

BAR BULLETIN

September 26, 2018 • Volume 57, No. 39



Incoming Over Lake Yellowstone, by Janine Wilson

www.janinewilsonart.blogspot.com/

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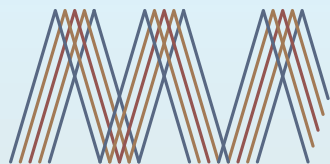
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Meetings

September

27
Trial Practice Law Section Board
Noon, State Bar Center

28
Immigration Law Section Board
Noon, teleconference

October

2
Employment and Labor Law Section Board
Cancelled

3
Health Law Section Board
Noon, teleconference

9
Appellate Practice Section Board
Noon, teleconference

9
Bankruptcy Law Section Board
Noon, United States Bankruptcy Court

9
Trust and Estate Division Section Board
Noon, teleconference

Workshops and Legal Clinics

October

3
Divorce Options Workshop
6–8 p.m., State Bar Center, Albuquerque,
505-797-6022

3
Civil Legal Clinic
10 a.m.–1 p.m., Second Judicial District
Court, Albuquerque, 1-877-266-9861

5
Civil Legal Clinic
10 a.m.–1 p.m., First Judicial District Court,
Santa Fe, 1-877-266-9861

11
Common Legal Issues for Senior Citizens Workshop Presentation
10–11:15 a.m., San Jose Senior Center,
Carlsbad, 1-800-876-6657

12
Civil Legal Clinic
10 a.m.–1 p.m., Bernalillo County
Metropolitan Court, Albuquerque,
505-841-9817

17
Family Law Clinic
Second Judicial District Court,
Albuquerque, 1-877-266-9861

About Cover Image and Artist: Janine Wilson is attracted to repeating shapes and patterns and how they interact with each other. Strong color and design are evident in her art, whether it is acrylic, watercolor or photography. She has studied with several nationally known painters and is a member of Rainbow Artists, the Yucca Branch of the National League of American Pen Women and is a signature member of the New Mexico Watercolor Society. For more information about Wilson's art, email janineabq@gmail.com or visit www.janinewilsonart.blogspot.com.

Notices

COURT NEWS

US District Court, District of New Mexico

U.S. Magistrate Judge Vacancy

The Judicial Conference of the U.S. has authorized the appointment of a full-time U.S. magistrate judge for the District of New Mexico at Albuquerque. The current annual salary of the position is \$191,360. The term of office is eight years. The U.S. magistrate judge application form and the full public notice with application instructions are available from the Court's website at www.nmd.uscourts.gov or by calling 575-528-1439. Applications must be submitted no later than Oct. 15.

Office of the Attorney General Notice of Disabilities Summit

The Office of New Mexico Attorney General Hector Balderas invites members of SBNM to a day-long opportunity for networking and outreach for organizations that work with the community of people with disabilities. The event is set from 9 a.m.-5 p.m., Oct. 4, on the east side of the Albuquerque Convention Center. The conference is sponsored by the Office of Attorney General, and use of the convention center is arranged through the co-sponsorship of Albuquerque city councilors Isaac Benton and Clarissa Pena. For information, visit www.nmag.gov or email Amira Rasheed at arasheed@nmag.gov.

STATE BAR NEWS

Appellate Practice Section

Court of Appeals Candidate Forum

The Appellate Practice Section will host a candidate forum for the eight candidates running for the New Mexico Court of Appeals this Nov. Save the date for 4-6 p.m., Oct. 18, at the State Bar Center in Albuquerque. The event will be live streamed at www.nmbar.org/AppellatePractice for those who cannot attend in person. Thank you to the New Mexico Trial Lawyers Association, New Mexico Defense Lawyers Association and Albuquerque Bar Association for their co-sponsorship of the event.

Professionalism Tip

With respect to the courts and other tribunals:

I will be punctual for court hearings, conferences and depositions

New Mexico Judges and Lawyers Assistance Program ABA Law Mental Health Day

The ABA Law Student Division officially moved Law School Mental Health Day to Oct. 10. American University Washington College of Law will host a YouTube live event featuring Laurie Besden, Pennsylvania Lawyers Concerned for Lawyers executive director, who is in recovery with an incredible story to share. The session will run live from 2-3 p.m. E.T. and then will be available for replay. The YouTube link is <http://auw.cl/tohell-landback>. Besden's event is titled To Hell and Back: One Lawyer's Path to Recovery. A YouTube Live Presentation. Besden had a privileged upbringing. She graduated college with a 3.97 GPA, and was in the top 15% of her law school class. On paper, Besden is the definition of success. Besden is also a drug addict. Listen as Besden candidly shares her story of crippling addiction, and ultimately, redemption. Learn how the district attorney approached the case and her current thoughts about it. Understand what it is like to be approached by a caring individual, with their experience strength and hope, even when you are not ready to accept your state of affairs. It is never too early or late to plant "the seed of hope."

Committee Meeting

The NMJLAP will be having its Q4, Committee Meeting on Oct. 6, 10 a.m.-noon at the State Bar Center. All JLAP Committee members are encouraged to attend. For those that cannot be there in person, a meeting bridge will be provided. Coffee and breakfast will be provided. R.S.V.P. with Erica Candelaria at ecandelaria@nmbar.org no later than Oct. 1. For questions, contact Pam Moore at 505-797-6003 or pmoore@nmbar.org

Attorney Support Groups

- Oct. 1, 5:30 p.m.
First United Methodist Church, 4th and Lead SW, Albuquerque (The group normally meets the first Monday of the month.)
- Oct. 8, 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 available. Dial 1-866-640-4044 and enter code 7976003#.
- Oct. 15, 5:30 p.m.
UNM School of Law, 1117 Stanford NE, Albuquerque, King Room in the Law Library (Group meets the third Monday of the month.) Teleconference participation is available. Dial 1-866-640-4044 and enter code 7976003#.

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

Solo and Small Firm Section Fall Speaker Features Mike Stout

On Oct. 16, the Solo and Small Firm monthly speaker series featured speaker is nationally-respected criminal defense attorney Mike Stout of Las Cruces, who will consider "True Believers and the Road to Hell." Nov. 20 features Robert Huelskamp, who will share his insights from almost 40 years working with nuclear weaponry, non-proliferation, and counter terrorism, in "Russia, Iran, and North Korea: What Could Possibly Go Wrong?" Each presentation is open to all members of the State Bar and will take place from noon-1 p.m. at the State Bar Center in Albuquerque. Lunch will be provided free for those who R.S.V.P. to Breanna Henley at bhenley@nmbar.org

Prosecutors Section Annual Awards Open

The Prosecutors Section recognizes prosecutorial excellence through its annual awards. For 2018 the Section aims to identify a Prosecutor of the Year awardee representing each of the following regions of New Mexico: Northeast (4th, 8th and 10th judicial districts); Southeast (5th, 9th and 12th judicial districts); Northwest (1st and 11th (Divs. 1 & 2) judicial districts); Southwest (3rd, 6th and 7th judicial districts); and Central (2nd and 13th judicial districts). 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. 5.

Trial Practice Section Get-Together Open to State Bar Members

The Trial Practice Section invites members of the State Bar to get to know the Section at a get together on Oct. 11 from 5:30-7:30 p.m. on the rooftop patio at the Hotel Parq Central's Apothecary Lounge, 806 Central Ave, Albuquerque. Hors d'oeuvres and a cash bar will be available. The Section hopes to get to know more members and build a supportive legal community. R.S.V.P. to Breanna Henley at bhenley@nmbar.org.

UNM SCHOOL OF LAW Law Library

Fall 2018 Hours

Mon. Aug. 20, – Sat., Dec. 15

Building and Circulation

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

Reference

Monday–Friday	9 a.m.–6 p.m.
Saturday & Sunday	No reference

Distinguished Achievement Awards Dinner

An evening to remember. Join the school of UNM Law to honor Distinguished Honorees Justice Edward L. Chavez (ret.), Jill L. Marron, Steve Scholl and Alumni Promise Honoree Aja N. Brooks. The event will take place on Oct. 19, at UNM Student Union Ballrooms, reception starts at 6 p.m., followed by dinner

and ceremony at 7 p.m. Register online at goto.unm.edu/daad or call 505-277-1457.

OTHER BARS N.M. Association of Legal Administrators Effective Client Representation Presentation

The Disciplinary Board and the N.M. Judges and Lawyers Assistance Program have seen ethical violations in law firms in two main areas: competence and diligence as a result of lawyers taking cases not in their areas of expertise, experiencing cognitive impairment and/or mental health or substance abuse issues. Learn how to prevent these issues, both as an individual lawyer and as a responsible member of your firm. The presenters will be Bill Sleese and Pamela Moore. Join NMALA on Oct. 11 from 8:45-11:15 a.m., at the State Bar Center for 2.0 EP credits. The cost is \$80. For more information contact kknapp@pbwslaw.com or visit www.nmala.org.

New Mexico Criminal Defense Lawyers Association Little Cases, Big Consequences

Learn how to defend misdemeanors as if they're felonies in this powerful seminar on DWIs and Domestic Violence. Featuring experienced attorneys and a segment by retired N.M. Court of Appeals Judge Roderick Kennedy, this advanced CLE is packed with the latest information you need to step up your misdemeanor practice. This seminar will be held in Albuquerque on Oct. 26 and includes 6.0 G, 0.5 EP CLE credits. Please visit nmcdla.org to join NMCDLA and register for this seminar.

Litigating for Accountability and Freedom

Rick Raemisch, director of the Colorado Corrections Department, will share the details of Colorado's successful move to reform solitary confinement at NMCDLA's upcoming "Litigating for Accountability & Freedom" CLE on Sept. 28. Also NMCLA will have special guest Dr. Stuart Grassian, who will speak on the psychiatric effects of solitary confinement on inmates, as well as working with mentally disabled clients. Also included on the schedule are navigating the PLRA and PREA, litigating sexual abuse cases in prisons and jails, and more. This seminar is open to both criminal defense and

civil rights plaintiffs' attorneys, and is worth 6.2 CLE credits, including 1.0 ethics credit. Visit www.nmcdla.org to register.

N.M. Defense Lawyers Association Announces 2018 Award Winners

The New Mexico Defense Lawyers Association is pleased to announce that S. Carolyn Ramos has been selected as the 2018 Outstanding Civil Defense Lawyer of the Year and David Gonzales as the 2018 Young Lawyer of the Year. The awards will be presented at the NMDLA Annual Meeting Awards Luncheon on Friday, Sept. 28, at Hotel Andaluz in Albuquerque. For registration information, visit www.nmdla.org or call 505-797-6021.

OTHER NEWS Environmental Law Institute 27th Annual Eastern Boot Camp on Environmental Law

Join ELI for a stimulating three-day immersion in environmental law at Eastern Boot Camp. Designed for both new and seasoned professionals, this intensive course explores the substance and practice of environmental law. The faculty members are highly respected practitioners who bring environmental law, practice, and emerging issues to life through concrete examples, cases and practice concerns in this three-day intensive course for ELI members. The Boot Camp is a great deal, offering up to 20 hours of CLE credit for \$1,100 or less, with special discounts provided to government, academic, public interest employees and students. Designed originally for attorneys, the course is highly useful for environmental professionals such as consultants, environmental managers, policy and advocacy experts, paralegals and technicians seeking deeper knowledge of environmental law. The registration deadline is Oct. 19. Visit <https://www.eli.org/boot-camp/eastern-bootcamp-environmental-law> for more details.

