

BAR BULLETIN

Official Publication of the STATE BAR of NEW MEXICO

October 12, 2016 • Volume 55, No. 41



Zia Theater, by Rebecca Sitterly (see page 3)

Inside This Issue

Notices	4
Second Judicial District Court: Announcement of Vacancy.....	4
2016 State Bar Elections	
Board of Bar Commissioners	5
Practice Sections	6
Young Lawyers Division.....	6
Notice of Vacancies on Supreme Court Committees.....	7
Hearsay/In Memoriam	10
Clerk's Certificates	14
From the New Mexico Court of Appeals	
2016-NMCA-067, No. 34,150: State v. Moore	21

—SPECIAL INSERT—
CLE Planner

NEW MEXICO BLACK LAWYERS ASSOCIATION PRESENTS

IMMIGRATION & DEPORTATION

newmexicoblacklawyersassociation.org

8:00 - 8:45 a.m.
Registration.

8:45 - 9:00 a.m.
Welcome
Sonia Gipson Rankin, President, New Mexico Black Lawyers Association

9:00 - 10:00 a.m.
Yearning to Breathe Free: Legal Immigration and its Limitations.
Immigration Attorney Rebecca Kitson

10:00 - 11:00 a.m.
Prosecuting the Federal Immigration Case in New Mexico.
Supervisory Assistant U.S. Attorney Kimberly Brawley

11:15 a.m. - 12:15 p.m.
National Border Issues - National Security, Immigration and Narcotics.
United States Attorney for the District of New Mexico Damon Martinez

12:15 - 1:15 p.m. — LUNCH (provided)

1:15 - 2:15 p.m.
Current Ethical and Professional Issues in Immigration Law.
New Mexico Immigrant Law Center Legal Director Eva Eitzen and Staff Attorney Lauren Garrity

2:30 - 3:30 p.m.
Immigration Law for the Criminal Practitioner.
Assistant Chief Counsel, Dept. of Homeland Security Michael Pleters

3:30 - 4:30 p.m.
Panel discussion - Immigration, Criminal Prosecution and Defense.
United States District Judge Kenneth J. Gonzales, Supervisory Assistant U.S. Attorney Kimberly Brawley, Chief Federal Public Defender Stephen P. McCue.

8:30 a.m. - 4:30 p.m.

State Bar of New Mexico

State Bar Center
5121 Masthead NE
Albuquerque, NM

FRIDAY
{11.18.2016}

CLE CREDIT: 5 Hours General, 1 Hour Ethics/Professionalism

TUITION: \$225 {includes Lunch}

Register online via Paypal
newmexicoblacklawyersassociation.org/cle.html

DEADLINE TO REQUEST A REFUND - NOVEMBER 11, 2016

Last Name First Name Middle Initial

Firm / Organization

Address

Email Address

Phone Number

State Bar Number



Return registration form with payment to:
NMBLA, P.O. Box 695, Albuquerque, NM 87103-0695
(purchase orders welcome, call (505) 450-1032)

Have Questions? Email Us: nmblacklawyers@gmail.com



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October 12, 2016, Vol. 55, No. 41

Table of Contents

Notices	4
Notice of Vacancies on Supreme Court Committees	7
Continuing Legal Education Calendar	8
Hearsay/In Memoriam	10
Court of Appeals Opinions List	13
Clerk's Certificates	14
Recent Rule-Making Activity	20
Opinions	

From the New Mexico Court of Appeals

2016-NMCA-067, No. 34,150: State v. Moore	21
Advertising	25

Meetings

October

- 12**
Animal Law Section BOD,
Noon, State Bar Center
- 12**
Children's Law Section BOD,
Noon, Juvenile Justice Center
- 12**
Taxation Section BOD,
11 a.m., teleconference
- 13**
Business Law Section BOD
4 p.m., teleconference
- 13**
Public Law Section BOD
Noon, Montgomery & Andrews, Santa Fe
- 14**
Criminal Law Section BOD,
Noon, Kelley & Boone, Albuquerque
- 14**
Prosecutors Section BOD
Noon, State Bar Center
- 15**
Young Lawyers Division BOD,
10 a.m., State Bar Center
- 18**
Solo and Small Firm Section BOD,
11 a.m., State Bar Center
- 19**
Real Property, Trust and Estate Section BOD, noon, State Bar Center
- 21**
Family Law Section BOD,
9 a.m., teleconference

Workshops and Legal Clinics

October

- 13**
Common Legal Issues for Senior Citizens Workshop
Workshop: 9:30–10:45 a.m. POA AHCD
Clinic: 11 a.m.–noon, Mary Esther Gonzales Senior Center, Santa Fe, 1-800-876-6657
- 13**
Valencia County Free Legal Clinic
10 a.m.–2 p.m., 13th Judicial District Court, Los Lunas, 505-865-4639
- 14**
Legal Fair
1–3 p.m., Hobbs City Hall, Hobbs, 505-841-5033
- 18**
Cibola County Free Legal Clinic
10 a.m.–2 p.m., 13th Judicial District Court, Grants, 505-287-8831
- 19**
Family Law Clinic
10 a.m.–1 p.m., Second Judicial District Court, Albuquerque, 1-877-266-9861
- 26**
Consumer Debt/Bankruptcy Workshop
6–9 p.m., State Bar Center, Albuquerque, 505-797-6094
- November**
- 2**
Divorce Options Workshop
6–8 p.m., State Bar Center, Albuquerque, 505-797-6003

Cover Artist: Rebecca Sitterly's acrylic and computer graphics works focus on fading movie marquees from the Great Depression era—a particular genre of architecture whose spangled facades and glittering neon beckoned folks to spend a dime on a ticket and forget their troubles in front of the silver screen. She served as a district court judge and judge pro tem in Albuquerque from 1983 to 2005, and she continues to practice law today. Interested in disaster response, she graduated from nursing school in 2010 and serves on the American Red Cross National Disaster Team and the Medical Reserve Corps.

Notices

COURT NEWS

New Mexico Supreme Court Board of Bar Examiners Reciprocal Admission Grows

The Supreme Court of the State of New Mexico has added four new states to the list of jurisdictions with which the State Bar of New Mexico shares reciprocal admission: New Jersey, New York, North Carolina and West Virginia. The number of states to which experienced New Mexico attorneys may apply without taking the bar exam is now 36, plus the District of Columbia. For more information on reciprocal admission, including links to other states' requirements, visit www.nmexam.org/reciprocity/.

Board of Legal Specialization Comments Solicited

The following attorneys are applying for certification as a specialist in the areas 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.

Employment/Labor Law
Daniel Faber
Cindy Lavato-Farmer
Scott Gordon

Environmental Law
Jerry D. Worsham III

Family Law
James Bristol
Mary Ann R. Burmester
Jan Gilman-Tepper
Randy Wayne Powers Jr.

Workers' Compensation Law
Ralph O. "Rod" Dunn III

Bernalillo County Metropolitan Court Closure - October 21st

The Bernalillo County Metropolitan Court will be closed on Friday, Oct. 21, for the Court's annual Professional Development Conference. Misdemeanor custody arraignments and felony first appearances will not be held that day. The conference is sponsored by the New Mexico Judicial Education Center at

the University of New Mexico and paid for by fees collected by state courts.

First Judicial District Court New Tierra Amarilla Phone Numbers

Effective Oct. 3, the Rio Arriba County Court in Tierra Amarilla will have new phone numbers as shown below:

Judge Jennifer L. Attrep, Division V:
phone: 505-455-8325,
fax: 505-455-8323

Rio Arriba County Court Clerk's Office
phone: 505-455-8335,
fax: 505-455-8280

Second Judicial District Court Announcement of Vacancy

A vacancy in the Second Judicial District Court in Albuquerque exists Oct. 1 due to the retirement of Hon. Elizabeth Whitefield. This position will be a Family Court division bench assignment. Further inquiries regarding additional details or assignment of this judicial vacancy should be directed to the chief judge or the administrator of the court. Alfred Mathewson, chair of the Judicial Nominating Commission, solicits applications for this position from lawyers who meet the statutory qualifications in Article VI, Section 14 of the New Mexico Constitution. Download applications at lawschool.unm.edu/judsel/application.php. The deadline for applications is 5 p.m., Oct. 20. Applicants seeking information regarding election or retention if appointed should contact the Bureau of Elections in the Office of the Secretary of State. The Judicial Nominating Commission will meet beginning at 9 a.m. on Oct. 31 at the Bernalillo County Courthouse in Albuquerque to evaluate the applicants for this position. The Commission meeting is open to the public and those who have comments about the candidates will have an opportunity to be heard.

13th Judicial District Court Exhibit Destruction

The 13th Judicial District Court in Cibola County will destroy exhibits from the following cases listed below on Dec.

15. Parties involved in the cases listed below may retrieve the exhibits before the destruction date by appearing in person at the district court clerk's office in Grants. Call Court Manager Kathy Gallegos at 505-287-8831 ext. 3110 for more information. Below are the cases that will have exhibits destroyed: CR-1333-1985-00053 through CR-1333-2015-00233; JR-1333-1993-00021 through JR-1333-2015-00034; AP-1333-1991-00005 through AP-1333-2002-10; LR-1333-2003-1 through LR-1333-2015-00010; CV-1333-1982-00276 through CV-1333-2014-00228; DM-1333-1984-00150 through DM-1333-2015-00240; DV-1333-1999-00088 through DV-1333-2015-00128; PB-1333-1996-00022 through PB-1333-2015-00011; JQ-1333-1996-00015 through JQ-1333-2015-00001; PQ-1333-2004-00006 through PQ-1333-2015-00003; SA-1333-2004-00003 through SA-1333-015-00008; SQ-1333-1987-00006 through SQ-1333-2015-00011.

Bernalillo County Metropolitan Court Mediation's 30th Anniversary Celebration

Members of the legal community and the public are cordially invited to a reception celebrating Metro Court's Mediation Division's 30th year of operation. The event will take place from 5:30-7:30 p.m. on Oct. 13 in Metro Court's Rotunda. Join the Court as it takes a look back: honoring those who spearheaded the program, recognizing those who have given countless hours to the program's mission and reflecting on the invaluable service mediation provides to the community. R.S.V.P. to Camille Baca at metcrb@nmcourts.gov or 505-841-9897.

U.S. District Court, District of New Mexico Reappointment of Incumbent United States Magistrate Judge

The current term of office of U.S. Magistrate Judge Gregory B. Wormuth is due to expire on May 17, 2017. The U.S. District Court is required by law to establish a panel of citizens to consider the reappointment of the magistrate judge to a new eight-year term. The duties of a magistrate judge in

Professionalism Tip

With respect to parties, lawyers, jurors, and witnesses:

I will be punctual in convening all hearings, meetings and conferences.

this Court include the following: (1) conducting most preliminary proceedings in criminal cases, (2) trial and disposition of misdemeanor cases, (3) conducting various pretrial matters and evidentiary proceedings on delegation from a district judge, and (4) trial and disposition of civil cases upon consent of the litigants. Comments from members of the bar and the public are invited as to whether the incumbent magistrate judge should be recommended by the panel for reappointment by the Court and should be addressed as follows: U.S. District Court, CONFIDENTIAL—ATTN: Magistrate Judge Merit Selection Panel, 333 Lomas Blvd. NW, Suite 270, Albuquerque, NM 87102. Comments must be received by Oct. 28.

