

BAR BULLETIN

April 13, 2022 • Volume 61, No. 7



No Menu Required, by Gwen Wilemon (see page 4)

gwilemon.faso.com

Inside This Issue

Doña Ana County Anthony Magistrate Court
New Location 5

Investiture of United States District Judge
Margaret I. Strickland 5

Volunteers Needed for Albuquerque Pro Bono
Eviction-Prevention Legal Clinic 7

So, You Think You Might
Want To "Retire?" 10

2022 Annual Meeting 12

Hearsay and In Memoriam 13

From the New Mexico Court of Appeals

2022-NMCA-001: No. A-1-CA-37395:
Federal National Mortgage Association v.
Trissell and Trissell 16

2022-NMCA-002: No. A-1-CA-37995:
Sanchez, Trujillo, Arroyo Hondo
Community Association, and Acequia
Madre de Llano v. Board of County
Commissioners of Taos County
and Healy 22

CLE
PLANNER

Upcoming Programming from the
CENTER FOR LEGAL EDUCATION

EMPLOYMENT MEDIATION



Bringing thirty-three years of trial and
employment law experience to help your client

\$250 per hour

Timothy White
Valdez & White Law Firm, LLC
tim@valdezwhite.com • 505-345-0289

www.valdezwhite.com

Spence Law Firm Adds Two Attorneys.



Francheska Bardacke

Francheska Bardacke, attended the University of New Mexico School of Law where she won a place on the

National Mock Trial team and a national scholarship to attend legendary Gerry Spence's Trial Lawyers College in Wyoming. Since then, throughout her career as an attorney, Francheska has been committed to helping people in New Mexico and fighting on their behalf. She has tried over 50 criminal trials—30 to a jury from start to finish.

Professional memberships:

- New Mexico Trial Lawyers Association
- The American Association of Justice
- License to practice in Federal Court

Francheska attended Colorado College and Oxford University and received her J.D. from the University of New Mexico School of Law.



Erin Marshall

Erin Marshall has twenty years of public policy experience giving her the skills and knowledge of law to effectively represent clients. Erin brings

passion for justice born from drafting legislation. Transitioning from creating law to practicing law has been rewarding and exciting. Her legal work builds on her years of legislative work combined with her hospital compliance work. Erin brings clinical perspective to her clients experiencing issues with acute stroke, cardiovascular, diabetes, end of life, and maternal/infant care or birthing. Erin is committed to her clients and community.

Professional memberships:

- New Mexico State Bar Association
- New Mexico Health Law Section, Board Member
- New Mexico Women's Bar Association, Board Member
- Federal Bar Association, New Mexico Chapter, Board Member
- New Mexico Trial Practice Section
- New Mexico State Bar Committee on Women in the Legal Profession
- Birth Rights Bar Association
- Human Milk Repository of New Mexico, Board Member

Erin received her B.A. in Cultural Anthropology from the University of Colorado Denver and her J.D. from the University of New Mexico



505.832.6363
SpenceNM.com



**State Bar of
New Mexico**
Est. 1886

Officers, Board of Bar Commissioners

Carolyn A. Wolf, President
Benjamin I. Sherman, President-Elect
Erinna M. Atkins, Secretary Treasurer
Carla C. Martinez, Immediate Past President

Board of Editors

Gabrielle Dorian
Michael Eshleman
James Kalm
Matthew Ramirez
Gregory B. Dawkins
Deborah K. Gerads
Anne E. Minard
Constance Tatham

State Bar Staff

Executive Director, Richard Spinello
Director of Communications and Member Services, Evann Laird, notices@sbnm.org
Graphic Designer, Julie Sandoval, jsandoval@sbnm.org
Account Executive, Marcia C. Ulibarri, 505-797-6058 • mulibarri@sbnm.org
Brandon McIntyre, Communications Coordinator brandon.mcintyre@sbnm.org

©2021, State Bar of New Mexico. No part of this publication may be reprinted or otherwise reproduced without the publisher's written permission. The *Bar Bulletin* has the authority to edit letters and materials submitted for publication. Publishing and editorial decisions are based on the quality of writing, the timeliness of the article, and the potential interest to readers. Appearance of an article, editorial, feature, column, advertisement or photograph in the *Bar Bulletin* does not constitute an endorsement by the *Bar Bulletin* or the State Bar of New Mexico. The views expressed are those of the authors, who are solely responsible for the accuracy of their citations and quotations. State Bar members receive the *Bar Bulletin* as part of their annual dues. The *Bar Bulletin* is available at the subscription rate of \$125 per year and is available online at www.sbnm.org.

The *Bar Bulletin* (ISSN 1062-6611) is published twice a month by the State Bar of New Mexico, 5121 Masthead NE, Albuquerque, NM 87109-4367. Periodicals postage paid at Albuquerque, NM. Postmaster: Send address changes to *Bar Bulletin*, PO Box 92860, Albuquerque, NM 87199-2860.

505-797-6000 • 800-876-6227
Fax: 505-828-3765 • address@sbnm.org

April 13, 2022 • Volume 61, No. 7

www.sbnm.org



Table of Contents

Notices 5
Calendar of Legal Education 8
So, You Think You Might Want to "Retire?" 10
2022 Annual Meeting 12
Hearsay and In Memoriam 13
Court of Appeals Opinions List 15

From the New Mexico Court of Appeals

2022-NMCA-001: No. A-1-CA-37395: Federal National Mortgage Association v. Trissell and Trissell 16
2022-NMCA-002: No. A-1-CA-37995: Sanchez, Trujillo, Arroyo Hondo Community Association, and Acequia Madre de Llano v. Board of County Commissioners of Taos County and Healy 22
Advertising 29

Meetings

April

- 14
Children's Law Section**
noon, virtual
- 15
Family Law Section**
9 a.m., virtual
- 23
Intellectual Property Law Section,**
noon, JAlbright Law LLC
- 29
Immigration Law Section**
noon, virtual

May

- 4
Employment and Labor Law Section**
noon, virtual
- 13
Prosecutors Section**
noon, virtual
- 19
Public Law Section**
noon, virtual
- 26
Elder Law Section**
noon, virtual

Workshops and Legal Clinics

April

- 27
Consumer Debt/Bankruptcy Workshop**
6-8 p.m., virtual

May

- 4
Divorce Options Workshops**
6-8 p.m., virtual
- 25
Consumer Debt/Bankruptcy Workshop**
6-8 p.m., virtual

June

- 1
Divorce Options Workshops**
6-8 p.m., virtual
- 22
Consumer Debt/Bankruptcy Workshop**
6-8 p.m., virtual

July

- 16
Divorce Options Workshops**
6-8 p.m., virtual

About Cover Image and Artist: Although she had been sketching and drawing her whole life, it wasn't until Gwen Wilemon became an adult that she began exploring color through acrylics, oils, pastels, and watercolor. Since then, Gwen has studied under several artists including Fred Miller, Bud Edmondson, Clive Tyler, Albert Handel, and Lorenzo Chavez among others. Gwen's work has hung in the Sumner and Dean Gallery in Albuquerque, the Wilder Nightingale Fine Art Gallery in Taos, Purple Sage Galeria in Old Town Albuquerque, and El Zocalo in Las Vegas, N.M. as well as other galleries and museums around the state. She has also had the honor of having works included in juried shows of the Plein Air Painters of N.M., Masterworks, Miniatures, the Pastel Society of N.M. Small Works, PSNM National Pastel Show, and IAPS Show (International Association of Pastel Societies) and has received awards for watercolor, miniatures, and pastels. Gwen is a member of the Pastel Society of New Mexico, the Plein Air Painters of New Mexico and is a member of the Camino Real 8, a group of artists in central New Mexico. She is currently represented by El Zocalo Gallery in Las Vegas, N.M. and has an online gallery at <http://gwilemon.faso.com/>.

Notices

COURT NEWS New Mexico Supreme Court Rule-Making Activity

To view recent Supreme Court rule-making activity, visit the Court's website at <https://supremecourt.nmcourts.gov/>. To view all New Mexico Rules Annotated, visit New Mexico OneSource at <https://nmonesource.com/nmos/en/nav.do>.

Supreme Court Law Library

The Supreme Court Law Library is open to the legal community and public at large. The Library has an extensive legal research collection of print and online resources. The Law Library is located in the Supreme Court Building at 237 Don Gaspar in Santa Fe. Building hours: Monday-Friday 8 a.m.-5 p.m. Library Hours: Monday-Friday 8 a.m.-noon and 1-5 p.m. For more information call: 505-827-4850, email: libref@nmcourts.gov or visit <https://lawlibrary.nmcourts.gov>.

Third Judicial District Court Doña Ana County Anthony Magistrate Court New Location

The Doña Ana County Anthony Magistrate Court has moved to a new location: 220 Crossett Lane, Anthony, N.M. 88021. The current mailing address and telephone number will remain the same, PO Box 1259, Anthony, N.M. 88021 and 575-882- 2554. The business hours of the Doña Ana County Anthony Magistrate Court are 8 a.m. to 4 p.m. Monday through Friday, excluding holidays. The Doña Ana County Anthony Magistrate Court is now open to the public. There will be a grand opening held on April 20. The Doña Ana County Anthony Magistrate Court would also like to give a big thank you to all the Doña Ana County Legislators for their continued support who also helped to advocate and encourage this move in order for it to take place. The Doña Ana County Anthony Magistrate Court would like to give a special thank you and shout-out to the Administrative Office of the Courts for assisting and making this a reality.

The Administrative Hearings Office Driver's License Revocation Hearings Trainings

The Administrative Hearings Office will be conducting free online Zoom train-

Professionalism Tip

With respect to parties, lawyers, jurors, and witnesses:

I will make all reasonable efforts to decide cases promptly.

ings covering all aspects of the Driver's License Revocation Hearings under the Implied Consent Act, including a mock hearing. The trainings are for all hearing participants, including attorneys and law enforcement officers, across New Mexico who participate in ICA License Revocation hearings. For participant scheduling convenience, we are offering two opportunities to attend the training: April 21 from 2-4 p.m. and April 22 from 9:30-11:30 a.m. To attend one of these trainings (you only need to attend one, so pick the time most convenient to you), pre-register by sending an email to Scheduling.Unit@state.nm.us stating your role in the hearing process, how many Implied Consent Act license revocation hearings you have participated in, and which date you wish to attend.

Bernalillo County Metropolitan Court Newly-Appointed Judge Assigned to Felony Division

Bernalillo County Metropolitan Court Chief Judge Maria I. Dominguez announced that, as a result of the recent appointment of Judge Nina Safier by Governor Lujan Grisham to Division XVII, effective March 14, Judge Safier was assigned to the Metropolitan Court's Felony Division and will be hearing felony first appearances and preliminary examination hearings and holding dockets Monday through Friday.

U.S. District Court, District of New Mexico Investiture of Judge Margaret I. Strickland

Please join us for the Investiture of Honorable Margaret I. Strickland at 4 p.m. on April 22 in the Sierra Blanca Courtroom at the United States Courthouse in Las Cruces, N.M. (100 N. Church Street, Third Floor). A reception hosted by the Federal Bench and Bar of the United States District Court for the District of New Mexico will follow from 6 to 8 p.m., at the Double Eagle de Mesilla (2355 Calle De Guadalupe, in Mesilla, N.M.). All members of the Federal Bench and Bar are cordially invited to attend; however, reser-

vations are requested. RSVP, if attending, to Cynthia Gonzales at 505-348-2001, or by email to usdcevents@nmd.uscourts.gov.

STATE BAR NEWS Access to Justice Fund Grant Commission Request for Proposals Open

The Access to Justice Fund Grant Commission announces the 2022-2023 Request for Proposals. If your organization intends to apply for an Access to Justice Fund Grant, send an email to Maria Tanner at maria.tanner@sbnm.org and provide a statement of intent to apply, the organization contact person and his/her email, telephone number and mailing address. Maria will respond by email acknowledging receipt of the intent to apply and provide the application materials. Upon notification of a statement of intent to apply, prospective applicants will receive application materials and any further instructions, copies of all of the questions asked by potential applicants and the question responses. Submitting an "Intent to Apply" does not obligate your organization to submit an application, but you should notify Maria by email if you decide not to apply.

Equity in Justice Program Have Questions?

Do you have specific questions about equity and inclusion in your workplace or in general? Send in anonymous questions to our Equity in Justice Program Manager, Dr. Amanda Parker. Each month, Dr. Parker will choose one or two questions to answer for the *Bar Bulletin*. Go to www.sbnm.org/eij, click on the Ask Amanda link and submit your question. No question is too big or too small.

Board of Bar Commissioners Appointments to ABA House of Delegates

Pursuant to the American Bar Association Constitution and Bylaws (Rules of the Procedure House of Delegates) Article 6, Section 6.4, the Board of Bar Commissioners will make one appointment to the American Bar Association House of

Delegates for a two-year term, which will expire at the conclusion of the 2024 ABA Annual Meeting. The delegate must be a licensed New Mexico attorney and a current ABA member in good standing and be willing to attend meetings or otherwise complete his/her term and responsibilities without reimbursement or compensation from the State Bar; however, the ABA provides reimbursement for expenses to attend the ABA mid-year meetings. Members wishing to serve on the House of Delegates should send a letter of interest and brief resume by May 6 to bbc@sbnm.org.

Appointments to Civil Legal Services Commission

Pursuant to NMSA 1978, § 34-14-1 (2001), the Board of Bar Commissioners will make one appointment to the Civil Legal Services Commission for a three-year term. Applicants must be licensed to practice law in New Mexico and must have experience with civil legal matters affecting low-income persons. Attorneys who wish to apply to serve on the commission should send a letter of interest and brief resume by May 6 to bbc@sbnm.org.

Appointments to Judicial Standards Commission

Pursuant to NMSA 1978, § 34-10-1(B) (1999), the Board of Bar Commissioners will make one appointment to the Judicial Standards Commission for a four-year term. Applicants must be licensed to practice law in New Mexico. The time commitment for service on this Commission is substantial and the workload is voluminous. Receiving, reviewing and analyzing substantial quantities of electronic documents are necessary to prepare for Commission matters. Strict adherence to constitutional, statutory, and regulatory authority governing the Commission is mandatory, expressly including but not limited to confidentiality. Commissioners meet at least six times per year for approximately three hours per meeting. A substantial amount of reading and preparation is required for every meeting. In addition to regular meetings, the Commission schedules at least three weeklong trailing dockets of trials. Additional trials, hearings or other events may be scheduled on special settings. Additionally, mandatory in-house training sessions may periodically take

place. Unless properly recused or excused from a matter, all Commissioners are required to faithfully attend all meetings and participate in all trials and hearings. Appointees should come to the Commission with limited conflicts of interest and must continually avoid, limit or eliminate conflicts of interest with the Commission's cases, Commission members, Commission staff and with all others involved in Commission matters. Attorneys who wish to serve on the Commission should send a letter of interest and brief resume by May 6 to bbc@sbnm.org.

New Mexico Judges and Lawyers Assistance Program NMJLAP Committee Meetings

The NMJLAP Committee will meet at 10 a.m. on April 2 and July 9. The NMJLAP Committee was originally developed to assist lawyers who experienced addiction and substance abuse problems that interfered with their personal lives or their ability to serve professionally in the legal field. The NMJLAP Committee has expanded their scope to include issues of depression, anxiety, and other mental and emotional disorders for members of the legal community. This committee continues to be of service to the New Mexico Judges and Lawyers Assistance Program and is a network of more than 30 New Mexico judges, attorneys and law students.

The Judicial Wellness Program

The newly established Judicial Wellness Program aids in focusing on the short-term and long-term needs of the New Mexico Judicial Community. The New Mexico Judicial Wellness Program was created to promote health and wellness among New Mexico Judges by creating and facilitating programs (educational or otherwise) and practices that encourage a supportive environment for the restoration and maintenance of overall mental, emotional, physical and spiritual health of judges. As the Judicial Wellness Project Manager, Kelly Shane is a Licensed Professional Clinical Counselor and Certified Clinical Trauma Specialist in Addiction and Crisis Prevention. Shane is highly experienced in working with children, adolescents and adults suffering from anxiety, depression, substance abuse and addiction. Shane also has significant experience working with the Juvenile Drug Court in Sandoval County. In addition to

— *Featured* —

Member Benefit

LAWPAY[®]

AN AFFINIPAY SOLUTION

LawPay is proud to be the preferred payment solution of more than 50,000 lawyers. LawPay is designed specifically for the legal industry. LawPay provides attorneys with a simple, secure way to accept online credit card and eCheck payments in their practice.

To learn more, call
866-376-0950 or visit
www.lawpay.com/nmbar.

coordinating, teaching and supervising programs in the mental health field, Shane is familiar with the legal field and its' nuances having been raised in a household wherein her father was a trial lawyer for 40 years. Learn more about the program at www.sbnm.org/nmjwp.

Employee Assistance Program

NMJLAP contracts with The Solutions Group, the State Bar's EAP service, to bring you the following: FOUR FREE counseling sessions per issue, per year. This EAP service is designed to support you and your direct family members by offering free, confidential counseling services. Check out the MyStress Tools which is an online suite of stress management and resilience-building resources. Visit www.sbnm.org/EAP or call 505.254.3555. All resources are available to members, their families and their staff. Every call is completely confidential and free.

Free Well-Being Webinars

The State Bar of New Mexico contracts with The Solutions Group to provide a free employee assistance program to members, their staff and their families. Contact the Solutions Group for resources, education, and free counseling. Each month in 2022, The Solutions Group will unveil a new

webinar on a different topic. Sign up for “Echopsychology: How Nature Heals” to learn about a growing body of research that points to the beneficial effects that exposure to the natural world has on health. The next webinar, “Pain and Our Brain” addresses why the brain links pain with emotions? Find out the answers to this and other questions related to the connection between pain and our brains. The final webinar, “Understanding Anxiety and Depression” explores the differentiation between clinical and “normal” depression, while discussing anxiety and the aftereffects of COVID-19 related to depression and anxiety. View all webinars at www.solutionsbiz.com or call 505-254-3555.

Monday Night Attorney Support Group

The Monday Night Attorney Support Group meets at 5:30 p.m. on Mondays by Zoom. This group will be meeting every Monday night via Zoom. The intention of this support group is the sharing of anything you are feeling, trying to manage or struggling with. It is intended as a way to connect with colleagues, to know you are not in this alone and feel a sense of belonging. We laugh, we cry, we BE together. Email Pam Moore at pmoore@sbnm.org or Briggs Cheney at bcheney@dsc-law.com for the Zoom link.

Defenders in Recovery: Additional Meetings You Can Attend in the Legal Community

Defenders in Recovery meets every Wednesday night at 5:30 p.m. The first Wednesday of the month is an AA meeting and discussion. The second is an NA meeting and discussion. The third is a

book study, including the AA Big Book, additional AA and NA literature, including the Blue Book, Living Clean, 12x12 and more. The fourth Wednesday features a recovery speaker and monthly birthday celebration. These meetings are open to all who seek recovery. Who we see in this meeting, what we say in this meeting, stays in this meeting. For the meeting link, send an email to defendersinrecovery@gmail.com or call Jen at 575-288-7958.

The New Mexico Well-Being Committee

The N.M. Well-Being Committee was established in 2020 by the State Bar of New Mexico's Board of Bar Commissioners. The N.M. Well-Being Committee is a standing committee of key stakeholders that encompass different areas of the legal community and cover state-wide locations. All members have a well-being focus and concern with respect to the N.M. legal community. It is this committee's goal to examine and create initiatives centered on wellness. Upcoming meetings of the Committee are 3 p.m., May 31 and July 26.

UNM SCHOOL OF LAW Upcoming CLE Courses Collaborative Family Law Spring Offering

This is an intensive one weekend “learn by doing” course offered by the UNM School of Law to members of the legal profession, community members and current upper class law students. training tools include simulations and debriefings, professional demonstrations, videotapes, small and large

group discussions and guest speakers. The program will be held April 22-24: 1-5 p.m., Friday; 9 a.m.-3 p.m., Saturday; and 9-11:30 a.m., Sunday, at the UNM School of Law, 1117 Stanford Dr NE, Albuquerque. The course is instructed by Kathryn Terry and Jessica Roth. Space is limited. It has been approved for CLE credit (10.0 G, 0.5 EP) and the cost is \$525. Register at <https://lawschool.unm.edu/cle/upcoming.html>.

Law Library Hours

The UNM Law Library facility is currently closed to guests. Reference services are available remotely Monday through Friday, from 9 a.m.-6 p.m. via email at lawlibrary@unm.edu or phone at 505-277-0935.

OTHER NEWS City of Albuquerque Volunteers Needed for Albuquerque Pro Bono Eviction-Prevention Legal Clinic

The City of Albuquerque is seeking volunteer attorneys to provide advice to low-income tenants facing eviction at an in-person legal clinic on May 25 from 11 a.m.-3:30 p.m. at El Centro de Igualdad y Derechos at 714 4th Street SW. A free Landlord/Tenant Law CLE is included in the clinic schedule, and lunch will be provided. Please contact Pro Bono Coordinator Yajayra Gonzalez to sign up by email at ygonzalez@cabq.gov or phone at 505-738-5794.

