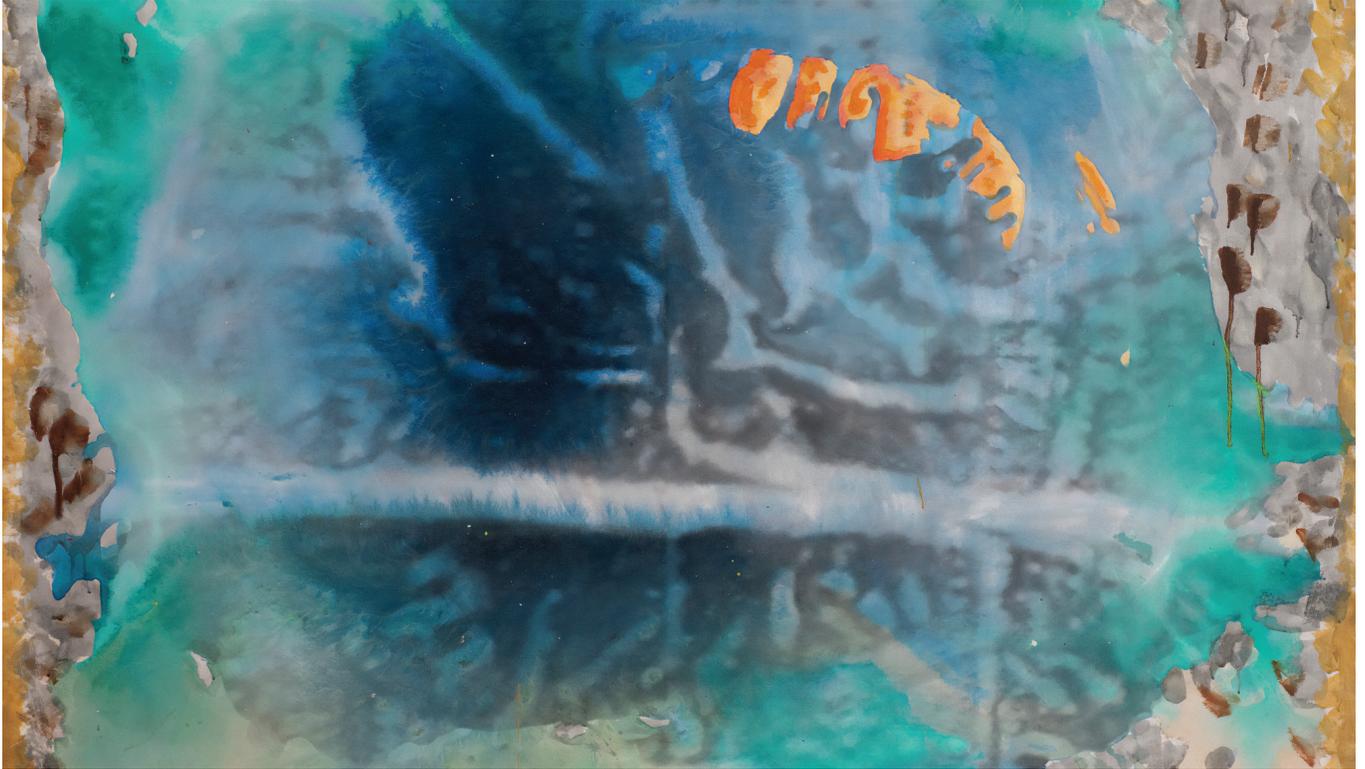


# BAR BULLETIN

December 13, 2023 • Volume 62, No. 23



*Border*, by Brian McPartlon (see page 6)

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— SPECIAL INSERT —  
**YLD in Brief**  
Winter 2023

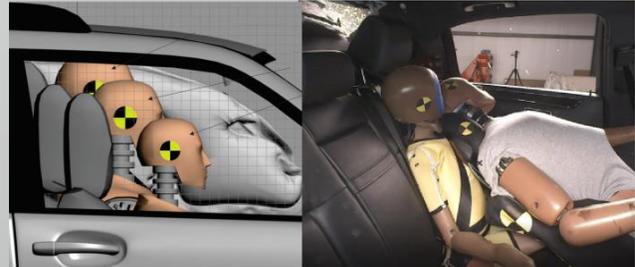
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New Mexico State Bar Foundation  
Center for Legal Education

# CLE PROGRAMMING

from the Center for Legal Education



## DECEMBER 13

*In-Person or Webcast*

### 2023 New Mexico Tax Law Conference

6.3 G, 1.0 EP  
8 a.m.–4:30 p.m.

## DECEMBER 14

*Webinar*

### “Let Me Ask You a Question. Suppose I Was Considering...” Current Hot Topics Under the Rules of Professional Conduct

2.0 EP  
10 a.m.–Noon

## DECEMBER 14

*Webinar*

### What a Startling Discovery: Judicial Perspectives on Discovery in Federal and State Courts

1.0 EP  
12:30–1:30 p.m.

## DECEMBER 15

*In-Person or Webcast*

### Earth, Air, Water, Fire: 2023 Annual Natural Resources, Energy and Environmental Law Institute

5.0 G, 1.0 EP  
9 a.m.–4:30 p.m.

## DECEMBER 19

*In-Person or Webcast*

### What Music Stars and Movie Stars Teach About Writing and Negotiation with Stuart Teicher

3.0 G  
9 a.m.–12:15 p.m.

## DECEMBER 19

*In-Person or Webcast*

### Tech and Ethics: There’s Nothing New Under the Ethical Sun...Except Everything with Stuart Teicher

3.0 EP  
1–4:15 p.m.

## DECEMBER 20

*Webinar*

### Why Female Attorneys Get Paid Less: What’s Gender Bias Got to Do With It

1.0 EP  
11 a.m.–Noon

## DECEMBER 20

*Webinar*

### Elimination of Bias-Combating Age Bias in the Legal Field

1.0 EP  
1–2 p.m.

## DECEMBER 20

*Webinar*

### REPLAY: 2023 Basics of Trust Accounting: How to Comply with Disciplinary Board Rule 17-204

1.0 EP  
4–5 p.m.

## DECEMBER 21

*Webinar*

### Take Ethical Security Precautions with Email: When and How to Encrypt

1.0 EP  
11 a.m.–Noon

## DECEMBER 21

*Webinar*

### REPLAY: 2023 Basics of Trust Accounting: How to Comply with Disciplinary Board Rule 17-204

1.0 EP  
Noon–1 p.m.

## DECEMBER 21

*Webinar*

### Digital Signatures

1.0 EP  
1–2 p.m.

## DECEMBER 22

*Webinar*

### ChatGPT in the Legal Field: Benefits, Pitfalls, and Ethical Issues of Artificial Intelligence

1.0 EP  
11 a.m.–Noon

## DECEMBER 22

*Webinar*

### Find and Use Historical Web Information with the Internet Archive Wayback Machine

1.0 G  
1–2 p.m.

## WHAT YOU MISSED DURING THE 2023 ANNUAL MEETING –

## 2023 ANNUAL MEETING

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For more information on how you can **become involved** in these programs please contact [caitlin.carcerano@sbnm.org](mailto:caitlin.carcerano@sbnm.org).

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- ✓ State and Federal Courts
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- ✓ Legal Services Providers
- ✓ Resources for the Public
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## Meetings

### December

- 15**  
**Family Law Section**  
 9 a.m., virtual
- 18**  
**Children's Law Section**  
 Noon, virtual
- 19**  
**Appellate Section**  
 Noon, virtual
- 19**  
**Solo and Small Firm Section**  
 9 a.m., virtual
- 21**  
**Public Law Section**  
 Noon, virtual
- 26**  
**Intellectual Property Law Section**  
 Noon, virtual
- 26**  
**NREEL Section**  
 Noon, virtual

## Workshops and Legal Clinics

### December

- 13**  
**Consumer Debt/Bankruptcy Workshop**  
 6-8 p.m., virtual

**About Cover Image and Artist:** Brian McPartlon attended the School of Visual Arts, New York and the San Francisco Art Institute. He was involved with the 1970s South of Market art scene in San Francisco as gallery director of 63 Bluxome. He has also run a successful roofing business in Santa Fe, New Mexico for decades.

# Notices

Please email notices desired for publication to [notices@sbnm.org](mailto:notices@sbnm.org).

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

### N.M. Administrative Office of the Courts

#### Learn About Access to Justice in New Mexico in the "Justice for All" Newsletter

Learn what's happening in New Mexico's world of access to justice and how you can participate by reading "Justice for All," the New Mexico Commission on Access to Justice's monthly newsletter! Email [atj@nmcourts.gov](mailto:atj@nmcourts.gov) to receive "Justice for All" via email or view a copy at <https://accesstojustice.nmcourts.gov>.

## STATE BAR NEWS

### License Renewal and MCLE Compliance Due Feb. 1, 2024

State Bar of New Mexico annual license renewal and Minimum Continuing Legal Education requirements are due Feb. 1, 2024. For more information, visit [www.sbnm.org/compliance](http://www.sbnm.org/compliance). To complete your annual license renewal and verify your MCLE compliance, visit [www.sbnm.org](http://www.sbnm.org) and click "My Dashboard" in the top right corner. For questions about license renewal and MCLE compliance, email [license@sbnm.org](mailto:license@sbnm.org). For technical assistance accessing your account, email [techsupport@sbnm.org](mailto:techsupport@sbnm.org).

## Professionalism Tip

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

I will do my best to ensure that court personnel act civilly and professionally.

### Equity in Justice Program Have Questions?

Do you have specific questions about equity and inclusion in your workplace or in general? Send in questions to Equity in Justice Program Manager Dr. Amanda Parker. Each month, Dr. Parker will choose one or two questions to answer for the Bar Bulletin. Go to [www.sbnm.org/eij](http://www.sbnm.org/eij), click on the Ask Amanda link and submit your question. No question is too big or too small.

### New Mexico Lawyer Assistance Program Monday Night Attorney Support Group

The Monday Night Attorney Support Group meets at 5:30 p.m. (MT) 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. Join the meeting via Zoom at <https://bit.ly/attorneysupportgroup>

### NM LAP Committee Meetings

The NM LAP Committee will meet at 4 p.m. (MT) on Jan. 11, 2024. The NM LAP 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 NM LAP 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 Lawyer Assistance Program and is a network of more than 30 New Mexico judges, attorneys and law students.

### The Solutions Group Employee Assistance Program

Presented by the New Mexico Lawyer Assistance Program, the Solutions Group, the State Bar's Employee Assistance Program (EAP), extends its supportive reach by offering up to four complimentary counseling sessions per issue, per year, to address any mental or behavioral health challenges to all SBNM members and their direct family members. These counseling sessions are conducted by licensed and experienced therapists. In addition to this valuable service, the EAP also provides a range of other services, such as management consultation, stress management education, webinars, critical incident stress debriefing, video counseling, and a 24/7 call center. The network of service providers is spread across the state, ensuring accessibility. When reaching out, please make sure to identify yourself with the NM LAP for seamless access to the EAP's array of services. Rest assured, all communications are treated with the utmost confidentiality. Contact 505-254-3555 to access your resources today.

### New Mexico State Bar Foundation Pro Bono Opportunities

The New Mexico State Bar Foundation and its partner legal organizations gratefully welcome attorneys and paralegals to volunteer to provide pro bono service to underserved populations in New Mexico. For more information on how you can help New Mexican residents through legal service, please visit [www.sbnm.org/probono](http://www.sbnm.org/probono).

## UNM SCHOOL OF LAW Law Library Hours

The Law Library is happy to assist attorneys via chat, email, or in person by appointment from 8 a.m.-8 p.m. (MT) Monday through Thursday and 8 a.m.-6 p.m. (MT) on Fridays. Though the Library no longer has community computers for visitors to use, if you bring your own device when you visit, you will be able to access many of our online resources. For more information, please see [lawlibrary.unm.edu](http://lawlibrary.unm.edu).

## Call for Nominations for the Alumni/ae Association Distinguished Achievement Awards

The nomination process for the Alumni/ae Association Distinguished Achievement Awards will begin and end earlier for next year. To nominate someone you think deserving of the Distinguished Achievement Award, please go to [https://forms.unm.edu/forms/daad\\_nomination](https://forms.unm.edu/forms/daad_nomination). Closing date for 2024 award nominations will be Feb. 15, 2024.

— *Featured* —

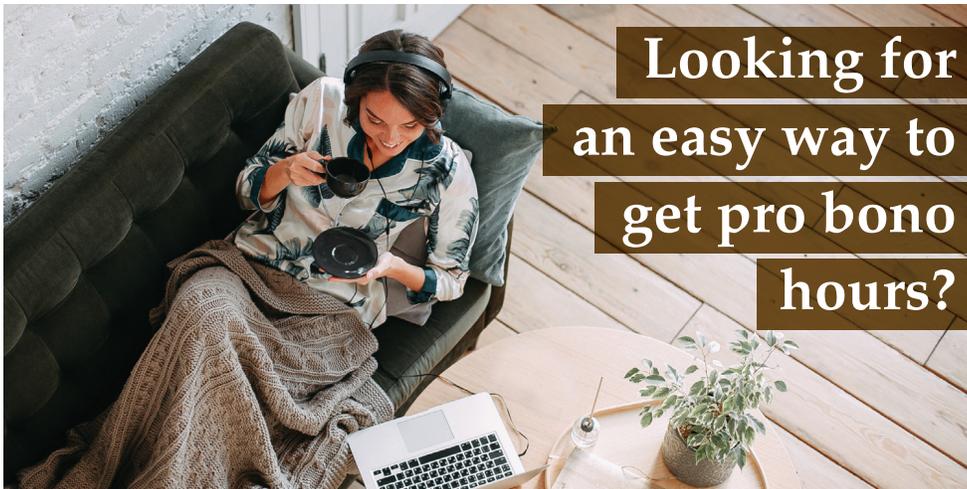
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# Legal Education

## December

- |  |  |   |
|--|--|---|
| <p>1-31 <b>Self-Study - Tools for Creative Lawyering: An Introduction to Expanding Your Skill Set</b><br/>1.0 G, 2.0 EP<br/>Online On-Demand<br/>The Ubuntuworks Project<br/>www.ubuntuworksschool.org</p>               | <p>14 <b>2023 Winter Education Seminar</b><br/>5.0 G, 1.0 EP<br/>Live Program<br/>Workers Compensation Association of New Mexico<br/>www.wcaofnm.com</p>   | <p>19 <b>What Music Stars and Movie Stars Teach About Writing and Negotiation w/ Stuart Teicher</b><br/>3.0 G<br/>In-Person or Webcast<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p>             |
| <p>13 <b>2023 New Mexico Tax Law Conference</b><br/>6.3 G, 1.0 EP<br/>In-Person or Webcast<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p>  | <p>14 <b>Strengthening New Mexico: Navigating the Perils and Promise of Federal Awards</b><br/>1.0 G<br/>Live Program<br/>New Mexico Department of Finance and Administration<br/>www.nmdfa.state.nm.us</p>  | <p>19 <b>Tech and Ethics: There's Nothing New Under the Ethical Sun....Except Everything w/ Stuart Teicher</b><br/>3.0 EP<br/>In-Person or Webcast<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p> |
| <p>14 <b>"Let Me Ask You a Question. Suppose I Was Considering . . ." Current Hot Topics Under the Rules of Professional Conduct</b><br/>2.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p> | <p>15 <b>Earth, Air, Water, Fire: 2023 Natural Resources, Energy and Environmental Law Institute</b><br/>5.0 G, 1.0 EP<br/>In-Person or Webcast<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p> | <p>20-21 <b>REPLAY: 2023 Basics of Trust Accounting: How to Comply with Disciplinary Board Rule 17-204</b><br/>1.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p>                  |
| <p>14 <b>What a Startling Discovery: Judicial Perspectives on Discovery in Federal and State Courts</b><br/>1.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p>                              | <p>15 <b>Coding Justice: Addressing Bias in Artificial Intelligence</b><br/>1.0 EP<br/>Webcast (Live Credits)<br/>New Mexico Black Lawyers Association<br/>newmexicoblacklawyersassociation.org</p>          | <p>20 <b>Why Female Attorneys Get Paid Less: What's Gender Bias Got to Do With It</b><br/>1.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p>                                       |
|  |  | <p>20 <b>Elimination of Bias-Combating Age Bias in the Legal Field</b><br/>1.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p>  |

## WHAT YOU MISSED DURING THE 2023 ANNUAL MEETING –

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

From the New Mexico Supreme Court

In the Supreme Court of the State of New Mexico

**Public Censure**

No: S-1-SC-39746 (filed November 13, 2023)

**INQUIRY CONCERNING A JUDGE**

**JSC Inquiry No. 2021-089**

**IN THE MATTER OF  
HON. JAMES T. MARTIN  
Third Judicial District Court**

## PUBLIC CENSURE

{1} This matter came before this Court on the Petition to Accept Stipulation Agreement and Consent to Discipline between the Judicial Standards Commission of the State of New Mexico (the Commission) and Respondent, Honorable James T. Martin, a district court judge in the Third Judicial District.

{2} We granted the petition and approved the terms of the Stipulation Agreement and Consent to Discipline (Stipulation), adopting the Commission's request that we issue a public censure. We now publish this public censure in the State Bar of New Mexico *Bar Bulletin* in accordance with our order, the Stipulation, and JSC Rule 36(C)(5) NMRA.

### I. BACKGROUND

{3} This disciplinary proceeding arose out of a criminal case, Cause No. D-307-CR-2018-00203, in which Judge Martin's daughter was the victim of an aggravated assault by use of a firearm. The criminal case proceeded to a two-day jury trial commencing on July 26, 2021. On the evening after the first day of trial, Judge Martin had a telephone conversation with Assistant District Attorney (ADA) Samuel Rosten. During that conversation, Judge Martin advised the ADA that he should use the phrase "brandish a firearm" or something similar in the court's jury instructions rather than asking the jury to find that the defendant "pointed a firearm" at Judge Martin's daughter. The next day, ADA Rosten submitted an amended jury instruction, for the court to consider, alleging that the defendant "brandished and/or pointed a deadly weapon" at Judge Martin's daughter.

{4} The jury found the defendant guilty of aggravated assault by use of a deadly weapon as charged in count I and a special

verdict finding that a firearm was used in the commission of count I.

{5} After the verdict, Judge Martin and his daughter met with the ADA to discuss the case. During that meeting, Judge Martin admonished the ADA about whether or not the defendant had been remanded into custody after the verdict.

{6} After the defendant was sentenced, an appeal was filed in the criminal case, and this disciplinary proceeding followed.

{7} On July 20, 2022, the Commission filed a notice of formal proceedings against Judge Martin. Upon completion of the investigation, the Commission and Judge Martin entered into the Stipulation. As part of the Stipulation, Judge Martin admitted to engaging in the following acts, in violation of the Judicial Standards Commission Rules, as follows:

A. On or about July 26, 2021, during a telephone conversation with Assistant District Attorney Samuel Rosten ("Mr. Rosten"), and after reviewing the proposed jury instructions filed in the court's electronic filing system in Cause Number D-307-CR-2018-00203, a case in which Judge Martin's daughter was the alleged victim, Judge Martin advised Mr. Rosten to use the term "brandished a firearm" in his jury instructions rather than asking the jury to find the [d]efendant "pointed a firearm" at the alleged victim, Judge Martin's daughter.

B. On or about July 27, 2021, after the verdict in Cause Number D-307-CR-2018-00203, Judge Martin engaged in a conversation with Mr. Rosten and his co-counsel Assistant District Attorney Spencer Willson (Mr. Willson) after they were in-

formed that Judge Martin and his daughter wanted to speak to them. Both Mr. Rosten and Mr. Willson left the courtroom to speak with Judge Martin and his daughter in a room down the hall from the courtroom. Before Mr. Rosten and Mr. Willson arrived, [Judge Martin] and [his] family had been advised that the defendant had been remanded to custody, but once Mr. Rosten and Mr. Willson arrived, [Judge Martin] did admonish Messrs. Rosten and Willson, "Good thing he was remanded, otherwise I would have told you to go back in there and try again."

C. On or about July 26-27, 2021 during the trial in Cause Number D-307-CR-2018-00203, Judge Martin allowed his daughter, the alleged victim and witness in the case, to use his chambers while waiting for her opportunity to testify.

{8} Judge Martin agreed and admitted that his conduct violated the following Rules of the Code of Judicial Conduct:

- Rule 21-101 NMRA (requiring compliance with the law).
- Rule 21-102 NMRA (promoting confidence in the judiciary).
- Rule 21-103 NMRA (avoiding abuse of the prestige of judicial office).
- Rule 21-204(B) NMRA (prohibiting influence of family relationships on judicial conduct).
- Rule 21-206 NMRA (ensuring the right to be heard).
- Rule 21-210 NMRA (regarding a judge's prohibition on making statements on pending or impending cases).

Based upon these admitted violations, Judge Martin agreed to receive a public censure to be published in the State Bar of New Mexico Bar Bulletin. For the reasons discussed below, we issue this censure.

### II. DISCUSSION

{9} Article VI, Section 32 of the New Mexico Constitution provides that "any justice, judge or magistrate of any court may be disciplined or removed for willful misconduct in office." "Willful misconduct in office is improper and wrong conduct of a judge acting in his official capacity done intentionally, knowingly, and, generally in bad faith. It is more than a mere error

of judgment or an act of negligence.” In re Schwartz, 2011-NMSC-019, ¶ 12, 149 N.M. 721, 255 P.3d 299 (brackets, internal quotation marks, and citation omitted). In order to warrant discipline, the evidence must establish proof that the violations of the Code of Judicial Conduct were willful. Id. Willful conduct must be established by clear and convincing evidence before the Court will impose discipline. Id. However, “[t]here need not be clear and convincing evidence to support each and every [allegation or fact]. Rather, we must be satisfied by clear and convincing evidence that there is willful judicial misconduct which merits discipline.” In re Castellano, 1995-NMSC-007, ¶ 37, 119 N.M. 140, 889 P.2d 175; see also In re Schwartz, 2011-NMSC-019, ¶ 13.

{10} In this case, Judge Martin denies committing willful misconduct in office; however, he agrees and stipulates that the Commission and this Court, looking at the facts, evidence and totality of the circumstances, could find willful misconduct in office and violations of the Code of Judicial Conduct in office, which provides sufficient basis to impose discipline pursuant to Article VI, Section 32 of the New Mexico Constitution. We agree that, under the circumstances of this case, Judge Martin’s conduct merits discipline, and for that reason, he should be formally reprimanded by public censure.

{11} The preamble to the Code of Judicial Conduct states, “An independent, fair, and impartial judiciary is indispensable to our system of justice.” Rule 21-001 NMRA. To promote the public’s trust and to maintain and enhance confidence in the legal system, “[j]udges should maintain the dignity of judicial office at all times and avoid both impropriety and the appearance of impropriety in their professional and personal lives.” Id. The principles of the Code of Judicial Conduct require a judge to behave in a manner that promotes public confidence, in the judiciary, in all matters, both public and private. Id. This responsibility includes avoiding both actual impropriety and the appearance of impropriety, which would erode the public’s confidence in the legal system. Id. “The test for appearance of

impropriety is whether the conduct would create in reasonable minds a perception that the judge violated [the Code of Judicial Conduct] or engaged in other conduct that reflects adversely on the judge’s honesty, impartiality, temperament, or fitness to serve as a judge.” Rule 21-102 comm. cmt. 5.

{12} We recognize that when the family member of a judicial officer becomes enmeshed in the legal system, it can be stressful for everyone involved. This is especially true when the family member is the victim of a violent crime. The natural impulse of parents is to provide comfort, reassurance, and protection for their children. In this case, Judge Martin may have felt that he was acting in the best interest of his daughter, however, judges, unlike other parents are held to a higher standard. See Rule 21-001. Based upon his experience, Judge Martin recognized a mistake of law in the ADA’s proposed jury instructions. Judge Martin believed that he was acting in his daughter’s best interest by pointing out the mistake. Judge Martin’s actions created an appearance of impropriety, which should not be ignored.

{13} In regard to the conversation between Judge Martin and the ADA after the verdict, we must again conclude that this creates an appearance of impropriety. While we recognize that emotions may have been running high after the verdict, we again must counsel the judiciary that judges are held to a higher standard. See id. Due to the imbalance of power between a judge and a litigator, a judge must always promote confidence in the judiciary. See id. Therefore, Judge Martin’s admonitions to the ADA created both an actual impropriety and an appearance of impropriety.

{14} Finally, with respect to the third allegation that Judge Martin allowed his daughter, who was both the victim and the witness in the criminal case, to use his chambers while waiting for her opportunity to testify, this also creates an appearance of impropriety. The trial in the criminal case occurred during the COVID-19 pandemic, and pursuant to this Court’s order,<sup>1</sup> the Third Judicial District courthouse was under restrictions, which limited the public’s access to the facilities. Therefore, Judge

Martin inappropriately allowed his daughter to remain in his chambers until called to testify. Because of the limited public access to the court facilities, this may not have created an actual appearance of impropriety, it did however create a potential for an appearance of impropriety. Therefore, Judge Martin’s conduct cannot be condoned.

{15} Judge Martin denies that his actions created a willful violation of the Rules of the Code of Judicial Conduct; however, he agrees that when an independent arbiter of the facts uses the totality of the circumstances, his conduct could be construed as willful misconduct in office. In imposing this level of discipline, this Court looks at various factors including “the nature of the misconduct and patterns of behavior[,] . . . the seriousness of the transgression, the facts and circumstances that existed at the time of the transgression, the extent of any pattern of improper activity, whether there have been previous violations, and the effect of the improper activity upon the judicial system or others.” In re Schwartz, 2011-NMSC-019, ¶ 25 (internal quotation marks and citations omitted).

