

# BAR BULLETIN

December 11, 2024 • Volume 63, No. 12



*Raven on the River*, by Don Johnson (see page 5)

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New Mexico State Bar Foundation  
Center for Legal Education

# CLE PROGRAMMING

*from the Center for Legal Education*



## DECEMBER 11

### 2024 New Mexico Tax Law Symposium

5.2 G, 1.0 EP, 1.0 EIJ

8 a.m.–4:55 p.m.

*In Person & Webinar*

## DECEMBER 12

### Practical Ways to Fight Gender Bias and Sexism in Negotiations featuring Marty Latz

2.0 EIJ

10 a.m.–Noon

*Webinar*

## DECEMBER 12

### Negotiation Ethics: Winning Without Selling Your Soul featuring Marty Latz

2.0 EP

1–3 p.m.

*Webinar*

## DECEMBER 12

### How to Overcome Substance Use Disorder and Avoid Legal Ethics Issues Using Mindfulness as Part of Your Toolkit

1.0 EP

11 a.m.–Noon

*Webinar*

## DECEMBER 12

### Make Your Witness a Star!

2.0 G

1–3:15 p.m.

*Webinar*

## DECEMBER 13

### 2024 Natural Resources, Energy and Environmental Law Annual Institute

5.0 G, 1.0 EP

8:30 a.m.–4 p.m.

*In Person & Webinar*

## DECEMBER 13

### The AI Edge: Enhancing Legal Practice with ChatGPT

1.0 G

11 a.m.–Noon

*Webinar*

## DECEMBER 13

### Ethics in the Age of AI: Navigating the Legal Landscape with ChatGPT

1.0 EP

1–2 p.m.

*Webinar*

## DECEMBER 17

### Airplane Etiquette, Celebrity Sightings, and Attorney Ethics featuring Stuart Teicher

3.0 G

8:45 a.m.–Noon

*In Person & Webinar*

## DECEMBER 17

### Legal Writing Rules You SHOULD Be Breaking featuring Stuart Teicher

2.0 G

1–3 p.m.

*In Person & Webinar*

## DECEMBER 17

### What Jazz and the Blues Teach about Bias and Inclusion in the Law featuring Stuart Teicher

1.0 EIJ

3:15–4:15 p.m.

*In Person & Webinar*

## DECEMBER 17

### Learn Mindfulness to Curtail Implicit Bias and Make Ethical Decisions

1.0 EIJ

11 a.m.–Noon

*Webinar*

## DECEMBER 18

### The Art and Science of Conditional Gifts in Estate Planning

1.0 G

11 a.m.–Noon

*Teleseminar*

## DECEMBER 18

### Lincoln on Professionalism

1.3 EP

11 a.m.–12:20 p.m.

*Webinar*

## DECEMBER 18

### Ben Franklin on Ethics

1.0 EP

1–2 p.m.

*Webinar*

## DECEMBER 19

### Killers of the Flower Moon: The Osage Murders and How Attorneys can Combat Bias

1.0 EIJ

11 a.m.–Noon

*Webinar*

## DECEMBER 19

### Practical Lessons in Diversity, Equity & Inclusion in Law Practice

1.0 EIJ

11 a.m.–Noon

*Teleseminar*

## DECEMBER 19

### Cross Discipline: Building Cross-Examination Skills with Practical Improv Techniques

1.5 G

1–2:30 p.m.

*Webinar*

## DECEMBER 20

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

1.0 EIJ

11 a.m.–Noon

*Webinar*

## DECEMBER 20

### Thurgood Marshall's Coming!

2.8 EIJ

1–4 p.m.

*Webinar*

## DECEMBER 31

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

1.0 EIJ

11 a.m.–Noon

*Webinar*

*Any Center for Legal Education programs designated as EIJ credit are pre-approved to meet the new Equity in Justice Credit requirement found in Rule 18-201(D) and (E) NMRA. In accordance with the Rule, excess EIJ credits "can be converted to be used toward the substantive (general) requirement."*

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#### From the New Mexico Supreme Court

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State Bar of New Mexico  
Lawyer Assistance Program

About Cover Image and Artist: Don Johnson Jr. Esq. (United States Navy Retired) is an attorney at Johnson Family Law P.C. in Albuquerque, New Mexico. In college, Mr. Johnson was a cartoonist for the University of New Mexico Daily Lobo. After graduating college he joined the United States Navy and became a helicopter pilot. Mr. Johnson then attended law school at Golden Gate Law School in San Francisco. In 2011, Mr. Johnson was called to serve in Baghdad, Iraq. Mr. Johnson created an art gallery at the US Embassy in Baghdad, inside the T-Walls that prevented bombs from destroying the Containerized Housing Units (CHUs). The art he created inspired other artists, and the area was transformed into an uplifting display of beauty inside the war zone.

# 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://nmonesource.com/nmos/en/nav\\_date.do](https://nmonesource.com/nmos/en/nav_date.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>.

### Bernalillo County Metropolitan Court Court Closure Notice

The Bernalillo County Metropolitan Court will be closed from 11 a.m. to 5 p.m. (MT) on Dec. 11 for the court's annual Holiday Staff Appreciation. Misdemeanor Custody Arraignment Hearings will be held that day starting at 9 a.m. (MT) with Felony First Appearance Hearings immediately following. Traffic Arraignments will be held that morning only. The courthouse will reopen on Dec. 12.

## Professionalism Tip

**With respect to opposing parties and their counsel:**

I will not use litigation, delay tactics, or other courses of conduct to harass the opposing party or their counsel.

Official Publication of the State Bar of New Mexico

# BAR BULLETIN

## The Bar Bulletin is Going Completely Digital!

As of Jan. 1, 2025, the State Bar of New Mexico's official publication, the Bar Bulletin, will be published exclusively in a digital format! With the same great layout, features and important news, the many benefits of the Bar Bulletin going digital include more timely content, clickable resources and added convenience for reading on-the-go. The Bar Bulletin will not be printed as of Jan. 1. To view each issue of the Bar Bulletin, visit [www.sbnm.org/BarBulletinOnline](http://www.sbnm.org/BarBulletinOnline).

## STATE BAR NEWS

### License Renewal and MCLE Compliance Due Feb. 3, 2025

State Bar of New Mexico annual license renewal and Minimum Continuing Legal Education requirements are due Feb. 3, 2025. 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).

### Email Scams Targeting Legal Professionals

There has been a recent surge in email scams targeting legal professionals nationwide. These emails often appear to be official communications, asking you to respond to court filings or urgent legal matters. Please be advised that these emails may contain malicious links or attachments intended to compromise your systems and access sensitive information. For more information, visit [www.sbnm.org/News-Publications/Phone-and-Email-Scams](http://www.sbnm.org/News-Publications/Phone-and-Email-Scams).

## Equity in Justice

### Calling All Coaches! Please Sign Up for the Bar Exam Coaching Program!

The Committee on Diversity in the Legal Profession (CDLP) is beginning another cycle of the Bar Exam Attorney Coaching Program for the next cohort of New Mexico Bar Exam test takers. The CDLP is proud to offer this program for those taking the exam in February 2025 and we need attorney coaches. The program is designed to match an applicant with a committed attorney who will serve as a resource for the applicant. Coaches and applicants will communicate in person or via phone, e-mail, or Zoom during the applicant's bar preparation. Attorney coach and applicant matches will be made based on information provided on the form below. The deadline for submissions is Dec. 15. For any questions, contact SBNM Equity in Justice Attorney Abby Lewis at [abby.lewis@sbnm.org](mailto:abby.lewis@sbnm.org). To sign up, visit <https://form.jotform.com/243173661844157>.

### 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



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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>.

### 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. to 8 p.m. (MT) Monday through Thursday and 8 a.m. to 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).

### OTHER NEWS N.M. Legislative Council Service Legislative Research Library Hours

The Legislative Research Library at the Legislative Council Service is open to state agency staff, the legal community, and the general public. We can assist you with locating documents related to the introduction and passage of legislation as well as reports to the legislature. Hours of operation are Monday through Friday, 8 a.m. to 5 p.m. (MT), with extended hours during legislative sessions. For more information and how to contact library staff, please visit [https://www.nmlegis.gov/Legislative\\_Library](https://www.nmlegis.gov/Legislative_Library).

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# Legal Education Calendar

## December

- |  |  |  |
|--|--|--|
| <p><b>11 State Bonding Overview and Considerations for Drafting Bond Related Legislation</b><br/>1.0 G<br/>Web Cast (Live Credits)<br/>New Mexico Legislative Council Service<br/><a href="http://www.nmlegis.gov">www.nmlegis.gov</a></p> | <p><b>12 Practical Ways to Fight Gender Bias and Sexism in Negotiations <i>featuring Marty Latz</i></b><br/>2.0 EIJ<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.sbnm.org">www.sbnm.org</a></p>                 | <p><b>13 Ethics in the Age of AI: Navigating the Legal Landscape with ChatGPT</b><br/>1.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.sbnm.org">www.sbnm.org</a></p>                                      |
| <p><b>11 2024 New Mexico Tax Law Symposium</b><br/>5.2 G, 1.0 EP, 1.0 EIJ<br/>In-Person or Webinar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.sbnm.org">www.sbnm.org</a></p>  | <p><b>12 Negotiation Ethics: Winning Without Selling Your Soul <i>featuring Marty Latz</i></b><br/>2.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.sbnm.org">www.sbnm.org</a></p>                           | <p><b>13 Letters of Intent in Business Transactions</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.sbnm.org">www.sbnm.org</a></p>   |
| <p><b>11 Living in a Cloud-based World - The Next Generation of Digital Evidence</b><br/>1.0 G<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.sbnm.org">www.sbnm.org</a></p>                                  | <p><b>12 How to Overcome Substance Use Order and Avoid Legal Ethics Issues Using Mindfulness as Part of Your Toolkit</b><br/>1.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.sbnm.org">www.sbnm.org</a></p> | <p><b>17 Learn Mindfulness to Curtail Implicit Bias and Make Ethical Decisions</b><br/>1.0 EIJ<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.sbnm.org">www.sbnm.org</a></p>                                    |
| <p><b>11 Ethics, Juror Misconduct, and Jury Tampering: The Murdaugh Motion For New Trial</b><br/>2.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.sbnm.org">www.sbnm.org</a></p>                         | <p><b>12 Piercing the Entity Veil: Individual Liability for Business Acts</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.sbnm.org">www.sbnm.org</a></p>   | <p><b>17 Women in the Legal Profession - Mastering Challenges for Success</b><br/>1.0 EIJ<br/>Web Cast (Live Credits)<br/>Third Judicial District Court<br/><a href="http://thirddistrict.nmcourts.gov">thirddistrict.nmcourts.gov</a></p>   |
| <p><b>11 Selection and Preparation of Expert Witnesses in Litigation</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.sbnm.org">www.sbnm.org</a></p>  | <p><b>13 End-of-Year Ethics and Equity in Justice</b><br/>2.0 EP, 1.0 EIJ<br/>Live Program<br/>New Mexico Trial Lawyers Association &amp; Foundation<br/><a href="http://www.nmtla.org">www.nmtla.org</a></p>                                  | <p><b>17 The Art of Advocacy</b><br/>3.0 G<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.sbnm.org">www.sbnm.org</a></p>  |
| <p><b>12 ADA and Disability Awareness</b><br/>1.0 EIJ<br/>Web Cast (Live Credits)<br/>New Mexico Legislative Council Service<br/><a href="http://www.nmlegis.gov">www.nmlegis.gov</a></p>  | <p><b>13 2024 Natural Resources, Energy and Environmental Law Annual Institute</b><br/>5.0 G, 1.0 EP<br/>In-Person or Webinar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.sbnm.org">www.sbnm.org</a></p>                   | <p><b>17 Airplane Etiquette, Celebrity Sightings, and Attorney Ethics <i>featuring Stuart Teicher</i></b><br/>3.0 EP<br/>In-Person or Webinar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.sbnm.org">www.sbnm.org</a></p> |
| <p><b>12 Make Your Witness a Star!</b><br/>2.0 G<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.sbnm.org">www.sbnm.org</a></p>  | <p><b>13 The AI Edge: Enhancing Legal Practice with ChatGPT</b><br/>1.0 G<br/>Webinar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.sbnm.org">www.sbnm.org</a></p>   | <p><b>17 Legal Writing Rules You SHOULD Be Breaking <i>featuring Stuart Teicher</i></b><br/>2.0 G<br/>In-Person or Webinar<br/>Center for Legal Education of NMSBF<br/><a href="http://www.sbnm.org">www.sbnm.org</a></p>                    |

Listings in the *Bar Bulletin* Legal Education Calendar are derived from course provider submissions and from New Mexico Minimum Continuing Legal Education. All MCLE approved continuing legal education courses can be listed free of charge. Send submissions to [notices@sbnm.org](mailto:notices@sbnm.org). Include course title, credits, location/course type, course provider and registration instructions. For a full list of MCLE-approved courses, visit <https://www.sbnm.org/Search-For-Courses>.

