

Official Publication of the State Bar of New Mexico

BAR BULLETIN

February 23, 2022 • Volume 61, No. 4



Wide Open Spaces, by Kat Livengood (see page 5)

www.katlivengood.com

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—SPECIAL INSERT—
2022 Board of Bar
Commissioners



New Mexico State Bar Foundation
Center for Legal Education



CLE PROGRAMMING

from the Center for Legal Education

FEBRUARY 23

Webinar

REPLAY: Trauma Informed Mediation (2021)

3.0 G

1–4:15 p.m.

\$147 Standard Fee

FEBRUARY 23

Teleseminar

Trust and Estate Planning for Family Businesses, Part 2

1.0 G

11 a.m.–Noon

\$79 Standard Fee

FEBRUARY 25

Webinar

REPLAY: NM Paid Sick Leave and Workplace Privacy Issues (2021)

1.0 G

9–10 a.m.

\$49 Standard Fee

MARCH 1

Teleseminar

Service Level Agreements In Technology Contracting

1.0 G

11 a.m.–Noon

\$79 Standard Fee

MARCH 2

Webinar

How To Make Cross-Examination An Open Book Exam at Trial and at In-Person or Online Depositions

1.5 G

11 a.m.–12:30 p.m.

\$129 Standard Fee

MARCH 3

Webinar

Networking Professionally and Ethically

1.0 EP

11 a.m.–Noon

\$89 Standard Fee

MARCH 3

Teleseminar

Governance and Management Agreements For Non-Profit Organizations

1.0 G

11 a.m.–Noon

\$79 Standard Fee

MARCH 15

Teleseminar

2022 Americans With Disabilities Act Update

1.0 G

11 a.m.–Noon

\$79 Standard Fee

MARCH 22

Teleseminar

The Law Of Consignments: How Selling Goods For Others Works

1.0 G

11 a.m.–Noon

\$79 Standard Fee

MARCH 25

Webinar

How To Stay "Professional" When Videoconferencing: It's Not As Hard As You Think!

1.0 EP

11 a.m.–Noon

\$89 Standard Fee

MARCH 30

Webinar

"When there are Nine"— Sexual Bias in the Legal Profession

1.0 EP

10–11 a.m.

\$89 Standard Fee

APRIL 8

In-Person and Webcast

2022 Family Law Spring Institute: Managing High-Conflict Personalities and Cases

6.0 G

8:45 a.m.–4:15 p.m.

\$282 Standard Fee

APRIL 28

Webinar

Five Steps to Effective Online Negotiations with Marty Latz

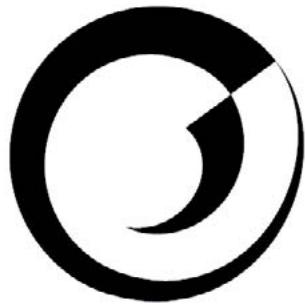
2.0 G

10 a.m.–Noon

\$160 Standard Fee

*In-person programs subject to current public health guidelines. Should changing guidance make meeting in-person not possible, registrants will be transferred to virtual format or given a refund. All visitors to the State Bar Center are encouraged to read the latest COVID information at the CDC website and take any actions to keep themselves and others comfortable and healthy as we continue to transition out of the pandemic. NOTE: Face masks must be worn at all times in the public areas of the building, regardless of vaccination status.

Register online at www.sbnm.org/CLE or call 505-797-6020



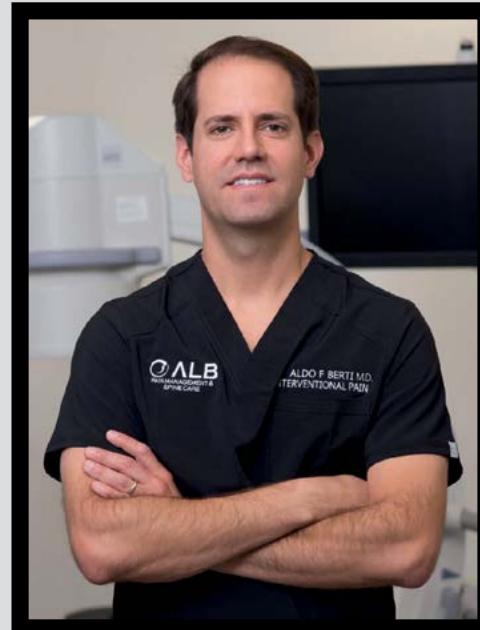
ALB

PAIN MANAGEMENT
& SPINE CARE

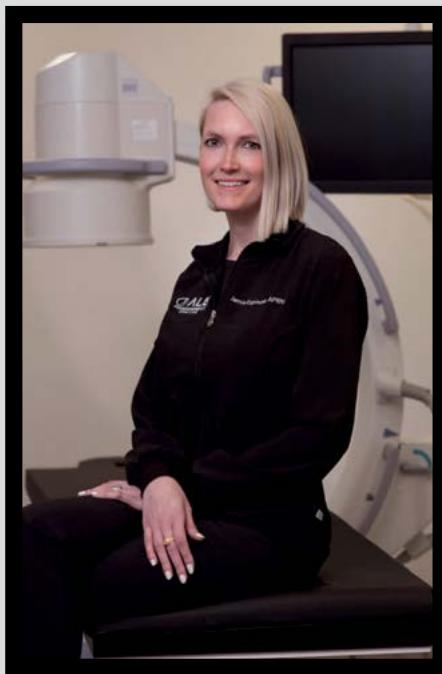
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Board Certified in Pain Medicine & Neurology



Jamie Espinosa, APRN

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www.sbnm.org



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Meetings

February

23
Trial Practice Section
 noon, teleconference

24
Trial Practice Section
 noon, teleconference

25
Immigration Law Section
 noon, teleconference

March

1
Health Law Section
 9 a.m., teleconference

2
Employment and Labor Law Section
 noon, teleconference

3
Business Law Section
 noon, teleconference

4
Elder Law Section
 noon, teleconference

8
Appellate Practice Section
 noon, teleconference

8
Bankruptcy Law Section
 noon, U.S. Bankruptcy Court

Workshops and Legal Clinics

February

24
Consumer Debt/Bankruptcy Workshop
 6-8 p.m., virtual

March

3
Divorce Options Workshops
 6-8 p.m., virtual

24
Consumer Debt/Bankruptcy Workshop
 6-8 p.m., virtual

April

7
Divorce Options Workshops
 6-8 p.m., virtual

24
Consumer Debt/Bankruptcy Workshop
 6-8 p.m., virtual

May

5
Divorce Options Workshops
 6-8 p.m., virtual

26
Consumer Debt/Bankruptcy Workshop
 6-8 p.m., virtual

About Cover Image and Artist: Kat Livengood lives in the high desert of Santa Fe where she has made a living as a fine art photographer. She adores horses and seeks out the wild herds of the American West. Until 2020, she had a studio on Canyon Road in Santa Fe. Now she sells exclusively online at www.katlivengood.com. She has a passion for animals and a percentage of proceeds from every equine photograph sale is donated to one of several mustang sanctuaries and a percentage of proceeds from wolf images sold is donated to a wolf sanctuary.

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://nmosource.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 1-5 p.m. For more information call: 505-827-4850, email: libref@nmcourts.gov or visit <https://lawlibrary.nmcourts.gov>.

Third Judicial District Court Announcement of Consideration of Additional Applications

The Third Judicial District Nominating Commission met on Jan. 19 and submitted one name to Gov. Michelle Lujan Grisham for consideration to fill the vacancy due to the retirement of Judge Marci Beyer, effective Dec. 31, 2021. Pursuant to her authority to do so, Gov. Lujan Grisham has requested that the commission consider submitting additional names to her for consideration. The deadline for additional applications was Feb. 11. Applications received by the initial deadline of Dec. 20, 2021, remain viable and open for consideration by the commission. Applicants who appeared before the commission on Jan. 19, including the one applicant whose name was submitted to Gov. Lujan Grisham, did not need to reapply or reappear before the commission. The Third Judicial District Nominating Committee will reconvene at 9 a.m., Feb. 24, at the Third Judicial District Court, located at 201 W. Picacho Ave., Las Cruces, NM 88005, and additional interviews will be conducted then. The Committee meeting is open to the public, and members of the public who wish to be heard about any of the candidates will have an opportunity to speak at that time. In addition, the New Mexico Supreme Court's Equity and Justice Commission's subcommittee on judicial nominations has proposed changes to the Rules Governing New Mexico Judicial Nominating Commissions. These proposed changes will be discussed and

Professionalism Tip

With respect to my clients:

I will be courteous to and considerate of my client at all times.

voted on during the upcoming meeting of the Third Judicial District Court Judicial Nominating.

New Mexico Secretary of State Important Information For Notary Publics and Notarial Officers

In 2021, the State of New Mexico enacted the Revised Uniform Law on Notarial Acts, aka RULONA (Sections 14-14-A1 to 14-14A-32 NMSA 1978) which is effective Jan. 1, 2022. This change in law impacts every current and future commissioned notary public. RULONA makes a distinction between a notary public and a notarial officer. A notarial officer is not commissioned to perform a notarial act, but is authorized to perform a notarial act by certain authority, including individuals who are authorized to practice law in New Mexico, a New Mexico Judge, or New Mexico county clerk or deputy county clerk. A notarial officer authorized to practice law in New Mexico is authorized to practice notarial acts with no expiration but shall maintain an active license to practice law. The commission expiration date is December 31, 2021, for a notarial officer authorized to practice law in this state who was commissioned under the previous Uniform Law on Notarial Acts. All notarial officers will be required to get new official stamps to meet new legal requirements, keep a mandatory journal of notarial acts, and pass a training examination before being recommissioned. The new law also provides for notarial officers to apply with the Secretary of State to become authorized to perform remote online notarizations. Notarial officers are required to have an official stamp that follows statutory requirements that is on file with the Secretary of State before the notarial officer performs a notarial act. RULONA also provides that a judge of a court of this state, a court clerk or deputy court clerk of this state while performing a notarial act within the scope of the clerk's duties, and an individual licensed to practice law in this state are "notarial officers" and may perform notarial acts without applying to become a commissioned notary public. The Secretary of State's Office has additional information about the changes and new requirements on their website that all current or prospective notaries should review. That information can be found by going to www.sos.state.nm.us/ or by calling the Secretary of State's Office Business Services Division at 505-827-3600.

STATE BAR NEWS

Bankruptcy Law Section

37th Annual Bankruptcy Year in Review

Registration for the Bankruptcy Law Section's 37th Annual Bankruptcy Year in Review (7.0 G, 1.0 EP) is open. The seminar is 8:30 a.m.-6 p.m., March 4, at the State Bar Center, 5121 Masthead St. NE, Albuquerque, NM 87109. The seminar focuses on developments in case law on bankruptcy issues in 2021, both nationally and locally, with special emphasis on decisions by the U.S. Supreme Court, 10th Circuit Court of Appeals, 10th Circuit Bankruptcy Appellate Panel and U.S. Bankruptcy Court for the District of New Mexico. Also included are presentations by the Bankruptcy Judges for the District of New Mexico, representatives of the Office of the U.S. Trustee for the District of New Mexico, the Clerk of Court, and an ethics or professionalism presentation. To register, visit <https://bit.ly/3LsdYXx>.

New Mexico Judges and Lawyers Assistance Program NMJLAP Committee Meetings

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

The Judicial Wellness Program

The newly established Judicial Wellness Program aids in focusing on the short-term and long-term needs of the New Mexico Judicial Community. The New Mexico Judicial Wellness Program was created to promote health and wellness among New Mexico Judges by creating and facilitating programs (educational or otherwise) and practices that encourage a supportive environment for

the restoration and maintenance of overall mental, emotional, physical, and spiritual health of judges. As the Judicial Wellness Project Manager, Kelly Shane is a Licensed Professional Clinical Counselor and Certified Clinical Trauma Specialist in Addiction and Crisis Prevention. Shane is highly experienced in working with children, adolescents and adults suffering from anxiety, depression, substance abuse and addiction. Shane also has significant experience working with the Juvenile Drug Court in Sandoval County. In addition to coordinating, teaching and supervising programs in the mental health field, Shane is familiar with the legal field and its' nuances having been raised in a household wherein her father was a trial lawyer for 40 years. Learn more about the program at www.sbnm.org/nmjwp.

Employee Assistance Program

NMJLAP contracts with The Solutions Group, the State Bar's EAP service, to bring you the following: FOUR FREE counseling sessions per issue, per year. This EAP service is designed to support you and your direct family members by offering free, confidential counseling services. Check out the MyStress Tools which is an online suite of stress management and resilience-building resources. Visit www.sbnm.org/EAP or call 505.254.3555. All resources are available to members, their families and their staff. Every call is completely confidential and free.

