

3-107. Pro se and attorney appearance.

A. **Pro se appearance by an individual.** A party to any civil action may appear, prosecute, defend, and appeal any proceeding:

- (1) if the party is an individual party, in person;
- (2) if the property is community property, one spouse may appear for both spouses.

B. **Other authorized non-attorney appearances.** A party to any civil action may appear, prosecute, and defend any proceeding

(1) on a writ of garnishment or attachment

- (a) by a general partner if the partnership is brought into the suit by a writ of garnishment or attachment;

- (b) by an officer, director, or general manager of a corporation or limited liability company upon the filing of a notarized certificate to so act on behalf of the corporation or limited liability company, if the corporation or limited liability company is brought into the suit by writ of garnishment or attachment;

(2) in an action brought under the provisions of the Uniform Owner-Resident Relations Act, Sections 47-8-1 to -52 NMSA 1978, or the Mobile Home Park Act, Sections 48-10-1 to -23 NMSA 1978, if the appearance is by

- (a) the “owner,” as defined in the Uniform Owner-Resident Relations Act;
 - (b) a “landlord,” as defined in the Mobile Home Park Act;
- or
- (c) the person authorized to manage the premises;

(3) if the party is a corporation or limited liability company, whose voting shares or memberships are held by a single shareholder or member or closely knit group of shareholders or members, all of whom are natural persons active in the conduct of the business, and the appearance is by one such shareholder or member who has been authorized to appear on behalf of the corporation or limited liability company;

(4) if the party is a general partnership that meets all of the following qualifications:

- (a) the partnership has less than ten partners, whether limited or general, except that a husband and wife are treated as one partner for this purpose;

- (b) all partners, whether limited or general, are natural persons; and

- (c) the appearance is by a general partner who has been authorized to appear by the general partners;

(5) if the party is a governmental entity and the appearance is by an employee of the governmental entity authorized by the entity to institute or cause to be instituted an action on behalf of the governmental entity; or

(6) if the party is a wage claimant, the director of the labor and industrial division of the Labor Department, as assignee, may appear on behalf of the claimant under Sections 50-4-11 and 50-4-12 NMSA 1978.

C. **Attorney appearance.** A party may appear, prosecute, defend, and appeal any proceeding by an attorney. Whenever an attorney undertakes to represent a party, the attorney shall file a written entry of appearance showing the attorney’s name, address, and telephone number. Counsel not admitted to practice law in New Mexico, but who are licensed to practice law and in good standing in another state or territory, shall comply with Rule 24-106 NMRA. For the purpose of this rule, the filing of any pleading or paper signed by counsel constitutes an entry of appearance.

If entry of appearance is made by the filing of a pleading on behalf of a party, the attorney shall set forth on the pleading the attorney's address and telephone number. If an attorney's appearance is limited under Paragraph C of Rule 16-102 NMRA, the attorney shall:

- (1) file an entry of appearance entitled "Limited Entry of Appearance" that identifies the nature of the limitation;
- (2) note the limitation in the signature block of any paper the attorney files; and
- (3) include in the signature block of any paper the attorney files an address at which service may be made on the client.

D. Collection agencies. Collection agencies may take assignments of claims in their own names as real parties in interest for the purpose of billing and collection and bringing suit in their own names; provided that no suit authorized by this section may be instituted on behalf of a collection agency in any court unless the collection agency appears by a licensed attorney-at-law.

E. Fees for non-attorneys prohibited. Any person who appears, prosecutes, or defends a proceeding under Paragraph B of this rule shall not receive a fee for providing that service.

[As amended, effective November 1, 1987; July 1, 1990; October 1, 1992; October 1, 1996; November 1, 2000; as amended by Supreme Court Order 05-8300-05, effective March 21, 2005; by Supreme Court Order 08-8300-015, effective June 20, 2008; as amended by Supreme Court Order No. 13-8300-040, effective December 31, 2013.]

Committee commentary. — A friend or family member may not represent a party, nor a parent represent a minor child, unless the friend, family member, or parent is a licensed attorney and enters an appearance in the case. This rule does not prevent a minor or incompetent person from suing or defending through a representative or guardian ad litem as provided in Rule 3-401(C) NMRA, but the representative or guardian ad litem acts as the litigant, not as an attorney.

Paragraph B of this rule allows certain non-attorneys to appear, prosecute, and defend a civil action in metropolitan court under specific, limited circumstances. *See State v. Rivera*, 2012-NMSC-003, ¶ 1, 268 P.3d 40. Paragraph E was added to this rule in 2013 to clarify that non-attorneys are not permitted to collect a fee for rendering legal services, such as appearing in court or drafting legal documents, because doing so would constitute the unauthorized practice of law. *See State ex rel. Norvell v. Credit Bureau of Albuquerque, Inc.*, 1973-NMSC-087, ¶ 26, 85 N.M. 521, 514 P.2d 40 (concluding that a collection agency was engaged in the unauthorized practice of law when it solicited claims for collection and charged a fee for legal services).

Paragraph E of this rule does not preclude a non-attorney from receiving a salary or wages for performing work within the ordinary scope of the non-attorney's employment, even if such duties include appearing in court under the provisions of Paragraph B. For example, a non-attorney manager of real estate may receive wages for the performance of managerial duties, which may include appearing in court under Subsection (B)(2) of this rule. But such a real estate manager is not permitted to collect an additional fee for appearing in court or providing legal services.

Corporations, limited liability corporations, and partnerships appearing under Paragraph B of this rule are required to submit an entry of appearance form approved by the Supreme Court, if available.

[Adopted by Supreme Court Order No. 13-8300-040, effective December 31, 2013.]