

# DIGITAL BAR BULLETIN

March 26, 2025 • Volume 64, No. 6



From the Bosque, by Mike Rizzo (see page 5)

## Inside This Issue

2025 Annual Awards Call for Nominations.....	10	Now Open for Registration: <i>Retirement or Reworking: Crafting Your Successful "Next Chapter"</i> .....	22
New Mexico Supreme Court Committees, Boards and Commissions: Notice of Current Vacancies.....	13	<i>Beyond the Bar: Women Lawyers on Careers, Challenges and Confidence</i> .....	23
Spring 2025 Young Lawyers Division In-Brief.....	14	Save the Date for the State Bar of New Mexico's 2025 Annual Meeting.....	24
The Equity in Justice Program: Honoring Women's History Month.....	18	New Mexico Supreme Court Opinion.....	25
The Well-Being Committee 2025 Campaign - <i>Lawyering: Who We Ar Or What We Do?</i> .....	20	New Mexico Court of Appeals Formal Opinions.....	37
		New Mexico Court of Appeals Memorandum Opinions....	39



New Mexico State Bar Foundation  
Center for Legal Education

## CLE PROGRAMMING from the *Center for Legal Education*

### **March 26**

**Are Public Schools Now Subject to State Anti-Discrimination Laws? Court Decides Johnson v. Board of Education for APS**

1.0 EIJ  
Noon-1 p.m.  
**WEBINAR**

### **April 3**

**Lawyer Ethics When Clients Won't Pay Your Fees**

1.0 EP  
11 a.m.-Noon  
**TELESEMINAR**

### **April 4**

**Contracts in Crisis: MAC Clauses, Acts of God and Planning for the Unexpected**

1.0 G  
11 a.m.-Noon  
**TELESEMINAR**

### **April 4**

**Elimination of Bias-Combating Age Bias in the Legal Field**

1.0 EIJ  
11 a.m.-Noon  
**WEBINAR**

### **April 8**

**The AI Edge: Enhancing Legal Practice with ChatGPT**

1.0 G  
11 a.m.-Noon  
**WEBINAR**

### **April 16**

**'I've Got a Secret.' The Broad Reach of Attorneys' Duties of Confidentiality**

1.0 EP  
Noon-1 p.m.  
**WEBINAR**

### **April 24**

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

1.0 EIJ  
11 a.m.-Noon  
**WEBINAR**

### **April 25**

**Spring Family Law Institute: Essential Practices for Custody Practitioners**

6.0 G  
8:45 a.m.-4:30 p.m.  
**IN-PERSON AND WEBINAR**

### **April 29**

**The Rule of Law, Federal Action, and Balance of Powers**

1.0 G  
Noon-1 p.m.  
**IN-PERSON AND WEBINAR**

### **May 8**

**Retirement or Reworking: Crafting Your Successful 'Next Chapter'**

2.0 EP  
2-4:45 p.m.  
**IN-PERSON AND WEBINAR**



The **How to Practice Series**, presented by the New Mexico State Bar Foundation's Center for Legal Education and the State Bar of New Mexico's Professional Development Program, is designed to provide the fundamental knowledge necessary to practice a particular area of law.

The **Center for Legal Education** has launched a new section on its website that centralizes the **How to Practice Series**. Now available for self-study are:

- ▶ **How to Practice: Family Law**
- ▶ **How to Practice: Estate Planning**

Click **HERE** to view and register for on-demand **How to Practice Series** courses!



*Watch for more  
**How to Practice**  
courses coming soon!*

▶ **Register online at [www.cle.sbnm.org](http://www.cle.sbnm.org) or call 505-797-6020**

## *Rodey Law Firm congratulates its Newly Elected Directors*

---



***Peter Kelton***

---

*Mr. Kelton is a member of the Business Department with an emphasis on public finance and economic development law.*

***Meghan O'Neil***

---

*Ms. O'Neil is a member of the Litigation Department with an emphasis on professional liability, health law and complex and commercial litigation.*



***B.W. Stone***

---

*Mr. Stone is a member of the Litigation Department with an emphasis on products and general liability.*

***Benjamin Thomas***

---

*Mr. Thomas is a member of the Litigation Department with an emphasis in complex commercial litigation and employment law.*



***Lauren Winston***

---

*Ms. Winston is a member of the Litigation Department with an emphasis on professional liability and products and general liability.*

# WILCOX & MYERS, P.C.

“PROVIDING EXCEPTIONAL ESTATE PLANNING SERVICES FOR EXCEPTIONAL CLIENTS”®

## 15<sup>th</sup> Annual Estate Planning Update 2025

Thursday May 15, 2025

7:45 a.m. – 4:30 p.m.

New Mexico State Bar Center  
5121 Masthead, N.E.  
Albuquerque, New Mexico 87109

To Register: Please visit the website at:  
<https://www.wilcoxmyers.com/event>

Registration is limited based on capacity. Registration will close on the earlier of May 10, 2025 or when we have reached capacity. Materials will be available for download by registered attendees. No refunds will be given once you are registered (as all proceeds except for payment service fees benefit our nonprofit guests).

Seating is limited, so you must register to attend.

Professional Credit Pending: CLE, CE, CFP, CPA, and Insurance

### Agenda

<b>Sign-in</b>		7:45 – 8:15 a.m.
Introductory Remarks	Jeffrey D. Myers, M.S., J.D.	8:15 – 8:30 a.m.
Federal and State Estate and Gift Tax Update 2025	Vickie R. Wilcox, J.D., LL.M.	8:30 – 9:30 a.m.
Estate Planning Attorneys/Advisors: Gentle Agents of Change (Equity in Justice Credit Pending)	N. Lynn Perls, J.D.	9:30 – 10:30 a.m.
<b>Break</b>		10:30 – 10:45 a.m.
Is That Irrevocable Trust Really Revocable?	Gregory MacKenzie, J.D.	10:45 – 12:15 p.m.
<b>Lunch: Pizza, Beverages, and Networking in the Charity Exhibit Hall</b>		12:15 – 1:15 p.m.
New Mexico’s Healthcare Worker Shortage, What to Do About It, the 2025 Legislative Session, and the Shortage’s Impact on the Economy and Insurance	Fred Nathan, Jr., J.D.	1:15 – 2:15 p.m.
Understanding Medical Malpractice Claims, Insurance, and the Patient Compensation Fund	Zackeree S. Kelin, J.D. & Ellen Geske, J.D.	2:15 – 3:15 p.m.
<b>Break</b>		3:15 – 3:30 p.m.
Ethics: Ethical Considerations in a Contemporary Estate Planning Practice	Anne Taylor, J.D.	3:30 – 4:30 p.m.

Presented By:  
Wilcox & Myers, P.C.  
Post Office Box 70238  
Albuquerque, New Mexico 87197

Phone: (505) 554-1115  
Fax: (505) 554-1121  
[www.wilcoxmyers.com](http://www.wilcoxmyers.com)

To RSVP please visit the website at:  
<https://www.wilcoxmyers.com/event>

# DIGITAL BAR BULLETIN



### Officers, Board of Bar Commissioners

Aja N. Brooks, President  
Allison H. Block-Chavez, President-Elect  
Lucy H. Sinkular, Secretary-Treasurer  
Erinna M. "Erin" Atkins, Immediate Past President

### State Bar Staff

Executive Director, Richard Spinello  
Director of Marketing & Communications, Celeste Valencia, celeste.valencia@sbnm.org  
Graphic Designer, Julie Sandoval, julie.sandoval@sbnm.org  
Communications Manager, Brandon McIntyre, brandon.mcintyre@sbnm.org  
Digital Marketing & Communications Coordinator, Virginia Chavers-Soto, virginia.chavers-soto@sbnm.org  
Advertising and Sales  
651-288-3422, marketing@sbnm.org

### Communications Advisory Committee

Hon. James Derossitt, Chair     Dylan Lange  
Hon. Carl J. Butkus             Hope Pendleton  
Gabrielle Dorian                Matthew Ramirez  
C. James Kalm

©2025, State Bar of New Mexico. No part of this publication may be reprinted or otherwise reproduced without the publisher's written permission. The State Bar of New Mexico has the authority to edit letters and materials submitted for publication pursuant to our policies located at <https://www.sbnm.org/News-Publications/Bar-Bulletin/Editorial-Policies>. Appearance of an article, editorial, feature, column, advertisement or photograph in the Bar Bulletin does not constitute an endorsement by the Bar Bulletin or the State Bar of New Mexico. The views expressed are those of the authors, who are solely responsible for the accuracy of their citations and quotations. State Bar of New Mexico licensees receive the Bar Bulletin as part of their annual licensing fees.

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

505-797-6000 • 800-876-6227  
Fax: 505-828-3765 • [address@sbnm.org](mailto:address@sbnm.org)

March 26, 2025 • Volume 64, No. 6

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



## ► Table of Contents

- 06** Notices
- 09** Legal Education Calendar
- 10** 2025 Annual Awards Call for Nominations
- 13** New Mexico Supreme Court Committees, Boards and Commissions: Notice of Current Vacancies
- 14** Spring 2025 Young Lawyers Division In-Brief
- 18** The Equity in Justice Program: Honoring Women's History Month
- 19** Opportunities for Pro Bono Service & Resources for the Public Calendars
- 20** The Well-Being Committee 2025 Campaign - *Lawyering: Who We Are Or What We Do?*
- 22** Now Open for Registration: *Retirement or Reworking: Crafting Your Successful "Next Chapter"*
- 23** *Beyond the Bar: Women Lawyers on Careers, Challenges and Confidence*
- 24** Save the Date for the State Bar of New Mexico's 2025 Annual Meeting
- 25** New Mexico Supreme Court Opinion
- 37** New Mexico Court of Appeals Formal Opinions
- 39** New Mexico Court of Appeals Memorandum Opinions
- 40** Advertising

## Make the State Bar Center Your Meeting Destination



Perfect for your conference, seminar, training, mediation, reception, networking event or meeting



5121 Masthead St. NE, Albuquerque, NM 87109  
[www.sbnm.org/StateBarCenter](http://www.sbnm.org/StateBarCenter)

For more information, site visits and reservations, contact Guest Services at **505-797-6070** or [roomrental@sbnm.org](mailto:roomrental@sbnm.org)

**About Cover Image and Artist:** Michael Rizzo Jr. works in several mediums. He started out in film photography and now works digitally and enjoys the freedom of Photoshop. He also creates serigraphs using some of those digital images and finds the rich colors of screen printing exciting to experiment. For more information, contact Rizzo at [rizzo\\_art@hotmail.com](mailto:rizzo_art@hotmail.com).

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>.

### New Mexico Administrative Office of the Courts Seeks Input on Accessibility

The New Mexico Administrative Office of the Courts ("AOC") is undertaking a comprehensive evaluation of its policies, programs, and facilities to determine the extent to which individuals with disabilities may be restricted in their access across the New Mexico State Judiciary. The AOC is contracting with Altura Solutions to assist with the creation of the Americans with Disabilities Act ("ADA") Transition Plan. The team will evaluate all 13 Districts of the Judiciary including Magistrate Courts, Supreme Court and Court of Appeals. This initiative underscores a dedication to ensuring equal access and opportunities for all residents regardless of ability and marks a significant milestone in the journey toward a more inclusive judiciary. Please complete the online survey currently available to capture your experiences and provide helpful prioritization preferences in regards to programs and facilities of the Judiciary here: <https://www.accessforall-nmcourts.com/community-survey>.

## Professionalism Tip

With respect to the courts and other tribunals:

I will communicate with opposing counsel in an effort to avoid litigation or to resolve litigation.

### 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 Candidate Announcement

The Twelfth Judicial District Court Judicial Nominating Commission convened at 10:30 a.m. (MT) March 19 at the Twelfth Judicial District Court, located at 1000 New York Ave, Alamogordo, N.M., and completed its evaluation of the three applicants to fill the vacancy on the Twelfth Judicial District Court which will exist as April 1 due to the retirement of the Hon. Ellen R. Jessen, effective March 31. The Nominating Commission recommends **Lori Lee Gibson Willard** to Gov. Michelle Lujan Grisham.

### 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 at the conclusion of 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).

## March Meeting Summary

The Board of Bar Commissioners of the State Bar of New Mexico met on March 7 at the State Bar Center in Albuquerque, N.M. via in person and Zoom. Action taken at the meeting follows:

- Received a report from the Finance Committee, which included: 1) approval of the Dec. 11, 2024 meeting minutes; 2) accepted the 2024 year-end unaudited financials; 3) reviewed the Finance Committee Policy/Mission; 4) approved an intercompany adjustment from the Bar Foundation to the State Bar in the amount of \$50,000; 5) received a report on the 2025 licensing renewals; and 6) approved allocating the year-end balance of \$40,000 to the capital reserve fund;
- Welcomed new members Dylan O'Reilly, the out-of-state district commissioner, and Lauren Riley, the YLD Chair;
- Approved the Dec. 11, 2024 Meeting Minutes;
- Discussed Rule 24-101(A) NMRA, Objective #5, Improve the Relations Between the Legal Profession and the Public, and reviewed direct and indirect public engagement by the State Bar and discussion questions; will revisit at the Board Retreat in May;
- Discussed the Executive Order re: Ending Illegal Discrimination and Restoring Merit-Based Opportunity, a chart of the executive orders that affect charitable nonprofits, a statement from

the NM Supreme Court, and a statement from President Brooks;

- Received an update on the 2023-2025 Three-Year Strategic Plan; the Board will be starting the next three-year strategic plan at its upcoming retreat;
- Appointed Chrystian J. Gonzalez to the vacancy on the Board of Bar Commissioners through Dec.2025; the unexpired one-year term will be included with the regular election of commissioners in November;
- Appointed Sean M. FitzPatrick to the vacancy on the NM State Bar Foundation Board;
- Appointed Olga Serafimova as the interim liaison to the Supreme Court's UJI – Civil Committee;
- Received a funding request from Meryl Sutton to attend the 2025 ABA/NLADA Equal Justice Conference and approved a donation of \$1,000, pursuant to the Board's contribution/donation policy;
- Approved the Committee on Diversity in the Legal Profession's request to appoint Kristin Love as a co-chair for the committee;
- Reported that the Executive Committee met to approve the agenda for the meeting;
- Received a report from the Policy and Bylaws Committee, which reviewed a Diversity Statement from the Committee on Diversity in the Legal Profession, which will be discussed further at the Board's retreat;
- Received a report from the Annual Awards Committee; the committee approved additional criteria for the Awards Notice and Jotform for Nominations to assist it with selecting the recipients;
- Received an update on the Judicial Wellness Program (JWELL), which is receiving national attention;
- Received reports from the Presidents of the State Bar and the NM State Bar Foundation;
- Received a report from the Executive Director;
- Received reports from the Senior Lawyers, Young Lawyers, and Paralegal Divisions, Bar Commissioner Districts,

## Featured Member Benefit



The Solutions Group partners with the New Mexico Lawyer Assistance Program to offer comprehensive, state-wide Employee Assistance Program (EAP) services to members of the New Mexico legal community and their immediate family members.

Services include up to four complimentary counseling sessions per issue per year, addressing any mental or behavioral health, addiction, relationship conflict, anxiety and/or depression issue. These sessions are conducted by licensed professional therapists. Additional no-cost services encompass management consultation, stress management education, critical incident stress debriefing, video counseling, and a 24/7 call center. Providers are available statewide.

**•To access this service call 505-254-3555 and identify with NMLAP. All calls are confidential.**

- and Supreme Court Board and Committee Liaisons; and
- Approved the Committee on Women and the Legal Profession's request to establish the Justice Pamela B. Minzner Outstanding Women's Advocacy Award as a State Bar Award.

*Note: The minutes in their entirety will be available on the State Bar's website following approval by the Board at the May 16 meeting.*

## Committee on Diversity in the Legal Profession Call For Volunteers for the Bar Exam Coaching Program

The State Bar of New Mexico's Committee on Diversity in the Legal Profession is proud to offer an inclusive coaching program for applicants from all diverse backgrounds taking the New Mexico Bar Exam. The program is designed to match an applicant with a committed attorney volunteer who will serve as a resource for the applicant. Coaches and applicants will communicate in person, via phone, e-mail, and/or virtual meeting during the applicant's bar preparation. Attorney volunteers will not be expected to teach applicants substantive law. To volunteer or to learn more, contact State Bar of New Mexico Equity in Justice Attorney Abby Lewis at [abby.lewis@sbnm.org](mailto:abby.lewis@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).



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

For information on submission guidelines and how to submit your articles, please visit [www.sbnm.org/submitarticle](http://www.sbnm.org/submitarticle).