STATE BAR NEWS

Attorney Support Groups

- Oct. 17, 7:30 a.m.
First United Methodist Church, 4th and Lead SW, Albuquerque (group meets the third Monday of the month.)
- Nov. 7, 5:30 p.m.
First United Methodist Church, 4th and Lead SW, Albuquerque (group meets the first Monday of the month.)
- Nov. 14, 5:30 p.m.
UNM School of Law, 1117 Stanford NE, Albuquerque, King Room in the Law Library (group meets on the second Monday of the month.) Teleconference participation is now available. Dial 1-866-640-4044 and enter code 7976003#.

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

Alternative Methods of Dispute Resolution Committee APD/Community Relations Presentation

The City of Albuquerque ADR Office has been tasked with multiple roles in the ongoing effort to improve relations between APD and the community. The ADR Committee and ADR Coordinator and Assistant City Attorney Tyson Hummel invite members of the legal community to attend the presentation from noon-1 p.m., Oct. 27, at the Second Judicial District Court 3rd Floor Conference Room. The presentation will explore two fundamental aspects of this effort: the previous year-long Albuquerque Collaborative on Police Community Relations and the ongoing Officer/Civilian Mediation Program. There will be

ample time for questions and discussion. Attendees should expect an interactive session. R.S.V.P. with Breanna Henley at bhenley@nmbar.org. Lunch is provided. The ADR Committee will meet following the presentation from 1-1:30 p.m.

Board of Bar Commissioners 2016 Election

Pursuant to Supreme Court Rule 24-101, the Board of Bar Commissioners is the elected governing board of the State Bar of New Mexico. The 2016 election of eight commissioners for the State Bar of New Mexico will close at noon, Nov. 30. Nominations to the office of bar commissioners shall be made by the written petition of any 10 or more members of the State Bar who are in good standing and whose principal place of practice is in the respective district. Terms in the following districts will expire Dec. 31: First (Bernalillo County), Third (Los Alamos, Rio Arriba, Sandoval and Santa Fe counties), Fourth (Cofax, Guadalupe, Harding, Mora, San Miguel, Taos and Union counties), Sixth (Chaves, Eddy, Lea, Lincoln and Otero counties) and Seventh (Catron, Doña Ana, Grant, Hidalgo, Luna, Sierra, Socorro and Torrance counties). Petitions must be received by 5 p.m., Oct. 24. Refer to the Sept. 23 *Bar Bulletin* for the duties and requirements of Bar Commissioners, specific term information and nomination instructions.

Committee on Women and the Legal Profession #LawMom Luncheon

The Committee on Women and the Legal Profession invites all State Bar members to have lunch and listen to a panel discussion about general issues that parent-attorneys face on a day to day basis. Panelists include attorneys Quiana Salazar-King, Liz Garcia, Patricia Galindo and Michelle Hernandez. The luncheon is from noon-1 p.m., Oct. 19, at the Hispano Chamber of Commerce, located at 1309 4th St SW in Albuquerque. R.S.V.P.s are appreciated but not required. Contact Zoe Lees at zel@modrall.com to indicate your attendance.

Historical Committee Jewish History in New Mexico

Long before statehood in 1912, Jewish settlers made their homes in all corners of

—Featured— Member Benefit



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Judges 888-502-1289

www.nmbar.org/JLAP

the high desert. Along the way, community members built institutions that influenced many New Mexico communities. The Jewish Staab family contributed to the construction of the Cathedral in Santa Fe. A Jew was the first mayor of the incorporated city of Albuquerque. Attorney Robert Nordhaus co-founded the Sandia ski lift and tramway. Join Naomi Sandweiss, author of *Jewish Albuquerque* and past president of the New Mexico Jewish Historical Society, from noon-1 p.m., Oct. 14, at the State Bar Center to learn more about the rich history of Jewish involvement in New Mexico and some of the fascinating personalities who participated. Lunch will be available at 11:30 a.m. R.S.V.P. with Breanna Henley at bhenley@nmbar.org.

Intellectual Property Law Section

New Mexico Lawyers for the Arts Fall Pro Bono Legal Clinic

New Mexico Lawyers for the Arts and WESST seek volunteer attorneys for the New Mexico Lawyers for the Arts Fall 2016 Pro Bono Legal Clinic from 10 a.m.–1 p.m. (or any portion thereof) on Oct. 15 at the Santa Fe Business Incubator, 3900 Paseo Del Sol, Santa Fe. Volunteer attorneys are needed for assistance in art law, contracts, business law, employment matters, tax law, estate planning and intellectual property law. For more information and to participate, contact Talia Kosh at tk@theben-nettlawgroup.com. The State Bar Intellectual Property Law Section and Young Lawyers Division are co-sponsors of the clinic.

Practice Sections Elections Have Begun

All practice section chairs have appointed nominating committees to solicit candidates by Oct. 13 to serve on their respective boards beginning in January 2017. Those interested in serving on a board should visit www.nmbar.org/sections and provide the respective section's nominating committee chair with a brief statement of involvement in the section and in the law profession generally. The chair of the nominating committee can provide more information on the process and specific requirements for serving on that section's board.

Proposed In-house Counsel Section

The State Bar seeks input from members interested in an in-house counsel practice section to serve the needs of attorneys who focus their practice on a single or small group of corporate clients, or who serve as in-house counsel for a corporation, government, non-profit or business entity. The section will pledge to promote professionalism, excellence, and understanding and cooperation among those attorneys engaged in this area of practice. The section would be committed to addressing the professional interests of in-house counsel by informing members about issues of particular interest to them, identify and share best practices through various forms of information sharing, and offering social and professional networking opportunities. Those who are interested should email Breanna Henley at bhenley@nmbar.org.

Prosecutors Section Annual Award Open

The Prosecutors Section recognizes prosecutorial excellence through its annual awards. Awards for 2016 will be presented in the following categories: child abuse (Homer Campbell Award), DWI, drugs, white collar, domestic violence, violent crimes (excluding domestic violence and child abuse cases) and children's court prosecutor. For detailed award criteria and nomination procedures, visit www.nmbar.org/prosecutors. Nominations may be made by anyone and additional letters of support are welcome. Submit nominations to Breanna Henley at bhenley@nmbar.org by noon on Oct. 14.

Solo and Small Firm Section October Luncheon Presentation New Mexico's Prisons and Jails

The Solo and Small Firm Section sponsors monthly luncheon presentations on unique law-related subjects. Albuquerque attorney Matt Coyte will discuss various penal issues on Oct. 18 with "New Mexico's Prisons and Jails—Are We Making Things Worse?" On Nov. 15 Fred Nathan, executive director of Think New Mexico, a results-oriented think tank serving New Mexicans, will discuss the work of Think New Mexico and various policy issues facing the 2017 legislative session. On Jan. 17, 2017, Ron Taylor will share his lawyerly insights as a juror in a long murder trial. All presentations will take place from noon-1 p.m. at the State Bar Center. Contact Breanna Henley at bhenley@nmbar.org to R.S.V.P.

Young Lawyers Division Elections Have Begun

The election is now open for positions on the Young Lawyers Division Board. Regional director positions and a director-at-large position are available. State Bar members who are under the age of 36 or in their first five years of practice are automatically members of the Division and eligible to participate in the election. All candidates must collect at least 10 signatures from YLD members to become a candidate. Regional director petitions must be signed by at least 10 members whose principle place of practice is within the specified region. To view the positions up for election and download the nominating petition, visit www.nmbar.org/yld > elections. Send complete petitions, a

headshot and a 100-150 word professional biography by Oct. 19 to Breanna Henley at bhenley@nmbar.org.

UNM

Law Library

Hours Through Dec. 18

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

Holiday Closures

Nov. 24–25 (Thanksgiving)

Natural Resources and Environmental Law Program 'Litigating the Groundwater Revolution' with Burke Griggs

The UNM Natural Resources and Environmental Law Program and the Utton Center present "Litigating the Groundwater Revolution" (1.0 G) at 5:15 p.m., Oct. 19, in Room 2401 of the UNM School of Law in Albuquerque. Burke Griggs of the Washburn University School of Law will present the program. Over the past decade, the Supreme Court has accepted an unusually large number of original actions concerning interstate disputes over shared water supplies. This presentation focuses on how the Court has approached (and occasionally resolved) past interstate groundwater disputes, and how its decisions may inform (and complicate) subsequent conflicts. There is no registration fee and parking is free at the law school. Call Laura Burns 505-277-3253 with questions. This program is held in cooperation with the NREEL Section of the State Bar of New Mexico.

OTHER BARS

New Mexico Criminal Defense Lawyers Association 'DWI 2016: The Dark Side of the Moon'

Colorado's best DUI attorney for the fourth consecutive year in 2016, Jay Tiftickjian, is special guest speaker for the New Mexico Criminal Defense Lawyers Association's "DWI 2016: Dark Side of the Moon" CLE (6.5 G). Tiftickjian will present on the effects of marijuana and driving and DWIs involving marijuana. Also in

store for this CLE are National Highway Traffic Safety Administration field sobriety testing, the MVD and the Implied Consent Act and challenging breath tests. To join NMCDLA and register today, visit www.nmcdla.org.

New Mexico Defense Lawyers Annual Awards Luncheon

The New Mexico Defense Lawyers Association will honor two attorneys at its Annual Awards Luncheon and CLE event on Oct. 14 at the Hotel Andaluz in Albuquerque. The 2016 Defense Lawyer of the Year Award will be presented to Lee M. Rogers, Jr. of Atwood Malone Turner & Sabin, PA, and the 2016 Young Lawyer of the Year Award will be presented to Corinne L. Holt of Allen Shepherd Lewis & Syra, PA. The luncheon celebration will be followed by a CLE program featuring nationally recognized speaker and attorney Christopher W. Martin of Martin, Disiere, Jefferson & Wisdom, LLP, on the topic "Jury Selection in the 21st Century: Millennials, Misfits and More." A panel of distinguished judges will then discuss ethics and professionalism topics relevant to jury selection and civil defense practice. The event will conclude with a reception. For more information and registration, visit www.nmdla.org or call 505-797-6021.

New Mexico Hispanic Bar Association Fifth Annual Las Cruces CLE and Meet and Greet

Join the New Mexico Hispanic Bar Association for the "Fifth Annual Las Cruces CLE and Meet and Greet" (2.0 G, 1.0 EP) at 1:30 p.m., Oct. 28, at the Hotel Encanto de Las Cruces, 705 S. Telshor Blvd., Las Cruces. Topics include pointers for preserving the record for appeal, making the most out of mediation and ethics y Español: representing Spanish-speaking clients. A meet and greet event, co-hosted by the UNM School of Law, will follow the CLE. For more information and to register, visit www.nmhba.net.

