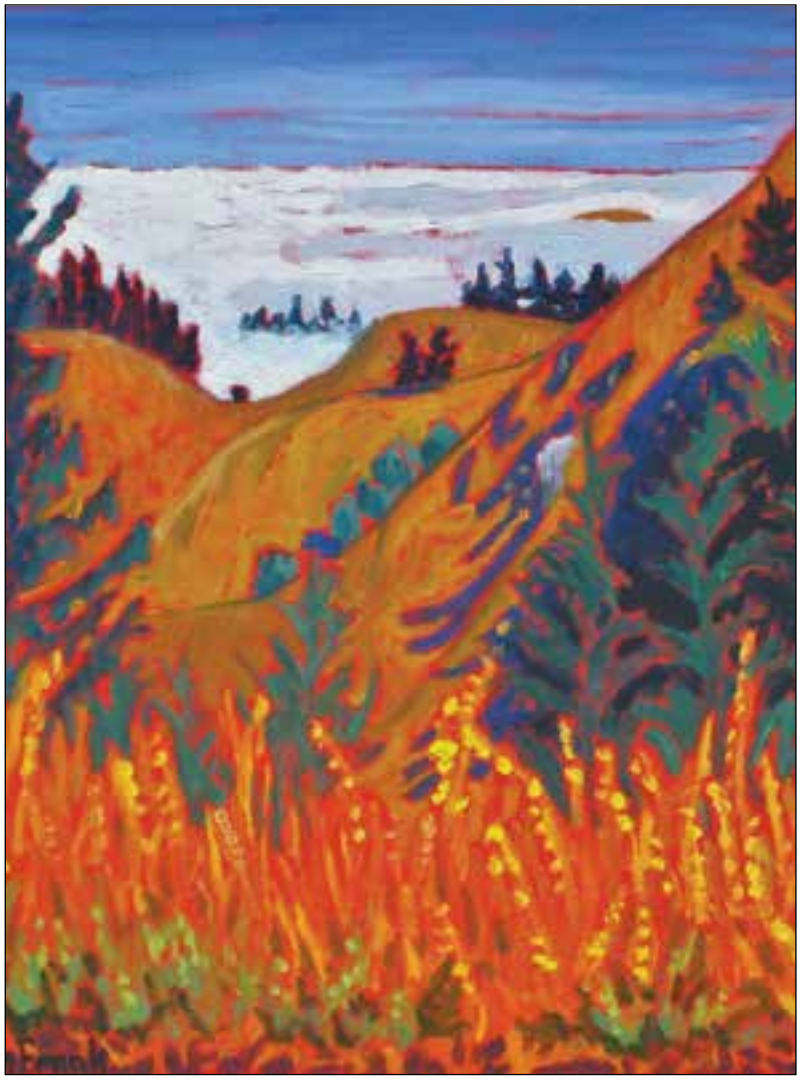
Official Publication of the State Bar of New Mexico

Bar Bulletin

August 24, 2022 • Volume 61, No. 16



Fog Islands L, by Kathleen Frank (see page 3) www.kathleenfrankart.com

Inside This Issue

State Bar of New Mexico
Est. 1886

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www.sbnm.org

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About Cover Image and Artist: Santa Fe landscape artist Kathleen Frank, raised in Northern California, has a BA Design/San Jose State University, an Masters of Art/Penn State and has studied woodcarving and printing. In Pennsylvania, she taught printmaking and costume design and co-founded the Printmakers Studio Workshop of Central Pennsylvania. Frank shifted to painting, seeking light and pattern in Pennsylvania farms, California scenery from mountains to sea and now the unique landscapes of the Southwest. Publications include Southwest Art, Western Art Collector and The Santa Fe Travel Insider and exhibitions include Jane Hamilton Fine Art, Desert Caballeros Western Museum and the Susquehanna Art Museum. Collections: Desert Caballeros Western Museum, Pattee and Paterno Library at Penn State.

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.

Bernalillo County Metropolitan Court

New Assignment for Judge Linda S. Rogers

With the appointment of Metropolitan Court Judge David A. Murphy to the Second Judicial District Court, effective July 23, Judge Linda S. Rogers, Division XIX, will be assigned the misdemeanor criminal docket previously assigned to Judge Murphy, Division XVI.

New Assignment for Judge Nina Safier

Upon the retirement of Metropolitan Court Judge Sandra Engel, effective Oct. 1, Judge Nina Safier, Division XVII, will be assigned the misdemeanor criminal docket previously assigned to Judge Engel, Division XI.

Bernalillo County Metropolitan Court Judicial Nominating Commission

Announcement of Applicants

Eleven applications have been received in the Judicial Selection Office as of Aug. 5 for the vacancy on the Bernalillo County Metropolitan Court which exists due to the appointment of the Hon. Judge David Murphy to the Second Judicial District Court. The Bernalillo County Metropolitan Court Nominating Commission met onAug. 19 to interview applicants for the position at the Bernalillo Metropolitan Courthouse. The applicants include **Steven Gary Diamond**, **Shonetta Raquette Estrada**, **Michael Philip Fricke**, **Veronica Hill, Claire Ann McDaniel**, **Todd A. Olmos, Edmund E. Perea, Mark Anthoy Ramsey**, **Ashley Reymore-Cloud**, **Daniel Roberson** and **Carlos Sarborough**.

Second Judicial District Court

Appointment to Second Judicial Disrict Court Bench

Gov. Michelle Lujan Grisham has announced the appointment of **David A. Murphy** to the Second Judicial District Court bench. Effective July 23, Judge Murphy has been assigned to fill Division XXX, the new judgeship created when Gov. Lujan Grisham recently signed into law House Bill 68. Judge Murphy will be assigned Criminal Court cases previously assigned to Judge Alisa Hart, Division XXI. Pursuant to New Mexico Supreme Court Order 22-8500-007, peremptory excusals have been temporarily suspended during the COVID-19 Public Health Emergency.

Fifth Judicial District Court

Announcement of Additional Applicants

In response to Gov. Lujan-Grisham request on Aug. 1 for additional names to fill the vacancy on the Fifth Judicial District which exists in Carlsbad, New Mexico, due to the creation of an additional judgeship by the Legislature effective July 1, the Dean of the UNM School of Law, designated by the New Mexico Constitution to Chair the Fifth Judicial District Nominating Commission and members of this commission, solicited for additional applications for this position from lawyers who meet the statutory qualifications in Article VI, Section 14 of the New Mexico Constitution. The deadline for additional application was at 5 p.m. on Aug. 12. As of 5 p.m. on Aug. 12, no additional applicants applied for the additional judgeship created by the Legislature effective July 1.

Professionalism Tip

With respect to opposing parties and their counsel:

I will clearly identify, for other counsel or parties, all changes that I have made in all documents.

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

Open for Applications to Serve on Court Panel

Chief Judge William P. Johnson and the Article III District Judges for the District of New Mexico would like to solicit interest from Federal Bar members for service on the Magistrate Judge Merit Selection Panel. In the District of New Mexico, there are five full-time magistrate judges in Albuquerque, five full-time magistrate judges in Las Cruces and two part-time magistrate judges, with one in Farmington and the other in Roswell. Any member of the Federal Bar in good standing and interested in being selected by the District Judges to serve on the Magistrate Judge Merit Selection Panel should respond to this notice no later than Aug. 31 to the Clerk of Court, U. S. District Court, 333 Lomas Blvd. NW, Suite 270, Albuquerque, NM 87102; or by email to clerkofcourt@nmd.uscourts.gov to be considered for appointment to the Panel. Appointment to the Panel will be effective Jan. 1, 2023. Members of the Panel typically are appointed for three-year terms and members of the Panel may seek reappointment.

State Bar News

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*. Visit www.sbnm.org/eij, click on the Ask Amanda link and submit your question. No question is too big or too small.

New Mexico Judges and Lawyers Assistance Program

The Suicide and Crisis Lifeline

Started July 16, the 988 Suicide and Crisis Lifeline is now available nationwide. The Lifeline provides 24/7 all year round, free and confidential support for people in distress, prevention and crisis resources for you or your loved ones and

best practices for professionals. For more information, visit www.988nm.org.

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. Learn more about the program at www.sbnm.org/nmjwp.

NMJLAP Committee Meetings

The NMJLAP Committee will meet at 4 p.m. on Oct. 16 and Jan. 12, 2023. 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.

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.

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.

Young Lawyers Division

Help New Mexico Wildfire Victims

In partnership with the Federal Emergency Management Agency and the American Bar Association's Disaster Legal Services Program, the State Bar of New Mexico Young Lawyers Division is providing legal resources and assistance for survivors of the New Mexico wildfires. The free legal aid hotline opened on June 6 and we need more volunteers. Fire survivors can call the hotline toll free at 888-985-5141 Monday through Friday, 9 a.m. to 1 p.m. MST. Individuals who qualify for assistance will be matched with New Mexico Lawyers to provide free, limited legal help in areas like securing FEMA benefits, assistance with insurance claims, help with home repair contracts, replacement of legal documents, landlord/tenant issues and mortgage/foreclosure issues. Volunteers do not need extensive experience in any of the areas listed below. FEMA will provide basic training for frequently asked questions. This training will be required for all volunteers. We hope volunteers will be able to commit approximately one hour per week. Visit www.sbnm.org/wildfirehelp for more information and to sign up. You can also contact Lauren E. Riley, ABA YLD District 23, at 505-246-0500 or lauren@batleyfamilylaw.com.

UNM School of Law

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 Bars

Colorado Bar Association

The Annual Rocky Mountain Regional Elder Law Retreat

The Colorado Bar Association will be hosting the 14th Annual Rocky Mountain Regional Elder Law Retreat, co-sponsored by the Colorado Bar Association Elder Law Section. The retreat will include both in-person and online formats and will offer up-to-date information and recent developments in the Elder Law industry. The annual event will take place Aug. 25-27 at the Grand Hyatt Vail at 1300 Westhaven Dr., Vail, CO 81657. People may register for the event up until it takes place. For more information, visit cle.cobar.org.

Ask Amanda!

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 small!

988 SUICIDE & CRISIS LIFELINE

The 988 Suicide and Crisis Lifeline is now available for all to access nationwide. This is a milestone moment in this country's history for suicide prevention, crisis, and mental health services everywhere. The Lifeline provides 24/7 all year round, free and confidential support for people in distress, prevention and crisis resources for you or your loved ones, and best practices for professionals.

Go to **https://988nm.org** to get more information about this much needed service

The Solutions Group

State Bar *of* New Mexico
Judges and Lawyers Assistance Program

DID YOU KNOW?

Pursuant to Rule 16-119 NMRA, effective October 1, 2022, every lawyer practicing law in the State of New Mexico must have a written succession plan, either alone or as part of a law firm plan.

As part of your annual registration statement beginning in the Fall of 2022, you will have to certify compliance with the Rule.

Beginning July 27, 2022 listen to a Succession Planning podcast on SBNM is Hear, and look for Succession Planning CLEs at the State Bar Annual Meeting in August 2022, and by webinar on September 13, 2022 and October 12, 2022.

For more information, please contact the State Bar Professional Development Program at 505-797-6079 or the State Bar Regulatory Programs at 505-797-6059.

State Bar *of* New Mexico
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Do you have professional aspirations to serve as a judge?

Are you wanting to know more on the process of becoming a judge?

Curious about how sitting on the bench would impact your professional and personal life?

Introducing the State Bar of New Mexico and New Mexico Supreme Court's newest program!

So You Want to be a Judge?

The State Bar of New Mexico and New Mexico Supreme Court are excited to announce the launch of the new, ***So, You Want to be Judge?*** Program! Between the various groups focusing on access to and equity in justice, there is a primary goal of increasing the number of underrepresented groups in our judiciary.

The goals of the program include skills building and professional development. Participants will receive the roadmap of sitting on the bench, including resume review and building, interview tips, campaign considerations, and professional networking, just to name a few.

The first *So, You Want to be a Judge?* workshop will be on:
Thursday, Sept. 8
3 - 5 p.m.
State Bar of New Mexico in Albuquerque
Remote participation also available

FREE and CLE Credit Available!

Attending judiciary: Chief Justice Bacon, Justice Thomson and Justice Vargas

To sign-up visit https://form.jotform.com/sbnm/soyouwanttobeajudge
To learn more, visit www.sbnm.org/judicialpipeline
For further questions or information, please contact Morgan Pettit at morgan.pettit@sbnm.org

State Bar of New Mexico
Est. 1886

In the Middle — The Paralegal World

By Christina Babcock, Linda Sanders and Lynette Rocheleau

The Paralegal profession has always been a profession that is not only stressful but comes with additional and unique challenges that are quite different from most professions.

Being a Paralegal means that you are usually in the middle. You are the person who works directly with the attorney and is in charge of many things, including the intake of new clients, setting up the file; calendaring the dates, drafting and sending out the necessary documents (Interrogatories, Request for Admission, Request for Production, etc), preparing the response to opposing counsel to their documents, preparing trial notebooks and the list goes on. You are also the person the client calls to ask questions and raise concerns about their case. Paralegals are usually the one that is dealing with opposing counsel as well as the Court. Further, since we don't have the luxury of only working one case at a time, you are dealing with any or all the above at the same time for many different cases. On top of all of this, there are the rules that come with working in a law firm, especially those that still require billable hours each day.

At the end of the day, most people go home and discuss their work and days with their closest family members (such as a spouse or a significant other). However, as paralegals, we not allowed to do that. We have confidentiality and ethics rules that we must follow.

As the Paralegal Division of the State Bar of New Mexico, an important question we asked and tried to answer is how do we not allow these challenges to affect us and, how do we handle stress and burnout in our profession.

> "The time is now to lay the groundwork for a well-being-focused (or at least balanced) future."

Part of our response was to find ways to allow paralegals to be able to communicate with others who have been through or are going through the same thing. We held events to give paralegals the opportunity to meet and lean ways to deal with these pressures. Then, 2020 came along and we found ourselves in a pandemic.

Working as a paralegal during the pandemic was challenging. Learning to navigate Zoom while working from home, not to mention trying to understand the new notary requirements, brought a different level of stress to the job. It also brought awareness to our mental and emotional well-being and how we are taking it for granted. The Paralegal Division recognizes it needs to do more for the well-being of its membership and is working diligently to accomplish that goal.

During the pandemic, the Division's focus was to help members alleviate the stress of finding and attending Continuing Legal Education (CLE) courses. The Division organized and offered free online CLEs for both members and non-members. In 2022, the Paralegal Division Board of Directors extended their decision to offer some CLEs at no cost and continue to make them available for self-study on our website. The Division offers monthly "Lunch & Learn" CLEs along with two half-day CLEs in April and September, and a full day CLE in December called "The Institute".

In 2021, the focus of "The Institute" was entirely on wellness. "Building Health & Wellness Practices Among Legal Professionals" was a reminder that well-being

should be a priority. During the full-day CLE, members learned the importance of setting boundaries at work and home while understanding that it's acceptable to say no. Members were also introduced to a resource known as the Employee Assistance Program (EAP), which helps employees with issues at work or home that affect their well-being. Resiliency, the decline in civility in the legal profession and mindfulness were also topics presented. The importance of self-care was stressed throughout the day. Feeling guilty about taking time to relax or enjoy time away is not selfish, it is a necessary component of self-care.

