

# DIGITAL BAR BULLETIN

March 12, 2025 • Volume 64, No. 5



*Smokey Rose*, by Genevieve Hope (see page 4)

## Inside This Issue

Board of Bar Commissioners: Appointment to Civil Legal Services Commission.....	5	<i>Uniform Laws Are Available to Update New Mexico Family Law,</i> By Sarah Bennett and Greg Nibert.....	23
Board of Bar Commissioners: Appointment of Young Lawyer Delegate to ABA House of Delegates.....	5	New Mexico Supreme Court Opinion.....	27
2025 Board of Bar Commissioners.....	7	Section and Division Meeting Occurrence Schedule.....	34
New Mexico Supreme Court: Proposed Amendments to Supreme Court Rules of Practice and Procedure.....	17	Clerk's Certificates.....	35
		Save the Date for the State Bar of New Mexico's 2025 Annual Meeting.....	36



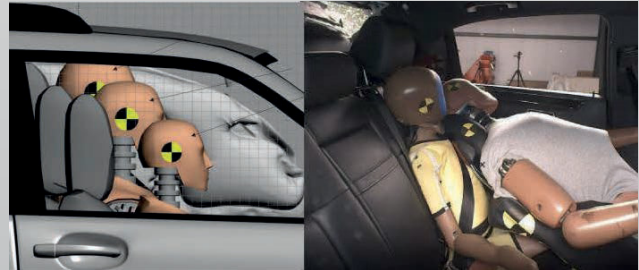
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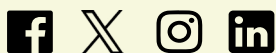
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## ► Table of Contents

- 05** Notices
- 07** 2025 Board of Bar Commissioners
- 16** Legal Education Calendar
- 17** New Mexico Supreme Court: Proposed Amendments to Supreme Court Rules of Practice and Procedure
- 23** *Uniform Laws Are Available to Update New Mexico Family Law*, By Sarah Bennett and Greg Nibert
- 25** Opportunities for Pro Bono Service & Resources for the Public Calendars
- 27** New Mexico Supreme Court Opinion
- 34** Section and Division Meeting Occurrence Schedule
- 35** Clerk's Certificates
- 36** Save the Date for the State Bar of New Mexico's 2025 Annual Meeting
- 38** Advertising

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**About Cover Image and Artist:** Genevieve Hope (she/they) is a multimedia artist who enjoys painting, drawing, photography, writing, and performance art. Genevieve has expressed herself creatively from a young age and loves to experiment and practice with many different art forms. Genevieve's art tends to learn more towards a cartoony/exaggerated style, with her commonly used mediums being charcoal pencil on newsprint paper and acrylic paint on canvas. Genevieve tends to blend darker themes in her art with colorful and lighthearted visuals. Genevieve moved to New Mexico from Indiana in May 2023, and is happy to share her art with others while she is here in Albuquerque.

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

## COURT NEWS

### New Mexico Supreme Court Rule-Making Activity

To view recent Supreme Court rule-making activity, visit the Court's website at <https://supremecourt.nmcourts.gov>. To view all New Mexico Rules Annotated, visit New Mexico OneSource at [https://nmonesource.com/nmos/en/nav\\_date.do](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](mailto:libref@nmcourts.gov) or visit <https://lawlibrary.nmcourts.gov>.

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

Effective March 28, pursuant to his authority in Rule 23-109 NMRA, the Chief Judge of the Eleventh Judicial District Court has directed a mass reassignment of cases from Judge, Division VI, and/or Judge Daylene Marsh, to Judge Brenna Clani-Washinawatok. Pursuant to Rules 1-088.1 and 5-106 NMRA, parties who have not yet exercised a peremptory excusal in a case being reassigned in this mass reassignment will have 10 business days from March 28 to excuse Judge Brenna Clani-Washinawatok.

### Twelfth Judicial District Court Judicial Nominating Commission Announcement of Applicants

Three applications have been received for the vacancy on the Twelfth Judicial District Court, which will exist as of April 1 due to the retirement of the Hon. Ellen R. Jessen, effective March 31. The Twelfth Judicial District Court Nominating Commission will convene at 10:30 a.m. (MT) on March 19 at the Twelfth Judicial District Court, lo-

## Professionalism Tip

**With respect to opposing parties and their counsel:**

I will be a vigorous and zealous advocate on behalf of my client, but I will remember that excessive zeal may be detrimental to my client's interests or the proper functioning of our justice system.

cated at 1000 New York Ave. in Alamogordo, N.M. The applicants include **Jane Elizabeth Granier, Albert Richard Greene III** and **Lori Lee Gibson Willard**.

### STATE BAR NEWS

#### Access to Justice Fund Grant Commission 2025-26 ATJ Fund Grant Cycle Now Accepting Applications

The State Bar of New Mexico ATJ Fund Grant Commission solicits grant applications from qualified civil legal service providers for the provision of civil legal services to low-income New Mexicans. The deadline for proposals is April 1. The Request for Proposals can be found at <https://www.sbnm.org/Leadership/Commissions/Access-to-Justice-Fund-Grant-Commission>.

#### Board of Bar Commissioners Appointment to Civil Legal Services Commission

Pursuant to NMSA 1978, § 34-14-1 (2001), the Board of Bar Commissioners will make one appointment to the Civil Legal Services Commission for a three-year term. Applicants must be licensed to practice law in New Mexico and must have experience with civil legal matters affecting low-income persons. Attorneys who wish to apply to serve on the commission should send a letter of interest and brief resume by May 5 to [bbc@sbnm.org](mailto:bbc@sbnm.org)

#### Appointment of Young Lawyer Delegate to ABA House of Delegates

Pursuant to the American Bar Association Constitution and Bylaws (Rules of the Procedure House of Delegates) Article 6, Section 6.4, the Board of Bar Commissioners will make one appointment of a young lawyer delegate to the American Bar Association (ABA) House of Delegates

for a two-year term, which will commence following the 2025 ABA Annual Meeting and expire at the conclusion of the 2027 ABA Annual Meeting. Members wishing to serve as the young lawyer delegate to the ABA HOD must have been admitted to the practice of law in any state for ten (10) years or less; they must also be a licensed New Mexico attorney and a current ABA member in good standing throughout the tenure as a delegate and be willing to attend meetings or otherwise complete his/her term and responsibilities without reimbursement or compensation from the State Bar; however, the ABA provides reimbursement for expenses to attend the ABA mid-year meeting. Qualified candidates should send a letter of interest and brief resume by May 5 to [bbc@sbnm.org](mailto:bbc@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](http://www.sbnm.org/probono).

## UNM SCHOOL OF LAW Law Library Hours

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

## OTHER NEWS

### N.M. Legislative Council Service Legislative Research Library Hours

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

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

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We look forward to your submissions!



# State Bar of New Mexico

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### **President**

#### **Aja N. Brooks**

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[ajabrooks@gmail.com](mailto:ajabrooks@gmail.com)

**Aja Nicole Brooks** is a native New Mexican, born in Hobbs. She is a graduate of Wake Forest University in Winston-Salem, North Carolina, where she received her Bachelor of Arts in English and Spanish. She attended the University of New Mexico School of Law and graduated with her juris doctorate in 2008. She currently works as the Executive Assistant United States Attorney for the District of New Mexico, and previously worked as the Director of the Second Judicial District Court's Center for Self-Help and Dispute Resolution. She is involved in many legal groups and activities, including serving as the President of the State Bar of New

Mexico and as a mentor in the Bridge the Gap Mentorship Program. She is a past President of the New Mexico Black Lawyers Association, a former President of the New Mexico State Bar Foundation, and a member of the Iota Xi Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated. She enjoys exploring and traveling near and far with her husband, Johnn and her son, Emerson.



### **President-Elect**

#### **Allison H. Block-Chavez**

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**Allison Block-Chavez** is partner and attorney at Aldridge, Hammar & Wexler, PA, in Albuquerque, where her law practice focuses on fiduciary services, adult guardianships and conservatorships, estate planning, and probate matters, real estate, and creditors' rights. Allison previously served as the Chair of the Young Lawyers Division of the State Bar of New Mexico and as the young lawyer delegate to the ABA House of Delegates. She graduated from the University of New Mexico School of Law and served as the judicial law clerk for Chief Judge Michael E. Vigil of the New Mexico Court of Appeals. In her spare time, Allison and her husband Mo try to keep up with their twin toddlers.



## ***Secretary-Treasurer***

### **Lucy H. Sinkular**

505-210-7710

lucy@ahm.law

Originally from Nebraska, **Lucy Sinkular** (she/her) was admitted to the practice of law in New Mexico in 1994. Lucy is Of Counsel at the law firm of Ashton Horton Mullins, PC where she limits her practice to family law matters. Lucy's extensive experience in family law includes representing clients in high asset divorces, divorce and custody issues in military families, the valuation and division of pensions, and relocation custody cases. Lucy also represents clients in kinship guardianship and adoption matters. Lucy is an active member of the Family Law Section's board of directors and has served as their secretary the last three years. Lucy is trained in Collaborative Law and works as a settlement facilitator and a guardian ad litem. Lucy frequently volunteers at pro bono

law fairs and clinics across the state. Lucy's passions outside the practice of law include dispersed camping in the mountains, hiking, and cycling. Lucy and her husband, Scott, are the parents of two: a daughter concluding her PhD at Virginia Tech in Fish and Wildlife and a son who is a CPA in Albuquerque. Two very spoiled dogs round out the Sinkular household.



## ***Immediate Past President***

### **Erinna M. "Erin" Atkins**

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atkinser@gmail.com

**Erin Atkins** is an attorney in Alamogordo, where she practices law with her father, S. Bert Atkins. Focusing primarily in a mix of criminal, family and children's law, Atkins can often be found in trial or headed into a trial. She proudly serves as the Guardian ad Litem in CYFD abuse and neglect cases. She is active in her local community and serves on the Twelfth Judicial District Pro Bono Committee, a governing board for a state-wide non-profit service organization for children, as well as the substitute Adult Drug Court Judge. Atkins was awarded the 2016 Twelfth Judicial District Young Lawyer of the Year Award and in 2023 was the recipient of the Twelfth Judicial District Don Quixote Award as the attorney that most relentlessly pursues hopeless causes in the pursuit of justice.

Atkins also received the 2018 Outstanding Service Award from the Young Lawyer's Division of the State Bar of New Mexico for her many years of service to that Board. She represents the 12th Judicial District which includes Lincoln and Otero counties for the BBC. She is a 2009 graduate of the University of New Mexico School of Law. Atkins was the 2024 President of the State Bar of New Mexico and was the first woman from the southern half of New Mexico to serve in that role. When not busy working or serving the State Bar, Atkins enjoys spending time with her family, her friends, and her dog.



# Board of Bar Commissioners District Map



## 1st Judicial District

(Los Alamos, Rio Arriba, and Santa Fe Counties)



**Andréa Salazar**

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**Andréa Salazar** is a native New Mexican raised in Santa Fe who attended undergraduate in Santa Cruz, CA. After working as a photographer for several years, she attended law school at UNM. She is a proud second generation UNM School of Law graduate. She is currently the City Clerk and Director of Community Engagement for the City of Santa Fe. Over the past 13 ½ years she has practiced in a wide range of legal areas in both public and private practice from criminal law, administrative law, local government and school law, land use, real estate, and redevelopment law. She loves hiking with her husband and dog, camping, photographing, and reading.



**Olga Serafimova**

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**Olga Serafimova** is Of Counsel in the Santa Fe office of Holland & Hart, LLP, where she is a member of the Environmental, Energy, and Natural Resources practice group. She previously served as the Senior Civil Counsel to Attorney General Hector Balderas, the General Counsel for the Department of Information Technology, and the Tobacco Bureau Chief at the Attorney General's Office. Ms. Serafimova is a Board Member of the New Mexico Board of Bar Examiners, the State Bar liaison for the New Mexico Appellate Rules Committee, and the pro bono General Counsel of STEM Santa Fe, a non-profit organization providing free STEM programming to middle and high school aged children in Northern New Mexico. She is licensed to practice law in New Mexico, California, and Massachusetts.



**Elizabeth J. Travis**

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**Elizabeth J. Travis** is a solo practitioner providing services in the 1st Judicial District as a neutral, settlement facilitator and mediator, and as counsel for various civil clients including small business, non-profits and boards. Prior to returning to her solo practice, Ms. Travis served as a deputy general counsel with the New Mexico Department of Transportation, with primary focus on the Department's construction, operations and finance organizations, a practice which included construction, water, public finance and procurement, and contract law. Prior to working for the State, Liz served as an assistant county attorney for Santa Fe County. In addition to her role on the BBC, Ms. Travis serves on the State Bar Foundation Board, the State Bar's Ethics Advisory Committee and ADR Committee, and on the Supreme Court's Disciplinary Board and Client Protection Fund Committee. She is an active member of the ABA, participating in the dispute resolution and professional responsibility sections and the construction industry forum. Liz is licensed to practice in state and federal court in New Mexico and California.

## **2nd Judicial District** *(Bernalillo County)*



**Allison H. Block-Chavez**  
President-Elect  
*See page 1.*



**Aja N. Brooks**  
President  
*See page 1.*



**Sean M. FitzPatrick**  
505-400-0420 • [sfitzpatrick@fitzpatricklawllc.com](mailto:sfitzpatrick@fitzpatricklawllc.com)

After working for a few years as a prosecutor litigating felony and misdemeanor cases, **Sean FitzPatrick** started his firm FitzPatrick Law, LLC in 2016. FitzPatrick's current practice area is civil litigation focusing on insurance and injury law. FitzPatrick served on the Young Lawyers Division board for years as director and chair prior to his current term on the BBC. FitzPatrick is also the current Co-Chair of the New Mexico State Bar Well Being committee. He believes a healthy work life balance makes better lawyers and you can find FitzPatrick running, biking, or participating in other type 2 fun activities with his wife Eva and their son Liam when not practicing law.



