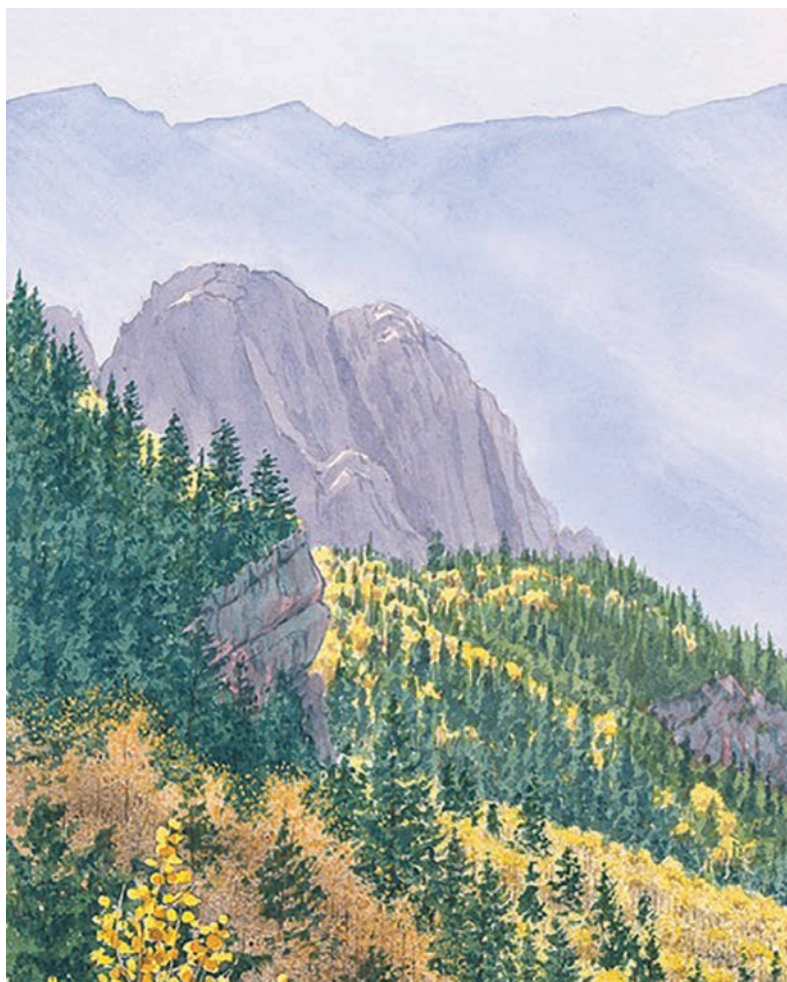


# BAR BULLETIN

July 8, 2020 • Volume 59, No. 13



*Along the Crest Trail*, by Dan Stouffer

*The Weems Gallery*

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THE LAW FIRM OF  
**KELEHER  
& McLEOD**  
A PROFESSIONAL ASSOCIATION

Founded in 1915



***Keleher & McLeod is Pleased to  
Announce the Addition of Ann  
Conway, Cassandra Malone and  
Kathryn Schroeder to the firm.***



CASSANDRA MALONE

Cassandra Malone's practice is primarily comprised of litigation in New Mexico state and federal courts. Her areas of expertise include real estate and business matters, contract disputes, insurance coverage issues, employment issues, medical malpractice and personal injury claims. She also appears in both in administrative proceedings and state court regarding water rights issues.



ANN CONWAY

Ann Conway represents clients in areas of government relations and lobbying, fidelity and surety law, construction litigation, insurance law and insurance bad faith litigation, and mediation and arbitration. Ms. Conway has represented clients in the New Mexico Legislature and before state and federal agencies for 35 years. Ms. Conway has represented individuals, construction companies, financial institutions, insurance companies and trade associations in direct actions, class actions, and as Amicus Curie in trial and appellate courts. Ms. Conway also serves as a court-appointed and private mediator and arbitrator in civil and construction cases.



KATHRYN SCHROEDER

Kathryn Schroeder represents a variety of clients in commercial and real estate transactional matters and civil and commercial litigation. Prior to joining Keleher & McLeod, Ms. Schroeder practiced in the areas of environmental and energy law.

201 3rd St NW, 12<sup>th</sup> floor • Albuquerque, NM 87102  
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## Meetings

### July

- 8**  
**Animal Law Section Board**  
 11:30 a.m., teleconference
- 8**  
**Business Law Section Board**  
 4 p.m., teleconference
- 8**  
**Children's Law Section Board**  
 Noon, teleconference
- 8**  
**Tax Section Board**  
 9 a.m., teleconference
- 10**  
**Prosecutors Section Board**  
 Noon, teleconference
- 14**  
**Appellate Practice Section Board**  
 Noon, teleconference
- 14**  
**Bankruptcy Law Section Board**  
 Noon, teleconference
- 16**  
**Public Law Section Board**  
 Noon, teleconference

## Workshops and Legal Clinics

### July

- 15**  
**Divorce Options Workshop**  
 6-7 p.m., Video Conference  
 For more details and to register, call  
 505-797-6022
- 22**  
**Consumer Debt/Bankruptcy Workshop**  
 6-8 p.m., Video Conference  
 For more details and to register, call  
 505-797-6094

### August

- 5**  
**Divorce Options Workshop**  
 6-7 p.m., Video Conference  
 For more details and to register, call  
 505-797-6022
- 26**  
**Consumer Debt/Bankruptcy Workshop**  
 6-8 p.m., Video Conference  
 For more details and to register, call  
 505-797-6094

**About Cover Image and Artist:** Dan Stouffer was born in Ohio and attended Ohio State University. His work has been shown in museums and corporate collections throughout the country. He has won over 60 awards and is listed in the *Who's Who in American Art*. His work has appeared in many publications. He is also a member of three national signature honor societies and in 2010, the Albuquerque Art Business Association designated him a local treasure. He is currently represented by The Weems Gallery.



# Notices

## 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. 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](mailto:libref@nmcourts.gov) or visit <https://lawlibrary.nmcourts.gov>.

### Announcement of Vacancy

A vacancy on the Supreme Court will exist as of Aug. 1 due to the retirements of the Honorable Supreme Court Chief Justice Judith K. Nakamura, effective July 31. Inquiries regarding the details or assignment of this judicial vacancy should be directed to the administrator of the court. Sergio Pareja, chair of the Supreme Court Judicial Nominating Commission, invites applications for this position from lawyers who meet the statutory qualifications in Article VI, Section 28 of the New Mexico Constitution. Applications may be obtained from the Judicial Selection website: <http://lawschool.unm.edu/judsel/application.php>, or emailed to you by contacting the Judicial Selection Office at [akin@law.unm.edu](mailto:akin@law.unm.edu). The deadline for applications has been set for June 26 by 5 p.m. Applications received after that time will not be considered. Applicants seeking information regarding election or retention if appointed should contact the Bureau of Elections in the Office of the Secretary of State. The New Mexico Supreme Court Judicial Nominating Commission will convene beginning at 9 a.m. on July 9 and will occur exclusively by Zoom. The Commission meeting is open to the public, and anyone who wishes to be heard about any of the candidates will have an opportunity to be heard. If you would like the Zoom invitation emailed to you, please contact Beverly Akin by email at [akin@law.unm.edu](mailto:akin@law.unm.edu). Alternatively, you may find the Zoom information for this hearing below:

## Professionalism Tip

### With respect to the courts and other tribunals:

I will attempt to resolve, by agreement, my objections to matters contained in my opponent's pleadings and discovery requests.

Topic: New Mexico Supreme Court Judicial Nominating Commission Meeting  
Time: July 9 at 9 a.m.

Join Zoom Meeting:

<https://unm.zoom.us/j/379615447?pwd=M3lSVGxuSEkrSjd4cExlVXYwK3MzQT09>

Meeting ID: 379 615 447

Password: 72146

### New Mexico Court of Appeals Nominating Commission

The New Mexico Court of Appeals Nominating Commission convened on June 18 via Zoom, and completed its evaluation of the ten candidates for the one vacancy on the New Mexico Court of Appeals. The commission recommends the following candidates to Governor Michelle Lujan Grisham: **Aletheia V.P. Allen, Angelica Anaya Allen, Gerald Edward Baca, Lauren Keefe, Nicholas Hagen Mattison and Jane Bloom Yohalem.**

### Bernalillo County Metropolitan Court New Landlord-Tenant Settlement Program

A mediation program specifically for people involved in landlord-tenant disputes was launched earlier this month. The Landlord-Tenant Settlement Program will give landlords and tenants the opportunity to work out business agreements beneficial to both sides. To be eligible, participants must have an active landlord-tenant case in the Metropolitan Court. The service is free, and parties in a case will work with a volunteer settlement facilitator specially trained in housing matters. Many of the facilitators are retired judges and experienced attorneys who will provide services pro bono. Those interested in participating in the Landlord-Tenant Settlement Program or serving as a volunteer settlement facilitator are asked to contact the court's Mediation Division at: 505-841-8167.

## STATE BAR NEWS

### COVID-19 Pandemic Updates

The State Bar of New Mexico is committed to helping New Mexico lawyers respond optimally to the developing

COVID-19 coronavirus situation. Visit [www.nmbar.org/covid-19](http://www.nmbar.org/covid-19) for a compilation of resources from national and local health agencies, canceled events and frequently asked questions. This page will be updated regularly during this rapidly evolving situation. Please check back often for the latest information from the State Bar of New Mexico. If you have additional questions or suggestions about the State Bar's response to the coronavirus situation, please email Executive Director Richard Spinello at [rspinello@nmbar.org](mailto:rspinello@nmbar.org).

### Reopening of Building

The State Bar of New Mexico has reopened to members and the public. Availability is limited pursuant to the current State health orders. To book a room, call 505-797-6000 or email [sbnm@nmbar.org](mailto:sbnm@nmbar.org).

### New Mexico Judges and Lawyers Assistance Program

*We're now on Facebook! Search "New Mexico Judges and Lawyers Assistance Program" to see the latest research, stories, events and trainings on legal well-being!*

### Monday Night Support Group

- July 13
- July 20
- July 27

This group will be meeting every Monday night via Zoom. The intention of this support group is the sharing of anything you are feeling, trying to manage or struggling with. It is intended as a way to connect with colleagues, to know you are not in this alone and feel a sense of belonging. We laugh, we cry, we BE together. Email Pam at [pmoore@nmbar.org](mailto:pmoore@nmbar.org) or Briggs Cheney at [BCheney@DSC-LAW.com](mailto:BCheney@DSC-LAW.com) and you will receive an email back with the Zoom link.

### Employee Assistance Program

### Managing Stress Tool for Members

A negative working environment may lead to physical and mental health problems, harmful use of substances or alcohol, absenteeism and lost productivity.

Workplaces that promote mental health and support people with mental disorders are more likely to reduce absenteeism, increase productivity and benefit from associated economic gains. Whether in a professional or personal setting, most of us will experience the effects of mental health conditions either directly or indirectly at some point in our lives. The NM Judges and Lawyers Assistance Program is available to assist in addition to our contracted Employee Assistance Program (EAP). No matter what you, a colleague, or family member is going through, The Solutions Group, the State Bar's FREE EAP, can help. Call 866-254-3555 to receive FOUR FREE counseling sessions per issue, per year! Every call is completely confidential and free. For more information, <https://www.nmbar.org/jlap> or <https://www.solutionsbiz.com/Pages/default.aspx>.

### **Young Lawyers Divisions Virtual Lunch with Justice Thomson**

Join the Young Lawyers Division as they host their first virtual Lunch with Judges program with Justice David Thomson.

Justice Thomson will discuss with YLD Chair Allison Block-Chavez his career path, work and life as a justice, and the process of becoming a judge or justice via the GoToMeeting platform. Participants will be invited to ask Justice Thomson questions. This event is only open to current YLD members. The virtual meeting will be held on Thursday, July 16th at noon. To RSVP please contact Member Services at [memberservices@nmbar.org](mailto:memberservices@nmbar.org).

### **UNM SCHOOL OF LAW Law Library Hours Spring 2020**

Through May 16

#### *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.
---------------	---------------

— *Featured* —

## **Member Benefit**



Defined Fitness offers State Bar members, their employees and immediate family members a discounted rate. Memberships include access to all five club locations, group fitness classes and free supervised child care. All locations offer aquatics complex (indoor pool, steam room, sauna and hot tub), state-of-the-art equipment, and personal training services. Bring proof of State Bar membership to any Defined Fitness location to sign up.