# Legal Education Calendar

## April

- |  |   |  |
|--|---|--|
| <p><b>1</b>    <b>Federal Defender Capital Habeas Unit (CHU)</b><br/>15.2 G, 1.0 EP<br/>Live Program<br/>Administrative Office<br/>of the US Courts<br/><a href="http://www.uscourts.gov">www.uscourts.gov</a></p> <p><b>3</b>    <b>April 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> <p><b>3</b>    <b>Lawyer Ethics When Clients Won't Pay Your Fees</b><br/>1.0 EP<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-Lawyer-Ethics-Pertaining-to-Unpaid-Fees">https://bit.ly/CLE-Lawyer-Ethics-Pertaining-to-Unpaid-Fees</a></p> <p><b>4</b>    <b>Contracts in Crisis: MAC Clauses, Acts of God and Planning for the Unexpected</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-Contracts-in-Crisis">https://bit.ly/CLE-Contracts-in-Crisis</a></p> <p><b>4</b>    <b>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</b>    <b>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>10</b>    <b>Ethics in the Age of AI: Navigating the Legal Landscape with ChatGPT</b><br/>1.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-Ethics-in-the-Age-of-AI">https://bit.ly/CLE-Ethics-in-the-Age-of-AI</a></p> <p><b>11</b>    <b>44th Annual Update on NM Tort Law</b><br/>6.0 G<br/>Live Program<br/>New Mexico Trial Lawyers Association &amp; Foundation<br/><a href="http://www.nmtla.org">www.nmtla.org</a></p> <p><b>16</b>    <b>"I've Got a Secret." The Broad Reach of Attorneys' Duties of Confidentiality</b><br/>1.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-Duties-of-Confidentiality">https://bit.ly/CLE-Duties-of-Confidentiality</a></p> <p><b>16</b>    <b>Impeach Justice Douglas!</b><br/>3.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-Impeach-Justice-Douglas">https://bit.ly/CLE-Impeach-Justice-Douglas</a></p> <p><b>17</b>    <b>Take Ethical Security Precautions with Email: When and How to Encrypt</b><br/>1.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-When-And-How-To-Encrypt">https://bit.ly/CLE-When-And-How-To-Encrypt</a></p> <p><b>22</b>    <b>Courtroom Technology and the Visual Trial: The Rust Shooting</b><br/>1.0 G<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-The-Rust-Shooting">https://bit.ly/CLE-The-Rust-Shooting</a></p> | <p><b>24</b>    <b>Practical Tips &amp; Strategies To Combat Implicit Biases In Law Firms and Society</b><br/>1.0 EIJ<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-Practical-Tips-And-Strategies">https://bit.ly/CLE-Practical-Tips-And-Strategies</a></p> <p><b>25</b>    <b>Spring Family Law Institute: Essential Practices for Custody Practitioners</b><br/>6.0 G<br/>In-Person or Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-2025-Spring-Family-Law-Institute">https://bit.ly/CLE-2025-Spring-Family-Law-Institute</a></p> <p><b>29</b>    <b>The Rule of Law, Federal Action, and Balance of Powers</b><br/>1.0 G<br/>In-Person or Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-The-Rule-of-Law">https://bit.ly/CLE-The-Rule-of-Law</a></p> <p><b>29</b>    <b>Ethics, Juror Misconduct, and Jury Tampering: The Murdaugh Motion For New Trial</b><br/>2.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-The-Murdaugh-Motion-For-New-Trial">https://bit.ly/CLE-The-Murdaugh-Motion-For-New-Trial</a></p> <p><b>30</b>    <b>Killers of the Flower Moon: The Osage Murders and How Attorneys Can Combat Bias</b><br/>1.0 EIJ<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="https://bit.ly/CLE-Killers-of-the-Flower-Moon">https://bit.ly/CLE-Killers-of-the-Flower-Moon</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>.



## STATE BAR OF NEW MEXICO

# 2025

# Annual Awards *Call for Nominations*

Nominations are being accepted for the **2025 State Bar of New Mexico Annual Awards** to recognize those who have distinguished themselves or who have made exemplary contributions to the State Bar or legal profession in the past year. The awards will be presented at the **2025 Annual Meeting on Thurs., July 31**, at Sandia Resort & Casino in Albuquerque, NM. All awards are limited to one recipient, whether living or deceased, with the exception of the Justice Pamela B. Minzner Professionalism Award, which can have two recipients—an attorney and a judge. Nominees may be nominated for more than one award category. Previous recipients for the past three years are listed below.

To view last year's recipients and the full list of previous recipients, visit:

[www.sbnm.org/AnnualAwards](http://www.sbnm.org/AnnualAwards)



### Distinguished Bar Service Award – Nonlawyer

Recognizes nonlawyers who have provided valuable service and contributions to the legal profession over a significant period of time. Nomination should include specific examples of service/contributions; specify in what ways they affected the legal profession; and the period of time.

**Previous recipients:** *Katina Watson, Mary Galves, Juan Abeyta*



### Excellence in Well-Being Award

Many individuals have made significant contributions to the improvement of legal professional well-being including destigmatizing mental health, strengthening resiliency, and creating a synergic approach to work and life. This award was created to recognize an individual or organization that has made an outstanding positive contribution to the New Mexico legal community's well-being. As the State Bar of New Mexico is committed to improving the health and wellness of New Mexico's legal community, we strongly encourage self-nominations and peer nominations for any lawyer, judge or nonlawyer working in some capacity with the N.M. legal community. Nomination should include examples of significant contributions to the legal profession, and outstanding positive contribution to the legal community's well-being.

**Previous recipients (created in 2022):** *Briggs F. Cheney, Joy Applewhite, Pamela Moore*



## Judge Sarah M. Singleton\* Distinguished Service Award

Recognizes attorneys who have provided valuable service and contributions to the legal profession, the State Bar of New Mexico and the public over a significant period of time. Nomination should include examples of service and contributions to the legal profession; service and contributions to the State Bar; service and contributions to the public; and the period of time.

**Previous recipients:** *George David Giddens, Jr., David Stout, Michael P. Fricke*

*\*This award was renamed in 2019 in memory of Judge Singleton (1949-2019) for her tireless commitment to access to justice and the provision of civil legal services to low-income New Mexicans. She also had a distinguished legal career for over four decades as an attorney and judge.*



## Justice Pamela B. Minzner\* Professionalism Award

Recognizes attorneys and/or judges who, over long and distinguished legal careers, have by their ethical and personal conduct exemplified for their fellow attorneys the epitome of professionalism. Nomination should describe the long and distinguished legal career, and provide examples of how they have exemplified ethical and personal conduct that is the epitome of professionalism for their fellow attorneys.

**Previous recipients:** *M. Mitchell Moss, Justice Edward L. Chavez, Judge James J. Wechsler, Quentin P. Ray*

*\*Known for her fervent and unyielding commitment to professionalism, Justice Minzner (1943-2007) served on the New Mexico Supreme Court from 1994 to 2007.*



## Justice Pamela B. Minzner Outstanding Women's Advocacy Award



Recognizes attorneys who have provided legal assistance to women who are unrepresented or underserved, or advocated for causes that will benefit and/or further the rights of women within the previous calendar year. This award is not a lifetime achievement award; it is for an attorney who is currently doing the work and pushing the status of women forward. Nomination should describe the legal assistance provided to women who are unrepresented or underserved, and provide examples of how they have advocated for causes that will benefit and/or further the rights of women.



## Outstanding Legal Organization or Program Award

Recognizes outstanding, extraordinary law-related organizations or programs that serve the legal profession and the public. Nomination should include examples of how the law-related organization or program is outstanding or extraordinary, and how it serves the legal profession and the public.

**Previous recipients:** *American Indian Law Center PLSI Judicial Clerkship Committee, Judicial Branch IT Staff, Pueblo of Pojoaque Path to Wellness Court, Intellectual Property Law Section Pro Bono Fair*



## Outstanding Young Lawyer of the Year Award

Awarded to attorneys who have, during the formative stages of their legal careers by their ethical and personal conduct, exemplified for their fellow attorneys the epitome of professionalism; nominee has demonstrated commitment to clients' causes and to public service, enhancing the image of the legal profession in the eyes of the public; nominee must have been admitted to the practice of law in any state for ten (10) years or less. Nomination should include examples of how they have exemplified the epitome of professionalism; how they demonstrated a commitment to clients' causes; list their public service; and provide examples of how they enhanced the image of the legal profession in the eyes of the public.

**Previous recipients:** Cameron S. Bush, Shasta N. Inman, Lauren E. Riley



## Robert H. LaFollette\* Pro Bono Award

Presented to an attorney who has made an exemplary contribution of time and effort, without compensation, to provide legal assistance over his or her career to people who could not afford the assistance of an attorney. Nomination should include examples of exemplary contribution of time and effort, without compensation, to provide legal assistance, and for what period of time.

**Previous recipients:** Ronald T. Taylor, Ella Joan Fenoglio, Darlene T. Gomez

*\*Robert LaFollette (1900–1977), Director of Legal Aid to the Poor, was a champion of the underprivileged who, through countless volunteer hours and personal generosity and sacrifice, was the consummate humanitarian and philanthropist.*



## Seth D. Montgomery\* Distinguished Judicial Service Award

Recognizes judges who have distinguished themselves through long and exemplary service on the bench and who have significantly advanced the administration of justice or improved the relations between the bench and the bar; generally given to judges who have retired or soon will be retiring. Nomination should provide examples of how they have distinguished themselves; describe their long and exemplary service on the bench; provide examples of how they advanced the administration of justice; and provide examples of how they have improved the relations between the bench and the bar.

**Previous recipients:** Judge Robert H. Scott, Judge Lorenzo F. Garcia, Judge Henry A. Alaniz

*\*Justice Montgomery (1937–1998), a brilliant and widely respected attorney and jurist, served on the New Mexico Supreme Court from 1989 to 1994 decades as an attorney and judge*

***Nominations should be submitted through the following link:***

**<https://form.jotform.com/sbnm/2025sbnmawards>**

Additional information or letters may be uploaded with the form and submitted with the nomination. Please include all relevant information and elaborate on all responses to assist the Awards Committee in selecting the recipients. Ensure that your nomination includes reasons for the nomination and addresses all of the criteria.

**Deadline for Nominations: Friday, May 30, 5 p.m. (MT)**

For more information or questions, please contact Kris Becker at kris.becker@sbnm.org or 505-797-6038.



State Bar of  
New Mexico

Est. 1886





## Supreme Court Committees, Boards and Commissions NOTICE OF CURRENT VACANCIES

The Supreme Court of New Mexico is seeking applications to fill existing vacancies on its committees, boards, and commissions listed below. Unless otherwise noted below, any person may apply to serve on any of the following committees, boards, and commissions:

### **Board of Bar Examiners**

- 1 general member position

### **Domestic Relations Rules Committee**

- 1 general member position

### **Magistrate Judge Advisory Committee**

- 4 magistrate court judge positions

### **NM Children's Court Improvement Commission**

- 1 law enforcement member position
- 1 Director Children's Cabinet or designee
- 1 legislative member of the Senate/House (Minority Party) position
- 1 youth attorney position
- 1 youth advocate for foster youth

### **NM Supreme Court Commission on Mental Health and Competency**

- 1 supportive housing advocate
- 1 behavioral health advocate
- 1 judge from a rural jurisdiction
- 1 legislative member

### **Statewide Alternative Dispute Resolution Commission**

- 1 general member position

### **Supreme Court Commission on Equity and Justice**

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

### **Tribal-State Judicial Consortium**

- 1 state judge member position

### **Working Interdisciplinary Network of Guardianship Stakeholders**

- 2 legislative members
- 1 family member (not a guardian or conservator) representative
- 1 judiciary member
- 1 protected person position

Anyone interested in volunteering to serve on one or more of the foregoing committees, boards, or commissions may apply by submitting an application, along with a resume, to Elizabeth A. Garcia, Chief Clerk, by email to [nmsupremecourtclerk@nmcourts.gov](mailto:nmsupremecourtclerk@nmcourts.gov), or by first class mail to P.O. Box 848, Santa Fe, NM 87504. The application can be found on the Supreme Court's website at [supremecourt.nmcourts.gov/careers/current-vacancies/](http://supremecourt.nmcourts.gov/careers/current-vacancies/). The application deadline is **April 4, 2025**. The Court will advertise additional committee vacancies this fall.



State Bar of New Mexico  
Young Lawyers  
Division

#### YLD BOARD

**Lauren Riley**, Chair

**Taylor Duffney**, Chair-Elect

Director-at-Large, Position 1, **Kenneth Shiau**

Director-at-Large, Position 2, **Taylor Duffney**

Director-at-Large, Position 3, **Laura Unklesbay**

Director-at-Large, Position 4, **Gretchen Wendlandt**

Director-at-Large, Position 5, **Ryan Sanchez**

Region 1 Director, **Sarah Kosso**

Region 2 Director, **Ben Burke**

Region 3 Director, **Taylor Larsen**

Region 4 Director, **George Kennedy**

Region 5 Director, **Lauren Riley**

Immediate Past Chair, **Randy Taylor**

#### YLD LIAISONS

**Animal Law**, Samantha Catalano

**Appellate Practice**, Emma Easom

**Bankruptcy Law**, Daniel Grunow

**Business Law**, Maria Trujillo

**Cannabis Law**, Victoria Cvitanovic

**Elder Law**, Shasta Inman

**Employment & Labor Law**, Alyx Callison

**Family Law**, Pamela Faris

**Health Law**, James Bradley

**Immigration Law**, Ari Burks

**Intellectual Property Law**, Billy Trabaldo

**Natural Resources, Energy & Environmental Law**,  
Benjamin Rossi

**Real Property, Trusts & Estate**, Ryan Sanchez

**Solo & Small Firm**, Ron King

**Tax**, Janette Duran

#### 2025 PROGRAM CO-CHAIRS

**Wills for Heroes**,

Laura Unklesbay, Ryan Sanchez, Taylor Larsen, Sarah Kosso

**Legal Clinics**,

Taylor Duffney, Gretchen Wendlandt

**"Ask-a-Lawyer" Law Day Call-In**,

Sarah Kosso, Ken Shiau

**Service Project in Outlying Areas**, Randy Taylor

**ABA/YLD Disaster Legal Services**,

Mara Christine

**Constitution Day**, Ben Burke, Taylor Larsen

**NMHBA/UNM Summer Law Camp**,

Jessica A. Perez, Damon J. Hudson

**Law Day Essay Contest**, Ben Burke

**Judicial Clerkship Selections**,

Lauren Riley

**Summer Fellowship Selections**,

Lauren Riley, George Kennedy

**UNMSOL & Mentorship Programming**,

Randy Taylor, Lauren Riley

**Member Outreach**,

Laura Unklesbay, George Kennedy, Sarah Kosso

**Lunch with Judges**,

Ryan Sanchez, George Kennedy, Taylor Larsen

**Fit2Practice**, Ken Shiau

**Networking Events**,

Laura Unklesbay, Taylor Duffney

**Podcasts**, Damon J. Hudson

**Bar Bulletin "In Brief"**, Lauren Riley

**CLE Liaison (Article VIII)**, Lauren Riley

**YLD Bylaws Review**, Randy Taylor

# YLD *in brief*

SPRING  
2025

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



## Message from the 2025 YLD Chair

Dear Fellow Young Lawyers,

As we begin a new year, I am excited to reach out to each of you as the Chair of the Young Lawyers Division. We are fortunate to have an exceptional Board this year, and I am thrilled to be serving alongside such bright, passionate and dedicated individuals.

Practicing law as a young lawyer can often feel overwhelming and, at times, isolating. The challenges can seem endless: balancing work-life demands, developing a deep understanding of complex legal issues and forging meaningful professional relationships, all while trying to build your reputation in a competitive field. However, one thing is clear — **you are not alone** in this journey.

The Young Lawyers Division is here to provide a strong, supportive community where we can share experiences, collaborate and uplift one another. Whether you're facing a difficult case, needing advice on career decisions, or just seeking a sounding board, know that the Young Lawyers Division is here to be your home — a place to find camaraderie and the encouragement as we navigate the ups and downs of our legal careers.

This year we have an array of events and initiatives planned that are designed to bring us closer as a community, support each other in our professional growth, and make a meaningful impact across the state of New Mexico. From networking events, continuing education and opportunities for pro bono work to mentorship of law students, there is something for everyone to get involved in.

Our strength lies in our ability to come together. This year, I encourage you to take full advantage of the opportunities to connect with fellow young lawyers, seek guidance and offer support. Let's build a culture of collaboration, one where we prioritize each other's growth, success and well-being.

Thank you for being part of this community. I am excited to see what we can achieve together!

**Lauren Riley, Chair**

## Meet the Board



**Lauren Riley**

Chair  
Region 5 Director

**Lauren Riley** practices Family Law at Batley Riley Family Law, P.A. in Albuquerque, N.M. She practices in all aspects of family law including divorce, custody, child support, kinship-guardianship, divorce modification and assisting client 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)!



**Taylor Duffney**

Chair-Elect  
Director-at-Large, Position 2

**Taylor Duffney** joined the YLD Board of Directors as a director-at-large in 2023 and is the incoming Chair of YLD for 2026. She is a senior associate attorney at Briones Business Law Consulting P.C., practicing primarily in corporate law, contract law, mergers and acquisitions, employment law and succession planning. She worked as a law clerk at Briones and joined as an associate attorney after she passed the New Mexico Bar. She obtained her B.A. from Arizona State University, and her law degree from the University of New Mexico School of Law. She co-chairs the Veterans Law Clinic presented in conjunction with the Veterans Association in Albuquerque and co-chairs the YLD Networking and Member Services Committee. In her time outside of the office, she enjoys spending time with her family, trying new local restaurants, playing fantasy football with her friends, traveling to new places and volunteering at one of the many events put on by YLD.



**Kenneth Shiao**

Director-at-Large, Position 1

**Kenneth (Ken) Shiao** is an attorney and the founder of Melete Legal, a boutique law firm based in Albuquerque. His practice specializes in general business, securities, and intellectual property law. A native Texan, Ken earned his juris doctor from the University of Colorado Law School prior to moving to New Mexico. He currently chairs the Fit2Practice Committee with the Young Lawyers Division, which aims to promote physical and mental wellbeing for young lawyers.



**Laura Unklesbay**

Director-at-Large, Position 3

**Laura Unklesbay** serves as the Director-at-Large, Position 3. This is her fourth year on the Young Lawyers Division board. Laura is the Legal Bureau Co-Chief of the Risk Management Department for the State of New Mexico. Prior to that, she was in civil defense litigation for six years. Laura obtained both her undergraduate and law degrees from the University of Arizona, moving to Albuquerque in fall 2018. She is co-chair of the Wills for Heroes Committee, Networking Committee and Membership Outreach Committee. Laura is excited to spend this year planning more events for New Mexico's young lawyers and organizing volunteer events across the state.

## Meet the Board



**Gretchen Wendlandt**  
Director-at-Large, Position 4

**Gretchen Wendlandt** recently joined the YLD Board of Directors as a Director-at-Large. Gretchen is an associate at Modrall, Sperling, Roehl, Harris & Sisk, P.A. in Albuquerque, with a focus on estate planning, tax and business transactions. Gretchen obtained her Bachelor's degree in Music Education from Illinois Wesleyan University, and moved to New Mexico in 2019 to attend UNM law school where she graduated summa cum laude. After law school, Gretchen clerked for the Honorable Katherine A. Wray at the New Mexico Court of Appeals.



