or contemplated litigation; for knowingly representing a client when the representation of that client may be materially limited by the lawyer's...own interests... (please note that this violation occurred before the substantial rule changes made in 2009) in violation of Rule 16-108(E) and 16-107(B) of the Rules of Professional Conduct.

An attorney was informally admonished for failing to abide by the client's decision concerning the objective of the representation; by charging an unreasonable fee and by engaging in conduct prejudicial to the administration of justice in violation of Rules 16-102(A), 16-105 and 16-804(D) of the Rules of Professional Conduct.

An attorney was informally admonished for failing to competently represent a client, for failing to abide by a client's objectives in filing I-130 form in a timely manner; by failing to act with reasonable diligence and promptness in representing a client; by failing to keep a client reasonably informed as to the statues of a matter; by charging an unreasonable fee; by failing to deposit legal fees paid in advance into the trust account and by engaging in conduct prejudicial to the administration of justice in violation of Rules 16-101, 16-102(A), 16-103, 16-104(A), 16-105, 16-115(C), and 16-804(D) of the Rules of Professional Conduct.

Letters of Caution

Total number of attorneys cautioned ........................................... 16

Attorneys were cautioned for the following conduct: (1) failure to act with reasonable diligence and promptness in representing a client (5 letters of caution issued); (2) unreasonable efforts to expedite litigation (2 letters of caution issued); (3) false statements (2 letters of caution issued); (4) using means that have no substantial purpose other than to embarrass, delay or burden a third person; (5) conduct prejudicial to the administration of justice (2 letters of caution issued); (6) representing a client when there is a significant risk that the representation of the client will be materially limited by the lawyer's own interest (2 letters of caution issued); (7) ineffective assistance of counsel (2 letters of caution issued); (8) excessive fees; and (9) failure to communicate.

Complaints Received

<table>
<thead>
<tr>
<th>Allegations</th>
<th>No. of Complaints</th>
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<tbody>
<tr>
<td>Trust Account Violations</td>
<td>18</td>
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<tr>
<td>Conflict of Interest</td>
<td>2</td>
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<tr>
<td>Neglect and/or Incompetence</td>
<td>65</td>
</tr>
<tr>
<td>Misrepresentation or Fraud</td>
<td>10</td>
</tr>
<tr>
<td>Relationship with Client or Court</td>
<td>20</td>
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<tr>
<td>Fees</td>
<td>11</td>
</tr>
<tr>
<td>Improper Communications</td>
<td>2</td>
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<tr>
<td>Criminal Activity</td>
<td>1</td>
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<tr>
<td>Personal Behavior</td>
<td>5</td>
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<tr>
<td>Other</td>
<td>19</td>
</tr>
<tr>
<td>Total number of complaints received</td>
<td>153</td>
</tr>
</tbody>
</table>
**LEGAL EDUCATION**

**NOVEMBER**

2 2010 Professionalism and Ethics: Responding to Crisis Through Limited Representation  
VR  
Center for Legal Education of NMSBF  
1.0 E, 1.0 P  
(505) 797-6020  
www.nmbarcle.org

2 7th Annual Elder Law Seminar (2010)  
VR  
Center for Legal Education of NMSBF  
3.7 G  
(505) 797-6020  
www.nmbarcle.org

2 Creditors Rights, Collections, and Bankruptcy (2010)  
VR  
Center for Legal Education of NMSBF  
4.0 G, 1.0 E  
(505) 797-6020  
www.nmbarcle.org

2 The Inbox Ninja (Adriana Linares, 2010 Annual Meeting)  
VR  
Center for Legal Education of NMSBF  
1.0 G  
(505) 797-6020  
www.nmbarcle.org

2–3 Maximizing Tax Benefits in Real Estate, Parts 1 and 2  
Teleseminar  
Center for Legal Education of NMSBF  
2.0 G  
(505) 797-6020  
www.nmbarcle.org

2 Success as a Lawyer (David Gross, 2010 Annual Meeting)  
VR  
Center for Legal Education of NMSBF  
1.0 G  
(505) 797-6020  
www.nmbarcle.org

3 Handling Real Estate Transactions With Confidence  
Albuquerque  
NBI, Inc.  
5.6 G, 1.0 E  
1-800-930-6182  
www.nbisems.com

4 The Tribal Law and Order Act: Changes in the Landscape of Indian Criminal Law  
State Bar Center  
Center for Legal Education of NMSBF  
2.2 G, 1.0 P  
(505) 797-6020  
www.nmbarcle.org

5 2010 Business Law Institute  
State Bar Center  
Center for Legal Education of NMSBF  
6.5 G  
(505) 797-6020  
www.nmbarcle.org

8 Government Contract Accounting and Legal Seminar  
Albuquerque  
Moss Adams LLP  
6.5 G  
(505) 898-7210

9 2010 Probate Institute  
VR  
Center for Legal Education of NMSBF  
6.4 G, 1.0 E  
(505) 797-6020  
www.nmbarcle.org

9 Current Challenges in Local Government Law  
Albuquerque  
NBI, Inc.  
5.0 G, 1.0 E  
1-800-930-6182  
www.nbisems.com

9 Fundamentals of Construction Contracts  
Albuquerque  
Lorman Education Services  
6.6 G  
(715) 833-3940  
www.lorman.com

9 Malpractice in an Uncertain Economy (2009)  
VR  
Center for Legal Education of NMSBF  
1.0 G  
(505) 797-6020  
www.nmbarcle.org

9 Putting Your Best Face on a Case (2010)  
VR  
Center for Legal Education of NMSBF  
4.7 G, 1.0 E, 1.0 P  
(505) 797-6020  
www.nmbarcle.org

9 Uniform Commercial Code Toolkit, Part 1: Promissory Notes  
Teleseminar  
Center for Legal Education of NMSBF  
1.0 G  
(505) 797-6020  
www.nmbarcle.org

9 The Write Way to Write Persuasively (2009)  
VR  
Center for Legal Education of NMSBF  
3.0 G  
(505) 797-6020  
www.nmbarcle.org

10 Understanding the Law of Damages  
State Bar Center  
Paralegal Division  
1.0 G  
(505) 247-0411 or (505) 222-9356

G = General  
E = Ethics  
P = Professionalism  
VR = Video Replay  
Programs have various sponsors; contact appropriate sponsor for more information.
10 Uniform Commercial Code Toolkit, Part 2: Equipment Leases
Teleseminar
Center for Legal Education of NMSBF
1.0 G
(505) 797-6020
www.nmbarcle.org

Teleseminar
Center for Legal Education of NMSBF
1.0 G
(505) 797-6020
www.nmbarcle.org

11 When Prosecutors Test the Outer Limits
Teleconference
TRT, Inc.
1.0 E, 1.0 P
1-800-672-6253
www.trtcle.com

12 Advanced Settlement Skills: How to Settle a Case
First Annual ADR Institute
State Bar Center
Center for Legal Education of NMSBF
6.5 G
(505) 797-6020
www.nmbarcle.org

12 Lawyer Substance Abuse Addictions: Causes and Results
Teleconference
TRT, Inc.
1.0 E, 1.0 P
1-800-672-6253
www.trtcle.com

15 Medicaid: Beyond the Basics
Albuquerque
NBI, Inc.
6.6 G
1-800-930-6182
www.nbi-sems.com

16 From Headaches to Handshakes
Webcast
Likeable Lawyer
1.0 E, 2.5 P
1-800-524-2396
www.likeablelawyer.com

16 Hindsight, Foresight and Insight
Webcast
Likeable Lawyer
1.0 E, 2.5 P
1-800-524-2396
www.likeablelawyer.com

16 How to Do Your First PI Case (2009)
VR
Center for Legal Education of NMSBF
4.0 G, 1.0 E, 1.0 P
(505) 797-6020
www.nmbarcle.org

16 Improving the Attorney/HR Relationship (2009)
VR
Center for Legal Education of NMSBF
5.0 G
(505) 797-6020
www.nmbarcle.org

16 Tax Concepts for Closely Held Companies
Teleseminar
Center for Legal Education of NMSBF
1.0 G
(505) 797-6020
www.nmbarcle.org

16 Developments in Clean Water Law
Santa Fe
National Association of Clean Water Agencies
12.5 G, 1.0 E
(202) 833-8418
www.nacwa.org

16 Estate Planning to Avoid Probate
Teleseminar
Center for Legal Education of NMSBF
1.0 G
(505) 797-6020
www.nmbarcle.org

18 Solo’s at Seasons Restaurant
Albuquerque
Center for Legal Education of State Bar Center
1.0 E
(505) 797-6020
www.nmbarcle.org

18 2010 Bridge the Gap
State Bar Center
Center for Legal Education of NMSBF
5.0 G, 1.0 E, 1.0 P
(505) 797-6020
www.nmbarcle.org

18 Professionalism & Ethics for Every Lawyer
New Mexico Trial Lawyers Association/Foundation
4.0 G, 1.0 E, 1.0 P
(505) 243-6003
www.nmtla.org

18 Claims, Liens and Surety in Construction Law
Teleseminar
Center for Legal Education of NMSBF
1.0 G
(505) 797-6020
www.nmbarcle.org

18 New Mexico Mediation Association Annual Meeting
Albuquerque
New Mexico Mediation Association
4.7 G, 1.5 E
(505) 473-7733

18 Disciplinary Administrative Adjudications in New Mexico (2010)
VR
Center for Legal Education of NMSBF
4.7 G, 2.2 E
(505) 797-6020
www.nmbarcle.org

18 Ethics Risks Practicing Law (from Surviving to Thriving in Private Practice) 2009
VR
Center for Legal Education of NMSBF
1.0 E
(505) 797-6020
www.nmbarcle.org

BAR BULLETIN - NOVEMBER 8, 2010 – VOLUME 49, NO. 4  13
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 November 8, 2010

Petitions for Writ of Certiorari Filed and Pending:

<table>
<thead>
<tr>
<th>NO.</th>
<th>Petition Filed</th>
<th>Date Petition Filed</th>
</tr>
</thead>
<tbody>
<tr>
<td>32,676</td>
<td>State v. Lendall J.</td>
<td>(COA 30,509) 10/29/10</td>
</tr>
<tr>
<td>32,675</td>
<td>State v. Duncan</td>
<td>(COA 30,381) 10/28/10</td>
</tr>
<tr>
<td>32,674</td>
<td>Vigil v. Kilpatrick</td>
<td>(COA 30,688) 10/28/10</td>
</tr>
<tr>
<td>32,673</td>
<td>State v. Dominguez</td>
<td>(COA 28,026) 10/27/10</td>
</tr>
<tr>
<td>32,671</td>
<td>Italigree v. Chappelle</td>
<td>(COA 30,436) 10/27/10</td>
</tr>
<tr>
<td>32,670</td>
<td>State v. Rodriguez</td>
<td>(COA 30,431) 10/27/10</td>
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<tr>
<td>32,669</td>
<td>Romero v. Hatch</td>
<td>(12-501) 10/27/10</td>
</tr>
<tr>
<td>32,668</td>
<td>State v. Sharp</td>
<td>(COA 28,816) 10/25/10</td>
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<tr>
<td>32,667</td>
<td>Lucero v. Bravo</td>
<td>(12-501) 10/25/10</td>
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<tr>
<td>32,664</td>
<td>State v. Olivas</td>
<td>(COA 30,428) 10/25/10</td>
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<tr>
<td>32,663</td>
<td>State v. McGhee</td>
<td>(COA 28,014) 10/25/10</td>
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<td>32,662</td>
<td>State v. Goodman-Nevarrez</td>
<td>(COA 30,518) 10/22/10</td>
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<tr>
<td>32,661</td>
<td>State v. Lucero</td>
<td>(COA 30,525) 10/22/10</td>
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<tr>
<td>32,660</td>
<td>State v. Mariano</td>
<td>(COA 29,406) 10/21/10</td>
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<tr>
<td>32,659</td>
<td>State v. Monica P.</td>
<td>(COA 29,604) 10/21/10</td>
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<td>32,658</td>
<td>Molina v. Allstate Insurance Co.</td>
<td>(COA 28,536) 10/21/10</td>
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<tr>
<td>32,656</td>
<td>State v. Wright</td>
<td>(COA 30,419) 10/20/10</td>
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<td>32,655</td>
<td>State v. Candelaria</td>
<td>(COA 28,566) 10/20/10</td>
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<td>32,654</td>
<td>State v. Sanchez</td>
<td>(COA 30,338) 10/20/10</td>
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<tr>
<td>32,653</td>
<td>State v. McMullin</td>
<td>(COA 29,966) 10/20/10</td>
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<tr>
<td>32,652</td>
<td>State v. Loretto</td>
<td>(COA 29,576) 10/20/10</td>
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<tr>
<td>32,651</td>
<td>State v. Garcia</td>
<td>(COA 28,812) 10/20/10</td>
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<tr>
<td>32,649</td>
<td>State v. Perkins</td>
<td>(COA 29,090) 10/19/10</td>
</tr>
<tr>
<td>32,648</td>
<td>State v. Holland</td>
<td>(COA 30,283) 10/19/10</td>
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<tr>
<td>32,646</td>
<td>State v. Nehemiah L.</td>
<td>(COA 30,129) 10/15/10</td>
</tr>
<tr>
<td>32,645</td>
<td>State v. Yaw</td>
<td>(COA 29,528/29,529) 10/14/10</td>
</tr>
<tr>
<td>32,644</td>
<td>State v. Little</td>
<td>(COA 29,065) 10/14/10</td>
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<tr>
<td>32,641</td>
<td>State v. Coleman</td>
<td>(COA 28,118) 10/12/10</td>
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<tr>
<td>32,640</td>
<td>D’Antonio v. Crowder</td>
<td>(COA 30,549) 10/12/10</td>
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<tr>
<td>32,637</td>
<td>State v. Viola A.</td>
<td>(COA 29,588) 10/7/10</td>
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<tr>
<td>32,632</td>
<td>State v. Dominguez-Meraz</td>
<td>(COA 30,382) 10/1/10</td>
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<tr>
<td>32,626</td>
<td>State v. Bobby V.</td>
<td>(COA 30,397) 9/29/10</td>
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<tr>
<td>32,347</td>
<td>Shaffar v. Williams</td>
<td>(12-501) 8/27/10</td>
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Certiorari Granted but not yet Submitted to the Court:

