Official Publication of the State Bar of New Mexico

# BAR BULLETIN

-September 18, 2019 • Volume 58, No. 19 -



Cascading Light, by Aleta Pippin (see page 3)

Pippin Contemporary, Santa Fe

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#### Meetings

#### September

#### **Public Law Section Board**

Noon, Legislative Finance Committee, Santa Fe

#### **Elder Law Section Board**

Noon, State Bar Center

#### **Family Law Section Board**

9 a.m., teleconference

#### **Intellectual Property Law Section Board** Noon, JAlbright Law LLC, Albuquerque

#### Natural Resources, Energy and

**Environmental Law Section Board** Noon, teleconference

#### **Trial Practice Section Board**

Noon, State Bar Center

#### **Immigration Law Section Board**

Noon, teleconference

#### 27

#### **Cannabis Law Section Board**

9 a.m., State Bar Center

#### Workshops and Legal Clinics

#### September

#### **Legal Workshop for Seniors**

Presentation: 10-11:15 a.m.; POA/AHCD Workshop: 11:30 a.m.-1 p..m., Las Vegas Senior Center, Las Vegas, 505-797-6005

#### **Consumer Debt/Bankruptcy Workshop**

6-8 p.m., State Bar Center, Albuquerque, 505-797-6000

#### **Legal Workshop for Seniors**

Presentation: 10-11:15 a.m.; POA/AHCD Workshop: 11:30 a.m.-1 p..m., Deming Senior Center, Deming, 505-797-6005

#### **Common Legal Issues for Senior Citizens** Workshop

Presentation: 10–11:15 a.m., POA/AHCD Workshop: 11:30 a.m.-1 p.m., Munson Senior Center, Las Cruces, 1-800-876-6657

#### October

#### **Divorce Options Workshop**

6-8 p.m., State Bar Center, Albuquerque, 505-797-6022

**About Cover Image and Artist:** Aleta Pippin was six when she moved to Indio in the desert of Southern California. At first, it seemed very hot and stark, however, it wasn't long before she appreciated the clear light, deep blue sky, long views, and majestic mountains that were so prominent. All of it impressed on her subconscious mind for that time when she would realize her high school dream of becoming an artist. The first step in moving toward realization of that dream began quite serendipitously in 1992, after a move to Santa Fe, New Mexico when she took a painting class. In 2003, Pippin's passion for painting became realized blooming into a full-time career. She continued to improve her technique and found her voice —becoming an abstract artist. Color is Pippin's driving force. The impressions and emotion of her childhood environment expressed themselves into her paintings, showing up as color, freedom, and energetic movement.

# COURT NEWS New Mexico Supreme Court Rule-Making Activity

To view recent Supreme Court rule-making activity, visit the Court's website at https://supremecourt.nmcourts.gov/. To view all New Mexico Rules Annotated, visit New Mexico OneSource at https://nmonesource.com/nmos/en/nav.do

#### **Supreme Court Law Library**

The Supreme Court Law Library is open to the legal community and public at large. The Library has an extensive legal research collection of print and online resources, including Westlaw, LexisNexis and HeinOnline. The Law Library is located in the Supreme Court Building at 237 Don Gaspar in Santa Fe. Building Hours: Monday-Friday 8 a.m.-5 p.m. Reference and Circulation Hours: Monday-Friday 8 a.m.-4:45 p.m. For more information, call 505-827-4850, email libref@nmcourts.gov or visit https://lawlibrary.nmcourts.gov.

# Administrative Office of the Courts Notice of Online Dispute Resolution

Online dispute resolution (ODR) becomes available in debt and money due cases in all New Mexico Courts in September. The free service allows the parties to negotiate online to quickly resolve debt and money due cases without appearing in court. If a resolution is reached, the ODR system will prepare a stipulated settlement agreement and electronically file it in court. ODR has been piloted since June in the Second, Sixth and Ninth Judicial Districts and the Bernalillo County Metropolitan Court. Statewide implementation of ODR occurs Sept. 1. The plaintiff's attorney or a self-represented plaintiff will receive an email notification to begin ODR after the defendant files an answer to the complaint. Once the plaintiff makes an offer for possibly settling the dispute, an email goes to the defendant with an opportunity to respond. During the first two weeks of negotiations, the parties can request the help of a trained online mediator. If no agreement is reached after 30 days, the case will move forward in court. ODR notices will be emailed to the parties from no-reply@newmexicocourtsdmd.modria. com. The parties should check their inbox, spam and junk mailboxes to ensure they receive the ODR notices. For more infor-

### Professionalism Tip

#### With respect to my clients:

I will counsel my client that initiating or engaging in settlement discussions is consistent with zealous and effective representation.

mation, visit the Judiciary's ODR website at this link: https://adr.nmcourts.gov/odr.aspx.

# Notice of Training for e-Filing in Criminal Cases

Electronic filing in criminal cases begins Oct. 1 in district courts across New Mexico, and the Judiciary is offering training for attorneys, office managers and support staff. The e-filing system cannot be used to initiate a criminal case, but will be available for subsequent filings in a case. E-filing and service of documents in criminal cases will occur through the File and Serve system that has been used for civil, family and probate filings submitted electronically to courts. Training is available through a webinar Monday through Friday, Sept. 16-20 and Sept. 23-27. The Judiciary's website (https://www. nmcourts.gov/criminal-e-filing.aspx) provides a calendar with times and dates of the training sessions and additional information. In-person training will be provided on Tuesdays, Sept. 24 and Oct 1, at noon in Santa Fe at the Judge Steve Herrera Judicial Complex, 225 Montezuma Ave. The training sessions will be at the Jury Services Division office on the first floor of the courthouse.

# **Second Judicial District Court Destruction of Exhibits:**

Pursuant to 1.21.2.617 FRRDS (Records Retention and Disposition Schedules-Exhibits), the Second Judicial District Court will destroy exhibits filed with the Court, the Domestic (DM/DV) for the years of 1984 to 2008 including Criminal single case(s) CR-1983-36306, CR-1986-41147, CR-1991-02346, CR-1994-00531, CR-1994-00553, CR-2000-04292, CR-2001-01101, but not limited to cases which have been consolidated. Cases on appeal are excluded. Parties are advised that exhibits may be retrieved beginning through Oct. 2. Should you have cases with exhibits, please verify exhibit information with the Special Services Division, at 841-6717, from 8 a.m 4 p.m., Monday through Friday. Plaintiff's exhibits will be released to counsel for the plaintiff(s) or plaintiffs themselves and defendant's exhibits will be released to counsel of record for defendants(s) or defendants themselves by Order of the Court. All exhibits will be released IN THEIR ENTIRETY. Exhibits not claimed by the allotted time will be considered abandoned and will be destroyed by Order of the Court.

# Second Judicial District Court Destruction of Tapes and Logs

In accordance with 1.17.230 NMAC, Section 1.17.230.502, taped proceedings on domestic matters cases in the range of cases filed in 1975 through 1993 will be destroyed. To review a comprehensive list of case numbers and party names or attorneys who have cases with proceedings on tape and wish to have duplicates made should verify tape information with the Special Services Division (505) 841-6717 from 8 a.m.-5 p.m. Monday through Friday. Aforementioned tapes will be destroyed after Oct. 1.

# Eighth Judicial District Court Judicial Notice Of Retirement

One vacancy will exist in the Eighth Judicial District Court due to the retirement of the Honorable Jeff Foster McElroy effective Oct. 31. A Judicial Nominating Commission will be convened in Taos, N.M. at the Taos District County Courthouse within 30 days of the vacancy to interview applicants for this position. The date for this commission hearing has not vet been set, but it will be announced as soon as a date is selected. Further information on the application process can be found on the Judicial Selection website (http://lawschool.unm.edu/judsel/index. php), updates regarding the vacancy and the news release.

# **Eleventh Judicial District Court**

# Suspension of Subsection (C) of Local Rule LR11-302

LR11-302 (C) states: "As a sanction for all other technical violations, the probationer shall be incarcerated for five days." The Judges of the Eleventh Judicial District Court have decided that effective immediately, subsection (C) of LR11-302 is suspended indefinitely. The remainder of LR11-302 remains in effect.

#### **Bernalillo County Metropolitan Court Volunteers are Neded for Legal Clinics**

The Legal Services and Programs Committee of the State Bar and the Bernalillo County Metropolitan Court hold a free legal clinic the second Friday of every month from 10 a.m. until 1 p.m. Attorneys answer legal questions and provide free consultations at the Bernalillo County Metropolitan Court, 9th Floor, 401 Lomas Blvd NW, in the following areas of law: landlord/tenant, consumer rights, emndployee wage disputes, debts/bankruptcy, trial discovery preparation. Clients will be seen on a first come, first served basis and attendance is limited to the first 25 persons.

#### STATE BAR NEWS **New Mexico Judges and Lawyers Assistance Program Attorney Support Groups**

- Oct. 7, 5:30 p.m. UNM School of Law, 1117 Stanford NE, Albuquerque, King Room in the Law Library (Group meets on the second Monday of the month.) Teleconference participation is available. Dial 1-866-640-4044 and enter code 7976003#.
- Oct. 14, 5:30 p.m. UNM School of Law, 1117 Stanford NE, Albuquerque, King Room in the Law Library (Group meets on the second Monday of the month.) Teleconference participation is available. Dial 1-866-640-4044 and enter code 7976003#.
- Oct. 21, 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.

#### **Employee Assistance Program: Managing Stress Tool for Members**

The Solutions Group, the State Bar's free Employee Assistance Program, announces a new platform for managing stress. My Stress Tools is an online suite of stress management and resilience-building resources which includes: training videos, relaxation music, meditation, stress tests, a journaling feature and much more. My Stress Tools helps you understand the root causes of your stress and gives you the help you need to dramatically reduce your stress and build your resilience. Your Employee Assistance Program is available to help you, 24/7. Call at 866-254-3555.

#### **New Mexico Bar Foundation Golf Classic Tournament**

You're Invited to be part of the New Mexico Bar Foundation's Golf Classic Tournament on Oct. 14. Grab your clubs and pals and join us for a fun day of golf, networking and lots of prizes! The event takes place at Tanoan Country Club. Registration opens at 8 a.m., breakfast will be at 9 a.m. and there will be a shotgun start at 10 a.m. There will also be contests for both men and women! Thank you to our Presenting Sponsor SaucedoChavez PC. For registration and sponsorship information please visit nmbar.org/golftournament or call Stephanie Wagner at 505-797-6007.

### **Solo and Small Firm Section Nominations for Section Leader-**

Solo and Small is BIG news! The Solo and Small Firm Section has open positions for Section leadership roles, including membership on the board of directors and committees for the 2020 term. The Section is looking for candidates from across New Mexico with diverse experiences, backgrounds, and geography. Whether you a new solo or a seasoned pro in the small firm world, we'd love to get to know you. Board commitment is one meeting monthly plus membership in a committee. Committee work depends on the purpose of each committee but expect both slow and busy times. Plans for 2020 committees are in the works now, so your input is critical. To express interest, contact Deian McBryde, chair-elect, at 505-465-9086 or email deian@mcbrydelaw.com.

#### **Young Lawyers Division Elections Have Begun**

The election is now open for positions on the Young Lawyers Division Board. Positions up for election include: a two-year term for Director-at-Large, Position 3; a one-year term for Director-

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at-Large, Position 4; a two-year term for Director-at-Large, Position 5; a two-year term for Region 1 Director, consisting of the 11th judicial district; a two-year term for Region 3 Director, consisting of the 5th and 9th judicial districts; a two-year term for Region 5 Director, consisting of the 2nd and 13th judicial districts and Catron, Socorro, and Torrance counties. State Bar members who are under the age of 36 or in their first five years of practice are automatically members of the Division and eligible to participate in the election. All candidates must collect at least 10 signatures from YLD members to become a candidate. Regional director petitions must be signed by at least 10 members whose principle place of practice is within the specified region. To view and download the nominating petition, visit www.nmbar.org/yld > elections. Submit complete petitions, a headshot and a 100-150 word professional biography by Sept. 27 on the YLD Election page.

#### **Volunteer Attorneys/** Paralegals Needed for Wills for **Heroes throughout New Mexico**

The Young Lawyers Division will be hosting three Wills for Heroes events in

Santa Fe (Oct. 5), Roswell (Oct. 12) and Silver City (Oct. 19). Wills for Heroes volunteer attorneys provide wills, advance healthcare directives and powers of attorney free of charge to New Mexico first-responders. Volunteer paralegals will serve as witnesses and notaries. For more information and to sign up, please visit nmbar.org/WillsForHeroes.

#### UNM School of Law **Law Library Hours** Fall 2019

Through Dec. 31 **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 Closed. Reference

Monday-Friday

9 a.m.-6 p.m.

Holiday Closures

Thanksgiving: Nov. 28-29

Winter Break: Dec. 23-Jan. 1, 2020

#### OTHER BARS **National Conference of Bar Examiners Nationwide Practice Analysis Survey by the Testing Task Force**

Attorneys across the country have the opportunity to participate in the NCBE Testing Task Force 2019 practice analysis survey, which will gather current data on theknowledge, skills, abilities, other characteristics and technology newly licensed lawyers use to accomplish the job tasks they perform. This survey is part of the Task Force's three-year study to consider the content, format, timing and delivery methods for the bar exam to ensure it keeps pace with a changing legal profession. The results of the practice analysis, which will be published at the beginning of next year, will be used by NCBE to develop the next generation of the bar exam and will benefit the profession as a whole. To participate in the survey on behalf of New Mexico and learn more about the study, visit https://www.testingtaskforce. org/2019PAsurvey.

### **New Mexico Women's Bar Association**

ciation invites all attorneys to join us for

**Mugshots and Margaritas** The New Mexico Women's Bar Asso-

a free margarita and assorted appetizers. The event will be 5:30-8 p.m., Sept. 26, at El Pinto, 10500 4th St. NW, Albuquerque, NM 87114. Attendees at our annual event may sit with a professional photographer at a reduced price of \$60 dollars for members. If you aren't currently a member we encourage you to join for that date for \$30. If you want your photo taken email nmwba1990@gmail.com by Sept. 24, to reserve your spot. For mingling, nibble, and nosh no need to R.S.V.P. For more information, visit nmwba.org or send a message to the email above.

#### **Oliver Seth American Inn of** Court

#### 2019-2020 Schedule

The Oliver Seth American Inn of Court meets on the third Wednesday of the month from Sept. to May. The meetings always address a pertinent topic and conclude with dinner. If you reside/ practice in Northern New Mexico and wish to enhance your skills, meet some pretty good lawyers and some pretty nice judges too, please send a letter of interest to: Honorable Paul J. Kelly, Jr., U.S. Court of Appeals - Tenth Circuit, Post Office Box 10113, Santa Fe, New Mexico 87504-6113.

#### OTHER NEWS **Workers' Compensation** Judge Leonard J. Padilla Reappointed

New Mexico Workers' Compensation Administration (WCA) Acting Director Verily A. Jones announced the reappointment of Leonard J. Padilla to serve a second, five-year term as a workers' compensation judge for the WCA. Workers' compensation judges hear and decide disputes over benefits due to injured workers. By law, workers' compensation judges are appointed for an initial one-year term, which may then be followed by subsequent five-year appointments. Padilla was initially appointed to a one-year term, which began Aug. 31, 2013.

