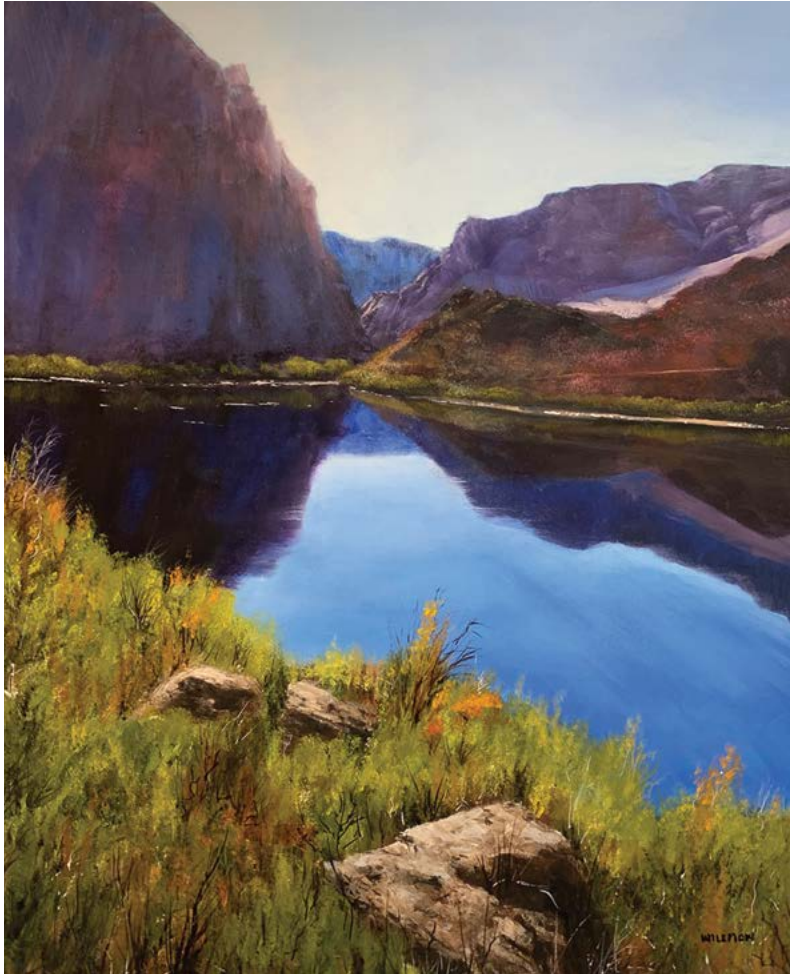


# BAR BULLETIN

February 10, 2021 • Volume 60, No. 3



*NW of Taos*, by Gwen Wileman

El Zocalo Galeria in Las Vegas, N.M.

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## CLE Planner

*Upcoming programming  
from the  
Center for Legal Education*





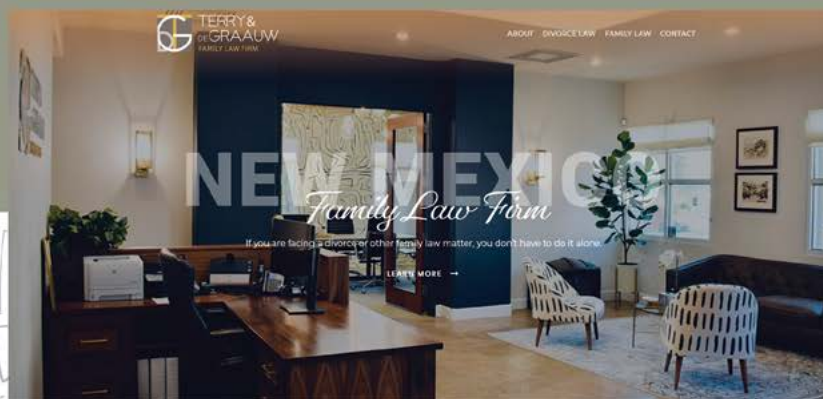
Terry & deGraauw, P.C.  
welcomes Associate Attorney

*Emily Powers*

We are delighted to introduce the newest member of our team. Emily has years of experience representing clients in all aspects of family law, and we are proud to call her our colleague.

Emily is accepting referrals in all areas of family law including divorce, child custody, and support issues.

We've made it easier than ever to learn about our services and our incredible team of attorneys and staff on our brand new website. We look forward to continuing to work with New Mexico's family law community to find resolutions for the clients we serve.



Read more about Emily on our redesigned website.  
[www.tdgfamilylaw.com](http://www.tdgfamilylaw.com)



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DE GRAAUW  
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### Meetings

#### February

**10**  
**Children's Law Section Board**  
 Noon, teleconference

**10**  
**Tax Section Board**  
 9 a.m., teleconference

**11**  
**Business Law Section Board**  
 4 p.m., teleconference

**12**  
**Prosecutors Section Board**  
 Noon, teleconference

**16**  
**Solo and Small Firm Section Board**  
 10:30 a.m., teleconference

**18**  
**Public Law Section Board**  
 Noon, teleconference

**19**  
**Family Law Section Board**  
 9 a.m., teleconference

**23**  
**Intellectual Property Law Section Board**  
 Noon, teleconference

**24**  
**Natural Resources, Energy and Environmental Law Section Board**  
 Noon, teleconference

### Workshops and Legal Clinics

#### February

**23**  
**Common Legal Issues for Senior Citizens Workshop**  
 11 a.m.-noon, Video Conference  
 For more details and to register, call  
 505-797-6005

#### March

**3**  
**Divorce Options Workshop**  
 6-8 p.m., Video Conference  
 For more details and to register, call  
 505-797-6022

**24**  
**Consumer Debt/Bankruptcy Workshop**  
 6-8 p.m., Video Conference  
 For more details and to register, call  
 505-797-6094

**30**  
**Common Legal Issues for Senior Citizens Workshop**  
 11 a.m.-noon, Video Conference  
 For more details and to register, call  
 505-797-6005

**About Cover Image and Artist:** Although she had been sketching and drawing her whole life, it wasn't until she became an adult that she began exploring color through acrylics, oils, pastels, and watercolor. Since then, Gwen has studied under several artists including Fred Miller, Bud Edmondson, Clive Tyler, Albert Handel, and Lorenzo Chavez among others. Gwen's work has hung in the Summer and Dean Gallery in Albuquerque, the Wilder Nightingale Fine Art Gallery in Taos, Purple Sage Galeria in Old Town Albuquerque, and El Zocalo in Las Vegas, N.M. as well as other galleries and museums around the state. She has also had the honor of having works included in juried shows of the Plein Air Painters, and International Association of Pastel Societies show and has received awards for watercolor, miniatures and pastels.



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

### Supreme Court Seeking Applications for Ad Hoc Committee

The Supreme Court of New Mexico has established the Ad Hoc Committee to Review the Operation of the New Mexico Medical Review Commission and the Medical Malpractice Act. Under NMSA 1978, 41-5-14, the New Mexico Medical Review Commission provides panels to review all malpractice claims against health care providers covered by the Medical Malpractice Act. The committee will be charged with submitting a report to the Supreme Court, along with any recommendations the committee may develop, regarding the following:

- The efficacy and efficiency of the existing procedures for operation of the Commission, including any potential improvements or alternatives to the current review process under the Medical Malpractice Act;
- The process for the appointment and evaluation of the Director of the NM Medical Review Commission; and,
- Recommendations for statutory changes to the Medical Malpractice Act.

Persons interested in serving on the committee may apply by sending a letter of interest and resume to Joey D. Moya, Clerk of Court, by email to [nmsupremecourtclerk@nmcourts.gov](mailto:nmsupremecourtclerk@nmcourts.gov) or by first class mail to P.O. Box 848, Santa Fe, NM 87504. The deadline to apply is Feb. 19.

## Professionalism Tip

### With respect to parties, lawyers, jurors, and witnesses:

I will be courteous, respectful and civil to parties, lawyers, jurors and witnesses.  
I will maintain control in the courtroom to ensure that all proceedings are conducted in a civil manner.

### U.S. District Court for the District of New Mexico Notice to Federal Bench & Bar Association Members

Effective Feb. 16, the attorney admission process will be completed online through PACER.gov. To request admission to practice in the District of New Mexico, you must first have an upgraded or individual PACER account. Instructions for petitioning to practice in the District of New Mexico are available on the "Attorney Admissions" page on the Court's website at <https://www.nmd.uscourts.gov/admissions>.

### New Mexico Court Of Appeals Vacancy Announcement

One vacancy on the New Mexico Court of Appeals will exist as of Jan. 24 due to the resignation of Honorable Judge Julie Vargas effective Jan. 23. Inquiries regarding the details or assignment of this judicial vacancy should be directed to the chief judge or the administrator of the court. Sergio Pareja, chair of the Appellate Court Judicial Nominating Commission, invites applications for this position from lawyers who meet the statutory qualifications in Article VI, Section 28 of the New Mexico Constitution. Applications may be obtained from the Judicial Selection website, <http://lawschool.unm.edu/judsel/application.php>, or emailed to you by emailing the Judicial Selection Office at [akin@law.unm.edu](mailto:akin@law.unm.edu). The deadline for applications has been set for Wednesday, Feb. 3 at 5 p.m. Applications received after that time will not be considered. The Judicial Nominating Commission will meet at 9 a.m. on Wednesday, Feb. 17, and the meeting will occur exclusively by Zoom. The commission meeting is open to the public, and anyone who wishes to be heard about any of the candidates will have an opportunity to be heard. If you would like the Zoom invitation emailed to you, please contact Beverly Akin by email at [akin@law.unm.edu](mailto:akin@law.unm.edu). Alternatively, you may find the Zoom information for this hearing below.

Please change your zoom screen to your first, last name and title to be admitted.  
Topic: New Mexico Court of Appeals Nominating Commission Meeting  
Time: Wednesday, Feb. 17 at 9 a.m.

Join Zoom Meeting

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

Meeting ID: 379 615 447

Password: 72146

### Bernalillo County Metropolitan Court Notice of Mass Case Reassignment

Bernalillo County Metropolitan Court Chief Judge Maria I. Dominguez announced the mass reassignment of cases in Division IV as a result of the 2020 General Election. Pursuant to Rule 23-109 NMRA, Chief Judge Dominguez announced that effective Jan. 11, all misdemeanor cases previously assigned to Judge Courtney B. Weeks will be reassigned to Judge David A. Murphy. Individual notices of reassignment will be mailed to the parties. Parties who have not yet exercised a peremptory excusal, pursuant to Supreme Court Rule 7-106 NMRA, will have 10 business days from Jan. 11 to excuse Judge Murphy in cases filed on or after Jan. 1.

