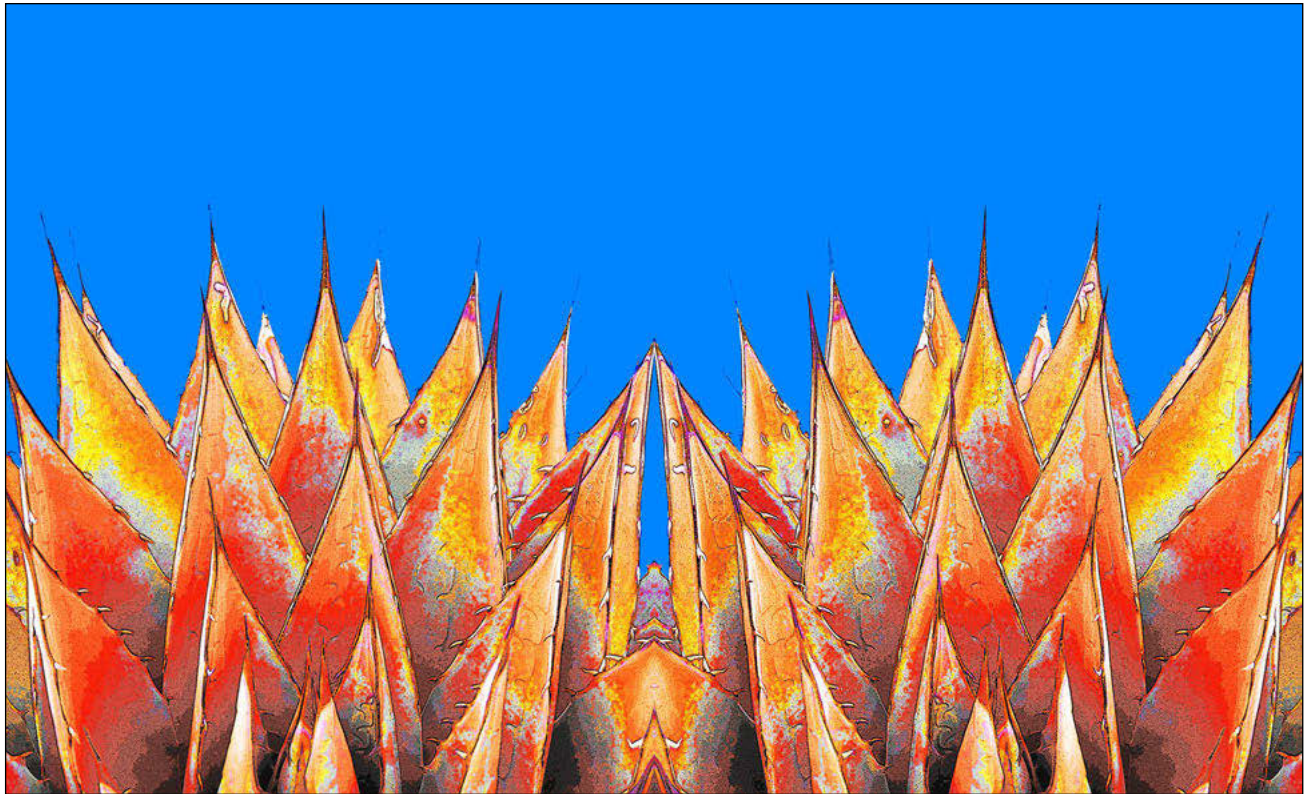


BAR BULLETIN

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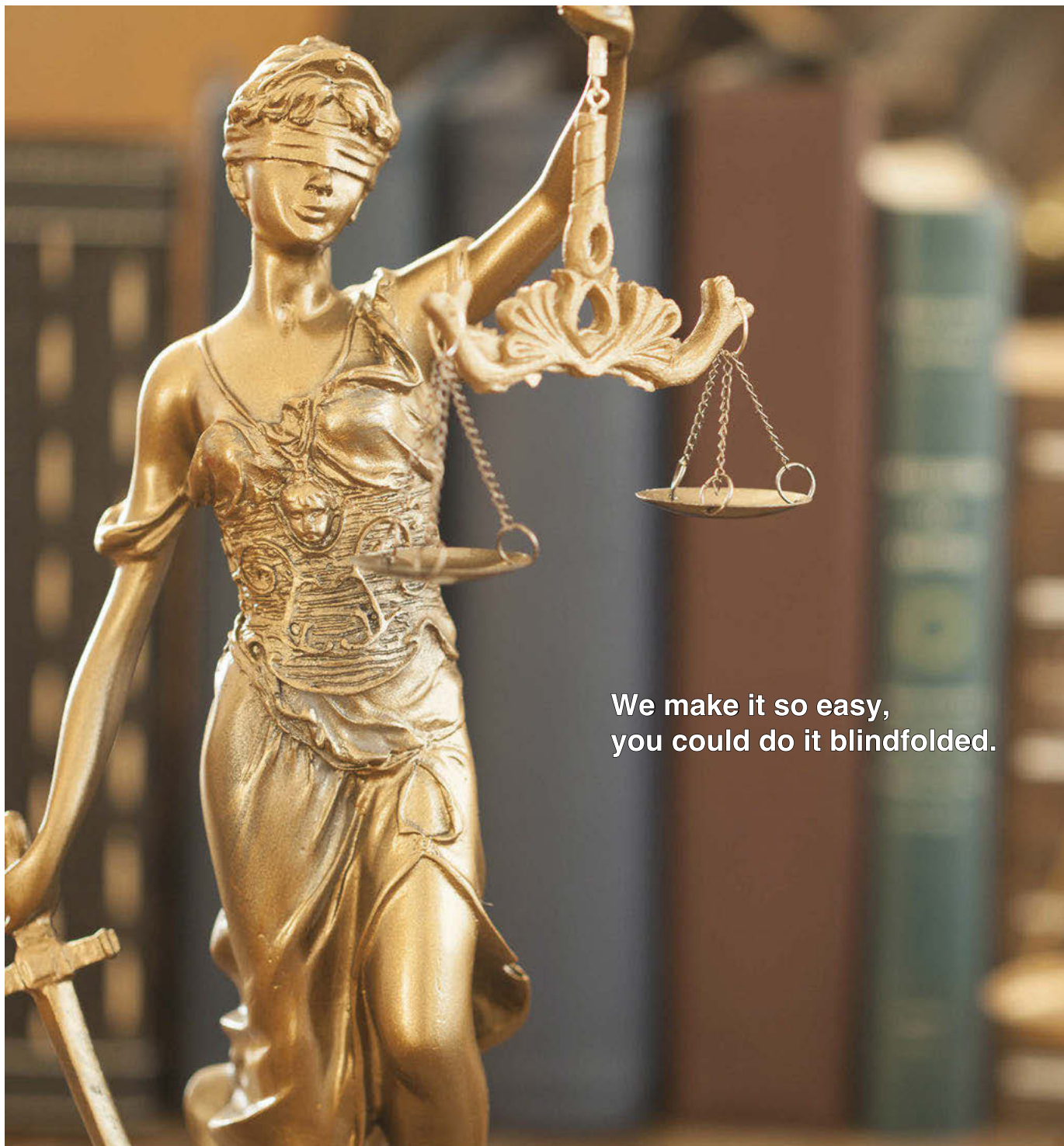


Tequila - Make It a Double, by Anthony Abbate

Abbate Fine Art, Santa Fe

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Meetings

May

4

Employment and Labor Law
Section BOD, noon, State Bar Center

6

Criminal Law Section BOD,
 Noon, Kelley & Boone, Albuquerque

10

Appellate Practice Section BOD,
 Noon, teleconference

11

Children's Law Section BOD,
 Noon, Juvenile Justice Center

11

Taxation Section BOD,
 11 a.m., teleconference

12

Business Law Section BOD,
 4 p.m., teleconference

12

Public Law Section BOD,
 Noon, Montgomery and Andrews, Santa Fe

13

Elder Law Section BOD,
 Noon, State Bar Center

13

Prosecutors Section
 Noon, State Bar Center

State Bar Workshops

May

4

Divorce Options Workshop:
 6–8 p.m., State Bar Center, Albuquerque,
 505-797-6003

4

Civil Legal Clinic:
 10 a.m.–1 p.m., Second Judicial District
 Court, Albuquerque, 1-877-266-9861

4

Legal Resources for the Elderly Program
 10–11:15 a.m., presentation;
 noon–1 p.m., POA/AHCD Clinics
 Cibola Senior Citizens Center, Grants
 1-800-876-6657

18

Family Law Clinic:
 10 a.m.–1 p.m., Second Judicial District
 Court, Albuquerque, 1-877-266-9861

24

Legal Resources for the Elderly Program
 9:30–10:45 a.m., presentation;
 12:30–1:30 p.m., POA/AHCD Clinics
 Mary Esther Gonzales Senior Center,
 Santa Fe, 1-800-876-6657

25

Consumer Debt/Bankruptcy Workshop:
 6–9 p.m., State Bar Center, Albuquerque,
 505-797-6094

Cover Artist: Anthony Abbate discovers the relationship between realism and abstract with his versed series on Cactus, Cacti and Cactuses. He was born in Providence, R.I., in 1949 and has been a resident of Santa Fe since 1981. He studied fine arts at Rhode Island College and has been creating various forms of artwork for more than 30 years. Every detail of Abbate's series invites the viewer to study more of the composition that unfolds in his subjects. Contact Abbate Fine Art at www.abbatefineart.com for more of his work.

Notices

COURT NEWS

New Mexico Supreme Court Board of Legal Specialization Comments Solicited

The following attorney is applying for certification as a specialist in the area of law identified. Application is made under the New Mexico Board of Legal Specialization, Rules 19-101 through 19-312 NMRA, which provide that the names of those seeking to qualify shall be released for publication. Further, attorneys and others are encouraged to comment upon any of the applicant's qualifications within 30 days after the publication of this notice. Address comments to New Mexico Board of Legal Specialization, PO Box 93070, Albuquerque, NM 87199.

Workers' Compensation Law
Jeffrey C. Brown

Bernalillo County Metropolitan Court Specialty Courts Education Day

Members of the legal community are invited to attend Specialty Courts Education Day at 2:30-4:30 p.m., May 20, at the Bernalillo County Metropolitan Court in the Jury Assembly Room. Learn what is new in the existing specialty courts and about two new diversion programs: Veterans Court and the Pre-Adjudication Animal Welfare (P.A.W.) Court. After the presentation, program judges and staff will be available to answer questions regarding eligibility, requirements and how these programs are making a difference in the community. Refreshments will be available. For more information, contact Camille Baca at 505-841-9897.

STATE BAR NEWS

Attorney Support Groups

- May 9, 5:30 p.m.
UNM School of Law, 1117 Stanford NE, Albuquerque, King Room in the Law Library (the group meets on the second Monday of the month). To increase access, teleconference participation is now available. Dial 1-866-640-4044 and enter code 7976003#.
- May 16, 7:30 a.m.
First United Methodist Church, 4th and Lead SW, Albuquerque (the group meets the third Monday of the month.)
- June 6, 5:30 p.m.
First United Methodist Church, 4th and Lead SW, Albuquerque (the group meets the first Monday of the month.)

Professionalism Tip

With respect to opposing parties and their counsel:

I will not serve motions and pleadings that will unfairly limit the other party's opportunity to respond.

For more information, contact Hilary Noskin, 505-449-7984 or Bill Stratvert, 505-242-6845.

Annual Awards Call for Nominations

The State Bar of New Mexico Annual Awards are presented each year to recognize those who have distinguished themselves or who have made exemplary contributions to the State Bar or legal profession in 2015 or 2016. Nominations are now being accepted for the 2016 State Bar of New Mexico Annual Awards. They will be presented Aug. 19 during the 2016 Annual Meeting—Bench and Bar Conference at the Buffalo Thunder Resort in Santa Fe. The deadline for nominations is May 20. A letter of nomination for each nominee should be sent to Joe Conte, Executive Director, State Bar of New Mexico, PO Box 92860, Albuquerque, NM 87199-2860; fax 505-828-3765; or email jconte@nmbar.org. For award details and nomination requirements, visit www.nmbar.org > for Members > Annual Meeting > Annual Awards.

Board of Bar Commissioners Meeting Agenda

Noon, May 6, State Bar Center

1. Approval of Feb. 26 meeting minutes
2. Finance Committee Report
3. Financials
4. Access to Justice Fund Committee Update
5. Executive Committee Report
6. Executive Session
7. Bylaws and Policies Committee Report and Recommendations
8. Appointment to ABA House of Delegates
9. Appointment to Civil Legal Services Commission
10. Appointment to Judicial Standards Commission
11. Discussion of Lifetime Achievement Award
12. Annual Award Update
13. Supreme Court Case Update
14. Discussion of Jiffy Committee
15. Bar Center Committee Report
16. President Report
17. Executive Director Report

18. Bar Commissioner District and Division (SLD, YLD and PD) Reports
19. New Business

Criminal Law Section District Attorney Candidate Forum

The Criminal Law Section invites members of the legal community, public and the media to its Second Judicial District Attorney Candidate Forum at 5:30-7:30 p.m., May 12, at the State Bar Center. Democratic primary opponents, Raul Torrez and Ed Perea, have agreed to participate. The event will be moderated by Elaine Baumgartel, news director at KUNM and local host of NPR's Morning Edition. Seating is first-come, first-served. Questions will be chosen by the Criminal Law Section Board of Directors and will be provided to the candidates prior to the event. Candidates will have 3 minutes for opening statements, 15 minutes to answer each question, 1 minute for rebuttal responses when appropriate, and 2 minutes for closing statements. To submit candidate questions (anonymously or not) or for additional information, contact Criminal Law Section Chair Julpa Davé or Joshua Boone, at NMCrimLawSection@gmail.com.

Entrepreneurs in Community Lawyering Now Accepting Applications

The New Mexico State Bar Foundation announces its new legal incubator initiative, Entrepreneurs in Community Lawyering. ECL will help new attorneys to start successful and profitable, solo and small firm practices throughout New Mexico. Each year, ECL will accept three licensed attorneys with 0-3 years of practice who are passionate about starting their own solo or small firm practice. ECL is a 24 month program that will provide extensive training in both the practice of law and how to run a law practice as a successful business. ECL will provide subsidized office space, office equipment, State Bar licensing fees, CLE and mentorship fees. ECL will begin operations in October and the Bar Foundation is now accepting applications from qualified practitioners. To view the program description, www.nmbar.org/ECL. For more informa-

tion, contact Director of Legal Services Stormy Ralstin at 505-797-6053.

Young Lawyers Division Volunteers Needed for Veterans Legal Clinic on May 10

The Young Lawyers Division and the New Mexico Veterans Affairs Health Care System are holding clinics for the Veterans Civil Justice Legal Initiative from 8:30 a.m.–10:30 a.m., the second Tuesday of each month at the New Mexico Veterans Memorial, 1100 Louisiana Blvd. SE, Albuquerque. Breakfast and orientation for volunteers begin at 8 a.m. No special training or certification is required. Volunteers can give advice and counsel in their preferred practice area(s). The next clinic is Tuesday, May 10. Those who are interested in volunteering or have questions should contact Keith Mier at kcm@sutinfirm.com or 505-883-3395.

Volunteers Needed for Wills for Heroes in Las Cruces

YLD needs volunteers for a Wills for Heroes clinic at 9 a.m.–noon, May 21, at New Mexico State University in Las Cruces. More than 30 first responders have already signed up to receive consultation and drafting of free simple wills, powers of attorney, and advanced health care directives. Consider volunteering for part or all of the clinic at NMSU. The documents are drafted via a proprietary hot docs program that will be installed on laptops for use at the clinic. For those not comfortable providing advice in this area, volunteers are needed for intake or serve as witnesses or notaries. To volunteer, contact Robert Lara at robnunm@gmail.com.