In addition to CLEs, the Division hosts networking opportunities throughout the year where members and prospective members are invited to meet the current Paralegal Division Officers and the Board of Directors. The Division encourages members to participate and attend board meetings via Zoom or in person, join a committee, and volunteer for pro bono events. The Division also has a private Facebook page where paralegals can ask for help from other paralegals on work-related issues. The Division will continue to keep members connected but plans to have more well-being resources available in the future.

The time is now to lay the groundwork for a well-being-focused (or at least balanced) future. What does this future look like? What are the challenges to making it a reality? The biggest challenge is that we as paralegals have limited control and input regarding our work. We don't control the workload, we don't control the work environment, we don't control the expectations (from either a client or firm perspective). This has always been the case. What has changed is the awareness of the effect of the pandemic to our well-being. Luckily, the entire legal community has also faced these effects and, the leadership of the legal community has done an exceptional job of bringing well-being to the forefront in an effort to reduce them. I have no doubt this focus will continue.

As a Division, we will continue to emphasize self-care by making our members aware of the programs and resources available to them. We will continue to offer well-being-focused CLEs and events. We will continue to keep our members connected through social media and in-person events. Most importantly, we will continue to work with the leadership of the legal community to further its awareness of the unique challenges faced by paralegals. This is the avenue that will afford continued focus and change. This is where we need to advocate for our members. We need to keep the momentum going through our active participation in the various committees and events concentrated on well-being and with the leadership of the legal community by making our voice heard.

So, back to the original question: what does a well-being-focused future look like? The answer to this question is different for everyone. But I think we can all agree it involves a healthy balance between work and home, a focus on self-care without being made to feel guilty and a support system that understands the unique challenges faced by paralegals. ■

Authors:

Christina Babcock *is a full-time professor in the Paralegal Studies Program at Central New Mexico Community College. She has a master's degree in paralegal studies and 27 years of paralegal experience with a background in criminal defense litigation. Christina is the 2022 Secretary for the State Bar of New Mexico Paralegal Division and is a member of the NM Well-Being Committee. In her off-time, she enjoys spending time with her husband of 26 years and their two children.*

Linda Sanders *is the 2022 Chair of the State Bar of New Mexico Paralegal Division. She works at Hurley Toevs Styles Hamblin & Panter, PA in the Trust & Estate Litigation Group. Probate and trust litigation and contested protective proceedings have been the focus of Linda's career for the last 13 years. As a member of the Paralegal Division, Linda has served as the Chair of the Pro-Bono/Community Services and CLE Coordination Committees, as well as Division Secretary.*

Lynette Rocheleau *is a Paralegal at National Technology & Engineering Solutions of Sandia, LLC (Sandia National Labs) in the Legal Technology Transfer Center. She started her Paralegal career in 1989 and mostly worked civil litigation for both sole practitioners and medium size law firms prior to starting at Sandia in 2001. She has been a member of the Paralegal Division of the State Bar of New Mexico for many years. During her time, she has been the Events Coordinator, CLE Coordinator and Chair of the Division.*

STATE OF NEW MEXICO **EXECUTIVE OFFICE** SANTA FE, NEW MEXICO

Proclamation

WHEREAS, *paralegals provide a vital link between lawyers and the clients they represent; and*

WHEREAS, *paralegals make invaluable contributions through the drafting and analysis of legal documents, case planning, research, client interviews, and the development of legal pleadings; and*

WHEREAS, *due to the rapidly evolving nature of our legal system, the responsibilities of New Mexico's paralegals are constantly growing and expanding, including providing pro-bono services to the underserved; and*

WHEREAS, *the Paralegal Division of the State Bar of New Mexico, which was created in 1995, represents the paralegal profession and works toward enhancing professional development; and*

WHEREAS, *the goals of the Paralegal Division include providing efficient administration to accommodate growth, and development of paralegals through education; and*

WHEREAS, *the Paralegal Division supports the delivery of legal services in an economic and efficient manner.*

NOW THEREFORE, *I, Michelle Lujan Grisham, Governor of the State of New Mexico, do hereby proclaim August 26, 2022 as:*

"*Paralegal Day*"

throughout the state of New Mexico.

Attest: Maggie Toulouse Oliver

Maggie Toulouse Oliver
Secretary of State

Done at the Executive Office this 15th day of June 2022.

Witness my hand and the Great Seal of the State of New Mexico.

Michelle Lujan Grisham

Michelle Lujan Grisham
Governor

Legal Education

August

25-27 **14th Annual Rocky Mountain Regional Elder Law Retreat**
14.0 G, 1.7 EP, 1.2 EDI
In-Person
Colorado Bar Association (CBA-CLE)
www.cobar.org

25-Dec. 1 **Spanish for Lawyers I**
20.0 G
Live Webinar
UNM School of Law
lawschool.unm.edu

30 **Choice of Entity for Nonprofits & Obtaining Tax Exempt Status, Part 1**
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org

31 **Choice of Entity for Nonprofits & Obtaining Tax Exempt Status, Part 2**
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org

September

1 **Parking: Special Issues in Commercial Leases**
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org

8 **2022 Tenth Circuit Bench & Bar Conference**
11.6 G
Live Program
United States Court of Appeals Tenth Circuit
www.ca10.uscourts.gov

9 **33rd Annual Appellate Practice insitute**
1.0 EP, 5.75 G
Webinar
Center for Legal Education of NMSBF
www.ca10.uscourts.gov

9-11 **Taking and Defending Depositions**
23-25 31.0 G, 4.5 EP
In-Person
UNM School of Law
lawschool.unm.edu

13 **Special Lease Issues for Medical/ Dentist Offices**
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org

13 **Mandatory Succession Planning: It Has To Happen, But It Doesn't Have To Be That Difficult**
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org

14 **Ethics for Business Lawyers**
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org

15 **Law & Technology Series: Techniques in Electronic Case Management (TECM) Workshop**
16.2 G
Live Program
Administrative Office of the US Courts
www.uscourts.gov

15 **2022 Employment and Labor Law Institute - Day 1**
2.8 G, 1.0 EP
In-Person and Webcast
Center for Legal Education of NMSBF
www.sbnm.org

16 **2022 Employment and Labor Law Institute - Day 2**
2.8 G, 1.0 EP
In-Person and Webcast
Center for Legal Education of NMSBF
www.sbnm.org

20 **Basic Financial Literacy for Lawyers**
2.0 G
In-Person and Webcast
Center for Legal Education of NMSBF
www.sbnm.org

21 **Elder Law Summer Series: Client Capacity, Diminished Capacity, and Declining Capacity. Ethical Representation and Tools for Attorneys**
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org

22 **Overview of Workers' Compensation Issues**
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org

23 **IP Institute: United States Patent and Trademark Office in New Mexico**
1.0 EP, 5.25 G
In-Person
Center for Legal Education of NMSBF
www.sbnm.org

27 **Selling to Consumers: Sales, Finance, Warranty, & Collection Law, Part 1**
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org

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.

September (cont.)

28 **Selling to Consumers: Sales, Finance, Warranty, & Collection Law, Part 2**
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org

29-30 **2022 Family Law Fall Institute**
1.0 EP, 10.5 G
In-Person and Webcast
Center for Legal Education of NMSBF
www.sbnm.org

October

5 **Basics of Trust Accounting: How to Comply with Disiplinary Board Rule 17-204**
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org

6 **Communication Breakdown: It's Always The Same (But It's Avoidable)**
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org

6 **Trust and Estate Planning for Family Businesses, Part 1**
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org

7 **Trust and Estate Planning for Family Businesses, Part 2**
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org

7 **2022 Health Law Symposium**
2.0 EP, 3.5 G
In-Person and Webcast
Center for Legal Education of NMSBF
www.sbnm.org

12 **Mandatory Succession Planning: It Has To Happen, But It Doesn't Have To Be That Difficult**
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org

19 **Essential Law Firm Technology: The Best Of What's Out There**
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org

20 **2022 Solo & Small Firm institute**
2.0 G, 4.0 EP
In-Person and Webcast
Center for Legal Education of NMSBF
www.sbnm.org

21-23 **Taking and Defending Depositions**
28-30 20.0 G, 2.0 EP
In-Person
UNM School of Law
lawschool.unm.edu

24 **Social Media as Investigative Research and Evidence**
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org

25 **Identifying and Combating Gender Bias: Examining the Roles of Women Attorneys in Movies and TV**
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org

26 **Ethics of Social Media Research**
1.5 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org

27 **Law Practice Management For New Lawyers**
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org

31 **Responding to Demand Letters: Tone and Substance**
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org

November

9 **Wait, My Parents Were Wrong? It's Not All About Me?**
3.0 EP
In-Person and Webcast
Center for Legal Education of NMSBF
www.sbnm.org

9 **Learn by Doing: An Afternoon of Legal Writing Exercises**
3.0 G
In-Person and Webcast
Center for Legal Education of NMSBF
www.sbnm.org

10 **The Paperless Law Firm: A Digital Dream**
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Webinar
Center for Legal Education of NMSBF
www.sbnm.org

17 **Diversity, Equity & Inclusion in Law Practice**
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org

21 **Adobe Acrobat DC: The Basics for Lawyers and Legal Professionals**
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org

23 **Ethics of Identifying Your Client: It's Not Always Easy**
1.0 EP
Teleseminar
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From the New Mexico Court of Appeals

Opinion Number: 2022-NMCA-012
No: A-1-CA-39333 (filed October 21, 2021)

STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
LEIGHTON BEGAYE,
Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY
Karen L. Townsend, District Judge

Certiorari Denied, February 17, 2022, No. S-1-SC-39078.
Released for Publication March 22, 2022.

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OPINION

HENDERSON, Judge.

{1} A jury convicted Defendant Leighton Begaye of one count of criminal sexual contact of a minor (CSCM) for forcibly touching the breast of K.B., a sixteen-year-old female. Defendant appeals his conviction, arguing that fundamental error occurred because of the failure to instruct the jury on lack of consent, which Defendant claims is an element of the offense. We conclude that lack of consent is not an element of CSCM, and thus no fundamental error occurred. Accordingly, we affirm.

BACKGROUND

{2} Defendant, a thirty-three-year-old man, who appeared intoxicated, entered a candy shop where sixteen-year-old K.B. was working alone. K.B.'s employers instructed her to serve water to any intoxicated person who entered the store.

{3} Following these instructions, K.B. served Defendant water. Defendant lingered and made lewd comments of a sexual nature to K.B.

{4} Defendant asked for K.B.'s tip money, which she gave him. Defendant asked for K.B.'s contact information, but she refused to give it to him. Defendant then wrote down his email address and gave it to K.B., and repeatedly asked her to hug him. K.B. extended her hand across the counter in an attempt to shake Defendant's hand. Defendant took her hand and forcibly pulled her into a hug. As Defendant released her from the hug, he brushed his hand over her chest and squeezed her breast. K.B. stated during her testimony that she did not want the hug, did not want the grope, and did not know how to pull away. She further stated, "I didn't want any of it to happen."

{5} Defendant was charged by criminal information with a single count of CSCM (force), contrary to NMSA 1978, Section 30-9-13(D)(1) (2003). At a jury trial, Defendant maintained that surveillance video footage of his encounter with K.B. was evidence of her consent to his actions. The jury convicted Defendant, and this appeal followed.

DISCUSSION

I. Standard of Review

{6} Defendant argues that lack of consent is an element under Section 30-9-13. Defendant's claim that consent is an element of the offense is an issue of statutory construction reviewed de novo. *See State v. Barela*, 2021-NMSC-001, ¶ 5, 478 P.3d 875. Because the jury instruction issue was unpreserved, we examine the record for fundamental error. *See* Rule 12-321(B)(2)(c) NMRA; *State v. Benally*, 2001-NMSC-033, ¶ 12, 131 N.M. 258, 34 P.3d 1134 (recognizing that unpreserved jury instruction issues are reviewed for fundamental error).

II. No Fundamental Error Occurred Because Lack of Consent Is Not an Element of the CSCM Statute, Section 30-9-13

{7} A jury must be instructed on "all questions of law essential for a conviction of any crime submitted to the jury[,]" Rule 5-608(A) NMRA, and the failure to instruct on an essential element of a crime generally constitutes fundamental error. *State v. Osborne*, 1991-NMSC-032, ¶ 10, 111 N.M. 654, 808 P.2d 624. However, if it is indisputable that the evidence at trial established the missing element, the fact that the jury was not instructed on the element is not considered fundamental error. *See State v. Orosco*, 1992-NMSC-006, ¶ 12, 113 N.M. 780, 833 P.2d 1146 ("[W]hen a jury's finding that a defendant committed the alleged act, under the evidence in the case, necessarily includes or amounts to a finding on an element omitted from the jury's instructions, any doubt as to the reliability of the conviction is eliminated and the error cannot be said to be fundamental."). However, we do not need to consider the *Orosco* exception in this case because we conclude that the lack of consent was not an element of the crime involved here.

{8} We begin by examining the statutory language of Section 30-9-13. "In determining what is or is not an essential element of an offense, we begin with the language of the statute itself, seeking of course to give effect to the intent of the [L]egislature." *State v. Stevens*, 2014-NMSC-011, ¶ 15, 323 P.3d 901 (internal quotation marks and citation omitted). In relevant part, Section 30-9-13(A) criminalizes "the unlawful and intentional touching of or applying force to the intimate parts of a minor." Section 30-9-13 sets forth multiple alternative grounds for committing CSCM. The State prosecuted Defendant under Subsection (D)(1), which forbids CSCM "of a child thirteen to eighteen years of age perpetrated with force or coercion." While criminal sexual contact of an adult includes lack of consent as an essential element of the offense, NMSA 1978, § 30-9-12(A) (1993), the Legislature omitted this lack of consent element from the CSCM statute. *Compare* § 30-9-12(A) ("Criminal sexual contact is the unlawful and intentional touching of or application of force, *without consent*, to the unclothed intimate parts of [an adult.]" (emphasis added)), *with* § 30-9-13(A) ("Criminal

sexual contact of a minor is the unlawful and intentional touching of or applying force to the intimate parts of a minor or the unlawful and intentional causing of a minor to touch one's intimate parts."). Thus, the language the Legislature chose to include in Section 30-9-13(A) does not support the argument of Defendant that lack of consent is an element of Section 30-9-13(A).

{9} We now consider the jury instruction for this offense. In this case, the district court's jury instruction as to CSCM (force) included the following elements:

1. [D]efendant touched or applied force to the breast of [K.B.];
2. [D]defendant used physical force;
3. [K.B.] was at least thirteen (13) but less than eighteen (18) years old;
4. This happened in New Mexico on or about June 18, 2019.

See UJI 14-921 NMRA. We observe that this jury instruction does not include lack of consent as an essential element, which is consistent with and accurately reflects the language of the CSCM (force) statute. *Id.* This is also supported by the committee commentary to UJI 14-921:

> Criminal sexual contact of an adult by the touching or application of force, as distinguished from the causing of a touching, etc., requires that the contact be without the consent of the victim. That is not the case in criminal sexual contact of a minor, and these instructions omit the requirement.