<table>
<thead>
<tr>
<th>NO.</th>
<th>Petition Filed</th>
<th>Date Writ Issued</th>
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<tbody>
<tr>
<td>32,012</td>
<td>State v. Trujillo</td>
<td>(COA 28,412) 11/18/09</td>
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<tr>
<td>32,234</td>
<td>State v. Trujillo</td>
<td>(COA 29,870) 3/10/10</td>
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<tr>
<td>32,243</td>
<td>Farmers Insurance Co of Arizona v. Chen</td>
<td>(COA 28,859) 4/1/10</td>
</tr>
<tr>
<td>32,175</td>
<td>Kittel v. Lovett</td>
<td>(COA 29,693) 4/1/10</td>
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<tr>
<td>32,263</td>
<td>State v. Williams</td>
<td>(COA 28,034) 4/1/10</td>
</tr>
<tr>
<td>32,291</td>
<td>State v. Torres</td>
<td>(COA 29,603) 4/23/10</td>
</tr>
<tr>
<td>32,320</td>
<td>State v. Vasquez</td>
<td>(COA 29,800) 5/5/10</td>
</tr>
<tr>
<td>32,341</td>
<td>Griego v. Herzog Transportation Svs.</td>
<td>(COA 30,224) 5/5/10</td>
</tr>
<tr>
<td>32,302</td>
<td>Lion’s Gate Water v. NM State Engineer</td>
<td>(COA 28,630) 6/2/10</td>
</tr>
</tbody>
</table>

(On rehearing)
WRITS OF CERTIORARI

http://nmsupremecourt.nmcourts.gov.

CERTIORARI GRANTED AND SUBMITTED TO THE COURT

(Submission = date of oral argument or briefs-only submission)

NO. 32,570  City of Albuquerque v. Montoya  (COA 28,846) 10/27/10
NO. 32,510  State v. Swick  (COA 28,316) 10/28/10

Submission Date

NO. 31,100  Allen v. LeMaster  (12-501) 2/15/10
NO. 31,724  Albuquerque Commons v. City of Albuquerque  (COA 24,026/24,027/24,042/24,425) 2/22/10
NO. 31,738  State v. Marlene C.  (COA 28,352) 3/22/10
NO. 31,015  State v. Demongey  (COA 26,453) 4/15/10
NO. 32,001  Oldham v. Oldham  (COA 28,493) 5/10/10
NO. 31,567  State v. Guthrie  (COA 27,022) 5/11/10
NO. 32,099  Wachocki v. Bernalillo Co. Sheriff’s Dept.  (COA 27,761) 7/19/10
NO. 32,131  Wachocki v. Bernalillo Co. Sheriff’s Dept.  (COA 27,761) 7/19/10
NO. 32,139  San Juan Ag. Water Users Assn. v. KNME-TV  (COA 28,473) 8/9/10
NO. 31,980  Northwest Villages, L.L.C. v. Martinez  (COA 29,743) 8/25/10
NO. 32,149  State v. Sandoval  (COA 28,437) 8/30/10
NO. 31,891  State v. Gonzales  (COA 29,297) 9/14/10
NO. 32,126  State v. Myers  (COA 26,837) 9/14/10

NO. 32,044  State v. Episcopo  (COA 29,328) 9/21/09
NO. 32,202  Summers v. Ardent Health Services  (On rehearing)
NO. 32,069  State v. Martinez  (COA 28,665) 10/13/10
NO. 32,137  State v. Skippings  (COA 28,324) 10/13/10
NO. 32,130  State v. Cruz  (COA 27,292) 10/14/10
NO. 32,324  Allen v. Papatheofanis  (COA 28,079) 10/14/10
NO. 32,092  State v. Trujillo  (COA 27,291) 10/27/10
NO. 32,094  State v. Flores  (COA 27,647) 10/27/10
NO. 32,339  McPeek v. Hubbard  (COA 27,424) 11/15/10
NO. 32,170  State v. Ketelson  (COA 29,876) 11/16/10

PETITION FOR WRIT OF CERTIORARI DENIED:

NO. 32,627  State v. Williams  (COA 29,093) 10/26/10
NO. 32,628  State v. Crocket  (COA 30,422) 10/26/10
NO. 32,629  State v. Apodaca  (COA 29,408) 10/26/10
NO. 32,630  State v. Birkley  (COA 30,297) 10/26/10
NO. 32,631  State v. Moreno  (COA 30,295) 10/26/10
NO. 32,623  Bradburn v. Hatch  (12-501) 10/28/10

WRIT OF CERTIORARI QUASHED:

PUBLISHED OPINIONS

NO. 28836  8th Jud Dist Taos CV-06-396, R DUNNING v N BUENDING (reverse and remand) 10/27/2010
NO. 28860  6th Jud Dist Grant CV-06-166, H BOUNDS v STATE NM (reverse) 10/29/2010

UNPUBLISHED OPINIONS

NO. 30485  11th Jud Dist McKinley CR-07-145, STATE v B JAMES (affirm) 10/25/2010
NO. 30509  11th Jud Dist San Juan JQ-09-40, CYFD v LENDELL J (affirm) 10/25/2010
NO. 28467  4th Jud Dist San Miguel CR-07-70, STATE v R GONZALES (affirm) 10/26/2010
NO. 29627  13th Jud Dist Valencia JQ-09-3, CYFD v EUNICE A (affirm) 10/26/2010
NO. 29643  13th Jud Dist Valencia JQ-09-3, CYFD v JOSE M (affirm) 10/26/2010
NO. 30430  11th Jud Dist San Juan CV-08-458, L BLANCETT v DIAL OIL CO (dismiss) 10/26/2010
NO. 28249  2nd Jud Dist Bernalillo CV-07-2978, P REED v R GUTIERREZ (affirm) 10/27/2010
NO. 29327  3rd Jud Dist Dona Ana CR-08-1308, STATE v L LUNDERVILLE (affirm) 10/27/2010

Slip Opinions for Published Opinions may be read on the Court’s website:
http://coa.nmcourts.gov/documents/index.htm
# Recent Rule-Making Activity

**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 November 8, 2010**

## Pending Proposed Rule Changes

**Open for Comment:**

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<tr>
<td>5-115 Conduct of court proceedings.</td>
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<td>18-203 Accreditation; course approval; provider reporting.</td>
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<td>18-204 Earning credits; credit types.</td>
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<td>23-110 Commission on professionalism.</td>
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## Recently Approved Rule Changes Since Release of 2010 NMRA:

### Rules of Civil Procedure for the District Courts

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<td>1-071 Statutory stream system adjudication suits; service and joiner of water rights claimants; responses.</td>
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<td>1-071 Statutory stream system adjudication suits; stream system issue and expedited inter se proceedings.</td>
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<td>5-821 Arraignment and commitment hearing prior to issuance of the governor’s rendition warrant.</td>
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<tr>
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<tr>
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ru l e-ma k i n g ac t i v i t y

To view all pending proposed rule changes (comment period open or closed), visit the New Mexico Supreme Court’s website at http://nmsupremecourt.nmcourts.gov.

To view recently approved rule changes, visit the New MexicoCompilation Commission’s website at http://www.nmcompcomm.us.
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Once each year, the often-misguided accusation that lawyers use dirty tactics to get the job done rings true in the best possible way when attorneys and staff of several New Mexico law firms participate in the annual Carrie Tingley Hospital Foundation Mudd Volleyball Tournament. There are no motions, no briefs, and few arguments. Instead, there’s just good, well, not-so-clean fun.

Describing the water-flooded sand pits in which participants play, Modrall attorney Jennifer Evans says, “It starts out more like beach volleyball, but by the end you’re up to your waist in mud. Whatever you wear in there, you’re never going to wear again.”

“Some attorneys might not want to get dirty,” notes Tammy Archuleta of the Records Department at Rodey, which sponsors a team aptly named “Grodey.” But those who do get to enjoy an opportunity to participate in one of the most fun charity events in Albuquerque. “I look forward to it every year,” Archuleta said.

The 16th Annual Carrie Tingley Hospital Foundation Mudd Volleyball Tournament was held on June 12. More than 9,000 players, volunteers and participants attended. Among the many players were members of the State Bar of New Mexico. Attorneys from the law firms of Geoffrey R. Romero, Modrall Sperling, Rodey, and Whitener, among others, have participated. There were 102 volleyball mud courts dug out of the dirt on more than 50 acres.

“It’s different. Everyone can let loose. You might be tentative at first, but once a co-worker throws you in the mud—game on!” explained event founder James Buckles.

Albuquerque is one of the few places where such an event, at this scale, can happen. It requires the right size, space, access to water, and, of course, just the right type of dirt.

Albuquerque is so ideal for the event that the Mudd Volleyball Tournament is now one of the single largest one-day tournaments in the United States. More than $463,000 was raised in 2010—the Carrie Tingley Hospital Foundation’s biggest total in their history. Most importantly, more than 30,000 patient services are provided each year at Carrie Tingley Hospital, and the dollars raised through the Mudd Volleyball Tournament go directly to help children with special needs from across New Mexico.

The Carrie Tingley Hospital Foundation assists patients and their families with funding for critical items such as wheelchair ramps, van conversions, durable medical or therapeutic medical equipment not covered by insurance, and emergency rent and utility assistance. Assistance is awarded to families based on need.

The foundation also strives to enrich patients’ and their families’ lives with long-term assistance, education and programs through funding for research scholarships and quality of life programs. The Beyond Limits Summer Wheelchair Sports Camp is a one-week camp for youth with physical disabilities who manual or power wheelchairs or walking aids. Other programs include scholarships for therapeutic horseback riding with Clouddancers of the Southwest and dance lessons with the Keshet Dance Company that include an opportunity to participate in Keshet performances.

The Mudd Volleyball event is a sell-out every year, so attorneys and firms that would like to participate in the June 11, 2011, tournament should be aware that registration opens on March 1, 2011. Additional information is available at http://www.abqmuddvolleyball.org.
Sutin, Thayer & Browne

Sutin, Thayer & Browne is committed to serving New Mexico and the institutions that make our community great. In the last year, the firm donated time equivalent to 180 full days and approximately $125,000 in personal and corporate contributions. From educating children to clearing trails to feeding needy families to donating countless pro bono hours and resources to disadvantaged individuals and charitable organizations, the firm’s activities target the most prevalent of needs within our community and the local issues that affect us all. These examples are only a small sampling of the firm’s commitment to improve the quality of our community and the lives of the people who comprise it through service that extends beyond the conventional practice of law.

In the past year, the firm and its members have engaged in wide-ranging community and volunteer activities.

• The firm organized and currently manages a volunteer program aimed at protecting the election process within our state.
• The firm organized collections of food for the Storehouse and Road Runner food banks, toys and children’s items for Toys for Tots, coats and other clothes for the Albuquerque Rescue Mission, and toiletries and other necessities for our troops in Iraq and Afghanistan through Blue Star Mothers.
• The firm participates in and donates resources to the Susan G. Komen Race for the Cure and Step Out Walk to Fight Diabetes.