**[www.defined.com](http://www.defined.com)**

# Legal Education

## July

- |  |  |  |
|--|--|--|
| <p><b>8 Selection and Preparation of Expert Witnesses in Litigation</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.nmbar.org">www.nmbar.org</a></p> | <p><b>15 Basics of Trust Accounting: How to Comply with Disciplinary Board Rule 17-204 NMRA</b><br/>1.0 EP<br/>Live Replay Webcast<br/>Center for Legal Education of NMSBF<br/><a href="http://www.nmbar.org">www.nmbar.org</a></p>        | <p><b>28 Lawyer Ethics and Disputes with Clients</b><br/>1.0 EP<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.nmbar.org">www.nmbar.org</a></p>   |
| <p><b>9 Drafting Employment Agreements, Part 1</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.nmbar.org">www.nmbar.org</a></p>                      | <p><b>16 Primers, Updates and Practical Advice in the Current Health Law Environment (2019)</b><br/>5.5 G, 1.2 EP<br/>Live Replay Webcast<br/>Center for Legal Education of NMSBF<br/><a href="http://www.nmbar.org">www.nmbar.org</a></p> | <p><b>30 Charitable Giving Planning in Trusts and Estates, Part 1</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.nmbar.org">www.nmbar.org</a></p>                                   |
| <p><b>10 Drafting Employment Agreements, Part 2</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.nmbar.org">www.nmbar.org</a></p>                     | <p><b>17 2020 Family and Medical Leave Update</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.nmbar.org">www.nmbar.org</a></p>   | <p><b>31 Charitable Giving Planning in Trusts and Estates, Part 2</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.nmbar.org">www.nmbar.org</a></p>                                   |
| <p><b>15 Special Needs Trusts</b><br/>5.0 G, 1.0 EP<br/>Live Seminar<br/>NBI INC<br/><a href="http://www.nbi-sems.com">www.nbi-sems.com</a></p>  | <p><b>23 Stuck in Neutral: Ethical Concerns for the Attorney as Arbitrator or Mediator</b><br/>1.5 EP<br/>Live Webinar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.nmbar.org">www.nmbar.org</a></p>                    | <p><b>31 Reefer Madness Part Deux: Chronic Issues in New Mexico Cannabis Law (2019)</b><br/>4.4 G, 1.0 EP<br/>Live Replay Webcast<br/>Center for Legal Education of NMSBF<br/><a href="http://www.nmbar.org">www.nmbar.org</a></p> |
| <p><b>15 A Lawyer's Guide to Office 365</b><br/>1.0 G<br/>Live Webinar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.nmbar.org">www.nmbar.org</a></p>                            | <p><b>23 Animal Law Institute: The Law and Ethics of Wild Animals in Captivity (2019)</b><br/>5.3 G, 1.0 EP<br/>Live Replay Webcast<br/>Center for Legal Education of NMSBF<br/><a href="http://www.nmbar.org">www.nmbar.org</a></p>       |  |

### Notice of Possible Event Cancellations or Changes:

Due to the rapidly changing coronavirus situation, some events listed in this issue of the Bar Bulletin may have changed or been cancelled after the issue went to press. Please contact event providers or visit [www.nmbar.org/eventchanges](http://www.nmbar.org/eventchanges) for updates.

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](mailto:notices@nmbar.org). Include course title, credits, location/course type, course provider and registration instructions.

## August

- |   |   |   |
|---|---|---|
| <p>7 <b>“Boilplate” Provisions in Contracts: Overlooked Traps in Every Agreement</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p>                    | <p>7 <b>Deal or No Deal: Ethics at Trial (2019 Annual Meeting)</b><br/>1.0 EP<br/>Live Replay Webcast<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p> | <p>19 <b>A Lawyer’s Guide to PDFs (Acrobat or PowerPDF for Lawyers)</b><br/>1.0 G<br/>Live Webinar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p>  |
| <p>7 <b>Basics of Trust Accounting: How to Comply with Disciplinary Board Rule 17-204 NMRA</b><br/>1.0 EP<br/>Live Replay Webcast<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p> | <p>13 <b>Lawyers Ethics in Real Estate Practice</b><br/>1.0 EP<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p>                        | <p>20 <b>Natural Resource Damages</b><br/>9.2 G<br/>Live Seminar<br/>Law Seminars International<br/>www.lawseminars.com</p>   |
| <p>7 <b>Mediating the Political Divide (2019)</b><br/>2.0 EP<br/>Live Replay Webcast<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p>  | <p>17 <b>Reps and Warranties in Business Transactions</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p>                   | <p>24 <b>2020 Trust Litigation Update</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p>   |
|   | <p>17 <b>Electric Power in the Southwest</b><br/>10.7 G, 1.0 EP<br/>Live Seminar<br/>Law Seminars International<br/>www.lawseminars.com</p>                         | <p>27 <b>The Intersection of Accounting and Litigation: How to Explain a Financial Story to a Judge and Jury</b><br/>5.0 G, 1.6 EP<br/>Live Webinar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p> |

## September

- |  |  |   |
|--|--|---|
| <p>1 <b>Choice of Entity for Nonprofits &amp; Obtaining Tax Exempt Status, Part 1</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p>  | <p>15 <b>Income and Fiduciary Tax Issues for Trust and Estate Planners, Part 1</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p> | <p>17 <b>Real Estate Finance: Trends and Best Practices, Part 1</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p> |
| <p>2 <b>Choice of Entity for Nonprofits &amp; Obtaining Tax Exempt Status, Part 2</b><br/>1.0 EP<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p> | <p>16 <b>Income and Fiduciary Tax Issues for Trust and Estate Planners, Part 2</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p> | <p>17 <b>Do You Have Your Emotions or Do They Have You?</b><br/>1.5 EP<br/>Live Webinar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p>       |
|  | <p>16 <b>Word Master Class on Formatting Complex Pleadings</b><br/>1.0 G<br/>Live Webinar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p>                    | <p>18 <b>Real Estate Finance: Trends and Best Practices, Part 2</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p> |

# Opinions

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

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

## Effective June 12, 2020

### PUBLISHED OPINIONS

A-1-CA-36925	State of NM ex rel. F Foy v. Vanderbilt Capital Advisors	Affirm	06/09/2020
A-1-CA-37467	State v. C Tuton	Reverse/Remand	06/09/2020
A-1-CA-37406	L Hunt v. OnPointe Business Services	Affirm	06/11/2020
A-1-CA-37902	L Hunt v. The Rio at Rust Centre	Affirm	06/11/2020

### UNPUBLISHED OPINIONS

A-1-CA-37988	State v. J Enriquez	Affirm/Remand	06/08/2020
A-1-CA-38202	K Sanchez v. P Sanchez	Affirm	06/08/2020
A-1-CA-38268	Specialized Loan Servicing v. M Fichera	Affirm	06/08/2020
A-1-CA-38295	J Chavez v. A Phillips	Affirm	06/08/2020
A-1-CA-38448	State v. Cesar B	Dismiss	06/08/2020
A-1-CA-38589	R Castillo v. J Arrieta	Dismiss	06/08/2020
A-1-CA-37641	J Prewitt v. Los Lunas Schools	Reverse/Remand	06/09/2020
A-1-CA-37540	L Harrison v. Farmington Operations	Affirm	06/11/2020

## Effective June 19, 2020

### PUBLISHED OPINIONS

A-1-CA-37477	State v. G Hobbs	Reverse/Remand	06/16/2020
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### UNPUBLISHED OPINIONS

A-1-CA-35828	State v. S Chavez-Aguirre	Affirm/Reverse	06/15/2020
A-1-CA-37832	C Carnes v. City of Hobbs	Affirm	06/15/2020
A-1-CA-38085	State v. E Gutierrez	Affirm	06/15/2020
A-1-CA-37163	L O' Brien Quarrie v. Board of Regents of the NM Institute of Mining and Technology	Affirm	06/17/2020
A-1-CA-38624	State v. Latrise B.	Affirm	06/17/2020
A-1-CA-38157	L Baca v. E Baca	Affirm	06/18/2020
A-1-CA-38639	City of Roswell v. J Monafo	Dismiss	06/18/2020

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

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



We  
have a  
podcast!



# SBNM is Hear

## EPISODE 1

### **Personal Inventory: COVID – A Forced Life Transition for Some**

*Pamela Moore and Tenessa Eakins,  
State Bar Judges and Lawyers Assistance Program;  
Morgan Pettit (moderator), State Member Services Coordinator*

We will be discussing how COVID-19 has impacted the professional and/or personal identity of attorneys, judges, and other legal professionals. Specifically we will be discussing life transitions due to COVID19. Many of us, if not all, have had to change the way we function in our day to day lives recently. Some of us are grieving the loss of the way life was, what we deemed “normal”. Others may be grieving the loss of a loved one, a business, a relationship, or a personal or professional role before the pandemic hit.

Listen at [www.nmbar.org/podcast](http://www.nmbar.org/podcast)



STATE BAR  
of NEW MEXICO

SAVE THE DATE!

# 2020

## Annual Meeting and Member Appreciation Event

**Friday, Sept. 25**  
**Virtual event • FREE**

The State Bar of New Mexico is pleased to announce our 2020 Annual Meeting and Member Appreciation Event. The event will be held virtually and will be free to all members. It will offer at least four hours of CLE credit.

**CLE Topics:**

Access to Justice Issues in the Era of COVID-19  
Presentation on the 2019 Survey of Diversity in the Legal Profession  
Wellness and Civility  
Updates from the Supreme Court in the Time of COVID-19

**Plus:**

Remarks from President Tina Cruz and the Chief Justice of the Supreme Court  
Annual Awards Presentation

Sponsorship opportunities are available!

[www.nmbar.org/annualmeeting](http://www.nmbar.org/annualmeeting)



# Clerk's Certificates

From the Clerk of the New Mexico Supreme Court

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

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## CLERK'S CERTIFICATE OF REINSTATEMENT TO ACTIVE STATUS

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Effective May 20, 2020:

**Steven J. Laurent**

163 Laguna Street  
Los Alamos, NM 87544  
505-500-5021  
stevenjlaurent@gmail.com

---

## CLERK'S CERTIFICATE OF CHANGE TO INACTIVE STATUS

---

Effective May 18, 2020:

**Victoria Maqueda**

6925-B Willow Street, NW  
Washington, DC 20012  
202-552-3612  
victoria.maqueda@ayuda.com

---

## CLERK'S CERTIFICATE OF CHANGE TO INACTIVE STATUS AND CHANGE OF ADDRESS

---

Effective March 1, 2020:

**Marie Yvette Parson**

627 S. Pacific Street  
Las Vegas, NM 87701  
505-429-1744  
mygparson@yahoo.com

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## CLERK'S CERTIFICATE OF CHANGE TO INACTIVE STATUS AND CHANGE OF ADDRESS

---

Effective May 15, 2020:

**Jared J. Pehrson**

Impact Legal  
16202 N. Cave Creek Road,  
Suite B  
Phoenix, AZ 85032  
480-245-3597  
jared@impact-legal.com

---

## CLERK'S CERTIFICATE OF CHANGE TO INACTIVE STATUS AND CHANGE OF ADDRESS

---

Effective May 15, 2020:

**Sam Sartipi**

The Megwa Law Offices,  
PLLC  
6811 S. Central Avenue  
Phoenix, AZ 85042  
602-243-6151  
sam88sartipi@gmail.com

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## CLERK'S CERTIFICATE OF CHANGE TO INACTIVE STATUS AND CHANGE OF ADDRESS

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# Advance Opinions

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From the New Mexico Supreme Court and Court of Appeals

From the New Mexico Supreme Court

**Opinion Number: 2019-NMSC-020**

No: S-1-SC-36537 (filed October 31, 2019)

STATE OF NEW MEXICO,  
Plaintiff-Petitioner,  
v.

JESSE LAWRENCE LENTE,  
Defendant-Respondent.

## APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY

CINDY LEOS, District Judge

Released for Publication December 17, 2019.

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## Opinion

Judith K. Nakamura,

Chief Justice

This is a “resident child molester” case. *People v. Jones*, 792 P.2d 643, 645 (Cal. 1990), as modified (Aug. 15, 1990). These cases generally involve defendants who have regular access to and control over children whom they sexually abuse in secrecy for long periods of time. See, e.g., *id.* The child victims in these cases are usually the sole witnesses of the crimes perpetrated and, because of their age and the frequency of the sexual abuse to which they are subjected, cannot provide detailed accounts of the abuse but only generalized accounts of frequent sexual contact with the defendant. See, e.g., *id.* “[T]he prosecution of resident child molesters presents unique challenges rarely present in prosecution for other crimes.” *R.L.G., Jr. v. State*, 712 So. 2d 348, 357 (Ala. Crim. App. 1997), *aff’d sub nom. ex parte R.L.G., Jr.*, 712 So. 2d 372 (Ala. 1998).

{2} Two issues are presented in this case which comes to us from the district court’s decision to grant Defendant Jesse Lente’s habeas petition. The first concerns Lente’s indictment. It charged him with perpetrating various forms of

sexual abuse on a regular basis against M.C., his stepdaughter. The district court, relying on *Valentine v. Konteh*, 395 F.3d 626 (6th Cir. 2005), and *State v. Dominguez*, 2008-NMCA-029, 143 N.M. 549, 178 P.3d 834, concluded that Lente’s indictment included “carbon copy” charges—charges that are truly identical, and not distinguishable by time or date or by specification that each charge was predicated on different acts—that impermissibly subjected him to double jeopardy. We disagree and conclude that the district court wrongly interpreted the principles articulated in *Valentine* and *Dominguez* and erred in determining that Lente’s indictment included carbon copy charges that produced a double jeopardy violation.