Free Well-Being Webinars

The State Bar of New Mexico contracts with The Solutions Group to provide a free employee assistance program to members, their staff, and their families. Contact the Solutions Group for resources, education, and free counseling. Each month in 2022, The Solutions Group will unveil a new webinar on a different topic. Sign up for, "Echopsychology: How Nature Heals" to learn about a growing body of research that points to the beneficial effects that exposure to the natural world has on health. "Pain and Our Brain" Why does the brain link pain with emotions? Find out the answers to this and other questions related to the connection between pain and our brains. "Understanding Anxiety and Depression" Differentiating between clinical and "normal" depression, while discussing anxiety and the aftereffects of COVID-19 related to depression and anxiety. View all webinars at www.solutionsbiz.com or call 505-254-3555.

Monday Night Attorney Support Group

The Monday Night Attorney Support Group meets at 5:30 p.m. on Mondays by Zoom. This group will be meeting every Monday night via Zoom. The intention of this support group is the sharing of anything you are feeling, trying to manage, or struggling with. It is intended as a way to connect with colleagues, to know you are not in this alone and feel a sense of belonging. We laugh, we cry, we BE together. Email Pam Moore at pmoore@sbnm.org or Briggs Cheney at bcheney@dsc-law.com for the Zoom link.

New Mexico Judges and Lawyers Assistance Program Defenders in Recovery

Defenders in Recovery meets every Wednesday night at 5:30 p.m. The first Wednesday of the month is an AA meeting and discussion. The second is an NA meeting and discussion. The third is a book study, including the AA Big Book, additional AA and NA literature including the Blue Book, Living Clean, 12x12 and more. The fourth Wednesday features a recovery speaker and monthly birthday celebration. These meetings are open to all who seek recovery. Who we see in this meeting, what we say in this meeting, stays in this meeting. For the meeting link, send an email to defendersinrecovey@gmail.com or call Jen at 575-288-7958.

The New Mexico Well-Being Committee

The N.M. Well-Being Committee was established in 2020 by the State Bar of New Mexico's Board of Bar Commissioners. The N.M. Well-Being Committee is a standing committee of key stakeholders that encompass different areas of the legal community and cover state-wide locations. All members have a well-being focus and concern with respect to the N.M. legal community. It is this committee's goal to examine and create initiatives centered on wellness. Upcoming meetings of the Committee are 3 p.m., March 29, May 31 and July 26.

UNM SCHOOL OF LAW Women's Law Caucus Justice Mary Walters Award

The 2022 Justice Mary Walters Award Dinner has been cancelled. For more information about the award and the Women's Law Caucus, visit www.lawschool.unm.edu/students/organizations/wlc/.

— *Featured* —

Member Benefit



Fastcase is a free member service that includes cases, statutes, regulations, court rules and constitutions. This service is available through www.sbnm.org. Fastcase also offers free live training webinars. Visit www.fastcase.com/webinars to view current offerings. Reference attorneys will provide assistance from 8 a.m. to 8 p.m. ET, Monday–Friday. Customer service can be reached at 866-773-2782 or support@fastcase.com. For more information, contact Christopher Lopez, clopez@sbnm.org or 505-797-6018.

mation about the award and the Women's Law Caucus, visit www.lawschool.unm.edu/students/organizations/wlc/.

Law Library Hours

Due to COVID-19, UNM School of Law is currently closed to the general public. The building remains open to students, faculty and staff, and limited in-person classes are in session. All other classes are being taught remotely. The law library is functioning under limited operations, and the facility is closed to the general public until further notice. Reference services are available remotely Monday through Friday, from 9 a.m.-6 p.m. via email at UNMLawLibref@gmail.com or voicemail 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>.

Well-Being? Me, Solo/Small Firm Gal-Guy? Who Are You Kidding? I Don't Have Time for "Me", or Well-Being!!!

By Briggs Cheney

TRUE OR FALSE: Solo/Small Firm (SSF) lawyers don't have the time or the luxury of thinking about their own well-being? It would not be unfair to call that a *trick question*. It would also not be unfair to say there is no wrong answer to the question.

I tire of *buzz words* and phrases, and while it is a little disingenuous (another word I don't believe a lawyer should ever utter) for me, a member of the State Bar's

Well-Being Committee, to say I have tired of the phrase *well-being* might qualify as disingenuous. Like the word "awesome", just hearing the words, "well-being" can be *not-so-good* for my well-being. I fear when we hear *well-being*, we stop listening.

I want to come at it from another direction. I want talk about being *Selfish*. I will take it a step further and say, I want to talk about not just being selfish but being a little *Self-Centered*. I want to talk about *us lawyers* – not the lawyers working in big firms or lawyers who work for agencies or judges or district attorney's and public defender's offices where the opportunity to take some time for "you" is more possible -but the SSF lawyers who are fighting-the-fight (the practice of law) alone, or with just a couple of you. It is important to note that around 50% of the New Mexico bar is solos or small firm outfits.

Maybe the Answer to My True / False Question is True

I would suggest as a *starting point* that to sell well-being to lawyers in general is a *hard sell*. Lawyers by training,



by plain reading of the Rules of Professional Conduct and the realities of the practice of law have always (that may be too strong, but too often) put the client first and their lives last on their "To-Do" List. For the SSF lawyer, that has been particularly true.

The SSF is all alone – in business for him/herself – trying to attract clients, tend to those clients' legal needs which means deadlines, court schedules, keeping the client happy, attracting new business so there is always a flow of income because there is a payroll for legal staff (and, hopefully for the SSF), not to mention their family (kids and spouse) and we do all that trying to *look good and as if we were taking it in stride*.

I attended YMCA camp as a kid (Camp Edwards in East Troy, WI) and at the end of the camp session I was sent home with a card with a motto on it and a nice note from the camp counselor - **I'm Third**. It was a YMCA camp so you can figure out on your own what it was supposed to mean, but it fits nicely here to support my theme of being a little selfish and self-centered.

Yes, I know the Rules of Professional Conduct and the oath we take as lawyers makes clear that our professional obligations to our clients appear to take priority. And our families and loved ones are right in their fighting for our attention, and to be equally a priority – which they rightly deserve. But if everybody is in front of us – if **I'm Third** – how does the SSF pull it off? As Pam Moore told us in her January 26, 2022 article, “*What's Next*” The New Mexico Well-Being Committee’s 2022 Campaign, a lot of us do not do it well.

The author of this article is a *recovering drunk* – I have some skin in this game, I have been there. I thought I was doing the right thing, the “good lawyer” thing by trying to put everyone and everything in front of me, but I was fooling myself. Not taking care of “Me” first led to me letting down clients, my family and those in my life I loved the most.

That is my bad news, but here is some more bad news from this lawyer: Even after having found that ledge¹ in my life and making a lot of changes, I am not doing enough.

For the SSF, answering the TRUE/FALSE question, TRUE, would not be a wrong answer, but maybe the TRUE/FALSE question is a trick question, and there is another answer.

Little Leaps of Faith

Zuni lore reflects the following advice being given to young natives when they are initiated into adulthood: *As you go forward into your life, you will come upon a great chasm. Jump. It is not as wide as you think.* That involves some *faith*, and we will address faith in a bit.

The challenges that confront the SSF discussed above are real, and trying to convince you to put yourself **first**, in front of clients and family etc., or at least on a level tier, isn't going to be persuasive. But maybe you can be talked into some *Little Leaps* (baby steps) of faith.

I am too much of a storyteller, but I remember 1968-69 and my last years in college when I was taking 18 semester hours to maintain my 2S draft status and the classes were all the hard courses I had put off till the end and there was no more putting them off. I had a part time job and there was a lady in my life that received much attention, and I was involved in a host of campus activities, and every weekend was full of events that cannot be discussed in this

polite company. I was stretched in every direction, and it turned out to be my best semester in college.

Since college, there have been other occasions where there were too many spinning plates, yet it all worked out. Those times when you had trials on three court's dockets with overlapping Scheduling Orders, and it all worked out. It was those times when I did my best stuff.

Just an observation, but do we have too much time, or is too much time bad, or, for the purpose of my message, do we have time to put ourselves **first**, to be a little **selfish** and **self-centered**? The chasm may look wide, but let's take a leap of faith.

This is the first of two articles focusing on the SSF lawyer. The article that follows next month and the related Podcast present ideas/possibilities for ***Little Leaps of Faith***.

Endnotes

¹ In the Recovery World, people often refer to *finding their bottom*. I believe on the way down we find *ledges* – that place where there is an opportunity to make changes in our lives. Unfortunately, we too often don't make those changes, and we do find our *bottom*, and that is death. Too many in our bar have found that *bottom*.

Briggs Cheney: Following graduation from law school at UNM and for the better part of his 49 years of practice, Briggs' career has been that of being a lawyer's lawyer and helping lawyers throughout New Mexico - defending them in the civil arena and guiding them through the disciplinary process.





2022 ANNUAL MEETING

Members Said...

“ The exhibitors (including the wide variety) were great. Most provided useful information for their services or products. I hope you will get them (and more) to return next year. ”

We Listened...



Exhibitors will be back! Highlight your business during our most popular event of the year! We've also custom created six sponsorship packages to highlight your business.

The year is moving fast so reach out today and mark June 10 at the deadline to submit as an exhibitor or sponsor!

Visit www.sbnm.org/annualmeeting or contact Marcia C. Ulibarri, Advertising and Sales Manager at 505-797-6058 or mulibarri@sbnm.org.

August 11-13, 2022

Hyatt Regency Tamaya Resort and Spa



ANTIRACISM 101: GOING BEYOND IMPLICIT BIAS

Date: Wednesday, March 9 • **Time:** Noon–1 p.m.

Credit: 1.0 EP • **Cost:** \$10

Presenters: Dr. Amanda Parker, *State Bar of New Mexico*; Leon Howard, ACLUNM
Registration: <https://form.jotform.com/sbnm/eij-antiracism-101>

This CLE gives an overview of the key terms and frameworks used to analyze and disrupt racism and how antiracism is approached. We will discuss how people of color and white people develop their racial consciousness in different ways, but can lead to unity on antiracism. We will also discuss current issues regarding race and racism and how lawyers can improve accountability in the profession by enforcing Code of Conduct 16-804 G. After attending this CLE, participants should be able to:

- Understand how people develop consciousness regarding race and racism from various standpoints.
- Understand the definition of structural, interpersonal, and internalized racism and what it means to work against it.
- Identify 16-804G code of conduct violations and why we must make an ethical commitment to enforcement

WHAT IS INTERSECTIONALITY? A DEEPER DIVE INTO THE THEORY AND HOW IT CONNECTS TO THE PRACTICE OF LAW

Date: Wednesday, March 16 • **Time:** Noon–1:30 p.m.

Credit: 1.5 EP • **Cost:** \$25

Presenters: Dr. Amanda Parker, *State Bar of New Mexico*; Aja Brooks, *President of the New Mexico Black Lawyers Association*
Register: <https://form.jotform.com/sbnm/eij-intersectionality>

The term “intersectionality” was coined by legal scholar Kimberle Crenshaw and has been expanded upon by countless others. Rooted in Black feminism, it is a theory that explains multiple ways in which people are dominated or have power over others in our social structure. However, we see it used daily in ways that don’t critique or name structural power and it has become synonymous with “difference.” Getting a deeper understanding of intersectionality is vital to professionals doing equity in justice work or trying to improve their practice. Talking about differences without talking about power is an ineffective way to get to equity and inclusion. This seminar is for those who want to learn more about the theory and how it is applied in the legal field. After taking this CLE, participants should be able to:

- Understand the overall framework of intersectionality and how it applies to various social positions.
- Understand its legal importance
- Recognize the omission of intersectionality in many spaces where diversity work is being done.



Equal Access to Justice Annual Campaign

Campaign Committee

Dan Akenhead
John Bigelow
Susan Miller Bisong
Amy Brown
Denise Chanez
Susan Chappell
Honorable Justice Edward Chávez
Bruce Cottrell
Lewis Creekmore
Mike Doyle
David Freedman
Julia Guarino
Karen Kilgore
Barbara Koenig
Sireesha Manne
Ed Marks
Paula Maynes
Randi McGinn
Alexis Mena
John Pound
Charles 'Kip' Purcell
Rodolfo Sanchez
David Stout
Senator Bill Tallman
Alicia Ubeda-Harvey

The extent to which you stand for and make possible – equal access to justice – will define the degree of your commitment to a just society.

Your contribution to Equal Access to Justice's annual campaign is an investment for keeping access to justice alive in all New Mexico's communities, large and small.

Please help us give true meaning to our pledge that in our republic there will be "liberty and justice for all."

— Honorable Justice Edward Chávez

Be a Defender of Justice! Donate before March 31st at www.eaj-nm.org.