In addition, firm members participate on boards (many as officers) of organizations providing valuable services to our community including the Albuquerque Museum Foundation, the Albuquerque Public Schools Foundation, Big Brothers Big Sisters, David Specter Shalom House, Emerge New Mexico, Equal Access to Justice, Keshet Dance Company, New Mexico Angels, Inc., New Mexico Child Advocacy Network, New Mexico Community Foundation, and the Storehouse food bank.

Whether distributing collection bins to feed the hungry or organizing pancake breakfasts to raise funds for medical research or serving in leadership positions on the boards of charitable organizations, the firm is committed to the efforts of organizations that strive to improve the lives of others.

Whitney Warner

Whitney Warner started working with Peanut Butter & Jelly Family Services (PB&J) when she was a law clinic student at UNM. Founded in 1972 as Peanut Butter & Jelly Therapeutic Preschool, PB&J pioneered the use of interactive parenting and bonding programs as an effective way to prevent child abuse and neglect and as a way to preserve the family unit.

According to Warner, PB&J teaches families how to see themselves without the labels of their mistakes—see themselves as people who can triumph against adversity and who can make a better life for their children. The success of PB&J clients has inspired Warner and her family to start a fund to help other PB&J clients who have worked hard to make lasting changes in their lives but are hindered in the achievement of their goals by financial restraints.

Warner’s family adopts a PB&J client family for Christmas every year and they include their children in the purchase of the gifts and wish list items, which usually include things like coats and blankets. Whitney started hosting an annual fundraiser in 2008 in her home to celebrate the agency and spread the word about PB&J.

In addition to Warner’s work for PB&J, she serves on United Way’s campaign cabinet. She would like law firms to provide information to their employees about giving to United Way or the community need of their choice.
Allison Pieroni

Allison Pieroni has given back to the community many times over for her work in non-profit organizations. Her interests lie in helping to provide quality education to students and in assisting those who may have no other access to legal information.

Pieroni has been chair of La Familia, Inc., since 2004. La Familia helps children and families rebuild their lives through treatment, foster care, adoptions, a deaf group home and school-based social workers.

As president, Pieroni also helps the Pius X Foundation raise money to defray tuition and school costs. “I wanted to work with my alma mater to continue to provide quality education to current and future students,” she said.

Pieroni is also a member of the Adoption and Foster Care Alliance of New Mexico, a group of professionals and agencies committed to promoting superior services for children, birth parents, adoptive families and foster families through outreach, direct services, education, and advocacy. Recently, she chaired a committee which prepared proposed changes to the Adoption Act to be submitted to the 2011 State Legislature.

Finally, for the last 15 years, Pieroni has taught Children’s Liturgy for the Word to five through twelve-year-olds at the Shrine of St. Bernadette. Through her membership and leadership positions in these organizations, Pieroni has given tireless support to the difficult work these organizations perform for the community.

Diane Harrison Ogawa

Diane Harrison Ogawa grew up listening to her father talk of fundraising for higher education at the family dinner table in Luverne, Minnesota. And when he wasn’t discussing it, he was bringing donors to the house to share in the meal.

For the last 10 years, Ogawa has been executive director of the PNM Resources Foundation, an endowed fund that generates money—about $650,000 annually—to be invested back into communities. She is also director of community relations for PNM and oversees their corporate responsibility efforts and more than $2.5 million in community investments.

In addition to her roles at PNM, Ogawa co-founded the Center for Non-Profit Excellence, helped put together the New Mexico Collaboration to End Hunger, was one of the early chairs of the Women in Philanthropy Council of United Way of Central New Mexico, co-chaired the Albuquerque Community Foundation’s Future Fund, is the incoming chair of the Albuquerque Community Foundation and the chair-elect for the CNM Foundation. She is also a past president of the Junior League of Albuquerque and a co-chair for the Center for Philanthropic Partnerships. Ogawa is a member of numerous boards in the community.
Community activities are important to Roswell practitioner Greg Nibert. He currently serves on the board of the Roswell-Chaves County Economic Development Corporation, a non-profit corporation devoted to bringing businesses and employment opportunities to Roswell and southeast New Mexico. Nibert is also a long-time member of Kiwanis International, where he has served as president of the Roswell Club and lieutenant governor for the southwest district. Also important to Nibert is his long-time service to the Boy Scouts of America. In addition to his tireless efforts at raising funds for the Scouts, Nibert served as chairman of the Rio Hondo District of the Conquistador Council from 1997-2003 and is currently an assistant scout master at Troop 2.

In 2006, at the age of 62, legal services attorney Sandi Gilley signed up to participate in a fundraising bike ride with Team in Training, an outreach of the Leukemia and Lymphoma Society. She did not own a bike, hadn't ridden one in 40 years, and was surprised to find the course was over 100 miles through the Arizona desert.

When Gilley arrived at her first practice, she was joined by her teammates—all seasoned cyclists who had been training for months. She had only six weeks to train and get used to her new bike. At that first practice, she pedaled slowly, but she pedaled.

When she wasn't training, Gilley was raising over $4,500 in sponsorship donations for the Leukemia and Lymphoma Society. But this was only part of the equation; she still had to complete the ride. It took the novice cyclist ten hours and 22 minutes to cross 109 miles of desert. Sandi had never cycled so far in her life and her body was in agony. Only with her coach’s help was she able lift her leg over the bicycle frame and stand. Her teammates, amazed by her accomplishment, nicknamed her “True Grit.”

True to her new name, in 2008, Gilley completed another 100 mile bike ride for the Leukemia and Lymphoma Society, this time raising $22,000 in donations. Now 65, she has two 100-mile rides scheduled for 2010 and endeavors to raise $30,000 for the society.

“I don't know how many more of these rides I have left in me, but I want to do whatever I can,” explains Gilley.

To follow Gilley’s journey or to help support her cause, visit http://pages.teamintraining.org/nm/treadcyc10/sgilley.

Steven J. Hile

Albuquerque attorney Steven J. Hile of Moses, Dunn, Farmer & Tuthill PC leaves the office around mid-day nearly every Friday during the school year.

He's not getting a head start on the weekend or running to make an early tee time. Hile volunteers two to three hours almost every Friday during the school year as a teacher's assistant at Zia Elementary School.

He helps teach fourth and fifth graders in Christine Lawrence's class by doing whatever is required for that day's lesson. That may include reading to the class, teaching math lessons, or giving students individual tutoring when necessary. The only times he doesn't go are when the class is taking standardized tests or out on a field trip.

Hile said he likes teaching because, “It's rewarding to see the kids learn and grow, and it doesn't hurt my knees.”

Hile, 59, has been volunteering at Zia for the last four years and estimates that he's put in a "couple hundred" hours teaching during that time. His three daughters each attended Zia so it's a comfortable fit. He said that he is considering teaching as a second career when he retires from practicing law.
Justin Lea

Justin Lea arrived in New Mexico in 2006 after nearly two years having a “miserable time doing antitrust law” for a large, Washington, D.C. law firm. Lea landed in Taos looking for ways to “be effective in giving back to the community.”

The Marquette University Law School graduate has been president of the Taos Youth Soccer League for the past two years. The league currently has about 550 players.

Lea, who has been in solo practice since January, has been working for the past three years with the local school board and the town council to fund and build a new soccer complex. He estimated that he’s spent 300 to 400 hours over that time working on a joint powers agreement between the school district and the town council that envisions a multi-sport complex that features a total of three fields. The town backed a $2.5 million loan and the school contributed about 23 acres of land for the complex, which could be used by national sports teams, division I or national college teams that want to train at altitude.

Lea, a four-year starter in baseball and soccer for Grinnell College in Grinnell, Iowa, said the sports complex will serve a dual purpose. It will allow for the development of soccer, hockey and other sports, but it also will serve as an economic driver for the community. It will give Taos, whose economy is dependent upon art and skiing, different ways to encourage people to visit. Lea hopes the planned complex will attract youth and referee clinics, as well as camps and tournaments for a variety of sports.

Long-range plans include the addition of an indoor facility within the next ten years, he said.

Kathryn Terry

Kathryn Terry, an associate with the Walther Family Law firm, is a young lawyer who has been practicing only six years but in that time has contributed a great deal to the community, both professionally and personally.

Terry volunteers on the Children’s Court Rules Committee which works to clarify the Children’s Court Rules to improve representation for delinquent youth and children in state custody. As a participant in the Court Improvement Project mentorship program, she is paired with a child in Drug Court or PEG (Program for the Empowerment of Girls). She treats the kids to dinner and offers them continued support and mentorship.

In addition, Terry taught community property for two semesters as an adjunct professor at UNM School of Law. In her class, she introduced the students to the concepts of reconciliation and cooperation while also explaining the legal issues surrounding community property in practical, real life terms. Along the way, Terry has also mentored young lawyers in her collaborative practice group.

Michelle Frechette

Promoting world peace and understanding is the primary goal for the time Michelle Frechette spends with the Rotary Club, the oldest and largest service club in the world. Frechette is the chair of Rotary District 5520 Youth Exchange, which includes New Mexico and West Texas. The exchange program sends local high school students to foreign countries where they spend a year learning about other cultures and sharing their own. While the students are abroad, they attend high school and learn the language by total immersion.

Rotary District 5520 currently has about 20 Rotary clubs that are active in hosting or sponsoring students in the program. Approximately 30 students come and go from the district each year.

Frechette’s interest began when she hosted a young girl from Chile who is now doctor. She helped up to five students at a time the first fifteen years and now helps thirty-plus young people find new perspectives through an expanded and personal world view.
Two federal judges in southern New Mexico have been instrumental in making it possible for World War II veterans to visit their memorial in Washington, D.C. In 2007, United States District Judge Robert Brack saw a segment on “CBS Sunday Morning” about Honor Flight, an organization that provides trips to Washington, D.C. for World War II veterans to visit the World War II Memorial. Judge Brack discussed the Honor Flight with Judge Les Smith, then a United States magistrate judge (now retired) and two other friends. The four men, all of whom were sons of World War II veterans, immediately took on the project of bringing the Honor Flight concept to southern New Mexico.

Due to advanced age and deteriorating health, World War II veterans have less opportunity to actually be able to visit their memorial. Judge Brack and Judge Smith knew that time was of the essence and moved as quickly as possible to get an Honor Flight in place. They discussed the project with Bill Mattiace, the then-outgoing mayor of Las Cruces, and asked him to head the project. Volunteers interested in veterans’ affairs were gathered to serve on the governing board.

The first Honor Flight from southern New Mexico took place in October 2008 after the group raised over $100,000 to finance the trip. The group included 40 veterans, 20 “guardians” to assist the veterans, two doctors and two nurses. Nine of the 40 veterans were in wheelchairs, with an additional four veterans on oxygen. All of the veterans were able to participate in the two-day trip at no cost. Guardians and medical personnel volunteered to go at their own expense. Two additional Honor Flights have taken place since that first flight in 2008. The volunteers with Honor Flight of Southern New Mexico know that the time is quickly passing and hope to honor as many World War II veterans as possible with upcoming flights.

Just about every Thursday morning, Judge Lynn Pickard is found setting up tables of coffee, fruit, bread and eggs for the immigrant day laborers outside Our Lady of Guadalupe Church in Santa Fe.

“There are so precious few jobs,” said Judge Pickard, retired appellate court judge. “Most of the men wait outside all day without an offer of a handyman job.”

Likewise, on the last Wednesday of every month, Matthew Ortiz is usually seen delivering a pot of chili or spaghetti to St. Elizabeth’s Shelter on Alarid Street in Santa Fe.

“We can get trapped by the business of life, but it’s the acts we do for others that make you feel good,” said Ortiz, Santa Fe city councilor and of counsel with Jay Goodman & Associates.

Volunteering is a family activity for Ortiz. His wife Michele and daughter Gabriela help with the preparation, cutting and chopping. They do all the cooking at home, sometimes borrowing a large pot from the shelter’s kitchen.

The program, Los Amigos de Parque, is one of her several volunteer activities. For 20 years, Judge Pickard has provided meals for St. Elizabeth’s Shelter and cooks for the Interfaith Community Shelter at Cerrillos and Harrison Roads. She spent a weekend in the woods cooking for the trail repair crew of the New Mexico Volunteers for the Outdoors.

The Honorable Robert Brack and The Honorable Les Smith

Matthew Ortiz in the kitchen at St. Elizabeth’s Shelter.

Judge Lynn Pickard at Los Amigos del Parque at Our Lady of Guadalupe Church in Santa Fe.

