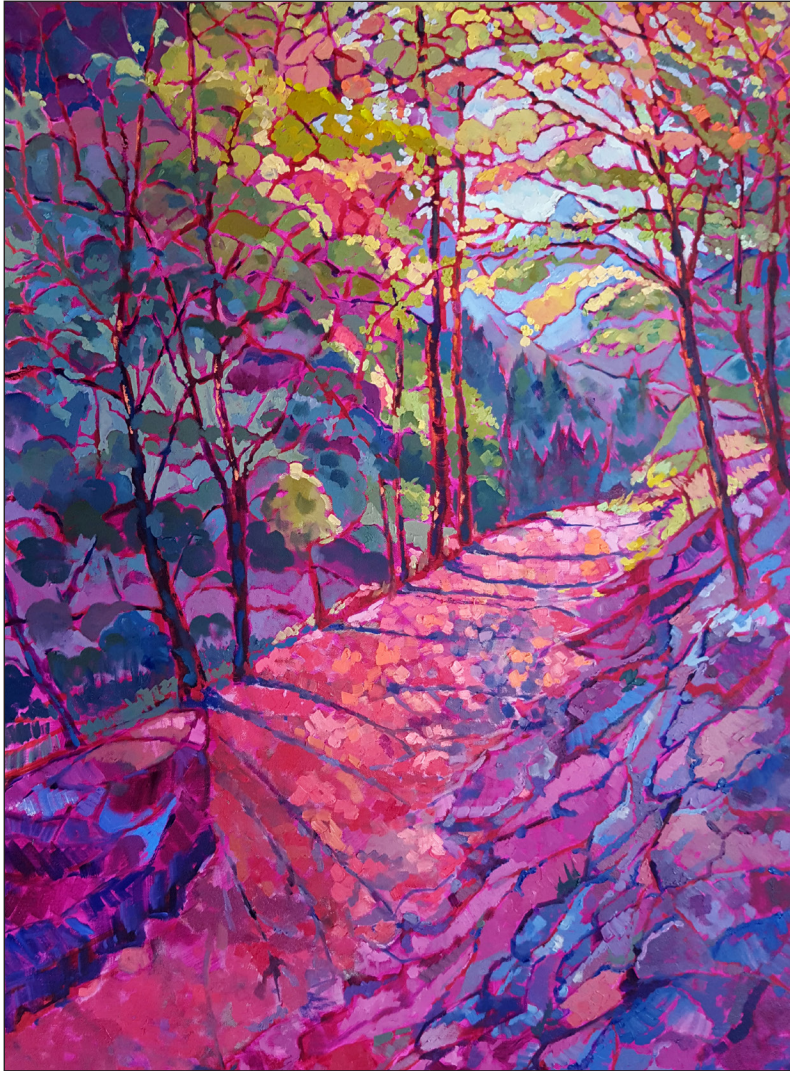


BAR BULLETIN

October 10, 2018 • Volume 57, No. 41



Pink Path by Bhavna Misra (see page 3)

<https://bhavnamisra.com/>

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THE SPENCE LAW FIRM, LLC

Cordially invites you to stop by
for breakfast to help us celebrate
our new office location

1600 Mountain Rd NW
Albuquerque

Thursday, October 25, 2018
Seven-Thirty to Ten-Thirty o'clock a.m.

Contact Amy Winn at 505.832.6363
or by email to winn@spencelawyers.Com
For more information

SpenceNM.com



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Meetings

October

- 11**
Business Law Section Board
4 p.m., teleconference
- 12**
Prosecutors Section Board
Noon, State Bar Center
- 13**
Young Lawyers Division Board
10 a.m., State Bar Center
- 16**
Real Property, Trust and Estate Section Board
Noon, teleconference
- 16**
Solo and Small Firm Section Board
11 a.m., State Bar Center
- 19**
Family Law Section Board
9 a.m., teleconference

Workshops and Legal Clinics

October

- 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
- 18**
Common Legal Issues for Senior Citizens Workshop Presentation
10–11:15 a.m., Mary Esther Gonzales Senior Center, Santa Fe, 1-800-876-6657
- 18**
Common Legal Issues for Senior Citizens Workshop Presentation
10–11:15 a.m., Taos County Senior Program, Taos, 1-800-876-6657

About Cover Image and Artist: Bhavna Misra is a San Francisco based fine artist. She observes life closely and interprets it into her drawings and paintings in her signature realistic-infused-with-expressionistic, full-color-palette style that incorporates bold strokes and rich marks to convey rhythm and emotion in her work. The colors as seen though the planar positioning, relative interplay, and curiosity of unseen are guided to delight and hold the interest to explore more. She likes to surround herself with nature, beauty, and positivity that brings out the motivation to create harmonious, colorful compositions that aim to delight and inspire the sense of calm, cheer, and joy in the viewer. About eight years ago, Misra quit her 9-to-5 job and returned to doing art full time. She now regularly displays her work at various exhibitions and shows. She works as an art contractor for the Alameda County Library System and owns Bhavna Misra Art Studio and Gallery.

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.

Judicial Performance Evaluation Commission

2018 Election Recommendations

The New Mexico Judicial Performance Evaluation Commission, the nonpartisan volunteer commission established by the New Mexico Supreme Court to make recommendations to voters on judges standing for retention, has published its voter's guide online at www.nmjpec.org. In addition to its recommendations, the website contains information on how the commission reached its recommendation on each justice or judge, along with their educational background and experience. NMJPEC is made up of 15 volunteer members from throughout New Mexico, including seven lawyers and eight non-lawyers, who spend hundreds of hours conducting evaluations. Judges standing for retention are rated on legal ability, fairness, communication skills, preparation, attentiveness, temperament and control over proceedings.

New Mexico Supreme Court Commission on Access to Justice

The next meeting of the Commission is Nov. 2 from noon- 4 p.m. at the State Bar of New Mexico. Commission goals include expanding resources for civil legal assistance to New Mexicans living in poverty, increasing public awareness and encouraging and supporting pro bono work by attorneys. Interested parties from the private bar and the public are welcome to attend. More information about the Commission is available at www.accesstojustice.nmcourts.gov

Professionalism Tip

With respect to the courts and other tribunals:

I will avoid the appearance of impropriety at all times.

Second Judicial District Court Children's Court Abuse and Neglect Brown Bag

The Second Judicial District Court Children's Court Abuse and Neglect Brown Bag will be held at noon on Oct. 19, in the Chama Conference Room at the Juvenile Justice Center, 5100 2nd Street NW, Albuquerque. Attorneys and practitioners working with families involved in child protective custody are welcome to attend. Call 505-841-7644 for more information.

Sixth Judicial District Court Investiture Ceremony of The Honorable William J. Perkins

The Sixth Judicial District Court invites members to attend the investiture ceremony of Hon. William J. Perkins at 10 a.m. on Oct. 12, at the Sixth Judicial District Court Grant County Courthouse, 201 N. Cooper Street, 2nd Floor, Silver City. Reception will immediately follow on the first floor lobby of the Grant County Courthouse. Attending justices and judges are asked to bring their robes and report to the second floor jury room before 9:45 a.m.

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 November. 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.

Board of Bar Commissioners Meeting Agenda

The next meeting of the Board of Bar Commissioners will be held on Oct. 12 at the State Bar Center. For a copy of the agenda, visit www.nmbar.org/nmbar-docs/aboutus/governance/meetings/BBCAgenda-1018.pdf. For more information, contact Kris Becker at 505-797-6038 or kbecker@nmbar.org.

Cannabis Law Section Inaugural Board Meeting

On Aug. 9, the Board of Bar Commissioners approved a membership petition to form a State Bar of New Mexico Cannabis Law Section. The Section's inaugural board of directors meeting will be held at 4 p.m., Oct. 16, at the State Bar Center and the general State Bar membership is invited to attend and enroll in the Section. Please R.S.V.P. to Breanna Henley bhenley@nmbar.org. Visit www.nmbar.org/sections to join the Section.

New Mexico Judges and Lawyers Assistance Program Attorney Support Groups

- 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#.
- Nov. 5, 5:30 p.m.
First United Methodist Church, 4th and Lead SW, Albuquerque (The group normally meets the first Monday of the month.)
- Nov. 12, 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#.