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|--|--|---|
| <p>17 <b>What Jazz and Blues Teach About Bias and Inclusion in the Law</b><br/><i>featuring Stuart Teicher</i><br/>1.0 EIJ<br/>In-Person or Webinar<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p> | <p>19 <b>Killers of the Flower Moon: The Osage Murders and How Attorneys Can Combat Bias</b><br/>1.0 EIJ<br/>Webinar<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p>    | <p>20 <b>Guarantees in Real Estate Transactions</b><br/>1.0 G<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p>                                |
| <p>18 <b>Lincoln on Professionalism</b><br/>1.3 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p>  | <p>19 <b>Cross Discipline: Building Cross-Examination Skills with Practical Improv Techniques</b><br/>1.5 G<br/>Webinar<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p> | <p>27 <b>Take Ethical Security Precautions with Email: When and How to Encrypt</b><br/>1.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p>    |
| <p>18 <b>Ben Franklin on Ethics</b><br/>1.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p>  | <p>19 <b>Practical Lessons in Diversity, Equity &amp; Inclusion in Law Practice</b><br/>1.0 EIJ<br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p>         | <p>30 <b>Learning Legal Ethics From the Lincoln Lawyer</b><br/>1.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p>                            |
| <p>18 <b>The Art and Science of Conditional Gifts in Estate Planning</b><br/>1.0 G<br/>Teleseminar<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 EIJ<br/>Webinar<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p>                          | <p>31 <b>Why Women Attorneys Get Paid Less: What's Gender Bias Got to Do With It</b><br/>1.0 EIJ<br/>Webinar<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p> |
| <p>19 <b>When the Child Stands Alone: The Search for Corroborating Evidence</b><br/>1.5 G<br/>Web Cast (Live Credits)<br/>New Mexico Coalition of Sexual Assault Programs<br/>www.nmcsap.org</p>                 | <p>20 <b>Thurgood Marshall's Coming</b><br/>2.8 EIJ<br/>Webinar<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p>   |   |

## January 2025

- |  |   |  |
|--|---|--|
| <p>9 <b>2025 Law and Technology Series: Electronic Courtroom Presentation Workshop</b><br/>16.7 G<br/>Live Program<br/>Administrative Office of the US Courts<br/>www.uscourts.gov</p> | <p>15 <b>Gone But Not Forgotten: The Ethical and Malpractice Risks When Lawyers Leave Law Firms</b><br/>1.0 EP<br/>Webinar<br/>Center for Legal Education of NMSBF<br/>www.sbnm.org</p> |  |
|--|---|--|

## February 2025

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| <p>12 <b>Assessing Injury Causation: The Role of the Biomechanical Engineer</b><br/>1.0 G<br/>Web Cast (Live Credits)<br/>New Mexico Defense Lawyers Association<br/>www.nmdla.org</p> | <p>14 <b>Is this my job? Ethical Issues for Prosecutors of Sensitive Victim Crimes</b><br/>1.5 EP<br/>Web Cast (Live Credits)<br/>New Mexico Coalition of Sexual Assault Programs<br/>www.nmcsap.org</p> |  |
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## A Message from State Bar of New Mexico President ERINNA M. “ERIN” ATKINS “Be Inspired” Through Gratitude, A Final Message



As 2024 comes to a close, with it draws the end of my term as President and a period of reflection on the opportunities and experiences I had this year. I take this last moment to speak to you to share what inspired me and I ask that, as I do so, you too will take a moment to reflect on your year's successes, inspirations and achievements that hopefully create the same feeling of gratitude for you that I have today.

My year was comprised with adventure, which left me with inspiration and a feeling of thankfulness for having these opportunities. I traveled to Louisville, Kentucky, Kauai, Hawaii, Las Vegas, Carson City and Lake Tahoe, Nevada, Dallas, Texas, Chicago, Illinois and took many trips to Santa Fe and Albuquerque to attend meetings and represent the State Bar of New Mexico. I listened to interesting speakers, spent time with new and old friends, learned about other State Bars and was honored to present programming myself several times. I consistently felt proud to represent New Mexico on a national stage, and I know that I will reflect on these experiences for the rest of my life. I wish to thank all who welcomed me with open arms and the State Bar of New Mexico for these opportunities.

As President of the State Bar, I was granted the role of leading the board meetings for the Board of Bar Commissioners (“BBC”). My experience was always one of gratitude, and I would leave every meeting feeling blessed to work and learn from the members of the BBC. I wish to thank my board members, who served this year with dedication. They were always prepared and in attendance, decisions were made and work was accomplished. I sit in awe of each of you, struck by how lucky am I to know you, learn from you and to call you my friend. Thank you.

The New Mexico Supreme Court consistently supported me and encouraged me this year. I was invited to attend a conference on Rural Justice Initiatives with Former Chief Justice Bacon and Justice Vigil, as well as speak at Judicial Conclave with Chief Justice Thomson, both of which were special experiences I will treasure. I found myself in several moments this year invited to visit with a Justice or listen to them speak on a larger stage. I thank the Chief Justice and respective Justices of the Court for the kindness they have shown me. I am inspired by their hard work which stems from a love of the law and a dedication to our profession. Thank you.

Another highlight of this year was the State Bar of New Mexico 2024 Annual Meeting. President-Elect Aja N. Brooks, Esq. and Jennifer Nicole “Nikki” Berry, Esq., Vice President of the New Mexico Black Lawyer’s Association, presented a thoughtful and interesting program about the history of Black Lawyering in New Mexico. Chief Justice Thomson and the many judges who participated in the round tables and panel discussions engaged our membership with the judiciary and crafted a bridge that I hope will not only sustain but grow. I will always remember watching members of the Bar impressed and inspired by our keynote speaker Camille Vasquez. The line that formed for a photo with her was a testament to how many members were impacted by her presentation. I am incredibly thankful to all who worked tirelessly to make the meeting the success it was. I am proud of the event, and I hope you enjoyed the content and felt the theme of “Be Inspired.” The hybrid event was experienced by over 450 attorneys and legal professionals and set a new standard for how an Annual Meeting can impact the membership. Thank you for joining us. I wish to extend a personal invitation to each of you to attend next summer’s State Bar of New Mexico’s 2025 Annual Meeting.

As President, I was able to attend the New Mexico State Bar Foundation (“Bar Foundation”) Board meetings and truly enjoyed working with their board. I wish to thank Bar Foundation President and former State Bar President Jerry Dixon and the members of the Foundation Board whose hard work created an extremely successful 2024. Through their fundraising efforts including this year’s popular Golf Classic, the Bar Foundation has continued to support the various programs that significantly impact New Mexicans across the State by providing them with free legal assistance. As you may be looking to make a charitable donation this year, I urge you to consider donating to the New Mexico State Bar Foundation, which can be easily done on your annual licensing form online or on the State Bar website.

In addition to the impactful legal assistance programs, the Bar Foundation also provides CLE programming to our membership. Since the implementation of the mandatory Equity in Justice (“EIJ”) credit became effective this year, the State Bar of New Mexico and the Bar Foundation have been steadfast in our approach to assisting our membership in meeting this requirement. The Bar Foundation has hosted over 60 CLEs fulfilling the EIJ credit requirement, exploring multiple areas within topics of diversity, equity and inclusion in impressive detail. If you still need credits, look to the Bar Foundation and their on-demand library, which is a wonderful, extensive resource. Thank you to the Bar Foundation staff and the MCLE staff who continue to assure that not only are our credits counted but they can be achieved through fascinating programming.

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In 2024, we continued to work on the issues surrounding attorney wellness and well-being. I am proud to say that work has garnered national attention. New Mexico now has one of the premiere judicial well-being programs in the country. A healthy judge is in fact a better judge. In supporting the members of the judiciary in this way, the State Bar fulfills its mission to aid the courts in improving the administration of justice. The Judicial Wellness Program is managed by retired Judge Sandra Engel, who is well aware of the unique challenges faced by the New Mexico judiciary. Hon. Sandra Engel (ret.) has led the charge in curating this program, which provides ample resources and tools to maintain a healthy mind and spirit when navigating the profession's adversities. I am grateful to retired Judge Engel, Pam Moore, Bill Slease, Briggs Cheney and Tenessa Eakins along with entire team of amazing people who continue to support our attorneys and judges to maintain their health and well-being. I wish each member of the Bar good health in 2025.

I cannot reflect on the year without thinking of the remarkable staff of the State Bar of New Mexico. I know as 2024 comes to an end, they can ring in the New Year with pride on how successful the year was. I wish to thank all who helped me in my year to serve, including Executive Director Richard Spinello, Kris Becker, David Powell, Stormy Ralstin, Bill Kramer, Celeste Valencia, Brandon McIntyre and every member of the State Bar staff who are the backbone of this organization. Without your work, none of this would have been possible. So many achievements were created in 2024 because of the work of the State Bar staff. A significant accomplishment I wish to highlight was their work to complete the consolidation of the Roll of Attorneys database with the Supreme Court. It is a comprehensive database that provides a one-stop shop for attorneys to update their personal information and it enhances the reliability of the data across both organizations. Another project that continues to be a success is the Court of Appeals case summaries, a personal dream of mine, which became reality through the hard work of the State Bar staff. We have refined this project throughout the year and it continues to provide the most up-to-date appellate court information to our attorneys on a daily basis. My goal was to make this information available to every attorney as quickly as possible. I am so proud to say that this was done and is actively making all of us stronger in our practice. Thank you to the State Bar staff for making the work of practicing law a little smoother in 2024.

There is a time to lead and a time to turn the gavel to the next leader. In 2025, my friend and colleague Aja N. Brooks, Esq., will be serving as our President. How fortunate I have been to have the opportunity to serve on the BBC with her. I have seen firsthand her skills as an attorney and leader. I can tell you that she has been an inspiration for me and so many others. Aja's leadership shines as brightly as a star, and I look forward to her year. Congratulations, Aja!

As I step back, I think of those who have done the same before me and the impact they had on me and the State Bar during their year as President. I received a significant blessing in being surrounded by such amazing Past Presidents. I would often think throughout the year about each of them and how they presided over their year. I tried to incorporate the lessons of leadership they shared with me. I will soon join a prestigious group of 137 Past Presidents. They were and continue to be inspirational in their service, both as Presidents of the State Bar of New Mexico and as part of the broader legal community. Past Presidents Ben Sherman, Carolyn Wolf, Carla Martinez, Tina Cruz, Jerry Dixon, Wesley Pool, Scotty Holloman, Brent Moore, Erika Anderson, Chuck Vigil, Rick Kraft, Mary Torres and others have all had remarkable impacts on New Mexico's legal landscape, and they have helped to shape my experience in 2024. I will always be grateful for their mentorship and friendship.

Finally, thank you for this opportunity to be the 2024 President of the State Bar of New Mexico. As the first woman from the Southern half of New Mexico to serve as President, I hope to inspire more attorneys to consider service with the State Bar. I can attest that the rewards I received in experiences, friendships, and opportunities will be some of the greatest moments of my professional career. While I never thought I would be given such a gift as an opportunity to serve as the President of the State Bar of New Mexico, I held the title with reverence and respect for the office, and I will always be grateful for this experience. A happy holiday season and New Year to all. Thank you.

Sincerely,



Erinna M. "Erin" Atkins, President  
State Bar of New Mexico







## Erinna M. “Erin” Atkins’ Year as President of the State Bar of New Mexico

The President of the State Bar of New Mexico (“the State Bar”) represents the State Bar at many events, both in-state and nationally throughout the year. The following are a selection of photos captured at the many conferences and events that President Atkins attended in 2024.

December



2024

February



June



July

August

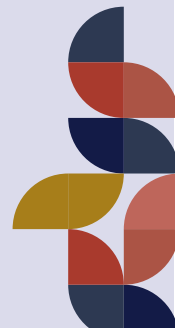


September

October



November



# THE STATE BAR OF NEW MEXICO'S 2024 PAST PRESIDENTS' RECEPTION

## 2024 President's Award



*State Bar of New Mexico President  
Erinna M. "Erin" Atkins presents S. Bert Atkins  
with the prestigious President's Award.*

Each year, the President of the State Bar of New Mexico chooses an individual or individuals to honor for their exemplary service in the legal community. This year, President Erinna M. "Erin" Atkins selected her father, S. Bert Atkins, for his accomplishments and role in her extraordinary development as both a legal professional and as an integral member of the State Bar of New Mexico's leadership.

## 2024 Past Presidents' Reception

ABQ BioPark Aquarium • Oct. 24







New Mexico  
State Bar Foundation

Please Help Us  
**MEET OUR  
GOAL!**

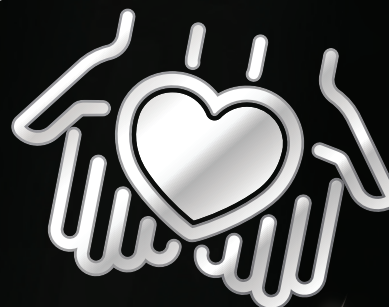
Our goal is to raise 10% more in donations this year  
to support our civil legal service programs.