Therefore, Defendant's argument is not supported by the language in the uniform jury instruction.

{10} We next turn to our Supreme Court's precedent, and the case relied on by both parties, *State v. Samora*, 2016-NMSC-031, 387 P.3d 230. In *Samora*, the defendant appealed from his conviction of criminal sexual penetration in the commission of a felony (CSP-felony) for luring a sixteen-year-old male into his truck, driving him to a secluded location, and forcibly penetrating him. *Id.* ¶ 1. At issue in *Samora* was whether the trial court had erred in omitting the phrase "without consent" in the jury instruction relevant to a CSP-felony. *Id.* ¶ 2. Our Supreme Court held that the omission was fundamental error. *Id.*

{11} To reach its conclusion, the Court in *Samora* discussed the statutory distinctions relating to sex crimes, the age of the victims, and the relevance of consent. In discussing NMSA 1978, Section 30-9-11(E)(1) (2009), second-degree criminal sexual penetration (CSP) of a child between the ages of thirteen and eighteen years old by the use of force or coercion, the Court noted that "[u]nder that form of CSP, if the prosecution has proved that force or coercion was used by the perpetrator, it has also necessarily proved that the act was non-consensual, and a separate finding of a lack of consent is not required." *Id.* ¶ 26.

{12} Here, Defendant argues that the above statement from *Samora* is dicta because the defendant in that case had been prosecuted under a different subsection of the statute. We disagree and hold that the *Samora* analysis is critical to the conclusion that the Legislature made distinctions on the various elements of proving sex crimes based on the age of the victim and the theory of prosecution. In other words, whether a defendant is charged with CSP or CSCM, the use of force on a child between the ages of thirteen and eighteen makes consent irrelevant. We also note that the Supreme Court cited approvingly this Court's opinion in *State v. Perea*, 2008-NMCA-147, ¶ 9, 145 N.M. 123, 194 P.3d 738, where we stated that "[c]onsent of a child between the ages of thirteen and sixteen to engage in sexual intercourse is irrelevant where force or coercion is involved." *Accord Samora*, 2016-NMSC-031, ¶ 26.

{13} Notwithstanding this language in *Samora*, Defendant relies on the fact that the Supreme Court ultimately held that it was fundamental error to fail to instruct on the element of consent on the CSP count in that case, which also involved a sixteen year old. Defendant's reliance on this conclusion is misplaced. In *Samora,* the defendant was not convicted of CSP of a minor under Section 30-9-11(E)(1) (force). Instead, the defendant was convicted of the "in the commission of a felony" alternative (CSP-felony), which does not statutorily eliminate the issue of consent based on the victim's age. *Samora*, 2016-NMSC-031, ¶ 25 (internal quotation marks and citation omitted); *see* § 30-9-11(E)(5).

{14} Defendant's reliance on *Stevens* is also unpersuasive. Like *Samora*, *Stevens* involved the CSP-felony statute. In *Stevens*, our Supreme Court observed that the Legislature "has never deviated from the common law approach of criminalizing only those sex acts that are perpetrated on persons without their consent, either as a matter of fact or, in the case of children or other vulnerable victims, as a matter of law." 2014-NMSC-011, ¶ 27. The Court explained that otherwise noncriminal, consensual sexual contact was not punishable solely because it occurred during the commission of a felony. Therefore the CSP-felony offense was intended to criminalize only "sexual acts perpetrated on persons without their consent[.]" *Id.* ¶¶ 37-39. The instruction given in the present case is consistent with this language in *Stevens* because the Legislature here has criminalized CSCM under Section 30-9-13(D) "as a matter of law" based on the age of the victim, use of force by the defendant, and omits lack of consent as an element of the crime. *Stevens*, 2014-NMSC-011, ¶¶ 27, 39

{15} Defendant also refers us to *State v. Apodaca*, 2021-NMCA-001, 482 P.3d 1224, *cert. granted*, 2020-NMCERT-___ (No. S-1-SC-38288, Nov. 25, 2020), where this Court noted that the jury had to find lack of consent in a case involving CSP based on the use of physical force between two adults, where the district court denied defendant's request for a mistake of fact jury instruction. *See id.* ¶¶ 1, 30. Again, there is nothing inconsistent between the need to prove lack of consent in *Apodaca* and its irrelevance in this case. The victim in *Apodaca* was an adult, and proof of lack of consent was necessary for the reasons explained above. *See id.* ¶ 30.

{16} Finally, Defendant claims that the failure to read a lack of consent element into Section 30-9-13 will lead to absurd results because a sixteen-year-old can consent to sexual intercourse, which necessarily involves sexual contact. *See State v. Marshall*, 2004-NMCA-104, ¶ 7, 136 N.M. 240, 96 P.3d 801 (stating that the courts give effect to the plain language of a statute unless it leads to absurd or unreasonable results). We disagree. First, the requirement that the State prove force in this type of case largely removes this concern. Second, given the age disparity between Defendant and K.B., any similarly situated defendant would have faced the same degree of felony punishment for consensual sex under the applicable CSP statute. *Compare* § 30-9-11(G)(1), *with* § 30-9-13(D)(1).

{17} Defendant's claim that lack of consent should have been included in this instruction as an essential element of CSCM is not supported by the language of the statute, the applicable UJI, or our case law. Consent of a child between the ages of thirteen and sixteen to engage in sexual contact is irrelevant where force occurred. In light of our determination that lack of consent is not an essential element of Section 30-9-13(D), we do not need to consider Defendant's argument that the omission of this instruction amounted to fundamental error because the issue of consent was in dispute.

CONCLUSION

{18} For the reasons set forth above, we affirm.

{19} IT IS SO ORDERED.

SHAMMARA H. HENDERSON, Judge

WE CONCUR:

KRISTINA BOGARDUS, Judge

GERALD E. BACA, Judge

From the New Mexico Court of Appeals

Opinion Number: 2022-NMCA-013
No: A-1-CA-37662 (filed November 2, 2021)

KEVIN RAWLINGS,
Petitioner-Appellee,
v.
MICHELLE RAWLINGS,
Respondent-Appellant.

APPEAL FROM THE DISTRICT COURT OF OTERO COUNTY
Angie K. Schneider, District Judge

Certiorari Granted, January 13, 2022, No. S-1-SC-39107.
Released for Publication March 22, 2022.

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OPINION

DUFFY, Judge.

{1} The dispute in this appeal centers on the nature of the review required by Rule 1-053.2(H)(1)(b) NMRA, which states that "[i]f a party files timely, specific objections to the recommendations [of a domestic relations hearing officer], the court shall conduct a hearing appropriate and sufficient to resolve the objections. The hearing shall consist of a review of the record unless the court determines that additional evidence will aid in the resolution of the objections." Michelle Rawlings (Mother) argues that the district court erred in failing to hold a hearing on her objections to the domestic relations hearing officer's recommendations before entering the final decree of dissolution of marriage and division of assets, debts, and custody. We agree and reverse.

BACKGROUND

{2} In 2016, Kevin Rawlings (Father) filed a petition for the dissolution of his marriage to Mother. One of the disputed issues concerned the primary physical custody of the couple's two young children. After the parties separated in 2015, Mother moved with the children to Las Vegas, Nevada, and although Father apparently consented to the move, the parties dispute whether the move was intended to be permanent. In the divorce and custody proceedings, Father sought to have the children live with him full-time in Alamogordo.

{3} The district court referred the case to a domestic relations hearing officer for hearing and adjudication pursuant to Rule 1-053.2. The hearing officer conducted a day-long hearing on the merits and submitted his recommendations to the district court. Of note, the hearing officer recommended joint legal custody, but that the children should reside primarily with Father in New Mexico. Mother timely filed objections to the hearing officer's recommendations and requested a hearing on three issues, including child custody. Father filed a response to Mother's objections and asked the district court to adopt the hearing officer's recommendations.

{4} Without conducting a hearing, the district court entered a final decree that adopted the hearing officer's recommendations in full. The final decree made no reference to Mother's objections. Mother initially filed a motion to reconsider, arguing that the district court violated Rule 1-053.2(H) by entering the final decree without conducting a hearing and without making an independent determination of Mother's objections. Two days later, however, Mother withdrew the motion and filed a notice of appeal instead. Mother also submitted an emergency motion to stay enforcement of judgment pending appeal.

{5} The district court held a hearing on Mother's emergency motion to stay approximately three weeks later. The district court began the hearing by addressing the issue of Mother's objections, stating that it wanted to make a record with regard to the objections. The district court stated that it viewed the hearing requirement in Rule 1-053.2(H)(1)(b) as discretionary and had made a determination that a hearing was not necessary to resolve the objections in this case. The court stated that it adopted the hearing officer's recommendations after reviewing the record and the parties' filings.

{6} After Mother's attorney made a brief record of why he believed a hearing was required, Father's attorney argued that the district court had, in fact, conducted a hearing pursuant to Rule 1-053.2(H)(1)(b) because the court had reviewed the record and made an independent determination to adopt the hearing officer's recommendations. Father characterized the omission as a clerical mistake and made an oral motion to amend the final decree pursuant to Rule 1-060(A) NMRA to reflect that the court had reviewed the objections, made an independent review of the record, and determined that an evidentiary hearing was not necessary. The district court agreed and granted Father's oral motion.

{7} The district court entered an amended final decree, which differed from the original decree only in that it stated the district court had "conducted an independent review hearing under [Rule] 1-053.2(H)(1)(b), which included proper review of [Mother's] Objections, an independent review of the record, an independent determination that an additional evidentiary hearing and oral argument was unnecessary," and that it "made an independent determination to approve and adopt the Recommendations of the Hearing Officer." The amended final decree also expressly denied Mother's objections. Mother appeals.

DISCUSSION

{8} The issue presented in this appeal requires us to interpret a rule of civil procedure, a matter we review de novo. *See Becenti v. Becenti*, 2004-NMCA-091, ¶ 6, 136 N.M. 124, 94 P.3d 867. "We approach the interpretation of rules adopted by the Supreme Court in the same way that we approach the interpretation of legislative enactments, by seeking to determine the underlying intent[.]" *State v. Miller*, 2008-NMCA-048, ¶ 11, 143 N.M. 777, 182 P.3d 158. "We first look to the language of the rule, and if the rule is unambiguous, we give effect to its language and refrain from further interpretation." *Rodriguez ex rel. Rodarte v. Sanchez*, 2019-NMCA-065, ¶ 12, 451 P.3d 105 (alteration, internal quotation marks, and citation omitted). We also seek guidance from the rule's history and background, *see Allen v. LeMaster*, 2012-NMSC-001, ¶ 11, 267 P.3d 806, and when dealing with a rule that has been amended, as is the case with Rule 1-053.2, "the amended language must be read within the context of the previously existing language, and the old and new language, taken as a whole, comprise the intent and purpose of the statute or rule." *Rodriguez*, 2019-NMCA-065, ¶ 12 (internal quotation marks and citation omitted). "When the Supreme Court amends its rules, we presume it is aware of this Court's and its own existing interpretations of the rules and that it intends to change or clarify existing law governing procedural practice in state courts." *Id.*

I. Rule 1-053.2

{9} Rule 1-053.2 sets forth the procedure a district court must follow after receiving a domestic relations hearing officer's recommendations. The subsection of the rule at issue in this appeal was added in 2006 following this Court's decision in *Buffington v. McGorty*, 2004-NMCA-092, ¶¶ 29-30, 136 N.M. 226, 96 P.3d 787, which held that due process requires that parties be given an opportunity to submit objections to a hearing officer's report and recommendations and outlined the procedure for addressing them. We begin with an overview of our holding in *Buffington* as it informs our understanding of the subsequent amendments to the rule.

{10} Before *Buffington*, Rule 1-053.2 addressed only the duties and powers of domestic relations hearing officers and "did not provide a means for a party who disagreed with the recommendations of the hearing officer to voice those objections to the judge who was to consider whether to adopt the recommendations." Rule 1-053.2 comm. cmt.; *see also Buffington*, 2004-NMCA-092, ¶ 30 (noting that the prior version of Rule 1-053.2 "contain[ed] no express provision giving the parties a right to object to the report and recommendations of the hearing officer"). We took issue with this aspect of the former rule, holding that "it is required that the parties be given an opportunity to submit objections to a hearing officer's report and recommendations. This is fundamental to the due process concept of having an opportunity to be heard by a judicial officer." *Buffington*, 2004-NMCA-092, ¶ 30.

{11} *Buffington* also discussed the necessity of holding "a hearing on the merits of the issues before the [district] court, including the hearing officer's recommendations and the parties' objections thereto." *Id.* ¶ 31. While noting that the nature of the hearing and review to be conducted is discretionary, *Buffington* stated that "the record of the hearing held before the district court must demonstrate that the court in fact considered the objections and established the basis for the court's decision." *Id.* This process, the Court noted, "is implicit in the requirement of the Rule that all orders must be signed by a district judge before the recommendations of a domestic relations hearing officer become effective[,]" and serves two important functions. *Id.* (alteration, internal quotation marks, and citation omitted). First, "the parties are assured that the issues have been decided by a judge vested with judicial power." *Id.* (noting that "[t]he hearing officer assists the district court in determining the factual and legal issues, and the core judicial function is independently performed by the district judge"). Second, "an appropriate record is made to allow for appellate review of the district court's decision." *Id.*

{12} The New Mexico Supreme Court subsequently amended Rule 1-053.2 and codified the common law requirements announced in *Buffington* as express provisions in the rule. Rule 1-053.2 now provides a comprehensive procedure for district court proceedings after the court receives the domestic relations hearing officer's recommendations. It states:

> [T]he court shall take the following actions:
>
> (1) **Review of recommendations.**
>
> (a) The court shall review the recommendations of the domestic relations hearing officer and determine whether to adopt the recommendations.
>
> (b) If a party files timely, specific objections to the recommendations, *the court shall conduct a hearing appropriate and sufficient to resolve the objections.* The hearing shall consist of a review of the record unless the court determines that additional evidence will aid in the resolution of the objections.
>
> (c) The court shall make an independent determination of the objections.
>
> (d) The court may adopt the recommendations, modify them, reject them in whole or in part, receive further evidence, or recommit them to the domestic relations hearing officer with instructions.
>
> (2) **Findings and conclusions; entry of final order.** *After the hearing*, the court shall enter a final order. When required by Rule 1-052 NMRA, the court also shall enter findings and conclusions.

Rule 1-053.2(H) (emphases added).

II. The Hearing Requirement

{13} With this history in mind, we turn to the parties' competing interpretations of the hearing requirement in Rule 1-053.2(H)(1)(b). Mother argues that the rule plainly requires the district court to "conduct a hearing," a term that connotes a court session where the district court will hear arguments or take evidence. Father argues that a court session is not required and states that in some circumstances, "an appropriate hearing consists of a thorough review of the written record." The parties' differing views stem from the fact that they assign different meanings to Rule 1-053.2(H)(1)(b)'s second sentence—construing it either as a statement that the hearing need not be evidentiary, as Mother argues, or a definition of the term "hearing," as Father argues. As we explain, Mother's interpretation is the most plausible expression of the drafter's intent, and we adopt it here.