Legal Education

September

- | | | |
|--|---|---|
| <p>27 2018 Collaborative Law Symposium: The Basics
6.0 G, 1.0
Live Seminar
Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>28 The California New Rules Review
1.0 EP
Live Webinar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>28 Who's Hacking Lawyers and Why
1.0 EP
Live Webinar
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>28 2018 Advanced Collaborative Law Symposium
7.0 G
Live Seminar
Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | | |

October

- | | | |
|---|---|---|
| <p>4 The Ins-and-Out of Licensing Technology, Part 1
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>15 Basic Practical Regulatory Training for the Natural Gas Local Distribution Industry
25.2 G
Live Seminar, Albuquerque
Center for Public Utilities, New Mexico State University
business.nmsu.edu</p> | <p>18 Trust and Estate Update: Recent Statutory Changes that are Overlooked and Underutilized
1.0 G
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>5 The Ins-and-Out of Licensing Technology, Part 2
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>15 Basic Practical Regulatory Training for the Electric Industry
25.2 G
Live Seminar, Albuquerque
Center for Public Utilities, New Mexico State University
business.nmsu.edu</p> | <p>18 Reforming the Criminal Justice System (2017)
6.0 G
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>5 2018 Employment and Labor Law Institute (Full Day)
5.0 G, 1.0 EP
Webcast/Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>17 Cybersleuth Investigative Series: Using Free Public Records and Publicly Available Information for Investigative Research
1.0 G
Live Webinar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>18 Fourth Annual Symposium on Diversity and Inclusion-Diversity Issues Ripped from the Headlines, II (2018)
5.0 G, 1.0 EP
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>11 Effective Client Representation
2.0 EP
Live Seminar, Albuquerque
New Mexico Association of Legal Administrators
www.nmala.org</p> | <p>18 Ethics for Government Attorneys (2017)
2.0 EP
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>19 2018 Administrative Law Institute (Full Day)
5.0 G, 1.0 EP
Webcast/Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>12 2018 Health Law Symposium
5.5 G, 2.0 EP
Webcast/Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | | |

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|---|---|--|
| <p>23 Boilplate Provisions in Contracts: Overlooked Traps in Every Agreement
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>25 Children's Code: Delinquency Rules, Procedures and the Child's Best Interest
1.5 G, 1.0 EP
Webcast/Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>26 Navigating Changes to the Adult Guardianship and Conservatorship Statutes and Rules
5.5 G, 1.0 EP
Webcast/Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>23 Immigration Law: Assisting Human Trafficking Survivors
2.0 G
Webcast/Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>25 Liquidation: Legal Issues When a Client Decides to Close a Business
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>30 Social Media as Investigative Research and Evidence
1.0 G
Live Webinar
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>24 Practice Management Skills for Success (2018)
5.0 G, 1.0 EP
Webcast/Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>26 Cybersleuth Investigative Series: How to be Your Own Private Investigator With Pay Investigative Research Databases
1.0 G
Live Webinar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>31 The Ethics of Social Media Research
1.0 EP
Live Webinar
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>24 Oil and Gas: From the Basics to In-Depth Topics
6.0 G, 1.0 EP
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | | |

November

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|--|---|--|
| <p>1 A Practical Approach to Indian Law: Legal Writing, 2018 Update and the Ethics of Practicing Indian Law
2.0 G, 1.0 EP
Webcast/Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>8 2018 Employment and Labor Law Institute
5.0 G, 1.0 EP
Webcast/Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>8 Basic Guide to Appeals for Busy Trial Lawyers (2018)
3.0 G
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>2 ADR Across the Spectrum
4.5 G, 1.0 EP
Webcast/Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>8 Bankruptcy Fundamentals for the Non-Bankruptcy Attorney (2018)
3.0 G
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>8 What Starbucks Teaches Us about Attracting Clients the Ethical Way (2018 Annual Meeting)
1.5 EP
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>6 Releasing Employees & Drafting Separation Agreements
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>8 Where the Rubber Meets the Road: The Intersection of the Rules of Civil Procedure and the Rules of Professional Conduct (2017)
1.0 G, 1.0 EP
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>9 Abuse and Neglect Case in Children's Court (2018)
3.0 G
Webcast/Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |

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|--|---|--|
| <p>9 Legal Malpractice Potpourri (2018 Annual Meeting)
1.0 EP
Webcast/Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>14 2018 Business Law Institute
5.0 G, 1.0 EP
Webcast/Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>27 Zen Under Fire: Mindfulness for the Busy Trial Lawyer (2018 Annual Meeting)
1.0 EP
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>9 Speaking to Win: The Art of Effective Speaking for Lawyers (2018)
5.0 G, 1.0 EP
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>15 2018 Probate Institute
6.5 G, 1.0 EP
Webcast/Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>27 Add a Little Fiction to Your Legal Writing (2017)
2.0 G
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>9 The Cyborgs are Coming! The Cyborgs are Coming! The Latest Ethical Concerns with the Latest Technology Disruptions (2017)
3.0 EP
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>20 Ethics of Beginning and Ending Client Relationships
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>27 Exit Row Ethics: What Rude Airline Travel Stories Teach About Attorney Ethics (2017)
3.0 EP
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>9 Children's Code: Delinquency Rules, Procedures and the Child's Best Interest (2018)
1.5 G, 1.0 EP
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>26 Secured Transactions Practice: Security Agreements to Foreclosures, Part 1
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>28 Ethics and Dishonest Clients
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>9 Ethics and Changing Law Firm Affiliation
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>26 Secured Transactions Practice: Security Agreements to Foreclosures, Part 2
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>28 2018 Family Law Institute: Hot Topics in Family Law Day 2
6.0 G
Webcast/Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>13 Estate Planning for MDs, JDS, CPAs & Other Professionals, Part 1
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>27 2018 Family Law Institute: Hot Topics in Family Law Day 1
5.0 G, 1.5 EP
Webcast/Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>28 Litigation and Argument Writing in the Smartphone Age (2017)
5.0 G, 1.0 EP
Live Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>14 Estate Planning for MDs, JDS, CPAs & Other Professionals, Part 2
1.0 G
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5.5 G, 1.0 EP
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6.0 G
Webcast/Live Seminar, Albuquerque
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Listings in the *Bar Bulletin* Legal Education Calendar are derived from course provider submissions and from New Mexico Minimum Continuing Legal Education. All MCLE approved continuing legal education courses can be listed free of charge. Send submissions to notices@nmbar.org. Include course title, credits, location/course type, course provider and registration instructions.

Recognizing Excellence

State Bar of New Mexico Presents Annual Awards

The State Bar of New Mexico presents the Annual Awards to those who have distinguished themselves or made exemplary contributions to the State Bar or legal profession over the last year. On Aug. 10 at the 2018 Annual Meeting, we recognized six individuals and one program for excellence and service.



From left: Charles Vigil, Jim Jackson, Shammara Henderson, President Wesley Pool, Susan E. Page, Justice Charles Daniels, Ruth Pregenzer, and representatives from the Family Support Services Program



Distinguished Bar Service Award
Ruth O. Pregenzer (right)



**Distinguished Bar Service—
Nonlawyer Award**
Jim Jackson (left)



**Justice Pamela B. Minzner
Professionalism Award**
Charles J. Vigil (left)



Outstanding Program Award
Family Support Services Program



**Seth D. Montgomery Distinguished
Judicial Service Award**
Justice Charles W. Daniels
(second from left)



**Outstanding Young Lawyer
of the Year Award**
Shammara H. Henderson (right)



Robert H. LaFollette Pro Bono Award
Susan Page

Past Presidents

We were lucky to have 11 past presidents of the State Bar attend the Annual Meeting!



2018 President Wesley Pool (right) joins past presidents (from left) Charles Vigil, William Stratvert, Robert Hilgendorf, Dan O'Brien, Erika Anderson, Drew Cloutier, Virginia Dugan, Scotty Holloman, David Hernandez, John McCarthy Jr., and Arturo Jaramillo.

President's Award

Each year, the president chooses an individual to honor for their service to the State Bar. President Wesley Pool chose to recognize recently retired Justice Edward L. Chávez.



For more photos and a video of the awards ceremony, visit www.nmbar.org/annualmeeting.

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 14, 2018

PUBLISHED OPINIONS

A-1-CA-34873	State v. S Jackson	Affirm	09/12/2018
A-1-CA-35290	State v. E Serna	Reverse/Remand	09/13/2018

UNPUBLISHED OPINIONS

A-1-CA-34703	State v. K Ortiz	Reverse/Remand	09/10/2018
A-1-CA-35637	State v. Howell Bonding	Affirm	09/10/2018
A-1-CA-36074	State v. M Duran	Affirm	09/10/2018
A-1-CA-36759	State v. I Salcido	Affirm	09/10/2018
A-1-CA-36773	P Caballero v. Carlos Villanueva	Affirm	09/10/2018
A-1-CA-36796	AEI Net v. M A Benson	Affirm	09/10/2018
A-1-CA-36840	Western Agriculture v. Hector Balderas	Affirm	09/10/2018
A-1-CA-36844	State v. A Rivera	Affirm	09/10/2018
A-1-CA-37097	N Sims v. J Barncastle	Affirm	09/10/2018
A-1-CA-37160	State v. A Velasquez	Reverse	09/10/2018
A-1-CA-37381	CYFD v. Cynthia A	Affirm	09/10/2018
A-1-CA-35061	L McCaul v. EAN Holdings	Affirm	09/11/2018
A-1-CA-35650	Silver Gardens v. K Montoya	Affirm/Dismiss	09/11/2018
A-1-CA-36825	M Whittenburg v. W Whittenburg	Affirm	09/11/2018
A-1-CA-36884	State v. L Gray	Affirm	09/11/2018
A-1-CA-37089	State v. J Pace	Affirm	09/11/2018
A-1-CA-36989	State v. D Macias	Dismiss	09/12/2018
A-1-CA-37054	State v. A Salguero	Affirm	09/12/2018
A-1-CA-35709	State v. K Morgan	Affirm	09/13/2018
A-1-CA-36876	State v. J Crawley	Affirm	09/13/2018
A-1-CA-37154	U.S. Bank v. A Rollin	Affirm	09/13/2018

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

CLERK'S CERTIFICATE OF NAME CHANGE

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CLERK'S CERTIFICATE OF REINSTATEMENT TO ACTIVE STATUS

Effective September 10, 2018:
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CLERK'S CERTIFICATE OF CHANGE TO INACTIVE STATUS

effective September 1, 2018:
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CLERK'S CERTIFICATE OF ADMISSION

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CLERK'S CERTIFICATE OF NAME AND ADDRESS CHANGE

As of September 7, 2018:
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Effective August 13, 2018:
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Effective September 7, 2018:
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Recent Rule-Making Activity

As Updated by the Clerk of the New Mexico Supreme Court

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

Effective September 26, 2018

PENDING PROPOSED RULE CHANGES OPEN FOR COMMENT:

Comment Deadline

There are no proposed rule changes open for comment.

RECENTLY APPROVED RULE CHANGES SINCE RELEASE OF 2018 NMRA:

Effective Date

Rules of Civil Procedure for the District Courts

1-003.2	Commencement of action; guardianship and conservatorship information sheet	07/01/2018
1-079	Public inspection and sealing of court records	07/01/2018
1-079.1	Public inspection and sealing of court records; guardianship and conservatorship proceedings	07/01/2018
1-088.1	Peremptory excusal of a district judge; recusal; procedure for exercising	03/01/2018
1-104	Courtroom closure	07/01/2018
1-140	Guardianship and conservatorship proceedings; mandatory use forms	07/01/2018
1-141	Guardianship and conservatorship proceedings; determination of persons entitled to notice of proceedings or access to court records	07/01/2018

Civil Forms

4-992	Guardianship and conservatorship information sheet; petition	07/01/2018
4-993	Order identifying persons entitled to notice and access to court records	07/01/2018
4-994	Order to secure or waive bond	07/01/2018
4-995	Conservator's notice of bonding	07/01/2018
4-995.1	Corporate surety statement	07/01/2018
4-996	Guardian's report	07/01/2018
4-997	Conservator's inventory	07/01/2018
4-998	Conservator's report	07/01/2018

Rules of Criminal Procedure for the District Courts

5-302A	Grand jury proceedings	04/23/2018
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Local Rules for the First Judicial District Court

LR1-404	Family court services and other services for child-related disputes	09/01/2018
LR1-405	Safe exchange and supervised visitation program	09/01/2018

Local Rules for the Second Judicial District Court

LR2-401	Court clinic mediation program and other services for child-related disputes	09/01/2018
LR2-403	Safe exchange and supervised visitation	09/01/2018
LR2-Form 709	Court clinic referral order	09/01/2018

Local Rules for the Third Judicial District Court

LR3-401	Domestic relations mediation and safe exchange and supervised visitation programs	09/01/2018
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Local Rules for the Fourth Judicial District Court

LR4-401	Safe exchange and supervised visitation, and domestic relations mediation	09/01/2018
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Local Rules for the Fifth Judicial District Court

LR5-401	Safe exchange and supervised visitation; domestic relations mediation	09/01/2018
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Local Rules for the Sixth Judicial District Court

LR6-401	Safe exchange and supervised visitation, and domestic relations mediation	09/01/2018
LR6-404	Withdrawn	09/01/2018

Local Rules for the Seventh Judicial District Court

LR7-401	Domestic relations; mediation	09/01/2018
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Local Rules for the Eighth Judicial District Court

LR8-401	Safe exchange and supervised visitation; domestic relations mediation	09/01/2018
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Local Rules for the Ninth Judicial District Court

LR9-405	Domestic relations mediation	09/01/2018
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Local Rules for the Eleventh Judicial District Court

LR11-402	Domestic relations mediation; safe exchange and supervised visitation	09/01/2018
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Local Rules for the Twelfth Judicial District Court

LR12-401	Domestic relations mediation	09/01/2018
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Local Rules for the Thirteenth Judicial District Court

LR13-124	Fees non-refundable	09/01/2018
LR13-401	Domestic relations alternative dispute resolution (ADR); advisory consultation	09/01/2018
LR13-402	Domestic Relations Mediation Act; safe exchange and supervised visitation	09/01/2018

Rules/Orders

From the New Mexico Supreme Court

<http://www.nmcompcomm.us/>

BEFORE THE DISCIPLINARY BOARD OF THE SUPREME COURT OF THE STATE OF NEW MEXICO

IN THE MATTER OF ROZAN CRUZ, ESQ.

DISCIPLINARY NO. 03-2017-758

AN ATTORNEY LICENSED TO PRACTICE LAW BEFORE THE COURTS OF THE STATE OF NEW MEXICO

FORMAL REPRIMAND

You are being issued this Formal Reprimand pursuant to an Order by the Disciplinary Board following a hearing on the merits in your disciplinary case.

In June 2016, the Disciplinary Board received a complaint against you regarding alleged improper conduct with an inmate, who was also your client. You responded to that disciplinary complaint and characterized your relationship with that client as “familial,” and stated that you were “caretaker” of his daughter. Based in part on your representation to the Board, the complaint was dismissed.