{3} The second issue concerns the district court’s determination that M.C.’s testimony was too generic and insufficient to support Lente’s multiple convictions. Her testimony, the district court concluded, could support only one conviction for each type of sex-abuse crime Lente perpetrated and, therefore, Lente’s multiple convictions violate double jeopardy. We disagree and take this opportunity to clarify the principles courts must utilize when evaluating the sufficiency of the evidence presented in resident child molester cases. We reverse and remand.

## BACKGROUND

{4} The indictment filed against Lente included thirty-eight counts. Thirty-two of those counts involved allegations that Lente sexually abused M.C. by perpetrating varying forms of criminal sexual penetration (CSP) or criminal sexual contact of a minor (CSCM). Those counts alleged that Lente forced M.C. to engage in fellatio on six different occasions, penetrated M.C.’s vagina with his fingers on four different occasions, touched M.C.’s vagina on seven different occasions, touched M.C.’s breasts on seven different occasions, and touched M.C.’s buttocks on eight different occasions. Table A sets out in chronological order the time periods and conduct in which Lente allegedly engaged.

Date	Conduct
8/1/97 - 1/31/98 (6 month span)	Touch Buttocks (TbU); Touch Breasts (TbR); Touch Vagina (TVa)
2/1/98 - 7/31/98 (6 month span)	TbU; TbR; TVa
8/1/98 - 1/31/99 (6 month span)	TbU; TbR; TVa
2/1/99 - 7/31/99 (6 month span)	TbU; TbR; TVa; Penetrate Vagina Finger (PVF); Fellatio (F)
8/1/99 - 1/31/00 (6 month span)	TbU; TbR; TVa; PVF; F
2/1/00 - 7/31/00 (6 month span)	TbU; TbR; TVa; PVF; F
8/1/00 - 11/30/00 (4 month span)	TbU; TbR; TVa; PVF; F
12/1/00 - 12/12/00 (12 day span)	TbU; F
12/13/00 (a single discrete date)	F

Table A

{5} At trial, Lente’s counsel elicited unrefuted testimony showing that some of the sex abuse that Lente was alleged to have perpetrated could not have happened as Lente was not living with M.C. and her mother during the time frames some of the sex-abuse charges were alleged to have occurred. The district court rightly granted Lente’s motion for directed verdict in part and dismissed the sex-abuse charges that purportedly occurred at times when Lente did not live or have contact with M.C. and, thus, could not have committed certain crimes charged.

{6} Lente’s jury convicted him of all twenty-six sex-abuse counts that survived directed verdict: six counts of CSP fellatio, four counts of CSP digital penetration, five counts of CSCM touching M.C.’s vagina, five counts of CSCM touching M.C.’s breasts, and six counts of CSCM touching M.C.’s buttocks.

{7} Lente filed his appeal of right and raised three issues unrelated to the legality of the indictment or the sufficiency of the evidence presented at trial. *State v. Lente*, 2005-NMCA-111, ¶ 1, 138 N.M. 312, 119 P.3d 737. The Court of Appeals rejected all three arguments and affirmed Lente’s convictions. *Id.* He filed a petition for a writ of certiorari which was denied. *State v. Lente*, 2005-NMCERT-008, 138 N.M. 328, 119 P.3d 1265.

{8} Lente then filed a series of pro se habeas petitions in district court asserting that he was entitled to a new trial or,



alternatively, that his convictions should be vacated and he should be released. Lente claimed that M.C. lied about the abuse as had M.C.'s mother, and he insisted that he did not commit the offenses for which he was convicted. Alternatively, he argued that his convictions violated his right to be free from double jeopardy.

{9} The district court summarily denied Lente's initial pro se habeas petition without explanation. After Lente filed a subsequent habeas petition, the court appointed Lente counsel.

{10} Lente's counsel made the same double jeopardy argument Lente advanced in his pro se habeas petitions: each of the counts in the indictment were "carbon copy" counts and, as a result, he was not "given adequate notice [of the charges against him], and consequently [Lente's] right to be free from [double] jeopardy was compromised." Lente's arguments relied on *Valentine* and *Dominguez*.

{11} The district court agreed that *Valentine* and *Dominguez* controlled as, in the district court's view, Lente's case was effectively identical to them. The court held that, "[g]iven the holdings in *Valentine* and *Dominguez*, the lack of specificity in the indictment and the testimony of M.C., . . . the multiple convictions for the same sexual acts violates double jeopardy."

{12} The court vacated most of Lente's sex-abuse convictions and sustained only one conviction for each type of the varying forms of sexual abuse Lente perpetrated upon M.C. The State appeals the district court's decision to grant Lente's habeas petition and vacate the convictions. We have jurisdiction over this appeal. Rule 12-102(A)(3) NMRA.

## DISCUSSION

{13} The district court's conclusions require us to answer two questions. First, did Lente's indictment charge him with "carbon copy" counts and, in doing so, violate his double jeopardy rights? Second, was M.C.'s testimony sufficient to support Lente's multiple sex-abuse convictions and ensure his multiple convictions did not violate double jeopardy? We address these questions in turn.

### A. The Indictment

{14} The district court concluded that Lente's indictment violated his double jeopardy rights. Specifically, the court held that the charges in Lente's indictment were insufficiently specific in the same way that the charges in the indictments in *Valentine* and *Dominguez* were and produced the same double jeopardy problems that led to the vacating of counts and/or convictions in those cases. Our review of whether a double jeopardy violation occurred is a legal question subject to de novo review. *State v. Bernal*, 2006-NMSC-050, ¶ 6, 140 N.M. 644, 146 P.3d 289. Before we address

*Valentine* and *Dominguez* it is necessary to more broadly discuss the types of objections most commonly directed towards indictments in resident child molester cases. Doing so will give us clarity about the objections the district court and Lente have regarding his indictment.

### 1. Notice and multiplicity

{15} Objections to indictments comprised of unspecific charges are often presented as notice problems. See *State v. Huerta-Castro*, 2017-NMCA-026, ¶ 13, 390 P.3d 185; *State v. Gardner*, 2003-NMCA-107, ¶ 26, 134 N.M. 294, 76 P.3d 47; *State v. Baldonado*, 1998-NMCA-040, ¶ 18, 124 N.M. 745, 955 P.2d 214. Where defendants do not have adequate notice of the charges filed against them, they cannot be expected to prepare a defense to those charges. *Baldonado*, 1998-NMCA-040, ¶¶ 18-21. Notice/due process objections are common in resident child molester cases given that the child victim's generic testimony will likely be the only evidence available. See *State v. Brown*, 780 P.2d 880, 885 (Wash. Ct. App. 1989).

{16} Lente never filed pretrial objections to the indictment or demanded any additional pretrial specification of the charges. Having failed to do so, he waived the opportunity to object to the indictment on notice or due process grounds. *State v. Selgado*, 1967-NMSC-147, ¶ 3, 78 N.M. 165, 429 P.2d 363; *State v. Lott*, 1963-NMSC-219, ¶ 5, 73 N.M. 280, 387 P.2d 855; *State v. Altgilbers*, 1989-NMCA-106, ¶ 46, 109 N.M. 453, 786 P.2d 680; *State v. Gammill*, 1985-NMCA-014, ¶ 5, 102 N.M. 652, 699 P.2d 125. Even if Lente was not precluded from first objecting to the indictment after trial, we are confident that Lente confronted no notice problem.

{17} At the hearing on Lente's habeas petition, trial counsel testified that she reviewed the indictment with Lente, informed him that the evidence against him was significant and credible, and suggested that he consider a plea deal. Lente, however, was "adamant about going to trial." She also testified that the varying sex-abuse charges in Lente's indictment did not, in her view, present any legal issues that needed to be addressed by pretrial motions. She said that she believed each count "to be a separate event."

{18} To the extent Lente was charged with crimes he could not defeat by showing lack of access to M.C., Lente's trial counsel attempted to convince the jury that M.C.'s mother fabricated the abuse because she was jealous Lente was involved with another woman. Counsel attempted to discredit M.C.'s testimony by emphasizing how details of the abuse emerged and evolved over time and by showing that M.C. did not exhibit behavior consistent with frequent and repeated sexual abuse.

Lente's attempt to discredit his accusers is one commonly employed in resident child molester cases. *Jones*, 792 P.2d at 657-59. "Usually, the trial centers on a basic credibility issue—the victim testifies to a long series of molestations and the defendant denies that any wrongful touching occurred." *Id.* at 658. The evidence presented at trial indicated Lente did indeed sexually abuse M.C.

{19} M.C. testified that she was subjected to nearly continuous sex abuse for years. M.C.'s mother testified that the abuse came to light when she inadvertently walked in on Lente receiving fellatio from M.C. and, upon seeing this, demanded that Lente leave their shared residence. Lente refused, and M.C.'s mother attempted to call the police. Lente hovered around her, insisted "he didn't do anything," and ripped phone cords from walls to prevent her from completing the call. When the police finally arrived at the residence, Lente fled out of a rear window and remained at large for a week.

{20} All of the foregoing gives us confidence that Lente knew what he was charged with and knew what evidence he needed to marshal to defend against the charges. There is nothing to suggest that Lente was unsure of the charges he faced or was somehow precluded from defending himself, and his alibi defense did in fact succeed in eliminating several of the sex-abuse charges.

{21} Because Lente did have notice of the charges, was capable of preparing a defense, and did not raise due process objections, Lente also cannot avail himself of the arguments raised in *Baldonado*, 1998-NMCA-040. There, the defendant argued that the two-year charging period during which he was alleged to have engaged in two counts of criminal sexual contact was too long to provide him "reasonable notice" of the charges. *Id.* ¶¶ 1, 18. For the reasons already stated, Lente cannot raise an equivalent argument to the overall charging period in his case which involved a series of consecutive, six-month charging intervals. A comment about these charging intervals is necessary.

{22} The district court and Lente both appear to question the State's authority to charge Lente with engaging in certain sex-abuse crimes in a repeating pattern of six-month intervals. Lente contends that the decision to charge in six-month intervals is "meaningless" and the district court characterized the choice as "inexplicable" and "random." We do not agree that the State's decision to charge by six-month intervals is somehow flawed or in any way unlawful.

{23} Thirty years ago, our Court of Appeals persuasively reasoned that the State is not, in resident child molester cases,



stuck with only two choices: (1) charge a single count for the entire period of time the abuse allegedly occurred or (2) charge one count for every possible infraction. *Altgilbers*, 1989-NMCA-106, ¶ 43. The Court explained that “dividing the multi-year period of the alleged infractions into two- or three-month intervals advances the public interest in having the number of charges reflect the magnitude of the conduct while reducing [the] potential problems . . . that would arise from a single count encompassing several years.” *Id.*

{24} *Altgilbers* correctly acknowledged that, while there is no hard and fast principle controlling how the State may elect to divide the time during which sexual abuse occurs in resident child molester cases, the absence of such a principle in no way precludes line drawing. *Id.* That line drawing is often necessary and an appropriate exercise of the State’s authority to prosecute resident child molesters in a manner that correctly reflects condemnation of lengthy and repeated sexual abuse of children. There is nothing objectionable about the six-month intervals selected here.

{25} Multiplicity is also a common objection in multiple-charge instances like resident child molester cases. It is “the charging of a single offense in several counts.” *United States v. Reedy*, 304 F.3d 358, 363 (5th Cir. 2002) (internal quotation marks and citation omitted); *accord Herron v. State*, 1991-NMSC-012, ¶ 6 n.4, 111 N.M. 357, 805 P.2d 624. Multiplicitous indictments are problematic because “[t]he repeated assertion of the details of a singular course of conduct in multiple counts will prejudice the defendant and confuse the jury by suggesting that not one but several crimes have been committed.” *United States v. Hearod*, 499 F.2d 1003, 1005 (5th Cir. 1974) (per curiam).

{26} Multiplicity is a concern that arises from the Double Jeopardy Clause. *United States v. Pires*, 642 F.3d 1, 15 (1st Cir. 2011). “When an indictment includes multiple counts charging a violation of the same statutory provision and a claim of multiplicity is raised, an inquiring court must determine whether the facts undergirding each count can be treated as a distinct unit of prosecution.” *Id.* “The critical inquiry is whether [the Legislature] intended to punish each statutory violation separately.” *Id.* (internal quotation marks and citation omitted). The objection that an indictment is multiplicitous must be asserted before trial or the defense is waived. *United States v. Mastrangelo*, 733 F.2d 793, 800 (11th Cir. 1984).

{27} Lente did not object to the indictment as multiplicitous before trial, and we are confident that this was not a consequence of oversight or attorney error.

The indictment alleged that Lente had different and discrete instances of sexual contact with M.C. on different and distinct dates over a period of years. As we already noted, Lente’s counsel viewed each count as a separate event. This view is correct; each of these instances of sexual contact plainly constituted a different offense. The indictment did not produce a unitary conduct question. That is, Lente’s activity is not “better characterized as one unitary act[.]” *State v. Bernal*, 2006-NMSC-050, ¶ 16.

