

BAR BULLETIN

November 27, 2019 • Volume 58, No. 24



2020 Licensing Notification

2020 State Bar licensing certifications and fees are now due. Please submit by Feb. 1, 2020 to avoid late fees.

To complete annual licensing requirements visit
www.nmbar.org/licenser renewal.
For questions, email license@nmbar.org.

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Ethics and Professionalism

Looking forward into CLE season

Your Choice.
Your Program.
Your Bar Foundation.

CLE programming from the Center for Legal Education

Immigration Law: Updates and Best Practices in Preparing VAWA Applications

Tuesday, Dec. 3, 2019

Noon–2 p.m.

1.0 G 1.0 EP

Live at the State Bar Center • Also available via Live Webcast!

Lunchbox Series: special pricing for section members

\$39 Audit/Non-member not seeking CLE credit

\$75 Immigration Law Section members

\$98 Live and Webcast Fee



Oil and Gas Law in New Mexico

Wednesday, Dec. 4, 2019

8:30 a.m.–5 p.m.

6.0 G 1.0 EP

Live at the State Bar Center • Also available via Live Webcast!

\$99 Audit/Non-member not seeking CLE credit

\$265 Government and legal services attorneys, Young Lawyers Division and Paralegal Division members

\$278 Live Fee

\$309 Webcast Fee



Current Immigration Issues for the Criminal Defense Attorney (2019 Immigration Law Institute)

Thursday, Dec. 5, 2019

1–4:15 p.m.

2.0 G 1.0 EP

Live at the State Bar Center • Also available via Live Webcast!

\$39 Audit/Non-member not seeking CLE credit

\$136 Immigration Law Section members, government and legal services attorneys, Young Lawyers Division and Paralegal Division members

\$143 Live Fee

\$159 Webcast Fee



Real Property Institute: Taking New Mexico Real Property Issues into the Next Decade

Friday, Dec. 6, 2019

8:30 a.m.–3 p.m.

5.2 G

Live at the State Bar Center • Also available via Live Webcast!

\$99 Audit/Non-member not seeking CLE credit

\$205 Real Property Section members, government and legal services attorneys, Young Lawyers Division and Paralegal Division members

\$215 Live Fee

\$239 Webcast Fee



YLD/IP: Craft Beer and Creatives : The Hipster Side of Intellectual Property Law

Friday, Dec. 6, 2019

8:30 a.m.–4:15 p.m.

6.0 G

Live at New Mexico History Museum
113 Lincoln Ave., Santa Fe

\$99 Audit/Non-member not seeking CLE credit

\$198 Special Rate for Young Lawyers Division and Intellectual Property Section members

\$251 Live Fee



Using Metrics and Analytics for Ethical Solo and Small Firm Marketing

Monday, Dec. 16, 2019

3–4 p.m.

1.0 EP

Live at the State Bar Center

Also available via Live Webcast!

Lunchbox Series: special pricing for section members

\$33 Solo and Small Firm Section members

\$49 Live Fee

\$55 Webcast Fee





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Meetings

November

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 Noon, JAlbright Law LLC, Albuquerque
27
Natural Resources, Energy and Environmental Law Section Board
 Noon, teleconference
28
Trial Practice Law Section Board
 Noon, State Bar Center
29
Cannabis Law Section Board
 9 a.m., State Bar Center

December

3
Health Law Section Board
 9 a.m., teleconference
4
Employment and Labor Law Section Board
 Noon, teleconference
10
Appellate Practice Section Board
 Noon, teleconference
10
Bankruptcy Law Section Board
 Noon, U.S. Bankruptcy Court, Albuquerque
11
Children's Law Section Board
 Noon, Children's Court, Albuquerque
11
Tax Section Board
 11 a.m., teleconference

Workshops and Legal Clinics

December

4
 Divorce Options Workshop
 6–8 p.m., State Bar Center, Albuquerque,
 505-797-6022
11
 Consumer Debt/Bankruptcy Workshop
 6–9 p.m., State Bar Center, Albuquerque,
 505-797-6094
13
 Legal Services and Programs Committee
 Free Legal Clinic, 10 a.m.-1 p.m.
 Bernalillo County Metropolitan Court

Notices

COURT NEWS

New Mexico Supreme Court Rule-Making Activity

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

Supreme Court Law Library

The Supreme Court Law Library is open to the legal community and public at large. The Library has an extensive legal research collection of print and online resources, including free in-house use of Westlaw, LexisNexis, and HeinOnline. 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. Reference & Circulation Hours: Monday-Friday 8:00 a.m.-4:45 p.m. For more information call 505-827-4850, email libref@nmcourts.gov or visit <https://lawlibrary.nmcourts.gov>. The First Judicial District Court Judicial Nominating Commission will meet beginning at 9:00 a.m. on Thursday, December 12, 2019, at the Santa Fe County Courthouse located at 225 Montezuma Ave, Santa Fe, New Mexico to evaluate the applicants for this position.

New Mexico Compilation Commission

The Official 2019 New Mexico Statutes Annotated 1978©, New Mexico Criminal and Traffic Law Manual™ and New Mexico Selected Taxation and Revenue Laws and Regulations Manual™ are available in print and the new eBook and mobile app versions. Customize the versions to meet your needs. Visit the Books/eBooks page on www.nmcompcomm.us or call Mary Garman of Blue360 Media 360 at 435-412-7063 to inquire about discounts that may apply.

New Mexico Commission on Access to Justice

The next meeting of the Commission is Dec. 13 from noon- 4 p.m. at the State Bar of New Mexico. Commission goals include expanding resources for civil legal assistance to New Mexicans living in poverty, increasing public awareness, and encouraging and supporting pro bono work by attorneys. Interested parties from the private bar and the public

Professionalism Tip

With respect to opposing parties and their counsel:

I will not make improper statements of fact or of law.

are welcome to attend. More information about the Commission is available at www.accesstojustice.nmcourts.gov.

U.S. District Court for the District of New Mexico Court Closure

The U.S. District Court for the District of New Mexico will be closed Nov. 28-29 for the Thanksgiving holiday. Court will resume on Dec. 2. After-hours access to CM/ECF will remain available as regularly scheduled. Stay current with the United States District Court for the District of New Mexico by visiting the Court's website at: www.nmd.uscourts.gov.

First Judicial District Court Announcement of Vacancy

One vacancy on the First Judicial District Court will exist as of Jan. 1, 2020, due to the retirement of Honorable Raymond Z. Ortiz, effective Dec. 31. Inquiries regarding the details or assignment of this judicial vacancy should be directed to the administrator of the court. Sergio Pareja, chair of the First Judicial District Court Judicial Nominating Commission, invites applications for this position from lawyers who meet the statutory qualifications in Article VI, Section 28 of the New Mexico Constitution. Applications may be obtained from the Judicial Selection website: <http://lawschool.unm.edu/judsel/application.php>, or emailed to you by contacting the Judicial Selection Office at 505-277-4700. The deadline for applications has been set for Dec. 2 at 5 p.m. Applications received after that time will not be considered.

Second Judicial District Court Destruction of Exhibits

Pursuant to New Mexico Judicial Retention and Destruction Schedules, the Second Judicial District Court will destroy exhibits filed with the Court, the Criminal (CR) for the years of 2009 to 2013 including but not limited to cases which have been consolidated. Cases on appeal are excluded. Parties are advised that exhibits may be retrieved through Jan. 3, 2020. Should you have cases with

exhibits, please verify exhibit information with the Special Services Division, at 841-6717, from 8 a.m. to 3:30 p.m., Monday through Friday. Plaintiff's exhibits will be released to counsel for the plaintiff(s) or plaintiffs themselves and defendant's exhibits will be released to counsel of record for defendant(s) or defendants themselves by Order of the Court. All exhibits will be released in their entirety. Exhibits not claimed by the allotted time will be considered abandoned and will be destroyed by Order of the Court.

Tenth Judicial District Court Destruction of Exhibits:

The Tenth Judicial District Court will destroy exhibits filed with the Court in civil cases for the years of 2006 to 2016. Parties are advised that exhibits may be retrieved beginning through Dec. 15. Exhibits not claimed by the allotted time will be considered abandoned and will be destroyed by Order of the Court.

Eleventh Judicial District Court Suspension of Subsection (C) of Local Rule LR11-302

LR11-302 (C) states: "As a sanction for all other technical violations, the probationer shall be incarcerated for five days." The judges of the Eleventh Judicial District Court have decided that effective immediately, subsection (C) of LR11-302 is suspended indefinitely. The remainder of LR11-302 remains in effect.

Bernalillo County Metropolitan Court Volunteers are Needed for Legal Clinics

The Legal Services and Programs Committee of the State Bar and the Bernalillo County Metropolitan Court hold a free legal clinic from 10 a.m. until 1 p.m. the second Friday of every month. Attorneys answer legal questions and provide free consultations at the Bernalillo County Metropolitan Court, 9th Floor, 401 Lomas Blvd NW, in the following areas of law: landlord/tenant, consumer rights, emndployee wage

disputes, debts/bankruptcy, trial discovery preparation. Clients will be seen on a first-come, first-served basis and attendance is limited to the first 25 persons.

Court Closure Notice

The Bernalillo County Metropolitan Court will be closing its doors briefly from 11 a.m. to 1:30 p.m. on Dec. 20 for the court's annual holiday lunch. The outdoor bonding window will remain open for the posting of bonds and to accept any urgent filings.

Notice of Mass Reassignment

Bernalillo County Metropolitan Court Chief Judge Sandra Engel announced the mass reassignment of cases in Division XVI and XIX as a result of the creation of the Metropolitan Court Felony Unit within the Criminal Division. Pursuant to Supreme Court Rule 23-109 NMRA, Chief Judge Engel announced that effective Dec. 2, all criminal cases previously assigned to Judge David A. Murphy and to Judge Linda S. Rogers will be reassigned pursuant to New Mexico Rule of Criminal Procedure for Metropolitan Courts 7-105(A)(2) to one of the Metropolitan Court's 14 remaining Criminal Division Judges. Parties who have not yet exercised a peremptory excusal, pursuant to Supreme Court Rule 7-106 NMRA, will have ten (10) business days from Dec. 2 to excuse the reassigned judge.

New Mexico Court of Appeals Election Announcement

The judges of the Court of Appeals selected J. Miles Hanisee as their chief judge on Oct. 7. A member of the COA since 2011, Judge Hanisee was most recently retained by voters in 2018. He previously served as an assistant attorney for over a decade, as a law clerk to two 10th Circuit judges, and was in private practice when appointed to the COA. He earned degrees from Pepperdine University School of Law and Louisiana State University.

STATE BAR NEWS

New Mexico Judges and Lawyers Assistance Program Santa Fe Attorney Support Group Meeting

- Dec. 4, noon-1 p.m.
- Dec. 18, noon-1 p.m.

The new attorney support group, Recovery Responsibilities, explores non-traditional recovery approaches, and has

a focus on meditation and other creative tools in support of the recovery process from addiction of any kind. It meets at the District Courthouse, 225 Montezuma Ave, Room 270. For more information, contact Victoria Amada, vamada@nmag.gov, 505-620-7056.

NEW Legal Professionals Support Group focused on Depression/Anxiety

- Dec. 4, 5:30-7 p.m.
- Dec. 18, 5:30-7 p.m.

This group meets from 5:30-7 p.m. on the first and third Wednesday of every month at the UNM School of Law, King Room. (Law Library, upstairs and to immediate left). The purpose of this group is to address the negative impact anxiety and depression can have in people's lives and to develop the skills on how to regulate these symptoms through learning and developing several different strategies and techniques that can be applied to their life. The process will help the individual to understand and manage cognitive, behavior, and physiological components of anxiety and depression. The group will incorporate cognitive behavioral, psycho educational, and stress reduction techniques that are considered a practical and structured form of psychotherapy. All participants must sign up before their first attendance ONLY. Contact Tenessa Eakins at 505-797-6093 to participate or for questions.

Attorney Support Groups Substance Abuse

- Dec. 2, 5:30 p.m.
- Dec. 9, 5:30 p.m.
- Dec. 16, 5:30 p.m.

UNM School of Law, 1117 Stanford NE, Albuquerque, King Room in the Law Library. Teleconference participation is available. Dial 1-866-640-4044 and enter code 7976003#.

For more information, contact Latisha Frederick at 505-948-5023 or 505-453-9030 or Bill Stratvert at 505-242-6845.

Employee Assistance Program Managing Stress Tool for Members

The Solutions Group, the State Bar's FREE Employee Assistance Program, announces a new platform for managing stress. My Stress Tools is an online suite of stress management and resilience-building resources which includes: training videos, relaxation music, meditation, stress tests,

— *Featured* —

Member Benefit



MeetingBridge offers easy-to-use teleconferencing especially designed for law firms. You or your staff can set up calls and notify everyone in one simple step using our Invitation/R.S.V.P. tool. No reservations are required to conduct a call. Client codes can be entered for easy tracking. Operator assistance is available on every call by dialing *0.

Call 888-723-1200, or email sales@meetingbridge.com or visit meetingbridge.com/371.

a journaling feature and much more. My Stress Tools helps you understand the root causes of your stress and gives you the help you need to dramatically reduce your stress and build your resilience. Your Employee Assistance Program is available to help you, 24/7. Call at 866-254-3555.

Board of Editors Seeking Applications for Open Positions

The Board of Editors of the State Bar of New Mexico will have open positions beginning Jan. 1, 2020. Both lawyer and non-lawyer positions are open. The Board of Editors meets at least four times a year (in person and by teleconference), reviewing articles submitted to the *Bar Bulletin* and the quarterly *New Mexico Lawyer*. This volunteer board reviews submissions for suitability, edits for legal content and works with authors as needed to develop topics or address other concerns. The Board's primary responsibility is for the *New Mexico Lawyer*, which is generally written by members of a State Bar committee, section or division about a specific area of the law. The State Bar president, with the approval of the Board of Bar Commissioners, appoints members of the Board of Editors, often on the recommendation of the current Board. Those interested in being considered for a two-year term

should send a letter of interest and résumé to Evann Kleinschmidt at ekleinschmidt@nmbar.org. Apply by Dec. 1.

Board of Bar Commissioners Appointment to New Mexico Legal Aid Board

The Board of Bar Commissioners will make one appointment to the New Mexico Legal Aid Board for a three-year term from one of the Congressional Districts. Active status members wishing to serve on the Board should send a letter of interest and brief resume by Dec. 1 to Kris Becker at kbecker@nmbar.org or fax to 505-828-3765.

Solo and Small Firm Section 2019 Annual Meeting

The Solo and Small Firm Section will host their Annual Meeting at 4 p.m. on Dec. 16. Section members are invited to attend the annual meeting to hear what the section has done in 2019 and the exciting plans for 2020. Refreshments and appetizers will be provided. The meeting will be preceded by a CLE co-sponsored by the section that will run from 3–4 p.m. Members can attend in person, attend the CLE and then stay on via webcast, or call-in via teleconference. To R.S.V.P. for the meeting, please email Member Services at memberservices@nmbar.org.

Minimum Continuing Legal Education Compliance Deadline Approaching

Dec. 31, 2019 is the last day to complete 2019 Minimum Continuing Legal Education requirements. For a list of upcoming MCLE approved courses, visit www.nmbar.org/MCLE. Contact MCLE with questions at 505-797-6054 or mcle@nmbar.org.