In November of 2016, a second complaint was filed against you, again alleging improper conduct with the same inmate/client. Attached to that complaint were call logs between the facility housing the inmate and yourself. The call logs revealed a personal, romantic relationship existed between you and your client. It was only after disciplinary counsel advised you that logs revealed the nature of your relationship that you admitted you and your client were involved in a romantic relationship.

The hearing committee found your characterization of the relationship as merely “familial” to be misleading, as you knew or should have known, based on the allegations in the original complaint, that the nature of your relationship with your client was at issue. Your conduct was found to have violated Rule 16-801(B) by failing to disclose a fact necessary to correct a misapprehension known by you to have arisen in a disciplinary matter; and Rule 16-803(C), by engaging in conduct involving misrepresentation.

You are hereby formally reprimanded for these acts of misconduct pursuant to Rule 17-206(A)(5) of the Rules Governing Discipline. The Formal Reprimand will be filed with the Supreme Court, in accordance with 17-206(D), and will remain part of your permanent records with the Disciplinary Board, where it may be revealed upon any inquiry to the Board concerning any discipline ever imposed against you. In addition, in accordance with Rule 17-206(D), the entire text of this formal reprimand will be published in the State Bar of New Mexico Bar Bulletin.

Dated September 14, 2018

The Disciplinary Board of the New Mexico Supreme Court

By

Curtis R. Gurley, Esq.
Board Chair

BEFORE THE DISCIPLINARY BOARD OF THE SUPREME COURT OF THE STATE OF NEW MEXICO

IN THE MATTER OF JANE ROCHA DE GANDARA, ESQ.

DISCIPLINARY NO. 08-2017-768

AN ATTORNEY LICENSED TO PRACTICE LAW BEFORE THE COURTS OF THE STATE OF NEW MEXICO

FORMAL REPRIMAND

You are being issued this Formal Reprimand pursuant to a *Conditional Agreement Admitting the Allegations and Consent to Discipline*, which was approved by a Disciplinary Board Hearing Committee, a Disciplinary Board Panel, and the New Mexico Supreme Court.

Your misconduct arose from your representation of the plaintiff in an employment law lawsuit that you filed in Federal Court. You erroneously named as the sole defendant the County which had employed your client; but pursuant to NMSA § 4-46-1, the defendant should have been the “Board of County Commissioners” for that County.

Subsequently, the federal magistrate judge assigned to the Lawsuit issued an Order to Show Cause (OTSC) on the grounds that service of the Summons had not been made. The Order gave you until April 20, 2016 to respond, but because the federal court had the wrong email address for you, you did not respond. You discovered the OTSC by reviewing the case docket after the Court dismissed the Lawsuit without prejudice. You immediately moved the Court for reinstatement of the Lawsuit, which the Court granted.

The Court then gave you until July 1, 2016 to effect service. On June 20, 2016, your process server served the Summons and Complaint on a receptionist for the County. On July 11, 2016, the defendant filed a *Motion to Dismiss* on the grounds that (1) the plaintiff failed to name the proper party as defendant; and (2) service on the receptionist was inadequate because pursuant to state law and the Federal Rules of Civil Procedure, service could only be made on either the County Manager or the County Clerk.

On July 26, 2016, you filed *Plaintiff's Opposition to Defendant's Motion to Dismiss*, asking for the chance to file an amended Complaint, and to effectuate proper service. Three days later, you filed a *Motion to Amend the Complaint for Discrimination and Retaliation and to Add Additional Defendants*.

The Court granted the *Motion to Dismiss* and dismissed the Lawsuit without prejudice, largely on the grounds that “the Court’s firmly imposed deadline for service has passed” and plaintiff had made no showing that another “extension is equitable or justified.”

The dismissal, though putatively without prejudice, was effectively a dismissal with prejudice as the statute of limitations was not tolled during the pendency of the Lawsuit, and the time to file suit had run. You did not move for reconsideration, nor did you appeal the decision. As a result, your client lost his claim.

Your conduct violated the following Rules of Professional Conduct: Rule 16-101, by failing to provide competent representation to your client; Rule 16-103, by failing to represent your client diligently; Rule 16-302, by failing to expedite litigation; and Rule 16-804(D), by engaging in conduct that was prejudicial to the administration of justice.

On May 21, 2018, the New Mexico Supreme Court suspended you from the practice of law for one (1) year pursuant to Rule 17-206(A). Although your violations of the Disciplinary Rules were aggravated by the fact that you have prior disciplinary offenses and the fact that you have substantial experience in the practice of law, the Supreme Court deferred your one (1) year suspension based upon several distinct mitigating factors, which the Court determined made a deferred suspension more appropriate than a non-deferred suspension, or a more severe disciplinary sanction.

First, you fully refunded the client's retainer. Second, you submitted the claim to your malpractice insurance carrier, and you facilitated a settlement on your client's behalf for a significant monetary amount. Third, you have implemented procedures to ensure that your violations do not recur. Fourth, you have demonstrated sincere remorse. Finally, you have fully cooperated in this disciplinary proceeding.

Your suspension was deferred upon certain terms and conditions. Among those terms and conditions are that you shall observe and comply with the Rules of Professional Conduct and the Rules Governing Discipline, you shall take and participate in six (6) hours of continuing legal education in the topics of law practice management and/or case management within the one-year period of your deferred suspension, you shall take and pass the Multistate Professional Responsibility Examination with a scaled score of eighty (80) or better within the period of your deferred suspension, you shall pay the costs of this disciplinary proceeding in the amount of one thousand one hundred eighty-three dollars and four cents (\$1,183.04), and you shall receive a formal reprimand.

Accordingly, you are hereby formally reprimanded for these acts of misconduct pursuant to Rule 17-206(A)(5) of the Rules Governing Discipline. This Formal Reprimand will be filed with the Supreme Court in accordance with 17-206(D), and will remain part of your permanent records with the Disciplinary Board, where it may be revealed upon any inquiry to the Board concerning any discipline ever imposed against you. In addition, in accordance with Rule 17-206(D), the entire text of this Formal Reprimand will be published in the State Bar of New Mexico Bar Bulletin.

Dated September 14, 2018

The Disciplinary Board of the New Mexico Supreme Court

By

Curtis R. Gurley, Esq.
Board Chair

BEFORE THE DISCIPLINARY BOARD OF THE SUPREME COURT OF THE STATE OF NEW MEXICO

IN THE MATTER OF RODERICK JUAREZ, ESQ.

DISCIPLINARY No. 04-2018-781

AN ATTORNEY LICENSED TO PRACTICE LAW BEFORE THE COURTS OF THE STATE OF NEW MEXICO

FORMAL REPRIMAND

You are being issued this Formal Reprimand pursuant to a *Conditional Agreement Admitting the Allegations and Consenting to Discipline* which was approved by a Hearing Committee and a Disciplinary Board Panel.

As the attorney in a state district court criminal case for MC, you had a duty to initiate the appeals of the four cases, and to file the docketing statements. On October 7, 2015, you timely filed four Notices of Appeal.

However, you did not file any docketing statements, and the cases languished. Two years later, on October 17, 2017, the Court of Appeals issued in each of the four cases an *Order to Show Cause Why Sanctions Should Not Be Imposed*. You failed to follow the Court's directive to respond in writing within 15 days.

On January 9, 2018, *Orders to Show Cause In Person* were filed; on and January 16, 2018, they were served on you personally. You attended the hearing on the January 25, 2018. On January 29, 2018, the Court filed Orders From the Show Cause Hearing directing you, in part, to file the Docketing Statements no later than February 12, 2018. You filed the Docketing Statements on February 13, 2018, one day late.

As a result of filing the Docketing Statements one day late, the Court issued an *Order of Non-Compliance and Sanctions*, directing you to (1) serve the District Court with the Docketing Statements by Friday, February 16, 2018, which you did do; and (2) donate \$400.00 to Road Runner Food Bank no later than February 21, 2018; (3) file an affidavit with the Court attesting to his compliance with the Court's directives. You did not accomplish these latter two conditions until after the Court's deadline, due, you state, to non-receipt of the *Order of Non-Compliance and Sanctions*: you were not properly set up to receive Orders by email. However, attorneys who practice in the Court of Appeals must ensure effective registration with the electronic system.

Your conduct violated the following Rules of Professional Conduct: Rule 16-101, by failing to provide competent representation to your client; Rule 16-103, by failing to represent your client diligently; Rule 16-302, by failing to expedite litigation; and Rule 16-804(D), by engaging in conduct that was prejudicial to the administration of justice.

Although you have substantial experience in the practice of law, an aggravating factor, you fully cooperated in this disciplinary proceeding, and you had no selfish motive, both mitigating factors.

You are hereby formally reprimanded for these acts of misconduct pursuant to Rule 17-206(A)(5) of the Rules Governing Discipline. The formal reprimand will be filed with the Supreme Court in accordance with 17-206(D), and will remain part of your permanent records with the Disciplinary Board, where it may be revealed upon any inquiry to the Board concerning any

Rules/Orders

discipline ever imposed against you. In addition, in accordance with Rule 17-206(D), the entire text of this formal reprimand will be published in the State Bar of New Mexico Bar Bulletin.

Dated: September 14, 2018

The Disciplinary Board of the New Mexico Supreme Court

By

Curtis R. Gurley, Esq.
Board Chair

BEFORE THE DISCIPLINARY BOARD OF THE SUPREME COURT OF THE STATE OF NEW MEXICO

IN THE MATTER OF JAMES KLIPSTINE, ESQ.

DISCIPLINARY NO. 02-2018-776

AN ATTORNEY LICENSED TO PRACTICE LAW BEFORE THE COURTS OF THE STATE OF NEW MEXICO

FORMAL REPRIMAND

You are being issued this Formal Reprimand pursuant to a *Consent Agreement* accepted by the Disciplinary Board in your disciplinary case.

You represented a client in a personal injury case that was removed to federal court by the defendants in the case. At the time of the removal, you were not licensed in federal court. The magistrate judge in the case entered an Order directing you to become licensed in federal court, or have another attorney who was a member of the federal bar enter an appearance on behalf of your client. You were given a deadline in which to do so. You failed to meet that deadline. In addition, the defendants in the case filed a Motion to Dismiss the case, to which you failed to respond. As a result of the failure to comply with the Court's order to become licensed in federal court, or have alternate counsel enter an appearance, and the failure to respond to the Motion to Dismiss, an Order to Show Cause was issued to you directing you to respond. You did not respond to the Court's Order to Show Cause, and your client's case was dismissed.

<http://www.nmcompcomm.us/>

In addition to the aforementioned, you also represented a different client in a separate personal injury case. This case was dismissed after you failed to properly serve the defendant. Despite the original dismissal, you later filed a second case under a separate cause number, despite the fact that you knew this second case was barred by the statute of limitations. The second case was ultimately dismissed by the court as being beyond the statute of limitations.

Your conduct in the two matters was found to have violated Rule 16-101 NMRA, for failure to provide competent representation, Rule 16-103 NMRA, for failure to represent your clients with reasonable diligence and promptness, Rule 16-302 NMRA, for failure to expedite litigation consistent with the interest of a client, and Rule 16-804(D), for engaging in conduct that is prejudicial to the administration of justice.

You are hereby formally reprimanded for these acts of misconduct pursuant to Rule 17-206(A)(5) of the Rules Governing Discipline. The formal reprimand will be filed with the Supreme Court in accordance with 17-206(D), and will remain part of your permanent records with the Disciplinary Board, where it may be revealed upon any inquiry to the Board concerning any discipline ever imposed against you. In addition, in accordance with Rule 17-206(D), the entire text of this formal reprimand will be published in the State Bar of New Mexico Bar Bulletin.

Dated September 14, 2018

The Disciplinary Board of the New Mexico Supreme Court

By

Curtis R. Gurley, Esq.
Board Chair

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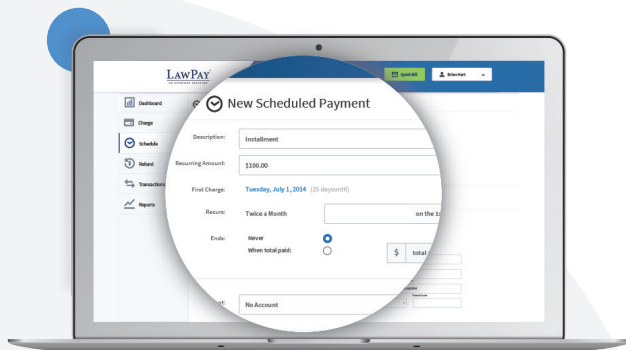
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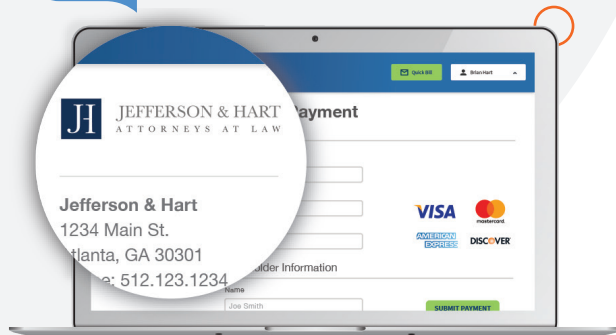
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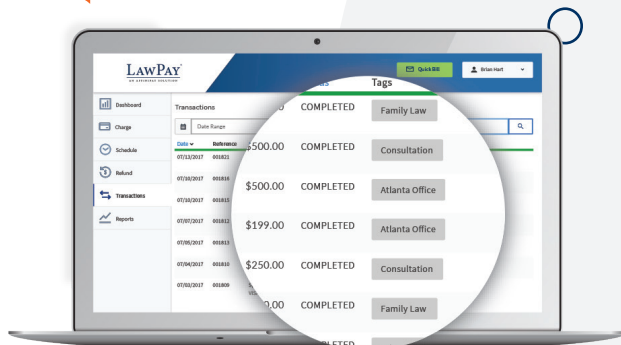


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Certiorari Granted, August 13, 2018, No. S-1-SC-37068
 Certiorari Denied, August 13, 2018, No. S-1-SC-37100

From the New Mexico Court of Appeals

Opinion Number: 2018-NMCA-053

No. A-1-CA-33535 (filed April 3, 2018, 2018)

STATE OF NEW MEXICO ex rel.

