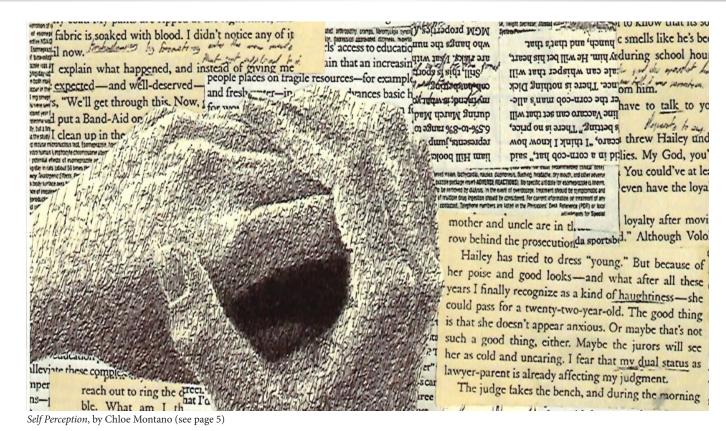
Official Publication of the State Bar of New Mexico

# BAR BULLETIN

May 14, 2025 · Volume 64, No. 9



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# **CLE PROGRAMMING**

from the

Center for Legal Education

The How to Practice Series, presented by the New Mexico State Bar Foundation's Center for Legal Education and the State Bar of New Mexico's Professional Development Program, is designed to provide the fundamental knowledge necessary to practice a particular area of law.

The **Center for Legal Education** has launched a new section on its website that centralizes the **How to Practice Series**. Now available for self-study are:

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**How to Practice** courses coming soon!

**May 16** 

Ethics in the Age of Al: **Navigating the Legal** Landscape with ChatGPT

10 EP

11 a.m.-Noon **WEBINAR** 

May 21

It Really Does Matter: Maintaining Integrity of the **Legal Profession** 

1.0 EP

Noon-1 p.m. **WEBINÂR** 

May 21

**Learning Legal Ethics from** the Lincoln Lawyer: Season 2

10 EP

11 a.m.-Noon **WEBINAR** 

*May 21* 

**Indemnity Agreements in Business and Commercial Transactions: Types and** 

**Tradeoffs** 

11 a.m.-Noon **TELESEMINAR**  *May 22* 

**Bond Proceedings Before** the Immigration Court

Noon-1 p.m. **WEBINAR** 

May 22

**Discovering Implicit Biases** in Jury Selection

1.0 EII

11 a.m.-Noon **WEBINAR** 

May 29

Al in the Workplace: Issues and Risks for Employers

1.0 G

11 a.m.-Noon **TELESEMINAR** 

*Mav 29* 

Killers of the Flower Moon: The Osage Murders and How **Attorneys Can Combat Bias** 

1.0 EII

11 a.m.-Noon WFRINAD

*May 30* 

**Shared Spaces: Ethics of Remote and Virtual Offices** 

10FP

11 a.m.-Noon

**TELESEMINAR** 

June 11

Al for Transactional Lawyers: **Ethics and Efficiency in Your Legal Practice** 

2.0 EP

11 a.m.-1 p.m. Webinar

*Iune 12* 

**Immigration Hot Topics** and Ethical Considerations **Under a New Executive** Administration

1.0 EP

Noon-1 p.m.

**WEBINAR** 

*July 10* 

Advanced Topics in T Visas: Diving into Physical **Presence on Account of Trafficking and Recent** 

**Trends** 

1.0 G

Noon-1 p.m.

July 11

**Estate Planning for Blended Families** 

1.0 G

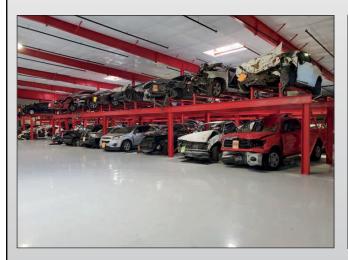
Noon-1 p.m.

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About Cover Image and Artist: Chloe is a senior student at Cibola High School in Albuquerque, New Mexico.

## **Notices**

Please email notices desired for publication to 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.

#### **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 or visit https://lawlibrary.nmcourts.gov.

# First Judicial District Mass Reassignment of Cases

Effective June 2, a mass reassignment of all active cases previously assigned to Judge Mary Marlowe Sommer and Division VIII will occur pursuant to NMSC Rule 23-109, the Chief Judge Rule and LR1-102, Locations of Principal Offices. The Hon. Jason Lidyard, Division V has been reassigned to Santa Fe County of the First Judicial District and will maintain a Criminal Docket. Parties who have not previously exercised their right to challenge or excuse will have ten (10) days from May 28 to challenge or excuse Judge Jason Lidyard pursuant to Rule 1-088.1.

#### First Judicial District Court Judicial Nominating Commission

#### **Announcement of Vacancy**

A vacancy on the First Judicial District Court will exist as of June 1 due to the retirement of the Hon. Mary Marlowe Sommer effective May 31. The First Judicial District Court Judicial Nominating Commission will meet on May 13 to interview applicants for the First Judicial District Court located at 225 Montezuma Ave., Santa Fe, N.M.

## **Professionalism Tip**

With respect to to the courts and other tribunals:

I will voluntarily withdraw claims or defenses when they are superfluous or do not have merit.

#### Second Judicial District Court Notice of Reassignment of Cases

Pursuant to Rule 5-106, NMRA, the Second Judicial District Clerk of Court hereby serves notice that, effective March 15, Division II cases have been assigned to the Hon. Matthew Chavez. Individual notices of judge reassignment will be sent to attorneys in active cases. A list of inactive case reassignments will be emailed to the Law Offices of the Public Defender. the District Attorney's Office, the Attorney General's Office and the private defense bar, in lieu of individual notices of reassignment. An email notification regarding the reassignment of probation violation cases will be sent to the Law Offices of the Public Defender, the District Attorney's Office, the Attorney General's Office and the private defense bar.

# U.S. District Court, District of New Mexico Notice of Investiture of United States District Judge Sarah M. Davenport

All members of the Federal Bench and Bar are invited to the Investiture of the Hon. Sarah M. Davenport at 3:30 p.m. (MT) on May 30 in the Sierra Blanca Courtroom at the United States Courthouse in Las Cruces, N.M. at 100 N. Church St. on the third floor. A reception hosted by the Federal Bench and Bar of the United States District Court for the District of New Mexico will follow from 5:30 to 7:30 p.m. (MT) at Red Hawk Golf Club at 7502 Red Hawk Golf Rd., Las Cruces, N.M. 88012. To RSVP, visit rsvp. nmcourt.uscourts.gov/Davenport.

#### Bernalillo County Metropolitan Court Notice of Investiture of the Hon. Andrea I. Gunderson and the Hon. Ramon J. Maestas

Members of the legal community and the public are invited to attend the Investiture of the Hon. Andrea I. Gunderson, Division XIX, and the Hon. Ramon J. Maestas, Division V. The ceremony will be held at 3 p.m. (MT) on June 6 in the Bernalillo County Metropolitan Court Rotunda. Participating justices and judges are asked to please bring their robe and report to the Viewing Room by 2:30 p.m. (MT).

#### STATE BAR NEWS 2025 State Bar of New Mexico Annual Awards

**Call for Nominations**Nominations are being

Nominations are being accepted for the 2025 Annual Awards to recognize those who have distinguished themselves or who have made exemplary contributions to the State Bar or legal profession in the past year. The awards will be presented at the 2025 Annual Meeting on Thurs., July 31, at Sandia Resort & Casino in Albuquerque, N.M. For additional information and to submit a nomination through Jotform, please visit https://bit.ly/SBNM-AnnualAwards.



## New Mexico Supreme Court Committees, Boards, and Commissions Notice of Current Vacancy

The Supreme Court of New Mexico is seeking applications to fill an existing vacancy on the Appellate Rules Committee as noted below.

**Appellate Rules Committee** 

 New Mexico Department of Justice Criminal Appeals Division Representative

Anyone interested in volunteering to serve on the Appellate Rules Committee may apply by submitting a Supreme Court committee application, along with a resume, to Elizabeth A. Garcia, Chief Clerk, by email to **nmsupremecourtclerk@nmcourts**. gov, or by first class mail to P.O. Box 848, Santa Fe, N.M. 87504. The Supreme Court's application form is available on the Supreme Court's website at https://supremecourt.nmcourts.gov/services-programs/committees-boards-commissions. <u>Please submit applications by May 23, 2025</u>.

# Committee on Diversity in the Legal Profession Call For Volunteers for the Bar Exam Coaching Program

The State Bar of New Mexico's Committee on Diversity in the Legal Profession is proud to offer an inclusive coaching program for applicants from all diverse backgrounds taking the New Mexico Bar Exam. The program is designed to match an applicant with a committed attorney volunteer who will serve as a resource for the applicant. Coaches and applicants will communicate in person, via phone, e-mail and/or virtual meeting during the applicant's bar preparation. Attorney volunteers will not be expected to teach applicants substantive law. To volunteer or to learn more, contact State Bar of New Mexico Equity in Justice Attorney Abby Lewis at abby.lewis@sbnm.org.

#### Save the Date for the State Bar of New Mexico's 2025 Annual Meeting

The State Bar of New Mexico's 2025 Annual Meeting will take place at Sandia Resort & Casino in Albuquerque, N.M. from July 31 through Aug. 2. This year's keynote speaker is Bryan Stevenson, the author of the New York Times' bestselling book Just Mercy and a widely acclaimed public interest lawyer who has dedicated his career to helping the poor, the incarcerated and the condemned. Book your hotel room at the special discounted rate of only \$229 per night by July 14 at https:// bit.ly/2025-Annual-Meeting-Hotel-Room-Reservation. Annual Meeting registration will be opening in May at www.sbnm.org/ AnnualMeeting2025.

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

The Monday Night Attorney Support Group meets at 5:30 p.m. (MT) on Mondays by Zoom. This group will be meeting every Monday night via Zoom. The intention of this support group is the sharing of anything you are feeling, trying to manage or struggling with. It is intended as a way to connect with colleagues and to know you are not in this alone. Join the meeting via Zoom at https://bit.ly/attorneysupportgroup.

## **Notices**

#### UNM SCHOOL OF LAW Invitation to the Alumni/ae **Association Law Scholarship Golf Classic**

Join the UNM School of Law for the Alumni/ae Association Law Scholarship Golf Classic presented by Nusenda Credit Union on June 6 at the UNM Championship Golf Course! This tournament raises funds for law student scholarships. To register for the tournament, email lynn. taylor@law.unm.edu or register online at https://bit.ly/UNM-School-of-Law-Golf-Classic.

#### **Law Library Hours**

The Law Library is happy to assist attorneys via chat, email, or in person by appointment from 8 a.m. to 6 p.m. (MT) Monday through Friday. 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.

#### **OTHER NEWS** City of Albuquerque -Department of Children, Youth & Family Services-Division of **Child & Family Development Invitation to Apply for Service on** the Early Head Start Governance **Advisory Committee**

The City of Albuquerque's Early Head Start Governance Advisory Committee ("the Committee") invites licensed attorneys to apply for a Licensed Attorney position on the Committee. The Committee will meet quarterly, once established, and the position on the Committee will require an appointment process that includes Mayor and CAO review and approval, as well as City Council Confirmation. Applications are due by May 16. For more information, visit https://www.cabq. gov/clerk/boards-commissions. Contact Dr. Dawnita Blackmon-Mosely with any questions.

#### announces the availability of grant funds to provide civil legal services to eligible clients during calendar year 2026. In accordance with LSC's multiyear funding policy, grants are available for only specified service areas. The list of service areas (and their descriptions) where grant opportunities are open are available at https://www.lsc.gov/grants/ basic-field-grant/lsc-service-areas/2026service-areas-subject-competition. The Request for Proposals (RFP), which in-

**Legal Services Corporation** 

for Calendar Year 2026

**Notice of Grant Funds Available** 

The Legal Services Corporation (LSC)

cludes instructions for preparing the grant proposal, will be published at https://bit. ly/LSC-Basic-Field-Grantee-Resources on or around April 15. Applicants must file a Pre-Application and the grant application through GrantEase: LSC's grants management system. Visit https://bit.ly/LSC-Basic-Field-Grant for filing dates, applicant eligibility, submission requirements, and updates regarding the LSC grants process. Email inquiries pertaining to the LSC grants process to LSCGrants@lsc.gov.

#### 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.



The Bar Bulletin isn't just a place for information; it's a hub for discourse and perspectives on timely and relevant legal topics and cases! From A.I. and technology to family law and pro bono representation, we welcome you to send in articles on a variety of issues pertaining to New Mexico's legal community and beyond!

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General Registration for all three days will be \$650 starting on May 27.

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Friday Sessions Only Virtual \$275 (5.5 CLE Credits)

**Bryan Stevenson's Keynote Presentation** In-Person Only \$30 (Audit Only - No CLE Credit)

# **Register NOW at**

www.sbnm.org/AnnualMeeting2025



# Modest Means





Modest Means Helpline is a civil legal telephone helpline and attorney referral service of the New Mexico State Bar Foundation. The Modest Means Helpline assists New Mexico residents with incomes below 500%\* of the federal poverty guidelines. The Modest Means Helpline can assist in civil legal matters including but not limited to domestic relations (divorce, child custody, kinship guardianship, domestic violence), landlord/tenant, small business issues, consumer, and probate.

The Modest Means Helpline's staff attorneys provide legal advice by phone and, if appropriate, may refer the case to pro bono attorneys for representation ranging from legal advice to limited or full representation. Those interested may reach the Modest Means Helpline at 505-797-6013 or 888-857-9935. Phone lines are open and accepting voicemails 24 hours a day, 7 days a week. Callers may leave voicemails at any time, including on evenings and weekends.

\*The federal poverty guidelines are calculated by household size. In 2024, an income at 500% of the FPG is \$75,300 for household of 1 and \$156,000 for a household of 4.



New Mexico State Bar Foundation Modest Means Helpline

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## **Public Censure**

#### From the New Mexico Supreme Court

From the New Mexico Supreme Court

Filing Date: April 21, 2025 No: S-1-SC-40711

IN THE MATTER OF HON. MICHAEL G. RAEL Questa Municipal Court

The New Mexico Judicial Standards Commission Phyllis A. Dominguez Marcus J. Blais Albuquerque, NM

Robles, Rael & Anaya, PC Luis E. Robles Albuquerque, NM

for Respondent

for Petitioner

# PUBLIC CENSURE PER CURIAM.

{1} This matter came before this Court on December 20, 2024, pursuant to the filing of a petition to accept the Stipulation Agreement and Consent to Discipline (Stipulation) between the Judicial Standards Commission (Commission) and Hon. Michael G. Rael, a municipal court judge in Questa, New Mexico.

{2} {2} We granted the petition and accepted the terms of the Stipulation, including Judge Rael's consent to the issuance of a public censure. We now publish this public censure in the State Bar of New Mexico Bar Bulletin in accordance with our order, the Stipulation, and Rule 27-401(A)(4), (B) NMRA.

#### I. BACKGROUND

{3} A complaint against Judge Rael was filed with the Commission. The Commission's initial investigation included an informal conference which allowed Judge Rael to personally discuss the allegations with the Commission. The Commission and Judge Rael entered into the Stipulation after that informal conference. As part of the Stipulation, Judge Rael admitted committing willful misconduct based on the following facts:

A. On or about August 25, 2023, Judge Rael abused the prestige of judicial office when he repeatedly invoked his judicial title while speaking to officers who were investigating a car accident in which he was involved specifi-

cally referring to himself as "Judge Rael" and stated to officers that he was the judge in Questa.

B. On or about August 25, 2023, Judge Rael failed to follow the law when he admitted to officers investigating the car accident in which he was involved, that he was driving 55 miles per hour in a 45 mile per hour zone.

Stipulation at 2.

[4] Judge Rael agrees that the above-listed conduct violates the following Rules of the Code of Judicial Conduct: Rule 21-101 NMRA (requiring compliance with the law), Rule 21-102 NMRA (promoting confidence in the judiciary), and Rule 21-103 NMRA (avoiding abuse of the prestige of judicial office). Judge Rael also agrees that the admitted misconduct in office is sufficient for this Court to impose discipline pursuant to Article VI, Section 32 of the New Mexico Constitution. As discipline, Judge Rael agreed to receive a public censure to be published in the State Bar of New Mexico Bar Bulletin. For the reasons discussed below, we issue this public censure.

#### II. DISCUSSION

{5} Article VI, Section 32 of the New Mexico Constitution creates the Judicial Standards Commission and provides that "any justice, judge or magistrate of any court may be disciplined or removed for willful misconduct in office." We have defined willful misconduct in office as "improper and wrong conduct of a judge acting in his official capacity done intentionally, knowingly, and, generally, in bad faith. It is more than a mere error of judgment or an act of negligence." In re Locatelli, 2007-NMSC-029, ¶ 8, 141

http://www.nmcompcomm.us/

N.M. 755, 161 P.3d 252 (internal quotation marks and citation omitted). In imposing discipline, "[t]here need not be clear and convincing evidence to support each and every one of the Commission's evidentiary findings. Rather, we must be satisfied by clear and convincing evidence that there is willful judicial misconduct which merits discipline." *In re Castellano*, 1995-NMSC-007, ¶ 37, 119 N.M. 140, 889 P.2d 175.

{6} Judge Rael admitted that the conduct described in the Stipulation violated Rules 21-101, 21-102, and 21-103. Stipulation at 2. While a violation of the Code of Judicial Conduct alone may not require the imposition of discipline, a violation does provide evidence of misconduct. Locatelli, 2007-NMSC-029, ¶¶ 7-8. We agree that the stipulated facts support the conclusion that Judge Rael willfully violated Rules 21-101, 21-102 and 21-103, and for that reason, he should be formally censured

{7} The preamble to the Code of Judicial Conduct states, "An independent, fair, and impartial judiciary is indispensable to our system of justice." Rule 21-001(A) NMRA. To promote the public's trust and to maintain and enhance confidence in the legal system, "[j]udges should maintain the dignity of judicial office at all times and avoid both impropriety and the appearance of impropriety in their professional and personal lives." Rule 21-001(B). In violating the Code of Judicial Conduct, Judge Rael failed to uphold the dignity of judicial office and behaved in a manner that undermines public confidence in the integrity and professionalism of the judiciary.