State Bar of New Mexico Licensing Certifications and Fees Due by Feb. 1, 2020

2020 State Bar licensing requirements are now due. To avoid late fees, submit by Feb. 1, 2020. In order to complete annual licensing requirements and pay by credit card, visit www.nmbar.org/licenser renewal. To request a PDF copy of the license renewal form, email license@nmbar.org. For questions, email license@nmbar.org. For technical support, email clopez@nmbar.org.

UNM SCHOOL OF LAW Law Library Hours Fall 2019

Through Dec. 31

Building and Circulation

Monday–Thursday	8 a.m.–8 p.m.
Friday	8 a.m.–6 p.m.
Saturday	10 a.m.–6 p.m.
Sunday	Closed.

Reference

Monday–Friday	9 a.m.–6 p.m.
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Holiday Closures

Thanksgiving: Nov. 28-29

Winter Break: Dec. 23-Jan. 1, 2020

Natural Resources and Environmental Law Program CLE

The UNM School of Law Natural Resources and Environmental Law Program and the Utton Center in cooperation with the Natural Resources, Energy and Environment Section of the NM Bar will host a CLE lecture from 5–6:30 p.m. on Nov. 21, in Room 2401, UNM School of Law, 1117 Stanford NE, Albuquerque. Secretary James C. Kenney of the New Mexico Environment Department will be giving a presentation titled “New Mexico Environment Department Priorities”. The State of New Mexico faces many environmental challenges: legacy contamination, emerging contaminants, and changing federal schemes. By embracing a culture of science, innovation, collaboration and compliance, learn how the New Mexico Environment Department is protecting public health and the environment. The CLE has been approved for 1.0 hours of General MCLE credit. There is no fee, and no registration is required. Free parking is available in Lot L of the School of Law. For more information, contact burns@law.unm.edu or call 505-277-3253.

OTHER BARS Christian Legal Aid Fellowship Luncheons and Breakfasts

Christian Legal Aid invites members of the legal community to fellowship luncheons/breakfasts which are an opportunity for current attorney volunteers, and those interested in volunteering, to meet to learn about recent issues NMCLA attorneys have experienced in providing legal counseling services to the poor and homeless through the NMCLA weekly

interview sessions. They are also opportunities to share ideas on how NMCLA volunteer attorneys may become more effective in providing legal services to the poor and homeless. Upcoming dates are: Dec. 3 at 7 a.m. at Le Peep Uptown; Feb. 6, 2020, at noon at Tomasitas; April 7, 2020, at 7 a.m. at The Egg and I; June 4, 2020, at noon at Japanese Kitchen; and Aug. 12, 2020, at 7 a.m. at Stripes at Wyoming and Academy. For more information, visit nmchristianlegalaid.org or email christianlegalaid@hotmail.com

New Mexico Criminal Defense Lawyers Association Advanced Program and Practicum

Advanced Program and Practicum on Jury Selection with 2.0 ethics hours will be held in Albuquerque on Dec. 6 and webcast throughout the State. Live seats limited to first 40 who register. Excellent chance for criminal defense and civil attorneys to learn about jury selection in sensitive cases, ethics of juror investigation, and juror trauma. For more information, contact the NM Criminal Defense Lawyers Association by visiting www.nmcdla.org, emailing info@nmcdla.org or call 505-992-0050.

OTHER NEWS Albuquerque Lawyers Club Monthly Lunch Meeting

The Albuquerque Lawyers Club invites members of the legal community to its December lunch meeting. Senior US District Court Judge John Marten is the featured speaker. The title of his presentation is “Airing Out Civil Jury Trials.” Judge Marten will be introduced by Judge James Browning. The lunch meeting will be held at noon on Dec. 4 at Seasons Restaurant, located at 2031 Mountain Road, NW, Albuquerque. The event is free for members and \$30 non-members. For more information, please email ydennig@gmail.com.

Legal Education

December

- | | | |
|---|--|--|
| <p>2 Skills for Effective Depositions
2.0 G
Live Program, Santa Fe
New Mexico Office Of Attorney
General
www.nmag.gov</p> | <p>5 Volunteer Attorney Program
Orientation
2.0 EP
Live Seminar, Albuquerque
Volunteer Attorney Program</p> | <p>6 Craft Beer and Creatives: The
Hipster Side of Intellectual
Property Law
5.0 G, 1.0 EP
Live Seminar,
Santa Fe
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>3 Immigration Law: Updates and
Best Practices in Preparing VAWA
Applications
1.0 G, 1.0 EP
Live Webcast/Live Seminar,
Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>5 WCA Winter Seminar
5.0 G, 1.0 EP
Live Program, Albuquerque
Workers Compensation Association
Of New Mexico
www.wcaofnm.com</p> | <p>6 Advanced Program and Practicum
on Jury Selection
4.0 G, 2.0 EP
Live Seminar, Albuquerque
New Mexico Trial Lawyers
Foundation
www.nmtla.org</p> |
| <p>3 Water Rights in New Mexico
5.0 G, 1.0 EP
Live Seminar, Albuquerque
NBI Inc
www.nbi-sems.com</p> | <p>5 Orientation and Ethics of Pro Bono
2.0 EP
Live Seminar, Albuquerque
Volunteer Attorney Program
505-814-5033</p> | <p>9 Decision Making
19.7 G, 3.2 EP
Live Program, Santa Fe
National Judicial College
www.judges.org</p> |
| <p>3 ADR Excellence: Does Practice
Make Perfect?
1.5 G
Live Webinar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>5 Current Immigration Issues for the
Criminal Defense Attorney (2019
Immigration Law Institute)
2.0 G, 1.0 EP
Live Webcast/Live Seminar,
Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>10 Real Estate Transactions Toolkit
5.0 G, 1.0 EP
Live Program, Albuquerque
NBI Inc
www.nbi-sems.com</p> |
| <p>4 Lifting the FOG on Public Records
Access
5.3 G, 1.0 EP
Live Program, Albuquerque
New Mexico Foundation For Open
Government
www.nmfog.org</p> | <p>6 Taking New Mexico Real Property
Issues into the Next Decade
5.2 G,
Live Webcast/Live Seminar,
Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>10 Medical Cannabis Law in New
Mexico
5.0 G, 1.0 EP
Live Program, Santa Fe
NBI Inc
www.nbi-sems.com</p> |
| <p>4 Annual Winter Meeting and
Seminar
10.0 G, 2.0 EP
Live Program, Albuquerque
New Mexico Municipal League
www.nmml.org</p> | <p>6 Jury Selection in the Age of
#MeToo: Ethics and Advanced
Topics
6.0 G
Live Seminar, Albuquerque
New Mexico Criminal Defense
Lawyers
www.nmcdla.org</p> | <p>11 Business Law: Top Challenges
19.7 G, 3.2 EP
Live Program, Albuquerque
NBI Inc
www.nbi-sems.com</p> |
| <p>4 Oil and Gas Law in New Mexico
6.0 G, 1.0 EP
Live Webcast/Live Seminar,
Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | | <p>11 Bridge the Gap Mentorship CLE
(Full Day)
5.0 G, 1.0 EP
Live Webcast/Live Replay,
Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</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@nmbar.org. Include course title, credits, location/course type, course provider and registration instructions.

- | | | |
|---|---|--|
| <p>12 Bridge the Gap Mentorship CLE (Partial Day)
3.0 G, 1.0 EP
Live Webcast/Live Replay,
Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>17 Access to Justice: Best Path Forward: Point - Counterpoint
1.0 EP
Live Webcast/Live Seminar,
Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>23 Preparing for Mediation
1.0 G
Live Webinar
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>13 Cornucopia of Law: Practical Applications for Paralegals and Lawyers
5.0 G, 1.0 EP
Live Webcast/Live Seminar,
Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>17 2019 Mock Meeting of the Ethics Advisory Committee
2.0 EP
Live Webcast/Live Seminar,
Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>23 Mediating the Political Divide
2.0 EP
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>13 Forensic Science and Ethics
6.0 G
Live Seminar, Las Cruces
New Mexico Criminal Defense
Lawyers
www.nmcdla.org</p> | <p>18 Transitions to Retire for Solo and Small Firm Practitioners
0.5 G, 0.5 EP
Live Webinar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>23 Law Library in Your Pocket: Mobile Apps for Legal Research (2019)
1.0 G
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>13 7th Annual Wage Theft in New Mexico: Common Injustice Practice Opportunity
3.0 G, 1.0 EP
Live Seminar, Las Cruces
The United Workers' Center of New Mexico
gguzman.uwc@gmail.com</p> | <p>18 Speaking to Win: The Art of Effective Speaking for Lawyers
5.0 G, 1.0 EP
Live Webcast/Live Seminar,
Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>26 Fluff is for Pillows, Not Legal Writing
3.0 G
Live Webcast/Live Seminar,
Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>13 Medical Cannabis Law in New Mexico
5.0 G, 1.0 EP
Live Program, Santa Fe
NBI Inc
www.nbi-sems.com</p> | <p>19 2019 Trial Practice Institute: Trial Know How
5.2 G, 1.2 EP
Live Webcast/Live Seminar,
Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>26 Everything I Need to Know about Legal Ethics I Learned from the Kardashians
3.0 EP
Live Webcast/Live Seminar,
Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>13 To Indemnify or to Hold Harmless:
1.0 G
Live Webinar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>20 Powered by New Mexico: Energy Use and Production in Land of Enchantment
1.5 G, 4.5 EP
Live Webcast/Live Seminar,
Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>27 Find it Fast and Free (and Ethically) with Google, Fastcase 7 and Social Media Sites
4.0 G, 2.0 EP
Live Webcast/Live Seminar,
Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>16 Handling a Divorce Case From Start to Finish
5.0 G, 1.0 EP
Live Program, Albuquerque
NBI Inc
www.nbi-sems.com</p> | <p>23 Transgender 101 for Lawyers
2.0 G
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>30 Social Media as Investigative Research and Evidence
1.0 G
Live Webinar
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>16 Complying with the Disciplinary Board Rule 17-204
1.0 EP
Live Webcast/Live Seminar,
Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | | |

Opinions

As Updated by the Clerk of the New Mexico Court of Appeals

Mark Reynolds, Chief Clerk New Mexico Court of Appeals
PO Box 2008 • Santa Fe, NM 87504-2008 • 505-827-4925

Effective Oct. 25, 2019

PUBLISHED OPINIONS

A-1-CA-35962	State v. T Stevenson	Affirm	10/22/2019
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UNPUBLISHED OPINIONS

A-1-CA-36001	State v. J Leyba	Affirm/Reverse/Remand	10/21/2019
A-1-CA-36625	State v. R Cavazos	Affirm	10/21/2019
A-1-CA-37095	M Daood v. H Ali	Affirm	10/21/2019
A-1-CA-37361	R Ulibarri v. C Najar	Affirm	10/21/2019
A-1-CA-35407	State v. R Lucero	Affirm	10/22/2019
A-1-CA-35882	State v. O Toney	Affirm	10/22/2019
A-1-CA-36387	State v. D West	Affirm	10/22/2019
A-1-CA-36461	State v. D May	Affirm	10/22/2019
A-1-CA-36467	T Ortiz v. Energen Resources	Affirm	10/22/2019
A-1-CA-36326	P Treu v. Y Treu	Affirm	10/23/2019
A-1-CA-36866	State v. T Serrano	Dismiss	10/24/2019
A-1-CA-37800	J Soderlund v. V Hennessey-Soderlund	Affirm	10/24/2019
A-1-CA-36861	State v. S Padilla	Dismiss	10/25/2019

Effective Nov. 1, 2019

PUBLISHED OPINIONS

A-1-CA-35613	R Richards v. M McEachern	Reverse	10/29/2019
A-1-CA-37236	State v. A Martinez	Affirm	10/29/2019

UNPUBLISHED OPINIONS

A-1-CA-35917	State v. J Chavez	Affirm/Reverse/Remand	10/28/2019
A-1-CA-36712	State v. R Clemente	Dismiss	10/28/2019
A-1-CA-36857	State v. R Rodriguez	Dismiss	10/28/2019
A-1-CA-36108	State v. C Bitsui	Affirm	10/29/2019
A-1-CA-35855	State v. L Mendoza	Affirm	10/31/2019
A-1-CA-36178	State v. P Lacy	Reverse/Remand	10/31/2019
A-1-CA-36913	State v. P Ward	Affirm	10/31/2019
A-1-CA-36944	State v. R Franco	Affirm	10/31/2019
A-1-CA-36756	State v. O Guilez	Affirm	11/01/2019

Effective Nov. 8, 2019

PUBLISHED OPINIONS

A-1-CA-35781	Tucson Electric v. Tax & Rev	Affirm	11/04/2019
A-1-CA-35211	State v. W Carson	Affirm/Reverse/Remand	11/05/2019
A-1-CA-36267	J Maestas v. Town of Taos	Affirm/Reverse/Remand	11/05/2019
A-1-CA-36494	N Silva v. Denco Sales Co.	Reverse/Remand	11/08/2019

Slip Opinions for Published Opinions may be read on the Court's website:

<http://coa.nmcourts.gov/documents/index.htm>

Opinions

As Updated by the Clerk of the New Mexico Court of Appeals

UNPUBLISHED OPINIONS

A-1-CA-36252	State v. T Martinez	Affirm/Reverse/Remand	11/04/2019
A-1-CA-36418	State v. L Stone	Affirm/Reverse/Remand	11/04/2019
A-1-CA-36480	State v. E Lugo	Affirm	11/05/2019
A-1-CA-37005	State v. R Holland	Affirm	11/05/2019
A-1-CA-35199	State v. J Smith	Affirm	11/06/2019
A-1-CA-36039	Rio Hondo v. NM Water Quality	Affirm	11/06/2019
A-1-CA-37065	State v. D Sweeney	Dismiss	11/06/2019
A-1-CA-36571	City of Roswell v. H Hudson	Affirm	11/07/2019
A-1-CA-36785	Arroyo Hondo v. County of Taos	Affirm	11/07/2019
A-1-CA-36417	State v. L Stone	Affirm/Reverse	11/08/2019
A-1-CA-37072	State v. D Robertson	Affirm	11/08/2019
A-1-CA-37785	J McCauley v. Rubin Katz Law Firm	Affirm	11/08/2019
A-1-CA-37947	CYFD v. Jennifer M	Affirm	11/08/2019

Slip Opinions for Published Opinions may be read on the Court's website:

<http://coa.nmcourts.gov/documents/index.htm>



STATE BAR
of NEW MEXICO

Board of Bar Commissioners Election 2019

Voting
began online
Nov. 8.

Voting in the 2019 election for the State Bar of New Mexico Board of Bar Commissioners began Nov. 8 and closes at noon on Dec. 2. Four candidates submitted nomination petitions for the two open positions (one three-year term and one one-year term) in the First Bar Commissioner District (Bernalillo County), and the candidates are **Sean M. FitzPatrick, Tomas J. Garcia, Stephen D. Ralph** and **Lucy H. Sinkular**, so there will be an election in that district. Two candidates submitted nomination petitions for the one open position in the Third Bar Commissioner District (Los Alamos, Rio Arriba, Sandoval and Santa Fe counties), and the candidates are **Evan R. Cochnar** and **Carolyn A. Wolf**, so there will be an election in that district. Three candidates submitted nomination petitions for the two open positions in the Seventh Bar Commissioner District (Catron, Dona Ana, Grant, Hidalgo, Luna, Sierra, Socorro and Torrance counties), and the candidates are **Connie J. Flores, David P. Lutz** and **Ramona J. Martinez-Salopek**, so there will be an election in that district. Voting is being conducted electronically.

