

BAR BULLETIN

August 14, 2024 • Volume 63, No. 8



Jewel Patterns of Abiquiu, by Michelle Chrisman (see page 5)

www.michellechrisman.com

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Southwest CRIMES AGAINST CHILDREN CONFERENCE



October 15–17, 2024

A 3-Day Multidisciplinary Crimes Against Children Conference

Sponsored by the 13th Judicial District Attorney of New Mexico, Barbara Romo

A multi-disciplinary gathering. This conference encompasses three tracks: Prosecutors, Law Enforcement and Victim Advocates – focusing on issues related to the investigation and prosecution of crimes against children.

This conference is free and open to all who work directly with child victims of crime, especially those who are involved in the prosecution and investigation of these crimes.

For more information and to register, please visit
www.13th.nmdas.com

REGISTRATION OPENS AUG. 19

Santa Ana Star Casino and Hotel
54 Jemez Canyon Dam Road, Bernalillo, NM

Oct. 15 & 16 / 8 a.m. to 5 p.m.
Oct. 17 / 8 a.m. to 2 p.m.

A block of hotel rooms offered at the special conference price of \$121 will be available to reserve starting Aug. 19.



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Section, Division and Committee Meetings

Section, Committee, Division	August	September	Time, Format
ADR Steering Committee	N/A	N/A	Noon, Zoom
Animal Law	N/A	N/A	12:30 p.m., Zoom
Bankruptcy Law	13	13	Noon, Bankruptcy Court & Zoom
Business Law	13	13	11 a.m., Zoom
Cannabis Law	9	9	9 a.m., Zoom
Children's Law	19	19	Noon, Zoom
Employment and Labor Law	7	7	12:30 p.m., Zoom
Family Law	16	16	9 a.m., Zoom
Committee on Women in the Legal Profession	N/A	11	Noon, Zoom

About Cover Image and Artist: Michelle Chrisman's landscapes are painted "en plein air." She considers herself a contemporary colorist and modernist, but most of all a visual poet. She is drawn to the visual beauty of New Mexico and the West, the desert and the variety of three cultures. She paints alla prima in direct response to the landscape. Chrisman teaches annual painting workshops for Ghost Ranch in Abiquiu and for the New Mexico Art League and Harwood Art Center in Albuquerque. She can be reached via email at MichelleChrisman78@gmail.com and her website is www.MichelleChrisman.com.

Notices

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

COURT NEWS New Mexico Supreme Court Rule-Making Activity

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

Supreme Court Law Library

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

N.M. Administrative Office of the Courts

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

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

Notice of New e-Filing System

New Mexico magistrate courts and the Bernalillo County Metropolitan Court will begin receiving and processing subsequent electronic filings in criminal cases through eFile & Serve starting Aug. 23. Please visit <https://bit.ly/NM-eFiling-Notice> for more information, including next steps for attorneys regarding electronic filing.

Professionalism Tip

With respect to my clients:

I will charge only a reasonable attorney's fee for services rendered.

STATE BAR NEWS 2024 Annual Meeting Save the Date for the State Bar of New Mexico's 2024 Annual Meeting on Oct. 25

The Annual Meeting looks a little different this year! Save the Date for the State Bar of New Mexico's 2024 Annual Meeting on Oct. 25. "Be Inspired" during one full day of legal education, networking with your colleagues, inspirational speakers and activities, entertainment and much more. Join us either in-person at the State Bar Center or virtually and earn all 12 of your CLE credits for the year for only \$199! Sponsorship opportunities are now available. More information and registration can be viewed soon at <https://www.sbnm.org/AnnualMeeting2024>.

2024 Annual Meeting Resolutions and Motions

Resolutions and motions will be heard at 8:30 a.m. (MT) on October 25 at the opening of the State Bar of New Mexico 2024 Annual Meeting, in-person at the State Bar Center in Albuquerque, and online for virtual attendees. For consideration, resolutions or motions must be submitted in writing by September 24 to Executive Director Richard Spinello, PO Box 92860, Albuquerque, N.M. 87199; fax to 505-828-3765; or email to richard.spinello@sbnm.org.

Client Protection Fund Commission

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, 2025. 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 by Oct. 1 to kate.kennedy@sbnm.org.

Communications Advisory Committee

Join the New Committee!

The Communications Advisory Committee, which the Board of Bar Commissioners established earlier this year, is a committee that sources and reviews content for the Bar Bulletin. There are currently multiple open seats on the Committee, which will begin work in 2025. To apply for the Committee, please submit a letter of interest and your experience in this area. Send your email application by email to notices@sbnm.org by Aug. 31 for consideration.

Elder Law Section Invitation to Monthly Medicaid Lunch and Learns

The New Mexico legal community is invited to attend an all-new monthly series of "Medicaid In Small Bites" lunch and learns. Presented by Lori L. Millet, Esq. and co-hosted by the State Bar of New Mexico's Elder Law Section Board, these lunch and learns will provide attendees the opportunity to both better understand the complexities of Medicaid in a legal capacity and avoid the potential pitfalls accompanying misunderstandings of Medicaid. These sessions will be held through Zoom on Aug. 15, Sept. 19, Oct. 17, Nov. 21 and Dec. 19, from noon to 12:30 p.m. (MT). To join, visit <https://us02web.zoom.us/j/83846688863?pwd=RJsHBnM7tbQdTbFU6aLfvZQF2Y5T0b.1>. For any questions about joining the lunch and learn, please contact jbrannen@brannenlawllc.com.

Historical Committee Invitation to Presentation on the USS New Mexico

On Aug. 16 at noon (MT), Greg Trapp will present the history of the state's namesake battleship, USS New Mexico (BB-40). The presentation will be at the State Bar of New Mexico, 5121 Masthead St. NE Albuquerque, N.M. 87109, with some pizza and water. Please register to attend in-person at <https://form.jotform.com/sbnm/the-historical-committee-USS-NM>. View the presentation online through Zoom at <https://us06web.zoom.us/j/82995580957?pwd=7sWKs1kNFICvmJvablqRbqltsILin.I>.

New Mexico Lawyer Assistance Program NM LAP Committee Meetings

The NM LAP Committee will meet at 4 p.m. (MT) on Oct. 11. 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 Well-Being Committee Meetings

The N.M. Well-Being Committee was established in 2020 by the State Bar of New Mexico's Board of Bar Commissioners. The N.M. Well-Being Committee is a standing committee of key stakeholders that encompass different areas of the legal community and cover state-wide locations. All members have a well-being focus and concern with respect to the N.M. legal community. It is this committee's goal to examine and create initiatives centered on wellness. The Well-Being Committee will meet the following dates at 3 p.m. (MT): Sept. 24 and Nov 26. Email Tenessa Eakins at Tenessa.Eakins@sbnm.org.

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.

New Mexico State Bar Foundation Golf Classic - Register to Play!

You're invited to the New Mexico State Bar Foundation Golf Classic on Sept. 30 at 9 a.m. (MT) at the Tanoan Country Club in Albuquerque! Register to play form.jotform.com/sbnm/GolfClassic. All proceeds benefit the New Mexico State Bar Foundation. Sponsorship opportunities are also available. Visit www.sbnm.org/NMS-BFGolfClassic2024 for more information.

UNM SCHOOL OF LAW Invitation to the Back to School Fiesta

Members are invited to the UNM School of Law for food, refreshments and fun as they welcome law students at the Back to School Fiesta on Aug. 23, from 5 to 7 p.m. (MT). To register, visit <https://forms.unm.edu/forms/fiesta24>.

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.

OTHER BARS

American Bar Association New Task Force Formed

The American Bar Association's Task Force to Combat Antisemitism, which was appointed by ABA President Mary Smith, is engaging the nation's lawyers and others to combat antisemitism of the U.S. The task force plans to issue a report in Aug. 2025 regarding its efforts. For more information about the new task force, visit www.americanbar.org/groups/leadership/office_of_the_president/antisemitism.

— *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. Clio also provides industry-leading security, 24 hours a day, 5 days a week customer support and more than 125 integrations with legal professionals' favorite apps and platforms, including Fastcase, Dropbox, Quickbooks and Google apps. Clio is the legal technology solution approved by the State Bar of New Mexico. Members of SBNM receive a 10 percent discount on Clio products.

Learn more at
landing.clio.com/nmbar.

OTHER NEWS

N.M. Legislative Council Service

Legislative Research Library Hours

The Legislative Research Library at the Legislative Council Service is open to state agency staff, the legal community, and the general public. We can assist you with locating documents related to the introduction and passage of legislation as well as reports to the legislature. Hours of operation are Monday through Friday, 8 a.m. to 5 p.m. (MT), with extended hours during legislative sessions. For more information and how to contact library staff, please visit https://www.nmlegis.gov/Legislative_Library.

Legal Education Calendar

August

- | | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1-31 Self-Study - Tools for Creative Lawyering: An Introduction to Expanding Your Skill Set with Eric Sotkin
1.0 G, 2.0 EP
Online On-Demand
The Ubuntuworks Project
www.ubuntuworksschool.org</p> | <p>17 2024 Bankruptcy Section Ethics Presentation
1.0 EP
Live Program
Bankruptcy Section of the State Bar
www.sbnm.org</p> | <p>28 Civil Rights in the Digital Age: Ensuring Web Accessibility and Inclusion
1.0 EIJ
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>14 Practical Tips & Strategies To Combat Implicit Biases in Law Firms and Society
1.0 EIJ
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>20 What is Reasonable? Federal Litigation Over Unreasonable Delays in Immigration Cases
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>28 Why Women Attorneys Get Paid Less: What's Gender Got to Do With It
1.0 EIJ
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>14 Joint Ventures Agreements in Business, Part 1
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>21 An Honest Conversation About Well-Being: Substance Use & Mental Health in the Legal Profession
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>28 Choice of Entity for Nonprofits & Obtaining Tax Exempt Status, Part 1
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>15 Joint Ventures Agreements in Business, Part 2
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>21 Make Your Witness a Star!
2.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>29 Choice of Entity for Nonprofits & Obtaining Tax Exempt Status, Part 2
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>15 UNM Law Professor Series: Race, Class, and Gender-Conscious Mentoring for Supervisors
1.0 EIJ
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>21 LLC-Partnerships Interests: Collateral, Pledges, and Security Interests
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>29 UNM Law Professor Series: Recent New Mexico Developments in the Law of Torts
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>16 Master Microsoft Word's Most Useful Hidden Feature - Styles - to Easily Create Better Formatted Documents
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>23 Learning Legal Ethics From the Lincoln Lawyer
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>29 Red Flag Law in New Mexico Training
1.0 G
Live Program
New Mexico Department of Justice
www.nmdoj.gov</p> |
| | | <p>30 Never Enough: Parking Issues in Commercial Leases
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> |

Listings in the *Bar Bulletin* Legal Education Calendar are derived from course provider submissions and from New Mexico Minimum Continuing Legal Education. All MCLE approved continuing legal education courses can be listed free of charge. Send submissions to notices@sbnm.org. Include course title, credits, location/course type, course provider and registration instructions. For a full list of MCLE-approved courses, visit <https://www.sbnm.org/Search-For-Courses>.



Opportunities for Pro Bono Service CALENDAR

August

- | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>22 Asylum Initial Application and Work Permit Pro Se Clinic
In-Person
New Mexico Immigrant Law Center
www.nmilc.org/asylum
Location: Announced prior to clinic</p> | <p>23 Legal Fair
In-Person
New Mexico Legal Aid
bit.ly/NMLALegalFairSignUp
Location: Lovington</p> | <p>30 Legal Fair
In-Person
New Mexico Legal Aid
bit.ly/NMLALegalFairSignUp
Location: Los Lunas</p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

September

- | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>13 Legal Fair
In-Person
New Mexico Legal Aid
bit.ly/NMLALegalFairSignUp
Location: Farmington</p> | <p>19 Legal Teleclinic
In-Person
New Mexico Legal Aid
bit.ly/NMLALegalFairSignUp
Location: Virtual</p> | <p>27 Legal Fair
In-Person
New Mexico Legal Aid
bit.ly/NMLALegalFairSignUp
Location: Mora</p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|

If you would like to volunteer for pro bono service at one of the above events, please contact the hosting agency.



Resources for the Public CALENDAR

August

- | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>21 Consumer Debt/Bankruptcy Workshop
Virtual
State Bar of New Mexico
Call 505-797-6094 to register
Location: Virtual</p> | <p>22 Asylum Initial Application and Work Permit Pro Se Clinic
In-Person
New Mexico Immigrant Law Center
www.nmilc.org/asylum
Location: Announced prior to clinic</p> | <p>23 Legal Fair
In-Person
New Mexico Legal Aid
bit.ly/NMLALegalFairSignUp
Location: Lovington</p> |
| <p>30 Legal Fair
In-Person
New Mexico Legal Aid
bit.ly/NMLALegalFairSignUp
Location: Los Lunas</p> | | |

Listings in the *Bar Bulletin* Pro Bono & Volunteer Opportunities Calendar are gathered from civil legal service organization submissions and from information pertaining to the New Mexico State Bar Foundation's upcoming events. All pro bono and volunteer opportunities conducted by civil legal service organizations can be listed free of charge. Send submissions to probono@sbnm.org. Include the opportunity's title, location/format, date, provider and registration instructions.



A Message from Chief Justice David K. Thomson



Dear Colleagues:

The Supreme Court of New Mexico is again seeking applications to fill vacancies 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—members of the public and the broader legal community—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 challenging 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 also continues to endeavor to bring 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 need volunteers representing the broad spectrum of our bench and bar who come from all corners of this great state. To that end, we 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 your application and resume by September 20, 2024, to Elizabeth A. Garcia, Chief Clerk of Court at nmsupremecourtclerk@nmcourts.gov. Your application should describe your qualifications, your commitment to attend meetings, and should prioritize up to three committees, boards, or commissions of your interest. Application forms and a complete list of vacancies on committees, boards, and commissions can be found on the Supreme Court's website at <https://supremecourt.nmcourts.gov/careers/current-vacancies/>.

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.

Sincerely,

A handwritten signature in black ink that reads "David Thomson".

David K. Thomson,
Chief Justice



Supreme Court Committees, Boards and Commissions NOTICE OF CURRENT VACANCIES

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

- 3 general member positions

Board Governing the Recording of Judicial Proceedings

- 2 monitor member positions
- 1 judge member position

Client Protection Fund Commission

- 2 Supreme Court-designated positions

Code of Professional Conduct Committee

- 3 general member positions

Disciplinary Board

- 1 attorney member position
- 2 lay member positions

Domestic Relations Rules Committee

- 2 general member positions

Magistrate Judge Advisory Committee

- 4 magistrate court judge positions

NM Children's Court Improvement Commission

Voting member positions

- 1 Children's Court Judge position
- 1 law enforcement member position
- 1 legislative member of the Senate/House (Minority Party)
- 1 youth advocate position
- 1 youth advocate for behavioral health position
- 2 advocate for foster youth positions

Non-voting member positions

- 1 district attorney in Children's Court position
- 1 community partner representative

NM Commission on Access to Justice

- 1 Supreme Court-designated general member position

NM Commission on Mental Health and Competency

- 1 position for a legislative member
- 1 position for a prosecutor with court experience regarding behavioral health

NM Supreme Court Commission on Equity and Justice

- 1 UNM School of Law Representative
- 1 community advocate member

Rules of Criminal Procedure for State Courts Committee

- 1 general member position

Statewide Alternative Dispute Resolution Commission

- 1 district court judge position
- 1 UNM School of Law Representative position

Tribal-State Judicial Consortium

- 1 state judge member position

Uniform Jury Instructions-Civil Committee

- 2 general member positions

Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

- 2 NM legislature representative positions
- 1 family member not guardian or conservator position
- 1 CEO of Interagency Behavioral Health Purchasing Collaborative Representative position
- 1 judiciary member position
- 1 doctor with experience working with persons under guardianship position
- 1 protected person position

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

Please submit applications by September 20, 2024.



State Bar of New Mexico

Est. 1886

Access to Justice Fund Grant Commission Awards Record Funding for Civil Legal Services

The ATJFG Commission, a Commission of the State Bar of New Mexico, awarded **over \$1,500,000** in grants.

The Commission is the financial steward of funds generated from Interest on Lawyer Trust Accounts (IOLTA) and Pro Hac Vice fees.

The grants are awarded for both new and civil legal service organizations serving low-income New Mexicans.

The following is a list of this year's awardees.



Access to Justice Commission

The NM Commission on Access to Justice (ATJ) is an independent, statewide body dedicated to expanding and improving civil legal assistance in the state.

