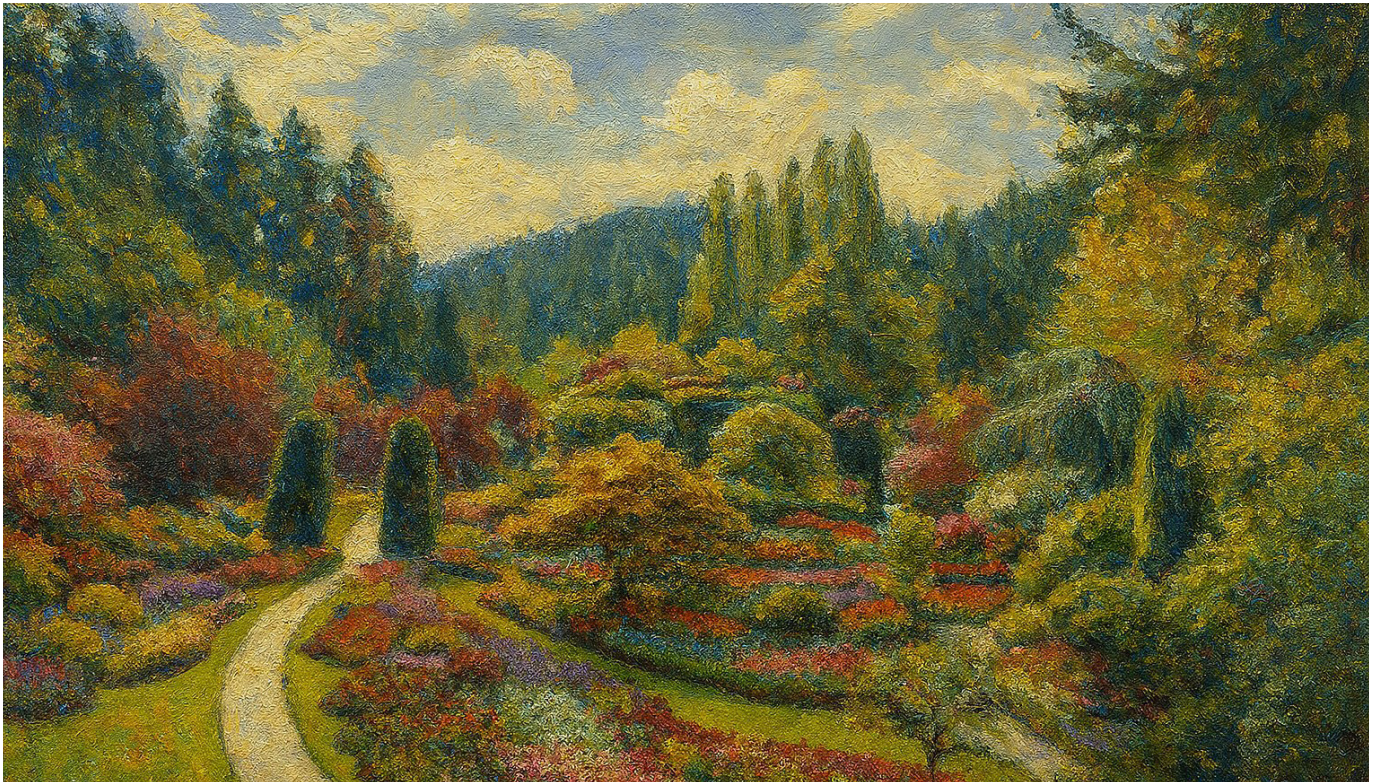


Official Publication of the State Bar of New Mexico

DIGITAL BAR BULLETIN

September 24, 2025 • Volume 64, No. 18



A Butchart Paradise, by Brandon McIntyre

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10
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ANNIVERSARY

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DIGITAL BAR BULLETIN



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New Mexico
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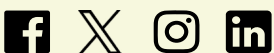
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New Mexico State Bar Foundation
Center for Legal Education

