

BAR BULLETIN

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Misty Holiday Memories, by Celeste Valencia

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Official Publication of the State Bar of New Mexico

BAR BULLETIN

The *Bar Bulletin* is Going Completely Digital!

As of Jan. 1, 2025, the State Bar of New Mexico's official publication, the *Bar Bulletin*, will be published exclusively in a digital format! With the same great layout, features and important news, the many benefits of the *Bar Bulletin* going digital include more timely content, clickable resources and added convenience for reading on-the-go. The *Bar Bulletin* will not be printed as of Jan. 1, 2025. To view each issue of the *Bar Bulletin*, visit www.sbnm.org/BarBulletinOnline.

Notices

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

COURT NEWS

New Mexico Supreme Court Rule-Making Activity

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

Supreme Court Law Library

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

U.S. District Court, District of New Mexico Notice of 2025 Federal Bar Dues

With the concurrence of the Article III judges, Federal Bar Dues for 2025 are set at \$25.00. Attorneys admitted to practice in the district should submit dues on or before Jan. 31, 2025. Delinquent payments for prior years must be made to maintain good standing. Current dues and dues for prior years can be paid through your CM/ECF account. Please visit www.nmd.uscourts.gov for more information on Federal Bar dues and guidance on how to pay dues online.

Second Judicial District Family Court Judicial Nominating Commission Candidate Announcement

The Second Judicial District Family Court Judicial Nominating Commission convened at 2 p.m. (MT) on Dec. 16 at the Second Judicial District Court, located at 400 Lomas Blvd NW, Albuquerque, NM and completed its evaluation of the three applicants to fill the vacancy on the Second Judicial District Family Court due to the retirement of the Hon. Debra Ramirez, effective Dec. 31. The Second Judicial District Family Court Judicial Nominating Commission recommends the applicants **Crystal Lees** to Gov. Michelle Lujan Grisham:

Professionalism Tip

With respect to opposing parties and their counsel:

I will refrain from excessive and abusive discovery, and I will comply with reasonable discovery requests.

Eleventh Judicial District Judicial Nominating Commission

Announcement of Vacancy

One vacancy on the Eleventh Judicial District Court in Farmington, N.M. will exist as of Jan. 1, 2025, due to the retirement of the Hon. Daylene Marsh effective Dec. 31. Camille Carey, Chair of the Eleventh Judicial District Court Judicial Nominating Commission, invites applications for this position from lawyers who meet the qualifications in Article VI, Section 14 of the New Mexico Constitution. Applications may be obtained from the Judicial Selection website at <https://lawschool.unm.edu/judsel/application.html>, or emailed to you by contacting the Judicial Selection Office at akin@law.unm.edu. The deadline for applications is Jan. 6, 2025, at 5 p.m. (MT). Applications received after that time will not be considered. The Eleventh Judicial District Court Judicial Nominating Commission will convene at 9:30 a.m. (MT) on Jan. 17, 2025, to interview applicants at the Eleventh Judicial District Court, located at the 103 South Oliver, Aztec, N.M. 87410. The Committee meeting is open to the public, and members of the public who wish to be heard about any of the candidates will have an opportunity to be heard.

Bernalillo County Metropolitan Court

Announcement of Vacancies

Two vacancies on the Bernalillo County Metropolitan Court will exist as of Jan. 1, 2025, due to the retirements of the Hon. Linda S. Rogers and the Hon. Frank A. Sedillo effective Dec. 31. Prospective applicants may obtain applications from the Judicial Selection website at <https://lawschool.unm.edu/judsel/application.html>, or applications may be emailed by contacting the Judicial Selection Office at akin@law.unm.edu. The deadline for applications has been set for Jan. 7, 2025, at 5 p.m. (MT). The Bernalillo County Metropolitan Court Nominating Commission will meet at 9:30 a.m. (MT) on Jan. 27, 2025, and Jan. 28, 2025, at the State Bar Center, located at 5121 Masthead St. NE, Albuquerque, N.M., to interview applicants for the position.

Reassignment of Cases

Effective Dec. 17, with the forthcoming retirement of Judge Linda S. Rogers and pursuant to Rule 23-109 NMRA, the Chief Judge of the Bernalillo County Metropolitan Court has directed the random reassignment of Division XIX pending cases to the court's 13 Criminal Division Judges. The Chief Judge will be assigned Division XIX's post-adjudication cases.

STATE BAR NEWS License Renewal and MCLE Compliance Due Feb. 3, 2025

State Bar of New Mexico annual license renewal and Minimum Continuing Legal Education requirements are due Feb. 3, 2025. For more information, visit www.sbnm.org/compliance. To complete your annual license renewal and verify your MCLE compliance, visit www.sbnm.org and click "My Dashboard" in the top right corner. For questions about license renewal and MCLE compliance, email license@sbnm.org. For technical assistance accessing your account, email techsupport@sbnm.org.

Email Scams Targeting Legal Professionals

There has been a recent surge in email scams targeting legal professionals nationwide. These emails often appear to be official communications, asking you to respond to court filings or urgent legal matters. Please be advised that these emails may contain malicious links or attachments intended to compromise your systems and access sensitive information. For more information, visit www.sbnm.org/News-Publications/Phone-and-Email-Scams.

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New Mexico Lawyer Assistance Program Monday Night Attorney Support Group

The Monday Night Attorney Support Group meets at 5:30 p.m. (MT) on Mondays by Zoom. This group will be meeting every Monday night via Zoom. The intention of this support group is the sharing of anything you are feeling, trying to manage or struggling with. It is intended as a way to connect with colleagues, to know you are not in this alone and feel a sense of belonging. We laugh, we cry, we BE together. Join the meeting via Zoom at <https://bit.ly/attorneysupportgroup>.

New Mexico State Bar Foundation Pro Bono Opportunities

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

UNM SCHOOL OF LAW Invitation to John Field Simms, Sr. Memorial Lectureship in Law

You are invited to attend the John Field Simms, Sr. Memorial Lectureship in Law with lecturer, Amy Howe, on Jan. 30, 2025 at 5:30 p.m. (MT) at the UNM School of Law Forum. Register for the lecture at <https://forms.unm.edu/forms/simms>.

Law Library Hours

The Law Library is happy to assist attorneys via chat, email, or in person by appointment from 8 a.m. to 8 p.m. (MT) Monday through Thursday and 8 a.m. to 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.

— *Featured* —

Member Benefit

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Fastcase, the legal research platform available to you as a member of the State Bar of New Mexico, has been upgraded to vLex Fastcase, a new legal intelligence and research platform. Coverage includes cases, statutes, regulations, court rules and constitutions for all 50 states & Federal. This service is available through www.sbnm.org. vLex also offers free live monthly training webinars. Customer Support is available 8 a.m. to 8 p.m. ET, Monday-Friday. The Support team can be reached at 866-773-2782 or support@fastcase.com, as well as on chat on vLex Fastcase.

For more information, email tech-support@sbnm.org.

OTHER NEWS N.M. Legislative Council Service Legislative Research Library Hours

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

A Message From **New Mexico State Bar** **FOUNDATION** **President Gerald G. “Jerry” Dixon:**

Our Enduring Commitment



Greetings Peers and Fellow Advocates:

As 2024 draws to a close, I look back on the year with a great deal of pride and gratitude. From the ongoing expansion of its programs and services to brand-new projects and initiatives, the New Mexico State Bar Foundation (“Bar Foundation”) made an impact this year that has surpassed our goals.

The Bar Foundation’s Legal Resources for the Elderly Program (“LREP”) and Modest Means Helpline (“MMH”) both continue to operate as vital legal resources for New Mexicans, the latter of which has experienced exponential growth since its inception in Oct. 2022. As of the end of November, MMH has had over 34,000 calls and upwards of 4,900 cases, resulting in a benefit to over 13,300 New Mexico residents. This is an incredible achievement, and it is all attributed to the work of MMH’s staff and volunteers, whose excellent work we greatly appreciate. To meet the growing needs of New Mexicans, MMH is adding additional staff, which will prove to be immensely beneficial in our endeavors to serve as many New Mexicans as we can.

Earlier this year, the New Mexico Supreme Court implemented the mandatory Equity in Justice (“EIJ”) continuing legal education credit. Throughout 2024, the Bar Foundation’s Center for Legal Education has continuously developed content and courses framed through diversity, equity and inclusion in a legal context. As of Dec. 2024, the Center for Legal Education has hosted approximately 60 programs fulfilling the EIJ credit requirement. By staying informed in a diversity of areas, we become better informed legal professionals and can more effectively serve the community.

The Bar Foundation’s fundraising efforts and initiatives played a key role in the organization’s milestones in 2024. This year, the Bar Foundation raised close to \$200,000 across each of its major endeavors, including the New Mexico State Bar Foundation’s 2024 Golf Classic, the Bar Foundation’s New Mexico Staycation Raffle and contributions made through our website and during licensing renewal season. This has made an enormous impact, and the Bar Foundation owes a great deal of gratitude to the legal community for your contributions through all of these initiatives. We are grateful to those who we collaborated with on the Bar Foundation Development Committee for their commitment to making these fundraising events so successful.

Now that we are well into licensing renewal season, I’d like to remind you that, while we are able to provide for New Mexicans through our various services and initiatives, as noted above, we are also supported by the legal community’s contributions year-round. Licensing renewal season is an optimal time to make those contributions. When you visit www.sbnm.org/licenser renewal to renew your license, you can donate to the Bar Foundation and its helpful programs at the same time. You can also make a donation any time at www.sbnm.org/donate. Donating to the New Mexico State Bar Foundation is a great way to reach your pro bono goals. Our objective is to raise 10% above last year’s donations, but we need your support to reach that goal and continue to develop and expand our services to the public.

In January 2025, Stefanie K. Davis will become the new President of the New Mexico State Bar Foundation. As Deputy General Counsel for the Legal Services Corporation, Stefanie brings leadership skills along with a wealth of experience and knowledge which will be of tremendous benefit to the Bar Foundation and its legal service programs. I have appreciated the opportunity to get to work with and to know Stefanie the past couple of years. I encourage you to reach out to her with any questions or ideas you may have for the Bar Foundation.

I am truly grateful for the opportunity to have served as President of the Bar Foundation this past year. I can confidently say that the Bar Foundation's commitment to supporting the people of New Mexico and elevating the legal profession continues to grow stronger with time. It is clear the members of the Foundation Board as well as the staff and attorneys at the Bar Foundation are committed to serving the members of the State Bar as well as the citizens across the State of New Mexico. There are a number of opportunities at the Bar Foundation to serve in both of these areas. I urge you to seek them out and to get involved in 2025.

Warm wishes for happy holidays and for a healthy and prosperous 2025!

Sincerely,



Gerald G. "Jerry" Dixon, President
New Mexico State Bar Foundation





Why Do I (Did I) Drink?

We all have conversations, only in our head and only with ourselves, all day long. I call these conversations “the committee.” Sometimes, the committee is giving me positive support: “You got this” or “Good job on getting that project done” or “You made it to the gym even though you were tired. Way to go!” and “Dang, that was a good meal you made.” Sometimes, the committee is not so nice: “What the heck? Why did you do that? That was stupid” or “You aren’t good enough for that. Don’t go for it” or “You won’t make that goal, don’t even try” and “You’ll look dumb if you open your mouth, don’t speak up.”

The committee is also made up of opposing or differing perspectives, feeling like there is a “we” in the conversations in our head. This does not mean we have a mental illness when we, as humans, have competing perspectives (conversations) taking shape in our head. It just means we are thinking and processing our past, current and expected future experiences as humans.

Now, when it comes to drinking alcohol, I think the committee in all of us has something to say. Here are two individuals that are giving us a glimpse into their committee’s conversation. One is a current drinker (CD) and one has stopped drinking (SD). Which committee do you resonate with OR what does the committee in your head have to say?

CD: I haven’t drank in three nights and the game is coming on tonight, so I think I’ll drink while I watch the game. But, why do I want to drink? I don’t need to drink just because the game is on... do I? And, I am planning on going to the gym in the morning, so maybe I don’t drink? Yeah, but it’s relaxing and it’ll be fun. I’ve worked hard today. But, is it fun? Remember, I have to stop a couple of hours before bedtime and start drinking water, alcohol too close to bed affects a good night’s sleep for me. Yeah, yeah, I will not drink too much and stop with enough time for it to not affect my sleep. Solid plan.

Note: To better put SD’s conversation into context, it helps to listen into a conversation leading up to SD’s decision to stop drinking.

SD: [Scene: Years earlier as SD began to realize his problem with drinking.] When Dad took me for that uncomfortable drive into the country – just the two of you, just before I left for college, I remember him telling me, “There is alcoholism on both sides of our family,” and then he said, “it runs in families.” I wondered then, “why the hell are you telling me this as I head out for school?” It didn’t make sense to me at 18, but here I am 32 and I don’t understand what’s going on with me, but I am in trouble. Was he right?

SD: [Scene: It is a cold November evening in a park near SD’s house. It is dark and SD and his dog are alone in the park.] This is my sixth day of this run. I have been drinking nonstop, from morning to passing out in bed only to awake at 3 a.m. in a cold sweat and panic about everything I have not done at work. I can’t keep doing this, but I don’t know what to do. I can’t stop, but it is not working. There is no relief. For God’s sake, why isn’t it working? What am I going to do? If I drink, I know I am going to die, but if I don’t drink, I know I am going to die. Maybe it is just as well. I don’t care anymore. I am trapped.

CD: Darn, why did I drink last night? It was kind of fun while I was drinking and watching the game, but this morning...I feel a little sluggish and my sleep wasn’t the best last night. I need to get to the gym and sweat it out. You know, I could probably lose those extra pounds I’ve been wanting to shed if I didn’t drink at all. How about I just drink at social events. OMG, I’ve told myself this before and I’ve not followed through. I wonder why I can’t limit myself to social events only. My pattern is drinking a little bit every few days, not that big of a deal. I bet I could not drink if I really tried, but what’s the fun in that? How would I take the edge off and let go of the day without a drink or two. It’s all good, I am not an alcoholic.

SD: [Scene: The morning following SD’s intervention in the parking lot of a twelve-step meeting hall.] Oh God, how am I going to do this? I promised to go to those meetings. Who is inside? What if I know someone? I see no hope. I have destroyed my life. Is there any reason for hope? Thanksgiving is around the corner. How do you go through a holiday without drinking? No morning Bloody Mary’s as I prepare the turkey? And how will I ever get through Christmas? And then New Years? Everyone else will be drinking. What are they going to be thinking about me? Will everyone know about me? What do I say if I am offered a drink? Should I pretend to be drinking – a coke with a maraschino cherry like a rum and coke, or if I have tonic water with a lime, maybe it will look like a gin and tonic. Never mind the holidays, what about when we go out with friends and the waiter asks everyone about cocktails, or the table wants to order a bottle of wine? What do I say? There is no faking it then. Is the fun gone from my life?

CD: Alcohol abuse runs in my family. Sometimes I feel like I am playing Russian roulette when I drink. I know I need to watch myself and not let my drinking get out of control. I think that is my greatest fear regarding drinking – feeling like I cannot stop. Oh my gosh, that would be horrible. That is not going to happen to me. I like drinking, but I can’t say that I love drinking. It is fun and I wouldn’t want to give it up, but when I do have a few too many, I feel like crap the next day and tell myself I’m not going to

drink until...the next holiday or some other event. I know it is a lie and I just can't put my finger on the magnet. What's the pull? Hmmmm, it is taking the edge off I believe. Not wanting to feel the sharpness or weight of the world for a little while. Sometimes life just feels too much and a couple of drinks makes it back off a bit. Yep, I think that is what it is for me.

SD: [Scene: Nine months later.] There is this new Thai restaurant that has opened on east Central. It is all the rave, and it is supposed to be incredible, but I can't get any of our gang to go because the restaurant doesn't have its liquor license yet. What's the deal with my friends? Is being able to drink that important?

CD: I wonder if other people think about drinking or not drinking alcohol as much as me? I think I beat myself up when I do drink because I know it is not good for my body or brain. It is amazing how alcohol is so pervasive in our culture. I can't watch most movies, TV shows or sporting events without alcohol playing a role in the show or in the commercials in between. I wonder if I ever thought drinking alcohol was getting "out of control" for me if I would be aware and accept it? Would I be in denial? Would I reach out and ask for help? I don't know...it would be hard.

SD: [Scene: One year later.] Holiday season again. The Smiths are having their annual holiday party. Everyone we know will be there. You can't not go, but I dread these events anymore. Everybody drinking. It's okay for the first hour, but then the sound level starts to go up. Everyone starts talking louder and I hear the same stories about work or kids and jokes over and over. Small talk and gossip. It just isn't much fun. I know I have to go, but I bet I can stay just for a little while, say "hello" to the hosts and anyone else that I just need to see and then sneak out. No one will ever know I left. Those things just aren't much fun anymore. What's happened to me?

Who these individuals are is not important. What is important is that these are real conversations. Do you ever pause and consider what the committee in your head is saying? Today we are talking about alcohol, but committees have a lot to say about all sorts of life experiences. Pausing, being aware and considering our thoughts allows us to make informed choices about how we want to live our life. Nobody has a goal of becoming an alcoholic or drug addict, and yet, it happens stealthily if we are not paying attention.

The studies and statistics are clear, lawyers drink 20% more the general population or most other professions. Most people drink to cope and manage stress and deal with negative moods or uncomfortable feelings. Normalization of drinking alcohol starts in law school. Doubts about drinking too much or too often might creep up in law school or as a new lawyer, but if everybody else is doing it, then I must be okay.

Lawyers struggle with anxiety and depression at a rate of 19% and 28%, respectively. It is no secret that being a legal professional, practicing law, is a tough job and some lawyer jobs are particularly difficult and emotionally demanding – criminal prosecution and defense and domestic relations. It makes sense that lawyers (and paralegals) would use alcohol to take the edge off at the end of a hard day...because every day can be a hard day. Clients are not getting any easier to work with and seeing, hearing and having

to hold the space for horrible behaviors/events has only become more challenging and emotionally draining.

This is a *rough* racket. You may think you can handle the pressures of the practice of law on your own because you are strong, but you cannot without help. If you find yourself not being able to manage anxiety, depression, burnout or struggling with out of control drinking/drugging, call the Lawyer Assistance Program at 505-228-1948 or 505-420-8179. Both numbers are confidential and only answered by the New Mexico Lawyer Assistance Program staff. The NM LAP listens, educates and supports. They can also offer resources and services to help you find a path to a healthier better version of yourself.

Signs my drinking is getting "out of control" or when I should be concerned:

- Friends/family are voicing concerns to me.
- I won't go to a restaurant that does not serve alcohol.
- I am reluctant to go to events if I know alcohol won't be available.
- Do I drive when I have been drinking on a regular basis and I know I probably shouldn't be driving?
- Do I drive others while I'm impaired (friends, family, co-workers)?
- Have I been injured in some way where alcohol played a role?
- Is my drinking getting progressive (more days of the week or earlier in the day)?
- Have I crossed my own boundaries (that I told myself I wouldn't cross) to drink?
- Is drinking affecting my work/job?
- Is drinking affecting my relationships?
- Am I thinking about drinking when I'm not drinking?
- If drinking alcohol does not matter, then not drinking should not matter. Right?

Listen to the Legal Well-Being in Action Podcast's Latest Episode: **Drunk Lawyer Diddy - A Must Listen For Every Lawyer**

In this episode, we feature Briggs Cheney, a well-known figure in the New Mexico and national legal community and often remembered for his inspiring addresses at Swearing-In Ceremonies – the Drunk Lawyer Diddy. Briggs recreates his impactful story, delivering it as if he were addressing the ceremony live. His narrative, celebrated within the legal profession, candidly explores the challenges of substance use and the importance of recovery and well-being in being a thriving and successful lawyer. Recognizing the profound relevance of his message, the New Mexico Well-Being Committee sought to preserve this powerful address to inspire and support current and future members of the legal community.

