Official Publication of the State Bar of New Mexico

Bar Bulletin

October 11, 2023 • Volume 62, No. 19

Hearbreak II, by Bette Ridgeway (see page 4) www.ridgewaystudio.com

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New Mexico Lawyer

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www.sbnm.org

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For more details and to register, call 505-797-6005

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Divorce Options Workshop
6-8 p.m., virtual

12
Common Legal Issues for Senior Citizens Workshop
11 a.m.-noon, virtual
For more details and to register, call 505-797-6005

13
Consumer Debt/Bankruptcy Workshop
6-8 p.m., virtual

About Cover Image and Artist: Bette Ridgeway has exhibited with 80+ museums, universities and galleries, including: Palais Royale; Embassy of Madagascar; London Art Biennale; Swiss Art Expo; and Ventana Fine Art and is represented by 10 galleries. Prestigious awards include Michelangelo International Prize, Leonardo DaVinci Prize and Oxford University Alumni Prize/Chianciano Art Museum. Mayo Clinic and Federal Reserve Bank are among Ridgeway's permanent public placements, in addition to private collections and commissions. Many books and publications have featured her work, among them: 100 Famous Contemporary Artists, Magazine 43, Art Reveal, LandEscape and Art Magazenium. Ridgeway has penned several books about her art and process.

Notices

Please email notices desired for publication to notices@sbnm.org.

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. (MT). Library Hours: Monday-Friday 8 a.m.-noon and 1-5 p.m. (MT). For more information call: 505-827-4850, email: libref@nmcourts.gov or visit https://lawlibrary.nmcourts.gov.

N.M. Administrative Office of the Courts

Learn About Access to Justice in New Mexico in the "Justice for All" Newsletter

Learn what's happening in New Mexico's world of access to justice and how you can participate by reading "Justice for All," the New Mexico Commission on Access to Justice's monthly newsletter! Email atj@nmcourts.gov to receive "Justice for All" via email or view a copy at https://accesstojustice.nmcourts.gov/.

Bernalillo County Metropolitan Court

Notice of Temporary Closure

The Bernalillo County Metropolitan Court will be closed on Oct. 20 for the court's annual training conference. Misdemeanor Custody Arraignment Hearings will be held that morning starting at 9 a.m. (MT) with Felony First Appearance Hearings immediately following. The courthouse will reopen on Oct. 23.

Professionalism Tip

With respect to parties, lawyers, jurors and witnesses:

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

Second Judicial District Court

Notice of Dedication Ceremony

The Second Judicial District Court is dedicating its newest courtroom to the late Justice Charles W. Daniels of the New Mexico Supreme Court in recognition of his contributions and dedication to the New Mexico legal community. Members of the Bar are cordially invited to attend the official ceremony on Oct. 27 at 4 p.m. (MT) at the Second Judicial District Court's downtown location, 400 Lomas Blvd NW, Albuquerque, N.M. 87102. Reservations are requested as seating is limited in the new courtroom. Overflow seating will also be available, however, courtroom preference will be given to those who have responded. Please R.S.V.P. to Kevin Ybarra at 505-841-7425, or by email to albdkmy@nmcourts.gov or by Oct. 23. The general public may view the ceremony via Google Meets by video at meet.google.com/sgi-epqj-aba or by phone at 475-277-0116, PIN: 943 314 244#.

State Bar News

Board of Bar Commissioners

2023 Election Notice

The nomination period for four Board of Bar Commissioner seats will close at 5 p.m. (MT) on Oct. 11. Vacancies exist in the First, Third and Sixth, and Ninth and Tenth Judicial Districts. Nominations of active status members to fill the vacancies caused by the expiration of the term of such members shall be made by petition of 10 or more active status members of the Bar who are in good standing and whose principal place of practice (address of record) is in the respective district. Active status members whose principal place of practice (address of record) is in El Paso County, Texas, may nominate members for the Third and Sixth Judicial Districts. View the vacant positions, terms, duties and requirements for BBC members and the nomination petition in the Sept. 13 Bar Bulletin or on the website under https://www.sbnm.org/Leadership/Governance/BBC-Election-Notice-and-Nomination-Petition-2023.

Equity in Justice Program

Have Questions?

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

Invitation to New Equity in Justice Book Club Meetings

Join the Equity in Justice Book Club, led by Dr. Amanda Parker and Equity and Justice Commission Chair Torri Jacobus, for five new Book Club meetings this Fall discussing Matthew Desmond's "Poverty, by America." The final meeting is Oct. 24 from noon to 1:30 p.m. (MT). Please visit https://form.jotform.com/232184486200047 to register.

New Mexico Lawyer Assistance Program

Monday Night Attorney Support Group

The Monday Night Attorney Support Group meets at 5:30 p.m. (MT) 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 pam.moore@sbnm.org or Briggs Cheney at bcheney@dsc-law.com for the Zoom link.

NM LAP Committee Meetings

The NM LAP Committee will meet at 4 p.m. (MT) on Jan. 11, 2024. The NM LAP 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 NM LAP 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

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Total Number of Copies	6868	6907
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Sales Through Dealers, Carriers, etc.	0	0
Other Classes Mailed Through the USPS	0	0
Total Paid Distribution	6661	6712
Free Distribution by Mail		
Outside-County	0	0
In-County	0	0
Other Classes Mailed Through the USPS	0	0
Free Distribution by Mail	50	50
Total Free Distribution	50	50
Total Distribution	6711	6762
Copies not Distributed	167	187
Total	6878	6949
Electronic Circulation	**Average**	**Actual**
Requested Electronic Copies	9469	9069
Total Printed and Electronic Circulation	16180	15831
Percent Paid	99.69%	99.68%

I Certify that the statements made above are true and complete.
Celeste Valencia, ***Bar Bulletin*** Marketing Communications Manager

continues to be of service to the New Mexico Lawyer Assistance Program and is a network of more than 30 New Mexico judges, attorneys and law students.

New Mexico State Bar Foundation

Pro Bono Opportunities

The New Mexico State Bar Foundation and its partner legal organizations gratefully welcome attorneys and paralegals to volunteer to provide pro bono service to underserved populations in New Mexico. For more information on how you can help New Mexican residents through legal service please visit www.sbnm.org/probono.

UNM School of Law

Distinguished Achievement Award and Alumni Promise Award Honorees Announcement

The UNM School of Law and the UNM School of Law Alumni/ae Association are proud to announce the 2023 Distinguished Achievement Award and Alumni Promise Award honorees. The Distinguished Achievement Award honorees are Hon. Judith K. Nakamura (Ret.), Benny Naranjo and Alicia Gutierrez. The Alumni Promise Award honoree is Larissa Lozano. The 2023 UNM School of Law and UNM School of Law Alumni/ae Association Distinguished Achievement Award Dinner will be held on Oct. 20 at the UNM Student Union Building in the ballrooms. The reception will begin at 5:30 p.m. (MT), followed by dinner and award presentations at 6:30 p.m. (MT). Tickets may be purchased on the UNM School of Law website at https://lawschool.unm.edu/. Funds go toward UNM School of Law scholarships.

Law Library Hours

The Law Library is happy to assist attorneys via chat, email, or in person by appointment from 8 a.m.-8 p.m. (MT) Monday through Thursday and 8 a.m.-6 p.m. (MT) on Fridays. Though the Library no longer has community computers for visitors to use, if you bring your own device when you visit, you will be able to access many of our online resources. For more information, please see lawlibrary.unm.edu.

The New Mexico Law Review Invitation to New Mexico Civil Rights Act Symposium

The New Mexico Law Review invites you to the New Mexico Civil Rights Act Symposium: Its Meaning and Application! The symposium will be on Oct. 28 from 9 a.m. to 5 p.m. (MT) at the UNM School of Law. There will be three keynote speakers, including Julie Murray and Matthew Segal from the ACLU State Supreme Court Initiative, and Professor Joanna Schwartz from the UCLA School of Law. Additionally, there will be three locally hosted discussion panels focused on aspects of civil rights litigation and legislation. This event is approved for 5 general and 1 ethics MCLE credit. Contact Shannel Daniels at nmlrsymposium2023@unm.edu with any questions. Please register by Oct. 21 here: https://secure.touchnet.com/C21597_ustores/web/product_detail.jsp?PRODUCTID=3486&SINGLESTORE=true.

Other News

The Center for Civic Values

Judges Needed for New Mexico Middle School Mock Trial Program

The New Mexico Middle School Mock Trial Program, open to any and all middle school students, needs judges for its next event. The event will be held in Las Cruces at thee US Federal Court and the Third Judicial District Court in Las Cruces. Those interested in attending the event may sign up at https://civicvalues.org/mock-trial/registration/middle-school-judge-volunteer-registration/ by Oct. 25. Please email any questions to Kristen Leeds at Kristen@civicvalues.org or by phone at 505-764-9417.

Legal Education

October

1-31 **Self-Study - Tools for Creative Lawyering: An Introduction to Expanding Your Skill Set**
1.0 G, 2.0 EP
Online On-Demand
The Ubuntuworks Project
www.ubuntuworksschool.org

12 **2023 Procurement Code Institute**
3.0 G, 1.0 EP
In-Person or Webcast
Center for Legal Education of NMSBF
www.sbnm.org

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Webinar
Center for Legal Education of NMSBF
www.sbnm.org

18 **Avoid Getting Hacked Off: Cybersecurity Best Practices**
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org

18 **1031 Like-Kind Exchanges in Trust and Estate Planning**
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org

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5.0 G, 1.0 EP
Live Program
University of New Mexico Law School
lawschool.unm.edu

19 **Your Inbox Is Not a Task List: Real World Task Management for Busy Lawyers**
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org

24 **Ethics of Identifying Your Client: It's Not Always Easy**
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org

25 **Battling Gender Bias: How Bill Cosby and Other Sexual Predators Escape Punishment**
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org

25 **Planning for Healthcare in Retirement**
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Webinar
Center for Legal Education of NMSBF
www.sbnm.org

November

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In-Person or Webcast
Center for Legal Education of NMSBF
www.sbnm.org

1-30 **Self-Study - Tools for Creative Lawyering: An Introduction to Expanding Your Skill Set**
1.0 G, 2.0 EP
Online On-Demand
The Ubuntuworks Project
www.ubuntuworksschool.org

15 **Pac-Man, Tails, Prior Acts, Claims Made - Ugh, What Does It All Mean? What You Need to Know About Professional Liability Insurance**
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org

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Center for Legal Education of NMSBF
www.sbnm.org

19 **Fall Basic Mediation**
30.0 G, 2.0 EP
Live Program
University of New Mexico Law School
lawschool.unm.edu

21 **Learning Litigation Skills From "Where the Crawdads Sing"**
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Center for Legal Education of NMSBF
www.sbnm.org

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Center for Legal Education of NMSBF
www.sbnm.org

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University of New Mexico Law School
lawschool.unm.edu

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.

A Message from Chief Justice C. Shannon Bacon

Dear Colleagues:

The Supreme Court of New Mexico welcomes interest and encourages members of the New Mexico bar and the public to serve on committees, boards, and commissions. Our committees, boards, and commissions are integral to ensuring equity and justice for those who participate in our judicial system by assisting the Court with the regulation of the practice and procedures within our courts. These panels have a wide range of responsibilities and functions. They regulate the practice of law, expand resources for civil legal assistance to New Mexicans living in poverty, oversee continuing legal education for lawyers, foster improved communication between tribal, federal, and state courts to improve legal services to tribal communities, administer funds to assist individuals unable to pay for legal services, and advise on long-range planning, just to name a few. Anyone who has ever served on one of the Court's committees, boards, or commissions can attest to how interesting and rewarding this work can be.

In filling these vacancies, the Court strives to appoint non-attorneys, attorneys and judges who are able to regularly attend committee meetings and who are committed to generously volunteering their time, talent, and energy to this important work. The Court is committed to ensuring diversity, geographical and practice area balance to these committees, boards, and commissions by soliciting volunteers from throughout the state and from the various practice segments of our bar. To achieve these goals, we welcome volunteers representing the broad spectrum of our bench and bar who come from all corners of this great state, and are requesting that applicants voluntarily disclose demographic information to ensure the committees, boards and commissions reflect our diverse community.

If you would like to be considered to serve on a committee, board, or commission, please send a letter of interest and resume by October 31, 2023, to Elizabeth A. Garcia, Chief Clerk of Court at nmsupremecourtclerk@nmcourts.gov. The letter of interest should describe your qualifications, your commitment to attend meetings, and should prioritize up to three committees, boards, or commissions of your interest. A complete list of vacancies on committees, boards, and commissions can be found on the Supreme Court's website at https://supremecourt.nmcourts.gov/current-vacancies.aspx.

On behalf of the Supreme Court, I extend our sincere appreciation to all of you who volunteer and serve in this important function within our legal system.

SUPREME COURT COMMITTEES, BOARDS, AND COMMISSIONS NOTICE OF CURRENT VACANCIES [1]

The Supreme Court of New Mexico is seeking applications to fill existing vacancies on its committees, boards, and commissions listed below. Unless otherwise noted below, any person may apply to serve on any of the following committees, boards, and commissions:

Appellate Rules Committee (2 general member positions)
Board Governing the Recording of Judicial Proceedings (1 reporter member)
Children's Court Rules Committee (1 general member position)
Code of Judicial Conduct Committee (2 general member positions, 1 probate judge position)
Code of Professional Conduct Committee (3 general member positions)
Disciplinary Board (2 attorney member positions)
Domestic Relations Rules Committee (2 general member positions)
Magistrate Judge Advisory Committee (2 magistrate court judge positions)
NM Commission on Access to Justice (2 general member positions)
NM Commission on Mental Health and Competency (1 position for a judge from a smaller rural jurisdiction)
NM Supreme Court Commission on Equity and Justice (1 human rights/civil rights representative, 1 position for a judge from medium-sized district or metropolitan court, 1 at-large member position)
Rules of Civil Procedure for State Courts Committee (1 general member position)
Rules of Criminal Procedure for State Courts Committee (1 general member position)
Statewide Alternative Dispute Resolution Commission (1 district court judge position, 1 magistrate court judge position, 1 district court ADR/SRL representative position, 1 State Office of Alternative Dispute Prevention & Resolution representative position)
Uniform Jury Instructions-Civil Committee (1 general member position)
Uniform Jury Instructions-Criminal Committee (3 general member positions)

Anyone interested in volunteering to serve on one or more of the foregoing committees, boards, or commissions may apply by submitting an application, along with a resume, to Elizabeth A. Garcia, Chief Clerk, by email to nmsupremecourtclerk@nmcourts.gov, or by first class mail to P.O. Box 848, Santa Fe, NM 87504. The required application form can be found on the Supreme Court's website at https://supremecourt.nmcourts.gov/current-vacancies.aspx.

Please submit applications by October 31, 2023.

[1] Please note that this is a list of known vacancies as of September 25, 2023. Please check the Court's website for the most updated vacancy information.

Ethics Advisory Opinion

From the State Bar of New Mexico's Ethics Advisory Committee

FORMAL OPINION: 2023- 001

TOPIC: Mandatory Succession Planning

RULES IMPLICATED: Rule 16-119 NMRA (2023).

DATE ISSUED: September 14, 2023

DISCLAIMER FOR FORMAL OPINIONS: The Ethics Advisory Committee of the State Bar of New Mexico ("Committee") is constituted for the purpose of advising lawyers on the application of the New Mexico Rules of Professional Conduct in effect at the time the opinion is issued ("Rules"). One way in which the Committee attempts to advise lawyers is through "formal opinions," which are published. In issuing formal opinions, the conclusions are based upon any facts that are referenced in the opinion. Lawyers are cautioned that should the Rules subsequently be revised, or different facts be presented, a different conclusion may be appropriate. The Committee does not opine on matters of substantive law although concerns regarding substantive law are sometimes raised in the opinions. The Committee's opinions are advisory only, and are not binding on lawyers, the disciplinary board, or any tribunal. The statements expressed in this opinion are the consensus of the Committee members who considered the question presented, based upon the Rules in effect on the date issued.

MANDATORY SUCCESSION PLANNING

Rule 16-119 NMRA became effective October 1, 2022, and its reporting requirements became effective with the 2023 license renewals. With each annual renewal, the reporting requirements must be confirmed or updated. However, many lawyers may be unaware of the new rule and its requirements. This opinion seeks to provide general guidance on a lawyer's obligations under Rule 16-119 NMRA.

What Does the Rule Say?

Rule 16-119 NMRA provides:

A. Succession plan. Every lawyer practicing law in the state of New Mexico (the "designating lawyer") must have a written succession plan, either alone or as part of a law firm plan, specifying the steps to be taken in the event of the designating lawyer's extended incapacity from practicing law, or the designating lawyer's disability or death. At a minimum, the plan must include the following:

(1) the identity of the lawyer or law firm designated to carry out the terms of the succession plan (the "assisting lawyer");

(2) the location of information necessary to access the designating lawyer's current list of active clients, client files, and other client information including computer and other relevant passwords; and

(3) information on the designating lawyer's trust and operating accounts and corresponding records.