{14} We begin by examining the language used in the in Rule 1-053.2(H)(1)(b), giving the words their ordinary meaning. *See Flores v. Herrera*, 2016-NMSC-033, ¶ 8, 384 P.3d 1070. At the outset, we note that although the phrase "conduct a hearing" is ubiquitous in cases, statutes, and rules, we have found no authority construing or defining what it means generally. New Mexico courts have previously considered what it means to "hear" a case and have concluded that "the district court is not necessarily required to conduct an adjudicatory hearing in order to 'hear' a case, although it may if it so desires." *N.M. Transp. Dep't v. Yazzie*, 1991-NMCA-098, ¶¶ 11-12, 112 N.M. 615, 817 P.2d 1257 (evaluating what "shall hear the case" means according to NMSA 1978, Section 66-8-112(G) (1991, amended 2015)). This Court noted in *Yazzie* that " '[h]earing' has been defined in older New Mexico decisions as every step where the judge is called upon to rule for or against any party." 1991-NMCA-098, ¶ 12. We drew the definition from *State ex rel. Shufeldt v. Armijo*, 1935-NMSC-078, 39 N.M. 502,

50 P.2d 852, *overruled on other grounds by Gray v. Sanchez*, 1974-NMSC-011, ¶ 12, 86 N.M. 146, 520 P.2d 1091, where the New Mexico Supreme Court evaluated whether an affidavit seeking to disqualify a district court judge was timely filed under the disqualification statute then in force. The statute required the affidavit to be filed at least ten days before the beginning of the court's term, "if said case is at issue." *Id.* ¶ 11 (emphasis and internal quotation marks omitted). The Court had previously interpreted the quoted phrase to mean "an action or proceeding to be tried *or heard*." *Id.* ¶ 12 (emphasis added) (internal quotation marks and citation omitted). The Court adopted a broad definition for "tried or heard," stating:

> A hearing is contemplated. Whether such hearing be on a motion, demurrer, plea, or answer is immaterial. It is a hearing on an "issue." In a broad sense, a hearing includes every step therein where the judge is called upon to rule for or against any party to the cause. It is the judicial examination of the "issue" in the broad sense that is contemplated by [the disqualification statute].

Id. ¶ 13. The Court then held that an affidavit is timely only if filed before the district court has made any ruling on any litigated or contested matter whatsoever in the case. *Id.* ¶ 14.

{15} In the few unpublished cases that have since applied this definition, none have considered what it means to "conduct a hearing," nor have they addressed a rule or statute that specifically requires the district court do so. *See Britton v. Off. of Att'y Gen.*, 2019-NMCA-002, ¶ 24, 433 P.3d 320 (stating that "[t]he general rule is that cases are not authority for propositions not considered"). We agree with Mother, however, that the common understanding of the phrase is that parties are afforded an opportunity to appear before the judge and present argument. That understanding finds support in both the legal and the nonlegal definitions of the term "hearing." *See Hearing*, *Black's Law Dictionary* (11th ed. 2019) (defining "hearing" as "[a] judicial session, [usually] open to the public, held for the purpose of deciding issues of fact or of law, sometimes with witnesses testifying"); *Hearing*, Merriam-Webster Dictionary, http://www.merriam-webster.com/dictionary/hearing (last visited Sept. 28, 2021) (defining "hearing" as "listening to arguments"); *see also State v. Rogers*, 1926-NMSC-028, ¶ 24, 31 N.M. 485, 247 P. 828 (noting that "*Webster's New International Dictionary* defines 'hearing' as 'a listening to facts and evidence, for the sake of adjudication' "); *Lopez v. K. B. Kennedy Eng'g Co.*, 1981-NMCA-011, ¶ 5, 95 N.M. 507, 623 P.2d 1021 (collecting definitions of "hearing" from other jurisdictions, including that "[a] hearing ordinarily is defined, in matters not associated with full trials, as a proceeding in which the parties are afforded an opportunity to adduce proof and to argue, in person or by counsel, as to the inferences flowing from the evidence" (internal quotation marks and citation omitted)).

{16} While the ordinary and usual meaning of a word or phrase is an important consideration in the construction of a rule, *Blue Canyon Well Ass'n v. Jevne*, 2018-NMCA-004, ¶ 9, 410 P.3d 251, we must determine whether our Supreme Court intended a different meaning in Rule 1-053.2(H)(1)(b)'s second sentence, which states, "The hearing shall consist of a review of the record unless the court determines that additional evidence will aid in the resolution of the objections." According to Mother, "[t]he second sentence of the rule implies that at the required hearing, the district court may decide whether to take evidence." Father acknowledges the same, writing that "[t]he [r]ule establish[ed] a presumption that new evidence need not be taken unless the district court finds that the particular circumstances . . . demand an evidentiary hearing." However, Father also argues that "[t]he [c]ommittee [c]ommentary makes clear . . . that the 'hearing' referred to in *Buffington* 'need not always consist of oral presentations before the court.' When written objections and responses have been submitted and the nature of the objections do not require either additional evidence or oral argument for their resolution, an appropriate hearing consists of a thorough review of the written record."

{17} The committee commentary states:

> Rule 1-053.2(H)(1)(b) . . . mandates a hearing to consider the recommendations and the objections. The *Buffington* [C]ourt noted that the nature of the hearing and review to be conducted by the district court will depend upon the nature of the objections being raised. Rule 1-053.2(H)(1)(b) . . . provides this flexibility but *creates a presumption that the hearing will consist of a review of the record rather than a de novo proceeding*. However, the court has discretion in all cases to determine that a different form of hearing take place, including a de novo proceeding at which evidence is presented anew before the court, or a hearing partly on the record before the hearing officer. *The required hearing need not always consist of oral presentations before the court*. When appropriate and sufficient to resolve the objections, the court may rely on written presentations of the parties. *See Nat[']l Excess Ins*[.] *Co. v. Bingham*, 1987-NMCA-109, ¶ 9, 106 N.M. 325, 742 P.2d 537 (noting that summary judgment motions may be resolved without oral argument "when the opposing party has had an adequate opportunity to respond to movant's arguments through the briefing process").

Rule 1-053.2 comm. cmt. (emphases added) (alteration, internal quotation marks, and citation omitted).

{18} Like the committee commentary, Father relies on *National Excess* as support for the proposition that oral argument is not required. For several reasons, we perceive a conflict in applying our holding in *National Excess* to interpret Rule 1-053.2(H)(1)(b). *See State v. Barber*, 2004-NMSC-019, ¶ 10 n.1, 135 N.M. 621, 92 P.3d 633 (stating that "committee commentary is not binding authority" and will yield to controlling authority in the event of a conflict). *National Excess* dealt specifically with a motion for summary judgment under Rule 1-056 NMRA—a rule that contains no express requirement that the district court conduct a hearing to resolve the motion. Thus, our holding that "the court may, but is not required to, hold an oral hearing" posed no conflict with the rule itself. *Nat'l Excess Ins. Co.*, 1987-NMCA-109, ¶ 9. And while we used the term "oral hearing," there is nothing in our holding to suggest that the district court's review of the parties' written submissions somehow constituted a "hearing." *See id.* On the contrary, the authority we relied upon for our holding recognizes that a local federal rule "permits the trial judge to dispense with a hearing at his discretion." *Nolan v. C. de Baca*, 603 F.2d 810, 812 (10th Cir. 1979); *see also Shearer v. Homestake Mining Co.*, 557 F. Supp. 549, 556 (D.S.D. 1983) ("[Federal Rule of Civil Procedure] Rule 56(c) does not mandate a hearing, and one was not required when the file contains substantial legal memoranda and discovery matters, and when no request for a hearing was made prior to the ruling."). Consequently, our holding in *National Excess* does not stand for the proposition that a court can "conduct a hearing" by reviewing the written record; it stands for the proposition that in some circumstances, a hearing is not required at all. Given these distinctions, we are not persuaded that written objections filed pursuant to Rule 1-053.2(G) can or should be given the same treatment as a motion

for summary judgment under Rule 1-056.

{19} Our own evaluation of the rule's language leads us to conclude that Father's interpretation would lead to an absurd result. If we were to construe the second sentence of Rule 1-053.2(H)(1)(b) to mean that a district court "conducts a hearing" by "conducting a review of the record," then the mandatory language in that sentence—"The hearing *shall* consist of a review of the record *unless* the court determines that additional evidence will aid in the resolution of the objections"—would mean that the district court cannot conduct anything other than a record review unless the court determines that an evidentiary hearing is necessary. This limitation would prevent the court from conducting more informal types of hearings where argument, but not evidence, is presented. Put differently, this interpretation would foreclose parties from appearing before their judge unless the court determines that an evidentiary hearing is necessary. Such an interpretation runs counter to the flexibility envisioned by this Court in *Buffington*, and we find no indication that our Supreme Court intended to curtail the district court's discretion in such a manner when it amended Rule 1-053.2(H).

{20} To be sure, interpreting Rule 1-053.2(H)(1)(b) to always require a hearing also constrains a district court's discretion, but that interpretation better aligns with the language and purpose of our holding in *Buffington* and the corresponding rule changes. At bottom, the procedural changes articulated in *Buffington* were designed to ensure that parties had an avenue to address objections to a hearing officer's report and recommendations with the district court. As this Court noted, hearing officers assist the district court in determining the factual and legal issues presented in domestic relations cases, but the core judicial function must always be performed by the judge. *Buffington*, 2004-NMCA-092, ¶¶ 30-31. Even so, by rule, domestic relations hearing officers may perform any duties assigned by the judges of the district in domestic relations proceedings, *see* Rule 1-053.2(A), and in practice, hearing officers may field *all* hearings in domestic relations cases, up to and including the final merits hearing, as the two-and-a-half-year record in this case demonstrates. Rule 1-053.2(C). When *Buffington* articulated that parties have a right to raise objections to the hearing officer's recommendations with the district court, this Court also provided that the district court must conduct a hearing on the objections, thus ensuring that the parties have an opportunity to appear before the district judge at least once before the court reaches a final decision on contested matters. This allows the parties to engage with the judge directly during the final, critical stage of their case when the judge performs the "core judicial function" required by *Buffington*. 2004-NMCA-092, ¶ 31. This is not inconsequential when the objections involve matters of fundamental concern, such as custody of the parties' children or long-term financial obligations.

{21} Viewed in this light, construing Rule 1-053.2(H)(1)(b) to require a hearing, rather than a file review, on objections to a hearing officer's recommendations in domestic relations cases is not unreasonable. Indeed, this sort of judicial session is precisely what this Court described in *Buffington* when we said that "[t]he district court must then *hold a hearing* on the merits" and that "*the record of the hearing held before the district court* must demonstrate that the court in fact considered the objections and established the basis for the court's decision"—statements that indicate a party's objections would be addressed on the record in a judicial proceeding. 2004-NMCA-092, ¶ 31 (emphases added).[1]

{22} Ultimately, it is for the district court to determine the nature and the extent of the hearing so long as the court ensures, at a minimum, that the parties are permitted to appear on the record to address the merits of the objections. *Buffington*, 2004-NMCA-092, ¶ 31. As the committee commentary makes clear, the district court has inherent discretion to determine whether it will conduct the merits hearing de novo, whether new evidence may be introduced, or whether the hearing will simply consist of a less formal nonevidentiary, on-record proceeding.[2]

III. The District Court Erred by Not Conducting a Hearing

{23} Turning to the proceedings at issue in this case, the parties do not dispute that the district court's initial final decree failed to comport with the requirements of Rule 1-053.2. The final matter we address is Father's contention that the October 1 hearing and the amended final decree corrected the problem.

{24} The October 1 hearing was noticed to address Mother's emergency motion for a stay. Before turning to that motion, the district court stated that it wanted to make a record with regard to the court's adoption of the hearing officer's recommendations. The district court stated first that Rule 1-053.2 did not require a hearing. The court then stated that it had reviewed the record, the hearing officer's recommendations, Mother's objections, and Father's response, and "made a determination that a hearing was not necessary . . . to resolve anything." The district court did not address the merits of Mother's objections or discuss the basis of its decision other than to say that "the objections really were a disagreement with what [the] hearing officer . . . ruled" and, more generally, that the court's review of the record supported the hearing officer's recommendations. *See, e.g.*, *Buffington*, 2004-NMCA-092, ¶ 31 (stating that the record of the hearing must establish the basis for the court's decision). The district court allowed Mother's attorney to make a record of why he believed a hearing was necessary but did not afford him the opportunity to substantively address the merits of Mother's objections.

{25} On the whole, the October 1 hearing did not function as a hearing on the merits of Mother's objections and was thus insufficient to satisfy the requirements of Rule 1-053.2(H)(1)(b) and *Buffington*, 2004-NMCA-092, ¶ 31. Because the hearing requirement is mandatory in Rule 1-053.2(H)(1)(b) and as a prerequisite to the court's entry of a final order, *see* Rule 1-053.2(H)(2) ("*After the hearing*, the

[1] The dissent disagrees with this analysis, concluding that the plain language interpretation of the term "hearing" is contrary to the intent and purpose of Buffington and imposes a "new requirement" that will result in delay and waste of judicial resources. On the first point, this Court in Buffington and our Supreme Court in Rule 1-053.2(H)(1)(b) used a specific and commonly understood term to describe the district court's duties after receiving objections—both Courts stated that the district court must "hold" or "conduct" a "hearing." If either Court had intended that a district court could rule based only on the parties' written submissions, they could have said so plainly using any number of other terms—such as that the district court shall "consider," "review," or even "hear" a party's objections—but they did not, and we must give effect to the specific language chosen by our Supreme Court and used in the rule. The dissent's second point—that this Court is imposing a "new" requirement that will unduly burden the district courts' dockets—is grounded in the premise that district courts may not be conducting the type of proceedings described in this opinion already. The fact is, we have no data beyond the record in this case, and we are therefore in no position to determine whether the mandate in the current rule is impractical for the system as a whole. In our view, that determination is best made through the committee rulemaking process.

[2] Given our holding that a hearing is required by the rule itself, we need not address the parties' arguments regarding whether a hearing is otherwise required by due process considerations.

court shall enter a final order." (emphasis added)), we reverse the district court's entry of both the initial and amended final decree.

{26} Further, because our holding on this issue is dispositive, we do not reach the remaining issues raised in Mother's appeal concerning the district court's jurisdiction to amend the final decree after Mother's notice of appeal and whether Mother received an adequate opportunity to object to the form of order. *See, e.g.*, *Living Cross Ambulance Serv., Inc. v. N.M. Pub. Regul. Comm'n*, 2014-NMSC-036, ¶ 1, 338 P.3d 1258.

CONCLUSION

{27} We reverse the district court's entry of the initial and amended final decree of dissolution of marriage and division of assets, debts, and custody and remand this case to the district court to conduct a hearing on the merits of Mother's objections.

{28} IT IS SO ORDERED.