UNM Law Library

Hours Through May 14

Building & Circulation

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

Reference

Monday–Friday	9 a.m.–6 p.m.
Saturday–Sunday	Closed

Natural Resources Journal Call for Papers

The *Natural Resources Journal* seeks academic articles for its Winter 2017 issue, Volume 57.1, on water governance.

Suggested topics include: institutional analysis and jurisprudence, collaborative approaches to water governance, drought planning and climate adaptation, water and equity, markets, water and economic development, interplay of human and natural systems and politics and conflict in water governance. To submit an article, email (1) a manuscript of the article with citations and (2) a link to or copy of the author's CV to nrj@law.unm.edu. Submissions should be received by July 1, 2016. Authors who receive a commission will be notified by July 31. Additional information, including an archive of past issues, is available at <http://lawschool.unm.edu/nrj/>.

OTHER BARS Federal Bench and Bar Association Notice to Members Regarding Budget

The following is the Federal Bench & Bar Association's 2016 projected expenditure plan: WiFi @ Domenici, Campos, 421 Gold, Santiago E. Campos and Las Cruces Courthouses—\$10,000; WiFi at 500 Gold for Bankruptcy Court—\$1,300; Annual maintenance of WiFi @ all U.S.D.C. Courthouses—\$14,000; Campos Courthouse attorney lounge copier/printer/fax annual maintenance/supplies—\$800; Domenici Courthouse attorney lounge copier/printer/fax annual maintenance/supplies—\$700; Las Cruces Courthouse attorney lounge copier/printer/fax annual maintenance/supplies—\$680; Attorney Lounge computer software maintenance/upgrades—\$300; Court Ceremonies—\$11,000; CM/ECF attorney training MCLE expenses—\$75; Federal Bar seminars—\$5,000; New Judges' Reception (ABQ Bar Association)—\$1,500; Dry cleaning of visiting judges' robes—\$150; Hospitality baskets for visiting judges—\$1,500. To access this report and other Federal Bench & Bar Association information, please visit the Court's web page at www.nmd.uscourts.gov/.

Federalist Society, New Mexico Lawyers Chapter Ilya Shapiro Luncheon and Inaugural Event

The Federalist Society, New Mexico Lawyers Chapter, and the Rio Grande Foundation will host Ilya Shapiro as he discusses presents "The Scalia Legacy and the Future of the U.S. Supreme Court" at noon,

—Featured— Member Benefit



Fastcase is a free member service that includes cases, statutes, regulations, court rules, constitutions, and free live training webinars. Visit www.fastcase.com/webinars to view current offerings. Reference attorneys will provide assistance from 8 a.m.–8 p.m. ET, M–F. For more information, contact April Armijo, aarmijo@nmbar.org or 505-797-6086.

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May 12, at the Marriott Pyramid, 5151 San Francisco Rd. NE, Albuquerque. Seating is limited and can be purchased at an early bird price of \$30 until May 5. Visit www.errorsofenchantment.com/2016/04/15/ilya-shapiro-luncheon-justice-scalias-legacy-and-the-supreme-courts-future-albuquerque/.

First Judicial District Bar Association Spring Happy Hour

Join the First Judicial District Bar Association for a spring happy hour event at 5:30–7:30 p.m., May 19, at Georgia Restaurant, 225 Johnson St., Santa Fe. Attendance is free and includes one drink

and appetizers. No R.S.V.P. necessary. For more information, contact Erin McSherry at erin.mcsherry@state.nm.us.

New Mexico Criminal Defense Lawyers Association 'Four Corner Forensics' CLE in Durango

The New Mexico Criminal Defense Lawyers Association will partner with the Colorado and Utah criminal defense bars to host "Four Corner Forensics" (6.2 G), a CLE on May 6 at the Fort Lewis College Student Union Building in Durango, Colo. Plan a relaxing long weekend and learn about forensics and scientific evidence while surrounded by the beautiful landscapes (and restaurants) of Durango. Topics include an update on the NAS report, mobile forensics, fundamentals of DNA and cross of forensic experts. For more information or to register, visit www.nmcdla.org or call 505-992-0050.

New Mexico Women's Bar Association Pathway to the Judiciary CLE and Social Event

The New Mexico Women's Bar Association invites members of the legal community to a CLE, "Pathway to the Judiciary" at 1-4 p.m., May 20, at the State Bar Center. Hon. Petra Jimenez Maes, Hon. M. Monica Zamora, Hon. M. Christina Armijo, Hon. Karen Molzen, Hon. Briana Zamora, Hon.

Marie Ward and Hon. C. Shannon Bacon of the Second Judicial District Court will present a panel discussion addressing deciding when to compete for a judicial vacancy, the application and nomination process, running in a judicial election, understanding the day-to-day life of a judge and how being a judge impacts life outside of work. A reception will immediately follow the CLE program. All members of the bar and their guests are invited to attend. Attendance at the CLE is not a prerequisite to attend the social. For more information, contact Sharon Shaheen at sshaheen@montand.com.

OTHER NEWS Southwest Women's Law Center

Legal Issues Facing Girls in Middle and High School

The Southwest Women's Law Center invites members of the legal community and educators to its Lunch and Learn Mini Series "Legal Issues and Challenges Facing Girls in Middle and High School" (1.0 G) at noon-1 p.m., May 25, at the SWLC, 1410 Coal Avenue SW, Albuquerque. Check-in and a light lunch will begin at 11:30 a.m. The CLE will examine how lawyers can best collaborate with educators in middle and high schools to ensure that pregnant and parenting teens have equal access to education and graduation pursuant to Title IX. Register at www.swwomenslaw.org or by

contacting Sarah Coffey at 505-244-0502 or info@swwomenslaw.org. Registration is \$20 and registrations will be accepted at the door.

Workers' Compensation Administration

Notice of Destruction of Records

In accordance with NMAC 11.4.4.9 (Q)-Forms, Filing and Hearing Procedures: Return of Records, the New Mexico Workers' Compensation Administration will be destroying all exhibits and depositions filed in causes closed in 2010, excluding causes on appeal. The exhibits and depositions are stored at 2410 Centre Ave SE, Albuquerque, NM 87106 and can be picked up until May 15, 2016. For further information, contact the WCA at 505-841-6028 or 1-800-255-7965 and ask for Heather Jordan, clerk of the court. Exhibits and depositions not claimed by the specified date will be destroyed.

35th Annual Conference

The New Mexico Workers' Compensation Association will host its 35th Annual Conference on May 18-20 at the Albuquerque Convention Center. "The Renaissance of Work Comp: A Conference of Enlightenment" (7.0 G, 2.5 EP) will kick off with the annual fund-raising golf tournament on May 18 at Isleta Eagle Golf Course. The following two-day conference features medical, legal and "Trends in Work Comp" tracks. For more information and to register, visit www.wcaofnm.com.

continued from page 14 (Disciplinary Quarterly Report)

An attorney was informally admonished for failing to provide competent representation; failing to act with reasonable diligence and promptness in representing a client; failing to keep the client reasonably informed about the status of the matter; failing to respond to a lawful demand for information from a disciplinary authority; failing to give full cooperation and assistance to the disciplinary board; and engaging in conduct prejudicial to the administration of justice in violation of Rules 16-101, 16-103, 16-104, 16-801(B), 16-803(D) and 16-804(D) of the Rules of Professional Conduct.

An attorney was informally admonished for failing to promptly inform the client, failing to reasonably consult with the client about the means by which the client's objectives are to be accomplished, failing to keep the client reasonably informed about the status of the matter, and failing to promptly comply with reasonable requests for information in violation of Rule 16-104 of the Rules of Professional Conduct.

An attorney was informally admonished for failing to act with reasonable diligence and promptness in representing a client, and failing to take steps to the extent reasonably practicable to protect a client's interests in violation of Rules 16-103 and

16-116 (D) of the Rules of Professional Conduct.

Letters of Caution

Total number of attorneys cautioned 8

Attorneys were cautioned for the following conduct: (1) failing to protect the interest of a client; (2) general misrepresentation to a client; and (3) general incompetence (six letters of caution issued).

Complaints Received

<i>Allegations</i>	<i>No. of Complaints</i>
Trust Account Violations	1
Conflict of Interest	0
Neglect and/or Incompetence	82
Misrepresentation or Fraud	10
Relationship with Client or Court	10
Fees	3
Improper Communications	0
Criminal Activity	0
Personal Behavior	10
Other	4
Total number of complaints received	120

In the Supreme Court of the State of New Mexico

Law Day Recognition

Law Day 2016

Law Day began 58 years ago, with a proclamation from President Eisenhower. That first proclamation eloquently set forth the reasons why we, as a free people, celebrate our heritage of liberty under law.

President Eisenhower noted that it was “fitting that the people of this nation should remember with pride and vigilantly guard the great heritage of liberty, justice, and equality under law that our forefathers bequeathed to us.” Further, he said that it is “our moral and civic obligation as free [people] and as Americans to preserve and strengthen that great heritage.”

In celebrating Law Day this year, let us dedicate ourselves to the great values protected and preserved in our Constitution.

And, at the same time, let us recognize that democracy is not static, that we must always work to improve and perfect it. Let us seek to draw ever closer to the ideal hand carved into the woodwork above the bench of the Supreme Court of New Mexico: “Dedicated to the Administration of Equal Justice Under Law.”

Let us resolve that Law Day be an opportunity for all of us, in government and the private sector, to examine our efforts to make equal justice a reality, and to work together to reach that goal.

For more than 100 years, America’s charitable institutions and foundations, its lawyers and its courts, and countless others have worked to bring equal justice to as many people as possible.

Law Day 2016 is an opportune time to recognize the work of those who try to make courts accessible and justice equal:

Legal services organizations who provide legal services to those unable to afford them;

Pro Bono Publico programs under which private lawyers accept worthy cases at no fee;

Lawyer referral programs that help people find appropriate legal services;

Court programs designed to inform the public about laws and legal procedures, provide interpreters for those who need them, and generally make courts accessible.

We salute these efforts, but let us offer greater support to those who work daily to provide legal services to those who most need them. Let us dedicate ourselves to improving our courts and our justice system, so that we will truly have “justice for all.”

NOW, THEREFORE, I, Charles W. Daniels, Chief Justice of the Supreme Court of New Mexico, do hereby recognize Sunday, May 1, 2016, as Law Day, and I urge the legal professionals of New Mexico to recognize and participate in the observance of this the designated day.

DONE in Santa Fe, New Mexico, this 18th day of April, 2016.



Charles W. Daniels, Chief Justice

In the Supreme Court of the State of New Mexico

Juror Appreciation Week Recognition
May 2-6, 2016

WHEREAS, the right to a trial by jury is one of the core values of American citizenship;

WHEREAS, the obligation and privilege to serve as a juror are as fundamental to our democracy as the right to vote;

WHEREAS, our courts depend upon citizens to serve as jurors;

WHEREAS, service by citizens as jurors is indispensable to the judicial system;

WHEREAS, all citizens are encouraged to respond when summoned for jury service;

WHEREAS, a continuing and imperative goal for the courts, the bar, and the broader community is to ensure that jury selection and jury service are fair, effective, and not unduly burdensome on anyone; and

WHEREAS, one of the most significant actions a court system can take is to show appreciation for the jury system and for the tens of thousands of citizens who annually give their time and talents to serve on juries.

BE IT RESOLVED that the New Mexico State Courts are committed to the following goals:

- educating the public about jury duty and the importance of jury service;
- applauding the efforts of jurors who fulfill their civic duty;
- ensuring that the responsibility of jury service is shared fairly by supporting employees who are called upon to serve as jurors;
- ensuring that the responsibility of jury service is shared fairly among all citizens and that a fair cross section of the community is called for jury service including this State's non-English speaking population;
- ensuring that all jurors are treated with respect and that their service is not unduly burdensome;
- providing jurors with tools that will assist their decision making; and
- continuing to improve the jury system by encouraging productive dialogue between jurors and court officials.

NOW, THEREFORE, I, Charles W. Daniels, Chief Justice of the Supreme Court of New Mexico, do hereby recognize the week of May 2 - May 6, 2016, as Juror Appreciation Week in New Mexico and encourage all state courts in New Mexico to support the celebration of this week.

DONE in Santa Fe, New Mexico, this 18th day of April, 2016.



Charles W. Daniels, Chief Justice

A Spotlight on Rosemary Traub

2016 Justice Pamela Minzner Outstanding Advocacy for Women Award Winner

The Committee on Women and the Legal Profession is excited to announce that Rosemary Traub will be presented with the 2016 Justice Pamela Minzner Outstanding Advocacy for Women Award on June 9 at 5:30 pm at the Albuquerque Country. Each year, the State Bar of New Mexico's Committee on Women and the Legal Profession gives this award to a New Mexico attorney who has distinguished themselves during the prior year by providing legal assistance to women who are underrepresented or underserved, or by advocating for causes that will ultimately benefit and/or further the rights of women.

Rosemary Traub is being honored with the Pamela Minzner Award for her work advocating for victims of domestic violence. Ms. Traub also provides trainings state-wide to law enforcement and other agencies on interacting with domestic violence victims and navigating domestic violence situations and complaints. The Committee believes that the work Ms. Traub does is important and underappreciated. Committee member Susan Page sat down with Ms. Traub to get to know this year's Pamela Minzner Award winner.

Susan Page: You were nominated, and ultimately were chosen to be this year's Pamela Minzner Award winner because of the advocacy work you do for victims of Domestic Violence. Describe what you do.

Rosemary Traub: I represent victims of domestic violence, stalking and sexual assault. I mainly seek Orders of Protection under the Family Violence Protection Act (40-13-1 to 40-13-7 NMSA 1978). I do some related family law practice, mainly custody and divorces arising from the domestic violence cases, where the clients are particularly vulnerable. I'm based at the Family Advocacy Center, a multi-agency facility, serving the Albuquerque Metropolitan area. I'm paid by Legal Aid of New Mexico, through a grant with the United Way of Central New Mexico, and have been there since 2011.

A typical client might be a 15 year old single mother in school at New Futures High School for Pregnant and Parenting Teens, who is living with her grandmother, and working part-time. She has total responsibility for a child, and has been ordered to comply with supervised visita-

tion for the child's father, who also happens to be her abuser.

These are difficult and sensitive situations that demand a lot from an attorney. I have become a good listener and a fierce advocate for my clients.

SP: Describe your previous career that led you here:

RT: I took over a practice from my father, Ben Traub, who died right before I graduated from UNM Law School. I was in general practice for 16 years, which included serving as a guardian ad litem in abuse and neglect cases. I also practiced in misdemeanor criminal defense and family law. I served as a special commissioner for commitments under the Mental Health Code. In 2007, I decided to change my practice. I became a prosecutor in Sandoval County. The Chief Deputy at that time started a domestic violence unit, and I agreed to head it. I felt strongly that there was a need for more attorneys that were specialized in representing victims of domestic violence. I picked a young woman, Kristin Murphy-Koller, to work with me. We handled domestic violence and stalking, both felonies and misdemeanors. I received incredible training through the National District Attorney's Association, AEquitas, and the Prosecutors' Resource on Violence against Women in Washington, DC, which furthered my commitment to advocating for victims of domestic violence.

SP: Our sons are working together for Senator Martin Heinrich in DC. Catch me up on your family.