B. Notice of plan. The designating lawyer must notify the assisting lawyer of, and the assisting lawyer must consent to, the designation as an assisting lawyer in a writing signed by the designating lawyer and the assisting lawyer, or by electronic communication acknowledged by both the designating lawyer and the assisting lawyer. Lawyers must also notify their clients of the existence of the succession plan.

C. Certificate of compliance. Every lawyer shall annually certify to the State Bar of New Mexico, as part of the registration statement filed under Rule 24-102.1 NMRA, that the lawyer or the law firm employing the lawyer is in compliance with this rule. In the case of a single lawyer or a law firm employing only a single lawyer, the lawyer shall include on the registration statement the name or names of the assisting lawyer. In the case of lawyers or law firms employing more than one lawyer, each lawyer shall identify on the registration statement the person or persons responsible for the law firm's succession plan. The State Bar shall retain the original of each registration statement and, upon request, shall provide a copy to the disciplinary board.

Why Was This Rule Adopted?

Comment [1] to Rule 16-119 NMRA provided the general rationale for the adoption of the Rule:

> When a lawyer is unexpectedly unable to practice for an extended period of time, the lawyer's clients, staff, and practice are at risk of significant harm. By taking proactive steps to plan for an unexpected interruption in practice, including implementation of a succession plan, a designating lawyer can avert or mitigate such harm. The goal of succession planning is to protect the interests of the designating lawyer's current clients by creating and implementing a succession plan to take effect when the designating lawyer is unable to practice law due to extended incapacity, or the lawyer's disability or death. The incapacity of the designating lawyer may be temporary or permanent.

As with many of the Rules, Rule 16-119 is ultimately designed to protect the interests of clients. In this case, the Rule attempts to provide a framework through which the basic client interests of continuing representation and proper handling of trust funds may be accomplished when their current lawyer is faced with an unexpected interruption of practice.

To Whom Does the Rule Apply?

The Rule applies to "Every lawyer practicing law in the state of New Mexico." Rule 16-119(A) NMRA (Emphasis added). Such a lawyer is referred to as the "designating lawyer." On its face, the Rule applies to any and all lawyers engaged in the provision of legal services in New Mexico. The Rule applies to solo practitioners and lawyers practicing within both small and large firms or organizations, and lawyers in private or public practice. There is no exception for lawyers practicing law in New Mexico who are in-house counsel, counsel for public agencies (including but not limited to state or federal agencies, offices of public defenders or district attorneys), foreign lawyers (whether licensed in another state or country), or even "retired" or "semi-retired" lawyers. Moreover, as noted in Rule 16-119(C) NMRA, any lawyer renewing their license must "certify to the State Bar of New Mexico, as part of the registration statement … that the lawyer or the

law firm employing the lawyer is in compliance with this rule." Again, under the Rule, a licensed lawyer would be in compliance under two circumstances: (1) a succession plan is in place or (2) the lawyer is not practicing law in New Mexico.

How does a lawyer working for a public agency or as in-house counsel comply with the Rule?

A lawyer representing a public agency or a corporate entity as in-house lawyer might only represent one client, or not have multiple clients, case files, or IOLTA trust accounts. By example, an assistant district attorney represents the State and not any individuals. However, lawyers representing agencies and companies still have active matters on which they are the lead attorney. Hopefully the organization already has or can draft written guidelines and policies to use if a lawyer voluntarily leaves employment or is fired. These same guidelines and policies should, if not already done, be expanded to apply if a lawyer involuntarily leaves due to incapacity or death. In such a case, someone in the organization will gather the files or existing matters on which the lawyer was working, redistribute the work, access computers with IT's help, and otherwise make sure the lawyer's matters are handled going forward. At license renewal time, the lawyers at the organization should be able to certify that they comply with the Rule because they are part of a "law firm" plan, and they can identify the lawyer responsible for the plan as "the District Attorney" or "the Chief Deputy" or other lawyer who coordinates the response when a lawyer leaves due to disability or death.

What Must be Included in the Succession Plan?

While there is no single correct succession plan, every succession plan must cover at least three subjects:

> (1) the name and contact information of the lawyer or law firm designated to carry out the terms of the succession plan (referred to as the "assisting lawyer");
> (2) the location of information necessary for the assisting lawyer to access the designating lawyer's
> a. current list of active clients,
> b. client files, and
> c. other client information including computer and other relevant passwords; and
> (3) information on the designating lawyer's trust and operating accounts and corresponding records (such as the name of the financial institution with which the designating lawyer has trust account(s) and operating account(s), the corresponding account numbers, and records by which the assisting lawyer can determine what funds belong to which client, third party, or to the designating lawyer or that lawyer's law firm.

The succession plan should also provide some guidance to the assisting lawyer on how to proceed with matters and trust account issues upon the designating lawyer's incapacity, disability or death. As provided in Comment [2] to the Rule:

> The level of sophistication of a succession plan should be determined by each designating lawyer's or law firm's circumstance. For example, as part of the succession plan the designating lawyer can arrange for the assisting lawyer to take steps to promptly distribute the client matters, including any trust funds due to the clients, directly to the clients or to other lawyers chosen by the clients. Alternatively, the designating lawyer may draft the plan such that, with the clients' consent, the assisting lawyer will assume responsibility for the interests of the designating lawyer's clients, subject to the right of the clients to retain a different lawyer or law firm other than the assisting lawyer. Some designating lawyers may choose to designate more than one lawyer or a pool of lawyers as the assisting lawyer. These examples are not meant to be exhaustive or exclusive, but rather to suggest that there is great flexibility allowed by the rule in the crafting of the succession plan.

The designating lawyer should consider the nature of their practice in providing other information that may be helpful to the assisting lawyer (and correspondingly, to the client(s). By example, those in private practice with multiple clients may include more details on how the client matters are designated as opposed to a lawyer in public practice who has only one client. Even lawyers with only one client must consider the nature of their practice (e.g., do they handle numerous cases on behalf of their client, do they engage outside counsel for various matters, do they handle matters independent of other lawyers representing the client, etc.).

How Should Incapacity or Disability be Determined?

The succession plan should include some basis by which incapacity or disability can be determined. As noted in Comment [3] to the Rule there is no single way to determine incapacity or disability. Such a status "may be determined in many ways, including the following: (1) by a court with competent jurisdiction; (2) as defined in the succession plan; (3) as certified by a competent medical professional; or (4) as otherwise agreed between the designating lawyer and the assisting lawyer."

What is the Role of the Assisting Lawyer?

As provided in Comment [4], once the assisting lawyer has reasonably confirmed extended incapacity, disability, or death of the designating lawyer, the assisting lawyer should proceed in accordance with the succession plan. Additionally, the comment advises on the liability of assisting lawyers based upon whether the assisting lawyer forms an attorney-client relationship with any of the designating lawyer's clients:

> [a] If the assisting lawyer forms an attorney-client relationship with the designating lawyer's clients, the assisting lawyer will be subject to the existing rules and duties attendant to the attorney-client relationship.
> [b] Otherwise, this rule is not intended to create liability between the assisting lawyer and either the clients of the designating lawyer or the designating lawyer, absent intentional, willful, or grossly negligent breach of duties by the assisting lawyer.

Additionally, Comment [6] provides that any attorney fees paid to the assisting lawyer "shall be in accordance with Rules 16-105

(Fees), 16-115 (Safekeeping property), and 16-504 (Professional independence of a lawyer) NMRA."

Who Needs to Know About the Succession Plan?
As stated in Rule 16-119(B), the designating lawyer must notify the assisting lawyer in writing of the succession plan and the assisting lawyer must consent to the appointment by signature or electronic means. In law firms or organizations having multiple lawyers, those lawyers must be informed of the existence of a law firm or organization succession plan. As noted above, in the process of license renewal, the State Bar will be informed of the existence of a succession plan. Additionally, each client must be informed of "the existence of the succession plan." In the case of new engagements, this notification may most easily be handled by a notice contained within the engagement letter. In the case of existing clients (there is no exception for informing existing clients), a written communication (by either hard copy or electronic means) should be provided. This notice to pre-existing clients (i.e., persons or entities that were clients prior to the lawyer's adoption of a succession plan) might be included with the next billing statement or other communication with the client.

Although not required by the Rule, both the designating lawyer and the assisting lawyer should consider notifying their respective professional liability carriers of the designation and the acceptance of the designation and discuss any coverage questions they may have.

Are There Other Considerations?
Yes! A lawyer must be mindful of all other obligations owed to clients under the Rules. Without limitation, this would include:

- obligation of designating lawyer to maintain confidentiality (see Rule 16-106 NMRA); this confidentiality must be maintained until the succession plan is triggered and then, if the client has been informed of the succession plan and of the assisting lawyer(s), the sharing of information should be treated as "impliedly authorized", at least to the extent necessary to allow for the succession plan to be fulfilled;
- obligation of the assisting lawyer upon receiving confidential information to maintain confidentiality under Rule 16-106 NMRA (which should only occur if the succession plan has been triggered);
- obligations of lawyers to maintain proper communications throughout the succession process (see Rule 16-104);
- obligation of the designating lawyer to proceed with competence in selection of an assisting lawyer (the degree of which would be dependent upon the nature of the succession plan) (see Rule 16-101 NMRA); and
- obligation to have, and to follow, a succession plan that provides reasonable diligence and promptness on behalf of the client (see Rule 16-103).

NOTICE OF PUBLICATION FOR COMMENT

PROPOSED AMENDMENTS TO JUDICIAL STANDARDS COMMISSION RULES

SEPTEMBER 27, 2023

The Judicial Standards Commission is recommending the proposed amendments to its rules as summarized below. To comment on the proposed amendments before they are submitted for publication, you may submit your comments electronically at forfilingnmjsc@nmjsc.org. Your comments must be received on or before October 27, 2023.

The proposed rule amendments summarized below can be viewed in their entirety at the Judicial Standards Commission website: www.nmjsc.org

All underlined text is text that has been changed or amended. Any text

RULE 2. DEFINITIONS.

I. "Judge" means any full or part-time justice, judge, or magistrate of any New Mexico court as provided in the Constitution. ~~Judge also includes others subject by law to the Commission's jurisdiction including court appointed commissioners, hearing officers, administrative law judges, or special masters while acting in a judicial capacity.~~ In the appropriate context, "judge" may mean the judge or the judge's attorney.

N. "Notice of investigation" means a notice, issued by the Commission, based upon a complaint and served upon a judge, that the Commission has found that an investigation into ~~specific~~ allegations contained in a complaint ~~is substantially complete and which~~ requires a response from the judge.

RULE 4. ORGANIZATION AND ADMINISTRATION OF THE COMMISSION.

C. Quorum.

Any meeting, hearing on the merits, or any other proceeding of the full Commission requires a quorum. An action of the Commission that is authorized by the Constitution and the Statutes requires a quorum and an affirmative vote of a majority of members. In the case of a hearing on the merits, an action of the Commission requires that a quorum be present for the entire hearing and that the action is approved by a majority of members all of whom have been present in person or by audio/visual conferencing for the entire hearing.

D. Recusal and Resignation.

(4) When a member is a judge:

(c) Who has received an informal disposition or has been disciplined, removed or retired shall resign permanently or, failing resignation, the Commission shall recommend to the Supreme Court that the judge be removed from the Commission.

F. Presiding Officers.

(1) **District Judge Presiding Officers.**

At the time the Commission issues a notice of formal proceedings, the chair shall appoint a district judge as presiding officer to preside at a hearing on the merits. A district judge presiding officer shall also preside over all motions, except as otherwise provided by Rule 9(C), contempt hearings as set forth in Rule 10 and at all hearings for presentment of stipulations as set forth in Rule 34(B). District judge presiding officers may also preside at other hearings or conferences as described in these rules.

G. Masters.

(1) Pursuant to the Constitution and Section 34-10-2.1A(3) NMSA, the Commission may, after investigation it deems necessary, order a hearing to be held before it concerning the discipline, removal or retirement of a justice, judge or magistrate, or the Commission may, if deemed necessary or convenient, appoint three (3) masters who are justices or judges of courts of record to hear and take evidence in the matter ~~at any time the Commission deems it necessary or convenient, it may appoint three (3) masters to conduct any hearing, including a hearing on the merits, which the Commission could conduct, to hear testimony and receive other evidence,~~ and to report their findings of fact, conclusions of law, and recommendations, including recommendations for discipline, removal, or retirement of a judge, to the Commission.

(4) The masters shall provide the Commission with their findings of fact, conclusions of law, recommendations, and with a record of any hearing within twenty-one (21) days of the conclusion thereof. The parties shall be served with a copy of the masters' findings of fact, conclusions of law, recommendations, and a copy of the ~~transcript~~ recording of the hearing.

(7) If the Commission accepts the masters' conclusions of law and recommendations, with or without modifications, and if it finds good cause, it ~~may~~ shall file a petition for approval of the findings of fact, conclusions of law, and recommendations with the Supreme Court.

I. Executive Director.

(12) Prepare an annual report of the Commission's activities for publication ~~presentation~~ to the Commission, Supreme Court, Governor, Legislature, sitting judges, and the public.

K. Means of Conducting Proceedings.

The Commission may conduct meetings or other proceedings in person or by any other means authorized by the Commission. All hearings on the merits shall be conducted in person or by audio/visual conferencing.

RULE 5. AUTHORITY OF THE COMMISSION.

B. Issue Subpoenas.

At the request of investigative trial counsel, ~~a judge,~~ or at the Commission's discretion, a member who is a district judge acting for the Commission may issue subpoenas to compel the attendance of witnesses and the production of documents and things in connection with a Commission proceeding.

RULE 6. CONFIDENTIALITY AND PRIVILEGE.

A. Requirements of the Constitution.

(7) Promptly upon their appointment, masters shall be informed of the confidentiality of all proceedings undertaken by them and shall agree in writing to keep such proceedings confidential.

B. Applicability.

(4) The record ~~of proceedings~~ of a hearing on the merits loses confidentiality upon filing with the Supreme Court, but only to the extent of the filing. The record of any other Commission proceeding filed with the Supreme Court loses confidentiality only upon order of the Supreme Court and then only to the extent of the filing.

RULE 7. SERVICE.

A. General Method of Service.

Except as otherwise set forth herein, all pleadings and documents required or permitted to be served upon a judge shall be served by U.S. Mail, ~~facsimile~~ e-mail, the Supreme Court's efiling account or any other method approved by the Commission to the most current available address provided to the Commission by the judge or, if the judge has retained counsel, upon counsel at the address provided by counsel.

RULE 11. DUTY TO COOPERATE.

(1) Failure to Comply With Requests or Orders.

The failure to comply with ~~reasonable~~ requests or orders of the Commission.

RULE 15. COMMENCEMENT OF PROCEEDINGS.

B. Initial Actions.

The executive director shall conduct an investigation of the allegations of a complaint, or of other information upon which a complaint could be based, docket as a general counsel complaint or recommend dismissal to the Commission.

C. Notice of Investigation.

Upon finding that the initial investigation of a complaint is ~~substantially~~ complete and that there is sufficient evidence to require a judge to respond to the allegations of a complaint, the Commission may issue a notice of investigation.

E. Interim Actions.

At any time following docketing of a complaint, ~~during the pendency of a proceeding~~ the Commission may take interim actions as set forth in Section III, Rules 23, 24 and 25, below.

RULE 16. SERVICE UPON A JUDGE AND RESPONSE BY A JUDGE.

C. Upon motion and for good cause shown, the time for the judge's responses may be extended pursuant to Rule 8(C).

RULE 17. INITIAL DISCLOSURES.

A. Disclosures Made

2. Judge's Disclosures.

(a) If investigative trial counsel's initial disclosures were served with an invitation to a conference with the Commission, then the judge's initial disclosures shall be due within fifteen (15~~10~~) days of such service.

C. Continuing Obligation. The parties shall have a continuing obligation to promptly supplement initial disclosures as additional information required by Section A of this rule as it becomes known.

RULE 19. CONFERENCE WITH THE COMMISSION.

C. ~~In-Person~~ Participation.

Participation of the judge in a conference with the Commission shall be in person or by audio/visual conferencing.

D. Closed Conference.

The conference is confidential and shall not be open to the public.

E. Confidential.

The conference is confidential as set forth in Rule 6, above, and pursuant to the Constitution Article VI, Section 32 and may only be attended by the judge and the judge's attorney.

G. Presiding Officer.

A presiding officer, who shall be a judge member or lawyer member, shall preside over the conference with the Commission. If no presiding officer has been appointed, the chair shall appoint one for the conference.

I. Role of Investigative Trial Counsel.

Investigative trial counsel shall be present for the conference. The presiding officer ~~may~~ shall request investigative trial counsel make a brief statement of the allegations of the notice of investigation. Investigative trial counsel may continue to be present, but shall not otherwise participate in the discussions or ask questions unless the Commission permits.

RULE 20. RECOMMENDED DISPOSITION.

At any time in the proceeding after service of the judge's response to a notice of investigation, ~~but before issuance of a notice of formal proceedings,~~ the Commission may serve a judge with a recommended disposition as set forth in Rule 35 or Rule 36(C) and (D). If, at the time of service of a recommended disposition, initial disclosures have not been served on the judge, then they shall be served with the recommended disposition.

RULE 22. CONSOLIDATION.