{28} Lente suggests otherwise and argues that it is still unclear whether “the sexual acts to which [M.C.] was exposed occurred together as part of one assaultive episode or whether each instance of misconduct stood alone” (emphasis added). This claim is unpersuasive as this is not a case involving “one assaultive episode.” *Herron* is the quintessential case of this species. 1991-NMSC-012. Lente’s crimes do not prompt the questions that had to be asked in *Herron*.

{29} In *Herron*, the defendant penetrated a female victim multiple times over the course of a continuous, one-hour rape. *Id.* ¶ 17. In such instances, the question of unitary conduct becomes all important: If vaginal penetration occurs five times in a one-hour rape, is this five acts of criminal penetration or one? *Herron* concluded, by reliance on a series of analytical factors, that the multiple penetrations the defendant committed during the one-hour rape were not all distinct penetrations. *Id.* ¶¶ 20-22. Some were committed in such a fashion that they constituted only one criminal penetration. *Id.* As noted, this case bears no resemblance to *Herron*.

{30} The district court never wrestled with whether Lente’s acts could, if supported by sufficient evidence, constitute multiple distinct crimes. And this is for good reason: There can be no question that our Legislature did indeed intend for different acts of criminal sexual penetration and contact perpetrated against a child on different and discrete dates over a course of years to constitute discrete violations of the statutes here implicated. See *id.* ¶ 15 (“[T]he greater the interval between acts the greater the likelihood of separate offenses[.]”); see also *State v. Martinez*, 2007-NMCA-160, ¶¶ 4-17, 143 N.M. 96, 173 P.3d 18 (rejecting a double jeopardy challenge to multiple CSPM convictions on grounds that the varying CSPMs occurred at different times); *State v. Salazar*, 2006-NMCA-066, ¶¶ 29-31, 139 N.M. 603, 136 P.3d 1013 (same). Multiplicity is not a concern in this case.

{31} The double jeopardy violation to which Lente was subjected, according to the district court, is the one the Sixth Circuit discussed in *Valentine* and which our

Court of Appeals discussed in *Dominguez*. We must begin our discussion of these cases with *Russell v. United States*, 369 U.S. 749 (1962). *Valentine* relied heavily upon it. 395 F.3d at 635. *Dominguez* relied heavily on *Valentine*. *Dominguez*, 2008-NMCA-029, ¶¶ 5-11. *Russell* is the source of the law in both cases.

## 2. *Russell*

{32} *Russell* is a McCarthy-era case involving the House Un-American Activities Committee. 369 U.S. at 752 n.3. The defendants were charged by indictments with refusing to answer questions posed to them by a congressional subcommittee. *Id.* at 752. Under the statute allegedly violated, it was a misdemeanor to refuse to answer a question “pertinent” to the matter under congressional inquiry. *Id.* at 755-56. The defendants moved, pretrial, to quash the indictments asserting that they failed to identify how the questions the defendants refused to answer were pertinent. *Id.* at 752-53. The Supreme Court accepted this argument and, in explaining its rationale for doing so, discussed the nature of indictments and their sufficiency in any given case.

{33} The Court explained that an indictment must “contain[] the elements of the offense intended to be charged, and sufficiently apprise[] the defendant of what he must be prepared to meet[.]” *Id.* at 763 (internal quotation marks and citation omitted). This is the notice requirement implicating due process concerns we have already discussed. See, e.g., *Cole v. Arkansas*, 333 U.S. 196, 201 (1948). Indictments must also identify the offenses allegedly committed with sufficient specificity so that “in case any other proceedings are taken against [the defendant] for a similar offense” the record will show “with accuracy to what extent he may plead a former acquittal or conviction.” *Russell*, 369 U.S. at 764 (internal quotation marks and citation omitted). This is a double jeopardy concern and the one the district court focused on and, thus, the one we focus on.

{34} The Supreme Court determined that the indictments at issue in *Russell* presented no double jeopardy concern. *Id.* The indictments were sufficiently specific and documents other than the indictment could be relied upon by the defendants in any future prosecution, if one ever came into existence. *Id.* The Court’s own words deserve consideration.

Since the indictments set out not only the times and places of the hearings at which the petitioners refused to testify, but also specified the precise questions which they then and there refused to answer, it can hardly be doubted that the petitioners would be fully protected from again being put in jeopardy for the same offense, particularly when it is remembered that they

could rely upon other parts of the present record in the event that future proceedings should be taken against them.

*Id.*

{35} Secondary sources summarizing *Russell* state that “an indictment or information is sufficient if it first, contains the elements of the offense charged and fairly informs a defendant of the charge against which he must defend, and, second, enables him to plead an acquittal or conviction in bar of future prosecutions for the same offense.” 1 Charles Alan Wright & Andrew D. Leipold, *Federal Practice & Procedure: Criminal*, § 125, at 542 (2008) (internal quotation marks and citation omitted); Article II: Preliminary Proceedings, 47 Geo. L.J. Ann. Rev. Crim. Proc. 273, at 341-42 (2018) (same). Wright goes on to point out, however, that the double jeopardy concerns *Russell* identified have marginal significance in practice. He notes that

[i]t is doubtful that the second . . . function[, the double jeopardy protection,] add[s] anything not implicit in the notice requirement of the first function. If a defendant claims prior jeopardy in defense to a pending charge, the court is free to review the entire record of the first proceeding, not just the pleading, and so the need for the indictment to serve this role is limited.

1 Wright, *supra*, § 125, at 543-44 (footnote omitted).

### 3. *Valentine and Dominguez*

{36} *Valentine* involved a defendant convicted in state court with twenty counts of child rape and twenty counts of felony sexual penetration of a minor. 395 F.3d at 629. The habeas proceedings *Valentine* brought in the federal courts focused on his indictment.

{37} Each of the twenty counts of rape alleged in *Valentine*’s indictment stated only that “*Valentine* ‘unlawfully engaged in sexual conduct with [the victim] . . . by purposely compelling her to submit by the use of force or threat of force, [the victim] being under the age of 13 years . . . .’” *Id.* Crucially, “[n]o further information was included to differentiate one count from another.” *Id.* Similarly, each of the twenty felonious-sexual-penetration counts was identical and alleged “that *Valentine* ‘unlawfully without privilege to do so inserted a part of the body, an instrument, apparatus or other object to-wit: finger, into the vaginal or anal cavity of another, to-wit: [the victim] . . . .’” *Id.* (citation omitted). Again, no further information was given to differentiate the sexual penetration counts. *Id.* The Sixth Circuit determined, in a divided opinion, that this indictment was inadequate and violated the defendant’s

due process and double jeopardy rights, and the court dismissed all but one count of child rape and one count of felony sexual penetration of a minor. *Id.* at 635-39.

{38} As to due process, the majority in *Valentine* observed that *Russell* made clear that “criminal charges must give a defendant adequate notice of the charges in order to enable him to mount a defense.” *Id.* at 631. *Valentine*’s indictment did not do this. The majority explained that “within each set of 20 counts there are absolutely no distinctions made.” *Id.* at 632. The majority went on to reiterate this point several times using different words to do so.

{39} The indictment, they noted, “did not attempt to lay out the factual bases of forty separate incidents that took place.” *Id.* “[T]he criminal counts were not,” they stressed, “connected to distinguishable incidents.” *Id.* at 633. The prosecution failed, the majority said, “to disaggregate the whole of the abuse.” *Id.* at 634. Because of this, the defendant was not, the majority claimed, “apprised[d] . . . of what occurrences formed the bases of the criminal charges he faced.” *Id.* In the final analysis, *Valentine* did not have, the majority determined, “notice of the multiple incidents for which he was tried and convicted.” *Id.* The majority then turned to the double jeopardy inquiry.

{40} After discussing the principles articulated in *Russell* about indictments and double jeopardy, the majority concluded that *Valentine*’s double jeopardy rights were also plainly violated. *Valentine*, 395 F.3d at 635-36. The crucial distinction between the circumstances in *Russell* and *Valentine*, the majority explained, was that “[i]n [*Valentine*’s] case, there was no specificity regarding the factual offenses *Valentine* allegedly committed.” *Id.* at 635. This was determinative because “the charges were not linked to differentiated incidents, [and] there is resulting uncertainty as to what the trial jury actually found.” *Id.* at 636.

{41} Before proceeding further, it is worth pausing here and noting that we can see the validity of Wright’s observation that the double jeopardy protection identified in *Russell* does nothing in practice that the due process protection does not already provide. These two inquiries effectively collapsed into one question in *Valentine*. The inquiry under either due process or double jeopardy was the same: whether the charges filed against *Valentine* were sufficiently differentiated.

{42} A dissenting opinion in *Valentine* took issue with what it perceived to be an obvious and undesirable consequence of the majority’s analysis: after *Valentine*, the dissent protested, the charging documents in child sex abuse cases would be required

to provide “exact time and place specifications.” *Id.* at 640 (Gilman J., concurring in part, dissenting in part). This, the dissent was certain, “would severely hamper a state’s ability to prosecute crimes where a young child is both the victim and the sole witness.” *Id.* The majority disagreed with this critique.

{43} The majority conceded that “[t]he exigencies of child abuse cases necessitate considerable latitude in the construction of criminal charges[,]” and explained that all that was required of charging documents in resident child molester cases was some form of “minimal differentiation between criminal counts.” *Id.* at 636-37. This minimal differentiation could be satisfied, the majority explained, by the provision of “time ranges or certain locations or certain actions.” *Id.* at 637. This differentiation, the majority made clear, “does not require overly-burdensome precision.” *Id.* To illustrate, the majority discussed *State v. Mulkey*, 560 A.2d 24 (Md. 1989), a case that avoided the due process and double jeopardy concerns that, in the majority’s view, fatally infected *Valentine*.

{44} *Mulkey* involved two victims and a defendant charged with twelve child sex abuse counts. *Valentine*, 395 F.3d at 637-38. Four of the counts alleged were identified as having occurred one summer, four others the following summer, and the last four the summer following that. *Id.* The twelve counts also specified that the defendant committed three instances of two types of sex acts against each of the two child victims. *Id.* at 638. This time and act specification was enough, the majority explained, to “ensure differentiation among the otherwise similar counts.” *Id.* We turn now to *Dominguez*.

{45} The indictment at issue in *Dominguez* pleaded ten identical counts. 2008-NMCA-029 ¶ 2. The count, repeated ten times, alleged that

[O]n or between August 25, 2002 and October 31, 002 . . . [*Dominguez*] did unlawfully and intentionally touch or apply force to the intimate parts of [the victim], and [the victim] was a child under thirteen (13) years of age, contrary to NMSA 1978, Section 30-9-13A(1) [sic].

*Dominguez*, 2008-NMCA-029, ¶ 2 (first, third, and fourth alterations in original). The defendant moved pretrial to dismiss the indictment on grounds that it violated his due process rights. *Id.* ¶ 3. The State filed a bill of particulars to clarify the factual bases for the ten counts, but the district court accepted that there was a factual basis for only five. *Id.* ¶ 4. This ruling was appealed, and the Court of Appeals affirmed. *Id.* ¶ 1.

{46} The Court of Appeals was persuaded that Dominguez's case was effectively identical to *Valentine*. *Dominguez*, 2008-NMCA-029, ¶ 10. In both cases, the Court explained, there was a fatal lack of specificity in the indictment. *Id.* In Dominguez's case, "the charges in the indictment provided sufficient notice and protected [Dominguez] from double jeopardy only insofar as the State was able to describe separate incidents in the bill of particulars." *Id.* The bill of particulars could only tether five of the ten counts to specific charges. *Id.* The Court concluded that "the trial court properly dismissed those counts of the indictment that could not be linked to individual incidents of abuse." *Id.* ¶ 14.

#### 4. Application of the principles arising from *Russell*, *Valentine*, and *Dominguez*

{47} Lente's indictment alleges that he engaged in specific sex acts with M.C. during specific, consecutive, six-month intervals. No specific form of sexual abuse was alleged to have occurred more than once in any given interval. In other words, only one count of fellatio is alleged in each six-month interval where fellatio is alleged to have occurred. The charges proceed in this fashion with respect to all of the varying sex acts that Lente perpetrated upon M.C. This charging practice eliminates the concerns that arose in *Valentine* and *Dominguez*.

{48} We do know, based on the indictment, what specific sex acts Lente was alleged to have committed. There is no uncertainty between the charges in the indictment and the jury's findings. We know what the jury's findings mean and can correlate them to specific counts. Lente's jury believed that Lente committed all of the specific and identifiable sex-abuse crimes which the charges alleged Lente perpetrated against M.C. during any six-month interval. There is no confusion.

{49} To put this all in slightly different words, the indictment here *does not* include "carbon-copy" counts, i.e. identically worded charges that are in no way differentiated from one another. *Valentine*, 395 F.3d at 628. The charges here, unlike those in *Valentine* and *Dominguez*, were more than adequately differentiated to avoid the double jeopardy problems associated with unspecific, "carbon-copy" indictments and, therefore, the results in *Valentine* and *Dominguez* do not apply. Moreover, Lente did not raise notice objections to the indictment, and as the authority cited above makes clear, where an indictment presents no notice problem the indictment will produce no double jeopardy concern.

