

DIGITAL BAR BULLETIN

January 8, 2025 • Volume 64, No. 1



Untitled, by Randall Biggers (see page 5)

www.randallvbiggersart.com/

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New Mexico State Bar Foundation
Center for Legal Education

CLE PROGRAMMING

from the Center for Legal Education



JANUARY 9

Modernizing New Mexico's Laws and Institutions to Protect Biodiversity

1.0 G
Noon–1 p.m.
Webinar

JANUARY 10

Improving Outcomes for Families — The Use of Co-parenting Apps in Custody Cases

1.0 G
3–4 p.m.
In Person & Webinar

JANUARY 10

2025 Commercial Code Update: Navigating New Business Law Frontiers

1.0 G
11 a.m.–Noon
Teleseminar

JANUARY 13

Ethical Issues When You Have a Dishonest Client

1.0 EP
11 a.m.–Noon
Teleseminar

JANUARY 14

Litigation Ethics: Disqualification and Sanctions

1.0 EP
11 a.m.–Noon
Teleseminar

JANUARY 14

Elimination of Bias—Combating Age Bias in the Legal Field

1.0 EIJ
11 a.m.–Noon
Webinar

JANUARY 15

Gone But Not Forgotten: The Ethical and Malpractice Risks When Lawyers Leave Law Firms

1.0 EP
Noon–1 p.m.
Webinar

JANUARY 16

Maxims, Monarchy and Sir Thomas More

2.5 EP
11 a.m.–1:30 p.m.
Webinar

JANUARY 16

4th Annual Women in the Law Symposium

3.5 G, 1.0 EP, 1.5 EIJ
8:50 a.m.–4:40 p.m.
In Person & Webinar

JANUARY 21

Bad Review? Bad Response? Bad Idea! - Ethically Managing Your Online Reputation

1.0 EP
11 a.m.–Noon
Webinar

JANUARY 23

Discovering Implicit Biases in Jury Selection

1.0 EIJ
11 a.m.–Noon
Webinar

JANUARY 27

2024 Ethics and Social Media Update

1.0 EP
11 a.m.–Noon
Teleseminar

JANUARY 30

Killers of the Flower Moon: The Osage Murders and How Attorneys Can Combat Bias

1.0 EIJ
11 a.m.–Noon
Webinar



Missed Out the First Time?

Join Us for the
Law Professor Series Webinar Replays:

Race, Class, and Gender-Conscious Mentoring for Supervisors
Associate Professor Verónica Gonzales
January 21, 3–4 p.m., 1.0 EIJ

Byte-Sized Justice: Addressing AI Bias Through the Law
Professor Sonia Gipson Rankin
January 22, 3–4 p.m., 1.0 EIJ

Recent New Mexico Developments in the Law of Torts
David Stout, Regents Lecturer
January 23, 3–4 p.m., 1.0 G

A True History of Public Accommodation Law – Contrasting Supreme Court Approaches
Professor Marc-Tizoc González
January 27, 3–4 p.m., 1.0 EIJ

A Step Toward Solving the Housing Crisis: Eviction Records Sealing in New Mexico
Assistant Professor Allison Freedman
January 28, 3–4 p.m., 1.0 EIJ



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JANUARY 30
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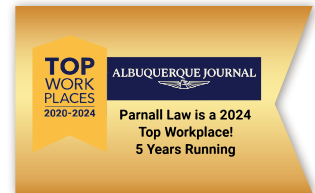
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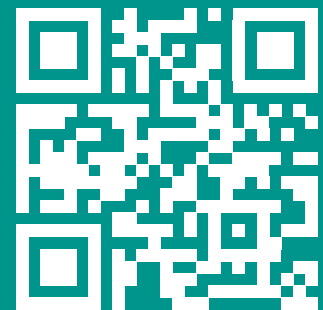
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The *Bar Bulletin* (ISSN 1062-6611) is distributed digitally twice a month by the State Bar of New Mexico, 5121 Masthead St. NE, Albuquerque, NM 87109-4367, including the second and fourth weeks of the month.

505-797-6000 • 800-876-6227
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**WRITE
ARTICLES
for the
Bar Bulletin!**

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

For information on submission guidelines and how to submit your articles, please visit www.sbnm.org/submitarticle.



About Cover Image and Artist: Randall Biggers is a retired Foreign Service Officer and Returned Peace Corps Volunteer (Afghanistan 1974-1976). Most of his work uses acrylic on various papers. He's been painting daily for the past 20 years in Albuquerque. To view more work, visit his website: <https://www.randallbiggersart.com/>

Official Publication of the State Bar of New Mexico

BAR BULLETIN

The *Bar Bulletin* is Now Completely Digital!

The State Bar of New Mexico's official publication, the *Bar Bulletin*, is now published in an exclusively digital format.

To view each new issue and the *Bar Bulletin* archive, visit www.sbnm.org/BarBulletinOnline.

To publish your original articles in the *Bar Bulletin* or to submit notices for the New Mexico legal community, email notices@sbnm.org.

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The *Bar Bulletin* is now exclusively distributed to State Bar of New Mexico licensees via email. To opt out of receiving *Bar Bulletin* emails, contact notices@sbnm.org.

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. 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.

Notice of Reappointment of Incumbent United States Magistrate Judge

The current term of office of United States Magistrate Judge Jerry H. Ritter is due to expire on Sept. 4. The United States District Court for the District of New Mexico is required by law to establish a panel of citizens to consider the reappointment of the magistrate judge to a new eight-year term. The duties of a magistrate judge in this court include the following: (1) presiding over most preliminary proceedings in criminal cases; (2) trial and disposition of misdemeanor cases; (3) presiding over various pretrial matters and evidentiary proceedings on delegation from a district

Professionalism Tip

With respect to opposing parties and their counsel:

In depositions, negotiations and other proceedings, I will conduct myself with dignity, avoiding groundless objections and other actions that are disrupting and disrespectful.

judge; (4) taking of felony pleas; and (5) trial and disposition of civil cases upon consent of the litigants. Comments from members of the bar and the public are invited as to whether the incumbent magistrate judge should be recommended by the panel for reappointment by the court. Comments may be submitted by email to MJMSP@nmcourt.uscourts.gov. Questions or issues may be directed to Monique Apodaca, 575-528-1439. Comments must be received by Feb. 21.