STATE ENGINEER,
 Plaintiff-Appellee,

v.

UNITED STATES OF AMERICA,
 Defendant-Appellee,

v.

NAVAJO NATION,
 Defendant/Intervenor-Appellee,

v.

SAN JUAN AGRICULTURAL WATER USERS ASSOCIATION, HAMMOND
 CONSERVANCY DISTRICT, BLOOMFIELD IRRIGATION DISTRICT, and
 VARIOUS DITCHES AND VARIOUS MEMBERS THEREOF,
 Defendants-Appellants.

APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY

Honorable James J. Wechsler

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 Company Limited Partnership; Estate
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 Bolack, Deceased; Bolack Minerals
 Foundation; Tommy Bolack Revocable
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Opinion

Bruce D. Black, Judge

Factual and Procedural Background

{1} In 1849, after years of intermittent warfare, the United States entered into a peace treaty with the Navajo Tribe (Navajo Nation). *See Treaty With the Navaho*, September 9, 1849, 9 Stat. 974 (Treaty of 1849). That treaty subjected the Navajo Nation and its people to the sovereignty and rule of the United States and recognized the existence and legitimacy of a territory to be dedicated to the Navajo Nation. At the time, the federal government aspired to change the existing Navajo pastoral culture into one of more traditional Eastern-style farming and moved the Navajo Nation onto a reservation at Bosque Redondo, in what eventually became Eastern New Mexico. Following the Civil War, the federal government realized its agricultural

goals for the Navajo Nation would involve a long and expensive process for which Bosque Redondo was ill-suited. A second treaty with the Navajo Nation in 1868 returned them to a portion of their ancestral territory as their “permanent home.” *See Treaty With the Navaho* art. 13, June 1, 1868, 15 Stat. 667, 671 (Treaty of 1868).

{2} The Colorado River drains the Colorado Plateau through the Grand Canyon. The San Juan River is the tributary of the Colorado River upon which the Four Corners region¹ relies for surface water and is the largest river in New Mexico. The aboriginal lands of the Navajo Nation originally included the entire San Juan Basin. *Navajo Tribe of Indians v. United States of America*, 23 Ind. Cl. Comm. 244, 251 (1970). The San Juan still runs through a considerable portion of the Navajo Nation and is a water source much coveted in this arid portion of the country.

{3} In light of the Navajo Nation’s potential claim for the majority of water in the San Juan River Basin, the State of New Mexico initiated a general stream adjudication to determine the water rights of the major claimants. The United States asserted claims as trustee for the Navajo Nation, and the Navajo Nation intervened on its own behalf. Following years of litigation, the State entered into settlement negotiations with the Navajo Nation and the United States. The State proposed a blueprint for a settlement and held public meetings in Farmington and Bloomfield seeking input from the non-Indian water users. In response to substantial public input, the State revised its settlement proposals.

{4} In 2005, following more than a decade of negotiation, the Navajo Nation, the United States, and the State of New Mexico (collectively, Settling Parties) reached an agreement (the Settlement Agreement) settling the Navajo Nation’s claims to water in the San Juan River Basin (the Basin). Federal legislation to approve and implement the Settlement Agreement was enacted by Congress in 2009 under the Omnibus Public Land Management Act of 2009, Northwestern New Mexico Rural Water Projects Act,

Pub. L. No. 111-11, § 10301, 123 Stat. 991 (2009) (Settlement Act), and signed by the President. The New Mexico Legislature then appropriated \$50 million to pay New Mexico’s cost of the Settlement Agreement and authorized the New Mexico State Engineer to bring a lawsuit seeking judicial approval regarding the State’s share of the water, pursuant to NMSA 1978, Section 72-1-12 (2005). *See* State of New Mexico, Office of the State Engineer, 2017 Indian Water Rights Settlement Fund Report, 3-4 (2017), *available at* <https://www.nmlegis.gov/handouts/IAC%20112717%20Item%206%20Office%20of%20the%20State%20Engineer%202017%20Indian%20Water%20Rights%20Settlement%20Fund%20Report.pdf>; *see also* United States Department of the Interior Bureau of Reclamation, Navajo-Gallup Water Supply Project: Cost Share Agreement Between the United States and the State of New Mexico, 11 (2011), *available at* <http://www.ose.state.nm.us/Legal/settlements/NNWRS/NavajoSettlement/NGWSP-OriginalCostShareAgreement.pdf>. In the subsequent suit the settling parties asked the San Juan County District Court to approve the water rights previously allocated in congressional legislation for the Navajo Indian Irrigation Project (NIIP), Fruitland-Cambridge Irrigation Project, Hogback-Cudei Irrigation Project, Navajo Gallup Water Supply Project (NGWSP), Animas-La Plata Project (ALP), San Juan River municipal and industrial uses, reserved groundwater, and rights based on stock, irrigation, and recreational uses as of January 1, 2011. Others with an interest in the Settlement Agreement were invited into this *inter se* proceeding through widely distributed radio announcements, newspaper notices, and over 19,000 first-class letters to those water rights holders who had title of record.

{5} At the initiation of the proceedings, the district court imposed an unusually stringent evidentiary burden on the Settling Parties to prove the Settlement Agreement was fair, adequate, reasonable, and in the public interest.² After giving all other water rights claimants in the Basin notice and opportunity to participate and

¹The “Four Corners” is the designation given to the point where Colorado, Utah, Arizona, and New Mexico meet.

²Normally in an *inter se* proceeding, the parties objecting to a settlement have the burden to prove the settlement is not fair, adequate, or reasonable. *See State ex rel. State Eng’r v. Aamodt*, 582 F. Supp. 2d 1313, 1317 (D.N.M. 2007); *In re Crow Water Compact*, 2015 MT 353, ¶ 28, 382 Mont. 46, 364 P.3d 584. In the present case the district court shifted this burden to proponents of the Settlement Agreement. Moreover, the district court did not require those challenging the Settlement Agreement to make a showing that it would affect their rights, as is usually required. *See State ex rel. Office of the State Eng’r v. Lewis*, 2007-NMCA-008, ¶ 16, 141 N.M. 1, 150 P.3d 375.

to conduct discovery and file dispositive motions in accordance with Rule 1-071.2 NMRA, the district court entered its order granting the settlement motion for entry of partial final decrees describing the water rights of the Navajo Nation. The court then entered the partial final judgment and decree of the water rights of the Navajo Nation and the supplemental partial final judgment and decree of the water rights of the Navajo Nation (Proposed Decrees). The non-settling parties objected to several terms of the Settlement Agreement and to the inter se procedures adopted by the district court. After full briefing and argument, the district court rejected the objections and issued its order approving the Settlement Agreement and Proposed Decrees (the Settlement Order).³ In the Settlement Order, the district court concluded that the Settlement Agreement was fair, adequate, reasonable, and consistent with the public interest as well as all applicable laws.

{6} Appellants herein, the San Juan Acequias, are non-settling parties to the underlying proceedings that preceded the Settlement Agreement. Despite having virtually all issues in common with other non-settling parties, each has consistently refused to consolidate their appeals, failed to comply with filing deadlines, and neglected to follow rules of procedure or standard practice. Therefore, it will be necessary to address their claims in separate opinions. The San Juan Acequias challenge more than fifty aspects of the district court's conclusions. However, since this Court finds essentially all of these are based on faulty factual and/or legal premises, we will dispose of them categorically rather than attempt to answer each challenge separately.

Standard of Review

{7} “It is the policy of the law and of the State of New Mexico to favor settlement agreements.” *Am. Civil Liberties Union of N.M. v. Duran*, 2016-NMCA-063, ¶ 50, 392 P.3d 181 (quoting *Navajo Tribe of Indians v. Hanosh Chevrolet-Buick, Inc.*, 1988-NMSC-010, ¶ 3, 106 N.M. 705, 749 P.2d 90). New Mexico courts therefore “hold such agreements in high regard and require a compelling basis to set them aside.” *Builders Contract Interiors, Inc. v. Hi-Lo Indus.*, 2006-NMCA-053, ¶ 7, 139 N.M. 508, 134 P.3d 795. Appellate courts review a trial court's decision to approve a settlement de-

cree only to determine if there was an abuse of discretion. *See, e.g., Platte v. First Colony Life Ins. Co.*, 2008-NMSC-058, ¶ 7, 145 N.M. 77, 194 P.3d 108; *In re Norwest Bank of N.M.*, N.A., 2003-NMCA-128, ¶ 22, 134 N.M. 516, 80 P.3d 98; *Johnson v. Lodge #93 of Fraternal Order of Police*, 393 F.3d 1096, 1102 (10th Cir. 2004).

I. New Mexico Statutes Refute Appellants' Claim That the Settlement Required the Express Approval of the New Mexico Legislature and Any Such Claim Should Have Been Raised by Writ

{8} Appellants maintain that the Settlement is void under New Mexico law without the express prior approval of the New Mexico Legislature. Initially it must be noted Appellants' brief in chief fails to include any indication of how this issue (and indeed most others) was presented to the district court. This violation of Rule 12-318(A)(4) NMRA makes this Court's job much more difficult. *See State v. Gomez*, 1997-NMSC-006, ¶ 14, 122 N.M. 777, 932 P.2d 1 (stating that “an appellate court will consider only such questions as were raised in the lower court” (internal quotation marks and citation omitted)); *State v. Lucero*, 1993-NMSC-064, ¶ 11, 116 N.M. 450, 863 P.2d 1071 (noting that the appellate court should not have to guess what trial issues were preserved for appeal).

{9} Appellants recite several iterations of the theme that the Settlement was unauthorized or in violation of New Mexico law. For example, Appellants argue inter alia that the Settlement violates the New Mexico Constitution's separation of powers. This is based on the premise that Governor Richardson lacked the power to sign the Settlement without prior legislative approval. They further contend that through the Settlement, Governor Richardson attempted to infringe the plenary jurisdiction of the New Mexico Courts under Article VI of the New Mexico Constitution.

{10} This contention, like Appellants' entire appeal, is based on a failure to understand the nature of the relationship between Indian nations and the United States government as well as the structure of federalism. It is compounded by a misconception of New Mexico water law procedure and the role of the New Mexico State Engineer. We explain.

{11} First, water is a commodity that can move in interstate commerce, and does so as the San Juan River crosses several state

boundaries. Thus, it is ultimately subject to the control of the federal, not the state, government. *See Oneida Indian Nation v. Cty. of Oneida*, 414 U.S. 661, 667, 670 (1974); *cf. City of El Paso ex rel. Pub. Serv. Bd. v. Reynolds*, 597 F. Supp. 694, 704 (D.N.M. 1984) (stating that a state may not impermissibly burden transfer of interstate water). Although the state has an interest in regulating water within its boundaries, it lacks any ownership claim in such water. *Virginia v. Maryland*, 540 U.S. 56, 74 n.9 (2003) (noting that federal common law governs interstate bodies of water, ensuring that water is equitably apportioned between states and that no state harms another's interest).

{12} Second, the creation of an Indian reservation generally involves the reduction and definition of a tribe's traditional homelands in return for a guarantee of permanent and protected territory. *See Winters v. United States*, 207 U.S. 564, 576 (1908). Indian tribes thus have a proprietary interest in waters recognized by federal reservation treaties. *See A. Dan Tarlock, Law of Water Rights & Resources* § 9:38 (2016). It follows that the creation of an Indian reservation creates a strong presumption that state law does not apply to the Indians or their property. *See Bryan v. Itasca Cty.*, 426 U.S. 373, 376 n.2 (1976); *see generally Moe v. Confederated Salish & Kootenai Tribes of the Flathead Reservation*, 425 U.S. 463, 474 n.13 (1976). It is therefore federal, not state, law that governs the validity and interpretation of water settlements between states and tribes. *Arizona v. San Carlos Apache Tribe of Ariz.*, 463 U.S. 545, 571 (1983).