*Can we count on your support?*

**100%**

**100% of your donation** to the New Mexico State Bar Foundation is tax deductible and supports programs and resources promoting access to civil legal services to underserved New Mexicans, including:

- ★ **Legal Resources for the Elderly Program** – The Foundation's premier legal service program for senior citizens in New Mexico for over 33 years. **In 2024, LREP assisted 4,000 New Mexicans!**
- ★ **Modest Means Helpline** – The Foundation's most widely used resource for New Mexicans of limited financial means has **provided a benefit to over 11,200 residents as of August 2024!**



**State Bar of New Mexico attorneys -  
Have you met your pro bono goal for the year?  
Donating to the Foundation will help you fulfill your pro bono goals!**

**Donating to the New Mexico State Bar Foundation is easy!**

1. State Bar of New Mexico licensees can donate during license renewal at [www.sbnm.org/licenser renewal](http://www.sbnm.org/licenser renewal)
2. Donations are gratefully accepted year-round at [www.sbnm.org/donate](http://www.sbnm.org/donate)

For more information about the New Mexico State Bar Foundation,  
please visit [www.sbnm.org/Bar-Foundation](http://www.sbnm.org/Bar-Foundation)





# State Bar of New Mexico's 2024 Annual Meeting Highlights

The State Bar of New Mexico's 2024 Annual Meeting took place on Oct. 25 at the State Bar Center in Albuquerque, N.M. The event was also livestreamed with an option to attend virtually. The Annual Meeting looked a little different this year. The event's overall theme was "Be Inspired," and it was an all-day affair, starting with breakfast in the early morning and ending late in the evening with the very inspirational Annual Awards presentation.

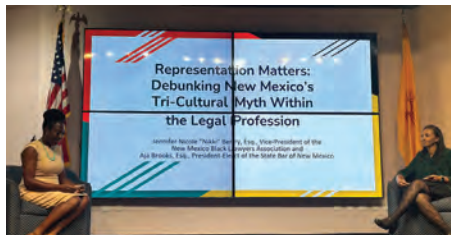
be  
inspired.



The well-attended event encouraged many opportunities for the legal community to learn, network and be inspired by their peers in the New Mexico legal community. The highlights of this year's Annual Meeting were kicked off with introductory remarks by numerous speakers. New Mexico Supreme Court Chief Justice David K. Thomson provided a series of updates about New Mexico's judiciary. Afterwards, the Annual Meeting featured a fantastic presentation by our keynote speaker, Camille M. Vasquez, Esq., who was a lead attorney in the *Johnny Depp v. Amber Heard* trial that captivated the nation.



Vasquez's keynote speech was followed by a rare opportunity for attendees to speak one-on-one with members of the New Mexico Judiciary during the Judicial Roundtables session or to ask questions to a panel of esteemed members of the New Mexico judiciary, after which attendees broke to lunch and enjoyed great food from a variety of food trucks during the lunch break. After lunch, State Bar of New Mexico President-Elect Aja N. Brooks, Esq., and New Mexico Black Lawyers Association Vice President Jennifer "Nikki" Berry, Esq. held an insightful and educational presentation titled, "Representation Matters: Debunking New Mexico's Tri-Cultural Myth Within the Legal Profession."





The final CLE presentation for the day was held by one of the State Bar of New Mexico's favorite CLE presenters, Stuart I. Teicher, Esq., or the "CLE Performer." A witty and entertaining presenter, his presentation gave inspiring insight on aspiring to the highest level of excellence in the legal profession, which perfectly bookended the day's CLE's.

Sprinkled throughout the day, winners of the New Mexico State Bar Foundation's New Mexico Staycation Raffles were announced. Four lucky winners won fantastic staycation packages to one of four of New Mexico's great cities, including Santa Fe, Albuquerque, Carlsbad and Taos!



The 2024 State Bar of New Mexico Annual Awards ceremony took place toward the end of the event. Each inspirational winner was celebrated and received their award at the prestigious event, which is captured in full on page 18.



The 2024 Annual Meeting concluded with closing remarks by State Bar of New Mexico President Erinna M. "Erin" Atkins, during which she encouraged attendees to look forward to next year's Annual Meeting. The President's Reception was held thereafter, where attendees gathered and mingled one last time before heading home to conclude a hugely successful Annual Meeting. Thank you to everyone who attended this year!



**State Bar of  
New Mexico**  
Est. 1886

*See you  
next year!*





## Recognizing Excellence

### The State Bar of New Mexico's 2024 Annual Awards Presentation

The State Bar of New Mexico presents the prestigious Annual Awards to legal professionals who have distinguished themselves or have made exemplary contributions to the State Bar or legal profession over the last year. The following award recipients were recognized for their excellence and service on Oct. 25 at the conclusion of the 2024 Annual Meeting.



*Katina Watson accepts the Distinguished Bar Service Non-Lawyer Award from the ceremony's emcee Mitchell Mender, Esq.*

#### Distinguished Bar Service Non-Lawyer Award

#### KATINA WATSON

♦ *Recognizes non-lawyers who have provided valuable service and contributions to the legal profession over a significant period of time.*

**Katina Watson** is the Court Executive Officer for the Second Judicial District Court where she is responsible for the non-judicial operations including court programs and services, human resources, information technology, budgeting, and serves as the Clerk of Court. Prior to joining the Second Judicial District Court in 2021, she served as the CEO for the Twelfth Judicial District Court for nine years. Over her tenure with the New Mexico judiciary, she has served on various committees including Budget, Personnel Rules, Classification and Compensation, Performance Measures, Workforce Investment, and Judicial and Staff Workload Studies. In 2018, she was the first CEO to pilot the statewide consolidation of New Mexico District and Magistrate Courts. She has a Bachelor's Degree in Communications and a Graduate Certificate in Judicial Administration from Michigan State University.



*Briggs F. Cheney accepts the Excellence in Well-Being Award.*

#### Excellence in Well-Being Award BRIGGS F. CHENEY

♦ *This award was created to recognize an individual or organization that has made an outstanding positive contribution towards change in the New Mexico legal profession's well-being, including destigmatizing mental health, strengthening resilience and creating a synergic approach to work and life.*

Not by design but happenstance, **Briggs Cheney's** career in the law has been that of being a lawyer's lawyer.

For the better part of almost 52 years of practice, Briggs has had the honor of helping lawyers throughout New Mexico - defending them in the civil arena and guiding them through the disciplinary process.

Briggs has been recognized for his legal skills in representing lawyers and he has been a leader in local, state and national bars. He has tirelessly helped the struggling and suffering lawyer as others helped him.





Elizabeth Friedenstien accepts the Judge Sarah M. Singleton Distinguished Service Award on behalf of recipient George David Giddens, Jr.

## Judge Sarah M. Singleton Distinguished Service Award GEORGE DAVID GIDDENS, JR.

◆ Recognizes attorneys who have provided valuable service and contributions to the legal profession, the State Bar of New Mexico, and the public over a significant period of time.

A New Mexico attorney since 1983, in 1997 **Dave Giddens** founded the firm that became Giddens & Gatton Law, P.C. Dave obtained undergraduate and law degrees from the University of Kansas.

His achievements include: Best Lawyers in America in four practice areas, Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law, Commercial Litigation, Litigation Bankruptcy, Real Estate Law, 2018 & 2021 Albuquerque Bankruptcy/Creditor Debtor Rights Insolvency and Reorganization Law Lawyer of the Year, 2024 Albuquerque Real Estate Lawyer of the Year, 2013 Top Rated Lawyer Corporate Restructuring and Bankruptcy, Southwest Super Lawyer 2009, 2012-2024 and 2011's Best of the Bar in Bankruptcy by NM Business Weekly. He consistently received Martindale Hubbell's highest rating, AV, for more than 15 years.

Dave's goal was to always serve clients with expertise and compassion. After 41 years of representing clients and mentoring other attorneys, Dave retired at the end of June 2024.



M. Mitchell Moss accepts the Justice Pamela B. Minzner Professionalism Award.

## Justice Pamela B. Minzner Professionalism Award M. MITCHELL MOSS

◆ Recognizes attorneys and/or judges who, over long and distinguished legal careers, have by their ethical and personal conduct exemplified for their fellow attorneys the epitome of professionalism.

**Mitchell Moss** is a respected litigator with extensive courtroom and trial experience, advising and representing individuals and corporations in matters related to commercial disputes, labor and employment, medical, legal and professional malpractice, catastrophic injury and all aspects of insurance defense.

Mitch has tried more than 100 jury cases and resolved thousands of cases, without going to trial, for the benefit of his clients. He is licensed in both Texas and New Mexico. Mitch is Board Certified in Personal Injury Trial Law by the Texas Board of Legal Specialization. A certified mediator and arbitrator, he has mediated thousands of cases and also served as an arbitrator many times.

In addition to advising and representing individuals and corporations, Mitch has successfully resolved death cases; some while representing defendants and others while acting on behalf of plaintiffs. He has also handled administrative matters with the Texas Board of Medical Examiners, the Board of Nursing Examiners, the National Labor Relations Board, the Texas Education Commission and the New Mexico Workers Compensation Administration.

Mitch has been recognized as a Texas 'Super Lawyer' by the publishers of Texas Monthly- Law & Politics Magazine since 2018. In 2023, Mitch was honored as one of the Top 50 lawyers in Central and West Texas by Texas Super Lawyers. He was also recognized as the "Mediator of the Year" by the El Paso Bar Association in 2024.

Mitch served as the President of the El Paso Chapter of the American Board of Trial Advocates (ABOTA) in 2021-2022. He is a member of the George A. McAlmon American Inn of Court and the El Paso Bar Association.

A graduate of Texas Tech University School of Law, Mitch is a frequent guest speaker at conferences and seminars related to business and personal injury law. He resides in Anthony, New Mexico with his wife, Diana, and children Madison, Matthew and Mia Faith.



*Rodina Cave Parnall and Alma Buena accept the Outstanding Legal Organization Award on behalf of the American Indian Law Center PLSI Judicial Clerkship Committee.*

## Outstanding Legal Organization Award AMERICAN INDIAN LAW CENTER PLSI JUDICIAL CLERKSHIP COMMITTEE

◆ *Recognizes outstanding, extraordinary law-related organizations or programs that serve the legal profession and the public.*

The **American Indian Law Center's Pre-Law Summer Institute (PLSI)** for American Indians and Alaska Natives started as an 8-week pre-law program in 1967. In 2013, a small group of PLSI alumni dedicated themselves to increasing the number of Native American judicial clerks and judges across all judicial benches. Before 2013, the program produced only six judicial clerks going back over 45 years since the creation of the PLSI program. The Committee started by discussing their clerkship experiences with students and informing them of the benefits of a judicial clerkship. The first PLSI class to work with the Committee graduated from law school in 2016. Since 2016, the PLSI Judicial Clerkship Program has produced 32 judicial clerks in 39 state and federal judicial clerkships (some have completed more than one judicial clerkship). This includes clerkships in several U.S. Courts of Appeals, federal district courts, and state supreme courts. This remarkable increase in Native American judicial clerks can be traced to the Committee's unwavering commitment to the program and students.

The scope of the committee's work includes outreach to students through panel presentations at conferences, offering meaningful mentorship opportunities, coaching on clerkship application materials, and funding students to attend professional development workshops. They also developed the PLSI Judicial Clerkship Handbook, a comprehensive guide designed to help students navigate the application and hiring process. The handbook also includes a section on applying for tribal court clerkships. <https://www.ailec-inc.org/plsi/judicial-clerkship/>.

The committee is currently comprised of eleven PLSI alumni, all of whom have completed at least one judicial clerkship: Lydia Locklear, Chair (PLSI 2014), Alma Buena (PLSI 2020), Jens Camp (PLSI 2019), Rodina Cave Parnall (PLSI 1998), Tim Devine (PLSI 2020), Kateri Eisenberg (PLSI 2018), Joaquin Gallegos (PLSI 2016), Alexander Mallory (PLSI 2016), Doreen McPaul (PLSI 1998), Justice Raquel Montoya-Lewis (PLSI 1992), and Roshanna Toya (PLSI 2016).

## Outstanding Young Lawyer of the Year Award CAMERON S. BUSH

◆ *Awarded to attorneys who have, during the formative stages of their legal careers by their ethical and personal conduct, exemplified for their fellow attorneys the epitome of professionalism by demonstrating a commitment to clients' causes and to public service, enhancing the image of the legal profession.*



*Cameron S. Bush accepts the Outstanding Young Lawyer of the Year Award.*

**Cameron Bush** is the owner of Bush Injury Law, a personal injury law firm based in Albuquerque, but serving clients all over New Mexico and Texas. Outside of managing his law firm, Cameron serves as a committee member and attorney monitor for the New Mexico Lawyers Assistance Program (NM LAP).

Cameron's greatest inspirations are his wife, Karla, who he affectionately refers to as his "secret weapon," his late grandfather, "Pa" who taught him much about business, life, and the art of haggling, and the many men and women of the Texas and New Mexico LAPs who mentored him during his early sobriety, teaching him to "give freely, what was so freely given to you."



Ronald T. Taylor accepts the Robert H. LaFollette Pro Bono Award.