RT: The light of my life are my two boys, Philip and Peter Rothfeld. Philip is an RN at the Subacute Care Unit at Presbyterian Hospital, and Peter is a staff assistant in DC with Senator Martin Heinrich. I also have two dogs: Sally, an Australian Shepherd, and Elton, an Australian hunting dog, who I hike with almost every day. My uncle was Richard Traub, a District Court judge, and I have a niece, Sara Traub, who is also an attorney.

SP: If you could go to dinner with anyone in the world, who would it be and where would you take them?

RT: Vice President Joe Biden. Duran's Restaurant on Menaul.



SP: What do you do for fun?

RT: I love to travel and have been to several places in the United Kingdom, Europe, South America, Central America and Canada. It's fascinating to meet so many different people, share their cultures and learn about their lives and experiences. I downhill ski, mostly at the Santa Fe ski area with my friend and Rio Rancho attorney, Boglarka Foghi and her two daughters. I also love flower arranging, because it lets me create something beautiful.

SP: What would you like other lawyers to know?

RT: I find that taking time and listening to a victim enhances how I can help them and they are very appreciative. I do my own intakes so I can better understand what they have experienced and to better connect with them. It takes a lot of time, and it's worth it. Taking time to connect with your client, no matter what area of law you are in, will enhance your practice.

I also want to say that there are so many talented women attorneys and jurists in New Mexico. While I did not know Justice Minzner, I know she was a true voice for women and a trailblazer for female attorneys in New Mexico. I want to acknowledge three other women jurists from New Mexico who had an impact on me: Justice Mary Walters, whom I had the privilege of meeting when I was in high school; Judge Anne Kass, who I learned more from than any other attorney or judge; and Judge Diane dal Santo, who referred me my first domestic violence case, many years ago. I have admired them so much and never forgotten them.

A Great Day to be a New Mexico Lawyer

Spring Swearing-in Ceremony

Story and photos by Evann Kleinschmidt

Sixty nine new lawyers and their families, friends and colleagues filled the Lensic Performing Arts Center in Santa Fe for the April 25 Swearing-in Ceremony. Justice Edward L. Chávez proclaimed that it was a great day to be a New Mexico lawyer. The occasion is always special because the new admittees wake up lay persons and leave fully licensed to practice law in New Mexico. The spring swearing-in was particularly distinct because American Bar Association President Paulette Brown was in attendance.

President Brown is the first woman of color to lead the ABA since it was founded in 1878. One of her goals as president is to promote diversity and inclusion within the legal profession. Growing up, her father always told her that there were “no girl jobs and no boy jobs.” She understands that seeing a person of color in a leadership position makes a difference because it’s hard to aspire to something you don’t see. As part of her presidency, Brown has traveled all over the country, visiting and speaking at Boys & Girls Club locations.

During her trip to New Mexico to visit to an Albuquerque Boys & Girls Club location, President Brown was able to attend the Swearing-in Ceremony and spoke on the importance of professionalism and diversity in the legal profession. Quoting Mary Mortley Montagu, Brown said that “civility costs nothing and buys everything.” Stressing the importance of the Creed of Professionalism of the New Mexico Bench and Bar, she noted how critical and rare the civility clause is to other bars.

After outlining the many services the ABA has to offer for new lawyers, President Brown turned to the New Mexico Supreme Court saying “I like what I see here,” referring to the fact that it is composed of a female majority. Reflecting on her own experience as president, Brown said that when people ask where the diversity is in the ABA’s upcoming line of female leadership (current president, president-elect, secretary, and chair of the House of Delegates), she simply replies that, “It’s just a little catch up!”

President Brown said that no other profession produces such a large proportion of leaders than the legal profession. In closing, Brown asked the new admittees to do all they can to make this profession the best profession that there is.

Members of the New Mexico Board of Bar Examiners read the names of the applicants of admission. Some applicants had special movants who gave reasons why they should be admitted to practice in New Mexico, citing qualities like integrity, passion, dedication, wisdom, knowledge



ABA President Paulette Brown stands between ABA Board of Governors Member at Large Orlando Lucero and ABA Secretary Mary T. Torres, both of whom are New Mexico attorneys.



State Bar Secretary-Treasurer Gerald G. Dixon addresses the crowd.



Rosalyn D. Nguyen moved on behalf of Diana L. Heider.



Paulette Brown addresses the audience and New Mexico Supreme Court.



Signing the Roll of Attorneys

and tenacity. Movants included mentors, colleagues, family friends and even parents.

Other speakers included Howard Thomas, chair of the Board of Bar Examiners, Gerald G. Dixon, State Bar secretary-treasurer, Spencer Edelman, chair of the Young Lawyes Division, and Briggs Cheney, a founding member of the Lawyers and Judges Assistance Program.

After the Oath of Office was administered by Chief Clerk Joey Moya, the members of the Supreme Court addressed the new members of the State Bar and their guests. Justice Judith K. Nakamura said that the ceremony gave her goosebumps. She encouraged the new attorneys to consider the reputation they want as it is one's greatest assets, especially in a legal community as small as New Mexico's. Justice Barbara J. Vigil encouraged new admittees to always strive to achieve gracious professionalism.

Mentioning President Brown's speech, Justice Chávez said he was proud to be a member of the majority female Supreme Court. He said that people respect leaders if they are diverse and that New Mexico has come a long way in that respect. Justice Petra Jimenez Maes said that the cost of a lack of access to justice is high and implored the new admittees to "do good, do justice and do pro bono."

Finally, Chief Justice Charles W. Daniels noted how special this ceremony is to New Mexico and hopes that it will continue for many years. He talked about the special responsibility the new lawyers now have and saying they are joining a long list of important people in the history of this state.

View more photos at www.nmbar.org > Publications & Resources > News-room > Photos.



Taking the Oath of Office

Congratulations, New Members!





Julia E. Crooks

Julia E. Crooks has joined Atkinson, Baker & Rodriguez, PC, as an associate attorney. Crooks previously clerked for the New Mexico Court of Appeals and the New Mexico Supreme Court.



Bill Piatt

Bill Piatt's latest book *Human Trafficking* (written with Cheryl Page) has been published by the Carolina Academic Press. Piatt is a professor of law at St. Mary's University School of Law in San Antonio where he served as dean from 1998 to 2007."



Barbara Lucero

Barbara Lucero, a paralegal at Modrall Sperling, has been elected chair of the State Bar Paralegal Division. Since assuming her new role in January, she is the only person to have served as both chair of the Paralegal Division and president of the Navajo Nation Bar Association. She has been a member of the Division for 15 years and on the board the last four. Lucero earned her B.A. in Communications in 2011, after having earned an A.A.S. in Legal Assistant (1999) and Tribal Court Advocacy (1999), all from University of New Mexico. In addition, she earned an A.A. in Business from the Navajo Community College (now Diné College, 1996).

The Board of the American Bar Foundation has elected **Karl Rysted**, New Mexico State University student legal aid attorney, as a fellow. He will serve as a fellow for at least 10 years and attend American Bar Foundation meetings. Rysted, who has worked at NMSU since August 2014, is a member of the State Bar of New Mexico and Oklahoma Bar Association. He attended Colorado College (B.A., English) and Oklahoma City University School of Law (J.D.).

Janice Dale, Mike Hacker, Melanie Rhodes, Johanna Pickel and Melody Everett all became certified network attorneys with Lawyers Helping Warriors, a 501(c)(3) organization dedicated to assisting American Veterans in obtaining the disability benefits that they need, earned and deserve.



Jesse D. Hale

Jesse D. Hale has joined Montgomery & Andrews, PA. Hale attended the University of New Mexico (2008, *cum laude*; J.D. 2013). During law school, Hale served as a board member for the Association of Public Interest Law and the student chapter of the American Civil Liberties Union.



Leslie McCarthy Apodaca

Leslie McCarthy Apodaca has become a fellow of the Litigation Counsel of America. McCarthy Apodaca is a director in the Rodey Law Firm. Her practice emphasizes complex litigation matters and business disputes. McCarthy Apodaca regularly serves as defense counsel in class action matters involving antitrust, unfair trade practices, and unfair debt collection practices. The purpose of the LCA is to recognize deserving, experienced and highly qualified lawyers.



Christopher M. Gatton, Jesse Jacobus and George "Dave" Giddens

The Law Office of George "Dave" Giddens, PC, has changed its name to **Giddens, Gatton & Jacobus, PC**. The name was changed to reflect the roles of attorneys Christopher M. Gatton and Jesse Jacobus who were named shareholders in the firm last year. Gatton practices primarily in the areas of bankruptcy and debtor/creditor rights. Jacobus is a litigator whose work is focused in the areas of personal injury and employment law. In addition to its shareholders, Giddens, Gatton & Jacobus, PC, has three staff attorneys and seven employees who serve individuals, small businesses and bankers in the areas of bankruptcy, creditor's rights, personal injury, employment law, business law and real estate law.

Giddens, Gatton & Jacobus, PC
2016 Southwest Super Lawyers
George “Dave” Giddens and Chris Gatton

Lewis Roca Rothgerber Christie LLP
2016 Southwest Super Lawyers
Jeff Albright (environmental law)

Pregenzer, Baysinger, Wideman & Sale, PC
2016 Southwest Super Lawyers
Nell Graham Sale (estate planning and probate)

Rodey, Dickason, Sloan, Akin & Robb, PA
Southwest Super Lawyers: Top 25 New Mexico Super Lawyers
Nelson Franse, Scott Gordon, Bruce Hall, Theresa Parrish,
Ed Ricco and Tom Stahl

Modrall, Sperling, Roehl, Harris & Sisk, PA
2016 Southwest Super Lawyers
Samantha M. Adams, Jennifer G. Anderson, Larry P. Ausherman, Martha G. Brown, Stuart R. Butzier, John R. Cooney, Earl E. DeBrine, Donald A. DeCandia, Timothy L. Fields, Paul M. Fish, Stanley N. Harris, Michelle A. Hernandez, Timothy C. Holm, Emil J. Kiehne, George R. McFall, Margaret L. Meister, Megan T. Muirhead, Jennifer A. Noya, Maria O’Brien, James M. Parker, Marjorie A. Rogers, Ruth M. Schifani, Lynn H. Slade, Walter E. Stern, R. E. Thompson, Douglas R. Vadnais and Alex C. Walker.
Southwest Super Lawyers: Top 25 New Mexico Super Lawyers
Samantha M. Adams, John R. Cooney, Timothy L. Fields, Margaret L. Meister, Jennifer A. Noya, Lynn Slade and R.E. Thompson.
Southwest Super Lawyers: Rising Stars
Daniel Alsup, Deana M. Bennett, Spencer L. Edelman, Tomas J. Garcia, Jeremy Harrison, Gbenoba N. Idah, Anna Indahl, Mia Kern, Elizabeth A. Martinez, Nathan Nieman, Tiffany Roach Martin, Christina Sheehan and Sarah Stevenson.

In Memoriam

Donald R. Fenstermacher was born May 23, 1959, in Los Alamos, and died on Nov. 4, 2015, in Albuquerque. He was preceded in death by his father, Charles Fenstermacher and his sister, Susie Fenstermacher. He is survived by his mother, Marielle, of Los Alamos and daughter, Robyn, of Albuquerque.

Anderson “Andy” Edward Clipper, born Aug. 7, 1944, in Mt. Vernon, N.Y., first born of Anderson S. and Alice Clipper, died Oct. 7, 2015, at a VA hospital in New York City. Clipper’s path of caring for those who looked to him for strength and protection was set when he became big brother to twin sisters Carole and Shirley and twin brothers Alan and Alvin. “My mother was in charge of my Saturdays. Pop had me on Sundays,” was Clipper’s wry explanation of why he was the only boy in a ballet class of girls (on Saturdays) and the only black boy on a little league team of white boys (on Sundays). He excelled in any setting. He earned a B.S. from the University of Maryland and an M.B.A. from Boston University. Clipper was fluent in French and German. He taught courses in Black Culture, History and Literature at the University of Maryland and the University of Heidelberg. Andy loved children. He taught his adopted-by-love Ethiopian granddaughters the Sala, Fox Trot and Waltz, the youngest, how to type and their brother how to build a hay cart. He modeled for them a love of learning, books, classical and jazz music and the fine arts. His patience was bottomless. Clipper loved animals. When his old Arabian stallion Barexi was stricken with West Nile and couldn’t get up, Clipper lay down with him in the paddock for hours. His spirit revived with love, Barexi survived. Andy loved the law. After a successful career as a stockbroker, he fulfilled his life dream of

becoming an attorney. He studied at Oxford University, served with Desmond Tutu on the Truth and Reconciliation Commission in South Africa after Apartheid was abolished and graduated from Fordham University law school when he was 55. He believe in and practiced service. Clipper achieved the rank of Captain in the U.S. Army during the Vietnam War. With honor and fairness, he led and protected a group of Southern men with segregationist views. Andy was awarded the Bronze Star for heroic achievement. During his years in Santa Fe he was a public defender, an assistant attorney general, board member of the Rape Crisis Center and an adaptive ski instructor for the disabled. Skiing, especially with his son Christopher, was a passion. Catch and release fly fishing on the San Juan or Pecos or deep sea in the Atlantic, Gulf of Mexico and Sea of Cortez were also his passions. With his elegant presentation of his gourmet-cook feasts, Clipper could have given Emeril Lagasse a run for his money. He never gave up the challenge to heal his invisible war wounds; never let those wounds diminish his commitment to serve those less able. Clipper was preceded in death by his father, Anderson S. Clipper. He is survived by his life partner Sally Rodgers of Santa Fe; son Christopher L. Clipper (Jamia); grandsons Maximillian Anderson and Sebastian Michael Clipper of Portland; mother, Alice; brother, Alvin; and sisters, Carole Bennett of New York City, Shirley Brown of Richmond Va., brother, Alan Clipper (Gwen) of Baltimore, Md.; his first wife and steadfast friend Nancy Clipper of New York City; step children Kurt Gearheart of Santa Fe, Rachael Rodgers (Greg Tipton) of Albuquerque; his adopted-by-love Ethiopian family, Yared, Misrak, Gelila, Yoseph, Yordanose, Solome and Nicodemus Feleke of Moreno Valley, Calif.; and his many relatives and friends in New York City and Santa Fe.

REPORT BY DISCIPLINARY COUNSEL

DISCIPLINARY QUARTERLY REPORT

Reporting Period: January 1–March 31, 2016

Final Decisions

Final Decisions of the NM Supreme Court 9

Matter of Albert Costales, Esq. (Disciplinary No. 06-2015-722). The New Mexico Supreme Court accepted a conditional agreement and entered an order suspending Respondent from the practice of law for two (2) years for: (a) engaging in conduct intended to disrupt a tribunal; (b) making a statement with reckless disregard to its truth or falsity concerning the qualifications of an adjudicatory official; and (c) failing to properly safeguard client property. The Court deferred the suspension upon the following conditions: Respondent must: (a) undergo an audit of his trust and operating accounts after a twelve (12) month period; (b) attend continuing education on the topic of civility and professionalism; (c) comply with the Rules of Professional Conduct and Rules Governing Discipline; and (d) pay costs to the Disciplinary Board.

Matter of Douglas Booth, Esq. (Disciplinary No. 08-2015-729). The New Mexico Supreme Court accepted a conditional agreement and entered an order suspending Respondent from the practice of law for eighteen (18) months for failing to protect the interests of the client and trust account violations. The Court deferred the suspension upon the following conditions: Respondent must (a) undergo an audit of his trust and operating accounts after a twelve (12) month period; (b) attend continuing education on the topic of proper trust account procedures; (c) comply with the Rules of Professional Conduct and Rules Governing Discipline; and (d) pay costs to the Disciplinary Board.

