

# BAR BULLETIN

October 25, 2023 • Volume 62, No. 20



*Got Away Too*, by Mark Yale Harris (see page 5)

[www.markyaleharris.com](http://www.markyaleharris.com)

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New Mexico State Bar Foundation  
Center for Legal Education

## CLE PROGRAMMING

from the Center for Legal Education



### OCTOBER 27

Webinar

#### 9th Annual Symposium on Diversity & Inclusion

5.0 G, 1.0 EP  
9 a.m.–4:30 p.m.

### NOVEMBER 1

In-Person or Webcast

#### 2023 Business Law Institute

4.0 G, 2.0 EP  
9 a.m.–4:30 p.m.

### NOVEMBER 8

In-Person or Webcast

#### 2023 Animal Law Institute

3.0 G, 1.0 EP  
9 a.m.–1:15 p.m.

### NOVEMBER 9

In-Person or Webcast

#### 2023 Cannabis Law Institute

6.0 G, 1.0 EP  
8:30 a.m.–5:15 p.m.

### NOVEMBER 15

Webinar

#### 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  
Noon–1 p.m.

### NOVEMBER 16

Webinar

#### 2023 Probate Institute

6.3 G, 1.0 EP  
8:30 a.m.–5:15 p.m.

### NOVEMBER 17

Webinar

#### Cross-Examination: The Big Picture and the 3 Keys to Question Formation at Trial and Depositions

1.5 G  
11 a.m.–12:30 p.m.

### NOVEMBER 21

Webinar

#### Learning Litigation Skills From "Where the Crawdads Sing"

2.0 G  
11 a.m.–1 p.m.

### NOVEMBER 30

Webinar

#### 2023 Alternative Dispute Resolution Institute

2.0 G, 3.0 EP  
9:30 a.m.–3:15 p.m.

### NOVEMBER 30

Webinar

#### Why Female Attorneys Get Paid Less: What's Gender Bias Got to Do with It

1.0 EP  
11 a.m.–Noon

### DECEMBER 7

Webcast

#### Gain the Edge! Negotiation Strategies for Lawyers with Marty Latz

5.0 G, 1.0 EP  
9 a.m.–4:30 p.m.

### DECEMBER 12

Webinar

#### Effective Lawyering – Effective Living: Law Practice and Well-being

1.0 EP  
Noon–1 p.m.

### DECEMBER 13

In-Person or Webcast

#### 2023 New Mexico Tax Conference

6.3 G, 1.0 EP  
8:30 a.m.–5:15 p.m.

### DECEMBER 19

In-Person or Webcast

#### Stuart Teicher Programs

3.0 G, 3.0 EP  
9 a.m.–Noon;  
1 p.m.–5:15 p.m.

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Contact us for more info:  
[cleonline@sbnm.org](mailto:cleonline@sbnm.org)

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

Register online at [www.sbnm.org/CLE](http://www.sbnm.org/CLE) or call 505-797-6020

# *Pro Bono Month Spotlight*

## **Volunteer Attorney Program**



*With Heartfelt Appreciation, VAP Extends Its  
Sincerest Thanks To Its Active Pro Bono Attorneys*

**Thank You For Being  
Our Partners In This Journey  
Towards Accessible Justice**

Your unwavering commitment to providing pro bono services to low-income clients brings light to their situations and profoundly impacts the community, by upholding the banner of justice and equality. These invaluable contributions breathe life into our mission, ensuring that access to justice is not a privilege but a right accessible to all, regardless of their financial circumstances.

*Thank you for your continuous generosity,  
expertise, and dedication!*

***Get involved, be inspired, and impact the  
lives of low-income New Mexicans!***

Join our volunteer attorney pool to receive pro bono opportunities directly to your email!  
There is no commitment to take on a specific matter – YOU let us know which  
pro bono opportunities are of your interest!

To volunteer for one-time, brief advice and counsel consultations through the upcoming  
**Teleclinics or Fairs**, please contact Isabella (Bella) Zayani at [nediaz@nmlegalaid.org](mailto:nediaz@nmlegalaid.org).

To volunteer for brief, limited, or extended representation, through the  
**Direct Representation track**, please contact Becky O. O'Gawa at [rebecca@nmlegalaid.org](mailto:rebecca@nmlegalaid.org).

**Volunteer Attorney Program, New Mexico Legal Aid, Inc.**  
505 Marquette NW, Suite 1820 Albuquerque, NM 87102  
P.O. Box 25486 Albuquerque, NM 87125-5486  
[www.newmexicolegalaid.org](http://www.newmexicolegalaid.org)



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

**Officers, Board of Bar Commissioners**

Benjamin I. Sherman, President  
Erinna M. Atkins, President-Elect  
Aja N. Brooks, Secretary Treasurer  
Carolyn A. Wolf, Immediate Past President

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## Meetings

### November

- 8**  
**Animal Law Section**  
Noon, virtual
- 10**  
**Prosecutors Section**  
Noon, virtual
- 14**  
**Bankruptcy Section**  
Noon, Bankruptcy Court & virtual
- 17**  
**Family Law Section**  
9 a.m., virtual
- 24**  
**Immigration Section**  
Noon, virtual

### December

- 1**  
**Elder Law Section**  
Noon, virtual
- 5**  
**Health Law Section**  
9 a.m., virtual
- 8**  
**Cannabis Law Section**  
9 a.m., virtual
- 18**  
**Children's Law Section**  
Noon, virtual
- 19**  
**Appellate Section**  
Noon, virtual

## Workshops and Legal Clinics

### October

- 25**  
**Consumer Debt/Bankruptcy Workshop**  
6-8 p.m., virtual

### November

- 1**  
**Divorce Options Workshop**  
6-8 p.m., virtual
- 7**  
**Common Legal Issues for Senior Citizens Workshop**  
11 a.m.-noon, virtual  
For more details and to register, call 505-797-6005

### December

- 6**  
**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:** Born in Buffalo, New York, Mark Yale Harris spent his childhood enthralled in a world of drawing and painting. Though honored for his creative endeavors, he was encouraged to pursue a more conventional career. After finding conventional success, the artistic passion that existed just beneath the surface was able to present itself. Harris began sculpting, and has since created an evolving body of work in stone and bronze, now featured in public collections, museums and galleries worldwide, including: Hilton Hotels; Royal Academy of London; Marin MOCA; Four Seasons Hotels and the Open Air Museum - Ube, Japan.

# Notices

Please email notices desired for publication to [notices@sbnm.org](mailto: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](mailto: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](mailto:atj@nmcourts.gov) to receive "Justice for All" via email or view a copy at <https://accesstojustice.nmcourts.gov/>.

## 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

## Professionalism Tip

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

Within practical time limits, I will allow lawyers to present proper arguments and to make a complete and accurate record.

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](mailto: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](https://meet.google.com/sgi-epqj-aba) or by phone at 475-277-0116, PIN: 943 314 244#.

## STATE BAR NEWS 2024 Budget Disclosure Deadline to Challenge Expenditures

The State Bar of New Mexico Board of Bar Commissioners has completed its budgeting process and finalized the 2024 Budget Disclosure, pursuant to the State Bar Bylaws, Article VII, Section 7.2, Budget Procedures. Starting Nov. 1, the budget disclosure will be available in its entirety on the State Bar website at [www.sbnm.org](http://www.sbnm.org) on the financial information page under the About Us tab. The deadline for submitting a budget challenge is on or before 5 p.m. (MT), Nov. 30, and the form is provided on the last page of the disclosure document. The BBC will consider any challenges received by the deadline at its Dec. 6 meeting. Address challenges to: Executive Director Richard Spinello, State Bar of New Mexico, PO Box 92860, Albuquerque, NM 87199; or [info@sbnm.org](mailto:info@sbnm.org). Challenges may also be delivered in person to the State Bar Center, 5121 Masthead NE, Albuquerque, N.M. 87109.

## Access to Justice Fund Grant Commission Notice of Commissioner Vacancies

Four Commissioner appointments for three-year terms will be made to the State Bar of New Mexico ATJ Fund Grant Commission. The ATJ Fund Grant Commission solicits and reviews grant applications and awards grants to civil legal services organizations consistent with the State Plan for the Provision of Civil Legal Services to Low Income New Mexicans. To be eligible for appointment, applicants must not be affiliated with a civil legal service organization which would be eligible for grant funding from the ATJ Fund. Anyone interested in serving on the Commission should send a

letter of interest and brief résumé by Nov. 15, to Kate Kennedy at [kate.kennedy@sbnm.org](mailto:kate.kennedy@sbnm.org).

## Board of Bar Commissioners Appointments to New Mexico Access to Justice Commission

The Board of Bar Commissioners will make two appointments to the NM Access to Justice Commission for three-year terms. The Commission is dedicated to expanding and improving civil legal assistance by increasing pro bono and other support to indigent people in New Mexico. Active status attorneys in New Mexico who would like to serve on the Commission should send a letter of interest and brief resume by Nov. 27 to [bbc@sbnm.org](mailto:bbc@sbnm.org).

## Appointment to New Mexico State Bar Foundation

The Board of Bar Commissioners of the State Bar of New Mexico will appoint one public director to the New Mexico State Bar Foundation Board for a three-year term. The New Mexico State Bar Foundation advances the legal community's commitment to serve the legal profession and people of New Mexico. Through member donations, fundraising and programs, the Foundation provides and promotes access to legal services to underserved New Mexicans. The Foundation also supports public service, education, and diversity, as well as organizations consistent with its mission. For more information about the Bar Foundation, visit <https://www.sbnm.org/Bar-Foundation>. Members of the public interested in serving on the Board should submit a letter of interest and resume to [bbc@sbnm.org](mailto:bbc@sbnm.org) by Nov. 27.