► **Learn more here: acesstojustice.nmcourts.gov**



(De)serving Life

(De)serving Life provides services to ensure a meaningful opportunity at parole for those impacted and to invest in the success of people as they return home to our community. (De)serving Life is building the bridges for people to go from serving life to living it.

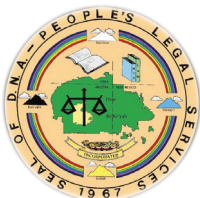
► **Learn more here: www.de-serving.org**



Disability Rights of New Mexico

The mission of Disability Rights New Mexico (DRNM) is to protect, promote and expand the legal and civil rights of persons with disabilities. DRNM is an independent, private nonprofit agency operating federally mandated and other advocacy programs in pursuit of this mission.

► **Learn more here: www.drn.org**



DNA People's Legal Services

DNA People's Legal Services is a non-profit law firm committed to providing high quality legal services to persons living in poverty on the Navajo, Hopi and Jicarilla Apache Reservations, and in parts of Northern Arizona, Northwest New Mexico, and Southern Utah.

► **Learn more here: www.dnalegalservices.org**



Enlace Comunitario

Enlace Comunitario

Enlace's genesis in 2000 as a social justice organization is a story of meeting community needs for survivors of domestic violence (DV) to get the support and help they need. Since then, Enlace Comunitario has focused on providing previously unavailable DV survivor services to Spanish-speaking immigrants and their families.

► **Learn more here: www.enlacenm.org**



Las Americas Immigrant Advocacy Center

The mission of Las Americas Immigrant Advocacy Center is to provide high-quality legal services to low-income immigrants, and to advocate for human rights.

► **Learn more here:** www.las-americas.org



Native American Disability Law Center

The Native American Disability Law Center is a private nonprofit organization that advocates for the legal rights of Native Americans with disabilities. Through advocacy and education, we empower Native people with disabilities to lead independent lives in their own communities.

► **Learn more here:** www.nativedisabilitylaw.org



New Mexico Environmental Law Center

The New Mexico Environmental Law Center has been defending environmental justice since 1987, serving its mission of working with New Mexico's communities to protect their air, land and water in the fight for environmental justice.

► **Learn more here:** www.nmelc.org



New Mexico Center on Law and Poverty

The New Mexico Center on Law and Poverty's mission is to advance economic and social justice through education, advocacy and litigation. We work with low-income New Mexicans to improve living conditions, increase opportunities and protect the rights of people living in poverty.

► **Learn more here:** www.nmpovertylaw.org



New Mexico Immigrant Law Center

The New Mexico Immigrant Law Center provides free legal assistance and resources for immigrants in New Mexico. Their mission is to advance justice and equity by empowering low-income immigrant communities through collaborative legal services, advocacy, education and community resources.

► **Learn more here:** www.nmilc.org



New Mexico Legal Aid

The mission of New Mexico Legal Aid, Inc. (NMLA) is to be the voice, defender and advocate for poor people who are seeking justice in all forums, particularly in the communities in which they live. NMLA is committed to helping poor people in their struggle to access food, shelter, security and to preserve their unique cultural heritages.

► **Learn more here:** www.newmexicolegalaid.org



Pegasus Legal Services for Children

Pegasus Legal Services for Children is a nonprofit agency that provides free civil legal services to children, youth and their caregivers, including direct representation, community legal education and systemic advocacy.

► **Learn more here:** www.pegasuslaw.org



Santa Fe Dreamers Project

Santa Fe Dreamers Project provides high-quality, accessible legal services across New Mexico and West Texas. They partner with our clients to meet their individual legal goals, including humanitarian protection, family unity, economic empowerment and liberation from detention.

► **Learn more here:** www.santafedreamersproject.org



Elizabeth “Liz” Friedenstein, an Associate Attorney with Giddens + Gatton Law, P.C., and the former Executive Director of the New Mexico Land Title Association, was elected as Vice President of the New Mexico Women’s Bar Association. A graduate of the University of New Mexico with a Bachelor of Arts, she attended the Oklahoma City School of Law, where she earned her Juris Doctorate and Certificate in Business Law in 2010.



New Mexico Attorney **Jannette Mondragón** was recently appointed as Magistrate Judge for Doña Ana County. Ms. Mondragón is an experienced prosecutor and practiced civil and immigration law attorney. This selection by Gov. Michelle Lujan Grisham makes her appointment historical as the first Native American to serve on the bench in Doña Ana County.



Bardacke Allison Miller LLP is pleased to announce **Ben Allison** was listed as a 2024 Super Lawyer for his expertise in Intellectual Property Litigation. Ben was also listed in *IP Stars* for his Copyright and Trademark expertise. *Chambers and Partners USA’s* 2024 Guide gave the Firm and Ben Allison its ranking of Band 1, for expertise in Intellectual Property. Ben Allison was listed in Best Lawyers in America in various areas of law.



George W. “Dave” Giddens, founder of Giddens & Gatton Law, P.C., retired on June 30 after a distinguished 41-year career specializing in bankruptcy law. The firm’s name was changed to Gatton & Associates, P.C., effective July 1. **Chris M. Gatton**, president of Giddens & Gatton Law since Jan. 1, 2023, remains president and is now the sole shareholder in the firm.



The law firm of Gallagher & Kennedy announced today that **Stephen R. Boatwright** has been elected to the firm’s Board of Directors. As a shareholder with the firm, Steve handles public and private business mergers and acquisitions for buyers and sellers of businesses of all kinds and advises companies in raising private equity and public financing.



Gatton & Associates, P.C., has a staff of two attorneys who serve individuals, small businesses and bankers in the areas of bankruptcy, creditor’s rights, business law and real estate law. Individuals may contact the firm at 505-271-1053 or visit their website at www.gattonlaw.com.

Spencer Fane LLP is pleased to announce **Montgomery & Andrews, PA** will combine with the firm effective Aug. 1. The addition brings 11 new attorneys to Spencer Fane and deepens the firm’s presence in the Southwest. Spencer Fane is a full-service business law firm focused on providing results that move clients and their businesses forward. Montgomery & Andrews represents major corporations, government entities, institutions, small companies and private individuals doing business in New Mexico.



Bardacke Allison Miller LLP is pleased to welcome **Laura Creech** as a summer associate. Laura is a rising third-year law student at the University of New Mexico School of Law. At the Firm, she is gaining experience in a wide range of intellectual property and complex commercial litigation matters, including preparing to defend and cross-appeal a recent substantial jury verdict in favor of the Firm’s client.

In Memoriam

Steven S Suttle (1949-2024), a former district attorney and assistant attorney general, passed away on February 27 in Albuquerque, leaving behind his loving wife of 49 years, Denise, his daughter Tovah Close and her husband Bryan, two wonderful grandsons, Asher and Jonah, and his brother Hal Jack. Steven had many avocations, but especially enjoyed his thirteen years on the air at Big 98.5 radio, stand-up comedy, and community theater. His love of family, New Mexico, and constitutional government knew no bounds. In keeping with Jewish tradition, in lieu of flowers please commit a random act of kindness. Suggested charities are the Navajo Water Project (navajowaterproject.org) and Animal Humane New Mexico (animalhumanenm.org).

Thomas Charles Esquibel passed away at the age of 73 in San Jose, Calif., on Nov. 28, 2023, on a bright, sunny morning surrounded by his beloved family after a courageous battle with cancer. Tom was born Sept. 17, 1950, to Ezequiel and Emma Esquibel, and had six brothers, Ezekiel, Frank, Joe, Edwin, Donald and John. As a child, he attended St. Mary's Catholic School in Belen. There, he learned to speak English in school with Catholic nuns as his teachers. He has described this education and experience as formative in his life and giving him a drive to achieve and persevere beyond people's expectations of him. Tom was outgoing and intelligent throughout his life. He truly loved life and people. He attended the University of New Mexico and became an attorney in 1975. In 1980, at the age of 30, he won a campaign to become the youngest district attorney in the history of the country. His cases varied from divorce law to criminal law. He was a very talented attorney and most people in the small towns he and his family were from knew of him and would often call on him when they needed legal advice or help. Tom was proudest of his family — his children and grandchildren. He was selfless in his love and care. If there was any way to help anyone, he would be there in an instant. His grandchildren would describe him as very silly and willing to play, listen, cook or drive them anywhere they needed at a moment's notice. He will be greatly missed by family and friends near and far. Thomas is survived by his three children, Franchesca Perez, Carlos Esquibel and Eric Esquibel; his grandchildren, Emma Perez, Hector Esquibel, Keona Perez, Brandon Esquibel and Jayda Esquibel; brothers, Frank Esquibel (Mary Rita), Joe Esquibel (Peggy) and John Esquibel (Ruby); sisters-in-law, Kathy Esquibel and Alice Esquibel; and many lifelong friends and extended family. Thomas was preceded in death by his loving parents, Ezequiel and Emma Esquibel; and his brothers, Ezekiel (Alice), Edwin (Kathy) and Donald.

Jetulio Victor Pongetti, Jr., age 95, also known as "Vic," "Junior," "J. Victor," and "Gramps," passed away peacefully on January 17, 2024, surrounded by family. Vic was born on October 23, 1928, in Shelby, MS, into an Italian immigrant family, who were sharecroppers. He was the 2nd of 9 children of Jetulio Victor, Sr., and Amelia (nee Avaltroni) Pongetti. As a child he worked on the farm with his father and grandfather, Adamo. For the rest of his life, he described himself as "a sharecropper's kid from Mississippi." After high school, he attended Mississippi State University, graduating in 1950 with a degree in Agriculture Engineering. As a pilot in the US Navy, he flew the Cougar aircraft off the deck of the Midway Aircraft Carrier and made some of the best friends of his life in his Hellraisers squadron. After finishing his commission in the Navy, he served in the Reserves and went to Vanderbilt Law School. A good friend from law school suggested that he practice law in Albuquerque, NM, where he became the law clerk for the Supreme Court Chief Justice, James M. McGee. Subsequently, he worked for the Bellamah Corporation, became a partner at the Johnson and Lanphere Law Offices, and built the firm

Pongetti, Wilson and Pryor. As a prominent real estate attorney, he worked on many negotiations, including the Taylor Ranch Subdivision. In 1990, he pursued a Master's Degree in Counseling at the University of New Mexico, after which he maintained his own law practice with several long-term clients, until retiring at the age of 88 from the "law business," as he would say. In 1963, he married Lou Delle Fidel, and they had one daughter, Gina. Although they divorced, they had a kind and respectful relationship. In 1987, he met Rita Heidinger while serving on the St Joseph's Foundation Board. They were married in a surprise wedding ceremony in 1992. They enjoyed hiking the Grand Canyon, traveling to Italy to visit family, gardening, making gingerbread houses with their grandchildren and extravagant gingerbread houses including a model of St. Basil's Cathedral with his friends, cooking delicious meals with the "food group," watching football with friends and spending time with their grandchildren. He was generous with his time and finances. He has served on the Board of Directors for All-Faith's Receiving Home, the Board of Directors for St. Joseph's Foundation, and facilitated Beginning Experience weekends to help those in the healing process after divorce. He was a moral man throughout his life and in his later years he trusted in Jesus as Lord. He enjoyed gardening, making Easter bread and delivering it hot to friends and family, cooking and the importance of eating food when it's hot, calculating the right balance of cake and ice cream on his plate, and watching his grandkids compete in anything - never missing a game or performance. He was a patriot to the core and felt that anything was possible in America. He was described by one of his Italian relatives as "a man of great humanity, of good will at all times, an example of commitment towards everyone and also towards those, like us, who lived far from him. It was so wonderful to see his care, interest and pride regarding his relatives, his origins and his Italian roots." Indeed, his commitment to his family extended across the country and around the world, but his home was always the center of Pongetti family life. Vic hosted many family reunions, holiday gatherings, and family members and friends in need. Vic was preceded in death by his parents, Jetulio Victor, Sr., and Amelia Pongetti; his brothers, Charles Pongetti, Anthony Pongetti, Robert Gene (Bob) Pongetti, Adam Pongetti, and Raymond Pongetti; his sisters, Elizabeth Pringle and Lillian Pongetti; and a sister-in-law, Vicki Bachechi. Vic is survived by his wife, Rita Pongetti; his daughter and son-in-law, Gina and Sandy Beauchamp; their children, Ben (Abigail), Emma, and Luke (Alexandria); his great-grandson, Desmond; Rita's daughter and son-in-law, Shannon and Jeff Adragna and their children, Nicolas, and Mathew; Rita's daughter, Pamela Heidinger, and her sons, Dennis Chavez II and Grant Chavez; his sister, Delores Pongetti; sisters-in-law: Mitzi Pongetti and Dorothea Pongetti; and many beloved nieces, nephews, grand-nieces, and grand-nephews. He is also survived by a host of wonderful family in Italy, friends and colleagues.

Harold Folley Jr. died peacefully at home on his 89th birthday January 11, 2024, in Albuquerque, NM. As a cub scout visiting the Lincoln memorial in his birthplace Springfield, Illinois, Harold had the opportunity to shake the hand of an old man who had shaken the hand of Abraham Lincoln. This event had an impact on his life. Harold had an exciting career in Law. His first job was with the Indiana Attorney General's office. Ironically, one of his cases resulted in the establishment of the Lincoln Boyhood National Memorial in Lincoln City, Indiana. His next job was with the prestigious law firm in Indianapolis, Krieg, DeVault, Alexander and Capehart. Double irony. The firm was engaged by the State to defend the establishment of the Lincoln Boyhood National Memorial before the United States Supreme Court. Because of his Type 1 diabetes, the firm could not provide desired benefits. His next Career move was with Indiana Bell who provided the benefits. He could tell many stories involving Yellow Pages ads. While attending a Bell Telephone system conference, he met legal staff from Sandia National Laboratories who at that time were managed by AT&T under contract to the Department of Energy. The idea of being close to skiing made the idea of a transfer to Sandia very appealing and Harold jumped at the chance to make his final career move. Although involved in many interesting cases, he was most proud of the work he did with medical Director Larry Clevenger to abolish smoking in the workplace. Harold was an avid squash player and skier. His retirement years gave him the opportunity to enjoy docent opportunities at the NM Natural History Museum and the New Mexico Holocaust and Intolerance Museum, as well as indulge in adventure travel and attend classes at Oasis "Lifelong Adventure." He relished writing philosophical essays on subjects that reflected his deep thinking. Harold discovered the reward of being Philanthropic, making an impact on our community. Harold treasured his 36-year marriage to Jennie Negin. Through their relationship, he was inspired by Judaic teachings and became a respected member of the Jewish community. Harold was preceded in death by son Bradley Lindsey Folley, former wife Sandra Folley, parents Harold Lindsey Folley and Charlotte Auld. Survivors of Harold (aka "Gruncle") include his son Scott Folley (Sue), grandchildren Matthew, Emilyn Simone (Danny) and Nicholas, and great-grandsons Dominic, Salvatore and Leonardo Simone. Harold was like a father to Jennie's daughter Rachel (Steve) Galper, grandchildren Marlee and Nathan Galper, and son Neil Boring.

Rory Lane Rank, age 70, of Las Cruces, passed away on March 10, 2024. Rory was born in Cleveland, Ohio to Robert and Lois Rank on November 7, 1953. He graduated from Adrian College and received his Juris Doctorate from Widener College. He worked as an attorney for over 30 years. He primarily worked as a Public Defender and supervised the Juvenile Division in Las Cruces. After retiring from the Public Defender, Rory was an adjunct professor at New Mexico State University and other local community colleges. Rory was a veteran and served in the Air Force and was awarded the USFA Commendation Medal, USFA Meritorious Service Medal, USAF Commendation Medal (First Oak Leaf Cluster). Rory helped to develop the Juvenile Drug Court in Dona Ana County and it was designated one of six mentor sites in the nation. He also served on a number of boards and volunteered in the community. He served on the Youth Violence Initiative, Youth-at-Risk Programs/ JARC board, NM Juvenile Justice Strategic Plan for Girls board, Task Force: Youth Violence Initiative, Youth Advocates Alliance Board, Juvenile Detention Alternative Initiative and Gang Awareness Task Force, Disproportionate Minority Representation, Dona County Juvenile Justice Advisory Board, Dona Ana County Juvenile Detention Center Design/ Building Project,

JARC, Continuum Board, Veterans Treatment Court Team. Rory also received the 2009 Driscoll Award from the Public Defender's Office. In 2005, he received the Carlos Vigil Award from the NMPD department as attorney of the year, and in 2004, he received the humanitarian award from the Las Cruces Hispano Chamber of Commerce, in 2016 was New Mexico State University Department of Criminal Justice Starry Night Nominee. Rory is survived by his Children: daughter Haley Manaia Rank, son Niclaus Makusia Rank, and daughter-in-law Amanda Rank, Siblings: Brothers Kim Rank, Kyle Rank, and Sister Lora Ehle, Grandchildren: Makuisa Brandon Rank, and Leighanne Christa Munoz.