Matter of Jason S. Montclare, Esq. (Disciplinary No. 11-2013-682). The New Mexico Supreme Court entered an order suspending Respondent from the practice of law for a period of six (6) months, which was deferred upon specific terms and conditions, for overreaching/excessive fees and commingling funds. Respondent was ordered to: (a) reimburse a third party; (b) obtain a signed quitclaim deed for the property at issue in the disciplinary proceeding; and (c) attend the next Ethicspalooza CLE. Respondent will receive a public censure to be issued by the Supreme Court at a later date. Respondent was also ordered to pay costs to the disciplinary board.

Matter of Armando Torres, Esq. (Disciplinary No. 10-2014-708). The New Mexico Supreme Court entered an opinion publicly censuring Respondent for neglect that resulted in the dismissal of a client's personal injury case for failure to prosecute, and for Respondent's subsequent deception to the client and to the Disciplinary Board, although Respondent did make his client whole.

Matter of Rita Nunez Neumann, Esq. (Disciplinary No. 10-2014-704). The New Mexico Supreme Court entered an order denying Respondent's application for retirement in lieu of resignation and permanently disbaring Respondent from the practice of law for misrepresentation to the Court, specifically perjury while representing a client. Respondent was further ordered to comply with all obligations under Rule 17-212 NMRA.

Matter of Emilio J. Chavez, Esq. (Disciplinary No. 10-2014-704). The New Mexico Supreme Court entered an order issuing a Formal Reprimand for violation of Rule 16-404(A) NMRA, as a result of Respondent's issuance of subpoenas without authority in his capacity as an Assistant District Attorney. The Reprimand was deferred for one (1) year and will be automatically withdrawn if Respondent commits no further violations of the Rules of Professional Conduct during the one-year deferral period. The Court will issue a written opinion at a later date.

Matter of Donald Gallegos, Esq. (Disciplinary No. 10-2014-705). The New Mexico Supreme Court entered an order issuing a Formal Reprimand for violations of Rule 16-404(A) and Rule 16-501(C) NMRA, as a result of Respondent's subordinate issuing subpoenas without authority with Respondent's knowledge and ratification in his capacity as a District Attorney. The Reprimand was deferred for one (1) year and will be automatically withdrawn if Respondent commits no further violations of the Rules of Professional Conduct during the one-year deferral period. The Court will issue a written opinion at a later date.

Matter of Thomas Charles Esquibel, Esq. (Disciplinary No. 06-2015-723). The New Mexico Supreme Court accepted a conditional agreement and entered an order indefinitely suspending Respondent from the practice of law for a period of no less than eighteen (18) months for general incompetence and failure to communicate with clients. Respondent was further ordered to fully reimburse the New Mexico Client Protection Fund and take and successfully complete an ethics course prior to filing any petition for reinstatement. The Respondent must also pay costs to the Disciplinary Board.

Matter of Marcos Gonzalez, Esq. (Disciplinary No. 03-2015-717). In light of the compelling mitigating factors present in this matter, the New Mexico Supreme Court entered an order indefinitely suspending Respondent from the practice of law, effective as of September 21, 2015, for a period of time no less than two (2) years for conversion and the failure to safeguard client's funds. Respondent was further ordered to: (a) pay restitution to all clients on or before March 23, 2017; (b) successfully pass the Multistate Professional Responsibility Examination; (c) reimburse the Client Protection Fund on all sums expended on his behalf; (d) pay costs to the Disciplinary Board, as well as other conditions.

Summary Suspensions

Total number of attorneys summarily suspended 1

Matter of Troy W. Prichard, Esq. (Disciplinary No. 10-2015-730) New Mexico Supreme Court entered an order summarily suspending Respondent from the practice of law.

Administrative Suspensions

Total number of attorneys administratively suspended..... 0

Disability Suspensions

Total number of attorneys placed on disability suspension 1

Matter of (Sealed matter) New Mexico Supreme Court entered an order placing Respondent on disability inactive status effective February 15, 2015. Any pending disciplinary matters were stayed until Respondent is found eligible for reinstatement.

Charges Filed

Charges were filed against an attorney for allegedly failing to abide by a client's decision concerning the objectives of representation and failing to consult with the client regarding the same; failing to promptly inform and keep the client reasonably informed on the status of the matter; representing a client without obtaining the client's informed consent to do so in the face of a concurrent conflict of interest between the client and a third party; accepting compensation for representing a client from one other than the client without obtaining informed consent; undertaking representation of a client when such representation, under the circumstances, would result in a violation of the Rules of Professional Conduct; assisting a nonlawyer in the unauthorized practice of law; and engaging in conduct prejudicial to the administration of justice.

Charges were filed against an attorney allegedly representing clients while having a concurrent conflict of interest; knowingly disobeying a Court's Order; engaging in conduct intended to disrupt a tribunal; and engaging in conduct prejudicial to the administration of justice.

Charges were filed against an attorney for allegedly failing to provide competent representation; failing to act with reasonable diligence and promptness in representing a client; failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation; failing to expedite litigation consistent with the interests of a client; failing to give full cooperation and assistance to disciplinary counsel; and engaging in conduct that is prejudicial to the administration of justice.

Charges were filed against an attorney for allegedly charging a clearly excessive and improper fee; failing hold client property separately from their own; failing to distribute funds due to a third party; failing to keep funds for which there was a dispute separately from their own property; asserting a lien – a legal procedure – with no good-faith legal basis for doing so; and threatening retaliatory action if the Office of Disciplinary Counsel filed charges.

Charges were filed against an attorney for allegedly failing to provide competent representation to a client; failing to represent the client diligently; failing to inform the clients of a settlement offer and by failing to inform the clients of the need for a different state licensed attorney; unlawfully practicing law without a law license in another state; making false statements of material fact in a disciplinary matter; and engaging in conduct prejudicial to the administration of justice.

Charges were filed against an attorney for allegedly failing to provide competent representation to a client; failing to represent the client diligently; failing to communicate with the client and making false statements to the client about the status of the case; failing to expedite litigation; knowingly disobeying orders of the Court; failing to make a reasonably diligent effort to comply with a discovery request; engaging in conduct involving dishonesty, fraud, deceit or misrepresenta-

tion; and engaging in conduct prejudicial to the administration of justice.

Charges were filed against an attorney for allegedly failing to provide competent representation to a client; failing to act with reasonable diligence and promptness in representing a client; failing to keep the client reasonably informed about the status of the matter; violating the Rules of Professional Conduct; failing to timely respond to a lawful demand for information from a disciplinary authority; failing to give full cooperation and assistance to disciplinary counsel; and engaging in conduct that is prejudicial to the administration of justice.

Petitions for Administrative Suspension Filed

Petitions for administrative suspension filed 0

Petitions for Reciprocal Discipline Filed

Petitions for reciprocal discipline filed 0

Petitions for Reinstatement Filed

Petitions for reinstatement filed 0

Formal Reprimands

Total number of attorneys formally reprimanded 1

Matter of Daniel Edwin Duncan, Esq. (Disciplinary No. 08-2015-727) a Formal Reprimand was issued at the Disciplinary Board meeting of March 18, 2016, for the violation of Rule 16-101, failing to provide competent representation to a client; Rule 16-107 (A)(1), by representing one client who is directly adverse to another client; Rule 16-107(A)(2), by representing clients when the representation is materially limited by the lawyer's responsibilities to the other client; Rule 16-108(B), by using information relating to the representation of a client to the disadvantage of the client without informed consent; Rule 16-301, by bringing a proceeding with no basis in law that is not frivolous and has no good faith for extension, modification or reversal of existing law; and Rule 16-804(A), by violating the Rules of Professional Conduct. The Formal Reprimand was published in the State Bar Bulletin issued March 30, 2016.

Informal Admonitions

Total number of attorneys admonished 5

An attorney was informally admonished for failing to provide competent representation; making false statements of material fact or law to a third person; failing to report the misconduct of a judge; knowingly violating the Rules of Professional Conduct; and knowingly implying an ability to influence improperly a government agency or official to achieve results by means that violate the Rules of Professional Conduct or other law in violation of Rules 16-101, 16-401(A), 16-803(B), 16-804(A), and 16-804(E) of the Rules of Professional Conduct.

An attorney was informally admonished for engaging in conduct with no substantial purpose other than to embarrass, delay or burden a third person and engaging in conduct prejudicial to the administration of justice in violation of Rules 16-404 and 16-804 (D) of the Rules of Professional Conduct.

continued on page 6

Legal Education

May

4	Ethics and Drafting Effective Conflict of Interest Waivers 1.0 EP Teleseminar Center for Legal Education of NMSBF www.nmbar.org	11	Adding a New Member to an LLC 1.0 G Teleseminar Center for Legal Education of NMSBF www.nmbar.org	20	The New Lawyer – Rethinking Legal Services in the 21st Century (2015) 4.5 G, 1.5 EP Live Replay, Albuquerque Center for Legal Education of NMSBF www.nmbar.org
4	Annual Estate Planning Update 6.0 G, 1.0 EP Live Seminar Wilcox Law Firm www.wilcoxlawnm.com	13	Spring Elder Law Institute 6.2 G Webcast/Live Seminar, Albuquerque Center for Legal Education of NMSBF www.nmbar.org	20	Legal Writing – From Fiction to Fact: Morning Session (2015) 2.0 G, 1.0 EP Live Replay, Albuquerque Center for Legal Education of NMSBF www.nmbar.org
5	Public Records and Open Meetings 5.5 G, 1.0 EP Live Seminar, Albuquerque New Mexico Foundation for Open Government www.nmfog.org	17	Workout of Defaulted Real Estate Project 1.0 G Teleseminar Center for Legal Education of NMSBF www.nmbar.org	20	Social Media and the Countdown to Your Ethical Demise (2016) 3.0 EP Live Replay, Albuquerque Center for Legal Education of NMSBF www.nmbar.org
6	Best and Worst Practices Including Ethical Dilemmas in Mediation 3.0 G, 1.0 EP Webcast/Live Seminar, Albuquerque Center for Legal Education of NMSBF www.nmbar.org	18	Trusts 101 5.0 G, 1.0 EP Live Seminar NBI Inc. www.nbi-sems.com	20	What NASCAR, Jay-Z & the Jersey Shore Teach About Attorney Ethics (2016 Edition) 3.0 EP Live Replay, Albuquerque Center for Legal Education of NMSBF www.nmbar.org
6	Four Corner Forensics 6.2 G Live Seminar, Durango, Colo. New Mexico Criminal Defense Lawyers Association www.nmcdla.org	19	2016 Retaliation Claims in Employment Law Update 1.0 G Teleseminar Center for Legal Education of NMSBF www.nmbar.org	20	Ethics and Virtual Law Practices 1.0 EP Teleseminar Center for Legal Education of NMSBF www.nmbar.org
10	Arbitration: An Overview of Current Issues 1.0 G Live Seminar H. Vearle Payne Inns of Court 505-321-1461	19	Annual WCA of NM Conference 8.0 G, 2.5 EP Live Program, Albuquerque Workers Compensation Association of New Mexico 505-377-3017	25	Legal Rights and Issues Affecting Pregnant and Parenting Teens in New Mexico 1.0 G Live Program, Albuquerque Southwest Women's Law Center swwomenslaw.org

June

6	2016 Estate Planning Update 1.0 G Teleseminar Center for Legal Education of NMSBF www.nmbar.org	7	Beyond Sticks and Stones (2015 Annual Meeting) 1.5 EP Live Replay, Albuquerque Center for Legal Education of NMSBF www.nmbar.org	9	Legal Issues Facing Women Seeking Healthcare 1.0 G Live Program, Albuquerque Southwest Women's Law Center swwomenslaw.org
7	Conflicts of Interests (Ethicspalooza Redux—Winter 2015 Edition) 1.0 EP Live Replay, Albuquerque Center for Legal Education of NMSBF www.nmbar.org	7	The 31st Annual Bankruptcy Year in Review (2016 AM Session) 3.5 G Live Replay, Albuquerque Center for Legal Education of NMSBF www.nmbar.org	16	Negotiating and Drafting Issues with Small Commercial Leases 1.0 G Teleseminar Center for Legal Education of NMSBF www.nmbar.org

June

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| <p>16–17 Ninth Annual New Mexico Legal Service Providers Conference: Holistically Addressing Poverty and Advancing Equity for Women and Families in New Mexico
10.0 G, 2.0 EP
Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>17 Legal Ethics in Contract Drafting
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> |
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July

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| <p>15 The Ethics of Creating Attorney-Client Relationships in the Electronic Age
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>21 Drafting Sales Agents' Agreements
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>29 2nd Annual Symposium on Diversity (2016): Implicit Bias and How To Address It
1.0 G
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>19 Essentials of Employment Law
6.6 G
Live Seminar
Sterling Education Services Inc.
www.sterlingeducation.com</p> | <p>28 Reciprocity—Introduction to the Practice of Law in New Mexico
4.5 G, 2.5 EP
Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | |

August

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| <p>2 Due Diligence in Real Estate Acquisitions
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>10 Role of Public Benefits in Estate Planning
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>31 Lawyer Ethics and Disputes with Clients
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>9 Charging Orders in Business Transactions
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>23 Drafting Employment Separation Agreements
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | |

Writs of Certiorari

As Updated by the Clerk of the New Mexico Supreme Court

Joey D. Moya, Chief Clerk New Mexico Supreme Court PO Box 848 • Santa Fe, NM 87504-0848 • (505) 827-4860

