

# BAR BULLETIN

## DIGITAL ISSUE

August 28, 2024 • Volume 63, No. 8-D



*Conejos Crossing*, by Dan Stouffer (see page 4)

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

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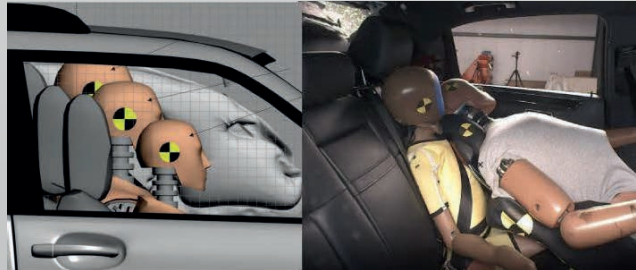
# IS YOUR CASE AT A RECOVERY DEAD-END?

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## Crashworthiness

focuses on how the vehicle's safety systems performed, not who caused the accident. At my firm's Crash Lab, we continually study vehicle safety through engineering, biomechanics, physics, testing and innovation.



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Executive Director, Richard Spinello  
 Marketing Communications Manager,  
 Celeste Valencia, celeste.valencia@sbnm.org  
 Graphic Designer, Julie Sandoval,  
 julie.sandoval@sbnm.org  
 Advertising and Sales Manager,  
 Marcia C. Ulibarri, 505-797-6058,  
 marcia.ulibarri@sbnm.org  
 Assistant Communications Manager,  
 Brandon McIntyre, brandon.mcintyre@sbnm.org

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## Section, Division and Committee Meetings

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

**About Cover Image and Artist:** Dan Stouffer was born in Ohio and attended Ohio State University. His work has been shown in museums and corporate collections throughout the country. He has won over 60 awards and is listed in the *Who's Who in American Art*. His work has appeared in many publications. He is also a member of three national signature honor societies and in 2010, the albuquerque art business association designated him a local treasure. He is currently represented by The Weems Gallery.



# Notices

Please email notices desired for publication to [notices@sbnm.org](mailto:notices@sbnm.org).

## COURT NEWS

### New Mexico Supreme Court Rule-Making Activity

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

### Supreme Court Law Library

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

### N.M. Administrative Office of the Courts

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

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

### Second Judicial District Court Announcement of Vacancy - Family Court

A Family Court vacancy on the Second Judicial District Court will exist as of Sept. 1, due to the retirement of the Hon. Gerard J. Lavelle. Attorneys who meet the statutory qualifications in Article VI, Section 14 of the New Mexico Constitution are invited to apply by Aug. 29 at 5 p.m. (MT). Applications may be obtained by visiting <https://lawschool.unm.edu/judsel/application.html>. The Second Judicial District Court Nominating Commission will meet at 9:30 a.m. (MT) on Sept. 17 to interview applicants for the position at the State Bar Center at 5121 Masthead St. NE., Albuquerque, N.M. 87109. The Committee meeting is open to the public.

## Professionalism Tip

With respect to my clients:

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

### Notice of Court Closure

The Second Judicial District Court will be closed on Sept. 20 for training. The Court will reopen on Sept. 23.

### Eleventh Judicial District Court - San Juan County Notice of Mass Reassignment of Cases

Effective Aug. 21, pursuant to his authority in Rule 23-109 NMRA, the Chief Judge of the Eleventh Judicial District Court has directed a mass reassignment of criminal cases from Judge, Division VIII, to Judge Stephen M. Wayne, currently presiding in Division VIII. Pursuant to Rule 5-106 NMRA, parties who have not yet exercised a peremptory excusal in a case being reassigned in this mass reassignment will have 10 business days from Sept. 11 to excuse Judge Stephen M. Wayne.

### STATE BAR NEWS 2024 Annual Meeting Registration is Now Open for the State Bar of New Mexico's 2024 Annual Meeting on Oct. 25

The Annual Meeting looks a little different this year! "Be Inspired" during one full day of legal education featuring keynote speaker Camille M. Vasquez, Esq., 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. Register today and view more information 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 Oct. 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 Sept. 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](mailto:richard.spinello@sbnm.org).

### Access to Justice Fund Grant Commission

#### Notice of Commissioner Vacancy

One Commissioner appointment for a three-year term will be made to the State Bar of New Mexico ATJ Fund Grant Commission. The ATJ Fund Grant Commission solicits and reviews grant applications and awards grants to civil legal services organizations consistent with the State Plan for the Provision of Civil Legal Services to Low Income New Mexicans. To be eligible for appointment, applicants must not be affiliated with a civil legal service organization which would be eligible for grant funding from the ATJ Fund. Anyone interested in serving on the Commission should send a letter of interest and brief résumé by Oct. 1 to [kate.kennedy@sbnm.org](mailto:kate.kennedy@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](mailto: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](mailto:notices@sbnm.org) by Aug. 31 for consideration.

### **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](mailto:Tenessa.Eakins@sbnm.org).

### **The Solutions Group Employee Assistance Program**

Presented by the New Mexico Lawyer Assistance Program, the Solutions Group, the State Bar's Employee Assistance Program (EAP), extends its supportive reach by offering up to four complimentary counseling sessions per issue, per year, to address any mental or behavioral health challenges to all SBNM members and their direct family members. These counseling sessions are conducted by licensed and experienced therapists. In addition to this valuable service, the EAP also provides a range of other services, such as stress management education, webinars, critical incident stress debriefing, video counseling, and a 24/7 call center. The network of service providers is

spread across the state, ensuring accessibility. When reaching out, please make sure to identify yourself with the NM LAP for seamless access to the EAP's array of services. Rest assured, all communications are treated with the utmost confidentiality. Contact 505-254-3555 to access your resources today.

### **New Mexico State Bar Foundation Pro Bono Opportunities**

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

### **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](http://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](http://www.sbnm.org/NMS-BFGolfClassic2024) for more information.

### **UNM SCHOOL OF LAW Law Library Hours**

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

### **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 legisla-

— *Featured* —

## **Member Benefit**



Fastcase is a free member service that includes cases, statutes, regulations, court rules and constitutions. This service is available through [www.sbnm.org](http://www.sbnm.org). Fastcase also offers free live training webinars. Visit [www.fastcase.com/webinars](http://www.fastcase.com/webinars) to view current offerings. Reference attorneys will provide assistance from 8 a.m. to 8 p.m. ET, Monday–Friday. Customer service can be reached at 866-773-2782 or [support@fastcase.com](mailto:support@fastcase.com). For more information, email [techsupport@sbnm.org](mailto:techsupport@sbnm.org).

tive sessions. For more information and how to contact library staff, please visit [https://www.nmlegis.gov/Legislative\\_Library](https://www.nmlegis.gov/Legislative_Library).

### **New Mexico Christian Legal Aid Notice of Upcoming Training Seminar**

New Mexico Christian Legal Aid invites New Mexico's legal community to join them as they work together to secure justice for the poor and uphold the cause of those of modest means. They will be hosting a Training Seminar on Nov. 1, from noon to 5 p.m. (MT) at the State Bar Center located at 5121 Masthead St NE, Albuquerque, N.M. 87109. Join them for free lunch, free CLE credits and training as they update skills on how to provide legal aid. For more information or to register, contact Jim Roach at 505-243-4419 or Jen Meisner at 505-610-8800 ([christianlegalaid@hotmail.com](mailto:christianlegalaid@hotmail.com)).



be  
inspired.

# ANNUAL MEETING 2024

October 25 • State Bar Center or Virtual

Featuring Keynote Speaker **Camille M. Vasquez, Esq.**



**BE INSPIRED!** Keynote speaker **Camille M. Vasquez, Esq.**, partner in the Business Trial Practice Group at Sheppard, Mullin, Richter & Hampton LLP, has over 10 years of experience as a trial lawyer in high-stakes disputes, as well as an impressive background in commercial litigation, entertainment law and defamation. Vasquez quickly became one of the nation's most recognized attorneys in 2022, when she held a key role in the *Depp v. Heard* defamation case. Since then, Vasquez has joined NBC News as a legal analyst and has become an inspirational figure for aspiring attorneys.

Camille M. Vasquez, Esq. is a San Francisco-born and first-generation American of Hispanic heritage. Before Vasquez became an attorney and litigator, she graduated *magna cum*

*laude* from the University of Southern California, where she studied communications and political science. Vasquez received her Juris Doctor from Southwestern Law School in 2010.

Registration  
is Now  
Open!

Registration Information Available at  
**[www.sbnm.org/AnnualMeeting2024](http://www.sbnm.org/AnnualMeeting2024)**

**Act fast!** In-person seating is limited!

**Earn all 12 CLE Credits for the year  
for ONLY \$199!**

Earn 5 CLE credits by attending the live 2024 Annual Meeting event, in person or virtually, on Oct. 25 and complete the remaining 7 CLE credits at your convenience with special access to the Annual Meeting on-demand CLE library. The on-demand library will be available starting on Oct. 28 and all credits must be completed no later than Jan. 31, 2025.

**[www.sbnm.org/AnnualMeeting2024](http://www.sbnm.org/AnnualMeeting2024)**





STATE OF NEW MEXICO EXECUTIVE OFFICE SANTA FE, NEW MEXICO

# Proclamation

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

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

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

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

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

*WHEREAS, the paralegal division supports the delivery of legal services in an economic and efficient manner;*

*NOW, THEREFORE, I Michelle Lujan Grisham, Governor of the State of New Mexico, do hereby proclaim August 26<sup>th</sup>, 2024 as*

## "PARALEGAL DAY"

*throughout the state of New Mexico.*

Attest:

Maggie Toulouse Oliver  
Secretary of State

Done at the Executive Office this  
1<sup>st</sup> day of August 2024.

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

  
Michelle Lujan Grisham  
Governor

**In honor of Paralegal Day, August 26, 2024, the State Bar of New Mexico Paralegal Division recognizes all paralegals in New Mexico and especially all members of the Paralegal Division for their contribution to the profession and extends its appreciation to their employers for their support. Below is a list of Paralegal Division members as of August 19, 2024.**

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 Hinkle Shanor LLP  
 Denise L. Amisi  
 Merrie Chappell Law PC  
 Paul Carlos Anaya Ph.D.  
 Amparo Alevante Law Firm  
 Sarah Archuleta  
 Kevin A. Zangara PA  
 Cindi Aston CP  
 Atwood Malone Turner & Sabin PA  
 Christina Babcock  
 Central New Mexico Community College  
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 Newell Law Firm LLC  
 Meryl Barbere-Sutton  
 New Mexico Legal Aid Inc.  
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 New Mexico Legal Aid Inc.  
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 Brandi Breen CP  
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 Susan Burnham  
 Jill Grant & Associates LLC  
 Alonzo M. Calderon ACP  
 Third Judicial District Court  
 Beatrice R. Carrillo CP  
 Paul L. Civerolo LLC  
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 Mynatt Martinez Springer PC  
 Angela G. Chavez  
 NM Legal Aid  
 Lorraine R. Chavez  
 Gattion & Associates PC  
 Katherine M. Chee  
 Rodey Dickason Sloan Akin and Robb PA  
 Jane Clifford  
 Long Komer & Associates PA  
 Barbara J. Cok  
 Valle O' Cleireachain Zamora & Harris  
 Nettie L. Condit  
 Albuquerque, NM  
 Corina Cordova  
 Law Office of Ryan J. Villa  
 Katy Cornett  
 Law Office of David M Houliston  
 Andrea B. Costello  
 Law Office of Ryan J. Vigil  
 Nancy Dashwood  
 NM Department of Justice  
 Holly L. Davis  
 Wiseman Legal Group  
 Fina M. Day  
 Miller Stratvert PA  
 Vanessa Delgado  
 Law Office of Joshua L Smith LLC  
 Severiana L. Dixon CP  
 Eaton Law Office PC  
 Denise Dubose  
 Rio Rancho Public Schools Office of General Counsel  
 Jaelyn Foster  
 Miller Stratvert PA

Ellice S. Goldstein  
 Larkin & Padilla  
 Marissa Gonzalez  
 New Mexico Legal Aid Inc.  
 Charles R. Good CP  
 Hinkle Shanor LLP  
 Christie Griego  
 Wiggins Williams & Wiggins PC  
 Vanessa Griego  
 Eaton Law Office PC  
 Ann Hatten  
 Madison Mroz Steinman Kenny & Olexy PA  
 Holly L. Healy  
 Eighth Judicial District Court  
 Lawrence Hernandez  
 Carrillo Law Firm PC  
 Yolanda K. Hernandez  
 Caruso Law Offices PC  
 Laurie Herrera  
 Batley Family Law PA  
 Sheri Higgins  
 Osha Bergman Watanabe & Burton LLC  
 Kathryn Holland  
 Presbyterian Healthcare Services  
 Renee C. Holland  
 Presbyterian Healthcare Services  
 Kay L. Homan CP  
 Cuddy & McCarthy LLP (Contract Paralegal)  
 Erin Houlihan  
 Conklin Woodcock & Ziegler PC  
 Candice N. Irlbeck  
 Jennings Haug Keleher McLeod  
 Virginia M. Jackson  
 Ripley B Harwood P.C. (Contract Paralegal)  
 Michelle S. Jaramillo CP  
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 Suzette Johnson  
 Hinkle Shanor LLP  
 Sandra June-Peterson  
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 Lory MacArthur  
 Presbyterian Healthcare Services  
 Nicole C. Madrid ACP  
 Ninth Judicial District Court