#### **New Mexico Legal Aid Second Annual Fiesta for Justice**

Each year New Mexico Legal Aid helps thousands of low-income families navigate the civil legal system. Because of NMLA's hard work, these families can access and keep safe housing, crucial food and in-

come, and personal safety. NMLA needs your help to continue this important work. On Sept. 21, NMLA will hold its Second Annual Fiesta for Justice at Tiguex Park in Albuquerque. The Fiesta for Justice will feature music, games, food and prizes. We ask you to consider sponsoring and attending this wonderful event. For more information and to R.S.V.P., visit www. newmexicolegalaid.org or call 505-243-

#### **Parenting Coordinator** Training

#### CLE course on Oct. 4 and 5

Parents who are in high conflict pose particular difficulties for the courts, other professionals and their children. Increasingly, courts are appointing Parenting Coordinators (PCs) to help reduce the parental conflict and protect the children. This training will provide 16 contact hours (9.2 CLEs) in the principles governing Parenting Coordinator, the function of PCs and conflict reducing interventions. This workshop will provide mental health practitioners and attorneys the opportunity to expand their practice and skills regarding high conflict parents. Cost is \$250 per attendee. Catered lunch included, both days. Register and pay by credit card or check with Lori Comallie-Caplan at lcomallie@gmail.com

#### Santa Fe Neighborhood Law Center

#### **Update on Annual CLE Conference**

The Santa Fe Neighborhood Law Center's annual December CLE, "Policy and Law Conference" will no longer be held. After 12 years the SFNLC, a non-profit policy and advocacy organization, has ceased its operations and is terminating its existence. Through litigation, agency advocacy and educational civic forums, the SFNLC advanced the rights of people threatened with foreclosures, improved City policies and procedures for review and approval of proposed developments, and conducted a major policy and law conference every December since 2007 devoted to solutions for issues important to the life of Santa Fe. We thank the many presenters and participants for your support, attendance, hard work and wisdom over the years. Any questions should be directed to Daniel Yohalem, president of the SFNLC Board, at dyohalem@aol.com.

### A Message from Chief Justice Judith K. Nakamura



Dear Colleagues:

This edition of the Bar Bulletin contains a complete listing of end-of-the-year vacancies on many Supreme Court committees, boards, and commissions. Our committees, boards, and commissions play a critical role in assisting the Court with its regulation of the practice and procedures within our courts and the broader legal community. Anyone who has ever served on one of the Court's

committees, boards, or commissions can attest to how challenging and rewarding the work can be. 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.

The Court strives to solicit volunteers from throughout the state who will bring geographical balance and seeks to ensure that each committee, board, and commission 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 this great state.

Should you have interest in serving on multiple committees, in your letter of interest, please prioritize up to three committees, boards, or committees and discuss your qualifications for serving on each. Letters of interest and resumes should be submitted by September 30, 2019, to the Chief Clerk of Court.

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.

Judith K. Nakamura, Chief Justice

# **New Mexico Supreme Court Committees, Boards and Commissions** Notice of 2019 Year-End Vacancies

The Supreme Court of New Mexico is seeking applications to fill upcoming year-end vacancies on 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** (1 general member position)
- Board of Bar Examiners (1 general member position)
- Children's Court Rules Committee (1 district judge position; 1 prosecuting attorney; 1 respondent's attorney)
- Code of Judicial Conduct Committee (1 district judge position; 1 general member position)
- Code of Professional Conduct Committee (5 general member positions)
- **Disciplinary Board** (3 attorney positions)
- Domestic Relations Rules Committee (1 general member
- Judicial Branch Personnel Grievance Board (1 judicial non-supervisory employee position)
- Language Access Advisory Committee (1 academic in a relevant field affiliated with a NM university; 1 signed language interpreter position with credentials recognized by NM AOC (currently working in NM state courts); 1 certified language access specialist)

- Lawyers Succession and Transition Committee (1 general member position)
- NM Children's Court Improvement Commission (1 foster parent position; 1 public education representative position; 1 youth treatment provider position)
- NM Commission on Access to Justice (2 general member
- Rules of Evidence Committee (2 general member posi-
- Statewide ADR Commission (1 magistrate judge position; 1 general member position)
- Tribal-State Judicial Consortium (1 State judge position; 2 Tribal judge positions)
- UJI-Civil Committee (1 district judge position; 1 general member position)
- UJI-Criminal Committee (4 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, NM 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 Monday, Sept. 30.

# Legal Education

#### September

19 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

19 Pretrial Practice in Federal Court (2018)

2.5 G, 0.5 EP

Live Replay, Albuquerque

Center for Legal Education of NMSBF

www.nmbar.org

19 What Drug Dealers and Celebrities Teach Lawyers About Professional Responsibility (2018)

3.0 EP

Live Replay, Albuquerque

Center for Legal Education of NMSBF www.nmbar.org

19 Basics of Trust Accounting: How to Comply with Disciplinary Board Rule 17-204

1.0 EP

Live Webinar

Center for Legal Education of NMSBF www.nmbar.org

19 Regional Conference on Child Abuse and Neglect

11.0 G, 1.0 EP

Live Seminar

Administrative Office Of The District

Attorneys

www.nmdas.com

20 Retail Leases: Restructurings, Subleases and Insolvency

1.0 G

Teleseminar

Center for Legal Education of NMSBF

www.nmbar.org

20 2019 Tax Symposium

6.0 G, 1.0 EP

Live Webcast/Live Seminar,

Albuquerque

Center for Legal Education of NMSBF

www.nmbar.org

21 Practical Tips for Trial Preparation

12.7 G

Live Seminar, Ruidoso

Michael Stout

24 The Ethics of Representing Two Parties in a Transaction

1.0 EP

Teleseminar

Center for Legal Education of NMSBF

www.nmbar.org

25 Civil Trial—Everything You Need to Know

11.0 G

Live Seminar, Albuquerque

NBI, Inc.

www.nbi-sems.com

26 Volunteer Attorney Program Orientation

2.0 EP

Live Seminar, Albuquerque Volunteer Attorney Program

www.lawaccess.org

26 Orientation and Ethics of Pro Bono

2.0 EP

Live Seminar

Volunteer Attorney Program

505-814-5033

26 Updates and Best Practices in Preparing VAWA Applications

1.0 G, 1.0 EP

Live Webcast/Live Seminar,

Albuquerque

Center for Legal Education of NMSBF

www.nmbar.org

27 2019 Advanced Collaborative Law Symposium: Mapping the Road to Effective Collaboration

6.5 G

Live Seminar, Albuquerque

Center for Legal Education of NMSBF

www.nmbar.org

October

3 JLAP - Town Hall Meeting

, 15 FP

Live Webcast/Live Seminar,

Albuquerque

Center for Legal Education of NMSBF

www.nmbar.org

4 Complex, White Collar and Federal Death Penalty Cases

6.0 G

Live Seminar

New Mexico Criminal Defense

Lawvers

www.nmcdla.org

4-5 Parenting Coordinator--Two Day Basic Training

9.2 G, 2.0 EP

Live Seminar, Las Cruces

Third Judicial District Court-CSED

www.thirddistrict court.nm courts.gov

Shifting Landscapes: Adapting Your Firm to Emerging Threats

2.0 EP

Live Seminar, Roswell

CNA Health Agencies of the West

Website/Telephone

8 "Founding Documents": Drafting Articles of Incorporation & Bylaws, Part 1

1.0 G

Teleseminar

Center for Legal Education of NMSBF

www.nmbar.org

Shifting Landscapes: Adapting Your Firm to Emerging Threats

2.0 EP

8

Live Seminar, Las Cruces

CNA Health Agencies of the West

Website/Telephone

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.

# Board of Bar Commissioners Election Notice 2019



Pursuant to Supreme Court Rule 24-101, the Board of Bar Commissioners is the elected governing board of the State Bar of New Mexico.

#### **Duties and Requirements for Board of Bar Commissioner Members:**

- Attend all Board meetings (up to six per year), including the Annual Meeting of the State Bar.
- Represent the State Bar at local bar-related meetings and events.
- Communicate regularly with constituents regarding State Bar activities.
- Promote the programs and activities of the State Bar and the NM State Bar Foundation.
- Participate on Board and Supreme Court committees.
- Evaluate the State Bar's programs and operations on a regular basis.
- Ensure financial accountability for the organization.
- Support and participate in State Bar referral programs.
- · Establish and enforce bylaws and policies.
- Serve as a director of the New Mexico State Bar Foundation Board.

Pursuant to the State Bar Bylaws, the Executive Director of the Bar provides notice to all active status members of the State Bar of the names of the Commissioners whose terms shall expire and the Bar Commissioner district from which they were elected (see positions expiring Dec. 31 and the districts below). Nominations of active status members to fill the vacancies caused by the expiration of the term of such members shall be made by petition of 10 or more active status members of the Bar who are in good standing and whose principal place of practice is in the respective district and must be received in writing in the office of the Executive Director of the Bar by 5 p.m. on or before Oct. 21 (see Nomination Petition on the next page). All active status members of the State Bar who maintain a place of practice within the State shall be eligible for nomination and election. A member shall be nominated from the District in which his or her principal place of practice is located. No state or federal judge shall be eligible to serve as a member of the BBC of the State Bar while in office. All of the positions are three-year terms and run from Jan. 1, 2020-Dec. 31, 2022, except as noted.

# First Bar Commissioner District (one three-year and one one-year position)

#### **Bernalillo County**

Commissioners whose terms expire this year:

- · Sean M. FitzPatrick
- · Lucy H. Sinkular

## Third Bar Commissioner District

# Los Alamos, Rio Arriba, Sandoval and Santa Fe counties

Commissioner whose term expires this year:

Carolyn A. Wolf

#### **Fifth Bar Commissioner District**

## Curry, DeBaca, Quay and Roosevelt counties

Commissioner whose term expires this year:

• Wesley O. Pool \*

#### **Sixth Bar Commissioner District**

# Chaves, Eddy, Lea, Lincoln and Otero counties

Commissioner whose term expires this year:

· Parker B. Folse

# **Seventh Bar Commissioner District**

#### Catron, Dona Ana, Grant, Hidalgo, Luna, Sierra, Socorro and Torrance counties

Commissioners whose terms expire this year:

- Mick I. R. Gutierrez
- David P. Lutz

# Send nomination petitions to:

Executive Director Richard Spinello State Bar of New Mexico PO Box 92860 Albuquerque, NM 87199-2860 rspinello@nmbar.org

# Petitions <u>must</u> be received by 5 p.m., Oct. 21.

Direct inquiries to 505-797-6038 or kbecker@nmbar.org.

<sup>\*</sup>Ineligible to seek re-election

# Nomination Petition for Board of Bar Commissioners

a principal place of practice in and re Date Submitted	epresenting theBar Commissioner District.
1) Signature	
Type or Print Name	Address
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# ----- New Mexico **Minimum Continuing Legal Education** (MCLE)

#### **Convenience of Pre-Approved MCLE Programing**

If you still need credits to fulfill your Minimum Continuing Legal Education 2019 requirements, consider taking a pre-approved course. As a condition of pre-approval, providers are required to report attendance and pay for attorneys' credits—saving YOU time!

> To see a list of pre-approved courses and check your credits, visit www.nmbar.org/MCLE.

#### **Important deadlines to ensure MCLE compliance:**

Dec. 31, 2019

Complete 2019 Continuing Legal Education credits

Jan. 1, 2020

> First extension fee period: \$100 paid to MCLE buys you 90 days to complete 2019 CLEs

#### **April 1, 2020**

Second extension fee period: An additional \$250 paid to MCLE buys you an additional 30 days to complete 2019 CLE requirements

#### May 1, 2020

Names of attorneys lacking CLE credits and/or payment of extension fees are reported to the New Mexico Supreme Court for possible suspension

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# The State Bar of New Mexico Fee Arbitration Program



# Looking for Pro-Bono Opportunities?

The State Bar of New Mexico Fee Arbitration Program Seeks Volunteer Arbitrators

**About the Program:** Provides attorneys and clients with an out-of-court method of resolving fee disputes that is expeditious, confidential, inexpensive, and impartial. The State Bar offers this program as a free service. For more information please visit **www.nmbar.org/feearbitration**.

**Your Role:** Attorneys who volunteer to be arbitrators review case materials, hold fee arbitration hearings and issue awards, that are final and binding. **The arbitrating attorney may decline a case for any reason.** 

If you are interested in volunteering, please complete this form and submit it to the State Bar of New Mexico Fee Arbitration Program, P.O. Box 92860, Albuquerque, NM 87199-2860; by email to vsanchez@nmbar.org; or by fax to 505-828-3765.

For more info, please contact Vannessa Sanchez at vsanchez@nmbar.org or 505-797-6060.

Attorney Name:		NM Bar Number:		
Email Address:		Phone Number:		
Languages Spoken	Languages Spoken:			
In which counties	would you like to part	icipate?		
■ Bernalillo	☐ Catron	☐ Chaves	☐ Cibola	☐ Grant
☐ Curry	☐ De Baca	🖵 Dona Ana	☐ Eddy	☐ Lincoln
<b>□</b> Guadalupe	☐ Harding	☐ Hidalgo	☐ Lea	☐ Otero
☐ Los Alamos	☐ Luna	McKinley	☐ Mora	San Miguel
<b>□</b> Quay	Rio Arriba	□ Roosevelt	San Juan	□ Taos
■ Sandoval	☐ Santa Fe	☐ Sierra	□ Socorro	
☐ Torrance	☐ Union	□ Valencia	□ Colfax	
Please indicate if you have questions and would like to be contacted: ☐ Yes, please contact me.				

#### **NEW MEXICO ATTORNEYS**

# In Memoriam Ceremond

#### **Member Services Can Benefit from Your Help**

The State Bar of New Mexico Senior Lawyers Division is honored to annually host the Attorney In Memoriam Ceremony. This event will honor New Mexico attorneys who have passed away during the last year (November 2018 to present) to recognize their work in the legal community. The ceremony is also accompanied with a presentation of scholarships to deserving third-year law students of the University of New Mexico School of Law. The State Bar of New Mexico Senior Lawyers Division would like to invite the family and friends of the attorneys to attend the reception where the scholarships will be presented to the students in honor of our deceased colleagues.

If you know of someone who has passed and/or the family and friends of the deceased (November 2018 to present), please contact Member Services at memberservices@nmbar.org or visit the www.nmbar.org/sld for additional information.

> Save the date for the ceremony: All are welcome to attend. Wednesday, Nov. 13 · 5:30-7:30 p.m. State Bar of New Mexico 5121 Masthead St. NE, Albuquerque, NM 87109





### 17th Annual Art Contest

hrough the years, the Children's Law Section Art Contest has demonstrated that communicating ideas and emotions through art and writing fosters thought and discussion among youth on how to change their lives for the better. This year's theme is designed to encourage youth from around the state who have come in contact with the juvenile justice and/or the child welfare systems to think about how they want and will market themselves to the world. Using materials funded by the Section's generous donors, contestants will create a canvas to demonstrate their idea of their future self.

HOW CAN I HELP? Support the Children's Law Section Art Contest by way of a donation that will enable contest organizers to purchase supplies, display artwork, provide prizes to contestants and host a reception for the participants and their families. Art supplies and contest prize donations are also welcome.

To make a tax deductible donation, visit www.nmbar.org/ChildrensLaw or make a check out to the New Mexico State Bar Foundation and note "Children's Law Section Art Contest Fund" in the memo line. Please mail checks to:

State Bar of New Mexico, Attn: Member Services, PO Box 92860, Albuquerque, NM 87199

For more information contact Alison Pauk at alison.pauk@lopdnm.us.

Save the Date for the Art Contest Reception! Oct. 23 at the South Broadway Cultural Center

# CHARLES W. DANIELS

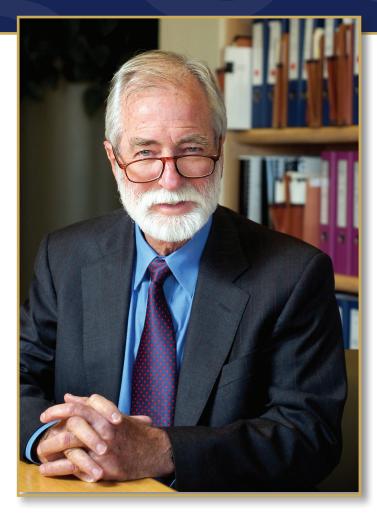
January 14, 1943 - September 1, 2019

harles Daniels
was born in
Arkansas
in a sharecroppers
shack without
indoor plumbing or
electricity. From those
humble, but well-loved
beginnings, he would
go on to become a
Chief Justice of the
New Mexico Supreme
Court.

One of his earliest memories at age 4 is going with his parents and 2 baby brothers, Martin and Paul, into the fields where they would pick cotton (no babysitters). His mother, Vivian Daniels, would give him a little sack which he would fill with enough cotton to make a pillow, then he

would climb into the buckboard wagon and take a nap. Luckily, his father John Daniels, hated farming as much as did little Charles and moved the entire family to Albuquerque in 1948, where he got a much better job changing the tires on semi-trucks. His father would go on to self-teach himself accounting and become the bookkeeper for the large trucking company.