OTHER NEWS Christian Legal Aid New Volunteer Training Seminar

Christian Legal Aid of New Mexico invites new members to join them as they work together to secure justice for the poor and uphold the cause of the needy. Christian Legal Aid will be hosting a New Volunteer Training Seminar from 11 a.m.-5 p.m.,

Notice of Vacancies on Supreme Court Committees

The Supreme Court of New Mexico is seeking applications to fill vacancies on the following Supreme Court committees:

Appellate Rules Committee, Board Governing the Recording of Judicial Proceedings (reporter position), Board of Bar Examiners, Board of Legal Specialization, Children's Court Rules Committee (respondent's attorney and judge positions), Code of Professional Conduct Committee, Courts of Limited Jurisdiction Rules Committee, Disciplinary Board, Domestic Relations Rules Committee, Minimum Continuing Legal Education Board, New Mexico Commission on Access to Justice, Rules of Civil Procedure Committee, Rules of Evidence Committee and Statewide Alternative Dispute Resolution Commission

Unless otherwise noted above, all licensed New Mexico attorneys are eligible to apply. Anyone interested in volunteering to serve on one or more of these committees may apply by sending a letter of interest and resume by mail to Joey D. Moya, Chief Clerk, PO Box 848, Santa Fe, New Mexico 87504-0848, by fax to 505-827-4837, or by email to nmsupremecourtclerk@nmcourts.gov. The letter of interest should describe the applicant's qualifications and may prioritize no more than 3 committees of interest.

The deadline for applications is Friday, Oct. 21.

Oct. 28, in the State Bar Board Room. Join them for free lunch, free CLE credits, and training as they learn the basics on how to provide legal aid. For more information or to register, contact Jim Roach at 505-243-4419 or Jen Meisner at 505-610-8800 or christianlegalaids@hotmail.com.

New Mexico Association of Drug Court Professionals 2016 Training Conference

Join the New Mexico Association of Drug Court Professionals for the 2016 Training Conference on Nov. 2-3 at the Sheraton Uptown in Albuquerque. The conference will offer up to 12.0 CLE credits (including a possible 1.5 EP). Topics include drug court standards and the statewide self-assessment report, the DWI offender as opposed to the drug offender. Register online at www.regonline.com/nmadcp2016fallconference.

Santa Fe Neighborhood Law Center Law and Policy for Neighborhoods CLE

Join the Santa Fe Neighborhood Law Center for its annual CLE "Law and Policy for Neighborhoods" (10.0 G, 2.0 EP), Dec. 8-9 at the Santa Fe Convention Center. Fea-

tured speakers include Chief Justice Charles W. Daniels and recently retired Justice Richard C. Bosson. A discounted rate for early registration is available through Nov. 25. A free continental breakfast and box lunch will be provided both days on site for CLE attendees and faculty. For more information or to register, visit www.sfnlc.com/.

Workers' Compensation Administration Notice of Public Hearing

The New Mexico Workers' Compensation Administration will conduct a public hearing on the changes to the New Mexico fee schedule and billing instructions at 1:30 p.m., Oct. 19, at the WCA, 2410 Centre Avenue SE, Albuquerque. Proposed changes may be found at the WCA website at: <http://www.workerscomp.state.nm.us/>. Comments made in writing and at the public hearing will be taken into consideration. Oral comments may be limited to five minutes per speaker. Comments should be submitted by the close of business on Nov. 2 to the WCA Economic Research and Policy Bureau at PO Box 27198, Albuquerque, NM 87125-7198 or to Richard.Adu-Asamoah@state.nm.us. Those with disabilities should call 505-841-6083 for assistance attending or participating in the meeting.

Legal Education

October

- | | | |
|--|---|---|
| <p>13 Joint Ventures Between For-Profits and Non-Profits
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>18 Second Annual State Bar Symposium on Diversity and Inclusion (2016)
5.0 G, 1.0 EP
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>26 Damages in Personal Injury
6.0 G
Live Seminar, Albuquerque
NBI Inc.
www.nbi-sems.com</p> |
| <p>13–14 34th Annual Advanced Oil, Gas & Energy Resources Law
10.3 G, 1.7 EP
Video Replay, Santa Fe
State Bar of Texas
www.texasbarcle.com</p> | <p>19 Advanced Employment Law
6.0 G
Live Seminar, Albuquerque
NBI Inc.
www.nbi-sems.com</p> | <p>27 Spring Elder Law Institute (2016)
6.2 G
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>14 Citizenfour—The Edward Snowden Story
3.2 G
Live Seminar
Federal Bar Association, New Mexico Chapter
505-268-3999</p> | <p>19 Litigating the Groundwater Revolution
1.0 G
Live Seminar, Albuquerque
UNM School of Law
lawschool.unm.edu</p> | <p>27 More Reasons to be Skeptical of Expert Witnesses (2015)
5.0 G, 1.5 EP
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>14 Lawyers, Guns & Money
6.0 G, 1.0 EP
Live Seminar, Roswell
New Mexico Criminal Defense Lawyers Association
www.nmcdla.org</p> | <p>20 Annual Conference
6.6 G
Live Seminar
Workers Compensation Association of Southern New Mexico
575-537-1173</p> | <p>27 2015 Federal Practice Tips and Advice From U.S. Magistrate Judges
2.0 G, 1.0 EP
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>14 Navajo Law Seminar
6.0 G, 2.0 EP
Live Seminar, Albuquerque
Sutin, Thayer & Browne PC
sutinfirm.com</p> | <p>21 2016 Administrative Law Institute
4.0 G, 2.0 EP
Webcast/Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>27 Everything Old is New Again – How the Disciplinary Board Works (Ethicspalooza Redux—Winter 2015 Edition)
1.0 EP
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>14–15 2016 New Mexico Family Law Institute
10.0 G, 2.0 EP
Webcast/Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>21 Ethics and Cloud Computing
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>28 2016 Appellate Bench and Bar Conference
5.0 G
Live Seminar, Santa Fe
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>18 Professional Liability Insurance: What You Need to Know (2015)
3.0 EP
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>21 Annual Criminal Law Seminar
10.0 G, 2.0 EP
Live Seminar
El Paso Criminal Law Group Inc.
915-534-6005</p> | <p>28 5th Annual Las Cruces CLE and Meet and Greet
2.0 G, 1.0 EP
Live Seminar, Las Cruces
New Mexico Hispanic Bar Association
www.nmhba.net</p> |
| <p>18 Law Enforcement Interrogation Techniques and Tactics in Criminal Trials (2015)
3.0 G
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>25 Fiduciary Standards in Business Transactions: Good Faith and Fair Dealing
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | |

November

1	Journalism, Law and Ethics (2016 Annual Meeting) 1.5 EP Live Replay, Albuquerque Center for Legal Education of NMSBF www.nmbar.org	3	Indian Law in 2016: What Indian Law Practitioners Need to Know 1.0 G, 2.0 EP Webcast/Live Seminar, Albuquerque Center for Legal Education of NMSBF www.nmbar.org	16	The Art of Effective Speaking for Lawyers 4.5 G, 1.2 EP Webcast/Live Seminar, Albuquerque Center for Legal Education of NMSBF www.nmbar.org
1	Law Practice Succession – A Little Thought Now, a Lot Less Panic Later (2015) 2.0 EP Live Replay, Albuquerque Center for Legal Education of NMSBF www.nmbar.org	4	ADR Institute: Mindful Mediation Skills for the Lawyer (and Non-Lawyer) Handling Conflict Resolution 5.2 G, 1.0 EP Webcast/Live Seminar, Albuquerque Center for Legal Education of NMSBF www.nmbar.org	16	Sophisticated Deposition Strategies 6.0 G Live Seminar, Albuquerque NBI Inc. www.nbi-sems.com
1	The Rise of 3-D Technology: What Happened to IP? (2016 Annual Meeting) 1.0 G Live Replay, Albuquerque Center for Legal Education of NMSBF www.nmbar.org	4	DWI 2016: Dark Side of the Moon 6.5 G Live Seminar, Albuquerque New Mexico Criminal Defense Lawyers Association www.nmcdla.org	17	2016 Attorney-Client Privilege Update 1.0 G Teleseminar Center for Legal Education of NMSBF www.nmbar.org
1	Animal Law: Wildlife and Endangered Species on Public and Private Lands—The Tipping Point 6.0 G Live Replay, Albuquerque Center for Legal Education of NMSBF www.nmbar.org	10	Acquisitions of Subsidiaries and Divisions 1.0 G Teleseminar Center for Legal Education of NMSBF www.nmbar.org	18	2016 Business Law Institute 5.5 G, 1.0 EP Webcast/Live Seminar, Albuquerque Center for Legal Education of NMSBF www.nmbar.org
2	Estate Planning for Religious and Philosophical Beliefs of Clients 1.0 G Teleseminar Center for Legal Education of NMSBF www.nmbar.org	10	Charter School Law in New Mexico 6.0 G Live Seminar, Albuquerque NBI Inc. www.nbi-sems.com	18	Ethics and Dishonest Clients 1.0 EP Teleseminar Center for Legal Education of NMSBF www.nmbar.org
2	Top 8 Title Defects—Cured 6.0 G Live Seminar, Albuquerque NBI Inc. www.nbi-sems.com	10	Estate Planning and Retirement Benefits 4.0 G Live Seminar Santa Fe Estate Planning Council www.sfestateplanning.com	18	Immigration and Deportation 5.0 G, 1.0 EP Live Seminar, Albuquerque New Mexico Black Lawyers Association www.newmexicoblacklawyersassociation.org
2–3	New Mexico Association of Drug Court Professionals Training Conference 12.0 CLE credits (including a possible 1.5 EP) Live Seminar, Albuquerque New Mexico Association of Drug Court Professionals www.regonline.com/nmadcp2016fallconference	11	Ethics and Identifying Your Client: It's Not Always 20/20 1.0 EP Teleseminar Center for Legal Education of NMSBF www.nmbar.org	22	Effective Use of Trial Technology (2016 Annual Meeting) 1.0 G Live Replay, Albuquerque Center for Legal Education of NMSBF www.nmbar.org
		14	Top Estate Planning Techniques 6.6 G Live Seminar, Santa Fe NBI Inc. www.nbi-sems.com	22	Best and Worst Practices Including Ethical Dilemmas in Mediation (2016) 3.0 G, 1.0 EP Live Replay, Albuquerque Center for Legal Education of NMSBF www.nmbar.org

Cristina A. Mulcahy, an associate with Modrall Sperling, has been recognized by Mayor Richard J. Berry for her assistance to a stranded wheelchair-bound woman. Mulcahy received the City of Albuquerque's Good Samaritan Award for her actions. In presenting the Good Samaritan Award, Mayor Berry said, "Cristina Mulcahy is a prime example of what makes our community a great place. She did not think twice about going out of her way to help another in need."



Christina Mulcahy (center) is joined by Christopher Muirhead, Modrall Sperling shareholder; Rosemary Palazzi Mulcahy, recipient's mother; Mayor Richard Berry; and Walter Stern, Modrall Sperling shareholder and Firm President.