MEGAN P. DUFFY, Judge

I CONCUR:

SHAMMARA H. HENDERSON, Judge

KRISTINA BOGARDUS, Judge (concurring in part and dissenting in part)

BOGARDUS, Judge (concurring in part and dissenting in part).

{29} Although I concur in the result of the majority opinion, I do so because I believe, based on the specific facts at issue, that the district court did not comply with Rule 1-053.2's requirement that the district court consider a party's objections and independently determine them. *See* **Rule 1-053.2(H)(1)(b), (c). I write separately because I respectfully dissent from the majority's conclusion that the language of the rule requires an in-person hearing every time a party files objections to a domestic relations hearing officer's recommendations. In my view, the majority misreads the rule, gives little weight to the analysis in *Buffington*, 2004-NMCA-092, ¶¶ 31-32, and does not give sufficient consideration to a district court's broad discretion to manage its docket. The majority's construction of the rule in this case, a rule that has been in place for many years, will result in wasted judicial resources, increased costs to litigants, and cause needless delay in those cases in which a party's objections can easily be disposed of with review of the record without further oral argument by the parties. My opinion is also informed by the nature of domestic relations cases where delay caused by the necessity for an in-person hearing can be especially harmful in the context of child custody issues and may encourage gamesmanship among the parties.**

IV. Reversing and Remanding Is Appropriate in This Case

{30} As the majority's opinion describes, the district court initially entered its order adopting the hearing officer's recommendations without comment and without reference to Mother's objections. There is no evidence in the district court's final decree that it considered and made an independent determination of Mother's objections at that time. After the hearing on Mother's emergency motion to stay the enforcement of judgment, the district court's amended final decree acknowledged Mother's objections but did not adequately establish its reasoned basis for denying the objections, because the amended final decree's only addition was to state that it complied with the requirements of Rule 1-053.2(H)(1)(b), without sufficiently demonstrating that the district court had performed the necessary judicial function of reviewing the objections, the record, and making an independent determination. *See Lujan ex rel. Lujan v. Casados-Lujan*, 2004-NMCA-036, ¶ 19, 135 N.M. 285, 87 P.3d 1067 (expressing "grave concern if . . . district judges are presented with stick noted orders that they automatically sign" (internal quotation marks omitted)); *see also Buffington*, 2004-NMCA-092, ¶ 31 (emphasizing that a district court exercises its core judicial function by considering a party's objections to a hearing officer's recommendations and establishing the basis for its decision before signing an order based on those recommendations). The district court's actions in this case provide sufficient basis for reversing and remanding for further proceedings because the procedure followed by the district court did not comply with the applicable rule nor with the intent of *Buffington*. *See* Rule 1-053.2(H); *Buffington*, 2004-NMCA-092.

{31} The rule requires that the district court independently "review the recommendations of the domestic relations hearing officer and determine whether to adopt the recommendations." Rule 1-053.2(H)(1)(a). Although "[t]he nature of the hearing and review to be conducted by the district court will depend upon the nature of the objections being considered[,]" the district court must demonstrate that it reviewed the objections and arrived at a reasoned basis for its decision. *Buffington*, 2004-NMCA-092, ¶ 31. Because of the district court's failure in this regard, demonstrated by its initial lack of review and its cursory review in response to Mother's motion to reconsider, I agree with the majority's conclusion that reversing and remanding for a hearing to consider Mother's objections is appropriate.

V. Rule 1-053.2(H) Does Not Require an In-Person Hearing in Front of a Judge to Resolve a Party's Objections to Recommendations by the Hearing Officer

{32} My fundamental disagreement with the majority's view is with its analysis of Rule 1-053.2(H)(1)(b), which, according to the majority, requires an in-person hearing to resolve a party's objections to a hearing officer's recommendations. The rule emphasizes that generally, once a party files timely and specific objections, the district court has broad discretion to decide the nature of the hearing necessary to resolve a party's objections to a hearing officer's recommendations. *See id.* ("[T]he court shall conduct a hearing *appropriate and sufficient* to resolve the objections." (emphasis added)). The rule continues by specifying that the hearing "shall consist of a review of the record[.]" *Id.* The plain language of these two clauses establish that the hearing must be "appropriate and sufficient," yet does not require in-person attendance of the parties. *Id.* The rule then explains that such an appropriate and sufficient hearing "shall consist of a review of the record unless the court determines additional evidence will aid in the resolution." *Id.*

{33} The majority contends that the rule's language restricts the district court's discretion so that an in-person hearing, for example, to entertain further legal argument, is foreclosed unless additional evidence is necessary to make its determination. I disagree that the clause is so limiting, when considered with the previous sentence that establishes the court's broad discretion to fashion the appropriate type of hearing necessary under the circumstances to resolve the objections. In my opinion, the limitation described by the phrase "shall consist of a review of the record" establishes that district court's review is limited to the record created by the hearing officer, that is, the evidence and argument on which the hearing officer based the recommendations.

{34} This portion of the rule contains no language that prohibits the district court from holding an in-person hearing, if it so chooses, to discuss the record before it and to consider the parties' arguments relating to the evidentiary record developed by the hearing officer, even if the district court determines that additional evidence is not necessary. This construction of Rule 1-053.2(H)(1)(b) is also in harmony with another section, Rule 1-053.2(H)(1)(d), which grants the district court additional discretion to accept, modify, reject some or all, receive further evidence, or send all or some

of the recommendations back to the hearing officer with instructions. In sum, Rule 1-053.2(H)(1) is crafted to allow the district court maximum flexibility in handling objections to a hearing officer's recommendations, whether that means relying solely on the parties' written submissions, setting an in-person hearing to entertain additional argument and/or obtain further evidence, modifying the hearing officer's recommendations, or by sending the recommendations back to the hearing officer for further proceedings. The rule's overall emphasis on judicial discretion is consistent with my interpretation that an in-person hearing is not required.

{35} To read the rule as the majority does, that is, to require an in-person hearing in front of the judge any time objections are raised to a hearing officer's recommendations, fails to give sufficient weight to the broad discretionary power granted in the first sentence of Rule 1-053.2(H)(1)(b) and in Rule 1-053.2(H)(1) generally. Such discretion is vital in domestic relations matters in particular, given the reliance on hearing officers to consider and make recommendations on a number of issues throughout the progression of such cases, which typically have multiple, significant issues to decide. In this case, for example, before making the final recommendations on child custody, support, and property division, the hearing officer made recommendations to the court regarding a motion for bifurcation and reserving legal issues for trial and regarding a dispute over summer visitation. In even more complicated domestic relations cases than this one, the hearing officer's recommendations could be numerous and extensive, raising the possibility that many in-person hearings will be necessary to resolve objections, which will have an impact on the court's docket and the timeliness of scheduling hearings. Construing this rule as the majority does, in my view, is contrary to the intent of the rules governing civil litigation. *See* Rule 1-001(A) NMRA (noting that the rules of civil procedure are to be construed to "secure the just, speedy and inexpensive determination of every action").

{36} My analysis of the rule is also consistent with the concerns raised and the analysis provided in *Buffington*, which recognized that flexibility in application of this portion of the rule is necessary when it noted that "[t]he nature of the hearing and review to be conducted by the district court will depend upon the nature of the objections being considered[,]" so long as the procedure used demonstrates to the parties "that the issues have been decided by a judge vested with judicial power and an appropriate record is made to allow for appellate review." 2004-NMCA-092, ¶ 31. Interpreting Rule 1-053.2(H)(1)(b) to require an in-person hearing every time objections are raised is contrary to *Buffington*'s support for a flexible procedure that should be tailored by the court to the particular situation.

{37} The majority states that "[u]ltimately, it is for the district court to determine the nature and extent of the hearing, so long as the court ensures, at a minimum, that the parties are permitted to appear on the record to address the merits of the objections." Maj. Op. ¶ 22. Based on this interpretation, nothing prevents a district court, however, from complying with this requirement by holding a very brief hearing, allowing the objecting party a minimal opportunity to state objections, and then rendering its decision. In that way, the new requirement created by the majority in this opinion would be satisfied, with little additional benefit to the parties, but with the attendant delay, expense, and use of resources associated with the requirement of holding an in-person hearing.

{38} For these reasons, I concur in the result only and respectfully dissent from the majority's analysis.

KRISTINA BOGARDUS, Judge

From the New Mexico Court of Appeals

Opinion Number: 2022-NMCA-014
No: A-1-CA-37894 (filed November 29 2021)

NUCLEAR WASTE PARTNERSHIP, LLC
and UNITED STATES on behalf of UNITED
STATES DEPARTMENT OF ENERGY,
Applicants-Appellees,
v.
NUCLEAR WATCH NEW MEXICO
and SOUTHWEST RESEARCH AND
INFORMATION CENTER,
Protestants-Appellants,
and
STEVE ZAPPE and HAZARDOUS WASTE
BUREAU,
Protestants,
IN THE MATTER OF THE DRAFT
HAZARDOUS WASTE FACILITY PERMIT
FOR CALCULATING FINAL DISPOSAL
VOLUMES WASTE ISOLATION PILOT
PLANT EPA ID NO. NM4890139088.

APPEAL FROM THE NEW MEXICO ENVIRONMENT DEPARTMENT
Butch Tongate, Cabinet Secretary

Released for Publication March 22, 2022.

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OPINION

BOGARDUS, Judge.

{1} Appellants Southwest Research and Information Center and Nuclear Watch New Mexico appeal the order of the Secretary of the New Mexico Environment Department (NMED) approving a permit modification request that modified the method by which Appellees Nuclear Waste Partnership LLC (NWP) and the U.S. Department of Energy (DOE) track waste volumes disposed of at a radioactive waste repository. Appellants argue that the administrative Hearing Officer, Max Shepherd (the Hearing Officer), should have been disqualified and that NMED's order was contrary to law, arbitrary and capricious, and an abuse of discretion. Finding no error,[1] we affirm.

BACKGROUND

{2} The following undisputed facts[2] are reflected in the Hearing Officer's report, which was adopted by NMED. The underlying permit request addresses the method of volumetric measurement for Transuranic (TRU) waste disposed of at a federal repository for radioactive waste material.

{3} For shipping and safety reasons, this waste is often packaged inside multiple containers, with an inner waste container placed inside a larger container, a process characterized as "overpacking."[3] At issue here is whether the volume of the waste should be calculated and tracked based on the size of the inner waste container or based on the larger outer container, which includes significant "void space [between the inner and outer container] made of air and/or dunnage (inert material), which is not waste."

[1] Appellants' briefing cited to the administrative record rather than the record proper, in violation of Rule 12-318(A)(3) NMRA, which needlessly complicated our review, especially given that the record proper contained 104 volumes. Appellants are reminded to comply with this rule in the future.

[2] Although Appellants note in their briefing that some of the Hearing Officer's findings of fact failed to cite to the record, Appellants do not argue that any of the specific findings were not supported by substantial evidence and characterize the issues on appeal as "legal, not factual." Thus, we accept that the Hearing Officer's findings of facts, as adopted by NMED's order, are supported by substantial evidence. See Rule 12-318(A)(3).

[3] See appendix for diagrams of overpacked containers (Exhibits D & E).

The outer container volume equates to 30 percent greater volume based on packaging.

{4} The containers are disposed of at the Waste Isolation Pilot Plant (WIPP). WIPP is an underground federal repository for radioactive waste material located in New Mexico. WIPP was authorized to "demonstrate the safe disposal of radioactive waste materials generated by atomic energy defense activities" and "isolate and dispose of DOE's inventory of defense [TRU] waste in a manner that protects public health and the environment." The WIPP facility consists of Hazardous Waste Disposal Units (HWDUs), which are underground rooms designated for the disposal of waste containers. In practice, the TRU waste disposed of at WIPP is "TRU mixed waste[,]" which contains radioactive waste mixed with hazardous waste.

I. Statutory Background

{5} Radioactive materials are regulated by DOE, pursuant to the Atomic Energy Act of 1954. Hazardous materials, by contrast, are regulated by NMED, pursuant to the Resource Conservation and Recovery Act (RCRA), which authorized the State to implement a hazardous waste program "equivalent to" the federal RCRA requirements. 42 U.S.C. § 6926(b)(1). This equivalent hazardous waste program was enacted through the New Mexico Hazardous Waste Act (HWA), NMSA 1978, Sections 74-4-1 to -14 (1977, as amended through 2018), which adopted RCRA regulations and authorized NMED to regulate WIPP and issue permits regarding storage of hazardous waste at WIPP. Thus, NMED, pursuant to its RCRA authority, "has regulatory authority over the hazardous waste portion of TRU mixed waste." NMED "manages all waste emplaced at WIPP as TRU mixed waste."

{6} With regard to the volumetric waste capacity of TRU waste at WIPP, the Waste Isolation Pilot Plant Land Withdrawal Act (LWA) of 1992, limits its total amount to 6.2 million cubic feet. Pub. L. No. 102-579, 106 Stat. 4777 as amended by Pub. L. No. 104-201, 110 Stat. 2422 (1996). The LWA, however, does not specify a volumetric calculation method for TRU waste or TRU mixed waste.

A. The Permit Modification Request

{7} As co-operators of WIPP, DOE and NWP (Permittees) held a permit to dispose of TRU mixed waste at WIPP but sought NMED approval to modify their permit. The original permit anticipated the emplacement of 6.2 million cubic feet of TRU mixed waste based on the assumption that the waste containers would be *full* of TRU mixed waste. The assumption that the containers would be full, however, proved to be incorrect. In practice, many containers shipped from the generator and storage sites were not full but rather *overpacked*, as described above. Because the permit incorrectly assumed the containers would be full of TRU mixed waste, this "creat[ed] a de facto limit that could result in underutilizing the WIPP facility." Before the permit modification at issue, the method of determining the volume of TRU mixed waste at WIPP was not explicitly stated in the permit.

{8} Permittees submitted to NMED a permit modification request (PMR[4]), proposing two distinct methods for measuring waste volume to distinguish between TRU mixed waste and TRU waste. Following public notice, meetings, and comments, the Hearing Officer issued a report recommending the creation of two distinct volume calculation methods in the permit, stating, "The first type of calculation [based on TRU mixed waste] is based on the outermost disposal container and . . . pertains to RCRA requirements. "The second type of calculation is based on the [TRU] waste inside the disposal containers and pertains to the LWA capacity limit." The Hearing Officer reasoned that the outer container volume "is only significant for the emplacement footprint of waste" in an HWDU at the WIPP—because HWDUs have a maximum physical capacity—whereas only the volume of TRU waste *inside* the disposal container pertains to and is significant for the LWA capacity limit of 6.2 million cubic feet.

{9} The PMR did not seek an increase of WIPP's disposal capacity, but rather sought to clarify that the maximum capacity of the WIPP facility as it pertained to the Permit under RCRA was based on the TRU mixed waste capacities of the individual HWDUs rather than on the limitation established in the LWA. The Hearing Officer noted that although tracking the LWA TRU waste volume based on the inner container separately from the RCRA TRU mixed waste volume based on the outer container could theoretically increase WIPP's emplacement footprint by approximately 30 percent, the Permittees would have to submit an additional PMR to increase the footprint of WIPP. NMED adopted the Hearing Officer's recommendation and approved the PMR. Appellants contend NMED erred in approving the PMR.