Charles was the first person in his family to graduate from high school. An admittedly mediocre high school student, he joined the Air Force one cold winter day in Albuquerque, after the recruiter promised he would be sent someplace warm. He was stationed in Greenland, near the Arctic Circle. During one of the long winter nights on



his duty station, the directionless airman picked up a book about Clarence Darrow. Alone, in his bunk, it hit him like a lightning bolt – he wanted to be a lawyer like Darrow.

He began taking online college courses and, when he returned to the United States. moved his wife and two young daughters, Jeanette and Cheryl, to Arizona, where he was able to finish his undergraduate degree while working full time night shifts. After leaving the service, he attended the University of New Mexico Law School and, inspired by his mentor, Fred Hart, his team won the first Moot Court

competition in 10 years and Charlie graduated first in his law school class. He was then accepted into the Prettyman Masters Trial Program at Georgetown Law School in Washington, D.C. during the turbulent anti-war protests. He danced in front of the White House the night Richard Nixon resigned.

He returned to New Mexico and became a law professor at UNM Law School for five years, then entered private law practice with two of his students, John Boyd and David Freedman (later joined by Joe Goldberg and Nancy Hollander). They started their practice by representing Kerry Rodney Lee, a man who had a religious conversion and confessed to a murder in New Mexico for which 4 innocent men, members of the Vagos motorcycle gang, had been

convicted and sent to death row. Charlie and his partners were able to free the innocent men and work out a plea for their guilty client.

Charlie would enter the New Mexico penitentiary after the February 2-3, 1980 bloody prison riots and help restore order and negotiate on behalf of the prisoners inside. As an ACLU lawyer, he assigned a woman lawyer, Roberta Cooper Ramo, to help Nancy Lopez get to play on the boys' high school golf team. He helped another high school student who was barred from participating in Boys State because he refused to state that he held Christian religious beliefs.

As a criminal defense lawyer, he represented innocent people caught up in suspicious circumstances and required the government to prove beyond a reasonable doubt if his client was guilty. A client could have no better champion than Charles Daniels.

In 2007, Charlie was appointed to the New Mexico Supreme Court by Governor Bill Richardson, where he served for 12 years, including 2 terms as Chief Justice of the court. He participated with his colleagues in the Marriage Equality opinion; he authored the Brown v. State opinion, requiring judges to follow the New Mexico Constitution when setting bail; and voted to take the last two inmates off New Mexico's death row to serve life sentences. He was lucky to serve with thoughtful, remarkable men and women justices while on the court and to work with a wonderful court staff and clerks. As a cherry on top of this government job, while Chief Justice, he had the honor of marrying Harrison Ford and Calista Flockhart.

He loved the law, but that was not all he loved. Music was a huge part of his life. He played electric bass in a rowdy bar band called Lawyers, Guns and Money.

Bill, Pete, Michael, J.W. and Charlie were a fixture at the great New Mexico roadhouses like the Line Camp and the Golden Inn, where many New Mexicans learned to two step and swing dance to their covers and original songs. Charlie got to stand in as the bass player in Brooks and Dunn's first video for their single, "Brand New Man." For the last 20 years, he couldn't wait to play rock and roll with his friends, Tommy, Pete, Woody, Danny, William and Bill, as "The Incredible Woodpeckers."

At age 50, he fulfilled a lifelong dream by attending a Skip Barber racecar driving school. For the last 26 years he has raced locally at Sandia Motorsports Park and around the country, driving Legends cars, modifieds, trucks, and vintage Formula Fords. Most of the people he raced with never knew what he did in what he would tell them was "a government job." Assisted by his crack mechanic, Steve DeBerry and his daughter, Becky, his last time on the track was two months ago at the Indianapolis Motor Speedway.

And he loved his large, diverse, interesting family and friends. Their love surrounded and held him up during these last few weeks. Now nurses, his daughters Jeanette Gurley and Cheryl Daniels Kifer, provided him with loving in home care. Seana Daniels Miracle made him laugh and provided peace. Heather McGinn encircled him with love and the happy sound of the laughter of small grandchildren. Axiao Daniels was his rock and constant helper in his final weeks. Jefferson and all the grandchildren, Lauren, Olivia, Emma, David, Jacob, Calder, baby Ansel, Cody and Colton, came to say goodbye. The great love of his life, Randi McGinn, was there by his bedside.

He died as he lived. Full-throttle, racing across the finish line, having given everything he had, out of gas, but laughing with a twinkle in his eye. №

Those wishing to continue the teaching and mentoring Charlie did to encourage young lawyers can make a donation to the Daniels Diploma scholarship at the UNM law school with the following link:

http://www.unmfund.org/daniels-diploma

# **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 Aug. 30, 2019

Giant Cab v. CT Towing Inc. Affirm A-1-CA-36212 08/27/2019

#### **UNPUBLISHED OPINIONS**

A-1-CA-36246	State v. L Brown	Reverse/Remand	08/26/2019
A-1-CA-36356	E Trujillo v. Luna Community	Reverse/Remand	08/27/2019
A-1-CA-35592	State v. R Sanders	Affirm	08/29/2019
A-1-CA-36513	State v. M Moffitt	Affirm/Reverse/Remand	08/29/2019

#### Effective Sept. 6, 2019

#### **PUBLISHED OPINIONS**

A-1-CA-36158	M Haygood v. United Services	Affirm/Reverse/Remand	09/05/2019
A-1-CA-36450	State v. A Ford	Affirm/Reverse	09/05/2019

#### UNPUBLISHED OPINIONS

A-1-CA-37514	State v. B Bender	Reverse	09/03/2019
A-1-CA-37706	R Conley v. J Cotton	Reverse/Remand	09/04/2019

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

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

# Advance Opinions

From the New Mexico Supreme Court and Court of Appeals

From the New Mexico Court of Appeals

**Opinion Number: 2019-NMCA-025** 

No. A-1-CA-35643 (filed February 4, 2019)

TANYA GIDDINGS, Bernalillo County Assessor, Petitioner-Petitioner,

SRT-MOUNTAIN VISTA, LLC, ROBERT FOX, and LINDA FOX, Respondents-Respondents.

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

Carl J. Butkus, District Judge

Released for Publication July 2, 2019

ROBLES, RAEL & ANAYA, P.C. CHARLES H. RENNICK MARCUS J. RAEL, JR. Albuquerque, NM for Petitioner

VANCE, CHAVEZ & ASSOCIATES, LLC CLAUD EUGENE VANCE Albuquerque, NM for Respondents Linda Fox and **Robert Fox** 

SUTIN, THAYER & BROWNE, P.C. FRANK C. SALAZAR LARRY CURTIS VERNON Albuquerque, NM for Respondent SRT-Mountain Vista,

LLC

#### I. BACKGROUND

{2} The consolidated district court cases from which the Assessor appeals arose from separate and unrelated decisions by the Board regarding the properties of two taxpayers. As such, we set forth the relevant factual and procedural backgrounds of each case leading up to consolidation in the district court.

#### A. The SRT-Mountain Vista, LLC Proceeding

{3} SRT-Mountain Vista, LLC (SRT) is a New Mexico limited liability company wholly owned by The Philip J. Salley Revocable Trust (Trust) and managed by Philip J. Salley. Prior to April 24, 2013, the SRT subject property was owned by the Trust. On that date, Salley, as trustee of the Trust, executed a special warranty deed granting the subject property to SRT for purposes of refinancing the property.

**{4}** Following the transfer from the Trust to SRT, the Assessor valued the subject property at its "current and correct" taxable value for the 2014 tax year, without applying any limitations on increased value provided for in Section 7-36-21.2(A). SRT protested the Assessor's valuation to the Board, arguing there was no "change of ownership" as defined in Section 7-36-21.2(E), and that the subject property therefore qualified for the limitation on property value accorded by Section 7-36-21.2(A). The Board found "[t]he 2013 warranty deed clearly and indisputably transferred fee ownership from the Trust to the LLC[,]" but that the transfer did not constitute a "change [of] ownership" for purposes of Section 7-36-21.2(E) because "the property had the same ultimate owner owning the property."

#### B. The Robert and Linda Fox Proceeding

{5} Robert and Linda Fox created Fox Trust, a revocable inter vivos trust, to serve as the sole owner of various LLCs. Prior to 2013, these LLCs owned the Fox subject properties. On January 23, 2013, and February 5, 2013, the LLCs granted the subject properties to Richard and Linda Fox as joint tenants for purposes of refinancing. After refinancing the properties, Robert and Linda Fox granted the properties back to the various LLCs that previously owned

**[6]** Following these conveyances, the Assessor valued the subject properties at their "current and correct" taxable values for the 2014 tax year, without regard to the valuation limitation set forth in Section 7-36-21.2(A). Robert and Linda Fox protested the Assessor's valuation to the Board, arguing that notwithstanding the transfers, there was no "change of ownership" under Section 7-36-21.2(E). The Board found "[t]he 2013 warranty deeds clearly and indisputably transferred fee ownership from the LLCs to [Robert and Linda Fox] and back to the LLCs/ Trusts[,]" but that the transfers did not constitute "changes of ownership" within the meaning of Section 7-36-21.2(E) "because in each case the property had the same ultimate owners owning the same proportion of each property."

#### C. The District Court Proceedings

{7} After the Board issued its decisions in both cases, the Assessor filed petitions for writs of certiorari in the district court, seeking reversal of the Board's decisions on

#### **Opinion**

#### Julie J. Vargas, Judge

{1} On motion of the Bernalillo County Assessor (Assessor), the district court certified this appeal to resolve three issues arising from two consolidated district court cases. First, we conclude the district court has appellate jurisdiction to review decisions of the Bernalillo County Valuation Protests Board (Board) based upon the Assessor's petitions for writs of certiorari. Second, we determine the Assessor to be an aggrieved party, entitling her to review of the Board's decision under Rule 1-075(B) NMRA. Third, we hold that residential property transfers between individuals or their trusts, and their wholly-owned limited liability companies constitute a "change of ownership" as defined by NMSA 1978, Section 7-36-21.2(E) (2010).

the grounds that they were arbitrary and capricious and not in accordance with the law. Additionally, the Assessor successfully moved to consolidate both cases.

{8} SRT and Robert and Linda Fox (collectively, Respondents) moved to dismiss the Assessor's petition, arguing the Assessor lacked the right to appeal the Board's decision under NMSA 1978, Section 7-38-28(A) (2015) (providing that "[a] property owner may appeal an order made by a hearing officer or a county valuation protests board"), and Addis v. Santa Fe County Valuation Protests Board, 1977-NMCA-122, ¶ 6, 91 N.M. 165, 571 P.2d 822 (holding that, for purposes of NMSA 1953, Section 72-31-28(A) (1973) (recompiled and amended as Section 7-38-28), "[t]he county assessor may not appeal the order of the [valuation protests board]; only the property owner may appeal"). Anticipating the Assessor's intent to invoke the district court's power to issue writs of certiorari under Article VI, Section 13 of the New Mexico Constitution, Respondents further argued the Assessor had not made the prima facie showing of entitlement to relief required on direct appeal. Finally, Robert and Linda Fox argued the district court lacked original jurisdiction under Article VI, Section 13 to hear a property tax matter invoking a constitutional claim because the Assessor raised no such claim. **{9**} Without ruling on the Assessor's petition or Respondents' motions to dismiss, the district court granted the Assessor's motion for certification to this Court to resolve the following issues: (1) whether the district court has jurisdiction to review the Assessor's petition under Article VI, Section 13 of the New Mexico Constitution; (2) whether the Assessor may seek review under Rule 1-075; and (3) whether the transfers at issue constitute "changes of ownership" for purposes of Section 7-36-21.2(E). We accepted certification from the district court.

#### II. DISCUSSION

A. The District Court Has Jurisdiction {10} The threshold issue raised by the parties is whether the district court has jurisdiction to review the Assessor's petition for writ of certiorari. The Assessor contends the district court has appellate jurisdiction under Article VI, Section 13 of the New Mexico Constitution, a premise Respondents refute. The question of whether the district court has jurisdiction is a question of law we review de novo. *Smith v. City of Santa Fe*, 2007-NMSC-055, ¶ 10, 142 N.M. 786, 171 P.3d 300.

{11} Article VI, Section 13 of the New Mexico Constitution grants appellate jurisdiction to the district court in "cases originating in inferior courts and tribunals in their respective districts..., and supervisory control over the same[,]" and confers upon the district court the "power to issue writs of . . . certiorari . . . in the exercise of their jurisdiction; provided that no such writs shall issue directed to judges or courts of equal or superior jurisdiction." *Id* 

{12} "A writ of certiorari lies when it is shown that an inferior court or tribunal has exceeded its jurisdiction or has proceeded illegally, and no appeal or other mode of review is allowed or provided." Zamora v. Vill. of Ruidoso Downs, 1995-NMSC-072, ¶ 17, 120 N.M. 778, 907 P.2d 182 (omission, internal quotation marks, and citation omitted). Our Supreme Court "has long held that certiorari is the appropriate process to review the proceedings of bodies acting in a judicial or quasijudicial character[.]" Id. ¶ 18 (omission, alterations, internal quotation marks, and citation omitted); See Rule 1-075(A) ("This rule governs writs of certiorari to administrative officers and agencies pursuant to the New Mexico Constitution when there is no statutory right to an appeal or other statutory right of review."). County valuation protests boards are quasi-judicial bodies. See Addis, 1977-NMCA-122, ¶ 5 ("The [valuation protests board] is a quasi-judicial body."). In the absence of a direct right to appeal from an adverse valuation protests board determination, or other mode of review on behalf of a county assessor, we agree with the Assessor that certiorari is the appropriate means of determining whether the Board exceeded its jurisdiction or proceeded illegally in the underlying agency proceedings. See Rule 1-075(G)(2) (requiring the district court to issue a writ of certiorari to review an agency action where several preconditions are met, including that "the petitioner does not have a right to review by appeal."); Rainaldi v. Pub. Emps. Ret. Bd., 1993-NMSC-028, ¶ 8, 115 N.M. 650, 857 P.2d 761 (explaining that "certiorari may be the only method available for reviewing the actions of a state board where no statutory review is provided").

{13} It need be emphasized that, pursuant to Section 7-38-28(A), "[a] property owner may appeal an order made by a . . . county valuation protests board by filing an appeal pursuant to the provisions of [NMSA 1978,] Section 39-3-1.1" (1999) (emphasis

added); see § 39-3-1.1(A) ("The provisions of this section shall apply only to judicial review of agency final decisions that are placed under the authority of this section by specific statutory reference." (emphasis added)). Indeed, interpreting a prior version of Section 7-38-28, we squarely held that "[t]he county assessor may not appeal the order of the [valuation protests board]; only the property owner may appeal." Addis, 1977-NMCA-122, ¶ 6; see NMSA 1953, § 72-31-28(A) (1973) ("A property owner may appeal an order made by . . . a county valuation protests board[.]"). We view the unavailability of a direct appeal on the Assessor's behalf as an essential element of her right to pursue a writ of certiorari, and not, as Respondents would have it, as an absolute bar to the issuance of such a writ. Respondents having cited no direct authority supporting their contrary proposition, we must assume that no such authority exists. In re Adoption of Doe, 1984-NMSC-024, ¶ 2, 100 N.M. 764, 676 P.2d 1329.

## B. The Assessor Is an Aggrieved Party Under Rule 1-075(B)

{14} Having concluded the Assessor may seek judicial review of the Board's decision by way of a petition for writ of certiorari to the district court, we next address whether the Assessor is an "aggrieved party" as required by Rule 1-075(B), which "governs writs of certiorari to administrative officers and agencies pursuant to the New Mexico Constitution when there is no statutory right to an appeal or other statutory right of review." Rule 1-075(A).