Matthew Ortiz in the kitchen at St. Elizabeth’s Shelter.

The Honorable Lynn Pickard and Matthew Ortiz

The Honorable Lynn Pickard and Matthew Ortiz
Albuquerque attorney Rod Frechette is doing his best to pass along his passion for collecting coins and stamps to a younger generation.

This school year he has been meeting every Thursday afternoon at recess with students at Corrales Elementary School to discuss stamps and coins, along with social studies, geography and history lessons that go along with collecting these rare items. Fourteen students gave up their recess to attend his presentation in mid-October. “They’re like sponges at this age,” Frechette said.

Frechette, a member of the State Bar of New Mexico since 1988 and a member of the criminal defense firm Frechette and Associates, also is the leader of the Young Numismatists (YNs), a youth group associated with the Albuquerque Coin Club. The youth group has its own projects and meets just before the adult club. The YNs earn special coin club currency for doing projects and helping with club activities. The currency can be applied to purchases from local coin club dealers to help younger members build their own collections.

In the past, Frechette also served a local Boy Scout troop as merit badge counselor for citizenship in the community and citizenship in the nation. He helped arrange for the scouts to get a “behind the scenes” look at the workings of Bernalillo County Metropolitan Court and U.S. Federal District Court in Albuquerque.

Deborah Peacock

Intellectual property lawyer Deborah Peacock doesn’t want her employees’ lives to be all law, all the time. Her hope is that they spend some time giving back to the community.

To that end, Peacock, of Peacock Myers, began in 2007 giving cash rewards of up to $5,000 annually to those who devote a requisite amount of time to board membership or community/non-profit organizations.

According to the firm’s Policy Regarding Volunteerism, the money can either be kept by the employee or donated in their name to an entity of their choice.

“Last year, we paid $25,000 to employees for community service and also donated an additional $20,000 cash. Pro bono services were additional,” said Peacock, who admits borrowing the idea from another company.

“I liked the idea very much, so we ... expanded it,” Peacock explained.

Peacock doesn’t just ask volunteer time of her employees. She sets an example. She is on the boards of WESST, which does small business development, the New Mexico Association of Commerce and Industry, angel investor group New Mexico Angels, and the Solomon Schechter Day School, which she says is the only Jewish day school in the state.

“I'm not Jewish and I don't have children, but I’m on the board and I’m really trying to help sustain them so they can stay in existence. I think it’s so important to have at least one school in all of New Mexico that’s Jewish education.”
Tom Rutherford

As a politician, lobbyist, and balloonist, Tom Rutherford jokes that he’s a “hot air specialist.” His dedication to community service began in 1973, when he joined the New Mexico Senate and co-founded the Albuquerque International Balloon Fiesta. This year, Rutherford is being honored with a Heritage Award for being a founding father of the Balloon Fiesta and one of its most visible volunteers. He continues to serve as the fiesta’s public announcer and master of ceremonies. The job Rutherford enjoys most these days, however, is volunteering as a “cuddler” in the Newborn Intensive Care Unit at the University of New Mexico Hospital. “I hold the little babies,” he explains, “nurture them, and occasionally recite campaign speeches to the ones having trouble falling asleep.”

Torri Jacobus

Albuquerque attorney Torri Jacobus joined the Junior League of Albuquerque in 2005 in an effort to be more involved within her community. Now on the league’s board of directors as community vice president, Jacobus has been instrumental in the league’s community-related efforts for the past five years. In her current role, Jacobus oversees and coordinates the volunteer efforts of approximately 400 women. The league is in the midst of a five-year focus on hunger which began with Project Share, one of the first hot meal sites in Albuquerque for the homeless and working poor. Currently, the league’s project is “Hunger to Hope,” a collaboration with the Store House and the Rio Grande Food Project. With Hunger to Hope, the league hopes to increase food pantry capacity as well as create a communication network among food pantries.

Jacobus is also instrumental in the league’s Make a Difference Day project and a Halloween day at the Crossroads for Women, providing a day of fun for children of women who are reintegrating into the community after incarcerations.

Vickie Wilcox

Vickie Wilcox serves as a board member of the Albuquerque Community Foundation, a non-profit group well known for its charitable work and contribution to educating New Mexico’s youth through scholarships and direct grants. Through her work with the foundation, Wilcox has assisted groups too numerous to list in delivering much needed equipment, services and, sometimes, basic needs to people in Albuquerque and surrounding communities.

Wilcox also takes great pride in her work with Ooh La La Christmas Home Tour in New Mexico, Inc. That group, which Wilcox incorporated as a non-profit in New Mexico, funds and promotes awareness of organizations that support the needs of severely injured men and women who serve in the United States Armed Forces. Through its popular Christmas home tours and events such as its upcoming Benefit Dinner and Dance (featuring as special guests actor Gary Sinise and the Lieutenant Dan Band), Ooh La La provides much needed support to the Wounded Warrior Project, a group that assists wounded veterans upon their return home with, among other things, family support, counseling and assistance with obtaining benefits.

Sarita Nair

For Sarita Nair, it’s important to have a passion outside of her legal practice with Sutin Thayer & Brown. Nair’s passion is training and preparing women who want to seek political office. She is president of the board of directors of Emerge New Mexico, which assists women in the Democratic Party who want to do just that.

Since Emerge was founded about four years ago, 90 women have graduated from its seven-month program. They take several classes, which include fundraising, budgeting, campaign strategy and field operations. Tuition is $250. The graduates have goals to hold such elective offices as mayor, state representative or judge.
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• St. Pius X Foundation: President, 2010-11

• Adoption and Foster Care Alliance of New Mexico: Chair, Legislative Committee, 2010

• New Mexico Christian Legal Aid: Member, 1999-present. Volunteer presenter of Family Law Preventive Law Seminars to clients of Noon Day Ministries, Albuquerque Rescue Mission, and Joy Junction

• Shrine of St. Bernadette: Volunteer teacher, Children's Liturgy of the Word, 1995-present. Member, Pastoral Council
Proposed Revisions to the Rules of Criminal Procedure for the District, Magistrate and Metropolitan Courts

The Rules of Criminal Procedure for the District Courts Committee, the Courts of Limited Jurisdiction Rules Committee, and the Metropolitan Court Rules Committee are considering whether to recommended for the Supreme Court’s consideration proposed amendments to the Rules of Criminal Procedure for the District, Magistrate and Metropolitan Courts.

If you would like to comment on the proposed amendments set forth below before they are submitted to the Court for final consideration, you may do so by either submitting a comment electronically through the Supreme Court’s web site at http://nmsupremecourt.nmcourts.gov/ or sending your written comments to:

Kathleen J. Gibson, Clerk
New Mexico Supreme Court
P. O. Box 848
Santa Fe, New Mexico 87504-0848

Your comments must be received on or before November 29, 2010, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court’s web site for public viewing.

Proposed Revisions to the Rules of Criminal Procedure for the District, Magistrate and Metropolitan Courts

5-803. Problem-solving courts.
A. Referrals to problem-solving courts. The district court may refer a defendant to a problem-solving court, such as drug court or treatment court, as authorized by policies and procedures approved by the Supreme Court.

B. Coordinated treatment of defendants between judicial districts permitted.
(1) When a defendant is referred to a treatment program of a problem-solving court, such as a drug court treatment program or a mental health court treatment program, the defendant may request the transfer of the administration, monitoring, and enforcement of the treatment program from the initiating district court to a receiving district court in a different judicial district. Upon the defendant’s request, the initiating district court may enter a written order conditionally transferring the defendant’s treatment program to a receiving district court, subject to the receiving district court’s review and acceptance of the defendant into its treatment program.

(2) The receiving district court shall enter a written order as soon as reasonably possible to indicate whether it will accept the defendant into its treatment program. If the receiving district court does not accept the defendant into its treatment program, the defendant’s case and any treatment program shall remain in the initiating court. If the receiving district court accepts the defendant into its treatment program, the receiving district court shall assume authority for administering and monitoring the defendant’s treatment program. The receiving district court may impose sanctions for the defendant’s non-compliance with the treatment program and award incentives for the defendant’s positive behavior while participating in the treatment program.

(3) The defendant’s advancement within, and graduation or termination from, the treatment program shall be determined by the treatment court judge in the receiving court. Upon the defendant’s discharge or termination from the treatment program by the receiving court, the defendant’s case shall be transferred back to the initiating district court for final disposition.

7-803. Problem-solving courts.
A. Referrals to problem-solving courts. The metropolitan court may refer a defendant to a problem-solving court, such as drug court or treatment court, as authorized by policies and procedures approved by the Supreme Court.

B. Coordinated treatment of defendants between judicial districts permitted.
(1) When a defendant is referred to a treatment program of a problem-solving court, such as a drug court treatment program or a mental health court treatment program, the defendant may request the transfer of the administration, monitoring, and enforcement of the treatment program from the initiating metropolitan court to a receiving court in a different judicial district. Upon the defendant’s request, the initiating metropolitan court may enter a written order conditionally transferring the defendant’s treatment program to a receiving court, subject to the receiving court’s review and acceptance of the defendant into its treatment program.
5-115. Conduct of court proceedings.

A. Judicial proceedings. Judicial proceedings should be conducted with fitting dignity and decorum, in a manner conducive to undisturbed deliberation, indicative of their importance to the people and to the litigants, and in an atmosphere that bespeaks the responsibilities of those who are charged with the administration of justice.

B. Nonjudicial proceedings. Proceedings, other than judicial proceedings, designed and carried out primarily as ceremonies, and conducted with dignity by judges in open court, may properly be photographed in, or broadcast from, the courtroom with the permission and under the supervision of the court.

C. Appearance of the defendant before the court. A defendant shall not be required to appear before the court in any visible restraint devices, including handcuffs, chains or stun belts, a visible bullet proof vest or any other item which, if visible to the jury, would give the appearance that the defendant is incarcerated. Except by order of the court, the defendant may not appear before the jury in any visible restraint devices, including handcuffs, chains or stun belts, a visible bullet proof vest or any other item which, if visible to the jury, would prejudice the defendant in the eyes of the jury. When the defendant appears in court for trial in any restraint device, whether before the jury or not, the court shall state on the record the kind of restraint device used and the reasons why the defendant is being restrained.

EID. Closed circuit television recordings. The Administrative Office of the Courts (AOC) may install closed circuit television systems in the magistrate courts. The recordings produced by the closed circuit television system do not constitute a record of court proceedings, and the presence of closed circuit television recording equipment in the courtroom shall have no effect upon the status of the magistrate court as a nonrecord court.

7-102. Conduct of court proceedings.

A. Judicial proceedings. Judicial proceedings should be conducted with fitting dignity and decorum, in a manner conducive to undisturbed deliberation, indicative of their importance to the people and to the litigants, and in an atmosphere that bespeaks the responsibilities of those who are charged with the administration of justice.

B. Nonjudicial proceedings. Proceedings, other than judicial proceedings, designed and carried out primarily as ceremonies, and conducted with dignity by judges in open court, may properly be photographed in, or broadcast from, the courtroom with the permission and under the supervision of the court.

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Committee commentary. — The Committee added Paragraph C to ensure that defendants are not prejudiced because of being unduly restrained before the court.

6-102. Conduct of court proceedings.

A. Judicial proceedings. Judicial proceedings should be conducted with fitting dignity and decorum, in a manner conducive to undisturbed deliberation, indicative of their importance to the people and to the litigants and in an atmosphere that bespeaks the responsibilities of those who are charged with the administration of justice. The taking of photographs in the courtroom during the progress of judicial proceedings or during any recess thereof and the transmitting or sound recording of such proceedings for broadcasting by radio or television introduce extraneous influences which tend to have a detrimental psychological effect on the participants and to divert them from the proper objectives of the trial; and no such action shall be done or permitted except as provided by Rule 6601 NMRA of these rules.
PROPOSED REVISIONS TO THE RULES GOVERNING THE NEW MEXICO BAR AND THE SUPREME COURT GENERAL RULES TO IMPLEMENT A PROPOSED NEW MANDATORY MENTORSHIP PROGRAM FOR NEWLY ADMITTED LAWYERS

The Board of Bar Commissioners has recommended for the Supreme Court’s consideration proposed amendments to the Rules Governing the New Mexico Bar and the Supreme Court General Rules that would implement a new mandatory mentorship program for newly admitted lawyers. The proposed new mentorship program is based largely on the Bill Kitts Society, which was founded in 1982 after the death of Albuquerque lawyer Bill Kitts to carry on his mission to help new lawyers transition into the legal profession. The proposed new program, “Bridge the Gap: Transitioning into the Profession”, intends to continue the spirit of the Bill Kitts Society and is dedicated to his memory.