{8} Rule 21-101 requires a judge to "respect and comply with the law, including the Code of Judicial Conduct." Rule 21-102 requires a judge to "act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary and [to] avoid impropriety and the appearance of impropriety." "Actual improprieties include violations of law, court rules, or provisions of th[e] Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated th[e] Code." Id. comm. cmt. 5.

{9} Judge Rael's actions violated Rules 21-101 and 21-102. Judge Rael failed to follow the Code's precepts which require him to act at all times in a manner that promotes public confidence in the integrity of the judiciary. See Rule 21-001(A), (B). Judge Rael exceeded the posted speed limit on a highway and, when talking with law enforcement, continually referred to himself as holding the position of judge.

## **Public Censure**

#### From the New Mexico Supreme Court

law enforcement, continually referred to himself as holding the position of judge. These actions violated the law and the Code of Judicial Conduct, contrary to Rule 21-101. Additionally, these actions created the appearance of impropriety by suggesting special treatment by law enforcement, contrary to Rule 21-102.

{10} Rule 21-103 prohibits judges from "abus[ing] the prestige of judicial office to advance the personal or economic interests of the judge or others." In particular, the Committee Commentary to Rule 21-103 advises that "it would be improper for a judge to allude to his or her judicial status to gain favorable treatment in encounters with traffic officials." Judge Rael thus violated Rule 21-103 when he repeatedly referred to himself as a judge, going so far as to say he was the judge in Questa and that he had held that position for twenty-three years.

{11} Judge Rael agrees that these violations erode the public's confidence, reflect negatively on the New Mexico judiciary as a whole and are prejudicial to the effective administration of justice. A public censure is therefore appropriate under the New Mexico Constitution Article VI, Section 32, and the Court's power of superintending control under the New Mexico Constitution Article VI, Section 3. The imposition of judicial discipline protects the public, preserves the public's confidence in the integrity, independence, and impartiality of the judicial system and enforces the standards of conduct established by the Code of Judicial Conduct. {12} Having considered the stipulated facts, violations of the Code of Judicial Conduct, and the accepted Stipulation, we hereby publicly censure Judge Rael for http://www.nmcompcomm.us/

willfully violating the established rules and standards that govern every New Mexico judge's conduct. We issue this public censure to ensure the public's confidence in the integrity, impartiality, and independence of the judiciary and to remind all judges that misconduct that erodes the public's confidence will not be tolerated.

{13} For the foregoing reasons, Hon. Michael G. Rael is hereby publicly censured for willful misconduct as set forth fully in the Stipulation, which this Court accepted, adopted, and confirmed.

[14] IT IS SO ORDERED. DAVID K. THOMSON, Chief Justice MICHAEL E. VIGIL, Justice C. SHANNON BACON, Justice JULIE J. VARGAS, Justice BRIANA H. ZAMORA, Justice

# Equity in Justice Book Club Just



## State Bar of New Mexico 2025 Annual Meeting Keynote Speaker Bryan Stevenson's Just Mercy

Aja N. Brooks, President, State Bar of New Mexico **Abby Lewis,** Equity in Justice Attorney, State Bar of New Mexico

Torri Jacobus, Director of Statewide Equity, Inclusion, and Justice for the Administrative Office of the Courts

oin us as we read "Just Mercy," the powerful memoir that explores the injustices of the American criminal justice system by State Bar of New Mexico's 2025 Annual Meeting keynote speaker Bryan Stevenson. This award-winning book illustrates the impact of wrongful convictions, inadequate legal defense and harsh sentencing, emphasizing the need for compassion and reform. Ultimately, it calls for a more just system that values mercy and human dignity for all individuals. Book club participants will work together to identify tools to ensure that justice is available to all.

#### We will meet virtually on the dates below from noon to 1 p.m. (MT).

- Wednesday, May 28 Prologue, Introduction, and Chapters 1-3
- Wednesday, June 18 Chapters 4-8
- Wednesday, June 25 Chapters 9-10

- Wednesday, July 9 Chapters 11-13
- Wednesday, July 23 Chapters 14-16 and Epilogue



All in the legal profession are welcome! Can't make all of them? That's okay! Come to whichever dates you can!

- ► **Sign-up:** https://form.jotform.com/250713612369052
- ▶ Study guide: https://bit.ly/Just-Mercy-Discussion-Guide

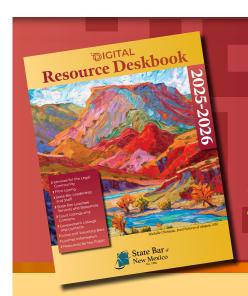


# The New Mexico Court of Appeals Announces JUDGE JACQUELINE R. MEDINA as New Chief Judge



Judge Jacqueline R. Medina is the new Chief Judge of the New Mexico Court of Appeals. She is serving a two-year term and succeeds Judge Jennifer L. Attrep, who held the position since 2023. The Chief Judge is the administrative authority over the 10-member court's budget, personnel and general operations and continues to hear cases.

Chief Judge Medina is the first native of Taos to serve on the Court of Appeals. She was elected to the court in 2018, and before that served for more than 16 years as an Assistant Attorney General. She was an Assistant District Attorney and Children's Court attorney early in her legal career.



# The Digital Resource Deskbook 2025-2026 is Here!

View & Download your FREE digital copy at www.sbnm.org/Resource-Deskbook-2025-2026!

All active State Bar of New Mexico licensees were emailed a FREE digital copy of the Resource Deskbook 2025-2026 as a member benefit on March 28.

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# Just Mercy Book Club



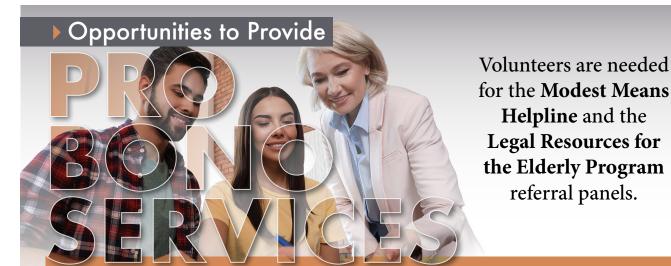
oin the State Bar of New Mexico for a reading and discussion of Just Mercy, the powerful memoir that explores the injustices of the American criminal justice system, by the State Bar of New Mexico's 2025 Annual Meeting keynote speaker Bryan Stevenson. This award-winning book, which became a New York Times bestseller following its release, illustrates the impact of wrongful convictions, inadequate legal defense and harsh sentencing, emphasizing the need for compassion and reform. Ultimately, it calls for a more just system that values mercy and human dignity for all individuals. Book Club participants will work together to identify tools to ensure that justice is available to all.

This Book Club will be hosted by the State Bar of New Mexico and facilitated by State Bar of New Mexico President Aja N. Brooks, Equity in Justice Attorney Abby Lewis, as well as Torri Jacobus Director of Statewide Equity, Inclusion, and Justice for the Administrative Office of the Courts.

President Aja N. Brooks writes "I am thrilled to welcome Bryan Stevenson as our keynote speaker at this year's State Bar Annual Meeting, and a Just Mercy book club is the perfect way for our legal community to engage in meaningful discussion in advance of his address! This book is essential reading for everyone but especially those in our profession. By sharing the powerful stories of his work with the wrongfully accused and others, he exposes the failings of a system that prioritizes retribution over rehabilitation. Most importantly, Stevenson challenges us to reconsider our definitions of justice and fairness and adopt a system rooted in mercy."

For more details, click here https://bit.ly/EIJBookClub-JustMercy.





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# **Legal Education Calendar**

#### May

#### 15 Mastering Case Management: Strategies to Streamline Your Legal Practice

1.0 G Web Cast (Live Credits) New Mexico Trial Lawyers Association & Foundation

www.nmtla.org

#### 15 19th Annual New Mexico Tax Research Institute

8.2 G, 1.0 EP Live Program New Mexico Tax Research Institute www.nmtri.org

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

1.0 G Webinar NMSBF Center for Legal Education https://bit.ly/CLE-TheAIEdge-05152025

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

1.0 EP Webinar NMSBF Center for Legal Education https://bit.ly/CLE-EthicsintheAgeofAI-05162025

#### 20 The Act of Persuasion: Mastering Storytelling in Opening Statements

1.0 G Web Cast (Live Credits) New Mexico Trial Lawyers Association & Foundation www.nmtla.org

#### 21 Level Up Your Trial From "Storytelling" to "Storyshowing": New Visual Strategies for Persuading Jurors 1.0 G

Web Cast (Live Credits) New Mexico Trial Lawyers Association & Foundation www.nmtla.org

#### 21 Learning Legal Ethics From the Lincoln Lawyer: Season 2

1.0 EP Webinar NMSBF Center for Legal Education

#### 21 It Really Does Matter: Maintaining the Integrity of the Legal Profession

1.0 EP Webinar NMSBF Center for Legal Education https://bit.ly/CLE-ItReallyDoesMatter-05212025

#### 22 Turning Your Experts Into Superstars

1.0 G Web Cast (Live Credits) New Mexico Trial Lawyers Association & Foundation www.nmtla.org

#### 22 Bond Proceedings Before the Immigration Court

1.0 G
Webinar
NMSBF Center for Legal
Education
https://bit.ly/CLE-BondProceed
ingsBeforetheImmigrationCou
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# 22 Discovering Implicit Biases in Jury Selection

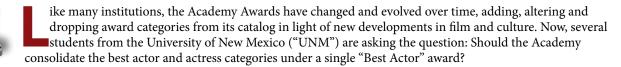
1.0 EIJ
Webinar
NMSBF Center for Legal
Education
https://bit.ly/CLE-DiscoveringIm
plicitBiases-052222025

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

# **How 10**

# **University of New Mexico Students** Want to Change the

# CADEMY AWARDS



The students raised the question in a 100-page presentation to the President and Board of Governors of Academy of Motion Picture Arts and Science. During the presentation, they argued, in part, that there isn't a need to separate the categories based on gender, due to both shifting cultural and social norms as well as concerns of legality.

The students who created the proposal over the course of a semester had been taking a political science course led by Professor Lawrence R. Jones at UNM. The participating student contributors included: Darlene Alarid, Amelia Beggio, Peyton Bowes, Isabella Fauria, Devrah Fung, Abigail McCoy, Sophia Noelle-Woodstra, Marijose Ramirez, Almarina Sosa and Isabella Storms. I had the opportunity to sit down with three of the students, including Abigail, Almarina and Peyton for an interview in which we discussed their coursework at UNM and how it inspired their proposal, the significance of their proposal in today's culture and what they believe the best outcome will be from their presentation to the Academy of Motion Picture Arts and Sciences.

#### Interview

Brandon McIntyre (BM): I suppose before we jump into questions over the very interesting initiative that you all have started, an intro is in order. My name is Brandon McIntyre. I am the Communications Manager with the State Bar of New Mexico.

Peyton Bowes (PB): My name is Peyton Bowes; I am a Junior currently at UNM and I am studying political science and Spanish as a double major.

Almarina Sosa (AS): My name is Almarina. I am in my last semester at UNM, so I am a senior, also double majoring in political science and Spanish.

Abigail McCoy (AM): My name is Abigail McCoy. I am also a senior at UNM. It's my last semester, and I am also a double major, but in political science and communications and iournalism.

BM: Much of New Mexico's legal community might not be aware of your petition. Could you please describe it in a nutshell and its intention?

**PB:** The original project for the whole class was to research constitutional law and Supreme Court precedent to make a case for why or why not this sex-space segregation or gender-based segregation for the Oscars was or was not constitutional. We saw an opportunity to make it more than just a class project. Professor Jones chose the top 10 scores for the project, and we all combined our ideas and work and we made a proposal that we would send to the Academy so that they could actually consider our thoughts.

BM: Was there anything specifically in your coursework with Professor Jones that compelled you to write this petition in particular?

**AS:** Yeah, so throughout the course, we focused on, kind of like how Peyton mentioned, on equal protection and public policy concerns and different constitutional law cases that are precedent for that. We used historical analysis and legal precedent and examples, like United States vs. Virginia<sup>1</sup> and J.E.B. vs. Alabama.<sup>2</sup> And those are just two examples from the many that we list in the memorandum that underscore the importance of integration in different facets.

BM: Would you say that readers of the Bar Bulletin and New Mexicans in general should pay attention to this

**AM:** Yeah, so before we started to work on this presentation and the proposal, the issue at hand that we were discussing, it's not something that I really thought about in depth or how it could affect me, but once I really started doing research, I was like, "Wow, this really is an issue that can affect a lot of people." So, I think not just the issues at hand that we're discussing, but I feel like there's a lot of hidden issues in today's society that need to be addressed and taken into account, the precedent that has been set in the past. So, if anything, I think it serves as more as inspiration to think a little bit deeper and a little bit more critically about things like this so that we can produce a more inclusive society for people.

#### BM: Do you think that the Academy's consideration of the proposal may be impacted by these circumstances?

**PB:** I think it's possible. Something that came up in the process of this research is that the Academy does enjoy a reputation of being a progressive sort of institution. I think that, at minimum, considering our proposal is the least they can do to put their money where their mouth is and support the people that are part of their organization.

**AS:** I guess as the Academy's leadership evolves and changes along with how society is evolving and changing, especially with their leadership being mainly female right now, I think that is a step in demonstrating that change is possible, especially in this regard. I think it's probably inevitable that changes are made within the institution of the Academy, even if it's not just the integration of gender, but I think the current state of the institution will be more susceptible to the changes we are hoping and seeking through this project.

**AM:** I think in light of current events, we have seen a lot of outcry from people within the performing arts speaking out about it. I believe it was last night or the night before that, with the SAG Awards and Jane Fonda won a Lifetime Achievement Award. And within her speech, she did talk about everything that's going on right now and how people can mobilize, and people can make a change. So with these big voices within the field of the performing arts speaking out about it, it could be possible that that will encourage the Academy to take deeper consideration into what we're proposing.

#### BM: What do you think are the next steps in creating the steps that you hope to see following this petition and what you've seen thus far?

**AS:** We outlined in our proposal the possibility of them creating a task force that not only enables them to evaluate whether there is merit for the integration of genders within the Academy, in addition to just the public and professionals within their industry. So, I guess that would be the next step specific to this proposal, and additionally, I just think that really has broader implications that can be established and talked about in all professional fields; not exclusive to the entertainment industry or anything like that. Really, just being able to evaluate it through this specific lens will enable more conversations and will enable those in their respective fields to think about and consider how we can be more inclusive, specifically with genders, in all different ways of inclusivity.

#### BM: Do you forsee that other fields will also begin to have these conversations as well?

**PB:** Yeah, I think the best outcome, in my opinion, would be that some positive change results from the Academy with this. That they form a task force, that they come to a decision that's the most progressive, the most beneficial for all their members. But I think that greater than that would be a sort of change in the societal mentality, because I think that's where it all starts the change in law and in policy comes after we all kind of set a precedent ourselves and a lot of members, a lot of actors and performers kind of started that. They're rejecting these categories, names, titles. And, yeah, I think for people to just think about the implications of what we have going on in society would be a great benefit to come from the project.

**AM:** Yeah, and my hopes for the outcome are pretty similar to Peyton and Almarina's—just to continue the conversation. When we were initially doing research on this project, it's not really an issue that a lot of people talked about or considered to be an issue at all. So, I think that now we're starting to get the conversation moving, which is one of the hopes we had from the proposal. We weren't rooting for one side or the other to integrate it or keep it segregated. We just wanted them to create a task force to address whether or not it was the right move for the Academy, along with their statement that they want to be an inclusive space.

#### BM: What do you think will be the best outcome from the petition submission?

**AS:** I think that, especially for younger generations, we really pride ourselves in how inclusive and how willing we are to adapt and evolve, and I think it's never-ending, right? So, I think that as we continue to evolve and progress, it's important that the institutions that are around us have that same evolution. That is, I guess, one small way or one institution we can foresee in which that change will actually be viable.

**AM:** I agree. I think that one of the goals that I have with this project is for the coming generations to grow up in a more inclusive environment because part of the groups we were talking about within our proposal to make a more inclusive space for was non-binary people and transgender people. It can be argued that they don't have an easy life, and they might feel limited for their opportunities and what they can accomplish. So, I think creating a space where no matter what your background

is, your sexual orientation, race, gender, anything-you don't feel limited with what you can accomplish in life. PB: I am on the exact same wavelength. I

think the best outcome in my view would just be for a conversation for a more inclusive and successful society of tomorrow where everybody has equal opportunity.



#### **Endnotes**

- <sup>1</sup> United States v. Virginia, 518 U.S. 515 (1996).
- <sup>2</sup> J.E.B. v. Alabama, 511 U.S. 127 (1994).

#### From the New Mexico Supreme Court

From the New Mexico Supreme Court

**Opinion Number: 2025-NMSC-006** No: S-1-SC-39641 (filed October 28, 2024)

KYLE SALAS, VICKY ISLAS, STEPHANIE ORTIZ, ALBERTO ROYBAL, RHONDA D. SANCHEZ, JESSICA SIETERS MARTINEZ, and LORI SIETERS, on behalf of themselves and all others similarly situated,

Plaintiffs-Respondents,

#### **GUADALUPE CREDIT UNION**

Defendant-Petitioner.