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

RPTE Section: Real Property Division

Seeking the Best and Brightest: 2018 Real Property Attorney of the Year

The Real Property, Trust and Estate Section's Real Property Division is seeking nominations for an outstanding lawyer who has demonstrated professionalism, exemplary contributions and made a difference in their legal community. The Division Board will select the honoree to be presented with a plaque and awarded free registration for the 2019 Real Property Institute during a special lunch at the 2018 Real Property Institute on Dec. 5. Nominations should be no more than 350 words and submitted by email to Division Chair Denise Archuleta Snyder at dasnyder@alldridgepite.com by 5 p.m. on Nov. 6 with "Nomination for Best Real Property Lawyer" in the subject line. Nominees must be lawyers in good standing, based in New Mexico and be a Real Property, Trust and Estate Section member.

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.

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

Join the school of UNM Law to honor Distinguished Honorees Justice Edward L. Chávez (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

The Albuquerque Bar Association

October Membership Luncheon

The ABA's membership luncheon will be from 11:45 a.m.-1 p.m., on Oct. 16, at Hyatt Regency on 330 Tijeras NW, Albuquerque. With special guest Hon. Nan G. Nash, Chief Judge of the Second Judicial District Court. Cost: lunch only: \$30 for members/ \$40 for non-members / \$5 walk-up fee. Register for lunch by 5 p.m. Oct. 12. Contact the ABA's interim executive director Deborah Chavez at dchavez@vancechavez.com or 505-842-6626

New Mexico Criminal Defense Lawyers Association

Little Cases, Big Consequences

Do you occasionally get asked to represent a client on a DWI or domestic violence charge? If so, it's important that you get the information in NMCDLA's upcoming "Little Cases, Big Consequences" seminar. Featuring experienced attorneys and a segment by retired N.M. Court of Appeals Judge Roderick Kennedy, this CLE is packed with the latest information needed to step up misdemeanor practice. This seminar will be held in Albuquerque on Oct. 26 and includes 6.0 G and 0.5 EP CLE credits. Visit nmcdla.org to join NMCDLA and register for this seminar today.

The Defender's Role in Trial Advocacy

NMCDLA is coming to Roswell this fall with an information-packed seminar to help lawyers become a stronger advocates for their clients. Join NMCDLA on Nov. 9 for "The Defender's Role in Trial Advocacy" CL, and get the latest updates on pre-trial detention, technology, search and seizure, immigration and more. This seminar is worth 6.0 total CLE credits, including 1.0 ethics credit. Visit nmcdla.org to register today!

OTHER NEWS

Christian Legal Aid Training Seminar

New Mexico Christian Legal Aid invites new members to join them as they work together to secure justice for the poor and uphold the cause of the needy. They will be hosting a training seminar from noon-5 p.m. on Friday, Oct. 26, at 4700 Lincoln Road NE Albuquerque. Join them for free lunch, free CLE credits and training as they update skills on how to provide legal aid. For more information or to register, contact Jim Roach at 243-4419 or Jen Meisner at 610-8800 or christianlegalaids@hotmail.com.

Southwest Women's Law Center

Vacancies on Board of Directors

The Southwest Women's Law Center, a 501(c)(3) non-profit organization, seeks applications for openings on their board of directors. The Southwest Women's law Center mission is to eliminate gender bias, discrimination and harassment; lift women and their families out of poverty; and ensure that all women have full control over their reproductive lives. The board meets monthly from noon-1:30 p.m. on the fourth Thursday of the month. In addition, board members may serve on board committees and participate in activities planned by the staff. A more complete description of our work is available at www.swwomenslaw.org. Send a resume and contact information to senjan@swcp.com.

Updates Regarding Minimum Continuing Legal Education

As you might be aware, oversight of the Minimum Continuing Legal Education program transitioned from the Supreme Court to the State Bar of New Mexico effective Sept. 1. MCLE is now part of the State Bar's Regulatory Programs Department, which also includes licensing, IOLTA, BTG Mentorship Program, and Pro Hac Vice. The Regulatory Programs department is overseen by the State Bar's Office of General Counsel.

MCLE Contact Information

www.nmbar.org/mcle
mcle@nmbar.org
505-821-1980

MCLE Staff

Stormy Ralstin, Esq.
General Counsel

Kate Sexton
Manager of
Regulatory Programs

Debbie Hern
Administrative
Assistant, MCLE

Mary Kay Cline
Administrative
Assistant, MCLE

Elizabeth Aikin
Program Coordinator,
Bridge the Gap
Mentorship Program



The State Bar of New Mexico's MCLE Program is committed to:

- ✓ Providing exceptional customer service for members and course providers;
- ✓ Certifying courses on relevant legal topics and emerging areas of law practice management;
- ✓ Investing in new technology to assist members with reporting and tracking CLE credits; and
- ✓ Encouraging modern training delivery methods.



Upcoming Compliance Deadline

Dec. 31: Last day to complete CLE courses for current year requirements*

All New Mexico attorneys are required to get a minimum of **12 Continuing Legal Education (CLE)** credits each year. Of those, 10 credits must relate to legal subjects or the attorney's practice and 2 credits must relate to legal ethics and/or professionalism.*

**Refer to New Mexico Supreme Court Rules 18-101 through 18-303 NMRA for more deadlines and requirements and additional information about the NMSC mandated NMMCLE program.*

MCLE Website and Forms

www.nmbar.org/mcle

- ✓ Check your credits
- ✓ Search for pre-approved courses
- ✓ Find general information about the MCLE program

We've made some basic changes to the website already to improve the user experience. Over the next year, we will be working to further improve the functionality of the website.

We redesigned and standardized the Course Approval and Credit Request forms. These forms include standardized templates for course agendas and faculty listings, in lieu of submitting course materials or brochures.

What to Expect

Going forward, our focus is streamlining the process of filing credits and requesting course approval.

We are working to make it easier for attorneys to find and take **pre-approved CLE courses**. Taking a pre-approved course is the easiest way to complete your MCLE requirement because it gives you assurance of the type and number of MCLE credits you will receive. In addition, the course provider pays for and files your credits with MCLE. There are currently many courses that are pre-approved for MCLE credit in New Mexico. Go to www.nmbar.org/MCLE for a complete listing of pre-approved courses.

We are also expanding the types of courses available for MCLE credit including courses focusing on law practice management, use of technology in the practice of law, and self-care for attorneys. Additionally, we are reaching out to a wider range of course providers to encourage them to apply for pre-approval of their courses.

A Message from State Bar President Wesley Pool



Dear Members:

As president of the State Bar of New Mexico, I have been monitoring the progress of the MCLE Program transition very closely. Kate Sexton and the other MCLE staff have been working tirelessly to improve the program and prepare for the upcoming MCLE compliance season. The information in this issue of the *Bar Bulletin* serves to educate you on some of the changes MCLE has experienced. You can always find out more on our website.

Now that the State Bar oversees MCLE, it is our priority to continue to provide excellent customer service and assistance to members. It is our goal to make completing your MCLE requirements as easy – and as useful – as possible. We are also working to improve our technology and increase the types of courses we approve.

Another benefit of the State Bar overseeing MCLE is that you now have a one stop shop for all of your regulatory needs. Staff can answer your questions about MCLE, licensing, IOLTA, mentorship and more. Stop by and see the new department at the State Bar Center on the second floor, east side. I am pleased with the result of transition so far and I have high hopes for the future.

Sincerely,

A stylized, handwritten signature in white ink that reads "Wesley Pool". The signature is fluid and cursive, with the first and last names being more prominent.

Wesley Pool,
President, State Bar of New Mexico



A Message from Chief Justice Judith K. Nakamura

Dear Colleagues:

As you may have read in recent editions of the *Bar Bulletin*, the Supreme Court must fill several vacancies on a variety of Supreme Court boards, commissions, and committees. Our boards, commissions, and committees play a critical role by assisting the Supreme Court with regulating the practice and procedure within our courts and the broader legal community. Anyone who has ever served on one of these groups can attest to how challenging and rewarding the work can be. So in filling these vacancies, the Court strives to appoint attorneys and judges who are able to regularly attend committee meetings and who are committed to generously volunteering of their time, talent and energy to this important work.

Because we rely on volunteer attorneys, the Court strives to solicit volunteers from throughout the state who will bring geographical balance to our boards, commissions, and committees. In making our appointments, the Court also seeks to ensure that each board, commission, and committee contains a balanced representation from the various practice segments of our bar. To achieve these goals, we need volunteers representing the broad spectrum of our bench and bar who come from all corners of our great state.