Legal Education

April

- | | | |
|---|---|---|
| <p>13 The Ins-And-Outs of Licensing Technology, Part 2
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>20 “Boiler-Plate” Provisions In Contracts: Overlooked Traps In Every Agreement
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>22 ADA Disability Related Access for Inmates and Visitors
1.2 EP
Live Program
Member Services - State Bar of New Mexico
www.sbnm.org</p> |
| <p>13 How Secondary Trauma Affects Attorney Mental Health
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>20 Appellate Series Part 1: IFPlease Help!
1.5 G
Web Cast (Live Credits)
Administrative Office of the US Courts
www.uscourts.gov</p> | <p>22 Update on New Mexico Tort Law
6.0 G
Web Cast (Live Credits)
New Mexico Trial Lawyers Association
www.nmtla.org</p> |
| <p>13 Wrongful Termination
1.0 G
In-House Seminar (Live Credits)
UNM School of Law
lawschool.unm.edu</p> | <p>21 Appellate Series Part 1: IFPlease Help!
1.5 G
Web Cast (Live Credits)
Administrative Office of the US Courts
www.uscourts.gov</p> | <p>22-24 Collaborative Family Law
10.0 G, 0.5 EP
In-Person
UNM School of Law
lawschool.unm.edu</p> |
| <p>18 Fair Housing 101
1.5 G
Live Program
City of Albuquerque Legal Department
cabq.gov/legal</p> | <p>21 Policing the Mentally Ill: A Brief History and Today’s Liabilities
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>28 Five Steps to Effective Online Negotiations with Marty Latz
2.0 G
Webcast
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>19 Our Common Ground: America’s Public Lands
1.0 G
Live Program
UNM School of Law
lawschool.unm.edu</p> | <p>22 Ethics And New Clients: Inadvertent Clients, Intake, And More
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>29 Identifying Gender Bias: Examining the Roles of Women Attorneys in Hollywood
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>20 Legal Malpractice Insurance & Claims Avoidance 101
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | | |

Listings in the *Bar Bulletin* Legal Education Calendar are derived from course provider submissions and from New Mexico Minimum Continuing Legal Education. All MCLE approved continuing legal education courses can be listed free of charge. Send submissions to notices@sbnm.org. Include course title, credits, location/course type, course provider and registration instructions.

May

- | | | |
|---|---|---|
| <p>3 Law Firms Face the Scourge of Ransomware: How to Ethically Prevent, Respond and Recover
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>10 Disorder in the Court: An Attorney’s Guide to Judicial Misconduct
2.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>24 REPLAY: Animal Talk: Progressive v. Sheppard (2022)
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>6 Virtual Magic: Making Great Legal Presentations Online
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>12 REPLAY: Stop Missing Your Life (2021)
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>24 Informal Logical Fallacies: Logic, Argumentation, & Persuasion
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>6 Drafting Waivers of Conflicts of Interest
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>12 Text Messages & Litigation: Discovery and Evidentiary Issues
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>25 Lawyer Ethics and Email
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>6 REPLAY: Cannabis Regulation Act and Expungement (2021)
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>17 2022 Sex Harassment Update
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>26 REPLAY: An Afternoon of Legal Writing with Stuart Teicher (2021)
3.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>9 Storytelling for Lawyers: How to Engage Clients, Judges, and Juries, and Move Them to Action
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>18 REPLAY: Challenging the Tricultural Myth in New Mexico (2021)
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | |

June

- | | | |
|---|---|--|
| <p>17 Basics of Trust Accounting: How to Comply with Disciplinary Board Rule 17-204
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>24 30 Things Every Solo Attorney Needs to Know to Avoid Malpractice
1.5 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>29 Cybersecurity: How to Protect Yourself and Keep the Hackers at Bay
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
|---|---|--|

So, You Think You Might Want to “Retire?”

by William D. Slease¹

I have a friend, let's call him Joe, who decided in mid-2020 that it was time to retire from the practice of law. Joe's idea was to close his full-time practice by the end of 2020, shut the lights to his office, “turn-in” his law license, and pursue all the personal passions that he believed he had let drift over 30+ years of practicing law. But as his workload began to decrease, and he started to think about the satisfaction he derived from helping others in his practice, Joe began to wonder if there was something in-between; a way to slow down and take more time for personal pursuits, but still stay engaged at some level in the practice of law. As it turns out, Joe had a number of options which any attorney thinking of “retiring” might well consider. As with anything, each has benefits and costs.



Option 1: Keep an active law license but take on less work.

Nothing requires an active licensed lawyer to work full-time. By simply reducing one's workload, a lawyer can provide more opportunities to pursue “off-duty” passions. The benefit of this approach is that the lawyer can grow or shrink the workload to suit the lawyer's needs and taste. Of course, maintaining an active license means that the lawyer must continue to pay the full licensing, disciplinary and client protection fund fees, which combined are currently \$420 annually, and pay for and complete at least 12 hours of continuing legal education annually, at least 2 hours of which must be in courses dealing with ethics and professionalism, and only 4 of which can be completed by self-study. While this may not be a true retirement, it provides great flexibility for a lawyer who is not ready to stop practicing but, nevertheless, wants to “slow down.”

Option 2: Work under the Legal Services Provider Limited Law License Rule.

Pursuant to Rule 15-301.2, NMRA, an attorney who has taken inactive status in New Mexico can apply to the New Mexico Supreme Court for a legal services provider limited law license. The applicant-attorney must also apply for a character and fitness investigation with the New Mexico Board of Bar Examiners. If approved, the applicant-attorney can then provide a broad range of legal services to clients in New Mexico, whether for monetary compensation or otherwise, through a qualified legal services provider. A qualified legal services provider is a not-for-profit legal services organization: (a) whose primary purpose is to provide legal services to low-income clients; (b) is classified as a Section 501(c) (3) organization under the Internal Revenue Code; (c) is registered with the New Mexico Attorney General Registry of

Charitable Organizations; and (d) has been recommended by the New Mexico Commission on Access to Justice.

Licenses under this Rule are required to pay a reduced annual licensing fee, currently \$125, and pay for and complete 12 hours of continuing legal education annually, at least 2 hours of which must be in courses dealing with ethics and professionalism, and only 4 of which can be completed by self-study, but their disciplinary fee, currently \$150 per year, and their annual client protection fund fee, currently \$15 per year, are waived. The license remains effective unless the licensee terminates employment with the qualified legal services provider and does not immediately apply to and be selected for employment with another qualified legal services provider, or is otherwise reinstated to active status.

Option 3: Work under the Emeritus Attorney Rule.

Rule 24-111, NMRA defines an Emeritus Attorney as “an attorney who is or was a licensed attorney in good standing in the State of New Mexico or other jurisdiction who voluntarily withdrew from the practice of law or transferred to inactive status and does not ask for or receive compensation of any kind for the performance of legal services, but who is granted permission . . . to participate in the emeritus pro bono program . . .” If approved by the New Mexico Supreme Court following a motion for approval, an Emeritus Attorney working in association with an approved legal aid organization and under the supervision of an active licensed attorney can:

- * Appear in any court or before any administrative tribunal in New Mexico on behalf of a client of an approved legal aid organization provided the client has consented in writing to that appearance and the supervising attorney has given written approval for that appearance;
- * Prepare pleadings and other documents to file in any court or before any administrative tribunal in New

Mexico in any matter in which the Emeritus Attorney is involved; and

- * Provide such other services as authorized by an approved legal aid organization with the approval and consent of the supervising attorney.

For purposes of the Emeritus Attorney pro bono program, an approved legal aid organization is “a not for profit legal services organization whose primary purpose is to provide legal services to low income clients or a legal department within a non-profit organization that employs at least one (1) lawyer full-time to provide legal services to low income clients and (a) is an organization described in Section 501(c)(3) and exempt from federal income taxes under Section 501(a) of the Internal Revenue Code of 1986 or corresponding provisions of federal income tax laws from time to time in effect; (b) is registered with the New Mexico Attorney General Registry of Charitable Organizations in compliance with the New Mexico Charitable Solicitations Act; (c) is recommended by the New Mexico Commission on Access to Justice; and (d) provides lawyer malpractice insurance for the Emeritus Attorney to cover services rendered by the attorney while under its supervision.”

Emeritus Attorneys are exempt from the annual license, disciplinary, and client protection fund fees, and are not required to comply with annual minimum continuing legal education requirements nor trust account certification. In addition to providing pro bono services as set forth above, and Emeritus Attorney can also serve on Supreme Court and State Bar committees, boards, commissions, or other working groups designed to improve the legal profession, unless otherwise prohibited by Court order or rule.

Option 4: Take inactive status.

An attorney who decides to fully retire and completely cease practicing law, but nevertheless wants to keep the option open to return to practice in the future, whether full or part-time, can take inactive status pursuant to Rule 24-102, NMRA. Attorneys who are in inactive status are not required to pay the annual disciplinary fee or the annual client protection fund fee, but are required to pay an inactive license fee, currently \$100 annually, unless they are over 70 years of age. The annual fee is waived for inactive members over age 70. Inactive members are also exempt from annual continuing education requirements. An inactive member can petition to return to active practice at any time and, if done in less than one year, simply files that request with the State Bar of New Mexico. But if the member has been inactive for more than one year, the petition must be filed with the Board of Bar Examiners who will conduct a character and fitness investigation before recommending to the Supreme Court whether the inactive member should be returned to active status. Additionally, if an inactive member returns to active status, that member must complete any outstanding continuing legal education requirements such that the total earned for the year in which inactive status was taken total at least 12 hours, and must also obtain at least 12 hours of continuing legal education credit in the year in which he or she returns to active status. Again, at

least 2 hours of the annual continuing education requirements must be in courses dealing with ethics and professionalism, and only 4 hours for each year can be completed by self-study. While inactive, the member cannot practice law in New Mexico or in any other jurisdiction under the member's New Mexico license but can serve on Supreme Court and State Bar committees, boards, commissions, or other working groups designed to improve the legal profession unless otherwise prohibited by Court order or rule. Inactive members also retain certain other member benefits, including electronic access to the Bar Bulletin and Fastcase legal research, and the option to audit most CLE programs offered by the State Bar Foundation Center for Legal Education.

Option 5: Withdraw.

Finally, some may decide that they really do want to stop practicing law “forever.” That person can file with the New Mexico Supreme Court a written notice of voluntary withdrawal. If approved by the Court, the person completely forfeits his/her law license and must immediately cease the practice of law. Of course, he/she is no longer required to pay annual fees nor complete annual continuing education requirements. But unlike inactive status, where one can petition to reactivate, if an attorney withdraws, he/she can only return to the practice of law in New Mexico by again taking the bar exam or qualifying under the rules governing reciprocity admission, and in either case will have to undergo a full character and fitness evaluation by the Board of Bar Examiners. In other words, he/she must “start over.”

So, what did my friend Joe do? First, he realized, for the first time in his legal career, that paring back his workload was an option. For him, law practice had always been a “light-switch;” either on or off. Now he understood that it did not have to be that way. Second, he realized that he was not ready to completely stop practicing. Armed with these realizations, Joe kept his active license, reduced his workload, and entered the next chapter of his legal career in what he calls “semi-retirement.” While that was the right choice for Joe, it may or may not be for you when you think about “retiring.” What is important is for you to know that you have options when you write your next chapter.²

Endnotes

¹ William D. Slease is the Professional Development Program Director for the State Bar of New Mexico.

² This article is provided to members of the State Bar of New Mexico for informational purposes only and is not intended to be exhaustive or applicable to all circumstances. Further it is not intended to, nor does it constitute legal advice to a lawyer or law firm, nor does it establish any type of attorney-client relationship between employees of the State Bar of New Mexico and any person or entity. Further, this article is not a substitute for independent analysis and research by a lawyer or law firm. Each lawyer and law firm are responsible for their own compliance with applicable rules and laws and should consider seeking appropriate counsel for advice.



**State Bar of
New Mexico**
Est. 1886

2022 ANNUAL MEETING

**Mark your
calendars!
Registration
opens in
April!**

Members Said...

“ The Bar should always have panels on diversity. The fact that there wasn't a single one this year (2019) by our diversity committees or voluntary groups is simply an embarrassment and shameful. We are New Mexico and this should never be an issue in our state. ”

We Listened...

We are excited to feature an entire track on Equity in Justice! Our new Equity in Justice Program, in partnership with the Equity and Justice Commission, have put together a wonderful set of breakout tracks and a plenary. See the programming below!

Topics include:

- Trans 101 with Transgender Resource Center of New Mexico
- Disability Rights in New Mexico
- How Do People Change? Developing Critical Consciousness to View Your Work and the World
- Barriers to Well-Being for Women in the Profession
- Equity in Justice Panel and Discussion

Members Said...

“ I would like to see more on law practice management; litigation; small law office management; professional development is what we're really here for. ”

We Listened...

We are proud to partner with our Professional Development Program to feature a track specifically on practice management and development!

Topics include:

- Mandatory Succession Planning
- Risk Management and Best Practices
- Using Technology in the Practice
- Appellate Practice Tips – A Judicial Panel Discussion
- The Intersection of Civility, Professionalism, and Well-being

August 11-13, 2022

Hyatt Regency Tamaya Resort and Spa



On Feb. 12, 2022, the New Mexico Senate recognized attorney **Ellen Leitzer** for her decades of work on behalf of New Mexico seniors as co-founder (1983) and co-director with Patricia Stelzner and then-executive director of the Senior Citizens' Law Office. In his remarks, Senator Peter Wirth thanked Ellen for her leadership over the years.



Manuel D. V. Saucedo, retired Sixth Judicial District Judge, of Lordsburg, received the University of New Mexico Alumni Association 2021 ZIA Award, which honors UNM graduates who are New Mexico residents and have distinguished themselves in philanthropic endeavors, public office, service to the University and community and volunteer activities. Judge Saucedo, UNM Law School 1977, served as Chief Assistant Sixth Judicial District Attorney and as Legislative Assistant to Senator Jeff Bingaman and was elected Sixth Judicial District Judge. In 2021, he completed a 4-year appointment to the National Advisory Council to the United States Conference of Catholic Bishops and is a Knight Grand Cross of the Papal Equestrian Order of the Holy Sepulchre of Jerusalem.



Larkin & Padilla Family Law opened its doors this January and will focus on issues involving family relationships, including divorce with complex assets, child custody, child support, alimony and mediation. **Twila B. Larkin** and **Kimberly L. Padilla**, experienced Albuquerque attorneys, have come together to provide tailored approaches to clients' needs.

Twila Larkin was recently recognized as Best Lawyers 2022 Family Lawyer of the Year.



Dean Kevin Washburn of the University of Iowa College of Law was appointed a director of the opioid abatement trust funds expected to reach approximately \$750 million paid over several years to tribal governments in settlements of claims in the Purdue Pharma and other bankruptcy proceedings and the multidistrict class actions involving Johnson & Johnson and opioid distributors. Washburn was also appointed a Legal/Policy Fellow with the Federal Reserve Bank of Minnesota.



Bardacke Allison LLP is pleased to announce the addition of **Maureen Dolan** as an Associate Attorney. She works with clients in the arts, financial, pharmaceutical and other industries. Beginning her career working on corporate and antitrust litigation in New York City, Maureen has a JD from Vermont Law School, where she focused her studies on environmental law.

Jay F. Stein and **James C. Brockmann** of Stein & Brockmann, P.A. have been named to Best Lawyers in America in the field of water law for 2022. Stein was named a "Lawyer of the Year."



Bardacke Allison LLP is pleased to announce the addition of **Rose Bryan** as an Associate Attorney. Rose handles complex commercial and intellectual property litigation. Starting her own law firm after law school, Rose litigated successful claims against high-profile defendants. Rose served as an adjunct professor and currently serves as pro-bono legal counsel for Midwives for Black Lives. She chose to attend UNM School of Law and build a legal practice in 2005.

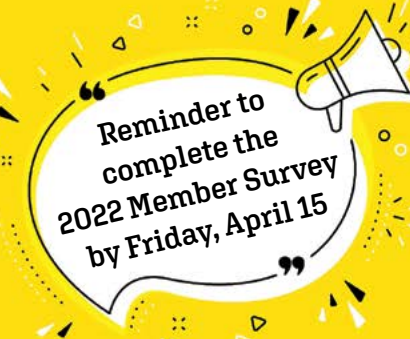


On Jan. 11, 2022, **Frederick Martin Rowe** peacefully passed away at the age of 96. He was born on January 18th, 1925, in Mannheim, Germany to Isidore and Rose Rosenstock. In 1936 his family immigrated to the United States and settled in the Bronx, New York. In 1944 Fred was drafted into the U.S. Army, where his first assignment was the tank destroyer unit in Fort Hood, Texas. Upon learning that he spoke German, French and Yiddish, he was asked to join the Military Training Center in Fort

Ritchie, MD. (Subject of the CBS 60 Minutes documentary, 'The Ritchie Boys'). He obtained the rank of Captain of Military Intelligence. He was first stationed in Paris and then was sent to the Ardennes region of Belgium, where he gathered frontline intelligence during the Battle of the Bulge. After Germany surrendered in 1944, he met his future wife, Franziska Elizabet Rupp. She was an accomplished athlete, who competed in the 1942 Axis Games in the uneven parallel bars and placed 2nd in the 100-meter dash. In 1944, she was drafted to teach German Luftwaffe pilots how to fly gliders. Fred and Frances returned to the United States and married in 1947. Fred attended City College of New York on the G.I. Bill, graduating Magna Cum Laude. He then went to Yale Law School where he became Executive Editor of the Yale Law Review. He graduated in 1952 - the first Jewish student to graduate #1 in his class. From 1952-1953, he clerked for Supreme Court Justice Tom C. Clark and, in 1953, he joined the Washington D.C. law firm of Kirkland & Ellis, where he specialized in Antitrust & Trade Regulation. In 1962, he wrote his first and only book, "Price Discrimination Under the Robinson Patman Act." It never made the best seller list, but it did make him enough money to buy his dream car, a 1963 Porsche 356 Roadster. During his career, he argued and won five cases before the U.S. Supreme Court. In the 1980's, he went on sabbatical, teaching at Yale, Harvard and the London School of Economics. In 1990, he and Frances moved to Santa Fe. It was here that he started his work as a community activist. He helped organize the Greater Callecita Neighborhood Association, the Neighborhood Network, the No-SLAPP

Alliance, and the Neighborhood Law Center. In 1996, at the age of 71, he passed the New Mexico Bar Exam, becoming the oldest person in NM to have ever done so. He was also responsible for getting the New Mexico Legislature to pass anti-SLAPP Suit legislation in New Mexico. In 1997, Mayor Larry Delgado of Santa Fe declared April 18 as "Frederick Rowe Day." Fred loved his blues and jazz records, (having seen Duke Ellington and Count Basie many times as a youth in Harlem, NY), his daily 6 a.m. swim at Ft. Marcy, his New York Times and Wall Street Journal and eating out with his family at Santa Fe's numerous restaurants. He was a man of few words and loved by many. Fred was preceded in death by his loving wife Frances, who passed away on July 20, 2015, and with whom he wished to be interred, and his brothers Henry and Raymond. He is survived by his son Geoffrey Rowe, and wife Darlene, their children Ashley and Christopher Rowe, his daughter Stephanie Rowe, and her son Jason Windmoeller and wife Kathryn and three great grandchildren Charleston, Broderick and Prescott. The family would like to give their deepest appreciation to Irene Barela for lovingly and tirelessly caring for our father and mother for many years. Interment and memorial service for Fred and Frances will be scheduled at the Santa Fe National Cemetery at a later date.

Nancy Sharp Nti Asare, born Sept. 2, 1952, passed away at the age of 69 on Dec. 25, 2021, in Accra, Ghana. She is survived by her husband, Richard, three children, Lydia, Isak, Anna Malaika, six grandchildren and two sisters, Sallie and Mary Jo. Nti Asare was, first and foremost, a proud mother. Her committed work as a social justice advocate, diplomat, and humanitarian were an inspiration to all who knew her. A professor of law in colleges and universities around the world, Nti Asare had a passion for exposing injustices and promoting the rule of law. Her efforts in Iraq, Afghanistan, and South Sudan demonstrate her characteristic fearlessness, as well as her adventurous spirit which led her to love traveling, scuba diving, and hiking. She enjoyed gardening in her spare time, and was a ravenous learner, always eager to embark upon a new project. Friends and family will remember her great sense of humor, her plucky remarks, and the fun she could bring to most any situation.



Prizes include:

- \$250 Visa Gift Card (eight available)
- CLE Annual Pass with New Mexico State Bar Foundation (\$500 value)
- Free State Bar Center Classroom Rental (\$250 value)
- Free State Bar Center Board Room Rental (\$200 value)


Deadline for the 2022 Member Survey is Coming Up!

Accessing the survey is easy to do!

1. Login to your Member Dashboard at www.sbnm.org
2. Navigate to "My Surveys"
3. Click the link and complete!

As a token of thanks for your valuable time, all participants will have the opportunity to enter a raffle for prizes. Prizes total to \$4660 in value!