## Robert H. LaFollette Pro Bono Award RONALD T. TAYLOR

♦Presented to an attorney who has made an exemplary contribution of time and effort, without compensation, to provide legal assistance over his or her career to people who could not afford the assistance of an attorney.

**Ron Taylor** is an Albuquerque native, married, with three children and seven grandchildren. Ron did his undergrad work at Berkeley and then graduated UNM Law with the “infamous” class of 1966.

After law school, Ron worked as a Peace Corps Volunteer for two and half years in Venezuela, working with two small community city councils. He also worked with several outlying, small groups of peasant farm families to help them develop filtrated water systems.

After the Peace Corps—and following his passion to one day work on ocean-going ships—Ron worked for a year as a deckman on cargo ships in the Pacific Ocean and Bearing Sea.

Ron then returned to Albuquerque to set up his law practice as a sole practitioner where he practiced for over fifty-two years. Ron worked and litigated in the areas of personal injury, estates, property law, as well as commercial law. Ron also made every effort to take on at least two pro bono cases a year through New Mexico Legal Aid and to provide legal services for at least one of the Law-La-Palooza legal fairs each year.

Ron tips his hat to all the the other New Mexico lawyers who have given of their time to perform pro bono legal work, whether it be for New Mexico Legal Aid, or for any of the other community-based organizations, or to just help on their own an indigenous person or family in need of legal assistance.

Ron is deeply honored to receive the Robert LaFollette volunteer attorney award.



Judge Robert Hayes Scott accepts the Justice Seth D. Montgomery Distinguished Judicial Service Award.

## Justice Seth D. Montgomery Distinguished Judicial Service Award

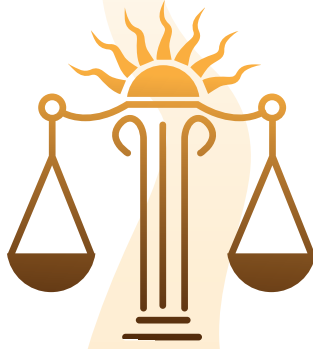
### JUDGE ROBERT HAYES SCOTT

♦Recognizes judges who have distinguished themselves through long and exemplary service on the bench and who have significantly advanced the administration of justice or improved the relations between the bench and the bar.

**Judge Robert Hayes Scott** is a native New Mexican who was born in Albuquerque. He attended the Albuquerque Public Schools and the University of New Mexico. He received his undergraduate degree and his law degree from the University of New Mexico. He is a graduate of the National Judicial College in Reno, Nevada. Judge Scott served as Probate Judge for Bernalillo County, a District Court Judge for the Second Judicial District (Civil Division and Family Court) and subsequently was appointed as a United States Magistrate Judge in the Federal Court for the District of New Mexico.

Judge Scott was active in the State Bar Association, serving as a Board member on the Senior Law Committee and one term as the President of the New Mexico District Judges Division. In 2008, Federal Judge Scott presided over prisoner consent verification cases in Seoul, Korea. Hearings were conducted at Daejeon Prison, south of Seoul. These hearings were the first of their kind in the history of the Republic of Korea. Judge Scott was the trial judge for the famous McDonald's Hot Coffee Case.





## ARTURO L. JARAMILLO

### *Summer Law Clerk Program*

- ☒ Does your firm, business, or organization want to be part of an ABA Awarded program?
- ☒ 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 underrepresented in the legal profession. The Program creates employment opportunities in law firms, governmental agencies, and non-profits in New Mexico by providing a summer law clerk experience for motivated and deserving law students who meet the program's eligibility criteria.

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

**LEON HOWARD**  
lhoward@aclu-nm.org

**DENISE CHANEZ**  
DChanez@sclawnm.com

**ABBY LEWIS**  
abby.lewis@sbnm.org



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

# Advance Opinions

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

From the New Mexico Supreme Court

From the New Mexico Supreme Court

**Opinion Number: 2024-NMSC-021**

No: S-1-SC-39679 (filed August 1, 2024)

**KENNETH B. ZANGARA and KATHY S. ZANGARA, Husband and Wife,**

Petitioners-Petitioners,

v.

**LSF9 MASTER PARTICIPATION TRUST,**

Respondent-Respondent,

and

**BANK OF AMERICA, N.A.,**

Respondent,

and

**LSF9 MASTER PARTICIPATION TRUST,**

Plaintiff-Respondent,

v.

**KENNETH B. ZANGARA and KATHY S. ZANGARA, Husband and Wife,**

Defendants-Petitioners,

and

**HIGH DESERT RESIDENTIAL OWNERS ASSOCIATION, INC.,**

**MAINTENANCE SERVICE SYSTEM, INC.,**

**and MEDIA WORKS ADVERTISING SPECIALTIES, INC.,**

Defendants.

**ORIGINAL PROCEEDING ON CERTIORARI**

Daniel E. Ramczyk, District Judge

Kevin A. Zangara, P.A.

Kevin A. Zangara

Taos, NM

for Petitioners

Modrall, Sperling, Roehl,

Harris & Sisk, P.A.

Elizabeth A. Martinez

Albuquerque, NM

Perkins Coie, LLP

Brien F. McMahon

San Francisco, CA

Aaron R. Goldstein

Los Angeles, CA

for Respondent

## OPINION

**ZAMORA, Justice.**

{1} In this appeal, we are called upon to review New Mexico's savings statute. *See* NMSA 1978 § 37-1-14 (1880). The savings statute suspends the running of an otherwise applicable statute of limitations when an action is timely commenced but later

dismissed for any cause except negligence in prosecution. It supports the goal of judicially resolving controversies based on the substantive questions they present, not on procedural technicalities. Given the importance of New Mexico's policy favoring judicial resolution of disputes, we clarify the meaning of the phrase *negligence in its prosecution* in Section 37-1-14. We hold the phrase *negligence in its prosecution*

is the same as a dismissal for failure to prosecute. We also reject as inconsistent with this holding any previous extensions of the negligence in prosecution exception to circumstances beyond a party's failure to timely take the steps necessary to bring the first-filed suit to a close. Our holding reaffirms the important purpose of our savings statute, which is to facilitate resolution of disputes on their merits.

### I. BACKGROUND

{2} The parties are Petitioners Kenneth Zangara and Kathy Zangara and Respondent LSF9 Master Participation Trust. References to non-party Bank of America, N.A. (BOA) provide context for the dispute. The case revolves around a \$2.3 million loan secured by a mortgage on a home in Albuquerque, New Mexico. The note on the loan was executed in 2005 by the Zangaras, who are the borrowers. Four years later, the Zangaras defaulted on the loan. The Zangaras filed for bankruptcy and within a few months, their personal liability on the loan was discharged in the bankruptcy proceedings and BOA was authorized to pursue an action for foreclosure on the property.

{3} In 2011, BOA, the Trust's predecessor in interest, filed a complaint for foreclosure of the mortgage securing the promissory note executed by the Zangaras. BOA's 2011 filing accelerated the debt and triggered the six-year statute of limitations for actions founded upon promissory notes. *See* NMSA 1978, § 37-1-3(A) (1880, amended 2015). BOA's action, which is not at issue on appeal, was stayed for several months while the parties explored loss-mitigation options. It was then dismissed in 2013 without prejudice for lack of prosecution. In 2015, BOA sold the note and assigned the mortgage to the Trust, which acquired a lost note affidavit and a copy of the note as part of the sale. But BOA did not specifically assign to the Trust its right to enforce the note.

{4} This appeal concerns the second foreclosure action the Trust filed against the Zangaras. There is no challenge to the timeliness of the filing of the first foreclosure action by the Trust. In its first action, the Trust alleged it had been assigned the mortgage by BOA and that BOA had negotiated the promissory note secured by the mortgage to the Trust by transferring possession of the note endorsed in blank. Exhibits to the Trust's complaint in the first action included a copy of the Affidavit of Lost Note executed by BOA and an endorsed copy of the Note endorsed in blank as well as a copy of the Mortgage and Assignment of the Mortgage to the Trust.

{5} The Zangaras moved to dismiss the Trust's first foreclosure action and on February 20, 2018, the district court granted the motion and dismissed the action without prejudice for lack of standing. Shortly after this dismissal, the Zangaras filed a petition to quiet title against the Trust and BOA. The Trust then filed a new suit for foreclosure against the Zangaras on August 20, 2018, invoking New Mexico's six-month savings statute. See Section 37-1-14.

{6} In its second suit, the Trust again alleged BOA had endorsed the note but did not repeat its previous allegation that BOA had transferred possession of the note to it. Instead, the Trust alleged BOA had lost the note and that the Trust had been assigned all of BOA's rights to enforce the lost note in an affidavit executed in June 2018, which was after the Trust's first foreclosure action was filed and shortly before its second foreclosure action was filed.

{7} The district court dismissed with prejudice the Trust's second foreclosure action based on its interpretation of Section 309 of the New Mexico Uniform Commercial Code. See NMSA 1978, § 55-3-309 (1992, amended 2023). That interpretation led the district court to conclude the savings statute did not apply because the Trust's initial foreclosure was "a nullity" that "cannot be used to bootstrap the timeliness of the 2018 action." It did not address the term *negligence in its prosecution*.

{8} The Trust appealed.<sup>1</sup> Relying on the right for any reason doctrine, the Court of Appeals focused on whether a dismissal for lack of jurisdiction comes within the negligence in prosecution exception to the savings statute. *Zangara*, A-1-CA-38169, mem. op. ¶ 8. The Court of Appeals resolved the savings statute issue in favor of the Trust based on its conclusion that the distinction it had drawn in a prior case between non-waivable and waivable defenses was outcome determinative. *Id.* ¶ 13. This led to the Court's conclusion that "a dismissal for lack of standing does not fall within the exception for negligence in the prosecution and that the instant action is therefore a continuation of the action that was dismissed for lack of standing." *Id.* In so doing, the Court of Appeals limited the reach of its prior opinion in *Barbeau v. Hoppentrath*. 2001-NMCA-077, 131 N.M. 124, 33 P.3d 675. See *Zangara*, A-1-CA-38169, mem. op. ¶ 13. We granted certiorari to address the meaning of the negligence in prosecution exception to the savings statute.

## II. ANALYSIS

{9} The Zangaras argue that the Trust was negligent in the prosecution of their first action because that action was dismissed for lack of prudential standing and thus, the savings statute does not apply. The Trust argues the negligence in prosecution exception is limited to failure to prosecute a suit with reasonable diligence, which is to say "failure to take the steps necessary to bring the suit to close." We agree with the Trust.

{10} We begin our analysis by determining the meaning of the term *negligence in its prosecution* in the savings statute. This calls for a de novo review. *Nguyen v. Bui*, 2023-NMSC-020, ¶ 14, 536 P.3d 482. In determining the meaning of a statute, we start with its language. We give statutory language "its ordinary and plain meaning unless the legislature indicates a different interpretation is necessary." *Cooper v. Chevron U.S.A., Inc.*, 2002-NMSC-020, ¶ 16, 132 N.M. 382, 49 P.3d 61. "Unless ambiguity exists, this Court must adhere to the plain meaning of the language." *Leger v. Gerety*, 2022-NMSC-007, ¶ 27, 503 P.3d 349 (internal quotation marks and citation omitted). "We will not depart from the plain language of the statute unless it is necessary to resolve an ambiguity, correct a mistake or an absurdity that the Legislature could not have intended, or . . . deal with an irreconcilable conflict among statutory provisions." *Id.* (internal quotation marks and citation omitted). When statutory language is clear and unambiguous, we give effect to that language. *Draper v. Mountain States Mut. Cas. Co.*, 1994-NMSC-002, ¶ 4, 116 N.M. 775, 867 P.2d 1157. These rules of statutory construction are consistent with New Mexico's Uniform Statute and Rule Construction Act, NMSA 1978, §§ 12-2A-1 to -20 (1997), which states in part: "Unless a word or phrase is defined in the statute or rule being construed, its meaning is determined by its context, the rules of grammar and common usage." Section 12-2A-2. There are cases in which our statutory analysis "begins and ends with [the statute's] plain language." *Nguyen*, 2023-NMSC-020, ¶ 15. This is such a case. {11} The full text of the savings statute reads:

If, after the commencement of an action, the plaintiff *fail therein for any cause, except negligence in its prosecution*, and a new suit be commenced within six months thereafter, the second suit shall, for the purposes herein contemplated, be deemed a continuation of the first.

Section 37-1-14 (emphasis added). We begin by reviewing the meaning of *any cause* since negligence in prosecution is the only exception to an action which fails for any other cause. *Cause* is an ordinary term of common usage which simply means "[s]omething that produces an effect or result." *Cause*, *Black's Law Dictionary* (12th ed. 2024). A legal action can fail for many causes, including lack of subject matter jurisdiction, service of process problems, improper joinder, improper venue, lack of standing, and even simply a failure to attach requisite documents. See, e.g., Rule 1-012(H) NMRA ("Waiver or preservation of certain defenses"); cf. *Hall v. Northside Med. Ctr.*, 2008-Ohio-4725, ¶ 36, 897 N.E.2d 717 (Ohio Ct. App. 7th Dist. 2008) (finding that failure to file requisite affidavit of merit in medical malpractice was not a "failure on the merits" so plaintiff could avail itself of savings statute). Because we find no ambiguity in the word *cause* as it is used in Section 37-1-14, we adhere to its plain meaning. *Leger*, 2022-NMSC-007, ¶ 27. We conclude *any cause* as used in our savings statute means any disposition without prejudice that "produces" or results in the failure of the first-filed action. The only exception to *any cause* is the failure of the first-filed action for negligence in prosecution.