David Rask, born March 2, 1930 in Minneapolis MN to Peter and Ella (Johnson) Rask, died at 93 on October 20, 2023 at home in Albuquerque. He is survived by his sons John, Dan and Will, all of the Albuquerque area, and two grandsons, Quinn and Galen. Peter loved his family, duck hunting, classical music, a good pair of shoes ("I'd wear them to bed if I could"), golf and driving long distances across the US. Later in life he became a great reader of history, philosophy and the occasional novel. Peter grew up in south Minneapolis and studied at the U. of Minnesota, earning his law degree. While he was in law school, his National Guard unit was activated during the Korean War. He married Mary Helen Slaughter of Bayport, MN in 1953. Peter worked as a state tax auditor, then found his niche as an assistant city attorney in Duluth, MN and Albuquerque. After 3 years with the Federal Aviation Administration, in 1974 he returned to law practice as the first general counsel for the Univ. of New Mexico. Mary died at only 52 years old in 1983, leaving a deep void. Peter retired from the Albuquerque City Attorney's office in 1988. He reconnected with Gretchen Letson at his 40th high school reunion and when they were married in 1992 he joined her in Dana Point, CA where they lived until her death in 2014. He spent his years since then in Albuquerque, much of that time as a member of the La Vida Llena elder community, where he was deeply grateful for all those who visited and cared for him.

Sigmund Lample Bloom, long resident of Albuquerque, NM, passed away on October 6th, 2022. Sigmund was born in Washington, PA, and a resident of Albuquerque for most of his life. He lived the last year of his life living in NYC with his daughter and grandson. Sigmund was a loving husband and an inspiration to his family and all who knew him. His sense of humor was enjoyed by all, and whoever met him was enamored with his charisma and personality. He thoroughly enjoyed all of the Pittsburgh team sports and supported all of them, all of the time. He had many names that he lived up to with great honor and pride, but most of all, husband to his wife, Marcia. Sigmund was an excellent criminal defense attorney who cared deeply for his clients and for 54 years practiced a style of law that sadly no longer exists. He was preceded in death by his father Israel Bloom, his mother Ida Lample Bloom and his loving wife, Marcia. He is survived by son Sigmund M. Bloom and wife Kate of New Orleans, LA and daughter Lori Bloom and partner Alfredo of New York City, NY and three grandsons. He is also survived by one sister, Carole Sue Kaminsky and one brother Charles J. Bloom and wife Susan. Sigmund's family thanks all those who touched his life and who were a part of it. If you had the privilege to know him, you knew that he loved life very much. He will be greatly missed. According to Sigmund's wishes, he was cremated and a Celebration of Life Service will be held at a later date. In lieu of flowers, please make a donation in his memory to your local Animal Humane Association.

David L. Norvell lived a wonderful life. A brilliant man with a brilliant smile, Dave loved his family, all children, especially babies and toddlers dogs, politics, the law, cooking, playing and watching both tennis and golf, and piloting his own plane. He graduated from the University of Oklahoma School of Law, and was a lifelong Boomer Sooner fan. Dave approached all challenges with optimism, confidence, and good humor. He was generous in every sense of the word, from taking time for his children and grandchildren, to making time to mentor new attorneys or advise political hopefuls. As a young State Representative, who served as Majority Leader in his third term and the youngest Speaker ever in his fourth and final term, Norvell was clearly a legislative visionary. He led fights against capital punishment, for higher minimum wages, for a public employee collective bargaining act, for civil rights legislation and court reform. Speaker Norvell was a prime sponsor of the Human Rights Act, creating a commission with enforcement powers. He not only fought to maintain a clean environment, he opposed tax cuts that would have threatened public educational funding. Norvell was often quoted as saying he did what he thought best for the people of New Mexico, rather than weighing his re-election chances. He liked to relate that when FDR was running for a second term, supporters greeted the President at Madison Square Garden with a huge sign that read, "We Love Him for the Enemies He Has Made." Speaker Norvell observed, "Well, I have made some good enemies lately, and I find it a rather agreeable experience." In 1970, Norvell ran successfully for Attorney General and distinguished himself in that role. He joined with a number of other states' Attorneys General to oppose the Viet Nam war, hired a record number of women as Assistant AGs. and issued many consequential opinions, such as the protection of the rights of students in public education to speak in their Native languages on campus and for state workers to bargain collectively. Norvell failed in his bid to secure the Democratic nomination for the US Senate in 1972, and, at the end of his term as AG in 1975, decided not to run again for public office. Dave then began a successful private law practice in Santa Fe, then Albuquerque, representing criminal defendants, plaintiffs with civil rights claims, and patients injured by medical negligence. Dave became a skilled pilot when he flew between Clovis and Santa Fe as a legislator, and often flew all over New Mexico to appear in court, as well to CA to appear before the 9th Circuit Court of Appeals. Ultimately, Dave managed to make good colleagues of former adversaries, such as the late Governor David Cargo with whom Norvell sparred while Speaker of the House. Cargo was a guest at the reception following Norvell's marriage to Gail Chasey in October, 2003 in Pendaries, NM, along with the late Governor Richardson. Dave and Gail met during the late Bill Richardson's campaign for Governor in 2002. Dave had helped Richardson organize a joint caucus of House and Senate Democrats in Pendaries in northern NM after Richardson had secured the nomination. A close family friend, Barbara Gay, arranged for Dave and Gail, then running for her 4th term in the NM House, to meet. They married a year later. Dave enjoyed having that close connection with the NM Legislature again. When Gail was elected House Majority Floor Leader in 2022, Dave reminded her that he had held the same position. She joked that, while Dave was likely the youngest ever to hold that position, she is likely the oldest to do so. Dave has enjoyed supporting many of Gail's legislative priorities, particularly her 10-year effort to repeal the death penalty, which succeeded in 2009. They joined the late Governor Richardson and the late Archbishop Sheehan in a trip to Rome (at their own expense), where the Community of Sant'Egidio arranged for a ceremony, at which Saxophonist Branford Marsalis played "Imagine," as the lights were lit in the Roman Coliseum to

celebrate New Mexico's repeal of the death penalty. Governor Richardson later appointed Dave to the Gaming Control Board, where he served as Chair until 2013, at which time, he resumed practicing law part-time until he retired in 2016. Always well-informed and fascinated by politics, Dave devoured the New York Times, which has long been delivered to his home daily, regularly read the New Yorker and the NM Bar Bulletin. He rarely missed the national news or important Congressional hearings on TV. To the end, Dave was always kind, gracious, and managed to be the funniest one in the room. The night of the Winter Solstice, he died peacefully at home, surrounded by his loving family and beloved dogs. Born in Kansas City, MO, on January 31, 1935, David was raised in Bartlesville, OK, the only child of Kenneth and Mildred Norvell. He was predeceased by his second child David Jr, who died in 2005, and by the mother of his children, Mary Vivian (Marivee) Trentman Norvell, with whom Dave shared a warm relationship following their divorce in 1991, after 34 years of marriage. David is survived by his four children, Teresa Norvell of San Diego and Las Vegas, NV, Felicia Norvell of Santa Fe, Connie Beers of Las Vegas, NV, and Jack Norvell of Edgewood, and "the older grandchildren," Hayden Beers, of Las Vegas, NV, Trentman (Trent) Norvell, of Richardson, TX, and Nicole (Nikki) Norvell, of Santa Fe. David was not only a prominent figure in public service to the people of New Mexico but was an amazing presence in the lives of his children and grandchildren. He was witty, loving, and supportive of all their endeavors. They will all fondly remember the times they had, especially wonderful visits to the second home in Pendaries Village where the focus was always on family, togetherness, and enjoying the New Mexico landscape. Other survivors are Dave's cousin Glenn Norvell and wife LeAnne of San Diego, Dave's children's cousins: Dr. Greg Jochems, his wife Mindy, their sons Andy and Lou (ABQ); Ted Jochems and Leonard Jochems, (Wichita, KS), Rita Ann Allesie (MI), and Betsy Barnes (PA). Dave's wife of 20 years, Gail Chasey, and her family all loved and adored Dave - son Garrett Beam, wife Lindsay, of San Diego; and son Tyler Beam, wife Anna, of Parker, CO; and "the younger grandchildren," Makena and Kaiyan (CA), Lucy and George (CO) for whom Dave was their "Papa;" Gail's brothers, Don Chasey and wife Ann of Ashland, OR, niece Niabi Chasey Williams and children Jade Mahalia Scott and Dario Williams of Ft. Mill, S.C. and nephew Colin Chasey of Portland, OR; and Jim Chasey of Idaho, nephew Patrick Flanagan (NZ), Patrick's mother Margaret Flanagan (NZ), along with the extended families of Gail's cousins, Kelly Sifferman, Kathy, and Tom Allen (PHX) and Diana, Allen, Mark, and Bob Obrinsky (CA, MD, OR). The family wishes to thank those who provided such loving care to Dave and support to his family - Presbyterian Hospice and Sabrina Durr of Visiting Angels. Dave also enjoyed visits and outings with faithful friends John Schoepfner and Julianna Koob. The family thanks countless extended family and friends for their presence or their messages of love and condolences upon learning of Dave's passing. David Norvell will lie in State at the Capitol Rotunda at noon on January 12, 2024 in Santa Fe. Speaker of the House Javier Martinez will preside, and, following Governor Lujan Grisham, former Democratic Speakers of the House will also offer remarks.

Attorney **Douglas “Doug” James Antoon**, died unexpectedly on February 2, 2023, after a short illness. He was only 66 years old. His family is deeply saddened and shocked by his sudden death. Douglas was born in Methuen, Massachusetts on October 28, 1956. Doug is survived by his brother Daniel and his wife Debra Antoon of Jensen Beach, Fl., his brother Gregory and his wife Christine of Pennsylvania, his sister-in-law Frances Antoon of Stuart, Fl., several beloved nieces, nephews, great-nieces, great-nephews, and his sweet cats Grace and Mercy. Doug is predeceased by his father Samuel Antoon, his mother Ann Antoon, his brothers Joseph and Dana Antoon, his sister-in-law Gina and his nephew Gregory Douglas Antoon. Doug was educated at Central Catholic High School in Lawrence, Massachusetts, the University of Denver where he received his Bachelor of Arts and at Suffolk University Law School where he received his Juris Doctorate. He was a star debate team member throughout high school and college years and always a Deans list student. He was a seasoned and very well-respected attorney regardless of where he resided. Doug was known for being incredibly passionate about his work. He most recently was Senior Legal Counsel for Philips Healthcare North America where he made many close connections and had a tremendous impact on the clients he served. Doug loved his volunteer work as a Juvenile Justice System Mentor where he mentored youth from 13 to 21 years old to help them create a path for their future success. Doug was a pillar in his community of Albuquerque, New Mexico where he resided for the last two decades. He was passionate about politics from a very young age and assisted in running campaigns throughout his time not only in New Mexico but also early in his career in Massachusetts making many close friends along the way. He had countless friends we would like to thank for their continued connection over the years; but the family would like to extend a heartfelt special thank you to Gary Gallant who was a rock during Doug’s last days for him and the family. Doug was deeply connected to his congregation and worship team in his ministry “The Way” and was blessed by the close bonds that stayed by his side always praying for him. A special thanks to Terry and the amazing team that assembled to support the family during this difficult time. As a man of faith, Doug would embrace a celebration of the immortality promised to all by Christ. He would love to be remembered with funny, strange, or silly stories that celebrate what was good and blessed in his life.

The community of Cibola County lost a loyal friend, legal advocate and loved one when **Bruce Boynton** passed away from this earthly life on March 12, 2024, after a long illness. Bruce was born on October 4, 1945, in Rochester, Minnesota to parents Bruce and Sylvia Boynton. After attending Carlton College in Northfield, Minnesota, Bruce went on to earn his Juris Doctorate at Vanderbilt University. After earning his law degree Bruce headed to the Southwest and began his career working for Pueblo Legal Services in Zuni, New Mexico. He eventually went on to open a private practice in Milan, New Mexico where he also served as City Attorney as well as Attorney for the Grants Public Schools and Cibola General Hospital. Bruce was a member of the Ramah Rodeo and a long-time active member of the Rotary Club. In 2020 Bruce celebrated 50 years of law practice and continued helping countless citizens of Cibola County until very recently. His kind heart and wise advice will be greatly missed. As many of his friends know, Bruce was an avid bird watcher and traveled to Central and South America on birder excursions. Among his many passions, Bruce loved fly fishing, cultivating orchids and had a particular love of Latin music, Flamenco, and Latino literature as well. One of Bruce’s favorite quotes (and word of advice) was “Don’t let the truth get in the way of a good story.” He will always be remembered for his quick and dry wit. Bruce is survived by Donna, his wife of 48 years, sons Corey, Steven (April), daughter Tahama (Drew) and Grandson Damian. Bruce’s siblings include beloved brothers, Stan, Doug, Kenny and sisters Sylvia, Mary (Peg), Betsy (Joe) and Kathy (Craig).

Allen Kerpan, age 71, passed away February 28th, 2023 after a long illness. How do I begin to describe this man? He was a crazy, wonderful, loving husband to me for 45 years and an amazing dad to Kyle and Tessa. Together, we survived the death of Kyle from his brain tumor when he was just 11 years old. He served his country for over 30 years as a member of the United States Air Force. He served both stateside and overseas in Keflavik, Iceland, Ramstein, Germany and Doha, Qatar before retiring as a Lieutenant Colonel in 2013. His last assignment was being an Operations Officer managing the design and implementation of an Integrated Air and Missile Defense Course at Hurlburt Field, FL. After his military retirement, he worked as an attorney for the Department of Veteran Affairs in Washington DC handling claims for his fellow veterans. He graduated from Drexel University and the University of Denver Law School. He was an engineer, an attorney, a pilot, a sea captain and the smartest person I have ever known. He loved his music, flying, boating, his Manhattans and he was the love of my life and the best dad anyone could have. As he always used to say to me when I was going anywhere...”Go, run like the wind”... fly high, my Colonel to the open skies that you loved so much... Tessa and I will miss you every second of our lives... Dovidjenja my love

ARE YOU MANAGING YOUR PHONE, OR IS IT MANAGING YOU?

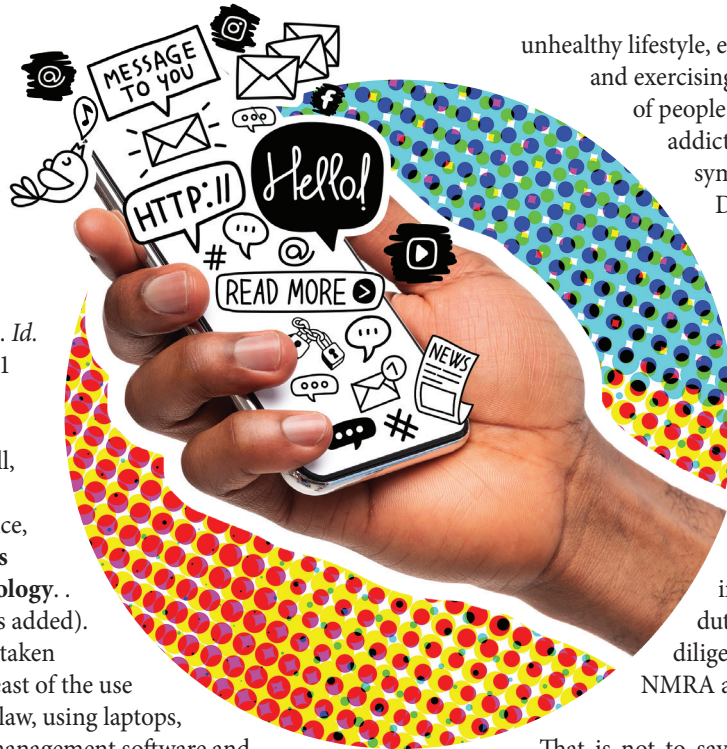
What's This I'm Hearing About Digital Addiction?

By William D. Slease

One of the most basic tenants of the Rules of Professional Conduct is that lawyers are required to be competent. See Rule 16-101 NMRA. In brief, a lawyer must possess the legal knowledge, skill, thoroughness and preparation necessary for the representation. *Id.* The Commentary to Rule 16-101 provides, among other things, that for a lawyer “[t]o maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, **including the benefits and risks associated with relevant technology.** . . .” *Id.* at Comment [9] (emphasis added). For the most part, lawyers have taken seriously their duty to keep abreast of the use of technology in the practice of law, using laptops, cell phones, websites, practice management software and various other hardware and software to make their practice more efficient. Like any other users of technology, lawyers are no stranger to the phenomenon known as digital addiction.