- Free 2022 Annual Meeting Registration (\$500 value)
- Free Business Package (\$325 value) (Includes business cards, letterheads and envelopes)
- Free *Bar Bulletin* half page color ad (\$495 value)
- Free *Bar Bulletin* third page color ad (\$390 value)



State Bar of New Mexico
Est. 1886

Opinions

As Updated by the Clerk of the New Mexico Court of Appeals

Mark Reynolds, Chief Clerk New Mexico Court of Appeals
PO Box 2008 • Santa Fe, NM 87504-2008 • 505-827-4925

Effective March 11, 2022

PUBLISHED OPINIONS

A-1-CA-38507	C Bennis v. New Mexico Department of Public Safety	Reverse	03/07/2022
A-1-CA-38525	State v. F Garcia	Reverse/Remand	03/10/2022

UNPUBLISHED OPINIONS

A-1-CA-37520	R Griffith v. USAA Ins. Co.	Affirm	03/07/2022
A-1-CA-38407	State v. M Perea	Reverse	03/07/2022
A-1-CA-39143	In Re Matter of Cole Warren Radcliff	Affirm	03/07/2022
A-1-CA-39461	M Tachias v. S Lucero	Affirm	03/07/2022
A-1-CA-39506	CYFD v. Kelly M	Affirm	03/07/2022
A-1-CA-39750	CYFD v. Felix R	Affirm	03/07/2022
A-1-CA-39789	K Kruskal v. Taos Ski Valley	Affirm	03/07/2022
A-1-CA-39849	CYFD v. Lindsey V	Affirm	03/07/2022
A-1-CA-38785	S Sanchez v. Honorable W Mast	Reverse	03/08/2022
A-1-CA-39416	B Franklin v. The Keefe Group	Affirm	03/08/2022
A-1-CA-38121	State v. A Acosta	Reverse/Remand	03/09/2022
A-1-CA-39409	State v. I Lobato-Rodriguez	Reverse/Remand	03/09/2022
A-1-CA-39438	“J Barksdale v. Mosaic Potash Carlsbad Inc,	Affirm	03/09/2022

Effective March 18, 2022

PUBLISHED OPINIONS

A-1-CA-39709	State v. Antonio M	Reverse/Remand	03/17/2022
--------------	--------------------	----------------	------------

UNPUBLISHED OPINIONS

A-1-CA-38604	K D’Antonio v. Dollahon Properties	Affirm	03/14/2022
A-1-CA-39684	State v. J Davis	Affirm	03/14/2022
A-1-CA-39706	Unifund CCR, LLC v. J Welch	Affirm	03/14/2022
A-1-CA-39876	State v. M Quinones	Reverse	03/14/2022
A-1-CA-39109	L Lopez v. City of Belen	Affirm/Remand	03/15/2022
A-1-CA-39203	State v. R Anaya	Affirm	03/15/2022
A-1-CA-39278	State v. Alejandro M	Reverse/Remand	03/15/2022
A-1-CA-39741	State v. A Clark	Affirm	03/15/2022
A-1-CA-39787	S Shutes v. G Avilucea	Reverse/Remand	03/17/2022
A-1-CA-40017	CYFD v. Shannon U	Affirm	03/17/2022

Slip Opinions for Published Opinions may be read on the Court’s website:

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

From the New Mexico Supreme Court and Court of Appeals

From the New Mexico Court of Appeals

Opinion Number: 2022-NMCA-001

No: A-1-CA-37395 (filed May 24, 2021)

FEDERAL NATIONAL MORTGAGE ASSOCIATION (“FANNIE MAE”),
a corporation organized and existing under the laws of the
United States of America,
Plaintiff-Appellee,

v.

BERNIE B. TRISSELL and MICHAEL D.
TRISSELL,
Defendants-Appellants.

APPEAL FROM THE DISTRICT COURT OF SANDOVAL COUNTY

John F. Davis, District Judge

Certiorari Denied, December 22, 2021, No. S-1-SC-38867.

Released for Publication February 22, 2022.

McCarthy & Holthus, LLP
Joshua T. Chappell
Albuquerque, NM

Akerman LLP
Michael J. McKleroy, Jr.
Dallas, TX

for Appellee

Durham, Pittard & Spalding, LLP
Caren I. Friedman
Santa Fe, NM

for Appellants

OPINION

IVES, Judge.

{1} In this foreclosure action, Defendants Bernie and Michael Trissell appeal the district court’s entry of summary judgment for Plaintiff Federal National Mortgage Association (Fannie Mae), arguing that (1) Plaintiff lacked standing, (2) the district court erred by entering summary judgment against Defendants on their affirmative defenses, and (3) the district court should have allowed Defendants to conduct additional discovery before ruling on Plaintiff’s summary judgment motion. Unpersuaded, we affirm.

{2} However, we acknowledge that precedents from our Supreme Court and this Court are unclear on a pivotal issue in this case: the allocation of summary judgment burdens where the plaintiff is the moving party. We therefore issue this precedential opinion to explain our understanding that, in New Mexico, once a plaintiff-movant has made a prima facie case on its claim alone, a defendant resisting summary judgment

with an affirmative defense has the burden of demonstrating a genuine issue of material fact as to the defense. Applying that rule to this case, we hold that Defendants failed to carry their burden and thus failed to overcome Plaintiff’s prima facie showing of entitlement to judgment on its claim.

BACKGROUND

{3} In 2008, Defendants executed a promissory note in favor of Lewallen Mortgage, Inc., secured by a mortgage that Defendants executed that same day. By August 2010, a different mortgage company, SunTrust Mortgage, Inc., was servicing Defendants’ loan, and Defendants contacted SunTrust to discuss a recent increase in the amount of their monthly loan payment. Defendants later failed to remit the installment that was due on January 1, 2011, and asked SunTrust to modify the loan. SunTrust declined and, in February 2011, notified Defendants that their loan was in default. After it had been assigned the mortgage, SunTrust brought a foreclosure action against Defendants. SunTrust eventually assigned the mortgage to Plaintiff, and Plaintiff

was substituted for SunTrust as the plaintiff. The original foreclosure action was dismissed without prejudice for lack of prosecution in November 2015.

{4} Plaintiff initiated the present foreclosure action in March 2016. Plaintiff attached to its complaint a copy of the promissory note, which SunTrust had indorsed in blank, along with an allonge showing a special indorsement from Lewallen to SunTrust. Defendants raised thirteen affirmative defenses in their answer. Plaintiff moved for summary judgment on the claim in its complaint and on Defendants’ affirmative defenses. In their response, Defendants, while elaborating upon only some of their affirmative defenses, argued that summary judgment was improper because Plaintiff had failed to make a prima facie showing of entitlement to summary judgment on those defenses. After Plaintiff filed its reply, the district court allowed both parties to file sur-replies. Following a hearing, the district court granted the motion and entered judgment for Plaintiff. Defendants appeal.

DISCUSSION

I. Standard of Review

{5} “We review the district court’s grant of summary judgment de novo.” *HSBC Bank USA v. Wiles*, 2020-NMCA-035, ¶ 8, 468 P.3d 922, cert. denied, 2020-NMCERT-____ (No. S-1-SC-38290, June 8, 2020). Summary judgment is appropriate where “there is no genuine issue as to any material fact and . . . the moving party is entitled to a judgment as a matter of law.” Rule 1-056(C) NMRA. We “review the whole record in the light most favorable to the party opposing summary judgment to determine if there is any evidence that places a genuine issue of material fact in dispute.” *Wiles*, 2020-NMCA-035, ¶ 8 (internal quotation marks and citation omitted).

{6} A summary judgment movant bears the “initial burden of establishing a prima facie case for summary judgment.” *Romero v. Philip Morris Inc.*, 2010-NMSC-035, ¶ 10, 148 N.M. 713, 242 P.3d 280. A movant establishes a prima facie case when the motion is supported by “such evidence as is sufficient in law to raise a presumption of fact or establish the fact in question unless rebutted.” *Id.* (internal quotation marks and citation omitted). “[U]ntil a party has made a prima facie showing that it is entitled to summary judgment, the nonmoving party is not required to make any showing with respect to factual issues.” *Knapp v. Fraternal Order of Eagles*, 1987-NMCA-064, ¶ 9, 106 N.M. 11, 738 P.2d 129. When “the facts are not in dispute,” a court’s only task is to determine the “legal effect of [those] facts.” *Koenig v. Perez*, 1986-NMSC-066, ¶ 10, 104 N.M. 664, 726 P.2d 341.

II. The District Court Did Not Err by Granting Plaintiff's Motion for Summary Judgment

{7} We affirm the district court's entry of summary judgment, holding that (A) Plaintiff had standing; (B) Defendants bore the burden of showing that a genuine dispute of material fact on their affirmative defenses precluded summary judgment and their contentions that they met this burden do not merit review; and (C) Defendants failed to preserve their argument that the district court erred by not allowing Defendants to conduct additional discovery before ruling on Plaintiff's summary judgment motion.

A. Plaintiff Had Standing

{8} Standing to foreclose depends on whether the foreclosing party can "demonstrate that it had the right to enforce the note and the right to foreclose the mortgage at the time the foreclosure suit was filed." *PNC Mortg. v. Romero*, 2016-NMCA-064, ¶ 19, 377 P.3d 461 (alteration, internal quotation marks, and citation omitted). To establish its right to enforce the promissory note underlying the mortgage, a third party seeking foreclosure must prove that, "at the time of filing," *Deutsche Bank Nat'l Tr. Co. v. Johnston*, 2016-NMSC-013, ¶ 27, 369 P.3d 1046 (emphasis omitted), it had "both physical possession and the right to enforcement through either a proper indorsement or a transfer by negotiation." *Bank of N.Y. v. Romero*, 2014-NMSC-007, ¶ 21, 320 P.3d 1. The "holder" of the note has a right to enforce it and foreclose the mortgage. See NMSA 1978, § 55-3-301 (1992) (providing that the "holder of [an] instrument" is a person entitled to enforce it); *Johnston*, 2016-NMSC-013, ¶ 14 (explaining that the statutory "definition of who may enforce a note" guides the determination of whether a particular plaintiff has established "an injury in fact sufficient to confer standing" to foreclose); *Wiles*, 2020-NMCA-035, ¶¶ 12-13 (affirming "the long-standing principle that 'the mortgage follows the note'"). The Uniform Commercial Code defines "holder" as "the person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession[.]" NMSA 1978, § 55-1-201(b)(21)(A) (2005). Accordingly, a foreclosing party may establish that it is the holder of a note—and therefore entitled to enforce it—by attaching to the initial complaint a note that is indorsed to the foreclosing party or in blank. See *Johnston*, 2016-NMSC-013, ¶ 23 (explaining that a foreclosing party may establish its right to enforce the note by "attaching a note containing an undated indorsement to the initial complaint").

{9} Here, Plaintiff demonstrated that it had standing to foreclose by attaching a

note containing a blank indorsement to its initial complaint. See generally *Bank of N.Y.*, 2014-NMSC-007, ¶ 24 ("A blank indorsement, as its name suggests, does not identify a person to whom the instrument is payable but instead makes it payable to anyone who holds it as bearer paper."). Although Defendants do not contest that the note attached to the initial complaint was indorsed in blank, Defendants argue that Plaintiff failed to prove its right to enforce the note because Plaintiff did not demonstrate a transfer of the note or that it was the holder. Compare § 55-3-301 (providing that the "holder of [an] instrument" is entitled to enforce it), with *id.* (providing that "a nonholder in possession of the instrument who has the rights of a holder" is entitled to enforce the instrument), and NMSA 1978, § 55-3-203 cmt. 2 (1992) (explaining that a "transferee is not a holder" when "the transferor did not indorse" and, in that situation, the transferee must demonstrate that it "obtained the rights of the transferor" through proof of "the transaction through which the transferee acquired" the undorsed instrument). However, by attaching a note with a blank indorsement to its initial complaint, Plaintiff did establish itself as the holder at the time the complaint was filed. See *Johnston*, 2016-NMSC-013, ¶ 23. Defendants argue further that Plaintiff failed to present sufficient evidence that it possessed the original note. Although Plaintiff attempted to prove its possession of the note in various ways, attaching a copy of the original note to the initial complaint was sufficient. Compare *Wiles*, 2020-NMCA-035, ¶ 10 (holding that the plaintiff "established a prima facie case of standing" when it "attached a copy of the [n]ote indorsed in blank to its complaint"), with *Los Alamos Nat'l Bank v. Velasquez*, 2019-NMCA-040, ¶ 16, 446 P.3d 1220 (analyzing whether there was evidence "to establish that [the plaintiff] had possession of the note at the time it filed the complaint" because the note "was neither attached to the initial complaint nor dated"), cert. denied, 2019-NMCERT-___ (No. S-1-SC-37688, Aug. 5, 2019). Defendants argue that this case is similar to others where there was insufficient evidence to demonstrate that the plaintiff had a right to enforce the note. However, this case is unlike the cases on which Defendants rely because here Plaintiff attached a note containing a blank indorsement to its initial complaint. See *PNC Mortg.*, 2016-NMCA-064, ¶ 25; *Johnston*, 2016-NMSC-013, ¶ 25; *Bank of N.Y.*, 2014-NMSC-007, ¶¶ 10, 23. Because Defendants did not present any evidence to rebut Plaintiff's prima facie case of standing, cf. *Wiles*, 2020-NMCA-035, ¶¶ 4-5 (explaining that the defendant used discovery to inspect his loan file at the of-

fice of the plaintiff's counsel and uncover evidence to support his position, though unmeritorious, that there was a genuine issue of material fact regarding the plaintiff's standing to foreclose), we hold that Plaintiff had standing to enforce the note and foreclose the mortgage.

B. Defendants Have Not Shown That the District Court Erred by Concluding That Defendants Failed to Carry Their Burden to Avoid Summary Judgment on Their Affirmative Defenses

{10} Our holding that Plaintiff had standing resolves the only disputed issue regarding the adequacy of Plaintiff's prima facie case on its foreclosure claim. But Defendants argue that, regardless of whether Plaintiff established standing, Plaintiff failed to shoulder an additional burden regarding Defendants' affirmative defenses and therefore Plaintiff never established a prima facie case for summary judgment. Specifically, Defendants contend that, under *Fidelity National Bank v. Tommy L. Goff, Inc.*, (*Goff*) 1978-NMSC-074, ¶¶ 5, 8-9, 92 N.M. 106, 583 P.2d 470, to make a prima facie case for summary judgment, Plaintiff was required to show that there was no genuine issue of material fact as to Defendants' affirmative defenses. If Defendants are correct, then the next step in our analysis is to determine whether Plaintiff carried that burden. But if Defendants are incorrect, then Plaintiff successfully shifted the burden to Defendants when it made a prima facie case for judgment on its claim, and the next (and final) step in our analysis is to determine whether Defendants showed that a genuine issue of material fact as to any of their affirmative defenses precluded summary judgment.

{11} In *Goff*, our Supreme Court held that, even though the defendant had provided no "factual amplification" of the twelve affirmative defenses asserted in his answer, the burden was on the plaintiff to contravene each of the affirmative defenses in its motion for summary judgment. *Id.* ¶¶ 2-5, 9, 11-12. With this holding, the Court overruled *Kassel v. Anderson*, 1973-NMCA-028, 84 N.M. 697, 507 P.2d 444, in which this Court held that the "bare contention" of affirmative defenses in the defendant's amended answer were "insufficient to defeat" the plaintiffs' summary judgment motion because the plaintiffs had made the requisite prima facie showing. *Goff*, 1978-NMSC-074, ¶ 10. In contrast, the *Goff* Court reasoned that the defendant's "averment of affirmative defenses" required the plaintiff "to produce the necessary affidavits or other material to expose [the] affirmative defenses as unmerited." *Id.* ¶ 9. Thus, under *Goff*, to overcome unclear or conclusory affirmative defenses and obtain summary

judgment on their claims, plaintiff-movants must avail themselves of “pre[]trial discovery mechanisms” to demonstrate that those defenses are factually or legally deficient. *Id.* ¶¶ 9, 11.

{12} However, we are unable to reconcile that proposition with two more recent precedents from our Supreme Court, *Mayfield Smithson Enterprises v. Com-Quip, Inc.*, 1995-NMSC-034, 120 N.M. 9, 896 P.2d 1156, and *Western Bank of Santa Fe v. Biava*, 1990-NMSC-023, 109 N.M. 550, 787 P.2d 830, and one precedent from this Court, *Galef v. Buena Vista Dairy*, 1994-NMCA-068, 117 N.M. 701, 875 P.2d 1132. Although the opinions in those cases are not completely clear, we think that their analyses are best read to put the onus on the defendant opposing summary judgment with an affirmative defense to present factual support for the defense after the plaintiff has made a prima facie case on its claim alone.

{13} In *Mayfield Smithson Enterprises*, our Supreme Court held that the district court had properly entered summary judgment for the plaintiff in a quiet title action. 1995-NMSC-034, ¶ 26. Although the Court acknowledged the *Goff* holding, see *Mayfield Smithson Enters.*, 1995-NMSC-034 ¶ 9, its reasoning departed from that holding. The Court observed that the defendant had asserted as an affirmative defense that the plaintiff was equitably estopped from denying the existence of the defendant’s interest in the property but that the defendant failed to “indicate to the trial court [the] fact or facts” supporting “each element of equitable estoppel[.]” *Id.* ¶¶ 7, 10. This led the Court to conclude that the plaintiff had “made a prima facie showing of entitlement to summary judgment” that went un rebutted by the defendant’s “vague allegations” in the record. *Id.* ¶ 10.

{14} Our Supreme Court also departed from *Goff* in *Biava*. There, the Court stated that the plaintiff-movant was “correct” in asserting that, once it “adduced [the defendant’s] answer admitting liability on [a promissory] note, . . . the burden . . . [of] com[ing] forward with sufficient evidentiary matters to establish a genuine issue of fact” on the affirmative defense of accord and satisfaction “rested on [the defendant.]”¹ *Biava*, 1990-NMSC-023, ¶ 11.

Having concluded that the plaintiff had made a prima facie case for summary judgment, the Court proceeded to analyze whether the defendant had introduced sufficient evidence to overcome the plaintiff’s prima facie case, ultimately reversing the entry of summary judgment because the defendant had introduced an affidavit and deposition testimony that “raise[d] a genuine issue of fact as to” “the accord-and-satisfaction defense.” *Id.* ¶¶ 12-16.

{15} This Court took the same approach in *Galef*, reasoning that, once the plaintiff “moved for summary judgment on his claim” for a charging order, “[i]t was incumbent on [the d]efendants to make a factual showing regarding the elements of [their affirmative defenses.]” 1994-NMCA-068, ¶¶ 1, 12-13. Because the record before the Court indicated that the defendants had not met that burden, the Court affirmed the entry of summary judgment for the plaintiff. *Id.* ¶¶ 10-14.

{16} We read the opinions in *Mayfield Smithson Enterprises*, *Biava*, and *Galef* to place the burden with respect to affirmative defenses on the defense, but we acknowledge that a different reading is possible. The primary basis for an alternative reading is what the opinions do not say; they include no discussion of whether the movants made evidentiary showings that demonstrated prima facie entitlement to judgment on the affirmative defenses. It is tempting to interpret this silence, as the dissent apparently does, to mean that the movant in each case had made such a showing and that the court in each case was simply applying *Goff*. The temptation is especially strong considering that New Mexico generally takes a cautious approach to summary judgment, see *Romero*, 2010-NMSC-035, ¶ 8; that reading the cases as we do effects a return to the approach in *Kassel*, which *Goff* expressly overruled, 1978-NMSC-074, ¶ 10; and that our Supreme Court cited *Goff* in both *Mayfield Smithson Enterprises*, 1995-NMSC-034, ¶ 9, and *Biava*, 1990-NMSC-023, ¶ 11.

{17} Although this alternative interpretation is possible, we think it is implausible because it cannot be squared with the explicit reasoning set forth in the opinions.

In *Biava*, although “only the legal effect of the facts [was] presented for determination,” *Koenig*, 1986-NMSC-066, ¶ 10; see *Biava*, 1990-NMSC-023, ¶ 4, our Supreme Court expressly agreed with the plaintiff-movant that it had “shifted the burden” to the nonmovant by “mov[ing] for summary judgment and adduc[ing] the nonmovant’s] answer admitting liability” on the promissory note at issue. *Biava*, 1990-NMSC-023, ¶ 11. And in *Mayfield Smithson Enterprises*, our Supreme Court stated that the discussion in “the remainder of [its] opinion” supported the Court’s conclusion that the plaintiff had “made a prima facie showing of entitlement to summary judgment.” 1995-NMSC-034, ¶ 10. Yet, in detailing the evidence that supported the plaintiff’s case for summary judgment, the Court never mentioned, much less discussed, the defendant’s affirmative defense that the plaintiff-movant was equitably estopped from denying the existence of a lien. See *id.* ¶¶ 11-21. Finally, in *Galef*, this Court relied on *Biava*, but not *Goff* in holding that the defendant had not carried its burden of rebutting the plaintiff-movant’s prima facie showing of entitlement to summary judgment. Contrary to the dissent’s assertion, the analyses in these more recent precedents do not “illustrate *Goff*’s application.” Dissent Op. ¶ 35. The dissent does not identify anything in the opinions that is consistent with its conclusory assertion.

{18} Based on our understanding of binding New Mexico precedent, we conclude that once the plaintiff-movant makes a prima facie case on its claim alone, the defendant bears the burden of demonstrating a genuine issue of material fact regarding any affirmative defense that it relies on to oppose the entry of summary judgment.

{19} Applying this rule to the case before us, we now ask, as to each affirmative defense, whether the district court erred by concluding that Defendants failed to carry their burden of showing a genuine issue of material fact. To overcome the presumption that the district court ruled correctly, Defendants “must affirmatively demonstrate” error. See *Farmers, Inc. v. Dal Mach. & Fabricating, Inc.*, 1990-NMSC-100, ¶ 8, 111 N.M. 6, 800 P.2d 1063.

¹ In his specially concurring opinion in *Biava*, Justice Ransom took the position, consistent with *Goff*—but without asserting that the majority’s approach was inconsistent with *Goff*—that until a plaintiff has made a prima facie showing that there is no genuine issue of material fact as to an affirmative defense, it is not incumbent on the defendant to establish the facts supporting the defense. *Biava*, 1990-NMSC-023, ¶¶ 20-21 (Ransom, J., specially concurring); see also *Transamerica Ins. Co. v. Sydow*, 1988-NMSC-029, ¶ 4, 107 N.M. 104, 753 P.2d 350 (holding that the plaintiff-movant had met its burden of rebutting the defendant’s affirmative defense of accord and satisfaction “by presenting an affidavit showing [that the defendant] had made no reimbursement” of amounts paid by the plaintiff for an injury caused by a third party); *Azar v. Prudential Ins. Co. of Am.*, 2003-NMCA-062, ¶ 88, 133 N.M. 669, 68 P.3d 909 (holding that the plaintiffs had not met their burden of “demonstrating that no genuine issue of material fact existed as to each element of their claims, and as to the [defendant’s] affirmative defenses” (emphasis added)).