### III. CONCLUSION

{16} Viewed through the lens of hindsight, Judge Martin recognizes the potential for appearance of impropriety based upon his conduct; therefore, we approve the Stipulation presented by the Commission and Judge Martin to impose a public censure of Judge Martin and his conduct. We issue this censure not only to remind judges of their responsibility to avoid the appearance of impropriety but also to ensure the public that our legal system is committed to maintaining an independent, fair, and impartial judiciary under the law.

{17} For the foregoing reasons, Respondent, Honorable James T. Martin is hereby censured for his willful misconduct, and the Stipulation is accepted, adopted, and confirmed.

### {18} IT IS SO ORDERED.

**C. SHANNON BACON, Chief Justice**  
**MICHAEL E. VIGIL, Justice**  
**DAVID K. THOMSON, Justice**  
**JULIE J. VARGAS, Justice**  
**BRIANA H. ZAMORA, Justice**

<sup>1</sup> NMSC Order No. 21-8500-015 (June 29, 2021), [https://www.nmcourts.gov/wp-content/uploads/2021/06/Order-No\\_-21-8500-015-and-Amended-PHE-Protocols-29-Jun-21.pdf](https://www.nmcourts.gov/wp-content/uploads/2021/06/Order-No_-21-8500-015-and-Amended-PHE-Protocols-29-Jun-21.pdf)



## A Message from State Bar President Benjamin I. Sherman

### Dear Members of the State Bar:

As we reach the year's end, I look back at 2023 with a great deal of pride and gratitude. During my term as President, the State Bar of New Mexico continued to build on its past successes, while also implementing exciting new initiatives, culminating in what has been a banner year for our membership.

The State Bar of New Mexico began this year with the introduction of a new three-year Strategic Planning initiative for 2023 – 2025. This plan was carefully developed over the course of an intensive two-day planning session held last May, in Las Cruces, NM. The previous three-year plan, under which the State Bar and Bar Foundation both made remarkable strides, had proved to be a critical tool in guiding us and keeping us on track in delivering the objectives set forth in our Mission Statement. Now, with the first year of the new Strategic Plan behind us, I am proud to report that we have continued to make much progress towards achieving our goals by making real advancements in improving the experience of our members and serving the public.

Throughout 2023, the State Bar of New Mexico continued to bring its membership a host of benefits, including the 2023-24 Resource Deskbook & Membership Listing, which launched in the Spring after a hiatus. Additionally, as of June 1, 2023, State Bar members now receive regular email distributions containing Court of Appeals opinions and decisions on the same date they are published. This joint initiative between the State Bar and the New Mexico Court of Appeals demonstrates the State Bar of New Mexico's dedication to the membership in creating an unprecedented ability for its members to stay informed on a variety of legal topics in real time.

In July, the State Bar of New Mexico returned, once again, to the Hyatt Regency Tamaya Resort & Spa for the 2023 Annual Meeting. Thanks to the hard work and dedication of the State Bar staff, the amazing support of our sponsors, and the vast knowledge and skill of the presenters, this year's Annual Meeting was a huge success that brought together New Mexico's rich and diverse legal community for three days of celebration, education and relaxation.

In 2023, the State Bar also built upon its long-standing tradition of supporting civil legal service providers that are doing great work in our communities. This May, the State Bar's Access to Justice Fund Grant Commission awarded a record-setting \$1.2 million in grants to nine separate civil legal services organizations. These organizations are of enormous benefit to underrepresented New Mexicans and New Mexicans of modest means whose access to affordable legal services depends on the ability of these organizations to carry out their work. The funds provided by the

Access to Justice Fund Grant Commission are critical for these organizations, and we are already gearing up for another record-setting year in 2024.

While on the theme of access to justice, this year I was honored to be appointed to serve on the New Mexico Supreme Court's brand-new Commission on Legal Regulatory Reform. While serving on this Commission, I have the privilege of working alongside other dedicated colleagues with the goal of gathering information and exchanging ideas on how New Mexico can expand access to the judicial system for underrepresented members of our community. I anticipate this work will address New Mexico's huge access to justice problem by helping provide alternatives to people who can't afford to hire a traditional attorney.

Finally, in an effort that I believe will benefit both the State Bar's membership and the public, the State Bar and Bar Foundation have used 2023 as a year to further define and develop their roles and ties to one another. This year has been a transformative year for this relationship, allowing for a more structured and productive working connection between them, with the State Bar acting as the regulatory and membership-focused organization and the Bar Foundation serving as a model for access to justice for all New Mexicans. We are excited to continue defining and developing this relationship in the years to come in order to provide even more benefits to our members and best serve the public.

As I conclude, I want to take a moment to thank everyone who helped make this year such a success. From my colleagues at the State Bar who were an integral part in helping us accomplishing so many of our milestones, to my fellow commissioners on the Board of Bar Commissioners who dedicated many hours and worked tirelessly in their roles, it is truly a team effort. I would like to thank my predecessor, Carolyn Wolf, who served as a wonderful mentor and fellow commissioner for many years, for setting a high bar and being an example of a great leader. And I especially want to wish my successor, Erin Atkins, all the best as she starts her term. Rest assured, the State Bar will be in very capable hands next year and I am confident that 2024, like the years that came before it, will serve as a window of opportunity for the State Bar to deliver on its promise of "being a united and inclusive organization serving the legal profession and the public."

Sincerely,

Benjamin I. Sherman  
President, State Bar of New Mexico



## Benjamin I. Sherman's Year as President of the State Bar of New Mexico

The President of the State Bar of New Mexico represents the State Bar at many events, both in-state and nationally throughout the year, and the following timeline is a list of the events attended this year.



- Feb. 2-4:** National Conference of Bar Presidents Midyear Meeting in New Orleans
- Feb. 7:** H. Vearle Payne American Inn of Court Panel Discussion
- March 2:** Public Interest Panel
- March 28-30:** Western States Bar Conference
- April 14:** UNM School of Law 75th Anniversary Gala
- April 17:** Bar Leaders Breakfast with ABA President-Elect Mary Smith
- April 24:** 3L Alumni Welcome Reception at the UNM School of Law (UNMSOL)
- April 28:** ABQ Bar Association Law Day Luncheon
- April 28:** Reception for New NM Legal Aid Executive Director Sonya Bellafant
- May 15:** UNMSOL Spring New Admittee Swearing-In Ceremony
- May 16:** Annual ATJ Fund Grant Commission Meeting
- May 18:** Sierra Vista Elementary School career day
- June 1-3:** Jackrabbit Bar Conference in Laramie, Wyoming
- June 9:** UNMSOL Alumni Scholarship Golf Tournament
- July 27-29:** 2023 State Bar of New Mexico Annual Meeting
- July 28:** ABF Fellows breakfast
- Aug. 3-5:** NCBP Annual Meeting in Denver
- Aug. 17:** New Student Orientation at UNMSOL
- Aug. 25:** UNMSOL Back to School Fiesta
- Sept. 20:** Equal Access to Justice 35th Anniversary Event Celebrating Justice Edward Chávez
- Sept. 29:** 12th Judicial District Bench & Bar Conference
- Oct. 12:** Fall Swearing-In Ceremony
- Oct. 16:** NextGen Bar Exam planning forum
- Oct. 20:** UNMSOL Distinguished Achievement Award Dinner
- Nov. 3:** Public Law Section's Public Lawyer of the Year Award Ceremony
- Nov. 14:** Senior Lawyers Division In-Memoriam Ceremony
- Nov. 15:** "Friendsgiving" at the State Bar Center
- Dec. 1:** Paralegal Division's Symposium presentation



## New Inductees to the Roehl Circle of Honor

Maureen A. Sanders and Terry Word

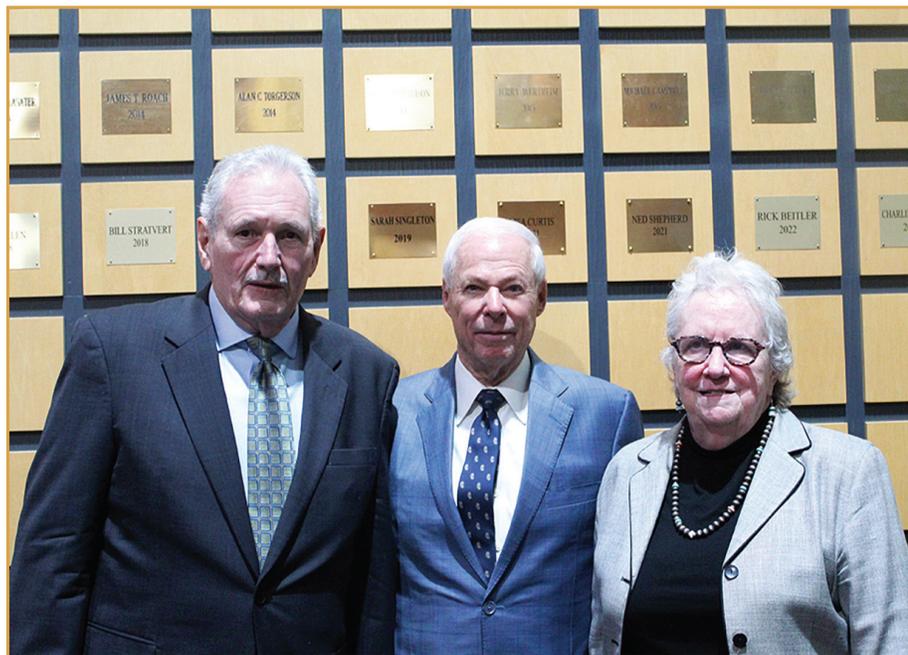
— Nov. 20, 2023 —

Two new attorneys were inducted into the Roehl Circle of Honor. The Circle of Honor is named after the late Joseph E. Roehl who is known as one of the premier trial lawyers of our generation. New inductees are welcomed into the circle each year to honor his memory and commitment to the trial lawyer community.

**Maureen A. Sanders** was an “army brat” as a kid and fell in love with Albuquerque while her Dad was stationed there. After undergrad and graduate school in Kansas, Missouri and Illinois, she returned to the Land of Enchantment. Following stints as a teacher and counselor (high school and community college), she

needed a change and went to law school at the University of New Mexico, where she found a true love of the law. Her earlier career days included a federal clerkship, a Division Director at the Attorney General’s Office, an associate at a large law firm and a tenured law professor at her alma mater. She returned to private practice at Sanders & Westbrook, PC in the late 1990s, when she began focusing on litigation involving civil rights, insurance coverage and general commercial litigation. For the last 10 years, she has also been a mediator. When not engaged in the law she enjoys reading and sitting by a stream at her place in El Rito, New Mexico.

**Terry Word** came to Albuquerque in 1973 after graduating from the University of Texas Law School and practiced in Albuquerque and around New Mexico for over 41 years. He began his legal career as a NM Public Defender and practiced criminal defense for the first four years. He began practicing plaintiff’s personal injury work when he went to work for Richard Ransom in 1977. He continued representing plaintiffs in his own firm from 1983 until his retirement in December of 2014, increasingly concentrating in medical and hospital malpractice claims for patients along with some product liability cases. He served as president of the New Mexico Trial Lawyer’s Association, on the Board of Governors of the Association of Trial Lawyers of America and is a fellow of the American College of Trial Lawyers. He served on the UJI Civil committee and was president of the board of Equal Access To Justice. During retirement, he is serving on the board of New Day Youth and Family Services, which runs a safe home and drop-in center for homeless youth in Albuquerque.



*Terry Word , Jerry Roehl, and Maureen A. Sanders*



# State Bar of New Mexico Senior Lawyers Division

## *In Memoriam* — CEREMONY —

*By Brandon McIntyre and Celeste Valencia*

**O**n Nov. 14, 2023, the Senior Lawyers Division held their annual In Memoriam Ceremony at the State Bar Center. The event was very well-attended and included attendees from New Mexico's legal community who gathered to honor members of the State Bar of New Mexico who passed away this past year. The In Memoriam Ceremony's speakers, which included Hon. Michael D. Bustamante, Senior Lawyers Division Board Chair Jocelyn Torres and fellow Board member Terry Revo, honored the memories of the deceased and conveyed that they will forever be in the collective memory of the State Bar of New Mexico and its membership.

The In Memoriam ceremony was followed by speeches from winners of the Senior Lawyers Division's Attorney Memorial Scholarship's Essay Contest, Andy Lantz, Laura Ingersol and Noah Allaire, who spoke to their topics of interest and expressed pride and gratitude in being a law

student and becoming a part of the New Mexico's diverse legal ranks. The Senior Lawyers Division established the Attorney Memorial Scholarship for third-year University of New Mexico School of Law students; recipients are selected based on their academic performance, career plan and essay submission. The University of New Mexico School of Law Associate Dean, Serge Martinez, gave a speech in honor of the law students who dedicated their time to writing their essays, which thoughtfully assessed the legal issues of the day and some of the broader implications of those issues.

The event concluded with a reception, during which attendees dined and socialized. It was a quiet affair that was equal parts somber and heartwarming, looking back and highlighting the lives of those who are no longer with us and celebrating the work of law students that are eager to be a part of New Mexico's collective legal spirit.



*Senior Lawyers Division Board Member Hon. Michael D. Bustamante spoke during the In Memoriam ceremony.*



*Senior Lawyers Division member Terry Revo rang the ceremonial bowl as each name of the departed was read aloud by Senior Lawyers Division Board Chair Jocelyn Torres during the In Memoriam ceremony.*



*Senior Lawyers Division Board Member Terry Revo spoke during the event.*



*The University of New Mexico School of Law Associate Dean Serge Martinez spoke to honor the Attorney Memorial Scholarship Essay winners.*



*Senior Lawyers Division's Attorney Memorial Scholarship Essay Winner Andy Lantz*



*Senior Lawyers Division's Attorney Memorial Scholarship Essay Winner Laura Ingersol*



*Senior Lawyers Division's Attorney Memorial Scholarship Essay Winner Noah Allaire*



*"It's the Most  
**Wonderful Time**  
of the Year" –  
**Well, Maybe.***

By William D. Slease

**A**h, the Holidays. Turkey, pumpkin pie, eggnog, mistletoe and ho, ho . . . hold on a minute! While popular media and even our own sense of nostalgia can romanticize the holidays, there is another side: stress. According to the reported results of a 2021 survey, 56% of people think that the holidays are too stressful and would prefer to cancel them.<sup>1</sup> Setting aside the pandemic, what's behind this stress? It's the usual suspects; family drama, travel, time pressures, financial strains, the drive to find that perfect gift and the idealized nature of what the holidays "should be." So, what's a person to do (and try not to do) to manage it all?<sup>2</sup>

***Do get comfortable with saying "no."***

Maybe it's telling a co-worker that you need to skip their festive holiday gathering. Perhaps it's explaining to Mom that you are going to have a quiet celebration at home this year instead of running to her house, and then to your grandmother's, and then to your uncle's. Possibly, it's making just one pie this year, instead of three, knowing that someone will miss out on their favorite. Whatever small, or big, steps you take, managing your time and allowing yourself the room not to be everything for everyone is one way to lower your holiday stress.

***Don't overindulge.***

Food and drink flow plentifully during the holidays and while those holiday goodies are tempting enough on their own, the risk of using food, or alcohol or drugs to numb stress is never more present than during the holidays. Be intentional about avoiding those temptations and limit your intake. If you are in recovery, holidays can be a particularly challenging

***"While there is plenty to be stressed about during the holiday season, there is also plenty to celebrate."***

time for your sobriety. So, schedule an extra AA, NA or other meeting. Reach out to a sober companion, a trusted friend or a therapist, if you have one. And give yourself permission to skip any activities that you are concerned might test your sobriety.

***Do Maintain a Healthy Lifestyle.***

Exercise, get some fresh air and sunshine, get plenty of rest, find quiet time for yourself and practice mindfulness. According to "Psychology Today," mindfulness can lower stress, reduce harmful rumination and protect against anxiety and depression.<sup>3</sup> If you are new to mindfulness, there are many resources available to help you establish a mindfulness practice. Just open a browser on your computer and type in "mindfulness." If you want other well-being resources, beyond mindfulness, check out the State Bar of New Mexico Well-being Committee's materials, available at [www.sbnm.org/What-A-Healthy-Lawyer-Looks-Like](http://www.sbnm.org/What-A-Healthy-Lawyer-Looks-Like).

***Don't Deny Grief.***

For some, especially those experiencing their first holiday season after losing a loved one, the holidays seem anything but joyful. Rather than try to simply "push through" or withdraw completely, think about celebrating your lost loved ones and get together with family and friends to talk about happy memories of those loved ones.

***Do Plan Your Spending.***

Most everyone loves gifts. But we often convince ourselves that more is better, and we wouldn't want anyone to be disappointed, or left out or feel undervalued. As a result, it's easy to spend much more than we anticipate for holiday gifts, the financial effects

of which flow into the new year. But while people love “things,” they often value companionship and camaraderie more. So, spend with intentionality and pursuant to a planned budget. You might also think about modest gifts and accompany those with the gifts of time and connection with friends and family.

### ***Don't Beat Yourself Up.***

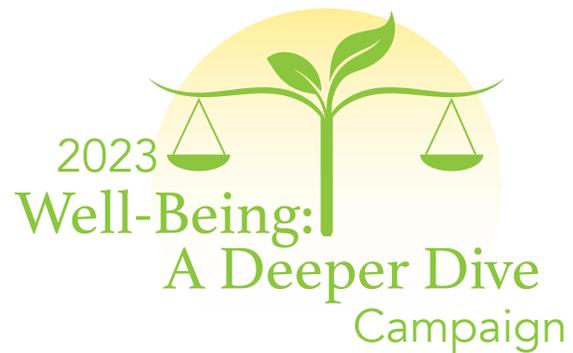
You do your best to de-stress, to make the holidays joyous, to have everything “just right.” And it still goes sideways. Like when you find out that the turkey that you planned to serve was apparently not properly stored before it was frozen at the grocery store and now that it has thawed at your house the night before the big holiday, it has the distinct odor of wet dog, used and unwashed gym socks and rotting meat. You could panic, berate yourself for not discovering this before all the grocery stores in town closed, and call your many prospective guests to offer a preemptive apology and suggest that they find a more suitable and reliable holiday host for the next day's feast. Or, you could take a breath, finish your sides and laugh with your guests the next day, and for years to come, about that one time when...

### ***Do Enjoy Yourself.***

While there is plenty to be stressed about during the holiday season, there is also plenty to celebrate. Maybe it's the chance to be with friends and family. Maybe it's taking some time away from work and recharging at home. Maybe it's visiting far away friends or family and

reconnecting. Maybe it's observing, reestablishing or creating a whole new holiday tradition that resonates with you and those around you. Whatever you do, take time to find the joy in the season and give yourself permission to be a kid again and celebrate that joy with abandon. After all, as Andy Williams croons, “It's the Most Wonderful Time of the Year.” ■

*WILLIAM D. SLEASE is the Professional Development Program Director for the State Bar of New Mexico. In addition to his duties at the State Bar, he serves as an adjunct professor at the University of New Mexico School of Law where he teaches Ethics, 1L Lab, and serves as a practice skills evaluator for the evidence-trial practice skills course.*



### **Endnotes**

<sup>1</sup> See Holiday 2021 Stress Report: Increase in Anxiety, Depression, & Covid-Related Stress (available at <https://sesamecare.com/blog/lowering-holiday-stress-2021>).

<sup>2</sup> Many of these dos and don'ts were taken from two articles: Seven Ways to Cope with Holiday Stress, American Psychiatric Association Blog (December 1, 2022) (available at <https://www.psychiatry.org/news-room/apa-blogs/seven-ways-to-cope-with-holiday-stress>); and Nine Tips to Fend Off Holiday Stress, Mayo Clinic Health Systems (December 3, 2021) (available at <https://www.mayoclinichealthsystem.org/hometown-health/speaking-of-health/fend-off-holiday-stress-with-these-tips>).

<sup>3</sup> See Mindfulness: Present Moment Awareness, Psychology Today (available at <https://www.psychologytoday.com/us/basics/mindfulness#:~:text=Mindfulness%20is%20frequently%20used%20in,with%20rejection%20and%20social%20isolation>)

This article is provided to members of the State Bar of New Mexico for informational purposes only and is not intended to be exhaustive or applicable to all circumstances. Further it is not intended to, nor does it constitute legal advice or any other type of advice to a lawyer or law firm, nor does it establish any type of attorney-client relationship between employees of the State Bar of New Mexico and any person or entity. Further, this article is not a substitute for independent analysis and research by a lawyer or law firm. Each lawyer and law firm are responsible for their own compliance with applicable rules and laws and should consider seeking appropriate counsel for advice.



## New Mexico Commission on Access to Justice Expanding and improving civil legal assistance for New Mexicans

[@accesstojustice.nmcourts.gov](https://accesstojustice.nmcourts.gov)

*The New Mexico Access to Justice Commission, as a commission of the New Mexico Supreme Court, sets priorities for civil legal providers around the state, makes recommendations to the Supreme Court to improve court services and troubleshoots legal service issues statewide as they arise. The ATJ Commission regularly provides information about issues important to civil legal needs in New Mexico in the Bar Bulletin to keep members of the bar up-to-date. For more information, visit <https://accesstojustice.nmcourts.gov>*

### Greening New Mexico's Legal Deserts Through the Rural Justice Initiative

Who do you turn to when you have a legal problem or need? For many, the instinctual answer is an attorney, but if you live in rural New Mexico, the odds are against you and those odds become worse when technological barriers, financial barriers or any other challenges exist. Why? Because in many rural areas, there are no attorneys to consult.

Over the last couple of years, via committees of dedicated volunteers, the New Mexico Supreme Court has investigated and assessed what remedies could revitalize New Mexico's legal deserts. Several initiatives that could address declining legal service providers in rural New Mexico were recommended in a report to the New Mexico Supreme Court in 2021. At the time of the report, three New Mexican counties did not have a single practicing attorney, five counties had less than ten attorneys, and Guadalupe County had one attorney for 3,032 square miles.<sup>1</sup> So, while New Mexico, in 2023, may have approximately 8,318<sup>2</sup> attorneys currently licensed to practice in New Mexico, this number must be dissected as it includes attorneys from outside of New Mexico as well as judges, limited licensed attorneys, District and Assistant District Attorneys and Public Defenders.

The majority of attorneys practicing in New Mexico practice along the Rio Grande Corridor running between Santa Fe and Las Cruces, leaving vast swaths of New Mexico without adequate access to legal providers. These areas, which are not limited to New Mexico, are considered "legal deserts."

Legal deserts are generally defined as a county with less than one lawyer per 1000 people or "large areas where residents have to travel far to find a lawyer for routine matters like drawing up a will, handling a divorce, or disputing a traffic violation."<sup>3</sup> In addition to the concentration of attorneys along the corridor, those New Mexican attorneys who traditionally practice in rural and remote areas are aging out of active practice and leaving gaps

in their communities. If you have a civil legal concern and are not along the corridor, meaningful access to justice is challenging or nonexistent. Even the court appointment of counsel, allowable in discrete cases,<sup>4</sup> faces a barrier when there are no attorneys in the community to appoint.

To address this legal desert and encourage attorneys to live and work in rural areas of New Mexico, the Rural Justice Initiative Ad Hoc Committee developed and proposed a plan to reduce the access to justice gap faced by many New Mexicans. This plan has three tiers: (1) rural judicial externships; (2) rural practice externships; and (3) a rural practice incubator.

Rolled out in phases, the first tier's Rural Judicial Externship (RJE) will be open to students who have completed their first year of law school at either the University of New Mexico (UNM) School of Law or the Texas Tech School of Law. A small cohort of applicants would receive a paid judicial 10-week externship in those districts showing the most need. Participants will work in a district court, review legal documents and observe court proceedings. Participants will also receive an introduction to the community and its culture.

The Rural Practice Externship is the second tier of the RJE that involves hands-on experience working with local justice partners such as District Attorney Offices, the Law Offices of the Public Defenders, Legal Aid offices or rural law firms and private practitioners. This tier is for students of have completed their second year of law school.

The third tier is the Rural Practice Incubator for post-law degree participants who commit to five years of dedicated service in their chosen rural communities.

In addition, the 2023 Legislature provided funding for a post-graduate pilot program that creates two-year judicial clerkships for district court judges in rural areas. In 2024, the program

<sup>1</sup> New Mexico Rural Justice Initiative, Recruiting and Retaining Attorneys for Rural New Mexico, Report to the New Mexico Supreme Court of the Ad Hoc Committee for the Recruitment and Retention of Attorneys for Rural New Mexico, September 2021.

<sup>2</sup> Id.

<sup>3</sup> 2020 ABA Profile of the Legal Profession, the American Bar Association

<sup>4</sup> NMSA 1978, § 32A-4-10(B-C) (2017) (parents and children 14 and over in abuse and neglect proceedings); NMSA 1978, § 27-7-27(A)(2) (2017) (proposed ward in adult protective proceedings); NMSA 1978, §§ 32A-6A-13(A), 43-1-4, 43-1-13(D) (2017) (involuntary civil commitment); NMSA 1978, §§ 45-5-407(B), 45-5-408(B) (2017) (guardianship/conservatorship); NMSA 1978, § 24-1-15 (quarantine/inoculation) (2017); NMSA 1978, § 32A-5-16(E-F) (2017) (parents and children 14 and over in state-initiated and private termination of parental rights proceedings); Rule 1-017 NMRA appointments (capacity).

will begin in the Eleventh Judicial District, serving San Juan and McKinley Counties, and in the Ninth Judicial District in the southeast part of the state, serving Curry and Roosevelt Counties. Clerks in the Ninth Judicial District will assist as needed in the Tenth Judicial District's Harding, Quay, and DeBaca Counties. These judicial clerkships are being developed and clerkship positions will be advertised in early 2024 for employment to begin in the Fall. The position is ideal for a graduate open to living and working in more rural areas. More information about this clerkship program will be posted on the [nmcourts.gov](http://nmcourts.gov) website.