No nomination petitions were submitted for the open position in the Fifth Bar Commissioner District (Curry, DeBaca, Quay and Roosevelt counties), so the Board will appoint someone from that district to fill the vacancy. One nomination petition was submitted for the open position in the Sixth Bar Commissioner District (Chaves, Eddy, Lea, Lincoln and Otero counties) from Parker B. Folsie, so he is elected by acclamation.

Electronic Voting Procedures

A link to the electronic ballot and instructions was emailed on Nov. 8 to all active members in the First, Third and Seventh Bar Commissioner Districts using email addresses on file with the State Bar. Active status members who reside outside the State of New Mexico shall vote in the district where the State Bar office is located (Bernalillo County). To provide an email address if one is not currently on file or to request a mailed ballot, contact Pam Zimmer at pzimmer@nmba.org.

The election will close at noon on Dec. 2, at which time the election results will be certified.

Check **this** Out!!!

NEW LEGAL PROFESSIONALS SUPPORT GROUP FOCUSED ON DEPRESSION/ANXIETY 5:30-7 p.m. First and third Wednesday of every month. Dec. meetings: Dec. 4 and Dec. 18.

At: UNM School of Law, King Room. (Law Library, upstairs and to immediate left) Group Description: Address the negative impact anxiety and depression can have in people's lives and to develop the skills on how to regulate these symptoms through learning and developing several different strategies and techniques that can be applied to their life. The process will help the individual to understand and manage cognitive, behavior, and physiological components of anxiety and depression. The group will incorporate cognitive behavioral, psycho educational, and stress reduction techniques that are considered a practical and structured form of psychotherapy.

To participate in the Legal Professionals Support Group, or for questions regarding the group, call Tenessa Eakins, NMJLAP Clinical Coordinator, at 797-6093.

All participants MUST SIGN UP before their first attendance ONLY.

Participation
is confidential!



STATE BAR
of NEW MEXICO

JUDGES AND LAWYERS
ASSISTANCE PROGRAM

From the New Mexico Supreme Court

THE SUPREME COURT OF NEW MEXICO ANNOUNCES 2019 YEAR-END RULE AMENDMENTS

Under Rule 23-106.1 NMRA, the Supreme Court has approved a number of rule changes for the 2019 rule-making cycle. What follows is a summary of new rule amendments that the Court approved on November 1, 2019. Unless otherwise noted below and in the history note at the end of each approved rule, most new rule amendments will go into effect on December 31, 2019. All rule amendments approved by the Court in 2019, and the related orders issued by the Court, are available on the Supreme Court's website at <https://supremecourt.nmcourts.gov/2019.aspx>. Approved rule amendments will also appear in NMOneSource.com on their effective date.

Children's Court Rules and Forms

Mandatory joinder of delinquent acts in delinquency proceedings
[Rule 10-212 NMRA]

The Supreme Court has approved the Children's Court Rules Committee's recommendation to amend Rule 10-212 NMRA to make joinder of delinquent acts mandatory in delinquency proceedings in children's court. The amendments align Rule 10-212 with Rule 5-203 NMRA, which requires joinder of offenses in criminal proceedings.

Advisement of rights in proceedings subject to ICWA
[Rule 10-314 NMRA; and New Form 10-517 NMRA]

The Supreme Court has approved the Children's Court Rules Committee's recommendation to amend Rule 10-314 NMRA to require the children's court, in appropriate cases, to advise a respondent in an abuse and neglect proceeding of his or her rights under the Indian Child Welfare Act (ICWA). The Court also approved the Committee's recommendation to adopt new Form 10-517 NMRA, which is a checklist for the children's court to ensure compliance with Rule 10-314.

Civil Forms

Treatment guardian's petition for enforcement order
[New Form 4-934 NMRA]

The Supreme Court has approved the Ad Hoc Committee on Rules for Mental Health Proceedings' recommendation to adopt new Form 4-934 NMRA, a model petition for use by a treatment guardian when seeking an enforcement order under NMSA 1978, Section 43-1-15(G).

Issuance of mandate to magistrate court
[New Form 4-711 NMRA]

The Supreme Court has approved the Rules of Civil Procedure Committee's recommendation to adopt new Form 4-711 NMRA to provide a standard form of mandate for use by the district court when issuing a mandate to the magistrate court following an appeal.

Maximum penalty for misdemeanor when receiving, possessing, or transporting a firearm during pendency of order of protection
[Forms 4-965 and 4-970 NMRA]

The Supreme Court has approved the Domestic Relations Rules and Forms Committee's recommendation to amend Forms 4-965 and 4-970 NMRA to correctly describe the maximum penalty for a misdemeanor for receiving, possessing, or transporting a firearm while an order of protection is in effect.

Access to court records in guardianship and conservatorship proceedings and alleged incapacitated person's notice of hearing and rights
[Rule 1-079.1 NMRA and Form 4-999 NMRA]

The Supreme Court has approved the Ad Hoc Guardianship and Conservatorship Rules and Forms Committee's recommendation to amend Rule 1-079.1 NMRA and Form 4-999 NMRA to reflect changes to NMSA 1978, Sections 45-5-309 and -405 that went into effect July 1, 2019. The amendments to the rule and form are effective December 1, 2019.

Juror Questionnaires

Juror questionnaires
[Forms 4-602C and 9-513C NMRA]

The Supreme Court has approved the Committee for the Improvement of Jury Service's recommendation to amend Forms 4-602C and 9-513C NMRA to eliminate several questions and revise others to reduce the length of the questionnaire and improve its clarity.

Local Rules

ADR programs in the Fourth, Sixth, and Eleventh Judicial District Courts
[New Rules LR4-601, LR6-601, and LR11-601 NMRA]

The Supreme Court has approved the Statewide ADR Commission's recommendation to adopt new Rules LR4-601, LR6-601, and LR11-601 NMRA to establish alternative dispute resolution programs in the Fourth, Sixth, and Eleventh Judicial District Courts.

Rules of Civil Procedure for the District Courts

Notice of Completion of Briefing
[Rule 1-007.1 NMRA]

The Supreme Court has approved the Rules of Civil Procedure Committee's recommendation to amend Rule 1-007.1 NMRA to clarify who may file a notice of completion of briefing.

Default judgment; required filing of original negotiable instrument
[Rule 1-055 NMRA]

The Supreme Court has approved the Rules of Civil Procedure Committee's recommendation to amend Rule 1-055 NMRA to clarify the scope of the requirement to file the original negotiable instrument in default judgment proceedings.

Issuance of mandate to magistrate court
[Rule 1-072 NMRA]

The Supreme Court has approved the Rules of Civil Procedure Committee's recommendation to amend Rule 1-072 NMRA to establish a thirty (30)-day deadline for issuance of the district court's mandate to the magistrate court following an appeal, consistent with the deadline for filing an appeal established by Rule 12-201(A)(1)(b) NMRA.

Access to court records in guardianship and conservatorship proceedings and alleged incapacitated person's notice of hearing and rights
[Rule 1-079.1 NMRA]

The Supreme Court has approved the Ad Hoc Guardianship and Conservatorship Rules and Forms Committee's recommendation to amend Rule 1-079.1 NMRA to reflect changes to NMSA 1978, Sections 45-5-303 and -407 that went into effect July 1, 2019. The amendments to the rule are effective December 1, 2019.

Rules of Criminal Procedure for the District, Magistrate, and Metropolitan Courts and Rules of Procedure for the Municipal Courts

Preference for summons
[Rules 5-208, 6-204, 7-204, and 8-203 NMRA]

The Supreme Court has approved the Rules of Criminal Procedure Committee's recommendation to amend Rules 5-208, 6-204, 7-204, and 8-203 NMRA to express a preference for the use of a summons rather than an arrest warrant when practicable.

Motions to reconsider
[Rules 5-601, 6-304, 7-304, and 8-304 NMRA]

The Supreme Court has approved the Rules of Criminal Procedure Committee's recommendation to amend Rules 5-601, 6-304, 7-304, and 8-304 NMRA to affirmatively provide for motions to reconsider in the district, magistrate, metropolitan, and municipal courts, and indicate when such motions will toll the time to initiate an appeal, consistent with Rule 12-201 NMRA.

Life without the possibility of release or parole procedures
[New Rule 5-705 NMRA]

The Supreme Court has approved the Rules of Criminal Procedure Committee's recommendation to adopt new Rule 5-705 NMRA to provide for heightened procedural protections, comparable to those afforded to defendants in death penalty cases, for cases in which the State seeks life imprisonment without the possibility of release or parole.

Rules of Professional Conduct

Harassment, discrimination by lawyers prohibited by the Rules of Professional Conduct
[Rule 16-804 NMRA; and Withdrawn Rule 16-300 NMRA]

The Supreme Court has approved the Code of Professional Conduct Committee's recommendation to amend Rule 16-804 NMRA and withdraw Rule 16-300 NMRA in light of revisions

made to ABA Model Rule 8.4(g) in 2016. The amendments make harassment or discrimination based on various protected classes a disciplinary violation. The amendments are effective December 1, 2019.

Uniform Jury Instructions - Civil

Loss of consortium claims; wrongful death claims
[UJI 13-1810A and 13-1830 NMRA; and New UJI 13-1810B and 13-2223 NMRA]

The Supreme Court has approved the UJI – Civil Committee's recommendation to amend UJI 13-1810A and 13-1830 NMRA and to adopt new UJI 13-1810B and 13-2223 NMRA to provide additional guidance and clarity for loss of consortium and wrongful death claims. The revised and new instructions are in response to the Court's request in *Estate of Saenz v. Ranack Constructors, Inc.*, 2018-NMSC-032, ¶ 41, 420 P.3d 576, to "consider whether amendments to the current version of UJI 13-1830 are warranted to ensure that jurors understand how to allocate damages between the personal representative for the wrongful death estate and the individual claimants, if any. . . . [And] to consider whether a new special verdict form should be adopted for use in wrongful death cases."

Uniform Jury Instructions - Criminal

Depraved mind murder
[UJI 14-203 NMRA]

The Supreme Court has approved the UJI – Criminal Committee's recommendation to amend the commentary to UJI 14-203 NMRA to more accurately discuss the mens rea of depraved mind murder.

Removing "Evidence has been presented that . . ."
[UJI 14-252, 14-5007, 14-5009, and 14-5010 NMRA]

The Supreme Court has approved the UJI – Criminal Committee's recommendation to amend UJI 14-252, 14-5007, 14-5009, and 14-5010 NMRA to remove the introductory phrase, "Evidence has been presented that . . .", which the committee determined to be an improper comment on evidence. In addition, the Court approved revisions to UJI 14-252 to update the instruction and commentary to better capture the requisite factual considerations relevant to the causal chain when the negligence of a third party is at issue. The Court approved similar revisions to UJI 14-5007, 14-5009, and 14-5010.

Instructions relating to sexual exploitation of children
[UJI 14-6019A NMRA; and New UJI 14-631, 14-632, 14-633, 14-634, and 14-6019C NMRA]

The Supreme Court has approved the UJI – Criminal Committee's recommendation to amend UJI 14-6019A NMRA and to adopt new UJI 14-631, 14-632, 14-633, 14-634, and 14-6019C NMRA to implement the sexual exploitation of children statute, NMSA 1978, Section 30-6A-3 (2016).

SORNA chart guiding the use of SORNA elements instructions
[UJI 14-990 NMRA]

The Supreme Court has approved the UJI – Criminal Committee’s recommendation to amend UJI 14-990 NMRA to correct an inaccuracy in the “attempt” section, and update the “kidnapping” and “false imprisonment” sections to reflect changes to NMSA 1978, Section 29-11A-3(I), which went into effect July 1, 2013.

Restructuring battery on a peace officer instruction and correcting a citation
[UJI 14-2211 NMRA]

The Supreme Court has approved the UJI – Criminal Committee’s recommendation to amend UJI 14-2211 NMRA to correct a citation in Use Note 2. Additionally, the Court approved the Committee’s recommendation to amend the instruction to move the discussion in Use Note 2 to the commentary. Finally, the Court approved the Committee’s recommendation to update the structure of the instruction to better correspond to other battery instructions.

Updating tampering with evidence instructions in light of State v. Radosevich
[UJI 14-2241 and 14-6019 NMRA]

The Supreme Court has approved the UJI – Criminal Committee’s recommendation to amend UJI 14-2241 and 14-6019 NMRA to provide additional guidance and clarity following State v. Radosevich, 2018-NMSC-028, 419 P.3d 176.

Withdrawal of circumstantial evidence, sufficiency instruction
[Withdrawn UJI 14-5002 NMRA]

The Supreme Court has approved the UJI – Criminal Committee’s recommendation to withdraw UJI 14-5002 NMRA because it is no longer an accurate statement of the law, and because UJI 14-5001 NMRA correctly states the law regarding circumstantial evidence.

Consideration of mental capacity in determining voluntariness of a confession or admission
[UJI 14-5040 NMRA]

The Supreme Court has approved the UJI – Criminal Committee’s recommendation to amend UJI 14-5040 NMRA to reflect New Mexico law, indicating that a defendant’s diminished

capacity may be considered in determining whether a statement was made voluntarily. Additionally, the amendment removes the phrase, “Evidence has been admitted . . .”, which the committee determined to be an improper comment on evidence.

Updating instructions relating to intoxication defenses
[UJI 14-5106, 14-5110, and 14-5111 NMRA; and Withdrawn UJI 14-5105 NMRA]

The Supreme Court has approved the UJI – Criminal Committee’s recommendation to withdraw UJI 14-5105 NMRA and to amend 14-5106, 14-5110, and 14-5111 NMRA to more accurately reflect New Mexico law concerning intoxication defenses.

Duty to retreat; first aggressor; removing “Evidence has been presented that . . .”
[UJI 14-5170, 14-5171, 14-5172, 14-5173, and 14-5174 NMRA]

The Supreme Court has approved the UJI – Criminal Committee’s recommendation to amend UJI 14-5170, 14-5171, 14-5172, 14-5173, and 14-5174 NMRA to remove the phrase, “Evidence has been presented that . . .”, which the committee determined to be an improper comment on evidence. Additionally, the Court approved the Committee’s recommendation to amend UJI 14-5171 to include a use note requiring instructions relating to the duty to retreat and the first aggressor rule under certain circumstances.

Clarifying first aggressor instructions
[UJI 14-5191 NMRA; and New UJI 14-5191A NMRA]

The Supreme Court has approved the UJI – Criminal Committee’s recommendation to amend UJI 14-5191 NMRA and to adopt new UJI 14-5191A NMRA to clarify and improve the first aggressor instructions.

All rule amendments approved by the Supreme Court and the related orders can be viewed on the Supreme Court’s website at <https://supremecourt.nmcourts.gov/2019.aspx>.

Approved rule amendments will also appear in NMOneSource.com on their effective date.

Clerk's Certificates

From the Clerk of the New Mexico Supreme Court

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	1	2 AM	3	4	5 PM	6
7	8 PM	9	10	11	12	13
14	15	16	17 AM	18 AM	19 AM	20
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Responding to Incivility

By William D. Slease

For many years the legal profession has struggled with the issue of attorneys acting in an unprofessional or uncivil manner. We have all heard of, or been subjected to, obvious acts of incivility: an opposing lawyer engaged in name-calling; depositions or meetings devolving into shouting matches; the exchange of vitriolic emails focused on personal rather than professional issues.