If a judge has multiple complaints pending, the ~~the proceedings on those~~ complaints may be consolidated for efficiency and in the interests of justice. Complaints ~~Proceedings~~ for which notices of formal proceedings have not been issued may be consolidated by order of the Commission. Complaints ~~Proceedings~~ for which notices of formal proceedings have been issued may be consolidated by order of the presiding officer either upon motion by one of the parties or at the presiding officer's discretion. Consolidation procedures shall conform to policies promulgated by the Commission.

RULE 23. MEDICAL EXAMINATIONS, PSYCHOLOGICAL EVALUATIONS, AND DRUG AND ALCOHOL TESTING.

B. Drug and Alcohol Tests.

A judge may be ordered to submit to drug/alcohol testing for any of the reasons set forth in the New Mexico Judicial Branch General Personnel Policy and Procedure: Drug and Alcohol Testing Policy. ~~drug/alcohol testing policy. Testing shall be conducted in accordance with the Commission's drug/alcohol testing protocols published on the Commission's website, a copy of which shall be served upon the judge along with the order.~~

C. Examination or Test at Judge's Election.

A judge may also submit to a medical examination, a psychological evaluation, or a drug/alcohol test with a qualified provider of the judge's choice.

F. Subpoenas.

If the judge fails to provide the Commission with all waivers and releases necessary to authorize the Commission to receive all records, reports, test results, and information from any medical or mental health provider regarding the judge's physical or psychological condition or drug/alcohol testing facility regarding testing, the Commission may issue a subpoena or may otherwise order the medical and mental health provider or drug/alcohol testing facility to provide it with such records, reports, results, and information. The Commission shall promptly provide the judge with a copy of each subpoena or order served on a provider. The Commission shall promptly inform each provider that the ~~a~~ judge has been provided a copy of the subpoena or order served on that provider.

G. Other Records.

~~Pursuant to this Rule, t~~The Commission may obtain medical and mental health records from the judge's treating providers, and may obtain other ~~the~~ results of alcohol and drug testing conducted. ~~other than in accordance with this Rule.~~ The judge is required to provide a list of all treating physicians or providers and releases and waivers ~~therefore~~ as set forth in a Request for Production. ~~herein.~~ The Commission may issue subpoenas for such records as set forth herein.

K. Failure to Participate.

Failure or refusal of a judge to submit to a medical examination, a psychological evaluation, or a drug/alcohol test, or to provide a list of all treating physicians or providers and releases or waivers as set forth herein as requested, may be a failure to cooperate with the Commission in violation of Rule 11 of these rules and the Code, Rule 21-216 NMRA.

RULE 24. IMMEDIATE TEMPORARY SUSPENSION AND OTHER INTERIM RELIEF.

B. Petition.

The Commission may petition the Supreme Court for immediate temporary suspension of the judge ~~with or~~ without pay or for other interim relief.

The petition shall be filed under seal and shall set forth in full the factual and legal bases for the Supreme Court to issue a summary order, and shall contain all documents and other evidence supporting the allegations of the petition. The petition and accompanying evidence of factual and legal grounds shall, as appropriate, comply with the Supreme Court Rules Governing Review of Judicial Standards Commission Proceedings

RULE 27. SCHEDULING ORDER.

F. Disclosure of expert witness(es) and relevant qualifications pursuant to Rule 28(C)(5).

GF. Objections to witnesses and exhibits.

HG. Requests to the Commission for issuance of subpoenas.

IH. A pre-hearing conference.

JI. Such other matters as the presiding officer may deem appropriate to the management of the case.

RULE 30. TIME AND PLACE OF HEARING.

All pending charges made against a judge in a notice of formal proceedings shall come before the Commission for a hearing on the merits at a time as set forth by Rule 27(A), above, and at a place as set by the executive director presiding officer all in consultation with the Commission.

RULE 32. CONDUCT OF HEARING ON THE MERITS.

C. Admissible Evidence.

(4) Use of Closed Files.

With notice and disclosure to the judge as required by the scheduling order, closed files of complaints against the judge, notices of investigation, responses to notices of investigation, notices of formal proceedings, responses to notices of formal proceedings, evidence presented before the Commission at hearings on the merits or at other hearings, and evidence provided to the judge by investigative trial counsel may be offered by investigative trial counsel as evidence in the recommendations phase, and only as follows:

D. Order of Hearing on the Merits – Adjudicatory Phase.

(3) Statement of the Case to the Commission.

Before the parties are given an opportunity to make opening statements, the presiding officer shall read to the Commission a brief statement of the case prepared by the presiding officer that shall contain the remaining charges of notices of formal proceedings, a statement that the judge admits or denies each charge and a brief statement of the judge's remaining legal defenses. If charges in a notice of formal proceedings have been dismissed, the presiding officer shall remind the Commission that the dismissed charges shall not be further considered by the Commission.

(5) Presentation of Evidence.

(c) Commission Questions.

Following the direct, cross, and redirect examinations, the presiding officer and the Commissioners may ask questions of witnesses. Investigative trial counsel and the judge may object to questions asked by the presiding officer and Commissioners. Following questions by the presiding officer or the Commissioners, investigative trial counsel and the judge may each ask follow-up questions.

F. Order of Hearing on the Merits – Recommendations Phase.

Subject to the presiding officer's authority to control the conduct of the hearing, the order of presentation in the recommendations phase shall be the same as during the adjudicatory phase except that there shall be no motions to dismiss.

RULE 33. DISMISSAL.

A. At any time following docketing of a complaint or service of a notice of investigation, the Commission may dismiss all or part of the allegations therein.

RULE 34. STIPULATION.

C. Modification.

Subject to approval by the parties, The Commission may accept or reject a stipulation or, subject to approval by the parties, the Commission may modify a stipulation. as a condition of approval, modify a stipulation.

RULE 35. NON-DISCIPLINARY DISPOSITION.

At any time in the proceedings after service of a notice of investigation, filing of the judge's response, and an invitation to a conference with the Commission, the Commission may close the proceedings with one or more of the following:

A. Advisory Letter.

(3) If, within fifteen (15) days of service of notice of intent to issue an advisory letter, the judge objects thereto, the judge may:

(a) File objections to the proposed advisory letter with the Commission in writing and/or;

From the New Mexico Supreme Court

Opinion Number: 2023-NMSC-017
No: S-1-SC-38601 (filed July 13, 2023)

IN THE MATTER OF THE LAST WILL AND TESTAMENT OF MARIE G. WELCH, Deceased, PREMIER OIL & GAS, INC. and RALPH S. GRIFFIN,
Intervenors-Plaintiffs/Respondents,
v.
JAMES WESLEY WELCH; JOE MICHAEL WELCH; and BARBARA GRACE PARKER,
Intervenors-Defendants/Petitioners,
and
SAMUEL G. ALDERMAN, a/k/a SAMUEL G. ALDERMAN, JR.; RALPH S. GRIFFIN; UNKNOWN HEIRS OF JOE H. WELCH, Deceased; BARBARA S. WELCH; N. STEWART WELCH; UNKNOWN HEIRS OF GRACE WELCH PHELAN, Deceased; ESTATE OF DAVID PAUL RAETHER; FRED WALTER RAETHER; STEVEN LEE RAETHER; AMANDA MARIE WALKER; WAYLON RAETHER; UNKNOWN HEIRS OF JUDGE H.D. GRIFFIN, Deceased; BLAIR SEATON CROOKE; LISA DALE CROOKE LAMPEL; FOREST ASHLEY CROOKE; UNKNOWN HEIRS OF MARIE G. WELCH, Deceased; and UNKNOWN CLAIMANTS OF INTEREST IN THE PREMISES,
Intervenors-Defendants.

ORIGINAL PROCEEDING ON CERTIORARI
William G.W. Shoobridge, District Judge

Montgomery & Andrews, P.A.
Sharon T. Shaheen
Kari E. Olson
Kaleb W. Brooks
Santa Fe, NM

Rodey, Dickason, Sloan, Akin & Robb, P.A.
Jocelyn C. Drennan
Edward R. Ricco
Albuquerque, NM

Kelly Hart & Hallman, LLP
Harold L. Hensley, Jr.
Derek L. Montgomery
Jeff D. Kuhnhenn
Midland, TX

Thompson & Knight, LLP
Gregory D. Binns
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for Respondents

David E. Keltner
Marianne M. Auld
Ft. Worth, TX

for Petitioners

OPINION

THOMSON, Justice.

{1} In this bona fide purchaser case, we analyze the status of a purchaser of mineral rights that were entangled in a lengthy and complicated dispute between heirs. Our analysis comes after the Court of Appeals held that an heirship judgment that conveyed mineral rights to a good faith buyer's predecessor in interest is void for lack of jurisdiction. We consider whether the buyer is entitled to rely on the void judgment in its claim of bona fide purchaser status. In accordance with this Court's decision in *Archuleta v. Landers*, 1960-NMSC-117, ¶ 28, 67 N.M. 422, 356 P.2d 443, we conclude that a party who purchases property sold under a judgment that is not void on its face is entitled to bona fide purchaser status. We further clarify that extrinsic evidence of lack of jurisdiction is not permitted to overcome the rights of a purchaser who properly relied upon the order of the court as "an authority emanating from a competent source." *Id.* ¶ 29 (internal quotation marks and citation omitted). We therefore hold that Respondent Premier Oil & Gas, Inc. (Premier) is a bona fide purchaser, and we affirm the Court of Appeals.

I. BACKGROUND

{2} Title to the property in question, mineral rights in Eddy County (the Minerals), is complicated by the decades-old probate of the estate of previous owners of the land. The estate dispute was litigated in the district court and the Court of Appeals, but that dispute is not before this Court. This case is about what notice of adverse title claims, if any, Premier had when it purchased the Minerals. For context, we provide a brief synopsis of the estate issues that bear on the title to the Minerals, then move to the title history, and finally address the procedural posture of the dispute at hand.

A. Estate History

{3} The Minerals were owned by Herbert and Marie Welch in the 1970s. Herbert and Marie executed a joint will in 1974 (the 1974 Will), which listed each other and their family members as heirs. When Herbert died in 1975 and his estate was probated, the Minerals were transferred in their entirety to Marie. After wrapping up Herbert's estate, Marie moved to Florida, where she executed a will in 1980 (the 1980 Will). She gave the 1980 Will to her cousin, Samuel Alderman. Marie's nephew, Ralph Griffin, knew that Marie had executed several wills, but he did not have possession of them. When Marie died in 1988, Alderman did not come forward with the 1980 Will. Griffin attempted to contact Alderman in the months after Marie's death with no success. In the years following her death, no one came forward with the 1980 Will, and Marie's estate remained unprobated for nearly twenty years, until Griffin filed a petition in 2007 to determine heirship for Marie's estate (2007 Heirship Proceeding).

{4} Griffin's petition declared that Marie died intestate and that he was Marie's sole heir. He gave notice of the 2007 Heir-

ship Proceeding by newspaper publication alone, addressing the notice "to the unknown heirs of Marie Griffin Welch" without naming any specific individuals. The district court issued a final judgment (2007 Judgment) finding that Marie died intestate and that Griffin was her sole heir, and awarding title to the Minerals to Griffin "as his sole and separate property."

B. Title History

{5} Shortly after obtaining title to the Minerals pursuant to the 2007 Judgment, Griffin transferred the Minerals to Griffin Minerals, LLC. The LLC leased the Minerals to Sam L. Shackelford in January 2010. Later in 2010, Premier became interested in purchasing Shackelford's leasehold. Before purchasing the lease, Premier hired a title attorney to conduct a title inquiry. The attorney examined copies of "instruments purporting to be all instruments affecting [the leasehold] as found in the records of Eddy County and the District Clerk of Eddy County," including the 1974 Will and the 2007 Judgment. In March 2010, the title attorney provided an opinion letter to Premier, stating:

> Our review indicates that the title of the lessor, Griffin Minerals, LLC, is derived pursuant to a judicial determination of heirship . . . . The Court found that Ralph S. Griffin . . . was the only heir at law of Marie Griffin Welch, who died intestate on December 27, 1988. The chain of title for the Griffin family over three generations indicated that Ralph S. Griffin is the only heir at law of the Griffin family. The finding appears to be somewhat cursory as to Ralph S. Griffin's great-grandparents to the generational level of Marie Griffin Welch. However, notices of the proceedings were published pursuant to New Mexico law, and no other parties filed claims or appeared to object to the proposed findings of the Court. Barring a showing of fraud or a violation of procedural due process, the determination as tendered by the Court will prevail.

Premier purchased the leasehold from Shackelford in March 2010.

C. Procedural History

{6} In 2012, Alderman appeared and filed the initiating action in the case presently before this Court: a petition for formal probate of the 1980 Will and appointment of himself as personal representative. Griffin joined the proceeding in opposition, and ultimately the district court admitted the 1980 Will and appointed Alderman as personal representative of Marie's estate. Lengthy litigation followed, eventually Premier intervened seeking to quiet its title, and Herbert's heirs□Petitioners James Wesley Welch, Joe Michael Welch, and Barbara Grace Parker (the Welches)□counterclaimed. Therein, the Welches claimed an interest in the Minerals through Herbert's estate, and Premier claimed its ownership of the Minerals was protected under the doctrine of bona fide purchaser, while Alderman sought to assert his title to the Minerals by seeking to set aside the 2007 Judgment and attacking Premier's claim to title.

{7} The Welches, Premier, and Griffin filed cross-motions for summary judgment. The district court granted summary judgment in favor of Griffin and Premier, "finding that Griffin was the sole heir of Marie, that Marie died intestate, that Premier [was] a bona fide purchaser of the Minerals, and that the Welches['] claims [were] barred by the provisions of the probate code, by statutes of limitation, and by various equitable doctrines." Premier Oil & Gas, Inc. v. Welch (In re Last Will & Testament of Marie G. Welch), 2021-NMCA-028, ¶ 15, 493 P.3d 400. The Welches appealed.

{8} The Court of Appeals reversed the district court's summary judgment in favor of Griffin and granted summary judgment in favor of the Welches. Id. ¶ 54. The Welches proved they were "interested persons" for purposes of the probate code because they could claim an interest in Marie's estate through the 1980 Will and therefore Griffin had an obligation to exercise reasonable diligence to ascertain the Welches' identities. Id. ¶¶ 33, 35. Because Griffin served the Welches only by publication without first exercising reasonable diligence to ascertain their identities for proper service of process, the Court of Appeals held that the 2007 Heirship Proceeding was subject to collateral attack and declared the 2007 Judgment "void as to the Welches." Id. ¶¶ 39, 43.

{9} The Court of Appeals' voiding of the 2007 Judgment might have defeated Premier's clear title to the Minerals. Instead, however, the Court of Appeals granted summary judgment in favor of Premier on its bona fide purchaser claim, reasoning that

> [t]he existence of the 1974 Will and the cautionary language in the title opinion do not put Premier on actual or constructive notice of title defects. . . . Premier could have reasonably relied upon the 1975 Proceeding's findings that Marie was the sole beneficiary, heir, devisee, legatee, and interested party with respect to Herbert's estate, [thus] ordering all of Herbert's property distributed to Marie. . . . Similarly, Premier justifiably relied upon the findings of the 2007 Heirship Proceeding concluding that Marie died intestate, that Griffin was her sole heir, and [thus] awarding title to the Minerals to Griffin as his sole and separate property.

Id. ¶ 52. The Welches petitioned for certiorari, arguing that Premier had actual notice of adverse title claims to the Minerals and was therefore not a bona fide purchaser. We granted certiorari and conclude that Premier is entitled to bona fide purchaser status. Accordingly, we affirm the Court of Appeals.

II. DISCUSSION

A. Standard of Review

{10} The Court of Appeals effectively granted summary judgment in favor of the Welches' jurisdictional challenge to the 2007 Heirship Proceeding and affirmed the district court's summary judgment in favor of Premier based on the legal conclusion that Premier was a bona fide purchaser. *Premier Oil*, 2021-NMCA-028, ¶¶ 1, 43 n.5, 54. Whether Premier is entitled to bona fide purchaser status is a question of law that we review de novo. *City of Albuquerque v. BPLW Architects & Eng'rs, Inc.*, 2009-NMCA-081, ¶ 7, 146 N.M. 717, 213 P.3d 1146 ("[I]f no material issues of fact are in dispute and an appeal presents only a question of law, we apply de novo review and are not required to view the appeal in the light most favorable to the party opposing summary judgment.").

B. Premier Is Entitled to Bona Fide Purchaser Protection

{11} A bona fide (good faith) purchaser is a party that has acquired property for valuable consideration in good faith without notice of defects in the chain of title to the property, including adverse rights or claims of other parties. *See Jeffers v. Doel*, 1982-NMSC-116, ¶ 7, 99 N.M. 351, 658 P.2d 426; *see also City of Rio Rancho v. Amrep Sw. Inc.*, 2011-NMSC-037, ¶ 26, 150 N.M. 428, 260 P.3d 414.

> The general rule is that a prospective purchaser of real property is deemed to have notice of adverse claims to that property if the purchaser has knowledge of such facts as ought to put a prudent person upon inquiry as to the title. Once a prospective purchaser obtains knowledge of facts that trigger a duty to inquire about the title, that purchaser must perform a reasonably diligent investigation□one that would lead to the knowledge of the requisite facts by the exercise of ordinary diligence and understanding.