Listen For FREE
at [www.sbnm.org/
LWBAPodcast](http://www.sbnm.org/LWBAPodcast)





State Bar of New Mexico
Senior Lawyers Division

The 11th Annual New Mexico Attorney In Memoriam & 2024 Attorney Memorial Scholarship Presentation



(From left to right) Stefanie Jock, Terry Revo, Jocelyn Torres, Charles Gurd and Daniel Hurren

On Nov. 14, 2024, the Senior Lawyers Division held their annual New Mexico Attorney In Memoriam Ceremony at the State Bar Center. The event was very well-attended and included attendees from New Mexico’s legal community who gathered to honor members of the State Bar of New Mexico who passed away this past year. The New Mexico Attorney In Memoriam Ceremony’s speakers, which included Senior Lawyers Division Board Chair Charles Gurd and fellow Board members Peter Chestnut, Jocelyn Torres and Terry Revo, honored the memories of the deceased and conveyed that they will forever be in the collective memory of the State Bar of New Mexico and New Mexico’s legal community.

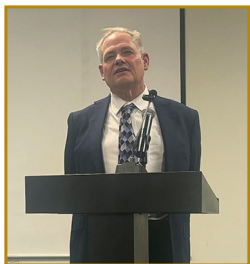


Jocelyn Torres and Terry Revo announce the names of attorneys who passed over the course of the last year.

The In Memoriam ceremony was followed by insightful speeches from University of New Mexico School of Law Associate Dean Serge Martinez and 2023 Attorney Memorial Scholarship recipient Noah Allaire. Martinez remarked on the significance of the event, noting it as a commemorative event that also looks to the future with the Attorney Memorial Scholarship presentations. Allaire followed Martinez’s remarks by discussing what it means to him to be an attorney in New Mexico. After Allaire’s heartfelt speech, the 2024 Attorney Memorial Scholarship winners, including Hakim Bellamy, Daniel Hurren and Stefanie Jock, were officially presented with their scholarships. Although Bellamy was not present to receive his scholarship, Hurren and Jock both spoke to the arguments in their

essays and expressed gratitude to the State Bar of New Mexico and the Senior Lawyers Division for their nominations as recipients of the prestigious scholarship.

The event concluded with a warm reception, during which attendees dined on a variety of hors d’oeuvres and socialized. It was a quiet and respectful affair that was equally somber and heartwarming, looking back and highlighting the lives of those who are no longer with us while celebrating the work of law students who still have many accomplishments ahead of them.



SLD Chair Charles Gurd opens the New Mexico Attorney In Memoriam event with a speech about the event’s significance.



SLD Board member Peter Chestnut gives remarks about the New Mexico Attorney In Memoriam ceremony.



2023 Attorney Memorial Scholarship recipient Noah Allaire gives a speech about his experience as an attorney.



Stefanie Jock expresses gratitude for her awarded scholarship and remarks on her submitted essay.



Daniel Hurren provides remarks on the argument in his essay and his passion for the law.



New Inductee to the Roehl Circle of Honor SCOTT EATON, ESQ.

— Nov. 6, 2024 —

Scott Eaton, Esq. was inducted into the Roehl Circle of Honor at the State Bar Center on Nov. 6, 2024. The Roehl Circle of Honor is named after the late Joseph E. Roehl, who is known as one of the premier trial lawyers of our generation. New inductees are welcomed into the circle each year to honor his memory and commitment to the trial lawyer community.

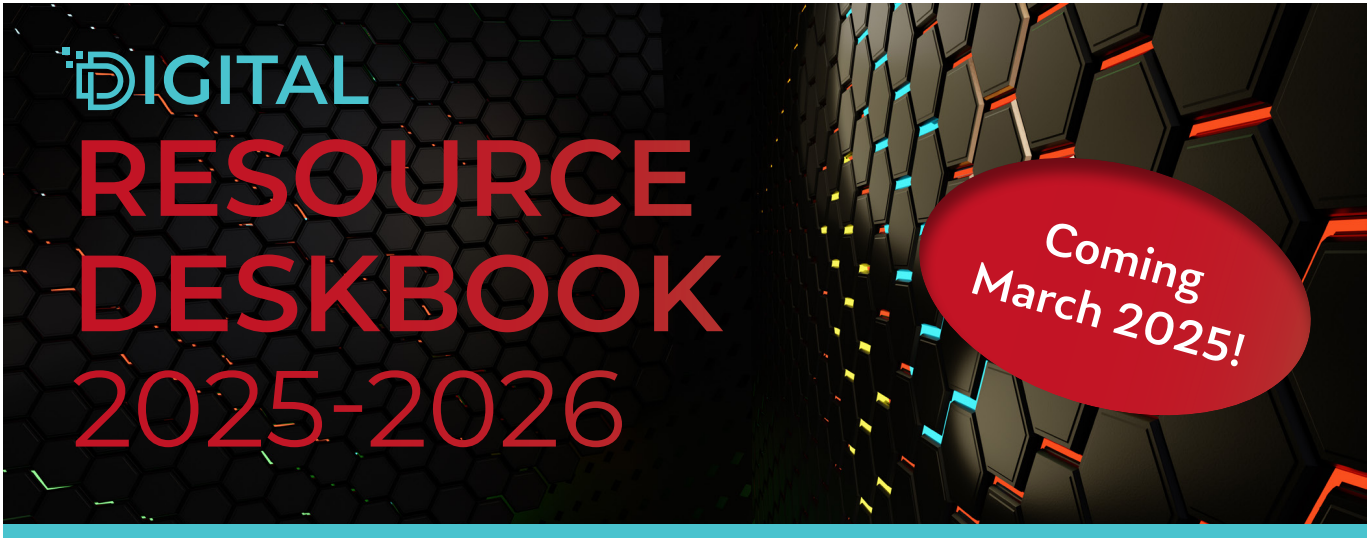
Scott Eaton, Esq. toiled in the trenches of tort defense and insurance coverage litigation, first at Keleher & McLeod, P.A. and then at the Eaton Law Office, P.C., from 1982 until his semi-official, nearly total retirement in about 2022. Eaton was fortunate to have had outstanding mentors, colleagues and support staff. Along the way, he learned many fascinating things about many obscure subjects he probably will never need to know again.

Eaton was elected president of the New Mexico Defense Lawyers Association in 2000, spoke at seminars, and contributed articles to various local publications. He was appointed to a number of judicial nominating commissions over the years, as part of the state's effort to reduce the influence of politicians in the selection of judges.

He continues to serve on hearing committees when asked by The Disciplinary Board and is a member of the board of directors of the Chris Eaton Foundation and SOS-Albuquerque.

A native of Roswell and 50-year resident of Albuquerque, Eaton worked as a newspaper reporter, photographer and editor before attending the University of New Mexico Law School in 1979-82. He graduated from New Mexico Military Institute in 1970 and UNM in 1975. He and his wife raised two sons, Chris and Michael, and attended hundreds of youth baseball games. Today, among other things, Eaton fly-fishes, participates in some support groups, takes his camp trailer on the road, dabbles in pickleball, and hangs out with his dog. ■





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January 2025

- | | | | | | |
|----|--|----|---|----|---|
| 8 | Accident Reconstruction & Emerging Technology: New Sources of Digital Evidence
1.0 G
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www.nmdla.org | 15 | Gone But Not Forgotten: The Ethical and Malpractice Risks When Lawyers Leave Law Firms
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| 9 | 2025 Law and Technology Series: Electronic Courtroom Presentation Workshop
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| 14 | Elimination of Bias-Combating Age Bias in the Legal Field
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The State Bar of New Mexico would like to express its appreciation and gratitude to the following attorneys that participate in the **CONSUMER DEBT BANKRUPTCY WORKSHOP**.

Thank you for your professionalism, time and service to the community in New Mexico.

Mike Daniels
Matthew Gandert

Ron Holmes
Mike Lash

Arun Melwani

THANK

You

The State Bar of New Mexico would like to express its appreciation and gratitude to the following attorneys that participate in the **DIVORCE OPTIONS WORKSHOP**. Thank you for your professionalism, time and service to the community in New Mexico.

Helen Bennett
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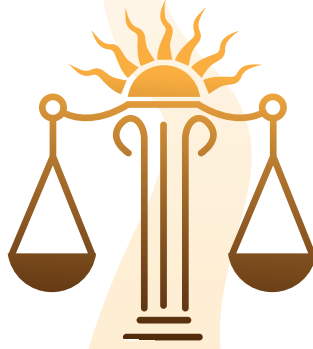
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Advance Opinions

From the New Mexico Supreme Court

From the New Mexico Supreme Court

Opinion Number: 2024-NMSC-022
No: S-1-SC-38869 (filed August 26, 2024)

STATE OF NEW MEXICO,
Plaintiff-Petitioner/Cross-Respondent,
v.
HAROLD ATENCIO,
Defendant-Respondent/Cross-Petitioner.

ORIGINAL PROCEEDING ON CERTIORARI
Karen L Townsend, District Judge

Hector H. Balderas, Attorney General Maris Veidemanis, Assistant Attorney General Santa Fe, NM	Bennett J. Baur, Chief Public Defender Nina Lalevic, Assistant Appellate Defender Santa Fe, NM
Counsel for Petitioner/ Cross-Respondent	Counsel for Respondent/ Cross-Petitioner

CONSOLIDATED WITH

No: S-1-SC-39565

STATE OF NEW MEXICO,
Plaintiff-Petitioner,
v.
ZAENAN CHIARAMONTE,
Defendant-Respondent

ORIGINAL PROCEEDING ON CERTIORARI
Courtney Bryn Weaks, District Judge

Hector H. Balderas, Attorney General Maris Veidemanis, Assistant Attorney General Santa Fe, NM	Bennett J. Baur, Chief Public Defender Nina Lalevic, Assistant Appellate Defender Santa Fe, NM
Counsel for Petitioner	Counsel for Respondent

OPINION

VARGAS, Justice.

{1} In its renowned decision, *Miranda v. Arizona*, the United States Supreme Court

held in relevant part that an individual must be informed prior to questioning of the “right to the presence of an attorney.” 384 U.S. 436, 479 (1966). Because Defendants in both cases before us, Defendant Atencio in *State v. Atencio*, 2021-NMCA-061, 499 P.3d 635, and Defendant

Chiaramonte in *State v. Chiaramonte*, A-1-CA-40543, mem. op. (N.M. Ct. App. Aug. 22, 2022) (nonprecedential), raise the same legal issue challenging the adequacy of the *Miranda* warnings, we consolidated the appeals in our grant of certiorari. Rule 12-317(B) NMRA (consolidation); Rule 12-502 NMRA (certiorari jurisdiction). This consolidated case presents a matter of first impression addressing whether the following warnings, in relevant part, satisfy *Miranda*: Atencio was advised, “you have a right to a lawyer”; Chiaramonte was advised, “You have the right to an attorney and have him/her present while you are being questioned.” Guided by United States Supreme Court precedent, we hold that both warnings satisfy *Miranda*.¹ In so holding, we adopt *State v. Serna*, 2018-NMCA-074, 429 P.3d 1283, because it is consistent with *Miranda* and addresses many, though not all, of the issues before us. Accordingly, we reverse the Court of Appeals’ holdings that Atencio and Chiaramonte were not adequately apprised of their *Miranda* rights. Finally, Defendant Atencio challenges the sufficiency of the evidence to support his convictions. For the reasons that follow, we affirm the Court of Appeals on this issue.

I. BACKGROUND

{2} Because the consolidated cases present a question of law, we only briefly summarize the underlying factual circumstances relevant to resolve that question. We include additional facts as necessary in our analysis to address Defendant Atencio’s sufficiency claim.

A. State v. Atencio

1. Facts

{3} The victim in *Atencio* (C.Y.) was a ten year old boy. In June of 2017, C.Y. moved with his mother (Mother) and three siblings into a trailer in Kirtland, New Mexico. Atencio lived in the trailer next door to C.Y. Upon learning that Mother’s former neighbor may have sexually abused C.Y., Father reported the alleged abuse to law enforcement. Eventually, the case was assigned to Detective Babadi of the San Juan County Sheriff’s Office, who identified Atencio as a suspect. In 2018, Detective Babadi asked Atencio to come to the sheriff’s office to discuss an unrelated incident reported by Atencio. After Detective Babadi and Atencio discussed that incident, Detective Babadi told Atencio that he wanted to discuss the present case. {4} Prior to questioning, Detective Babadi read Atencio the following *Miranda* rights from a form: “You have the right

¹ Both Defendant Atencio and Defendant Chiaramonte ask this Court to consider broader protections provided by the New Mexico Constitution. In light of Defendants’ concessions that the issue was not preserved, we decline to address it. See *Princeton Place v. N.M.*

to remain silent; anything you say may be used against you; you have a right to a lawyer; and if you cannot afford a lawyer one will be provided free.” After reading Atencio his rights, Detective Babadi placed the same form in front of Atencio on the table, asking him if he understood. Atencio confirmed he understood. Detective Babadi proceeded to ask Atencio if he could read out loud and confirmed that he could read and write. Detective Babadi told Atencio he was not confirming this information to insult his intelligence, but to ensure that Atencio knew his rights. In response, Atencio pulled the paper toward himself and read out loud: “I understand these rights as given above. I waive them and agree to answer questions put to me by the police.” Detective Babadi asked Atencio if he understood what he just read; Atencio confirmed and signed the advisement form.

{5} During the interview, Atencio admitted—among other things—that he saw C.Y. every day during the four or five months that they lived next door to each other in Kirtland and that he had touched C.Y.’s penis between twenty and thirty times.

2. Procedural history

{6} Defendant Atencio was charged as relevant here with one count of criminal sexual penetration of a minor (CSPM), contrary to NMSA 1978, Section 30-9-11(D)(1) (2009), and twenty-five counts of criminal sexual contact of a minor in the second degree (CSCM), contrary to NMSA 1978, Section 30-9-13(B)(1) (2003).

{7} Prior to trial, the State filed a motion to admit Detective Babadi’s interview of Atencio, asserting that Atencio was “properly Mirandized and his statements were knowingly, intelligently, and voluntarily made.” Defendant Atencio did not respond and, after a hearing on the motion, “the district court ruled that it [saw] no problems at all with this *Miranda* waiver and any statements [were] going to be allowed [at trial].” *Atencio*, 2021-NMCA-061, ¶ 11. Detective Babadi’s interview of Atencio was admitted at trial, and he was subsequently convicted of one count of CSPM and twenty-one counts of CSCM. Defendant Atencio appealed to the Court of Appeals, asserting: (1) the warnings he received were inadequate, (2) assistance

of counsel was ineffective² if the Court of Appeals determined that his challenge of the adequacy of the *Miranda* warnings was not preserved, and (3) the evidence was insufficient.

{8} The Court of Appeals first focused on Defendant Atencio’s objection at the evidentiary hearing, concluding that the issue of the adequacy of the warnings was not preserved because his objection below was “focused squarely on whether his *Miranda* waiver was knowing, intelligent, and voluntary—not whether his *Miranda* warnings were in fact adequate.” *Id.* ¶¶ 14, 16. As a result, the Court examined the adequacy of the warnings under the fundamental error standard. *Id.* ¶ 34. Ultimately, the Court of Appeals held that the warnings given to Atencio were defective “because they did not clearly convey to Atencio that he had a right to presence of counsel prior to, and during, his interview.” *Id.* ¶ 30. The Court of Appeals explained that its holding “does not impose a requirement that *Miranda* warnings must include specific language that an individual subject to custodial interrogation has the right to counsel before and during questioning.” *Id.* ¶ 35. Rather, it “simply confirm[s] that an individual subject to custodial interrogation must be informed that he has a constitutional right, among others, to the ‘presence of an attorney, either retained or appointed’ before and during questioning.” *Id.* The Court of Appeals’ explanation of its holding is unclear because it sows confusion as to what precisely is required of law enforcement moving forward. This confusion is highlighted by Defendant Atencio’s view that the Court “held for the first time that police *must explicitly* warn suspects of their right to have counsel present *prior to and during questioning*” (emphasis added), which is at odds with the Court’s own language explaining that it did “not impose” such a requirement, thus warranting our review.

{9} Finally, the Court of Appeals examined the sufficiency of the evidence. It held that sufficient evidence supported each of Defendant Atencio’s convictions, *Atencio*, 2021-NMCA-061, ¶¶ 37, 49-51, relying upon this Court’s recent analysis in *State v. Lente*, 2019-NMSC-020, 453 P.3d 416.

{10} The State appealed to this Court, contending the Court of Appeals erred in concluding that the *Miranda* warning

given to Atencio was inadequate. Defendant Atencio filed a cross-appeal challenging the sufficiency of the evidence. We granted certiorari.

B. *State v. Chiaramonte*

1. Facts

{11} Victim (ADLP) was an eleven year old girl who was sexually abused by Chiaramonte when Chiaramonte was nearly twenty years old. Eventually, the abuse was reported, and a detective interviewed Chiaramonte. Prior to conducting the interview, the detective read Chiaramonte the following *Miranda* rights:

You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney and have him/[her] present . . . while you are being questioned. If you cannot afford . . . an attorney, one will be appointed to you by the state of New Mexico free of charge.

{12} Chiaramonte initialed and signed an advisement containing functionally the same, above-quoted language.³ The “Advisement of Rights” form stated, “Before we ask you any questions, you must understand your constitutional rights.” Directly below that statement followed a series of rights with a space for Chiaramonte to initial each. The first four lines informed Chiaramonte of his *Miranda* rights as outlined in the above-quoted language. Additional lines provided further explanation to Chiaramonte ensuring that he understood that “[a]t any time you can exercise your rights and stop answering questions,” that “I have been advised of and understand my Constitutional Rights,” and that “I have read and understand my Constitutional Rights.”

{13} Chiaramonte initialed in the space next to each of these lines, signing and dating directly below. The form contained two additional paragraphs labeled “Waiver of Rights,” beneath which he again signed his name and entered the date. The first paragraph stated, “I have read this statement of my rights and understand what my Constitutional Rights are.” The second paragraph provided, “I am willing to make a statement and answer questions. I understand and know what I am doing. No promises or threats have been made against me and no pressure or coercion

² The Atencio Court of Appeals did not address Defendant Atencio’s ineffective assistance of counsel claim “in light of [its] holding regarding the admission of [Atencio]’s statements,” *Atencio*, 2021-NMCA-061, ¶ 3, and Defendant Atencio does not challenge that determination or otherwise raise the issue before this Court.

³ Although Defendant Chiaramonte refers to the oral and written advisements interchangeably, and the State, district court, and Court of Appeals indicate that they are the same, we note there are a couple differences that do not impact the meaning of the warnings, including pronoun usage “him” versus “him/her” and what appear to be two occurrences of inadvertently duplicative text. See Serna, 2018-NMCA-074, ¶ 15 (“If a defendant has been told the substance of his constitutional rights, it is not fatal if irrelevant words or words with no independent substance are omitted.” (internal quotation marks and citation omitted)). For consistency, we refer to the language contained in the written warning throughout the remainder of this opinion.

of any kind has been used against me.” In total, Chiamonte initialed nine times, indicating he understood his rights and was willing to waive those rights while speaking to the detective.

{14} During the interview, Chiamonte admitted that he sexually abused ADLP.

2. Procedural history

{15} Defendant Chiamonte was charged in relevant part with six counts of CSPM. Defendant Chiamonte filed a motion to suppress, asserting that the *Miranda* warnings were inadequate because they did not convey that he had the right to the presence of counsel *prior* to questioning. The district court granted Defendant Chiamonte’s motion to suppress, explaining that the *Miranda* warnings were insufficient under *Miranda*, 384 U.S. 436, and *Serna*, 2018-NMCA-074. The district court reasoned that the warnings “did not reasonabl[y] convey, explicitly or implicitly, Mr. Chiamonte’s right to counsel . . . [or] right to consult with counsel prior to question[ing].” The State filed a motion for reconsideration, which the district court denied. The State appealed to the Court of Appeals, arguing that the district court erred in granting Defendant Chiamonte’s motion to suppress.

