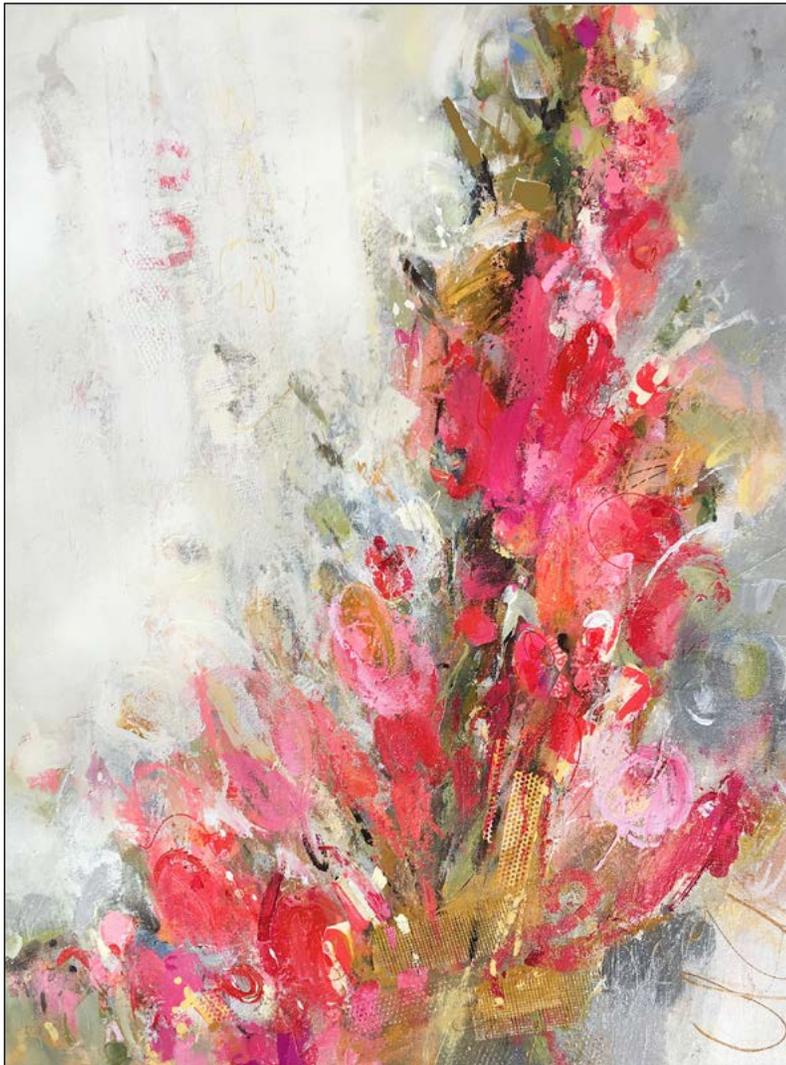


BAR BULLETIN

November 10, 2021 • Volume 60, No. 21



Flip Side, by Janet Bothne (see page 3)

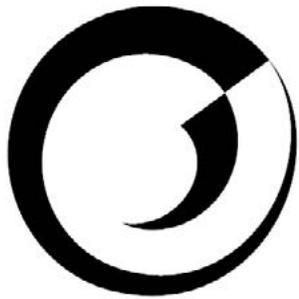
www.janetbothne.com

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CLE
PLANNER

Upcoming Programming from the
CENTER FOR LEGAL EDUCATION



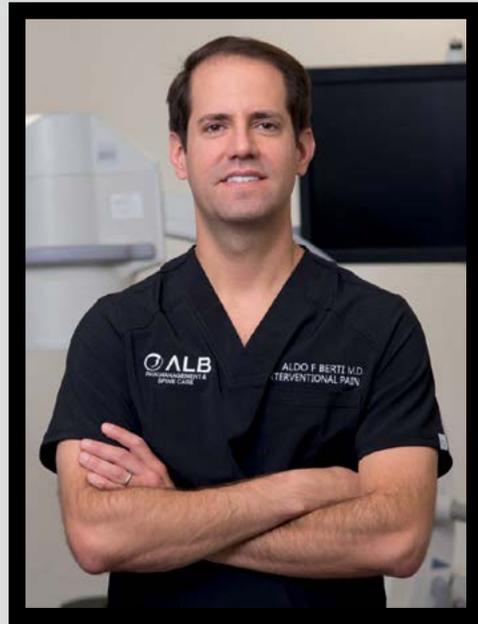
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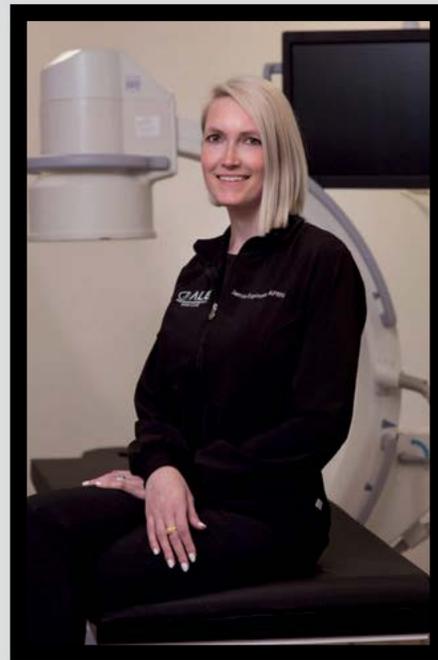
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32 Modrall Sperling Shareholders have been recognized in *The Best Lawyers in America*® 2022.
Six of those have also been named "Lawyer of the Year" in Albuquerque or Santa Fe.
Additionally, three Modrall Sperling Associates have been named Best Lawyers: Ones to Watch.



Daniel Alsup
Public Finance Law
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Albuquerque
Public Finance Law



Stuart Butzier
Environmental Law, Litigation - Environmental,
Mining Law, Natural Resources Law
Lawyer of the Year - Santa Fe
Litigation - Environmental



Stan Harris
Litigation - Land Use and Zoning
Natural Resources Law
Lawyer of the Year - Albuquerque
Natural Resources Law



James Houghton
Construction Law, Litigation - Construction
Real Estate Law
Lawyer of the Year - Albuquerque
Litigation - Construction



Meg Meister
Commercial Transactions / UCC Law
Corporate Law, Real Estate Law
Lawyer of the Year - Albuquerque
Corporate Law



Douglas Vadnais
Bankruptcy and Creditor Debtor Rights / Insolvency and
Reorganization Law, Bet-the-Company Litigation,
Litigation - Bankruptcy, Mortgage Banking Foreclosure Law
Lawyer of the Year - Albuquerque
Bankruptcy and Creditor Debtor Rights /
Insolvency and Reorganization Law

Jennifer Anderson
Commercial Litigation
Litigation - Health Care

Earl DeBrine
Oil and Gas Law
Railroad Law

Joan Drake
Energy Regulatory Law

Spencer Edelman
Bankruptcy and Creditor Debtor Rights/
Insolvency and Reorganization Law

Timothy Fields
Insurance Law, Litigation - Health Care
Personal Injury Litigation, Product Liability
Litigation, Railroad Law

Paul Fish
Bankruptcy and Creditor Debtor Rights/
Insolvency and Reorganization Law, Bet-the-
Company Litigation, Litigation - Bankruptcy,
Mortgage Banking Foreclosure Law

Peter Franklin
Public Finance Law

Jeremy Harrison
Personal Injury Litigation
Product Liability Litigation

Michelle Hernandez
Health Care Law, Litigation - Health Care
Litigation - Insurance

Vanessa Kaczmarek
Tax Law

Karen Kahn
Employee Benefits
(ERISA) Law

Tiffany Roach Martin
Product Liability Litigation

Arthur Melendres
Administrative / Regulatory Law
Education Law, Municipal Law

Christopher Muirhead
Municipal Law
Public Finance Law

Megan Muirhead
Mass Tort Litigation / Class Actions

Brian Nichols
Native American Law

Nathan Nieman
Insurance Law

Jennifer Noya
Employment Law - Individuals
Insurance Law, Litigation - Labor and
Employment, Personal Injury Litigation,
Product Liability Litigation

Maria O'Brien
Water Law

Roberta Cooper Ramo
Arbitration
Mediation

Marjorie Rogers
Business Organizations, Closely Held
Companies and Family Businesses Law,
Litigation and Controversy - Tax, Nonprofit /
Charities Law, Tax Law, Trusts and Estates

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Energy Law, Environmental Law
Natural Resources Law

Lynn Slade
Energy Law, Environmental Law, Native
American Law, Natural Resources Law,
Oil and Gas Law

Sarah Stevenson
Environmental Law
Native American Law

Walter Stern
Energy Law, Environmental Law
Mining Law, Native American Law,
Natural Resources Law, Oil and Gas Law

Alex Walker
Mass Tort Litigation / Class Actions, Personal
Injury Litigation, Product Liability Litigation

Ian Bearden
Ones to Watch - Tax Law

Robin James
Ones to Watch - Energy Law

Mia Kern Lardy
Ones to Watch - Appellate Practice

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State Bar Staff

Executive Director Richard Spinello
Director of Communications and Member Services, Evann Laird
Graphic Designer Julie Sandoval
jsandoval@sbnm.org
Account Executive Marcia C. Ulibarri
505-797-6058 • mulibbarri@sbnm.org
Communications Coordinator Cassandra Scott
505-797-6040 • notices@sbnm.org

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Meetings

November

10
Animal Law Section
 11:30 a.m., teleconference

10
Children’s Law Section
 noon, teleconference

10
Tax Law Section
 9 a.m., teleconference

11
Business Law Section
 4 p.m., teleconference

12
Cannabis Law Section
 9 a.m., teleconference

12
Prosecutors Section
 noon, teleconference

Workshops and Legal Clinics

December

1
 Divorce Options Workshop
 6 p.m., virtual

8
 Consumer Debt/Bankruptcy Workshop
 6 p.m., virtual

2022
Coming soon!

About Cover Image and Artist: Janet Bothne’s artwork focuses on the limitless possibilities color presents as subject matter. Born near Boston, Bothne studied art at the University of Massachusetts at Amherst as well as UCLA, and Brentwood Art Center in California. She has exhibited in numerous venues such as The Los Angeles County Museum’s Sales & Rental Gallery, The Santa Monica Art Museum and Miami Solo. She is currently represented in California, Florida, Massachusetts, Maryland and Texas. She relocated to New Mexico in 2013 where she now shares her enthusiasm for art with the students she coaches in her abstract painting classes at “Studio J” in the North Valley. Visit www.janetbothne.com, email janetbothne@mac.com, or call 310-666-1944.

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. Library Hours: Monday-Friday 8 a.m.-noon and 1 p.m.-5 p.m. For more information call: 505-827-4850, email: libref@nmcourts.gov or visit <https://lawlibrary.nmcourts.gov>.

Third Judicial District Court Mass Reassignment of Cases

On Aug. 25, Gov. Michelle Lujan-Grisham appointed Casey Fitch in Division V of the Third Judicial District Court. Effective Dec. 1, a mass reassignment of all pending cases previously assigned to the Honorable Lisa C. Schultz, District Judge, Division V, shall be reassigned to Honorable Casey Fitch. Pursuant to Supreme Court Rule 1.088, parties who have not yet exercised a peremptory excusal will have 10 days from Dec. 1 to excuse Judge Fitch.

U. S. District Court fort the District of New Mexico Nomination of Margaret Strickland Confirmed by the Senate

With the U.S. Senate recently voting to confirm the Presidential nomination of Margaret Strickland to be a U.S. District Judge for the District of New Mexico, President Joe Biden signed the commission formally appointing Ms. Strickland to the position of U.S. District Judge on Oct. 22. On Oct. 25 in Las Cruces, U.S. District Judge Kenneth J. Gonzales administered the oath of office to Ms. Strickland thereby allowing her to become the 24th U.S. District Judge in New Mexico since statehood in 1912. Las Cruces will be the official duty station for Judge Strickland and there will be a formal ceremony at the U.S. Courthouse in Las Cruces in the coming weeks.

Professionalism Tip

With respect to my clients:

I will work to achieve lawful objectives in all other matters, as expeditiously and economically as possible.

Service on Court Committee

Chief Judge William P. Johnson and the Article III District Judges for the District of New Mexico would like to solicit interest from Federal Bar members for service on the Federal Bench and Bar Fund Committee. This Committee advises the Court and the Fund's Custodian with respect to the administration and operation of the Fund. See Administrative Order Misc. No. 91-09 for more information regarding the Federal Bench and Bar Fund. All interested Federal Bar members in good standing should reply by Nov. 30 to the Clerk of Court, U. S. District Court, 333 Lomas Blvd. NW, Suite 270, Albuquerque, NM 87102; or by email to clerkofcourt@nmd.uscourts.gov to be considered for appointment to the Committee.

STATE BAR NEWS 2022 Budget Disclosure Deadline to Challenge Expenditures

The State Bar of New Mexico Board of Bar Commissioners has completed its budgeting process and finalized the 2022 Budget Disclosure, pursuant to the State Bar Bylaws, Article VII, Section 7.2, Budget Procedures. The budget disclosure is available in its entirety on the State Bar website at www.sbnm.org on the financial information page under the About Us tab. The deadline for submitting a budget challenge is on or before 5 p.m., Nov. 30, 2021, and the form is provided on the last page of the disclosure document. The BBC will consider any challenges received by the deadline at its Dec. 8, 2021, meeting. Address challenges to: Executive Director Richard Spinello, State Bar of New Mexico, PO Box 92860, Albuquerque, NM 87199; or rsinello@sbnm.org. Challenges may also be delivered in person to the State Bar Center, 5121 Masthead NE, Albuquerque, NM 87109.

Board of Bar Commissioners Appointment to New Mexico State Bar Foundation Board

The Board of Bar Commissioners of the State Bar of New Mexico will appoint

one director to the New Mexico State Bar Foundation Board for a three-year term. The New Mexico State Bar Foundation is the charitable arm of the State Bar of New Mexico representing the legal community's commitment to serving the people of New Mexico and the profession. The goals of the Foundation are to enhance access to legal services for underserved populations, promote innovation in the delivery of legal services, and provide legal education to members and the public. Active status members interested in serving on the Board should submit a letter of interest and a resume to bbc@sbnm.org by Nov. 29.

Appointment to Client Protection Fund Commission

The Board of Bar Commissioners will make one appointment to the Client Protection Fund Commission for a three-year term. To be eligible, you must be an active status member of the State Bar with a principal office in New Mexico. Members who would like to serve on the Commission should send a letter of interest and brief resume by Nov. 17 to bbc@sbnm.org.

Appointments of Commissioners to Vacancies Seventh and Thirteenth Judicial Districts and the Eleventh Judicial District

No nomination petitions were received for two positions in the Seventh and Thirteenth Judicial Districts and one position in the Eleventh Judicial District, so the Board of Bar Commissioners will need to make appointments to those districts. The term will commence Jan. 1, 2022, and expire Dec. 31, 2022. Active status members with a principal place of practice (address of record) in the Judicial Districts with vacancies are eligible to apply. The 2022 Board of Bar Commissioners meetings are scheduled for: Feb. 25, May 20-21 (Las Cruces, in conjunction with a board retreat and member district event), August 11 (Hyatt Regency Tamaya Resort, in conjunction with the State Bar Annual Meeting), Oct. 21, and Dec. 7. Members interested in serving on the Board should submit a letter of interest and resume to

bbc@sbnm.org by close of business on Nov. 24.

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 <https://www.sbnm.org/covid> 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@sbnm.org.

New Mexico Judges and Lawyers Assistance Program Defenders in Recovery

Defenders in Recovery meets every Wednesday night at 5:30 p.m. The first Wednesday of the month is an AA meeting and discussion. The second is a NA meeting and discussion. The third is a book study, including the AA Big Book, additional AA and NA literature including the Blue Book, Living Clean, 12x12 and more. The fourth Wednesday features a recovery speaker and monthly birthday celebration. These meetings are open to all who seek recovery. We are a group of defenders supporting each other, sharing in each other's recovery. We are an anonymous group and not affiliated with any agency or business. Anonymity is the foundation of all of our traditions. Who we see in this meeting, what we say in this meeting, stays in this meeting. For the meeting link, send an email to defendersinrecovery@gmail.com or call Jen at 575-288-7958.

Employee Assistance Program

NMJLAP contracts with The Solutions Group, The State Bar's EAP service, to bring you the following: FOUR FREE counseling sessions per issue, per year. This EAP service is designed to support you and your direct family members by offering free, confidential counseling services. Check out the MyStress Tools which is an online suite of stress management and resilience-building resources. Visit www.sbnm.org/EAP. or call 866-254-3555. All

resources are available to members, their families, and their staff. Every call is completely confidential and free.

Monday Night Attorney Support Group

The Monday Night Attorney Support Group meets at 5:30 p.m. on Mondays by Zoom. 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 Moore at pmoore@sbnm.org or Briggs Cheney at BCheney@DSCLAW.com for the Zoom link.

NMJLAP Committee Meetings

The NMJLAP Committee will meet at 10 a.m. on Jan. 8, April 2, and July 9, 2022. The NMJLAP Committee was originally developed to assist lawyers who experienced addiction and substance abuse problems that interfered with their personal lives or their ability to serve professionally in the legal field. Over the years the NMJLAP Committee has expanded their scope to include issues of depression, anxiety and other mental and emotional disorders for members of the legal community. This committee continues to be of service to the New Mexico Judges and Lawyers Assistance Program and is a network of more than 30 New Mexico judges, attorneys and law students.

N.M. Well-Being Committee Upcoming Meeting

The next meeting of the N.M. Well-Being Committee is 1 p.m. at Nov. 30. The Committee was established in 2020 by the State Bar of New Mexico's Board of Bar Commissioners. The N.M. Well-Being Committee is a standing committee of key stakeholders that encompass different areas of the legal community and cover state-wide locations. All members have a well-being focus and concern with respect to the N.M. legal community. It is this committee's goal to examine and create initiatives centered on wellness.

Well-Being In Action Podcast

Look for the latest installments of the Well-Being in Action Podcast! Lawyering

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Ruby's friendly, U.S.-based virtual receptionists answer your phone calls, 24/7/365, as a true extension of your firm! Answering with your custom greeting, they're then able to make live transfers, take messages, perform intake, help with calendaring, or even assist with calendaring. Ready to answer all calls or be used as backup, Ruby is the best teammate you never had. State Bar members receive an 8% lifetime discount on all plans!
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by Video, Part 2, was released on Oct. 27, and Compassion Fatigue, Part 2, will release on Nov. 10. Listen online at www.sbnm.org/WellBeingPodcast or on Apple Podcasts and Spotify.

UNM SCHOOL OF LAW Law Library Hours

Due to COVID-19, UNM School of Law is currently closed to the general public. The building remains open to students, faculty and staff, and limited in-person classes are in session. All other classes are being taught remotely. The law library is functioning under limited operations, and the facility is closed to the general public until further notice. Reference services are available remotely Monday through Friday, from 9 a.m.-6 p.m. via email at UNMLawLibref@gmail.com or voice-mail at 505-277-0935. The Law Library's document delivery policy requires specific citation or document titles. Please visit our Library Guide outlining our Limited Operation Policies at: <https://libguides.law.unm.edu/limitedops>.