Digital addiction is an umbrella term used for internet, gaming, social media and/or cellphone usage addictions.¹ While all of these can be problematic, for now, let’s focus on cellphone usage, given that virtually every lawyer has one and uses it in practice. According to a 2023 PC Mag article, 89% of people check their phone within 10 minutes of waking.² Those with cellphones check them frequently throughout the day, with a conservative estimate of 47 times per day, or about three times each waking hour.³ Of course, workers use those phones for more than telephone calls during work hours. In fact, approximately 66% of workers, including lawyers, report checking on work email “sometimes” while on vacation, with 21% saying they always monitor work email while on vacation.⁴ Ultimately, 50% of people self-report as addicted to their cell phone.⁵

What are the effects of digital addiction? 68% of young adults with smartphone addiction sleep poorly.⁶ Approximately 30% of people with smartphone addiction live a relatively



unhealthy lifestyle, eating more fast food and exercising less.⁷ Over 30% of people with smartphone addiction experience symptoms of depression.⁸ Digital addiction can lead to low self-esteem, anxiety, poor time management and work ethic problems.⁹ In addition to the health risks, the idea that digital addiction affects time management and work ethic directly implicates a lawyer’s duties of competence and diligence under Rules 16-101 NMRA and 16-103 NMRA.

That is not to say that every lawyer who frequently uses a cellphone is digitally addicted. In fact, it’s hard to imagine practicing law these days without using a cellphone. If a lawyer is in solo practice or is the designated resource for third parties to rely on such as an on-call assistant district attorney, having a cellphone close at hand is not just convenient, it’s expected. The challenge is in using that phone in an intentional and thoughtful manner with the goal being that the individual manages the phone’s use, rather than allowing the phone to manage the individual.

While the internet is full of recommendations for digital detoxing and clinics have sprung up around the nation offering to lead participants through weeks or even months of a digital-free existence; it is neither realistic nor practical for most practicing attorneys. Clients do have to be able to reach lawyers, and lawyers have a duty under Rule 16-104 NMRA to communicate, in a reasonable fashion, with their clients. So, what can you do to manage your digital use while still complying with your professional obligations and duties? Start with a self-inventory, an inventory of all the devices you use, and the apps loaded on those devices. Then, think about being intentional with your use of the device. What is important for you to have on your phone or other digital

device, and why? For example, do you use your phone to monitor your email while working away from the office? If so, you understandably want access to your email. Do you need to have the push notifications enabled on your phone, so that every time you receive an email you are pushed into reading it and responding? Are push notifications necessary on the weekends or in the evenings when you are away from the office, or when you are on vacation trying to relax? Might it be better for you to turn off the push notifications and access your emails when you want, rather than have the phone nudging you or dictating to you to when you look at and respond to emails? You can reinforce this thoughtful approach by setting reasonable boundaries with clients, explaining early in the representation how and when clients can expect you to respond to emails. In this way, you can meet your communication duties but manage your approach to incoming emails so that you are not constantly checking your phone during your downtime.

Turning off push notifications is just one way to take back the management of your cellphone or other digital device. Other ideas include:

- ▶ Setting the phone or tablet on “silent mode” and physically putting it in another room when dining or spending time with a friend or family member during a non-work activity.

- ▶ Setting an automatic “do-not-disturb” time on your phone or tablet when only close contacts, as designated by you, can reach you by phone or message. This is particularly useful at the end of the day as you prepare for sleep.
- ▶ Deleting or limiting your time with time-consuming apps that encourage mindless scrolling.
- ▶ Paying close attention to when and how you use your phone and other digital devices. Are you doing so when you are bored? When you are anxious? Or simply out of habit?
- ▶ Unplugging, or powering-down, even if just for an hour or two each day, when you completely refrain from using any digital device. Fill that time with a walk, reading a book, meeting with a friend or talking in-person with a family member, friend, or neighbor.

Again, a full digital detox is not necessary and probably unwise. Instead, simple, incremental steps to make your use of digital devices intentional and thoughtful are really all that is required to regain control of those devices.¹⁰ ■

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Endnotes

¹ See “Global Prevalence of Digital Addiction in General Population: A Systematic Review and Meta-Analysis. Shi-Qui Meng”, et al., Science Direct, Clinical Psychology Review, Vol 92 (March 2022).

² See “Americans Check Their Phones an Alarming Number of Times Per Day”. Emily Dreibelis, PCMag, (May 19, 2023) (available at <https://www.pcmag.com/news/americans-check-their-phones-an-alarming-number-of-times-per-day>).

³ In a January 2023 article, Forbes reported that Americans check their phone an average of 344 times each day. See “Digital Addiction: Should You Be Worried?” Bernard Marr, Contributor. Forbes: Innovation: Enterprise Tech (Jan. 11, 2023) (available at <https://www.forbes.com/sites/bernardmarr/2023/01/11/digital-addiction-should-you-be-worried/>). The real number is probably somewhere between 47 and 344 per day. PC Mag reported that the number of times a person checks their phone each day is, on average, 144, which means about 9 times each hour assuming 16 waking hours. See Endnote ii, *supra*.

⁴ See “Put Your Phone Down: Two-Thirds of Americans Make the Mistake of Checking Their Work Email While On Vacation”. Angel Wang, Business Insider (June 18, 2019) (available at <https://www.businessinsider.com/two-thirds-americans-check-work-email-on-vacation-2019-6#:~:text=Over%2066%25%20of%20Americans%20polled,to%20general%20health%20and%20relationships>)

⁵ See Endnote iii, *supra*.

⁶ See “Technology Addiction Statistics 2024”, The Center for Internet & Technology Addiction (available at <https://virtual-addiction.com/technology-addiction-statistics-2024/#:~:text=Over%2050%25%20of%20Americans%20believe,users%20are%20addicted%20to%20it>).

⁷ *Id.*

⁸ *Id.*

⁹ See Digital Detox: What to Know. Shishira Sreenivas, WebMD, Health & Balance Guide (May 5, 2023) (available at <https://www.webmd.com/balance/what-is-digital-detox>).

¹⁰ This article is provided to members of the State Bar of New Mexico for informational purposes only and is not intended to be exhaustive or applicable to all circumstances. Further it is not intended to, nor does it constitute legal advice to a lawyer or law firm, nor does it establish any type of attorney-client relationship between employees of the State Bar of New Mexico and any person or entity. Further, this article is not a substitute for independent analysis and research by a lawyer or law firm. Each lawyer and law firm are responsible for their own compliance with applicable rules and laws and should consider seeking appropriate counsel for advice.

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August 14, 2024

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AUGUST 15

Race, Class, and Gender-Conscious Mentoring for Supervisors

Associate Professor Verónica Gonzales

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Noon-1 p.m.
Webinar

SEPTEMBER 12

Byte-Sized Justice: Addressing AI Bias Through the Law

Professor Sonia Gipson Rankin

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Noon-1 p.m.
Webinar

OCTOBER 17

A Step Toward Solving the Housing Crisis: Eviction Records Sealing in New Mexico

Assistant Professor Allison Freedman

1.0 EIJ
Noon-1 p.m.
Webinar

AUGUST 29

Recent New Mexico Developments in the Law of Torts

David Stout, Regents Lecturer

1.0 G
Noon-1 p.m.
Webinar

SEPTEMBER 26

A True History of Public Accommodation Law – Contrasting Supreme Court Approaches

Professor Marc-Tizoc González

1.0 EIJ
Noon-1 p.m.
Webinar



Plan Ahead for Fall/Winter CLE Institutes

Save the Date!

- ▶ Aug. 22-23: **17th Annual Legal Services Provider Conference**
- ▶ Sept. 5: **How to Practice Series – Family Law**
- ▶ Sept. 6: **Solo and Small Firm Institute**
- ▶ Sept. 13: **Employment Law Institute**
- ▶ Sept. 20: **35th Annual Appellate Practice Institute**
- ▶ Sept. 25: **Elder Law Institute**
- ▶ Sept. 27: **Family Law Fall Institute**
- ▶ Oct. 4: **Health Law Institute**
- ▶ Oct. 10: **Administrative Law Institute**
- ▶ Oct. 25: **State Bar Annual Meeting**
- ▶ Nov. 5: **Animal Law Institute**
- ▶ Nov. 7: **Indian Law Institute**
- ▶ Nov. 8: **10th Annual Symposium on Diversity & Inclusion**
- ▶ Nov. 13: **Cannabis Law Institute**
- ▶ Nov. 14: **Probate Law Institute**
- ▶ Nov. 15: **Real Property Institute**
- ▶ Nov. 19: **Business Law Institute**
- ▶ Nov. 20: **ADR Institute**
- ▶ Nov. 21: **Immigration Law Institute**
- ▶ Dec. 3: **Ethics Advisory Committee (Mock Meeting)**
- ▶ Dec. 3: **Lawyers Professional Liability Insurance Committee (LPLIC) Annual Course**
- ▶ Dec. 6: **Family Guardian Ad Litem Training**
- ▶ Dec. 7: **Paralegal Institute**
- ▶ Dec. 11: **Tax Law Institute**
- ▶ Dec. 12: **National Negotiation Programs featuring Marty Latz**
- ▶ Dec. 13: **Natural Resources, Energy and Environmental Law Institute**
- ▶ Dec. 17: **The CLE Performer – Stuart Teicher**
- ▶ Jan. 16: **4th Annual Women in the Law Conference**

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Earn Newly Required Equity in Justice (EIJ) Credits

AUGUST 14

Practical Tips & Strategies to Combat Implicit Biases in Law Firms and Society

1.0 EIJ
11 a.m.-Noon
Webinar

AUGUST 15

UNM Law Professor Series: Race, Class, and Gender-Conscious Mentoring for Supervisors

1.0 EIJ
Noon-1 p.m.
Webinar

AUGUST 28

Civil Rights in the Digital Age: Ensuring Web Accessibility and Inclusion

1.0 EIJ
Noon-1 p.m.
Webinar

AUGUST 28

Why Women Attorneys Get Paid Less: What's Gender Bias Got to Do With It

1.0 EIJ
11 a.m.-Noon
Webinar

SEPTEMBER 5

Elimination of Bias—Combating Age Bias in the Legal Field

1.0 EIJ
11 a.m.-Noon
Webinar

SEPTEMBER 12

UNM Law Professor Series: Byte-Sized Justice: Addressing AI Bias Through the Law

1.0 EIJ
Noon-1 p.m.
Webinar

SEPTEMBER 20

Practical Lessons in Diversity, Equity & Inclusion in Law Practice

1.0 EIJ
11 a.m.-Noon
Teleseminar

SEPTEMBER 26

UNM Law Professor Series: A True History of Public Accommodation Law – Contrasting Supreme Court Approaches

1.0 EIJ
Noon-1 p.m.
Webinar

SEPTEMBER 26

Why Women Attorneys Get Paid Less: What's Gender Bias Got to Do With It

1.0 EIJ
11 a.m.-Noon
Webinar

OCTOBER 17

UNM Law Professor Series: A Step Toward Solving the Housing Crisis: Eviction Records Sealing in New Mexico

1.0 EIJ
Noon-1 p.m.
Webinar

Any Center for Legal Education programs designated as EIJ credit are pre-approved to meet the new Equity in Justice Credit requirement found in Rule 18-201(D) and (E) NMRA. In accordance with the Rule, excess EIJ credits "can be converted to be used toward the substantive (general) requirement."

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New courses will be added frequently!



More

August/September

CLE Programs

AUGUST 14

Joint Ventures Agreements in Business, Part 1

1.0 G
11 a.m.-Noon
Teleseminar

AUGUST 15

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1.0 G
11 a.m.-Noon
Teleseminar

AUGUST 16

Master Microsoft Word's Most Useful Hidden Feature - Styles - to Easily Create Better Formatted Documents

1.0 G
11 a.m.-Noon
Webinar

AUGUST 20

What is Reasonable? Federal Litigation Over Unreasonable Delays in Immigration Cases

1.0 G
Noon-1 p.m.
Webinar

AUGUST 21

An Honest Conversation About Well-Being: Substance Use & Mental Health in the Legal Profession

1.0 EP
Noon-1 p.m.
Webinar

AUGUST 21

Make Your Witness a Star!

2.0 G
11 a.m.-1:15 p.m.
Webinar

AUGUST 21

LLC-Partnerships Interests: Collateral, Pledges, and Security Interests

1.0 G
11 a.m.-Noon
Teleseminar

AUGUST 23

Learning Legal Ethics From the Lincoln Lawyer

1.0 EP
11 a.m.-Noon
Webinar

AUGUST 28

Choice of Entity for Nonprofits & Obtaining Tax Exempt Status, Part 1

1.0 G
11 a.m.-Noon
Teleseminar

AUGUST 29

Choice of Entity for Nonprofits & Obtaining Tax Exempt Status, Part 2

1.0 G
11 a.m.-Noon
Teleseminar

AUGUST 30

Never Enough: Parking Issues in Commercial Leases

1.0 G
11 a.m.-Noon
Teleseminar

SEPTEMBER 4

Reps and Warranties in Business Transactions

1.0 G
11 a.m.-Noon
Teleseminar

SEPTEMBER 10

Planning Strategies for Domestic Self-Settled Trusts

1.0 G
11 a.m.-Noon
Teleseminar

SEPTEMBER 11

Medical and Dental Office Leases

1.0 G
11 a.m.-Noon
Teleseminar

SEPTEMBER 12

Ethics for Business Lawyers

1.0 EP
11 a.m.-Noon
Teleseminar

SEPTEMBER 13

Employment and Labor Law Annual Institute

5.5 G, 1.0 EP
8 a.m.-4 p.m.
In-Person and Webinar

SEPTEMBER 18

Enough is Enough, Or Is It? Professional Liability Insurance: Are You Adequately Insured?

1.0 EP
Noon-1 p.m.
Webinar

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- Encourage a high order of ethical and professional attainment
- Further education among its members
- Carry out programs within the State Bar of New Mexico
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State Bar of New Mexico
 Paralegal Division

From the New Mexico Supreme Court

From the New Mexico Supreme Court

Opinion Number: 2024-NMSC-014

No: S-1-SC-39294 (filed January 22, 2024)

STATE OF NEW MEXICO,

Plaintiff-Petitioner,

v.

ISAIAS LOBATO-RODRIGUEZ,

Defendant-Respondent.

ORIGINAL PROCEEDING ON CERTIORARI

Jarod K. Hofacket, District Judge

Hector H. Balderas, Attorney General
Van Snow, Assistant Attorney General
Santa Fe, NM

for Petitioner

Bennett J. Baur, Chief Public Defender
Thomas J. Lewis, Assistant Appellate
Defender
Santa Fe, NM

for Respondent

OPINION

ZAMORA, Justice.

{1} Defendant Isaias Lobato-Rodriguez was convicted by a jury of second-degree murder. The Court of Appeals vacated his conviction on the ground that the prosecutor, by commenting in the opening statement on Defendant’s failure to speak to police, had violated Defendant’s right to remain silent under the Fifth and Fourteenth Amendments to the United States Constitution, and that such violation was not harmless error. *State v. Lobato-Rodriguez*, A-1-CA-39409, mem. op. ¶¶ 3, 5 (N.M. Ct. App. Mar. 9, 2022) (nonprecedential). While we agree that the prosecutor’s comment violated Defendant’s constitutional rights, we conclude that the error was harmless in the context of the trial as a whole. Accordingly, we reverse the Court of Appeals.

I. BACKGROUND

{2} Law enforcement found the body of Connie Lopez inside a van that had crashed into a fence along a remote stretch of desert highway. She was still strapped into the driver’s seat, and the engine was running. A pet dog sat in her lap. A belt was wrapped around her neck.

{3} Defendant approached law enforcement at the scene on foot. He immediately

and without any prompting admitted to police that he had killed Lopez. He told law enforcement that he had to kill her because she was going to kill him and kidnap and kill his daughter. He further claimed that other people were hiding in the bushes. An exhaustive search found no other people. They arrested Defendant.

{4} During opening statement, the prosecutor recounted these events, adding that Defendant invoked his right to remain silent after his arrest. The prosecutor said:

That night after the crime scene was more or less processed, Agent Mascorro then went to the Deming State Police office which is where Mr. Lobato-Rodriguez had been taken from that scene. He got brought back here to Deming. He certainly wasn’t free to leave—he was the suspect. I mean, that’s it. So Agent Mascorro did engage in conversation with Mr. Lobato-Rodriguez. Mr. Lobato-Rodriguez asserted his rights to remain silent.