Second Judicial District Notice of Reassignment of Cases

Pursuant to Rule 1-088.1 NMRA, the Second Judicial District Clerk of Court hereby serves notice that a mass reassignment of all cases previously assigned to the Hon. Gerard Lavelle, Division XI, will be automatically reassigned to the Honorable Bryan Fox, Division XI, effective Dec. 21, 2024. Individual notices will not be sent out. Any party may file a peremptory excusal within ten (10) days the completion of this publication; the final publication will occur on Jan. 22.

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, N.M. 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 applicant **Crystal Lees** to Gov. Michelle Lujan Grisham.

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, due to the retirement of the Hon. Daylene Marsh effective Dec. 31. The Eleventh Judicial District Court Judicial Nominating Commission will convene at 9:30 a.m. (MT) on Jan. 17 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. The Bernalillo County Metropolitan Court Nominating Commission will meet at 9:30 a.m. (MT) on Jan. 27 and Jan. 28 at the State Bar Center, located at 5121 Masthead St. NE, Albuquerque, N.M., to interview applicants for the position.

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. 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.

Save the Date for the State Bar of New Mexico's 2025 Annual Meeting

The State Bar of New Mexico's 2025 Annual Meeting will take place at Sandia Resort & Casino in Albuquerque, N.M. from July 31 through Aug. 2. This year's keynote speaker is Bryan Stevenson, a widely acclaimed public interest lawyer who has dedicated his career to helping the poor, the incarcerated and the condemned. Bryan Stevenson is the author of the critically acclaimed New York Times Bestselling book, *Just Mercy*. More information and registration will be coming soon to <https://www.sbnm.org/AnnualMeeting2025>.

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 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.

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.

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- ★ **Legal Resources for the Elderly Program** – The Foundation’s premier legal service program for senior citizens in New Mexico for over 33 years. **In 2024, LREP assisted 4,000 New Mexicans!**
- ★ **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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1. State Bar of New Mexico licensees can donate during license renewal at www.sbnm.org/licenser renewal
2. Donations are gratefully accepted year-round at www.sbnm.org/donate

**For more information about the New Mexico State Bar Foundation,
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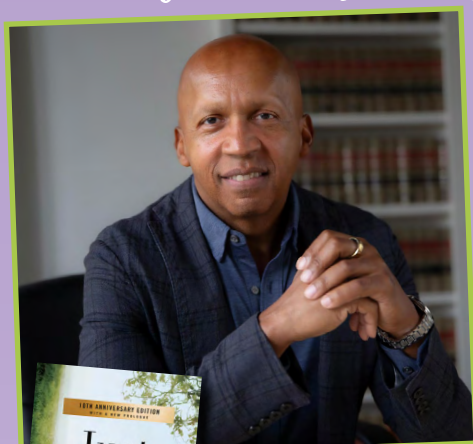
STATE BAR OF NEW MEXICO 2025 Annual Meeting

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BRYAN STEVENSON is a widely acclaimed public interest lawyer who has dedicated his career to helping the poor, the incarcerated, and the condemned. Bryan Stevenson is the founder and Executive Director of the Equal Justice Initiative, a human rights organization in Montgomery, Alabama. Under his leadership, EJI has won major legal challenges eliminating excessive and unfair sentencing, exonerating innocent death row prisoners, confronting abuse of the incarcerated and the mentally ill, and aiding children prosecuted as adults.

Bryan Stevenson is the author of the critically acclaimed New York Times bestseller, *Just Mercy*, which was named by Time Magazine as one of the 10 Best Books of Nonfiction for 2014 and has been awarded several honors, including the American Library Association's Carnegie Medal for best nonfiction book of 2015 and a 2015 NAACP Image Award. *Just Mercy* was adapted as a major motion picture and the film won the American Bar Association's 2020 Silver Gavel Award as well as four NAACP Image Awards. Mr. Stevenson is also the subject of the Emmy Award-winning HBO documentary *True Justice*. He is a graduate of the Harvard Law School and the Harvard School of Government.

More information and registration coming soon!

www.sbnm.org/AnnualMeeting2025



State Bar of
New Mexico

Est. 1886

Legal Education Calendar

January

- | | | |
|---|--|---|
| <p>8 Accident Reconstruction & Emerging Technology: New Sources of Digital Evidence
1.0 G
Web Cast (Live Credits)
New Mexico Defense Lawyers Association
www.nmdla.org</p> <p>9 Modernizing New Mexico's Laws and Institutions to Protect Biodiversity
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> <p>9 2025 Law and Technology Series: Electronic Courtroom Presentation Workshop
16.7 G
Live Program
Administrative Office of the US Courts
www.uscourts.gov</p> <p>9 Empowering Family Law Clients: An Income Tax Perspective, Part 1 of 3
1.0 G
Online Via Zoom
Volunteer Attorney Program
New Mexico Legal Aid, Inc.
https://www.cognitofirms.com/VAPECHO/VAPCLEECHO</p> <p>10 Improving Outcomes for Families - The Use of Co-Parenting Apps in Custody Cases
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> <p>14 Elimination of Bias-Combating Age Bias in the Legal Field
1.0 EIJ
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>15 Gone But Not Forgotten: The Ethical and Malpractice Risks When Lawyers Leave Law Firms
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> <p>16 4th Annual Women in the Law Symposium
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In-Person & Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> <p>16 Maxims, Monarchy and Sir Thomas More
2.5 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> <p>16 Last Chance: Best of the Best - 2024
6.7 G
Video Replay W/Moderator (Live Credits)
New Mexico Trial Lawyers Association & Foundation
www.nmtla.org</p> <p>17 Ethics and Equity in the Use of Artificial Intelligence
2.0 EP, 1.0 EIJ
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> <p>21 Bad Review? Bad Response? Bad Idea! - Ethically Managing Your Online Reputation
1.0 EP
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> <p>23 Discovering Implicit Biases in Jury Selection
1.0 EIJ
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>23 2025 Trial Skill Workshop: Bail Boot Camp
15.2 G
Live Program
Administrative Office of the US Courts
www.uscourts.gov</p> <p>23 Empowering Family Law Clients: An Income Tax Perspective, Part 2 of 3
1.0 G
Online Via Zoom
Volunteer Attorney Program
New Mexico Legal Aid, Inc.
https://www.cognitofirms.com/VAPECHO/VAPCLEECHO</p> <p>24 ChatGPT Unveiled: Revolutionizing the Practice of Law in the AI Era
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> <p>28 Courtroom Technology and the Visual Trial: The Rust Shooting
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> <p>29 A Day in the Life: Practical Examples of Artificial Intelligence in Law Firms
1.0 G
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> <p>30 Killers of the Flower Moon: The Osage Murders and How Attorneys Can Combat Bias
1.0 EIJ
Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> <p>30 Empowering Family Law Clients: An Income Tax Perspective, Part 3 of 3
1.0 G
Online Via Zoom
Volunteer Attorney Program
New Mexico Legal Aid, Inc.
https://www.cognitofirms.com/VAPECHO/VAPCLEECHO</p> |
|---|--|---|

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

NATIONAL CONFLICT RESOLUTION DAY 2024

New Mexico Supreme Court's ADR Commission and State Bar of New Mexico's ADR Committee Co-Host Event At Law Center

On Oct. 18, 2024, from 2 to 5 p.m. (MT), the State Bar of New Mexico ("SBNM") 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, 2024.



