

Official Publication of the State Bar of New Mexico

DIGITAL **BAR BULLETIN**

October 22, 2025 • Volume 64, No. 20



Untitled, by Jonathan Miller (see page 3)

rattlesnakelaw.com

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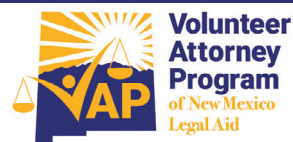
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SPECIAL SECTION



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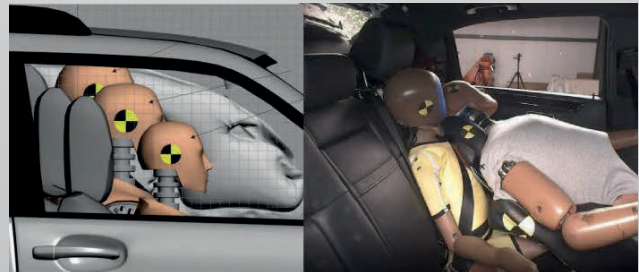
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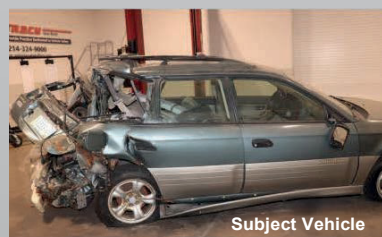


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focuses on how the vehicle's safety systems performed, not who caused the accident. At my firm's Crash Lab, we continually study vehicle safety through engineering, biomechanics, physics, testing and innovation.



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DIGITAL BAR BULLETIN



State Bar of
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celeste.valencia@sbnm.org
Graphic Designer, Julie Sandoval, julie.sandoval@sbnm.org
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brandon.mcintyre@sbnm.org
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Virginia Chavers-Soto, virginia.chavers-soto@sbnm.org
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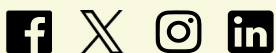
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The Bar Bulletin (ISSN 1062-6611) is distributed digitally twice a month by the State Bar of New Mexico, 5121 Masthead St. NE, Albuquerque, NM 87109-4367, including the second and fourth weeks of the month.

505-797-6000 • 800-876-6227
Fax: 505-828-3765 • address@sbnm.org

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www.sbnm.org



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CLE COURSE SPOTLIGHT

2025 PROCUREMENT CODE INSTITUTE

-  **DATE**
Oct. 29, 2025
-  **TIME**
8:30 AM – 2 PM (MT)
-  **LOCATION**
In-Person or Virtual
-  **CREDITS**
3.0 G, 1.0 EP

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About Cover Image and Artist: Jonathan Miller has been a member of the State Bar of New Mexico since 1988. Based in Albuquerque, he travels all over New Mexico and has appeared in every judicial district. He started taking pictures as a way to stretch to and from his travels to court. Jonathan is a graduate of Albuquerque Academy, Cornell University and the University of Colorado law school. He does have an MFA through the American Film Institute. He recently took his first professional photography class through Cornell's online program. His photos have been displayed on Facebook, Instagram and LinkedIn.

Please email notices desired for publication to notices@sbnm.org.

COURT NEWS

New Mexico Supreme Court Rule-Making Activity

To view recent Supreme Court rule-making activity, visit the Court's website at <https://supremecourt.nmcourts.gov>. To view all New Mexico Rules Annotated, visit New Mexico OneSource at <https://bit.ly/NM-Rules>.

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 resources. The Law Library is located in the Supreme Court Building at 237 Don Gaspar in Santa Fe. Building hours: Monday-Friday 8 a.m.-5 p.m. (MT). Library Hours: Monday-Friday 8 a.m.-noon and 1-5 p.m. (MT). For more information call: 505-827-4850, email: libref@nmcourts.gov or visit: <https://lawlibrary.nmcourts.gov>.

STATE BAR NEWS

2026 Budget Disclosure Deadline to Challenge Expenditures

The State Bar of New Mexico Board of Bar Commissioners has completed its budgeting process and finalized the 2026 Budget Disclosure, pursuant to the State Bar Bylaws, Article VII, Section 7.2, Budget Procedures. Starting Nov. 1, the budget disclosure will be available in its entirety on the State Bar website at www.sbnm.org on the financial information page under the About Us tab. The deadline for submitting a budget challenge is on or before noon (MT), Dec. 1, and the form is provided on the last page of the disclosure document. The BBC will consider any challenges received by the deadline at its Dec. 10 meeting. Address challenges to: Executive Director Richard Spinello, State Bar of New Mexico, PO Box 92860, Albuquerque, N.M. 87199; or info@sbnm.org. Challenges may also be delivered in person to the State Bar Center, 5121 Masthead NE, Albuquerque, N.M. 87109.

Professionalism Tip

With respect to the public and to other persons involved in the legal system:

I will keep current in my practice areas, and, when necessary, will associate with or refer my client to other more knowledgeable or experienced counsel.

Board of Bar Commissioners Appointment to New Mexico State Bar Foundation Board

The Board of Bar Commissioners of the State Bar of New Mexico will appoint one director to the New Mexico State Bar Foundation Board for a three-year term. The New Mexico State Bar Foundation advances the legal community's commitment to serve the legal profession and people of New Mexico. Through member donations, fundraising and programs, the Foundation provides and promotes access to legal services to underserved New Mexicans. The Foundation also supports public service, education, and diversity, as well as organizations consistent with its mission. For more information about the Bar Foundation, visit:

<https://www.sbnm.org/Bar-Foundation>. Active status members of the State Bar of New Mexico who are interested in serving on the Board should submit a letter of interest and resume to bbc@sbnm.org by Nov. 21.

Appointments to Vacancies in the Seventh and Thirteenth Judicial Districts, the Eleventh Judicial District and the Twelfth Judicial District

The Board of Bar Commissioners will appoint four members to vacancies on the Board in the following districts: Seventh and Thirteenth Judicial Districts (two positions), Eleventh Judicial District (one position) and Twelfth Judicial District (one position). Pursuant to Rule 24-101(F), vacancies of district bar commissioners shall be filled by appointment of the Board of Bar Commissioners until the next regular election of the Board, and the term will be for one year from Jan. 1, 2026 through Dec. 31, 2026. The Board of Bar Commissioners will make the appointments at its Dec. 10 meeting. Active status members with a principal place

of practice (address of record) in these districts are eligible to apply. The Board of Bar Commissioners meets five times per year with one meeting during the State Bar of New Mexico Annual Meeting. Active status members interested in serving on the Board should submit a letter of interest and resume to bbc@sbnm.org by Nov. 21 COB (MT).

New Mexico Lawyer Assistance Program The Other NM Bar Meeting

The New Mexico Lawyer Assistance Program proudly presents to you The Other NM Bar Meeting, which is a confidential traditional 12-step meeting for legal professionals. Open to all lawyers, law students, judges and other legal professionals, the meeting's purpose is to provide a safe space for people to support one another in their desire to stop drinking and using. The Other NM Bar Meeting meets in person every Thursday evening from 5:30 to 6:30 p.m. (MT) at the First Unitarian Church, located at 3701 Carlisle Blvd. NE, Albuquerque, N.M. 87110. For those unable to make it in person, there will be an option to join telephonically in the future. For more information about The Other NM Bar Meeting, email NMLAP@sbnm.org.

Monday Night Attorney Support Group

The Monday Night Attorney Support Group meets at 5:30 p.m. (MT) on Mondays by Zoom. This group will be meeting every Monday night via Zoom. The intention of this support group is the sharing of anything you are feeling, trying to manage or struggling with. It is intended as a way to connect with colleagues and to know you are not in this alone. Join the meeting via Zoom at <https://bit.ly/attorneysupportgroup>.



U.S. District Court, District of New Mexico

Service on Court Committee & Service on Court Panel

Service on Court Committee

Chief Judge Kenneth J. Gonzales and the Article III District Judges for the District of New Mexico would like to solicit interest from Federal Bar members for service on the Federal Bench and Bar Fund Committee. This Committee advises the Court and the Fund's Custodian with respect to the administration and operation of the Fund. (Please see [Administrative Order Misc. No. 91-09](#) for more information regarding the Federal Bench and Bar Fund.)

All interested Federal Bar members in good standing should submit a Letter of Interest no later than Oct. 22 to the Clerk of Court, U. S. District Court, 333 Lomas Blvd. NW, Suite 270, Albuquerque, N.M. 87102; or by email to clerkofcourt@nmd.uscourts.gov to be considered for appointment to the Committee.

Service on Court Panel

Chief Judge Kenneth J. Gonzales and the Article III District Judges for the District of New Mexico would like to solicit interest from Federal Bar members for service on the Magistrate Judge Merit Selection Panel ("the Panel"). In the District of New Mexico, there are five full time magistrate judges in Albuquerque, five full time magistrate judges in Las Cruces and two part time magistrate judges, with one in Farmington and the other in Roswell. Whenever there is a magistrate judge vacancy, the Panel is responsible for (i) reviewing the application packets submitted by all applicants, (ii) determining the list of qualified applicants to be interviewed by the Panel, and (iii) from those applicants interviewed by the Panel determining by majority vote of the Panel members the five most qualified applicants and then forwarding the names of those five most qualified applicants to the District Judges who will then interview the finalists and make a selection.

The Panel also has the responsibility of issuing a report and recommendation to the District Judges whenever a U.S. Magistrate Judge seeks another term. By statute, U.S. Magistrate Judges serve eight-year terms and may seek reappointment for additional eight-year terms. As part of the Magistrate Judge reappointment process, the Panel must seek input from attorneys, litigants and other members of the public concerning magistrate judges seeking reappointment and then issue a report and recommendation on whether said judges should be reappointed.

Any member of the Federal Bar in good standing and interested in being selected by the District Judges to serve on the Magistrate Judge Merit Selection Panel should submit a Letter of Interest no later than Oct. 22 to the Clerk of Court, U. S. District Court, 333 Lomas Blvd. NW, Suite 270, Albuquerque, N.M. 87102; or by email to clerkofcourt@nmd.uscourts.gov to be considered for appointment to the Panel.

Featured Member Benefit



Fastcase, the legal research platform available to you as a member of the State Bar of New Mexico, has been upgraded to vLex Fastcase, a new legal intelligence and research platform. Coverage includes cases, statutes, regulations, court rules and constitutions for all 50 states & Federal. This service is available through www.sbnm.org. vLex also offers free live monthly training webinars. Customer Support is available 8 a.m. to 8 p.m. ET, Monday-Friday. The Support team can be reached at 866-773-2782 or support@fastcase.com, as well as on chat on vLex Fastcase.

For more information, email tech-support@nmd.uscourts.gov

UNM SCHOOL OF LAW Law Library Hours

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

Notices

OTHER NEWS

Center for Civic Values

Judges Needed for Gene

Franchini High School Mock Trial Competition

The Gene Franchini New Mexico High School Mock Trial Competition is seeking volunteer judges for its qualifier rounds Feb. 20 - 21, 2026, in Albuquerque, N.M. This hands-on experience builds critical thinking, confidence and a deeper understanding of the justice system. Tentative participants may sign up at:

registration.civicvalues.org/mock-trial/registration.

The deadline for registration is Feb. 4, 2026. For questions, contact Kristen at the Center for Civic Values at 505-764-9417 or Kristen@civicvalues.org.

N.M. Legislative Council Service Legislative Research Library Hours

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

<https://bit.ly/NMLegisLibrary>.

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Board of Bar Commissioners Election 2025



State Bar of
New Mexico
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Voting in the 2025 election for the State Bar of New Mexico Board of Bar Commissioners begins **Nov. 5 and closes at noon on Nov. 30**. Voting is being conducted electronically. For voting procedures, see page 12. The following districts have contested elections. See the candidates' photos, bios and Q & A below.

Voting
begins online
Nov. 5

Second Judicial District (Bernalillo County) – Two candidates submitted petitions for one position. The term is three years, and the candidates are Tierra N. Marks and Steven S. Scholl.

Third and Sixth Judicial Districts (Dona Ana, Grant, Hidalgo, and Luna Counties) – Four candidates submitted petitions for three positions. There are two three-year terms and one one-year term, and the candidates are Amy B. Bailey, Israel Chávez, Connie J. Flores and Chrystian J. Gonzalez.

The following district was uncontested:

Fifth Judicial District (Chavez, Eddy and Lea Counties) – There was one position in this district for a three-year term and one nomination petition was received from Parker B. Folse, so he is elected by acclamation.

The following districts didn't receive any nomination petitions. A notice was published in the Bar Bulletin, and the Board of Bar Commissioners will make the appointments at its December 10th meeting.

Seventh and Thirteenth Judicial Districts (Catron, Sierra, Socorro, Torrance, Cibola, Sandoval, and Valencia Counties) – Two vacancies

Eleventh Judicial District (McKinley and San Juan Counties) – One vacancy

Twelfth Judicial District (Lincoln and Otero Counties) – One vacancy

Second Judicial District



► Tierra N. Marks

My name is Tia and I am a Senior Associate at Barnhouse Keegan Solimon & West LLP in Albuquerque. I am a member of the Navajo Nation and spent my early years on the Nation before moving to a small town in southern Arizona, and then to the Big Island of Hawai'i where I attended a remote Hawaiian culturally driven charter school. I then moved to Farmington, New Mexico where I graduated from Navajo Preparatory School. I obtained my undergraduate degree at CU Boulder, completed the Pre-Law Summer Institute, and graduated from UNMSOL in 2017. I was then hired as an associate at my firm (although first as an independent contractor reviewing thousands of documents for a large case). Eight years later, I've never looked back. Beyond law, I go to hot yoga as much as possible, I hike, and since my first home purchase, obtained another hobby, yard work.

1. Why do you want to serve on the Board of Bar Commissioners?

I want to give back to the community that has taught and guided me so much. The New Mexico legal community is incredibly special and looking back at the last eight years I have practiced law in New Mexico, it is difficult to express the gratitude I have for those who have taken time to mentor and guide my legal development. I am eager to be in a role where I can give back all that was provided to me. I am also eager to serve on the BBC to contribute to the growth of our legal community and to be part of discussions of what our legal community will look like in the future and how our future is shaped by the past.

2. Give your perspective on any important issues that you believe the profession and the State Bar should be addressing.

I believe it is important to address feelings of invisibility and exclusion in our profession, data gaps, recruitment, hiring and retention issues, and to identify and change ineffective standards that have become normalized in our profession. It is also important to address ongoing educational needs for our communities and in a manner that acknowledges the unique legal framework that exists in New Mexico as affected by federal, state, local, and tribal law. Finally, I believe it is important to acknowledge the work done by those who came before us, to make room for all of our unique histories, to expand cross-generational mentoring and to understand how we must work together for the success and health of our profession, clients, and communities.

3. How well do you think the State Bar is fulfilling its mission and objectives?

The SBNM works very hard to provide services and resources to its members, the New Mexico legal community and others. The over 15 different practice sections of the SBNM is just one example of the unique and varied interests the SBNM balances. SBNM staff and other representatives are incredibly helpful, and I often see them going above and beyond to help fulfill needs of its members and sections. The SBNM's recent work to expand its content in the Bar Bulletin and other sources is exciting and in furtherance of the SBNM mission to be more united and inclusive. In this manner, the SBNM is very successful. However, constant monitoring, evaluation and careful and persistent work is critical to maintaining the SBNM's success and continued growth.

4. What has been your involvement in the State Bar and/or other law-related organizations, such as national, local and voluntary bars?

For the past three years I have served on the Indian Law Section of the SBNM, first as a liaison, then Chair, and I currently serve as past Chair. I also serve on the New Mexico Indian Bar Association and am part of the Navajo Nation Bar Association. I have twice served as an adjunct professor at the UNMSOL, presented at various Indian Law and Natural Resource classes at UNMSOL and elsewhere, and at other SBNM events including the Natural Resources, Energy and Environmental Law Section's 2024 annual CLE. I am also honored to be an alumna of the Pre-Law Summer Institute. I also currently serve on Law360's 2025 Native American Editorial Board which is a national board that provides feedback on Law360's coverage.



► Steven S. Scholl

I seek reelection to the BBC for a second term representing the Second District. I am a 1989 grad of UNMSOL; and, an Adjunct there since 1991 teaching court room skill classes, including Evidence/Trial Practice; the Deposition Program; and, coaching the NTC mock trial team. My practice is doing civil trials, on both sides of the "v" representing Plaintiffs and Defendants in a variety of case types. I often consult with other lawyers in both civil and criminal cases to help them prepare for trial. I grew up in Silver City and am married to my high school sweetheart, Chris. I have spent my entire adult life involved in the law, first as a Dallas Police Officer, and then as a lawyer. In both roles, I worked to "do the job," and teach others how to do them well.

1. Why do you want to serve on the Board of Bar Commissioners?

In my first term, I was surprised to discover how broad and deep the reach and role of the Bar is. In my first term, I worked to bring the perspective of small firms and solo practitioners into the conversation on the many issues the BBC addresses. I look forward to continuing my work as one of your voices on the BBC.

2. Give your perspective on any important issues that you believe the profession and the State Bar should be addressing.

I am a staunch believer in and defender of the Rule of Law. It is what the Founders enshrined in the Constitution and what makes America the beacon of freedom and liberty. We lawyers have unique responsibilities in preserving and protecting it. We must work to ensure that all our citizens know, value and protect our system in our pursuit of a more perfect Union.

3. How well do you think the State Bar is fulfilling its mission and objectives?

I believe the New Mexico Bar does a really good job of meeting its charge under Rule 24-101. In sum, its role is to nurture the needs of the members of the Bar and the citizens of New Mexico. Many programs are administered to accomplish both. Some are large scale, and some small, but all seem effective in ensuring that legal needs and services are provided to all segments of society by competent practitioners.

4. What has been your involvement in the State Bar and/or other law-related organizations, such as national, local and voluntary bars?