Many attorneys have also experienced the more insidious form of incivility, so-called “strategic incivility” in which a lawyer uses questionable means designed to gain an upper hand such as:

- refusing to agree to reasonable extensions when doing so will not otherwise prejudice the client;
- asking marginally relevant and highly inflammatory questions during a deposition or trial;
- scheduling matters without seeking input from the other side as to availability and refusing to reschedule when a conflict develops;
- providing general citations to entire cases or deposition transcripts rather than pinpoint cites in pleadings thereby requiring the opposing counsel to search the entire case or transcript.

Regrettably, the examples are plentiful and the frequent focus of education and writings on the topic.

While acknowledging the issue is a good first step, too often the discussion stops with the stories recounting the scandalous acts of attorneys. Less attention is given to strategies for dealing with and reducing unprofessional conduct. What follows are suggestions for dealing with incivility. This list is not, by any means, intended to be exhaustive and each of us must decide how to conduct ourselves as professionals and how to respond when faced with uncivil or unprofessional conduct by others.

Looking to Others

Seeking Discipline or Sanctions: On occasion, when a lawyer experiences incivility, they turn to regulators and seek discipline against the bad actor. If the conduct takes place in litigation, the



lawyer may seek sanctions from the court in addition to or instead of seeking discipline. While both strategies can prove effective, they are often criticized as having limited value.

When regulators can prove that an offending lawyer used means that had no substantial purpose other than to embarrass, delay, or burden a third person, or engaged in a persistent pattern of egregious, unprofessional, uncivil conduct, discipline may be warranted. *See, e.g., In re Ortiz, 2013-NMSC-027.* However, not all acts of incivility or unprofessionalism constitute a violation of the Rules of Professional Conduct. For example, if a lawyer refuses to agree to a reasonable request for extension, that refusal standing alone does not typically implicate the Rules of Professional Conduct. Indeed, much of the conduct labelled as unprofessional or uncivil is beyond the reach of regulation.

Similarly, the ability of a judge to impose sanctions for unprofessional conduct can be fairly limited. Of course, when an attorney’s conduct constitutes a clear violation of a court rule or order, judges may impose sanctions to address the offending conduct. But whether the attorney has violated a court rule, whether the conduct constitutes contempt and requires greater procedural protections, whether the judge will appear to be

Disciplinary Board of the New Mexico Supreme Court

The New Mexico Supreme Court has the inherent power and duty to prescribe the qualifications that shall be required for admission to practice law; to admit persons to practice law; to prescribe standards of conduct for lawyers; and to determine the grounds for and to discipline lawyers for misconduct. The Supreme Court also has the authority to define the practice of law and to prohibit the unauthorized practice of law within the State of New Mexico. Pursuant to its authority and jurisdiction, the Court has established the New Mexico Disciplinary Board and the rules and procedures regarding the investigation of alleged unethical conduct and the unauthorized practice of law. The procedures are designed to provide a thorough and objective review of the complained of conduct and to resolve the matter in a way that is fair to those involved. Daily operations of the Board and investigations and prosecution of allegations of attorney misconduct and the unauthorized practice of law are performed by the Office of Disciplinary Counsel. For more information, visit www.nmdisboard.org.

favoring one side over the other, and whether the court wants its docket bogged down in issues that are collateral to the litigation all complicate the calculus of whether a court can or should impose sanctions.

Education: While the prospect of reactive sanctions may have some effect on remedying incivility, many regulators are increasingly turning to proactive initiatives, including education, to address incivility. For example, every person now seeking a license to practice law in New Mexico is required to take a two-hour course on civility and professionalism. The topic is likewise frequently included in the daylong ethics seminar known as “Ethicspalooza” offered by the Office of Disciplinary Counsel. The courses attempt to identify the issues attendant to uncivil and unprofessional conduct and offer suggestions on dealing with such behavior.

While external consequences for uncivil conduct can be effective and must be employed in appropriate circumstances, and while education on the topic can prospectively attempt to eradicate such conduct before it takes root, perhaps an equally or, some might argue, more effective strategy for dealing with incivility, is by turning one’s focus inward.

Looking to Self

Assume the Best: When confronted with a sharp word, an unpleasant email, a personal attack from another person, we often assume the worst about that person, immediately labelling them as uncivil, unprofessional, or worse. Frequently we allow that label to carry forward and inform every subsequent encounter, forgetting that the other person may have simply been having a bad day, was experiencing some type of crisis in their life completely unrelated to the encounter, or simply made a mistake. While not suggesting bad behavior be excused, starting with the assumption that the other person’s behavior was the unusual, rather than the usual, forgiving the occasional intemperate moment, and expecting future interactions to be more professional, may help diffuse the spiral of incivility. Additionally, when you assume the best in others, consider it repayment for the times that you were given the benefit of the doubt when you had an intemperate moment or acted out of character.

Rise Above: Admittedly there are some who, no matter how often we give them the benefit of the doubt, will behave in an unprofessional, boorish manner. We could engage them by mirroring the behavior and assuring that our future encounters with one another will be fraught with stress, hostility and vitriol, or we can choose to disengage and model civil, professional behavior. As a good friend often reminds me, you cannot control how someone else acts, but you can control how you react and how you respond. By demonstrating patience and professionalism throughout, you become part of the solution rather than exacerbating the problem.

Meet-Eat-Confer: It’s hard to be unpleasant with a person when they are sitting across from you, sharing a meal or a cup of coffee. By meeting in person to discuss a matter, counsel for

both sides can candidly focus on what is really at issue in a case. Moreover, an in-person meeting obviates the unintended tone that can be read into an email or letter, and allows attorneys to know each other as individuals rather than simply advocates for the opposing party. Retired New Mexico Supreme Court Justice Edward L. Chavez refers to this as “meet, eat and confer.” I’ve been told other judges use a similar technique to foster civility in the relationship between opposing attorneys, including one judge who occasionally requires lawyers who seem to be having difficulty with one another to meet over lunch, not talk about their case, and report back to the judge with one thing learned about the other lawyer that is unrelated to the practice of law. One doesn’t need a judge to order a meeting with an opposing attorney. Simply picking up the phone at the inception of a matter, introducing one’s self, and offering to meet, can accomplish the same thing.

Own It: We all have moments we regret; where our words or actions in the moment do not reflect our true professionalism. We often attribute these moments to the demands of clients, the pressures of practice, the pace of our lives, or a crisis in our lives. While all those things, and more, can lead to unprofessional, uncivil conduct, what is important in those moments is to take responsibility for our actions or words, make amends with those affected by our behavior, identify and learn from the cause, and recommit to professionalism. When we truly accept responsibility and commit to improvement, rather than viewing our actions as justified or fearing we will look weak if we accept responsibility, we can serve as a model for improving civility.

Why Do Something?

Incivility takes a toll. Ultimately, we cannot simply accept it as part of the practice of law or follow the advice often given to newer members of the Bar to “just get a thicker skin.” The cost of unprofessional behavior falls on clients whose cases are delayed and who pay more to resolve disputes in formal pleadings rather than by reasonable and reasoned agreement; on courts whose dockets are cluttered with collateral disputes that fail to advance the merits; and on the profession which continues to be observed with varying degrees of amusement and disgust by the legal consuming public. But probably the greatest cost is to lawyers themselves. A 2015 study conducted by Hazelden-Betty Ford, published in 2016, involving lawyer well-being revealed that as a profession, lawyers are much more likely to qualify as problem drinkers and struggle with some level of depression, anxiety, and stress, as compared to the general population. Is this all attributed to sharp practices and uncivil behavior? Of course not, but the practice of law is undeniably stressful. When our interactions with each other become less about the legal issues and more about the personalities, it invariably takes a toll on our well-being. ■

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THE TOP TEN

Reasons Lawyers Get Sued

By Jack Brant

On the old David Letterman Show, Dave had a funny bit at the beginning of each show where he would do “Dave’s Top Ten.” The topic could be anything from politics, to sports, to popular culture. He would start with number ten and progress to number one, which was the best or worst or most outrageous of whatever the topic was for that night.

In a more serious vein, here is our estimation of the Top Ten Reasons Lawyers Get Sued. There are undoubtedly other reasons that could be included on this list. The order is not based on statistics or empirical data. It is just a set of risk management/risk avoidance tips for lawyers. Here, then, is our take on the top ten reasons why lawyers get sued.

NUMBER 10: “Assisting” with a Case

This is one example of failing to identify who you represent and who you do not. It arises primarily from agreeing to help out a fellow lawyer – covering a hearing for a friend, jumping into a case on short notice when a fellow lawyer is in a pinch, assisting with research or briefing. Any situation where the client is aware of your involvement, however limited you believe it to be, can give rise to a belief by the client that you are also his or her lawyer – especially after the fact, if things go wrong. And you may indeed have become the client’s lawyer by becoming involved. Even though there must be an agreement between the lawyer and the client to create a lawyer-client relationship, the agreement can be express or implied. Nothing formal is required, nor is the payment of a fee required to create a lawyer-client relationship. If you give the client the impression that you are assisting in the representation and that you are involved in protecting the client’s interests, you are probably the client’s lawyer just as much as the “main” lawyer that you thought you were only helping out as a favor.

Furthermore, beware of representations that other lawyers may have made to their clients about your involvement. For example, if you share offices with other individual lawyers, have

an agreement that no one will ever represent to a client that the lawyer in the next office or down the hall will help out with the case if necessary. A list of names on the door or on the sign out front could give the impression that you are all working together. Listing yourself “Of Counsel” on another lawyer’s letterhead can get you sued by the other lawyer’s client. Indeed, any situation in which a claim can be made of ostensible partnership or partnership-by-estoppel can give rise to such exposure.

NUMBER 9: Serving as “Local Counsel”

There is no such thing as a “limited” representation of a client absent an express written agreement between the lawyer and client limiting the lawyer’s role. Absent such an express agreement, every lawyer representing the client is fully responsible for everything that occurs in the representation. It is not a defense to contend, “That was the other lawyer’s responsibility, not mine.”

On the “Defense” side, there is risk in agreeing to serve as “local counsel” unless you insist on the right to be involved in all aspects of the case and you follow through by actually *being* involved in all aspects of the case. You should review everything even though the out-of-state counsel may draft the documents, have final say on strategy, and stand up in court. Make a record of any disagreements or issues you may have, and if necessary be prepared to withdraw from the representation if you believe that the client’s interests are not being protected or an ethical line is being crossed.

The same rules apply on the “Plaintiff” side. If you agree to be co-counsel on a case, regardless how you and the other lawyer have agreed to divide up the work, you are both fully responsible to the client for everything. Where you have been brought in by another lawyer, remember: the other lawyer is not your “client;” the client is your client. Beware of the situation where only the other lawyer has contact with the client. You need to know what the client is being told and what the client is telling the other lawyer.

State Bar of New Mexico Lawyers Professional Liability and Insurance Committee

The work of the Lawyers Professional Liability and Insurance Committee includes: Review of Mandatory Disclosure Rule 16-104(C); Analyze insurance reporting data; Monitor action on insurance disclosure; Improve the dissemination of information regarding insurance related issues, especially for newly admitted lawyers; Conduct presentations on insurance related issues; Provide authors and speakers to section meetings, and other State Bar functions. This article does not necessarily represent the opinion of the Committee as a whole. For more information about the Committee, visit www.nmbar.org.

NUMBER 8: Failure to Screen Clients

It is often hard to spot a problem client when they first come to see you about representation. Also, we might be inclined to overlook things as we all want and need the work. However, there are some common danger signs that should raise a red flag about whether you truly want to represent this person:

- multiple prior lawyers
- looking for a second opinion
- unrealistic expectations
- extreme anger or emotion
- a desire for revenge
- insistence on the use of Rambo tactics
- a story that sounds fishy or does not add up
- an offer to lie or manufacture evidence

You should also screen your existing clients for signs of trouble in the representation:

- failure to pay the fee
- changed circumstances in the client's business or personal life
- signs of unhappiness with your work

NUMBER 7: Practicing Outside Your Area

The practice of law has become more and more specialized. Although there are still lawyers who engage very successfully in the general practice of law, the majority of lawyers limit their practice to a particular field, topic, or area. Because of this, it is actually quite rare for lawyers to make a clear mistake of law or procedure when practicing in their area of specialization.

However, real mistakes occur when lawyers venture out of their area of specialization. For example, there was a time when every lawyer was expected to be able to draft a will. Today, however, the area of wills, trusts and estates is extremely complex and fraught with danger for any lawyer who decides to "dabble" in it. The same is true in such areas as real estate, criminal law, domestic relations, and any heavily regulated field. Do not be tempted to "help out" an existing client in an area in which you do not regularly practice. Refer the client to a lawyer with expertise in that area and avoid the risk of committing malpractice.

The same is true geographically. State laws and rules of procedure are not all the same, and there are traps and pitfalls for any lawyer who decides to represent a client in another state or jurisdiction where the lawyer does not regularly practice. At a minimum, associate with a lawyer who does practice regularly in that jurisdiction.

NUMBER 6: Failure to Keep Client Apprised/ Failure to Document

Good risk management starts with good client relations. Yet it is surprising how little attention some lawyers pay to this simple rule of thumb. Lawyers who fail to return phone calls,

who miss appointments with clients, who notify clients at the last minute of hearings and deadlines, who fail to keep clients apprised about their case, are in danger of being sued or receiving a disciplinary complaint.

Good risk management, not to mention standards of professionalism, demand that you be courteous to your clients. Be kind. Be friendly. Tell them regularly what is going on in their case. Answer their questions honestly. Copy your clients on everything. If you are serving as insurance defense counsel, this means copying not only the claims professional but the actual client/insured.

Good risk management also dictates that you write confirming letters or emails, or memos to the file, as to every significant decision in the representation. Make a written record in the file of all instructions to or from the client, all significant advice to the client, warnings, options and choices to be made. **DO NOT** count on the fact that you and the client are "working closely," that the client is deeply involved in the representation, that the client is sophisticated, that "we are on the same page." If things go badly, regardless of the client's level of sophistication or involvement, you may be surprised to hear the client say: "You are the lawyer and I relied on you for everything." Be on the safe side and put it all in writing, in the file.



NUMBER 5: Failure to Define the Scope of the Representation

While mistakes may be rare when lawyers are paying full attention, mistakes – primarily omissions – are common

where the scope of the representation is not clear. This can result in situations wherein the lawyer does not think a matter is his or her responsibility, but the client does. For example, lawyer may represent the plaintiff in a personal injury case but does not pursue a workers compensation claim; or vice versa – the lawyer is handling a workers comp claim but does nothing with regard to a possible personal injury claim. Such situations can arise in a variety of representations where the client may have more than one legal issue.

There is also risk where the lawyer thought the representation was over, but the client did not. Some new issue may arise that is not dealt with properly; the client blames the lawyer, but the lawyer had no idea that further representation was expected. Avoid the risk by using termination letters when you believe the representation is over.

Another fairly common risk-producing situation is the "unknown client." This is an unrepresented person who is involved in a transaction or situation in which the lawyer represents one of the parties. This unrepresented person may be "aligned" with the lawyer's client, giving rise to a belief that the lawyer is protecting that other person's interest as well. The

lawyer may be completely unaware of this expectation. The solution is to look around in every transaction and situation for unrepresented parties, and consider communicating, in writing: "I am not your lawyer. I am not protecting your interests."