{13} Third, intergovernmental agreements are particularly useful because they provide benefits beyond what “ordinary state regulation” allows. New Mexico's entry into the congressionally sanctioned intergovernmental agreement as part of the Settlement involved herein reinforces federal preemption of state control over the Navajo Nation's portion of the waters of the San Juan. The Settlement Agreement at issue herein expressly states, “Congress approves, ratifies, and confirms the Settlement.” Such a congressionally approved settlement preempts the law of the participating states. *Cf. Texas v. New Mexico*, 462 U.S. 554, 564 (1983) (discussing the effect of congressional consent on a settlement entered into pursuant to the Compact Clause); *N.Y. Shipping Ass'n Inc. v. Waterfront Comm'n of*

³For purposes of this opinion, when discussed jointly the Settlement Agreement and Settlement Order are referred to as “the Settlement”

N.Y. Harbor, 835 F.3d 344, 348 n.4 (3rd Cir. 2016) (same). Therefore a compact between interstate authorities may not be impaired by the participating states once approved by Congress. See *Kansas v. Nebraska*, ___ U.S. ___, 135 S. Ct. 1042, 1053 (2015).

{14} Against this backdrop, the Settlement Agreement interpreted by the district court herein was approved by Congress well prior to Appellants' state law challenges, and thus, federal preemption disposes of many of their arguments, to wit: (1) the Settlement is a nullity because it was not approved by the New Mexico Legislature; (2) the Interstate Stream Commission violated NMSA 1978, Section 72-14-3 (1935), in failing to submit the Settlement to the New Mexico Legislature; and (3) the Settlement violates NMSA 1978, Section 72-1-11(C)(1) (2005) by not addressing all of the Navajo Nation's water needs. See *W. Va. ex rel. Dyer v. Sims*, 341 U.S. 22, 28 (1951) (stating that the United States Supreme Court has the final power to pass on the meaning and validity of compacts); *Corr v. Metro. Wash. Airports Auth.*, 800 F. Supp. 2d 743, 758-59 (E.D. Va. 2011) (noting that once a compact has been adopted, it is "transform[ed] into federal law at which time its interpretation and construction presented federal, not state questions"). Moreover, this Court would note the New Mexico Legislature has given the Attorney General the authority to prosecute and settle civil litigation to which the State is a party pursuant to NMSA 1978, Section 36-1-22 (1875-76). Even more to the point, it is clear that the Legislature has delegated to the Attorney General the explicit authority to initiate, conduct, dismiss, and compromise litigation on behalf of the State. See NMSA 1978, § 8-5-2 (1975); § 36-1-22; NMSA 1978, § 72-4-15 (1907); *Lyle v. Luna*, 1959-NMSC-042, ¶¶ 23-24, 65 N.M. 429, 338 P.2d 1060.

The State Engineer, who also approved the Settlement, also acted with the expressly delegated authority of the Legislature.⁴ Were it necessary to address this argument further, the Court notes—as did the district court—that the New Mexico Legislature has provided express authority for the State Engineer to specifically engage in this litigation and has appropriated over \$50 million as the State's share of the cost of the Settlement. See § 72-1-12. To argue that the Legislature did not authorize the Governor and Attorney General to enter into this Settlement, then, is at best illogical, and more to the point, incorrect.

{15} Even under New Mexico rather than federal law, then, Appellants are incorrect in their premise that the Legislature was required to approve the Settlement. However, assuming any of these state law arguments had merit, they should have been tested before the United States Congress stamped its imprimatur on the Settlement by adopting it into federal law. To the extent Appellants' state law arguments had merit, they should have been brought to the attention of the New Mexico Supreme Court by a writ of mandamus and are no longer ripe for adjudication. See *State ex rel. Clark v. Johnson*, 1995-NMSC-048, ¶ 19, 120 N.M. 562, 904 P.2d 11 (stating that in certain circumstances, mandamus "is an appropriate means to prohibit unlawful or unconstitutional official action").

II. State Law Limitations Do Not Control Navajo Water

A. Indian Tribes Are Not Required to Prove Immediate Beneficial Use to Quantify Their Water Rights

{16} Appellants argue "[b]eneficial use is also an essential and explicit requirement of state law, including Article XVI of the New Mexico Constitution, ratified by Congress in

1911." As noted earlier, New Mexico state law does not control Navajo water allocations. We reiterate that to the extent Appellants are attempting to apply New Mexico water limitations in this instance, federal law has expressly pre-empted such state limitations. If Defendants are arguing the New Mexico Constitution controls the Settlement since Congress approved the Constitution in 1911, this is also incorrect. The Settlement Agreement was approved by Congress in 2009 and was intended by Congress to allocate Navajo water and is thus much more specific than the New Mexico Constitution, which makes no mention of the water allocated to the Navajo Reservation in 1868. Specific and later-enacted statutes control over general, earlier-enacted laws. See *Morton v. Mancari*, 417 U.S. 535, 550-51 (1974); *Nguyen v. United States*, 556 F.3d 1244, 1252-53 (11th Cir. 2009).

{17} Apparently recognizing the invalidity of their state law arguments, Appellants further maintain that "[b]eneficial use is an essential requirement of every federal law governing the allocation of water in the arid West, including *Winters* and subsequent cases." *Winters*, to which Appellants refer, is indeed an early polestar in recognizing reservation water rights. However, as will become clear, it does not require immediate "beneficial use" as the only measure of Indian water rights. Professor Tarlock succinctly outlines the properly applicable legal principle for the allocation of reservation water:

Indian water rights are proprietary rights. Reserved water rights . . . have a priority date, the date of the creation of the reservation, but they are not dependent on the application of water to beneficial use.

Tarlock, *supra*, § 9:38.⁵

⁴The Legislature has likewise delegated to the State Engineer authority to supervise "the apportionment of water in this state according to the licenses issued by him and his predecessors and the adjudications of the courts." NMSA 1978, § 72-2-9 (1907); see also NMSA 1978, § 72-2-1 (1982) (providing that the State Engineer "has general supervision of waters of the state and of the measurement, appropriation, [and] distribution thereof"); *Tri-State Generation & Transmission Ass'n v. D'Antonio*, 2012-NMSC-039, ¶ 34, 289 P.3d 1232 ("[T]he Legislature has delegated the complicated and difficult task of managing New Mexico's scarce water resources to the State Engineer[.]").

⁵Courts and other legal scholars have repeatedly recognized this interpretation of reservation water rights. See, e.g., *Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water Dist.*, 849 F.3d 1262, 1272 (9th Cir. 2017); *Colville Confederated Tribes v. Walton*, 752 F.2d 397, 405 (9th Cir. 1985); *Navajo Nation v. United States Dep't of the Interior*, 34 F. Supp. 3d 1019, 1022 (D. Ariz. 2014), *aff'd in part, rev'd in part*, 876 F.3d 1144 (9th Cir. 2017); *United States v. Orr Water Ditch Co.*, 309 F. Supp. 2d 1245, 1248 (D. Nev. 2004); *In re Gen. Adjudication of All Rights to Use Water in Gila River Sys. & Source*, (Gila V.) 35 P.3d 68, 71-72 (Ariz. 2001) (en banc); *State of Wash. Dep't of Ecology v. Yakima Reservation Irrigation Dist.*, 850 P.2d 1306, 1330 (Wash. 1993) (en banc); *State of Montana ex rel. Greely v. Confederated Salish & Kootenai Tribes*, 712 P.2d 754, 762 (Mont. 1985); *United States ex rel. Ray v. Hibner*, 27 F.2d 909, 911-12 (D. Idaho 1928); Sally Fairfax, Helen Ingram & Leigh Raymond, *Historical Evolution & Future of Natural Resources Law & Policy*, *The Evolution of Natural Resources Law & Policy* 19 (Lawrence Macdonnell & Sarah F. Bates eds., 2010); Judith E. Jacobsen, *The Navajo Indian Irrigation Project & Quantification of Navajo Winters Rights*, 32 Nat. Resources J. 825, 826 (1992). Hence, Appellants' assertion that "beneficial use is required by all the cases and statutes—except for *Gila V.* and the lower court's decision in this case" is, at the very least, misleading.

{18} Appellants attempt to bolster their interpretation of “beneficial use” as requiring immediate use by relying on inapplicable federal statutes such as the Reclamation Act of 1902, 43 U.S.C. § 372 (2012). They are correct that if this were indeed a Reclamation Act case, the Secretary of the Interior would be required to follow the state law interpretation of “beneficial use.” However, they present no evidence or sound legal argument that the Reclamation Act applies here. Arriving more than forty years after the establishment of the Navajo Reservation, the 1902 Reclamation Act is clearly not the source of the federal government’s authority to create the Navajo Reservation or reserve water rights to it and therefore does not constrain the use of reservation water.⁶ See *Colville Confederated Tribes*, 752 F.2d at 405.

{19} Appellants are also off base in attempting to graft language from the New Mexico Supreme Court regarding the Pueblo Water Rights doctrine onto the *Winters* doctrine. The Pueblo Water Rights doctrine derives from Spanish and Mexican property law—a unique source having no relationship to *Winters*. *State ex rel. Reynolds v. Aamodt*, 618 F. Supp. 993, 1010 (D.N.M. 1985); Tarlock, *supra*, § 9:39; William Goldfarb, *Water Law* 39 (2nd ed. 1988).

{20} Appellants are closer to the way the “beneficial use” concept has occasionally been referenced in the reservation context in their invocation of the Colorado River Compact. That Compact specifically acknowledges that its purpose is “to establish the relative importance of different beneficial uses of water.” Moreover, that Compact expressly contemplated future uses beyond those existing in 1922. See NMSA 1978, § 72-15-5 (art. I) (1923).⁷ Thus Compact water was not seen as frozen in time and can clearly be used at various times for various uses. That indeed is exactly how the district court properly employed the concept of “beneficial use” herein:

[b]eneficial use shall be the limit of the rights to use water adjudicated to the Navajo Nation by this Decree. The Navajo Nation shall not be entitled to receive, nor the United States or the State of New

Mexico be required to deliver, nor shall non-Navajo water users be required to curtail water uses to provide to the Navajo Nation any water not then necessary for beneficial use under the rights adjudicated herein or acquired hereafter.

{21} Additionally, the Colorado Compact explicitly provides that nothing in the Compact shall be construed as affecting the obligations of the United States of America to Indian tribes. See § 72-15-5 (art. VII); NMSA 1978, § 72-15-26 (art. XIX) (1949). The Settlement herein, as a specific and later-enacted statute, should thus be given precedence over a more general earlier statute. See *Morton*, 417 U.S. at 550.

{22} Appellants lastly dovetail their Colorado River Compact argument with reliance on the Colorado River Storage Project, which recites one of its purposes as “storing water for beneficial consumptive use.” 43 U.S.C. § 620 (2012). But this language makes further clear that the water to which that Compact applies is not required to be put to immediate “beneficial consumptive use.” Rather than supporting Appellants’ argument, these sources indicate Navajo Nation rights should not be limited to the amount of water used on the reservation at the time of its dedication.

B. The District Court Properly Applied the *Winters* Doctrine and the Practicably Irrigable Acreage (PIA) Standard to Measure the Water Reserved to the Navajo Nation Under the Settlement Agreement

{23} In *Winters*, the Gros Ventre Tribes in Montana, like the Navajos, had ceded the vast majority of their ancestral land by treaty to the United States in return for a permanent reservation. 207 U.S. at 567-68. When non-Indians on the Milk River upstream from the Gros Ventre reservation diverted all the available water, the United States sought an injunction to halt the upstream diversions. *Id.* at 565. Although the non-Indians had earlier water priority dates under Montana law, the district court held the tribes’ rights under the treaty were superior. *Id.* at 576. The United States Supreme Court recognized it was inconceivable the tribes would have

given up their ancestral hunting grounds for land that had insufficient water to pursue the pastoral life the federal government wished to encourage. *Id.* It stated that since treaties must be construed in favor of the Indians it was implausible that the tribes intended to forfeit their water rights:

The Indians had command of the lands and the waters,—command of all their beneficial use, whether kept for hunting, and grazing roving herds of stock, or turned to agriculture and the arts of civilization. Did they give up all this? Did they reduce the area of their occupation and give up the waters which made it valuable or adequate? And, even regarding the allegation of the answer as true, that there are springs and streams on the reservation flowing about 2,900 inches of water, the inquiries are pertinent. If it were possible to believe affirmative answers, we might also believe that the Indians were awed by the power of the government or deceived by its negotiators. Neither view is possible.

Id. (internal quotation marks omitted).

{24} While the *Winters* case established a legal foundation that stood for the proposition that upriver use that deprived agricultural Indian reservations of available water was not consistent with treaties that established such reservations in the first instance, lower courts have grappled with how to calculate the water necessary to fulfill the needs and goals of other reservations. Compare *Conrad Inv. Co. v. United States*, 161 F. 829, 832 (9th Cir. 1908), and *United States v. Ahtanum Irrigation Dist.*, 236 F.2d 321, 327 (9th Cir. 1956), with *United States v. Walker River Irrigation Dist.*, 104 F.2d 334, 335-36, 339-40 (9th Cir. 1939), and *In re Yakima River Drainage Basin*, 296 P.3d 835, 839 (Wash. 2013) (en banc). In the Colorado River litigation, the Supreme Court calculated the amount of “practicable irrigable acreage” (PIA) on reservations dedicated to agriculture and used that as a yardstick to allocate reservation water. *Arizona v. California*, 460 U.S. 605, 613 (1983). *Arizona* recognized that *Winters* made PIA the recognized

⁶The federal government has the power to reserve water under both the Commerce and Property clauses of the Federal Constitution. *Cappaert v. United States*, 426 U.S. 128, 138 (1976).