1. Home Loan Protection Act

{20} Defendants argue that summary judgment was improper because there was a genuine issue as to whether the actions of SunTrust² violated the Home Loan Protection Act (HPLA), NMSA 1978, §§ 58-21A-1 to -14 (2003, as amended through 2009), and, in turn, the Unfair Practices Act. See generally § 58-21A-12 (“A violation of the [HPLA] constitutes an unfair or deceptive trade practice pursuant to the Unfair Practices Act.”). In their answer, Defendants pled, as an affirmative defense, a violation of the HPLA under Section 58-21A-4. In its motion for summary judgment, Plaintiff pointed to Defendants’ failure to plead facts in support of the defense. In the ensuing litigation, Plaintiff argued that Section 58-21A-11(B) is the only provision of the HPLA that provides a defense to foreclosure and that Defendants did not have a viable defense under that provision. Defendants responded by arguing that their HPLA defense was not based on Section 58-21A-11(B).

{21} On appeal, Defendants argue that SunTrust’s conduct violated Subsections (H) and (L) of Section 58-21A-4 because SunTrust never adequately explained the alleged escrow shortage that caused an increase in their monthly mortgage payment, denied Defendants’ request for a loan modification, and made no other loss mitigation efforts. See generally § 58-21A-4(H) (prohibiting creditors from charging “any fees or other charges, other than those that are bona fide, reasonable and actual, to modify, renew, extend or amend a home loan”); § 58-21A-4(L) (prohibiting creditors from “mak[ing] a home loan that contains a provision that permits the creditor, in its sole discretion, to accelerate the indebtedness” but permitting acceleration “in good faith due to a borrower’s failure to abide by the material terms of the loan”). Section 58-21A-4 includes Subsections (A) through (N), each of which defines at least one practice that the HPLA prohibits. Although Defendants argued in the district court that their HPLA defense did not arise under Subsection (B) of Section 58-21A-4, they did not argue for the applicability of any other subsection of the statute. Because Defendants neither identified their HPLA claim as arising under Subsection (H) or (L) of Section 58-21A-4 in the district court nor identified SunTrust’s acceleration of their indebtedness as the conduct that violated the HPLA, we conclude that they did not “fairly invoke[]” a ruling on whether either provision barred the entry of summary judgment.

See Rule 12-321(A) NMRA. Hence, we decline to review that question, see *Crutchfield v. N.M. Dep’t of Tax’n & Revenue*, 2005-NMCA-022, ¶ 14, 137 N.M. 26, 106 P.3d 1273, and, absent any other argument on appeal for why the HPLA barred summary judgment for Plaintiff, we cannot conclude that the district court erred in rejecting Defendants’ HPLA defense as a matter of law. See *Farmers, Inc.*, 1990-NMSC-100, ¶ 8.

2. Unclean Hands

{22} Defendants argue that summary judgment was improper because there was a genuine issue as to whether Plaintiff came to this foreclosure action with unclean hands. We disagree.

{23} In their answer, Defendants pled that “[t]he claims and causes of action contained in the [c]omplaint are barred by the doctrine of unclean hands.” Plaintiff addressed the affirmative defense in its motion for summary judgment by highlighting that Defendants’ answer pled “no specific facts in support of” the defense. Defendants eventually explained the factual basis for their unclean-hands defense in their sur-reply to Plaintiff’s summary judgment motion; they contended that SunTrust was responsible for their default as evidenced by SunTrust’s refusal to accommodate Defendants’ inability to afford their monthly loan payment, which SunTrust had recently increased. Defendants relied on entries in SunTrust’s “consolidated notes log” to suggest that SunTrust advised Defendants that their account was “current” and denied their requested loan modification on January 17, 2011, because Defendants did not have a “reason” for imminent default even though their account was in default as of January 1, 2011. In its sur-reply, Plaintiff did not dispute any of the facts that Defendants raised in support of their defense of unclean hands. Instead, Plaintiff contended that, if they were true, Defendants’ factual allegations would have no legal effect. Cf. *Biava*, 1990-NMSC-023, ¶¶ 3-4; *Koenig*, 1986-NMSC-066, ¶¶ 10-11.

{24} On the record before us, we cannot conclude that the district court erred by granting summary judgment to Plaintiff on Defendants’ unclean-hands defense. Because the facts supporting the defense were not disputed, only the legal effect of those facts was before the district court when it ruled on Plaintiff’s motion for summary judgment. And Defendants have given us no reason to conclude that (1) Sun Trust dirtied its hands by refusing to modify Defendants’ loan, cf. *Magnolia*

Mountain Ltd. v. Ski Rio Partners, Ltd., 2006-NMCA-027, ¶ 37, 139 N.M. 288, 131 P.3d 675 (holding that the district court did not abuse its discretion by rejecting the defendant’s unclean hands defense “[d]espite [the defendant’s] protestations that [the p]laintiff led it astray”), and (2) unclean hands is a defense to foreclosure under these circumstances. Cf. *id.* (reasoning that it was “unlikely that the defense of unclean hands [was] applicable” to a foreclosure action in part because “there [had] been no allegation of impropriety in the execution of the note and mortgage”). Because Defendants have not cited any legal authority or developed any argument to support either conclusion, we decline to reach the issue. See *Curry v. Great Nw. Ins. Co.*, 2014-NMCA-031, ¶ 28, 320 P.3d 482 (“Where a party cites no authority to support an argument, we may assume no such authority exists.”); *Elane Photography, LLC v. Willock*, 2013-NMSC-040, ¶ 70, 309 P.3d 53 (recognizing the “substantial risk of error” that exists when an appellate court “rule[s] on an inadequately briefed issue”). Accordingly, Defendants have not shown that the district court erred by rejecting the defense of unclean hands as a matter of law. See *Farmers, Inc.*, 1990-NMSC-100, ¶ 8.

3. Failure to Mitigate Damages

{25} Defendants argue that summary judgment was improper because there were genuine issues as to whether SunTrust could have mitigated its damages by taking action to forestall Defendants’ default and whether Plaintiff eschewed opportunities to reduce the damages after Defendants defaulted. Insofar as Defendants contend that the doctrine of mitigation of damages obligated SunTrust to take action that would have enabled Defendants to avoid default, they have not supported that argument with any pertinent authority, and we therefore decline to review the issue. See *In re of Adoption of Doe*, 1984-NMSC-024, ¶ 2, 100 N.M. 764, 676 P.2d 1329.

{26} To the extent Defendants’ argument on appeal is that the district court erred by granting summary judgment as to the measure of damages, that argument is unpreserved. In the district court, Defendants did not argue that Plaintiff’s failure to mitigate damages should reduce the amount of the damages award. See generally *Air Ruidoso, Ltd., Inc. v. Exec. Aviation Ctr., Inc.*, 1996-NMSC-042, ¶ 14, 122 N.M. 71, 920 P.2d 1025 (recognizing that a party that fails to mitigate its damages “run[s] the risk that any award of damages will be offset by the amount attributable to its own conduct”).

² Because Defendants’ affirmative defenses are, for the most part, based on SunTrust’s conduct, cf. *Bank of N.Y.*, 2014-NMSC-007, ¶ 39 (recognizing that the defendants had asserted an earlier lender’s alleged misconduct as a defense to the plaintiff’s attempt at foreclosure), we assume without deciding throughout the remainder of this opinion that SunTrust’s conduct could preclude Plaintiff from foreclosing Defendants’ mortgage.

Defendants did not “fairly invoke[]” a ruling, *see* Rule 12-321(A), on whether a genuine issue of material fact as to the amount of damages required the district court to hold a trial exclusively on that question. Because Defendants did not preserve the issue of whether a damages trial was necessary, we decline to review it. *See Crutchfield*, 2005-NMCA-022, ¶ 14. {27} For these reasons, we reject Defendants’ argument that Plaintiff’s failure to mitigate damages precluded the entry of summary judgment for Plaintiff.³ *See Farmers, Inc.*, 1990-NMSC-100, ¶ 8.

C. Defendants Failed to Preserve Their Argument That They Needed Additional Discovery to Respond to the Summary Judgment Motion

{28} Finally, Defendants argue that the district court erred by granting summary judgment to Plaintiff when Defendants were awaiting discovery from Plaintiff. In their January 2017 response to Plaintiff’s motion for summary judgment, Defendants moved for a continuance to allow them to conduct discovery pursuant to Rule 1-056(F). Defendants estimated that they could complete the requested discovery within six months. As Plaintiff correctly points out, Defendants very soon thereafter received responses to their first set of interrogatories and requests for production. Indeed, Defendants attached parts of those discovery materials to their sur-reply to Plaintiff’s motion for summary judgment. At the hearing on the motion, which was held over a year after Defendants requested a six-month continuance, Defendants again relied on the same discovery materials, and they did not ask the district court to continue the hearing so that they could obtain more evidence through discovery. Because Defendants never alerted the district court that they needed any discovery *in addition to* the responses to interrogatories and requests for production that they had already received and used, Defendants failed to preserve their argument that the district court erred by not allowing additional discovery, and we decline to reach it.

See Rule 12-321(A); *Nellis v. Farmers Ins. Co. of Ariz.*, 2012-NMCA-020, ¶ 23, 272 P.3d 143 (“The rules of preservation are no different for review of summary judgment than for review of other final orders.”).

{29} Defendants’ use of Rule 1-056(F) to marshal evidence to support their affirmative defenses illustrates a flaw in the dissent’s rationale. The dissent contends that an important function of the *Goff* rule is to prevent “banks and other large financial institutions [from] overpower[ing] homeowners, consumers, and tenants, obtaining a summary judgment before the facts in defense are known.” Dissent Op. ¶ 32. This conflates two distinct issues: (1) how burdens are allocated in summary judgment proceedings and (2) when nonmovants may use discovery to obtain evidence necessary to resist summary judgment. *Goff* pertains only to the first topic; it has nothing to do with the second, which is governed by Rule 1-056(F).⁴ With or without the *Goff* rule, Rule 1-056(F) and the rules of discovery afford all litigants—small and large alike, regardless of the nature of the claims and defenses—a right to use the tried-and-true tools of discovery to acquire evidence they need to oppose summary judgment. The existence of this right is the solution to the problem the dissent identifies. *Cf. Fed. Nat’l Mortg. Ass’n v. Chiulli*, 2018-NMCA-054, ¶¶ 1, 35, 20, 425 P.3d 739 (affirming the dismissal, as a discovery sanction, of a foreclosure action in which SunTrust, before the plaintiff took its place as the plaintiff, failed to provide discovery relevant to the defendant’s defenses). When the plaintiff-movant possesses evidence that the nonmovant needs to support its affirmative defenses, the nonmovant may simply request that evidence in discovery and, if necessary, seek a Rule 1-056(F) continuance, just as Defendants did in this case. *See also* Rule 1-037(B) NMRA (describing the relief that is available when an opposing party fails to provide discovery).

CONCLUSION

{30} We affirm.

{31} IT IS SO ORDERED.

**ZACHARY A. IVES, Judge
I CONCUR:**

BRIANA H. ZAMORA, Judge

**JANE B. YOHALEM, Judge (dissenting).
YOHALEM, Judge (dissenting).**

{32} I respectfully dissent from the majority’s holding that New Mexico law no longer requires a plaintiff who seeks summary judgment on its complaint to demonstrate that no genuine issue of material fact exists as to the defendant’s affirmative defenses. The majority concludes that our Supreme Court’s decision in *Goff*, is no longer good law, having been implicitly overruled by subsequent Supreme Court decisions. I cannot agree with the majority’s conclusion that our Supreme Court’s decisions in *Biava*, 1990-NMSC-023, and *Mayfield Smithson Enterprises*, 1995-NMSC-034, overrule *Goff*. Nor am I persuaded on the merits that the ruling in *Goff* should be overturned. In my view, our Supreme Court’s decision in *Goff*, requiring that a plaintiff seeking summary judgment present “some material” 1978-NMSC-074, ¶ 9, rebutting the defendant’s affirmative defenses in order to support its motion is required by Rule 1-056(E), remains important to ensure that banks and other large financial institutions do not overpower homeowners, consumers, and tenants, by obtaining a summary judgment before the facts in defense are known. For these reasons, as further explained below, I cannot join the majority opinion.

{33} In *Goff*, our Supreme Court overruled this Court’s decision in *Kassel*, 1973-NMCA-028, *see Goff*, 1978-NMSC-074, ¶ 10, which held, as the majority does again here today, that a plaintiff need only establish a prima facie case of entitlement to summary judgment on its own claim and need not address the affirmative defenses. *Id.*

³ Defendants also argue that summary judgment for Plaintiff is “unjust” because this foreclosure action was delayed to Defendants’ detriment. To the extent this argument relates to the measure of damages Plaintiff is due, it is unpreserved. To the extent that, with this argument, Defendants are reasserting the laches defense they raised in their answer, we hold that, by not litigating laches in response to Plaintiff’s motion for summary judgment, Defendants failed to carry their burden to avoid summary judgment with that defense. And, to the extent Defendants contend that the district court abused its discretion by refusing to grant them equitable relief on some ground other than the equitable defenses they raised in the district court, we dismiss that argument as undeveloped and, based on our review of the record, unpreserved. *See Crutchfield*, 2005-NMCA-022, ¶ 14; *Elane Photography*, 2013-NMSC-040, ¶ 70.

⁴ The dissent construes *Goff* as “enabl[ing] the defendant either to justify a discovery request pursuant to Rule 1-056(F) or to respond on its affirmative defenses[,]” thus making it “the primary responsibility [of] the defendant to show that trial is required on its defenses.” Dissent Op. ¶ 36. We disagree. As we understand *Goff*, our Supreme Court meant to relieve the defendant of any burden of persuasion unless the plaintiff demonstrates prima facie entitlement to judgment on both its claim and the defendant’s affirmative defenses. We do not read *Goff* as effectively augmenting Rule 1-056(F) by requiring plaintiffs to volunteer some discovery when the defendant pleads an affirmative defense. Nor do we think that, in stating that the submission of “some material” is enough to shift the burden to defendants on their affirmative defenses, *Goff*, 1978-NMSC-074, ¶ 9, our Supreme Court intended to lower the quantum of evidence required to make a prima facie showing at summary judgment. *See id.* (stating that the obligation to submit “some material” to overcome a defendant’s affirmative defenses “is no different than the original obligation on a movant for summary judgment”).

¶ 9. *Goff* overruled *Kassel*, holding that a plaintiff who seeks summary judgment disposing of all claims in its favor must present some evidence contravening the defendant's affirmative defenses, as well as presenting a prima facie case on its own claims. *Id.* The plaintiff must submit to the court "the necessary affidavits or other material to expose [the defendant's] affirmative defenses as unmerited." *Id.* The *Goff* Court emphasizes that the additional burden it is imposing on the plaintiff-movant is minimal: the plaintiff is not required to "show or demonstrate beyond all possibility that no genuine issue of fact exists." *Id.* All that is required of the plaintiff is the submission of "some material" in order to establish a prima facie case on the defenses and shift the burden to the other party. *Id.*

{34} In my view, the policy adopted by our Supreme Court in *Goff* remains consistent with Rule 1-056(E) and with New Mexico's cautious approach to summary judgment. *See Romero*, 2010-NMSC-035, ¶ 8. It remains true, as our Supreme Court said in *Goff*, that "one good defense will defeat recovery on a claim," *Goff*, 1978-NMSC-074, ¶ 8 (internal quotation marks and citation omitted), and that, therefore, a plaintiff must show not only that it has support for its claim but must also present some evidence that rebuts the defendant's defenses. Only then does the burden shift to the defendant to show that there is a genuine issue of material fact for trial. *Id.*

{35} I cannot agree that the subsequent cases relied on by the majority abrogate the *Goff* rule.

The two Supreme Court opinions relied on by the majority to support its view that the Court has subsequently rejected the *Goff* rule on affirmative defenses each cite to *Goff* and each explicitly rely on *Goff's* holding that, only when a plaintiff has presented some factual material negating the affirmative defenses, does the burden shift to the defendant, the proponent of the affirmative defenses, to show that a genuine issue of fact requires trial. *Id.* ¶¶ 9, 12; *see Biava*, 1990-NMSC-023, ¶ 11; *Mayfield Smithson Enters.*, 1995-NMSC-034, ¶ 9. Rather than overruling *Goff*, *Biava*, and *Mayfield Smithson Enterprises*, our Supreme Court's subsequent cases illustrate *Goff's* application. In each case, the initial burden to present a prima facie case on the affirmative defenses has been met by the plaintiff, shifting the burden to the defendant to show that a genuine issue of fact regarding one or more of those defenses requires trial. Although the focus of these cases is primarily on whether the defendant has responded by introducing sufficient evidence to rebut the plaintiff's prima facie case, I do not agree with the majority that this indicates an implicit rejection of *Goff*. Our Supreme Court has continued after its decisions in *Biava* and *Mayfield Smithson Enterprises* to disfavor summary judgment and to impose on the movant the burden of submitting sufficient evidence to make a prima facie case as to each element necessary to support summary judgment. *Romero*, 2010-NMSC-035, ¶¶ 8, 10.

{36} The rule adopted by our Supreme Court in *Goff* has proved to have special importance in cases brought by large financial institutions against consumers, homeowners, and tenants.

This case is brought by Fannie Mae against homeowners to foreclose on a mortgage. *See also Kassel*, 1973-NMCA-028, ¶ 3 (**landlord-tenant**); *Sydow*, 1988-NMSC-029, ¶ 1 (insurance company v. worker); *Biava*, 1990-NMSC-023, ¶ 2 (bank against debtor). Often, in these cases, the evidence concerning both the claim and the affirmative defense is in the hands of the plaintiff financial institution. *See, e.g., Chiulli*, 2018-NMCA-054, ¶¶ 3-4. It is especially important when a large financial institution has the evidence concerning both the transaction and defenses in its possession that the plaintiff be required to submit some material rebutting the affirmative defenses to support its motion for summary judgment. The *Goff* approach, after all, places the primary responsibility on the defendant to show that trial is required on its defenses. The production of some documentation by the plaintiff to support a prima facie case on the affirmative defenses enables the defendant either to justify a discovery request pursuant to Rule 1-056(F) or to respond to establish a genuine issue of material fact on its affirmative defenses.

{37} For the reasons stated, I believe that *Goff* remains good law and that its requirement that a plaintiff introduce some material rebutting the defendant's affirmative defenses in order to establish a prima facie case on its motion for summary judgment, remains an important safeguard against a rush to summary judgment by large financial institutions when an exploration of the facts would show that a trial is necessary to resolve disputed affirmative defenses. Because the majority holds otherwise, I respectfully dissent.

JANE B. YOHALEM, Judge

Advance Opinions

<http://www.nmcompcomm.us/>

From the New Mexico Supreme Court and Court of Appeals

From the New Mexico Court of Appeals

Opinion Number: 2022-NMCA-002

No: A-1-CA-37995 (filed May 24, 2021)

ELI SANCHEZ, PATRICIA C. TRUJILLO,
ARROYO HONDO COMMUNITY
ASSOCIATION, and ACEQUIA MADRE
DEL LLANO,

Petitioners-Appellants,

v.

BOARD OF COUNTY COMMISSIONERS
OF TAOS COUNTY,

Respondent-Appellee,

and

EDMUND HEALY,

Intervenor/Respondent-Appellee.

APPEAL FROM THE DISTRICT COURT OF TAOS COUNTY

Sarah C. Backus, District Judge

Certiorari Denied, October 1, 2021, No. S-1-SC-38868.

Released for Publication February 22, 2022.

Atler Law Firm, P.C.

Timothy J. Atler

Jazmine J. Ruiz

Albuquerque, NM

Sommer, Udall, Hardwick & Jones, PA

Jack N. Hardwick

Santa Fe, NM

for Appellee Edmund Healy

Graeser & McQueen, Attorneys at Law

Christopher L. Graeser

Santa Fe, NM

Enrique Romero

Santa Fe, NM

for Appellants

for Amicus Curiae New Mexico
Acequia Association, Inc.

Robles, Rael & Anaya, P.C.

Randy M. Autio

Charles Rennick

Albuquerque, NM

for Appellee Board of County
Commissioners of Taos County

OPINION

HENDERSON, Judge.

{1} Eli Sanchez (Sanchez), Patricia C. Trujillo (Trujillo), Arroyo Hondo Community Association, and Acequia

Madre del Llano (collectively, Petitioners¹) petitioned for a writ of certiorari to review the district court's decision affirming permits granted by the Board of County Commissioners of Taos County (the County). The County affirmed the decision of the Taos

Planning Commission (Planning Commission) to grant a permit to construct a heliport on property owned by Intervenor Edmund Healy (Healy), adjoining agricultural fields farmed by Sanchez and Trujillo. Petitioners claim that a series of unpermitted and permitted construction ranging over a five-year period and culminating in the permit allowing construction of the heliport interfered with their access to and use of a lateral that runs across the Healy property to their fields. {2} The County refused to apply the provisions of the Taos, N.M., Ordinance 2015-02, Land Use Regulations (LUR) (2015), requiring the permission of the acequia commission for any construction activity which disturbs an acequia "in any way[.]" claiming that this regulation applies only to construction that disturbs an acequia madre, and not a lateral. *See* Taos, N.M., LUR art 4, § 4.8.1(N).

{3} In addition, the County refused to consider Petitioners' challenge to the installation of a culvert in 2012 and the building of a retaining wall in 2015, preliminary steps in the heliport construction that disturbed the lateral. Petitioners argued that their appeal is timely based on the unusual circumstances of piecemeal construction and the County's failure to provide notice and request approval of the acequia commission. The County found, and the district court agreed, that the appeal of any permit prior to the final permit for the heliport was untimely.

{4} In this appeal, we address (1) whether a lateral is also considered an acequia under the Taos, N.M., LUR art. 4, § 4.5.3(C); and (2) whether there were unusual circumstances which excused the untimely appeal by Petitioners. Having read the briefs, heard oral argument, and being fully informed on the issues and applicable law as raised by the parties, we reverse the district court and hold that laterals are acequias; and remand a portion of this case to the County to hold a new hearing regarding all the permits issued during the course of this construction, consistent with this opinion.

BACKGROUND

{5} We first lay out the geographical description at the center of this litigation and set forth the general factual and procedural background preceding this appeal, reserving further discussion of facts or litigative events where pertinent to our analysis.