Effective April 1, 2016

Petitions for Writ of Certiorari Filed and Pending:			No. 35,657	Ira Janecka	12-501	12/28/15
		Date Petition Filed	No. 35,671	Riley v. Wrigley	12-501	12/21/15
No. 35,832	State v. Baxendale	COA 33,934 03/31/16	No. 35,649	Miera v. Hatch	12-501	12/18/15
No. 35,831	State v. Martinez	COA 33,181 03/31/16	No. 35,641	Garcia v. Hatch Valley Public Schools	COA 33,310	12/16/15
No. 35,830	Mesa Steel v. Dennis	COA 34,546 03/31/16	No. 35,661	Benjamin v. State	12-501	12/16/15
No. 35,828	Patscheck v. Wetzel	12-501 03/29/16	No. 35,654	Dimas v. Wrigley	12-501	12/11/15
No. 35,825	Bodley v. Goodman	COA 34,343 03/28/16	No. 35,635	Robles v. State	12-501	12/10/15
No. 35,827	Serna v. Webster	COA 34,535/34,755 03/24/16	No. 35,674	Bledsoe v. Martinez	12-501	12/09/15
No. 35,824	Earthworks Oil and Gas v. N.M. Oil & Gas Association	COA 33,451 03/24/16	No. 35,653	Pallares v. Martinez	12-501	12/09/15
No. 35,823	State v. Garcia	COA 32,860 03/24/16	No. 35,637	Lopez v. Frawner	12-501	12/07/15
No. 35,822	Chavez v. Wrigley	12-501 03/24/16	No. 35,268	Saiz v. State	12-501	12/01/15
No. 35,820	Martinez v. Overton	COA 34,740 03/24/16	No. 35,612	Torrez v. Mulheron	12-501	11/23/15
No. 35,821	Pense v. Heredia	12-501 03/23/16	No. 35,599	Tafoya v. Stewart	12-501	11/19/15
No. 35,818	State v. Martinez	COA 35,038 03/22/16	No. 35,588	Torrez v. State	12-501	11/04/15
No. 35,817	State v. Nathaniel L.	COA 34,864 03/22/16	No. 35,522	Denham v. State	12-501	09/21/15
No. 35,816	State v. McNew	COA 34,937 03/18/16	No. 35,495	Stengel v. Roark	12-501	08/21/15
No. 35,815	State v. Sanchez	COA 34,170 03/18/16	No. 35,479	Johnson v. Hatch	12-501	08/17/15
No. 35,813	State v. Salima J.	COA 34,904 03/17/16	No. 35,474	State v. Ross	COA 33,966	08/17/15
No. 35,812	State v. Tenorio	COA 34,994 03/17/16	No. 35,466	Garcia v. Wrigley	12-501	08/06/15
No. 35,814	Campos v. Garcia	12-501 03/16/16	No. 35,440	Gonzales v. Franco	12-501	07/22/15
No. 35,811	State v. Barreras	COA 33,653 03/16/16	No. 35,422	State v. Johnson	12-501	07/17/15
No. 35,810	State v. Barela	COA 34,716 03/16/16	No. 35,374	Loughborough v. Garcia	12-501	06/23/15
No. 35,809	State v. Taylor E.	COA 34,802 03/16/16	No. 35,372	Martinez v. State	12-501	06/22/15
No. 35,805	Trujillo v. Los Alamos Labs	COA 34,185 03/16/16	No. 35,370	Chavez v. Hatch	12-501	06/15/15
No. 35,804	Jackson v. Wetzel	12-501 03/14/16	No. 35,353	Collins v. Garrett	COA 34,368	06/12/15
No. 35,803	Dunn v. Hatch	12-501 03/14/16	No. 35,335	Chavez v. Hatch	12-501	06/03/15
No. 35,802	Santillanes v. Smith	12-501 03/14/16	No. 35,371	Pierce v. Nance	12-501	05/22/15
No. 35,795	Jaramillo v. N.M. Dept. of Corrections	COA 34,528 03/09/16	No. 35,266	Guy v. N.M. Dept. of Corrections	12-501	04/30/15
No. 35,793	State v. Cardenas	COA 33,564 03/09/16	No. 35,261	Trujillo v. Hickson	12-501	04/23/15
No. 35,777	N.M. State Engineer v. Santa Fe Water Resource	COA 33,704 02/25/16	No. 35,097	Marrah v. Swisstack	12-501	01/26/15
No. 35,771	State v. Garcia	COA 33,425 02/24/16	No. 35,099	Keller v. Horton	12-501	12/11/14
No. 35,758	State v. Abeyta	COA 33,461 02/15/16	No. 34,937	Pittman v. N.M. Corrections Dept.	12-501	10/20/14
No. 35,749	State v. Vargas	COA 33,247 02/11/16	No. 34,932	Gonzales v. Sanchez	12-501	10/16/14
No. 35,748	State v. Vargas	COA 33,247 02/11/16	No. 34,907	Cantone v. Franco	12-501	09/11/14
No. 35,747	Sicre v. Perez	12-501 02/04/16	No. 34,680	Wing v. Janecka	12-501	07/14/14
No. 35,746	Bradford v. Hatch	12-501 02/01/16	No. 34,777	State v. Dorais	COA 32,235	07/02/14
No. 35,722	James v. Smith	12-501 01/25/16	No. 34,775	State v. Merhege	COA 32,461	06/19/14
No. 35,711	Foster v. Lea County	12-501 01/25/16	No. 34,706	Camacho v. Sanchez	12-501	05/13/14
No. 35,718	Garcia v. Franwer	12-501 01/19/16	No. 34,563	Benavidez v. State	12-501	02/25/14
No. 35,717	Castillo v. Franco	12-501 01/19/16	No. 34,303	Gutierrez v. State	12-501	07/30/13
No. 35,702	Steiner v. State	12-501 01/12/16	No. 34,067	Gutierrez v. Williams	12-501	03/14/13
No. 35,682	Peterson v. LeMaster	12-501 01/05/16	No. 33,868	Burdex v. Bravo	12-501	11/28/12
No. 35,677	Sanchez v. Mares	12-501 01/05/16	No. 33,819	Chavez v. State	12-501	10/29/12
No. 35,669	Martin v. State	12-501 12/30/15	No. 33,867	Roche v. Janecka	12-501	09/28/12
No. 35,665	Kading v. Lopez	12-501 12/29/15	No. 33,539	Contreras v. State	12-501	07/12/12
No. 35,664	Martinez v. Franco	12-501 12/29/15	No. 33,630	Utley v. State	12-501	06/07/12

Writs of Certiorari

<http://nmsupremecourt.nmcourts.gov>

Certiorari Granted but Not Yet Submitted to the Court:

(Parties preparing briefs)	Date Writ Issued
No. 33,725 State v. Pasillas	COA 31,513 09/14/12
No. 33,877 State v. Alvarez	COA 31,987 12/06/12
No. 33,930 State v. Rodriguez	COA 30,938 01/18/13
No. 34,363 Pielhau v. State Farm	COA 31,899 11/15/13
No. 34,274 State v. Nolen	12-501 11/20/13
No. 34,443 Aragon v. State	12-501 02/14/14
No. 34,522 Hobson v. Hatch	12-501 03/28/14
No. 34,582 State v. Sanchez	COA 32,862 04/11/14
No. 34,694 State v. Salazar	COA 33,232 06/06/14
No. 34,669 Hart v. Otero County Prison	12-501 06/06/14
No. 34,650 Scott v. Morales	COA 32,475 06/06/14
No. 34,784 Silva v. Lovelace Health Systems, Inc.	COA 31,723 08/01/14
No. 34,812 Ruiz v. Stewart	12-501 10/10/14
No. 35,063 State v. Carroll	COA 32,909 01/26/15
No. 35,121 State v. Chakerian	COA 32,872 05/11/15
No. 35,116 State v. Martinez	COA 32,516 05/11/15
No. 34,949 State v. Chacon	COA 33,748 05/11/15
No. 35,296 State v. Tsosie	COA 34,351 06/19/15
No. 35,213 Hilgendorf v. Chen	COA 33056 06/19/15
No. 35,279 Gila Resource v. N.M. Water Quality Control Comm.	COA 33,238/33,237/33,245 07/13/15
No. 35,289 NMAG v. N.M. Water Quality Control Comm.	COA 33,238/33,237/33,245 07/13/15
No. 35,290 Olson v. N.M. Water Quality Control Comm.	COA 33,238/33,237/33,245 07/13/15
No. 35,318 State v. Dunn	COA 34,273 08/07/15
No. 35,278 Smith v. Frawner	12-501 08/26/15
No. 35,427 State v. Mercer-Smith	COA 31,941/28,294 08/26/15
No. 35,446 State Engineer v. Diamond K Bar Ranch	COA 34,103 08/26/15
No. 35,451 State v. Garcia	COA 33,249 08/26/15
No. 35,499 Romero v. Ladlow Transit Services	COA 33,032 09/25/15
No. 35,437 State v. Tafoya	COA 34,218 09/25/15
No. 35,515 Saenz v. Ranack Constructors	COA 32,373 10/23/16
No. 35,614 State v. Chavez	COA 33,084 01/19/16
No. 35,609 Castro-Montanez v. Milk-N-Atural	COA 34,772 01/19/16
No. 35,512 Phoenix Funding v. Aurora Loan Services	COA 33,211 01/19/16
No. 34,790 Venie v. Velasquez	COA 33,427 01/19/16
No. 35,680 State v. Reed	COA 33,426 02/05/16
No. 35,751 State v. Begay	COA 33,588 03/25/16

Certiorari Granted and Submitted to the Court:

(Submission Date = date of oral argument or briefs-only submission)	Submission Date
No. 34,093 Cordova v. Cline	COA 30,546 01/15/14
No. 34,287 Hamaatsa v. Pueblo of San Felipe	COA 31,297 03/26/14
No. 34,613 Ramirez v. State	COA 31,820 12/17/14

No. 34,798 State v. Maestas	COA 31,666 03/25/15
No. 34,630 State v. Ochoa	COA 31,243 04/13/15
No. 34,789 Tran v. Bennett	COA 32,677 04/13/15
No. 34,997 T.H. McElvain Oil & Gas v. Benson	COA 32,666 08/24/15
No. 34,993 T.H. McElvain Oil & Gas v. Benson	COA 32,666 08/24/15
No. 34,826 State v. Trammel	COA 31,097 08/26/15
No. 34,866 State v. Yazzie	COA 32,476 08/26/15
No. 35,035 State v. Stephenson	COA 31,273 10/15/15
No. 35,478 Morris v. Brandenburg	COA 33,630 10/26/15
No. 35,248 AFSCME Council 18 v. Bernalillo County Commission	COA 33,706 01/11/16
No. 35,255 State v. Tufts	COA 33,419 01/13/16
No. 35,183 State v. Tapia	COA 32,934 01/25/16
No. 35,101 Dalton v. Santander	COA 33,136 02/17/16
No. 35,198 Noice v. BNSF	COA 31,935 02/17/16
No. 35,249 Kipnis v. Jusbasche	COA 33,821 02/29/16
No. 35,302 Cahn v. Berryman	COA 33,087 02/29/16
No. 35,349 Phillips v. N.M. Taxation & Revenue Dept.	COA 33,586 03/14/16
No. 35,148 El Castillo Retirement Residences v. Martinez	COA 31,701 03/16/16
No. 35,386 State v. Cordova	COA 32,820 03/28/16
No. 35,286 Flores v. Herrera	COA 32,693/33,413 03/30/16
No. 35,395 State v. Bailey	COA 32,521 03/30/16
No. 35,130 Progressive Ins. v. Vigil	COA 32,171 03/30/16
No. 35,456 Haynes v. Presbyterian Healthcare Services	COA 34,489 04/13/16
No. 34,929 Freeman v. Love	COA 32,542 04/13/16
No. 34,830 State v. Le Mier	COA 33,493 04/25/16
No. 35,438 Rodriguez v. Brand West Dairy	COA 33,104/33,675 04/27/16
No. 35,426 Rodriguez v. Brand West Dairy	COA 33,675/33,104 04/27/16
No. 35,297 Montano v. Frezza	COA 32,403 08/15/16
No. 35,214 Montano v. Frezza	COA 32,403 08/15/16

Petition for Writ of Certiorari Denied:

	Date Order Filed
No. 35,794 State v. Brown	COA 34,905 04/01/16
No. 35,792 State v. Garcia-Ortega	COA 33,320 04/01/16
No. 35,730 State v. Humphrey	COA 34,601 04/01/16
No. 35,593 Quintana v. Hatch	12-501 04/01/16
No. 35,790 Castillo v. Arrieta	COA 34,180 03/30/16
No. 35,789 State v. Cly	COA 35,016 03/30/16
No. 35,788 State v. Thompson	COA 34,559 03/30/16
No. 35,786 State v. Pacheco	COA 33,810 03/30/16
No. 35,785 State v. Aragon	COA 34,817 03/30/16
No. 35,784 State v. Diaz	COA 35,079 03/30/16
No. 35,783 State v. Jason R.	COA 34,562 03/30/16
No. 35,781 State v. Bersame	COA 34,686 03/30/16
No. 35,739 State v. Angulo	COA 34,714 03/30/16
No. 35,690 Healthsouth Rehabilitation v. Brawley	COA 33,593 03/30/16
No. 35,581 Salgado v. Morris	12-501 03/30/16
No. 35,575 Thompson v. Frawner	12-501 03/30/16

Opinions

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

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

Effective April 22, 2016

Published Opinions

No. 33823	5th Jud Dist Eddy CR-12-121, STATE v J CARPENTER (affirm)	4/18/2016
No. 33781	2nd Jud Dist Bernalillo CV-11-7257, AMERICAN CIVIL v D DURAN (affirm in part and remand)	4/20/2016
No. 33836	3rd Jud Dist Donna Ana CV-08-1185, S MIKESKA v LAS CRUCES (reverse and remand)	4/21/2016

Unpublished Opinions

No. 32910	2nd Jud Dist Bernalillo CR-09-4460, STATE v R CERVANTES (remand)	4/18/2016
No. 34418	9th Jud Dist Curry CR-13-44, STATE v S FOSTER (affirm)	4/18/2016
No. 34598	13th Jud Dist Valencia CV-14-699, N SCHUELLER v S SCHULTZ (affirm)	4/18/2016
No. 34553	9th Jud Dist Curry CR-13-144, STATE v S FOSTER (affirm)	4/18/2016
No. 34917	1st Jud Dist Santa Fe CV-15-1207, HORST APFEL v D BLAIR (dismiss)	4/18/2016
No. 33945	13th Jud Dist Valencia CV-12-802, CITIBANK v M MARTINEZ (affirm)	4/19/2016
No. 34967	3rd Jud Dist Dona Ana CV-15-424, R PALACIOS v P PALACIOS (dismiss)	4/19/2016
No. 35188	12th Jud Dist Otero CR-14-341, STATE v J BLAND (affirm)	4/19/2016
No. 34612	5th Jud Dist Lea CR-14-16, STATE v D PLUMLEE (affirm in part, reverse in part and remand)	4/20/2016
No. 34007	13th Jud Dist Valencia CR-13-350, STATE v C GLOMSKI (dismiss)	4/22/2016

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

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

Clerk's Certificates

From the Clerk of the New Mexico Supreme Court

Joey D. Moya, Chief Clerk New Mexico Supreme Court
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CLERK'S CERTIFICATE OF CORRECTION

The clerk's certificate of address and/or telephone changes dated April 4, 2016, reported an incorrect email address. The corrected information is

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Recent Rule-Making Activity

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Effective April 6, 2016

PENDING PROPOSED RULE CHANGES OPEN FOR COMMENT:

Comment Deadline

Please see the special summary of proposed rule amendments published in the March 9 issue of the Bar Bulletin. The actual text of the proposed rule amendments can be viewed on the Supreme Court's website at the address noted below. The comment deadline for those proposed rule amendments is April 6, 2016.

RECENTLY APPROVED RULE CHANGES SINCE RELEASE OF 2015 NMRA:

RULES OF CRIMINAL PROCEDURE FOR THE MAGISTRATE COURTS

Rule 6-506 Time of commencement of trial 05/24/16

RULES OF CRIMINAL PROCEDURE FOR THE METROPOLITAN COURTS

Rule 7-506 Time of commencement of trial 05/24/16

RULES OF PROCEDURE FOR THE MUNICIPAL COURTS

Rule 8-506 Time of commencement of trial 05/24/16

SECOND JUDICIAL DISTRICT COURT LOCAL RULES

LR2-400 Case management pilot program
for criminal cases. 02/02/16

For 2015 year-end rule amendments that became effective December 31, 2015, and that will appear in the 2016 NMRA, please see the November 4, 2015, issue of the Bar Bulletin or visit the New Mexico Compilation Commission's website at <http://www.nmcompcomm.us/nmrules/NMRules.aspx>.

To view all pending proposed rule changes (comment period open or closed),
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To view recently approved rule changes, visit the New Mexico Compilation Commission's website
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Certiorari Denied, December 30, 2015, No. S-1-SC-35602

From the New Mexico Court of Appeals

Opinion Number:2016-NMCA-015

No. 32,374 (filed October 20, 2015)

STATE OF NEW MEXICO,
Plaintiff-Appellee,

v.