**Ryan Sanchez**  
Director-at-Large, Position 5

**Ryan Sanchez** serves as the Director-at-Large, Position 5. Ryan is an associate attorney at Modrall, Sperling, Roehl, Harris & Sisk, P.A. in Albuquerque, where he practices in the firm's Transactions Department and focuses on estate planning and taxation. Prior to joining Modrall Sperling, Ryan served as a judicial law clerk for Judge Megan P. Duffy at the New Mexico Court of Appeals. He obtained his undergraduate, graduate, and law degrees from the University of New Mexico. Ryan co-chairs the Wills for Heroes and Lunch with Judges Programs. In his free time, Ryan enjoys spending time and traveling with his wife and daughters, trying new foods, and watching any and all sports.



**Sarah Sumita Kosso**  
Region 1 Director

**Sarah Sumita Kosso** is a staff attorney at DNA People's Legal Services in Farmington, New Mexico. She has worked there for a little over two years now and primarily practice family law while managing our office's VOCA grant. Sarah is originally from India but grew up in Flagstaff, Arizona. She has an undergraduate degree in Sociology (Go Wolfpack!) and a graduate degree in Educational Policy (Go Wildcats!). She graduated with her law degree from University of San Francisco (Go Dons!) in 2019. She recently married another lawyer, identifies as a dog/cat mom, loves to bake, is obsessed with Bollywood, and enjoys photography. She has had a great time in the Young Lawyers Division and like making connections, supporting events, and bringing legal resources to all parts of New Mexico.



**Ben Burke**  
Region 2 Director

**Ben Burke** is an attorney with the New Mexico Law Offices of the Public in Santa Fe, N.M. representing clients in criminal proceedings. Before practicing law, Ben worked as a Program Officer with the American Bar Association's Rule of Law Initiative in Washington, DC. In this capacity, he supported local field offices in grant management and the development of rule of law programs aimed at enhancing governance and rule of law throughout Asia. Ben also served as a Peace Corps Volunteer in the Philippines.



## Meet the Board



**Taylor Larsen**  
Region 3 Director

Born and raised in Utah, **Taylor Larsen** graduated from BYU Law in 2020 and began his legal career at the 9th judicial district attorney's office. He started his own firm shortly thereafter, focusing on criminal defense, family law, and personal injury. Taylor enjoys spending time with his wife and sons, cooking, and playing pickleball.



**George Kennedy**  
Region 4 Director

**George Kennedy** is a partner at the Las Cruces office of Kemp Smith LLP. George practices in the areas of estate planning, probate, and trust and estate administration. George began practicing law in 2017. He received his bachelor's degree from the College of William and Mary in Williamsburg Virginia. He received his law degree from Wake Forest University in Winston Salem, North Carolina. George is licensed to practice in New Mexico and Texas.



**Mara Christine**  
ABA District 23 Representative

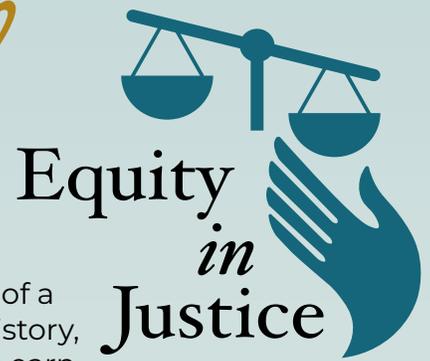
**Mara Christine** is a dyed-in-the-wool New Mexican, having grown up in the rural northern region of New Mexico, where she still lives. She has been a Disaster Relief Attorney with New Mexico Legal Aid since January 2025. Mara's work centers on providing pro bono legal services to rural survivors of major disasters, including wildfires, straight-line winds, floods, and mudflows. Prior to practicing disaster law, Mara practiced environmental justice; in a previous life, she taught Montessori elementary school for many years after having been an anthropology research librarian. Mara has a Gen Z son, a Millennial stepson, 3 Gen Alpha grandsons, and 4 best dogs.



**Randy Taylor**  
Immediate Past Chair

**Randy Taylor** is a Director in the Albuquerque office of the Rodey Law Firm. He is a member of the Products and General Liability Practice Group, practicing in a broad range of areas including personal injury, insurance coverage and bad faith, commercial litigation, and real property disputes. Randy graduated cum laude from the UNM School of Law in 2016. While in law school, he served as the Managing Editor of the New Mexico Law Review and competed on the ABA National Appellate Advocacy Competition team, which achieved a regional Best Brief Award. Following law school, Randy returned to his hometown of Las Cruces to clerk for a United States Magistrate Judge. Back in Albuquerque, Randy enjoys trying new restaurants, breweries, and cafes, card and board games and road tripping around New Mexico.

# In honor of Women's History Month,



the State Bar of New Mexico's Equity in Justice Program wishes to congratulate the Board of Bar Commissioners on the achievement of a historical milestone! For the first time in State Bar of New Mexico history, the Board of Bar Commissioners has an all-female slate of officers. Learn more about these incredible women here and on our website at

<https://www.sbnm.org/Leadership/Governance/Commissioners>



**President Aja N. Brooks** is a native New Mexican. She currently works as the Executive Assistant United States Attorney for the District of New Mexico, and previously worked as the Director of the 2nd Judicial District Court's Center for Self-Help and Dispute Resolution.



**President-Elect Allison H. Block-Chavez** is partner and attorney at Aldridge, Hammar & Wexler, PA, in Albuquerque. 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.



**Secretary-Treasurer Lucy H. Sinkular** (she/her) was admitted to the practice of law in New Mexico in 1994 and is currently Of Counsel at the law firm of Ashton Horton Mullins, PC where she practices family law matters. Lucy is trained in Collaborative Law and works as a settlement facilitator and a guardian *ad litem*.



**Immediate Past President Erinna M. "Erin" Atkins** is an attorney in Alamogordo focusing primarily on a mix of criminal, family and children's 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.



State Bar of  
New Mexico

Est. 1886



# Opportunities for Pro Bono Service CALENDAR

## April

- |  |  |  |
|--|--|--|
| <p><b>2</b>    <b>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></p>                                | <p><b>5</b>    <b>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</b>    <b>Free Telephonic Legal Clinic</b><br/>Telephone<br/>New Mexico Legal Aid<br/>To sign up, call 505-841-9817<br/>Location: Virtual</p>   |
| <p><b>11</b>    <b>Civil Legal Clinic</b><br/>Telephonic<br/>Bernalillo County Metropolitan Court<br/><a href="http://metro.nmcourts.gov">metro.nmcourts.gov</a><br/>To sign up, call 505-841-9817<br/>Location: Virtual</p> | <p><b>15</b>    <b>San Juan County Teleclinic</b><br/>In-Person<br/>San Juan County<br/>To sign up, call 505-326-2256 at 1 p.m. on the day of the clinic. An attorney will call back between 2:30 p.m. and 5 p.m. that same day.<br/>Location: San Juan County</p> | <p><b>17</b>    <b>Statewide Legal Clinic</b><br/>Telephonic<br/>New Mexico Legal Aid<br/><a href="http://bit.ly/NMLALegalFairSignUp">bit.ly/NMLALegalFairSignUp</a><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

## April

- |  |  |  |
|--|--|--|
| <p><b>2</b>    <b>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>2</b>    <b>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</b>    <b>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</b>    <b>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> | <p><b>11</b>    <b>Free Telephonic Legal Clinic</b><br/>Telephone<br/>New Mexico Legal Aid<br/>To sign up, call 505-841-9817<br/>Location: Virtual</p>   | <p><b>11</b>    <b>Civil Legal Clinic</b><br/>Telephonic<br/>Bernalillo County Metropolitan Court<br/><a href="http://metro.nmcourts.gov">metro.nmcourts.gov</a><br/>To sign up, call 505-841-9817<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.

# Lawyering: What We Do Or Who We Are? CAMPAIGN



The idea of what it means to be a lawyer has changed. In the past, lawyers tended to have their personal and professional identity inextricably linked. For them, there is little distinction between their personal lives—as a parent, sibling, friend, or volunteer—and their professional identity as a legal advocate. The title of "lawyer" defines not only their vocation but their very essence. Currently, more lawyers are questioning whether being a lawyer is just a job, a means to an end. The commoditization of the law. But can being a lawyer be both? What obligations do lawyers have to their professional lives that detract or enhance their personal lives? Is there synergy or are they incongruous? This year we will explore divergent perspectives to understand and enlighten.

2025  
Lawyering: What We Do  
Or Who We Are?  
Campaign



State Bar of New Mexico  
Well-Being  
Committee

# Modest Means

# Helpline



**Modest Means Helpline** is a civil legal telephone helpline and attorney referral service of the New Mexico State Bar Foundation. **The Modest Means Helpline assists New Mexico residents with incomes below 500%\* of the federal poverty guidelines.** The Modest Means Helpline can assist in civil legal matters including but not limited to domestic relations (divorce, child custody, kinship guardianship, domestic violence), landlord/tenant, small business issues, consumer, and probate.

The Modest Means Helpline's staff attorneys provide legal advice by phone and, if appropriate, may refer the case to pro bono attorneys for representation ranging from legal advice to limited or full representation. Those interested may reach the Modest Means Helpline at **505-797-6013** or **888-857-9935**, Monday through Friday, between the hours of 8 a.m. and 4 p.m.

\*The federal poverty guidelines are calculated by household size. In 2024, an income at 500% of the FPG is \$75,300 for household of 1 and \$156,000 for a household of 4.

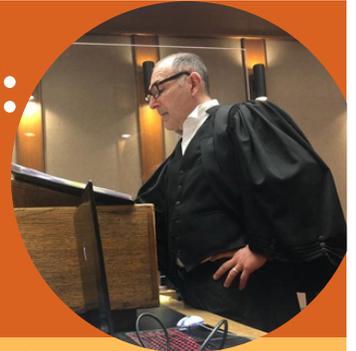


New Mexico State Bar Foundation  
Modest Means Helpline

**505-797-6013 • 888-857-9935**

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

# RETIREMENT OR REWIREMENT: CRAFTING YOUR SUCCESSFUL “NEXT CHAPTER”



 **May 8**    **2 - 4:45 P.M. (MT)**    **State Bar Center or Virtual**    **\$30**

## JOIN US IN-PERSON OR VIRTUALLY DURING WELL-BEING WEEK IN LAW - 2.0 EP CLE CREDITS

This event will discuss the professional and personal challenges lawyers face when planning for and transitioning from the full-time practice of law to full or partial retirement. Through the use of a film documenting one lawyer’s professional journey, a panel discussion, and a presentation from an executive leadership coach, the event will include discussions about the practical and ethical challenges faced when disengaging from practice. The event will also address the risks to lawyers and their clients when lawyers choose — or, by economic circumstances, are forced — to stay in practice beyond a reasonable stopping point. Additionally, the event will explore options for continuing to stay engaged in a different model of practice, the importance of early financial and succession planning for lawyers, their clients, and their families, and the professional and personal turmoil faced when a lawyer suddenly ceases practice due to unforeseen circumstances.

### EVENT AGENDA

**2 P.M.**   **Documentary Screening: Retirement on Trial:**  
Stephen Herman, Filmmaker and Lawyer

**3:10 P.M.**   **Panel Discussion:** Jerry Dixon, Dixon Scholl Carrillo;  
Lauren Riley, Batley Riley Family Law;  
Ben Davis, Davis Kelin; Evelyn Neaman - Moderator

**4:10 P.M.**   **Challenges When Making a Career Transition:**  
Judge Sandra Engel (ret.), High Road to Success  
Coaching

**4:45 P.M.**   **Connection Reception:** Snacks and mocktails  
courtesy of the State Bar LAP & YLD

A Documentary film Produced and Directed  
by Stephen Herman and Evelyn Neaman

### Retirement on Trial

Documentary film Screening on  
retirement in the legal profession



State Bar of New Mexico  
Screening on May 8

### Sponsored By:



**REGISTER AT [BIT.LY/RETIREMENT-OR-REWIREMENT](https://bit.ly/retirement-or-rewirement)**

# Beyond the Bar:

## Women Lawyers on Careers, Challenges and Confidence

**Friday, April 4 ♦ Noon - 3 p.m. (MT)**

University of New Mexico School of Law

1117 Stanford Dr NE, Albuquerque, NM 87106



### *Please Join Us*

Please join the State Bar of New Mexico's Committee on Women and the Legal Profession and the State Bar of New Mexico's Young Lawyers Division for an engaging CLE panel discussion featuring three distinguished women attorneys as they share insights into their unique career journeys. From law school to their current roles, our panelists will discuss the pivotal decisions, challenges and lessons learned along the way.

Whether you're a new attorney or an experienced practitioner looking for inspiration, this session will provide valuable perspectives on navigating the evolving legal landscape.  
CLE approval pending.

### *Panelists*

**Liz Friedenstein**

Friedenstein Law Firm, LLC,  
President of the Women's Bar  
Association

**Barbara Johnson**

Johnson Family Law PC

**Lauren Riley**

Batley Riley Law Firm  
Chair of the State Bar of New Mexico  
Young Lawyers Division

### *Event Agenda*

**Noon – 1 p.m.**

Panel Discussion and Lunch in Room 2401

**1 – 3 p.m.**

Shop the Committee on Women and the Legal  
Profession Clothing Closet in the Forum

### *Hosted By:*



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



State Bar of New Mexico  
Young Lawyers Division

Please RSVP at: <https://form.jotform.com/250766472533158>

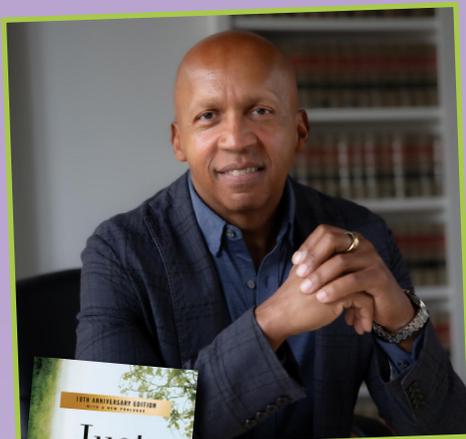
# STATE BAR OF NEW MEXICO 2025 Annual Meeting

July 31 – August 2  
Sandia Resort & Casino • Albuquerque, New Mexico

Save  
the Date!



Featuring Keynote Speaker Bryan Stevenson!



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

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

More information and registration coming soon!

[www.sbnm.org/AnnualMeeting2025](http://www.sbnm.org/AnnualMeeting2025)



## ► From the New Mexico Supreme Court

<https://www.nmcompcomm.us>

From the New Mexico Supreme Court

**Opinion Number: 2025-NMSC-002**  
No: S-1-SC-38922 (filed October 17, 2024)

**STATE OF NEW MEXICO ex rel.  
CHILDREN, YOUTH & FAMILIES  
DEPARTMENT,**

Petitioner-Respondent,  
v.

**HEATHER S.,**  
Respondent-Petitioner,  
and

**JIMMY A. and WESLEY S.,**  
Respondents,

**IN THE MATTER OF NOAH S.,**  
Child.

**ORIGINAL PROCEEDING ON CERTIORARI**

William E. Parnall, District Judge

Children, Youth  
& Families Department  
Mary A. McQueeney, Chief Children’s  
Court Attorney  
Kelly P. O’Neill,  
Children’s Court Attorney  
Robert Retherford,  
Children’s Court Attorney  
Santa Fe, NM  
  
for Petitioner-Respondent

Law Offices of Nancy L. Simmons, P.C.  
Nancy L. Simmons  
Albuquerque, NM  
  
for Respondent-Petitioner  
  
Nanette E. Erdman  
Rio Rancho, NM  
  
for Guardian ad Litem

## OPINION

### VARGAS, Justice.

{1} This case requires that we consider the evidence necessary to support a finding of neglect under NMSA 1978, Section 32A-4-2(G)(2) (2018), whether the district court may aggregate that evidence to determine whether the Children, Youth and Families Department (CYFD) satisfied its burden to prove neglect by clear and convincing evidence, and whether CYFD met its burden here.

{2} For the reasons that follow, we conclude that the district court may aggregate

evidence to determine whether CYFD has proven by clear and convincing evidence that a child is neglected. Under this standard, we hold that substantial evidence of a clear and convincing nature did not support the district court’s adjudication of Child as a neglected child as a matter of law. *In re Termination of Parental Rights of Eventyr J.*, 1995-NMCA-087, ¶ 14, 120 N.M. 463, 902 P.2d 1066 (considering the cumulative effect of evidence to support a finding of abuse and neglect). Accordingly, we reverse both the Court of Appeals and the district court and remand to the district court for further proceedings consistent with this opinion.

## I. BACKGROUND

### A. Factual Background

{3} CYFD initiated this proceeding by filing an abuse and neglect petition in district court against Heather S. (Mother) alleging, in relevant part, that her son (Child) was abused and neglected because: (1) Mother caused Child to be medically neglected, (2) Mother had unresolved domestic violence issues, (3) Mother allowed Child to live in substandard and hazardous housing, and (4) Mother educationally neglected Child. In support of its petition, CYFD provided the affidavit of its investigator, and presented testimony at the adjudication hearings from two CYFD investigators, Child’s kindergarten teacher, and Child’s principal. Mother also testified. The parties presented the following evidence.

#### 1. September 2018 incident

{4} Prior to commencement of the present action, a CYFD investigator responded to an incident at Mother’s home in September 2018 following a domestic dispute between Mother and a man called Jimmy, an individual who sometimes stayed with Mother and with whom Mother shared a daughter. Mother told the investigator that Jimmy had choked and hit her. When the CYFD investigator arrived at Mother’s home, Jimmy was gone, and Mother was there with her two daughters. Mother told the CYFD investigator that she also had a son, Child, who was living at the Children’s Treatment Center (CTC) where he was receiving treatment for his severe Attention Deficit Hyperactivity Disorder (ADHD).

{5} The CYFD investigator described Mother’s home during this visit as “a little messy,” but expressed no safety concerns with the condition of Mother’s home. The CYFD investigator testified that there were cars and car parts in the front yard, but not a lot, and that the backyard was “not really messed up at all.” And she acknowledged that she never asked Mother if the children play in either the front or back yards.