The goal of the proposed mentorship program is to train new lawyers during their first year of practice in professionalism, ethics, and civility; to assist new lawyers in beginning the process of acquiring the practical skills and judgment necessary to practice in a highly competent manner; and to provide a means for all New Mexico attorneys to learn the importance of organizational mentoring, including the building of developmental networks and long-term multiple professional relationships.

If ultimately approved by the Supreme Court, the new mentorship program would apply to all new attorneys admitted to the bar after the proposed rule changes are adopted. In addition to the proposed rule changes set forth below, the State Bar also has developed additional draft program materials to implement the new program, which include a training manual and model plan. Because of space limitations, those additional proposed materials are not published in the Bar Bulletin but can be viewed on the State Bar’s web site at www.nmbar.org.

If you would like to comment on the proposed amendments set forth below, or the proposed program materials, before they are submitted to the Court for final consideration, you may do so by either submitting a comment electronically through the Supreme Court’s web site at http://nmsupremecourt.nmcourts.gov/ or sending your written comments to:
Kathleen J. Gibson, Clerk
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P.O. Box 848
Santa Fe, New Mexico 87504-0848

Your comments must be received on or before November 29, 2010, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court’s web site for public viewing.


A. Purpose and duties. The purpose of the Commission on Professionalism is to:
(1) support the concept and principles of professionalism;
(2) promote competence, civility, integrity, attitude, and respect for the rule of law, for other lawyers and the courts, for clients and the public, and fidelity to lawyers’ roles as officers of the court and as problem solvers;
(3) create and promote an awareness of professionalism by all members of the New Mexico bench and bar and reinforce the values of professionalism;
(4) serve as the statewide clearinghouse for professionalism; support the “Bridge the Gap: Transitioning into the Profession” mentorship program of the State Bar of New Mexico by certifying and recommending mentors to the Supreme Court for appointment;
(5) serve as the oversight and advisory commission for professionalism training, education and resources to support a catalyst for positive change; develop and implement training materials for new mentors in accordance with the mentorship program guidelines;
(6) uphold and support the definition of professionalism and educational minimum continuing legal education requirements adopted by the New Mexico Supreme Court; provide to the MCLE Board notice of a mentor’s appointment to the Bridge the Gap program and certify completion of participation as a mentor for continuing legal education credit; and
(7) serve as a forum for communication, support and collaboration among legal constituencies in New Mexico.

B. Commission established; composition. There is established a Commission on Professionalism to be composed of up to twenty (two) members from the profession and the public as follows: four judges; fourteen lawyers; the Dean of the University of New Mexico School of Law; the president of the University of New Mexico School of Law Student Bar Association; one member representing the [Legal Assistants] paralegal division; and [three] one public member[s].

C. Appointment and terms. The voting members of the Commission on Professionalism shall be as follows:
(1) Chief Justice of New Mexico Supreme Court, or designee;
(2) Chief judge of the United States District Court for the District of New Mexico, or designee;
(3) Two (2) state district court judges appointed by the district judges association for [one (1) year term] a two (2) year term;
(4) President of the Board of Bar Commissioners, or designee;
(5) President of the New Mexico criminal defense lawyers association, or designee;
(6) President of the New Mexico trial lawyers association or designee;
(7) President of the New Mexico defense lawyers association, or designee;
(8) President of the New Mexico district attorneys association, or designee;
(9) Chairelect of the young lawyers division of the State Bar of New Mexico, or designee;
(10) Chair-elect of the senior lawyers division of the State Bar of New Mexico, or designee;
(11) President, or designee, of each of the following voluntary bar associations: Hispanic bar association; Indian bar association; black lawyers association; women’s bar association; [(H)](12) Chair of the minimum continuing legal education board, or designee;
[(H)](13) Chair of the disciplinary board, or designee;
[(H)](14) One active status member of the state bar appointed by the president of the board of bar commissioners for a two (2) year term;
[(H)] One active status member of the state bar appointed by the president of the board of bar commissioners for a three (3) year term;]
(15) Chair[elect] of the legal[assistants] paralegal division of the State Bar of New Mexico, or designee;
(16) Dean of the University of New Mexico School of Law, or designee;
(17) [One public member appointed by the chief justice for a two-(2)-year term] President of the University of New Mexico School of Law Student Bar Association, or designee;
(18) [Two] One public member[s] appointed by the president of the Board of Bar Commissioners, or an entity designated by the president, for a two-(2)-year term.

D. Ex officio nonvoting members. The director of the Administrative Office of the Courts and the executive director of the State Bar of New Mexico shall serve as ex officio members of the commission.

E. Co-chairs. The chief justice of the New Mexico Supreme Court and the president of the Board of Bar Commissioners shall serve as co-chairs of the commission.

F. Removal. Any appointed voting member of the commission may be removed as a member by majority vote of the members of the commission, for cause, including but not limited to, failure to attend to the duties and responsibilities of the commission or for nonattendance at three consecutive meetings of the commission.

G. Terms. Terms of voting members shall commence on January 1 the length of term shall continue as provided by their position or otherwise stated in these rules and expire on December 31. Initial terms of appointed voting members shall commence on May 1, 2000 and shall expire on December 31, 2000.

H. Committees. The commission may conduct its work through committees, either standing or ad hoc. One standing committee shall be composed of the current members of the state bar’s standing committee called the commission on professionalism. A new standing committee of the Commission on Professionalism shall be assigned tasks delegated to it by the co-chairs of the commission. Other standing or ad hoc committees shall be appointed as deemed necessary by the commission.

I. Administration and staffing. The State Bar of New Mexico shall:
(1) administer to the commission and shall develop and approve the goals, duties, programs, budget, operation and staffing of the commission; and
(2) provide an annual status and progress report to the New Mexico Supreme Court on the goals, programs, accomplishments and operation of the Commission on Professionalism.

J. Review of policies. The Board of Bar Commissioners and the New Mexico Supreme Court shall review and approve all policies relating to the Commission on Professionalism.

K. Duties of the commission. The Commission on Professionalism shall develop the mission statement, goals, objectives, responsibilities, programs and activities of the commission, which shall be subject to approval and adoption by the Board of Bar Commissioners.

A. Applicability. Every new lawyer admitted to practice law in New Mexico on active status must timely complete the requirements of the State Bar’s “Bridge the Gap: Transitioning into the Profession” (Bridge the Gap) program unless otherwise specified in this rule.

(1) It is the new lawyer’s responsibility to ensure that all aspects of the Bridge the Gap requirements are met within a required twelve (12) month period in order to renew licensure. This includes but is not limited to filing a Bridge the Gap Completion Certification executed by the assigned mentor attesting to successful completion of the Bridge the Gap program.

(2) Successful completion of the Bridge the Gap program shall fulfill the new lawyer’s MCLE requirements for the first year of the lawyer’s compliance period.

B. Appointment and training of qualified mentors; credits.

(1) The Supreme Court shall appoint qualifying mentors on the recommendation of the Supreme Court’s Commission on Professionalism, who shall certify qualifying mentors in accordance with the minimum requirements of the Bridge the Gap program guidelines. The Commission shall also be responsible for providing training materials for new mentors in accordance with the guidelines.

(2) Participation in the Bridge the Gap program as an appointed mentor will be certified for one (1) compliance year’s worth of continuing legal education credits. The Supreme Court’s Commission on Professionalism shall certify to the MCLE Board appointment and completed participation of the mentor.

C. Administration. The State Bar of New Mexico shall administer the Bridge the Gap program, establish guidelines, certify compliance and completion, develop and approve its procedures, budget, fees, operations and staffing, and provide an annual status report to the Supreme Court.

D. Deferrals.

(1) Newly admitted lawyers serving judicial law clerkships may apply for a one (1) year deferral from the State Bar after which the lawyer shall enroll and complete the Bridge the Gap program requirements in a twelve (12) month period.

(2) Those newly admitted lawyers who are otherwise not engaged in the practice of law or who are unemployed may petition the State Bar for temporary deferral of these requirements.

E. Exemptions. Those lawyers exempt from completing the Bridge the Gap program are limited to the following:

(1) newly admitted lawyers on active status who do not reside in New Mexico. Such lawyers are required to fulfill MCLE requirements under the Supreme Court’s approved MCLE rules.

(2) Newly admitted New Mexico lawyers who have practiced law elsewhere for a minimum of two (2) years in the last five (5) years prior to admission in this state.

F. Cost. There is an administrative fee associated with enrollment in the Bridge the Gap program set by the Board of Bar Commissioners and payable to the State Bar of New Mexico. One half of the amount is due at time of enrollment after admission and the remainder at time of completion of the program.

G. Administrative suspension and non-renewal of license for non-compliance. Unless otherwise approved by the Bridge the Gap program administrator for good cause, failure to timely complete the program or pay the fee will result in administrative
suspension of the lawyer’s license for non-compliance with this rule.

H. Bridge the Gap program curriculum and other information. The State Bar is responsible for developing and maintaining a program manual and other training materials, to be approved by the Supreme Court, necessary for the implementation and operation of the program.

I. Conflicts and confidentiality in outside mentoring.
(1) The mentoring lawyer is presumed not to have a lawyer-client relationship with the new lawyer’s client and the new lawyer’s client is not an intended beneficiary of the mentor relationship between the mentoring lawyer and the new lawyer. The outside mentor may provide or the new lawyer may seek short-term limited guidance or counsel, within the mentoring relationship, without expectation by either lawyer or the new lawyer’s clients that a lawyer-client relationship has been formed by the mentoring lawyer with the new lawyer’s clients or that representation is being provided in the matter to the new lawyer’s clients by the mentoring attorney.

(2) Where practical the new lawyer and the mentor shall discuss new lawyer client specific issues in hypothetical terms. If hypothetical terms are not practical under the circumstances as determined by the lawyers because the disclosure is impliedly authorized under the circumstances and is necessary to carry out the purposes of the Bridge the Gap program, a lawyer providing or seeking short-term limited guidance or counsel within the mentoring relationship is not subject to the New Mexico Rules of Professional Conduct regarding confidentiality of information in Rule 16-106 NMRA and shall not have waived any privilege or protection attaching to that information.

(3) To facilitate the goals and purposes of the Bridge the Gap program, the mentoring lawyer is not required to run a conflict check when guidance or counsel is being provided on a short-term limited basis to a new lawyer regarding a new lawyer’s client because the mentoring lawyer is presumed not to have a lawyer-client relationship with the new lawyer’s client. In this respect, the mentoring lawyer’s guidance or counsel, provided on a short-term limited basis to a new lawyer regarding a new lawyer’s client, is not subject to the New Mexico Rules of Professional Conduct regarding conflicts of interest in Rules 16-107, 16-108, 16-109, 16-110, and 16-111 NMRA.

(4) Subparagraphs (1), (2), and (3) of this paragraph do not apply to lawyers who are outside mentors providing, or new lawyers seeking, counsel or guidance on an on-going or regular basis relating to the needs of or litigation regarding a specific client, whether within or without the context of the mentoring relationship. If the lawyers are engaged in on-going or regular guidance or counsel related to a specific client or clients such that a lawyer-client relationship exists between the new lawyer’s client and the mentoring lawyer, then the new lawyer and the mentoring lawyer must comply with the relevant New Mexico Rules of Professional Conduct.

[Adopted by Supreme Court Order No. _______________, effective __________________.]
(general) requirement[—excess professionalism credits cannot be converted]. Selfstudy credit hours cannot be carried over. No credit may be carried over for more than one (1) compliance year.

[F]E. Judges. Judges, retired judges who are active licensed members of the state bar, domestic violence special commissioners and domestic relations hearing officers shall be required to complete the same number of hours of continuing legal education as other active licensed bar members. The means by which these individuals may satisfy their continuing legal education requirements are set forth in Rule 18204 NMRA.

[As amended, effective January 1, 1990; November 1, 1991; February 1, 1992; March 23, 1998; January 1, 2001; as amended by Supreme Court Order 05830007, effective January 1, 2006; Supreme Court Order 06830033, effective January 1, 2007; as amended by Supreme Court Order No. ________________, effective __________.]

18-203. Accreditation; course approval; provider reporting.

A. Accreditation. The board shall:

(1) accredit institutions
   (a) that have a history of providing quality continuing legal education; and
   (b) that meet current accredited provider standards established by the board.

(2) approve individual programs of continuing legal education. The content of the instruction provided may include, but not be limited to, live seminars, participation in educational activities involving the use of computer-based resources, audiotapes and videotapes; and

(3) periodically review accredited institutions.