There is risk in drafting documents for non-clients as part of a transaction, or representing to a non-client that he or she will be "taken care of." The situation also arises in "scrivener" situations where the client comes to the lawyer with a third party, tells the lawyer that some deal has been worked out, and asks the lawyer to draw up the papers. In both such situations, the lawyer believes he or she is representing only the client, but the non-client believes that the lawyer is also protecting his or her interests.

NUMBER 4 : Not Treating a Representation as "Real" Work

There is risk in "helping out" a family member or friend. Often, the lawyer does not view it as a "real" representation, does not give it the thought, care and attention that the lawyer gives to "real" cases, and mistakes and omissions can occur. There is also risk in doing a favor for an existing client on an unrelated matter – for example, a transactional lawyer agreeing to represent the client's child in a scrape with the law. These situations combine two problems: working outside your area, and not treating the newer matter as "real" legal work. The same risk can even attach in giving gratuitous legal advice at a cocktail party or social gathering.

Any work that arises outside your normal intake process or that you are not being paid for should raise a red flag. Helping someone out and doing free legal work is great. Just remember that you are every bit as much a lawyer representing a client in those situations as with your normal, paid legal work. You have the same duties of diligence, care and competence.



NUMBER 3: Conflicts of Interest

Conflicts of interest can take a variety of forms, some easily recognizable, some not as much. We all recognize that it is a conflict of interest to be adverse to an existing client or to a former client in a related matter. It may be harder to recognize where the

lawyer's interests are potentially adverse to the client's or where the interests of two existing clients may be adverse.

Start with this rule: it is *always* risky to do business with an existing client. A lawyer is virtually begging for a conflict of interest lawsuit by loaning money to, borrowing money from, or getting into a business deal with a client.

A lawyer should never agree to provide legal services to both sides of a dispute or transaction. Do not agree to "draw up the papers" no matter how hard they try to convince you that

everything has been worked out. This is true regarding divorces, contracts, business deals, and any other such situation. Beware also where the party on the other side is unrepresented and your client asks you to "draw up the papers." You may believe you are simply representing your client but the unrepresented party may see it differently.

Lawyers should also be cognizant of "positional" conflicts between existing clients – arguing one side of a proposition for one client and the opposite side for another client. Lawyers, especially at larger firms, should screen transactions and lawsuits carefully to be sure that clients of the firm, especially institutional clients, do not have interests at stake that are different from the interests of the client you are actually representing in the matter. If so, *both* clients may claim that you had a conflict of interest.

NUMBER 2 Suing a Client for Fees

Suing a client for fees is almost guaranteed to bring a counterclaim for legal malpractice. The only good risk management advice is to "keep current." Both at the beginning and throughout the relationship, the amount that you are charging and your expectations regarding payment must be absolutely clear, and you must be vigilant in enforcing that agreement. If you are on an hourly basis, you should bill regularly. You should not wait until the end of the representation to bill for your services. Do not allow the client to get behind on payment without addressing the issue immediately--and repeatedly if necessary. Failure to pay is often a sign that the client is not happy with the representation. Be prepared to withdraw from the representation rather than allowing the situation to worsen. **DO NOT** under any circumstances stop work on the representation as a way to pressure the client to pay. Your duties of diligence and competence continue so long as you continue to be the client's lawyer, regardless whether the client is behind in paying your fees.

If you do end up withdrawing from the representation, consider filing an attorney's charging lien. Charging liens are well-recognized under New Mexico law and courts will enforce them.

Relatedly, do not change your fee agreement with a client during the representation without insisting to the client that the new agreement be reviewed by independent counsel. It is a conflict of interest for the lawyer to increase his or her fee once the representation has commenced, given the ongoing fiduciary duty owed to the client. If you are representing an institutional client or being paid by an insurer, an hourly rate increase is probably safe so long as the client or insurer agrees to it.

NUMBER ONE: Missed Statute of Limitations

Missed statutes of limitations are a constant source of legal malpractice claims. Here are some pointers to try to avoid them:

Continued on page 10.

Some Financial Aspects *of the* Lawyer-Client Relationship



Robert Valdez, Nathaniel Chakares and James Reist are members of the **Ethics Advisory Committee of the State Bar of New Mexico**. This collection of short articles does not necessarily represent the opinion of the Committee as a whole and represent short overviews of ethical issues that can arise in the areas of financial assistance to a client, certain financing arrangements that are appearing, and charging liens. If you have a specific question or issue for which an advisory opinion from the Committee would be helpful, please submit your request in writing to ethics@nmbar.org.

Some Ethical Limits on Financing a Client's Costs and Expenses in New Mexico

By Robert E. Valdez

New Mexico's rules regarding provision of financial assistance to clients are more limited compared to certain other jurisdictions, including Texas. Rule 16-108(E) of the New Mexico Rules of Professional Conduct provides:

E. Financial assistance. A lawyer shall *not* provide financial assistance to a client in connection with pending or contemplated litigation, except that:

- (1) a lawyer may advance *court costs and expenses of litigation*, the repayment of which may be contingent on the outcome of the matter; and,
- (2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.

Rule 16-108(E), NMRA (emphasis added).¹ This rule prohibits a lawyer from paying "reasonable and necessary medical and living expenses." See *Rubio v. BNSF Railway Co.*, 548 F. Supp. 1220, 1224 (D.N.M. 2008) ("Rule 16-108 prohibits lawyers from subsidizing lawsuits by directly giving or lending money to a client or by guaranteeing third-party loans to the client"). This is in stark contrast to the Texas rule that allows lawyers to pay for such expenses.²

New Mexico's prohibition is based upon the ABA Model Rule³ and is the majority rule. See *id.* at 1225, citing, *State ex rel. Oklahoma Bar Ass'n v. Smolen*, 17 P.3d 456, 459-60 (Okla. 2000) (noting that only eight states "explicitly allow lawyers to advance or guarantee loans to clients for living expenses"). Under New Mexico's rule, a lawyer may only advance:

- Court costs; and
- Expenses of litigation including "the expenses of medical examination and the costs of obtaining and presenting evidence." See Rule 16-108 NMRA, cmt. 10.

The consequence of violating the rule is significant. In *Rubio*, Texas lawyers, admitted to practice in New Mexico federal court *pro hac vice* co-signed their client's bank loan for some \$86,000 for "client expenses." Consequently, the court revoked the Texas attorneys' permission to appear *pro hac vice* in New Mexico, resulting in the attorneys being disqualified from the case. See *id.* at 1226-27. Even though the Texas lawyers argued that the New Mexico prohibition on financial assistance, "is quite frankly, surprising to a Texas lawyer," the court had no difficulty observing, "[t]here is no doubt that [the Texas lawyers] have violated [the New Mexico] rule. They admit that they co-signed for the loan and that the money was sent directly to [the plaintiff]." *Id.* at 1223-24. ■

Endnotes

¹ New Mexico allows lawyers to issue a "letter of protection" to a health care provider in order to obtain medical services for the client. See *In re Moore*, 2000-NMSC-019.

² The Texas rule provides, in pertinent part: (d) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation or administrative proceedings, except that: (1) a lawyer may advance or guarantee court costs, expenses of litigation or administrative proceedings, and reasonably necessary medical and living expenses, the repayment of which may be contingent on the outcome of the matter; and (2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client. Tex. Disciplinary Rules of Prof'l Conduct 1.08(d)(1)(emphasis added).

³ See Model Rules of Prof'l Conduct 1.8(e)(2002).

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Five Ethical Considerations When Considering Third-Party Fee Financing

By A. Nathaniel Chakeres

The high cost of legal services is a significant barrier, hindering claimants from being able to access the justice system when they have a civil claim. A new trend by third party finance companies is to encourage lawyers to offer their clients third party financing in exchange for a payment equal to a fraction of the lawyer's fee (for example, 10%). While these arrangements may allow some clients to obtain legal representation that would otherwise be out of reach, they raise issues with regarding the Rules of Professional Conduct. Before engaging in such a financing scheme, at least five questions should be considered:

- **Is Third Party Financing Impermissible Fee-Splitting?**

The threshold question is whether such a third party financing arrangement constitutes impermissible fee-splitting with a non-lawyer in violation of Rule 16-504(A) NMRA. That determination may depend on the specific nature of each financial product. The pivotal question is whether there is a risk that the third-party has the potential to influence the lawyer's independent judgment in the handling of the client's case.

- **Are Fees Reasonable and Handled Properly?**

The overall dollar amount paid by the client, including the fee paid to the lawyer and the amount paid to the financing company, must be reasonable. Rule 16-105(A) NMRA contains a list of factors for lawyers to consider in ensuring that a fee is reasonable. In addition, when fees are paid in advance, the fees must be segregated into an appropriate trust account until earned. Rule 16-115(C) NMRA. The detailed terms regarding the refund of advance payments made to the lawyer by the third party financier on the client's behalf should be clarified in writing by the lawyer and financing company before any money is exchanged. See Rules 16-105 cmt. 5, 16-115(D) NMRA.

- **Are Rule 16-108(A) Requirements Met?**

All business transactions with a client, excluding "ordinary fee arrangements" (governed by Rule 16-105) are subject to Rule 16-108(A) NMRA. Rule 16-108 (A) requires that the terms of the transaction are fair and reasonable, that the client is advised in writing of desirability of independent legal advice on the transaction, and that the client provides informed, signed consent in writing. Since the lawyer generally facilitates, and benefits from, third party financing arrangements, the financing arrangement is not an "ordinary fee agreement." Accordingly, the lawyer must follow the requirements of Rule 16-108(A).

- **Is a Conflict of Interest Being Created?**

The lawyer should take care to avoid a conflict of interest between the third party financing company and the client. The lawyer should make it clear to the client that the lawyer's representation does not encompass setting up the third party financing arrangement, nor is the lawyer recommending or vouching for a particular financing company. A conflict is created when the third party financing arrangement includes recourse against the lawyer when a client fails to fully repay the third party loan.

- **Are Client Confidences Protected?**

Rule 16-106 NMRA prohibits the disclosure of information "related to the representation" of the client. This prohibition is broader than the attorney-client privilege or attorney work product protection. The Rule includes information related to a client's finances and whether a client has received a financial recovery. Even if the financing arrangement requires that the lawyer disclose information about the client to the financing company, the lawyer is prohibited from doing so unless the client provides informed consent, preferably in writing. ■

Nathaniel Chakeres practices with the New Mexico Interstate Stream Commission. He is a member of the State Bar Ethics Advisory Committee.

Two Ethical Considerations Regarding Charging Liens

By James T. Reist

Attorney charging liens are a permissible way to protect a lawyer's right to obtain payment from a client. New Mexico has four requirements when imposing an attorney charging lien:

1. "[A] valid contract, express or implied, between attorney and client," (though the contract "need not 'explicitly assert a lien'");
2. A judgment or fund that resulted from the lawyer's service;
3. The lawyer must have given "clear and unequivocal notice" of the intention to assert a lien, and notice must be given to the "appropriate parties;"¹ and
4. The lien must be timely — notice of the lien must be given "before the proceeds of the judgment have been distributed."

Sowder v. Sowder, 1999-NMCA-058, ¶¶ 10-14, 127 N.M. 114. In addition, the charging liens are "designed to protect the value of the attorney's services from dishonest clients, not to assert all claims the attorney may have against the client." *Computer One, Inc. v. Grisham & Lawless*, 2008-NMSC-38, ¶16, 144 N.M. 424.

The Basis for a Charging Lien Must be Reasonable

Since a charging lien is based upon the value of the lawyer's services, the fee that creates the financial basis for the lien must be reasonable. *N. Pueblos Enters. v. Montgomery*, 1982-NMSC-057, ¶ 9, 98 N.M. 47 ("Because a court exercises its equitable powers in enforcing an attorney's charging lien, it

may inquire into the reasonableness of the asserted fee for purposes of enforcing the lien”); *See also* Rule 16-105 NMRA. The nonexclusive list of factors set out in Rule 16-105 NMRA are helpful in determining the reasonableness of the fee and, correspondingly, the enforceability of a charging lien. *See id.* Some of the factors set out in Rule 16-105 include time and labor required; novelty and difficulty of the questions involved; skill needed to perform the legal service properly; the likelihood (if apparent to the client) that the lawyer’s engagement for the particular matter will preclude other employment by the lawyer; the fee customarily charged in the locality for similar legal services; the amount involved and the results obtained; time limitations; the nature and length of the professional relationship with the client; the experience, reputation, and ability of the lawyer(s) performing the services; and, whether the fee is fixed or contingent.

Charging Lien May Only Attach to Client’s Property

Assuming all four elements of a valid charging lien are met, a charging lien is only permitted on a client’s funds or property,

and not against the private funds of third parties. *In re Venie*, 2017-NMSC-018, ¶¶36 and 39, 395 P.3d 516 (“a charging lien ... only applies to funds recovered [for the client] by the attorney’s aid ... and not the private funds of a third party”). A lawyer’s exercise of dominion and control over property or funds of a third party based upon a claim of charging (or retaining) lien violates the lawyer’s obligation of safekeeping property of the client or third parties. *See id.*; *see also* Rule 16-115(A) and (E) NMRA. ■

Endnotes

¹ “Appropriate parties” include opposing party, opposing counsel, and the client. *Id.*, ¶12.

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The Top Ten Reasons Lawyers Get Sued

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They are often the result of calendaring the wrong statute of limitations. A common example is that claims against government entities under the New Mexico Tort Claims Act have a shorter statute of limitations than generic personal injury claims. Think through what limitations period applies as part of your initial evaluation. Do not simply assume that there is a three-year statute of limitations.

The lawyer should take personal responsibility to 1) evaluate the governing statute of limitations; 2) evaluate the filing deadline for this particular claim; and 3) ensure that the deadline is calendared properly. Lawyers often leave these tasks to staff; however, this is important legal work that the lawyer should attend to personally. Excuses such as “I was waiting to file until I got authority from the client,” or “I was waiting for the retainer check,” will not save you. If an attorney-client relationship has been established, the lawyer has an absolute duty to protect the client’s interests. Filing a claim by the applicable deadline is one of the most important duties a

lawyer has in the representation. So file the claim, and work out the details later, including declining or withdrawing from the representation if necessary.

If you do miss the filing deadline, all is not lost. In most such situations, the client must prove in the legal malpractice case that the claim was meritorious. If that is not in question, then be thankful that you are covered by legal malpractice insurance. And if you do not have legal malpractice insurance, you should. It’s a dangerous world out there. ■

Before opening his own practice, Jack Brant was a director in the Albuquerque office of Rodey, Dickason, Sloan, Akin & Robb, P.A. He practices in the areas of attorney and accountant professional liability, legal ethics and disciplinary consulting and representation, insurance coverage and bad faith litigation, law firm joinder and break ups, law practice management, attorney fee disputes and general civil litigation.

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WBMH's David Walther is one of the committee members who co-authored the AAML's original publication *The Bounds of Advocacy*.



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and as Personal Representative of the
ESTATE OF DONOVAN VALLEJOS; and
LEON SALAZAR, Individually, on behalf
of themselves and all others similarly situated,
Plaintiffs-Appellants,

v.

BOARD OF REGENTS OF THE
UNIVERSITY OF NEW MEXICO, a
body corporate of the State of New Mexico,
for itself and its public operations, including
UNIVERSITY OF NEW MEXICO HEALTH
SCIENCES CENTER, and its components, THE
UNIVERSITY OF NEW MEXICO HOSPITAL,
and UNIVERSITY OF NEW MEXICO
SCHOOL OF MEDICINE,
Defendants-Appellees.