{6} Rather, the CYFD investigator explained that CYFD’s safety concerns at the time were “[j]ust the domestic violence with [Jimmy] and [Mother.]” Regarding the domestic violence, the investigator testified that she told Mother,

[I]t would probably be a good idea to

## ► From the New Mexico Supreme Court

get a restraining order if she was going to get a restraining order. Pretty much, I knew that it had not been the first time that had happened, and I know she had had domestic violence in the past with other people. So I explained to her that it is a good idea to protect her kids.

Following the September 2018 incident, CYFD did not put a safety plan in place, nor did CYFD offer assistance to Mother or require any action on her part. See 8.10.3.7(XX) NMAC (explaining that a “safety plan” is a detailed strategy that outlines immediate action steps the family and their network will take to help keep the child safe from the identified danger indicators”). {7} Without testifying about any other instances, the CYFD investigator testified that she was concerned because Mother and Jimmy had a history of domestic violence and if Jimmy was still living there, there could be another incident. Mother denied that he lived at her home. The investigator explained she was concerned with Jimmy coming and going because they had been unable to reach him to assess the risk he posed.

### 2. November 2018 incident

{8} CYFD next contacted Mother in the early morning hours of November 29, 2018, after a police officer, who was there to arrest the children’s two babysitters on outstanding warrants,<sup>1</sup> requested a safety inspection of the home to determine if removal of the children was necessary. Mother, who had been at the casino with Jimmy when CYFD was called, was at a neighbor’s house when the CYFD investigator arrived. The CYFD investigator inspected the home and testified that, “in the kitchen, there was an electrical socket that had no plate or covering so the wires were exposed”; there was a sharp steak knife on the kitchen table “where the kids had access to it”; there were piles of clothes in the doorway, hallway, and in the children’s bedrooms; there were also piles of trash and debris in every room, “making it very hard to walk.” There were “multiple roaches in the home scurrying around” in several rooms of the house, as well as dirty

dishes and old food in the kitchen sink and the kitchen floor was “greatly discolored and sticky.” The CYFD investigator also testified that the bathroom was dirty, with empty boxes and a discolored floor, the tub was dirty, “spotted black,” and there was a “noticeable but faint smell of urine” throughout the entire house.

{9} After inspecting the home, the CYFD investigator informed Mother, who was visibly upset and crying, that CYFD was called by law enforcement due to the condition of the home. She explained that CYFD had safety concerns with the exposed electrical socket, the steak knife on the table, and the clutter inside and outside of the house, which could make it difficult for the family to exit quickly in an emergency. The CYFD investigator told Mother that she needed to clean up the yard and create a safe path, and Mother said she would work on it. Mother also agreed to clean the inside of the home, and informed the CYFD investigator that she had been trying but was having a difficult time getting rid of the roaches.

{10} The CYFD investigator then woke up the children, who had been asleep, and observed that Child was free from any injury. Child wore pajamas that were slightly dirty, with spots on them, however, none of the children were described as malnourished. Nevertheless, based on the investigator’s safety concerns with the condition of the home, CYFD took the children into custody and Child was later placed in foster care.

{11} Another CYFD investigator testified that when the children were brought into CYFD’s receiving center later that day, they “had a smell to them,” were “kind of dirty,” and their shoes were “tattered and their clothes were dirty.” However, the children had coats and were dressed appropriately for the weather. Regarding Mother, the investigator testified that Mother did not indicate whether she had gotten a restraining order since they last spoke in September, but acknowledged that she was not sure if Mother had been given any information, by either CYFD or law enforcement, on how to obtain a restraining order. Mother admitted to the CYFD investigator that she needed

<https://www.nmcompcomm.us>

to clean and that the steak knife should not have been left on the table, but said it was up to Jimmy to clean the outside of the home because the cars and car parts were his.

{12} CYFD returned to Mother’s home the next day, November 30, 2018, to inspect Mother’s progress on remediating CYFD’s concerns about the condition of the home. At this inspection, the CYFD investigator observed stained carpets and “a lot of stuff everywhere,” including a tire rim and “a big container full of just like car parts” in one of the children’s rooms. The CYFD investigator testified that “[t]he kitchen was still kind of a disaster, dishes everywhere.” CYFD was concerned that, because the children were small and there was no pathway to the front of the house, that they could trip and hurt themselves on the clutter, and because the car parts were “metal they could hurt themselves on that.”

{13} However, upon returning to Mother’s home on that same day, November 30, 2018, the CYFD investigator did not see any cockroaches in the home, Child’s room was “pretty clean” except for the tire rim, and “the living room was pretty clean too.” Notwithstanding these improved conditions, Child was not returned to Mother “mostly because the condition of the home had not changed,” and CYFD did not believe the Child would be safe going home with Mother.

### 3. Child’s medical care and behavioral issues

{14} CYFD held a Family Centered Meeting (FCM) on November 30, 2018, the day after the children were removed, to meet with Mother, explain why the children were in custody, and come up with a plan so that the children could be returned to Mother. CYFD expressed its concern about Child’s medication and behavior at school. The CYFD investigator testified that, as far as she knew, Mother did not fill Child’s prescription right away after he left CTC, and Mother told her she had issues getting his medication because of the “manufacturer or something.” Mother also informed Child’s principal she had had some difficulty filling Child’s prescription. While Child’s

<sup>1</sup> The record is unclear as to the reason for the warrants and only reflects that Mother left Child with two babysitters who were her friends. Indeed, CYFD acknowledges the record does not indicate the reason for the arrests.

## ► From the New Mexico Supreme Court

<https://www.nmcompcomm.us>

principal testified, “it was obvious” to her that Child was not on his medication and Mother acknowledged that there was a one-to-two-day lapse in Child’s medication due to a preauthorization period required by her insurance, there was no evidence that Child had not been on his medication otherwise. Indeed, Mother provided Child’s medication to the CYFD investigator the day of the FCM.

{15} CYFD also expressed concern with what it had learned about Child’s behavior at school. The record reflects that Child’s behavior would on occasion escalate to a point where his classroom had to be evacuated. In September 2018, Child’s behavior was described by his teacher as “very disruptive to the learning environment. It had a pretty wide range of intensity from crying and refusing to do work to where the classroom had to be evacuated because he was tipping over the tables and throwing the chairs.” The evacuations were necessary to prevent Child from harming himself or others by kicking, biting, or throwing objects in the classroom. Child’s teacher stated his behavior was violent and his demeanor was frustrated and aggressive during these outbursts.

{16} While it is unclear in the record when and how many of these outbursts occurred, Child’s teacher ultimately concluded that all the incidents occurred while Child was in Mother’s care. The record indicates that Mother promptly came to the school when called to address these incidents, expressed concern with Child’s behavior, and explained she believed his medication was affecting his behavior. During at least one of the incidents at school when Child was living with Mother, he was able to self-soothe after an outburst event requiring much less assistance from his teacher.

{17} Mother explained to the district court that she first noticed Child’s behavior issues at age one and addressed them at that time by taking him to his pediatrician, who referred Child to PB & J Services, and PB & J Services referred Child to Behavior

Management Services (BMS). BMS provided Child with twenty hours a week of service while he was at school, but then referred him to CTC for the first time after identifying he needed greater services. Mother initiated all of Child’s treatments and services. Mother testified that Child was placed in CTC’s residential treatment program twice, and the second time was from March 2018 until September 28, 2018. It was during his second stay at CTC that Child was prescribed methylphenidate, a medication commonly known by the brand name Ritalin for ADHD. She testified that CTC provided her with a one-month supply of Ritalin following Child’s discharge on September 28, 2018.

{18} Mother testified that her routine for Child was to wake him up between 6:45 a.m. and 7:15 a.m., get him dressed, and feed him breakfast before giving him his medication. Mother explained she would feed Child prior to giving him his medication because it could cause decreased appetite. Mother testified that after refilling the prescription she noticed a change in Child’s behavior. Mother also noticed a change in Child’s behavior after his discharge from CTC, explaining that, “[Child] has always had a very hard time with change and transitions. So he went from an adjustment from having a very strict, very structured daily routine to having to share his time with his sisters and getting back in the home routine.” To address these issues, Mother attempted to arrange wraparound services, but was not able to do so until CTC fully discharged Child, at which point he was put on a waitlist. In the meantime, Mother actively sought treatment for Child, arranging for play therapy treatment, and reaching out to CTC to schedule outpatient therapy.

#### 4. School attendance

{19} CYFD was also concerned that Child had missed school but knew that Mother had transportation issues. Child had been absent twelve times and tardy fifteen times,

during the first 60-day trimester. Some of the tardies were excused but none of the absences were. Three absences and four tardies are attributable to CTC during this time. While Child’s teacher testified Child was absent or tardy 72% of the time, he did not know how many absences or tardies occurred when Child was with Mother and could not explain how he came up with the percentage.<sup>2</sup> When Mother brought Child to school late, she signed him in and walked him to class as required.

{20} At Child’s parent-teacher conference held just before Thanksgiving 2018, Mother addressed Child’s attendance issues explaining they lived out-of-district and had transportation issues, but explained she was trying to resolve the issue. While Child’s principal testified that she did not observe an improvement in Child’s attendance after this conference, there were only three school days<sup>3</sup> between the parent-teacher conference and when Child was removed from Mother’s care. Nevertheless, the tardies and absences had a negative impact on Child’s academics and his social-emotional development, which affected his ability to form relationships with his peers. CYFD acknowledged that Mother placed Child in therapy to address his behavior issues, but then stated Mother had no plan to address his behaviors, absences, and tardies from school.

#### 5. District Court’s decision

{21} At the conclusion of the two-day adjudication proceeding, the district court found that Child was a neglected child under Section 32A-4-2(G)(2). Even though the district court acknowledged that “mom did a good job . . . with a hard child to deal with,” the district court concluded that “the cumulative evidence,” including the “unresolved domestic violence issue” proved by “clear and convincing evidence . . . that [Child] was neglected to a certain degree.” The district court found that Mother “failed

<sup>2</sup> Child’s teacher testified he got the percentage from Synergy, an attendance tracking software, but did not explain how this system attributed specific dates to Mother to come up with this percentage.

<sup>3</sup> See APS 2018-2019 calendars <https://www.aps.edu/schools/documents/documents/archived/traditional-calendar-2018-19/view> (last visited Sept. 26, 2024); <https://www.nctq.org/dmsView/abq> (last visited Oct. 2, 2024).

## ► From the New Mexico Supreme Court

to protect the children” because she did not obtain a restraining order against Jimmy, who “could have been violent at any time” and Mother “couldn’t have protected the kids from him.”

{22} The district court also found that “there was some educational neglect” because the “[t]welve absences and fifteen tardies in a semester is not acceptable and it did affect [Child].” Additionally, the district court found that “the condition of the home is more than dirty,” including the metal car parts and “stuff in the childrens’ bedroom” that could have been a tripping hazard. The district court indicated, “[Mother] was told she needed to clean it up, and a couple of months later it was worse.” The district court noted the “conflict in the testimony about medication and behaviors and when [Child] was on meds and off meds,” but, ultimately, the evidence showed that “that there is chaos at home and that it needs to be resolved.” The district court entered a written order adjudicating Child as a neglected child under Section 32A-4-2(G)(2). Mother appealed to the Court of Appeals.

### 6. Court of Appeals decision

{23} Prior to issuing its memorandum opinion, the Court of Appeals ordered supplemental briefing from the parties on the legal standard for neglect under Section 32A-4-2(G)(2). Notwithstanding its order, the Court of Appeals majority declined to address the legal standard, concluding the issue was unpreserved, and even if it had been preserved, the standard needed no clarification. *State ex rel. CYFD v. Heather S.*, A-1-CA-38614, mem. op. ¶ 21 (N.M. Ct. App. July 6, 2021) (nonprecedential).<sup>4</sup> Ultimately, the Court of Appeals affirmed the district court, holding that it “need not make

any specific determination with respect to each finding of neglect by the district court . . . [because] the combined effect of Mother’s failures support[ed] the district court’s finding of neglect by clear and convincing evidence.” *Id.* ¶ 14 (citation omitted). The Court of Appeals reasoned that there was substantial evidence of a clear and convincing nature to support the decision of the district court based on the following: there was a reasonable inference that Mother was not giving Child his medication based on his behavior, *id.* ¶ 15; Mother “failed to demonstrate that Child’s attendance issues resulted from circumstances beyond her control,” *id.* ¶ 16; Mother was “warned” in September 2018 about CYFD’s concern with the condition inside and outside of her home and the conditions were worse in November 2018, *id.* ¶ 17; and Mother did not obtain a restraining order against Jimmy, disregarding the advice of the CYFD investigator. *Id.* ¶ 18. Mother appealed this decision and this Court granted the petition.

## II. DISCUSSION

### A. Preservation

{24} Mother asks this Court to apply statutory construction principles and clarify the legal standard for neglect in New Mexico under Section 32A-4-2(G)(2). CYFD contends that this question is not properly before this Court because Mother did not raise it below, and instead it was raised by the Court of Appeals. It is undisputed that this issue was not raised before the district court. However, “this Court’s role is to engage in statutory construction and apply a judicial interpretation that fully illuminates the Legislature’s intent in enacting the child abuse statute.” *State v. Consaul*, 2014-NMSC-030, ¶ 31, 332 P.3d 850 (citation omitted).

<https://www.nmcompcomm.us>

{25} Furthermore, “[a]lthough generally, ‘propositions of law not raised in the trial court cannot be considered sua sponte by the appellate court,’ we have previously done so to resolve ‘questions of a general public nature affecting the interest of the state at large.’” *Id.* ¶ 27 (quoting *State v. Jade G.*, 2007-NMSC-010, ¶ 24, 141 N.M. 284, 154 P.3d 659). “We will also determine propositions not raised in the trial court where it is necessary to do so in order to protect the fundamental rights of the party.” *Consaul*, 2014-NMSC-030, ¶ 27 (internal quotation marks and citation omitted).

{26} Here, concluding that it was a matter of general public interest, the Court of Appeals raised questions about our neglect standard sua sponte and ordered supplemental briefing on the issue. See *Heather S.*, A-1-CA-38614, mem. op. ¶ 26 (Ives, J., dissenting) (“This case presents an issue of profound importance not just for Mother and Child but for families throughout our state.”). Because this Court is obligated to interpret statutes, *Consaul*, 2014-NMSC-030, ¶ 31, the right to parent is fundamental, *State ex rel. CYFD v. Hector C.*, 2008-NMCA-079, ¶ 11, 144 N.M. 222, 185 P.3d 1072, and the issue was raised as a matter of great public importance with an opportunity for the parties to be heard, our consideration of this issue is appropriate. Accordingly, we proceed to address New Mexico’s neglect standard under Section 32A-4-2(G)(2).

### B. New Mexico’s Legal Standard for Neglect Under Section 32A-4-2-(G)(2)

{27} The parties request that we interpret Section 32A-4-2(G)(2) of the ANA which presents a question of law that we review

<sup>4</sup> We note that Judge Ives called for a clarified standard of what constitutes neglect under the Abuse and Neglect Act (ANA) in his dissent, reasoning that the language of the act is insufficient to make parents aware of what conduct is prohibited and insufficient to guide CYFD in its enforcement of the act. *Id.* ¶ 29. Judge Ives raised the concern that the statute fails to give parents fair warning of what conduct will constitute neglect and may be constitutionally infirm on vagueness grounds. *Id.* ¶ 38. However, Mother agrees that she did not challenge the constitutionality of Section 32A-4-2(G)(2), and she does not raise the issue before this Court. Because neither party has challenged the constitutionality of this statute, this Court need not engage in a void for vagueness analysis. *Allen v. LeMaster*, 2012-NMSC-001, ¶ 28, 267 P.3d 806 (“It is an enduring principle of constitutional jurisprudence that courts will avoid deciding constitutional questions unless required to do so.” (internal quotation marks and citation omitted)). Notably, the Court of Appeals has held that the language of Section 32A-4-2(G)(2) is not void for vagueness. *State ex rel. CYFD v. Shawna C.*, 2005-NMCA-066, ¶ 39, 137 N.M. 687, 114 P.3d 367 (holding that the phrase “without proper parental care and control . . . because of the faults or habits of the child’s parent,” provides an adequate standard “to guide CYFD in its enforcement activities and do[es] not invite or encourage arbitrary enforcement.” (internal quotation marks and citations omitted)).

## ► From the New Mexico Supreme Court

<https://www.nmcompcomm.us>

de novo on appeal. *Shawna C.*, 2005-NMCA-066, ¶ 24 (citation omitted). “In construing the language of a statute, our goal and guiding principle is to give effect to the intent of the Legislature.” *Grisham v. Romero*, 2021-NMSC-009, ¶ 23, 483 P.3d 545 (citation omitted). “[W]e look to the ‘object the legislature sought to accomplish and the wrong it sought to remedy.’” *State v. Rowell*, 1995-NMSC-079, ¶ 8, 121 N.M. 111, 908 P.2d 1379 (citation omitted), examining first the language of the statute, though we “may also consider the history and background of the subject statute.” *State ex rel. Klineline v. Blackhurst*, 1988-NMSC-015, ¶ 12, 106 N.M. 732, 749 P.2d 1111 (citation omitted).

{28} With the Children’s Code, which includes the ANA, the Legislature sought “first to provide for the care, protection and wholesome mental and physical development of children coming within the provisions of the Children’s Code and then to preserve the unity of the family whenever possible.” NMSA 1978, § 32A-1-3(A) (2009); see also *State ex rel. CYFD v. Raquel M.*, 2013-NMCA-061, ¶ 29, 303 P.3d 865 (quoting § 32A-1-3(A)). Taking these purposes into consideration, we recognize that “there is often a tension between the physical, mental and emotional welfare and needs of the child, . . . and the understanding that parental rights are among the most basic rights of our society and go to the very heart of our social structure.” *State ex rel. CYFD v. Benjamin O.*, 2007-NMCA-070, ¶ 34, 141 N.M. 692, 160 P.3d 601 (internal quotation marks and citations omitted). See *Troxel v. Granville*, 530 U.S. 57, 65-66 (2000) (holding that parents have a constitutionally protected liberty interest in rearing their children). With the Legislature’s objectives in mind, we consider the language of Section 32A-4-2(G)(2).