National Conflict Resolution Day is celebrated annually on the third Thursday of October. The day of public education and support for ADR was first established in 2005 by the Association for Conflict Resolution to promote peaceful dispute resolution practices and to increase awareness of mediation, arbitration, conciliation and other creative means of resolving conflict. National Conflict Resolution Day also promotes the use of conflict resolution in schools, families, businesses, communities, governments and the legal system, and it recognizes the significant contributions of peaceful conflict resolvers. The Day also focuses on obtaining national synergy by having celebrations happen across the country on the same day.

Alternative Dispute Resolution essentially involves different procedures which exist for parties who wish to attempt to resolve their disputes without going to trial. Some of the different approaches include mediation, settlement facilitation, restorative practices, arbitration and/or any combination of these or other creative approaches.

SBNM ADR Committee co-chairs Rachel Donovan and Tamara Couture spoke at the event, regarding the benefits and importance of the growth of ADR in New Mexico. Also presenting were Supreme Court ADR Commission Chair Raynard Struck, Vice-Chair Lawrence R. Jones and other presenters. The goal is for the program to expand and flourish into an annual event for the community.

Stated by Tamara and Rachel, "The main focus of the program was to help acquaint the public with the potential advantages and benefits of addressing ongoing legal disputes through mediation and ADR, as a more civil and peaceful alternative to courtroom trials and other forms of litigation. What is particularly exciting about the event is the collaboration on this program between the Supreme Court's ADR Commission and the New Mexico State Bar." Both

groups have a strong common interest in energetically educating the public on the huge potential benefits of mediation and other forms of dispute resolution, as opposed to contentious, expensive and often emotionally draining litigation, as a healthy way to attempt to resolve legal disputes between parties.

New Mexico Supreme Court ADR Commission Chair Raynard Struck

further commented on the event. "Litigation can be very time-consuming and expensive, whereas ADR in contrast allows parties to have more control over the resolutions of disputes with the assistance of mediators and/or other professionals. ADR can in many cases be a very effective and civil way of mutually addressing and attempting to resolve issues in numerous areas of the law, including family law, employment/ workplace disputes, business disputes, neighbor disputes and many other types of disagreements. The study of ADR often focuses on empowering people through respectful communication and constructive problem-solving in a way which all parties to a dispute may find satisfactory."

New Mexico Supreme Court ADR Commission Vice-Chair Lawrence Jones added, "This program at the Bar Center is designed to not only support but celebrate National Conflict Resolution Day, and we have been discussing potentially making educational materials on ADR available to the public in 2025 through state libraries and other public venues as well. Hopefully, in the next year, we can expand the educational focus into emerging areas such as cultural competency and sensitivity, restorative practices and other topical and cutting-edge subjects involving the development of peaceful and effective conflict resolution."

The State Bar of New Mexico generously provided the venue and complimentary refreshments for attendees. The SBNM was organized in 1886 and is composed of more than 9,000 licensees. Its purposes are to aid the courts in administering justice and preserving the rule of law, and to foster a high standard of integrity and competence within the legal profession.

For further information, please contact the State Bar of New Mexico Alternative Dispute Resolution Committee. ■

FORMAL OPINION

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

Filing Date: 12/3/2024

No. A-1-CA-41415

R&R, LLC, a New Mexico limited liability company,

Plaintiff-Appellee,

v.

NEW MEXICO DEPARTMENT OF TRANSPORTATION,

Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF OTERO COUNTY

Ellen R. Jessen, District Court Judge

John D. Wheeler & Associates, P.C.

John D. Wheeler

Elizabeth K. Watson

Alamogordo, NM

for Appellee

Carrillo Law Firm, P.C.

Raúl A. Carrillo, Jr.

Las Cruces, NM

for Appellant

► Introduction of Opinion

The New Mexico Department of Transportation (NMDOT) appeals the district court's declaratory judgment and award of damages in favor of Plaintiff, R&R, LLC (R&R), the prevailing party in an inverse condemnation action. NMDOT argues that it presented sufficient admissible evidence to create a question of material fact about an alleged prescriptive easement on a piece of property, informally known as the "Tularosa Triangle" (the Property), and therefore the district court's entry of partial summary judgment on that issue was reversible error. NMDOT also argues that the district court committed reversible error by excluding evidence related to the alleged prescriptive easement at trial, by taking judicial notice of a prior quiet title suit, and by not precluding the slander of title and intentional interference with contractual relations claims. For the reasons set forth below, we affirm the district court on all grounds.

Jacqueline R. Medina, Judge

WE CONCUR:

J. Miles Hanisee, Judge

Jane B. Yohalem, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-41415>

FORMAL OPINION

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

Filing Date: 12/4/2024

No. A-1-CA-41007

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

SHAWN TYLER MORTENSEN,

Defendant-Appellant.

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

Britt Baca-Miller, District Court Judge

Raúl Torrez, Attorney General

Felicity Strachan, Assistant Solicitor General

Santa Fe, NM

for Appellee

Bennett J. Baur, Chief Public Defender

Thomas J. Lewis, Assistant Appellate Defender

Santa Fe, NM

for Appellant

► Introduction of Opinion

Defendant Shawn Tyler Mortensen entered a guilty plea in the district court, waiving his right to appeal his conviction and sentence. Defendant was sentenced to twelve years of incarceration, within the three- to twenty-year range allowed by the plea agreement. Defendant nevertheless has appealed to this Court. Our Supreme Court has held that an unconditional plea waives a defendant's right to challenge their sentence on direct appeal. The sole exception is if the district court lacked subject matter jurisdiction to impose the sentence. See *State v. Chavarria*, 2009-NMSC-020, ¶¶ 9, 17, 146 N.M. 251, 208 P.3d 896. Defendant claims that the district court's mention of race at his sentencing hearing was such an egregious violation of the Fifth and Fourteenth Amendments to the United States Constitution that it amounts to jurisdictional error. We do not agree. In New Mexico, only a sentence that is not authorized by statute implicates the jurisdiction of the sentencing court. See *id.* ¶ 14. We therefore dismiss this appeal. We note that our decision is not intended to prevent Defendant from filing a petition for habeas corpus or from seeking other post-judgment relief.