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 Marie Marino ACP  
 O'Brien & Padilla PC  
 Gloria Marlow  
 German • Burnette & Associates LLC  
 Casey J. Martinez  
 Cuddy & McCarthy LLP  
 Melissa V. Martinez  
 Miller Stratvert PA  
 Vanessa Martinez  
 Duran & McDonald LLC  
 Desiree Maynard  
 The Sawyers Law Group LLC  
 Leslie McCoy  
 Cardenas Law Firm LLC  
 Renee C. Medina  
 Macke Law & Policy LLC  
 Amy Meilander  
 NM Supreme Ct  
 Laura Morales  
 Riley Keller Alderete Gonzales  
 Neelam Morelos  
 James Wood Law  
 Jessica Morin ACP  
 Modrall Sperlring Law Firm  
 Kayla Morris  
 575 Law Group LLC  
 Adriana M. Moya  
 Mynatt Springer PC  
 Ariel R. Murray  
 Morgan & Morgan  
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 Amanda S. Olsen  
 NM Educational Retirement Board  
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 Cuddy & McCarthy LLP  
 Elizabeth Page  
 NM Local Government Law LLC  
 Michelle Pettit  
 Atwood Malone Turner & Sabin PA  
 Natalie N. Pino  
 Barnhouse Keegan Solimon & West LLP  
 Andrea E. Pompeo  
 Cuddy & McCarthy LLP  
 April M. Puckett AACP  
 Eastern New Mexico Medical Center  
 Isabel Quintero  
 Madison Mroz Steinman Kenny & Olexy PA  
 Julie Rael CP  
 Modrall Sperlring Law Firm  
 Dawne B. Roberto  
 Duhigg & Berlin PA  
 John Roberts  
 Rodey Dickason Sloan Akin and Robb  
 Lynette Rocheleau  
 Sandia National Laboratories  
 Raquel Rodriguez  
 RH&C LLC & The Harbour Law Firm PC  
 Christopher Rollins ACP  
 Los Alamos County Attorney's Office

Shannon L. Rooney  
 Madison Mroz Steinman Kenny & Olexy PA  
 Linda Sanders  
 Hurley Toevs Styles Hamblin & Panter PA  
 Yolanda M. Sandoval  
 Montgomery & Andrews PA  
 Melanie A. Scholer  
 German • Burnette & Associates LLC  
 Amanda Schultz  
 Law Office of the Public Defender  
 Shenina M. Sena  
 Parnall & Adams Law LLC  
 Christy L. Shije  
 Law Offices of Blake J. Dugger PC  
 Tomma Shumate  
 Atwood Malone Turner & Sabin PA  
 Ruby F. Silva  
 Wayne G. Chew PC  
 Donna R. Sowers  
 Kenneth C. Leach & Associates PC  
 Amanda S. Stahl  
 Law Office of Matt Madrid  
 Kim Steele  
 Rodey Dickason Sloan Akin & Robb PA  
 Suzanna Tenorio CP  
 German • Burnette & Associates LLC  
 Samantha Torrez  
 Heidel Samberson Cox & McMahon  
 Tianie Toya  
 Barnhouse Keegan Soliman & West LLP  
 Marcia S. Treadwell  
 Collins & Collins PC  
 Maria A. Trujillo  
 New Mexico Legal Group PC  
 Stormy D. Tuttle  
 Albuquerque, NM  
 Tisha Tu'ua  
 Roswell City Attorney  
 Deena Vallejos  
 Carrillo Law Firm PC  
 Paula E. Vasquez CP  
 NM Local Government Law LLC  
 Mickie L. Vega  
 Lincoln County Magistrate Court Div I  
 Devon B. Westphal  
 Jennings Haug Keleher McLeod  
 Devany D. Whipple CP  
 NM Legal Aid  
 Nicole A. Woodards Ph.D.  
 Law Office of Joel A. Davis  
 Kimberly Zufelt  
 Crotalus Law LLC

**INACTIVE**

Kathleen F. Campbell, ACP Ret.  
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 Linda C. Flores  
 Peggy B. Jones, CLAS  
 John Thomas Logan  
 Aimee S. Powers  
 Linda L. Schilling  
 Deborah R. Tope, RP, CP Ret.  
 Jennifer Van Wiel, CP  
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**2024 Officers**

Meryl Barbere-Sutton, Chair Vacant, Chair-elect  
 Linda Sanders, Immediate Past Chair  
 Madeline Lovato, Secretary  
 Kay L. Homan, CP, Treasurer



**Directors**

Daniel R. Berg (2023-2024)  
 Michelle Jaramillo, CP (2024-2025)  
 Ellice Goldstein (2024-2025)  
 Christy L. Shije (2024-2025)  
 Sandra June-Peterson (2024)  
 Amy Meilander (2024)

**To learn more about the Paralegal Division and to see the qualifications to join, visit our webpage: [www.sbnm.org/paralegals](http://www.sbnm.org/paralegals).**



# ARTURO L. JARAMILLO

## *Summer Law Clerk Program*

The State Bar of New Mexico Committee on Diversity in the Legal Profession wishes to thank the law firms participating in the 2024 Arturo L. Jaramillo Summer Law Clerk Program. **Thanks to these law firms, 21 law students from the University of New Mexico School of Law have had the opportunity to gain valuable clerkship experience this summer.**

- ◆ ACLU-NM
- ◆ Butt, Thornton, & Baehr PC
- ◆ Children, Youth, and Families Department
- ◆ McGinn, Montoya, Love, Curry, and Sievers
- ◆ Montgomery & Andrews, P.A.
- ◆ New Mexico Association of Counties
- ◆ NM Center on Law and Poverty
- ◆ New Mexico Department of Justice
- ◆ New Mexico Immigrant Law Center
- ◆ Peifer, Hanson, Mullins & Baker, P.A.
- ◆ Robles, Rael, and Anaya, P.C.
- ◆ Rodey Law Firm
- ◆ Rothstein Donatelli LLP
- ◆ Roybal-Mack & Cordova, PC
- ◆ Serpe Andrews
- ◆ Sutin, Thayer, and Browne

### Congratulations to the students who were selected for the 2024 program!

Dennis Aragon  
 Rudy Beetly  
 Zoe Blevins  
 Mariela Cisco  
 Brendan Doyle  
 Nicholas Estrada  
 Siboney Green

Marshall Greenlaw  
 Karina Guadarrama  
 Vernon Jamison  
 Katherine Leung  
 Donald Love  
 Cassandra Luna  
 Kaylie Martinez

Aryn Morningstar  
 Danilo Padilla  
 Elise Payette  
 Michael Quintana  
 Kieran Raney  
 Nikko Vallejos  
 Elias Wilson

The Committee would also like to extend a special thank you to the University of New Mexico School of Law for all their help with this program.



State Bar of New Mexico  
Committee on Diversity  
in the Legal Profession







## New Mexico Commission on Access to Justice Expanding and improving civil legal assistance for New Mexicans

@accesstojustice.nmcourts.gov

### New Mexico Supreme Court Commission on Access to Justice

*The New Mexico Access to Justice Commission, as a commission of the New Mexico Supreme Court, sets priorities for civil legal providers around the state, makes recommendations to the Supreme Court to improve court services and troubleshoots legal service issues statewide as they arise.*

<https://accesstojustice.nmcourts.gov/>

## Help With Access to Justice As A Court-Appointed Attorney

As attorneys, we have a professional obligation to provide legal service to those who cannot afford to pay and would otherwise not be able to access the civil justice system. However, thinking about how to accomplish our pro bono work can, at times, be overwhelming as we balance the limitations on time, and financial pressures of trying to keep the lights on. Given these worries, one great way to serve people of modest means and to help ensure that all New Mexicans have access to justice is to volunteer to be a court-appointed attorney. As a court-appointed attorney, the attorney is assigned a role, such a Guardian ad Litem, and acting in that role will perform a task or series of tasks culminating in a recommendation. The court may assign the attorney's fee to a party to the case or, due to indigence or interest of justice, the attorney's fee may be assigned to the Administrative Office of the Courts.

For certain types of civil cases, the law requires the appointment of attorneys to fulfill critical roles in investigating and advising the court. For cases in which the parties are indigent or without the means to pay for an attorney, the New Mexico Judiciary has an established program that oversees such payments. The Court-appointed Attorney Program ("CAAP") is administered by the Administrative Office of the Courts ("AOC") and serves a vital role in ensuring that New Mexicans without the means to pay for attorneys are not denied access to the civil justice system. A court may appoint attorneys that have appeared in their districts or utilize a list provided by CAAP of attorneys who are willing to serve as court-appointed attorneys for indigent parties in various civil matters. Courts may assign attorneys to act in a variety of roles, including as an arm of the court or as an attorney providing direct representation.

#### Types of cases which often require the court to appoint attorneys include:

- Kinship guardianship
- Parentage/Custody
- Mental health and disabilities
- Adoption
- Guardianships/conservatorships
- Some domestic relations matters
- Proceedings where capacity or infancy requires counsel
- And other civil cases when an independent attorney is necessary

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Attorneys who serve as court-appointed attorneys fulfill a vital role, enabling courts to move forward on important cases that may require an attorney, by law, or that might otherwise languish without legal representation. For example, when grandparents are petitioning for kinship guardianship to keep a child safe from parents who are alleged to be abusing substances and not able to safely parent, the court needs an attorney willing to serve as guardian ad litem. The guardian ad litem will interview parties and collateral sources, observe interactions between the child and the parties and evaluate or assess which placement is in the best interest of the child. There are many times, in the course of civil proceedings, when the court cannot do the investigation that is necessary to make a decision. Courts routinely rely on the critical work of court-appointed attorneys to ensure the judge is making the most informed and principled decision in the case, often on behalf of the most fragile members of our communities. The roles of court-appointed attorneys are generally limited in time and directed to a discrete issue to assist the court in reaching a conclusion.

“Many children in our State need the assistance of a court-appointed attorney to represent their interest in high-conflict custody disputes or when family members are caring for children of parents who are struggling. Without attorneys willing to do this work, children who need an attorney to represent their interests will be disadvantaged in our system.”

— Judge Jane Levy, Second Judicial District Court.

## How Does the CAAP Work?

Through the AOC, the CAAP contracts with some attorneys and processes invoice submissions from court-appointed attorneys in New Mexico. If the court does not have an attorney willing to accept an appointment, the CAAP generates a list of willing attorneys in each of the judicial districts for the court to contact. The CAAP does not assign attorneys to cases but assists the courts in identifying those attorneys that the courts can call upon when representation is needed for an adult or minor in need. With the list of attorneys willing to consider a court appointment, courts have a reliable source of attorneys that can be contacted in cases requiring such assistance.

## Can I Get Paid for Being a Court-appointed Attorney?

Yes! Since 1993, the New Mexico Legislature has set aside some funding to pay for lawyers to fill the roles needed on behalf of indigent parties in civil cases. Recently, the hourly rate for these important court-appointed roles has increased. While the compensation is not as high as the hourly rate that is typical in the private sector, receiving some compensation for these appointments can make it easier for a solo practitioner or new lawyer building their practice to get experience, keep the lights on, and do important work on behalf of the State’s most vulnerable populations.

► The payment guidelines are available here:

<https://courtappointedattorneys.nmcourts.gov/non-contract-attorneys/payment-guidelines-forms/>

### How Do I Sign Up?

To sign up with CAAP so that you can be an attorney the court calls upon, you can contact [aoccaaff-grp@nmcourts.gov](mailto:aoccaaff-grp@nmcourts.gov). When you contact the CAAP, include the area of law and judicial districts in which you are interested in participating.

Additional information about the Court-appointed Attorney Program is available here:

<https://courtappointedattorneys.nmcourts.gov/>

*You're Invited!*

New Mexico  
State Bar Foundation

# GOLF Classic



*Golf Registration Is  
NOW OPEN!*

**SEPTEMBER 30, 2024  
Tee Time: 9 a.m. (MT)**

**Tanoan Country Club  
10801 Academy Rd NE  
Albuquerque, N.M. 87111**

► Tournament Players: \$175/player or \$650/foursome

**Register to play at: <https://form.jotform.com/sbnm/GolfClassic>**

*Golf registration closes on September 16.*

*All proceeds benefit the New Mexico State Bar Foundation.*



**Sponsorship opportunities for the New Mexico State Bar Foundation Golf Classic are available!**

Please contact Marcia Ulibarri at 505-797-6058 or [marcia.ulibarri@sbnm.org](mailto:marcia.ulibarri@sbnm.org) for sponsorship information.

Please contact Susan Simons at 505-288-2348 or [susan.simons@sbnm.org](mailto:susan.simons@sbnm.org) with any additional questions about the event.



**New Mexico  
State Bar Foundation**





## Call for Pro Bono Articles & Content

The State Bar of New Mexico is soliciting articles and brief comments regarding what you find most rewarding about doing pro bono work in New Mexico. Please send submissions to Brandon McIntyre at [Brandon.McIntyre@sbnm.org](mailto:Brandon.McIntyre@sbnm.org) for possible inclusion in a future *Bar Bulletin*.



State Bar of  
New Mexico  
Est. 1886

The deadline for submissions is Aug. 30.  
We look forward to your submissions!



State Bar of  
New Mexico  
Est. 1886

### ANNUAL MEETING 2024

## What Inspires You?

*We want to hear from you!*

To highlight the 2024 Annual Meeting's "Be Inspired" theme, we would love to know: **What inspires you?** Please submit short video at a max of 20 seconds or written text about how you stay inspired to [notices@sbnm.org](mailto:notices@sbnm.org), and you will be featured during the Annual Meeting as well as in the *Bar Bulletin* and on the State Bar's social media!

**We look forward to your submissions!**

Please contact [notices@sbnm.org](mailto:notices@sbnm.org) if you have any questions.

When filming the short video, please ensure centered orientation and clear resolution. Please provide your name and contact information when submitting. Submissions will be screened for relevancy and approved by the State Bar of New Mexico.

be  
inspired.



# Opportunities for Pro Bono Service CALENDAR

## August

- 30 Legal Fair**  
In-Person  
New Mexico Legal Aid  
[bit.ly/NMLALegalFairSignUp](https://bit.ly/NMLALegalFairSignUp)  
Location: Los Lunas

## September

- 13 Legal Fair**  
In-Person  
New Mexico Legal Aid  
[bit.ly/NMLALegalFairSignUp](https://bit.ly/NMLALegalFairSignUp)  
Location: Farmington

- 19 Legal Teleclinic**  
In-Person  
New Mexico Legal Aid  
[bit.ly/NMLALegalFairSignUp](https://bit.ly/NMLALegalFairSignUp)  
Location: Virtual

- 27 Legal Fair**  
In-Person  
New Mexico Legal Aid  
[bit.ly/NMLALegalFairSignUp](https://bit.ly/NMLALegalFairSignUp)  
Location: Mora

*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

- 30 Legal Fair**  
In-Person  
New Mexico Legal Aid  
[bit.ly/NMLALegalFairSignUp](https://bit.ly/NMLALegalFairSignUp)  
Location: Los Lunas

## September

- 4 Divorce Options Workshop**  
Virtual  
State Bar of New Mexico  
Call 505-797-6022 to register  
Location: Virtual

- 13 Legal Fair**  
In-Person  
New Mexico Legal Aid  
[bit.ly/NMLALegalFairSignUp](https://bit.ly/NMLALegalFairSignUp)  
Location: Farmington

- 19 Legal Teleclinic**  
Virtual  
New Mexico Legal Aid  
[bit.ly/NMLALegalFairSignUp](https://bit.ly/NMLALegalFairSignUp)  
Location: Statewide

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](mailto:probono@sbnm.org). Include the opportunity's title, location/format, date, provider and registration instructions.