### Bernalillo County Metropolitan Criminal Court Candidate Announcement

The Bernalillo County Metropolitan Criminal Court Judicial Nominating Commission convened on Tuesday, Jan. 26 via Zoom, and completed its evaluation of the ten candidates for the one vacancy on the Bernalillo County Metropolitan Criminal Court due to the recent election of Judge Courtney Weeks to the Second Judicial Court, effective Jan. 1. The commission recommends the following candidates to Governor Michelle Lujan Grisham: **Tonie Jessica Abeyta, Carlos Francisco Pacheco, Nina Aviva Safier and Joshua Jamison Sanchez.**



## Second Judicial District Court Notice To Attorneys

Pursuant to the Constitution of the State of New Mexico, Judge Daniel E. Ramczyk, Division VI, will be transferring from the Criminal Court to the Civil Court. Effective Jan. 19, Judge Ramczyk will be assigned cases previously assigned to Judge Carl J. Butkus, Division XVI. You will be afforded an opportunity to exercise a peremptory challenge of the newly appointed judicial officer in accordance with the local and Supreme Court rules of civil procedure that applies to district courts.

## Notice To Attorneys And Public

The Second Judicial District Court Children's Court Abuse and Neglect Brown Bag will be held virtually on Feb 19 at noon. Attorneys and practitioners working with families involved in child protective custody are welcome to attend and will be provided with login credentials prior to the meeting. Please call 841-7644 for more information and/or to be added to the invitation list.

## Fifth Judicial District Court Notice of Mass Case Reassignment

Gov. Michelle Lujan Grisham has appointed Eileen P. Riordan to fill the judgeship vacancy in the Fifth Judicial District Court, Eddy County, Division I. Effective Dec. 30, 2020 a mass reassignment of cases occurred pursuant to Rule 23-109 and Rule 1-088.1, NMRA. Judge Eileen P. Riordan will be assigned all cases previously assigned to Judge Raymond L. Romero and/or Division I of Eddy County District Court.

## STATE BAR NEWS COVID-19 Pandemic Updates

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

## State Bar Building

The State Bar Center is closed until further notice and State Bar staff are working remotely. If documents need to be dropped off or picked up, front desk hours are Monday, Wednesday, and Friday from 9-10 a.m. Please call 505-797-6000 or email [sbnm@nmbar.org](mailto:sbnm@nmbar.org) beforehand, or for more information.

## New Mexico Judges and Lawyers Assistance Program

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

### Monday Night Support Group

- Feb. 15
- Feb. 22
- March 1

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

## Employee Assistance Program Managing Stress Tool for Members

NMJLAP contracts with The Solutions Group, The State Bar's EAP service, to bring you the following: A variety of resources surrounding some of the complex issues we are facing today such as managing conversations when you disagree politically, dealing with challenging people during COVID, civil unrest, Zoom exhaustion and speaking up about physical distancing. All of these can be found under the 'Additional Resources' tab when selecting the EAP option on the Solutions Group Website. Webinars are FREE, and have a wide range of topics such as mindfulness during Covid-19, bias in the work-place, managing stress, and many more. The Solutions Group offers Work-Life Services. The Work-Life Services is a free, confidential access to professional consultants and online resources. All resources topics, webinars, and the Work-Life Service can be found at [www.solutionsbiz.com](http://www.solutionsbiz.com) The Solutions Group can help with any life situation. Call

— *Featured* —

## Member Benefit



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

505-254-3555, or 866-254-3555 to receive FOUR FREE counseling sessions. Every call is completely confidential and free!

## 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](mailto: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>.



# Legal Education

## February

12	<b>The Ethics of Delegation</b> 1.0 EP Live Webinar Center for Legal Education of NMSBF www.nmbar.org	18	<b>Drafting Settlement Agreements in Civil Litigation</b> 1.0 G Teleseminar Center for Legal Education of NMSBF www.nmbar.org	23	<b>Drafting Guarantees in Real Estate Transactions</b> 1.0 G Teleseminar Center for Legal Education of NMSBF www.nmbar.org
16	<b>Estate Planning for Digital Assets</b> 1.0 G Teleseminar Center for Legal Education of NMSBF www.nmbar.org	19	<b>Networking Professionally and Ethically</b> 1.0 EP Live Webinar Center for Legal Education of NMSBF www.nmbar.org	24	<b>Do I have a Problem? the Law Profession's Struggle with Substance Abuse</b> 1.0 EP Live Webinar Attorney Protective attorneyprotective.com
17	<b>Safe Harbors and Calm Seas</b> 2.0 EP Live Webinar CEU Institute 407-324-0500	19	<b>Lawyer Ethics and Texting</b> 1.0 EP Teleseminar Center for Legal Education of NMSBF www.nmbar.org	24	<b>How to Fix a Broken Trust: Decanting, Reformation &amp; Other Tools</b> 1.0 G Teleseminar Center for Legal Education of NMSBF www.nmbar.org
17	<b>Rock-n-Roll Law Intellectual Property/Copyright Series</b> 1.0 G Live Webinar Center for Legal Education of NMSBF www.nmbar.org	22	<b>How Ethics Rules Apply to Lawyers Outside of Law Practice</b> 1.0 EP Teleseminar Center for Legal Education of NMSBF www.nmbar.org	25	<b>LLC/Partnerships Interests: Collateral, Pledges, and Security Interests</b> 1.0 G Teleseminar Center for Legal Education of NMSBF www.nmbar.org
17	<b>Drafting Employment Agreements for Commission-based Employees</b> 1.0 G Teleseminar Center for Legal Education of NMSBF www.nmbar.org	22	<b>Annual Norton Bankruptcy Institute</b> 5.0 G, 2.0 EP Live Webinar Norton Institute On Bankruptcy Law www.nortoninstitutes.org	26	<b>Ethical Issues for Small Law Firms: Technology, Paralegals, Remote Practice &amp; More</b> 1.0 EP Teleseminar Center for Legal Education of NMSBF www.nmbar.org
18	<b>Risk Transfer and Additional Insured Endorsements</b> 1.0 G Live Webinar CEU Institute 407-324-0500				

Listings in the *Bar Bulletin* Legal Education Calendar are derived from course provider submissions and from New Mexico Minimum Continuing Legal Education. All MCLE approved continuing legal education courses can be listed free of charge. Send submissions to [notices@nmbar.org](mailto:notices@nmbar.org). Include course title, credits, location/course type, course provider and registration instructions.



## March

- |   |  |  |
|---|--|--|
| <p><b>2 Trust &amp; Estate Planning for Religious and Philosophical Beliefs</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p> | <p><b>9 Drafting Sales Agreements: UCC Issues and More</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p>                                   | <p><b>22 Destination CLE 2020</b><br/>1.0 G<br/>Live Webinar<br/>Destination CLEs<br/>907-231-2111</p>   |
| <p><b>2 AILA Virtual Midwinter Conference</b><br/>6.0 G<br/>Live Webinar<br/>American Immigration Lawyers Association<br/>www.aila.org</p>                              | <p><b>12 Basics of Trust Accounting: How to Comply with Disciplinary Board Rule 17-204</b><br/>1.0 EP<br/>Live Webinar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p> | <p><b>23 Mother Nature &amp; Leases: Drafting Issues to Protect Against Storm &amp; Other Damage</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p> |
| <p><b>4 Drafting Legal Holds in Civil Litigation</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p>                            | <p><b>16 Franchise Agreements: What You Need to Know Before Your Clients Signs, Part 1</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p>   | <p><b>25 Nonprofits and Commercial Real Estate</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p>   |
|   | <p><b>17 Franchise Agreements: What You Need to Know Before Your Clients Signs, Part 2</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p>   | <p><b>30 Undue Influence and Duress in Estate Planning</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.nmbar.org</p>   |



# Opinions

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

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

## Effective January 8, 2021

### PUBLISHED OPINIONS

A-1-CA-37835	New Mexico Depo v. Tax & Rev	Reverse	01/04/2021
A-1-CA-37202	C Ferebee v. R Hume	Affirm/Remand	01/06/2021
A-1-CA-39004	State v. Alejandro M	Affirm	01/07/2021

### UNPUBLISHED OPINIONS

A-1-CA-38191	State v. S Black	Affirm	01/05/2021
A-1-CA-38302	State v. P Ortegon	Affirm	01/05/2021
A-1-CA-38313	State v. T Ambriz	Affirm	01/05/2021
A-1-CA-37243	State v. C Heh	Reverse/Remand	01/06/2021
A-1-CA-37707	Lea Power Partners v. NM Tax & Rev	Affirm	01/06/2021
A-1-CA-39159	CYFD v. Opal C	Affirm	01/06/2021
A-1-CA-36993	L Johnson v. NM Human Services	Affirm	01/07/2021
A-1-CA-38304	State v. J Salazar	Reverse/Remand	01/07/2021
A-1-CA-38337	CYFD v. Crystal V	Affirm	01/07/2021

## Effective January 22, 2021

### PUBLISHED OPINIONS

A-1-CA-37353	State v. C Villanueva	Affirm	01/19/2021
A-1-CA-38649	J Chandler v. Advance New Mexico Now	Dismiss	01/20/2021

### UNPUBLISHED OPINIONS

A-1-CA-37404	M Webb v. Presbyterian Healthcare	Affirm	01/21/2021
A-1-CA-37548	CCA of Tennessee v. New Mexico Tax and Rev	Affirm/Reverse	01/21/2021
A-1-CA-37851	L Canas v. Driveline Holdings Inc.	Affirm	01/21/2021
A-1-CA-39303	CYFD v. Alyssa H.	Affirm	01/21/2021
A-1-CA-39389	State v. H Manygoat	Affirm	01/21/2021

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

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



# SUPREME COURT JUSTICE JULIE J. VARGAS

## *Takes the Oath of Office*



*Justice Julie J. Vargas is sworn into office by Chief Justice Michael E. Vigil. Standing next to Justice Vargas is her mother, Elisa Vargas. (Photo courtesy of the Administrative Office of the Courts.)*

Supreme Court Justice Julie J. Vargas was sworn into office on Jan. 25.

Chief Justice Michael Vigil administered the oath of office to the justice during a ceremony in the Supreme Court courtroom. Family members of the justice were present. Other Supreme Court justices, friends and judicial colleagues attended remotely through an audio-video connection.

The governor appointed Justice Vargas to a vacancy created by the retirement of Justice Judith Nakamura.

In remarks after taking the oath, Justice Vargas thanked her family and other judges. She said that “being a judge is not

about me. It’s not about being called judge or justice. It’s about the people that we work for and it’s about the people that help us do our jobs.”