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Legal Education

February

23	REPLAY: Trauma Informed Meditation (2021) 3.0 G Live Replay Webinar Center for Legal Education of NMSBF www.sbnm.org	23	Trust and Estate Planning for Family Businesses, Part 2 1.0 G Teleseminar Center for Legal Education of NMSBF www.sbnm.org	25	REPLAY: NM Paid Sick Leave and Workplace Privacy Issues (2021) 1.0 G Live Webinar Center for Legal Education of NMSBF www.sbnm.org
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March

1	Service Level Agreements In Technology Contracting 1.0 G Teleseminar Center for Legal Education of NMSBF www.sbnm.org	4	37th Annual Bankruptcy Year in Review 7.0 G, 1.0 EP Live Seminar, Albuquerque SBNM Bankruptcy Law Section https://bit.ly/3LsdYXx	22	The Law Of Consignments: How Selling Goods For Others Works 1.0 G Teleseminar Center for Legal Education of NMSBF www.sbnm.org
2	How To Make Cross-Examination An Open Book Exam at Trial and at In-Person or Online Depositions 1.5 G Live Webinar Center for Legal Education of NMSBF www.sbnm.org	15	2022 Americans With Disabilities Act Update 1.0 G Teleseminar Center for Legal Education of NMSBF www.sbnm.org	25	How To Stay “Professional” When Videoconferencing: It’s Not As Hard As You Think! 1.0 G Live Webinar Center for Legal Education of NMSBF www.sbnm.org
3	Networking Professionally and Ethically 1.0 EP Live Webinar Center for Legal Education of NMSBF www.sbnm.org	17	Basics to Trust Accounting: How to Comply with Disciplinary Board Rule 17-204 Webinar 1.0 EP Center for Legal Education of NMSBF www.sbnm.org	30	“When there are Nine” - Sexual Bias in the Legal Profession 1.0 EP Live Webinar Center for Legal Education of NMSBF www.sbnm.org
3	Governance and Management Agreements For Non-Profit Organizations 1.0 G Teleseminar Center for Legal Education of NMSBF www.sbnm.org				

April

6	21 Proven Techniques To Control Difficult Witnesses During Cross-Examination at Trial and at Deposition 1.5 G Webinar Center for Legal Education of NMSBF www.sbnm.org	8	2022 Family Law Spring Institute Managing High-Conflict Personalities and Cases 6.0 G In-Person and Webcast Center for Legal Education of NMSBF www.sbnm.org	13	How Secondary Trauma Affects Attorney Mental Health 1.0 EP Webinar Center for Legal Education of NMSBF www.sbnm.org
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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 28, 2022

PUBLISHED OPINIONS

none

A-1-CA-38052	A Cardenas v. Aztec Municipal Schools	Remand	01/24/2022
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UNPUBLISHED OPINIONS

A-1-CA-39773	State v. C Abeyta	Affirm	01/24/2022
A-1-CA-38607	Starr Indemnity v. A Noguera	Affirm	01/27/2022
A-1-CA-38774	State v. R Cortez	Affirm	01/27/2022
A-1-CA-39855	S Stewart v. J Trevizo	Affirm	01/27/2022

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

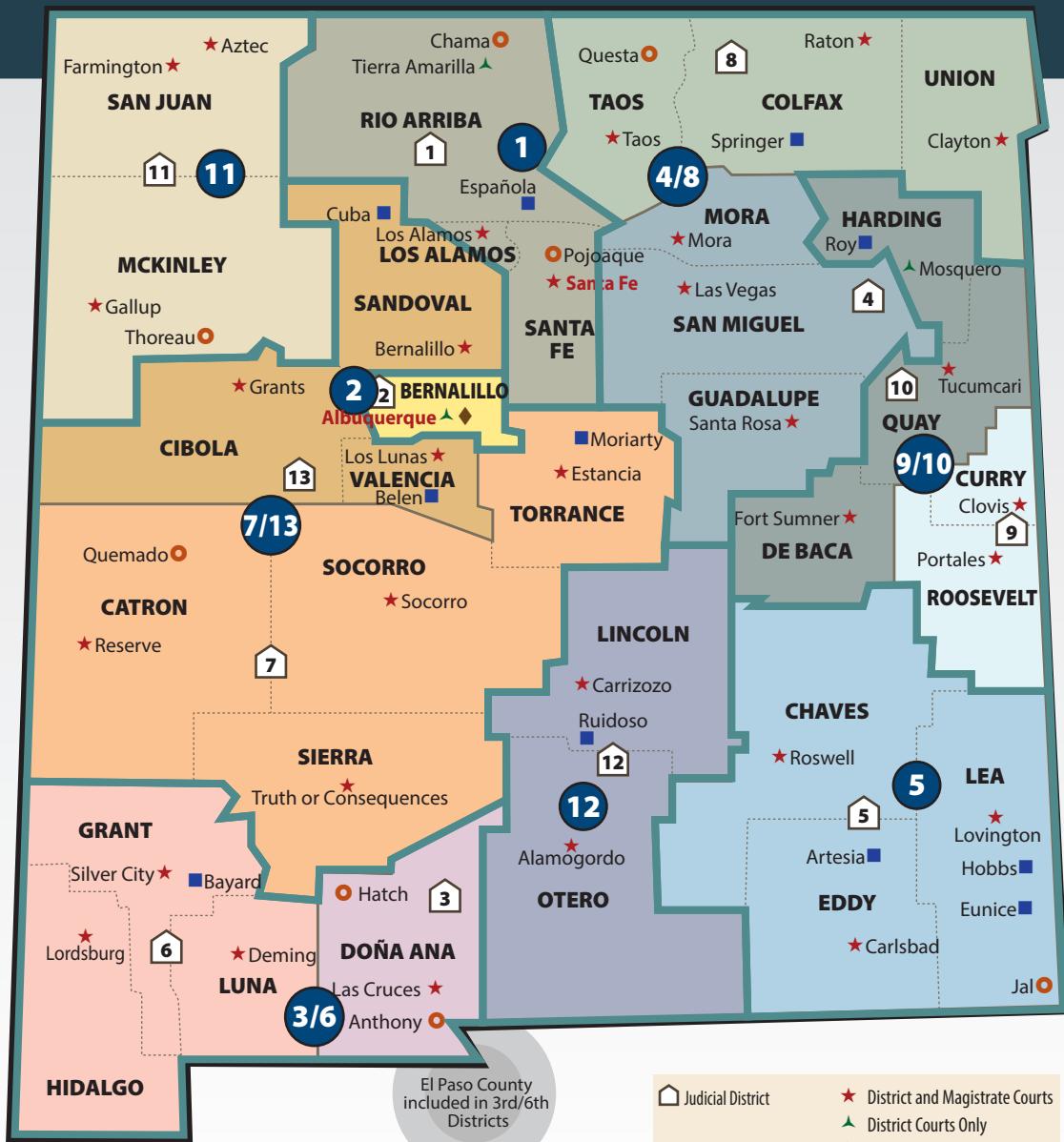
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2022

Board of Bar Commissioners

Board of Bar Commissioners District Map



2022 Officers

PRESIDENT

Carolyn A. Wolf

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Carolyn A. Wolf is an attorney in Santa Fe. She is a graduate of Rice University and the University of New Mexico School Of Law. In more than 20 years in state government, she was in-house counsel for the Human Services Department, Health and Environment Department, and Taxation and Revenue Department, and was counsel for other agencies, boards and commissions as an attorney in the Civil Division of the Attorney General's office. Carolyn also served as general counsel for the Department of Finance and Administration and Taxation and Revenue Department. She was named Public Lawyer of the Year in 2017. In addition to her public service, Carolyn was a shareholder and of counsel with Montgomery & Andrews, P.A. She is a past-chair of the Public Law Section, was the Board of Bar Commissioners representative on the Appellate Rules Committee and was a member of the Compilation Commission Advisory Committee. Carolyn represents the First Judicial District which includes Los Alamos, Rio Arriba, and Santa Fe counties.

PRESIDENT-ELECT

Benjamin I. Sherman

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Ben Sherman is the founder of Ben Sherman Law LLC, located in Albuquerque. His practice is focused primarily on representing injured workers in workers' compensation cases. Prior to opening his own law firm in 2012, he served as a prosecutor with the 2nd Judicial District Attorney's Office and as an assistant city attorney with the City of Albuquerque's litigation department. Sherman is a proud 2008 graduate of the University of New Mexico School of Law and has been fortunate to practice law in New Mexico for the past fourteen years. A fluent Spanish-speaker, he enjoys representing people from all communities and appreciates New Mexico's unique diversity and rich traditions. Sherman is a past chair of the State Bar of New Mexico Young Lawyers Division and currently serves as an officer on the Alumni Board of the University of New Mexico School of Law. Ben represents the Second Judicial District which includes Bernalillo County.

SECRETARY-TREASURER
Erinna M. "Erin" Atkins

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Erinna Atkins is an attorney in Alamogordo, where she practices law with her father, S. Bert Atkins. Specializing in criminal defense and children's law, she works in and lives in the Twelfth Judicial District. She proudly serves as the Guardian ad Litem in abuse and neglect cases and mental health guardianships. Atkins is active in her local community and currently serves as a commissioner for the NM Commission for Community Volunteerism, the Children's Law Section, the Twelfth Judicial District Pro Bono Committee, and a state-wide non-profit service organization, as well as the substitute Adult Drug Court judge. Atkins was awarded the 2016 Young Lawyer of the Year Award for the Twelfth Judicial District and is a 2009 graduate of the University of New Mexico School of Law. Atkins received the 2018 Outstanding Service Award from the Young Lawyer's Division of the State Bar for her years of service. She represents the 12th Judicial District which includes Lincoln and Otero counties.

IMMEDIATE PAST PRESIDENT

Carla C. Martinez

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Carla C. Martinez is a native New Mexican and a 1998 graduate of the New Mexico School of Law. Martinez currently serves as the Chief Administrative Officer for the Second Judicial District Attorney's Office. Prior to joining the Office of the Second Judicial District Attorney, Martinez was Chief of Staff for Operations for the New Mexico Office of the Attorney General. She served in this capacity for approximately two years. Immediately preceding, Martinez was the Deputy State Auditor for the New Mexico Office of the State Auditor for eight years. She also served for four years as a Board Member and Chair of the New Mexico Gaming Control Board. Previously, Martinez has worked for an insurance defense law firm and an international accounting firm. Martinez is also a Certified Public Accountant and a Certified Fraud Examiner. Carla represents the Second Judicial District which includes Bernalillo County.

2022 Commissioners

1st Judicial District

(Los Alamos, Rio Arriba, and Santa Fe Counties)



Olga Serafimova

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Olga Serafimova currently serves as the Senior Civil Counsel to Attorney General Hector Balderas. She previously served as the General Counsel for the Department of Information

Technology and the Tobacco Bureau Chief at the Attorney General's Office. Ms. Serafimova is a Board Member of the New Mexico Board of Bar Examiners, the State Bar liaison for the New Mexico Appellate Rules Committee, and the Vice President of STEM Santa Fe, a non-profit organization providing free STEM programming to middle and high school aged children in Northern New Mexico. She is licensed to practice law in New Mexico, California, and Massachusetts.



Elizabeth J. Travis

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Elizabeth J. Travis is a deputy general counsel with the New Mexico Department of Transportation, serving as counsel for the Department's construction, operations and finance

organizations, a practice which includes construction, environmental, procurement and contract law. Prior to working for the State, Travis served as an assistant county attorney for Santa Fe County. Travis also serves on the Supreme Court's Disciplinary Committee and on the State Bar Ethics Advisory Committee. She is an active member of the ABA, participating in the public contract law section and the construction industry forum. Travis is licensed to practice in state and federal court in New Mexico and California.

Carolyn A. Wolf

See page 2.

2nd Judicial District

(Bernalillo County)



Allison H. Block-Chavez

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Allison Block-Chavez is partner and attorney at Aldridge, Hammar & Wexler, PA, in Albuquerque, where her law practice focuses on fiduciary services, adult guardianships and conservatorships, estate planning,

and probate matters, real estate, and creditors' rights. Allison graduated from the University of New Mexico School of Law and served as the judicial law clerk for Chief Judge Michael E. Vigil of the New Mexico Court of Appeals. She previously served as the Chair of the Young Lawyers Division and as the young lawyer delegate to the ABA House of Delegates.



Aja N. Brooks

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Aja Nicole Brooks is a native New Mexican, born in Hobbs. She attended Wake Forest University in Winston-Salem, N.C. (B.A., English and Spanish) and the University of New Mexico School of Law

(J.D., 2008). She works as the Director for the Second Judicial District Court's Center for Self-Help and Dispute Resolution in Albuquerque, NM. She is involved with the Committee on Diversity in the Legal Profession, Bridge the Gap Mentorship Program, New Mexico Black Lawyers Association, Region X of the National Bar Association, ACLU of New Mexico, New Mexico Black Central Organizing Committee, and the IOTA XI Omega Chapter of the Alpha Kappa Alpha Sorority.