Defense counsel immediately objected and requested a mistrial. The district court admonished the prosecutor not to make any further comment on Defendant’s silence but denied the motion for mistrial, finding that the isolated comment was unlikely to be a significant factor in the jury’s verdict given the evidence expected at trial. The

prosecutor made no further comment on Defendant’s silence for the remainder of the four-day trial.

{5} After the State rested, Defendant testified in his own defense. He described how he killed Lopez: he took off his belt and wrapped it around Lopez’s neck from the back seat of the van, causing her to veer off the road. Defendant testified that he held the belt around Lopez’s neck for “twenty minutes or more,” then squeezed the belt and tied it in a knot, killing her.

{6} The defense—exclusively one of mitigation, not denial—rested on Defendant’s claim that Lopez had provoked him into killing her. Defendant asserted the following facts to establish provocation. Lopez, a former immigration law paralegal, ran a private business providing services to migrant workers in Florida. Defendant hired Lopez to drive him from his home in Florida to Agua Prieta, Mexico, where he intended to retire after receiving a settlement from a workplace injury. Lopez helped Defendant withdraw his money, including several thousand dollars in cash, by translating for him at the bank. Once on the road, Defendant became suspicious that Lopez intended to rob him, or worse.

{7} Defendant first became suspicious of Lopez when they stayed at a motel in El Paso. He noticed four men there who “looked suspicious” and saw Lopez speaking to someone on the phone. He called his daughter and told her that he did not wish to continue the journey with Lopez. He walked to a restaurant and asked someone to call 911. Firefighters responded to the call. A firefighter testified that Defendant seemed agitated and that Defendant said he wanted to be dropped off at a border crossing. Firefighters took Defendant’s vitals, calmed him down, and canceled the call for police assistance. Lopez asked Defendant to get back in the van so that she could “get[] him to his destination.” Defendant got back into the van.

{8} After leaving El Paso, Defendant began to suspect that the men from the hotel were following him. A white pickup truck passed the van twice, and Defendant saw a man inside the pickup gesture at Lopez as if to wave her forward. He thought that these men might rob and kill him and harm his daughter.

{9} While on the highway, Lopez pointed to a mountain in the distance and said, “Look how pretty that looks. I would like to walk around there. And look, because this may be the last time you see it in your life.” Defendant interpreted this statement as a threat to his life, but he calmed down, drank water, and continued the journey with Lopez. At some point, the

white pickup truck reappeared. Defendant then decided to strangle Lopez because he thought it was the only way he could escape. On cross-examination, Defendant admitted that Lopez did not directly threaten to hurt him or his family, nor did she have a weapon.

{10} At the close of trial, the district court instructed the jury on first-degree murder, second-degree murder, and voluntary manslaughter. The instructions on second-degree murder and voluntary manslaughter were identical but for the voluntary manslaughter element of provocation. The district court instructed the jury that “[t]he difference between second degree murder and voluntary manslaughter is sufficient provocation. In second degree murder the defendant kills without having been sufficiently provoked . . . [, but i]n the case of voluntary manslaughter the defendant kills after having been sufficiently provoked.” See UJI 14-220 NMRA. The district court also instructed the jury on the definition of “sufficient provocation” as follows:

“Sufficient provocation” can be any action, conduct or circumstances which arouse anger, rage, fear, sudden resentment, terror or other extreme emotions. The provocation must be such as would affect the ability to reason and to cause a temporary loss of self control in an ordinary person of average disposition. The “provocation” is not sufficient if an ordinary person would have cooled off before acting.

See UJI 14-222 NMRA. The jury found Defendant guilty of second-degree murder. {11} Defendant raised five issues on appeal. The Court of Appeals granted Defendant a new trial based on its determination of a single issue, which was that the prosecutor’s comment on silence was not harmless error. *Lobato-Rodriguez*, A-1-CA-39409, mem. op. ¶ 5. The Court of Appeals did not analyze the comment in context of all of the evidence presented at trial but nevertheless concluded that reversal was required because Defendant’s “credibility was crucial since he testified at trial and the element of provocation was at issue.” *Id.* The State petitioned this Court for a writ of certiorari on the single issue of whether “the Court of Appeals err[ed] by functionally treating a prosecutor’s comment on the right to remain silent as per se harmful error when the statement did not affect the verdict.” We granted certiorari.

II. DISCUSSION

A. Standard of Review

{12} Because prosecutorial comment on a defendant’s silence “raises substantial questions of constitutional law,” our review is de novo. *State v. Gutierrez*, 2007-NMSC-033, ¶ 10, 142 N.M. 1, 162

P.3d 156. “Where a defendant has made a proper objection at trial, the appellate court determines whether the prosecution commented on the defendant’s protected silence, and if so, reverses the conviction unless the State can demonstrate that ‘the error was harmless beyond a reasonable doubt.’” *State v. DeGraff*, 2006-NMSC-011, ¶ 22, 139 N.M. 211, 131 P.3d 61 (citation omitted).

{13} Under this constitutional harmless error standard, we will deem the error “harmless only if we conclude that there is no reasonable possibility the error contributed to the jury’s decision to convict.” *State v. Tollardo*, 2012-NMSC-008, ¶ 45, 275 P.3d 110. While “[t]he jury verdict [is] not automatically . . . afforded deference when a constitutional error has infected the trial,” *State v. Alvarez-Lopez*, 2004-NMSC-030, ¶ 30, 136 N.M. 309, 98 P.3d 699, neither is the verdict automatically reversed. See *Gutierrez*, 2007-NMSC-033, ¶ 19 (“We decline to adopt a rule of automatic reversal for every prosecutorial comment on silence.”).

{14} Instead, the focus of our inquiry is exclusively on “the likely impact of the error on the jury’s verdict.” *Id.* ¶ 18 (quoting *Alvarez-Lopez*, 2004-NMSC-030, ¶ 32). We examine the “basis on which the jury *actually rested* its verdict. The inquiry, in other words, is not whether, in a trial that occurred without the error, a guilty verdict would surely have been rendered, but whether the guilty verdict actually rendered in *this* trial was surely unattributable to the error.” *Alvarez-Lopez*, 2004-NMSC-030, ¶ 27 (internal quotation marks omitted) (quoting *Sullivan v. Louisiana*, 508 U.S. 275, 279 (1993)). As such, “harmless error review necessarily requires a case-by-case analysis.” *Tollardo*, 2012-NMSC-008, ¶ 44.

{15} We emphasize that “constitutional error cannot be deemed harmless simply because there is overwhelming evidence of the defendant’s guilt.” *Alvarez-Lopez*, 2004-NMSC-030, ¶ 32. The evidence of a defendant’s guilt apart from the error “may often be relevant . . . since it will provide context for understanding how the error arose and what role it may have played in the trial proceedings; but such evidence . . . can never be the singular focus of the harmless error analysis.” *Tollardo*, 2012-NMSC-008, ¶ 43. Thus, we will not conclude that a constitutional error was harmless simply because “the right result was reached.” *Id.* ¶ 42 (internal quotation marks omitted) (quoting *State v. Barr*, 2009-NMSC-024, ¶ 57, 146 N.M. 301, 210 P.3d 198). If there is a reasonable possibility that the error contributed to the verdict, then reversal is required. *Id.* ¶ 45.

B. The Prosecutor Violated Defendant’s Constitutional Rights by Commenting on Defendant’s Post-Arrest Silence

{16} The first step in constitutional harmless error analysis is determining whether there was an error that infringed upon the defendant’s constitutional rights. See, e.g., *Alvarez-Lopez*, 2004-NMSC-030, ¶¶ 6, 24-25 (determining that there was a constitutional error before applying harmless error analysis). Although the State concedes that the prosecutor’s statement was error, we conduct our own analysis of this question. See, e.g., *State v. Comitz*, 2019-NMSC-011, ¶ 25, 443 P.3d 1130 (“[W]e are not bound by the State’s concession [in a criminal appeal], and we independently assess Defendant’s claims.”).

{17} When assessing a prosecutor’s statement that could be construed as a comment on silence, “New Mexico courts . . . consider ‘whether the language used was manifestly intended to be or was of such a character that the jury would naturally and necessarily take it to be a comment’ on the accused’s exercise of his or her right to remain silent.” *DeGraff*, 2006-NMSC-011, ¶ 8 (citation omitted). There is no ambiguity about the nature of the statement in this case. The prosecutor informed the jury that after Defendant was arrested, he “asserted his rights to remain silent.” This statement was a direct comment on Defendant’s exercise of his right to remain silent after arrest and, as such, it was clearly constitutional error. See *id.* ¶ 12 (recognizing that “[t]he Fifth Amendment protects a defendant’s decision not to testify” and “due process guaranteed by the Fifth Amendment protects post-*Miranda* silence”); see also, e.g., *State v. McDowell*, 2018-NMSC-008, ¶ 1, 411 P.3d 337 (“For decades, prosecutors have been prohibited from commenting on or eliciting testimony about a defendant’s exercise of his or her right to remain silent.”); *Gutierrez*, 2007-NMSC-033, ¶ 11 (“[W]e have long held that prosecutorial comment on a defendant’s exercise of his or her right to remain silent violates a defendant’s rights under the Fifth Amendment to the federal Constitution, as applied to the states through the Fourteenth Amendment.”).

{18} We note that in addition to the violation of Defendant’s constitutional right to remain silent, the prosecutor’s comment here was improper “as a matter of New Mexico evidentiary law.” *McDowell*, 2018-NMSC-008, ¶ 4. Rule 11-403 NMRA allows courts to exclude otherwise relevant evidence “if its probative value is substantially outweighed by a danger of . . . misleading the jury.” Silence is generally inadmissible because no matter when the silence occurred, it “is often too ambiguous to have great probative

force and may be given improper weight by a jury.” *McDowell*, 2018-NMSC-008, ¶ 4 (internal quotation marks and citation omitted). Post-*Miranda* silence is even less probative than silence that occurs at other stages. That is because the *Miranda* warning—which informs the defendant that he or she has a “right to remain silent[and] that anything he says may be used against him”—implies that “silence will carry no penalty.” *Doyle v. Ohio*, 426 U.S. 610, 617-18 (1976); see also *DeGraff*, 2006-NMSC-011, ¶ 12. “Silence in the wake of these warnings may be nothing more than the arrestee’s exercise of these *Miranda* rights. Thus, every post-arrest silence is *insolubly ambiguous* because of what the State is required to advise the person arrested.” *Doyle*, 426 U.S. at 617 (emphasis added).

{19} There is no justification for the prosecutor’s comment in this case. As explained above, the prosecutor’s statement that Defendant “asserted his rights to remain silent” was a violation of Defendant’s Fifth and Fourteenth Amendment rights and was irrelevant to any issue at trial. Prosecutors should be aware that they risk mistrial, “including in cases in which the evidence supporting a conviction is very strong, if they make inappropriate and constitutionally violative mention of a defendant’s postarrest silence.” *Gutierrez*, 2007-NMSC-033, ¶ 24; see also, e.g., *State v. Costillo*, 2020-NMCA-051, ¶¶ 21-22, 475 P.3d 803 (discussing the fact that retrial may be barred by double jeopardy in cases where prosecutorial comment on silence meets the standard for severe prosecutorial misconduct set forth in *State v. Breit*, 1996-NMSC-067, ¶ 32, 122 N.M. 655, 930 P.2d 792). Such statements may also violate the rules of professional conduct. See Rule 16-304(E) NMRA (“A lawyer shall not . . . in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence.”); see also, e.g., *DeGraff*, 2006-NMSC-011, ¶ 17 (noting that the prosecutor’s comments on silence “may . . . have constituted prosecutorial misconduct by encouraging the jury to convict Defendant on improper grounds”).

{20} Although we conclude that the prosecutor’s comment in this case was patently improper and violated Defendant’s constitutional rights, we nevertheless must determine the proper remedy for that violation through the lens of harmless error review. See *Gutierrez*, 2007-NMSC-033, ¶ 19 (“We decline to adopt a rule of automatic reversal for every prosecutorial comment on silence . . . [because] existing precedent . . . requires applica-

tion of a harmless error standard.”). We now address the effect of the prosecutor’s improper comment on the jury’s verdict in this case.

C. Under the Unique Circumstances of This Case, the Prosecutor’s Comment Was Harmless

{21} To determine whether the prosecutor’s error was harmless, we examine “all of the circumstances surrounding the error.” *Tollardo*, 2012-NMSC-008, ¶ 43. The relevant circumstances will vary “depending upon the facts of the particular case” but may include the extent to which the error was emphasized at trial; the role of the error in the prosecution’s overall case; and—although it is not dispositive—“evidence of a defendant’s guilt separate from the error.” *Id.* In other words, we examine the error in the context of the trial as a whole to determine whether there is a reasonable possibility that it contributed to the jury’s decision to convict.

{22} We first consider the procedural context. The prosecutor’s comment was an isolated remark at the beginning of trial that, after admonishment by the district court, was not repeated or emphasized. However, even if a comment on silence is “but a brief part of the entire trial,” it is not necessarily harmless. *McDowell*, 2018-NMSC-008, ¶ 24. And a comment on silence, even if isolated, may be particularly prejudicial when it is made in opening statement. *Gutierrez*, 2007-NMSC-033, ¶ 20 (“The opening statement holds a uniquely important place in the trial because it is the lens through which the jury views and evaluates the entire trial. Therefore, the prosecutor must take special care to refrain from improper comments, including comments on a defendant’s silence.”). But the procedural context does not resolve the question whether the error was harmless. Rather, we consider additional circumstances surrounding the error, such as the relative importance of the error to the prosecution’s overall case. *Id.* ¶ 21.

{23} To determine the relative importance of the error to the prosecution’s overall case, we look to the disputed issues before the jury. The only material issue in this case was whether Defendant acted in response to sufficient provocation, which is the element that distinguishes second-degree murder from voluntary manslaughter.¹ Compare UJI 14-210 NMRA (second-degree murder instruction) with UJI 14-220 (voluntary manslaughter instruction); see also *State v. Jernigan*, 2006-NMSC-003, ¶ 18, 139 N.M. 1, 127 P.3d 537 (“[V]oluntary manslaughter is

second-degree murder committed with sufficient provocation.”). By returning a verdict of second-degree murder, the jury determined that Defendant did not act in response to sufficient provocation.

{24} Because only provocation was at issue, our harmless error inquiry must focus on the effect the prosecutor’s error had on the jury’s determination of that element. The question before this Court is whether there is a reasonable possibility that the prosecutor’s comment on silence influenced the jury’s finding of insufficient provocation in light of the evidence presented at trial. To answer this question, we consider the inferences that the jury may have drawn from the comment on silence and the evidence before the jury that Defendant acted in response to provocation.

{25} In general, a prosecutor’s comment on a defendant’s pretrial silence may impermissibly imply guilt from the fact that the defendant did not supply evidence of his or her own innocence in the form of an exculpatory statement to police. “This [is] the classic contrast—the innocent speak, while the guilty remain silent.” *McDowell*, 2018-NMSC-008, ¶ 22. And if the defendant testifies at trial, a prosecutor’s comment on a defendant’s pretrial silence may impermissibly imply that the defendant fabricated a false but exculpatory version of events during the pretrial silence. See, e.g., *United States v. Hale*, 422 U.S. 171, 172-73 (1975) (holding that it was improper for the prosecutor to ask the defendant “why he had not given the police his alibi when he was questioned shortly after his arrest”); see also *DeGraff*, 2006-NMSC-011, ¶¶ 10, 17 (holding that it was improper for the prosecutor to imply guilt from a three-week period of silence between that attack and the defendant coming forward and providing an exculpatory statement to police).

{26} However, in this case, the jury could not reasonably have inferred that Defendant’s silence was evidence that he was hiding the truth or buying time to invent a false story of provocation because Defendant spoke to police before invoking his right to remain silent and, importantly, his initial statements were consistent with his trial testimony. Defendant told the jury, as he had told police, that he felt he had to kill Lopez to protect his own life and the life of his daughter. Under these circumstances, there is no logical inference from Defendant’s post-arrest silence that he attempted to hide or fabricate a story of provocation: his story of provocation emerged immediately and remained consistent through trial.

¹ Because the jury acquitted Defendant of first-degree murder when it returned a verdict of guilty on the lesser included offense of second-degree murder, the distinction between first- and second-degree murder is not relevant to our analysis. And because Defendant admitted to killing Lopez, the potential for a not guilty verdict is not relevant to our analysis.