BOARD OF BAR COMMISSIONERS MEETING SUMMARY

The Board of Bar Commissioners for the State Bar met in person and virtually on Oct. 7. Action taken at the meeting follows:

- Approved the June 11 meeting minutes;
- Approved the 2022 budget;
- Received information on the new website and database and new MCLE and licensing portals for the Board's information in communicating with constituents;
- Received an update on the three-year strategic plan and timeline;
- Elected the 2022 officers as follows: Erin Atkins as Secretary-Treasurer, Ben Sherman as President-Elect, and Carolyn Wolf as President;
- Held an executive session to discuss a personnel matter;
- Appointed Donna Connelly as chair of the Access to Justice Fund Grant Commission;
- Reviewed petitions for continuance from the Legal Services and Programs Committee, Animal Law Section, Health Law Section, Immigration Law Section, and Tax Law Section, and approved continuing all of them for another five years;
- Denied a request for funding from the Foundation on Open Government;
- Received a report on the Executive Committee, which included the following: 1) denial of a licensing fee waiver request, 2) approval of the Annual Awards Committee recommendations for the 2021 annual award recipients, and 3) reviewed the meeting agenda; ratified the action taken by the committee;
- Received a report on the Finance Committee, which included: 1) approval of the 2022 budget, 2) review and acceptance of the August 2021 financials, 3) approval of a recommendation to allow sections to carryover all of their funds to 2022; 3) approval of amendments to the financial policies; and 4) reviewed the Client Protection Fund, Access to Justice and Judges and Lawyers Assistance Program Second Quarter 2021 financials (for the Board's information only);
- Received a report on the Special Committee on Sections which recommended an amendment to the bylaws regarding lobbying;
- Received a report from the Policy and Bylaws Committee and reviewed amendments to the State Bar Bylaws for which 30 days' notice is required prior to approval; an additional amendment was requested regarding lobbying, so the change will be made and the bylaws will be sent out 30 days prior to the December meeting to be voted on at that meeting;
- Received a report on the Special Committee on Diversity and Gender Recommendations and met the State Bar's new Equity in Justice Program Manager Dr. Amanda Parker who will be working with the Committee and Diversity and Committee on Women and the Legal Profession on the recommendations;
- Received a report on the Annual Awards Committee, which reviewed the nominations and made recommendations for the 2021 Annual Award recipients; the awards were presented during the Annual Meeting; recommended creating a new State Bar Well-Being Award; the recommendation was approved and the criteria will be determined by the Well-Being Committee;
- Received information and a communications plan for the rollout to the membership on the new licensing and MCLE Rules, which were amended to align the licensing and MCLE rules and streamline the process;
- Received an update on the projects and initiatives of the Real Property, Trust and Estate Section;
- Reported that Christina Sheehan was appointed to the Rocky Mountain Mineral Law Foundation;
- Received a report from the President-Elect, which included the following: the 2022 Board meeting dates as follows: Feb. 25, May 20-21 (Las Cruces, in conjunction with a board retreat and member district event), Aug. 11 (Tamaya, in conjunction with the Annual Meeting), Oct. 21, and Dec. 7 (Supreme Court); a report on the NCBP Annual Meeting; and the creation of a Membership Survey Committee which will be sent out next year;
- Received a report on the Bar Foundation Strategic Planning Retreat held in person and virtually on September 10-11; and
- Received a written report from the executive director and an update on the Board election and districts with vacancies.

The minutes in their entirety will be available on the State Bar's website following approval by the Board at the Dec. 8 meeting.

Nominations
now open for the
**JUSTICE
PAMELA B. MINZNER
Outstanding Advocacy
for Women Award**

The State Bar of New Mexico's Committee on Women and the Legal Profession (CWLP) is seeking nominations for the **JUSTICE PAMELA B. MINZNER OUTSTANDING ADVOCACY FOR WOMEN AWARD**. The CWLP gives this award to New Mexico attorneys who have distinguished themselves during the prior year(s) by providing legal assistance to women who are underrepresented or underserved, or by advocating for causes that will ultimately benefit and/or further the rights of women. If you know of a New Mexico licensed attorney, of any gender, who has embodied the spirit of Pamela B. Minzner Outstanding Advocacy for Women Award in the past year(s), we encourage you to nominate this individual for this Award.

The CWLP will consider awarding up to two recipients this year, for work done in 2019 and/or in 2020. The award(s) will be presented at the Dec. 9 CLE presentation. Save the date!

Nominations will be due by 5 p.m. MST on Wednesday, Nov. 17.
Visit www.sbnm.org/cwlp to submit your nomination!



State Bar of New Mexico
Committee on Women
and the Legal Profession

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State Bar of New Mexico
Judges and Lawyers
Assistance Program



The
Solutions
Group

Services include up to four **FREE** counseling sessions/issue/year for ANY mental health, addiction, relationship conflict, anxiety and/or depression issue. Counseling sessions are with a professionally licensed therapist. Other **FREE** services include management consultation, stress management education, critical incident stress debriefing, video counseling, and 24X7 call center. Providers are located throughout the state.

To access this service call 855-231-7737 and identify with NMJLAP. All calls are **CONFIDENTIAL**.
Brought to you by the New Mexico Judges and Lawyers Assistance Program
www.sbnm.org

Why Lawyers Need Self-Care

*“Self-care is not selfish.
You cannot serve from an empty vessel.”*

~Eleanor Brown

BY SARAH MYERS, ESQ., LMFT, LAC

The most important relationship we have is the one with ourselves. Sounds corny, doesn't it? But it's true. The beliefs you have about yourself; the way you talk to yourself; how you see yourself; how you treat yourself; and what you think about yourself directly impacts your mood, your physical and mental health, how you treat others, your relationships, your ability to learn; and your memory, to name a few.

Do you metaphorically “kick yourself in the butt” more than you “pat yourself on the back?” As a group, lawyers tend to do this more often than not. We are in a competitive field where there is little room for error and even less room for forgiveness or understanding. Keep in mind, however, that being tough on yourself affects many other people.

Our perception of reality is also based on how we view ourselves. We project who we are and what we think onto other people all the time, assuming (usually incorrectly) that we “know” people's motivations or reasons for their words or behaviors. These assumptions, minus clear communication, lead to and worsen conflict and misunderstandings every day.

Photo by Saffu on Unsplash



Take a few minutes and think about how you treat yourself. Do you take care of your physical health, exercise, eat well, and meditate? Do you take care of your emotional health, soothing yourself when you experience negative emotions and encouraging yourself when you need a cheering squad? Do you take care of your mental health, such as thinking positive thoughts instead of self-deprecating thoughts, allowing yourself to focus on what is important to you and to rest your mind when you need it rather than racing thoughts all the time?

When we neglect to care for ourselves, the care and nurturing we provide to others suffers. As lawyers, we are in the business of helping people. It looks different depending on what type of law you practice; but at the end of the day, lawyers serve the needs of others. If we aren't taking care of ourselves, we won't be able to take care of our clients, nor will we be of much use at home with family or friends. And, worse yet, our health will suffer. As Sharon Salzberg said:

“Generosity coming from self-hatred becomes martyrdom. Morality coming from self-hatred becomes ridged repression. Love for others without the foundation of love for ourselves becomes a loss of 2 boundaries, codependency, and a painful & fruitless search for intimacy.”

There are many simple things you can do daily to take care of yourself, to create happy moments, and to combat loneliness and depression. Some examples include watching a sunrise or sunset, playing with your pets, watching a funny TV show or movie, and singing out loud to your favorite song. You are probably doing many things that qualify as “self-care” already. The trick is to slow down, acknowledge that you are doing them to take care of yourself, and then appreciate your efforts. When you do this, the nervous system responds by producing healthy chemicals that counteract the negative side effects of stress. Research also shows that increasing your joy, gratitude, and sense of peace and calm a little bit everyday will improve your efficacy as an attorney, your physical health, and even your relationships. Treating yourself better does not have to be complicated. As ETTY HILLESUM eloquently said, “Sometimes the most important thing in a whole day is the rest we take between two deep breaths.” If it helps to get you started, adopt the mindset of Audrey Lorde: “I have come to believe that caring for myself is not self-indulgent. Caring for myself is an act of survival.”●

Sarah Myers, Esq., LMFT, LAC, is the Executive Director of the Colorado Lawyer Assistance Program (COLAP). COLAP is the free, confidential and independent well-being program for the legal community of Colorado. For more information, go to www.coloradolap.org. For a confidential consultation, discussion about your stressors, or to obtain helpful resources, contact COLAP at 303-986-3345 or info@coloradolap.org.

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ARTURO L. JARAMILLO

Summer Law Clerk Program

- Does your firm, business, or organization want to be part of an ABA Awarded program? It's the only one of its kind in the country!
- Do you want to help ignite first year law student's passion in your field of law?
- Are you committed to promoting diversity and inclusion through the membership of the State Bar?

If you answered yes to one or all of these questions, then participating in the Arturo Jaramillo Clerkship Program can help accomplish these goals! Arturo L. Jaramillo, the first Hispanic president of the State Bar of New Mexico, developed the Summer Law Clerk Program ("Program") in 1993 to offer first year law students of diverse backgrounds the opportunity to clerk in legal settings that provide a foundation for the students' law careers and to promote equal employment opportunities for persons who have historically been under-represented in the legal profession. The Program creates employment opportunities in medium and large law firms, state and local public agencies, and corporate law departments in New Mexico by providing a summer law clerk experience for motivated and deserving law students who meet the programs eligibility criteria.

To learn more, please contact the organizers of the event!

MORRIS CHAVEZ
mo@saucedochavez.com

AMANDA NELSON
anelson@cuddymccarthy.com

DANIEL APODACA
dapodaca@saucedochavez.com



State Bar of New Mexico
Committee on Diversity
in the Legal Profession

REPORT BY DISCIPLINARY COUNSEL DISCIPLINARY QUARTERLY REPORT

Reporting Period: July 1, 2021 – September 30, 2021

Final Decisions

Final Decisions of the NM Supreme Court 1

Matter of Margaret Yvonne Romero (No, S-1-SC-38676)
Respondent's application for reinstatement from administrative suspension was granted on August 31, 2021.

Summary Suspensions

Total number of attorneys summarily suspended 0
Total number of attorneys summarily suspended (reciprocal) 0

Administrative Suspensions

Total number of attorneys administratively suspended..... 0

Disability Inactive Status

Total number of attorneys removed from disability inactive states 0

Charges Filed

Charges were filed against an attorney for allegedly providing financial assistance to a client in connection with pending contemplated litigation; having sexual relations with a client; real time live solicitation; engaging in conduct prejudicial to the administration of justice.

Charges were filed against an attorney for allegedly revealing information relating to the representation of a client without the client's informed consent.

Injunctive Relief

Total number of injunctions prohibiting the unauthorized practice of law 0

Reinstatement from Probation

Petitions for reinstatement filed 1

Formal Reprimands

Total number of attorneys formally reprimanded 3

Informal Admonitions

Total number of attorneys admonished 1

Letters of Caution

Total number of attorneys cautioned 8

Attorneys were cautioned for the following conduct: (1) meritless claims or defenses; (2) failure to communicate; (3) prosecutorial misconduct, (3) dishonesty, deceit, fraud, misrepresentation, (4) excessive or improper fees.

Complaints Received

Allegations.....	No. of Complaints
Trust Account Violations	0
Conflict of Interest	4
Neglect and/or Incompetence	19
Misrepresentation or Fraud	11
Relationship with Client or Court	1
Fees.....	11
Improper Communications.....	0
Criminal Activity	0
Behavior.....	1
Other	85
Total number of complaints received	132

Legal Education

November

- | | | | | | |
|----|--|----|---|----|---|
| 10 | 2021 Cannabis Law Institute
4.8 G
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org | 17 | Lawyer Ethics When Storing Files in the Cloud
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org | 22 | Equity and Diversity in Law Practice: Best Practices for Law Firms
1.0 EP
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org |
| 10 | Trust and Estate Planning for Retirement Plans - IRAs, 401(k)s, and More
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org | 18 | 2021 Probate Institute
5.5 G, 1.0 EP
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org | 23 | Going Over: Employment Law Issues When a Key Employee Leaves for a Competitor
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org |
| 15 | Sketching Competing Solutions in Access to Justice
1.5 G
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org | 19 | Structuring Minority Ownership Stakes in Companies
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org | 30 | Ethics for Transactional Lawyers
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org |
| 16 | Strategies and Techniques for Rural Community Organizing and Legal Advocacy
1.5 G
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org | 19 | 2021 Animal Law Institute: Animal Cruelty, Police, Prosecution, and Policy
3.5 G
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org | 30 | Me Too: Sexism, Bias, and Sexual Misconduct in the Legal Profession
1.0 EP
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org |
| 16 | Environmental Liability in Commercial Real Estate Transactions
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org | 22 | Lawyer Ethics and Texting
1.0 EP
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org | | |

December

- | | | | | | |
|---|---|---|---|---|---|
| 1 | Business Torts: How Transactions Spawn Litigation, Part 1
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org | 3 | Ethics of Joint Representations: Keeping Secrets & Telling Tales
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org | 7 | Let Me Ask You a Question. Suppose I Was Considering... (Mock Meeting of the Ethics Advisory Committee)
1.0 EP
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org |
| 2 | Business Torts: How Transactions Spawn Litigation, Part 2
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org | 6 | Basics of Trust Accounting: How to Comply with Disciplinary Board Rule 17-204
1.0 EP
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org | 7 | In For a Penny, In for A Pound; Ethical Issues Associated with Co-Counsel Arrangements
1.0 EP
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org |

December

- | | | |
|--|---|--|
| <p>8 Ethics of Social Media Research
1.5 EP
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>17 Trust & Estate Planning for Client Privacy in a Public World
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>27 REPLAY: Minimizing Cultural Errors in Professional Practice (2020)
1.5 EP
Live Replay Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>9 Drafting Property Management Agreements
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>17 Flashes of Brilliance: Putting the Power Back in PowerPoint
1.0 G
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>27 REPLAY: Minimizing Cultural Errors in Professional Practice (2020)
1.5 EP
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>9 OneDrive: How Do I Use It
1.0 EP
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>18 2021 Elder Law Institute
5.5 G, 1.0 EP
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>28 Ethics Lessons from a Jersey Guy with Stuart Teicher
0.5 G, 2.5 EP
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>10 Ethics & Artificial Intelligence: What Lawyers Should Know
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>20 Ethics and Conflicts with Clients, Part 1
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>28 Ethical Issues Representing a Band: Using the Beatles
1.0 EP
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>13 Basics of Trust Accounting: How to Comply with Disciplinary Board Rule 17-204
1.0 EP
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>21 Ethics and Conflicts with Clients, Part 2
1.0 EP
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>28 An Afternoon of Legal Writing with Stuart Teicher
3.0 G
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>14 Gain the Edge! Negotiation Strategies for Lawyers
5.0 G, 1.0 EP
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>21 Spinning Plates: Task Management for Lawyers
1.0 EP
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>28 Ethics Lessons from a Jersey Guy
0.5 G, 2.5 EP
In Person and Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>15 Legal Malpractice Insurance and Claims Avoidance 101
1.0 EP
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>22 Talking About wealth Transfer Plans: Practical Strategies to Avoid Disputes Among Beneficiaries
1.0 G
Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> | <p>28 An Afternoon of Legal Writing with Stuart Teicher
3.0 G
In Person and Live Webinar
Center for Legal Education of NMSBF
www.sbnm.org</p> |
| <p>16 Letters of Intent in Real Estate Transactions
1.0 G
Teleseminar
Center for Legal Education of NMSBF
www.sbnm.org</p> | | |

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@sbnm.org. Include course title, credits, location/course type, course provider and registration instructions.

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 October 22, 2021

PUBLISHED OPINIONS

A-1-CA-39333	State v. L Begaye	Affirm	10/21/2021
A-1-CA-38910	CYFD v. Douglas B	Reverse/Remand	10/22/2021
A-1-CA-38983	CYFD v. Sara E	Reverse/Remand	10/22/2021

UNPUBLISHED OPINIONS

A-1-CA-37776	State v. R Rodriguez	Affirm	10/18/2021
A-1-CA-38393	H. Salazar v. Bern Co Water Utility Authority	Affirm	10/18/2021
A-1-CA-39355	M Khalsa v. Rose L. Brand & Associates	Affirm	10/18/2021
A-1-CA-39651	State v. N Flowers	Affirm	10/18/2021
A-1-CA-39795	CYFD v. Stephanie R	Affirm	10/18/2021
A-1-CA-38030	AUI, Inc. v. NM Department of Transportation	Affirm	10/20/2021
A-1-CA-38149	State v. D Duarte	Affirm	10/20/2021
A-1-CA-38346	CYFD v. Frank C	Reverse/Remand	10/20/2021
A-1-CA-38028	State v. J Hernandez	Affirm	10/21/2021
A-1-CA-39533	State v. C Henson	Affirm	10/21/2021

Effective October 15, 2021

PUBLISHED OPINIONS

A-1-CA-37486	State v. L Garcia	Affirm/Reverse/Remand	10/14/2021
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UNPUBLISHED OPINIONS

A-1-CA-39157	Open Access NM v. N Koluncich	Affirm	10/05/2021
A-1-CA-38918	State v. J Serna	Affirm	10/06/2021
A-1-CA-37692	State v. A Dunsworth	Affirm/Vacate/Remand	10/12/2021
A-1-CA-39346	State v. M Trujillo	Reverse	10/12/2021
A-1-CA-37777	State v. F Lucero	Affirm	10/13/2021
A-1-CA-39127	CYFD v. Mackenzie B	Affirm	10/13/2021
A-1-CA-39414	K Kruskal v. Taos Diner	Affirm	10/13/2021
A-1-CA-39523	J Liles v. J Liles	Affirm	10/13/2021
A-1-CA-38757	State v. M Romero	Affirm/Reverse/Remand	10/15/2021
A-1-CA-39091	CYFD v. Jeremy M	Affirm	10/15/2021

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

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

Rules/Orders

<http://nmsupremecourt.nmcourts.gov>

From the New Mexico Supreme Court

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

Disciplinary No. 2021-03-4488

In the Matter of
BRIAN JEFFRIES, ESQ.

An attorney on inactive status to practice before the Courts of the State of New Mexico

FORMAL REPRIMAND

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

You first obtained your New Mexico law license in October of 2017. You became licensed in Virginia as well, obtaining that license in 2018. You practiced as a law clerk in Virginia and requested and obtained inactive status for your law license in New Mexico in February of 2019.

In July of 2020, you received an offer of employment from the Second Judicial District Attorney's Office in New Mexico while you still lived in Virginia. You advised the human resources director for that office that your New Mexico law license was inactive and that you would reinstate your law license to active status. The human resources director advised you to pick a start date and to apply for a limited law license in New Mexico. You and the human resources director agreed on a start date of August 24, 2020.

You completed the Character and Fitness portion of the reinstatement application and paid the \$500 fee to the New Mexico Board of Bar Examiners. However, you did not completely fill out the application and were so notified by the Board of Bar Examiners of that on August 28, 2020.

In response to that notification, you sent an email to the Board of Bar Examiners advising them you were seeking both a reinstatement of your inactive license and applying for a limited license. However, you did not complete either application despite paying the fees for both.

On or about September 7, 2020, you commenced employment with the Second Judicial District Attorney's Office. While supervised by other personnel from that Office, you appeared in Court and represented the state in various matters, despite the fact you had not obtained either a limited law license and you had not been reinstated to the active practice of law in New Mexico.