{12} In the context of our savings statute, we have already equated negligence in prosecution with dismissal for failure to prosecute. *Gathman-Matotan Architects & Planners, Inc. v. Dep't of Fin. & Admin. (G-M Architects)*, 1990-NMSC-013, ¶ 8, 109 N.M. 492, 787 P.2d 411. We are aware of no definitions of the term *negligence in its prosecution* in our Supreme Court caselaw or in our statutes that are contrary to equating the plain language of that phrase with dismissal for failure to prosecute. A dismissal for failure to prosecute is also referred to as dismissal for want of prosecution. *Dismissal*, *Black's Law Dictionary* (12th ed. 2024). "Dismissal for want of prosecution" means a "court's dismissal of a lawsuit because the plaintiff has failed to pursue the case diligently toward completion." *Id.* Similarly, we have long defined the failure to diligently prosecute a suit with reasonable diligence as the failure to take the steps necessary to bring the suit to a close. *Emmco Ins. Co. v. Walker*, 1953-NMSC-074, ¶ 4, 57 N.M. 525, 260 P.2d 712. See also Rule 1-041(E) NMRA (addressing dismissal for failure to take significant action and reinstatement for good cause shown).

<sup>1</sup> The Court of Appeals resolved the Section 309 issue in a footnote, relying on a prior precedential opinion. *Zangara v. LSF9 Master Participation Tr.*, A-1-CA-38169, mem. op. ¶ 1 n.1 (N.M. Ct. App. Nov. 8, 2022 (nonprecedential) (citing *CitiMortgage, Inc. v. Garcia*, 2023-NMCA-081, 538 P.3d 89)). The Section 309 issue is not before us.



{13} For these reasons, we hold the term *negligence in its prosecution* in Section 37-1-14 means dismissal for failure to prosecute. If we were to hold otherwise and determine the meaning of the phrase *negligence in its prosecution* hinged only on the word *negligence*, there would be no limits on a litigant's ability to challenge an opposing party's reliance on Section 37-1-14. This would render superfluous the language in the statute that allows a plaintiff to bring a second action within six months of a dismissal without prejudice of the first action *for any cause* except that of negligence in prosecution.

{14} Our plain language analysis does not result in a mistake or absurdity that the Legislature could not have intended. *See Leger*, 2022-NMSC-007, ¶ 27. Nor does it result in an irreconcilable conflict. *Id.* Mistake or absurdity would ensue only if we ignored the plain language of the statute and adopted an expansive interpretation of the negligence in prosecution exception. Were we to do that, our courts would be forced to confront confounding questions of which suit-ending mistakes were sufficiently negligent to trigger the exception to the savings clause. We have found no indication our Legislature intended such an interpretation nor have the Zangaras provided any authority to support their claim that the availability of the savings statute turns on a case-by-case determination of whether there was negligence of any sort in the filing of the first action.

{15} Our prior caselaw is also consistent with our interpretation of what constitutes negligence in prosecution under the savings statute. We first addressed the savings statute in *Harris v. Singh*, 1933-NMSC-091, 38 N.M. 47, 28 P.2d 1. There, the plaintiff in the first action sued to recover on a promissory note executed by an individual named Rattn Singh. *Harris*, 1933-NMSC-091, ¶ 3. In the second action, the plaintiff alleged instead that Mr. Singh had executed the promissory note on behalf of a partnership, also named Rattn Singh. *Id.* The question then was whether the second action was the same as the first, which would allow the plaintiff the benefit of the savings statute. In describing the savings statute, we stated:

Here we find leniency in the statute itself. It extends even to one who has so far failed in his first action as to be under the necessity of commencing a new suit. *In terms it governs every case of failure except negligence in prosecution.* An exception from this broad language, by construction, should have good reason to support it.

*Id.* ¶ 15 (emphasis added). In *Harris*, we explained the leniency in our savings statute governed *every case of failure* except one. Noting that the only change in the second action from the first was the use of Rattn Singh's name as that of the partnership and that the new action sought recovery on the same transaction with the same measure of damages, we held the savings statute applied. *Id.* ¶ 20.

{16} Our focus on construing our savings statute liberally so that its terms “govern[] every case of failure except negligence in prosecution,” undergirds our handful of subsequent decisions addressing the savings statute. *Id.* ¶ 15. We determined that when the district court exercises its inherent discretion to dismiss a stale claim for failure of prosecution and makes complete findings of fact and conclusions of law, the plaintiff cannot avail themselves of the savings statute. *Benally v. Pigman*, 1967-NMSC-148, ¶ 11, 78 N.M. 189, 429 P.2d 648. By contrast, where dismissal is not based on the inherent power of the court to dismiss stale claims, and there are no findings and conclusions that the case was dismissed “by reason of the negligence of plaintiffs in prosecuting that cause,” the plaintiff can avail themselves of the savings statute. *Id.* ¶ 14.

{17} In *Team Bank v. Meridian Oil Inc.*, we held that the trial court may not transfer venue of a misfiled suit. 1994-NMSC-083, ¶¶ 11-13, 118 N.M. 147, 879 P.2d 779. We described our holding as one that “encourages plaintiffs to bring their suits in the proper venue and discourages ‘forum shopping.’” *Id.* ¶ 12. But we pointed out our holding did not infringe on the plaintiff's “substantive rights” because the plaintiff could avail themselves of the savings statute after dismissal for lack of venue. *Id.* We again commented upon our savings statute when we rejected a claim by third parties that the trial court could not dismiss their third-party complaint because the statute of limitations had run. *U.S. Fire Ins. Co. v. Aeronautics, Inc. (Aeronautics)*, 1988-NMSC-051, ¶ 5, 107 N.M. 320, 757 P.2d 790. In rejecting the third parties' contention that the statute of limitations had run, we explained the dismissal of their third-party complaint for improper joinder did not preclude their ability to file a new claim pursuant to the six-month savings statute. *Id.*

{18} In *G-M Architects*, we reiterated that the savings statute applies “except when the dismissal was based on the plaintiff's failure to pursue his claim.” 1990-NMSC-013, ¶ 8 (internal quotation marks and citation omitted). We specifically rejected the notion that the savings statute required the trial court to make specific findings of fact regarding plaintiff's negligence and concluded “dismissal for failure to prosecute

is functionally the same as a dismissal for negligence in prosecution.” *Id.*; *cf. King v. Lujan*, 1982-NMSC-063, ¶ 8, 98 N.M. 179, 646 P.2d 1243 (noting that “courts should not distinguish between a plaintiff who takes no action before the limitations period expires and a plaintiff who files a complaint before the period expires but who thereafter takes no action”).

{19} Our steady focus on protecting plaintiffs' substantive rights is consistent with “New Mexico's policy favoring access to judicial resolutions” as embodied in our savings statute. *Foster v. Sun HealthCare Grp.*, 2012-NMCA-072, ¶ 7, 284 P.3d 389. This facilitates controversies being decided on their merits instead of on procedural technicalities. *Id.* It is the prerogative of the Legislature, not this Court, to extend the reach of the savings statute beyond the sole exception for negligence in prosecution that has been the applicable law for almost 150 years. *See Cartwright v. Pub. Serv. Co. of N.M.*, 1961-NMSC-074, ¶ 8, 68 N.M. 418, 362 P.2d 796 (noting the savings statute first appears in 1880).

### III. BARBEAU AND ITS PROGENY ARE NO LONGER GOOD LAW

{20} The Court of Appeals held that the Trust's lack of prudential standing in the first case it filed did not prevent it from availing itself of the savings statute. *Zangara*, A-1-CA-38169, mem. op. ¶ 13. We affirm that result but disagree with the Court of Appeals' analysis. We take this opportunity to reject the analyses previously relied upon by the Court of Appeals and in so doing, we overrule *Barbeau*.

{21} The Court of Appeals observed caselaw on the negligence in prosecution exception to the savings statute “was not a model of clarity.” *Zangara*, A-1-CA-38169, mem. op. ¶ 10. It doubted that *Barbeau* “can be squared with the plain language and purpose of the Savings Statute.” *Id.* ¶ 11, n.3. Relying on *Amica Mut. Ins. Co. v. McRostie*, 2006-NMCA-046, 139 N.M. 486, 134 P.3d 773, the Court of Appeals reasoned the distinction “between waivable and nonwaivable defenses dictates the outcome of this appeal because, unlike subject matter jurisdiction, lack of standing is a waivable defense.” *Zangara*, A-1-CA-38169, mem. op. ¶ 13. The Court of Appeals therefore held “that a dismissal for lack of standing does not fall within the exception for negligence in the prosecution and that the instant action is therefore a continuation of the action that was dismissed for lack of standing.” *Id.* ¶ 13. Under this rationale, only nonwaivable defenses such as subject matter jurisdiction can fall within the negligence in prosecution exception to the savings statute. We reject that analysis and any analyses that “appl[y] the negligent prosecution exception to circumstances in which the

theory of negligence was not based on a failure to timely take the steps necessary to bring the first-filed lawsuit to a close.” *Id.* ¶ 11. The confusion appears to have started with *Barbeau*.

{22} The *Barbeau* plaintiffs timely filed a personal injury action in federal district court in Oregon. *Barbeau*, 2001-NMCA-077, ¶ 1. Within the six-month window provided by Section 37-1-14, they then filed a second action in New Mexico state court after the first action had been dismissed. *Id.* ¶ 5. The first action was dismissed by the Oregon federal magistrate for lack of personal and subject matter jurisdiction. *Id.* ¶ 4. The Court of Appeals noted that by “alleging that the plaintiffs and one of the defendants were all citizens of Oregon, *Barbeaus* defeated diversity and eliminated subject matter jurisdiction. Therefore, the claim was . . . improperly filed in Oregon federal court.” *Id.* ¶ 3.

{23} Conceding that in *G-M Architects* we “held that failure to prosecute and negligence in the prosecution were one in the same for purposes of Section 37-1-14,” the Court of Appeals nonetheless rejected that reasoning and looked to other jurisdictions for guidance because “New Mexico case law ha[d] not comprehensively defined what constitutes ‘negligence in the prosecution.’” *Barbeau*, 2001-NMCA-077, ¶ 12. This led the *Barbeau* Court to adopt a holding of the Iowa Supreme Court that “when plaintiffs had knowledge of the facts that would deny them jurisdiction, their failure to file in the correct forum constituted negligence in prosecution.” *Id.* ¶ 13 (internal quotation marks omitted) (citing *Sautter v. Interstate Power Co.*, 563 N.W.2d 609, 611 (Iowa 1997)). Contrary to our approach, the Iowa Supreme Court’s interpretation of their savings statute looks “not on how aggressively” the plaintiff pressed their first suit, but on “how unreasonable it was for them to bring or pursue it without a factual basis for its most elementary requirement.” *Sautter*, 563 N.W.2d at 611. As we did in *Harris*, we reject the Iowa Supreme Court’s more

expansive and fact-intensive interpretation of its exception to their savings statute and conclude that *Barbeau’s* adoption of that interpretation was mistaken.

{24} *Barbeau* is inconsistent with the plain language and purpose of our savings statute. It is also inconsistent with our prior analyses of Section 37-1-14, particularly in *Harris*, *G-M Architects*, and *Aeronautics*. Accordingly, we overrule *Barbeau*.

{25} We also reject the analyses relied upon by the Court of Appeals in *Amica* and *Foster*, neither of which limited the negligent prosecution exception to circumstances in which there was a failure to timely take the steps necessary to bring the first-filed suit to a close. In *Amica*, the Court of Appeals held that a subrogation action dismissed for improper venue did not fall within the negligence in prosecution exception to the savings statute. 2006-NMCA-046, ¶ 1. The *Amica* Court distanced itself from *Barbeau* by explaining the *Barbeau* reasoning did not “automatically transfer to the facts” before it. 2006-NMCA-046, ¶ 16. It also observed:

While we cannot say that Plaintiff was free of carelessness in its lack of basis for venue . . . , we are not prepared to extend *Barbeau* and conclude that the circumstances in the present case constitute negligent prosecution.

*Id.* The *Amica* Court properly focused on the “policy favoring access to judicial resolution of disputes, including that embodied in Section 37-1-14.” *Id.* ¶ 17. To get around *Barbeau*, the Court of Appeals in *Amica* focused its inquiry on whether dismissal for improper venue was a waivable or nonwaivable defense. *Amica*, 2006-NMCA- 046, ¶¶ 15-17. We reject this analysis as inconsistent with the language of our savings statute, the statute’s purpose to facilitate resolution of issues on the merits, and this Court’s prior caselaw. {26} In *Foster*, the Court of Appeals took a different approach than it had in *Amica* and relied more directly on *Barbeau*. Although it acknowledged that New Mexico

policy favors access to judicial resolution, it followed *Barbeau’s* directive “to look at the evidence of what the plaintiff knew at the time he commenced his [first] action.” *Foster*, 2012-NMCA-072, ¶ 24. It then broadly defined due diligence in prosecution and established a test that required evidence of what the plaintiff knew about the defendants’ citizenship at the time he filed his initial complaint in federal court. *Id.* ¶¶ 23-24. This is a much broader exception than we recognized in *Harris* and *G-M Architects* and is similar to Iowa’s requirement that a party prove the first action did not fail on account of their negligence. See *Sautter*, 563 N.W.2d at 611. Accordingly, we reject the analysis relied upon in *Foster*.