**Tomas J. Garcia**  
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**Tomas J. Garcia** is a shareholder at Modrall Sperling in Albuquerque, where he practices commercial, healthcare, torts/personal injury, and transportation litigation. Tomas is a past chair and board member of the State Bar of New Mexico Young Lawyers Division and he is an active leader with the American Bar Association, currently serving as the New Mexico Membership Chair. Tomas also serves on the board of the New Mexico Defense Lawyers Association. An Albuquerque native, Tomas received his law degree from Georgetown University Law Center.



**Steven S. Scholl**  
505-244-3890 • [sscholl@dsc-law.com](mailto:sscholl@dsc-law.com)

**Steven Scholl** is a founding member of Dixon Scholl [Bailey] Carrillo, P.A. He does civil trials, but occasionally helps-out behind the scenes with criminal trials. He is a past president of the UNMSOL Alumni Board and the Albuquerque Bar Association. Serving on the Board of Bar Commissioners is another and different way that Steve serves the members of the Bar. Since graduating from UNMSOL in 1989, he spent a lot of free time "paying it forward" by teaching trial practice, evidence and deposition skills classes and coaching mock trial teams. Steve and Chris raised their two kids here, and they are raising theirs here as well. In addition to doing law stuff, they restored and use two vintage '50s camp trailers, drive a 1929 Model A Roadster and boat-camp. Life is Good.



**Lucy H. Sinkular**  
Secretary-Treasurer  
*See page 2.*

**3rd and 6th Judicial Districts**  
*(Dona Ana, Grant, Hidalgo, and Luna Counties)*



**Connie J. Flores**  
575-303-9999 • cflores@floresmendez.com

**Connie J. Flores** is partner at Flores Mendez, P. C., specializing in cases involving personal injury to include on the semi-truck accidents, on the job injuries, premises liability, Dram Shop, nursing home and representing victims of sexual abuse in civil lawsuits. Her mission is to help injured people that have been treated unjustly by insurance companies. As a fluent Spanish speaker, Ms. Flores enjoys representing individuals who otherwise would not be able to effectively communicate their issue to an attorney. Ms. Flores attended the University of Denver and graduated in 2003. She attended UNMSOL graduating in 2008. She was admitted to practice law in New Mexico in September 2008, Texas in May 2009 and Arizona 2022. Ms. Flores, who became a teenage mother at the age of 15, has been asked on numerous occasions to be a keynote speaker at local area high schools addressing the issues surrounding teenage pregnancy, in an effort to encourage teenage parents to continue their education and attend college.



**David P. Lutz**  
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**David P. Lutz** is a Las Cruces attorney at Martin & Lutz, P.C. He practices law with his father and focuses primarily on civil and domestic relations matters. He has been with the firm since 2004. He was born in Las Cruces, New Mexico and graduated from Organ Mountain High School. He attended Claremont McKenna College (B.A. 1997) and Cornell Law School (J.D. 2000). He has appeared and practices regularly in the Third, Sixth, and Seventh Judicial Districts. He served on the Young Lawyers Division Board as a Regional Director from 2007 through 2011. When he is not working, he enjoys playing soccer and going with his family to cultural and/or sporting events at New Mexico State University.



**Chrystian J. Gonzalez**  
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**Chrystian J. Gonzalez** is a Children’s Court Attorney for the New Mexico Children, Youth, and Families Department’s Las Cruces office. He previously worked as a mediator, social security disability representative, and Assistant District Attorney, before moving on to private practice as a family and civil law attorney. He also currently serves as Treasurer for the Southern New Mexico Bar Association and has been recognized for his contributions to pro bono work in the southern New Mexico region.

Chrystian is a graduate of the Texas Tech University School of Law and the University of Texas at Austin. Prior to his studies, he also served as an enlisted member of the United States Air Force, where he supported various post-9/11 military operations overseas. In his off-time, Chrystian devotes his time to his family, completing DIY home projects, and serving as vice president of his local International Lions Club chapter. Chrystian brings his diligence, determination, and tenacity to every matter, while also striving to uphold the integrity of the legal profession.

## **4th and 8th Judicial Districts**

*(Guadalupe, Mora, San Miguel, Colfax, Taos, and Union Counties)*



### **Brett Phelps**

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**Brett Phelps** is a sole practitioner and owner of the Phelps Law Office in Las Vegas. He became a lawyer to help end the disastrous war on drugs, and today his practice focuses primarily on criminal defense and cannabis law. He serves on the State Bar Cannabis Law Section Board of Directors and as the Northeast Regional Director of the New Mexico Criminal Defense Lawyer's Association. He also advocates for criminal law reform at the New Mexico State Legislature. He attended the University of New Mexico School of Law (J.D., 2017, magna cum laude), New Mexico Highlands University (M.A., English), and the University of Nevada, Reno (B.B.A.)

## **5th Judicial District**

*(Chaves, Eddy, and Lea Counties)*



### **Parker B. Folsie**

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**Parker Folsie** is a partner in the Roswell office of Hinkle Shanor LLP. He is a graduate of University of Texas at Dallas, B.A. Political Science, and the University of Oklahoma School of Law, J.D. Parker primarily assists commercial clients in litigation matters in both State and Federal Courts at both the district and appellate levels. Parker was admitted to practice law in New Mexico in 2011 and is a member of the Chaves County Bar Association, the New Mexico Defense Lawyer's Association, and the Defense Research Institute. Parker also serves on the Roswell Museum and Art Center Foundation Board, the Roswell-Chaves County Economic Development Corporation Board, and the Immanuel Lutheran Church Council. He enjoys exploring New Mexico's mountains with his wife, Robin, and daughter, Evelyn.

## **7th and 13th Judicial Districts**

*(Catron, Cibola, Sandoval, Sierra, Socorro, Torrance, and Valencia Counties)*



### **Jessica A. Perez**

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**Jessica Perez** is a graduate of the University of New Mexico School of Law where she started her initial involvement with the State Bar. Currently she works as an Assistant District Attorney in the 13th Judicial District within Sandoval County as a senior felony trial attorney handling a variety of cases up to homicide prosecution. In addition to her felony caseload, Jessica handles a juvenile delinquency docket and extraditions. Beyond her role as a dedicated state employee, Jessica likes to be involved with the legal community through years of volunteer work. Previously, Jessica served on the Prosecutor's Section board and Young Lawyer's Division board for multiple years as a general member then chair of each board. In 2019 she was awarded as Community Service Prosecutor of the Year by the New Mexico District Attorneys' Association and by the Prosecutors Section in 2020 for prosecutorial excellence. Jessica was also recently recognized as Senior Prosecutor of the Year for the 13th Judicial District Attorney's Office in 2023 by the New Mexico District Attorney's Association. On the rare occasion she is not working, Jessica enjoys reading while cuddled up with her cats, going on hikes with her rescue dog, and she's a big fan of sleeping.



### **Simone M. Seiler**

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**Simone M. Seiler** serves as the Special Commissioner at the Thirteenth Judicial District Court in Cibola County. She graduated from the University of New Mexico School of Law and has been practicing law for 18 years. In 2007, she passed the patent bar exam and represented clients before the United States Patent and Trademark Office until 2015. Simone began her legal career at a boutique law firm specializing in civil and intellectual property law. She has worked on civil, family, and children's law cases at the Thirteenth Judicial District Court for the past eight years. Simone has served as the chair of the Intellectual Property Section, a board member of the Animal Law Section and the New Mexico Women's Bar Association, and as a member on several Supreme Court committees.

## **9th and 10th Judicial Districts** *(Curry, Roosevelt, DeBaca, Harding, and Quay Counties)*



**Mitchell L. Mender**  
575-265-5333 • Mitch@larsenandmender.com

**Mitchell L. Mender** is a founding partner of The Law Offices of Larsen and Mender P.C., located in Clovis, NM. His practice focuses primarily on criminal law, family law, and personal injury. Mitch is a graduate of Brigham Young University. He graduated from Vermont Law School in their accelerated Juris Doctorate program. He started his career as a prosecutor with the Ninth Judicial District Attorney's Office, where he was awarded prosecutor of the year for the District in 2018 and 2019. Subsequently, he worked at the New Mexico Law Offices of the Public Defender where he represented indigent clients. Additionally, he sits on the Board of Directors for the Hartley House, the local domestic violence shelter. He and his wife, Robyn, enjoy traveling and spending time with their three children.

## **11th Judicial District** *(McKinley and San Juan Counties)*



**Joseph F. Sawyer**  
505-334-4297 • jsawyer@sjcounty.net

**Joseph F. Sawyer** serves as the County Attorney for San Juan County. A Farmington native, he attended the University of New Mexico (B.A., 1995) and Notre Dame Law School (J.D., 1999). Prior to working for San Juan County, Joe spent several years in private practice and worked for the 11th Judicial District Attorney's Office in Farmington. He served as president of the San Juan County Bar Association in 2011 and was on the State Bar of New Mexico Young Lawyers Division Board of Directors from 2006 to 2007. Joe and his wife Ana enjoy backpacking, mountain biking, traveling and spending time with their two daughters.

## **12th Judicial District** *(Lincoln and Otero Counties)*



**Erinna M. "Erin" Atkins**  
Immediate Past President  
*See page 2.*

## **Out-of-State District**



**Dylan O'Reilly**  
505-989-9614 • doreilly@mstlaw.cm

**Dylan O'Reilly** has been with Miller Stratvert PA since graduating UNM School of Law in 1999. After 5 years at the firm's Albuquerque office, he spent the next 10 years with its Farmington office, and now practices in Santa Fe where he handles commercial litigation, transactions, and mediations. Dylan is a past chair of the state bar's business law section and recipient of its business lawyer of the year award. With his wife Sara, Dylan enjoys chamber concerts (expanding a music appreciation he developed while studying History at Oberlin College). Santa Fe's classical music scene led him to 6-years of board service for Santa Fe Pro Musica, adding to service with UNM SOL Alumni Board and Sexual Assault Services of Northwest New Mexico. In 2021, Dylan was appointed to the New Mexico Board of Bar Examiners.

## ***Young Lawyers Division Chair***



**Lauren Riley**

505-246-0500 • lauren@batleyfamilylaw.com

**Lauren Riley** practices Family Law at Batley Riley Family Law, P.A. in Albuquerque, NM. She practices in all aspects of family law including divorce, custody, child support, kinship-guardianship, divorce modification and assisting clients with Prenuptial and Postnuptial Agreements. Lauren is the current Chair of the State Bar of New Mexico Young Lawyers Division. She also serves as a board member of the Family Law Section. Outside of work, Lauren spends her time keeping up with her two young children, Beau and Hadley, who keep her running (sometimes literally)!

## ***Senior Lawyers Division Delegate***



**Daniel J. Behles**

505-238-0208 • djbehles@gmail.com

**Dan Behles** has been a New Mexico attorney since 1970, and is now semi-retired. He graduated from the University of Notre Dame, and received his J.D. degree from the University of New Mexico. He has practiced in New Mexico for over 50 years, concentrating in bankruptcy. He has represented debtors, creditors, trustees and committees, and has been a Chapter 7 and Chapter 11 Trustee. He is a member of the Subchapter V panel of trustees for small business reorganizations, and currently limits his practice to serving as a trustee. He sits on the board of directors of the Senior Lawyer's Division, and has been a Southwest Superlawyer for over 10 years.

## ***Paralegal Division Liaison***



**Meryl Sutton**

505-545-8554 • meryls@nmlegalaid.org

**Meryl Sutton** is a New Mexico native and graduated from the Paralegal Studies Program in January 2019. Following graduation, she accepted an internship with New Mexico Legal Aid and then accepted the position of Interim Pro Bono Coordinator. In June of 2020, Meryl transitioned into the position of VAP Paralegal. Meryl's work focuses on providing access to justice to low-income New Mexican's by recruiting private attorneys to represent her clients pro bono in various capacities. Meryl joined the State Bar Paralegal Division in 2021 and was elected Chair Elect in November 2022. Meryl also Chairs the Divisions Pro Bono Committee as it ties in with her work. In her free time, Meryl enjoys spending time with friends and family, watching documentaries, cooking and going to the opera.

***Get involved with the State Bar of New Mexico!***

**Are you looking for a way to be more involved with the State Bar and gain leadership experience?**

Consider applying for an appointment to serve on one of the many N.M. Supreme Court boards, committees and commissions to which the Board of Bar Commissioners makes appointments. Look for notices regarding vacancies in the *Bar Bulletin* and in *ENews* throughout the year. In the fall, look for information about the commissioner elections. For more information about the Board, contact your district bar commissioner or the State Bar of New Mexico.

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# Celebrating Exceptional Leadership

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*Immediate Past President*

Join us in commemorating the first time in State Bar of New Mexico history when women comprise the leadership team. Today we pay tribute to all women leaders for paving the way for all of us. Congratulations to these exceptional leaders who exemplify legal excellence and advance equality in our profession.

— *The Committee on Women in the Legal Profession*



State Bar of New Mexico  
Committee on Women  
and the Legal Profession

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Volunteers are needed for the **Modest Means Helpline** and the **Legal Resources for the Elderly Program** referral panels.