Prior to my election to the BBC two years ago, I was, like most members of the Bar, a casual participant in it. I attended CLEs and the Annual Meeting. During Jerry Dixon's Presidency, I saw first hand how much the Bar actually does, and wanted to pitch in and help. After nearly thirty years as a member, and two terms as President of the Albuquerque Bar, stepping into the state-wide Bar was the natural next step for me.

Third and Sixth Judicial Districts



► Amy B. Bailey

Born and raised in West Virginia, I relocated to New Mexico 25 years ago and ended up at the UNM School of Law. Since graduation in 2006 I worked at a few firms in Albuquerque where I practiced primarily family law and learned several other areas of civil law. I moved to Las Cruces six years ago and continue to practice all areas of family law. I'm also currently serving as Guardian ad Litem in family, involuntary commitment, and guardianship cases, as well as doing Special Master work. I'm currently serving on the Family Law Section Board and have previously served on the Boards of the Southern NM Bar, Big Brothers Big Sisters, and the NM Lottery Authority. I am also a Bridge the Gap mentor.

1. Why do you want to serve on the Board of Bar Commissioners?

The Board of Bar Commissioners is an integral part of the legal community and all of our individual communities. It is important for attorneys to serve not only their communities but also support our profession with education, professional support, and recruiting new attorneys to serve in different aspects of the law all over the state. Serving on the BBC will allow me to continue my investment in supporting young attorneys and continuing to promote continued high standards in the practice of law in New Mexico.

2. Give your perspective on any important issues that you believe the profession and the State Bar should be addressing.

The State Bar should be working to provide broader access to attorneys in our smaller communities, continuing to provide a high level of continuing education, working to assist attorneys with understanding rapidly changing technology for our profession, and supporting our colleagues and their teams with serving our clients while protecting our own well being.

3. How well do you think the State Bar is fulfilling its mission and objectives?

The State Bar does a fine job at fulfilling its mission and objectives, but there is always room for improvement. I would like to see more support in the well being aspects of our practices and connecting the various different sections of the bar.

4. What has been your involvement in the State Bar and/or other law-related organizations, such as national, local and voluntary bars?

I am currently serving on the Family Law Section board and have been a member of the Albuquerque Bar and the Southern New Mexico Bar. I have also been a Bridge the Gap mentor for many years.



► Israel Chávez

Israel Chávez is an attorney based in Southern New Mexico. He is a 16th generation New Mexican and owns and operates his own firm specializing in civil rights litigation, criminal defense, and personal injury. He is a founding member of the New Mexico LGBTQ Bar Association and the Southern New Mexico Bar Association and is a member of the New Mexico Trial Lawyers and New Mexico Criminal Defense Lawyers.

1. Why do you want to serve on the Board of Bar Commissioners?

Southern New Mexico has seen a huge growth in participation in our local bar, through the Southern NM Bar and that is in no small part due to the staffing and financial support of our State Bar. I want to continue the work of our past Commissioners by bringing state resources to southern New Mexico and usher in the next generation of leadership for our Bar. That means thinking creatively about how the Bar supports its members and how we attract talent to our small rural communities.

2. Give your perspective on any important issues that you believe the profession and the State Bar should be addressing.

The State Bar should be evaluating how smaller towns who sometimes have only one or two attorneys (or maybe no attorneys at all) will be able to access legal services. This evaluation should be combined with how we ensure that attorneys are seeing the value in practicing in smaller jurisdictions, where competition is often less but mentorship is also difficult to find.

3. How well do you think the State Bar is fulfilling its mission and objectives?

I think the State Bar does a lot very well and we have such excellent leadership at the helm of the Commission but I think there are some things that have lacked innovation with our State Bar and haven't seen much revamping in many years. I think we are often too focused on the larger city centers and forget that our bench and bar in rural New Mexico is struggling. As an example, the State Bar has seen declining attendance at its Annual Meeting and is considering getting rid of that event - the question becomes how is the State bar supporting its membership? I think that is the next step for our Bar.

4. What has been your involvement in the State Bar and/or other law-related organizations, such as national, local and voluntary bars?

I am heavily involved in many local bars, including as a founding member of the LGBTQ Bar Association and as the Founding President of the Southern New Mexico Bar Association. SNMBA is now the largest regional bar and the only voluntary bar presided over by a federal judge. We boast large numbers of members and an active presence across our region, unlike any other part of New Mexico. I also served for many years on the Diversity Committee for the State Bar where I advocated for innovation related to the Bar Exam and other membership criteria. I would be honored to serve the State Bar as a commissioner.



► Connie J. Flores

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

1. Why do you want to serve on the Board of Bar Commissioners?

I have had the honor to serve as a Commissioner for the Third and Sixth Judicial District since January 2020. As we all know, COVID came and changed our lives in 2020. Although my initial involvement started by zoom, I made it a point to personally attend most live meetings in Albuquerque and Santa Fe to properly represent my districts. Through my involvement as a Commissioner, I realized how much time and true dedication the Commissioners give to make our New Mexico legal profession an exemplar one. I want to continue to improve my knowledge as a Commissioner to better serve Southern New Mexico. I have assisted in organizing events to have the State Bar of New Mexico leadership visit Las Cruces to meet and learn from our Southern New Mexico members and welcome any conversation its members have speaking directly to leadership in their hometown.

2. Give your perspective on any important issues that you believe the profession and the State Bar should be addressing.

An important issue that the profession and the State Bar should address is exposure to free legal services for the underprivileged. Through continuously volunteering at free legal clinics in the Dona Ana community, it became apparent to me that many do not understand legal correspondence they receive or how to begin to respond to legal issues that arise. Being the daughter of an immigrant mother who lost her son to a criminal act, I remember how confused and overwhelmed my mother felt dealing with the legal system. As a State Bar, we need to strive to have all our legal professionals give back to our communities especially the underprivileged. Volunteering to provide our services is a very rewarding experience. Even one hour of volunteer work can change an individual's life.

3. How well do you think the State Bar is fulfilling its mission and objectives?

I believe the State Bar offers a variety of essential programs and services to its members. In particular, the bar created the Bridge the Gap Mentorship (BTG) program. The BTG was created in order to assist new attorneys in the transition from law school to the actual legal practice by providing real-world information and best practices from tenured attorneys. Having been fortunate enough to have mentored at least 10-15 newly licensed attorneys through this program, I realized the benefit of having a mentor who provides guidance as a newly licensed attorney transitions from law school to the legal profession. I firmly believe this program accomplishes its mission in assisting attorneys to become successful practitioners.

4. What has been your involvement in the State Bar and/or other law-related organizations, such as national, local and voluntary bars?

- Accident Attorneys - Member
- Attorneys of Truck Accident Academy - Member
- State Bar of New Mexico Bar Commissioner for 3rd and 6th District
- State Bar of New Mexico Certified Mentor for Bridge the Gap Program
- New Mexico Hispanic Bar Association, Member
- El Paso Trial Lawyers Association, President
- Southern New Mexico Bar Association – Board Member
- In Her Element Foundation – Board Member and Mentor
- El Paso Bar Association, Member
- Mexican American Bar Association, Member
- Hispanic National Bar Association, Member
- Texas Trial Lawyers Association, Member
- Sisterhood of the Eight- Member
- American Association for Justice – Member
- American Bar Association - Member



► Chrystian J. Gonzalez

I currently serve as a Children's Court Attorney for the Children, Youth, and Families Department in Las Cruces. My background includes work in Social Security, Family, and Criminal law. I have also dedicated significant time to pro bono efforts in southern New Mexico, by assisting in organizing legal fairs, offering bilingual consultations, and helping individuals navigate complex legal issues. This commitment to service led me to join the Board of Bar Commissioners, where I have had the honor of serving this past year. The Board plays a truly vital role in supporting New Mexico attorneys, promoting access to justice, and strengthening the legal profession. I have been proud to bring a southern New Mexico perspective to the Board, and I am seeking your vote to continue serving on the Board and to keep advancing initiatives that support our

legal community and the public we serve. Thank you for your support and for the work you do each day as part of our legal community.

1. Why do you want to serve on the Board of Bar Commissioners?

I want to continue serving on the Board to advocate for greater access to justice, attorney support, and outreach for underserved communities. My experience in public service and pro bono work has given me a grounded perspective that I am committed to sharing with the Board. I believe the Board plays a critical role in strengthening our profession, and I want to continue contributing to that mission by representing the voices and needs of attorneys in our region.

2. Give your perspective on any important issues that you believe the profession and the State Bar should be addressing.

Access to justice remains a critical issue, particularly in rural and underserved communities where legal services are scarce, or nonexistent. The State Bar should continue prioritizing outreach, as well as attorney well-being, and efforts to promote diversity and inclusion, in order to ensure the profession reflects the communities we serve and that all members feel supported in their practice.

3. How well do you think the State Bar is fulfilling its mission and objectives?

The State Bar has made meaningful progress in fulfilling its mission, particularly in expanding access to legal resources, supporting attorney wellness, and assisting the Bar with staying up to date on changes that affect attorney practice, such as advancements and integration of A.I. in the legal field. Continued focus on outreach to rural areas, increasing diversity, and enhancing member engagement will ensure the Bar remains responsive to the evolving needs of attorneys, the courts, and the public.

4. What has been your involvement in the State Bar and/or other law-related organizations, such as national, local and voluntary bars?

In addition to currently serving on the Board of Bar Commissioners, I am Treasurer of the Southern New Mexico Bar Association. I am also an active member of the Third Judicial District Court Pro Bono Committee and support the District Court's monthly Family Law Pro Bono Clinic on a monthly basis. Through these roles, I stay connected to both the Bar's mission and the needs of the communities we serve.

Electronic Voting Procedures

A link to the electronic ballot will be emailed on Nov. 5 to all active status members with a principal place of practice (address of record) in the Second Judicial District and the Third and Sixth Judicial Districts (which includes El Paso County, Texas).

**The election will close at noon (MT) on Nov. 30,
and the election results will be certified on Dec. 1.**



**State Bar of
New Mexico**
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The Supreme Court of New Mexico Announces Out-of-Cycle Rule Amendments Effective Sept. 30, 2025, and Oct. 1, 2025

In accordance with Rule 23-106.1 NMRA, the Supreme Court has provisionally approved out-of-cycle rule amendments. What follows is a summary of amendments that the Court provisionally approved on September 30, 2025. The amendments are effective on September 30, 2025, and October 1, 2025, respectively. The full text of the amendments in markup format and the related rules and administrative orders are available on the Court's website [here](#). The approved rule amendments will also be available on [NMOneSource.com](https://nmonesource.com) on their effective date.

Supreme Court

Criminal Competency – Amended Rules 5-602.1, 5-602.2, 5-602.3, 6-507.1, 7-506, and 8-507.1 NMRA; Amended Form 9-514 NMRA; Suspended Rule 7-507.1 NMRA

The Supreme Court has provisionally approved amendments to Rules 5-602.1, 5-602.2, 5-602.3, 6-507.1, 7-506, and 8-507.1 NMRA and Form 9-514 NMRA regarding criminal competency proceedings. The Court also suspended Rule 7-507.1 NMRA, which is further addressed in concurrently issued Second Amended Order No. S-1-AO-2025-00014 – In the Matter of the Suspension of Rule 7-507.1 NMRA and Criminal Competency Proceedings in the Metropolitan Court. The provisional amendments and suspended rule are intended to implement recent statutory changes regarding criminal competency proceedings.

Water Court Structure and Procedure – New Rule 1-077.2 NMRA

The Supreme Court has provisionally adopted new Rule 1-077.2 NMRA. The new rule sets forth procedures for the reorganized water court structure as adopted in Supreme Court Order No. S-1-AO-2025-00017 – In the Matter of the Reorganization of the New Mexico Water Court Structure.

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

[https://supremecourt.nmcourts.gov/rules-forms-files/approved-amendments-to-rules-and-forms/
2025-approved-amendments-to-rules-and-forms/](https://supremecourt.nmcourts.gov/rules-forms-files/approved-amendments-to-rules-and-forms/2025-approved-amendments-to-rules-and-forms/)

The Supreme Court of New Mexico Announces Out-of-Cycle Rule Amendments Effective Oct. 6, 2025

In accordance with Rule 23-106.1 NMRA, the Supreme Court has provisionally approved out-of-cycle rule amendments. What follows is a summary of amendments that the Court provisionally approved on October 6, 2025. The amendments are effective on October 6, 2025. The full text of the amendments in markup format and the related rules and administrative orders are available on the Court's website [here](#). The approved rule amendments are also available on [NMSOneSource.com](#).

Supreme Court

Criminal Competency in the Metropolitan Court – Reinstated and Amended Rule 7-507.1 NMRA; Amended Form 9-514 NMRA

The Supreme Court approved the reinstatement and provisional amendment of Rule 7-507.1 NMRA and the provisional amendment of Form 9-514 NMRA regarding criminal competency proceedings. The reinstated rule and provisional amendments are intended to implement recent statutory changes regarding criminal competency proceedings in the metropolitan court. The Court also concurrently issued Supreme Court Order No. S-1-AO-2025-00020, which further addresses criminal competency proceedings in the metropolitan court.

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

[https://supremecourt.nmcourts.gov/rules-forms-files/approved-amendments-to-rules-and-forms/
2025-approved-amendments-to-rules-and-forms/](https://supremecourt.nmcourts.gov/rules-forms-files/approved-amendments-to-rules-and-forms/2025-approved-amendments-to-rules-and-forms/)

The mission of SBNM's **Equity in Justice Program** is to cultivate and grow a legal profession in New Mexico that is representative of and reflective of the people of New Mexico. Our state is an incredibly diverse place and a legal profession that embraces and fosters inclusivity will attract talent to its employ and clients to engage it!

With that in mind, we bring you the **Reflections** series. We call these "**Reflections**" because they not only reflect to our diverse legal community that they belong and are valued, but also because we hope it also inspires you to reflect on how you interact with people and communities in New Mexico that may be different from you and your experiences.

In honor of **Disability Employment Awareness Month**, we bring you this **Reflections** curated in collaboration with Eli Fresquez, Founder of Accessible New Mexico. Learn more about the organization [here](#)!



Access to Education

- **Read** about the 2018 consolidated cases referred to as "Yazzie/Martinez" in which Judge Sarah Singleton found that the New Mexico Public Education Department had violated the New Mexico Constitution by failing to provide to "at-risk students a uniform statewide system of free public schools sufficient for their education." One of these such group of at-risk students is children with disabilities. Read more about that case and [here](#) and [here](#).
- **Watch** Lead Plaintiff Wilhelmina Yazzie speak on the reasons why she brought the lawsuit [here](#). Then register for the Committee on Diversity in the Legal Profession's CLE Symposium to see Ms. Yazzie speak live! To register for **in-person attendance**, click [here](#). To register for **virtual attendance**, click [here](#).
- **Listen** to just some of what law students with disabilities go through when attending law school on Law School Toolbox podcast [here](#). With transcript [here](#).
- **Read** some of what these students with disabilities had to go through to even become law students [here](#).



Inclusion in the Justice System

- **Read** the New Mexico Courts' newest accommodation plans under the Americans with Disabilities Act. These plans are specific to each court or judicial district. Those and more on this issue can be viewed [here](#).



Belonging at Work

- **Read** the 2023 United States Supreme Court [Loper Bright decision](#) widely known for its impact on Chevron Deference.
- Then **watch** analysis of how it may specifically impact disability accommodations and leave in the workplace [here](#).
- Just because we are lawyers doesn't mean we know our rights on disability accommodations in the workplace. **Watch this** from the Native American Disability Law Center.
- **Read** more about your rights as a person with disabilities in the workplace from [Disability Rights New Mexico](#).
- **Read** how the option of remote work removes unnecessary barriers and creates an inclusive workplace for folks with disabilities [here](#).
- **Get Interactive!** Take our survey to let us know if your firm, non-profit, or governmental entity has a remote work policy [here](#).



State Bar of
New Mexico
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Legal Education Calendar

October

- | | | |
|---|--|--|
| <p>23 Tribal and State Collaborations - Sovereigns Working Together to Better One Another (Live Replay)
1.0 G
Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-10232025</p> | <p>24 Life After Fire: (Re)Imagining Post-Fire Recovery
4.4 G, 1.6 EIJ
Live Program
University of New Mexico School of Law
https://lawschool.unm.edu</p> | <p>29 AI for Litigation and Trial
1.0 G
Web Cast (Live Credits)
New Mexico Trial Lawyers Association
www.nmtla.org</p> |
| <p>24 Bryan Stevenson: 2025 Annual Meeting Keynote Address (Live Replay)
1.0 EIJ
Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-10242025</p> | <p>28 5 Ways to Ethically Use ChatGPT Safely in the Practice of Law
1.0 EP
Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-10282025-2</p> | <p>30 Learning Legal Ethics From the Lincoln Lawyer: Season 1
1.0 EP
Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-10302025</p> |
| <p>24 Elimination of Bias-Combating Age Bias in the Legal Field
1.0 EIJ
Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-10242025-2</p> | <p>28 Effective Attorney-Led Voir Dire
1.0 G
Web Cast (Live Credits)
New Mexico Trial Lawyers Association
www.nmtla.org</p> | <p>30 Learning Legal Ethics From the Lincoln Lawyer: Season 2
1.0 EP
Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-10302025-2</p> |
| | <p>29 2025 Procurement Code Institute
3.0 G
Webinar and In-Person
NMSBF Center for Legal Education
https://bit.ly/CLE-10292025</p> | <p>31 Fall Basic Mediation
30.0 G, 2.0 EP
Live Program
University of New Mexico School of Law
https://lawschool.unm.edu</p> |

November

- | | | |
|--|--|--|
| <p>5 Part 1: Advance Cross-Examination - with Emphasis on Remote (Zoom) Cross featuring Spontaneous Loops and 20 Ways to Keep Control of a Witness
1.2 G
Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-11052025</p> | <p>6 Part 2: Advance Cross-Examination - with Emphasis on Remote (Zoom) Cross featuring Spontaneous Loops and 20 Ways to Keep Control of a Witness
1.2 G
Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-11062025</p> | <p>7 2025 Committee on Diversity in the Legal Profession Symposium
3.0 G, 2.0 EP, 1.0 EIJ
Webinar or In-Person
NMSBF Center for Legal Education
https://bit.ly/CLE-11072025</p> |
| <p>5 Everything You Need to Know About Litigating a Road Construction Case
1.0 G
Web Cast (Live Credits)
New Mexico Trial Lawyers Association
www.nmtla.org</p> | <p>6 High-Level Litigation Strategies That Deliver Results
1.0 G
Web Cast (Live Credits)
New Mexico Trial Lawyers Association
www.nmtla.org</p> | <p>7 Nuts & Bolts of Lawyering: Tools, Tactics & Perspective
5.0 G
Web Cast (Live Credits)
New Mexico Trial Lawyers Association
www.nmtla.org</p> |
| | | <p>14 2025 Real Property Institute
3.0 G
Webinar or In-Person
NMSBF Center for Legal Education
https://bit.ly/CLE-11142025</p> |

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



CLE PLANNER

Your Guide to Continuing Legal Education

Need to Know....