Before joining the state’s highest court, Justice Vargas served on the state Court of Appeals. She was elected to the appellate judgeship in 2016, and previously spent 23 years in the private practice of law. Justice Vargas received her law degree in 1993 from the University of New Mexico. ■



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STATE BAR  
of NEW MEXICO





**Noe Astorga-Corral**, a lawyer with Sutin, Thayer & Browne, will head the firm's Committee on equality. The committee will develop ways to use the Firm's resources to create and support programs that tangibly empower marginalized communities in New Mexico. In 2019, Astorga joined the firm, where his practice focuses on commercial litigation and employment matters.

As a law student, he was awarded the Justice Pamela B. Minzner Award for professionalism and legal ethics. He is a first-generation American, born to Mexican immigrant parents who raised him into becoming a college and law school graduate. Astorga pursued his undergraduate and law degrees at UNM and graduated from RFK Charter High School in Albuquerque.



Holland & Hart LLP announced **John C. Anderson** has returned to the firm's Santa Fe office as a litigation partner in the government investigations and white collar defense practice. Anderson served for the past three years as the United States attorney for the District of New Mexico. He brings substantial experience defending clients in complex civil litigation and investigations

conducted by federal and state government agencies. As United States attorney, Anderson oversaw all federal prosecutions in the district and was responsible for defending the United States' interests in civil cases. He worked closely with U.S. attorneys and other Justice Department officials nationwide and served as a member of the Attorney General's Advisory Committee, White Collar Subcommittee. Anderson draws on his experience as a senior official in the Department of Justice to counsel companies and individuals facing government investigations that can profoundly impact a client's financial health and professional reputation. "We are delighted to welcome John back to our government investigations team that includes numerous former federal and state prosecutors and enforcement attorneys throughout the country," said Greg Goldberg, leader of the firm's government investigations practice group. "John's leadership role in the Department of Justice and his extensive federal prosecution experience, both as an assistant U.S. attorney and the U.S. attorney, will be highly valuable to our individual and corporate clients involved in any facet of a government investigation." Anderson also works with clients at all stages of complex civil litigation, including discovery, dispositive motions, trial, and appeal on disputes involving natural resources, antitrust, tort and contract liability, and federal securities issues. He is admitted to practice in New Mexico, New York, the U.S. District Court for the District of New Mexico, the U.S. District Court for the Southern District of New York, the U.S. Court of Appeals for the Tenth Circuit, and the U.S. Court of Appeals for the Fourth Circuit. "I am honored to return to Holland & Hart's talented government investigations team and the Santa Fe office," said Anderson. "The team's deep bench of expertise and shared experience of how government agencies approach enforcement and investigations will be beneficial for my clients in New Mexico and across the country."



**Sutin, Thayer & Browne** has earned Family Friendly New Mexico's Platinum Level award for the second year in a row. The highest level of recognition from the statewide organization, the Platinum Level was first awarded in 2020. To achieve this level, Sutin met core policies in paid leave, health support, work schedules, economic support, pay equity, diversity & inclusion, and community investment. "Our family-friendly policies are whole-heartedly supported by our entire Firm," notes Tina Gooch, a Sutin lawyer who serves on Family Friendly New Mexico's Business Leadership Council. "A good example is our Social Justice Committee, which is chaired by one of our lawyers, Noe Astorga-Corral, a first-generation American and the first college graduate in his family. We all understand the work this committee is doing uses Sutin's influence to provide opportunities to better people's lives throughout the communities we serve. And that starts with our employees."



**Jesse D. Hale** (left) has been named counsel at Sutin, Thayer & Browne, where his practice focuses on healthcare law, litigation, insurance defense, and real estate law. He was recently

re-appointed to serve a second term as vice chair of the membership committee of the ABA's Health Law Section. Hale is also a member of the Board of Directors of the New Mexico Chronic Disease Prevention Council, a New Mexico non-profit organization that seeks to reduce chronic disease in New Mexico. **Alison K. Goodwin** (right), a lawyer at Sutin, Thayer & Browne, has been appointed as the Young Lawyer Division Liaison to the State Bar of New Mexico's Health Law Section. Her term runs through Dec. 31. A member of the firm's litigation department, Goodwin has a practice which focuses in health law, commercial litigation, and appellate work. Prior to joining Sutin, she served as a judicial law clerk to Judge M. Monica Zamora in the New Mexico Court of Appeals.

The board of directors of the Senior Citizens' Law Office, Inc. is pleased to announce the hiring of **Brwyn Downing** as its new executive director, upon the retirement of current executive director and co-founder Ellen Leitzer. Downing stepped into the position on Jan. 1. Downing is familiar with SCLO and its mission of providing free or low-cost legal representation and systemic advocacy for central New Mexico seniors based on her work for SCLO, as a paralegal and then staff attorney, between 2014 - 2019, when she left to become assistant general counsel for the state Aging and Long-Term Services Department. Downing is a cum laude graduate of the UNM School of Law.

On Nov. 5, 2020, *U. S. News and World Report* and *Best Lawyers* publicly announced the selection of **JAlbright Law, LLC** as a Best Law Firm for 2021 in the areas of environmental law and administrative/regulatory law in Albuquerque, N.M. It is the first selection of JAlbright Law, LLC by *U. S. News and World Report* since the law firm's formation in May of 2019.



# Advance Opinions

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From the New Mexico Supreme Court and Court of Appeals

From the New Mexico Court of Appeals

**Opinion Number: 2020-NMCA-012**

No. A-1-CA-36494 (filed November 8, 2019)

NATASHA SILVA,  
Worker-Appellant/Cross-Appellee,  
v.  
DENCO SALES COMPANY, INC.  
and SEDGWICK,  
Employer/Insurer-Appellees/  
Cross-Appellants.

**APPEAL FROM THE WORKERS' COMPENSATION ADMINISTRATION**

RACHEL A. BAYLESS, Workers' Compensation Judge

Released for Publication February 11, 2020.

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## Opinion

**Megan P. Duffy, Judge.**

{1} In this Workers' Compensation appeal, we consider what constitutes valid and timely notice of an employer's decision regarding the initial selection of a health care provider (HCP) under New Mexico's Workers' Compensation Act (the Act), NMSA 1978, §§ 52-1-1 to -70 (1929, as amended through 2017), and corresponding regulations, and in the event of untimely notice, whether the employer is deemed to have made the initial HCP selection. We hold that notice is valid when it is sent by a third-party administrator on behalf of an employer, but that the notice in this case was untimely, and as a result, the HCP providing the initial, non-emergency care is the employer's initial HCP selection under Section 52-1-49(B). To the extent the Workers' Compensation Judge's (WCJ) order is to the contrary, it is reversed; and we remand for any further proceedings.

## BACKGROUND

{2} Natasha Silva (Worker) was employed by Denco Sales Co., Inc. (Employer) and was injured at work on the morning of February 1, 2017, when she pulled a forty-pound box off of a shelf and it fell onto her neck and shoulder. She reported the injury to her supervisor, who told her to seek medical care from Concentra because Concentra is the medical provider used by Employer. Worker went there later that afternoon for medical care. She was released to return to work with weight restrictions on lifting, pushing, and pulling.

{3} The claims process began immediately. Concentra sent a letter to Worker's supervisor stating that Worker had received treatment on February 1, 2017, for a work-related injury. The letter also requested that Employer fill out Employer's first report of injury for the insurance carrier to ensure timely management of the claim. Employer did so on February 2, 2017. On February 3, 2017, two days after the accident, Sedgwick Claims Management Services (Employer's

third-party administrator) sent a letter to Worker stating that Sedgwick administers workers' compensation claims on behalf of Employer and provided contact information for the Sedgwick claims associate handling Worker's claim.

{4} During the month of February, Worker continued to receive medical care from Concentra. On February 28, 2017, Sedgwick sent Worker a letter (HCP letter) stating that Employer had decided to allow Worker to choose the initial HCP. Worker continued to treat with Concentra after receiving the HCP letter and was referred to Dr. Crawford for a C-spine evaluation on March 23, 2017. Exactly sixty days later, on May 22, 2017, Employer sent Worker a notice of change of health care provider, which notified Worker that Employer was claiming to have the automatic right to the second HCP selection under Section 52-1-49(B), (C) (allowing the employer to make the second HCP selection when the worker makes the first selection), and that Employer was changing Worker's doctor to Barrie Ross, MD. Worker timely filed an objection to the notice of change with the Workers' Compensation Administration (the Administration), arguing that Employer had made the initial selection of HCP by directing Worker to Concentra on the day of the accident. Worker also contended that the HCP letter was legally insufficient notice of Employer's decision regarding the initial selection because it was untimely and because it was sent by an administrator, not Employer.

{5} The WCJ held a hearing on June 5, 2017, and issued a written order the next day with the following findings and conclusions. While the WCJ determined that Sedgwick was permitted to advise Worker of Employer's decision regarding selection of the initial HCP, the WCJ concluded that the February 28, 2017, HCP letter from Sedgwick was not valid written notice from Employer because it did not accurately reflect Employer's decision to initially direct Worker to Concentra. The WCJ held that "[b]ased on evidence presented, Employer has elected to initially direct Worker's medical care" but concluded that the period prior to the hearing was not a selection by either party under 11.4.4.12(B)(2)(b) NMAC. The WCJ further determined that "Employer's choice of initial [HCP] shall be in effect as set forth in [Section] 52-1-49(B) and 11.4.4.12(B)(2) and (3) [NMAC]," and permitted Employer the opportunity to select an initial HCP following the hearing. Employer notified Worker of its initial selection on June 7, 2017, again choosing Dr. Barrie Ross. Worker and Employer cross-appealed the WCJ's June 6, 2017, order.



## DISCUSSION

{6} In New Mexico, both the worker and the employer have an opportunity to select a HCP during the course of a worker's treatment. Section 52-1-49(B), (C). Over a decade ago, we remarked that "[t]he selection of HCP is a highly contested issue in workers' compensation cases," an observation that continues to prove true to this day. *Howell v. Marto Elec.*, 2006-NMCA-154, ¶ 13, 140 N.M. 737, 148 P.3d 823. Before proceeding to the merits of the parties' appeals, it is useful to undertake a brief overview of New Mexico's statutory and regulatory scheme for the selection of HCPs.