As stated by Chief Justice C. Shannon Bacon to the 2023 Legislature: "When people have access to legal resources, they are empowered with the knowledge about their full rights and the legal process, giving them access to the justice that they deserve."

### Scribing Available in New Mexico State Courts

Access to Justice, to be meaningful, must provide avenues for all individuals to engage in the legal process. Imagine that you've been handed a piece of paper that is vital to your judicial matter and this is what you observe: "Я не понимаю." The New Mexico State Courts' Language Access Services Program recognizes this problem and is here to help. In fact, the Supreme Court recognizes that such challenges are broader than language access and has instituted programs that provide diverse accommodations at all points of contact. The New Mexico Supreme Court and the Administrative Office of the Courts (AOC) have implemented programs to remove such challenges and barriers to access.

One such program, introduced first as a pilot project in the Ninth and Second Judicial Districts, is scribing. Scribing seeks

to alleviate an existing barrier where Self-Represented Litigants (SRL), for a variety of reasons, have difficulty reading and completing court forms. Scribing can assist those SRLs who, who, due to limited English proficiency, low literacy skills, low computer literacy or access or disability, need assistance accessing and utilizing court forms. The AOC's Language Access Program pairs an interpreter with a court staff scrivener to complete the scribing process when needed.

Utilizing staff and volunteers, the pilot districts were able to identify definitive gains in access to justice, including assisting individuals who had been unable to complete legal matters for years due to barriers with the forms. Benefits were seen not only with individuals seeking to complete court pleadings but also for those seeking to complete juror questionnaires. In November of 2022, the Supreme Court expanded the pilot scribing program to all districts in New Mexico. The AOC's Statewide Title II, ADA Program collaborated and coordinated with judicial districts around the state to create a training program and all districts have been provided training materials and have trained individuals to provide assistance.

The scribing process consists of a trained court employee reading a court form aloud to the participant and then writing down that individual's answers. The scrivener reads the answers back to the individual to ensure accuracy and provides the individual with the completed form. Scriveners do not offer legal advice but provide an essential resource for individuals unable to complete necessary forms. The AOC has developed community outreach materials including informational videos and public service announcements in English, Spanish and Navajo that can be found here: [www.nmcourts.gov/public-service-announcements](http://www.nmcourts.gov/public-service-announcements). As to the original question? "Я не понимаю" approximately means "I don't understand."



**WE ARE HIRING**  
*Join Our Team!*



**New Mexico**  
**State Bar Foundation**

**Are you tired of billable hours? Would you love not to have to go to court?**  
**Do you enjoy helping people?** If so, working for the New Mexico State Bar Foundation's Modest Means Helpline might be a perfect fit.

- Excellent benefits package.
- Competitive salary for legal work in the non-profit sector.
- Work remotely from within New Mexico, with occasional required office days.
- Option of Full-time (40 hours/week) or Part-time (30 hours/week).

The ideal candidate will have experience in Landlord/Tenant, Advising Small Businesses, Property, Probate, Consumer Debt Issues, and Domestic Relations.

Applicants must have an active New Mexico law license, be able to work independently as part of a busy team in a fast-paced environment, have excellent customer service and computer skills, and have an interest in issues affecting lower-income New Mexicans. Spanish fluency is a plus.

**For more information [www.sbnm.org/sbnmjobs](http://www.sbnm.org/sbnmjobs)**  
Submit a cover letter and a resume to [hr@sbnm.org](mailto:hr@sbnm.org)



## New Mexico Legal Aid Soliciting New Members of the Board of Directors

New Mexico Legal Aid is a non-profit civil legal services program governed by a 21-person Board of Directors- 60% of Board members must be attorneys. **The Board periodically has vacancies on the Board and is seeking applicants to serve on the Board now, or in the future.** By federal regulation, the Board must reasonably reflect the interests of the eligible clients and support the delivery of quality civil legal services to low-income individuals and families. The Board is seeking representation from all over the state including our rural communities and the 1st and 3rd Congressional Districts.

**If you are interested in serving on the Board of New Mexico Legal Aid, or have any questions about the appointment process, please send an email to [BoardRecruiting@nmlegalaid.org](mailto:BoardRecruiting@nmlegalaid.org). Anyone who indicates an interest will receive further information about the application process. Thank you.**

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### BACKGROUND INFORMATION: WHAT IS LEGAL AID?

Legal aid programs help people who live in households with annual incomes at or below 125% of the federal poverty guidelines. Almost a half a million residents in New Mexico live in poverty. Clients represent every ethnic and age group and live in rural, suburban and urban areas. Legal assistance is necessary for addressing many issues that affect low-income individuals and families, including:

- Access to Benefits
- Consumer Rights
- Employment and Income Maintenance
- Family Law and Domestic Violence
- Housing, Foreclosure and Landlord/ Tenant issues

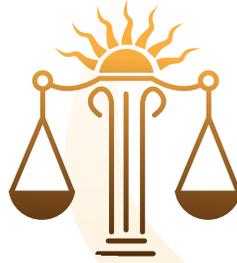
### OUR VISION

New Mexico Legal Aid is a civil legal advocacy organization dedicated to opening the door to equal access to justice for all disenfranchised and low-income people and communities throughout New Mexico by providing outreach, training, education and quality representation.

### OUR MISSION

The mission of New Mexico Legal Aid, Inc. (NMLA) is to be the voice, defender and advocate for poor people who are seeking justice in all forums, particularly in the communities in which they live. NMLA is committed to helping poor people in their struggle to access food, shelter, security and to preserve their unique cultural heritages.

*Please direct all inquiries to New Mexico Legal Aid by emailing [BoardRecruiting@nmlegalaid.org](mailto:BoardRecruiting@nmlegalaid.org).*



## ARTURO L. JARAMILLO

### *Summer Law Clerk Program*

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

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

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



DENISE CHANEZ  
DChanez@sclawnm.com



LEON HOWARD  
lhoward@aclu-nm.org



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

# Disciplinary Quarterly Report

Report by Disciplinary Counsel

Reporting Period: July 1, 2023 - September 30, 2023

## Final Decisions

*In the Matter of Victor R. Marshall*, (No. S-1-SC-37698). The New Mexico Supreme Court entered an order that Respondent is permanently disbarred from the practice of law pursuant to Rule 17-206(A) (1) NMRA, effective July 14, 2023.

*In the Matter of David Proper*, (No. S-1-SC-37587). The New Mexico Supreme Court entered an order that Respondent is permanently disbarred from the practice of law pursuant to this Court's authority under N.M. Const. Art. VI, Section 3, and Rule 17-206(A) (1) NMRA, effective July 27, 2023.

*In the Matter of Albert Costales*, (No. S-1-SC-39920). The New Mexico Supreme Court entered an order that Respondent is indefinitely suspended from the practice of law for a minimum period of two (2) years pursuant to Rule 17-206(A)(3) NMRA. Said suspension is deferred and Respondent is placed on probation pursuant to Rule 17-206(B)(1) NMRA, effective August 18, 2023.

*In the Matter of James Lyle*, (No. S-1-SC-39642). The New Mexico Supreme Court entered an order that Respondent is indefinitely suspended from the practice of law for a minimum period of no less than one (1) year pursuant to Rule 17-206(A)(3) NMRA, effective September 12, 2023. The Court further ordered that Respondent be formally reprimanded pursuant to Rule 17-206(A) (5) NMRA.

Final Decisions of the NM Supreme Court ..... 4

## Summary Suspensions

Total number of attorneys summarily suspended ..... 0

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

## Administrative Suspensions

*In the Matter of Orlando Sandoval*, (No. S-1-SC-39823). The New Mexico Supreme Court entered an order that Respondent is administratively suspended pursuant to Rule 17-207(B) NMRA, until further order of this Court.

Total number of attorneys administratively suspended ..... 1

## Disability Inactive Status

Total number of attorneys removed from disability inactive states ..... 0

## Charges Filed

Charges were filed against an attorney for allegedly failing to provide competent representation to clients, failing to act with reasonable diligence and promptness in representing clients, by failing to keep clients reasonably informed about the status of their matters and engaging in conduct that is prejudicial to the administration of justice.

Charges were filed against an attorney for allegedly making a false statement of fact, falsifying evidence, engaging in conduct involving dishonest, deceit and misrepresentation, and engaging in conduct that is prejudicial to the administration of justice.

Charges were filed against an attorney for allegedly representing a client when there is a significant risk that the representation is materially limited by the personal interest of the lawyer, entering into a business transaction with a client or knowingly acquiring a security adverse to a client, by acquiring a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, and by representing a client when the representation is in violation of the Rules of Professional conduct.

Charges were filed against an attorney for filing multiple frivolous motions, alluding to a matter at trial that a reasonable lawyer would not believe is relevant, by engaging in conduct intended to disrupt a tribunal, using means that had no substantial purpose other than to embarrass, delay or burden a third person, and engaging in conduct that is prejudicial to the administration of justice.

Petition for Administrative Suspension was filed for an attorney's failure to cooperate with Disciplinary Counsel's investigation of a disciplinary complaint against her.

Total number of petitions filed ..... 5

## Injunctive Relief

Total number of injunctions prohibiting the unauthorized practice of law ..... 0

## Reinstatement from Probation

Petitions for reinstatement filed ..... 0

## Formal Reprimands

Total number of attorneys formally reprimanded ..... 0

## Informal Admonitions

Total number of attorneys admonished ..... 0

## Letters of Caution

Total number of attorneys cautioned ..... 8

Attorneys were cautioned for the following conduct: (2) prosecutorial misconduct, (1) criminal conduct, (1) ex parte contact with represented party; (1) dishonesty, deceit, fraud or misrepresentation, (2) lack of diligence, (2) failure to communicate, (1) lack of competence

# Disciplinary Quarterly Report

Report by Disciplinary Counsel

Reporting Period: July 1, 2023 - September 30, 2023

## *Complaints Received*

<i>Allegations</i> .....	<i>No. of Complaints</i>
Trust Account Violations .....	5
Conflict of Interest .....	2
Neglect and/or Incompetence .....	62
Misrepresentation or Fraud .....	19
Improper Withdrawal.....	1
Fees.....	2
Improper Communications.....	0
Failure to Communicate .....	6
Ex Parte Contact with the Court.....	16
Lawyer Acting as Witness .....	0
Prosecutorial Misconduct.....	10
Advertising Violations.....	0
Improper Statements about Judge.....	0
Improper Means .....	2
Criminal Conduct.....	2
UPL .....	1
Improper Trial Publicity.....	0
Lack of Fairness to Opposing Party/Counsel.....	8
Contact with Represented Party .....	0
Specifically prohibited Conflicts .....	19
Meritless Claims or Defenses .....	3
Engaged in Conduct Prejudicial to Admin. Of Justice .....	1
Lack of Diligence.....	0
Failure to Follow Client Instructions.....	0
Other.....	37
Total number of complaints received .....	172*

\*Denotes total number of complaints received through 9/30/2023. May differ from the total number reflected in allegations due to reporting timing.

# Rules/Orders

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

From the New Mexico Supreme Court

## **THE SUPREME COURT OF NEW MEXICO ANNOUNCES 2023 OUT-OF-CYCLE RULE AMENDMENTS**

In accordance with Rule 23-106.1 NMRA, the Supreme Court has approved a number of out-of-cycle rule amendments. What follows is a summary of amendments that the Court approved on November 15, 2023. Unless noted in the history note at the end of each approved rule, the amendments will take effect on December 31, 2023. The full text of the amendments in markup format and the related orders are available on the Court's website at <https://supremecourt.nmcourts.gov/14056-2/>. Approved rule amendments will also appear on NMOneSource.com by their effective date.

### **NEW MEXICO BOARD OF BAR EXAMINERS**

***Rules Governing Admission to the Bar*** – Amended Rule Set 15 NMRA

On recommendation of the New Mexico Board of Bar Examiners, the Supreme Court adopted new rules and approved the reinstatement, amendment, recompilation, and withdrawal of existing rules in Rule Set 15 – Rules Governing Admission to the Bar. These comprehensive revisions to the Rule Set are intended to address changes in the law and to the bar exam to create a coherent and consistent process for admission to the Bar.

### **SUPREME COURT**

***Bar Dues, MCLEs, and Reporting for Judges*** – Amended Rules 18-201, 24-102, and 24-105 NMRA

The Supreme Court approved amendments to Rules 18-201, 24-102, and 24-105 NMRA that exempt state and federal judges from the annual license fee requirement and require federal judges, i.e., honorary judicial members, to comply with annual license renewal requirements and complete minimum continuing legal education requirements.

### **SUPREME COURT**

***Pro Hac Vice Fees*** – Amended Rule 24-106 NMRA

The Supreme Court approved amendments to Rule 24-106 NMRA that increase the registration fees for non-admitted attorneys to practice law in New Mexico.

**THE RULE AMENDMENTS SUMMARIZED ABOVE  
CAN BE VIEWED IN THEIR ENTIRETY AT THE  
NEW MEXICO SUPREME COURT WEBSITE**

<https://supremecourt.nmcourts.gov/14056-2/>

# Clerk's Certificates

From the Clerk of the New Mexico Supreme Court

Elizabeth A. Garcia, Chief Clerk of the New Mexico Supreme Court  
PO Box 848 • Santa Fe, NM 87504-0848 • (505) 827-4860

## CLERK'S CERTIFICATE OF WITHDRAWAL

Effective September 11, 2023:  
**Keesha-Maria Ashanti**  
7000 Phoenix, N.E., #605  
Albuquerque, NM 87110

**John F. Dietz**  
Calzada de la Aurora 30-1,  
#546A, Colonia Centro  
Guanajuato, Mexico, 37700

**Walter John Downing**  
7020 S. Tucson Way  
Centennial, CO 80112

**Bonnie P. Faucett**  
3000 S. Hulen Street, Suite 124  
Fort Worth, TX 76109

**Madelyn Finucane**  
MSC 11 6070  
Albuquerque, NM 87131

**Shannon A. Parden**  
9 Morgan Court  
Sandia Park, NM 87047

**Roger Doyle Taylor**  
2 Saddle Club Drive  
Midland, TX 79705

Effective October 26, 2023:  
**Timothy David Bergstrom**  
3005 Corbina Aly Bldg 259  
San Diego, CA 92136-5110

**Marc A. Bernstein**  
PO Box 30870  
Albuquerque, NM 87190-0870

**Riley J. Busby**  
8220 San Pedro Dr NE Ste 420  
Albuquerque, NM 87113-2476

**Hope R. Moreland**  
500 N Main St Ste 105  
Roswell, NM 88201-4764

**Steven A. Reinhart**  
5504 102nd St  
Lubbock, TX 79424-6422

## CLERK'S CERTIFICATE OF REINSTATEMENT

Effective September 22, 2023:  
**Karen Budd-Falen**  
300 E. 18th Street  
Cheyenne, WY 82001

## CLERK'S CERTIFICATE OF INDEFINITE SUSPENSION FROM MEMBERSHIP IN THE STATE BAR OF NEW MEXICO

Effective September 12, 2023:  
**James P. Lyle**  
1119 Roadrunner Lane, N.W.  
Albuquerque, NM 87107  
505-843-8000  
pennname@prodigy.net

## CLERK'S CERTIFICATE OF LIMITED ADMISSION

On August 7, 2023:  
**Richard Knight**  
Law Offices of the Public  
Defender  
301 N. Guadalupe Street  
Santa Fe, NM 87501  
505-395-2888

On August 14, 2023:  
**Franz Michael Von  
Hoffmann**  
Law Office of the Public  
Defender  
301 N. Guadalupe Street  
Santa Fe, NM 87501  
505-395-2888

On September 11, 2023:  
**Jesse Craig**  
Law Office of the Public  
Defender  
301 N. Guadalupe Street  
Santa Fe, NM 87501  
505-395-2888

On September 14, 2023:  
**Christopher Arima**  
Law Office of the Public  
Defender  
301 N. Guadalupe Street  
Santa Fe, NM 87501  
505-395-2888

**Eric Charette**  
Second Judicial District  
Attorney's Office  
520 Lomas Blvd NW  
Albuquerque, NM 87102  
505-222-1099

**Bailey Dumea**  
Fifth Judicial District Attor-  
ney's Office  
102 N. Canal Suite 200  
Carlsbad, NM 88220  
575-885-8822

**Gabriel Dumea**  
Fifth Judicial District Attor-  
ney's Office  
102 N. Canal Suite 200  
Carlsbad, NM 88220  
575-885-8822

**Casey McKim**  
Second Judicial District  
Attorney's Office  
520 Lomas Blvd NW  
Albuquerque, NM 87102  
505-222-109

On September 18, 2023:  
**Zoe Glaser**  
Law Office of the Public  
Defender  
301 N. Guadalupe Street  
Santa Fe, NM 87501  
505-395-2888

**David William McElroy**  
First Judicial District  
Attorney's Office  
327 Sandoval Street  
Santa Fe, NM 87504  
505-827-5000

**Blaine Nicholas Moffatt**  
NM Office of the Attorney  
General  
408 Galisteo St.  
Santa Fe, NM 87501  
505-490-4060

**Brian Thomas Moffatt**  
NM Office of the Attorney  
General  
408 Galisteo St.  
Santa Fe, NM 87501  
505-490-4060

On September 25, 2023:  
**Maya S. Robnett**  
First Judicial District Attor-  
ney's Office  
327 Sandoval Street  
Santa Fe, NM 87504  
505-827-5000

On October 16, 2023:  
**William Weeden**  
Third Judicial District  
Attorney's Office  
845 N. Motel Blvd., Ste. D.  
Las Cruces, NM 88007  
Williamweeden87\_waq@  
indeedemail.com

**William Weeden**  
Law Office of the Public  
Defender  
301 N. Guadalupe Street  
Santa Fe, NM 87501  
505-395-2888

On October 23, 2023:  
**Josephine Jamison**  
Law Office of the Public  
Defender  
301 N. Guadalupe Street  
Santa Fe, NM 87501  
505-395-2888

**Amelia Ruffolo**  
Law Office of the Public  
Defender  
301 N. Guadalupe Street  
Santa Fe, NM 87501  
505-395-2888

**Donnita Wald**  
New Mexico Taxation and  
Revenue Department  
1100 South St. Francis Drive  
Santa Fe, NM 87504  
505-827-6091

**Samuel Walter**  
New Mexico Office of the  
State Engineer  
130 S Capitol  
Santa Fe, NM 87501  
505-827-6091

On November 6, 2023:  
**Paul Estok**  
NM Legislative Council Service  
411 State Capitol  
Santa Fe, NM 87501

**Stacy Kalpathy**  
Law Office of the Public  
Defender  
301 N. Guadalupe Street  
Santa Fe, NM 87501  
505-395-2888

**Peter O'Connor**  
NM Office of the Attorney  
General  
408 Galisteo St.  
Santa Fe, NM 87501  
505-490-4060

On November 13, 2023:  
**Nicholas Kyle**  
Law Office of the Public  
Defender  
301 N. Guadalupe Street  
Santa Fe, NM 87501  
505-395-2888

---

**CLERK'S CERTIFICATE  
OF REINSTATEMENT TO  
ACTIVE STATUS**

---

Effective August 14, 2023:  
**Lauren E. Kollecas**  
845 N. Motel Blvd., Suite D  
Las Cruces, NM 88007

Effective August 24, 2023:  
**Thomas L. English**  
P.O. Box 81381  
Billings, MT 59106

**Glen L. Houston**  
1304 Broadway Place  
Hobbs, NM 88240

**Lee Hargis Huntzinger**  
8520 River Street, N.E.  
Albuquerque, NM 87113

Effective August 28, 2023:  
**Seth Campbell McMillan**  
435 La Joya Street  
Santa Fe, NM 87501

**Elizabeth A. Counce**  
435 La Joya Street  
Santa Fe, NM 87501

Effective September 22, 2023:  
**Linda J. Mott**  
711 S. Camino Del Pueblo  
Bernalillo, NM 87004

Effective October 16, 2023:  
**Aaron Anthony Aragon**  
908 Telstar Loop, N.W.  
Albuquerque, NM 87121

**Brigette Christianna Buynak**  
880 E Palace Ave #A  
Santa Fe, NM 87506

**Derek Vincent Larson**  
3705 Ellison Rd NW  
Ste B-402  
Albuquerque, NM 87114

**Michael Antal Tighe**  
630 N. Robberson Avenue  
Springfield, MO 65806

---

**CLERK'S CERTIFICATE  
OF DISBARMENT**

---

Effective October 20, 2023:  
**Jason Haubenreiser**  
600 Lafayette Street  
Denver, CO 80218  
720-272-8457  
jhauben@gmail.com

Effective November 14, 2023:  
**Angela Therese  
Delorme-Gaines**  
8175 S. Virginia Street,  
Suite 850  
Reno, NV 89511  
719-440-2631  
atdelorme@gmail.com

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**IN MEMORIAM**

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As of December 29, 2020:  
**Reber Boulton**  
3005 Carlota Road, N.W.  
Albuquerque, NM 87104

As of April 15, 2021:  
**B. Paula Kavanagh**  
P.O. Box 445  
Peralta, NM 87042

As of June 5, 2022:  
**Neil E. Weinbrenner**  
1732 Imperial Ridge  
Las Cruces, NM 88011

As of February 5, 2023:  
**Rose Eileen Provan**  
2905 Vista Bonita  
Santa Fe, NM 87505

As of March 25, 2023:  
**Louis S. Marjon**  
9815 Guadalupe Trail, N.W.  
Albuquerque, NM 87114

As of April 20, 2023:  
**Marc A. Gordon**  
1651 Patton Road, S.W.  
Albuquerque, NM 87105

As of May 14, 2023:  
**Kimerick Franklin Hayner**  
1 Hill Street  
Bozeman, MT 59715

As of May 16, 2023:  
**Anne Porter Browne**  
P.O. Box 1945  
Albuquerque, NM 87103

As of July 2, 2023:  
**James E. Thomson**  
263 Staab St.  
Santa Fe, NM 87501

As of July 12, 2023:  
**Charles Lee Harrington**  
201 Brockman Ct.  
Lincoln, CA 95648

As of August 22, 2023:  
**Alan R. Taradash**  
26 Cedar Hill Place, N.E.  
Albuquerque, NM 87112

As of September 3, 2023:  
**Mark Patrick Geiger**  
P.O. Box 26838  
Albuquerque, NM 87125

As of September 18, 2023:  
**B. C. Weiner**  
1603 Granite, N.W.  
Albuquerque, NM 87104

---

**CLERK'S CERTIFICATE  
OF CHANGE TO  
WITHDRAWN STATUS**

---

Effective September 1, 2023:  
**James S. Bromberg**  
1770 S Randall Rd # A-260  
Geneva, IL 60134-4646

**Anthony A. Maestas**  
PO Box 70370  
Albuquerque, NM 87197-0370

**Jennifer L. Weed**  
33 S 7th St Ste 400  
Allentown, PA 18101-2418

---

**CLERK'S CERTIFICATE  
OF CHANGE TO INACTIVE  
STATUS**

---

Effective July 31, 2023:  
**Andrew C.S. Efaw**  
370 17th St Ste 4500  
Denver, CO 80202-5647

**Alexander P. Laks**  
16501 Ventura Blvd Ste 501  
Encino, CA 91436-2045

**Elizabeth A. Williams**  
P.O. Box 750116  
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Effective September 1, 2023:  
**Shari Lynn Allison**  
3322 Neptune Dr  
Las Cruces, NM 88012-7730

**Cynthia Rae Andrews**  
PO Box 3317  
Aspen, CO 81612-3317

**Amy J. Blumberg**  
PO Box 5800  
Albuquerque, NM 87185-0100

**Felicia C. Boyd**  
1023 Rocky Point Ct NE  
Albuquerque, NM 87123-1944

**Peter J. Holzem**  
1631 Vista Hermosa Trl  
Farmington, NM 87401-3924

**C.L. Mike Schmidt**  
3500 Maple Ave Ste 1250  
Dallas, TX 75219-3940

**Thomas A. Simons IV**  
PO Box 5333  
Santa Fe, NM 87502-5333

**Jana L. Walker**  
602 N Ewing St  
Helena, MT 59601-3603

Effective October 1, 2023:  
**Ramona G. Schmidt**  
1303 Lejano Ln  
Santa Fe, NM 87501-8750

---

**CLERK'S CERTIFICATE  
OF NAME CHANGE**

---

As of August 1, 2023:  
**Jalyn Kori Katie Mans f/k/a  
Jalyn Kori Katie Howell**  
520 Lomas Blvd., N.W.  
Albuquerque, NM 87102

As of September 11, 2023:  
**Jocelyn Barrett f/k/a  
Jocelyn Barrett-Kapin**  
P.O. Box 2307  
Santa Fe, NM 87504

**Jamie Marie Hovey f/k/a  
Jamie Marie Dawson**  
963 Market Street  
Parkersburg, WV 26101

**Rebekka Lynne Chargois f/k/a  
Rebekka Lynne Peltzman**  
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**Noah Blaine Losco f/k/a  
Noah Blaine Hearn**  
701 W. Country Club Road  
Roswell, NM 88201

**Keya Michele Reed-Redmond  
f/k/a Keya Michele Reed**  
7361 Veterans Memorial Pkwy  
Saint Peters, MO 63376

**D'nae L. Robinett Mills f/k/a  
D'nae L. Robinett**  
1826 N Jefferson Street  
Hobbs, NM 88240

As of October 1, 2023:  
**Erica Bennett Douglas f/k/a  
Erica Bennett Sisemore**  
12001 Trafalgar Ave. Ste. 301  
Lubbock, TX 79424