{15} Rule 1-075(B)(1) provides that "[a]n aggrieved party may seek review of a final decision or order of an agency by . . . filing a petition for writ of certiorari in the district court[.]" The rule further requires that the district "court shall issue a writ of certiorari to review the action of the agency if . . . the petition makes a prima facie showing . . . that the petitioner is entitled to relief[.]" Rule 1-075(G)(2). Respondents argue the Assessor is not an aggrieved party under the rule and therefore cannot make a prima facie showing of entitlement to relief.

{16} Generally speaking, an aggrieved party is "a party whose interests are adversely affected." *State v. Nehemiah G.*, 2018-NMCA-034, ¶ 15, 417 P.3d 1175 (internal quotation marks and citation omitted), *cert. denied*, 2018-NM-CERT-\_\_\_ (No. S-1-SC-36974, Apr. 26, 2018). In support of their argument that the Assessor is not an "aggrieved party"

and therefore lacks standing, Respondents cite to State ex rel. Overton v. New Mexico State Tax Commission, 1969-NMSC-140, ¶ 10, 81 N.M. 28, 462 P.2d 613 (stating, in the context of an action for declaratory judgment, that the county assessor "has no personal stake in the matter"). Overton held that a county assessor did not have standing to bring a declaratory judgment action challenging the constitutionality of a tax-exemption statute because no justiciable controversy was present. See id. ¶¶ 1, 10, 19. However, as our Supreme Court has since clarified, Overton's holding is properly limited to the facts in that declaratory judgment action, and does not preclude review of a justiciable controversy arising from a taxpayer's "claim of entitlement to a tax exemption." See El Castillo Ret. Residences v. Martinez, 2017-NMSC-026, ¶ 18, 401 P.3d 751. Similar to the situation presented in El Castillo, a justiciable controversy exists here regarding Respondents' claim of entitlement to the benefit of the limitation on valuation increases set out in Section 7-36-21.2(E), a claim which, as was true of the claim presented in *El Castillo*, is not theoretical in nature and in whose outcome the Assessor "does have an interest." Id. See NMSA 1978, § 7362(A) (1995) ("The county assessor is responsible and has the authority for the valuation of all property subject to valuation for property taxation purposes in the county[.]"); NMSA 1978, § 7-36-16(A) (2000) ("County assessors shall determine values of property for property taxation purposes[,] . . . implement a program of updating property values so that current and correct values of property are maintained[,] and shall have sole responsibility and authority at the county level for property valuation maintenance[.]"); see also Robinson v. Bd. of Comm'rs of Cty. of Eddy, 2015-NMSC-035, ¶¶ 10-11, 360 P.3d 1186 ("The Property Tax Code . . . makes a general grant to county assessors of authority over valuation of property. . . . Clearly, the Legislature has reposed in county assessors the responsibility for maintaining a program of updating property values to reflect current and correct values of property." (internal quotation marks and citation omitted)); cf. Addis, 1977-NMCA-122, ¶ 5 (concluding that the county assessor, as the party defending the valuation of property, is the adversarial party to the aggrieved property owner). It is the Assessor who is in the best position to challenge the Board's decision limiting her authority in instances where residential properties are transferred between individuals or their trusts and the LLCs created to hold title to those properties. See El Castillo Ret. Residences, 2017-NMSC-026, ¶ 18 (concluding that the assessor has an interest in the outcome of a taxpayer's claim of entitlement to a tax exemption). We therefore conclude the Assessor is an aggrieved party under both Rule 1-075 and our standing jurisprudence in light of the facts and posture of this case.

#### C. The Transactions at Issue Constitute Changes of Ownership Under Section 7-36-21.2(E)

{17} Respondents next argue the Assessor failed to make a prima facie showing of entitlement to relief because she did not show the transfers at issue constituted "changes of ownership" for purposes of Section 7-36-21.2(E) such that the Board's decision was not in accordance with the law or was arbitrary, capricious, or fraudulent. To determine whether the Assessor's petition makes a prima facie showing of entitlement to relief, we must first resolve the legal questions raised in the Assessor's

{18} Section 7-36-21.2(A) sets forth limitations on the percentage by which the value of residential property may be increased from the prior tax year. The statute exempts from those valuation limitations the "valuation of a residential property in any tax year in which . . . a change of ownership of the property occurred in the year immediately prior to the tax year for which the value of the property for property taxation purposes is being determined[.]" Section 7-36-21.2(A)(3) (a). The statute further defines a "change of ownership":

As used in this section, "change of ownership" means a transfer to a transferee by a transferor of all or any part of the transferor's legal or equitable ownership interest in residential property except for a transfer:

- (1) to a trustee for the beneficial use of the spouse of the transferor or the surviving spouse of a deceased trans-
- (2) to the spouse of the transferor that takes effect upon the death of the transferor;
- (3) that creates, transfers or terminates, solely between spouses, any co-owner's interest;
- (4) to a child of the transferor, who occupies the property as that person's principal residence at the time of

transfer; provided that the first subsequent tax year in which that person does not qualify for the head of household exemption on that property, a change of ownership shall be deemed to have occurred;

- (5) that confirms or corrects a previous transfer made by a document that was recorded in the real estate records of the county in which the real property is located;
- (6) for the purpose of quieting the title to real property or resolving a disputed location of a real property boundary; (7) to a revocable trust by the transferor with the transferor, the transferor's spouse or a child of the transferor as beneficiary; or
- (8) from a revocable trust described in Paragraph (7) of this subsection back to the settlor or trustor or to the beneficiaries of the trust.

Section 7-36-21.2(E).

**{19}** The question of whether the property transfers at issue constitute "changes of ownership" is one of statutory interpretation. "The meaning of language used in a statute is a question of law that we review de novo." Baker v. Hedstrom, 2012-NMCA-073, ¶ 9, 284 P.3d 400 (internal quotation marks and citation omitted); see Rayellen Res., Inc. v. N.M. Cultural Props. Review Comm., 2014-NMSC-006, ¶ 16, 319 P.3d 639 (explaining that although the court generally defers to an agency's interpretation of an ambiguous statute or regulation when the agency is charged with administering it and the statute or regulation implicates the agency's expertise, "we will not defer to the agency's . . . statutory interpretation, as this is a matter of law that we review de novo" (alteration, internal quotation marks, and citation omitted)). "The principal objective in the judicial construction of statutes is to determine and give effect to the intent of the Legislature." Baker, 2012-NMCA-073, ¶ 10 (alteration, internal quotation marks, and citation omitted). "We rely on rules of construction as aids in determining legislative intent[.]" Id.

**{20}** "The first guiding principle in statutory construction dictates that we look to the wording of the statute and attempt to apply the plain meaning rule, recognizing that when a statute contains language which is clear and unambiguous, we must give effect to that language and refrain from further statutory interpretation." United Rentals Nw., Inc. v. Yearout Mech., *Inc.*, 2010-NMSC-030, ¶ 9, 148 N.M. 426,

237 P.3d 728 (alteration, internal quotation marks, and citations omitted); see NMSA 1978, § 12-2A-19 (1997) ("The text of a statute or rule is the primary, essential source of its meaning."). "We will not depart from the plain wording of a statute, unless it is necessary to resolve an ambiguity, correct a mistake or an absurdity that the Legislature could not have intended, or to deal with an irreconcilable conflict among statutory provisions." Regents of the Univ. of N.M. v. N.M. Fed'n of Teachers, 1998-NMSC-020, ¶ 28, 125 N.M. 401, 962 P.2d 1236. Furthermore, "we will not read into a statute or ordinance language which is not there, particularly if it makes sense as written." Id. (internal quotation marks and citation omitted).

**{21}** Section 7-36-21.2(E) expressly carves out eight exceptions to the definition of "change of ownership," none of which include transfers between individuals or their trusts and LLCs formed to hold title to their properties. Further, contrary to Respondents' position at oral argument, nothing in Section 7-36-21.2(E) indicates that the Legislature intended to provide a non-exhaustive list of definitional exceptions that included other unenumerated types of transfers. Compare NMSA 1978, § 14-2-1(A) (2011) (providing that "[e] very person has a right to inspect public records of this state except [eight specifically enumerated exceptions]" (emphasis added)), with NMSA 1978, § 30-31-6(C) (19) (2018) (designating as Schedule I controlled substances "synthetic cannabinoids, including" eleven specifically enumerated synthetic cannabinoids (emphasis added)), and Rule 11-404(B) (2) NMRA (providing that evidence of a crime, wrong, or other act "may be admissible for another purpose, such as proving" nine permitted uses (emphasis added)). Had the Legislature intended the list of exceptions provided in Section 7-36-21.2(A) to be non-exclusive, it presumably would have included appropriate language to that effect, as is found in the examples cited above. Given the plain

language of the statute, and the conspicuous absence of any limiting language, we are not persuaded that the Legislature intended to include exceptions to its definition of "change of ownership" beyond those exceptions expressly delineated. See Baker, 2012-NMCA-073, ¶ 30 (explaining that "the canon of statutory construction known as expressio unius est exclusio alterius [means] the inclusion of one thing implies the exclusion of another"). Accordingly, we conclude that a transfer of residential property between an LLC's members and the LLC itself constitutes a "a change of ownership" within the meaning of Section 7-36-21.2(A)(3)(a), subjecting the property to a valuation based upon its "current and correct value[,]" regardless of whether the proportional beneficial interests remain intact. This conclusion is consistent with both the distinct legal status afforded to an LLC, see NMSA 1978, § 53-19-10(A) (1993) ("A limited liability company formed pursuant to the Limited Liability Company Act is a separate legal entity."), and the Legislature's broad definition of "change of ownership" as a transfer "of all or any part of the transferor's legal or equitable ownership interest[.]" Section 7-36-21.2(E) (emphasis added).

{22} Respondents, however, argue that applying the plain language of Section 736-21.2(E) would result in an absurdity not intended by the Legislature. In particular, Respondents argue that a literal application of the statute would remove the statutory limitation on valuation increases whenever a homeowner refinances, grants an easement over, incurs a lien on, or in any way conveys a legal or equitable ownership interest in his or her property. Respondents Robert and Linda Fox urge us to follow the lead of California and Oklahoma, which have exempted similar transfers from their equivalent definitions of "change of ownership" for purposes of their respective counterpart limitations on property valuation increases. See Cal. Code Regs. tit. 18, § 462.180(b)(2) (West 2018); In re Assessments for the Year 2005 of Certain Real Prop. Owned by Askins Props., L.L.C., 2007 OK 25, ¶ 16, 161 P.3d 303. However, the California exemption of such transfers from its definition of "change of ownership" is founded upon an express statutory provision to that effect, a delineated exemption not present in Section 7-36-21.2(E). See Cal. Rev. & Tax. Code § 62(a)(2) (West 2018) (exempting from "change of ownership" "[a]ny transfer between an individual or individuals and a legal entity or between legal entities . . . that results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in each and every piece of real property transferred, remain the same after the transfer"). With respect to the Oklahoma exemption, that state's Supreme Court has held that such transfers are exempt based on constitutional and statutory provisions textually distinct from Section 7-36-21.2(E). Askins Props., L.L.C., 2007 OK 25, ¶ 9. While Article 10, Section 8(B) of the Oklahoma Constitution excludes property that is "transferred, changed or conveyed to another person" from limitations on value increases, there is an implementing statutory provision, Okla. Stat. tit. 68, § 2802.1(A)(1), (4)(g) (2002, amended 2014), found constitutional in Askins, which specifically exempts property that "is transferred from a person to a . . . limited liability company . . . of which the transferor . . . [is] the only owner[.]" Thus, little guidance is provided by those states' jurisprudence and statutes. See generally State v. Office of Pub. Def. ex rel. Mugaddin, 2012-NMSC-029, ¶ 28, 285 P.3d 622 ("[W]hen relying on [out-of-state] authority we must ensure that another court is not relying on language that is absent from our statute or that the language of the statute differs so greatly from ours that it serves a different purpose.").

¹We note the Legislature considered, but did not pass, a bill in 2015 that would have included the transfers at issue in Section 7-36-21.2(E)'s list of exceptions. See H.B. 247, 52nd Leg., 1st Sess. (N.M. 2015) (adding as an exception to "changes of ownership" a transfer "that only changes the manner of holding title and does not change the proportional beneficial interests in the residential property held before the transfer"); *cf. State ex rel. King v. Lyons*, 2011-NMSC-004, ¶¶ 9, 4750, 149 N.M. 330, 248 P.3d 878 (noting that "the Legislature . . . is well informed about the law and that its legislation is usually intended to change the law as it previously existed[,]" and explaining that the voters' rejection of a constitutional amendment authorizing the Land Commissioner to exchange public lands reflects "the lack of legal authority to conduct unrestricted land exchanges" (internal quotation marks and citation omitted)). *But cf. State ex rel. Udall v. Pub. Emps. Ret. Bd.*, 1994-NMCA-094, ¶ 20, 118 N.M. 507, 882 P.2d 548 ("Under our system of government, law is not made by defeating bills or proposed constitutional amendments."), *rev'd on other grounds*, 1995-NMSC-078, 120 N.M. 786, 907 P.2d 190.



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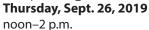




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{23} To the extent that Respondents argue that a strict application of the plain language of Section 7-36-21.2(E) leads to an absurd result here in the form of a tax increase even though only the method of holding title to property changed, not the identity of the individual owners, that is a matter to be addressed by the Legislature, not the courts. We therefore conclude the transfers at issue constitute "changes of ownership" as contemplated by the Legislature.

# D. The Assessor Made a Prima Facie Showing of Entitlement to Relief

**{24}** Having resolved in favor of the Assessor the questions of law upon which her petitions are based, we turn now to the sufficiency of her showing of entitlement to relief under Rule 1-075(G)(2) (requiring the district court to issue a writ of certiorari if, among other things, the petition "makes a prima facie showing that . . . the petitioner is entitled to relief"). We observe initially that "review by certiorari will lie when it is shown that the inferior court or tribunal has exceeded its jurisdiction or has proceeded illegally," Regents of University of New Mexico v. *Hughes*, 1992-NMSC-049, ¶ 19, 114 N.M. 304, 838 P.2d 458, with the term "illegally" properly interpreted to be synonymous with "arbitrary, unlawful, unreasonable, capricious, or not based on substantial evidence." Id.; see Rule 1-075(R) (explaining that the district court shall determine whether the agency's action was (1) fraudulent, arbitrary, or capricious; (2) not supported by substantial evidence in the record; (3) outside the scope of the agency's authority; or (4) otherwise not in accordance with the law); Zamora, 1995-NMSC-072, ¶ 17 (explaining that "[j]udicial review of administrative action requires a determination whether the administrative decision is arbitrary, unlawful, unreasonable, capricious, or not based on substantial evidence" (omission, internal quotation marks, and citation omitted)); N.M. Regulation & Licensing Dep't v. Lujan, 1999-NMCA-059, ¶ 8, 127 N.M. 233, 979 P.2d 744 ("[A]n agency's decision is not in accordance with the law if the decision or action taken by the agency was based on an error of law."); High Ridge *Hinkle Joint Venture v. City of Albuquerque*, 1994-NMCA-139, ¶ 31, 119 N.M. 29, 888 P.2d 475 ("The district court should have granted the writ [of certiorari] if the [c]ity [c]ouncil had acted illegally, as would be the case if the [c]ouncil's interpretation of the zoning code was incorrect.) (citation omitted).

**{25}** The Board determined that the real property transfers at issue were not "changes of ownership" for purposes of Section 7-36-21.2(E) because the proper-

ties had the same "ultimate" owners. However, as we have stated above, the Board's conclusion was clearly erroneous since the underlying transfers constituted "changes of ownership" as that term is defined by the plain language of the statute. Accordingly, the Board's decisions in both cases were not in accordance with the law, and the Assessor has satisfied the requirement of Rule 1-075(G)(2) that she make a prima facie showing of entitlement to relief. We therefore need not address whether the Board's decision was arbitrary and capricious.

#### III. CONCLUSION

{26} Having concluded the district court has jurisdiction, the Assessor may seek review of the Board's decision under Rule 1-075, and the transfers at issue constitute "changes of ownership" for purposes of Section 7-36-21.2(E), we remand to the district court with instructions to vacate the Board's decisions and remand the matters to the Board for further proceedings consistent with this opinion.