Tomas J. Garcia

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Tomas J. Garcia is a shareholder at Modrall Sperling in Albuquerque, where he practices commercial, healthcare, torts/personal injury, and transportation litigation. Tomas is a past chair and board member of the State Bar of New Mexico Young Lawyers Division and he is an active leader with the American Bar Association, currently serving as the New Mexico Membership Chair. Tomas also serves on the board of the New Mexico Defense Lawyers Association and he is a founder and board chair of Albuquerque Collegiate Charter School. An Albuquerque native, Tomas received his law degree from Georgetown University Law Center.

Carla C. Martinez

See page 3.

Benjamin I. Sherman

See page 2.



Lucy H. Sinkular

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Lucy Sinkular is a shareholder at Atkinson & Kelsey, P.A., in Albuquerque, where she maintains a state-wide family law practice. She graduated from the Kansas University School of Law in 1994.

Lucy is trained in Collaborative Law and has been involved with the New Mexico Women's Bar Association (Past President), Family Law Section, and American Bar Foundation (Life Fellow). She has extensive experience in divorce and custody issues, including those arising from military benefits, pensions and relocations. Lucy's family includes her husband Scott, their daughter who is a grad student at Virginia Tech and their son who is a senior at New Mexico State University. The family also dote on their two spoiled Labrador retrievers.

3rd and 6th Judicial Districts

(Dona Ana, Grant, Hidalgo, and Luna Counties)



Concepcion J. Flores

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Connie J. Flores, partner at Flores, Tawney, & Acosta P.C, specializes in cases involving personal injury. Her mission is to help injured people that have been treated unjustly by insurance companies. Flores

attended the University of Denver 2003 for undergrad and UNMSOL 2008. She is licensed to practice law in New Mexico and Texas. Flores, who became a teenage mother at the age of 15, has been a keynote speaker at local area high schools. She addresses the issues surrounding teenage pregnancy in an effort to encourage teenage parents to continue their higher education.



Robert Lara, Jr.

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Robert Lara attended the University of Texas at El Paso (B.A., Political Science, 2004) and the University of New Mexico School of Law (2007) where he was honored with the Dean's Award for Service

to the Law School Community. Robert has served as an attorney for private law firms, federal and state government, and non-profit organizations and has been a licensed attorney in New Mexico since 2009. Currently, Robert is in his fifth year serving the Third Judicial District Court as one of its Staff Attorneys and the needs of Pro Se litigants at the Self Help Center. In addition to his work in the legal community, Robert is an active triathlete and volunteers his time to serve various animal rescue groups.



David P. Lutz

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David P. Lutz is a Las Cruces attorney at Martin & Lutz, P.C. He practices law with his father and focuses primarily on civil and domestic relations matters. He has been with the firm since 2004. He

was born in Las Cruces, New Mexico and graduated from Onate High School. He attended Claremont McKenna College (B.A. 1997) and Cornell Law School (J.D. 2000). He has appeared and practices regularly in the Third, Sixth, and Seventh Judicial Districts. He served on the Young Lawyers Division Board as a Regional Director from 2007 through 2011. When he is not working, he enjoys playing soccer and going with his family to cultural and/or sporting events at New Mexico State University.

4th and 8th Judicial Districts

(Guadalupe, Mora, San Miguel, Colfax, Taos, and Union Counties)



Brett Phelps

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Brett Phelps is a sole practitioner and owner of the Phelps Law Office in Las Vegas. He became a lawyer to help end the disastrous war on drugs, and today his practice focuses primarily on criminal

defense and cannabis law. He serves on the State Bar Cannabis Law Section Board of Directors and as the Northeast Regional Director of the New Mexico Criminal Defense Lawyer's Association. He also advocates for criminal law reform at the New Mexico State Legislature. He attended the University of New Mexico School of Law (J.D., 2017, magna cum laude), New Mexico Highlands University (M.A., English), and the University of Nevada, Reno (B.B.A.)

5th Judicial District

(Chaves, Eddy, and Lea Counties)



Parker B. Folse

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Parker Folse is a partner in the Roswell office of Hinkle Shanor LLP. He is a graduate of University of Texas at Dallas, B.A. Political Science, and the University of Oklahoma School of Law, J.D. Parker

primarily assists commercial clients in litigation matters in both State and Federal Courts at both the district and appellate levels. Parker was admitted to practice law in New Mexico in 2011 and is a member of the New Mexico State Bar Trial Practice Group, the Chaves County Bar Association, the New Mexico Defense Lawyer's Association, and the Defense Research Institute. Parker enjoys exploring the outdoors by camping and hiking in New Mexico's mountains with his wife, Robin, and daughter, Evelyn.

7th and 13th Judicial Districts

(Catron, Sierra, Socorro, and Torrance Counties)



Catherine A. Cameron

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Catherine Cameron has served the New Mexico Human Services Department for 16 years and previously served as a Bernalillo County prosecutor for nine years.

Prior to graduating from the University of New Mexico School of Law, Catherine worked on civil rights issues for the ACLU in DC and LA, advocated for unhoused families in LA and taught in under-resourced public secondary schools in Compton-Watts. She volunteers for literacy, anti-poverty and gender justice organizations. In her free time, she enjoys biking, hiking and traveling with her family.



Simone M. Seiler

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Simone M. Seiler is a graduate of the University of New Mexico School of Law. In 2007 she passed the patent bar and began representing clients before the U.S. Patent & Trademark Office. Simone

spent the first half of her legal career working for a private civil and intellectual property law firm, and the second half working for the Human Services Department and the Thirteenth Judicial District Court. She has served on the boards of the State Bar's Intellectual Property Law Section and Animal Law Section and the New Mexico Women's Bar Association. Simone runs the pro bono legal clinics in the Thirteenth Judicial District and serves on its pro bono committee.

9th and 10th Judicial Districts

(Curry, Roosevelt, DeBaca, Harding, and Quay Counties)



Mitchell Mender

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Mitchell Mender is a Public Defender in Portales, NM. Mitch is a graduate of Brigham Young University. He graduated Vermont Law School in their accelerated juris doctorate program. He started his

career as a prosecutor with the Ninth Judicial District Attorney's Office. He was awarded prosecutor of the year for the Ninth Judicial District in 2018 and 2019. Mitch serves on the local Drug Court representing his office. Additionally, he sits on the Board of Directors for the Hartley House, the local domestic violence shelter. He and his wife, Robyn, enjoy traveling and spending time with their three children.

11th Judicial District

(McKinley and San Juan Counties)



Joseph F. Sawyer

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Joseph F. Sawyer serves as the County Attorney for San Juan County. A Farmington native, he attended the University of New Mexico (B.A., 1995) and Notre Dame Law School (J.D., 1999). Prior to

working for San Juan County, Joe spent several years in private practice and worked for the 11th Judicial District Attorney's Office in Farmington. He served as president of the San Juan County Bar Association in 2011 and was on the State Bar of New Mexico Young Lawyers Division Board of Directors from 2006 to 2007. Joe and his wife Ana enjoy backpacking, mountain biking, traveling and spending time with their two daughters.

12th Judicial District

(Lincoln and Otero Counties)

Erinna M. Atkins

See page 3.

Out-of-State District



Sean M. FitzPatrick
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After working for a few years as a prosecutor litigating felony and misdemeanor cases, **Sean FitzPatrick** started his firm FitzPatrick Law, LLC in 2016.

FitzPatrick's current practice area is civil litigation focusing on insurance and injury law. FitzPatrick served on the Young Lawyers Division board for years as director and chair prior to his current term on the BBC. FitzPatrick is also the current Co-Chair of the New Mexico State Bar Well Being committee. He believes a healthy work life balance makes better lawyers and you can find FitzPatrick running, biking, or participating in other type 2 fun activities with his wife Eva and their son Liam when not practicing law.

Young Lawyers Division Chair



Jessica A. Perez
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Jessica Perez is an Assistant District Attorney in the 13th Judicial District Attorney's Office within the Sandoval County office. There, she works primarily as a felony trial attorney, handling cases

involving drug trafficking, felony domestics, and juvenile delinquency cases involving serious violent and sexual offenses. She also manages the review of expungement cases and handles the extradition hearings along with serving as the prosecutor representative within the specialty courts for the Sandoval Office. Jessica graduated from the University of New Mexico School of Law in May 2018. In addition to serving on the Young Lawyer's Division Board, she serves as a delegate for the State of New Mexico within the ABA YLD Assembly.

Senior Lawyers Division Delegate



Daniel J. Behles
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Dan Behles is of Counsel to the Albuquerque bankruptcy firm of Askew & White, LLC. He graduated from the University of Notre Dame, and received his J.D. degree from the University of New Mexico. He has practiced in New Mexico for over 50 years, concentrating in bankruptcy. He has represented debtors, creditors, trustees and committees, and has been a Chapter 7 and Chapter 11 Trustee. He is a member of the Subchapter V panel of trustees for small business reorganizations. He sits on the board of directors of the Senior Lawyer's Division, and has been a Southwest Superlawyers for over 10 years.

Paralegal Division Liaison



Linda Sanders
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Linda Sanders is the 2022 Chair of the State Bar of New Mexico Paralegal Division. She works as a paralegal at Hurley Toeves Styles Hamblin & Panter, PA in the Trust & Estate Litigation Group. Probate, estate and trust litigation has been the focus of Linda's career for the last 12 years. As a member of the Paralegal Division, Linda has served as Chair of the Pro-Bono/Community Services and CLE Coordination Committees, as well as Division Secretary. Linda's hobbies and interests include reading (in particular historical fiction and non-fiction), spending time with her husband exploring New Mexico's backcountry in their OHV, and training dogs for competitive field work.

Advance Opinions

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

From the New Mexico Supreme Court and Court of Appeals

From the New Mexico Supreme Court

Opinion Number: 2022-NMSC-003

No. S-1-SC-37990 (October 18, 2021)

STATE OF NEW MEXICO,
Plaintiff-Respondent,
v.
ZACHARIAH G.,
Child-Petitioner.

ORIGINAL PROCEEDING ON CERTIORARI

Fred Van Soelen, District Judge

Released for Publication January 18, 2022.

Bennett J. Baur, Chief Public Defender

Kathleen T. Baldridge, Assistant

Appellate Defender

Santa Fe, NM

for Petitioner

Hector H. Balderas, Attorney General

Meryl Elizabeth Francolini, Assistant

Attorney General

Santa Fe, NM

for Respondent

OPINION

VIGIL, Chief Justice.

{1} When Zachariah G. (Child) was twelve years old, he brought a BB gun to school. Although Child did not shoot, point, or brandish the gun, a jury found that he committed the delinquent act of aggravated assault with a deadly weapon on a school employee pursuant to NMSA 1978, § 30-3-9(C)(1) (1989). That delinquent act, along with his delinquent act of unlawfully carrying a deadly weapon on school premises pursuant to NMSA 1978, § 30-7-2.1 (1994), led to his adjudication as a delinquent child.

{2} Child contends that the jury finding that he committed aggravated assault must be reversed because there was not substantial evidence that he "used" the deadly weapon. Relatedly, Child argues that this Court should alter the standard for "use" of a deadly weapon to commit assault that was applied by the Court of Appeals. Child argues that "use" of a deadly weapon in an assault requires "actual use" or "weapons-related conduct."

{3} We agree with Child that the principles governing *use* of a deadly weapon should be refined but decline to adopt Child's suggested standard. Instead, we hold that a defendant *uses* a deadly weapon to commit assault where a defendant makes *facilitative use* of the deadly weapon. *Facilitative use* of a deadly weapon may be found if

(1) a deadly weapon is present at some point during the encounter, (2) the victim knows or, based on the defendant's words or actions, has reason to know that the defendant has a deadly weapon, and (3) the presence of the weapon is intentionally used by the defendant to facilitate the commission of the assault. In this case, a reasonable jury could have determined Child *used* the BB gun when his verbal threats together with the presence of the BB gun created the victim's fear of receiving an immediate battery. Accordingly, we affirm.

I. BACKGROUND

{4} At Marshall Middle School in Clovis, New Mexico, Principal Morris learned that Child—then twelve years old—had a weapon on campus. Morris located Child in a hallway and escorted Child back to Morris's office. On the way, Morris noticed that Child was "fumbling in the front area of his waistband."

{5} In the office, Morris directed Child to empty his pockets. Child had a CO₂ cartridge, among other items, which Morris recognized as an accessory for a BB gun or an airsoft pistol. Morris noticed an abnormal bulge in Child's waistband. Morris asked Child what was causing the bulge and to hand over the item. Child refused and said it was his "dick."

{6} Feeling insecure, Morris asked his secretary to call the police. While waiting for the police to arrive, Child asked Morris

three questions: "What would happen if somebody shot up the school?"; "Are you afraid to die?"; and "How would you feel if a twelve-year-old shot you?" The questions and circumstances made Morris insecure and unnerved. A subsequent police search of Child revealed that a BB gun which resembled a firearm was the object creating the bulge in Child's waistband.