{27} We also examine the evidence before the jury that Defendant acted in response to provocation. In this case, we conclude that the prosecutor's comment did not affect the jury's verdict because Defendant's testimony—even if fully credited—could not establish sufficient provocation as a matter of law. Defendant's testimony may have established that he subjectively feared for his life, but it did not establish that his fear was objectively reasonable. "By definition, provocation includes an objective component The question of provocation is not solely a subjective one." *State v. Taylor*, 2000-NMCA-072, ¶ 27, 129 N.M. 376, 8 P.3d 863.

{28} The jury was instructed that sufficient provocation could be "any action, conduct or circumstances which arouse anger, rage, fear, sudden resentment, terror or other extreme emotions," viewed from the objective standard of "an ordinary person of average disposition." UJI 14-222. "The provocation must be such as would affect the ability to reason and to cause a temporary loss of self-control in" such person. *Id.* And "if an ordinary person would have cooled off before acting," then "[t]he 'provocation' is not sufficient." *Id.*

{29} Defendant's testimony met none of these criteria. Defendant testified that he was provoked into killing Lopez after he came to believe that Lopez was conspiring with a group of "suspicious" men to harm him and his daughter. The only facts that Defendant provided to substantiate this belief were that Lopez made a phone call to an unknown person, the men appeared to be following them in a pickup truck, and one of the men made a hand signal at Lopez on the highway. These facts could not establish that Lopez was connected

to the unidentified men in any manner, much less that they shared a criminal intent to harm Defendant. Lopez's actions² of speaking on the phone and passively sharing the road with another vehicle would not cause a reasonable person to experience "anger, rage, fear, sudden resentment, terror or other extreme emotions." UJI 14-222.

{30} Nor would Lopez's words cause such extreme emotion. Defendant testified that he was provoked by Lopez's advice to look at a distant, "pretty" mountain, "because this may be the last time you see it in your life." Given that Defendant was on his way to a new home in a foreign country, Lopez's statement was innocuous. In any event, "words alone are not enough to arouse the passions such that murder is reduced to manslaughter." *State v. Stills*, 1998-NMSC-009, ¶ 36, 125 N.M. 66, 957 P.2d 51.³

{31} Finally, even if the jury had determined that Lopez's words and actions caused Defendant to experience an extreme emotional state, an alleged "provocation" is not sufficient if an ordinary person would have cooled off before acting." UJI 14-222. Defendant's testimony that he held the belt around Lopez's neck for more than twenty minutes indicates that he had ample time to cool off before killing her. *Cf. State v. Romero*, A-1-CA-37979, mem. op. ¶ 21 (N.M. Ct. App. Aug. 5, 2021) (nonprecedential) (holding that a twenty-minute period provided "more than enough time" for the defendant to cool off before killing the victim). Not only did Defendant have ample time, but he had gained control over any apparent threat: Lopez was confined by her seatbelt and presented no physical danger to Defendant in those twenty minutes.

{32} In sum, Defendant did not meet his burden to establish the objective component of sufficient provocation. Accepting Defendant's testimony as true, nothing that Lopez did or said would cause an ordinary person to experience an extreme emotion. And even if Lopez had caused Defendant to experience an extreme emotion, Defendant's lengthy incapacitation of Lopez gave him the opportunity to cool off from any extreme emotion. Finally, the prosecutor's isolated comment on Defendant's silence could not have led to the inference that Defendant fabricated his trial testimony because he gave initial statements to police that were entirely consistent with his trial testimony.

{33} Under the unique circumstances of this case, we perceive no reasonable possibility that the prosecutor's comment on silence affected the jury's verdict. We therefore conclude that the prosecutor's comment on silence is harmless beyond a reasonable doubt.

III. CONCLUSION

{34} For the reasons stated, we hold that the prosecutor's comment on Defendant's silence was harmless error and accordingly reverse the Court of Appeals on that issue. We remand to the Court of Appeals for further proceedings consistent with this opinion on the other issues Defendant raised on appeal.

{35} **IT IS SO ORDERED.**

BRIANA H. ZAMORA, Justice
WE CONCUR:

C. SHANNON BACON, Chief Justice

MICHAEL E. VIGIL, Justice

DAVID K. THOMSON, Justice

JANE C. LEVY, Judge

Sitting by designation

² We assess the evidence of provocation in light of Lopez's acts alone and do not consider the acts of third parties. The victim must be the source of the provocation, so the appropriate inquiry is whether there is evidence that the victim individually provoked the defendant. *State v. Jim*, 2014-NMCA-089, ¶ 15, 332 P.3d 870.

³ In limited circumstances, "informational words, as distinguished from mere insulting words," can establish sufficient provocation. *Sells v. State*, 1982-NMSC-125, ¶ 7, 98 N.M. 786, 653 P.2d 162. That is, the "sudden disclosure of an event (the event being recognized by the law as adequate) may be the equivalent of the event presently occurring." *Id.* (internal quotation marks and citation omitted). In this case, Lopez's statement did not suddenly disclose any event, so this exception does not apply.

FORMAL OPINION

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

Filing Date: 5/31/2024

No. A-1-CA-40486

**AMERICAN CIVIL LIBERTIES UNION
OF NEW MEXICO,**

Plaintiff-Appellee/Cross-Appellant,
v.

**NEW MEXICO CORRECTIONS DEPARTMENT and
KEVIN NAULT, in his official capacity,**
Defendants-Appellants/Cross-Appellees.

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

Bryan P. Biedscheid, District Court Judge

Davis Law New Mexico
Nicholas T. Davis
Albuquerque, NM

ACLU-NM
Maria Martinez Sánchez
Leon Howard
Albuquerque, NM

for Appellee

Cuddy & McCarthy, LLP
Scott P. Hatcher
Robert A. Corchine
Carl J. Waldhart
Carlos J. Padilla
Santa Fe, NM

for Appellants

Rodey, Dickason, Sloan, Akin & Robb, P.A.
Charles "Kip" Purcell
Albuquerque, NM

for Amicus Curiae New Mexico Foundation
for Open Government

► Introduction of Opinion

We are presented with an appeal and cross-appeal arising from the American Civil Liberties Union of New Mexico's (the ACLU) action to compel the New Mexico Corrections Department (NMCD) to provide documents requested by the ACLU, pursuant to the Inspection of Public Records Act (IPRA), NMSA 1978, §§ 14-2-1 to -12 (1947, as amended through 2023). The district court ordered some documents to be produced, but ruled that some were exempt. On appeal, NMCD argues that all of the records requested are subject to the "as otherwise provided by law" catch-all exemption of IPRA. See § 14-2-1(L).1 On cross-appeal, the ACLU argues the district court erred in concluding certain portions of the records could be withheld pursuant to a "clear necessity" standard. We conclude that all of the records at issue are subject to disclosure and therefore reverse in part and affirm in part.

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

WE CONCUR:

Jane B. Yohalem, Judge
Gerald E. Baca, Judge

To read the entire opinion, please visit
the following link: <https://bit.ly/A-1-CA-40486>

FORMAL OPINION

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

Filing Date: 6/5/2024

No. A-1-CA-40886

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

MARGARET CANO-SAMMIS a/k/a

MARGARET A. CANO-SAMMIS,

Defendant-Appellant.

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

Daniel A. Bryant, District Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

Aletheia V.P. Allen, Solicitor General

Albuquerque, NM

for Appellee

Gary C. Mitchell, P.C.

Gary C. Mitchell

Ruidoso, NM

for Appellant

► Introduction of Opinion

Defendant Margaret Cano-Sammis was on a daily regimen of marijuana and methadone to address numerous health issues. After a sleepless night caring for her brother, Defendant drove her brother to a doctor's appointment and on the way home, veered from the road, and struck and killed a seventy-eight-year-old great-grandmother (Victim). A jury convicted Defendant of homicide by vehicle (driving while under the influence of drugs), contrary to NMSA 1978, Section 66-8-101(A) (2016). Defendant's appeal centers on whether the district court properly admitted evidence concerning Defendant's alleged impairment by drugs. Defendant relatedly challenges the sufficiency of the evidence to support the conviction and the district court's rejection of Defendant's proposed jury instructions. Because we conclude that (1) the State established sufficient foundation for the admitted evidence, (2) the evidence supported the conviction, and (3) the district court properly refused Defendant's proposed jury instructions, we affirm.

Katherine A. Wray, Judge

WE CONCUR:

Kristina Bogardus, Judge

Shammara H. Henderson, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-40886>

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.

No. A-1-CA-40919 Guera Properties, LLC v. 1776 Properties, LLC

Introduction of Opinion

Guera Properties, LLC (Guera) appeals the district court's grant of summary judgment in favor of 1776 Properties LLC (1776) arising from the parties' competing petitions to redeem certain real property. Guera contends that the district court erred by (1) determining that the assignment of the right of redemption to 1776 was valid, (2) applying the "first-in-time" rule to the competing petitions filed in the case, and (3) resolving disputed questions of material fact in favor of 1776. Because we conclude that the assignment of the right of redemption to 1776 was invalid, we reverse the district court's order.

Kristina Bogardus, Judge
WE CONCUR:

J. Miles Hanisee, Judge
Jacqueline R. Medina, Judge

To read the entire opinion,
please visit:
bit.ly/A-1-CA-40919

No. A-1-CA-40875 State v. Arthur Blanco

Introduction of Opinion

Following a jury trial, Defendant Arthur Blanco was convicted of shooting at a motor vehicle, contrary to NMSA 1978, Section 30-3-8(B) (1993). Defendant raises three issues on appeal, arguing (1) the district court erred by preventing him from testifying about his proficiency and experience with firearms; (2) the admission of a witness's preliminary hearing testimony violated the Confrontation Clause; and (3) the district court erred in admitting a statement made by a witness to law enforcement as an excited utterance. We affirm.

Megan P. Duffy, Judge
WE CONCUR:

Zachary A. Ives, Judge
Jane B. Yohalem, Judge retired,
Sitting by designation

To read the entire opinion,
please visit:
bit.ly/A-1-CA-40875

No. A-1-CA-40101 In the Matter of the Estate of Craig J. La Bree

Introduction of Opinion

In this appeal the estate of Michelle La Bree and the estate of Craig J. La Bree each claim that they are entitled to ownership of certain tangible property—jewelry, furniture, and paintings (the heirlooms). John "Jack" E. La Bree (Father) and Michelle La Bree (Mother) were the parents (collectively, Parents) of Craig J. La Bree (Son), their only child. Father died in 2014 and Mother died in November 2020. Son died unexpectedly in May 2020. At the time of his death, Son had no children and was married to Rita M. La Bree, Appellee, who is the personal representative of his estate. **View full PDF online.**

Gerald E. Baca, Judge
WE CONCUR:

Kristina Bogardus, Judge
Jane B. Yohalem, Judge

To read the entire opinion,
please visit:
bit.ly/A-1-CA-40101

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.

No. A-1-CA-40821 State v. Dakota Smallcanyon

Introduction of Opinion

Defendant Dakota Smallcanyon appeals his conviction for one count of criminal sexual contact of a minor (CSCM) under thirteen, contrary to NMSA 1978, Section 30-9-13(B)(1) (2003). Defendant asserts that (1) the district court erred by failing to grant a mistrial; (2) the prosecution committed prosecutorial misconduct; (3) “[t]he evidence was not sufficient to sustain [Defendant’s] conviction”; and (4) the district court committed fundamental error by failing to provide an instruction on an essential element of the crime. Because we hold that under the facts of this case the district court committed fundamental error by failing to instruct the jury on unlawfulness, an essential element of CSCM, we reverse Defendant’s conviction.

Shammara H. Henderson, Judge
WE CONCUR:
Jacqueline R. Medina, Judge
Megan P. Duffy, Judge

To read the entire opinion,
please visit:
bit.ly/A-1-CA-40821

No. A-1-CA-40118 State v. Jesus Robles

Introduction of Opinion

Defendant Jesus Robles appeals his conviction of possession of a firearm by a felon, contrary to NMSA 1978, Section 30-7-16(A) (2019, amended 2022). Defendant argues that he received ineffective assistance of counsel at trial. We affirm.

Gerald E. Baca, Judge
WE CONCUR:
Megan P. Duffy, Judge
Zachary A. Ives, Judge

To read the entire opinion,
please visit:
bit.ly/A-1-CA-40118

No. A-1-CA-39983 State v. Robert Burnham

Introduction of Opinion

Defendant Robert Burnham was charged with and convicted of aggravated assault with a deadly weapon (firearm), contrary to NMSA 1978, Section 30-3-2(A) (1963). On appeal, Defendant contends that (1) his right to a speedy trial was violated; (2) the district court erred in admitting surveillance video evidence; (3) the prosecution committed misconduct; and (4) the district court erred by denying Defendant’s motion for a new trial without holding an evidentiary hearing on the motion. For the following reasons, we affirm on all issues.

Gerald E. Baca, Judge
WE CONCUR:
Kristina Bogardus, Judge
Jane B. Yohalem, Judge

To read the entire opinion,
please visit:
bit.ly/A-1-CA-39983

DISPOSITIONAL ORDER

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: 6/6/2024

No. A-1-CA-40384

**ALAMEDA NORTH VALLEY ASSOCIATION,
INC.; PETER J. GARCIA; ROSE L. GARCIA;
BECKY KREBS; THE MARIA DIERS
NEIGHBORHOOD ASSOCIATION; NORTH
EDITH CORRIDOR ASSOCIATION; and
NORTH VALLEY COALITION, INC.,**

Petitioners-Appellants,

v.

**BOARD OF COUNTY COMMISSIONERS
OF BERNALILLO COUNTY,**

Respondent-Appellee,

and

**TINNIE CORPORATION; VARA, LLC; and WILDA
RESIDENTS NEIGHBORHOOD ASSOCIATION,**

Intervenors-Respondents-Appellees.

► Dispositional Order

This Court has received the parties' brief in chief, answer briefs, and consolidated reply brief.

THE **COURT ORDERS** that the writ of certiorari is **HEREBY QUASHED** as improvidently granted, the petition is thus **DENIED**, and the case is **CLOSED**.

Kristina Bogardus, Judge

Zachary A. Ives, Judge

Katherine A. Wray, Judge

To read the entire dispositional order, please visit the following link: <https://bit.ly/A-1-CA-40384>



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This is a full-time position based in Santa Fe. While the Nominating Committee seeks and evaluates applicants, the appointments are made by the Governor with the advice and consent of the Senate. The normal State of New Mexico benefits package, including retirement and health care, will be provided. The annual salary for this position starts at \$190,000.

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The *Bar Bulletin* isn't just a place for information; it's a hub for discourse and perspectives on timely and relevant legal topics and cases! From A.I. and technology to family law and pro bono representation, we welcome you to send in articles on a variety of issues pertaining to New Mexico's legal community and beyond!

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Positions

Civil Litigation Defense Firm Seeking Associate Attorney

Ray Peña McChristian, PC seeks new attorneys to join its Albuquerque office. RPM is an AV rated, regional civil defense firm with offices in Texas and New Mexico handling predominantly defense matters for businesses, insurers and government agencies. We have opportunities for associates who want to hit the ground running with interesting cases and strong mentors. The ideal candidate will have strong legal research and writing skills and will be comfortable working in a fast-paced environment. The successful candidate will be responsible for providing legal advice to clients, preparing legal documents, and representing clients in court proceedings, including trial. This is an excellent opportunity for a motivated individual to join a highly respected AV-rated law firm and gain valuable experience in the legal field. Salary for this role is competitive with a full benefits package, straightforward partner/shareholder track and a casual work environment in Uptown ABQ. If you join us, you will be well supported with the infrastructure of a multi-state firm and a group of professionals that want you to succeed. Apply by emailing your resume and a letter of interest to cray@raylaw.com.

Law Clerk

Judge Jacqueline Medina of the New Mexico Court of Appeals is hiring for a law clerk position for a one or two year term, beginning immediately. This is an exciting opportunity to work closely with the judge to draft opinions and resolve cases involving all areas of law. Outstanding legal research and writing skills are required. Please submit a cover letter, resume, unofficial law school and undergraduate transcripts, and a writing sample. To apply and see the full job posting go to: www.nmcourts.gov/careers and click on the court of appeals Law Clerk 1 / Appellate Law Clerk 2 / Appellate Law Clerk 3 listing.

Full-Time Transactional Attorney

Blackgarden Law is looking for a full-time transactional Attorney with at least 2 years of meaningful experience in Business and Corporate Law. Corporate securities law is a requirement. This is an in-person or hybrid position. Visit our website at blackgardenlaw.com/careers for a full job description and application instructions.