{7} Before 1990, "a worker had no right to participate in the selection of his treating physician, but only had the option of rejecting the selection made by the employer." *City of Albuquerque v. Sanchez*, 1992-NMCA-038, ¶ 19, 113 N.M. 721, 832 P.2d 412. "This placed New Mexico in the minority of jurisdictions in that the worker played no part in the selection of his doctor." *Id.* "The [L]egislature substantially rewrote Section 52-1-49 in 1990" to allow both the worker and the employer to have input into the selection of worker's health care provider. *Id.* ¶ 20. "Thus, both the value of allowing the worker to have a doctor he trusts and the need to ensure that the care received by the worker is appropriate and reasonable are accommodated." *Id.*

{8} "Section 52-1-49(B) provides that the employer has the first opportunity either to select the initial HCP or to allow the worker to select [a] HCP of his or her choice." *Howell*, 2006-NMCA-154, ¶ 14. "Sixty days thereafter, the party who did not select the initial HCP has an opportunity to select a second HCP." *Id.* (citing Section 52-1-49(C)). The party with the right to the second selection "need not make any showing as to the appropriateness of the choice; rather, the party's choice results in the automatic replacement of the initial HCP." *Howell*, 2006-NMCA-154, ¶ 14. The second HCP will remain in effect throughout the duration of the worker's care unless a party files a request for change of HCP, in which case the objecting party bears the burden of demonstrating that the care being received is not reasonable. See Section 52-1-49(E), (F).

{9} The Administration, by regulation, has long required employers to "communicate their initial decisions with respect to which party will choose the initial HCP to their workers in writing." *Howell*, 2006-NMCA-154, ¶ 15 (citing former version of 11.4.4.12(B)(2)(a) NMAC). The employer may communicate its initial decision "pre-injury, in the form of general notice to all workers[,]" or post-injury. *Howell*,

2006-NMCA-154, ¶ 15; see 11.4.4.12(B)(2) (a) NMAC (requiring that "[t]he decision made by the employer shall be made in writing to the worker" and providing that an employer "may communicate the decision to select the initial HCP or to permit the worker the selection by any method reasonably calculated to notify workers").

{10} In the last decade, the Administration amended the rules governing notification of the employer's decision. Through the end of 2012, the pertinent regulation stated that "[i]f the decision of the employer is not communicated in writing to the worker, the employer shall be presumed, absent other evidence, to have selected the HCP initially." 11.4.4.11(C)(2)(b) NMAC (6/13/03). The regulation was amended at the end of 2012 to state, "[i]f the decision of the employer is not communicated in writing to the worker, then the medical care received by the worker prior to written notification shall not be considered a choice of treating HCP by either party." 11.4.4.11(B)(2)(b) NMAC (12/31/12).<sup>1</sup>

{11} Worker raises three issues regarding the initial selection of HCP in this appeal: (1) whether a third party may provide written notice on behalf of an employer; (2) whether Employer's notice was timely pursuant to Section 52-1-49(B); and (3) whether, in the absence of timely written notice, Employer is deemed to have made the initial HCP selection under Section 52-1-49(B). The issues on appeal require us to interpret the Act and regulations promulgated by the Administration; therefore our review is de novo. See *Howell*, 2006-NMCA-154, ¶ 16 ("The interpretation of the Workers' Compensation Act and associated regulations is a question of law that we review de novo."). "Our main goal in statutory construction is to give effect to the intent of the [L]egislature." *Grine v. Peabody Nat. Res.*, 2006-NMSC-031, ¶ 17, 140 N.M. 30, 139 P.3d 190 (internal quotation marks and citation omitted). "We look first to the plain meaning of the statute's words, and we construe the provisions of the Act together to produce a harmonious whole." *Id.* (internal quotation marks and citation omitted). To the extent we "interpret[]" sections of the administrative code, we employ the same rules as used in statutory construction." *Romero v. Laidlaw Transit Servs., Inc.*, 2015-NMCA-107, ¶ 20, 357 P.3d 463. "After we determine the meaning of the [Act and its associated regulations], we review the whole record to determine whether the WCJ's findings . . . are supported by substantial evidence." *Grine*, 2006-NMSC-031, ¶ 17 (internal quotation marks and citation omitted).

# I. Insurers and Administrators May Send Written Notice of an Employer's Decision Regarding the Initial Selection of HCP

{12} Twenty-seven days after Worker was injured, Sedgwick sent Worker the HCP letter stating, "Employer has decided to allow [Worker] to choose the initial [HCP]." The WCJ concluded that "[a]ny written communication from Sedgwick on behalf of Employer advising Worker of Employer's decision is valid [to] the extent the written communication is authorized and accurately reflects . . . Employer's decision on initial selection." Worker argues that notice of an employer's HCP decision must come from the employer directly. We disagree.

{13} As an initial matter, we reject Worker's argument that Sedgwick stood in the shoes of Employer in regard to selection of a HCP, pursuant to Section 52-1-49(B), (C), as nothing in the record suggests that Sedgwick participated in making a HCP selection or in making the decision regarding initial selection. See *Johnson v. Hoyt & Son Tree Serv.*, 2007-NMCA-072, ¶ 14, 141 N.M. 849, 161 P.3d 894 (holding that only an employer and a worker are permitted to select HCPs under Section 52-1-49). The HCP letter states, "employer has decided" to allow Worker to make the initial selection, and Employer affirmed this statement below and on appeal. The issue presented in this appeal is whether Sedgwick was permitted to notify Worker of Employer's decision.

{14} While Section 52-1-49(B) is clear that Employer must make the decision regarding initial selection, it is silent regarding the method of notification. The written notification requirement appears in 11.4.4.12(B)(2)(a) NMAC, the associated regulation to Section 52-1-49. That regulation states, "[t]he decision made by the employer shall be made in writing to the worker. Employer may communicate the decision to select the initial HCP or to permit the worker the selection by any method reasonably calculated to notify workers." 11.4.4.12(B)(2)(a) NMAC. Elsewhere in the administrative code, the Administration defined "employer" to collectively include "a workers' compensation insurance carrier or its representative; or any authorized agent of an employer or insurance carrier[.]" 11.4.1.7(I) NMAC; see *id.* (stating that "[t]he definitions . . . shall apply to all [Administration] rules unless expressly indicated otherwise in a specific part of these rules"). Consequently, insurers and third-party administrators may communicate written notice of the employer's decision for purposes of 11.4.4.12(B)(2)(a) NMAC.

<sup>1</sup>The regulation was recompiled as 11.4.4.12(B)(2)(b) NMAC in 2014.



{15} Worker argues that the definition of “employer” in the Act does not include the insurer or third-party administrator and that the regulatory definition cannot modify the statute. See § 52-1-15 (defining “employer”). While the statutory definition would control if the statute and the regulation were in conflict, the parties have not argued that a conflict exists, nor do we perceive one as applied in this case. See *State v. Bowden*, 2010-NMCA-070, ¶ 10, 148 N.M. 850, 242 P.3d 417 (“In the event of a conflict or inconsistency between a statute and a regulation, we interpret the statute to take precedence.”); see also *AMREP Sw. Inc. v. Sandoval Cty. Assessor*, 2012-NMCA-082, ¶ 14, 284 P.3d 1118 (reading pertinent statutory and administrative code provisions “together so as to give effect to their meaning”). 11.4.4.12(B)(2) (a) NMAC compliments and gives effect to Section 52-1-49 and allows for written notice in any manner that an employer reasonably believes will successfully notify the worker. See 11.4.4.12(B)(2)(a) NMAC (stating that “[t]he employer may use a wallet card, a poster stating the decision posted with the [Administration] poster, a flyer inserted semi-annually with pay checks” or other methods that will successfully alert the worker). A letter from a third-party administrator communicating the employer’s decision falls cleanly within that broad ambit. For these reasons, we affirm the WCJ and hold that Sedgwick was authorized to advise Worker of Employer’s decision regarding the initial selection of HCP.

## II. Employer’s Decision Regarding Initial Selection of HCP Was Not Made Within a Reasonable Time

{16} Worker contends that even if the HCP letter constituted valid notice of Employer’s decision regarding initial HCP selection, it was not communicated “within a reasonable amount of time” as required by Section 52-1-49(B). *Howell*, 2006-NMCA-154, ¶ 20 (holding that once an employer has notice of a worker’s accident, Section 52-1-49(B) requires the employer to “make a decision regarding which party would select the initial HCP [and] communicate its decision to [the] worker within a reasonable amount of time” (citation omitted)). While Employer agrees that notice must be given within a reasonable time, Employer argues that the twenty-seven-

day period in this case was reasonable because employers maintain the right to investigate a worker’s claim before making a HCP decision. We conclude, however, that twenty-seven days, in the context of the specific facts here, was not reasonable. {17} Employer correctly notes that the Act and its implementing regulations do not contain any deadline or otherwise define what constitutes a reasonable period of time for giving notice. We have previously considered the timeliness of an employer’s HCP decision only once, in *Howell*. There, we decided under the circumstances presented that eight weeks was not a reasonable amount of time in which to give notice. *Howell*, 2006-NMCA-154, ¶ 23. In *Howell*, the employer had notice of the worker’s accident on the day it occurred and authorized emergency care. *Id.* ¶ 2. After five days in the hospital, the worker was transferred to a rehabilitation facility where he received care for the next eight weeks. *Id.* ¶¶ 2, 21. The employer “did not communicate its decision regarding choice of care until [the] worker decided on his own to change providers” at the end of the eight-week period. *Id.* ¶ 21.

{18} While *Howell* did not set out bright-line factors to evaluate reasonableness, we found significant the fact that the employer had not “presented a factual basis showing that the [initial five-day period] was insufficient time in which to make a determination.” *Id.* ¶ 23. Our inquiry into the initial period following the employer’s receipt of notice of the worker’s injury is instructive and indicates that the employer’s HCP decision should closely follow after it receives notice of the worker’s injury, unless the employer can demonstrate a factual basis for why additional time was necessary. See *id.* This interpretation is consistent with the Legislature’s intent that a worker receive immediate and continuous medical care, and that the worker face only one automatic change in HCP after she begins non-emergency treatment. See *id.* ¶¶ 14, 19, 23 (stating that Section 52-1-49 contemplates only two types of HCPs—the initial selection and the automatic replacement upon second selection). As in *Howell*, to determine whether a HCP notice was sent in a reasonable period of time, we consider how long the employer waited to notify the worker of its HCP decision after receiving notice of the worker’s injury, and

whether and to what extent the employer establishes facts justifying additional delay. {19} In this case, Employer received notice of Worker’s accident on the day it occurred and directed Worker to obtain care from Concentra. That same day, Concentra notified Employer in writing that Worker had received medical treatment and asked Employer to file a report of the injury with its insurance carrier. Employer reported the accident to its insurer the following day, and also prepared its first report of the injury (E-1) to the Administration. Two days after the accident, Sedgwick sent a letter to Worker stating that it would be administering the claim on behalf of Employer. In the ensuing twenty-five days before Sedgwick mailed the HCP letter, the only action reflected in the record is that the Administration received Employer’s E-1.