On or about December 8, 2020, you were advised by your supervisor that you did not have an active New Mexico law license, and shortly thereafter were placed on administrative leave pending an investigation. You voluntarily resigned from your position on December 11, 2020.

Your conduct in this matter was found have violated Rule 16-101, by failing to provide competent representation; Rule 16-505(A), by practicing law in a jurisdiction in violation of the regulation of the legal profession of that jurisdiction; Rule 16-505(D)(1), by being a non-admitted lawyer and establishing a continuous presence in this jurisdiction for the practice of law; Rule 16-505(D)(2), by being a non-admitted lawyer and representing the lawyer is licensed to practice law in this state; and Rule 16-804(D), by engaging in conduct prejudicial to the administration of justice.

You have expressed remorse for these transgressions and have been cooperative throughout the disciplinary proceeding. It is hoped that you have learned from the experience and the misconduct will not reoccur.

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

Dated: October 15, 2021
The Disciplinary Board of the New Mexico Supreme Court

By
Hon. Cynthia Fry (Ret.)
Board Chair

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

Disciplinary No. 2021-06-4492

IN THE MATTER OF
JAMES T. LOCATELLI, ESQ.

An Attorney Licensed to Practice Law before the Courts of the State of New Mexico

FORMAL REPRIMAND

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

Committee and a Disciplinary Board Panel. You have been forthright and cooperative in the disciplinary process.

A client ("Client") submitted a disciplinary complaint against you. You represented Client in a judicial action by the Children, Youth & Families Department (CYFD), alleging child abuse by Client. A Guardian ad Litem (GAL) represented the children.

On February 14, 2021, in reply to your frank email to Client, Client replied with five strongly worded paragraphs. On February 15, 2021, intending to forward the Client's email to the GAL, with the statement asking her to "keep this to yourself," you inadvertently sent the email to Client. You ultimately did email the Client's email to the GAL. You state that you hoped the GAL would have a more positive influence on Client than you had been able to

accomplish, by knowing where he stood. However, the email was a confidential communication, and none of the exceptions to the duty of confidentiality applied. There is no evidence of injury to the Client.

Your conduct violated the following Rules of Professional Conduct: Rule 16-106(A) of the Rules of Professional Conduct, by revealing information to the representation of a client without the client's informed consent. You are hereby formally reprimanded for these acts of misconduct pursuant to Rule 17-206(A)(5) of the Rules Governing Discipline. The formal reprimand will be filed with the Supreme Court in accordance with 17-206(D) and will remain part of your permanent records with the Disciplinary

Board, where it may be revealed upon any inquiry to the Board concerning any discipline ever imposed against you. In addition, in accordance with Rule 17-206(D), the entire text of this formal reprimand will be published in the State Bar of New Mexico *Bar Bulletin*.

Dated: October 15, 2021

The Disciplinary Board of the New Mexico Supreme Court

By

Hon. Cynthia Fry (Ret.)

Board Chair

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

Disciplinary No. 2021-02-4483

In the Matter of

Alan H. Maestas, Esq.

An Attorney Licensed to Practice Law Before the Courts of the State of New Mexico

FORMAL REPRIMAND

You are being issued this Formal Reprimand pursuant to a *Conditional Agreement Not to Contest the Allegations and Consent to Discipline* which was approved by a Hearing Committee and a Disciplinary Board Panel.

You did not contest that the facts as pleaded evidence violations of the following Rules of Professional Conduct:

- 16-101 – by failing to provide competent representation to a client through a lack of thoroughness and preparation;
- 16-103 – by failing to act with reasonable diligence in representing a client;
- 16-301 – by controverting an issue in a manner that had no good faith basis;
- 16-302 – by failing to make reasonable efforts to expedite litigation;
- 16-304(C) – by knowingly disobeying an obligation under the rules of a tribunal when there was no assertion that a valid obligation did not exist; and/or
- 16-804(D) – by engaging in conduct that is prejudicial to the administration of justice.

The misconduct occurred during your representation of a client in a criminal matter. You had been counsel for your client for approximately 25 months prior to an October 2020, hearing where a Decision & Judgment and Sentence on Direct Criminal Contempt was entered by the Court based upon your refusal to proceed with the trial despite a previous order which stated in part, “any party or attorney who violates this order shall be subject to contempt of court and appropriate sanctions as permitted by law.” An Amended Decision & Judgment and Sentence on Direct Criminal Contempt found you were guilty of criminal contempt and outlines the history of the underlying matter and the rationale for why your conduct was found to be “unlawful, unjustifiable, unethical and serve[] only to erode confidence in the system of justice and deteriorate the rule of law that is so essential to our democracy.”

While you had, just prior to the hearing, filed Defendant's Brief on Vigorous Advocacy, Demonstrating that Present Circumstances Render Defense Counsel Unable to Commence Trial and that Such Inability is not Subject to Charges of Contempt, the Court declined to read this brief in full, but did permit you to orally present the arguments therein.

The Honorable Melissa A. Kennelly noted that the matter had been pending for 43 months and all parties had been informed that no further continuances would be granted unless extraordinary circumstances required it and she stated in part,

As stated so well by the California Supreme Court in *People v. McKenzie*, 668 P.2d 769, ‘It is the imperative duty of an attorney to respectfully yield to the rulings of the court, whether right or wrong.’

You did acknowledge that “an officer of the court is supposed to follow the orders of the judge, even if he knows they’re wrong” and that you knew you would be held in contempt. You have appealed the Court’s Amended Decision, but on the grounds that the Court erred by summarily convicting you of direct criminal contempt, not that your refusal to proceed with the trial in the underlying matter was appropriate.

Whether you were simply not prepared to proceed on behalf of your client when you refused to proceed with trial was brought into question when it was determined that you failed to timely notify a proposed expert witness, of the October 2020, trial. Judge Kennelly found that you failed to timely notify your expert witness after you had stated in pertinent part,

Next, commencing this trial is improper because, for whatever reason, I didn't do my job and notify [the expert] in a manner that stuck with her or she put on her calendar. I will tell the court that my memory is that I called her a couple weeks after we got the trial notice. Whether or not she put it on her calendar or if she forgot, I don't know. I'm not trying to point a finger at her, but I did not wait until the 9th to tell her. I did not.

You did not subpoena the expert witness nor did the email exchanges between you and the expert witness refer to the trial at any time other than the following October 9, 2020 exchange:

10:00 am – Expert asked, “Alan – OK, I'll watch for it. When does this case go to trial? []”

11:13 am – You to Expert, “This case is supposed to go to trial beginning Oct 26, WE (sic) have a hearing on Oct 22 when schedules, etc will be ironed out...”

11:25 am – Expert responded, “Alan – I am scheduled to have [] surgery on 10/27 and will be laid up a few weeks. I’m not rescheduling as I need to et (sic) this done.”

11:29 am – Respondent stated, “Can you send me something from the DR that I can use to move the trial? I want to move it anyway, and this would really help. It would be great if the DR said that the surgery has to be done right away or as soon as possible and that the 27 this (sic) the first opening. Alan.”

You also sent an e-mail, copied to the District Attorney, stating, In what is the most interesting part of this case – for today, just happened.

[Matter] is set for trial next week. We filed a motion to continue because [expert witness] is having surgery on October 27.

Holmes argued against the continuance. The Judge found that the defense counsel was negligent (her word) for failing to inform [expert witness] about the trial date. So, she denied the continuance. Bottom line – [expert witness] will not be able to testify.

I essentially got a free pass. If we get an acquittal, we win. If client gets convicted, we appeal an “ineffective assistance of counsel” and we do the case over again.

My reasons for letting you know is that I do not want my client to have to pay for two trials or to spend any time in prison for a case that will certainly come back.

Your thoughts?

(Emphasis mine.)

While you asserted that your rationale for refusing to proceed with trial was, as you stated in the email copied to the District Attorney, that you did not wish for your client to spend time in prison unnecessarily while a matter was appealed for ineffective assistance of counsel, you cannot simply act as you see fit when those actions are in violation of the Rules of Professional Conduct. There are mechanisms in place to address court rulings with which you do not agree. While your moral conviction may have driven you to act as you did you have to accept the consequences of your decision.

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

Dated: October 15, 2021

The Disciplinary Board of the New Mexico Supreme Court

By
Hon. Cynthia Fry (Ret.)
Board Chair

From the New Mexico Supreme Court and Court of Appeals

From the New Mexico Court of Appeals

Opinion Number: 2020-NMCA-037
No. A-1-CA-36634 (filed December 11, 2019)

VERONICA VIGIL,
Plaintiff-Appellant,
v.
ANNE TAINTOR and ANNE
TAINTOR, INC.,
Defendants-Appellees,
and
DOODLET'S LTD.; JANE DOE;
TALIN ENTERPRISES; LA
MONTANITA FOOD COOP;
COST PLUS, INC.; and NOW
WE'RE COOKING,
Defendants.

APPEAL FROM THE DISTRICT COURT OF RIO ARRIBA COUNTY
FRANCIS J. MATHEW, District Judge

Certiorari Denied, May 11, 2020, No. S-1-SC-38158.
Released for Publication October 6, 2020.

Western Agriculture, Resource and
Business Advocates, LLP
A. BLAIR DUNN
DORI E. RICHARDS
Albuquerque, NM
for Appellant

Allen, Shepherd, Lewis & Syra, P.A.
CHRISTOPHER P. WINTERS
COURTNEY A. SCHUMACHER
Albuquerque, NM
for Appellees

Opinion

Jacqueline R. Medina, Judge.

{1} Plaintiff Veronica Vigil appeals the district court's decision granting summary judgment in favor of Defendants Anne Taintor and Anne Taintor, Inc. (collectively, Defendants) with respect to Plaintiff's claims for defamation, false light, and appropriation, as well as her claim under the Unfair Practices Act (UPA), NMSA 1978, §§ 57-12-1 to -26 (1967, as amended through 2019). We hold that the district court properly granted summary judgment.

BACKGROUND

{2} Sometime in 2010, Anne Taintor, Inc., a corporation owned by Taintor, began manufacturing and selling several products—including magnets, flasks, and cards—bearing Plaintiff's image with the caption "I'm going to be the most popular girl in rehab!" Defendants did not have

Plaintiff's permission to use her image, and this went unnoticed by Plaintiff until 2013, when her daughter purchased a flask bearing Plaintiff's image and gave it to Plaintiff. Plaintiff filed the instant action on November 18, 2014.

{3} After extensive discovery, Defendants moved for summary judgment on Plaintiff's defamation, false light, and appropriation claims, arguing that the statute of limitations had expired by operation of New Mexico's single publication rule. See NMSA 1978, § 41-7-1 (1955). Additionally, Defendants argued summary judgment was proper on Plaintiff's UPA claim based on the unauthorized use of her image because Plaintiff never purchased any products that Defendants sold, and therefore, did not have standing. In response, Plaintiff argued that the single publication rule was not applicable to her claims, and if it was, Defendants triggered a new statute of limitations period under the republication exception to the single

publication rule by manufacturing and selling additional products containing Plaintiff's image. Plaintiff also argued that she had standing to bring the UPA claim, despite not purchasing anything, because "[s]he is within the chain of purchasing relationship sufficient to bring a UPA claim." After holding a hearing, the district court granted summary judgment in favor of Defendants. In its order granting summary judgment, the district court held that the single publication rule was applicable to Plaintiff's claims and further held that the republication exception did not apply. The district court also held that Defendants established a prima facie case for summary judgment on Plaintiff's UPA claim, which Plaintiff failed to rebut. This appeal followed.

DISCUSSION

Standard of Review

{4} An appeal from the grant of a motion for summary judgment presents a question of law, which we review de novo. *Montgomery v. Lomos Altos, Inc.*, 2007-NMSC-002, ¶ 16, 141 N.M. 21, 150 P.3d 971. "Summary judgment is appropriate where there are no genuine issues of material fact and the movant is entitled to judgment as a matter of law." *Waterfall Cmty. Water Users Ass'n v. N.M. State Eng'g*, 2009-NMCA-101, ¶ 11, 147 N.M. 20, 216 P.3d 270 (internal quotation marks and citation omitted). When the moving party makes a prima facie showing that summary judgment is proper, "the burden shifts to the non-movant to demonstrate the existence of specific evidentiary facts which would require trial on the merits." *Romero v. Philip Morris Inc.*, 2010-NMSC-035, ¶ 10, 148 N.M. 713, 242 P.3d 280 (internal quotation marks and citation omitted). This burden cannot be met with allegations or speculation, but only with admissible evidence demonstrating a genuine fact issue requiring trial. Rule 1-056(E) NMRA. Claimed disputed facts "cannot serve as a basis for denying summary judgment" if the evidence adduced is insufficient to support "reasonable inferences." *Romero*, 2010-NMSC-035, ¶ 10. Reasonable inferences are not supposition or conjecture; they are logical deductions from proven facts. *Id.* In our review, "[w]e resolve all reasonable inferences in favor of the party opposing summary judgment, and we view the pleadings, affidavits, depositions, answers to interrogatories, and admissions in the light most favorable to a trial on the merits." *Madrid v. Brinker Rest. Corp.*, 2016-NMSC-003, ¶ 16, 363 P.3d 1197 (internal quotation marks and citation omitted).

I. The District Court Properly Granted Summary Judgment on Plaintiff's Defamation/Invasion of Privacy Claims Under the Single Publication Rule

{5} Claims based on injuries to a person's reputation fall under a three-year statute of limitations.¹ See NMSA 1978, § 37-1-8 (1976). New Mexico follows the single publication rule, which provides:

No person shall have more than one cause of action for damages for libel or slander or invasion of privacy or any other tort founded upon any single publication or exhibition or utterance, such as any one edition of a newspaper or book or magazine or any one presentation to an audience or any one broadcast over radio or television or any one exhibition of a motion picture.

Section 41-7-1. "Under this rule, multiple disseminations of the same content give rise to only one cause of action, and the statute of limitations runs from the point at which the original dissemination occurred." *Woodhull v. Meinel*, 2009-NMCA-015, ¶ 9, 145 N.M. 533, 202 P.3d 126. "The single publication rule is designed to protect the defendants and the courts from a multiplicity of suits, an almost endless tolling of the statute of limitations, and diversity in applicable substantive law." *Id.* ¶ 11 (alteration, internal quotation marks, and citation omitted).

{6} Defendants argue that Plaintiff's claims for defamation, false light, and appropriation are barred by the statute of limitations under the single publication rule. While Defendants do not dispute that

some merchandise with Plaintiff's picture was sold within the three-year period prior to the filing of this lawsuit, Defendants argue, and the district court agreed, that the single publication rule is applicable to Plaintiff's claims, and therefore, her claims began accruing when Defendants initially offered the offending merchandise for sale to the public. Plaintiff, in turn, argues that the single publication rule does not apply to her claims, and if it does, the republication exception applies.² We hold that the district court properly applied the single publication rule to Plaintiff's claims. We further hold that Plaintiff failed to present sufficient evidence to raise a genuine issue of material fact that would warrant the application of the republication exception.

A. Scope of Review

{7} As an initial matter, we address Defendants' contention that Plaintiff failed to preserve her arguments surrounding the applicability of the single publication rule.³ In her response to Defendants' motion for summary judgment, Plaintiff argued that the single publication rule should not apply to her claims. However, at the hearing on the motion, she did not challenge the single publication rule's applicability, but instead argued that the republication exception to the rule should apply. In the midst of her argument, the district court sought clarification of Plaintiff's position and asked, "I think I am understanding you to say that the single-publication rule is the law of the case here, because you are definitely arguing [an] exception to that, am I correct?" Plaintiff's counsel replied, "We are arguing that [the] republication exception applies here, yes." After argument on the motion ended, the

district court ruled that the single publication rule applied stating, "It is clear and certainly undisputed that the . . . rule is applicable to this case." Defendants point to this exchange, claiming that Plaintiff conceded that the single publication rule was applicable at the motion hearing, and therefore waived any objection she had to its application. We disagree.

{8} "We will not review arguments that were not preserved in the district court." *Vill. of Angel Fire v. Bd. of Cty. Comm'rs of Colfax Cty.*, 2010-NMCA-038, ¶ 15, 148 N.M. 804, 242 P.3d 371. Nor will we consider as preserved arguments that are waived below. See, e.g., *Papatheofanis v. Allen*, 2010-NMCA-036, ¶¶ 29-31, 148 N.M. 791, 242 P.3d 358 (holding that the appellant failed to preserve an argument when she withdrew her motion). "To preserve an issue for review on appeal, it must appear that [the] appellant fairly invoked a ruling of the trial court on the same grounds argued in the appellate court." *Benz v. Town Ctr. Land, LLC*, 2013-NMCA-111, ¶ 24, 314 P.3d 688 (internal quotation marks and citation omitted); see Rule 12-321(A) NMRA. The preservation rule serves three primary purposes: "(1) to specifically alert the district court to a claim of error so that any mistake can be corrected at that time, (2) to allow the opposing party a fair opportunity to respond to the claim of error and to show why the court should rule against that claim, and (3) to create a record sufficient to allow this Court to make an informed decision regarding the contested issue." *Sandoval v. Baker Hughes Oilfield Operations, Inc.*, 2009-NMCA-095, ¶ 56, 146 N.M. 853, 215 P.3d 791. "When these purposes are

¹We note that some courts have characterized appropriation claims—unlike other invasion of privacy claims—as actions based on an injury to one's property, which fall under a four-year statute of limitations period. See NMSA 1978, § 37-1-4 (1880); see, e.g., *Benally v. Hundred Arrows Press, Inc.*, 614 F. Supp. 969, 97879 (D.N.M. 1985) (characterizing the tort of "misappropriation of likeness" as a property claim falling under the four-year statute of limitations period), *rev'd on other grounds sub nom. Benally ex rel. Benally v. Amon Carter Museum of W. Art*, 858 F.2d 618 (10th Cir. 1988). It appears New Mexico courts have yet to address the question of whether a claim for appropriation falls under the three-year or four-year statute of limitations. However, Plaintiff did not raise this argument below, and on appeal she argues that the three-year statute of limitations applies. Accordingly, we assume for purposes of this case that Plaintiff's appropriation claim falls under the three-year statute of limitations for injuries to reputation.

²Plaintiff also argues that the statute of limitations should be tolled under the discovery rule. However, Plaintiff does not develop this argument. Nor does it appear that Plaintiff preserved this argument for appeal. We, therefore, do not address it. See *Corona v. Corona*, 2014-NMCA-071, ¶ 28, 329 P.3d 701 ("This Court has no duty to review an argument that is not adequately developed.").