DISCUSSION

II. Appellants Failed to Preserve Their Argument That the Hearing Officer Should Have Been Disqualified

{10} Appellants first argue the Hearing Officer should have been disqualified and his report and NMED's order vacated, because of his contract with NMED. Appellants contend the failure to disqualify the Hearing Officer was a "fatal flaw" in the process, denying litigants an impartial tribunal and violating their due process rights. Appellants fail to cite to any evidence establishing that the Hearing Officer's decision in this case reflected prejudice or bias; instead Appellants rely solely on the Hearing Officer's contract with NMED, which provided for payment at an hourly rate.[5] Appellants contend that payment alone provided an incentive to handle hearings to NMED's satisfaction. Appellants failed to preserve this issue by raising it below, raising it only after NMED issued its order, and we decline to reach it. *See* Rule 12-321(A) NMRA; *State v. Leon*, 2013-NMCA-011, ¶ 33, 292 P.3d 493 ("We generally do not consider issues on appeal that are not preserved below." (internal quotation marks and citation omitted)); *Pickett Ranch, LLC v. Curry*, 2006-NMCA-082, ¶ 3, 140 N.M. 49, 139 P.3d 209 (declining to reach an issue the appellant did not raise before the hearing officer).

III. NMED's Order Is Proper

{11} Appellants next argue NMED improperly ordered approval of the PMR. Under the HWA, this Court reviews an administrative order of NMED to determine whether the order is "arbitrary, capricious or an abuse of discretion; . . . not supported by substantial evidence in the record; or . . . otherwise not in accordance with law." Section 74-4-14(C). Appellants bear the burden of showing relief is warranted. *Doña Ana Mut. Domestic Water Consumers Ass'n v. N.M. Pub. Regul. Comm'n*, 2006-NMSC-032, ¶ 9, 140 N.M. 6, 139 P.3d 166. We review an agency's conclusions of law de novo. *Law v. N.M. Hum. Servs. Dep't*, 2019-NMCA-066, ¶ 11, 451 P.3d 91.

A. NMED's Order Is in Accordance With Applicable Law

{12} Appellants raise five arguments to support their contention that NMED's order approving the PMR was not in accordance with the law. Appellants contend NMED's order (1) abandons the State's authority under RCRA, (2) misinterprets the LWA, (3) creates a conflict between RCRA and the LWA, (4) DOE lacks the authority to interpret or enforce the terms of the LWA, and (5) the order violates a Consultation and Coordination agreement between the State and DOE. "The term 'not in accordance with law' involves action taken by an agency or court which is based on an error of law, is arbitrary and unreasonable, or is based on conjecture, and is inconsistent with established facts." *Perkins v. Dep't of Hum. Servs.*, 1987-NMCA-148, ¶ 22, 106 N.M. 651, 748 P.2d 24.

[4] As used throughout this opinion, "PMR" refers to the final draft version submitted to the Hearing Officer and adopted by NMED order.

[5] Appellants did not introduce the contract during the hearing, but instead included it as an exhibit to their brief in chief on appeal.

"Whether [NMED's] actions were contrary to law is a question reviewed de novo." *Smyers v. City of Albuquerque*, 2006-NMCA-095, ¶ 5, 140 N.M. 198, 141 P.3d 542. Additionally, we review an agency's rulings regarding statutory construction de novo. *Albuquerque Bernalillo Cnty. Water Util. Auth. v. N.M. Pub. Regulation Comm'n*, 2010-NMSC-013, ¶ 50, 148 N.M. 21, 229 P.3d 494. We consider each of Appellants' points in turn and conclude that none of them provide a basis for vacating NMED's order.

1. NMED's Order Is in Accordance with RCRA and the HWA

{13} Appellants argue NMED's order abandons its authority under RCRA. They contend RCRA regulations require NMED to "consider the nature and volume of the wastes proposed for disposal and how hazardous wastes might escape, and to issue a permit that protects human health and the environment[,]" and that NMED must continue to enforce a waste volume limit measured by the outer waste container, as it did for nineteen years under the previous permit. We disagree that a previous permit is not subject to change and remain unpersuaded by Appellants' argument that the revised permit is contrary to RCRA or its regulations.

{14} RCRA's primary purpose is to reduce the generation of hazardous waste and to ensure the proper treatment, storage, and disposal of that waste which is nonetheless generated, "so as to minimize the present and future threat to human health and the environment." 42 U.S.C. § 6902(b). RCRA authorizes states to administer a hazardous waste program in lieu of the federal program, as long as the state program is " 'equivalent to' [and] no less stringent than the federal [requirements]." *See* 42 U.S.C. § 6926(b) (authorizing the states to, among other things, "issue . . . permits for the storage . . . or disposal of hazardous waste)." The HWA, in turn, authorizes NMED to administer the State's hazardous waste management program consistent with RCRA. *See* § 74-4-4(A); *Sw. Rsch. & Info. Ctr. v. N.M. Env't Dep't*, 2014-NMCA-098, ¶ 9, 336 P.3d 404.

{15} Appellants point to no RCRA or HWA provision or regulation requiring that the outer container be used to measure emplacement volume. In fact, RCRA authorizes states to carry out a hazardous waste program and issue permits for storage and disposal of hazardous waste consistent with federal requirements, *see* 42 U.S.C. § 6926(b), and the HWA provides that permittees may submit permit modification requests to NMED, and that NMED is charged with issuing a decision. *See* § 74-4-4.2(D), (G)(2) (stating that "a permit may be modified at the request of the permittee" and that decision is within the purview of NMED). Because RCRA authorizes states to issue permits and the HWA authorizes NMED to modify permits, we are unpersuaded by Appellants' argument that NMED must continue to enforce the permit exactly as it has in the past. While Appellants cite RCRA regulations[6] to support their argument that NMED abandoned its authority under RCRA, these regulations neither specify that the outer container must be the lone measure of waste emplacement volume nor indicate that including additional tracking data pertaining to the inner waste container volume would adversely affect human health or the environment.

{16} We cannot say NMED's order to approve the PMR is not in harmony with its statutory authority under either RCRA or the HWA. *See Rio Grande Chapter of the Sierra Club v. N.M. Mining Comm'n*, 2003-NMSC-005, ¶ 25, 133 N.M. 97, 61 P.3d 806 (noting that the "[r]ules adopted by an administrative agency will be upheld if they are in harmony with the agency's express statutory authority or spring from those powers or may be fairly implied therefrom" (internal quotation marks and citation omitted)). The HWA, pursuant to RCRA, authorizes NMED to administer the State's hazardous waste program. *See* § 74-4-4(A); *Sw. Rsch. & Info. Ctr.*, 2014-NMCA-098, ¶ 9. This authority necessarily includes the responsibility to collect data regarding the amount of hazardous waste the HWA charges NMED with regulating. The PMR enables the NMED to collect more, not less, data by tracking the volume of the innermost waste container *in addition to* the volume of the outermost container. We therefore conclude NMED's order to approve the PMR did not abandon its authority under RCRA or the HWA and is consistent with its responsibility to monitor waste quantity.

2. NMED Did Not Erroneously Interpret the LWA

{17} Appellants also contend NMED's order misinterprets the LWA. They argue that Pub. L. No. 102-579, § 7(a)(3), 103 Stat. 4777 of the LWA requires measuring the WIPP capacity limit by the volume of the outermost waste container, as evidenced by the legislative intent behind the LWA and in light of other LWA provisions. We disagree.

{18} "Whether or not legislative history is ever relevant, it need not be consulted when . . . the statutory text is unambiguous." *United States v. Woods*, 571 U.S. 31, 46 n.5 (2013) (citing *Mohamad v. Palestinian Auth.*, 566 U.S. 449 (2012)); *accord Lion's Gate Water v. D'Antonio*, 2009-NMSC-057, ¶ 23, 147 N.M. 523, 226 P.3d 622 (stating that our Supreme Court interprets a statute and determines its legislative intent when the statute's language is ambiguous but interprets the statute as written when it is clear and unambiguous). "[W]e will not read into a statute . . . language which is not there, particularly if it makes sense as written." *Sw. Org. Project v. Albuquerque-Bernalillo Cnty. Air Quality Control Bd.*, 2021-NMCA-005, ¶ 11, 482 P.3d 1273 (internal quotation marks and citation omitted).

{19} We conclude the LWA is unambiguous, and thus interpret it as written. LWA, Pub. L. No. 102-579, § 7(a)(3), 103 Stat. 4777 establishes the total storage capacity for TRU waste by volume: "6.2 million cubic feet of transuranic waste." *Id.* The LWA does not specify a method for measuring TRU waste volume. Neither does the statute's definition of "transuranic waste"[7] specify a method for measuring TRU waste volume or include discussion of void space or dunnage materials within the outermost container. *See* Pub. L. No. 102-579, § 2(20), 106 Stat. 4777. Congress certainly could have inserted language in the 1996 amendment to the LWA specifying how TRU waste would be measured or language defining TRU waste in a manner that would require inclusion of void space or dunnage materials within the outermost container. No such language was included, and we decline to read such language into the Act. *See Rio Grande Chapter of the Sierra Club*, 2003-NMSC-005, ¶¶ 24-26 (declining to read language into a statute silent as to a particular issue but instead reading the statute as "simply . . . not address[ing]" that issue and determining that an agency's interpretation of the statute fell within its statutory authority). Nor do Appellants point to another LWA provision that specifies that TRU waste volume must be calculated by measuring the outer container volume.[8] Having determined that the plain language of the statute specifies a waste capacity limit but simply does not address a particular method for calculating that limit, a circumstance quite similar to that our New Mexico Supreme Court encountered in *Rio Grande Chapter of the Sierra Club*, *see id.*, we cannot find ambiguity in language that is simply not in the statute.

[6] These RCRA regulations have been adopted as HWA regulations. See, e.g., 20.4.1.200 NMAC (adopting 40 C.F.R. § 261 (1980)); 20.4.1.500 NMAC (adopting 40 C.F.R. § 264 (1980)); 20.4.1.900 NMAC (adopting 40 C.F.R. § 270 (1983)).

[7] Defining "transuranic waste" as "waste containing more than 100 nanocuries of alpha-emitting transuranic isotopes per gram of waste, with half-lives greater than [twenty] years," subject to several exceptions, not relevant here. Pub. L. No. 102-579, § 2(20), 106 Stat. 4777, as amended by Pub. L. No. 104-201, § 3182 (1992 and 1996).

Because we conclude the statute is unambiguous, and that there is no basis to conclude that the NMED order runs afoul of language contained within the LWA, we need not reach Appellants' arguments regarding the LWA's legislative history or intent regarding waste volume calculation. *See Lion's Gate Water*, 2009-NMSC-057, ¶ 23. Accordingly, we conclude NMED did not erroneously interpret the LWA.

3. NMED's Order Does Not Create a Conflict Between RCRA and the LWA

{20} Appellants argue NMED is "obligated to avoid finding a statutory conflict" between RCRA and the LWA and instead "must strive to give effect to both statutes." To the extent a conflict does exist between RCRA and the LWA, Appellants contend RCRA would prevail. Having determined that neither RCRA nor the LWA specifies a method for measuring waste emplacement volume at WIPP, we conclude the PMR does not conflict with either statute. Instead, the PMR provides for two distinct methods for calculating waste, which correspond to two distinct purposes: (1) tracking innermost container volumes, which relates to the LWA's 6.2 million cubic feet TRU waste capacity limit; and (2) tracking outermost container volumes, which relates to the physical capacity of individual HWDUs. The PMR thus continues to track the outermost container volume, but incorporates additional data tracking the innermost container volume.

{21} Appellants argue "DOE's proposed interpretation would change a longstanding and controlling interpretation without any explanation, contrary to law." Appellants contend that "[n]either DOE nor NMED has offered a reasoned explanation for changing the interpretation of the LWA limit,"[9] and the "facts have not changed since the 1980's, when DOE relied on container volume.[10] We disagree.

{22} Although DOE has historically measured and reported waste volume based on the volume of the outermost container, as we previously noted, the permitting process allows for permit modifications over time to address changed circumstances. *See* § 74-4-4.2(D) (authorizing NMED to modify permits); § 74-4-4.2(G)(2) (stating that a "permit may be modified at the request of the permittee for just cause as demonstrated by the permittee"). DOE and NMED offered a reasoned explanation for the PMR. The Hearing Officer found that "DOE has explained in the PMR that the assumptions upon which the original method of measuring waste emplaced in WIPP have[,] with experience[,] proven to be wrong and without the changes embodied in the PMR the DOE will not be able to complete the purpose for which WIPP was authorized by Congress." Because the original permit incorrectly assumed that the containers would be full of TRU mixed waste, the assumption created "a de facto limit that could result in underutilizing the WIPP facility[,]" contrary to the LWA, which established the limit of 6.2 million cubic feet of waste to be emplaced at the facility. Given that the PMR is intended to ensure that the actual volume of material is tracked, as well as the volume of the storage containers to be emplaced, so that as the department explained, it could more easily ensure that it complies with the volume limitation in LWA, we conclude that the PMR is supported by a reasoned explanation.

{23} To the extent Appellants argue the PMR violates the LWA because it allows DOE to use "any method of calculation it chooses," resulting in "*no limit* at all" for TRU waste, Appellants' assertion is contrary to the record. The Hearing Officer found that DOE "clearly articulated the method that [will be] utilized to determine the volume of waste in containers emplaced in WIPP." DOE uses a tracking program containing complete information on the types of inner and outer containers being shipped to WIPP, allowing DOE to track individual container volumes based on container type. DOE will thus track the LWA capacity limitation based on inner containers with a known geometry.

{24} Finally, Appellants argue that the Hearing Officer failed to consider "the multiple savings clauses that maintain the State's authority to apply RCRA." Appellants fail to develop this argument and provide no analysis regarding the way in which the language of the savings clauses should have factored into the hearing officer's recommendations. Even so, we find nothing in the LWA's savings clauses that address or specify the manner in which the waste volume should be measured. And we certainly do not find anything within the savings clauses to indicate that the permitting decision at issue is wrong. The NMED's order approving the PMR is consistent with the LWA's limitation on the total waste capacity, which cannot be complied with unless there is an accurate method for measurement of that waste.

4. DOE's Authority

{25} Appellants claim DOE lacks the authority to interpret or enforce the terms of the LWA. NMED's order adopted the findings of the Hearing Officer, who determined that the question of DOE's independent authority under the LWA to interpret the volume limitation was inapplicable because the statutory language in the LWA is unambiguous. The Hearing Officer reasoned that, because the statutory language is unambiguous, "DOE is . . . not interpreting the volume limitation in LWA but simply relying on what is unambiguously stated." The Hearing Officer further noted that because various federal statutes "grant DOE the responsibility and authority to manage certain radioactive materials[,] including radioactive waste, . . . [these statutes] would appear to grant DOE authority to make decisions related to carrying out its responsibility of disposing of the defense TRU waste[,]" despite the lack of explicit language granting DOE authority to "interpret[] the volume limitation in [the] LWA." In so finding, the Hearing Officer relied on *United States v. Turkette*, 452 U.S. 576, 580 (1981), which held that "[i]f the statutory language is unambiguous, in the absence of a clearly expressed legislative intent to the contrary, that language must ordinarily be regarded as conclusive." (internal quotation marks and citation omitted).