Center for Legal Education course registration fees go to support the important efforts of the **New Mexico State Bar Foundation**:

- Legal Resources for the Elderly Program
- Modest Means Helpline
- Legal Education for Attorneys
- *And more*



Inside this Issue

- ▶ Programs with the Committees, Sections and Divisions of the State Bar
- ▶ Center for Legal Education Annual Pass
- ▶ Special Highlight – Bryan Stevenson Keynote
- ▶ Upcoming CLE courses



New Mexico State Bar Foundation
Center for Legal Education

The Center for Legal Education is a non-profit New Mexico accredited CLE course provider dedicated to providing high-quality, affordable educational programs to the legal community. The Center offers a full range of educational services. For more information, contact us or visit us online.



LinkedIn

▶ Register online at <https://cle.sbnm.org> or call 505-797-6020
Email cleonline@sbnm.org with any questions



State Bar Committee, Section, and Division Annual CLE Programs

Join the Center for Legal Education, in collaboration with various Committees, Sections, and Divisions of the State Bar of New Mexico, for their Annual CLE Programs

- ▶ October 29 – *Procurement Code Institute*
- ▶ November 6 – *Indian Law Institute*
- ▶ November 7 – *Annual Diversity in the Legal Profession Symposium*
- ▶ November 13 – *Probate Institute*
- ▶ November 14 – *Real Property Institute*
- ▶ November 19 – *Business Law Institute*
- ▶ November 20 – *Immigration Law Institute*
- ▶ December 2 – *Intellectual Property Institute*
- ▶ December 4 – *Cannabis Law Institute*
- ▶ December 5 – *Guardian ad Litem Institute*
- ▶ December 10 – *Tax Law Institute*
- ▶ January 23, 2026 – *5th Annual Women in the Law Symposium*



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2025

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Did you miss **Bryan Stevenson's** *impactful* and *inspiring* keynote address at this year's Annual Meeting?

 *Join the Center for Legal Education for a replay of this Equity in Justice session!*



KEYNOTE ADDRESS

Live Replay

Bryan Stevenson

(1.0 EIJ)

- October 24 • 9am
- November 21 • Noon
- December 17 • Noon

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

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

October/November Programs

October 23

Tribal and State Collaborations: Sovereigns Working Together to Better One Another (Live Replay)

1.0 G

3–4 p.m.

WEBINAR

October 24

Bryan Stevenson: 2025 Annual Meeting Keynote Address (Live Replay)

1.0 EIJ

9–10 a.m.

WEBINAR

October 24

Elimination of Bias – Combating Age Bias in the Legal Field

1.0 EIJ

11 a.m. - Noon

WEBINAR

October 28

5 Ways to Ethically Use ChatGPT Safely in the Practice of Law

1.0 EP

1–2 p.m.

WEBINAR

October 28

Mine, Yours, and Ours: Trust and Estate Planning for Non-traditional Families, Part 1

1.0 G

11 a.m.–Noon

TELESEMINAR

October 29

Mine, Yours, and Ours: Trust and Estate Planning for Non-traditional Families, Part 2

1.0 G

11 a.m.–Noon

TELESEMINAR

October 29

2025 Procurement Code Institute

3.0 G, 1.0 EP

8:30 a.m.–2 p.m.

IN-PERSON AND WEBINAR

November 4

Working in the Cloud: Employment Law Issues When Employees Work Remotely

1.0 EP

11 a.m.–Noon

TELESEMINAR

November 5

Advanced Cross-Examination: Emphasis on Remote Cross, Part 1

1.2 G

11 a.m.–12:15 p.m.

WEBINAR

November 6

Advanced Cross-Examination: Emphasis on Remote Cross, Part 2

1.2 G

11 a.m.–12:15 p.m.

WEBINAR

November 6

Stockholders' Agreements for C & S Corps, Part 1

1.0 G

11 a.m.–Noon

TELESEMINAR

November 7

Stockholders' Agreements for C & S Corps, Part 2

1.0 G

11 a.m.–Noon

TELESEMINAR

November 7

2025 Committee on Diversity in the Legal Profession Symposium

3.0 G, 2.0 EP, 1.0 EIJ

9 a.m.–5 p.m.

IN-PERSON AND WEBINAR

November 13

Buy/Sell Agreements: Crafting for Closely Held Companies, Part 1

1.0 G

11 a.m.–Noon

TELESEMINAR

November 14

Buy/Sell Agreements: Crafting for Closely Held Companies, Part 2

1.0 G

11 a.m.–Noon

TELESEMINAR

November 14

2025 Real Property Institute

3.0 G

9 a.m.–12:30 p.m.

IN-PERSON AND WEBINAR

November 14

True Crime Ethics: The Alec Baldwin Dismissal and the Karen Read Acquittal

2.0 EP

11 a.m.–1 p.m.

WEBINAR

November 18

Pee-Wee Herman and the Criminal Justice System's History of Bias Against the Gay Community

1.0 EIJ

11 a.m.–Noon

WEBINAR

November 18

Basics of New Mexico Landlord-Tenant Law

1.5 G

Noon–1:30 p.m.

WEBINAR

November 19

2025 Business Law Institute

4.0 G, 1.0 EP, 1.0 EIJ

9 a.m.–4:45 p.m.

IN-PERSON AND WEBINAR

November 19

The Privilege: Exactly What Communications Between Attorney and Client Are Protected?

1.0 EP

11 a.m.–Noon

TELESEMINAR

CLE Registration

Ways to Register:

➔ Online: <https://cle.sbnm.org> ☎ Phone: 505-797-6020 @ Email: cleonline@sbnm.org

REGISTER EARLY! Advance registration is recommended. Online registration closes one day ahead of each program. **CLE Cancellations & Refunds:** We understand that plans change. If you find you can no longer attend a program, please contact the Center for Legal Education. We are happy to assist you by transferring your registration to a future CLE event or providing a refund, subject to Center policy. **MCLE Credit Information:** The NM State Bar Foundation's Center for Legal Education is an accredited CLE course provider. **Note:** Programs subject to change without notice.

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 Check our website for more updates to our program schedule!

Judiciary Voice: Judges' Perspectives on *Pro Bono* and *Housing Issues* in New Mexico

The State Bar of New Mexico interviewed **Judge Jason M. Jaramillo**, Presiding Civil Division Judge of the Metropolitan Court, and **Judge Erin O'Connell** of the Second Judicial District Court regarding housing issues and access to justice in New Mexico and how pro bono attorneys can provide service to New Mexicans facing housing crises.



Judge Jaramillo has dedicated his entire legal career to public service, having previously worked in the Bernalillo County Attorney's Office as an assistant county attorney. He began his career as a prosecutor and appellate attorney for the Second Judicial District Attorney's Office prior to working for the Social Security Administration. As a former member and now honorably discharged veteran of the U.S. Army National Guard, Judge Jaramillo served in both Colorado and New Mexico. Judge Jaramillo has been the Presiding Civil Division Judge of the Bernalillo County Metropolitan Court since Jan. 1, 2025. In that position, he hears a variety of civil cases which includes more than 2,400 eviction and housing-related cases – which is about 70% of the total cases he hears annually.



Judge O'Connell was appointed to the civil bench in February 2019. She is Co-Chair of the Second Judicial District Court Pro Bono Committee and is Chair of the New Mexico Supreme Court's Access to Justice Commission. Judge O'Connell is committed to facilitating and expanding access to civil legal services to New Mexicans in need across Bernalillo County and the State.

Q&A with Judge Jason M. Jaramillo

1. How often do you see tenants appear in court without legal representation?

Judge Jaramillo: It has varied somewhat over the years depending on staffing at legal service agencies. 2025 has been tough for those agencies, so I would estimate that only 1 in 300 tenants who appeared in court this year had representation.

2. What difference does it make when a tenant has an attorney compared to when they represent themselves?

Judge Jaramillo: The biggest difference is the frequency in which cases resolve by settlement. Tenants represented by attorneys are more likely to successfully negotiate a settlement that could avoid an eviction.

3. Do you think landlord-tenant cases are an important area for pro bono work, and if so, why?

Judge Jaramillo: Yes. Particularly for those in subsidized housing, the consequences of eviction can be severe. Both parties to an eviction case can be unaware of their rights and responsibilities under law, and involvement by knowledgeable attorneys can improve outcomes. This is true not just for the case at hand, but for everyone, as the community becomes more educated on their rights

and responsibilities. Pro bono attorneys can have impacts beyond the single case, as I have witnessed tenant attorneys successfully educate landlords in a way that impacts the way a landlord conducts business going forward.

4. What impact do pro bono attorneys have, not just on tenants, but on the efficiency and integrity of the court system?

Judge Jaramillo: It is true for many types of cases that judges must frequently make decisions on incomplete information. Having another set of eyes on a dispute and another advocate can definitely improve the quality of the information presented to the court, and therefore improve these areas of the court system.

5. How does attorney involvement affect landlords and property owners, if at all?

Judge Jaramillo: In approximately half of our cases, the landlords are represented by lawyers. Usually large apartment complexes, but also others. Attorneys are often successful in educating the landlords, so they can meet their obligations under UORRA. I have also seen tenant attorneys educate landlords in a way that helps unrepresented landlords better understand their obligations.

6. What would you say to attorneys who might be hesitant to take on landlord-tenant cases pro bono?

Judge Jaramillo: Since most of these cases are summary proceedings, they could be less demanding on a volunteer attorney's time than other types of cases. An attorney may find it easier to help greater numbers of people in landlord-tenant cases, compared to domestic relations or other types of civil claims.

7. In your opinion, what skills or qualities make attorneys especially effective in helping tenants through these cases?

Judge Jaramillo: Subject matter knowledge is important,

because eviction cases under UORRA are very much driven by the statutory procedures and structure. It would be difficult to help a tenant identify a potential defense to an eviction case without a strong knowledge of UORRA. However, negotiation skills are probably the most important in helping tenants avoid an eviction judgment.

8. Do you believe that pro bono service in this area enhances an attorney's professional development or perspective?

Judge Jaramillo: I believe anything that an attorney can do to broaden their skill set would be a good thing for their practice.

Q&A with Judge Erin O'Connell

1. You are the chair of the Access to Justice Commission. Can you tell us a little about what the ATJ Commission is and what your role as chair entails?

Judge O'Connell: The ATJ Commission was established in 2004 by the New Mexico Supreme Court, and our mission is to expand civil legal services to people in need. The ATJ Commission evaluates the civil legal needs of low and middle-income people from across the state and works to identify priorities and develop recommendations for the benefit of legal service providers and the public in need of those services. We also assist year-round to troubleshoot and address civil legal service issues that are brought to our attention by civil legal service providers, attorneys, the public, the courts, or from world events, e.g., COVID-19. As chair, I work to coordinate projects and studies undertaken by the Commission, facilitate communication among our diverse group of justice partners, and share information and developments from around the state related to civil legal services. The ATJ Commission has about 4 meetings per year, which are open to the public. To learn more about the next meeting date or to see minutes of past meetings, go to the courts' Access to Justice Webpage: <https://accesstojustice.nmcourts.gov/>.

2. As a member of the New Mexico Judiciary, have you observed any patterns in pro bono work over the years in your experience?

Judge O'Connell: I've observed that when attorneys are asked to help, they typically step in and show up. Many attorneys have shared that providing brief legal services at pro bono legal fairs, or taking a pro bono case, are among the most meaningful experiences they have as an attorney.

3. There is a critical need for legal resources for low-income New Mexicans. Yet a large percentage of attorneys do not do any pro bono work. How do you try to convey to legal professionals the need for pro bono work?

Judge O'Connell: The hardest part of most activities, including pro bono work, is to show up. We work to convey that a little help does in fact go a long way. Without adequate

representation and legal assistance, veterans get kicked out of their homes, seniors can't access their medical benefits, and young adults fall victim to unfair lending practices. While attorneys generally understand the need is great, what is less known is that recent funding cuts to New Mexico's civil legal service nonprofits has changed the need from great to dire. New Mexico's civil legal service providers handle thousands of cases every year, but last year providers turned away more than half of the people who asked for help due to lack of capacity. The situation is now worse, so attending a legal fair or taking a pro bono case is needed now more than ever.

4. There are numerous types of pro bono needs throughout the state, especially in the area of landlord-tenant and housing. Why do you think landlord-tenant cases are an important area for pro bono work and what can attorneys do directly or indirectly to address this pressing issue?

Judge O'Connell: Access to civil legal services stabilizes our communities. And our fundamental need for safe and stable housing is at the core of that stability. We all know that housing is critical to our health and safety, to find and maintain employment and to raise our families. A recent study showed that the children of parents threatened with eviction are more likely to have lower test scores, increased absences from school and more suspensions. Taking a landlord-tenant case pro bono helps the most vulnerable in our communities, and can prevent the crushing domino effect that the loss of housing can cause, including loss of employment, medical care, transportation and the ability to feed and raise one's children or pay child support.

5. What would you say to attorneys who might be hesitant to take on landlord-tenant cases pro bono?

Judge O'Connell: I'd let them know landlord-tenant cases are generally of short duration, there are resources available to learn what they need to know, they can get free CLE credit for pro bono work completed and there is professional liability coverage available in taking a landlord-tenant case pro bono. Landlord-tenant cases are also an excellent way for attorneys

to get into the courtroom and use, or develop, their trial skills without delay. Legal help in this area is vital, with over 95% of tenants not having an attorney to help them navigate the legal process. In addition, one excellent resource for attorneys considering taking a housing case is an upcoming CLE about the basics of New Mexico Landlord-Tenant law on Nov. 18. CLE attendees will learn about landlord-tenant law, and they will come away with a tool kit to use in representing landlord-tenant clients. Also, the CLE is free to attendees if they sign up to volunteer and take a housing case in 2026 from the Modest Means Helpline or the Legal Resources for the Elderly Program. For more information, see the advertisement directly below. Or to sign up to be a volunteer and attend the CLE for free, contact Caitlin Carcerano at caitlin.carcerano@sbnm.org.

6. Do you believe that pro bono service in this area enhances an attorney's professional development or perspective?

Judge O'Connell: Absolutely. The people in need of pro bono help are, more often than not, in crisis. The power we have as attorneys is tremendous, and providing brief legal services or taking a case pro bono is a small exercise of our power relative to the substantial impact we can make. The legal system is complicated and rightfully frightening for most people who enter the courthouse. Pro bono service can deepen our awareness of gaps in our system, which may inspire ideas for improvement to be shared with colleagues, rules committees, legislators or the ATJ Commission. Pro bono work can broaden our legal practice, sharpen our skills and encourage us to take new or novel approaches in our day-to-day practice. Pro bono work can energize our practice and connect us with new colleagues, mentors and opportunities. ■



New Mexico State Bar Foundation

CLE: Basics of New Mexico Landlord-Tenant Law

Nov. 18 • Noon–1:30 p.m. (MT) • 1.5 G Credits

Many New Mexicans are facing housing insecurity. You can help!

This 90-minute CLE offers attorneys a practical foundation in New Mexico's landlord-tenant law, focusing on the Uniform Owner-Resident Relations Act (UORRA). Gain the tools you need to understand eviction cases, tenant rights and rental obligations—while exploring opportunities to volunteer with the Modest Means Helpline (MMH) and Legal Resources for the Elderly Program (LREP), two civil legal helplines run by the New Mexico State Bar Foundation.

Presented by:

Kasey Daniel,

*Managing Attorney, Modest Means Helpline, and Director of the
New Mexico State Bar Foundation's Legal Services Department;
Member, Pro Bono Committee of the New Mexico Supreme Court Access to Justice Commission*

Bryce Dorato,

UNM School of Law, Visiting Assistant Professor of Law, Community Lawyering Clinic

Allison Freedman,

*UNM School of Law, Associate Professor of Law, Economic Justice Clinic;
Member, Pro Bono Committee of the New Mexico Supreme Court Access to Justice Commission*

For general registration, visit:

<https://bit.ly/CLE-Basics-of-New-Mexico-Landlord-Tenant-Law>

Or to Attend for free:

If you sign up to volunteer with MMH or LREP and commit to taking a landlord-tenant referral in 2026, you can attend this CLE at no cost.

To register as a volunteer and attend for free, email:

caitlin.carcerano@sbnm.org

Legal Service Provider

FAQ



- 1.** What are the services and mission of the New Mexico Center on Law and Poverty?