{27} For the reasons stated above, we overrule *Barbeau* and reject and overrule prior opinions of the Court of Appeals which extended the negligence in prosecution exception to circumstances beyond a party’s failure to timely take the steps necessary to bring the first-filed suit to a close.

#### IV. CONCLUSION

{28} We hold the term *negligence in its prosecution* in Section 37-1-14 is functionally the same as a dismissal for failure to prosecute and we conclude dismissal of the Trust’s first foreclosure action for lack of standing was not negligence in prosecution under Section 37-1-14. We affirm the result the Court of Appeals reached on this issue below but we reject the analysis the Court of Appeals relied upon to reach that result. We also overrule and reject any extensions of the negligence in prosecution exception under Section 37-1-14 in prior Court of Appeals opinions to the extent they are inconsistent with our holding in this case.

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

**BRIANA H. ZAMORA, Justice**

**WE CONCUR:**

**DAVID K. THOMSON, Chief Justice**

**MICHAEL E. VIGIL, Justice**

**JULIE J. VARGAS, Justice**

**FRANCIS J. MATHEW, Judge**

**Sitting by designation**

# FORMAL OPINION

*Electronic decisions may contain computer-generated errors or other deviations from the official version filed by the Court of Appeals.*

**Filing Date: 10/30/2024**

**No. A-1-CA-41172**

**STATE OF NEW MEXICO,**

Plaintiff-Appellee,

v.

**PAUL SANDOVAL,**

Defendant-Appellant.

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

Stan Whitaker, District Court Judge

Raúl Torrez, Attorney General  
Santa Fe, NM

Van Snow, Acting Deputy Assistant Solicitor General  
Albuquerque, NM

for Appellee

Bennett J. Baur, Chief Public Defender  
Mallory E. Harwood, Assistant Appellate Defender  
Santa Fe, NM

for Appellant

## ► Introduction of Opinion

Defendant Paul Sandoval appeals his convictions of numerous offenses against the victim in this case, a minor named S.M. (Victim), including four counts of criminal sexual penetration (CSP), contrary to NMSA 1978, Section 30-9-11(D), (E) (2009); five counts of criminal sexual contact of a minor (CSCM), contrary to NMSA 1978, Section 30-9-13 (2003); and one count each of child abuse and giving alcoholic beverages to a minor, contrary to NMSA 1978, Section 30-6-1(D)(1) (2009) and NMSA 1978, Section 60-7B-1(A) (2013), respectively. On appeal, Defendant claims that prosecution for five of his convictions, each being either a third- or fourth-degree felony, was barred by the relevant statute of limitations, which requires indictment to be found within five years of the alleged crimes. See NMSA 1978, § 30-1-8(B) (2009, amended 2022).<sup>1</sup> Defendant further argues that all but two of his remaining convictions, four counts of which were presented to the jury as alternatives to the primary count, violate his constitutional protections against being twice placed in jeopardy for the same offense. **View full PDF online.**

J. Miles Hanisee, Judge  
WE CONCUR:  
Megan P. Duffy, Judge  
Katherine A. Wray, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-41172>



# FORMAL OPINION

*Electronic decisions may contain computer-generated errors or other deviations from the official version filed by the Court of Appeals.*

**Filing Date: 11/18/2024**

**No. A-1-CA-40146**

**STATE OF NEW MEXICO,**

Plaintiff-Appellee,

v.

**TOMMIE JOE VALVERDE,**

Defendant-Appellant.

**APPEAL FROM THE DISTRICT COURT  
OF DOÑA ANA COUNTY**

Douglas R. Driggers, District Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

Emily Bowen, Assistant Solicitor General

Albuquerque, NM

for Appellee

Harrison & Hart, LLC

Nicholas T. Hart

Albuquerque, NM

for Appellant

## ► Introduction of Opinion

Defendant Tommie Joe Valverde was convicted by a jury of committing the following sex crimes against his now ex-wife's granddaughter, I.A. (Victim): one count of criminal sexual penetration of a minor (CSPM), contrary to NMSA 1978, Section 30-9-11(D) (1) (2009); and four counts of criminal sexual contact of a minor (CSCM), contrary to NMSA 1978, Section 30-9-13(B)(1) (2003). All of Defendant's conduct underlying each charge occurred during two distinct periods of time, either between September 9 and September 24, 2017, or between August 12 and November 29, 2019. For Defendant's conduct during the 2017 time period, Defendant was convicted of one count of CSPM and two counts of CSCM. For the subsequent 2019 period, Defendant was convicted of two counts of CSCM. On appeal, Defendant contends that two of his convictions of CSCM, one arising from each time period, violate his state and federal protections against being twice placed in jeopardy for the same offense because each assault constitutes one course of conduct for which only one CSCM conviction can be maintained. See N.M. Const. art. II, § 15; U.S. Const. amend. V. For the reasons set forth, we reverse in part and remand for resentencing in accordance with this opinion.

J. Miles Hanisee, Judge

WE CONCUR:

Shammara H. Henderson, Judge

Jane B. Yohalem, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-40146>

# FORMAL OPINION

*Electronic decisions may contain computer-generated errors or other deviations from the official version filed by the Court of Appeals.*

**Filing Date: 11/18/2024**

**No. A-1-CA-41465**

**STATE OF NEW MEXICO,**

Plaintiff-Appellee,

v.

**MATTHEW RODGERS,**

Defendant-Appellant.

**APPEAL FROM THE DISTRICT COURT  
OF SAN JUAN COUNTY**

Karen L. Townsend, District Court Judge

Raúl Torrez, Attorney General  
Santa Fe, NM

Charles J. Gutierrez, Assistant Solicitor General  
Albuquerque, NM

for Appellee

Bennett J. Baur, Chief Public Defender  
Nina Lalevic, Assistant Appellate Defender  
Santa Fe, NM

for Appellant

## ► Introduction of Opinion

Defendant was charged with aggravated burglary (armed after entering), see NMSA 1978, § 30-16-4(B) (1963), and criminal damage to property, see NMSA 1978, § 30-15-1 (1963). Under the Mental Illness and Competency Code (the Code), NMSA 1978, §§ 31-9-1 to -2 (1967, as amended through 2023), the district court (1) determined Defendant to be incompetent, see § 31-9-1.1, and dangerous; and (2) committed Defendant for treatment to attain competency, see § 31-9-1.2(B). The parties subsequently agreed that there was no substantial likelihood that Defendant could become competent within the statutory time frame. See § 31-9-1.3(E). After a hearing, the district court found by clear and convincing evidence under Section 31-9-1.5(D) that Defendant committed a felony, contrary to Section 30-16-4(B), which involved the use of a firearm. **View full PDF online.**

Katherine A. Wray, Judge

WE CONCUR:

J. Miles Hanisee, Judge

Jacqueline R. Medina, Judge

To read the entire opinion, please visit  
the following link: <https://bit.ly/A-1-CA-41465>

# FORMAL OPINION

*Electronic decisions may contain computer-generated errors or other deviations from the official version filed by the Court of Appeals.*

**Filing Date: 11/19/2024**

**No. A-1-CA-40436**

**STATE OF NEW MEXICO,**

Plaintiff-Appellee,

v.

**MAURY MONTEL ELLIOTT a/k/a**

**MAURY MONTEL ELLIOT,**

Defendant-Appellant.

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

T. Glenn Ellington, District Court Judge

Raúl Torrez, Attorney General  
Lee Green, Assistant Solicitor General  
Santa Fe, NM

for Appellee

Bennett J. Baur, Chief Public Defender  
Mary Barket, Assistant Appellate Defender  
Santa Fe, NM

for Appellant

## ► Introduction of Opinion

Defendant Maury Montel Elliott appeals his convictions for contributing to the delinquency of a minor (CDM), contrary to NMSA 1978, Section 30-6-3 (1990); and criminal sexual penetration in the commission of a felony (CSP II-felony), contrary to NMSA 1978, Section 30-9-11(E)(5) (2009). Defendant's primary claim is that his right to be free from double jeopardy was violated by his convictions for both CDM and CSP II-felony, where CDM was also the predicate felony relied on to increase what was otherwise criminal sexual penetration of a minor (CSPM), a fourth degree felony, to CSP II-felony, a second degree felony. Defendant also challenges the sufficiency of the evidence to support his CDM and CSP II-felony convictions. Finally, Defendant contends that CDM is not an appropriate predicate felony to support a CSP II-felony conviction because it is too generic and nonspecific, or alternatively that, when CDM is the predicate felony, the use of force or coercion should be included in the jury instructions as an essential element of CSP II-felony. We conclude that Defendant's convictions for both CDM and CSP II-felony violate Defendant's right to be free from double jeopardy. We, therefore, vacate Defendant's conviction for CDM. We otherwise affirm.

Jane B. Yohalem, Judge  
WE CONCUR:  
Jennifer L. Attrep, Chief Judge  
Gerald E. Baca, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-40436>



# 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.*

**No. A-1-CA-40575**  
**State of New Mexico**  
**v.**  
**Errick Begay**

## Introduction of Opinion

Defendant Errick Begay appeals one of his six convictions for criminal sexual penetration of a minor (CSPM) in the first degree (child under thirteen years of age), NMSA 1978, § 30-9-11(D)(1) (2009), and his conviction for criminal sexual contact of a minor (CSCM) in the third degree (child under thirteen years of age), NMSA 1978, § 30-9-13(C)(1) (2003). Defendant raises a single issue on appeal—that these two convictions violate double jeopardy. We affirm.

Jennifer L. Attrep, Chief Judge  
WE CONCUR:  
Jacqueline R. Medina, Judge  
Katherine A. Wray, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40575>

**No. A-1-CA-40811**  
**State of New Mexico**  
**v.**  
**Omar Juarez-Rocha**

## Introduction of Opinion

Defendant appeals his conviction for possession of a stolen motor vehicle, advancing two arguments. First, Defendant contends that his conviction was based on an improper jury instruction for receiving stolen property, UJI 14-1650 NMRA, rather than the uniform jury instruction for possession of a stolen vehicle, UJI 14-1652 NMRA, resulting in fundamental error. Second, Defendant claims there was insufficient evidence presented to support the jury's finding that Defendant knew or had reason to know that the vehicle in his possession was stolen. We affirm.

Megan P. Duffy, Judge  
WE CONCUR:  
Gerald E. Baca, Judge  
Katherine A. Wray, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40811>

**No. A-1-CA-41029**  
**State of New Mexico**  
**v.**  
**Javon Martinez**

## Introduction of Opinion

The State appeals the district court's order granting Defendant Javon Martinez's motion to suppress evidence obtained as a result of the warrantless search of his backpack. The district court ruled that the search was an invalid inventory search and Defendant's consent, obtained after the search, did not remedy violations of Defendant's constitutional rights. The State raises a number of issues in support of reversing the district court, some of which, were not preserved for review by this Court. The State argues: (1) the evidence was insufficient to support suppression because the district court improperly disregarded uncontested evidence; **View full PDF online.**

Jacqueline R. Medina, Judge  
WE CONCUR:  
Jennifer L. Attrep, Chief Judge  
Katherine A. Wray, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-41029>

# 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.*

**No. A-1-CA-41072**  
**State of New Mexico**  
**v.**  
**Carlos Sanchez-Trillo**

## Introduction of Opinion

After a jury trial, Defendant Carlos Sanchez-Trillo was convicted of possession of a controlled substance in violation of NMSA 1978, Section 30-31-23(A), (F) (2019, amended 2021), and tampering with evidence in violation of NMSA 1978, Section 30-22-5 (2003). On appeal, Defendant argues that (1) trial counsel provided ineffective assistance of counsel by failing to secure the admission of potentially exculpatory evidence, and (2) his convictions for possession of a controlled substance and tampering with evidence violate double jeopardy. Unpersuaded, we affirm.

Zachary A. Ives, Judge  
WE CONCUR:  
Jacqueline R. Medina, Judge  
Katherine A. Wray, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-41072>

**No. A-1-CA-40007**  
**State of New Mexico**  
**v.**  
**Ruben Lopez**

## Introduction of Opinion

Following a jury trial, Defendant Ruben Lopez was convicted of aggravated burglary with a deadly weapon, contrary to NMSA 1978, Section 30-16-4(A) (1963); two counts of aggravated assault with a deadly weapon, contrary to NMSA 1978, Section 30-3-2(A) (1963); and possession of a firearm by a felon, contrary to NMSA 1978, Section 30-7-16 (2019, amended 2022). Defendant now appeals arguing: (1) the district court improperly admitted evidence of jail phone calls; (2) the district court violated his right to confrontation by admitting the preliminary testimony of Magnolia Prince and Adolph Peelle (Victims); (3) he was denied his right to effective assistance counsel; and (4) the district court violated his right to conflict free counsel when it denied his trial counsel's motion to withdraw. We affirm.