{7} Child was adjudicated as delinquent in the district court. The Court of Appeals affirmed that adjudication, with Judge Vargas specially concurring and Judge Ives dissenting. *State v. Zachariah G.*, 2021-NMCA-036, ¶ 1, 23, 24-39, ___ P.3d ___ (A-1-CA-37584, Oct. 1, 2019). The Court of Appeals concluded, in relevant part, that there was substantial evidence to affirm Child's delinquent act of aggravated assault with a deadly weapon because Child "used" the BB gun in the assault. *Id.* ¶ 15. Child petitioned this Court for a writ of certiorari, requesting that we review the definition of *use* applied by the Court of Appeals. Child also petitioned for review of the Court of Appeals conclusion that there was substantial evidence that Child committed aggravated assault on Morris "[i]n light of the fact that [Child] did not reference, gesture towards, brandish, aim or reveal" the BB gun. To address these two issues, we granted certiorari.

II. DISCUSSION

A. Standard of Review

{8} Child's challenge to the definition of the term *use* applied by the Court of Appeals raises an issue of statutory construction that we review *de novo*. *State v. Nick R.*, 2009-NMSC-050, ¶ 11, 147 N.M. 182, 218 P.3d 868. When interpreting statutory language, "[o]ur primary goal is to ascertain and give effect to the intent of the Legislature." *Id.* "In doing so, we examine the plain language of the statute as well as the context in which it was promulgated, including the history of the statute and the object and purpose the Legislature sought to accomplish." *Id.* (internal quotation marks and citation omitted).

{9} Child's sufficiency of the evidence challenge requires that we review "whether substantial evidence of either a direct or circumstantial nature exists to support a verdict of guilt beyond a reasonable doubt with respect to every element essential to a conviction." *State v. Baroz*, 2017-NMSC-030, ¶ 9, 404 P.3d 769 (internal quotation marks and citation omitted). "Substantial evidence is relevant evidence that a reasonable mind might accept as adequate to support a conclusion." *State v. Baca*, 2019-NMSC-014, ¶ 17, 448 P.3d 576 (internal quotation marks and citation omitted). "In reviewing whether there was

sufficient evidence to support a conviction, we resolve all disputed facts in favor of the State, indulge all reasonable inferences in support of the verdict, and disregard all evidence and inferences to the contrary.” *State v. Largo*, 2012-NMSC-015, ¶ 30, 278 P.3d 532 (internal quotation marks and citation omitted).

B. Use of a Deadly Weapon in the Context of Assault With a Deadly Weapon

{10} Child challenges whether the Court of Appeals properly construed the jury instruction for Section 30-3-9(C)(1), which defines aggravated assault with a deadly weapon on a school officer as “unlawfully assaulting or striking at a school employee *with* a deadly weapon while he is in the lawful discharge of his duties.” (Emphasis added.) The related uniform jury instruction is UJI 14-355 NMRA. UJI 14-355 interprets the Section 30-3-9(C)(1) requirement that the assault was committed *with* a deadly weapon by requiring that a deadly weapon was *used* to commit the assault. The relevant jury instruction in this case was based on UJI 14-355 and, like UJI 14-355, required that a deadly weapon was *used*. Child does not challenge whether *used* is an appropriate proxy for *with* but, instead, contends that the Court of Appeals did not appropriately define *used*.

{11} The Court of Appeals concluded that in the context of aggravated assault with a deadly weapon, “[u]se means, among other things, to carry out a purpose or action by means of, to make instrumental to an end or process, and to apply to advantage.” *Zachariah G.*, 2021-NMCA-036, ¶ 14 (internal quotation marks omitted) (quoting *State v. Trujillo*, 1978-NMCA-041, ¶ 12, 91 N.M. 641, 578 P.2d 342). This standard was intended to be sufficiently broad to effectuate the purpose of aggravated assault statutes “to deter the use of deadly weapons” but not so broad “as to encompass non-use or mere possession of a deadly weapon.” *Zachariah G.*, 2021-NMCA-036, ¶ 14. The special concurrence and dissent both agreed that a more “precise” definition of “use” than that crafted by the majority opinion would be beneficial in the context of assault with a deadly weapon. *See id.* ¶ 23 (Vargas, J., specially concurring); *id.* ¶ 25 (Ives, J., dissenting). Toward that end, the dissent suggested refinements to the majority’s definition of “use.” *Id.* ¶¶ 26-31 (Ives, J. dissenting).

{12} Drawing on a line of California cases already incorporated into New Mexico law, the dissent suggested a “litmus test” to determine whether a gun is “used” in the commission of a felony. *Id.* ¶ 30 (Ives, J., dissenting). That proposed test “is whether the defendant took some

action with the gun in furtherance of the commission of the crime.” *Id.* (Ives, J., dissenting) (brackets, internal quotation marks, and citation omitted). Under this test, “use” requires a “facilitative, gun-related act.” *Id.* (Ives, J., dissenting) (internal quotation marks and citation omitted). Thus, to the dissent, when a “defendant’s conduct with respect to the weapon appears to be purely incidental to the crime,” a defendant has not “used” the weapon *Id.* (Ives, J., dissenting) (internal quotation marks and citation omitted). However, a jury may “find a facilitative use rather than an incidental or inadvertent exposure if a defendant deliberately shows a gun, or otherwise makes its presence known,” or “if there is no evidence to suggest any purpose other than intimidating the victim (or others) so as to successfully complete the underlying offense.” *Id.* ¶ 30 & n.4 (Ives, J., dissenting) (brackets, internal quotation marks, and citation omitted). Although these concepts of *use* were discussed in the context of firearm sentencing enhancement, *id.* ¶ 30 (Ives, J., dissenting), the dissent would also apply them to the “use” of a deadly weapon. *Id.* ¶ 31 (Ives, J., dissenting) (stating that adding these concepts would benefit the analysis of Child’s case, as well as our courts, the bar, and the public).

{13} In this Court, Child advocates for the formulation of *use* suggested by the Court of Appeals dissent and also proposes a related jury instruction. In relevant part, Child’s proposed jury instruction states that:

For the defendant to have “used” a deadly weapon, the defendant must have taken some action with the deadly weapon in furtherance of the commission of the crime.

If the defendant did not take an affirmative action with the deadly weapon, or such conduct was incidental and unrelated to the offense, no “use” occurred.

Child’s formulation requires an “affirmative action” with the deadly weapon. Under Child’s proposed formulation, words and passive display of a deadly weapon, without more, could not be a *use* of a deadly weapon.

{14} The State defends the view of the Court of Appeals majority and argues that it is unnecessary for this Court to refine the definition of *use* of a deadly weapon in the context of assault with a deadly weapon. The State essentially argues that where a defendant leverages a victim’s awareness of a readily accessible firearm with verbal threats, a defendant has *used* the firearm. The State argues against Child’s proposed jury instruction on the ground that it is unnecessary because the required “action”

with a deadly weapon contemplated by Child’s proposed instruction can be words. {15} It is against this backdrop that we examine what it means to *use* a deadly weapon in an aggravated assault. In numerous assault statutes, the Legislature has chosen to increase the penalty when the assault is committed *with*, or put another way, *using*, a deadly weapon. Compare, e.g., NMSA 1978, § 30-3-1 (1963) (providing that assault is a petty misdemeanor), *with* NMSA 1978, § 30-3-2 (1963) (providing that assault committed with a deadly weapon is a fourth-degree felony); Compare § 30-3-9(B) (providing that “assault upon a school employee” is a misdemeanor), *with* § 30-3-9(C) (providing that assault on a school employee committed with a deadly weapon is a third-degree felony); Compare NMSA 1978, § 30-3-12(B) (1995) (providing that assault against a household member is a petty misdemeanor), *with* NMSA 1978, § 30-3-13(B) (1995) (providing that assault against a household member committed with a deadly weapon is a fourth-degree felony). The apparent purpose of these statutes is to deter the use of deadly weapons in aggression against others, *State v. Sosa*, 1997-NMSC-032, ¶ 38, 123 N.M. 564, 943 P.2d 1017, *abrogated on other grounds by State v. Porter*, 2020-NMSC-020, 476 P.3d 1201, and in furtherance of that purpose, “use” should be construed broadly. *Trujillo*, 1978-NMCA-041, ¶ 14. In this, we are in accord with the Court of Appeals. *See Zachariah G.*, 2021-NMCA-036, ¶¶ 12, 14.

{16} We also agree with the Court of Appeals—the majority, the special concurrence, and the dissent—that California law is instructive. *See id.* ¶¶ 11, 14, 23, 30. We affirm the California law principles construing *use* of a deadly weapon that have already been incorporated into New Mexico law and that were relied upon by the Court of Appeals majority in this case. Namely, that to *use* a deadly weapon in an assault means to carry out the assault by means of the deadly weapon, to make the deadly weapon instrumental to the assault, and to apply the deadly weapon to advantage in the assault. *See id.* ¶ 14.

{17} But, as the Court of Appeals dissent pointed out, California has further developed these principles. *Id.* ¶ 30 (Ives, J., dissenting). *People v. Granado* construed *use* under California law, as that term was applied when the prosecution sought to enhance a defendant’s sentence based on the presence of a firearm during the commission of a crime. 56 Cal. Rptr. 2d 636, 638 (1996). *Granado* emphasized that there must be a connection—a nexus—between the firearm and the underlying crime in order for a jury to find that a defendant’s sentence should be enhanced because the defendant “used” the firearm.

Id. at 641-42. The *Granado* Court referred to this as a “facilitative use”:

[W]hen a defendant deliberately shows a gun, or otherwise makes its presence known, and there is no evidence to suggest any purpose other than intimidating the victim (or others) so as to successfully complete the underlying offense, the jury is entitled to find a facilitative use rather than an incidental or inadvertent exposure. *Id.* at 641.

{18} These refinements are important. We conclude that the emphasis on the nexus between the firearm and the underlying crime is particularly useful in the context of assault with a deadly weapon. Assault with a deadly weapon—more specifically, assault with a deadly weapon by threat—can present unusual issues. Assault by threat includes “any unlawful . . . threat . . . which causes another person to reasonably believe that he is in danger of receiving an immediate battery.” Section 30-3-1(B) (emphasis added). Thus, our Legislature has chosen to criminalize the creation of apprehension or fear. In our view, the definitional principles articulated by the Court of Appeals majority do not sufficiently account for verbal threats that leverage the presence of a deadly weapon resulting in the required state of mind. In such situations, an analysis focused on facilitative use will help distinguish between mere possession of a deadly weapon and situations where the deadly weapon was, in fact, “appl[ied] to advantage” in furtherance of an assault. *Trujillo*, 1978-NMCA-041, ¶ 11 (internal quotation marks and citation omitted).

{19} Accordingly, we supplement the principles of *use* applied by the Court of Appeals majority with the following definition. A *facilitative use* of a deadly weapon during an assault—as distinct from incidental exposure or mere possession—may be found where (1) a deadly weapon is present at some point during the encounter, (2) the victim knows or, based on the defendant’s words or actions, has reason to know that the defendant has a deadly weapon, and (3) the presence of the weapon is intentionally used to facilitate the commission of the assault. *Facilitative use* of a deadly weapon in the course of an assault indicates that a defendant has committed assault “with” a deadly weapon. See, e.g., § 30-3-9(C)(1) (defining aggravated assault on a school employee as “unlawfully assaulting or striking at a school employee *with* a deadly weapon while he is in the lawful discharge of his duties” (emphasis added)).

{20} Although we have accepted Child’s invitation to refine the definition of *use*,

we are unpersuaded by his invitation to require an “affirmative action with the deadly weapon” as a requirement for a finding that the deadly weapon was *used*. That requirement would fail to capture the ways a verbal threat might leverage the presence of a deadly weapon to create a reasonable fear of receiving an immediate battery. We offer the following hypothetical to explain. Where a defendant has a gun in his or her waistband, clearly visible but untouched, and announces that he or she has a gun and then threatens to shoot the victim, surely a jury could find that the defendant *used* the gun to create the reasonable apprehension of an immediate battery. Yet, it seems to us that Child’s formulation—requiring an “affirmative action with the deadly weapon”—would rule out a finding of *use* under these circumstances. This seems to us incorrect on its face and contrary to the Legislature’s intent that *use* be construed broadly to deter the use of deadly weapons in aggression against others. See *Sosa*, 1997-NMSC-032, ¶ 38; *Trujillo*, 1978-NMCA-041, ¶ 14. In related contexts, other state courts have also resisted such a cramped definition of *use* and have instead emphasized the connection between the presence of the deadly weapon and the facilitation of the underlying offense. See, e.g., *Sheely v. State*, 650 S.E.2d 762, 764 (Ga. Ct. App. 2007) (“[T]he element of ‘use’ is present when the victim is aware of the weapon and [the weapon] has the desired forceful effect of assisting to accomplish the robbery.” (internal quotation marks and citation omitted)); *State v. Weisberg*, 2002 UT App 434, ¶¶ 15-17, 62 P.3d 457 (rejecting an argument that “active employment” of a dangerous weapon was required for a finding that the dangerous weapon was “used” because, under Utah law, “[i]f merely exhibiting the [dangerous weapon] creates fear in the victim, it constitutes ‘use of a [dangerous weapon]’ for that purpose” (internal quotation marks and citations omitted)); *Patterson v. State*, 769 S.W.2d 938, 941 (Tex. Ct. Crim. App. 1989) (en banc) (holding “that ‘used . . . during the commission of a felony offense’ . . . extends . . . to *any* employment of a deadly weapon, even its simple possession, if such possession facilitates the associated felony” (first omission in original) (citation omitted)). {21} For the foregoing reasons, we decline to adopt Child’s proposed jury instruction. Instead, we refer this matter to our Criminal Uniform Jury Instructions Committee for consideration, and we request that the Committee offer recommendations to the Court consistent with our refined definition of *use* of a deadly weapon in the context of assault.