#### B. Sufficiency of the Evidence and Lente's Convictions

{50} The district court concluded that Lente's multiple convictions violate double

jeopardy. As noted earlier, the court thought M.C.'s testimony too unspecific to support independent, discrete convictions. That testimony could only support, the court determined, one single course-of-conduct conviction. Because only one course-of-conduct conviction could stand, Lente's multiple convictions violate double jeopardy, or so the court reasoned.

{51} The court evaluated Lente's multiple convictions from a unit of prosecution perspective. *See generally State v. Ramirez*, 2018-NMSC-003, ¶¶ 44-58, 409 P.3d 902. As we said previously, the court was not concerned with the unit of prosecution for CSP and CSCM or whether the distinct forms of CSP and CSCM Lente perpetrated upon M.C. on different dates over a period of years produced a unitary conduct problem. Rather, the court's concern was with the evidence presented to support each conviction. This is an appropriate concern.

{52} "The Double Jeopardy Clause . . . protects against multiple punishments for the same offense." *Brown v. Ohio*, 432 U.S. 161, 165 (1977) (internal quotation marks and citation omitted). "[O]nce past the unit of prosecution test, a properly instructed jury must still find, subject to our traditional deferential review, that substantial evidence supports each separate [conviction]." *State v. Gallegos*, 2011-NMSC-027, ¶ 50, 149 N.M. 704, 254 P.3d 655. "[O]ur primary concern in this context is to ensure that sufficient evidence exists to establish that each penetration is distinct from the others." *State v. McClendon*, 2001-NMSC-023, ¶ 5, 130 N.M. 551, 28 P.3d 1092.

{53} For the reasons that follow, we conclude that the evidence presented in Lente's case was sufficient to support his multiple sex-crime convictions. In turn, we (1) clarify the nature of a reviewing court's inquiry when engaged in sufficiency review, (2) evaluate how these standards apply in resident child molester cases given the unique proof problems and policy concerns implicated by these cases, (3) review the evidence presented at Lente's trial, and (4) assess whether that evidence was sufficient under the appropriate standards.

#### 1. Standard of review: sufficiency

{54} Sufficiency review is an "essentially" legal endeavor and "addresses whether the government's case was so lacking that it should not have even been submitted to the jury." *Musacchio v. United States*, 136 S. Ct. 709, 715 (2016) (internal quotation marks and citation omitted). "The reviewing court considers only the legal question 'whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'" *Id.* (quoting *Jackson*

*v. Virginia*, 443 U.S. 307, 314-15 (1979)); accord *State v. Graham*, 2005-NMSC-004, ¶¶ 6-7, 137 N.M. 197, 109 P.3d 285 (discussing the sufficiency standard in some depth and quoting *Jackson* about the limited inquiry in which this Court engages under sufficiency review); *State v. Kersey*, 1995-NMSC-054, ¶ 11, 120 N.M. 517, 903 P.2d 828 ("We test sufficiency of the evidence in a criminal case under the standard set by the United States Supreme Court in *Jackson* . . ."). Our review is "limited" to ensure that we do not "intrude on the jury's role to resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts." *Musacchio*, 136 S.Ct. at 715 (internal quotation marks and citation omitted).

#### 2. Sufficiency review in resident child molester cases

{55} As earlier noted, child victims in resident child molester cases "typically testif[y] to repeated acts of molestation occurring over a substantial period of time" but are generally unable to furnish "specific details, dates or distinguishing characteristics as to individual acts or assaults." *Jones*, 792 P.2d at 645. This is for the following nonexhaustive list of reasons.

{56} First, unlike adults, children cannot easily link experiences to dates or other specific points in time. *See Lindsay Wandrey et. al., Maltreated Children's Ability to Estimate Temporal Location and Numerosity of Placement Changes and Court Visits*, 18 Psychol. Pub. Pol'y & L. 79, 82-83 (2012); accord *Baldonado*, 1998-NMCA-040, ¶ 20 ("[I]t is not difficult to appreciate that [y]oung children cannot be held to an adult's ability to comprehend and recall dates and other specifics." (second alteration in original) (internal quotation marks and citation omitted)).

{57} Second, when sexual abuse is repeated and frequent, isolating any particular instance of abuse becomes a significant challenge for child victims. *Jones*, 792 P.2d at 648. "The more frequent and repetitive the abuse, the more likely it becomes that the victim will be unable to recall specific dates and places." *State v. Arceo*, 928 P.2d 843, 868 (Haw. 1996) (internal quotation marks and citation omitted). "[E]ven a mature victim might understandably be hard pressed to separate particular incidents of repetitive molestations by time, place or circumstance." *Jones*, 792 P.2d at 648.

{58} Third, children may subconsciously "desire to 'forget' the abuse," and this may explain why they make forgetful, unretentive, and perhaps even unintentionally uncooperative witnesses. *Valentine*, 395 F.3d at 640 (Gilman J., concurring in part, dissenting in part); *see Brown*, 780 P.2d at 885. Some suggest that Child Sexual Abuse



Accommodation Syndrome<sup>1</sup> explains why children who have been subjected to sexual abuse by a parent or caregiver make poor witnesses. See generally *People v. Patino*, 32 Cal. Rptr. 2d 345, 347-48 (Cal. Ct. App. 1994).

{59} Fourth, children have limited exposure to sexual activity and limited vocabularies and are, therefore, incapable of testifying about sexual anatomy and sexual encounters with the specificity expected of adults. *Patrick v. State*, 495 So. 2d 112, 114 (Ala. Crim. App. 1986); *State v. Martens*, 569 N.W.2d 482, 487 (Iowa 1997). Because young children who suffer repeated sexual abuse by household members or other caretakers make less than ideal witnesses, reviewing courts confronted with sufficiency challenges in these cases face difficult questions.

{60} The defendant's conviction can be sustained only if supported by substantial evidence. *State v. Montoya*, 1984-NMSC-073, ¶ 4, 101 N.M. 424, 684 P.2d 510. Yet and as we have just described, child victims of resident child molesters cannot produce specific accounts of their abuse. So, what are courts to do when the only witness in the case testifies to repeated, continuous, but vague and unspecific instances of repeated sexual abuse? How are these "paradoxical, proof problems" to be reconciled? *Jones*, 792 P.2d at 648. How are appellate courts "to resolve the tension between the rights of an alleged victim and the rights of an alleged child molester"? *R.A.S. v. State*, 718 So. 2d 117, 119 (Ala. 1998) (internal quotation marks and citation omitted).

{61} Some authorities hold that "purely generic testimony regarding molestations cannot be regarded as substantial evidence" and further hold that when such evidence is all that is provided "this defect both requires reversal of the conviction and bars retrial of those offenses." *Jones*, 792 P.2d at 654. Other authorities reject this conclusion because it (1) produces intolerable policy consequences and (2) incorrectly conceptualizes the minimum quantity of proof necessary to sustain the types of convictions typically arising from resident child molester cases. We are persuaded that the latter of these authorities is correct and that the two reasons given for the position the authorities take are meritorious.

{62} As to policy consequences, the conclusion that a child victim's testimony is

per se insufficient to support convictions in resident child molester cases effectively insulates the most egregious child molesters from prosecution for multiple crimes, functions as an arbitrary detriment to those molesters "who happen to select victims with better memories," and creates an atmosphere where "one act offenders" are treated in the same manner as repeat molesters. *Brown*, 780 P.2d at 886. We join the many other jurisdictions who have already determined that this outcome must be avoided. See *State v. Stephen J.R.*, 72 A.3d 379, 388 (Conn. 2013) ("This court will not impose a degree of certitude as to date, time and place that will render prosecutions of those who sexually abuse children impossible. To do so would have us establish, by judicial fiat, a class of crimes committable with impunity."); *Commonwealth v. Kirkpatrick*, 668 N.E.2d 790, 795 (Mass. 1996) ("Clearly, the rule proposed by the defendant, which would have limited or foreclosed prosecution in this case, might effectively insulate the most egregious offenders from prosecution." (footnote omitted), *overruled on other grounds by Commonwealth v. King*, 834 N.E.2d 1175 (2005)); *Commonwealth v. Groff*, 548 A.2d 1237, 1242 (Pa. Super. Ct. 1988) ("When a young child is the victim of a crime, it is often impossible to ascertain the exact date when the crime occurred. He or she may have only a vague sense of the days of the week, the months of the year, and the year itself. If such children are to be protected by the criminal justice system, a certain degree of imprecision concerning times and dates must be tolerated." (citations omitted)); *State v. Hayes*, 914 P.2d 788, 796 (Wash. Ct. App. 1996) ("To hold as a matter of law that generic testimony is always insufficient to sustain a conviction of a resident child molester risks unfairly immunizing from prosecution those offenders who subject young victims to multiple assaults."); *State v. Sirisun*, 279 N.W.2d 484, 487 n.4 (Wis. Ct. App. 1979) ("A person should not be able to escape punishment for such a . . . crime because he has chosen to take carnal knowledge of an infant too young to testify clearly as to the time and details of such . . . activity." (internal quotation marks and citation omitted)).

{63} As to the minimum quantum of proof necessary to sustain a child-sex-abuse crime, the question this and

other resident child molester cases ask is whether a child "victim's failure to specify precise date, time, place or circumstance render generic testimony insufficient." *Jones*, 792 P.2d at 655. The answer to this question, the California Supreme Court determined, is "[c]learly not." *Id.*

{64} "[G]eneric testimony (e.g., an act of intercourse 'once a month for three years') outlines a series of *specific*, albeit undifferentiated, incidents each of which amounts to a separate offense, and *each* of which could support a separate criminal sanction." *Id.* at 654. "[T]he particular details surrounding a child molestation charge are not elements of the offense and are unnecessary to sustain a conviction." *Id.* at 655; see *Baker v. State*, 948 N.E.2d 1169, 1174 (Ind. 2011); *State v. Reynolds*, 2018 ME 124, ¶ 23, 193 A.3d 168, 175 (2018); *State v. Swan*, 753 N.W.2d 418, 421-22 (S.D. 2008). "Additional details regarding the time, place or circumstance of the various assaults may assist in assessing the credibility or substantiality of the victim's testimony, but are not essential . . ." *Jones*, 792 P.2d at 656.

{65} The California Supreme Court posited that these points go unrecognized and greater specificity than is necessary is required from child witnesses because of "persistent doubts about the general credibility of" child witnesses, doubts that are inappropriate and unwarranted. *Id.* at 654-55. This is not to say, however, that questions of credibility are not significant in resident child molester cases. To the contrary, "credibility is usually the true issue in these cases[.]" *Id.* at 659 (internal quotation marks and citation omitted).

{66} "[T]he jury either will believe the child's testimony that [a] consistent, repetitive pattern of acts occurred or disbelieve it." *Id.* (quoting *People v. Moore*, 260 Cal. Rptr. 134, 144 (Cal. Ct. App. 1989)). If the prosecution persuades the jury to believe the child victim's testimony that he or she was subjected to multiple acts of sexual abuse over a long period of time, the prosecution will have necessarily "proven beyond a reasonable doubt that the defendant committed a specific act[.]" *Id.* (internal quotation marks and citation omitted).

{67} In the end, the California Supreme Court held that a child victim in a resident child molester case must, at a minimum, provide testimony satisfying the following

<sup>1</sup>Child Sexual Abuse Accommodation Syndrome is offered as a theory to "explain why some child victims of sexual abuse delay reporting sexual offenses to adults, refrain entirely from reporting the abuse, or retract their allegations prior to trial." *State v. J.R.*, 152 A.3d 180, 183 (N.J. 2017). According to some, child victims who show symptoms of the syndrome exhibit five different types of behavior: "secrecy, helplessness, entrapment and accommodation, delayed and unconvincing disclosure, and retraction and recantation." *Id.* at 186 (internal quotation marks omitted). Prosecutors in resident child molester cases often seek to elicit expert testimony the child victim suffers from the syndrome, and the admissibility of that testimony is a frequently litigated subject that is rife with disagreement. See *id.* at 191.

three requirements for multiple convictions to survive sufficiency review.

{68} First, the child victim must describe the proscribed act or acts committed with sufficient specificity to establish that unlawful conduct did in fact occur and to permit a jury to differentiate between the various types of sex acts to which the child victim was subjected. *Jones*, 792 P.2d at 655-56.

{69} Second, the child must describe the number of proscribed acts committed with sufficient certainty to support each of the counts alleged in the information or indictment. *Id.* Statements to the effect that specific acts of sexual abuse occurred “twice a month” or “every time we went camping” are sufficient. *Id.* (internal quotation marks and citation omitted).

{70} Third and finally, the child must describe the general time period in which the proscribed acts occurred. *Id.* “[T]he summer before my fourth grade,” or “during each Sunday morning after he came to live with us” are examples of sufficient specification. *Id.* (internal quotation marks and citation omitted).

{71} *Jones* emphasized two other important points that we also think worth emphasizing. First, charging documents in resident child molester cases have unique significance. *Id.* They must channel the jury’s focus and require it to determine if specific instances of illegal conduct were established. A charging document achieves this end by specifying the exact sex-abuse crimes that allegedly occurred and identifying the dates or date ranges when those crimes purportedly happened. Such charges do indeed ask the jury to decide if specific, illegal sex acts took place. This point is particularly evident where the evidence elicited indicates that repeated molestations exceeding the number of specific acts charged were perpetrated, a likely occurrence in resident child molester cases. *People v. Letcher*, 899 N.E.2d 315, 323 (Ill. App. Ct. 2008).