MICHAEL PAUL ASTORGA,
Defendant-Appellant.**APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**

STAN WHITAKER, District Judge

HECTOR H. BALDERAS
Attorney General
YVONNE M. CHICOINE
Assistant Attorney General
Santa Fe, New Mexico
for AppelleeJORGE A. ALVARADO
Chief Public Defender
DAVID HENDERSON
Assistant Appellate Defender
Santa Fe, New Mexico
for Appellant**Opinion****Roderick T. Kennedy, Judge**

{1} Michael Astorga (Defendant) stands convicted of the second-degree murder of Candido Martinez. At trial, the deposition of Adeline Martinez, the decedent's sister, was read to the jury. The deposition was taken by counsel for the State and Defense and used at trial without objection. Prior to the beginning of voir dire, Defendant's counsel, along with counsel for the State, met with the district court to discuss jury questionnaires from the first of apparently three jury panels summoned by the court for trial. Some members of the venire panel were excluded as exempt, some for cause, and the remainder appeared for voir dire and jury selection.

{2} Defendant argues that the district court erred by failing to inquire as to Defendant's waiver of his right to be present at the deposition of a witness and a portion of the jury selection. The parties are familiar with the facts,¹ and for the sake of brevity in this opinion we present only such facts as are needed for our discussion of the issues.

I. DISCUSSION**A. We Review for Fundamental Error Only**

{3} Defendant neither objected to the admissibility of the Martinez deposition testimony at trial, nor raised the issue of his presence when it was taken. He also did not assert any error from him not being present during the conference that preceded jury selection in his case.² Defendant thus failed to preserve the issues for appellate review. See Rule 12-216 NMRA (stating that in order to preserve a question for review, a party must invoke a ruling or decision by the district court). As such, we review the issues he raises for fundamental error. *State v. Barber*, 2004-NMSC-019, ¶ 8, 135 N.M. 621, 92 P.3d 633.

{4} Fundamental error comprises a case-specific calculation. To prevail, Defendant must demonstrate that any error goes to the foundation of the case or takes away a right that was essential to the defense and "which no court could or ought to permit him to waive." *Id.* (quoting *State v. Garcia*, 1942-NMSC-030, ¶ 25, 46 N.M. 302, 128 P.2d 459). Fundamental error is also a doctrine by which courts can "cut through proce-

dures in order to protect the defendant's substantive rights[.]" *Id.* ¶ 15, by focusing "less on guilt and innocence and more on process and the underlying integrity of our judicial system." *Id.* ¶ 16. In respect of judicial integrity, a mistake in the process may make the conviction fundamentally unfair notwithstanding the apparent guilt of the accused, thereby resulting in a miscarriage of justice. *Id.* ¶ 17. Here, we do not consider the situation where fundamental error might apply if Defendant's guilt is less than firmly established. See, e.g., *State v. Swick*, 2012-NMSC-018, ¶ 46, 279 P.3d 747.

{5} The burden of demonstrating fundamental error is on the party alleging it, *State v. Cunningham*, 2000-NMSC-009, ¶ 21, 128 N.M. 711, 998 P.2d 176, and the standard of review for reversal for fundamental error is an "exacting" one. *State v. Samora*, 2013-NMSC-038, ¶ 17, 307 P.3d 328. Defendant must demonstrate prejudice from the errors he alleges; absent a showing of prejudice, Defendant cannot demonstrate error, let alone fundamental error, which we require for unpreserved claims. See *State v. Fernandez*, 1994-NMCA-056, ¶ 16, 117 N.M. 673, 875 P.2d 1104; see also *In re Ernesto M., Jr.*, 1996-NMCA-039, ¶ 10, 121 N.M. 562, 915 P.2d 318 ("An assertion of prejudice is not a showing of prejudice."). Here, our decision depends on whether the situations of which Defendant complains rise to the level of calling the process of the trial into question to an extent sufficient to hold that its result cannot be sustained on appeal. For the following reasons, we determine that they do not.

B. The Deposition

{6} On December 27, 2011, Ms. Martinez informed the State that owing to an acute medical condition, she would be unable to travel from Albuquerque to testify at Defendant's trial in Las Cruces. Defendant was informed of this situation by the State's motion for deposition. Ms. Martinez' deposition was taken in Albuquerque upon the State's notice on Friday, January 6, 2012. The deposition proceeded without objection by either party, and was taken in her hospital room. Defense counsel was present, and participated by cross-examining the witness. The record is silent as to whether defense counsel ever sought to have Defendant attend the deposition, but Defendant does not allege that he was unaware of it.

¹We have addressed the facts and other issues raised by Defendant in this appeal in a separate memorandum opinion filed in this case, *State v. Astorga*, No., 32,374, slip op. (N.M. Ct. App. Oct. __, 2015 (non-precedential) concurrently filed on this date. The facts applicable to those issues and our affirming Defendant's convictions on the merits are set forth more completely in that opinion.

²Defendant also did not raise these issues in his docketing statement.

{7} The admissibility of the deposition was addressed by counsel and the court prior to trial, in Defendant's presence, and no objection was raised then to its introduction, nor was there any mention that Defendant was not present at the deposition. Defendant objected based on relevance to Ms. Martinez' testimony about bad blood between Defendant and her family because cross-examining the sources of her information was impossible. The objection was overruled. The parties worked out a stipulation for redacted contents of the deposition to be read to the jury, thus eliminating matters conceded by both sides to be prejudicial. Defendant was present and made no further objections as the limited portions of Ms. Martinez' deposition were read into the record at trial.

1. Purpose of the Deposition

{8} Ms. Martinez' deposition was taken by the State for two purposes: her understanding of a long-festering dispute between the families of Defendant and the decedent, and if needed, her recollection that witness Rudy Contreras told her that Defendant had shot the decedent on the same night of the shooting at the hospital where she was attending the decedent. The district court ruled that Contreras' statement would not be admissible at all absent his denying having made it during his testimony. Contreras denied the statement, and the deposition was used to impeach him. During his closing argument, Defendant referenced Ms. Martinez' deposition and used it in an attempt to discredit Contreras's testimony. {9} Ms. Martinez' testimony impeaching Contreras' denial of his comment to her at the hospital is not substantive evidence, and does not implicate the Confrontation Clause.³ See *State v. Granillo-Macias*, 2008-NMCA-021, ¶ 23, 143 N.M. 455, 176 P.3d 1187 (acknowledging that the Confrontation Clause extends only to persons offering substantive evidence against a defendant at trial). Her deposition testimony was not offered for its substantive truth or falsity, but under Rule 11-801(D) (1)(a) NMRA governing prior inconsistent statements. *State v. Astorga*, 2015-NMSC-007, ¶ 31, 343 P.3d 1245 (stating that "prior inconsistent statements are inherently relevant for a 'non-hearsay' purpose [of] impeaching a witness's credibility").

{10} Ms. Martinez' substantive testimony presented her knowledge of family history

as to bad blood between her brother and Defendant. The jury heard from Maez, Prieto, and Contreras that the '59 El Camino was a source of enmity between Defendant and decedent. Use of the deposition in this regard was cumulative, and of little weight for calculating fundamental error. *State v. Crain*, 1997-NMCA-101, ¶ 29, 124 N.M. 84, 946 P.2d 1095 (admission of objectionable testimony may be harmless when it is cumulative of other evidence); see *State v. Lopez*, 2000-NMSC-003, ¶ 21, 128 N.M. 410, 993 P.2d 727 (holding that where improper testimony was cumulative of testimony of three other witnesses, was harmless beyond a reasonable doubt).

{11} The two purposes for which the deposition was used do not indicate to us a defect in the proceedings that results from Defendant's absence that is so substantial as to call the integrity of the trial into question. Defendant's argument is that the district court erred "when it failed to make any inquiry whether [Defendant] waived his right to be present" during the deposition and a portion of jury selection. Defendant gives us no New Mexico authority holding that a pretrial deposition is a critical stage of the proceedings requiring his presence. Rule 5-503(F) NMRA generally governing depositions in criminal cases not only does not require a defendant's presence, but allows a party in a criminal case to submit written questions to a deponent "[i]n lieu of participating in the oral examination." In *State v. Herrera*, 2004-NMCA-015, ¶ 9, 135 N.M. 79, 84 P.3d 696, the defendant did not respond to the State's motion for the deposition, did not object at the time of the deposition, or the time the deposition was used at trial, and used the deposition at trial in closing arguments. We held that he implicitly waived his right to face-to-face confrontation with the witness. *Id.* We acknowledge that in *Herrera*, the defendant took part in the deposition from another room and was able to communicate with counsel, *id.* ¶ 11, but we held the waiver resulted from giving no indication of concern with the admission of the deposition. *Id.* ¶ 14.

{12} In this case, necessity dictated the deposition be taken; the parties had a month's notice from the witness that she would be unavailable for trial due to a medical condition that required her deposition be taken in hospital. The use of Ms. Martinez' testimony was cumulative as to the history

of Defendant's grudge against the decedent, and was cross-examined based on family hearsay. The use of Contreras' prior inconsistent statement cannot form the basis for a confrontation violation, nor is it hearsay. Defendant asserts no prejudice from the use of the deposition. In the presence of the Defendant, defense counsel made a tactical decision, by which Defendant is bound, to use the deposition at trial, and to argue its weight and implications to the jury in closing argument. At no point did Defendant object or indicate in any way that he disagreed with defense counsel's decisions. We regard those tactical decisions as negating the existence of fundamental error with regard to Defendant's presence at the deposition. See *State v. Reim*, 2014 MT 108, ¶ 41, 374 Mont. 487, 323 P.3d 880 (finding no fundamental error when the defendant's counsel attended deposition, fully cross-examined the witness, and the deposition was admitted at trial without objection).

{13} Because Defendant had notice of Ms. Martinez' deposition, was fully represented at the deposition, did not object to its use at trial, and in fact used it in his defense, we hold that the district court did not err, when it did not inquire whether Defendant had waived his right to be present at Ms. Martinez' deposition, although this case presents a cautionary example for both courts and defendants. Defendant has not carried his burden to establish the existence of fundamental error on this issue. We next address whether the district court erred in failing to inquire as to whether Defendant waived his right to be present during a preliminary stage of jury selection.

C. "Culling"

{14} Defendant next argues that the district court also erred in failing to inquire whether he had waived his right to be present at a conference between the district court and counsel that occurred in Albuquerque on Friday, January 6, 2012,⁴ preceding the commencement on the following Monday of jury selection for trial. As with the deposition question, Defendant does not directly allege that his rights to be present were violated, or that he was prejudiced. There is no indication in the record, for instance, that he was not informed by counsel of the proceedings, wished to be present, or otherwise suffered any prejudice from the lack of his presence. He does not seek to demonstrate any greater prejudice

³We acknowledge Defendant's point in his reply brief that the State misguidedly attempted in its answer brief to use Martinez' impeaching statement as part of the substantive and substantial evidence showing Defendant's guilt at trial. However, its use at trial was properly stated as impeachment of Contreras.

⁴The jury culling preceded the deposition of Ms. Martinez by minutes.

to his case than a simple alleged violation of his right to be present at a “critical stage” of the proceedings. When jurors appeared on Monday for voir dire examination and jury selection, Defendant was present. He simply states that it was error not to be asked by the trial court whether his presence at a conference to discuss juror qualification based on their questionnaires was something voluntarily waived. Again, since no error was preserved below, we review for fundamental error.

{15} We recognize that there are some rights that are so personal to the defendant that inquiry into a defendant’s decision to waive them is necessary, such as the right to counsel, the right to go to trial, and the right to plead guilty. *State v. Singleton*, 2001-NMCA-054, ¶ 12, 130 N.M. 583, 28 P.3d 1124. Presence at the critical stage of “jury selection” is generally such a right. *State v. Padilla*, 2002-NMSC-016, ¶ 11, 132 N.M. 247, 46 P.3d 1247. However, it is not such an essential right that absence from voir dire requires automatic reversal. *Id.* ¶ 17. *Padilla* also recognized that a defendant’s presence at that stage may be voluntarily waived, *id.* ¶ 14, even by implication, *id.* ¶ 12. *Padilla* addressed absence at voir dire, not a preliminary assessment of jurors’ qualifications based on juror questionnaires. *Id.*

{16} The State relies on *State v. Huff*, 1998-NMCA-075, 125 N.M. 254, 960 P.2d 342, and *State v. Sanders*, 2000-NMSC-032, 129 N.M. 728, 13 P.3d 460, to the effect that the proceeding at which Defendant was not present was not voir dire, and not one in which he had an enforceable right to participate. The State asserts that the conference involved “the jury culling process” and therefore, the district court was not obligated to inquire after Defendant’s waiver of presence. We first evaluate whether what occurred qualifies as jury “culling” under *Huff* and *Sanders*, and then address whether Defendant had a right to be present during the district court’s conference with counsel.

1. The Conference

{17} From our review of the transcript, it appears that the district court, the State, and defense counsel engaged in an on-record conference in chambers regarding the disqualification of a number of potential jurors from the first of three pools. The court and the parties had previously determined that voir dire would be conducted in groups of thirty prospective ju-

rors in Las Cruces beginning the Monday following the conference. The purpose of the conference was to go through the juror questionnaires that had been received to determine, as a preliminary matter, which jurors on the panel were likely subject to challenge and excusal, and could be excused for cause and notified so they did not have to travel to Las Cruces. No jurors were present or questioned during this conference. Counsel were present, Defendant was not.

{18} During the conference, the district court went through a list it had prepared of “good strong challenges” for cause with the parties, and struck for cause fifteen panel members who, because of their questionnaire responses, generally fit into one—or more—of the following categories: those who had previously researched Defendant, the case, his previous convictions, and also had negative opinions of Defendant personally from this information; those who claimed religious proscriptions against service; one juror who had family members who had been murdered, and one who made statements of serious prejudice toward illegal immigrants. One other juror was excluded at the State’s suggestion for demonstrating prejudice, and another was struck for indicating an inability to deliberate. No juror was excused for cause absent concurrence by both the State and defense. One juror with an equivocal demonstration of prejudice was explicitly left on the panel for later voir dire in open court, and some jurors with questions concerning United States citizenship were left for voir dire as well.⁵ Defendant makes no assertion that he did not receive a fair and impartial jury.

2. Culling is Not Voir Dire

{19} Defendant is correct that a criminal defendant has a constitutional right to be present at all critical stages of trial, *see* Rule 5-612(A) NMRA, and that jury selection is considered a critical stage. *Padilla*, 2002-NMSC-016, ¶ 11. On the other hand, despite Defendant’s reliance on *Padilla*, *id.*, which is silent on the matter, the State correctly points out that our Supreme Court has held that a defendant has no statutory authority to participate in the jury “culling” process, where the judge disqualifies or exempts prospective jurors pursuant to the statutory exemptions contained in NMSA 1978, §§ 38-5-1 (2006) and 38-5-11(B) (2005); *Sanders*, 2000-NMSC-032, ¶ 24 (holding that the district court properly denied the defen-

dant’s motion to monitor culling of jurors who are “disqualified or excused on statutory grounds” (internal quotation marks and citation omitted)). The exemptions in the former statute are limited to “physical or mental illness or infirmity” and “undue or extreme physical or financial hardship.” Section 38-5-1(A). The latter statute permits jury questionnaires to be administered for the purpose of obtaining information to aid the court in ruling on requests for a number of purposes. It provides:

B. The judge or the judge’s designee shall submit questionnaires to prospective jurors to:

(1) obtain any information that will aid the court in ruling on requests for exemption or excuse from service or postponement of service;

(2) aid the court and the parties in voir dire examination of jurors or in determining a juror’s qualifications to serve on a particular petit jury panel, trial jury or grand jury; or

(3) aid in the determination of challenges for cause and peremptory challenges.