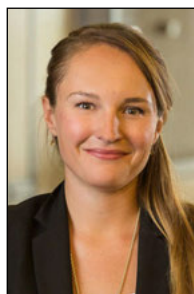
Thomas Lynn Isaacson has become a fellow of the American College of Trial Lawyers, one of the premier legal associations in North America. The induction ceremony took place recently before an audience of approximately 800 during the 2016 Annual Meeting of the College in Philadelphia.



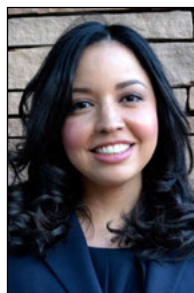
Ryan Kennedy has joined Lewis Roca Rothgerber Christie LLP in the firm's Albuquerque office as of counsel in the intellectual property practice group. Kennedy is a member of the State Bar of New Mexico and admitted to the U.S. Patent and Trademark Office and Court of Appeals for the Federal Circuit. He attended the University of New Mexico School of Law (J.D.), Swarthmore College (bachelor's degree in physics and philosophy), Northwestern University (LL.M., Taxation) and Oxford University (independent study).



Julio C. Romero has joined Martinez, Hart, Thompson & Sanchez, PC. Romero attended the University of New Mexico (J.D., *cum laude*; bachelor's degree, history and chemistry, *magna cum laude*). He served as judicial law clerk for Justice Edward L. Chávez. Romero is a native New Mexican. Romero is pursuing his goal to help individuals who have been injured or whose family members have been killed or who have been unfairly treated by insurance companies, corporations or government entities.



Taylor C. Zangara has joined the Rodey Law Firm. Zangara practices in the litigation department where she is a member of the products and general liability practice group. Zangara received her law degree from the University of New Mexico School of Law.



Henderson



Stepleton

The New Mexico Board of Bar Examiners is welcomes two new board members, appointed by the New Mexico Supreme Court. Assistant U.S. Attorney **Shammara H. Henderson** prosecutes criminal civil rights cases, such as excessive force cases,

hate crimes, FACE Act cases and child pornography cases for the District of New Mexico. She is regional director for Region X of the National Bar Association, vice president for the Alumni Board for the UNM School of Law and current vice president and a former president for the New Mexico Black Lawyers Association. **Bonnie Stepleton** is mediation bureau chief at the New Mexico Workers' Compensation Administration and is the former assistant dean for student services at the UNM School of Law, where she served for 10 years. Both are alumnae of the UNM School of Law.



The **New Mexico Defense Lawyers Association** has been selected by DRI, the voice of the Defense Bar, to receive the 2016 SLDO Diversity Award. It will be presented at the DRI Annual Meeting Awards Luncheon on Oct. 20 in Boston. The Award honors NMDLA from among its peers in state and local defense organizations for its significant commitment to diversity. NMDLA member Bryan C. Garcia serves on the DRI Board of

Directors as the Southwest regional director and Bryan Evans is the NMDLA state representative to DRI.

Brownstein Hyatt Farber Schreck

2017 Benchmark Litigation Star: Eric Burris

Comeau Maldegen Templeman & Indall, LLP

Best Lawyers in America: **Michael R. Comeau** (appellate practice, banking and finance law), **Larry D. Maldegen** (commercial litigation), **William P. Templeman** (administrative/regulatory law), **Jon J. Indall** (energy law, mining law) and **Stephen J. Lauer** (mining law).

Best Lawyers in America "Lawyers of the Year": **Jon J. Indall** (mining law, Santa Fe).

Best Lawyers in America

Michael Schwarz (civil rights and employment law for individuals)

The Rothstein Law Firm

Best Lawyers in America: **Mark Donatelli** (criminal defense: general practice, criminal defense: white collar), **Richard Hughes** (gaming law, Native American law, natural resources law), **Sarah Bennett** (collaborative law: family law, family law), **Peter Schoenburg** (bet-the-company litigation, criminal defense: general practice, criminal law: white-collar) and **Eric Dahlstrom** (gaming law, Native American law).

Rodey, Dickason, Sloan, Akin & Robb, PA

Best Lawyers in America: **Sandra Beerle** (Albuquerque medical malpractice law—defendants), **Henry Bohnhoff** (Albuquerque litigation—land use and zoning), **Jocelyn Drennan** (Albuquerque appellate practice), **Alan Hall** (Albuquerque public finance law), **W. Mark Mowery** (Santa Fe arbitration), **Theresa Parrish** (Albuquerque litigation—labor and employment), **Charles (Kip) Purcell** (Albuquerque legal malpractice law—defendants), **Andrew Schultz** (Albuquerque bet-the-company litigation) and **Thomas Stahl** (Albuquerque labor law—management).

Walker & Associates, PC

U.S. News Best Lawyers : Best Law Firms 2017

Best Lawyer in America: **Thomas D. Walker** (bankruptcy and creditor debtor rights/insolvency and reorganization law)

In Memoriam



Justice Dan Sosa Jr., a former New Mexico Supreme Court justice, died Sept. 11 in the adobe house where he was born in Las Cruces. The adobe house was built by his grandfather in the 1860s. He was 92. Justice Sosa attended public schools in Las Cruces, at the former Lucero Elementary School and he graduated in 1941 from Las Cruces Union High School. In high school, Justice Sosa played on the basketball team that won the 1941 state championship, the first state

title won by a Las Cruces school. Justice Sosa said he always knew he would go to college, but wasn't sure what he would major in. He ultimately attended New Mexico State University (formerly, New Mexico A&M) and graduated in 1947 with a bachelor's degree in business administration. Justice Sosa said he took an aptitude test that showed he had skills in music, law and salesmanship. He chose a career in law, but not before teaching social sciences and coaching at Mesilla Elementary School for a year after graduating. His interest in law began as a boy and was sparked while shining shoes and selling newspapers, during the 1920s, on the steps of the courthouse in Las Cruces. His undergraduate school was interrupted by World War II. He joined the U.S. Air Force and flew 35 combat missions. He survived a crash while landing on a beach in Normandy and was flying again just three days later. Justice Sosa returned to Las Cruces following World War II and finished college. He enrolled at the University

of New Mexico School of Law, but almost didn't finish. He ran out of money to pay for his education and considered quitting law school. But a friend, Jacob I. Rosenbaum, offered financial help to get Justice Sosa through law school. He graduated from law school in 1951 in a class that began with 76 students but finished with 26. Justice Sosa returned to Las Cruces and began a general law practice. He achieved what he considered his lifelong dream when he was elected district attorney in 1956. At that time, the judicial district included Doña Ana, Otero and Lincoln counties. Justice Sosa became the first Hispanic to serve in that position. He was district attorney for two terms, a total of eight years. He returned to private practice and also served as a municipal judge in Las Cruces. In 1965, Justice Sosa and nine other attorneys joined together to create the Mexican American Legal Defense and Education Fund. Together, they successfully obtained a \$2.5 million grant from the Ford Foundation—more than twice what was sought. The organization is now based in San Francisco and continues to flourish. He said he always advocated for equality on behalf of Hispanics and for creating positive role models for youth. In 1975, Gov. Jerry Apodaca, also a Las Cruces native, appointed Justice Sosa to the New Mexico Supreme Court. The following year, he ran for the state Supreme Court and handily won a seat. He would go on to serve 16 years on the high court, including several years as senior justice and chief justice. Justice Sosa was one of the longest serving New Mexico Supreme Court justices. He retired from the court in 1991.

CELEBRATE

PRO BONO

www.celebrateprobono.org

OCTOBER 2016: The American Bar Association has dedicated an entire week in October to the “National Celebration of Pro Bono.” In New Mexico, the local Judicial District Court Pro Bono Committees have extended this celebration to span the entire month of October (and part of September). The committees are hosting a number of pro bono events across the state, including free legal fairs, clinics, recognition luncheons, Continuing Legal Education classes and more!

1st JUDICIAL DISTRICT:

Pro Bono Appreciation Luncheon and CLE

October 17, 2016 from 11:30 AM – 1:30 PM
Hilton of Santa Fe
(100 Sandoval St., Santa Fe, NM 87501)
CLE and luncheon details TBA

Free Legal Fair

October 22, 2016 from 10 AM – 1 PM
Mary Esther Gonzales Senior Center
(1121 Alto St., Santa Fe, NM 87501)

2nd JUDICIAL DISTRICT:

Law-La-Palooza Free Legal Fair

October 20, 2016 from 3 – 6 PM
Alamosa Community Center
(6900 Gonzales Rd. SW #C, Albuquerque, NM 87121)

4th JUDICIAL DISTRICT:

Free Legal Fair and Pro Bono Appreciation Luncheon

October 18, 2016 from 9 AM – 2 PM
New Mexico Highlands University
(Student Union Building; 800 National Ave., Las Vegas, NM 87701)

5th JUDICIAL DISTRICT (LEA):

Free Legal Fair

October 14, 2016 from 1 PM – 3 PM
Hobbs City Hall
(200 E. Broadway, Hobbs, NM 88240)

6th JUDICIAL DISTRICT (LUNA):

Free Legal Fair

October 28, 2016 from 10 AM – 1 PM
Luna County District Court
(855 S. Platinum, Deming, NM 88030)

9th JUDICIAL DISTRICT:

Pro Bono Appreciation Bench and Bar Mixer

October 21, 2016 from 3 PM – 6 PM
K-BOB's Steakhouse
(1600 Mabry Dr., Clovis, NM 88101)

12th JUDICIAL DISTRICT (LINCOLN):

Free Legal Fair

October 29, 2016 from 10 AM – 2 PM
Ruidoso Community Center
(501 Sudderth Dr., Ruidoso, NM 88345)

To learn more about any of the events below, or to get involved with your local pro bono committee, please contact Aja Brooks at ajab@nmlegalaid.org or (505)814-5033.

Thank you for your support of pro bono in New Mexico.

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 September 30, 2016

PUBLISHED OPINIONS

No. 34486 2nd Jud Dist Bernalillo CV-14-6307, MIRA CONSULTING v BOARD OF EDUCATION (affirm) 9/27/2016

UNPUBLISHED OPINIONS

No. 33552 12th Jud Dist Otero CR-12-54, STATE v J NEAL (affirm) 9/26/2016
No. 35482 2nd Jud Dist Bernalillo CR-15-757, STATE v M PACHECO (affirm) 9/26/2016
No. 35647 2nd Jud Dist Bernalillo LR-15-17, STATE v M VEGA (affirm) 9/26/2016
No. 34872 2nd Jud Dist Bernalillo CR-12-229, STATE v D ROSALES (affirm) 9/26/2016
No. 35381 2nd Jud Dist Bernalillo LR-15-3, STATE v D AMPARAN (affirm) 9/26/2016
No. 35567 2nd Jud Dist Bernalillo CV-15-1157, LSF9 MASTER v J ERRETT (dismiss) 9/26/2016
No. 35374 3rd Jud Dist Dona Ana JR-15-162, STATE v JORDAN G (affirm) 9/27/2016
No. 34112 1st Jud Dist Santa Fe CR-12-630, STATE v C ROBERTSON-LITTLE (affirm) 9/28/2016
No. 35654 13th Jud Dist Sandoval LR-14-51, STATE v C ZAMORA (affirm) 9/28/2016
No. 35623 2nd Jud Dist Bernalillo CR-14-6, STATE v J BACA (affirm) 9/28/2016
No. 35172 5th Jud Dist Eddy CR-14-186, STATE v B MATTHEWS (affirm) 9/28/2016
No. 33678 8th Jud Dist Taos CR-13-44, STATE v A GONZALES (affirm) 9/29/2016

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
PO Box 848 • Santa Fe, NM 87504-0848 • (505) 827-4860

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On September 6, 2016:
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CLERK'S CERTIFICATE OF NAME AND EMAIL ADDRESS CHANGE

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IN MEMORIAM

As of September 4, 2016:
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CLERK'S CERTIFICATE OF ADMISSION

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November-
December
2016

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Live Programs



Presented live at the State Bar Center in Albuquerque.