³Defendants additionally invoke the law of the case doctrine in an effort to limit the scope of our review. Specifically, Defendants claim that Plaintiff's failure to appeal a separate order by the district court granting summary judgment in favor of several non-related defendants on the basis of the single publication rule conclusively established the single publication rule's applicability as the law of the case. We note that "the issue of the extent to which a party's failure to appeal a ruling may justify application of the law of the case doctrine to that issue" appears to remain an open question in New Mexico. *Kucel v. N.M. Med. Review Comm'n*, 2000-NMCA-026, ¶ 17 n.3, 128 N.M. 691, 997 P.2d 823 (declining to address the issue because appellees did not provide authority for their position); see also *White Sands Forest Prod., Inc. v. First Nat'l Bank of Alamogordo*, 2002-NMCA-079, ¶ 18, 132 N.M. 453, 50 P.3d 202 (acknowledging, but declining to apply, the "waiver variant" of the law of the case doctrine). Accordingly, because Defendants do not develop this argument, and because the district court's order was not applicable to Plaintiff's claims against Defendants, we decline to invoke the law of the case doctrine. *State ex rel. King v. UU Bar Ranch Ltd. P'ship*, 2009-NMSC-010, ¶ 21, 145 N.M. 769, 205 P.3d 816 (noting that "the law-of-the-case doctrine is discretionary and flexible" (internal quotation marks and citation omitted)); *White Sands Forest Prod., Inc.*, 2002-NMCA-079, ¶ 18 (exercising discretion to reach the merits of the case because the appellees would not suffer any prejudice).

not served, the preservation requirement should not be applied in an unduly technical manner.” *McLelland v. United Wis. Life Ins. Co.*, 1999-NMCA-055, ¶ 24, 127 N.M. 303, 980 P.2d 86 (alterations, omission, internal quotation marks, and citation omitted).

{9} While the exchange between the district court and Plaintiff may give the impression that Plaintiff waived her objection to the application of the single publication rule, it is also possible that Plaintiff simply misunderstood the court’s question. Plaintiff’s answer to the district court’s initial query does not appear to be entirely responsive to the object of the question. Rather than agreeing that Plaintiff was no longer challenging the applicability of the single publication rule, Plaintiff’s response appeared to clarify only what she was arguing before the question was asked (i.e., that the republication exception applied). Unlike other cases where we have found waiver, Plaintiff did not unambiguously disclaim her objection to the application of the single publication rule. *See, e.g., Papatheofanis*, 2010-NMCA-036, ¶¶ 29-31. Additionally, by arguing an exception, it appears Plaintiff was implicitly objecting to the application of the general rule. Under these circumstances, we are hesitant to say that Plaintiff waived her argument surrounding the single publication rule’s applicability. As Plaintiff challenged the application of the single publication rule in her written response to Defendants’ motion for summary judgment, which gave Defendants the opportunity to address the argument—and gave the district court the opportunity to consider and issue a ruling on the issue—we conclude that Plaintiff sufficiently preserved this issue for our review. *See Gracia v. Bittner*, 1995-NMCA-064, ¶ 18, 120 N.M. 191, 900 P.2d 351 (stating that the preservation requirement “should be applied with its purposes in mind, and not in an unduly technical manner”).

B. The Single Publication Rule

{10} Plaintiff does not challenge that Defendants established a prima facie case for summary judgment under the single publication rule. Rather, Plaintiff raises several legal arguments against the application of the rule to this case. Specifically, Plaintiff calls into question whether the single publication rule should be applied to her claims based on appropriation and false light, and whether the rule applies to cases involving manufactured goods, as opposed to traditional types of mass media. Additionally, Plaintiff contends that the point of publication at which the statute of limitations begins accruing under the single publication rule should not always be the initial publication of the offending material, but rather a more fact

intensive inquiry. We address each argument in turn.

{11} With respect to Plaintiff’s first argument, other than pointing out that our courts have not yet applied the single publication rule to appropriation and false light claims, Plaintiff fails to demonstrate, and we fail to see, how the district court erred in applying the single publication rule to her claims. Section 41-7-1, by its plain language, applies to “damages for libel or slander or invasion of privacy or any other tort founded upon any single publication or exhibition or utterance[.]” *Id.* (emphasis added); *Town & Country Food Stores, Inc. v. N.M. Regulation & Licensing Dep’t*, 2012-NMCA-046, ¶ 9, 277 P.3d 490 (“The first rule is that the plain language of a statute is the primary indicator of legislative intent. Courts are to give the words used in the statute their ordinary meaning unless the Legislature indicates a different intent.” (alteration, internal quotation marks, and citation omitted)). As both false light and appropriation are subcategories of the tort of invasion of privacy, we fail to see, and Plaintiff fails to explain, how it was error for the district court to apply the single publication rule to Plaintiff’s claims. *See Moore v. Sun Pub. Corp.*, 1994-NMCA-104, ¶ 28, 118 N.M. 375, 881 P.2d 735 (recognizing four categories of the tort of invasion of privacy, which include false light and appropriation).

{12} Plaintiff also fails to develop her argument that the single publication rule should not apply to cases involving manufactured goods. Again, Plaintiff simply points out that our courts have not yet applied the single publication rule to a similar case. While we acknowledge that we have had little opportunity to apply the single publication rule, we conclude that the district court did not err in applying the single publication rule here. We explain.

{13} Section 41-7-1 is not comprehensive in terms of the scenarios and types of media covered by the single publication rule, but rather merely illustrative of what constitutes a “single publication or exhibition or utterance.” *Id.* (“No person shall have more than one cause of action for damages . . . founded upon any single publication or exhibition or utterance, such as any one edition of a newspaper or book or magazine or any one presentation to an audience or any one broadcast over radio or television or any one exhibition of a motion picture.” (emphasis added)); *State v. Martinez*, 1999-NMSC-018, ¶ 27, 127 N.M. 207, 979 P.2d 718 (noting that a list beginning with “such as” was “intended to be illustrative rather than exhaustive”). While Section 41-7-1 was enacted over sixty years ago, this Court has only issued one published opinion analyzing the

single publication rule. In *Woodhull*, we considered the application of the single publication rule to internet publications. 2009-NMCA-015, ¶¶ 8-14. There, we acknowledged that “[t]he single publication rule is designed to protect the defendants and the courts from a multiplicity of suits, an almost endless tolling of the statute of limitations, and diversity in applicable substantive law.” *Id.* ¶ 11 (alteration, internal quotation marks, and citation omitted). We emphasized that “[a]bsent this rule, publishers and the mass media would be subject to a multiplicity of claims leading to potential harassment, excessive liability, and draining of judicial resources.” *Id.* Comparing public websites to traditional mass media, we noted that content on the Internet is also broadly available, easily reproduced, and “may be viewed by literally millions in a broad geographic area for an indefinite time period.” *Id.* Given these similarities, we concluded that there was a “similar if not greater need for the policy advanced by the single publication rule in the Internet realm.” *Id.*

{14} Although we were concerned with internet publications in *Woodhull*, we believe the same logic applies to this case. Similar to traditional forms of mass media, manufactured goods can be mass-produced for public consumption, and retailers may sell them to consumers across broad geographic areas. Likewise, these goods may be bought and viewed by countless individuals for an indefinite amount of time after they were originally manufactured and sold to the public. Without the single publication rule, the sellers of these goods “would be subject to a multiplicity of claims leading to potential harassment, excessive liability, and draining of judicial resources.” *Id.* The fact that Plaintiff’s image was printed on flasks and magnets, rather than books or websites, does not reduce these concerns. While we recognize that there may be a legitimate argument against the application of the single publication rule to cases involving manufactured goods, Plaintiff has failed to present one here. Accordingly, we hold that the single publication rule applies to cases involving manufactured goods such as those at issue here.

{15} Lastly, Plaintiff contends that the point at which the statute of limitations begins accruing under the single publication rule should not always be the initial publication, but rather a more fact intensive inquiry. However, Plaintiff does not define the scope of the fact intensive inquiry she advocates and does not cite any authority in support of her argument, and we, therefore, assume none exists. *See In re Adoption of Doe*, 1984-NMSC-024, ¶ 2, 100 N.M. 764, 676 P.2d 1329 (stating that when a party fails to cite authority for an

argument, we may assume none exists). Instead, Plaintiff relies on a purported lack of authority for the proposition that the initial publication triggers the limitations period. We disagree. Our Court stated in *Woodhull* that “[u]nder [the single publication] rule, multiple disseminations of the same content give rise to only one cause of action, and the statute of limitations runs from the point at which the original dissemination occurred.” 2009-NMCA-015, ¶ 9 (emphasis added). Holding that the triggering event is something other than the original publication would defeat one of the primary purposes of the single publication rule: to protect against “an almost endless tolling of the statute of limitations.” *Id.* ¶ 11 (internal quotation marks and citation omitted). Accordingly, we hold that the district court properly applied the single publication rule. Consequently, the three-year statute of limitations for Plaintiff’s claims began running from the time Defendants first sold the products bearing Plaintiff’s image to the public in 2010, unless the republication exception applies, as we discuss below.

C. Republication

{16} One exception to the single publication rule is republication, which allows for a new cause of action that restarts the statute of limitations. *See id.* ¶ 12. “The justification for the [republication] exception is to allow redress when the republished material is intended to expand the scope of the original distribution.” *Id.* “Republication occurs upon a separate aggregate publication from the original, on a different occasion, which is not merely a delayed circulation of the original edition.” *Id.* (internal quotation marks and citation omitted). The point at which republication occurs depends heavily on the facts of each case and turns on the content of the second publication as it relates to the first. *Id.* ¶¶ 12, 16. “[M]ere technical modifications, as opposed to changes in the nature of the information itself, are insufficient to constitute republication.” *Id.* ¶ 14. However,

“[w]hen a second publication goes beyond mere editing or adds content, it may properly be considered a republication if the effect is more than a delayed circulation of the original edition.” *Id.* ¶ 16 (internal quotation marks and citation omitted). Plaintiff argues her claims are not barred by the statute of limitations under operation of the single publication rule because Defendants’ “printing [of Plaintiff’s] same image with the defamatory statement[] on different runs throughout the year, for multiple years, and also on different merchandise” constituted republication. Although we agree that these circumstances may give rise to republication, we fail to see how Plaintiff supported these assertions with admissible evidence. We explain.

{17} As a preliminary matter, we note that Plaintiff fails to cite specific portions of the record that support her assertions. Instead, Plaintiff’s brief in chief includes one general citation to her response in opposition to Defendants’ motion for summary judgment, which consists of over one hundred pages. It is the duty of the parties to cite to specific portions on the record supporting their arguments, *see* Rule 12-318(A)(4) NMRA, and this general citation to over one hundred pages of the record proper is inadequate to support meaningful review by our Court. Independently reviewing the record in the light most favorable to Plaintiff, *see Madrid*, 2016-NMSC-003, ¶ 16, we conclude that Plaintiff failed to present evidence creating a genuine dispute of material fact as to whether Defendants republished her image.

{18} In support of Defendants’ summary judgment motion, Taintor submitted an unsworn affirmation⁴ affirming that she never personally manufactured or sold any products with Plaintiff’s image. She also affirmed that Anne Taintor, Inc. first manufactured and offered for sale magnets, flasks, and cards with Plaintiff’s image in 2010. Additionally, Taintor af-

firmed that Anne Taintor, Inc. did not manufacture or offer for sale any other products with Plaintiff’s image, and that it never modified any magnet, flask, or card with Plaintiff’s image. Plaintiff filed a response arguing, among other things, that there was a genuine issue of material fact regarding whether the republication exception applies because Defendants reprinted Plaintiff’s image over the course of several years and on other products such as shot glasses, napkins, and calendars. In support of her response, Plaintiff cited Defendants’ answers to her interrogatories stating that “Anne Taintor, Inc. had manufactured a product containing Plaintiff’s image [from 2010 to 2013.]” However, Defendants’ answer, by itself, does not demonstrate that Defendants manufactured *additional* editions of the products or reprinted Plaintiff’s image on other products during that time period. Other than pointing to Defendants’ answer, Plaintiff cannot direct us to any evidence demonstrating that Defendants manufactured additional editions of the magnets, flasks, and cards after they initially manufactured them in 2010. Nor can Plaintiff point to any evidence demonstrating that Defendants altered Plaintiff’s image or the text on any of these products after their initial manufacture.

{19} Of particular relevance to Plaintiff’s contentions, Plaintiff did not come forward with any evidence demonstrating that Defendants manufactured and sold other products with Plaintiff’s image. While Plaintiff attached an exhibit showing shot glasses with the caption “I’m going to be most popular girl in rehab!” the glasses did not contain Plaintiff’s image, but that of another woman.⁵ Additionally, although Plaintiff attached exhibits of napkins and mugs with Plaintiff’s image, Plaintiff failed to produce evidence demonstrating that Defendants manufactured and sold these

⁴We note that Rule 1-056 does not mention the use of an unsworn affirmation made pursuant to Rule 1-011(B) NMRA in lieu of an affidavit. However, because Plaintiff does not challenge Defendants’ use of the unsworn affirmation to support their motion for summary judgment, we assume, without deciding, that it is an acceptable substitute for an affidavit. *Compare Kiehne v. Atwood*, 1979-NMSC-098, ¶ 55, 93 N.M. 657, 604 P.2d 123 (stating that an affidavit is “a written statement, under oath, sworn to or affirmed by the person making it before some person who has authority to administer an oath or affirmation”), *with* Rule 1-011(B) (“Any written statement in a pleading, paper, or other document that is not notarized shall have the same effect in a court proceeding as a notarized written statement, provided that the statement includes the following: (1) the date that the statement was given; (2) the signature of the person who gave the statement; and (3) a written affirmation under penalty of perjury under the laws of the State of New Mexico that the statement is true and correct.”); *see also* Rule 1-011 comm. cmt. (stating that Rule 1-011 was amended to “permit self-affirmation in lieu of notarization of any written sworn statement required or permitted under the Rules of Civil Procedure for the District Courts”).

⁵Plaintiff summarily argues that “[t]he similarity of the picture [of the other woman] to Plaintiff’s image and use of the known defamatory statement is a question of fact for the jury to assess whether it too meets the republication standards.” Plaintiff does not develop this argument any further or explain how the use of another person’s photo can give rise to republication. We, therefore, do not address this argument. *See Corona*, 2014-NMCA-071, ¶ 28 (“This Court has no duty to review an argument that is not adequately developed.”).

items.⁶ Nor did Plaintiff point to any evidence showing when these products were manufactured and sold. Instead, we are left only with Plaintiff's unsupported arguments, which "are not evidence upon which a trial court can rely in a summary judgment proceeding." *V.P. Clarence Co. v. Colgate*, 1993-NMSC-022, ¶ 2, 115 N.M. 471, 853 P.2d 722. Accordingly, we conclude Plaintiff did not demonstrate the existence of specific admissible evidentiary facts disputing whether Defendants altered their products in any way that would suggest republication, rather than a "delayed circulation of the original edition." *Woodhull*, 2009-NMCA-015, ¶ 16 (internal quotation marks and citation omitted); see *Romero*, 2010-NMSC-035, ¶ 10 ("[Once the moving party has met its initial burden of establishing a prima facie case for summary judgment], the burden shifts to the non-movant to demonstrate the existence of specific evidentiary facts which would require trial on the merits." (internal quotation marks and citation omitted)).

{20} Plaintiff does not address the lack of evidentiary facts in the record. Instead, Plaintiff attempts to analogize this case to *Rinaldi v. Viking Penguin, Inc.*, 420 N.E.2d 377 (N.Y. 1981). Plaintiff's reliance is misplaced. In *Rinaldi* the Court of Appeals of New York held that republication occurred when a publisher released a hardcover edition of a book to the public and, approximately one year later, marketed a paperback edition of the book using unbound and hardbound copies it had on hand from the original issue. *Id.* at 378-80, 382. However, unlike the instant case, there were undisputed facts in *Rinaldi* demonstrating republication. The publisher added new covers, changed the publisher name, revised the title page to include an updated publication date, changed the copyright page to include a new identifying number, and added new information indicating that the book would be simultaneously published in foreign countries. See *id.* In contrast, here, Plaintiff does not point to, and we cannot find, any evidence indicating that Defendants republished Plaintiff's image. Therefore, we conclude that the district court properly granted Defendant's motion for summary judgment on Plaintiff's claims for defamation, false light, and appropriation.

II. The District Court Properly Granted Summary Judgment on Plaintiff's UPA Claim

{21} Defendants argue that the district court properly granted summary judgment

because Plaintiff did not have standing to bring a UPA claim for the unauthorized use of her image, as she did not purchase anything. Plaintiff does not dispute that she did not purchase any products made or sold by Defendants. Rather, she argues that her daughter's act of purchasing a flask manufactured by Defendants and giving the flask to Plaintiff was sufficient to grant Plaintiff standing under the UPA, which should be interpreted broadly. While we agree that the UPA should be interpreted liberally to protect innocent consumers, Plaintiff fails to demonstrate how her claims as a non-buyer fall within the scope of the UPA's protection.

{22} In enacting the UPA, the Legislature created a private cause of action for "any person who suffers any loss of money or property . . . as a result of any employment by another person of a method, act or practice declared unlawful by the [UPA, to] bring an action to recover actual damages." Section 57-12-10(B). The UPA makes unlawful unfair or deceptive trade practices, see § 57-12-3, which are defined, in relevant part, as "a false or misleading oral or written statement, visual description or other representation of any kind knowingly made in connection with the sale . . . of goods and services . . . by a person in the regular course of the person's trade or commerce, that may, tends to or does deceive or mislead any person . . ." Section 57-12-2(D). Thus, a claimant must prove:

- (1) the defendant made an oral or written statement, a visual description or a representation of any kind that was either false or misleading; (2) the false or misleading representation was knowingly made *in connection with the sale . . . of goods or services* in the regular course of the defendant's business; and (3) the representation was of the type that may, tends to, or does deceive or mislead any person.

Lohman v. Daimler-Chrysler Corp., 2007-NMCA-100, ¶ 5, 142 N.M. 437, 166 P.3d 1091 (emphasis added). "Since the UPA constitutes remedial legislation, we interpret [its] provisions . . . liberally to facilitate and accomplish its purposes and intent [to protect innocent consumers]." *State ex rel. King v. B & B Inv. Grp., Inc.*, 2014-NMSC-024, ¶ 48, 329 P.3d 658 (internal quotation marks and citation omitted).

{23} Plaintiff first relies on *Lohman* to support her contention that the UPA should be construed broadly to include

her claims, focusing on its language noting that the "conjunctive phrase 'in connection with' seems designed to encompass a broad array of commercial relationships." 2007-NMCA-100, ¶ 21 (quoting § 57-12-2(D)). However, contrary to Plaintiff's assertions, *Lohman* does not stand for the proposition that the UPA's scope is so broad as to encompass claimants who did not actually purchase anything; *Lohman* merely stands for the proposition that a UPA claimant need not allege a commercial transaction specifically *between the claimant and the defendant*. In *Lohman*, we considered the plaintiff's UPA claim against a seatbelt manufacturer for its representations to a distributor that facilitated car sales to consumers. See *id.* ¶ 25. The defendants argued "that the 'connection with sale of goods' requirement can only be satisfied upon a showing that the defendant made a misrepresentation when selling a product to the plaintiff." *Id.* Notwithstanding the indirect relationship between the manufacturer and consumers, we noted that "[t]he[] provisions [of the UPA] appear to be crafted so as to ensure that the UPA has a broad scope—arguably, broad enough to encompass misrepresentations which bear on downstream sales by and between third parties." *Id.* ¶ 30 (emphasis added). Accordingly, we concluded that "both the plain language of the [UPA] and the underlying policies suggest that a commercial transaction *between a claimant and a defendant* need not be alleged in order to sustain a UPA claim." *Id.* ¶ 33 (emphasis added). Unlike the defendants in *Lohman*, Defendants, here, do not argue that Plaintiff must have purchased the flask directly from them. Rather, Defendants argue that Plaintiff must have purchased the flask *from someone*, an argument that *Lohman* did not address. Thus, *Lohman* is unavailing.