**Richard M.  
MacMillan-Sanchez f/k/a  
Richard M. Spradlin**  
22 W. Washington Street,  
Suite 1600  
Chicago, IL 60602

**Jennifer L. Marshall f/k/a  
Jennifer L. Keel**  
950 S Cherry Street, Suite 312  
Denver, CO 80209

**Gwenivere H. Shaw f/k/a  
Winston H. Shaw**  
369 Montezuma Ave. #587  
Santa Fe, NM 87501

---

**CLERK'S CERTIFICATE  
OF ADMISSION**

---

On August 16, 2023:  
**Hala A. Abdel-Jaber**  
100 N. Stanton Ste. 1000  
El Paso, TX 79901  
915-532-2000  
Abdel-jaber@mgmsg.com

**Puya Agahi**  
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**Kenia L. Ascencio Martinez**  
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**Juancarlos Alfredo Ayala**  
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**Dylan Wayne Bass**  
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Houston, Texas 77019  
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**Nathaniel Belachew**  
20009 Harrier Flight Trail  
Pflugerville, TX 78660  
512-241-9856  
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**Hailey Samantha May Black**  
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720-912-0608  
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**Susannah E. Briones**  
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214-722-7100  
Susan.Briones@Lewisbristbois.  
com

**Lexus Jeanquail Estelle  
Collins**  
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Southaven, MS 38671  
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**Kelly Daniel**  
29 Hillview Avenue  
Boston, MA 02131  
859-608-9533  
kellydaniel.2023@gmail.com

**John Daspit**  
440 Louisiana St., Ste. 1400  
Houston, TX 77002  
832-687-2942  
daspit@dasplitlaw.com

**David Richard Eason**  
1225 Milda Avenue  
Gallup, NM 87301  
303-725-8756  
deason@gallupnm.gov

**Violet Nora Delancey  
Edelman**  
111 Lomas NW, Suite 501  
Albuquerque, NM 87102  
515-346-2489  
violet\_edelman@fd.org

**Peter Richard Flores**  
305 S. Montclair  
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214-938-1756  
peterflores@my.untDallas.edu

**Jason Carter Foulger**  
4272 W Lower Meadow Dr  
Herriman, UT 84096  
801-615-1951  
jafoulger@yahoo.com

**Charles Anthony Frigerio**  
111 Soledad, Ste. 465  
San Antonio, TX 78209  
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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 October 13, 2023

### PUBLISHED OPINIONS

A-1-CA-40056	Foundation Minerals v. Montie Carol Montgomery	Affirm/Reverse	10/02/2023
A-1-CA-39582	D Dearborn v. S Schardin-Clarke	Reverse	10/05/2023
A-1-CA-39940	I Rojas v. Reliable Chevrolet (NM) LLC	Affirm/Remand	10/10/2023
A-1-CA-40419	In the Matter of Elizabeth A.	Affirm	10/10/2023

### UNPUBLISHED OPINIONS

A-1-CA-38718	V Quansah v. S Quansah	Affirm	10/03/2023
A-1-CA-40887	State v. C Urioste	Affirm	10/04/2023
A-1-CA-39328	State v. J Taylor	Affirm	10/10/2023
A-1-CA-40250	State v. J Norwood	Reverse/Remand	10/10/2023
A-1-CA-40507	M Rios v. J Rios	Affirm	10/10/2023
A-1-CA-40721	State v. C Pules	Affirm	10/10/2023
A-1-CA-41022	State v. T Edge	Reverse	10/10/2023
A-1-CA-41214	B Reddy v. NM Department of Transportation	Affirm	10/10/2023
A-1-CA-41215	R Cano. C v. City of Albuquerque	Affirm	10/10/2023
A-1-CA-40366	State v. F Juarez	Reverse/Remand	10/11/2023
A-1-CA-40739	State v. R Sanchez	Affirm	10/11/2023
A-1-CA-40833	State v. Z Fernandez	Affirm	10/11/2023
A-1-CA-41019	State v. I Estrada	Affirm	10/11/2023
A-1-CA-41161	P Cumpler v. Lea Regional Medical Center	Affirm	10/11/2023
A-1-CA-40080	State v. I Carver	Reverse/Remand	10/12/2023

## Effective October 20, 2023

### PUBLISHED OPINIONS

A-1-CA-39288	State v. K Buecker	Affirm	10/18/2023
A-1-CA-39378	Carlsbad Irrigation District v. J D'Antonio	Dismiss	10/18/2023
A-1-CA-40372	State of New Mexico ex rel. Office of the State Engineer v. Intrepid Potash, Inc.	Affirm	10/18/2023

### UNPUBLISHED OPINIONS

A-1-CA-40242	State v. G Wortham	Affirm	10/17/2023
A-1-CA-40573	State v. J Braziel	Affirm	10/17/2023
A-1-CA-40842	State v. C Ovalle	Affirm	10/17/2023
A-1-CA-39753	B Franklin v. State Personnel Office	Reverse/Remand	10/18/2023
A-1-CA-41243	M Wilson v. C Aragon	Affirm	10/18/2023
A-1-CA-40465	State v. L Scott	Affirm/Remand	10/19/2023

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

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

**Effective October 27, 2023****PUBLISHED OPINIONS**

A-1-CA-39628	D Murphy v. J Lash, D.O.	Affirm/Reverse/Remand	10/26/2023
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**UNPUBLISHED OPINIONS**

A-1-CA-40607	State v. F Maldonado	Affirm	10/23/2023
A-1-CA-40791	State v. A Antunez	Affirm	10/23/2023
A-1-CA-40651	State v. D Skeet	Affirm	10/24/2023
A-1-CA-41305	State v. T Davis	Affirm	10/24/2023
A-1-CA-39156	S Mclaughlin v. Santa Fe Community College	Reverse/Remand	10/25/2023
A-1-CA-39830	National Education Association of NM v. Central Consolidated School District	Dismiss	10/25/2023
A-1-CA-39897	V Mejia v. Adelitas	Reverse/Remand	10/25/2023

**Effective November 3, 2023****PUBLISHED OPINIONS**

A-1-CA-39970	State v. S Varela-Coronado	Affirm	10/30/2023
A-1-CA-40106	New Mexico Educational Retirement Board v. D Romero	Affirm	10/30/2023

**UNPUBLISHED OPINIONS**

A-1-CA-39426	In the Matter of the Estate of Mike S Chavez	Affirm	10/30/2023
A-1-CA-39912	State v. N Williams	Affirm	10/30/2023
A-1-CA-40201	State v. A Ruiz	Affirm	10/30/2023
A-1-CA-41163	C Dominguez v. L Rosales	Affirm	10/30/2023
A-1-CA-38394	In the Matter of Pauline S. Perea	Affirm	10/31/2023
A-1-CA-39583	M Ramos v. Smith's Food & Drug	Affirm	10/31/2023
A-1-CA-41056	State v. V Rivera	Affirm/Vacate/Remand	10/31/2023
A-1-CA-41176	E Quinones v. E Pando	Reverse	10/31/2023
A-1-CA-41252	CYFD v. Karla C	Affirm	10/31/2023
A-1-CA-41350	State v. D Gerber	Affirm	11/01/2023
A-1-CA-39665	State v. R Parker	Affirm	11/02/2023

**Effective November 10, 2023****PUBLISHED OPINIONS**

A-1-CA-39686	E Castro v. Jones Contractors, Inc.	Affirm/Reverse/Remand	11/07/2023
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**UNPUBLISHED OPINIONS**

A-1-CA-41063	City of Carlsbad v. C Leal	Affirm	11/06/2023
A-1-CA-41212	State v. B Carter	Affirm	11/06/2023
A-1-CA-41222	M Sanchez v. Specialzed Loan Servicing	Affirm	11/06/2023
A-1-CA-40176	State v. E Groves	Affirm	11/08/2023
A-1-CA-40293	J Sanchez v. J Marquez	Affirm/Reverse/Remand	11/08/2023



State Bar of New Mexico  
Young Lawyers  
Division

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**Fit2Practice**, Randy Taylor & Chandler Farnworth  
**Networking Events**,  
Laura Unklesbay, Taylor Duffney, Andrew Cavazos  
**Podcasts**, Damon J. Hudson  
**Bar Bulletin “In Brief”**, Damon J. Hudson

# YLD *in brief*

WINTER  
2023

The Official Newsletter of the  
State Bar of New Mexico Young Lawyers Division

## Message from the 2023 YLD Chair



*Damon J. Hudson*

It has been an immense privilege to serve as the Young Lawyer’s Division chair over the past year. If anything, it has taught me what a great opportunity the YLD is for connection and growth in our practice. I have met young and more practiced attorneys from throughout the State of New Mexico as the YLD Chair and have seen how ties that connect us make us stronger as a practice, even in our adversarial practice.

My primary goal for the past year has been to create more opportunities for YLD involvement. I hope you had the chance to participate in our events, volunteer, network or perhaps even join us at the Isotopes game! If you did, thank you. If not, I invite you to join us in the upcoming year, and please always feel free to share your thoughts on how we can better serve you, our members.

I am incredibly thankful for the opportunity to serve as YLD Chair and would encourage anyone interested in joining the board to do so. My own legal practice has benefited from this experience, and I’ve also forged some wonderful friendships along the way. Don’t hesitate to contact our incoming Chair, Randy Taylor, to get involved so that you, too, may form more connections and relationships within our rich and diverse community.

Frequently, I’ve heard people describe our legal community as small, but I’ve seen that it is more inviting as we strengthen our connections. So, I’ll conclude my tenure just as I began it – by urging you to become more engaged with the State Bar of New Mexico and its mission to support a strong membership. Our profession thrives when we do so, whether it’s through the YLD, participating in various sections, attending State Bar or YLD events (especially Annual Meeting) or simply reconnecting with a colleague over a cup of coffee. Our practice and our clients benefit from these connections, and they make our profession, in a world that often feels disconnected, more accessible.

**Looking ahead:** In 2024, the structure of the YLD will be expanding! We are excited to announce that the Supreme Court recently approved the change to make it so that any New Mexico attorney who has practiced in any state for ten years or less is a YLD member. This fully removes any tie to age to qualify to be on the YLD. Please look for more information on this exciting new change from our incoming Board!

I wish you a fantastic 2024 filled with success and meaningful connections!

— Damon J. Hudson, Chair



*Randy Taylor*

## A Message from the Incoming Chair

This is the YLD “in brief,” so I’ll keep it brief. Over and over again, people ask me what the YLD is. The straightforward answer is that the YLD is what it does, and the YLD does. Read this In Brief to learn about the YLD’s Membership Service, Pro Bono/Public Service and Mentorship/Pipeline activities over the past year, as well as what we have going on for the end of the year. See more about all of our initiatives at <https://www.sbnm.org/Leadership/Divisions/Young-Lawyers/Initiatives>.

If you haven’t seen anything that suits your particular needs as a prospective YLD member, tell us! The YLD is here to serve its members, and one of my goals as Chair is to provide more events, programming and resources that members are interested in. There are also several ways to get involved in the YLD with as little or as much commitment as you are ready for. So, check us out, whether In Brief or in person, and be a part of improving the profession for Young Lawyers.

— Randy Taylor, Chair Elect

# Program Updates



SCHOOL OF LAW

## YLD/UNMSOL Mentorship Program & Mock Interviews



In partnership with the University of New Mexico School of Law, the Young Lawyers Division continues to provide one-on-one mentorship to students who will soon be young lawyers in our community. These connections are an integral part of the outreach the YLD provides to the legal community. In early 2023, attorneys assisted students in preparing for spring recruiting by reviewing resumes and conducting mock interviews through the YLD Mock Interview Program. The signups for the 2024 Mock Interview program will be sent in early January. We hope you will join us!

We kicked off the 2023 fall semester with the Back to School Fiesta where lots of convivial networking was had! Over 65 students and 55 attorneys signed up for the program this year. Mentors and mentees joined together for one last hoorah before the big push to make it through finals! We appreciate all the firms that sponsored our events, including Batley Family Law, P.A., and Fitzpatrick Law, LLC. New Mexico truly has a wonderful legal community, and we are grateful to all the dedicated volunteers who make these programs possible!

— Lauren Riley, 2023 Vice-Chair



## Networking Committee

While networking occurs at all of our YLD events and meetings throughout the year, the Networking Committee also held three larger events in 2023. First, we had a Law Clerk Networking Event in July for law students working in New Mexico to socialize with young lawyers. It was a great event with attendance of students and young lawyers working in both the private and public sectors. Next, the YLD hosted a Networking and Volunteer Thank you Event at an Isotopes game, where young lawyers got to enjoy an Isotopes win from the Smith's Pavilion, with one of our members even catching an Isotopes homerun! Our last big event was a reception following the swearing-in of our new New Mexico lawyers. This was the first time YLD was able to host a reception since 2019, and we are so excited for this tradition to be back. It was a fantastic night, celebrating with new lawyers and board members from our sponsor State Bar Sections and bar associations.



The Networking Committee also helped to sponsor events across the state this year, including mixers with the Southern New Mexico Bar Association in Dona Ana County, a mixer with the Business Law Association in Santa Fe, hosting a table at Law Day with the past ABA President Deborah Enix Ross and hosting a table at the Distinguished Achievement Awards Dinner, among many other events.

We are looking forward to another year of connecting our YLD members with each other and other lawyers across the state!

— YLD Networking Committee, Laura Unklesbay, Taylor Duffney and Andrew Cavazos



## Veterans Clinic

The YLD partnered with the Veterans Justice Outreach Program in Albuquerque to hold four Veteran’s Legal Clinics throughout 2023, including clinics in February, May, September and November. Through these clinics, veterans were able to meet one-on-one with experienced attorneys and the Veterans Memorial Park for consultations on a variety of civil legal issues. Our Veteran’s Legal Clinics connect veterans with attorneys in the areas of Family Law, Consumer Rights Law, Bankruptcy Law, Landlord-Tenant Law, Foreclosure Law, Employment Law, Tax Law, Probate as well as other General Civil Law.

Thanks to partnerships with New Mexico’s many civil legal services providers, volunteer attorneys and paralegals are often able to refer veterans to additional legal services if their needs go beyond the scope of a 30-minute consultation. Not only are these clinics a valuable experience for the Veterans in attendance but we also match UNM School of Law students with attorney volunteers so the students can shadow and learn from attorneys with experience in areas of interest to the student. The YLD is grateful to the dedicated volunteer attorneys, paralegals and UNM Veteran Law Society, all of whom made this year’s Clinic possible. Please look out for future Veterans Clinics and consider volunteering in 2024!

— Taylor Duffney, Veteran’s Legal Clinic Chair



## #Fit2Practice

The Fit2Practice Committee kicked off 2023 by participating in a snowy Chocolate and Coffee 5k. In May, we hosted a yoga class that included experienced yogis and total beginners. We also enjoyed sponsoring a Nature Walk and poolside yoga class at the State Bar’s 2023 Annual Meeting at the Tamaya. On Nov. 23, the Fit2Practice Committee participated in the Turkey Trot 5k and will sponsor a kickball team next spring.

— Chandler Farnworth, #Fit2Practice



## Wills For Heroes

The Young Lawyers Division has organized three Wills for Heroes events this past year, with one more event to come. In March, we held an event in Albuquerque, drafting and executing wills, powers of attorney and healthcare directives for the Bernalillo County Fire & Rescue, Albuquerque Fire Rescue and Albuquerque Police Department. Then, in July, we hosted an event at the Dona Ana County Sheriff’s Office, working with



the Sheriff’s Department and their staff for a successful event in Las Cruces. We also held an event in Ruidoso, in connection with the YLD yearly strategic planning event. December is host to our last event of the year, and we are looking forward to another day of serving our state. Overall, it has been an incredibly successful year, with the YLD supporting well over 100 first responders and their spouses around the state.

Thank you to all of our volunteers who have made this program a success – we are so appreciative of your hard work. We would also like to extend a special thank you to the Paralegal Division for their support and help throughout the year!

— Laura Unklesbay, 2023 Director at Large, Position 3



## State Bar of New Mexico Annual Meeting

In this year's annual meeting, the YLD had the privilege of sponsoring the attendance of four young lawyers. We were thrilled to see these enthusiastic individuals join us, and we're eagerly looking forward to welcoming even more young lawyers next year.

Our event featured an exciting and highly competitive Geeks Who Drink Event that added a dash of friendly rivalry to the proceedings. Additionally, the Fit2Practice group organized wellness-focused activities to support the well-being of our members. We can't wait to have you join us for the next Annual Meeting!

— Damon J. Hudson, 2023 YLD Chair

## Ask-a-Lawyer Call-in Program



### Ask-A-Lawyer Call in Day

In April and November of last year, the Young Lawyers Division, for the first time, hosted two separate "Ask-a-Lawyer" Call-In Day events. Attorneys from across New Mexico, both in-person and over the phone, generously provided free legal advice to those in need.

Our team of 40+ volunteer attorneys did an exceptional job, assisting nearly 200 callers with various legal issues, including family law, landlord-tenant disputes and employment matters. We want to express our sincere appreciation to all our dedicated volunteers; these programs wouldn't be possible without their support and the Paralegal's Division for their help making the event a success. We look forward to hosting this event once again in 2024.

— Damon J. Hudson, 2023 YLD Chair



From the New Mexico Supreme Court

From the New Mexico Supreme Court

**Opinion Number: 2023-NMSC-023**  
No: S-1-SC-38861 (filed August 14, 2023)

**STATE OF NEW MEXICO,**  
Plaintiff-Respondent,  
v.  
**HUGO VASQUEZ-SALAS,**  
Defendant-Petitioner.

**ORIGINAL PROCEEDING ON CERTIORARI**

Fred T. Van Soelen, District Judge

Bennett J. Baur, Chief Public Defender  
M.J. Edge,  
Assistant Appellate Defender  
Santa Fe, NM

for Petitioner

Hector H. Balderas, Attorney General  
Walter M. Hart, III, Assistant Attorney  
General  
Santa Fe, NM

for Respondent

## OPINION

### VARGAS, Justice.

{1} In this case, we address the authority of police officers under the Fourth Amendment of the United States Constitution and Article II, Section 10 of the New Mexico Constitution to inquire into matters unrelated to an otherwise lawful traffic stop by asking for a passenger’s identifying information such as name and date of birth. Because the officer’s inquiry here was permissible under both the Fourth Amendment and Article II, Section 10, we affirm the district court’s denial of Defendant’s motion to suppress, albeit for different reasons than those articulated by the Court of Appeals.

#### I. BACKGROUND

{2} In the predawn hours of August 18, 2015, Officer Brice Stacy of the Clovis Police Department stopped and detained the vehicle Hugo Vasquez-Salas (Defendant) was riding in because it had a broken rear license-plate light, a misdemeanor under the Motor Vehicle Code. *See* NMSA 1978, § 66-3-805(C) (1978, amended 2018); NMSA 1978, § 66-8-116(A) (2014, amended 2023) (listing the penalty assessment misdemeanors). As Officer Stacy approached the vehicle, he saw a partially open backpack in the back seat with bolt cutters, protective eyeglasses, two pairs of gloves, and a face mask later clarified

at trial as a “camouflage face mask that goes over the entire head, just leaving an opening for the face,” sticking out of the backpack. Officer Stacy testified that he saw the tools when he first approached the car because they were easy to see through the back window. Although the tools alone did not initially raise his suspicion, Officer Stacy testified that he became suspicious that the tools may have been burglary tools “when [he] started talking to [the driver and Defendant],” because the “driver was real nervous, he was showing me all kinds of signs that he was nervous, not wanting to give me any kind of identifiers, [and] he seemed to be confused about his age.”

{3} After he determined that the driver of the vehicle was an unlicensed minor, Officer Stacy asked Defendant if he had a driver’s license in an attempt to determine whether Defendant could drive the vehicle. Defendant said he did not have a driver’s license. Officer Stacy then asked Defendant his age, to which Defendant responded that he was twenty-two.

{4} Turning back to the driver, Officer Stacy asked him for his first name, last name, and date of birth. The driver provided Officer Stacy with an incorrect last name and date of birth. It is unclear at what point Officer Stacy discovered the driver’s real name. What is clear is that the driver’s stated date of birth conflicted with the driver’s prior statement that he was sixteen because the driver’s stated date of birth would have made him seventeen years old

at the time of the stop. When Officer Stacy returned his attention to Defendant, the following exchange took place:

**Officer Stacy (to Defendant):**

What’s your first name?

**Defendant:** Sergio.

[...]

**Officer Stacy:** What’s your last name?

**Defendant:** Vasquez.

[...]

**Officer Stacy:** What’s your date of birth?

[...]

**Defendant:** I’m thirty.

[...]

**Officer Stacy:** You’re thirty? Okay. What’s your date of birth?

**Defendant:** ’84.

**Officer Stacy:** ’84? Okay. What’s your full date of birth?

**Defendant:** 1984.

**Officer Stacy:** 1984—okay, let’s start from the beginning. Give me the month, the day, and then the year. What’s the month?

**Defendant:** October 8, 1984.

**Officer Stacy:** And you said you’re how old?

**Defendant:** Thirty.

**Officer Stacy:** And less than five minutes ago, you were twenty-two?

**Defendant:** Yeah, I know, I was just bullshitting you.

**Officer Stacy:** Okay, hang tight.

Defendant’s real name is Hugo Vasquez-Salas and he was twenty-eight at the time of the stop. After speaking with Defendant, Officer Stacy returned to his patrol car and requested backup.

{5} Officer Wormley, the officer who responded to Officer Stacy’s request for backup, read Defendant his *Miranda* rights and questioned him. Defendant was charged with possession of burglary tools, contrary to NMSA 1978, Section 30-16-5 (1963). In the district court, Defendant asserted that Officer Stacy’s expansion of the traffic stop by asking Defendant for his identifiers constituted an unlawful seizure. Defendant claimed that, as a result of the unlawful seizure, he was entitled to suppression of (1) “[a]ny and all evidence seized from Defendant after the unlawful seizure,” (2) “[a]ny and all statements made by Defendant after the unlawful seizure,” and (3) “[a]ll other fruits of the illegal questioning of Defendant.”

{6} Based on the evidence presented and Officer Stacy’s testimony, the district court determined that Officer Stacy had “reasonable articulable suspicion to expand his investigation into a burglary tools

investigation” and denied the motion to suppress. In announcing its ruling, the district court judge explained that Officer Stacy’s suspicions had already been raised about the burglary tools before he asked Defendant for his identifiers. The district court concluded that the totality of the circumstances supported Officer Stacy’s expansion of the investigation. These included the combination of the tools, the lack of evidence that the tools were used as part of a job or occupation, the driver’s and Defendant’s unusual behavior, the driver’s status as an unlicensed minor, and the time of day.

{7} At trial, the State presented witness testimony, audio and video evidence including lapel video, and the items found in the backpack. Defendant was convicted of possession of burglary tools. Defendant appealed to the Court of Appeals, claiming, in relevant part, that the district court erred when it denied his motion to suppress. Defendant relied upon *State v. Affsprung*, 2004-NMCA-038, ¶¶ 4, 20-21, 135 N.M. 306, 87 P.3d 1088, and *State v. Estrada*, 1991-NMCA-026, ¶¶ 10-11, 111 N.M. 798, 810 P.2d 817, to support his claim that the district court erred in denying his motion. See *State v. Vasquez-Salas*, A-1-CA-37856, mem. op. ¶¶ 2, 7 (N.M. Ct. App. May 17, 2021) (nonprecedential). The Court of Appeals affirmed the district court, rejecting all of Defendant’s claims. *Id.* ¶¶ 1, 18-19. The Court of Appeals reasoned that *Affsprung* was factually distinguishable because the officer in that case had “no suspicion whatsoever of criminal activity.” *Id.* ¶¶ 4-5 (internal quotation marks and citation omitted). It explained that *Estrada* was distinguishable because the only individualized fact known to the officer in that case was a misplaced tire, whereas in this case, there were many factors, including Officer Stacy’s observation of multiple tools that he believed were burglary tools. *Id.* ¶ 7. Upon consideration of Defendant’s petition, we granted certiorari.

## II. DISCUSSION

{8} The question before this Court is whether Officer Stacy had reasonable suspicion of criminal activity to expand the investigation beyond the initial traffic stop to ask Defendant for his identifiers.<sup>1</sup> We first outline the appropriate standard of review and proceed to examine whether Defendant’s rights were violated under the Fourth Amendment of the United States Constitution or Article II, Section 10 of the New Mexico Constitution. Concluding that Defendant’s rights were not violated, we affirm.

### A. Standard of Review

{9} Defendant claims that the district

court improperly denied his motion to suppress. Denial of a motion to suppress presents a “mixed question of fact and law.” *State v. Leyva*, 2011-NMSC-009, ¶ 30, 149 N.M. 435, 250 P.3d 861. Our review of the district court’s denial involves a two-step process. *Id.* First, we examine whether substantial evidence supported the district court’s findings, “with deference to the district court’s review of the testimony and other evidence presented.” *Id.* When the district court does not issue formal findings of fact in denying a motion to suppress, as in this case, we “draw from the record to derive findings based on reasonable facts and inferences.” *State v. Yazzie*, 2019-NMSC-008, ¶ 4, 437 P.3d 182 (internal quotation marks and citation omitted). “[W]e then review de novo the [district] court’s application of law to the facts to determine whether the search or seizure were reasonable.” *Leyva*, 2011-NMSC-009, ¶ 30. We have previously established that when, as in this case, “there are no findings of fact and conclusions of law, an appellate court will draw all inferences and indulge all presumptions in favor of the district court’s ruling.” *State v. Funderburg*, 2008-NMSC-026, ¶ 10, 144 N.M. 37, 183 P.3d 922 (internal quotation marks and citation omitted). Our review is not limited to the record made at the motion to suppress hearing. Instead, we “may review the entire record to determine whether there was sufficient evidence to support the [district] court’s denial of the motion to suppress.” *State v. Johnson*, 1996-NMCA-117, ¶ 21, 122 N.M. 713, 930 P.2d 1165; see *State v. Martinez*, 1980-NMSC-066, ¶ 16, 94 N.M. 436, 612 P.2d 228; accord *State v. Monafo*, 2016-NMCA-092, ¶ 10, 384 P.3d 134.