B. Accredited institutions and program provider requirements. Accredited institutions and program providers shall:

(1) assure that each program addresses the ethical or code of professional responsibility and professionalism implications where appropriate; provided, however, that only those portions of a program specifically approved or specified as granting ethics [and professionalism] credit shall be used to fulfill the attorneys’ ethics [and professionalism] requirements;

(2) assure that the course has significant intellectual or practical content and that its primary objective is to increase the participant’s professional competence as an attorney;

(3) assure that the curriculum offered relates to legal subjects or subjects which relate to the individual attorney’s practice of law, including professional conduct, legal ethics, and professionalism or law office management;

(4) assure that presenters for all programs are qualified by practical or academic experience to teach the subject to be covered;

(5) assure that legal subjects are normally taught by attorneys;

(6) assure that program faculty include at least one lawyer, judge or fulltime law professor;

(7) assure that thorough, high quality, current, readable, carefully prepared written materials are distributed to all participants at or before the time the course is offered; and

(8) assure that a level of activity is noted on the promotional materials following the guidelines listed below:

   (a) Advanced. An advanced continuing legal education course should be designed for the practitioner who specializes in the subject matter of the course;

   (b) Intermediate. An intermediate course is designed for the practitioner experienced in the subject matter, but not necessarily an expert. A survey course in which there have been recent, substantial changes will be deemed intermediate. In an intermediate course, some segment may be low intermediate or basic and others high or advanced. In those instances, the course taken as a whole will be considered intermediate;

   (c) Basic. A basic course is designed for the practitioner with no experience or limited experience in the area of law with which the course deals. A survey course will be considered basic unless there are recent, significant changes in the law.

C. Announcement of approval. Providers shall announce, as to a program that has been given approval, that: “This course has been approved by the New Mexico Minimum Continuing Legal Education Board for _____ hours of credit.”

D. Provider attendance lists. Pursuant to practices and procedures adopted by the board, all continuing legal education providers must, as a condition of accreditation or program approval, agree to provide the board a list of all New Mexico attorneys and judges who attended the continuing legal education program and the number of hours claimed by each participant. Such list and any required credit filing fees shall be provided within thirty (30) days of the program being held.

[As amended, effective January 1, 1990; November 1, 1991; January 1, 1994; January 16, 1996; February 18, 1998; January 1, 2001; January 1, 2001; as amended by Supreme Court Order 05830007, effective January 1, 2006; by Supreme Court Order 06830033, effective January 1, 2007; by Supreme Court Order No. 08830049, effective December 31, 2008; as amended by Supreme Court Order No. ________________, effective __________.]

18-204. Earning credits; credit types.

A. Scope. This rule sets forth the means by which a member may acquire the credits required by Rule 18201 NMRA.

B. Live program credit.

(1) Credit for attending approved live programs shall be based on one (1) hour of credit for each sixty (60) minutes of actual instruction time, which may include the following:

   (a) lecture;
   (b) panel discussion;
   (c) question and answer periods;
   (d) film presentation; or
   (e) time spent viewing videotapes or listening to audiotapes at an organized open enrollment program at which there is a moderator assigned to supervise the program and to foster discussion among participants, and provided that this program is approved as provided for in these rules.

(2) The individual seeking live program credit must not have previously received credit for the same program.

C. Selfstudy credit.

(1) Selfstudy general[—ethics or professionalism] or ethics credits may be given for viewing videotapes or listening to audiotapes or participating in educational programs involving the use of computer-based resources, provided:

   (a) board approval is received prior to viewing, listening or participating;
   (b) the selfstudy course is from an accredited provider pursuant to Rule 18203 NMRA and was produced within five (5) years from the date of viewing, listening or participating; or
   (c) the selfstudy course is from an approved program pursuant to Rule 18203 NMRA and was produced within five (5) years from the date of viewing, listening or participating.

______________________________
(2) Absent prior board approval in exceptional circumstances, no more than four (4) hours of credit may be given during one (1) compliance year for selfstudy activities.

(3) The individual seeking selfstudy credit must not previously have received selfstudy or liveprogram credit for the same program.

(4) Selfstudy credits may be applied only to the continuing legal education requirements for the year in which they are earned, and may not be carried over to subsequent year requirements or applied backward to prior year requirements.

D. Speakers. Speakers who participate in an accredited provider’s program or an approved program may receive credit for preparation time and presentation time, including credit for repeated presentations, within the following parameters:

(1) Speakers may receive credit for the actual presentation time.

(2) Speakers may receive up to three (3) hours of credit for preparation time for each presentation hour.

(3) For repeat presentations, the speaker may only receive credit for presentation time.

E. Publications.

(1) Credit for one (1) hour may be earned for each sixty (60) minutes spent authoring or coauthoring written material that is actually published in a legal periodical, journal, book or treatise approved by the board, provided that:

(a) the material substantially contributes to the legal education or competency of the attorney and other attorneys; and

(b) the work is not done in the ordinary course of the attorney’s practice of law or the performance of regular employment.

(2) Credit is given in the year the work is accepted for publication, or in which publication actually occurs.

(3) The maximum number of credits an attorney can earn for a publication is ten (10) general credits.

F. Other attorney reporting procedures. An attorney wishing to obtain approval for a program, for which the provider has not sought accreditation or has not properly reported attendees, shall comply with the practices and procedures established by the board.

G. Judges.

(1) In addition to other means set forth in this rule, judges, retired judges who are active licensed members of the state bar, domestic violence special commissioners and domestic relations hearing officers may satisfy the continuing legal education requirements of Paragraph F of Rule 18201 NMRA by attending judicial education programs:

(a) provided by the Judicial Continuing Education Committee;

(b) approved by the Minimum Continuing Legal Education Board;

(c) provided by the Judicial Education Center; or

(d) approved by the Administrative Office of the Courts pursuant to the Rules Governing Judicial Education.

(2) Annual training for metropolitan, district and appellate court judges, domestic violence special commissioners and domestic relations hearing officers shall include appropriate training in understanding domestic violence, as determined by the Judicial Continuing Education Committee.

[Approved by Supreme Court Order 06830033, effective January 1, 2007; as amended by Supreme Court Order No. ___________.]
IN THE MATTER OF THE AMENDMENTS OF RULE 8-502 NMRA OF THE RULES FOR COURTS OF LIMITED JURISDICTION (MUNICIPAL COURTS)

ORDER

WHEREAS, this matter came on for consideration by the Court upon recommendation of the Courts of Limited Jurisdiction Committee to amend Rule 8-502 NMRA for Courts of Limited Jurisdiction (Municipal Courts), and the Court being sufficiently advised, Chief Justice Charles W. Daniels, Justice Patricio M. Serna, Justice Petra Jimenez Maes, Justice Richard C. Bosson, and Justice Edward L. Chávez concurring;

NOW, THEREFORE, IT IS ORDERED that the amendments of Rule 8-502 NMRA for Courts of Limited Jurisdiction (Municipal Courts) hereby are APPROVED;

IT IS FURTHER ORDERED that the amendments of Rule 8-502 NMRA shall be effective December 3, 2010; and

IT IS FURTHER ORDERED that the Clerk of the Court hereby is authorized and directed to give notice of the amendments of the above-referenced rules by publishing the same in the Bar Bulletin and NMRA and posting the same on the New Mexico Compilation Commission website <http://www.nmcompcomm.us/nmrules>.

IT IS SO ORDERED.

WITNESS, Honorable Chief Justice Charles W. Daniels of the Supreme Court of the State of New Mexico, and the seal of said Court this 18th day of October, 2010.

Kathleen Jo Gibson, Chief Clerk of the Supreme Court of the State of New Mexico

8-502. Pleas.

A. Pleas. A defendant who elects to waive the right to a trial may enter:

(1) a plea of guilty; or
(2) a plea of no contest, subject to the approval of the court.

B. Advice to defendant. The court shall not accept a plea of guilty or no contest without first, by addressing the defendant personally in open court, determining that the plea is voluntary and not the result of force or threats or of promises apart from a plea agreement. The court shall also inquire as to whether the defendant’s willingness to plead guilty or no contest results from prior discussions between the government and the defendant or the defendant’s attorney.

D. Plea agreement procedure.

(1) The government or its agent and the attorney for the defendant or the defendant when acting pro se may engage in discussions with a view toward reaching an agreement that, upon the entering of a plea of guilty or no contest to a charged offense or to a lesser or related offense, the government or its agent will move for dismissal of other charges, or will recommend or not oppose the imposition of a particular sentence, or will do both. The court shall not participate in any such discussions.

(2) If a plea agreement has been reached by the parties which contemplates entry of a plea of guilty or no contest, it shall be reduced to writing substantially in the form approved by the Supreme Court, and the court shall require the disclosure of the agreement in open court at the time that the plea is offered. If the plea agreement was not made in exchange for a guaranteed, specific sentence and was instead made with the expectation that the State would only recommend a particular sentence or not oppose the defendant’s request for a particular sentence, the court shall inform the defendant that such recommendations and requests are not binding on the court. Thereupon, the court may accept or reject the agreement, or may defer its decision as to acceptance or rejection until there has been an opportunity to consider the presentence report.

(3) If the court accepts a plea agreement that was made in exchange for a guaranteed, specific sentence, the court shall inform the defendant that it will embody in the judgment and sentence the disposition provided for in the plea agreement. If the court accepts a plea agreement that was not made in exchange for a guaranteed, specific sentence, the court may inform the defendant that it will embody in the judgment and sentence the disposition recommended or requested in the plea agreement or that the court’s judgment and sentence will embody a different disposition as authorized by law.

(4) If the court finds the provisions of the agreement unacceptable after reviewing it and any presentence report, the court will allow the withdrawal of the plea, and the agreement will be void. This subparagraph does not apply to a plea for which the court rejects a recommended or requested sentence but otherwise accepts the plea.

(5) Except for good cause shown, notification to the court of the existence of a plea agreement shall be given at the arraignment or at such other time, prior to trial, as may be fixed by the court.

(6) Evidence of a plea of guilty, later withdrawn, or a plea of no contest, or of an offer to plead guilty or no contest to the crime charged or any other crime, or of statements made in con-
connection with any of the foregoing pleas or offers, is not admissible in any civil or criminal proceeding against the person who made the plea or offer.

E. Determining accuracy of plea. Notwithstanding the acceptance of a plea of guilty, the court shall not enter a judgment upon such plea without making such inquiry as shall satisfy it that there is a factual basis for the plea.

[As amended, effective March 1, 1987; October 1, 1987; September 1, 1990; October 1, 1996; November 1, 2000; as amended by Supreme Court Order 07-8300-30, effective December 15, 2007; by Supreme Court Order No. 08-8300-47, effective December 31, 2008; by Supreme Court Order No. 10-8300-031, effective December 3, 2010.]

Committee Commentary. — In 2010, Subparagraph (2) of Paragraph B was amended to make clear that, when advising the defendant of the mandatory minimum and maximum possible penalties, the court must also advise the defendant of any possible sentence enhancements that may result based on any prior convictions the defendant may have. See Marquez v. Hatch, 2009-NMSC-040, ¶ 13, 146 N.M. 556, 212 P.3d 1110 (providing that “if the district court is aware of the defendant’s prior convictions, the court must also advise the defendant of any possible sentence enhancements that would require a sentence enhancement if subsequently requested by the State, the court should inform the defendant of the maximum potential sentence, including enhancements.”) Subparagraphs (2), (3) and (4) of Paragraph D were also amended in 2010 to clarify the potential consequences of rejected plea recommendations in light of State v. Pieri, 2009-NMSC-019, ¶ 29, 146 N.M. 155, 207 P.3d 1132, which held that “if the court rejects a sentence recommendation or a defendant’s unopposed sentencing request, and the defendant was aware that the court was not bound by those recommendations or requests, the court need not afford the defendant the opportunity to withdraw his or her plea.”

[Adopted by Supreme Court Order No. 10-8300-031, effective December 3, 2010.]

No. 10-8300-032

IN THE MATTER OF THE AMENDMENTS OF RULES 7-502, 7-507, AND 7-811 NMRA OF THE RULES OF CRIMINAL PROCEDURE FOR METROPOLITAN COURTS

ORDER

WHEREAS, this matter came on for consideration by the Court upon recommendation of the Metropolitan Courts Rules Committee to amend Rules 7-502, 7-507, and 7-811 NMRA of the Rules of Criminal Procedure for Metropolitan Courts, and the Court having considered said recommendation and being sufficiently advised, Chief Justice Charles W. Daniels, Justice Patricio M. Serna, Justice Petra Jimenez Maes, Justice Richard C. Bosson, and Justice Edward L. Chávez concurring;

NOW, THEREFORE, IT IS ORDERED that the amendments of Rules 7-502, 7-507, and 7-811 NMRA of the Rules of Criminal Procedure for Metropolitan Courts hereby are APPROVED;

IT IS FURTHER ORDERED that the amendments of Rules 7-502, 7-507, and 7-811 NMRA of the Rules of Criminal Procedure for Metropolitan Courts shall be effective December 3, 2010; and

IT IS FURTHER ORDERED that the Clerk of the Court hereby is authorized and directed to give notice of the amendments of the above-referenced rules by publishing the same in the Bar Bulletin and NMRA and posting the same on the New Mexico Compilation Commission web site <www.nmcompcmm.us/nmrules>. IT IS SO ORDERED.