Associate Attorney

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

Attorney

Madison, Mroz, Steinman, Kenny & Olexy, P.A., an AV-rated civil litigation firm, seeks an attorney with 3+ years' experience to join our practice. We offer a collegial environment with mentorship, work from home flexibility, and opportunity to grow within the profession. Salary is competitive and commensurate with experience, along with excellent benefits. All inquiries are kept confidential. Please forward CVs to: hireing@madisonlaw.com. Please include "Associate Attorney position" in the subject line. CVs can also be mailed to: Hiring Director, P.O. Box 25467, Albuquerque, NM 87125-5467.

Managing City Attorney

The City of Albuquerque Legal Department is hiring a Managing City Attorney for the Land Use and Enforcement division. This includes management, oversight and development of Assistant City Attorneys, paralegals, and staff. This role may require legal expertise in areas of municipal law such as: administrative and civil litigation; contract law; ordinance drafting; regulatory law; procurement; planning and zoning; code enforcement; nuisance abatement; general counsel work; and risk management. Attention to details, timelines, and strong writing skills are essential. Five (5)+ years' experience including at least one (1)+ year of management experience is preferred. An applicant must be an active member of the State Bar of New Mexico, in good standing. For more information or to apply please send a resume and writing sample to Angela Aragon at amaragon@cabq.gov.

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 are in good standing with the bar within or without the State of New Mexico. 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 open until filled.

Experienced Family Law Attorney

Cordell & Cordell, P.C., a domestic litigation firm with over 100 offices across 35 states, is currently seeking an experienced family law attorney for an immediate opening in its office in Albuquerque, NM. The candidate must be licensed to practice law in the state of New Mexico, have minimum of 3 years of litigation experience with 1st chair family law preferred. The position offers 100% employer paid premiums including medical, dental, short-term disability, long-term disability, and life insurance, as well as 401K and wellness plan. This is a wonderful opportunity to be part of a growing firm with offices throughout the United States. To be considered for this opportunity please email your resume to Hamilton Hinton at hhinton@cordelllaw.com

Family Legal Assistance Attorney

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

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. Managing Attorney: Multiple positions; Staff Attorney Positions: Multiple positions; Paralegal: Multiple positions. Please visit our website for all current openings, NMLA benefits, Salary Scales and instructions on how to apply - <https://newmexicolegalaid.isolvedhire.com/jobs/>

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.

Litigation Attorney

Tired of billable hours? 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 accounting@eandersonlaw.com.

Experienced Legal Assistant

Stiff, Garcia & Associates, LLC, a successful downtown insurance defense firm, seeks experienced 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

City of Albuquerque

The City of Albuquerque is seeking an attorney to provide legal services to the City's Department of Municipal Development ("DMD") and General Services Department ("GSD") for contract review, and a broad range of general legal issues, including public works construction law and Capital Implementation projects, facilities, procurement, rulemaking, and interpretation, and other duties as assigned. Attention to detail and strong writing and interpersonal skills are essential. Preferences include: experience with litigation, contract drafting and review, government agencies, government compliance, and policy writing. Salary based upon experience. Preferences include: Three (3)+ years' experience as licensed attorney; experience with government agencies. Candidates must be an active member of the State Bar of New Mexico in good standing. Salary based upon experience. For more information or to apply please send a resume and writing sample to Angela Aragon at amaragon@cabq.gov.

City of Albuquerque

The City is seeking an attorney who will focus on representation of the City's interests with respect to Aviation Department legal issues and regulatory compliance. The position will be responsible for interaction with Aviation Department administration, the Albuquerque Police Department, various other City departments, boards, commissions, and agencies, and various state and federal agencies, including the Federal Aviation Administration and the Transportation Security Administration. Preferences include: Three (3)+ years' experience as licensed attorney; experience with government agencies. Candidates must be an active member of the State Bar of New Mexico in good standing. Salary based upon experience. For more information or to apply please send a resume and writing sample to Angela Aragon at amaragon@cabq.gov.

Attorney

JGA is seeking an attorney, licensed/good standing in NM with at least 3 years of experience in Family Law, Probate, and Civil Litigation. All replies will be maintained as confidential. Please send cover letter, resume, and a references to: jay@jaygoodman.com.

NM Interstate Stream Commission Attorney (Job ID# 145318)

NMISC Legal Bureau provides legal assistance to the NM Interstate Stream Commission, its Director and Managers on complex matters of water and environmental law involving interstate compact administration, complex transactional matters, analysis of rules, regulations and guidelines, interpretation of legal research and analysis for complex litigation matters. The primary purpose is to provide professional legal assistance on complex matters of water and environmental law. This includes assistance involving interstate compact administration, drafting real property agreements and other agreements involving real property, water, and environmental law. This position provides legal support and advice to Basin Managers, Attorney Supervisor and Director regarding interstate compact administration, property law, multi-party contracts and administrative proceedings. Must be licensed as an attorney, in good standing, by the Supreme Court of New Mexico, or qualified to apply for limited practice license. Position includes a competitive salary, with great benefits, and generous leave accruals. To view full job details, visit the following link: <https://www.spo.state.nm.us/>, Agency contact is Christopher Shaw at (505) 470-6377.

Deputy City Attorney

The City of Albuquerque Legal Department is seeking a Deputy City Attorney. This includes management, oversight and development of the Department's Managing Attorneys, Assistant City Attorneys, and staff. This person will track legal projects, timelines, deliverables, and project requirements, assist with Department operations, and provide support to the City Attorney. Outside of managerial duties, work includes but is not limited to: contract drafting, analysis, and negotiations; drafting ordinances; drafting regulatory law; assisting with Inspection of Public Records Act requests; procurement; providing general legal advice in matters regarding public finance, commercial transactions, real estate transactions, public works, and risk management; review of intergovernmental agreements; and civil litigation. Attention to detail and strong writing skills are essential. Seven (7)+ years of legal experience, including three (3)+ years of management experience is preferred. An applicant must be an active member of the State Bar of New Mexico, in good standing. For more information or to apply please send a resume and writing sample to Angela Aragon at amaragon@cabq.gov.

Española City Attorney

Hiring range anticipated to be \$135,000 to \$145,000 annual, DOQ. Excellent benefit package. Under general direction of Mayor, City Manager, or designee, advises City Council, City Manager's Office, department-level management and staff on variety of legal issues. Conducts legal research, may represent City in litigation matters. Must be licensed to practice law in New Mexico. Minimum of three years of increasingly responsible experience in city or related government law preferred. Submit Letter of Interest, resume, professional references, salary requirements. ATTN: Human Resources Director, 405 N. Paseo De Onate, Española, NM 87532. Or via email sbaxter@espanolanm.gov. For more information (505) 747-6017 or <https://www.espanolanmusa.org/jobs.aspx>

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Associate Attorney -

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

Domestic Relations Hearing Officer

The Fourth Judicial District & Magistrate Court in Las Vegas, NM is currently recruiting for the following Full Time, At-Will position: Domestic Relations Hearing Officer, Job ID: 10111171 . General Statement of Duties: This position is under the supervision of the presiding Chief District Judge. The successful candidate will serve as a domestic relations hearing officer pursuant to Rule 1-053.2 NMRA, for matters pending in the Fourth Judicial District Court. The domestic relations hearing officer shall provide services in domestic relations proceedings necessary to review petitions for indigency; conduct hearings on all petitions and motions, both before and after entry of the decree; in a child support enforcement division case, carry out the statutory duties of a child support hearing officer; carry out the statutory duties of a domestic violence special commissioner and utilize the procedures as set forth in Rule 1-053.1 NMRA; assist the court in carrying out the purposes of the Domestic Relations Mediation Act, Sections 40-12-1 to -6 NMSA 1978; and prepare recommendations for review and final approval by the district court. For full job description and to apply go to: <https://www.nmcourts.gov/careers.aspx>

Privacy Officer/ Assistant General Counsel State of New Mexico Early Childhood Education and Care Department Office of General Counsel

The New Mexico Early Childhood Education and Care Department (ECECD), Office of General Counsel, is seeking to hire an Assistant General Counsel who will serve as the department's Privacy Officer. This position will act as the lead attorney for all agency issues dealing with HIPAA, IPRA, the Criminal Justice Information System (CJIS) for purposes of background checks, or any other matter that deals with privacy or confidentiality. The position will work directly with and advise the agency's designated records custodian on all IPRA requests and any other matter related to records. This position will also draft, develop, or revise the agency's policies surrounding IPRA, HIPAA, CJIS, and for any other issue addressing privacy rights, and ensure that these policies are implemented correctly and staff are properly trained on them. The Privacy Officer will also be assigned to handle other legal work and assist the other attorneys in the agency's Office of General Counsel with various tasks. This other work may include, but is not limited to, employment matters, contract development and review, and legal research on a wide array of issues. The Privacy Officer will also work with other members of the agency's Office of General Counsel and staff to draft, review, and prepare proposed legislation or regulation amendments, especially if these matters involve IPRA, HIPAA, CJIS, or any privacy/confidentiality issue. Please go to www.spo.nm.us/work-for-new-mexico or contact Shelley Strong, ECECD General Counsel, at shelley.strong@ececd.nm.gov, if you have any questions about this position.

Full-Time Associate Attorney

McCoy Leavitt Laskey LLC, an AV-rated law firm with nine offices nationally, seeks a full-time associate attorney at its Albuquerque office. Case work includes matters arising from catastrophic fires/explosions, strict products liability, and oilfield accidents. The job includes a significant amount of national travel. Competitive salary with annual bonuses, great working environment, and excellent benefits (including healthcare, dental, vision, cellphone stipend, 401(k) matching, and profit sharing). The ideal candidate will have more than three years of experience. Please email résumé and cover letter to nmresume@mlllaw.com, or mail to: McCoy Leavitt Laskey LLC, 317 Commercial St. NE, Ste. 200, Albuquerque, NM 87102. All replies will be kept confidential.

Commercial Liability Defense, Coverage Litigation Attorney

Our well-established, regional, law practice seeks a contract or possibly full time attorney with considerable litigation experience, including familiarity with details of pleading, motion practice, and of course legal research and writing. We work in the area of insurance law, defense of tort claims, regulatory matters, and business and corporate support. A successful candidate will have excellent academics and five or more years of experience in these or highly similar areas of practice. Intimate familiarity with state and federal rule of civil procedure. Admission to the NM bar a must; admission to CO, UT, WY a plus. Apply with a resume, salary history, and five-page legal writing sample. Work may be part time 20+ hours per week moving to full time with firm benefits as case load develops. We are open to "of counsel" relationships with independent solo practitioners. We are open to attorneys working from our offices in Durango, CO, or in ABQ or SAF or nearby. Compensation for billable hours at hourly rate to be agreed, generally in the range of \$50 - \$80 per hour. Attorneys with significant seniority and experience may earn more. F/T accrues benefits. Apply with resume, 5-10p legal writing example to revans@evanslawfirm.com with "NM Attorney applicant" in the subject line."

Child Support Attorneys Needed

NO BILLABLE HOURS! STUDENT LOAN FORGIVENESS! ELEVEN PAID HOLIDAYS! The Child Support Services Division (CSSD) of the New Mexico Health Care Authority (previously the Human Services Department) is HIRING entry level and experienced attorneys to work in the Las Cruces, Los Lunas, Clovis, or Roswell offices. Salary is based on SPO's NEW pay bands (LH) with a midpoint of \$108,296.00, that is adjusted depending upon experience. CSSD offers fitness and wellness leave (2 hours/week) and alternative work schedules once you have completed probation. Newly licensed attorneys or those wishing to relocate to New Mexico are encouraged to apply. Apply online: State Personnel Office (<https://careers.share.nm.gov>), or contact Reina Owen DeMartino at Reina.OwenDeMartino@hca.nm.gov.

Attorney General Counsel

The Thirteenth Judicial District Court is recruiting for an Attorney General Counsel (U). Summary: Acting under administrative direction provides legal advice and opinions to senior court administration and judges. Serves as a general counsel in the areas of contract law, finance, human resources, civil and criminal law, licensing, procurement and court administration. To apply: please visit www.nmcourts.gov/careers

Various Assistant City Attorney Positions

The City of Albuquerque Legal Department is hiring for various Assistant City Attorney positions. Hybrid in person/remote work schedule available. The Legal Department's attorneys provide a broad range of legal services to the City and represent it in legal proceedings in court and before state, federal and administrative bodies. Current open positions include: Employment/Labor: The City is seeking an attorney to represent it in litigation related to employment and labor law in New Mexico State and Federal Courts, before the City of Albuquerque Personnel Board, and before the City of Albuquerque Labor Board; Litigation Division: The City is seeking attorneys to join its in house Litigation Division, which defends claims brought against the City; Health, Housing and Homelessness and Youth and Family Services General Counsel: The City is seeking an attorney to serve as general counsel to the Department of Health, Housing and Homelessness and the Department of Youth and Family Services for contract review, and a broad range of general legal issues, including federal grant compliance, procurement, rulemaking and interpretation, and other duties as assigned; Aviation: The City is seeking an attorney who will focus on representation of the City's interests with respect to Aviation Department legal issues and regulatory compliance. The position will be responsible for interaction with Aviation Department administration, the Albuquerque Police Department, various other City departments, boards, commissions, and agencies, and various state and federal agencies, including the Federal Aviation Administration and the Transportation Security Administration; Department of Municipal Development and General Services Department: The City is seeking an attorney to provide legal services to the City's Department of Municipal Development ("DMD") and General Services Department ("GSD") for contract review, and a broad range of general legal issues, including public works construction law and Capital Implementation projects, facilities, procurement, rulemaking, and interpretation, and other duties as assigned. Attention to detail and strong writing and interpersonal skills are essential. Preferences include: experience with litigation, contract drafting and review, government agencies, government compliance, and policy writing. Salary based upon experience. For more information or to apply please send a resume and writing sample to Angela Aragon at amaragon@cabq.gov.

Associate Director of Equal Opportunity

The University of New Mexico's Office of Compliance, Ethics & Equal Opportunity (CEEEO) seeks an Associate Director of Equal Opportunity to provide support to the Director of Equal Opportunity and administrative management of CEEEO's investigative team. For best consideration, please apply by August 23, 2024 at <https://unm.csod.com/ux/ats/careersite/18/home/requisition/29954?c=unm>. Primary Duties and Responsibilities: Assist the Director of Equal Opportunity in development and implementation of affirmative action and equal opportunity goals and objectives for academic and non-academic staff, and ensure the University's compliance with all local, state and federal civil rights laws and regulations including Titles VI and VII of the Civil Rights Act, Title IX of the Education Amendments of 1972, the Americans with Disabilities Act, and the Clery Act; Assist the Director of Equal Opportunity in the areas of internal and external training; equal opportunity programming; policy development, revision, and maintenance; supervision and management of staff; investigative training and compliance; Collaborate with the Title IX Coordinator to ensure compliance with Title IX, both internal and external to CEEEO; Collaborate with the Clery Coordinator to ensure compliance with the Clery Act and campus safety, both internal and external to CEEEO; Establish and maintain liaison relationships with stakeholders on and off campus and provide guidance to the University community; Serve in the Director of Equal Opportunity's capacity as needed and when appropriate; Supervise the CEEEO Compliance Manager(s) and provide oversight for the investigative function of CEEEO, which involves managing the CEEEO caseload, training investigators, ensuring timely and thorough investigations, and ensuring data integrity; Act as Deputy ADA Coordinator. The selected candidate should be: Highly versed in labor and employment law, Clery Act requirements, and all civil rights laws; Able to work both independently, collaboratively, and on sensitive matters professionally and in a confidential matter; Versed in supervision and management of higher education staff and knowledgeable of the unique functions of an educational environment; Able to communicate effectively and professionally, both orally and in writing; Experienced in supervising investigative staff and case management; Able to revise and draft civil rights and other policies as necessary; Comfortable and adept in using case management software, and leveraging that software to produce reports and other important data for senior leadership and stakeholders. CEEEO is an internal compliance

office that provides guidance to the University community in a variety of compliance areas. It provides services to students, staff, and faculty in the areas of civil rights, campus safety and VAWA compliance, minors on campus, accessibility and accommodations, affirmative action, and general compliance. Our mission is to promote equal access and treatment for all, to promote a safe environment free of discrimination and inequity, and to foster a culture of ethics in the University community.