{16} The Court of Appeals applied *Serna*, holding that the warning given to Chiamonte was inadequate because it “did not convey that [Chiamonte] had the right to counsel *before* being questioned.” *Chiamonte*, No. A-1-CA-40543, ¶ 8. It reasoned that the warning (“You have the right to an attorney and have him[/her] present with you while you are being questioned.”) did not convey Chiamonte’s right to counsel before being questioned because “[t]he word ‘while’ modified the entire phrase, ‘You have the right to an attorney and have him present with you.’” *Id.* This modification, the Court of Appeals explained, improperly “restrict[ed] that right to *during* the time [Chiamonte was] being questioned by officers.” *Id.* (emphasis added).

{17} The State appealed, presenting one question for this Court’s consideration: whether the Court of Appeals erred in its conclusion that the *Miranda* warning given to Chiamonte “was inadequate

because it did not specify that he had the right to a lawyer before questioning.”

II. DISCUSSION

A. *Miranda* Warnings

{18} The State raises the same contention in both appeals: that the *Miranda* warnings were adequate. We review *de novo* this legal question, whether Atencio⁴ and Chiamonte were adequately advised of their rights under *Miranda*. See *State v. Gutierrez*, 2011-NMSC-024, ¶ 7, 150 N.M. 232, 258 P.3d 1024 (“The ultimate determination of whether a valid waiver of *Miranda* rights has occurred, however, is a question of law which we review *de novo*.” (text only)⁵ (citation omitted)); see also *State v. Verdugo*, 2007-NMCA-095, ¶ 12, 142 N.M. 267, 164 P.3d 966 (noting that the adequacy of *Miranda* warnings is a question of law subject to *de novo* review).

1. Federal *Miranda* precedent

{19} In pertinent part, *Miranda* requires a person “subjected to questioning” to be advised simply “that he has the right to the presence of an attorney.” 384 U.S. at 478-79. Defendants in this case do not dispute *Miranda*’s holding. To be sure, *Miranda* clarified that *the presence of an attorney* includes the right to consult with an attorney before and during questioning. 384 U.S. at 470 (“[T]he need for counsel to protect the Fifth Amendment privilege comprehends not merely a right to consult with counsel prior to questioning, but also to have counsel present during any questioning if the [suspect] so desires.”). But *Miranda* makes clear there is no requirement that a suspect receive a warning exactly to that effect. Instead, by way of example, *Miranda* explained that the relevant portion of the warning given by the FBI at that time—“that the person has . . . a right to counsel”—was “consistent with the procedure . . . delineat[ed]” by the United States Supreme Court in *Miranda*. *Id.* at 484 (citation omitted). Notably, those warnings do not expressly advise the accused that counsel may be present during, or even before, interrogation. In other words, under *Miranda*, the right to have counsel present prior to as well as during questioning is adequately conveyed simply by informing a suspect of the right to counsel. *Accord* 384 U.S. at 500 n.3

(Clark, J., dissenting) (“The [FBI’s] offer of counsel is articulated only as ‘a right to counsel’; nothing is said about a right to have counsel present at the custodial interrogation.”); see also *United States v. Clayton*, 937 F.3d 630, 639 (6th Cir. 2019) (“*Miranda*, it bears reminding, merely required that a [suspect] be informed of his right to ‘the presence of an attorney.’ . . . But *Miranda* did not require a warning exactly to that effect. . . . And those warnings, while advising of the right to counsel, conspicuously did not state expressly that counsel may be present during interrogation.” (citation omitted)).

{20} After *Miranda* was decided in 1966, the United States Supreme Court delivered three opinions addressing the adequacy of *Miranda* warnings, never departing from that simple, generic warning. The first case in which it revisited *Miranda* in this context is *California v. Prysock*, 453 U.S. 355 (1981), where at a police interrogation the suspect was advised, “You have the right to talk to a lawyer before you are questioned, have him present with you while you are being questioned, and all during the questioning.” *Id.* at 356. The United States Supreme Court held that the warnings “fully conveyed [the suspect’s] rights” under *Miranda*. *Id.* at 361. It explained that—in contrast with other cases where the right to counsel was linked to a time in the future—“nothing in the warnings . . . suggested any limitation on the right to the presence of appointed counsel different from the clearly conveyed rights to a lawyer in general.” *Id.* at 360-61.

{21} In *Duckworth v. Eagan*, 492 U.S. 195 (1989), officers informed the suspect, in relevant part, as follows: “You have a right to talk to a lawyer for advice before we ask you any questions, and to have him with you during questioning.” *Id.* at 198 (emphasis omitted). Officers also advised the suspect as follows: “We have no way of giving you a lawyer, but one will be appointed for you, if you wish, if and when you go to court.” *Id.* (emphasis omitted). The Seventh Circuit in *Duckworth* determined that the “‘if and when you go to court’” portion of the warning rendered the entire warning defective because it denied the indigent suspect “‘a clear and

⁴ While we agree that Defendant Atencio failed to preserve the issue, our jurisprudence suggests that plain error is the appropriate standard of review rather than fundamental error as applied by the Court of Appeals because the Court of Appeals and Defendant Atencio frame the error as an improper admission of evidence by the district court. See *State v. Montoya*, 2015-NMSC-010, ¶ 46, 345 P.3d 1056 (explaining when evidentiary questions, such as the admission of testimony, may be reviewed for plain error). This distinction does not impact our analysis because we ultimately conclude the Atencio district court did not err, let alone commit plain or fundamental error; therefore, our analysis does not proceed beyond the first step, which is the same under either standard of review. See *State v. Silva*, 2008-NMSC-051, ¶ 11, 144 N.M. 815, 192 P.3d 1192 (explaining that the “first step in reviewing for fundamental error is to determine whether an error occurred”), holding modified on other grounds by *State v. Guerra*, 2012-NMSC-027, ¶ 11, 284 P.3d 1076; see also Michael H. Graham, *Winning Evidence Arguments* § 103:9 Rule 103(e): plain error, December 2023, at 11 (“The first step in a plain error analysis is to determine whether error occurred.”).

⁵ The “(text only)” parenthetical indicates the omission of nonessential punctuation—including internal quotation marks, ellipses, and brackets—that are present in the text of the quoted source, leaving the quoted text otherwise unchanged.

unequivocal warning of the right to appointed counsel before any interrogation” and linked that right “with a future event.” *Id.* at 198 (citation omitted). The United States Supreme Court reversed, holding that the warnings, “in their totality,” were sufficient under *Miranda*. *Id.* at 205. It reasoned that the advice “if and when you go to court” simply anticipated the question about “when [the suspect] will obtain counsel” that is commonly asked after a suspect receives *Miranda* warnings. *Id.* at 204.

{22} Most recently and of particular relevance to the consolidated case before us, in *Florida v. Powell*, 559 U.S. 50 (2010), officers read a form to an arrested suspect advising in relevant part of the “right to talk to a lawyer before answering any of our questions.” *Id.* at 54. The advisement also included what the *Powell* Court referred to as a “catchall warning,” which stated, “[Y]ou have the right to use any of these rights at any time you want during this interview.” *Id.* at 55. Once again, the United States Supreme Court held that the warnings satisfied *Miranda* because the officers “did not entirely omit” any information *Miranda* required them to impart.” *Powell*, 559 U.S. at 62 (brackets and citation omitted). The *Powell* Court explained, “The first statement communicated that [the suspect] could consult with a lawyer before answering any particular question, and the second statement confirmed that he could exercise that right while the interrogation was underway.” *Id.* Read together, “the two warnings reasonably conveyed [the suspect’s] right to have an attorney present, not only at the outset of interrogation, but at all times.” *Id.*

{23} In reaching its holding, the *Powell* Court first articulated the question that had been certified to the Florida Supreme Court: “Does the failure to provide express advice of the right to the presence of counsel during questioning” render the *Miranda* warnings inadequate? *Id.* at 55 (emphasis added) (citation omitted). The United States Supreme Court was not persuaded by the Florida Supreme Court’s conclusion that the warning was misleading because “the temporal language—that [the suspect] could ‘talk to a lawyer before answering any of [the officers’] questions’—suggested [the suspect] could consult with an attorney only before the interrogation started.” *Id.* at 63 (second alteration in original). Instead, the *Powell* Court explained, “In context, . . . the term ‘before’ merely conveyed when [the suspect’s] right to an attorney became effective—namely, before he answered any questions at all. Nothing in the words used indicated that counsel’s presence would be restricted after the questioning commenced.” *Id.* Therefore, even though

the warning given to the suspect in *Powell* did not expressly inform the suspect of the right to the presence of counsel at all, let alone during questioning, the *Powell* Court held that the warning was sufficient, reasoning as follows:

To reach the opposite conclusion, i.e., that the attorney would not be present throughout the interrogation, the suspect would have to imagine an unlikely scenario: To consult counsel, he would be obliged to exit and reenter the interrogation room between each query. A reasonable suspect in a custodial setting who has just been read his rights, we believe, would not come to the counter-intuitive conclusion that he is obligated, or allowed, to hop in and out of the holding area to seek his attorney’s advice.

Id. at 62.

{24} Further, the *Powell* Court compared the warnings given to the suspect in that case with the warnings used by federal law enforcement agencies in general, and more specifically, the FBI. *Id.* at 64. It explained that the warnings given by federal agencies “explicitly advise suspects of the full contours of each *Miranda* right, including the right to the presence of counsel during questioning.” *Id.* (text only) (citation omitted). As to the warnings used by the FBI, the *Powell* Court labeled them “exemplary.” *Id.* Those warnings state in pertinent part, “You have the right to talk to a lawyer for advice before we ask you any questions. You have the right to have a lawyer with you during questioning.” *Id.* The *Powell* Court reasoned that, while such advice is “admirably informative,” it is not “necessary to meet *Miranda*’s requirements. Different words were used in the advice [the suspect] received, but they communicated the same essential message.” *Id.*

{25} In other words, the warnings given by federal agencies and the FBI at the time of the Court’s decision in *Powell*, which explicitly advised suspects of the right to the presence of counsel during interrogation, conveyed the same essential message as the warning given to the suspect in *Powell*, which did not explicitly advise him of the right to the presence of counsel during interrogation. The United States Supreme Court’s rationale in *Powell* reaffirms what that Court has repeatedly conveyed regarding the required *Miranda* warnings: “In determining whether police warnings were satisfactory, reviewing courts are not required to ‘examine [them] as if construing a will or defining the terms of an easement. The inquiry is simply whether the warnings reasonably conveyed to [a suspect] his rights as required by *Miranda*.’” *Id.* at 51 (alterations in original) (quoting

Duckworth, 492 U.S. at 203 (internal quotation marks omitted)).

2. *State v. Serna*

{26} Because the State, Defendants, and the Court of Appeals in both cases heavily rely upon *Serna*, 2018-NMCA-074, we discuss it in some detail before concluding that *Serna* is consistent with *Miranda*, thereby adopting it to apply to the consolidated case before us today.

{27} In *Serna*, officers advised the suspect that he had, in relevant part, “the right to an attorney during any and all questionings.” *Id.* ¶ 3. The *Serna* Court of Appeals addressed whether “*Miranda* require[s] that a person subject to custodial interrogation be warned of that person’s right to have counsel present prior to questioning.” *Id.* ¶ 17. The *Serna* Court then answered this question in the affirmative: “It is clear from both *Miranda* and subsequent decisions by the United States Supreme Court that there is a right to have and consult with counsel prior to questioning.” *Id.* ¶ 18. Consistent with *Miranda*, however, this right does not need to be explicitly conveyed to the suspect. *Id.* ¶ 21 (“We conclude that *Miranda* requires that a person be warned, at least implicitly, that they have a right to counsel prior to questioning.”). Instead, the *Serna* Court explained that “one can reasonably infer from an advisement referring to the right to the presence of counsel that the right applies both before and during interrogation.” *Id.* ¶ 19.

{28} The State in *Serna* argued that it and the Supreme Court of New Mexico, as well as the United States Supreme Court, “have all upheld on numerous occasions warnings that simply apprised the suspect of a right to the presence of counsel, which is a verbatim recitation of what *Miranda* noted was required.” *Id.* ¶ 19. The Court of Appeals responded that such a warning, though not directly at issue in *Serna*, is likely sufficient because it “contains no limitation on the right to counsel.” *Id.* It explained, “The fact that courts have affirmed the use of the term ‘presence of counsel’ does not mean that a suspect need not be advised of his right to counsel prior to questioning . . . but rather that such language adequately conveys that right.” *Id.* The *Serna* Court proceeded to address the warning given in that case, “the right to an attorney during any and all questionings,” *id.* ¶ 3, concluding that it was inadequate because it “placed a misleading temporal limitation on the full right to counsel under *Miranda*,” *id.* ¶ 25. In reaching its conclusion, the *Serna* Court “simply reaffirm[ed] the traditional *Miranda* requirement that a suspect be apprised of the full right to counsel without limitation.” *Id.*

{29} Thus, *Serna* is consistent with *Miranda* and its progeny because, unlike *Prysock*, *Duckworth*, and *Powell*, where the suspect's advisement included—either explicitly or implicitly—his right to a lawyer before questioning, the warning given to the suspect in *Serna* only informed the suspect of “the right to an attorney during any and all questionings.” *Id.* ¶ 3 (emphasis added). This warning was defective because it failed to convey—explicitly or implicitly—that the suspect had the right to an attorney before questioning. *Id.* ¶ 24. Therefore, unlike *Powell*, the officers in *Serna* “entirely omit[ted] . . . information *Miranda* required them to impart.” *Powell*, 559 U.S. at 62.

{30} Because the reasoning in *Serna* is sound, consistent with United States Supreme Court precedent, and none of the parties before the Court argue that *Serna* is incorrect, we adopt *Serna*.

3. Atencio received adequate *Miranda* warnings

{31} Atencio was advised that he had the “right to a lawyer.” We first examine this warning in the context of United States Supreme Court precedent prior to assessing the warning under *Serna*. Even though Defendant Atencio acknowledges *Miranda* only requires that the accused be advised of the “right to the presence of an attorney” (quoting *Miranda*, 384 U.S. at 479), he contends that the warning he received was too general, thereby failing to explicitly inform him of his right to speak to an attorney before questioning as well as the right to have such attorney present during questioning. Defendant Atencio first outlines *Prysock* and *Duckworth*, concluding that the United States Supreme Court in both cases “affirmed that the right to an attorney before and during questioning is required information in the advisement” (emphasis added).

{32} However, federal precedent does not support Defendant Atencio's position that such precise language must be included in the advisement. In *Prysock*, the United States Supreme Court explained that “*Miranda* itself indicated that no talismanic incantation was required to satisfy its strictures.” *Prysock*, 453 U.S. at 359. To support its explanation that *Miranda* does not support a rigid or “precise formulation” in “the form of the required warnings,” *id.*, the *Prysock* Court relied upon *United States v. Lamia*, 429 F.2d 373, 375-76 (2d Cir. 1970). In *Lamia*, the suspect was advised simply of the “right to an attorney.” 429 F.2d at 376. The *Lamia* Court held that the warning was sufficient because the suspect was informed “without qualification that he had the right to an attorney.” *Id.* at 377. Notably, the warning Atencio received (“a right to a lawyer”) was nearly identical to the warning given to the suspect in

Lamia, 429 F.2d at 376 (“the right to an attorney”), and the FBI warning endorsed in *Miranda*, 384 U.S. at 484 (“a right to counsel”).

{33} Defendant Atencio next refers this Court to *Powell*, concluding that no United States Supreme Court precedent has “found that a warning devoid of the right to the presence of counsel was sufficient” and that each case before the United States Supreme Court “mentioned the requirement that the suspect be informed of the right to the presence of counsel.” In Defendant Atencio's view, this supports his argument that the warning he received, “a right to a lawyer,” was inadequate because it did not include the word “presence.” The plain language of *Powell* does not support Defendant Atencio's position. As we explained in detail previously herein, the warning given to the suspect in *Powell* did not expressly inform the suspect of the right to the presence of counsel at all, let alone during questioning, and yet the *Powell* Court held that the warning was sufficient because “[a] reasonable suspect in a custodial setting who has just been read his rights” would have understood his right to the presence of an attorney throughout the interrogation. 559 U.S. at 62; see *Clayton*, 937 F.3d at 639-40 (relying upon *Powell* in concluding that the warning given in that case was sufficient even though it did not “expressly” inform the suspect of the right to counsel during questioning because “[i]t would be ‘counterintuitive’ to think that both rights kicked in before questioning but terminated the moment the officer started the interrogation”); see also *Carter v. People*, 2017 CO 59M, ¶ 14, 398 P.3d 124, as modified on denial of reh'g (July 31, 2017) (concluding that the warning “You have the right to have an attorney” was sufficient because “the specific advisement of the [suspect]'s right to counsel . . . did not include any temporal limitation that might even colorably be misunderstood to restrict the exercise of that right relative to interrogation by the police”).

{34} Similar to Defendant Atencio's view, Justice Stevens, in his dissent, deemed the warning given in *Powell* to be insufficient and asserted that *Miranda* required a suspect to be informed of the “separate and distinct right ‘to have counsel present during any questioning.’” *Powell*, 559 U.S. at 75-76 (Stevens, J., dissenting) (quoting *Miranda*, 384 U.S. at 470). The majority disagreed, responding, “We find the warning in this case adequate, however, only because it communicated just what *Miranda* prescribed.” *Id.* 559 U.S. at 62 n.5. Thus, the *Powell* Court approved of the *Miranda* warning even though the warning did not explicitly advise the suspect in that case of the right to the presence of an attorney. *Powell*, 559 U.S. at 62.

{35} Like the majority in *Powell*, we hold that the warning given to Atencio was sufficient because it conveyed what *Miranda* required. The warning did not “entirely omit” any information *Miranda* required,” consistent with *Powell*, 559 U.S. at 62 (brackets and citation omitted). Nor did it improperly suggest any temporal limitation by linking Atencio's right to counsel “to a future point in time after police interrogation,” consistent with *Prysock*, 453 U.S. at 360. And even if this Court were inclined to agree with Defendants, we are bound by federal precedent. See *Fare v. Michael C.*, 442 U.S. 707, 717 (1979) (“[I]t is clear that ‘a State may not impose . . . greater restrictions as a matter of federal constitutional law when [the United States Supreme] Court specifically refrains from imposing them.’” (omission in original) (citation omitted)).

{36} Pursuing a different line of argument, Defendant Atencio contends that the warnings he received were inadequate when placed in the context of the events surrounding his questioning. See *State v. Salazar*, 1997-NMSC-044, ¶ 61, 123 N.M. 778, 945 P.2d 996 (explaining that it is proper to consider “events surrounding the questioning” in determining whether the warnings were adequate under *Miranda*). In Defendant Atencio's view, Detective Babadi demanded that he answer his questions, instead of asking, and the warnings, in addition to the demand, “could have easily led to Atencio not understanding that he could consult with counsel before the questioning began.” Prior to questioning, Detective Babadi said, “I want to hear your side of the story . . . you need to answer me some questions. OK?” Atencio responded, “OK.” The detective proceeded to read Atencio his rights, including, as relevant here, his “right to a lawyer.” After reading Atencio his rights, Detective Babadi placed the same form in front of Atencio on the table, asking him if he understood. Atencio confirmed he understood. Detective Babadi proceeded to ask Atencio if he could read out loud and confirmed that he could read and write. Detective Babadi explained he was not confirming such information to insult Atencio's intelligence but to ensure he knew his rights. Then, Atencio read out loud: “I understand these rights as given above. I waive them and agree to answer questions put to me by the police.” Detective Babadi proceeded to ask Atencio if he understood what he just read; Atencio confirmed and signed the advisement form.