## Client Protection Fund Notice of Commissioner Vacancies

Two Commissioner appointments for three-year terms for the Client Protection Fund will be made in accordance with Rule 17A-005 (B). The purpose of the Client Protection Fund is to promote public confidence in the administration of justice and the integrity of the legal profession by reimbursing losses caused by the dishonest conduct of lawyers admitted and licensed to practice law in the courts of New Mexico. The new term will begin Jan. 1,

## Correction to the 2023-24 Resource Deskbook & Membership Listing

### New Mexico Supreme Court

[supremecourt.nmcourts.gov](http://supremecourt.nmcourts.gov)

Elizabeth Garcia, Supreme Court Clerk's Office Chief Clerk of Court  
Lysette Romero-Cordova, Chief Deputy Clerk of Court

Kristen Edwards, Deputy Clerk of Court

505-827-4860 505-827-4387  
[nmsupremecourtclerk@nmcourts.gov](mailto:nmsupremecourtclerk@nmcourts.gov)

General Counsel to the Chief Justice  
Ann Keith  
505-827-4934

Supreme Court Law Library  
Stephanie Wilson, State Law Librarian  
505-827-4850  
[libref@nmcourts.gov](mailto:libref@nmcourts.gov)  
[www.lawlibrary.nmcourts.gov](http://www.lawlibrary.nmcourts.gov)

2024. Applicants must be active members of the State Bar of New Mexico. Anyone interested in serving on the Commission should send a letter of interest and brief résumé to [kate.kennedy@sbnm.org](mailto:kate.kennedy@sbnm.org).

### Equity in Justice Program 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](mailto:pam.moore@sbnm.org) or Briggs Cheney at [bcheney@dsc-law.com](mailto: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 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](http://www.sbnm.org/probono).

### UNM SCHOOL OF LAW 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](http://lawlibrary.unm.edu).

— Featured —

Member Benefit



Clio's groundbreaking suite combines legal practice management software (Clio Manage) with client intake and legal CRM software (Clio Grow) to help legal professionals run their practices more successfully. Use Clio for client intake, case management, document management, time tracking, invoicing and online payments and a whole lot more.

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Learn more at [landing.clio.com/nmbar](http://landing.clio.com/nmbar).

### 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 the 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](mailto:Kristen@civicvalues.org) or by phone at 505-764-9417.

# Opinions

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

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

## Effective August 25, 2023

### PUBLISHED OPINIONS

|              |                      |                |            |
|--------------|----------------------|----------------|------------|
| A-1-CA-40129 | State v. R Saltwater | Reverse/Remand | 08/21/2023 |
| A-1-CA-40264 | State v. O Atene     | Reverse/Remand | 08/21/2023 |
| A-1-CA-39886 | State v. C Summers   | Reverse        | 08/22/2023 |
| A-1-CA-40354 | State v. L Yanni     | Reverse/Remand | 08/22/2023 |

### UNPUBLISHED OPINIONS

|              |  |                |            |
|--------------|--|----------------|------------|
| A-1-CA-40962 | State v. Isaiah B.                       | Affirm         | 08/22/2023 |
| A-1-CA-36671 | J Valdiviez v. Bridgestone Americas Tire | Reverse/Remand | 08/23/2023 |
| A-1-CA-40379 | State v. B Clements                      | Affirm         | 08/23/2023 |
| A-1-CA-40831 | J Arredondo v. J Arredondo, Jr.          | Affirm         | 08/23/2023 |
| A-1-CA-40837 | CYFD v. Sheyenne M.                      | Affirm         | 08/24/2023 |

## Effective September 1, 2023

### PUBLISHED OPINIONS

|              |   |                |            |
|--------------|---|----------------|------------|
| A-1-CA-39774 | M Lerma v. State                        | Reverse/Remand | 08/29/2023 |
| A-1-CA-39045 | State v. C Sivils                       | Reverse/Remand | 08/30/2023 |
| A-1-CA-38739 | D Stanley v. New Mexico Game Commission | Affirm/Remand  | 08/31/2023 |

### UNPUBLISHED OPINIONS

|              |  |                |            |
|--------------|--|----------------|------------|
| A-1-CA-39201 | T Trujillo v. Los Alamos National Security | Affirm         | 08/28/2023 |
| A-1-CA-39837 | D Barton v. New Mexico Racing Commission   | Affirm/Reverse | 08/28/2023 |
| A-1-CA-40719 | F Cowan v. Otero County Elec. Co-Op        | Affirm         | 08/28/2023 |
| A-1-CA-40622 | State v. G Marquez                         | Affirm         | 08/29/2023 |
| A-1-CA-40981 | J Lowrey v. E Wideman                      | Affirm         | 08/29/2023 |
| A-1-CA-39558 | D Griego v. J Serna                        | Affirm         | 08/30/2023 |
| A-1-CA-39542 | E Vasconselles v. UNM                      | Affirm         | 08/31/2023 |
| A-1-CA-40544 | K Cave v. D Montano                        | Reverse/Remand | 08/31/2023 |

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

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



**Effective September 8, 2023****UNPUBLISHED OPINIONS**

|              |   |               |            |
|--------------|---|---------------|------------|
| A-1-CA-39397 | State v. I Montano                          | Affirm        | 09/06/2023 |
| A-1-CA-40270 | J. A Griffin v. Sigma Services              | Affirm        | 09/06/2023 |
| A-1-CA-40589 | State v. J Granado                          | Affirm/Remand | 09/06/2023 |
| A-1-CA-40778 | E Soto v. J Leon Ardon, et al.              | Affirm        | 09/06/2023 |
| A-1-CA-40978 | B Franklin v. Office of the General Counsel | Affirm        | 09/06/2023 |
| A-1-CA-41144 | CYFD v. Spirit G                            | Affirm        | 09/06/2023 |
| A-1-CA-41184 | A Nation v. I Roybal                        | Affirm        | 09/06/2023 |
| A-1-CA-39625 | State v. F McCarthy                         | Affirm        | 09/07/2023 |
| A-1-CA-39782 | Blochhouse LLC v. F Trujillo                | Affirm        | 09/07/2023 |

**Effective September 15, 2023****PUBLISHED OPINIONS**

|              |   |        |            |
|--------------|---|--------|------------|
| A-1-CA-40279 | M Shook v. Governing Body of the City of Santa Fe | Affirm | 09/11/2023 |
| A-1-CA-40576 | CYFD v. Brian F                                   | Affirm | 09/14/2023 |

**UNPUBLISHED OPINIONS**

|              |   |        |            |
|--------------|---|--------|------------|
| A-1-CA-39063 | State v. R Conant   | Affirm | 09/11/2023 |
| A-1-CA-40551 | Wilmington Savings Fund Society v. K. Marie Mound, et al. | Affirm | 09/11/2023 |
| A-1-CA-37829 | S Harris v. C Dick  | Affirm | 09/12/2023 |
| A-1-CA-40850 | V Robertson v. CYFD                                       | Affirm | 09/12/2023 |
| A-1-CA-40859 | J Gomez v. C Martinez                                     | Affirm | 09/12/2023 |
| A-1-CA-40929 | Bank of America v. E Arambula                             | Affirm | 09/12/2023 |
| A-1-CA-39903 | N Roy v. NM Dep't of Workforce Solutions                  | Affirm | 09/14/2023 |
| A-1-CA-39978 | State v. M Barnes   | Affirm | 09/14/2023 |
| A-1-CA-40071 | State v. T Jennings                                       | Affirm | 09/14/2023 |

**Effective September 22, 2023****PUBLISHED OPINIONS**

|              |                                |                |            |
|--------------|--------------------------------|----------------|------------|
| A-1-CA-39291 | State v. J Cooley              | Reverse/Remand | 09/18/2023 |
| A-1-CA-40043 | State v. A Antonio             | Reverse/Remand | 09/18/2023 |
| A-1-CA-40161 | C Valdez v. B Erickson, et al. | Dismiss        | 09/18/2023 |

**UNPUBLISHED OPINIONS**

|              |                                    |                |            |
|--------------|------------------------------------|----------------|------------|
| A-1-CA-40045 | State v. P Garcia                  | Affirm         | 09/18/2023 |
| A-1-CA-40634 | State v. S Diaz                    | Affirm         | 09/18/2023 |
| A-1-CA-41134 | State v. R Morris                  | Affirm         | 09/18/2023 |
| A-1-CA-41150 | S Fabrey v. H Becker               | Affirm         | 09/18/2023 |
| A-1-CA-39960 | State v. C Warren                  | Affirm         | 09/19/2023 |
| A-1-CA-40879 | J Lowrey v. E Wideman              | Affirm         | 09/19/2023 |
| A-1-CA-40985 | E Baker v. D Jackson               | Affirm         | 09/19/2023 |
| A-1-CA-39298 | S Parker v. J Maldonado, et al.    | Affirm/Reverse | 09/20/2023 |
| A-1-CA-39535 | D Montoya v. NM Taxation & Revenue | Reverse/Remand | 09/20/2023 |
| A-1-CA-38868 | State v. G Eldridge                | Reverse/Remand | 09/21/2023 |
| A-1-CA-39626 | State v. G Wills                   | Affirm         | 09/21/2023 |
| A-1-CA-41044 | G Irish v. M Irish                 | Affirm         | 09/21/2023 |

## Effective September 29, 2023

### PUBLISHED OPINIONS

|              |   |                |            |
|--------------|---|----------------|------------|
| A-1-CA-37133 | W Thayer v. State Farm                              | Reverse/Remand | 09/25/2023 |
| A-1-CA-38005 | L Garcia v. Allstate Fire and Casualty Insurance Co | Reverse/Remand | 09/28/2023 |