{27} IT IS SO ORDERED. JULIE J. VARGAS, Judge

WE CONCUR: M. MONICA ZAMORA, Chief Judge J. MILES HANISEE, Judge

# Advance Opinions

From the New Mexico Supreme Court and Court of Appeals

From the New Mexico Court of Appeals

**Opinion Number: 2019-NMCA-026** 

No. A-1-CA-35497 (filed February 14, 2019)

STATE OF NEW MEXICO, Plaintiff-Appellant, v. SOMER D. WRIGHT, Defendant-Appellee.

#### APPEAL FROM THE DISTRICT COURT OF TORRANCE COUNTY

Matthew G. Reynolds, District Judge

Certiorari Granted, April 19, 2019, No. S-1-SC-37589

Hector H. Balderas, Attorney General Santa Fe, NM Charles J. Gutierrez, Assistant Attorney General Albuquerque, NM for Appellant Bennett J. Baur, Chief Public Defender

Mary Barket, Assistant Appellate

Defender

Santa Fe, NM

for Appellee

#### **Opinion**

#### Emil J. Kiehne, Judge Pro Tempore

{1} A reserve deputy sheriff's officer followed Defendant Somer Wright home after seeing her truck driving erratically on the highway. When Defendant arrived home, her truck struck a parked vehicle in the driveway, and then backed up, almost hitting the reserve deputy's vehicle. The reserve deputy approached Defendant's truck and, after she admitted to having drunk four beers, advised her to "hang tight." Defendant sat in her truck until a regular commissioned deputy sheriff arrived four to five minutes later to continue the investigation. Defendant was ultimately charged with driving while intoxicated (DWI).

{2} It is undisputed that the reserve deputy lacked statutory authority under the Motor Vehicle Code to require Defendant to remain in her truck until the commissioned deputy arrived on the scene. It is also undisputed that the reserve deputy's

action constituted an arrest under New Mexico law, albeit one that did not violate the Fourth Amendment. The question we must decide is whether the arrest was constitutionally unreasonable under Article II, Section 10 of the New Mexico Constitution. The district court found that the reserve deputy's action was unconstitutional, and suppressed all evidence obtained by law enforcement after the reserve deputy directed Defendant to "hang tight." The State now appeals.

{3} We conclude that the arrest was constitutionally reasonable, because the State's strong interest in apprehending and prosecuting drunk drivers outweighed the minor intrusion on Defendant's privacy rights. We therefore reverse the district court's suppression order.

#### **BACKGROUND**

{4} On the evening of March 15, 2014, Torrance County Reserve Deputy Roy Thompson was on duty in a marked patrol car belonging to the Torrance County Sheriff's Department. He wore a uniform and badge that identified him as a deputy and were largely indistinguishable

from those of a full-time regular deputy. Thompson was traveling down Highway 41 when he was approached from behind by two vehicles. Believing they were exceeding the 55 mile-per-hour posted speed limit, Thompson pulled off the highway to let those vehicles pass. The headlights on one of the vehicles kept moving "back and forth," and as Thompson pulled over, one of the vehicles, a white Dodge truck driven by Defendant, crossed the outer white line and nearly struck Thompson's vehicle. Thompson's radar showed that Defendant's truck was traveling at sixty-eight miles per hour, and Thompson sped up to around eighty miles per hour and passed another vehicle to catch up with Defendant. While traveling behind Defendant, Thompson used his personal cell phone to contact Deputy Ron Fulfer, the only fulltime deputy on duty in Torrance County that evening, who instructed Thompson to follow the truck and initiate a stop only if necessary to do so for safety reasons. Thompson also ran the truck's license plate number and obtained Defendant's address. Thompson followed the truck to a private residence matching the vehicle's registered address. When Defendant pulled the truck into her driveway, she struck another vehicle that was already parked there. Defendant backed up after hitting the parked car, and according to Thompson, nearly struck his patrol car<sup>11</sup> as he pulled up behind Defendant's truck and parked on the highway. Though he never activated his emergency lights, Thompson did shine the patrol car's spotlight on the now-stationary truck before approaching Defendant on foot. Defendant remained in the driver's seat of the truck, with the engine running and the lights on.

{5} Thompson identified himself as a reserve deputy, and pointed out to Defendant that she had hit the vehicle in the driveway and nearly hit his patrol car, to which Defendant responded by stating, in substance, that the car in her driveway was hers, and she could hit it if she wanted to. At that point, Thompson smelled the odor of alcohol and asked if Defendant had been drinking. She acknowledged that she had consumed "four green beers," apparently in celebration of the then upcoming St. Patrick's Day holiday. Thompson instructed Defendant to "hang tight" until Deputy Fulfer arrived. Thompson then returned

<sup>&</sup>lt;sup>1</sup>Thompson testified that he did not believe Defendant was attempting or intended to flee.

to and sat in his patrol car. Defendant followed Thompson's direction by remaining in her vehicle, and approximately four to five minutes later, Deputy Fulfer arrived, conducted a DWI investigation, and arrested Defendant for DWI. Defendant was ultimately charged with aggravated DWI, contrary to NMSA 1978, § 66-8-102(A), (D)(1) (2010, amended 2016), which carries a penalty of up to ninety days' imprisonment and a fine of not more than \$500. See § 66-8-102(E).

**[6]** Defendant moved to suppress the evidence obtained after Deputy Fulfer arrived on the scene, arguing that it was obtained as a result of an unlawful seizure in violation of Article II, Section 10 of the New Mexico Constitution. The district court granted Defendant's suppression motion following a hearing, concluding that (1) Thompson's "temporary detention" of Defendant constituted an "arrest" within the meaning of NMSA 1978, \$ 66-8-124(A) (2007) (providing that "[n] o person shall be arrested for violating the Motor Vehicle Code . . . or other law relating to motor vehicles punishable as a misdemeanor except by a commissioned, salaried peace officer who, at the time of arrest, is wearing a uniform clearly indicating the peace officer's official status"); (2) Defendant's arrest was not authorized by Section 66-8-124(A) because Thompson was not a commissioned, salaried deputy; and (3) Defendant's arrest, while not violating the Fourth Amendment, did violate Article II, Section 10 of the New Mexico Constitution. The State now appeals.

#### DISCUSSION

{7} "Appellate review of a motion to suppress presents a mixed question of law and fact." State v. Paananen, 2015-NMSC-031, ¶ 10, 357 P.3d 958 (internal quotation marks and citation omitted). "We review the [district] court's ruling on a defendant's motion to suppress to determine whether the law was correctly applied to the facts, viewing them in the manner most favorable to the prevailing party." State v. Ortiz, 2017-NMCA-062, ¶ 9, 400 P.3d 312 (alteration, internal quotation marks, and citation omitted), cert. denied, 2017-NM-CERT-\_\_\_ (No. S-1-SC-36492, June 22, 2017). "While we afford de novo review of the [district] court's legal conclusions, we will not disturb the [district] court's factual findings if they are supported by substantial evidence." Id. (internal quotation marks and citation omitted).

{8} We begin our analysis by setting out

several undisputed legal and constitutional precepts that would normally serve as building blocks of an analysis under Article II, Section 10. First, the State concedes that Thompson's actions in temporarily detaining Defendant amounted to an "arrest" as that term is used in Section 66-8-124(A). See State v. Slayton, 2009-NMSC-054, ¶ 20, 147 N.M. 340, 223 P.3d 337 (concluding that "temporary detentions are covered under the term 'arrest' as used in Chapter 66 as well as custodial arrests"); *State v. Bricker*, 2006-NMCA-052, ¶ 9, 139 N.M. 513, 134 P.3d 800 (same). The State also agrees, as it must, that Thompson was not a commissioned, salaried peace officer under Section 66-8-124(A) and therefore acted without statutory authority when he temporarily detained Defendant. Neither party disputes that Thompson's temporary detention of Defendant, although statutorily unauthorized, did not violate the Fourth Amendment. See Slayton, 2009-NMSC-054, ¶¶ 30-33 (holding that the defendant's statutorily unauthorized detention by a police service aide did not violate the Fourth Amendment). Finally, there is no dispute that Thompson was acting in his capacity as a reserve deputy on behalf of Torrance County when he began following Defendant's vehicle and that his temporary detention of Defendant therefore amounted to a seizure by a state actor. See id. ¶¶ 21-27. Given the parties' consensus on these matters, the sole issue before us is whether Thompson's actions violated Article II, Section 10 of the New Mexico Constitution, which guarantees the right to be free "from unreasonable searches and seizures."

{9} Our Supreme Court has often interpreted Article II, Section 10 to provide significantly greater protections than those afforded under the Fourth Amendment. See, e.g., State v. Cardenas-Alvarez, 2001-NMSC-017, ¶¶ 2, 5, 130 N.M. 386, 25 P.3d 225 (holding that extended detention of a defendant at border checkpoint was unlawful under Article II, Section 10); State v. Gomez, 1997-NMSC-006, ¶¶ 39, 44, 122 N.M. 777, 932 P.2d 1 (rejecting federal automobile exception to warrant requirement in favor of greater protections under Article II, Section 10); State v. Attaway, 1994-NMSC-011, ¶¶ 22, 25, 117 N.M. 141, 870 P.2d 103 (holding that Article II, Section 10 requires officer executing search warrant to "knock and announce"); Campos v. State, 1994-NMSC-012, ¶¶ 10, 14, 117 N.M. 155, 870 P.2d 117 (requiring warrantless arrest to be based

on both probable cause and sufficient exigent circumstances). New Mexico courts have specifically applied this greater constitutional protection to motorists. See Cardenas-Alvarez, 2001-NMSC-017, ¶ 15 (stating that "[t]he extra layer of protection from unreasonable searches and seizures involving automobiles is a distinct characteristic of New Mexico constitutional law[,]" and observing that the New Mexico Supreme Court has "dismissed the notion that an individual lowers his expectation of privacy when he enters an automobile[.]"). {10} When conducting an analysis under Article II, Section 10, we initially consider "whether the right being asserted is protected under the federal Constitution." Cardenas-Alvarez, 2001-NMSC-017, ¶ 6. We agree with the district court and the parties that Thompson's statutorily unauthorized, temporary detention of Defendant did not violate the Fourth Amendment. Our Supreme Court previously addressed the Fourth Amendment's application to a seizure made by a non-commissioned police service aide in violation of Section 66-8-124(A), the same statute at issue here, in *Slayton*, 2009-NMSC-054, and concluded that the service aide's lack of statutory authority to arrest the defendant did not by itself amount to a Fourth Amendment violation. Id. ¶ 33 (stating that "the Fourth Amendment is not concerned with a state actor's violation of a statute governing who may seize a person suspected of committing a crime[.]"). The Slayton Court, however, did not have occasion to consider whether the New Mexico Constitution would have prohibited the seizure. This case requires us to consider the question that Slayton left unanswered—does the seizure of a defendant by a government actor lacking statutory authority to act violate Article II, Section 10, thus requiring suppression of the evidence gathered as a result of the seizure?

{11} When considering an Article II, Section 10 claim, "New Mexico courts have consistently rejected federal bright-line rules in favor of an examination into the reasonableness of officers' actions under the circumstances of each case." *State v. Ochoa*, 2009-NMCA-002, ¶ 24, 146 N.M. 32, 206 P.3d 143; *see State v. Granville*, 2006-NMCA-098, ¶ 18, 140 N.M. 345, 142 P.3d 933 (stating that "[i]n all cases that invoke Article II, Section 10, the ultimate question is reasonableness"). "The Constitution only proscribes . . . those searches and seizures which are unreasonable." *State* 

v. Werner, 1994-NMSC-025, ¶ 11, 117 N.M. 315, 871 P.2d 971. Evidence seized in violation of Article II, Section 10 must be suppressed. See State v. Gutierrez, 1993-NMSC-062, ¶ 45, 116 N.M. 431, 863 P.2d 1052 ("[T]he New Mexico constitutional prohibition against unreasonable searches and seizures requires that we deny the state the use of evidence obtained in violation of Article II, Section 10 in a criminal proceeding."). Analysis of constitutional reasonableness in this case is guided largely by this Court's previous decisions in State v. Rodarte, 2005-NMCA-141, 138 N.M. 668, 125 P.3d 647, and State v. Bricker, 2006-NMCA-052. In Rodarte, we addressed whether the New Mexico Constitution allows "an officer [to] arrest an individual solely on the basis of probable cause that a minor criminal offense for which jail time is not authorized has been committed." 2005-NMCA-141, ¶ 1. In that case, a police officer subjected the defendant to a full custodial arrest for being a minor in possession of alcohol, a misdemeanor offense which carried with it no jail time. *Id.* ¶¶ 3-4. Four years earlier, in *Atwater v.* City of Lago Vista, 532 U.S. 318, 323 (2001), a narrow majority of the Supreme Court of the United States adopted a bright-line rule that an arrest based solely on probable cause for a minor offense for which jail time was not authorized (in that case, a seatbelt violation) was reasonable under the Fourth Amendment. In a forceful dissent, Justice O'Connor took the view that reasonableness under the Fourth Amendment should be determined by balancing "the degree to which [the arrest] intrudes upon an individual's privacy" and "the degree to which [the arrest] is needed for the promotion of legitimate governmental interests." Id. at 361 (quoting Wyoming v. Houghton, 526 U.S. 295, 300 (1999)). Justice O'Connor stated that "the penalty that may attach to any particular offense seems to provide the clearest and most consistent indication of the [s]tate's interest in arresting individuals suspected of committing that offense." Id. at 365 (quoting Welsh v. Wisconsin, 466 U.S. 740, 754 n.14 (1984)). Thus, under this calculus, probable cause alone does not make an arrest reasonable where an offense is not punishable with jail time; rather, there must be "'specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant [the additional] intrusion' of a full custodial arrest." Id. at 366 (alteration in original) (quoting Terry v. Ohio, 392 U.S. 1, 21 (1968)). In Rodarte, this Court adopted Justice O'Connor's approach as being more consistent with New Mexico's jurisprudence under Article II, Section 10, which has stressed the importance of case-by-case determinations of reasonableness and avoided bright-line rules. 2005-NMCA-141, §¶ 13-16.

{12} The next year, in Bricker, 2006-NMCA-052, we addressed the constitutional reasonableness of a full custodial arrest of a defendant suspected of driving with a suspended license, a misdemeanor punishable by a jail term of up to 364 days under NMSA 1978, Section 66-5-39(A) (2013). Because the governing Motor Vehicle Code provisions, Sections 66-8-122(G) and 66-8-123(A), required the issuance of a citation and the release of an offending motorist in lieu of a custodial arrest unless the underlying license suspension resulted from the violation of certain DWI-related laws, and the state presented no evidence about the reason for the defendant's license suspension, this Court therefore concluded that the defendant's custodial arrest violated the statute and was unlawful. Id. ¶ 14. To determine whether evidence obtained as a result of the statutorily unauthorized arrest should be suppressed, we considered whether the arrest violated Article II, Section 10 and applied the balancing-of-interests test that we adopted in Rodarte. Bricker, 2006-NMCA-052, ¶¶ 14, 23, 26. This Court pointed to the statute's requirement that offenders be cited and released as evincing the Legislature's intent "to protect individual liberty over perceived governmental need," an intent which we characterized as having "constitutional bearing." Id. ¶ 29. This Court also noted that the possibility of jail time faced by one convicted of driving with a suspended license did not alter the analysis, explaining that "[j]ailability cannot justify overlooking an unlawful custodial arrest and permitting searches based on the unlawful arrest" because the "intrusion upon one's liberty is no less significant in cases in which the offense is jailable than in cases in which the offense is non-jailable." Id. ¶ 27. In all, we concluded in Bricker that the defendant's custodial arrest, made without statutory authority, failed the test of constitutional reasonableness under Article II, Section 10. Bricker, 2006-NMCA-052, ¶ 20.