# Clerk's Certificates

From the Clerk of the New Mexico Supreme Court

Elizabeth A. Garcia, Chief Clerk of the New Mexico Supreme Court  
PO Box 848 • Santa Fe, NM 87504-0848 • (505) 827-4860

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## CLERK'S CERTIFICATE OF ADMISSION

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On May 31, 2024:

### Max Baron

100 Longneedle Ct  
Raleigh, NC 27603-3894  
(954) 801-6035  
maxbaron97@aol.com

### Brandy Baxter-Thompson

500 N Akard St Ste 2150  
Dallas, TX 75201-6654  
(214) 217-2427  
brandy@b-tlaw.com

### Andrew Bradley Beck

4910 Lakeridge Dr  
Lubbock, TX 79424-4006  
(806) 283-6734  
andrew@becklawfirm.net

### Joseph Allen Beeler

Sadler Law Group PLLC  
4605 Post Oak Place Dr  
Ste 205  
Houston, TX 77027-9761  
(713) 828-4859  
jbeeler@sadlerlaw.com

### Caitlin Boehne

Kaplan Law Firm  
2901 Bee Caves Rd Ste G  
Austin, TX 78746-5570  
(505) 433-7427  
cboehne@kaplanlawtx.com

### Ray A. Bola

31 Schley St  
Newark, NJ 07112-1124  
(862) 576-2308  
ray93bola@gmail.com

### Chris Marie Borunda

310 N Mesa St Ste 700  
El Paso, TX 79901-1320  
(915) 320-4966  
cborunda@rbchfirm.com

### Benjamin J. Brown

Charney Brown LLC  
233 S Detroit Ave Ste 100  
Tulsa, OK 74120-2406  
(918) 779-6047  
bbrown@charneybrown.com

### Sarah A. Brunswick

Bowman and Brooke LLP  
2929 N Central Ave Ste 1900  
Phoenix, AZ 85012-2721  
(602) 643-2339  
sarah.brunswick@bowmanand-  
brooke.com

### Luke Burton

5113 Hanover St  
Lubbock, TX 79416-1238  
(505) 217-4841  
luke.burtonNM@gmail.com

### Casey C. Campbell

Schell Cooley Campbell LLP  
16415 Addison Rd Ste 700  
Addison, TX 75001-3266  
(214) 665-2053  
cccampbell@schellcooley.com

### Ian William Carmen

1712 Pearl St  
Boulder, CO 80302-5517  
(303) 402-1600  
ian.carmen@bhgrlaw.com

### Courtney Ann Carter

PO Box 9339  
Portland, OR 97207-9339  
(503) 789-6704  
courtney@courtneycarterlaw.  
com

### Ashley Cedillo

Loncar Lyon Jenkins  
5770 Gateway Blvd E  
El Paso, TX 79905-1805  
(915) 595-4898  
acedillo6@gmail.com

### Lelia Kathleen Chaney

4949 S Syracuse St Ste 600  
Denver, CO 80237-2747  
(303) 799-8889  
kchaney@lclaw.net

### Jacob Charney

Charney Brown LLC  
233 S Detroit Ave Ste 100  
Tulsa, OK 74120-2406  
(918) 779-6047  
jcharney@charneybrown.com

### Hannah Marie Clayshulte

Gluth Law  
2455 Missouri Ave Ste C  
Las Cruces, NM 88001-5122  
(577) 556-8849  
hannah@gluthlaw.com

### Megain I. Comanche

6120 Swiss Ave # 1411595  
Dallas, TX 75214-0010  
(214) 893-1530  
megaincomanche@yahoo.com

### Sarah E. Coughlon

1008 NW 45th St Unit 2  
Oklahoma City, OK 73118-  
6438  
(918) 671-4157  
sarahcoughlon62@gmail.com

### Colin Scott Cox

Center for Biological Diversity  
PO Box 31417  
Santa Fe, NM 87594-1417  
(832) 316-0580  
choyleefut@gmail.com

### Clarissa Lizette De La Torre

5177 Richmond Ave Ste 130  
Houston, TX 77056-6727  
(713) 955-3110  
clarissa@clarissadelatorrelaw.  
com

### Madelyn Joy Deviney

Field Manning Stone  
Aycock PC  
2112 Indiana Ave  
Lubbock, TX 79410-1444  
(806) 792-0810  
mdeviney@lubbocklawfirm.  
com

### Ryan Michael Donihue

Hall Booth Smith PC  
191 Peachtree St NE Ste 2900  
Atlanta, GA 30303-1775  
(404) 954-5000  
rdonihue@hallboothsmith.com

### Gaylen Vincent Edmo

PO Box 367  
Fort Hall, ID 83203-0367  
(208) 560-9021  
edmogaylen@gmail.com

### Mark Zuriel Escamilla

12419 W Beaupre Point Dr  
Houston, TX 77015-3300  
(832) 889-1452  
mark@zuri-investigations.com

### Ayana Isabella Estrada

3116 E Rose Rd  
Hobbs, NM 88242-0536  
(575) 631-5506  
ayanaisabellaestrada@outlook.  
com

### Ashleigh Nicole Fixico

PO Box 694  
Sapulpa, OK 74067-0694  
(405) 584-1474  
anfixico@gmail.com

### Michael Vernard Foster

The Law Office of Michael V.  
Foster PLLC  
3620 Ascot Ln  
Houston, TX 77092-8302  
(713) 825-5255  
foster@foster.law

### Scott Frase

777 Post Oak Blvd Ste 450  
Houston, TX 77056-3221  
(713) 520-2500  
sfrase@perdueandkidd.com

### Rebecca M. Garza

District Attorney's Office of  
Webb County  
701 Widener Ln  
Laredo, TX 78041  
(956) 693-3577  
rebecca.garza16@yahoo.com

### Alexis Rae Gonzales

3801 Mordor Cv  
Austin, TX 78739-5705  
(512) 914-1002  
alexisgonzalesr@gmail.com

### Paige Anne Loureee Goins

2608 Stonewall St  
Greenville, TX 75401  
(214) 957-1814  
paige@scottraylaw.com

### Gregory Haller

3830 SE Kelly St  
Portland, OR 97202-1745  
(208) 790-4105  
bugskater@gmail.com



**Kiana N. Harris**  
PO Box 18152  
Boulder, CO 80308-1152  
(503) 888-6015  
kikinoelle@gmail.com

**Dominique Hawkins**  
Dore Rothberg Law PC  
16225 Park Ten Pl Ste 700  
Houston, TX 77084-5154  
(281) 987-4056  
dhawkins@dorelaw.com

**Aaron Helmberger**  
Hall and Evans LLC  
1001 17th St Ste 300  
Denver, CO 80202-2084  
(303) 628-3370  
helmbergera@hallevans.com

**Daniel Gabriel Herrera**  
500 Airport Rd  
La Grange, TX 78945-5070  
(979) 716-9646  
danielgherrerlaw@gmail.com

**Steven Paul Hollander**  
222 N La Salle St  
Chicago, IL 60601-1003  
(516) 445-5919  
shollanderaoic@gmail.com

**Catherine Hutwagner**  
Sparks Willson PC  
24 S Weber St Ste 400  
Colorado Springs, CO  
80903-1928  
(719) 634-5700  
cjh@sparkswillson.com

**Isaac Jeantete**  
74 Mutt Nelson Rd  
Santa Fe, NM 87507-4307  
(505) 690-3822  
jeanteteisaac@gmail.com

**Kyle Jones**  
Freeman Mills PC  
801 Cherry St Ste 1025  
Fort Worth, TX 76102-6811  
(682) 316-1677  
kjones@freemanmillspc.com

**Brendan James Keegan**  
1761 N Young Cir Ste 328 # 3  
Hollywood, FL 33020-4663  
(206) 979-7797  
brendan.james.keegan@gmail.com

**Aaqib S. Khan**  
Salcedo and Company  
2990 N Main St Ste 2D  
Las Cruces, NM 88001-1195  
(281) 725-4971  
aaqib@salcedoco.com

**Brandon L. King**  
98 San Jacinto Blvd Fl 19  
Austin, TX 78701-4082  
(512) 469-6129  
brandonlenking@gmail.com

**Ashley Kisner**  
Clark Hill PLC  
901 Main St Ste 6000  
Dallas, TX 75202-3748  
(214) 651-4818  
akisner@clarkhill.com

**Kristine M. Larsen**  
36 S State St Ste 1400  
Salt Lake City, UT 84111-1451  
(801) 323-3311  
klarsen@rqn.com

**Pearl Yea eun Lee**  
Cohen Forman Barone LLP  
950 3rd Ave Fl 11  
New York, NY 10022-2775  
(934) 227-9179  
pearl@cfblaw.com

**Jason LeRoy**  
3443 N Campbell Ave Ste 155  
Tucson, AZ 85719-2472  
(520) 529-3600  
jason.leroy@bursej.org

**Andrew J. Lewis**  
224 Canyon Ave Unit 200  
Fort Collins, CO 80521-2771  
(970) 498-7450  
lewisaj@co.larimer.co.us

**Zachary David Long**  
3223 S Loop 289 Ste 230  
Lubbock, TX 79423-1332  
(806) 705-8629  
zlong@hubcitylawoffice.com

**Alex Marlow**  
700 N Pearl St Fl 25  
Dallas, TX 75201-2824  
(361) 571-8491  
alex@mkmarlow.com

**Brandon Lee Martin**  
Martin Legal Group PLLC  
4925 Greenville Ave Ste 440  
Dallas, TX 75206-4051  
(972) 370-3220  
bmartin@martinpllc.com

**Grecia A. Martinez**  
Ryan LLC  
221 Nine Mile Rd  
Santa Fe, NM 87508-9379  
(210) 701-4758  
grecia.martinez@aol.com

**Brett Gerard McAteer**  
Vizient Inc  
290 E John Carpenter Fwy  
Irving, TX 75062-2730  
(520) 551-5381  
brettmcaateer@hotmail.com

**John Molera**  
2135 Spruce St Apt 1  
Boulder, CO 80302-4546  
(469) 247-1495  
jmolera20@law.du.edu

**Kristin Elaine Newman**  
1604 8th Ave  
Fort Worth, TX 76104-4114  
(817) 480-5877  
knewman@andersonriddle.com

**Adam Nichols**  
Liles White PLLC  
500 N Water St Ste 800  
Corpus Christi, TX 78401-0248  
(361) 826-0100  
adam@lileswhite.com

**Taylor R. Norman**  
100 E California Ave Ste 200  
Oklahoma City, OK  
73104-2415  
(405) 824-5152  
tmorman.law@gmail.com

**David Joseph Nunez**  
Valenzuela Law Firm  
779 Lanner Dr  
El Paso, TX 79928-4410  
(915) 328-0885  
djnunez@utexas.edu

**Nneka Okafor**  
2626 Raven Falls Ln  
Friendswood, TX 77546-6072  
(832) 515-2751  
nnnxy@gmail.com

**Vanessa Rae Ortega**  
1100 Lomas Blvd NW Ste 3  
Albuquerque, NM 87102-1878  
(602) 657-1336  
vortega@ellisandortega.com

**Gillian Hilbers Poirot**  
4141 Emerson Ave  
Dallas, TX 75205-1144  
(214) 392-2483  
gillianpoirot@utexas.edu

**Mike Pratt**  
National Technology  
and Engineering Solutions  
of Sandia LLC  
PO Box 5800  
Albuquerque, NM 87185-0100  
(505) 845-0350  
mlpratt@sandia.gov

**Vanessa Valeria Rascon  
Aguilar**  
16923 W Hilton Ave  
Goodyear, AZ 85338-7396  
(623) 523-2849  
vrasconaguilar@gmail.com

**Pablo E. Rivera**  
Rivera Hernandez  
Campos PLLC  
5835 Callaghan Rd Ste 503  
San Antonio, TX 78228-1125  
(210) 922-8541  
rivera@rhc.law

**Victoria A. Roberts**  
1650 N 87th Ter Unit 16A  
Scottsdale, AZ 85257-2480  
(601) 946-0688  
torirobertspersonal@gmail.com

**Kevin Marshall Sadler**  
3278 Monte Sereno Dr  
Santa Fe, NM 87506  
(512) 415-5704  
kevin.sadler@bakerbotts.com

**Lillian Ariadna Sanchez  
Porras**  
221 N Kansas St Ste 2700  
El Paso, TX 79901-1443  
(915) 929-0907  
lillian.sanchezporras@kempsmith.com

**Mark Eugene Sawicki**  
Mark E. Sawicki PA  
1007 Key Largo St  
Jupiter, FL 33458-8274  
(516) 987-6543  
mark@sawickilaw.com

**Tiffany Sheppard**

The Carlson Law Firm  
4282 S Jackson St  
San Angelo, TX 76903-9335  
(325) 238-4322  
tsheppard@carlsonattorneys.com

**Chloe Rose Shrode**

Guerra LLP  
875 E Ashby Pl Ste 1200  
San Antonio, TX 78212-4119  
(210) 557-0500  
cshrode@guerrallp.com

**Thomas Christian Sigler**

5719 Warm Springs Rd  
Houston, TX 77035-2425  
(713) 582-0311  
tcsigler@yahoo.com

**Laura Anne Smith**

The Carlson Law Firm  
11606 N Interstate 35  
Austin, TX 78753-2209  
(512) 719-4362  
lsmith@carlsonattorneys.com