{72} Second, reasonable and narrowly tailored charging documents can only exist where prosecutorial discretion is appropriately exercised. “[P]rosecutors,” the California Supreme Court cautioned, “should exercise discretion in limiting the number of separate counts charged. No valid purpose would be served by charging hundreds or thousands of separate counts of molestation, when even one count may result in a substantial punishment.” *Jones*, 792 P.2d at 654. The point can, in fact, be taken a step further. Where the prosecution does not exercise appropriate discretion and charges an unreasonably excessive number of crimes and secures convictions, it contributes to the possibility that very few or possibly none of those convictions will survive appellate review.

### 3. Evidence presented at Lente’s trial

{73} At the time of trial in December 2002, M.C. was thirteen and in eighth grade. Lente began abusing her when she was in second or third grade, a time when she would have been seven or eight years old. The indictment alleged that the abuse occurred for forty-and-a-half months, or more than three years. From these facts, the jury could discern that M.C. was abused between the time she was seven or eight years old and until she was eleven or twelve.

{74} M.C.’s mother testified first. She recounted the events of December 13, 2000, when she walked in on Lente as he was forcing M.C. to perform fellatio. Lente apparently thought M.C.’s mother was asleep. She exited her bedroom, entered the living room, and saw Lente and M.C. “sitting on the couch and he was pushing her head down on his penis and making her suck on it.” M.C.’s mother shouted at Lente. M.C. immediately began crying. Lente quickly rose and pulled up his pants. {75} The prosecution began direct examination of M.C. by inquiring whether she recalled how the sexual abuse started.

Prosecutor: . . . What do you remember happening the first time?

M.C.: Like the first time it ever happened, or . . .

Prosecutor: The first time it ever happened.

M.C.: I don’t remember the first time.

Prosecutor: Okay. What’s the first thing you remember, the earliest?

M.C.: He would touch me and stuff like that.

Prosecutor: And where would he touch you?

M.C.: Um, everywhere, like on my privates and, you know, upper parts and stuff like that.

M.C. went on to describe how Lente would touch her breasts over her clothes; touch her vagina with his hands and mouth both over and under her clothes; insert his fingers into her vagina and “suck on them, and stuff like that”; and grab her buttocks “a lot.”

{76} M.C. then explained that her mother was frequently out of the house when the abuse occurred but Lente would also sometimes abuse her at night in her bed when her mother was home. After disclosing this fact, the following crucial exchange occurred between the prosecutor and M.C. pertaining to the frequency of the abuse.

Prosecutor: When it happened in your bed, do you remember how old you were or what grade you were in?

M.C.: It happened, you know, a

lot, more than once, so different ages.

Prosecutor: Are you able to talk about like how many times a week or how many times a month it would happen, or would it be different?

M.C.: Maybe two to three times a week.

Prosecutor: Was that the whole time or just sometimes?

M.C.: Most of the time, yeah.

Prosecutor: Were there ever any times that it stopped for a while?

M.C.: Not really, no.

The prosecutor then directed M.C. to the number of times Lente had her perform fellatio.

Prosecutor: Did he ever have you do anything to him?

M.C.: Oh, yeah—yes.

Prosecutor: And what would he have you do to him?

M.C.: He would have me suck on his private.

Prosecutor: Do you remember what grade you were in or how old you were?

M.C.: Maybe third.

Prosecutor: Third grade when that started?

M.C.: Probably.

Prosecutor: Did that happen one time or more than one time?

M.C.: A lot more than once.

Prosecutor: A lot more than once?

M.C.: Many.

Prosecutor: Many times?

M.C.: (Nodding.)

Prosecutor: What did he do the most?

M.C.: Probably make me suck on him.

The prosecutor then asked M.C. to discuss the digital penetration.

Prosecutor: And you talked about him putting his fingers inside you?

M.C.: Yes.

Prosecutor: When did that start? What grade were you in?

M.C.: Maybe around third or fourth.

Prosecutor: How many times do you think he did that?

M.C.: A lot, I don’t—

Prosecutor: Besides your bed at night, where else did he do these things?

M.C.: In the living room, in his room.

{77} It is worth pausing here and considering Lente’s objections to M.C.’s testimony. He characterizes her testimony as unspecific and wholly deficient, and he insists that



the State was required to “disaggregate the whole of the abuse by eliciting specific time, conduct and location testimony regarding each charged count.” M.C.’s testimony reveals her to be the paradigmatic victim of a resident child molester. She explains at many points in her testimony that she cannot specify the number of times particular sex acts occurred because they occurred with such frequency. Lente’s objections to her testimony in no way acknowledge that M.C. (and children like her) cannot do what Lente insists must occur. Moreover, Lente fails to acknowledge that M.C.’s inability to provide specific details about her abuse is, in part, a product of his own making. He sexually abused M.C. so frequently that the details of particular abuse are clouded in her mind. He created a circumstance and now complains of its existence. He seeks to transform his repeated violations of the criminal laws into a shield.

#### **4. Assessing the sufficiency of the evidence**

{78} We must first decide whether M.C. described the criminal acts perpetrated upon her with sufficient specificity to establish that Lente did in fact perform criminal sexual abuse and to permit Lente’s jury to differentiate between the various types of criminal sexual abuse committed. M.C. testified that Lente: touched her buttocks, breasts, and vagina and touched these areas of her body both over and under her clothes; required her to perform fellatio on him; and inserted his finger(s) into her vagina. M.C.’s mother saw M.C. performing one of the instances of fellatio charged. This testimony more than adequately established that Lente forced M.C. to engage in sex acts and that he perpetrated the different and varying acts for which he was convicted.

{79} Second, we must answer whether M.C. described the number of sex acts committed with sufficient certainty to support each of the counts alleged in the indictment and for which Lente was convicted. We address the CSP convictions for fellatio and digital penetration separately and the CSCM convictions collectively.

{80} Lente was convicted of six counts of CSP for requiring M.C. to engage in fellatio. All of the fellatio charges were alleged to have occurred in the last twenty-and-one-half months of the nearly

forty-and-one-half months the indictment spanned. M.C. testified that the first time she was asked to perform fellatio on Lente was around the time she began third grade. As a very general matter, M.C. testified that Lente sexually abused her two to three times a week beginning in her second or third grade year and that the abuse persisted in this fashion for years. M.C. estimated that she performed fellatio on Lente more than fifty times and added that it was the most common form of abuse to which she was subjected. The last (chronologically) of the six CSP fellatio convictions was more than adequately supported by M.C.’s mother’s testimony that she observed M.C. performing fellatio on Lente. So, was M.C.’s testimony sufficient to permit the jury to find that Lente forced her to perform fellatio five other times during the twenty-and-one-half months the indictment alleged those fellatios occurred? The answer is clearly yes.

{81} Lente was convicted of four counts of CSP for inserting his finger(s) into M.C.’s vagina. The digital penetration counts in the indictment were all also alleged to have occurred in the last twenty-and-one-half months of the overall charging period. M.C. testified that Lente began penetrating her vagina with his finger(s) in the third or fourth grade. As noted, M.C. stated that the sexual abuse persisted for years after the time the digital penetration began and occurred two or three times a week. M.C. estimated that Lente penetrated her vagina with his finger(s) more than fifty times. Is this testimony sufficient evidence to support the finding Lente penetrated M.C.’s vagina with his finger(s) four times over a twenty-and-one-half month charging period? Again, we think the answer is clearly yes.

{82} As to the CSCM convictions, Lente was convicted of five counts for touching M.C.’s vagina, five counts for touching her breasts, and six counts for touching her buttocks. Unlike the CSP counts, the varying CSCM charges were alleged to have occurred throughout the majority of the forty-and-one-half months the indictment covered. M.C. testified that the sexual abuse began with Lente touching her vagina, breasts, and buttocks. She clarified that this touching occurred both over and under her clothing. As noted, she

stated that Lente abused her two or three times a week for the duration of the time she was abused. M.C. approximated that Lente touched her buttocks “around five” times, touched her breasts more than five times, touched her breasts with his mouth more than five times, and touched her vagina (apart from the times he penetrated it with his fingers) twenty times. Is this testimony sufficiently specific support for the jury’s finding that Lente touched M.C.’s vagina and breasts five times each and her buttocks six times in forty-and-one-half months? Once more, the answer is plainly yes.

{83} Moving to the third and last part of the sufficiency analysis, we must evaluate whether M.C. described the general time period in which the proscribed acts occurred. As we have pointed out several times now, M.C. testified that the abuse occurred two or three times a week for almost the entirety of the forty-and-one-half month indictment period. This statement is not meaningfully different than a child’s estimation that sex abuse occurred each summer or each camping trip. M.C.’s statements are different only in that they prove she was subjected to significant amounts of abuse, amounts perhaps far in excess of what other children in these types of cases experience.

{84} We conclude that the evidence offered in support of the convictions was sufficient. This conclusion eliminates the double jeopardy violation the district court thought occurred here.

### **III. CONCLUSION**

{85} The district court’s order granting Lente’s habeas petition and vacating his convictions is reversed. This matter is remanded for proceedings consistent with this opinion.

**{86} IT IS SO ORDERED.**  
**JUDITH K. NAKAMURA,**  
**Chief Justice**

**WE CONCUR:**  
**BARBARA J. VIGIL, Justice**  
**MICHAEL E. VIGIL, Justice**  
**C. SHANNON BACON, Justice**  
**DAVID K. THOMSON, Justice**

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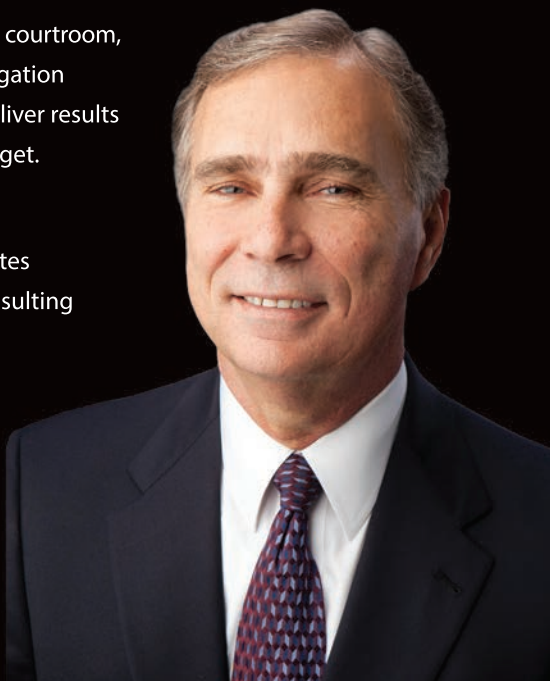
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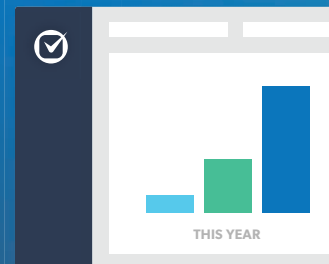
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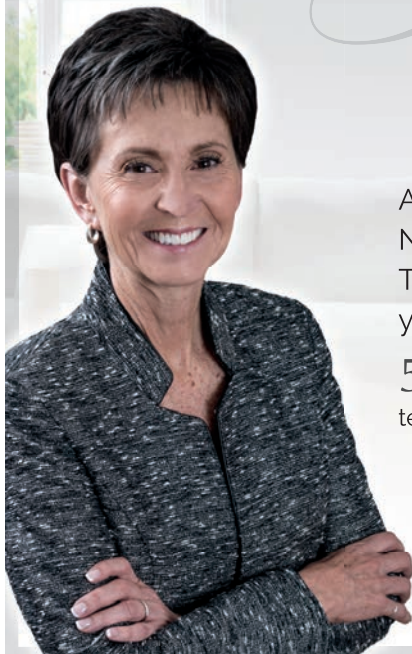
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## Positions

### Full-Time and Part-Time Attorneys

Jay Goodman and Associates Law Firm, PC is seeking one full-time and one part-time attorney. If you are looking for more fulfilling legal opportunities, read on. Are you passionate about facilitating life changing positive change for your clients while having the flexibility to enjoy your lifestyle? If you are looking for meaningful professional opportunities that provide a healthy balance between your personal and work life, JGA is a great choice. If you are seeking an attorney position at a firm that is committed to your standard of living, and professional development, JGA can provide excellent upward mobile opportunities commensurate with your hopes and ideals. As we are committed to your health, safety, and security during the current health crisis, our offices are fully integrated with cloud based resources and remote access is available during the current Corona Virus Pandemic. Office space and conference facilities are also available at our Albuquerque and Santa Fe Offices. Our ideal candidate must be able to thrive in dynamic team based environment, be highly organized/reliable, possess good judgement/people/communication skills, and have consistent time management abilities. Compensation DOE. We are an equal opportunity employer and do not tolerate discrimination against anyone. All replies will be maintained as confidential. Please send cover letter, resume, and a references to: jay@jaygoodman.com. All replies will be kept confidential.