{29} Section 32A-4-2(G)(2) provides that a neglected child is one

who is without proper parental care and control or subsistence, education, medical or other care or control necessary for the child’s well-being because of the faults or habits of the child’s parent, guardian or custodian or the failure or refusal of the parent, guardian or

custodian, when able to do so, to provide them.

The plain language of the statute requires that two conditions be satisfied before a child meets the definition of a “neglected child.” *Id.* The first addresses the circumstances and condition of the child, mandating that the child must be “without proper parental care and control . . . necessary for the child’s well-being.” *Id.* The second addresses the culpability of the parent, requiring that the child’s lack of proper parental care and control must be “because of the faults or habits” of child’s parent or the “failure or refusal” of child’s parent to provide the necessary care or control. *Id.* (emphasis added). Absent proof of both of these elements by clear and convincing evidence, a child is not neglected.

### 1. Proof required to show the child is “without proper parental care and control . . . necessary for the child’s well-being”

{30} Before a child is adjudicated neglected, CYFD must provide clear and convincing evidence that the child is without proper parental care and control, including but not limited to subsistence, education, and medical care. Section 32A-4-2(G)(2). CYFD must also show that the care and control that is lacking is necessary for the child’s well-being. Section 32A-4-2(G)(2); see *State ex rel. Health & Soc. Servs. Dep’t v. Natural Father*, 1979-NMCA-090, ¶¶ 9, 14, 93 N.M. 222, 598 P.2d 1182 (discussing the list as nonexclusive). The standard articulated by the Legislature, however, does not provide specific guidance to explain what amount of care and control a parent is required to provide to avoid an adjudication of neglect under the statute. Instead, the statute delineates only that proper care and control is that which is “necessary for the child’s well-being.” Section 32A-4-2(G)(2). This explanation, rather than answering our question, only leads us to another: What did the Legislature mean when it required that the care and control must be “necessary for the child’s well-being?”

{31} “Our principal goal in interpreting statutes is to give effect to the Legislature’s intent.” *In re Mahdjid B.*, 2015-NMSC-003, ¶ 25, 342 P.3d 698 (internal quotation marks

and citation omitted). “In interpreting statutory language, we look first to the plain language of the statute.” *In re Guardianship of Patrick D.*, 2012-NMSC-017, ¶ 13, 280 P.3d 909 (text only) (citation omitted). However, “we look not only to the language used in the statute, but also to the purpose to be achieved and the wrong to be remedied.” *Mahdjid B.*, 2015-NMSC-003, ¶ 25 (internal quotation marks and citation omitted). As we consider the Legislature’s intent, “[w]e analyze a ‘statute’s function within a comprehensive legislative scheme.’” *Id.* (internal quotation marks and citation omitted).

{32} The Legislature did not define “necessary for the child’s well-being.” Section 32A-4-2(G)(2). We interpret the Legislature’s broad language referring to “other care or control,” as well as its requirement that the care and control be “necessary for the child’s well-being” as its recognition that each child has differing needs and that the needs of one child may require care and control that is not needed or not appropriate for another. *Id.* By choosing these broad terms, the Legislature gave wide latitude to consider whether the needs of each child are being met, but this latitude makes it difficult to discern a standard by which parents are to be measured as courts consider whether children are neglected.

{33} As we begin our analysis, “we first turn to the plain meaning of the words at issue . . . using the dictionary for guidance,” as we often do, *N.M. Att’y. Gen. v. N.M. Pub. Regul. Comm’n*, 2013-NMSC-042, ¶ 26, 309 P.3d 89 (citation omitted), “to ascertain [the word’s] ‘ordinary meaning.’” *State v. Nick R.*, 2009-NMSC-050, ¶ 18, 147 N.M. 182, 218 P.3d 868. “Necessary” means “absolutely needed; required.” *Necessary*, Merriam-Webster Collegiate Dictionary (11th ed. 2005). Our analysis becomes more complicated when we consider the plain meaning of “well-being” as it is used in Section 32A-4-2(G)(2). “Well-being” is commonly defined as, “the state of being or doing well in life; happy, healthy, or prosperous condition; physical, psychological, or moral welfare.” *Well-being*, Oxford English Dictionary (2<sup>nd</sup> ed. 1991). See also, *well-being*, Merriam-Webster Collegiate Dictionary (11<sup>th</sup> ed. 2005) (defining well-being as “the state of being happy, healthy,

## ► From the New Mexico Supreme Court

or prosperous”). Taking these definitions into account along with the purpose of the statute, we do not believe the Legislature intended that every child who is not happy and prosperous must be adjudicated neglected. See *State ex rel. Helman v. Gallegos*, 1994-NMSC-023, ¶ 23, 117 N.M. 346, 871 P.2d 1352 (explaining that “courts must exercise caution in applying the plain meaning rule,” as a statute’s “beguiling simplicity may mask a host of reasons why a statute, apparently clear and unambiguous on its face, may for one reason or another give rise to legitimate (i.e., nonfrivolous) differences of opinion concerning [its] meaning”). We also see room for differing opinions as to what parental care or control is “necessary.” {34} Concluding that the plain language of Section 32A-4-2(G)(2) does not resolve what the Legislature intended when evaluating whether a child is neglected, we look to other provisions of the ANA in an effort to discern legislative intent. See *Mahdjid B.*, 2015-NMSC-003, ¶ 25. “The ANA, as part of the Children’s Code, must be read as an entirety and each section interpreted so as to correlate as faultlessly as possible with all other sections.” *Id.* ¶ 26 (text only) (citation omitted). The provisions of the Children’s Code, including Section 32A-4-2(G)(2), “should be interpreted in such a manner as to effectuate its purposes, which include preservation of family unity when possible.” *Id.* (internal quotation marks and citation omitted). Statutes must be considered “as a whole and in reference to statutes dealing with the same general subject matter.” *In re Grace H.*, 2014-NMSC-034, ¶ 34, 335 P.3d 746 (internal quotation marks and citation omitted). “Whenever possible, we must read different legislative enactments as harmonious instead of as contradicting one another.” *Mahdjid B.*, 2015-NMSC-003, ¶ 26 (internal quotation marks and citation omitted).

{35} We note that the Legislature has provided some guidance in other provisions of the ANA, explaining that we should interpret the Children’s Code such that “[a] child’s health and safety shall be the paramount concern,” with the preservation of the family, whenever possible, coming next. Section 32A-1-3(A). The Legislature explained that the “[p]ermanent separation

of a child from the child’s family . . . would especially be considered when the child or another child of the parent has suffered permanent or severe injury or repeated abuse.” *Id.* Considering the definition of “well-being” along with the guidance provided by the Legislature, we conclude that the Legislature intended that to find a child to be without proper parental care and control necessary for the child’s well-being such that the child must be removed from the family, the child must be subjected to circumstances that create a serious risk to the child’s mental or physical health and safety. A serious risk is one that is likely to result in important or dangerous consequences for the child. See *serious*, Merriam-Webster Collegiate Dictionary (11th ed. 2005) (defining “serious” as “having important or dangerous possible consequences”). This standard balances the Legislature’s concern for the preservation of the family, when possible, while retaining as the paramount concern, the health and safety of the child. Courts must be cautious to avoid finding neglect in every lapse in parental care or control and must focus on those instances or circumstances likely to have a serious or significant impact on a child’s health and safety. Evidence that supports only “a vague inference of future harm” does not rise to the level of neglect as defined in Section 32A-4-2(G)(2). *Shawna C.*, 2005-NMCA-066, ¶ 22.

{36} We note that Mother initially argued in her briefing that a finding of neglect “requires a showing of both actual harm and risk of potential future harm,” and cannot be based on a risk of future neglect. Mother later acknowledged at oral argument before this Court that a risk of future harm is a proper consideration in a determination of neglect. Neither the plain language of Section 32A-4-2(G)(2) nor other statutes and case law support an actual harm requirement. Indeed, both our statutes and case law contemplate the consideration of the risk of harm to the child in the calculus of child neglect and indicate that a lack of parental care or control can take many forms, including a failure to properly supervise a child to keep the child out of harm’s way. See § 32A-4-4.1(I)(2) (2019) (requiring CYFD at the initial stage of an

<https://www.nmcompcomm.us>

investigation to assess the risk of imminent danger to the child and the risk of the “child becoming . . . a neglected child”); *Shawna C.*, 2005-NMCA-066, ¶ 15 (upholding child as neglected and at substantial risk of harm based on mother’s prior neglect of her other children); *State ex rel. CYFD v. Cosme V.*, 2009-NMCA-094, ¶¶ 16, 21, 146 N.M. 809, 215 P.3d 747 (implicitly considering father’s failure to protect children from a known risk of harm by upholding the district court’s finding of neglect based on father’s failure to protect children from “[in]adequate supervision and care, [and lack of a] safe and stable home environment”); *State ex rel. CYFD v. William M.*, 2007-NMCA-055, ¶ 62, 141 N.M. 765, 161 P.3d 262 (explaining that father neglected children by, among other things, failing to protect them from mother’s neglect). Before finding neglect in such circumstances, however, courts must conclude that the risk of harm to the child is a serious risk that is likely to result in important or dangerous consequences for the child.

### 2. Whether the absence of proper parental care and control is because of the faults or habits of the parent

{37} Should the district court find that a child is “without proper parental care and control . . . necessary for the child’s well-being,” it must then determine whether the shortfall is “because of the faults or habits of the child’s parent . . . or the failure or refusal of the parent . . . when able to do so, to provide them.” Section 32A-4-2(G)(2). Again, the Legislature’s language is sufficiently broad to take into account differing abilities of parents to provide resources necessary for the well-being of their children, noting that a parent’s failure or refusal to provide resources must be “when [he or she] is able to do so” before a child is adjudicated neglected. *Id.* “[T]he focus [of this culpability element] should be on the acts or omissions of the parents in their caretaking function and not on apparent shortcomings of a given parent due to [any] unfavorable status,” *Shawna C.*, 2005-NMCA-066, ¶ 30, poverty being the most common. When considering a parent’s ability to provide necessary care, any unfavorable status excusing parent’s responsibility must be beyond his or her control and a parent’s actions must

## ► From the New Mexico Supreme Court

<https://www.nmcompcomm.us>

be reasonable under the circumstances. *Id.* ¶ 28. This consideration of a parent’s ability “operates to exclude cases in which even an exemplary parent could not provide ‘proper parental care and control.’” *Id.* (citation omitted).

{38} Mother contends that when we consider the Legislature’s intent in implementing Section 32A-4-2(G)(2), we must conclude that the Legislature intended that we presume that it is in a child’s best interest to remain with the child’s parent “unless the State provides clear and convincing evidence to support each specific element of Section 32A-4-2(G)(2).” We agree. It is not the court’s role to determine whether a child would be better off in foster care than with the child’s parent when considering whether a child is neglected. Instead, it is the court’s obligation to consider whether a child’s parent is providing those things absolutely needed for the child’s well-being, and if not, whether it is the parent’s acts or omissions, rather than poverty, or some other unfavorable status that are the cause of the parent’s shortcomings.

### 3. Aggregation of multiple failures to provide proper care and control

{39} Mother next claims that it was improper for the district court to aggregate the individual complaints against her in its determination of neglect because nothing in the plain meaning of the statute permits aggregation, and, standing alone, “none of the individual complaints considered at trial would have been sufficient . . . for a finding of neglect.” We disagree with Mother’s assessment of the plain meaning of the statute. The plain language of Section 32A-4-2(G)(2) specifies that multiple areas of parental care are “necessary for a child’s well-being.” Thus, the district court may consider multiple areas of parental care in determining whether a child is neglected. *See Natural Father*, 1979-NMCA-090, ¶¶ 9, 14 (noting the enumeration and explaining “‘other care or control,’ . . . is care and control other than subsistence, education and medical attention, but is care or control necessary for the child’s well-being”). While the statute does not contain express language permitting aggregation, we read the enumeration of multiple areas of proper parental care and control in Section 32A-4-2(G)(2) as

allowing the district court to consider together evidence bearing on different areas of proper parental care and control in its determination of neglect.

{40} A parent may be at fault for failing to provide “proper parental care or control” in just one area or in multiple areas of parenting. One area of parental care—for example, financial support alone—may be so deficient that a child’s well-being is negatively impacted to a level constituting neglect. *See, e.g., State ex rel. CYFD v. Alfonso M.-E.*, 2016-NMCA-021, ¶ 31, 366 P.3d 282 (reasoning child was neglected based on father’s failure to “provide financial support for Child or make other arrangements for Child’s care or placement while Father was incarcerated”). Likewise, a single incident may form the basis for an adjudication of neglect. *See, e.g., State ex rel. CYFD v. Amanda M.*, 2006-NMCA-133, ¶ 31, 140 N.M. 578, 144 P.3d 137 (affirming determination that child was abused and neglected based on mother’s failure to notice injuries to child and failure to seek immediate medical care on one occasion); *see also In re Victoria CC.*, 681 N.Y.S.2d 870, 933 (N.Y. App. Div. 1998) (determination of neglect based on leaving a nine-month-old child unattended in a bathtub). However, it may also be the case that, while one area of parental care is deficient, it is not so deficient so as to rise to the level of neglect under Section 32A-4-2(G)(2). *See, e.g., State ex rel. CYFD v. Michelle B.*, 2001-NMCA-071, ¶ 21, 130 N.M. 781, 32 P.3d 790 (reversing determination of neglect based on mother’s failure to notice injury to child where there was no evidence that mother should have been alerted to injury, that child had been in danger, or any other evidence of neglect).

{41} But, where there are multiple failures to provide proper parental care or control, which alone may have been insufficient to rise to the level of neglect, the combined effect of these failures may be sufficient to constitute neglect under Section 32A-4-2(G)(2). In *Eventyr J.*, the Court of Appeals held that substantial evidence supported the district court’s finding that mother

emotionally abused and neglected her children *by the combined effect* of: (1) leaving them unattended for

long periods of time, (2) exposing them to dangerous situations, (3) failing to understand their physical and emotional needs, (4) failing to empathize with their feelings, (5) being self-centered in her interactions with them, (6) exposing them to domestic violence, (7) exposing them to substance abuse, (8) showing an indifference to their needs in favor of her own, and (9) placing them with inappropriate caretakers.

1995-NMCA-087, ¶ 14 (emphasis added). The Court of Appeals properly considered several areas of proper parental care and control together to conclude that the child was neglected. Nonetheless, while multiple parental failures may be aggregated to support a finding of neglect, it remains CYFD’s burden to prove by clear and convincing evidence that the combined effect left the child without proper parental care and control necessary for the child’s well-being, and the child’s neglect can be attributed to the fault or failure of the parent. *Shawna C.*, 2005-NMCA-066, ¶¶ 7, 28; *State ex rel. CYFD v. Amanda H.*, 2007-NMCA-029, ¶ 21, 141 N.M. 299, 154 P.3d 674.

### C. Substantial Evidence of a Clear and Convincing Nature Does Not Support the District Court’s Adjudication of Neglect

{42} Following two days of hearings, the district court adjudicated Child a neglected child, entering an order containing only sparse, conclusory, factual findings to support its holding, stating,

[Mother] failed to protect the [C] hild from the violence and domestic abuse of [Jimmy], failed to meet [Child’s] educational needs and ensure he attends school, failed to meet [Child’s] medical needs and ensure he takes his medications, as required, and failed to maintain a safe and stable home for the [C] hild.

The district court did, however, provide an oral explanation of its ruling, discussing each of the factors it considered in its determination that Mother had neglected Child. Initially, the district court stated,

## ► From the New Mexico Supreme Court

I think it is clear by clear and convincing evidence that if you add everything together that there was neglect, that [Child] was neglected to a certain degree. Now was it a lot of neglect? Was it bad neglect? Did Mother do nothing to help him with his need for medication? No, I don't think that's true. I think mom did a good job in some ways, a very good job with a hard child to deal with.

...

So I am finding that all of that by clear and convincing evidence . . . that the child was a neglected child and that it is in the best interests of the child the State maintain custody for a period of up to two years. Hopefully it is not a period of any length at all to allow her to get some help, to resolve some of these issues. Any help the State can give [Mother] I would appreciate.

We discuss the district court's more specific explanation of its ruling below, as we address its rationale for adjudicating Child as neglected.

### 1. Standard of review

{43} To determine if substantial evidence of a clear and convincing nature supports the district court's factual findings regarding Mother's failures, we do not reweigh the evidence and "[w]e will uphold the district court's judgment if, viewing the evidence in the light most favorable to the judgment, a fact finder could properly determine that the clear and convincing standard was met." *Hector C.*, 2008-NMCA-079, ¶ 11 (internal quotation marks and citation omitted). "For evidence to be clear and convincing, it must instantly tilt the scales in the affirmative when weighed against the evidence in opposition and the fact finder's mind is left with an abiding conviction that the evidence is true." *Eventyr J.*, 1995-NMCA-087, ¶ 2 (internal quotation marks and citation omitted).

{44} Then, considering those findings supported by substantial evidence of a clear and convincing nature, we review de novo whether those findings supported the district court's conclusion that Child is a neglected child as a matter of law under

Section 32A-4-2(G)(2). *State ex rel. CYFD v. Lisa A.*, 2008-NMCA-087, ¶ 6, 144 N.M. 324, 187 P.3d 189 (stating that we review the district court's conclusions of law de novo).

### 2. The district court's finding that Mother failed to meet Child's medical needs is not supported by substantial evidence

{45} Finding Mother failed to meet Child's medical needs, the district court reasoned, "there is a conflict in the testimony about [Child's] medication and behaviors and when he was on meds and off meds but it looks like from the evidence I have heard [Mother's] explanation of [Child's] behaviors doesn't straighten out the problem. It is still concerning to me that there is chaos at home and that it needs to be resolved."

{46} First, we note that whether parent has "straighten[ed] out the problem" is not the appropriate standard to evaluate whether a parent has neglected a child. The standard for neglect is not outcome determinative, but instead evaluates whether the parent has left the child without proper parental care and control necessary for a child's well-being. It does not ask whether a parent has fixed the problem, but instead requires the district court to consider whether a parent is taking sufficient and appropriate steps to address the problem. See Section 32A-4-2(G)(2). And if a parent is not taking sufficient and appropriate steps, is it because of the faults and habits of the parent, or for a reason parent cannot control?