{37} Examining the warnings in the context of these surrounding events, we are unpersuaded that Detective Babadi engaged in any conduct that would reasonably lead Atencio to believe that he could not consult with a lawyer before

questioning—and Defendant Atencio does not refer us to any precedent suggesting otherwise, so we assume none exists. See *State v. Guerra*, 2012-NMSC-014, ¶ 21, 278 P.3d 1031 (providing that where no authority is cited we may assume none exists). Instead, it is clear Detective Babadi took care to ensure that Atencio understood his rights. Atencio himself read out loud and subsequently signed that he understood and agreed to waive his rights, one of them being his right to a lawyer, prior to answering any questions from the detective.

{38} We now consider Defendant Atencio's argument under *Serna*. As previously discussed, the *Atencio* Court of Appeals first focused on the portion of *Serna* explaining that *Miranda* warnings include the right to consult with a lawyer prior to interrogation. *Atencio*, 2021-NMCA-061, ¶¶ 31-32. The *Atencio* Court proceeded to rely upon *Serna* to conclude that, like *Serna*, the warning given to Atencio was inadequate because “the balance of the warnings contain[ed] no before questioning language—or any other language, for that matter—by which we could infer that the full right to counsel was adequately conveyed.” *Id.* ¶ 34 (quoting *Serna*, 2018-NMCA-074, ¶ 24 (emphasis added)).

{39} The Court of Appeals misapplied *Serna* in Defendant Atencio's case by failing to recognize that the fundamental issue with the *Miranda* warning in *Serna* was the inclusion of misleading temporal language, “You have the right to an attorney during any and all questionings.” *Serna*, 2018-NMCA-074, ¶ 3 (emphasis added). *Serna* was careful to highlight that the temporal language was “pivotal,” explaining that the word “during” modifies the phrase ‘you have a right to an attorney’ and restricts that right to the duration of any questioning by law enforcement.” *Id.* ¶ 23. *Serna* concluded, “[B]y implying that the right to counsel would be effective only during the interrogation, the warnings given by [the officer to the suspect] placed a misleading temporal limitation on the full right to counsel under *Miranda*.” *Id.* ¶ 25.

{40} Nothing in *Serna*, however, suggests that the inadequacy of the *Miranda* warning in that case stemmed from anything other than the insertion of misleading temporal language implying that the suspect did not have the right to counsel prior to interrogation. Rather, the *Serna* Court explained that a general *Miranda* warning implies a right to counsel prior to questioning. *Id.* ¶¶ 21-22. “That is, one can reasonably infer from an advisement referring to the right to the presence of counsel that the right applies both before and during interrogation.” *Id.* ¶ 19 (emphasis added). Stated in slightly different terms, a *Miranda* warning without any

improper temporal limitation (like the one given to Atencio, for example) “adequately conveys” that a suspect has the right “to the presence of counsel . . . before and during interrogation.” *Id.*; accord *Prysock*, 453 U.S. at 360-61 (stating that “nothing in the warnings given [to the suspect] suggested any limitation on the right to the presence of appointed counsel different from the clearly conveyed rights to a lawyer in general.” (emphasis added)).

{41} In sum, the *Miranda* warning given to Atencio informed him of his “right to a lawyer.” Under *Serna*, the warning given to Atencio was adequate because “one can reasonably infer” from an advisement referring to “the right to a lawyer” the same as “one can reasonably infer from an advisement referring to the right to the presence of counsel that the right applies both before and during interrogation.” *Serna*, 2018-NMCA-074, ¶ 19 (emphasis added). Therefore, the advisement of the right to an attorney, like the advisement of “the right to remain silent”—which Defendant Atencio does not argue is misleading or that it was inadequate even though it did not explicitly inform him of his right to remain silent before as well as during questioning—confirms that Atencio received adequate warnings under *Miranda*. See, e.g., *Carter*, 2017 CO 59M, ¶ 14 (relying upon the general nature of the warning, “the right to remain silent,” to support that the warning the suspect received in that case, “You have the right to have an attorney,” satisfied *Miranda*).

4. Chiaramonte received adequate *Miranda* warnings

{42} Chiaramonte was advised that he had “the right to an attorney and have him/her present while you are being questioned.” Defendant Chiaramonte contends that this warning was inadequate because it placed an improper temporal limitation on his right to counsel, suggesting that the right did not apply before questioning. As with Defendant Atencio's case, we first examine the warning given to Chiaramonte in the context of United States Supreme Court precedent prior to assessing the warning under *Serna*.

{43} We begin our discussion by highlighting that the warning given to Chiaramonte is strikingly similar to the warning *Miranda* approved of, informing a suspect of “the right to consult with a lawyer and to have the lawyer with him during interrogation.” *Miranda*, 384 U.S. at 471. And as previously discussed, the actual form that the warning can take is flexible; the *Miranda* Court also approved of warnings advising a suspect of “the right to the presence of an attorney,” *id.* at 479, and, in the case of the FBI warnings at that time, of “a right to counsel,” *id.* at 484. Since *Miranda*, the United States Supreme Court

has taken every opportunity to reaffirm its flexible approach to evaluating the form of a *Miranda* warning. See, e.g., *Prysock*, 453 U.S. at 359 (“*Miranda* itself indicated that no talismanic incantation was required.”); *Duckworth* 492 U.S. at 203 (“*Miranda* warnings are not themselves rights protected by the Constitution but are instead measures to insure that the right against compulsory self-incrimination is protected. Reviewing courts therefore need not examine *Miranda* warnings as if construing a will or defining the terms of an easement.” (text only) (citation omitted)); *Powell*, 559 U.S. at 60 (“The four warnings *Miranda* requires are invariable, but this Court has not dictated the words in which the essential information must be conveyed.”).

{44} Contrary to this flexible approach, Defendant Chiaramonte raises the same argument Defendant Atencio raised, relying upon *Prysock* and *Duckworth* to establish that, in his view, both cases “affirmed that the right to an attorney before and during questioning must be included in the advisement” (emphasis added). We disagree. As previously discussed in detail, *Prysock* explained that *Miranda* neither requires talismanic language nor does it support a rigid or “precise formulation” in “the form of the required warnings.” *Prysock*, 453 U.S. at 359. And *Prysock*, *id.*, in its reliance on *Lamia* where the warning given simply advised the suspect of “the right to an attorney,” *Lamia*, 429 F.2d at 375-77, is incompatible with Defendant Chiaramonte's assertion that the warning must expressly state that a person has the right to an attorney before and during questioning.

{45} Contrary to Defendant Chiaramonte's formulaic assertions, the United States Supreme Court in *Duckworth* once again disapproved of a rigid approach to the form of the warning. See 492 U.S. at 203 (“The inquiry is simply whether the warnings reasonably convey to a suspect his rights as required by *Miranda*.” (brackets and internal quotation marks omitted) (quoting *Prysock*, 453 U.S. at 361)). Adhering to the appropriate inquiry established in *Duckworth*, the warning given to Chiaramonte that he had “the right to an attorney and have him/her present while [he was] being questioned” (emphasis added) reasonably conveyed his rights under *Miranda*. The first clause, “You have the right to an attorney,” provided the general right, and the second clause, advising Chiaramonte that his attorney could be “present while [he was] being questioned,” simply confirmed that his attorney could be present during questioning.

{46} Defendant Chiaramonte next relies upon *Powell*, contending that *Powell*, *Duckworth*, and *Prysock* all “affirmed the

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YLD *in brief*

WINTER
2024

The Official Newsletter of the
State Bar of New Mexico Young Lawyers Division

Message from the 2024 YLD Chair



Randy Taylor

This is the YLD "In Brief," so I'll try to keep it brief. This year, the Young Lawyers Division ("YLD") has focused on some of its core programs, including Wills For Heroes, Veterans' Legal Clinics, Fit2Practice and the Law Student Mentorship Program. I am incredibly proud of the work the Board has done this year, not just because of the volume of programming or people the Division has served but because of the Board's dedication to improving these core programs and improving the services we provide. In that regard, this has been a banner year for the YLD.

At the same time, we recognize the Division is changing. This was the first year the YLD included all attorneys licensed for ten years or fewer, regardless of their age. We have also felt the effects of the first Gen Z attorneys entering our profession and an even newer generation of students (of all ages) entering law

school. We saw several new faces this year, and I speak for the Board when I say we have been so, so excited to have seen you and have new energy and ideas around.

Ultimately, my year-end message is two-fold: the YLD needs you now more than ever, but also, you probably could use the YLD more than ever. So much of what young lawyers are looking for – like practical advice, meaningful connections and a higher purpose – can be found in the YLD. We're not the only place you can find those things, but we are where you can find them with other young lawyers who are going through what you are going through while you are going through it. And trust me, we are all going through it right now. We can at least go through it together.

This YLD In Brief reviews what we have done this past year, and I encourage you to look out for these opportunities in the coming year. I will repeat my invitation from last year, though, as well: if you do not see something that fits your needs, or if you see something the YLD can be doing to serve young lawyers, tell us! We know the Division is changing, and we want to adapt to the Division's needs.

Finally, I want to thank the Board for putting up with me this past year. Being Chair is humbling because you realize you can only do so much, and even then, only so much of the time. If we have had a successful year as a Division, and if I've had a successful year as Chair, it has been because of the Board members individually. Thank you all.

— Randy Taylor, Chair

Program Updates



YLD/UNMSOL Mentorship Program & Mock Interviews



The Young Lawyers Division is deeply committed to fostering mentorship within the legal community. Recognizing the critical role mentorship plays in shaping the next generation of lawyers, our mentorship program offers programs that support and guide law students through their law school journey. This year, we connected more than 50 UNM law students with young lawyers who serve as their mentors!

We kicked off 2024 with Mock Interviews and hosted several networking events throughout the year! Thank you to our amazing volunteers who have dedicated their time to mentoring law students, often meeting with them at least once a month to provide valuable guidance and support.

— UNMSOL & Mentorship Programming Committee, Lauren Riley and Randy Taylor



Networking and Membership Benefits

While networking occurs at all of our YLD events and meetings throughout the year, the Networking Committee and Membership Benefits Committee worked hard to organize special events for our members in 2024. For the second year in a row, we had a Law Clerk Networking Event in July for law students working in New Mexico to socialize with young lawyers. It was a great event with attendance of students and young lawyers working in both the private and public sectors. Thank you to our sponsors, Modrall Sperling, Rodey Law and Sutin, Thayer & Browne for making that event a success.

We also hosted an event in Santa Fe with help from Cuddy & McCarthy, with a great turnout of both law students and young lawyers who work in Santa Fe.

YLD also hosted young lawyers at a United game, where young lawyers got to socialize and enjoy the game from the Smith's Pavilion.

Our last big event was a reception following the swearing-in of our new New Mexico lawyers. It was a fantastic night, celebrating with new lawyers and board members from our sponsor State Bar Sections and Bar Associations.

Lastly, the Networking Committee hosted a table at the Distinguished Achievement Awards Dinner. We are looking forward to another year of connecting our YLD members with each other and other lawyers across the state!

— YLD Networking Committee and Membership Benefits Committee, Laura Unklesbay, Taylor Duffney and Lauren Riley



Service Project in Outlying Area and Strategic Planning



The YLD Board all met together in Santa Fe in June to conduct a Wills for Heroes event for the Santa Fe Police Department, as well as to work on strategic planning for the future of the YLD. The board was able to serve 20+ first responders and significant others, strategically plan for the coming year and host a social hour for young lawyers in Santa Fe. We always look forward to the chance to take the board members across the state and meet our membership while also serving first responders throughout New Mexico.

— UService Project in Outlying Areas Committee, Damon Hudson



Wills for Heroes

The Young Lawyers Division had three Wills for Heroes events this past year. In May, we had our first-ever event with Isleta Pueblo, drafting wills, powers of attorney and healthcare directives for their first responders. Then, in June, we hosted an event at the Santa Fe Police Department, offering our services to both the Santa Fe police and fire departments. We also held an event in September in Albuquerque, working with the Bernalillo County Fire Department. Overall, it has been an incredibly successful year, with the YLD providing essential support to well over 100 first responders and their spouses around the state. We're looking forward to visiting even more cities next year!

Thank you to all our volunteers who have made this program a success – we are so appreciative of your hard work. We would also like to extend a special thank you to the State Bar of New Mexico's Paralegal Division for their support and help throughout the year!

— Wills for Heroes Committee - Laura Unklesbay, Chandler Farnworth and Sarah Kosso



Disaster Legal Services

As ABA YLD District 23 Representative, I coordinate efforts to provide Disaster Legal Services (DLS) to disaster survivors throughout New Mexico and Arizona. Currently in New Mexico there are three federally declared disasters that people are recovering from: the Hermit's Peak/Calf Canyon wildfire and subsequent flooding impacting Colfax, Mora, and San Miguel Counties; the Salt and South Fork wildfires plus flooding impacting Lincoln, Otero, Rio Arriba, and San Juan Counties, as well as the Mescalero Apache Nation; and recent severe storm and flooding activity impacting Chaves County.

The NM State Bar YLD's DLS partner New Mexico Legal Aid (NMLA) hosts a statewide disaster hotline that people can call 24/7. To date, since NMLA began tracking hotline calls in June 2024, at least 83 people have called the hotline in need of disaster-related legal services. Other points of contact for those adversely impacted by a disaster include NMLA's Statewide Intake Unit and the State Bar's Modest Means Helpline. The State Bar YLD also works with local partners, including NMLA and the State Bar's Modest Means Helpline, to give and receive referrals.

— ABA YLD District 23 Representative - Mara Christine



#FIT2PRACTICE



#Fit2Practice

The Fit2Practice Committee provided programming throughout 2024 for young attorneys, all aimed at promoting mental and physical health. In the Spring, young attorneys ran the Chocolate and Coffee 5k run and played for the Notorious YLD kickball team. The kickball league brought together young attorneys in different practice areas and offered them an opportunity to connect with other young professionals in Albuquerque. For the Fall, the committee will be covering registration fees for the Hobbler Gobbler 5k run and costs for a hot yoga class. Future goals of Fit2Practice include expansion of its program offerings and reach in the state.

— Fit2Practice Committee, Kenneth Shiau

YLD Summer Fellowship



The first time I entered Otero County Processing Center working with the New Mexico Immigrant Law Center (NMILC), I was unsure what to expect. After passing through security and receiving a visitor pass, I found myself standing in front of sixty detained migrants, the majority of whom were from Venezuela but included people from central America, Africa and Asia. I read informational packets in Spanish about the right to seek asylum, Credible fear interviews, the right to an interpreter and about temporary protected status. After my brief presentation, my supervising attorney and I fielded hundreds of questions from migrants desperately wondering how long they would be detained, or when they would reunite with their loved ones.

Over the summer, my supervising attorney and I repeated this process many times. Accompanied by community volunteers, we visited both Otero and Cibola County processing centers weekly. We gave informational presentations, documented abuses inside the facility and recorded unique case positionalities. We filed countless requests for release under order of supervision, I-589 Asylum applications and formal complaints to the facilities. The work we did was both deeply meaningful and difficult. I listened to

stories from migrants about the hardships they endured to get to the United States and on several occasions tried to comfort those who broke down in tears at the news of an inevitable deportation or from the stress of being unable to contact their family. The migrants were always grateful for our help and to have someone friendly to speak with. The times that we were able to help someone be released from detention were extremely rewarding. In addition to the detention work, I also helped migrants who were not detained file for TPS and work permits.

Working at NMILC taught me a great deal about immigration law and the politics surrounding it. I came away from my experience with a renewed belief in the importance of immigrant rights. The passionate and talented attorneys I worked with were inspirations. I am extremely grateful for the Young Lawyers Division of the State Bar of New Mexico for helping to make my summer work possible. Without the YLD Summer Scholarship, I would not have been able to do it. Thank you.

— Elias Wilson

(continued from page 22)

requirement that the suspect be informed of the right to the presence of counsel.” We agree that the portion of *Powell* Defendant Chiaramonte refers us to, 559 U.S. at 59, reiterates that *Miranda*’s third warning includes “the right to the presence of an attorney.” Defendant Chiaramonte is incorrect, however, in his contention that *Powell* requires that a “suspect be informed of the right to the presence of counsel” because, once more, the suspect in *Powell* was never expressly informed of the right to the “presence” of counsel. Instead, the suspect in *Powell* was only informed of the “right to talk to a lawyer before answering any of our questions,” *id.* at 54, and that “[y]ou have the right to use any of these rights at any time you want during this interview.” *Id.* at 55 (alteration in original). Despite the absence of any reference in the warning to the presence of counsel, the *Powell* Court held that the warning was sufficient based upon what it reasonably conveyed to the suspect. *Id.* at 62.

{47} We therefore fail to see how the warning given to Chiaramonte—which informed him, “Before we ask you any questions, . . . [y]ou have the right to an attorney and have him/her present while you are being questioned,” and which included the catchall warning, “[a]t any time you can exercise your rights and stop answering questions”—could be insufficient when the sufficient warning given in *Powell* only informed the suspect of the “right to talk to a lawyer before answering any of our questions,” *id.* at 54, and included a catchall warning that “[y]ou have the right to use any of these rights at any time you want during this interview.” *Id.* at 55. Contrary to Defendant Chiaramonte’s position, the *Powell* Court explained, “The first statement communicated that [the suspect] could consult with a lawyer before answering any particular question, and the second statement confirmed that he could exercise that right while the interrogation was underway.” *Id.* at 62. When read “[i]n combination, the two warnings reasonably conveyed [the suspect’s] right to have an attorney present, not only at the outset of interrogation, but at all times.” *Id.* We reach the same conclusion here. The first clause of the warning contained no temporal limitation, communicating that Chiaramonte had “the right to an attorney,” and the second clause, “have him/her present while you are being questioned,” in the words of *Powell*, “confirmed that he could exercise that right while the interrogation was underway.” *Id.* at 62. When read together, as *Powell* dictates, the warning reasonably conveyed his right to the presence of an attorney “at all times.” *Id.* To conclude that the warning given to Chiaramonte did not convey the right to the presence of counsel would result in the same “counterintuitive

conclusion” rejected in *Powell* itself. *Id.* at 62-63 (rejecting the conclusion that the warning failed to communicate the right to the presence of an attorney even though it was not explicitly stated because a “reasonable suspect in a custodial setting who has just been read his rights, we believe, would not come to the counterintuitive conclusion that he is obligated, or allowed, to hop in and out of the holding area to seek his attorney’s advice”).

{48} The State holds out *State v. Nave*, 821 N.W.2d 723, 737 (Neb. 2012), and *People v. Snaer*, 758 F.2d 1341, 1343 (9th Cir. 1985), as two cases where the court approved of warnings similar to those given to Chiaramonte, arguing that these cases support the conclusion that the warning given to Chiaramonte was adequate, as well. We agree with the State that an examination of the warnings given to the suspects in *Nave* and *Snaer* is informative in light of the similarity between those warnings and the warning given to Chiaramonte, and we note the *Serna* Court’s reliance upon *Nave* and *Snaer* as well. See 2018-NMCA-074, ¶ 21.

{49} In *Nave*, the suspect received the following warning: “You have the right to consult with a lawyer and have the lawyer with you during the questioning.” 821 N.W.2d at 734. The defendant in *Nave* argued that the warning was defective because it did not inform him that he “had a right to appointed counsel both before and during interrogation and that the police did not inform him that he could exercise that right at any time.” *Id.* The *Nave* Court first discussed United States Supreme Court precedent establishing that it “never indicated that the rigidity of *Miranda* extend[ed] to the precise formulation of the warnings given.” *Id.* at 735 (alteration in original) (quoting *Prysock*, 453 U.S. at 359). Ultimately, the *Nave* Court concluded that the warnings were sufficient because, “although the *Miranda* warnings did not expressly state that [the suspect] was entitled to appointed counsel before questioning, that information was obviously implied from the warnings which the police read to him.” *Id.* at 727.