⁷The Settlement Act specifically recognizes the Colorado River Compact and adjusts water allocations to comply with it. Settlement Act § 10603(j).

baseline for measuring reservation water rights when the intent of the reservation was agriculture. *Id.* at 609-10. It did not, however, as Appellants argue, hold “that practicably irrigable acreage (PIA) is the only proper way to quantify federal reserved rights for Indian tribes.” Nor did the Supreme Court adopt the appellants’ view that the failure to put allotted water to immediate “beneficial use” results in a forfeiture of those water rights. Indeed, the Court noted the Chemehuevi Tribe had not diverted any of its allotted water. *See id.* at 653, n.8 (Brennan, J., concurring in part and dissenting in part).

{25} Determining how to calculate PIA and what it means in less agricultural situations has required judicial resourcefulness. *See Walker River Irrigation Dist.*, 104 F.2d at 340 (discussing water rights in relation to power generation); *United States v. Adair*, 723 F.2d 1394, 1411 (9th Cir. 1983) (discussing water rights in relation to hunting and fishing activities). In light of such difficulties, the judicial trend appears to recognize reservation allocations should not be limited to only an amount of water sufficient to support the pastoral life often contemplated in the nineteenth century, but rather, calculated to provide the tribes with water in quantities sufficient to promote survival and the success of the reservations. *See Arizona v. California*, 439 U.S. 419, 422-23 (1979) (per curiam), *amended*, 466 U.S. 144 (1984); *Agua Caliente Band of Cahuilla Indians*, 849 F.3d at 1270; *Joint Bd. of Control of Flathead, Mission & Jocko Irrigation Dists. v. United States*, 832 F.2d 1127, 1131 (9th Cir. 1987); *Ahtanum Irrigation Dist.*, 236 F.2d at 327; *Adair*, 723 F.2d at 1410; *Colville Confederated Tribes v. Walton*, 647 F.2d 42, 47-48 (9th Cir. 1981); Tarlock, *supra*, § 9:41; Goldfarb, *supra*, at 51. *But see In re Gen. Adjudication of All Rights to Use Water in Big Horn River Sys.*, 753 P.2d 76, 94 (Wyo. 1988), *aff’d sub nom*, *Wyoming v. United States*, 492 U.S. 406 (1989), *abrogated on other grounds by Vaughn v. State*, 962 P.2d 149, 151 (Wyo. 1998).

{26} Current jurisprudence thus tends to recognize the goal of the federal government in creating Indian reservations was not to produce more farmers or shepherds but “to make the reservation livable” and “to further[] and advance[] the civiliza-

tion,” allowing the Indians to change to new ways of life. *Arizona*, 460 U.S. at 616; *see* Martha C. Franks, *The Uses of the Practicably Irrigable Acreage Standard in the Quantification of Reserved Water Rights*, 31 Nat. Resources J. 549, 553-54 (1991); *Winters*, 207 U.S. at 567, 577. The ultimate objective of Congress was to see that “Indian treaty rights to a natural resource that once was thoroughly and exclusively exploited by the Indians secures so much as, but no more than, is necessary to provide the Indians with a livelihood—that is to say, a moderate living.” *Washington v. Wash. State Commercial Passenger Fishing Vessel Ass’n*, 443 U.S. 658, 686 (1979).

{27} In line with current judicial analysis, the district court herein recognized the fundamental purpose of the Navajo Reservation was to create a sustainable homeland for the tribe. Other than frequently repeating the PIA mantra, Appellants have offered no evidence or supportive authority to contradict the district court’s finding. Indeed the only evidence to which this Court was directed by Appellants is consistent with that finding. *See* Treaty of 1868 art. XIII, 15 Stat. 667, 671 (stating that the Navajo tribe agrees to make the reservation “their permanent home”) The district court’s decision regarding the proper measure of reservation water is therefore not an abuse of discretion.

III. The District Court Properly Applied the Fair, Adequate, and Reasonable Standard to the Settlement of the Navajo Indian Irrigation Project (NIIP)

{28} Appellants make several challenges to the district court’s award of water to the NIIP. Once again these challenges fail to understand the origins and scope of the Congressional direction for NIIP. *See Navajo Indian Irrigation Project*, Pub. L. No. 87-483, § 2, 76 Stat. 96 (1962) (the NIIP Act) (discussing the construction of the NIIP Act and its intended use). This Congressional mandate makes Appellants’ discussion of state or historic reservation concepts of beneficial use and PIA inapplicable for the same reasons previously outlined.⁸

{29} Congress specifically authorized the construction and operation of the NIIP Act “for the principal purpose of furnishing irrigation water to [a service area of

not more than 110,630] acres of land[.]” NIIP Act § 2; *see* Settlement Act § 10402(a) (amending Section 2 of the NIIP Act). In so doing, Congress necessarily determined that up to 110,630 acres of NIIP lands are “irrigable and arable.” NIIP Act, 76 Stat. at 96. Moreover, the Settlement Act amends the NIIP Act to significantly broaden the potential uses of NIIP water while confirming the amounts of Navajo diversion (508,000 acre-feet of water per year) and irrigated acreage (110,630) authorized for the project. Settlement Act § 10402(a). “Once reserved rights for Indian reservations have been quantified, they may be applied to any water uses chosen by the tribes.” Goldfarb, *supra*, at 51.

{30} In the 1940s several Colorado River Basin states negotiated the Upper Colorado River Compact. Upper Colorado River Basin Compact, ch. 48, Pub. L. No. 81-37, 31, 63 Stat. 31 (1949). Although it did not directly impact that Compact, at the time it was estimated the Navajo Nation could require about 787,000 acre-feet of water. Lloyd Burton, *American Indian Water Rights & the Limits of the Law* 30 (U. Press Kan. 1991). The United States Bureau of Reclamation and the Bureau of Indian Affairs then proposed a reclamation project of this approximate size for the Navajo Tribe. In the face of opposition from states adjoining the Colorado River, Congress refused to act. *Id.* The Navajo Tribal Council thereafter agreed to a guaranteed quantity of water—508,000 acre-feet annually—but to be shared with other San Juan users in drought years. The Council further agreed if such a project was completed, the Navajo Nation would not assert its 1868 date of appropriation to such water. *Id.* at 31. On this basis, the Navajo Nation along with the State of New Mexico then presented Congress with a joint Navajo-State project for the agreed portion of the San Juan River. In June of 1962, Congress passed the Act authorizing the construction and maintenance of NIIP and New Mexico’s San Juan-Chama diversion. *See* NIIP Act, 76 Stat. at 96; 43 U.S.C. § 615ii (2000) (omitted from current version of the U.S.C.) (for a more detailed discussion of the history of NIIP, *see* Jacobsen, *supra*, at 825-32). Appellants’ argument that Congress statutorily adopted the agreed amount of 508,000 acre-feet, but

⁸Appellants’ arguments based on other federal laws are again unfounded. They rely on various resolutions, compacts, and statutes from the first half of the 20th century that include (at most) general references to the principle of beneficial use. Even if any of these general resolutions or statutes were applicable in this situation, which they are not, they would be superseded by the subsequent and more specific NIIP and Settlement statutes passed by Congress. *See Morton*, 417 U.S. at 550-51.

secretly expected a state judge to compute the Navajo Nation's share based on a PIA calculation, flies in the face of this history. {31} In addition to specifying the sources, amounts, distribution, and purposes of the NIIP Act, Congress unambiguously provided:

No person shall have or be entitled to have the use for any purpose . . . of water stored in Navajo Reservoir or of any other waters of the San Juan River and its tributaries originating above Navajo Reservoir to the use of which the United States is entitled under these projects except under contract satisfactory to the Secretary and conforming to the provisions of this Act.

NIIP Act § 11.

{32} Appellants argue that "Section 13(c) of the NIIP Act explicitly disclaims any Congressional intention to create a water right[.]" That section provides, in part, that "[n]o right or claim of right to the use of the waters of the Colorado River system shall be aided or prejudiced by" the Act. NIIP Act § 13(c). As the district court explained however, by reasoning with which we agree, this argument takes Section 13(c) totally out of its relevant context. Nothing in Section 13 prohibits the creation of individual water rights within the limitations of the Colorado River Compact.

IV. The District Court's Procedure Complies With Statutory and Constitutional Requirements

{33} Appellants advance several challenges to the procedure adopted by the district court. These challenges exhibit a lack of comprehension of New Mexico statutory procedures for the allocation of water and how constitutional norms apply to those procedures.

A. The District Court Did Not Err in Treating Appellants' "Cross Claims" as Objections to the Settlement

{34} The New Mexico statutory inter se water procedure is specifically designed to allow the State Engineer to fairly allocate water to all users of a particular stream. See NMSA 1978, §§ 72-4-15 (1907), -17 (1965). As the district court explained, this statutory procedure does not follow the typical civil pattern of permitting

claims, cross-claims, and counter-claims.⁹ New Mexico statutes specifically allow the district court flexibility to adjudicate the senior water rights first, and then address junior claims. This procedure is efficient since it allows the district court to hear all claims against the State Engineer so it can be determined how much water the state will have to allocate. See *State ex rel. Office of State Eng'r v. Lewis*, 2007-NMCA-008, ¶ 30, 141 N.M. 1, 150 P.3d 375. That is exactly what the district court did here; Appellants' "cross claims" were treated as objections to the Settlement, and now the State Engineer knows how much water must be subtracted for the "senior" Navajo Nation claims before he calculates the junior claims. To litigate Appellants' "cross claims" and determine their exact water rights in the initial proceeding would destroy the purpose of an expedited inter se procedure. See Rule 1-071.2(B).

B. Notice of This Inter Se Proceeding Satisfied Constitutional Due Process

{35} To assert a procedural due process claim, an appellant must establish both a deprivation of a protected liberty or property interest and that he or she was not afforded adequate procedural protections. *Barreras v. N.M. Corr. Dep't*, 1992- NMSC-059, ¶ 18, 114 N.M. 366, 838 P.2d 983. "[T]he threshold question in evaluating a due process challenge is whether there is a deprivation of liberty or property." *Bounds v. State ex rel. D'Antonio*, 2013-NMSC-037, ¶ 51, 306 P.3d 457 (internal quotation marks and citation omitted). As the district court found, "the total amount of water [allocated to the Navajo Nation] in the Settlement Agreement is less than the Navajo Nation's currently, federally authorized rights to water pursuant to the 1962 NIIP Act and the long-established Hogback-Cudei and Fruitland-Cambridge irrigation projects" and thus there was a reasonable basis to conclude that the Settlement provides for less than the potential claims that could be secured at trial. Since these rights were secured by Congressional enactments and thus have preemptive effect, Appellants could not have suffered any loss of property rights. *In re Gen. Adjudication of All Rights to Use Water In the Gila River Sys. & Source*, 224 P.3d 178, 187 (Ariz. 2010) (en banc) (holding that no due process

violation occurs if a tribe is given no more water than they could secure at trial and claimants are given the right to advance claims to the remaining water).

{36} If this Court could presume Appellants had a property loss, however, their assertion that the parties to the Settlement Agreement intentionally violated due process by failing "to use available data sources to identify and serve the defendants in the Navajo inter se" is not legally viable. Initially it ignores the fact that the settling parties were following the order of the district court and the requirements of Rule 1-071.2(C). Secondly it appears at least part of the problem arose from the failure of Appellants' counsel to supply the current names of all members of the various ditch associations that were available to Appellants. Appellants cannot complain of reversible error they invited and thereby caused. See *United States v. Lopez-Medina*, 596 F.3d 716, 732 (10th Cir. 2010); *State v. Jim*, 2014-NMCA-089, ¶ 22, 332 P.3d 870 ("It is well established that a party may not invite error and then proceed to complain about it on appeal."). The Settling Parties: (1) conducted five public meetings; (2) published the notice information and filing requirements once a week for four consecutive weeks in all local newspapers;¹⁰ (3) publicized five public meetings where the Settlement was discussed by purchasing a quarter-page advertisement or larger once a week for three consecutive weeks in the *Gallup Independent*, the *Farmington Daily Times*, and the *Navajo Times*; (4) publicized the five public meetings by purchasing thirty-second or longer local radio advertisements at least three times a day on the day before and the day of each public meeting; and (5) submitted a synopsis of each public meeting to the court for public inspection. Additionally the State used first-class mail to deliver notice to the over 19,500 potential water users in the State Engineer's records.

{37} Due process requires only notice "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and to afford them an opportunity to present their objections." *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950); see *Bounds*, 2013-NMSC-037, ¶ 50. Reasonableness is a

⁹On March 13, 1975, the State Engineer initiated the general stream adjudication on the San Juan River stream system by filing the complaint contemplated under Section 72-4-15 in district court. In accordance with the usual procedure in water rights proceedings, no "answer" was required or filed. See *State ex rel. State Eng'r v. Comm'r of Pub. Lands*, 2009-NMCA-004, ¶ 8, 145 N.M. 433, 200 P.3d 86.

¹⁰The *Gallup Independent*, *Navajo Times*, *Farmington Daily Times*, *Rio Rancho Observer*, *Rio Grande Sun*, and *Albuquerque Journal*.

function of practical alternatives. See *Greene v. Lindsey*, 456 U.S. 444, 454 (1982). As this case illustrates, inter se water cases can involve thousands of potential claimants, and the limits of due process notice therefore require flexibility in this context. See *In re Rights to Use of Gila River*, 830 P.2d 442, 449-50 (Ariz. 1992); *Lu Ranching Co. v. United States*, 67 P.3d 85, 88-89 (Idaho 2003). The measures taken by the State herein satisfy the requirements of due process. See *In re Crow Water Compact*, 2015 MT 353, ¶ 39, 382 Mont. 46, 364 P.3d 584; *Jensen v. Morgan*, 844 P.2d 287, 290-91 (Utah 1992).