{6} This case involves three named acequias and a lateral² in the small northern New Mexico town of Hondo Seco.

¹ The Acequia Madre del Llano was not a named petitioner in this case until the Notice of Appeal was filed before the district court on August 9, 2017.

² We use the term "lateral" to refer to smaller ditches that serve one or more owners. These smaller ditches are commonly located between property owners. The term "lateral" is used interchangeably with the terms "acequia, lindero" and "acequia, venita" as defined in the LUR. *See* Taos, N.M., LUR art. 2, § 2.1.2 (Definitions).

CLE PLANNER

Your Guide to
Continuing Legal
Education

April 13, 2022



WELCOME BACK

The **Center for Legal Education** has welcomed back members for in-person programs.¹ CLE courses continue to be available in remote formats including webinar, teleseminar, or on demand. Refer online for registration and more information.

All visitors to the State Bar Center are encouraged to read the latest COVID information at the CDC website and take any actions to keep themselves and others comfortable and healthy as we continue to transition out of the pandemic.

¹ *Subject to current public health guidelines.*

INSIDE THIS ISSUE

- ▶ April–June Courses
- ▶ Marty Latz
- ▶ Annual Pass
- ▶ Annual Meeting Save the Date

The Center for Legal Education is a non-profit New Mexico accredited CLE course provider dedicated to providing high quality, affordable educational programs to the legal community. CLE offers a full range of educational services. For more information, contact us or visit us online.

cleonline@sbnm.org • www.sbnm.org/cle • 505-797-6020



New Mexico State Bar Foundation
Center for Legal Education

APRIL 20*Teleseminar***“Boiler-Plate” Provisions In Contracts: Overlooked Traps In Every Agreement**

1.0 G
 11 a.m.–noon
 \$79 Standard Fee

*Webinar***Legal Malpractice Insurance & Claims Avoidance 101**

1.0 EP
 11 a.m.–Noon
 \$89 Standard Fee

APRIL 21*Webinar***Policing the Mentally Ill: A Brief History and Today's Liabilities**

1.0 G
 Noon–1 p.m.
 \$49 Standard Fee

APRIL 22*Teleseminar***Ethics And New Clients: Inadvertent Clients, Intake, And More**

1.0 EP
 11 a.m.–Noon
 \$79 Standard Fee

APRIL 28*Pre-Recorded Webcast***Five Steps to Effective Online Negotiations**

Presented by Marty Latz
 2.0 G
 Noon–2 p.m.
 \$160 Standard Fee

MAY 3*Webinar***Law Firms Face the Scourge of Ransomware: How to Ethically Prevent, Respond and Recover**

11 a.m.–noon
 1.0 EP
 \$89 Standard Fee

MAY 6*Webinar***REPLAY: Cannabis Regulation Act and Expungement (2021)**

1.0 G
 9–10 a.m.
 \$49 Standard Fee

*Webinar***Virtual Magic: Making Great Legal Presentations Online**

11 a.m.–noon
 1.0 G
 \$89 Standard Fee

MAY 9*Webinar***Storytelling for Lawyers: How to Engage Clients, Judges, and Juries, and Move Them to Action**

11 a.m.–noon
 1.0 G
 \$89 Standard Fee

MAY 10*Webinar***Disorder in the Court: An Attorney's Guide to Judicial Misconduct**

11 a.m.–1 p.m.
 2.0 EP
 \$129 Standard Fee

MAY 12*Webinar***REPLAY: Stop Missing Your Life (2021)**

1.0 EP
 Noon–1 p.m.
 \$49 Standard Fee

MAY 18*Webinar***REPLAY: Challenging the Tricultural Myth in New Mexico (2021)**

1.0 G
 Noon–1 p.m.
 \$49 Standard Fee

MAY 24*Webinar***Informal Logical Fallacies: Logic, Argumentation, & Persuasion**

11 a.m.–noon
 1.0 G
 \$89 Standard Fee

*Webinar***REPLAY: Animal Talk: Progressive v. Sheppard (2022)**

1.0 G
 Noon–1 p.m.
 \$49 Standard Fee

MAY 26*Webinar***REPLAY: An Afternoon of Legal Writing with Stuart Teicher (2021)**

3.0 G
 Noon–3:15 p.m.
 \$147 Standard Fee

JUNE 17*Webinar***Basics of Trust Accounting: How to Comply with Disciplinary Board Rule 17-204**

Noon–1 p.m.
 1.0 EP
 \$55 Standard Fee

JUNE 24*Webinar***30 Things Every Solo Attorney Needs to Know to Avoid Malpractice**

9–10:30 a.m.
 1.5 G
 \$74 Standard Fee

JUNE 29*Webinar***Cybersecurity: How to Protect Yourself and Keep the Hackers at Bay**

Noon–1 p.m.
 1.0 EP
 \$49 Standard Fee

If you attended his *Gain the Edge! Negotiation Strategies for Lawyers* course, you'll want to check out this special program

Five Steps to Effective Online Negotiations

Presented by Marty Latz

Pre-Recorded Webcast

April 28, 2022

noon–2 p.m.

2.0 C

\$160 Standard Fee



ANNUAL

PAS S

2022

Lock in your savings!

Pre-pay 12 credits for only \$485

Credits must be redeemed by
Dec. 31, 2022

Contact us for more info: cleonline@sbnm.org

**Save almost
18% over
regular
prices!**



New Mexico State Bar Foundation
Center for Legal Education

Redeemable on Center for Legal Education courses only.
Exclusions: No teleseminar or other third-party content. No refunds or roll-over of unused credits.

SAVE THE DATE

2022 Annual Meeting

Let's
network
together
again!

August 11-13, 2022

Hyatt Regency Tamaya
Resort and Spa

Conference will include breakout sessions with the Professional Development Program, Equity in Justice Program, Cannabis and Public Law Section Institutes!

Stay tuned for new details regularly in the *Bar Bulletin* and in your emails!



**State Bar of
New Mexico**

Est. 1886

CLE Registration

Two Ways to Register:

➤ Online: www.sbnm.org/CLE

☎ Phone: 505-797-6020

**Check our
website for
more updates
to our program
schedule!**

REGISTER EARLY! Advance registration is recommended to guarantee admittance and course materials. **CLE Cancellations & Refunds:** We understand that plans change. If you find you can no longer attend a program, please contact the CLE Department. We are happy to assist you by transferring your registration to a future CLE event or providing a refund. A 3 percent processing fee will be withheld from a refund for credit and debit card payments. **MCLE Credit Information:** NMSBF is an accredited CLE provider. **Recording of programs is not permitted.**
Note: Programs subject to change without notice.

cleonline@sbnm.org • www.sbnm.org/cle • 505-797-6020
5121 Masthead NE, Albuquerque, NM 87109 • PO Box 92860, Albuquerque, NM 87199

The acequias and laterals include (1) the Acequia Madre del Llano (Acequia Madre); (2) the Acequia de la Cordillera; (3) the Acequia de la Plaza; and (4) a lateral—which is at the center of this appeal. The tracts of property involved are that of Healy, and three adjacent properties of parcientes³ Sanchez, Padilla, and Trujillo (Padilla is not a party to this case), to the west of Healy's tract. The unnamed lateral runs between the boundary of the Healy tract and the three parcientes' tracts, delivering water to the fields of the three parcientes. The Acequia Madre is not located on the property of the parties, but it is the main acequia, or irrigation ditch, which feeds water into the other acequias and laterals, including the lateral at issue in this case.

{7} As noted above, this case involves a series of permitted and unpermitted construction projects that took place from approximately 2011 through 2016, which Petitioners allege disturbed the lateral acequia that carries water to the Sanchez and Trujillo fields. Healy, as a developer, sought a series of permits from the Taos County Planning Director (Planning Director) to construct a bridge, a retaining wall, a parking lot, and ultimately a heliport, on his property. His construction began in 2011 or early 2012 with construction to encase the impacted lateral in a culvert.⁴ This construction was done without a permit. The facts below are organized in chronological order, beginning with the construction of the culvert, followed by each of Healy's applications for a permit. The procedural history follows.

I. Factual Background

A. The Unpermitted Construction Placing the Lateral Into Culverts

{8} Petitioners assert that around 2012, without applying for, or receiving a county permit, Healy proceeded to construct a culvert encasing the lateral across his property. This lateral was one that was shared by the parcientes. In contrast, the County maintains that the culverts had already been installed in 2011, prior to any of these proceedings or applications for permits. Healy admits that at some point in 2012, he placed the laterals in steel culverts and built a junction box and installed gates so that all three parcientes could distribute water among their properties.

Healy notes that he received permission to place the lateral into culverts from the brother of one of the Petitioners.

B. The 2012 Permit

{9} In 2012, Healy submitted an application to the Taos County Planning Department (Planning Department) seeking a Special Use Permit (SUP-002-2012 permit), to construct a driveway and bridge crossing to his property.⁵ Though the permit application was for a driveway and bridge, a terraced retaining wall was also shown in the plans.⁶ Petitioners contend that, despite the retaining wall being shown in the plans, it was not officially a part of the proposal. The plans did not show acequias or laterals that flowed across the property. Petitioners assert that while they received notice for the SUP-002-2012 permit, the notice focused exclusively on the construction of the road and bridge. Petitioners state that the notice did not fairly apprise them that Healy also sought to build a retaining wall that would interfere with their lateral. The Planning Commission approved the permit application.

C. The 2015 Permit

{10} In 2015, Healy submitted an application for a building permit (CO-203-15), to construct a retaining wall. According to the Planning Director, this application—or the “building permit”—was not required to undergo the same process of review as a special use permit or administrative permit. The Planning Director maintained that the construction of the retaining wall was exempt from such review under Taos, N.M., LUR art. 3, § 3.3.1 (Exemptions from Land Use Permit Requirements).

{11} A memorandum from the Planning Director to the Planning Commission acknowledged that the layout of the proposed retaining wall differed from the retaining wall included in the SUP-002-2012 permit plans. The location of the proposed retaining wall was changed to cross over the lateral, making access to the lateral difficult or impossible and blocking the traditional access to the headgate used by parcientes. The memorandum emphasized that the Planning Director reviewed the change and “determined that the reconfiguration did not create a health, safety, or welfare issue.”

No mention is made of the effect of the construction on the lateral. No request for approval was made to the acequia commission. The Planning Director recommended that the Planning Commission grant the building permit (CO-203-15) to Healy to construct the retaining wall. The building permit was approved by the Planning Commission. The Planning Director also clarified in his memorandum that he “did [not] release the building permit for the retaining walls because they were referenced in the [SUP-002-2012 permit],” but because he interpreted the retaining walls as the type of limited excavation that needed only a building permit and did not need additional zoning. While there is an 8.5 x 11 inch paper notice that states it should be posted “in a conspicuous place,” there is nothing in the record indicating that the notice was actually posted.

{12} The record does not clearly indicate when the retaining wall was constructed; however, Petitioners maintain that the retaining wall was actually constructed prior to the approval of the 2015 application by the Planning Director. The date of construction is not part of the record. Petitioners maintained that they went to the Planning Director to express their dissatisfaction with the construction of the retaining wall, but that they were turned away.

B. The 2016 Permit

{13} Finally, in 2016 Healy submitted a third application for an Administrative Permit (Admin.-003-2016 permit), to construct a heliport, parking lot, and driveway entrance. The application included, among other documents necessary for approval of an Administrative Permit, pursuant to Taos, N.M., LUR art. 4, § 4.5.2 (Administrative or Special Use Application Submittal Requirements), an Environmental Impact Study, a determination letter from the Federal Aviation Administration, deeds, and notifications of approvals. The Planning Director deemed the application incomplete and requested further clarification on a number of items, including, for the first time, clarification of the project's impact on the on-site acequias. In relevant part, the letter to Healy stated, “[T]he applicant failed to identify the location of the on-site acequia.”

³ Acequia, Parciente (also spelled Parciante) refers to “[a] member or shareholder of an [a]cequia, responsible for a share of ditch maintenance proportionate to his or her irrigated acreage.” *Id.* Sanchez, Padilla, and Trujillo are in fact parcientes of the Acequia Madre.

⁴ A culvert is defined as, “a transverse drain or waterway (as under a road, railroad, or canal)[.]” *Tompkins v. Carlsbad Irrigation Dist.*, 1981-NMCA-072, ¶ 23, 96 N.M. 368, 630 P.2d 767 (internal quotation marks and citation omitted).

⁵ A Special Use Permit is distinct from other types of permits issued by the Planning Department. The other includes, as relevant here, an Administrative Permit. Each type has its own permit requirements. See Taos, N.M., LUR art. 4, § 4.1.1 (Permit Requirements). Both types of permits require the same type of notification and approvals, namely from “other entities such as pueblos, . . . neighborhood associations and acequia associations, as applicable.” *Id.* § 4.5.2(E).

⁶ Petitioners state that “[a] copy of the notice for the [SUP-002-]2012 [p]ermit is not in the record due to the County's refusal to allow “any testimony or exhibits pertaining to permits or construction phases prior to [the 2016 Permit], particularly the retaining walls.”

Healy was further directed to comply with Taos N.M. LUR art. 4, § 4.8.1(N), and identify the location of any acequias, and submit the application to the applicable acequia commission for review. {14} Healy responded to the Director's request for clarification, and in relevant part, pointed to a letter from the Acequia de La Plaza Commission, which stated (incorrectly) that the Acequia de la Plaza was the only on-site acequia on Healy's property.⁷ The letter from the Acequia de La Plaza Commission expressed support for the helipad and encouraged the approval of the administrative permit for the helipad. Healy further responded that "although there is an acequia or irrigation ditch across the street from [Healy]'s property and south of (behind) the Hondo Seco Volunteer Fire Department property, the ditch is located more than [sixty] feet beyond [Healy]'s property line." "The headgate for the lateral irrigation ditch serving [Healy]'s property is also located more than [sixty] feet beyond [Healy]'s property line and beyond the survey limits. The irrigation gates and irrigation ditches located on [Healy]'s parcel are not maintained by the acequia."⁸

{15} On December 15, 2016, the Planning Director approved Healy's application for the administrative permit—Admin.-003-2016—subject to multiple conditions. Specifically, Condition No. 20 instructed that Healy "shall provide the Planning Department with a letter advising that the lateral irrigation ditches located within the site are not maintained by the acequia⁹ and that the helipad and parking area [would] not interrupt, reduce, or change the flow of water to the parcientes of the lateral irrigation ditches." Pursuant to Taos, N.M., LUR art. 4, § 4.5.3(C) public notice of the decision was posted, and any party aggrieved by the decision had up to thirty days to appeal to the Planning Commission. Taos, N.M., LUR art. 10, § 10.1.1(B) (Appeals).

II. Procedural Background

A. Appeal to the Taos Planning Commission

{16} Just over a month later—on January 17, 2017, Petitioners timely appealed the Admin.-003-2016 permit to the Planning Commission. In relevant part, Petitioners raised concerns with Condition No. 20. They claimed that the retaining wall that was built across the lateral interfered with their traditional and legal access to and from the lateral's headgate. Petitioners asserted that Healy's retaining wall was not given a set-back from the Sanchez family property line. Petitioners further complained that, although Healy was directed to provide a letter from the acequia commission prior to the helipad becoming operational, this issue should have been addressed during the design process and before breaking ground. In a response to the appeal, Healy asserted that the lateral irrigation ditch located on the site was not maintained by the Acequia Madre, and "that the helipad and parking area would not interrupt, reduce, or change the flow of water to the parcientes of the lateral irrigation ditch." {17} The Planning Commission affirmed the Planning Director's approval for Healy's administrative permit after holding two separate hearings. Healy's permit was affirmed with conditions. The Commission included conditions similar to those set forth by the Planning Department, again including language identical to Condition No. 20. The condition again required Healy to "provide the . . . Planning Department with a letter advising that the lateral irrigation ditches located within the site [were] not maintained by [an a]cequia [commission] and that the helipad and parking area [would] not interrupt, reduce, or change the flow of water to the parcientes of the lateral irrigation ditches." The only letter in the record was the one previously provided by the Acequia de La Plaza Commission.

The Acequia de la Plaza's letter supports granting the administrative permit for the helipad, parking lot, and driveway entrance. However, the Acequia de La Plaza is not the acequia or lateral that is impacted by the retaining wall. Petitioners again timely appealed the Planning Commission's decision to the County on May 30, 2017.

B. Appeal to the County

{18} Upon its review the County commenced a public hearing and performed an on-site inspection. The County made findings to include in relevant part:

[Healy] has introduced sufficient evidence that the Acequia Madre . . . which is located off-site will not be disturbed in any way by construction activity and that the development of the subject property is in excess of [twenty] feet of the bank of the Acequia Madre[.] The [County] also finds that the lateral ditches from the head[.]gate located on the subject property were encased in culverts prior to the construction of the proposed helipad and not as a result of Administrative Permit Admin.-003-2016. Further, [p]arciantes from the lateral ditch may enter the property and control their respective irrigation flow at the head[.]gate and that maintenance of the lateral ditches will be maintained by [Healy].

The County, after considering all the evidence, and the arguments by the parties, affirmed the decision of the Planning Commission subject to multiple conditions.¹⁰ Again in relevant part, the County directed Healy to provide the Planning Commission with a letter advising "that the lateral irrigation ditches located within the site [were] not maintained by the Acequia [Commission]"¹¹ and that the helipad and parking area [would] not interrupt, reduce, or change the flow of water to the parcientes of the lateral irrigation ditches."

⁷ The Acequia de la Plaza is not the onsite lateral that is being impacted by the construction of the wall. The lateral stemming from Acequia Madre, which was placed into a culvert upon which the wall was built, is however onsite.

⁸ Although not clear by Healy's language, it appears that he is referring to the Acequia Madre.

⁹ Although not clear by the language used by the Planning Director, it appears that he is also referring to the Acequia Madre.

¹⁰ However, according to Petitioners and apparent from the record, the County did not allow Petitioners to present evidence of the lateral being placed into a culvert without a permit, nor did it speak to the 2015 permit for the current retaining wall: the permit which restricted Petitioners' access to the lateral. Additionally, the Planning Director's memorandum specifically recommended a finding that any appeal from the decision on the retaining wall is untimely.

¹¹ Again, the County does not make clear which Acequia Commission they are seeking a letter from, but it is assumed they are referring only to the Acequia Madre Commission.

Petitioners then appealed the decision of the County to the district court.

C. The District Court Decision

{19} The district court, in its decision and order stated “[t]he sole issue [was] whether [Healy] was required to obtain the approval of the Acequia Madre . . . prior to the application being approved.” The district court concluded that the decision of the County was “based upon substantial evidence in the record, was not fraudulent, arbitrary or capricious[,] and was in accordance with the law.” The district court gave deference to the County’s interpretation of the LUR and held that laterals were not intended to be considered acequias. Finally, the district court held that the County properly denied consideration of the permits prior to the 2016 permit.

DISCUSSION

{20} A petition for writ of certiorari was timely filed with this Court, and we granted the writ. Petitioners raise two issues on appeal: (1) whether a lateral is considered an acequia under the Taos County LUR; and (2) whether the County properly treated Petitioners’ appeal of the permit allowing construction of the retaining wall as untimely without considering Petitioners’ evidence of piecemeal construction and lack of notice, circumstances that Petitioners’ claim excused a late appeal.

{21} On certiorari in an administrative appeal of this type, we employ “the same standard of review used by the district court while also determining whether the district court erred in its review.” *Paule v. Santa Fe Cnty. Bd. of Cnty. Comm’rs*, 2005-NMSC-021, ¶ 26, 138 N.M. 82, 117 P.3d 240. Our review is limited to ascertaining “whether the administrative agency acted fraudulently, arbitrarily or capriciously; whether the agency’s decision is supported by substantial evidence; or whether the agency acted in accordance with the law.” *Id.*; see Rule 1-075(R) NMRA (outlining the standards of review applicable to agency action); Rule 1-074(R) NMRA (same). “A ruling by an administrative agency is arbitrary and capricious if it is unreasonable or without a rational basis, when viewed in light of the whole record.” *Rio Grande Chapter of Sierra Club*, 2003-NMSC-005, ¶ 17, 133 N.M. 97, 61 P.3d 806. When applying this administrative standard of review, we will not substitute our judgment for that of the fact-finder, but we review questions of law de novo. *Id.*

I. The District Court Incorrectly Determined That Laterals Are Not Intended to Be Considered Acequias

{22} In construing the LUR, the County encourages us to defer to its interpretation of the regulations, because as the zoning

authority, it interpreted its own zoning ordinance. “When an agency construes a statute that governs it, the [C]ourt will accord some deference to the agency’s interpretation.” *Marbob Energy Corp. v. N.M. Oil Conservation Comm’n*, 2009-NMSC-013, ¶ 6, 146 N.M. 24, 206 P.3d 135. “The [C]ourt will confer a heightened degree of deference to legal questions that implicate special agency expertise[.]” *Morningstar Water Users Ass’n v. N.M. Pub. Util. Comm’n*, 1995-NMSC-062, ¶ 11, 120 N.M. 579, 904 P.2d 28 (internal quotation marks and citation omitted). “However, the [C]ourt is not bound by the agency’s interpretation and may substitute its own independent judgment for that of the agency because it is the function of the courts to interpret the law.” *Id.* “The [C]ourt should reverse if the agency’s interpretation of a law is unreasonable or unlawful.” *Id.*

{23} In this case, we are required to interpret the LUR and determine and give effect to legislative intent. “Statutory interpretation is an issue of law, which we review de novo.” *N.M. Indus. Energy Consumers v. N.M. Pub. Regul. Comm’n*, 2007-NMSC-053, ¶ 19, 142 N.M. 533, 168 P.3d 105. It does not appear from the record that the County has any particular expertise or experience in determining what should be considered an acequia under the LUR. “Because statutory construction itself is not a matter within the purview of the Commission’s expertise, we afford little, if any, deference to the Commission on this matter.” *Id.* (internal quotation marks and citation omitted).