{50} Similarly in *Snaer*, officers gave the following warning: “You have a right to consult with a lawyer and to have a lawyer present with you while you are being questioned.” 758 F.2d at 1342. The defendant argued that the warning was defective because he was not adequately informed of his right to consult with and have an attorney present before questioning began. *Id.* Relying upon *Prysock*, as *Nave* did, the Ninth Circuit in *Snaer* held that “the first part of that sentence read in the context of the latter half of the sentence does adequately convey notice of the right to consult with an attorney before questioning.” *Id.* at 1343.

{51} The warnings given in *Nave* and *Snaer* are nearly identical in substance to the

warning given to Chiaramonte: “You have the right to an attorney and have him/her present while you are being questioned.” But Defendant Chiaramonte contends that *Nave* and *Snaer* are distinguishable because, in those cases, the suspect was advised that he had the right to “consult” with an attorney, instead of being advised of the general “right to an attorney,” and that this difference renders the warning that Chiaramonte received defective. According to Defendant Chiaramonte, the word “consult” implies a more significant right to counsel” because “consult” means “consultation which . . . take[s] place prior to questioning.” We disagree. We do not view the word “consult” to denote any sort of temporal requirement or limitation. Consult merely means, as the definition cited in Defendant Chiaramonte’s brief indicates, “to get information or advice.” A suspect could just as easily consult with a lawyer during, or even after, questioning. To accept the reasoning that *the right to an attorney* is insufficient, whereas *the right to consult with an attorney* is sufficient would run afoul of *Miranda*, which requires only that a suspect be advised of the “right to the presence of an attorney,” 384 U.S. at 444, and would contradict subsequent United States Supreme Court precedent explaining that a warning does not have to be “the clearest possible formulation” to satisfy “*Miranda*’s right-to-counsel” requirement. *Powell*, 559 U.S. at 63.

{52} The State contends that, even if Defendant Chiaramonte prefers the warnings given in *Nave* and *Snaer*, courts are not “looking to crown the best formulation [of a *Miranda* warning], declaring all others deficient.” *Clayton*, 937 F.3d at 641. We agree. Courts are simply examining the warning to see “whether a ‘commonsense reading’ of the actual language employed meets the aims of *Miranda*.” *Id.* (quoting *Powell* 559 U.S. at 64). As *Clayton* explained, engaging in a determination of what particular instruction best conveys a person’s rights under *Miranda* “is reminiscent of the formalistic quibbling criticized in *Duckworth*, *Prysock*, and *Powell*. As those cases instruct, courts are not in the business of dictating the ‘precise formulation of the warnings given a criminal [suspect].” *Id.* at 640 (quoting *Prysock*, 453 U.S. at 359).

{53} We next address *Serna*’s application to Defendant Chiaramonte’s case. The *Chiaramonte* Court of Appeals viewed the warning in a fashion similar to Defendant Chiaramonte’s, relying upon *Serna* to support its holding that the warning was inadequate because it failed to convey Chiaramonte’s full spectrum of rights under *Miranda*. *Chiaramonte*, No. A-1-CA-40543, ¶ 8. It reasoned that the warning given to Chiaramonte, like the warning in *Serna*, “did not convey that [Chiaramonte] had the right to counsel before being questioned.” *Id.* The warning was improper, according to

the Court of Appeals, because “[t]he word ‘while’ modifies the phrase ‘you have the right to an attorney and have him present with you,’” thus “restrict[ing] that right to during the time [Chiaromonte] is being questioned.” *Id.* We disagree that the word “while” modified the entire warning. The first clause (“You have the right to an attorney”) advised Chiaromonte of a general right, and the second clause (“and have him/her present while you are being questioned”) was merely an illustration or example of that right. More importantly, the *Chiaromonte* Court’s view is at odds with the Court of Appeals’ reasoning in *Serna*, cases relied upon in *Serna*, and the United States Supreme Court precedent we have outlined in this opinion.

{54} First, in *Serna*, the suspect did not receive a warning with two distinct clauses, as Chiaromonte did. Instead, the *Serna* suspect was advised only that he had the right to an attorney “during any and all questioning.” 2018-NMCA-074, ¶ 23. The *Serna* Court explained that such a warning contained no “‘before questioning’ language—or any other language, for that matter—by which [it] could infer that the full right to counsel was adequately conveyed.” *Id.* ¶ 24. Additionally, it is worthwhile to highlight that there was a second *Miranda* warning given in *Serna*. This second warning was not dispositive because the statements at issue were given between the two warnings, rendering the first warning the focus of the Court’s inquiry. *Id.* ¶ 30. Nonetheless, the *Serna* Court went out of its way to explain that it would “be remiss” if it did not highlight the contrast between the two warnings. *Id.* ¶ 26. (“Not only does the second *Miranda* warning advise [the d] efendant of his ‘right to talk to a lawyer and . . . the right to have him present with [him] while being questioned’ but also that ‘[i]f [he] cannot afford a lawyer, one will be appointed to [him] before any questionings.’” (alterations and omission in original)). Like the *Miranda* warning given to Chiaromonte in this case, the second *Miranda* warning in *Serna* contained both a general portion of the warning, “the ‘right to talk to a lawyer,’” and a more specific portion of the warning, the suspect’s “right to have him present with [him] while being questioned.” *Id.* Notably, the *Serna* Court did not identify the word *while* as limiting the suspect’s general “right to talk to a lawyer.”

{55} Here, in contrast with the first *Miranda* warning given in *Serna* (“You have the right to an attorney during any and all questionings.” *Id.* ¶ 3.), the warning given to Chiaromonte did contain “other language . . . by which [one] could infer that the full right to counsel was adequately conveyed,” *id.*, ¶ 24, namely, a general warning that Chiaromonte had “the right to an attorney.” Further, the warning conveyed that Chiaromonte must understand his rights “[b]efore we ask you any questions” and explained

that Chiaromonte had the ability to both exercise his rights and stop questioning “[a] t any time” (emphasis added).

{56} Though informed by *Serna*, our holding is rooted in *Miranda* itself. In *Miranda*, the United States Supreme Court took no issue with a warning informing a suspect of “the right to consult with a lawyer and to have the lawyer with him during interrogation,” *Miranda*, 384 U.S. at 471. Therefore, we do not take issue under federal law with the warning given to Chiaromonte, that he had “the right to an attorney and have him/her present while you are being questioned.” We hold that Chiaromonte received sufficient warnings under *Miranda*. As United States Supreme Court *Miranda* jurisprudence requires, we reach our holding by concluding that the warnings “in their totality, satisfied *Miranda*,” *Duckworth*, 492 U.S. at 205; *Powell*, 559 U.S. at 61, based on what they “reasonably conveyed,” 559 U.S. at 62.

{57} Having concluded that both Atencio and Chiaromonte received adequate warnings under *Miranda*, we proceed to examine whether there was sufficient evidence to support Defendant Atencio’s convictions.

B. Sufficiency of the Evidence

{58} As amended, the State separated each of Defendant Atencio’s CSCM charges into five-day increments “to differentiate” each count, starting on June 1, 2017, and concluding on October 12, 2017. Defendant Atencio contends that the evidence was insufficient to support twenty-one counts of CSCM.

1. Standard of review

{59} “Sufficiency review is an essentially legal endeavor and addresses whether the government’s case was so lacking that it should not have even been submitted to the jury.” *Lente*, 2019-NMSC-020, ¶ 54 (internal quotation marks and citation omitted). In assessing the sufficiency of the evidence, this Court “considers only the legal question whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Id.* (citation omitted). We will not “reweigh the evidence [or] substitute [our] judgment for that of the jury.” *State v. Graham*, 2005-NMSC-004, ¶ 7, 137 N.M. 197, 109 P.3d 285 (citation omitted). “Rather, the question is whether, viewing all of the evidence in a light most favorable to upholding the jury’s verdict, there is substantial evidence in the record to support any rational trier of fact being so convinced.” *Id.* “[S]ubstantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Id.* (alteration in original) (citation omitted).

2. Unique nature of sufficiency challenges in child sex abuse cases

{60} Assessing the sufficiency of the evidence in sex abuse cases involving children presents unique challenges because “[t]hese cases generally involve defendants who have regular access to and control over children whom they sexually abuse in secrecy for long periods of time.” *Lente*, 2019-NMSC-020, ¶ 1. Additionally, the “child victims in these cases are usually the sole witnesses of the crimes perpetrated and, because of their age and the frequency of the sexual abuse to which they are subjected, cannot provide detailed accounts of the abuse.” *Id.* Instead, we explained in *Lente*, children “typically testify to repeated acts of molestation occurring over a substantial period of time but are generally unable to furnish specific details, dates or distinguishing characteristics as to individual acts or assaults.” *Id.* ¶ 55 (text only) (citation omitted).

{61} Children often testify in such a manner for a number of reasons. “First, unlike adults, children cannot easily link experiences to dates or other specific points in time.” *Id.* ¶ 56. “Second, when sexual abuse is repeated and frequent, isolating any particular instance of abuse becomes a significant challenge for child victims.” *Id.* ¶ 57. “Third, children may subconsciously desire to forget the abuse, and this may explain why they make forgetful, unretentive, and perhaps even unintentionally uncooperative witnesses.” *Id.* ¶ 58 (internal quotation marks and citation omitted). Finally, “children have limited exposure to sexual activity and limited vocabularies and are, therefore, incapable of testifying about sexual anatomy and sexual encounters with the specificity expected of adults.” *Id.* ¶ 59.

2. Examining the evidence

{62} In light of these challenges, the *Lente* Court adopted three requirements to determine the sufficiency of the evidence to support multiple convictions in child sex abuse cases. First, “the child victim must describe the proscribed act or acts committed with sufficient specificity to establish that unlawful conduct did in fact occur and to permit a jury to differentiate between the various types of sex acts to which the child victim was subjected.” *Id.* ¶ 68. Second, “the child must describe the number of proscribed acts committed with sufficient certainty to support each of the counts alleged in the information or indictment.” *Id.* ¶ 69. Third, “the child must describe the general time period in which the proscribed acts occurred.” *Id.* ¶ 70. {63} The requirements in *Lente* focus on testimony from the child because, often, the child is the sole witness. *Id.* ¶ 1. But—contrary to the implication drawn by Defendant Atencio in his briefing before this Court that the testimony from C.Y. alone must satisfy the requirements—the *Lente* Court’s analysis makes clear that it is appropriate to consider testimony from other witnesses to satisfy each requirement. *See, e.g., id.* ¶ 78

(relying upon the child's mother's testimony, in part, to satisfy the first requirement of the test); see also *Graham*, 2005-NMSC-004, ¶ 13 (explaining that appellate review for sufficiency of the evidence views "the evidence as a whole").

{64} Prior to assessing whether the evidence satisfies each requirement in detail, we first highlight the most significant evidence present in this case—evidence that was not present in *Lente*—Defendant Atencio's admissions. In his interview at the sheriff's department, Atencio admitted that he saw C.Y. every day during the four or five months when they lived next door to each other in Kirtland, that C.Y. "stayed the night lots of times" and that he got C.Y. ready for school almost every morning, that he had touched C.Y.'s penis between twenty and thirty times, and that he put C.Y.'s penis in his mouth once. See *State v. Martinez*, 2007-NMCA-160, ¶¶ 13-14, 143 N.M. 96, 173 P.3d 18 (highlighting the importance of the suspect's admission in examining the sufficiency of the evidence).

{65} Examining the evidence in the context of the *Lente* requirements leads to only one reasonable conclusion: the evidence was sufficient. Under the first *Lente* requirement, C.Y. must have described the acts with specificity sufficient to establish that the conduct occurred and permit the jury to differentiate between the various sex acts. *Lente*, 2019-NMSC-020, ¶ 68. Defendant Atencio does not challenge his CSPM conviction, so the only alleged sex act at issue is second degree CSCM. Under the relevant portion of Section 30-9-13(B)(1), "[c]riminal sexual contact of a minor in the second degree consists of all criminal sexual contact of the unclothed intimate parts of a minor perpetrated . . . on a child under thirteen years of age." C.Y. was ten years old at the time of the abuse. C.Y. testified that Atencio "touched [his] private parts," including C.Y.'s penis, under his clothes every day that he went to Atencio's trailer. C.Y. further testified that Atencio did "bad stuff" to his private parts, like putting C.Y.'s penis in Atencio's mouth. A.Y., C.Y.'s sister, testified that, on one occasion, she saw Atencio's hands in C.Y.'s pants and C.Y.'s hands in Atencio's pants. The testimony established that Atencio forced C.Y. to engage in distinguishable sex acts. See *Lente*, 2019-NMSC-020, ¶ 78.

{66} Second, C.Y. must have described the "number of sex acts committed with sufficient certainty to support each of the counts alleged in the indictment." *Id.* ¶ 79. Under this *Lente* requirement, "[s]tatements to the effect that specific acts of sexual abuse occurred 'twice a month' or 'every time we went camping' are sufficient." *Id.* ¶ 69. Again, Atencio admitted that he saw C.Y. every day during the four or five months that they lived next door to each other in Kirtland. He admitted that C.Y. "stayed the night lots of times" and that he got C.Y. ready for

school almost every morning. He admitted he touched C.Y.'s penis between twenty and thirty times and that he put C.Y.'s penis in his mouth once. C.Y. testified that he would go to Atencio's trailer "every day" and "every day" that C.Y. would go there, Atencio touched his penis under his clothing. In other words, C.Y. went to Atencio's house every day for four to five months. On each of those days, Atencio touched C.Y.'s penis. This testimony was sufficiently specific to support the jury's finding that Atencio touched C.Y.'s penis twenty-one times in five months.

{67} Under the final *Lente* requirement, this Court must evaluate whether C.Y. described the general time period in which the proscribed acts took place. *Id.* ¶ 83. As with the second requirement, the *Lente* Court provided examples: "The summer before my fourth grade" or "during each Sunday morning after he came to live with us" are sufficiently specific. *Id.* ¶ 70 (text only) (citation omitted). In *Lente*, the child testified that the abuse "occurred two or three times a week for almost the entirety of the forty-and-one-half month indictment period." *Id.* ¶ 83. The *Lente* Court held that this was sufficient because the child's "statement [was] not meaningfully different than a child's estimation that sex abuse occurred each summer or each camping trip." *Id.* The only difference between the two statements, the *Lente* Court explained, was that "they prove she was subjected to significant amounts of abuse, amounts perhaps far in excess of what other children in these types of cases experience." *Id.* In our estimation, C.Y.'s experience appears to be close to that of the child in *Lente*.

{68} But instead of the abuse occurring two or three times a week, as in *Lente*, C.Y. testified that he was abused "every day." Defendant Atencio is correct that C.Y. did not specifically "say every day for how long a [time] period." Defendant Atencio fails to address, however, that his own admission defines the general period of abuse. During his interview, Atencio told the police that C.Y.'s family lived next door to him for four or five months, but maybe longer. To the extent Atencio's own admission conflicts with C.Y.'s testimony that Atencio and C.Y. lived next door to each other for two and a half years, in reviewing the sufficiency of the evidence, we "indulge all [such] reasonable inferences in support of the verdict, and disregard all evidence and inferences to the contrary." *State v. Rojo*, 1999-NMSC-001, ¶ 19, 126 N.M. 438, 971 P.2d 829. Furthermore, the testimony provided by C.Y.'s parents establishes that C.Y. lived next door to Atencio from the beginning of June 2017 until October 2017.

{69} And yet, according to Defendant, this evidence was "insufficiently specific" to support multiple counts because "C.Y. could not provide even the bare minimum, the 'general time period' during which these alleged acts

occurred." Instead, Defendant Atencio views the evidence as insufficient to support multiple counts because the State relied upon "course-of-conduct evidence" that "describes a pattern of events rather than discrete incidents." Defendant's argument again ignores *Lente*, where this Court recently explained that when "the prosecution persuades the jury to believe the child victim's testimony that he or she was subjected to multiple acts of sexual abuse over a long period of time, the prosecution will have necessarily proven beyond a reasonable doubt that the defendant committed a specific act." *Lente*, 2019-NMSC-020, ¶ 66 (internal quotation marks and citation omitted).

{70} Like the defendant in *Lente*, Defendant Atencio appears to argue that, because the conduct in this case "describes a pattern of events," i.e., conduct so egregious that a child could not differentiate among all of the different times/days when the alleged abuse occurred, Defendant Atencio is shielded from multiple charges. We explained that the defendant in *Lente*, like Defendant Atencio, "fails to acknowledge that [the child's] inability to provide specific details about [the] abuse is, in part, a product of [the defendant's] own making. He sexually abused [the child] so frequently that the details of particular abuse are clouded in [the child's] mind." *Id.* ¶ 77. As in *Lente*, Atencio "created a circumstance and now complains of its existence." *Id.* Defendant Atencio "seeks to transform his repeated violations of the criminal laws into a shield." *Id.* We will not tolerate such an attempt. Viewing the evidence as a whole, there is substantial evidence in the record to convince any rational trier of fact that Atencio abused C.Y. every day for four to five months, thus satisfying the final requirement. The evidence presented in support of Defendant Atencio's convictions was sufficient.

III. CONCLUSION

{71} For the foregoing reasons, we affirm the *Atencio* Court of Appeals in part and reverse in part. The warnings given to Atencio were adequate under *Miranda*, warranting such reversal. And there was sufficient evidence to support Defendant Atencio's convictions, warranting the affirmation. Because the warnings given to Chiaramonte were adequate under *Miranda*, we reverse the *Chiaramonte* Court of Appeals. We remand both cases to the district court for proceedings consistent with this opinion.

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

JULIE J. VARGAS, Justice

WE CONCUR:

DAVID K. THOMSON, Chief Justice

MICHAEL E. VIGIL, Justice

C. SHANNON BACON, Justice

**MARY MARLOWE SOMMER, Judge,
sitting by designation**

Twila Larkin and Kimberly Padilla are pleased to welcome our new partner, **Darin Kyle McDougall**. McDougall has been practicing family law since 2017. He will handle mediations, as well as litigation, and continue his commitment to domestic violence protective order cases. Larkin & Padilla Family Law will now be known as Larkin Padilla McDougall Family Law. We are all gratefully accepting referrals. Visit www.LPMfamilylaw.com for more about our firm, or call 505-273-3113.

Gallagher & Kennedy, a full-service litigation and business transaction law firm, has been recognized in the 2025 edition of Best Law Firms. Ranked by Best Law Firms in six practice areas nationally and 43 practice areas in Phoenix and Santa Fe, Gallagher & Kennedy is proud to earn this distinguished and prestigious accolade.



Gallagher & Kennedy is pleased to welcome **Sarah M. Clifford** as a lateral attorney in its Phoenix office. Joining G&K as a lateral shareholder, Sarah develops estate plans and trusts to help manage and preserve wealth and assets for individuals, families and business owners. Her experience includes probate and trust administration, including representation of high-net-worth clients with trusts and estates in more than \$20 million.

Spencer Fane LLP is pleased to announce **Joseph M. Dworak** joined the Santa Fe office as an of counsel attorney in the Governmental Affairs, Litigation and Dispute Resolution, Environmental Law, and Energy Law practice groups. Dworak has been named a “Top Business Leader” in Santa Fe and is a visible member of numerous community and legal organizations.

Bardacke Allison Miller LLP was again selected by its peers for inclusion in Best Law Firms in America for 2025. The Firm is ranked as Tier 1 in the areas of Commercial Litigation, Intellectual Property Litigation, and Trademark Law.