C. The District Court Did Not Abuse Its Discretion in Limiting the Time for Discovery

{38} The district court established an orderly and appropriate discovery process, which included an electronic repository for access to discovery documents and regional records repositories for inspection of the older archived government records.¹¹ Technical reports supporting the United States' and Navajo Nation's Statement of Claims and supporting documents were filed on January 30, 2012. Initial discovery began with the district court's February 3, 2012 order lifting the stay of discovery. Discovery was available to the non-settling parties beginning on April 2, 2012, when the settling parties made their initial disclosures. The parties were able to review documents, make discovery requests, and conduct depositions of the Settling Parties' witnesses at any time after February 3, 2012.

{39} Under the court's scheduling order entered on August 7, 2012, discovery was originally set to close on February 1, 2013. On November 6, 2012, at the request of Appellants and others, the district court entered an order extending discovery. At the request of Appellants and the other non-settling parties, the district court granted another extension of time for discovery until March 31, 2013. Discovery was thus available to Appellants for more than a year during which they sought no further discovery extensions.

V. Appellants' Assertions That the District Court Knowingly Admitted False or Inadmissible Evidence, Allowed the Destruction of Evidence and Ex Parte Contact, and Improperly Excluded Appellants' Evidence Are Unsupported and Subject to Sanctions

{40} Appellants argue the district court committed reversible error by intentionally admitting inadmissible evidence. Again, virtually all these arguments are based on Appellants' inability to comprehend the proper goals and procedure for an inter se water hearing. As we have reiterated, in such a proceeding, issues regarding settlement of other claims and necessity of a pipeline were not required to be addressed at the outset of litigation or alongside superior claims. Appellants' "equitable" arguments regarding global warming, lack of adequate water, the Engineer's failure to fairly allocate, shrinking Navajo population, endangered species, exclusion of other reserved federal water uses, and the failure to include Appellants in the inter se negotiations between the three governments also all miscomprehend the scope and legal effect of the congressional approvals in this case.

{41} Due to the intemperate nature of some of Appellants' language however, this Court cannot fail to address one of their arguments. Appellants claim that

[t]he court abolished the requirement of a hydrographic survey, which is required by statute. [Sections] 72-4-13 through -17. The court substituted a fake hydrographic survey prepared by the United States and the Navajo Nation without any fieldwork. . . . This pseudo-hydrographic survey was a compilation of unverified information compiled by the adversarial claimants—the Navajo Nation and the United States—from unidentified sources.¹²

(Emphasis added.)

{42} In fact the United States clearly created and produced the technical and extremely expensive hydrological report, and the State Engineer followed the usual procedure of adopting it. See NMSA 1978, § 72-4-16 (1919). The allegation that the court fraudulently substituted a fake hydrographic survey alleges a felony in New Mexico and is appropriately subject to judicial sanctions. See NMSA 1978, § 30-22-5 (2003); see also *Martin v. Essrig*, 277 P.3d 857, 860-61 (Colo. App. 2011); *Peters v. Pine Meadow Ranch Home Ass'n*, 2007 UT 2, ¶ 23, 151 P.3d 962. Appellants' claims alleging willful misconduct by the district

court are rejected, and Appellants' counsel is strongly admonished not to advance any such frivolous and unfounded accusations in the future.

{43} Likewise, Appellants' allegations regarding ex parte contact are equally off base. Appellants' counsel states it appears violations of the prohibition against ex parte communication have "contributed to many instances in this and other cases where the basic rights of water owners have been sacrificed to accommodate the interests of the OSE." Appellants' counsel further posits the question, "Did the OSE engage in ex parte contacts to convince the judge that it would be too expensive for the three governments to search readily available public records?" Even more outrageously, without establishing any basis for the accusation of ex parte contact, Appellants' counsel goes on to smear the district judge by stating, "[t]he judge never made any disclosures, and never explained why not."

{44} Truth is not a matter of convenience. "Lawyers are officers of the court and are always under an obligation to be truthful" with the judicial forum. *In re Stein*, 2008-NMSC-013, ¶ 35, 143 N.M. 462, 177 P.3d 513 (internal quotation marks and citation omitted). Making such allegations without offering a shred of proof is unprofessional and unethical. *In re Venie*, 2017-NMSC-018, ¶ 22, 395 P.3d 516. Appellant's counsel is cautioned that, in the future, such unsupported accusations and evidence-free speculation will not be so politely addressed by this Court, but will instead result in sanctions.

CONCLUSION

{45} For the above stated reasons this Court affirms the order of the district court finding the Settlement was fair, adequate, reasonable, and consistent with the public interest as well as all applicable New Mexico and federal laws.

{46} IT IS SO ORDERED.

BRUCE D. BLACK, Judge Pro Tem

WE CONCUR:

LINDA M. VANZI, Chief Judge
J. MILES HANISEE, Judge

¹¹The *Gallup Independent*, *Navajo Times*, *Farmington Daily Times*, *Rio Rancho Observer*, *Rio Grande Sun*, and *Albuquerque Journal*.

¹²Appellants could then identify documents and repository staff would make the copies. When Appellants' counsel objected that documents must be made available in San Juan County, counsel for the United States informed the court and the non-settling parties that the non-privileged documents would be scanned onto a disk.



CUDDY & MCCARTHY, LLP

Attorneys at Law



JULIE S. RIVERS

We are proud to announce that Julie S. Rivers has been named Partner at Cuddy & McCarthy, LLP. Ms. Rivers joined the Firm in October, 2016. She has over 25 years of experience in the practice of law. Ms. Rivers' law practice focuses generally in wills, trusts and estates, family law (litigation to collaborative), civil litigation concerning estate administration (probate and trusts), guardianship and conservatorship law and mediation. Ms. Rivers also is well experienced as a litigator and mediator.



CARLOS J. PADILLA

Cuddy & McCarthy, LLP is pleased to announce that Carlos J. Padilla joined the Firm as an Associate. His practice is in the areas of general civil litigation, real estate law transactions and entities, and banking law.

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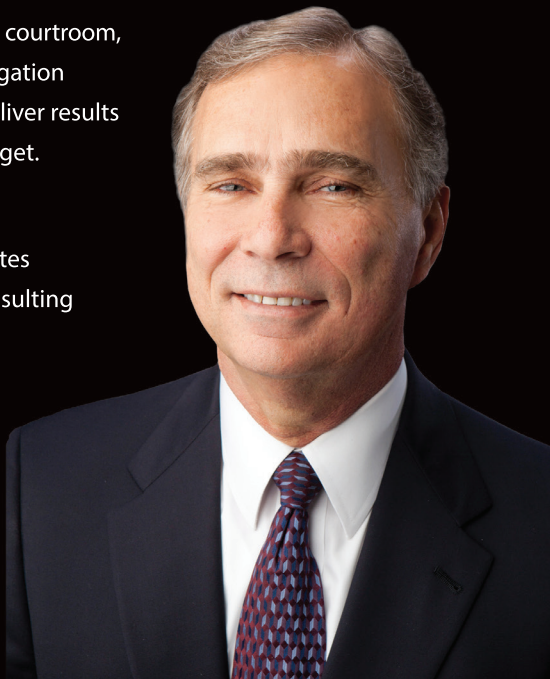
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Positions

Divorce Lawyers – Incredible Opportunity w/ New Mexico Legal Group

New Mexico Legal Group, a cutting edge divorce and family law practice is adding one more divorce and family law attorney to its existing team (David Crum, Cynthia Payne, Twila Larkin, Bob Matteucci, Kim Padilla and Amy Bailey). We are looking for one super cool lawyer to join us in our mission. Why is this an incredible opportunity? You will build the very culture and policies you want to work under; You will have access to cutting edge marketing and practice management resources; You will make more money yet work less than your contemporaries; You will deliver outstanding services to your clients; You will have FUN! (at least as much fun as a divorce attorney can possibly have). This position is best filled by an attorney who wants to help build something extraordinary. This will be a drama free environment filled with other team members who want to experience something other than your run of the mill divorce firm. Interested candidates: send whatever form of contact you think is appropriate, explaining why you are drawn to this position and how you can be an asset to the team, to Dcrum@NewMexicoLegalGroup.com. All inquiries are completely confidential. We look forward to hearing from you!

Litigation Attorney

The Litigation Attorney will attend hearings, trials, draft and review pleadings, assist with task and workflow management, and provide professional legal assistance, advice and counsel with respect to collections and creditor's rights. Moreover, the position may require research and analysis of legal questions. The position will also entail court appearances, often on a daily basis. The position has a high level of responsibility within established guidelines, but is encouraged to exercise initiative. The position is part of a growing team of attorneys across several states, and is located in Albuquerque, New Mexico. Please contact Laura Berry for more information, Laura.Berry@mjfirm.com; Main: 303.830.0075 x143; Direct: 303.539.3184

Assistant District Attorney

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

Lawyer Position

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

Join our team at New Mexico Legal Aid!

Check our website for current opportunities: <https://tinyurl.com/NMLAjobs>

New Mexico Court of Appeals Attorney- Reporter of Decisions

The New Mexico Court of Appeals is recruiting for a newly created position called the Reporter of Decisions. The position is located in Albuquerque. Under the direction of the Chief Judge, the Reporter of Decisions will function as the Court's editor-in-chief by providing highly complex and superior legal editing of opinions. The Reporter of Decisions will edit all draft opinions and devote meticulous attention to matters of technical legal detail. Required experience is 7 years in the practice of law, including appellate law and editorial experience in preparing and enhancing legal information for publication. Also required is 3 years supervisory experience in a legal setting. A comprehensive knowledge of substantive and procedural legal principles and applications as related to legal editorial and publishing practices, procedures, and methodology is essential. Pay range is \$32.50 - \$50.78 per hour with a target pay of \$40.62 per hour. More information is available at www.nmcourts.gov/careers. Please send resume and writing sample to Agnes Szuber Wozniak, supasw@nmcourts.gov, 237 Don Gaspar, Room 30, Santa Fe, NM 87501. 505-827-4201.

Deputy District Attorney

Immediate opening for Deputy District Attorney in Lordsburg. Salary depends on experience, w/benefits. Please send resume to Francesca Estevez, District Attorney FMartinez-Estevez@da.state.nm.us Or call 575-388-1941.

Attorney

Fast-paced San Juan County law firm looking for attorney with excellent research and writing skills to assist busy litigation team. Experience in criminal defense and/or personal injury helpful, but not required. Position may include advancement opportunities, if interested. Salary negotiable. Send letter of interest, resume, and writing sample to hsmurphy@titusmurphylawfirm.com.

Attorney

Attorney. Team, Talent, Truth, Tenacity, Triumph. These are our values. Parnall Law is seeking an attorney to help advocate and represent the wrongfully injured. You must possess confidence, intelligence, and genuine compassion and empathy. You must care about helping people. You will receive outstanding compensation and benefits, in a busy, growing plaintiffs personal injury law firm. Mission: Fighting Wrongs; Protecting Rights. To provide clients with intelligent, compassionate and determined advocacy, with the goal of maximizing compensation for the harms caused by wrongful actions of others. To give clients the attention needed to help bring resolution as effectively and quickly as possible. To make sure that, at the end of the case, the client is satisfied and knows Parnall Law has stood up for, fought for, and given voice and value to his or her harm. Keys to success in this position Litigation experience (on plaintiff's side) preferred. Strong negotiation skills. Ability to thrive in a productive and fast-paced work environment. Organized. Independent / Self-directed. Also willing / unafraid to collaborate. Proactive. Detail-oriented. Team player. Willing to tackle challenges with enthusiasm. Frequent contact with your clients, team, opposing counsel and insurance adjusters is of paramount importance in this role. Integrate the 5 values of Parnall Law. Compelled to do outstanding work. Strong work ethic. Interested in results. Barriers to success: Lack of fulfillment in role. Not enjoying people. Lack of empathy. Not being time-effective. Unwillingness to adapt and train. Arrogance. We are an established personal injury firm experiencing steady growth. We offer competitive salary and benefits, including medical, dental, 401k, and performance bonuses or incentives – all in a great team-based work environment. We provide a workplace where great people can do great work. Our employees receive the training and resources to be excellent performers – and are rewarded financially as they grow. We want people to love coming to work, to take pride in delivering our vision, and to feel valued for their contributions. If you want to be a part of a growing company with an inspired vision, a unique workplace environment and opportunities for professional growth and competitive compensation, you MUST apply online at www.HurtCallBert.com/jobs. Emailed applications will not be considered.

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Butt Thornton & Baehr PC seeks an attorney with at least 3 years' legal experience. Our growing firm is in its 59th year of practice. We seek an attorney who will continue our tradition of excellence, hard work, and commitment to the enjoyment of the profession. Please send letter of interest, resume, and writing samples to Ryan T. Sanders at rtsanders@btblaw.com.