### Attorney Position

Small, collegial Santa Fe, New Mexico firm seeks motivated attorney to become part of busy real estate, business and litigation practice. Looking for attorney with 2-7 years' experience, and strong research, writing and people skills. Excellent opportunity to join a well-established practice as well as to build and develop your own areas of interest. Salary commensurate with experience. Please send resume, references and short writing sample to: Hays & Friedman, P.A., 530-B Harkle Road, Santa Fe, New Mexico 87505, or submit information to ameliham@haysfriedmanlaw.com. All inquiries will be kept confidential.

### Associate Attorney

Scott & Kienzle, P.A. is hiring an Associate Attorney (0 to 10 years experience). Practice areas include insurance defense, subrogation, collections, creditor bankruptcy, and Indian law. Associate Attorney needed to undertake significant responsibility: opening a file, pre-trial, trial, and appeal. Lateral hires welcome. Please email a letter of interest, salary range, and résumé to paul@kienzlelaw.com.

### Senior Trial Attorney

The 13th Judicial District Attorney's Office is accepting resumes for an experienced Senior Trial Attorney. This position requires substantial knowledge in the areas of criminal prosecution, rules of criminal procedure and requires handling complex felony litigation. Six years as a practicing attorney in criminal law with significant trial experience is required. Salary is commensurate with experience. Send resumes to Krissy Fajardo, Program Specialist, P.O. Box 1750, Bernalillo, NM 87004, or via E-Mail to: kfajardo@da.state.nm.us. Deadline for submission of resumes: Open until filled.

### Multiple Trial Attorney Positions Available in the Albuquerque Area

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

### Associate Attorney

Atkinson, Baker & Rodriguez, P.C. is an aggressive, successful Albuquerque-based complex civil commercial and tort litigation firm seeking an extremely hardworking and diligent associate attorney with great academic credentials. This is a terrific opportunity for the right lawyer, if you are interested in a long term future with this firm. A new lawyer with up to 3 years of experience is preferred. Send resumes, references, writing samples, and law school transcripts to Atkinson, Baker & Rodriguez, P.C., 201 Third Street NW, Suite 1850, Albuquerque, NM 87102 or e\_info@abrfirm.com. Please reference Attorney Recruiting.

### Associate Attorney

Stiff, Keith & Garcia is a successful and growing law firm representing national clients, looking for an experienced lawyer to work in the areas of insurance defense and civil litigation. Flexible work environment available. We are looking for an attorney who can handle complex litigation with minimal supervision. We are a congenial and professional firm. Excellent benefits and salary. Great working environment with opportunity for advancement. Send resume to resume01@swcp.com

### Litigation Attorney

Robles, Rael & Anaya, P.C. is looking for an attorney with experience (3-5 years) in civil litigation. The successful candidate should have excellent communication skills (written and oral), be a self-starter who takes ownership of executing tasks, has an ability to manage and prioritize assigned case-load and is an effective team player. We offer a competitive compensation and benefits package, 401k plan, professional development, CLE credits and more. We also offer a defined bonus incentive program. Please submit resume and writing sample to chelsea@roblesrael.com.

### Assistant City Attorney

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

### Litigation Attorney

Cordell & Cordell, P.C., a domestic litigation firm with over 100 offices across 37 states, is currently seeking an experienced litigation attorney for an immediate opening in its offices in Albuquerque and Santa Fe, NM. The candidate must be licensed to practice law in the state of New Mexico, have minimum of 3 years of litigation experience with 1st chair family law preferred. The position offers a significant signing bonus, 100% employer paid premiums including medical, dental, short-term disability, long-term disability, and life insurance, as well as 401K and wellness plan. This is a wonderful opportunity to be part of a growing firm with offices throughout the United States. To be considered for this opportunity please email your resume with cover letter indicating which office(s) you are interested in to Hamilton Hinton at hhinton@cordelllaw.com

### Assistant City 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, approximately 20 hours per week, requiring the attorney to review, approve and negotiate agreements concerning traffic law violations. The attorney will also assist in areas of real estate and land use, governmental affairs, regulatory law, procurement, general commercial transaction issues, and civil litigation. 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 matters before administrative tribunals and in New Mexico State and Federal courts. This is an excellent position for newly licensed attorneys seeking to establish themselves within the legal field of governmental affairs, or for more experienced attorneys desiring to provide public service. 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 a cover letter, 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.

### Divorce Attorney

We are happy to announce that we are expanding our divorce and family law practice in Las Cruces. Lead by attorney Amy Bailey, New Mexico Legal Group has become well established within the local Las Cruces legal community and Courts. We are now looking for another highly motivated, entrepreneurial minded, fun, smart, down to earth divorce attorney to join our team. 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, disability, life and vision insurance, an automatic 3% contribution to 401(k) and future profit sharing. This position is best filled by an attorney who wants to help build something extraordinary. This will be a drama free environment filled with other team members who want to experience something other than your run of the mill divorce firm. 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). All inquiries are completely confidential.

### Associates

Robles Rael & Anaya, P.C. is seeking associates with a minimum of 3 years experience in the area of civil rights and/or local government law. A judicial clerkship will be considered in lieu of experience. Applicant must be motivated and have strong research and writing skills. Associates will have a great opportunity to gain courtroom experience and/or appear before local governing bodies. Competitive salary, benefits, 401k and bonus plan. Inquiries will be kept confidential. Please e-mail a letter of interest and resume to chelsea@roblesrael.com.

### Attorney

Butt Thornton & Baehr PC seeks an attorney with a minimum five years' experience, at least 3 years' of which are in civil litigation. Butt Thornton & Baehr PC is in its 61st year of practice. We seek an attorney who will continue our tradition of excellence, hard work, and commitment to the enjoyment of the profession. Please send letter of interest, resume, and writing samples to Ryan T. Sanders at rtsanders@btblaw.com.

### Flex-time Associate Attorney

Davis & Gilchrist, PC, an AV-rated boutique litigation and trial law firm focused on healthcare fraud and abuse, whistleblower, employment, and legal malpractice cases, is seeking a "flex-time" associate attorney to help with brief writing, discovery, depositions, and trials. "Flex time" is a work-life balancing approach to the practice of law where we do not track associate hours, vacation, or sick leave, as long as the work is getting done well and in a timely fashion. We are looking for someone with 1-5 years of litigation experience, solid research and writing skills, ability to go with the flow, and a sense of humor. The ideal candidate will need to be able to tolerate working on interesting and sometimes not-so-interesting cases in a relaxed-yet-uptight working environment. We offer a competitive salary with the potential for performance-based bonuses, health insurance, and a 401K plan. Send resume and writing sample to lawfirm@davisgilchristlaw.com.

### Contract Civil Legal Attorney

Practice civil and family law with an emphasis on domestic violence orders of protection within the Eight Northern Pueblos. Submit applications to: Desiree Hall/HR Specialist, Desiree@enipc.org, 505-753-6998 (Fax). Or call 505-747-1593 ext. 110 for information. These positions are also posted on indeed.com

### Marine Corps Judge Advocate (Open to Students and Practicing Attorneys)

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### Position Announcement

#### Assistant Federal Public Defender - Albuquerque 2020-06

The Federal Public Defender for the District of New Mexico is seeking a full time, experienced trial attorney for the main office in Albuquerque. More than one position may be filled from this posting. Federal salary and benefits apply. Applicant must have three years minimum criminal law trial experience, be team-oriented, exhibit strong writing skills as well as a commitment to criminal defense for all individuals, including those who may be facing the death penalty. Spanish fluency preferred. Writing ability, federal court, and immigration law experience will be given preference. Membership in the New Mexico Bar is required within the first year of employment. The private practice of law is prohibited. Selected applicant will be subject to a background investigation. The Federal Public Defender operates under authority of the Criminal Justice Act, 18 U.S.C. ' 3006A, and provides legal representation in federal criminal cases and related matters in the federal courts. The Federal Public Defender is an equal opportunity employer. Direct deposit of pay is mandatory. In one PDF document, please submit a statement of interest and detailed resume of experience, including trial and appellate work, with three references to: Stephen P. McCue, Federal Public Defender, FDNM-HR@fd.org. Reference 2020-06 in the subject. Writing samples will be required only from those selected for interview. Applications must be received by July 24, 2020. Position will remain open until filled and is subject to the availability of funding. No phone calls please. Submissions not following this format will not be considered. Only those selected for interview will be contacted.



### **New Mexico Court of Appeals Law Clerk and Senior Law Clerk in Santa Fe**

Newly appointed Court of Appeals Judge Jane Yohalem is seeking a law clerk and senior law clerk. The positions are located in Santa Fe. Court of Appeals law clerks work closely with their judge to write opinions and resolve cases involving all areas of the law. Outstanding legal research and writing skills are necessary. The law clerk position requires one year of experience performing legal research, analysis and writing while employed or as a student and graduation from an ABA accredited law school by the time you begin employment. Current annual salary is \$61,247. The senior law clerk position requires four years of experience in the practice of law or as an appellate law clerk and a New Mexico law license. Current annual salary is \$69,222. Please send resume, cover letter, writing sample and law school transcript to: Anna Box, Court Manager, coamb@nmcourts.gov, 2211 Tucker Avenue, Albuquerque NM, 87106.

### **Attorney – Patient’s Compensation Fund**

Office of Superintendent of Insurance is seeking a Senior Attorney who will provide high level, complex legal advice to the Superintendent of Insurance and the Patient’s Compensation Fund staff. This position requires thorough knowledge of the Medical Malpractice Act and the Administrative Procedures Act and significant insurance regulatory and litigation experience. Applicant must have at least five (5) years of experience. Medical malpractice law, insurance law, administrative law, and/or civil litigation experience preferred. Salary DOE w/benefits. This position will be based in Albuquerque. For more information and to apply please visit: [https://careers.share.state.nm.us/psp/hprdcg/EMPLOYEE/HRMS/c/HRS\\_HRAM\\_FL.HRS\\_CG\\_SEARCH\\_FL.GBL?Page=HRS\\_APP\\_JBPST\\_FL&Action=U&SiteId=1&FOCUS=Applicant&JobOpeningId=112193&PostingSeq=1](https://careers.share.state.nm.us/psp/hprdcg/EMPLOYEE/HRMS/c/HRS_HRAM_FL.HRS_CG_SEARCH_FL.GBL?Page=HRS_APP_JBPST_FL&Action=U&SiteId=1&FOCUS=Applicant&JobOpeningId=112193&PostingSeq=1)

### **Attorney**

Madison, Mroz, Steinman & Dekleva, P.A., an AV-rated civil litigation firm, seeks an attorney with a minimum of two years’ experience to join our practice. We offer a collegial environment with mentorship and opportunity to grow within the profession. Salary is competitive and commensurate with experience, along with excellent benefits. All inquiries are kept confidential. Please forward CVs to: Hiring Director, P.O. Box 25467, Albuquerque, NM 87102.

### **8th Judicial District Attorney Assistant Trial Attorney**

The 8th Judicial District Attorney Office is accepting applications for a full-time Assistant Trial Attorney. This position provides for the prosecution of criminal and non-criminal cases. Requirement: J.D. degree and current license to practice law in New Mexico. Work performed: Incumbent handles a variety of misdemeanors and lower level felony cases, such as DWIs and bad check cases; does legal research for felony cases for higher level attorneys; assists in trial teams; performs non-prosecution duties as assigned and performs other related job duties. Felony work is performed under supervision. Preferred Qualifications: Legal experience totaling up to at least one (1) year. Salary will be based upon experience and the current District Attorney Personnel and Compensation Plan. Please submit resumes/letters of interest to Suzanne Valerio, District Office Manager by mail to 105 Albright Street Suite L, Taos, NM 87571 or by email to [svalerio@da.state.nm.us](mailto:svalerio@da.state.nm.us) no later than July 30, 2020.

### **8th Judicial District Attorney Deputy District Attorney**

The 8th Judicial District Attorney Office is accepting applications for a full-time Deputy District Attorney. This position provides for the prosecution of criminal and non-criminal cases. The incumbent is contemplated to be a career prosecutor and/or provide management for an office division or bureau. The incumbent can act on behalf of the District Attorney as directed. Requirement: Career prosecutor: Licensed attorney to practice law in New Mexico plus a minimum of six (6) years of relevant prosecution experience. Work performed: Incumbent may prosecute all cases, including high level or high profile cases. Incumbent possesses expertise in one or more areas of criminal prosecution; leads special prosecutions assigned by the District Attorney; supervises or mentors other attorneys and/or staff. Incumbent may alternatively be a division/bureau head in a main or satellite office who handles cases as well as substantial administrative duties and tasks. Can act on behalf of the District Attorney as directed. Preferred Qualifications: Career prosecutor: Licensed attorney to practice law in New Mexico, plus eight (8) or more years of relevant prosecution experience. Managing attorney: Licensed attorney to practice law in New Mexico, plus eight (8) or more years of relevant prosecution experience, including three (3) or more years of administrative/management experience. Salary will be based upon experience and the current District Attorney Personnel and Compensation Plan. Please submit resumes/letters of interest to Suzanne Valerio, District Office Manager by mail to 105 Albright Street Suite L, Taos, NM 87571 or by email to [svalerio@da.state.nm.us](mailto:svalerio@da.state.nm.us) no later than July 30, 2020.