CLE COURSE SPOTLIGHT

2025 HEALTH LAW INSTITUTE: A
SURVEY OF HEALTH LAW IN 2025
- A STATE AND FEDERAL
PERSPECTIVE



DATE
Oct. 3, 2025



TIME
9:15 AM – 4:45 PM (MT)



LOCATION
State Bar of New Mexico
5121 Masthead St. NE
Albuquerque, N.M. 87109
OR
Virtual



REGISTER AT:

[HTTPS://BIT.LY/CLE-10032025](https://bit.ly/CLE-10032025)

☎ 505-797-6020 🌐 cle.sbnm.org

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://bit.ly/NM-Rules>.

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 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://bit.ly/nmlawlibrary>.

Second Judicial District Court Monday Night Attorney Support Group

The Second Judicial District Court will be closed on Oct. 1 for training. The Court will reopen on Oct. 6.

U.S. District Court, District of New Mexico Proposed Amendments to Local Rules of Criminal Procedure

Proposed amendments to the Local Rules of Criminal Procedure of the United States District Court for the District of New Mexico are being considered. A "redlined" version (with the proposed amendments to Rule 32 Sentencing and Judgment) and a clean version of these proposed amendments are posted on the Court's website: www.nmd.uscourts.gov. State Bar of New Mexico licensees may submit comments by email to clerkofcourt@nmd.uscourts.gov or by mail to U.S. District Court, Clerk's Office, Pete V. Domenici U.S. Courthouse, 333 Lomas Blvd. NW, Suite 270, Albuquerque, N.M. 87102, Attn: Cynthia Gonzales, no later than Oct. 15.

Professionalism Tip

With respect to the courts and other tribunals:

I will avoid the appearance of impropriety at all times.

STATE BAR NEWS

Access to Justice Fund Grant Commission

Notice of Commissioner Vacancies

Two Commissioner appointments for three-year terms will be made to the State Bar of New Mexico ATJ Fund Grant Commission. The ATJ Fund Grant Commission solicits and reviews grant applications and awards grants to civil legal services organizations consistent with the State Plan for the Provision of Civil Legal Services to Low Income New Mexicans. To be eligible for appointment, applicants must not be affiliated with a civil legal service organization which would be eligible for grant funding from the ATJ Fund. Anyone interested in serving on the Commission should send a letter of interest and brief résumé by Oct. 15 to maria.velazquez@sbnm.org.

Board of Bar Commissioners Election Notice 2025

Notice is hereby given for the 2025 State Bar of New Mexico Board of Bar Commissioners election. Nine (9) positions will expire Dec. 31 and will be filled by this election. For the full election notice with the positions and judicial districts, and a Nomination Petition, please visit www.sbnm.org/BBCnominationpetition2025. The deadline to submit nomination petitions is 5 p.m. (MT), Oct. 6.

Committee on Women in the Legal Profession Invitation to Clothing Swap Event

The State Bar of New Mexico's Committee on Women in the Legal Profession invites members of New Mexico's legal community to its clothing swap at Peak Legal Group, located at 6312 Montano Rd. NW Ste. A, Albuquerque, N.M. 87120, on Oct. 21, starting at 5:30 p.m. (MT). Attendees are encouraged to bring up to 10 individual pieces of clothing or five coordinated sets of Fall or Winter outfits;

one item of outerwear is optional. Clothing should be clean, gently used, on a hanger and professional and event-appropriate. To RSVP, email abby.lewis@sbnm.org.

New Mexico Lawyer Assistance Program The Other NM Bar Meeting

The New Mexico Lawyer Assistance Program proudly presents to you The Other NM Bar Meeting, which is a confidential traditional 12-step meeting for legal professionals. Open to all lawyers, law students, judges and other legal professionals, the meeting's purpose is to provide a safe space for people to support one another in their desire to stop drinking and using. The Other NM Bar Meeting meets in person every Thursday evening from 5:30 to 6:30 p.m. (MT) at the First Unitarian Church, located at 3701 Carlisle Blvd. NE, Albuquerque, N.M. 87110. For those unable to make it in person, there will be an option to join telephonically in the future. For more information about The Other NM Bar Meeting, email NMLAP@sbnm.org.