On Oct. 18, the State Bar of New Mexico’s **Alternative Dispute Resolution (ADR) Committee** and the New Mexico Supreme Court’s Statewide Commission on ADR co-hosted a first-time joint program in celebration of “National Conflict Resolution Day,” one day after the official date of Oct. 17.

In Memoriam

Victor R. Ortega died on May 17, 2024, at the age of 91 in Corrales, NM after a short illness. Mr. Ortega was the son of Marcial and Frances Ortega of Santa Fe, NM, and grandson of Victor Ortega of Chimayo, NM, a signer of the New Mexico Constitution. Mr. Ortega was born in Santa Fe, NM on January 5, 1933. A graduate of Santa Fe High School, Mr. Ortega attended Harvard University with scholarship aid graduating magna cum laude with a degree in applied physics in 1954. He was awarded the Gordon McKay National Scholarship in Applied Physics while attending Harvard University and was elected to Phi Beta Kappa and Sigma Xi upon graduation. Upon graduation from Harvard University Mr. Ortega was employed as a systems engineer with North American Aviation on the Navajo Guided Missile project until he was drafted for service in the United States Army. While in the Army he graduated from the United States Army Guided Missile School at Ft. Bliss, TX, and thereafter was assigned to the maintenance of Nike Guided Missiles in the Washington, DC area. Following military service Mr. Ortega was awarded a scholarship and attended Harvard Law School, graduating in 1959. Following his admission to the bar in New Mexico in 1959, Mr. Ortega served as an Assistant District Attorney for the Second Judicial District in Albuquerque until 1961 when he entered the private practice of law practicing until 1969 with Paul W. Robinson, the former District Attorney in Albuquerque. In 1969 Mr. Ortega was appointed United States Attorney for the District of New Mexico by President Richard M. Nixon, and following confirmation by the United States Senate, he served in that position under Presidents Nixon, Ford, and Carter until June of 1978 when he returned to the private practice of law with the law firm of Montgomery and Andrews, PA in Santa Fe New Mexico. While he was United States Attorney, Mr. Ortega successfully prosecuted and tried my federal criminal cases including land grant activist Reies Lopez Tijerina, Robert Bolivar DePugh, the leader of the Minute Men, and a series of public corruption cases arising from the alleged bribery of federal, state, and tribal. While United States Attorney, Mr. Ortega was appointed by Attorney General Elliott Richardson to serve on the Attorney General's Advisory Committee of United States Attorneys and served on that Committee continuously from 1973 to 1978. During his last year as United States Attorney, he was Chairman of the Committee and was largely responsible for assuring that the Advisory Committee became a permanent part of the Department of Justice. Mr. Ortega also was a founding member of the National Association of Former United States Attorneys. While practicing law with Montgomery and Andrews, Mr. Ortega was for many years the firm's senior litigator with extensive experience in all aspects of litigation, both civil and criminal, concentrating primarily on complex commercial litigation. For several years, Mr. Ortega was one of the lead litigators and trial attorneys defending Southern Union Company in the New Mexico Natural Gas Antitrust Litigation in New Mexico. He was also one of the lead attorneys defending US West, the telephone company, in the Inside Wire Antitrust Litigation. For many years Mr. Ortega was an avid runner and cyclist. He completed a cycling tour across the United States in the year 2000 at the age of 67. He greatly enjoyed cycling in Europe, particularly Italy, Spain and France. Mr. Ortega enjoyed skiing, both alpine and cross country, and enjoyed fly fishing. He is survived by his wife, Carol, of the family home in Corrales and his children John V. Ortega of Boulder, CO and Annamarie Shunny of Steamboat Springs, CO. and his granddaughter, Daniel Ortega of Seattle, WA.

Rex Denton Throckmorton, age 82, passed away peacefully, surrounded by his loving family on Friday, May 17, 2024, in Albuquerque, NM. Born in rural Ohio in June 1941 to Jane Corwin Throckmorton and Francis Asbury Throckmorton, Rex spent his formative years in the close-knit community of St. Paris, Ohio, population 1,400. In high school, Rex excelled both academically and athletically, serving as class president, playing football and basketball, running track and field, editing the yearbook, and starring in the senior play. Raised by his single mother, Rex and his siblings, Ann and Don, developed a strong work ethic early on. From age 12, Rex held various jobs, including paper delivery, grass mowing, farm laborer, honey bottling, ice cream vending (which sparked his lifelong love of ice cream), airplane light inspecting, and his favorite job—projectionist at the family-owned theater until its closure in 1959 when he left for college. Rex attended Denison University in Granville, Ohio, where he majored in psychology and participated in the Air Force ROTC program. He was a member of Delta Upsilon fraternity and the Men's Judicial Council. It was at Denison, while waiting tables at the women's dining hall, that he met Barbara, his devoted wife of 62 years. After graduating in 1963, Rex pursued a law degree at The Ohio State University, graduating Summa Cum Laude in 1966. He was a member of the Law Journal staff and was inducted into the Order of the Coif. Following graduation, Rex joined Squire, Sanders and Dempsey, a prestigious law firm in Cleveland. After eight months, he was called to active duty in the Air Force, serving as a Captain in the Judge Advocate Generals (JAG) Corps from 1966 to 1971 at bases in Las Vegas, Nevada, and Tokyo, Japan. After his honorable discharge, Rex accepted a position at the law firm of Rodey, Dickason, Sloan, Akin, and Robb in Albuquerque, where he worked until his retirement on January 1, 2008. Specializing in the defense of complex business cases, Rex was recognized in Best Lawyers in America, Southwest Super Lawyers, and Chambers and Partners America's Leading Business Lawyers. The Rodey firm grew from 21 lawyers when he joined to 70 when he retired. During his later years with the firm, he served as President and Managing Director. Rex's professional contributions included serving as President of both the New Mexico State Bar and the Albuquerque Bar Association. In 1997, he was honored as the Albuquerque Bar's Outstanding Lawyer of the Year. He was also active in community organizations, serving as President of the Albuquerque Civic Light Opera Association, President of the Huning Castle Neighborhood Association, and a board member of Accion, the Albuquerque Country Club, and the Albuquerque Ethics and Campaign Practices Board. In retirement, Rex enjoyed golfing at the Albuquerque Country Club, particularly cherishing golf trips with his sons, Scott and John. He was passionate about volunteering as a math and reading tutor for third and fourth graders at Longfellow Elementary School. Rex and Barbara traveled extensively, enjoying bridge games and reunions with old friends. Rex is survived by his beloved wife, Barbara; sons, Scott and wife, Susan of Albuquerque and Dallas, and John and wife, Robin of Cincinnati. He is also survived by his four grandchildren, Amanda Welles and spouse, Sam, Paige and spouse, Alex, Tyler, and Emily; and two great-grandchildren, Matthew and Abigail Welles. Additionally, Rex is survived by his sister, Ann Wiant and husband, Keith of Columbus, Ohio. He was preceded in death by his brother, Don of Springfield, Ohio.

Douglas Barry Stone was born February 2, 1938, in Portales, NM, to Douglas Beasley and Dona Locke Stone. Barry passed into Eternal Glory on May 21, 2024, with his characteristic courage, dignity and grace. Barry had a highly successful law practice, was a Rancher and ultimately a Banker. Barry was a notable Scholar, Orator and Athlete extraordinaire his entire public high school career. He graduated in 1956 from Portales High School, where he had set and then held the state of New Mexico high jump record for over 25 years, was Student Council President, an all-state basketball player and track star. Barry was elected to Boy's State and Boy's Nation, where he held council with President Dwight D. Eisenhower. Barry was a lifelong Boy Scout, Eagle Scout and was awarded the distinguished Silver Beaver Award.

Kerry M. Comiskey April 7, 1970 – June 7, 2023

Kerry was born April 7, 1970, in Shawnee Mission, Kansas. He passed away June 7, 2023, in Albuquerque. Kerry graduated from Limestone High School and served in the U.S. Air Force. He graduated from Eastern New Mexico University with a bachelor's and earned a law degree from the University of New Mexico Law School. Kerry worked as a juvenile probation officer and was a district attorney for 15 years for the 11th Judicial District in Gallup. He enjoyed shooting at the range and spending time with friends and family. Kerry is survived by his parents, Raymond and Jacqueline Comiskey; sisters, Jennifer Comiskey and Elaine Butcher; and grandmother, Anne Zanelli. Kerry is preceded in death by his grandfather, Michael Zanelli; and grandparents, Joseph and Marie Comiskey. Memorial service for Kerry Michael Comiskey, 53, of Gallup, will be held Saturday, June 24, at 2 p.m., at the Veterans Center (908 Buena Vista) in Gallup.

Val R. Jolley, a beloved father, devoted grandfather, esteemed attorney, and proud veteran, passed away on January 27th, 2024, in Lehi, Utah. He was 77. Born on November 11, 1946, in Farmington, New Mexico, Val was the son of the late William Curtis Jolley and Louise Taylor Jolley. He bravely served his country in Vietnam as a member of the 82nd Airborne Division, demonstrating unwavering dedication and courage. Val married Kathy Fuhriman in 1968, and together they raised six children: Craig Jolley, Cherie Merkley, Angie Smith-Pool, Devon Jolley, Lindsey Jolley, and Krista Spencer. After his military service, Val pursued his passion for the law. He graduated from Brigham Young University Law School in 1975 and began his legal career as an Assistant District Attorney, where he served with distinction before establishing his law firm in his hometown of Farmington, New Mexico. Val's tenure in the DA's office as an ADA was marked by his commitment to justice and his tireless advocacy for the community he served. Val was deeply committed to upholding justice and was widely respected within the legal community. Val's devotion to his family was evident in every aspect of his life. He cherished his children and took great pride in their accomplishments. His love extended to his grandchildren and great-grandchildren, whom he adored dearly. Val had a larger-than-life personality and a contagious sense of humor. He had a remarkable ability to lighten the mood and bring joy to those around him. Whether he was sharing stories, cracking jokes, or dancing at family gatherings, Val was always the life of the party. Throughout his battle with dementia, his fun-loving personality shone brightly until the end, bringing laughs and smiles to the faces of everyone he interacted with. Val will be deeply missed by his family, friends, colleagues, and all who had the privilege of knowing him. His legacy of love, laughter, and integrity will live on in the hearts of those he touched.



On April 13, 2024, **Jim (Bucky) Brandenburg** passed away peacefully at the home of his daughter where he had resided for six years since the death of his wife, Marjorie Pearl Brandenburg. His cherished blue skies of New Mexico, which he often painted, opened up and welcomed him into the heavens. Our world is diminished and will never be the same. Jim was born to Floyd (Brandy) and Alice Brandenburg on August 3, 1930, in Mountainair, New Mexico. His childhood was one with

minimal material comforts but filled with family and love. Looking back, he frequently commented they had everything anyone could desire, revealing his eternal and ever apparent optimism. Santa Fe High School had never known an athlete with Jim's talents. In 1948, he was named the "All State Fullback" and in 1949, he was named to "All State" in basketball. He enrolled at UNM on a football scholarship. In 1951, Jim joined the United States Air Force and was shipped to Misawa, Japan. He returned stateside when he broke his leg playing for the Misawa AFB football team. He continued to serve in several capacities, including attending navigation school and pilot training until he was honorably discharged in 1958. Upon leaving the USAF, Jim attended UNM law school. He was sworn into the New Mexico State Bar in 1961. His father, Brandy, had encouraged him to be a high school football coach. Brandy was sorely disappointed when Jim thought he could better support his family by being a lawyer. That is, until Brandy sat through one of Jim's first trials. When the jury returned a verdict in Jim's client's favor and the courtroom erupted in applause, Brandy commented with approval, "That's almost as good as a touchdown!" Jim went on to have a stellar legal career working as "Chief Trial Prosecutor" under district attorney Al Scerresse, Assistant Federal Public Defender, and serving as Bernalillo County District Attorney from 1972-1976. For the remainder of his career, Jim was in private practice, practicing 20 of those years with his daughter until she followed in his footsteps, becoming Bernalillo County District Attorney in 2001. Jim was an extraordinary trial attorney. His passion for trial and being in the courtroom never died. A true gentleman, his style was understated, and his credible demeanor and charisma resulted in many successful verdicts. The rumor was, if an accused person was innocent, the lawyer to go to was Jim Brandenburg. Jim was the beloved father of four children: Kathy, Kari, Randy, and Marcy. He coached Little League baseball for many years, was best man at his son's wedding, and had an extraordinary wit and sense of humor. He became an accomplished landscape artist and continued to be frustrated with his less than perfect golf score. One individual said Jim was the kind of man all men wished to be. Another friend and colleague offered, "Jim was a great man in all aspects of life. He was one of two men I ever idolized." Jim was preceded in death by his parents, his brother Ray, granddaughter Skye Elizabeth, and the love of his life, Marjorie Pearl to whom he was married for almost 65 years. Jim is survived by his four children, eight grandchildren, and seven great grandchildren.

Wade L. Jackson passed from this life on Tuesday, June 18, 2024. Wade, a beloved husband, father and friend, was 48 years old. He is survived by his cherished wife of 19 years, Courtney, and their two daughters, Peyton and Claire. Wade was a stoic man, but anytime Courtney and his girls were mentioned, his joy would light up the room. They were the highlight of his life. He was the most carefree when he was in nature - camping, fishing, hunting, and enjoyed many nights among the stars. He was also an avid cyclist and spent many hours on his bike, rain or shine. Wade graduated from The University of Southern California in 1999 with dual Bachelor of Arts in Political Science and Print Journalism. For a semester in 1998, he studied at USC Capital Campus in Washington D.C., and was an intern at the press office of Senator Pete Domenici. After completing his undergrad, Wade went on to earn his Juris Doctorate in 2003 from the University of New Mexico School of Law, graduating cum laude. During his time in law school, he was the managing editor of the New Mexico Law Review and was a member of the national honor society, Order of the Coif. Prior to his legal career, Wade was a staff writer at the Los Angeles Times, the Santa Monica Outlook, the South Bay Daily Breeze, and the Los Angeles Daily News, writing and publishing hundreds of articles. Before joining Sutin, Thayer & Browne, Wade served for five years as General Counsel and Legislative Coordinator for the New Mexico Economic Development Department. During that time, he served on the Board of Directors of the New Mexico Finance Authority and chaired its Economic Development Committee, served as General Counsel for the New Mexico Spaceport Authority, served as Counsel to the Water Quality Control Commission, and represented Governor Susana Martinez in the New Mexico Supreme Court and the Water Quality Control Commission in the New Mexico Supreme Court and Court of Appeals. Wade was a part of the Sutin family for eight years, joining in June 2016. He practiced primarily in the areas of real estate, business, tax, corporate, economic development, public finance and tax incentives, and state and local government law. During his tenure at Sutin, Wade's passion for the law, his incredible work ethic, and dedication to the firm, was evident as he made strides to help lead the firm to where it is today. He became a shareholder in 2019 and joined the Board of Directors in 2023. He had an incredible mastery of his fields of legal practice. Wade had a lightning intellect and the amount of successful cases he would work on at one time was unsurpassed. He won many national professional awards, including being selected as the Top 3 Corporate Attorneys by the Albuquerque Journal's Readers' Choice. He also held a Martindale-Hubbell rating of AV Preeminent, one of the highest ratings one can earn. Wade was very strong in his convictions and was passionate about what he felt was right and wrong and felt called to pursue justice. Wade's wife Courtney shared that through their marriage and the upbringing of their daughters, Wade often told them, "it's never a tragedy if you die doing what you love". An unexpected loss is exceptionally difficult, but solace is found knowing Wade died doing what he loved - connecting with nature.

Betty Read has passed. She died as she wished, at home and alert to the very end, with her daughter Joy at her side on May 23, 2024, at the age of 84. And so, we no longer have in our midst the assertive, opinionated, integrity-filled, pragmatic, hard core liberal and feminist, activist and award winning attorney; the matriarch of the Read/Starzynski clan; the beloved and loving mother, grandmother, and great-grandmother and dear friend; the hiker and line dancer; the kitty fostering mom; the superb photographer of family, landscapes, birds, flowers, pets and kittens (and kittens, and kittens, and kittens...); the card, domino and bridge player; the partner to her beloved companion Bandit; the woman who made a lasting impression on everyone whose path she crossed, impacting her family, her friends and the State of New Mexico. Betty, named Betty Joan Weide by her parents, the middle child of Boyd and Wilma Weide, was born on October 2nd, 1939, in Joplin, Missouri. The family moved to Austin, Texas, in 1942, and it was there, deep in the heart of Texas, where Betty was raised. The Betty of those early years would be unrecognizable to those who came to know her after her arrival in Albuquerque in 1969. Betty was raised in the Methodist Church; she was a church youth leader, a ballerina, and a beauty pageant winner based on her Hollywood beauty star glamorous looks. She married her first husband with the expectation that she would live out her life as the wife of a Methodist minister. How little we know of the changes life will bring. At the age of 26, Betty worked for Barbara Jordan (yes, the Barbara Jordan who would go on to speak so eloquently while she served on the Watergate Committee). Senator Jordan was the only Black person in the Texas State Senate. The only other Black person in the Texas State Legislature, was a Black man in the House of Representatives. That summer, a bill was introduced to curb voting by minorities. The Black male Representative condemned the bill on the House floor, loudly and at length. Senator Jordan was publicly silent. Betty was quite frustrated and she confronted the Senator. Senator Jordan explained to Betty that in order to defeat the bill, she needed a number of old white conservative men to join her in voting it down. Those old white conservative men were not going to be persuaded by fiery condemnations. Rather, Jordan patiently contacted them, one by one, and sat down with each of them for quiet conversations in their offices. The key, Jordan explained, was knowing how to be effective. And in that conversation, Betty received a master lesson in communication and strategy that she would take to heart and go on to use to the benefit of every cause and every client for whom she advocated. Betty entered UNM law school in 1970, recently divorced and single parent to eleven-year-old Joy and two-year-old Jesse. During law school, Betty (one of 6 women in her law school class) and the other women argued to the law school "bosses" that the law school needed to hire a female law professor and that female students should be on the committee interviewing the applicants. They won. Pretty soon Anne Bingaman and then Pamela Minzner (later NM Supreme Court Justice Minzner) began teaching at the law school. Indeed, eventually, and using at least in part the same skills Betty learned at the knee of Senator Jordan, the women were even able to get a second women's bathroom installed at the law school. Betty graduated in 1973. That year there was a drive to approve the Equal Rights Amendment in New Mexico. There was a lot of intensity behind that drive wanting to, among other things, demonstrate loudly and forcefully as the primary way to accomplish the goal. Betty, on the other hand, pointed out that it would take the votes of a lot of men, as well as women, to get it passed and once passed, to go through all of the laws of the state to conform those laws to the Amendment. Using a quieter and ultimately more effective way, they were able to recruit influential men, District Attorneys among others,