Some courses can also be viewed by Live Webcast.

November and December



The Art of Effective Speaking for Lawyers with national presenter Steven Stark, Esq.

Wednesday, Nov. 16, 2016 • 8:30 a.m.-4:30 p.m.

4.5 G 1.2 EP



More than any other profession, the practice of law depends on the effective use of words, communication and persuasion. Through the study of some of the great American political speeches and presentations of recent times, this practical program focuses on the basics of public speaking for all lawyers. Spend the day with master speaker Steven Stark and learn his winning strategies for captivating audiences. A former litigator and now an international authority on speaking and writing skills for lawyers, Stark will teach attendees how to capture—and keep—the attention of clients, peers, judges and opponents. Learn his proven strategies for acing oral presentations, delivering better oral arguments and trial presentations, finessing delivery and controlling nervous butterflies.

Save the Date for these important programs presented live at the State Bar Center in Albuquerque and by live webcast!



2016 Probate Institute

Thursday, Nov. 17, 2016

Co-sponsor: Real Property, Trust and Estate Section

Registration opening soon!

5.5 G 1.0 EP



2016 Business Law Institute

Friday, Nov. 18, 2016

Co-sponsor: Business Law Section

Registration for the 2016 Business Law Institute is now open. Topics for this year's annual institute include ethics, red flags in financial statements, bankruptcy for business lawyers, immigration issues for businesses and much more. The program will be held live at the State Bar center and via live webcast!

5.5 G 1.0 EP



Medical Marijuana Law in New Mexico

Thursday, Dec. 1, 2016

Don't miss this newly added program at the Center for Legal Education which focuses on one of the hottest topics of 2016.



2016 Paralegal Division CLE

Friday, Dec. 2, 2016

Co-sponsor: Paralegal Division

Applicable for attorneys and paralegals alike.



Live Programs



Compassion – Courthouse Facility Dogs Improving the Legal System

3.0 G

Monday, Dec. 5, 2016 • 1 p.m.–4:15 p.m.

Co-sponsor: Animal Law Section



Professionally trained courthouse facility dogs are working throughout the country in prosecutor's offices, child advocacy centers and family courts to assist crime victims and other individuals while they participate in stressful legal proceedings. As legally neutral companions for witnesses during the investigation and prosecution of crimes, the dogs have a dramatic impact on the ability and willingness of the most vulnerable witnesses to describe what happened. The dogs also provide emotional support to all participants in family court proceedings and in treatment courts. This workshop is designed to instruct prosecuting attorneys, defense attorneys, judges, and victim advocates about best practices in the use of courthouse facility dogs so that these dogs can enhance the services that we offer to clients without raising any legal issues in the courtroom.



Transgender Law and Advocacy

4.0 G 2.0 EP

Tuesday, Dec. 6, 2016 • 8:30 a.m.–4:15 p.m.



This CLE will provide participants with a fundamental understanding of the complex issues facing transgender people including recommended etiquette and ethical/professional considerations, obtaining and changing identity documents, safe schools and other educational concerns and discrimination cases. Transgender people are often misunderstood by the community. The program will address this lack of information as well as provide a chance for attendees to engage in dialogue with members of the transgender community.



27th Annual Real Property Institute

4.5 G 1.0 EP

Thursday, Dec. 8, 2016

Co-sponsor: Real Property, Trust and Estate Section



Topics of the 2016 Real Property Institute will include LLC considerations, tax LLC issues, the impact of the TEFRA repeal and *Bank of New York v. Romero*, ethical considerations, eminent domain, the nuances of deferred tax exchange and more. Registration opening soon! Check the CLE web page for all CLE course offerings.



2016 Immigration Law Annual Institute



Friday, Dec. 9, 2016

Co-sponsor: Immigration Law Section

In New Mexico, about one in five children live in a mixed-status family, meaning that some members of the family are undocumented and others have status. This interactive CLE will provide practical tools for both immigration and non-immigration attorneys to explore how immigration law intersects with family and criminal law and to identify ways to support the families they represent.



Trials of the Century II

5.0 G 1.0 EP

with national presenter Todd Winegar, Esq.

Tuesday, Dec. 13 • 8:30 a.m.–4 p.m.



Co-sponsor: Section

Todd Winegar's "Trials of the Century" CLE series is extremely popular each year. In this year's program, attendees will learn questioning techniques including brick by brick: alone, each piece of evidence is weak or meaningless but together they form a solid wall of evidence; the art of the question—the 12 rules; the five types of questions—and when to use each; the "room method" of deposing and interviewing; asking the important "coulda, woulda, shoulda" questions; 101 great deposition/examination tips; detecting the lying witness; and more!

Live Programs



Intellectual Property Law Annual Institute

Wednesday, Dec. 14, 2016

Co-sponsor: Intellectual Property Law Section

The 2016 Intellectual Property Law Institute will address a range of topics relating to copyright and the legal profession. Topics covered will include an explanation of fair use and work for hire, recent infringement case law, licensing in the music industry, copyright issues on the internet and copyright law related to utilitarian articles, such as clothing or furniture. An ethics credit will be offered on the subject of managing an intellectual property law firm.

5.0 G 1.0 EP



Living with Turmoil in the Oil Patch: What it Means to New Mexico

Friday, Dec. 16, 2016

Co-sponsor: Natural Resources, Energy and Environmental Law Section

5.5 G 1.0 EP



Judge v. Attorney Discipline: Everything You Need to Know

Monday, Dec. 19, 2016



New Mexico DWI Cases: From the Initial Stop to Sentencing— Evaluating Your Case

Tuesday, Dec. 20, 2016 • 9 a.m.–12:30 p.m.

Become up to date on the most recent DWI legislation, ethically apply the rules of evidence in court and learn how to evaluate cases from the initial traffic stop to sentencing. Don't miss this program, new at the Center for Legal Education this year.

2.0 G 1.0 EP



The Fear Factor: How Good Lawyers Get Into (and Avoid) Ethical Trouble with Stuart I. Teicher, the “CLE Performer”

Wednesday, Dec. 21, 2016 • 8:30 a.m.–noon

Some of the scariest stories are those where responsible lawyers who care about acting in an appropriate manner get into disciplinary trouble. If it can happen to them, it can happen to anyone! Join the “CLE Performer,” Stuart I. Teicher, as he gives attorneys a guided tour along the path where common missteps are frequently made by otherwise honorable attorneys. Topics include the responsibilities of a subordinate lawyer, what to do when told to do something unethical, how to avoid making false statements or misrepresenting the truth, the duties of a supervising attorney toward associate lawyers, the changing trends toward professionalism in the practice, conflicts of interest issues, keeping attorney-client relationships at an appropriate level and substance abuse and money issues.

3.0 EP



Live Programs



Personal Injury Cases

Thursday, Dec. 22, 2016

This CLE program will include substantive legal information valuable to personal injury practitioners. Topics include pre-injury exculpatory release contracts, what claims can and cannot be waived and drafting considerations for release contracts. Don't miss this CLE program that promises to include plenty of information in a short amount of time.

2.0 G



Human Trafficking

Wednesday, Dec. 28, 2016 • 1–4:15 p.m.

This 3 hour CLE will include an overview of human trafficking. Topics include an introduction to the legal framework (international, national and state) regarding trafficking in persons, victim issues, investigatory and interviewing techniques and prosecutorial theories and practices. Presenters will also discuss several real human trafficking cases in New Mexico.

3.0 G



Live Replays

State Bar Center, Albuquerque



Did you miss a live program earlier this year? Live Replays of previously recorded programs are available and qualify for live credit!

Thursday, Oct. 27, 2016

2.0 G

1.0 EP

Federal Practice Tips and Advice (2015)

6.2 G

Spring Elder Law Institute (2016)

5.0 G

1.0 EP

More Reasons to be Skeptical of Expert Witnesses (2015)

1.0 EP

Everything Old is New Again—How the Disciplinary Board Works (Ethicspalooza Redux—Winter 2015 Edition)

Tuesday, Nov. 1, 2016

1.5 EP

Journalism, Law and Ethics (2016 Annual Meeting)

1.0 G

The Rise of 3-D Technology: What Happened to IP? (2016 Annual Meeting)

6.0 G

Animal Law: Wildlife and Endangered Species on Public and Private Lands—The Tipping Point (2016)

2.0 EP

Law Practice Succession—A Little Thought Now, a Lot Less Panic Later (2015)

Tuesday, Nov. 22

1.0 G

Effective Use of Trial Technology (2016 Annual Meeting)

3.0 G

1.0 EP

Best and Worst Practices Including Ethical Dilemmas in Mediation (2016)

Wednesday, Nov. 30

1.0 G

Navigating the Amenability Process in Youthful Offender Cases (2016 Annual Meeting)

1.0 G

Environmental Regulations of the Oil and Gas Industry (2016 Annual Meeting)

On-Demand Self Study



New programs have been added! To view the full line-up, visit www.nmbar.org.

- 1.0 EP** **Gender and Justice: New Mexico Women in Robes** (2016 Annual Meeting)
- 1.0 G** **Navigating the Amiability Process in Youthful Offender Cases** (2016 Annual Meeting)
- 1.0 G** **Bail Reform in New Mexico** (2016 Annual Meeting)
- 1.5 EP** **Journalism, Law and Ethics** (2016 Annual Meeting)
- 1.5 EP** **If you Post, You May Pay...Ethically** (2016 Annual Meeting)
- 1.0 G** **Effective Use of Trial Technology in the Courtroom** (2016 Annual Meeting)
- 1.0 G** **The Rise of 3-D Technology: What Happened to IP?** (2016 Annual Meeting)
- 1.0 G** **Environmental Regulation of the Oil and Gas Industry** (2016 Annual Meeting)

Purchase self-study on-demand programs at **www.nmbar.org** and complete up to four hours of CLE in the comfort of your home or office.



Your purchase includes online access to the previously recorded program and accompanying course materials.

Credits are filed with New Mexico MCLE within 30 days of completion.

Contact the Center for Legal Education for more information.



Teleseminars



Attend teleseminars via a land line or cell phone. These short and convenient courses only take up one hour and you obtain CLE credit!

