

NO. 05-8500
IN THE MATTER OF MANDATORY DISCLOSURE OF
PROFESSIONAL LIABILITY INSURANCE COVERAGE

ORDER

WHEREAS, this matter came to the Court upon the recommendation of the New Mexico Board of Bar Commissioners and the New Mexico State Bar's Lawyers Professional Liability Committee after significant study and consideration by both organizations;

WHEREAS, the Court recognizes the obligation of New Mexico attorneys to protect the public seeking professional legal advice, and to protect themselves in the event they require professional liability insurance;

WHEREAS, the Court acknowledges the importance of ascertaining the insured status of attorneys licensed in the State of New Mexico, in anticipation of assessing the future course of action, if any, regarding the possibility of allowing public access to information of a similar nature; and

WHEREAS, the Court having considered said recommendation and being sufficiently advised, Chief Justice Richard C. Bosson, Justice Pamela B. Minzner, Justice Patricio M. Serna, Justice Petra Jimenez Maes, and Justice Edward L. Chávez concurring;

NOW, THEREFORE, IT IS ORDERED that, pursuant to Rule 17-202(A) NMRA of the Rules Governing Discipline, the State Bar of New Mexico shall include in the annual registration statement, certification of the following information:

- 1) Whether the attorney is engaged in the private practice of law or whether the attorney is exempt from the provisions of this Order because the attorney's entire compensation derived from the practice of law is received in the attorney's capacity as an employee handling legal matters of a corporation or organization, or any agency of the federal, state, local government, or a member of the judiciary who is prohibited by statute or ordinance from practicing law;
- 2) The county of the attorney's primary practice and the number of practitioners in the attorney's firm;
- 3) If engaged in the private practice of law, whether the attorney currently maintains in force and effect professional liability insurance, other than an extended reporting endorsement; and, if so, disclosing to the State Bar the

amount of coverage, the amount of the deductible; and the name of the insurer; and

- 4) Whether the attorney intends to continuously maintain professional liability insurance during the period of time the lawyer is engaged in the private practice of law.

IT IS FURTHER ORDERED that the foregoing information shall be certified by each attorney admitted to the active practice of law in New Mexico in such form as may be prescribed by the State Bar of New Mexico as approved by this Court. The information submitted pursuant to this order is designed for internal use by the New Mexico State Bar and the Supreme Court only;

IT IS FURTHER ORDERED that full participation is essential so that this Court is apprized of the status of professional liability coverage within the Bar. Noncompliance with this order or supplying false information shall be treated as seriously as failure to pay annual license fees, *see* Rule 17-202 NMRA, and may lead to suspension, as outlined in Article II, Section 2.3 of the State Bar Bylaws;

IT IS FURTHER ORDERED that, if certification of the required information is not received before the last day of March, the Board of Bar Commissioners, through its Executive Director, shall certify to this Court the names of all active members failing to comply with the requirements set forth in this order; and

IT IS FURTHER ORDERED that the adoption of this order shall not make the State Bar of New Mexico, its officers, directors, representatives, or membership liable in any way to any person who has suffered loss by error or omission of an attorney. This order is adopted solely for the purposes stated herein and not for the purpose of making the State Bar of New Mexico, its officers, directors, representatives, or membership insurers or guarantors for clients with respect to the attorney-client relationship. This order does not create a claim against the State Bar of New Mexico for failure to provide accurate information or a report on the insured status of any attorney, or for implementation of any provision of this order.

IT IS SO ORDERED.

Done in Santa Fe, New Mexico, this 29th day of July, 2005.

Chief Justice Richard C. Bosson
Justice Pamela B. Minzner
Justice Patricio M. Serna
Justice Petra Jimenez Maes
Justice Edward L. Chávez