### UNPUBLISHED OPINIONS

|              |  |                       |
|--------------|--|-----------------------|
| A-1-CA-38698 | C Van Deventer v. Certain Underwriters at Lloyd's London | Affirm                |
| A-1-CA-39031 | P Mulholland v. B Kasuboski                              | Reverse/Remand        |
| A-1-CA-39312 | A Jacob v. S Walker                                      | Affirm                |
| A-1-CA-40568 | D Martinez v. Y Chacon                                   | Affirm                |
| A-1-CA-40742 | State v. P Almager                                       | Affirm                |
| A-1-CA-40873 | State v. M Gutierrez                                     | Affirm                |
| A-1-CA-41078 | H Telles v. S Lara                                       | Affirm                |
| A-1-CA-40620 | M Padilla v. Presbyterian Healthcare Services            | Affirm                |
| A-1-CA-39239 | W Sides v. NM Human Services Department                  | Affirm                |
| A-1-CA-40556 | State v. R Cassidy                                       | Affirm/Reverse/Remand |
| A-1-CA-40863 | State v. J Gonzales                                      | Affirm                |



## U. S. DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

### *Service on Court Panel*

Chief Judge William P. Johnson and the Article III District Judges for the District of New Mexico would like to solicit interest from Federal Bar members for service on the **Magistrate Judge Merit Selection Panel** (“the Panel”). In the District of New Mexico, there are five full time magistrate judges in Albuquerque, five full time magistrate judges in Las Cruces and two part time magistrate judges, with one in Farmington and the other in Roswell. Whenever there is a magistrate judge vacancy, the Panel is responsible for (i) reviewing the application packets submitted by all applicants, (ii) determining the list of qualified applicants to be interviewed by the Panel, and (iii) from those applicants interviewed by the Panel determining by majority vote of the Panel members the five most qualified applicants and then forwarding the names of those five most qualified applicants to the District Judges who will then interview the finalists and make a selection.

The Panel also has the responsibility of issuing a report and recommendation to the District Judges whenever a U.S. Magistrate Judge seeks another term. By statute, U.S. Magistrate Judges serve eight-year terms and may seek reappointment for additional eight-year terms. As part of the Magistrate Judge reappointment process, the Panel must seek input from attorneys, litigants and other members of the public concerning magistrate judges seeking reappointment and then issue a report and recommendation on whether said judges should be reappointed.

Any member of the Federal Bar in good standing and interested in being selected by the District Judges to serve on the Magistrate Judge Merit Selection Panel should submit a Letter of Interest no later than Tuesday, October 31, 2023, to the Clerk of Court, U. S. District Court, 333 Lomas Blvd. NW, Suite 270, Albuquerque, NM 87102; or by email to [clerkofcourt@nmd.uscourts.gov](mailto:clerkofcourt@nmd.uscourts.gov) to be considered for appointment to the Panel.

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### *Service on Court Committee*

Chief Judge William P. Johnson and the Article III District Judges for the District of New Mexico would like to solicit interest from Federal Bar members for service on the **Criminal Justice Act (CJA) Panel Committee**. The Committee consists of Federal Bar members adefense practice. This Committee recommends CJA Panel attorneys to the Court.

All interested Federal Bar members in good standing should submit a Letter of Interest no later than Tuesday, October 31, 2023, to the Clerk of Court, U. S. District Court, 333 Lomas Blvd. NW, Suite 270, Albuquerque, NM 87102; or by email to [clerkofcourt@nmd.uscourts.gov](mailto:clerkofcourt@nmd.uscourts.gov) to be considered for appointment to the Committee.

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### *Service on Court Committee*

Chief Judge William P. Johnson and the Article III District Judges for the District of New Mexico would like to solicit interest from Federal Bar members for service on the **Federal Bench and Bar Fund Committee**. This Committee advises the Court and the Fund’s Custodian with respect to the administration and operation of the Fund. (Please see Administrative Order Misc. No. 91-09 for more information regarding the Federal Bench and Bar Fund.)

All interested Federal Bar members in good standing should submit a Letter of Interest no later than Tuesday, October 31, 2023, to the Clerk of Court, U. S. District Court, 333 Lomas Blvd. NW, Suite 270, Albuquerque, NM 87102; or by email to [clerkofcourt@nmd.uscourts.gov](mailto:clerkofcourt@nmd.uscourts.gov) to be considered for appointment to the Committee.

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### *Service on Court Committee*

Chief Judge William P. Johnson and the Article III District Judges for the District of New Mexico would like to solicit interest from Federal Bar members for service on the **Committee on the Local Criminal Rules**. This Committee is charged with reviewing local rules, proposing amendments to the local rules, and soliciting public comment on proposed rule amendments. (Please see Administrative Order 20-MC-04-11 for more information regarding the Committee on Local Criminal Rules.)

All interested Federal Bar members in good standing should submit a Letter of Interest no later than Tuesday, October 31, 2023, to the Clerk of Court, U. S. District Court, 333 Lomas Blvd. NW, Suite 270, Albuquerque, NM 87102; or by email to [clerkofcourt@nmd.uscourts.gov](mailto:clerkofcourt@nmd.uscourts.gov) to be considered for appointment to the Committee.

# 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](mailto: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 <sup>1</sup>

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](mailto: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.**

<sup>1</sup> 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.

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# Be the Change: A Judge's Perspective on Resilience

By Judge Sandra Engel (ret.)

Things are upside-down, sideways and coming in hot. That is how the new normal feels sometimes in the legal profession, three years after we were hit with the pandemic. Prior to March 2020, successful leaders came into 2020 having mastered their positions, and having developed proficiency in the art of management in the familiar culture and custom of our legal system. Once the pandemic hit, the paradigm shifted, and we were left with a playing field that was exponentially changed. We find ourselves several years later still struggling with how to right ourselves and find our way when many of the rules have shifted.

There were many adjustments that we had to make to adapt and succeed. There were changes in how practicing lawyers visited with clients or appeared in court, or for the law students, how they continued to learn. There were learning curves for many around technology, electronic tools for discovery, zoom meetings and presenting witnesses and evidence in remote hearings. There were different ways to file documents and communicate with the courts. We were forced to keep up, but the pressure on everyone in the system was palpable, and our stress increased. Today, hybrid virtual lawyering and judging is here, and it may be here to stay.

Another change we observed was the continuation and acceleration of the changing values of our available workforce. Not only have we had to adjust to the virtual world but, we have also had to adjust to new expectations of our attorneys. We are constantly reminded that the new lawyer of today puts a greater importance on integrating well-being into the practice of law, and the "give it all at all costs" work ethic is dissipating in many firms and law offices. We see attorneys seeking jobs that allow them to have it all: a financially lucrative and satisfying job and wellness in their workplace. We have started seeing an increase of programs to address how we support our employees with stress management tools. The polarity of what is desired by the legal community and what the legal community can offer is taxed by the inevitable changes that are necessary in adapting to the new normal.

How does resiliency fit into this shift? While some might argue the term is overused, the concept is still important to define what we need to build and rely on as leaders in our field. Our resiliency skills can help us negotiate and expound on the growth opportunities that arise in responding to changes in culture, structure and leadership so we can



maximize our efforts in this ever-changing profession.

The art of building resilience is important for many reasons, but the most important one is to help lead you and your organization through times of change. We know that morale in an organization, law office or courthouse comes from the top down, so by finding ways for you and your employees to respond to the new normal, your entire organization's health is improved.

The American Psychological Association defines Resilience as:

Resilience is the process and outcome of successfully adapting to difficult or challenging life experiences, especially through mental, emotional, and behavioral flexibility and adjustment to external and internal demands.<sup>1</sup>

Many studies have shown that raising the resilience of your workforce will have a positive effect on the increase in productivity. We are less stressed, burned out and dissatisfied when we can use tools to increase our resilience. Raising our ability to handle change and other stressors also contributes to improved self-esteem, a sense of control over life events, a sense of purpose in life and improved interpersonal relationships.<sup>2</sup>

## Resiliency can be learned:

The good news is that resiliency can be learned, and there are many ways to start increasing your resilience immediately. Asking yourself how resilience shows up for you is a great place to start. When we survey our work and leadership style through the lens of resilience, we can assess where we have room to grow. By ferreting out where most of your stress comes from as a partner, an associate, a judge or a solo practitioner, we can start to see what areas we need to focus on to develop our skill set.

As a recently retired judge with over 26 years in the local legal community, with 16 of those on the bench, I have seen many great leaders demonstrate this skill and have experienced it myself. There is no magic pill or set of instructions, though there are practical things we can do to help us build resilience muscle. The most important thing is the willingness to be open to a new mindset, a new lens with which we view the moments of stress or struggle in our every day.

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Below are some strategies that have proven useful for judges and lawyers in our legal community.

**Ask for support:** Asking for help can be hard for lawyers and judges, as we are the problem solvers--the ones that people come to when they need help--but who helps us? You become a stronger leader, not a weaker one, when you look outside of yourself for answers when things seem daunting or overwhelming, or even just a little bit difficult. If you can build your support system, including friends, family, counselors, massage therapists, meditation teachers and colleagues, you open up a world of support and connection which most of us are craving as we emerge from virtual times. Executive Coaches are another group that can support your professional development as an attorney and Judge but also can help support you through times of transition and change. Go to <https://www.sbnm.org/Member-Services/Professional-Development-Program/Certified-Professional-Coaching> and find resources around Executive Coaching.

**Develop mental agility:** When your job demands changes to certain established systems or just threatens the existing structure that you have finally mastered, take a minute and reflect. Have I handled change in the past successfully? Do I look up to someone who has navigated change well? How did they do it? Most importantly, try and look at this as a chance to embrace the opportunity to grow instead of responding out of fear of whether you can handle it. A shift in awareness can prove invaluable, such as looking for the gift in a challenging situation.