Jane B. Yohalem, Judge

WE CONCUR:

Jacqueline R. Medina, Judge

Katherine A. Wray, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-41007>

FORMAL OPINION

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

Filing Date: 12/11/2024

No. A-1-CA-41049

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

MARIO URQUIDI-MARTINEZ,

Defendant-Appellant.

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

Mary Marlowe Sommer, District Court Judge

Raúl Torrez, Attorney General

Teresa Ryan, Assistant Solicitor General
Santa Fe, NM

for Appellee

Bennett J. Baur, Chief Public Defender

Joelle N. Gonzales, Assistant Appellate Defender
Santa Fe, NM

for Appellant

► Introduction of Opinion

A jury convicted Defendant Mario Urquidi-Martinez of five sexual offenses for performing a variety of sexual acts on Victim while she was intoxicated and unconscious in Defendant's car, after she had expressly and repeatedly told him she did not want to have sex with him. On appeal, Defendant raises three issues, arguing (1) his three convictions for criminal sexual penetration violate double jeopardy; (2) his convictions for criminal sexual penetration and criminal sexual contact violate double jeopardy; and (3) he received ineffective assistance of counsel. We are compelled by constitutional double jeopardy principles to reverse two of Defendant's convictions for criminal sexual penetration. We otherwise affirm.

Megan P. Duffy, Judge

WE CONCUR:

Jacqueline R. Medina, Judge

Gerald E. Baca, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-41049>

FORMAL OPINION

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

Filing Date: 12/11/2024

No. A-1-CA-40615

GLORIA VALDEZ,
Plaintiff-Appellant,

v.

**NEW MEXICO DEPARTMENT
OF TRANSPORTATION,**
Defendant-Appellee.

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

James A. Noel, District Court Judge

Candelaria Law LLC
Jacob R. Candelaria
Albuquerque, NM

for Appellant

Ripley B. Harwood, P.C.
Rip Harwood
Albuquerque, NM

for Appellee

► Introduction of Opinion

Plaintiff Gloria Valdez filed a complaint for negligence against Defendant New Mexico Department of Transportation (DOT) after a large tree located on private land uprooted and fell on her car. The district court dismissed Plaintiff's case with prejudice for failure to state a claim for which relief can be granted. See Rule 1-012(B)(6) NMRA. Plaintiff argues on appeal that the district court erred in dismissing her complaint because she contends that DOT's duty to maintain roadways includes the duty to remediate dangerous conditions on private property that abuts a roadway. We affirm.

Gerald E. Baca, Judge
WE CONCUR:
J. Miles Hanisee, Judge
Kristina Bogardus, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-40615>

FORMAL OPINION

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Filing Date: 12/16/2024

No. A-1-CA-40782

AVANGRID, INC., a New York corporation,

Plaintiff-Appellant,

v.

**SECURITY LIMITS, INC. and PAULO
SILVA,**

Defendants-Appellees.

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

Bryan Biedscheid, District Court Judge

Marrs Griebel Law, Ltd.

Clinton W. Marrs

Patrick J. Griebel

Albuquerque, NM

Steptoe & Johnson LLP

Thomas Watson

Los Angeles, CA

for Appellant

Mayer LLP

Kendrick W. Dane

Albuquerque, NM

Langley & Banack, Inc.

Dylan O Drummond

San Antonio, TX

Business Law Southwest LLC

Alicia M. LaPado

Donald F. Kochersberger, III

Albuquerque, NM

for Appellees

► Introduction of Opinion

Plaintiff Avangrid, Inc., an energy company, appeals the district court's order dismissing its complaint for damages against Security Limits, Inc. (SLI) and Paulo Silva (collectively, Defendants), pursuant to New Mexico's strategic litigation against public participation statute (Anti-SLAPP statute), NMSA 1978, §§ 38-2-9.1 to -9.2 (2001), and the Noerr-Pennington doctrine. The Noerr-Pennington doctrine provides immunity from lawsuits that are brought to discourage or punish a defendant's exercise of their right under the First Amendment to the United States Constitution to petition the government, so long as the petitioning activity is not a sham. In order to be a sham, the petitioning activity must be both (1) "objectively baseless, in the sense that no reasonable [petitioner] could realistically expect success on the merits," and (2) pursued with an improper subjective motive. *Cordova v. Cline*, 2017-NMSC-020, ¶¶ 24, 28, 36, 396 P.3d 159 (internal quotation marks and citation omitted). **View full PDF online.**

Jane B. Yohalem, Judge

WE CONCUR:

Jennifer L. Attrep, Chief Judge

Katherine A. Wray, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-40782>

FORMAL OPINION

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Filing Date: 12/17/2024

No. A-1-CA-42084

STATE OF NEW MEXICO,

Plaintiff-Appellant,

v.

KEVIN E.-O.,

Child-Appellee.

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

Catherine Begaye, District Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

Tyler Sciara, Assistant Solicitor General

Albuquerque, NM

for Appellant

Lisa Torracco

Albuquerque, NM

for Appellee

► Introduction of Opinion

The State appeals the district court's dismissal of Count 1 of a three-count delinquency petition in which Child Kevin E.-O. was accused of committing the delinquent act of homicide by vehicle (reckless driving), contrary to NMSA 1978 Section 66-8-101(A) (2016). The district court found that the alleged delinquent act was based solely on speeding and therefore could not support a prima facie case for homicide by vehicle. The State argues that the district court's grant of Child's Rule 5-601(E) NMRA pretrial motion to dismiss was error because the district court: (1) misapplied the language of Section 66-8-101, which prohibits treating speeding as a per se violation of the reckless driving statute, NMSA 1978, § 66-8-113 (1987); (2) disregarded the State's circumstantial evidence that Child drove recklessly; (3) failed to consider the totality of the circumstances; and (4) decided a factual issue reserved for the jury. Because the question of whether Child drove recklessly is an issue of fact for the jury to decide and the State presented circumstantial evidence that Child drove in a reckless manner, we reverse and remand to the district court to reinstate the homicide by vehicle charge.