{24} “In construing municipal ordinances or county zoning ordinances, such as the one here before us, the same rules of construction are used as when construing statutes of the legislature.” *Burroughs v. Bd. of Cnty. Comm’rs of Bernalillo Cnty.*, 1975-NMSC-051, ¶ 13, 88 N.M. 303, 540 P.2d 233. “When construing statutes, our guiding principle is to determine and give effect to legislative intent.” *N.M. Indus. Energy Consumers*, 2007-NMSC-053, ¶ 20. Guided by classic canons of statutory construction, “[w]e look first to the plain language of the statute, giving the words their ordinary meaning, unless the Legislature indicates a different one was intended.” *Id.* “In addition, we strive to read related statutes in harmony so as to give effect to all provisions[.]” *Id.* We read provisions of a statute “together with other statutes in pari materia under the presumption that the [L]egislature acted with full knowledge of relevant statutory and common law[.]” *Id.* (internal quotation marks and citation omitted).

{25} We must determine whether laterals—such as the one that runs between the parties’ properties—are subject to the same type of protection from disturbances as are acequias under the LUR.¹² We first look to the language in the LUR. The LUR requires “express permission” from the entity legally responsible for the operation and maintenance of the acequia—the acequia commission—prior to disturbing an acequia. Taos, N.M., LUR art. 4, § 4.8.1 (N). The language at issue further provides:

No acequia, whether onsite or off-site, shall be disturbed in any way by building development or construction activity unless approved or deemed approved by the acequia commission.

Id. (emphasis added).

{26} The plain language of Taos, N.M., LUR art. 4, § 4.8.1(N) does not clearly identify whether an “acequia” is an “acequia, madre,” an “acequia, venita,” or perhaps an “acequia, lindero.” Thus, it requires the Court to consider whether an acequia, and the acequia subcategories—acequia, madre; acequia, venita, and; acequia, lindero—are all acequias for purposes of Taos, N.M., LUR art. 4, § 4.8.1(N). If a lateral is considered an acequia, according to the LUR, any disturbance must be approved by the applicable acequia commission. We look to the definitions as provided by the LUR:

Acequia - Referring to both the irrigation *ditch* and the organization of parcientes who use the ditch. The acequia transports surface water from its source, e.g. a stream, a spring, watershed, a river, or a reservoir, to irrigate lands used primarily for agricultural purposes. Also, an acequia is a form of public corporation that is a political subdivision of the State of New Mexico. Like all other political subdivisions, acequias are competent to exercise those powers that the [L]egislature has delegated to them, expressly or by necessary implication.

...

Acequia, Lindero - In most cases, linderos are smaller *ditches* that serve one or more owners. The ditches are commonly located between property owners. Some [a]cequia organizations use this term in the same context as *venitas*.

Acequia, Madre - The mother *ditch* or main irrigation canal diverting water from stream.

¹² For purposes of this opinion, we use the word “lateral” to collectively refer to “acequia, linderos” and “acequia, venitas” as found under the Taos, N.M., LUR art. 2, § 2.1.2.

....

Acequia, Venita - Commonly refers to *laterals* originating from the Acequia Madre or [a]cequias that deliver water to individual lands. Some venitas have their own commission and collect additional dues to those of the main ditch.

Taos, N.M., LUR art. 2, § 2.1.2 (emphasis added).

{27} Petitioners and Amicus point to these definitions and state that *madres*, *linderos*, *laterals*, *contras* and *venitas* are all subcategories or subparts of an acequia included within the overarching term “acequia.” The County and Healy contend, on the other hand, that the LUR establishes clear and deliberate distinctions between acequias and laterals, which demonstrate that they are not intended to be considered identical.

{28} We do not find the rules of statutory construction relied on by the County particularly helpful. The County and Healy suggest that if this Court were to conclude that a lateral is indeed an acequia under the LUR, it would be adding language to the term “acequia.” See *High Ridge Hinkle Joint Venture v. City of Albuquerque*, 1998-NMSC-050, ¶ 5, 126 N.M. 413, 970 P.2d 599 (“The [C]ourt will not read into a statute or ordinance language which is not there, particularly if it makes sense as written.” (internal quotation marks and citation omitted)); *Marbob Energy Corp.*, 2009-NMSC-013, ¶ 20 (additional language will not be read into the statute language especially if the provision makes sense as written). The County specifically argues that Taos, N.M., LUR art. 4, § 4.8.1(N) only refers to the acequia madre, effectively excluding *linderos*, *venitas*, or *laterals*. If this Court were to construe Taos, N.M., LUR art. 4, Section 4.8.1(N) as applying only to the acequia madre, we would be required to read the word “madre” into the language. If we interpreted the language according to the County’s suggestion, Taos, N.M., LUR art. 4, § 4.8.1(N) would read as follows:

No acequia [madre], whether on-site or off-site, shall be disturbed in any way by building development or construction activity unless approved or deemed approved by the acequia commission.

(Emphasis added.) Because the drafters of the LUR can include additional language if they so desire, we will not do this work on their behalf. Cf. *State v. Greenwood*, 2012-NMCA-017, ¶ 38, 271 P.3d 753 (“The Legislature knows how to include language in a statute if it so desires.” (alteration, internal quotation marks, and citation omitted)).

{29} The County and Healy also refer us to language found elsewhere in the LUR, which states that “[a]ll watercourses on the property, including springs, *acequia systems* and related water improvements, which are located within 150 feet of the property, must be shown[,]” and that “acequia systems” shall not be used as drainage ways. Taos, N.M., LUR art. 4, § 4.6.5(B)(18)(a), (b) (emphasis added). The County asks this Court to infer that because the term “acequia systems” exists in one section of the LUR, it is clear that the term “acequia,” when used alone, refers only to an acequia madre. Petitioners argue that the term “acequia systems,” should not be considered as part of the interpretation under LUR, noting it doesn’t appear anywhere else in LUR, but only in a single section, appearing to be “entirely anomalous.” We agree with Petitioners that there is no clear indication of intent to apply the term “acequia systems” broadly throughout the LUR, particularly given its absence from the definition of “acequia.”

{30} Not finding clear intent based on the canons of statutory construction relied on by the parties, we turn to the broader context in which the LURs were adopted and operate. The New Mexico Legislature has delegated to counties the statutory authority to create local zoning ordinances and planning commissions. See NMSA 1978, § 3-21-1 (2007, amended 2019) (“Zoning; authority of county of municipality”); NMSA 1978, § 4-57-1 (1967) (providing that counties may create planning commissions). Pursuant to this state statutory authority, the County’s LURs provide that the regulations must comply with state law and that the regulations “are meant to augment and enhance federal and state law and other county regulations.” Taos, N.M., LUR art. 1, § 1.2.4; see *id.* § 1.2.1 (providing that “[t]he Taos County [LUR]’s comply with [NMSA]”). The regulations further provide that “[a]ll development under these regulations shall comply with all county ordinances, the Taos County Comprehensive Plan, and applicable state and federal laws.” *Id.* § 1.2.5.

{31} The New Mexico statutes that govern acequias throughout the state are found in NMSA 1978, Sections 73-2-1 to -68 (1851, as amended through 2019). We pay particular attention to Section 73-2-11, which states in relevant part, “every one of said community ditches beginning at the dam or entrance of the water, *in continued course to the end of the same*, shall be considered as one ditch or acequia only[.]” (Emphasis added.) We reject the County’s argument that the exception in this statute somehow negates the lateral’s status as

an acequia. In our view, the plain language of the state statute, properly construed, means that all smaller ditches, or laterals, that run along the course anywhere from where the water begins, to the end, where the water is carried to a parciente’s property to irrigate a field, shall be considered a single acequia. See Buynak, Brigitte; Jerold Widdison; and Darcy S. Bushnell. “Acequias.” *Water Matters!* 2015, 1 (2015): 4-1-4-12. https://digitalrepository.unm.edu/utton_watermatters/vol2015/iss1/9 (explaining historical context of acequias and stating, “[t]he acequias include the diversion dams, headgates, flumes, and other features needed to transport water for irrigating fields, gardens, croplands, and pastures”). This language is reflective and supportive of what is stated in the LUR, as stated above, namely that, “[t]he acequia transports surface water from its source, e.g. a stream, a spring, watershed, a river, or a reservoir, to irrigate lands used primarily for agricultural purposes.” Taos, N.M., LUR art. 2, § 2.1.2. (defining acequia). Both provisions state that an acequia begins at the source. The state statute indicates that an acequia continues through to the end of the course, while the LUR states an acequia transports water from the source to irrigate lands. Transporting water, to the end of the course of a ditch, is what New Mexico’s system of acequias was intended to do.

{32} We also look to early case law from our Supreme Court for more context on the role of acequias:

New Mexico being in the arid region, the early settlements were established along the banks of perennial rivers, or in the mountain valleys where water from springs and creeks was reasonably certain to be available for irrigation at the needed times. . . . [T]he people built their houses and established their towns and plazas close together, and cultivated the lands in small tracts adjacent to the settlement. . . . [T]he people by their joint effort would construct an irrigation ditch, sufficiently large enough to convey water to their lands for the irrigation of crops. Each individual owned and cultivated a specific tract of land, sufficient to provide food for the needs of his family, and from the main ditch laterals were run to the various tracts of land to be watered.

Parkview Cmty. Ditch Ass’n v. Peper, 2014-NMCA-049, ¶ 3, 323 P.3d 939 (quoting *Snow v. Abalos*, 1914-NMSC-022, ¶ 8, 18 N.M. 681, 140 P. 1044). *Parkview* and *Snow* make it clear that acequias are intended for the purpose of irrigating fields and crops. This purpose informs our analysis.

{33} We conclude that the County's legislative body, in promulgating the Taos, N.M., LUR art. 4, § 4.8.1(N), consistent with other state legislative enactments concerning acequias, and the documented history of acequias, intended for laterals to be subject to the same protection as an acequia. Therefore, we determine that Taos, N.M., LUR art. 4, § 4.8.1(N) should be construed to mean that an "acequia" refers to all types of acequias and laterals as provided for under Taos, N.M., LUR art. 2, § 2.1.2. Under this construction, the lateral at issue should not have been disturbed without "express permission" from the appropriate acequia commission for its operation and maintenance. Taos, N.M., LUR art. 4, § 4.8.1(N) (seeking approval from the acequia commission). Accordingly, we reverse the district court's decision, and hold that the impacted lateral in this case is in fact an acequia.

II. The County's Failure to Provide Notice to the Acequia Commission and the Other Petitioners Created an Unusual Circumstance That Excuses Any Untimely Appeal

{34} Petitioners additionally assert that they were entitled to notice, and an opportunity to object and be heard prior to the lateral being placed into culverts and a retaining wall constructed across the acequia—construction that was authorized by 2012 and 2015 permits. They claim that they were improperly denied notice due, in large part, to the piecemeal nature of the construction, and that therefore their appeal of the 2016 permit should be treated as a timely appeal of the entire project, including the grant of the earlier permits that interfered with the acequia without permission. Petitioners argue that Healy's series of permitted and unpermitted construction between 2012 and 2016 never allowed an opportunity for them to object to a project that has serious and significant effects on the acequia serving their land and on their traditional way of life. Petitioners contend that they were prohibited from even discussing this course of events at the administrative and district court hearings addressing the 2016 permit. The record does not clearly indicate when Petitioners went to the Planning Department to express dissatisfaction with the construction of the retaining wall; however, Petitioners claim that they did in fact go to the Planning Department and were turned away. The record proper does not include any written complaints until after Healy submitted his application for the 2016 permit.

{35} The County, on the other hand, urges this Court to limit its focus to the 2016 permit, claiming it is the only permit properly before us for review. The County asks us not to review Petitioners' grievances regarding the prior permitted and unpermitted construction, which allowed the lateral to be culverted and the retaining wall to be constructed. The County claims the culverts were installed prior to the 2012 permit, and Petitioners did not challenge or object to the acequias being culverted until four years later. The County and Healy further assert that there was permission from a Petitioner's brother to put the lateral in a culvert and then bury it in 2011, before the 2012 permit was issued. Petitioners respond, arguing that Sanchez's brother was misled, and even if he was not, his brother is a minority owner and therefore did not have authority to grant permission.¹³ Petitioners further state that the acequia commission is the proper party who should have been contacted, and whose permission was required by the LUR, not that of the individual parcientes. We construe the second issue to be whether Petitioners' lack of notice, combined with the piecemeal nature of the construction, together constitute unusual circumstances justifying the late filing of an appeal.

{36} We begin by reiterating that in our foregoing discussion, we conclude that laterals are acequias. We therefore agree with Petitioners that notification and permission from the proper acequia commission was required. As we have stated, obstructing acequias—or laterals—is prohibited by the LUR. *See* Taos, N.M., LUR art. 4, § 4.8.1(N) ("No acequia, whether on-site or off-site, shall be disturbed in any way by building development or construction activity unless approved or deemed approved by the acequia commission."); *see also id.* § 4.8.1(N) (1), (2). Healy initially failed to provide notice and seek approval from the Acequia Madre Commission when it placed the lateral in culverts. The Planning Director and the County also failed to ensure there was notice and approval from the acequia commission prior to approving multiple, piecemeal permits that allowed Healy to build over the culverted lateral and restricted the parcientes access to the headgate. We hold that these actions were in violation of Taos, N.M., LUR art. 4, § 4.8.1(N).

{37} Next, we address the notice to the remainder of the Petitioners. The County points to Rule 1-074(E) and NMSA 1978, Section 39-3-1.1(C) (1999), which specify that a person may appeal an agency decision within thirty days of the decision.

While the County is correct that typically all appeals must be filed within thirty calendar days, "the appropriate inquiry for determining if a court can exercise its 'discretion and entertain an appeal even though it is not timely filed' is whether 'unusual circumstances beyond the control of the parties' are present." *Schultz ex rel. Schultz v. Pojoaque Tribal Police Dep't*, 2010-NMSC-034, ¶ 18, 148 N.M. 692, 242 P.3d 259 (quoting *Trujillo v. Serrano*, 1994-NMSC-024, ¶¶ 15, 19, 117 N.M. 273, 871 P.2d 369). An untimely appeal may be excused when "exceptional circumstances"—circumstances outside of a party's control—substantially impair the ability of an aggrieved party to appeal. *Sisson v. D.C. Bd. of Zoning Adjustment*, 805 A.2d 964, 969 (D.C. 2002)

{38} Similar to New Mexico's unusual circumstances principle, the District of Columbia utilizes an "exceptional circumstances" principle to excuse the untimely filing of an appeal when notice of the entire scope of work performed is not afforded to a party because of a piecemeal nature in seeking building permits. *Id.* at 969-70. In *Sisson*, the D.C. Court of Appeals reviewed how a piecemeal permitting process for construction on a neighbor's land impaired another neighbor's ability to timely challenge the construction. There, the Court held that the aggrieved neighbor could not be charged with notice given the piecemeal way permits for changes were sought, ultimately adding up to substantial construction. *Id.* at 970. The Court reasoned that "[b]ecause of the cumulative, piecemeal nature of the applications, the full extent of [the] construction project could not be discerned as each individual permit was issued and therefore they must be considered as a whole." *Id.* at 969, 970 (internal quotation marks omitted).

{39} Here, because Healy's permits were sought in a piecemeal fashion, where each permit application failed to reflect the entire scope of Healy's project, Petitioners' ability to object or appeal the permits was substantially impaired. A thorough search of the record does not indicate when Petitioners were put on notice of the proposed construction of the retaining wall or its relocation to block their access to the headgate, nor does the County or Healy assert that they took any action to give Petitioners notice. Petitioners did not receive notice that the retaining wall would cover their traditional access to the lateral, that the Sanchez family fence would be torn down, and that the wall would be constructed without a setback from Petitioners' property line.

¹³ The Court notes that Healy does not claim to have received permission from any of the other parcientes affected by the lateral being placed in a culvert.

Because of these errors by the Planning Director and the County in failing to notify Petitioners and permit the construction appropriately, the scope and interference by the retaining wall was not apparent to Petitioners until the work was substantially complete. We conclude that the piecemeal and misleading permitting process created an unusual or exceptional circumstance which extends the time to appeal.

Petitioners did not have proper notice of the construction, and this excuses Petitioners' delay in filing an appeal.

{40} Therefore, we hold that that Petitioners' untimely appeal regarding the construction of the retaining wall should be excused. We remand this case to the Taos County Board of Commissioners to hold a new hearing regarding all the permits issued consistent with this opinion.

CONCLUSION

{41} We reverse and remand for proceedings consistent with this opinion.

{42} IT IS SO ORDERED.

SHAMMARA H. HENDERSON, Judge

WE CONCUR:

J. MILES HANISEE, Chief Judge

JANE B. YOHALEM, Judge

In Memoriam



Philip B. Davis

January 5, 1953–January 27, 2022

“Mr. Civil Rights of New Mexico”

The American Civil Liberties Union of New Mexico and its Legal Panel thank Phil for his over 40 years of service to our organization. We will forever remember Phil for his passion for justice, his commitment to fairness, his expertise in constitutional law, his friendship, and his mentorship of ACLU attorneys. New Mexico is freer and the state bar more righteous because of Phil Davis. We mourn his passing and will carry out our work in his honor.

Phil poured as much dedication into his personal life as he did his professional life. He was a college soccer referee, an incredible cook and a man who loved being outdoors. He was equally happy writing a brief or arguing a case as he was trimming trees, casting a fly fishing rod, tearing down the mountain on skis or playing with his grandchildren. He was a beloved husband, father and grandfather who knew that the abundance of love he had in his family life was the highest honor he could achieve. His life was lived well and fully, with integrity and grit along a virtuous path that inspired those who knew him.

Our deepest condolences go out to Phil’s wife, Lee Davis, his daughter, Dr. Rachel Rankin, his four grandchildren, and his son and fellow civil rights attorney, Nick Davis.

Phil’s loving family will be hosting a Celebration of Life service for Phil on Saturday, April 30th from 4-7pm at Old Town Farm, located at 949 Montoya St. NW, Albuquerque, NM 87104. The family would like to invite the legal community to share in this evening of remembrance.

ACLU-NM Legal Panel

Alexandra Freedman Smith
Maureen Sanders
Laura Schauer Ives

George Bach
Ryan Villa

Hon. Linda Vanzi (Ret.)
Vincent Ward

MINDSET™

WWW.MINDSETINTEGRATED.COM

Simplifying complex brain science

MINDSET was created to bring science-based solutions to the forefront in an approach that ensures quality data collection, specialized data analysis, and objective results. Commercializing validated quantitative brain data analysis for the legal market since 2013, **MINDSET helps attorneys handling mild to severe traumatic brain injury (TBI) cases** make informed decisions about their next steps, reducing redundant costs and saving them time, effort, and money.

CONTACT US 505-249-7058
INFO@MINDSETINTEGRATED.COM

DIXON•SCHOLL•CARRILLO•P.A.



DIXON•SCHOLL•CARRILLO•P.A.

is pleased to announce that

**TESS
WILLIAMS**

has joined the firm.

Jerry Dixon • Steve Scholl • Lisa Carrillo
Dennis Hill • Jim Wilkey • Spring Schofield
Tess Williams
Briggs F. Cheney, Of Counsel

6700 Jefferson NE, Bldg. B Suite 1
Albuquerque, NM 87109

Phone: (505) 244-3890
Fax: (505) 244-3889



DPC
DIGITAL PRINT CENTER

**Where Quality and
Customer Service Matters!**

We have turn-key service.
Your job will have personal
service from start to finish.

Featuring: Business cards,
Stationary, Envelopes, Brochures,
Booklets, Magazines, Programs,
Calendars, Invitations, Postcards,
Note cards and Holiday cards
Binding (Square Back, Spiral,
Saddle Stitch), Folding, Trimming,
Punching, Scoring

Ask about your Member Discount!

Marcia Ulibarri, Advertising and
Sales Manager: 505-797-6058
or marcia.ulibarri@sbnm.org



State Bar of New Mexico
Digital Print Center

CAREY BHALLA

Rothstein Donatelli welcomes **Carey Bhalla** as a partner in our Albuquerque office. Carey's practice focuses on complex criminal and capital defense in addition to civil rights litigation, especially in cases involving victims of sexual abuse. She moved from Mississippi to New Mexico in 2006, and for the first two years of her career, she litigated felony criminal cases for the public defender before starting her own law office in 2009. When not working multi-defendant criminal cases and vindicating her clients' civil rights, Carey can be found riding her horse and enjoying the great outdoors with her family.

ROTHSTEIN | DONATELLI



SANTA FE | ALBUQUERQUE | TEMPE | rothsteinlaw.com



CUDDY & McCARTHY, LLP

Attorneys at Law



We are pleased to announce that Joseph R. Stevens, II, has joined Cuddy & McCarthy, LLP as our newest Associate. His experience covers a wide variety of practice areas including real property law, administrative law, public records law, personal injury, and general civil litigation. We are thrilled to have him as part of the Cuddy & McCarthy team!

SANTA FE OFFICE

1701 Old Pecos Trail, Santa Fe, NM 87505
Tel: 505-988-4476 • Fax: 888-977-3814

ALBUQUERQUE OFFICE

201 Third St NW, Suite 1300, Albuquerque, NM 87102
Tel: 505-888-1335 • Fax: 888-977-3816

www.cuddymccarthy.com



WE ADMINISTER TRUSTS WITH SPECIALTY ASSETS:

- ✦ FINE ART
- ✦ ANTIQUE VEHICLES
- ✦ JEWELRY
- ✦ FARMS & RANCHES
- ✦ OIL & GAS INTERETS
- ✦ CLOSELY HELD BUSINESSES

TRUST ADMINISTRATION • ESATE SETTLEMENT • OTHER FIDUCIARY SERVICES

We work alongside your clients' investment advisor

505.881.3338 | ziatrust.com

Ben Feuchter Rejoins JHKM as Partner with the Business and Real Estate Law and Litigation Practices



We are pleased to welcome Ben back to JHKM as a partner with our business and real estate law and litigation practices. Many consider Ben the go-to attorney for non-traditional legal matters and know him as a leading attorney in New Mexico's emerging cannabis industry.