I encourage you to consider applying for one or more of the many upcoming vacancies that the Court must fill this year. Please visit the Court's website or refer to recent editions of the *Bar Bulletin* for a complete listing of the existing vacancies that the Court must fill by the end of the year. In your letter of interest, please prioritize up to three boards or committees on which you would like to serve and discuss your qualifications for serving on those boards or committees. Letters of interest and resumes should be submitted by the October 12th deadline to Joey D. Moya, Chief Clerk, by mail to P.O. Box 848, Santa Fe, NM 87504, by email to nmsupremecourtclerk@nmcourts.gov, or by fax to 505-827-4837.

On behalf of the entire Supreme Court I extend my sincere appreciation to all of you who are willing to volunteer to be a part of this important function within our legal system.

Sincerely,

Judith K. Nakamura
Chief Justice

New Mexico Supreme Court Committees, Boards, and Commissions Notice of 2018 Year-End Vacancies

The Supreme Court of New Mexico is seeking applications to fill upcoming year-end vacancies on the many of its committees, boards, and commissions. Applicants will be notified of the Court's decisions at the end of the year. Unless otherwise noted below, any person may apply to serve on any of the following committees, boards, and commissions:

Appellate Rules Committee (2 general member positions, 1 Court of Appeals representative)
Board Governing Recording of Judicial Proceedings (1 reporter position, 2 judge positions)
Board of Bar Examiners (1 general member position)
Classification Committee (5 judicial employee positions)
Client Protection Fund (1 general member Supreme Court designee)
Code of Professional Conduct Committee (1 general member position)
Commission on Access to Justice (1 district judge position, 1 general member position, 1 State Bar designee, 1 legislative liaison)
Committee for Improvement of Jury Service (3 magistrate judge position, 1 medium-sized district court employee position, 1 magistrate court employee position, 1 Senate member position, 1 House member position)
Disciplinary Board (1 attorney position, 1 lay member position)
Domestic Relations Rules Committee (2 general member positions)
Drug Court Advisory Committee (1 program coordinator position, 1 Corrections Dept. representative, 1 magistrate judge position)
Judicial Branch Personnel Grievance Board (1 judicial supervisory employee position)
Judicial Branch Personnel Rules Committee (3 judicial employee positions)
Judicial Education & Training Advisory Committee (1 district court administrator position, 1 probate judge position, 1 municipal judge position)
Judicial Information Systems Council (1 municipal judge position)
Language Access Advisory Committee (1 district judge position; 1 spoken language interpreter currently working in NM state courts; 1 signed language interpreter with credentials recognized by NM AOC & currently working in NM state courts; 1 Access to Justice Commission representative)
Proactive Attorney Regulation Committee (1 attorney member position)
Rules of Civil Procedure for State Courts Committee (1 general member position)
Rules of Evidence Committee (2 general member positions)
Statewide ADR Commission (1 district judge position, 1 district court ADR/SRL employee position, 1 general member position)
State Bar ATJ Fund Grant Commission (1 general member position designated by the Supreme Court)
Statewide ADR Commission (1 district judge position, 1 district court ADR/SRL employee position, 1 general member position)
Tribal-State Judicial Consortium (3 State judge positions, 2 Tribal judge positions)
UJI-Civil Committee (2 general member positions)

Anyone interested in volunteering to serve on one or more of the foregoing committees, boards, or commissions may apply by sending a letter of interest and resume to Joey D. Moya, Chief Clerk, by mail to P.O. Box 848, Santa Fe, New Mexico 87504, by email to nmsupremecourtclerk@nmcourts.gov, or by fax to 505-827-4837. The letter of interest should describe the applicant's qualifications and may prioritize no more than 3 committees of interest.

The deadline for applications is Friday, Oct. 12.



Legal Education

October

- | | | |
|---|---|--|
| <p>11 Effective Client Representation
2.0 EP
Live Seminar, Albuquerque
New Mexico Association of Legal Administrators
www.nmala.org</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>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>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> | <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>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> |
| <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 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>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>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>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>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>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>23 Boilerplate Provisions in Contracts: Overlooked Traps in Every Agreement
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>25 Basics of Trust Accounting: How to Comply with Disciplinary Board Rule 17-204
1.0 EP
Webcast/Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.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>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>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>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>30 Social Media as Investigative Research and Evidence
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> |
|--|---|--|

November

- | | | |
|---|---|--|
| <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 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>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>6 Releasing Employees & Drafting Separation Agreements
1.0 G
Teleseminar
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> | <p>9 Ethics and Changing Law Firm Affiliation
1.0 EP
Teleseminar
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>9 Legal Malpractice Potpourri (2018 Annual Meeting)
1.0 EP
Webcast/Replay, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>9 The Defender's Role in Trial Advocacy
5.0 G, 1.0 EP
Live Seminar, Roswell
New Mexico Criminal Defense Lawyers Association
www.nmcdla.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>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>9 Basics of Trust Accounting: How to Comply with Disciplinary Board Rule 17-204
1.0 EP
Webcast/Live Seminar, Albuquerque
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 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>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>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> | | |

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| <p>14 Estate Planning for MDs, JDS, CPAs & Other Professionals, Part 2
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>27 29th Annual Appellate Practice Institute (2018)
5.5 G, 1.0 EP
Live Replay, Albuquerque
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>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>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>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>29 2018 Animal Law Institute: Updates, Causes of Action, and Litigation
6.0 G
Webcast/Live Seminar, 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>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>27 Secured Transactions Practice: Security Agreements to Foreclosures, Part 2
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
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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.

December

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|--|---|--|
| <p>5 Business Divorce, Part 1
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>11 Guarantees in Real Estate Transactions
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>18 Rights of First Offer, First Refusal in Real Estate
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>5 2018 Real Property Institute
5.0 G, 1.0 EP
Webcast/Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>12 Employee v. Independent Contractor: Tax and Employment Law Considerations
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>21 Ethics, Satisfied Clients & Successful Representations
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>6 Business Divorce, Part 2
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>12 Advanced Mediation Skills Workshop
3.0 G
Webcast/Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>28 Basics of Trust Accounting: How to Comply with Disciplinary Board Rule 17-204
1.0 EP
Webcast/Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> |
| <p>6 Attorney Orientation and the Ethics of Pro Bono
2.0 EP
Live Seminar, Albuquerque
New Mexico Legal Aid
505-814-6719</p> | <p>13 Drafting Client Letters in Trust and Estate Planning
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | |
| <p>6 Intellectual Property in Tech Transfer, Estate and Business Opportunities
5.0 G, 1.0 EP
Webcast/Live Seminar, Albuquerque
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>14 Ethics and Virtual Law Offices
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | |
| <p>7 2018 Ethics and Social Media Update
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | <p>17 Trust and Estate Planning for Pets
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.nmbar.org</p> | |
| <p>10 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> | | |

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 28, 2018

PUBLISHED OPINIONS

A-1-CA-35346	M Britton v. Office of the Attorney General	Reverse/Remand	09/24/2018
A-1-CA-35261	City of Alb v. SMP Properties	Reverse	09/26/2018
A-1-CA-35790	State v. J Barela	Affirm	09/26/2018
A-1-CA-36241	State v. Anthony L	Affirm/Reverse	09/26/2018

UNPUBLISHED OPINIONS

A-1-CA-35651	N Rodarte v. Tax & Rev	Reverse/Remand	09/24/2018
A-1-CA-36852	S Rosenblath v. G Veneklasen	Affirm	09/24/2018
A-1-CA-37193	State v. C Young	Affirm	09/24/2018
A-1-CA-37268	State v. C Perez	Reverse/Remand	09/24/2018
A-1-CA-36790	State v. J Sanchez	Affirm	09/25/2018
A-1-CA-36965	State v. W Begay	Affirm	09/25/2018
A-1-CA-37058	State v. B Poolaw	Affirm	09/25/2018
A-1-CA-37116	State v. U Rodriguez	Affirm	09/25/2018
A-1-CA-37228	State v. A Lechuga	Affirm	09/25/2018
A-1-CA-35074	State v. M Esquer	Affirm/Reverse	09/26/2018

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

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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 October 10, 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

From the New Mexico Supreme Court

Opinion Number: 2018-NMSC-034
No. S-1-SC-35391 (filed August 23, 2018)

STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
MATIAS LOZA,
Defendant-Appellant.