#### ORIGINAL PROCEEDING ON CERTIORARI

Francis J. Matthew, District Judge

Sutin, Thayer & Browne, P.C. Stevan Douglas Looney Christina M. Looney Albuquerque, NM

for Petitioner

Humphreys Wallace Humphreys, P.C. **Robert David Humphreys** Lucius James Wallace Santa Fe, NM

> Treinen Law Office, P.C. Rob Treinen Albuquerque, NM

> > for Respondents

#### **OPINION**

#### VIGIL, Justice.

{1} Plaintiffs, Kyle Salas and others, allege that Guadalupe Credit Union (Guadalupe) pursued debt collection lawsuits against them through employees that were not authorized to practice law. Plaintiffs' complaint in the district court alleges Guadalupe's actions constitute the unauthorized practice of law under NMSA 1978, § 36-2-28.1 (2011), and unfair trade practices under the Unfair Practices Act, NMSA 1978, §§ 57-12-1 to -26 (1967, amended through 2019) (UPA). The district court agreed with Guadalupe's arguments challenging Plaintiffs' standing and granted Guadalupe's motion to dismiss Plaintiffs' complaint. The Court of Appeals reversed and reinstated Plaintiffs' complaint in its entirety. Salas v. Guadalupe Credit Union, A-1-CA-39021, mem. op. ¶¶ 4, 14 (N.M. Ct. App. Oct. 11, 2022) (nonprecedential).

- {2} We granted Guadalupe's petition for certiorari and address two questions: First, have Plaintiffs sufficiently alleged that Guadalupe engaged in the unauthorized practice of law? Second, based on these allegations, do Plaintiffs have standing to bring claims against Guadalupe under Section 36-2-28.1 and the UPA? We answer yes to both questions.
- {3} As we explain in this opinion, Plaintiffs sufficiently allege that Guadalupe engaged in the unauthorized practice of law in violation of Rule 2-107(B)(3) NMRA, Rule 24-101(A) NMRA, and NMSA 1978, Section 36-2-27 (1999), by initiating and pursuing collection actions in magistrate court through employees not authorized to practice law. Based on these allegations, Plaintiffs have standing under Section 36-2-28.1 and the UPA to sue for injuries arising from Guadalupe's unauthorized practice of law and unfair or unconscionable trade practices. We therefore agree with the Court of Appeals that the district court erred by

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dismissing Plaintiffs' claims. In affirming the Court of Appeals, we clarify that corporations, such as Guadalupe, must appear before our courts through duly licensed counsel unless otherwise authorized by this Court's rules.

#### I. BACKGROUND

- {4} The following facts are taken from Plaintiffs' complaint, which we accept as true for purposes of our review. See N.M. Pub. Schs. Ins. Auth. v. Arthur J. Gallagher & Co., 2008-NMSC-067, ¶ 11, 145 N.M. 316, 198 P.3d 342.
- {5} Guadalupe is a New Mexico corporation and federally insured credit union with "hundreds, if not thousands" of shareholders or members. Plaintiffs are seven current or former members of the credit union who filed suit in their individual capacities and on behalf of similarly situated credit union members as a putative class. Plaintiffs allege that Guadalupe filed and pursued debt collection actions against them in Santa Fe County Magistrate Court. Throughout these collection actions, Guadalupe appeared and acted through employees who were not admitted to practice law in New Mexico. Guadalupe used the existence of the lawsuits to "obtain either payment in full, a payment arrangement, or a judgment against Plaintiffs." Plaintiffs further allege that "[j]udgments obtained by [Guadalupe] were enforced by garnishment or otherwise through the process of the Court." Guadalupe filed and pursued numerous similar collection lawsuits against other unnamed credit union members.
- {6} Plaintiffs claim that Guadalupe's conduct violates Rule 2-107(B)(3), which addresses a closely-held corporation's appearance through a nonattorney in magistrate court, and Section 36-2-28.1, which creates a private right of action for "[a] person who suffers a loss of money or other property as a result of the unauthorized practice of law." Section 36-2-28.1(B). Plaintiffs also claim that Guadalupe's conduct amounts to an unfair trade practice or unconscionable trade practice in violation of the UPA. See § 57-12-2(D), (E) (defining unfair and unconscionable trade practices); § 57-12-3 (declaring unfair and unconscionable trade practices unlawful). Plaintiffs request monetary and equitable relief.

#### From the New Mexico Supreme Court

{7} Guadalupe moved to dismiss Plaintiffs' complaint for failure to state a claim. Guadalupe argued that Section 36-2-27 authorizes a person who is not an attorney to practice law in magistrate court. Guadalupe further argued that Plaintiffs failed to allege facts that would constitute the practice of law because its employees represented only Guadalupe's legal interests. Guadalupe thus characterized itself as a pro se or selfrepresented litigant. And because both of Plaintiffs' claims, under Section 36-2-28.1 and under the UPA, were based on Plaintiffs' allegation of Guadalupe's unauthorized practice of law, Guadalupe argued the entire complaint should be dismissed.

{8} After full briefing and a hearing, the district court granted Guadalupe's motion and dismissed Plaintiffs' complaint with prejudice. Although the district court did not fully explain its reasoning, the district court was persuaded to dismiss because "the action complained of is not rendering a service to . . . Plaintiffs. The service that was rendered, if any, was rendered to [Guadalupe], and the persons that were rendering that service were undoubtedly engaged in the practice of law, but with respect to their employer the credit union." The district court also suggested that this Court may need to "revisit" Rule 2-107 and that the Legislature may need "to revisit the statute." We assess that the district court concluded Plaintiffs lacked standing or a cause of action under either Section 36-2-28.1 or the UPA.

{9} Plaintiffs appealed, and the Court of Appeals reversed the district court. Salas, A-1-CA-39021, mem. op. ¶ 14. The Court of Appeals reasoned that Rule 2-107, which allows a closely-held corporation to appear through a nonattorney in magistrate court, limits nonattorney practice under Section 36-2-27, which otherwise prohibits nonattorneys from practicing law except in magistrate court. See Salas, A-1-CA-39021, mem. op ¶¶ 6-7. As a result, "a violation of Section 36-2-27 as limited by Rule 2-107 is actionable under Section 36-2-28.1" as the unauthorized practice of law. Salas, A-1-CA-39021, mem. op. ¶ 7. With this clarification, the Court of Appeals held that Plaintiffs could pursue a claim against Guadalupe under Section 36-2-28.1. Salas, A-1-CA-39021, mem. op. ¶¶ 7-8. The Court of Appeals also held that Plaintiffs could pursue a claim under the UPA on the theory "that [Guadalupe] at least knowingly made a misleading, false, or deceptive statement—filing unauthorized legal pleadings—in connection with the sale of services—debt servicing and collection." *Id.* ¶ 9.

{10} The Court of Appeals analyzed separately whether the district court erred by dismissing Plaintiffs' claims because Guadalupe's employees had not provided unauthorized legal services to Plaintiffs. *Id.* ¶¶ 10-12. Looking to the plain language of Section 36-2-28.1(B) that "[a] person who suffers a loss . . . may bring an action," the Court of Appeals held that the statute does not require "a predicate representative relationship to create standing to sue for the unlawful practice of law." Salas, A-1-CA-39021, mem. op. ¶ 11. The Court of Appeals also reasoned that a UPA claim was not "limited to claims by the party to whom the legal services were provided." *Id.* ¶ 12. {11} We granted Guadalupe's petition for a writ of certiorari. Although our reasoning differs in some respects from that of the Court of Appeals, we agree that the district court erred in dismissing Plaintiffs' complaint. We therefore affirm the Court of Appeals in reversing the district court.

#### II. STANDARD OF REVIEW

{12} We review de novo the district court's decision to dismiss for failure to state a claim on which relief may be granted. Delfino v. Griffo, 2011-NMSC-015, ¶ 9, 150 N.M. 97, 257 P.3d 917. "A motion to dismiss for failure to state a claim tests the legal sufficiency of the complaint, not the factual allegations of the pleadings which, for purposes of ruling on the motion, the court must accept as true." Herrera v. Quality Pontiac, 2003-NMSC-018, ¶ 2, 134 N.M. 43, 73 P.3d 181. We will "accept all well-pleaded factual allegations in the complaint as true and resolve all doubts in favor of sufficiency of the complaint." Delfino, 2011-NMSC-015, ¶ 9 (internal quotation marks and citation omitted). A motion to dismiss under Rule 1-012(B)(6) should be granted only "when it appears https://www.nmcompcomm.us

the plaintiff cannot be entitled to relief under any state of facts provable under the claim." *Baldonado v. El Paso Nat. Gas Co.*, 2008-NMSC-005, ¶ 6, 143 N.M. 288, 176 P.3d 277 (internal quotation marks and citation omitted).

#### III. DISCUSSION

{13} Guadalupe advances various challenges to Plaintiffs' Section 36-2-28.1 and UPA claims. Most of these challenges are premised on a single theme: Plaintiffs failed to allege that Guadalupe was engaged in the unauthorized practice of law. We therefore consider whether Plaintiffs sufficiently alleged that Guadalupe engaged in the unauthorized practice of law before addressing Guadalupe's challenges to Plaintiffs' standing under Section 36-2-28.1 and the UPA.

#### A. Guadalupe Engaged in the Unauthorized Practice of Law

{14} Guadalupe asserts that, as a matter of law, it did not engage in the unauthorized practice of law. Guadalupe advances two main theories to support this assertion: first, Guadalupe was authorized to appear through its nonattorney employees in magistrate court under Section 36-2-27; second, even if this appearance was unauthorized, Guadalupe did not otherwise engage in the practice of law. We discuss each of these theories in turn.

#### Section 36-2-27 does not authorize nonattorneys to practice law in magistrate court

{15} Guadalupe asserts that Section 36-2-27 authorizes nonattorneys to practice law in magistrate court, and thus reasons that Plaintiffs cannot prove that Guadalupe engaged in the unauthorized practice of law. Section 36-2-27 provides, in relevant part, "No person shall practice law in a court of this state, except a magistrate court, nor shall a person commence, conduct or defend an action or proceeding unless he has been granted a certificate of admission to the bar." (Emphasis added.) Guadalupe suggests that the plain language of the phrase "except magistrate court" creates an exception to the general rule that only licensed attorneys may practice law in New Mexico, and that failure to recognize this magistrate-court exception renders the phrase superfluous and improperly invades legislative powers. {16} Guadalupe's argument betrays a

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fundamental understanding of the constitutional relationship between this Court and the Legislature with respect to the regulation of the practice of law. Guadalupe also ignores our well-settled and directly controlling precedent in State v. Rivera, 2012-NMSC-003, 268 P.3d 40, and State ex rel. Norvell v. Credit Bureau of Albuquerque, Inc., 1973-NMSC-087, 85 N.M. 521, 514 P.2d 40.

{17} The New Mexico Constitution grants this Court the exclusive power to regulate the practice of law. N.M. Const. art. VI, § 3 (granting this Court power of "superintending control over all inferior courts"); Application of Sedillo, 1959-NMSC-095, ¶ 13, 66 N.M. 267, 347 P.2d 162 (recognizing "the power to integrate the bar as purely a judicial function"); Norvell, 1973-NMSC-087, ¶ 26 ("[T]he regulation of the practice of law is the exclusive constitutional prerogative of this [C]ourt."). Thus, Section 36-2-27 is invalid to the extent that the statute conflicts with this Court's rules regulating the practice of law. See, e.g., Sedillo, 1959-NMSC-095, ¶¶ 7-9, 16 (invalidating as unconstitutional a statute which conflicted with the Court's rules regarding qualifications of a person seeking to practice law); Albuquerque Rape Crisis Ctr. v. Blackmer, 2005-NMSC-032, ¶ 5, 138 N.M. 398, 120 P.3d 820 (explaining that this Court will use its power of superintending control to revoke or amend a statute affecting court pleading, practice, or procedure if the statute conflicts with an existing Court rule). {18} Guadalupe's proffered reading of Section 36-2-27 conflicts with this Court's rules regulating the practice of law. Rule 24-101(A) of the Rules Governing the New Mexico Bar provides, "Except as otherwise provided by rules adopted by the Supreme Court, no person shall practice law in this state . . . unless that person is an active member of the State Bar of New Mexico." See also Rule 15-201(A) NMRA ("Unless otherwise ordered by the Supreme Court, no person may practice law in New Mexico ... until that person has qualified and met the requirements of these rules to the satisfaction of the Supreme Court."). Thus, only attorneys duly admitted to the state bar may practice law in New Mexico, with limited

exceptions provided as expressly recognized by the rules of this Court. This rule protects the public and the administration of justice by ensuring that those who practice law are held to the high standards of competency, ethics, and professionalism demanded of members of our state bar. See State Bar v. Guardian Abstract & Title Co., 1978-NMSC-016, ¶ 20, 91 N.M. 434, 575 P.2d 943 ("The prime purpose of licensing attorneys and in making them the exclusive practitioners in their field is to protect the public from the evils occasioned by unqualified persons performing legal services.").

{19} In fact, we previously rejected Guadalupe's reading of Section 36-2-27 in Rivera. In Rivera, we considered whether Section 36-2-27 authorized a student who had not been approved for clinical practice to represent the state in a magistrate court criminal trial. 2012-NMSC-003, ¶¶ 3, 7-15. While we acknowledged that Section 36-2-27 seemingly carves out a magistrate-court exception to the unauthorized practice of law, we nevertheless emphasized the bedrock principle that "the ultimate authority 'to regulate all pleading, practice and procedure' resides in the judicial branch of government, and specifically in the Supreme Court." Rivera, 2012-NMSC-003, ¶ 7 (citation omitted). Consequently, this Court's rules regulating the practice of law supersede any contradictory language in Section 36-2-27. See Rivera, 2012-NMSC-003, ¶ 8; see also, e.g., Sw. Comm. Health Servs. v. Smith, 1988-NMSC-035, ¶ 6, 107 N.M. 196, 755 P.2d 40 ("Functions of the judiciary which are essential to its constitutional powers cannot be exercised by another branch of the government in conflict with the judicial branch.... [A]ny conflict between [C]ourt rules and statutes that relate to procedure [is] . . . resolved by this Court in favor of the rules."). We further recognized that Rule 24-101(A) limits Section 36-2-27 to the extent that the statute conflicts with the rule. *Rivera*, 2012-NMSC-003, ¶ 9. We emphasized that Rule 24-101(A)'s prohibition against the unauthorized practice of law "applies to all courts of this state, without exception." Rivera, 2012-NMSC-003, ¶ 9. {20} Even prior to Rule 24-101(A) and Rivera, we limited Section 36-2-27 by judicial decision in Norvell. In Norvell, we https://www.nmcompcomm.us

considered whether a collections agency engaged in the unauthorized practice of law by soliciting collection claims from creditors and pursuing the claims through nonattorneys in magistrate court for a contingency fee. 1973-NMSC-087, ¶¶ 9-13. We held that the magistrate-court language in Section 36-2-27 was an unconstitutional invasion of judicial powers. Norvell, 1973-NMSC-087, ¶ 26. But instead of striking the statute, "Norvell limited the magistrate court exception in Section 36-2-27 to those few occasions when a non-attorney might appear only 'on a casual and non-recurring basis without the contaminating aspects of solicitation and charging of fees." Rivera, 2012-NMSC-003, ¶ 11 (quoting Norvell, 1973-NMSC-087, ¶ 26). Thus, "Norvell, later supplemented by rule, could not be clearer. Only attorneys properly admitted to the Bar may practice law in any court of this state, subject to those few exceptions provided in our rules." *Rivera*, 2012-NMSC-003, ¶ 12. {21} Rivera's and Norvell's unmistakable holdings-derived from decades of precedent and Court rules—are fatal to Guadalupe's assertion that Section 36-2-27 authorizes Guadalupe to appear through its nonattorney employees in magistrate court. Only this Court can authorize a person to appear before any court in this state.

{22} On the facts alleged, Guadalupe's appearance through its nonattorney employees was not authorized. Rule 2-107, first promulgated in 1987, authorizes corporations to appear in magistrate court through nonattorneys in two circumstances. Neither of these circumstances is present here. First, a corporation may appear through an officer, director, or general manager when "the corporation . . . is brought into the suit by a writ of garnishment or attachment." Rule 2-107(B)(1)(b). Second, a corporation may appear through an authorized shareholder or member when the corporation's "voting shares or memberships are held by a single shareholder or member or closely knit group of shareholders or members." Rule 2-107(B)(3). Undisputedly, Guadalupe met neither of these circumstances in its collection actions against Plaintiffs.

{23} Guadalupe nevertheless argues that the current (2013) amendments to Rule 2-107 distinguish this appeal from Norvell

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and Rivera. According to Guadalupe, the amended rule permits a corporation to appear through a "shareholder or member" rather than through an "officer or general manager" as provided in the previous version. Rule 2-107(B)(3) (2008). But Guadalupe fails to acknowledge that the rule's threshold requirement for a corporation to appear through a nonattorney remains unchanged. A corporation may appear through a nonattorney only when its "voting shares or memberships are held by a single shareholder or member or closely knit group of shareholders or members." Rule 2-107(B)(3). Plaintiffs have alleged that Guadalupe's "shareholders or members number in the hundreds, if not thousands." {24} Rivera and Norvell thus control this appeal. The magistrate-court language in Section 36-2-27 has been superseded by this Court's rules addressing the unauthorized practice of law. No rule authorizes Guadalupe to appear through a nonattorney in magistrate court. We therefore reject Guadalupe's contention that Section 36-2-27 authorized it to pursue actions in magistrate court through employees who were not admitted to practice law.

# 2. Guadalupe engaged in the practice of law

{25} Guadalupe asserts that, even if Section 36-2-27 does not authorize nonattorneys to appear in magistrate court, it did not engage in the practice of law. Guadalupe maintains that it "represented only itself in magistrate court and only by using and filling in the blanks on court-approved forms" and thus characterizes itself as a prose litigant. We, therefore, consider whether Guadalupe, as a corporation, may represent itself in magistrate court without engaging in the practice of law and whether the actions of Guadalupe's employees constituted the practice of law.

{26} With respect to an individual, it is clear that "[r]epresenting one's self in a legal proceeding does not constitute practicing law." *United States v. Martinez*, 1984-NMSC-072, ¶ 2, 101 N.M. 423, 684 P.2d 509 (holding that a judge could appear and defend himself in federal court without practicing law in violation of the Code of Judicial Conduct); *see also* Rule 2-107(A)(1) (allowing an individual party to appear *for* 

the party's own self, i.e., pro se, in magistrate court). However, Guadalupe's employees did not represent their own interests in the collection actions against Plaintiffs. Instead, the employees filed and pursued the actions on behalf of Guadalupe. Thus, the nonattorney employees were not appearing pro se. Cf. Chisholm v. Rueckhaus, 1997-NMCA-112, ¶ 9, 124 N.M. 255, 948 P.2d 707 (holding that a plaintiff "was not functioning pro se" when "he was representing his minor child in a legal capacity and engaged in the practice of law without a license").