{24} Plaintiff's reliance on *Maese v. Garrett*, 2014-NMCA-072, 329 P.3d 713, is similarly misplaced. In *Maese*, the plaintiff brought a UPA claim against his financial advisors for erroneously telling him he could withdraw money tax-free from an annuity that the defendants recommended he purchase. *Id.* ¶¶ 3-7. The defendants argued that the plaintiff's claim did not fall under the UPA because he did not pay them for the incorrect financial advice or for the withdrawal from the annuity. *Id.* ¶ 16. Nonetheless, citing our liberal construction of the UPA, we found it "immaterial that [the p]laintiff did not specifically compensate [the d]efendants for financial advising services where [the d]efendants

⁶Indeed, Defendants' answers to Plaintiff's interrogatories, which Plaintiff included in her response, suggest that these products were manufactured and sold by Defendants' licensees, not Defendants. As Plaintiff does not argue that the conduct of Defendants' licensees can establish the requirements for republication (and Defendants' liability), we need not decide the issue here. See *Corona*, 2014-NMCA-071, ¶ 28.

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5.5 G, 1.0 EP
9:00 a.m.–4:45 p.m.
\$280 Standard Fee

NOVEMBER 19*Webinar:***2021 Animal Law Institute**

3.5 G
8:45 a.m.–12:30 p.m.
\$172 Standard Fee

NOVEMBER 22*Teleseminar:***Equity & Diversity in Law Practice: Best Practices for Law Firms**

1.0 EP
11 a.m.–Noon
\$79 Standard Fee

NOVEMBER 23*Teleseminar:***Going Over: Employment Law Issues When a Key Employee Leaves for a Competitor**

1.0 G
11 a.m.–Noon
\$79 Standard Fee

NOVEMBER 30*Webinar:***Me Too: Sexism, Bias, and Sexual Misconduct in the Legal Profession**

1.0 EP
11 a.m. - Noon
\$89 Standard Fee

*Teleseminar:***Ethics for Transactional Lawyers**

1.0 EP
11 a.m.–Noon
\$79 Standard Fee

DECEMBER 1*Webinar:***2021 ADR Institute: Understanding Trauma and Stressors in Alternative Dispute Resolution Practice**

4.5 G
9 a.m. -2:30 p.m.
\$212 Standard Fee

*Teleseminar:***Business Torts: How Transactions Spawn Litigation, Part 1**

1.0 G
11 a.m.–Noon
\$79 Standard Fee

DECEMBER 2*Webinar:***2021 Immigration Law Institute: The Intersection of Criminal Law and Immigration**

3.0 G, 1.0 EP
12:30–4:45 p.m.
\$196 Standard Fee

*Teleseminar:***Business Torts: How Transactions Spawn Litigation, Part 2**

1.0 G
11 a.m.–Noon
\$79 Standard Fee

DECEMBER 3

Teleseminar:

Ethics of Joint Representations: Keeping Secrets & Telling Tales

1.0 EP
11 a.m.-Noon
\$79 Standard Fee

DECEMBER 6

Webinar:

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

1.0 EP
1:30-2:30 p.m.
\$55 Standard Fee

DECEMBER 7

Webinar:

Let Me Ask You a Question. Suppose I Was Considering . . . (Mock Meeting of the Ethics Advisory Committee)

2.0 EP
10 a.m.-Noon
\$98 Standard Fee

In For a Penny, In for A Pound: Ethical Issues Associated with Co-Counsel Arrangements (Lawyers Professional Liability and Insurance Committee)

1.0 EP
1-2 p.m.
\$49 Standard Fee

DECEMBER 8

In-Person and Webcast:

Family Law: Guardian ad Litem Training

8:30 a.m.-5:00 p.m.
6.8 G
\$282 Standard Fee

Webinar:

Ethics of Social Media Research

1.0 EP
11 a.m.-Noon
\$89 Standard Fee

DECEMBER 9

Webinar:

OneDrive: How Do I Use It

1.0 EP
11 a.m.-Noon
\$89 Standard Fee

Teleseminar:

Drafting Property Management Agreements

1.0 G
11 a.m.-Noon
\$79 Standard Fee

DECEMBER 10

Teleseminar:

Ethics & Artificial Intelligence: What Lawyers Should Know

1.0 EP
11 a.m.-Noon
\$79 Standard Fee

DECEMBER 13

Webinar:

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

1.0 EP
1:30-2:30 p.m.
\$55 Standard Fee

DECEMBER 14

In-Person and Webcast:

Gain the Edge! Negotiation Strategies for Lawyers

5.0 G, 1.0 EP
9 a.m. - 4:30 p.m.
\$282 Standard Fee

DECEMBER 15

Webinar:

Legal Malpractice Insurance & Claims Avoidance 101

1.0 EP
11 a.m.-Noon
\$89 Standard Fee

DECEMBER 16

Teleseminar:

Letters of Intent in Real Estate Transactions

1.0 G
11 a.m.-Noon
\$79 Standard Fee

DECEMBER 17

In-Person and Webcast:

2021 NREEL Institute: Climate Change, Drought, and Associated Impacts in New Mexico

5.0 G, 1.0 EP
9:00 a.m.-4:30 p.m.
\$282 Standard Fee

Webinar:

Flashes of Brilliance: Putting the Power Back in PowerPoint

1.0 G
11 a.m.-Noon
\$89 Standard Fee

Teleseminar:

Trust & Estate Planning for Client Privacy in a Public World

1.0 G
11 a.m.-Noon
\$79 Standard Fee

DECEMBER 20

Teleseminar:

Ethics and Conflicts with Clients, Part 1

1.0 EP
11 a.m.-Noon
\$79 Standard Fee

DECEMBER 21

Webinar:

Spinning Plates— Task Management For Lawyers

1.0 EP
11 a.m.-Noon
\$89 Standard Fee

Teleseminar:

Ethics and Conflicts with Clients, Part 2

1.0 EP
11 a.m.-Noon
\$79 Standard Fee

DECEMBER 22

Teleseminar:

Talking About Wealth Transfer Plans: Practical Strategies to Avoid Disputes Among Beneficiaries (1.0 G)

1.0 G
11 a.m.-Noon
\$79 Standard Fee

DECEMBER 27

Webinar:

REPLAY: Minimizing Cultural Errors in Professional Practice (2020)

1.5 EP
12 noon-1:30 p.m.
\$74 Standard Fee

DECEMBER 28

Webinar:

Ethics Lessons from a Jersey Guy with Stuart Teicher

2.5 EP, 0.5 G
8:30-11:45 a.m.
\$147 Standard Fee

Webinar:

An Afternoon of Legal Writing with Stuart Teicher

3.0 G
1-4:15 p.m.
\$147 Standard Fee

Webinar:

Ethical Issues Representing a Band – Using the Beatles

1.0 EP
11 a.m.-Noon
\$89 Standard Fee

Teleseminar:

2021 Ethics Update, Part 1

1.0 EP
11 a.m.-Noon
\$79 Standard Fee

DECEMBER 29

Webinar:

REPLAY: Revealing Unconscious Prejudice: How You Can Benefit (2020)

2.0 EP
9-11 a.m.
\$98 Standard Fee

Webinar:

Marketing Ethics 101

1.0 EP
11 a.m.-Noon
\$89 Standard Fee

Teleseminar:

2021 Ethics Update, Part 2

1.0 EP
11 a.m.-Noon
\$79 Standard Fee

DECEMBER 30

Teleseminar:

2021 Ethics in Civil Litigation Update, Part 1

1.0 EP
11 a.m.-Noon
\$79 Standard Fee

DECEMBER 31

Teleseminar:

2021 Ethics in Civil Litigation Update, Part 2

1.0 EP
11 a.m.-Noon
\$79 Standard Fee

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- ▶ December 10
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- ▶ December 15
Real Property Institute
- ▶ December 16
Trial Law Institute

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- ▶ November 17 **Lawyer Ethics When Storing Files in the Cloud** (1.0 EP)
- ▶ November 22 **Equity & Diversity in Law Practice: Best Practices for Law Firms** (1.0 EP)
- ▶ November 30 **Me Too: Sexism, Bias, and Sexual Misconduct in the Legal Profession** (1.0 EP)
- ▶ November 30 **Ethics for Transactional Lawyers** (1.0 EP)
- ▶ December 3 **Ethics of Joint Representations: Keeping Secrets & Telling Tales** (1.0 EP)
- ▶ December 7 **Let Me Ask You a Question. Suppose I Was Considering . . . (Mock Meeting of the Ethics Advisory Committee)** (2.0 EP)
- ▶ December 7 **In For a Penny, In for A Pound: Ethical Issues Associated with Co-Counsel Arrangements (Lawyers Professional Liability and Insurance Committee)** (1.0 EP)
- ▶ December 8 **Ethics of Social Media Research** (1.0 EP)
- ▶ December 9 **OneDrive: How Do I Use It** (1.0 EP)
- ▶ December 10 **Ethics & Artificial Intelligence: What Lawyers Should Know** (1.0 EP)
- ▶ December 15 **Legal Malpractice Insurance & Claims Avoidance 101** (1.0 EP)
- ▶ December 20 **Ethics and Conflicts with Clients, Part 1** (1.0 EP)
- ▶ December 21 **Ethics and Conflicts with Clients, Part 2** (1.0 EP)
- ▶ December 21 **Spinning Plates - Task Management For Lawyers** (1.0 EP)
- ▶ December 27 **REPLAY: Minimizing Cultural Errors in Professional Practice (2020)** (1.5 EP)
- ▶ December 28 **Ethics Lessons from a Jersey Guy with Stuart Teicher** (2.5 EP, 0.5 G)
- ▶ December 28 **2021 Ethics Update, Part 1** (1.0 EP)
- ▶ December 28 **Ethical Issues Representing a Band - Using the Beatles** (1.0 EP)
- ▶ December 29 **Marketing Ethics 101** (1.0 EP)
- ▶ December 29 **REPLAY: Revealing Unconscious Prejudice: How You Can Benefit (2020)** (2.0 EP)
- ▶ December 29 **2021 Ethics Update, Part 2** (1.0 EP)
- ▶ December 30 **2021 Ethics in Civil Litigation Update, Part 1** (1.0 EP)
- ▶ December 31 **2021 Ethics in Civil Litigation Update, Part 2** (1.0 EP)



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STUART TEICHER

Tuesday, Dec. 28, 2021

Webinar

**Ethics Lessons from
a Jersey Guy**

8:30–11:45 a.m.

0.5 G, 2.5 EP

\$147 Standard Fee

**An Afternoon of
Legal Writing**

1–4:15 p.m.

3.0 G

\$147 Standard Fee

Last Chance in 2021!

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

1.0 EP

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received compensation from third parties (e.g., from [the annuity company] for the annuity in question) for investment advice that led to [the p]laintiff's *purchase* of their products." *Id.* ¶ 19 (emphasis added). *Maese* is therefore distinguishable, as the plaintiff in that case purchased something (i.e., the annuity).

{25} Nor does Plaintiff find support in *Hicks v. Eller*, 2012-NMCA-061, 280 P.3d 304. In *Hicks*, the plaintiff brought a UPA claim against an art appraiser who purchased two paintings from the plaintiff after the plaintiff declined to retain the appraiser's services to value the art. *Id.* ¶¶ 4-9, 20. Relying on *Lohman* and emphasizing the UPA's purpose as a consumer protection statute, we concluded that the UPA requires that "somewhere along the purchasing chain, the claimant did *purchase* an item that was at some point sold by the defendant." *Hicks*, 2012-NMCA-061, ¶¶ 19-20 (emphasis added). Accordingly, we concluded that the plaintiff, who did not purchase the defendant's services and act-

ed as the seller of the art, had no standing to bring a UPA claim against the appraiser. *Id.* ¶ 20. ("Consistent with its purpose as consumer protection legislation, the UPA gives standing only to *buyers* of goods and services." (emphasis added)).

{26} We recognize that "[i]t is the task of the courts to ensure that the [UPA] lends the protection of its broad application to innocent consumers." *B & B Inv. Grp., Inc.*, 2014-NMSC-024, ¶ 48 (internal quotation marks and citation omitted). However, other than citing the above cases and arguing that the UPA should be interpreted broadly, Plaintiff fails to demonstrate how her claim—which is not connected to any goods or services she purchased—falls within the purview of the UPA. Given this lack of development, we decline to address Plaintiff's argument any further. See *Elane Photography, LLC v. Willock*, 2013-NMSC-040, ¶ 70, 309 P.3d 53 ("To rule on an inadequately briefed issue, this Court would have to develop the arguments itself, effectively performing the

parties' work for them. This creates a strain on judicial resources and a substantial risk of error. It is of no benefit either to the parties or to future litigants for this Court to promulgate case law based on our own speculation rather than the parties' carefully considered arguments." (citation omitted)). Accordingly, we hold that, under the facts of this case, the district court properly granted summary judgment on Plaintiff's UPA claim.

CONCLUSION

{27} For the foregoing reasons, we affirm the district court's grant of summary judgment.

{28} IT IS SO ORDERED.

JACQUELINE R. MEDINA, Judge

WE CONCUR:

M. MONICA ZAMORA, Judge

JULIE J. VARGAS, Judge

Advance Opinions

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

From the New Mexico Supreme Court and Court of Appeals

From the New Mexico Court of Appeals

Opinion Number: 2020-NMCA-038
No. A-1-CA-37052 (filed March 3, 2020)

IN THE MATTER OF THE PROTEST
OF MARC A. GELINAS TO
ASSESSMENT ISSUED UNDER
NO. L1020757296,
Protestant-Appellee,
v.
NEW MEXICO TAXATION
AND REVENUE DEPARTMENT,
Respondent-Appellant.

APPEAL FROM THE ADMINISTRATIVE HEARINGS OFFICE
CHRISTOPHER ROMERO, Hearing Officer

Certiorari Denied, May 11, 2020, No. S-1-SC-38244.
Released for Publication October 6, 2020.

MARC A. GELINAS
La Pointe, WI
Pro Se Appellee
HECTOR H. BALDERAS,

Attorney General
DAVID MITTLE,
Special Assistant Attorney General
Santa Fe, NM
for Appellant

Opinion

Briana H. Zamora, Judge.

{1} Appellee Marc A. Gelinas (Taxpayer) protested an assessment of tax by the New Mexico Taxation and Revenue Department (the Department) on gross receipts for commissions earned on the sale of implantable prosthetic devices. Following a hearing and supplemental briefing by the parties, the hearing officer found in favor of Taxpayer and abated the assessment in full. The Department appealed. Because we conclude the filing of the Department's notice of appeal was not timely, we dismiss the Department's appeal with prejudice.

DISCUSSION

{2} On January 9, 2018, the hearing officer filed his decision and order in favor of Taxpayer, finding that, under NMSA 1978, Section 7-9-66 (1999), and 3.2.1.18GG(6) NMAC,¹ Taxpayer's commissions were

not subject to the gross receipts tax, and ordering the assessment be abated in full. On January 17, 2018, the Department filed a motion for reconsideration, arguing that Section 7-9-66 could not form the basis of Taxpayer's relief because it was not timely raised, and that the hearing officer had misinterpreted Section 7-9-66 and NMSA 1978, Section 7-9-93 (2016). The hearing officer denied the Department's motion for reconsideration on January 24, 2018. The Department filed its notice of appeal on February 16, 2018, twenty-three days after denial of its motion for reconsideration and thirty-eight days after the filing of the hearing officer's decision and order.² On March 1, 2018, Taxpayer filed a motion in opposition to notice of appeal arguing that the Department's appeal is untimely. We agree with Taxpayer.

{3} Our resolution of this issue presents an issue of statutory interpretation, and our review is therefore de novo. *See In re*

Grace H., 2014-NMSC-034, ¶ 65, 335 P.3d 746 (stating that "[o]ur interpretation of a statute is a question of law that an appellate court reviews de novo"). NMSA 1978, Section 7-1-25(A) (2015), of the Tax Administration Act provides that a party dissatisfied with a decision and order of the hearing officer "may appeal to the [C]ourt of [A]ppeals for further relief" and that "[a]ll such appeals to the [C]ourt of [A]ppeals shall be taken within thirty days of the date of mailing or delivery of the written decision and order of the hearing officer." Section 7-1-25(A). Subsection B of Section 7-1-25 states that "[t]he procedure for perfecting an appeal under this section to the [C]ourt of [A]ppeals shall be as provided by the Rules of Appellate Procedure." Rule 12-601 NMRA of the Rules of Appellate Procedure governs the perfection of direct appeals to this Court from decisions and orders issued by administrative agencies. *See* Rule 12-601. Rule 12-601(B) states that "[d]irect appeals from orders, decisions, or actions of boards, commissions, administrative agencies, or officials shall be taken by filing a notice of appeal with the appellate court clerk . . . within thirty (30) days from the date of the order, decision, or action appealed from."

{4} The Department does not dispute that it filed its notice of appeal more than thirty days after the hearing officer filed his decision and order. However, notwithstanding the plain language of the provisions governing this appeal, the Department contends its appeal is timely because the filing of a motion for reconsideration tolls the period for filing a notice of appeal and, even if it does not, the Department's appeal includes a challenge to the hearing officer's denial of its motion for reconsideration, and the time for appealing that order did not expire until February 24, 2018. The Department contends there is an absence of guidance in Rule 12-601 and Section 7-1-25, because neither includes language addressing the effect of a party's filing of a motion for reconsideration on the timeliness of an appeal, and asks us to import statutory language from "other procedural rules" to provide such guidance. We decline to do so.

{5} "When a statute contains language which is clear and unambiguous, we must give effect to that language and refrain from further statutory interpretation." *State ex rel. Helman v. Gallegos*, 1994-

¹In his order and decision, the hearing officer cited Regulation 3.2.1.18HH. This appears to have been in error. Subsection GG pertains to commission of independent contracts, while Subsection HH pertains to receipts from winning contests.

²There is some confusion in the pleadings about the date the notice of appeal was filed, but the notice was in fact filed on February 16, 2018.

NMSC-023, ¶ 18, 117 N.M. 346, 871 P.2d 1352 (internal quotation marks and citation omitted). Here, neither Section 7-1-25 nor Rule 12-601, nor the interplay between the two, contains any ambiguity with respect to the time for filing an appeal of a decision and order issued by a hearing officer considering a tax protest. See § 7-1-25(A); Rule 12-601(B). However, even if we were to look beyond the clear and unambiguous language of both the statute and rule that govern this appeal, we remain unpersuaded by the Department's arguments directing us to other rules (which govern appeals to district courts). The first such statute, NMSA 1978, Section 39-3-1.1(A) (1999), is expressly limited to "judicial review of agency final decisions that are placed under the authority of this section by specific statutory reference." (Emphasis added.) That condition is not satisfied here. The second, Rule 1-074 NMRA, says nothing about the effect of a motion for reconsideration on the time to file a notice of appeal. See Rule 1-074 (setting the date for filing a notice of appeal to the district court at thirty days). And the third, Rule 12-505(C) NMRA, makes it plain that when our Supreme Court wishes to make finality dependent upon whether a motion for reconsideration is filed, it is capable of doing so by including appropriate language. See Rule 12-505(C) (stating that "[f]inal action by the district court shall be the filing of a final order or judgment in the district court unless timely motion for rehearing is filed, in which event, final action shall be the disposition of the last motion for rehearing that was timely filed); *United Rentals Nw., Inc. v. Yearout Mech., Inc.*, 2010-NMSC-030, ¶ 25, 148 N.M. 426,

237 P.3d 728 ("[I]f a statute on a particular subject omits a particular provision, inclusion of that provision in another related statute indicates an intent that the provision is not applicable to the statute from which it was omitted." (alteration, internal quotation marks, and citation omitted)). The "other procedural rules" the Department relies upon are therefore unavailing. {6} Finally, we are not persuaded that the Department is entitled to appeal the hearing officer's denial of its motion for reconsideration separately from its appeal of the decision and order, such that its notice of appeal was rendered timely in this case. As we have explained, the rule governing a direct appeal of a hearing officer's decision establishes the filing timeline based on the issuance of the decision and order. See § 7-1-25(A). The Department has pointed to no statute, case, or rule authorizing an appeal from the denial of a motion for reconsideration issued in a matter arising under the Tax Administration Act and we therefore presume none exists. See *Curry v. Great Nw. Ins. Co.*, 2014-NMCA-031, ¶ 28, 320 P.3d 482 ("Where a party cites no authority to support an argument, we may assume no such authority exists."). Moreover, to conclude otherwise would effectively insert the tolling language urged by the Department into Rule 12-601 and Section 7-1-25 that we have rejected.