{47} Here, the district court heard testimony that Child was a very difficult child who had severe ADHD and had been in residential treatment at CTC, that he had behavior issues at school, which were more extreme after Child left CTC, that he was prescribed Ritalin and was sent home with a one-month supply, that Mother did not immediately refill his prescription upon discharge, that "it was obvious" to Child's principal that Child was not on his medication, and that there was at least a one- to two-dose lapse of Child taking his medication.

{48} There was also evidence that Mother had difficulty filling Child's prescription due to a delay with insurance, but that Mother had his medication at the time of removal and provided it to CYFD. The district court

<https://www.nmcompcomm.us>

also heard Child had a difficult time with transitions and Mother sought treatment for Child's behavioral problems continuously beginning when he was a year old up until he was removed by CYFD, including Mother's efforts to secure wraparound services after Child was released from CTC before going into CYFD custody.

{49} This evidence does not establish by clear and convincing evidence that Child was without proper parental care and control necessary to address his medical needs. Indeed, the evidence establishes that Child suffered from severe behavioral health challenges, and Mother identified Child's behavioral issues in early childhood and consistently sought out support and treatment for Child up until the time CYFD took Child into custody. We recognize the district court heard conflicting evidence as to whether Child consistently received his medication during the two-month period he was with Mother from the time he was released from CTC until he was taken into custody by CYFD. Viewing this evidence in the light most favorable to the district court's judgment, as we must, we cannot say that under the circumstances of this case, a few missed doses of Child's ADHD medication during a two-month period, whatever the reason, demonstrates by clear and convincing evidence a serious risk that is likely to result in important or dangerous consequences for Child. It was because of Mother's efforts to obtain treatment for Child that Child was prescribed the medication, and the record indicates that she did refill the medication because she had it for CYFD at the FCM.

{50} We also question whether Child's ADHD medication can be considered absolutely necessary for his well-being in light of our Legislature's express prohibition against CYFD taking a child into custody "solely on the grounds that the child's parent . . . refuses to consent to the administration of psychotropic medication to the child." NMSA 1978, § 32A-4-6(B) (2015).<sup>5</sup> Ritalin is a psychotropic medication.<sup>6</sup> Because the Legislature has clearly stated that a child cannot be taken into CYFD custody for a parent's refusal of treatment by psychotropic drugs, we cannot see how Child's missed doses of Ritalin, whether by Mother's failure

## ► From the New Mexico Supreme Court

<https://www.nmcompcomm.us>

or refusal, can form the basis of neglect of a child’s medical needs.

{51} To be sure, failure or refusal to treat a child’s mental or emotional illness can be the basis for a finding of child neglect. See *In re C\_\_F\_\_B\_\_*, 497 S.W.2d 831, 835 (Mo. Ct. App. 1973) (explaining the duty to provide medical care “extends to . . . treatment for mental and emotional ills”). However, here, considering Mother’s diligent action in seeking treatment and medication for Child from the time he was a year old, the fact that Mother could likely have legally refused to give Child the medication altogether, and the evidence in the record indicating a few lapses in Child’s medication, we conclude that substantial evidence of a clear and convincing nature did not support the district court’s finding that Mother failed to exercise proper parental care and control over Child’s medical needs. Mother did not subject Child to circumstances that created a serious risk to Child’s physical or mental health and safety. Instead, the evidence indicates Child had challenging behavioral issues and Mother exercised appropriate care and control to address those issues by obtaining consistent and appropriate treatment for Child. With the exception of Child’s missed medication, which we do not consider, see Section 32A-4-6(B), CYFD does not point to any failure or refusal on the part of Mother to obtain treatment for Child. Rather, CYFD relies solely on the claim that Child’s behavior was better when he was in the care of CTC than when he was with Mother. While there are myriad reasons this might be the case, some of which have been discussed above, this is not the test set out by our Legislature—a test that balances the interests of the parent and the child and works to “preserve the unity of the family whenever possible.” Section 32A-1-3(A). CYFD has failed to show that Child was medically neglected pursuant to Section 32A-4-2(G)(2).

### 3. The district court’s finding that Mother failed to protect Child from domestic violence was not supported by substantial evidence

{52} As part of the “cumulative evidence” the district court considered in finding Mother neglected Child, the district court found that Mother failed to protect Child from the violence and domestic abuse of Jimmy. The district court expressed that the domestic violence issue was the most concerning among Mother’s failures. The record indicates that the district court based its finding, in significant part, on Mother’s failure to obtain a restraining order against Jimmy.

{53} To be sure, the risk posed by a history of domestic violence combined with a failure to take any action to prevent future instances of domestic violence is serious and may constitute neglect under certain circumstances. *In re Guardianship of Ashleigh R.*, 2002-NMCA-103, ¶ 21, 132 N.M. 772, 55 P.3d 984 (“Evidence of past domestic violence can be relevant in an action for neglect when the abused parent fails to recognize the harm the violence causes the children or refuses to get help in ending the situation.”); see also *Eventyr J.*, 1995-NMCA-087, ¶¶ 22, 24 (reasoning that a parent exposing a child to violence combined with an unwillingness to take action to make the environment safer for the children is relevant to a parent’s neglect and may constitute clear and convincing evidence of neglect); *State ex rel. CYFD v. Tammy S.*, 1999-NMCA-009, ¶ 18, 126 N.M. 664, 974 P.2d 158 (concluding that mother’s failure to follow the treatment plan, along with her subsequent reunification with father “was sufficient evidence that [m]other was unable to protect the children from [f]ather’s abuse or to properly provide for them”). To prove neglect resulting from domestic violence, CYFD must show that the domestic violence renders a parent unable to properly care for

their children. *Amanda H.*, 2007-NMCA-029, ¶ 21 (providing that CYFD must prove “culpability through intentional or negligent disregard of [the c]hild’s well-being and proper needs”); see also 43 C.J.S. Infants § 21 (May 2024 update) (providing “the focus is whether evidence of neglect of one child indicates a fundamental defect in the parent’s understanding of the duties of parenthood”).

{54} We find the Court of Appeals’ decision in *Ashleigh R.* instructive. In *Ashleigh R.* the Court of Appeals applied the neglect standard set out in Section 32A-4-2(G)(2) to determine whether a mother was unfit in a custody dispute between the mother and the grandparents of mother’s two children. 2002-NMCA-103, ¶¶ 20-21. The Court of Appeals heard evidence of incidents of domestic violence between the mother and the children’s father in their home, as well as evidence that the mother and her second husband “experienced domestic problems” requiring the mother to spend a week in a women’s shelter. *Id.* ¶ 21. Acknowledging that domestic violence could support a finding of neglect “when the abused parent fails to recognize the harm the violence causes to the children or refuses to get help in ending the situation,” the Court of Appeals concluded that the children were not neglected under the facts of that case. *Id.* ¶ 21. The *Ashleigh R.* Court explained that the domestic violence occurred four years prior to the hearing while parents were still married and living together. There was no evidence the children were present or witnessed these incidents. *Id.* Further, “there was no evidence of continuing abuse” in the relationship between the mother and her second husband. *Id.* The *Ashleigh R.* Court concluded that “the district court’s finding that some incidents of domestic violence have occurred in [m]other’s home does not support a finding that [m]other has been neglectful of her children.” *Id.*

<sup>5</sup> Section 32A-4-6(B) was amended by Chapter 41, Section 48 of New Mexico Laws of 2022, 2nd Session, but the quoted provision was in effect at the relevant time and the amendment does not change this language.

<sup>6</sup> See Commonly Prescribed Psychotropic Medications Fact Sheet, <https://www.nami.org/About-Mental-Illness/Treatments/Mental-Health-Medications/types-of-medication/methylphenidate-or-dexamethylphenidate-concentra-ritalin-and-others/> (last visited Sept. 26, 2024); <https://www.jber.jb.mil/Portals/144/Services-Resources/Resiliency-Resources/PDF/SelfCareTipSheets/Common%20psychotropics.pdf> (last visited Sept. 27, 2024).

## ► From the New Mexico Supreme Court

{55} Here, the district court was presented with evidence of a single incident of domestic violence in Mother’s home for which Child was not present. We acknowledge that Child’s sisters were present during the September 2018 domestic violence incident, and evidence of abuse or neglect of other children can support a finding of neglect of a sibling. *See Shawna C.*, 2005-NMCA-066, ¶ 26 (acknowledging that harm to other children can be considered in finding neglect of another child). However, nothing in the record indicates that Child’s sisters witnessed the domestic violence, or that they were physically abused by Jimmy.

{56} As we evaluate Mother’s interactions with Jimmy and whether her failure to obtain a restraining order showed a “fundamental defect” in her parenting, *see* 43 C.J.S. Infants § 21, we find two facts, in addition to those set out above, particularly relevant. First, CYFD acknowledged at the hearing that at no time did it put a safety plan in place requiring Mother to refrain from contact with Jimmy or to seek services for domestic violence. And while CYFD was concerned that Mother did not file a restraining order following the September 2018 incident, the record reflects only that CYFD told Mother “it would probably be a good idea to get a restraining order, if she was going to get one,” and CYFD’s witness did not know if Mother was given any more information about how to get a restraining order. *See State ex rel. CYFD v. Joseph M.*, 2006-NMCA-029, ¶ 20, 139 N.M. 137, 130 P.3d 198 (deeming it “noteworthy that no treatment plans were ever formulated or implemented in this case” for the father to leave the mother, and the “[f]ather was never specifically and pointedly told that a failure to separate from [m]other could constitute a basis for terminating his rights as a parent because that relationship rendered him unable to properly care for his children”). We can only conclude from this information that CYFD did not consider this single instance of domestic violence a serious threat to the well-being of Child, and instead found it to be a vague inference of future harm. *Shawna C.*, 2005-NMCA-066, ¶ 22.

{57} While the CYFD investigator testified that she knew Mother had a history of do-

mestic violence, it was “with other people,” and the record is devoid of information about these events, including when these instances occurred, whether Child or his sisters were present for any of these other instances, and what steps Mother took to protect Child and his sisters from further violence. The CYFD investigator did make a statement that there was a “history of DVM [domestic violence]” between Mother and Jimmy, that Mother still had contact with Jimmy, and that she did not provide CYFD with Jimmy’s contact information; however, there is nothing in the record indicating a history of domestic violence other than the September 2018 incident. Therefore, like in *Ashleigh R.*, CYFD’s evidence of domestic violence did not support a finding that Mother failed to protect Child from the abuse and violence of Jimmy when the record shows that there was a single incident, Child was not present, and there was no evidence of any ongoing abuse.

{58} Our conclusion in no way is meant to excuse or minimize the traumatic and deleterious effects of domestic violence on children and families. In this case, however, CYFD has failed to show how this single instance, outside the presence of Child, that resulted in neither a safety plan nor a requirement for a restraining order from CYFD, rises to the level of clear and convincing evidence of neglect.

#### **4. The district court’s finding that Mother failed to maintain a safe and stable home is not supported by substantial evidence**

{59} The district court also found Mother failed to maintain a safe and stable home for Child. The district court explained that “this really is kind of a dirty home case,” and found Mother failed in this respect because “[s]he was told she needed to clean it up, and a couple of months later it was worse.” But the evidence did not support the district court’s finding for two reasons. First, the district court’s statements indicate that it misunderstood the facts presented, undermining the district court’s factual findings. Second, CYFD did not connect the conditions of the home to the risk of harm to or well-being of Child, more than would support a mere speculation of harm. *Shawna C.*, 2005-NMCA-066, ¶ 22 (provid-

<https://www.nmcompcomm.us>

ing that speculation of harm is insufficient to support a finding of neglect).

#### **a. Inaccurate facts**

{60} The record indicates that the district court misapprehended or failed to accurately recall the testimony related to alleged unsafe conditions in the home when it ordered the removal of Child. As explained above, the adjudication proceedings were broken up over two days with a three-month gap between the two hearings. The testimony presented focused on two separate instances when CYFD visited Mother’s home—one in September 2018 and the second two months later in November 2018. During the second hearing, the district court judge summarized the testimony from the previous hearing, three months earlier. In doing so, he misstated that it was in September when CYFD first expressed safety concerns with the cleanliness of the home, including its concern that a steak knife had been left out where Child could reach it. He also stated that CYFD had safety concerns in September about the babysitters with whom mother left the children. While CYFD clarified that the children were left with the babysitters two months later, in November, CYFD did not correct the district court judge’s other misunderstandings regarding the timing of CYFD’s concerns about the condition of the home and the knife incident.

{61} In fact, the district court judge heard testimony at the first hearing that, while CYFD initially thought the home was “a little messy,” it was not concerned about the condition of the home in September. Rather, it was not until after CYFD’s second visit in November that it expressed concern with the home. This factual mistake is significant because the district court, and ultimately the Court of Appeals, charged Mother with being on notice and failing to remedy the uncleanness of her home for two months, when, in reality, CYFD had not expressed concern with the condition of the home until November, giving Mother only one day to address CYFD’s cleanliness concerns. *See Heather S.*, A-1-CA-38614, mem. op. ¶ 17 (reasoning in part that substantial evidence supported the district court’s determination of neglect because Mother was “warned” about the conditions in September and failed to act).

## ► From the New Mexico Supreme Court

<https://www.nmcompcomm.us>

### b. Risks of harm merely speculative

{62} At the adjudication hearings CYFD identified four conditions in Mother’s home as presenting a danger to Child’s well-being: the steak knife left on the kitchen table; an exposed electrical socket; the clothes, trash, and car parts scattered throughout the yard and home; and the overall dirty nature of the home.

{63} With regard to the steak knife, Child and his siblings were asleep when CYFD found the knife on the kitchen table, and nothing in the record suggests Child had an opportunity to access it. And the testimony at trial did not indicate how long the socket had been without a plate, where this socket was, or whether it was accessible to Child, making it impossible to determine whether the risk of harm to Child was more than speculative. *See Shawna C.*, 2005-NMCA-066, ¶ 22.

{64} While the tire rim in Child’s room, the piles of clothing, and the car parts in the front yard present some risk of harm—Child could trip on the car parts or clothing and it might be more difficult to get out of house in an emergency—these risks, alone, are not sufficient to require Child’s removal. The regulations governing CYFD require that it “shall make reasonable efforts to maintain the family unit and prevent the removal of a child from their home, as long as the child’s safety is assured.” 8.10.3.16(A) NMAC. These conditions of the home here may have warranted some intervention by CYFD, *see* 8.10.6.9(A), (B) NMAC (explaining a family is eligible for in home services without regard to income, when the child is conditionally safe and the risk of harm is moderate or high, and even when the child is unsafe, but the risks of harm are low), but CYFD failed to explain how the risk rose to the level of a serious risk that is likely to result in important and dangerous consequences to Child rather than a mere speculation of harm. *Shawna C.*, 2005-NMCA-066, ¶ 22 (providing that speculation of harm is insufficient to support a finding of neglect). Indeed, the testimony at trial indicated that when CYFD returned to inspect the house the day after removing Child, there was still work to be done, but Mother had cleaned the living room and Child’s room, suggesting that with the

notice erroneously attributed to her by the district court after CYFD’s September visit, Mother was prepared to remedy the concerns about the home expressed by CYFD. {65} In sum, the condition of Mother’s home may have warranted some intervention. *See* 8.10.6.9(A), (B) NMAC. However, substantial evidence does not support the district court’s finding that Mother failed to maintain a safe and stable home such that it created a serious risk to Child’s physical or mental health or safety. This is reinforced by the fact that Mother worked to resolve the issues with only one day’s notice, getting the home “pretty clean.” We cannot say that the risk of harm to Child was a serious risk that was likely to result in important or dangerous consequences. Instead the safety risks were merely speculative.

### c. The district court’s finding that Mother failed to meet Child’s educational needs is not supported by substantial evidence

{66} The district court found “that there was some educational neglect” based on Child’s absences and tardies, and that the amount of missed school was not acceptable, and negatively impacted Child. At trial, the district court heard testimony that Child was absent twelve days and tardy fifteen days during the first trimester. Of those absences and tardies, three absences and four tardies occurred during the forty-four days Child was at CTC, with the rest occurring while he was in Mother’s care. Child’s teacher testified that the absences affected Child academically and socially. Child’s principal testified that when she spoke with Mother about Child’s attendance, Mother explained that she and Child lived out-of-district and Mother had transportation issues she was trying to resolve.

{67} Child’s absences and tardies while he was with Mother are concerning. However, we cannot conclude by clear and convincing evidence that the absences and tardies affected Child such that they created a serious risk to Child’s mental or physical health or safety likely to result in important or dangerous consequences for Child. First, in reaching its decision, the district court based its conclusion on the thirty-six school days from the time Child returned from CTC to the time CYFD removed him from

Mother’s home. CYFD has failed to explain why Child’s poor attendance over this short period of time is likely to have such deleterious effects on Child and creates such a serious risk that removal, rather than other remedies, such as those available under the Attendance for Success Act, are appropriate. *See* NMSA 1978, §§ 22-12A-1 to -14 (2019) (requiring public schools to “provide interventions to students who are absent or chronically absent,” including “services or goods that a student or the student’s family needs to assist the student to stay in school and succeed,” Section 22-12A-8(E)(8)).

{68} The district court also relied on the testimony of Child’s teacher that Child’s absences and tardies impacted him academically and socially. Child’s teacher, however, did not explain how those absences and tardies, over the short period of time involved, created a serious risk to Child’s mental or physical health. While we do not doubt that the absences affected Child, we have no evidence to suggest Child could not recover from these impacts or that they would have important or dangerous consequences for him. Further, the evidence presented to the district court indicated that, notwithstanding Child’s tardies and absences, Mother was engaged with Child’s educational needs. She promptly came to the school on the occasions when Child had a behavioral outburst and each time expressed her concern with Child’s behavior. When she was not able to get him to school on time, she would walk him to the office to check him in and then walk him to class. Absent clear and convincing evidence of a serious risk to Child, which is not present here, removal and foster care should not be CYFD’s first course of action and Child cannot be adjudicated neglected.