{27} Corporations are held to different standards than individuals. As a corporation, Guadalupe cannot represent itself or appear pro se. Instead, a corporation must act through an agent, such as an employee, and that agent can only represent the corporation if they are authorized to practice law. See Martinez v. Roscoe, 2001-NMCA-083, ¶ 15, 131 N.M. 137, 33 P.3d 887 (holding that because they "are separate legal entities," the corporation could not appear pro se through its manager, and because its manager "is not a licensed attorney in New Mexico" the corporation could not file pleadings through its manager); Lee v. Catron, 2009-NMCA-018, ¶ 5, 145 N.M. 573, 203 P.3d 104 ("One who is not a licensed attorney cannot represent others in court."); see also Rowland v. Ca. Men's Colony, 506 U.S. 194, 201-02 (1993) ("It has been the law for the better part of two centuries . . . that a corporation may appear in the federal courts only through licensed counsel."); J.M. Zitter, Propriety and Effect of Corporation's Appearance Pro Se Through Agent Who Is Not Attorney, 8 A.L.R.5th 653 § 3[a] (1992) ("[A]n appearance by a corporation through an agent other than a licensed attorney is not ordinarily proper."). As a corporation, Guadalupe can only appear before our courts through duly licensed counsel, except as otherwise expressly authorized by this Court's rules.

{28} Guadalupe also questions whether its employees' conduct amounted to the practice of law, suggesting that its employees merely filled in the blanks on court-approved forms. However, because we accept Plaintiffs' well-pleaded facts as true in reviewing this motion to dismiss, see Delfino, 2011-NMSC-015, ¶ 9, we thus

https://www.nmcompcomm.us

consider whether those facts show that Guadalupe engaged in the practice of law. {29} This Court has repeatedly "declined to define what constitutes the practice of law because of the infinite number of fact situations which may be presented, each of which must be judged according to its own circumstances." Norvell, 1973-NMSC-087, ¶ 19; see also Sparkman v. State Bd. of Bar Exam'rs, 1967-NMSC-058, ¶ 8, 77 N.M. 551, 425 P.2d 313 ("We do not propose to submit a definition of the practice of law that may be employed to fit all situations and activities. We consider that each case must be examined in the light of its own facts."). Nevertheless, we have identified the following "indicia of the practice of law, insofar as court proceedings are concerned":

(1) representation of parties before judicial or administrative bodies, (2) preparation of pleadings and other papers incident to actions and special proceedings, (3) management of such action and proceeding, and non-court related activities such as (4) giving legal advice and counsel, (5) rendering a service that requires the use of legal knowledge or skill, [and] (6) preparing instruments and contracts by which legal rights are secured.

Norvell, 1973-NMSC-087, ¶ 20. For example, in Norvell, we concluded that a collection agency practiced law when it solicited creditors' assignment of claims and pursued the claims for a contingency fee in magistrate court, often through a nonattorney collection manager. Id. ¶¶ 9-14, 32. In reaching that conclusion, we clarified that the collection agency was not appearing pro se; rather, the collection agency was practicing law by "rendering a service to others" through its appearances in magistrate court, with "the contaminating aspects of solicitation and charging of fees." Id. ¶¶ 26, 31.

{30} Our opinion in *Guardian Abstract*, 1978-NMSC-016, is also instructive. In *Guardian Abstract*, we concluded that title companies did not engage in the unauthorized practice of law by using nonattorneys to fill in the blanks in legal instruments

(Continued on page 35)



# **CENTER FOR LEGAL EDUCATION PROGRAM!**

The New Mexico State Bar Foundation's Center for Legal Education is offering an opportunity to propose a presentation at one of its many programs throughout the year!







From one-hour virtual webinars to multi-day events, CLE programs are your chance to present on a variety of legal topics and an important way for members of the legal community to learn about the latest legal updates and issues in New Mexico.

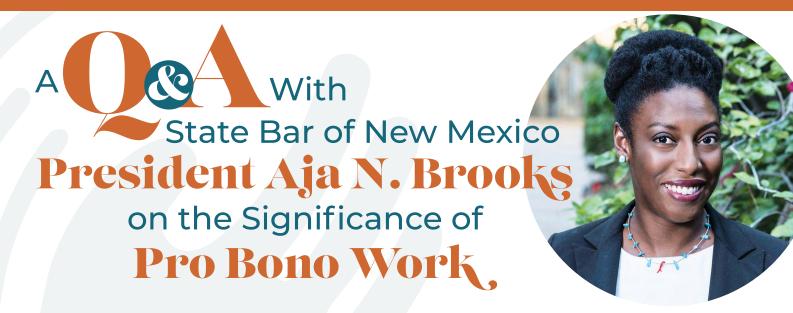
To submit a 2025 Proposal Form, visit

https://bit.ly/Speaker-Presentation-2025-Proposal-Form!

\*The Center for Legal Education reviews all proposals, but cannot guarantee in any way that a proposal will be accepted or included in one of the Center for Legal Education's CLE programs. All proposals must meet the requirements of the New Mexico Supreme Court's continuing legal education rules.



## **HIGHLIGHTING PRO BONO IN NEW MEXICO**



#### 1. How has pro bono work shaped your career as a legal professional?

Pro bono has been vital to my career. I worked for New Mexico Legal Aid as the Pro Bono Coordinator for its Volunteer Attorney Program for many years and learned a lot about the gaps in representation that exist both nationally and in our state.

2. As the State Bar of New Mexico's 2025 President, your mission has been summarized by the theme: "Together Towards Justice." Do you believe there is a collective or communal spirit in pro bono work? If so, how?

Pro bono work is undoubtedly communal and part of our profession's obligation to better our communities. Most of us became attorneys because we want to give back, there's something unifying in achieving that purpose.

3. How would you say New Mexico's legal landscape uniquely benefits from attorneys engaged in pro bono representation?

Unfortunately, we have a disproportionate number of people experiencing poverty in our state. Pro bono (and low bono) attorneys help a large portion of our population who may not have the financial means to afford an attorney.

#### 4. What is most rewarding to you about pro bono?

The best part of pro bono is knowing that you've done something to help someone who needs it. Not for money. Not for recognition. But because it's the right thing to do.

5. Do you believe there is still work to be done in improving the volume of pro bono service for New Mexicans in need of legal representation? If so, what tools/ resources do you believe should be implemented to achieve higher levels of pro bono representation?

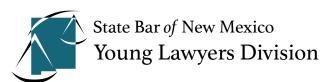
New Mexico is at the forefront of providing pro bono opportunities and coming up with creative ways to reach areas of the state where we may not have attorneys. However, in addition to increasing pro bono representation, I think we have to support our legal service organizations and the important work they do. Sometimes we forget that financial contributions are also an option.

6. What barriers do you think keep attorneys from doing pro bono work? Do you have any ideas as to how to overcome those barriers?

Barriers include the time-consuming demands of a legal career and everyday life. I think one way to overcome this is to prioritize pro bono work and treat it with the same importance as a case or a special project. We also need firms and legal organizations to allow their lawyers to engage in pro bono without being penalized.

7. How can new attorneys entering the legal profession get involved in pro bono work?

There are so many opportunities available! The State Bar of New Mexico Young Lawyers Division holds Wills For Heroes events all over the state, providing wills, advance healthcare directives and powers of attorney to first-responders. The New Mexico State Bar Foundation offers the ability to do brief services through the ABA's Free Legal Answers virtual legal advice portal. And New Mexico Legal Aid's Volunteer Attorney Program conducts statewide legal fairs and clinics as well as provides opportunities for attorneys to assist with direct representation cases.



# The History of the State Bar of New Mexico's

# Young Lawyers Division's Ask-a-Lawyer Call-in Program

#### 1. When did the Young Lawyers Division's Ask-a-Lawyer Call-in Program first launch?

The Young Lawyers Division's Ask-a-Lawyer Call-In Program was first introduced in the late 1990s, following the events of the Dome Fire in 1996. Shortly after the wildfires took place near Los Alamos, the State Bar of New Mexico and the Young Lawyers Division facilitated the first-ever Ask-a-Lawyer Call-In Day, which was held at Channel 4 in Albuquerque. During the event, which took place in the early evening, a televised broadcast would display volunteer attorneys answering incoming calls from New Mexican residents. This would prompt additional calls from viewers of the event, and this format would maintain its structure until it later became housed at the State Bar Center.

#### 2. How has the Ask-a-Lawyer Call-In Program evolved since it was established?

Since the Ask-a-Lawyer Call-In Program's inception in the late 1990s, it has gone through multiple transitions and formats. Over the years, the Call-In Program evolved from a special event to be held at Channel 4 to an annual event at the State Bar Center. In that time, it was, for a time, regularly held at KOB and supported by both the Young Lawyers Division and Senior Lawyers Division. For the past several years, it has been held at the State Bar Center, where attorneys can either register to volunteer in person or virtually. The Call-In Program's current format enables attorneys to effectively serve New Mexicans across the state, both enabling volunteer attorneys to provide free legal consultation from the comfort of their home or from the State Bar Center and giving New Mexican residents access to additional legal resources and services.

#### 3. Does participation in the Ask-a-Lawyer Call-in Program contribute to pro bono requirements?

Yes, it does. Most clinics are about 3 hours long, giving attorneys a good opportunity conduct multiple hours of pro bono work.

#### 4. How does the Ask-a-Lawyer Call-in Program align with the mission and values of the Young Lawyers Division?

The mission of the Young Lawyers Division is to uphold the integrity and respect of the legal profession, deliver meaningful services to its members and foster a strong commitment to public service. This program directly supports that mission by offering members an accessible and collaborative opportunity for community outreach—whether by joining fellow attorneys at the State Bar of New Mexico to field calls and confer on legal questions or by participating remotely from the comfort of their own homes. Having the ability to confer with other attorneys while fielding calls is a great way for young attorneys to dip their toes into areas of law that they are just learning and want to feel more comfortable. It is also a great way to network while providing public service.

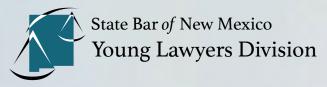
#### 5. What lessons can young attorneys expect to take away from the Ask-a-Lawyer Call-in Program?

There is a great need for pro bono legal services across the state, and YLD offers many ways for young attorneys to meet some of those needs.

#### 6. What are some other pro bono/volunteer opportunities offered or supported by the Young Lawyers Division?

- → YLD offers various opportunities to provide pro bono legal services in addition to Ask-a-Lawyer Call-in Day. Our next event is on June 21.
- → The YLD hosts a Veterans Legal Clinic at which attorneys provide brief legal advice on a variety of civil legal topics including family law, consumer rights, bankruptcy, landlord-tenant, foreclosure and employment during free quarterly clinics. Events are organized in communities state-wide. Our upcoming Veterans Legal Clinic will be on May 17 in Las Cruces and on July 12 at the State Bar Center in Albuquerque.
- We also host Wills for Heroes at which volunteer attorneys provide wills, advance healthcare directives and powers of attorney free of charge to New Mexico first responders. Events are held approximately four times per year in various regions of the state. Our next event will be in the Fall of 2025 in Bernalillo.





The New Mexico State Bar Foundation and State Bar of New Mexico's Young Lawyers Division Present:

# The ABA Free Legal Answers Clinic!

June 7 • 10-11:30 a.m. (MT) **State Bar Center** 

5121 Masthead St. NE, Albuquerque, NM 87109 Masthead St. NE, Albuquerque, NM 87109

Members of the State Bar of New Mexico's Young Lawyers Division ("YLD") are invited to the ABA Free Legal Answers Clinic! Co-hosted by the New Mexico State Bar Foundation and the YLD, the ABA Free Legal Answers Clinic offers YLD attorneys an exciting opportunity to fulfill your pro bono requirements. Bring your laptop to the State Bar Center and enjoy a FREE brunch as you learn how to maneuver the Free Legal Answers online platform and then complete

\*New Mexico State Bar Foundation Helpline attorneys will be on-site to provide substantive guidance on cases as needed.

pro bono work on ABA Free Legal Answers open cases.



Register to participate at: https://bit.ly/SBNM-June7-YLD-ABA-FLA-Clinic

For more information about ABA Free Legal Answers, visit https://nm.freelegalanswers.org/



Register as a volunteer attorney today and you will be able to provide answers 24/7/365. The platform can be accessed anytime, anywhere at *your* convenience.

#### To Register as a volunteer attorney:

- Go to https://nm.freelegalanswers.org/
- Click on "Attorney Registration" and follow the prompts





The NEW MEXICO STATE BAR FOUNDATION is the State Administrator of the ABA Free Legal Answers Program

# **Legal Service** Provider

## New Mexico State Bar Foundation Modest Means Helpline

What are the services and mission of the Modest Means Helpline ("MMH")?

MMH provides quality, accessible legal services for low- to moderate-income New Mexicans via a civil legal telephone helpline. MMH provides extensive legal advice and brief services, including helping callers locate and complete court forms. MMH provides assistance with civil legal issues, such as divorce, child custody, domestic violence, landlordtenant law, consumer debt issues and probate issues. MMH also provides legal advice to small business owners and annually offers 3 webinars on small business topics which are available on-demand on the MMH website. Additionally, bilingual staff offer services in English and Spanish, and services are offered in nearly all other spoken languages via telephone interpreter services.

Who are the Modest Means Helpline's main beneficiaries?

New Mexico residents with income levels up to 500% of the federal poverty guidelines (this is approximately 75% of the state's population).

In what ways does the Modest Means Helpline use volunteer attorneys?

MMH has a panel of pro bono attorneys to whom cases can be referred if the client needs more help than MMH can offer, and the case is found to be appropriate for pro bono representation. Pro bono attorneys are most often asked to provide limited representation, but if a case warrants, MMH will at times request pro bono full representation. In addition, MMH utilizes the services of pro bono business attorneys to assist in the creation and presentation of its 3 annual small business webinars.

Where can volunteer attorneys • find more information about the Modest Means Helpline, including how to volunteer?

More information about MMH: https://www.sbnm. org/For-Public/Modest-Means-Helpline

Click this link for the pro bono attorney sign-up sheet: https://www.cognitoforms.com/SBNM2/ DirectRepresentationAttorneyVolunteerSignUp

#### For more information about the MMH volunteer attorney pool:

https://www.sbnm.org/Bar-Foundation/Pro-Bono-Opportunities-New-Mexico-State-Bar-Foundation/ New-Mexico-State-Bar-Foundation-Volunteer-Attorney-Pool





What are the services and mission of the New Mexico Center on Law and Poverty?

NMCLP provides systemic advocacy and related legal services to improve living conditions, increase opportunities, and protect the rights of people living in poverty. The Center provides advocacy, education and litigation across a broad range of issues including healthcare, public benefits, housing, workers' rights, and public education.

Who are the New Mexico Center on Law and Poverty's main beneficiaries?

New Mexicans impacted by economic injustice, living primarily under 200% federal poverty level, representing about 870,000 people (nearly 40% of the state's population).

How many people does and Mexico Center on Law and Poverty serve yearly?

NMCLP represents classes of over 400,000 New Mexicans in impact litigation, and limited individual representation in systemic cases. We also support advocacy campaigns impacting tens of thousands of families and provide Know Your Rights training for communities across the state.

How can I volunteer for/contribute to the New Mexico Center on Law and Poverty?

NMCLP welcomes opportunities to partner with private attorneys to co-counsel impact litigation or support advocacy campaigns. Monetary donations are also welcome and give the organization flexibility to be responsive to community needs.

Where can I find more information about the New Mexico Center on Law and Poverty?

Find out more on on our website: https://www. **nmpovertylaw.org**/ and keep up with our work by following us on social media: @NMPovertyLaw or signing up for our monthly newsletter: https://www. nmpovertylaw.org/newsletter-sign-up/



NEW MEXICO IMMIGRANT LAW CENTER

What are the services and mission of the New Mexico Immigrant Law

New Mexico's Immigrant Law Center's mission is to advance justice and equity by empowering low-income immigrant communities through collaborative legal services, advocacy, and education.

#### Services:

- Holistic Victim Services
- Special Immigrant Juvenile Status
- Citizenship & Residency Renewals
- DACA Renewals
- Asylum Seekers
- Detention Programs



Who are the New Mexico Immigrant Law Center's main beneficiaries?

At NMILC, our goal is to make high-quality legal representation accessible to low-income immigrant communities throughout the state of New Mexico.

How many people does the New Mexico Immigrant Law Center serve yearly?

5,757 people were served throughout New Mexico in

- How can I volunteer for/ contribute to the New Mexico Immigrant Law Center?
- Pro bono attorney involvement form: https:// www.nmilc.org/pro-bono-atty-inquiry-form
- Volunteer involvement form: https://www.nmilc. org/volunteer-inquiry-form
- Donate here: https://www.nmilc.org/donate
- Volunteer attorneys and other legal professionals increase our capacity by taking on cases, providing technical assistance, and sharing their expertise. When an attorney agrees to take on a case with NMILC, the relationship does not end there. We provide ongoing technical assistance, mentorship, and language support for pro bono cases. NMILC's malpractice insurance covers attorneys providing pro bono legal support with us. Pro bono attorneys and legal professionals help with a variety of case types.



Where can I find more information about the New Mexico New Mexico Immigrant Law Center?

Visit www.nmilc.org for more information about the New Mexico Immigrant Law Center.



# **How UNM School of** Law Students Can Gain Experience through Clinic and Pro Bono Work



Then many hear the term "pro bono," the often associate it with established attorneys representing individuals of very modest means. However, there are ways for law students to gain experience related to pro bono work prior to becoming licensees of the State Bar of New Mexico. Here are a few ways University of New Mexico School of Law ("UNM School of Law") students can engage in pro bono work or school-related opportunities that illustrate the spirit of pro bono representation.