{13} In assessing the constitutional reasonableness of Thompson's detention of Defendant in this case, we must apply the balancing-of-interests test that we employed in *Rodarte* and *Bricker*, which, as

indicated, requires us to evaluate, "on the one hand, the degree to which [the seizure] intrude[d] upon [Defendant]'s privacy and, on the other, the degree to which [the seizure was] needed for the promotion of legitimate governmental interests." Atwater, 532 U.S. at 361 (O'Connor, J., dissenting) (internal quotation marks and citation omitted). Applying this balancing test to the facts of this case, we hold that Thompson's temporary detention of Defendant was constitutionally reasonable. Under the totality of the circumstances, the intrusion on Defendant's privacy was minimal. After all, despite observing Defendant's speeding and erratic driving on a public highway, Thompson did not attempt to pull her over or activate the emergency lights on his patrol car. Instead, he followed Defendant to her home and, once there, shone a spotlight on her truck and approached it by foot. Upon making contact with Defendant, he spoke to her briefly, instructed her to remain where she was, and returned to his patrol car, where he waited for Deputy Fulfer's arrival. Defendant remained in the driver's seat of her truck, with the engine running, for about four or five minutes until Deputy Fulfer arrived to take charge of the investigation. See generally State v. Nance, 2011-NMCA-048, ¶ 26, 149 N.M. 644, 253 P.3d 934 (stating that police intrusion into the defendant's privacy was "de minimis" and a "slight intrusion" where they asked him to stand outside his home for fifteen minutes during a DWI investigation). Thompson did not ask to see Defendant's driver's license, registration, or insurance information; he did not instruct Defendant to step out of her truck or wait in his patrol car; he did not brandish a weapon; and he did not place Defendant in handcuffs or otherwise physically restrain her freedom of movement. He simply told Defendant to "hang tight" until Deputy Fulfer arrived. {14} By contrast, under the circumstances of this case, the State's need to temporarily detain Defendant far outweighed whatever brief, minimal privacy intrusion that Defendant may have experienced. It is well recognized that the State's interest in removing drunk drivers from its roadways is compelling. See State v. Johnson, 2001-NMSC-001, ¶ 17, 130 N.M. 6, 15 P.3d 1233 (noting that "the public interest and potential harm posed by intoxicated drivers is so compelling that the offense of DWI is a strict liability crime") (citation omitted); Nance, 2011-NMCA-048, ¶ 26 (concluding that the state's interests

outweighed the defendant's in part because of a "compelling public interest in eradicating DWI occurrences and their potentially deadly consequences" (alteration, internal quotation marks, and citation omitted)). DWI is a more serious offense than being a minor in possession of alcohol, the offense involved in Rodarte, or driving with a suspended license, the offense at issue in Bricker. It also bears emphasis that by the time Thompson detained Defendant, he had seen her drive over the speed limit, weave back and forth on the highway, collide with a parked vehicle and nearly hit his patrol car, and had heard her admit to consuming four beers. See City of Santa Fe v. Martinez, 2010-NMSC-033, ¶ 16, 148 N.M. 708, 242 P.3d 275 ("[T]he warrantless arrest of one suspected of committing DWI is valid when supported by both probable cause and exigent circumstances."). Exigent circumstances also weighed in favor of a temporary detention, because otherwise Defendant might have entered her house and refused to come back outside once Deputy Fulfer arrived, thereby delaying and complicating the DWI investigation by requiring Deputy Fulfer to seek an arrest warrant in order to enter Defendant's home. See Nance, 2011-NMCA-048, ¶ 23 (rejecting conclusion that dissipation of alcohol alone is exigency enough to justify warrantless entry into the home). Alternatively, Defendant might have tried to drive away, a circumstance which could have posed a serious danger to the public. {15} Defendant offers several reasons to uphold the district court's suppression order, but none of them are persuasive. First, she argues that near-controlling weight should be given to Thompson's violation of Section 66-8-124(A), which, as she puts it, limits the authority to arrest "to those possessing appropriate law enforcement authority, training, and experience thereby protecting the same privacy and liberty interests protected by Article II, Section 10." While in no way condoning Thompson's violation of the statute, we decline Defendant's invitation to treat that violation as dispositive of our constitutional analysis, an approach which would be contrary to our Supreme Court's aversion to bright-line rules when applying Article II, Section 10, and its direction that courts employ a case-by-case approach in determining reasonableness. Moreover, unlike the statute at issue in *Bricker*, which embodied the Legislature's intent that no one should be subjected to a full custodial arrest for driving on a suspended license (provided that the suspension was unrelated to a violation of the DWI laws), Section 66-8-124(A), the statute at issue here, does not reflect a similar legislative policy. Rather, Section 66-8-124(A) merely limits the class of persons who may subject a motorist to a temporary detention or arrest. It says nothing about, and does not detract from, the seriousness of DWI or the State's compelling interest in apprehending drunk drivers.

{16} Second, pointing to Thompson's relative lack of training and experience, Defendant contends that upholding the temporary detention here would "encourage[] abuse and arbitrary governmental intrusion." Significantly, however, Defendant does not argue, much less show, that Thompson's relative lack of experience and training harmed her in any way, and therefore suppression is not justified on the basis of this undeveloped "lack of training" argument. See State v. Guerra, 2012-NMSC-014, ¶ 21, 278 P.3d 1031 (reiterating that appellate courts do not review unclear or undeveloped arguments). This is not to suggest that we are unsympathetic to Defendant's stated concerns, and we take this opportunity to warn law enforcement agencies that this opinion does not give them carte blanche to allow reserve deputies to detain motorists. Under New Mexico's case-by-case approach in reviewing claimed violations of Article II, Section 10, it is easy to envision a case involving a greater intrusion on a motorist's privacy than occurred here, or a less compelling state interest than existed here, either of which might be sufficient to justify suppression. A county sheriff's conduct in encouraging or turning a blind eye to a reserve deputy's violation of Section 66-8-124(A) jeopardizes the legitimate enforcement of the Motor Vehicle Code. {17} Third, Defendant argues that Thompson's actions in speeding to catch up with her truck, in closely following her, and in directing her to remain in her vehicle were "entirely unnecessary," concluding that the resulting detention did not promote any legitimate governmental interests. Defendant also argues that any police concern that she might try to enter her home, thus making the investigation more difficult, was speculative; that requiring her to remain in her truck achieved only a "minor convenience" for the police; and that the State's interests could have been satisfied by a simple police request that Defendant consent to stay outside until Deputy Fulfer arrived. We disagree with these arguments. As Thompson explained, he sped up to follow Defendant to help ensure that she would not endanger other motorists, including those who might be traveling in the opposite direction (fortuitously, there were none). And allowing Defendant to enter her home in these circumstances would likely have impeded the police investigation.

{18} Finally, Defendant argues that Thompson had violated Section 66-8-124(A) on previous occasions, demonstrating that his present "violation of the statute was not accidental or unknowing[,]" and therefore should not be considered de minimis. While defense counsel questioned Thompson about other cases in which he had been involved, this inquiry did not elicit any admissions, and defense counsel did not introduce any evidence into the record about the facts and circumstances of any other cases. We therefore do not consider this argument. See Proper v. Mowry, 1977-NMCA-080, ¶ 37, 90 N.M. 710, 568 P.2d 236 ("Remarks, arguments and statements of lawyers are not evidence." (internal quotation marks and citation omitted)); State v. Romero, 1975-NMCA-017, ¶ 2, 87 N.M. 279, 532 P.2d 208 ("Matters outside the record present no issue for review.").

#### CONCLUSION

{19} We reverse the district court's suppression order and remand this case for further proceedings consistent with this opinion.

**{20}** IT IS SO ORDERED. EMIL J. KIEHNE, Judge Pro Tempore

I CONCUR: HENRY M. BOHNHOFF, Judge Pro Tempore

JULIE J. VARGAS, Judge (dissenting).

#### VARGAS, Judge (dissenting).

{21} The State unquestionably has a compelling interest in deterring drunk driving and maintaining highway safety. Cf. Nance, 2011-NMCA-048, ¶ 26 (concluding the state's interests outweighed the defendant's in part because of a "compelling public interest in eradicating DWI occurrences and their potentially deadly consequences" (internal quotation marks and citation omitted)). I do not, however, believe that our jurisprudence supports the majority's conclusion that the exigent circumstances of this case allowed for the warrantless, unauthorized arrest of Defendant. Cf. id.

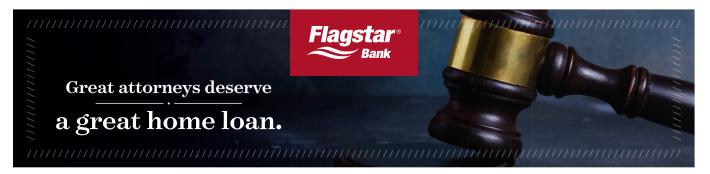
¶ 23 (rejecting conclusion that dissipation of alcohol alone is exigency enough to justify warrantless entry into the home); see Majority Op. ¶ 14. Instead, I agree with the district court that, on balance, Thompson's actions were constitutionally unreasonable under Article II, Section 10 of the New Mexico Constitution, and the evidence obtained after Deputy Fulfer arrived on the scene should be suppressed. **{22}** The majority's efforts to balance the State's interests with Defendant's interests analyzes Defendant's interests too narrowly, and in doing so, omits important considerations that, though more conceptually than directly related to Defendant, are still highly relevant to a reasonableness analysis.

{23} While the majority describes the intrusion on Defendant's privacy as "minimal," the detention interfered with Defendant's ability to enter her own home after parking in her own driveway. The home is undeniably afforded the highest level of protection by Article II, Section 10. State v. Nyce, 2006-NMSC-026, ¶ 12, 139 N.M. 647, 137 P.3d 587. While I recognize that this case does not implicate a search or seizure taking place inside the home, it seems relevant—indeed, compelling—that the intrusion impeded Defendant's ability to enter her home and move freely within her property. This limitation, however, is given little consideration by the majority. **{24}** Further, and perhaps more importantly, the majority fails to consider the broader public interest in requiring that police and their volunteer officers comply with our statutory laws. Cf. State v. Jones, 1998-NMCA-076, ¶ 15, 125 N.M. 556, 964 P.2d 117 (acknowledging public interest in law enforcement compliance with DWI notice laws was strong enough to warrant reaching potentially moot issue on appeal). As a member of the public, Defendant shares this interest. And, it is this interest that I conclude ultimately tips the balance in Defendant's favor. In reaching this conclusion, I note that we are tasked, not only with settling the dispute before us, but also with the responsibility of shaping the parameters of police conduct and establishing standards to measure and inform law enforcement practices. See State v. Ryon, 2005-NMSC-005, ¶ 11, 137 N.M. 174, 108 P.3d 1032 ("Although our inquiry is necessarily fact-based[,] it compels a careful balancing of constitutional values, which extends beyond fact-finding to shape the parameters of police conduct by placing the constitutional requirement of reasonableness in factual context[.]" (internal quotation marks, and citation omitted)); *Attaway*, 1994-NMSC-011, ¶ 9-10 (acknowledging that search and seizure jurisprudence reflects appellate efforts to "establish objective standards to measure and inform law enforcement practices").

{25} The Legislature's intention that individuals be free from arrest by untrained citizens is clear from the plain language of Section 66-8-124(A), authorizing only commissioned, salaried peace officers to arrest. See Slayton, 2009-NMSC-054, ¶ 27 ("[I]n setting forth the specific arrest procedures in Section 66-8-124, the Legislature intended to abrogate the common law right to citizens' arrests for suspected violations of motor vehicle laws."). Thompson's testimony made clear that he was aware he lacked statutory authority to stop Defendant. He nonetheless found it appropriate to reach speeds well in excess of the posted speed limit in order to follow Defendant home, shine a spotlight into Defendant's property, light up her parked car, and prevent her from entering her home. Thompson's disregard for the statutory limitations to his authority is particularly troubling in light of suggestions throughout the record and briefing that this is not the first occasion on which Thompson has disregarded the limitations of his position. Indeed, at the suppression hearing, Thompson admitted that on one occasion, he engaged his emergency lights and pulled over a defendant, though, when asked by defense counsel, he didn't recall the stop having been held to be illegal. Thompson also admitted to having detained another defendant, but when asked by defense counsel whether the evidence was suppressed and the case dismissed because of his "illegal detention," he responded only that he remembered "some part of the evidence was suppressed." The majority declined to consider these cases, concluding that defense counsel's questions "did not elicit any admissions[.]" Majority Op. ¶ 18. While the majority is correct that Thompson avoided admitting that the evidence in those cases was suppressed as a result of his wrongful conduct, in both of the cases he admitted to having detained the defendants, conduct for which he had no authority. Defendant's and the public's interest in ensuring that the police and their volunteer officers comply with our statutory laws should be considered when determining whether Thompson's actions were constitutionally reasonable under Article II, Section 10.

**{26}** Further, I am not persuaded by the majority's argument that exigent circumstances weighed in favor of Thompson's temporary, though unlawful detention of Defendant. Majority Op. ¶ 14. The majority reasons that had Thompson not detained her, the investigation may have been more difficult because Deputy Fulfer would have had to seek an arrest warrant to enter her home, thereby allowing the alcohol in her system to dissipate. Id. Alternatively, the majority reasons, Defendant may have driven away. Id. The record is devoid of any evidence that Defendant planned to drive away, and the majority concedes, "Thompson testified that he did not believe Defendant was attempting or intending to flee." Id. ¶ 4 n.1. Further, dissipation of alcohol is but one consideration in the reasonableness analysis, see Nance, 2011-NMCA-048, ¶ 23, and when considered in light of Defendant's interest in entering her own home and moving freely within her property and the added interest of requiring the police and its volunteer officers to comply with our statutory law, I believe it is insufficient to render Thompson's actions reasonable. Thompson should have waited for Officer Fulfur, who, if necessary, could have obtained a warrant. I believe that the balance of factors weighs in favor of affirming the district court's determination that Thompson's arrest of Defendant, which itself was a violation of Section 66-8-124(A), was unreasonable under Article II, Section 10 and required the suppression of the evidence obtained after Officer Fulfur arrived. Absent suppression, I have little confidence that Thompson's unlawful actions will be deterred. See State v. Santiago, 2009-NMSC-045, ¶ 5, 147 N.M. 76, 217 P.3d 89 (holding that courts suppress evidence obtained as fruit of an unconstitutional search or seizure to redress and deter violations of the Fourth Amendment). I would affirm the district court's order granting the motion to suppress.

JULIE J. VARGAS, Judge



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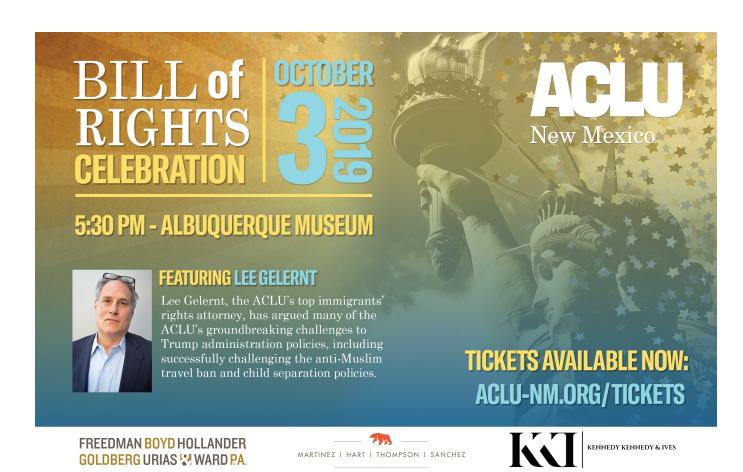


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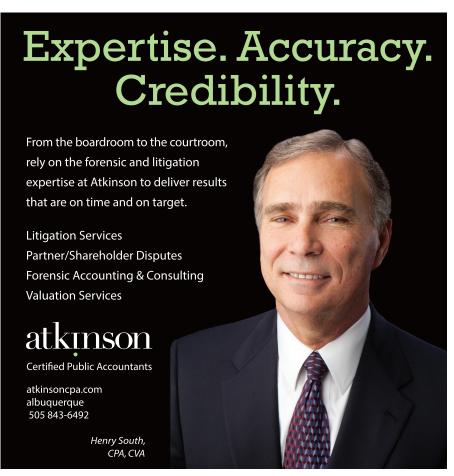


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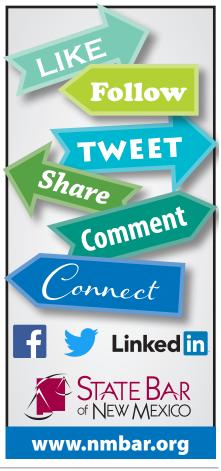
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Short Deadlines Accommodated (505) 720-1904

Offices in Albuquerque and Los Lunas



#### SANCHEZ SETTLEMENT & LEGAL SERVICES LLC

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# Classified

#### **Positions**

#### **Associate Attorney**

Stiff, Keith & Garcia is a successful and growing law firm representing national clients, looking for a lawyer to work as an associate in the areas of insurance defense and civil litigation. Flexible work environment available. Minimum of 2 years of litigation experience. Strong academic credentials, and research and writing skills are required. We are a congenial and professional firm. Excellent benefits and salary. Great working environment with opportunity for advancement. Send resume to resume01@swcp.com

# Public Education Department – Attorney Positions

The Public Education Department (PED) is seeking attorneys for its Office of General Counsel. In addition to practicing education law, attorneys may be relied on for advice on matters relating to contracts, procurement, employment, public records, federal and state government funding, and/or other governmental agency matters. Strong writing and interpersonal skills are essential. More details about positions and how to apply are provided on the State Personnel Office website at http://www.spo.state.nm.us/. Please check the website periodically for updates to the list of available positions.