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New Mexico  
State Bar Foundation

# Legal Education Calendar

## March

- |                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                          |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>12 Ethical Issues Relating to Smartphone Use</b><br/>1.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-Ethical-Issues-Smartphone-Use">https://bit.ly/CLE-Ethical-Issues-Smartphone-Use</a></p>                                                  | <p><b>18 The Unauthorized Practice of Law: New Frontiers</b><br/>1.0 EP<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-Unauthorized-Practice-of-Law">https://bit.ly/CLE-Unauthorized-Practice-of-Law</a></p>  | <p><b>20 Cross By Camera: How to Become a Master of REMOTE Cross-Examination</b><br/>2.0 G<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-Cross-By-Camera">https://bit.ly/CLE-Cross-By-Camera</a></p>                                                                                               |
| <p><b>14 Artificial Intelligence (AI) for Lawyers: Legal, Ethical, and Practical Issues</b><br/>1.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-Artificial-Intelligence-for-Lawyers">https://bit.ly/CLE-Artificial-Intelligence-for-Lawyers</a></p> | <p><b>18 Learning Litigation Skills From “Where the Crawdads Sing”</b><br/>2.0 G<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-Learning-Litigation-Skills">https://bit.ly/CLE-Learning-Litigation-Skills</a></p> | <p><b>26 Are Public Schools Now Subject to State Anti-discrimination Laws? Court Decides Johnson v. Board of Education for APS</b><br/>1.0 EIJ<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-Johnson-v-Board-of-Education-for-APS">https://bit.ly/CLE-Johnson-v-Board-of-Education-for-APS</a></p> |
| <p><b>17 2025 Fundamentals of Federal Capital Defense-Mitigation Workshop</b><br/>17.5 G<br/>Live Program<br/>Administrative Office of the US Courts<br/><a href="http://www.uscourts.gov">www.uscourts.gov</a></p>                                                                            | <p><b>19 Successor Liabilities in Business Transactions</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-Successor-Liabilities">https://bit.ly/CLE-Successor-Liabilities</a></p>                  | <p><b>26 Discovering Implicit Biases in Jury Selection</b><br/>1.0 EIJ<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-Discovering-Implicit-Biases">https://bit.ly/CLE-Discovering-Implicit-Biases</a></p>                                                                                           |
| <p><b>18 Empowering Your Clients: Allocating Child-Based Tax Benefits</b><br/>1.0 G<br/>Web Cast (Live Credits)<br/>Third Judicial District Court<br/><a href="http://thirddistrict.nmcourts.gov">thirddistrict.nmcourts.gov</a></p>                                                           | <p><b>19 Back to Basics Part 2: Beyond The Rules of Professional Conduct</b><br/>1.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-Back-to-Basics-Part-2">https://bit.ly/CLE-Back-to-Basics-Part-2</a></p>    | <p><b>27 Non Capital Habeas Conference</b><br/>12.2 G<br/>Live Program<br/>Administrative Office of the US Courts<br/><a href="http://www.uscourts.gov">www.uscourts.gov</a></p>                                                                                                                                                         |

## April

- |                                                                                                                                                                                                      |                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>1 Federal Defender Capital Habeas Unit (CHU)</b><br/>15.2 G, 1.0 EP<br/>Live Program<br/>Administrative Office of the US Courts<br/><a href="http://www.uscourts.gov">www.uscourts.gov</a></p> | <p><b>4 Elimination of Bias-Combating Age Bias in the Legal Field</b><br/>1.0 EIJ<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-Combating-Age-Bias-4-4-25">https://bit.ly/CLE-Combating-Age-Bias-4-4-25</a></p> | <p><b>8 The AI Edge: Enhancing Legal Practice with ChatGPT</b><br/>1.0 G<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-The-AI-Edge">https://bit.ly/CLE-The-AI-Edge</a></p> |
| <p><b>3 March Hearing Panels</b><br/>4.0 G<br/>Webinar<br/>NM Medical Review Commission<br/><a href="http://www.nmms.org">www.nmms.org</a></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](mailto: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>.



## NOTICE OF PUBLICATION FOR COMMENT

### PROPOSED AMENDMENTS TO SUPREME COURT RULES OF PRACTICE AND PROCEDURE MARCH 6, 2025

In accordance with the Supreme Court's annual rulemaking process under Rule 23-106.1 NMRA, which includes an annual publication of proposed rule amendments for public comment every spring, the following Supreme Court Committees are recommending proposed amendments to the rules of practice and procedure as summarized below. To view the text of a proposal, you may click on its corresponding proposal number on the Supreme Court's website at <https://supremecourt.nmcourts.gov/rules-forms-files/rules-forms/open-for-comment/>. To comment on the proposed amendments before they are submitted to the Court for final consideration, you may submit your comment electronically through the Supreme Court's website at <https://supremecourt.nmcourts.gov/rules-forms-files/rules-forms/open-for-comment/>, by email to [rules.supremecourt@nmcourts.gov](mailto:rules.supremecourt@nmcourts.gov), by fax to 505-827-4837, or by mail to:

Elizabeth A. Garcia, Chief Clerk of Court  
New Mexico Supreme Court  
P.O. Box 848  
Santa Fe, New Mexico 87504-0848

**Your comments must be received by the Clerk's Office on or before April 5, 2025**, to be considered by the Court. Please note that submitted comments may be posted on the Supreme Court's website for public viewing.

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### CHILDREN'S COURT RULES COMMITTEE

#### *Proposal 2025-001 - CASA Duties*

[New Rules 10-164.1 and 10-164.2 NMRA and Forms 10-528, 10-529, 10-746, and 10-747 NMRA;  
Withdrawn Rule 10-164 NMRA]

The Children's Court Rules Committee recommends withdrawing Rule 10-164 NMRA and adopting new rules and forms that govern the appointment of a court-appointed special advocate (CASA) and set forth the powers and duties of a CASA in child welfare and juvenile justice cases.

#### *Proposal 2025-002 - Improving Outcomes for Crossover Youth*

[New Rule 10-172 NMRA and Forms 10-615 and 10-616 NMRA; Rule 10-101 NMRA]

The Committee recommends that the Supreme Court amend Rule 10-101 NMRA to provide a definition for "crossover youth." In addition, the Committee recommends adopting a new rule and accompanying forms that set forth procedures for providing all parties with notice in crossover youth cases and that allow a crossover youth's child welfare attorney or guardian ad litem to enter a limited appearance in the youth's delinquency or criminal case.

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### RULES OF PROCEDURE FOR STATE COURTS COMMITTEE

#### *Proposal 2025-003 - Service by Social Media*

[Rule 1-004 NMRA]

The Committee recommends amendments to Rule 1-004 NMRA that would allow for service of process via social media, e-mail, and text message if service of process cannot be accomplished under other methods of service.

***Proposal 2025-004 - Contributory Negligence***

[Rule 1-008 NMRA]

The Committee recommends amending Rule 1-008 NMRA to replace the affirmative defense of “contributory negligence” with “comparative negligence.” The Committee recommends this amendment to reflect New Mexico’s abolishment of contributory negligence and adoption of comparative negligence as set forth in *Scott v. Rizzo*, 1981-NMSC-021, 96 N.M. 682, 634 P.2d 1234.

***Proposal 2025-005 - Medical Debt***

[New Forms 4-226A, 4-301A, 4-805B, and 4-805C NMRA; Rules 1-009, 1-055, 1-060, 1-065.1, 1-065.2, 2-201, 2-702, 2-703, 2-801, 2-802, 3-201, 3-702, 3-704, 3-801, and 3-802 NMRA; Forms 4-204, 4-801, 4-801A, 4-808, 4-808A, and 4-809 NMRA]

The Committee proposes adopting new civil forms and amending various existing civil rules and forms to implement the Patients’ Debt Collection Protection Act, NMSA 1978, §§ 57-32-1 to -10 (2021) and its associated regulations.

***Proposal 2025-006 - Residential Foreclosures***

[Rules 1-003.3 and 1-054.2 NMRA; Form 4-712 NMRA]

The Committee recommends amending Rules 1-003.3 and 1-054.2 NMRA and Form 4-712 NMRA to clarify that they apply to residential foreclosures only.

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**CODE OF JUDICIAL CONDUCT COMMITTEE**

***Proposal 2025-007 - Relationships Requiring Judicial Disqualification***

[Rule 21-211 NMRA]

The Code of Judicial Conduct Committee recommends amendments to Rule 21-211 NMRA that require judicial disqualification when the judge, the judge’s relative, or the judge’s staff are participating directly or indirectly in the management of a party to the proceeding.

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**RULES OF CRIMINAL PROCEDURE FOR STATE COURTS COMMITTEE**

***Proposal 2025-008 - Length of Time to Correct an Illegal Sentence***

[Rule 5-801 NMRA]

The Rules of Criminal Procedure for State Courts Committee recommends amending Rule 5-801 NMRA to clarify the length of time a district court has to correct an illegal sentence in response to *State v. Romero*, 2023-NMSC-008, 528 P.3d 640. The Committee also recommends amendments that provide a time limit for correcting a sentence imposed in an illegal manner, require a hearing if the corrected sentence results in more onerous sentencing terms, clarify when a motion to reduce a sentence may be filed and its effect on a notice of appeal, and enhance readability of the rule. Finally, the Committee recommends revising the accompanying committee commentary of Rule 5-801 to explain the history of the rule and the proposed amendments.

## **DOMESTIC RELATIONS RULES COMMITTEE**

### ***Proposal 2025-009 - Temporary Orders of Protection***

[Forms 4-963 and 4-963A NMRA]

The Domestic Relations Rules Committee recommends amending Forms 4-963 and 4-963A to prohibit a restrained party from disconnecting or restricting access to the protected party's phone or internet services.

### ***Proposal 2025-010 - Extreme Risk Firearm Protection Orders***

[New Forms 4A-601, 4A-602, 4A-603, 4A-604, 4A-605, 4A-606, 4A-607, 4A-608, 4A-609, 4A-610, 4A-611, 4A-612, 4A-613, and 4A-614 NMRA]

The Committee recommends that the Court formally adopt, with modifications, new domestic relations forms that have been in use in proceedings involving extreme risk firearm protection orders. also recommends amendments that provide a time limit for correcting a sentence imposed in an illegal manner, require a hearing if the corrected sentence results in more onerous sentencing terms, clarify when a motion to reduce a sentence may be filed and its effect on a notice of appeal, and enhance readability of the rule. Finally, the Committee recommends revising the accompanying committee commentary of Rule 5-801 to explain the history of the rule and the proposed amendments.

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## **UNIFORM JURY INSTRUCTIONS-CIVIL COMMITTEE**

### ***Proposal 2025-011 – Compensation for Limitations to Property Access***

[Uniform Jury Instruction (UJI) 13-719 NMRA]

The Uniform Jury Instructions-Civil Committee recommends amendments to UJI 13-719 NMRA in response to *City of Albuquerque v. Tecolote Resources, Inc.*, 2024-NMCA-029, 544 P.3d 321. The amendments clarify that the instruction should only be given in condemnation cases in which property is lost or impaired but not taken, and that the instruction should not be given in cases involving partial takings.

### ***Proposal 2025-012 - Use of Artificial Intelligence by Jurors***

[UJI 13-110 NMRA]

The Committee recommends amending UJI 13-110 NMRA to prohibit jurors from using or referring to any internet resources, including artificial intelligence, before rendering a verdict in a case.

### ***Proposal 2025-013 - Punitive Damages for Cumulative Conduct***

[UJI 13-1718 NMRA]

The Committee recommends amending the use notes and committee commentary of UJI 13-1718 NMRA to allow the trial court to determine, depending on the particular circumstances of the case being tried, whether other theories of punitive damages contained in UJI 13-1827 NMRA may be incorporated into UJI 13-1718.

### ***Proposal 2025-014 - Rules of Professional Conduct and Duty***

[UJI 13-2411 NMRA]

In response to *Waterbury v. Nelson*, 2024-NMSC-020, 557 P.3d 96, the Committee recommends modifications to UJI 13-2411 NMRA and its accompanying committee commentary to clarify that the Rules of Professional Conduct cannot be used as the source of a lawyer's duty in a legal malpractice case, but may be used as evidence of the standard of care.

## UNIFORM JURY INSTRUCTIONS-CRIMINAL COMMITTEE

### *Proposal 2025-015 – Aggravated Shoplifting and Organized Retail Theft*

[New UJIs 14-1610A, 14-1612, 14-1613, 14-1614, 14-1615, 14-1616, 14-1617, and 14-1618 NMRA; UJIs 14-1610 and 14-1611 NMRA]

The Committee proposes amending UJIs 14-1610 and 14-1611 NMRA and adopting new jury instructions to implement legislative changes to the shoplifting statute, NMSA 1978, § 30-16-20 (2023), and the passage of the organized retail crime statute, NMSA 1978, § 30-16-20.1 (2023).

### *Proposal 2025-016 – Multiple Defendants*

[UJI 14-6003 NMRA; Withdrawn UJI 14-6005 NMRA]

The Committee recommends amending UJI 14-6003 NMRA and its associated committee commentary to clarify that the jury should consider evidence relating to each defendant separately and that the instruction should not be used in cases involving a charge of conspiracy. The proposed amendments are also intended to conform with the multiple defendants instruction used in other jurisdictions by providing alternatives if multiple defendants are charged with different offenses or the same offenses. Finally, the Committee recommends withdrawing UJI 14-6005 NMRA and including the substance of that instruction in UJI 14-6003.

### *Proposal 2025-017 - Sexual Exploitation of Children (Manufacture)*

[UJI 14-633 NMRA]

The Committee recommends amending UJI 14-633 NMRA to include the required mens rea for sexual exploitation of children (manufacture), as set forth in *State v. Rael*, 2024-NMSC-010, 548 P.3d 66. In addition, the recommended amendments combine elements of the instruction to streamline language and include explanatory committee commentary of the Supreme Court's holding in *Rael*.

### *Proposal 2025-018 - Intentional Child Abuse*

[UJI 14-626 NMRA]

The Committee recommends amendments to the use notes of UJI 14-626 NMRA to indicate that UJI 14-141 NMRA, the general intent instruction, should not be given in intentional child abuse and abandonment cases.

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## UNIFORM JURY INSTRUCTIONS-CIVIL AND UNIFORM JURY INSTRUCTIONS-CRIMINAL COMMITTEES

### *Proposal 2025-019 - Implicit Bias Instructions*

[New UJIs 13-110.1 and 14-101B NMRA; UJIs 13-2005, 13-2009, 14-6006, and 14-6008 NMRA]

The Uniform Jury Instructions-Civil Committee and Uniform Jury Instructions-Criminal Committee recommend new and revised civil and criminal jury instructions to address implicit bias in the judicial system.