{20} Employer’s delay of almost one month before providing notice contrasts with Employer’s prompt handling of other aspects of Worker’s claim within days of her injury. We find significant the fact that Employer initially directed Worker to treat with Concentra on the day of the accident,<sup>2</sup> and by the time Sedgwick sent the HCP letter, Worker had been actively and regularly treating with Employer’s preferred provider for nearly four weeks. As a practical matter, a change in HCP at that point would likely disrupt the continuity of Worker’s care and may well have the effect of discouraging Worker from exercising her right to select her own HCP.

{21} Further, Employer does not provide any factual basis or explanation for why twenty-seven days were necessary to make the HCP determination and to provide notice. Although Employer suggests that a four-week period was reasonable for the purpose of investigating Worker’s claim, it failed to develop this argument below or on appeal—Employer does not say what it was investigating, why an investigation was necessary, or what impact the investigation had on its decision regarding the initial HCP selection. Moreover, Employer does not explain why an investigation into the underlying claim provides a justification for delaying an initial HCP decision when even the denial of the underlying claim does not impact the employer’s rights and duties under Section 52-1-49. *Grine*, 2006-NMSC-031, ¶ 21 (“Section 52-1-49 does

<sup>2</sup>Employer argues that its act of directing Worker to treat with Concentra on the day of the accident was intended to assist Worker in obtaining immediate care, and that an employer may be discouraged from engaging in such helpful conduct if its acts are considered for purposes of the initial selection of HCP. We note that the employer’s duty to direct care begins once the employer has notice of the worker’s injury, and employers can assist the worker in obtaining immediate medical care without adverse consequence to their rights under the Act. See *Howell*, 2006-NMCA-154, ¶ 19 (“Emergency care is specifically excluded from the HCP selection process.”); 11.4.4.12(B)(1) NMAC (“The provision of emergency medical care shall not be considered a choice of a treating HCP by the employer or worker.”). And when a worker’s injury does not require emergency care, an employer’s right to decide who will make the initial HCP selection is not affected by assisting a worker with obtaining medical care, as long as the employer complies with its duty under Section 52-1-49(B) to provide written notice of its decision within a reasonable period of time.



not preclude an employer from selecting a HCP after it has denied a worker's claim for benefits.”). On these facts, we conclude that twenty-seven days was not a reasonable amount of time in which to give notice, and consequently, that Employer failed to comply with the notice requirements of Section 52-1-49(B) and 11.4.4.12(B)(2)(a) NMAC.

### III. Employer is Deemed to Have Made the Initial Selection of HCP Under Section 52-1-49(B)

{22} We held in *Howell* that, once an employer has notice of a work-related injury, if the employer does not give written notice of its decision within a reasonable time, the first non-emergency HCP treating the worker must be considered the initial selection of either the worker or the employer under Section 52-1-49(B). *Howell*, 2006-NMCA-154, ¶ 19. We reasoned that:

assuming that the employer has notice of the injury, upon the beginning of non-emergency care, Section 52-1-49 specifically contemplates only two types of HCPs: (1) an initial HCP chosen by one of the parties at the employer's direction and (2) a second HCP chosen by the party that did not choose the initial HCP. . . . There are no other categories of HCPs described in this section. Therefore, once an employer has notice of a work-related injury and the reasonable time has passed, *the first non-emergency HCP must be considered the initial HCP.*

*Howell*, 2006-NMCA-154, ¶ 19 (emphasis added). Contrary to Employer's contention, this holding is grounded in our construction of Section 52-1-49(B), and, as such, remains good law, regardless of any change in the regulations. Therefore, because Employer had notice of Worker's injury and did not give notice in a reasonable time, Concentra is the initial HCP under Section 52-1-49(B). The final question we address is whether to attribute the initial selection to Worker or Employer. We turn to the Act for the answer.

{23} Section 52-1-49 imposes certain, clear-cut duties on employers once a worker provides notice of a work-related injury. For instance, Section 52-1-49(A) requires the employer to “provide the worker in a timely manner reasonable and necessary health care services from a health care provider.” See also 11.4.4.12(B)(2)(c) NMAC (imposing duty to pay for “treatment provided to the worker prior to the employer's written communicated de-

cision” regarding selection of initial HCP). Most significantly, Section 52-1-49(B) requires the employer, within a reasonable period of time, to “initially either select the health care provider for the injured worker or permit the injured worker to make the selection.” *Howell*, 2006-NMCA-154, ¶ 18 (internal quotation marks and citation omitted); *id.* ¶ 32 (describing Section 52-1-49(B) as imposing a duty on employer to act). In Section 52-1-49(B), the Legislature gave exclusive control over who selects the initial HCP to the employer and imposed the duty to timely make this determination on the employer. See *Howell*, 2006-NMCA-154, ¶ 32 (“Although our current Workers' Compensation Act allows both employer and worker input into selection of HCPs, an employer retains the power to decide at what point the worker will be able to select his or her own HCP.”); *id.* ¶ 23 (“Once the employer has notice of a worker's accident, it must then comply with its duties under Section 52-1-49(B) and make the determination within a reasonable amount of time.”). Thus, an injured worker's right to initially select a HCP occurs only by permission of the employer. And under the Act and associated regulations, as Employer concedes, if the employer permits the worker to make the initial HCP selection, it must provide written notice of its decision allowing the worker to do so. See Section 52-1-49(B); 11.4.4.12(B)(2)(a) NMAC. Without written notice from the employer, the worker has been given no right to select the initial HCP, and so the initial HCP cannot be a selection by the worker. Therefore, where an employer fails to communicate its HCP decision in writing within a reasonable time, the initial HCP can only be a selection by the employer. In light of the legislative intent imbued in Section 52-1-49—imposing clear, affirmative duties on the employer to act in the provision of health care and the initial selection of a HCP—this construction effectively implements the Legislature's mandate.

{24} For these reasons, we conclude that Employer, by virtue of its failure to provide written notice of its HCP decision within a reasonable time, initially selected Concentra as the initial HCP, and that selection was in place for sixty days. Thereafter, Worker retained the right of second selection of HCP. Based on the foregoing, we conclude that the WCJ erred as a matter of law in its conclusion that Employer's initial selection period began on June 6, 2017. The WCJ concluded that Worker's medical care through the June 5,

2017 hearing was a period of no selection by either party, pursuant to 11.4.4.12(B)(2)(b) NMAC, which states that “[i]f the decision of the employer is not communicated in writing to the worker, then the medical care received by the worker prior to written notification shall not be considered a choice of treating HCP by either party.” This interpretation of the regulations is inconsistent with the overarching statutory requirement in Section 52-1-49(B) that an employer must “communicate its decision regarding selection of care to the worker within a reasonable period of time.” *Howell*, 2006-NMCA-154, ¶ 18; see *Romero*, 2015-NMCA-107, ¶ 19 (“If there is a conflict or inconsistency between statutes and regulations promulgated by an agency, the language of the statutes shall prevail.” (internal quotation marks and citation omitted)); *Wilcox v. N.M. Bd. of Acupuncture & Oriental Med.*, 2012-NMCA-106, ¶ 7, 288 P.3d 902 (“An administrative agency has no power to create a rule or regulation that is not in harmony with its statutory authority.” (internal quotation marks and citation omitted)).

{25} We, however, need not reach today the issue of whether 11.4.4.12(B)(2)(b) NMAC is valid and enforceable. It may be possible to read 11.4.4.12(B)(2)(b) NMAC harmoniously with Section 52-1-49(B) and require that any period of non-selection last only for a reasonable time. We alluded to such a possibility in *Howell*. See 2006-NMCA-154, ¶ 19 (“It is possible that there could be an authorized HCP for a reasonable time following emergency care and before the employer decides which party will select the initial HCP[.]”). But, like *Howell*, “the facts of this case are not included in this category” because Employer failed to provide notice of its decision within a reasonable period of time. *Id.*

{26} For the foregoing reasons, Employer, having failed to provide written notice of its HCP decision within a reasonable period of time, is deemed to have selected the initial HCP here.

### CONCLUSION

{27} We reverse and remand for any further proceedings consistent with this opinion.

{28} **IT IS SO ORDERED.**  
**MEGAN P. DUFFY, Judge**

**WE CONCUR:**  
**JENNIFER L. ATTREP, Judge**  
**BRIANA H. ZAMORA, Judge**





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# March Calendar

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MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
1	2 <b>Teleseminar:</b> Trust & Estate Planning for Religious Beliefs	3	4 <b>Teleseminar:</b> Drafting Legal Holds in Civil Litigation	5
8	9 <b>Teleseminar:</b> Drafting Sales Agreements: UCC Issues and More	10	11	12
15	16 <b>Teleseminar:</b> Franchise Agreements: What You Need to Know Before Your Client Signs, Part 1	17 <b>Teleseminar:</b> Franchise Agreements: What You Need to Know Before Your Client Signs, Part 2	18	19
22	23 <b>Teleseminar:</b> Mother Nature & Leases: Drafting Issues to Protect Against Storm & Other Damage	24	25 <b>Teleseminar:</b> Nonprofits and Commercial Real Estate	26
29	30 <b>Teleseminar:</b> Undue Influence and Duress in Estate Planning	31		



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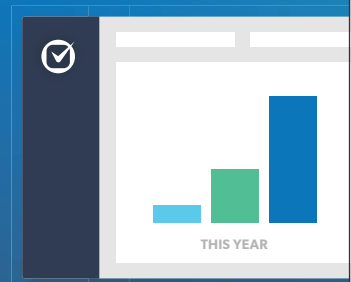
Ms. Hazen joins the firm to represent Plaintiffs in injury, wrongful death, and medical malpractice matters. Ms. Hazen's prior career was as a qualifying broker in residential real estate after serving in the United States Air Force. A 2020 graduate of UNM School of Law, she was awarded the Judge Oliver Smith Award for Excellence in Alternative Dispute Resolution. She is a skilled negotiator and diligent advocate for her clients.