### B. Reasonable Suspicion

{10} A traffic stop to investigate a potential violation constitutes a seizure of the occupants of the vehicle under the Fourth Amendment, thereby requiring reasonable suspicion. *Leyva*, 2011-NMSC-009, ¶ 10 (seizure); *State v. Martinez*, 2018-NMSC-007, ¶ 10, 410 P.3d 186 (reasonable suspicion). “In analyzing whether an officer has reasonable suspicion, the trial court must look at the totality of the circumstances, and in doing so it may consider the officer’s experience and specialized training to make inferences and deductions from the cumulative information available to the officer.” *Id.* (internal quotation marks and citation omitted). Reasonable suspicion exists when the officer becomes “aware of specific articulable facts that, judged objectively, would lead a reasonable person to believe criminal activity occurred or was occurring.” *State v. Urioste*, 2002-NMSC-023, ¶ 6, 132 N.M. 592, 52 P.3d

964 (internal quotation marks and citation omitted). “Suspicion of criminal activity need not necessarily be of a specific crime.” *Leyva*, 2011-NMSC-009, ¶ 23. “Although an officer’s reliance on a mere hunch is insufficient to justify a stop, the likelihood of criminal activity need not rise to the level required for probable cause, and it falls considerably short of satisfying a preponderance of the evidence standard.” *United States v. Arvizu*, 534 U.S. 266, 274 (2002) (internal quotation marks and citations omitted).

## C. The Fourth Amendment of the United States Constitution

### 1. Defendant’s Fourth Amendment rights were not violated

{11} “The Fourth Amendment guarantees the right of the people to be free from unreasonable searches and seizures.” *Leyva*, 2011-NMSC-009, ¶ 8; U.S. Const. amend. IV. “Reasonableness, of course, depends on a balance between the public interest and the individual’s right to personal security free from arbitrary interference by law officers.” *Leyva*, 2011-NMSC-009, ¶ 9 (internal quotation marks and citation omitted).

{12} The appropriate inquiry under the Fourth Amendment when the legality of the initial stop is uncontested, as is the case here, is “whether an officer’s traffic stop questions extended the time that a driver was detained, regardless of the questions’ content.” *Id.* ¶¶ 17, 31 (internal quotation marks and citation omitted). Questions asked by law enforcement “during a traffic stop [do not] need to be reasonably related to the initial justification of the stop in order to be permissible.” *Id.* ¶ 18. Nonetheless, the temporal limitation provided by this bright-line test requires that “an investigating officer return a driver’s documents and permit the driver to depart as soon as the reason for the traffic stop has been completed (unless, of course, the officer has developed reasonable suspicion to conduct an investigation into other criminal activity).” *Id.* ¶ 20. When the officer asks questions “during the time it [takes] to reasonably complete the initial traffic investigation,” the questions are constitutionally permissible. *Id.* ¶ 28. A de minimis detention after the completion of the stop is not unreasonable and therefore does not violate the Fourth Amendment. *Id.* ¶ 33.

{13} In *Leyva*, the officer had already completed his investigation when he asked the defendant whether there were any “knives, needles, guns, or drugs” that the officer needed to know about before turning the car over to a third party because the defendant’s suspended license rendered

<sup>1</sup> Defendant does not question, and we do not address, the validity of the initial traffic stop or the sufficiency of the evidence to justify the stop.

him unable to drive the vehicle. *Id.* ¶¶ 33-34 (internal quotation marks omitted). The *Leyva* Court held that the question was permissible under the Fourth Amendment because it was a de minimis extension of the stop. *Id.* ¶ 35. The Court reasoned that [i]t would be nonsensical if we were to hold [that the officer] violated [the defendant]’s Fourth Amendment rights by asking the question *immediately after* handing him the citation, when the questions undoubtedly would have been permitted if [the officer] had asked *while he was writing the citation or running the records check*.

*Id.* ¶ 33 (second emphasis added).

{14} Reviewing the facts of this case under the totality of the circumstances, *Martinez*, 2018-NMSC-007, ¶ 12, we conclude that Defendant’s rights were not violated under the Fourth Amendment because Officer Stacy’s questions concerning Defendant’s identifiers did not measurably extend the length of the stop. In this case, the officer was compelled to ask Defendant additional questions to complete the stop because the driver did not have a driver’s license and could not drive the car away. This included questioning Defendant to determine whether he could drive the car. Officer Stacy’s attempt to complete the original stop in a diligent manner made the duration of the stop more reasonable. See *Rodriguez v. United States*, 575 U.S. 348, 354 (2015) (noting that, “in determining the reasonable duration of a stop, it is appropriate to examine whether the police diligently pursued the investigation” (text only)<sup>2</sup> (citing *United States v. Sharpe*, 470 U.S. 675, 686 (1985))). In *Leyva*, the question was whether it was permissible for the officer to extend the stop by asking questions *after* the initial traffic stop was complete. 2011-NMSC-009, ¶ 62. The stop in this case was not an extension, but instead was part of a developing situation that required Officer Stacy to determine whether Defendant was legally permitted to operate the vehicle or whether the vehicle needed to be impounded. See *State v. Reynolds*, 1995-NMSC-008, ¶ 22, 119 N.M. 383, 890 P.2d 1315 (“[T]he government has a legitimate interest in making sure that all drivers are licensed.”); see also *Sharpe*, 470 U.S. at 686 (noting that a court making a duration determination “should take care to consider whether the police are acting in a swiftly developing situation, and in such cases the court should not indulge in unrealistic second-guessing”). We perceive no Fourth Amendment violation under

the circumstances of this case.

## 2. Precedential value of *Affsprung*

{15} Defendant relied upon *Affsprung*, 2004-NMCA-038, in his motion to suppress, in his briefing before the Court of Appeals, and in his briefing before this Court. In *Affsprung*, an officer asked a passenger of a vehicle for his identifiers and checked for active warrants on him while writing a traffic citation for the driver. 2004-NMCA-038, ¶ 2. The *Affsprung* Court held that the officer’s request violated the Fourth Amendment because he had no suspicion of criminal activity to support asking the defendant for his identifiers. *Id.* ¶¶ 19-21. The Court of Appeals reasoned that *Affsprung* was factually distinguishable from the present case and did not rely on it in reaching its decision. *Vasquez-Salas*, A-1-CA-37856, mem. op. ¶¶ 4-5.

{16} While properly decided under United States Supreme Court jurisprudence at the time, *Affsprung* is in conflict with current United States Supreme Court and New Mexico Supreme Court Fourth Amendment precedent. Prior New Mexico precedent applying the previous Fourth Amendment analysis required that “all questions . . . be reasonably related to the initial reason for the stop or supported by independent and articulable reasonable suspicion.” *Leyva*, 2011-NMSC-009, ¶ 2. Five years after *Affsprung*, the United States Supreme Court decided *Arizona v. Johnson*, 555 U.S. 323 (2009). *Johnson* recognized that “a passenger is seized, just as the driver is, from the moment a car stopped by the police comes to a halt on the side of the road.” *Id.* at 332 (text only) (citation omitted). That “temporary seizure of driver and passengers ordinarily continues, and remains reasonable, for the duration of the stop.” *Id.* at 333. In those instances, “[a]n officer’s inquiries into matters unrelated to the justification for the traffic stop . . . do not convert the encounter into something other than a lawful seizure, so long as those inquiries do not measurably extend the duration of the stop.” *Id.* “[T]he tolerable duration of police inquiries in the traffic-stop context is determined by the seizure’s mission—to address the traffic violation that warranted the stop and attend to related safety concerns.” *Rodriguez*, 575 U.S. at 354 (internal quotation marks and citations omitted).

{17} As relevant to *Affsprung*, an officer’s mission also includes the authority to run background checks on passengers as an “ordinary inquir[y] incident to [the traffic] stop.” *Rodriguez*, 575 U.S. at 355 (second alteration in original) (internal quotation

marks and citation omitted); see also *id.* at 351-52 (acknowledging a police officer’s questioning and records check of a driver and passenger as part of the “justification for the traffic stop”); *United States v. Pack*, 612 F.3d 341, 351 (5th Cir. 2010) (clarifying that it is permissible for an officer to ask a passenger “to identify himself and to run computer checks on his driver’s license and background”), modified on other grounds by 622 F.3d 383 (5th Cir. 2010); *United States v. Rice*, 483 F.3d 1079, 1084 (10th Cir. 2007) (explaining that, in addition to the driver, “an officer may ask for identification from passengers and run background checks on them as well”); *People v. Rodriguez*, 945 P.2d 1351, 1360 (Colo. 1997) (“During a valid traffic stop an officer may . . . run a computer check for outstanding warrants so long as this procedure does not unreasonably extend the duration of the temporary detention.”). The objective of these ordinary inquiries is to “ensur[e] that vehicles on the road are operated safely and responsibly.” *Rodriguez*, 575 U.S. at 355.

{18} Thus, as this Court explained in *Leyva*, in an otherwise-legal traffic stop the proper inquiry under the Fourth Amendment “is whether an officer’s traffic stop questions extended the time that a driver was detained, regardless of the questions’ content.” 2011-NMSC-009, ¶ 17 (internal quotation marks and citation omitted). When the officer asks questions “during the time it [takes] to reasonably complete the initial traffic investigation,” the questions are constitutionally permissible. *Id.* ¶ 28. The *Affsprung* Court’s holding that the officer’s questions about a passenger’s identifiers violated the Fourth Amendment because the officer had no reasonable suspicion that the passenger was engaged in criminal activity or no particularized concern about the officer’s safety, 2004-NMCA-038, ¶ 19, no longer comports with our analysis in *Leyva*, 2011-NMSC-009, ¶ 17, or the United States Supreme Court’s bright-line analysis of the Fourth Amendment in *Johnson*, 555 U.S. at 333, and is hereby overruled. See also *State v. Martinez*, 2017 UT 43, ¶ 18, 424 P.3d 83 (explaining that *Affsprung* is “out of step with the interpretive [Fourth Amendment] framework dictated by United States Supreme Court precedent”). Since *Affsprung* was decided solely under the United States Constitution, we do not opine as to how the facts of that case would fare under the New Mexico Constitution.

{19} We next consider whether Officer Stacy violated Defendant’s rights under Article II, Section 10 of the New Mexico

<sup>2</sup> The “text only” parenthetical used herein indicates the omission of any of the following—internal quotation marks, ellipses, and brackets—that are present in the text of the quoted source, leaving the quoted text itself otherwise unchanged.

Constitution.

#### D. Article II, Section 10

##### of the New Mexico Constitution

{20} Article II, Section 10 of the New Mexico Constitution establishes that “[t]he people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures. . . .” This Court has consistently recognized that “Article II, Section 10 expresses the fundamental notion that every person in this state is entitled to be free from unwarranted governmental intrusions, and thus identified a broader protection to individual privacy under the New Mexico Constitution than under the Fourth Amendment.” *Leyva*, 2011-NMSC-009, ¶ 53 (internal quotation marks and citation omitted). Our New Mexico Constitution requires (1) “a reasonable justification for the initial stop,” and, in contrast with the current federal bright-line test under the Fourth Amendment, (2) “that all questions asked during the stop be reasonably related to the reason for the stop or otherwise supported by reasonable suspicion.” *Id.* ¶ 55 (outlining the current Article II, Section 10 test); see also *id.* ¶¶ 2-3 (recognizing the current federal bright-line test). The case-by-case approach inherent under the New Mexico Constitution “comports better with the broader protections provided under Article II, Section 10” and “ensures that investigating officers do not engage in ‘fishing expeditions’ during traffic stops.” *Id.* ¶ 55. Over the course of a routine traffic stop, however, reasonable suspicion may arise from the “behavior of both passenger and driver.” *Funderburg*, 2008-NMSC-026, ¶ 18.

{21} Defendant in the present case does not challenge Officer Stacy’s justification for the initial stop. Instead, Defendant asserts that Officer Stacy did not have reasonable suspicion to expand the scope of the investigation beyond the initial traffic stop to other criminal activity under Article II, Section 10.

{22} In support of his assertion, Defendant argues that “an innocent item in a vehicle, without more, does not provide reasonable suspicion to expand the scope” of the stop, citing *Estrada*, 1991-NMCA-

026. In *Estrada*, “the only individualized fact known by the agent that could possibly have raised his suspicions was [a] misplaced spare tire.” *Id.* ¶ 11. Nothing “indicate[d] that [the] driver or his passenger were nervous or displayed unusual behavior of any sort.” *Id.* The defendant and his passenger provided proper residency documents, and there were “[n]o other potentially suspicious factor[s] . . . mentioned in the stipulated facts.” *Id.* Thus, “[b]ased solely on the misplacement of the spare tire, the agent directed [the] defendant to the secondary area, and [the] defendant and his passenger were asked to exit the vehicle while a dog sniff was performed.” *Id.* The *Estrada* Court held that, although a misplaced tire may heighten an officer’s suspicion, that factor alone was not so suspicious as to satisfy the reasonable suspicion standard. *Id.* ¶¶ 11-12.

{23} In contrast with the single factor in *Estrada*, several factors support Officer Stacy’s suspicion in this case. These factors include: the time of the stop (see *State v. Ortiz*, 2017-NMCA-006, ¶ 14, 387 P.3d 323 (concluding that an officer had reasonable suspicion to conduct a brief investigatory stop premised on, in relevant part, the time of day)); the backpack in the back seat containing tools, clothing, protective eyeglasses, gloves, and a face mask;<sup>3</sup> the lack of evidence that the tools were used for a job; the driver’s and Defendant’s nervous and unusual behavior (see *State v. Van Dang*, 2005-NMSC-033, ¶ 16, 138 N.M. 408, 120 P.3d 830 (holding that the officer’s suspicion was reasonable based, in part, on the “[d]efendant’s nervousness”); see also *State v. Tuton*, 2020-NMCA-042, ¶ 14, 472 P.3d 1214 (noting that demeanor is considered in weighing the totality of the circumstances)); that the driver was an unlicensed minor; and that both the driver and Defendant provided false identifying information.

{24} At the suppression hearing, Officer Stacy testified that his training and experience provided a basis for his suspicion that Defendant was engaged in criminal activity. Compare *Van Dang*, 2005-NMSC-033, ¶ 16 (discussing the importance of the officer’s training and experience in

forming reasonable suspicion of criminal activity), with *Estrada*, 1991-NMCA-026, ¶ 13 (noting that the record was devoid of information regarding the law enforcement agent’s experience with the alleged criminal activity in that case). At trial, Officer Stacy testified that he had on-the-job experience investigating fifty to one hundred burglaries, possibly more. He explained that, in his experience, cutting instruments, seemingly ordinary tools, are used specifically in the commission of a burglary. See *Van Dang*, 2005-NMSC-033, ¶ 16 (quoting *Brown v. Texas*, 443 U.S. 47, 52 n.2 (1979) (“[A] trained, experienced police officer is ‘able to perceive and articulate meaning in given conduct which would be wholly innocent to the untrained observer.’”). But Officer Stacy did not rely upon his training and experience in identifying burglary tools as the sole basis supporting his suspicion that Defendant was engaged in criminal activity. Instead, Officer Stacy testified at the suppression hearing that he became suspicious the tools may have been burglary tools only after his interactions with the driver and Defendant because the “driver was real nervous, he was showing [Officer Stacy] all kinds of signs that he was nervous, not wanting to give [him] any kind of identifiers, [and] he seemed to be confused about his age.” Defendant also provided Officer Stacy with incorrect information regarding his name, contradictory responses about his age, and evasive responses as to his date of birth. In other words, Officer Stacy’s training and experience allowed him to perceive and articulate meaning from the combination of the tools when considered with the driver’s and Defendant’s conduct, thereby raising his suspicion that Defendant was engaged in criminal activity.

{25} When making a reasonableness determination, we must “necessarily take into account the evolving circumstances with which the officer was faced.” *Funderburg*, 2008-NMSC-026, ¶ 16 (text only) (quoting *State v. Duran*, 2005-NMSC-034, ¶ 36, 138 N.M. 414, 120 P.3d 836, overruled on other grounds by *Leyva*, 2011-NMSC-009, ¶¶ 3, 17, 55 (overruling *Duran* on Fourth Amendment grounds

<sup>3</sup> Defendant, without citing the record, contends that Officer Stacy found the face mask after the traffic stop while searching the backpack. Therefore, according to Defendant, it is after-acquired evidence and should not be considered as a factor in this Court’s reasonable suspicion analysis. See *State v. Jason L.*, 2000-NMSC-018, ¶ 20, 129 N.M. 119, 2 P.3d 856 (“The officer cannot rely on facts which arise as a result of the encounter.”). We disagree. As an initial matter, we have previously explained that this Court is under no duty to entertain arguments when facts are stated without citing the record. See *Santa Fe Expl. Co. v. Oil Conservation Comm’n*, 1992-NMSC-044, ¶ 11, 114 N.M. 103, 835 P.2d 819. Further, Defendant’s recitation of the facts is inconsistent with Officer Stacy’s testimony at the suppression hearing that he saw the face mask through the window as he initially approached the vehicle. The district court judge relied upon this testimony in his ruling from the bench, explaining that “the officer stated that he had seen the backpack . . . in the back of the seat with tools sticking out of it, including bolt cutters, gloves—two sets of gloves—eye-protection, and a face mask of some sort.” (Emphasis added.) This Court has previously explained that “appellate courts must afford a high degree of deference to the district court’s factual findings” and that “[c]ontested facts are reviewed in a manner most favorable to the prevailing party.” *Yazzie*, 2019-NMSC-008, ¶¶ 13-14 (internal quotation marks and citation omitted). Therefore, consideration of the face mask is proper.

while “maintain[ing] the *Duran* standard for reviewing searches and seizures under the New Mexico Constitution”). The officer “may ask follow up questions that will quickly confirm or dispel any suspicion brought on by those answers.” *Duran*, 2005-NMSC-034, ¶ 36. “An officer’s continued detention of a suspect may be reasonable if the detention represents a graduated response to the evolving circumstances of the situation,” *Funderburg*, 2008-NMSC-026, ¶ 16, because “routine questions and requests by a police officer may elicit a strange or suspicious response by a stopped motorist.” *Duran*, 2005-NMSC-034, ¶ 36. Follow up questions “must intrude on a person’s liberty as little as possible under the circumstances.” *Id.* “In weighing the officer’s intrusion on [the d]efendant’s privacy, we should ask ourselves what other actions a reasonable officer would be expected to take under similar circumstances, if not those taken in this instance.” *Funderburg*, 2008-NMSC-026, ¶ 32.

{26} Here, Officer Stacy could have taken other actions to confirm or dispel his suspicions, such as impounding the car because neither the driver nor Defendant was able to legally operate it. However, as in *Funderburg*, none of the available options “would have spared Defendant the risk of an even greater intrusion into his privacy,” with the exception of Officer Stacy “simply let[ting] the car go, thereby ignoring his suspicions and turning a blind eye to criminal activity.” *Id.* Officer Stacy asking Defendant for his identifiers, the limited questioning being challenged here, was the quickest and least intrusive way to confirm or dispel those suspicions. *See id.* ¶¶ 31-32 (concluding that the officer’s actions were constitutionally reasonable when he took the most simple, direct, and minimally intrusive approach by asking a brief question instead of pursuing the alternative options presented).

{27} As in *Funderburg*, Officer Stacy’s actions represented a graduated response to the evolving circumstances of the traffic

stop. 2008-NMSC-026, ¶ 28. After it was determined that the driver of the vehicle was an unlicensed minor, Officer Stacy was justified in asking Defendant if he had a driver’s license in an attempt to determine whether Defendant could drive the vehicle. Defendant responded that he did not have a driver’s license. At this juncture, supported by his experience in investigating numerous burglaries, Officer Stacy’s observations of the alleged burglary tools in the back seat, the driver’s and Defendant’s nervous and unusual behavior thus far, the time of day, the fact that neither the driver nor Defendant had a driver’s license, and the driver’s confusion about his own age gave Officer Stacy further justification to expand the search and satisfy his suspicion by asking Defendant’s age. Defendant’s untruthful response to this question provided yet more justification for Officer Stacy to ask Defendant his name and date of birth. *See Leyva*, 2011-NMSC-009, ¶ 61 (explaining that the officer’s initial question in that case was justified and that “the response to this question gave [the officer] further justification to expand his search”).

{28} Defendant next separates the stop into discreet subparts. First, he describes each tool as common, ordinary, or lawful. Defendant begins with the bolt cutters and proceeds to consider the “protective goggles” and gloves, concluding that all are “lawful to possess . . . absent further information about an unlawful purpose.” Finally, Defendant notes that there were no reported burglaries in the area at the time of the traffic stop. We have previously explained that this “divide-and-conquer analysis” is an improper method of evaluation for an appellate court to consider when assessing whether reasonable suspicion existed. *See Martinez*, 2018-NMSC-007, ¶ 12 (quoting *Arvizu*, 534 U.S. at 274). Instead, “we must review the totality of the circumstances and must avoid reweighing individual factors in isolation.” *Id.* Courts examine the totality of the circumstances because “looking at each act in a series of acts . . . , taken alone, may be susceptible

of an innocent explanation.” *State v. Hernandez*, 2016-NMCA-008, ¶ 12, 364 P.3d 313. We therefore decline to conduct a divide-and-conquer analysis.

{29} Defendant’s remaining arguments (1) analogizing this case to cases decided under a probable cause standard, (2) relying upon cases assessing the sufficiency of the evidence, and (3) contending that law enforcement would be allowed to conduct fishing expeditions if “proximity to a lawful item alone” or “possession of lawful items was enough to support reasonable suspicion,” are unpersuasive. We have previously explained that “reasonable suspicion can arise from wholly lawful conduct.” *State v. Neal*, 2007-NMSC-043, ¶ 28, 142 N.M. 176, 164 P.3d 57 (internal quotation marks and citation omitted). Further, it is clear that, under the totality of the circumstances, the facts of this case present multiple factors that supported Officer Stacy’s reasonable suspicion beyond Defendant merely being in proximity to, or in possession of, lawful items. Finally, for the reasons articulated in this opinion, we believe our reasonable suspicion case law is sufficiently developed that we need not rely upon probable cause or sufficiency of the evidence cases to answer the question before us.

{30} Upon our review of the totality of the circumstances, we conclude that Officer Stacy had reasonable suspicion of criminal activity to support the expansion of the otherwise valid traffic stop under Article II, Section 10.

### III. CONCLUSION

{31} Because Defendant’s rights were not violated under the Fourth Amendment or Article II, Section 10, we affirm the district court’s denial of Defendant’s motion to suppress.

{32} **IT IS SO ORDERED.**

**JULIE J. VARGAS, Justice**

**WE CONCUR:**

**C. SHANNON BACON, Chief Justice**

**MICHAEL E. VIGIL, Justice**

**DAVID K. THOMSON, Justice**

From the New Mexico Supreme Court

From the New Mexico Supreme Court

**Opinion Number: 2023-NMSC-024**  
No: S-1-SC-38169 (filed August 14, 2023)

**STATE OF NEW MEXICO,**  
Plaintiff-Appellee,  
v.  
**JAIME VELETA,**  
Defendant-Appellant.

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

Cindy Leos, District Judge

Harrison & Hart, LLC  
Nicholas T. Hart  
Carter B. Harrison IV  
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## OPINION

**VARGAS, Justice.**

{1} This case comes to the Court on direct appeal pursuant to Rule 12-102(A)(1) NMRA. Defendant Jaime Veleta appeals his conviction for willful and deliberate first-degree murder, claiming the district court made several evidentiary errors, improperly instructed the jury, permitted the entry of inconsistent verdicts, and violated his double jeopardy rights by allowing the inconsistent verdicts to stand. Defendant presents a novel argument that a verdict convicting him of first-degree murder but acquitting him of the lesser-included offenses of second-degree murder and voluntary manslaughter is legally inconsistent. We take this opportunity to address New Mexico law on inconsistent verdicts to explain that only inconsistent convictions and not inconsistent verdicts are reviewed. When the evidence is sufficient to support the verdict of conviction,<sup>1</sup> we will not speculate as to why the jury acquitted a defendant of other charges. To examine the verdict of acquittal requires that either we rule based on pure speculation or we inquire into the jury's deliberations, neither of which we are willing to do.

### I. BACKGROUND

{2} In January 2008, Defendant and four others went to the house of Danny Baca (Victim) to confront him about a missing car that contained drugs. After discovering that the car had been stripped and the drugs were missing, Defendant and the other men took Victim from his home. Eventually, Defendant and two of his accomplices, Jose and Mario Talavera, drove Victim out to the mesa where Defendant shot Victim at least eighteen times, killing him, before lighting his body on fire. Shortly after killing Victim, Jose and Mario took Defendant to the bus depot where Defendant boarded a bus to Mexico. Defendant was charged with the murder of Victim in 2011 but was not extradited to New Mexico until 2018.

{3} At trial, Jose and another of Defendants' accomplices, Gerardo Nuñez, testified at length about Defendant's involvement in Victim's murder. At the conclusion of the trial, the jury entered verdict forms convicting Defendant of willful and deliberate first-degree murder, felony murder in the first-degree, kidnapping, conspiracy, and tampering with evidence. The jury also entered verdict forms acquitting Defendant of second-degree murder and voluntary manslaughter. The

district court vacated his felony murder conviction, merging it into his conviction for willful and deliberate first-degree murder, and sentenced him to life in prison. Defendant appealed directly to this Court. N.M. Const. art. VI, § 2 ("Appeals from a judgment of the district court imposing a sentence of death or life imprisonment shall be taken directly to the supreme court."); Rule 12-102(A)(1).