CYFD Attorney

The Children, Youth and Families Department is seeking to fill multiple vacant Children's Court Attorney Senior Positions. Salary range is \$39-\$69K annually, depending on experience and qualifications. The attorneys will represent the department in abuse/neglect and termination proceedings and related matters. The ideal candidates will have experience in the practice of law totaling at least three years and New Mexico licensure is required. Children's Court Attorney Senior positions will be located in Albuquerque, New Mexico. Benefits include medical, dental, vision, paid vacation, and a retirement package. Please contact the following for information on how to apply and to ascertain the closing date for the position. Cynthia Tessman (505) 841-7819 or cynthia.tessman@state.nm.us. The state of New Mexico is an EOE. To apply for this position go to www.state.nm.us/spo/ and click on JOBS, then click on Apply for a Job Online Job order #100831.

Trial Attorney and Senior Trial Attorney

The Third Judicial District Attorney's Office in Las Cruces is looking for: Trial Attorney: Requirements: Licensed attorney in New Mexico, plus a minimum of two (2) years as a practicing attorney, or one (1) year as a prosecuting attorney. Salary Range: \$57,688-\$72,110; Senior Trial Attorney: Requirements: Licensed attorney to practice law in New Mexico plus a minimum of four (4) years as a practicing attorney in criminal law or three (3) years as a prosecuting attorney. Salary Range: \$63,743-\$79,679. Salary will be based upon experience and the District Attorney's Personnel and Compensation Plan. Submit Resume to Whitney Safranek, Human Resources Administrator at wsafranek@da.state.nm.us. Further description of this position is listed on our website <http://donaanacountyda.com/>.

Associate Attorney

Riley, Shane & Keller, P.A., an AV-rated defense firm formed in 1982 in Albuquerque, seeks an associate attorney for an appellate/research and writing position. We seek a person with appellate experience, an interest in legal writing and strong writing skills. The position will be full-time with flexibility as to schedule and an off-site work option. We offer an excellent salary and benefits package. Please submit a resume, references and writing samples to 3880 Osuna Rd., NE, Albuquerque, NM 87109 c/o Office Manager, (fax) 505-883-4362 or mvelasquez@rsk-law.com

Multiple Attorney Positions

1st Judicial District Attorney

The First Judicial District Attorney's Office has multiple felony and entry level magistrate court attorney positions. Salary is based on experience and the District Attorney Personnel and Compensation Plan. Please send resume and letter of interest to: "DA Employment," PO Box 2041, Santa Fe, NM 87504, or via e-mail to 1stDA@da.state.nm.us.

Full Time Associate Attorneys

Miller Stratvert PA, with offices in Albuquerque, Santa Fe, Farmington and Las Cruces, is seeking 2 full time associate attorneys with 3-5 years' litigation experience. All qualified candidates should possess strong research and writing skills, have some courtroom experience, and be well-versed in all local, State and Federal civil rules and procedures. Miller Stratvert PA provides competitive compensation, a generous benefits package, and a congenial work-place environment. Please submit a letter of interest and resume to info@mstlaw.com.

Assistant Trial Attorney

Assistant Trial Attorney wanted for immediate employment with the Seventh Judicial District Attorney's Office, which includes Catron, Sierra, Socorro and Torrance counties. Employment will be based primarily in Socorro County (Socorro). Socorro is a short one hour drive from Albuquerque. Must be admitted to the New Mexico State Bar. Salary will be based on the NM District Attorneys' Personnel & Compensation Plan and commensurate with experience and budget availability. Send resume to: Seventh District Attorney's Office, Attention: J.B. Mauldin, P.O. Box 1099, 302 Park Street, Socorro, New Mexico 87801.

Assistant City Attorney

The City of Albuquerque Legal Department is hiring an Assistant City Attorney to provide legal services to the City's Department of Municipal Development ("DMD"). The area of focus includes, but is not limited to: contract drafting, analysis, and negotiations; regulatory law; procurement; general commercial transaction issues; intergovernmental agreements; dispute resolution; and civil litigation. Attention to detail and strong writing skills are essential. Five (5)+ years' experience is preferred and must be an active member of the State Bar of New Mexico, in good standing. Please submit resume and writing sample to attention of "Legal Department DMD Assistant City Attorney Application" c/o Angela M. Aragon, Executive Assistant/HR Coordinator; P.O. Box 2248, Albuquerque, NM 87103, or amaragon@cabq.gov.

Multiple Trial Attorney Positions Available in the Albuquerque Area

The Thirteenth Judicial District Attorney's Office is seeking entry level as well as experienced trial attorneys. Positions available in Sandoval, Valencia, and Cibola Counties, where you will enjoy the convenience of working near a metropolitan area while gaining valuable trial experience in a smaller office, which provides the opportunity to advance more quickly than is afforded in larger offices. Salary commensurate with experience. Contact Krissy Saavedra ksaavedra@da.state.nm.us or 505-771-7400 for an application. Apply as soon as possible. These positions will fill up fast!

Litigation Attorney Positions

DNA-People's Legal Services, Inc. is hiring entry-level and experienced Managing and Staff Attorney's in the State of Arizona and New Mexico. Positions available in Flagstaff, Keams Canyon, AZ and Farmington, NM, where you will enjoy the convenience of working near a metropolitan area while gaining valuable experiences in a smaller office, which provides the opportunity to advance more quickly than is afforded in larger offices and live the experience on Navajo/Hopi reservation, apply quickly. Salary commensurate with experience. Send resume, cover letter, writing sample, and references to Hresources@dnalegalservices.org. These positions will fill up fast!

Full-Time Attorney

Davis Miles McGuire Gardner, PLLC is the New Mexico provider firm for LegalShield. We seek a full-time attorney in our downtown Albuquerque office. We offer telecommuting after a training period. Our attorneys do not have a case load; however, they enjoy the opportunity to assist people on a variety of legal issues each day. Spanish speaking preferred. New Mexico Bar membership required. Our requirements include the following: a minimum of three years practice experience (may be a combination of NM and other state); excellent communication and writing skills; experience in a variety of practice areas – generalized practice a plus; ability to review contracts, draft letters, render advice on non-litigation matters and render limited advice on litigation matters; ability to work in a fast-paced call center environment; telecommuting attorneys need home office with high-speed internet access (following comprehensive in-office training lasting approximately 10-16 weeks depending on the individual); and Bi-lingual (English/Spanish) preferred. Please fax resume and cover letter to 505-243-6448, Attn: Office Administrator

Letters of Interest From Attorneys

The Administrative Office of the Courts invites letters of interest from attorneys interested in representing children both as guardian ad litem for children under 14 and as youth attorney for children over 14 and parents or custodians that are parties to abuse and neglect cases arising under the Children's Code in the Thirteenth Judicial District (Valencia County). Compensation is tied directly to caseload. Letters of interest: Please include name, street address, phone number, email address, and a brief statement describing your background and understanding of abuse and neglect cases, years of experience, a statement of your ability to perform duties, and the available date to begin case assignments. Interested attorneys must be licensed to practice in the state of New Mexico, have professional liability insurance, and must attach a resume to the letter of interest. Contracting attorneys will submit monthly logs, have access to email, meet with the Court or AOC if requested, participate in related CLE's, and submit invoices as required by AOC and Department of Finance protocols. Please send questions, letters of interest and accompanying resumes to Sarah Jacobs at aocsej@nmcourts.gov.

Deputy City Attorney or Assistant City Attorney

The City of Farmington is seeking a Deputy City Attorney or Assistant City Attorney. This is a full-time, salaried position with full benefits. Please note the job duties and requirements of the Deputy City Attorney and Assistant City Attorney does differ. The position an individual is considered for is dependent on qualifications. For an in-depth understanding and description of the available position, please visit our website at <https://fmrn.applicantpro.com/jobs/>. All applications must be submitted online. For any questions, please contact Brooke Tomlinson, City of Farmington HR Business Partner at (505) 599-1134 or btomlinson@fmrn.org.

Paralegal

Paralegal. Team, Talent, Truth, Tenacity, Triumph. These are our values. (Please read below concerning how to apply.) We are a growing plaintiffs personal injury law firm. Candidate must be enthusiastic, confident, a great team player, a self-starter, and able to multi-task in a fast-paced environment. Mission: To work together with the attorneys as a team to provide clients with intelligent, compassionate and determined advocacy, with the goal of maximizing compensation for the harms caused by wrongful actions of others. To give clients and files the attention and organization needed to help bring resolution as effectively and quickly as possible. To make sure that, at the end of the case, the client is satisfied and knows Parnall Law has stood up for, fought for, and given voice and value to his or her harm. Success: Litigation experience (on plaintiff's side) preferred. Organized. Detail-oriented. Meticulous but not to the point of distraction. Independent / self-directed. Able to work on multiple projects. Proactive. Take initiative and ownership. Courage to be imperfect, and have humility. Willing / unafraid to collaborate. Willing to tackle the most unpleasant tasks first. Willing to help where needed. Willing to ask for help. Acknowledging what you don't know. Eager to learn. Integrate 5 values of our team: Teamwork; Tenacity; Truth; Talent; Triumph. Compelled to do outstanding work. Know your cases. Work ethic; producing Monday – Friday, 8 to 5. Barriers to success: Lack of fulfillment in role. Treating this as "just a job." Not enjoying people. Lack of empathy. Thin skinned to constructive criticism. Not admitting what you don't know. Guessing instead of asking. Inability to prioritize and multitask. Falling and staying behind. Not being time-effective. Unwillingness to adapt and train. Waiting to be told what to do. Overly reliant on instruction. If you want to be a part of a growing company with an inspired vision, a unique workplace environment and opportunities for professional growth and competitive compensation, you MUST apply online at www.HurtCallBert.com/jobs. Emailed applications will not be considered.

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GUEBERT BRUCKNER GENTILE P.C. busy litigation firm looking for experienced Legal Assistant to support 9 attorneys. Candidate will coordinate with various members of the staff to accomplish the needs of attorneys. Duties include but are not limited to: Filing, finalizing documents for submission to clients, State and Federal courts. Excellent communication skills required in order to meet deadlines and to comply with various client guidelines. Strong writing, proof reading skills and knowledge of court rules required. Hours 8:30 to 5:30. Firm uses Microsoft Word, Excel, and Outlook. Please submit resume and salary requirement to Kathleen A. Guebert, POB 93880, Albuquerque, NM 87109.

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Legal Assistant

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Lewis Brisbois a national firm with 42 offices in 26 states is seeking experienced legal secretaries for our Albuquerque office. Candidates must be proficient in state and federal filing procedures, Word, Excel and have excellent transcription skills. A minimum of two years experience in a legal environment is required. This is a full time position Monday through Friday. We offer a competitive benefits package including medical, dental, life, paid vacation and sick time and a 401K plan. Email your resume to phxrecruiter@lewisbrisbois.com

Legal Secretary

The City of Albuquerque Legal Department is seeking a Legal Secretary to assist an assigned attorney or attorneys in performing a variety of responsible legal secretarial/administrative duties to include but not limited to, preparing and reviewing legal documents and creating and maintaining case files; provide information and assistance, within an area of assignment, to the general public, other departments and governmental agencies. Please apply at <https://www.governmentjobs.com/careers/cabq>. Position posting closes October 3, 2018.

Paralegal - Incredible Opportunity w/ New Mexico Legal Group

New Mexico Legal Group, a cutting edge divorce and family law practice is looking for one more paralegal to join our team. Why is this an incredible opportunity? You will be involved in building the very culture and policies that you want to work under. We are offer great pay, health insurance, automatic 3% to your 401(k), vacation and generous PTO. And we deliver the highest quality representation to our clients. But most importantly, we have FUN! Obviously (we hope it's obvious), we are looking for candidates with significant substantive experience in divorce and family law. People who like drama free environments, who communicate well with clients, and who actually enjoy this type of work will move directly to the front of the line. Interested candidates should send a resume and cover letter explaining why you are perfect for this position to DCrum@NewMexicoLegalGroup.com The cover letter is the most important thing you will send, so be creative and let us know who you really are. We look forward to hearing from you!

Paralegal

The Hemphill Firm, P.C. is a small fast-paced office seeking a part-time Paralegal to assist attorneys in performing substantive general civil litigation and administrative legal work from time of inception through resolution and to perform a variety of paralegal duties, such as summarizing expert testimony, preparing discovery, online research and trial preparation. Seeking skilled, organized and detail-oriented individual with knowledge in using Microsoft applications including Word and Excel. Hours will be flexible. You may send your letter of interest and resume to our firm's administrator, Carolyn@hemphillfirm.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.

Part-time Legal Assistant

Part-time Legal Assistant for insurance defense downtown law firm. Flexible hours (20-25 hrs. per week), comfortable working environment, parking provided. Looking for someone with 3+ years experience, knowledge of e-filing in State and Federal courts, strong organizational skills, cooperative attitude, and attention to detail. Hourly wage DOE. Please e-mail resume to kayserk@civerolo.com, or mail to Civerolo, Gralow & Hill, PA, P.O. Box 887, Albuquerque NM 87103.

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

Navajo Law CLE on November 16

Sutin, Thayer & Browne law firm will host its annual all-day Navajo Law CLE on November 16 in Albuquerque. The nonprofit CLE offers 8 credits (including 2 ethics credits) applicable to the Navajo Nation Bar and the State Bar of New Mexico. Early bird registration \$175 by October 16. Details at sutinfirm.com/news.

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