Ben can be contacted at bf@jhkmlaw.com or 505.364.1342

ARIZONA **JHKM** | JENNINGS HAUG KELEHER MCLEOD NEW MEXICO

jhkmlaw.com

ANNUAL

PASS
2022

Save almost 18% over regular prices!

Lock in your savings!

Pre-pay 12 credits for only \$485

Credits must be redeemed by **Dec. 31, 2022**

Contact us for more info: cleonline@sbnm.org



New Mexico State Bar Foundation Center for Legal Education

Redeemable on Center for Legal Education courses only. Exclusions: No teleseminar or other third-party content. No refunds or roll-over of unused credits.

STEVEN J.W. HEELEY

We are thrilled to welcome Steven J.W. Heeley, of counsel, to our Tempe office. Steven advises Indian tribes on corporate, transactional, and natural resources matters, as well as on tribal governance and jurisdictional issues.

ROTHSTEIN | DONATELLI



SANTA FE | ALBUQUERQUE | TEMPE | rothsteinlaw.com



We have a podcast!

SBNM
is Hear

Listen at
www.sbnm.org



State Bar of
New Mexico
Est. 1886

BACA & HOWARD P.C.

CERTIFIED PUBLIC ACCOUNTANTS



Samuel L. Baca, CPA/ABV/CFE, CVA, MAFF

CPA Expert Witness

Commercial Damages

Business Valuation

Fraud and Forensic
Analysis

Mediation

2155 Louisiana Blvd NE Ste. 7000, Albuquerque, NM 87110
505-200-3800 | www.bacahoward.com



Manzano Day School

Joy in Learning® Since 1938

- Core Values • Fenton Ranch
- Learning Lab • Community Service Projects
- Bus Service • Nonprofit

Planting
seeds
Through Joy
in Learning®

Now accepting
applications for 2022-2023

We are the only Albuquerque elementary school accredited by the Independent Schools Association of the Southwest.



Financial Aid Available

1801 Central Avenue NW - 505.243.6659
www.manzanodayschool.org



CLAUDIA J. JOSEPH

ATTORNEY + MEDIATOR



MEDIATION SERVICES

21 years of experience

REAL PROPERTY

PROBATE

FORECLOSURE & COLLECTION

Offering videoconferencing. Short deadlines accommodated.

505.660.1855 • josephlawfirmsf@gmail.com
www.claudiajosephlaw.com

Read the *Bar Bulletin*
online with



- Beautiful layout
- Keyword search
- Get notification of new issues
- Access from your mobile phone

www.sbnm.com

eNews

Get Your Business Noticed!

Advertise in our email newsletter, delivered to your inbox every Friday.

Benefits:

- Circulation of 8,000
- Affordable pricing
- High open/click rates
- Schedule flexibility
- Popular content



Winner of the 2016 NABE Luminary Award for Excellence in Electronic Media



Contact Marcia Ulibarri,
at 505-797-6058 or
email marcia.ulibarri@sbnm.org



Brian Letherer

We shop up to 22 professional liability insurance companies to find the right price and fit for your law firm.

Make sure your insurance policy has:

- Prior acts coverage, to cover your past work.
- Claim expenses outside the limit of liability, no PacMan.
- "A" rating from A.M. Best, important, some companies are NOT!
- Free tail options for retiring attorneys.

We help solve insurance problems for the growth of your firm

1540 Juan Tabo NE, Suite H, Albuquerque, NM 87112
bletherer@licnm.com • 505.433.4266
www.licnm.com



Changed Lives... Changing Lives

Free, confidential assistance to help identify and provide resources for alcohol, drugs, depression, and other mental health issues.

A healthier, happier future is a phone call away.

Confidential assistance – 24 hours every day.

Judges call 888-502-1289
Lawyers and law students call 505-228-1948 or 800-860-4914

www.sbnm.org



State Bar of New Mexico
Judges and Lawyers
Assistance Program

— MEDIATION — JOHN B. POUND

jbpsfnm@gmail.com
505-983-8060
505 Don Gaspar, Santa Fe

MEDIATION & ARBITRATION SERVICES

In-Office or via Zoom

- ❖ Over 41 years legal experience as State District Judge, Trial Lawyer and Mediator/Arbitrator
- ❖ Over 21 years on District Court Bench as Trial Judge

Short Deadlines Accommodated

HON. WILLIAM A. SANCHEZ, RET.



SANCHEZ SETTLEMENT & LEGAL SERVICES LLC (505) 720-1904
sanchezsettled@gmail.com ♦ www.sanchezsettled.com

David Stotts

Attorney at Law

Business Litigation,
Real Estate Litigation

242-1933

EXPERT WITNESS

DON LETHERER

Former New Mexico Superintendent of Insurance

Insurance Contracts-Bad Faith

505-417-3532

dletherer@theamp.net

Classified

Positions

Multiple Attorneys

Butt Thornton & Baehr PC seeks multiple attorneys with varying levels of legal experience and interests in various areas of civil defense litigation, commercial law, or workers compensation. Visit www.btblaw.com to see the many areas of law practiced at BTB. BTB is in its 63rd year of practice. We seek attorneys who will continue our tradition of excellence, hard work, and commitment to the enjoyment of the profession. Please send letter of interest, resume, and writing samples to Ryan T. Sanders at rtsanders@btblaw.com. All inquiries will be kept confidential.

Attorneys

The Third Judicial District Attorney's Office in Las Cruces is seeking a Chief Deputy District Attorney, Deputy District Attorneys, Senior Trial Attorneys, Trial Attorneys, and Assistant Trial Attorneys. You will enjoy the convenience of working in a metropolitan area while gaining valuable trial experience alongside experienced Attorney's. Please see the full position descriptions on our website <http://donaanacountyda.com/> Submit Cover Letter, Resume, and references to Whitney Safranek, Human Resources Administrator at wsafranek@da.state.nm.us.

Assistant Trial Attorney

Assistant Trial Attorney wanted for immediate employment with the Ninth Judicial District Attorney's Office, which includes Curry and Roosevelt counties. Employment will be based primarily in Curry County (Clovis). Must be admitted to the New Mexico State Bar. Salary will be based on the NM District Attorneys' Personnel & Compensation Plan and commensurate with experience and budget availability. Email resume, cover letter, and references to: Steve North, snorth@da.state.nm.us.

ROBERT CASWELL INVESTIGATIONS



rcipi.com
505-797-5661

When you need to know the facts, call the experts

Internal Investigations, EEOC, Employee misconduct,
Backgrounds, Locates, Surveillance, Fraud, Process Serving
and more!

Serving New Mexico for 30 years

Municipal Attorney

Robles Rael & Anaya, P.C. is seeking an attorney with experience in the area of state and/or local government law. A judicial clerkship will be considered in lieu of experience. Applicant must be motivated and have strong research and writing skills. Associates will have a great opportunity to gain courtroom experience and/or appear before state and local governing bodies. We offer a competitive compensation and benefits package, 401k plan, professional development, CLE credits and more. We also offer a defined bonus incentive program. Please submit a resume and writing sample to chelsea@roblesrael.com.

Deputy District Attorney

The Ninth Judicial District Attorney's Office is seeking an experienced trial attorney for our Clovis office. Preferred Qualifications: Career prosecutor, licensed attorney to practice law in New Mexico, plus eight (8) or more years of relevant prosecution experience. Come join an office that is offering jury trial experience. In addition, we offer in depth mentoring and an excellent work environment. Salary commensurate with experience between \$75k-90k per year. Send resume and references to Steve North, snorth@da.state.nm.us.

Associate Attorney

Experienced 5-10 year attorney for mid-sized defense firm. Salary range \$80,000-120,000 depending on qualifications and experience. Looking for candidates who can handle cases from beginning to end. Excellent benefits. Nice work environment. Send resume to jstiff@stiffllaw.com

Family Law Associate Attorney

The Law Office of Jill V. Johnson Vigil LLC., a Las Cruces based family law firm, is seeking an associate attorney. Applicants should have 2-5 years of experience in family law litigation, be client focused, and able to manage a full caseload with minimal oversight. The Law Office of Jill V. Johnson Vigil LLC. offers a comfortable and friendly work environment with benefits and competitive salary commensurate with qualifications and experience. Applicants must be in good standing with NM Bar and willing to relocate to Las Cruces. Spanish speaking is preferred, but not required. If you are ready for the next step in your career, please send your cover letter, resume, writing sample, and three references via email to careers@jvjvlaw.com before April 29, 2022. Please visit us online at www.jvjvlaw.com.

Staff Attorney/ Associate General Counsel

The New Mexico State University (NMSU) seeks a Staff Attorney OR Associate General Counsel. The NMSU office of the University General Counsel provides legal services to both NMSU and the New Mexico Department of Agriculture. This position requires proficient writing skills and good business judgment, along with an ability to work with limited supervision and complex institutional matters. **Staff Attorney:** The New Mexico State University (NMSU) seeks a highly efficient, organized and productive attorney to serve as Assistant General Counsel. The selected candidate will report to the General Counsel and work with other university attorneys, outside counsel and university administrators. Typical tasks for this attorney relate to employment, civil rights, public entity law, academic and student affairs, litigation support, international programs, contracts and other legal issues in higher education. The attorney assists in coordinating the University's responses to subpoenas, public records requests and other regulatory matters. Proficient writing skills and good business judgment are essential. **Associate General Counsel:** The New Mexico State University (NMSU) seeks a highly efficient, organized and productive attorney to serve as Associate General Counsel. The selected candidate will report to the General Counsel and work with other university attorneys, outside counsel and university administrators. This attorney oversees and internally facilitates dispute resolution processes delegated to outside counsel, supports management in enforcement of internal procedures, and provides legal-risk assessments for evaluating performance and personnel actions. The attorney also assists in coordinating public records requests, the University's responses to subpoenas, and other regulatory/compliance matters. Typical matters for this attorney include employment, civil rights, public entity law, academic and student affairs, litigation support, international programs, contracts and other legal issues in higher education. NMSU is an equal opportunity and affirmative action employer. University General Counsel will hire either an Assc General Counsel OR Staff Attorney position depending upon experience and interest. Please reference requisition numbers 2200095S Assc General Counsel and 2200094S Staff Attorney. Interested parties must apply to each posting that they wish to be considered for. NMSU is an equal opportunity and affirmative action employer. All applications must be submitted online. For a complete job announcement and to apply for the positions please visit: 2200094S Staff Attorney - <https://jobs.nmsu.edu/postings/44992> AND 2200095S Assc General Counsel - <https://jobs.nmsu.edu/postings/44995> Deadline to apply is: 03/14/2022

Full-time and Part-time Attorney

Jay Goodman and Associates Law Firm, PC is seeking one full-time and one part-time attorney, licensed/good standing in NM with at least 3 years of experience in Family Law, Probate, Real Estate and Civil Litigation. If you are looking for meaningful professional opportunities that provide a healthy balance between your personal and work life, JGA is a great choice. If you are seeking an attorney position at a firm that is committed to your standard of living, and professional development, JGA can provide excellent upward mobile opportunities commensurate with your hopes and ideals. As we are committed to your health, safety, and security during the current health crisis, our offices are fully integrated with cloud based resources and remote access is available during the current Corona Virus Pandemic. Office space and conference facilities are also available at our Albuquerque and Santa Fe Offices. Our ideal candidate must be able to thrive in dynamic team based environment, be highly organized/reliable, possess good judgement/people/communication skills, and have consistent time management abilities. Compensation DOE. We are an equal opportunity employer and do not tolerate discrimination against anyone. All replies will be maintained as confidential. Please send cover letter, resume, and a references to: jay@jaygoodman.com. All replies will be kept confidential.

Entry Level and Experienced Trial Attorneys

The Thirteenth Judicial District Attorney's Office is seeking both entry level and experienced trial attorneys. Positions available in Sandoval, Valencia, and Cibola Counties. Enjoy the convenience of working near a metropolitan area while gaining valuable trial experience in a smaller office, providing the opportunity to advance more quickly than is afforded in larger offices. Salary commensurate with experience. Contact Krissy Fajardo @ kfajardo@da.state.nm.us or visit our website for an application @ <https://www.13th.nmdas.com/> Apply as soon as possible. These positions will fill up fast!

Assistant District Attorney

The Fifth Judicial District Attorney's office has immediate positions open in Eddy County for new and/or experienced attorneys. Salary will be based upon the New Mexico District Attorney's Salary Schedule with salary range of an Assistant Trial Attorney to a Senior Trial Attorney (\$58,000 to \$79,679). There is also an opening for a prosecutor with at least 2 years of Trial Experience for the HIDTA Attorney position in the Eddy County office, with salary of (\$70,000). Please send resume to Dianna Luce, District Attorney, 100 N. Love Street suite 2, Lovington, NM 88260 or email to 5thDA@da.state.nm.us

Various Attorney Positions

The New Mexico Office of Attorney General is recruiting various attorney positions. The NMOAG is committed to attracting and retaining the best and brightest in the workforce. NMOAG attorneys provide a broad range of legal services for the State of New Mexico. Interested applicants may find listed positions by copying the URL address to the State Personnel website listed below and filter the data to pull all positions for Office of Attorney General. <https://www.spo.state.nm.us/view-job-opportunities-and-apply/applicationguide/>

Attorneys and Paralegals

New Mexico Legal Aid has positions open for both new and experienced attorneys and paralegals in various locations throughout the state. The organization represents low income New Mexico residents in a variety of civil legal matters including housing issues, public benefits, consumer debt relief, and legal issues facing survivors of domestic and sexual violence. NMLA is the home of the successful volunteer attorney program that has drawn on the experiences of the New Mexico bar to assist countless New Mexicans. NMLA's assistance ranges from phone advice all the way up to complex litigation and appeals. NMLA offers a collaborative work environment with excellent benefits, and an opportunity to make a real difference in people's lives. NMLA has paid holidays, generous leave and employer financed benefits. NMLA is unionized. Salary is competitive and based on experience. To learn more about available positions, please visit our website at www.newmexicolegalaid.org

Staff Attorney

Disability Rights New Mexico, a statewide non-profit agency serving to protect, promote and expand the rights of persons with disabilities, seeks full-time Staff Attorney primarily to represent agency clients in legal proceedings. The position also involves commenting on proposed regulations and legislation, and other policy advocacy. Must have excellent research and writing skills, and demonstrate competence in a range of legal practice including litigation. Advanced education, work experience or volunteer activities relevant to disability issues preferred. Must be licensed or eligible for license in NM. Persons with disabilities, minorities, and bilingual applicants strongly encouraged. Competitive salary and benefits. Send letter of interest addressing qualifications, resume, and names of three references to DRNM, 3916 Juan Tabo NE, Albuquerque, NM 87111, or by email to MWolfe@DRNM.org. Applicants encouraged to apply ASAP, but no later than 4/25/2022. AA/EEO.

Associate Attorneys

Mynatt Martínez Springer P.C., an AV-rated law firm in Las Cruces, New Mexico is seeking two associate attorneys to join our team. The firm's practice areas include insurance defense, civil rights defense, commercial litigation, and government representation. Applicants with 0-5 years of experience will be considered for full-time employment. If it is the right fit, the firm will also consider applications for part-time employment from attorneys with more than 5 years of experience. Associates are a critical component of the firm's practice and are required to conduct legal research; provide legal analysis; advise clients; draft legal reviews, pleadings, and motions; propound and review pretrial discovery; and prepare for, attend, and participate in client meetings, depositions, administrative and judicial hearings, civil jury trials, and appeals. Successful candidates must have strong organizational and writing skills, exceptional communication skills, and the ability to interact and develop collaborative relationships. The firm will consider applicants who desire to work remotely. Offers of employment will include salary commensurate with experience and a generous benefits package. Please send your cover letter, resume, law school transcript, writing sample, and references to rd@mmslawpc.com.

Assistant City Attorney Positions

The City of Albuquerque Legal Department is hiring for various Assistant City Attorney positions. The Legal Department's team of attorneys provides a broad range of legal services to the City, as well as represent the City in legal proceedings before state, federal and administrative bodies. The legal services provided may include, but will not be limited to, legal research, drafting legal opinions, reviewing and drafting policies, ordinances, and executive/administrative instructions, reviewing and negotiating contracts, litigating matters, and providing general advice and counsel on day-to-day operations. Attention to detail and strong writing and interpersonal skills are essential. Preferences include: Five (5)+ years' experience as licensed attorney; experience with government agencies, government compliance, real estate, contracts, and policy writing. Candidates must be an active member of the State Bar of New Mexico in good standing. Salary will be based upon experience. Current open positions include: Assistant City Attorney - APD Compliance; Assistant City Attorney - Litigation (Tort/Civil Rights); Assistant City Attorney - Employment/Labor. For more information or to apply please go to www.cabq.gov/jobs. Please include a resume and writing sample with your application.

Litigation Attorney

Robles, Rael & Anaya, P.C. is seeking an attorney with experience in civil litigation. A judicial clerkship will be considered in lieu of experience. The successful candidate should be familiar with the law regarding governmental liability and be able to advise insurance and risk management agencies. Candidates are expected to have excellent communication skills (written and oral), be a self-starter who takes ownership of executing tasks, have an ability to manage and prioritize as-signed case-load and be an effective team player. We offer a competitive compensation and bene-fits package, 401k plan, professional development, CLE credits and more. We also offer a defined bonus incentive program. Please submit a resume and writing sample to chelsea@roblesrael.com.

Associate Attorney

Cortez & Hoskovec, LLC., a well-established and respected Albuquerque family law firm, seeks to expand its practice by adding an associate attorney to its team; The firm is seeking an attorney with 0 - 10 years of experience in family law. Salary will be commensurate with experience, but applicants should be committed to practicing exclusively in family law. We offer paid holidays, vacation time, sick leave, dental insurance and a retirement plan. Our mission is to provide excellence in family law, and we look forward to meeting and working with the candidate who exhibits a passion for family law, and working with our team of professionals on a long-term basis. Please send resumes/letters of interest to letty@cortezhoskovec.com, and all responses will be kept confidential.

Assistant Santa Fe County Attorney I and II

Santa Fe County is soliciting applicants for an Assistant County Attorney (ACA) I and II. The successful candidate will focus their practice in areas assigned based upon experience, need, and interest. The ideal candidates are those with strong analytical, research, communication, and interpersonal skills, who enjoy working hard in a collaborative, fast-paced environment on diverse and topical issues that directly impact the community. The salary ranges for the positions are \$28,8461-\$38,4134 and \$38,4615- \$45,6730/hr. respectively, depending upon qualifications and budget availability. Applicants must be licensed to practice law in the State of New Mexico or obtain a limited license prior to the start of employment. Individuals interested in joining our team must apply through Santa Fe County's website, at http://www.santafecountynm.gov/job_opportunities.

Environmental Attorney - IRC103719

The Los Alamos National Laboratory Office of General Counsel (OGC) is seeking an Environmental Attorney to provide legal advice and counsel on a wide range of environmental litigation and compliance matters. The successful candidate will draft and/or review legal documents; assist in negotiations with federal or state governments and citizens groups; assist with representation of the Laboratory in administrative permit or rulemaking hearings and other legal proceedings; and identify and implement strategies in support of OGC's focus on preventive law. Requirements include a Juris Doctorate degree from an American Bar Association (ABA) accredited law school, active Bar membership in good standing (any jurisdiction), and three years of legal experience after passing the Bar and being admitted to practice. Apply online at: lanl.gov/careers. Los Alamos National Laboratory is an EO employer - Veterans/Disabled and other protected categories. Qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, sexual orientation, gender identity, disability, or protected veteran status.

Supervisory City Attorneys

The City of Albuquerque Legal Department is hiring Supervisory City Attorneys for a number of positions. The work includes management, oversight and development of Assistant City Attorneys, paralegals and staff. Roles may require legal expertise in areas of municipal law such as: administrative and civil litigation; contract law; ordinance drafting; regulatory law; Inspection of Public Records Act; procurement; public works and construction law; real property; finance; labor law; and risk management. Attention to details, timelines and strong writing skills are essential. Five years' experience including at least one year of management experience is preferred. Applicants must be an active member of the State Bar of New Mexico in good standing. Please apply online at www.cabq.gov/jobs and include a resume and writing sample with your application. Current open positions include: Deputy Director of Policy; Deputy City Attorney of Operations; Managing City Attorney of Property and Finance; Managing City Attorney of Labor and Employment.

Experienced Litigator

Fiduciary Litigation. Experienced litigator, or more recent law school grad: willing to train. Please submit resumes to admin@millichlaw.com

Litigation Attorney

The Albuquerque office of Lewis Brisbois is seeking associates with a minimum of three years litigation defense experience. Candidates must have credentials from ABA approved law school, be actively licensed by the New Mexico state bar, and have excellent writing skills. Duties include but are not limited to independently managing a litigation caseload from beginning to end, communicating with clients and providing timely reporting, appearing at depositions and various court appearances and working closely with other attorneys and Partners on matters. Please submit your resume along with a cover letter and two writing samples to rob.henderer@lewisbrisbois.com and indicate "New Mexico Associate Position". All resumes will remain confidential.