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY

Alan M. Malott, District Judge

Certiorari Denied, April 11, 2019, No. S-1-SC-37549.

Released for Publication July 23, 2019.

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Opinion

Michael E. Vigil, Judge

{1} Plaintiffs, Maria Cummings, individually and as personal representative of the estate of her son Shaun Michael Chavez, brought a class action complaint for medical and other negligence against Defendants (UNMH) resulting from treatment provided to pediatric cancer patients at UNMH. Plaintiffs appeal from an order of the district court dismissing their claims on grounds that UNMH did not receive notice of Plaintiffs' claims as required by the Tort Claims Act (TCA), NMSA 1978, Section 41-4-16 (1977). We conclude that Plaintiffs provided UNMH with written notice of their claims in compliance with the TCA and reverse. Because we reverse on this basis, we do not address Plaintiffs' remaining arguments.

BACKGROUND

I. The UNMH Investigation of Its Pediatric Oncology Program

{2} In 1987, after a review of UNMH's pediatric cancer program conducted by physicians from the Dana-Farber Cancer Institute and Harvard Medical School, UNMH received a letter stating that UNMH was not employing standard protocols in treating its pediatric cancer patients and "[s]trongly encourage[d] that all children with cancer be treated on protocols if at all possible." On March 3, 1997, Dr. Jami Frost, a physician in the pediatric cancer program at UNMH, wrote a letter to the Chair of the Department of Pediatrics, Dr. John Johnson, expressing concern about UNMH's treatment of pediatric cancer patients. The letter states:

Dr. Winter and I have identified several of our patients who are presently receiving non-standard treatment for their high risk ALL. This treatment, known as LSA2L2, was standard therapy for children in the 1970s. Since that time, several research trials have proven that this treatment is not as effective in providing long-term disease-free survival for children with high risk leukemia. . . . It appears that children treated at UNM Pediatric Oncology Program have been treated on this same protocol for many years, without any changes made in regard to availability of more effective therapy.

I have contacted two nationally recognized experts in the treatment of childhood leukemia. . . . Both of these consultants agree that this treatment is substandard. Both agreed that it is not medically ethical to continue these patients on this protocol[.]

{3} On May 13, 1997, Dr. Frost followed up with a memorandum addressed to Dr. Johnson and other UNMH administrators, including the Dean of the University of New Mexico Medical School, Paul Roth, discussing the findings of her investigation into the treatment of pediatric cancer patients at UNMH between approximately 1980-1997. Dr. Frost's memorandum indicated that the survival rate for these patients was "well below published national rates." Dr. Frost's memorandum was accompanied by a list of 217 pediatric cancer patients whose treatment was reviewed and who were currently receiving treatment, with an acknowledgment that the list may not be exhaustive of all pediatric cancer patients treated at UNMH between 1980 and 1997. Shaun is not on the list.

{4} In response to Dr. Frost's letter and memorandum, UNMH began an internal investigation into the treatment of pediatric cancer patients by Dr. Marilyn Duncan, M.D. for acute lymphoblastic leukemia (ALL). On April 9, 1998, UNMH notified at least two of its patient health insurance carriers that Dr. Duncan had been placed on extended leave and was no longer seeing patients while UNMH conducted an investigation into her treatment of pediatric cancer patients, which "apparently was not a treatment recommended by national pediatric oncology clinical trials groups." UNMH emphasized that "we are sending you this notice, because you need to be aware of [Dr. Duncan's] status in the event that [you] receive[] calls regarding her. . . . [UNMH] is presently conducting a comprehensive investigation of this matter and is attempting to determine its implications for both our patients and our institution."

{5} Dr. Cristina Beato, the Assistant or Associate Dean of UNMH, stated that as part of UNMH's investigation, she "instructed employees of UNMH to call certain patients treated for ALL by Dr. Duncan, as well as families of patients so treated, and inform them that they or their children may not have received the recommended treatment for their ALL." Ms. Cummings was not contacted.

{6} In making these calls, Dr. Beato

instructed the callers to "complete a 'telephone work sheet' " or script. These scripts are marked "ATTORNEY-CLIENT PRIVILEGED[.]" One script dated March 29, 1998, titled "Child has died script[.]" prompts the caller to say "[w]e are contacting families of children treated for leukemia here, because it now appears that at least some of the children did not receive all of the treatment that was recommended at the time the children were being seen." The script includes "possible appropriate answers" to patients' families concerning the physician who treated their child, which are limited to "I'm sorry I don't have any first-hand knowledge about that" and "I'm not in administration and I just don't have any first-hand information about that." The script also contains a section titled "WHAT NOT TO TALK ABOUT[.]" The points under this heading direct:

1. Do not volunteer anything about who was prescribing or supervising the treatment.
2. Don't get into the specifics of which protocols were or were not followed.
3. Don't make any statements about what effect the problems may or may not have caused in the treatment of children—there are too many variables of treatment to even attempt this fairly at this point.
4. Don't say anything about how the problem was uncovered—you have no first-hand information about that, and that the matter is under internal investigation and [is] the subject of a personnel action.

{7} Similarly, another script titled "Script 2b – Child who was in remission, but has suffered a relapse and is currently in treatment" states that "[t]he physician who made the decisions on how to treat pediatric oncology patients at UNM for many years and who was responsible for selecting the treatment to be provided to your child, is now on extended leave and is no longer seeing patients. However, we have learned that this physician did not select treatment for your child that was the treatment recommended at that time by a national clinical trials group supported by the National Cancer Institute [called the Pediatric Oncology Group (POG)]." The script goes on to state:

UNM is in the process of investigating why your child and certain others with ALL did not receive the treatment

recommended by POG. In August 1996, two new pediatric oncologists . . . joined our staff. As they became more familiar with the treatments that had been provided in the past, they, along with nurses, pharmacists and social workers of the pediatric oncology team, began to raise concerns about therapy choices for children with ALL, which led us to reexamine the treatment given to your child.

Although the physician who chose the treatment for your child did not select the POG-recommended treatment, even though that physician was a member of POG and very knowledgeable about its recommended treatment protocols, the physician apparently believed the treatment being prescribed for your child would be equally effective. We do not know if that treatment was equally effective for your child.

II. The Litigation Against UNMH

{8} On February 27, 2001, the estate of Steven Lawrence Lovato filed a class action complaint against UNMH, which we refer to as the *Lovato* class action, grounded on the alleged negligence of Dr. Duncan in her evaluation, care, and treatment of pediatric cancer patients at UNMH. On June 1, 2001, a second class action complaint was filed by the estate of Christopher Joseph Sedillo against UNMH, which we refer to as the *Sedillo* class action. The *Sedillo* class action was grounded on the same alleged negligence of Dr. Duncan.

{9} On December 3, 2001, the *Lovato* class action plaintiffs filed a motion to allow Plaintiffs to be joined as plaintiffs and additional class representatives. The moving papers assert that the named plaintiff in the *Lovato* class action and Shaun were both pediatric leukemia patients of Dr. Duncan and members of the putative class. The motion was granted. For reasons not pertinent to the appeal, the *Lovato* plaintiffs were later dismissed from the *Lovato* class action, and the caption was amended to reflect that Plaintiffs were henceforth the plaintiffs in the *Lovato* class action. The operative complaint in this appeal is the third amended *Lovato* class action complaint in which Plaintiffs are named as plaintiffs and class representatives.

{10} UNMH subsequently filed a motion to dismiss Plaintiffs' complaint, alleging that Plaintiffs failed to provide notice of their claims as required by the TCA. After Plaintiffs responded, the district court granted the motion to dismiss on the basis that Plaintiffs are "unable to establish that

UNM[H] was ever given timely notice by Plaintiff Cummings, on her own behalf or on behalf of Shaun Cummings, that there was a likelihood of litigation stemming from the pediatric oncology facility's conduct." Plaintiffs filed a motion to reconsider, which the district court denied. In denying the motion to reconsider, the district court explained its reasoning was that "regardless of when the time period for purposes of [TCA] notice began to run," Plaintiffs "failed to establish that UNM[H] was ever provided appropriate notice."

{11} Initially, we observe that the district court used an incorrect standard in granting UNMH's motion to dismiss. The burden was not on Plaintiffs to prove proper notice under the TCA—it was UNMH's burden to prove inadequate notice. *Dutton v. McKinley Cty. Bd. of Comm'rs*, 1991-NMCA-130, ¶ 7, 113 N.M. 51, 822 P.2d 1134 ("[U]nder the [TCA] defendants have the burden of proving that the notice requirement was not met."). Plaintiffs appeal.

III. Facts Relating to Notice

{12} Shaun was born on January 1, 1978. He was diagnosed with ALL when he was eighteen months old, and was treated at UNMH by Dr. Duncan. In 1980, Shaun moved with his family to Cleveland, Ohio for about six months while Shaun's ALL was in remission, and then returned to New Mexico, where he relapsed. Shaun continued treatment at UNMH, where he was placed on a LSA2L2 chemotherapy regimen in December 1981. Shaun passed away on September 29, 1983, from complications of ALL.

{13} In early January 2001, Ms. Cummings retained counsel to represent her in a potential case against UNMH relating to Shaun's care and treatment. When she met with counsel, Ms. Cummings did not know what treatment protocols Shaun had received at UNMH. At no time, while Shaun was being treated at UNMH, or after he passed away, did UNMH notify Ms. Cummings that it had not followed nationally recognized, proper treatment protocols when treating Shaun for ALL.

{14} On February 22, 2001, counsel requested a complete copy of Shawn's medical records from UNMH. When the medical records were produced, they revealed that Shaun was treated with a LSA2L2 protocol which, Ms. Cummings declared in an affidavit, "was the subject of a class action case brought against UNMH by the Sedillo family," and "was the first

time I learned that Shaun did not receive the proper ALL treatment at UNMH."

{15} Shortly after receiving Shaun's medical records, Ms. Cummings signed an affidavit under the caption of the *Sedillo* class action on July 24, 2001, which was filed in the *Lovato* class action on July 26, 2001. The affidavit was filed in support of a motion to consolidate the *Sedillo* class action into the *Lovato* class action. We refer to this affidavit as the "notice affidavit" which we discuss in greater detail below. The motion to consolidate was denied, but has no bearing on our analysis.

DISCUSSION

{16} To maintain a claim of damages against a governmental agency, the TCA requires that the agency have notice of the claim. See Section 41-4-16. Among the ways in which the notice requirement may be satisfied is by "written notice" that is presented "to the risk management division for claims against the state" which stated "the time, place and circumstances of the loss or injury." Whether the district court properly dismissed Plaintiffs' claims for failing to comply with the TCA's notice requirement presents an issue of law, which we review de novo. See *Herald v. Bd. of Regents of Univ. of N.M.*, 2015-NMCA-104, ¶¶ 21, 48-51, 357 P.3d 438 (applying de novo review to order dismissing TCA claims for failing to comply with TCA notice requirement); *Smith v. State ex rel. N.M. Dep't of Parks & Recreation*, 1987-NMCA-111, ¶ 15, 106 N.M. 368, 743 P.2d 124 ("[W]hether written notice is sufficient is a question for the court."). We discuss whether UNMH received written notice as required by the TCA, then address whether that notice was timely.

IV. Sufficiency of the Written Notice

{17} In the notice affidavit, Ms. Cummings states: Shaun was diagnosed with ALL when he was one and one-half years old; he was diagnosed and treated at UNMH on the LSA2L2 regimen; it was Dr. Duncan who treated him; and Shaun died on September 29, 1983. Ms. Cummings further states in the notice affidavit that she and Shaun's estate are members of the *Lovato* and *Sedillo* class actions, "and as such, have an interest and are parties to the lawsuits."

{18} When the notice affidavit was filed in July 2001, the pending *Lovato* and *Sedillo* class action complaints included allegations that Dr. Duncan was negligent in her evaluation, consultation, care, and treatment of children suffering from cancer from the time she commenced working

at UNMH until she stopped practicing at UNMH; that Dr. Duncan's negligence resulted in the children suffering injuries and death as well as damages to the parents of the children; that UNMH was vicariously liable for Dr. Duncan's negligence, as well as liable for its own negligence. Ms. Cummings individually, and as representative of Shaun's estate, clearly falls within the class described in the *Lovato* class action complaint which is described as including "parents or other affected family members of a Duncan/UNMH patient" as well as:

Any person who was seen by or whose medical care involved Dr. Marilyn Duncan for the purpose of evaluation, consultation, treatment and/or care for a medical condition involving any form of childhood cancer from the first year she practiced medicine, or was employed and/or had privileges to practice medicine at UNMH as a physician specializing in the evaluation, consultation, care and treatment of children suffering from cancer until the time she ceased to practice medicine at UNMH.

Shaun's estate is also included within the class described in the *Sedillo* class action as including:

All patients diagnosed with ALL or AML [acute myleoblastic leukemia] who Marilyn Duncan/UNMHSC actually treated with chemotherapy for purposes of notice only.

{19} Counsel for UNMH, which Plaintiffs describe as "UNM's (and its risk management's) litigation attorney," both accepted service of the *Lovato* class action complaint and was served with the notice affidavit in the *Lovato* class action.

{20} The *Lovato* class action complaint, filed on February 27, 2001, clearly provided UNMH with notice of claims against it arising from allegations of fact that Dr. Duncan was negligent in evaluating, consulting, care, and treating all of her pediatric cancer patients during the entire time she was employed by UNMH, and that the survival rate of pediatric cancer patients of Dr. Duncan between 1981 and 1983 is well below published national rates. The *Lovato* class action complaint also gave UNMH notice of claims against it for its own alleged negligence. No allegations have ever been made that UNMH was unable to investigate the claims made in the original *Lovato* class action complaint, and in

fact, the record demonstrates that UNMH conducted a thorough investigation before the *Lovato* class action complaint was filed and concluded that Dr. Duncan's treatment of her pediatric cancer patients "apparently was not a treatment recommended by national pediatric oncology clinical trial groups." These facts demonstrate that UNMH was aware of the time, place, and circumstances of Dr. Duncan's and its own alleged negligence, together with the fact that it was in fact sued for the alleged negligence.

{21} The purpose of the TCA notice requirement "is to ensure that the agency allegedly at fault is notified that it may be subject to a lawsuit" and to "reasonably alert the agency to the necessity of investigating the merits of the potential claim against it." *Herald*, 2015-NMCA-104, ¶ 50 (alteration, internal quotation marks, and citations omitted). The notice affidavit gave UNMH notice that Plaintiffs actually intended to make claims against UNMH for their losses and injuries allegedly caused by the negligence alleged in the *Lovato* and *Sedillo* class action complaints. As Plaintiffs point out, the notice affidavit identifies Ms. Cummings and Shaun's estate by name; it states that Shaun was diagnosed and treated by Dr. Duncan at UNMH; that Shaun died on September 29, 1983; and that Ms. Cummings considers herself and Shaun's estate to be members of the classes in the *Lovato* and *Sedillo* class actions. In addition, when the notice affidavit was filed, UNMH had already conducted investigations into the alleged negligence of Dr. Duncan, and notified at least two of its patient health insurance carriers of the investigations. Under the circumstances, we fail to see how UNMH can seriously argue that it was not given "written notice stating the time, place and circumstances of the

loss or injury" suffered by Ms. Cummings and Shaun's estate. *See* Section 40-4-16(A). All of the reasons for giving written notice under the TCA were satisfied.