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## THIRD JUDICIAL DISTRICT COURT

### *Proposal 2025-020 - Local Rules for the Third Judicial District Court*

[New LR3-115, LR3-116, and LR3-117 NMRA; LR3-102, LR3-105, LR3-106, LR3-112, LR3-203, and LR3-207 NMRA]

The Third Judicial District Court recommends amending six of its local rules and adopting three new local rules. The proposed amendments and new rules are intended to ensure consistency with the Supreme Court's opinion in *In re Marshall*, 2023-NMSC-009, 528 P.3d 670, clarify the District's security and recording policies, streamline and clarify court procedures for civil and criminal cases, and prepare for a paperless case management system.

## **ELEVENTH JUDICIAL DISTRICT COURT**

### ***Proposal 2025-021 - Eleventh Judicial District Court's Technical Violation Program***

[Reinstated LR11-302 NMRA]

The Eleventh Judicial District Court recommends the reinstatement of LR11-302 NMRA to implement a new technical violation program for adult probationers.

### ***Proposal 2025-022 - Local Rules for the Eleventh Judicial District Court***

[LR11-110, LR11-111, LR11-116, LR11-119, and LR11-120 NMRA; Withdrawn LR11-102, LR11-108, LR11-113, and LR11-115 NMRA]

The Eleventh Judicial District Court recommends amending various local rules in the District related to remote and in-person hearings, court hours, electronic devices, attire and decorum in the courtroom, and the place of filing. In addition, the District recommends withdrawing four of its local rules governing case assignment, removal of court files, filing fees, and filing by fax. The proposed amendments and withdrawals are intended to ensure consistency with statewide rules and to reflect current policies and procedures followed in the District.

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## **SECOND JUDICIAL DISTRICT COURT**

### ***Proposal 2025-023 - Local Rules of the Second Judicial District Court***

[New LR2-128 NMRA; LR2-102, LR2-106, LR2-109, LR2-111, LR2-114, LR2-126, LR2-127, LR2-306, LR2-308, and LR2-603 NMRA; Withdrawn LR2-108, LR2-304, and LR2-305 NMRA]

The Second Judicial District Court recommends adopting a new local rule addressing notices of unavailability. In addition, the District recommends amending various local rules regarding scheduling priorities, court decorum, transportation of incarcerated persons to trials and hearings, appearances for children's court cases, filing fees, and orders to show cause. The District also recommends making minor, technical changes to LR2-306, LR2-308, and LR2-603 NMRA. Finally, the District recommends withdrawing its rules regarding court hours and closures, furloughs, and designation of proceedings for transcript conferences. These amendments are intended to ensure consistency with statewide rules and policies of the New Mexico judiciary and reflect current practices and policies followed at the District.

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## **SUPREME COURT CLERK'S OFFICE**

### ***Proposal 2025-024 - Rules Governing Admission to the Bar***

[Rules 15-102, 15-203, 15-205, 15-207, and 15-301 NMRA]

The Supreme Court Clerk's Office and the Board of Bar Examiners propose to amend the Rules Governing Admission to the Bar to add new definitions and additional factors for consideration and to clarify procedures for submitting applications and completing licensure.

### ***Proposal 2025-025 - Oral Argument Requests***

[Rule 12-319 NMRA]

The Supreme Court Clerk's Office proposes to amend the committee commentary of Rule 12-319 NMRA to clarify the meaning of "opening brief" when parties request oral argument.

***Proposal 2025-026 - Length of Jury Service***  
[New Rule 23-116 NMRA]

The Supreme Court Clerk's Office recommends the adoption of new Rule 23-116 NMRA, which establishes a maximum length of jury service as required under NMSA 1978, Section 38-5-12(B) (2005). The proposed new rule also allows each judicial district, in its discretion and in consultation with the Administrative Office of the Courts, to establish terms of service based on that district's needs.

***Proposal 2025-027 - Rules Committee Meetings and Voting by Email***  
[Rule 23-106 NMRA]

The Supreme Court Clerk's Office proposes to amend Rule 23-106 NMRA to establish new meeting requirements and to allow voting by email under extraordinary circumstances for the Court's rules committees.

***Proposal 2025-028 - Pronouns in UJIs***  
[Various UJIs in the NMRA]

The Supreme Court Clerk's Office and Supreme Court Commission on Equity and Justice recommend amending various Uniform Jury Instructions in the NMRA to remove gendered pronouns and replace them with gender-neutral language.

***Proposal 2025-029 - Qualifications for Judicial Nominees***  
[New Rule 23-117 NMRA]

The Supreme Court Clerk's Office recommends the adoption of new Rule 23-117 NMRA to clarify that when a judicial nominee is required to have been in the actual practice of law or be a member of the New Mexico Bar, the nominee cannot be licensed under a limited licensure rule.

***Proposal 2025-030 - Orders of Expungement***  
[Rule 1-077.1 NMRA]

The Supreme Court Clerk's Office proposes amending Rule 1-077.1 NMRA to establish a procedure for a district court to follow when an appellate court maintains records related to an order of expungement.

***Proposal 2025-031 - Pronouns and Salutations in Court Pleadings***  
[Rules 1-008.1, 1-010, 1B-202, 2-203.1, 3-203.1, 5-202, 6-301, 7-301, 8-301, 10-112, 10-114, 12-305, and 12-305.1 NMRA]

The Supreme Court Clerk's Office proposes to amend Rules 1-008.1, 1-010, 1B-202, 2-203.1, 3-203.1, 5-202, 6-301, 7-301, 8-301, 10-112, 10-114, 12-305, and 12-305.1 NMRA to allow parties and attorneys to include preferred pronouns and designated salutations in court pleadings and require courts and attorneys to use the party's or attorney's name, personal pronouns, or designated salutation when addressing, referring to, or identifying the party or attorney. The proposed amendments are intended to implement Supreme Court Order No. S-1-AO-2024-00016, In the Matter of the Use of Personal Pronouns and Designated Salutations in Court Pleadings.

**THE PROPOSED RULE AMENDMENTS SUMMARIZED ABOVE  
CAN BE VIEWED IN THEIR ENTIRETY AT THE  
NEW MEXICO SUPREME COURT WEBSITE**

<https://supremecourt.nmcourts.gov/rules-forms-files/rules-forms/open-for-comment/>

# UNIFORM LAWS

## Are Available To Update New Mexico Family Law

By Sarah Bennett and Greg Nibert



In business and financial arenas, New Mexico attorneys are very familiar with many laws originally drafted by the Uniform Law Commission (ULC). The Uniform Commercial Code, Uniform Probate Code and Uniform Division of Income for Tax Purposes Act are some examples. Consistency among the state laws addressing commerce, property and trusts and estates, where possible, brings the assurance that our business practices are compatible with the laws of other states, reduces litigation, and thus supports business and wealth accumulation in New Mexico.

In family law matters, New Mexico has adopted many uniform acts which have been in place for years, such as the Uniform Child Custody and Jurisdiction Act, the Uniform Parentage Act, Uniform Interstate Family Support Act and Uniform Premarital Agreements Act. Families can know that child custody, premarital and marital agreements, support enforcement and other significant matters will be regulated by uniform laws even when family members live in different states. Consistency in family law matters relating to children and families reduces the need for expensive and often multi-state litigation, and thus improves the lives of New Mexico citizens. Interstate child support collection and enforcement is simplified.

Since 1892, the Uniform Law Commission (ULC, also known as the National Conference of Commissioners on Uniform State Laws) has provided states with nonpartisan, well-conceived and well-drafted legislation that enhances the stability and clarity of state law. ULC Commissioners must be lawyers, appointed by each of the 50 state governments, the District of Columbia, the Commonwealth of Puerto Rico and the U.S. Virgin Islands. More than 350 practicing lawyers, judges, law professors, legislators and others volunteer thousands of hours of their time each year in committees studying current issues and, where appropriate, drafting uniform acts for state legislatures to consider for enactment. Their processes are open and deliberative, with input from legal experts, advisors and observers representing the views of organizations interested in the particular subject matter. The resulting legislation is carefully considered and written. Particularly in states with limited resources to allocate to research and drafting of legislation, the availability of well researched and drafted laws addressing common issues is invaluable. Of course, during the adoption process, each state tailors the legislation to be consistent with other laws in that state.

In the area of family law, there are two significant acts recently promulgated by the ULC which have been proposed in the 2025 legislative session to update New Mexico law. One is the Uniform Cohabitants Economic Remedies Act, HB#123, sponsored by Rep. Charlotte Little; and the other is to update and complete the Uniform Parentage Act, HB#373, sponsored by Rep. Pamela Herndon. The substance of each proposal is discussed below.

### Uniform Cohabitants Economic Remedies:

The Uniform Cohabitants' Economic Remedies Act (UCERA) enables cohabitants to exercise the usual rights of individual citizens of a state to contract with each other and to bring contract and equitable claims against each other in appropriate circumstances. It is not equivalent to a common law marriage, long prohibited in New Mexico. *In re Gabaldon's Estate*, 1934-NMSC-053, 38 N.M. 392, 34 P.2d 672 (1934). It has no impact on marriage. The legal status of marriage provides broad rights and remedies not available to cohabitants.

Cohabiting can occur in many different ways, sometimes by mutual choice. Some have gone through a marriage ceremony, but later learned of a defect rendering the marriage void. Some cohabitation arrangements have resulted from a power imbalance in the relationship.

The UCERA defines a cohabitant as one of two persons living together "as a couple." It recognizes that contractual and equitable claims can be based on the provision of non-sexual services, activities and efforts by either party to the relationship. It recognizes the value of non-material contributions such as domestic services and provides that an agreement may be oral, written, express or implied-in-fact. It permits enforcement of an agreement and advancement of a claim for equitable relief. Current New Mexico law on the topic is judicial—created at a time when cohabitation was still a crime in New Mexico. (The crime of cohabitation was repealed in 2001.) In *Merrill v. Davis*, 1983-NMSC-070, 100 N.M. 552, 673 P.2d 1285, our Supreme Court held that cohabitants cannot enforce implied agreements with each other; unmarried cohabitants must have an express agreement to own property or share earnings. Moreover, in the absence of an express agreement, neither party may bring a claim for unjust enrichment based on homemaking or other non-monetary contributions to the household. *Battishill v Ingram*, 2024-NMCA-001, 539 P.3d 1203.

In modern American life, there has been a significant rise in the number of non-marital cohabitants over the past half-century. Often, the relationship extends over many years, with varying levels of sharing and dependency. When unmarried couples separate or one member dies, it is often the case that an express agreement is difficult to prove; and

very likely that if one member of the couple provided more of the domestic support services (child care, home maintenance, care of aging parents), that person may be left with no resources and no remedy to achieve fairness in the division. New Mexico courts are currently not empowered to dispense any equitable remedy for the injustice. *Battishill*, supra. The Cohabitants' Economic Remedies Act, if passed by our legislature, will ensure that remedies are available in appropriate cases.

### Uniform Parentage Act

New Mexico adopted the New Mexico Uniform Parentage Act ("UPA-NM") in 2009. It selected the Uniform Parentage Act (UPA) propounded by the ULC in 2002 but declined to adopt the surrogacy provisions provided as an option, providing instead that gestational agreements are "neither authorize[d] nor prohibit[ed]." NMSA 1978, § 40-11A-801 NMSA 1978.

In the two decades since promulgation of the 2002 UPA by the ULC, society has changed dramatically. Same-sex couples now have a recognized constitutional right to marry. *Obergefell v. Hodges*, 576 US 644 (2015). Rights and obligations regarding custody and support of children are consistent with those of different-sex parents. *Pavan v. Smith*, 582 U.S. 563, 137 S.Ct.2075 (2017). New Mexico courts have recognized parentage rights of individuals in same sex couples as equivalent to those of different sex couples. See e.g. *Chatterjee v. King*, 2012-NMSC-019, 280 P.3d 283. Nonetheless, the language in the UPA-NM still contains the outmoded gendered terms, which appear to limit parenting claims to a man and a woman and exclude women from certain presumptions of parentage. This deficiency contributes to confusion for practitioners and the courts. (see e.g. *Barreras v. Archibeque*, 2024-NMCA-053, 552 P.3d 711.)

The ULC updated the UPA in 2017 to remove the gendered language and help avoid unnecessary litigation over custody in cases of same-sex parentage, including providing clearly for de facto parents. Importantly, it precludes establishment of a parent-child relationship by the perpetrator of a sexual assault



that resulted in the conception of the child. The Rape Survivor Child Custody Act adopted by the US Congress in 2015 provides financial incentives for states adopting this form of provision.

The surrogacy provisions of the 2017 UPA reflect developments in modern science, law and culture and are consistent with laws

adopted in several states already. Surrogacy agreements are occurring in New Mexico currently without any specific statutory governance. The 2017 provisions would ensure New Mexico is authorizing surrogacy in a manner consistent with other states, and that practitioners have easy access to appropriate rules surrounding surrogacy. Finally, the 2017 UPA protects children born through assisted reproductive technology to access medical and identifying information regarding the gamete provider(s) upon request.

Modernization of New Mexico family law now by adoption of these two acts will help to ensure that New Mexico practices are consistent with the practices of other states, comply with constitutional requirements and reduce harmful and expensive litigation in family law matters.

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### Endnote

Libby Snyder, Legislative Counsel to the ULC, was invaluable in providing details about the workings of the ULC and its acts; this article uses her information extensively, with her permission.

### About the Authors

**Sarah Bennett** practiced law in New Mexico for many years, specializing in Family Law. Prior to her retirement in 2022, she was a shareholder in Walther Bennett Mayo Honeycutt, a Santa Fe law firm practicing only in the field of family law. She has served as a New Mexico Commissioner on the Uniform Laws Commission since October 2020.

**Greg Nibert**, formerly an attorney with Hinkle Shanor LLP in Roswell and now a Commissioner on the New Mexico Public Regulation Commission, has served as a Commissioner on the Uniform Law Commission since June 2019 as a legislator appointee, both as a State Representative and as a State Senator. He sponsored several uniform acts that have been signed into law in New Mexico including the most recent amendments to the Uniform Commercial Code.