Section 38-5-11(B). In *Sanders*, 2000-NMSC-032, ¶ 24, our Supreme Court held that the culling process involves both statutes. We read *Sanders* to expand *Huff*’s statutory application to permit the culling process to go beyond determining exemptions from service under Section 38-5-1 to address the qualification of jurors to serve, and determine challenges for cause under Section 38-5-11(B). In *Huff*, the defendant argued that he should have been present when the clerk of the court called disqualified or exempted members from the jury pool prior to voir dire examination. We found that the defendant’s presence would not have any effect on that process. We further noted that he would not be able to provide any special insight into the process of removing jurors from the jury pool who were disqualified or excused on statutory grounds. *See* Section 38-5-1. In *Sanders*, the defendant filed a motion to monitor the jury culling process, which was denied. The *Sanders* court referred to our recent decision on this very issue in *Huff* and noted that the *Huff* reasoning was particularly convincing when viewed in light of Section 38-5-11(C), which provides for inspection and copying of qualified jury panel members’

⁵ This process seems to parallel the ones mentioned in *State v. Vasquez*, 2010-NMCA-041, ¶ 34, 148 N.M. 202, 232 P.3d 438, and *State v. Mantelli*, 2002-NMCA-033, ¶ 52, 131 N.M. 692, 42 P.3d 272.

questionnaires. We conclude that juror questionnaires have a place in culling prospective jurors when they demonstrate an adequate degree of potential impairment of the performance of their duties under their oath, and further, that *Sanders* contemplated the culling process, and the exercise of judicial discretion in allowing challenges for cause based on questionnaires.

{20} Defendant has registered no complaint about any of the jurors who were excluded, and was present for voir dire and selection of the trial jury. The process of voir dire where a defendant and his counsel are “face-to-face with the jurors,” attempting to read the reaction of jurors to the lawyer and client is the critical stage for which our Supreme Court recognized a right to the defendant’s presence in *State v. Garcia*, 1980-NMSC-132, ¶ 15, 95 N.M. 246, 620 P.2d 1271. The weight of authority requiring a defendant’s presence during jury selection is limited to the actual voir dire questioning of jurors where the value of a Defendant’s presence “depend[s] upon the aid which, by his personal presence, he may give to counsel and to the court and triers in the selection of jurors.” *Lewis v. United States*, 146 U.S. 370, 373 (1892). In *Lewis*, the right of the defendant to be present recognized the value associated with face-to-face contact to facilitate the process of peremptory challenges, when challenges for cause had proven “insufficient to set aside the juror[.]” *Id.* at 376-77. Voir dire includes not only the introduction of the jurors to facts in the case, but subjects them to scrutiny by the court and parties of “not only spoken words but also gestures and attitudes of all participants to ensure the jury’s impartiality.” *Gomez v. United States*, 490 U.S. 858, 874-75 (1989).

{21} Culling actually complements the voir dire process by narrowing the jury pool to more qualified candidates. The U.S. Supreme Court has recognized the value of juror questionnaires in performing initial screening of jurors in cases, such as this, where a large jury pool is involved. *Skilling v. United States*, 561 U.S. 358 (2010). In *Skilling*, the “[d]istrict [c]ourt initially screened venire members by eliciting their responses to a comprehensive questionnaire.” *Id.* at 388. The questionnaire “helped to identify prospective jurors excusable for cause and served as a springboard for further questions put to remaining members of the array.” *Id.* The Supreme Court concluded that combining the initial culling process with a subsequent “face-to-face opportunity to gauge demeanor and credibility, coupled with information from

the questionnaires regarding jurors’ backgrounds, opinions, and sources of news, gave the court a sturdy foundation to assess fitness for jury service.” *Id.* at 395. The California Supreme Court, when reviewing this same process, held that “the procedure benefited all parties by substantially expediting the jury selection process and “culling out” prospective jurors who probably would have been unable to serve.” *People v. Ervin*, 22 Cal. 4th 48, 78, 990 P.2d 506, 521 (Cal. 2000). Its ruling was based on an assessment that the “[d]efendant’s presence at the jury screening discussions would have served little tactical purpose.” *Id.* *Gomez*, distinguished between the face-to-face examination of jurors’ qualifications where scrutiny of “spoken words but also gestures and attitudes of all participants to ensure the jury’s impartiality” from an “administrative empanelment process.” 490 U.S. at 874-75. Accordingly, as described in *Sanders*, the “culling” process “is the stage in which the judge or designee disqualifies or exempts prospective jurors pursuant to the statutory exemptions contained in [Section] 38-5-1 and [Section] 38-5-11(B).” *Sanders*, 2000-NMSC-032, ¶ 24.

{22} We conclude that the process employed by the district court in this case was proper culling, at which Defendant had no fundamental right to be present, since culling is a basically administrative process occurring outside the presence of the jurors. Facially qualified jurors who remained were then available for full questioning by the court and parties in voir dire with Defendant present. Such a process is more efficient for a lack of obviously disqualified jurors, and permits Defendant the full exercise of his rights to the face-to-face process of evaluating trial jurors. This view squares with *Sanders* that a defendant had no right to be present during culling because, “unlike the process of challenging potential jurors where [the d]efendant may be able to discern some bias or prejudice, [the d]efendant can provide no special insight into the removal of jurors from the pool who are disqualified or excused on statutory grounds.” *Id.* (quoting *Huff*, 1998-NMCA-075, ¶ 31).

{23} Therefore, following *Sanders*, since questionnaires from the jurors can aid in preparing for either voir dire, or determining juror qualification to serve while also aiding “in the determination of challenges for cause,” Section 38-5-11(B)(2), (3), we hold that using them to thin the ranks of prospective jurors who are clearly disqualified for statutory exemptions or other good cause constitutes permissible “culling” for

which the Defendant need not be present. Defendant and his attorney were present for all subsequent stages of jury selection, including questioning and exercising any other resulting challenges.

{24} We conclude that Defendant has failed to demonstrate any fundamental error, because a “fundamental error occurs where there has been a miscarriage of justice, the conviction shocks the conscience, or substantial justice has been denied.” *State v. Cabezuella*, 2011-NMSC-041 ¶ 49, 150 N.M. 654, 265 P.3d 705 (internal quotation marks and citation omitted). Defendant has alleged no consequence from any error in not inquiring as to whether he waived his presence for the jury culling, and we have determined that under *Sanders*, he had no such right. Since Defendant fails to point us to any reason that the conference, and the exclusion of jurors that resulted from it, somehow contributed to his conviction or resulted in an unsound process that prejudiced his rights, we will not search for facts to support any such conclusion. See *State v. Soutar*, 2012-NMCA-024, ¶ 39, 272 P.3d 154. Indeed, the parties and the court removed only jurors whose bias against Defendant was readily apparent; jurors whose prejudice or bias was deemed equivocal were left for full questioning during voir dire.

This Appeal Is Not a Proxy for an Ineffective Assistance Claim

{25} To the extent that Defendant implicitly asserts that failure to object to use of the deposition testimony, or not insisting on his presence at the discussion preceding jury selection reflects some defect in performance on the part of his trial counsel, a claim of ineffective assistance of counsel is best addressed in a habeas corpus proceeding. *Samora*, 2013-NMSC-038, ¶ 23

II. CONCLUSION

{26} To the extent that Defendant was not present for Ms. Martinez’ deposition or the meeting between the trial court and counsel prior to jury selection, we observe no procedural or substantive defects in the process that rise to a level that would deprive Defendant of the fundamental fairness of the proceedings. As such, we find no fundamental error, and, together with the reasons given in the memorandum opinion filed herewith, affirm Defendant’s convictions in the district court.

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

RODERICK T. KENNEDY, Judge

WE CONCUR:

MICHAEL D. BUSTAMANTE, Judge
M. MONICA ZAMORA, Judge



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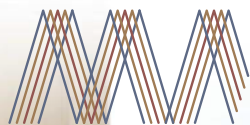


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Mr. Hale will focus on healthcare and hospital law and general civil litigation matters.

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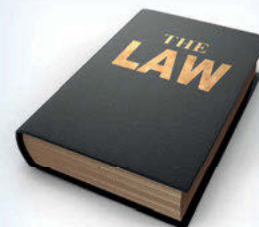
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IS PLEASED TO WELCOME
RANDY M. AUTIO
TO OUR FIRM

RANDY BRINGS WITH HIM 25 YEARS OF UNPARALLELED EXPERIENCE IN LOCAL GOVERNMENT LAW. HE HAS SERVED AS AN ASSISTANT CITY ATTORNEY FOR THE CITY OF ALBUQUERQUE, LOS ALAMOS COUNTY ATTORNEY AND MOST RECENTLY AS THE COUNTY ATTORNEY FOR BERNALILLO COUNTY. ALONG THE WAY, RANDY SERVED THROUGH TWO ELECTIONS AS INTERIM CITY CLERK FOR THE CITY OF ALBUQUERQUE AND FOR ALMOST A YEAR WAS THE ACTING COUNTY ADMINISTRATOR FOR LOS ALAMOS COUNTY.

WITH HIS WEALTH OF EXPERIENCE, RANDY IS A WELCOME ADDITION TO OUR TEAM.

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The First Judicial District Court Access to Justice Committee and the Volunteer Attorney Program would like to thank the law firm of Holland & Hart, its attorneys, and staff for volunteering their time and expertise at its February 5, 2016 Civil Legal Clinic in Santa Fe. The 2016 Santa Fe Civil Legal Clinics take place the first Friday of every other month at the First Judicial District Courthouse in the 1st Floor Jury Room from 10 a.m. until 1 p.m. Eight individuals received assistance at the February clinic thanks to the dedication of six attorneys and a staff member from Holland & Hart and one Santa Fe attorney. Thank you:

Sheila Brown
Michael Feldewert
Jordan Kessler

Larry Montañño
Adam Rankin
Robert Sutphin

Deb Tupler
Little West

If you or your firm is interested in sponsoring a clinic, please contact Aja Brooks at ajab@nmlegalaid.org or 505-814-5033.

Thank You!

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Positions

Wealth Advisor New Mexico Bank & Trust Albuquerque, New Mexico Why New Mexico Bank & Trust

We offer friendly, exceptional service and great banking products. Our customers have the unique opportunity to develop relationships with banking professionals who care. We take pride in giving our customers the very best banking experience possible. New Mexico Bank & Trust is a member of Heartland Financial USA, Inc., a \$7.7 billion multibank holding company offering uniquely different banking solutions for business and personal clients. Heartland's independent community banks are chartered in the states of Iowa, Illinois, Wisconsin, New Mexico, Arizona, Montana, Colorado, Kansas, California and Minnesota. The Wealth Advisor is the primary relationship manager for High Net Worth individuals, businesses, and non-profit organizations for the financial planning, investment management and trust services provided by Wealth Advisory Services. Please submit your resume on our website at <https://www.nmb-t.com/careers>. EOE/AA Employer; M/F/Disabled/Vet

Prosecutor Position Available

The Twelfth Judicial District Attorney's Office in Otero/Lincoln County has job openings available for Deputy District Attorney, Senior Trial Attorney or Assistant Trial Attorney positions. Job requirements, qualifications, skills, and other information pertaining to this position can be viewed at the New Mexico District Attorneys' website at www.da.state.nm.us under personnel inquiries. Salary offered will be based on qualifications and experience and is consistent with the New Mexico District Attorney's Association Pay and Compensation Plan. Interested individuals should send a letter of interest and a resume to District Attorney, David Ceballes, 1000 New York Ave., Room 101, Alamogordo, NM 88310 or email at 12thda@da.state.nm.us.

Assistant General Counsel - Lawyer Advanced (NMDOT)

The New Mexico Department of Transportation is recruiting to fill a Lawyer Advanced position. The position provides representation of the Department in construction claims and litigation in state and federal court, in construction and procurement-related administrative hearings, and in other practice areas as assigned by the General Counsel. Experience in construction litigation, governmental entity defense litigation or representation in complex civil litigation matters is highly desirable. Experience in environmental law, public works procurement or financing or transportation planning would be useful. The requirements for the position are a Juris Doctor Law degree from an accredited law school, a current license as a New Mexico attorney in good standing and a minimum of five (5) years of experience practicing law, of which three (3) years must be in litigation. The position is a Pay Band 80, annual salary range from \$44,782 to \$77,917 depending on qualifications and experience. All state benefits will apply. Overnight travel throughout the state, good standing with the New Mexico State Bar and a valid New Mexico driver's license are required. We offer the selected applicant a pleasant environment, supportive colleagues and dedicated support staff. Working conditions: Primarily in an office or courtroom setting with occasional high pressure situations. Interested persons must submit an on-line application through the State Personnel Office website at <http://www.spo.state.nm.us/>, no later than the applicable closing date posted by State Personnel. Additionally, please submit a copy of your resume, transcripts and bar card to Shannell Montoya, Human Resources Division, New Mexico Department of Transportation, located at 1120 Cerrillos Road, Room 135, P.O. Box 1149, Santa Fe, New Mexico 87504. The New Mexico Department of Transportation is an equal opportunity employer.

13th Judicial District Attorney Assistant Trial Attorney, Associate Trial Attorney

Assistant Trial Attorney - The 13th Judicial District Attorney's Office is accepting applications for entry to mid-level attorney to fill the positions of Assistant Trial Attorney. These positions require misdemeanor and felony caseload experience. Associate Trial Attorney - The 13th Judicial District Attorney's Office is accepting applications for entry level positions. These positions require misdemeanor, juvenile and possible felony cases. Upon request, be prepared to provide a summary of cases tried. Salary for each position is commensurate with experience. Send resumes to Reyna Aragon, District Office Manager, PO Box 1750, Bernalillo, NM 87004, or via E-Mail to: RAragon@da.state.nm.us. Deadline for submission of resumes: Open until positions are filled.

Associate

Caruso Law offices, an established Albuquerque plaintiff personal injury and wrongful death litigation firm, seeks associate for its growing statewide practice. Ideal candidate should have minimum 1 year of personal injury litigation experience. Salary dependent on experience. Submit resumes to Caruso Law Offices, PC, 4302 Carlisle NE, Albuquerque, NM 87107.

Associate Attorney

Riley, Shane & Keller, P.A., an AV-rated defense firm in Albuquerque, seeks an associate attorney for an appellate/research and writing position. We seek a person with appellate experience, an interest in legal writing and strong writing skills. The position will be full-time with flexibility as to schedule and an off-site work option. We offer an excellent benefits package. Salary is negotiable. Please submit a resume, references and several writing samples to 3880 Osuna Rd., NE, Albuquerque, NM 87109 c/o Office Manager, (fax) 505-883-4362 or mvelasquez@rsk-law.com

Assistant General Counsel, Lawyer-Advanced (Position # 18544)

The New Mexico Department of Transportation is recruiting to fill a Lawyer-Advanced position. The position provides representation of the Department in matters involving employment and labor law, civil rights, torts, administrative law, and as otherwise assigned. The ideal candidate will provide the highest level of legal services, perform legal research, advise administration on matters of law and policy, and represent the Department in civil and administrative legal matters; including in litigious areas of civil rights, personnel, labor relations, torts, collections, and administrative law. The ideal candidate will both assist and act as lead counsel in complex litigation, determine legal position and strategy, assess litigation risk, draft and file legal documents, interview and prepare witnesses, manage caseloads, and keep the client administration informed. The ideal candidate will also independently conduct, lead and participate in negotiations and mediations in state and federal forums. The requirements for the position are a Juris Doctor Law degree from an accredited law school, a current license as a New Mexico attorney in good standing and a minimum of five (5) years of experience practicing law, of which at least three (3) years must be in areas of employment and labor law, tort law, and administrative law. The position is a Pay Band 80, annual salary range from \$44,782 to \$77,917, depending on qualifications and experience. All state benefits will apply. The position is located in Santa Fe. Overnight travel throughout the state, good standing with the New Mexico State Bar and a valid New Mexico or other state driver's license are required. We offer the selected applicant a pleasant environment, supportive colleagues and dedicated support staff. Working conditions are primarily in an office or courtroom setting with occasional high pressure situations. Interested persons must submit an on-line application through the State Personnel Office website at <http://www.spo.state.nm.us/>, no later than the applicable closing date posted by State Personnel. Additionally, please submit a copy of your resume, transcripts and bar card to Shannell Montoya, Human Resources Division, New Mexico Department of Transportation, located at 1120 Cerrillos Road, Room 135, P.O. Box 1149, Santa Fe, New Mexico 87504. The New Mexico Department of Transportation is an equal opportunity employer.