Rio Rancho, 2011-NMSC-037, ¶ 26 (text only)1 (citations omitted). "A person has notice of facts of which the person has reason to know as a matter of reasonable inference, or which the person would have discovered upon appropriate inquiry." Restatement (Third) of Restitution & Unjust Enrichment § 69 cmt. f (Am. L. Inst. 2011).

{12} The issue of whether Premier is entitled to bona fide purchaser status turns on what notice, if any, Premier derived from the 2007 Judgment and on the impact of the Court of Appeals' voiding of the 2007 Judgment on Premier's notice. It is undisputed that Premier reviewed the 1974 Will and was aware of the 2007 Judgment declaring that Marie died intestate during its title search prior to purchasing the Minerals. The Welches make two arguments with respect to Premier's bona fide purchaser status and the scope of its notice. First, the Welches argue that the 1974 Will signaled to Premier that Marie had other potential heirs. That fact, they argue, put Premier on notice that there were due process concerns with the 2007 Judgment's declaration that Griffin was Marie's only heir, a potential title defect. Second, and alternatively, the Welches argue that the 1974 Will showed that Marie did not die intestate, which further put Premier on notice that there was a potential title defect stemming from the 2007 Judgment. Simply put, the Welches argue that Premier's review of the 1974 Will signaled to Premier that the 2007 Judgment was erroneous. The possibility that the 2007 Judgment was erroneous constituted notice of an adverse title claim.

{13} We conclude that Premier did not have actual notice of title defects for two independent reasons. First, as a bona fide purchaser, Premier may rely on the 2007 Judgment as a facially regular judgment. Second, a judgment that is the result of a court improvidently exercising its jurisdiction is not to be corrected at the expense of an innocent third party who relied on that judgment. To hold otherwise would undermine the integrity of our courts' final judgments by requiring a subsequent purchaser of land that has been involved in a lawsuit to second-guess the legitimacy of the court's facially regular judgment to protect its interest as a bona fide purchaser.

{14} We begin by distinguishing facially regular judgments from facially void judgments, starting with discussion of an analogous case, *Archuleta*, 1960-NMSC-117. *Archuleta* addressed lack of notice in a quiet title suit. *Id.* ¶¶ 1-5. In *Archuleta*, it was alleged that a plaintiff in a quiet title action knew the identity of minor heirs to the disputed property and that the plaintiff perpetrated fraud upon the court by not properly noticing the minor heirs in the suit. *Id.* ¶¶ 4-5. Unaware of the alleged notice deficiencies, the court awarded the property to the plaintiff, who then sold it to a third party. *Id.* ¶¶ 1, 6, 26-27. Archuleta, on behalf of the minor heirs, sued in a separate action to set aside the quiet title judgment. *Id.* ¶¶ 3-5, 19. The third party claimed it was a bona fide purchaser of the property and was not chargeable with knowledge of the alleged fraud by the predecessor in title. *Id.* ¶ 27.

{15} This Court recognized "that there is a presumption that consideration was paid and that the purchaser acted in good faith." *Id.* It relied on a decision from the Supreme Court of Oklahoma, which held, "[a] purchaser who is not a party to the proceedings is not bound to look beyond the judgment, if the facts necessary to give the court jurisdiction appear on the face of the proceedings." *Id.* ¶ 29 (quoting *Pettis v. Johnston*, 190 P. 681, 692 (Okla. 1920)). The *Pettis* Court explained, "[a] judgment is void on its face when it so appears by an inspection of the judgment roll." 190 P. at 689. This Court subsequently held that the jurisdictional deficiency caused by the service issue did not appear on the face of the judgment. *Archuleta*, 1960-NMSC-117, ¶ 32 ("In the instant case, since there is no allegation of anything appearing on the face of the judgment in the suit to quiet title or in the proceedings in that action, what was there to call to the attention of appellee, as a purchaser, any alleged defect in such proceedings?"). In other words, the judgment was not facially void and therefore the subsequent third-party purchaser was entitled to rely on the judgment and to bona fide purchaser status.

{16} The notice requirements in this case are no different from those applicable to *Archuleta* or *Pettis*. Griffin's failure to give notice to interested parties in the 2007 Heirship Proceeding created a jurisdictional deficiency. The Welches argue that the deficiency constitutes facial invalidity and actual notice to Premier of adverse title claims. We disagree. First, as we discuss subsequently herein, extrinsic evidence (that is, the 1974 Will) is inadmissible to overcome the rights of a bona fide purchaser. Second, and more simply, a judgment is void on its face only when there is an error on the judgment itself that indicates infirmity within the document's four corners. A judgment that is void for a service issue "if valid on its face, is not legally void in the sense that it cannot be the basis of the right and title of a bona fide purchaser of property sold under the authority of such judgment." *Pettis*, 190 P. at 691. As the United States Supreme Court noted,

> [t]he inquiry into whether an order is valid on its face is an examination of the procedural aspects of the legal process involved, not the substantive issues. Whether a process conforms or is regular 'on its face' means just that. Facial validity of a writ need not be determined 'upon the basis of scrutiny by a trained legal mind,' nor is facial validity to be judged in light of facts outside the writ's provisions which the person executing the writ may know.

United States v. Morton, 467 U.S. 822, 829 n.10 (1984) (quoting *In re Mathews*, 61 Comp. Gen. 229, 230-31 (1982)). Judgments that are facially irregular would include, for example, a judgment that incorrectly states the address or legal description, a judgment where the date is incorrect, a judgment that is void for lack of in rem jurisdiction because of the court's location, or a judgment where the parties' names are misspelled.2 *See also, e.g.*, *In re Cameron's Estate*, 236 N.E.2d 626, 628 (Ind. App. 1968) ("[I]f a will that is unsigned is admitted to probate it may later be collaterally attacked." (internal quotation marks and citation omitted)). The Court of Appeals declared the 2007 Judgment void because of lack of service to interested parties that were only entitled to service because of their mention in the 1980 Will, an extrinsic document. Therefore, there is no evidence of a jurisdictional defect without relying upon extrinsic evidence; one is only aware of the defect in light of the 1980 Will.

{17} The Welches argue alternatively that the 1974 Will informed Premier that Marie did not die intestate, a contention that conflicts with the 2007 Judgment. Assuming arguendo that the Welches' contention is correct□that Premier should have known there was an inconsistency between the 1974 Will and the 2007 Judgment's declaration that Marie died intestate□the corresponding defect in the 2007 Judgment is only visible by looking at documents outside of its four corners, including the 1974 Will itself. While Premier may have reviewed the 1974 Will as a document in the chain of title, it was not bound to speculate about its effect on the 2007 Judgment. See Archuleta, 1960-NMSC-117, ¶ 29. The Welches' argument that Premier was required to view the 2007 Judgment and contemplate its validity in

1 The "text only" parenthetical used herein indicates the omission of any of the following—internal quotation marks, ellipses, and brackets—that are present in the text of the quoted source, leaving the quoted text itself otherwise unchanged.

2 This list is demonstrative and nonexhaustive.

light of the 1974 Will fails because the 2007 Judgment was facially regular, and a bona fide purchaser is entitled to rely on it.

{18} In addition to our holding that Premier was not bound to look beyond a facially regular judgment, we further clarify that a court's improvident exercise of its jurisdiction will not be corrected at the expense of a bona fide purchaser. In *Archuleta*, this Court noted, "'[i]f the [court's] jurisdiction has been improvidently exercised, it is not to be corrected at the expense of one who had the right to rely upon the order of the court as an authority emanating from a competent source.'" *Id.* (quoting *Pettis*, 190 P. at 692). This means that Premier is entitled to rely on the 2007 Judgment as the order of an authority emanating from a competent source notwithstanding the service issues raised in the 2007 Heirship Proceeding.

{19} "[A] judgment is the final determination of the rights of the parties upon matters submitted to the court." 49 C.J.S. *Judgments* § 1 (2021) (footnote omitted). And subsequent purchasers of property that has been the subject of judgments at some point in the property's chain of title must be able to rely on those final judgments as accurate unless invalid on their face. It is unfair to allow extrinsic evidence of lack of jurisdiction long after a judgment has been entered to overcome the rights of a bona fide purchaser who is entitled to rely on that judgment as final. *See Martin v. Hunter's Lessee*, 14 U.S. 304, 355 (1816) ("A final judgment of this court is supposed to be conclusive upon the rights which it decides.").

{20} To rule otherwise would mean that purchasers would have to delve into the merits of the judgment to ponder its legitimacy and even speculate as to whether the judgment would be upheld in the face of a collateral attack. This outcome is absurd. It would not only be unfair to purchasers, but it would undermine the legitimacy of our judgments and diminish public trust in our judicial system. This case clearly demonstrates our concerns. This Court is being asked to untangle a forty-five-year-old probate. In the meantime, several third parties have gained interests in the subject of the estate through reliance on orders of our courts. A decision that disallows Premier from relying on the 2007 Judgment would dissuade all purchasers like Premier from buying property that had been involved in a judicial decision, completely undermining our policy of finality of judgments. It would cause purchasers like Premier to have to second-guess the decisions of our courts, decisions that are meant to be final and reliable.

{21} It follows, then, that extrinsic evidence of lack of jurisdiction due to improper service of process cannot overcome the rights of a bona fide purchaser. This Court stated in *Archuleta*, "'those courts excluding extrinsic evidence to show want of jurisdiction for lack of service of process do so not because a judgment without service is good, but because public policy will not permit the introduction of extrinsic evidence to overcome that which it treats as absolute verity.'" 1960-NMSC-117, ¶ 28 (quoting *Pettis*, 190 P. at 692).

{22} In this case, the 1980 Will (admitted to probate in 2012) was admissible to show that the Welches were interested persons who should have been given notice in the 2007 Heirship Proceeding. This was the Court of Appeals' rationale for voiding the 2007 Judgment. However, that same 1980 Will is inadmissible to negate Premier's rights as a bona fide purchaser.

III. CONCLUSION

{23} Premier was entitled to assume that the 2007 Judgment was valid and that it settled any adverse title claims to the Minerals. The 2007 Judgment was not facially void, and therefore Premier was not bound to look beyond it. Extrinsic evidence of lack of jurisdiction—that is, the 1974 Will and the 1980 Will—is inadmissible to overcome the rights of Premier as a bona fide purchaser. For the foregoing reasons, we affirm the Court of Appeals and hold that Premier is entitled to the Minerals as a bona fide purchaser.

{24} IT IS SO ORDERED.

DAVID K. THOMSON, Justice

WE CONCUR:

C. SHANNON BACON, Chief Justice

MICHAEL E. VIGIL, Justice

JULIE J. VARGAS, Justice

CURTIS R. GURLEY, Judge,
Sitting by Designation

From the New Mexico Supreme Court

Opinion Number: 2023-NMSC-018
No: S-1-SC-38934 (filed July 13, 2023)

MCFARLAND LAND AND CATTLE INC.,
Plaintiff-Respondent,
v.
CAPROCK SOLAR 1, LLC, a Delaware limited liability company, and SWINERTON BUILDERS, a California corporation,
Defendants,
and
COUNTY OF QUAY,
Intervenor-Petitioner.

ORIGINAL PROCEEDING ON CERTIORARI
Matthew E. Chandler, District Judge

Warren F. Frost, P.C.
Warren F. Frost
Logan, NM

for Petitioner

Moses, Dunn, Farmer & Tuthill, P.C.
Joseph Lee Werntz
Albuquerque, NM

for Defendants

Hinkle Shanor LLP
Richard E. Olson
Jeremy D. Angenend
Roswell, NM

for Respondent

OPINION

THOMSON, Justice.

{1} This case involves a dispute about whether a public prescriptive easement existed over a road in Quay County. Defendants Caprock Solar 1 (Caprock) and Swinerton Builders (collectively, Defendants) and Intervenor Quay County (the County) contend that the Court of Appeals erred by reversing the district court and creating an additional requirement to establish a public prescriptive easement claim—namely, that a claimant must prove frequency of use by the public and a minimum number of public users. We agree that the Court of Appeals' stricter proof requirement was improper and take this opportunity to clarify what is required to prove a public prescriptive easement claim. In doing so, we adopt the holding in *Trigg v. Allemand*, 1980-NMCA-151, ¶ 9, 95 N.M. 128, 619 P.2d 573, that "[f]requency of use or number of users is unimportant, it being enough if use of the road in question was free and common to all who had occasion to use it as a public highway" (internal quotation marks and citation omitted). We also adopt the principle articulated in *Luevano v. Maestas*, 1994-NMCA-051, ¶¶ 23, 25, 117 N.M. 580, 874 P.2d 788, that the public character of the road is key to establishing a public prescriptive easement claim. In this case, there is substantial evidence to support the district court's finding of a public prescriptive easement over the disputed road. Therefore, we reverse the Court of Appeals and affirm the district court.

I. BACKGROUND

{2} Quay Road AI (QR AI) begins on State Road 278 and runs south along tracts owned by Robert and Billie Abercrombie (the Abercrombies) and Plaintiff McFarland Land & Cattle Inc. (McFarland), eventually reaching state-owned land. Sometime in 1954, a flood washed out a wooden bridge on QR AI that crossed an arroyo near the southeast corner of McFarland's property. After the flood, QR AI was rerouted one hundred feet west onto McFarland's property. This area became known as the "low water crossing." The low water crossing, which is located on McFarland's property, is the subject of this dispute.

{3} In 2015, Caprock entered into a lease with the Abercrombies for the construction and operation of a solar energy farm on the Abercrombies' property. Caprock hired Swinerton Builders as its general contractor and entered into a sublease with the County in order to acquire industrial revenue bonds to assist in financing the solar farm. QR AI, including the low water crossing, is the only means of vehicular access to lands owned by the Abercrombies that were leased to Caprock, state lease land, and lands owned by the Dean Hodges family. Consequently, Caprock and Swinerton Builders used the low water crossing on QR AI to reach the leased land on the Abercrombies' property for construction of the solar farm.

{4} When construction of the solar farm began, McFarland demanded that certain conditions be met, including payment from Caprock, to use the crossing. Up to that point, McFarland made no effort to keep others from using QR AI. Negotiations between McFarland and Caprock regarding use of the crossing failed, driving McFarland to file a petition for a permanent injunction seeking to enjoin Defendants from using the low water crossing. In their answer, Defendants asserted, among others, the affirmative defenses of implied easement, prescriptive easement, and easement by necessity. The district court allowed the County to intervene, and the County filed a complaint seeking a declaration that QR AI's low water crossing is within a public prescriptive easement and that McFarland had no right to interfere with the public's use of QR AI and the low water crossing. Prior to trial, Defendants and the County filed a joint trial brief, contending that "a right of access exists across QR AI, including 'the low water crossing'[] where it crosses the McFarland land," under the theories of easement by prescription, implied dedication, and easement by estoppel.

{5} After a bench trial, the district court entered judgment in favor of Defendants and the County. The district court did not make any findings or conclusions on the implied dedication or easement by estoppel theories. Instead, it focused its findings on the existence of a public prescriptive easement, concluding that Defendants and the County "prove[d] the elements of a public prescriptive easement on QR AI, where it crosses [McFarland's property] by clear and convincing evidence."

{6} The conclusion that a public prescriptive easement existed over QR AI was based on evidence of records, certifications, and maps showing QR AI as a County road. The district court made additional findings regarding QR AI's reputation as a public road. It found that McFarland's neighbors used QR AI and never felt the need to ask for permission to use it, that McFarland never prevented others from using QR AI, and that the local title company that issued the title insurance policy for the solar farm identified QR AI as a public road.

{7} The Court of Appeals reversed the district court, concluding that the County and Defendants did not prove the public use element of their public prescriptive easement claim by clear and convincing evidence. *McFarland Land & Cattle Inc. v. Caprock Solar 1, LLC*, 2021-NMCA-057, ¶ 16, 497 P.3d 665. Acknowledging its holding in *Trigg* that "'[f]requency of use or number of users is unimportant, it being enough if use of the road in question was free and common to all who had occasion to use it as a public highway,'" the Court of Appeals, in its substantial evidence review, nonetheless concluded that public use of the road "might have amounted to five to ten times over an approximate thirty-year period" and that "[t]here was no other evidence of actual use of the road by the general public." *McFarland Land & Cattle Inc.*, 2021-NMCA-057, ¶¶ 10, 16 (quoting *Trigg*, 1980-NMCA-151, ¶ 9 (first alteration in original)). The Court read *Luevano* to require the district court to disregard evidence of QR AI's reputation as a public road because, in its view, that evidence relied exclusively on the use made by McFarland's neighbors and invitees. *See McFarland Land & Cattle Inc.*, 2021-NMCA-057, ¶¶ 12, 16. The Court of Appeals remanded the case to the district court to consider the unresolved theories of implied dedication and easement by estoppel advanced by the County and Defendants. *Id.* ¶ 17. The County filed a petition for writ of certiorari, which we granted, and Defendants joined the County in the briefing. Our review on appeal is limited to the public prescriptive easement claim as this is the only question presented by the parties. *See* Rule 12-502(C)(2)(b) NMRA ("[T]he Court will consider only the questions set forth in the petition."). We conclude that the Court of Appeals erred in requiring evidence establishing frequency of use or a minimum number of users, given the other evidence presented at trial and findings of the district court that sufficient evidence proved a public prescriptive easement existed for the low water crossing on QR AI. We reverse the Court of Appeals and affirm the district court's original judgment.