NMCLP provides systemic advocacy and related legal services to improve living conditions, increase opportunities and protect the rights of people living in poverty. The Center provides advocacy, education and litigation across a broad range of issues including healthcare, public benefits, housing, workers' rights and public education.

- 2.** Who are the New Mexico Center on Law and Poverty's main beneficiaries?

New Mexicans impacted by economic injustice, living primarily under 200% federal poverty level, representing about 870,000 people (nearly 40% of the state's population).

- 3.** How many people does the New Mexico Center on Law and Poverty serve yearly?

NMCLP represents classes of over 400,000 New Mexicans in impact litigation and limited individual representation in systemic cases. We also support advocacy campaigns impacting tens of thousands of families and provide Know Your Rights training for communities across the state.

- 4.** How can I volunteer for/contribute to the New Mexico Center on Law and Poverty?

NMCLP welcomes opportunities to partner with private attorneys to co-counsel impact litigation or support advocacy campaigns. Monetary donations are also welcome and give the organization flexibility to be responsive to community needs.

- 5.** Where can I find more information about the New Mexico Center on Law and Poverty?

Find out more on our website: <https://www.nmpovertylaw.org/> and keep up with our work by following us on social media at @NMPovertyLaw or signing up for our monthly newsletter at <https://www.nmpovertylaw.org/newsletter-sign-up/>.

- 6.** How does the New Mexico Center on Law and Poverty use volunteers to address the housing crisis and/or homelessness in New Mexico?

Volunteers help us reach more people in communities across New Mexico. They support outreach by sharing information, helping with Know Your Rights trainings and connecting families to resources. By partnering with us, volunteers strengthen efforts to keep families safely housed and to prevent homelessness.

- 7.** What services does your staff provide to clients as pertains to housing, eviction and other related matters?

While the New Mexico Center on Law and Poverty does not provide direct legal representation, we advance housing justice through impact litigation, policy advocacy and community education. We work to challenge unlawful practices in the courts, strengthen tenant protections through legislation and support residents with know-your-rights information so that systemic changes benefit entire communities across New Mexico. ■



1. What are the services and mission of New Mexico Legal Aid (NMLA)?

The Mission of NMLA is to be the voice, defender and advocate for low-income New Mexicans who are seeking justice in all forums, particularly in the communities in which they live. NMLA is committed to helping those in need in their struggle to access food, shelter, security and to preserve their unique cultural heritage. NMLA is a civil legal services organization dedicated to opening the door to equal access to justice for all disenfranchised and low-income individuals and communities throughout New Mexico by providing outreach, training, education and quality representation. It provides legal assistance ranging from brief advice and counsel to full representation to qualifying individuals and families. Special projects include the Native American Program, Veteran's Advocacy Project, Low-Income Taxpayer Clinic, Disaster Relief Program, Medical-Legal Partnership and Land and Water Rights Project.

2. Who are New Mexico Legal Aid's main beneficiaries?

NMLA's main beneficiaries are those that have annual incomes at or below 200% of the federal poverty guidelines and meet asset and other eligibility guidelines. NMLA's clients represent every ethnic and age group and live in rural, suburban and urban areas. NMLA strives to help working low-income individuals and families with children, veterans, farmers and migrant workers, individuals with disabilities, homeowners, renters and the elderly. The main legal issues that NMLA provides assistance with are:

- Access to benefits;
- Consumer rights;
- Employment and income maintenance;
- Domestic violence and related family law issues; and
- Landlord/ Tenant and other housing issues.

In addition to the main areas of law that NMLA serves, the Volunteer Attorney Program ("VAP") of NMLA works to place cases with pro bono attorneys and collaborates with judicial districts in producing free legal fairs where attorneys volunteer their time to provide one-time consultations to low-income New Mexicans.

3. How can I volunteer for/contribute to New Mexico Legal Aid?

You can contribute to NMLA by mailing donations to New Mexico Legal Aid, P.O. Box 25486, Albuquerque, N.M. 87102, or by visiting the NMLA website at <https://newmexicolegalaid.org/donate/page.html>

4. Where can I find more information about New Mexico Legal Aid and how to volunteer?

For information about volunteer opportunities with NMLA's Volunteer Attorney Program please visit our website at <https://newmexicolegalaid.org/volunteer-attorney-program/volunteer.html>. To register as a volunteer, click this link or contact the VAP Director, Zac Addison at zac@nmlegalaid.org, or the Statewide Pro Bono Coordinator, Andoe Arathoon at andoea@nmlegalaid.org.

5. How does New Mexico Legal Aid use volunteers to address the housing crisis and/or homelessness in New Mexico?

NMLA recently updated its Tenant Handbook, which it makes available to both clients and volunteer attorneys who are willing to assist clients with landlord issues to preserve their housing stability. In addition to working with other legal services organizations, we strive to recruit volunteer attorneys to assist homeowners facing foreclosure and other types of homeownership disputes so they can stay in their homes. Through our CLE program, we are working to expand training resources available to assist volunteer attorneys in handling housing issues. Stay tuned for more information!

6. What services does your staff provide to clients as pertains to housing, eviction and other related matters?

NMLA continues to advocate for and enforce tenant's rights across New Mexico. Due to staffing and resource limitations, NMLA is currently prioritizing subsidized housing cases, and specifically those where eviction is sought improperly with or without "good cause" and for alleged non-payment of rent. Subsidized housing cases can involve tenants living in public housing, USDA subsidized properties, tax credit and in-come restricted properties and tenants receiving vouchers with HUD pass through funding. ■



Legal Service Provider **FAQ**



1. What are the services and mission of the New Mexico Eviction Prevention & Diversion (NMEPD)?

Mission: NMEPD advances homelessness prevention by empowering and supporting New Mexico's resilient renters and strong survivors as they navigate and break down/through vastly inequitable civil legal and social systems to achieve housing stability. Housing stability provides the foundation for family and community to address other social determinants of health - allowing renters, survivors and their children to lead healthier, more hopeful lives now and in the future.

Services: NMEPD receives precourt referrals from partners in Santa Fe, Rio Arriba, and Taos Counties and conducts tenant contact information research and, if successful, outreach to tenants in those counties against whom eviction cases have been filed. Outreach is informing the household of the pending eviction case (they are often unaware). In all matters, NMEPD determines whether rental assistance or other resources may prevent eviction; conducts informal shuttle mediation between owners and tenants, if appropriate; provides basic legal advice and court process information via Community Justice Workers; sends tenants eviction hearing reminders; makes supportive referrals to community resources (like food banks, healthcare, etc.); and works with the household to build a stabilization plan. In complicated matters, attorney consultation is sometimes available and direct attorney representation is rare because of the overall dearth of resources. Simultaneously, NMEPD manages incoming assistance inquiries from renters in unstable housing throughout New Mexico. NMEPD attorney(s) are also pursuing impact and/or class action litigation against venture capital and other out-of-state owners.

2. Who are NMEPD's beneficiaries? Not personal identification, but in general terms, which group of New Mexicans in need of legal resources are served by NMEPD?

NMEPD's strategic focus is preventing homelessness among people with disabilities, older adults and survivors of intimate partner violence, as well as Indigenous, Black, Brown,

immigrant, Spanish-speaking, rural and/or low-income communities, especially those most at risk of eviction - the children of single mothers of color.

3. In what ways does NMEPD use volunteer attorneys?

NMEPD has enumerable ways for attorneys to serve their community. We will find a match for you, either long-term or for a couple of hours. Currently, NMEPD needs attorneys that our Community Justice Workers may consult to ensure proper advice is provided to the client. NMEPD is also seeking attorneys to do housing-related legal research, take on particular eviction cases, provide legal advice to/prepare pro-se tenants, draft legal correspondence to owners and create legal tools and scripts pro se tenants may use in eviction court. Trial attorneys are very much needed. NMEPD also needs attorneys (or others) with grant writing, fundraising, accounting, marketing, social media, website development, data and technology, policy, government procurement, funding and expenditure and/or Spanish-speaking skills, as well as attorneys experienced in nonprofit compliance, Federal Indian Law connected to land, housing and development, N.M. government ethics or funding, the N.M. anti-donation clause, court reform and government contracts.

4. Where can volunteer attorneys find more information about NMEPD, including how to volunteer?

Reach out to NMEPD CEO & Founder, Winter L. Torres, Esq. Texting 720-985-0042 is best, but you may also call her or email her at wltorres@nmevictionprevention.com. To learn more about NMEPD, go to <https://www.nmevictionprevention.com/>. To learn more about Winter's housing leadership, visit <https://wintertorres.com/>.

5. How does NMEPD use volunteers to address the housing crisis and/or homelessness in New Mexico?

The NMEPD operation pursues homelessness prevention by providing innovative prevention, diversion and intervention legal support services under the NMCONNECT Centers for Medicaid and Medicare Services (CMS) Accountable Health Community (AHC) and Housing First systems-change models. NMEPD actively conducts outreach into identified pipelines to homelessness, with particular focus on those at the cusp of (re)entering homelessness. We also play a major role in policy, reform and organizing efforts.

Legal Service Provider FAQ

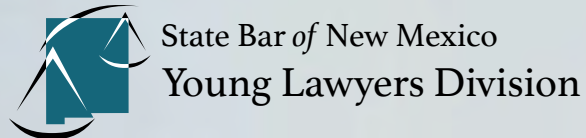
New Mexico Eviction Prevention & Diversion continued...

6. What services does your staff provide to clients as pertains to housing, eviction and other related matters?

Due to funding limits, NMEPD Community Justice Workers currently only serve residents of Santa Fe, Rio Arriba and Taos Counties in eviction, housing, and related matters. Our (Spanish-Speaking) Community Justice Worker(s) help by:

- a. Telling tenants about a pending eviction case against them (if we are able to locate tenant contact information);
- b. Either before or after an eviction filing, preparing the tenant to speak with the owner themselves OR, if appropriate, the Community Justice Worker may conduct informal shuttle mediation between the owner and tenant;
- c. In Santa Fe County ONLY, either before or after an eviction filing, providing rental assistance to eligible, priority households. IMPORTANT: PLEASE NOTE that NMEPD only has a small amount of rental assistance available each month;
- d. Providing (attorney supervised) basic legal advice and court process information to pro-se tenants;
- e. Drafting legal correspondence to owners;
- f. Preparing pro-se tenants for their eviction hearing via assistance with court filing(s), evidence collection and presentation, and other legal tools such as scripts;
- g. Sending tenants eviction hearing reminders;
- h. Making supportive referrals to other potential rental assistance or community resources (like food banks, healthcare, etc.);
- i. Working together with the household to build a stabilization plan;
- j. Documenting violations of the state's new Housing Application Fees law;
- k. Documenting situations where several tenants believe out-of-state or venture capital owners are broadly mistreating their residents; and
- l. Assisting tenants with complaints to the NM Attorney General.

Attorney consultation is sometimes available if the case is about more than just back rent, meaning the case ALSO includes disputes about something like disability, major maintenance problems, fees, safety, health and/or federal housing requirements. Direct attorney representation is very rare because there is so much need and so little resources. ■



The New Mexico State Bar Foundation and State Bar of New Mexico's Young Lawyers Division Present:

The ABA Free Legal Answers Clinic!

**Saturday, Oct. 25 • 10–11:30 a.m. (MT)
State Bar Center**

5121 Masthead St. NE, Albuquerque, NM 87109

Members of the State Bar of New Mexico's Young Lawyers Division ("YLD") are invited to the ABA Free Legal Answers Clinic! Co-hosted by the New Mexico State Bar Foundation and the YLD, the ABA Free Legal Answers Clinic offers YLD attorneys an exciting opportunity to fulfill your pro bono requirements. Bring your laptop to the State Bar Center and enjoy a **FREE** brunch as you learn how to maneuver the Free Legal Answers online platform and then complete pro bono work on ABA Free Legal Answers open cases

Register to participate at:

<https://www.cognitofirms.com/SBNM2/October25YLDABAFreeLegalAnswersClinic>



For more information about ABA Free Legal Answers, visit **<https://nm.freelegalanswers.org/>**



New Mexico State Bar Foundation
Modest Means Helpline



New Mexico State Bar Foundation
Legal Resources for the
Elderly Program

DID YOU KNOW?

The **New Mexico State Bar Foundation's Legal Resources for the Elderly Program** and the **Modest Means Helpline**—its two premier legal helplines for New Mexicans—both provide assistance in housing issues and other related matters? These include, but are not limited to:

- Evictions
- Repair Issues
- Damage Deposit Issues
- Mobile Home Park Act Issues
- Sale of Mobile Home Issues

The **Modest Means Helpline (MMH)** assists New Mexicans with **incomes up to 500% of federal poverty guidelines**.
To reach the Modest Means Helpline, call 505-797-6013 or 888-857-9935.

The **Legal Resources for the Elderly Program (LREP)** assists **New Mexico seniors 55+ years of age** regardless of income.
To reach LREP, call 505-797-6005 or 1-800-876-6657.



LREP and MMH Need Pro Bono Attorneys to Help with Housing Cases!

Both helplines have a panel of volunteer housing attorneys to whom they refer cases in which the caller's case has merit, but the caller needs an attorney for services beyond telephone advice. Malpractice insurance is provided in these referred cases, and the volunteer attorney can receive FREE CLE credits (1 hour credit for every 3 hours of pro bono service provided). In addition, on Nov. 18, there is a "Basics of NM Landlord-Tenant Law" CLE which is free for MMH/LREP pro bono panel attorneys willing to take a housing case in 2026. See page 23 for more details.

Scan this QR code to
sign up to be a MMH/LREP
pro bono panel attorney!

We thank you!



New Mexico
State Bar Foundation

Thank You



The **New Mexico State Bar Foundation** and the **Modest Means Helpline** would like to express their appreciation and gratitude to the following attorneys and legal professionals that provided pro bono services by presenting alongside Modest Means Helpline staff to educate small business owners about legal concepts and principles of starting and managing a small business in New Mexico. **Thank you for your professionalism, time and service to the small business community in New Mexico.**

Christina Cavaleri – Law 4 Small Business

Co-Presented:

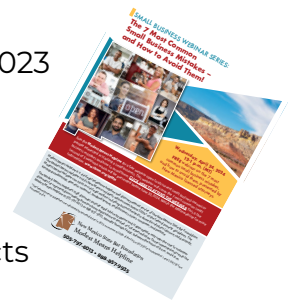
Estate Planning for New Mexico Small Businesses – June 28, 2023

Larry Donahue – Law 4 Small Business

Co-Presented:

Business Entity Options in New Mexico – March 1, 2023
Important Ways the New Corporate Transparency Act Impacts
NM Small Businesses – Jan. 31, 2024

The 7 Most Common Small Business Mistakes and How to Avoid Them – April 24, 2024



Taylor Duffney – Briones Business Law Consulting

Co-Presented:

Independents Contractor or Employee? How to Navigate
Legal Classification and Contracts – June 4, 2025

Maria Trujillo – Briones Business Law Consulting

Co-Presented:

Essential Contracts for Your Small Business – May 7, 2025



New Mexico Department of Workforce Solutions Personnel

Co-Presented:

Department of Workforce Solutions 101 for Small Businesses – June 12, 2024

All Modest Means Helpline's co-hosted small business webinars are recorded and available for viewing at
<https://www.sbnm.org/For-Public/Modest-Means-Helpline/MMH-Publications>



**New Mexico
State Bar Foundation**

How the University of New Mexico School of Law's Economic Justice Clinic Prepares Students for the Legal Field in New Mexico

*An Interview with Professor Serge Martinez and Professor Allison Freedman
from the University of New Mexico School of Law*



The University of New Mexico School of Law empowers students and future legal professionals to engage with the many legal issues in New Mexico. Through coursework, workshops and more, law students are provided ample opportunities to prepare for their careers in the legal field and learn some of the difficulties associated with it.

The UNM School of Law's Economic Justice Clinic, facilitated by Serge Martinez, Associate Dean of Experiential Learning, and Allison Freedman, Associate Professor of Law, exposes students to questions of equity and inequality affecting low-income communities.

**Brandon McIntyre,
State Bar of New Mexico
Communications**

**Manager (BM): What is
the objective of the UNM
School of Law's Economic
Justice Clinic?**

Allison Freedman (AF): I think of this threefold. One of our primary objectives is to teach students how to handle real-world cases in a professional and ethically appropriate manner. They have to practice under the supervision of a licensed attorney, and we want them to get the skills to be able to handle cases after law school. Our second objective is helping our students to develop their professional identities. Each of our students comes from a different background, and one of the coolest things about the law school is that we have so many folks coming from different parts of the state, or from out of the state, who have had various work experiences. Sometimes, they have had full 10-year careers in another area and are bringing that experience in. So just allowing them to be who they are and bringing those skills into the legal world and helping them to shape their professional identity through doing real world casework. Our third objective is serving the community—the folks in New Mexico. All the cases that we do are for generally indigent individuals; it's all free legal work. And so that's an important part of what we're providing to New Mexico and to the broader community as well.

Serge Martinez (SM): I share that vision. I'd add that we want students to see firsthand the difference a lawyer makes. Yesterday, we looked at service numbers: while our impact is small compared to the vast need, the difference between having and not having a lawyer is often life changing. Students see this clearly, whether we take a case or must decline one. That awareness helps them understand both the privilege and responsibility of being a lawyer and the importance of access to justice.

BM: What role does outreach play in your work?

SM: We're at capacity with representation, but many people don't even know we exist. The clinic has been around for more than 50 years, but awareness is still limited. We partner with organizations like UNM health clinics, where people are more likely to go than to a lawyer's office. Through those partnerships, we connect with people who otherwise wouldn't find us. Outreach ensures we're visible to both those in need and the organizations serving them.

BM: What legal experience do students receive?