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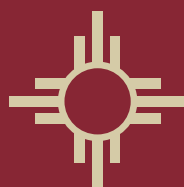
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- Former collegiate baseball player, high school baseball coach
- Looks forward to working on Zia's team, to meet our clients' trust administration needs



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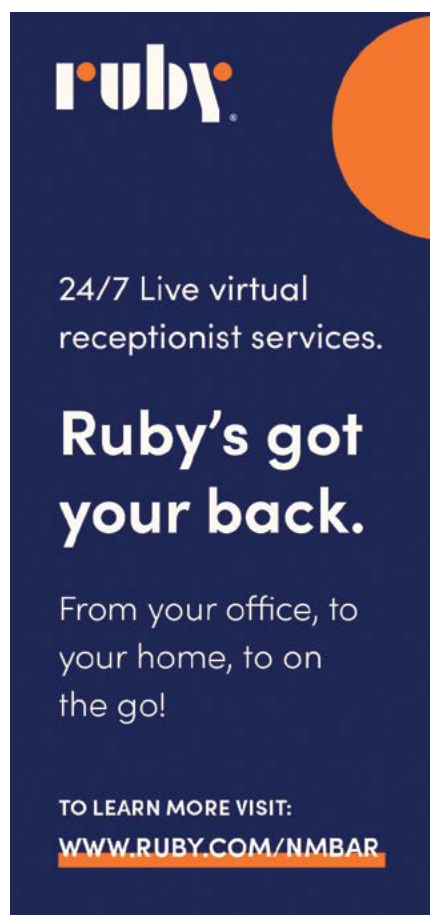
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**The Bar Bulletin publishes twice a month on the second and fourth Wednesday. Advertising submission deadlines are also on Wednesdays, three weeks prior to publishing by 4 pm.**

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.**

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*We are pleased to announce*

**Aaron K. Thompson**

*has joined the Firm as an Associate*

Mr. Thompson earned his Bachelor of Arts degree in Government in 2001 from University of Texas and his Doctor of Jurisprudence in 2010 from University of Texas School of Law.

We welcome him to our practice.

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*We are pleased to announce*

**Paul M. Cash**

*has become a Shareholder in the Firm*

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## Second Judicial District Court Contract Attorney

### Foreclosure Settlement Program

The Second Judicial District Court (SJDC) is accepting applications for a contract attorney for the Foreclosure Settlement Program (FSP). Attorney will operate under the direction of the Chief Judge, the Presiding Civil Judge, and upper level Court management. Attorney will facilitate settlement facilitation conferences between lenders and borrowers in residential foreclosure cases pending before the Court. Attorney will be responsible for conducting status conferences, settlement facilitations and reporting of statistical data to Court management. The majority of communication will take place via telephone and email, with occasional in-person or virtual settlement facilitations. Attorney is independent and impartial and shall be governed by the Rules of Professional Conduct, Mediation Procedures Act, NMSA 1978 §44-7B-1 to 44-7B-6, and Mediation Ethics and Standards of Practice. Attorney agrees to an average of 30 hours of work per week, and will maintain records for payment and reporting. Attorney will coordinate with program administrative staff to support the FSP. Qualifications: Must be a graduate of an ABA accredited law school; possess and maintain a license to practice law in the State of New Mexico; and must have experience in settlement facilitation/mediation. Experience with residential mortgage foreclosure matters and loss mitigation is strongly encouraged. Compensation will be at a rate of \$75.00 per hour, inclusive of gross receipts tax. Send letter of interest, resumé, proof of education, writing sample, and two references to the Second Judicial District Court, Court Administration, P.O. Box 488 (400 Lomas Blvd. NW), Albuquerque, NM 87102. Letters of interest without required material will be rejected. Letters must be received by Court Administration no later than 5:00 P.M. on Monday February 15, 2021. More information about the contract can be found on the SJDC's website: <https://seconddistrictcourt.nmcourts.gov/>.

### Associate Attorney

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

## Classified

### Positions

#### Assistant District Attorney

The Fifth Judicial District Attorney's office has immediate positions open for new or experienced attorneys, in our Carlsbad office. Salary will be based upon the New Mexico District Attorney's Salary Schedule with starting salary range of an Assistant Trial Attorney to a Senior Trial Attorney (\$58,000 to \$79,679). Please send resume to Dianna Luce, District Attorney, 301 N. Dalmont Street, Hobbs, NM 88240-8335 or e-mail to [5thDA@da.state.nm.us](mailto:5thDA@da.state.nm.us).

#### Associate Attorney

Hinkle Shanor, LLP's Santa Fe office is seeking an associate attorney to join its medical malpractice defense team. 0-3 years litigation experience is preferred, but all interested candidates are encouraged to apply. Ideal candidates will demonstrate strong academic achievement and polished writing skills. The selected candidate can expect to assist in all phases of civil litigation, including pleadings, pretrial discovery, briefing, and trial support. Competitive salary and benefits; all inquiries will be kept confidential. Please e-mail resumes to [gronero@hinklelawfirm.com](mailto:gronero@hinklelawfirm.com).

#### Litigation Attorney

With 53 offices and over 1,600 attorneys, Lewis Brisbois is one of the largest and most prestigious law firms in the nation. Our Albuquerque office is seeking associates with a minimum of three years litigation defense experience. Candidates must have credentials from ABA approved law school, be actively licensed by the New Mexico state bar, and have excellent writing skills. Duties include but are not limited to independently managing a litigation caseload from beginning to end, communicating with clients and providing timely reporting, appearing at depositions and various court appearances and working closely with other attorneys and Partners on matters. Please submit your resume along with a cover letter and two writing samples to [phxrecruiter@lewisbrisbois.com](mailto:phxrecruiter@lewisbrisbois.com) and indicate "New Mexico Litigation Attorney Position". All resumes will remain confidential.

#### Attorney

Opening for Associate Attorney to do criminal and civil work in Silver City, New Mexico. Call (575) 538-2925 or send resume to Lopez, Dietzel, Perkins & Wallace, P. C., [david@ldplawfirm.com](mailto:david@ldplawfirm.com), Fax (575) 388-9228, P. O. Box 1289, Silver City, New Mexico 88062.



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### Associate Attorney

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

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Lasater & Martin, a busy civil defense law firm seeks a 3+ year attorney with experience in construction defect litigation for our New Mexico office. We litigate matters ranging from construction defect, product, general and premises liability to professional and municipal liability defense, so this attorney would have the ability to work on a wide-range of interesting cases. Lasater & Martin offers a competitive salary and benefits, a flexible and family-friendly environment/work-load, and a unique office atmosphere that facilitates professional growth. A NM license is required. Please send your resume and a cover letter to suzanne@lasaterandmartin.com.

### Attorney

Conklin, Woodcock & Ziegler, P.C. is seeking a full-time experienced attorney with at least three years litigation experience for an associate position with prospects of becoming a shareholder. We are a well-respected eight-attorney civil defense firm that practices in among other areas: labor and employment, construction, personal injury, medical malpractice, commercial litigation, civil rights, professional liability, insurance defense and insurance coverage. We are looking for a team player with a solid work record and a strong work ethic. Our firm is AV-rated by Martindale-Hubbell. Excellent pay and benefits. All replies will be kept confidential. Interested individuals should e-mail a letter of interest and resumes to: jobs@conklinfirm.com.

### Deputy District Attorney

Immediate opening for a Deputy District Attorney in Silver City. Salary Depends on Experience. Benefits. Please send resume to Michael Renteria, District Attorney, MRenteria@da.state.nm.us or call 575-388-1941.

### Public Member Vacancy on the Private Investigations Advisory Board

The Regulation and Licensing Department seeks applications to fill a public member vacancy on the Private Investigations Advisory Board. See NMSA 1978, Section 61-27B-6(C) and (E) for requirements. Please send any inquiries, or letter of interest and a resume to: laurieann.trujillo@state.nm.us

### Full-time/Part-time Attorney

Jay Goodman and Associates Law Firm, PC is seeking one full-time and one part-time attorney, licensed/good standing in NM with at least 3 years of experience in Family Law, Probate, and Civil Litigation. If you are looking for meaningful professional opportunities that provide a healthy balance between your personal and work life, JGA is a great choice. If you are seeking an attorney position at a firm that is committed to your standard of living, and professional development, JGA can provide excellent upward mobile opportunities commensurate with your hopes and ideals. As we are committed to your health, safety, and security during the current health crisis, our offices are fully integrated with cloud based resources and remote access is available during the current Corona Virus Pandemic. Office space and conference facilities are also available at our Albuquerque and Santa Fe Offices. Our ideal candidate must be able to thrive in dynamic team based environment, be highly organized/reliable, possess good judgement/people/communication skills, and have consistent time management abilities. Compensation DOE. We are an equal opportunity employer and do not tolerate discrimination against anyone. All replies will be maintained as confidential. Please send cover letter, resume, and a references to: jay@jaygoodman.com. All replies will be kept confidential.

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### Request For Applications: Hearing Officers

The New Mexico Public Education Department, Division of Vocational Rehabilitation (NMDVR) and the New Mexico Commission for the Blind (NMCB) are seeking attorneys to serve as due process hearing officers to adjudicate disputes between the agencies and applicants/recipients of vocational rehabilitation services under the Federal Rehabilitation Act of 1973, 29 U.S.C. 701 et seq., as amended through Public Law 114-95. Contracts will be awarded in one-year terms, with the option to extend in one-year increments for three additional years. Prior hearing officer experience is preferred but NMDVR and NMCB will also consider applicants with four years or more of administrative law experience. Knowledge of laws applicable to persons with disabilities and/or vocational rehabilitation laws is preferred. The Request for Applications for Hearing Officers is available on the New Mexico Division of Vocational Rehabilitation's website at <http://www.dvr.state.nm.us/>. The RFA includes the Stevens Amendment notices for NMDVR and NMCB. Prospective Offerors with questions should contact Joseph "Joby" Padilla at [joseph.padilla@state.nm.us](mailto:joseph.padilla@state.nm.us). The deadline to submit applications is March 17, 2021.