**INTERLOCUTORY APPEAL FROM THE DISTRICT COURT
OF OTERO COUNTY**

Angie K. Schneider, District Judge

LINDA HELEN BENNETT
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for Appellant

HECTOR H. BALDERAS,
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CHARLES J. GUTIERREZ,
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for Appellee

Opinion

Barbara J. Vigil, Justice

{1} In this case, we consider whether a defendant's racketeering convictions foreclose a subsequent prosecution for the crimes alleged as the predicate offenses in the earlier racketeering case. Matias Loza (Defendant) was previously convicted of racketeering, contrary to NMSA 1978, Section 30-42-4 (C) (2002, amended 2015), and conspiracy to commit racketeering, contrary to Section 30-42-4(D), for conduct that he engaged in as part of a criminal enterprise referred to as the AZ Boys. *State v. Loza*, 2016-NMCA-088, ¶¶ 1-2, 382 P.3d 963. In support of the racketeering charges, the State alleged the underlying predicate offenses of murder, arson, and bribery of a public officer. See NMSA 1978, § 30-42-3(A)(1), (A)(9), (A)(14), (D) (2009) (defining "pattern of racketeering activity" as "engaging in at least two incidents of racketeering," which may include murder, arson, or bribery, among other offenses). The State now seeks to prosecute Defendant for the crimes alleged as the predicate offenses in the earlier prosecution—murder, arson, and bribery—as well as other related charges. Defendant contends that the constitutional proscription against double jeopardy as

set forth in the Fifth Amendment to the United States Constitution and Article II, Section 15 of the New Mexico Constitution forecloses this subsequent prosecution. We conclude otherwise and therefore affirm the district court's denial of Defendant's motion to dismiss.

I. BACKGROUND

{2} On November 1, 2011, officers discovered Defendant smelling strongly of gasoline and cowering under a fifth-wheel trailer. One hundred yards away, a Suzuki automobile containing the human remains of Richard Valdez was fully engulfed in flames. Shoe prints in the area were consistent with the shoes Defendant was wearing. After claiming that he had been brought to the area by a truck, which he had just escaped after being shot at by its occupants, Defendant offered one of the officers \$40,000 to let him go free. Following a more extensive investigation into Defendant's background and his reasons for being so near the murder scene, detectives ascertained that Defendant was connected with the AZ Boys gang, and gathered further intelligence from anonymous sources that Defendant had in fact served as a hitman and had killed Valdez in connection with the gang's drug trafficking activity.

{3} The State filed a series of indictments and nolle prosequis ultimately resulting in two separate cases against Defendant. In

Case No. D-1215-CR-2012-00320 (racketeering case), Defendant was charged with and convicted of racketeering and conspiracy to commit racketeering for conduct spanning from November 1, 2007, to May 15, 2012, based on at least two of the three predicate offenses of first-degree murder, arson, and bribery of a public officer. See generally NMSA 1978, §§ 30-42-1 to -6 (1980, as amended through 2015) (Racketeering Act). In Case No. D-1215-CR-2014-00063 (murder case), Defendant was charged with the same crimes that served as the predicate offenses in the racketeering case—first-degree murder, arson, and bribery of a public officer—as well as conspiracy to commit first-degree murder and two counts of tampering with evidence. In this interlocutory appeal, arising from the murder case, Defendant argues that his convictions in the racketeering case foreclose the possibility of convictions in this case because the subsequent prosecution violates his right to be free from double jeopardy.

II. STANDARD OF REVIEW

{4} This Court reviews claims involving alleged violations of a defendant's right to be free from double jeopardy *de novo*. *State v. Swick*, 2012-NMSC-018, ¶ 10, 279 P.3d 747 ("A double jeopardy challenge is a constitutional question of law which we review *de novo*.").

III. DISCUSSION

A. Federal Double Jeopardy Authority in Racketeering Cases

{5} Both the United States Constitution and the New Mexico Constitution protect against double jeopardy for the same offense. U.S. Const. amend. V ("No person shall . . . be subject for the same offense to be twice put in jeopardy of life or limb."); N.M. Const. art. II, § 15 ("[N]or shall any person be twice put in jeopardy for the same offense."). The right to be free from double jeopardy protects a criminal defendant from being retried for the same offense after either acquittal or conviction (successive prosecutions) and from being punished twice for the same offense (multiple punishments). *State v. Lynch*, 2003-NMSC-020, ¶ 9, 134 N.M. 139, 74 P.3d 73. In a case like this, "[w]here successive prosecutions are at stake, the guarantee serves a constitutional policy of finality for the defendant's benefit. That policy protects the accused from attempts to relitigate the facts underlying a prior acquittal, and from attempts to secure additional punishment after a prior conviction and sentence." *State v. Rodriguez*,

2005-NMSC-019, ¶ 6, 138 N.M. 21, 116 P.3d 92 (quoting *Brown v. Ohio*, 432 U.S. 161, 165-66 (1977)). However, “the finality guaranteed by the Double Jeopardy Clause is not absolute, but instead must accommodate the societal interest in prosecuting and convicting those who violate the law.” *Garrett v. United States*, 471 U.S. 773, 796 (1985) (O’Connor, J., concurring).

{6} In addition to other elements, a successful racketeering prosecution requires proof beyond a reasonable doubt of at least two predicate offenses, which are often prosecuted in a proceeding separate from the substantive racketeering offense. 1 David R. McCormack, *RICO: Racketeer Influenced Corrupt Organizations*, at 6.15 (1988). As a result, double jeopardy challenges are common in racketeering cases. Seemingly without exception, however, courts have been unreceptive to these challenges. *See id.* at 6.16 (collecting cases). “Federal courts have uniformly held that a defendant may be convicted separately and sentenced cumulatively for engaging in [racketeering] and for committing the crimes alleged as the predicates for the [racketeering] charge.” Jed S. Rakoff & Howard W. Goldstein, *RICO Civil and Criminal Law and Strategy*, at § 10.04[2] (1989).

{7} Although the parties agree that this case involves a successive prosecution for double jeopardy purposes, they disagree on the appropriate analysis to apply. The State contends that the United States Supreme Court’s decision in *Garrett* and cases interpreting it articulate the appropriate framework for analyzing the double jeopardy issue in this case. Defendant’s arguments, on the other hand, are premised on jurisprudence relevant to the analysis of multiple punishments for the same offense for purposes of double jeopardy. Specifically, Defendant argues that this Court should apply the analysis set forth in *Swafford v. State*, 1991-NMSC-043, 112 N.M. 3, 810 P.2d 1223—a multiple punishment case. As this is not a multiple punishment case, *Swafford* is inapplicable. Recognizing the uniquely complex nature of racketeering offenses, we agree with the State that *Garrett* and its progeny set forth the appropriate framework for deciding double jeopardy issues under the federal constitution in the context of complex statutory schemes involving “multilayered conduct,” such as the Racketeering Act.

{8} In *Garrett*, the Supreme Court “caution[ed] against ready transposition” of double jeopardy principles articulated

in cases involving a single course of conduct to the “multilayered conduct” that comprises criminal activity in complex statutory schemes. 471 U.S. at 789. In other words, traditional double jeopardy principles do not lend themselves well to issues arising in the context of a statutory scheme that requires proof of other violations of law through the use of various predicate offenses. *See United States v. Esposito*, 912 F.2d 60, 62 (3rd Cir. 1990) (“The double jeopardy issues raised in connection with prosecution for a compound predicate offense, such as racketeering under [the Racketeer Influenced and Corrupt Organizations Act] or engaging in a continuing criminal enterprise (CCE) in violation of the Comprehensive Drug Abuse Prevention and Control Act of 1970 do not fit precisely within the analytic lines used in other double jeopardy cases.” (citation omitted)). Accordingly, the *Garrett* Court declined to strictly apply the same-elements test articulated in *Blockburger v. United States*, 284 U.S. 299, 304 (1932), or the lesser-included-offense framework articulated in *Brown*, 432 U.S. at 167-69, to the double jeopardy issue presented in that case. *Garrett*, 471 U.S. at 779, 787-90. {9} At issue in *Garrett* was whether the defendant’s earlier conviction for narcotics importation could be used as a predicate offense in a subsequent CCE prosecution without offending his right against double jeopardy. 471 U.S. at 775-77. In considering the issue, the Supreme Court instructed:

Where the same conduct violates two statutory provisions, the first step in the double jeopardy analysis is to determine whether the legislature—in this case Congress—intended that each violation be a separate offense. If Congress intended that there be only one offense—that is, a defendant could be convicted under either statutory provision for a single act, but not under both—there would be no statutory authorization for a subsequent prosecution after conviction of one of the two provisions, and that would end the double jeopardy analysis.