II. DISCUSSION

A. Standard of Review

{8} We begin by reviewing the Court of Appeals' legal conclusion on prescriptive easements de novo. *Amethyst Land Co., Inc. v. Terhune*, 2014-NMSC-015, ¶ 9, 326 P.3d 12. We then determine "whether substantial evidence supports the district court's findings and whether these findings support the conclusions that the elements required to establish a public easement by prescription were . . . proved by clear and convincing evidence." *Algermissen v. Sutin*, 2003-NMSC-001, ¶ 9, 133 N.M. 50, 61 P.3d 176. Review for substantial evidence is a deferential standard, and

> [e]ven in a case involving issues that must be established by clear and convincing evidence, it is for the finder of fact, and not for reviewing courts, to weigh conflicting evidence and decide where the truth lies. We defer to the trial court, not because it is convenient, but because the trial court is in a better position than we are to make findings of fact and also because that is one of the responsibilities given to trial courts rather than appellate courts.

State ex. rel. Dep't of Human Servs. v. Williams, 1989-NMCA-008, ¶ 7, 108 N.M. 332, 772 P.2d 366.

B. Frequency of Use or Minimum Number of Users Is Not Required to Establish a Public Prescriptive Easement Claim

{9} The County and Defendants challenge the Court of Appeals' conclusion that they did not present sufficient evidence to establish a public prescriptive easement. *See McFarland Land & Cattle Inc.*, 2021-NMCA-057, ¶ 16. Specifically, they argue that if a road has a public character, they need not prove a "minim[um] number of uses by the public," and therefore the Court of Appeals' additional proof requirement is inconsistent with our law on public prescriptive easements.

{10} In order to establish a public prescriptive easement claim, the claiming party must prove that the public used the property and that there was "an adverse use of land, that is open or notorious, and continued without effective interruption for the prescriptive period (of ten years)." *Algermissen*, 2003-NMSC-001, ¶¶ 9, 10. At issue in this case is whether the Court of Appeals erred by holding that a minimum number of users or amount of use by the public is *required* to support a district court's conclusion that a public prescriptive easement exists.

{11} Our analysis starts with a discussion of the public use element of a public prescriptive easement claim. In *Trigg*, the district court concluded that the defendant, a neighboring landowner, established a public prescriptive easement over a road that crossed the plaintiff's land. 1980-NMCA-151, ¶¶ 4-5. The Court of Appeals held that there was substantial evidence to support the district court's conclusion because although the road was not formally listed as a county road, "[a]ll of the witnesses testified that [it] was a public road, freely used by the public" for more than fifty years, the county maintained and graded the road, and on one occasion, the plaintiff landowner told the defendant neighbor that he believed the road was a public road. *Id.* ¶¶ 6-7, 14. Noting that "[a] public highway can be established by use alone," the *Trigg* Court highlighted that the character of the road is critical, stating, "Frequency of use or number of users is unimportant, it being enough if use of the road in question was free and common to all who had occasion to use it as a public highway." *Id.* ¶¶ 8-9 (internal quotation marks and citation omitted); *see also Koch v. Mraz*, 165 N.E. 343, 346 (Ill. 1929) ("The test whether a strip of ground has become a public highway by user is, not the number of persons actually using it, but the character of the use; that is, whether the public generally had free and unrestricted right to use the road."). The Court also concluded that "[o]nce a road is found to be open to the public and free and common to all citizens, [it] should be open for all uses reasonably foreseeable," thus setting out the boundaries of a public prescriptive easement. *Trigg*, 1980-NMCA-151, ¶ 9.

{12} The importance of a road's character as public was later clarified in *Luevano*, where the Court of Appeals reviewed a district court's grant of a motion for summary judgment in favor of a public prescriptive easement claim. 1994-NMCA-051, ¶¶ 1, 8-9. "Having determined there were no material issues of fact in dispute," the district court granted the defendants' motion for summary judgment. *Id.* ¶¶ 1, 8. The defendants argued that a road on the plaintiffs' property was a public prescriptive easement, presenting evidence that neighbors used the road, the county maintained the road, public records showed the road as a public road, and neighbors believed the road was public. *See id.* ¶¶

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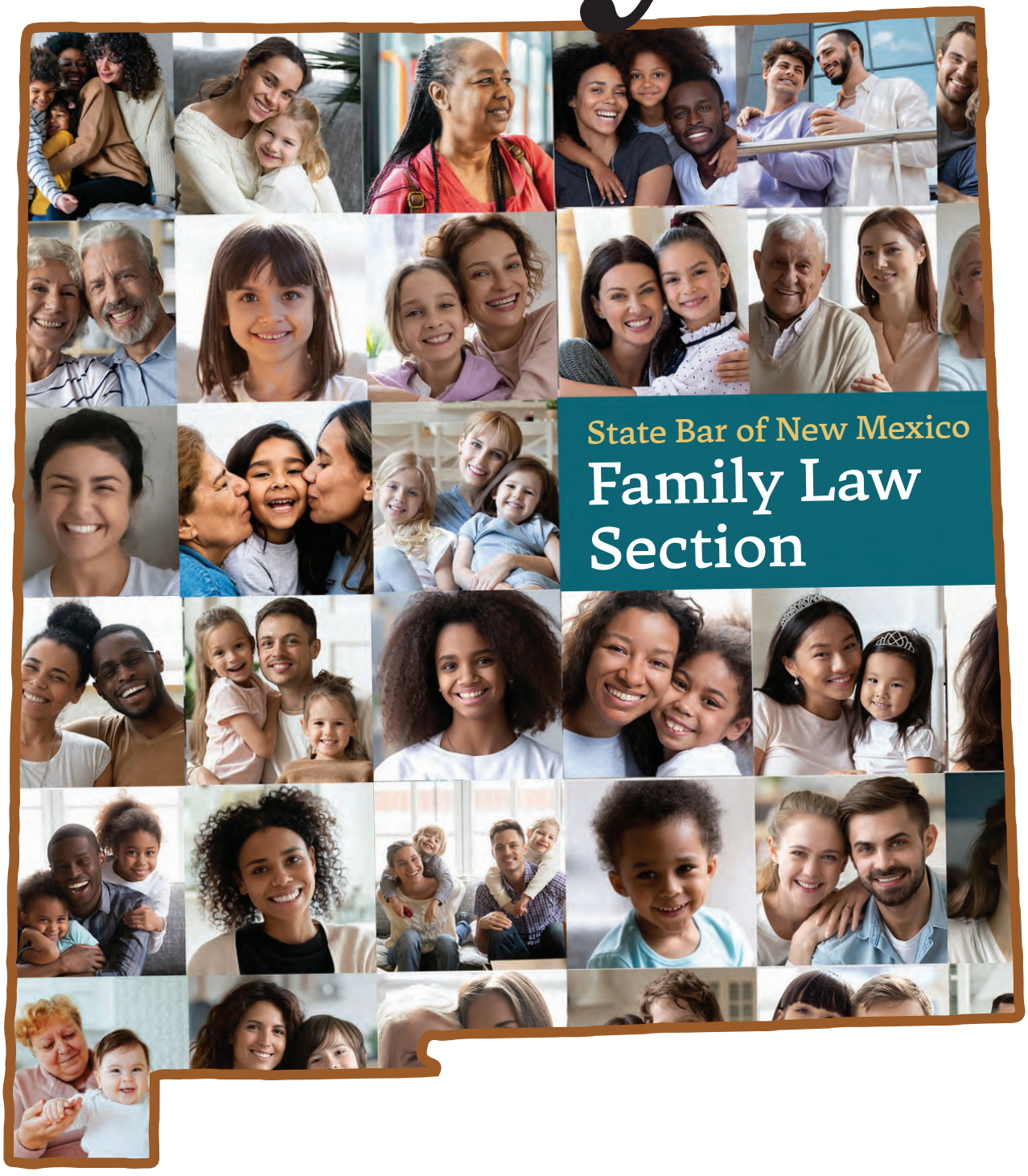

Navigating the Legal Landscape:

Prioritizing the Best Interest of New Mexico's Children in Family Law Cases

By Brian T. Ray, Esq.

Few principles carry as much weight and significance in the realm of family law as that of best interest. Nowhere is that clearer than in the Great State of New Mexico, with our melting pot of rich and diverse cultures that embody our landscape. The task of assessing a child's best interest in matters affecting custodial decisions is far from plain and ordinary, especially within this backdrop that often yields great contention and highly charged emotions.

Over the last decade, my practice has represented hundreds of families in custodial and family welfare matters; including children and youths and families seeking guardianship, adoption or the resolution of other custody challenges throughout New Mexico. Working these cases often involves travel throughout the state, from the winding, picturesque roads of Highway 550 with its brightly colored mesas and hoodoos, to the black basalt hills of El Malpais on the way to Alamogordo, and even the hallowed lands of our Native American Nations, Tribes and Pueblos. It's humbling to acknowledge how such an alluring land can give rise to such trying of legal challenges.

While the legal landscape varies as much as our natural surroundings, credence should be afforded to the fact that these cases are emotionally elevated. Fear, joy, shock and everything in between is often the expressed and experienced norm for the adults involved. At times, they may break down in happy tears from reuniting their family or devolve into fits of rage over a decision. There is no cash prize for "winning" or "losing" in these cases, but being able to spend time with one's family is often worth more than its weight in gold. For this reason, it is vital to keep in mind that the lives of everyone involved are significantly impacted by the decisions being made and the outcomes that follow, especially for the kids.

As attorneys, judges and other practitioners within this backdrop, we are entrusted with the enormous responsibility of safeguarding the welfare and future of the youngest members of our society who are involved in these difficult situations. Making irresponsible and cavalier decisions can lead to adverse and unintended consequences. Sometimes the decisions are simple, like whether a child can make tortillas with their abuelita on Saturdays. Sometimes they are much more contentious and nuanced, like whether a pair of siblings should have ongoing visitation with their parent who loves them dearly but also has an extant history of domestic abuse and criminal activity. How we navigate the intricacies of this standard impacts the optimality of outcomes for those we serve.

In our domestic affairs section, 40-4-9 NMSA 1978, we find the standards for the determination of child custody in dissolution matters as being "in accordance with the best interests of the child," with several considerations laid out. These include:

(1) the wishes of the child's parent or parents as to his custody;
(2) the wishes of the child as to his custodian;
(3) the interaction and interrelationship of the child with his parents, his siblings and any other person who may significantly affect the child's best interest;
(4) the child's adjustment to his home, school and community; and
(5) the mental and physical health of all individuals involved.

Although our legislature has deemed all these factors as cornerstones, the overarching consideration often boils down to the mental and physical health of everyone involved. This is because a child's mental and physical health is often influenced by all the other considerations. Additionally, if a parent or guardian has demonstrated that they are either unable or unwilling to maintain their own wellbeing, it's often a recipe for disaster to expect reasonable and prudent care for both their self and children without additional support.

The concepts of health and wellbeing are so crucial in assessing a child's best interest because any decisions made today will certainly have an impact on that child's identity and overall development. One example might be of a child with a mixed cultural heritage. Absent consideration to the child's interest, their connection and sense of belonging to either side's lineal heritage may be all but lost. Alternatively, if the child already lacks a connection to their cultural lineage from the onset, forcing the issue may be more of a stressor than a source of comfort. These decisions can be daunting when culture is a fluid

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The Prenuptial Agreement: It's Not Like the Old Days...

By Julie S. Rivers

Introduction

The prenuptial agreement, or as it also called – the antenuptial agreement – is no longer a document we dust off and use occasionally. In the age of Match.com and the many late-in-life marriages, the agreements between intended spouses now play a much larger role and require much more robust planning. Many of the reasons for a prenuptial agreement ("prenup") are to provide clarity for the couple's adult progeny and the couple themselves upon their marriage and eventual incapacity, death or divorce (and separation). Some examples include but are not limited to:

- Protect business
- Protect professional practice
- Anticipate putting career on hold
- Monied spouse
- Protect assets from other's creditors
- Inheritance
- Heirlooms
- Avoid expensive divorce
- Clarity for fiduciaries when incapacity or death
- Peace of mind

New Mexico has the good fortune to have the Uniform Premarital Agreement Act ("UPAA"). NMSA §40-3A-1 *et seq*. Brevity is the key for this missive so the reader can review the UPAA as well as the sparse attendant caselaw as needed.

A couple of things to keep in mind:

1. The UPAA allows for amendment and even revocation of the prenup post marriage. NMSA §40-3A-6. No consideration is required. *Id.* However, a practitioner should remember that upon marriage that post-marriage contracts between spouses is founded upon the fiduciary duty each has to the other. NMSA §40-2-2; *see also, Trigg v. Trigg,* 37 N.M. 296, 1933-NMSC-040, ¶7, 22 P.2d 119, where the Court discusses "confidential relations." That nearly 90-year-old case determined that the wife's "nagging" was considered "undue influence"! *Trigg v. Trigg,* 37 N.M. 296, 1933-NMSC-040, ¶30, 22 P.2d 119. However, the description in the case does go a bit beyond just plain nagging in the more mundane use of the term.
2. A premarital agreement ("PMA") cannot "adversely affect the right of a child or spouse to support," child access or a party's choice of where to live or to pursue career opportunities. NMSA §40-3A-4(B).

Some Drafting Tips to Avoid the Malpractice Traps

Let's get to the heart of it and talk about drafting! Even the most experienced and talented practitioners fail to consider all aspects of life when drafting a PMA: separation, incompetency, divorce and death ("SIDD"). When a PMA does not address these four issues, the practitioner is at risk for committing malpractice.

Sometimes it helps if there is a joint trust created as part and parcel of the PMA so that SIDD considerations are addressed. If there are children from a previous marriage or other types of financial dependencies, then not addressing what occurs when one of the parties (especially the monied spouse) becomes incompetent or the parties separate for some reason can result in litigation.

Along with a needed severability clause in a PMA, it is suggested that there be language addressing how matters are addressed when the PMA terms need interpretation. Language allowing for mediation *before* court intervention proves helpful. In some circumstances, there might be language providing for the use of collaborative professionals.

There should be complete and proper characterization of income, assets and debt by the monied and nonmonied intended spouses. A PMA should contain specific language as to how income flows and what happens to the appreciation of assets. Much can be forgiven if there is a good inventory of the income,

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Protecting Vulnerable Immigrant Youth in New Mexico:

Analysis of the New Special Immigrant Juvenile Classification Act (NMSA 1978 § 40-18-1 through 40-18-4)

By Monica Newcomer Miller, Esq.

Introduction

When working with undocumented immigrants or mixed status families in the family law process, it can make all the difference to seek additional protections for foreign-born youth as part of a custody, guardianship, emancipation or similar petition. The Special Immigrant Juvenile Classification Act ("SIJCA" or "The Act") signed into law in New Mexico on April 5, 2023, provides guidance on seeking protections for these youth and children living in our state. *See* NMSA 1978 § 40-18-1 *et seq*. Based on this newest revision to the domestic relations code, undocumented youth and children living in New Mexico are now eligible to obtain "Special Findings" from state court judges that will allow them to apply for immigration status as Special Immigrant Juveniles (SIJ) up to age 21. The new law draws on federal standards for protecting immigrant children who have been abused, abandoned or neglected. It enables minors residing in the state to obtain legal protection and offers a lifeline of hope to young immigrants who have faced unimaginable challenges.

Understanding Special Immigrant Juvenile Status

In 1990, recognizing the critical need to safeguard immigrant children seeking protection, Congress created provisions leading to relief in the form of Special Immigrant Juvenile Status (SIJS). 8 U.S.C. § 1101(a)(27)(J). SIJS is a federal classification that offers a lifeline to vulnerable immigrant children who have suffered maltreatment by one or both parents. Once approved, SIJS provides access to work authorization, lawful permanent residency (a green card to remain in the U.S. permanently) and eventually, citizenship. SIJS is available to children:

- Who are under age 21 and unmarried;
- Who have suffered maltreatment and are unable to reunite with their parent(s) due to abuse, neglect, abandonment or a similar circumstance;
- Whose best interest is not served by returning to their home country or country of last habitual residence; and
- Who are dependent on a state court for care or who have been placed in the care or custody of another individual or agency.

This set of requirements is referred to as "Special Findings," or the facts that must be established to demonstrate that a child qualifies for SIJS.

Securing the Special Findings in State Court

The federal statute guiding SIJS eligibility specifically delegates the task of making these "Special Findings" to state courts. 8 C.F.R. § 204.11(c).