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>.

UNM SCHOOL OF LAW Announcement of 2025 Distinguished Achievement Award and Alumni Promise Award Honorees

The UNM School of Law and the UNM School of Law Alumni/ae Association are proud to announce the 2025 Distinguished Achievement Award and Alumni Promise Award honorees. Honorees for the Distinguished Achievement Award are **Paul Biderman**, **Peter Cubra** and the **Hon. M. Monica Zamora**. The Alumni Promise Award recipient is **Lauren E. Riley**. The awards dinner will be held on Oct. 17 in the Student Union ballrooms. Registration for the awards dinner will open soon.

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 <https://lawlibrary.unm.edu/>.

Natural Resources Journal Symposium

The Natural Resources Journal invites you to attend its symposium, *Life After Fire: (Re)Imagining Post-Fire Recovery*, on Oct. 24 from 9 a.m. to 4:30 p.m. (MT) at the UNM Continuing Education Center. This free event will explore legal, ecological, and community dimensions of post-wildfire recovery in the wake of the 2022 Hermits Peak/Calf Canyon Fire. Breakfast and lunch will be provided. CLE credits available. Register at transformimw.unm.edu/life-after-fire.

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

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

Southwest Women's Law Center Invitation to 20th Anniversary Celebration

The Southwest Women's Law Center is celebrating its 20th Anniversary at the Albuquerque Museum on Sept. 26. Guests will be able to view museum exhibits for free between 4 and 5 p.m. (MT). Visit <https://swwomenslaw.org/events> for more information. Please email jpaulsen@swwomenslaw.org or call 505-244-0502 for any questions.

Featured Member Benefit



The Solutions Group partners with the New Mexico Lawyer Assistance Program to offer comprehensive, state-wide Employee Assistance Program (EAP) services to members of the New Mexico legal community and their immediate family members.

Services include up to four complimentary counseling sessions per issue per year, addressing any mental or behavioral health, addiction, relationship conflict, anxiety and/or depression issue. These sessions are conducted by licensed professional therapists. Additional no-cost services encompass management consultation, stress management education, critical incident stress debriefing, video counseling, and a 24/7 call center. Providers are available statewide.

**To access this service call
505-254-3555 and identify with
NMLAP. All calls are confidential.**



Arturo L. Jaramillo Summer Clerkship Program

**Be part of a nationally award-winning
State Bar of New Mexico program.**

**Be among the New Mexico firms, non-profits, or governmental entities
committed to inclusion and belonging in the legal profession.**

**Build the pipeline that sustains and grows the
legal profession in New Mexico.**



Arturo L. Jaramillo, the first Hispanic president of the State Bar of New Mexico, developed the Summer Law Clerk Program in 1993 to provide inclusive equal employment opportunities for first year law students from diverse backgrounds historically underrepresented in the legal profession by offering students the opportunity to clerk in legal settings that provide a foundation for their careers in the law. More than 200 first-year law students have participated in the program over the years, working in the best legal environments in New Mexico in private firms, non-profits, and governmental entities.

State Bar of New Mexico Diversity Statement: The State Bar of New Mexico is committed to fulfilling Rule 24-101(A) NMRA, and ensuring that the legal profession and the legal system reflect the community we serve in all its social, economic, and geographical diversity. We are focused on expansion of pathways to and within the legal profession and the judiciary. We acknowledge the strengths historically excluded groups bring to the legal profession and will cultivate those strengths for the advancement of justice for all.

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



LEON HOWARD
lhoward@aclu-nm.org



DENISE CHANEZ
DChanez@sclawnm.com



ABBY LEWIS
abby.lewis@sbnm.org



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



Introducing the

New Mexico Lawyer Assistance Program's

The Other NM Bar Meeting!