Id. at 778. Analyzing the language, structure, and legislative history of the Comprehensive Drug Abuse Prevention and Control Act of 1970, the Court concluded that Congress intended CCE to be a distinct offense, punishable in addition to, not in lieu of, any predicate offenses. *Id.* at

779-86. Next, the Court examined whether CCE is the “same offense” as one or more of its predicates for double jeopardy purposes. *Id.* at 786.

Quite obviously the CCE offense is not, in any commonsense or literal meaning of the term, the “same” offense as one of the predicate offenses. The CCE offense requires the jury to find that the defendant committed a predicate offense, and in addition that the predicate offense was part of a continuing series of predicate offenses undertaken by the defendant in concert with five or more other persons, that the defendant occupied the position of an organizer or manager, and that the defendant obtained substantial income or resources from the continuing series of violations.

Id. The Court then addressed the defendant’s argument that the importation charge was a lesser-included offense of CCE under *Brown*—a case holding that a prior conviction for the lesser included offense of joyriding prohibited a subsequent prosecution for the greater offense of auto theft. *Garrett*, 471 U.S. at 787-88; *see also Brown*, 432 U.S. at 167-69. The Court explained that the conduct that the defendant was charged with “does not lend itself to the simple analogy of a single course of conduct . . . comprising a lesser included misdemeanor within a felony.” *Garrett*, 471 U.S. at 788. Distinguishing *Brown*, the *Garrett* Court explained that in that case, “[e]very minute that [the defendant] drove or possessed the stolen automobile he was simultaneously committing both the lesser included misdemeanor and the greater felony.” *Id.* at 788-89. On the other hand, the defendant in *Garrett* was involved in conduct that spanned a five and one-half year period. *Id.* at 788. Thus, lesser-included offenses arise from the same act or transaction as the greater-included offense, whereas a CCE and the underlying predicate offenses do not. A single course of conduct can constitute a standalone criminal offense, which may—at some point in the future, possibly years later—serve as a predicate offense for a CCE prosecution. *See id.* at 788-89. Because of this difference between lesser-included offenses and a CCE offense, the *Garrett* Court rejected the defendant’s argument that the importation charge and CCE were the “same offense” for purposes of double jeopardy. *Id.* at 786-90.

{10} Although *Garrett* addressed double jeopardy issues raised in connection with CCE rather than racketeering, because both crimes are structured to require proof of underlying predicate offenses in order to prove the substantive offense, *Garrett* has been interpreted to apply to double jeopardy challenges under the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961-68 (2012). See, e.g., *United States v. Cole*, 293 F.3d 153, 160-62 (4th Cir. 2002); *United States v. Crosby*, 20 F.3d 480, 483-87 (D.C. Cir. 1994); *United States v. Deshaw*, 974 F.2d 667, 671-73 (5th Cir. 1992); *United States v. O'Connor*, 953 F.2d 338, 340-41 (7th Cir. 1992); *United States v. Persico*, 620 F. Supp. 836, 840-46 (S.D.N.Y. 1985). See also William Jue, *The Continuing Financial Crimes Enterprise and Its Predicate Offenses: A Prosecutor's Two Bites at the Apple*, 27 Pac. L.J. 1289, 1308 (1996) ("*Garrett v. United States* is the leading United States Supreme Court case dealing with the relationship between a modern compound statute such as . . . RICO . . . and its predicates in a relevant double jeopardy context." (footnotes omitted)). Application of *Garrett* has resulted in a general consensus that a defendant can be prosecuted and sentenced separately for committing the underlying predicate offenses as well as the racketeering offenses themselves without offending double jeopardy rights. See Anne Bowen Poulin, *Double Jeopardy Prosecutions Against Successive Protections in Complex Criminal Cases: A Model*, 25 Conn. L. Rev. 95, 140-41 & n.205 (1992) (noting that "in no case has a court concluded that double jeopardy forecloses separate prosecution" of compound-complex offenses, like RICO, and their predicates, and citing cases relying on *Garrett*). As one example, in a case similar to the one presently before this Court, the Third Circuit held that a subsequent prosecution for narcotics offenses, which had previously served as the predicate acts for a RICO prosecution, was not barred by double jeopardy protections. *Esposito*, 912 F.2d at 65. The court acknowledged that the case was different from *Garrett* because of the order in which the charges were prosecuted—i.e., racketeering before predicate offenses. See *Esposito*, 912 F.2d at 62 ("[T]his is not a case where all the events necessary to the second prosecution had not taken place at the time of the first prosecution." (citing *Garrett*, 471 U.S. at 798 (O'Connor, J., concurring))). Nonetheless, the dispositive inquiry was whether the defendant

had been charged with the "same offense" in both proceedings. *Id.* at 63. Then, applying the *Garrett* framework, the court concluded relative to the first step, that the "broad purpose behind [RICO] supports allowing two prosecutions, irrespective of the order in which they are brought." *Esposito*, 912 F.2d at 64; see also *United States v. Smith*, 963 F.2d 892, 893-94 (6th Cir. 1992) (holding that prosecution for narcotics charge was not barred by double jeopardy, despite the use of the same charge as a predicate act in previous CCE case); *United States v. Lequire*, 931 F.2d 1539, 1539-40 (11th Cir. 1991) (per curiam) (concluding that prosecution for dynamiting radio towers was not barred by double jeopardy, even when the same offense served as a predicate offense in an earlier RICO prosecution). And, relative to the second part of the inquiry—whether the defendant was charged with the "same offense" in both proceedings—the court analogized to conspiracies, reasoning that if collective criminal agreements that constitute conspiracies are not the same as the substantive offense for purposes of double jeopardy, then "the even more complex conduct needed to support a RICO charge . . . constitutes an offense different than and separate from that encompassed by" predicate offenses, even if those offenses are used to prove racketeering. *Esposito*, 912 F.2d at 65-67.

{11} *Garrett* and its progeny leave no doubt that this area of law is, as the State points out, "entirely settled against Defendant." See Rakoff & Goldstein, *supra*, at § 10.04[2] ("Federal courts have uniformly held that a defendant may be convicted separately and sentenced cumulatively for engaging in [racketeering] and for committing the crimes alleged as the predicates for the [racketeering] charge."); 1 McCormack, *supra*, at 6.16 ("In general, the courts have found no double jeopardy problems involved in successive federal prosecutions for predicate offenses and RICO violations.").

B. Application of Federal Authority to Successive Prosecutions for New Mexico Racketeering Offenses and Underlying Predicates

{12} Under *Garrett*, we first consider whether the Legislature intended for offenses under the Racketeering Act to be separate offenses from their predicates. See 471 U.S. at 778. The Racketeering Act was modeled after RICO, the federal statute criminalizing racketeering, and accordingly we look to federal cases interpreting