C. Sufficiency of the Evidence for the Assault on a School Employee With a Deadly Weapon

{22} Child challenges the sufficiency of the evidence supporting his adjudication of aggravated assault with a deadly weapon on a school employee. The jury instructions, which became the law of the case against which the sufficiency of the evidence must be tested, see *State v. Holt*, 2016-NMSC-011, ¶ 20, 368 P.3d 409, required that the jury find beyond a reasonable doubt that:

1. The Child . . . threatened to shoot Todd Morris;
2. The Child’s conduct caused Todd Morris to believe that the Child was about to intrude on Mr. Morris’ bodily integrity or personal safety by touching or applying force to Mr. Morris in a rude, insolent or angry manner;
3. At the time, Todd Morris was a middle school Principal and was performing duties of a middle school Principal;
4. The Child knew Todd Morris was a middle school Principal;
5. A reasonable person in the same circumstances as Todd Morris would have had the same belief;
6. The Child used a deadly weapon. The Child used a [BB gun]. A [BB gun] is a deadly weapon only if you find that a [BB gun], when used as a weapon, could cause death or great bodily harm;
7. This happened in New Mexico on or about the 8th of February, 2018.

Child only challenges whether there was sufficient evidence to satisfy the essential element that he *used* a deadly weapon. We therefore examine whether the evidence supports a finding that Child made a facilitative use of a deadly weapon.

{23} First, a deadly weapon was present. Child does not contest whether the BB gun—which is not listed as a *per se* deadly weapon under NMSA 1978, § 30-1-12(B) (1963)—satisfies the *Nick R.* requirements for finding that an unlisted object is a “deadly weapon” under the facts of a particular case. See *Nick R.*, 2009-NMSC-050, ¶¶ 37-38 (requiring that an unlisted object qualifies as a “deadly weapon” only if the jury finds, *inter alia*, that the “object was *actually used as a weapon* and that it was capable of causing the wounds de-

scribed in the statute" (emphasis added) (internal quotation marks omitted)). We do not disturb *Nick. R.* with this opinion, including the *Nick. R.* threshold inquiry into whether an unlisted object qualifies as a "deadly weapon" under the facts of a particular case.

{24} Second, the evidence also supports a finding that Morris knew or had reason to know from Child's words and actions that Child had a BB gun when Child threatened him. Child revealed a CO₂ cartridge when he emptied his pockets and Morris recognized the CO₂ cartridge as a component of a BB gun. Moreover, Morris had reason to know that Child had a gun from the substance of Child's threats. In particular, Child asking how Morris would feel if he were "shot" by a twelve-year-old and Child wondering what would happen if the school were "shot up" by someone gave Morris reason to know that Child had a gun. Indulging all reasonable inferences in the light most favorable to the verdict, as we must, *Largo*, 2012-NMSC-015, ¶ 30, we conclude that the combination of Child's words and actions reasonably caused Morris to know or have reason to know that Child had a deadly weapon.

{25} The third *facilitative use* factor requires that we examine whether the evidence supports a finding that the pres-

ence of the weapon was intentionally used by Child to facilitate the commission of an assault upon Morris. The assault in this case was Child's threat that caused Morris to reasonably believe that he was in danger of receiving an immediate battery. In our view, the evidence also supports a finding that Child intentionally used the presence of the BB gun to facilitate this assault when Child asked Morris how he would feel if he were shot, what would happen if someone shot up the school, and if Morris was afraid to die.

{26} Child disagrees, arguing that no rational jury could have concluded that he "used" a deadly weapon because he did not engage in any "weapon-related conduct," or, put another way, did not "actually use" the BB gun. As discussed above, Child suggests too high a bar for *use* of a deadly weapon in an assault. We have already rejected Child's proposed legal standard, and accordingly we are unpersuaded by this argument.

{27} This case underscores that the focus of whether a deadly weapon was *used* in an assault should be on the nexus between the deadly weapon and the assault. Based on Child's verbal threats that took advantage of the presence of the BB gun, it was reasonable for the jury to determine that Child's conduct caused Morris "to reason-

ably believe that he [was] in danger of receiving an immediate battery," see § 30-3-9(B)(2), and thus, Child *used* the deadly weapon to facilitate the assault.

III. CONCLUSION

{28} For the stated reasons, we affirm Child's adjudication of delinquency. In addition, we hold that a person commits assault with a deadly weapon when a person makes *facilitative use* of the deadly weapon to commit the assault. A *facilitative use* may be found where (1) a deadly weapon is present at some point during the encounter, (2) the victim knows or, based on the defendant's words or actions, has reason to know that the defendant has a deadly weapon, and (3) the presence of the weapon is intentionally used to facilitate the commission of the assault. We refer this matter to the Criminal Uniform Jury Instructions Committee for consideration, and we request that the Committee offer recommendations to the Court consistent with this opinion.

{29} IT IS SO ORDERED.

MICHAEL E. VIGIL, Chief Justice
WE CONCUR:

C. SHANNON BACON, Justice
DAVID K. THOMSON, Justice
JUDITH K. NAKAMURA, Justice, retired
Sitting by designation

Endnotes

¹Child brought an air-powered gun to school, either a BB gun or an airsoft gun. In this opinion we follow the Court of Appeals by referring to the weapon as a BB gun. See, e.g., *State v. Zachariah G.*, 2021-NMCA-036, ¶¶ 2, 10, __ P.3d ___. (A-1-CA-37584, Oct. 1, 2019).

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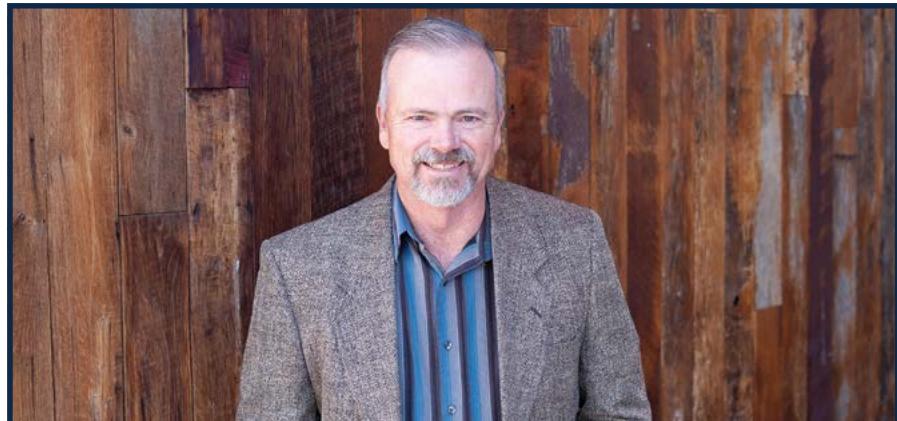
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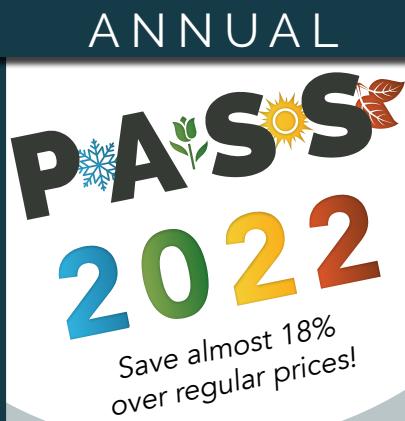
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The City of Albuquerque Legal Department is hiring Supervisory City Attorneys for a number of positions. The work includes management, oversight and development of Assistant City Attorneys, paralegals and staff. Roles may require legal expertise in areas of municipal law such as: administrative and civil litigation; contract law; ordinance drafting; regulatory law; Inspection of Public Records Act; procurement; public works and construction law; real property; finance; labor law; and risk management. Attention to details, timelines and strong writing skills are essential. Five years' experience including at least one year of management experience is preferred. Applicants must be an active member of the State Bar of New Mexico in good standing. Please apply online at www.cabq.gov/jobs and include a resume and writing sample with your application. Current open positions include: Deputy City Attorney of Operations; Managing City Attorney of Property and Finance; Managing City Attorney of Labor and Employment

Associate Attorneys

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

Staff Attorney

New immigration law non-profit seeks Staff Attorney for immigration and civil legal services. Pay range is 50k-70k DOE. Position is based in El Paso, Texas and Las Cruces, NM. Visit <https://jfonelp.org/get-involved/> for full description and application instructions.

Associate Attorney

Giddens + Gatton Law, P.C., has served New Mexicans since 1997. Our firm practices primarily in bankruptcy law and represents individuals, couples, farmers, business owners and creditors in solving issues related to debt and credit matters. We are focused on providing excellent client service and high-quality legal representation. Giddens + Gatton Law has been recognized by U.S. News & World Report and Best Lawyers as a Best Law Firm for 5 consecutive years. We are also proud to support family-friendly policies in the workplace and have received Gold recognition for three consecutive years in the New Mexico Family Friendly Business Awards program. Our firm operates with these core values: Customer Focus; Accountability; Integrity; Community; Respect. Position Summary: An ideal candidate for Associate Attorney has 5-plus years of experience working with bankruptcy law (debtor, as well as creditor rights and representation) and commercial litigation. Experience in commercial real estate law is a plus. Candidate must: Have excellent writing and editing skills (writing samples will be required); Be motivated to learn, meet deadlines and work hard; Handle a client caseload independently; Enjoy supervising younger attorneys and support staff; Have the desire to build a portfolio of business. Interested candidates should email a cover letter, resume, references, and writing samples to giddens@giddenslaw.com.

Attorney

Frazier & Ramirez Law is seeking a New Mexico licensed attorney with 2-5 years' experience in litigation. Experience in family law is not required but would be a bonus. We offer a competitive salary based on experience plus benefits. We are a growing firm looking for the right attorney who will work hard, who has developed excellence as a habit and who shows a willingness to grow with us. Please submit a letter of interest, writing sample and resume to sean@frazierramirezlaw.com. All inquiries will remain confidential.

Child Support Attorney

Interested in working in a fast-paced environment that positively impacts NM families? The New Mexico Human Services Department is accepting applications for Attorney positions in Farmington (HSD #22685 and #49411), Las Vegas (HSD #49402), Clovis (HSD #49410), Las Cruces (HSD #9223), and Alamogordo (HSD #9216). Primary duties will include the establishment and enforcement of child support. The ideal candidate will be a team player and have an interest in public service and domestic relations law. To apply for these positions, please fill out an application at <http://www.spo.state.nm.us>.

Eleventh Judicial District Attorney's Office, Div II

The Eleventh Judicial District Attorney's Office, Division II, Gallup, New Mexico is seeking qualified applicants for Trial Attorney. The Trial Attorney position requires advanced knowledge and experience in criminal prosecution, rules of evidence and rules of criminal procedure, trial skills, computer skills, ability to work effectively with other criminal justice agencies, ability to communicate effectively, ability to re-search/analyze information and situations. New Mexico State Bar license preferred. The McKinley County District Attorney's Office provides a supportive and collegial work environment. Salary is negotiable. 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 will remain opened until filled.

New Attorney (3 years or Less Experience)

If you are a new attorney (3 years or less of experience), or if you are currently in law school and looking for a clerk position that could progress into an associate attorney position after you graduate and pass the bar exam, we would love for you to come join our team. We are a small firm with a big heart and love what we do. We invite you to jump in and move your career forward by joining the exciting world of plaintiff's personal injury law. We are looking for someone who is detail oriented, hard-working, and serious about a future in this specific area of the law. We offer a salary DOE, medical/dental/vision insurance, and 401k. If this sounds like the right fit for you, please contact our office to schedule an interview. All inquiries kept strictly confidential. Please send a resume to staff@lrioslaw.com.