Jacqueline R. Medina, Judge

WE CONCUR:

Kristina Bogardus, Judge

Jane B. Yohalem, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-42084>

MEMORANDUM OPINION

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

No. A-1-CA-41098

Dario Hernan Menanteau

v.

Maria Vanessa Menanteau

Introduction of Opinion

Petitioner Dario Hernan Menanteau (Husband) appeals the district court's determinations regarding interim allocation of income and expenses during the divorce proceedings between him and Respondent Maria Vanessa Menanteau (Wife). Husband makes numerous arguments regarding the deficiencies of the district court's orders. We affirm.

J. Miles Hanisee, Judge
WE CONCUR:
Kristina Bogardus, Judge
Megan P. Duffy, Judge

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-41098>

No. A-1-CA-40546

**Independent Petroleum
Association of New Mexico**

v.

**New Mexico Environmental
Improvement Board**

Introduction of Opinion

Independent Petroleum Association of New Mexico (Appellant) appeals the Environmental Improvement Board's (the Board) final order adopting 20.2.50 NMAC (Part 50), which regulates the emission of ozone precursors pursuant to NMSA 1978, Section 74-2-5(C) (2021). On appeal, Appellant argues that certain sections of the new regulation should be stricken from Part 50 because those provisions are contrary to law. Specifically, Appellant argues that: (1) the Board exceeded its statutory authority by regulating Chaves County and Rio Arriba County under the new rule; **View full PDF online.**

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

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-40546>

No. A-1-CA-41946

CYFD

v.

Valerie E.

Introduction of Opinion

Appellant Valerie E. (Mother) appeals the district court's order dismissing an abuse and neglect proceeding initiated by the Children, Youth and Families Department (the Department) after Mother opted not to contest the allegation of neglect and Child was placed with his father. We affirm.

Zachary A. Ives, Judge
WE CONCUR:
J. Miles Hanisee, Judge
Jane B. Yohalem, Judge

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-41946>

MEMORANDUM OPINION

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

No. A-1-CA-41021
State of New Mexico
v.
Manuel Nevarez

No. A-1-CA-41351
Waseem Touma
v.
Ronald Krise

Introduction of Opinion

Defendant Manuel Nevarez was charged by criminal information with criminal sexual contact of a minor, contrary to NMSA 1978, Section 30-9-13(B)(1) (2003). The district court determined that Defendant's decision to waive his Miranda rights in a prearrest interview with law enforcement was not knowing and intelligent. The State appeals and argues for the first time that Defendant's interrogation was not custodial, so his Miranda rights were not at stake and need not have been voluntarily waived. We affirm.

J. Miles Hanisee, Judge
WE CONCUR:
Megan P. Duffy, Judge
Jane B. Yohalem, Judge

To read the entire opinion, please visit:
<https://bit.ly/A-1-CA-41021>

Introduction of Opinion

After a bench trial, the metropolitan court found in favor of Plaintiffs and against Defendants, Ronald Krise and Westin Enterprises LLC (Westin), on Plaintiffs' claim of substandard workmanship. Defendant appeals and raises four issues: (1) the case should not have been reinstated after it was dismissed for lack of prosecution; (2) the evidence did not establish a contract, breach, or damages; (3) the judgment against Defendant personally should be vacated, leaving only the judgment against Westin; and (4) the metropolitan court disregarded evidence that Plaintiffs "interfered with and hindered [D]efendant's performance and that [D]efendant's performance was excused when [Plaintiffs] dismissed [D]efendant's prior to completion of th[ei]r portion of [Plaintiffs'] project." We affirm.

Katherine A. Wray, Judge
WE CONCUR:
Kristina Bogardus, Judge
Megan P. Duffy, Judge

To read the entire opinion, please visit:
<https://bit.ly/A-1-CA-41351>

► From the New Mexico Supreme Court

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

From the New Mexico Supreme Court

Filing Date: December 19, 2024

No: S-1-SC-40367

**IN THE MATTER OF
ANDREW INDAHL
An Attorney Licensed to Practice Before
the Courts of the State of New Mexico**

Jane Gagne,
Assistant Disciplinary Counsel
New Mexico Disciplinary Board
Albuquerque, NM

Andrew Indahl
Albuquerque, NM

Respondent Pro Se

for Petitioner

{1} This matter came before the Court on the Decision and Recommendation for Discipline of the Panel of the Disciplinary Board of the New Mexico Supreme Court. The panel concluded that attorney Andrew Indahl (Respondent) violated Rule 16-403 NMRA and Rule 16-804(C) NMRA of our Rules of Professional Conduct. We accept the panel's decision and approve its recommended discipline, including this public censure, which we issue under Rule 17-206(A)(4) and Rule 17-206(D) NMRA.

I. BACKGROUND

{2} This matter arose from Respondent's conduct and participation in the secret recording of a meeting with his clients, Cade and Gary Shaffer, and with Matt Shaffer, an unrepresented person. Cade had retained Respondent to represent him in connection with an employment dispute, claiming that he had been wrongfully terminated from his employment at a family-run business (Business). Gary is Cade's father and, at the time of the meeting, was an officer of the Business along with Gary's two brothers. Matt is Cade's cousin and was an employee and shareholder of the Business.

{3} The meeting occurred at the Business on June 30, 2022. Respondent knew before the meeting that Cade and Gary wore concealed audio recording devices and would secretly record the encounter. Respondent did not introduce himself when he, Cade, and Gary entered the Business. Matt came out of his office, and Cade and Matt argued about whether Cade was still employed at the Business. Cade presented a document to Matt that Gary had executed that morning in his capacity as secretary of the Business. Cade claimed the document was a legally-binding employment contract. Matt responded that Cade had

been terminated for drugs, alcohol, and personal problems. Cade asked whether he had been terminated for bipolar disorder, which Matt denied. Matt then added that Cade was terminated for linking his personal accounts to the accounts of the Business.

{4} Cade later introduced Respondent as his attorney. Matt asked Respondent what his role was, and Respondent answered, "I'm here to resolve the conflicts to make sure Cade can do his job today because he's been employed." Matt responded, "[Cade] can't do his job, he's not mentally stable enough to do his job." Respondent asked, "Tell me more about that." Matt replied, "Well, we were told by Gary that [Cade] has bipolar; we didn't know, but we knew that there was something not right." After the encounter with Matt, Respondent went outside with Gary and Cade and said, "You have a slam-dunk, can't-lose, bang-up lawsuit."