#### 1. Mandatory Clinic Program

The UNM School of Law's Mandatory Clinic Program, one of the first mandatory clinic programs in the nation, is a requirement for all law students. Students may choose from one of five clinical sections, including the Southwest Indian Law Clinic, Natural Resources and Environmental Law Clinic, Economic Justice Clinic, Child and Family Justice Clinic, and the Community Lawyering Clinic. During the clinic, law students will represent a client as they are supervised by an attorney member of faculty.



For more information regarding the Mandatory Clinic Program, visit https://lawschool.unm.edu/clinic/index.html.

#### 2. Externships

The UNM School of Law's externship program enables law students to gain law schools credit-hours and real-world experience under the supervision of an active attorney at a non-profit, government agency, or judicial setting. Externships are an optional and an excellent way for law students to prepare for their careers by engaging in real-world legal practice under the supervision of an experienced legal professional.



For more information regarding externships, visit https://lawschool.unm.edu/careers/students/externships.html

### 3. Volunteer Opportunities

To gain additional legal experience as a law student, UNM School of Law students are encouraged to undertake volunteer opportunities that would provide them further legal skills development via pro bono work under the supervision of pro bono licensed attorneys. One example is the State Bar of New Mexico Young Lawyers Division's Wills for Heroes **Programs**, where law students often volunteer alongside pro bono attorneys.



For an overview of attorney pro bono and volunteer opportunities and information, visit https://www.sbnm.org/Pro-Bono-Quarterly-Newsletter, which includes each of our Pro Bono Quarterly Newsletters.

# **Opportunities for Pro Bono Service** CALENDAR



#### San Juan County Teleclinic

In-Person San Juan County

To sign up, call 505-326-2256 at 1 p.m. (MT) on the day of the clinic. An attorney will call back between 2:30 p.m. and 5 p.m. that same day.

Location: San Juan County

#### **May 21**

#### Wednesday Workshop

Walk-In

New Mexico Immigrant Law Center Location: El Centro de Igualdad y Derechos

#### **Asylum Initial Application and Work Permit Pro Se Clinic**

New Mexico Immigrant Law Center New Mexico Legal Aid www.nmilc.org/asylum

Location: Announced prior to clinic

#### June 4

#### Wednesday Workshop

Walk-In

New Mexico Immigrant Law Center Location: El Centro de Igualdad y Derechos

#### June 7

#### **Young Lawyers Division ABA Free Legal Answers Clinic**

In-Person State Bar of New Mexico Young Lawyers Division nm.freelegalanswers.org YLD Members Can Sign Up HERE: https://bit.ly/SBNM-June7-YLD-ABA-FLA-Clinic

Location: State Bar Center

#### **Free Monthly Telephonic Legal Clinic**

Telephone

Bernalillo County Metropolitan Court To sign up, call 505-841-9817 Location: Virtual

#### **June 17**

#### **San Juan County Teleclinic**

In-Person San Juan County To sign up, call 505-326-2256 at 1 p.m. (MT) on the day of the clinic. An attorney will call back between 2:30 p.m. and 5 p.m. that same day. Location: San Juan County

#### **Family Law Teclinic**

**Telephone** New Mexico Legal Aid bit.ly/NMLALegalFairSignUp Location: Statewide

#### **June 27**

#### **Asylum Initial Application and Work Permit Pro Se Clinic**

In-Person New Mexico Immigrant Law Center New Mexico Legal Aid www.nmilc.org/asylum Location: Announced prior to clinic



#### July 8

#### **Economic Justice Workshop**

In-Person/Remote

New Mexico Immigrant Law Center www.nmilc.org/economic-justice Location: NMILC

#### July 9

#### **First District Court Free Legal Teleclinic**

**Telephonic** First Judicial District Court firstdistrict.nmcourts.gov/ To sign up, call 505-984-3980 between noon and 1 p.m. (MT) on the day of the clinic

#### July 11

#### **Free Monthly Telephonic Legal Clinic**

Telephone

Bernalillo County Metropolitan Court To sign up, call 505-841-9817 Location: Virtual

#### **July 15**

#### San Juan County Teleclinic

In-Person

San Juan County

To sign up, call 505-326-2256 at 1 p.m. (MT) on the day of the clinic. An attorney will call back between 2:30

p.m. and 5 p.m. that same day.

Location: San Juan County

#### **July 16**

#### Wednesday Workshop

Walk-In

New Mexico Immigrant Law Center Location: El Centro de Igualdad y Derechos

Listings in the Bar Bulletin Pro Bono & Volunteer Opportunities Calendar are gathered from civil legal service organization submissions and from information pertaining to the New Mexico State Bar Foundation's upcoming events. All pro bono and volunteer opportunities conducted by civil legal service organizations can be listed free of charge. Send submissions to probono@sbnm.org. Include the opportunity's title, location/format, date, provider and registration instructions. Please note: Recruitment for legal fairs and teleclinics held by the Volunteer Attorney Program of New Mexico Legal Aid typically begins four weeks prior to the date of the event. You will receive recruitment emails from both the State Bar of New Mexico and the Statewide Pro Bono Coordinator for legal fairs and teleclinics. Please use the links contained in those emails to volunteer.

# Resources for the Public CALENDAR



#### **May 20**

#### **San Juan County Teleclinic**

In-Person

San Juan County

To sign up, call 505-326-2256 at 1 p.m. (MT) on the day of the clinic. An attorney will call back between 2:30 p.m. and 5 p.m. that same day. Location: San Juan County

#### **May 21**

#### Wednesday Workshop

Walk-In

New Mexico Immigrant Law Center Location: El Centro de Igualdad y

Derechos

#### 23

# Asylum Initial Application and Work Permit Pro Se Clinic

In-Person

New Mexico Immigrant Law Center New Mexico Legal Aid

www.nmilc.org/asylum Location: Announced prior to clinic

#### **May 28**

# Consumer Debt/Bankruptcy Workshop

Virtual

State Bar of New Mexico Call 505-797-6094 to register

Location: Virtual



#### June 4

#### **Divorce Options Workshop**

Virtual

State Bar of New Mexico Call 505-797-6022 to register

Location: Virtual

#### June 4

#### Wednesday Workshop

Walk-In

New Mexico Immigrant Law Center Location: El Centro de Igualdad y Derechos

#### June 7

# Young Lawyers Division ABA Free Legal Answers Clinic

In-Person

State Bar of New Mexico Young Lawyers Division nm.freelegalanswers.org YLD Members Can Sign Up HERE: https:/bit.ly/SBNM-June7-YLD-ABA-FLA-Clinic

Location: State Bar Center

#### June 10

# Legal Resources for the Elderly Workshop

Virtual

State Bar of New Mexico Call 505-797-6005 or 1-800-876-6657 to register

Location: Virtual

#### June 10

#### **Economic Justice Workshop**

In-Person/Remote

New Mexico Immigrant Law Center www.nmilc.org/economic-justice Location: NMILC

Location. Time.

#### **June 13**

# Free Monthly Telephonic Legal Clinic

**Telephone** 

Bernalillo County Metropolitan Court To sign up, call 505-841-9817

Location: Virtual

#### **June 17**

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#### San Juan County Teleclinic

In-Person

San Juan County

To sign up, call 505-326-2256 at 1 p.m. (MT) on the day of the clinic. An attorney will call back between 2:30

p.m. and 5 p.m. that same day. Location: San Juan County

#### **June 18**

# Consumer Debt/Bankruptcy Workshop

Virtual

State Bar of New Mexico Call 505-797-6094 to register

Location: Virtual

#### June 26

#### **Family Law Teclinic**

*Telephone* 

New Mexico Legal Aid bit.ly/NMLALegalFairSignUp

Location: Statewide

#### July 8

#### **Economic Justice Workshop**

In-Person/Remote

New Mexico Immigrant Law Center www.nmilc.org/economic-justice

Location: NMILC

#### July 9

# First District Court Free Legal Teleclinic

*Telephonic* 

First Judicial District Court firstdistrict.nmcourts.gov/ To sign up, call 505-984-3980 between

noon and 1 p.m. (MT) on the day of the

clinic

#### July 11

# Free Monthly Telephonic Legal Clinic

Telephone

Bernalillo County Metropolitan Court To sign up, call 505-841-9817

Location: Virtual



# Read the Pro Bono **Quarterly Newsletter!**

The State Bar of New Mexico's Pro Bono Quarterly Newsletter is the New Mexico legal community's premier source for information on pro bono work and access to justice in New Mexico!

# **NEWSLETTER CONTENT INCLUDES:**

- Pro BonoNews & **Announcements**
- · Civil Legal Service **Provider Information**
- Volunteer Opportunities
- Articles & Features
- Access to Justice Resources
- And much more!



Have an idea for a pro bono feature or an opportunity for pro bono work you would like to share? Email notices@sbnm.org to include your information or articles in a Pro Bono Quarterly Newsletter!



To view each newsletter, visit https://bit.ly/Pro-Bono-Newsletter

#### From the New Mexico Supreme Court

(Continued from page 23)

drafted by attorneys "where filling in the blanks requires only the use of common knowledge regarding the information to be inserted." *Id.* § 35. However, we emphasized that a licensed attorney is required "when the filling in of the blanks affects substantial legal rights, and if the reasonable protection of such rights requires legal skill and knowledge greater than that possessed by the average citizen." *Id.* 

{31} We acknowledge that, unlike in Norvell and Guardian Abstract, Guadalupe used its employees to represent its own interests and not the interests of another. See Guardian Abstract, 1978-NMSC-016, ¶¶ 1, 4, 34; see Norvell, 1973-NMSC-087, ¶¶ 1, 9-13, 26. To the extent that some employees merely filled in court-approved forms for Guadalupe, the employees may have acted within the scope of permissible conduct. But Plaintiffs have alleged that Guadalupe's employees went far beyond the mere filling in of court-approved forms. Plaintiffs allege that these employees systematically filed and pursued actions in magistrate court for the purpose of recovering money owed by Guadalupe's borrowers. Plaintiffs allege that the employees initiated lawsuits, negotiated and obtained settlement agreements or payment plans, voluntarily dismissed certain lawsuits, failed to prosecute others, and in some cases, obtained default judgments and pursued garnishment actions against Plaintiffs and other credit union members. Plaintiffs' allegations support a reasonable inference that these employees leveraged court proceedings for Guadalupe's benefit and to Plaintiffs' detriment. These allegations, if proven, plainly describe conduct that would qualify as the practice of law. Because no rule of this Court authorized Guadalupe's employees to practice law, Plaintiffs have sufficiently alleged that Guadalupe engaged in the unauthorized practice of law.

# B. Plaintiffs Have Standing Under Section 36-2-28.1 and the UPA

{32} Having rejected Guadalupe's arguments that it did not engage in the unauthorized practice of law, we next consider Guadalupe's challenges to Plaintiffs' standing under Section 36-2-28.1 and the UPA. {33} "[S]tanding is a doctrine requiring that the claimant must have a personal stake

in the outcome of a case." Key v. Chrysler Motors Corp., 1996-NMSC-038, ¶ 11, 121 N.M. 764, 918 P.2d 350. Generally, standing in our courts is a prudential consideration, not a jurisdictional requirement; however, where, as here, a plaintiff brings suit under a statute, the question of standing implicates subject matter jurisdiction. ACLU of N.M. v. City of Albuquerque, 2008-NMSC-045, ¶ 9 & n.1, 144 N.M. 471, 188 P.3d 1222 (citing In re Adoption of W.C.K., 2000 PA Super 68, ¶ 6, 748 A.2d 223 (Pa. Super. Ct. 2000), abrogated by In re Nomination of deYoung, 903 A.2d 1164, 1167-68 & n.5 (Pa. 2006)). This is because "[w]here the Legislature has granted specific persons a cause of action by statute, the statute governs who has standing to sue." San Juan Agric. Water Users Ass'n v. KNME-TV, 2011-NMSC-011, ¶ 8, 150 N.M. 64, 257 P.3d 884. We have explained that our analysis of whether a plaintiff has standing under a statute is similar to our analysis of whether a plaintiff has stated a cause of action under the statute. See Key, 1996-NMSC-038, ¶ 11. "[W]hether this Court discusses it as a cause of action or standing, 'both doctrines allow plaintiffs to enforce a right in the courts." Gandydancer, LLC v. Rock House CGM, LLC, 2019-NMSC-021, ¶ 8, 453 P.3d 434 (quoting Key, 1996-NMSC-038, ¶ 11).

{34} For a plaintiff to acquire standing, the plaintiff must demonstrate an injury in fact traceable to the defendant's conduct that is likely to be redressed by the requested relief. ACLU, 2008-NMSC-045, ¶¶ 1, 7, 10; see also Deutsche Bank Nat'l Tr. Co. v. Johnston, 2016-NMSC-013, ¶ 13, 369 P.3d 1046 (recognizing the standing doctrine as including three elements: "injury in fact, causation, and redressability" (quoting ACLU, 2008-NMSC-045, ¶ 10)). An injury in fact is a direct injury or an imminent threat of injury to the plaintiff as a result of the challenged conduct. See ACLU, 2008-NMSC-045, ¶ 11. In addition, when we consider whether a plaintiff has standing to sue under a statute, the plaintiff's interests must be "arguably within the zone of interests to be protected or regulated by the statute." Key, 1996-NMSC-038, ¶ 11 (internal quotation marks and citation omitted). "The creation of a private right of action does not automatically confer standing on all plaintiffs," and

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we use "tools of statutory interpretation, including the zone of interest protected, to determine whether the cause of action confers a right for a particular plaintiff to pursue a particular claim." *Gandydancer*, 2019-NMSC-021, ¶ 15. Our analysis of standing under a statute thus focuses on legislative intent, as "[t]he statute must provide protection against the injury alleged," and the plaintiff's "asserted interests [must] fall within the zone of interest protected." *Id.* ¶¶ 16-17.

{35} We first consider whether Plaintiffs have standing under Section 36-2-28.1 and next consider whether Plaintiffs have standing under the UPA.

# 1. Plaintiffs have standing to sue under Section 36-2-28.1

{36} Guadalupe challenges Plaintiffs' standing under Section 36-2-28.1. This statute, enacted in 2011, replaces the former criminal prohibition against the unauthorized practice of law with a private right of action. See 2011 N.M. Laws, ch. 107 (enacting Section 36-2-28.1 and repealing NMSA 1978, Section 36-2-28 (1925), which allowed for the imposition of up to a \$500 fine, imprisonment not to exceed six months, or both for a violation of Section 36-2-27). Plaintiffs' claim relies on Subsection (B) of Section 36-2-28.1, which provides,

A person who suffers a loss of money or other property as a result of an unauthorized practice of law in violation of Section 36-2-27 NMSA 1978 may bring an action for the greater of actual damages or one thousand dollars (\$1,000) and for the restitution of any money or property received by the alleged violator, provided that if the court finds that the alleged violator willfully engaged in the unauthorized practice of law, the court may award up to three times the actual damages or three thousand dollars (\$3,000), whichever is greater.

See also § 36-2-28.1(C) (providing for recovery of attorney fees and costs). We consider whether Plaintiffs have alleged an injury in fact under Section 36-2-28.1 before considering whether Plaintiffs' claims are within the statute's zone of

#### From the New Mexico Supreme Court

#### a. Plaintiffs have alleged an injury in fact under Section 36-2-28.1

{37} Guadalupe contends that Plaintiffs cannot show an injury in fact under Section 36-2-28.1(B). Plaintiffs' complaint alleges that Guadalupe violated Section 36-2-28.1 and Rule 2-107(B)(3), and that Guadalupe willfully engaged in the unauthorized practice of law. Guadalupe suggests, however, that the cause of action provided by Section 36-2-28.1(B) may only be based on a violation of Section 36-2-27, not on a violation of Rule 2-107(B)(3). And, as previously discussed, Guadalupe asserts that Plaintiffs cannot show a violation of Section 36-2-27 because that statute permits nonattorneys to practice law in magistrate court.

{38} Guadalupe thus premises its challenge to Plaintiffs' standing on its contention that it did not engage in the unauthorized practice of law. Consistent with our analysis above, we reject this premise. We acknowledge that the plain language of Section 36-2-28.1(B) contemplates that a plaintiff's injury will be based on a violation of Section 36-2-27. However, as we explained earlier, this Court has the power to regulate the practice of law, and, using this power, we have construed and limited the magistrate-court language in Section 36-2-27 to operate harmoniously with this Court's rules addressing the unauthorized practice of law. See Norvell, 1973-NMSC-087, ¶¶ 26-27; *Rivera*, 2012-NMSC-003, ¶9. {39} The Legislature enacted Section 36-2-28.1 in 2011, long after this Court limited Section 36-2-27's magistrate-court language in Norvell. "We presume that the Legislature is well informed regarding existing statutory and common law and does not intend to enact a nullity." Benavidez v. Sierra Blanca Motors, 1996-NMSC-045, ¶ 18, 122 N.M. 209, 922 P.2d 1205. Accordingly, we conclude that the Legislature intended Section 36-2-28.1(B) to support a claim grounded on a violation of Section 36-2-27 as construed and limited by this Court's rules addressing the unauthorized practice of law. We do not suggest that our rules themselves provide Plaintiffs with a private right of action. Rather, we explain only that Plaintiffs may allege an injury in fact under Section 36-2-28.1(B) by claiming

that Guadalupe violated Rule 2-107(B)(3). {40} We similarly reject Guadalupe's argument that Plaintiffs were required to specifically reference Section 36-2-27 or to use any other special language in their complaint. In Zamora v. St. Vincent Hospital, 2014-NMSC-035, ¶ 10, 335 P.3d 1243, this Court rejected "hypertechnical" pleading requirements. All that is required is "a short and plain statement of the claim showing that the pleader is entitled to relief." Rule 1-008(A)(2) NMRA. Irrespective of the language of Plaintiffs' complaint, Guadalupe has demonstrated that it understands the allegations and claims against it. At this stage of the proceedings, nothing more is required. See Zamora, 2014-NMSC-035, ¶¶ 10, 14 (concluding that, although the complaint "fails to name a theory of vicarious liability, . . . the reality is that New Mexico's pleading standards require no more detail than [the plaintiff] provided").