to push passage of the ERA and then to go on to modify statutes like the rape law (which at the time required a woman's testimony of being assaulted to be corroborated). They won. New Mexico passed the ERA in 1973. Following graduation from law school, Betty spotted a niche which needed filling: representing the spouses of well-off professional men in divorce and child custody cases. These men had typically been accustomed to getting their way in such proceedings by dint of their superior financial resources. It was not long before the upstart Betty Read began demonstrating what a fierce and effective advocate she could be, thereby attracting a steadily growing stream of admiring and loyal clients. Betty saw this work as helping to give new life; she helped divorced people start over. Betty soon became one of the acknowledged leaders of the Domestic Relations Bar and in 1986 was tasked with leading a small group of other prominent domestic relations lawyers in developing a set of forms and rules to be used in domestic relations cases. These forms and rules were so successful that the New Mexico Supreme Court mandated their use in every court in the state. Betty's continued leadership and professionalism led to her receiving numerous awards and accolades over her distinguished career, including the State Bar of New Mexico Professionalism Award in 2002. However, while not exactly an award, the acknowledgment that may have pleased her the most, and the one that she certainly found most fitting with respect to its description of her, was on the silver platter bestowed upon her by the Family Law Section of the State Bar of New Mexico at her retirement party on March 10, 2000. The platter was engraved as follows: Presented to Betty Read In recognition of your distinguished, pioneering, and inspirational service, integrity, and devotion to our highest ideals of professionalism in the area of family law. Founding Member, 1982 Board Member, 1982-1987, 1997-2000 Betty was an organizer and a strategist, but as much as anything, she was a transmitter of wisdom-of how to get things done. After serving her clients, the public and the State Bar of New Mexico for 27 years, Betty retired in 2000. And thus began the "playful" part of her life. This is the part Betty really wanted you to know about. While justifiably proud of her legal career and the contributions she made in that sphere, she considered that information to be the "dry" facts. What she really wanted to share were the "fun" facts. For Betty, the fun part, the best part, started at age 60, following retirement. These are the highlights; the things that gave her the most pleasure to have done and to remember as she aged: In 2000, Betty began line dancing with a group from the ABQ Senior Center. She loved the dancing; she did it until she no longer had the breath for it. She started hiking 2-3 days a week with another group from the ABQ Senior Center; she saw and experienced all sorts of awesome national outdoor places in NM, CO, and AZ. Betty also started playing Mexican Train regularly with three dear friends. Except for a time during Covid, this foursome played weekly or biweekly for 24 years. Their last game was the week before she died. Betty wants you to know that the most important rule in MT is that you stop counting points against you at 50. Betty loved playing games. In addition to MT, her favorites were 42 (dominoes), Manipulation, Hand and Foot, and of course, bridge. She learned bridge from her parents, and she played her whole life. During Covid she spent hours playing online with friends. But make no mistake: Betty was competitive, and she liked to win. Other life highlights were hiking down the Rio Grande and rafting the Colorado River; hiking and rafting in Big Bend; hiking and exploring Bryce Canyon, the Arches, Zion and Antelope National Parks and New Mexico ghost towns; cruising the Panama Canal with her parents; cruising to Alaska with Jesse, Missie and Joy; orca spotting in the San Juan Islands with Joy, Jim and Alex; visiting Ireland and England; and other trips

with family and friends, visiting Napa/Sonoma wine country, D.C., Nashville and Graceland, to name a few. Betty fostered kittens (many of whom were so young they had to be bottle fed and have their bottoms wiped every few hours around the clock) for Animal Humane NM for over 10 years. Fostering the kittens gave her great joy and also brought great pain each time they were old enough to be returned to Animal Humane for adoption. Betty saw this work as helping to give new life; she prepared those kittens for their forever homes. When her kitten fostering time came to an end, Betty adopted her beloved 11 1/2-pound Bandit, a chihuahua mix, whom she pointedly insisted must be part Jack Russell terrier (because, we think, she could never quite see herself as a chihuahua person capable of loving a chihuahua the way she loved her Bandit) from Animal Humane in February 2020. This was just before Albuquerque shut down with Covid. Betty believed that having Bandit during that time saved her life. "When I needed a hand, I found a paw." Betty is survived by her sister, Jackie Means; her daughter, Joy Read (and husband Jim Starzynski); her son, Jesse Read (and wife Missie Read); her grandchildren, Alex Starzynski, Elijah Starzynski, Justina Starzynski Hotch (and husband Don Hotch), Lucien Starzynski, Colbran Starzynski (and wife Meghan Martinez); her great grandchildren, Thomas Thompson (and wife Sandrine Thompson), Dante Bonaccorso, Lori Starzynski, Nina Starzynski, Ricardo Martinez Starzynski, and Carolina Starzynski Martinez; and her granddaughter of the heart, Jessica Molzen. To the heartbreak of Betty and the entire family, Betty was predeceased by her granddaughter Amber Marie Smith in 2014. Betty's love and commitment to Animal Humane NM continues. In lieu of flowers, Betty's request is that you consider a donation to Animal Humane NM. And if you have a chance, go visit the Animal Humane main campus and have a look at the bench in their courtyard dedicated to Betty and Bandit. If you prefer to donate to human causes, Betty's ask is that you consider Planned Parenthood or the ACLU. Betty would tell you to tell your loved ones, often, how much you love them, and hug your dog.

It is with great sadness that the family of **Kenneth Lee Beal** announces his passing, due to complications of COPD, on Aug. 5. Kenny was born May 2, 1956, to Graden and Emma Lou (Cahoon) Beal in Las Cruces, New Mexico. He was 68 years old when God called him up. Kenny graduated from Mayfield High School in 1974, New Mexico State University in 1978 with a Bachelor of Science in Agriculture, and from the University of New Mexico School of Law in 1981 with a Juris Doctorate Degree. Kenny joined his father, Graden "Sandy" Beal, as a partner in forming the Law Firm of Beal and Beal in the Fall of 1981. Through the years, he partnered with, and worked as Co-Counsel, with other attorneys, but always here in Las Cruces. This was home. He used to say that "we live in the greatest valley in the world, because all the people I work with, and come in contact with are the best there are anywhere." For that reason, he loved practicing law, and looked forward to each day with excitement about who he might encounter. Kenny was a "gearhead." He loved driving and working on cars in any way, shape, or form. Many folks in Las Cruces knew him as "that guy who drove that old rusty, gray '56 Thunderbird". For a few years, he drove the #56 race car at Mesilla Valley Raceway. That was his weekly shot of excitement, and he was thrilled with it. Kenny is survived by his wife of 48 years, La Donna Beal, his children Graden R. Beal (Cassie), and Amanda M. Beal, sister Christine Beal and brother Roger Beal (Sonje,) family in Ruidoso Sylvia and Mike Myers, and many, much loved nieces and nephews. The Family wishes to thank the Doctors and Staff of El Paso Pulmonary Group for their excellent care of Kenny as he dealt with his disease, and the staff of Providence Hospital Memorial Campus ICU in El Paso for their tireless efforts and attention during Kenny's last days. They were truly Angels.

Georgina Radosevich Fowlie, passed away peacefully on June 10, 2024, in Albuquerque, New Mexico. Georgina was a resident of Albuquerque since 1959. She was born in Raton, New Mexico on April 21, 1931, to Joseph and Angelina Radosevich, who immigrated from Croatia to Raton in the early 1900s. Georgina graduated from Raton High School in 1949 and attended the University of New Mexico and Yale University Law School. Georgina was one of New Mexico's first female attorneys and worked in private practice and for legal aid. She was a unique individual and a complex mix of strength, sensitivity, toughness and love. Georgina is survived by her son Robert Fowlie (Pam), stepdaughter Lea Fowlie, grandchildren Rose Fowlie, Christopher Fowlie, David Fowlie, Patrick Fowlie and Rebecca Lee (Ryan), two great-grandchildren and nieces Gina Kelly (Joe), Karen Sajbel (Marty) and Scott King (Tammy). She was preceded in death by her husband Gerald, daughter Kate, grandson Alex, her brother Tony, and sisters Mary and Carol. Pocivaj u miru mama.

Charles D. “Chuck” Noland, 77, died in Albuquerque on Monday, April 1, 2024. A memorial toast for Chuck will be held at a later date. As a true New Mexican, Chuck usually measured distances as “it’s as far as from Artesia to...,” and he carried his New Mexico drawl wherever he went. Wearing one of his favored plaid, button-down shirts, Chuck enjoyed his reunions with his 1964 Artesia High School classmates and his life-long friends from the University of New Mexico (UNM) and its student newspaper, *The Daily Lobo*. He knew the antecedents of at least one person in each New Mexico town he visited. Chuck wanted to hear everyone’s story. His desire to hear those stories led Chuck to earn a degree in journalism from UNM in 1973. During his journalism career, Chuck was editor of *The Daily Lobo* from 1967-68; an off-and-on reporter for the *Santa Fe New Mexican* and the *Associated Press* from 1968-1974; and as press secretary for a New Mexico gubernatorial candidate in 1974. Chuck was a Vietnam era veteran, serving in the Army from 1971-72 as a staff writer for *Soldiers Magazine*. Chuck was a 1978 graduate of the UNM School of Law as well as a talented journalist. As legal counsel for the New Mexico Department of Education, he dedicated himself to ensuring that every child in New Mexico received a quality education. Chuck emphasized the importance of basic reading, writing, and math skills as ways New Mexicans could contribute to their state, culture, and people. Chuck also worked with the families of exceptional children to ensure they, too, had access to an essential education. Chuck continued this work after his retirement. While Chuck was proud of his work with the Department of Education, one of his life highlights was performing at Carnegie Hall with his Santa Fe choir under the baton of director and composer John Rutter. Chuck will be missed by his wife, Elizabeth; his sister, Margaret; his two nephews; and his many friends.

Donald Richard House, a devoted husband, father, son, brother, and friend, peacefully departed this life on April 4, 2024, at the Desert Banner Hospital in Mesa, Arizona. He was 59 years old. Born on August 24, 1964, in Pittsburgh, Pennsylvania, Don was the cherished son of Jackie Smith and the late Robert House. In his early years he lived in Pennsylvania, New York, California, and Florida before moving to Arizona at the age of eight. After graduating high school, Don joined The Russ Morgan Orchestra and toured the entire country playing Big Band music. After two years on the tour bus, Don joined the Coast Guard and served as a radio man, carrying out water rescue missions, and law enforcement duties, stationed in California, Alaska, Louisiana, and Florida. After serving his country for five years, he enrolled at Arizona State University, earning his undergraduate degree in Political Science and his Juris Doctorate in 1995. Don worked at various law firms, both local and national, before founding The House Law Firm in 2006 during which time he encountered many colleagues who later became lifelong friends. Don married his true love Leslie in 2003 and was blessed in 2007 when he became a father with the birth of his daughter Lauren, followed by twin sons Christian and Derek, who were all his pride and joy. In addition to his dedication to the law, Don enjoyed collecting and listening to vintage Big Band music, reading, spending time at the family cabin in the mountains, and traveling with his family. Don left an impression upon everyone with his intelligence, extraordinary sense of humor, and compassion. Don’s memory will forever be treasured in the heart of his wife, Leslie. He will live on through his children, Lauren, Christian, and Derek. He will forever be missed by his mother Jackie, along with his siblings, Susan Grim (Dale), Christopher House (Lauri), Alan House (Jackie), and Gretchen House. Don is also survived by Step-Siblings Mike Smith (Gabriela) and Lynne Litjen (Bob); Mother-in-Law Donna Becker (Denny); Sister-in Law Angela Redmond (Jim); and many nieces and nephews. Don was preceded in death by his father, Robert House; Stepfather Al Smith; and Brother-in-Law Mike Rothery.

Born September 13, 1926, in Arroyo Hondo, New Mexico, and raised in San Cristobal, **Eliu E. Romero** loved and took great pride in his Northern New Mexico and Spanish roots. After attending a rural school run by the Carnegie Institute in San Cristobal, Eliu enrolled at the University of New Mexico at the age of 15. He interrupted his studies to serve in World War II as a Navy Communications Officer. After service, Eliu earned his bachelor's degree from UNM and his law degree from the University of Denver School of Law. He then returned to Taos to open his law practice. Eliu's legal career was extensive and varied. He loved presenting a case to a jury. His confidence and abilities in the courtroom earned him the reputation throughout the state of New Mexico as a fierce and agile litigator. Eliu took on all types of matters; from land disputes and personal injury, to contracts and business, to wills and estates. His practice, which spanned over 70 years, touched the interests and concerns of generations of the Taos community. In the early days of his law practice, Eliu identified a need for a financial institution devoted to the interests of the local community. In 1969, Eliu, along with a group of 300 stockholders, led the formation of Centinel Bank of Taos. Eliu was a passionate entrepreneur who felt strongly about the need to keep community capital in the community to foster future generations of growth and development. In addition to his law practice, Eliu participated actively in the Democratic Party and served on the Democratic Party of New Mexico Central Committee to support state and congressional candidates. He also took great pride in being a founder of the National Hispanic Cultural Center in Albuquerque. Eliu held a deep and passionate love for the land of northern New Mexico. He was always most at peace either picking apples from the orchard in Upper San Cristobal near where he grew up, or working on his ranch in Tres Piedras and then sitting under the porch of the old shepherd's cabin to gaze at the view of the expansive Sangre de Cristo Mountains. The conservation easement he placed on his property in the San Cristobal valley was among the first in Taos County and will preserve the beauty of that land for eternity. Eliu was preceded in death by his parents, Domitila and Gabriel Romero; sisters, Licia Vigil (Leopoldo), Cora Chai (Calvin), Pricilla Romero McComas (Robert), and Ernestine Romero; brothers, Joe Romero and Adelmo Romero; nephews, Leopoldo Vigil, Jr., Wilbert Vigil, and Edward Romero. He is survived by his wife, Kimberly Grant-Romero; stepsons, Justin S. Grant (Ivy) and Colin W. Grant; former wife and mother of his two sons, Elizabeth Romero; sons, Martin Romero (Cheryl) and Dennis Romero (Sibylle); grandchildren, Rebeca Romero Rainey (John), Miguel Romero (Regina), Chris Romero (Leslie), and Gabriela Romero (and her mother, Lisa Dreger); great-grandchildren, Miquela Romero, Miguel Mateo Romero, Marcos Romero, Izabella Romero Rainey, Elliana Romero Rainey, Andrew Romero, Allie Romero; great-great-grandchild, Mariana Romero. His sisters, Fabi Romero, Veronica Romero, and Eleanor Romero (Alfredo Vigil); brothers, Robert Romero (Vera) and Ramon Pacheco (Amy); sister-in-law, Marcella Romero. And numerous nieces, nephews, great-nieces and -nephews, and great-great-nieces and -nephews. Eliu's love of the land, the law, and community was only surpassed by love of his family. The charisma, passion, and dedication Eliu brought to everything he did will live on for generations to come-his legacy endures in his family, the stewardship and conservation of the lands, his love of the law, Centinel Bank, and the many lives that he touched over the years. Eliu will be greatly missed by his family, his many friends and associates in the community, and by his wife, Kym, who says

theirs was "a match made in Heaven." Services will be held at the following locations and times: Rosary and eulogy at Our Lady of Guadalupe Church on Thursday, March 7, at 6 pm. Mass will be held on Friday, March 8, at 10 am at Our Lady of Guadalupe. Arrangements by Rivera Family Funeral home.

On Sept. 21, a day in which the Sun and Moon found equal balance during the Equinox transition from Summer to Fall, **James Alton Askew** (a.k.a. Jim, Jimbo) passed away peacefully in his sleep at his home in Albuquerque, New Mexico; he was 64 years old. Jim was born January 28th, 1960, in Fayetteville, North Carolina. After completing high school in Asheboro, NC Jim went on to attend North Carolina State University (as the men in the Askew family did), where he graduated with his Bachelors in 1982 and went on to finish Law School at the University of Denver in 1986. As proud member of the Wolf Pack he never had a kind word about Tar Heels. *Esse quam videri*, "To be rather than to seem." Jim is survived by his Mother, Mary, siblings Rebecca, Mary, John and Joe as well as many friends around the world. He is preceded by his father Eddie, as well as his beloved dogs Colter, Fremont, Tim Stray Dog and Sea Biscuit. As an Eagle Scout, Jim visited Philmont Scout Ranch in Cimarron, NM. It was there Jim's fondness for the West was born and where he would spend the rest of this life exploring the vast landscapes and high mountains. During college summers, Jim worked at Philmont as a Ranger, Rayado Trek Coordinator, Associate Chief Ranger and eventually the Manager of Logistics. As Manager of Logistics, he oversaw thousands of participants on the ranch. Jim loved to plan, and he found that few things made him happier than a plan well executed. After Working at Philmont and getting his law license, Jim moved to Albuquerque, NM, which he called home, for the rest of his life. He started his law career as a Clerk for Judge Stewart Rose in Federal Bankruptcy Court. Jim then went on to specialize in Bankruptcy. He worked for various law firms in Albuquerque until finally establishing his own practice, The Askew Law Firm. Jim was also listed in the Best Lawyers in America and the Southwest Super Lawyers 2010-2024 for his expertise and experience in Bankruptcy & Creditor/Debtor Rights Law. "*Esse quam videri*," is found in Cicero's essay, "On Friendship," and Jim definitely had many friends from all around the world and all walks of life. He loved sharing adventures around the western United States with his vast network of comrades. Jim climbed all the fourteen-thousand-foot-high mountain peaks in Colorado (twice) and was a few peaks short of all of them three times. It is estimated that around 3,000 people have climbed all 54-peaks once, so twice put Jim in rare company. He also climbed Wheeler Peak, the highest point in New Mexico over 50-times. Jim also took a copy of Lonesome Dove to the top of Denali Peak in Alaska, the highest mountain in the United States. Finally, Jimbo loved the outdoors, Jerry Jeff Walker, the study of history, camping, rye whiskey ("provided it got here quick, Larry McMurtry"), and steam engines (in particular, the 473 out of Durango, Colorado). Perhaps, he must have heard a steam whistle blow and the call, "All Aboard," as he passed on. The only healthy way to live life is, "to learn to like all the little everyday things - like a sip of good whiskey in the evening, a soft bed, a glass of buttermilk, or a feisty gentleman, Larry McMurtry," like Jimbo. You will be missed by all the lives you touched. While we have lost Jim he still lives on, just in another part of our heart. "Uva Uvam Vivendo Varia Fit, 'The grape changes ripens by looking at another grape'" a memorial service is being planned for Jan. 2025.

FORMAL OPINION

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

Filing Date: 11/21/2024

No. A-1-CA-40885

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

MARCO MELO-FERNANDEZ,

Defendant-Appellant.

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

Lucy Solimon, District Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

Emily Bowen, Assistant Attorney General

Albuquerque, NM

for Appellee

Sitterly Law Firm, LLC

Nick Sitterly

Albuquerque, NM

for Appellant

► Introduction of Opinion

Defendant Marco Melo-Fernandez pleaded no contest to a charge of knowingly leaving the scene of an accident where the accident results in great bodily harm or death, contrary to NMSA 1978, Section 66-7-201(C) (1989). The district court sentenced Defendant to a six-year term of imprisonment, pursuant to NMSA 1978, Section 31-18-15(A)(8) (2016) as a “third degree felony resulting in the death of a human being.” On appeal, Defendant argues that the district court erred in imposing the six-year basic sentence of imprisonment of Section 31-18-15(A)(8) to his conviction under Section 66-7-201(C), as opposed to the three year basic sentence of imprisonment of Section 31-18-15(A)(11). Concluding that the district court erred by sentencing Defendant, pursuant to Section 31-18-15(A)(8) rather than Section 31-18-15(A)(11), we reverse and remand to the district court for resentencing.

Gerald E. Baca, Judge

WE CONCUR:

Kristina Bogardus, Judge

Katherine A. Wray, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-40885>



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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.

Civil Litigation Attorney

Description: Rodey, Dickason, Sloan, Akin & Robb, P.A. is currently seeking attorneys with Civil Litigation experience to work in our Albuquerque office. Qualifications: Ideal candidate must have strong academic credentials, excellent references, solid writing skills, deposition experience, hearing experience, and must be licensed in New Mexico. Experience in professional liability, medical negligence or personal injury is preferred. Candidates should possess the desire to work as a team, to mature their legal skills, and to represent their clients well. Rodey offers comprehensive benefits package, including health, dental and vision; professional development and multi-faceted mentoring program; FSA and HSA plan option(s); 401K plan/employer match; group life and long-term disability insurance; employee assistance program; wireless phone/services stipend. We are excited about our opportunity to partner with qualified candidates looking to advance their legal career. For consideration, please include a cover letter, resume, law school transcript and writing sample and submit via email to Ali Dyer, Human Resources Director at: jobs@rodey.com with "Litigation Attorney" in the subject line. All inquiries will be kept confidential. Rodey is an Equal Opportunity Employer. Rodey Law Firm is not accepting unsolicited resumes from search firms for this position.