**Create compassion for yourself and others:** When we examine challenges that come up, be those health scares, huge unsolvable problems dumped on our desk, tough colleagues or bosses who make unreasonable demands, how can we change our lens and view it from a different perspective? We can shift into showing some empathy for that person or ourselves, being more compassionate about where we are and not being so critical of ourselves and others. We may need to consider that the offending person is looking at things from a different perspective and maybe does not have the tools to deal with change or conflict themselves. When you look for compassion in the situation, you can respond in a different way than responding out of fear or anger.

**Detachment Breaks:** Taking a break during the day sounds so easy but many of us continue working straight through, trying to maximize our billable hours or work through our heavy caseload so we can get home and relax. Productivity increases once we start to give ourselves breaks during the day. Finding the time that works for you is important. For example, it could be after every 90 minutes of work, you stand up and walk around, maybe even outside. Just detaching from work for a short time can refresh and restore your ability to self-regulate and increase productivity.

**Exercise mindfulness:** There are many apps you can use, but simply focusing on the here and now can make a huge difference in helping us get out of our heads for a moment

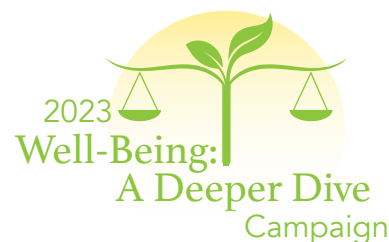
and into a quieter space where we can think more freely. I will admit that, as a high energy, action-oriented person, being told that mindfulness and meditation would help me was a bit of a tall order. When I found out that just controlling my breath and all my thoughts was also a type of meditation, it was a game changer. I added five minutes to my time I spend drinking coffee each morning and incorporated a practice of simply concentrating on my breath. When a thought comes, I acknowledge it and then send it on its way and return to thinking about my breathing. Whether the thought is negative or positive, I simply honor it and let it go, returning to the breath. This may seem simplistic, but many of us on the bench and in the legal field have found that, when tough things happen, simply acknowledging your thoughts or feelings about it and letting it go really decreases stress. It can become a healthy habit.

**Fine tuning your Locus of control:** We, as attorneys and judges, tend to think our responsibility is to serve as the fixer; the problem solver. People hire us to give them the answers to all their problems. They appear in front of us so that we can decide the dispute so that they can finally move forward with their lives. What we forget is that we do not have the ability to control everything around us. We have a small area which is in our locus of control when it comes to human behavior and relationships. We have control over how we show up in this world, how we communicate and how we react to others in our orbit, but we do not have control over how people hear us, how they feel about us, what they feel is best for us or how others feel in general. Sometimes we take ourselves down because of someone's negative opinion of us, or we feel absolutely devastated at something terrible that happened. When we can shift the lens that we view it from, see it with compassion and think about what is in your control in the situation, you will find that your perception changes and your stress can be decreased.

Incorporating even one of the above tools can put you on the path to growing your resiliency skills. As a result, you may see a decrease in your stress and increase in the joy you find in your work in this important legal career.

For more on this topic, visit <https://www.sbnm.org/Leadership/Committees/NM-Well-Being-Committee/Legal-Well-Being-In-Action-Podcast> and listen to Justice Barbara Vigil (ret.), Judge Shammara Henderson and Judge Brett Loveless share their wisdom on how they find resilience on the bench.

*Judge Sandra Engel (ret.), High Road to Success Coaching, JWELL Program Manager.*



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## Endnotes

<sup>1</sup> American Psychology Association, "APA Dictionary of Psychology" (2023) *Definition of Resilience*, accessed 9/12/23 via <https://dictionary.apa.org/resilience>

<sup>2</sup> American Psychiatric Association foundation, Center for Workplace Mental Health, *Resilience: A Strong Workforce Needs It*, (2017), accessed on 9/12/23 via <https://workplacementalhealth.org/mental-health-topics/resilience#:~:text=Raising%20resilience%20contributes%20to%20improved,and%20improved%20employee%20interpersonal%20relationships.&text=Employers%20reap%20the%20rewards%20of%20increased%20productivity.>

# Get to Know:



## The New Mexico LGBTQ Bar Association

### What is the main objective, or mission statement, of your bar/association?

We, as a voluntary bar in the State of New Mexico, promote and protect the interests of all lawyers who identify as LGBTQIA+ to achieve their full participation in all rights, privileges and benefits of the legal profession. We promote the efficient administration of justice and the constant improvement of the law, especially as it relates to LGBTQIA+ individuals. We advocate the selection of LGBTQIA+ individuals to the bench, bar and other positions relative to the administration of the law and justice. We educate the public and disseminate information on issues related to LGBTQIA+ individuals' participation in the legal and judicial system.

### What groups and communities will attorneys and legal professionals help by joining your organization?

Members receive several benefits, including access to free CLE credits and opportunities to meet other LGBTQIA+-identifying lawyers, judges, and legal professionals.

### What qualities are shared between members of your bar/association?

Attorneys who identify as LGBTQIA+ as well as allies of those communities are welcome to join the New Mexico LGBTQ Bar Association!

### Where can I learn more about the activities of your bar/association and how can I participate?

Prospective members can head to our website at [www.nmlgbtqbar.org](http://www.nmlgbtqbar.org). Further, they can attend our monthly meetings, which take place on the third Thursday of each month, by Zoom, with Meeting ID 916 4738 2366 and Passcode 189442. Meetings are from noon to 12:45 p.m. (MT).

### What can I do to serve stakeholders of the bar/association if I am not a member yet?

Please join our monthly membership meeting to find out more. There are many opportunities such as participation in CLEs, events and mixers.

**To join, please contact New Mexico LGBTQ Bar Association Treasurer Greg Segura at [nmlgbtqbarassn@gmail.com](mailto:nmlgbtqbarassn@gmail.com).**

To have your bar association featured, email Brandon McIntyre at [brandon.mcintyre@sbnm.org](mailto:brandon.mcintyre@sbnm.org)

# FORMAL OPINION

*Electronic decisions may contain computer-generated errors or other deviations from the official version filed by the Court of Appeals.*

**Filing Date: 9/18/2023**

**No. A-1-CA-40161**

**CARLA VALDEZ,**  
Plaintiff-Appellant,

v.

**BARBARA ERICKSON and RENTAL  
MANAGEMENT SERVICES, INC., a domestic  
corporation,**

Defendants-Appellees,  
and

**STATE FARM FIRE AND CASUALTY  
INSURANCE COMPANY,**

Proposed Intervenor.

## **APPEAL FROM THE DISTRICT COURT OF SANDOVAL COUNTY**

James A. Noel, District Court Judge

Weems Hazen Law  
Bridget J. Hazen  
Dathan L. Weems  
Albuquerque, NM

for Appellant

O'Brien & Padilla, P.C.  
Daniel J. O'Brien  
Albuquerque, NM

for Appellees

Guebort Gentile & Piazza, P.C.  
Elizabeth M. Piazza  
Lawrence A. Junker  
Albuquerque, NM

for Intervenor

### ► Introduction of Opinion

This appeal requires us to consider a threshold jurisdictional question arising from an order granting an insurance company (Intervenor) leave to file a complaint in intervention. Although the district court granted the leave request, Intervenor never filed the complaint for declaratory relief that was attached to its intervention motion, and the district court eventually rendered summary judgment in favor of Defendants, which Plaintiff now seeks to appeal. Noting the presence of a party not addressed in the district court's judgment, this Court ordered Plaintiff to brief the question of how the presence of an intervenor who has not filed its complaint in intervention affects the finality of the judgment on appeal. See *Smith v. City of Santa Fe*, 2007-NMSC-055, ¶ 10, 142 N.M. 786, 171 P.3d 300 (noting that "it is incumbent upon the appellate court to raise jurisdiction questions sua sponte when the Court notices them"); see also *State v. Lohberger*, 2008-NMSC-033, ¶ 25, 144 N.M. 297, 187 P.3d 162 (explaining "[t]he requirement of an unambiguous filed final order is important to the orderly administration of the law"). Plaintiff has filed a brief addressing that question, which we have duly considered.

**View full PDF online.**

Kristina Bogardus, Judge  
WE CONCUR:  
Jennifer L. Attrep, Chief Judge  
Katherine A. Wray, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-40161>



# FORMAL OPINION

*Electronic decisions may contain computer-generated errors or other deviations from the official version filed by the Court of Appeals.*

**Filing Date: 9/25/2023**

**No. A-1-CA-37133**

**WILLIAM THAYER,**  
Plaintiff-Appellant,

v.

**STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,**  
Defendant-Appellee.

**APPEAL FROM THE DISTRICT COURT  
OF DOÑA ANA COUNTY**

Marci E. Beyer, District Court Judge

Law Firm of Daniela Labinoti, P.C.  
Daniela Labinoti  
El Paso, TX

for Appellant

Miller Stratvert P.A.  
Todd A. Schwarz  
Luke A. Salganek  
Albuquerque, NM

for Appellee

## ► Introduction of Opinion

Plaintiff William Thayer filed a complaint for breach of contract and bad faith after State Farm denied his claim for underinsured motorist (UIM) benefits. State Farm moved for summary judgment, arguing it was not liable for UIM benefits because Thayer had breached a contract provision requiring him to obtain State Farm's written consent before settling with the tortfeasor. Thayer acknowledged that he had settled without State Farm's permission, but asserted he had notified State Farm of the offer and waited more than a year before ultimately accepting the settlement. The district court granted State Farm's motion and dismissed the case with prejudice.

The factual circumstances of this case are a matter of first impression in New Mexico and we must decide whether Thayer, after properly requesting consent to settle from his insurer, breached the consent-to-settle provision as a matter of law by settling with the tortfeasor before receiving the insurer's decision. The answer depends on whether the insurer acted reasonably to provide or withhold consent to the insured's settlement request. **View full PDF online.**

Megan P. Duffy, Judge  
WE CONCUR:  
J. Miles Hanisee, Judge  
Zachary A. Ives, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-37133>

# 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: 9/18/2023**

**No. A-1-CA-40045**

**STATE OF NEW MEXICO,**

Plaintiff-Appellee,

v.