The federal law recognizes that state courts are best suited to make findings relating to family law or child protection, as they are matters that lie within the state court's traditional expertise. With the passage of the SIJCA, New Mexico state law now aligns with the SIJ federal statute and joins 18 other states in creating state specific guidance for judges to make necessary determinations for the best interests of foreign-born children. The SIJCA lays out definitions and guidance to make each of the above Special Findings. The Act specifically defines what constitutes abuse, abandonment and neglect and clarifies that there are similar circumstances, such as the death, incarceration or deportation of a parent, that may also constitute the need for Special Findings. NMSA 1978 § 40-18-2(G). Additionally, the Act expands the definition of "Child" for purposes of the SIJCA, to include foreign-born, unmarried youth up to age 21. NMSA 1978 § 40-18-2(C).

State Courts regularly determine the best interests of children in family court proceedings and these Special Findings are no different. State Courts and the designated judges are not authorizing immigration status but rather reviewing the facts presented to determine the best interests of each specific case. Special Findings can be requested in a number of proceedings. In many cases when children are involved in custody cases or seeking placement under the Kinship Guardianship Act, the facts and basis for Special Findings can be included in the petition. This is also true in emancipation cases, juvenile delinquency proceedings, abuse and neglect proceedings[1] and adoptions. For children who are between ages 18 and 21, stand-alone petitions for dependency on the court can be filed requesting the Special Findings.

Regardless of how the request comes before the Court, a judge must review the record and decide if Special Findings are warranted. The Court will consider the petition, pleadings and submitted evidence or testimony in order to make the applicable determinations. If the child is deemed to have met the requirements, these Special Findings are incorporated into a final order. The child can use the order to then apply for SIJS at the federal level.

Conclusion

The SIJCA aligns state law with the federal requirements and provides advocates and adjudicators the necessary guidance to secure protections for foreign born children who have suffered abuse, abandonment or neglect by a parent. The Act underscores New Mexico's commitment to ensuring the safety and well-being of children in the state, including vulnerable immigrant minors.[2] ■

Monica Newcomer Miller *is a 2015 graduate of the University of New Mexico School of Law where she graduated with honors. She has over 20 years of experience working in the field of immigration as a social worker, paralegal and now lawyer. Monica is the Managing Attorney of the Children's Program at the New Mexico Immigrant Law Center where she oversees legal services for children seeking representation in the immigration process. She supported the legislative efforts in New Mexico for what is now the SIJ Classification Act and regularly provides trainings, CLEs and legal expertise on the process for obtaining Special Immigrant Juvenile Status. In addition, Monica enjoys spending time with her husband and three boys in the Land of Enchantment, specifically exploring hiking trails and hot springs.*

Endnotes

[1] Abuse and Neglect proceedings involving immigrant children are governed by the requirements of NMSA 1978 32A-4-23.1, in which CYFD must request the special findings under the listed provision.

[2] For more in-depth analysis or hands on experience with these cases consider contacting NMILC for upcoming CLEs, trainings or pro bono opportunities, in which staff attorneys will provide technical support and templates for SIJS cases.

The Prenuptial Agreement: It's Not Like the Old Days...

continued from page 4

assets and debt by both. The inventories should be attached and incorporated into the PMA itself. Appraisals may be necessary at the time to determine, for example, the value of a business. Clients are loathe to do this task – the monied spouse should be advised in writing that skipping this step could result in compromising the PMA at some later stage and could even result in a fraud accusation, thereby undoing everyone's hard work.

Unless a lawyer practices in the field of both family law and estate planning, it is a good idea to have both an estate planner and a family lawyer working on the PMA (obviously, one is retained by the client and the other may be retained or serve as a consultant). For example, a well-established estate planner represented the monied spouse. In negotiating the PMA, the estate planner failed to address the tax implications upon separation and divorce of spousal support *even though the new tax code was in effect at the time.* That borders on malpractice.

In conclusion, all the above means that a practitioner will need to charge more for this work as it involves much more than the ol' slapping something together! Good luck out there! ■

Julie S. Rivers*, a partner at Cuddy & McCarthy, LLP, practiced primarily family law for about 20 years when estate planner, Ken Bateman, asked if she'd consider estate planning. The rest is history… With the exception of some legacy family-law cases, she solely crafts estate plans and handles probate and trust administrations with a bit of litigation thrown in for good measure.*

Navigating the Legal Landscape: Prioritizing the Best Interest of New Mexico's Children in Family Law Cases

continued from page 4

concept in and of itself, but it's because of this diversity that every case deserves a careful assessment of who our children are, and what is a part of their familial identity.

The fact of the matter is that all custody cases vary in their circumstances and complexity. Decisions made in children's best interests tend to afford them care and protection and allow them to flourish. It may not always be easy to stop and take in the scenery, especially through the veil of emotions - still, our children deserve a childhood that acknowledges the beauty and natural wonder of their surroundings and heritage. We should strive to reflect on what tends to enhance and benefit the lives of the most vulnerable in our society because they too may someday walk the same paths as the adults in the room today. ■

Brian T. Ray, Esq. *is the founder and managing attorney of the Ray Law Office in Albuquerque. With nearly a decade in practice, he has built a foundation in representing children and families in guardianship, adoption, custody and Indian family law matters. He is also a regular speaker at child and family welfare conferences throughout the State of New Mexico.*

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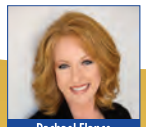
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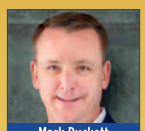
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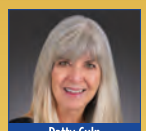
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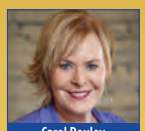
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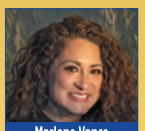
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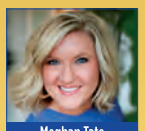
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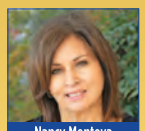
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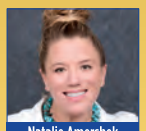
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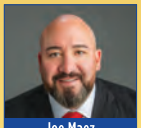
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8-9, 18-19, 22. The Court of Appeals held that "the evidence of prescription was [not] sufficient to support judgment for [the d] efendants as a matter of law." *Id.* ¶ 24. The Court first explained that, as a matter of law, use by a landowner's business invitees and neighbors is insufficient on its own to establish the public character of a road. *Id.* ¶ 21 ("We agree with [the p]laintiffs that the evidence of use by their business invitees is not sufficient to establish the public character of the road as a matter of law, and thus to support summary judgment."). "That is because their invitees' use was use in effect by them. No adverse public use resulted when the public utilized an access drive to reach a specific business adjacent to it." *Id.* (text only)1 (citation omitted). However, the Court of Appeals later explained that there was additional evidence that the road had a reputation as public. *Id.* ¶ 21 ("[T]here is more here than use by [the p]laintiffs' invitees and by [the d]efendant neighbors."). The *Luevano* Court focused on evidence that the road was shown as a public road in public records and testimony from neighbors that they and their predecessors in interest believed the road was a public road and that the road was referred to as a public road when they purchased their properties. *Id.* ¶¶ 22-23. Notably, the Court held that evidence of a road's reputation as public supports an inference that the road is "'open to the public'" and clarified that "*Trigg* emphasizes character rather than amount of use." *Id.* ¶¶ 23, 25-26 (citation omitted). Explaining that "[u]nder *Trigg*, the evidence of the road's reputation certainly would support an inference of public use," the Court ultimately concluded that there was a triable issue as to whether evidence of the road's reputation as public "might have arisen at least in part as a result of [the p]laintiffs' business and the use made by their invitees." *Id.* ¶¶ 24-26.

{13} Thus, *Trigg* and *Luevano* make clear that a claimant does not need to prove frequency of use or a minimum number of users to establish public use. Although public use can be proven with evidence of actual use by the public, ultimately, a claimant must prove that the road has a character or reputation as public that does not arise as a result of use by the landowner's business and invitees.

{14} In this case, the Court of Appeals acknowledged that there was evidence to support QR AI's reputation as public, such as the County considering QR AI as a public road for decades and the County expending funds on maintaining QR AI. *McFarland Land & Cattle Inc.*, 2021-NMCA-057, ¶ 9. However, the Court of Appeals disregarded this reputation evidence because the County and Defendants did not additionally show a sufficient amount of actual use by the general public. *Id.* ¶¶ 10-12, 16 ("From the testimony elicited at trial, public use of QR AI might have amounted to five to ten times over an approximate thirty-year period. There was no other evidence of actual use of the road by the general public."). Moreover, the Court of Appeals declined to consider the use by McFarland's neighbors and invitees, stating that "use by neighbors and their invitees does not constitute use by the general public." *Id.* ¶ 16 (citing *Luevano*, 1994-NMCA-051, ¶¶ 20-21). As a result, the Court of Appeals concluded that Defendants and the County failed to present clear and convincing evidence of public use of QR AI necessary to establish a public prescriptive easement. *Id.*

{15} The Court of Appeals' requirement in this case that a claimant prove a minimum number of users or amount of use by the public is in direct conflict with and is unworkable in light of the guidelines provided in *Trigg* and *Luevano*. *See Trigg*, 1980-NMCA-151, ¶ 9 ("Frequency of use or number of users is unimportant, it being enough if use of the road in question was free and common to all who had occasion to use it as a public highway." (text only) (citation omitted)); *Luevano*, 1994-NMCA-051, ¶ 25 ("*Trigg* emphasizes character rather than amount of use."). Furthermore, the Court of Appeals overread *Luevano* as creating a per se rule that evidence of use by neighbors or invitees cannot ever be considered to establish public use. *See McFarland Land & Cattle Inc.*, 2021-NMCA-057, ¶ 10. However, the Court in *Luevano* explained that neighbor and invitee use cannot, *by itself*, establish the public character of the road as a matter of law. *Luevano*, 1994-NMCA-051, ¶ 21. Rather, a claimant must present additional evidence demonstrating that a road has a public character and that the character did not arise as a result of a landowner's business or use made by the landowner's invitees. *See id.* ¶¶ 21-23, 26.

{16} We adopt the principles set out in *Trigg* and *Luevano* and hold that when proving a public prescriptive easement claim, one does not need to prove a minimum number of users or frequency of use. Rather, a claimant only needs to prove that "use of the road in question was free and common to all who had occasion to use it as a public highway." *Trigg*, 1980-NMCA-151, ¶ 9 (internal quotation marks and citation omitted). Thus, when proving the public use element, there must be evidence that the road has a public character. *See id.*; *Luevano*, 1994-NMCA-051, ¶ 25. The public character of a road must arise independently from the landowner's business and invitees. *See Luevano*, 1994-NMCA-051, ¶ 26. However, evidence of use by neighbors and their invitees, though not dispositive, can be used to support a road's public character. *See id.* ¶¶ 21-23, 26; *Trigg*, 1980-NMCA-151, ¶¶ 6-7. It does not make sense to conclude that a road with a clear reputation as public is made less so because neighbors use the road or because a claimant does not show a minimum amount of use by other members of the public. *See Smith v. Bixby*, 242 N.W. 2d 115, 118 (Neb. 1976) ("The defendant cites no authority, nor do we find any, to support the contention that when only a few members of the public use a road regularly, the road may be deemed abandoned. Neither is there any authority to support the proposition that public rights acquired by prescription are lost or abandoned because of a substantial reduction in the number of members of the public who continue to make use of the rights previously acquired."). Neighbors and their invitees are a class of the public, and evidence of their use can be considered along with other evidence of a road's public character.

{17} Therefore, we conclude that the Court of Appeals erred in requiring the County and Defendants to prove a minimum amount of use by the public in establishing their public prescriptive easement claim and erred in holding that evidence of neighbor or invitee use can never be considered to prove public use.

C. Substantial Evidence Supports the District Court's Conclusion of a Public Prescriptive Easement

{18} Applying the principles articulated above, we determine that the Court of Appeals' erred in holding that there was not substantial evidence to support the district court's conclusions that the public used QR AI and that a public prescriptive easement existed over it at the low water crossing. *See id.* ¶¶ 16-17.

{19} The County and Defendants presented evidence of QR AI's reputation as public, including evidence that QR AI (1) appears on the 1956 Quay County General Highway Map which the State Highway Department prepared, (2) appears on the 1970 Quay County Roadmap which identifies it as a County-maintained road, and (3) appears on County annual road certification maps from 1993 to 2017 as a County-maintained road. Additionally, there was evidence that a connecting road, QR 51, was also listed as a County road in public records, but the County decertified QR 51 as a public road in a formal

1 The "text only" parenthetical as used in this opinion indicates the omission—for enhanced readability—of all of the following nontextual marks that may be present in the source text: brackets, ellipses, and internal quotation marks.

process and deleted it from the County's certification maps in 2018. There is no evidence that QR AI was subject to that same decertification process, which indicates that QR AI still had a reputation as public even though a connecting road did not. Moreover, current and former County employees testified that they maintained and bladed QR AI, including the low water crossing, for decades and that the County has made specific repairs to segments of QR AI when needed and when requested by property owners who use QR AI. Finally, a title producer testified that the title company issued the title insurance policy to Caprock for the solar farm under the belief that QR AI was a public road.

{20} In addition, there was evidence that McFarland's neighbors and their invitees had used QR AI, believing it was a public road, and that other members of the public also used QR AI. McFarland's neighbors, Robert Abercrombie and Dean Hodges, provided affidavit testimony that for more than forty years, users of QR AI, including the low water crossing, believed it was an open road for all to use, and the users did not ask McFarland or its predecessors in title for permission to use QR AI. In their affidavits, Abercrombie and Hodges also stated that McFarland never attempted to stop them from using QR AI, and, although McFarland tried to block the use of QR AI during construction of the solar farm, the neighbors' crossings were never interrupted. McFarland's ranch manager, Ted Quintana, also testified that he observed neighboring landowners using the low water crossing. Additionally, Hodges testified that he observed unknown members of the public traveling on QR AI on a few occasions. This evidence of QR AI's reputation as public as well as the use made by McFarland's neighbors pursuant to that reputation and the use made by other members of the public substantially supports a determination that QR AI has a public character.

{21} Here and unlike the disputed portion of the road in *Luevano*, there was no evidence that the road's character as public arose as a result of McFarland's business and the use made by its invitees. *See Luevano*, 1994-NMCA-051, ¶ 26. Instead, there is evidence that QR AI had a reputation as a public road because QR AI was listed as a County road in public records for more than twenty years, QR AI was maintained by the County for decades, and McFarland's neighbors as well as a local title company believed that QR AI was an open road for all to use. From the record, it appears that the neighbors' and invitees' use of QR AI arose from its reputation as a public road, not that the reputation as a public road arose as a result of the neighbors' and invitees' use of the road. In addition, there was evidence that unknown members of the public travelled on QR AI on a few occasions.

{22} The district court focused its findings and conclusions regarding the public prescriptive easement mostly on the evidence of County ownership through maps, certifications, and County maintenance. The district court also found that McFarland's neighbors used QR AI without McFarland's express permission and that they never felt the need to ask McFarland for permission. Additionally, McFarland never attempted to stop its neighbors or others from using QR AI. In fact, McFarland made no effort to block the use of QR AI until after construction began on the solar energy farm. Moreover, to the extent that McFarland placed gates near the low water crossing, the presence of gates did not interrupt the use by neighbors or County maintenance. Finally, the district court found that a local title company identified QR AI as a public road based on County road maps and issued a title insurance policy to Caprock for the solar farm under that belief. We hold that the evidence mentioned above substantially supports the district court's findings and its conclusion that the public used QR AI.

{23} By reweighing the evidence presented to the district court described herein, the Court of Appeals disregarded its obligation to "not reweigh the evidence nor substitute [its] judgment for that of the fact finder." *Las Cruces Pro. Fire Fighters v. City of Las Cruces*, 1997-NMCA-044, ¶ 12, 123 N.M. 329, 940 P.2d 177. "The question is not whether substantial evidence would have supported an opposite result; it is whether such evidence supports the result reached." *Hernandez v. Mead Foods, Inc.*, 1986-NMCA-020, ¶ 16, 104 N.M. 67, 716 P.2d 645. Specifically, the Court of Appeals relied on testimony from McFarland's president, Kelly McFarland, about not seeing people crossing the property "willy-nilly," and from Quintana, who said he never saw strangers on the property, just neighbors. *McFarland Land & Cattle Inc.*, 2021-NMCA-057, ¶¶ 12-13. The Court of Appeals also gave more weight to Hodges' testimony that public users of the road would get permission, and to testimony from County employees that they never observed members of the public using the road. *Id.* ¶¶ 14-15. While an appellate court may consider all the evidence in its review for substantial evidence, the court may not reweigh evidence and reverse the district court because it would have come to a different conclusion. *See Williams*, 1989-NMCA-008, ¶¶ 7-8. Because there is substantial evidence to support the district court's determination, we affirm the district court's conclusion that a public prescriptive easement existed on QR AI at the low water crossing.

III. CONCLUSION

{24} The law of public prescriptive easements in New Mexico does not require a showing of a minimum amount of use or number of users, as it is the public character of the road that guides a fact finder's determination of a public prescriptive easement. Here, there is substantial evidence to support the district court's conclusion that the public used the low water crossing and that a public prescriptive easement exists over this portion of QR AI. As a result, we reverse the judgment of the Court of Appeals and affirm the findings and conclusions of the district court. We remand to the district court to enter judgment in favor of Defendants and the County on their public prescriptive easement claim.