WITNESS, Honorable Chief Justice Charles W. Daniels of the Supreme Court of the State of New Mexico, and the seal of said Court this 18th day of October, 2010.

Kathleen Jo Gibson, Chief Clerk of the Supreme Court of the State of New Mexico

7-502. Pleas and plea agreements.

A. Pleas. A defendant who elects to waive the right to a trial may enter:

(1) a plea of guilty;

(2) a plea of no contest, subject to the approval of the court; or

(3) if the plea is for a driving while intoxicated or domestic violence offense, after an adverse determination of a pretrial motion on a dispositive issue, enter a conditional plea of guilty or no contest, reserving in writing the right to appeal the adverse determination of the specified pre-trial motion. A conditional plea is subject to approval of the court. A defendant who prevails on appeal shall be allowed to withdraw a conditional plea of guilty or no contest.

B. Advice to defendant. The court shall not accept a plea of guilty or no contest without first, by addressing the defendant personally in open court, which shall include an appearance through an audio-visual proceeding under Rule 7-110A NMRA, informing the defendant of and determining that the defendant understands the following:

(1) the nature of the charge to which the plea is offered;

(2) the mandatory minimum penalty provided by law, if any, and the maximum possible penalty provided by law for the offense to which the plea is offered, including any possible sentence enhancements;

(3) that the defendant has the right to plead not guilty, or to persist in that plea if it has already been made;

(4) that if the defendant pleads guilty or no contest:

(a) there will not be a trial in this case, so that by pleading guilty or no contest the defendant waives the right to a trial; or

(b) if the plea is a conditional plea, that the defendant waives the right to a trial unless the defendant prevails on appeal;

(5) that, if the defendant pleads guilty or no contest, it may have an effect upon the defendant’s immigration or naturalization...
status, and if the defendant is represented by counsel, the court shall determine that the defendant has been advised by counsel of the immigration consequences of a plea;

(6) that, if the defendant is charged with a crime of domestic violence or a felony, a plea of guilty or no contest will affect the defendant’s constitutional right to bear arms, including shipping, receiving, possessing or owning any firearm or ammunition, all of which are crimes punishable under federal law for a person convicted of domestic violence or a felony; and

(7) that, if the defendant pleads guilty or no contest to a crime for which registration as a sex offender is or may be required, and, if the defendant is represented by counsel, the court shall determine that the defendant has been advised by counsel of the registration requirement under the Sex Offender Registration and Notification Act [Sections 29-11A-1 to -10 NMSA 1978].

C. Ensuring that the plea is voluntary. The court shall not accept a plea of guilty or no contest without first, by addressing the defendant personally in open court, determining that the plea is voluntary and not the result of force or threats or of promises apart from a plea agreement. The court shall also inquire as to whether the defendant’s willingness to plead guilty or no contest results from prior discussions between the government and the defendant or the defendant’s attorney.

D. Plea agreement procedure.

(1) The government or its agent and the attorney for the defendant or the defendant when acting pro se may engage in discussions with a view toward reaching an agreement that, upon the entering of a plea of guilty or no contest to a charged offense or to a lesser or related offense, the government or its agent will move for dismissal of other charges, or will recommend or not oppose the imposition of a particular sentence, or will do both. The court shall not participate in any such discussions.

(2) If a plea agreement has been reached by the parties which contemplates entry of a plea of guilty or no contest, it shall be reduced to writing substantially in the form approved by the Supreme Court, and the court shall require the disclosure of the agreement in open court at the time that the plea is offered. If the plea agreement was not made in exchange for a guaranteed, specific sentence and was instead made with the expectation that the State would only recommend a particular sentence or not oppose the defendant’s request for a particular sentence, the court shall inform the defendant that such recommendations and requests are not binding on the court. Thereupon, the court may accept or reject the agreement, or may defer its decision as to acceptance or rejection until there has been an opportunity to consider the presentence report.

(3) If the court accepts a plea agreement that was made in exchange for a guaranteed, specific sentence, the court shall inform the defendant that it will embody in the judgment and sentence the disposition provided for in the plea agreement. If the court accepts a plea agreement that was not made in exchange for a guaranteed, specific sentence, the court may inform the defendant that it will embody in the judgment and sentence the disposition recommended or requested in the plea agreement or that the court’s judgment and sentence will embody a different disposition as authorized by law.

(4) If the court finds the provisions of the agreement unacceptable after reviewing it and any presentence report, the court will allow the withdrawal of the plea, and the agreement will be void. If the plea is withdrawn, neither the plea nor any statements arising out of the plea proceeding shall be admissible against the defendant in any criminal proceedings. This subparagraph does not apply to a plea for which the court rejects a recommended or requested sentence but otherwise accepts the plea.

(5) Except for good cause shown, notification to the court of the existence of a plea agreement shall be given at the arraignment or at such other time, prior to trial, as may be fixed by the court.

(6) Evidence of a plea of guilty, later withdrawn, or a plea of no contest, or of an offer to plead guilty or no contest to the crime charged or any other crime, or of statements made in connection with any of the foregoing pleas or offers, is not admissible in any civil or criminal proceeding against the person who made the plea or offer.

E. Determining accuracy of plea. Notwithstanding the acceptance of a plea of guilty, the court should not enter a judgment upon such plea without making such inquiry as shall satisfy it that there is a factual basis for the plea.

[As amended, effective May 1, 1986; May 1, 1997; February 16, 2004; as amended by Supreme Court Order 07-8300-30, effective December 15, 2007; as amended by Supreme Court Order No. 09-8300-026, effective September 10, 2009; by Supreme Court Order No. 10-8300-032, effective December 3, 2010.]

Committee Commentary. — In 2010, Subparagraph (2) of Paragraph B was amended to make clear that, when advising the defendant of the mandatory minimum and maximum possible penalties, the court must also advise the defendant of any possible sentence enhancements that may result based on any prior convictions the defendant may have. See Marquez v. Hatch, 2009-NMSC-040, ¶ 13, 146 N.M. 556, 212 P.3d 1110 (providing that “if the district court is aware of the defendant’s prior convictions that would require a sentence enhancement if subsequently requested by the State, the court should inform the defendant of the maximum potential sentence, including enhancements. If the defendant enters a guilty or no contest plea without being advised of possible sentence enhancements and then the possible existence of prior convictions comes to light when the State files a subsequent supplemental information seeking to enhance the defendant’s sentence based on those prior convictions, the court should conduct a supplemental plea proceeding to advise the defendant of the likely sentencing enhancements that will result, and determine whether the defendant wants to withdraw the plea in light of the new sentencing enhancement information”). Subparagraphs (2), (3) and (4) of Paragraph D were also amended in 2010 to clarify the potential consequences of rejected plea recommendations in light of State v. Pieri, 2009-NMSC-019, ¶ 29, 146 N.M. 155, 207 P.3d 1132, which held that “if the court rejects a sentence recommendation or a defendant’s unopposed sentencing request, and the defendant was aware that the court was not bound by those recommendations or requests, the court need not afford the defendant the opportunity to withdraw his or her plea.”

[As amended, effective May 1, 1986; May 1, 1997; February 16, 2004; as amended by Supreme Court Order 07-8300-30, effective December 15, 2007; by Supreme Court Order No. 09-8300-026, effective September 10, 2009; by Supreme Court Order No. 10-8300-032, effective December 3, 2010.]
7-507. Insanity or incompetency; transfer to district court; evaluation.
   A. **Transfer to district court.** If the defendant pleads “not guilty by reason of insanity”, action shall be transferred to the district court for further proceedings pursuant to the Rules of Criminal Procedure for the District Courts.

   B. **Competency to stand trial.**
      (1) The issue of the defendant’s competency to stand trial may be raised by motion, or upon the court’s own motion, at any stage of the proceedings.
      (2) The issue of the defendant’s competency to stand trial shall be determined by the judge, unless the judge finds there is evidence which raises a reasonable doubt as to the defendant’s competency to stand trial. If a reasonable doubt as to the defendant’s competency to stand trial is raised prior to trial, the court shall order the defendant to be evaluated as provided by law. The court shall hold a hearing to determine the issue of the defendant’s competency to stand trial:
         (a) within ten (10) days after the filing of the diagnostic evaluation if the defendant is incarcerated; or
         (b) within thirty (30) days after the filing of the diagnostic evaluation if the defendant is not incarcerated.
      (3) If a defendant is found incompetent to stand trial the court may:
         (a) dismiss the charges; or
         (b) transfer the proceedings to the district court.
      (4) If the finding of incompetency is made during the trial, the court shall declare a mistrial.

   C. **Mental examination.** Upon motion and upon good cause shown, the court shall order a mental examination of the defendant before making any determination of competency under this rule.

   D. **Statement made during psychiatric examination.** A statement made by a person during a psychiatric examination or treatment subsequent to the commission of the alleged crime shall not be admissible in evidence against such person in any criminal proceeding on any issue other than that of the person’s competency to stand trial.

[As amended, effective September 1, 1990; October 1, 1996; as amended by Supreme Court Order No. 10-8300-032, effective December 3, 2010.]

7-811. Arraignment and commitment hearing prior to issuance of the governor’s rendition warrant.
   A. **Time.** Within two (2) business days after arrest, the defendant shall be brought before the court for an arraignment and commitment hearing.

   B. **Procedure.** At the arraignment, the court shall:
      (1) inform the defendant of the defendant’s right to retain counsel;
      (2) provide the defendant with copies of any documents on which the prosecution will rely at the commitment hearing;
      (3) inform the defendant of the right to the issuance and service of a warrant of extradition before being extradited and of the right to obtain a writ of habeas corpus pursuant to law; and
      (4) ask the defendant to admit or deny that the defendant is the person described in the fugitive complaint.

   C. **Waiver of extradition.** The defendant may waive extradition proceedings by signing a written waiver of extradition substantially in the form approved by the Supreme Court. If the court finds the waiver is voluntary, the court shall issue an order to hold the defendant without bail for delivery to an authorized agent of the demanding state.

   D. **Identity question.** If the defendant denies being the person described in the fugitive warrant, the court shall examine the information on which the arrest was made and determine whether it appears that the defendant is the person sought.

   E. **Conditions of release.** If the defendant does not waive extradition or denies being the person described in the fugitive complaint, the court may set conditions of release on the surrender of the defendant upon issuance of the rendition warrant by the governor.

   F. **Time limits for governor’s rendition.** If the defendant does not waive extradition or denies being the person described in the fugitive complaint, the defendant may be held in custody for a period of not more than thirty (30) days pending arrest on a rendition warrant from the governor. On motion, the court may extend the commitment or conditions of release pending arrest on a governor’s rendition warrant for a period of not more than sixty (60) additional days.

   G. **Dismissal of fugitive complaint.** If a governor’s rendition warrant is not filed pursuant to Rule 5-822 NMRA before the expiration of the time for holding the defendant in custody as provided by Paragraph F of this rule, the fugitive complaint shall be dismissed without prejudice and the defendant released. The time limits set forth in Paragraph F in this rule do not constitute the deadline for the completion of extradition proceedings under Rule 5-822 NMRA.

[Adopted, effective October 1, 1996; as amended by Supreme Court Order No. 10-8300-032, effective December 3, 2010.]
IN THE MATTER OF THE AMENDMENTS OF RULES 5-401 AND 5-406 NMRA OF THE RULES OF CRIMINAL PROCEDURE FOR THE DISTRICT COURTS

ORDER

WHEREAS, this matter came on for consideration by the Court upon recommendation of the Rules of Criminal Procedure Committee to amend Rules 5-401 and 5-406 NMRA of the Rules of Criminal Procedure for the District Courts, and the Court having considered said recommendation and being sufficiently advised, Chief Justice Charles W. Daniels, Justice Patricio M. Serna, Justice Petra Jimenez Maes, Justice Richard C. Bosson, and Justice Edward L. Chávez concurring;

NOW, THEREFORE, IT IS ORDERED that the amendments of Rules 5-401 and 5-406 NMRA of the Rules of Criminal Procedure for the District Courts hereby are APPROVED;

IT IS FURTHER ORDERED that the amendments of Rules 5-401 and 5-406 NMRA of the Rules of Criminal Procedure for the District Courts shall be effective December 10, 2010; and

IT IS FURTHER ORDERED that the Clerk of the Court hereby is authorized and directed to give notice of the amendments of Rules 5-401 and 5-406 NMRA by publishing the same in the Bar Bulletin and NMRA and posting the same on the New Mexico Compilation Commission web site <www.nmcompcomm.us/nmrules>.