Kristina Bogardus, Judge  
WE CONCUR:  
Zachary A. Ives, Judge  
Shammara H. Henderson, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40007>

**No. A-1-CA-40665**  
**Power of Grace Trucking, LLC**  
**v.**  
**Weatherby-Eisenrich**  
**Agency, Inc.**

## Introduction of Opinion

In the proceedings below, the district court found that an excess/umbrella insurance policy issued by Respondent Hudson Insurance Companies (Hudson) was ambiguous and entered judgment declaring that the policy provided coverage for a semi-trailer accident. Hudson appeals, arguing that the district court erred in (1) deciding the matter under Rule 1-012(C) NMRA, (2) its substantive coverage determination, and (3) denying Hudson's motions to reconsider. We agree that, under the circumstances presented, the coverage question should not have been resolved under Rule 1-012(C). We accordingly reverse and remand for further proceedings.

Megan P. Duffy, Judge  
WE CONCUR:  
Shammara H. Henderson, Judge  
Gerald E. Baca, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40665>

# MEMORANDUM OPINION

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**No. A-1-CA-40937**  
**State of New Mexico**

**v.**

**William Quintana-Doizaki**

## **Introduction of Opinion**

Defendant William Quintana-Doizaki stands convicted of seven counts of criminal sexual penetration (child under thirteen), contrary to NMSA 1978, Section 30-9-11(D)(1) (2009); eight counts of criminal sexual contact of a minor in the second degree (child under thirteen), contrary to NMSA 1978, Section 30-9-13(B)(1) (2003); and two counts of intimidation of a witness (threats) (reporting), contrary to NMSA 1978, Section 30-24-3 (1997). Defendant argues on appeal that (1) the prosecutor impermissibly commented on his right to remain silent, and (2) the district court abused its discretion in failing to sever the charges relating to each child. Unpersuaded, we affirm.

Gerald E. Baca, Judge  
WE CONCUR:  
J. Miles Hanisee, Judge  
Jane B. Yohalem, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40937>

**No. A-1-CA-40965**  
**John D. Ainsworth**

**v.**

**Bank of America, N.A.**

## **Introduction of Opinion**

Appellants John and Rebekah Ainsworth (the Ainsworths) appeal the district court's dismissal of their counterclaims against Appellees Bank of America, N.A. (Bank of America), Nationstar Mortgage (Nationstar), and Caliber Home Loans, Inc. (Caliber) related to a mortgage contract. The Ainsworths argue (1) the district court applied the wrong legal standard in dismissing their counterclaims; (2) the assignment to them of the rights and benefits of the borrower under the mortgage contract was valid; and (3) there was a genuine issue of material fact regarding their statutory claims. We reverse and remand.

J. Miles Hanisee Judge  
WE CONCUR:  
Jacqueline R. Medina, Judge  
Jane B. Yohalem, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40965>

**No. A-1-CA-40617**  
**Neal J. Van Berg**

**v.**

**New Mexico Taxation  
& Revenue Department**

## **Introduction of Opinion**

Respondent New Mexico Taxation and Revenue Department levied interest and a civil negligence penalty on Protestants Neal and Catherine Van Berg (Taxpayers) for their untimely payment of their 2019 personal income taxes. Taxpayers filed a formal protest. The administrative hearing officer (AHO) affirmed the interest owed, but abated the civil penalty based on two alternative rationales. First, the AHO concluded that Taxpayers were "nonnegligent," pursuant to 3.1.11.11(B) NMAC. **View full PDF online.**

Zachary A. Ives, Judge  
WE CONCUR:  
Shammara H. Henderson, Judge  
Gerald E. Baca, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40617>



# MEMORANDUM OPINION

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**No. A-1-CA-41017**  
**State of New Mexico**  
**v.**  
**Fabian Gonzales**

## Introduction of Opinion

Defendant Fabian Gonzales appeals his conviction for reckless child abuse resulting in death of a child under age twelve, contrary to NMSA 1978, Section 30-6-1(F) (2009); as well his multiple counts of tampering with evidence (Counts 2, 3, 4, 5, 6, & 8), contrary to NMSA 1978, Section 30-22-5 (2003). On appeal Defendant argues: (1) there was not sufficient evidence presented by the State to convict him of child abuse resulting in death of a child under twelve; (2) there was error in one of the jury instructions regarding the legal duty owed to a child when a defendant is charged with reckless child abuse; and (3) five of the seven convictions for tampering with the evidence violate Defendant's protections against double jeopardy. We affirm.

Kristina Bogardus, Judge  
WE CONCUR:  
Jane B. Yohalem, Judge  
Katherine A. Wray, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-41017>

**No. A-1-CA-40340**  
**Leticia Lopez**  
**v.**  
**Joshua Gonze**

## Introduction of Opinion

Respondent Joshua Gonze appeals from three district court orders awarding a total of \$312,470.27 in attorney fees and costs to Petitioner Leticia Lopez. On appeal, we address two main issues raised by Respondent: (1) whether the district court abused its discretion in awarding attorney fees to Petitioner; and (2) whether the district court's awards of attorney fees were unreasonable. We affirm.

Shammara H. Henderson, Judge  
WE CONCUR:  
Kristina Bogardus, Judge  
Katherine A. Wray, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-40340>

**No. A-1-CA-41207**  
**D. Maria Schmidt**  
**v.**  
**WW Healthcare, LLC**

## Introduction of Opinion

D. Maria Schmidt, as personal representative of the wrongful death estate of Francisco Padilla, and Connie Padilla (collectively, Plaintiffs) filed a complaint against WW Healthcare, LLC d/b/a Princeton Place Nursing & Rehabilitation; Two P Management, LLC; OnPointe Business Services, LLC; WSquared Enterprises GP, LLC; WSquared Holdings GP, LLC; Todd Miller, RN; Horace Winchester; Jerry Williamson; Andrew Lark; and David McClure (collectively, Defendants), alleging wrongful death and negligence, among other claims. Defendants filed a motion to dismiss and compel arbitration, citing an agreement to arbitrate (the Agreement) signed by Mr. Padilla on May 17, 2020. **View full PDF online.**

Bruce D. Black, Judge Pro Tem  
WE CONCUR:  
Jennifer L. Attrep, Chief Judge  
Zachary A. Ives, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-41207>



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## Section and Division Meeting Occurrence Schedule

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Animal Law	Monthly / Second Wednesday	Noon (MT) / Virtual
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Bankruptcy Law	Monthly / Second Tuesday	Noon (MT) / Bankruptcy Court & Virtual
Business Law	Monthly / Second Tuesday	11 a.m. (MT) / Virtual
Cannabis Law	Monthly / Second Friday	9 a.m. (MT) / Virtual
Children's Law	Monthly / Third Monday	Noon (MT) / Virtual
Elder Law	Monthly / First Friday	Noon (MT) / Virtual
Employment and Labor Law	Monthly / First Wednesday	12:30 p.m. (MT) / Virtual
Family Law	Monthly / Third Friday	9 a.m. (MT) / Virtual
Health Law	Monthly / First Tuesday	9 a.m. (MT) / Virtual
Immigration Law	Monthly / Last Friday	Noon (MT) / Virtual
Indian Law	Every Other Month / Third Friday	Noon (MT) / Virtual
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Real Property Division	Every Other Month / First Tuesday	Noon (MT) / Virtual
Solo and Small Firm Law	Monthly / Third Tuesday	9 a.m. (MT) / Virtual
Tax Law	Monday / Second Tuesday	9 a.m. (MT) / Virtual

Divisions	Occurrence (Month, Day of Week)	Time, Venue of Occurrence
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
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New Mexico Legal Aid (NMLA) provides civil legal services to low income New Mexicans for a variety of legal issues including domestic violence/family law, consumer protection, housing, tax issues and benefits. NMLA has locations throughout the state including Albuquerque, Santa Fe, Las Cruces, Gallup, Roswell, Silver City, Clovis, Hobbs, Las Vegas, Taos, and Santa Ana. Managing Attorney: Multiple positions; Staff Attorney Positions: Multiple positions; Paralegal: Multiple positions. Please visit our website for all current openings, NMLA benefits, Salary Scales and instructions on how to apply - <https://newmexicolegalaid.isolvedhire.com/jobs/>

### 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 ( \$ 72,301.00 ) to a Senior Trial Attorney ( \$85,222.00), based upon experience. Must be licensed in the United States. These positions are located in the Carlsbad and Roswell, 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)

### Assistant Trial Attorney or Trial Attorney – Socorro County

Assistant Trial Attorney or Trial Attorney wanted for immediate employment with the Seventh Judicial District Attorney's Office, which includes Catron, Sierra, Socorro and Torrance counties. Employment will be based primarily in Socorro County (Socorro, NM). Socorro is approximately a one hour commute from Albuquerque. Must be admitted to the New Mexico State Bar. Salary range will be \$72,301 - \$90,377 and commensurate with experience and budget availability. Will also have full benefits and one of the best retirement plans (PERA) in the country. Send resume to: Seventh District Attorney's Office, Attention: J.B. Mauldin, P.O. Box 1099, 302 Park Street, Socorro, New Mexico 87801. Or email to: [jbmauldin@da.state.nm.us](mailto:jbmauldin@da.state.nm.us)

### Family Legal Assistance Attorney

Pueblo of Laguna, NM – Great employer and benefits, competitive pay DOE! Seeking full-time attorney to provide legal advice and representation to Laguna members on broad range of civil matters, including consumer, probate, benefits, and family issues. Leisurely commute from Albuquerque metro or Grants, and partial remote-work available. Apply now, open until filled. Application instructions and position details at: <https://www.lagunapueblo-nsn.gov/elected-officials/secretarys-office/human-resources/employment/>

### Assistant Trial Attorney or Trial Attorney- Sierra County

Assistant Trial Attorney or Trial Attorney wanted for immediate employment with the Seventh Judicial District Attorney's Office, which includes Catron, Sierra, Socorro and Torrance counties. Employment will be based primarily in Sierra County (Truth or Consequences, NM). T or C is approximately a one hour commute from Las Cruces. Must be admitted to the New Mexico State Bar. Salary range will be \$72,301 - \$90,377 and commensurate with experience and budget availability. Will also have full benefits and one of the best retirement plans (PERA) in the country. Send resume to: Seventh District Attorney's Office, Attention: J.B. Mauldin, P.O. Box 1099, 302 Park Street, Socorro, New Mexico 87801. Or email to: [jbmauldin@da.state.nm.us](mailto:jbmauldin@da.state.nm.us)

### Appellate Attorney

Appellate boutique Durham, Pittard & Spalding LLP is looking for bright, motivated, and talented lawyers to join our growing and successful team in our office in Santa Fe. Our firm specializes in civil appeals and provides trial support to some of the best trial lawyers in New Mexico and throughout the country in high-stakes, complex litigation on behalf of plaintiffs. Our practice is heavily focused on catastrophic injury and wrongful death litigation, including product liability, toxic tort, medical malpractice, and trucking, but our attorneys also handle a wide variety of other civil matters including civil rights, employment, and the occasional domestic relations or criminal appeal. We are looking for candidates who enjoy researching, writing, and presenting oral argument to trial and appellate courts. Judicial clerks or past clerkship experience are preferred. The position offers the opportunity to learn from experienced practitioners and to develop the skills of a top-notch appellate attorney. If interested, please send a cover letter, resume, and writing sample to: [hiring@dpslawgroup.com](mailto:hiring@dpslawgroup.com).

### **Division Director for Medicaid Fraud - New Mexico Department of Justice**

The New Mexico Department of Justice is seeking a well-rounded and experienced individual to join our team as the Division Director for the Medicaid Fraud and Elder Abuse Division. The Director will be responsible for overseeing and managing a multidisciplinary team of dedicated professionals. The primary focus of the Division is to pursue the investigation and criminal prosecution or civil litigation of fraud of the Medicaid program by healthcare providers, as well as the abuse, neglect and/or financial exploitation of residents in care facilities. The Director will work closely with the Attorney General, Chief Deputy Attorney General, and Deputy Attorney General for Criminal Affairs. Qualifications include having a 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 criminal prosecution or defense of white-collar crimes and offenses against vulnerable populations, and/or experience with civil litigation in the healthcare field. Demonstrated skills and experience in related fields will be considered; Minimum of 3 years of management experience preferred; Federal grant management and administration experience preferred, but not required; Proven track record of developing and executing successful investigation and prosecution/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 skills; Ability to work effectively under pressure, prioritize tasks, and meet deadlines; Exceptional interpersonal and communication skills, with the ability to collaborate effectively with government agencies, as well as a group of diverse private and public-interest stakeholders. To apply please submit the following documents to Tim Maestas at [recruiting@nm DOJ.gov](mailto:recruiting@nm DOJ.gov): Cover letter detailing your interest in the role and your relevant experience; Resume/CV with a detailed overview of your educational and professional background; Writing samples showcasing your legal research and writing abilities; Contact information for three professional references. If you have questions, please reach out to Tim Maestas at [tmaestas@nm DOJ.gov](mailto:tmaestas@nm DOJ.gov).