### Advisory Board of Respiratory Care Practitioners – Public Member Vacancy

The Regulation and Licensing Department seeks applications to fill a public member vacancy on the Advisory Board of Respiratory Care Practitioners. See NMSA 1978, Section 61-12B-5(A)(3) and (D) for requirements. Please send any inquiries, or letter of interest and a resume to: laurieann.trujillo@state.nm.us

### Deputy City Attorney

The City of Roswell Legal department is hiring a Deputy City Attorney. This position responsible for supporting the legal needs of the City of Roswell including providing advice to City Administrators as well as representing the City in litigation and legal matters. Work originates through the ongoing need of City government to enter into contracts, enforce state and federal laws, and defend the City in litigation. Work involves considerable contact with City employees, the court system, and general public and highly complex legal principles and practices. Please apply at <https://www.roswell-nm.gov/746/Employment-Opportunities>



### Assistant County Attorney

ASSISTANT SANTA FE COUNTY ATTORNEY I AND II. Santa Fe County is soliciting applicants for Assistant County Attorney (ACA) I and II positions. Successful candidates will focus their practice in areas assigned based upon experience, need, and interest. The ideal candidates are those with strong analytical, research, communication, and interpersonal skills, who enjoy working hard in a collaborative, fast-paced environment on diverse and topical issues that directly impact the community in which they live or work. Salary ranges for the positions are \$28,846 - \$38,413/hr. and \$38,461 - \$45,673/hr respectively, depending upon qualifications and budget availability. Applicants must be licensed to practice law in the State of New Mexico. Applicants for the ACA I position must have at least two (2) years of experience in the general practice of law or as an attorney practicing law for a public or private employer. Applicants for the ACA II position must have at least seven (7) years of the aforementioned experience. Positions are open until filled, so interested individuals should apply as soon as possible. Individuals interested in joining our team must apply through Santa Fe County's website, at [http://www.santafecountynm.gov/job\\_opportunities](http://www.santafecountynm.gov/job_opportunities).

### Associate

Harrison & Hart, LLC, a small but active criminal defense and plaintiff's litigation firm in Albuquerque, New Mexico, is looking for an associate with 0 - 3 years' experience to join the firm. We are looking for someone to start in the near future, but we are also open to candidates who would join us in the Summer or Fall of 2021. Our cases span a wide range of issues, including defending the accused in federal and state court, criminal and civil appeals, civil rights, and workplace discrimination. Associates are fully integrated into all aspects of the firm's work, receiving significant responsibility in cases including appearing in court, taking and defending depositions, preparing briefs and critical motions, and participating in trials. A demonstrated interest in criminal defense and civil rights and admission to the New Mexico bar is required. Judicial clerkship experience is heavily favored. Applicants should e-mail a resume, law school transcript, list of references, and at least 2 writing samples to [nick@harrisonhartlaw.com](mailto:nick@harrisonhartlaw.com). Writing samples are a critical portion of the application and should represent the applicant's most challenging or ambitious work. Scholarly works and advocacy pieces are welcome, as are non-legal writing samples, but please note on the writing sample if it has been edited or commented upon by others. Applications will be accepted on a rolling basis, with preference to applications received by March 1.

### Assistant City Attorney

The City of Albuquerque Legal Department is hiring an Assistant City Attorney for the Municipal Affairs Division. This attorney will serve as general counsel to the City's Environmental Health Department ("EHD") regarding Air Quality issues throughout Bernalillo County including at federal and state facilities. This attorney will provide a broad range of legal services to EHD including, but not limited to, administrative enforcement actions, litigation and appeals, stationary source permits and "fugitive dust" permits, air quality monitoring and quality assurance, guidance regarding EPA grants, control strategies, work with EHD teams to develop new or amended regulations to be proposed to the Albuquerque-Bernalillo County Air Quality Control Board ("Air Board"), attend and represent EHD staff at rulemaking and adjudicatory hearings, review and draft intergovernmental agreements regarding air quality issues, review and draft legislation regarding air quality. Attention to detail and strong writing skills are essential. Preferences include: Five (5)+ years' experience in Environmental or Air Quality law and a scientific or technical background. Candidate must be an active member of the State Bar of New Mexico in good standing, or be able to become licensed in New Mexico within 3 months of hire. Salary will be based upon experience. Please apply on line at [www.cabq.gov/jobs](http://www.cabq.gov/jobs) and include a resume and writing sample with your application.

### Attorney III, Office of Superintendent of Insurance ("OSI")

The OSI is seeking an experienced attorney to provide high-level, comprehensive legal services and advice to the Superintendent of Insurance and multiple OSI bureaus. The attorney's primary responsibilities will be: (1) represent the agency in litigation in administrative tribunals and in state and federal court; (2) act as hearing officer in administrative cases before the Superintendent of Insurance, including enforcement actions, declaratory actions and rulemaking proceedings; and (3) support the agency's Inspection of Public Records Act and other document control responsibilities. The attorney can choose to office in either Albuquerque or Santa Fe. Salary range is from the mid \$60s to \$106,000 per year, commensurate with experience. Benefits include the state's retirement system, healthcare plans, and paid holidays, sick leave and annual leave. For more information and to apply, please visit the New Mexico State Personnel Office website at: [https://careers.share.state.nm.us/psp/hprdcg/EMPLOYEE/HRMS/c/HRS\\_HRAM\\_FL.HRS.CG\\_SEARCH\\_FL.GBL?Page=HRS\\_APP\\_JBPST\\_FL&Action=U&SiteId=1&FOCUS=Applicant&JobOpeningId=114650&PostingSeq=1](https://careers.share.state.nm.us/psp/hprdcg/EMPLOYEE/HRMS/c/HRS_HRAM_FL.HRS.CG_SEARCH_FL.GBL?Page=HRS_APP_JBPST_FL&Action=U&SiteId=1&FOCUS=Applicant&JobOpeningId=114650&PostingSeq=1)

### Trial Attorney

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

### Assistant City Attorney

The City of Albuquerque Legal Department is hiring an Assistant City Attorney for the Litigation Division. The department's team of attorneys represent the City in litigation matters in New Mexico State and Federal Courts, including trials and appeals, and provide legal advice and guidance to City departments. Attention to detail and strong writing skills are essential. Three (3)+ years' experience is preferred, with additional preference for civil defense litigation experience, and must be an active member of the State Bar of New Mexico in good standing. Salary will be based upon experience. Please apply on line at [www.cabq.gov/jobs](http://www.cabq.gov/jobs)

### Administrative Law Judge New Mexico State Personnel Office

The Administrative Law Judge conducts administrative hearings on behalf of the State Personnel Board on state employees' appeals of disciplinary actions and separations imposed on them by their state agency. The incumbent candidate will review notices of appeal for timeliness, jurisdiction, and completion; accept valid appeals and issue scheduling orders to frame the appeal process; facilitate mediation when requested by the parties; oversee discovery; hold pre-hearing conferences and decide motions as needed; issue subpoenas to compel attendance of witnesses and production of documents; conduct merits hearings; perform legal research as needed; prepare written recommended decisions (including summary of the evidence, recommended findings of fact, and recommended conclusions of law) for submission to the State Personnel Board. Ideal candidate: Licensed Attorney with employment law experience. Contact Information: Janelle Haught (505) 476-7807 or email: [Janelle.Haught@state.nm.us](mailto:Janelle.Haught@state.nm.us). Apply through the State Personnel Office: <https://careers.share.state.nm.us>



### **Court of Appeals - Judges Jacqueline Medina and Briana Zamora Senior Law Clerks in Albuquerque**

Judges Jacqueline Medina and Briana Zamora of the New Mexico Court of Appeals are each hiring for a Senior Law Clerk in Albuquerque. Senior Law Clerks work closely with the judges to draft opinions and resolve cases involving all areas of the law. Outstanding legal research and writing skills are necessary. Four years of legal practice or clerking experience and a New Mexico law license are required. Current annual salary is \$69,222. Please send cover letter, resume, law school and undergraduate transcripts, and writing sample to: Anna Box, Court Manager, coamb@nmcourts.gov, 2211 Tucker Avenue, Albuquerque NM, 87106.

### **Eleventh Judicial District Attorney's Office, Div II**

The McKinley County District Attorney's Office, Gallup, New Mexico is seeking applicants for a Chief Deputy District Attorney position. The Chief Deputy District Attorney position requires extensive knowledge and experience in criminal prosecution, rules of evidence and rules of criminal procedure; organization and supervision; advanced trial skills; computer skills; audio-visual and office systems; ability to work effectively with other criminal justice agencies; ability to communicate effectively; ability to research/analyze information and situations. The Chief Deputy District Attorney must have supervisory experience and have in-depth knowledge of office policies and procedures, applicable employment law and public relations skills. The Chief Deputy District Attorney works with a high degree of autonomy and is supervised by the District Attorney. The Chief Deputy District Attorney must hold a New Mexico State Bar license. The McKinley County District Attorney's Office provides regular a supportive and collegial work environment. The salary is negotiable based on experience. Submit a letter of interest and resume to District Attorney Bernadine Martin, Office of the District Attorney, 201 West Hill, Suite 100, Gallup, NM 87301, or e-mail letter to bmartin@da.state.nm.us. Position to commence immediately and will remain opened until filled.

### **Attorney**

Butt Thornton & Baehr PC seeks an attorney with a minimum five years' experience, at least 3 years' of which are in civil litigation. Butt Thornton & Baehr PC is in its 62nd 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.

### **Legal Assistant**

Successful, growing civil defense firm seeks legal assistant committed to providing the highest quality service to clients. Excellent salary and benefits. The position requires daily calendaring, word processing, working with opposing counsel staff, court staff, and clients routinely. Must be able to multitask and handle large case load. Litigation experience a must, with a good understanding of the deadlines required by the Rules of Civil Procedure. Please e-mail your resume to resume01@swcp.com

### **Paralegal**

The City of Albuquerque Legal Department is seeking a Paralegal to assist an assigned attorney or attorneys in performing substantive administrative legal work from time of inception through resolution and perform a variety of paralegal duties, including, but not limited to, performing legal research, managing legal documents, assisting in the preparation of matters for hearing or trial, preparing discovery, drafting pleadings, setting up and maintaining a calendar with deadlines, and other matters as assigned. Excellent organization skills and the ability to multitask are necessary. Must be a team player with the willingness and ability to share responsibilities or work independently. Starting salary is \$20.69 per hour during an initial, proscribed probationary period. Upon successful completion of the proscribed probationary period, the salary will increase to \$21.71 per hour. Competitive benefits provided and available on first day of employment. Please apply at <https://www.governmentjobs.com/careers/cabq>.

### **Legal Assistant/Paralegal**

Harrison & Hart, LLC, a small but active criminal defense and plaintiff's litigation firm in Albuquerque, New Mexico, is seeking a Legal Assistant/Paralegal. Those experienced in criminal defense and plaintiff's cases in the state and federal courts who have knowledge of State and Federal court procedures, e-filing, and court rules are preferred. But we are open to hiring and training a recent graduate or someone new to the profession if they are the right fit. Responsibilities include drafting, editing, formatting, and filing legal documents; tracking court deadlines and ensuring that projects are on track; scheduling and arranging meetings; general administrative tasks, including answering and tracking phone calls; administrative work for the firm's two partners; and assisting attorneys with reviewing documents and managing discovery. Interested candidates should e-mail a resume to [nick@harrisonhartlaw.com](mailto:nick@harrisonhartlaw.com).