{7} This Court must dismiss a case when it does not have jurisdiction, see *Thornton v. Gamble*, 1984-NMCA-093, ¶ 15, 101 N.M. 764, 688 P.2d 1268, and the timeliness of an appeal is a mandatory precondition to the exercise of our jurisdiction. See *Govich v. N. Am. Sys., Inc.*, 1991-NMSC-061, ¶ 12, 112 N.M. 226, 814 P.2d 94 (stating that

satisfaction of time and place requirements for filing a notice of appeal are mandatory preconditions to the exercise of appellate jurisdiction). We will not waive this precondition in the absence of unusual circumstances. See *Santa Fe Pac. Tr., Inc. v. City of Albuquerque*, 2012NMSC028, ¶ 31, 285 P.3d 595 ("An untimely appeal will not be excused when the appellant is responsible for not filing a notice of appeal on time and there are no unusual circumstances warranting excusal."). We perceive no such circumstances here. The Department has offered no reason why it was unable to comply with the thirty-day rule for filing a notice of appeal in this matter. The hearing officer disposed of the Department's motion for reconsideration five days before the notice deadline and, in its order denying the motion, clearly instructed that "[m]otions for reconsideration may not be used to circumvent the appeals process and do not extend the time for taking an appeal." The Department had ample time to file a timely notice of appeal following the denial of its motion, yet failed to do so. We therefore conclude the Department's appeal is untimely.

CONCLUSION

{8} Based on the foregoing, we dismiss the Department's appeal with prejudice.

{9} IT IS SO ORDERED.

BRIANA H. ZAMORA, Judge

WE CONCUR:

LINDA M. VANZI, Judge

JACQUELINE R. MEDINA, Judge

From the New Mexico Supreme Court and Court of Appeals

From the New Mexico Court of Appeals

Opinion Number: 2020-NMCA-039

No. A-1-CA-37544 (filed May 4, 2020)

STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
NATISHA GEORGE,
Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY

KAREN L. TOWNSEND, District Judge

Released for Publication October 6, 2020.

HECTOR H. BALDERAS,
Attorney General
Santa Fe, NM
WALTER HART,
Assistant Attorney General
Albuquerque, NM
for Appellee

BENNETT J. BAUR,
Chief Public Defender
ALLISON H. JARAMILLO,
Assistant Appellate Defender
Santa Fe, NM
for Appellant

Opinion

Briana H. Zamora, Judge.

{1} Defendant Natisha George appeals a restitution order included as part of her sentence, imposed following her guilty plea to the offense of forgery, contrary to NMSA 1978, Section 30-16-10(A)(1) (2006). She contends the order requiring her to pay restitution for the costs of her extradition from New York was not authorized by statute and was not supported by substantial evidence. We agree and hold the order requiring Defendant to pay restitution was not authorized by law. We reverse.

Background

{2} The material facts are not in dispute. On September 12, 2010, Defendant was arrested for shoplifting and issued a citation, on which she signed her sister's name instead of her own. Defendant's sister discovered the forgery when she was pulled over for speeding in 2014, and a criminal complaint and warrant were issued against Defendant for theft of identity, concealing identity, and forgery. Sometime thereafter, Defendant moved to New York to live with her father. Officers from the San Juan County Sheriff's Department (the Department) extradited Defendant and returned her to New Mexico on May 9,

2018. Defendant was held in detention until May 21, 2018, when she pled guilty to one count of forgery. The district court ordered that she be conditionally released, subject to unsupervised probation for eighteen months. The court also ordered Defendant to pay a \$100 fee to the San Juan County Crimestoppers Program and to pay the Department extradition costs of \$2,131.57 as restitution, pursuant to NMSA 1978, Section 31-17-1 (2005). This appeal followed.

The District Court Erred When It Ordered Defendant to Pay Restitution for Extradition Costs

{3} The sole issue on appeal is the lawfulness of the order requiring Defendant to pay restitution. Defendant argues the order compelling her to pay restitution is not authorized by Section 31-17-1 (the victim restitution statute) because the Department is not a "victim" as contemplated by the statute, and there is no direct causal relationship between Defendant's criminal activities and the extradition costs incurred by the Department. Defendant also contends the State failed to establish an adequate evidentiary basis for the amount of the restitution award. The State counters that restitution of extradition costs is authorized under the victim restitution statute and, even if it is not, it is authorized as a condition of probation,

pursuant to NMSA 1978, Section 31-20-6 (2007) (the sentencing statute), or as a cost of conviction, pursuant to NMSA 1978, Section 31-12-6 (1972). The State further contends Defendant waived any challenge to the amount of the award by failing to contest it below.

{4} We review sentencing decisions, including orders of restitution, for an abuse of discretion. *See State v. Lack*, 1982-NMCA-111, ¶ 23, 98 N.M. 500, 650 P.2d 22 (stating that "restitution to the victim must be considered part of the sentencing process[,] and "sentencing involves the proper application of sound judicial discretion"). "[A] trial court abuses its discretion when it exercises its discretion based on a misunderstanding of the law." *State v. Vigil*, 2014-NMCA-096, ¶ 20, 336 P.3d 380. However, we review the district court's interpretation of the relevant statutes de novo. *See State v. Duhon*, 2005-NMCA-120, ¶ 10, 138 N.M. 466, 122 P.3d 50.

I. The Victim Restitution Statute (Section 31-17-1)

{5} The victim restitution statute provides that "[i]t is the policy of this state that restitution be made by each violator of the Criminal Code . . . to the victims of his criminal activities to the extent that the defendant is reasonably able to do so." Section 31-17-1(A). A "victim" is "any person who has suffered actual damages as a result of the defendant's criminal activities[.]" and "actual damages" are those "damages which a victim could recover against the defendant in a civil action arising out of the same facts or event [.]". Section 31-17-1(A)(1),(2). The purpose of the victim restitution statute is "to make whole the victim of the crime to the extent possible." *Lack*, 1982-NMCA-111, ¶ 12.

{6} As a preliminary matter, we recognize that there may appear to be some tension arising from our previous decisions concerning whether the State can be defined as a victim for purposes of the victim restitution statute. In *State v. Ellis*, this Court affirmed a sentence ordering the defendant to pay restitution to a police department for expenses the department incurred in employing the defendant as an undercover officer, expressly holding that a law enforcement agency can constitute a victim entitled to restitution under the victim restitution statute. 1995-NMCA-124, ¶¶ 15-19, 120 N.M. 709, 905 P.2d 747. Yet, in *State v. Dean*, we stated that "[u]nder the statute, the state is not a victim, and compensating the state does not further the purpose of victim restitution." 1986-NMCA-093, ¶ 17, 105 N.M. 5, 727 P.2d 944.

{7} A closer examination of these authorities makes clear that whether or not a law enforcement agency may be considered a “victim” under Section 31-17-1 depends in part on the damages the agency claims as restitution. In *Dean*, the defendant was convicted of trafficking in cocaine and was ordered to pay restitution to a police contingency fund. 1986-NMCA-093, ¶¶ 1, 13. Concluding that “the state is not a victim,” *id.* ¶ 17, this Court endorsed language from Judge Bivens’ dissenting opinion in *State v. Hernandez* that “the state [wa]s not a ‘victim’ here[.]” because the damages it claimed were costs of investigation, not losses attributable to the defendant’s crime. 1986-NMCA-017, ¶ 26, 104 N.M. 97, 717 P.2d 73 (Bivens, J., concurring in part, dissenting in part) (emphasis added). The facts in *Dean* were similar; the restitution order in that case sought recovery of costs associated with investigating the defendant’s crime. See 1986-NMCA-093, ¶ 13 (noting that the court ordered a defendant convicted of a narcotics offense to pay an amount equal to that paid by an undercover police officer to the defendant in purchase of cocaine). By contrast, the restitution order in *Ellis* was crafted not to restore the costs of investigating the defendant, but to compensate the police department for damage to other investigations and for the lost benefit of the defendant’s employment contract with the department—losses that we concluded were directly attributable to the defendant’s criminal activities and which could plausibly be recovered in a civil action. See 1995-NMCA-124, ¶¶ 15-19 (concluding that a police department’s losses stemming from the defendant’s embezzlement and tampering with evidence could be recovered in a civil action).

{8} In short, *Ellis* and *Dean* simply reaffirm the rule announced in *Madril* that, for a restitution order to be authorized under Section 31-17-1, there must be a “direct, causal connection between the criminal activities of a defendant and the damages which the victim suffers.” *Madril*, 1987-NMCA-010, ¶ 6. In *Madril*, this Court struck down an order requiring the defendant to pay restitution for property stolen in a burglary because the defendant pled guilty only to receiving stolen property, not to burglary. *Id.* ¶ 8. Having returned the property she unlawfully received, we held the defendant could not be required to pay restitution for the value of the other property taken in the burglary because she denied involvement in, and was never charged with, that offense. *Id.* Accordingly, *Madril* instructs that, in evaluating the lawfulness of a restitution order there must be a direct relationship between the “crime for which there is a plea of guilty or a verdict of guilty,” and the damages asserted by the victim. *Id.* ¶ 6.

{9} Here, Defendant pled guilty to forging her sister’s name to a citation for shoplifting. The extradition costs claimed by the Department bear, at best, an indirect relationship to this offense. Certainly, had Defendant not committed forgery and subsequently moved to New York, the Department would have had no cause to seek her extradition. But the Department’s extradition expenses were caused by Defendant’s relocation to New York, not her forging her sister’s name to the shoplifting citation. Had Defendant left the state to avoid prosecution, we would be faced with a different question. However, there is nothing in the record to suggest that Defendant traveled to New York for any reason other than to live with her father. Because there is no direct, causal relationship between the crime Defendant pled guilty to and the damages sought by the Department, the restitution order is not authorized by Section 31-17-1.

II. The Sentencing Statute (Section 31-20-6)

{10} While the restitution order at issue in this case was expressly imposed pursuant to Section 31-17-1, the State is correct that we must affirm the district court’s sentencing decision if it is “right for any reason.” See *State v. Mendoza*, 1993-NMCA-027, ¶ 10, 115 N.M. 772, 858 P.2d 860 (stating that a proper sentence will be upheld even if imposed based on an erroneous conclusion of law). We therefore next consider the State’s contention that the restitution award in this case could have been authorized by Section 31-20-6 (the sentencing probation statute).

{11} When a district court orders a sentence deferred or suspended, it may impose such conditions of probation “as it may deem necessary to ensure that the defendant will observe [the law].” Section 31-20-6. While the probation statute expressly authorizes the court to impose a variety of conditions, the only provision that arguably applies here is Subsection F, which permits the court to impose any “conditions reasonably related to the defendant’s rehabilitation.” Section 31-20-6(F).

{12} District courts have discretion to “consider a wide range of options to assure [the] defendant’s rehabilitation,” and we have recognized that repayment of costs incurred by the state may, under certain circumstances, serve a rehabilitative purpose. *State v. Taylor*, 1986-NMCA-011, ¶ 36, 104 N.M. 88, 717 P.2d 64. However, “to be reasonably related to rehabilitation, the probation condition must be relevant to the offense for which probation was granted.” *State v. Holland*, 1978-NMCA-008, ¶ 9, 91 N.M. 386, 574 P.2d 605. In *Taylor*, 1986-NMCA-011, ¶ 36 we upheld an order for restitution as a condition of

probation where the order required the defendant to repay money he received in the drug transaction that formed the basis of his conviction.

{13} Unlike the order at issue in *Taylor*, the restitution order here is unrelated to the offense to which Defendant pled guilty. See *State v. Ayala*, 1981-NMCA-008, ¶ 5, 95 N.M. 464, 623 P.2d 584 (holding that the probation statute did not authorize an order requiring a defendant convicted of aggravated battery to pay jury and bailiff costs as “conditions reasonably related to rehabilitation” because such costs were not relevant to the offense of aggravated battery). We fail to see how ordering the Defendant to repay the costs of her extradition is “designed to protect the public against the commission of other [forgery] offenses during the term [of a defendant’s probation]” or has “as [its] objective the deterrence of future misconduct.” *State v. Donaldson*, 1983-NMCA-064, ¶ 33, 100 N.M. 111, 666 P.2d 1258; see *Holland*, 1978-NMCA-008, ¶¶ 9-10 (holding that a fine imposed upon the defendant for traffic offenses committed as a juvenile was not authorized as a condition of probation because “the fine was not relevant to the cocaine offense” to which the defendant pled guilty and was therefore not reasonably related to his rehabilitation); cf. *State v. Gardner*, 1980-NMCA-122, ¶ 19, 95 N.M. 171, 619 P.2d 847 (upholding an order requiring the defendant to submit to search upon request as a proper condition of probation because it was reasonably related to the defendant’s narcotics conviction and “aimed at deterring or discovering subsequent criminal offenses”).

{14} Because the order to pay extradition costs was not reasonably related to a proper rehabilitative purpose, it could not have been authorized by the court pursuant to Section 31-20-6. See *State v. Dominguez*, 1993-NMCA-042, ¶ 48, 115 N.M. 445, 853 P.2d 147 (holding that it was not proper to order the defendant to make a contribution to the sheriff’s office as a condition of probation because “the [s]heriff’s [o]ffice was unaggrieved by [the defendant’s] actions”).

III. The Costs of Prosecution Statute (Section 31-12-6)

{15} Finally, we address the State’s contention that the restitution order could have been authorized as a cost of prosecution. See § 31-12-6 (providing that “[i]n every case wherein there is a conviction, the costs may be adjudged against the defendant”). The “assessment of costs in criminal cases is a statutory creation, unknown at common law” and thus must be authorized by statute. *Ayala*, 1981-NMCA-008, ¶ 9 (alteration, internal quotation marks, and citation omitted). We strictly construe such statutes because assessments

are punitive in nature. *State v. Valley Villa Nursing Ctr.*, 1981-NMCA-133, ¶ 6, 97 N.M. 161, 637 P.2d 843.

{16} While Section 31-12-6 does not specify which costs may be assessed against a defendant, it is settled law that such costs cannot include the “general expense of maintaining a system of courts and the administration of justice.” *Ayala*, 1981-NMCA-008, ¶ 12 (internal quotation marks and citation omitted). We have previously held that jury costs, bailiff costs, and the costs of convening a grand jury are not recoverable under the statute. *Id.* ¶¶ 12-16; *Valley Villa*, 1981-NMCA-133, ¶ 6. Moreover, “the [s]tate’s costs in investigation and preparation of criminal charges” constitute general expenses that are not recoverable under Section 31-12-6. *State v. Padilla*, 1982-NMCA-100, ¶ 21, 98 N.M. 349, 648 P.2d 807.

{17} The State contends that the extradition costs at issue here are not general expenses but are “unusual” costs of prosecution that may be recovered under the statute, pursuant to *City of Portales v. Bell*, 1963-NMSC-072, ¶ 11, 72 N.M. 80, 380 P.2d 826 and *Valley Villa*, 1981-NMCA-133, ¶ 9. In *Bell*, our Supreme Court held that the district court did not abuse its discretion in assessing costs against the defendant incurred by a county as a result of having a nonresident judge try the defendant’s case, even though such costs were not expressly authorized by Section 31-12-6. *Bell*, 1963-NMSC-072, ¶ 11. In so holding, our Supreme Court emphasized that the costs at issue had “a direct relation to the case being tried” and were “incident[al] to the trial of the case itself.” *Id.* Instead of applying this standard, however, the State contends that *Valley Villa* “described the costs properly assessable under the . . . *Bell* rationale as ‘unusual costs’ incurred in connection with [this]

case.” The State then invites us to uphold the assessment of extradition costs in this case because they are not “typical in every criminal prosecution by the State.” We decline to do so.

{18} First, the State misreads our opinion in *Valley Villa*. In that case, far from endorsing the rationale of *Bell*, we expressly called the costs into question. See *Valley Villa*, 1981-NMCA-133, ¶ 10 (stating “[w]e have difficulty . . . with the reasoning . . . in [*Bell*],” and asking “[w]hy should ‘direct relation’ costs be assessable in the absence of legislative authorization?”). This Court also expressed skepticism about whether the rarity of an expense should be considered when determining whether its assessment was authorized by statute. *Id.* (asking, “Why should . . . a little used . . . method for instituting criminal charges . . . justify the assessment of costs in the absence of legislative authorization for such costs?”).

{19} Second, even if the proper inquiry under *Bell* is whether an assessed cost is “unusual,” the State has offered no authority in support of its assertion that “general costs of maintaining the system of courts and the administration of justice are those of a type that are typical in *every criminal prosecution by the State*” and, therefore, extradition costs cannot constitute general expenses. (Emphasis added.) This Court will not consider propositions that are unsupported by citation to authority. *ITT Educ. Servs., Inc. v. N.M. Taxation & Revenue Dep’t*, 1998-NMCA-078, ¶ 10, 125 N.M. 244, 959 P.2d 969. Nor has the State pointed to any evidence in the record indicating how unusual extradition costs are. “The mere assertions and arguments of counsel are not evidence.” *Chan v. Montoya*, 2011-NMCA-072, ¶ 9, 150 N.M. 44, 256 P.3d 987 (internal quotation marks and citation omitted).

{20} We think there is little to distinguish extradition costs from the kinds of expenses required to administer a system of justice that have been excluded from recovery under Section 31-12-6. To the contrary, extradition bears a close resemblance to the kinds of investigatory and pre-prosecution practices that were deemed non-recoverable in *Valley Villa* and *Padilla*. See *Valley Villa*, 1981-NMCA-133, ¶¶ 12-14 (finding costs of grand jury proceedings not recoverable under Section 31-12-6); see also *Padilla*, 1982-NMCA-100, ¶ 21 (stating that “the [s]tate’s costs in investigation and preparation of criminal charges would fall into the same category of general expense”). At the very least, because there was no trial in this matter, the extradition costs imposed here cannot be deemed “incident[al] to the trial of the case itself.” *Bell*, 1963-NMSC-072, ¶ 11. Accordingly, we find that the assessment of extradition costs against Defendant is not authorized by Section 31-12-6.

{21} Because we have determined the restitution order was not authorized by statute, we need not consider Defendant’s additional argument that the State failed to establish an adequate evidentiary basis for the amount of the award.