# Opportunities for Pro Bono Service CALENDAR

## March

- |                                                                                                                                                                       |                                                                                                                                                                         |                                                                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>15 Legal Fair</b><br/>In-Person<br/>New Mexico Legal Aid<br/><a href="http://bit.ly/NMLALegalFairSignUp">bit.ly/NMLALegalFairSignUp</a><br/>Location: Hobbs</p> | <p><b>25 San Juan County Teleclinic</b><br/>Telephonic<br/>New Mexico Legal Aid<br/>To sign up, call 505-326-2256 on the day of the clinic<br/>Location: Farmington</p> | <p><b>28 Legal Fair</b><br/>In-Person<br/>New Mexico Legal Aid<br/><a href="http://bit.ly/NMLALegalFairSignUp">bit.ly/NMLALegalFairSignUp</a><br/>Location: Law-La-Palooza</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## April

- |                                                                                                                                                                                                                                    |                                                                                                                                                                             |                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>2 Citizenship &amp; Residency Workshop</b><br/>In-Person<br/>New Mexico Immigrant Law Center<br/><a href="http://www.nmilc.org/citizenship">www.nmilc.org/citizenship</a><br/>Location: El Centro de Igualdad y Derechos</p> | <p><b>5 Legal Fair</b><br/>In-Person<br/>New Mexico Legal Aid<br/><a href="http://bit.ly/NMLALegalFairSignUp">bit.ly/NMLALegalFairSignUp</a><br/>Location: Sunland Park</p> | <p><b>11 Free Telephonic Legal Clinic</b><br/>Telephone<br/>New Mexico Legal Aid<br/>To sign up, call 505-841-9817<br/>Location: Virtual</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|

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



# Resources for the Public CALENDAR

## March

- |                                                                                                                                                                       |                                                                                                                                                                         |                                                                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>15 Legal Fair</b><br/>In-Person<br/>New Mexico Legal Aid<br/><a href="http://bit.ly/NMLALegalFairSignUp">bit.ly/NMLALegalFairSignUp</a><br/>Location: Hobbs</p> | <p><b>25 San Juan County Teleclinic</b><br/>Telephonic<br/>New Mexico Legal Aid<br/>To sign up, call 505-326-2256 on the day of the clinic<br/>Location: Farmington</p> | <p><b>28 Legal Fair</b><br/>In-Person<br/>New Mexico Legal Aid<br/><a href="http://bit.ly/NMLALegalFairSignUp">bit.ly/NMLALegalFairSignUp</a><br/>Location: Law-La-Palooza</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## April

- |                                                                                                                                          |                                                                                                                                                                             |                                                                                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>2 Divorce Options Workshop</b><br/>Virtual<br/>State Bar of New Mexico<br/>Call 505-797-6022 to register<br/>Location: Virtual</p> | <p><b>5 Legal Fair</b><br/>In-Person<br/>New Mexico Legal Aid<br/><a href="http://bit.ly/NMLALegalFairSignUp">bit.ly/NMLALegalFairSignUp</a><br/>Location: Sunland Park</p> | <p><b>8 Legal Resources for the Elderly Workshop</b><br/>Virtual<br/>State Bar of New Mexico<br/>Call 505-797-6005 or 1-800-876-6657 to register<br/>Location: Virtual</p> |
|------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Listings in the *Bar Bulletin* Pro Bono & Volunteer Opportunities Calendar are gathered from civil legal service organization submissions and from information pertaining to the New Mexico State Bar Foundation's upcoming events. All pro bono and volunteer opportunities conducted by civil legal service organizations can be listed free of charge. Send submissions to [probono@sbnm.org](mailto:probono@sbnm.org). Include the opportunity's title, location/format, date, provider and registration instructions. Please note: Recruitment for legal fairs and teleclinics held by the Volunteer Attorney Program of New Mexico Legal Aid typically begins four weeks prior to the date of the event. You will receive recruitment emails from both the State Bar of New Mexico and the Statewide Pro Bono Coordinator for legal fairs and teleclinics. Please use the links contained in those emails to volunteer.

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ARGUS INVESTMENT REALTY

John Bigelow

## ► From the New Mexico Supreme Court

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From the New Mexico Supreme Court

**Opinion Number: 2025-NMSC-001**  
No: S-1-SC-38834 (filed August 15, 2024)

**AUTOVEST, L.L.C.,**  
Plaintiff-Petitioner,  
v.  
**DEBRA M. AGOSTO and**  
**DEBBIE M. AGOSTO,**  
Defendants-Respondents,  
and  
**AUTOVEST, L.L.C.,**  
Plaintiff-Petitioner,  
v.  
**MARIA ESTRADA,**  
Defendant-Respondent,  
and  
**FRANK RIVERA, JR.,**  
Defendant,  
and  
**AUTOVEST, L.L.C.,**  
Plaintiff-Petitioner,  
v.  
**DEBRA M. AGOSTO and**  
**DEBBIE M. AGOSTO,**  
Defendants-Respondents.

### ORIGINAL PROCEEDING ON CERTIORARI

Mary W. Rosner, District Judge

Jenkins & Young, P.C.  
Jody Jenkins  
Lubbock, TX

Hanratty Law Firm  
Kevin J. Hanratty  
Artesia, NM

Simmonds & Narita LLP  
R. Travis Campbell  
San Francisco, CA

Kenneth L. Beal, P.C.  
Kenneth L. Beal  
Las Cruces, NM

for Petitioner

for Respondents

Rodey, Dickason, Sloan, Akin  
& Robb, P.A.  
Edward R. Ricco  
Albuquerque, NM

for Amicus Curiae National Creditors  
Bar Association

## OPINION

**THOMSON, Chief Justice.**

{1} In these consolidated appeals, we affirm the Court of Appeals that Chapter 37's partial payment rule does not revive the four-year statute of limitations for breach of contract actions under Section 2 of New Mexico's Uniform Commercial Code (UCC). See *Autovest, L.L.C. v. Agosto*, 2021-NMCA-053, ¶ 1, 497 P.3d 642; NMSA 1978, §55-2-725(1) (1961). We also conclude that Autovest abandoned its argument that New Mexico should adopt a common law partial payment rule because it failed to raise the issue in its direct appeal from the district court to the Court of Appeals.

### I. INTRODUCTION

{2} The financial journeys of Debra and Debbie Agosto, and Maria Estrada (collectively, Respondents) share a beginning familiar to many New Mexicans, the purchase of a car.<sup>1</sup> A buyer trades in their old car and signs a six-year finance agreement borrowing more than \$23,000 for a three-year-old sedan worth \$11,790. The total amount financed includes the accrued annual interest (17%) and an array of finance charges and associated fees. One of those fees is a life insurance policy funded by and rolled into the loan, providing the bank, as the lender and primary beneficiary, the entire value of the contract.

{3} Over two years, some payments are timely, and some are not. The bank invokes the agreement's acceleration clause, requiring the buyer to immediately repay the entire balance or risk losing the car; the buyer chooses to voluntarily return the vehicle. Within two months of repossession, the sedan is sold at auction for \$3,800, representing a 67.8% depreciation in two and a half years. The auction proceeds are applied to the balance of the debt, but a deficiency of almost \$9,000 remains. The bank sells and assigns its interest to a third-party debt collector like Autovest. The collection calls continue, and the buyer approves a draw from their account in a good faith effort to pay down the deficiency.

{4} More than five years after default and eight years after purchasing the sedan, the debt's new owner brings an action to recover

## ► From the New Mexico Supreme Court

the remaining deficiency. Respondents argue that the UCC bars the claim because the UCC specifies a four-year statute of limitations for transactions involving the sale of goods. Section 55-2-725(1). A statute of limitations establishes a maximum time frame for a party to bring a suit. It prevents the disposition of aging claims so that a case is brought before evidence is lost and memories fade. Because more than four years have passed, Respondents contend that the Court of Appeals correctly dismissed the creditor's lawsuit.

{5} Autovest maintains that the suit was timely because Defendant's payment revived the statute of limitations under New Mexico's partial payment rule, which renews the four-year limitation period whenever a debtor remits any amount toward an outstanding balance. *See* NMSA 1978, § 37-1-16 (1957) ("Causes of action founded upon contract shall be revived by the making of any partial or installment payment."). The two district courts reached different conclusions on revival by partial payment, albeit under theories not at issue in this appeal. *See Agosto*, 2021-NMCA-053, ¶ 1.

{6} The Court of Appeals consolidated the cases and rejected Autovest's argument that the partial payment rule applied to this transaction, relying on a plain-language interpretation of Section 37-1-17. *Agosto*, 2021-NMCA-053, ¶ 1 n.1, ¶¶ 12-13; NMSA 1978, Section 37-1-17 (1880). Section 37-1-17 functions as an exclusion provision that prohibits the application of all of Chapter 37's terms, including the partial payment rule, when another statute establishes a different limitation period. Section 37-1-17 ("None of the provisions of this chapter shall apply to any action or suit which, by any particular statute of this state, is limited

to be commenced within a *different time*." (emphasis added)). The Court of Appeals noted that Chapter 37 establishes a default statute of limitations period of six years for contracts in writing. *Agosto*, 2021-NMCA-053, ¶ 12; NMSA 1978, § 37-1-3(A) (2015). Because the UCC mandates a *different time* of four years, the Court held that the exclusion provision "render[ed] the [partial payment rule] inapplicable." *Agosto*, 2021-NMCA-053, ¶ 12; Section 37-1-17.

{7} Fifteen years after the buyer purchased the sedan, Autovest appealed to this Court, arguing that Section 55-2-725(4) of the UCC (the tolling provision) overrides the mandatory prohibition of the exclusion provision.<sup>2</sup> *See id.*; NMSA 1978, Section 55-2-725(4) (1961). ("This section *does not alter* the law on tolling of the statute of limitations." (emphasis added)). We disagree. The exclusion provision unambiguously precludes the application of the partial payment statute. Further, the UCC's declaration that its terms *do not alter* existing tolling law does not operate to supersede the Legislature's mandatory exclusion of Chapter 37. It does the opposite; it restricts the reach of the UCC's provisions rather than extending their command.

{8} Accepting Autovest's argument would restart the statute of limitations whenever a consumer makes a partial payment. Reviving the limitation period would allow a debt collector to file a lawsuit regardless of how many years have passed since default, even if the lawsuit would normally be time-barred. *Joslin v. Gregory*, 2003-NMCA-133, ¶ 14, 134 N.M. 527, 80 P.3d 464 ("A partial payment will *renew a barred debt* when such payment is made under circumstances that warrant a clear inference that the debtor acknowledges and is willing to pay a fur-

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ther indebtedness." (text only)<sup>3</sup> (emphasis added) (quoting II Calvin W. Corman, *Limitation of Actions* § 9.12.3 at 93 (1991))). This would sanction the eternal revival of claims such that the specter of zombie debt rising from the grave would forever haunt consumers. There would be no end to the underinformed debtor's financial anguish. {9} This is not to suggest that Respondents should not answer for their obligations under the financial agreement. They should. But where the Legislature's language is unambiguous and mandatory, as it is in the exclusion provision, we are compelled to enforce its terms. We hold that Section 37-1-16's partial payment rule does not override or otherwise supersede the mandatory terms of the exclusion provision. We, therefore, affirm the Court of Appeals and remand each case to its respective district court to amend the judgment consistent with our holdings.

## II. LEGAL ANALYSIS

{10} To determine whether the partial payment provision applies to a written contract for the sale of goods, we must consider the interplay between two statutes: Chapter 37's exclusion provision and the UCC's tolling provision. Our Legislature drafted the exclusion provision to prohibit courts from applying Chapter 37's terms whenever a statute outside of the Chapter establishes a different limitation period. *See* § 37-1-17. The Court of Appeals held that "by its plain terms, [the exclusion provision] renders [the partial payment provision] inapplicable." *Agosto*, 2021-NMCA-053, ¶ 12. Autovest acknowledges that the plain language of the exclusion provision precludes the application of the partial payment rule but argues that the tolling provision makes their collection efforts timely. Under Au-

<sup>1</sup> The Court of Appeals, *id.* ¶ 1 n.1, consolidated three appeals from two district court cases with common issues: A-1-CA-37459 and A-1-CA-37969 (appealing from *Autovest, L.L.C. v. Debra M. Agosto & Debbie M. Agosto*, D-307-CV-2014-01148) and A-1-CA-37483 (appealing from *Autovest, L.L.C. v. Maria Estrada & Frank Rivera Jr.*, D-307-CV-2013-00164). Because the facts of both cases share many commonalities, we review only the facts of the *Agostos*.

<sup>2</sup> Autovest also asks us to adopt a common-law partial payment rule to supplement Chapter 37's statutory provision. However, because Autovest failed to adequately raise the issue at the Court of Appeals, we are precluded from reaching the question on certiorari review. *See State v. Harbison*, 2007-NMSC-016, ¶ 25, 141 N.M. 392, 156 P.3d 30 (failing to raise an issue in his direct appeal from the district court to the Court of Appeals, the defendant abandoned it and cannot resurrect it for the first time on a writ of certiorari to this Court); cf. Rule 12-502(C)(2)(e) NMRA (requiring parties to demonstrate where they presented questions to the Court of Appeals).

<sup>3</sup> The "text only" parenthetical indicates omission of nonessential punctuation marks including internal quotation marks, ellipses, and brackets that are present in the text of the quoted source, leaving the quoted text otherwise unchanged.

## ► From the New Mexico Supreme Court

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tovest’s interpretation, the tolling provision’s statement that the UCC “*does not alter* the law on tolling of the statute of limitations” overrides the exclusion provision and *preserves* the partial payment rule such that it applies to the sale of goods.

{11} We settle this question of law through statutory interpretation, which we review *de novo*. *Cooper v. Chevron U.S.A., Inc.*, 2002-NMSC-020, ¶ 16, 132 N.M. 382, 49 P.3d 61 (“The meaning of language used in a statute is a question of law that we review *de novo*.”). “In construing a statute, we must ascertain and give effect to the intent of the Legislature. To accomplish this, we apply the plain meaning of the statute unless the language is doubtful, ambiguous, or an adherence to the literal use of the words would lead to injustice, absurdity or contradiction.” *Nguyen v. Bui*, 2023-NMSC-020, ¶ 15, 536 P.3d 482 (internal quotation marks and citation omitted). Because we are analyzing the relationship between two statutes, we read the statutes together, presuming “the legislature did not intend to enact a law inconsistent with existing law. . . . Thus, two statutes covering the same subject matter should be harmonized and construed together when possible in a way that facilitates their operation and the achievement of their goals.” *State ex rel. Quintana v. Schedar*, 1993-NMSC-033, ¶ 4, 115 N.M. 573, 855 P.2d 562.