{22} For the foregoing reasons, we conclude that UNMH was given written notice of the time, place and circumstances of the alleged loss or injury suffered by Plaintiffs as required by Section 41-4-16(A) of the TCA. We note that UNMH does not argue that delivery of the notice affidavit to UNMH's attorneys fails to satisfy the TCA under the circumstances. *See Martinez v. City of Clovis*, 1980-NMCA-078, ¶ 18, 95 N.M. 654, 625 P.2d 583 (applying common rules of agency to conclude that proper notice was given arising from negotiations between the plaintiff's attorneys and the agency's insurer). Moreover, there is no material distinction between giving notice through an affidavit attached to a pleading and sending a letter with the same affidavit attached. The only remaining question is whether the notice was timely, and we now turn our attention to that question.

V. Timeliness of the Notice

{23} Section 41-4-16(C) of the TCA provides that in a claim for wrongful death, "the required notice may be presented by, or on behalf of, the personal representative of the deceased person . . . within six months after the date of the occurrence of the injury which resulted in the death." The notice requirement under the TCA "accrues when the plaintiff knows or should know the relevant facts, whether or not the plaintiff also knows that these facts are enough to establish a legal cause of action" *Maestas v. Zager*, 2007-NMSC-003, ¶¶ 20-21, 141 N.M. 154, 152 P.3d 141.

{24} Under *Maestas*, we conclude UNMH received timely notice. The undisputed facts show that Shaun's death on September 29, 1983, followed his receipt

of a LSA2L2 chemotherapy regimen. Ms. Cummings did not discover the facts relevant to her claim against UNMH until she retained counsel to investigate her potential wrongful death claim against UNMH arising from the hospital's treatment of Shaun and received Shaun's full medical records, which occurred, at the very earliest, on the same day Ms. Cummings' counsel requested Shaun's full medical records from UNMH on February 22, 2001. This conclusion is supported by the affidavit filed by Ms. Cummings in response to UNMH's motion to dismiss, in which she stated that at no time during Shaun's treatment did UNMH inform her that it did not follow nationally recognized standard protocols for treatment of ALL; at no time between when Shaun passed away in September, 1983 to the present has UNMH notified her that it failed to follow nationally recognized protocols for ALL in treating Shaun; and that no one from UNM ever called, wrote, or otherwise contacted her about Shaun's treatment at UNMH. Five months and five days passed between February 22, 2001, and the date on which Cummings filed the notice affidavit—on July 26, 2001. Therefore, by the time the six-month period for giving UNMH notice under the TCA expired on August, 22, 2001, the hospital had already received notice of Plaintiffs' claims.

CONCLUSION

{25} The order dismissing Plaintiffs' claims and entering judgment in favor of UNMH on grounds that notice of Plaintiffs' was not provided to UNMH as required by the TCA is reversed.

{26} **IT IS SO ORDERED.**
MICHAEL E. VIGIL, Judge

WE CONCUR:

J. MILES HANISEE, Judge
JULIE J. VARGAS, Judge

WELCOME TO OUR NEW ASSOCIATES.



Haley Adams



Adam Wright

Modrall Sperling is pleased to announce that Haley Adams and Adam Wright have joined our firm's Albuquerque office.

Haley's practice is focused on energy, water, environmental and natural resources law. Prior to joining Modrall Sperling, she practiced with the New Mexico State Land Office for two years, where she assisted in long-term commercial lease drafting and negotiation, litigated contract and water law issues and managed the agency's compliance with the New Mexico Inspection of Public Records Act. Haley attended Lewis and Clark Law School, where she received a certificate in Environmental, Natural Resources and Energy Law.

Adam represents clients in a wide range of commercial litigation matters. His practice also focuses on trademark, copyright, false advertising, unfair trade practices, and trade secret litigation, as well as advising clients on copyright and trademark registration issues. A *magna cum laude* graduate of the University of Michigan Law School, Adam was a Clarence Darrow Scholar and Executive Notes Editor of the Michigan Journal of Race and Law. Following law school, he served as a judicial law clerk in the Eastern and Middle Districts of North Carolina.

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JEFFREY D. MYERS
are pleased to announce that
MADISON R. JONES has joined
WILCOX & MYERS, P.C.
as an Associate Attorney.

Ms. Jones earned her Masters in
Business Administration in 2015
from the University of New Mexico
and her Juris Doctor (cum laude)
in 2019 from Seattle University
School of Law.

Ms. Jones' practice focuses on
business planning and estate planning.

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JUST PASSED THE BAR? Put that Degree to work for you! We have entry-level attorney positions immediately available with the Fourth Judicial District Attorney's Office in Las Vegas, NM. Excellent opportunity to gain valuable experience in the courtroom with a diverse team of mentor attorneys. Requirements include J.D. and current license to practice law in New Mexico. Please forward your letter of interest and resumé to Richard D. Flores, District Attorney, c/o Mary Lou Umbarger, District Office Manager, P.O. Box 2025, Las Vegas, New Mexico 87701 - or via e-mail: mumbarger@da.state.nm.us Competitive salary and great workplace environment!

Associate Attorney

Tucker, Yoder, Hatfield, Eley & Associates, the largest firm in San Juan County, practicing in New Mexico and Colorado, has an immediate associate opening in its Farmington office for civil, domestic relations and criminal practice. Ideal candidates will be team players, ready to assist clients in a variety of cases. New Mexico and Colorado bar admission a plus. Salary depending on experience. Please send cover letter and resume to jennifer@tbylaw.com

Prosecutors

Immediate openings for Prosecutors interested in creating safer communities and a better legal system, one case at a time. Imagine collaborating with a diverse team of professionals, having a manageable caseload with a competitive salary in a great workplace environment. We have positions available in Las Vegas, NM with the Fourth Judicial District Attorney's Office. If you are interested in learning more about the positions or wish to apply, contact us at (505) 425-6746, or forward your letter of interest and resumé to Richard D. Flores, District Attorney, c/o Mary Lou Umbarger, Office Manager, P.O. Box 2025, Las Vegas, New Mexico 87701 or e-mail: mumbarger@da.state.nm.us

Assistant District Attorney

The Fifth Judicial District Attorney's office has immediate positions open for new or experienced attorneys, in our Carlsbad and Roswell offices. Salary will be based upon the New Mexico District Attorney's Salary Schedule with starting salary range of an Assistant Trial Attorney to a Senior Trial Attorney (\$58,000 to \$79,679). Please send resume to Dianna Luce, District Attorney, 301 N. Dalmont Street, Hobbs, NM 88240-8335 or e-mail to 5thDA@da.state.nm.us.

Experienced Litigation Attorney

Cordell & Cordell, P.C., a domestic litigation firm with over 100 offices across 36 states, is currently seeking an experienced litigation attorney for an immediate opening in its office in Albuquerque, NM. The candidate must be licensed to practice law in the state of New Mexico, have minimum of 3 years of litigation experience with 1st chair family law preferred. The firm offers 100% employer paid premiums including medical, dental, short-term disability, long-term disability, and life insurance, as well as 401K and wellness plan. This is a wonderful opportunity to be part of a growing firm with offices throughout the United States. To be considered for this opportunity please email your resume to Hamilton.Hinton@cordelllaw.com

See what positions are open

Caught you browsing the job ads. Something in you yearns for a Better Place, with Better Pay. We're that place. Awarded "Best Places to Work." We've grown from 15 to 47 in 2 years. We've tripled our team, our client base, and our culture. We haven't lost anyone to resignation (Except to go to law school). We work hard, have fun and are enormously grateful for The team we have, in our mission to represent wrongfully injured clients. Are you good? That good? Are you driven to help, learn and get even better? Are you hungry to do more? Something more meaningful? Are you a team player? (That means you co-operate and Collaborate.) Then stop flipping pages, slightly frustrated. Check us out at HurtCallBert.com/careers. Watch employee testimonial videos. See what positions are open. Answer our questionnaire. You just might make the cut.

Attorney

New Mexico Home Builders Association is looking for an attorney to work as CEO of the organization. This is the chief staff position for the organization. Our established and respected statewide association has approximately 2,000 member businesses and is deeply involved in interactions related to construction issues at the Legislature and other state level agencies such as Construction Industries Division/Commission, NMED, NMTRD, etc. Topics currently involving the association include construction defect litigation, building code adoption, state fire marshal's rules for construction, renewable energy tax credits, and extensive workers' compensation related issues, among others. The CEO works directly with senior volunteer leadership helping identify issues for involvement, proposing and implementing goals and strategies, and working with lobbyists to achieve successful outcomes. A good compensation package is available including annual salary of six figures. In-state and some out-of-state travel is required. Our small-staff office is in Albuquerque. Please send resumes and relevant information to CEOSearchNMHBA@gmail.com

Senior Trial Attorney Assistant Trial Attorney Entry Level Attorney

The 13th Judicial District Attorney's Office is accepting resumes for experienced Senior/Mid-level/Entry Level Trial Attorney's. This position requires a minimum of five years of experience as a prosecutor; and it requires handling complex felony litigation. Salary is commensurate with experience. Send resumes to Krissy Fajardo, Program Specialist, P.O. Box 1750, Bernalillo, NM 87004, or via E-Mail to: kfajardo@da.state.nm.us. Deadline for submission of resumes: Open until filled.

Experienced Attorney for Civil Litigation Defense Firm

The Albuquerque office of Ray | Peña | Mc-Christian, PC is growing and we want you to join our busy practice. You should have enough years of experience (3-10+) to take a file and run with it from initial evaluation through discovery and up into trial. We're trial lawyers and we have plenty civil litigation defense work to keep you challenged. Check out our website at www.raylaw.com for more information about the scope of our practice. If you join us, you'll be well supported with the infrastructure of a multi-state firm even as you get the chance to work with a group of top-notch legal professionals that want you to succeed. We offer a competitive salary, great benefits and a straight-forward shareholder track. Send your resume to cray@raylaw.com and get started on the next stage of your career.

Associate Attorney

Atkinson, Baker & Rodriguez, P.C. is an aggressive, successful Albuquerque-based complex civil commercial and tort litigation firm seeking an extremely hardworking and diligent associate attorney with great academic credentials. This is a terrific opportunity for the right lawyer, if you are interested in a long term future with this firm. A new lawyer with up to 3 years of experience is preferred. Send resumes, references, writing samples, and law school transcripts to Atkinson, Baker & Rodriguez, P.C., 201 Third Street NW, Suite 1850, Albuquerque, NM 87102 or e_info@abrfirm.com. Please reference Attorney Recruiting.

New Mexico Public Education Department's Special Education Bureau – Attorney Supervisor and Attorney Advanced

The New Mexico Public Education Department is seeking attorneys for its Special Education Bureau. The openings include an Attorney Supervisor position, and a Lawyer Advanced position. More details about the positions and how to apply are available at <http://www.spo.state.nm.us/>. Please check the website periodically for updates to the list of available positions.

Personal Injury Associate

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

New Mexico Center on Law and Poverty – Senior Education Attorney

New Mexico Center on Law and Poverty seeks an experienced attorney to carry out litigation, policy advocacy and outreach to transform the state's public education system. The attorney will work with educational leaders throughout New Mexico on major policy reforms and litigation related to education, including compliance with the landmark Yazzie court ruling that requires a sufficient public education system for students and comprehensive program and funding reforms (learn more at www.nmpovertylaw.org/our-work/education/). Required: minimum seven years as an attorney; strong leadership and strategic thinking skills; passionate about education policy, racial justice and community lawyering; excellent litigator, writer and researcher; ability to manage complex projects; 'no-stone-unturned' thoroughness and persistence. Preferred: Spanish speaker, experience with lobbying, coalition-building and media. Apply in confidence by emailing a resume and cover letter to contact@nmpovertylaw.org. We are an equal opportunity employer. People of color and people with disabilities are especially encouraged to apply.

Foreclosure Attorney

Weinstein & Riley, a creditors rights firm, is seeking an experienced Attorney with a strong work ethic to work in conjunction with our NM Managing Attorney and support staff in our Albuquerque office. Our Attorney is responsible for the accurate and timely management of a portfolio of cases in various stages of the foreclosure, eviction and bankruptcy processes, including managing contested real estate and bankruptcy matters, including drafting, research, client communication to efficient and creative solutions for clients, and attending hearings and mediations, either in person or telephonically. You must be licensed in New Mexico and in good standing, with minimum 5 years Creditors Default experience including litigation, foreclosure, evictions and/or bankruptcies. You have the ability to handle high case load and attend court, and are interested in getting admitted in other states. We offer a highly competitive employee benefits program including Medical, Dental, Vision, LTD, 401(k) plan, 16 days PTO to start, and 10 holidays. We pay for your CLEs, bar exam fees and renewal costs. Plus, we give you time off to study for bar exams! The deadlines are challenging and opportunities for success are tremendous. If you are customer-focused, deadline driven and experienced, you need to apply! Please reply with your resume and salary requirements to resumes@w-legal.com. You must be able to pass pre-employment drug screen and criminal background check. EOE

Trial Attorney

Trial Attorney wanted for immediate employment with the Ninth Judicial District Attorney's Office, which includes Curry and Roosevelt counties. Employment will be based in either Curry County (Clovis) or Roosevelt County (Portales). Must be admitted to the New Mexico State Bar. Salary will be based on the NM District Attorneys' Personnel & Compensation Plan and commensurate with experience and budget availability. Email resume, cover letter, and references to: Steve North, snorth@da.state.nm.us.

Attorney

Extremely busy Plaintiff firms seek an attorney with 2-4 years of legal experience. Must have excellent research and writing skills. Competitive salary and benefits offered. If interested, please email a resume to ksmith@branchlawfirm and erika@eandersonlaw.com.

Assistant City Attorney in Litigation Division

The City of Albuquerque Legal Department is hiring an Assistant City Attorney for the Litigation Division. The department's team of attorneys represent the City in litigation matters in New Mexico State and Federal Courts, including trials and appeals, and provide legal advice and guidance to City departments. Attention to detail and strong writing skills are essential. Three (3)+ years' experience is preferred, with additional preference for civil defense litigation experience, and must be an active member of the State Bar of New Mexico in good standing. Salary will be based upon experience. Please submit resume and writing sample to attention of "Legal Department Assistant City Attorney Application" c/o Angela M. Aragon, Executive Assistant/HR Coordinator; P.O. Box 2248, Albuquerque, NM 87103, or amaragon@cabq.gov.

Associate Attorney

Holt Mynatt Martínez P.C., an AV-rated law firm in Las Cruces, New Mexico is seeking associate attorneys with 0-5 years of experience to join our team. Duties would include providing legal analysis and advice, preparing court pleadings and filings, performing legal research, conducting pretrial discovery, preparing for and attending administrative and judicial hearings, civil jury trials and appeals. The firm's practice areas include insurance defense, civil rights defense, commercial litigation, real property, contracts, and governmental law. Successful candidates will have strong organizational and writing skills, exceptional communication skills, and the ability to interact and develop collaborative relationships. Salary commensurate with experience, and benefits. Please send your cover letter, resume, law school transcript, writing sample, and references to rd@hmm-law.com.