### II. DISCUSSION

{4} Defendant asks this Court to vacate his convictions, alleging the district court (1) abused its discretion when it permitted the introduction of evidence that Defendant fled the country following the murder of Victim, (2) erred when it improperly limited Defendant's cross-examination of two witnesses, violating his right to confrontation, (3) erred when it improperly instructed the jury with regard to the step-down instruction and the lesser-included offenses of first-degree murder leading to a legally inconsistent verdict, and (4) erred when it entered his conviction for first-degree murder despite his implied acquittal. Defendant further claims that he is entitled to the reversal of his convictions and requests that the case be remanded to the district court for a new trial. He argues, however, that retrial for first-degree murder, second-degree murder, or voluntary manslaughter is barred by double jeopardy. Finally, Defendant claims cumulative error. Concluding that there was no error, we affirm the district court.

#### A. Claims of Evidentiary Error

{5} Defendant claims that the district court made evidentiary errors requiring reversal by (1) admitting evidence of Defendant's flight from New Mexico to demonstrate consciousness of guilt, (2) denying Defendant the opportunity to cross-examine Gerardo about his uncle's federal drug charges, and (3) limiting Defendant's cross-examination of Jose about his cooperation with law enforcement. "The admission or exclusion of evidence is within the discretion of the trial court. On appeal, the trial court's decision is reviewed for abuse of discretion." *State v. Hughey*, 2007-NMSC-036, ¶ 9, 142 N.M. 83, 163 P.3d 470. "An abuse of discretion arises when the evidentiary ruling is clearly contrary to logic" or when the district court "misapplies or misapprehends the law." *State v. Pacheco*, 2008-NMCA-131, ¶ 34, 145 N.M. 40, 193 P.3d 587 (internal quotation marks and citation omitted). For the reasons that follow, we conclude that the district court did not abuse its

<sup>1</sup> This opinion uses verdict of conviction to refer to the jury's guilty verdict on a charge, giving rise to the district court's conviction on that charge. Similarly, we use verdict of acquittal to refer to the jury's not guilty verdict on a charge, giving rise to the district court's acquittal on that charge.

discretion in any of the evidentiary rulings challenged by Defendant.

### 1. Flight evidence as consciousness of guilt

{6} Defendant contends the district court abused its discretion by admitting evidence of his travel to Mexico immediately after Victim was killed as evidence of consciousness of guilt because the State failed to show that he knew he was being pursued by law enforcement at the time he left for Mexico. The State contends that knowledge of law enforcement pursuit is not a prerequisite for admission of flight evidence and asserts that “it is the contemporaneity of the occurrence of the crime and the flight that creates the reasonable inference of consciousness of guilt.”

{7} We agree with the State. “Flight evidence is admissible because [it] tends to show consciousness of guilt.” *State v. Trujillo*, 1979-NMCA-055, ¶ 4, 93 N.M. 728, 605 P.2d 236 (internal quotation marks and citation omitted). “[T]he prosecution is not required to establish the reason for a defendant’s flight,” and “a defendant’s knowledge that he was being pursued is not a predicate to the admission of flight evidence.” *Pacheco*, 2008-NMCA-131, ¶ 37. Therefore, we determine there was no abuse of discretion and instead defer to the district court’s determination that the probative value of this evidence substantially outweighed its prejudicial effect. See *State v. Bailey*, 2015-NMCA-102, ¶ 20, 357 P.3d 423 (explaining that Rule 11-403 NMRA gives the district court “much leeway” in deciding whether evidence’s probative value substantially outweighs its prejudicial effect (internal quotation marks and citation omitted)), *aff’d*, 2017-NMSC-001, ¶ 26, 386 P.3d 1007 (“[T]he task under Rule 11-403 is not to exclude all uniquely prejudicial evidence—just that evidence having an unduly prejudicial impact on a defendant that far outweighs the evidence’s probative effect.”).

### 2. Limitation on cross-examination of witnesses

{8} Defendant next contends that the district court abused its discretion by limiting his cross-examination of two of the State’s witnesses and that this violated the Confrontation Clause of the Sixth Amendment to the United States Constitution. Defendant argues that the district court abused its discretion when it “prohibited [Defendant] from cross-examining [Gerardo] regarding [Gerardo’s] uncle’s federal charges” and limited his questioning of Jose regarding his cooperation with authorities. However, the record reflects that the district court allowed Defendant to cross-examine both witnesses thoroughly

with minimal limitation. We hold that the district court did not abuse its discretion or violate Defendant’s right to confrontation.<sup>2</sup> See *State v. Sanders*, 1994-NMSC-043, ¶ 23, 117 N.M. 452, 872 P.2d 870 (“The [district] court retain[s] wide latitude insofar as the Confrontation Clause is concerned . . . . The Confrontation Clause merely guarantees an opportunity for effective cross-examination . . . .” (second alteration in original) (internal quotation marks and citation omitted)).

{9} “[W]hile the scope of cross-examination usually lies within the sound discretion of the district court, Confrontation Clause claims are issues of law that we review de novo.” *State v. Gonzales*, 1999-NMSC-033, ¶ 22, 128 N.M. 44, 989 P.2d 419 (internal quotation marks and citation omitted). “The Sixth Amendment to the Constitution guarantees the right of an accused in a criminal prosecution to be confronted with the witnesses against him.” *Davis v. Alaska*, 415 U.S. 308, 315 (1974) (internal quotation marks and citation omitted). “[A] primary interest secured by [the Sixth Amendment] is the right of cross-examination.” *Id.* (internal quotation marks and citation omitted). “Cross-examination of adverse witnesses is the primary means for testing their truth and credibility and is essential to insure the integrity of the fact-finding process.” *Sanders*, 1994-NMSC-043, ¶ 22. “Nevertheless, the right of cross-examination of adverse witnesses is not absolute.” *Id.* ¶ 23. Rather, “[t]he Confrontation Clause merely guarantees an opportunity for effective cross-examination; it does not guarantee that the defense may cross-examine a witness in whatever way, and to whatever extent, the defense might wish.” *Id.* (internal quotation marks and citation omitted). Therefore, “[r]easonable restrictions on the exercise of a constitutional right are permissible.” *State v. Herrera*, 1978-NMCA-048, ¶¶ 25, 40, 92 N.M. 7, 582 P.2d 384. With this framework in mind, we turn to Defendant’s arguments regarding the testimony of Gerardo.

#### a. Gerardo Nuñez

{10} Defendant argues that the district court abused its discretion on two separate grounds by prohibiting him from inquiring into federal drug charges made against Gerardo’s uncle. Defendant asserts that the district court abused its discretion when it excluded the testimony about the uncle’s drug charges as irrelevant and that the exclusion violated Defendant’s Sixth Amendment right to confront witnesses. Defendant explained that he sought to inquire into the uncle’s federal indictment for drug trafficking to show that

Gerardo was knowledgeable about drug trafficking. Defendant claimed that this was part of his defense to show that it was Gerardo and the other men who stole the drugs and needed someone to blame. The State objected to Defendant’s inquiry on relevance grounds.

{11} The district court concluded that Gerardo’s uncle’s federal drug trafficking charges had limited relevance to Gerardo’s knowledge of drug trafficking and therefore that the value of the evidence was substantially outweighed by its prejudicial effect. See *Bailey*, 2015-NMCA-102, ¶ 20 (noting the district court’s discretion to exclude evidence when the prejudicial impact substantially outweighs the probative value). Although the district court did not allow Defendant to ask about the federal indictment, it gave Defendant great latitude to ask questions regarding the uncle’s status as a drug dealer and to inquire about the knowledge and experience in the drug trafficking trade gained from his uncle, including the time frame during which Gerardo received this information from his uncle. These questions gave Defendant the “opportunity for effective cross-examination” of Gerardo about his experience and knowledge of the drug trade. *Sanders*, 1994-NMSC-043, ¶ 23. The district court did not abuse its discretion in excluding evidence of the uncle’s drug charges as irrelevant, and Defendant’s right to confrontation was not violated. See *State v. Meadors*, 1995-NMSC-073, ¶¶ 26, 33, 121 N.M. 38, 908 P.2d 731 (holding that the district court did not violate a defendant’s right to confrontation or abuse its discretion by excluding testimony it deemed more prejudicial than probative as it was not sufficiently indicative of the fact that the defendant sought to prove).

#### b. Jose Talavera

{12} Next, Defendant contends that the district court violated his right to confront Jose Talavera and abused its discretion by limiting his cross-examination into Jose’s cooperation with law enforcement. Defendant also asserts that the district court erred by precluding him from impeaching Jose with sealed pleadings after Jose denied cooperating with authorities. Defendant’s arguments lack merit because he was permitted to inquire into Jose’s cooperation with both state and federal authorities, and he was only precluded from inquiring into matters for which the district court determined Jose lacked personal knowledge.

{13} To challenge a witness’s credibility before the jury, a defendant is allowed to inquire into “whether a witness *hoped* to curry favor by cooperating with the prosecution.” *Gonzales*, 1999-NMSC-033,

<sup>2</sup> We note that the State claims that Defendant did not properly preserve his Confrontation Clause claims. Because we conclude there has been no Confrontation Clause violation, we need not address the preservation issue.

¶ 24 (internal quotation marks and citation omitted). The United States Supreme Court has “recognized that the exposure of a witness’ motivation in testifying is a proper and important function of the constitutionally protected right of cross-examination.” *Delaware v. Van Arsdall*, 475 U.S. 673, 678-79 (1986) (internal quotation marks and citation omitted).

{14} Here, Defendant was permitted to inquire into whether Jose cooperated with the State in exchange for a lighter sentence in this case and another unrelated federal case. Defendant was also permitted to question Jose at length about his federal indictment for drug trafficking. Accordingly, he received the opportunity to cross-examine Jose effectively about his cooperation with authorities, and so his right to confrontation was not violated. *Sanders*, 1994-NMSC-043, ¶ 23 (explaining that when a defendant is given “an opportunity for effective cross-examination” of a witness, there is no Confrontation Clause violation).

{15} Defendant further contends that he was denied the opportunity to impeach Jose with evidence of sealed federal pleadings to show that Jose was lying about cooperating with federal authorities. “Impeachment is crucial to effective cross-examination because it gives a party the opportunity to discredit a witness, so the jury properly has a way to determine whether a witness is untruthful or inaccurate.” *State v. Gomez*, 2001-NMCA-080, ¶ 12, 131 N.M. 118, 33 P.3d 669. However, impeachment evidence is still subject to the rules of evidence and, as such, is admitted or excluded at the discretion of the district court. *See id.* ¶¶ 12, 14 (explaining that the district court’s admission of impeachment evidence is reviewed for an abuse of discretion and is subject to the rules of evidence).

{16} Defendant attempted to impeach Jose, after he denied being a federal informant, by asking him why certain pleadings in the federal case were sealed, theorizing that the pleadings were sealed because Jose was a federal informant. The district court barred this line of questioning, concluding that Jose lacked the appropriate knowledge to answer why the documents were sealed. Considering Defendant’s thorough cross-examination into Jose’s charges, sentencing, and potential status as an informant, Defendant was given “the opportunity to discredit [the] witness.” *Id.* ¶ 12. Therefore, limiting Defendant’s impeachment of Jose due to Jose’s lack of personal knowledge was not an abuse of discretion. Rule 11-602 NMRA (“A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter.”).

{17} Having addressed Defendant’s

evidentiary challenges, we now turn to Defendant’s contention that improper jury instructions require reversal.

### B. Jury Instructions

{18} Defendant argues that the district court committed reversible error in issuing its stepdown instruction to the jury, resulting in a “constitutionally infirm conviction.” The infirmity, Defendant contends, manifested itself in two ways. First, he alleges the district court erred by not complying with *State v. Lewis*, which requires the jury to be informed that it may “consider both the greater and lesser offenses under a count in any order it deems appropriate provided it return a verdict of not guilty on the greater offense before the court may accept a verdict on the lesser included offense,” 2019-NMSC-001, ¶ 1, 433 P.3d 276. Second, he contends the jury instructions created “serious juror confusion” because they were internally inconsistent and contained undefined terms.

#### 1. Standard of review

{19} Preservation of a party’s argument generally determines which of two pertinent standards of review will guide this Court’s reviews of claimed error in jury instructions. *State v. Sandoval*, 2011-NMSC-022, ¶ 13, 150 N.M. 224, 258 P.3d 1016. “Under both standards of review, we determine whether a reasonable juror would have been confused or misdirected by the jury instruction.” *Id.* (internal quotation marks and citation omitted). Because we conclude that a reasonable juror would not have been confused or misled and therefore that there was no error in the first instance, we need not consider whether Defendant’s argument was preserved.

#### 2. Compliance with *Lewis*

{20} In *Lewis*, this Court considered the “ambiguity in our existing jury instructions regarding the order in which a jury must deliberate on counts which include both greater and lesser included offenses.” 2019-NMSC-001, ¶ 1. Recognizing a defendant’s interest in preventing jury deliberations from being improperly restricted and the state’s interest “in requiring the jury to grapple with the prospect of [a] defendant’s guilt of the greatest offense charged,” the *Lewis* Court adopted the “modified acquit first approach,” providing that “juries shall be instructed that they have discretion to choose the order in which they deliberate on the offenses within a count but that they may not return a verdict on a lesser included offense unless they unanimously find the defendant not guilty on the greater offense.” *Id.* ¶¶ 37-38, 40 (internal quotation marks and citation omitted). Defendant claims that the district court violated this holding in *Lewis*. The applicable instruction in this case provided in relevant part:

You may not find the defendant guilty of an included offense until you have unanimously decided that the defendant is not guilty of the offense that includes the included offense. For example, you may not find the defendant guilty of second degree murder until you have decided that he is not guilty of first degree murder. However, you have the discretion to choose the manner and order in which you deliberate on these offenses.

{21} According to Defendant, the stepdown instruction did not comply with *Lewis* because it did not “state that the jury must acquit of a greater offense before rendering a verdict as to any lesser-included offense.” However, a close examination of the first sentence of the given instruction reveals that it satisfies *Lewis*. This sentence instructed the jury that it “may not find [D]efendant guilty of an included offense until [the jury] ha[s] unanimously decided that [D]efendant is not guilty of the offense that includes the included offense” (emphasis added). Similarly, under the *Lewis* mandate, a jury cannot return a verdict on the lesser offense unless it first “return[s] a unanimous verdict of not guilty on the greater offense.” 2019-NMSC-001, ¶ 38. Though the given instruction uses the term “included offense” in place of “lesser offense” and “offense that includes the included offense” in place of “greater offense,” both iterations convey the same information to the jury, and therefore the stepdown instruction complied with *Lewis*. It provided the language necessary to prevent the jury from “grappl[ing] with the prospect of [a] defendant’s guilt of the greatest offense charged.” *Id.* ¶ 37 (internal quotation marks and citation omitted). Because the *Lewis* mandate is satisfied, we decline to reverse on this basis.

#### 3. Juror confusion

{22} Defendant next argues that even if the *Lewis* mandate was satisfied, the instructions confused the jury, resulting in error. To obtain reversal of his conviction, Defendant must show that a reasonable juror would be “confused or misdirected” by the given jury instructions. *Sandoval*, 2011-NMSC-022, ¶ 13 (internal quotation marks and citation omitted). The determination of “juror confusion or misdirection may stem not only from instructions that are facially contradictory or ambiguous, but from instructions which, through omission or misstatement, fail to provide the juror with an accurate rendition of the relevant law.” *State v. Benally*, 2001-NMSC-033, ¶ 12, 131 N.M. 258, 34 P.3d 1134. Defendant argues the jury instructions were confusing in three ways: (1) they were inconsistent, (2) they used “the term

‘included offense’ without defining it,” and (3) the curative instruction provided only that the stepdown instruction applied to first-degree willful and deliberate murder, failing to identify the stepdown instruction by instruction number.

{23} The stepdown instruction, Instruction No. 18, stated:

You have been instructed on the crimes of first degree murder, second degree murder, and voluntary manslaughter. You must consider each of these crimes. You should be sure that you fully understand the elements of each crime before you deliberate further.

You will then discuss and decide whether the defendant is guilty of murder in the first degree. If you unanimously agree that the defendant is guilty of murder in the first degree, you will return a verdict of guilty of murder in the first degree. If you do not agree, you should discuss the reasons why there is a disagreement.

If, after reasonable deliberation, you do not agree that the defendant is guilty of murder in the first degree you *should move to* a discussion of murder in the second degree. If you unanimously agree that the defendant is guilty of murder in the second degree, you will return a verdict of guilty of murder in the second degree. If you do not agree you should discuss the reasons why there is a disagreement.

If, after reasonable deliberation, you do not agree that the defendant is guilty of murder in the second degree, you *should consider* whether the defendant is guilty of voluntary manslaughter. If you unanimously agree that the defendant is guilty of voluntary manslaughter, you will return a verdict of guilty of voluntary manslaughter. If you do not agree, you should discuss the reasons why there is a disagreement.

You may not find the defendant guilty of more than one of the foregoing crimes. If you have a reasonable doubt as to whether the defendant committed any one of the crimes, you must determine that he is not guilty of that

crime. If you find him not guilty of all of these crimes, you must return a verdict of not guilty.

You may not find the defendant guilty of an included offense until you have unanimously decided that the defendant is not guilty of the offense that includes the included offense. For example, you may not find the defendant guilty of second degree murder until you have decided that he is not guilty of first degree murder. However, you have the discretion to choose the manner and order in which you deliberate on these offenses.

(Emphasis added.)

#### a. Internal inconsistency

{24} Defendant contends the stepdown instruction was internally inconsistent because it prescribed the order in which the jury “must” consider the offenses then later instructed the jury that it had the discretion to choose the order in which it considered the offenses. However, the relevant portion of the instruction does not use the word “must” as Defendant claims, but rather the term “should.” The term “should,” similar to “may,” is permissive or suggestive—not mandatory. See *Cerrillos Gravel Prods., Inc. v. Bd. of Cnty. Comm’rs of Santa Fe Cnty.*, 2004-NMCA-096, ¶ 10, 136 N.M. 247, 96 P.3d 1167 (“The word ‘may’ is permissive, and is not the equivalent of ‘shall,’ which is mandatory.”), *aff’d*, 2005-NMSC-023, ¶ 12, 138 N.M. 126, 117 P.3d 932; see also, e.g., *Aragon v. United States*, 146 F.3d 819, 826 (10th Cir. 1988) (holding that the use of the word “should” is suggestive language, rather than mandatory language). Examining the instructions as a whole, as the jury was instructed to do and as our caselaw requires, *State v. Cabezuela*, 2011-NMSC-041, ¶ 21, 150 N.M. 654, 265 P.3d 705, any permissive suggestion regarding the order of consideration was clarified by the express instruction informing the jury that it had the discretion to consider the offenses in any order it wished.

{25} We see no internal inconsistency in the instruction that would confuse or misdirect a reasonable juror. Furthermore, the stepdown instruction provided the jury with an accurate rendition of the relevant law, as it recites the language of UJI 14-250 NMRA, the stepdown instruction for varying degrees of homicide in place at the time of trial.<sup>3</sup>

#### b. Included offense not defined

{26} Defendant next claims the district court erred in failing to define “included offense” because it resulted in jury confusion. Defendant contends that a layperson would not comprehend that second-degree murder is a lesser-included offense of first-degree murder or that voluntary manslaughter is a lesser-included offense of second-degree murder based on this instruction.

{27} We again apply the error analysis set out in *Sandoval*, 2011-NMSC-022, ¶ 15. We are unpersuaded that the lack of a definition for “included offense” would confuse or misdirect a reasonable juror because the jury was provided with an example of a lesser-included offense. The jury was instructed that it could not find Defendant guilty of second-degree murder without first finding him not guilty of first-degree murder. Because the jury received this helpful example and because the jury never requested a definition, see *State v. Romero*, 2009-NMCA-012, ¶ 25, 145 N.M. 594, 203 P.3d 125 (inferring that the jury was not confused because it did not request a definition), we conclude that the instructions would not confuse or misdirect a reasonable juror and that there is no error. See *Sandoval*, 2011-NMSC-022, ¶ 13.

#### c. Curative instruction

{28} Defendant also asserts that the jury was confused by the curative instruction given in response to its question about whether it could “charge both felony murder and first-degree murder/second-degree murder/manslaughter” (emphasis added). Addressing the jury’s question, the district court gave a curative instruction stating, “The step-down instruction applies only to willful and deliberate murder.” Defendant contends that the curative instruction confused the jury both because it did not refer to the stepdown instruction by its number (eighteen), leaving the jury with no way to know that the curative instruction applied to the stepdown instruction and because the curative instruction only refers to willful and deliberate murder, resulting in “an ambiguous limitation which could be reasonably read to limit” application of the stepdown instruction to only first-degree murder. Defendant claims that the jury’s not-guilty verdicts for second-degree murder and voluntary manslaughter are clear evidence of this confusion.

{29} Again applying the *Sandoval* analysis to Defendant’s claimed error in the curative instruction, this Court must

<sup>3</sup> The stepdown instruction was subsequently amended when we recognized an ambiguity in New Mexico’s prior uniform stepdown instructions in that it failed to explain “whether a jury may proceed to consideration of a lesser offense if it is unable to agree on the greater offense”—an issue that is not presented by this case. Lewis, 2019-NMSC-001, ¶¶ 1, 24. Following Lewis, our prior stepdown instructions were replaced with UJI 14-6002B NMRA, which “serve[s] as a single adaptable instruction” adopted to “clarify the process for the jury to deliberate and return verdicts on lesser-included offenses.” UJI 14-6002B comm. cmt.

first determine if the lack of reference to Instruction No. 18 and the fact that the instruction was limited to the explanation that the stepdown instruction applied only to willful and deliberate murder would confuse or misdirect a reasonable juror. *Sandoval*, 2011-NMSC-022, ¶ 15. Here, the jury did not express any confusion as to which instruction the curative instruction applied. The jury also did not express any confusion in relation to whether its consideration should be limited to first-degree murder. The jury's lack of inquiry suggests that it was not confused. *See, e.g., Romero*, 2009-NMCA-012, ¶ 25 (inferring that the jury was not confused because it did not request clarification). While Defendant contends that this confusion is demonstrated by the jury returning verdicts of not guilty for second-degree murder and voluntary manslaughter, the jury's act of expressly entering these not-guilty verdicts instead demonstrates that it did not limit its consideration to first-degree murder and also understood the stepdown instruction, which explained that the jury "may not find the defendant guilty of more than one of the foregoing crimes." These verdicts, along with the jury's conviction of felony murder, demonstrate that the jury connected the curative instruction to the stepdown instruction. Therefore, we conclude that the jury was not confused or misdirected by the curative instruction. {30} Instead, the jury appeared confused as to whether it could convict on both felony murder *and* the other homicide offenses charged, questioning whether it could "charge both felony murder *and* first-degree murder/second-degree murder/manslaughter" (emphasis added). The district court correctly interpreted the jury's question as confusion related to whether the jury could convict for felony murder *and* one of the other charged homicide offenses. The district court noted that the confusion was likely due to the stepdown instruction referring to first-degree murder, but not differentiating between first-degree, felony murder and willful and deliberate first-degree murder. The jury's guilty verdicts for both felony murder and willful and deliberate first-degree murder support that this was the point of confusion and that the confusion was resolved by the curative instruction. Because any confusion was cured, reversal is unwarranted. *See State v. Parish*, 1994-NMSC-073, ¶¶ 4, 13, 118 N.M. 39, 878 P.2d 988 (explaining that a confusing instruction, in contrast with a legally erroneous instruction, may be cured when examining the instructions as a whole).

### C. Inconsistent Verdicts

{31} Defendant next claims that reversal is warranted because the verdicts are legally inconsistent. Defendant insists

that the verdicts acquitting him of the lesser-included offenses, but convicting him of first-degree murder are inconsistent because the charged homicide offenses share the elements that (1) Defendant killed Victim and (2) that this occurred in New Mexico on or about January 11, 2008. Defendant argues that due to not-guilty verdicts for second-degree murder and voluntary manslaughter, inconsistency is apparent in the guilty verdicts as to the findings of mens rea. Defendant says "it is equally as possible that the jury determined that there was not sufficient evidence to convict" on the shared essential elements as it is that the jury's verdict shows a rejection of the distinct elements—the mens rea. Defendant reasons that the possibility that the jury found the shared elements for first-degree murder but not for second-degree murder and voluntary manslaughter renders the verdicts legally inconsistent.

{32} We disagree. This Court reviews inconsistent convictions, not inconsistent verdicts. When the evidence is sufficient to support the verdict of conviction, we will not speculate as to why the jury acquitted a defendant of other charges—even if the conviction and acquittal are allegedly inconsistent. To examine the verdict of acquittal would require us to rule based on pure speculation or else would require an inquiry into the jury's deliberations, both of which we decline to undertake. *See United States v. Powell*, 469 U.S. 57, 66 (1984)

{33} Whether a legal inconsistency in a jury's verdict requires acquittal is a matter of law reviewed de novo. *United States v. Pierce*, 940 F.3d 817, 821 (2d Cir. 2019). The general rule is that "[c]onsistency in the verdict is not necessary." *Dunn v. United States*, 284 U.S. 390, 393 (1932). The state must prove each element of a charged offense beyond a reasonable doubt. *In re Winship*, 397 U.S. 358, 364 (1970) ("[T]he Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged."). Where there is sufficient evidence to support the conviction, reversal is not required. *See State v. Fernandez*, 1994-NMCA-056, ¶ 39, 117 N.M. 673, 875 P.2d 1104 (explaining that reversal of a conviction supported by sufficient evidence is not required even if it is irreconcilable with an acquittal because appellate courts review convictions—not acquittals).