{69} Even if we were to conclude that sufficient evidence existed to find that Mother failed to provide proper parental care and control over Child’s education, CYFD did not present clear and convincing evidence to show that Mother’s failure to satisfy Child’s educational needs was Mother’s fault and not due to circumstances beyond her control. *See Amanda H.*, 2007-NMCA-029, ¶ 22 (explaining “the burden [is] on CYFD to establish that Child was neglected by clear and convincing evidence”); *Shawna*

## ► From the New Mexico Supreme Court

C., 2005-NMCA-066, ¶ 28 (explaining the fault requirement is not satisfied when a child is without “proper parental care and control due to circumstances beyond that parent’s control or where a parent is acting reasonably”); *see also* Jacqueline D. Stanley, J.D., 32 Am. Jur. 3d *Proof of Facts* § 6 cmt (September 2024 update) (“It is inappropriate for a court to find that parents have neglected their children in the face of evidence that the parents are using the resources at their disposal and making reasonable efforts to provide for the needs of their children.”). The only evidence presented to explain Child’s absences and tardies came from Child’s principal. Child’s principal testified that Mother and Child lived out-of-district and Mother explained that she had transportation issues she was trying to resolve. CYFD did not present evidence that Mother was disinterested or disengaged from Child’s education, or that she refused to bring him to school. Instead, the evidence indicated that she walked him to class when he was tardy and was always responsive when she was contacted by the

school. The evidence presented to the district court does not “instantly tilt the scales in the affirmative when weighed against the evidence in opposition and the fact finder’s mind is left with an abiding conviction that” Child’s absences and tardies were due to the faults and failures of Mother. *See Eventyr J.*, 1995-NMCA-087, ¶ 2 (internal quotation marks and citation omitted).

{70} While the district court did not discuss the effect that poverty had on Mother and her ability to provide proper care and control necessary for Child’s well-being, the record makes clear that in this instance, Mother was impacted by poverty. CYFD investigators testified about children’s tattered shoes and dirty clothes and Mother and Child’s principal both explained that Mother lacked reliable transportation. *See State v. Chavez*, 2009-NMSC-035, ¶ 35, 146 N.M. 434, 211 P.3d 891 (citation omitted) (relying on what was apparent from record to conclude that certain environmental “conditions evidence[d] poverty”). In *Chavez*, Justice Bosson, addressing a charge of child endangerment, explained that these

<https://www.nmcompcomm.us>

are cases “where the family struggled with poverty, and our ultimate goal should be to assist, rather than to punish, that status.” *Id.* ¶ 43. This is equally true in instances of alleged abuse and neglect. “[P]overty . . . [does not] equate to neglect.” *Shawna C.*, 2005-NMCA-066, ¶ 30. “[T]he Act does not permit a court to find abuse or neglect based solely on a parent’s status.” *Id.* Instead, CYFD must show “that [m]other’s status renders her unable to care for [c]hild.” *Id.* Here, CYFD failed to make such a showing.

### III. CONCLUSION

{71} For the foregoing reasons, we reverse the Court of Appeals and remand to the district court to vacate the adjudication of neglect and dismiss the petition.

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

**JULIE J. VARGAS, Justice**

**WE CONCUR:**

**DAVID K. THOMSON, Chief Justice**

**MICHAEL E. VIGIL, Justice**

**C. SHANNON BACON, Justice**

**JOSHUA A. ALLISON, Judge**

**Sitting by designation**

# FORMAL OPINION

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

**Filing Date: 2/13/2025**

**No. A-1-CA-40877**

**TRIPLE R DEVELOPMENT LLC,**

Plaintiff-Appellee,

v.

**ANTHONY STINEBAUGH and  
UNKNOWN OCCUPANTS,**

Defendants-Appellants.

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

Erin B. O'Connell, District Court Judge

Saucedo Chavez, P.C.

Daniel C. Apodaca

Albuquerque, NM

for Appellee

New Mexico Legal Aid

Corinna Laszlo-Henry

Las Vegas, NM

for Appellants

## ► Introduction of Opinion

This appeal stems from Plaintiff Triple R Development, LLC's, attempts to gain possession of a home in which Defendant Anthony Stinebaugh was residing. Following a trial, the metropolitan court granted Plaintiff possession of the home through a forcible entry or unlawful detainer. Defendant appealed to the district court but the appeal was dismissed and the district court issued a writ for forcible entry or unlawful detainer. Defendant appeals to this Court. In this appeal, Defendant advances two arguments: (1) the metropolitan and district courts erred in exercising jurisdiction over this matter; and (2) the appellate process Defendant was afforded was insufficient. Because a question of title was directly and necessarily involved in resolving the question of possession, the metropolitan court lacked jurisdiction over the matter. We accordingly reverse and remand the case to the metropolitan court with instructions to dismiss the petition by owner for writ of restitution.

Gerald E. Baca, Judge

WE CONCUR:

Jennifer L. Attrep, Chief Judge

Jacqueline R. Medina, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-40877>

# FORMAL OPINION

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

**Filing Date: 2/20/2025**

**No. A-1-CA-40788**

**STATE OF NEW MEXICO,**

Plaintiff-Appellee,

v.

**BRYAN KEITH BERRY,**

Defendants-Appellant.

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

Lee A. Kirksey, District Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

Meryl E. Francolini, Assistant Solicitor General

Albuquerque, NM

for Appellee

Bennett J. Baur, Chief Public Defender

Joelle N. Gonzales, Assistant Appellate Defender

Santa Fe, NM

for Appellant

## ► Introduction of Opinion

Defendant appeals his conviction for one count of second-degree criminal sexual contact of a minor (CSCM), contrary to NMSA 1978, Section 30-9-13(B)(1) (2003). Before trial, the district court found, “the evidence presented establishes that the child-victim [(Child)] in this case cannot testify without suffering unreasonable harm pursuant to Rule 5-504 NMRA.” As a result, the district court ordered the State to take Child’s testimony at a videotaped deposition but did not allow Defendant to be physically present in the room during the proceeding. At trial, Child’s deposition was substituted for her in-court testimony, and Defendant did not object. On appeal, Defendant challenges the district court’s conclusions that these special procedures were justified under the circumstances and argues that as a result of these procedures, he was denied the right under the Sixth Amendment to the United States Constitution to confront and cross-examine his accuser. We hold that the district court’s factual findings were supported by substantial evidence and justified the conclusion that a videotaped deposition was necessary under the circumstances. **View full PDF online.**

Katherine A. Wray, Judge

WE CONCUR:

Jacqueline R. Medina, Judge

Shammara H. Henderson, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-40788>

# MEMORANDUM OPINION

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

**No. A-1-CA-41040**  
**State of New Mexico**  
v.  
**Jason Henderson**

## Introduction of Opinion

Defendant Jason Henderson was convicted of criminal sexual penetration (CSP) in the second degree (armed with a deadly weapon) (Count 1), NMSA 1978, § 30-9-11(E)(6) (2009); CSP in the second degree (results in personal injury) (Count 2), § 30-9-11(E) (3); aggravated battery against a household member (strangulation or suffocation) (Count 3), NMSA 1978, § 30-3-16(C)(3) (2018); and aggravated battery against a household member (deadly weapon) (Count 4), § 30-3-16(C)(2). Defendant challenges his convictions, arguing that (1) the convictions violate his right to be free from double jeopardy; and (2) the district court committed reversible error by allowing the jury to view K.D. (Victim) testify with the assistance of a service dog. **View full PDF online.**

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

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-41040>

**No. A-1-CA-41000**  
**Kathy Miller**  
v.  
**Matthew Miller**

## Introduction of Opinion

This is an action for injunctive relief and damages brought by Kathy Miller, as trustee of the three Miller Family Trusts and Personal Representative of the Estate of Joseph F. Miller (collectively, Plaintiff), against Matthew Miller (Defendant). Kathy Miller is Defendant's sister, and Plaintiff and Defendant, along with other family members, are beneficiaries of the trusts and of the estate of their father, Joseph Miller. On appeal, Defendant challenges the district court's dismissal of his counterclaims as a sanction for Defendant's repeated failure to comply with court orders requiring him to vacate trust and estate property, as well as challenging contempt orders entered earlier in the case. **View full PDF online.**

Jane B. Yohalem, Judge  
WE CONCUR:  
Jennifer L. Attrep, Chief Judge  
Jacqueline R. Medina, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-41000>

**No. A-1-CA-41230**  
**David S. Peterson**  
v.  
**Vince Horton**

## Introduction of Opinion

Plaintiff David S. Peterson appeals the district court's order dismissing his claim under the New Mexico Inspection of Public Records Act (IPRA or the Act), NMSA 1978, §§ 14-2-1 to -12 (1947, as amended through 2023), against Defendants Vince Horton (Warden Horton), GEO Group, Inc. (GEO Group), and the Guadalupe County Correctional Facility (GCCF). On appeal, Plaintiff argues that GCCF is a public body for the purposes of IPRA and therefore is a proper party to this action and that GEO Group and Warden Horton collectively are custodians of public record for the purpose of IPRA. We determine that the record does not contain sufficient evidence to conclude that GCCF is a public body and the district court erred in dismissing this case on those grounds. **View full PDF online.**

Kristina Bogardus, Judge  
WE CONCUR:  
Jacqueline R. Medina, Judge  
Shammar H. Henderson, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-41230>

# SPRING **PARNALL** LAW **Hurt? Call BERT.**



## INTO YOUR NEW CAREER



Calling Experienced **Senior** Attorneys  
and Enthusiastic **Junior** Attorneys!



### Competitive Compensation

Base salary and performance-based bonuses paid out twice monthly



### Dedicated Support Teams

Over 100 employees in Intake, Case Management, Investigation, etc.



### Work/Life Balance

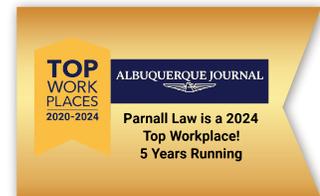
PTO and Paid Sick Leave  
Annual Firm Goal Trip

Apply Online at:

[HurtCallBert.com/Attorney-Careers](https://HurtCallBert.com/Attorney-Careers)



**Join us!**  
We are the **LARGEST**  
and *Most Highly Reviewed*  
**Personal Injury Law Firm**  
in New Mexico!



# \$25,000 hiring bonus\*



\*for senior attorney candidates;  
\$10,000 hiring bonus for junior attorneys



Scan to Apply!

# WORK. LIFE. EFFORTLESSLY BLENDED.



Discover Heritage Ascent, a co-working space designed to enhance productivity and balance. Our executive suites and co-working spaces combine sophisticated design with modern amenities and flexible agreements.

Two Premier Locations in the WAFD Bank Building Downtown and Park Square at Uptown

Daily, Monthly and Long-term Agreements

Onsite Retail, Food, Beverage and Other Amenities



505.264.5185 · [www.heritagerec.com](http://www.heritagerec.com)

ANNUAL  
**2025**  
PASS

Pre-pay  
12 credits  
for only \$485

Lock in  
YOUR  
savings!

Credits must be redeemed by:  
Dec. 31, 2025

Contact us for more info:  
[cleonline@sbnm.org](mailto:cleonline@sbnm.org)

Save almost 18% over  
regular prices!



New Mexico State Bar Foundation  
Center for Legal Education

Redeemable on Center for  
Legal Education courses only.

Exclusions: No teleseminar or other third-party  
content. No refunds or roll-over of unused credits.

“Alongside a good trial lawyer is...”

**DP&S**

DURHAM, PITTARD & SPALDING, L.L.P.

Justin R. Kaufman  
Caren I. Friedman  
Rosalind B. Bienvenu  
Philip M. Kovnat

Appeals & Strategic Litigation Support

505 Cerrillos Road, Suite A209

Santa Fe, NM 87501

505.986.0600

[dpslawgroup.com](http://dpslawgroup.com)



# MICHAEL ROSS

## Mediations

- 25 Years of Experience
- Zoom or In-Person
- Flat Rate Available
- Personal Injury and Insurance
- Commercial Disputes

📞 (505) 888-8888

✉ [mike@abogadoelias.com](mailto:mike@abogadoelias.com)



formerly operating as



We shop up to 22 professional liability insurance companies to find the right price and fit for your law firm.

### Make sure your insurance policy has:

- ▮ Prior acts coverage, to cover your past work.
- ▮ Claim expenses outside the limit of liability, no PacMan.
- ▮ "A" rating from A.M. Best, important, some companies are NOT!
- ▮ Free tail options for retiring attorneys.

### Come see us at our new location!

📍 5501 Eagle Rock Ave NE a2, Albuquerque, NM 87113  
📞 833-263-0300

# Slattery Trial Consulting

## Experience & Expertise

Trial Strategies  
Jury Selection  
Trial Monitoring

**William P. Slattery**

[slatterytrialconsulting.com](http://slatterytrialconsulting.com)

505 470 0237

## SOCIAL SECURITY DISABILITY

Accepting referrals of cases waiting for a hearing  
before an Administrative Law Judge

Gary J. Martone, Attorney at Law  
(505) 228-5871

## MEDIATION SERVICES

— Zoom Statewide —

Hon. William A. Sanchez, Ret.

44 years Legal Experience  
21 years District Judge

Sanchez Settlement & Legal Services  
sanchezsettled@gmail.com • (505) 720-1904



### 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.

### In-House Attorney

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

# Classified

## Positions

### 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](mailto:contact@nmpovertylaw.org).

### Lawyer

Want to work reasonable hours in a small, collegial office? Looking for an accelerated partnership track? New Mexico Probate & Estate Lawyers is a 3-lawyer probate and estate law firm that emphasizes effective legal representation and good customer service without compromising quality of life. Our skilled, well-regarded lawyers (Kevin Holmes, David Ferrance, and Eric Ortiz) are looking for a lawyer to join them in contested and uncontested probate, trust, and estate cases. We are open to flex and hybrid working arrangements and full-time or part-time work. All forms of pay arrangements will be considered. For the right candidate, partnership consideration will happen in as few as two years. Candidate must have experience in probate and estate cases or civil litigation (ideally both). Please send a resume and brief letter of interest to [kevin@nmprobatelaw.com](mailto:kevin@nmprobatelaw.com). All inquiries will be kept strictly confidential.

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

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

### **City of Albuquerque Assistant City Attorney**

The City of Albuquerque Legal Department is seeking an Assistant City Attorney to join the Land Use and Enforcement ("LUE") division. The LUE division advises numerous departments as they enforce a wide range of the City's ordinances, including ordinances concerning housing standards, nuisance abatement, and animal treatment. In addition to advising departments, the LUE division represents the City in administrative hearings, in criminal prosecutions in Metro Court, and in civil matters in District Court. Responsibilities will include advising clients, boards, and commissions, drafting legal memoranda, and representing the City in administrative, criminal, and civil matters. For more information or to apply please send a resume and writing sample to Angela Aragon at amaragon@cabq.gov.

### **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).

### **Associate Attorney**

Long, Komer & Associates, P.A. is a well-established law firm located in Santa Fe, New Mexico. Our law firm is seeking a full-time associate attorney with a preference for 3 years of civil litigation or more and excellent research and writing skills. Qualified applicants must have experience conducting legal research, drafting of memos and briefs, with preferred experience in attending depositions and court proceedings. Experience with transactional matters is also preferred. This is a full time in-office position located in Santa Fe, New Mexico, although some remote work may be considered. The firm offers employee health and dental insurance, competitive salary, vacation and sick leave, and a 401(K). Please submit resume and writing sample to [amelia@longkomer.com](mailto:amelia@longkomer.com)

### **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.

### **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

### **Litigation Attorney**

Jennings Haug Keleher McLeod Waterfall, an AV-rated regional law firm, is seeking a full-time litigation attorney with 2 to 5 years of litigation experience to join a busy and varied general civil litigation practice in the Albuquerque office. Must be currently licensed to practice law in the state of New Mexico. Experience with depositions and court appearances is a plus, legal analysis and excellent research and writing skills are required. All inquiries will be held in strict confidence. The firm offers a competitive salary and benefits with a professional working environment. Please see www.jkwlawyers.com for further information about the firm. Please email your cover letter, resume, and writing sample to Nathan Stimson at nss@jkwlawyers.com.

### **Attorney**

The NM Department of Workforce Solutions is seeking an attorney to support the Labor Relations Bureau by interpreting laws and regulations that impact the agency and enforcing decisions issued by the Bureau. Additionally, this position will prepare materials for external customers and review constituent correspondence. The ideal candidate has 3-5 years' experience in government practice, a strong understanding of Labor Relations laws and regulations, as well as practical experience in litigation and collections. Must be licensed as an attorney by the Supreme Court of New Mexico.

---

**Division Director of Consumer Protection - New Mexico Department of Justice**

Lead our efforts to protect New Mexico citizens and safeguard their rights and interests by fighting fraudulent practices through the enforcement of consumer protection laws. The New Mexico Department of Justice is seeking a dynamic and experienced litigator to join our team as the Division Director for Consumer Protection. As the Director, you will be responsible for overseeing and managing legal matters related to consumer protection laws and regulations. The Director will work closely with the Attorney General, Chief Deputy Attorney General, and other members of our seasoned team of attorneys and legal professionals to develop and execute strategic litigation initiatives. Qualifications include having a Juris Doctor (J.D.) degree from an accredited law school; Admission to the New Mexico state bar and in good standing or the ability to acquire a limited law license; 6 years of experience in litigation, with a demonstrated focus on affirmative litigation and 3 years of management experience preferred; Strong knowledge of consumer protection law, and other relevant legal areas; Proven track record of developing and executing successful litigation strategies; Excellent leadership and management skills, with the ability to inspire and motivate a team of attorneys and legal professionals; Outstanding legal research, writing, and oral advocacy skills; Strong analytical and problem-solving abilities; Ability to work effectively under pressure, prioritize tasks, and meet deadlines; Exceptional interpersonal and communication skills, with the ability to collaborate effectively with diverse stakeholders; Demonstrated commitment to social justice, equality, and public interest law. To apply please submit the following documents to Tim Maestas at [recruiting@nmdoj.gov](mailto:recruiting@nmdoj.gov): Cover letter detailing your interest in the role and your relevant experience; Resume/CV with a detailed overview of your educational and professional background; Writing samples showcasing your legal research and writing abilities; Contact information for three professional references. If you have questions, please reach out to Tim Maestas at [tmaestas@nmdoj.gov](mailto:tmaestas@nmdoj.gov).