{25} IT IS SO ORDERED.

DAVID K. THOMSON, Justice

WE CONCUR:

C. SHANNON BACON, Chief Justice

MICHAEL E. VIGIL, Justice

BRIANA H. ZAMORA, Justice

LISA CHAVEZ ORTEGA, Judge

Sitting by designation

FORMAL OPINION

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Filing Date: 9/14/2023

No. A-1-CA-40576

STATE OF NEW MEXICO ex rel. CHILDREN, YOUTH & FAMILIES DEPARTMENT,
Petitioner-Appellee,
v.
BRIAN F.,
Respondent-Appellant,
and
ASHLEY F. a/k/a ASHLEY D., DAVID S., SANTEZ P., KEVIN S., and VERONICA S.,
Respondents,
and
KENDALL K.,
Interested Party,
IN THE MATTER OF JAXXON P., JOSHUWA S., MAXINE F., and AUSTIN F.,
Children.

APPEAL FROM THE DISTRICT COURT OF LEA COUNTY
Lee A. Kirksey, District Court Judge

Children, Youth & Families Department
Mary McQueeney, Chief Children's Court Attorney
Santa Fe, NM
Kelly P. O'Neill, Children's Court Attorney
Albuquerque, NM

for Appellee

Cravens Law LLC
Richard H. Cravens, IV, Et al.
Albuquerque, NM

for Appellant

▶ Introduction of Opinion

In this case we address whether a parent may appeal from a judgment terminating their parental rights to the children when the rights of unrelated parents and the children remain pending in the same district court action and where the district court has not certified the judgment as immediately appealable under Rule 1-054(B) NMRA. Concluding that permitting such an appeal comports with the legislative mandate to hear such appeals "at the earliest practical time[,]" see NMSA 1978, § 32A-1-17(B) (1999), we hold that the judgment terminating Appellant Brian F. (Father)'s parental rights is a final and appealable order. We also affirm the termination of Father's parental rights.

Jacqueline R. Medina, Judge
WE CONCUR:
J. Miles Hanisee, Judge
Jane B. Yohalem, Judge

To read the entire opinion, please visit the following link: **https://bit.ly/A-1-CA-40576**

FORMAL OPINION

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Filing Date: 9/18/2023

No. A-1-CA-39291 and No. A-1-CA-40043
(consolidated for purpose of opinion)

STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
JEFFREY COOLEY a/k/a
JEFFREY ALLEN COOLEY,
Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT
OF LINCOLN COUNTY
Daniel A. Bryant, District Court Judge

and

STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
ALLEN ANTONIO,
Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT
OF BERNALILLO COUNTY
Brett Loveless, District Court Judge

Raúl Torrez, Attorney General
Emily C. Tyson-Jorgenson,
Assistant Attorney General
Santa Fe, NM
Michael J. Thomas, Assistant Attorney General, Et al.
Albuquerque, NM

for Appellee

▶ Introduction of Opinion

A sex offender whose sentence is deferred or suspended is required to serve "an indeterminate period of supervised probation" between five and twenty years. NMSA 1978, § 31-20-5.2(A) (2003). After five years on probation, and every two and one-half years going forward, a duration review hearing is held where the state has the burden of proving to a reasonable certainty that probation should continue. Section 31-20-5.2(B). If the state fails to carry its burden at the hearing, probation "may be for a period of less than twenty years," and end for the probationer. *See* § 31-20-5.2(A).

In this consolidated opinion, we must determine the remedy if a duration review hearing is missed, but probation is later continued based on evidence that was unavailable at the time the hearing should have been held. We hold, based on the plain language of Section 31-20-5.2(B), that duration review hearings are mandatory and must be held by the district court on the timeline provided by the statute. However, failure to hold a timely hearing does not divest the district court of jurisdiction over the case. **View full PDF online.**

Shammara H. Henderson, Judge
WE CONCUR:
Katherine A. Wray, Judge
Michael D. Bustamante, Judge, retired,
Sitting by designation (specially concurring)

To read the entire opinion, please visit the following link: **https://bit.ly/A-1-CA-39291**

MEMORANDUM OPINION

This decision of the New Mexico Court of Appeals was not selected for publication in the New Mexico Appellate Reports. Refer to Rule 12-405 NMRA for restrictions on the citation of unpublished decisions. Electronic decisions may contain computer-generated errors or other deviations from the official version filed by the Court of Appeals.

Filing Date: 9/12/2023

No. A-1-CA-37829

STEPHEN HARRIS,
Plaintiff-Appellee,
v.
CINDY DICK,
Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY
James T. Martin, District Court Judge

Firth, Bunn, Kerr & Neill
Edward DeV. Bunn, Jr.
El Paso, TX

Pierce & Madrid P.C.
Hugo Madrid
El Paso, TX

for Appellee

Martin & Lutz, P.C.
David P. Lutz
Las Cruces, NM

for Appellant

▶ Introduction of Opinion

Defendant Cindy Dick appeals the final judgment of the district court in a bench trial for the tort of conversion, in which Defendant was found to have deprived her brother, Plaintiff Stephen Harris, of $26,657 worth of his personal belongings. Defendant argues that both the district court's finding of conversion and the amount of damages involved misapplication of the law to the determined facts. We disagree and affirm.

J. Miles Hanisee, Judge
WE CONCUR:
Kristina Bogardus, Judge
Jane B. Yohalem,

To read the entire opinion, please visit the following link: **https://bit.ly/A-1-CA-37829**

MEMORANDUM OPINION

This decision of the New Mexico Court of Appeals was not selected for publication in the New Mexico Appellate Reports. Refer to Rule 12-405 NMRA for restrictions on the citation of unpublished decisions. Electronic decisions may contain computer-generated errors or other deviations from the official version filed by the Court of Appeals.

Filing Date: 9/14/2023

No. A-1-CA-39903

NATALIE ROY,
Petitioner-Respondent,
v.
NEW MEXICO DEPARTMENT OF WORKFORCE SOLUTIONS,
Respondent-Petitioner.

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY
Nancy J. Franchini, District Court Judge

Law Offices of Marshall J. Ray, LLC
Marshall J. Ray
Albuquerque, NM

for Petitioner-Respondent

Office of General Counsel
Andrea Christman
Rachael Rembold
Albuquerque, NM

for Respondent-Petitioner

▶ Introduction of Opinion

The Department of Workforce Solutions (the Department) appeals the district court's reversal of the Department's fraud determination regarding Natalie Roy's unemployment compensation benefits. The Department argues substantial evidence supports its fraud determination. We affirm the district court.

Michael D. Bustamante, Judge,
retired, sitting by designation
WE CONCUR:
Jennifer L. Attrep, Chief Judge
Megan P. Duffy, Judge

To read the entire opinion, please visit the following link: **https://bit.ly/A-1-CA-39903**

MEMORANDUM OPINION

This decision of the New Mexico Court of Appeals was not selected for publication in the New Mexico Appellate Reports. Refer to Rule 12-405 NMRA for restrictions on the citation of unpublished decisions. Electronic decisions may contain computer-generated errors or other deviations from the official version filed by the Court of Appeals.

Filing Date: 9/14/2023

No. A-1-CA-40071

STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
TODD JENNINGS,
Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF OTERO COUNTY
Steven Blankinship, District Court Judge

Raúl Torrez, Attorney General
Santa Fe, NM
Michael J. Thomas, Assistant Attorney General
Albuquerque, NM

for Appellee

Harrison & Hart, LLC
Daniel J. Gallegos
Nicholas T. Hart
Albuquerque, NM

for Appellant

▶ Introduction of Opinion

Defendant Todd Jennings appeals his convictions following a jury trial for breaking and entering (NMSA 1978, § 30-14-8 (1981)) and criminal damage to property (under $1,000) (NMSA 1978, § 30-15-1 (1963)). Defendant contends (1) it was plain error for the district court to admit (A) certain hearsay testimony, and (B) certain lay opinion testimony without a proper foundation; (2) his convictions are not supported by sufficient evidence; and (3) it was fundamental error for the district court not to sua sponte instruct the jury on a lesser included offense. We affirm.

Jennifer L. Attrep, Chief Judge
WE CONCUR:
Kristina Bogardus, Judge
Megan P. Duffy, Judge

To read the entire opinion, please visit the following link: **https://bit.ly/A-1-CA-40071**

MEMORANDUM OPINION

This decision of the New Mexico Court of Appeals was not selected for publication in the New Mexico Appellate Reports. Refer to Rule 12-405 NMRA for restrictions on the citation of unpublished decisions. Electronic decisions may contain computer-generated errors or other deviations from the official version filed by the Court of Appeals.

Filing Date: 9/14/2023

No. A-1-CA-39978

STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
MARQUIS BARNES
a/k/a MARQUIS DESHONE BARNES,
Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT
OF SAN JUAN COUNTY
Daylene A. Marsh, District Court Judge

Raúl Torrez, Attorney General
Van Snow, Assistant Attorney General
Santa Fe, NM

for Appellee

Harrison & Hart, LLC
Nicholas T. Hart
Albuquerque, NM

for Appellant

▶ Introduction of Opinion

This opinion involves four related cases. Defendant appeals from the district court's order denying her motion to dismiss. Defendant contends that the State failed to join similar offenses, pursuant to Rule 5-203(A) NMRA. Additionally, Defendant challenges the sufficiency of the evidence supporting each conviction. Unpersuaded, we affirm.

Gerald E. Baca, Judge
WE CONCUR:
Kristina Bogardus, Judge
Zachary A. Ives, Judge

To read the entire opinion, please visit the following link: **https://bit.ly/A-1-CA-39978**

Classified

Positions

Position For Plaintiff Litigation Attorney
Employment opportunity for 3+ year attorney interested in complex plaintiff's litigation. Send expression of interest to Will@Fergusonlaw.com

Senior Associate
Senior Associate with partnership fast track potential for the right person. Looking for experience in medical malpractice, complex liability, general liability, and or employment and civil rights. Mid-size Defense firm downtown. Excellent benefits and pay. Congenial and easy-going firm. Please contact Karen Arrants at Stiff, Garcia & Associates, KArrants@stifflaw.com

Director - Native American Program – Santa Ana Pueblo, NM
New Mexico Legal Aid is seeking a Director for its Native American Program. The Native American Program (NAP) provides free legal services to low-income Native Americans living on or near the nineteen (19) Pueblos, and outreach and community education to the community of the Mescalero Apache Nation. NAP is funded by the Legal Services Corporation and is part of New Mexico Legal Aid's statewide program. In addition to the administrative and management duties for the overall operations of NAP, the Director is responsible for: ensuring that the civil legal needs of its client community are met, including initiating and completing periodic needs assessments; partnering and collaborating with tribal entities within the service area; developing projects and programs to leverage NAP resources, including funding opportunities; integrating NAP's technology and communications needs into NMLA's statewide system; Overseeing the NAP's legal advocacy, including supervising the Litigation Manager. NAP is located within the Santa Ana Pueblo lands; approximately 40 miles from Santa Fe and 15 minutes from Albuquerque. Attorneys with experience working with tribal communities and/or who speak Keres are encouraged to apply. Click here or copy the following link into your browser to view full job descriptions and requirements (https://newmexicolegalaid.isolvedhire.com/jobs/902413.html). Deadline to apply: Until filled. Resumes will be reviewed on an rolling basis.

New Mexico Legal Aid – Current Job Opportunities
New Mexico Legal Aid (NMLA) provides civil legal services to low income New Mexicans for a variety of legal issues including domestic violence/family law, consumer protection, housing, tax issues and benefits. NMLA has locations throughout the state including Albuquerque, Santa Fe, Las Cruces, Gallup, Roswell, Silver City, Clovis, Hobbs, Las Vegas, Taos, and Santa Ana. NMLA currently has the following job openings: Managing Attorney- Consumer Law Practice Group; Director - Native American Program – Santa Ana, NM; Project Manager - Disaster Legal Services. Staff Attorney Positions: Generalists - Silver City, NM; Generalists – Taos, NM; Native American Program – Santa Ana, NM; Consumer Law Practice Group; Las Cruces, NM; Domestic Violence; LGBTQ+ legal access program, Safe To Be You. Paralegal Positions: LGBTQ+ legal access program, Safe To Be You; Veteran Work. Please visit our website for all current openings, NMLA benefits, Salary Scales and instructions on how to apply - https://newmexicolegalaid.isolvedhire.com/jobs/

New Mexico State Bar Foundation Helpline Staff Attorney

Are you tired of billable hours? Would you love not to have to go to court? Do you dream of a job that rarely requires evening and weekend work? Do you enjoy interacting with and helping people? If you answered yes, then Helpline attorney work may be the perfect fit for you! The New Mexico State Bar Foundation seeks a helpline staff attorney for its Modest Means Helpline. Most of the work can be performed remotely from within New Mexico, with occasional mandatory office days. The position includes an excellent benefits package and competitive salary for legal work in the non-profit sector . Full Time (40 hours/week) Salary: $60,000-$65,000. Duties include providing legal advice and brief legal services over the phone to New Mexico residents who have moderate or low income. Additionally, the attorney may conduct legal workshops and clinics – some remotely and some in-person throughout New Mexico (travel and some overnight stays required). Applicants must be licensed to practice law in New Mexico, and able to work as part of a busy team in a fast-paced environment. Excellent customer service and computer skills are required. Fluency in Spanish is a plus as is a demonstrable interest in issues affecting the lower-income community. To be considered, applicants must submit a cover letter and resume to hr@sbnm.org. In your cover letter, please explain why you are interested in working as a helpline attorney. Visit https://www.sbnm.org/About-Us/Career-Center/State-Bar-Jobs for full details and application instructions.

Experienced Family Law Attorney

Cordell & Cordell, P.C., a domestic litigation firm with over 100 offices across 35 states, is currently seeking an experienced family law attorney for an immediate opening in Albuquerque, NM office. 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 position offers a $50K signing bonus, 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 with cover letter to Hamilton Hinton at hhinton@cordelllaw.com

Family Law Attorney

Law Office of Dorene A. Kuffer has been helping New Mexicans with their family law matters for over 12 years. Our legal team works hard and smart in a technology-rich, beautiful office. We seek an attorney with a minimum of two years' experience practicing family, civil, or criminal law. We negotiate, litigate, and solve problems for our clients. If you've never practiced family law and have always wanted to – talk with us. If you have legal experience and want to strengthen your skill set, we provide one-on-one mentorship. If you're a solo and tired of going it alone, think about joining our team. Camaraderie and fellowship make a big difference. Compensation is generous, including a signing bonus, and hefty annual bonuses. Please inquire, in confidence to: dorene@kufferlaw.com or call 505-253-0950.

DNA-People's Legal Services Wants To Hire You!

DNA - People's Legal Services ("DNA") is committed to providing high quality legal services to persons living in poverty on the Navajo, Hopi and Jicarilla Apache Reservations, and in parts of Northern Arizona, New Mexico, and Southern Utah. DNA's main office, as well as DNA's Fort Defiance branch office, are located in Window Rock, Arizona. DNA also has branch offices in Chinle, Arizona, Tuba City, Arizona, Flagstaff, Arizona, on the Hopi BIA judicial compound near Keams Canyon, Arizona, and Farmington, New Mexico. DNA legal staff practice in tribal, state, federal, and administrative courts. DNA IS SEEKING TO HIRE MANAGING AND STAFF ATTORNEYS FOR THE FOL-LOWING OPEN POSITIONS: 1. Managing and Staff Attorney (State Licensed – Multiple Locations – NM & AZ); 2. Managing and Staff Attorney (Tribal Court Licensed – Multiple Locations – NM & AZ); 3. NM VOCA Project Director (Farmington, NM or Hybrid-Remote). WHAT TO SUBMIT: Employment Application (found at https://dnalegalservices.org/careeropportunities-2/), Resume, Cover Letter, and upon request, Transcripts and (Writing Sample-Attorneys only). HOW TO APPLY: Email: HResources@dnalegalservices.org | Direct: 928.871.4151 ext. 5640 or Cell: 928.245.4575 Fax: 928.871.5036 (Faxed documents accepted). Preference is given to qualified Navajo and other Native American applicants. DNA requires all applicants to be eligible to work within the United States. DNA will not sponsor visas unless otherwise noted on the position description.

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 ($ 70,196.00) to a Senior Trial Attorney ($82,739.00), based upon experience. Must be licensed in the United States. These positions are located in the Lovington, NM office. The office will pay for your New Mexico Bar Dues as well as the National District Attorney's Association membership. Please send resume to Dianna Luce, District Attorney, 102 N. Canal, Suite 200, Carlsbad, NM 88220 or email to nshreve@da.state.nm.us

Attorneys

The Third Judicial District Attorney's Office in Las Cruces is seeking 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

Trial Attorney or Senior Trial Attorney

Trial Attorney or 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 Torrance County (Estancia, NM). Estancia is a short commute from Albuquerque. Must be admitted to the New Mexico State Bar. Salary range will be $74,886 - $93,607, and commensurate with experience and budget availability. Will also have full benefits and one of the best retirement plans in the country. 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 .

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.