{26} We agree with the Hearing Officer's reasoning. The language of the LWA simply states that the volume limit for TRU waste at WIPP is 6.2 million cubic feet, which is the limit on waste material that DOE is required to manage. Because DOE is merely carrying out its statutory responsibility to manage TRU waste, and because the language of the LWA setting the limit on such waste is unambiguous, we conclude that DOE is not exercising an independent authority to interpret the LWA.

5. The Consultation and Cooperation Agreement

{27} Appellants contend NMED's order violates WIPP capacity limits in the 1987 Consultation and Cooperation Agreement (C&C Agreement). They argue that the 1987 C&C Agreement's reference to DOE's 1981 WIPP Record of Decision, "which came from the 1980 FEIS and is based on container volume[,]" requires DOE to continue to calculate TRU waste by outermost container volume.

[8] We note that several statutory provisions Appellants cite in support of their argument come from the preamended version of the LWA.

[9] Appellants also argue that the State and its citizens have relied on the WIPP volume limit. This argument is not adequately developed and we therefore decline to address it. See Corona v. Corona, 2014-NMCA-071, ¶ 28, 329 P.3d 701 ("This Court has no duty to review an argument that is not adequately developed.").

[10] Appellants further contend that the State and its citizens have relied on the WIPP volume limit. Again, this argument is not adequately developed and we decline to address it. *Id.*

{28} The WIPP authorization act provides that DOE shall consult with New Mexico officials in regard to the WIPP project and seek to enter into an agreement with New Mexico officials. Pub L. 96-164, § 213(b), 93 Stat. 1259 (1979). The DOE and New Mexico entered into such an agreement in 1981, which has twice been modified. However, the most recent version, the 1987 C&C agreement, contains no requirement or discussion of the proper method for measurement. The 1987 C&C Agreement states:

> Prior to receiving more than 15 percent by volume of the [TRU] waste capacity of [WIPP], described as 6.2 million cubic feet of [TRU] waste in [DOE's 1981 WIPP] Record of Decision, . . . the Secretary of Energy shall demonstrate that the [WIPP] meets the applicable environmental standards for the disposal of radioactive waste[.]

We fail to see how this language establishes a capacity limit for WIPP based on the outermost container volume. If the State and DOE had wanted modifications to the C&C Agreement limiting the volume of waste at WIPP by outer container volume, the parties to the agreement would have included such a provision.

{29} Moreover, Appellants acknowledge "[t]he C&C Agreement is independent of the [WIPP] Permit." With that admission, we fail to understand how the C&C Agreement is relevant to the permitting issues raised in this appeal and Appellants do not further explain why we should consider the C& C Agreement at all, so we will not consider this argument further.

{30} In sum, we cannot say NMED's order to approve the PMR was "based on an error of law, . . . arbitrary and unreasonable, . . . based on conjecture, . . . [or] inconsistent with established facts." *Perkins*, 1987-NMCA-148, ¶ 22. Accordingly, we conclude NMED's order was in accordance with the law.

B. NMED's Order Was Not Arbitrary and Capricious or an Abuse of Discretion

{31} Appellants argue NMED's order was arbitrary and capricious and an abuse of discretion in light of the Hearing Officer's and NMED's failure to consider evidence regarding safety issues at WIPP. We disagree.

{32} The Hearing Officer considered relevant safety testimony and heard testimony indicating the PMR would not impact safety. The Hearing Officer's unchallenged finding stated that safety testimony presented by Appellants' witness was of critical importance but noted that it was not developed enough to affect his recommendation to approve the PMR. Moreover, in adopting the Hearing Officer's findings of fact, conclusions of law, and recommended disposition, NMED "considered the administrative record in its entirety," which included testimony from a witness opposing the PMR acknowledging that the proposed modification would not impact human health or the environment.

{33} The Hearing Officer also considered Appellants' argument that the PMR "request[ed] a major expansion" of WIPP, and found that the PMR did not seek an expansion of WIPP disposal capacity. The Hearing Officer also found that any attempt to expand the footprint of WIPP by utilizing additional HWDUs would require permittees to submit another PMR. Our own review of the record similarly indicates that the PMR only adds additional tracking data and does not expand the WIPP TRU waste capacity limit. We cannot say NMED refused to consider evidence regarding safety issues at WIPP, or that NMED's order was without a rational basis or contrary to logic and reason, or that evidence did not support NMED's finding. Accordingly, we conclude NMED's order was not arbitrary and capricious or an abuse of discretion.

CONCLUSION

{34} For the above reasons, we affirm.

{35} IT IS SO ORDERED.

KRISTINA BOGARDUS, Judge

WE CONCUR:

J. MILES HANISEE, Chief Judge

SHAMMARA H. HENDERSON, Judge

APPENDIX

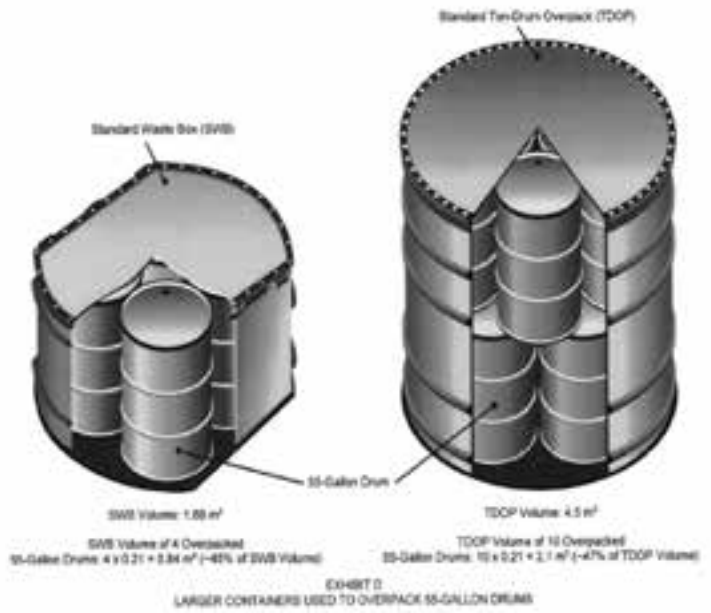

EXHIBIT D
LARGER CONTAINERS USED TO OVERPACK 55-GALLON DRUMS

EXHIBIT E
PIPE OVERPACK COMPONENT PLACED IN A 55-GALLON DRUM

Classified

Positions

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/

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.

Civil Legal Attorney

CAV seeking 40-hr/wk NM-licensed attorney for civil legal representation (in-person/telephonic/video) of survivors of domestic/sexual violence for orders of protection and other victimization-related family law civil proceedings. Excellent pay/benefits. See TaosCAV.org for job dx and app.

Assistant City Attorney/Aviation Department

The City of Albuquerque Legal Department is hiring an Assistant City Attorney for the Municipal Affairs Division—Aviation Department. The Legal Department's team of attorneys provides a broad range of general counsel legal services to the City. This specific position will focus on representation of the City's interests with respect to Aviation Department legal issues and regulatory compliance. The position will be responsible for interaction with Aviation Department administration, the Albuquerque Police Department, various other City departments, boards, commissions, and agencies, and various state and federal agencies, including the Federal Aviation Administration and the Transportation Security Administration. The legal services provided will include, but will not be limited to, legal research, drafting legal opinions, reviewing and drafting policies, ordinances, and executive/administrative instructions, reviewing and drafting permits, easements, real estate contracts and procurement contracts and negotiating same, serving as records custodian for the Aviation Department, providing counsel on Inspection of Public Records Act requests and other open government issues, providing advice on City ordinances and State/Federal statutes and regulations, litigating matters as needed, 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. Aviation background is not essential, but any experience with aviation/airports will be considered. Candidates must be an active member of the State Bar of New Mexico in good standing. Salary will be based upon experience. Please apply on line at www.cabq.gov/jobs and include a resume and writing sample with your application.

Assistant District Attorney

The Fifth Judicial District Attorney's office has immediate positions open 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). These positions are located in the Carlsbad and Roswell offices. 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

Associate Attorney

Atkinson, Baker & Rodriguez, P.C. is a successful and established Albuquerque-based complex civil commercial and tort litigation firm seeking motivated and talented associate attorney candidates with great academic credentials. Join our small but growing focused Firm and participate in litigating cases from beginning to end with the support of our nationally recognized, experienced attorneys! Come work for a team that fosters development and growth to become a stand-out civil litigator. Highly competitive compensation and benefits. Send resumes, references, writing samples, and law school transcripts to Atkinson, Baker & Rodriguez, P.C., 201 Third Street NW, Suite 1850, Albuquerque, NM 87102 or Careers@abrfirm.com. Please reference Attorney Recruiting.

Attorney

Opening for Associate Attorney in Silver City, New Mexico. No experience necessary. Thriving practice with partnership opportunities with focus on criminal defense, civil litigation, family law, and transactional work. Call (575) 538-2925 or send resume to Lopez, Dietzel & Perkins, P. C., david@ldplawfirm.com, Fax (575) 388-9228, P. O. Box 1289, Silver City, New Mexico 88062.

Associate Litigation Attorney

Hinkle Shanor LLP is seeking associate attorneys to join their Albuquerque office in 2022! The Albuquerque office of Hinkle Shanor is heavily specialized in medical malpractice defense litigation. Ideal candidates will demonstrate strong academic achievement, polished writing skills, and have 4-5 years of experience. While significant consideration will be given to candidates with prior medical malpractice litigation experience, attorneys with prior litigation experience in any area are encouraged to apply. Interested candidates should submit a resume and cover letter. Highly competitive salary and benefits. All inquiries will be kept confidential. Please email resumes and cover letters to nanderson@hinklelawfirm.com.

The Fourth Judicial District Court In Las Vegas, NM is currently recruiting for a Full-Time, At-Will, Term Position: Child Support Hearing Officer
Job ID: 00028004

The Fourth Judicial District Court is accepting applications for a Child Support Hearing Officer for matters in the Fourth, Eighth, and Tenth Judicial Districts. Qualifications: Must be a graduate of a law school meeting the standards of accreditation of the American Bar Association; possess and maintain a license to practice law in the State of New Mexico; and have 5 years of experience in the practice of law, with at least 20 percent of that practice having been in family law or domestic relations matters. The Child Support Hearing Officer will perform duties pursuant to the Child Support Hearing Officer Act, NMSA 1978, §§ 40-4B-1 through 40-4B-10, for the Fourth, Eighth, and Tenth Judicial District Courts, primarily on a remote basis. TARGET SALARY: $103,522-$110,760 annually. For full job description and to apply go to: http://www.nmcourts.gov/careers.aspx

Associate Attorney

The firm of MYNATT MARTÍNEZ SPRINGER P.C. is looking for associates. Our practice focuses primarily on the defense of public entities and their employees but runs the gamut on all civil matters. The pay and benefits are competitive, and the billable hours are manageable. We are located in the City of Las Cruces, sometimes known as the Paris of the Rio Grande. Here, for the price of a small hovel in Santa Fe, you can purchase a moderate-sized mansion. The weather is beautiful, the food is spicy (we are right next to Hatch after all), the crime is low (looking at you Albuquerque), and the sunsets are stunning. If you are interested in making a change, email us at rd@mmslawpc.com.

Litigation Attorney

Cordell & Cordell, P.C., a domestic litigation firm with over 100 offices across 36 states, is currently seeking an experienced litigation attorney for an immediate opening in its office in Albuquerque, NM. The candidate must be licensed to practice law in the state of New Mexico, have minimum of 3 years of litigation experience with 1st chair family law preferred. The firm offers 100% employer paid premiums including medical, dental, short-term disability, long-term disability, and life insurance, as well as 401K and wellness plan. This is a wonderful opportunity to be part of a growing firm with offices throughout the United States. To be considered for this opportunity please email your resume to Hamilton Hinton at hhinton@cordelllaw.com

Staff Attorney - Expanded Volunteer Attorney Pool (E-VAP) Program

The New Mexico State Bar Foundation seeks a staff attorney for the Expanded Volunteer Attorney Pool (E-VAP) Program. This position is full time - 40 hours per week. It includes an excellent benefits package and competitive salary for legal work in the non-profit sector. Main duties include providing legal information, legal advice, and brief services to E-VAP clients in accordance with E-VAP policies and procedures; assessing whether a case should be referred to a panel attorney or receive in-house services; and conducting legal workshops and fairs. Current licensure to practice law in the State of New Mexico required. Fluency in Spanish is a plus.$60,000 to $63,000 per year, depending on experience and qualifications. Generous benefits package included. Qualified applicants should submit a cover letter and resume to HR@sbnm.org. Visit https://www.sbnm.org/About-Us/Career-Center/State-Bar-Jobs for full details and application instructions.

Associate Attorney

Civerolo, Gralow & Hill, P.A. seeks an associate attorney for our fast paced, well established civil litigation defense firm. This is a great opportunity to grow and share your talent. Salary DOE, great benefits including health, dental & life insurance and 401K match. Please email your resume to kayserk@civerolo.com. Inquiries kept confidential.

Associate Attorney-Family Law

Maria Garcia Geer (Geer Wissel & Levy, P.A.) is seeking a qualified full-time associate attorney to join her established law firm. Prefer candidate have at least 3 years of experience in Family Law and an interest in law firm management but will consider all candidates. Benefits include health, dental, vision insurance, 401(k) plan, profit sharing and bonuses. Salary DOE. Replies are confidential. Please email your resume to Maria Geer c/o chwilliams@gwpla.com.

Senior Trial Attorney

Senior Trial Attorney wanted for immediate employment with the Seventh Judicial District Attorney's Office, which includes Catron, Sierra, Socorro and Torrance counties. Employment will be based primarily in Socorro County (Socorro, NM). Socorro is an hour drive from Albuquerque. 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. Will also have full benefits and excellent retirement plan. Send resume to: Seventh District Attorney's Office, Attention: J.B. Mauldin, P.O. Box 1099, 302 Park Street, Socorro, New Mexico 87801. Or email to: jbmauldin@da.state.nm.us .

Full-time Associate in Santa Fe

Bardacke Allison LLP seeks an associate attorney. Our commercial litigation and intellectual property firm prioritizes teamwork, mentorship, and growth to provide representation at the highest levels. Send your resume, statement of interest, transcript, and writing sample to nancy@bardackeallison.com. Submissions will be kept confidential.