AF: We give students a holistic experience, whether in litigation or transactional matters. As lead counsel, the students draft motions, pleadings and discovery, and sometimes contracts for nonprofits. They practice interviewing, negotiating and client counseling. Through seminars, we also teach cross-cultural lawyering, trauma-informed lawyering and lawyer well-being. Many students

have never interacted directly with clients before, so we emphasize skills for serving diverse communities appropriately.

BM: How does the clinic engage students with housing and homelessness issues?

SM: Our students represent clients facing eviction, poor housing conditions or disputes over deposits. That direct representation is at the core of clinical education. Beyond individual cases, students also work on community education and systemic issues. For example, we recently partnered with Metro Court to show live eviction proceedings to about 100 community members so they could better support at-risk tenants. Students also research issues like the sealing of eviction records and engage in policy initiatives that promote housing stability.

BM: Where do referrals come from?

AF: We get referrals from many organizations statewide. Our clinic staff answers a daily phone line for intakes. We also receive referrals from the New Mexico State Bar Foundation's Modest Means Helpline, New Mexico Legal Aid, the New Mexico Center on Law and Poverty, the New Mexico Immigrant Law Center and the ACLU.

BM: How many people does the clinic serve annually in housing cases?

SM: We estimate about 100 people receive direct representation each year, including household members. Beyond that, through education and outreach, we reach many more, though we don't track those numbers precisely. It's a lot; but not nearly enough compared to the need.

AF: Agreed. One of the hardest parts is intake; deciding which cases we can and can't take. With limited capacity, saying "no" is always difficult.

BM: What more can law students do to help address the housing crisis?

AF: They can take classes like Housing Law and Policy, which cover the history and racialized nature of housing law. Practically, they can volunteer at legal fairs, join the Access to Justice Commission, or engage with student public interest groups. Pro bono service during and after law school is vital, especially for those entering private practice.

SM: We also require students to observe eviction court; it's eye-opening. Students should attend city council or zoning meetings too, where housing policy is actively debated. Seeing real-world policymaking adds valuable context to classroom lessons.

BM: Can you share a housing case when the clinic achieved a positive outcome?

AF: It's hard to choose one because each case carries impact. Recently, a client on a Section 8 voucher, while undergoing cancer treatment, faced eviction over an emotional support animal. Losing her voucher would likely mean losing housing permanently. Our students quickly drafted a response and argued counterclaims under fair housing laws. They kept her housed, allowing her to continue treatment. It was meaningful both for the client and for the students' training.

SM: Another case involved tenants in a large apartment building without functioning air conditioning during an Albuquerque summer. Individually, their complaints went ignored. But when we organized them into a tenants' association and advocated collectively, the landlord took action. Conditions improved significantly. It gave students insight into the power of collective action and systemic change.

BM: Final thoughts on pro bono work?

AF: I hope all our students continue pro bono work throughout their careers. In New Mexico, with limited lawyers and resources, it's essential. I'm always encouraged when alumni e-mail me saying they've taken on housing cases because of their clinic training.

SM: Pro bono isn't purely altruistic; it's deeply rewarding. Using your training to make a difference reminds you of the value of this profession. I encourage everyone to try it. Many find it so fulfilling they want to keep doing it. ■

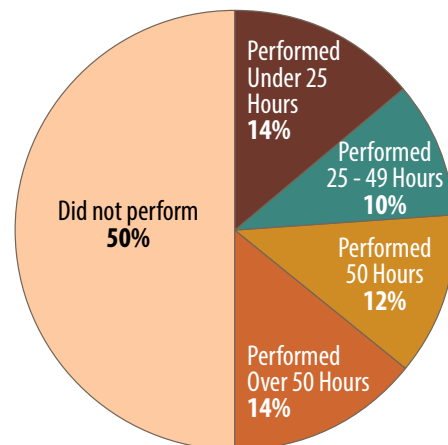


Important Data on Pro Bono in New Mexico

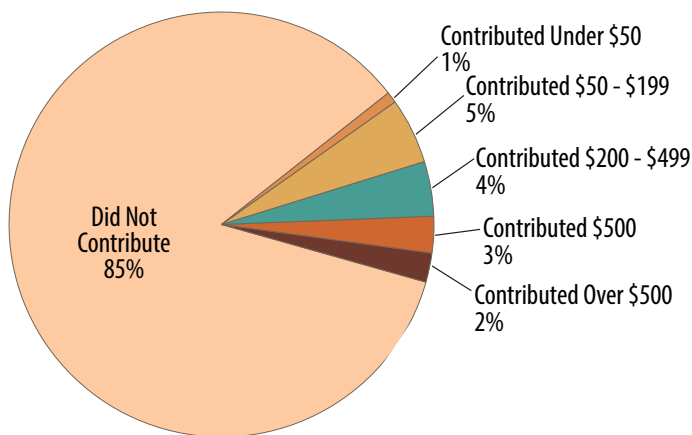
(Data Reported on 2025 State Bar of New Mexico Licensing Forms)

Pro Bono Hour Range

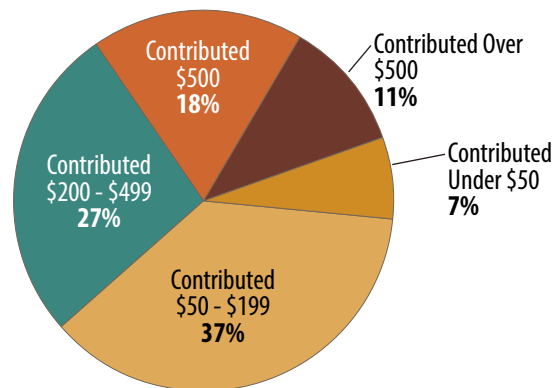
Pro Bono Hour Range	Attorneys
Performed Under 25 Hours	1,138
Performed 25 - 49 Hours	827
Performed 50 Hours	964
Performed Over 50 Hours	1,198
Did not perform	4,226



Contribution Donation Range All

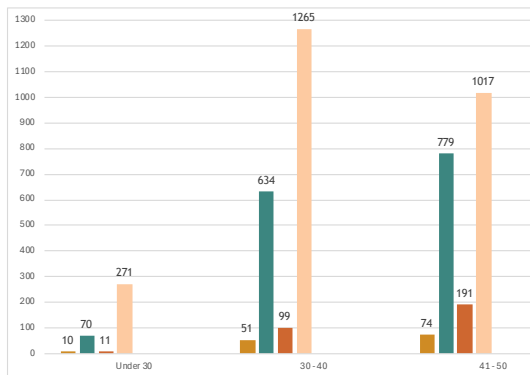


Contribution Donation Range Without Non-Contributors



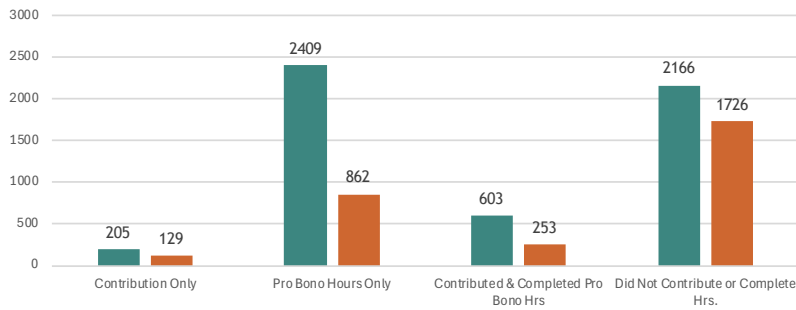
Contribution Donation Range	Attorneys	Contribution Donation Range	Attorneys
Did Not Contribute	7,163	Contributed \$200 - \$499	317
Contributed Under \$50	83	Contributed \$500	220
Contributed \$50 - \$199	436	Contributed Over \$500	134

Pro Bono by Age Range



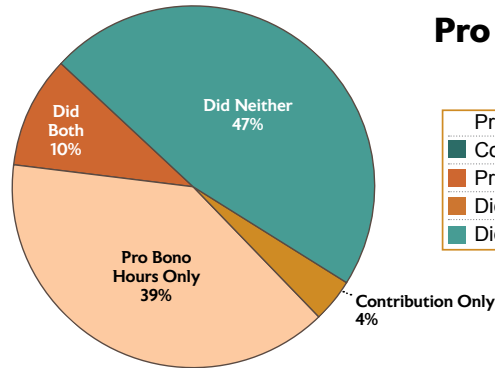
Pro Bono/Age	Contribution Only	Pro Bono Hours Only	Contributed & Completed Pro Bono Hours	Did Not Contribute or Complete Hours
Under 30	10	70	11	271
30 - 40	51	634	99	1,265
41 - 50	74	779	191	1,017
51 - 60	68	747	187	666
61 - 70	75	653	198	437
Over 70	55	384	170	190
Age Unknown (LL)	1	4	0	46

New Mexico vs. Out of State Pro Bono Reporting



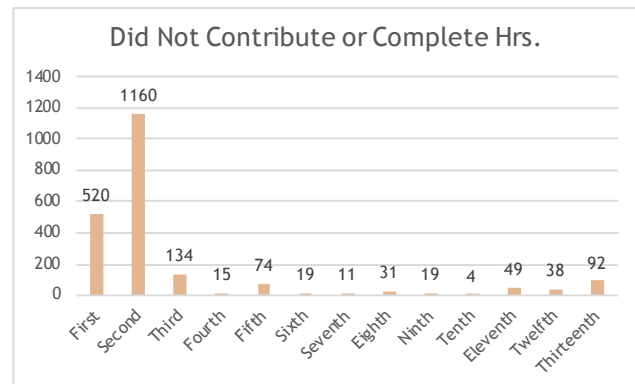
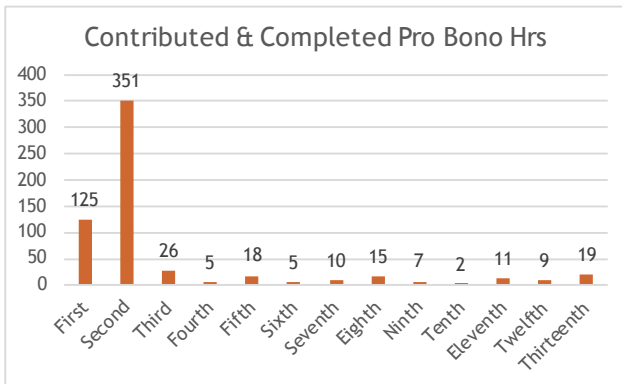
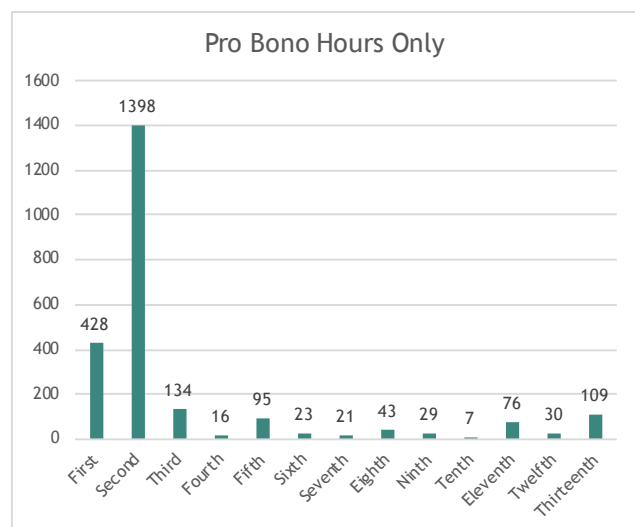
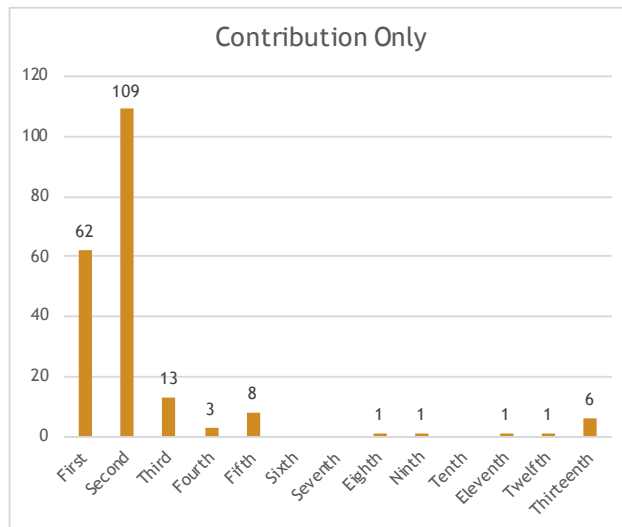
	New Mexico	Out of State
Contribution Only	205	129
Pro Bono Hours Only	2409	862
Contributed & Completed Pro Bono Hrs	603	253
Did Not Contribute or Complete Hrs.	2166	1726

Pro Bono Percentages



Pro Bono Percentages	Attorneys
Contribution Only	334
Pro Bono Hours Only	3,271
Did Both	856
Did Neither	3,892

New Mexico Judicial District Pro Bono Reporting



Judicial District	Contribution Only	Pro Bono Hours Only	Contributed & Completed Pro Bono Hrs	Did Not Contribute or Complete Hrs.
First	62	428	125	520
Second	109	1398	351	1160
Third	13	134	26	134
Fourth	3	16	5	15
Fifth	8	95	18	74
Sixth		23	5	19
Seventh		21	10	11

Judicial District	Contribution Only	Pro Bono Hours Only	Contributed & Completed Pro Bono Hrs	Did Not Contribute or Complete Hrs.
Eighth	1	43	15	31
Ninth	1	29	7	19
Tenth		7	2	4
Eleventh	1	76	11	49
Twelfth	1	30	9	38
Thirteenth	6	109	19	92

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New Mexico Legal Aid's **Volunteer Attorney Program (VAP) Spotlight**

The mission of the Volunteer Attorney Program (VAP) is to expand and support active statewide pro bono efforts in the legal communities around the state. VAP works closely with the State Bar, the NM Supreme Court, the Access to Justice Commission and Equal Access to Justice to plan and coordinate the delivery of high-quality pro bono legal services through direct representation, individual client counseling, community legal fairs and other innovative strategies.

Honoring Justice Through Knowledge



VAP's 2025 CLE presenters have played a vital role in equipping pro bono attorneys with the tools to serve those most in need—advancing justice, one training at a time.

- **Grace Allison**, Staff Attorney and Former Director, Low Income Taxpayer Clinic, New Mexico Legal Aid
- **Joseph Turk**, Office of Guardianship Legal Director, New Mexico Developmental Disabilities Council
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Volunteer Attorney Program *2025 Annual Awards Recipients*

The Volunteer Attorney Program is pleased to announce its 2025 Annual Awards Recipients. The following awards recognize outstanding commitment to pro bono service.



Felipe Quintana Memorial Award of Excellence



LINDA L. ELLISON

My practice is exclusively family law which is one area of the law that touches a lot of New Mexicans. Providing family law advice to low-income families around the state is very fulfilling. People are kind and appreciative of any direction as they navigate the intricacies of the legal system in this area. It is very rewarding to know I can make things a little easier for them through guidance at the legal fairs, Ask-a-Lawyer, and other such venues.

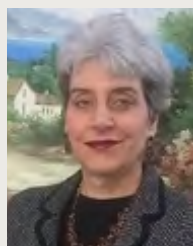


Direct Representation Pro Bono Attorney of the Year



DANIEL T. HIGGINS II

Pro bono work is an important part of being a lawyer, advocate, and member of the legal profession. It is one of the most rewarding parts of being a lawyer, because it allows me to use my skills to help those who might not otherwise have access to legal support. If you have never taken on a pro bono case, I urge you to try. It not only helps someone in need, but it's also why you became a lawyer in the first place.



Distinguished Legal Fairs & Teleclinic Attorney



ALLISON P. PIERONI

Pro bono work is not just an opportunity to serve those who do not have the financial means to afford professional services, it is also an opportunity for people to be heard, people who may not otherwise have a voice in the process. The heartfelt appreciation shown by the participants is more than enough reward for my time spent with them.



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Providing legal services to those in need has always been a central tenet of Chaves County Bar Association. Being an attorney is not just a profession - it is a calling to serve. Pro bono work is the purest expression of that calling. It is where justice meets compassion and where legal experience and expertise become a lifeline to those who might otherwise be voiceless in the system.

– Judge Dustin Hunter,
Chaves County Bar Pro Bono Chair



Outstanding Attorney of Northern New Mexico



DONNA J. LYNCH

Working with the VAP nourishes my soul; I am happy to help people who struggle to find solutions that make their lives better. In the 70's, our law school encouraged us to find volunteer opportunities that supplemented our legal training. I chose the Senior Citizen Legal Services Center in downtown San Diego. Through the Center, we set up a program that worked to keep Seniors in their homes. That program was my introduction into providing pro bono legal services, which continues to this day here in New Mexico.



Outstanding Attorney of Southern New Mexico



MOLLY KICKLIGHTER

My relationship with pro bono work has evolved significantly over the course of my career. Early on, as a government employee managing student loan debt, I struggled to balance the additional expectation of providing free legal services with my financial realities. The tension between wanting to serve my community and needing to meet my own financial obligations and achieve some life-balance sometimes made pro bono work feel more like a burden than the privilege it is. However, over time, I've discovered that pro bono work has become one of the most rewarding aspects of my professional life. With greater financial stability, I can now approach this work with the spirit it deserves.

The weekend clinics organized by the Volunteer Attorney Program offer me something invaluable that my daily practice cannot: the opportunity to step away from my desk and connect directly with fellow New Mexicans in their own communities. After years of pandemic-era virtual consultations and remote proceedings, these face-to-face interactions have reminded me why I chose law in the first place.

While my daily practice focuses on family law, pro bono work allows me to apply the breadth of my legal education to diverse fact patterns and challenges. More importantly, it takes me into communities I might not otherwise make time to visit, where I can listen to people's stories and provide input that, while perhaps routine in my eyes, clearly means a great deal to those I meet.