Thursday, Oct. 13

1.0 G Joint Ventures Between For Profits and Non-Profits

Friday, Oct. 21

1.0 EP Ethics and Cloud Computing

Monday, Oct. 24

1.0 G Fiduciary Standards in Business

Wednesday, Nov. 2

1.0 G Estate Planning for Clients' Beliefs

Thursday, Nov. 10

1.0 G Acquisitions of Subsidiaries and Divisions

Friday, Nov. 11

1.0 EP Ethics and Identifying Your Client

Thursday, Nov. 17

1.0 G Attorney-Client Privilege Update

Friday, Nov. 18

1.0 EP Ethics and Dishonest Clients

Thursday, Dec. 1

1.0 G The Entity Veil: Individual Liability for Business Acts

Thursday, Dec. 8

1.0 G Structuring Minority Interests in Business

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Rule 1-131 Notice of federal restriction on
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CIVIL FORMS

Form 4-940 Notice of federal restriction on
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RULES OF CRIMINAL PROCEDURE FOR THE DISTRICT COURTS

Rule 5-123 Public inspection and sealing
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Rule 5-615 Notice of federal restriction on
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RULES OF CRIMINAL PROCEDURE FOR THE MAGISTRATE COURTS

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

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

RULES OF PROCEDURE FOR THE MUNICIPAL COURTS

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Form 9-515 Notice of federal restriction on
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From the New Mexico Supreme Court and Court of Appeals

From the New Mexico Court of Appeals

Opinion Number: 2016-NMCA-067

No. 34,150 (filed June 7, 2016)

STATE OF NEW MEXICO,
Plaintiff-Appellee,

v.

JUDD MOORE,
Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF DONA ANA COUNTY

FERNANDO R. MACIAS, District Judge

HECTOR H. BALDERAS
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ELIZABETH ASHTON
Assistant Attorney General
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for Appellee

JEFF C. LAHANN
CHRISTOPHER K. P. CARDENAS
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for Appellant

Opinion

Michael E. Vigil, Chief Judge

{1} Defendant conditionally pled guilty to two counts of forgery, one count of embezzlement, and one count of attempt to evade or defeat tax, reserving his right to appeal from an order of the district court denying his motion to dismiss the indictment for a violation of his constitutional right to a speedy trial. We reverse the district court.

I. BACKGROUND

{2} Defendant was arrested on July 13, 2010, based on charges filed in the magistrate court consisting of several counts of forgery, embezzlement, and conspiracy to commit forgery. On July 14, 2010, Defendant made his first appearance, and was released from custody subject to conditions three days later. The complaint against Defendant was then dismissed without prejudice after the grand jury indictment was filed on March 24, 2011. The Defendant was arraigned on April 11, 2011, and the State filed a statement of joinder adding three other defendants to the case.

{3} The Honorable Lisa C. Schultz was excused from this case, and the Honorable James T. Martin was assigned on April 27, 2011. The State then exercised its right to excuse Judge Martin, and the case was reassigned to the Honorable Fernando R. Macias on May 23, 2011. The case was

set for trial on March 28, 2012, but the State filed a motion for continuance on March 20, 2012, stating that the amount of discovery was significant and additional time was needed to prepare for trial and provide defense counsel with the necessary documents. Defendant concurred, and the motion was granted. The trial was reset for August 22, 2012.

{4} On August 15, 2012, the State filed another motion for continuance on grounds that the three co-defendants were applying to the preprosecution diversion program and the State needed additional time to complete the application process. See NMSA 1978, §§ 31-16A-1 to -8 (1981, as amended through 1984). Defendant opposed this motion, asserting in his response that any further delay would violate his right to a speedy trial. The district court granted the motion and a status hearing was scheduled for September 10, 2012. The three co-defendants were not accepted into the program until September 9, 2013.

{5} At the status hearing, both parties informed the district court that it would take one week to present their case to the jury. The State requested a time period of two weeks on behalf of both parties, and the district court stated that the trial would not occur until the next calendar year—and that it would aim for January 2013. The next trial date was set for June 12, 2013, but the length of the trial was

erroneously set for three days. Due to this error, the trial was reset to September 9, 2013.

{6} On August 19, 2013, Defendant filed a motion to dismiss alleging a speedy trial violation. Defendant also filed a motion to exclude witnesses and evidence. The district court scheduled a motion hearing on September 9, 2013, and reset the trial to begin the next day. At the hearing, the district court denied the motion to dismiss. With regard to the motion to exclude witnesses and evidence, Defendant informed the district court that he had just received a witness statement the prior week and obtained three other witness statements that very day, September 9, 2013. The State conceded that the late disclosure was due to negligence in reviewing its files. Based on the late disclosures, defense counsel requested a continuance of the trial asserting that his assistance would be ineffective at the trial as scheduled because the late disclosures required interviews of these witnesses. The district court granted the continuance, and the trial was reset for November 19, 2013.

{7} The State then filed a motion to continue the trial because the sole attorney assigned to this case had resigned. According to the State, no other attorney would be prepared to take this case to trial on the set date based on the complexity of this case. Defendant filed an objection to the continuance, arguing that any further delay violated his right to a speedy trial. The district court granted the motion and the trial was then reset for January 21, 2014.

{8} However, this trial date was vacated because the district court judge was unavailable due to other responsibilities. The trial was reset for May 19, 2014. At a motion hearing on May 15, 2014, the parties agreed to a plea contingent upon Defendant's renewed motion to dismiss for a speedy trial violation. The parties agreed that if the district court denied the motion, Defendant would enter into a conditional plea agreement, reserving his right to appeal the district court's ruling. The parties stipulated that the delay for a speedy trial violation ended on May 19, 2014. Defendant filed an unopposed motion for continuance in order to draft a renewed motion to dismiss, and filed the motion after the stipulated date. The district court denied the motion to dismiss and Defendant entered into the conditional plea agreement. Defendant appeals.

II. DISCUSSION

{9} “The right to a speedy trial is a fundamental right of the accused that is guaranteed by both the Sixth Amendment of the United States Constitution and Article II, Section 14 of the New Mexico Constitution.” *State v. Taylor*, 2015-NMCA-012, ¶ 6, 343 P.3d 199 (alterations, internal quotation marks, and citations omitted). To determine whether a defendant’s right to a speedy trial was violated, our Supreme Court has adopted the balancing test of *Barker v. Wingo*, 407 U.S. 514, 530 (1972). See *State v. Garza*, 2009-NMSC-038, ¶ 13, 146 N.M. 499, 212 P.3d 387. Under this balancing test, four factors are weighed: (1) the length of delay; (2) the reasons for the delay; (3) the defendant’s assertion of his right; and (4) the actual prejudice to the defendant. *Id.* On appeal, we defer to the district court’s factual findings but “review the weighing and the balancing of the *Barker* factors de novo.” *State v. Spearman*, 2012-NMSC-023, ¶ 19, 283 P.3d 272 (internal quotation marks and citation omitted).

A. Length of Delay

{10} The first factor has two purposes: it acts as the triggering mechanism to determine whether further inquiry into the *Barker* factors is warranted, and if the delay is “presumptively prejudicial,” it is a separate factor to consider in our analysis. *State v. Serros*, 2016-NMSC-008, ¶ 22, 366 P.3d 1121 (internal quotation marks and citation omitted). As a benchmark, a delay is presumptively prejudicial if it exceeds one year in a simple case, fifteen months in an intermediate case, and eighteen months in a complex case. *Garza*, 2009-NMSC-038, ¶ 48. The district court found, and neither party disputes, that this case was “extremely complex,” and that the delay was forty-six months. Thus, the delay is twenty-eight months beyond the eighteen-month threshold for presumptively prejudicial delay in a complex case.

{11} With regard to the weight given to the length of the delay, “the greater the delay the more heavily it will potentially weigh against the State.” *Id.* ¶ 24. In the present case, the district court found that the delay weighs heavily against the State, which the State disputes. Although the State argues that the length of delay should only weigh moderately against the State, *State v. Steinmetz*, 2014-NMCA-070, ¶¶ 5-6, 327 P.3d 1145 (holding that a delay of forty-three months weighs moderately against the State), our Supreme Court has recently recognized that a “delay of over

[fifty-one] months is extraordinary, and therefore it weighs heavily in [the d] efendant’s favor.” *Serros*, 2016-NMSC-008, ¶ 24. Moreover, we have stated that a delay approximately twice as long as the threshold weighs heavily against the State. See *Taylor*, 2015-NMCA-012, ¶ 9 (holding that a delay nearly twice as long as the twelve-month threshold for simple cases weighs heavily against the State); *State v. Vigil-Giron*, 2014-NMCA-069, ¶¶ 19-20, 327 P.3d 1129 (holding that the delay of an additional eighteen months beyond the triggering date for a complex case weighs heavily against the State). We therefore weigh the delay of forty-six months—over twice as long as the presumptively prejudicial threshold—heavily against the State.

B. Reasons for Delay

{12} “*Barker* identified three types of delay, indicating that different weights should be assigned to different reasons for the delay.” *Garza*, 2009-NMSC-038, ¶ 25 (internal quotation marks and citation omitted). These three types of delay are: (1) deliberate delay; (2) negligent or administrative delay; and (3) delay justified by a valid reason. *Id.* ¶¶ 25-27.

{13} Deliberate delay “should be weighted heavily against the government”; whereas, a negligent or administrative delay “should be weighted less heavily but nevertheless should be considered since the ultimate responsibility for such circumstances must rest with the government rather than with the defendant.” *Id.* ¶¶ 25-26 (internal quotation marks and citation omitted). “Intermediate categories of delay, such as bureaucratic indifference or failure to take reasonable means to bring a case to trial, are considered more culpable and weigh more heavily against [the government], especially if the defendant has sought to safeguard his rights.” *State v. Laney*, 2003-NMCA-144, ¶ 17, 134 N.M. 648, 81 P.3d 591. Finally, a delay caused by a valid reason will be considered appropriately justified. *Garza*, 2009-NMSC-038, ¶ 27.

{14} Approximately eight months passed while the case was in the magistrate court, from Defendant’s arrest on July 13, 2010, until the indictment was filed in the district court on March 24, 2011. Within this time period, Defendant made his first appearance on July 19, 2010, and filed a demand for discovery, list of witnesses, and pre-trial interviews on August 2, 2010. The record contains no response from the State regarding any disclosure of discovery. See Rule 6-504(A) NMRA (stating that the State must provide discovery within forty-

five days after arraignment or the waiver of arraignment unless the district court orders a different period). The record also fails to provide evidence that the State took any action to move the case toward trial. See Rule 6-506(B)(1) NMRA (stating that trial shall commence approximately six months after the arraignment or waiver of arraignment). The State’s excuse is that it brought the indictment in district court with additional charges, which caused the delay. This does not justify not taking steps to bring the case to trial. See *Barker*, 407 U.S. at 527 (stating that the state has the duty to bring a defendant to trial). The State’s actions, or lack thereof, qualify as bureaucratic indifference, and this delay weighs heavily against the State.