{34} The rule set out in *Dunn* was upheld more than fifty years later in *Powell*, 469 U.S. at 69. In *Powell*, the defendant was both acquitted of the predicate offenses of conspiracy to possess cocaine and possession of cocaine and convicted of the

compound offense of "using the telephone to facilitate those offenses." *Id.* The defendant in *Powell*, like Defendant in this case, asserted that the alleged inconsistency between the convicted offense and acquitted offenses necessarily required reversal. *Id.* at 60. The *Powell* Court disagreed, holding that any inconsistency between acquittal and conviction did not require reversal because "[i]t is equally possible that the jury, convinced of guilt, properly reached its conclusion on the compound offense, and then through mistake, compromise, or lenity, arrived at an inconsistent conclusion on the lesser offense." *Id.* at 65. It reasoned that "an individualized assessment of the reason for the inconsistency would be based either on pure speculation, or would require inquiries into the jury's deliberations that courts generally will not undertake." *Id.* at 66. Instead, a criminal defendant, the *Powell* Court explained, is sufficiently protected "against jury irrationality or error by the independent review of the sufficiency of the evidence" as to those counts upon which a defendant is convicted. *Id.* at 67.

{35} Even though New Mexico is not bound by *Powell*, *see, e.g., State v. Halstead*, 791 N.W.2d 805, 810 (Iowa 2010) (explaining that, because the *Powell* Court did not base its decision on constitutional considerations, states are free to address inconsistent verdicts as they see fit in state criminal proceedings), we are persuaded by its reasoning and hereby expressly adopt it in New Mexico. Further, we view the *Powell* approach as consistent with the approach taken by our lower courts over the past fifty years. *See, e.g., State v. Roper*, 2001-NMCA-093, ¶ 24, 131 N.M. 189, 34 P.3d 133 ("We have frequently said that our business is to review the verdicts of conviction, and not concern ourselves with any alleged acquittals, and thus we do not entertain contentions alleging that the verdicts are irreconcilable."); *State v. Leyba*, 1969-NMCA-030, ¶¶ 36-37, 80 N.M. 190, 453 P.2d 211 ("The verdict of acquittal is beyond our control. . . . Since we may only speculate as to why the jury acquitted defendant . . . , that acquittal, even though irreconcilable with conviction . . . , does not require the conviction to be set aside as a matter of law."); *State v. Nichols*, 2016-NMSC-001, ¶¶ 36-37, 363 P.3d 1187 (discussing inconsistent verdicts in dicta and basing its "ultimate decision" not on any alleged inconsistency, but upon insufficient evidence to support the conviction). Indeed, the majority of jurisdictions have applied the rule announced in *Dunn* and reaffirmed in *Powell*. *See, e.g., State v. Davis*, 466 S.W.3d 49, 72-74 (Tenn. 2015) (recognizing that inconsistent verdicts can take multiple forms, and when there is an alleged inconsistency between

a conviction and an acquittal, the majority of jurisdictions follow *Dunn* and *Powell* in declining to upset a conviction as long as there is sufficient evidence); see also *Beattie v. State*, 924 N.E.2d 643, 649 (Ind. 2010) (reasoning that a jury may return inconsistent verdicts for a number of reasons, and “agree[ing] with and adopt[ing] the federal rule expressed by the United States Supreme Court in *Dunn* and *Powell*, which has been for the most part the prevailing rule of Indiana jurisprudence”).

{36} Applying *Powell*, Defendant has not presented this Court with inconsistent convictions, and we decline to examine the jury’s rationale for acquitting Defendant of second-degree murder and voluntary manslaughter while convicting him of willful and deliberate first-degree murder because such an examination would require that we rule based on pure speculation or else inquire into the jury’s deliberations, both endeavors that we decline to undertake. See *Powell*, 469 U.S. at 66. As Defendant concedes and the record reflects, the State presented sufficient evidence to support the conviction of willful and deliberate first-degree murder, and we will not vacate that conviction. See *Fernandez*, 1994-NMCA-056, ¶ 39, (declining to vacate a conviction supported by substantial evidence acknowledging that “we review the verdict of conviction, not the verdict of acquittal”); see also *Powell*, 469 U.S. at 69 (explaining that, when a defendant is given the benefit of acquittal on certain counts, “it is neither irrational nor illogical to require [a defendant] to accept the burden of conviction on the counts on which the jury convicted”).

#### D. Implied Acquittal and Double Jeopardy

{37} We now turn to Defendant’s argument that his conviction for willful and deliberate first-degree murder should be vacated under the implied acquittal doctrine as this conviction violates his right to be free from double jeopardy. For the reasons explained below, both the implied acquittal doctrine and double jeopardy are inapposite here.

##### 1. Implied acquittal doctrine

{38} Defendant contends that *State v. Montoya*, an implied acquittal case, supports reversal. 2013-NMSC-020, ¶ 25, 306 P.3d 426. In *Montoya*, we held that the defendant, having been acquitted by a jury of the lesser offense of second-degree murder, was constitutionally protected from subsequent prosecution for that offense or for a related

greater offense because acquittal of the lesser offense resulted in an implied acquittal of the greater offense. *Id.* ¶¶ 25-27.

{39} *Montoya* is of no assistance to Defendant because the implied acquittal doctrine has not been extended to cases where, as here, the jury was *not* silent on the greater offense but rather expressly convicted the defendant of the greater offense.<sup>4</sup> See *United States v. Bordeaux*, 121 F.3d 1187, 1192 (8th Cir. 1997) (rejecting the application of the applied acquittal doctrine where the jury was not silent on the greater offense); *Saulsbury v. Lee*, 937 F.3d 644, 649 (6th Cir. 2019) (explaining that the implied acquittal doctrine only applies where “the jury remained silent in the face of a free choice to convict”). Defendant concedes that there is no New Mexico or federal authority to support his position that the implied acquittal doctrine operates even where the jury has expressly convicted on the greater offense. And where Defendant has not provided authority to support his position, we may assume no such authority exists. *Lee v. Lee (In re Doe)*, 1984-NMSC-024, ¶ 2, 100 N.M. 764, 676 P.2d 1329 (noting that where a party fails to cite authority, this Court assumes no such authority exists).

##### 2. Double jeopardy

{40} Defendant also asserts that his conviction violates double jeopardy and that retrial for any of the homicide offenses would be barred by double jeopardy. “The Fifth Amendment of the United States Constitution prohibits double jeopardy and is made applicable to New Mexico by the Fourteenth Amendment.” *State v. Swick*, 2012-NMSC-018, ¶ 10, 279 P.3d 747. The Double Jeopardy Clause of the Fifth Amendment guarantees that no person shall “be twice put in jeopardy of life or limb” for the same offense. U.S. Const. amend. V. Double jeopardy is implicated where there is “(1) a second prosecution for the same offense after acquittal, (2) a second prosecution for the same offense after conviction, [or] (3) multiple punishments for the same offense.” *Montoya*, 2013-NMSC-020, ¶ 23 (internal quotation marks and citation omitted). Because this case does not involve any of the enumerated protections, double jeopardy is not implicated.

{41} First, there has only been one prosecution, and while Defendant insists retrial would be barred on double jeopardy grounds, as we determine no error below warranting reversal, retrial is not contemplated. In addition, this is not a multiple punishment case. Defendant was only left with one homicide

conviction after his felony murder conviction was merged, and he does not argue that his convictions for conspiracy, evidence tampering, and kidnapping are punishments for the same offense in violation of double jeopardy. Rather, Defendant insists that his right to be free from double jeopardy is violated because he was simultaneously convicted of willful and deliberate first-degree murder and acquitted of second-degree murder and voluntary manslaughter. Defendant fails to make a justifiable double jeopardy argument. {42} For the first time at oral argument, Defendant argued that the language of the New Mexico Constitution provides greater protection than its federal counterpart and called upon this Court to expand the protections of the New Mexico Constitution based on principles of *res judicata* and collateral estoppel to cases where, as here, a defendant has been convicted on a greater offense but acquitted on a lesser-included offense. However, under either constitution, double jeopardy and principles of *res judicata* and collateral estoppel are simply not implicated where there has been neither multiple punishments nor successive prosecutions. See *State v. Gallegos*, 2011-NMSC-027, ¶ 30, 149 N.M. 704, 254 P.3d 655 (providing that both state and federal double jeopardy clauses are applicable when there have been successive prosecutions or multiple punishments); *Alba v. Hayden*, 2010-NMCA-037, ¶ 6, 148 N.M. 465, 237 P.3d 767 (explaining that *res judicata* and collateral estoppel “only apply to successive litigation and not to issues or claims raised in the same proceeding”). Therefore, we do not further entertain Defendant’s double jeopardy and estoppel arguments.

##### E. Cumulative Error

{43} Finally, Defendant asserts that, even if the claimed errors above individually do not warrant reversal, cumulative error deprived him of a fair trial requiring reversal. In light of our conclusion that the district court did not err, there can be no cumulative error. See *State v. Casillas*, 2009-NMCA-034, ¶ 51, 145 N.M. 783, 205 P.3d 830.

#### III. CONCLUSION

{44} For the foregoing reasons, we affirm.

{45} **IT IS SO ORDERED.**

**JULIE J. VARGAS, Justice**

**WE CONCUR:**

**C. SHANNON BACON, Chief Justice**

**MICHAEL E. VIGIL, Justice**

**DAVID K. THOMSON, Justice**

<sup>4</sup> Defendant insists that Florida caselaw supports his position. The Florida cases Defendant cites are inapplicable because they did not hold that the implied acquittal doctrine is automatically invoked where the jury convicts on the greater offense. Instead, the Florida Supreme Court has made clear that the implied acquittal doctrine is limited to situations where the jury is silent on the greater offense. *Greene v. City of Gulfport*, 103 So. 2d 115, 116 (Fla. 1958) (precluding subsequent trial for the higher-grade offense “since the verdict convicting of one of the lower grades, but saying nothing as to the higher, necessarily implies a finding of not guilty of the higher offense”).

# MEMORANDUM OPINION

*This decision of the New Mexico Court of Appeals was not selected for publication in the New Mexico Appellate Reports. Refer to Rule 12-405 NMRA for restrictions on the citation of unpublished decisions. Electronic decisions may contain computer-generated errors or other deviations from the official version filed by the Court of Appeals.*

**Filing Date: 10/30/2023**

**No. A-1-CA-40201**

**STATE OF NEW MEXICO,**

Plaintiff-Appellee,

v.

**ANTHONY RUIZ,**

Defendant-Appellant.

**APPEAL FROM THE DISTRICT COURT  
OF RIO ARRIBA COUNTY**

Jason Lidyard, District Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

Emily Bowen, Assistant Attorney General

Albuquerque, NM

for Appellee

Bennett J. Baur, Chief Public Defender

Melanie C. McNett, Assistant Appellate Defender

Santa Fe, NM

for Appellant

## ► Introduction of Opinion

Defendant Anthony Ruiz appeals his conviction and sentence for driving while intoxicated (DWI) (third offense) (impaired to the slightest degree), contrary to NMSA 1978, Section 66-8-102(A) (2016). Defendant argues that (1) the State presented insufficient evidence to establish the corpus delicti of DWI, and (2) the district court erred in using a prior DWI conviction to enhance his sentence. We affirm.

Jennifer L. Attrep, Chief Judge

WE CONCUR:

Kristina Bogardus, Judge

Katherine A. Wray, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-40201>

# MEMORANDUM OPINION

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**Filing Date: 10/31/2023**

**No. A-1-CA-39583**

**MARIAH RAMOS,**  
Plaintiff-Appellant,

v.

**SMITH'S FOOD & DRUG CENTERS, INC.; ELVIA  
MCKENZIE, an individual; MARISSA VIGIL,  
an individual,**  
Defendants-Appellees.

**APPEAL FROM THE DISTRICT COURT  
OF SANTA FE COUNTY**

Matthew J. Wilson, District Court Judge

Anaya Law, LLC  
Edward M. Anaya  
San Francisco, CA

for Appellant

Rodey, Dickason, Sloan,  
Akin & Robb, P.A.  
Edward Ricco  
Linda Vanzi  
Albuquerque, NM

for Appellees

## ► Introduction of Opinion

Plaintiff Mariah Ramos brought this action alleging that Defendants Smith's Food & Drug Centers, Inc. (Smith's) and two employees, Elvia McKenzie (McKenzie) and Marissa Vigil (Vigil), (collectively, Defendants) discriminated against her in violation of the New Mexico Human Rights Act (NMHRA), NMSA 1978, §§ 28-1-1 to -14 (1969, as amended through 2023), by failing to hire her as a courtesy clerk due to her pregnancy. See Section 28-1-7(A). Plaintiff appeals the district court's order granting Defendants' motion for summary judgment, which dismissed her claims, and its order awarding Defendants costs. Plaintiff contends that the district court erred in: (1) granting summary judgment on her pregnancy discrimination claim; (2) granting summary judgment on her reasonable accommodations claim; (3) limiting the time for discovery under Rule 1-056(F) NMRA; and (4) granting costs for Defendants. We affirm the district court.

Shammara H. Henderson, Judge

WE CONCUR:

J. Miles Hanisee, Judge

Jane B. Yohalem, Judge

To read the entire opinion, please visit  
the following link: <https://bit.ly/A-1-CA-39583>

# MEMORANDUM OPINION

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**Filing Date: 10/31/2023**

**No. A-1-CA-38394**

**IN THE MATTER OF THE ESTATE OF PAULINE S.  
PEREA, Deceased.**

**PAUL PEREA,**  
Plaintiff-Appellant,  
v.

**RUDY PEREA SR., Personal Representative,**  
Defendant-Appellee.

**APPEAL FROM THE DISTRICT COURT  
OF SANDOVAL COUNTY**

Louis P. McDonald, District Court Judge

Crowley & Gribble, P.C.  
Clayton E. Crowley  
Albuquerque, NM

for Appellant

Sutin, Thayer & Browne  
Lynn E. Mostoller  
Felecia N. Cantwell  
Albuquerque, NM

for Appellee

## ► Introduction of Opinion

Plaintiff Paul Perea appeals from the district court's final order regarding the distribution of his mother Pauline S. Perea's estate (the Estate) and interpretation of the Will of Pauline S. Perea (the Will). On appeal, Plaintiff argues that (1) the Will does not permit Defendant Rudy Perea Sr., who is also the personal representative (the PR) of the Estate and Plaintiff's brother, to deed a tract of real property to Plaintiff without first paying the reverse mortgage on the real property from the funds of the Estate; and (2) the district court erred in deciding that a house not specifically devised in the Will was part of the Estate's residuary and thus to be split equally between Plaintiff and Defendant. Because we conclude that the plain language of the Will supports the district court's order, we affirm.

Katherine A. Wray, Judge

WE CONCUR:

Jennifer L. Attrep, Chief Judge

Shammara H. Henderson, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-38394>

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Preston Hollis is a 2023 graduate of the University of New Mexico School of Law. He will be rejoining the firm after clerking for the Honorable Kenneth J. Gonzales of the United States District Court for the District of New Mexico.

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Michael Woods graduated summa cum laude in 2021 from the University of New Mexico School of Law and just returned from a one-year clerkship for the Honorable Shammara H. Henderson of the New Mexico Court of Appeals.

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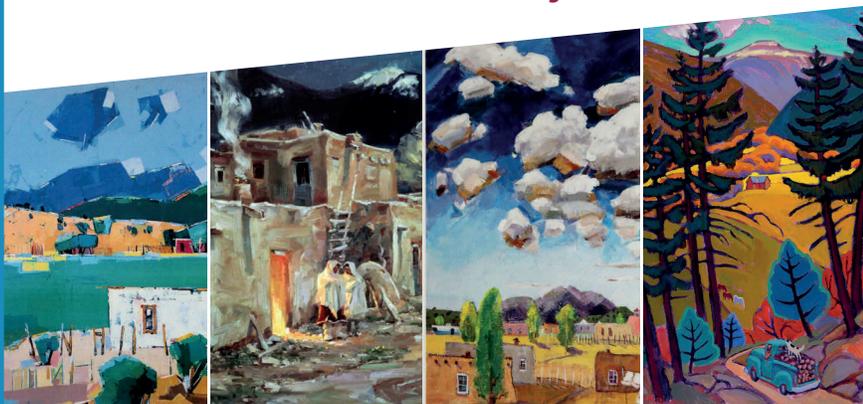
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Atkinson, Baker & Rodriguez, P.C. is a successful and established Albuquerque-based complex civil commercial and tort litigation firm seeking motivated and talented associate attorney candidates with great academic credentials. Join our small but growing focused Firm and participate in litigating cases from beginning to end with the support of our nationally recognized, experienced attorneys! Come work for a team that fosters development and growth to become a stand-out civil litigator. Highly competitive compensation and benefits. Send resumes, references, writing samples, and law school transcripts to Atkinson, Baker & Rodriguez, P.C., 201 Third Street NW, Suite 1850, Albuquerque, NM 87102 or [e\\_info@abrfirm.com](mailto:e_info@abrfirm.com). Please reference Attorney Recruiting.

#### Senior Trial Attorneys, Trial Attorneys, and Assistant Trial Attorneys

The Eleventh Judicial District Attorney's Office, Div. II, in Gallup, New Mexico, McKinley County is seeking applicants for Assistant Trial Attorneys, Trial Attorneys and Senior Trial Attorneys. You will enjoy working in a community with rich culture and history while gaining invaluable experience and making a difference. The McKinley County District Attorney's Office provides regular courtroom practice, supportive and collegial work environment. You are a short distance away from Albuquerque, Southern parts of Colorado, Farmington, and Arizona. We offer an extremely competitive salary and benefit package. Salary commensurate with experience. These positions are open to all licensed attorneys who have knowledge in criminal law and who are in good standing with the New Mexico Bar or any other State bar (Limited License). Please Submit resume to District Attorney Bernadine Martin, 201 West Hill, Suite 100, Gallup, NM 87301, or e-mail letter to [Bmartin@da.state.nm.us](mailto:Bmartin@da.state.nm.us). Position to commence immediately and will remain opened until filled.

#### Litigation Attorney

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

#### Experienced Litigation Attorney

Priest & Miller LLP is seeking an experienced litigation attorney to join our team. Priest & Miller is a dynamic defense firm that handles complex cases involving claims of medical negligence, wrongful death, catastrophic injury, and oil and gas accidents. We are seeking attorneys with 3+ years of experience and who will thrive in a collaborative, flexible and fast paced environment. We offer highly competitive salaries and a generous benefits package. All inquiries will be kept confidential. Please email your resume to [Resume@PriestMillerLaw.com](mailto:Resume@PriestMillerLaw.com).

### Briefing Attorney

Excellent licensed briefing attorney with strong education, experience and appellate qualifications. Practice includes Texas, New Mexico, and other states, State and Federal Courts. Expect an active trial practice for Nationally recognized Texas NM Plaintiff PI trial attorney in El Paso/Las Cruces. Full-time Salary range: \$100,000.00 - \$180,000.00 per year. Please submit resume and writing sample to [jimscherr@yahoo.com](mailto:jimscherr@yahoo.com)

### Lawyers With 3+ Years of Experience

Montgomery & Andrews, P.A. is seeking lawyers with 3+ years of experience to join its firm in Santa Fe, New Mexico. Montgomery & Andrews offers enhanced advancement prospects, interesting work opportunities in a broad variety of areas, and a relaxed and collegial environment, with an open-door policy. Candidates should have strong written and verbal communication skills. Candidates should also be detail oriented and results-driven. New Mexico licensure is required. Please send resumes to [jwechsler@montand.com](mailto:jwechsler@montand.com).

### Bernalillo County Hiring 20 Prosecutors

Are you ready to work at the premiere law firm in New Mexico? The Bernalillo County District Attorney's Office is hiring 20 prosecutors! Come join our quest to do justice every day and know you are making a major difference for your community. We offer a great employment package with incredible benefits. If you work here and work hard, you will gain trial experience second to none, collaborating with some of the most seasoned trial lawyers in the state. We are hiring at all levels of experience, from Assistant District Attorneys to Deputy District Attorneys. Please apply to the Bernalillo County District's Attorney's Office at: <https://berncoda.com/careers-internships/>. Or contact us at [recruiting@da2nd.state.nm.us](mailto:recruiting@da2nd.state.nm.us) for more information.

### Assistant District Attorney

The Fifth Judicial District Attorney's office has immediate positions open 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 ( \$ 70,196.00 ) to a Senior Trial Attorney ( \$82,739.00), based upon experience. Must be licensed in the United States. These positions are located in the Lovington, NM office. The office will pay for your New Mexico Bar Dues as well as the National District Attorney's Association membership. Please send resume to Dianna Luce, District Attorney, 102 N. Canal, Suite 200, Carlsbad, NM 88220 or email to [nshreve@da.state.nm.us](mailto:nshreve@da.state.nm.us)

### DNA-People's Legal Services Wants To Hire You!

DNA - People's Legal Services ("DNA") is committed to providing high quality legal services to persons living in poverty on the Navajo, Hopi and Jicarilla Apache Reservations, and in parts of Northern Arizona, New Mexico, and Southern Utah. DNA's main office, as well as DNA's Fort Defiance branch office, are located in Window Rock, Arizona. DNA also has branch offices in Chinle, Arizona, Tuba City, Arizona, Flagstaff, Arizona, on the Hopi BIA judicial compound near Keams Canyon, Arizona, and Farmington, New Mexico. DNA legal staff practice in tribal, state, federal, and administrative courts. DNA IS SEEKING TO HIRE MANAGING AND STAFF ATTORNEYS FOR THE FOLLOWING OPEN POSITIONS: 1. Managing and Staff Attorney (State Licensed - Multiple Locations - NM & AZ); 2. Managing and Staff Attorney (Tribal Court Licensed - Multiple Locations - NM & AZ); 3. NM VOCA Project Director (Farmington, NM or Hybrid-Remote). WHAT TO SUBMIT: Employment Application (found at <https://dnalegalservices.org/careeropportunities-2/>), Resume, Cover Letter, and upon request, Transcripts and (Writing Sample-Attorneys only). HOW TO APPLY: Email: [HResources@dnalegalservices.org](mailto:HResources@dnalegalservices.org) | Direct: 928.871.4151 ext. 5640 or Cell: 928.245.4575 Fax: 928.871.5036 (Faxed documents accepted). Preference is given to qualified Navajo and other Native American applicants. DNA requires all applicants to be eligible to work within the United States. DNA will not sponsor visas unless otherwise noted on the position description.

### Requesting Letters of Interest for Contract Compliance Officer

The City of Albuquerque (City), through the City Council Services Department (Council Services) is requesting Letters of Interest (RFLI) for services to serve as a Contract Compliance Officer (CCO) to ensure compliance by the Civilian Police Oversight Agency (CPOA) and the Civilian Police Oversight Advisory Board (CPOAB) with the Police Oversight Ordinance and the 2014 DOJ Settlement Agreement with the City of Albuquerque. The selected candidate for this part-time contract position shall not be a current or former employee of the Albuquerque Police Department nor have served on the CPOA Board. Experience in compliance and familiarity with interpreting administrative or personnel policies, procedures and ordinances preferred. For a complete description of the position and to submit a letter of interest please visit: [www.cabq.gov/complianceofficer](http://www.cabq.gov/complianceofficer)

### Full-Time Associate Attorney

Gallagher, Casados & Mann, PC is an Albuquerque law firm with a primary focus on defending clients in civil litigation. We are looking for a full-time associate attorney. The ideal candidate will have 2 to 5 years of experience. Our lawyers and staff enjoy a congenial working environment with a healthy and happy work-life balance. Candidates should have excellent academic credentials and communication skills. Compensation depends on experience and is competitive with other firms. Please direct inquiries together with a resume to [wjackson@gcmlegal.com](mailto:wjackson@gcmlegal.com).

### Associate Attorney

Kennedy, Hernandez & Harrison, P.C. is a small, Albuquerque-based firm with a focus on plaintiffs' civil litigation in the areas of civil rights, wrongful death, and serious personal injury. We are looking for attorneys with 0-5 years of experience who are self-motivated and eager to learn. As part of our collaborative team, associates gain experience in every aspect of our cases: meeting clients, investigating cases, drafting pleadings, handling discovery and depositions, briefing motions, and developing a case all the way through trial and appeal. Candidates should be hard-working and organized, with strong writing skills. Our firm is fast paced with competitive salary and benefits. Please send resumés and writing samples to [Lhernandez@kennedyhernandez.com](mailto:Lhernandez@kennedyhernandez.com).