Today, giving back through pro bono work feels as natural and necessary as donating blood—a simple way to contribute something meaningful to my community. It has become not an obligation, but a genuine honor.



Outstanding Attorney of Central New Mexico

SHERYL L. SAAVEDRA

We, as attorneys, possess a very unique set of skills that we can draw from in order to serve our community. While volunteering at a homeless shelter or a food pantry can be rewarding, in reality there are a limited number of those volunteers that actually possess the skills and knowledge to be able to make a sustainable difference in someone's life by actively advocating on their behalf. The knowledge we possess in our own particular areas of expertise is invaluable to those that cannot afford that knowledge. I am rewarded by the fact that I have both the opportunity and the ability to share the knowledge I have acquired with those less fortunate.



Distinguished Legal Advocate

DEANNE ROMERO

Serving as Program Manager for the Center for Self Help & Dispute Resolution at the Second Judicial District Court, allows me to engage in meaningful pro bono work every day. Providing support to individuals during vulnerable times can be demanding, but the genuine appreciation from Pro Se litigants and the opportunity to make a difference reinforces the value of this work. I strive to continue expanding the reach of our Self Help Center and connecting with organizations to ensure more equitable access to justice.

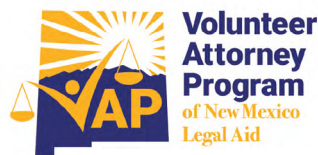


With Much Gratitude

To all of our incredible volunteers who offered brief advice, limited assistance, or full representation to individuals who would otherwise face legal challenges alone—thank you! Your time and expertise make a lasting difference.

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Continued on next page.



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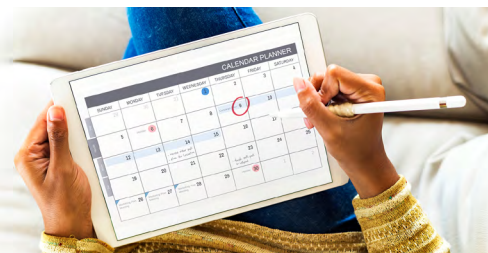
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► From the New Mexico Supreme Court

From the New Mexico Supreme Court

Opinion Number: 2025-NMSC-015

No. S-1-SC-38288 (filed February 6, 2025)

STATE OF NEW MEXICO,

Plaintiff-Petitioner,

v.

JOSEPH R. APODACA,

Defendant-Respondent.

ORIGINAL PROCEEDING ON CERTIORARI

Alisa Hart, District Judge

Hector H. Balderas, Attorney General

M. Victoria Wilson,

Assistant Attorney General

Santa Fe, NM

for Petitioner

The Law Office of Ryan J. Villa

Ryan J. Villa

Richelle Anderson

Albuquerque, NM

for Respondent

OPINION

THOMSON, Chief Justice.

{1} A jury convicted Defendant Joseph R. Apodaca of two counts of criminal sexual penetration and one count of tampering with evidence. The Court of Appeals reversed all three of Defendant's convictions, concluding that the district court committed reversible error by declining to provide a separate instruction to the jury on Defendant's mistake-of-fact defense. *See State v. Apodaca*, 2021-NMCA-001, ¶¶ 1, 36, 40, 482 P.3d 1224. We granted the State's petition for writ of certiorari and, based on the analysis that follows, we reverse the Court of Appeals and affirm all three of Defendant's convictions. Today, we clarify that a defendant prosecuted for committing a criminal sexual penetration under both an Incapacity Theory and an Express Non-Consent Theory is not entitled to a separate mistake-of-fact instruction based on the defendant's alleged belief that the victim had the legal capacity to consent and did consent.

{2} "Criminal sexual penetration is the *unlawful* and intentional causing of a person to engage in sexual intercourse . . . or the causing of penetration, to any extent and with any object, of the genital or anal opening[] of another, whether or not there is any emission." NMSA 1978, § 30-9-11(A) (2009) (emphasis added); *see also* UJI 14-132 NMRA ("For the act to have been unlawful, it must have been done without consent . . ."). The State's theory of *unlawfulness* was that Defendant *used force or coercion* to perpetrate the criminal sexual penetration. *Cf.* § 30-9-11(D)(2) ("Criminal sexual penetration in the first degree consists of all criminal sexual penetration perpetrated . . . by the use of *force or coercion* that results in great bodily harm or great mental anguish to the victim." (emphasis added)). The State's first theory of *force or coercion*, consistent with the plain language of the statutory definition of *force or coercion*, was that, based on the victim's severe intoxication, Defendant "[knew] or ha[d] reason to know that the victim [was] unconscious, asleep or otherwise physically helpless or suffer[ed] from a mental condition that render[ed]

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the victim incapable of understanding the nature or consequences of the [sexual penetration]" (Incapacity Theory). NMSA 1978, § 30-9-10(A)(4) (2005). The State's second theory of *force or coercion* was that Defendant "use[d] . . . physical force or physical violence" to penetrate the victim without consent (Express Non-Consent Theory). Section 30-9-10(A)(1).

{3} Defendant was not entitled to the requested mistake-of-fact instruction because his identified mistake of fact was encapsulated within the elements of the State's Incapacity Theory, on which the jury was adequately instructed. Further, the evidence presented to the jury, mostly through the testimony of Defendant himself, was that Defendant was not mistaken as to the fact of B.C.'s (Victim) intoxication or consent. As the dissent in *Apodaca* stated, "Defendant may not have been concerned about Victim's level of intoxication, but that does not mean that he was unaware of it" and therefore could not claim a mistake of fact. *Apodaca*, 2021-NMCA-001, ¶ 65 (Vanzi, J., concurring in part and dissenting in part).

I. BACKGROUND

A. The Sexual Assault

{4} Defendant and Victim were middle school classmates in Grants, New Mexico, but lost contact after middle school and did not speak again until March 2014. The two reconnected around the same time that Victim moved from New Mexico to Phoenix, Arizona. They exchanged messages, but their communications waned and then stopped again.

{5} About three weeks after they stopped communicating with each other, Defendant sent Victim a text message, which she received while driving back to New Mexico to visit family. They agreed to meet in Albuquerque on an evening when, as Defendant told Victim, Defendant was going to a club with some other people. However, the plan changed, and only Defendant and his cousin Dustin came to Albuquerque to meet Victim that evening.

{6} Dustin and Defendant left Grants for Albuquerque after sunset and picked up a six-pack of beer, most of which they drank during the drive. They finished their last two beers in a parking lot while waiting for Victim. When Victim arrived, she offered

► From the New Mexico Supreme Court

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to share a miniature of flavored vodka, which she had brought with her. Although testimony differs on this point, Defendant testified that Victim drank the whole vodka miniature herself. Then, Victim, Defendant, and Dustin entered a nightclub together, went upstairs to the bar, and started drinking. The three of them took turns paying for rounds of alcohol.

{7} Victim did not remember much that occurred after she drank her third shot of alcohol. The last thing that she remembered was giving her keys to Defendant. Defendant did not remember exactly how many rounds they all drank but testified that he spent one hundred dollars that evening between paying the cover charge and buying alcohol. He did remember that they drank at least five rounds of shots of various hard liquors and that between the rounds he and Dustin drank beers while Victim drank mixed cocktails. Dustin recalled to law enforcement, “I have never seen someone get so drunk so fast off three shots and a couple of beers [as Victim did].”

{8} Defendant and Victim began kissing, and Dustin gave his keys to Defendant so that Defendant and Victim could go out to Dustin’s truck. Defendant testified that he was not concerned about Victim’s level of intoxication because “she was talking all right, . . . and she got down [the long, straight flight of stairs to the street level] perfectly fine.” According to Defendant, he and Victim engaged in a consensual sexual encounter in the back seat of Dustin’s truck, including the use of Defendant’s hands to penetrate Victim’s vagina and anus at the same time. Defendant testified that Victim consented to all of the various sex acts, and the only reason they stopped was that Victim defecated.

{9} Defendant used Victim’s shorts to clean her feces out of the back seat, and he threw the dirty shorts in a dumpster before calling Dustin to ask him to come outside. Dustin testified that “when [he] first saw that scene, [he thought] it look[ed] like a rape.” Dustin was “freaked out” and discussed with Defendant “what [they] were going to do.” They decided that Defendant would drive Victim’s car to take her home and that Dustin would follow in his truck. Defendant “felt like it would be better if” he

drove because, in his words, “I know that I can drive . . . intoxicated.”

{10} Defendant testified that he and Victim talked as he drove and that she never mentioned feeling any pain or having any injuries. He further asserted that Victim began performing oral sex on him and “attempted to climb over the middle console and [mount him]” as he drove, but he “told her to stop” and “to sit down,” which she did. Dustin and Defendant became separated on the drive, so they arranged by their cell phones to meet when they got to Belen. Both Dustin and Defendant parked the vehicles off the road to figure out what to do because they did not know where Victim lived and did not want a passing police officer to investigate them for “drinking and driving.” When Defendant asked Victim where she lived, she replied, “I don’t know.” He also observed that “[s]he seemed more tired.” Defendant asserted he was unconcerned about what the police might think of Victim’s physical or mental state because “[he] wasn’t aware of her medical state,” despite admitting that Victim “was acting more and more drunk.”

{11} Defendant and Dustin used Victim’s cell phone to call Victim’s father to come and get her and then moved Victim’s car to a parking lot so that the car would be easier to find. They called her father again to give him the location of the car. When asked why Defendant left Victim alone before her father arrived, he stated that he “was afraid [of] . . . what [her father’s] reaction would be when he drove up and seen his daughter intoxicated the way she was, . . . and then Dustin was kind of freaking out about it, too, he didn’t want to be there.”

{12} Victim’s father found her sitting alone, unconscious, wearing just a top, in the passenger side of her car. There was “blood on the console, . . . her headrests, all over her seat,” and blood covered her legs and “was running down . . . onto the floormat of the car.” Victim’s father called emergency services, who transported Victim to the hospital.

{13} At the hospital, the doctors noted that there was significant swelling throughout Victim’s vagina, rectum, and anus. Her vagina was dilated “at least ten centimeters,” a degree that does not naturally occur “[a]

side from the delivery of a baby.” The doctors opined that the dilation was caused by a “foreign object,” approximately the diameter of the barrel of a “baseball bat” or a “balled-up fist.” There was a “deep laceration,” about ten centimeters long, “that extended from nearly the opening of the vagina . . . to . . . the very end of the vagina” near the cervix. After gynecological surgery, Victim’s rectum required another specialist to repair a tear through “[a]ll the layers of the rectal wall” that ran ten centimeters up the rectum from her sphincter. Her injuries required multiple surgeries.

{14} After Dustin and Defendant left Victim, they drove home to Grants. Along the way, they stopped to eat at a twenty-four-hour diner where Defendant told Dustin that he “fisted” Victim and that he used his hand to penetrate her. Dustin “was scared” and “worried” that Defendant would get in trouble. He told Defendant “to save those text messages and everything [communicated between Defendant and Victim] because something is going to come up.” The next day, Dustin “reminded [Defendant] that [Defendant] needed to go out and clean [the] truck.” However, Defendant maintained that he was not concerned about Victim or getting into trouble, and he cleaned the truck only “[b]ecause it needed to be cleaned.”

B. Charges and the Defense

{15} The State charged Defendant with multiple crimes, including the three counts on which he was convicted: two counts of criminal sexual penetration and one count of tampering with evidence.

{16} Concerning Defendant’s two convictions for criminal sexual penetration, Count 1 alleged that Defendant penetrated Victim’s vagina by *force or coercion*, resulting in great bodily harm or great mental anguish; and Count 2 alleged that Defendant penetrated Victim’s anus by *force or coercion*, resulting in great bodily harm or mental anguish. The jury was instructed to determine whether Defendant committed the crimes alleged in Count 1 and Count 2 based on two alternative theories of *force or coercion*. Specifically, the jury could find *force or coercion* if it determined that (1) he penetrated Victim when he knew or had reason to know that Victim was incapable of

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giving consent (Incapacity Theory) or (2) he penetrated Victim, who had the capacity to consent, when she did not consent (Express Non-Consent Theory). See § 30-9-10(A)(1), (4). Regarding Defendant's conviction for tampering with evidence, the jury was instructed that the State was required to prove that "Defendant destroyed, changed, or hid blood evidence by cleaning [the truck,] . . . intend[ing] to prevent the apprehension, prosecution, or conviction of himself for the crime of criminal sexual penetration."

{17} Defendant's trial strategy portrayed the events of the evening as the unfortunate result of "a couple of young kids who . . . drank too much, and . . . they engaged in . . . very unusual sexual activity." Defendant argued that the injuries to Victim were an accident but not a crime because Victim was conscious and consented to everything that occurred. Victim's level of intoxication, especially as to how it would have affected her conduct, awareness, perceptions, and capabilities, was highly contested. Experts opined on her level of intoxication, including whether it would have significantly affected her cognitive abilities, including her capacity to consent. One expert suggested that some persons could "seem lucid" and could "do things from driving vehicles, going out and emptying out their bank account[s], but still be in an alcohol blackout." Defendant also elicited lay witness testimony about Victim's tolerance to alcohol and expert testimony about how Victim's level of intoxication could affect her ability to perceive pain, arguing that this testimony undermined the expert opinion that Victim's injuries would have been so painful that they were "inconsistent with consensual intercourse." As the recitation of facts indicate, however, Defendant never claimed Victim was not intoxicated, only that she could somehow consent to such acts, and that she did.

{18} Based on his trial strategy, Defendant requested a mistake-of-fact instruction. The district court denied the requested mistake-of-fact instruction, concluding the criminal sexual penetration instructions, the tampering with evidence instruction, and the accompanying unlawfulness instruction adequately instructed the jury concerning Defendant's purported mistake

of fact. The jury found Defendant guilty of both counts of first-degree criminal sexual penetration and one count of tampering with evidence. For those crimes, the district court sentenced Defendant to thirty-six years in prison. In a split decision, the Court of Appeals concluded that Defendant had been "entitled to the mistake of fact instruction" concerning each crime and therefore reversed all three convictions. *Apodaca*, 2021-NMCA-001, ¶¶ 32-33, 36, 40. The relevant portion of the minority's dissent concluded that there was not sufficient evidence to grant Defendant a mistake-of-fact instruction. *Id.* ¶ 60 (Vanzi, J., concurring in part and dissenting in part). The dissent would have also affirmed the district court's denial of the instruction on tampering with evidence. *Id.* ¶ 66. We granted the State's petition for certiorari review.

II. ANALYSIS

{19} The State claims that the Court of Appeals erred when it determined that Defendant was entitled to mistake-of-fact instructions, on both counts of criminal sexual penetration and the count of tampering with evidence, and argues that the jury instructions were adequate.

{20} Defendant asks this Court to affirm the Court of Appeals and argues that the jury should have been instructed to find him not guilty of criminal sexual penetration if it found "that he honestly and reasonably believed [Victim] was capable of and consented to the sexual activity." He also argues the Court of Appeals correctly determined he was entitled to a mistake-of-fact instruction that provided the jury could only convict Defendant of tampering with evidence if it *first* found him guilty of criminal sexual penetration and *then* found that he cleaned the truck seat to avoid being found guilty of criminal sexual penetration. In Defendant's view, the district court's errors require the reversal of all his convictions. We consider the arguments related to the criminal sexual penetration convictions, and then turn to the arguments related to the tampering with evidence conviction.

A. Standard of Review

{21} "The propriety of jury instructions given or denied is a mixed question of law and fact." *State v. Salazar*, 1997-NMSC-044, ¶ 49, 123 N.M. 778, 945 P.2d 996. We

review de novo whether a reasonable view of the evidence could support a requested, and rejected, instruction. *State v. Gaitan*, 2002-NMSC-007, ¶¶ 10-11, 131 N.M. 758, 42 P.3d 1207. If we determine that there is a reasonable view of the evidence that supports giving a requested instruction, a defendant is entitled to the instruction. *Id.* ¶ 11. Only if we determine that the district court erred, by refusing to give the requested instruction, do we proceed to the ultimate question, whether the error amounted to reversible or fundamental error. See *State v. Benally*, 2001-NMSC-033, ¶ 12, 131 N.M. 258, 34 P.3d 1134 (stating the two applicable standards of review when a defendant challenges jury instructions on appeal: reversible error and fundamental error). Ordinarily, a defendant is only entitled to a requested mistake-of-fact instruction if the defendant's "ignorance or mistake of fact . . . negates the existence of a mental state essential to the crime charged." *Reese v. State*, 1987-NMSC-079, ¶ 17, 106 N.M. 498, 745 P.2d 1146 (Ransom, J., specially concurring). In this case, because we determine that the district court did not err when it declined to give the requested mistake-of-fact instruction, we do not reach the question of whether the alleged error would constitute reversible or fundamental error.

B. Defendant Was Not Entitled to the Requested Instruction Related to His Criminal Sexual Penetration Convictions

{22} "Criminal sexual penetration is the unlawful and intentional causing . . . of penetration, to any extent and with any object, of the genital or anal openings of another, whether or not there is any emission." Section 30-9-11(A). Defendant faced two counts of criminal sexual penetration "by the use of force or coercion that results in great bodily harm or great mental anguish to the [V]ictim." Section 30-9-11(D)(2). Defendant admitted that he intentionally penetrated Victim's vagina and anus with his hands. However, he argued that the conduct was lawful because Victim consented to those acts; in other words, he did not "use . . . force or coercion." See *id.*

{23} The Court of Appeals majority and dissenting opinions suggested that the analysis should focus on whether Victim

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consented to the graphic “physical force” used that caused the injuries to victim. See *Apodaca*, 2021-NMCA-001, ¶ 31 (stating that the jury had to determine whether Victim “consent[ed] to the use of physical force or physical violence”); *id.* ¶ 61 (Vanzi, J., concurring in part and dissenting in part) (same). We disagree with this approach. Although the amount of physical force used to accomplish the penetration may be relevant circumstantial evidence, the amount of physical force is not direct evidence that resolves whether Victim willingly agreed, or consented, to being penetrated.