**Greta Marie Smolnisky**

PO Box 351  
Moorhead, MN 56561-0351  
(320) 247-8377  
gsmolnisky@gmail.com

**Jordanna Sutton Stephens**

1115 Broadway  
Lubbock, TX 79401-3303  
(806) 763-9377  
jstephens@fchclaw.com

**William Ryan Talmage**

PO Box 3184  
Parker, CO 80134-1430  
(720) 841-7681  
wr\_talmage@outlook.com

**Amanda Todd**

Kirton McConkie  
301 N 200 E Ste 3A  
Saint George, UT 84770-3041  
(916) 303-6375  
atodd@kmclaw.com

**Travis James Trott**

2575 W 24th St Apt 131  
Yuma, AZ 85364-6065  
(843) 708-1167  
t-trott@onu.edu

**Timothy Truong**

808 Travis St Ste 1625  
Houston, TX 77002-5706  
(713) 489-4620  
ttruong@gmail.com

**Aaron Baldwin Tucker**

555 17th St Ste 3200  
Denver, CO 80202-3921  
(303) 295-8369  
abtucker@hollandhart.com

**Rafael R. Valbuena**

The Valbuena Law Firm PLLC  
11300 N Central Expy Ste 604  
Dallas, TX 75243-6714  
(972) 523-2164  
rafaelvalbuena@gmail.com

**Felix Valenzuela**

Valenzuela Law Firm  
701 Magoffin Ave  
El Paso, TX 79901-2507  
(915) 209-2719  
felix@valenzuela-law.com

**Victor Vazquez**

7901 Cambridge St  
Houston, TX 77054-3050  
(915) 412-1887  
jurisvic@gmail.com

**Megan E. Veach**

Montezuma Combined District Court  
319 W Montezuma Ave  
Cortez, CO 81321-2749  
(831) 295-0445  
meveach@gmail.com

**Viktor Amir Noel Grimm Vilt**

1401 New York Ave NE Apt 400  
Washington, DC 20002-1791  
(281) 726-6413  
avilt98@gmail.com

**Alyssa Paige Wickern**

McCoy Leavitt Laskey  
20726 Stone Oak Pkwy  
Unit 116  
San Antonio, TX 78258-7552  
(210) 446-2828  
awickern@mlllaw.com

**Clara A.M. Williams**

437 Maple St NE  
Albuquerque, NM 87106-4559  
(347) 731-3558  
clarawilliamshq@gmail.com

**Tim Clark Williams**

Sprouse Shrader Smith PLLC  
701 S Taylor St Ste 500  
Amarillo, TX 79101-2424  
(806) 468-3346  
tim.williams@sprouselaw.com

**Michael Zant**

7029 101st St  
Lubbock, TX 79424-3925  
(432) 559-6504  
mjzant@zantpllc.com

**Brian Henry Zygo**

Amini Law Firm PLLC  
1801 Hardy St  
Houston, TX 77026-7168  
(713) 703-4868  
brian.zygo@gmail.com

---

**CLERK'S CERTIFICATES  
OF REINSTATEMENT TO  
ACTIVE STATUS**


---

Effective May 22, 2024:

**Heather Lynn Cannon**  
P.O. Box 280389  
Lakewood, CO 80228

Effective May 31, 2024:

**Alejandra Gerardo**  
300 N. Main Ave., Suite 203  
Tucson, AZ 85701  
Effective June 6, 2024:

Henry J. Castillo  
503 Slate Ave NW  
Albuquerque, NM 87102

Effective June 21, 2024:

Colleen C. Adams  
1575 Wynkoop Street  
Denver, CO 80202

Effective June 24, 2024:

Keri Lisa Hatley  
1048 Paseo de Peralta  
Santa Fe, NM 87501

**Claudia J. Joseph**

P.O. Box 6425  
Santa Fe, NM 87502

**Richard R. Salazar, Jr.**

8211 San Juan Rd., N.E.  
Albuquerque, NM 87108

**Allison Schumacher Smithkier**

P.O. Box 2268  
Santa Fe, NM 87504

**Elizabeth A. Trickey**

PO Box 788  
Santa Fe, NM 87504

Effective July 1, 2024:

**Kathryn L. Eaton**  
P.O. Box 70427  
Albuquerque, NM 87197

Effective July 16, 2024:

**Germaine R. Chappelle**  
4000 30th St  
Farmington, NM 87402

Effective July 24, 2024:

**Patrick J. Redmond**  
1400 Independence Avenue  
Washington, DC 20250

---

**CLERK'S CERTIFICATE OF  
LIMITED ADMISSION**


---

On June 7, 2024:

**Rebecca McKernan Guay**  
403 S. Hanson Street  
Easton, Maryland 21601  
rebeccamckernanguay@gmail.com

**Nathan Nicholas Hodgkins**

New Mexico Legal Aid  
1124 N. Gold St.  
Silver City, NM 88061  
nathan@nmlegalaid.org

**Avian Tsunning Kleine**

2000 Wyoming Blvd., SE  
Kirtland AFB, NM 87123  
avianakleine@gmail.com

**Travis Patrick Weiner**

Law Office of the Public  
Defender  
301 N. Guadalupe Street  
Santa Fe, NM 87501  
505-395-2888

On June 25, 2024:

**Evan Brian Crocker**  
9308 Yvonne Marie Dr. NW  
Albuquerque, NM 87114  
evanbcrocker@gmail.com

**Yvonne Zylan**

5114 Guadalupe Trl. NW  
Albuquerque, NM 87107  
yvonnezylan@outlook.com

On July 18, 2024:

**Morgan Leslie Foster**  
720 S. 304th St.  
Federal Way, Washington  
98003  
Morgan.l.m.foster@gmail.com

**Gene Allen Franco**

111 Lomas Blvd #501  
Albuquerque, NM 87102  
Allen\_franco@fd.org

**William Joseph Grigg**  
1573 Kachina Ridge. Dr.  
Santa Fe, NM 87507  
Wjgrigg@gmail.com

**Brio Porter Newton**  
409 4th St. NW  
Altoona, IA 50009  
Gabriel.porter.law@gmail.com

---

**CLERK'S CERTIFICATE  
OF CHANGE TO INACTIVE  
STATUS**

---

Effective April 30, 2024:  
**Frank Allan Demolli**  
6001 Pyrenees Ct NW  
Albuquerque, NM 87114-6149

**Thomas Rhea Fussell Jr.**  
3626 Lakeside Dr Apt A  
Rockwall, TX 75087-5366

**Harris L. Hartz**  
201 3rd St NW Ste 1870  
Albuquerque, NM 87102-4391

**Judith C. Herrera**  
333 Lomas Blvd NW Ste 710  
Albuquerque, NM 87102-2277

**Myung Sub Lee**  
1224 Lake Pointe Way  
Richardson, TX 75080-8409

**Michael W. Pierson**  
PO Box 51416  
Albuquerque, NM 87181-1416

**Donald M. Shawler**  
500 N Richardson Ave Ste 167  
Roswell, NM 88201-4761

**Gregory Blake Wormuth**  
100 N Church St Ste 530  
Las Cruces, NM 88001-3572

Effective May 1, 2024:  
**Christina Armijo**  
US District Court  
333 Lomas Blvd NW Ste 800  
Albuquerque, NM 87102-3270

**Catherine Beckett**  
4805 Briarwood Ave Apt P206  
Midland, TX 79707-2684

**Camille L. Call**  
6126 S de Mello St  
Hereford, AZ 85615-5600

**Bianca M. Duran**  
4610 Fairfax Dr NW  
Albuquerque, NM 87114-4116

**Norbert J. Garney**  
US District Court  
525 Magoffin Ave Rm 551  
El Paso, TX 79901-2590

**David C. Harrison**  
Law Offices  
of David C Harrison  
4833 Charlotte Ct NE  
Albuquerque, NM 87109-3009

**John M. Hickey**  
806 Camino Zozobra  
Santa Fe, NM 87505-6101

**Matthew C. Ivers**  
3833 N Canyon Rd  
Provo, UT 84604-4532

**Keydra Cherrelle Jones**  
PO Box 300966  
Houston, TX 77230-0966

**Bruce R. Kite**  
4440 Los Arboles Dr  
Las Cruces, NM 88011-0901

**Stephanie Cecilia Lavayen**  
PO Box 7053  
Beverly, MA 01915-0090

**Bryan Dewees Mackay**  
5050 E University Blvd Ste 1  
Odessa, TX 79762-8100

**Colin McKenzie**  
2733 E Elm St  
Tucson, AZ 85716-3513

**Philemon Lamont Norris**  
PO Box 153833  
San Diego, CA 92195-3834

**Norman Antonio Stiteler**  
218 Ashley Ln  
Corrales, NM 87048-8923

**William Hugh Talbert**  
6320 Brookside Plz Ste 588  
Kansas City, MO 64113-1709

Effective May 22, 2024:  
**John E. DuBois**  
933 San Mateo Blvd NE  
Ste 500-175  
Albuquerque, NM 87108-1470

**Richard N. Feferman**  
300 Central Ave SW  
Ste 2000W  
Albuquerque, NM 87102-3203

Effective June 1, 2024:  
**Bill B. Caraway**  
500 W Texas Ave Ste 1200  
Midland, TX 79701-4203

**Stephen Eugene Lucey III**  
500 E San Antonio Ave  
El Paso, TX 79901-2419

**Torry McFall**  
6904 Suerte Pl NE  
Albuquerque, NM 87113-1965

Effective June 20, 2024:  
**Shana Siegel Baker**  
2300 N Ridgetop Rd  
Santa Fe, NM 87506-8361

**Sonal Bhatia**  
4600 Madison Ave Ste 810  
Kansas City, MO 64112-1237

**Patrick Jeremiah Butler**  
35 Mohawk Dr  
Trumbull, CT 06611-2538

**Joseph B. Coffey**  
2500 Garfield Ave SE Ste E  
Albuquerque, NM 87106-3605

**Claire L. Cook**  
2200 Ross Ave Ste 2800  
Dallas, TX 75201-2750

**Lance Bobby Dike**  
60 L St NE Apt 203  
Washington, DC 20002-2060

**Gregory J. Fouratt**  
100 N Church St Ste 550  
Las Cruces, NM 88001-3572

**Wyatt A. Griffis**  
750 Bering Dr Ste 600  
Houston, TX 77057-2278

**Johan-Charls Jarden Holter**  
808 West Ave  
Austin, TX 78701-2208

**Daniel Christopher Johns**  
39899 Balentine Dr Ste 200  
Newark, CA 94560-5361

**Peter Arthur McClenahan**  
1700 N Lincoln St Ste 2700  
Denver, CO 80203-4515

**Richard L. Puglisi**  
300 Ala Moana Blvd Rm C338  
Honolulu, HI 96850-4971

**Imelda Marta Sarnowicz**  
8705 Plymouth St Apt 6  
Silver Spring, MD 20901-4049

**Cassidy R. Sissung**  
8400 E Crescent Pkwy Fl 6  
Greenwood Village, CO  
80111-2831

Effective July 24, 2024:  
**Angelo J. Artuso**  
PO Box 1504  
Las Cruces, NM 88004-1504

**Paul E. Frye**  
11009 Country Clb NE  
Albuquerque, NM 87111-6550

**Shawn Rosado Mathis**  
3101 Old Pecos Trl Unit 202  
Santa Fe, NM 87505-9086

**Catherine Baker Stetson**  
1305 Rio Grande Blvd NW  
Albuquerque, NM 87104-2696

**R. E. Thompson**  
10004 Doral Ct NE  
Albuquerque, NM 87111-5826

**Abigail Marrs Yates**  
5809 Padre Roberto Rd NW  
Albuquerque, NM 87107

Effective July 24, 2024:  
**Angelo J. Artuso**  
PO Box 1504  
Las Cruces, NM 88004-1504

**Paul E. Frye**  
11009 Country Clb NE  
Albuquerque, NM 87111-6550

**Shawn Rosado Mathis**  
3101 Old Pecos Trl Unit 202  
Santa Fe, NM 87505-9086

**Catherine Baker Stetson**  
1305 Rio Grande Blvd NW  
Albuquerque, NM 87104-2696

**R. E. Thompson**  
10004 Doral Ct NE  
Albuquerque, NM 87111-5826

**Abigail Marrs Yates**  
5809 Padre Roberto Rd NW  
Albuquerque, NM 87107



---

**CLERK'S CERTIFICATE OF  
CHANGE TO WITHDRAWN  
STATUS**

---

Effective May 10, 2024:  
**CB Dubovich Baga**  
600 17th St Ste 26255  
Denver, CO 80202-5402

**Terri S. Beach**  
13305 Pine Forest Pl NE  
Albuquerque, NM 87111-8212

**Mary Ann R. Burmester**  
NM Divorce  
& Custody Law LLC  
2727 San Pedro Dr NE Ste 114  
Albuquerque, NM 87110-3364

**Lisa Cummings**  
54B Blue Canyon Trl  
Santa Fe, NM 87507-9687

**Tila Fleming Hoffman**  
34B Masterton Road  
Auckland, 0630  
New Zealand

**Muniza Samiullah**  
6306 Granada Way  
San Antonio, TX 78257-1733

**Bradley D. Tepper**  
104 Mallard Ln  
Georgetown, TX 786333

**Lisa R. Weisenfeld**  
3580 Flagstone Cir  
Middleton, WI 53562

---

**IN MEMORIAM**

---

As of June 7, 2023:  
**Kerry M. Comiskey**  
304 S. Puerco Drive  
Gallup, NM 87301

As of December 10, 2023:  
**Gerald L. McManus**  
2331 Westside Blvd. SE,  
Apt. 210  
Rio Rancho, NM 87124

As of January 27, 2024:  
**Val R. Jolley**  
250 E. Center Street #305  
Orem, UT 84057

As of April 13, 2024:  
**James L. Brandenburg**  
715 Tijeras NW  
Albuquerque, NM 87102

As of May 1, 2024:  
**Gerald Haig Chakerian**  
434 N. Hanover  
Hershey, PA 17033

As of May 4, 2024:  
**David W. Bunting**  
P.O. Box 1888  
Albuquerque, NM 87103

As of May 13, 2024:  
**Stephen M. Rappoport**  
989 Waterman Avenue  
East Providence, RI 02914

As of May 14, 2024:  
**John Wentworth**

As of May 17, 2024:  
**Victor R. Ortega**  
P.O. Box 2307  
Santa Fe, NM 87504

**Rex Denton Throckmorton**  
201 Laguna Blvd., S.W.  
Albuquerque, NM 87104

As of May 21, 2024:  
**Douglas Barry Stone**  
P.O. Box 1778  
Roswell, NM 88202

As of May 23, 2024:  
**Betty Read**  
5025 Constitution Ave., N.E.  
Albuquerque, NM 87110

---

**CLERK'S CERTIFICATE OF  
INDEFINITE SUSPENSION  
FROM MEMBERSHIP IN  
THE STATE BAR OF NEW  
MEXICO**

---

Effective July 9, 2024:  
**Ruben L. Reyes**  
21452 N 34th Dr.  
Phoenix, AZ 85027  
602-358-9845  
rlr@rubenluisreyes.com

---

**CLERK'S CERTIFICATE OF  
NAME CHANGE**

---

As of July 18, 2024:  
**Britt Marie Baca f/k/a  
Britt Marie Baca-Miller**  
P.O. Box 488  
Albuquerque, NM 87103

**Kendall M. Dise f/k/a  
Kendall M. Barnett**  
6221 Carruthers Street N.E.  
Albuquerque, NM 87111

**Lauren Elizabeth Simmons  
f/k/a  
Lauren Elizabeth Spann**  
4411 98th Street Suite 400  
Lubbock, TX 79424

# Advance Opinions

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

From the New Mexico Supreme Court

From the New Mexico Supreme Court

**Opinion Number: 2024-NMSC-015**

No: S-1-SC-39225 (filed April 1, 2024)

**AZTEC MUNICIPAL SCHOOLS and CCMSI,**

Employer/Insurer-Petitioners,

v.