#### b. Plaintiffs are within the zone of interest of Section 36-2-28.1

{41} We next consider whether the Plaintiffs' interests are within the zone of interest protected by Section 36-2-28.1. We infer that the district court determined Plaintiffs lacked standing because the court concluded that any unauthorized legal services were provided to Guadalupe and not to Plaintiffs. We understand the district court as reasoning that Section 36-2-28.1(B)'s zone of interest only extends to the client or recipient of the challenged unauthorized legal services. Although Guadalupe does not seek to defend the district court's reasoning in this appeal, we nevertheless address this reasoning to resolve any doubt that our courts have jurisdiction over Plaintiffs' claims. See Deutsche Bank, 2016-NMSC-013, ¶ 11 ("[W]hen a statute creates a cause of action and designates who may sue, the issue of standing becomes interwoven with that of subject matter jurisdiction. Standing then becomes a jurisdictional prerequisite to an action." (internal quotation marks and citation omitted)); see also Rule 12-321(B) (1) NMRA ("Subject matter jurisdiction of the trial or appellate court may be raised at any time.").

{42} We agree with the Court of Appeals that the plain language of the statute contemplates that any party harmed by the https://www.nmcompcomm.us

unauthorized practice of law may bring a claim under Section 36-2-28.1(B). See Salas, A-1-CA-39021, mem. op. ¶ 11. Section 36-2-28.1(B) provides, "A person who suffers a loss of money or other property as a result of an unauthorized practice of law . . . may bring an action." By its plain terms, the statute requires only that a plaintiff incurred damages as a result of the defendant's unauthorized practice of law to support a claim. The statute does not limit the remedy to the client or recipient of the unauthorized legal services. "We use the plain language of the statute as the primary indicator of legislative intent." Baker v. Hedstrom, 2013-NMSC-043, ¶ 11, 309 P.3d 1047 (brackets, internal quotation marks, and citation omitted). Moreover, we have long recognized that confining the practice of law to licensed attorneys protects the public from risks associated with unqualified and unsupervised practitioners. See, e.g., Guardian Abstract, 1978-NMSC-016, ¶ 21 ("The confining of law practice to a licensed bar to protect the public is of ancient origin and is of the utmost importance in today's complicated society."). Given our abiding recognition of the public risks posed by the unauthorized practice of law, we conclude the Legislature intended Section 36-2-28.1(B) to provide a civil remedy to any person who is injured in fact by a defendant's unauthorized practice of law. Because Plaintiffs claim that they suffered direct injuries as a result of Guadalupe's unauthorized practice of law, Plaintiffs claims fall within the zone of interest protected by Section 36-2-28.1.

#### 2. Plaintiffs have standing to sue Guadalupe under the UPA

{43} We next address Guadalupe's challenges to Plaintiffs' standing under the UPA. We have explained that the standing inquiry with respect to a statute is similar to the inquiry of whether the plaintiff has asserted a cause of action. See Gandydancer, 2019-NMSC-021, ¶ 8; Key, 1996-NMSC-038, ¶ 11. To determine whether Plaintiffs have alleged an injury in fact, we therefore consider whether Plaintiffs have stated a claim under the UPA. We then address whether Plaintiffs' interests are arguably within the zone of interest protected by the UPA.

#### a. Plaintiffs alleged an injury in fact under the UPA

### **Advance Opinions**

#### From the New Mexico Supreme Court

{44} Section 57-12-10(B) provides a private cause of action for "[a]ny person who suffers any loss of money or property . . . as a result of any employment by another person of a method, act or practice declared unlawful by the [UPA.]" See also § 57-12-10(E) (providing for an award of damages in a class action under the UPA). The UPA further declares, "Unfair or deceptive trade practices and unconscionable trade practices in the conduct of any trade or commerce are unlawful." Section 57-12-3.

{45} For its challenge to Plaintiffs' UPA claim, Guadalupe again relies on its steadfast assertion that Section 36-2-27 authorized it to appear in magistrate court through nonattorneys. Guadalupe reasons that its conduct was lawful under Section 36-2-27 and thus cannot be prohibited as an unfair or unconscionable trade practice under Section 57-12-3. Guadalupe thus suggests that Plaintiffs failed to allege an unfair trade practice as defined by Section 57-12-2(D) or an unconscionable trade practice as defined by Section 57-12-2(E). {46} Guadalupe's arguments lack merit. As previously discussed, we have construed and limited Section 36-2-27 to operate harmoniously with our rules and case law regulating the practice of law. See Norvell, 1973-NMSC-087, ¶¶ 26-27; Rivera, 2012-NMSC-003, ¶ 9. We therefore reject Guadalupe's suggestion that its alleged conduct was lawful under Section 36-2-27. Thus, to determine whether Plaintiffs have pleaded an injury in fact under the UPA, we need only consider whether Guadalupe's conduct may amount to an unfair or unconscionable trade practice as defined by Section 57-12-2(D) or (E).

{47} Plaintiffs have alleged facts that, if proven, establish that Guadalupe engaged in an unfair trade practice under Section 57-12-2(D), (D)(14), and (D)(15). As relevant to Plaintiffs' claims, the UPA defines an unfair trade practice as "a false or misleading oral or written statement, visual description or other representation of any kind knowingly made in connection with ... the extension of credit or in the collection of debts by a person in the regular course of the person's trade or commerce, that may, tends to or does deceive or mislead any person." Section 57-12-2(D). Section 57-

12-2(D) identifies a list of example unfair trade practices, including, as relevant to Plaintiffs' claims, "using exaggeration, innuendo or ambiguity as to a material fact or failing to state a material fact if doing so deceives or tends to deceive," and "stating that a transaction involves rights, remedies or obligations that it does not involve." Section 57-12-2(D)(14), (15).

{48} "The gravamen of an unfair trade practice is a misleading, false, or deceptive statement made knowingly in connection with the sale of goods or services." Lohman v. Daimler-Chrysler Corp., 2007-NMCA-100, ¶ 5, 142 N.M. 437, 166 P.3d 1091 (quoting Diversey Corp. v. Chem-Source Corp., 1998-NMCA-112, ¶ 17, 125 N.M. 748, 965 P.2d 332). A plaintiff seeking to establish an unfair trade practices claim must show that (1) the defendant made a representation "that was either false or misleading," (2) "the false or misleading representation must have been knowingly made in connection with the sale, lease, rental or loan of goods or services in the extension of credit or . . . collection of debts," (3) the false or misleading representation "must have occurred in the regular course of the [defendant's] trade or commerce," and (4) the representation was "of the type that may, tends to or does, deceive or mislead any person." Ashlock v. Sunwest Bank of Roswell, N.A., 1988-NMSC-026, ¶ 4, 107 N.M. 100, 753 P.2d 346 (omission in original) (internal quotation marks and citation omitted), overruled on other grounds by Gonzales v. Surgidev Corp., 1995-NMSC-036, ¶ 16, 120 N.M. 133, 899 P.2d 576. A representation is "knowingly made" when the "party was actually aware that the statement was false or misleading when made, or in the exercise of reasonable diligence should have been aware that the statement was false or misleading." Stevenson v. Louis Dreyfus Corp., 1991-NMSC-051, ¶ 17, 112 N.M. 97, 811 P.2d 1308.

{49} Plaintiffs alleged in relevant part that Guadalupe filed and pursued collection actions against Plaintiffs using employees who were not authorized to practice law; that Guadalupe used the existence of these actions to obtain full payments, payment arrangements, or judgments against Plaintiffs and, in some cases, enforce judgments through garnishment or other court

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processes; and that Guadalupe acted willfully. If proven, these facts readily support a claim for unfair trade practices. Based on these allegations, a jury or other factfinder could determine that (1) Guadalupe made false or misleading representations that its employees were authorized to practice law, (2) Guadalupe knowingly made these misrepresentations when extending credit to or collecting debts from Plaintiffs, (3) Guadalupe made these misrepresentations in the course of its trade or commerce as a credit union, and (4) Guadalupe's misrepresentations were of the type that may, tend to, or do mislead. See Ashlock, 1988-NMSC-026, ¶ 4 (listing these four elements of an unfair trade practices claim). For purposes of this motion to dismiss, we also conclude that Guadalupe falsely representing to Plaintiffs that its employees were authorized to practice law may amount to ambiguity as to a "material fact" tending to deceive with respect to Section 57-12-2(D)(14), or may have suggested that a "transaction involve[d] rights, remedies or obligations that it [did] not involve" with respect to Section 57-12-2(D)(15). Cf. Jaramillo v. Gonzales, 2002-NMCA-072, ¶ 28, 132 N.M. 459, 50 P.3d 554 (concluding that a bank's failure to concede clear legal liability fell within the definition of an unfair trade practice under Section 57-12-2(D)(15)).

{50} Plaintiffs have also sufficiently alleged that Guadalupe's conduct amounted to an unconscionable trade practice under Section 57-12-2(E)(1). The UPA defines an unconscionable trade practice, in relevant part, as "an act or practice . . . in the extension of credit or in the collection of debts that to a person's detriment . . . takes advantage of the lack of knowledge, ability, experience or capacity of a person to a grossly unfair degree." Section 57-12-2(E)(1). In determining whether a plaintiff was taken advantage of to a grossly unfair degree, we evaluate the factual circumstances surrounding the transaction, including the defendant's pattern of conduct and the plaintiff's characteristics. See State ex rel. King v. B & B Inv. Grp., Inc., 2014-NMSC-024, ¶ 25, 329 P.3d 658 ("We consider whether borrowers were taken advantage of to a grossly unfair degree by looking at practices in the aggregate, as well as the borrowers' characteristics."); Cordova

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v. World Fin. Corp. of N.M., 2009-NMSC-021, ¶ 23, 146 N.M. 256, 208 P.3d 901 (explaining that, for an analogous procedural unconscionability claim, a court "examines the particular factual circumstances surrounding the formation of the contract, including the relative bargaining strength, sophistication of the parties, and the extent to which either party felt free to accept or decline terms demanded by the other"). For example, in B & B Inv. Grp., we concluded that several borrowers had proven that a subprime lender engaged in unconscionable trade practices by leveraging the borrowers' financial distress, exploiting the borrowers' cognitive and behavioral deficits, and offering payday loans with exorbitant interest rates and fees. See B & B Inv. Grp., 2014-NMSC-024, ¶¶ 3-8, 25.

{51} Similar to B & B Inv. Grp., Plaintiffs allege that Guadalupe engaged in a pattern of filing and prosecuting collection actions against them and other unidentified credit union members that took advantage of their lack of knowledge or experience regarding the unauthorized practice of law to a grossly unfair degree. Although we cannot speculate as to what the facts may ultimately show, Plaintiffs' allegations support an unconscionable trade practices claim under Section 57-12-2(E)(1). We therefore conclude that Plaintiffs have alleged a sufficient injury in fact to grant them standing under the UPA.

#### b. Plaintiffs are within the zone of interest protected by the UPA

{52} Guadalupe also argues that Plaintiffs lack standing because the unauthorized practice of law is not within the zone of interest protected by the UPA. As support for this argument, Guadalupe primarily relies on Gandydancer, 2019-NMSC-021. In Gandydancer, a construction company sued its competitor for engaging in unfair methods of competition by soliciting contracts from a consumer without disclosing that the competitor was unlicensed to perform the work. *Id.*  $\P$  2, 4. We held that the construction company did not have a private cause of action under Section 57-12-10(B) because its interests were not within the zone of interest protected by the UPA. Id. ¶ 18. Guadalupe compares the unlicensed construction work at issue in Gandydancer to the allegations of unauthorized legal

practice at issue here, suggesting that the unauthorized practice of law similarly falls outside the interests protected by the UPA. {53} Guadalupe misreads Gandydancer. Although the claims in Gandydancer rested in part on the competitor's provision of unlicensed construction services, the competitor's unlicensed status was not material to the issue we considered on appeal. Rather, in Gandydancer, we considered whether the UPA "supports a cause of action for competitive injury." Id. ¶ 1; see also id. ¶ 8 (framing the question presented as "whether the UPA creates a cause of action to recover lost profits damages from a competitor"). Although we acknowledged that the UPA appears to confer standing broadly on "any person meeting the minimum requirement of injury," id. ¶ 18, we concluded the Legislature "intended to remove competitive injury claims from the protected zone of interests." *Id.* ¶¶ 19-20. Looking at legislative history, we noted that the Legislature had removed the phrase "unfair methods of competition" from the UPA. Id. ¶ 19. We further recognized that the UPA is fundamentally a consumer protection statute. Id. ¶ 24. Allowing a construction company to recover lost profits from its competitor could undermine consumer protection because the company's lawsuit could render the competitor insolvent and thus judgmentproof against a consumer's claims. See id. ¶ 26. We therefore declined to expand the UPA's zone of interest beyond "protecting innocent consumers" to also protecting a company from lost profits. Id. ¶ 28.

{54} Gandydancer is inapposite. Unlike Gandydancer, Plaintiffs have not sued Guadalupe for lost profits resulting from a competitive injury. Rather, Plaintiffs allege that Guadalupe extended credit to or collected debts from Plaintiffs, and that they were injured by Guadalupe's unfair or unconscionable trade practices in connection therewith. We construe the UPA liberally to ensure the protection of innocent consumers. B & B Inv. Grp., 2014-NMSC-024, ¶ 48; Gandydancer, 2019-NMSC-021, ¶ 24. As consumers allegedly harmed by Guadalupe's unfair and unconscionable trade practices, Plaintiffs' claims readily fall within the zone of interests protected by the UPA.

{55} For similar reasons, we disagree with

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the district court that Plaintiffs' claims are outside of the zone of interests protected by the UPA simply because Guadalupe's employees only represented Guadalupe's legal interests in the collection lawsuits, not Plaintiffs' legal interests. Plaintiffs allege they are consumers of Guadalupe's credit union services, not Guadalupe's legal services. Specifically, Plaintiffs claim that Guadalupe extended credit to or collected debts from Plaintiffs while falsely representing that its employees were authorized to practice law or while taking grossly unfair advantage of Plaintiffs' lack of knowledge or experience regarding the unauthorized practice of law. These alleged transactions the direct extension of credit to or collection of debts from Plaintiffs—are plainly within the ambit of the UPA. See § 57-12-2(D), (E); § 57-12-3.

{56} In this regard, our reasoning also differs from that of the Court of Appeals, which concluded in response to Guadalupe's challenge to Plaintiffs' standing that a UPA claim was not "limited to claims by the party to whom the legal services were provided." Salas, A-1-CA-39021, mem. op. ¶ 12. Again, Plaintiffs claim that Guadalupe used unfair or unconscionable trade practices while directly providing credit services to or collecting debts from Plaintiffs. As such, we need not consider whether a UPA claim challenging the provision of legal services is limited to the party to whom the legal services are provided.

{57} Guadalupe also asserts that Plaintiffs' claims are outside of the UPA's protected zone of interest because permitting Plaintiffs to recover for the unauthorized practice of law under the UPA would displace the remedy provided in Section 36-2-28.1 for such unauthorized practice. In Gandydancer, 2019-NMSC-021, ¶¶ 25-28, we explained that construing the UPA to permit the construction company's recovery for competitive injury would conflict with another statute providing a remedy to consumers of unlicensed contracting services, as a defendant could essentially be "rendered bankrupt or judgment proof" and a consumer "could be effectively precluded from recovering damages" for the defendant's unlicensed construction services. Id. ¶ 26. However, under the circumstances

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presented, we see no tension between the remedy provided by Section 36-2-28.1 and the remedy provided by the UPA. The remedies afforded by the two statutes are not exclusive. See § 36-2-28.1(D) (stating that the remedy provided therein "is in addition to other remedies available at law or equity"); § 57-12-10(D) ("The relief provided in this section is in addition to remedies otherwise available against the same conduct under the common law or other statutes of this state."). And we fail to see how, generally, the existence of an alternative remedy in Section 36-2-28.1 undermines the UPA's primary purpose of consumer protection. Cf. Gandydancer, 2019-NMSC-021, ¶ 27 (explaining that allowing competitors to recover for competitive injury "thwarts [the UPA's] primary purpose of protecting innocent consumers"). As previously mentioned, Plaintiffs allege they are innocent consumers of Guadalupe's credit union services. Permitting Plaintiffs to recover for Guadalupe's alleged unfair and unconscionable trade practices in connection with those services promotes the purpose of the UPA.

{58} Guadalupe has not otherwise shown that the Legislature intended to exclude unfair or unconscionable trade practices based on the unauthorized practice of law from the zone of interest protected by the UPA. And we do not see any other sign that the UPA excludes Plaintiffs' claims solely because Guadalupe's alleged misrepresentations and unconscionable practices relate to the authority of its employees to practice law. Accordingly, we conclude that Plaintiffs' interests are arguably within the zone of

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interest protected by the UPA. **IV. CONCLUSION** 

{59} Plaintiffs sufficiently alleged that Guadalupe engaged in the unauthorized practice of law by filing and prosecuting debt collection actions against Plaintiffs in magistrate court through nonattorneys. Based on these allegations, Plaintiffs have standing to bring claims challenging Guadalupe's conduct under Section 36-2-28.1 and the UPA. We therefore affirm the Court of Appeals, reverse the district court, and remand to the district court with instructions to vacate its order of dismissal and to reinstate Plaintiffs' complaint in its entirety. **{60}** IT IS SO ORDERED.

MICHAEL E. VIGIL, Justice WE CONCUR: DAVID K. THOMSON, Chief Justice C. SHANNON BACON, Justice BRIANA H. ZAMORA, Justice JAMES A. NOEL, Judge Sitting by designation

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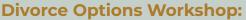
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### **FORMAL OPINION**

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Filing Date: 3/17/2025

No. A-1-CA-41783

JACE BANKERT, on behalf of himself and other persons similarly situated, known and unknown,

Plaintiff-Appellee,

10 ROADS EXPRESS, LLC,

Defendant-Appellant.