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### **Personal Injury Attorney**

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### **Attorney – Healthcare**

The New Mexico Office of Superintendent of Insurance is seeking a Senior Attorney to administer and coordinate all legal, policy-related, and legislative objectives of the Superintendent of Insurance on complex matters of health law and health policy. The healthcare attorney will co-ordinate with federal and state regulatory bodies relating to health insurance, and will manage the legal aspects of the Department’s response to all evolving health insurance-related regulatory issues. The healthcare attorney will also litigate healthcare issues in administrative and judicial tribunals and will participate in healthcare related rule making. Applicant must have at least five (5) years of experience in the practice of law. Health care law, insurance law, administrative law, and/or civil litigation experience preferred. Salary DOE w/benefits. This position will be based in Albuquerque. For more information and to apply please visit: [https://careers.share.state.nm.us/psc/hprdcg/EMPLOYEE/HRMS/c/HRS\\_HRAM\\_FL.HRS\\_CG\\_SEARCH\\_FL.GBL?Page=HRS\\_APP\\_JBPST\\_FL&Action=U&SiteId=1&FOCUS=Applicant&JobOpeningId=112346&PostingSeq=1](https://careers.share.state.nm.us/psc/hprdcg/EMPLOYEE/HRMS/c/HRS_HRAM_FL.HRS_CG_SEARCH_FL.GBL?Page=HRS_APP_JBPST_FL&Action=U&SiteId=1&FOCUS=Applicant&JobOpeningId=112346&PostingSeq=1)

### **Billing And Accounts Payable Position**

Small practitioner law office is seeking a part-time billing and accounts payable professional to handle all client invoicing and accounting for the firm. Candidates must have experience with e-billing (including using multiple online billing platforms) and know basic accounting functions. Good organizational and analytical skills required, and familiarity with task code billing terms. Experience with QuickBooks and Practice Panther a plus. Applicants may submit their resumes by e-mail at [AE@jalblaw.com](mailto:AE@jalblaw.com)

## Paralegal

The City of Albuquerque Legal Department is seeking a Paralegal to assist an assigned attorney or attorneys in performing substantive administrative legal work from time of inception through resolution and perform a variety of paralegal duties, including, but not limited to, performing legal research, managing legal documents, assisting in the preparation of matters for hearing or trial, preparing discovery, drafting pleadings, setting up and maintaining a calendar with deadlines, and other matters as assigned. Excellent organization skills and the ability to multitask are necessary. Must be a team player with the willingness and ability to share responsibilities or work independently. Competitive pay and benefits available on first day of employment. Please apply at <https://www.governmentjobs.com/careers/cabq>.

## Legal Assistant/Paralegal in Los Lunas – 3-5 years Experience

Well established Plaintiff personal injury law firm seeks full-time litigation paralegal with three to five years litigation experience in state and federal court. Bilingual English and Spanish a plus. Candidates with prior personal injury experience have preference. Responsibilities include drafting discovery and pleadings, answering discovery, meeting with clients, requesting and reviewing medical records and bills. E-filing in state and federal court, drafting letters, calendaring, answering phone calls, and providing administrative support to lawyer. Must be able to multi-task. Salary is dependent upon experience. Candidates must have an exceptional work ethic, show attention to detail and be self-starters. Send your resume to [debbie@davidcchavez.com](mailto:debbie@davidcchavez.com)

## Paralegal

The Los Alamos National Laboratory, Office of General Counsel, is seeking a Paralegal to specialize in the fields of the Freedom of Information Act and Privacy. This position will support supervising attorneys in providing prompt, thorough, and quality responses to Freedom of Information Act requests made to the National Nuclear Security Administration for Laboratory records. The candidate will also support response to privacy issues and assist with compliance with the Laboratory's privacy requirements. Responsibilities will include: conducting custodian interviews; collecting, compiling and analyzing data and documents; reviewing documents utilizing electronic discovery software and tools; compliance with the Laboratory's information security requirements; and preparation of clear and concise written work products such as correspondence, instructions, and responses to information requests. Please view the LANL website at <https://lanl.jobs> for the full advertisement and how to apply: IRC80313.

## Paralegal

The Law Offices of Erika E. Anderson, an AV rated Plaintiff's firm, is looking for a full-time experienced paralegal. Candidates must be able to effectively communicate with clients, handle a fast-paced environment with frequent deadlines and have excellent computer skills and organization skills. This position will be responsible for drafting documents and correspondence, filing pleadings with the Court and calendaring deadlines. Competitive salary with benefits offered. If interested, please send a cover letter and resume to [erika@eandersonlaw.com](mailto:erika@eandersonlaw.com).

## Digital Marketing Coordinator

The State Bar of New Mexico seeks outgoing, detail oriented applicants to join our team as a full-time Digital Marketing Coordinator. This position works closely with the staff members of the State Bar and Bar Foundation to communicate its programs and services. The position reports to the Director of Communications and Member Services and works as part of the Communications and Member Services Department and IT staff. The person in this position will perform daily tasks including website maintenance, social media marketing, and email marketing and will oversee programs associated to those tasks. \$17-18/hour, depending on experience and qualifications. Qualified applicants should submit a resume, cover letter and an example of a marketing campaign they have created. EOE. For full details and instructions on how to apply visit <https://www.nmbar.org/NmbarDocs/AboutUs/Careers/DMC2020.pdf>

## Legal Assistant

Solo practitioner seeking an experienced, professional, full-time legal assistant. Practice limited to probate litigation, elder law, guardianships, and a few plaintiff's personal injury cases. The ideal candidate will have experience with MS Office, QuickBooks, Odyssey, and legal billing software. The ideal candidate will possess above-average writing and speaking skills. Duties will include reception, answering multiple telephone lines, scheduling appointments, filing, client billing, bookkeeping, and general office administrative duties. Position offers a very pleasant working environment. Salary \$15-\$18 hour commensurate with experience. Please send a cover letter and resume to [nicole@benhancocklaw.com](mailto:nicole@benhancocklaw.com).

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### For Sale - Office Building

Tired of the Big City? Recently retired attorney has for sale office building, furniture, etc. In Socorro, New Mexico. Email: [gerbrachtlaw@gmail.com](mailto:gerbrachtlaw@gmail.com)

### Travelling to El Paso for work? We have your workspace ready!

Office space available to rent hourly or daily. Located near the airport in Central-East El Paso, rental of the space includes a receptionist, waiting area, desk, wi-fi, printer (copies \$0.10 per page), fax, scanner, and use of our lunch room. \$75.00/day or \$25.00/hour, call (915)599-9883 to check availability and reserve.

## Miscellaneous

### Want To Purchase

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

### For Sale Furniture

Solid oak conference table 4x10 with 8 custom wheeled tilted chairs was 5000 now 3000. Two mahogany bookshelves 750 each. Executive 7 drawer mahogany desk 1250. [delconroylaw@gmail.com](mailto:delconroylaw@gmail.com)

### Search for Will

In search of original LAST WILL and TESTAMENT of GERALDINE E. FISHER of Santa Fe NM. Contact Kelly Oliveira (516) 697-3979.

### Water Rights for Sale

28.7 acre feet of pre1907 water rights and 38 surface acres of irrigable land near the Rio Grande is far south Albuquerque. Zoned A-1. Water rights are subject to approval of the State Engineer of an Application to Change an Existing Water Right. \$35,000.00 per acre. Water rights are available separately. Surface also has MRGCD rights. Call Jim Wybil or Kieth Meyer, Maestas and Ward, 505-878-0001.

## MESSAGE FROM THE MODRALL SPERLING LAW FIRM

The ongoing massive protests across this country and throughout the world, triggered by the recent high-profile, violent killings of racial and ethnic minorities at the hands of authorities, have laid bare this nation's tragic history of systemic racism and injustice. Persistent episodes we have all witnessed of bigotry, brutality and explicit bias are shocking and saddening. But as the multiracial and largely peaceful demonstrators are imploring everyone to understand, the recent horrific events are but symptoms of an infuriating deeper reality that racial and ethnic minorities and the often forgotten communities in which many live have far too long suffered from debilitating effects of racism and social inequalities. The inequalities extend well beyond the criminal justice system to virtually all elements of our society, including health, education and economic opportunity, an undeniable fact further evidenced by the disproportionate impacts we have seen suffered by racial and ethnic minorities (including Blacks, Native Americans and others) from the devastating coronavirus epidemic and the ravaging consequences of unemployment and unrealized economic opportunity.

We are fortunate to live in a state with a rich and diverse history and culture, where many leaders, institutions, businesses, and individuals are committed to promoting and achieving diversity, equity and inclusion. Now as much as ever is the time to promote broad-based racial and social justice across our society. Achieving racial equality and equity is a responsibility that belongs to everyone, and not the least to the professional, business and community leaders who enjoy the good fortunes and opportunities to which our society in its best form aspires, and which should be fully available and accessible to all. Modrall Sperling takes this responsibility seriously and condemns racism in all its forms. As a collection of conscientious individuals, we are dedicated to fostering an environment that embraces differences, promotes equality, and engenders mutual respect, thereby creating a culture of inclusion where everyone has the opportunity to excel. Toward that end, in 2017, we created a Diversity & Inclusion Committee, and have implemented a thorough and detailed Diversity and Inclusion Plan in order to maintain and further enhance diversity in hiring as well as an environment at our firm in which all persons can succeed in their professional endeavors and as individuals.

To further advance the laudable goals of diversity and inclusion within the legal profession, Modrall Sperling announces the establishment of the Max J. Madrid Diversity Scholarship. This scholarship is fittingly named in honor of our former litigation partner, dear friend, and key leader of the firm's recruiting efforts. Max, who tragically passed away in 2012, was a particularly passionate advocate for the goals of diversity and inclusion that we all espouse.

To address the immediate devastating impacts of the coronavirus pandemic and economic impacts on our community, earlier this year Modrall Sperling initiated an ambitiously conceived fundraising campaign, food drive and volunteerism initiative to assist communities in our state who are most devastated. Our lawyers and staff continue to give generously of their time and money to help those in need, and we know and sincerely appreciate that many other individuals and organizations in our community are selflessly doing so as well. We truly are all in this together.

As a firm, we will continue to assist communities disproportionately affected by racial inequities and the global health and economic crises, and to find opportunities for our lawyers and staff to engage in causes relating to civil rights and social justice. This is the kind of action we are called to take as members of the legal profession, and this action is necessary to uphold the promise of a just society.

Tim L. Fields  
President



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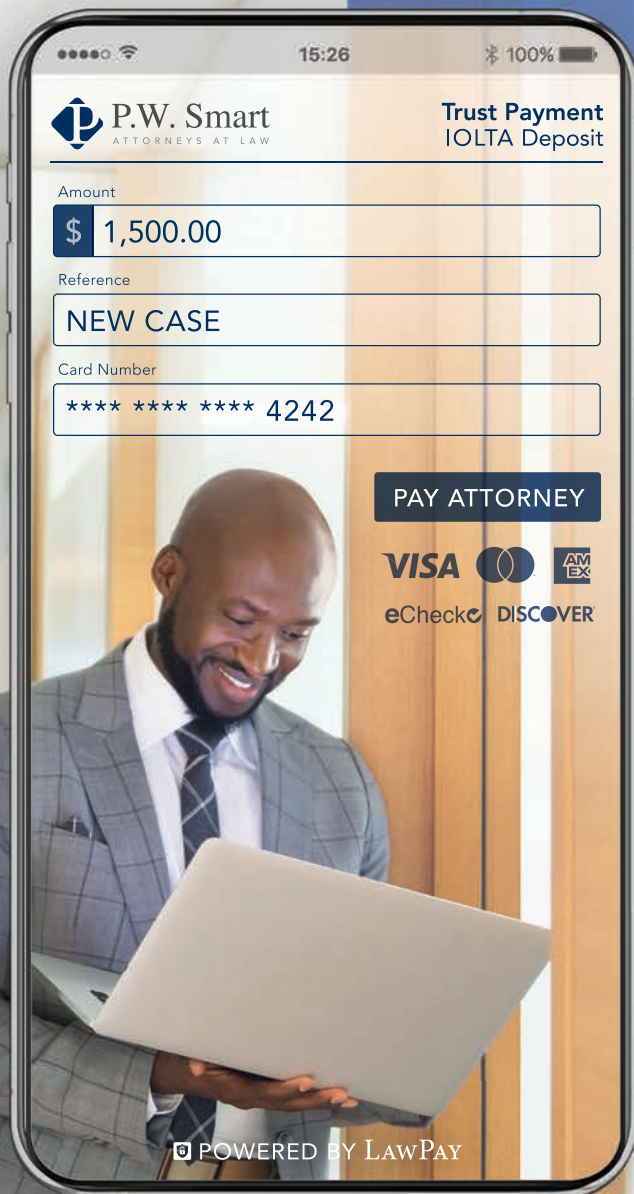
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