**PEDRO GARCIA,**

Defendant-Appellant.

**APPEAL FROM THE DISTRICT COURT  
OF LEA COUNTY**

William G.W. Shoobridge, District Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

Emily Bowen, Assistant Attorney General

Albuquerque, NM

for Appellee

Law Office of Scott M. Davidson, Ph.D., Esq., LLC

Scott M. Davidson

Albuquerque, NM

for Appellant

► **Introduction of Opinion**

Defendant Pedro Garcia appeals his conviction for criminal sexual contact of a minor (child under 13), contrary to NMSA 1978, Section 30-9-13(B)(1) (2003). Defendant argues that (1) he was denied the right to a speedy trial; (2) he was provided ineffective assistance of counsel; (3) the district court inappropriately admitted certain evidence; and (4) the guilty verdict was the result of cumulative error. For the following reasons, we affirm. Because this is an unpublished memorandum opinion written solely for the benefit of the parties, see *State v. Gonzales*, 1990-NMCA-040, ¶ 48, 110 N.M. 218, 794 P.2d 361, and the parties are familiar with the factual and procedural background of this case, we omit a background section and leave the discussion of the facts for our analysis of the issues.

Kristina Bogardus, Judge

WE CONCUR:

J. Miles Hanisee, Judge

Jacqueline R. Medina, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-40045>

# 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: 9/19/2023**

**No. A-1-CA-39960**

**STATE OF NEW MEXICO,**

Plaintiff-Appellee,

v.

**COBY WARREN,**

Defendant-Appellant.

**APPEAL FROM THE DISTRICT COURT  
OF LEA COUNTY**

William G. W. Shoobridge, District Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

Leland M. Churan, Assistant Attorney General

Albuquerque, NM

for Appellee

Brian A. Pori

Albuquerque, NM

for Appellant

## ► Introduction of Opinion

Defendant Coby Warren pleaded no contest to the use of a telephone to terrify, intimidate, threaten, harass, annoy or offend, contrary to NMSA 1978, Section 30-20-12 (1967), a misdemeanor offense. Defendant appeals the denial of a motion to dismiss that followed this Court's initial affirmance of the underlying judgment and sentence. Defendant raises two issues on appeal: (1) the district court violated his right to due process of law and his right to speedy imposition of his criminal sentence; and (2) the district court failed to conduct an evidentiary hearing on his motion to dismiss. We affirm.

Jacqueline R. Medina, Judge

WE CONCUR:

J. Miles Hanisee, Judge

Megan P. Duffy, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-39960>

# 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: 9/20/2023**

**No. A-1-CA-39298**

**SAMUEL M. PARKER and JANE B. PARKER,**  
Plaintiffs-Appellants,

v.

**JEROME MALDONADO, individually and as a licensed associate real estate broker; J. JACOB REALTY, LLC, a New Mexico limited liability company; J. JACOB ENTERPRISES, INC., a New Mexico corporation; DAVID W. HARPER, an individual; JON S. MCCALLISTER, an individual; PATRICIA A. MCCALLISTER, an individual; and PLACITAS, INC., a New Mexico corporation,**  
Defendants-Appellees.

## **APPEAL FROM THE DISTRICT COURT OF SANDOVAL COUNTY**

George P. Eichwald, District Court Judge

Atler Law Firm, P.C.  
Jazmine J. Johnston  
Timothy J. Atler  
Albuquerque, NM

Tal Young, P.C.  
Steven Tal Young  
Albuquerque, NM

for Appellants

Moses, Dunn, Farmer & Tuthill, P.C.  
Alicia L. Gutierrez  
Kathryn T. Ritter, Et al.  
Albuquerque, NM

for Appellees Jerome Maldonado, J. Jacob Enterprises, Inc., and J. Jacob Realty, 9 LLC

## **► Introduction of Opinion**

Plaintiffs Samuel and Jane Parker (the Parkers) purchased a home (the Property) that they claim “was not built according to promised standards and which had serious drainage issues.” The Property was built and sold by Jerome Maldonado, who was (1) the sole officer and licensed contractor for J. Jacob Enterprises, Inc. (Enterprises), and (2) the qualifying broker for and licensed realtor with J. Jacob Realty, LLC (Realty). The Property is located in the Wild Horse Mesa Subdivision (the Subdivision), which was developed, in relevant part, by David Harper and Placitas, Inc. (collectively, the Placitas Defendants). After experiencing flooding in their new home, the Parkers instigated the present case for various forms of misrepresentation, contract and warranty-related claims, and violations of the Unfair Practices Act (UPA), NMSA 1978, §§ 57-12-1 to -26 (1967, as amended through 2019). Defendants moved to dismiss the UPA claims based in part on McElhannon v. Ford, 2003-NMCA-091, ¶ 16, 134 N.M. 124, 73 P.3d 827. The district court granted Defendants’ motions and awarded Defendants attorney fees under the UPA. See § 57-12-10(C). **View full PDF online.**

Katherine A. Wray, 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-39298>

# 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: 9/20/2023**

**No. A-1-CA-39535**

**BRYAN MARTINEZ,**

Petitioner-Appellant,  
and

**LETICIA MONTOYA, as Personal Representative  
of the ESTATE OF DAVID MONTOYA, Deceased,**

Petitioner-Appellant,  
v.

**NEW MEXICO TAXATION & REVENUE  
DEPARTMENT, MOTOR VEHICLE DIVISION,**  
Respondent-Appellee.

**APPEAL FROM THE DISTRICT COURT  
OF SANTA FE COUNTY**

Matthew J. Wilson, District Court Judge

Dan Cron Law Firm, P.C.  
Dan Cron  
Santa Fe, NM

Kitren Fischer Law, LLC  
Kitren Fischer  
Santa Fe, NM

for Appellants

Richard Pener, Special Assistant Attorney General  
Santa Fe, NM

for Appellee

The Law Office of Jamison Barkley, LLC  
Jamison Barkley  
Santa Fe, NM  
Angelica Hall  
Albuquerque, NM

for Amicus Curiae New Mexico Criminal Defense  
Lawyers Association

## ► Introduction of Opinion

In this consolidated appeal, Petitioners Bryan Martinez and David Montoya appeal administrative hearing officers' decisions to sustain Petitioners' license revocations under the Implied Consent Act (ICA), NMSA 1978, Section 66-8-105 to -112 (1978, as amended through 2019). Because Mr. Montoya died during the pendency of this appeal, we consider only Petitioner Martinez's appeal. Petitioner argues that the Administrative Hearings Office (AHO) violated separation of powers principles enshrined in the New Mexico Constitution when it denied Petitioner his statutory right to an in-person hearing. See N.M. Const. art. III, § 1. On the basis of the arguments presented by the parties, we reverse and remand for further proceedings. We emphasize that we issue this nonprecedential memorandum opinion solely for the benefit of the parties.

Zachary A. Ives, Judge

WE CONCUR:

Kristina Bogardus, Judge

Michael D. Bustamante, Judge, retired,  
Sitting by designation

To read the entire opinion, please visit  
the following link: <https://bit.ly/A-1-CA-39535>

# 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: 9/21/2023**

**No. A-1-CA-39626**

**STATE OF NEW MEXICO,**

Plaintiff-Appellee,

v.

**GINGER WILLS,**

Defendant-Appellant.

**APPEAL FROM THE METROPOLITAN COURT  
OF BERNALILLO COUNTY**

Felicia Blea-Rivera, Metropolitan Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

Charles J. Gutierrez, Assistant Attorney General

Albuquerque, NM

for Appellee

Bennett J. Baur, Chief Public Defender

Caitlin C.M. Smith, Assistant Appellate Defender

Santa Fe, NM

for Appellant

► **Introduction of Opinion**

Ginger Wills (Defendant) was convicted at a bench trial in the metropolitan court of driving while under the influence of intoxicating liquor/drugs (DWI), first offense, contrary to NMSA 1978, Section 66-8-102(B) (2016); and driving on roadways laned for traffic, contrary to NMSA 1978, Section 66-7-317 (1978). Defendant appeals her convictions to this Court, arguing that (1) admission of the results of an analysis of her blood performed by the Scientific Laboratory Division (SLD) violated the Confrontation Clause of the Sixth Amendment of the United States Constitution; (2) the trial court erred in allowing the State to amend the charge from a DWI-alcohol theory to a DWI-drug theory; (3) there was insufficient evidence to convict Defendant of DWI; and (4) the remote bench trial violated her right to an in-person trial. Unpersuaded, we affirm.

Gerald E. Baca, Judge

WE CONCUR:

Kristina Bogardus, Judge

Katherine A. Wray, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-39626>

# 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: 9/21/2023**

**No. A-1-CA-38868**

**STATE OF NEW MEXICO,**

Plaintiff-Appellee,

v.

**GALE EDWARD ELDRIDGE,**

Defendant-Appellant.

**APPEAL FROM THE DISTRICT COURT  
OF SAN JUAN COUNTY**

Robert A. Aragon, District Judge

Raul Torres, Attorney General

Maris Veidemanis, Assistant Attorney General  
Santa Fe, NM

for Appellee

Bennett J. Baur, Chief Public Defender

Nina Lalevic, Assistant Appellate Defender  
Santa Fe, NM

for Appellant

## ► Introduction of Opinion

Defendant entered into a conditional plea agreement wherein he pleaded guilty to criminal sexual contact of a minor in the third degree (child under 13), contrary to NMSA 1978, Section 30-9-13(C)(1) (2009), but reserved his right to appeal his motion to suppress and his motion to dismiss. On appeal, Defendant argues that (1) his Fifth Amendment rights were violated because officers failed to read him his Miranda warnings, (2) the officers coerced his incriminating statement, (3) the twenty-nine-month delay in resolving this case violated his right to a speedy trial, and (4) the district court erred in denying his speedy trial motion without holding an evidentiary hearing. See *Miranda v. Arizona*, 384 U.S. 436 (1966). Concluding that the district court erred in failing to provide Defendant an evidentiary hearing on his speedy trial motion, we reverse and remand so that Defendant may have a hearing on this issue. Otherwise, we affirm.