**IPRA Attorney – New Mexico Department of Justice**

The New Mexico Department of Justice seeks a dynamic and experienced individual to join our team as an attorney for fulfilling Inspection of Public Records Act (IPRA) requests. The IPRA Attorney is responsible for overseeing and managing legal matters related to IPRA requests for our office. Their primary focus is the timely, efficient, and effective processing of requests to inspect public records. The IPRA Attorney works closely with the Special Counsel for the Attorney General, Deputy Attorney General for Civil Affairs, and Director of Government Counsel & Accountability and collaborates with attorneys and legal professionals throughout the Department. Qualifications include have a Juris Doctor (JD) degree from an accredited law school; Admission to the New Mexico state bar and in good standing or the ability to acquire a limited law license; Minimum of 4 years of experience in the practice of law; Strong knowledge of IPRA law, and other relevant legal areas; Excellent leadership and management skills, with the ability to inspire and motivate a team of attorneys and legal professionals; Outstanding legal research, writing, and oral advocacy skills; Strong analytical and problem-solving skills; Ability to work effectively under pressure, prioritize tasks, and meet deadlines; Exceptional interpersonal and communication skills, with the ability to collaborate effectively with diverse stakeholders; Demonstrated commitment to public service law; 6 years of experience in litigation, with demonstrated experience processing IPRA requests and 3 years of management experience preferred. To apply please submit the following documents to Tim Maestas at [recruiting@nmdoj.gov](mailto:recruiting@nmdoj.gov): Cover letter detailing your interest in the role and your relevant experience, Resume/CV with a detailed overview of your educational and professional background, Writing samples showcasing your legal research and writing abilities, Contact information for three professional references. If you have any questions please contact Tim Maestas at [tmaestas@nmdoj.gov](mailto:tmaestas@nmdoj.gov).

**Litigation Counsel - New Mexico Department of Justice**

The New Mexico Department of Justice seeks a high-performing, experienced litigation attorney to join its Impact Litigation Division. Our mission is to uphold the rule of law and protect vulnerable residents of New Mexico when they are unable to protect themselves. Our focus is on complex civil matters aligned with the Attorney General's priorities, such as challenging unlawful federal actions relating to immigration, reproductive rights, environmental protection, privacy, and voting rights. We also pursue claims against social media companies and corporations that harm or exploit children and other consumers. Qualifications include having a Juris Doctor (J.D.) degree from an accredited law school; Admission to the New Mexico state bar and in good standing or ability to acquire a limited law license; 3 to 6 years of experience in complex litigation, with an emphasis on consumer protection, civil rights, or immigration law; Strong knowledge of relevant state and federal laws and regulations; Proven track record of developing and executing successful complex litigation strategies; Excellent leadership and management skills, with the ability to inspire and motivate a team of attorneys and legal professionals; Outstanding legal research, writing, and oral advocacy skills; Strong analytical and problem-solving abilities; Ability to work effectively under pressure, prioritize tasks, and meet deadlines; Exceptional interpersonal and communication skills, with the ability to collaborate effectively with diverse stakeholders; Demonstrated commitment to social justice, equality, and public interest law. To apply please submit the following documents to Tim Maestas at [recruiting@nmdoj.gov](mailto:recruiting@nmdoj.gov): Cover letter detailing your interest in the role and your relevant experience; Resume/CV with a detailed overview of your educational and professional background; Writing samples showcasing your legal research and writing abilities; Contact information for three professional references. If you have questions, please reach out to Tim Maestas at [tmaestas@nmdoj.gov](mailto:tmaestas@nmdoj.gov).

### **Senior Litigation Counsel – New Mexico Department of Justice**

The New Mexico Department of Justice seeks a high-performing, experienced litigation attorney to join its Impact Litigation Division. Our mission is to uphold the rule of law and protect vulnerable residents of New Mexico who are unable to protect themselves. The team focuses on complex civil matters involving the priorities of the Attorney General, such as challenging unlawful federal actions related to immigration, reproductive rights, environmental protection, privacy, and voting rights. The division also pursues claims against social media companies and other large corporations that harm or exploit children and other consumers. The ideal candidate will have seven or more years of experience in complex litigation, with an emphasis on consumer protection, civil rights, or immigration law, and a commitment to working collaboratively in a fast-paced, high-stakes environment. Qualifications include having a Juris Doctor (J.D.) degree from an accredited law school; Admission to the New Mexico state bar and in good standing, or the ability to acquire a limited law license; Seven (7) or more years of experience in complex litigation, particularly in consumer protection, civil rights, or immigration law; Proven track record of developing and executing successful litigation strategies; Excellent legal research, writing, and oral advocacy skills; Strong analytical and problem-solving abilities; Ability to thrive under pressure, prioritize tasks, and meet deadlines; Exceptional interpersonal and communication skills, with the ability to collaborate effectively with diverse stakeholders; Demonstrated commitment to social justice, equality, and public interest law. To apply please submit the following documents to Tim Maestas at [recruiting@nm DOJ.gov](mailto:recruiting@nm DOJ.gov): Cover letter detailing your interest in the role and your relevant experience; Resume/CV with a detailed overview of your educational and professional background; Writing samples showcasing your legal research and writing abilities; Contact information for three professional references. If you have questions, please reach out to Tim Maestas at [tmaestas@nm DOJ.gov](mailto:tmaestas@nm DOJ.gov).

### **Associate General Counsel**

New Mexico State University (NMSU) seeks a highly efficient, organized and productive attorney to serve as Associate General Counsel. The selected candidate will report to the General Counsel and work with other university attorneys, outside counsel and university administrators. The successful candidate will be responsible for timely responding to public records disclosure requests (IPRA), subpoenas, and discovery requests. Additionally, the incumbent will work on employment, state procurement and contracting matters, as well as intellectual property and other business transactions. Other matters may include civil rights, public entity law, academic and student affairs, litigation support and other higher education issues. This position requires excellent writing skills, good business judgment, and the ability to work under limited supervision. NMSU is an equal opportunity and affirmative action employer. Select the link for complete job announcement and apply: <http://careers.nmsu.edu/cw/en-us/job/500960> Requisition No. 500960

### **Litigation Attorney**

Priest & Miller LLP is seeking an experienced litigation attorney to join our team. Priest & Miller is a dynamic defense firm that handles complex cases involving claims of medical negligence, wrongful death, catastrophic injury, long-term care, and oil and gas accidents. We are seeking attorneys with 3+ years of experience and who will thrive in a collaborative, flexible and fast paced environment. We offer highly competitive salaries and a generous benefits package. All inquiries will be kept confidential. Please email your resume to [Resume@PriestMillerLaw.com](mailto:Resume@PriestMillerLaw.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](mailto:jstiff@stiffllaw.com) or Karen Arrants, [karrants@stiffllaw.com](mailto:karrants@stiffllaw.com)

### **Associate Attorney**

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

### **Associate Attorney Position**

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

### **Judicial Assistant**

A United States Circuit Judge on the Court of Appeals for the Tenth Circuit is seeking qualified applicants to serve as a Judicial Assistant. This position is a full-time position within chambers and is responsible for managing the daily operation of chambers as well as providing administrative support to the judge. For the full announcement and application instructions, please visit: <https://www.ca10.uscourts.gov/hr/jobs>

### **City of Albuquerque Assistant City Attorney**

The City of Albuquerque Legal Department is seeking an attorney to join the Albuquerque Police Department (APD) General Counsel division. Attorneys in this division advise APD regarding policies and procedures, review uses of force, draft legal opinions, review memoranda of understanding, review grant applications and other assignments as needed. This position includes working closely with APD Internal Affairs on use of force investigations, including officer-involved-shootings, and the APD policy unit. Familiarity with criminal and constitutional law 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).

### **City of Albuquerque Assistant City Attorney**

The City of Albuquerque Legal Department is seeking an Assistant City Attorney in the Employment and Labor Division. The Employment and Labor Division handles employment and labor litigation in New Mexico State and Federal Courts, before the City of Albuquerque Personnel Board, and before the City of Albuquerque Labor Board. This position provides general counsel to City departments, conducts legal research, and handles cases from inception to completion, including but not limited to, motions practice, depositions, case analysis, mediations, trials, and appeals. For more information or to apply please send a resume and writing sample to Angela Aragon at [amaragon@cabq.gov](mailto:amaragon@cabq.gov).

### **City of Albuquerque Assistant City Attorney**

The City of Albuquerque Legal Department is seeking an Assistant City Attorney in its Litigation Division. The Litigation Division defends claims brought against the City and its employees. The position will provide a variety of legal services in handling cases from inception to completion including, but is not limited to, answering complaints, discovery, legal research, motions practice, depositions, case analysis, mediations, negotiations, trials, and appeals. For more information or to apply please send a resume and writing sample to Angela Aragon at [amaragon@cabq.gov](mailto:amaragon@cabq.gov).

### **Director of Student & Career Services**

The UNM School of Law invites applications for the position of Director of Student & Career Services. The Director works with and provides direct supervision to a staff of four professionals to create an inclusive community that fosters a sense of wellness and belonging through student-centered programs and services, to provide academic and bar prep support that will help students reach their full academic potential, and to guide students and alumni to success on their self-directed paths from law school through their professional careers. Juris Doctor degree from an ABA accredited law school is preferred. For best consideration, please apply by April 9, 2025 at <https://unm.csod.com/ux/ats/careersite/18/home/requisition/32572?c=unm>. Main Duties and Responsibilities: 1. Oversee and coordinate the Student & Career Service Center's day-to-day activities and operations; 2. Oversee the supervision of unit personnel, including work allocation, training, problem resolution, and performance evaluations; 3. Develop and implement programs, initiatives, and communications dealing with student wellness, academic success, and career planning; 4. Establish, monitor, and evaluate the Center's goals, policies, and procedures; 5. Report bar exam passage, employment statistics, and other data as required; 6. Coordinate events and present lectures and workshops in accordance with the Law School's established goals for student and academic success; 7. Facilitate and coordinate student organization activities; 8. Mediate student accommodation requests with main campus, the law school registrar, and law school faculty. Preferred Qualifications: Juris Doctor degree from an ABA accredited law school

### **Litigation paralegal**

McGinn Montoya Love Curry & Sievers, PA is looking for a full-time Litigation Paralegal, 3-5 years medical malpractice, personal injury experience preferred. Solid abilities in Adobe PDF and Microsoft Office necessary. Salary commensurate with experience. Excellent benefit and profit-sharing package. Email your resume to [mmlcadmin@mcginnlaw.com](mailto:mmlcadmin@mcginnlaw.com)

### **Full-Time Legal Assistant/ Legal Secretary**

Madison, Mroz, Steinman, Kenny & Olexy, P.A., a well-established civil litigation firm, seeks a full-time Legal Assistant/Legal Secretary. The ideal candidate should have a minimum of 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](mailto:becky@madisonlaw.com), or mail to Office Administrator, P.O. Box 25467, Albuquerque, NM 87125-5467.

### **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](mailto:HR@sbnm.org). Visit [www.sbnm.org/SBNMjobs](http://www.sbnm.org/SBNMjobs) for full details and application instructions.

### **Intake Specialist**

McGinn Montoya Love Curry & Sievers, PA is looking for a full-time Legal Receptionist. The position will include all benefits: Health, dental, vision, short/long term disability, 401K. Spanish speaking a plus. Experience in a legal office and with Microsoft Office and Adobe Acrobat preferred. Email your resume to [mmlcadmin@mcginnlaw.com](mailto:mmlcadmin@mcginnlaw.com).

### Paralegal

Long, Komer & Associates, P.A. is a well-established law firm located in Santa Fe, New Mexico. Our law firm is seeking a full-time paralegal with litigation and transactional experience, with strong organizational skills and ability to assist with drafting and editing pleadings and transactional documents. This position will support multiple attorneys and requires interaction with clients and opposing counsel. The firm offers employee health and dental insurance, competitive salary, vacation and sick leave, and a 401(K) Plan. Please submit resume and writing sample to amelia@longkomer.com

### 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.

### Legal Assistant/Secretary

Legal Assistant/Secretary needed for criminal firm. Start immediately for part or full-time position. Phones, correspondence, simple legal drafting, transcription, case and client management. Court/legal experience preferred but not required. Pay DOE. Call Frechette & Associates at 505-247-8558 or email at [Frechette@frechettelaw.com](mailto:Frechette@frechettelaw.com)

### Paralegal

Powers Family Law, LLC is seeking a full time paralegal who wishes to work fully remote. Experience in family law is preferred, but not required. Strong skills in Outlook, Excel, and familiarity with Odyssey is a plus, but not required. The applicant should have strong skills with time management and attention to detail. Salary DOE, benefits include health, dental and retirement match. Please email your resume and any other relevant information you wish to share to [randy@powerslawnm.com](mailto:randy@powerslawnm.com). All inquiries are completely confidential.

### Legal Assistant/Paralegal

Corrales law firm needs part-time contractor. Candidate must have excellent organizational skills, expertise with Word, Outlook and Excel. Hourly rate DOE. Water law experience a plus. E-mail resumes to [etaylor@taylorlmccaleb.com](mailto:etaylor@taylorlmccaleb.com).

### Litigation Paralegal

Tired of billable hours? The Law Offices of Erika E. Anderson is looking for an experienced litigation paralegal for a very busy and fast-paced firm of three (3) attorneys. The candidate must be highly motivated and well organized, pay close attention to detail, be willing to take on multiple responsibilities, and be highly skilled when it comes to both computer software and written communication. Tasks will include, but are not limited to, filing pleadings in State and Federal Court; drafting motions; drafting, answering, and responding to discovery; subrogation negotiations; and communicating with opposing counsel and the Court. This is a wonderful opportunity to join an incredible team that works hard and is rewarded for hard work! The position offers a great working environment, benefits, and a competitive salary. If interested, please send a resume to [accounting@eandersonlaw.com](mailto:accounting@eandersonlaw.com).

## 2025 Bar Bulletin

### Publishing and Submission Schedule

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

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

**For more advertising information, contact:  
505-797-6058 or email [marketing@sbnm.org](mailto:marketing@sbnm.org)**

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

## Positions Wanted

### Motion/Brief Writer

Attorney licensed in New Mexico with experience in environmental, oil and gas, land use, water, and criminal law. Researching and writing pleadings for judicial and administrative litigation and appeals. No facts are too complex and your pleading will be clean, well-researched, and compelling. <https://minardlaw.us/>.

## Services

### Forensic Document Examiner

Jan Seaman Kelly, owner of Forensic Dynamics LLC, accepts civil and criminal cases. Forty-three years' experience as a Forensic Document Examiner. Certification by the American Board of Forensic Document Examiners since 1993. Testified in State, Federal, and Administrative Courts. Document examinations include signatures, handwriting, typewriting, indented writing, printing processes, mechanical impressions, rubber stamps, obliterated or altered text, and, restoration of shredded documents. Fully equipped forensic laboratory. Website: <https://www.forensicdynamics.org> Contact Jan Seaman Kelly at 702-682-0529 or [forensicdynamicsllc@gmail.com](mailto:forensicdynamicsllc@gmail.com)

## Office Space

### Lomas Law Offices

Newly updated offices available in downtown Albuquerque near the courthouse. Wi-fi, utilities, conference room, and client parking included in rent. Offices range from \$500-\$700/month depending on the size. Also available, entire upstairs suite including a large private office with space for a conference room, reception area, and five adjoining office rooms. Located on Lomas Blvd. NW. Call Jennifer at 505-410-9636 for an appointment.

### Uptown Office Suite

Professional office suite for lease. Approx. 1047 sq. ft. with two executive offices and reception/work station area. \$1,000/month. Alarm, water, electric, and janitorial included. Exterior signage available. Convenient access to I-40. Contact Krystal (505) 268-7000 or [receptionist@hagemannlawoffice.com](mailto:receptionist@hagemannlawoffice.com).

# Changed Lives... Changing Lives

### Free, confidential assistance

to help identify and address problems with alcohol, drugs, depression, and other mental health issues. A healthier, happier future is a phone call away.



### Confidential assistance –

Statewide Helpline for Lawyers, Law Students and Legal Professionals: 505-228-1948

Judges Helpline: 505-797-6097

[www.sbnm.org/NMLAP](http://www.sbnm.org/NMLAP)



State Bar of New Mexico  
Lawyer Assistance Program

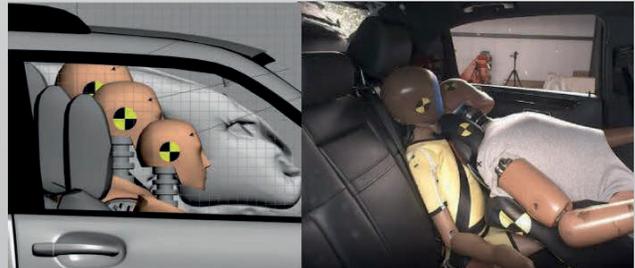
# IS YOUR CASE AT A RECOVERY DEAD-END?

Maybe not because you may have a **CRASHWORTHINESS** case.



## Crashworthiness

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



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



**The TRACY law firm**  
A Nationwide Practice Dedicated to Vehicle Safety  
4701 Bengal Street, Dallas, Texas 75235  
**214-324-9000**  
[www.vehiclesafetyfirm.com](http://www.vehiclesafetyfirm.com)

FREE SERVICE FOR MEMBERS!



State Bar of New Mexico  
Lawyer Assistance  
Program



The  
Solutions  
Group

## Employee Assistance Program

*Get help and support for yourself,  
your family and your employees.  
**FREE** service offered by NM LAP.*

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.  
All calls are **CONFIDENTIAL**.

*Brought to you by the New Mexico Lawyer Assistance Program*  
**[www.sbnm.org/NMLAP](http://www.sbnm.org/NMLAP)**