IT IS SO ORDERED.

WITNESS, Honorable Chief Justice Charles W. Daniels of the Supreme Court of the State of New Mexico, and

the seal of said Court this 20th day of October, 2010.

Kathleen Jo Gibson, Chief Clerk of the Supreme Court of the State of New Mexico

5-401. Bail.

A. Right to bail; recognizance or unsecured appearance bond.

Pending trial, any person bailable under Article 2, Section 13 of the New Mexico Constitution, shall be ordered released pending trial on the person’s 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 makes a written finding that such release will not reasonably assure the appearance of the person as required.

B. Secured bonds.

If the court makes a written finding 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 D 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 provided such paid surety also executes a bail bond for the full amount of the bail set; or

(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 5-401A NMRA; or

(3) whi(e loan of a bail bond with licensed sureties as provided in Rule 5-401B 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.

C. 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.

D. 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;
or informant or otherwise obstructing justice; 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 require that conditions of release be imposed.

F. 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.

G. Review of conditions of release. A person for whom bail is set by the district 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 the person’s inability to meet the bail set, shall, upon motion, be entitled to have a hearing to review the amount of bail set. Unless the release order is amended and the person is thereafter released, 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 district court.

H. 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 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 the person’s inability to meet such conditions or in the release of the person on a condition requiring the person to return to custody after specified hours, the provisions of Paragraph G of this rule shall apply.

I. Record of hearing. A record shall be made of any hearing held by the district court pursuant to this rule.

J. 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 B of this rule, when the conditions of the appearance bond have been performed and the defendant’s guilt for whom bail was required has been adjudicated by the Court, the clerk shall return the sum which has been deposited to the person who deposited the sum, or that person’s personal representatives or assigns.

K. Cases pending in magistrate or metropolitan court. A person charged with an offense which is not within magistrate or metropolitan court trial jurisdiction and who has not been bound over to the district court may file a petition any time after the person’s arrest with the clerk of the district court for release pursuant to this rule. Jurisdiction of the magistrate or metropolitan 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:

1. continue the bail set and any condition of release imposed by the magistrate or metropolitan court;
2. impose any bail or condition of release authorized by Paragraphs A, B or D of this rule;
3. continue any revocation of release imposed pursuant to Rule 5-403 NMRA; or
4. after a hearing, revoke the release of a defendant pursuant to Subparagraph (2) of Paragraph A of Rule 5-403 NMRA.

L. Release from custody by designee. Any or all of the provisions of this rule, except the provisions of Paragraphs F, G and K of this rule, may be carried out by responsible persons designated in writing by the chief judge of the district 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 chief judge of the judicial district in which the jail or detention facility is located.

M. Bind over in district court. The bond shall remain in the magistrate or metropolitan court, except that it shall be transferred to the district court upon indictment or bind over to that court.

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

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

P. Judicial discretion. Action by any court on any matter relating to bail shall not preclude the statutory or constitutional disqualification of a judge. [As amended, effective January 1, 1987; October 1, 1987; Septem-
A. Exoneration of bond. Unless otherwise ordered for good cause, a bond shall only be automatically exonerated:

(1) after twelve (12) months if the crime is a felony and no charges have been filed in the district court;

(2) after six (6) months if the crime is a misdemeanor or petty misdemeanor and no charges have been filed;

(3) at any time prior to entry of a judgment of default on the bond if the district attorney approves; or

(4) upon surrender of the defendant to the court by an unpaid surety.

B. Surrender of an offender by a paid surety. A person who is released upon execution of a bail bond by a paid surety may be arrested by the paid surety if the court has revoked the defendant’s conditions of release pursuant to Rule 5-403 NMRA or if the court has declared a forfeiture of the bond pursuant to the provisions of this rule. If the paid surety delivers the defendant to the court prior to the entry of a judgment of default on the bond, the court may absolve the paid surety of responsibility to pay all or part of the bond.

C. Forfeiture. If there is a breach of condition of a bond, the court may declare a forfeiture of the bail. If a forfeiture has been declared, the court shall hold a hearing on the forfeiture prior to entering a judgment of default on the bond. A hearing on the forfeiture shall be held thirty (30) or more days after service of the Notice of Forfeiture and Order to Show Cause to the clerk of the court in the manner provided by Rule 5-407 NMRA.

D. Setting aside forfeiture. The court may direct that a forfeiture be set aside in whole or in part upon a showing of good cause why the defendant did not appear as required by the bond or if the defendant is surrendered by the surety into custody prior to the entry of a judgment of default on the bond. Notwithstanding any provision of law, no other refund of the bail bond shall be allowed.

E. Default judgment; execution. If, after a hearing, the forfeiture is not set aside, a default judgment on the bond shall be entered by the court. If the default judgment is not paid within ten (10) days after it is filed and served on the surety in the manner provided by Rule 5-407 NMRA, execution may issue thereon.

F. Appeal. Any aggrieved person may appeal from a judgment or order entered under this rule as authorized by law for appeals in civil actions in accordance with the Rules of Appellate Procedure. An appeal of a judgment or order entered under this rule does not stay the underlying criminal proceedings.

[Adopted, effective October 1, 1987; as amended by Supreme Court Order No. 10-8300-033, effective December 10, 2010.]
Professionalism & Ethics Seminar Program Schedule

The program will be a live presentation in Albuquerque with an interactive simulcast in Las Cruces and Portales up until the 3:45 p.m. Judges' Panel portion which will be live at all locations.

Friday, November 19, 2010

8:30 a.m. Check-in/Registration

9:00 a.m. "How to keep your license and stay out of jail"
F. Michael Hart, Esq.

9:45 a.m. Professional Scenarios
William E. Snead, Esq. (Moderator)
David J. Jaramillo, Esq.

10:45 a.m. Break

11:00 a.m. Ethical Scenarios
Maureen Sanders, Esq. (Moderator)
George Bach, Esq. William D. Slease, Esq.
Michael Browde, Esq. Eric M. Sommer, Esq.
Katherine W. Hall, Esq. Gabrielle Valdez, Esq.
A. Elicia Montoya, Esq.

12:00 p.m. Lunch (on your own)

1:15 p.m. "When you come to a fork in the road, take it - Reflections, Story-telling and Reminiscenses over a 40 year law practice"
Hal Simmons, Esq.

2:15 p.m. Break

2:30 p.m. "Trial Lawyers in the Eyes of an Appellate Judge"
Honorable Michael D. Bustamante

3:15 p.m. Professionalism Recognized - New Mexico Lawyers Recognized for Professional Conduct
Update on the NM Supreme Court's Efforts on Professionalism and Ethics
Justice Richard C. Bosson, New Mexico Supreme Court

3:45 p.m. What Flies and Doesn't Fly in Front of Judge and Jury
Hon. Abigail Aragon Hon. George Eichwald
Hon. Charles Brown Hon. Sandra Engel
Hon. Michael Hustamante Hon. Alan Malott

Hon. Michael Bustamante Hon. Jerald A. Valentine
Hon. Justice Michael J. Murphy
Hon. Manuel I. Arrieta Hon. David Reeb
Potajes Judges' Panel
Hon. Albert Mitchell Hon. Drew Tatton
Hon. Robert Orlick

4:45 p.m. Adjourn
William E. Snead, Program Co-Chair
David J. Stout, Program Co-Chair

Please return to:
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Remember to complete all 2010 MCLE requirements by December 31, 2010. Minimum requirements are 10 general, 1 ethics and 1 professionalism credits.

Avoid Sanctions:
As of January 1, 2011 late compliance sanctions are in effect and 2010 non-compliant attorneys will be required to pay a $100 late compliance fee. As of April 1, 2011 attorneys who continue to be in non-compliance and/or have failed to pay the initial $100 fee will be subject to a second late compliance fee of $250.

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New Mexico Legal Aid (NMLA) seeks a respected, experienced, innovative and dynamic leader who is passionate and has a demonstrated commitment to advocate on behalf of low-income people in civil matters. NMLA is seeking an Executive Director who is an experienced attorney (strongly preferred but will consider non-attorneys who have strong management background experience). The applicant must be knowledgeable in public interest law, federal and state government administration and operations; and has an understanding of organization and operation of non-profit corporations. NMLA, an equal opportunity employer, is a high quality, non-profit legal services organization that serves the entire state, with offices in Albuquerque, Clovis, Las Cruces, Santa Fe, Gallup, Roswell, Taos, Silver City, Las Vegas, Santa Ana, and Socorro, as well as a Migrant unit located in our Las Cruces office, which serves the southern part of New Mexico. Our Santa Ana office serves the Native American population of New Mexico. NMLA is the largest legal services program in New Mexico, with a staff of over 80 employees that serves almost 5,000 clients per year. The Administrative offices are in Albuquerque, and the Executive Director’s office will be there. Candidates must have at least ten (10) years legal or equivalent experience. Attorney applicants must be admitted or eligible for admission to practice in New Mexico. Candidates must also have demonstrated successful experience in grant development, management and fundraising, and be skilled in personnel and financial management, program planning, and administration. Preference will be given to candidates with a minimum of five (5) years of legal services management experience, with 10 or more years preferred. Comparable experience with another legal advocacy organization will also be considered. Compensation is competitive and based on experience. Applications should include a cover letter expressing in detail why the candidate is interested in the position of Executive Director of NMLA as well as what the candidate believes he/she can contribute to the future of the organization and its client community. A current resume and names and contact information for at least three (3) professional references. Deadline: Wednesday, December 15, 2010 at 5:00 PM. Please forward your application to the following PO Box and/or email address. Please, no phone calls. NMLA Board Search Committee, New Mexico Legal Aid, PO Box 25486, Albuquerque, NM 87125-5486; jobs@nmlalaid.org.

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County Manager- Taos County
Taos County is accepting applications for the position of County Manager through November 15, 2010. The County Manager will be responsible for the overall management and administration of county business, including duties as chief personnel officer, fiscal director, budget officer, property custodian and policy advisor to the Board of County Commissioners. Requires graduate degree in public administration, political science, business administration, finance, law or a closely related field and at least eight (8) years of relevant managerial experience. Competitive salary, including a comprehensive benefits package, is negotiable based on education and experience. For copy of application and complete job description see www.taoscounty.org or contact Taos County Human Resources Department at 105 Albright Street, Taos, NM 87511 or 575-737-6309.

Victims’ Legal Advocate
Help survivors of sexual assault. 10 hrs wk/$10k yr. Legal trng, not reqd. Client screening, case tracking, and advocacy for rape crisis center clients. Apply by 11.14.10, resume/cover letter to: C Harwell, NM Coalition of Sexual Assault Programs, Inc., 3909 Juan Tabo NE, Ste. 6, Albuquerque, NM 87111.

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STATE BAR
of NEW MEXICO
The State Bar Young Lawyers Division welcomed approximately 200 young lawyers and their guests to Santa Fe Oct. 14-16 for the 2010 ABA YLD Fall Conference. Chief Justice Charles Daniels’ opening remarks included an entertaining and educational overview of the history of territorial New Mexico and the origins of its legal system.

YLD launched the 2010-2011 ABA YLD public service project, Serving Our Seniors, at the Mary Esther Gonzales Senior Center. This program provides free basic estate planning documents to low-income senior citizens.

The Fall Gala took place under the stars at the Bonanza Creek Movie Ranch. After ABA YLD Chair David Wolfe’s closing remarks, many lingered for a New Mexican dinner at Tomasita’s and a reception at Milagro 139.

Thanks to the hard work of our Host Committee, the ABA YLD Leadership, as well as the ABA staff, the conference was a tremendous success. YLD thanks sponsors for their generous contributions. The buzz at the end of the weekend was that Santa Fe 2010 will be a difficult act to follow.
The Young Lawyers Division extends its gratitude to the following contributors to the 2010 ABA YLD Fall Conference.

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Thank you to those who volunteered for the national launch of the ABA YLD’s Serving Our Seniors public service project in Santa Fe on October 15, 2010, at the Mary Esther Gonzales Senior Center.

State Bar of New Mexico Lawyer Referral for the Elderly Program
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