RICO for guidance in interpreting our Act. *State v. Hughes*, 1988-NMCA-108, ¶ 19, 108 N.M. 143, 767 P.2d 382; *State v. Johnson*, 1986-NMCA-084, ¶ 23, 105 N.M. 63, 728 P.2d 473. Consistent with *Garrett* and *Esposito*, federal courts interpreting RICO have concluded that the language of the act leaves "little doubt that Congress . . . sought to allow the separate prosecution and punishment of predicate offenses and a subsequent RICO offense." *United States v. Grayson*, 795 F.2d 278, 282 (3rd Cir. 1986). RICO's definition of "pattern of racketeering," while differing slightly, is consistent with the way that the Racketeering Act defines the term. Compare 18 U.S.C. § 1961(5) ("[P]attern of racketeering activity' requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years . . . after the commission of a prior act of racketeering activity."), with Section 30-42-3(D) ("[P]attern of racketeering activity' means engaging in at least two incidents of racketeering . . . provided at least one of the incidents occurred after February 28, 1980 and the last incident occurred within five years after the commission of a prior incident of racketeering."). The language of the definitions suggests that a defendant could be convicted and sentenced for a racketeering act—i.e., a predicate offense—and years later, be charged with a racketeering offense based on that prior conviction. *Grayson*, 795 F.2d at 282; accord *Persico*, 620 F. Supp. at 841. "[N]othing in the legislative history suggests that Congress intended RICO to be a substitute for the predicate offense." *Esposito*, 912 F.2d at 63. Instead, it is clear that "Congress sought to supplement, rather than supplant, existing crimes and penalties." *Grayson*, 795 F.2d at 282; *Crosby*, 20 F.3d at 484; cf. *Garrett*, 471 U.S. at 784 ("Nowhere in the legislative history is it stated that a big-time drug operator could be prosecuted and convicted for the separate predicate offenses as well as the CCE offense. The absence of such a statement, however, is not surprising; given the motivation behind the legislation and the temper of the debate, such a statement would merely have stated the obvious."). This intent holds true regardless of the order in which the offenses are prosecuted. {13} Additionally, it would be contrary to common sense and would undermine the purpose of racketeering legislation to force the State to choose between prosecuting the predicate offenses or pursuing a racketeering case. Cf. *id.* at 785 ("[I]t would

be illogical for Congress to intend that a choice be made between the predicate offenses and the CCE offense in pursuing major drug dealers.”). Given the way that the Racketeering Act is structured, a defendant could be prosecuted for a predicate offense long before a racketeering case materialized. However, if at the time that the predicate offense was committed the defendant was suspected to be involved in racketeering, the State would be forced to choose between pursuing an immediate conviction on the predicate offense or waiting in an attempt to catch the defendant at least one more time in order to pursue a racketeering case. *See id.*; *United States v. Arnoldt*, 947 F.2d 1120, 1127 (4th Cir. 1991) (“When grappling with a complex, multilayered-conduct statute such as RICO, the government must be given reasonable discretion in setting and pursuing its strategy. . . . Without ample discretion, the government would be forced to either proceed against a defendant for violations that might later serve as predicate acts and foreclose a RICO prosecution in the future or allow predicate acts to go unpunished in anticipation that at some future time the RICO elements would coalesce.”). “Such a situation [would be] absurd and clearly not what [was] intended.” *Garrett*, 471 U.S. at 786; *see also Persico*, 620 F. Supp. at 842 (concluding that Congress intended to permit both successive prosecutions and cumulative punishments for RICO and predicate offenses, in part, because a “contrary interpretation . . . would put federal prosecutors in the untenable position . . . of having to choose between prosecuting either the predicate offenses or the RICO charge”).

{14} In light of the foregoing, and because we perceive no material difference between the purpose of RICO and that underlying the Racketeering Act, we conclude that the Legislature intended for predicate offenses to be separate from substantive racketeering offenses. *Accord Johnson*, 1986-NMCA-084, ¶ 34 (“New Mexico’s Racketeering Act . . . evinces an implicit legislative intent that the crime of racketeering constitutes a separate and distinct offense apart from the enumerated predicate crimes.”).

{15} Turning to the second step under *Garrett*, we next examine whether prosecution for both substantive racketeering offenses and predicate offenses, in separate proceedings, offends the right against double jeopardy. *See* 471 U.S. at 786. “The critical inquiry is whether a

[racketeering] offense is considered the same offense as one or more of its predicate offenses within the meaning of the double jeopardy clause.” *Grayson*, 795 F.2d at 283; *accord Garrett*, 471 U.S. at 786 (“The critical inquiry is whether a CCE offense is considered the ‘same offense’ as one or more of its predicate offenses within the meaning of the Double Jeopardy Clause.”). {16} Other courts that have analyzed this issue have noted, as the Court did in *Garrett*, 471 U.S. at 786, that a racketeering offense is not “in a literal sense” the same as one of its predicates. *See, e.g., Grayson*, 795 F.2d at 283. Racketeering requires proof of predicate offenses as part of a pattern of racketeering in addition to the other elements of racketeering. *See* § 30-42-3(D); § 30-42-4(A)-(C). To properly examine the issue, however, “we must examine not only the statute which [the Legislature] has enacted, but also the charges which form the basis of the [State’s] prosecution here.” *Garrett*, 471 U.S. at 786. In the racketeering case, the jury was instructed that to find Defendant guilty of racketeering, there must be proof beyond a reasonable doubt that (1) an enterprise existed, (2) Defendant was associated with the enterprise, (3) Defendant participated either directly or indirectly in the conduct of the affairs of the enterprise through a pattern of racketeering activities, and (4) Defendant engaged in at least two incidents of racketeering with the intent to commit a prohibited activity within five years of a prior incident of racketeering. The jury was also given separate instructions on arson, first-degree murder, and bribery of a public officer as possible incidents of racketeering. The jury convicted Defendant of racketeering, which means that it necessarily found, beyond a reasonable doubt, that Defendant committed at least two predicate offenses—although we do not know which two. The charges that Defendant presently faces include the same offenses used as predicates in the racketeering case—first-degree murder, arson, and bribery of a public officer—as well as conspiracy to commit first-degree murder and two counts of tampering with evidence.

{17} Defendant relies on the *Blockburger* test in arguing that some of the offenses in this case constitute the same offenses as those he was prosecuted for in the racketeering case. Specifically, Defendant asserts that “[t]here is no basis to [argue] that proof beyond a reasonable doubt of the elements of murder, arson, and

bribery in the context of a racketeering case requires proof of a fact that would not be required in a trial for murder, arson, or bribery.” In a case not involving racketeering charges, the failure to satisfy the *Blockburger* test would likely be helpful to Defendant. *See generally Rodriguez*, 2005-NMSC-019, ¶ 7 (explaining that the meaning of “same offense,” relative to the Fifth Amendment protection against being held twice in jeopardy for the same offense in the context of successive prosecutions, is determined by the *Blockburger* test). However, the *Blockburger* test was developed “in the context of multiple punishments imposed in a single prosecution” and “is not controlling when the legislative intent is clear.” *Garrett*, 471 U.S. at 778-79. Because we have concluded that our Legislature intended predicate offenses and racketeering offenses to be separate, we are not swayed by Defendant’s argument that this Court should apply the *Blockburger* test to conclude that they are the same offense for purposes of double jeopardy. *See Esposito*, 912 F.2d at 64 (concluding that *Blockburger* is inapplicable because the intent of Congress to make racketeering a separate offense from its predicate acts is clear).

{18} We also point out that the prosecutions for racketeering in the earlier case and the charges in this case are aimed at deterring different kinds of conduct—the overall cumulative activity of racketeering, on the one hand, and murder, arson, and bribery, on the other. *Grayson*, 795 F.2d at 283; *see also Esposito*, 912 F.2d at 65 (analogizing to conspiracy cases and noting that a conspiracy offense “poses distinct dangers quite apart from those of the [completed] substantive offense” (internal quotation marks and citation omitted)). In other words, although there may be significant overlap in the evidence presented against Defendant in both trials, Defendant is not being prosecuted in the murder case for the same conduct he was prosecuted for in the racketeering case. *See Esposito*, 912 F.2d at 67. This fact lends further support to our conclusion that double jeopardy protections do not present a bar to Defendant’s prosecution for murder, arson, and bribery in this case.

{19} Although Defendant contends that other jurisdictions have concluded differently than we do here today, the cases that he cites to do not support his contention. Defendant relies on *Ex parte Chaddock*, 369 S.W.3d 880 (Tex. Crim. App. 2012), which implicates lesser-included-offense

double jeopardy jurisprudence. It is well established amongst federal courts, however, that the lesser-included framework for analyzing double jeopardy issues does not apply to racketeering offenses. *See, e.g., Garrett*, 471 U.S. at 787-90; *Esposito*, 912 F.2d at 65-67. Defendant also cites to *People v. Martin*, 721 N.W.2d 815 (Mich. Ct. App. 2006), but we fail to see how it supports Defendant's argument. If anything, *Martin* supports the conclusion we reach today. In *Martin*, the court specifically rejected strict application of the *Blockburger* test, looking instead to legislative intent to determine that keeping a house of prostitution was a "separate offense" from racketeering for purposes of double jeopardy. *Martin*, 721 N.W.2d at 825-30. In short, neither *Chaddock* nor *Martin* alter our conclusion that predicate offenses are separate from the racketeering offenses they support.