Gerald E. Baca, Judge

WE CONCUR:

Jacqueline R. Medina, Judge

Zachary A. Ives, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-38868>



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**For more advertising information, contact: Marcia C. Ulibarri at 505-797-6058 or email [marcia.ulibarri@sbnm.org](mailto:marcia.ulibarri@sbnm.org)**



### **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 positions. Hybrid remote work schedule available. The Legal Department's team of attorneys provides 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 include, but will not be limited to, legal research, drafting legal opinions, reviewing and drafting policies, ordinances, and executive/administrative instructions, reviewing and negotiating contracts, litigating matters, and providing general advice and counsel on day-to-day operations. 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 departments; 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 defends claims brought against the City. Attention to detail and strong writing and interpersonal skills are essential. Preferences include: Three (3)+ years' experience as licensed attorney; experience with government agencies, government compliance, litigation, contracts, and policy writing. Salary will be based upon experience. For more information or to apply please go to [www.cabq.gov/jobs](http://www.cabq.gov/jobs). Please include a resume and writing sample with your application.

### **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: Director - Native American Program – Santa Ana, NM; Project Manager - Disaster Legal Services; Managing Attorney – Consumer Law Practice Group. Staff Attorney Positions: Generalists - Silver City, NM; Native American Program – Santa Ana, NM; Consumer Law Practice Group, flexible location; Las Cruces, NM; LGBTQ+ legal access program, Safe To Be You, flexible location; Medical Legal Partnership, Santa Fe, NM. Paralegal Positions: Veteran Work; Housing Stability. Please visit our website for all current openings, NMLA benefits, Salary Scales and instructions on how to apply - <https://newmexicolegalaid.isolvedhire.com/jobs/>

### **Patent Attorney (Software & Licensing) – IRC1112**

The Los Alamos National Laboratory Office of General Counsel (OGC) is seeking an experienced Patent Attorney (Software & Licensing) to join the Intellectual Property Group to provide legal counsel to the Lab's senior management and technology transfer division on IP-related transactions and establish relationships with federal agencies including DOE/NNSA and other similarly situated national labs and businesses. The attorney will work on strategic/substantive issues, manage Triad's broad-reaching IP portfolio in various technical areas, draft/review agreements for technology transfer and licensing mechanisms and conduct/participate in negotiations with outside persons to resolve intellectual property issues. The attorney will be a member of ABA and have 5-7 years' knowledge/experience of IP licenses including patent, copyright and hybrid licenses and computer hardware/software. This position also requires the ability to obtain 'Q' security clearance, which involves a background investigation, and must meet eligibility requirements for access to classified matter. Apply online at: [www.lanl.gov/jobs](http://www.lanl.gov/jobs). Los Alamos National Laboratory is an EO employer – Veterans/Disabled and other protected categories. Qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, sexual orientation, gender identity, disability or protected veteran status.

### **Attorney**

Agency: Dept of Workforce Solutions; Job ID: 137083; Location: Albuquerque; Full/Part Time: Full-Time; Regular/Temporary: Regular - PERM for State; Salary: \$35.04 - \$56.07 Hourly; \$72,885 - \$116,616 Annually; This position is a Pay Band 85; How does it get done? The position plans, directs and monitors activities of the Unemployment Insurance (UI) Appeals Tribunal. The UI Appeals Tribunal consists of administrative law judges who conduct hearings on UI appeals and issue written reasoned decisions based on law and evidence. The Chief of Appeals will be responsible for evaluating, managing, and implementing processes to ensure fair, timely and accurate UI Appeal Hearings. The position is responsible for assigning and monitoring the workload of Appeals Tribunal Staff, preparing performance evaluation reports, identifying training needs to ensure proper development of staff, and identifying and addressing/resolving employee performance issues and taking proper corrective actions as needed. The Chief of Appeals assures the highest quality of decision making so that the parties of appeals receive due process and ensures that the UI Appeals Tribunal is in compliance with federal standards and requirements. The Chief of Appeals is responsible for the overall performance and success of the UI Appeals Tribunal. Ideal Candidate; The ideal candidate should have the following: Supervisory or management experience; Excellent legal writing and verbal communication skills; Knowledge of, and experience with, federal and state unemployment law; Must be a licensed Attorney in New Mexico with at least 5 years of experience with administrative law or employment law. Qualified candidates can apply for the position online at <https://www.spo.state.nm.us/work-for-new-mexico/>

### **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](mailto:jbmauldin@da.state.nm.us)

## **Associate General Counsel for IP & Data Security 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. The Office of General Counsel (OGC) of Triad National Security LLC is seeking an Associate General Counsel who will be responsible for managing the OGC Intellectual Property and Data Security Group at Los Alamos National Laboratory. Responsibilities: Provide legal advice and counsel to management and employees regarding the legal aspects and consequences of proposed transactions and courses of action; Lead a group of senior and junior IP/patent attorneys, a technology transfer agreements attorney, privacy officer, senior data security attorney and IP paralegal support staff; Oversee the IP docket/budgets and manage outside counsel engaged in the protection of IP assets, such as patent filing and prosecution, trademark and copyright; Identify legal risks and develop courses of actions to help clients appropriately manage legal risks and ensure proper execution of the Laboratory's mission, which may require participation in negotiations with outside persons and entities who may be in a contractual or adversarial relationship with the Laboratory; Build and maintain relationships with the Laboratory's Chief Information Officer, Technology Transfer Function, the Feynman Center for Innovation, as well as relationships with external stakeholders; Assist the OGC IP group in providing advice and counsel concerning the full spectrum of technology related agreements; Draft memoranda of law, legal opinions, policy and other documents related to intellectual property matters. Qualifications: Law Degree from an ABA accredited law school; Active bar membership in good standing (any U.S. jurisdiction); 15+ years of relevant experience after initial bar admittance; Active registration with the U.S. Patent and Trademark Office; Demonstrated oral, written and interpersonal communication and negotiation skills; Ability to acquire and maintain a DOE "Q" level security clearance. Preferred Qualifications: 5+ years of experience directly managing/leading attorneys and other legal staff; Familiarity with DOE/NNSA policies, procedures and orders pertaining to the protection of intellectual property, technology transfer, classification and national security (10 CFR 1045 or Executive Order 13526), privacy and data protection; Experience with NIST cybersecurity standards, guidelines and best practices; Familiarity with software technologies and applications used in a tech savvy legal office and technology transfer function; Demonstrated experience in building trusted client relationships and a proactive approach to legal practice including engaging in preventive law activities; Experience managing patent dockets and associated budgets; Experience in IP litigation/disputes including

strategy development; Experience managing or overseeing a Privacy Program. 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 the USA. Apply now: <https://lanl.jobs/search/jobdetails/associate-general-counsel-for-ip-data-security-patent-attorney-manager-4/c0f0da2d-deb8-4bb9-871a-f96800790cb8lanl.jobs>, search IRC125640. 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 regard 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](mailto:applyhelp@lanl.gov) or call 1-505-665-4444 option 1.

### **Attorney Senior**

The Thirteenth Judicial District Court is recruiting for the following position: Classification: Attorney Senior; Location: Bernalillo, NM (997-070099); Position #: 00049359; Pay Range: LL; Target Pay Rate: \$41.04 / hr - \$45.60 / hr. TO APPLY: Submit a Judicial Branch Application for Employment or a Resume and Resume Supplemental form, a writing sample and proof of education by 5:00 p.m. Wednesday October 25, 2023 to: Thirteenth Judicial District Court, Attn: Brittany Lucero, 1835 Hwy 314 SW, 3rd floor P.O. Box 1089, Los Lunas, NM 87031. Applications may be emailed to: [lludbll@nmcourts.gov](mailto:lludbll@nmcourts.gov)

### **Tribal Prosecutor**

Pueblo of Laguna, NM – Great employer and benefits, competitive pay DOE! Seeking full-time attorney to prosecute adult criminal defendants and juveniles in delinquency cases in Laguna Pueblo Court. No murder cases and significant behavioral resources as alternatives to incarceration. Office has assistant and victim's advocate. Leisurely commute from Albuquerque metro, Los Lunas, or Grants. Apply now, open until filled. Application instructions and position details at: <https://www.lagunapueblo-nsn.gov/elected-officials/secretarys-office/human-resources/employment/>

### **Litigation Attorney**

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

### **Non-Tenure-Track Faculty Position**

The Department of Finance in the College of Business at New Mexico State University (NMSU) is seeking to fill a 9-month, non-tenure-track faculty position as a College Professor of Business Law. The start date will be August 19, 2024. Please click link for details, requirements, and to apply: <http://careers.nmsu.edu/cw/en-us/job/498710>

### **Attorney**

The New Mexico Foundation for Open Government (FOG) seeks a full-time attorney. We seek a highly motivated self-starter with civil trial court experience to strategically select and pursue lawsuits that will advance FOG's mission, which includes enforcing and protecting the New Mexico Inspection of Public Records Act (IPRA), Open Meetings Act (OMA), and The First Amendment. Remote work is an option. Some travel. Candidates are asked to send a cover letter detailing experience, education and background and a sample legal brief to [info@nmfog.org](mailto:info@nmfog.org). Salary range \$80,000 to \$100,000.