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/>

Assistant District Attorney

The Fifth Judicial District Attorney's office has immediate positions open for new and/or experienced attorneys. Salary will be based upon the New Mexico District Attorney's Salary Schedule with salary range of an Assistant Trial Attorney (\$ 72,301.00) to a Senior Trial Attorney (\$85,222.00), based upon experience. Must be licensed in the United States. These positions are located in the Carlsbad and Roswell, NM office. The office will pay for your New Mexico Bar Dues as well as the National District Attorney's Association membership. Please send resume to Dianna Luce, District Attorney, 102 N. Canal, Suite 200, Carlsbad, NM 88220 or email to nshreve@da.state.nm.us

Assistant Trial Attorney or Trial Attorney – Socorro County

Assistant Trial Attorney or Trial Attorney wanted for immediate employment with the Seventh Judicial District Attorney's Office, which includes Catron, Sierra, Socorro and Torrance counties. Employment will be based primarily in Socorro County (Socorro, NM). Socorro is approximately a one hour commute from Albuquerque. Must be admitted to the New Mexico State Bar. Salary range will be \$72,301 - \$90,377 and commensurate with experience and budget availability. Will also have full benefits and one of the best retirement plans (PERA) in the country. Send resume to: Seventh District Attorney's Office, Attention: J.B. Mauldin, P.O. Box 1099, 302 Park Street, Socorro, New Mexico 87801. Or email to: jbmauldin@da.state.nm.us.

Associate Attorney

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. Please reference Attorney Recruiting.

Entry Level and Experienced Attorneys

The Thirteenth Judicial District Attorney's Office is seeking both entry level and experienced attorneys. Positions available in Sandoval, Valencia, and Cibola Counties. Enjoy the convenience of working near a metropolitan area while gaining valuable trial experience in a smaller office, providing the opportunity to advance more quickly than is afforded in larger offices. The 13th Judicial District offers flex schedules in a family friendly environment. Competitive salary starting @ 83,000+ depending on experience. Contact Krissy Fajardo @ kfajardo@da.state.nm.us or visit our website for an application @ <https://www.13th.nmdas.com/> Apply as soon as possible. These positions fill fast!

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Division Director for Medicaid Fraud - New Mexico Department of Justice

The New Mexico Department of Justice is seeking a well-rounded and experienced individual to join our team as the Division Director for the Medicaid Fraud and Elder Abuse Division. The Director will be responsible for overseeing and managing a multidisciplinary team of dedicated professionals. The primary focus of the Division is to pursue the investigation and criminal prosecution or civil litigation of fraud of the Medicaid program by healthcare providers, as well as the abuse, neglect and/or financial exploitation of residents in care facilities. The Director will work closely with the Attorney General, Chief Deputy Attorney General, and Deputy Attorney General for Criminal Affairs. Qualifications include having a Juris Doctor (J.D.) degree from an accredited law school; Admission to the New Mexico state bar and in good standing or the ability to acquire a limited law license; 6 years of experience in criminal prosecution or defense of white-collar crimes and offenses against vulnerable populations, and/or experience with civil litigation in the healthcare field. Demonstrated skills and experience in related fields will be considered; Minimum of 3 years of management experience preferred; Federal grant management and administration experience preferred, but not required; Proven track record of developing and executing successful investigation and prosecution/litigation strategies; Excellent leadership and management skills, with the ability to inspire and motivate a team of attorneys and legal professionals; Outstanding legal research, writing, and oral advocacy skills; Strong analytical and problem-solving skills; Ability to work effectively under pressure, prioritize tasks, and meet deadlines; Exceptional interpersonal and communication skills, with the ability to collaborate effectively with government agencies, as well as a group of diverse private and public-interest stakeholders. To apply please submit the following documents to Tim Maestas at recruiting@nmdoj.gov: Cover letter detailing your interest in the role and your relevant experience; Resume/CV with a detailed overview of your educational and professional background; Writing samples showcasing your legal research and writing abilities; Contact information for three professional references. If you have questions, please reach out to Tim Maestas at tmaestas@nmdoj.gov.

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: General Counsel: The City is seeking attorneys to provide a broad range of general counsel legal services to various City departments, boards, commissions, and agencies in the Municipal Affairs and Real Estate and Operations divisions. Responsibilities include, but are not limited to, drafting legal opinions, reviewing and drafting ordinances and executive/administrative instructions, reviewing and drafting contracts, and providing general advice and counsel on day-to-day operations for various Departments throughout the City. Land Use and Enforcement Division: The City is seeking an attorney to enforce traffic violations and provide general counsel support to various Departments and programs, including, but not limited to, Animal Welfare and automated speed enforcement. Air Quality Attorney: The City is seeking an attorney for the Real Estate and Operations Division. This attorney will serve as general counsel to the City's Environmental Health Department ("EHD") regarding Air Quality issues throughout Bernalillo County including at federal and state facilities. This attorney will provide a broad range of legal services to EHD including, but not limited to, administrative enforcement actions, litigation and appeals, stationary source permits and "fugitive dust" permits, air quality monitoring and quality assurance, guidance regarding EPA grants, control strategies, work with EHD teams to develop new or amended regulations to be proposed to the Albuquerque-Bernalillo County Air Quality Control Board ("Air Board"), attend and represent EHD staff at rulemaking and adjudicatory hearings, review and draft intergovernmental agreements regarding air quality issues, review and draft legislation regarding air quality; General Counsel to APD: The City is seeking an attorney to advise APD regarding policies, procedures and training, review and negotiate contracts, review uses of force, draft legal opinions, review and draft legislation and administrative instructions. Additional duties may be assigned based on experience; Utilities/PRC: The City is seeking an attorney to represent it in matters regarding franchise and right of way agreements, public utilities, broadband and telecommunications, and will appear before the Public Regulation Commission ("PRC").

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.

Assistant Trial Attorney or Trial Attorney- Sierra County

Assistant Trial Attorney or Trial Attorney wanted for immediate employment with the Seventh Judicial District Attorney's Office, which includes Catron, Sierra, Socorro and Torrance counties. Employment will be based primarily in Sierra County (Truth or Consequences, NM). T or C is approximately a one hour commute from Las Cruces. Must be admitted to the New Mexico State Bar. Salary range will be \$72,301 - \$90,377 and commensurate with experience and budget availability. Will also have full benefits and one of the best retirement plans (PERA) in the country. Send resume to: Seventh District Attorney's Office, Attention: J.B. Mauldin, P.O. Box 1099, 302 Park Street, Socorro, New Mexico 87801. Or email to: jbmauldin@da.state.nm.us.

Associate Attorney Position

Swaim, Carlow & Ames, P.C. has an opening for an Associate Attorney in its busy Estate Planning, Trust Administration and Probate law firm. SCA is a five-attorney law firm that serves clients throughout NM, and also serves clients in CO, AZ and TX. SCA also assists its clients with business transactions, including setting up Corporations, LLCs and Partnerships. Prior experience in these areas of the law would be helpful, but is not a requirement for the position. SCA will provide training for a successful candidate. SCA is looking for an Attorney with 0 to 5 years-experience in the private practice of law who is licensed to practice in NM. Additional licenses in CO, AZ and TX would be helpful. The successful candidate must enjoy working in a group practice where the Attorneys and staff work closely together to complete client projects. SCA offers a competitive compensation package for its Attorneys, including employer paid-for health insurance, 401(k) retirement plan, and a bonus plan for Associate Attorneys. Candidates should submit their resume, with references, to kathleen@estateplannersnm.com.

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The Eleventh Judicial District Attorney's Office, Div. II, in Gallup, New Mexico, McKinley County is seeking applicants for Assistant Trial Attorneys, Trial Attorneys and Senior Trial Attorneys. You will enjoy working in a community with rich culture and history while gaining invaluable experience and making a difference. The McKinley County District Attorney's Office provides regular courtroom practice, supportive and collegial work environment. You are a short distance away from Albuquerque, Southern parts of Colorado, Farmington, and Arizona. We offer an extremely competitive salary and benefit package. Salary commensurate with experience. These positions are open to all licensed attorneys who are in good standing with the bar within or without the State of New Mexico. Please Submit resume to District Attorney Bernadine Martin, 201 West Hill, Suite 100, Gallup, NM 87301, or e-mail letter to Bmartin@da.state.nm.us. Position to commence immediately and will remain open until filled.

Appellate Attorney

Appellate boutique Durham, Pittard & Spalding LLP is looking for bright, motivated, and talented lawyers to join our growing and successful team in our office in Santa Fe. Our firm specializes in civil appeals and provides trial support to some of the best trial lawyers in New Mexico and throughout the country in high-stakes, complex litigation on behalf of plaintiffs. Our practice is heavily focused on catastrophic injury and wrongful death litigation, including product liability, toxic tort, medical malpractice, and trucking, but our attorneys also handle a wide variety of other civil matters including civil rights, employment, and the occasional domestic relations or criminal appeal. We are looking for candidates who enjoy researching, writing, and presenting oral argument to trial and appellate courts. Judicial clerks or past clerkship experience are preferred. The position offers the opportunity to learn from experienced practitioners and to develop the skills of a top-notch appellate attorney. If interested, please send a cover letter, resume, and writing sample to: hring@dpslawgroup.com.

Trial and Appellate Attorney

The Office of Family Representation and Advocacy, a State of New Mexico Executive Branch adjunct agency, is seeking applicants for a combined trial and appellate attorney. Our agency represents children and indigent adults in abuse and neglect cases brought by the Children, Youth and Families Department. All State benefits included. For more information and to apply, please visit <https://www.spo.state.nm.us/>. Job ID149164. Contact Lisa Fitting 505-538-0134.

City of Albuquerque – Contract Attorney

The City of Albuquerque, through the Albuquerque-Bernalillo County Air Quality Control Board ("Air Board"), is seeking a qualified attorney to contract with to provide legal representation and general legal services to the Air Board. This position is an independent contractor, and is not an employee of the City of Albuquerque. Applicant must be admitted to the practice of law by the New Mexico Supreme Court and be an active member of the Bar in good standing. A successful candidate will attend all Air Board meetings, have strong communication skills, knowledge of board governance and Robert's Rules of Order, the NM Open Meetings Act, and knowledge of environmental rules and regulations including the Clean Air Act. Prior experience with, or advising, boards and commissions is preferred. Please submit a resume to the attention of "Air Board General Counsel Application"; c/o Angela Aragon; Executive Assistant; P.O. Box 2248, Albuquerque, NM 87103 or amaragon@cabq.gov.

Deputy General Counsel

The Office of the State Auditor (OSA) is looking for an attorney to assist in advising senior management and executives on complex and difficult legal and management issues involving agency programs, budgets, legislation, human resource matters, and other legal matters. This position will study and analyze changes in laws and court decisions to determine, anticipate, evaluate, and assess the impact on the OSA. Drafts, reviews, and evaluates legal documents, correspondence, pleadings, rules and regulations, and policies to determine the impact on the OSA. Oversees Inspection of Public Records Act (IPRA) review and responses and works with the Records Custodian on all IPRA matters. The applicant must be licensed as an attorney by the Supreme Court of New Mexico or qualified to apply for limited practice license and have two years of experience as an attorney, preferably in government practice. For further information, please contact Terese Vigil by email at terese.vigil@osa.nm.gov or go to <https://www.osa.nm.gov/job-opportunities/>.

Personal Injury Associate

Caruso Law Offices, an ABQ plaintiff personal injury/wrongful death law firm, has an immediate opening for an associate with 3+ yrs. litigation experience, including arbitration, bench and/or jury trial. Must have excellent communication, organizational, and client services skills. Good pay, bonuses, benefits and profit sharing. Send confidential response to Mark Caruso, mark@carusolaw.com or 4302 Carlisle NE, ABQ NM 87107 or fax 505-883-5012. See our website at www.carusolaw.com

County Attorney- Legal

This position is open until filled. You must ensure your application reflects the correct and current information for your work experience, hours worked per week per position, education, personal information, etc. Only the information provided on this application is evaluated when determining compensation. **An assessment will be administered** **\$30,000 Sign-on Bonus, and \$30,000 after completing one-year probationary period** Job Description: Serve as in-house counsel to the County. Direct, manage, supervise and coordinate the activities of the legal department and risk management unit; provide legal services to the County; analyze and mitigate potential risks to the County, including procurement of insurance coverage and implementation/ monitoring of policies, procedures, and programs to reduce risks to County personnel and property. Compensation Range: \$140,000.00 - \$149,276.00. Applicants who are interested in applying can apply using the link below: <https://www.donaanacounty.org/about-us/jobs>

Litigation Attorney:

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

Associate Attorney

RILEY | KELLER | ALDERETE | GONZALES, an AV-rated Albuquerque civil defense firm formed in 1982, seeks an associate attorney trial position. We seek a person with civil experience, including communication and writing skills. The position is full-time with the prospect of a virtual work setting and flexible schedule. We offer an excellent salary, benefits and pension package. Please submit a resume, references and writing samples to our Office Manager by fax, (505) 883-4362 or mvelasquez@rileynmlaw.com.

Full Or Part Time Associate

Stiff, Garcia & Associates, defense insurance firm seeking full or part time associate to work as much or as little as you want. Part time is available for experienced senior insurance defense lawyer, paid by billable hours. Benefits include health, dental, life insurance and 401K. Salary ranges from \$85,000.00 to \$135,000.00, DOE. Please send resume to John Stiff, jstiff@stiffllaw.com or Karen Arrants, karrants@stiffllaw.com

Legal Assistant Position

Swaim, Carlow & Ames, P.C. has a legal assistant position open. SCA is a busy five lawyer Estate Planning, Trust Administration and Probate law firm with clients in NM, CO, AZ and TX. Prior experience with the preparation of Wills, Trusts and Probate documents is helpful, but not a requirement. Experience with the preparation of business transactions documents, Corporations, LLCs and Partnerships is helpful. SCA has a very busy practice and the successful candidate must have the ability to handle a high volume of document preparation and client contact. The Legal Assistants at SCA deal with clients directly on a daily basis and work closely with the attorneys in completing client projects. SCA offers a competitive compensation and benefits package including health insurance, 401(k) retirement plan, annual bonuses and a 36-hour work week. Candidates should submit a resume, with references, to kathleen@estateplannersnm.com.

Intake Specialist

Our well-established and highly respected personal injury law firm in Santa Fe, New Mexico, is currently looking for a dedicated, full-time Intake Specialist to be the first point of contact for potential clients. This vital position is a key part of our team, where your contributions make a real impact in the lives of our clients. Candidates should be proficient in MS Office, including Word, Excel, and Outlook. Exceptional written and verbal communication skills are essential for this role. Strong organizational abilities and attention to detail are necessary to maintain high standards. Bilingual skills in Spanish are preferred for this position. We believe in investing in our team and offer genuine opportunities for professional growth and development. We offer 100% employer-paid health insurance premiums, competitive pay, generous paid time off and access to a 401K plan with profit sharing to support your future. Please submit your resume and a cover letter to santafepifirm@gmail.com.

Full-Time Legal Assistant/ Legal Secretary

Madison, Mroz, Steinman, Kenny & Olexy, P.A., a well-established civil litigation firm, seeks a full-time Legal Assistant/Legal Secretary. The ideal candidate should have a minimum of 5 years civil litigation experience, with preference towards medical malpractice, the ability to multitask effectively in a fast-paced environment, possess excellent skills in case management and calendar procedures, ability to assess priorities, highly motivated, detail oriented, strong work ethic, knowledge of State and Federal court rules, and proficient in Odyssey and CM/ECF e-filing. We offer an excellent fully funded health insurance plan, 401(K) and Profit Sharing Plan, paid designated holidays, PTO, and a professional and team-oriented environment. Please submit your resume to: becky@madisonlaw.com, or mail to Office Administrator, P.O. Box 25467, Albuquerque, NM 87125-5467.

Litigation Paralegal:

Tired of billable hours? The Law Offices of Erika E. Anderson is looking for an experienced litigation paralegal for a very busy and fast-paced firm of four (4) attorneys. The candidate must be highly motivated and well organized, pay close attention to detail, be willing to take on multiple responsibilities, and be highly skilled when it comes to both computer software and written communication. Tasks will include, but are not limited to, filing pleadings in State and Federal Court; drafting simple motions; drafting, answering, and responding to discovery; subrogation negotiations; and communicating with opposing counsel and the Court. This is a wonderful opportunity to join an incredible team that works hard and is rewarded for hard work! The position offers a great working environment, benefits, and a competitive salary. If interested, please send a resume to accounting@eandersonlaw.com.

Our On-Demand/Self-Study Library is growing...



The Cap on Self-Study Credits is Lifted: Now all 12 required MCLE credits may be Self-Study, Virtual or In-Person credits. There is no longer a 4.0-credit cap on Self-Study courses; however, only pre-approved Self-Study courses are allowed.

For more details, read Rule 18-204(C) NMRA.

For Center for Legal Education pre-approved Self-Study courses, visit our On-Demand/Self-Study library at: cle.sbnm.org/courses/8102.

New courses will be added frequently!



New Mexico State Bar Foundation
Center for Legal Education

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.

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Office Alternatives, locally owned circa 2006, has Executive Office Suites, Virtual mail/professional address, Virtual receptionist service, hourly offices and conference room rentals, Witness and Notary services. OA provides the infrastructure for attorney practices to lower your overhead and work in a professional environment. 2 convenient locations-Journal Center and Riverside Plaza. 505-796-9600 www.officealternatives.com.

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2025 Bar Bulletin Publishing and Submission Schedule

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

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

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

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





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State Bar Foundation

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to support our civil legal service programs.

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- ★ **Modest Means Helpline** – The Foundation’s most widely used resource for New Mexicans of limited financial means has **provided a benefit to over 11,200 residents as of August 2024!**



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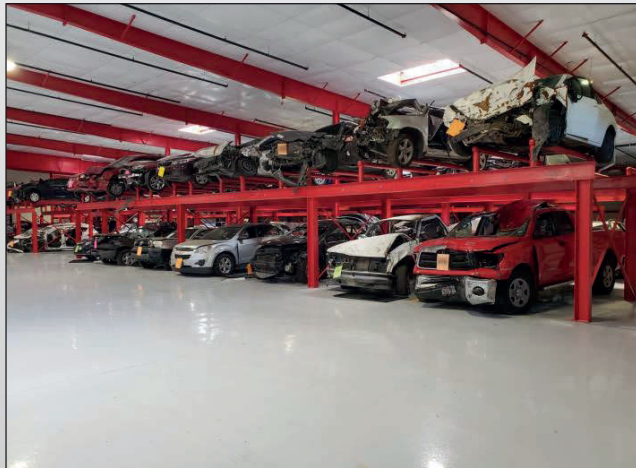
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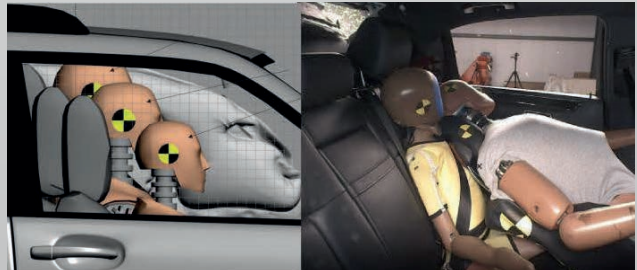
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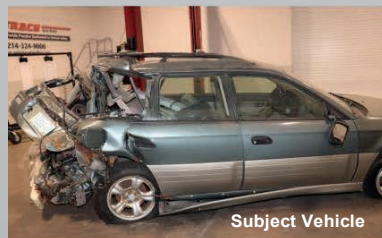


Crashworthiness

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.



If you have any questions about a potential case, please call Todd Tracy. Vehicle safety system defects may have caused your client's injury or death.



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