### A. The Exclusion Provision Precludes the Application of the Partial Payment Provision

{12} Our analysis begins with a straightforward application of the exclusion provision’s unambiguous terms. *Noriega v. City of Albuquerque*, 1974-NMCA-040, ¶ 8, 86 N.M. 294, 523 P.2d 29 (holding that the exclusion provision “is unambiguous; there is no room for construction”). Chapter 37’s exclusion provision states, “None of the [preceding] provisions of this chapter shall apply to any action or suit which, by *any particular statute of this state*, is limited to

be commenced within a *different time*.”<sup>4</sup> Section 37-1-17 (emphasis added). Respondents in both cases entered into a written agreement for the purchase of a used car. Section 37-1-3(A) establishes the default six-year statute of limitations for actions arising from a contract in writing. However, when the contract is for the sale of goods,<sup>5</sup> Section 55-2-725(1) is a *particular statute of this state* that provides a *different time* for bringing a cause of action, four years. *Id.* (requiring that breach of contract actions for the sale of goods “be commenced within four years after the cause of action has accrued”).

{13} Because four years is a *different time* than six, the exclusion provision is triggered, precluding the application of all of Chapter 37’s provisions. *See* § 37-1-17; *compare* § 37-1-3(A) (providing a six-year statute of limitation for “contract[s] in writing.”), *with* § 55-2-725(1) (establishing a four-year limitation for breach of contract actions). This *includes* the partial payment provision that Autovest relies upon. *See* § 37-1-16. The Legislature’s language aptly summarizes the application of the exclusion provision to the facts of this case: “None of the [preceding] provisions of this chapter [including Section 37-1-16’s partial payment provision] shall apply to [Autovest’s] suit which, by [Section 55-2-725(1) of the UCC], is limited to be commenced within [the] different time [of four and not six years].” Section 37-1-17.

### B. The Legislature Did Not Intend for the UCC’s Tolling Provision to Override the Mandatory Terms of the Exclusion Provision

{14} Autovest contends that in adopting the model acts of the Uniform Commercial Code the Legislature intended for the tolling provision, § 55-2-725(4), to override the exclusion provision. The thrust of Autovest’s position is that the tolling provision “*preserves* the law on tolling,” which includes the partial payment provision (emphasis

added). However, Autovest’s sole proof of legislative intent lies not in the Legislature’s actual language but in a statute of the Legislature’s own design. Autovest’s chosen verb, *preserves*, does not exist in the tolling provision. *State v. Trujillo*, 2009-NMSC-012, ¶ 11, 146 N.M. 14, 206 P.3d 125 (“We will not read into a statute any words that are not there, particularly when the statute is complete and makes sense as written.”).

{15} “We begin the search for legislative intent by looking first to the words *chosen* by the Legislature and the plain meaning of the Legislature’s language.” *State v. Gutierrez*, 2023-NMSC-002, ¶ 26, 523 P.3d 560, 566 (text only) (emphasis added) (citation omitted). The UCC’s tolling provision states, “This section *does not alter* the law on tolling of the statute of limitations.” Section 55-2-725(4) (emphasis added). Autovest asks us to replace *does not alter* with *preserves*, an affirmative verb. But the Legislature *chose* a negative verb: “not alter.” As this Court has noted, “Statutes must be read according to their *grammatical sense*.” *State v. Montano*, 2020-NMSC-009, ¶ 36, 468 P.3d 838 (quoting *Garcia v. Schneider, Inc.*, 1986-NMCA-127, ¶ 9, 105 N.M. 234, 731 P.2d 377 (emphasis added)). Polarity, the grammatical lexicon associated with affirmation and negation, matters to this opinion. *Preserves* is a transitive verb, which means the subject (the UCC) affirmatively acts on (preserves) a direct object (the law on tolling). “Alter” is also a transitive verb, so when you negate the verb in this context, you are restricting the ability of the subject of the sentence (the UCC) to affirmatively act on (alter) the object (any law on tolling).

{16} The difference between an affirmative (mandatory) injunction and a negative (prohibitory) injunction exemplifies this concept. The former “is an injunction which compels some *positive action* by the person or persons enjoined.” *Amkco, Ltd., Co. v. Welborn*, 1999-NMCA-108, ¶ 14, 127 N.M. 587, 985 P.2d 757 (emphasis added), *rev’d*

<sup>4</sup> While Section 37-1-17 remains unamended since its 1880 enactment, the unofficially inserted term “preceding” first appeared in this statute in the official annual NMSA 1978 publication for 1977 and persisted annually therein through the 2017 annual publication, after which the Compilation Commission removed this unofficial insertion at the request of the Legislative Council Service. The statute quoted here includes brackets on “preceding” to mark as unofficial the persistence of the term for decades before the bank invoked the acceleration provision and until two years before Autovest’s 2019 filing in the Court of Appeals.

<sup>5</sup> There is no dispute that this case involves a sale of goods.

## ► From the New Mexico Supreme Court

in part on other grounds, 2001-NMSC-012, ¶ 12, 130 N.M. 155, 21 P.3d 24. The latter “prohibits a party from taking action and preserves the status quo.” *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1060 (9th Cir. 2014) (emphasis added) (citation omitted). {17} Autovest’s view of “preserves” is more synonymous with restores or protects, verbs that confer a power. But the Legislature explicitly stated that the UCC does not alter existing tolling law. In this context, the phrase “does not alter” restricts the reach of the UCC’s provisions rather than extending the statute’s command. *Alter* means the following:

To make a change in; to modify; to vary in some degree; to change some of the elements or ingredients or details without substituting an entirely new thing or destroying the identity of the thing affected. To change partially. To change in one or more respects, but without destruction of existence or identity of the thing changed; to increase or diminish.

See *alter*, *Black’s Law Dictionary* (6th ed. 1990); *Fleming v. Phelps-Dodge Corp.*, 1972-NMCA-060, ¶ 7, 83 N.M. 715, 496 P.2d 1111 (applying the definition of alter from *Black’s Law Dictionary*). Thus, to declare that the UCC “does not alter” the law on tolling means that the tolling provision does not “change” or “modify,” not even “partially,” the status quo.

{18} The official comments adopted by the New Mexico Legislature reinforce our

reading, affirming that “Subsection (4) . . . does not purport to alter or modify in any respect the law on tolling of the statute of limitations as it now prevails in the various jurisdictions.” Section 55-2-725(4) cmt. (emphasis added); *First State Bank at Gallup v. Clark*, 1977-NMSC-088, ¶ 5, 91 N.M. 117, 570 P.2d 1144 (“We recognize the Official Comments to the U.C.C. as persuasive, though they are not controlling authority.”); *Gardner Zemke Co. v. Dunham Bush, Inc.*, 1993-NMSC-016, ¶ 18 n.2, 115 N.M. 260, 850 P.2d 319 (“The [official] comments are very useful in presenting something of the background and purposes of the sections, and of the way in which the details and policies build into a whole. In these aspects they greatly aid understanding and construction.” (quoting Karl N. Llewellyn, *Why We Need the Uniform Commercial Code*, 10 U. Fla. L. Rev. 367, 375 (1957))). When we examine the tolling provision alongside the commentary, the Legislature’s intent is clear: the UCC does not alter or modify the law on tolling as it exists in New Mexico, one of the various jurisdictions that has adopted the uniform acts. See *alter*, *Black’s Law Dictionary* (6th ed. 1990).

{19} The language of the UCC’s tolling provision and the official comments prompt two considerations in determining whether the partial payment rule applies. First, what is the law on tolling? And second, how does it prevail in New Mexico? The law on tolling includes common law actions such as equitable tolling. *Ocana v. Am. Furniture Co.*, 2004-NMSC-018, ¶ 15, 135 N.M. 539, 91 P.3d 58 (“Equitable tolling is a nonstatutory

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tolling theory which suspends a limitations period.”). The law on tolling also includes tolling statutes enacted by the Legislature. See NMSA 1978, § 37-1-10 (1975) (specifying limitation times on tolling claims for minors and incapacitated persons). For purposes of this discussion, we assume the partial payment provision is part of the law on tolling.<sup>6</sup>

{20} We next assess how the partial payment provision “now prevails” under New Mexico law. See § 55-2-725(4) cmt. As discussed in Section II.A, the partial payment provision applies under New Mexico law as long as the mandatory exclusion provision is not triggered. The UCC’s tolling provision merely maintains the equilibrium established in Chapter 37. So, when the exclusion provision does not apply, the partial payment rule would be available to revive the limitation period.<sup>7</sup> Alternatively, when the exclusion provision bars the application of the partial payment rule, the UCC guarantees that its terms leave the rule in its present state: barred. As one treatise put it, “The [UCC] does not alter non-[UCC] law relating to the tolling of statutes of limitation.” 4B David Frisch, Lawrence’s Anderson on the UCC § 2-725:136 (3d. ed. 2023). Autovest’s interpretation violates the statute’s explicit instruction because it forces the UCC’s tolling law provision to do precisely what the Legislature forbids: to modify and alter the law on tolling as it now prevails under New Mexico law.<sup>8</sup>

{21} Autovest’s interpretation also fails to account for the Legislature’s use of *shall* in the exclusion provision. Section 37-1-17

<sup>6</sup> Because we hold that the tolling provision does not operate as a statutory override, addressing whether the partial payment provision is a part of the law on tolling is unnecessary.

<sup>7</sup> *Hamilton v. Pearce*, the Washington Court of Appeals case inaptly relied upon by Autovest, is a prime exemplar of this outcome. 547 P.2d 866 (Wash. Ct. App. 1976). There, the appellate court ruled that a partial payment statute, similar in form to our own, applied to the sale of goods. *Id.* at 870; see Wash. Rev. Code Ann. § 4.16.270 (1877) & § 4.16.280 (1877). Autovest suggests this decision supports the proposition that our “Legislature intended for New Mexico’s tolling laws to apply to Article 2 claims.” But in Washington, there was no exclusion provision to bar the application of the partial payment statute. See Wash. Rev. Code Ann. §§ 4.16.010 to .350 (1974) (Limitation of Actions). Thus, the intermediate court concluded using the terms of the UCC’s tolling provision that “the UCC statute of limitations . . . did not alter or modify in any respect the law on the tolling of statutes of limitation, including . . . the partial payment statute, as it prevails in this State.” *Hamilton*, 547 P.2d at 870.

<sup>8</sup> Autovest repeatedly suggests our interpretation renders the tolling provision superfluous. We disagree. The tolling provision states that Section 2 of the UCC does not alter the law on tolling. As already discussed, in this section, the law on tolling includes statutory provisions and those common law tolling principles recognized by New Mexico courts. The tolling provision retains the status quo developed by our Legislature and courts. A statute is not superfluous solely because it does not operate to achieve a party’s desired outcome in a particular instance.

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(“None of the [] provisions . . . shall apply.”) “The word shall is ordinarily the language of command. And when a law uses shall, the normal inference is that it is used in its usual sense—that being mandatory.” *Yedidag v. Roswell Clinic Corp.*, 2015-NMSC-012, ¶ 53, 346 P.3d 1136 (text only) (quoting *Anderson v. Yungkau*, 329 U.S. 482, 485 (1947)). Our Legislature has recognized that shall “express[es] a duty, obligation, [or] requirement.” NMSA 1978, § 12-2A-4(A) (1997). As the Supreme Court has noted, this obligation is “normally . . . impervious to judicial discretion.” *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 27 (1998). Thus, “‘Shall’ will be given its mandatory meaning, unless there are indications in the statute that the mandatory reading is repugnant to the manifest intent of the Legislature.” *Tomlinson v. State*, 1982-NMSC-074, ¶ 9, 98 N.M. 213, 647 P.2d 415.

{22} Autovest asks us to accept that the negative language of the UCC’s tolling provision carries the force to override or supersede any and all mandatory provisions related to tolling law. However, the Legislature’s chosen language and official comments provide no clear indication of an intent to supersede other statutes. *Marbob Energy Corp. v. N.M. Oil Conservation Comm’n*, 2009-NMSC-013, ¶ 22, 146 N.M. 24, 206 P.3d 135 (“It is widely accepted that when construing statutes, ‘shall’ indicates that the provision is mandatory, and we must assume that the Legislature intended the provision to be mandatory absent a[] clear indication to the contrary.”). “[W]e presume the [L]egislature is aware of existing law when it enacts legislation,” *Sunwest Bank of Albuquerque, N.M. v. Nelson*, 1998-NMSC-012, ¶ 15, 125 N.M. 170, 958 P.2d 740 (internal quotation marks and citation omitted). We also presume the Legislature would have “take[n] that law into consideration when enacting new law.” *Gutierrez v. Las Vegas Sch. Dist.*, 2002-NMCA-068, ¶ 15, 132 N.M. 372, 48 P.3d 761. This is especially true here because this Court had already interpreted the exclusion provision prior to legislative adoption of the UCC. See, e.g., *Natseway v. Jojola*, 1952-NMSC-104, ¶ 16, 56 N.M. 793, 251 P.2d 274. One would typically expect an explicit statutory statement, like a “notwithstanding” clause, to signal an

intent for the statute to prevail over all others. *Morningstar Water Users Ass’n v. N.M. Pub. Util. Comm’n*, 1995-NMSC-062, ¶ 48, 120 N.M. 579, 904 P.2d 28 (“Generally, a ‘notwithstanding’ clause serves to prevent the matters following the clause from being frustrated by other statutory provisions.”); see, e.g., Public Employee Bargaining Act, NMSA 1978, § 10-7E-3 (2020) (“In the event of conflict with other laws, the provisions of the Public Employee Bargaining Act shall supersede other previously enacted legislation and rules . . .” (emphasis added)).