C. Double Jeopardy Claim under the New Mexico Constitution

{20} Having concluded that there exists no double jeopardy bar under the federal constitution, we turn now to Defendant's argument based on New Mexico's double jeopardy provision. In support of his argument, Defendant points to the plain language of New Mexico's constitutional proscription against double jeopardy. The State, however, contends that Defendant failed to adequately preserve his state constitutional argument. Before we proceed, we first determine whether Defendant adequately preserved this issue.

{21} As the State points out, *State v. Leyva*, 2011-NMSC-009, 149 N.M. 435, 250 P.3d 861, clarified the requirements for preserving a state constitutional argument under *State v. Gomez*, 1997-NMSC-006, 122 N.M. 777, 932 P.2d 1.

Where a state constitutional provision has previously been interpreted more expansively than its federal counterpart, trial counsel must develop the necessary factual base and raise the applicable constitutional provision in trial court. Where the provision has never before been addressed under our interstitial analysis, trial counsel additionally must argue that the state constitutional provision should provide greater protection, and suggest reasons as to why, for example, "a flawed federal analysis, structural differences between state and federal government, or distinctive state characteristics."

Leyva, 2011-NMSC-009, ¶ 49 (emphasis omitted) (quoting *Gomez*, 1997-NMSC-006, ¶ 19). Because this Court has previously interpreted New Mexico's double jeopardy provision to afford greater protection than the Fifth Amendment, *see Lynch*, 2003-NMSC-020, ¶ 13, Defendant had only to invoke New Mexico's double jeopardy provision in the district court and develop an adequate record to review the issue on appeal. *See Leyva*, 2011-NMSC-009, ¶ 49. Our review of the record below indicates that Defendant cited to both the Fifth Amendment to the United States Constitution and Article II, Section 15 of the New Mexico Constitution in his motion to dismiss on double jeopardy grounds, and he also developed the necessary factual base before the district court. Accordingly, Defendant's argument under the New Mexico Constitution was indeed preserved.

{22} Turning to the merits of Defendant's claim, the first step of the interstitial approach is to determine

whether the right being asserted is protected under the federal constitution. If it is, then the state constitutional claim is not reached. If it is not, then the state constitution is examined. A state court adopting this approach may diverge from federal precedent for three reasons: a flawed federal analysis, structural differences between state and federal government, or distinctive state characteristics.

Gomez, 1997-NMSC-006, ¶ 19 (citations omitted). Having concluded that Defendant is not protected by the Fifth Amendment from the subsequent prosecution in this case, we proceed to consider Defendant's claim under the New Mexico Constitution. *See id.*

{23} Citing to cases in which this Court has diverged from the federal interpretation of double jeopardy guarantees, Defendant argues that "the intent of the drafters of the New Mexico [C]onstitution was to provide greater protections than" are afforded under the federal analysis. We agree with Defendant that, in certain contexts, defendants are afforded more protection under New Mexico's double jeopardy provision. *See Lynch*, 2003-NMSC-020, ¶¶ 11, 15-20 (holding that prosecution for first-degree murder following reversal of second-degree murder did not violate federal double jeopardy clause but did violate New Mexico's double jeopardy provision);

State v. Nunez, 2000-NMSC-013, ¶¶ 16-18, 129 N.M. 63, 2 P.3d 264 (departing from federal precedent based on distinctive state characteristics and interpreting New Mexico's double jeopardy clause to prohibit separate criminal and civil forfeiture actions for the same offense); *State v. Breit*, 1996-NMSC-067, ¶¶ 32-36, 122 N.M. 655, 930 P.2d 792 (adopting a standard different from that employed by the federal courts to determine when retrial is barred in the context of improper official conduct based on the Court's conclusion that the New Mexico double jeopardy provision affords more protection). However, Defendant offers no basis under the interstitial approach that would justify our departure from federal precedent in the context of racketeering cases, particularly when we have followed federal interpretations of RICO thus far. *See, e.g., State v. Rivera*, 2009-NMCA-132, ¶¶ 11-12, 147 N.M. 406, 223 P.3d 951; *State v. Armijo*, 1997-NMCA-080, ¶¶ 13-15, 123 N.M. 690, 944 P.2d 919; *Hughes*, 1988-NMCA-108, ¶¶ 18-35; *State v. Wynne*, 1988-NMCA-106, ¶¶ 7-8, 108 N.M. 134, 767 P.2d 373; *Johnson*, 1986-NMCA-084, ¶¶ 23-34.

{24} With respect to Defendant's argument based on the plain language of Article II, Section 15, we are similarly unpersuaded. In relevant part, Article II, Section 15 provides:

No person . . . shall . . . be twice put in jeopardy for the same offense; and when the indictment, information or affidavit upon which any person is convicted charges different offenses or different degrees of the same offense and a new trial is granted the accused, he may not again be tried for an offense or degree of the offense greater than the one of which he was convicted.

Defendant contends that the plain language of the foregoing constitutional provision confers upon him a "right not to be retried in a subsequent trial for an offense greater than racketeering or conspiracy to commit racketeering." Defendant's argument ignores context—it fails to acknowledge that the language of the provision specifically contemplates a situation in which a defendant is convicted of an offense, and thereafter, "a new trial is granted." *Id.* That is not what occurred here. This is not a situation where Defendant's convictions in a previous case were reversed, and we are now tasked with determining what options the State

has in charging Defendant on retrial. Rather, the State now seeks to prosecute Defendant for the standalone criminal offenses which formed the basis of the racketeering conviction. This subsequent prosecution is separate and apart from the crime of racketeering and is not, as Defendant contends, “a new trial” for the same offense. Thus, contrary to Defendant’s assertion, the plain language of Article II, Section 15 does not support a different result.

D. Joinder

{25} After reviewing Defendant’s application for interlocutory appeal, this Court issued an order, sua sponte, requesting that the State file a response to Defendant’s application addressing the potential implications of joinder under Rule 5-203(A) NMRA in this case. See *State v. Arrendondo*, 2012-NMSC-013, ¶ 20,

278 P.3d 517 (“Although as a general rule propositions of law not raised in the trial court should not be raised sua sponte by the appellate court, there are exceptions.”). The State complied with the Court’s request, addressing joinder in its response to Defendant’s application and in its answer brief. Defendant did not address joinder in his brief in chief and he did not file a reply brief. Because Defendant declined to pursue the issue as a potential basis for relief, we do not consider it here. See *State v. Johnson*, 2010-NMSC-016, ¶ 62, 148 N.M. 50, 229 P.3d 523 (concluding that the defendant abandoned issues “by failing to discuss them in his brief”); *State v. Ferguson*, 1990-NMCA-117, ¶ 24, 111 N.M. 191, 803 P.2d 676 (“Courts should not take it upon themselves to raise, argue, and decide legal issues overlooked by the lawyers.”).

IV. CONCLUSION

{26} The prohibition against double jeopardy, as guaranteed by both the United States and New Mexico constitutions, does not bar the State from prosecuting Defendant for the predicate offenses on which his racketeering convictions were based. The district court’s order denying Defendant’s motion to dismiss is therefore affirmed, and we remand this case for further proceedings consistent with this opinion.

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

BARBARA J. VIGIL, Justice

WE CONCUR:

JUDITH K. NAKAMURA, Chief Justice

PETRA JIMENEZ MAES, Justice

CHARLES W. DANIELS, Justice

GARY L. CLINGMAN, Justice



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Please Join the First Judicial District Access to Justice Committee
and The First Judicial District Bar Association for our

OCTOBER CLE & PRO BONO APPRECIATION LUNCHEON

Monday, October 15th from 11:00 a.m. to 1:15 p.m.

Santa Fe Hilton (100 Sandoval Street)

Sign-in begins at 11 AM, with lunch promptly beginning at 11:30 AM.

Judge Sylvia LaMar, co-chair of the First Judicial District Access to Justice Committee,
will address luncheon attendees at 11:45.

Thereafter, the CLE, "10 Tax Strategies for New Mexicans Under the Tax Cuts and Jobs Act,"
will be presented by Grace Allison, the Director of New Mexico Legal Aid's Low-Income
Taxpayer Clinic.

The CLE will count for 1.0 General Credit and will end by 1:15 p.m.

The cost for the luncheon and CLE will be \$15 for First Judicial District Bar Association
members, and \$20 for non-members.

The event is free for pro bono attorneys who have been invited to be recognized.