### **Legal Assistant/Bilingual (English-Spanish)**

Small Plaintiffs personal injury law practice is looking for a motivated full time legal assistant. Bilingual (English-Spanish) written verbal preferred but not required. Candidate should be a skilled writer. The well suited candidate will have experience in civil litigation, will be responsible for client contact, ordering and organizing medical records, scheduling, and answering the phone; keeping clients informed of case status. Attention to detail, confidentiality, dependability, client confidentiality are a must. Salary depending on relevant experience, and education. Outstanding retirement benefits. [tthomasjd@gmail.com](mailto:tthomasjd@gmail.com)

### **Paralegal**

The Santa Fe office of Hinkle Shanor LLP seeks a paralegal for the practice areas of environmental, water, natural resources, real property, public utility and administrative law. Candidates should have a strong academic background, excellent research skills and the ability to work independently. Paralegal training or experience is not necessary. Competitive salary and benefits. All inquires kept confidential. Santa Fe resident preferred. Please email resume to: [gromero@hinklelawfirm.com](mailto:gromero@hinklelawfirm.com)

### **Paralegal**

Solo practitioner seeking an experienced, professional, full-time paralegal for a high-minded elder law practice in Albuquerque Uptown. Practice is limited to probate and trust administration and litigation, guardianships and conservatorships, and other elder law matters. Experience in these areas preferred. The ideal candidate will be professional in dress, appearance, speech, and demeanor; will have an excellent command of the English language; and will be calm, competent, and confident while performing the duties of the paralegal. Duties will include timekeeping, e-filing, drafting pleadings, and scheduling. Position offers a pleasant, non-frenetic, low-drama working environment. Salary commensurate with experience; top salary for the best candidates. Email resume and cover letter to [ben@benhancocklaw.com](mailto:ben@benhancocklaw.com).

### **Legal Assistant/Witness Liaison**

The Office of the New Mexico Attorney General is currently recruiting for a Legal Assistant/Witness Liaison position in our Medicaid Fraud Control Unit of Criminal Affairs. The job posting and further details are available at [www.nmag.gov/human-resources.aspx](http://www.nmag.gov/human-resources.aspx).



### Paralegal

Hartline Barger LLP seeks an experienced paralegal to join the close-knit team in either our Albuquerque or Santa Fe office. Our litigation defense firm offers a collegial environment, above-market compensation, a comprehensive benefits package, and generous PTO. The ideal candidate will have excellent research and writing skills, as well as the ability to exercise sound judgment, think creatively, and work independently. The full-time position requires five (5) years of experience and a Bachelor's degree and/or Paralegal Certificate and/or comparable experience. Please send resumes to Lanika Doyle at [Ldoyle@hartlinebarger.com](mailto:Ldoyle@hartlinebarger.com).

### Paralegal

Civil litigation firm seeking Paralegal with minimum of 3 or more years experience, including current working knowledge of State and Federal District Court rules and filing procedures, trial preparation, document and case management, calendaring, and online research, is technologically adept and familiar with use of electronic databases and legal-use software. Qualified candidates must be organized and detail-oriented, with excellent computer and word processing skills and the ability to multi-task and work independently. Salary commensurate with experience. Please send resume with references and a writing sample to [paralegal3.bleuslaw@gmail.com](mailto:paralegal3.bleuslaw@gmail.com)

### Paralegal

Robles, Rael & Anaya, P.C. is seeking an experienced paralegal for its civil defense and local government practice. Practice involves complex litigation, civil rights defense, and general civil representation. Ideal candidate will have 3-5 years' experience in the field of civil litigation. Competitive salary and benefits. Inquiries will be kept confidential. Please e-mail a letter of interest and resume to [chelsea@roblesrael.com](mailto:chelsea@roblesrael.com).

### Legal Assistant

Legal Assistant with minimum of 3- 5 years' experience, including current working knowledge of State and Federal District Court rules and filing procedures, trial preparation, document and case management, calendaring, online research, is technologically adept and familiar with use of electronic databases and legal-use software. Seeking organized and detail-oriented professional with excellent computer and word processing skills for established commercial civil litigation firm. Email resumes to [e\\_info@abrfirm.com](mailto:e_info@abrfirm.com) or Fax to 505-764-8374.

### Legal Assistant

Harvey & Foote Law Firm, a plaintiff's firm specializing in prosecuting cases involving nursing home abuse and neglect, is hiring a full-time legal assistant. Individual must have exceptional organizational skills, be able to multitask, and understand the importance of deadlines and collaborative teamwork. The ideal candidate will be proficient with Microsoft Outlook, Word and Excel. Bilingual preferred, but not required. Please send resume with salary requirements as well as references, as an attachment, to [amanda@harveyfirm.com](mailto:amanda@harveyfirm.com). Please include "Legal Assistant" in the subject line. No phone calls or walk-ins.

### Legal Secretary/Legal Assistant

Hinkle Shanor LLP is hiring a legal secretary/legal assistant for a busy medical malpractice defense group in its Santa Fe office. Applicants must have strong typing and computer skills. Experience in calendaring deadlines and court filings in all courts is required. Duties include reviewing, responding to and processing e-mails on a daily basis, reviewing correspondence and pleadings, keeping all files and filing up to date, scheduling depositions, management of electronic files and opening of new files. Familiarity with LMS time and billing software for time entry is a plus. Please send resume and letter of interest to [gromero@hinklelawfirm.com](mailto:gromero@hinklelawfirm.com).

### Litigation Secretary – Albuquerque, New Mexico

The Albuquerque office of Lewis Brisbois Bisgaard & Smith LLP is seeking a Litigation Secretary with 3+ years' experience in the various areas of insurance defense. This full-time position requires knowledge of State and Federal court procedures, court rules, e-filing procedures, and docketing. Experience working with insurance companies is always a plus. ATTRIBUTES: Self-starter who can work with little supervision, be extremely organized and very detail oriented; Ability to multi-task effectively and prioritize incoming work to meet deadlines; Demonstrate a professional demeanor and customer service approach during busy times. TECHNICAL QUALIFICATIONS: Advanced computer skills with Windows, Word, Excel, PowerPoint, and Outlook; Proficient with document management software, docketing and records management systems. Contact: Please email your cover letter and resume to [phxrecruiter@LewisBrisbois.com](mailto:phxrecruiter@LewisBrisbois.com) and include "Albuquerque Litigation Secretary" in the subject line. Lewis Brisbois offers a compensation and benefits package including health, dental and vision insurance, vacation and sick leave, 401k and more!

### Family Law Paralegal or Senior Legal Assistant

Solo practice, growing firm, good pay. We'll treat you like an adult and won't yell at you. Bring your A-Game and don't be timid. Family law experience required. Send confidential letter of interest and a resume or simple work history to [lawfirmabqhelpwanted@gmail.com](mailto:lawfirmabqhelpwanted@gmail.com)

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### Santa Fe – Two Offices

Two offices in a conveniently located attorney office building. The building has six offices, large reception area, kitchenette, and ample parking for clients and attorneys. Retiring attorney moved out. Rent includes alarm, utilities, and janitorial services. Individually \$500 and \$450 or \$900 for both. Call Donna 505-795-0077.

## Miscellaneous

### Want To Purchase

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

### New Mexico Reporters

For Sale: Volumes 1 to 150 and 1-12 of NM case law reporters, up through about 2018, for \$1900. Also about 26 volumes of West NM Statutes Annot., not updated, separate for \$200. Please email Michael Hoefkamp at [mike@hoefkamp.com](mailto:mike@hoefkamp.com) or call 505/506-0745.





## BUTT THORNTON & BAEHR PC

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Butt Thornton & Baehr, PC is pleased to announce that **HOLLY ARMSTRONG** and **CHARLES KRAFT** are named Shareholders of the firm.

### BUTT THORNTON & BAEHR WELCOMES NEW ASSOCIATE ATTORNEYS Valentina Basile, Nicholas Chiado, and Sarah Shore



#### **Valentina E. Basile**

Ms. Basile is an alumnus of George Mason University and graduated from the University of New Mexico School of Law in 2018. Raised primarily in the suburbs of Washington D.C., Ms. Basile earned her Bachelor of Arts in Government and International Politics from George Mason University. Upon graduation, she enlisted in the United States Air Force as a budget analyst and earned various military awards and accolades for supporting military campaigns and missions. Ms. Basile continues to serve in the Air Force in the reserve corps as a legal professional. During law school, Ms. Basile externed at the U.S. Attorney's Office and New Mexico Environment Department, was on the Frederick Douglass Moot Court team, was the Assistant Moot Court Director for the National Black Law Students Association and earned a Certificate in Natural Resources and Environmental Law. Prior to joining Butt Thornton & Baehr PC, Ms. Basile practiced insurance defense and subrogation negligence cases at a civil litigation firm in Albuquerque. In her spare time Valentina enjoys horseback riding and reading.



#### **Nicholas W. Chiado**

Mr. Chiado is an alumnus of the University of New Mexico and graduated from the University of New Mexico School of Law in 2020. Mr. Chiado is a native New Mexican and attended the University of New Mexico for both undergraduate and law school. In law school, he completed an externship with Justice Petra Jimenez Maes of the New Mexico Supreme Court and an externship with the Honorable James O. Browning at the United States District Court for the District of New Mexico. He served as the Managing Editor of the New Mexico Law Review, received the award for Outstanding Scholastic Achievement at the end of his law school term, and was honored with the "Si Se Puede" award by his classmates. In his free time, he enjoys hiking, running, golfing, and rooting for the Dallas Cowboys.



#### **Sarah L. Shore**


Sarah is an alumnus of the University of Washington and graduated from the New York University School of Law in 2009. She was born in New Mexico and has lived in the Albuquerque area since 2017. Sarah spent the first seven years of her legal career in New York City and New Jersey. She clerked for a State and then Federal District Court Judge before becoming a litigator and supervisor for New York City's Administration for Children's Services. She also served as a Director on the Board of Restore NYC, a non-profit organization serving survivors of human trafficking. When she returned to New Mexico, Sarah practiced as an associate at BTB, then served as a law clerk for Court of Appeals Judge Linda M. Vanzi and Supreme Court Justice Judith K. Nakamura. Sarah used her most recent clerkships to develop her appellate writing skills and enhance her appellate practice. Outside of her work, Sarah enjoys hiking and running in the mountains of New Mexico, making music with her family and friends, poetry, dancing, and cooking.

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- Trained in Mediation & Collaborative law: Participated in hundreds of mediations and settlement conferences
- Author of Employment Law treatise and memoir *WITNESS: A Lawyers Journey from Litigation to Liberation*
- Founder of *The Ubuntuworks Project*