CONCLUSION

{22} For the foregoing reasons, we reverse that portion of Defendant’s sentence requiring her to pay restitution in the amount of the Department’s costs of extradition.

{23} **IT IS SO ORDERED.**
BRIANA H. ZAMORA, Judge

WE CONCUR:
LINDA M. VANZI, Judge
JACQUELINE R. MEDINA, Judge



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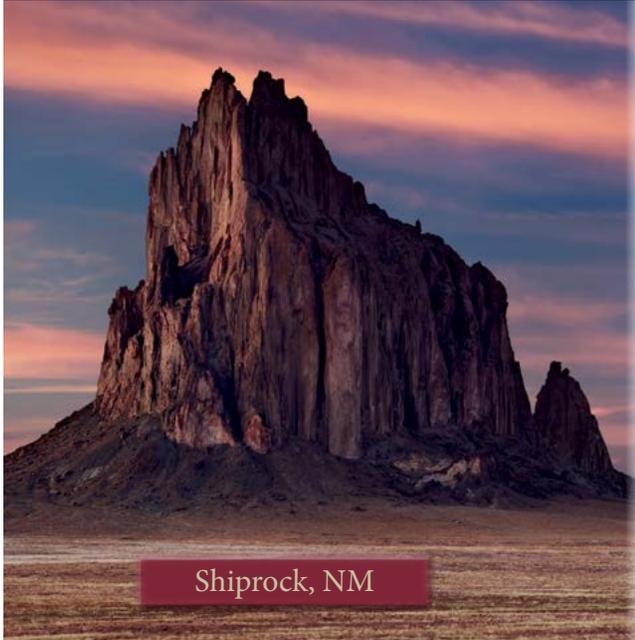
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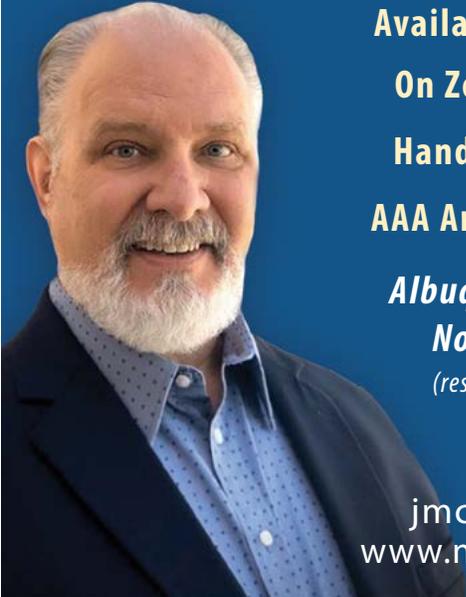
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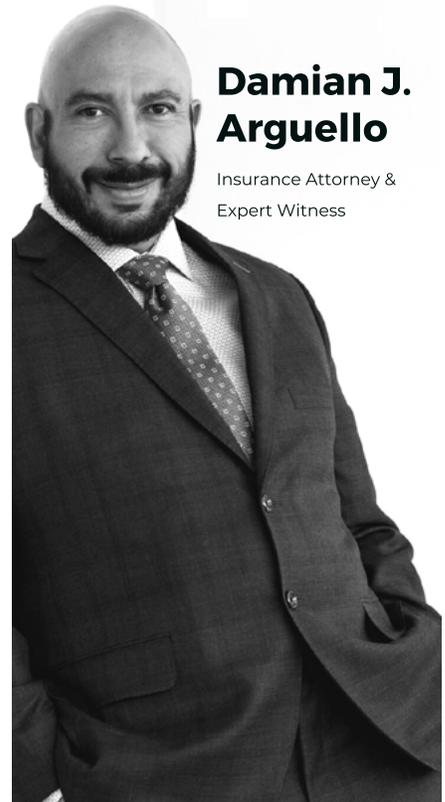
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The Pueblo of Pojoaque is accepting applications for an attorney to provide legal services under the direct supervision of the Chief General Counsel. Applicant will assume diverse roles while working with the Pueblo people, their government and Pueblo corporations. Position requires a substantial knowledge and understanding of the Pueblo, its departments and businesses and a general understanding of Indian Law and tribal-federal-state relations and the Pueblo of Pojoaque Law and Order Code. A background of federal Indian law is essential. Practice areas include direct legal services, domestic affairs, tribal corporations, water law, litigation, gaming, general civil law, and contracts. Prior Tribal Court and tribal law experience preferred. JD required. Must be capable of being admitted to the Pueblo of Pojoaque Tribal Court and the New Mexico State Bar. Salary pay range is \$140,000 - \$150,000 per year. Position will be filled within 30 days of this posting. Send resumes via email to sfstehage@pojoaque.org.

Attorneys

The Children, Youth & Families Department (CYFD) Office of General Counsel seeks organized, professional, and results-oriented attorneys with strong leadership skills to serve as Assistant General Counsel. This position is a great opportunity for anyone who would like to use their skills as an attorney to benefit child welfare services. CYFD offers a competitive compensation plan, excellent benefits, and a pension program. For more information on qualifications, and instructions on how to apply, please visit <https://www.spo.state.nm.us/career-services/>. You may also contact General Counsel Jeff Young directly at 505-469-8806. We invite all qualified applicants to apply to join our innovative team to help make a difference in the lives of children and families.

Assistant Investigative Trial Counsel

Prospectively, the New Mexico Judicial Branch is requiring full vaccination status as a condition of employment to being hired into the judiciary. The Executive Director of the State of New Mexico Judicial Standards Commission is accepting applications for an Assistant Investigative Trial Counsel, an FLSA exempt (not classified), at-will, and full-time position located in Albuquerque. NMJB pay range KK (\$25.107/hr - \$40.799/hr). Under general direction and review, the Assistant Investigative Trial Counsel assists in the investigation and prosecution of matters before the Commission involving the removal, retirement, or discipline of New Mexico judges and may assist with oral and written arguments before the New Mexico Supreme Court. Qualifications: Applicant must be a graduate of a law school meeting the standards of accreditation of the American Bar Association; possess and maintain a license to practice law in the State of New Mexico; be in good standing in New Mexico and all other states where law licensure held; and have no professional disciplinary actions or history. A minimum of two (2) years of experience in the practice of law is required. Knowledge: Thorough knowledge of United States and New Mexico constitutions, federal law, New Mexico case law, statutes, rules, policies and procedures; Code of Judicial Conduct; Rules of Professional Conduct; court juris-diction and operations; manual and computerized legal research; principles of legal analysis and writing, legal proofreading and editing, standard English usage and grammar; and computer software applications (e.g., legal re-search, word processing, databases, court case management system, e-mail and internet). Skills and Abilities: Must be proficient in case analysis, investigation, evidence gathering, case building, and oral and written advocacy. Prior experience conducting trials, administrative prosecutions, or appellate work is an asset. Must also have proficient skill and ability in communicating effectively both orally and in writing with diverse individuals and groups; interpreting and assimilating information of legal significance; identifying legal issues; performing legal research; discerning the content and relative importance of cases, statutes, and other sources of law; applying law to complex and novel scenarios; maintaining confidentiality and using discretion when dealing with confidential and sensitive information; maintaining professional demeanor and composure; providing information to members of the bar and public in a courteous manner without giving legal advice; drafting orders, recommendations, and opinions which address all legal, policy and factual issues clearly, efficiently and effectively; organizing and establishing priorities and managing time and resources effectively on multiple projects; working well

both independently and collaboratively; using initiative and independent judgment with minimal supervision; receiving and following directions; applying relevant policies and procedures; using computers and computer soft-ware applications including word processing, databases, court case management system, e-mail and the internet; displaying teamwork, diligence, resourcefulness and adaptability while working in an environment subject to frequently changing priorities, high stress, and exposure to conflicting demands; meeting objective productivity and work-quality requirements; and researching, comprehending, explaining and resolving complex issues constructively. Must also have strong ability to establish and maintain cooperative working relationships; approach problems creatively; determine when to seek assistance and collaborate with other staff; persuade others using tact and diplomacy; accept constructive criticism and guidance; learn quickly and retain information; prepare and deliver presentations; maintain accurate files and records; and train, motivate and mentor others; plan and assign work, apply relevant policies and procedures to assigned work; provide meaningful employee feedback and performance evaluations; provide effective coaching and constructive criticism, mediate and manage conflict. Other: Must possess, exhibit, and maintain exemplary ethics. Fluency in Spanish is a desirable asset. Hiring may be dependent on successful completion of a background check. Work Environment and Physical Demands: The following functions are representative of the work environment and physical demands an employee may expect to encounter in performing tasks assigned to this job. Work requires the extensive use of computers and is performed in an office or court setting. The employee is regularly required to sit for long periods of time, talk, hear, read typed and/or hand-written material; perform repetitive hand, arm and finger motions as well as use manual/finger dexterity. May also be required to stand, walk, kneel/stoop, move, lift, pull and carry up to 25 pounds; travel (valid driver's license required), work overtime and/or flexible hours, weekends, and holidays; and be exposed to fluctuating building temperatures, hostile or violent situations, and contagious health conditions. The employee is expected to be punctual and to adhere to an assigned work schedule. TO APPLY: Please mail your resume with letter of interest, writing sample, three professional references, and salary history via U.S. Mail. No telephone calls, e-mails, faxes, or walk-ins please. Applications must be postmarked no later than December 3, 2021, and should be addressed to: Executive Director & General Counsel; Judicial Standards Commission; 6200 Uptown Blvd. NE, Suite 320; Albuquerque, NM 87110-4159.

Position Announcement Administrative Officer - Albuquerque 2022-01

The Federal Public Defender for the District of New Mexico is seeking a full-time Administrative Officer to manage both Albuquerque and Las Cruces offices. The position is based out of Albuquerque. The federal defender organization operates under the Criminal Justice Act, 18 U.S.C. §3006A, to provide criminal defense and related help in federal courts. Position Overview: The Administrative Officer provides assistance and advice to the Defender on a variety of administrative and management issues. General areas of direct or supervisory responsibility include management and administrative analysis; financial management; personnel administration and human resources; supervision and training; space and facilities management; equipment, telecommunications and office automation management; and property, records and procurement management. Travel is required. Duties & Responsibilities: The Administrative Officer performs the following duties: Acts as principal advisor to the Defender on all aspects of office administration and management; Develops and maintains a system of internal controls to assure proper separation of duties for financial, procurement and property management, as well as personnel functions; Provides subject matter expertise, leadership, consultation, collaboration, and advisory services essential to the direction and efficient operation of the office; Directly assists with the management of key day-to-day planning, operations, and special projects; Works with managers to address and resolve issues, and improve the organization's overall program management, efficiency, and effectiveness; Directly supervises the administrative, information technology, and legal support staff to ensure office operations are supported; Oversees human resources, procurement, contracting, and property management for the office; Audits internal controls annually and recommends improvements; Manages the financial operations of the defender office, which includes; developing the annual budget, ensuring expenditures remain within budgetary constraints; itemized budget projections; preparation and submission of monthly/yearly reports; reprogramming of funds as necessary; and reviews and analyzes long-range budgetary and staffing needs; Provides the Defender technical and advisory assistance in the areas of recruitment, selection and staffing, classification and compensations, benefits, performance management, grievance and EEO procedures, and employee relations; Provides technical expertise and advice to the Defender and staff on issues such as employee development and promotion, position standards and classification; Determines need for and secures

adequate and suitable office space. Monitors monthly rent bills; Coordinates construction projects and arranges office relocations, renovations and repairs; Ensures adherence to federal and local procurement practices and procedures. Acquires current knowledge of fiscal year spending requirements and restrictions and maintains purchasing records and reports. Operates in compliance with Judiciary Policies and Procedures; Implements office security measures and develops on-site safety programs; Manages the travel program for the office, including approving travel arrangements and reconciling the government travel accounts; Participates in national administrative working groups or projects, as needed; All other duties as needed to manage a large and diverse law practice. Qualifications: To qualify, a person must have at least three years' general experience and three years' specialized experience. Some higher education from an accredited college or university, preferably with a concentration in public administration, public policy, business administration, management or related field, may be substituted for some of the required experience. Current or prior Federal Public Defender or law office experienced is preferred, as is progressively more responsible administrative, technical, professional, supervisory, or managerial experience, in at least one or more of these functional areas; budget and finance, human resources, purchasing or procurement. Proficiency in Excel is required. A bachelors or advanced degree from an accredited college or university is also preferred. Salary and Benefits: This position is full time with a comprehensive benefits package that includes: health and life insurance, vision and dental benefits, flexible spending accounts, paid time off, sick leave, leave for all federal holidays, participation in the Federal Employees' Retirement System, and participation in the Thrift Savings Plan with up to 5% government matching contributions. Salary is dependent upon qualifications and experience, but ranges from a JSP 11-15. Salary is payable only by electronic funds transfer (direct deposit). Conditions of Employment: This is a high-sensitive position and requires a full-blown background check. Appointment to the position is contingent upon the successful completion of this background check and/or investigation, including an FBI name and fingerprint check. All employees must be fully vaccinated for Covid-19 and provide proof of such prior to entrance on duty. Employees of the Federal Public Defender are members of the judicial branch of government and are considered "at will." You must be a U.S. citizen or person authorized to work in the United States and receive compensation as a federal employee. Application Information: In one PDF document, please submit a statement of interest, detailed resume, and three references to: Margaret A. Katze, Federal Public Defender

FDNM-HR@fd.org; Reference 2022-01 in the subject. Applications must be received by November 19, 2021. Position will remain open until filled and is subject to the availability of funding. The Federal Public Defender operates under the authority of the Criminal Justice Act, 18 U.S.C. § 3006A. The Federal Public Defender is an equal opportunity employer. We seek to hire individuals who will promote the diversity of the office and federal practice. No phone calls please. Submissions not following this format will not be considered. Only those selected for interview will be contacted.

Environmental Attorney (Attorney 3) – IRC90997

The Los Alamos National Laboratory Office of General Counsel (OGC) is seeking an experienced environmental attorney to provide legal advice and counsel on a wide range of interesting, often unique, environmental compliance, litigation and other matters. The attorney will draft legal documents, participate in negotiations with federal or state governments and citizens groups, represent the Lab in administrative permit or rulemaking hearings and other legal proceedings, and identify and implement strategies in support of OGC's focus on preventive law. The attorney will be a member of a Bar in good standing, with legal practice experience of at least seven years, and a substantial amount of that experience devoted to environmental law, including substantive knowledge and expertise of federal or state environmental laws and regulations. This position also requires the ability to obtain a security clearance, which involves a background investigation, and must meet eligibility requirements for access to classified matter. Apply online at: www.lanl.gov/jobs. Los Alamos National Laboratory is an EO employer – Veterans/Disabled and other protected categories. Qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, sexual orientation, gender identity, disability or protected veteran status.

Housing Attorneys and Paralegals

New Mexico Legal Aid is hiring litigation attorneys, intake attorneys and paralegals to serve clients threatened with loss of housing due to the COVID pandemic. Duties include advice, representation in court and outreach to community partners. Attorneys and paralegals may be based in any of NMLA's offices statewide. Preference may be given to those able to work out of NMLA's rural offices. Spanish language ability is a plus. Attorney candidates must have NM bar license. Send resume and cover letter to jobs@nmlegalaid.org. Application deadline: November 30, 2021 or until all positions are filled.

Metro Region Managing Attorney Position Job ID 119559

The Children, Youth and Families Department is seeking to fill the Metro Region Managing Attorney Children's Court Attorney position to be housed in Albuquerque. Salary range is \$62,598- \$108,921 annually, depending on experience and qualifications. Incumbent will be responsible for direction and management of Children's Court Attorneys and legal staff located in the Metro Region of the state who handle civil child abuse and neglect cases. The ideal candidate must have a Juris Doctorate from an accredited school of law, be licensed as an attorney by the Supreme Court of New Mexico and eight (8) years of professional level experience with a strategic impact directly related to the purpose of this position. Executive Order 2021-046 requires all employees with the State of New Mexico to provide either proof of COVID-19 vaccination or proof of a COVID -19 Viral test every week. Benefits include medical, dental, vision, paid vacation, and a retirement package. For information, please contact: Marisa Salazar (505) 659-8952. To apply for this position, go to www.spo.state.nm.us. The State of New Mexico is an EOE.

Associate Attorneys

Mynatt Martínez Springer P.C., an AV-rated law firm in Las Cruces, New Mexico is seeking two associate attorneys to join our team. The firm's practice areas include insurance defense, civil rights defense, commercial litigation, and government representation. Applicants with 0-5 years of experience will be considered for full-time employment. If it is the right fit, the firm will also consider applications for part-time employment from attorneys with more than 5 years of experience. Associates are a critical component of the firm's practice and are required to conduct legal research; provide legal analysis; advise clients; draft legal reviews, pleadings, and motions; propound and review pretrial discovery; and prepare for, attend, and participate in client meetings, depositions, administrative and judicial hearings, civil jury trials, and appeals. Successful candidates must have strong organizational and writing skills, exceptional communication skills, and the ability to interact and develop collaborative relationships. The firm will consider applicants who desire to work remotely. Offers of employment will include salary commensurate with experience and a generous benefits package. Please send your cover letter, resume, law school transcript, writing sample, and references to rd@mmslawpc.com.

Chief Children's Court Attorney Position Job ID 119554

The Children, Youth and Families Department is seeking to fill the Chief Children's Court Attorney position to be housed in any CYFD office in the state. Salary range is \$83,050 - \$144,507 annually, depending on experience and qualifications. Incumbent will be responsible for direction and management of Children's Court Attorneys and legal staff located throughout the state who handle civil child abuse and neglect cases and termination of parental rights cases. The ideal candidate must have a Juris Doctorate from an accredited school of law, be licensed as an attorney by the Supreme Court of New Mexico and have the requisite combination of executive management and educational experience. Executive Order 2021-046 requires all employees with the State of New Mexico to provide either proof of COVID-19 vaccination or proof of a COVID -19 Viral test every week. Benefits include medical, dental, vision, paid vacation, and a retirement package. For information, please contact: Marisa Salazar (505) 659-8952. To apply for this position, go to www.spo.state.nm.us. The State of New Mexico is an EOE.

UNM Civil Rights Compliance Manager

The UNM Office of Compliance, Ethics & Equal Opportunity (CEEEO) seeks a highly qualified professional committed to diversity and civil rights for the role of Compliance Manager. The Compliance Manager's duties include: Investigating Title IX, title VII, ADA, and other civil rights reports; Managing and supervising four Compliance Specialists (investigators); Providing training and guidance to the campus community; Ensuring accurate case management for timely, complex investigations and data integrity; Assisting CEEEO leadership with office oversight, regulatory compliance, strategic initiatives. JD strongly preferred, along with supervisory experience and civil rights or employment law experience. Please see the UNM Jobs website for further details and to apply. The University of New Mexico is an affirmative action and equal opportunity employer, making decisions without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, veteran status, disability, or any other protected class.