**ANA LILIA CARDENAS,**

Worker-Respondent.

**ORIGINAL PROCEEDING ON CERTIORARI**

Reginald Woodard, Workers' Compensation Administration Judge

Allen, Shepherd & Lewis, P.A.

Joshua A. Collins

Katrina Bagley Brown

Albuquerque, NM

for Petitioners

Titus & Murphy Law Firm

Victor A. Titus

Farmington, NM

for Respondent

Michael B. Browde

David J. Stout

Albuquerque, NM

for Amicus Curiae New Mexico Trial  
Lawyers Association

## OPINION

### ZAMORA, Justice.

{1} We are called upon to review the constitutionality of provisions in the Workers' Compensation Act (the Act) which treat workers with mental impairments differently than workers with physical impairments. We address whether the compensation limit imposed by the Act on the duration of disability benefits for a secondary mental impairment violates the equal protection clause of the New Mexico Constitution. *See* N.M. Const. art. II, § 18 ("No person shall be . . . denied equal protection of the laws."). We hold that it does, and while we affirm the Court of Appeals, we also clarify that our analysis of the relevant provisions of the Workers' Compensa-

tion Act does not include the use of a term coined by the Court of Appeals, which incorrectly refers to subsequent physical impairments as "secondary physical impairments."

#### I. BACKGROUND

{2} The facts are undisputed. Ana Lilia Cardenas (Worker) injured her knee in the course of her employment as a special education teacher. As a result, she has a physical impairment to her knee and a secondary mental impairment, both caused by her knee injury.

{3} The Workers' Compensation Judge awarded Worker permanent partial disability (PPD) benefits for her knee injury (a scheduled injury) for a duration of 150 weeks. *See* NMSA 1978, § 52-1-43(A)(30) (2003) (limiting the compensation benefits a worker may receive for a knee injury to 150 weeks). The Act limits the maximum

period of PPD benefits for a secondary mental impairment to "the maximum period allowable for the disability produced by the physical impairment." NMSA 1978, § 52-1-42(A)(4) (2015). Since the initial physical impairment was to the knee, the Workers' Compensation Judge limited Worker's recovery for her secondary mental impairment to the maximum benefit duration allowed for the knee, which is 150 weeks. *See* § 52-1-43(A)(30).

{4} Worker appealed, arguing that limiting the duration of allowable benefits for secondary mental impairments to the maximum allowable duration of benefits for the original physical impairment violates the equal protection clause of the New Mexico Constitution. *Cardenas v. Aztec Mun. Schs. & CCMSI*, 2022-NMCA-038, ¶ 1, 516 P.3d 169. As she did in the administrative hearing, Worker asserts that equal protection is violated because subsequent physical impairments, unlike secondary mental impairments, are assessed as separate and distinct injuries. Further, the duration of allowable benefits for subsequent physical impairments is not determined by the maximum duration of benefits for the original physical impairment as it is for secondary mental impairments. The Court of Appeals agreed and held that NMSA 1978, Section 52-1-41(C) (2015) (addressing compensation benefits for permanent total disability) and Section 52-1-42(A)(4) (addressing compensation benefits for permanent partial disability) violate the equal protection clause of the New Mexico Constitution because the duration of compensation for workers who have secondary mental impairments is determined differently than it is for workers with subsequent physical impairments. *Cardenas*, 2022-NMCA-038, ¶¶ 1, 2.

{5} We granted certiorari to determine whether Section 52-1-41(C) and Section 52-1-42(A)(4) of the Workers' Compensation Act violate the equal protection clause of the New Mexico Constitution. In support of its certiorari petition, Aztec Municipal Schools and its insurer CCMSI (collectively Employer) also argue that the Court of Appeals incorrectly invented a new category of impairment not contained in the Act, that of "secondary physical impairment."<sup>1</sup>

#### II. STANDARD OF REVIEW

{6} We review both a workers' compensation judge's application of the law to the facts and the constitutionality of legislation de novo. *Dewitt v. Rent-A-Center, Inc.*,

<sup>1</sup> Employer also asserts that there is a conflict in the Court of Appeals between *Gold v. Armand Hammer United World Coll.*, A-1-CA-36052, mem. op. (N.M. Ct. App. Sept. 18, 2018) (non-precedential), and its opinion in this case. We need not address this assertion because unpublished Court of Appeals opinions have no precedential value. *See* Rule 12-405(A) NMRA; *Gormley v. Coca-Cola Enters.*, 2004-NMCA-021, ¶ 10, 135 N.M. 128, 85 P.3d 252 (noting that "an unpublished opinion of this Court is of no precedential value").

2009-NMSC-032, ¶ 14, 146 N.M. 453, 212 P.3d 341; *Rodriguez v. Brand W. Dairy*, 2016-NMSC-029, ¶ 10, 378 P.3d 13. We presume that legislation is constitutional and do not “question the wisdom, policy, or justness of [statutes] enacted by our Legislature.” *Rodriguez*, 2016-NMSC-029, ¶ 10 (internal quotation marks and citation omitted). However, when parties allege that a statute enacted by the Legislature unconstitutionally discriminates against them, we must decide the merits of the allegations. *Id.* ¶ 2. Were we to do otherwise, we would be “shrinking from [our] responsibilities as an independent branch of government” to safeguard constitutional rights. *Id.*

### III. SUBSEQUENT PHYSICAL IMPAIRMENTS ARE COMPENSABLE REGARDLESS OF THE TERM USED BY THE COURT OF APPEALS

{7} Before beginning our equal protection analysis, we note that the Court of Appeals coined the term “secondary physical impairment” to describe a subsequent physical impairment caused by a compensable work-related injury. *Cardenas*, 2022-NMCA-038, ¶ 1; see also *Baca v. Complete Drywall Co.*, 2002-NMCA-002, ¶¶ 16, 26, 131 N.M. 413, 38 P.3d 181. The Court of Appeals did this to analyze whether the Act unconstitutionally discriminates against a class of similarly situated individuals. Although the Court of Appeals acknowledges at the outset that the Act does not use that terminology, *Cardenas*, 2022-NMCA-038, ¶ 1 n.2, its use of this non-statutory term distracts from the requisite constitutional analysis.

{8} Employer seizes on the term “secondary physical impairment” and argues that the Court of Appeals created a new category of impairment that contradicts the language of the Act and justifies reversal because the Act nowhere references “secondary physical impairments.” We disagree. The Act provides compensation for subsequent physical impairments that are caused by compensable work-related injuries. *Baca*, 2002-NMCA-002, ¶¶ 24, 26, and Employer “has never argued for *Baca* and all other subsequent physical injury cases to be overturned or reversed.” Thus, the term coined by the Court of Appeals is far from a fatal flaw in its constitutional analysis. Still, Employer not unreasonably questions the use of the term “secondary physical impairment” and asks us to clarify that the Act does not reference or define the term “secondary physical impairment”

and that the term has no precedential value. We agree that the term coined by the Court of Appeals is inaccurate, and as such, it should be avoided in analyzing Worker’s equal protection claim, or in any future analysis of the Worker’s Compensation Act. We turn now to our constitutional analysis.

**IV. EQUAL PROTECTION ANALYSIS** {9} The equal protection clause of the New Mexico Constitution provides that no person shall be denied equal protection of the laws. N.M. Const. art. II, § 18. This constitutional provision mandates that similarly situated individuals be treated alike, absent a sufficient reason to justify disparate treatment. *Wagner v. AGW Consultants*, 2005-NMSC-016, ¶ 21, 137 N.M. 734, 114 P.3d 1050. The equal protection clause prohibits the government from “creating statutory classifications that are unreasonable, unrelated to a legitimate statutory purpose, or are not based on real differences.” *Breen v. Carlsbad Mun. Schs.*, 2005-NMSC-028, ¶ 7, 138 N.M. 331, 120 P.3d 413 (internal quotation marks and citation omitted).<sup>2</sup>

{10} There are three steps to our equal protection analysis. *Rodriguez*, 2016-NMSC-029, ¶ 9. We first identify whether the legislation in question creates a class of similarly situated individuals who are treated differently. *Id.* If so, we “determine the [appropriate] level of scrutiny that applies to the challenged legislation.” *Id.* (internal quotation marks and citation omitted). We conclude our analysis by “applying the appropriate level of scrutiny to determine whether the legislative classification is constitutional.” *Id.* (internal quotation marks and citation omitted).

#### A. Workers with Secondary Mental Impairments Are Similarly Situated to Workers with Subsequent Physical Impairments and Are Treated Dissimilarly

{11} The threshold question in our equal protection analysis is “whether the legislation creates a class of similarly situated individuals who are treated dissimilarly.” *Breen*, 2005-NMSC-028, ¶ 10. There is no dispute that Worker is permanently partially disabled and is entitled to benefits for both her initial physical knee injury and her secondary mental impairment. Worker contends she is similarly situated to other workers who have a subsequent physical impairment resulting from the original work-related injury but is treated dissimilarly. She bases her claim on provisions of the Act that establish a different method

for determining the duration of benefits for secondary mental impairments than that used to determine the duration of benefits for subsequent physical impairments. {12} The Act defines *impairment* in general terms as “an anatomical or functional abnormality existing after the date of maximum medical improvement.” NMSA 1978, § 52-1-24(A) (1990). This definition does not distinguish between physical and mental impairments, though mental impairments are further defined. A *primary mental impairment* is “a mental illness arising from an accidental injury . . . in the course of employment . . . involv[ing] no physical injury and consist[ing] of a psychologically traumatic event that is generally outside of a worker’s usual experience.” Section 52-1-24(B). A *secondary mental impairment* is “a mental illness resulting from a physical impairment caused by an accidental injury arising out of and in the course of the employment.” Section 52-1-24(C). A physical impairment has only a single definition regardless of whether it is the original work-related injury or a subsequent physical injury. But it has long been recognized that a subsequent physical impairment caused by the initial work-related injury is compensable under the Act as a separate injury. See *Baca*, 2002-NMCA-002, ¶¶ 15, 26-27. It follows that workers with secondary mental impairments are similarly situated to workers with subsequent physical impairments because they have both suffered separate compensable injuries caused by initial work-related injuries and the effect of the injury is the same in that it impairs workers’ capacities to perform work and prevents them from earning a wage because of an on-the-job accident. *Breen*, 2005-NMSC-028, ¶ 48. For these reasons, we conclude that workers with secondary mental impairments are similarly situated to workers with subsequent physical impairments under the Act.

{13} We turn now to whether these similarly situated workers are disparately treated in how they are compensated for their work-related injuries. PPD benefits are determined by calculating the worker’s degree of impairment. NMSA 1978, § 52-1-26 (2017). Both Section 52-1-41(C) (compensation when a worker is totally disabled) and Section 52-1-42(A)(4) (compensation when a worker is partially disabled) limit the duration of benefits for a disability resulting from secondary mental impairment to the maximum period allowable “for the disability produced by

<sup>2</sup> In *Breen*, we held that a statutory provision which capped workers’ compensation “for persons with primary mental impairments at 100 weeks, while allowing substantially more compensation for persons with physical impairments” was unconstitutional. 2005-NMSC-028, ¶¶ 7, 50. Though *Breen* addressed a different issue than that presented in this appeal, its general discussion of mental impairments in the context of the Workers’ Compensation Act and its determination of the standard of review for persons with mental impairments provide the appropriate framework for our constitutional analysis.



the physical impairment.” By contrast, the duration of total or partial disability benefits for subsequent physical impairments is not tethered to the duration of benefits allowable for the original physical injury. See § 52-1-42(A)(1) and (2). For permanent total disability resulting from a subsequent physical impairment, the Act allows workers to receive benefits for the remainder of their lives. Section 52-1-41(B). For permanent partial disability resulting from a physical impairment, the benefits duration “shall depend upon the extent and nature of the partial disability . . . .” Section 52-1-42(A).

{14} To understand the effect of tethering the benefits duration for secondary mental impairments to the initial physical injury, we review the benefits duration for physical injuries. For injuries to certain body parts, commonly referred to as scheduled injuries, the Act establishes a schedule for the maximum number of weeks a worker can receive benefits for an accidental injury. Depending on the body part, the number of weeks a worker can receive benefits for a scheduled injury ranges from 7 to 200 weeks. Section 52-1-43(A). Not all physical injuries are on this schedule. Other physical injuries, like those to the hip, to the shoulder, or to the back, are not covered by this statutory schedule.<sup>3</sup> Nor are mental injuries. We refer to these as non-scheduled injuries.