{15} The next delay involved a period of twenty-six days from April 27, to May 23, 2011, during which two judges were excused from the case. This delay of less than one month does not weigh against either party. See *State v. Benavidez*, 1999-NMCA-053, ¶ 35, 127 N.M. 189, 979 P.2d 234 (“We hold that the length of delay caused by the recusals, a period that appears to amount to less than one month, should not be allocated to either party but should be excluded from the speedy trial period.”), *vacated on other grounds* by 1999-NMSC-041, 128 N.M. 261, 992 P.2d 274. Additionally, we defer to the district court finding that during this time “[t]he case proceeded normally” prior to the State’s March 20, 2012 motion for continuance and therefore weigh the delay neutrally. *State v. Valencia*, 2010-NMCA-005, ¶ 18, 147 N.M. 432, 224 P.3d 659 (“[W]here a case moves toward trial with customary promptness, the period of time is to be weighed neutrally between the parties.” (internal quotation marks and citation omitted)).

{16} We now analyze the first continuance caused by the State’s delay in providing discovery. On March 20, 2012, two months beyond the presumptively prejudicial threshold and only eight days before the trial date, the State filed its first motion for continuance based on the purported amount of discovery. The State requested additional time in order to prepare for trial and give Defendant adequate discovery. On the same day, the State also filed an untimely notice of disclosure, 344 days after the arraignment. See Rule 5-501(A) NMRA (stating that, unless a shorter time period is ordered by the court, the state shall provide discovery within ten days after arraignment or the date of filing a waiver of arraignment). Prior to this filing,

the State did not provide any other notice of disclosure to Defendant. While the State argues that Defendant concurred with this continuance and thus cannot complain of this delay, *State v. McCrary*, 1984-NMSC-005, ¶ 18, 100 N.M. 671, 675 P.2d 120, Defendant had no choice but to agree with the motion due to the late disclosure. *See Laney*, 2003-NMCA-144, ¶¶ 9, 19 (holding that a continuance caused by the state's negligence in failing to provide discovery weighs heavily against the state, even though the continuance was stipulated); *see also State v. Flores*, 2015-NMCA-081, ¶ 12, 355 P.3d 81 ("The [s]tate's duties under Rule 5-501(A) are not optional, nor are they triggered by Defendant's requests."). Because the State provided its disclosure eight days before trial and did not properly disclose or prepare for trial for twenty months from Defendant's arrest, we weigh this approximate five-month delay, March 28 to August 22, 2012, heavily against the State.

{17} The delay from August 22, 2012 to September 9, 2013, also weighs heavily against the State. On August 15, 2012, the State filed a motion for continuance to allow the co-defendants to complete the screening process for the preprosecution diversion program. The State informed the district court that it "cannot imagine . . . that [the defendants] would not be accepted in the program." The co-defendants were not admitted into the program until September 9, 2013—the trial date. In other words, it took over a year for the co-defendants to be accepted. The district attorney decides whether to divert a person into the preprosecution diversion program. *See* § 31-16A-7. The State does not even attempt to provide an excuse to justify the delay in the co-defendants' acceptance. This delay is beyond mere negligence and therefore weighs heavily on the State. *See Taylor*, 2015-NMCA-012, ¶ 25 (recognizing that the delay weighs heavily against the state when the cause of the delay is more than mere negligence).

{18} The State yet again caused a delay of approximately two months from September 10 to November 19, 2013, because of late disclosure. After the district court reset the trial date and a motion hearing was held on September 9, 2013, Defendant requested a continuance because the State disclosed one witness statement the week prior to the trial date and three witness statements the day before the scheduled trial. At the motion hearing, the State admitted that the late disclosure resulted

from its own negligence. Although Defendant requested the continuance, it was the State's inexcusable late disclosure that made it necessary for Defendant to ask for this continuance. *See State v. Ochoa*, 2014-NMCA-065, ¶ 11, 327 P.3d 1102 (holding that the delay resulting from defendant's motion for continuance weighs against the state because the defendant's expert had insufficient time to make their report due to the postponement of the interviews from the state's witnesses), *cert. granted*, 2014-NMCERT-006, 328 P.3d 1188. We also weigh this delay heavily against the State. *See Laney*, 2003-NMCA-144, ¶ 19. {19} Finally, there was a delay of approximately six months from November 19, 2013 to May 19, 2014. The State filed a continuance on November 12, 2013, because its assigned counsel had resigned and no other attorney could be prepared to present its case on the trial date. After the district court granted the continuance, the court then also vacated the trial date because he had to attend to other business. The new trial was scheduled on May 19, 2014. These delays are administrative and weigh against the State but not heavily. *State v. Lujan*, 2015-NMCA-032, ¶ 15, 345 P.3d 1103.

{20} On balance, over twenty-seven months out of a forty-six-month delay weigh heavily against the State. On this basis, we hold that the reasons for the delay weigh heavily against the State.

C. Assertion of the Right

{21} In examining this third factor under *Barker*, "we assess the timing of the defendant's assertion and the manner in which the right was asserted." *Garza*, 2009-NMSC-038, ¶ 32. We therefore "accord weight to the frequency and force of the defendant's objections to the delay[,] and further "analyze the defendant's actions with regard to the delay." *Id.* (internal quotation marks and citation omitted).

{22} Here, Defendant asserted his right four times in a forty-six-month period. *See Flores*, 2015-NMCA-081, ¶ 32 (holding that the defendant adequately asserted his right when he gave at least four assertions in a sixty-two-month period). Defendant objected to the State's two separate motions for continuances, specifically asserting that the delay would violate the speedy trial right. The other two assertions were in a motion to dismiss for violation of the speedy trial right and an oral assertion at a motion hearing. *See Lujan*, 2015-NMCA-032, ¶ 18 ("New Mexico courts, however, have concluded that a motion

to dismiss based on speedy trial grounds is an assertion of the right that is weighed against the government."). While the State argues that Defendant's first assertion and the assertions regarding the motions to dismiss were untimely, it concedes—and we agree—that these assertions still weigh in Defendant's favor. *See Garza*, 2009-NMSC-038, ¶ 32 (holding that the right to a speedy trial is so fundamental in nature that even the failure to assert does not constitute a waiver). Moreover, we are aware that Defendant concurred with the State's first continuance and requested a continuance himself; however, we believe that these actions should not be held against Defendant when the State caused the delays by its inexcusable late disclosure either mere days or the day before the trial date. *See Taylor*, 2015-NMCA-012, ¶¶ 13, 14, 18 (concluding that the defendant did not acquiesce in the delay caused by the state, even though the defendant filed a motion for continuance). Accordingly, we conclude that Defendant asserted his right and this further weighs in his favor.

D. Prejudice

{23} Under the fourth and final factor, "a defendant must show particularized prejudice of the kind against which the speedy trial right is intended to protect." *Garza*, 2009-NMSC-038, ¶ 39. In order to demonstrate a particularized prejudice, the United States Supreme Court has stated that the right to a speedy trial was designed: "(i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility that the defense will be impaired." *Id.* ¶ 35 (internal quotation marks and citation omitted). In regards to the first and second types of prejudice, "we weigh this factor in the defendant's favor only where the pretrial incarceration or the anxiety suffered is undue." *Id.* "[W]ithout a particularized showing of prejudice, we will not speculate as to the impact of pretrial incarceration on a defendant or the degree of anxiety a defendant suffers." *Id.* {24} Defendant argues only that the particular prejudice he suffered was undue anxiety, relying on his affidavit attached as an exhibit to his second motion to dismiss for speedy trial violation. The district court did not consider the affidavit because it was not admitted into evidence at the hearing. However, we conclude the affidavit—attached to the motion as an exhibit—can properly be considered. *See* Rule 5-120(D) NMRA ("Affidavits, statements, depositions[,] or other documentary evidence

in support of the motion may be filed with the motion.”). We therefore examine the affidavit to determine whether Defendant has established prejudice.

{25} In his affidavit, Defendant asserted that the unresolved case caused loss of employment, and an inability to work in his field or to obtain other avenues of work, together with severe financial difficulties. Defendant stated that his wife and children were fired from their jobs, which they had held for years; that his clients from previous years had taken their business to other companies because the case had taken so long to reach an outcome; that the restrictions imposed during this case prevented him from working in his field; that no company he applied to would hire him while the case was pending, including fast-food restaurants; that he was denied unemployment benefits due to the pending case, culminating in \$26,000 in lost benefits; that the New Mexico government would not process his yearly tax refunds as a result of the on-going case; that he had to sell his families’ cars, furniture, jewelry, and sentimental possessions to survive; that his house was repossessed and his savings and retirement accounts depleted; and that he had been evicted from a place that he was renting.

{26} Defendant also asserted that many of his family members “ostracized” his family and himself for the past five years and that his brother will not speak with him until this case is resolved due to the brother’s employer—a large banking institution—advising against any communication to preclude any possible testimony from the brother. Due to these continuances, Defendant stated that he has sought a therapist to cope with the stress and contemplated suicide to end his anxiety.

{27} The State relies on *Spearman* for the proposition that alleged prejudice must occur from the delay beyond the presumptively prejudicial threshold, and not arise from the original indictment. We rejected this argument in *Vigil-Giron*:

We do not believe that the *Spearman* Court’s statement was intended to espouse a principle that prejudice suffered after the indictment but prior to the speedy trial triggering date has no bearing on our analysis. Rather, insofar as the *Spearman* Court was focused on the question whether the allegations of prejudice could be substantiated by evidence, we believe the Court’s statement was intended to convey that the defendant must prove with specificity whether and how he was prejudiced by the pending charges.

Vigil-Giron, 2014-NMCA-069, ¶ 50.

{28} Defendant lost his ability to work in his field or obtain other employment, exhausted his financial resources and lost his home, and was ridiculed by numerous family members. Defendant was also deprived of his association with his brother and Defendant considered suicide as a remedy to his situation. This anxiety was exactly the type of prejudice that the speedy trial right was designed to prevent. *See id.* ¶ 56 (“[The d]efendant’s anxiety, loss of employment, continued inability to find work, and the public humiliation that she suffered as a result of the pending indictment are forms of prejudice that the speedy trial right is intended to curtail.”); *Spearman*, 2012-NMSC-023, ¶ 37 (recognizing that an “[a]rrest is a public act that may seriously interfere with the defendant’s liberty . . . and that may disrupt his employment, drain his financial resources, curtail his associations, subject him to public obloquy, and create anxiety in him, his family and his friends” (internal quotation marks and citation omitted)); *Salandre v. State*, 1991-NMSC-016, ¶ 18, 111 N.M. 422, 806 P.2d 562 (recognizing that the speedy trial right “protects against interference with a defendant’s liberty, disruption of employment, curtailment of associations, subjection to obloquy, and creation of undue anxiety”).

{29} The State argues that other factors in Defendant’s personal life caused the anxiety, but it neither cites to any evidence in the record to justify its argument, nor did it submit any evidence in response to Defendant’s renewed motion to dismiss for speedy trial violation. Defendant established particular prejudice, and we weigh this factor in favor of Defendant. Yet, we need not determine the weight to be given in Defendant’s favor due to our analysis on the other factors. *See Garza*, 2009-NMSC-038, ¶ 39 (“[I]f the length of delay and the reasons for the delay weigh heavily in defendant’s favor and defendant has asserted his right and not acquiesced to the delay, then the defendant need not show prejudice for a court to conclude that the defendant’s right has been violated.”).