{23} The absence of definitive language is even more noteworthy given the Legislature’s use of “supersede” and “notwithstanding” provisions throughout the UCC. NMSA 1978, § 55-1-108 (2005) (stating that Article 1 of the UCC “supersedes the federal Electronic Signatures in Global and National Commerce Act”); NMSA 1978, § 55-3-102(c) (1992) (declaring that regulations of the federal reserve system supersede conflicting regulations in Article 3 of the UCC); NMSA 1978, § 55-2A-302 (1992) (noting that each provision of Article 2A applies “notwithstanding any statute or rule of law”). Here, the UCC’s tolling provision states only what the UCC cannot do: alter the existing law on tolling. The provision does not confer the power to override or supersede other statutes.

{24} An interpretation restricting the authoritative reach of the tolling provision is also consistent with the official comments that the “article does not purport to alter or modify in any respect the law on tolling as it now prevails in the various jurisdictions.” Section 55-2-725(4) cmt. (emphasis added). The Uniform Commercial Code as drafted by the National Conference of Commissioners on Uniform State Laws and the American Law Institute (the Code) is a collection of proposed model laws designed for application across state and federal jurisdictions. Here, our Legislature adopted the tolling provision verbatim without amendment. *Compare* § 55-2-725(4) (1961) (“This section does not alter the law on tolling of the statute of limitations nor does it apply to causes of action which have accrued before this act [this chapter] becomes effective.”), with Uniform Commercial Code § 2-725, at 263 (1952) (“This section does not alter the

law on tolling of the statute of limitations nor does it apply to causes of action which have accrued before this Act becomes effective.”). To accept Autovest’s argument is to also support the notion that the original drafters of the Code intended to override any and all mandatory provisions related to tolling law in all of the various jurisdictions that have adopted Subsection (4). We consider that highly unlikely. Autovest points to no history or comment evincing such an intent. It is more likely that the Code’s drafters intended to limit the scope of the UCC regarding tolling law to respect the variance in the common law among jurisdictions.

{25} In the alternative, Autovest asks us to recognize a “common law partial payment rule.” As the Court of Appeals noted, our courts have not yet recognized a common law rule. *Agosto*, 2021-NMCA-053, ¶ 18. However, the COA did not further analyze the issue because it was not properly before them. *Id.* Autovest counters that the district court’s dismissal of its complaint sua sponte deprived it of the opportunity to be heard on the issue. We conclude that Autovest had ample opportunity to present the issue: first, in their motion for summary judgment, where Autovest argued that the partial payment rule revived its claim, and then, in their brief in chief to the Court of Appeals, where Autovest cited numerous cases grounded in the common law without arguing for a common law rule. We agree with the judgment of the Court of Appeals that this question was not properly before it on appeal. *Agosto*, 2021-NMCA-053, ¶ 18. Therefore, this Court is precluded from reaching the merits of the issue now. Rule 12-502(C)(2)(e).

{26} To the extent this remains an open question, we note that New Mexico’s partial payment doctrine has existed solely in statute. Originally enacted in 1880 by our territorial legislature, the initial version of Section 37-1-16 did not permit the revival of claims by partial payment. 1880 N.M. Laws, ch. 5, § 13 (“Causes of action founded upon contract shall be revived by an admission that the debt is unpaid, as well as by a new promise to pay the same; but such admission or new promise must be in writing, signed by the party to be charged therewith.”). It was not until 1957, four years prior to the

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adoption of the UCC, that the Legislature added the partial payment term to the statute. NMSA 1953, § 23-1-16 (1957). Rather than draft a new partial payment provision outside of the preclusive effect of the exclusion provision, the Legislature placed the term within the reach of Section 37. We also note that we have uncovered no case law, nor did Autovest cite any, suggesting that any New Mexico court has ever recognized the common law partial payment doctrine. Neither can we say that there are apparent or persuasive justifications for doing so now.

### III. POLICY ANALYSIS

{27} Autovest and Amicus raise a policy argument that adopting the chosen language of the Legislature will force creditors to bring suit after each missed installment payment, flooding courts with unnecessary litigation. We are unpersuaded that a parade of horrors results from our interpretation. Rather, the actual consequence of accepting Autovest's argument would be to saddle consumers with the risk of zombie debt, allowing the revival of an otherwise-time-barred debt whenever a debtor makes a partial payment no matter the minimal amount of the payment or the number of years since default.

{28} The statute of limitations in a breach of contract action "begins to run from the time of the breach." *Welty v. W. Bank of Las Cruces*, 1987-NMSC-066, ¶ 8, 106 N.M. 126, 740 P.2d 120. Installment contracts require continuous performance, so that partial breaches may occur with each missed payment. Restatement (Second) of Contracts § 243 cmt. c. (Am. L. Inst. 1981) ("[A] breach as to any number less than the whole of such installments gives rise to a claim merely for damages for partial breach."). With each partial breach, a new statute of limitations begins to run. *Welty*, 1987-NMSC-066, ¶ 9 ("[U]nder contract obligations payable by installments, the statute [of limitations] would have begun to run only with respect to each installment when due.") Autovest and Amicus argue that recovery of missed payments would require separate lawsuits

against a consumer after each breach.

{29} Autovest's rationale is not incorrect as much as incomplete. Installment contracts for cars create a security interest in the item being purchased. See generally NMSA 1978, § 58-19-2(F) (2019) (defining a retail installment contract as "an agreement . . . pursuant to which the title to or a lien upon the motor vehicle that is the subject matter of a retail installment transaction is retained or taken by a retail seller from a retail buyer as security for the buyer's obligation"). As in this case, the agreement typically includes an acceleration provision allowing the lender to require immediate and full payment of the balance, including the right to repossess the car. See NMSA 1978, § 55-9-623 cmt. 2 (2001) (explaining that when "the entire balance of a secured obligation has been accelerated," redemption of the collateral requires "payment in full of all monetary obligations"). The lender-creditor may do so without any notice to the consumer. NMSA 1978, § 55-9-609(a)(1), (b) (2) (2001) ("After default, a secured party . . . may take possession of the collateral . . . and may proceed . . . without judicial process, if it proceeds without breach of the peace."). Once the acceleration clause is invoked, the limitation period will begin "with respect to the *whole indebtedness* only from the date of an exercise of the option to declare the whole indebtedness due." *Welty*, 1987-NMSC-066, ¶ 9 (emphasis added); see also *LSF9 Master Participation Tr. v. Sanchez*, 2019-NMCA-055, ¶ 12, 450 P.3d 413 (same); 51 Am. Jur. 2d *Limitations of Actions* § 146 (2011) ("Thus, even if a [debt] is payable in installments, once [the] debt is accelerated, the entire amount is due, and the statute of limitations begins to run on the entire debt.").

{30} In practice, when the creditor invokes the acceleration clause to demand the remaining balance of the loan, a new statute of limitations starts to run. This limitation period is separate from the ones accruing with each missed installment payment. Thus, the creditors would not have to bring

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an action for each missed payment.

{31} The UCC also provides an avenue that avoids the flood of unnecessary litigation forecasted by Autovest. The UCC allows parties to modify an agreement without consideration, establishing a new agreement that has not yet been breached. NMSA 1978, § 55-2-209(1) (1961, amended 2023). Therefore, creditors may request a signed, informed consent from the buyer to establish a new statute of limitations.<sup>9</sup> Why would a buyer agree? Because the creditor has the leverage of the acceleration provision, which includes repossession of the car.

{32} With these mechanisms already in place, it is of little surprise that Autovest and Amicus cite no examples of a parade of horrors in this jurisdiction or others. If we were to adopt Autovest's interpretation, the actual sea change would occur in the time period *after* the acceleration provision has been invoked. As described above, once the acceleration provision is exercised, the creditor has four years in which to file an action to recover any deficiency, marking the end of the story for the consumer. Under Autovest's proposed statutory regime, whenever a creditor convinces a consumer to pay any minimal amount towards a deficiency for a sale of goods, the four-year clock would restart, regardless of whether the debt is time-barred. *Davis v. Savage*, 1946-NMSC-011, ¶ 28, 50 N.M. 30, 168 P.2d 851 ("In considering the revival of causes of action upon the indebtedness by acknowledgment that the debt is unpaid, or the promise to pay the same, it is generally regarded as immaterial whether the acknowledgment precedes or follows the bar."); *Lea Cnty. State Bank v. Markum Ranch P'ship*, 2015-NMCA-026, ¶ 11, 344 P.3d 1089 ("[O]ur case law and other legal authorities are clear that revival works to restart the running of the statute of limitations before, as well as after, the statute of limitations has expired." (footnote and internal quotation marks omitted)).

{33} This outcome is irreconcilable with the Legislature's stated intent. Once again,

<sup>9</sup> Section 55-2-725(1) states that the "original agreement" may not have a limitation period for a breach of contract that is less than one year or greater than four. This does not appear to preclude a party from establishing a new agreement that has the effect of extending the statute of limitations beyond the date of the first agreement's four-year limitation period.



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the official comments provide supportive guidance. See *State ex rel. King v. B & B Inv. Grp., Inc.*, 2014-NMSC-024, ¶ 41, 329 P.3d 658 (examining the UCC’s official comments to discern the legislative intent in drafting NMSA 1978, Section 55-2-302 (1961)). The UCC’s official comments state that “[t]his article . . . selects a four year period as the most appropriate to modern business practice. This is within the normal commercial record keeping period.” Section 55-2-725 cmt. Allowing for zombie debt would upend the four-year limitation, permitting forever-revival of claims if a debtor attempts to repay any minimal amount towards the deficiency.

{34} It is not the purview of this Court to stop a bad deal; individuals are responsible for their own decisions. *Armstrong v. Csurilla*, 1991-NMSC-081, ¶ 48, 112 N.M. 579, 817 P.2d 1221 (“It is not the function of courts to remake bad contracts that competent parties voluntarily make for themselves. It is the function of courts to right wrongs and correct injustices by applying legal rules and principles . . .”). But absent a command from the Legislature, a person should not have to submit to perpetual debt for the mistake of purchasing a car under less-than-desirable terms. The plain and fair reading of the statutes supports this principle.

### IV. CONCLUSION

{35} We hold that Section 37-1-16’s partial payment rule does not override or otherwise supersede the mandatory terms of the exclusion provision. We, therefore, affirm the Court of Appeals and remand each case to its respective district court to amend the judgment consistent with our holdings.

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

**DAVID K. THOMSON, Chief Justice**

**WE CONCUR:**

**MICHAEL E. VIGIL, Justice**

**C. SHANNON BACON, Justice**

**BRIANA H. ZAMORA, Justice**

**ERIN B. O’CONNELL, Judge**

**Sitting by designation**



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Bankruptcy Law	Monthly / Second Tuesday	Noon (MT) / Bankruptcy Court & Virtual
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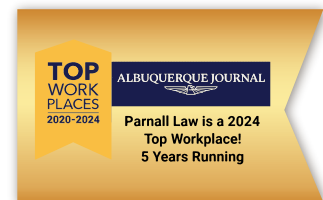
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### 2025 Bar Bulletin Publishing and Submission Schedule

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:  
505-797-6058 or email [marketing@sbnm.org](mailto:marketing@sbnm.org)

# Classified

## Positions

### Assistant Public Defender

The Public Defender at the Pueblo of Isleta is hiring an Assistant Public Defender to provide in-house counsel to clients where the Public Defender has a conflict of interest as well as to assist the Public Defender in cases where there is no conflict. The Assistant Public Defender will represent Native Americans in charged with crimes at the Pueblo of Isleta when the cases are filed in Tribal Court. The position is grant-funded for three years. Applicants should send letter of interest, resume, and application to [poiemployment@isletapueblo.com](mailto:poiemployment@isletapueblo.com). The application can be found on the Pueblo of Isleta Careers webpage at <https://www.isletapueblo.com>.

### Attorney

Barnhouse Keegan Solimon & West LLP, a Chambers and Partners ranked law firm specializing in the representation of American Indian Tribes and tribal businesses, is seeking an associate attorney. The position is in-person and full-time. An active New Mexico license to practice law and 2-5 years' experience are required. Prior federal Indian law or tribal representation experience preferred, but not required. The Firm is committed to the advancement of American Indians and offers a collaborative working environment with opportunities for mentorship and professional growth. To apply, submit a cover letter, resume, three references and a writing sample to Barnhouse Keegan Solimon & West LLP at [npino@indiancountrylaw.com](mailto:npino@indiancountrylaw.com).

### Assistant City Attorney

The City of Albuquerque Legal Department is seeking an Assistant City Attorney to join the Land Use and Enforcement division. This position handles land use decision and Rule 74/75 appeals, advises City departments, boards, and commissions, drafts legal memoranda, assists with code enforcement hearings, and other assignments as needed. Familiarity with drafting appeal briefs strongly encouraged. For more information or to apply please send a resume and writing sample to Angela Aragon at [amaragon@cabq.gov](mailto:amaragon@cabq.gov).

### **Various Assistant City Attorney Positions**

The City of Albuquerque Legal Department is hiring for various Assistant City Attorney positions. 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. The City is currently looking for attorneys to act as general counsel to various City departments, to handle code enforcement hearings and land use decision appeals, to represent the City's Air Quality Program, to provide policy advice to the Albuquerque Police Department, to provide advice on labor issues and handle employment claims, and to represent the City in civil litigation claims. 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. Hybrid in person/remote work schedule available. For more information or to apply please send a resume and writing sample to Angela Aragon at [amaragon@cabq.gov](mailto:amaragon@cabq.gov).