{24} Whether a person consents to being penetrated is the touchstone of the analysis, not whether the person agrees to the use of any specific measure of physical force. In this case, the jury was required to determine whether Victim consented to having her vagina and anus penetrated by Defendant’s hands. If Victim did not willingly agree—did not consent—to the penetration, Defendant committed first-degree criminal sexual penetration by “force or coercion.” See § 30-9-11(A), (D)(2); UJI 14-132.

{25} “[F]orce or coercion” occurs when the jury finds the existence of any one of five, alternative conducts or circumstances. See § 30-9-10(A)(1)-(5). Simply put, all the alternatives of *force or coercion* correlate to a lack of consent, not to the nature or amount of physical force used to accomplish the penetration. The State prosecuted Defendant under two of those five alternatives. We have described these two as the Incapacity Theory and the Express Non-Consent Theory.

{26} Under the State’s Incapacity Theory, the penetration was unlawful because Defendant “[knew] or ha[d] reason to know that [V]ictim [was] unconscious, asleep or otherwise physically helpless or suffer[ed] from a mental condition that render[ed] [V]ictim incapable of understanding the nature or consequences of the act.” Section 30-9-10(A)(4). Considering the State’s Incapacity Theory if the predicate circumstances existed the victim was not capable of consenting as a matter of law. Under such a circumstance, actual consent is irrelevant, even if the victim’s conduct appeared to manifest consent.

{27} Under the State’s Express Non-Con-

sented Theory, the penetration was unlawful because Defendant “use[d] . . . physical force or physical violence” to penetrate Victim. Section 30-9-10(A)(1). In other words, Victim had the capacity to consent but did not consent. Considering the Express Non-Consent Theory, actual consent is at issue, but capacity is not. The crucial error in Defendant’s argument and the Court of Appeals majority is the merging of the State’s two theories without a proper understanding of the distinguishing factors.

1. The jury instructions

{28} The jury was given a single instruction for each count of first-degree criminal sexual penetration that encompassed two theories as alternatives based on UJI 14-961 NMRA, which allows alternative theories to be advanced in a single instruction. See *id.* Use Note 1 (“This instruction sets forth the elements of . . . three types of ‘force or coercion’ in Section 30-9-10(A) . . . : (1) use of physical force or physical violence; (2) threats; (3) mental or other incapacity of the victim. If the evidence supports two or more of these theories of ‘force or coercion,’ this instruction may be used.”).

{29} Defendant requested two instructions related to his defense that Victim’s consent negated his criminal liability: an instruction on unlawfulness and an instruction on mistake of fact. The district court gave the jury Defendant’s requested unlawfulness instruction:

For the act [of first-degree criminal sexual penetration] to have been unlawful it must have been done without consent and with the intent to arouse or gratify sexual desire or to intrude upon the bodily integrity or personal safety of [Victim].

Criminal sexual penetration causing great bodily harm . . . does not include a penetration . . . for purposes of consensual activity.

{30} Defendant’s requested instruction on mistake of fact read:

Evidence has been presented that [Defendant] believed that [Victim] consented to the sexual activity that occurred, her in-

juries were accidental and she was not seriously injured. The burden is on the state to prove beyond a reasonable doubt that [D]efendant did not act under an honest and reasonable belief in the existence of those facts. If you have a reasonable doubt as to whether [D]efendant’s actions resulted from a mistaken belief of those facts, you must find [D]efendant not guilty [of all charges].

The district court did not give the jury Defendant’s requested mistake-of-fact instruction, concluding that the unlawfulness instruction sufficiently covered the consent defense.

{31} Defendant, however, believes that he was entitled to the same mistake-of-fact instruction concerning both counts of criminal sexual penetration *and* both the Incapacity Theory and the Express Non-Consent Theory. See *Apodaca*, 2021-NMCA-001, ¶¶ 30-32. This argument ignores the differences between the two alternative theories of *force or coercion*, each of which required Defendant to have possessed a different “essential” mental state which, therefore, cannot be negated by the same mistake of fact. See *Reese*, 1987-NMSC-079, ¶ 17 (Ransom, J., specially concurring) (stating that a defense by mistake of fact must “negate[] . . . a mental state essential to the crime charged”). Our analysis considers the relevant distinction ignored by the Court of Appeals majority.

2. The Court of Appeals

{32} In a split decision, the Court of Appeals determined that Defendant was entitled to the mistake-of-fact instruction. *Apodaca*, 2021-NMCA-001, ¶¶ 36, 40. The majority held that “Defendant’s mistaken belief would negate the intent necessary to convict Defendant for using physical force or physical violence to penetrate a person who did not have the capacity to consent.” *Id.* ¶ 33. The Court concluded that Defendant was entitled to a mistake-of-fact instruction regarding first-degree criminal sexual penetration under the State’s Express Non-Consent Theory but that he was not entitled to a mistake-of-fact instruction under the State’s Incapacity Theory. *Id.* ¶¶

► From the New Mexico Supreme Court

36-37. The Court further concluded that Defendant was entitled to a mistake-of-fact instruction as to tampering with evidence because Defendant's "honest and reasonable belief that Victim had the capacity to consent and did consent to his actions" would negate the mens rea for tampering with evidence. *Id.* ¶ 40.

{33} This opinion takes a different analytical posture than the Court of Appeals' opinion. The Court of Appeals centered its analysis on what it viewed to be the core issue in this case: whether there was sufficient evidence that Defendant believed Victim was capable of and did consent to acts that led to the first-degree criminal sexual penetration charges; and whether Defendant was entitled to a mistake-of-fact defense as to either charge. *See id.* ¶¶ 36, 40; *id.* ¶ 63 (Vanzi, J., concurring in part and dissenting in part) (same).

{34} We recognize that Defendant did not cross-appeal whether he was entitled to a mistake-of-fact instruction concerning the State's Incapacity Theory, which required proof that he knew or had reason to know of Victim's incapacity. However, we first discuss the Court of Appeals determination that Defendant was not entitled to a mistake-of-fact instruction concerning that theory because it highlights the different mental states required by each theory. We then turn to the main issue on appeal: whether Defendant was entitled to a mistake-of-fact instruction on Victim's capacity to consent under the State's Express Non-Consent Theory. Because that theory did not require proof of Victim's legal capacity to consent or Defendant's knowledge or awareness of Victim's capacity, we conclude that a mistake-of-fact instruction on that issue was not required.

3. Defendant was not entitled to a mistake-of-fact instruction under the State's Incapacity Theory

{35} We agree with the Court of Appeals that Defendant was not entitled to a mistake-of-fact instruction on the State's Incapacity Theory; that is, that Victim was not capable of consenting to the sexual acts and that "Defendant knew or had reason to know of Victim's incapacity." *Apodaca*, 2021-NMCA-001, ¶ 37. The jury was "adequately instructed upon the matter by

other instructions." *State v. Venegas*, 1981-NMSC-047, ¶ 9, 96 N.M. 61, 628 P.2d 306 (citation omitted).

{36} The jury was instructed, consistent with Section 30-9-10(A)(4), that it could convict if the State proved beyond a reasonable doubt that Victim "was . . . suffering from a mental condition so as to be incapable of understanding the nature or consequences of what [D]efendant was doing[] and [that D]efendant knew or had reason to know of the condition of [Victim]." This instruction encapsulated Defendant's argued mistake of fact, that he did not know, and could not have known, that Victim was too intoxicated to consent. The jury was therefore adequately instructed on Defendant's identified mistake of fact—whether Defendant knew or should have known of Victim's incapacity to consent. A separate mistake-of-fact instruction concerning a defendant's knowledge of a victim's level of intoxication is not required where the instructions given require "finding that the defendant knew, or reasonably should have known, that the victim was unable to resist due to [the victim's] intoxication." 65 Am. Jur. 2d *Rape* § 80 (2011); *see also State v. Sosa*, 2009-NMSC-056, ¶¶ 3, 40, 42, 147 N.M. 351, 223 P.3d 348 (affirming a defendant's conviction for criminal sexual penetration where there was sufficient evidence to support the jury's finding that the defendant "knew or had reason to know the victim" was too intoxicated to give consent). We now turn to whether Defendant was entitled to a mistake-of-fact instruction under the State's Express Non-Consent Theory.

4. Defendant was not entitled to a mistake-of-fact instruction under the State's Express Non-Consent Theory

{37} The physical force or physical violence alternative of *force or coercion* does not require the State to prove that a significant amount of strength or exertion was used to perpetrate the sexual penetration; *force or coercion* simply means that the victim did not consent. *See* § 30-9-10(A) ("Physical or verbal resistance of the victim is not an element of force or coercion."). Thus, "the question is not whether the victim protested or physically resisted but rather whether the defendant was aware of, and consciously

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disregarded, a substantial and unjustifiable possibility that [the penetration] was being conducted without [the victim's] consent." 65 Am. Jur. 2d *Rape* § 5 (2011). "[T]he essence of consent is that it is given out of free will." *Id.*

{38} It would be absurd to consider whether Victim actually consented if Victim lacked the legal capacity to consent, and we will not construe the law in a manner that leads to an absurd result. *Cf. State v. Montano*, 2020-NMSC-009, ¶ 13, 468 P.3d 838 (observing that this Court will not construe statutes in a manner that leads to absurdity); *see also* NMSA 1978, § 12-2A-18(A)(3) (1997). Consequently, the Express Non-Consent Theory *presumes* that a victim had the legal capacity to consent. The only question remaining is one of fact: whether the victim actually consented. That is, when the jury considered Victim's capacity to consent, it was necessarily considering only the State's Incapacity Theory.

{39} Nevertheless, the Court of Appeals majority and dissent endorsed this absurdity and construed New Mexico law to tolerate it. The majority determined that Defendant was entitled to a mistake-of-fact instruction on Victim's capacity when the material element at issue was whether Victim actually consented, not Defendant's subjective understanding of Victim's capacity. *Apodaca*, 2021-NMCA-001, ¶¶ 31, 36-37; *id.* ¶ 61 (Vanzi, J., concurring in part and dissenting in part) (quoting paragraph 31 of the majority opinion). In so doing, the Court of Appeals conflated the two exclusive, alternative theories of *force or coercion*. *See id.* ¶ 30. We analyze Defendant's trial and appellate strategies here to more thoroughly explain why the Court of Appeals erred.

{40} Defendant's trial strategy attempted to establish both that Victim had the capacity to consent and that she actually consented. Defendant testified to having used the degree of physical strength or exertion necessary to commit the crime of first-degree criminal sexual penetration. *See* § 30-9-11(A), (D)(2) (requiring, for first-degree criminal sexual penetration, the "intentional . . . penetration . . . of [Victim's] genital or anal openings . . . by . . . force or coercion that results in great bodily harm . . . to [Victim]"). Thus, the contested issue

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was consent. This trial strategy is confirmed by defense counsel's closing argument that "whatever [Victim] remembers or doesn't remember, it didn't happen the way she says it happened. . . . [S]he[was] not unconscious," and by counsel's representation that Defendant "testified that [Victim] was a fully conscious and consenting participant in the sexual encounter." Where a defendant claims the victim consented and the victim denies there was consent, "the jury must weigh the evidence and decide which of the two witnesses is telling the truth." 65 Am. Jur. 2d *Rape* § 84 (2011).

{41} Here, Defendant claims Victim consented; Victim did not remember but asserted that she would not have consented to having her vagina or anus penetrated by someone's hand. If the jury credited Defendant's testimony, the jury was required to acquit. Instead, the jury convicted Defendant of both counts of criminal sexual penetration. If the jury convicted under the State's Incapacity Theory, it necessarily determined that Victim lacked the legal capacity to consent and that Defendant knew or had reason to know of that incapacity. See Section II(B)(1), paragraphs 26-27, *supra*. If the jury convicted under the State's Express Non-Consent Theory, it necessarily determined that Victim had the capacity to consent and did not consent, and that Defendant was not telling the truth.

{42} Confronted with the failure of his trial strategy, Defendant adjusted his tactics on appeal. Defendant argued that when the jury considered the State's Express Non-Consent Theory—whether Defendant used physical force or physical violence to penetrate Victim against her will—the jury also should have been instructed to consider the State's Incapacity Theory whether Defendant mistakenly, but reasonably and subjectively, believed Victim consented because he was unaware of Victim's incapacity. And as we previously explained, the jury was adequately instructed on that theory—that Defendant knew or had reason to know of Victim's incapacity. See Section II(B)(1), paragraphs 26-27, *supra*. In sum, since the Express Non-Consent Theory presumed that Victim had the legal capacity to consent, Defendant's awareness of Victim's incapacity was not material to that theory.

C. Defendant Was Not Entitled to a Mistake-of-Fact Instruction Concerning His Tampering with Evidence Count

{43} The Court of Appeals also determined that Defendant was entitled to a mistake-of-fact instruction concerning his tampering with evidence conviction. *Apodaca*, 2021-NMCA-001, ¶ 40. Defendant urges this Court to affirm this determination and argues that if he did not believe he was committing a crime when he sexually penetrated Victim, he could not have formed the specific intent required to commit tampering with evidence by his removal of Victim's blood from the truck seat. We disagree. Defendant did not identify evidence for a mistake of fact that could have negated the specific intent required by the tampering with evidence statute.

{44} "Tampering with evidence consists of destroying, changing, hiding, placing or fabricating any physical evidence with intent to prevent the apprehension, prosecution or conviction of any person or to throw suspicion of the commission of a crime upon another." NMSA 1978, § 30-22-5(A) (2003). "[I]ntentional conduct which, by its nature, aims to prevent identification of an underlying offense or to obstruct an investigation" is sufficient for conviction. *State v. Jackson*, 2010-NMSC-032, ¶ 14, 148 N.M. 452, 237 P.3d 754, *overruled on other grounds by State v. Radosevich*, 2018-NMSC-028, ¶ 2, 419 P.3d 176. "[T]he proper focus should be on the accused's subjective, specific intent to blind or mislead law enforcement." *Id.* ¶ 16 (emphasis added). In fact, a defendant may be convicted of tampering with evidence even if the defendant has "destroyed the evidence that could have proved the exact nature and level of [the defendant's] crime[]" so that "an underlying crime could not be successfully prosecuted." *Radosevich*, 2018-NMSC-028, ¶¶ 28-29.

{45} The specific intent required—to hamper an investigation or mislead law enforcement—is not negated by a subjective belief that, ultimately, no crime was committed. "[T]he intent requirements of the tampering statute can be met regardless of whether a crime has in fact been committed." *Jackson*, 2010-NMSC-032, ¶ 14 (internal quotation marks and citation

omitted). Even if Defendant subjectively believed that Victim consented and that he ultimately committed no crime, his belief would not negate the intent element of the crime in this case.

{46} The jury was instructed that to convict Defendant of tampering with evidence, the State had to prove that Defendant "intended to prevent the apprehension, prosecution, or conviction of himself for the crime of sexual penetration" when he cleaned the truck and "destroyed, changed, or hid blood evidence." This instruction does not require Defendant to have believed he was guilty of criminal sexual penetration at the time he cleaned the truck. The Court of Appeals failed to appreciate that Defendant could have formed the essential intent—to mislead law enforcement and thereby thwart being apprehended or prosecuted for a crime while at the same time could have resolutely believed he did not commit that crime. See *Jackson*, 2010-NMSC-032, ¶ 14.

{47} Defendant admitted that he left before Victim's father arrived because he "was afraid [of] . . . what [the father's] reaction would be when he drove up and seen his daughter intoxicated the way she was, . . . and then Dustin was kind of freaking out about it, too, he didn't want to be there." On the night of the crimes when Defendant told Dustin that he used his hand to penetrate Victim, Dustin "was scared" and "worried," telling Defendant "to save those text messages and everything [communicated between Defendant and Victim] because something is going to come up." When Defendant cleaned the truck on the next day, there can be no doubt that Defendant was aware of the possibility that he would be investigated.

{48} Although Defendant testified that he cleaned the truck only "[b]ecause it needed to be cleaned," the jury was not required to credit his testimony. See *State v. Cabezuela*, 2011-NMSC-041, ¶ 45, 150 N.M. 654, 265 P.3d 705 ("[T]he jury is free to reject [the d]efendant's version of the facts." (internal quotation marks and citation omitted)). Considering the evidence, the jury could have inferred that Defendant specifically intended "to disrupt [a] police investigation" when he cleaned the

Advance Opinions

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back seat of Dustin's truck out of concern that there would be an investigation and that he could be questioned, arrested, and charged regardless of whether he believed he committed criminal sexual penetration. *State v. Garcia*, 2011-NMSC-003, ¶ 13, 149 N.M. 185, 246 P.3d 1057 (internal quotation marks and citation omitted); accord *State v. Telles*, 2019-NMCA-039, ¶ 21, 446 P.3d

1194 ("Intent to tamper with evidence can be inferred from circumstantial evidence."). Since Defendant identified no evidence for a mistake of fact that could actually negate the required intent, the district court did not err by refusing to give the requested instruction concerning the tampering with evidence count.

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III. CONCLUSION

{49} Based on the foregoing, we reverse the Court of Appeals and affirm all of Defendant's convictions.

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

DAVID K. THOMSON, Chief Justice

WE CONCUR:

MICHAEL E. VIGIL, Justice

C. SHANNON BACON, Justice

JULIE J. VARGAS, Justice



Defending Indigenous Students' Rights in New Mexico:

A Conversation with Wilhelmina Yazzie



Wilhelmina Yazzie
Lead Plaintiff on the
Yazzie/Martinez case

This year on Nov. 7, the **State Bar of New Mexico's Committee on Diversity in the Legal Profession** will hold its **11th Annual CLE Symposium**. The Committee is honored that this year among the incredible Symposium presenters and speakers will be **Wilhelmina Yazzie** (Diné and White Mountain Apache), a lead plaintiff in the landmark Yazzie-Martinez public education case.