Spanish – English Legal Interpreter- Las Cruces

2020-01

The Federal Public Defender for the District of New Mexico is accepting applications for the position of Spanish-English Legal Interpreter for the Las Cruces office. One position is available with a starting salary range of JSP 9-14, currently yielding \$51,440 - \$104,821. The Federal Public Defender operates under the authority of the Criminal Justice Act (CJA), 18 U.S.C. §3006A, to provide defense services for indigent persons in federal criminal cases and related matters in the federal courts. The Spanish Interpreter provides oral and written interpretation and translation services (to and from English) between members of a defender organization defense team and its client(s). State Court Certification required; Federal Court Certification preferred. Primary Job Duties: The Interpreter must be able to interpret/translate legal documents, correspondence, transcripts, treaties, psychological, medical and other forensic reports and records, foreign documents, legal provisions and other case related documents; audio and video tape recordings; attorney-client interviews, witness interviews, telephone conversations and jail visits; official court proceedings, pre-sentence interviews and interviews with other government officials, as permitted by the court. The Interpreter must maintain the confidentiality of all interpreted communications and the fact of such communications, at all times; assists the attorney to understand the cultural background of the client, based on the country of origin, as well as his/her level of comprehension with regard to the judicial process of the United States. Helps the attorney establish a professional relationship with the client or witnesses; remains impartial in all situations, interpreting accurately and completely, without regard to the content of the communication; schedules his/her time to accommodate the needs of staff members who require assistance in and out of the office and performs all other duties as assigned. Some travel may be required. Qualifications: Applicants must have a high school degree or equivalent and the requisite experience. State Court Certification required; Federal Court Certification preferred. Ideal applicant will possess a minimum of five years of interpreter experience. The individual must be able to perform each essential job duty satisfactorily. The job requirements are representative of knowledge, skills and/or abilities necessary to perform the essential functions of the job. This is a full-time position with federal salary and benefits. The position is subject to mandatory Electronic Funds Transfer (direct deposit) participation for payment of net pay. Salary commensurate with qualifications and experience. All résumé information and certifications will be verified during the interview process. Final appointment is subject

to a satisfactory background investigation. In one PDF document, please submit a statement of interest and detailed résumé of experience with at least three references to: Melissa Read, Administrative Officer, FDNM-HR@fd.org Reference 2020-01 in the subject. Applications must be received by December 13, 2019. Position will remain open until filled and is subject to the availability of funding. No phone calls please. Submissions not following this format will not be considered. Only those selected for interview will be contacted.

Assistant Federal Public Defender - Albuquerque

2020-02

The Federal Public Defender for the District of New Mexico is seeking a full time, experienced trial attorney for the main office in Albuquerque. More than one position may be filled from this posting. Federal salary and benefits apply. Applicant must have three years minimum criminal law trial experience, be team-oriented, exhibit strong writing skills as well as a commitment to criminal defense for all individuals, including those who may be facing the death penalty. Spanish fluency preferred. Writing ability, federal court, and immigration law experience will be given preference. Membership in the New Mexico Bar is required within the first year of employment. The private practice of law is prohibited. Selected applicant will be subject to a background investigation. The Federal Public Defender operates under authority of the Criminal Justice Act, 18 U.S.C. ' 3006A, and provides legal representation in federal criminal cases and related matters in the federal courts. The Federal Public Defender is an equal opportunity employer. Direct deposit of pay is mandatory. In one PDF document, please submit a statement of interest and detailed resume of experience, including trial and appellate work, with three references to: Stephen P. McCue, Federal Public Defender, FDNM-HR@fd.org. Reference 2020-02 in the subject. Writing samples will be required only from those selected for interview. Applications must be received by December 13, 2019. Position will remain open until filled and is subject to the availability of funding. No phone calls please. Submissions not following this format will not be considered. Only those selected for interview will be contacted.

Associate Attorney

Law Offices of Lynda Latta, LLC seeks associate attorney for fast paced law firm specializing in family law and criminal misdemeanor defense. Excellent computer and communication skills, ability to multitask and being a good team player are all required. Pay DOE. Send resume via mail: Attn. Holly @ 715 Tijeras Ave. NW, 87102 or email: holly@lyndalatta.com

Lawyer Position

Guebert Bruckner Gentile P.C. seeks an attorney with up to five years' experience and the desire to work in tort and insurance litigation. If interested, please send resume and recent writing sample to: Hiring Partner, Guebert Bruckner Gentile P.C., P.O. Box 93880, Albuquerque, NM 87199-3880. All replies are kept confidential. No telephone calls please.

Senior Trial Attorney/Deputy District Attorney Taos County

The Eighth Judicial District attorney's office is accepting applications for a Senior Trial Attorney/Deputy District Attorney in the Taos office. The Senior Trial Attorney position will handle a combination of misdemeanor and felony level cases, whereas the Deputy District Attorney position will handle primarily felony level cases. Senior Trial and Deputy District Attorney positions are mid-level to advanced level positions of which is a minimum of two (2) to four (4) years of criminal law experience is preferred, respectively. Salary will be based upon experience and the District Attorney Personnel and Compensation Plan. Please submit a letter of interest and a resume to Suzanne Valerio, District Office Manager, 105 Albright St., Suite L, Taos, New Mexico 87571, or submit electronically to svalerio@da.state.nm.us. Applications will be accepted until and attorney has been hired for the position.

Securities Division Attorney III

The New Mexico Securities Division of the Regulation and Licensing Department is looking for an experienced, conscientious litigator to fill an Attorney III vacancy in its Enforcement section. Based in Albuquerque, the incumbent will be responsible for prosecuting administrative, civil, and criminal violations of the New Mexico Securities Act; liaising with state and federal law enforcement and regulatory agencies (such as the United States Attorney's Office, the Securities and Exchange Commission, and the Commodity and Futures Trading Commission); assisting with rulemaking and legislation; conducting trainings; participating in investor education outreach; and providing legal advice to the director and the staff. Experience with the grand jury process and white collar crime in general is mandatory. Familiarity with the financial services industry and cryptocurrencies is desirable. Candidates must have at least five (5) years' experience in the practice of law and be admitted in New Mexico or eligible for admission. The position is a pay band LH (\$63,851 - \$101,996) and may be accessed at: <http://www.spo.state.nm.us>.

City of Santa Fe Seeks Outside Real Estate Counsel:

The City of Santa Fe City Attorney's office is soliciting Request for Quotes (RFQ) for outside legal services to assist the City in complex real estate transactions. We seek particular expertise in lease, sale, and/or other disposition and development agreements, as well as closing and conveyance document drafting. In addition, we seek a firm with experience in title review and quiet title actions. Specific projects for outside counsel may include the Midtown Project, Santa Fe Estates, and affordable housing projects. Interested attorneys and law firms should submit a cover letter and a price schedule to Irene Romero: ikromero@santafenm.gov

Legal Director

For nearly 20 years Enlace Comunitario has been transforming lives of Latino immigrant victims of domestic violence, their children and their communities in Central NM. We are a passionate, highly motivated group of advocates, counselors, educators, attorneys, public policy experts, and fundraisers, and we're looking for an exceptional legal director to join our team. Reporting to the Executive Director, the Legal Director will lead and expand EC's legal program, including developing and litigating family law cases related to the victimization, assisting in the development of a new immigration component and managing the legal department. The Legal Director will be responsible for handling the day-to-day management of legal staff, volunteers, and cooperating attorneys. As a critical member of the organization's senior management team, the Legal Director will provide strategic leadership on both litigation and non-litigation legal advocacy in priority areas such as women's and immigrants' rights as well as other areas identified by our team in collaboration with community partners. In addition, the Legal Director works in close coordination with our other teams, as well as our local and national partners to advance our advocacy goals. Must be bilingual (Spanish-English). For a detailed job description, visit our website enlacenm.org. If you are interested in this position, please submit a cover letter to cmolina@enlacenm.org that illustrates your commitment to victims and immigrant rights, a current resume, a legal writing sample, and contact information for three professional references. Include "Legal Director Search" in the subject line and specify how you heard about the posting. No phone calls or walk-ins, please.

Advocate

Disability Rights New Mexico, a legal rights center for persons with disabilities, seeks full time Advocate to assist our constituents in accessing needed services, redressing discrimination, and achieving equal opportunity. At least BA in social services, counseling or related field required. Experience with disability rights issues, knowledge of state administrative remedies in Medicaid, Special Ed, DVR and procedures preferred. Bilingual Spanish/English a plus. Persons with disabilities and minorities encouraged to apply. Mail, fax or e-mail cover letter, resume and names of three references by December 15, 2019 to Disability Rights New Mexico, 3916 Juan Tabo NE, ABQ NM 87111; fax #505-256-3184; e-mail DPriola@DRNM.org.

Dynamic Attorney

Gallagher, Casados & Mann is seeking a dynamic attorney to join our growing AV-rated insurance defense law firm. Duties include all aspects of litigation, such as preparing pleadings and motions, taking and defending depositions, participating in mediations and arbitrations, and handling hearings and trials. Experienced litigators are highly encouraged to apply. We offer a competitive salary and benefits for the right candidate. Please submit your cover letter, resume, and references nmann@gcmlegal.com.

Trust Associate/ Administrative Assistant

Empire Trust Inc. is seeking to expand its team with the right applicant to fill a full-time position. Job duties include recordkeeping for trust accounts and assisting trust officers with daily tasks. Must have good organizational, bookkeeping, computer and word processing skills with high attention to detail. Trust and/or banking experience preferred. Excellent benefits. Please submit a resume, references and salary requirements to info@empiretrustinc.com

Assistant Attorney General/ Legal Assistant

The Office of the New Mexico Attorney General is recruiting for Assistant Attorney General and Legal Assistant positions in Civil and Criminal Affairs. The job postings and further details are available at www.nmag.gov/human-resources.aspx.

Paralegal/Legal Assistant

Well established Santa Fe personal injury law firm is in search of a paralegal/legal assistant. Candidate should be friendly, highly motivated, well organized, detail oriented, proficient with computers and possess excellent verbal and written skills. Duties include reviewing medical records, preparing demand packages as well as meeting with clients and opening claims with insurance companies. We are searching for an exceptional individual with top level skills. We offer a retirement plan (SEP), health insurance, paid vacation, and sick leave. Salary and bonuses are commensurate with experience. Please submit your cover letter and resume to santafelaw56@gmail.com

Paralegal

Litigation Paralegal with minimum of 3- 5 years' experience, including current working knowledge of State and Federal District Court rules, online research, trial preparation, document control management, and familiar with use of electronic databases and related legal-use software technology. Seeking skilled, organized, and detail-oriented professional for established commercial civil litigation firm. Email resumes to e_info@abrfirm.com or Fax to 505-764-8374.

Paralegal

Paralegal position available with uptown law firm. General civil practice including domestic relations, business transactions, and civil litigation. Looking for that right person who can take initiative by proactively managing cases and timely respond to clients. Must be personal, well-spoken, organized, committed, and able to multi-task. FT position. Send resume and pay requirements to bryan@thehrsolution.org.

Paralegal

Coyte Law P.C. has a position available for an experienced litigation paralegal. This is a civil rights practice with an emphasis on solitary confinement and human rights violations. We are looking for someone capable of dealing with unpleasant and at times shocking fact patterns. This is an opportunity to work in a very interesting and difficult area of the law. The position requires experience with federal court filings and procedures. Please send a letter of interest, salary requirements and resume to mcoyte@me.com. Applications will be kept confidential.

Legal Assistant - Paralegal

Must have extensive litigation experience. Discovery, Personal Injury experience - We are a Small 2 Attorney Practice - Personal Injury & Insurance Defense. Medical record/bill request function is KEY role; Seeking experience with Microsoft Office; case and client management, scheduling and billing using phone, and email. Contracted hourly rate is negotiable depending on experience. Please call David at 505.264-9011. All inquiries are completely confidential. Please FIRST send resume and salary requirements to DavidRosales@NewMexicoCounsel.com

Office Space**Prime Office Space—
Centrally Located**

Professional office space to lease. Convenient for clients and to Courthouse. Lots of natural light and windows. Private office, secretarial and reception areas. Reserved, covered parking. Conference Room. Private bathroom. Kitchen. Storage. Approximately 1,000 square feet. Available immediately. Summit Building. Contact Jennifer at 505-880-1211.

1212 Pennsylvania St NE

Uptown Attorney Office in single story office building shared by sole practitioners and small law firm with centrally staffed reception area, two conference rooms, law library, and kitchen. Office has large windows with natural light, security system, ample parking and access to freeway. \$750 month. Phone, internet, copier, postage, and secretarial bays available for additional fee. Call 266-8787 or email manager@ABQlawNM.com.

Miscellaneous**Want To Purchase**

Want to purchase minerals and other oil/gas interests. Send details to: P.O. Box 13557, Denver, CO 80201

DIAL 222-2222 !!!

222-2222 phone number is now available in Albuquerque! Fantastic opportunity to identify, brand and grow your practice. Long term lease available and affordable. Contact rwr2d2@aol.com for immediate details.

NEW**Bar Bulletin
Advertising Deadlines**

The Bar Bulletin publishes every other week on Wednesdays.

Submission deadlines are also on **Wednesdays, three weeks prior to publishing by 4 p.m.** Advertising will be accepted for publication in the Bar Bulletin in accordance with standards and ad rates set by publisher and subject to the availability of space. No guarantees can be given as to advertising publication dates or placement although every effort will be made to comply with publication request. The publisher reserves the right to review and edit ads, to request that an ad be revised prior to publication or to reject any ad. **Cancellations must be received by 10 a.m. on Thursday, three weeks prior to publication.**

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

The publication schedule can be found at
www.nmbar.org/BarBulletin.



2020 Call *for* CLE PROPOSALS

The Center for Legal Education is a major component of the New Mexico State Bar Foundation. CLE is a non-profit New Mexico accredited course provider dedicated to providing high quality, affordable educational programs to the legal community hosting both local experts and national speakers.

CLE is accepting proposals for 2020 programs which include programs to be held at the Bar Center, via webinar and at the State Bar Annual Meeting. While all legal topics will be accepted, the following are priority for 2020:

Hot Topics • Law Practice Management
Attorney Wellness • Government

Please complete and submit the call for proposal form, <https://www.jotform.com/build/90175355209154> by Nov. 30.

Contact cleonline@nmbar.org or
505-797-6020 with questions.



Congratulations are in Order!

We welcome **Matthew B. Landess** as an associate attorney practicing family law at Atkinson & Kelsey. Matt is a graduate of UNM School of Law, '13, and brings five years of business litigation experience to the Firm. Matt grew up on the Kenai Peninsula in Alaska and attended Colorado State University for undergraduate studies. He serves as an Officer and Assistant Staff Judge Advocate with the New Mexico Air National Guard. Matt volunteers with New Mexico Christian Legal Aid in its various ministries and has served on the Board since December 2017. Matt is an avid runner and can be frequently found running the arroyos of Rio Rancho.



Lucy H. Sinkular is now a shareholder with Atkinson & Kelsey, P.A. Lucy is a graduate of the University of Kansas School of Law, '94, and earned her undergraduate degree at the University of Nebraska, '91. Lucy serves as a State Bar Commissioner for the First District. She also is a member of the Board of Directors of the Family Law Section of the State Bar and serves on the Board of the New Mexico Women's Bar Association. Currently Lucy is engaged in efforts to re-establish Family Law as a specialty under the State Bar's new program. Lucy is trained in Collaborative Divorce, and focuses on high asset divorces and those involving military families.

Please join our existing shareholders in congratulating Matt and Lucy on their new positions.



Jon A. Feder



Thomas C. Montoya



Denise E. Ready

CELEBRATING OUR **40** YEAR ANNIVERSARY

2155 Louisiana NE, Albuquerque, NM 87110 | Suite 2000

505-883-3070 | 800-640-3070

www.atkinsonkelsey.com