Part-Time Real Estate Attorney

Looking for Part-Time Attorney to assist with various real-estate related projects. Approx. 20 hours a week. Potential for full-time position. At least 3 years' experience. Well established real estate firm with well-established client base. Independent Contractor. Malpractice Insurance Included. Rate \$65/hour. Please send resume to astraußmartin@relanm.com

Request For Letters of Interest for Legal Services

Notice is hereby given that the City of Albuquerque, The Legal Department calls for Proposals for Request For Letters of Interest for Legal Services. Interested parties may secure a copy of the Proposal Packet, by accessing the City's website at <https://www.cabq.gov/legal/documents/rfli-legal-services.pdf>.

Attorneys

The Third Judicial District Attorney's Office in Las Cruces is seeking a Chief Deputy District Attorney, Deputy District Attorneys, Senior Trial Attorneys, Trial Attorneys, and Assistant Trial Attorneys. You will enjoy the convenience of working in a metropolitan area while gaining valuable trial experience alongside experienced Attorney's. Please see the full position descriptions on our website <http://donaanacountyda.com/> Submit Cover Letter, Resume, and references to Whitney Safranek, Human Resources Administrator at wsafranek@da.state.nm.us.

Assistant City Attorneys (Various Departments)

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

Senior Trial Attorney Positions Available in the Albuquerque Area

The Thirteenth Judicial District Attorney's Office is seeking Senior 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 or 505-771-7411 for an application. Apply as soon as possible. These positions will fill up fast!

Child Support and Domestic Relations Hearing Officer (FT At-Will)

The Eleventh Judicial District Court is accepting applications for a full-time, At-Will Child Support and Domestic Relations Hearing Officer. This position is under the supervision of the presiding Chief District Court Judge. Successful candidate will be assigned caseloads to include child support matters, domestic violence and domestic relations, consistent with Rule 1-053.2. Qualifications: Juris Doctorate from an accredited law school, New Mexico licensed attorney in good standing. Minimum of (5) five years of experience in the practice of law, with at least 20% of practice having been in family law or domestic relations matters. Ability to: establish effective working relationships with judges, the legal community, and staff; and to communication complex rules clearly and concisely, respond with tact and courtesy both orally and in writing. Extensive knowledge of: New Mexico and federal case law, constitution and statutes; court rules, policies and procedures; manual and computer legal research and analysis. Must be able to demonstrate a work record of dependability and reliability, attention to detail, accuracy, confidentiality, and effective organizational skills. A post-offer background check will be conducted. SALARY: \$53.25 hourly, plus a full benefits package. Please send an application with your resume, and proof of education to the Eleventh Judicial District Court, Human Resources Office, 103 S. Oliver Drive, Aztec, NM 87410, or email to 11thjdchr@nmcourts.gov, or fax to 505-334-7761. A complete application can be found on the Judicial Branch web page at www.nmcourts.gov. Resumes will not be accepted in lieu of application. Incomplete applications, without all required documentation will not be considered. CLOSES: Open until filled

Las Cruces-Based Attorney

Jarmie & Rogers, P.C. is hiring a Las Cruces-based attorney to join us in our busy civil litigation practice. Preference will be given to candidates with two (2) or more years of experience in the practice of law. Strong research, legal writing and analytical skills are a must. The position requires excellent oral advocacy abilities; you will be required to argue complex motions in state and federal court. We offer a competitive salary and benefits package, along with significant potential for professional growth. For more information about our firm, please visit our website, www.jarmielaw.com. Please submit resumes to ereeves@jarmielaw.com.

Lead Life & Health Attorney, Office of Superintendent of Insurance ("OSI")

The OSI is seeking an experienced attorney for its Life and Health Division team. This position will help administer and coordinate all legal, policy-related, and legislative objectives of the Superintendent of Insurance on the complex matters of life, health and long-term care insurance laws and associated regulatory policies. The position will serve as the primary expert legal counsel to the Life and Health Division, manage an associate attorney, represent the OSI in litigation in state and federal courts and with other state and federal health agencies. In addition, will occasionally serve as an administrative hearing officer for the OSI. The Life and Health Division is responsible for administering the complex, ever-changing and intertwining federal and state laws, which will make this position interesting, challenging, and rewarding. The attorney can choose to be located in either Albuquerque or Santa Fe. Salary range is up to \$113,734 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/psc/hprdcg/EMPLOYEE/HRMS/c/HRS_HRAM_FL.HRS_CG_SEARCH_FL.GBL?Page=HRS_APP_SCHJOB_FL&FOCUS=Applicant

Compliance Specialist

UNM's Office of Compliance, Ethics & Equal Opportunity seeks a Compliance Specialist committed to diversity and civil rights. The Compliance Specialist's duties include: Investigating Title IX, Title VII, ADA, and other civil rights reports; Providing training and guidance to the campus community on civil rights policies and processes; Efficiently maintaining and tracking a caseload and utilizing a case management system, in order to ensure timely processing of civil rights reports. JD preferred. Please visit the UNM Jobs website for further details and to apply. The University of New Mexico is an affirmative action and equal opportunity employer, making decisions without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, veteran status, disability, or any other protected class.

Apply at: <https://unmjobs.unm.edu/>

Staff Attorney Position

Staff attorney position available with busy state government agency. Objective, technical writing and legal research required. No litigation. Salary DOE, with state benefits. Email resume, cover letter and writing sample, by March 7, to attyapp490@gmail.com.

Senior Liability Adjuster Medical Professional

Integriion Group, Albuquerque, New Mexico Position: Sr. Liability Adjuster – Medical Professional Liability. Education: Bachelor's degree preferred. Experience: Two or more years of experience working as a medical malpractice claims adjuster with an insurance company or third-party administrator. Prefer experience managing litigated claims. In lieu of medical malpractice experience general liability adjusting experience will be considered. Position Summary: This position requires an experienced medical professional liability (medical malpractice) or general liability adjuster to proactively manage the medical malpractice claims, to include investigation and evaluation of liability and damages, performing a complete and thorough review of legal documents, review and recommend appropriate reserves, attend mediations and negotiate settlements when appropriate. In lieu of medical malpractice experience general liability adjusting experience will be considered. Required Skills/Abilities: Demonstrated expertise investigating, evaluating, and negotiating medical professional liability claims required. Expertise in New Mexico jurisdiction preferred. Strong analytical skills with the ability to analyze insurance policies and other contracts, as well as legal principles and case law. Demonstrate advanced knowledge of complex medical issues. Possess outstanding customer service and conflict resolution skills. Excellent oral and written communication skills. Strong presentation and negotiation skills. Ability to build and maintain relationships with internal and external stakeholders. Excellent organization skills which include the ability to multi-task and prioritize. Innovative, curious, and willing to question the status quo. Must be a self-starter with the ability to work independently and as part of a team. Must have a vehicle for travel to mediations (mile reimbursed at government rate), a valid driver's license, and insurance. Ability to travel within assigned territory. Demonstrated proficiency in: Microsoft Office Suite and Adobe applications. Must possess or have ability to obtain New Mexico Adjuster License. Salary starting at \$75,000 per year with comprehensive benefit package. If interested, please apply at <https://www.newmexicomutual.com/careers/>

Experienced Tax Attorney

Anthony B. Jeffries, J.D., C.P.A. is a solo practitioner with 47 years experience. Seeking an experienced tax, or tax and business lawyer, as an associate attorney, who may be interested in partnership and ultimately purchasing my lucrative practice. Please send resume and description of tax experience to Anthony B. Jeffries, J.D., C.P.A. , at tony@taxlawyerusa.com. Please send resume instead of calling. All communications will remain confidential. Thanks for your interest.

Senior Liability Adjuster P&C

Integriion Group, Albuquerque, New Mexico Position: Senior Liability Adjuster (P&C Guaranty Fund). Education: Bachelor's degree preferred. Experience: Five years or more of experience working as a liability adjuster with an insurance company or third party administer. Position Summary: This is a liability adjuster position responsible for the adjustment of claims for insolvent insurers in New Mexico under the New Mexico Property and Casualty Guaranty Fund. The position includes negotiating settlements directly with third party claimants and/or their attorneys and managing litigated files. A large part of this position involves forensic adjusting and the researching the claims regarding coverage and liability, as well as settling under the obligations of the Guaranty Fund. Required Skills/Abilities: Strong verbal and written communication skills. Ability to compose profession letters, e-mails, reports, and comprehensive file notes. Must be able to learn how to work efficiently in several databases. Must have strong analytical and reasoning skill. Demonstrated expertise investigating, evaluating, and negotiating auto liability and general liability claims required. Experience with policy interpretation and application of applicable statutes. Possess outstanding customer service and conflict resolution skills. Excellent oral and written communication skills. Strong presentation and negotiation skills. Ability to build and maintain relationships with internal and external stakeholders. Excellent organization skills which include the ability to multi-task and prioritize. Innovative, curious, and willing to question the status quo. Must be a self-starter with the ability to work independently and as part of a team. Must have a vehicle for travel to mediations (mile reimbursed at government rate), a valid driver's license, and insurance. Ability to travel within assigned territory. Demonstrated proficiency in: Microsoft Office Suite and Adobe applications. Must possess or have ability to obtain New Mexico Adjuster License. Salary starting at \$70,000 per year with comprehensive benefit package. If interested, please apply at <https://www.newmexicomutual.com/careers/>

Assistant District Attorney

The Fifth Judicial District Attorney's office has immediate positions open in Eddy County for new and/or experienced attorneys. Salary will be based upon the New Mexico District Attorney's Salary Schedule with salary range of an Assistant Trial Attorney to a Senior Trial Attorney (\$58,000 to \$79,679). There is also an opening for a prosecutor with at least 2 years of Trial Experience for the HIDTA Attorney position in the Eddy County office, with salary of (\$70,000). Please send resume to Dianna Luce, District Attorney, 100 N. Love Street suite 2, Lovington, NM 88260 or email to 5thDA@da.state.nm.us

Supervisory City Attorneys

The City of Albuquerque Legal Department is hiring Supervisory City Attorneys for a number of positions. The work includes management, oversight and development of Assistant City Attorneys, paralegals and staff. Roles may require legal expertise in areas of municipal law such as: administrative and civil litigation; contract law; ordinance drafting; regulatory law; Inspection of Public Records Act; procurement; public works and construction law; real property; finance; labor law; and risk management. Attention to details, timelines and strong writing skills are essential. Five years' experience including at least one year of management experience is preferred. Applicants must be an active member of the State Bar of New Mexico in good standing. Please apply online at www.cabq.gov/jobs and include a resume and writing sample with your application. Current open positions include: Deputy Director of Policy; Deputy City Attorney of Operations; Managing City Attorney of Property and Finance; Managing City Attorney of Labor and Employment

Chemical & Chemical Engineering Patent Attorney Los Alamos, New Mexico

Los Alamos National Laboratory (LANL) seeks a licensed Chemical & Chemical Engineering Patent Attorney to provide legal advice and counsel to the Lab's senior management and technology transfer division on IP-related transaction provisions. The attorney will draft and review documents in all technical subject areas and conduct negotiations with outside counsel. The attorney must have a Juris Doctorate degree and 7 years of legal experience and be a member of a Bar in good standing and have substantive knowledge of ODE, NNSA, federal and state patent laws and regulations. This position also requires the ability to obtain a security clearance, which involves a background investigation, and must meet eligibility requirements for access to classified matter. Apply online, search IRC96052: www.lanl.gov/jobs. Los Alamos National Laboratory is an EO employer – Veterans/Disabled and other protected categories. Qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, sexual orientation, gender identity, disability or protected veteran status.

City of Albuquerque – Contract Attorney

The City of Albuquerque, through the Albuquerque-Bernalillo County Air Quality Control Board ("Air Board"), is seeking a qualified attorney to contract with to provide legal representation and general legal services to the Air Board. This position is an independent contractor, and is not an employee of the City of Albuquerque. Applicant must be admitted to the practice of law by the New Mexico Supreme Court and be an active member of the Bar in good standing. A successful candidate will attend all Air Board meetings, have strong communication skills, knowledge of board governance and Robert's Rules of Order, The NM Open Meetings Act, and knowledge of environmental rules and regulations including the Clean Air Act. Prior experience with, or advising, board and commissions is preferred. Please submit a resume to the attention of "Air Board General Counsel Application"; c/o Angela Aragon; Executive Assistant; P.O. Box 2248, Albuquerque, NM 87103 or amaragon@cabq.gov.