State Ethics Commission Deputy General Counsel

The State Ethics Commission is hiring a Deputy General Counsel. The attorney will handle investigations and legal determinations in agency adjudications; litigate agency enforcement actions in state court; write agency advisory opinions; assist with agency rulemakings; provide training and education to government officers, employees, and contractors; and advise and assist the Commission on a variety of public law matters. Minimum requirements: (i) Juris Doctorate degree from an accredited school of law; (ii) at least 5 years of experience practicing law; and (iii) license to practice law in the Courts of New Mexico. The ideal candidate has proven ability in the following areas: conducting investigations and summarizing investigation findings; examining witnesses; and providing general counsel services to a corporate or government organization. This position is covered by the Personnel Act and includes state benefits. Annual salary range: $76,145.00 to $121,831.00. For information about the position and to apply, visit https://www.sec.state.nm.us/employment-opportunities/. For inquiries, please email walker.boyd@state.nm.us.

Attorneys

For more than sixty years, Butt Thornton & Baehr PC has been known as a law firm of quality and integrity. We are proud of the position of trust and respect the firm has earned in New Mexico's business, legal and governmental communities. Our commitment is to continue to meet the high standards that have earned us that reputation into the twenty-first century. BTB attorneys work together to analyze legal issues and provide legal counsel to clients. New attorneys are exposed to all areas of civil litigation, from legal research and drafting documents, to taking and defending depositions, trial preparation and trial, and working directly with clients. If you are licensed to practice law and are seeking an opportunity to enjoy the practice law with plenty of room for growth, please send letter of interest, resume, and writing samples to Ryan T. Sanders at rtsanders@btblaw.com.

Various 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 – Employment/ Labor; Assistant City Attorney – Municipal Affairs; Assistant City Attorney – EHD – Air Quality. For more information or to apply please go to www.cabq.gov/jobs. Please include a resume and writing sample with your application.

Deputy District Attorney/ Senior Trial Attorney

Practice law in Southwestern New Mexico, an area of natural beauty, with a diverse culture and reasonable costs of living. The Sixth Judicial District Attorney's Office is accepting resumes for Deputy District Attorney and Senior Trial Attorney positions in Silver City and Deming. We are looking for attorneys to handle a variety of criminal cases, in an atmosphere of collegiality and collaboration. Salaries range from $76,611 to $91,563 depending on qualifications and experience. Submit resumes to Edward Hand, Chief Deputy District Attorney, by email to EHand@da.state.nm.us.

Deputy District Attorney, Senior Trial Attorneys, Trial Attorneys, and Assistant Trial Attorneys

The Third Judicial District Attorney's Office in Las Cruces is seeking a Deputy District Attorney, 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 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.

Attorney II

The New Mexico Interstate Stream Commission is hiring an Attorney II to provide professional legal assistance on moderately complex matters of water and environmental law. This includes assistance involving interstate stream compact administration, drafting real property agreements and other agreements involving issues of water and environmental law. This position provides legal support and advice to the Basin Managers and Director regarding procurement law, multi-party contracts and administrative proceedings. This includes provision of legal advice in matters involving subdivisions of state government including Acequias, Conservancy and Irrigation Districts and other special water districts. This includes working with technical personnel, interpretation of policies, state and federal legislation, rules and regulations and analysis. To apply search the State Personnel Office website https:// www.spo.state.nm.us/ for jobs available with the NM OSE/ISC and Select Agency "Ofc of The State Engineer"

Entry Level and Experienced Trial Attorney Positions

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!

Attorney Senior

The Eleventh Judicial District & Magistrate Courts has an immediate career opportunity for an Attorney Senior (Staff Attorney). This position, located at Aztec District Court, provides highly complex and diverse legal work and support for judges and staff in San Juan and McKinley Counties, with occasional travel to Gallup. Salary for this position will be based upon the New Mexico Judicial Branch Salary Schedule with a target starting pay rate of $87,840 annually $42.231 p/hr. For a full job description and to download the required forms or application, please visit the Judicial Branch Career page at https://www.nmcourts.gov/careers.aspx . Resumes, with the required Resume Supplemental Form or Application, and supporting documentation may be emailed to 11thjdchr@nmcourts.gov, faxed to 505-334-7762, or mailed to Human Resources, 103 S. Oliver Drive, Aztec NM 87410. This position closes at 5:00 p.m. on September 9, 2022.

General Counsel – Public Employees Retirement Association of New Mexico

The General Counsel (GC) position is responsible for implementing, maintaining, and protecting the PERA's legal posture and interests within the scope established by NM Statute, PERA's Board of Trustees, and PERA's Executive Director. This position serves as a member of the leadership team, providing expertise and experience to the PERA policy and decision-making process. The General Counsel position is an exempt employment position which is on at-will basis. Further information related to this position can be found at: https://www.nmpera.org. Experience: Ten years of professional work experience, preferably in the areas of retirement plans, administrative proceedings, litigation, investments, taxes, insurance, contracts, and labor law. A successful candidate will have demonstrated experience in interpreting current and proposed state and federal laws; experience working with a board of directors; experience in the legislative process. Education/License: Bachelor's degree, Juris Doctorate and license to practice in the State of New Mexico or the ability to obtain license within 6 months. Deadline to receive letters of interest with resumes and references September 30, 2022. For further information please contact. Trish Winter, Executive Assistant; Public Employees Retirement Association of New Mexico; e-mail: patriciab.winter@state.nm.us; Phone: 505-795-0712

Children's Court Attorney Master, Attorney Senior, and Attorney I Position Job ID: Various

The Children, Youth and Families Department is seeking to fill multiple vacancies in the Legal Department. We are currently filling Children's Court Attorney Master for Cibola/McKinley County Office, a Children's Court Attorney Senior for the Las Vegas NM Office (Attorney may be housed at the Santa Fe Office), the Taos NM Office, and the Albuquerque NM Office, and a Children's Court Attorney I position housed in Las Cruces NM Office. Annual salary range for Attorney Master is $71,061 to $ 113,698. Annual salary range for Attorney Senior is $65,062 to $104,099 and Annual salary for Attorney I is $60,031 to $96,050. The salary range for each position listed is dependent on experience and qualifications. Incumbents will provide professional le-gal services for protective services cases (Abuse and neglect matters under the NM Children's Code and child welfare cases) in litigation, counsel, interpretation of law, do research, analysis, and mediation. Minimum qualifications for Attorney I: Juris Doctorate from an accredited school of law, currently licensed as an attorney by the Supreme Court of New Mexico or qualified to apply for limited practice license, in addition an Attorney Senior must have at least two (2) years of experience in the practice of law and for an Attorney Master they must have (4) years' experience in the practice of law. Executive Order 2021-066 requires all employees with the State of New Mexico to provide either proof of COVID-19 vaccination or proof of a COVID -19 Viral test every week. Benefits include medical, dental, vision, paid vacation, and a retirement package. For information, please contact: Marisa Salazar (505) 659-8952 or email marisa.salazar@state.nm.us To apply for these positions, go to www.spo.state.nm.us The State of New Mexico is an EOE.

Attorneys

The City of Albuquerque Legal Department is hiring attorneys with the primary responsibility of advising the Albuquerque Police Department (APD). Duties may include: representing APD in the matter of United States v. City of Albuquerque, 14-cv-1025; reviewing and providing advice regarding policies, trainings and contracts; reviewing uses of force; drafting legal opinions; and reviewing and drafting legislation, ordinances, and executive/administrative instructions. Attention to detail and strong writing skills are essential. Additional duties and representation of other City Departments may be assigned. Salary and position will be based upon experience. Please apply on line at www.cabq.gov/jobs and include a resume and writing sample with your application.

Chief Judge
Jicarilla Apache Nation
Dulce, New Mexico

Live and work in beautiful Northern New Mexico or Southern Colorado! The Jicarilla Apache Nation is seeking a Chief Judge for the Nation's Court. Salary commensurate with qualifications and experience. Applicants should be graduates of an accredited Law School. Applicants should have significant knowledge and experience in Native American Culture and Traditions, as well as be well versed in Native American Legal Issues. Please submit resumes and letters of interest to Paul Hoffman, General Counsel, Jicarilla Apache Nation at phoffman @jan legal.com, with a copy to Edward Velarde, President Jicarilla Apache Nation, in care of Ouida Notsinneh, Secretary to the President at onotsinneh@janadmin.com. Excellent Benefit package including but not limited to full Medical, Prescription, Pension, 401(k), Dental, Life Insurance, vacation and sick leave. Prior Judicial Experience is preferred but is not an absolute requirement.

Attorney

JGA is seeking an attorney, licensed/good standing in NM with at least 3 years of experience in Family Law, Probate, and Civil Litigation. 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.

Paralegal

Stiff, Garcia & Associates, LLC, a successful downtown insurance defense firm, seeks sharp, energetic paralegal. Must be a self-starter, detail-oriented, organized, and have excellent communication skills. A four-year degree or paralegal degree, and insurance defense and/or personal injury experience required. Bilingual in Spanish a plus. Please e-mail your resume and list of references to agarcia@stifflaw.com

Paralegal

Robles, Rael & Anaya, P.C. is seeking an experienced paralegal for its civil defense and local government practice. Firm primarily represents governmental entities. Practice involves complex litigation, civil rights defense, and general civil representation. Ideal candidate will have 1-4 years litigation experience. Competitive salary and benefits. inquiries will be kept confidential. Please e-mail a letter of interest and resume to chelsea@roblesrael.com.

Legal Assistant

Legal Assistant with minimum of 3- 5 years' experience for established commercial civil litigation firm. Requirements include current working knowledge of State and Federal District Court rules and filing procedures, calendaring, trial preparation, document and case management; ability to monitor, organize and distribute large volumes of information; proficient in MS Office, AdobePro, Powerpoint and adept at learning and use of electronic databases and legal-use software; has excellent clerical, computer, and word processing skills. Competitive 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

Personal Injury/Civil litigation firm in the Journal Center area is seeking a Paralegal with minimum of 5+ years' experience, including current working knowledge of State and Federal District Court rules and filing procedures, trial preparation, document and case management, calendaring, and online research, is technologically adept and familiar with use of electronic databases and legal-use software. Qualified candidates must be organized and detail-oriented, with excellent computer and word processing skills and the ability to multi-task and work independently. Experience in summarizing medical records is a plus. Salary commensurate with experience. Please send resume with references and a writing sample to paralegal3.bleuslaw@gmail.com

Legal Assistant

Rodey's Santa Fe office is accepting resumes for a legal assistant position. Candidate must have excellent organizational skills; demonstrate initiative, resourcefulness, and flexibility, be detail-oriented and able to work in a fast-paced, multi-task legal environment with ability to assess priorities. Responsible for calendaring all deadlines. Must have a high school diploma, or equivalent, and a minimum of three (3) years' experience as a legal assistant, proficient with Microsoft Office products and have excellent typing skills. Paralegal skills a plus. Firm offers comprehensive benefits package and competitive salary. Please send resume to jobs@rodey.com with "Legal Assistant – Santa Fe" in the subject line, or mail to Human Resources Manager, PO Box 1888, Albuquerque, NM 87103.

Legal Secretary
AV rated insurance defense firm seeks full-time legal assistant with five plus years' experience in insurance defense and civil litigation. Position requires a team player with strong word processing and organizational skills. Proficiency with Word, knowledge of court systems and superior clerical skills are required. Should be skilled, attentive to detail and accurate with a Minimum typing speed of 75 wpm. Excellent work environment, salary, private pension, and full benefits. Please submit resume to mvelasquez@rileynmlaw.com or mail to 3880 Osuna Rd. NE, Albuquerque, NM 87109

Legal Assistant/Paralegal
Santa Fe law firm, whose attorneys primarily practice in medical malpractice and personal injury, is accepting resumes for a legal assistant/paralegal position. Candidate must possess excellent organizational skills, demonstrate initiative, resourcefulness and flexibility. The ability to work in a fast-paced environment, multi task and assess priorities is a must. Responsible for calendaring. High school diploma or equivalent and a minimum of three years' experience as a legal assistant or paralegal in litigation is preferred. Proficiency in Microsoft Office products and electronic filing. Paralegal skills a plus. Competitive salary dependent on experience. Send resume to lee@huntlaw.com and cynthia@huntlaw.com.

Paralegal
AV Rated insurance defense firm needs full-time paralegal. Seeking individual with minimum of five years' experience as a paralegal in insurance defense. Excellent work environment, salary private pension, and full benefits. Please submit resume and references to Office Manager, 3880 Osuna Rd., NE, Albuquerque, NM 87109 or email to mvelasquez @rileynmlaw.com.

Legal Services Intake Coordinator
The New Mexico State Bar Foundation seeks a full-time Intake Coordinator to answer Bar Foundation Legal Service Programs incoming calls, conduct/complete intakes and establish case files in the Legal Services Programs electronic case management systems. The successful applicant must have excellent communication, customer service, and organizational skills. Minimum high school diploma required. Fluency in Spanish is a plus. Generous benefits package. $16-$18 per hour, depending on experience and qualifications. Qualified applicants should submit a cover letter and resume to HR@sbnm.org. Visit https://www.sbnm.org/About-Us/Career-Center/State-Bar-Jobs for full details and application instructions.

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Miscellaneous

For Sale – Law Books
For sale: collection of 1600's and 1700's law books, including works of Edward Coke and second American edition of Blackstone's commentaries. 505-870-2112 or robertwionta@centurylink.net

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.**

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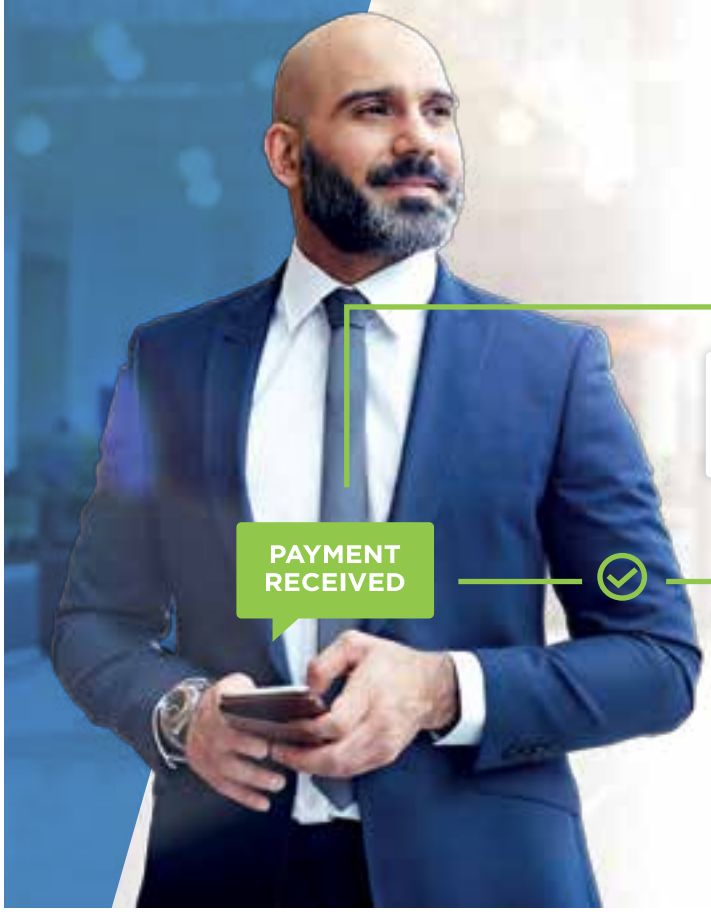

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