#### **Trial Attorney**

Trial Attorney wanted for immediate employment with the Ninth Judicial District Attorney's Office, which includes Curry and Roosevelt counties. Employment will be based in either Curry County (Clovis) or Roosevelt County (Portales). 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. Email resume, cover letter, and references to: Steve North, snorth@da.state.nm.us.

#### **Lawyer Position**

Hennighausen & Olsen, L.L.P., seeks an attorney to practice in the following areas: civil, contract, water law, natural resources, and property. If interested, please send resume and recent writing sample to: Managing Partner, Hennighausen & Olsen, L.L.P., P.O. Box 1415, Roswell, NM 88202-1415. All replies are kept confidential. No telephone calls please.

#### **Attorney Position - Santa Fe**

Hunt Law Firm is seeking an attorney with 0-5 years of experience. We are a small, plaintiff practice that handles general personal injury and medical malpractice. An interest in people and a willingness to work hard is a prerequisite, as is living in Santa Fe. Please email resume, cover letter and references to lee@huntlaw.com and patsy@huntlaw.com.

#### Divorce Lawyers – Come Grow with Us! Incredible Career Opportunity

New Mexico Legal Group, a cutting edge divorce and family law firm, is growing again and we're looking for another experienced attorney to join our team in Albuquerque. This is a unique opportunity to be involved in creating the very culture and financial rewards that you have always wanted in a law firm. We practice at the highest levels in our field, with independence and cutting edge practice and marketing strategies. The firm offers excellent pay (100k+), health insurance, automatic 3% contribution to 401(k) and revenue sharing plan. This is also a great opportunity for solo lawyers who would like to merge their practice. Qualified candidates should send a resume and cover letter to DCrum@New-MexicoLegalGroup.com. In addition to your professional experience, your letter should talk about who you are as a person and what makes you perfect for this position (this is the most important document you will submit). We look forward to meeting you!

#### **Associate Attorney**

Tucker, Yoder, Hatfield, Eley & Associates, the largest firm in San Juan County, practicing in New Mexico and Colorado, has an immediate associate opening in its Farmington office for civil, domestic relations and criminal practice. Ideal candidates will be team players, ready to assist clients in a variety of cases. New Mexico and Colorado bar admission a plus. Salary depending on experience. Please send cover letter and resume to jennifer@tbylaw.com

#### **Associate Attorney Las Cruces:**

The law office of McGraw & Strickland, LLC, based in Las Cruces, New Mexico, is seeking an associate attorney, preferably with 2+ years of experience. We represent plaintiffs for civil rights violations and personal injury claims. Candidates should have excellent brief writing and legal research skills, and be able to work well with others and independently in a fast-paced, professional environment. Bilingual is a plus. Competitive salary and benefits, including health insurance and 401K plan. Please email resume, cover letter, writing samples and three references to: reception@lawfirmnm.com

#### **Business Law Attorney**

The Los Alamos National Laboratory, Office of General Counsel, is seeking a Business Law Attorney. This position will provide constructive and supportive legal advice and counsel to LANL managers and employees, advising them regarding the legal aspects and consequences of proposed courses of action and identifying alternative courses of action that will avoid or minimize legal difficulties for LANL while also facilitating mission accomplishment. Responsibilities will include: drafting and reviewing legal documents, including contracts, leases, terms and conditions and other legal instruments, memoranda of law, legal opinions, proposed regulations, management directives and correspondence and support negotiations with outside entities and their attorneys, including subcontractors, claimants, litigants, and agencies of various federal, state, tribal and local government agencies. Please view the LANL Website at https://lanl.jobs for full ad and how to apply; IRC75312.

#### **Associate Attorney**

Dog friendly Albuquerque civil defense firm with state wide practice representing public entities and others seeks associate attorney with minimum of 2 years' experience as lawyer or litigation paralegal. Must be able to travel. Please send resume, writing sample, and cover letter describing current practice and interest in position to Lawfirmabq@gmail.com

#### **Prosecutors**

Immediate openings for Prosecutors interested in creating safer communities and a better legal system, one case at a time. Imagine collaborating with a diverse team of professionals, having a manageable caseload with a competitive salary in a great workplace environment. We have positions available in Las Vegas, NM with the Fourth Judicial District Attorney's Office. If you are interested in learning more about the positions or wish to apply, contact us at (505) 425-6746, or forward your letter of interest and resumé to Richard D. Flores, District Attorney, c/o Mary Lou Umbarger, Office Manager, P.O. Box 2025, Las Vegas, New Mexico 87701 or e-mail: mumbarger@da.state.nm.us

#### **Entry-Level Attorney Positions**

JUST PASSED THE BAR? Put that Degree to work for you! We have entry-level attorney positions immediately available with the Fourth Judicial District Attorney's Office in Las Vegas, NM. Excellent opportunity to gain valuable experience in the courtroom with a diverse team of mentor attorneys. Requirements include J.D. and current license to practice law in New Mexico. Please forward your letter of interest and resumé to Richard D. Flores, District Attorney, c/o Mary Lou Umbarger, District Office Manager, P.O. Box 2025, Las Vegas, New Mexico 87701 - or via e-mail: mumbarger@da.state.nm.us Competitive salary and great workplace environment!

#### **Associate Attorney**

Holt Mynatt Martínez, P.C., an AV-rated law firm in Las Cruces, New Mexico is seeking associate attorneys with 1-5 years of experience to join our team. Duties would include providing legal analysis and advice, preparing court pleadings and filings, performing legal research, conducting pretrial discovery, preparing for and attending administrative and judicial hearings, civil jury trials and appeals. The firm's practice areas include insurance defense, civil rights defense, commercial litigation, real property, contracts, and governmental law. Successful candidates will have strong organizational and writing skills, exceptional communication skills, and the ability to interact and develop collaborative relationships. Prefer attorney licensed in New Mexico and Texas but will consider applicants only licensed in Texas. Salary commensurate with experience, and benefits. Please send your cover letter, resume, law school transcript, writing sample, and references to rd@hmm-law.com.

#### **Assistant Attorney General**

The Office of the New Mexico Attorney General is recruiting for Assistant Attorney General positions in the Consumer and Environmental Protection Division. The job postings and further details are available at www.nmag.gov/human-resources.aspx.

#### **Santa Fe County Attorney**

Now hiring for the position of Santa Fe County Attorney - The County Attorney represents Santa Fe County and its elected officials in legal matters that involve the County. The County Attorney performs governmental legal work of the highest degree of complexity and difficulty, oversees the legal office, and supervises attorneys and staff in that office. Preferred applicants will have significant experience overseeing a local government office, supervising attorneys, a commitment to public service, and a strong background in local government representation. The successful candidate will have familiarity with or the ability to master the following areas: public records inspection and retention; conduct of meetings subject to Open Meetings Act; representation of public bodies; administrative adjudications, appeals, and rulemakings; negotiation and preparation of contracts; real estate transactions; government procurement; zoning, planning, subdivisions, and local land use regulation; public housing; public utilities, roads and other public infrastructure; law enforcement and detention; local taxes and finances; civil litigation and appeals and records management. The forgoing list is not exhaustive, but is intend to convey the nature of the County Attorney's diverse and dynamic practice. Successful applicants must have strong analytic, research, communication and interpersonal skills. The salary range is from \$41.2077 to \$61.8116 per hour. Individuals interested in overseeing the Santa Fe County Attorney's Office must apply through Santa Fe County's website, at http://www.santafecountynm.gov/ job\_opportunities.

#### **Assistant Santa Fe County Attorney**

Now hiring an Assistant Santa Fe County Attorney - Preferred applicants will have a commitment to public service and a strong background in local government representation, including familiarity with at least some of the following topics: public records inspection and retention; conduct of meetings subject to Open Meetings Act; representation of public bodies; administrative adjudications, appeals, and rulemakings; negotiation and preparation of contracts; real estate transactions; government procurement; zoning, planning, subdivisions, and local land use regulation; public housing; public utilities, roads and other public infrastructure; law enforcement and detention; local taxes and finances; civil litigation and appeals. The forgoing list is not exhaustive, but is intend to convey the nature of our diverse and dynamic practice. Successful applicants must have strong analytic, research, communication and interpersonal skills. Our office is collaborative and fast paced. Individuals interested in joining our team must apply through Santa Fe County's website, at http://www.santafecountynm.gov/job\_opportunities

#### **Staff Attorney**

Santa Fe Dreamers Project is hiring a staff attorney based in ABQ or Santa Fe to represent detained asylum seekers, focusing mainly on representing transgender women. Salary based on experience. See full job description at www.santafedreamersproject. org. Contact Wesley Brockway at wes@ santafedreamersproject.org.

#### **Traffic Arraignment Attorney**

The City of Albuquerque Legal Department is hiring an Assistant City Attorney position in the Property and Finance division of the City Attorney's Office. The position will administer the traffic arraignment program and assist in areas of real estate and land use, governmental affairs, regulatory law, procurement, general commercial transaction issues, civil litigation and. The department's team of attorneys provide legal advice and guidance to City departments and boards, as well as represent the City and City Council on complex matters before administrative tribunals and in New Mexico State and Federal courts. Attention to detail and strong writing skills are essential. Applicant must be an active member of the State Bar of New Mexico in good standing or able to attain bar membership within three months of hire. Salary will be based upon experience. Please submit resume and writing sample to attention of "Legal Department Assistant City Attorney Application" c/o Angela M. Aragon, Executive Assistant/HR Coordinator; P.O. Box 2248, Albuquerque, NM 87103, or amaragon@cabq.gov.

#### **Law Practice Management Counsel**

The State Bar of New Mexico is accepting applications for the position of Law Practice Management Counsel. Duties include developing programming in collaboration with the Center for Legal Education (CLE) of the New Mexico State Bar Foundation and directing the Entrepreneurs in Community Lawyering Program (the State Bar's legal incubator). The successful candidate should be an experienced attorney with strong connections to the private and public bars, and the UNM School of Law. A passion for mentoring newly licensed lawyers and a demonstrated interest in adult education and law practice management are required. Practice experience in two or more qualifying legal areas is a required (see full posting for qualifying areas of law). Excellent benefits, salary dependent on experience and qualifications. EOE. For full details and instruction on how to apply, visit https://www.nmbar. org/NmbarDocs/AboutUs/Careers/LPMC.pdf

#### **Full Time Staff Attorney**

Full time staff attorney position with the Senior Citizens' Law Office. Please visit SCLO's website at www.sclonm.org and see under News: SCLO Employment Opportunities on the left hand bottom corner of the home page for the full job advertisement.

# Assistant City Attorney/ Employment and Labor Division

The City of Albuquerque Legal Department is looking to fill an Assistant City Attorney position within its Employment and Labor Division. This Division is responsible for representing the City in litigation related to employment and labor law in New Mexico State and Federal Courts, before the City of Albuquerque Personnel Board, and before the City of Albuquerque Labor Board. The Division also provides counsel throughout all City Departments related to employment and labor issues. Attention to detail, strong writing skills, and the ability to work well as a part of a team are essential. Five or more years' experience in employment or labor law is preferred for the first position. Two or more years of experience in civil litigation is preferred for the second, with additional preference given for experience in employment or labor law. Applicants must be an active member of the State Bar of New Mexico in good standing. Salary will be based upon experience. Please submit resume and writing sample to attention of "Legal Department Assistant City Attorney Application" c/o Angela M. Aragon, Executive Assistant/HR Coordinator; P.O. Box 2248, Albuquerque, NM 87103, or amaragon@cabq.gov.

#### Assistant City Attorney for the Municipal Affairs Division

The City of Albuquerque Legal Department is hiring an Assistant City Attorney for the Municipal Affairs Division. The Department's team of attorneys provides a broad range of general counsel legal services to the Mayor's Office, City Council, the Albuquerque Police Department, various City departments, boards, commissions, and agencies. The legal services provided by the division includes, but are not limited to, drafting legal opinions, reviewing and drafting policies, ordinances, and executive/administrative instructions, reviewing and drafting contracts, providing counsel on Inspection of Public Records Act requests and other open government issues, providing advice on City ordinances and State/Federal statutes and regulations, and providing general advice and counsel on dayto-day operations. Attention to detail and strong writing skills are essential. Preferences include: Five (5)+ years' experience; criminal legal experience; policy writing; and addressing evidentiary issues. Candidates must be an active member of the State Bar of New Mexico in good standing. Salary will be based upon experience. Please submit resume and writing sample to attention of "Legal Department Assistant City Attorney Application" c/o Angela M. Aragon, Executive Assistant/HR Coordinator; P.O. Box 2248, Albuquerque, NM 87103, or amaragon@cabq.gov.

# Assistant City Attorney for the Litigation Division

The City of Albuquerque Legal Department is hiring an Assistant City Attorney for the Litigation Division. The department's team of attorneys represent the City in litigation matters in New Mexico State and Federal Courts, including trials and appeals, and provide legal advice and guidance to City departments. 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. Salary will be based upon experience. Please submit resume and writing sample to attention of "Legal Department Assistant City Attorney Application" c/o Angela M. Aragon, Executive Assistant/HR Coordinator; P.O. Box 2248, Albuquerque, NM 87103, or amaragon@cabq.gov.

# Inspection Of Public Records Act Attorney (IPRA)

Assistant City Attorney position available with a main focus on providing legal advice to the City of Albuquerque and its various departments regarding Inspection of Public Records Act ("IPRA") requests, and advising on subpoenas issued to the City, its departments, or employees. Applicant must be admitted to the practice of law in New Mexico, be an active member of the Bar in good standing, and have at least two (2) years of attorney experience in New Mexico. Preferred qualification: knowledge of IPRA, and civil and/or criminal procedure. A successful candidate will have strong communication skills, be able to work within a diverse legal team, and interact daily with other City employees and members of the public. Salary will be based upon experience and the City of Albuquerque Attorney's Personnel and Compensation Plan with a City of Albuquerque Benefits package. Please submit resume to attention of "IPRA Attorney Application"; c/o Angela M. Aragon; Executive Assistant; P.O. Box 2248, Albuquerque, NM 87103 or amaragon@cabq.gov.

# Lawyers With 2–6 Years of Experience

Montgomery & Andrews, P.A. is seeking lawyers with 2 – 6 years of experience to join its firm in Santa Fe, New Mexico. Montgomery & Andrews offers enhanced advancement prospects, interesting work opportunities in a broad variety of areas, and a relaxed and collegial environment, with an opendoor policy. Candidates should have strong written and verbal communication skills. Candidates should also be detail oriented and results-driven. New Mexico licensure is required. Please send resumes to rvalverde@ montand.com.

#### **Property and Finance Attorney**

The City of Albuquerque Legal Department is hiring an Assistant City Attorney for the Property and Finance Division. The work includes, but is not limited to: contract drafting, analysis, and negotiations; drafting ordinances; regulatory law; Inspection of Public Records Act; procurement; general commercial transaction issues; intergovernmental agreements; dispute resolution; and civil litigation. Attention to detail and strong writing skills are essential. Three (3)+ 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 Property Finance Assistant City Attorney Application" c/o Angela M. Aragon, Executive Assistant/HR Coordinator; P.O. Box 2248, Albuquerque, NM 87103, or amaragon@cabq.gov.