Employment Law Attorney

Los Alamos National Laboratory (LANL) seeks a licensed Employment Law Attorney to provide legal advice to the Lab's senior management on personnel issues, particularly civil rights and employment discrimination and disciplinary matters, collective bargaining and day-to-day labor disputes in collaboration with LANL's Human Resources Division. The attorney must be a member of a Bar in good standing and have a Juris Doctorate degree, 7 years of legal experience and expertise in the areas of discrimination and harassment (e.g., Title VII, FMLA, ADA, ADEA, New Mexico Human Rights Act), wage and hour (e.g., FLSA), labor (e.g., NLRA) and other labor-and employment-related laws and regulations. This position also requires the ability to obtain a security clearance, which involves a background investigation, and must meet eligibility requirements for access to classified matter. Apply online at: www.lanl.gov/jobs IRC 98714. Los Alamos National Laboratory is an EO employer – Veterans/Disabled and other protected categories. Qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, sexual orientation, gender identity, disability or protected veteran status.

Request For Proposal – Defense Legal Services

Pueblo of Laguna seeks proposal from any law firm or individual practicing attorney to provide legal services for adult criminal defense or representation of juveniles in delinquency proceedings when there is conflict of interest or unavailability of regular defender. Reply by February 17, 2022. RFP details at: www.lagunapueblo-nsn.gov/rfp_rfq/

Request For Proposal – Prosecutor Legal Services

Pueblo of Laguna seeks proposals from any law firm or individual practicing attorney to provide prosecutorial legal services for adult criminal or juvenile delinquency cases when there is conflict of interest or unavailability of regular prosecutor. Reply by February 17, 2022. RFP details at: www.lagunapueblo-nsn.gov/rfp_rfq/

Life Sciences Patent Attorney Los Alamos, New Mexico

Los Alamos National Laboratory (LANL) seeks a licensed Life Sciences Patent Attorney to provide legal advice and counsel to the Lab's senior management and transfer technology division on IP-related transaction provisions. The attorney will draft and review documents in all technical subject areas and conduct negotiations with outside counsel. The attorney must have a Juris Doctorate degree and 7 years of legal experience and be a member of a Bar in good standing and have substantive knowledge of ODE, NNSA, federal and state patent laws and regulations. This position also requires the ability to obtain a security clearance, which involves a background investigation, and must meet eligibility requirements for access to classified matter. Apply online, search IRC96071: www.lanl.gov/jobs. Los Alamos National Laboratory is an EO employer – Veterans/Disabled and other protected categories. Qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, sexual orientation, gender identity, disability or protected veteran status.

Attorney

Allen, Shepherd, & Lewis, P.A. is seeking an attorney with 2-4 years of litigation experience to join our firm. Experience in worker's compensation, construction defects, professional malpractice or personal injury preferred. Must be licensed in New Mexico or obtain New Mexico license. Candidates considered for a position must have excellent oral and written communication skills. Available position is considered regular and full time. Please send resume with cover letter, unofficial transcript, writing sample and salary requirements to Allen, Shepherd, & Lewis, P.A. Attn: Human Resources, P.O. Box 94750, Albuquerque, NM 87199-4750 or email to hr@allenlawnm.com. All replies will be kept confidential. We are an inclusive workplace to serve our diverse client needs. EEO.

Legal Resources for the Elderly Program (LREP) Staff Attorney (Remote position)

The New Mexico State Bar Foundation Legal Resources for the Elderly Program (LREP) seeks a full-time Staff Attorney to provide legal advice and brief legal services over the phone to New Mexico Seniors. This position also conducts legal workshops throughout New Mexico (travel and some overnight stays required). The successful applicant must be able to work as part of a busy team in a fast-paced environment and will have a deep interest in issues affecting the senior community. Current licensure to practice law in New Mexico required. Fluency in Spanish is a plus. Generous benefits package. \$52,000-\$56,000/annually, depending on experience and qualifications. To be considered, submit a cover letter and resume to HR@sbnm.org. Visit <https://www.sbnm.org/About-Us/Career-Center/State-Bar-Jobs> for full details and application instructions.

Family Law Associate Attorney

The Law Office of Jill V. Johnson Vigil LLC, a Las Cruces based family law firm, is seeking an associate attorney. Applicants should have 2-5 years of experience in family law litigation, be client focused, and able to manage a full caseload with minimal oversight. The Law Office of Jill V. Johnson Vigil LLC. offers a comfortable and friendly work environment with benefits and competitive salary commensurate with qualifications and experience. Applicants must be in good standing with NM Bar and willing to relocate to Las Cruces. Spanish speaking is preferred, but not required. If you are ready for the next step in your career, please send your cover letter, resume, writing sample, and three references via email to careers@jvjlaw.com before April 29, 2022. Please visit us online at www.jvjlaw.com.

Various Attorney Positions

The New Mexico Office of Attorney General is recruiting various attorney positions. The NMOAG is committed to attracting and retaining the best and brightest in the workforce. NMOAG attorneys provide a broad range of legal services for the State of New Mexico. Interested applicants may find listed positions by copying the URL address to the State Personnel website listed below and filter the data to pull all positions for Office of Attorney General. <https://www.spo.state.nm.us/view-job-opportunities-and-apply/applicationguide/>

Contract Prosecutor

EIGHT NORTHERN INDIAN PUEBLOS COUNCIL, INC.; POSITION: Contract Prosecutor; PROGRAM: Peacekeepers, Espanola NM; STATUS: Contract/Part-Time; BENEFITS: No; RATE OF PAY: DOE; EDUCATION: Juris Doctorate and licensed to practice law in the state of New Mexico. EXPERIENCE: Familiar with tribal customs and practices within the Eight Northern Pueblos. PREFERRED CERTIFICATES: None. Job Summary: Has ultimate responsibility for the screening, charging, and prosecution of crimes of intimate partner violence, sexual assault, stalking, and teen dating violence within the Eight Northern Pueblos of Taos, Picuris, Ohkay Owingeh, Santa Clara, Pojoaque, San Ildefonso, Nambe, and Tesuque. Essential functions: Must have experience in the prosecution of domestic violence crimes in tribal and non-tribal courts (jury and bench trials) and in revocation hearings. Must be familiar with tribal codes and be able to draft jury instructions specific to the crimes charged. Screen police reports and charge accordingly. Must be familiar with the Tribal Law and Order Act of 2010. Must be knowledgeable in motions practice. Work closely with probation and law enforcement. Must possess knowledge in, domestic violence dynamics and safety planning strategies for victims and their families. Required to give presentations within tribal communities and workshops to law enforcement to improve conviction rates. 327 Eagle Drive, PO Box 969, Ohkay Owingeh, NM 87566. www.enipc.org (to access application). Submit applications and/or Resumes to: Desiree Hall/HR Specialist; Desiree@enipc.org; 505-753-6998 (Fax); Or call 505-747-1593 ext. 110 or 505-901-2009 for information. These positions are also posted on indeed.com

Attorneys and Paralegals

New Mexico Legal Aid has positions open for both new and experienced attorneys and paralegals in various locations throughout the state. The organization represents low income New Mexico residents in a variety of civil legal matters including housing issues, public benefits, consumer debt relief, and legal issues facing survivors of domestic and sexual violence. NMLA is the home of the successful volunteer attorney program that has drawn on the experiences of the New Mexico bar to assist countless New Mexicans. NMLA's assistance ranges from phone advice all the way up to complex litigation and appeals. NMLA offers a collaborative work environment with excellent benefits, and an opportunity to make a real difference in people's lives. NMLA has paid holidays, generous leave and employer financed benefits. NMLA is unionized. Salary is competitive and based on experience. To learn more about available positions, please visit our website at www.newmexicolegalaid.org

Attorney II, III or IV

Company name: PNMR Services Company; Job Title: Attorney II, III or IV; Job Description: PNMR Resources is seeking to hire an Attorney with a minimum of 4 years' utility regulatory experience. Apply URL: https://jobs.pnmresources.com/psc/pnmjobs/EMPLOYEE/HRMS/c/HRS_HRAM_FL.HRS_CG_SEARCH_FL.GBL?Page=HRS_APP_JBPST_FL&Action=U&FOCUS=Applicant&SiteId=10&JobOpeningId=6087389&PostingSeq=1

Litigation Paralegal

MMLC specializes in complex litigation (catastrophic injury or death). The right candidate would work with a highly effective team of attorneys and paralegals in representing our clients from intake through trial. Excellent benefit and profit-sharing package. Salary commensurate with experience. Spanish speaking helpful. Responsibilities: Complete case management; prepare and organize pleadings, discovery and production; request, organize, summarize medical records and bills; legal fact and basic legal research. Qualifications: 3 – 5 years relevant experience - medical malpractice, personal injury preferred; solid abilities in MS365 suite, Adobe PDF; Ability to work overtime as needed; Must be able to work in a busy, fast-paced litigation practice, have strong writing, communication, multitasking and organization skills. Benefits: Health, Dental, Vision, Short/long Term Disability, 401K. Please send resume to mcmladmin@mcginnlaw.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 \$21.31 per hour during an initial, proscribed probationary period. Upon successful completion of the proscribed probationary period, the salary will increase to \$22.36 per hour. Competitive benefits provided and available on first day of employment. Please apply at <https://www.governmentjobs.com/careers/cabq>.

Legal Secretary

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

Legal Assistant/Paralegal

Santa Fe law firm, whose attorneys primarily practice in medical malpractice and personal injury, is accepting resumes for a legal assistant/paralegal position. Candidate must possess excellent organizational skills, demonstrate initiative, resourcefulness and flexibility. The ability to work in a fast-paced environment, multi task and assess priorities is a must. Responsible for calendaring. High school diploma or equivalent and a minimum of three years' experience as a legal assistant or paralegal in litigation is preferred. Proficiency in Microsoft Office products and electronic filing. Paralegal skills a plus. Competitive salary dependent on experience. Send resume to lee@huntlaw.com.

Legal Assistant

Well established Santa Fe personal injury law firm is in search of an experienced paralegal/legal assistant. Candidate should be honest, highly motivated, detail oriented, organized, proficient with computers & excellent writing skills. Duties include requesting and reviewing medical records and bills, meeting with clients, opening claims with insurance companies and preparing demand packages. We offer a very competitive salary, a retirement plan funded by the firm, full health insurance benefits, paid vacation and sick leave, bonuses and opportunities to move up. We are a very busy law firm and are looking for an exceptional assistant who can work efficiently. Please submit your resume to personalinjury2020@gmail.com

Office Space**Law Office for Lease**

Purpose-built law office for lease. Modern office. 6 professional offices and 10 staff workstations. Stunning conference room, reception, kitchen. Fully furnished. Lots of file storage. Phones and copier available. 1011 Las Lomas Road NE, Albuquerque. Available immediately. Inquiries: admin@kienzlelaw.com.

Executive Office Spaces

Large Offices; Conference Room; Kitchen/Security Alarm. 3009 Louisiana Blvd. NE. Call Mike Contreras 505-263-7334. Sentinel Real Estate & Investment

Miscellaneous**Want To Purchase**

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

For Roswell Attorney's - Search for Will

I am searching for a recent will made sometime in 2021 for Jose A. Gallegos (aka Andy) for probate. For more info – contact Gene at 505-699-3710.

Search for Will

John Irwin King, Navajo from Albuquerque/Thoreau, has passed away. His Will and/or Trust were created between 2010-2020. If you have a copy or original please contact Sherrie A. Sanchez Law Office, at 505-804-9893.

2022 Bar Bulletin Publishing and Submission Schedule

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

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

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

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

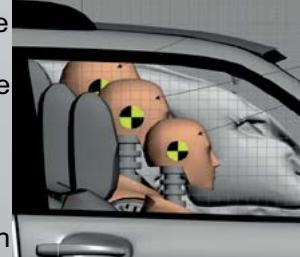
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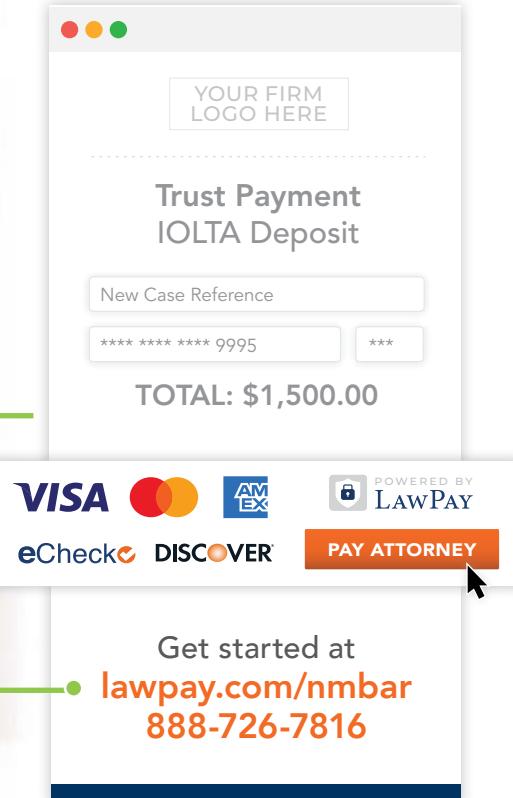
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