### **Trial and Appellate Attorney**

The Office of Family Representation and Advocacy, a State of New Mexico Executive Branch adjunct agency, is seeking applicants for a combined trial and appellate attorney. Our agency represents children and indigent adults in abuse and neglect cases brought by the Children, Youth and Families Department. All State benefits included. For more information and to apply, please visit <https://www.spo.state.nm.us/>. Job ID149164. Contact Lisa Fitting 505-538-0134.

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

The City of Albuquerque Legal Department is hiring for various Assistant City Attorney positions. Hybrid in person/remote work schedule available. The Legal Department's attorneys provide a broad range of legal services to the City and represent it in legal proceedings in court and before state, federal and administrative bodies. Current open positions include: General Counsel: The City is seeking attorneys to provide a broad range of general counsel legal services to various City departments, boards, commissions, and agencies in the Municipal Affairs and Real Estate and Operations divisions. Responsibilities include, but are not limited to, drafting legal opinions, reviewing and drafting ordinances and executive/administrative instructions, reviewing and drafting contracts, and providing general advice and counsel on day-to-day operations for various Departments throughout the City. Land Use and Enforcement Division: The City is seeking an attorney to enforce traffic violations and provide general counsel support to various Departments and programs, including, but not limited to, Animal Welfare and automated speed enforcement. Air Quality Attorney: The City is seeking an attorney for the Real Estate and Operations Division. This attorney will serve as general counsel to the City's Environmental Health Department ("EHD") regarding Air Quality issues throughout Bernalillo County including at federal and state facilities. This attorney will provide a broad range of legal services to EHD including, but not limited to, administrative enforcement actions, litigation and appeals, stationary source permits and "fugitive dust" permits, air quality monitoring and quality assurance, guidance regarding EPA grants, control strategies, work with EHD teams to develop new or amended regulations to be proposed to the Albuquerque-Bernalillo County Air Quality Control Board ("Air Board"), attend and represent EHD staff at rulemaking and adjudicatory hearings, review and draft intergovernmental agreements regarding air quality issues, review and draft legislation regarding air quality; 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; Utilities/PRC: The City is seeking an attorney to represent it in matters regarding franchise and right of way agreements, public utilities, broadband and telecommunications, and will appear before the Public Regulation Commission ("PRC"). Attention to detail and strong writing and interpersonal skills are essential. Preferences

include: experience with litigation, contract drafting and review, government agencies, government compliance, 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**

RILEY|KELLER|ALDERETE|GONZALES, an AV-rated Albuquerque civil defense firm formed in 1982, seeks an associate attorney trial position. We seek a person with civil experience, including communication and writing skills. The position is full-time with the prospect of a virtual work setting and flexible schedule. We offer an excellent salary, benefits and pension package. Please submit a resume, references and writing samples to our Office Manager by fax, (505) 883-4362 or [mvelasquez@rileynmlaw.com](mailto:mvelasquez@rileynmlaw.com).

### **Personal Injury Associate**

Caruso Law Offices, an ABQ plaintiff personal injury/wrongful death law firm, has an immediate opening for an associate with 3+ yrs. litigation experience, including arbitration, bench and/or jury trial. Must have excellent communication, organizational, and client services skills. Good pay, bonuses, benefits and profit sharing. Send confidential response to Mark Caruso, [mark@carusolaw.com](mailto:mark@carusolaw.com) or 4302 Carlisle NE, ABQ NM 87107 or fax 505-883-5012. See our website at [www.carusolaw.com](http://www.carusolaw.com)

### **Associate Attorney Position**

Swaim, Carlow & Ames, P.C. has an opening for an Associate Attorney in its busy Estate Planning, Trust Administration and Probate law firm. SCA is a five-attorney law firm that serves clients throughout NM, and also serves clients in CO, AZ and TX. SCA also assists its clients with business transactions, including setting up Corporations, LLCs and Partnerships. Prior experience in these areas of the law would be helpful, but is not a requirement for the position. SCA will provide training for a successful candidate. SCA is looking for an Attorney with 0 to 5 years-experience in the private practice of law who is licensed to practice in NM. Additional licenses in CO, AZ and TX would be helpful. The successful candidate must enjoy working in a group practice where the Attorneys and staff work closely together to complete client projects. SCA offers a competitive compensation package for its Attorneys, including employer paid-for health insurance, 401(k) retirement plan, and a bonus plan for Associate Attorneys. Candidates should submit their resume, with references, to [kathleen@estateplannersnm.com](mailto:kathleen@estateplannersnm.com).

### City of Albuquerque – Contract Attorney

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

### Associate Attorney

Ashton Horton Mullins PC provides comprehensive estate planning services to our clients. We pride ourselves on our commitment to excellence and our personalized approach to each client. We are seeking a motivated and detail-oriented Associate Attorney to join our estate planning team. Experience in estate planning is not required as we are looking to grow our team with an attorney who has the desire to learn estate planning and we will provide structured mentorship and training. Key responsibilities that will increase with mentorship and training: Draft wills, trusts, and other estate planning documents; Advise clients on estate planning strategies and tax implications; Conduct client meetings and maintain strong client relationships; Collaborate with senior attorneys on complex cases. What we offer: Competitive salary and benefits package; Opportunities for professional development and growth; Supportive and collaborative work environment; Position in Albuquerque or Santa Fe with flexibility on hybrid work. Please submit your resume, cover letter, and a writing sample to [bridget@ahm.law](mailto:bridget@ahm.law). We look forward to hearing from you! Ashton Horton Mullins PC is an equal opportunity employer. We celebrate diversity and are committed to creating an inclusive environment for all employees.

### Full Or Part Time Associate

Stiff, Garcia & Associates, defense insurance firm seeking full or part time associate to work as much or as little as you want. Part time is available for experienced senior insurance defense lawyer, paid by billable hours. Benefits include health, dental, life insurance and 401K. Salary ranges from \$85,000.00 to \$135,000.00, DOE. Please send resume to John Stiff, [jstiff@stiffllaw.com](mailto:jstiff@stiffllaw.com) or Karen Arrants, [karrants@stiffllaw.com](mailto:karrants@stiffllaw.com)

### Legal Assistant Position

Swaim, Carlow & Ames, P.C. has a legal assistant position open. SCA is a busy five lawyer Estate Planning, Trust Administration and Probate law firm with clients in NM, CO, AZ and TX. Prior experience with the preparation of Wills, Trusts and Probate documents is helpful, but not a requirement. Experience with the preparation of business transactions documents, Corporations, LLCs and Partnerships is helpful. SCA has a very busy practice and the successful candidate must have the ability to handle a high volume of document preparation and client contact. The Legal Assistants at SCA deal with clients directly on a daily basis and work closely with the attorneys in completing client projects. SCA offers a competitive compensation and benefits package including health insurance, 401(k) retirement plan, annual bonuses and a 36-hour work week. Candidates should submit a resume, with references, to [kathleen@estateplannersnm.com](mailto:kathleen@estateplannersnm.com).

### Legal Assistant

Ives & Flores, P.A., seeks a full-time legal assistant. Email resume to [alyssa.q@nmcivilrights.com](mailto:alyssa.q@nmcivilrights.com).

### Paralegal

Paralegal position in established commercial civil litigation firm. Prior experience preferred. Re-quires knowledge of State and Federal District Court rules and filing procedures; factual and legal online research; trial preparation; case management and processing of documents including acquisition, review, summarizing, indexing, distribution and organization of same; drafting discovery and related pleadings; maintaining and monitoring docketing calendars; oral and written communications with clients, counsel, and other case contacts; proficient in MS Office Suite, AdobePro, Powerpoint and adept at learning and use of electronic databases and legal software technology. Must be organized and detail-oriented professional with excellent computer skills. All inquiries confidential. Salary DOE. Competitive benefits. Email resumes to or Fax to 505-764-8374.

### Intake Specialist

Our well-established and highly respected personal injury law firm in Santa Fe, New Mexico, is currently looking for a dedicated, full-time Intake Specialist to be the first point of contact for potential clients. This vital position is a key part of our team, where your contributions make a real impact in the lives of our clients. Candidates should be proficient in MS Office, including Word, Excel, and Outlook. Exceptional written and verbal communication skills are essential for this role. Strong organizational abilities and attention to detail are necessary to maintain high standards. Bilingual skills in Spanish are preferred for this position. We believe in investing in our team and offer genuine opportunities for professional growth and development. We offer 100% employer-paid health insurance premiums, competitive pay, generous paid time off and access to a 401K plan with profit sharing to support your future. Please submit your resume and a cover letter to [santafepifirm@gmail.com](mailto:santafepifirm@gmail.com).

### Legal Assistant

Conklin, Woodcock, Ziegler & Hazlett, P.C., a medium-sized downtown litigation firm is accepting resumes for a full-time legal assistant position. We are seeking a motivated, team-orientated person with experience in civil litigation, court rules and filing procedures. There may be some opportunity for paralegal work as well. Candidates must have solid clerical, organizational, computer and word processing skills. Excellent benefits, including 401K, health insurance benefits, paid vacation and sick leave, as well as year-end bonus opportunities. Salary will be based on experience and skills. Please respond to this ad with your resume and references to [jobs@conklinfirm.com](mailto:jobs@conklinfirm.com).

### Full-Time Legal Assistant/ Legal Secretary

Madison, Mroz, Steinman, Kenny & Olexy, P.A., a well-established civil litigation firm, seeks a full-time Legal Assistant/Legal Secretary. The ideal candidate should have a minimum of 5 years civil litigation experience, with preference towards medical malpractice, the ability to multitask effectively in a fast-paced environment, possess excellent skills in case management and calendar procedures, ability to assess priorities, highly motivated, detail oriented, strong work ethic, knowledge of State and Federal court rules, and proficient in Odyssey and CM/ECF e-filing. We offer an excellent fully funded health insurance plan, 401(K) and Profit Sharing Plan, paid designated holidays, PTO, and a professional and team-oriented environment. Please submit your resume to: [becky@madisonlaw.com](mailto:becky@madisonlaw.com), or mail to Office Administrator, P.O. Box 25467, Albuquerque, NM 87125-5467.



## Digital Marketing & Communications Coordinator

The State Bar of New Mexico seeks qualified applicants to join our team as a full-time (40 hours/week) Digital Marketing and Communications Coordinator. The successful applicant will work closely with State Bar and Bar Foundations' staff to communicate information to State Bar licensees and the public. This position will support the Communications department by performing administrative tasks including website maintenance, social media marketing and email communications. \$21-\$23/hour, depending on experience and qualifications. Generous benefits package included. This position qualifies for partial telecommuting. Qualified applicants should submit a cover letter and resume to HR@sbnm.org. Visit [www.sbnm.org/SBNMjobs](http://www.sbnm.org/SBNMjobs) for full details and application instructions.

## Appellate Law And Briefing

Cooper Appeals PLLC offers counsel, help with motions work, and legal research/writing services to busy trial attorneys looking to expand their practice capacity. Principal Kirk Cooper has 11+ years of appellate experience and is former chief counsel of a state intermediate appellate court. Serving attorneys in New Mexico and Texas, federal and state court. Flexible rates and arrangements. Contact [kirk@cooperappeals.com](mailto:kirk@cooperappeals.com).

## Services

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## Office Space

### Executive Office Suites

Office Alternatives, locally owned circa 2006, has Executive Office Suites, Virtual mail/professional address, Virtual receptionist service, hourly offices and conference room rentals, Witness and Notary services. OA provides the infrastructure for attorney practices to lower your overhead and work in a professional environment. 2 convenient locations-Journal Center and Riverside Plaza. 505-796-9600 [www.officealternatives.com](http://www.officealternatives.com).

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Locally owned and operated. Move-in ready suites (155 sq ft & 350 sq-ft) ideal for a solo attorney. Conveniently located in the North Valley with easy access to I-25, Paseo Del Norte, and Montano. Visit our website [www.sunvalleyabq.com](http://www.sunvalleyabq.com) for more details or call Jaclyn Armijo at 505-343-2016.

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For more details, read Rule 18-204(C) NMRA.

For Center for Legal Education pre-approved Self-Study courses, visit our On-Demand/Self-Study library at:  
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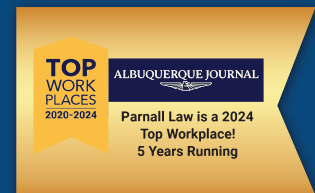
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who refers a Senior attorney  
hired by the firm \*\*

- ◆ \$2,500 paid when they start
- ◆ \$2,500 paid at 90 days
- ◆ \$2,500 paid at 6 months
- ◆ \$2,500 paid at 1 year

\*\*A Senior attorney must have 3+ years of experience. A Junior attorney has less than 3 years of experience. There is a \$3,000 Referral Bonus for anyone who refers a Junior attorney hired by the firm, which is paid out over the same time period as above.





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