{5} Respondent later filed a Verified Complaint on behalf of Cade and Gary against Matt, the Business, and Gary's brothers. See *Shaffer v. Shaffer Tire, Inc.*, D-1113-CV-2023-00075 (11th Jud. Dist. Feb. 16, 2023). The Verified Complaint alleges in part that Matt unlawfully discriminated against Cade on the grounds of a perceived disability, bipolar disorder, in violation of the New Mexico Human Rights Act. During the disciplinary investigation that followed, Respondent explained that the recording was justified as "evidentially significant to proving wrongdoing that could not have been effectively proven without [the] secret recording"; that "[w]ithout a recording, the jury would have nothing to rely on but testimony"; and that "a jury would be very unlikely to believe

this conversation took place because it is so extreme."

{6} Disciplinary counsel filed a Specification of Charges, which alleged violations of several Rules of Professional Conduct, including Rule 16-402 NMRA (communications with person represented by counsel), Rule 16-403 (communications with unrepresented persons), and Rule 16-804(C) (prohibiting "conduct involving dishonesty, fraud, deceit or misrepresentation"). The hearing committee granted in part Respondent's motion for summary judgment, dismissing the charges under Rules 16-402 and 16-403. After a hearing on the remaining charges, the hearing committee issued its recommended findings of fact and conclusions of law and its recommended sanction, a public censure. The committee concluded that Respondent's "conduct was deceitful and therefore a violation of Rule 16-804(C)."

{7} Both parties requested review from the panel. After briefing, the panel issued its decision and recommendation for discipline. The panel affirmed the committee's dismissal of the charge under Rule 16-402, and concluded on de novo review that Respondent violated Rule 16-403 "because Respondent implied to an unrepresented lay person that his role was to resolve the conflicts and reinstate his client to his former position when Respondent was also seeking evidence to provide an advantage in an adversarial proceeding against the interests of the unrepresented lay person." The panel also concluded that Respondent violated Rule 16-804(C) "by engaging in dishonest conduct in order to obtain evidence." The panel recommended to this Court that Respondent receive a public censure.

{8} Respondent requested review from this Court and challenged the panel's legal conclusions that he violated Rules 16-403 and 16-804(C). See Rule 17-316 NMRA. Following briefing by Respondent and oral argument, we issued our order on July 11, 2024, accepting the panel's decision and approving its recommendation of discipline.

II. DISCUSSION

A. Respondent violated Rules 16-403 and 16-804(C) by misrepresenting his role and purpose to an unrepresented person

{9} We focus initially on Respondent's statement to Matt that "I'm here to resolve the conflicts to make sure Cade can do his job today because he's been employed" and on Respondent's subsequent attempts to elicit statements and admissions from Matt for the purpose of filing a lawsuit against him. The statement was made in response

► From the New Mexico Supreme Court

to Matt’s question about Respondent’s role and implied that Respondent was a third-party neutral rather than Cade’s attorney. See Rule 16-204(A) NMRA (defining “third-party neutral” as a lawyer who “assists two or more persons who are not clients of the lawyer to reach a resolution of a dispute or other matter that has arisen between them”). In addition, Respondent made no attempt to correct his misleading statement before encouraging Matt, who was unrepresented, to elaborate on his reasons for terminating Cade’s employment. Respondent then relied on Matt’s statements to file a lawsuit against him on Cade’s behalf, alleging unlawful discrimination in violation of the New Mexico Human Rights Act.

{10} Respondent’s conduct violated Rule 16-403, which provides in relevant part,

In communicating on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer’s role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding.

Respondent’s conduct also violated Rule 16-804(C), which prohibits a lawyer from “engag[ing] in conduct involving dishonesty, fraud, deceit or misrepresentation.” A lawyer, dealing with an unrepresented person on behalf of a client, may not misrepresent his purpose as “resolv[ing] the conflicts” when his true objective is to gather evidence on behalf of his client for a lawsuit.

{11} Respondent asserted at oral argument before this Court that Rule 16-403 is unclear and that he did not know the rule prohibits a conversation to elicit statements from an unrepresented party. He also emphasized that the rule does not explicitly prohibit speaking with an unrepresented party to gain admissions. He argued that absent such a prohibition, he has a duty of zealous advocacy to his clients to gather evidence without “kid gloves.”

{12} Respondent’s purported misunderstanding of Rule 16-403 is troubling. While not explicit, the rule readily prohibits the conduct at issue here without constraining zealous advocacy. Put simply, a lawyer may not elicit admissions or gather evidence

from an unrepresented person without first dispelling any confusion about the lawyer’s role as an advocate for their client. See Rule 16-403. A zealous lawyer has other tools for gathering evidence, even from an unrepresented person, as long as the lawyer’s role is clearly disclosed. See, e.g., Rule 1-026(A) NMRA (“Parties may obtain discovery by any of the following methods: depositions; interrogatories; . . . and requests for admission.”). Respondent’s misleading statement about his role and subsequent failure to correct any misunderstanding violated Rules 16-403 and 16-804(C).

B. Respondent violated Rule 16-804(C) by participating in the secret recording of a witness

{13} We now turn to Respondent’s participation in the secret recording of the meeting with Matt, which also violated Rule 16-804(C). As the Ethics Advisory Committee has explained, a lawyer’s surreptitious recording of a witness violates Rule 16-804(C) when, as here, “the lawyer believes, through expressions from the witness (e.g., an expression by the witness that the interview is “off the record”), that the witness would either refuse to give a recorded statement or would not give an accurate statement if the witness knew that the statement was being recorded.” State Bar of N.M. Ethics Advisory Comm., Formal Op. 2005-3, at 1, 3 (2005); see also State Bar of N.M. Ethics Advisory Comm., Formal Op. 1996-2, at 3 (1996) (“If the lawyer determines that a secret recording is otherwise justified, the lawyer[] must observe professional obligations, must disclose the secret recording whenever a failure to do so would be untruthful or misleading, and must respond honestly if questioned about the recording of a conversation.”).

{14} Here, Respondent knew that Cade and Gary were secretly recording the meeting with Matt and—without clearly disclosing his role or that the meeting was being recorded—actively solicited “statements” and “admissions” from Matt about the reasons for Cade’s termination. Respondent later filed a lawsuit against the Business, intending to introduce Matt’s recorded statements as evidence that he had discriminated against Cade in violation of the New Mexico Human Rights Act. Under these circumstances, Respondent’s participation in the surreptitious recording of Matt for the purpose of gathering

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evidence was clearly deceptive, in violation of Rule 16-804(C).