Senior Trial Attorneys, Trial Attorneys, and Assistant Trial Attorneys

The Eleventh Judicial District Attorney's Office, Div. II, in Gallup, New Mexico, McKinley County is seeking applicants for Assistant Trial Attorneys, Trial Attorneys and Senior Trial Attorneys. You will enjoy working in a community with rich culture and history while gaining invaluable experience and making a difference. The McKinley County District Attorney's Office provides regular courtroom practice, supportive and collegial work environment. You are a short distance away from Albuquerque, Southern parts of Colorado, Farmington, and Arizona. We offer an extremely competitive salary and benefit package. Salary commensurate with experience. These positions are open to all licensed attorneys who have knowledge in criminal law and who are in good standing with the New Mexico Bar or any other State bar (Limited License). Please Submit resume to District Attorney Bernadine Martin, 201 West Hill, Suite 100, Gallup, NM 87301, or e-mail letter to Bmartin@da.state.nm.us. Position to commence immediately and will remain opened until filled.

Various Assistant City Attorney Positions

The City of Albuquerque Legal Department is hiring for various Assistant City Attorney posi-tions. Hybrid remote work schedule available. The Legal Department's team of attorneys pro-vides a broad range of legal services to the City and represents the City in legal proceedings in court and before state, federal and administrative bodies. The legal services provided may in-clude, but will not be limited to, legal research, drafting legal opinions, reviewing and drafting policies, ordinances, and executive/administrative instructions, reviewing and negotiating con-tracts, litigating matters, and providing general advice and counsel on day-to-day opera-tions. Current open positions include: Property and Finance Division: The City is seeking attorneys to bring code enforcement actions, advise on real estate matters, and serve as general counsel to various City de-partments; IPRA: The City is seeking an attorney to advise on the interpretation of and compliance with the Inspection of Public Records Act; Litigation Division: The City seeking attorneys to join the Litigation Division, which de-fends claims brought against the City. Attention to detail and strong writing and interpersonal skills are essential. Preferences in-clude: Three (3)+ years' experience as licensed attorney; experience with government agencies, government compliance, litigation, contracts, and policy writing. Salary will be based upon ex-perience. For more information or to apply please go to www.cabq.gov/jobs. Please include a resume and writing sample with your application.

Bernalillo County Hiring 20 Prosecutors

Are you ready to work at the premiere law firm in New Mexico? The Bernalillo County District Attorney's Office is hiring 20 prosecutors! Come join our quest to do justice every day and know you are making a major difference for your community. We offer a great employment package with incredible benefits. If you work here and work hard, you will gain trial experience second to none, collaborating with some of the most seasoned trial lawyers in the state. We are hiring at all levels of experience, from Assistant District Attorneys to Deputy District Attorneys. Please apply to the Bernalillo County District's Attorney's Office at: https://berncoda.com/careers-internships/. Or contact us at recruiting@da2nd.state.nm.us for more information.

Attorney or Law School Graduate Positions

Busy legislative office is seeking attorneys or law school graduates for full-time employment from January to February, 2024. Strong legal research and writing skills required. Salary DOE. Applicants with tax policy experience are especially encouraged to apply. For application and more details: https://www.nmlegis.gov/Entity/Senate/Employment.

Santa Clara Pueblo Full-time Chief Judge

Salary: Negotiable; Full benefits; Applications: Open until filled; First day of work: TBD; Position Summary: Hired by the Santa Clara Pueblo Tribal Council, the Chief Judge serves as the chief judicial officer of the Santa Clara Pueblo Tribal Court system and represents the values of Santa Clara Pueblo. Qualifications: At least 30 years of age, high moral character and integrity, no felony convictions within the past 20 years and never removed from any position as judge for cause. Prior knowledge of the customs, traditions and laws of Santa Clara Pueblo and bar admission in any jurisdiction shall be considered. Experience in civil, criminal, juvenile and probate law shall also be considered. Knowledge of Pueblo, State and Federal civil and criminal jurisdiction within the Pueblo, the Indian Child Welfare Act and Special Tribal Criminal Jurisdiction is highly recommended, All STCJ Judges shall be a law school graduate and a member of a Federal bar. For any other questions or more information on the list of duties and responsibilities: Please con-tact SCP Human Resources Director Angela M. Gallegos, amgallegos@santaclarapueblo.org

Lawyers With 3+ Years of Experience

Montgomery & Andrews, P.A. is seeking lawyers with 3+ years of experience to join its firm in Santa Fe, New Mexico. Montgomery & Andrews offers enhanced advancement prospects, interesting work opportunities in a broad variety of areas, and a relaxed and collegial environment, with an open-door policy. Candidates should have strong written and verbal communication skills. Candidates should also be detail oriented and results-driven. New Mexico licensure is required. Please send resumes to jwechsler@montand.com.

Litigation Associate/ Senior Associate

Well established civil defense firm is seeking an attorney with litigation experience for an associate position to become part of our team. We value both our employees and our clients, working together to meet their needs. We are flexible, team oriented and committed to doing excellent work. We have long standing clients and handle interesting matters, in the areas of labor/employment, construction, personal injury, medical malpractice, commercial litigation, civil rights, professional liability, insurance defense, and insurance coverage. Associates work on a variety of matters in a friendly collegial environment. Attorneys work in the office or a combination of office work and working from home. We are looking for a dedicated team player with a solid work record and a strong work ethic. Excellent pay and benefits and opportunities for bonuses. All replies will be kept confidential. Interested individuals should e-mail a letter of interest and resume to Conklin, Woodcock & Ziegler, P.C. at: jobs@conklinfirm.com.

Associates

The firm of MYNATT SPRINGER P.C. is looking for associates. We recently had a named partner ascend to the federal bench and we need new talent. Our practice focuses on the defense of public entities and their employees but runs the gamut on all civil matters. The pay and benefits are competitive, the billable hours are manageable, and the potential for bonuses is abundant. Also, what other firm in the Bar Bulletin is offering you the finest gas station burritos money can buy every single Wednesday? That's just one example of the pampering our attorneys have come to expect. If you're ready to join the team, email us today at md@mynattspringer.com.

Deputy Chief Compliance Officer
The University of New Mexico – Compliance Ethics & Equal Opportunity Office is hiring a Deputy Chief Compliance Officer to support the Chief Compliance Officer in supporting higher education compliance efforts. This is a full time benefits eligible position, pay $5,456.53 - $7,810.40 monthly. Best consideration date is 10/20/2023. For details about this position and to apply, go to unmjobs.unm.edu and search for req26977. EEO/Minorities/Females/Vets/Disabled

Associate Attorney – Civil Litigation
Sutin, Thayer & Browne is seeking a full-time Civil Litigation Associate. The candidate must have at least 3 years of experience relevant to civil litigation, and must have excellent legal writing, research, and verbal communication skills. Competitive salary and full benefits package. Visit our website https://sutinfirm.com/ to view our practice areas. Send letter of interest, resume, and writing sample to imb@sutinfirm.com.

Legal Assistant
Montgomery & Andrews, Law Firm is accepting resumes for a Legal Assistant position in our Santa Fe Office. Must have a minimum of two years' experience working in a mid- or large-sized law firm. Applicants must have experience, including knowledge of local court rules and filing procedures. Must have excellent clerical, organizational, computer and word processing experience. Applicants must be able to multi-task and work in a team player environment. Firm offers a congenial work environment, competitive compensation, and a benefit package. Please send resume to tgarduno@montand.com or mail to T. Garduno, P.O. Box 2307, Santa Fe, New Mexico 87504-2307.

Legal Secretary
AV rated insurance defense firm seeks full-time legal assistant. 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. 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

Seeking Part-Time Paralegal/ Legal Writer
Rio Rancho Attorney seeks motivated senior with experience, common sense, and thick skin. Please contact Daniel at (505) 247-1110.

Senior Paralegal
Los Alamos National Laboratory
Los Alamos, New Mexico
Los Alamos National Laboratory (LANL) is a multidisciplinary research institution engaged in science and engineering on behalf of national security. We are seeking an experienced Senior Paralegal to join our Operations Support Group under the Triad National Security contractor team. As part of a large legal organization responsible for all legal affairs at LANL, you will perform advanced legal research on assigned legal issues and topics, draft legal documents and correspondence and support attorneys as they oversee legal risks. Requirements: Bachelor's degree from an accredited institution; 7+ years of related experience; Advanced legal research, writing and analytical skills; Experience with Westlaw or Lexis and electronic document production and management utilizing computerized search, storage and retrieval systems; Experience using various software programs, such as MS Office 365, Adobe Pro and various online collaboration tools; Excellent written, verbal and interpersonal communication skills. Preferred Qualifications: Experience using PACER, Odyssey or Electronic Case Filing in federal or state court; Experience developing workflows and processes for projects, legal matters and cases; Experience using document review/production software e.g., Relativity or similar. We Are Delivering Scientific Excellence. Los Alamos National Laboratory is more than a place to work. It is a catalyst for discovery, innovation and achievement. It's one of the reasons we attract world-class talent who contribute greatly to our outstanding culture. Professional development, work/life balance and a diverse and inclusive team foster lasting career satisfaction. Our onsite cafeterias and medical, fitness and breastfeeding facilities, education assistance and generous compensation and benefits reflect our commitment to providing our people with all they need for personal and professional growth. Northern New Mexico offers an abundance of wildlife, culture and adventures, including hiking trails and nearby ski resorts. Learn why Los Alamos has been rated #3 in the Best Counties to Live In by USA Today. Apply now: https://lanl.jobs/search/jobdetails/senior-paralegal-3/23b09187-1b7f-417c-b172-9ce246fdc035. lanl.jobs . lanl.gov/careers . Los Alamos National Laboratory is an equal opportunity employer and supports a diverse and inclusive workforce. All employment practices are based on qualification and merit, without regards to race, color, national origin, ancestry, religion, age, sex, gender identity, sexual orientation or preference, marital status or spousal affiliation, physical or mental disability, medical conditions, pregnancy, status as a protected veteran, genetic information, or citizenship within the limits imposed by federal laws and regulations. The Laboratory is also committed to making our workplace accessible to individuals with disabilities and will provide reasonable accommodations, upon request, for individuals to participate in the application and hiring process. To request such an accommodation, please send an email to applyhelp@lanl.gov or call 1-505-665-4444 option 1.

Experienced Paralegal
Experienced paralegal needed for Montgomery & Andrews, P.A. We are seeking an experienced paralegal to join our busy team in a full-time role. As paralegal you will be required to assist lawyers throughout the firm. You must have at least two years' experience. Must have knowledge of legal processes, excellent organizational skills, research skills, the ability to work under pressure, great communication, and trial preparation experience. This position requires at least two years of litigation experience. Graduation from an accredited paralegal program or bachelor's degree desired. Firm offers a congenial work environment, competitive compensation, and a benefit package. Please send cover letter, resume and salary requirements to Firm Administrator, P. O. Box 2307, Santa Fe, NM 87501 or email: tgarduno@montand.com

Paralegal
Matteucci Family Law has an immediate opening for an experienced paralegal residing in New Mexico, USA. Good pay, bonuses, and benefits (health, vision, dental, 401(k), and paid time off) are part of the package. A full time, remote, work-from-home position. The firm consists of one attorney and one paralegal. As a solo law firm, the paralegal duties also include administrative duties, scheduling, setting up consultations, etc… Experience in family law is not a requirement. Email resumes to Bob Matteucci at firm@matteuccifamilylaw.com

Legal Assistant
Stiff, Garcia & Associates, LLC, a successful downtown insurance defense firm, seeks Legal Assistant. Must be detail-oriented, organized, and have excellent communication skills. Bilingual in Spanish a plus. Competitive salary. Please e-mail your resume to karrants@stifflaw.com

City of Albuquerque Paralegal
The City of Albuquerque Legal Department is seeking a Paralegal to assist an assigned attorney or attorneys in performing substantive administrative legal work from time of inception through resolution and perform a variety of paralegal duties, including, but not limited to, performing legal research, managing legal documents, assisting in the preparation of matters for hearing or trial, preparing discovery, drafting pleadings, setting up and maintaining a calendar with deadlines, and other matters as assigned. Excellent organization skills and the ability to multitask are necessary. Must be a team player with the willingness and ability to share responsibilities or work independently. Starting salary is $25.54 per hour during an initial, proscribed probationary period. Upon successful completion of the proscribed probationary period, the salary will increase to $26.80 per hour. Competitive benefits provided and available on first day of employment. Please apply at https://www.governmentjobs.com/careers/cabq.

Office Space

Office Building for Sale
3,640sf in the heart of Downtown Albuquerque with Off-street/secure parking, Within walking distance to court houses, Refrigerated air, 7 offices, Conference room, Reception, Break area, and 2 Bathrooms. Located at 715 Tijeras Ave. NW. For more information call Clay J. Azar at Metro Commercial Realty 505-480-9777.

620 Roma NW
The building is located a few blocks from the federal, state and metropolitan courts. Monthly rent of $550 includes utilities (except phones), internet access, fax, copiers, front desk receptionist and janitorial service. You will have access to a law library, four conference rooms, a waiting area, off-street parking. Several office spaces are available. Call (505) 243 3751 for an appointment.

Miscellaneous

Want to Purchase
Want to Purchase minerals and other oil/gas interests. Send Details to: PO Box 13557, Denver, CO 80201.

2023 *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.**

13th DISTRICT ATTORNEY
BARBARA ROMO
Cibola | Sandoval | Valencia
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WORK WITH **US!**

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The 13th Judicial District Attorney Has Positions Open for Trial Attorneys in Three Different Offices Bernalillo, Belen, and Grants, New Mexico

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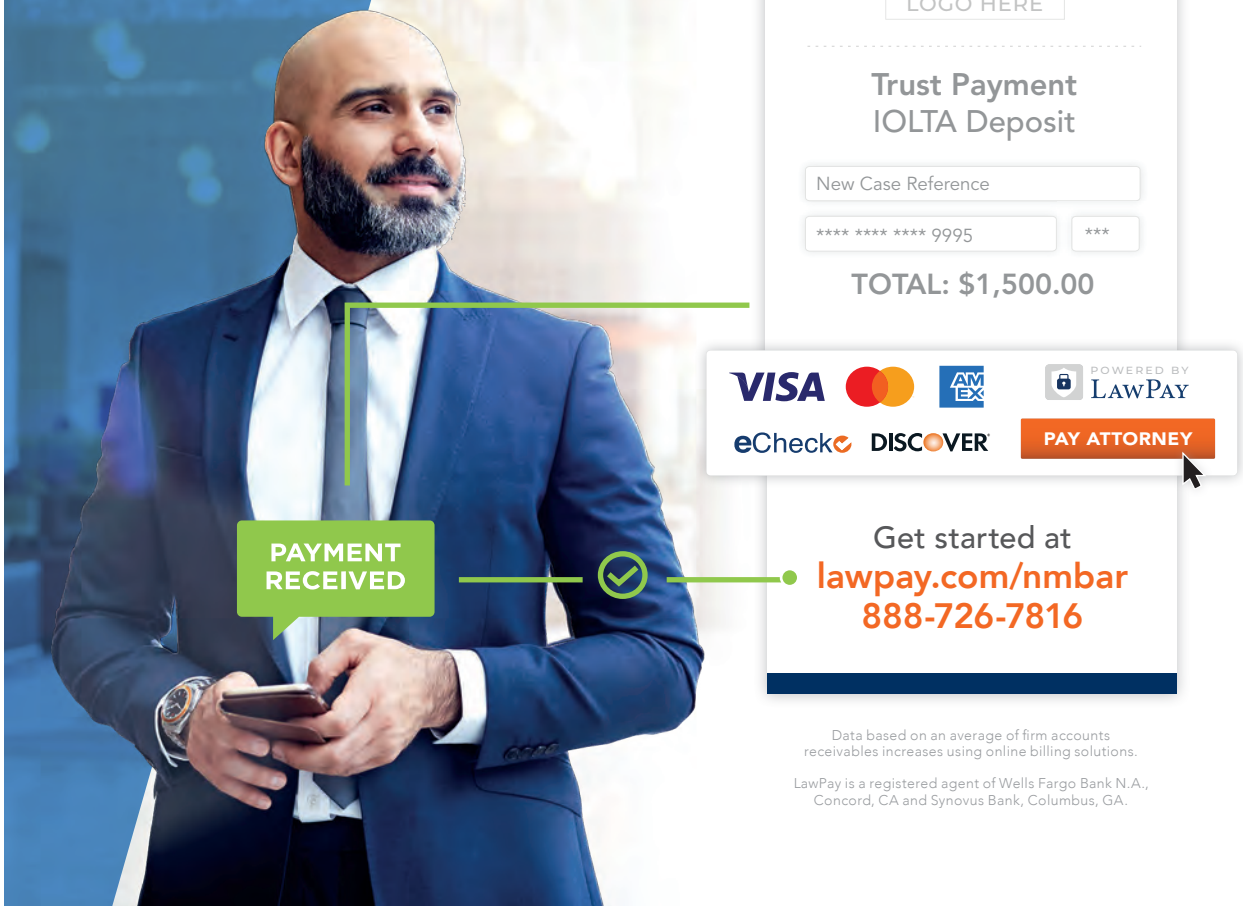

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