{15} The benefits duration for non-scheduled injuries is significantly greater than for scheduled injuries. See § 52-1-42(A)(1) (capping benefits for permanent partial physical disability for non-scheduled physical injuries at 500 or 700 weeks depending on percentage of disability). By contrast, even though mental impairments are also non-scheduled injuries, the duration of compensation benefits for secondary mental impairments is tethered to the benefit period for the original physical injury. Thus, for compensation purposes, the Act treats a subsequent physical impairment, whether scheduled or

non-scheduled, as a distinct and separate injury from the original physical injury arising out of and in the course of employment.<sup>4</sup> But it does not treat a secondary mental impairment as a separate and distinct injury from the original physical injury for compensation purposes; instead, it tethers the benefits duration to the initial physical injury. If the initial workplace injury was a scheduled injury, a worker who then suffers a secondary mental impairment, which is a non-scheduled injury, will only receive benefits for the duration allowed for a scheduled injury. The only way a worker with a secondary mental impairment can receive benefits for the duration of that non-scheduled injury is if the initial physical injury was also non-scheduled. But the worker whose subsequent impairment is physical is not subject to such an arbitrary fate.<sup>5</sup> That worker is entitled to benefits for the duration established for that subsequent physical impairment, regardless of whether the initial workplace injury was a scheduled or non-scheduled injury. The subsequent physical injury is assessed as a separate and distinct injury from the initial workplace injury. For example, if the initial workplace injury was to the knee but the subsequent physical impairment was to the shoulder, the duration of that worker’s benefits for the non-scheduled shoulder injury is not limited to the 200-week cap on benefits for a scheduled knee injury. See, e.g., *Baca*, 2002-NMCA-002, ¶ 21.

{16} For these reasons, we conclude that Worker has met her burden to demonstrate that persons with secondary mental impairments are similarly situated to persons with subsequent physical impairments and that they are treated differently by the Workers’ Compensation Act.

#### **B. We Apply Intermediate Scrutiny to Classifications Based on Mental Disabilities**

{17} Having established the presence of disparate treatment under Section 52-1-

41(C) and Section 52-1-42(A)(4), we turn to what level of constitutional scrutiny should be applied to the disparate treatment created by those statutory provisions. Under the New Mexico Constitution, there are three levels of equal protection review: rational basis, intermediate scrutiny, and strict scrutiny. *Breen*, 2005-NMSC-028, ¶ 11. We apply intermediate scrutiny to classifications based on mental disabilities because such persons are a sensitive class. *Id.* ¶ 28. “[I]ntermediate scrutiny is more probing than rational basis but less so than strict scrutiny.” *Id.* ¶ 13.<sup>6</sup> When intermediate scrutiny applies, the burden is on the party supporting the legislation to prove its constitutionality. *Id.* ¶ 30. Under intermediate scrutiny, the party supporting the legislation must prove that the “discrimination caused by the legislation is substantially related to an important government interest.” *Id.* ¶ 13 (internal quotation marks and citation omitted). Here, there is no challenge to the application of intermediate scrutiny. But we briefly highlight why intermediate scrutiny remains appropriate.

{18} We discussed at length the history of classifications based on mental impairment in *Breen*. 2005-NMSC-028, ¶¶ 18-29. We acknowledged that the historical treatment of persons with mental disabilities makes clear that “courts should be sensitive to classes of people who are discriminated against not because of a characteristic that actually prevents them from functioning in society, but because of external and artificial barriers created by societal prejudice.” *Id.* ¶ 20. “Persons with mental disabilities have also suffered a history replete with societal discrimination and political exclusion based on a characteristic beyond their control.” *Id.* ¶ 22. The stigma associated with mental illness remains potent. People of all ages, cultures, and socioeconomic conditions are adversely affected by this stigma, which may involve a combination of stereotypes, prejudices, and discrimination.<sup>7</sup> Antiquated

<sup>3</sup> See *Nelson v. Nelson Chem. Corp.*, 1987-NMCA-024, ¶ 9, 105 N.M. 493, 734 P.2d 273 (describing an injury to the hip as a non-scheduled injury); *Carter v. Mountain Bell*, 1986-NMCA-103, ¶¶ 33-34, 105 N.M. 17, 727 P.2d 956 (describing an injury to the shoulder as a non-scheduled injury).

<sup>4</sup> Cf. *Gutierrez v. Intel Corp.*, 2009-NMCA-106, ¶ 14, 147 N.M. 267, 219 P.3d 524 (agreeing with the *Baca* Court that, for compensation purposes, scheduled injuries and non-scheduled injuries are separate and distinct concepts whether they occurred during the initial workplace injury or developed later); *Baca*, 2002-NMCA-002, ¶¶ 14, 21, 24, 26 (agreeing with the worker that initial and subsequent physical injuries are separate and distinct concepts for purposes of compensation and that the duration of compensation for the subsequent non-scheduled shoulder injury is not limited to that for the initial scheduled knee injury); *Jaramillo v. Consol. Freightways*, 1990-NMCA-008, ¶ 9, 109 N.M. 712, 790 P.2d 509 (acknowledging that the worker had the right to petition for an increase in the workers’ compensation award if his disability increased in a way that was causally related to the initial compensable injury).

<sup>5</sup> The arbitrariness of tethering the duration of benefits for secondary mental impairments to the duration of benefits for the initial physical impairment is further demonstrated in the example of a worker whose initial on-the-job injury results in multiple physical injuries, some scheduled, some non-scheduled. There is nothing in the Act which indicates which physical injury the benefits duration for a subsequent secondary mental impairment would be tethered to.

<sup>6</sup> “Rational basis review applies to general social and economic legislation that does not affect a fundamental or important constitutional right or a suspect or sensitive class.” *Breen*, 2005-NMSC-028, ¶ 11. “This standard of review is the most deferential to the constitutionality of the legislation.” *Id.* Strict scrutiny requires the most exacting review and is applied only to legislation that “affects the exercise of a fundamental right or [affects] a suspect [class] such as race or ancestry.” *Id.* ¶ 12 (internal quotation marks and citation omitted). Intermediate scrutiny occupies the middle ground. *Id.* ¶ 13.

biases and discriminatory practices continue to impede a person's access to health care for mental health conditions when no such impediments burden access to health care for medical or surgical conditions.<sup>8</sup> The need for heightened scrutiny of laws that draw distinctions based on mental disabilities clearly persists. *See id.* ¶ 29.

**C. Employer Has Failed to Demonstrate That the Disparate Treatment Is Substantially Related to an Important Governmental Interest**

{19} The Act treats subsequent physical impairments as separate and distinct injuries for compensation purposes but tethers compensation for secondary mental impairments to the initial physical workplace injury. *See* Section 52-1-41(C) and Section 52-1-42(A)(4). Employer must show that this disparate treatment is substantially related to an important governmental interest. *Breen*, 2005-NMSC-028, ¶ 30. In determining whether there is an important government interest justifying the disparate treatment, we “examine (1) the governmental interests served by the legislative classification, and (2) whether the classifications under the statute bear a substantial relationship to any such important interests.” *Id.* (brackets, internal quotation marks, and citation omitted).

{20} Employer perplexingly focuses its argument justifying the disparate treatment on the proof requirements for primary and secondary mental impairments pursuant to Section 52-1-24. Relying solely on a legislative fiscal impact report, Employer argues the government has an interest in differentiating between primary and secondary mental impairments because “the system is intentionally designed to be formulaic” so that parties to a claim “are clear on what is expected of them.” Fiscal Impact Report for SB 233 at 2, 52nd Leg., 1st Sess. (N.M. 2015). But the question presented has nothing to do with the proof requirements for mental impairments. The parties have stipulated that Worker has a compensable secondary mental impairment. So this line of argument is unavailing. As we have previously observed, “How the disability was caused ceases to be important once a worker has been determined to have suffered a compensable injury.” *Breen*, 2005-NMSC-028, ¶ 37. Employer's reliance on a legislative fiscal

impact report is also misguided. Fiscal impact reports are not authoritative sources of legislative history; they are “only a forecast of the fiscal impact of the proposed bill.” *Grisham v. Reeb*, 2021-NMSC-006, ¶ 33, 480 P.3d 852.

{21} We recognize that “preserving the financial viability of workers' compensation is important.” *Breen*, 2005-NMSC-028, ¶¶ 34, 47. But Employer's generic, unsupported assertions of the need to contain costs do not justify disparate treatment. *See Rodriguez*, 2016-NMSC-029, ¶ 33; *see also id.* ¶ 34 (observing that if cost savings were allowed to be achieved through arbitrary means as the sole reason for disparate treatment, “cost containment alone could justify nearly every legislative enactment without regard for . . . equal protection.” (omission in original) (internal quotation marks and citation omitted)). Here, Employer has not made even the barest showing that treating workers with secondary mental impairments the same as workers with subsequent physical impairments for compensation purposes in any way jeopardizes the financial viability of our workers' compensation system. Most notably, Employer cannot point to any evidence in the record that the discriminatory treatment at issue bears any relationship to an important governmental interest, much less a substantial relationship to such an interest. *See Breen*, 2005-NMSC-028, ¶ 30; *cf. Rodriguez*, 2016-NMSC-029, ¶¶ 25, 28, 33 (recognizing, even under our most deferential rational relation standard of review where a lower burden is on the party challenging the constitutionality of legislation, that lack of record evidence is fatal to the claim that legislation is rationally related to a legitimate government purpose). In a nutshell, Employer's constitutional argument is unsupported, undeveloped, and lacks any principled analysis, and we need not consider it. *See Nguyen v. Bui*, 2023-NMSC-020, ¶¶ 19-20, 536 P.3d 482 (cautioning that this Court does not consider incomplete and unsupported constitutional arguments); *Elane Photography, LLC v. Willock*, 2013-NMSC-040, ¶ 70, 309 P.3d 53 (reminding the petitioner that this Court does not review unclear arguments or guess at what those might be). Accordingly, Employer has failed to meet its burden to demonstrate that the disparate treatment occasioned by Section

52-1-41(C) and Section 52-1-42(A)(4) of the Workers' Compensation Act is substantially related to any important governmental interest.

**D. The Disparate Treatment Occasioned by Section 52-1-41(C) and Section 52-1-42(A)(4) Is Contrary to the Purposes of the Workers' Compensation Act**

{22} In closing, we stress that the disparate treatment imposed on workers with mental impairments compared to workers with physical impairments is contrary to the purposes of the Act. The Act compensates workers for lost earning capacity, which protects New Mexico's social welfare system and “shifts the burden of protecting workers onto industry.” *Breen*, 2005-NMSC-028, ¶¶ 37, 48. The Act is also a worker's “exclusive remedy” for on-the-job injuries since workers lose any common law negligence claims they otherwise may have had. *Id.* ¶ 38; *see* NMSA 1978, § 52-1-6(C)-(E) (1990). Both mentally disabled workers and physically disabled workers are impaired in their capacities to perform work. A mental disability compensable under the Act affects workers in the same way as a compensable physical disability does by preventing them from earning a wage because of an on-the-job accident. *Breen*, 2005-NMSC-028, ¶ 48. The idea that mentally disabled workers may be entitled to recover less compensation than physically disabled workers is contrary to the purposes of the Act, which guide our equal protection analysis. “[S]everely limiting compensation for mental injuries does not substantially further” the goals of the Workers' Compensation Act. *Id.* This compels us to reject Employer's convoluted argument to interpret the Act in a manner that would be contrary to those purposes.

**V. CONCLUSION**

{23} For the reasons stated above, we hold that Section 52-1-41(C) and Section 52-1-42(A)(4) violate the equal protection clause of the New Mexico Constitution. We affirm the Court of Appeals.

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

**BRIANA H. ZAMORA, Justice**  
**WE CONCUR:**

**C. SHANNON BACON, Chief Justice**  
**MICHAEL E. VIGIL, Justice**  
**DAVID K. THOMSON, Justice**  
**JULIE J. VARGAS, Justice**

<sup>7</sup> See Graham Thornicroft et al., The Lancet Commission on ending stigma and discrimination in mental health, 400 *The Lancet* 1438 (2022) (“Stigma and discrimination contravene basic human rights and have severe, toxic effects on people with mental health conditions that exacerbate marginalisation and social exclusion.”).

<sup>8</sup> See Dep't of Labor, Dep't of Health & Human Services, & Dep't of the Treasury, 2022 MHPAEA Report to Congress, “Realizing Parity, Reducing Stigma and Raising Awareness: Increasing Access to Mental Health and Substance Use Disorder Coverage,” at 6, <https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/mental-health-parity/report-to-congress-2022-realizing-parity-reducing-stigma-and-raising-awareness.pdf> (last visited March 27, 2024); *cf. id.* at 51 (The full promise of the Mental Health Parity and Addiction Equity Act of 2008 is to ensure that “Americans with [mental health and substance use disorder] coverage can access [mental health and substance use disorder] care that is not limited in any way that medical/surgical care is not.”).

# FORMAL OPINION

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

**Filing Date: 6/17/2024**

**No. A-1-CA-39961**

**APACHE CORPORATION AND SUBSIDIARIES,**

Protestant-Appellant,

v.

**NEW MEXICO TAXATION  
& REVENUE DEPARTMENT,**

Respondent-Appellee.

**APPEAL FROM  
THE ADMINISTRATIVE HEARINGS OFFICE**

Brian VanDenzen, Chief Hearing Officer

Gallagher & Kennedy, P.A.

Dalva L. Moellenberg

Gene F. Creely, II

Anthony J. "T.J." Trujillo

Santa Fe, NM

Spencer Fane, LLP

Frank Crociata

Scott Woody

Phoenix, AZ

for Appellant

Raúl Torrez, Attorney General

David Mittle, Special Assistant Attorney General

Santa Fe, NM

for Appellee

## ► Introduction of Opinion

This case presents multiple issues related to corporate income taxation under New Mexico's Corporate Income and Franchise Tax Act (the CIT), NMSA 1978 §§ 7-2A-1 to -31 (1981, as amended through 2024). The dispositive issue is whether Apache Corporation (Taxpayer)—a multinational oil and gas production company—and its foreign subsidiaries can be deemed a "unitary corporation" as defined in Section 7-2A-2(Q). The Administrative Hearing Officer (AHO) concluded that the foreign subsidiaries could be included in the unitary corporation as a matter of statutory definition and factual circumstance. Concluding that the statutory definition excludes foreign subsidiaries not engaged in trade or business in the United States as a matter of law, we reverse.