#### **Escrow Processor**

Face paced title company looking for talent just like you! We are now hiring for escrow processor positions. Responsibilities include working with real estate brokers, lenders and attorneys to acquire and organize all necessary documents needed for closing. Prepare and distribute title company closing documents. Preparation and disbursement of funds. Requirements: Basic computer skills, Ability to multi-task, detail oriented, problem solving skills and an ability to thrive under pressure. Previous real estate, legal or accounting experience a plus. Full Benefits EOE. Send resume to Julie Buckalew at Julie.buckalew@stewart.com

#### **Attorney**

Allen, Shepherd, Lewis & Syra, P.A. is seeking a New Mexico licensed attorney with 1-5 years of litigation experience. Experience in construction defect, professional malpractice or personal injury preferred. Candidates considered for a position must have excellent oral and written communication skills. Available position is exempt and full time. Excellent salary and benefits. Please send resume with cover letter, unofficial transcript, and writing sample to HR@allenlawnm.org or Allen, Shepherd, Lewis & Syra, P.A. Attn: Human Resources, PO Box 94750, Albuquerque, NM 87199-4750. EEO.

#### **Associate Attorney**

Hatcher Law Group, P.A. seeks an associate attorney preferably with one to two years of legal experience for our downtown Santa Fe office. We are looking for an individual motivated to excel at the practice of law in a litigation-focused practice. Hatcher Law Group defends individuals, state and local governments and institutional clients in the areas of insurance defense, coverage, workers compensation, employment and civil rights. We offer a great work environment, competitive salary and opportunities for future growth. Send your cover letter, resume and a writing sample via email to juliez@hatcherlawgroupnm.com.

# Pueblo of Laguna is seeking applicants for the following positions:

Court Prosecutor will presents/files criminal complaints and prosecutes individuals accused of violating ordinances of the Pueblo. Represents the Pueblo as plaintiff in Pueblo Court to prosecute and enforce penalties. Assesses complaints to determine formal criminal proceedings. Conducts research, interviews victims and witnesses; develops strategy, arguments and testimony to present case; provide legal advice regarding search warrants, arrest warrants, and subpoenas; works with Probation, Social Services, Behavioral Health; utilizes a plea bargain process. Acts as co-counsel with Pueblo attorneys; Reviews and recommends amendments to Pueblo codes, ordinances; Manages and budget funding agencies, and reports, supervises staff. Associate Prosecutor will presents/files criminal complaints and prosecutes individuals, accused of violating criminal laws, including status offenses, Pueblo laws, codes, and/ or ordinances. Assigned by Prosecutor will act as plaintiff in Pueblo Court actions to prosecute and enforce penalties for violations. Prepare pleadings, motions, legal briefs, orders and appellate documents. Works with Probation, Social Services, Behavioral Health, and Victim Witness Advocate. Assists in the development of crime prevention and intervention initiatives. Utilizes the Pueblo's customary based approach to resolve issues. Associate Judge adjudicates cases, prepares decisions, and carries out other functions of the judicial processes. Hears, tries, and determines cases to ensure the enforcement of and compliance with Pueblo codes and ordinances. Entertains pleadings from outside jurisdictions; holds hearings for bench warrants, requests for search warrants, extradition proceedings, etc. Adjudicates civil and criminal cases; imposes judgment, fines, penalties, and/or sentences. Drafts orders, opinions, or other pleadings. Refers to other courts on certain cases for disposition. Develops and maintains comprehensive case files, narrative and statistical reports. Public Defender represents indigent clients accused of violating ordinances of the Pueblo of Laguna. Performs competent defense, arrangements of bail, posting bond, pretrial conferences, representation in court appearances, and post-trial representation. Ensures civil rights are protected. Utilizes plea bargain process in the interests of the accused. Contact clients of hearings, case developments, and obligations. Interviews, gathers evidence, and analyzes to formulate legal representation. Prepares pleadings, motions, legal briefs, orders, and appellate documents. Works with relevant personnel or entities regarding appropriate recommendations for case resolution, sentences, and referrals. Reviews codes and/ or ordinances; recommends amendments. For more information, contact the Pueblo of Laguna Human Resources Office at (505) 552-6654 or visit our website www.lagunapueblo-nsn.gov

#### Commercial Liability Defense, Coverage Litigation Attorney P/T or F/T

Our well-established, regional, law practice seeks a contract or possibly full time attorney with considerable litigation experience, including familiarity with details of pleading, motion practice, and of course legal research and writing. We work in the are of insurance law, defense of tort claims, regulatory matters, and business and corporate support. A successful candidate will have excellent academics and five or more years of experience in these or highly similar areas of practice. Intimate familiarity with state and federal rule of civil procedure. Admission to the NM bar a must; admission to CO, UT, WY a plus. Apply with a resume, salary history, and five-page legal writing sample. Work may be part time 20+ hours per week moving to full time with firm benefits as case load develops. We are open to "of counsel" relationships with independent solo practitioners. We are open to attorneys working from our offices in Durango, CO, or in ABQ or SAF or nearby. Compensation for billable hours at hourly rate to be agreed, generally in the range of \$45 - \$65 per hour. Attorneys with significant seniority and experience may earn more. F/T accrues benefits. Apply with resume, 5-10p legal writing example to revans@evanslawfirm.com with "NM Attorney applicant" in the subject line.

# Deputy District Attorney and HIDTA- Deputy District Attorney

Immediate openings for a Deputy District Attorney and HIDTA- Deputy District Attorney in Deming. A Deputy District Attorney in Lordsburg, and an Senior Trial Attorney in Silver City. Salary Depends on Experience. Benefits. Please send resume to Francesca Estevez, District Attorney, FMartinez-Estevez@da.state.nm.us or call 575-388-1941.

# Associate or Contract Litigation Attorney

Ortiz & Zamora, LLC, seeks a New Mexico licensed attorney with 4 or more years of litigation experience for an associate/contract position managing active civil litigation docket. Extensive experience with discovery, motion practice, hearings, and trial preparation desired. The position will focus mostly on litigation defense and day-to-day advice for public entities, including schools, municipalities, counties and state agencies, with similar defense-related work for individuals, businesses, and private entities. Labor/employment, civil rights, tort, administrative law, and property are the typical subject matter areas of the practice. Plaintiff-side litigation experience considered a plus for the firm's medical malpractice, personal injury and catastrophic/death plaintiff-related work. Salary or contract rate D.O.E. Please email your resume to nadine@ortiz-zamora.com.

#### **Litigation Attorney**

With 51 offices and over 1,400 attorneys, Lewis Brisbois is one of the largest and most prestigious law firms in the nation. Our Albuquerque office is seeking associates with a minimum of three years litigation defense experience. Candidates must have credentials from ABA approved law school, actively licensed by the New Mexico state bar, and have excellent writing skills. Duties include but are not limited to independently managing a litigation caseload from beginning to end, communicating with clients and providing timely reporting, appearing at depositions and various court appearances and working closely with other attorneys and Partners on matters. Please submit your resume along with a cover letter and two writing samples to phxrecruiter@lewisbrisbois.com and indicate "New Mexico Litigation Attorney Position". All resumes will remain confidential. LBBS does not accept referrals from employment businesses and/or employment agencies with respect to the vacancies posted on this site. All employment businesses/agencies are required to contact LBBS's human resources department to obtain prior written authorization before referring any candidates to LBBS. The obtaining of prior written authorization is a condition precedent to any agreement (verbal or written) between the employment business/ agency and LBBS. In the absence of such written authorization being obtained any actions undertaken by the employment business/agency shall be deemed to have been performed without the consent or contractual agreement of LBBS. LBBS shall therefore not be liable for any fees arising from such actions or any fees arising from any referrals by employment businesses/agencies in respect of the vacancies posted on this site.

#### Senior Children's Court Attorney Position

The Children, Youth and Families Department is seeking to fill two vacant Children's Court Attorney positions: one to be housed in Los Lunas, New Mexico, the other to be housed in offices in Gallup and Grants, New Mexico. Salary range is \$58,480 to \$93,384 annually, depending on experience and qualifications. The attorney housed in Los Lunas will represent the Department in abuse/neglect and termination proceedings and related matters in Valencia County. The attorney housed in Gallup and Grants will represent the Department in abuse/neglect and termination proceedings and related matters in McKinley and Cibola counties. The ideal candidate will have experience in the practice of law totaling at least four years and New Mexico licensure is required. Benefits include medical, dental, vision, paid vacation, and a retirement package. For information, please contact; David Brainerd, Managing Attorney, at (505) 327-5316 ext. 1114. To apply for this position, go to www.state.nm.us/spo/. The State of New Mexico is an EOE.

#### **CLE Program Assistant**

The New Mexico State Bar Foundation seeks a full-time CLE Program Assistant for seasonal assistance in the Center for Legal Education. This position begins 10/1/19 and is expected to last approximately three months. For full details and instruction on how to apply, visit https://www.nmbar.org/NmbarDocs/AboutUs/Careers/CLE.pdf

#### **NMPED Paralegal Position**

PARALEGAL - The Public Education Department is looking for a team player with strong writing and interpersonal skills, great attention to detail and follow-through, and an interest in public service. To apply, please fill out an application at http://www.spo.state.nm.us/applicationguide/, and email 2 writing samples to Aaron.Rodriguez2@state.nm.us.

#### JLAP Clinician/Project Manager

The State Bar of New Mexico seeks a dynamic full-time Clinician/Project Manager for the New Mexico Judges and Lawyers Assistance Program (NM JLAP). NM JLAP offers confidential professional and peer assistance to help individuals identify and address problems with alcohol and other drugs, depression, and other mental health/emotional disorders, as well as with issues related to cognitive impairment. For full details and instruction on how to apply, visit https://www.nmbar.org/NmbarDocs/AboutUs/Careers/JLAP.pdf

#### Paralegal (Santa Fe)

NGL Energy Partners is seeking a full-time paralegal. Responsibilities include data analysis, preparing legal documents & filings, tracking government policy development, and maintaining corporate records. The successful candidate will possess an Associate degree or equivalent education and at least five (5) yrs as a legal assistant. Strong preference for candidates with transaction experience and/or real estate experience. Candidates should apply online at www. nglenergypartners.com/careers

#### **Administrative Assistant**

The law firm of Terry & deGraauw P.C. is seeking a full time Administrative Assistant with a strong work ethic and a passion for customer service. Salary DOE. No legal experience is required. Experience with Microsoft Office is a must. Benefits offered include health, dental, vision and disability insurance, 401K plan, and discretionary bonuses. Please do not call the office for inquiries. Instead please email resume to Kelly Squires at kss@tdgfamilylaw.com. All replies are confidential.

#### **Legal Secretary**

Small busy law firm seeking experienced, full-time Legal Secretary, knowledge of Microsoft Word necessary. Salary negotiable. Send Resume to Alegras Lucero, Office Manager, 1225 Rio Grande Blvd. NW, Albuquerque, NM 87104, Fax to (505) 266-4330 or email to alucero@michaeldanoff.com.

#### **Paralegal**

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

#### **Legal Assistant**

Legal Assistant for litigation defense downtown law firm. Looking for someone with relevant experience, knowledge of e-filing in State and Federal courts, strong organizational skills, cooperative attitude, and attention to detail. Full time, salary DOE, great benefits incl. health, dental & life ins. and 401K match. Please e-mail resume to kayserk@civerolo.com, or mail to Civerolo, Gralow & Hill, PA, PO Box 887, Albuquerque NM 87103.

#### **Office Space**

#### 500 Tijeras NW

Beautiful office space is available with reserved on-site tenant and client parking. Walking distance to court-houses. Two conference rooms, security, kitchen, gated patios and a receptionist to greet and take calls. Please email esteffany500tijerasllc@gmail.com or call 505-842-1905.

#### Office Space for Lease - Downtown

Beautiful space to sub-lease with lots of natural light, cork floors, free tenant parking, enclosed patio space, front door security, shared kitchenette, conference rooms and lobby. Four-to-six offices plus common area available approximating 2,500-3000 square feet. Available January 1, 2020 for 3-5 year term. Rent is slightly below downtown market rate of \$17.00 per square foot; includes utilities. Walking distance to Courthouses, government buildings and downtown restaurants. Access to basement storage. Please contact: sublease2019@outlook.com

# Free standing Office Building for Rent–833 Lomas Blvd. Walking distance to courthouses

Light, Bright and open floor plan: 4 spacious offices, copy room, conference room with kitchenette, light-filled reception area and plenty of storage. Clean space with high ceilings and beautiful wood details. \$2,000 p/month. Contact April Ager: 505.269.5771

## Prime Downtown Location at Plaza 500 –

Professional office suite available on the 5th floor of the prestigious Albuquerque Plaza Building. This Class A Office space provides fully furnished offices with IT, dedicated phone line, mail services and full-time receptionist. Parking access and short-term leases available. New tenants receive monthly access to the recently renovated Hyatt Regency Albuquerque fitness center. 201 Third Street NW. Please Contact Sandee at 505-999-1726.

#### For Sale or Lease

5 large individual office suites with 4 support staff stations, a small kitchen/breakroom, men's and women's baths, large windows for natural lighting, a security alarm, controlled access, and located at Louisiana & Candelaria. \$2,407.50/Month, Full Service. Mike Contreras, CCIM Owner/Broker: Office: 505-888-1500 mike@sentinelrealestate-inv.com

#### 1212 Pennsylvania St NE

Uptown Attorney Office in single story office building shared by sole practitioners and small law firm with centrally staffed reception area, two conference rooms, law library, and kitchen. Office has large windows with natural light, security system, ample parking and access to freeway. \$750 month. Phone, internet, copier, postage, and secretarial bays available for additional fee. Call 266-8787 or email manager@ABQlawNM.com.

#### Miscellaneous

#### **Want To Purchase**

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

#### DIAL 222-2222 !!!

222-2222 phone number is now available in Albuquerque! Fantastic opportunity to identify, brand and grow your practice. Long term lease available and affordable. Contact rwr2d2@aol.com for immediate details.



Cards starting at 99 cents per set\* Set includes folded card and envelope with return address Custom design or photo card • Create your own greeting

\*No additional discounts apply on promotional offer. Order must be placed by Nov. 29

For more information, contact Marcia Ulibarri at 505-797-6058 or mulibarri@nmbar.org.



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EXPERT WITNESS
TESTIMONY



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## MCHARD ACCOUNTING CONSULTING LLC

Offices in Albuquerque and San Diego

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We are a different kind of accounting firm – our practice is exclusively dedicated to forensic and investigative accounting. We have expertise in all kinds of litigated accounting matters, including fraud, white collar crime, money laundering, securities fraud, police procedures/misconduct, employment, whistleblower and Qui Tam cases. We are experienced *Kovel* accountants and provide expert witness testimony. Our services include:

#### **Litigation Support**

Pre-litigation case analysis, discovery assistance and analysis of financial records

Expert witness testimony, including appointed neutral expert

Consulting expert – nontestifying expert as a strategic member of your legal team

Complex and high networth divorce cases

Collaborative divorce

## Financial Investigations

Investigating allegations of fraud & financial discrepancies

Reconstruction of accounting records for probate and other litigated matters

Partnership dissolution and other business disputes

Employment matters such as investigating allegations of theft, fraud or retaliation

Preparing of proof of loss for insurance claims due to employee theft or fraud

#### White Collar Crime Investigations

Analysis of source of funds for attorney retainer to determine your risk of attorney fee claw-back

Tracing of funds in white collar cases

Investigation of securities fraud cases

Kovel accounting and assistance with tax controversy cases

Calculation of loss for sentencing under Federal guidelines

# Other Services We Provide

Public speaking, training for legal, business staff and law enforcement

Police misconduct, police procedures and police oversight cases

Asset tracing/investigation

Management consulting, performance, econometric and fraud risk assessment studies

Assisting attorneys with IOLTA trust accounting issues