Senior Assistant City Attorney

Two (2) fulltime professional positions, involving primarily civil law practice. Under the administrative direction of the City Attorney, represents and advises the City on legal matters pertaining to municipal government and other related duties, including misdemeanor prosecution, civil litigation and self-insurance matters. Juris Doctor Degree AND three year's experience in a civil law practice; at least one year of public law experience preferred. Must be a member of the New Mexico State Bar Association, licensed to practice law in the state of New Mexico, and remain active with all New Mexico Bar annual requirements. Valid driver's license may be required or preferred. If applicable, position requires an acceptable driving record in accordance with City of Las Cruces policy. Individuals should apply online through the Employment Opportunities link on the City of Las Cruces website at www.las-cruces.org. Resumes and paper applications will not be accepted in lieu of an application submitted via this online process. This will be a continuous posting until filled. Applications may be reviewed every two weeks or as needed. SALARY: \$82,278.14 - \$100,767.47 / Annually CLOSING DATE: Continuous

Family Legal Assistance Attorney

Pueblo of Laguna, NM – Great employer and benefits, competitive pay DOE! Seeking full-time attorney with 2 or more years of experience to provide legal advice and representation to Laguna members on broad range of civil matters, including consumer, probate, benefits, and family issues. Leisurely commute from Albuquerque metro, Los Lunas, or Grants with some WFH currently available. Apply now, will fill quickly. Application instructions and position details at: <https://www.lagunapueblo-nsn.gov/elected-officials/secretarys-office/human-resources/employment/>

Attorney

Conklin, Woodcock & Ziegler, P.C. is seeking a full-time experienced attorney with at least three years litigation experience for an associate position with prospects of becoming a shareholder. We are a well-respected eight-attorney civil defense firm that practices in among other areas: labor and employment, construction, personal injury, medical malpractice, commercial litigation, civil rights, professional liability, insurance defense and insurance coverage. We are looking for a team player with a solid work record and a strong work ethic. Our firm is AV-rated by Martindale-Hubbell. Excellent pay and benefits. All replies will be kept confidential. Interested individuals should e-mail a letter of interest and resumes to: jobs@conklinfirm.com.

Water & Environmental Law

Law & Resource Planning Associates, P.C., ("LRPA"), an AV-rated law firm, is accepting resumes for an experienced, personable Attorney with strong academic and technical credentials to work primarily in the area of natural resource law and environmental and water law. Competitive salary commensurate with experience. Excellent benefits package. All inquiries kept confidential. Please submit a cover letter, resume, transcript(s), and writing samples to Hiring Coordinator, LRPA, P.C., P.O. Box 27209 Alb., NM 87125. E-mail responses may be submitted to [J. Brumfield at jbrpa-usa.com](mailto:J.Brumfield@jbrpa-usa.com)

Associate Prosecutor

Pueblo of Laguna, NM – Great employer and benefits, competitive pay DOE! Seeking full-time attorney with 2 or more years of experience to prosecute adult criminal defendants and juveniles in delinquency cases in Laguna Pueblo Court. Leisurely commute from Albuquerque metro, Los Lunas, or Grants with some WFH currently available. Apply now, will fill quickly. Application instructions and position details at: <https://www.lagunapueblo-nsn.gov/elected-officials/secretarys-office/human-resources/employment/>

Deputy County Attorney Position

Sandoval County is seeking applications from licensed New Mexico attorneys for its Deputy County Attorney position. Minimum qualifications include three years of experience in the practice of law including litigation and appellate experience. Municipal and local government experience preferred. Experience in litigation, tax, real estate, and State of New Mexico Procurement Code and procedures highly desirable. Projected salary: \$95,000, per year, based on qualifications and experience. For detailed job description, full requirements, and application procedure visit <http://www.sandovalcountynm.gov/departments/human-resources/employment/>

Business Attorney

Rodey, Dickason, Sloan, Akin & Robb, P.A. is accepting resumes for attorneys with 2-5 years' experience in corporate, real estate, and finance transactional matters for our Albuquerque and/or Santa Fe offices. Experience in corporate and municipal finance, business law, and real estate law is a plus. This position provides the opportunity to work on important and interesting transactions for A Level clients. Prefer practitioner with strong academic credentials, and law firm or government experience. Firm offers excellent benefit package. Salary commensurate with experience. Please send indication of interest and resume to Adrian Salazar, via email to jobs@rodey.com with "Business Attorney" in the subject line, or P.O. Box 1888, Albuquerque, NM 87103. All inquiries kept confidential.

Staff Attorney

Enlace Comunitario, a domestic violence non-profit organization serving Spanish-speaking immigrants in Albuquerque, seeks a Staff Attorney. The Staff Attorney prepares legal research, gives legal advice, provides legal and policy analysis, and participates in CLS training. Bilingual Spanish/English reqd. For complete job description and to apply visit www.enlacenm.org.

Litigation Attorney

Jennings Haug Keleher McLeod, an AV Rated mid-size law firm, is seeking a full-time associate with 2 to 5 years of litigation experience to join a busy and varied general civil litigation practice. Must be currently licensed to practice law in the state of Arizona and/or in the state of New Mexico. Experience with depositions and court appearances is a plus, legal analysis and excellent research and writing skills are required. All inquiries will be held in strict confidence. The firm offers a competitive salary and benefits with a professional working environment. Please see www.jhkmlaw.com for further information about the firm. Please e-mail resume and cover letter to Cassandra R. Malone at crm@jhkmlaw.com.

Senior Trial Attorney/Deputy District Attorney

The 6th Judicial District Attorney's Office has an opening for a Senior Trial District Attorney and a Deputy District Attorney. Must have experience in criminal prosecution. Salary DOE. Send letter of interest, resume, and three current professional references to PMedina@da.state.nm.us and/or AOGilvie@da.state.nm.us

Compliance Officer Sandia Laboratory Federal Credit Union (SLFCU)

Are you interested in growing your knowledge about the Bank Secrecy Act, financial regulations, consumer protection laws, and fiduciary accounts while working for a top performing financial institution that offers amazing benefits? If so, SLFCU could be a great fit for you! As the Compliance Officer, you would be responsible for managing a team of four and overseeing the Compliance Department's support of other areas of the organization. We are looking for a critical thinker with exceptional attention to detail and the ability to analyze, synthesize, and communicate effectively to different audiences. The annual salary ranges from \$77,000 to \$110,000; our competitive bene-fits package includes, but is not limited to: a generous paid time off package; tuition assistance; medical, dental, and vision insurance; and two retirement plans. Please visit <https://www.slfcu.org/Careers> to learn more about this opportunity and SLFCU.

PNM Resources Attorney II, III or IV

Apply URL: https://jobs.pnmresources.com/psc/pnmjobs/EMPLOYEE/HRMS/c/HRS_HRAM_FL.HRS_CG_SEARCH_FL.GBL?Page=HRS_APP_JBPST_FL&Action=U&FOCUS=Applicant&SiteId=10&JobOpeningId=6087389&PostingSeq=1
Job Description: PNM Resources has an opening for an Attorney II, III or IV for a regulatory attorney position. Position will handle moderately complex legal matters and regulatory projects: Conduct legal research, draft corporate legal documents and complex transactions, and represent the corporation in regulatory proceedings. Juris doctorate degree from an accredited law school, with a minimum of three years related experience in the actual practice of law. Must be licensed to practice law in New Mexico within one year of the hiring date. To read a full job description and apply, go to www.pnm.com/careers, register, upload a resume and answer all posting questions. PNM Resources and affiliates are Equal Opportunity/Affirmative Action employers. Women, minorities, disabled individuals and veterans are encouraged to apply.

PNM Resources Administrator I or II - Law Department

Apply URL: https://jobs.pnmresources.com/psc/pnmjobs/EMPLOYEE/HRMS/c/HRS_HRAM_FL.HRS_CG_SEARCH_FL.GBL?Page=HRS_APP_JBPST_FL&Action=U&FOCUS=Applicant&SiteId=10&JobOpeningId=6087387&PostingSeq=1&JobDescription:PNMResourceshasanopeningforanAdministrativeAssistantIorIIintheLawdepartment.Thispositionassistsmanagementwithmonitoringbudgetvariancereportsandbudgetchangesforcompliancewithcompanypolicyanddepartmentbudgetguidelines.Underdirectsupervision,providesassistance to management and attorneys.Perform a variety of legal secretary and administrative duties. Legal experience is preferred.To read a full job description and apply, go to www.pnm.com/careers, register, upload a resume and answer all posting questions. PNM Resources and affiliates are Equal Opportunity/Affirmative Action employers. Women, minorities, disabled individuals and veterans are encouraged to apply.

Public Regulation Commission Hearing Examiner (Attorney IV, PRC #53612)

Job ID: 120627, Santa Fe; Salary \$34.18-\$54.68 Hourly; \$71,084-\$113,734 Annually; Pay Band LI; This position is continuous and will remain open until filled. The NMPRC regulates electric, natural gas and water utilities, telecommunications carriers, and motor carriers. NMPRC Hearing Examiners manage complex, multi-issue cases; preside over evidentiary hearings; and issue independent recommended decisions similar to court opinions for final action by the Commission. Cases involve the traditional issues of utility rate requests and service adequacy. They also increasingly include issues relating to climate change such as the future of coal plants, utilities' acquisitions of renewable energy resources, energy efficiency programs, plans to increase the use of electric vehicles, and the challenges water utilities face with declining water supplies. Applicants should enjoy administrative litigation and have strong writing skills. They should also be capable of understanding and working with economic, accounting, and engineering evidence. Minimum qualifications include a J.D. from an accredited law school, five years of experience in the practice of law, and licensure as an attorney by the Supreme Court of New Mexico or qualified to apply for a limited practice license under Rules 15-301.1 and 15-301.2 NMRA. For more information on limited practice license please visit <http://nmexam.org/limited-license/>. Substitutions may apply. To apply please visit www.spo.state.nm.us.

Public Regulation Commission Chief Hearing Examiner (PRC # 49593)

Santa Fe; Salary \$36.47-\$58.36 Hourly; \$75,862-\$121,379 Annually; Pay Band LJ; This position is continuous and will remain open until filled. The Chief Hearing Examiner serves as the point of contact between the NMPRC Commissioners and the individual Hearing Examiners relating to public utility regulation cases. We need an experienced hearing examiner familiar with NMPRC litigation to effectively and efficiently manage the resources of the Hearing Examiner office. The Chief Hearing Examiner assigns cases to individual Hearing Examiners based upon experience, strengths, interests and existing schedules; monitors the progress of cases and provides guidance as requested; presides over the Chief Hearing Examiner's own caseload; and manages and performs supervisory functions for the Hearing Examiner office. The ideal candidate will have strong writing skills, experience in public utility regulation; experience as an administrative law judge or hearing officer; demonstrated interest and familiarity with recent NMPRC litigation and decisions; familiarity with NMPRC hearing procedures; educational experience in economics, accounting or engineering; and supervisory or managerial experience. Minimum Qualifications include a J.D. degree from an accredited school of law and eight years of experience in the practice of law. Licensed as an attorney by the Supreme Court of New Mexico or qualified to apply for limited practice license (Rules 15-301.1 and 15-301.2 NMRA). For more information on limited practice licenses, please visit <http://nmexam.org/limited-license/> To apply please visit www.spo.state.nm.us.

Litigation Secretary

Lewis Brisbois is seeking secretaries to join our growing office. Qualified candidates will have a thorough knowledge of legal terminology, State and Federal court procedures; Advanced experience in E-Filing with both State and Federal Courts; Calendaring; Ability to manage and maintain high volume of work flow; 5+ years of litigation experience, including trial preparation; Skills will include strong law and motion background. Must be organized, reliable, and attention to detail is a must; Excellent communication and organizational skills. Please submit your resume to rob.henderer@lewisbrisbois.com and indicate "New Mexico Secretary Position". All resumes will remain confidential.

Advanced Paralegal

The State of New Mexico Division of Vocational Rehabilitation (NMDVR), a state and federally funded program that assists eligible individuals with documented disabilities find suitable employment, is seeking applications for an advanced paralegal position to support three staff attorneys. Duties include filing pleadings in state, federal and administrative venues; proofreading and cite checking legal documents; legal research; scheduling meetings and deadlines; scheduling and coordinating administrative fair hearings; assisting with disciplinary hearings, union grievances, and other administrative hearings; assisting with NMDVR's records management; assisting with public records requests; responding to constituent complaints, and other duties as assigned. NMDVR offers a friendly work environment, a good work-life balance, and a competitive benefits package. An Associate's Degree in Paralegal Studies and two years of experience is required. For more information and to apply, please visit: <https://careers.share.state.nm.us/>.

Full-Time Legal Assistant

Madison, Mroz, Steinman, Kenny & Olexy, P.A., a well-established civil litigation firm, seeks a full-time Legal Assistant. The ideal candidate should have a minimum of 2 years civil litigation experience, be highly motivated, detail oriented, well-organized, strong work ethic, knowledge of State and Federal court rules, and proficient in Odyssey and CM/ECF e-filing. We offer an excellent fully funded health insurance plan, 401(K) and Profit Sharing Plan, paid designated holidays and PTO, and a professional and team-oriented environment. Please submit your resume to: becky@madisonlaw.com, or mail to Human Resources Manager, P.O. Box 25467, Albuquerque, NM 87125-5467.

Legal Assistant

Well established Santa Fe personal injury law firm is in search of an experienced paralegal/legal assistant. Candidate should be honest, highly motivated, detail oriented, organized, proficient with computers & excellent writing skills. Duties include requesting and reviewing medical records and bills, meeting with clients, opening claims with insurance companies and preparing demand packages. We offer a very competitive salary, a retirement plan funded by the firm, full health insurance benefits, paid vacation and sick leave, bonuses and opportunities to move up. We are a very busy law firm and are looking for an exceptional assistant who can work efficiently. Please submit your resume to personalinjury2020@gmail.com

Experienced Litigation Paralegal

Modrall Sperlberg, a leading New Mexico law firm, has an excellent opportunity for an experienced Litigation Paralegal. A minimum of 3 to 5 years of legal experience is required for consideration; paralegal certificate preferred. Key Responsibilities: Organize, review and index discovery documents; Draft legal documents; Prepare exhibits for depositions and trial; Conduct factual research; Assist attorneys at trial. Basic Requirements: Previous experience as a paralegal, legal assistant, or legal secretary required; Strong computer skills, including experience with Word, PDFs, Outlook, Excel, and calendaring applications; Experience with electronic discovery applications. Experience with TrialDirector software preferred; Strong organizational and case management skills. This position requires an individual who is self-motivated, detail-oriented, able to multi-task, and works well in a team environment. Modrall Sperlberg offers an outstanding compensation and benefits package. Please forward your resume to Susan Harris: susanh@modrall.com

Paralegal/Legal Assistant

Peak Legal Group, LLC has immediate openings for an experienced Paralegal and Legal Assistant for our growing family law formation and reformation legal practice. Our Westside law firm practices in all areas of Family Law, in addition to adoptions, assisted reproductive technology and foster parent representation. Experience in family law litigation or related field required for Paralegal position. Experience or a defined interest in these areas for Legal Assistant is preferable, but not mandatory. We are looking for hard working, dedicated team members who would enjoy working in a family-oriented law firm that works hard and plays hard. We offer a great work environment, a competitive salary and a generous benefits package. Send your resume, cover letter and list of references to sheryl@pklegalgrp.com

Legal Assistant

Legal Secretary/Assistant with minimum of 3- 5 years' experience, including current working knowledge of State and Federal District Court rules and filing procedures, trial preparation, document and case management, calendaring, is technologically adept and familiar with use of electronic databases and legal-use software. Seeking organized and detail-oriented professional with excellent clerical, computer, and word processing skills for established commercial civil litigation firm. Benefits. If you are highly skilled, pay attention to detail & enjoy working with a team, email resume to e_info@abrfirm.com or Fax to 505-764-8374.

Paralegal

Ortiz & Zamora, LLC, is growing and seeks an experienced and motivated paralegal to work in the Santa Fe office. The paralegal will work with our attorneys to manage an active civil litigation docket involving personal injury, medical malpractice, governmental liability, and more. Civil litigation experience is required and it is preferred that a candidate meet the paralegal qualifications in NMRA Rule 20-115. Experience with discovery, motion practice, court filings, calendaring, and hearing and trial preparation desired. Salary D.O.E. Benefits include retirement, insurances, and paid time off. Please email your resume to nadine@ortiz-zamora.com.

Legal Secretary

The City of Albuquerque Legal Department (Litigation Division) is seeking a Legal Secretary to assist assigned attorneys in performing a variety of legal secretarial/administrative duties, which include but are not limited to: preparing and reviewing legal documents; creating and maintaining case files; calendaring; provide information and assistance, within an area of assignment, to the general public, other departments and governmental agencies. Please apply at <https://www.governmentjobs.com/careers/cabq>.

Seeking Part-Time Paralegal/Legal Writer

Rio Rancho Attorney seeking senior (over 64) with experience, common sense, and thick skin. Please contact Daniel at (505) 247-1110.

Paralegal or Legal Assistant

Paralegal or legal assistant needed for busy litigation firm. Please submit resumes to admin@millichlaw.com

Temporary Secretary

U.S. District Court, District of New Mexico, Albuquerque, Temporary Secretary to a Federal Judge. The Honorable James O. Browning has an immediate opening for a Part-time secretary, 20 hours/week (40 hours/pay period), April to September 2022. \$21.68 to \$32.09/hour, DOQ. See full announcement and application instructions at www.nmd.uscourts.gov/employment.

Paralegal

The City of Albuquerque Legal Department is seeking a Paralegal to assist an assigned attorney or attorneys in performing substantive administrative legal work from time of inception through resolution and perform a variety of paralegal duties, including, but not limited to, performing legal research, managing legal documents, assisting in the preparation of matters for hearing or trial, preparing discovery, drafting pleadings, setting up and maintaining a calendar with deadlines, and other matters as assigned. Excellent organization skills and the ability to multitask are necessary. Must be a team player with the willingness and ability to share responsibilities or work independently. Starting salary is \$21.31 per hour during an initial, proscribed probationary period. Upon successful completion of the proscribed probationary period, the salary will increase to \$22.36 per hour. Competitive benefits provided and available on first day of employment. Please apply at <https://www.governmentjobs.com/careers/cabq>.

Office Space

Purpose-Built Law Office For Lease

Modern office. 6 professional offices and 10 staff workstations. Stunning conference room, reception, kitchen. Fully furnished. Lots of file storage. Phones and copier available. 1011 Las Lomas Road NE, Albuquerque. Available immediately. Inquiries: admin@kienzlelaw.com

Two Santa Fe Offices Available April 1, 2022

Two adjacent offices in a conveniently located professional office complex. The building has six offices, large reception area, kitchenette, and ample parking for clients and professionals. Four offices are currently occupied by two attorneys. Rent includes alarm, utilities, and janitorial services. \$950/mo Basement storage available. Call Donna 505-795-0077

Office Space For Rent

Newly renovated office space for rent. Two large offices and reception area available at 12th and Lomas. Please call Lisa for more information 505-979-7080.

Law Offices/Suites for Lease

Multiple spaces for legal offices available for lease in the beautiful historic Bond-Lovelace House. Spaces range from single attorney offices to multi-office suites with attorney offices and staff are-as. Amenities include front-desk receptionist to assist with greeting clients, incoming calls, and in-coming mail, large conference room, kitchen, and ample parking. Secure, gated office complex located at 201 12th Street NW, Albuquerque. E-mail inquiries to jhernandez@kennedyhernandez.com.

Executive Office Suites

Remodeled large offices with a conference room, a breakroom/kitchen, controlled access, an alarm, some covered parking located in the uptown area. Owner/broker call Mike Contreras 505-263-7334, mike@sentinelrealestate-inv.com. Sentinel Real Estate & Investment

Miscellaneous

Search for Will

Albuquerque Area Attorneys

Searching for any will executed for DOUGLAS R. LUTE, deceased, for probate. Please contact James Lute : jalute@gmail.com or call 219-241-5066.

2022 Bar Bulletin Publishing and Submission Schedule

The *Bar Bulletin* publishes twice a month on the second and fourth Wednesday. Advertising submission deadlines are also on Wednesdays, three weeks prior to publishing by 4 pm.

Advertising will be accepted for publication in the Bar Bulletin in accordance with standards and ad rates set by publisher and subject to the availability of space. No guarantees can be given as to advertising publication dates or placement although every effort will be made to comply with publication request. The publisher reserves the right to review and edit ads, to request that an ad be revised prior to publication or to reject any ad. **Cancellations must be received by 10 a.m. on Thursday, three weeks prior to publication.**

For more advertising information, contact: Marcia C. Ulibarri at 505-797-6058 or email marcia.ulibarri@sbnm.org

The publication schedule can be found at
www.sbnm.org.

WE'RE HIRING ATTORNEYS!

Parnall Law was voted "Top Workplace" in 2020 and 2021 by Albuquerque Journal and "Best Places to Work" in 2019-2021 by Albuquerque Business First.



Greg Abel



Pete Grueninger



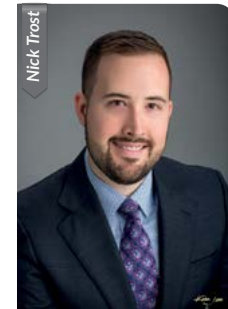
Una Campbell



Madalyn Witz



Ian Bertschlausen



Nick Trost



Brian Murray



Mark Bennett



Aimee Martuccio Whitsell



David Link

SO START YOUR EXCITING AND LUCRATIVE NEW CAREER

TODAY!

WE OFFER:

- ✓ An Exciting and Friendly Workplace
- ✓ Competitive Compensation
- ✓ Bonuses and Paid Vacations

ALL INQUIRIES HELD IN STRICTEST CONFIDENCE



(505) 268-6500 2025 San Pedro Dr. NE, Albuquerque, NM 87110

Apply Online Only at: HurtCallBert.com/AttorneyCareers

WE FIND THE MISSING PIECE

FORENSIC
ACCOUNTING

EXPERT
TESTIMONY

INVESTIGATIONS

PROFESSIONAL
EDUCATION



The McHard Firm



Beth A. Mohr
CFE, CAMS, CCCI, PI
Managing Partner

Janet M. McHard
CPA, CFE, MAFF, CFF
Founding Partner

Anne M. Layne
CPA/CFF, CFE, CAMS
Partner

www.themchardfirm.com

505-554-2968

Albuquerque

NM-PI License # 2503

619-764-6144

San Diego

AZ-PI License # 1639940

480-420-4036

Phoenix

CA-PI License # 29074