### **Senior Trial Attorneys, Trial Attorneys, and Assistant Trial Attorneys**

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

### **Plaintiff Associate Attorney-Parnall Law Firm**

OPENING STATEMENT: · \$25,000 sign-on bonus (payable in 3 parts at 3, 6 and 12 months of employment). Excellent compensation, up to \$200,000 to \$400,000 per year or more; Outstanding environment/culture/dynamic – “Top Place to Work”. MISSION STATEMENT: Fighting for Justice for the wrongfully hurt. VALUES: The 5 ‘T’s: Team, Talent, Truth, Tenacity, and Triumph. We believe these values are the reason we are the largest personal injury firm in NM and have received the Best Places to Work Award (Albuquerque Business First) in 2019-2024 and Top Place to Work Award (Albuquerque Journal) in 2020-2024. RESPONSIBILITIES: You will be representing clients injured from the beginning (intake) to the end (disbursement) of their cases and all stages in between, resolving cases through negotiation before litigation, through litigation, and trial. You will be able to concentrate on "attorney" work, with the support of a team of assistants, including intake, investigators (retired police officers), pre-litigation case managers, medical records/demand drafting assistants, litigation paralegals, and settlement/subrogation paralegals. You will also have the support of a team of collaborative and creative attorneys. Organization and attention to detail are paramount to this position, along with the willingness and ability to regularly interact with clients, adjusters, and other lawyers/paralegals over the phone and/or in person. QUALIFICATIONS: Preferred but not required: 3 + years experience in litigating personal injury cases (plaintiff or defense); Ability to become licensed in New Mexico, either through reciprocity, transferring UBE score to New Mexico, or taking the bar exam; Ability to relocate to Albuquerque, New Mexico (relocation assistance provided); Be available in the office from Monday through Friday, 8 to 5 (and more as required for caseload). BENEFITS: Sign-on bonus (as described above); Relocation Assistance; Compensation range \$200,000- \$400,000 per year; A positive, fulfilling, caring environment where learning and growing are encouraged; Opportunities for community outreach throughout the year; Medical/Dental/Vision Benefits, 401k, PTO, Bonus Pay. CLOSING ARGUMENT: Parnall Law is the largest and best-reviewed personal

injury law firm based in New Mexico. We treat our clients with compassion and advocate for them by maximizing compensation caused by the wrongful actions of others. Our goal is to ensure our clients are satisfied and know Parnall Law has stood up and fought for them by giving them a voice. We are seeking highly motivated and passionate attorneys to join our growing team to represent more injured New Mexicans in the fight for Justice. Watch a two-minute video at [HurtCallBert.com/attorney-careers](http://HurtCallBert.com/attorney-careers) or contact [JennyGarcia@ParnallLaw.com](mailto:JennyGarcia@ParnallLaw.com).

### **Litigation Attorney**

Busy Plaintiff's civil litigation firm located near the Journal Center is accepting resumes for an associate attorney with 5 (or more) years of practical experience. Candidates should possess strong oration skills, be proficient in conducting and defending depositions, have critical research and writing abilities and be familiar with motion practice. Practice areas include civil litigation/personal injury and general tort issues. Litigation experience preferred, but will not bar consideration. Salary commensurate with experience. Please forward a letter of interest along with a Resume and writing sample to: [paralegal3.bleuslaw@gmail.com](mailto:paralegal3.bleuslaw@gmail.com).

### **Economic Equity/Housing Attorney**

The New Mexico Center on Law and Poverty seeks a full-time attorney to advance housing and consumer rights for New Mexico's families. Attorneys provide systemic advocacy through legal representation, impact litigation, administrative advocacy, policy and legislative advocacy, and community outreach and coalition-building. Required: 1+ years experience and a strong commitment to economic and racial justice. See the full description at: [www.nmpovertylaw.org/careers-and-internships](http://www.nmpovertylaw.org/careers-and-internships). Apply in confidence by emailing your resume and a cover letter describing what interests you about NMCLP's mission to contact@ [nmpovertylaw.org](http://nmpovertylaw.org).

### **Multiple Positions**

The Thirteenth Judicial District Attorney's Office is seeking both entry level and experienced attorneys. Positions available in Sandoval County which is in Bernalillo, Valencia in Belen and Cibola in Grants. 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!

### **Children's Court Attorney for CYFD Position Job ID: Various**

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 please contact Cynthia Gonzales CynthiaM.Gonzales@cyfd.nm.gov To apply www.spo.state.nm.us. The State of New Mexico is an EOE.

### **Full-Time Lawyer**

McCoy Leavitt Laskey LLC, an AV-rated law firm with ten offices nationally, seeks a full-time lawyer for a position as Counsel at its Albuquerque office. This is a high salaried position that requires a top-of-the-profession type lawyer who must excel in handling complex cases with minimal oversight, including the ability to take and defend complex expert depositions, defend corporate representative depositions, excellent writing skills, and assisting in the management of client relationships. Case work includes "bet the company" matters arising from catastrophic fires/explosions, defective products, and oilfield accidents. The job includes occasional travel from coast to coast as well as frequent pro hac vice admissions in other states. Executive-level salary (depending on experience) with annual bonuses, great working environment, and excellent benefits (including healthcare, dental, vision, cellphone stipend, 401(k) matching, and profit sharing). The ideal candidate will have at least ten to twenty years of civil litigation experience. Please email résumé and cover letter to nmresume@MLLlaw.com, or mail to: McCoy Leavitt Laskey LLC, 317 Commercial St. NE, Ste. 200, Albuquerque, NM 87102. No walk-ups please. All replies will be kept confidential.

### **Associate Attorneys**

Modrall Sperling, one of New Mexico's largest law firms, is searching for Associate attorneys to join our general civil litigation practice. The ideal candidates should have a minimum of 2 to 3 years of civil litigation experience with excellent research, writing, and verbal advocacy skills. Qualified applicants must have experience working on large cases, including conducting legal research, drafting briefs, taking and defending depositions, arguing in court is preferred. Strong academic credentials required. Candidates must be admitted, or eligible for admission to the New Mexico Bar. As one of New Mexico's largest firms, we are able to offer associate attorneys high quality, challenging work and outstanding career opportunities. Please send a letter of interest and resume to attyapplicants@modrall.com. All inquiries will be kept confidential.

### **Civil Litigation Associate**

Civil Litigation Associate 1-5 years (flexible opportunity). Are you interested in joining a litigation firm, but not being a full-time litigator in court? Are you interested in some parts of litigation, but not others? Are you interested in being a litigator, but not being responsible for trying a case? If yes to any of these, we might have an opportunity for you. We are looking for a few 1-to-5-year associates who are interested in civil litigation. This is a flexible opportunity to practice in a complex civil litigation firm without the pressure of being a full-time litigator and trial lawyer in court. We are interested in associates to help with discovery, motion practice, case management and other areas of litigation without the pressure of having to appear in court. We are a small, close-knit Firm, offering excellent benefits and salary based upon experience. To apply, please email Julia McFall at JMcfall@abrfirm.com.

### **Full or Part Time Lawyer**

Stiff, Garcia & Associates, defense insurance firm seeking full or part time lawyer. Work as much or as little as you want. Our practice includes employment, civil rights, coverage, professional liability and general liability. "Of Counsel" is available for experienced defense lawyer. Benefits include health, dental, life insurance and 6% 401K. Please send resume to John Stiff, jstiff@stiffllaw.com or Karen Arrants, karrants@stiffllaw.com

### **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

### **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 6 months of civil litigation experience, 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.

### **Telephone Helpline Intake Screener**

The New Mexico State Bar Foundation seeks qualified applicants to join our team as a full-time (40 hours/week) Telephone Helpline Intake Screener. The successful applicant will answer Bar Foundation Legal Helplines incoming calls, conduct/complete intakes and establish case files in the Legal Services Programs electronic case management systems. Fluency in Spanish is preferred. \$18-\$20/hour, depending on experience and qualifications. Generous benefits package included. This position qualifies for partial telecommuting. Qualified applicants should submit a cover letter and resume to HR@sbnm.org. Visit [www.sbnm.org/SBNMjobs](http://www.sbnm.org/SBNMjobs) for full details and application instructions.

### **Foundation Coordinator**

The New Mexico State Bar Foundation seeks qualified applicants to join our team as a full-time (40 hours/week) Foundation Coordinator. The successful applicant will provide clerical and administrative support to the following programs: The Foundation Board, the Center for Legal Education (CLE) and the Development Program (DP). \$21-\$23 per hour, depending on experience and qualifications. Generous benefits package included. This position qualifies for partial telecommuting. Qualified applicants should submit a cover letter and resume to HR@sbnm.org. Visit [www.sbnm.org/SBNMjobs](http://www.sbnm.org/SBNMjobs) for full details and application instructions.

### **Director of Finance**

The State Bar of New Mexico seeks qualified applicants to join our team as a full-time (40 hours/week) Director of Finance. The successful incumbent will be responsible for all fiscal management, budgeting, financial reporting, and financial strategic goals of the organization. Functions include coordinating the development of annual operating, capital, and program budgets and their respective financial reporting; ensuring cash flow is compatible with operations by overseeing day-to-day accounting, recording, reporting, and internal control activities of the organization; and implementing best practices for financial control and compliance with regulations. \$100,000-\$115,000 per year, depending on experience and qualifications. Generous benefits package included. Qualified applicants should submit a letter of intent and resume to HR@sbnm.org. Visit [www.sbnm.org/SBNMjobs](http://www.sbnm.org/SBNMjobs) for full details and application instructions.

### **IT/AV Support Specialist**

The State Bar of New Mexico seeks qualified applicants to join our team as a full-time (40 hours/week) IT/AV Support Specialist. The successful incumbent will work closely with the IT Director and IT Services Manager to ensure the smooth operation of audiovisual (AV) systems, phone systems, and IT support services. This position is responsible for setting up, operating, and troubleshooting AV equipment, coordinating room rental needs, managing phone system support, and providing frontline technical assistance to staff, renters, and members. Additionally, this role will oversee the setup, operation, and maintenance of AV equipment for on-site and off-site events, including live streaming services. \$20-\$22 per hour, depending on experience and qualifications. Generous benefits package included. Qualified applicants should submit a cover letter and resume to HR@sbnm.org. Visit [www.sbnm.org/SBNMjobs](http://www.sbnm.org/SBNMjobs) for full details and application instructions.

## **Office Space**

### **620 Roma NW**

The building is located a few blocks from the federal, state and metropolitan courts. Monthly rent of \$550 includes utilities (except phones), internet access, fax, copiers, front desk receptionist and janitorial service. You will have access to a law library, four conference rooms, a waiting area, and off-street parking. Several office spaces are available. Call (505) 243 3751 for an appointment.

# A Guide to



State Bar of  
New Mexico  
Est. 1886

## The State Bar of New Mexico's Digital Communications

As part of our mission to serve New Mexico's legal community, the State Bar of New Mexico is dedicated to ensuring that licensees are up-to-date with the latest information and announcements via regular digital e-newsletters and email communications. From news pertinent to New Mexico courts to pro bono opportunities, our emails cover a variety of legal information.

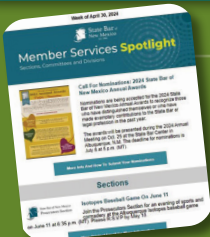


### Bar Bulletin

The State Bar of New Mexico's official publication, the Bar Bulletin, is published on our website on the second and fourth Mondays of each month. The day that the *Bar Bulletin* is published online, an email is distributed to State Bar of New Mexico licensees that links to the new issue. To publish your notices, announcements, classifieds or articles in the *Bar Bulletin*, contact [notices@sbnm.org](mailto:notices@sbnm.org).

### eNews

Sent out each Friday morning, our weekly eNews e-newsletter is a comprehensive email containing a variety of information and announcements from the State Bar of New Mexico, the New Mexico State Bar Foundation, New Mexico courts, legal organizations and more. To advertise in eNews, please email [marketing@sbnm.org](mailto:marketing@sbnm.org). To have your organization's announcements or events published in eNews, please contact [enews@sbnm.org](mailto:enews@sbnm.org).

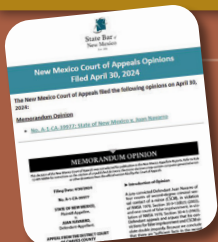


### Member Services Spotlight

Emailed each Tuesday morning, our weekly Member Services Spotlight e-newsletter contains announcements and events from each of the State Bar's Sections, Committees and Divisions. To highlight your Section, Committee or Division's latest news, email [memberservices@sbnm.org](mailto:memberservices@sbnm.org).

### CLE Weekly Roundup

Distributed each Wednesday morning, the CLE Weekly Roundup provides a highlight of the New Mexico State Bar Foundation Center for Legal Education's upcoming CLE courses with information regarding the date and time of the course, credits earned and link to register. For more information regarding the CLE Weekly Roundup, please contact [cleonline@sbnm.org](mailto:cleonline@sbnm.org).



### New Mexico Court of Appeals Opinions

As a licensee benefit, the State Bar of New Mexico distributes introductions to the New Mexico Court of Appeals' published opinions with links to the full opinions the day they are published. For more information regarding the Court of Appeals opinions distribution, please contact [opinions@sbnm.org](mailto:opinions@sbnm.org).

### Pro Bono Quarterly Newsletter

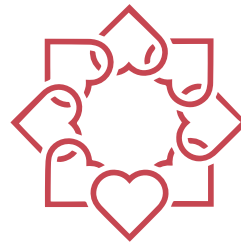
Disseminated quarterly, the State Bar of New Mexico's Pro Bono Quarterly e-newsletter provides the New Mexico legal community with an overview of initiatives to provide pro bono legal services for New Mexican residents in need. For more information on the newsletter or to advertise your pro bono or volunteer opportunity, contact [probono@sbnm.org](mailto:probono@sbnm.org).



FREE SERVICE FOR MEMBERS!



State Bar of New Mexico  
Lawyer Assistance  
Program



The  
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## Employee Assistance Program

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Services include up to four **FREE** counseling sessions/issue/year for ANY mental health, addiction, relationship conflict, anxiety and/or depression issue. Counseling sessions are with a professionally licensed therapist. Other **FREE** services include management consultation, stress management education, critical incident stress debriefing, video counseling, and 24X7 call center. Providers are located throughout the state.

To access this service call 505-254-3555 and identify with NM LAP.  
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