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

Francis J. Mathew, District Court Judge

Durham, Pittard & Spalding LLP Caren I. Friedman Justin R. Kaufman Philip M. Kovnat Santa Fe, NM

> Werman Salas P.C. Douglas M. Werman John J. Frawley Chicago, IL

> > for Appellee

YLAW, P.C. Andrea K. Robeda Albuquerque, NM

for Appellant

#### ► Introduction of Opinion

Plaintiff is a former employee of Defendant 10 Roads Express, LLC (Company or the Company). This appeal primarily involves the applicability of 9 U.S.C. § 1 of the Federal Arbitration Act (the FAA) to an arbitration agreement (the Agreement) that Company sent to Plaintiff during the hiring process and that Plaintiff signed. The FAA "requires courts to enforce private arbitration agreements." New Prime Inc. v. Oliveira, 586 U.S. 105, 108 (2019); see 9 U.S.C. § 2. The FAA, however, exempts certain contracts from mandatory enforcement, including the "contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce." 9 U.S.C. § 1; see Circuit City Stores, Inc. v. Adams, 532 U.S. 105, 109 (2001) (limiting "any other class of workers" to transportation workers).1 Company appeals the district court's determination that the Agreement could not be enforced because it either lacked consideration or the transportation workers exemption applied. In the alternative, Company argues that the district court incorrectly determined that another term of the Agreement, a class action waiver, did not apply to the present circumstances. View full PDF online.

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

To read the entire opinion, please visit the following link: https://bit.ly/A-1-CA-41783

### **FORMAL OPINION**

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Filing Date: 3/20/2025

No. A-1-CA-41037

**STATE OF NEW MEXICO,** 

Plaintiff-Appellee,

٧.

**EVERETT MULTINE,** 

Defendant-Appellant.

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

Daylene A. Marsh, District Court Judge

Raúl Torrez, Attorney General Santa Fe, NM Walter Hart, Assistant Attorney General Albuquerque, NM

for Appellee

Bennett J. Baur, Chief Public Defender Melanie C. McNett, Assistant Appellate Defender Santa Fe, NM

for Appellant

#### ► Introduction of Opinion

A jury found Defendant Everett Multine guilty of driving while under the influence of intoxicating liquor or drugs (DWI), contrary to NMSA 1978, Section 66-8-102(A) or (B) (2016). Defendant argues on appeal, as he did at trial, that the district court violated Article VII, Section 3 of the New Mexico Constitution by seating a juror without providing her with a Navajo language interpreter. See State v. Singleton, 2001-NMCA-054, ¶ 9, 130 N.M. 583, 28 P.3d 1124 (holding that defendants have standing to protect the rights of an excluded juror under Article VII, Section 3). The State argues that the district court's denial of an interpreter was based on an unstated factual finding that the juror's expressed need for an interpreter was not credible—a finding that the State argues is entitled to deference on appeal. We recognize that the determination about whether a juror needs an interpreter requires fact-finding by the trial court about whether a juror can meaningfully participate in the proceedings without an interpreter—findings that are owed deference on appeal under the ordinary substantial evidence standard of review. However, the record does not establish that any such findings were made by the district court in this case. View full PDF online.

Zachary A. Ives, Judge WE CONCUR: Kristina Bogardus, Judge Jane B. Yohalem, Judge

To read the entire opinion, please visit the following link: https://bit.ly/A-1-CA-41037

### **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-41499 **Robert Rodriguez Loya Insurance Company** 

#### **Introduction of Opinion**

Plaintiff Robert Rodriguez appeals two orders of the district court. First, Plaintiff argues that the district court applied the incorrect legal standard to set aside an order that granted partial summary judgment to Plaintiff (the PSJ order) and that Defendant Loya Insurance Company (Loya) did not establish a basis to set aside the PSJ order. Second, Plaintiff argues that disputed questions of fact regarding the meaning of the term "insured" in the insurance policy (the Policy) prevented summary judgment in favor of Loya. We conclude that the district court did not abuse its discretion in setting aside the PSJ order but also that extrinsic evidence revealed ambiguities about whether Plaintiff qualified as an "insured" for uninsured motorist (UM) coverage under the Policy. We construe the ambiguity in favor of Plaintiff and reverse in part.

Katherine A. Wray, Judge WE CONCUR: Kristina Bogardus, Judge Zachary A. Ives, Judge

> To read the entire opinion, please visit: https://bit.ly/A-1-CA-41499

No. A-1-CA-41525 **State of New Mexico Pedro Calvillo** 

#### **Introduction of Opinion**

Defendant Pedro Calvillo appeals his conviction of criminal sexual penetration of a minor (CSPM) in the first degree (child under thirteen years of age), contrary to NMSA 1978, Section 30-9-11(D) (1) (2007, amended 2009). On appeal, Defendant argues his right to a speedy trial was violated. We affirm.

Kristina Bogardus, 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-41525 No. A-1-CA-41689 **Bryce Franklin** 

**Western New Mexico Correctional Facility Records** Coordinator

#### **Introduction of Opinion**

Petitioner Bryce Franklin, appearing pro se, appeals the district court order denying his petition for a writ of mandamus to enforce the Inspection of Public Records Act (IPRA), NMSA 1978, §§ 14-2-1 to -12 (1941, as amended through 2023). Petitioner contends the district court abused its discretion when it found that Petitioner's records requests, made under the New Mexico Corrections Department's (NMCD) internal policies, amounted to a challenge to a condition of confinement, and therefore Petitioner's adequate remedy was to challenge his conditions of confinement through a habeas corpus action as provided for under Rule 5-802 NMRA. Because the request forms submitted by Petitioner here are governed by internal NMCD policies and not IPRA, we affirm.

Jacqueline R. Medina, Judge WE CONCUR: Megan P. Duffy, Judge Jane B. Yohalem, Judge

> To read the entire opinion, please visit: https://bit.ly/A-1-CA-41689

### **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-38250 State of New Mexico v. Yvonne Martinez No. A-1-CA-41713
Parker Layton
v.
William "Billy" Franzoy

No. A-1-CA-41660 State of New Mexico v. Andres Gonzales-Gaytan

#### **Introduction of Opinion**

This matter is before this Court on remand from the New Mexico Supreme Court, Defendant Yvonne Martinez was convicted and sentenced for one count of second degree homicide by vehicle, contrary to NMSA 1978, Section 66-8-101(C) (2016). Defendant appealed, raising two claims of error: (1) that the district court erred in denying her motion to exclude the results of her blood alcohol content test because the phlebotomist who drew her blood was not qualified to do so under NMSA 1978, Section 66-8-103 (1967); and (2) that the district court erred, as part of its sentencing decision, in designating her crime a serious violent offense under the Earned Meritorious Deductions Act (EMDA), NMSA 1978, § 33-2-34 (2015), because her offense is not so defined in the EMDA. View full PDF online.

Jennifer L. Attrep, Chief Judge WE CONCUR: J. Miles Hanisee, Judge

Jacqueline R. Medina, Judge

To read the entire opinion, please visit: https://bit.ly/A-1-CA-38250

#### **Introduction of Opinion**

Rebecca Lavton (Decedent), filed a complaint in the district court alleging that she shared ownership interest in Defendant William Franzoy's three limited iability companies. The district court granted partial summary judgment in favor of Defendant on Decedent's claims. Plaintiff Parker Layton, as personal representative of Decedent's estate, appeals, arguing that the district court erred in determining that (1) Defendant's testimony that he did not intend to form a partnership entitled him to summary judgment; (2) limited liability companies cannot be assets of a partnership; (3) liability for partnership debts is required to support Plaintiff's promissory estoppel claim; and (4) there was no genuine issue of material fact regarding the formation of a partnership. View full PDF online.

Bruce D. Black, Judge Pro Tem. WE CONCUR: J. Miles Hanisee, Judge Shammara H. Henderson, Judge

To read the entire opinion, please visit: https://bit.ly/A-1-CA-41713

#### **Introduction of Opinion**

A jury found Defendant guilty on seven counts, contrary to NMSA 1978, Section 30-9-11(D) (1) (2009); NMSA 1978, Section 30-28-1 (1963, amended 22 2024); NMSA 1978, Section 30-9-13 (2003), and NMSA 1978, Section 30-24-3 (1997). At trial, the district court admitted testimony about the results of two medical tests without testimony from a witness who conducted the laboratory tests that produced the result. Defendant argues on appeal that the admission of the results was unconstitutional and contrary to the rules of evidence. Defendant also challenges the sufficiency of the evidence supporting all of the convictions and maintains that the "numerous violations of Defendant's constitutional rights" by this Court and the district court "amount to fundamental error." We affirm.

Katherine A. Wray, Judge WE CONCUR: Shammara H. Henderson, Judge Jane B. Yohalem, Judge

To read the entire opinion, please visit: https://bit.ly/A-1-CA-41660

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The City of Albuquerque Legal Department is seeking an Assistant City Attorney to provide support on its higher-level litigation matters. The attorney will work directly with outside counsel and attorneys within the Legal Department, including the City Attorney, as litigation on these matters proceeds. Duties will include researching legal questions, drafting and responding to discovery, taking depositions, drafting and arguing motions, working with witnesses, attending trial and drafting appeal briefs if necessary. When time permits, the attorney will also handle other assignments as needed and handle or assist with matters assigned to the Litigation Division, which defends claims brought against the City and its employees. This is a great opportunity to work with experienced attorneys and obtain significant experience. This position also provides opportunity for advancement. For more information or to apply please send a resume and writing sample to Angela Aragon at amaragon@ cabq.gov.

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Location: Albuquerque, New Mexico United States 87101. Apply URL: https:// recruiting.paylocity.com/recruiting/ jobs/Details/3148268/New-Mexico-Legal-Group-PC/Probate-Estate-Law-Attorney---Albuquerque. Job Description: We are a cutting-edge estate planning/probate, family law, and criminal practice serving Albuquerque and the State of New Mexico made up of high-level attorneys: David Crum, Cynthia Payne, Matthew Barceleau, Mark Pustay, Maggie Brister, Janine Caller, Larry Kronen, Stephen Lane, and Isadora Renner. New Mexico Legal Group is part of the US Legal Group family of law firms which provides us with massive resources in our parent company. We also have an office in Las Cruces. We are busy in Albuquerque and getting busier every day, and we are interested in talking to self-motivated candidates to join our team. We would like to find an additional team member who is smart, entrepreneurial, down to earth, and motivated to be part of our mission. This position will be for the estate planning/ probate sector of our firm. Why is this an incredible opportunity? You will be involved in creating the very culture and financial rewards that you have always wanted in a law firm; We pay the most in our practice niche, with experienced attorneys earning \$175,000 to \$200,000 in an average year; We practice at the highest levels in our field, with independence and cutting-edge practice and marketing strategies, and reasonable billing requirements; The firm offers an excellent benefits package including a PPO health insurance plan, life, disability and vision insurance, an automatic 3% contribution to 401(k) and future revenue sharing; This is also a great opportunity for lawyers in a solo practice who would like to merge their practice. This position is best filled by an attorney who wants to help build something extraordinary. This is a drama free environment filled with other team members who want to experience something other than your run of the mill divorce firm. Interested candidates: Upload whatever forms of communication you feel will help us to understand you the best. Please explain why you are drawn to this position and how you can be an asset to the team. All inquiries are completely confidential.

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#### **Litigation Attorney**

Jennings Haug Keleher McLeod Waterfall, an AV-rated regional law firm, is seeking a full-time litigation attorney with 2 to 5 years of litigation experience to join a busy and varied general civil litigation practice in the Albuquerque office. Must be currently licensed to practice law in the state of New Mexico. Experience with depositions and court appearances is a plus, legal analysis and excellent research and writing skills are required. All inquiries will be held in strict confidence. The firm offers a competitive salary and benefits with a professional working environment. Please see www.jkwlawyers.com for further information about the firm. Please email your cover letter, resume, and writing sample to Nathan Stimson at nss@jkwlawyers.com.

#### **Associate Attorneys**

Modrall Sperling, one of New Mexico's largest law firms, is searching for Associate attorneys to join our general civil litigation practice. The ideal candidates should have a minimum of 2 to 3 years of civil litigation experience with excellent research, writing, and verbal advocacy skills. Qualified applicants must have experience working on large cases, including conducting legal research, drafting briefs, taking and defending depositions, arguing in court is preferred. Strong academic credentials required. Candidates must be admitted, or eligible for admission to the New Mexico Bar. As one of New Mexico's largest firms, we are able to offer associate attorneys high quality, challenging work and outstanding career opportunities. Please send a letter of interest and resume to attyapplicants@modrall.com. All inquiries will be kept confidential.

#### **Deputy Chief Appellate Court Clerk**

The New Mexico Court of Appeals is seeking an experienced supervising attorney to serve as its next Deputy Chief Appellate Court Clerk. The Deputy works under the general direction of the Chief Clerk and closely with the Chief Judge, Judges, staff attorneys, and Clerk's Office staff. The Deputy assists the Clerk of the Court with supervision of the Clerk's Office, court administration, and general counsel matters including IPRA requests, contracts, and HR. The Deputy works closely with the court manager and state-wide district courts to facilitate case processing. With the assistance of staff, the Deputy processes all procedural motions under delegated authority and provides legal recommendations on substantive motions and jurisdictional matters to staff and judges. The Court of Appeals has offices in Santa Fe and Albuquerque with regular travel between the offices required. The position may be primarily located in either location. Education: must be a graduate of a law school meeting the standards of accreditation of the American Bar Association; possess and maintain a license to practice law in the State of New Mexico. Required experience: Eight (8) years of experience in the practice of applicable law, of which two (2) years must have been as a supervisor. \$91,520-\$163,758.40 annually. Interested applicants should submit a New Mexico Judicial Branch Application for Employment, or a Resume and a Resume Supplemental form to: jobs@ nmcourts.gov, AOC Human Resources Division, 202 E. Marcy Street, Santa Fe, New Mexico 87501. To view the complete job description and obtain the Judicial Branch Application for **Employment or Resume Supplemental** form, interested applicants should visit www.nmcourts.gov/careers. The New Mexico Judicial Branch is an equalopportunity employer. Application Deadline: June 6, 2025.

### New Mexico Taxation & Revenue Department, Attorney

The NM Taxation & Revenue Department seeks an attorney to represent the Department before administrative tribunals and courts in matters involving the Tax Administration Act and the Motor Vehicle Code. The attorney may also provide legal opinions and recommendations to agency staff based on legal research and analysis on a wide array of tax issues. Preference will be given to applications with experience in tax, administrative hearings, or trail experience. The position is a Pay Band LH, salary range \$77,354-\$139,238 annually. For additional information or to apply contact Donnita Wald, Chief Legal at 505670-5631. https://www.spo.state.nm.us

#### **Contracts Administrator**

Presbyterian Healthcare Services is seeking an experienced, self-directed detail-oriented Contracts Administrator to join the Legal Services Contract Team. The ideal candidate will be comfortable working in a fast-paced environment, managing multiple complex projects (often with short deadlines), negotiating and drafting complex contracts, work well independently and as part of a team, and bring passion and creativity to the workplace. Please apply directly at: https://careers-phs.icims.com/ jobs/46321/contracts-administrator/job ?hub=11&mobile=false&width=1912& height=500&bga=true&needsRedirect= false&jan1offset=-420&jun1offset=-360

# 2025 Bar Bulletin Publishing and Submission Schedule

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

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

Cancellations must be received via email by 5 p.m. (MT) 13 business days prior to the issue publication date.

For more advertising information, contact: 651-288-3422 or email marketing@sbnm.org

#### **Professional Liability Attorney**

Description: Rodey, Dickason, Sloan, Akin & Robb, P.A.'s Albuquerque office is currently seeking attorneys to help in its Professional Liability Group, primarily to help with the defense of medical malpractice and legal malpractice cases. The candidate would participate in all aspects of case handling and would gain experience in taking depositions, preparing witnesses for depositions and defending depositions (including expert witnesses), brief and reporting writing, answering written discovery, and participating in direct contact with clients. The candidate would receive mentorship from Directors in the Professional Liability Group. Qualifications: Ideal candidate should have strong academic credentials and writing skills and be licensed in New Mexico. Rodey offers a competitive salary and bonus structure, comprehensive benefits package, including health, dental and vision; professional development and multi-faceted mentoring program; FSA and HSA plan option(s); 401K plan/ employer match; group life and longterm disability insurance; employee assistance program; wireless phone/ services stipend. To apply, please send a cover letter, resume, writing sample, and law school transcript attention "Ali Taylor, Human Resources Director" at: jobs@rodey.com with "Professional Liability Attorney" in the subject line. All inquiries will be kept confidential. Rodey is an Equal Opportunity Employer. Rodey Law Firm is not accepting unsolicited resumes from search firms for this position.

#### **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

#### **Full-Time Attorney**

NM Divorce & Custody Law, LLC seeks a full-time attorney to join our team. The ideal candidate will have at least one year experience in the practice of law, but we will train new graduates who show an interest in Family Law. The candidate will manage their own case load with staff support and will have a strong desire to practice in family law (divorce, child custody & visitation, child support, grandparent visitation, kinship guardianship, modifications, etc.). Our ideal candidate must be responsive to clients and respectful of fellow co-workers. It is expected that each member of our team will be highly organized and reliable, and possess good judgment and communication skills. We expect our attorneys to own their work product. The candidate must be able to prioritize deadlines and case commitments. Most importantly, the attorney that joins our office will understand that we don't just serve clients as knowledgeable and assertive advocates – we also have a responsibility to manage client expectations and to make good decisions on how to get the best possible result for the client without incurring unnecessary expense. The team at NM Divorce & Custody Law, LLC operates within a positive and friendly work environment. We understand that success in one's career means that one must maintain a healthy balance between one's home and work life. To that end, the new attorney will benefit from a reasonable billable hour requirement and a flexible work schedule. We offer competitive pay commensurate with experience, generous paid time off, and a generous benefits package that includes health, dental, and vision insurance, a matching Simple IRA, and ½ day work days on Fridays. Please send a cover letter, writing sample and resume to Michelle at mh@nmdivorcecustody.com. All replies will be maintained as confidential.