Michael D. Bustamante, Judge, retired,

Sitting by designation

WE CONCUR:

Jane B. Yohalem, Judge

Katherine A. Wray, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-39961>



# FORMAL OPINION

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

**Filing Date: 6/18/2024**

**No. A-1-CA-41140**

**BRITTNEY BARRERAS,**  
Petitioner-Appellant,

v.

**ANGELA ARCHIBEQUE,**  
Respondent-Appellee.

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

Debra Ramirez, District Court Judge

Shelle Legal, LLC  
David E. Shelle  
Albuquerque, NM

Law Office of Jay R. Mueller  
Jay R. Mueller  
Albuquerque, NM

for Appellant

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

for Appellee

## ► Introduction of Opinion

Petitioner Brittney Barreras appeals the district court's dismissal of her petition to establish parentage, determine custody and time-sharing, and assess child support (the Petition) involving a minor child (Child). The district court determined that the New Mexico Uniform Parentage Act (NMUPA), NMSA 1978, §§ 40-11A-101 to -903 (2009, as amended through 2021) did not apply, dismissed the Petition, adjudicated that Petitioner was not a parent of Child, and ruled that Respondent Angela Archibeque, Child's biological mother, was Child's only legal parent. On appeal, Petitioner argues that (1) parentage must be determined under the NMUPA and the district court erred in concluding that the NMUPA did not apply; (2) Petitioner successfully established presumptive parentage of Child under the presumption, referred to as the holding out presumption, outlined in Section 40-11A-204(A)(5) (requiring a showing that "for the first two years of the child's life, [the presumed parent] resided in the same household with the child and openly held out the child as [their] own"); and (3) Respondent did not present evidence to rebut Petitioner's presumption of parentage. **View full PDF online.**

Katherine A. Wray, Judge  
WE CONCUR:  
Zachary A. Ives, Judge  
Shammara H. Henderson, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-41140>

# FORMAL OPINION

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

**Filing Date: 6/20/2024**

**No. A-1-CA-41362**

**STATE OF NEW MEXICO,**

Plaintiff-Appellee,

v.

**MARCOS F. HERRERA a/k/a  
MARCOS FLORENTINO HERRERA,**  
Defendant-Appellant.

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

Karen L. Townsend, District Court Judge

Raúl Torrez, Attorney General  
Lee Green, Assistant Solicitor General  
Santa Fe, NM

for Appellee

Wadsworth Law, LLC  
Mathew R. Wadsworth  
Rio Rancho, NM

for Appellant

## ► Introduction of Opinion

Defendant Marcos F. Herrera appeals from the district court's order revoking his probation. On appeal Defendant raises several issues: (1) Defendant argues for the first time that the action to revoke his probation was barred by NMSA 1978, Section 30-31-27.1(B)(3) (2007, amended 2019), providing for limited immunity in cases of alcohol and drug overdoses, "based on evidence obtained due to calling for medical assistance for a drug-related overdose" so he is entitled to limited immunity; (2) Defendant also argues that his previous counsel's failure to move to dismiss, pursuant to Section 30-31-27.1(B), constitutes ineffective assistance of counsel. Because we agree that the limited immunity provided for by Section 30-31-27.1(B)(3) applies to both of Defendant's probation violations, we reverse.

Kristina Bogardus, Judge  
WE CONCUR:  
Megan P. Duffy, Judge  
Zachary A. Ives, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-41362>

# 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-40870 State v. Courtney McCalep**

### **Introduction of Opinion**

Defendant Courtney McCalep appeals his conviction of aggravated battery without great bodily harm, contrary to NMSA 1978, Section 30-3-5(A), (B) (1969). On appeal, Defendant argues the district court abused its discretion in denying two untimely motions he filed to suppress evidence of the victim's prior, out-of-court identification of Defendant as well as the victim's forthcoming in-court identification of him. **View full PDF online.**

J. Miles Hanisee, Judge  
WE CONCUR:  
Jacqueline R. Medina, Judge  
Katherine A. Wray, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40870>

## **No. A-1-CA-40956 Stephen Durkovich v. City of Santa Fe**

### **Introduction of Opinion**

The Historic Districts Review Board (HDRB) voted to approve an application to build a telecommunications tower, and a group to whom the parties refer as "the Neighborhood" appealed that decision (the HDRB appeal) to the City of Santa Fe and the City of Santa Fe Governing Body (collectively, the City). The City declined to consider the Neighborhood's appeal because in relevant part, the City believed that the HDRB appeal was untimely. The Neighborhood appealed the City's decision to the district court, and the district court reversed the City's denial of the HDRB appeal. **View full PDF online.**

Katherine A. Wray, Judge  
WE CONCUR:  
Zachary A. Ives, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40956>

## **No. A-1-CA-40066 Rhino Roofing, Inc. v. Leticia Enriquez**

### **Introduction of Opinion**

Plaintiff-Counterdefendant Rhino Roofing, Inc. (Rhino Roofing) appeals the district court's judgment awarding Defendant-Counterplaintiff Leticia Enriquez treble damages under the New Mexico Unfair Practices Act (UPA), NMSA 1978, §§ 57-12-1 to -26 (1967, as amended through 2019). On appeal, Rhino Roofing contends that the district court improperly assessed the amount of actual damages Enriquez incurred as a result of Rhino Roofing's UPA violations. We agree, and therefore reverse.

Shammara H. Henderson, Judge  
WE CONCUR:  
Megan P. Duffy, Judge  
Michael D. Bustamante, Judge,  
Retired, Sitting by Designation

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40066>



# MEMORANDUM OPINION

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## No. A-1-CA-40422 State v. Anthony Cruz

### Introduction of Opinion

Defendant Anthony Cruz appeals his convictions for criminal sexual penetration (CSP) in the third degree, contrary to NMSA 1978, Section 30-9-11(F) (2009); and false imprisonment, contrary to NMSA 1978, Section 30-4-3 (1963). Defendant argues: (1) the district court erred by admitting expert testimony as lay testimony; (2) the district court's accommodations for a hearing impaired juror and a discussion of the accommodations without Defendant's presence resulted in reversible structural error; (3) Defendant's false imprisonment conviction was incidental to the CSP conviction and therefore his right to be free from double jeopardy was violated; and (4) the district court erred by denying Defendant's motion for a new trial. We affirm.

Jacqueline R. Medina, Judge  
WE CONCUR:  
Kristina Bogardus, Judge  
Richard C. Bosson, Judge,  
Retired, sitting by designation

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40422>

## No. A-1-CA-40804 Deutsche Bank National Trust Company v. Houston Ross

### Introduction of Opinion

Defendant Houston Ross, an attorney acting pro se, appeals the district court's final order (the Final Order) and other interim orders relating to a foreclosure action against him initiated by Plaintiff Deutsche Bank National Trust Company (Deutsche Bank or the Bank). In his appeal, Defendant argues, among other things, that the district court violated his due process rights by entering the Final Order and challenges the district court's various denials of several of his motions for partial summary judgment that preceded the Final Order. For the reasons set forth below, we affirm. **View full PDF online.**

J. Miles Hanisee, Judge  
WE CONCUR:  
Kristina Bogardus, Judge  
Megan P. Duffy, Judge, concurring in part and dissenting in part

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40804>

## No. A-1-CA-40541 Lana S. Pozen v. Raymond Mark Fickler

### Introduction of Opinion

This is the second appeal in this case. In *Pozen v. Fickler* (*Pozen I*), A-1-CA-37682, mem. op. (N.M. Ct. App. Apr. 6, 2020) (nonprecedential), we were asked to review the district court's determination that two properties owned by Petitioner Lana S. Pozen (Wife) and Respondent Raymond Mark Fickler (Husband) were 100 percent community property. See *id.* ¶¶ 11-12. We determined that Wife had established an initial separate property origin in funds used to purchase the properties and remanded to the district court for further proceedings on Husband's claim that Wife's separate property had been transmuted to community property during the parties' marriage. *Id.* **View full PDF online.**

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

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40541>

# MEMORANDUM OPINION

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**No. A-1-CA-40189**

**Sheila Hoag v. Mohamed  
Aswad, M.D.**

## **Introduction of Opinion**

Defendant Mohamed Aswad, MD, appeals the district court's final judgment and related interim orders following a jury trial in a medical malpractice action. The trial culminated in a determination of liability and an award of damages against Defendant. We affirm.

J. Miles Hanisee, Judge

WE CONCUR:

Zachary A. Ives, Judge

Shammar H. Henderson, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40189>

**No. A-1-CA-40285**

**Paul Martin v. Central New  
Mexico Correctional Facility**

## **Introduction of Opinion**

Plaintiff Paul Martin, a self-represented litigant, filed numerous tort claims against Central New Mexico Correctional Facility and various employees thereof, including corrections officers (collectively, Defendants). Plaintiff's claims, in part, alleged that he was injured when he fell down a flight of stairs due to a seizure he suffered while being escorted from the shower to his cell in September 2017. Plaintiff further alleged: (1) Defendants knew of Plaintiff's medical condition but failed to monitor his seizure medication levels or place him in a cell on the lower level; and (2) following his fall, corrections officers used excessive force against Plaintiff.

J. Miles Hanisee, Judge

WE CONCUR:

Megan P. Duffy, Judge

Zachary A. Ives, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40285>

**No. A-1-CA-40635**

**State v. Alberto Ordaz-Fonseca**

## **Introduction of Opinion**

A jury convicted Defendant Alberto Ordaz-Fonseca of one count of Criminal Sexual Penetration of a Minor, two counts of Criminal Sexual Contact of a Minor, and one count of Voyeurism (Victim under 18). See NMSA 1978, §§ 30-9-11(D)(1) (2009), 30-9-13(B)(1), (C) (1) (2003), and 30-9-20(A) (2007). On appeal, Defendant presents three arguments: (1) the district court infringed on his Sixth Amendment constitutional right to present a defense by excluding evidence of Victim's sexual orientation and recordings of her safe-house interviews, both of which Defendant contends would have placed Victim's veracity into question, and by limiting the testimony of Defendant's expert; (2) the district court abused its discretion by admitting expert opinion testimony during the State's rebuttal; and (3) the district court committed cumulative error. We affirm for the following reasons.

Jacqueline R. Medina, Judge

WE CONCUR:

Kristina Bogardus, Judge

Katherine A. Wray, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40635>

# MEMORANDUM OPINION

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**No. A-1-CA-40199**

**Justin Vermillion**

**v. New Mexico Department of  
Workforce Solutions**

## **Introduction of Opinion**

The New Mexico Department of Workforce Solutions (the Department) and Triad National Security, LLC (Triad) appeal the district court's reversal of the determination by the Department's Board of Review (the Board) that Justin Vermillion was ineligible for unemployment compensation benefits because he was discharged for misconduct. The Department and Triad argue that the district court erred when it concluded that the Board's determination was not supported by substantial evidence and was contrary to law. Agreeing with the Department and Triad, we affirm the decision of the Board and reverse the district court.

Gerald E. Baca, Judge

WE CONCUR:

J. Miles Hanisee, Judge

Jane B. Yohalem, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40199>

**No. A-1-CA-40496**

**State v. Billy Jimenez**

## **Introduction of Opinion**

After a hearing on Defendant Billy Jimenez's motion to suppress, the district court granted the motion, concluding that the officers' warrantless entry into Defendant's home was unreasonable. On appeal, the State argues that the district court erred by granting Defendant's motion to suppress because (1) it failed to apply the plain view exception to the warrant requirement and (2) the district court's factual findings about the emergency assistance doctrine were not supported by substantial evidence, which led to a misapplication of the law.

**View full PDF online.**

Zachary A. Ives, Judge

WE CONCUR:

Shammara H. Henderson, Judge

Gerald E. Baca, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40496>

**No. A-1-CA-41094**

**Kurt Prasse**

**v. Creative Properties, LLC**

## **Introduction of Opinion**

Kurt Prasse (Lessee) appeals the district court's grant of the motion to dismiss filed by Creative Properties, LLC (Lessor). We conclude that the lease contemplated a use that was not permitted by the applicable zoning code and was therefore unenforceable. We affirm.

Bruce D. Black, Judge Pro Tem

WE CONCUR:

Zachary A. Ives, Judge

Katherine A. Wray, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-41094>

# MEMORANDUM OPINION

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**No. A-1-CA-40854**

**State v. James Henry Ackerman**

## **Introduction of Opinion**

Defendant James Ackerman was convicted, following a jury trial of three offenses: (1) one count of residential burglary, contrary to NMSA 1978, Section 30-16-3(A) (1971); (2) one count of stalking, contrary to NMSA 1978, Section 30-3A-3 (2009); and (3) one count of interference with communications, contrary to NMSA 1978, Section 30-12-1 (1979). Defendant raises the following issues on appeal: (1) the district court erred in summarily denying Defendant's motion to dismiss for violation of his right to a speedy trial based on untimeliness; (2) alternatively, defense counsel's late-filing of Defendant's speedy trial motion establishes a prima facie case of ineffective assistance of counsel; and (3) the evidence was insufficient to support Defendant's conviction for residential burglary. We affirm.