*If you would like to attend, please RSVP by sending your name and State Bar number to Caitlin Craft at
cdupuis@emtsantafe.com by the close of business on October 12, 2018.*

Due to the number of attendees traditionally at this event, we request that you timely RSVP and arrive early.

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Positions

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

Attorney

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.

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@titusmurphyllawfirm.com.

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/>.

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.

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 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 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.

Court of Appeals Staff Attorney

THE NEW MEXICO COURT OF APPEALS is seeking applications for a full-time permanent Associate Staff Attorney or Assistant Staff Attorney. The position may be located in either Santa Fe or Albuquerque, depending on the needs of the Court and available office space. Beginning salary for the Associate Staff Attorney position is limited to \$69,000, plus generous fringe benefits. Beginning salary for the Assistant Staff Attorney is limited to \$64,000, plus generous fringe benefits. Eligibility for the Associate Staff Attorney position requires three years of practice or judicial experience plus New Mexico Bar admission. Eligibility for the Assistant Staff Attorney position requires one year of practice or judicial experience plus New Mexico Bar admission. The Associate Staff Attorney or Assistant Staff Attorney position requires management of a heavy caseload of appeals covering all areas of law considered by the Court. Extensive legal research and writing is required. The work atmosphere is congenial yet intellectually demanding. Interested applicants should submit a completed New Mexico Judicial Branch Application for Employment, along with a letter of interest, resume, law school transcript, and short writing sample of no more than 5-7 double-spaced pages, to Michelle Haubert, Interim Chief Staff Attorney, 237 Don Gaspar Ave., Santa Fe, New Mexico 87501, no later than 4:00 p.m. on Friday, October 19, 2018. The materials may also be submitted by email to coamrh@nmcourts.gov. To obtain the application please call 827-4875 or visit www.nmcourts.gov. The New Mexico Judicial Branch is an equal-opportunity employer.

Managing Attorney

The Moore Law Group, a nationally recognized, multi-state creditor's rights law firm, is looking for a Managing Attorney for its New Mexico office. The New Mexico Managing Attorney will manage our New Mexico office and be responsible for its general work flow. This position would be best filled by someone who wants to build and manage their own "business within a business". Additional responsibilities include court appearances, document review and preparation, suit decisioning, interacting with litigation, post judgment and collection staff, and communicating with consumers, attorneys and clients. The successful candidate must have a thorough knowledge of the litigation process from suit filing through and including judgment enforcement in New Mexico. Experience in creditor's rights law is a plus. Five years of supervisory experience is an asset. Salary range: \$70,000 to \$90,000 based on qualifications and experience. Please submit your resume to hr@collectmoore.com

Counseling Operations Manager (FT-Term) #10106776 Judicial Supervision Diversion Program

The Second Judicial District Court is accepting applications for a Counseling Operations Manager. Under direction of the Director, manage the work and supervise the staff of Problem Solving Court Programs. Duties shall include, but aren't limited to: Management, oversight and technical writing of grants, implementing best practices and policies for Problem Solving Court Programs. Ensure all Problem Solving Court Programs are meeting best practices by following national drug court standards, provide clinical oversight for treatment services provided by community providers to ensure needs of participants are being met and are appropriate for target population. Provide recommendations and clinical insight for participants to assist programs in meeting treatment needs. Qualifications and a complete job description can be found at www.nmcourts.gov. SALARY: \$30.387 to \$37.984 hourly, plus benefits. Send application or resume supplemental form with proof of education to the Second Judicial District Court, Human Resource Office, P.O. Box 488 (400 Lomas Blvd. NW), Albuquerque, NM, 87102. Applications without copies of information requested on the employment application will be rejected. Application and resume supplemental forms may be obtained on the Judicial Branch web page at www.nmcourts.gov. CLOSSES: October 24, 2018 at 5:00 p.m.

Full-Time Associate

New Mexico's leading Trusts and Estates law firm seeks hard-working, dedicated, full-time associate for its Litigation Team. The Litigation Team handles all aspects of fiduciary and beneficiary representation, contested guardianships and conservatorships and trust and estate litigation. The ideal candidate will possess dedication; integrity; strong work ethics; a strong sense of compassion; the ability to work independently on some projects and as a good team player on others; strong research and writing skills; and a desire to assist clients in navigating difficult cases and family crisis. LLM in estate planning is a plus, but not a requirement. Qualified candidates should be interested in long-term development of skills in this area of law. We look forward to developing a long-term and successful relationship with the ideal candidate. Please submit curriculum vitae and writing sample to abqlawfirmjob@gmail.com

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County of Bernalillo**RFP #10-19-NL****Re-Solicitation Special Legal Counsel Services****Opioid Investigation / Litigation**

Bernalillo County is seeking to retain the services of a law firm to act as Special Legal Counsel to provide advice and legal representation to the County in connection with an investigation and possible litigation involving the manufacture, marketing, sale, and distribution of prescription opioid products in Bernalillo County. Pertinent RFP documents can be downloaded through the purchasing website, www.bernco.gov/general-services/procurement-and-business-services.aspx at no cost; firms must be registered to download the document. If not registered, interested parties may register at www.bernco.gov/general-services/vendor-registration.aspx. Vendors are also welcome to contact Jesus Muniz (505) 468-1680, or by e-mail jamuniz@bernco.gov to request a hard copy document at a cost of 50 cents per page. A Non-Mandatory Pre-Proposal Conference will be held on October 17, 2018 at 2:00 p.m. in Conference Room B, located on the 10th Floor of the Albuquerque/Bernalillo County Government Center, One Civic Plaza, Albuquerque, NM 87102. Sealed submittals must be addressed to the Procurement and Business Services Department, Purchasing Section, One Civic Plaza NW, 10th Floor, Room 10010, Albuquerque, NM 87102 and received no later than 4:00 p.m. (local time), November 9, 2018. Delivery of proposals is the sole responsibility of the Offeror. The Purchasing Section will date and time stamp the sealed envelope upon receipt. Late submittals will not be accepted. xc: File- RFP #10--19-NL

Associate Attorney

The Santa Fe law firm of Katz Herdman MacGillivray & Fullerton PC is seeking a full-time associate to assist in all areas of our practice, including real estate, water law, estate planning, zoning, business, finance, employment, construction, and related litigation. Please send resumes to ctc@santafelawgroup.com. Please state "Associate Attorney Position" in email subject line.

Consultant

The New Mexico Public Defender Department (d/b/a The Law Offices of the Public Defender) is seeking a consultant to conduct a special audit to address the New Mexico State Auditor's designation. Interested firms or parties are invited to review and reply to LOPD's Request For Quotes (RFQ), which can be found at <http://www.lopdnm.us/News&Events>.

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.

Staff Attorney

The Southwest Women's Law Center is seeking a staff attorney with 1-5 years' experience who is passionate about advancing economic security and social justice issues for women and girls in New Mexico. The position will remain open until filled. Please submit your resume and a letter of interest to info@swwomenslaw.org or mail your documents to Southwest Women's Law Center, 1410 Coal Avenue, SW, Albuquerque, NM 87104. For a full job description, please visit our website at www.swwomenslaw.org. We are an equal opportunity employer.

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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!

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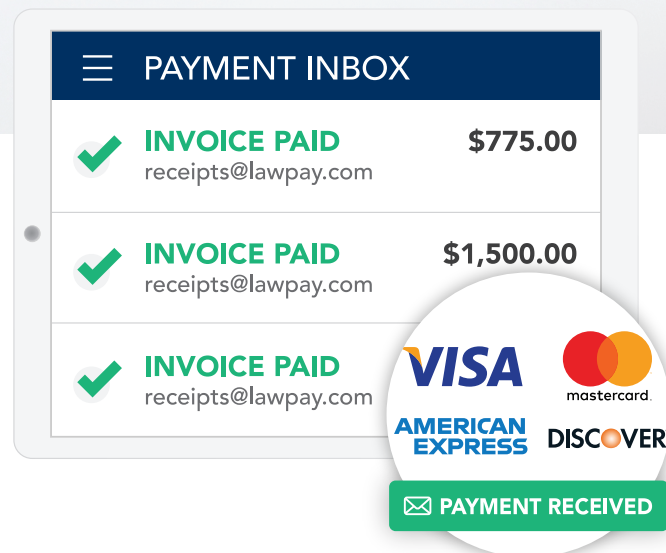
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