**Deputy Attorney General for  
Affirmative Litigation  
New Mexico Office of the  
Attorney General  
Santa Fe or Albuquerque,  
New Mexico**

**Job Description:** The New Mexico Office of the Attorney General is seeking a highly-skilled and motivated individual to join our team as the Deputy Attorney General for Affirmative Litigation. The Deputy Attorney General will play a critical role in leading and managing our affirmative litigation efforts. They will work closely with the Attorney General, the Chief Deputy Attorney General and other senior staff members to develop and execute litigation strategies that promote justice, protect the public interest, and advance the rights of individuals and communities. This is an at-will position.

**Responsibilities:** Lead and oversee the development and implementation of affirmative litigation strategies in collaboration with the Attorney General and other stakeholders including, but not limited to, civil rights, consumer protection, environmental protection, and corporate fraud; Conduct legal research and analysis to identify potential claims and develop legal theories to support affirmative litigation cases; Prepare and file legal documents, including complaints, motions, and briefs, in state and federal courts; Manage a team of attorneys and legal staff involved in affirmative litigation, providing guidance, feedback, and mentorship; Collaborate with relevant government agencies, nonprofits, and advocacy organizations to gather evidence, build partnerships, and leverage resources; Conduct investigations and discovery processes to gather evidence and build strong cases; Represent the New Mexico Office of Attorney General in court proceedings, including hearings, trials, and possible appeals; Monitor developments in relevant legal areas and propose policy and procedural changes to enhance the effectiveness of affirmative litigation efforts; Maintain accurate and organized case files, records, and other documentation; Collaborate and monitor outside legal counsel pursuing legal claims and lawsuits on behalf of the office; Lead nationwide litigation in the pursuit of protecting public interests. **Qualifications:** Juris Doctor (J.D.) degree from an accredited law school; Admission to the New Mexico state bar and in good standing or the ability to acquire a limited law license; 10 years of experience in litigation, with a focus on affirmative litigation, and 5 years of management experience preferred; Knowledge of civil rights law, consumer protection law, and environmental law preferred; Excellent legal research, writing, and oral advocacy skills; Proven ability to lead and manage a team of attorneys

and legal staff; Demonstrated experience in developing and executing litigation strategies; Strong analytical and problem-solving skills; Exceptional organizational and time management abilities; Ability to work effectively under pressure and meet deadlines; Excellent interpersonal and communication skills. **Application Instructions:** To apply for the position of Deputy Attorney General for Affirmative Litigation, please submit the following documents to Dean Woulard at [recruiting@nmag.gov](mailto:recruiting@nmag.gov): 1. Cover letter detailing your interest in the role and your relevant experience; 2. Resume/CV with a detailed overview of your educational and professional background; 3. Writing samples showcasing your legal research and writing abilities; 4. Contact information for three professional references.

**Division Director for Civil Rights  
New Mexico Office of the  
Attorney General  
Santa Fe or Albuquerque,  
New Mexico**

**Job Description:** The New Mexico Office of the Attorney General is seeking a dynamic and experienced individual to join our team as the Division Director for Civil Rights. The Director will be responsible for overseeing and managing legal matters related to civil rights enforcement and protection. Their primary focus is promoting equality, combating discrimination, and upholding constitutional and statutory rights. The Director will work closely with the Attorney General, Chief Deputy Attorney General, and Deputy Attorney General for Affirmative Litigation and collaborate with a team of attorneys and legal professionals to develop and execute strategic litigation initiatives. **Responsibilities:** Provide legal counsel and guidance on civil rights laws, regulations, and policies to government agencies, departments, and officials; Oversee and manage civil rights investigations and enforcement actions; Assist in the development and implementation of policies and regulations aimed at protecting civil rights; Develop and implement outreach initiatives to raise awareness about civil rights, educate the public on their rights and protections, and promote inclusivity and diversity; Oversee and manage civil rights litigation, including working with other attorneys, developing case strategies, and representing the New Mexico Office of the Attorney General in court or administrative proceedings; Collaborate with other government agencies, civil rights organizations, community groups, and stakeholders to address civil rights issues effectively; Advocate for civil rights issues by engaging in public policy discussions, testifying before legislative bodies, and promoting legislation or regulations that enhance civil rights protections..

**Qualifications:** Juris Doctor (J.D.) degree from an accredited law school; Admission to the New Mexico state bar and in good standing or the ability to acquire a limited law license; 6 years of experience in litigation, with a demonstrated focus on affirmative litigation and 3 years of management experience preferred; Strong knowledge of civil rights law, and other relevant legal areas Proven track record of developing and executing successful litigation strategies; Excellent leadership and management skills, with the ability to inspire and motivate a team of attorneys and legal professionals; Outstanding legal research, writing, and oral advocacy skills; Strong analytical and problem-solving abilities; Ability to work effectively under pressure, prioritize tasks, and meet deadlines; Exceptional interpersonal and communication skills, with the ability to collaborate effectively with diverse stakeholders; Demonstrated commitment to social justice, equality, and public interest law. **Application Instructions:** To apply for the position of Division Director for Civil Rights, please submit the following documents to Dean Woulard at [recruiting@nmag.gov](mailto:recruiting@nmag.gov): 1. Cover letter detailing your interest in the role and your relevant experience; 2. Resume/CV with a detailed overview of your educational and professional background; 3. Writing samples showcasing your legal research and writing abilities; 4. Contact information for three professional references.

**Contract Prosecutor**

The Eleventh Judicial District Attorney's Office, Div. II, in Gallup, New Mexico, McKinley County is seeking applicants for a Contract Prosecutor to assist in the prosecution of criminal misdemeanor cases, felony cases and conflict of interest cases. The Contract Prosecutor position requires substantial knowledge and experience in criminal prosecution, rules of evidence and rules of criminal procedure; trial skills; the ability to draft legal documents and to research/analyze information and situations and the ability to work effectively with other criminal justice agencies and Law Enforcement. This position is open to all attorneys who have knowledge in criminal law and who are in good standing with the New Mexico Bar. Limited License is okay. Salary will result in a contractual agreement between the contract prosecutor and the District Attorney. Submit letter of interest and resume to District Attorney Bernadine Martin, 201 West Hill, Suite 100, Gallup, NM 87301, or e-mail letter to [bmartin@da.state.nm.us](mailto:bmartin@da.state.nm.us).

**Division Director for  
Environmental Protection  
New Mexico Office of the  
Attorney General  
Santa Fe or Albuquerque,  
New Mexico**

Job Description: The New Mexico Office of the Attorney General is seeking a dynamic and experienced individual to join our team as the Division Director for Environmental Protection. The Environmental Protection Division Director is responsible for overseeing and managing legal matters related to environmental protection and enforcement. Their primary focus is to ensure compliance with environmental laws and regulations, protect natural resources, pursue affirmative environmental protection litigation, and advocate for the preservation of environmental resources and environmental quality standards. Responsibilities: Provide legal counsel and guidance on matters related to environmental laws, regulations, and policies to various government agencies, departments, and officials; Oversee and manage enforcement actions related to environmental violations, which can involve conducting investigations, collaborating with law enforcement agencies, and initiating legal proceedings against violators; Assist in the development and implementation of environmental policies and regulations at the state or federal level; Advocate for environmental protection and conservation initiatives, including supporting or opposing environmental legislation, participating in public hearings, and representing the Attorney General's Office in environmental matters before administrative bodies and courts; Collaborate with other government agencies, non-profit organizations, and stakeholders involved in environmental protection and enforcement efforts; Oversee and manage litigation related to environmental matters, including working with other attorneys, managing case strategy, and ensuring legal actions are aligned with the overall objectives of the Attorney General's Office. Qualifications: Juris Doctor (J.D.) degree from an accredited law school; Admission to the New Mexico state bar and in good standing or the ability to acquire a limited law license; 6 years of experience in litigation, with a demonstrated focus on affirmative litigation and 3 years of management experience preferred; Strong knowledge of environmental law and other relevant legal areas; Proven track record of developing and executing successful litigation strategies; Excellent leadership and management skills, with the ability to inspire and motivate a team of attorneys and legal professionals; Outstanding legal research, writing, and oral advocacy skills; Strong analytical and problem-solving abilities; Ability to work effectively under pressure, prioritize tasks, and meet deadlines; Exceptional

interpersonal and communication skills, with the ability to collaborate effectively with diverse stakeholders; Demonstrated commitment to social justice, equality, and public interest law. Application Instructions: To apply for the position of Division Director for Environmental Protection, please submit the following documents to Dean Woulard at [recruiting@nmag.gov](mailto:recruiting@nmag.gov): 1. Cover letter detailing your interest in the role and your relevant experience; 2. Resume/CV with a detailed overview of your educational and professional background; 3. Writing samples showcasing your legal research and writing abilities; 4. Contact information for three professional references.