Jane B. Yohalem, Judge

WE CONCUR:

Shammarra H. Henderson, Judge  
Gerald E. Baca, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40854>

**No. A-1-CA-41341**

**State v. Billy Jimenez**

## **Introduction of Opinion**

Respondent-Appellant (Father), father of E.B and E.B. (collectively, Children), appeals from the district court's adjudication of abuse and neglect. Children are eligible for membership in the Choctaw Nation of Oklahoma tribe,<sup>1</sup> and therefore, this case is governed by the Indian Child Welfare Act of 1978 (ICWA), 25 U.S.C. §§ 1901-1963, the New Mexico Indian Family Protection Act (IFPA), NMSA 1978, §§ 32A-28-1 to -42 (2022, as amended through 2023), and the New Mexico Abuse and Neglect Act, NMSA 1978, §§ 32A-4-1 to -35 (1993, as amended through 2023). **View full PDF online.**

Kristina Bogardus, Judge

WE CONCUR:

Jacqueline R. Medina, Judge  
Megan P. Duffy, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-41341>

**No. A-1-CA-40881**

**State v. Felicia Sarracino**

## **Introduction of Opinion**

Defendant Felicia Sarracino appeals her conviction in metropolitan court for driving while intoxicated (DWI) (first offense), contrary to NMSA 1978, Section 66-8-102(A), (C) (2016). Defendant argues as follows: (1) the admission of two segments of a recorded 911 call made by Nicole Koburi, an employee of the store where Defendant also worked, violated the Confrontation Clause of the Sixth Amendment to the United States Constitution; (2) alternatively, the admission of the two segments of the 911 recording constituted inadmissible hearsay; and (3) the metropolitan court abused its discretion in admitting Defendant's breath alcohol test results without sufficient evidence that the collection and testing of the breath sample complied with state department of health regulations. For the reasons that follow, we affirm.

Jane B. Yohalem, Judge

WE CONCUR:

Kristina Bogardus, Judge  
Jacqueline R. Medina, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40881>



# 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-40711**  
**Southwest Envirotec, LLC**  
**v. Wayne Suggs, Jr.**

**Introduction of Opinion**

Plaintiffs Henry Medina d/b/a Southwest Envirotec, LLC (SWET) brought suit against Defendants Wayne Suggs Jr., Danny Suggs, Bobby Suggs, and Johnny's Septic Tank Co., Inc. (collectively, Johnny's), alleging that Johnny's engaged in illegal practices to the detriment of SWET's business. SWET moved, in relevant part, to amend its original complaint to add a common law competitive injury claim. While acknowledging the liberal right to amend a complaint under the Rules of Civil Procedure, the district court denied the motion, holding that New Mexico does not currently recognize such a claim. **View full PDF online.**

Richard C. Bosson, Justice,  
retired, Sitting by designation  
WE CONCUR:  
Megan P. Duffy, Judge  
Zachary A. Ives, judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40711>

**No. A-1-CA-40746**  
**State v. Ana Rodriguez**

**Introduction of Opinion**

This Court hereby withdraws the memorandum opinion filed on May 14, 2024, and substitutes the following in its place. A jury convicted Defendant Ana Urias Rodriguez of voluntary manslaughter under NMSA 1978, Section 30-2-3(A) (1994). On appeal, Defendant argues (1) the district court erred by failing to include jury instructions explicitly stating that a person may act in self-defense in the face of an attempted rape; and (2) the evidence was insufficient to rebut her theory of self-defense. We hold the district court properly instructed the jury on self-defense and sufficient evidence supports Defendant's conviction.

Jacqueline R. Medina, Judge  
WE CONCUR:  
Shammara H. Henderson, Judge  
Katherine A. Wray, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40746-1>

**No. A-1-CA-39988**  
**Joseph Martinez v. Cimarron**  
**Municipal Board of Education**

**Introduction of Opinion**

Plaintiff Joseph Martinez filed a complaint for unlawful retaliation against Defendants Cimarron Municipal Schools Board of Education; Adan Estrada, the superintendent of the school district;<sup>1</sup> and Teddy Salazar, the maintenance director for the school district. The district court dismissed Plaintiff's complaint for failure to state a claim upon which relief can be granted. Because Plaintiff has chosen to advance his sole claim pursuant to the Workers' Compensation Act (WCA), NMSA 1978, §§ 52-1-1 to -70 (1929, as amended through 2017), we reverse and remand with instructions to dismiss for lack of jurisdiction.

Gerald E. Baca, Judge  
WE CONCUR:  
Shammara H. Henderson, Judge  
Jane B. Yohalem, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-39988>

# 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: 6/26/2024**

**No. A-1-CA-41046**

**STATE OF NEW MEXICO,**

Plaintiff-Appellant,

v.

**ERIC BERNARD LAATE,**

Defendant-Appellee.

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

Louis E. DePauli, Jr., District Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

Emily Bowen, Assistant Attorney General

Albuquerque, NM

for Appellant

Bennett J. Baur, Chief Public Defender

Nina Lalevic, Assistant Appellate Defender

Santa Fe, NM

for Appellee

► **Dispositional Order**

THIS MATTER is on appeal from the district court's order granting Defendant's motion to reconsider, and excluding witnesses not timely disclosed by the State.

**Read the full Dispositional Order at the link below.**

Shammara H. Henderson, Judge

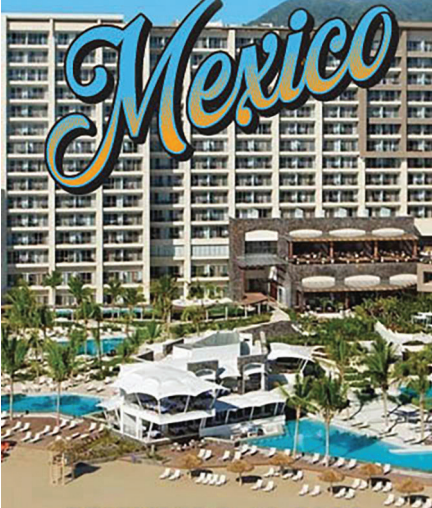
WE CONCUR:

Gerald E. Baca, Judge


Katherine A. Wray, Judge

To read the entire dispositional order, please visit the following link: <https://bit.ly/A-1-CA-41046>

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JARROD A. GRETH



Jarrold has joined Sutin, Thayer, & Browne, where he primarily practices in commercial litigation, with additional practice areas consisting of creditors rights, product liability, state and local government, and business and corporate law. He earned two Bachelor Degrees from the University of New Mexico in 2011, and after six years in Human Resources, Jarrold returned to school to earn a J.D. from the UNM School of Law in 2021. Jarrold brings with him over two years' experience from a local law firm where he primarily practiced in Creditors Rights.

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

### Associate Attorney

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

### Full-Time Associate Attorney

Whitener Law Firm, P.A. is seeking a full-time associate attorney to assist with briefing, to attend hearings, depositions, and mediations as well as managing a caseload of personal injury cases. Candidates must be highly motivated, client oriented and enjoy working in a fast-paced environment. Candidates must be licensed to practice in the state of New Mexico. Must have at least five years of experience. Salary competitive and commensurate to experience and qualifications. Please send resume to Leanne Duree, Whitener Law Firm, P.A., 4110 Cutler Avenue, N.E., Albuquerque, NM 87110, fax to 505-242-3322 or e-mail to [leanne@whitenerlawfirm.com](mailto:leanne@whitenerlawfirm.com).

### 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](mailto: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](mailto:Bmartin@da.state.nm.us). Position to commence immediately and will remain open until filled.

### Experienced Family Law Attorney

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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](http://blackgardenlaw.com/careers) for a full job description and application instructions.

### 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](mailto: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](mailto:amaragon@cabq.gov).

### Attorney

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### 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](mailto:amaragon@cabq.gov).

### Commercial Liability Defense, Coverage Litigation Attorney

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### Full-Time Associate Attorney

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## 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.

## 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.

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## 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 (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. 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](mailto:K.Donahue@KDonahue@Slingshot.Law). Learn more by visiting us at: [L4SB.com](http://L4SB.com) & [BusinessLawSW.com](http://BusinessLawSW.com)

## 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](mailto:custardh@civerolo.com). Inquiries kept confidential.



**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](http://www.spo.nm.us/work-for-new-mexico) or contact Shelley Strong, ECECD General Counsel, at [shelley.strong@eecd.nm.gov](mailto:shelley.strong@eecd.nm.gov), if you have any questions about this position.

**Attorney Associate**

The Third Judicial District Court in Las Cruces is accepting applications for a Full-Time At-Will Attorney Associate. Requirements include admission to the NM State Bar plus a minimum of three years experience in the practice of applicable law, or as a law clerk. Under general direction, as assigned by a judge or supervising attorney, review cases, analyze legal issues, perform legal research and writing, and make recommendations concerning the work of the Court. For a detailed job description, requirements and application/resume procedure please refer to <https://www.nmcourts.gov/careers.aspx> or contact Marisela Duran, HR Administrator at 575-528-8386. Open until filled.

**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 Associate (FT At-Will)  
#00000490**

**Civil Court**

The Second Judicial District Court is accepting applications for a full-time, perm, At-Will Attorney Associate. This position will be assigned to the Civil Division. Summary of position: This position requires strong analytical skills and exemplary writing ability. Qualified candidates will be able to work independently and meet deadlines for a trial court with a high volume of motion practice. Work includes reviewing cases, engaging in an evaluation of the facts and analysis of the applicable law, and making recommendations concerning the work of the Court. Applicants selected for an interview may be asked to demonstrate their writing ability as part of the interview process. Qualifications: Must be a graduate of a law school meeting the standards of accreditation of the American Bar Association; possess and maintain a license to practice law in the State of New Mexico. Must have three (3) years of experience in the practice of applicable law, or as a law clerk. Target Pay: \$50,605 hourly plus benefits. Send application or resume supplemental form with proof of education and one (1) writing sample by email to [2ndjobapply@nmcourts.gov](mailto:2ndjobapply@nmcourts.gov) or by mail to the Second Judicial District Court, Human Resource Office, P.O. Box 488, Albuquerque, NM, 87102. Applications without copies of information requested will be rejected. Application and resume supplemental form may be obtained on the New Mexico Judicial Branch web page at [www.nmcourts.gov](http://www.nmcourts.gov). CLOSES: Monday, September 30, 2024, at 5:00 PM.

**New Mexico Medical Board –  
Job Announcement  
Executive Director Position**

DESCRIPTION: The New Mexico Medical Board (Board) is the state agency responsible for the regulation and licensing of medical doctors (physicians), physician assistants, podiatrists, anesthesiologist assistants, genetic counselors, polysomnographic technologists, naprapaths and naturopaths. The Executive Director's primary responsibilities are to manage the Board's operations that includes a total of nineteen (19) staff and an annual budget of over \$3,000,000. The Director oversees licensing, compliance and investigations of Medical Professionals licensed in the State of New Mexico and provides direction to the agency staff. This position is responsible for recommending and drafting rules, policy and legislation as it relates to the Medical Board. The incumbent serves as the representative of the Medical Board to all local, state and national organizations. The incumbent shall have a strong knowledge of regulatory processes, to include the licensing, disciplining and ensuring compliance of medical professional rules and regulations; is familiar with legislative and educational processes related to the medical profession; and has a strong knowledge of the state and federal laws/regulations applicable to the medical profession. Has the ability to provide strong and ethical leadership and governance for the Board; possess strong communication, interpersonal and management skills; exercise sound judgment; and appropriately advise the Board on matters related to the regulation of the medical profession in New Mexico. QUALIFICATIONS: Educational requirements: Master's Degree in Public Administration, Public Health, Hospital Administration, Healthcare Administration or Management, and/or a Juris Doctorate. Experience Requirements: Ten (10) years executive level management experience in a medical or legal field which must include the oversight of credentialing of professionals, experience must also include working in the legislative process (recommending, drafting and reviewing legislation). APPLICATION PROCESS: In order to be considered for this position, qualified candidates should send a resume, CV and cover letter to: Amanda Quintana, New Mexico Medical Board, 2055 S. Pacheco Street, Building 400, Santa Fe, NM 87505; Phone (505) 670-7082; Email: [AmandaL.Quintana@nmbm.nm.gov](mailto:AmandaL.Quintana@nmbm.nm.gov)

### 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.

### Full Time Receptionist/Legal Assistant

Tired of commuting over the river? Sanchez & Pinon is seeking a receptionist/legal assistant in Rio Rancho. Position is full time - answering phones, filing, communicating with clients, and assisting attorneys and paralegals. Competitive salary and benefits. Looking for a candidate that takes pride in doing a good job and helping our clients, works well with others and enjoys their time at work. Please send resumes to asanchez@sanchezandpinon.com.

### Seeking Legal Assistant in Las Cruces

Small civil firm is looking for bright, dependable, detail-oriented candidate with reliable transportation and familiarity with MS Word and Adobe for in-person position, full- or part-time. Civil litigation experience preferred. Benefits available after six months. Potential for advancement. Please send resume and cover letter to Annie@LegalMindsNM.com

### Join Our Award-Winning Team at Roybal-Mack & Cordova!

We are currently hiring for the following positions: Paralegal; Legal Assistant; Receptionist. What We Offer: Competitive salaries with opportunities for growth, comprehensive health, dental, and vision insurance, paid time off, including vacation, sick leave, and holidays, continuing education and professional development support, and a positive, collaborative work environment. Roybal-Mack & Cordova is an Equal Opportunity Employer. To apply, visit roybalmacklaw.com/careers or send your resume and cover letter to brenda@roybalmacklaw.com.

### Probate Paralegal

New Mexico Probate and Estate Lawyers LLC is a boutique law firm that prioritizes work-life balance and client satisfaction. We are looking for a detail-oriented paralegal with at least one year of probate experience. Please email your resume to eric@nmprobatelaw.com. All inquiries will be kept confidential.

## Miscellaneous

### Search for Will

Our family is in search of the will for our father: David James Lakin. He last updated his will in Hobbs, NM and are hopeful that an attorney or firm can assist in locating his will. If you have any information or are the firm that worked with him, please contact me: Dave Lakin, 402-995-1505, dave@virtuactive.com. We sincerely thank you for your efforts in helping us. God bless. The Lakin Family.

### Search for Will

INFORMATION REGARDING STEPHEN A. MCLEMORE JR. Anyone with information on the Last Will and Testament, or Trust regarding Stephen A. McLemore Jr. please contact Richard Brandes atrichard@richardbrandes.com

### New Office Furniture For Sale

Quality Like New Office Furniture For Sale in Albuquerque. Workstations, conference tables and chairs, credenzas, file cabinets and more. Call Carla at (505) 336-5309 for pictures and information.

## Office Space

### All-Inclusive North Valley Office Suites Available

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### 4 Room Office Space

Bright 4 room office space (750 sq feet) with a.c and kitchenette conveniently located in Santa Fe. Call Carolyn 505-670-4101.

## 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](mailto:marcia.ulibarri@sbnm.org)**

The publication schedule can be found at  
**[www.sbnm.org](http://www.sbnm.org).**

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