Civilian Police Oversight Agency Director UN

Location: Albuquerque, NM USA; website: cabq.gov; Contact: Lonnie Ben (505) 850-0255 or lben@cabq.gov; Apply here: Civilian Police Oversight Agency Director UN | Job Details tab | Career Pages (governmentjobs.com). Position Summary: Under the direction and supervision of the Civilian Police Oversight Agency (CPOAB), the Director supervises and directs the operations of the Civilian Police Oversight Agency (CPOA). The Director oversees, monitors, and reviews all citizen police complaints or complements, serious uses of force including officer-involved shooting cases, and claims directed against officers and employees of the Albuquerque Police Department (APD). The Director supervises the investigative and administrative staff of the CPOA; as well as assigning citizen police complaints to CPOA staff for investigation. The Director will provide recommendations and advice regarding Departmental policies and procedures to the CPOAB; the Director will also provide advice, as appropriate, to the APD, the City Council, and the Mayor. The director is responsible for the performance of the CPOA staff's duties in line with policy, guidance, and city ordinance. This is an unclassified at-will position. Job descriptions are intended to present a general list of tasks/duties performed by employees within this job classification. Job Descriptions are not intended to reflect all duties performed within the job. Minimum Education, Experience And Additional Requirements: Whether an applicant is qualified for the position of Director shall be determined by the Civilian Police Oversight Agency Board (CPOAB). However, the minimal qualifications shall include the following:

1. Must possess a professional law degree (J.D. or LL.B) from an ABA accredited law school;
2. Must be an active member in good standing of the bar in a US State or Territory, or the District of Columbia;
3. Experienced in criminal investigation;
4. Proven track record of effective management experience.

ADDITIONAL REQUIREMENTS: 1. Possession of a valid New Mexico Driver's License, or the ability to obtain by date of hire; 2. Possession of a City Operator's Permit (COP) within 6 months from date of hire; 3. Must undergo and pass background check; 4. May require working non-traditional hours, including being on-call.

Research and Writing Attorney - Albuquerque 2022-03

The Federal Public Defender for the District of New Mexico is seeking a full time, experienced Research and Writing Attorney for the main office in Albuquerque. More than one vacancy may be filled from this announcement. 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. Duties & Responsibilities: The Research and Writing Attorney is an attorney position that provides advanced research and writing services to staff attorneys on trial and appellate cases, performs computer assisted legal research, aids in the development of legal strategies, writes briefs, motions, petitions for certiorari, and legal memoranda for review by the Defender and staff attorneys. General duties include examining, analyzing and researching records and issues, performing legal research and preparing legal documents, assisting Assistant Federal Defender staff with all aspects of case preparation, training, continuing legal education and supervision of legal interns as appropriate. The Research and Writing Attorney does not ordinarily make court appearances, but can sign briefs with the trial attorney if admitted to the 10th Circuit. Qualifications: Minimum qualifications include graduation from an accredited law school, admission to practice in good standing before the highest court of a state. A working knowledge of federal criminal law and procedure are preferred. Candidates must be able to analyze legal issues from lengthy, complex records, write clearly and concisely, and have strong computer automation skills. Prior appellate writing experience, law review membership or a judicial law clerkship are desirable. Research and Writing Attorneys may not engage in the private practice of law. Salary and Benefits: This position is full time with a comprehensive benefits package that includes: health and life insurance, vision and dental benefits, flexible spending accounts, paid time off, sick leave, leave for all federal holidays, participation in the Federal Employees' Retirement System, and participation in the Thrift Savings Plan with up to 5% government matching contributions. Salary is dependent upon qualifications and experience, but ranges from a JSP 9-15 (\$53,770 to \$128,885 annually, depending on experience). Salary is payable only by electronic funds transfer (direct deposit). Conditions of Employment: This is a sensitive position and appointment to the position is contingent upon the successful completion of a background check and/or investigation, including an FBI name and fingerprint check. All employees must be fully vaccinated for Covid-19 and provide proof of such prior to entrance on duty. Employees of the Federal

Public Defender are members of the judicial branch of government and are considered "at will." You must be a U.S. citizen or person authorized to work in the United States and receive compensation as a federal employee. Application Information: In one PDF document, please submit a statement of interest, detailed resume of experience, and three references to: Margaret Katze, Federal Public Defender; FDNM-HR@fd.org; Reference 2022-03 in the subject. Writing samples will be required only from those selected for interview. Applications must be received by November 19, 2022. Positions will remain open until filled and are subject to the availability of funding. The Federal Public Defender operates under the authority of the Criminal Justice Act, 18 U.S.C. § 3006A. The Federal Public Defender is an equal opportunity employer. We seek to hire individuals who will promote the diversity of the office and federal practice. No phone calls please. Submissions not following this format will not be considered. Only those selected for interview will be contacted.

Associate Attorney

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

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 hhinton@cordellllaw.com

Supreme Court of New Mexico Attorney – Administrative Counselor to the Chief Justice

Come work with us in the historic Supreme Court Building in Santa Fe! The Supreme Court is accepting applications for an attorney who will support the Chief Justice in the oversight and management of the Chief's administrative responsibilities and in the performance of the Chief's statutory duties. The attorney will manage the internal and external communications, public information, and public appearances of the Chief Justice. The attorney will also advise the Chief Justice and the judiciary on administrative and policy matters, provide reports and analyses, and draft memoranda. The attorney will work collaboratively with judges, court personnel, the Administrative Office of the Courts, state and national organizations, public and private organizations, the news media, and the general public to effectively plan, organize, and implement policy, procedures, special projects, events, and initiatives at the direction of the Chief Justice. For a detailed description of the job qualifications, duties, and application requirements, please visit the Careers webpage on the New Mexico Judiciary's website at <https://www.nmcourts.gov/careers/>

New Mexico Legal Aid Seeks Volunteer Attorney Program Director

New Mexico Legal Aid is seeking a dynamic and creative leader to serve as Director of our statewide Volunteer Attorney Program. This position requires close work with the Pro Bono Committees of the various Judicial Districts, the State Bar of New Mexico and the New Mexico Commission on Access to Justice. We are looking for highly motivated candidates who are passionate and strongly committed to helping NMLA and our statewide pro bono partners better serve our client community. The position will be located in Albuquerque but will require periodic travel around the State. Proficiency in Spanish is a plus. Send resume and letter of interest explaining what you would like to accomplish if you are selected for this position to: jobs@nmlegalaid.org. Application deadline: November 30, 2021 or until position filled.

Attorney

Butt Thornton & Baehr PC seeks an attorney with at least 5 years' legal experience. BTB is in its 63rd 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](mailto:Ryan.T.Sanders@rtbsanders@btblaw.com).

Assistant City Attorney Positions

The City of Albuquerque Legal Department is hiring for various Assistant City Attorney positions. The Legal Department's team of attorneys provides a broad range of legal services to the City, as well as represent the City in legal proceedings before state, federal and administrative bodies. The legal services provided may include, but will not be limited to, legal research, drafting legal opinions, reviewing and drafting policies, ordinances, and executive/administrative instructions, reviewing and negotiating contracts, litigating matters, and providing general advice and counsel on day-to-day operations. Attention to detail and strong writing and interpersonal skills are essential. Preferences include: Five (5)+ years' experience as licensed attorney; experience with government agencies, government compliance, real estate, contracts, and policy writing. Candidates must be an active member of the State Bar of New Mexico in good standing. Salary will be based upon experience. Current open positions include: Assistant City Attorney - APD Compliance; Assistant City Attorney - Office of Civil Rights; Assistant City Attorney - Environmental Health; Assistant City Attorney - Employment/Labor. For more information or to apply please go to www.cabq.gov/jobs. Please include a resume and writing sample with your application.

Associate Attorney and Legal Assistant

Gluth Law, LLC, an estate planning and probate firm in Las Cruces, New Mexico and El Paso, Texas, has immediate full-time openings for an associate attorney and legal assistant. Duties would primarily include preparation of estate planning and probate documentation as well as handling all aspects of estate and trust administration. Prior experience in these practice areas is preferred, but not required. Successful applicants will have strong organizational, writing, and time-management skills. Salary is commensurate with experience. Please send resume and references to alan@gluthlaw.com.

Paralegal

Hatcher Law Group, PA seeks a Paralegal with three plus years civil litigation experience (i.e. insurance defense, workers compensation, employment and civil rights) for our downtown Santa Fe office. We are looking for a motivated individual who is well organized, detail oriented and a team player. A paralegal certificate is required. Proficiency in Word, Microsoft 365, Westlaw and Adobe Pro. Salary contingent upon experience, plus benefit package. Send your cover letter and resume via email to juliez@hatcherlawgroupnm.com

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. Up to 3-5 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.

New Mexico Court of Appeals Law Clerk and Senior Law Clerk in Albuquerque

Newly appointed Court of Appeals Judge Katherine A. Wray is accepting applications for two law clerk positions to begin as soon as possible. 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 Court of Appeals has two types of law clerk positions: "regular" and "senior." The regular law clerk position requires one year of experience performing legal research, analysis and writing while employed or as a student and law school graduation by the time you begin employment. Current annual salary for regular law clerk is \$62,167. Senior law clerk positions require four years of experience in the practice of law or as an appellate law clerk and a New Mexico law license. Current annual salary for senior law clerk is \$70,260. Applicants may apply for either position. Please send resume, cover letter, writing sample and law school transcript to: Anna Box, Court Manager, coaamb@nmcourts.gov, 2211 Tucker Ave, Albuquerque, NM 87106.

Legal Secretary

The City of Albuquerque Legal Department (Litigation Division) is seeking a Legal Secretary to assist assigned attorneys in performing a variety of legal secretarial/administrative duties, which include but are not limited to: preparing and reviewing legal documents; creating and maintaining case files; calendaring; provide information and assistance, within an area of assignment, to the general public, other departments and governmental agencies. Please apply at <https://www.governmentjobs.com/careers/cabq>.

Communications Coordinator

The State Bar of New Mexico seeks applications for a full time Communications Coordinator to assist with the production of our print and digital publications, media relations efforts, copyediting, and creation of marketing materials. Successful applicants will have superb communications skills, high attention to detail, copyediting skills, and a working knowledge of Adobe InDesign. Experience with other Adobe Creative Cloud programs, media relations experience, and spokesperson experience a plus. \$16-\$18 per hour, depending on experience and qualifications. Generous benefits package included. Qualified applicants should submit a cover letter, resume and two writing samples to HR@sbnm.org. Visit <https://www.sbnm.org/About-Us/Career-Center/State-Bar-Jobs> for full details and application instructions.

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. Starting salary is \$21.31 per hour during an initial, proscribed probationary period. Upon successful completion of the proscribed probationary period, the salary will increase to \$22.36 per hour. Competitive benefits provided and available on first day of employment. Please apply at <https://www.governmentjobs.com/careers/cabq>.

Paralegal and Billing Clerk

Growing law firm seeking an experienced Paralegal and Billing Clerk. Skills/Abilities: Paralegal applicants need experience with legal research, drafting, and e-Filing. Billing Clerks need understanding of basic accounting/billing practices; creating new client accounts, sending invoices, and answering billing inquiries. Working Conditions: Work is performed remotely; candidates must have computer and reliable internet connection. These are currently part-time positions, with option for full-time. Salary is commensurate with experience. Please submit a resume and three professional references to jp@denirolaw.com.

**Position Announcement
Administrative Assistant -
Albuquerque
2022-02**

The Federal Public Defender for the District of New Mexico is seeking a full-time Administrative Assistant. The position will help manage day-to-day operations of both the Albuquerque and Las Cruces offices, but will be based out of Albuquerque. The federal defender organization operates under the Criminal Justice Act, 18 U.S.C. §3006A, to provide criminal defense representation to our clients in federal court. More than one position may be hired from this posting. Position Overview: The Administrative Assistant provides assistance and advice to the Defender, Administrative Officer and Supervisory Administrative Assistant in a variety of administrative and management matters regarding policy, personnel, operations, finance, and property and procurement. This position is a liaison between the employees and management and administration. Travel is required. Duties & Responsibilities: Administrative Assistant duties include but are not limited to: Assist Administrative Officer and Supervisory Administrative Assistant in a variety of administrative matters regarding operations, finance, procurement, property, space and facilities, human resources, personnel, and policy; Respond and attend to administrative inquiries from staff in both offices as well as from other organizations on issues which may include space and facilities projects, purchasing, HR matters, property, etc; Arrange travel and prepare travel vouchers for payment reimbursement, ensuring accuracy and compliance with government travel regulations; Review and prepare purchase orders and payments in the Judiciary Integrated Financial Management System (JIFMS), as well as, follow up on outstanding purchase orders, vendor set up, and resolution of pending vendor issues; Become certified as Contracting Officer in order to handle purchasing for the office, including staying current with all continuing education requirements; Advise Administrative Officer/Supervisory Admin of anticipated office furniture, supplies, and general equipment needs; Oversee all office ordering and receiving; updating inventory, restocking and maintenance of equipment; Handle vendor queries, issues and disputes; Perform all other duties as assigned. Qualifications: To qualify at entry level, a person must be a high school graduate or equivalent, have at least three years of general experience, and at least two years of progressively responsible administrative experience. Some higher education may be substituted for experience. Candidate must have experience with accounting, purchasing, and general office management. Contracting Officer Certification and Procurement experience, preferred, but not required. Computer skills including familiarity

with financial software, knowledge of, and experience with Microsoft Word and Excel spreadsheets, exceptional interpersonal and organizational skills, and excellent written and oral communication skills are required. Candidate must be a highly motivated self-starter, extremely detail and policy oriented, able to effectively multitask, has a demonstrated work history of dependability, able to handle confidential matters with discretion and exhibit professional conduct at all times. Law office and federal experience a plus. As an Administrative Assistant in the Federal Public Defender's office, you are a representative of a well-respected law firm and part of a cohesive management team. You work closely with all staff to fulfill the mission of a very fast paced legal office. Duties and responsibilities will progress as the needs of the office change. Salary and Benefits: This position is full time with a comprehensive benefits package that includes: health and life insurance, vision and dental benefits, flexible spending accounts, paid time off, sick leave, leave for all federal holidays, participation in the Federal Employees' Retirement System, and participation in the Thrift Savings Plan with up to 5% government matching contributions. Salary is dependent upon qualifications and experience, but ranges from a JSP 9, 11-12. Salary is payable only by electronic funds transfer (direct deposit). Conditions of Employment: This is a high-sensitive position and requires a full-blown background check. Appointment to the position is contingent upon the successful completion of this background check and/or investigation, including an FBI name and fingerprint check. All employees must be fully vaccinated for Covid-19 and provide proof of such prior to entrance on duty. Employees of the Federal Public Defender are members of the judicial branch of government and are considered "at will." You must be a U.S. citizen or person authorized to work in the United States and receive compensation as a federal employee. Application Information: In one PDF document, please submit a statement of interest, detailed resume, and three references to: Margaret A. Katze, Federal Public Defender FDNM-HR@fd.org; Reference 2022-02 in the subject. Applications must be received by November 19, 2021. Position will remain open until filled and is subject to the availability of funding. The Federal Public Defender operates under the authority of the Criminal Justice Act, 18 U.S.C. § 3006A. The Federal Public Defender is an equal opportunity employer. We seek to hire individuals who will promote the diversity of the office and federal practice. No phone calls please. Submissions not following this format will not be considered. Only those selected for interview will be contacted.

**Legal Secretary (CYFD
#101109602+)**

The Children, Youth and Families Department is seeking to fill Legal Secretary positions to be housed in Albuquerque offices. Salary range is \$22,854 - \$39,766 annually, depending on experience and qualifications. Minimum Qualifications: High School diploma or Equivalent with six (6) months of directly related clerical and/or secretarial experience utilizing legal terminology, procedures, and documents. Substitutions Apply. Incumbent will perform work in an office setting; late hours and weekends work may be required. Will be exposed to regular periods of video display terminal and keyboard usage and stressful situations. Incumbent will cover large geographic area; therefore, extensive travel is required. Possible exposure to irate clientele. Incumbent will work under stress and frequent time constraints. Benefits include medical, dental, vision, paid vacation, and a retirement package. Executive Order 2021-046 requires all employees with the State of New Mexico to provide either proof of COVID-19 vaccination or proof of a COVID-19 Viral test every week. For information, please contact: Natasha Jackson or Amanda Carbajal (505) 841-7980. To apply for this position, go to www.spo.state.nm.us. The State of New Mexico is an EOE.

Paralegal

Modrall Sperling has an excellent opportunity for a litigation paralegal. Although paralegal experience is preferred, we will consider entry-level candidates with strong academic records and work experience in related fields. Key Responsibilities: Organize case files; Draft and file legal documents; Review/index discovery documents; Prepare exhibits for depositions and trial; Conduct factual research; Assist attorneys with administrative tasks. Basic Requirements: Previous experience as a paralegal, legal assistant, or legal secretary preferred but not required; Strong computer skills, including experience with Word, PDFs, Outlook, Excel, and calendaring applications; Experience with electronic discovery applications such as iPro preferred; Excellent word processing and proofreading skills; Strong organizational and document management skills. This position requires an individual who is self-motivated, detail-oriented, able to multi-task, works well in a team environment and is committed to learning. Modrall Sperling offers and an outstanding compensation and benefits package. Please forward your resume to Susan Harris: susanh@modrall.com

Paralegal/Legal Assistant

Well established Santa Fe personal injury law firm is in search of an experienced paralegal/legal assistant. Candidate should be friendly, honest, highly motivated, well organized, detail oriented, proficient with computers and possess excellent verbal and written skills. Duties include requesting & reviewing medical records, send out Letter of Protection & Letter of Representation, opening claims with insurance companies and preparing demand packages as well as meeting with clients. We are searching for an exceptional individual with top level skills. We offer a retirement plan funded by the firm, health insurance, paid vacation, and sick leave. Salary and bonuses are commensurate with experience. Please submit your cover letter and resume to personalinjury2905@gmail.com

Service

Forensic Genealogist

Certified, experienced genealogist: find heirs, analyze DNA tests, research land grants & more. www.marypenner.com, 505-321-1353.

Legal Researcher & Writer

A licensed attorney available to GHOST-WRITE for your law firm! Email lriv@lucyrivlaw.com for contract legal RESEARCH and WRITING services.

Miscellaneous

Search for Will

Seeking information concerning the Will of Sharon A Jones and of Sam P Jones, Placitas, NM. Contact Richard Gale 307-689-3736

Estate of Roger Stansbury

If you were working on a case with Roger Stansbury, please contact Aldridge, Hammar & Wexler P.A., which has submitted the estate of Roger Stansbury, deceased, to probate. If you have any unresolved legal issues or an open case with Roger, please contact Sarah McLain at 505-266-8787 or smclain@abqlawnm.com

Want To Purchase

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

2021 Bar Bulletin Publishing and Submission Schedule

The *Bar Bulletin* publishes twice a month on the second and fourth Wednesday. Advertising submission deadlines are also on Wednesdays, three weeks prior to publishing by 4 pm.

Advertising will be accepted for publication in the Bar Bulletin in accordance with standards and ad rates set by publisher and subject to the availability of space. No guarantees can be given as to advertising publication dates or placement although every effort will be made to comply with publication request. The publisher reserves the right to review and edit ads, to request that an ad be revised prior to publication or to reject any ad. **Cancellations must be received by 10 a.m. on Thursday, three weeks prior to publication.**

For more advertising information, contact: Marcia C. Ulibarri at 505-797-6058 or email mulibarri@sbnm.org

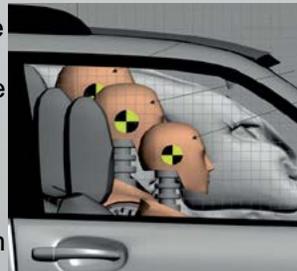
The publication schedule can be found at
www.sbnm.org.

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