**IPRA Attorney Lead  
New Mexico Office of the  
Attorney General  
Santa Fe or Albuquerque,  
New Mexico  
Full-Time**

**Open until the position is filled**

Job Description: The New Mexico Office of the Attorney General (the Office) seeks a dynamic and experienced individual to join our team as the lead attorney for fulfilling Inspection of Public Records Act (IPRA) requests. The lead IPRA Attorney is responsible for overseeing and managing legal matters related to IPRA requests to the Office. Their primary focus is the timely, efficient, and effective processing of requests to inspect public records. The IPRA Lead Attorney works closely with the Special Counsel for the Attorney General, Deputy Attorney General for Civil Affairs, and Director of Government Counsel & Accountability and collaborates with attorneys and legal professionals throughout the Office. Responsibilities: Oversee and manage IPRA request fulfillment, including working with other attorneys, developing case strategies, and representing the New Mexico Office of the Attorney General in court or administrative proceedings; Provide legal counsel and guidance on IPRA laws, regulations, and policies to the Office; Collaborate with other government agencies, community groups, and stakeholders to address IPRA and government transparency issues effectively; Develop and implement internal trainings to build institutional awareness about IPRA and government transparency; Assist in the development and implementation of policies and regulations aimed at IPRA law and government transparency; Engage in public policy discussions, testifying before legislative bodies, and promoting legislation or regulations that develop the legal framework impacting public records in New Mexico. Qualifications: Juris Doctor (JD) degree from an accredited law school; Admission to the New Mexico state bar and in good standing or the ability to acquire

a limited law license; Minimum of four (4) years of experience in the practice of law. Preferred qualification of 6 years of experience in litigation, with a demonstrated experience processing IPRA requests and 3 years of management experience preferred; Strong knowledge of IPRA law, and other relevant legal areas; Excellent leadership and management skills, with the ability to inspire and motivate a team of attorneys and legal professionals Outstanding legal research, writing, and oral advocacy skills; Strong analytical and problem-solving abilities; Ability to work effectively under pressure, prioritize tasks, and meet deadlines; Exceptional interpersonal and communication skills, with the ability to collaborate effectively with diverse stakeholders; Demonstrated commitment to public service law. Application Instructions: To apply for the position of IPRA Attorney Lead, please submit the following documents to Dean Woulard at [recruiting@nmag.gov](mailto:recruiting@nmag.gov): 1. Cover letter detailing your interest in the role and your relevant experience; 2. Resume/CV with a detailed overview of your educational and professional background; 3. Writing samples showcasing your legal research and writing abilities; 4. Contact information for three professional references. The New Mexico Office of the Attorney General is committed to recruiting the highest quality candidates who embody its institutional values of: Integrity - a commitment to honesty, ethical behavior, and transparency in all actions and decisions; Excellence - the highest level of professionalism and expertise in all aspects of our work, and; Service - a strong dedication to serving the public interest and prioritizing the well-being of the community - especially the interests of those least capable of defending themselves. The New Mexico Office of the Attorney General is an equal opportunity employer, and encourages applicants from all backgrounds to apply. For more information, please visit [www.nmag.gov](http://www.nmag.gov).

**Associate Attorney**

Kennedy, Hernandez & Harrison, P.C. is a small, Albuquerque-based firm with a focus on plain-tiffs' civil litigation in the areas of civil rights, wrongful death, and serious personal injury. We are looking for attorneys with 0-5 years of experience who are self-motivated and eager to learn. As part of our collaborative team, associates gain experience in every aspect of our cases: meeting clients, investigating cases, drafting pleadings, handling discovery and depositions, briefing motions, and developing a case all the way through trial and appeal. Candidates should be hard-working and organized, with strong writing skills. Our firm is fast paced with competitive salary and benefits. Please send resumés and writing samples to [Lhernandez@kennedyhernandez.com](mailto:Lhernandez@kennedyhernandez.com).

### Full-Time Associate Attorney

Gallagher, Casados & Mann, PC is an Albuquerque law firm with a primary focus on defending clients in civil litigation. We are looking for a full-time associate attorney. The ideal candidate will have 2 to 5 years of experience. Our lawyers and staff enjoy a congenial working environment with a healthy and happy work-life balance. Candidates should have excellent academic credentials and communication skills. Compensation depends on experience and is competitive with other firms. Please direct inquiries together with a resume to [wjackson@gcmlegal.com](mailto:wjackson@gcmlegal.com).

### Attorney

The Law Offices of Erika E. Anderson is looking for an attorney with a minimum of 3-5 years of experience. The law firm is a very busy and fast-paced AV rated firm that specializes in civil litigation on behalf of Plaintiffs. We also do Estate Planning and Probate litigation. The candidate must be highly motivated and well organized, pay close attention to detail, be willing to take on multiple responsibilities, and be highly skilled when it comes to both legal research and writing. This is a wonderful opportunity to join an incredible team that works hard and is rewarded for hard work! The position offers a great working environment, competitive salary and a generous benefits package. If interested, please send a resume to [erika@eandersonlaw.com](mailto:erika@eandersonlaw.com).

### Attorney Associate (FT At-Will)

#0000490

#### Civil Court

The Second Judicial District Court is accepting applications for an At-Will Attorney Associate. This position will be assigned to the Civil Division. Summary of position: Under direction, will review cases, perform legal research, evaluation, analysis, writing and making recommendations concerning the work of the Court. Qualifications: Must be a graduate of a law school meeting the standards of accreditation of the American Bar Association; possess and maintain a license to practice law in the State of New Mexico. Must have three (3) years of experience in the practice of applicable law, or as a law clerk. Judicial clerkship experience is preferred. Target Pay: \$49,131 hourly plus benefits. Send application or resume supplemental form with proof of education and one (1) writing sample to the Second Judicial District Court, Human Resource Office, P.O. Box 488 (400 Lomas Blvd. NW), Albuquerque, NM, 87102. Applications without copies of information requested will be rejected. Application and resume supplemental form may be obtained on the New Mexico Judicial Branch web page at [www.nmcourts.gov](http://www.nmcourts.gov). CLOSES: Friday, November 17, 2023 at 5:00 PM

### 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.

### 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](mailto:imb@sutinfirm.com).

### Full-Time Paralegal

Immediate opening in downtown Albuquerque law firm for a full-time paralegal. Prior experience working in family law preferred, but not required. Personal Injury and criminal law experience a plus. This position requires strong communication and organizational skills as well as the ability to effectively multi-task. Salary negotiable but largely based on experience. Competitive benefits offered. Please email resume to [COBrien@familylawfirm.com](mailto:COBrien@familylawfirm.com).

### Legal Assistant/Paralegal

Harrison & Hart, LLC, a small but active litigation firm in Albuquerque, New Mexico, is seeking a Legal Assistant/Paralegal to support the firm's criminal defense and appellate practices. Those experienced in criminal defense and litigation in the state, federal and appeals courts, who have knowledge of State, Federal and Appeal court procedures; e-filing; preparing tables for appellate briefs; Westlaw and other legal research tools; and reviewing and categorizing high-volume electronic discovery are preferred. But we are open to hiring and training a recent graduate or someone new to the profession if they are the right fit. Must possess a strong attention to detail with a high level of accuracy and superior organizational skills, the ability to prioritize work and multitask, and be an independent person who is eager to acquire additional assignments. Responsibilities will include drafting, editing, formatting, and filing legal documents (electronically and in-person, as needed); tracking court deadlines and managing attorney calendars; scheduling and arranging meetings; coordinating visitation and court appearances for incarcerated clients; assisting attorneys with procuring and reviewing records; and managing discovery. Administrative responsibilities include assisting and greeting callers and visitors, checking in appointments, hourly billing, calendaring dates and deadlines accurately, court runs and delivery/pick up services as needed, maintaining a tidy reception/waiting area, and other front office duties. Harrison & Hart, LLC offers a generous benefits package, including a 401(k) and profit-sharing plan, vacation leave, sick leave, bonuses, and employer paid health insurance. Compensation will be between \$45,000 and \$75,000 per year based on experience. Applicants should submit a cover letter (in the body of an email is fine), resume, and list of references to Nicholas Hart at [nick@harrisonhartlaw.com](mailto:nick@harrisonhartlaw.com).

### Full-Time Legal Assistant or Paralegal

Established civil trial litigation firm in Albuquerque seeks full-time legal assistant or Paralegal. Pay is determined by experience, plus benefits. Position requires a team player with strong word processing and organizational skills. Multitasking, and a willingness to learn are essential for this position. Send resume and salary requirements to Guebert Gentile & Piazza P.C., Attn: Cassandra A. Marquez, P.O. Box 93880, Albuquerque, NM 87199-3880, [advice1@guebertlaw.com](mailto:advice1@guebertlaw.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>.

### 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@rileymlaw.com](mailto:mvelasquez@rileymlaw.com) or mail to 3880 Osuna Rd. NE, Albuquerque, NM 87109

### 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](mailto:tgarduno@montand.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](mailto:tgarduno@montand.com) or mail to T. Garduno, P.O. Box 2307, Santa Fe, New Mexico 87504-2307.

### Full-Time Experienced Legal Assistant or Paralegal

Santa Fe law firm seeking full-time experienced legal assistant or paralegal to support attorneys in the areas of real estate, water law, business and construction law and related civil litigation. Full time in-office presence required. Experience with Microsoft Word and Outlook also required. Email letter of interest and resumes to [srf@santafelawgroup.com](mailto:srf@santafelawgroup.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@stiffllaw.com](mailto:karrants@stiffllaw.com)

## Office Space

### Short Term Lease

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### Taos Office Complex For Sale or Lease

TAOS OFFICE COMPLEX located across the street from the Taos County Courthouse on ½ acre of land. There is room under the Taos Municipal Land Use Code for additional offices or condo-miniums to be built. The Plaza del Oso Office Complex consists of four separate units that total 2,536 square feet. Adobe and vigas construction, radiant floor heating, portal and much more. \$950,000 or \$1,000,000 with main office furniture included. Owner has occupied main suite since construction in 1998 and the three other suites have been continuously occupied except for very brief vacancies. It is presently 100% occupied. Alternatively, lease one main office space (777 sq. ft.) for \$3,000 per month. Includes one main office suite, reception area and conference room, fully furnished with high quality furniture. Conference room can be converted to second office if needed. ADA Bathroom with shower. Call (575) 741-0352 or (575) 758-1327.

### No Lease-All Inclusive

Office Suites-NO LEASE-ALL INCLUSIVE-virtual mail, virtual telephone reception service, hourly of-fices and conference rooms available. Witness and notary services. Office Alternatives provides the infrastructure for attorney practices so you can lower your overhead in a professional environment. 2 convenient locations-Journal Center and Riverside Plaza. 505-796-9600/[officealternatives.com](http://officealternatives.com).

### 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.



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