E. Balancing Test

{30} The length of the delay of forty-six months was over double the amount of time necessary to cross the presumptively prejudicial threshold and weighs heavily against the State. The majority of the delay was caused by the State’s bureaucratic indifference, inexcusably late disclosures, and late acceptance of the co-defendants into the preprosecution diversion program. These reasons for the delay weigh heavily against the State. Defendant also properly asserted his right to speedy trial and did not acquiesce in the delay. Even without the prejudice factor weighing in favor of Defendant, as it does here, the weight of the first three factors in *Barker* demonstrate that Defendant’s constitutional right to a speedy trial has been violated.

III. CONCLUSION

{31} The order of the district court is reversed, we remand the case to the district court to vacate Defendant’s convictions, and for dismissal of the indictment with prejudice.

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

MICHAEL E. VIGIL, Chief Judge

WE CONCUR:

**MICHAEL D. BUSTAMANTE, Judge
RODERICK T. KENNEDY, Judge**

Garcia Law Group, LLC. is proud to announce that **JACOB R. CANDELARIA** has joined our firm as an associate attorney focusing in the areas of workers' compensation and complex civil litigation.

Mr. Candelaria received his bachelors degree from the Woodrow Wilson School of Public and International Affairs at Princeton University and is a 2016 graduate, cum laude, of the University of New Mexico School of Law.



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Dynette has joined the firm as an Associate. Ms. Cordova has her Bachelor's degree in Business as well as her MBA from the University of New Mexico. She earned her Doctor of Jurisprudence in 2015 from the University of New Mexico School of Law. Ms. Cordova specializes in domestic relations, children's law, and criminal law.



Robert has joined the firm as an Associate. Mr. Lara has his Bachelor's degree in Political Science from the University of Texas at El Paso and his Doctor of Jurisprudence in 2009 from the University of New Mexico School of Law. Mr. Lara specializes in administrative law, election law, public interest law, and family law.

We welcome Dynette and Robert to our practice.

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We are delighted to announce that Julio C. Romero, former New Mexico Supreme Court judicial clerk, has joined our firm as an associate attorney. He comes to Martinez, Hart, Thompson & Sanchez, P.C. after an outstanding UNM Law School career where he was honored as the Outstanding Clinical Law Student of his class and CALI Award recipient in legal Analysis II, served on the Editorial Board of the New Mexico Law Review, maintained Dean's List and Honor Roll, selected as a Arturo L. Jaramillo Law Clerk Fellow, and ultimately graduated with *cum laude* honors.



Prior to law school, Julio studied history and chemistry and received his undergraduate degree with *magna cum laude* honors in 2008. Julio will concentrate his new practice in helping victims of negligence, criminal acts and unfair treatments of all kinds. His goal is to represent individuals against injustice.

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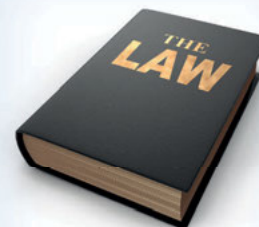
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Butt Thornton & Baehr PC has an opening for an experienced litigation legal assistant (5+ years). Must be well organized, and have the ability to work independently. Excellent typing/word processing skills required. Generous benefit package. Salary DOE. Please send letter of interest and resume to, gejohnson@btblaw.com

Position Announcement Paralegal 2016-07

THE FEDERAL PUBLIC DEFENDER for the District of New Mexico is accepting applications for the position of Paralegal. This position will be located in the Albuquerque office. The Federal Defender organization operates under authority of the Criminal Justice Act, 18 U.S.C. § 3006A, to provide defense services in federal criminal cases and related matters by appointment from the court. Requirements: To qualify candidate must be a high school graduate or the equivalent and have at least three (3) years of experience. Some higher education may be substituted for experience. Must be a detail-oriented person capable of handling multiple projects at once with high proficiency in Microsoft Office (Word, Excel, Power Point) and litigation support software programs such as Case Map. Applicants must be able to perform legal research using computer research programs and internet based resources. Spanish fluency preferred. This position is classified as a sensitive position. Appointment and retention is subject to a satisfactory background check to include an FBI fingerprint and name check. Selection Criteria: The successful applicant will have a working knowledge of law office operations, legal practices, methods and techniques, an understanding of paralegal duties in a legal environment, and an understanding of criminal law, criminal procedure and evidence. Experience in federal criminal law is preferred. Duties: The Paralegal provides support services to staff attorneys. General duties include performing legal research, drafting legal pleadings, assisting with case preparation and file management, assisting attorneys at hearings and trials, assisting with client contact, interviewing witnesses, maintaining research banks, and intensive technological litigation support. Additional duties may include analyzing legal decisions, opinions, rulings and compiling and summarizing substantive information on statutes, treaties and specific legal subjects. Salary and Benefits: The starting salary is commensurate with the experience and qualifications of the applicant. The beginning pay scale ranges from JSP 11, Step 1, to JSP 14, Step 1, currently yielding \$59,256 to \$99,803 per annum. The position is in the excepted service and does not carry the tenure rights of the competitive Civil Service. The position does include regular Government employment benefits including health and life insurance, retirement, and the Thrift Savings Plan. Salary is payable only by electronic funds transfer (direct deposit). How to Apply: Persons may apply by sending one PDF document containing a letter of interest and resume with at least 3 references to: Melissa Dearing, Administrative Officer, FDNM-HR@fd.org. Reference 2016-07 in the subject. No phone calls please. Applications must be received by October 28th, 2016. Only those selected for an interview will be contacted. The Federal Public Defender is an equal-opportunity employer.

Position Announcement Paralegal 2016-08

THE FEDERAL PUBLIC DEFENDER for the District of New Mexico is accepting applications for the position of Paralegal. This position will be located in the Las Cruces office. The Federal Defender organization operates under authority of the Criminal Justice Act, 18 U.S.C. § 3006A, to provide defense services in federal criminal cases and related matters by appointment from the court. Requirements: To qualify candidate must be a high school graduate or the equivalent and have at least three (3) years of experience. Some higher education may be substituted for experience. Must be a detail-oriented person capable of handling multiple projects at once with high proficiency in Microsoft Office (Word, Excel, Power Point) and litigation support software programs such as Case Map. Applicants must be able to perform legal research using computer research programs and internet based resources. Spanish fluency required. This position is classified as a sensitive position. Appointment and retention is subject to a satisfactory background check to include an FBI fingerprint and name check. Selection Criteria: The successful applicant will have a working knowledge of law office operations, legal practices, methods and techniques, an understanding of paralegal duties in a legal environment, and an understanding of criminal law, criminal procedure and evidence. Experience in federal criminal law is preferred. Duties: The Paralegal provides support services to staff attorneys. General duties include performing legal research, drafting legal pleadings, assisting with case preparation and file management, assisting attorneys at hearings and trials, assisting with client contact, interviewing witnesses, maintaining research banks, and intensive technological litigation support. Additional duties may include analyzing legal decisions, opinions, rulings and compiling and summarizing substantive information on statutes, treaties and specific legal subjects. Salary and Benefits: The starting salary is commensurate with the experience and qualifications of the applicant. The beginning pay scale ranges from JSP 11, Step 1, to JSP 14, Step 1, currently yielding \$59,246 to \$99,785 per annum. The position is in the excepted service and does not carry the tenure rights of the competitive Civil Service. The position does include regular Government employment benefits including health and life insurance, retirement, and the Thrift Savings Plan. Salary is payable only by electronic funds transfer (direct deposit). How to Apply: Persons may apply by sending one PDF document containing a letter of interest and resume with at least 3 references to: Melissa Dearing, Administrative Officer, FDNM-HR@fd.org. Reference 2016-08 in the subject. No phone calls please. Applications must be received by October 28th, 2016. Only those selected for an interview will be contacted. The Federal Public Defender is an equal-opportunity employer.

Legal Assistant

Chapman and Charlebois, a civil litigation defense firm, is seeking a legal assistant with 5+ years experience in civil litigation. Extensive experience with practice management, calendaring, word processing, state and federal court filings required. Must be highly organized and detail oriented with good customer service and multi-tasking skills. Position needs include support for multiple attorneys producing a high volume of work. Email letter of interest with three professional references, salary requirements and resume to: Tonnie@cclawnm.com

Paralegal

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

Legal Assistant or Secretary

Jones & Smith Law Firm, LLC seeks an experienced legal assistant/secretary to work part-time to perform secretarial, administrative, and legal work. The position requires excellent proof-reading, communication, organizational, and computer skills. Please send a letter of interest and resume by fax to (505) 244-0020 or by e-mail to jennifer@jones-smithlaw.com.

Services

Briefs, Research, Appeals— Leave the writing to me.

Experienced, effective, reasonable.
cindi.pearlman@gmail.com; (505) 281 6797

Experienced Paralegal

Experienced paralegal available for civil litigation cases, working from my own office. Excellent references. civilparanm@gmail.com.

Nurse Paralegal

Specialist in medical chronologies, related case analysis/research. Accurate, knowledgeable work product. For resume, work samples, references: maryj.daniels@yahoo.com.

Mediator

Retired trial attorney of 40 years available to serve as mediator for civil litigation. For more information and calendar availability visit www.bobcollins-law.com

Office Space

620 Roma N.W.

620 ROMA N.W., located within two blocks of the three downtown courts. Rent includes utilities (except phones), fax, internet, janitorial service, copy machine, etc. All of this is included in the rent of \$550 per month. Up to three offices are available to choose from and you'll also have access to five conference rooms, a large waiting area, access to full library, receptionist to greet clients and take calls. Call 243-3751 for appointment to inspect.

Downtown Office Building for Rent

Charming converted casa located in beautiful cul-de-sac of professional offices. 1001 Luna Circle: 1500 sq. ft., attached parking lot, handicap accessible, walking distance from District Court. \$1800/month. Call Ken at 238-0324

Business Opportunities

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Solid Commercial Practice to turn over to competent/qualified attorney along with rental of 1413 SF office space/furnished, located I-25/Jefferson, leased from retiring attorney. Anticipated fees this year \$200,000.00. Please send inquires and resumes to 3167 San Mateo NE #144, Albuquerque, NM 87110.

Miscellaneous

Search for Will

Survivors of David Carl Sullins, who died at age 76 on August 17, are seeking a will or information about any recent legal activity for David. Please contact Adam at 505-850-8635.

BAR BULLETIN

Official Publication of the STATE BAR of NEW MEXICO

SUBMISSION DEADLINES

All advertising must be submitted via e-mail by 4 p.m. Wednesday, two weeks prior to publication (*Bulletin* publishes every Wednesday). Advertising will be accepted for publication in the *Bar Bulletin* in accordance with standards and ad rates set by the publisher and subject to the availability of space. No guarantees can be given as to advertising publication dates or placement although every effort will be made to comply with publication request. The publisher reserves the right to review and edit ads, to request that an ad be revised prior to publication or to reject any ad. **Cancellations must be received by 10 a.m. on Thursday, 13 days prior to publication.**

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