### Santa Clara Pueblo Full-time Chief Judge

Salary: Negotiable; Full benefits; Applications: Open until filled; First day of work: TBD; Position Summary: Hired by the Santa Clara Pueblo Tribal Council, the Chief Judge serves as the chief judicial officer of the Santa Clara Pueblo Tribal Court system and represents the values of Santa Clara Pueblo. Qualifications: At least 30 years of age, high moral character and integrity, no felony convictions within the past 20 years and never removed from any position as judge for cause. Prior knowledge of the customs, traditions and laws of Santa Clara Pueblo and bar admission in any jurisdiction shall be considered. Experience in civil, criminal, juvenile and probate law shall also be considered. Knowledge of Pueblo, State and Federal civil and criminal jurisdiction within the Pueblo, the Indian Child Welfare Act and Special Tribal Criminal Jurisdiction is highly recommended. All STCJ Judges shall be a law school graduate and a member of a Federal bar. For any other questions or more information on the list of duties and responsibilities: Please contact SCP Human Resources Director Angela M. Gallegos, [amgallegos@santaclarapueblo.org](mailto:amgallegos@santaclarapueblo.org)

**Deputy Attorney General for  
Affirmative Litigation  
New Mexico Office of the  
Attorney General**

**Santa Fe or Albuquerque, New Mexico**

Job Description: The New Mexico Office of the Attorney General is seeking a highly-skilled and motivated individual to join our team as the Deputy Attorney General for Affirmative Litigation. The Deputy Attorney General will play a critical role in leading and managing our affirmative litigation efforts. They will work closely with the Attorney General, the Chief Deputy Attorney General and other senior staff members to develop and execute litigation strategies that promote justice, protect the public interest, and advance the rights of individuals and communities. This is an at-will position. Responsibilities: Lead and oversee the development and implementation of affirmative litigation strategies in collaboration with the Attorney General and other stakeholders including, but not limited to, civil rights, consumer protection, environmental protection, and corporate fraud; Conduct legal research and analysis to identify potential claims and develop legal theories to support affirmative litigation cases; Prepare and file legal documents, including complaints, motions, and briefs, in state and federal courts; Manage a team of attorneys and legal staff involved in affirmative litigation, providing guidance, feedback, and mentorship; Collaborate with relevant government agencies, nonprofits, and advocacy organizations to gather evidence, build partnerships, and leverage resources; Conduct investigations and discovery processes to gather evidence and build strong cases Represent the New Mexico Office of Attorney General in court proceedings, including hearings, trials, and possible appeals; Monitor developments in relevant legal areas and propose policy and procedural changes to enhance the effectiveness of affirmative litigation efforts; Maintain accurate and organized case files, records, and other documentation; Collaborate and monitor outside legal counsel pursuing legal claims and lawsuits on behalf of the office; Lead nationwide litigation in the pursuit of protecting public interests. Qualifications: Juris Doctor (J.D.) degree from an accredited law school; Admission to the New Mexico state bar and in good standing or the ability to acquire a limited law license; 10 years of experience in litigation, with a focus on affirmative litigation, and 5 years of management experience preferred; Knowledge of civil rights law, consumer protection law, and environmental law preferred; Excellent legal research, writing, and oral advocacy skills; Proven ability to lead and manage a team of attorneys and legal staff; Demonstrated experience in developing and executing litigation

strategies. Strong analytical and problem-solving skills; Exceptional organizational and time management abilities; Ability to work effectively under pressure and meet deadlines; Excellent interpersonal and communication skills. Application Instructions: To apply for the position of Deputy Attorney General for Affirmative Litigation, please submit the following documents to Dean Woulard at [recruiting@nmag.gov](mailto:recruiting@nmag.gov): 1. Cover letter detailing your interest in the role and your relevant experience. 2. Resume/CV with a detailed overview of your educational and professional background. 3. Writing samples showcasing your legal research and writing abilities. 4. Contact information for three professional references.

**Division Director for Civil Rights  
New Mexico Office of the  
Attorney General  
Santa Fe or Albuquerque,  
New Mexico**

Job Description: The New Mexico Office of the Attorney General is seeking a dynamic and experienced individual to join our team as the Division Director for Civil Rights. The Director will be responsible for overseeing and managing legal matters related to civil rights enforcement and protection. Their primary focus is promoting equality, combating discrimination, and upholding constitutional and statutory rights. The Director will work closely with the Attorney General, Chief Deputy Attorney General, and Deputy Attorney General for Affirmative Litigation and collaborate with a team of attorneys and legal professionals to develop and execute strategic litigation initiatives. Responsibilities: Provide legal counsel and guidance on civil rights laws, regulations, and policies to government agencies, departments, and officials; Oversee and manage civil rights investigations and enforcement actions; Assist in the development and implementation of policies and regulations aimed at protecting civil rights; Develop and implement outreach initiatives to raise awareness about civil rights, educate the public on their rights and protections, and promote inclusivity and diversity; Oversee and manage civil rights litigation, including working with other attorneys, developing case strategies, and representing the New Mexico Office of the Attorney General in court or administrative proceedings; Collaborate with other government agencies, civil rights organizations, community groups, and stakeholders to address civil rights issues effectively; Advocate for civil rights issues by engaging in public policy discussions, testifying before legislative bodies, and promoting legislation or regulations that enhance civil rights protections. Qualifications: Juris Doctor (J.D.) degree from an accredited law school; Admission

to the New Mexico state bar and in good standing or the ability to acquire a limited law license; 6 years of experience in litigation, with a demonstrated focus on affirmative litigation and 3 years of management experience preferred; Strong knowledge of civil rights law, and other relevant legal areas; Proven track record of developing and executing successful litigation strategies; Excellent leadership and management skills, with the ability to inspire and motivate a team of attorneys and legal professionals; Outstanding legal research, writing, and oral advocacy skills; Strong analytical and problem-solving abilities; Ability to work effectively under pressure, prioritize tasks, and meet deadlines; Exceptional interpersonal and communication skills, with the ability to collaborate effectively with diverse stakeholders; Demonstrated commitment to social justice, equality, and public interest law. Application Instructions: To apply for the position of Division Director for Civil Rights, please submit the following documents to Dean Woulard at [recruiting@nmag.gov](mailto:recruiting@nmag.gov): 1. Cover letter detailing your interest in the role and your relevant experience; 2. Resume/CV with a detailed overview of your educational and professional background; 3. Writing samples showcasing your legal research and writing abilities; 4. Contact information for three professional references.

**Immigration Attorney**

Rebecca Kitson Law is seeking an Associate Attorney with passion and commitment to help immigrants in family based and humanitarian immigration relief. Our firm values compassion, teamwork, excellence, and fierce advocacy. Our team works collaboratively to create a warm and supportive work environment that provides the opportunity to transform people's lives, bring families together, and protect the vulnerable. We are proud to be inclusive firm that embraces and honors diversity in our staff and clients. We offer robust tiered benefits after probationary periods to include: extensive time off, fully funded health insurance, dental, vision, short- and long-term disability and life insurance and a 401k with employer contribution. Flexible hybrid work options are available, as well as a relocation budget if needed. Experience in immigration law is welcomed but not required. MUST be fully fluent in Spanish. Must have a law license in any state and be in good standing. Salary DOE. To be considered for the position, please submit a resume, letter of intent, and writing sample to [mf@rkitsonlaw.com](mailto:mf@rkitsonlaw.com).

**Division Director for  
Environmental Protection  
New Mexico Office of the  
Attorney General  
Santa Fe or Albuquerque,  
New Mexico**

Job Description: The New Mexico Office of the Attorney General is seeking a dynamic and experienced individual to join our team as the Division Director for Environmental Protection. The Environmental Protection Division Director is responsible for overseeing and managing legal matters related to environmental protection and enforcement. Their primary focus is to ensure compliance with environmental laws and regulations, protect natural resources, pursue affirmative environmental protection litigation, and advocate for the preservation of environmental resources and environmental quality standards. Responsibilities: Provide legal counsel and guidance on matters related to environmental laws, regulations, and policies to various government agencies, departments, and officials; Oversee and manage enforcement actions related to environmental violations, which can involve conducting investigations, collaborating with law enforcement agencies, and initiating legal proceedings against violators; Assist in the development and implementation of environmental policies and regulations at the state or federal level; Advocate for environmental protection and conservation initiatives, including supporting or opposing environmental legislation, participating in public hearings, and representing the Attorney General's Office in environmental matters before administrative bodies and courts; Collaborate with other government agencies, non-profit organizations, and stakeholders involved in environmental protection and enforcement efforts; Oversee and manage litigation related to environmental matters, including working with other attorneys, managing case strategy, and ensuring legal actions are aligned with the overall objectives of the Attorney General's Office. Qualifications: Juris Doctor (J.D.) degree from an accredited law school; Admission to the New Mexico state bar and in good standing or the ability to acquire a limited law license; 6 years of experience in litigation, with a demonstrated focus on affirmative litigation and 3 years of management experience preferred; Strong knowledge of environmental law and other relevant legal areas; Proven track record of developing and executing successful litigation strategies; Excellent leadership and management skills, with the ability to inspire and motivate a team of attorneys and legal professionals; Outstanding legal research, writing, and oral advocacy skills; Strong analytical and problem-solving abilities; Ability to work effectively under pressure, prioritize

tasks, and meet deadlines; Exceptional interpersonal and communication skills, with the ability to collaborate effectively with diverse stakeholders Demonstrated commitment to social justice, equality, and public interest law. Application Instructions: To apply for the position of Division Director for Environmental Protection, please submit the following documents to Dean Woulard at [recruiting@nmag.gov](mailto:recruiting@nmag.gov): 1. Cover letter detailing your interest in the role and your relevant experience; 2. Resume/CV with a detailed overview of your educational and professional background; 3. Writing samples showcasing your legal research and writing abilities; 4. Contact information for three professional references.

**IPRA Attorney Lead  
New Mexico Office of the  
Attorney General  
Santa Fe or Albuquerque,  
New Mexico**

Full-Time; Open until the position is filled. Job Description: The New Mexico Office of the Attorney General (the Office) seeks a dynamic and experienced individual to join our team as the lead attorney for fulfilling Inspection of Public Records Act (IPRA) requests. The lead IPRA Attorney is responsible for overseeing and managing legal matters related to IPRA requests to the Office. Their primary focus is the timely, efficient, and effective processing of requests to inspect public records. The IPRA Lead Attorney works closely with the Special Counsel for the Attorney General, Deputy Attorney General for Civil Affairs, and Director of Government Counsel & Accountability and collaborates with attorneys and legal professionals throughout the Office. Responsibilities: Oversee and manage IPRA request fulfillment, including working with other attorneys, developing case strategies, and representing the New Mexico Office of the Attorney General in court or administrative proceedings; Provide legal counsel and guidance on IPRA laws, regulations, and policies to the Office; Collaborate with other government agencies, community groups, and stakeholders to address IPRA and government transparency issues effectively; Develop and implement internal trainings to build institutional awareness about IPRA and government transparency; Assist in the development and implementation of policies and regulations aimed at IPRA law and government transparency; Engage in public policy discussions, testifying before legislative bodies, and promoting legislation or regulations that develop the legal framework impacting public records in New Mexico. Qualifications: Juris Doctor (JD) degree from an accredited law school; Admission to the New Mexico state bar and in good standing or the ability to acquire

a limited law license; Minimum of four (4) years of experience in the practice of law. Preferred qualification of 6 years of experience in litigation, with a demonstrated experience processing IPRA requests and 3 years of management experience preferred; Strong knowledge of IPRA law, and other relevant legal areas; Excellent leadership and management skills, with the ability to inspire and motivate a team of attorneys and legal professionals; Outstanding legal research, writing, and oral advocacy skills; Strong analytical and problem-solving abilities; Ability to work effectively under pressure, prioritize tasks, and meet deadlines; Exceptional interpersonal and communication skills, with the ability to collaborate effectively with diverse stakeholders; Demonstrated commitment to public service law; Application Instructions: To apply for the position of IPRA Attorney Lead, please submit the following documents to Dean Woulard at [recruiting@nmag.gov](mailto:recruiting@nmag.gov): 1. Cover letter detailing your interest in the role and your relevant experience; 2. Resume/CV with a detailed overview of your educational and professional background; 3. Writing samples showcasing your legal research and writing abilities; 4. Contact information for three professional references. The New Mexico Office of the Attorney General is committed to recruiting the highest quality candidates who embody its institutional values of: Integrity - a commitment to honesty, ethical behavior, and transparency in all actions and decisions; Excellence - the highest level of professionalism and expertise in all aspects of our work, and; Service - a strong dedication to serving the public interest and prioritizing the well-being of the community - especially the interests of those least capable of defending themselves. The New Mexico Office of the Attorney General is an equal opportunity employer, and encourages applicants from all backgrounds to apply. For more information, please visit [www.nmag.gov](http://www.nmag.gov).

**Tribal Prosecutor**

Pueblo of Laguna, NM – Great employer and benefits, competitive pay DOE! Seeking full-time attorney to prosecute adult criminal defendants and juveniles in delinquency cases in Laguna Pueblo Court. No murder cases and significant behavioral resources as alternatives to incarceration. Office has assistant and victim's advocate. Leisurely commute from Albuquerque metro, Los Lunas, or Grants. Apply now, open until filled. Application instructions and position details at: <https://www.lagunapueblo-nsn.gov/elected-officials/secretarys-office/human-resources/employment/>

### **Modest Means Helpline Staff Attorney**

Are you tired of billable hours? Would you love not to have to go to court? Do you enjoy interacting with and helping people? If you answered yes, then Helpline attorney work may be the perfect fit for you! The New Mexico State Bar Foundation seeks a Full-Time (40 hours/week) or Part-Time (30 hours/week) helpline staff attorney for its Modest Means Helpline. Most of the work can be performed remotely from within New Mexico, with occasional mandatory office days. The position includes an excellent benefits package and competitive salary for legal work in the non-profit sector. Duties include providing legal advice and brief legal services over the phone to New Mexico residents who have moderate or low income. Additionally, the attorney may conduct legal workshops and clinics – some remotely and some in-person throughout New Mexico. Applicants must be licensed to practice law in New Mexico, and able to work as part of a busy team in a fast-paced environment. Excellent customer service and computer skills are required. Fluency in Spanish is a plus as is a demonstrable interest in issues affecting the lower-income community. To be considered, applicants must submit a cover letter and resume to [hr@sbnm.org](mailto:hr@sbnm.org). In your cover letter, please explain why you are interested in working as a helpline attorney. EOE. Visit [www.sbnm.org/sbnmjjobs](http://www.sbnm.org/sbnmjjobs) for full details and application instructions.

### **Entry Level Attorney (0 – 3 years)**

Why work for us? LOBJD is one of the fastest growing law firms in the Southeast of New Mexico. We are located in Hobbs, New Mexico, and are looking for an entry-level attorney (0-3 years) to join our expanding and fast-paced litigation team. Our practice focuses mainly on criminal defense and various civil matters. We already have outstanding paralegals and staff, and we are now looking to complete the puzzle. Compensation includes a fun and fast-paced atmosphere and a competitive starting salary, including periodic bonuses and a percentage of the cases brought in. LOBJD also practices in Arizona. Come join the varsity team. Please contact Christy at [christy.lobjd@gmail.com](mailto:christy.lobjd@gmail.com) or call 505-705-1247.

### **Attorney or Law School Graduate Positions**

Busy legislative office is seeking attorneys or law school graduates for full-time employment from January to February, 2024. Strong legal research and writing skills required. Salary DOE. Applicants with tax policy experience are especially encouraged to apply. For application and more details: <https://www.nmlegis.gov/Entity/Senate/Employment>.

### **Various Assistant City Attorney Positions**

The City of Albuquerque Legal Department is hiring for various Assistant City Attorney positions. Hybrid remote work schedule available. The Legal Department's team of attorneys provides a broad range of legal services to the City and represents the City in legal proceedings in court and 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. Current open positions include: Litigation Division: The City is seeking attorneys to join the Litigation Division, which defends claims brought against the City. Property and Finance Division: The City is seeking attorneys to bring code enforcement actions, advise on real estate matters, and serve as general counsel to various City departments; General Counsel to the City Clerk: The City is seeking an attorney to advise on the interpretation of and compliance with the Inspection of Public Records Act and serve as General Counsel to the City Clerk's Office; Office of Civil Rights: The City is seeking an attorney to enforce the Human Rights Ordinance in conjunction with the Human Rights Board and enforce the Closed Captioning Ordinance. This attorney will advise various departments and conduct educational and investigative programs; General Counsel to APD: The City is seeking an attorney to advise APD regarding policies, procedures and training, review and negotiate contracts, review uses of force, draft legal opinions, review and draft legislation and administrative instructions. Additional duties may be assigned based on experience. Attention to detail and strong writing and interpersonal skills are essential. Preferences include: Three (3)+ years' experience as licensed attorney; experience with government agencies, government compliance, litigation, contracts, and policy writing. Salary based upon experience. For more information or to apply please send a resume and writing sample to Angela Aragon at [amaragon@cabq.gov](mailto:amaragon@cabq.gov).

### **Associate Attorney – Civil Litigation**

Sutin, Thayer & Browne is seeking a full-time Civil Litigation Associate. The candidate must have at least 3 years of experience relevant to civil litigation, and must have excellent legal writing, research, and verbal communication skills. Competitive salary and full benefits package. Visit our website <https://sutinfirm.com/> to view our practice areas. Send letter of interest, resume, and writing sample to [imb@sutinfirm.com](mailto:imb@sutinfirm.com).

### **8th Judicial District Attorney's Office Trial, Senior Trial, and Deputy District Attorney (Taos/Colfax/ Union Counties)**

The 8th Judicial District Attorney Office is accepting applications for a full-time Trial Attorney, a Senior Trial Attorney, and a Deputy District Attorney. Requirements: Trial Attorney (TA): Attorney licensed to practice law in New Mexico plus a minimum of two (2) years relevant prosecution experience. Senior Trial Attorney (STA): Attorney licensed to practice law in New Mexico plus a minimum of five (5) years relevant prosecution experience. Deputy District Attorney (DDA): Attorney licensed to practice law in New Mexico plus a minimum of eight (8) years relevant prosecution experience and someone who is contemplated to be a career prosecutor capable of providing management for an office division or bureau. Work performed: Applicant (STA/DDA) will prosecute all cases, including high level and high-profile cases as experience allows, applicants should possess expertise in one or more areas of criminal prosecution; lead special prosecutions assigned by the District Attorney; supervise and mentor other attorneys and staff. Applicant (DDA) may lead a division/bureau and handle cases as well as administrative duties and supervision and may act on behalf of the District Attorney as directed. Salary for entry level (TA) will begin at \$75,000 and be based upon experience, position applied for, and the current District Attorney Personnel and Compensation Plan. Please submit resumes/letters of interest to Victoria Bransford, District Office Manager by mail to 105 Albright Street Suite L, Taos, NM 87571 or by email to [vbransford@da.state.nm.us](mailto:vbransford@da.state.nm.us) continuous recruitment through December 31, 2023.

### **Associate Director of Admissions & Pathway Initiatives**

The UNM School of Law seeks an Associate Director of Admissions & Pathway Initiatives. As part of the Office of Admissions & Financial Aid, this position is responsible for developing and implementing pathways programs designed to increase awareness of the legal profession, maximize recruitment efforts, and support the goal of attracting and retaining an academically talented and diverse student population. The position will also be responsible for representing the UNM School of Law at local, state, regional, and national student recruitment events. Some travel, including on evenings and weekends, is required: <https://unm.csod.com/ux/ats/careersite/18/home/requisition/27322?c=unm>

### Attorneys

The Third Judicial District Attorney's Office in Las Cruces is seeking 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](mailto:wsafranek@da.state.nm.us)

### Entry Level Attorney

The Corinne Wolfe Center for Child and Family Justice (CWC) at UNM School of Law seeks a .85 time (34 hrs/week) entry level Attorney to assist in developing law-focused education programs, as well as conducting legal research and writing for print and online educational resources. CWC constituents include judges, attorneys, caseworkers, and other professionals and volunteers in NM's child and family welfare system. During the first 6 months work will be performed on-site; after that, occasional remote work arrangements will be considered. Applicants should have 0-3 years of experience working as a licensed attorney. For best consideration, apply by 12/20/2023. <https://unm.csod.com/ux/ats/careersite/18/home/requisition/27675?c=unm>

### Civil Litigation Attorney

Description: Rodey, Dickason, Sloan, Akin & Robb, P.A. is currently seeking attorneys with 2 or more years of Civil Litigation experience to work in our Albuquerque office. Qualifications: Ideal candidate must have strong academic credentials, excellent references, solid writing skills, deposition experience, hearing experience, and must be licensed in New Mexico. Experience in professional liability, medical negligence or personal injury is preferred. Candidates should possess the desire to work as a team, to mature their legal skills, and to represent their clients well. Rodey offers comprehensive benefits package, including health, dental and vision; professional development and multifaceted mentoring program; FSA and HSA plan option(s); 401K plan/employer match; group life and long-term disability insurance; employee assistance program; wireless phone/services stipend. We are excited about our opportunity to partner with qualified candidates looking to advance their legal career. For consideration, please include a cover letter, resume, law school transcript and writing sample and submit via email to Ali Dyer, Human Resources Director at: [jobs@rodey.com](mailto:jobs@rodey.com) with "Litigation Attorney" in the subject line. All inquiries will be kept confidential. Rodey is an Equal Opportunity Employer. Rodey Law Firm is not accepting unsolicited resumes from search firms for this position.

### Assistant County Attorney II, Santa Fe County

Santa Fe County is looking for an experienced attorney interested in creative problem solving and working in a collaborative environment on diverse issues that directly impact the community. The annual salary range for this position is \$46.33-\$64.86, depending upon qualifications. Santa Fe County provides competitive benefits and an opportunity to work in the wonderful City Different. You must be licensed as an attorney by the Supreme Court of New Mexico or qualified to apply for limited practice license. If you are interested in joining our amazing team, please apply through Santa Fe County's website, at [http://www.santafecountynm.gov/job\\_opportunities](http://www.santafecountynm.gov/job_opportunities). For questions, you may also contact the County Attorney's Office directly at 505-986-6279 or [tpdominguez@santafecountynm.gov](mailto:tpdominguez@santafecountynm.gov).

### Experienced Paralegal

Experienced paralegal needed for Montgomery & Andrews, P.A. We are seeking an experienced paralegal to join our busy team in a full-time role. As paralegal you will be required to assist lawyers throughout the firm. You must have at least two years' experience. Must have knowledge of legal processes, excellent organizational skills, research skills, the ability to work under pressure, great communication, and trial preparation experience. This position requires at least two years of litigation experience. Graduation from an accredited paralegal program or bachelor's degree desired. Firm offers a congenial work environment, competitive compensation, and a benefit package. Please send cover letter, resume and salary requirements to Firm Administrator, P. O. Box 2307, Santa Fe, NM 87501 or email: [tgarduno@montand.com](mailto:tgarduno@montand.com)

### Legal Assistant

Montgomery & Andrews, Law Firm is accepting resumes for a Legal Assistant position in our Santa Fe Office. Must have a minimum of two years' experience working in a mid- or large-sized law firm. Applicants must have experience, including knowledge of local court rules and filing procedures. Must have excellent clerical, organizational, computer and word processing experience. Applicants must be able to multi-task and work in a team player environment. Firm offers a congenial work environment, competitive compensation, and a benefit package. Please send resume to [tgarduno@montand.com](mailto:tgarduno@montand.com) or mail to T. Garduno, P.O. Box 2307, Santa Fe, New Mexico 87504-2307.

### Legal Secretary

AV rated insurance defense firm seeks full-time legal assistant. Position requires a team player with strong word processing and organizational skills. Proficiency with Word, knowledge of court systems and superior clerical skills are required. Should be skilled, attentive to detail and accurate. Excellent work environment, salary, private pension, and full benefits. Please submit resume to [mvelasquez@rileymlaw.com](mailto:mvelasquez@rileymlaw.com) or mail to 3880 Osuna Rd. NE, Albuquerque, NM 87109

### Litigation Paralegal

Ashton Horton Mullins is seeking to add a member to our team! This role is for you if you are looking for rewarding legal work with the opportunity to make a difference for clients in a friendly, collaborative work environment. We are committed to providing our staff a competitive compensation package. Our new team member will be an experienced litigation paralegal managing cases in family law, probate, and guardianship/conservatorship. Our paralegals are meticulous with our pleadings and task masters managing deadlines and attorney calendars. We pride ourselves on providing excellent customer service and building strong client relationships by keeping them informed with regular contact. The paralegal will be integral in trial preparation by preparing witnesses and exhibits. We are looking for someone who embraces technology for efficiency and high-quality customer service including Microsoft Office, Adobe, and Clio. Preference for hiring paralegals with 5-10 years of experience, college degree, paralegal certification, and Spanish-speaking. Please send resume and cover letter to [bridget@ahm.law](mailto:bridget@ahm.law).

### Experienced Paralegal

Cordell & Cordell, P.C., a domestic litigation firm with over 100 offices across 35 states, is currently seeking an experienced paralegal for an immediate opening in its office in Albuquerque, NM. The candidate must be licensed to practice law in the state of New Mexico, have minimum of 7 years of paralegal experience with family law experience preferred. The firm offers 100% employer paid premiums including medical, dental, short-term disability, long-term disability, and life insurance, as well as 401K and wellness plan. This is a wonderful opportunity to be part of a growing firm with offices throughout the United States. To be considered for this opportunity please email your resume to Carolyn Larkin at [clarkin@cordelllaw.com](mailto:clarkin@cordelllaw.com)

### City of Albuquerque 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 \$25.54 per hour during an initial, proscribed probationary period. Upon successful completion of the proscribed probationary period, the salary will increase to \$26.80 per hour. Competitive benefits provided and available on first day of employment. Please apply at <https://www.governmentjobs.com/careers/cabq>.

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One-half of 2-lawyer, 1,200 sq. ft. law office available for rent (2015 Mountain Rd NW). Includes exclusive partner office, space for two legal assistants, and 50% use of common area including conference room and parking. \$800 per month, plus 1/2 of electricity and gas. Call or email Jason Kent: 505-553-1307 or [jkent@nmlex.com](mailto:jkent@nmlex.com).

### Miscellaneous

#### Want to Purchase

Want to Purchase minerals and other oil/gas interests. Send Details to: PO Box 13557, Denver, CO 80201.

#### Search for Will

INFORMATION REGARDING STEPHEN A. MCLEMORE JR. Anyone with information on the Last Will and Testament, or Trust regarding Stephen A. McLemore Jr. please contact Richard Brandes at [richard@richardbrandes.com](mailto:richard@richardbrandes.com)

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