{15} Respondent asserted at oral argument that he should not be “punished” for what his clients “lawfully” did and that as a matter of client confidentiality, he could not disclose that his clients were recording the meeting or that his “strategy” was to gather evidence.

{16} Respondent misses the point. That New Mexico is a so-called one-party consent state—meaning that the consent of the person making a secret recording makes such a recording legal, see NMSA 1978, § 30-12-1(C) (1979)—does not make it ethical for a lawyer to engage or participate in a surreptitious recording when it would be deceptive to do so. Respondent’s knowing participation in the secret recording with the express purpose of gathering evidence for a lawsuit went well beyond mere advice to a client or advocacy. That participation was deceptive, in violation of Rule 16-804(C).

III. CONCLUSION

{17} We conclude that Respondent violated Rule 16-403, by communicating on behalf of a client with an unrepresented person and failing to make clear his role; and Rule 16-804(C), by misrepresenting his objective while participating in the secret recording of an unrepresented person for the purpose of collecting evidence for his client.

{18} As set forth in our order of July 11, 2024, Respondent shall (1) pay the costs of this disciplinary proceeding; and (2) complete four (4) hours of ethics continuing legal education on the topics of advocacy and professionalism and the advocate-witness rule, in addition to the annual MCLE requirement under Rule 24-102 NMRA, no later than February 1, 2025.

{19} The recommendation is ADOPTED and Respondent Andrew Indahl is hereby publicly censured.

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

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

A Guide to



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New Mexico

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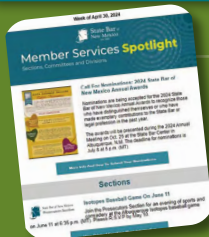


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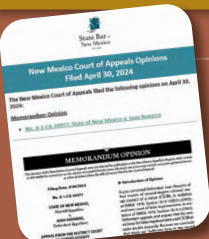


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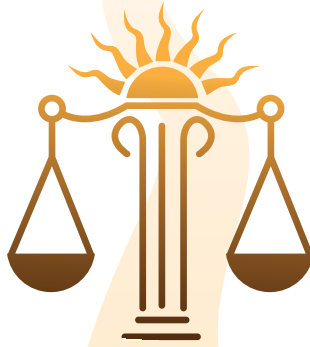
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We are soliciting for artists and galleries to submit artwork to be displayed on future covers of the *Bar Bulletin*.

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10 GENERAL CREDITS
.5 ETHICS/PROFESSIONAL CREDITS

This is an intensive 1 weekend "learn by doing" course offered by the UNM School of Law to members of the legal profession, community members, and current, upper class law students. Training tools include simulations and debriefings, professional demonstrations, videotapes, small and large group discussions and guest speakers.

\$525

UNM SCHOOL OF LAW

COLLABORATIVE FAMILY LAW

SPRING OFFERING

February 28- March 2, 2025

Attendance is mandatory for all classes

INSTRUCTORS

Kathryn Terry & Jessica Roth

FRIDAY: 1:00PM – 5:00PM

SATURDAY: 9:00AM – 3:00PM

SUNDAY: 9:00AM – 11:30AM

Community enrollment is limited, so register now for this valuable opportunity to learn the skill and art of collaborative family law!

Classes held at UNM Law School
1117 Stanford Drive NE

FOR REGISTRATION INFORMATION:

<https://lawschool.unm.edu/cle/upcoming.html>

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Positions

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/>

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.

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

Children's Court Attorney for CYFD

The Children, Youth and Families Department (CYFD) is hiring full-time and contract attorneys of all levels of experience, as well as law clerks, to fill multiple Children's Court Attorney vacancies in the Legal Department statewide. Children's Court Attorneys are established in the Children's Code for each judicial district and provide legal services in protective services cases (child abuse and neglect matters) including consultation, counsel, filing and initiation of new cases, interpretation of law, research, litigation, and mediation. These positions offer the opportunity for challenging and fast-paced litigation, including civil evidentiary trials, and to work with CYFD to find solutions for children and their families and to make a difference in the community. Qualifications: JD from an accredited law school, and admission to the NM state bar in good standing or if barred in another state, the ability to acquire a limited law license. Children's Court Attorneys are in pay band LH, with an annual salary range from \$77,354 to \$139,238 and a competitive full benefits package. Individual contracts will be negotiated up to \$60,000/year. For more information or to apply, please contact Dawn Walters (dawn.walters@cyfd.nm.gov; (505) 526-5925) or go to www.spo.state.nm.us. The State of New Mexico is an EOE.

In-House Attorney

AMREP Southwest Inc. is a major holder of land, leading developer of real estate and award-winning homebuilder in New Mexico, NM. ASW, located in Rio Rancho, NM, is currently seeking an in-house attorney. The In-House attorney will assist the General Counsel with handling a range of day-to-day matters, including real property development, acquisitions and sales, leasing, title review, corporate governance assisting with litigation, legal research and providing legal advice to ASW's leadership. The ideal candidate must be able to multitask in a fast-paced environment and work both independently and as part of a team. Experience in the real estate industry is a plus. Requirements: authorized to practice law in NM; 1+ years' of law firm or in-house legal experience; effective written and verbal communication skills; the ability to learn on the job; strong attention to detail; and excellent computer skills. This is a full-time position with competitive salary commensurate with experience, a full benefits package, 401K match and the opportunity for advancement. Please send resume to: travisw@aswinc.com.

General Counsel

The New Mexico Finance Authority (NMFA) in Santa Fe is seeking a qualified individual for the General Counsel position that will report to the Deputy Director. This position provides legal counsel and services to NMFA and manages the day-to-day operations of the Legal department. Provides legal interpretation of legislation, policies, practices, and procedures related to NMFA or NMFA-administered boards. Chairs or sits upon various agency management teams; directs or participates in synergistic decision-making to further the mission of the organization; promotes innovation and creativity to help define objectives and determine operational strategies. The General Counsel will research legal issues related to numerous local government functions, programs and projects, including environmental concerns, property rights, water rights and related matters; drafts and issues opinions and legal interpretations; advises in alternative courses of action; assists outside/contract counsel in preparation of briefs or other legal documents for court cases involving NMFA at the trial and appellate level. Provides technical advice and information to legislators; attends legislative hearings and committee meetings to offer testimony and interpretations of proposed legislation; drafts or assists in drafting legislation for or on behalf of NMFA. Monitors all contracts for services provided to NMFA for compliance with contract terms, conditions and agency policies and procedures. Previous experience coordinating financing transactions as well as disclosure and reporting for investors and creditors is required. Experience providing legal and programmatic advice and counsel with respect to corporate, property, banking, finance, federal and state programs, and general legal issues is needed. NMFA is New Mexico's partner in building economic prosperity and stronger communities. The ideal candidate will have a J.D. degree from an accredited university and 8-10 years of progressively responsible experience as a practicing attorney; 5 years of which must have been in local or state government, or agencies closely affiliated with local or state government. Previous experience in local government legal issues; bond and loan processing, banking, contract, real estate, legal guidelines related to government processes and methods, as well as an understanding of legislative processes of state and municipal government are highly desired. Interested candidates may submit a cover letter and resume to the attention of the HR Director, New Mexico Finance Authority, 207 Shelby St., Santa Fe, NM 87501 or via email at nmccollum@nmfa.net.