Ms. Yazzie is a parent, advocate and activist for her family and her communities. In addition to her Indigenous and education communities, as a Tribal Court Advocate and paralegal, Ms. Yazzie is also part of our legal community.

Speaking with her on the topic of defending the rights of Indigenous students will be **Abby Lewis**, State Bar of New Mexico's Equity in Justice Attorney. Ms. Lewis practiced public education law for over a decade, including working with Ms. Yazzie on matters of Indigenous students' rights.

Other speakers and topics at the Symposium include:



Sonia Gipson Rankin
UNM School of Law
Professor / AI Expert



Leon Howard
ACLU of New Mexico
Executive Director



Aja N. Brooks
State Bar of New Mexico
President

- ❖ State Bar of New Mexico President **Aja N. Brooks** and ACLU-NM Executive Director **Leon Howard** will present on building pathways for diversity in the legal profession.
- ❖ State Bar of New Mexico Committee on Diversity in the Legal Profession Co-Chair **Kristin Greer Love** will moderate a panel of attorneys including **Beck Rivera** and **Eli Fresquez** to discuss the ethics of fostering belonging in institutions of the legal profession.
- ❖ UNM School of Law Professor **Warigia Bowman** will speak on the Rule of Law.
- ❖ Committee Co-Chair Love and ACLU-NM Staff Attorney **Deanna Warren** will present a review and preview of the next U.S. Supreme Court and New Mexico Supreme Court terms.
- ❖ UNM School of Law Professor and AI expert **Sonia Gipson Rankin** along with **Jeff Gassaway**, UNM Security and Privacy Officer, will teach about protecting client and other sensitive information in the age of AI.

CLEs available are as follows: 3.0 General, 2.0 Ethics and 1.0 EIJ.

To attend in person, register here: <https://bit.ly/2025-CDLP-Symposium-In-Person>

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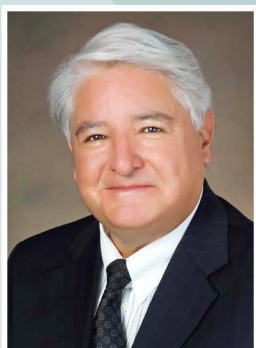


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The State Bar of New Mexico Senior Lawyers Division is honored to host the annual Attorney In Memoriam Ceremony. This event honors New Mexico attorneys who have passed away during the last year and recognizes their work in the legal community. The Division invites the family, friends and colleagues of those being honored, to attend the 2025 In Memoriam Ceremony.

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State Bar of New Mexico
Senior Lawyers Division

FORMAL OPINION

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

Filing Date: 10/2/2025

No. A-1-CA-42217

JOSEPH SILVA,
Plaintiff-Appellee,
v.
CITY OF ALBUQUERQUE,
Defendant-Appellant.

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

Daniel E. Ramczyk, District Court Judge

Kennedy, Hernandez & Harrison, P.C.
Paul J. Kennedy
Jessica M. Hernandez
Elizabeth A. Harrison
Albuquerque, NM

for Appellee

City of Albuquerque
Lauren Keefe, City Attorney
Lauren R. Callanan, Managing City Attorney
Tyren C. Holmes, Assistant City Attorney
Albuquerque, NM

Atler Law Firm, P.C.
Timothy J. Atler
Jazmine J. Johnston
Albuquerque, NM

for Appellant

► Introduction of Opinion

Under the Inspection of Public Records Act (IPRA), NMSA 1978, §§ 14-2-1 to -12 (1947, as amended through 2025),^{1 4} it is the policy of the State of New Mexico that “all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees” and that providing “such information is an essential function of a representative government and an integral part of the routine duties of public officers and employees.” Section 14-2-5. To that end, “[e]very person has a right to inspect public records,” subject to listed statutory exemptions (IPRA exemptions). Section 14-2-1; see § 14-2-1.2 (describing law enforcement records exempted from disclosure under Section 14-2-1(D)). If a dispute arises between a records custodian and the person who requests public records pursuant to IPRA (a requestor) about whether the public body complied with IPRA, the requestor may bring suit in district court to enforce its provisions (an IPRA enforcement action). See § 14-2-11(C) (providing a remedy for procedural noncompliance); § 14-2-12(D) (providing a remedy for public records requests that are denied). **View full PDF online.**

Katherine A. Wray, Judge
WE CONCUR:

J. Miles Hanisee, Judge, specially concurring
Jennifer L. Attrep, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-42217>

FORMAL OPINION

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

Filing Date: 10/9/2025

No. A-1-CA-41026

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

JOHNNY D. FULTON,

Defendant-Appellant.

**APPEAL FROM THE DISTRICT COURT
OF DOÑA ANA COUNTY**

Richard M. Jacquez, District Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

Charles J. Gutierrez, Assistant Solicitor General

Albuquerque, NM

for Appellee

Bennett J. Baur, Chief Public Defender

Tania Shahani, Assistant Appellate Defender

Santa Fe, NM

for Appellant

► Introduction of Opinion

A jury found Defendant Johnny D. Fulton guilty of child abuse by endangerment in violation of NMSA 1978, Section 30-6-1(D) and (E) (2009). Defendant's primary argument on appeal is that the district court deprived him of his Sixth Amendment right to an impartial jury when it denied his motions to disqualify three potential jurors for cause and then denied his motion for a mistrial. We conclude that Defendant has not established error with respect to either type of actual bias: express bias or inferable bias. None of the jurors' statements amounted to express bias—a type of bias that requires disqualification as a matter of law—and their statements, considered in context, did not compel the district court to exercise its discretion to infer bias. As to Defendant's other arguments on appeal, we are not persuaded that the district court erred by denying Defendant's motion for a mistrial based on the admission of testimony that Defendant contends was inadmissible evidence of prior bad acts under Rule 11-404(B) NMRA. Nor are we persuaded that the district court erred by denying Defendant's motion for a new trial based on his claim that the jury pool was composed in a manner that violated NMSA 1978, Section 38-5-3 (2011). We therefore affirm.

Zachary A. Ives, Judge

WE CONCUR:

Jacqueline R. Medina, Chief Judge

Megan P. Duffy, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-41026>

MEMORANDUM OPINION

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

No. A-1-CA-41055
SM Energy Company

v.

Colgate Production, LLC

Introduction of Opinion

SM Energy Company (SM Energy) appeals the district court's order granting summary judgment in favor of Colgate Production, LLC (Colgate), relating to an indemnification dispute arising from the sale of oil and gas leases and associated assets. SM Energy raises five issues on appeal: whether (1) written notice of proposed settlements is a condition precedent for indemnification under the Purchase and Sale Agreement (the PSA); (2) notice provisions are conditions precedent as a matter of Texas law generally; (3) Colgate repudiated its indemnity obligations under the PSA excusing SM Energy's duty to provide written notice of a settlement proposal; (4) Colgate waived its right to notice of a proposed settlement under the PSA; (5) SM Energy substantially complied with district court to have made such a finding as to material breach. **View full PDF online.**

Jacqueline R. Medina, Chief Judge
WE CONCUR:
Jennifer L. Attrep, Judge
Megan P. Duffy, Judge

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-41055>

No. A-1-CA-41821
Mary Elizabeth Bonney

v.

**New Mexico Taxation
and Revenue Department**

Introduction of Opinion

Taxpayer Mary Elizabeth Bonney, a self-represented litigant, appeals from a decision and order affirming the New Mexico Taxation and Revenue Department's (the Department) tax assessments for January 1, 2016, through December 31, 2019. Taxpayer contends that the administrative hearing officer (AHO) erred in (1) concluding that Taxpayer was required, but failed, to file state tax returns; (2) concluding that Taxpayer had taxable adjusted gross income; (3) concluding that the Department's assessment was not barred by the applicable statute of limitations; and (4) upholding the Department's civil negligence penalty and accrued interest for Taxpayer's failure to timely pay taxes in violation of NMSA 1978, Section 7-1-69 (2021). **View full PDF online.**

Megan P. Duffy, Judge
WE CONCUR:
Jacqueline R. Medina, Chief Judge
Jane B. Yohalem, Judge

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-41821>

No. A-1-CA-41623
Marcos Padilla

v.

**New Mexico Corrections
Department**

Introduction of Opinion

This appeal arises from the New Mexico Corrections Department's (NMCD) termination of Marcos Padilla's employment. After the New Mexico State Personnel Board (the Board) upheld Padilla's termination, Padilla appealed to the district court. The district court reversed the Board, and this Court granted NMCD's petition for a writ of certiorari. We reverse the district court and uphold the Board's termination decision.

Jennifer L. Attrep, Judge
WE CONCUR:
J. Miles Hanisee, Judge
Jane B. Yohalem, Judge

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-41623>



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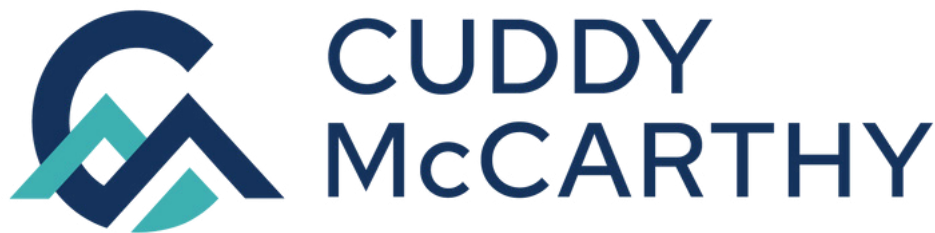
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Caren I. Friedman
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Attorneys Professional and Products/General Liability Litigation Groups

Rodey, Dickason, Sloan, Akin & Robb, P.A.'s Albuquerque office is currently seeking attorneys to practice in its Professional and Products/General Liability Litigation Groups. Opportunities are available for lateral associates and experienced attorneys. The candidate would participate in all aspects of case handling and would gain experience in taking depositions, preparing witnesses for depositions and defending depositions (including expert witnesses), brief and reporting writing, answering written discovery, and participating in direct contact with clients. The candidate would have the opportunity to work closely with some of the most talented defense lawyers in the state. Qualifications: Ideal candidate should have strong academic credentials and writing skills and be licensed in New Mexico. Rodey offers a competitive salary and bonus structure, comprehensive benefits package, including health, dental and vision; professional development and multi-faceted mentoring program; FSA and HSA plan option(s); 401K plan/ employer match; group life and long-term disability insurance; employee assistance program; wireless phone/ services stipend. To apply, please send a cover letter, resume, writing sample, and law school transcript attention "Ali Taylor, Human Resources Director" at: jobs@rodey.com with "Litigation Attorney" in the subject line. All inquiries will be kept confidential. Rodey is an Equal Opportunity Employer. Rodey Law Firm is not accepting unsolicited resumes from search firms for this position.

Assistant District Attorney

The Fifth Judicial District Attorney's office has immediate positions open for new and/or experienced attorneys. Salary will be based upon the New Mexico District Attorney's Salary Schedule with salary range of an Assistant Trial Attorney (\$ 80,218.00) to a Senior Trial Attorney (\$100,272.00), based upon experience. Must be licensed in the United States. This position is located in the Carlsbad, NM office. The office will pay for your New Mexico Bar Dues as well as the National District Attorney's Association membership. Please send resume to Dianna Luce, District Attorney, 102 N. Canal, Suite 200, Carlsbad, NM 88220 or email to nshreve@da.state.nm.us

Entry Level and Experienced Attorneys

The Thirteenth Judicial District Attorney's Office is seeking both entry level and experienced attorneys. Positions available in Sandoval County which is in Bernalillo, Valencia in Belen and Cibola in Grants. Enjoy the convenience of working near a metropolitan area while gaining valuable trial experience in a smaller office, providing the opportunity to advance more quickly than is afforded in larger offices. The 13th Judicial District offers flex schedules in a family friendly environment. Competitive salary starting @ 83,000+ depending on experience. Contact Krissy Fajardo @ kfajardo@da.state.nm.us or visit our website for an application @<https://www.13th.nmdas.com/> Apply as soon as possible. These positions fill fast!

Associate Attorneys

MDZ Legal Group, In-house counsel for Loya Insurance Group, has openings for associate attorneys with 0-5 years of experience. We offer a collegial office environment; a good work / life balance, and many excellent employment benefits. Our Albuquerque office is growing and offering a competitive salary as well. Please send your resume to: Ulibarri@mdzlegalgroup.law.

Assistant Public Defender

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

Attorney-Senior

The Eighth Judicial District Courts in Taos, New Mexico seeks a driven qualified professional attorney to serve as a full-time (at-will Perm) Attorney-Senior to provide legal advice, perform legal research and analysis, make recommendations and support the court/Judicial District in the following areas, including but not limited to, IPRA, mediation/alternative dispute resolution, court/judicial processes, court programs, ADA, and employment laws. Candidates must possess excellent interpersonal, computer, and administrative skills; 5 years of law practice experience of which one (1) year must have been a supervisor. Candidates must be New Mexico actively licensed and in good standing; or if licensed in another state, expected to attain New Mexico licensure. This career opportunity is located in the beautiful town of Taos, New Mexico in the high desert mountains near the Colorado border with excellent year-round outdoor adventure opportunities. The successful candidate will be expected to begin work in October/November; actual start date negotiable. Send resume with resume supplement form, and a writing sample by email, mail, or in person. For job description requirements and additional information, please visit the NM Courts website at: www.nmcourts.gov/careers/ or contact the District Human Resources office at taodaas@nmcourts.gov

Managing City Attorney Positions

The City of Albuquerque Legal Department is hiring for two Managing City Attorney positions. Hybrid in person/remote work schedule available. The Legal Department's attorneys provide a broad range of legal services to the City and represent it in legal proceedings in court and before state, federal and administrative bodies. Current open positions include: Managing City Attorney of Real Estate and Operations. The City is seeking an attorney to supervise and manage Assistant City Attorneys and paralegals in areas of municipal law such as: air quality; telecommunications; PRC and utilities; contract law; public works and construction law; and real property. Responsibilities include, but are not limited to, drafting legal opinions, reviewing and drafting ordinances and executive/administrative instructions, reviewing and drafting contracts, and providing general advice and counsel on day-to-day operations for various Departments throughout the City. Managing City Attorney of Labor and Employment. The City is seeking an attorney to supervise and manage Assistant City Attorneys and paralegals in labor and employment law. Responsibilities include, but are not limited to, supervision of administrative and civil litigation; representing the City in front of the City's Labor Board and Personnel Board; drafting of City rules, regulations and policies; union negotiations and bargaining; and general employment and labor advice to City Departments. Attention to details, timelines and strong writing skills are essential. Five years' experience including at least one year of management experience is preferred. Applicants must be an active member of the State Bar of New Mexico in good standing. For more information or to apply please send a resume and writing sample to Angela Aragon at amaragon@cabq.gov.

Attorney Associate

The First Judicial District Court in Santa Fe seeks applicants for an Attorney – Associate (Staff Attorney) position. For more information, please visit the NM Courts' Careers webpage: <https://www.nmcourts.gov/careers.aspx>. This position is open until filled.

State Child Advocate – Office of the Child Advocate

The State Child Advocate is charged with overseeing the Office of the Child Advocate pursuant to the Office of the Child Advocate Act (NMSA 1978, § 32A-30-1 et. seq). The State Child Advocate is appointed by the New Mexico Governor with the advice and consent of the State Senate for a term of six (6) years. Applicants for this position shall meet all requirements specified below and under the New Mexico State Personnel Act. The role of Child Advocate in New Mexico must reflect a comprehensive understanding of the state's unique legal and cultural landscape surrounding child welfare. This position requires a deep awareness of the broader social and structural conditions that influence child well-being. A qualified Child Advocate should demonstrate a strong grasp of root causes of childhood adversity, neglect, and abuse, including the impact of Adverse Childhood Experiences. It is essential to recognize how the social determinants of health – such as access to affordable healthcare, stable housing, nutritious food, reliable transportation, and quality childcare – directly shape the quality of life for both children and their parents. In addition to compliance with professional licensing and ethical standards, the Child Advocate is expected to act with independence, impartiality, and confidentiality, grounded in a child-centered practice. To learn more and to submit an application please use the following URL: <https://nmdoj.gov/new-mexico-office-of-the-child-advocate/> **The deadline for submitting applications is October 31, 2025.

Litigation Attorney

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

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Taft is seeking a full-time legal assistant to support the Public Finance team in our Albuquerque office. Strong candidates should have document preparation experience, working with complex documents and possess strong interpersonal skills and the ability to build relationships with clients, attorneys, and staff. 2+ years of legal experience preferred, along with a strong working knowledge of Microsoft Office applications, communication and writing skills, and the ability to adapt to competing priorities. Responsibilities include document preparation/processing, filing, calendar management. Taft offers competitive compensation and benefits. Please review the full posting and apply at <https://www.taftlaw.com/careers/legal-assistance-public-finance-albuquerque/> or email Paul-ina Timokhin at ptimokhin@taftlaw.com.

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The State Bar of New Mexico's Digital Communications

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



Bar Bulletin

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

eNews

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

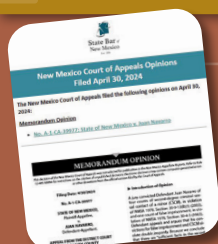


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Emailed each Tuesday morning, our weekly Member Services Spotlight e-newsletter contains announcements and events from each of the State Bar's Sections, Committees and Divisions. To highlight your Section, Committee or Division's latest news, email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

CLE Weekly Roundup

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



New Mexico Court of Appeals Opinions

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

Pro Bono Quarterly Newsletter

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



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