#### Children's Court Hearing Officer #00032305

The Second Judicial District Court is accepting applications for a full-time, perm at-will Hearing Officer/Special Master in Children's Court (position #00032305). Under the supervision of the Presiding Judge, applicant will perform Hearing Officer duties for the Children's Court. Applicant will be expected to create and recommend policies and procedures to enhance efficiency and to ensure procedural consistency and compliance with laws and Supreme Court Rules. J.D. from an accredited law school, New Mexico licensed attorney in good standing. Preference will be given to individuals with three (3) years' experience in the practice of law and shall be familiar with children's court matters. Ability to establish effective working relationships with judges, the legal community, and staff; and to communicate complex rules clearly and concisely, respond with tact and courtesy both orally and in writing. Extensive knowledge of New Mexico and federal case law, constitution and statutes; court rules, policies and procedures; manual and computer legal research and analysis. A work record of dependability and reliability, attention to detail, accuracy, confidentiality, and effective organizational skills. Ability to pass a background check. SALARY: \$77.83776 hourly or \$161,902.5408 annually, plus benefits. Send a NM Judicial Branch Application or Resume (if submitting a Resume, must submit a Resume Supplemental Form) with proof of education and a writing sample to the Second Judicial District Court, Human Resource Office, P.O. Box 488 (400 Lomas Blvd. NW), Albuquerque, NM 87102, or email: 2ndjobapply@ nmcourts.gov. Applications without copies of information requested on the employment application will be rejected. Application and resume supplemental form may be obtained on the NM Judicial Branch web page at www.nmcourts.gov. CLOSING DATE OR OPEN UNTIL FILLED.

#### **Civil Rights Advisor**

Requisition ID: req32940; Working Title: Civil Rights Advisor; Position Grade: 14; Position Summary: The University of New Mexico's Hearing Office seeks a Civil Rights Advisor to support and guide students, faculty, and/or staff engaged as complainants in civil rights proceedings. This individual advises participants of policies and procedures and accompanies participants to meetings and civil rights hearings. This position is in support of the 2020 Updated Title IX Regulations that became effective in August 2020. Duties and responsibilities include, but are not limited to, the following: Provides support, guidance, and information to students, faculty, or staff who are complainants or respondents in civil rights proceedings; Assists participants in understanding the relevant University policies, and in navigating the administrative hearing process; Reviews documents, participates in gathering facts, and helps prepare the participant for proceedings, to include advising on the potential impact of the various choices and outcomes; Accompanies participants to pre-hearing conferences and hearings and manages participants' expectations of the hearing process; Assists the participant at the hearing phase of the proceeding and provides guidance on the direct parties and witnesses; Performs the crossexamination of parties and witnesses; Collaborates with stakeholders and other advisors, as appropriate. See the Position Description for additional information. Conditions of Employment: Employees who provide services or work in patient care or clinical areas are required to be in compliance with the University's influenza vaccination requirement. Minimum Qualifications: Bachelor's degree in a directly related field; at least 3 years of experience directly related to the duties and responsibilities specified. Completed degree(s) from an accredited institution that are above the minimum education requirement may be substituted for experience on a year for year basis. Preferred Qualifications: Ability to maintain confidentiality; Strong interpersonal and communication skills, both orally and in writing; The ability to work effectively with a wide range of constituencies in a diverse community; Knowledge of legal documentation procedures and requirements; Knowledge of federal, state, and University compliance laws, guidelines, and procedures; Juris Doctor (JD) degree preferred. Additional Requirements: Campus: Main - Albuquerque, NM; Department: Hearing Office (431A); Employment Type: Staff; Staff Type: On-Call; Term: End Date; Status: Non-Exempt; Pay: Hourly: \$34.94; Benefits: Eligible. This is a non-benefits eligible position. ERB Statement: As a condition of employment, eligible employees working greater than .25 FTE as determined by the New Mexico Education Retirement Act must make mandatory retirement contributions. For more information, review the Benefits Eligibility at a Glance grid. Background Check Required: No; For Best Consideration Date: 4/18/2025; Eligible for Remote Work: Yes. Eligible for Remote Work Statement. Application Instructions: Only applications submitted through the official UNM Jobs site will be accepted. If you are viewing this job advertisement on a 3rd party site, please visit UNMJobs to submit an application. A complete application includes a resume, cover letter, and three professional references. Positions posted with a Staff Type of Regular or Term are eligible for the Veteran Preference Program. See the Veteran Preference Program webpage for additional details. The University of New Mexico is committed to hiring and retaining a diverse workforce. We are an Equal Opportunity Employer, making decisions without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, veteran status, disability, or any other protected class. The University of New Mexico requires all regular staff positions successfully pass a pre-employment background check. This may include, but is not limited to, a criminal history background check, New Mexico Department of Health fingerprint screening, New Mexico Children, Youth, and Families Department fingerprint screening, verification of education credentials, and/or verification of prior employment. For more information about background checks, visit https://policy. unm.edu/university-policies/3000/3280. html. Refer to https://policy.unm.edu/ university-policies/3000/3200.html for a definition of Regular Staff. Application Instructions: Please click on the link below to apply for this position. A new window will open and direct you to apply at our corporate careers page. We look forward to hearing from you! Apply Online

#### **Legal Defense Services**

The Town of Taos is seeking proposals from qualified attorneys to provide legal defense services for indigent defendants facing misdemeanor charges in Taos Municipal Court. Cases are assigned by the Municipal Court Judge when a defendant is deemed indigent and entitled to legal representation, with an average of 30 to 50 cases per year. The selected attorney must be willing to accept all assigned cases unless a conflict of interest arises and must be licensed to practice law in New Mexico and in good standing. Proposals should include a resume, a copy of the New Mexico Bar Card, contact information for two professional references, a summary of qualifications and legal experience, a brief statement of interest, and a fee schedule outlining the proposed cost structure for services. For questions or proposal submission please contact Bailey Andrea, Chief Procurement Officer, at bandrea@taosnm.gov.

#### **Full-Time Associate Attorney**

Whitener Law Firm, P.A. is seeking a full-time associate attorney to assist with briefing, to attend hearings, depositions, and mediations as well as managing a caseload of personal injury cases. Candidates must be highly motivated, client oriented and enjoy working in a fast-paced environment. Candidates must be licensed to practice in the state of New Mexico. Must have at least five years of experience. Salary competitive and commensurate to experience and qualifications. Please send resume to Leanne Duree, Whitener Law Firm, P.A., 4110 Cutler Avenue, N.E., Albuquerque, NM 87110, fax to 505-242-3322 or e-mail to leanne@whitenerlawfirm.com.

#### Paralega

Long, Komer & Associates, P.A. is a wellestablished law firm located in Santa Fe, New Mexico. Our law firm is seeking a full-time paralegal with litigation and transactional experience, with strong organizational skills and ability to assist with drafting and editing pleadings and transactional documents. This position will support multiple attorneys and requires interaction with clients and opposing counsel. The firm offers employee health and dental insurance, competitive salary, vacation and sick leave, and a 401(K) Plan. Please submit resume and writing sample to amelia@ longkomer.com

### Paralegal – Personal Injury (Emphasis on Civil Rights)

Location: Albuquerque, New Mexico; Firm: Collins & Collins, P.C.; Job Type: Full-Time; Practice Areas: Personal Injury, Civil Rights, Prison Litigation, Complex State and Federal Litigation. About Us: Collins & Collins, P.C. is a mission-driven personal injury law firm with an emphasis on civil rights. We represent individuals harmed in correctional and other institutional settings by medical neglect, abuse, and systemic misconduct. Our firm is committed to holding powerful institutions accountable through strategic, evidence-based litigation in both state and federal courts. We combine deep legal experience with the latest technologies to increase efficiency and maximize impact. Position Overview: We are seeking a full-time Paralegal to join our litigation team. The ideal candidate is detail-oriented, self-motivated, and passionate about justice. This role requires excellent organizational and writing skills, a high level of professionalism and a strong desire to learn. We especially value candidates who are open to usingand helping us improve—technologies that make our firm more efficient and effective. You'll play a critical role in supporting complex, high-stakes cases that have real public impact. Key Responsibilities: Draft and manage discovery, including interrogatories, requests for admission, subpoenas and document requests; Organize and analyze large volumes of documents, including medical records, grievances, disciplinary reports and deposition transcripts; Prepare chronologies, exhibit lists, case summaries and trial binders; Assist with filing pleadings in both state and federal courts; Support attorneys in deposition and trial preparation; Coordinate with clients, witnesses, experts and opposing counsel; Track deadlines and ensure case management systems are up to date. Qualifications: Minimum 3 years' experience as a litigation paralegal (state and/or federal court); Prior experience in personal injury or civil rights law strongly preferred; High proficiency with Microsoft 365 (Word, Excel, Outlook, Teams); Proficiency with law practice management software; Familiarity with medical records, jail/ prison documents and large discovery productions; Strong writing and editing skills; ability to synthesize large volumes of information; Self-directed, reliable and able to meet tight deadlines. Preferred Traits: Desire to learn and improve, especially in using technology to streamline litigation; Experience with legal tech tools (SharePoint, Adobe Pro, eDiscovery platforms, AI tools); Curious, collaborative and willing to give and receive feedback. Compensation & Benefits: Competitive salary commensurate with experience; Paid holidays, vacation and sick leave; Meaningful work on precedentsetting cases that protect vulnerable communities. Email resume and cover letter to: info@collinsattorneys.com.

#### **Administrative Support Coordinator**

The State Bar of New Mexico seeks qualified applicants to join our team as a full-time (40 hours/week) Administrative Support Coordinator. The successful incumbent will provide administrative support for the activities, programs and events of State Bar committees, practice sections, and divisions ("groups") as well as customer service for callers and visitors, including attorneys, judges, legal staff and members of the public.\$19-\$21/ hour, depending on experience and qualifications. Generous benefits package included. Qualified applicants should submit a cover letter and resume to HR@sbnm.org. Visit www.sbnm.org/ SBNMjobs for full details and application instructions.

#### **Full-Time Legal Assistant**

Harrison & Hart, LLC is a busy, collegial, and highly collaborative law firm in Albuquerque, New Mexico that handles complex litigation, including federal and high-level state criminal defense, civil rights, class actions, constitutional and election-law cases, and commercial disputes. We are seeking a full-time legal assistant with a minimum of two years of civil litigation experience who is highly motivated, very detail oriented, and who possesses excellent skills in case management and calendaring procedures, as well as proficiency in Odyssey and CM/ECF filing. We offer an extremely competitive salary, excellent and fully funded health insurance plan, 401(K) and profit-sharing plan, paid designated holidays, PTO, and a generous bonus structure. Qualified applicants are encouraged to submit a cover letter and resume to elise@harrisonhartlaw.com.

#### **Paralegal Position**

Albuquerque based Plaintiffs' law firm seeks an experienced litigation paralegal for remote, part-time (20-25 hours/week) employment with a fulltime position possible after 90-day probationary period. At least 3-5 years of prior paralegal litigation experience is required. Excellent organization and time-management skills required. Computer experience working with multiple software programs and strong writing ability required for busy Plaintiffs' litigation law-firm. Candidates must be able to draft pleadings, draft discovery requests and responses and be able to assist attorneys with analyzing and organizing discovery received from opposing parties. Legal research skills would be beneficial. Salary/hourly rate is dependent on candidate's experience. Please email resumes and a recent, redacted writing sample (pleadings, discovery documents or legal research memo) to psapien@sapienlaw.com and nstaeger@sapienlaw.com

#### Legal Assistant/Paralegal

Legal Assistant/Paralegal needed for criminal firm. Start immediately for part or full-time position. Phones, correspondence, simple legal drafting, transcription, case and client management. Court/legal experience preferred but not required. Pay DOE. Call Frechette & Associates at 505-247-8558 or email at Frechette@ frechettelaw.com

#### **Reservations & Facilities** Coordinator

The State Bar of New Mexico seeks qualified applicants to join our team as a full-time (40 hours/week) Reservations & Facilities Coordinator. The successful incumbent will coordinate and maintain usage of the State Bar Center building; including scheduling room rentals, internal meetings, and setting -up conference rooms. This position will also identify and track areas in the building requiring attention and work with vendors and contractors to coordinate maintenance, repairs, upgrades, and inspections.\$21-\$24/hour, depending on experience and qualifications. Generous benefits package included. Qualified applicants should submit a cover letter and resume to HR@sbnm.org. Visit www.sbnm.org/SBNMjobs for full details and application instructions.

#### **Buchanan Law:**

#### Join Our Personal Injury Law Firm -Legal Assistant (Full-Time)

We're a fast-growing personal injury firm in Albuquerque seeking a Legal Assistant to support our attorneys and help clients get justice. Key Duties: Draft legal documents; Manage case files and deadlines; Communicate with clients, courts, and providers; Assist with trial prep. Ideal Candidate: 2+ years legal assistant experience or paralegal certificate; Knowledge of civil litigation and legal procedures; Organized, detailoriented, and tech-savvy; Spanish a plus. Why Join Us: \$18-\$22/hour + health, dental, vision, PTO; Career growth in a collaborative, mission-driven team. Schedule: Monday-Friday (two shift options). Location: In-person in Albuquerque. All resumes can be sent directly to Nicole Sanchez via email: nicole@dbuchananlaw.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 6 months of civil litigation experience, the ability to multitask effectively in a fastpaced 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, or mail to Office Administrator, P.O. Box 25467, Albuquerque, NM 87125-5467.

#### **Services**

#### Are you in need of a Weekend Legal Assistant?

I can help with that! Defense only, no family or Criminal Law. I'm looking for weekend work. I have 20 years of experience. I can work at home or in the office. Please contact "W" at LEGALASSISTANT0425@YAHOO. COM for Resume/Recommendations.

#### **Forensic Document Examiner**

Jan Seaman Kelly, owner of Forensic Dynamics LLC, accepts civil and criminal cases. Forty-three years' experience as a Forensic Document Examiner. Certification by the American Board of Forensic Document Examiners since 1993. Testified in State, Federal, and Administrative Courts. Document examinations include signatures, handwriting, typewriting, indented writing, printing processes, mechanical impressions, rubber stamps, obliterated or altered text, and, restoration of shredded documents. Fully equipped forensic laboratory. Website: https:// www.forensicdynamics.org Contact Jan Seaman Kelly at 702-682-0529 or forensicdynamicsllc@gmail.com

#### **Drowning in Paper?**

Nube Group helps law firms go paperless with expert scanning, retention & disposition services. Locally Trusted by Legal Professionals. 505-881-6266 nubegrp.com

#### Office Space

#### **Prime Law Office Space Available**

Location: 514 Marble Ave NW, Albuquerque NM 87102. Recently renovated office space now available in a professional building within walking distance of Albuquerque courthouses. Ideal for solo practitioner. Features include: Private office in building with lobby, kitchen/break room and shared conference room; Receptionist Monday through Friday 8am-5pm; Off-street parking; Conveniently located near courts and downtown amenities; High speed wi-fi included. Call Rachel at 505-244-0950 for details and showing

#### Miscellaneous

#### **Search for Will**

I am looking for the Will of Shang-Chih Philip Chou, deceased. If you prepared the original Will or have the original or a copy, please contact me at 505-848-1877. Vanessa C. Kaczmarek, Modrall Sperling.

### FREE SERVICE FOR MEMBERS!





## **Employee Assistance Program**

Get help and support for yourself, your family and your employees. **FREE** service offered by NM LAP.

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

To access this service call 505-254-3555 and identify with NM LAP. All calls are **CONFIDENTIAL**.

> Brought to you by the New Mexico Lawyer Assistance Program www.sbnm.org/NMLAP



# The State Bar of New Mexico's **Digital Communications**

As part of our mission to serve New Mexico's legal community, the State Bar of New Mexico is dedicated to ensuring that licensees are up-to-date with the latest information and announcements via regular digital e-newsletters and email communications. From news pertinent to New Mexico courts to pro bono opportunities, our emails cover a variety of legal information.



#### Bar Bulletin

The State Bar of New Mexico's official publication, the Bar Bulletin, is published on our website on the second and fourth Mondays of each month. The day that the *Bar Bulletin* is published online, an email is distributed to State Bar of New Mexico licensees that links to the new issue. To publish your notices, announcements, classifieds or articles in the *Bar Bulletin*, contact **notices@sbnm.org**.

#### **eNews**

Sent out each Friday morning, our weekly eNews e-newsletter is a comprehensive email containing a variety of information and announcements from the State Bar of New Mexico, the New Mexico State Bar Foundation, New Mexico courts, legal organizations and more. To advertise in eNews, please email **marketing@sbnm.org**. To have your organization's announcements or events published in eNews, please contact **enews@sbnm.org**.





#### **Member Services Spotlight**

Emailed each Tuesday morning, our weekly Member Services Spotlight e-newsletter contains announcements and events from each of the State Bar's Sections, Committees and Divisions. To highlight your Section, Committee or Division's latest news, email memberservices@sbnm.org.

#### **CLE Weekly Roundup**

Distributed each Wednesday morning, the CLE Weekly Roundup provides a highlight of the New Mexico State Bar Foundation Center for Legal Education's upcoming CLE courses with information regarding the date and time of the course, credits earned and link to register. For more information regarding the CLE Weekly Roundup, please contact cleonline@sbnm.org.





#### New Mexico Court of Appeals Opinions

As a licensee benefit, the State Bar of New Mexico distributes introductions to the New Mexico Court of Appeals' published opinions with links to the full opinions the day they are published. For more information regarding the Court of Appeals opinions distribution, please contact **opinions@sbnm.org**.

#### Pro Bono Quarterly Newsletter

Disseminated quarterly, the State Bar of New Mexico's Pro Bono Quarterly e-newsletter provides the New Mexico legal community with an overview of initiatives to provide pro bono legal services for New Mexican residents in need. For more information on the newsletter or to advertise your pro bono or volunteer opportunity, contact **probono@sbnm.org**.