General Counsel

The New Mexico State Ethics Commission is recruiting a General Counsel, a statutorily defined office. The General Counsel represents the Commission in legal proceedings in state and federal court, including affirmative litigation to enforce New Mexico's governmental conduct, procurement and disclosure laws. The General Counsel also has the primary responsibility to investigate third-party administrative complaints alleging violations of New Mexico's ethics and disclosure laws. Preferred applicants will have significant experience in litigation, administrative proceedings, and the supervision of attorneys and support staff, as well as a strong commitment to public service. The successful candidate will have a familiarity with or the ability to master the following areas: the laws over which the Commission has jurisdiction; administrative adjudications, appeals, and rulemakings; civil litigation and case management; conduct of meetings subject to the Open Meetings Act; representation of public bodies; negotiation and preparation of contracts; public procurement; and public records inspection and retention. Successful applicants must have excellent analytic, communication, and interpersonal skills. The starting salary is \$151,000 per year, plus state benefits. Individuals interested in the position may submit applications to Sharon Garcia at Sharon.Garcia@sec.nm.gov. The position will remain open until filled. The State Ethics Commission is an equal opportunity employer and encourages individuals of all backgrounds to apply.

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>

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. 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. The City is also seeking an attorney to handle appeals of land use decisions; Land Use and Enforcement Division: The City is seeking an attorney to provide legal services to the City's Planning Department and represent it in its enforcement of the City's ordinances related to land use, housing and building standards, and nuisance abatement; 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; 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"); Labor/Employment Attorney: The City is seeking an attorney to represent it in litigation related to employment and labor law in New Mexico State and Federal Courts, before the City of Albuquerque Personnel Board, and before the City of Albuquerque Labor Board; Litigation Division: The City is seeking attorneys to join its in house Litigation Division, which defends claims brought against the City. 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.

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.

Licensed Attorneys

The New Mexico Public Regulation Commission has openings for licensed attorneys in three divisions: the Legal Division, the Office of General Counsel, and the Hearing Examiners Division. Our Legal Division represents Utility Division Staff in complex legal proceedings before the Commission, and also may provide general legal services to the agency. Office of the General Counsel serves as attorneys for the Commission itself, providing legal research and drafting assistance directly to the Commission. Hearing Examiners serve as administrative law judges in complex utility proceedings, presiding over evidentiary proceedings and providing written legal determination to the Commission. The PRC offers 11 paid holidays, no billable hours, Federal loan repayment program eligibility, fitness and wellness leave, and flexible work locations and schedules. Newly licensed attorneys or those wishing to relocate to New Mexico are encouraged to apply. To apply for these positions, please visit the State Personnel website at <https://www.spo.state.nm.us/>

Full-Time Transactional Attorney

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

Associate Attorney

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@rileynmllaw.com.

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.

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: hiring@dpslawgroup.com.

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.

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.

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

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

Conklin, Woodcock, Ziegler & Hazlett, P.C, a medium-sized downtown litigation firm is accepting resumes for a full-time legal assistant position. We are seeking a motivated, team-orientated person with experience in civil litigation, court rules and filing procedures. There may be some opportunity for paralegal work as well. Candidates must have solid clerical, organizational, computer and word processing skills. Excellent benefits, including 401K, health insurance benefits, paid vacation and sick leave, as well as year-end bonus opportunities. Salary will be based on experience and skills. Please respond to this ad with your resume and references to jobs@conklinfirm.com.

Services

Appellate Law And Briefing

Cooper Appeals PLLC offers counsel, help with motions work, and legal research/writing services to busy trial attorneys looking to expand their practice capacity. Principal Kirk Cooper has 11+ years of appellate experience and is former chief counsel of a state intermediate appellate court. Serving attorneys in New Mexico and Texas, federal and state court. Flexible rates and arrangements. Contact kirk@cooperappeals.com.

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.

YOU BECAME A PUBLIC DEFENDER TO FIGHT AGAINST THE HARMS OF THE CRIMINAL LEGAL SYSTEM.

JOIN THE FUTURE OF PUBLIC DEFENSE.

At the King County Dept. of Public Defense (DPD), we're implementing new caseload standards that are long overdue.

Starting in July 2024, DPD began implementing groundbreaking new caseload standards from the ABA/RAND Study, weighting cases from 1 to 8 based on seriousness and significantly lowering caseloads. For example, a murder case is worth 7 credits.

WSBA's New Caseload Standards

- In 2025, a maximum of 110 weighted felony credits
- In 2026, the limit reduces to 90 weighted felony credits
- In 2027, weighted felony credits limited to 47



Be the lawyer you always wanted to be

At King County DPD, you'll have:

- Felony and misdemeanor caseload limits
- Robust funding for expert witnesses
- Support from skilled, in-house investigators and mitigation specialists
- Supportive and inclusive workplace

We value your passion and experience

- ✓ Salary range: \$103,272 - \$163,621
- ✓ Comprehensive medical benefits
- ✓ Strong union workplace
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Looking for an easy way to get pro bono hours?

ABA Free Legal Answers is a virtual legal advice portal where qualifying users request brief advice about a specific civil legal issue and pro bono volunteer attorneys provide information and basic legal advice.

Register as a volunteer attorney today and you will be able to provide answers 24/7/365.

The platform can be accessed anytime, anywhere at *your* convenience.

To Register as a volunteer attorney:

- Go to <https://nm.freelegalanswers.org/>
- Click on “Attorney Registration” and follow the prompts



The NEW MEXICO STATE BAR FOUNDATION is the State Administrator of the ABA Free Legal Answers Program