Law Clerk

The Pueblo of Laguna, located approximately 45 miles west of Albuquerque, NM, is seeking applicants for the following position: LAW CLERK: Assists in all aspects of legal services including performing legal analysis, researching and preparing legal files and documents. Maintains confidentiality of all privileged information. Detailed information, including minimum requirements, wage range, application form and instructions are available at www.lagunapueblo-nm.gov

Assistant General Counsel, Lawyer-Advanced (Position # 18526)

The New Mexico Department of Transportation is recruiting to fill a Lawyer-Advanced position. The position provides representation of the Department in matters involving public finance, contracts, administrative law, and government procurement law. The ideal candidate will handle legal review and analysis of the Department's financial transactions, including grant and bonding matters; draft and review contracts; assist in compliance matters; review and provide analysis on proposed policies, regulations, and legislation; and perform other duties as assigned. The ideal candidate may also be assigned primary responsibility for matters relating to the Department's Transit & Rail, Planning and Traffic Safety Divisions. The ideal candidate must be able to interact with others professionally, attend frequent meetings, make presentations in a variety of contexts, and possess advanced legal-based skills in research, reading and writing. The requirements for the position are a Juris Doctor Law degree from an accredited law school, a current license as a New Mexico attorney in good standing and a minimum of five (5) years of experience practicing law, of which at least three (3) years must be in areas of contract law and financial transactions. The position is a Pay Band 80, annual salary range from \$44,782 to \$77,917, depending on qualifications and experience. All state benefits will apply. The position is located in Santa Fe. Overnight travel throughout the state, good standing with the New Mexico State Bar and a valid New Mexico or other state driver's license are required. We offer the selected applicant a pleasant environment, supportive colleagues and dedicated support staff. Working conditions are primarily in an office or courtroom setting with occasional high pressure situations. Interested persons must submit an on-line application through the State Personnel Office website at <http://www.spo.state.nm.us/>, no later than the applicable closing date posted by State Personnel. Additionally, please submit a copy of your resume, transcripts and bar card to Shannell Montoya, Human Resources Division, New Mexico Department of Transportation, located at 1120 Cerrillos Road, Room 135, P.O. Box 1149, Santa Fe, New Mexico 87504. The New Mexico Department of Transportation is an equal opportunity employer.

Associate Attorney

Madison & Mroz, P.A., an AV-rated civil defense firm, seeks an associate with three to five years' experience to assist with all aspects of our litigation practice. This person should have strong research and writing skills and the ability to work independently. We offer a competitive salary and excellent benefits. All inquiries will be kept confidential. Please forward CVs to: Jacqueline A. Olexy, P.O. Box 25467, Albuquerque, NM 87102.

Request for Applications City of Albuquerque

Assistant City Attorney Position

Assistant City Attorney: Assistant City Attorney position available with the Litigation Division with desired experience in civil litigation handling pretrial discovery, motion practice, trial preparation, and trial. We are seeking attorneys who have an interest in defending civil rights, personal injury, and premises liability cases within a positive team environment. Salary will be based upon experience and the City of Albuquerque Attorney's Personnel and Compensation Plan with a City of Albuquerque Benefits package. Please submit resume to attention of "Litigation Attorney Application" c/o Ramona Zamir-Gonzalez, Executive Assistant; P.O. Box 2248, Albuquerque, NM 87103 or rzamir-gonzalez@cabq.gov. Application deadline is Tuesday, May 17, 2016.

Bilingual Domestic Violence Family Law Attorney and Legal Director

Enlace Comunitario (EC), a social justice non-profit organization in Albuquerque, N.M. works to eliminate domestic violence in the immigrant community and is seeking applications for a Legal Director. With a staff of approximately 30, EC provides direct services to more than 750 survivors and child witnesses of domestic violence a year and engages former victims and community members in prevention and advocacy efforts. The legal department takes referrals for services from our client base. The Domestic Violence legal director represents EC clients and supervises the legal work of the department. The legal director must be an experienced and effective attorney, mentor and trainer. The legal director must lead the legal team in collaborating with the multi-disciplinary team at Enlace and work well with court personnel, other agencies and community members. The Legal Director is part of the leadership team and will work collaboratively to further EC's mission. Required: State of New Mexico Bar License or out of state license eligible for NM licensure. At least three years of family law practice experience for legal director position. Spanish/ English bilingual ability. Preferred: Preference will be given to individuals with experience working with domestic violence, immigrant rights and / or social justice issues. Competitive salary and benefits depending on experience. This is a full-time position. If interested, please send your resume and letter of interest to aslopez@enlacenm.org. More information about the position can be found on EC's web site. <http://www.enlacenm.org/> Closing date: Open until filled.

Request for Applications

City of Albuquerque

Assistant City Attorney Position

Assistant City Attorney: Assistant City Attorney position available within the Safe City Strike Force Division, with primary duties to serve as a special prosecutor in the Metropolitan Court, Traffic Arraignments. Secondary duties are representing APD in DWI Vehicle Seizure and Forfeiture cases, which include weekly administrative hearings and district court proceedings. Other APD and IPRA matters may be assigned. Applicant must be admitted to the practice of law by the New Mexico Supreme Court and be an active member of the Bar in good standing. One (1) year of attorney experience, including knowledge of civil and/or criminal practice and procedures in the district and Metropolitan courts, is preferred, but not required. Spanish language fluency is preferred, but not required. A successful candidate will have strong communication skills and be able to work within a diverse legal team and interact daily with the public. Salary will be based upon experience and the City of Albuquerque Attorney's Personnel and Compensation Plan with a City of Albuquerque Benefits package. Please submit resume to attention of "Traffic Arraignment Attorney Application"; c/o Ramona Zamir-Gonzalez, Executive Assistant; P.O. Box 2248, Albuquerque, NM 87103 or rzamir-gonzalez@cabq.gov. Application deadline is Tuesday, May 17, 2016.

6-12 Year Attorney (Albuquerque)

Houser & Allison, APC, a Commercial Litigation Law Firm with a focus on mortgage banking litigation is looking to expand its New Mexico office. We are looking for attorneys with 6-12 years' experience in the New Mexico area, including trial experience. The ideal candidate must have strong writing, research and communication skills. The candidate must be a self-starter and able to work independently. Resumes to: rnorman@houser-law.com

Dynamic Legal Assistant

Dynamic legal assistant immediately needed for Sutin, Thayer and Browne. Should have 3-5 years' legal experience, including in civil litigation, and be organized, efficient, accurate and flexible. ProLaw experience preferred. Top benefits package in place; salary to be discussed. Email application to GLW@sutinfirm.com.

Legal Secretary/Legal Assistant

Downtown insurance defense firm seeking FT legal secretary with 3+ yrs. recent litigation experience. Current knowledge of State and Federal District Court rules a must. Prior insurance defense experience preferred. Strong work ethic, positive attitude, superior grammar, clerical and organizational skills required. Good benefits. Salary DOE. Send resume and salary history to: Office Administrator, Madison & Mroz, P.A., P.O. Box 25467, Albuquerque, NM 87125-5467 or fax to 505-242-7184.

Paralegal

Stiff, Keith & Garcia, LLC, a successful insurance defense firm, seeks sharp energetic paralegal. Must be a self-starter, detail-oriented, organized, and have excellent communication skills. A four-year degree or paralegal degree, and insurance defense and/or personal injury experience required. Bilingual in Spanish a plus. Please e-mail your resume and list of references to resumesub400@gmail.com.

Legal Assistant Position

Sanchez & Pinon is looking for an experienced legal assistant to join our firm in Rio Rancho. We represent injured Plaintiffs and are looking for someone who is motivated, takes pride in their work and genuinely cares about our clients. Full time position with benefits. Email your cover letter and resume to asanchez@sanchezandpinon.com.

Paralegal

Busy personal injury firm seeks paralegal with experience in personal injury litigation. Ideal candidate must possess excellent communication, grammar and organizational skills. Must be professional, self-motivated and a team player who can multi-task. Salary depends on experience. Firm offers benefits. Fax resumes to (505) 242-3322 or email to: nichole@whitenerlawfirm.com

Law Firm Accounting Assistant

Yenson, Allen & Wosick, P.C., a mid-sized law firm, is looking for an accounting assistant. Knowledge of TABS3 billing software preferred. Responsibilities include set-up of cases for billing; invoice preparation; light bookkeeping, scanning and data entry; oral and written communications with clients; knowledge of MS Word and Excel. Part-time to full-time position, and flexible schedule available. Excellent work environment and benefits. Please send cover letter with salary requirements to Louis Marquez, at 4908 Alameda Blvd NW, Albuquerque, NM 87113 or at lmarquez@ylawfirm.com.

Paralegal

Need a team member for small law firm. Must have at least 3 years legal experience and have knowledge and experience with court filing, including e-filing; legal research; scheduling; client/court contact; working knowledge of Microsoft Office Suite programs; document formatting; working with computers; and AP/AR. Excellent working atmosphere. Email resume to mickey@mickeylawyer.com.

Legal Assistant

Stiff, Keith & Garcia, a small, downtown law firm seeks experienced legal assistant. Must have college degree and 2 years of experience in insurance defense as lead secretary or 5 years of experience in insurance defense or personal injury. Requires independent work and client contact. People skills are a must to effectively work with our team. Excellent salary and benefits. Send resume and references to resumesub400@gmail.com.

Legal Assistant

Busy personal injury firm seeks legal assistant to handle pre-litigation cases. Ideal candidate will be responsible for ordering medical records and bills, drafting demand packages, speaking with client, medical providers and insurance adjusters. Spanish speaking a plus but not required. Salary depends on experience. Firm offers benefits. Fax resume to 505-242-3322 or Email resumes to: nichole@whitenerlawfirm.com

Legal Assistant/Paralegal

Extremely competitive salary and benefits, including medical, dental, 401k, and bonuses / incentives. We are a growing plaintiffs personal injury law firm. Must be enthusiastic, confident, a great team player, a self-starter, and able to multi-task in a fast-paced environment. Experience in plaintiffs personal injury law helpful. 8-5 M-F with a hard-working and friendly team. Email resume to Sharon@ParnallLaw.com and print "Apples" in the subject line.

Paralegal

Robles, Rael & Anaya, P.C. is seeking a paralegal for its civil defense practice. Firm primarily represents governmental entities. Practice involves general civil representation, civil rights defense, and complex litigation. Three years' experience or Paralegal Certificate preferred. Competitive salary and benefits. Please submit resumes to jr@roblesrael.com

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Miscellaneous

Will Search

Looking for a will for Helen Villaneuva Montoya a/k/a Helen Villanueva Cordova born 6/1/1923, died 12/5/2012. Lived in Albuquerque most of her life. If you have any information, please contact Michael Hughes, Silva & Associates, PC, at 505-246-8300.

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CLE Planner



Spring Elder Law Institute

6.2 G



May 13

Friday, May 13, 2016 • 8:30 a.m.–4:30 p.m.
State Bar Center, Albuquerque

\$249: Standard Fee

\$219: Co-sponsoring section members, government and legal services attorneys, and Paralegal Division members

\$279: Webcast Fee

Co-sponsor: Elder Law Section

8 a.m. Registration and Continental Breakfast

8:30 a.m. **Planning for Beneficiaries with Special Needs**

Kristen M. Lewis, Gambrell & Russell, LLP

10:30 a.m. Break

10:45 a.m. **Life Care Planning in Estate Planning**

Joan Schofield, RN, BSN, MBA, CNLCP, MedView Med-Legal & Case Management Specialists

11:45 Lunch (provided at the State Bar Center)

Annual Elder Law Section Meeting

12:45 p.m. **Legislative Update for Special Needs**

Johanna Pickel, Johanna Pickel LLC

1:30 p.m. Break

1:45 p.m. **The ABLE Act**

Nell Graham Sale, Pregenzer Baysinger Wideman & Sale PC

2:45 p.m. Break

3:00 p.m. **Advanced Special Needs Trust Drafting**

Kristen M. Lewis, Smith, Gambrell & Russell, LLP

4:30 p.m. Adjournment



Ninth Annual New Mexico Legal Service Providers Conference: Holistically Addressing Poverty and Advancing Equity for Women and Families in New Mexico

10.0 G

2.0 EP



June 16-17

Thursday and Friday, June 16–17, 2016
State Bar Center, Albuquerque

\$145: Standard Fee

\$125: Government, legal services attorneys, Paralegal Division members

JUNE 16

8:15 a.m. Registration and Continental Breakfast

8:30 a.m. **Equal Means Equal: The New Math for Women and Girls in New Mexico**

Pamelya Herndon, Southwest Women's Law Center

9 a.m. **State Plan: What is it? Why Do We have it? How do We Use It?**

Ed Marks, New Mexico Legal Aid Inc.

10: a.m. **Holistically Addressing the Plunge into Poverty**

Alexandria Taylor, Valencia Shelter Service; Jessica Martinez, Enlace Comunitario; Rep. Deborah Armstrong, (D) Bernalillo County; Dorene Kuffer, Law Office of Dorene A. Kuffer, PC

10:45 a.m. Break

11 a.m. **Holistically Addressing the Plunge into Poverty, cont.**

11:45 a.m. Lunch (provided at the State Bar Center)

1 p.m. **Afternoon Education Tracks**

Track A: Litigation Tools—Exposing the Shadow Economy: Finding Hidden Assets & Income

Michael Corwin, Corwin Research & Investigations; Mary Ann Burmester, New Mexico Divorce and Custody Law, LLC

Track B: N.M. HSD Administrative Fair Hearings & Appeals to District Courts

Tim Gardner, Disability Rights New Mexico

2:30 p.m. Break

2:45 p.m. **Extended Families: Benefits & Burdens**

Larry Kronen and Jennifer Romero, Pegasus Legal Services for Children

4:15 p.m. Adjourn

JUNE 17

8:00 a.m. Continental Breakfast

8:30 a.m. **Morning Education Tracks**

Track A: Not Your Every Day Family Law Issues

Track B: The A-B-C (and D's) of Medicare

Michael Parks and Juan Martinez, Senior Citizens Law Office

10 a.m. Break

10:15 a.m. **Bankruptcy and Collections—Legal Sword or Legal Shield?**

11:45 a.m. Lunch (provided at the State Bar Center)

1 p.m. **Afternoon Education Tracks**

Track A: Kids in Poverty

Yael Cannon, UNM School of Law; Cristen Conley, Corinne Wolfe Center for Child and Family Justice Center; Veronica Garcia, Voices for Children

Track B: Subsidized Housing 101

Tom Prettyman, New Mexico Legal Aid Inc.; Richard Weiner, Legal Resources for the Elderly Program

2:30 p.m. Break

2:45 p.m. Legal Services in New Mexico and our Professional Obligations (EP)

Hon. Sarah Singleton, First Judicial District Court

4:45 p.m. Adjourn



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