Pursue Justice as a Federal Prosecutor

The U.S. Attorney's Office for the District of New Mexico (USAO-DNM) is hiring criminal prosecutors in Albuquerque and Las Cruces. If you care about justice, if you want to make a difference, or if you are looking for an exciting and challenging career, this is the position for you! The mission of the USAO-DNM is to uphold the rule of law, keep New Mexico and the nation safe, and to protect civil rights. Criminal AUSAs prosecute a wide variety of federal crimes, including breaches of national security, child exploitation, public corruption, transnational organized crime, crime on Native American lands, and violent crime. Qualifications: We welcome applicants from the many communities, identities, races, ethnicities, backgrounds, abilities, religions, and cultures of the United States who share our commitment to public service. Applicants must possess a J.D. Degree, be an active member in good standing of a bar (any jurisdiction) and have at least one (1) year of post-J.D. legal or other relevant experience. Salary: AUSA pay is administratively determined based, in part, on the number of years of professional attorney experience. The pay for this position is as follows, including locality pay: Albuquerque, N.M., Salary is \$73,317 to \$191,769, which includes a 18.05% locality pay. Las Cruces, N.M., Salary is \$72,553 to \$189,771, which includes a 16.82% locality pay. The complete vacancy announcement may be viewed at <https://www.usajobs.gov> and entering 800678600 in the search bar. All applicants must apply through USAJobs.

Executive Director

The Western Center on Law & Poverty (Western Center) invites applications and nominations for their next Executive Director. Western Center seeks to eliminate poverty and advance racial and economic justice by dismantling and transforming systems so all communities in California can thrive. Headquartered in Los Angeles with offices in Sacramento and Oakland, Western Center is California's largest legal services support center. To learn more and apply follow this link: <https://npag.com/wclp-ed>.

University of New Mexico General Counsel

The University of New Mexico (UNM) (<https://www.unm.edu/>) is seeking nominations, inquiries, and applications for the position of General Counsel. The General Counsel will report to President Garnett S. Stokes and the Board of Regents and will provide strategic guidance, consultation, and support on a wide range of legal and related issues to the President, Regents of the University, and other senior executive and academic leadership across all University campuses. The University of New Mexico was founded in 1889 as New Mexico's flagship institution. The University is the only R1 institution in the State and offers a wide variety of academic programs through 14 colleges and schools. These academic options include more than 215 degree and certificate programs, including 94 baccalaureates, 71 master's, and 37 doctoral degrees. The UNM Health Sciences Center includes UNM Hospital, the only Level 1 Trauma Center in New Mexico, and offers over 40 health science degrees and residency programs. UNM is a Hispanic Serving Institution that takes pride in the extraordinary diversity of its students and in providing opportunities for students, regardless of socioeconomic background. UNM has 4 branch campuses across the state, which provide academic and vocational training, leading to certificates, associate degrees, and transfers to baccalaureate programs. The University enrolls over 26,000 students and employs over 10,000 faculty and staff. The General Counsel will be stepping into a vibrant campus environment following President Stokes' launch of the UNM 2040: Opportunity Defined (https://opportunity.unm.edu/?_gl=1*1nsus8x*_gcl_au*MTkxNTc5MzYzNi4xNzE4NzQwNjY5) strategic plan. As a crucial member of the President's senior leadership team, the General Counsel will provide executive and administrative direction over the University's legal matters. This individual will act as the chief legal officer, offering legal support, advice, and guidance to the Board of Regents, the President, as well as senior leaders, faculty, and staff on all legal issues affecting the institution. The General Counsel's role will encompass a diverse array of legal, transactional, regulatory, compliance, and litigation matters and will involve the management of legal resources to align with the organization's overarching priorities. The position necessitates extensive experience in areas such as contracts, labor and employment law, intellectual property, research agreements, litigation and risk management. The General Counsel is expected to bring a proactive and collaborative approach to addressing the legal challenges associated with an innovative organization dedicated to reshaping the future of higher education and healthcare delivery. The individual

selected for this position will be a highly strategic, forward-thinking attorney who is well-versed in the business dynamics and regulatory environment of higher education and healthcare. The General Counsel will be innovative, capable of creating solutions that facilitate the University's initiatives to assure the success and growth of the organization. The successful candidate must have excellent academic credentials and a law degree from an ABA accredited school of law and at least ten years of broad legal experience in higher education, government, healthcare and/or other non-profit entities gained in-house or through working closely with higher education, healthcare or not for profit clients. The selected candidate should also be a member in good standing of NM State Bar, or eligible to become a member of the NM State Bar within one year after being hired. New Mexico has reciprocity with many other states, as outlined here: <http://nmexam.org/reciprocity/> New Mexico also permits attorneys for public entities to practice with a limited license, as outlined in Rule 15-301.1 of the New Mexico Bar Rules. More information can be found at wittkiewer.com (<https://wittkiewer.com/positions/200102>). All applications, nominations, and inquiries are invited. Applications should include, as separate documents, a CV or resume and a letter of interest addressing the themes in this profile. In their cover letter, candidates are encouraged to showcase their strong dedication to UNM's mission, values, institution, and state. WittKiewer is assisting The University of New Mexico in this search. For fullest consideration, candidate materials should be received by September 14, 2024. Application materials should be submitted using WittKiewer's candidate portal (<https://aptrkr.com/5453528>). Nominations and inquiries can be directed to: Werner Boel, LL.M. or Luis Bertot, UNMGeneralCounsel@wittkiewer.com. The University of New Mexico is committed to hiring and retaining a diverse workforce. We are an Equal Opportunity Employer, making decisions without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, veteran status, disability, or any other protected class. The University of New Mexico requires all regular staff positions successfully pass a pre-employment background check. This may include, but is not limited to, a criminal history background check, New Mexico Department of Health fingerprint screening, New Mexico Children, Youth, and Families Department fingerprint screening, verification of education credentials, and/or verification of prior employment. For more information about background checks, visit <https://policy.unm.edu/university-policies/3000/3280.html>. Refer to <https://policy.unm.edu/university-policies/3000/3200.html> for a definition of Regular Staff.

N.M. Health Care Authority Assistant General Counsel Positions

New Mexico's newest state agency, the Health Care Authority (HCA), launched on July 1, 2024. We want to hire the best legal team in state government. Formerly the Human Services Department, the HCA strives to provide every New Mexican with access to health care coverage and safety-net services. The HCA is responsible for the largest state agency budget with varied, dynamic and often complex issues. You will provide daily legal advice and will represent the HCA in administrative proceedings and court. The job can be challenging but our work is important to the lives of many New Mexicans. We offer competitive government salary and benefits, healthy work-life balance, and a cordial environment. Positions are based in Santa Fe but location in Albuquerque or other HCA offices across the state may be possible. Attorneys with a strong work ethic and positive approach are encouraged to apply, regardless of experience level or background. Prior exposure to public benefits, administrative law, contracts, employment law, IPRA or the dynamics of a government agency is helpful but not required. Applications must be received through the State Personnel Office website at <https://careers.share.nm.gov>. Sort by agency: "Health Care Authority" or search for Job ID 145866.

Experienced Of Counsels

Going Alone or Semi-Retiring? Law 4 Small Business (L4SB) and Business Law Southwest (BLSW) are seeking experienced Of Counsels to partner with, and we seek Registered Agent clients to purchase. We'll deal with the boring stuff like malpractice insurance, succession planning, billing, collections, tech support and more, and you can focus on the fun stuff you're great at. Please send us your CV, along with a paragraph or bullet-list on what you're looking for to LearnMore@Slingshot.law, and we'll discuss how we can partner together to help you run your legal practice at your pace. Whether you have your own clients or want some new clients, we can form a beautiful relationship by working together. Slingshot, LLC is the parent company of two law firm brands – Law 4 Small Business (L4SB) and Business Law Southwest (BLSW). We are one of the fastest-growing law firms in the Southwest, driven by technology and offering high-end client services across a wide variety of practice areas.

Associate Attorney

We're a Business Law firm looking to hire an experienced Associate Attorney for our litigation and transactional practices. We have offices in Albuquerque and Santa Fe, with the option to work from either. Slingshot, LLC is the parent company of two law firm brands – Law 4 Small Business (L4SB) and Business Law Southwest (BSW). We are one of the fastest-growing law firms in the Southwest, driven by technology and offering high-end client services across a wide variety of practice areas. In addition to unmatched opportunities to explore and grow into your own practice, we boast competitive pay, an industry-leading work-life balance, and benefits that our employees won't stop raving about. At a minimum, the right candidate will have: Two (2) years' experience in the practice of law; Familiarity with business and/or contracts law; A willingness to learn and use new technologies as part of their law practice; The ability to work independently by taking ownership of and managing deadlines for their caseload; A collaborative approach to working with other attorneys across practice areas; A drive to branch out from their comfort zone by taking on new matters and seeking guidance from other attorneys as needed; Strong communication skills and a willingness to keep clients up-to-date and in the loop. Additionally, the ideal candidate would have some of the following: Familiarity with transactional business matters, including Mergers and Acquisitions, and commercial leases and real estate; Familiarity with Estate Planning, Trusts and Asset Protection; Familiarity with Intellectual Property law (e.g., trademarks, copyrights, patents); Experience in all phases of Civil Litigation, including discovery, depositions, mediations, motion practice, and trial practice; Speak fluent Spanish. We offer amazing benefits to our full-time employees, including: 401k w/ Employer Matching; Health Insurance (incl. optional PPO); Dental Insurance; Vision Insurance; Term Life Insurance; Long Term/Short Term Disability; Paid Time Off (PTO); Flexible bonus compensation plan. We're Going Places, and It's Important That You are Too! Please send Cover Letter and Resume to: K.Donahue@KDonahue@Slingshot.Law. Learn more by visiting us at: L4SB.com & BusinessLawSW.com

Associate Attorney

Quiñones Law Firm LLC is a well-established defense firm in Santa Fe, NM in search of a full-time associate attorney with minimum 5 years of legal experience and willing to work minimum of 30 hours per week. Generous compensation and health benefits. Please send resume to quinoneslaw@cybermesa.com

Request for Proposals (RFP)

TITLE: NM Economic Development Department (EDD) Request for Proposals (RFP): EDD-LEGAL-2025-01. PURPOSE: The purpose of the RFP is to solicit sealed proposals to establish a contract through competitive negotiations to select an offeror to provide professional legal services to the EDD and assist EDD General Counsel. ISSUANCE: The RFP will be issued on August 14, 2024. Offerors interested in obtaining a copy may access and download the document from the EDD website on August 14, 2024, at the following address: <https://edd.newmexico.gov/about-us/public-notices/>. PROCUREMENT MANAGER: Questions should be addressed via email to the Procurement Manager: Sara Gutiérrez, Deputy Division Director, Economic Development Division, Email: sara.gutierrez@edd.nm.gov. PRE-PROPOSAL CONFERENCE: A mandatory pre-proposal conference will be held virtually on August 23, 2024, at 10:00 AM via MS TEAMS. Virtual conference details available at the following address: <https://edd.newmexico.gov/about-us/public-notices/>. PROPOSAL DUE DATE AND TIME: Proposals must be received by the Procurement Manager or her designee, no later than 5:00 pm MDT on September 12, 2024, at 5:00 PM. Proposals received after this deadline will not be accepted.

Experienced Associate Attorneys, Paralegals and Legal Assistants

Mayer LLP is hiring! Seeking Associates with at least 4 years' experience in personal injury, employment, and/or medical mal litigation to join our team. The successful candidate will work closely with the firm's partners and clients on complex and challenging litigation matters in both state and federal courts. If you are a dedicated attorney with a passion for litigation and a diverse legal background, we encourage you to contact us immediately. Our growing Albuquerque office is also looking for experienced paralegals and legal assistants to join a successful team. Mayer LLP offers a rich benefit package available immediately and salary is competitive. If interested, please send a cover letter, and resume to Marva O'Bannon at mobannon@mayerllp.com. Check out our awesome team at MayerLLP.com.

Seeking Part-Time Paralegal/Legal Writer

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

Paralegal

Paralegal position in established commercial civil litigation firm. Prior experience preferred. Requires knowledge of State and Federal District Court rules and filing procedures; factual and legal online research; trial preparation; case management and processing of documents including acquisition, review, summarizing, indexing, distribution and organization of same; drafting discovery and related pleadings; maintaining and monitoring docketing calendars; oral and written communications with clients, counsel, and other case contacts; proficient in MS Office Suite, AdobePro, Powerpoint and adept at learning and use of electronic databases and legal software technology. Must be organized and detail-oriented professional with excellent computer skills. All inquiries confidential. Salary DOE. Competitive benefits. Email resumes to e_info@abrfirm.com or Fax to 505-764-8374.

Paralegal

Hinkle Shanor LLP's Santa Fe Office is seeking a paralegal to support its natural resources and energy regulatory practice group. The ideal candidate will have excellent analytical, proofreading, cite-checking, writing and communication skills, and a detail-oriented mindset. The position offers a competitive salary and benefits, and all inquiries are kept confidential. Email resume to: sfinley@hinklelawfirm.com

Paralegal

Barnhouse Keegan Solimon & West LLP, a Chambers and Partners ranked law firm specializing in the representation of American Indian Tribes and tribal businesses, is seeking a Paralegal. Prior federal Indian law or tribal representation experience preferred, but not required. Must be detail-oriented with the ability to multi-task tribal, state and federal court workload including calendaring, drafting pleadings and discovery, performing legal research, managing legal documents, assisting in preparation of matters for hearing or trial and other matters as assigned. Word, Outlook and Adobe expertise required, as well as excellent proofreading and organization skills. An associates degree (or pursuing a degree) in Paralegal Studies or NALA certified and 2-5 years' experience as a legal assistant or paralegal are required. The firm offers a collaborative working environment with opportunities for mentorship and professional growth. To apply, submit a resume and three references to vrichardson@indiancountrylaw.com.

Legal Assistant

Barnhouse Keegan Solimon & West LLP, a Chambers and Partners ranked law firm specializing in the representation of American Indian Tribes and tribal businesses, is seeking a Legal Assistant. In addition to the responsibilities listed below, this position provides overall support to attorneys and paralegals. Must be detail-oriented with the ability to multi-task, manage attorney workload including calendaring deadlines and meetings, assist and support paralegals in organizing and handling court and client files and information including preparing for hearing or trial and other matters as assigned by attorneys, assist with document management, some client interaction, work with administrative staff, and manage telephone calls. Word, Outlook and Adobe expertise required, as well as excellent proofreading and organization skills. At least 2-5 years' experience working as an administrative professional in an office environment. The firm offers a collaborative working environment with opportunities for mentorship and professional growth. To apply, submit a resume and three references to vrichardson@indiancountrylaw.com.

Services

Contract Paralegal

27 years civil litigation experience offering top quality full-service litigation support. Specializing in legal writing and medical records analysis and chronology. Reliable and exceptional work product. You will not be disappointed. Well-versed in legal and medical terminology. Send inquiries to ppslegalpro@gmail.com.

Miscellaneous

Search for Will

Searching for anyone who has prepared a will for Lindel Joseph Chavez (born 1945), lived in Bernalillo County. Please contact at 505-615-9171 or ddzozaya22@gmail.com

Part-time Legal Assistant/Paralegal

Quinones Law Firm LLC is a well-established defense firm in Santa Fe, NM in search of a part-time legal assistant/paralegal with minimum 5 years of Legal Assistant/Paralegal experience. Please send resume to quinoneslaw@cybermesa.com

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2024 Bar Bulletin Publishing and Submission Schedule

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

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

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

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

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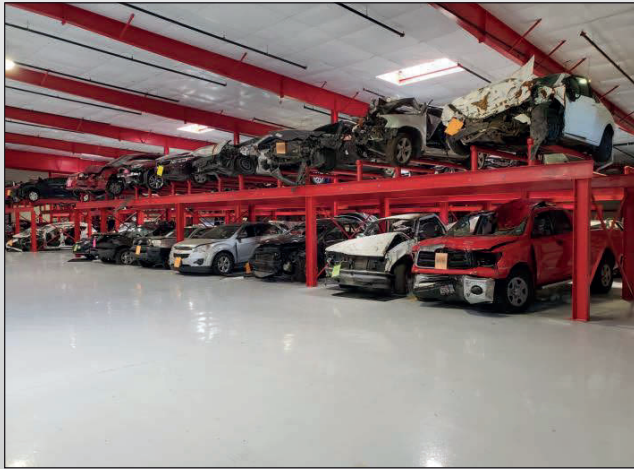
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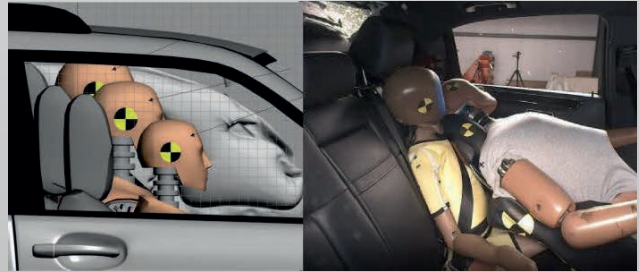
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