**A brand-new in-person support group meeting
for all legal professionals!**

The State Bar of New Mexico's New Mexico Lawyer Assistance Program proudly presents to you **The Other NM Bar Meeting** – a **CONFIDENTIAL** traditional 12-step meeting for legal professionals. Open to all lawyers, law students, judges and other legal professionals, the meeting's purpose is to provide a safe space for people to support one another in their desire to stop drinking and using.

The Other NM Bar Meeting meets in person every Thursday evening from 5:30 to 6:30 p.m. (MT) at the First Unitarian Church in Albuquerque, N.M. For those unable to make it in person, there will be an option to join telephonically in the future.

For more information about **The Other NM Bar Meeting**,
email NMLAP@sbnm.org.

The Other NM Bar Meeting



Frequency: Every Thursday



Time: 5:30–6:30 p.m. (MT)



Location: First Unitarian Church,
3701 Carlisle Blvd. NE,
Albuquerque, N.M. 87110



Who: Any legal professional



State Bar of New Mexico
Lawyer Assistance Program



A Message from Chief Justice David K. Thomson



Dear Colleagues:

The Supreme Court of New Mexico is again seeking applications to fill vacancies on committees, boards, and commissions. Our committees, boards, and commissions are integral to ensuring equity and justice for those who participate in our judicial system—members of the public and the broader legal community—by assisting the Court with the regulation of the practice and procedures within our courts. These panels have a wide range of responsibilities and functions. They regulate the practice of law, expand resources for civil legal assistance to New Mexicans living in poverty, oversee continuing legal education for lawyers, foster

improved communication between tribal, federal, and state courts to improve legal services to tribal communities, administer funds to assist individuals unable to pay for legal services, and advise on long-range planning, just to name a few. Anyone who has ever served on one of the Court's committees, boards, or commissions can attest to how challenging and rewarding this work can be.

In filling these vacancies, the Court strives to appoint non-attorneys, attorneys and judges who are able to regularly attend committee meetings and who are committed to generously volunteering their time, talent, and energy to this important work. The Court also continues to endeavor to bring diversity, geographical and practice area balance to these committees, boards, and commissions by soliciting volunteers from throughout the state and from the various practice segments of our bar. To achieve these goals, we need volunteers representing the broad spectrum of our bench and bar who come from all corners of this great state. To that end, we are requesting that applicants voluntarily disclose demographic information to ensure the committees, boards and commissions reflect our diverse community. We are also requesting disclosure of any disciplinary history.

If you would like to be considered to serve on a committee, board, or commission, please send your application and resume by **October 10, 2025**, to Elizabeth A. Garcia, Chief Clerk of Court at nmsupremecourtclerk@nmcourts.gov. Your application should describe your qualifications, your commitment to attend meetings, and should prioritize up to three committees, boards, or commissions of your interest. Application forms and a complete list of vacancies on committees, boards, and commissions can be found on the [Supreme Court's website](#).

On behalf of the Supreme Court, I extend our sincere appreciation to all of you who volunteer and serve in this important function within our legal system.

Sincerely,

David K. Thomson,
Chief Justice



Supreme Court Committees, Boards and Commissions

NOTICE OF CURRENT VACANCIES

The Supreme Court of New Mexico is seeking applications to fill existing vacancies on its committees, boards, and commissions listed below. Unless otherwise noted below, any person may apply to serve on any of the following committees, boards, and commissions:

Appellate Rules Committee

- 3 general member positions
- 1 appellate public defender position

ATJ Fund Grant Commission

- 1 Supreme Court-designated position

Children's Court Rules Committee

- 1 general member position

Client Protection Fund Commission

- 1 Supreme Court-designated attorney position

Code of Judicial Conduct Committee

- 1 general member position

Code of Professional Conduct Committee

- 3 general member positions

Disciplinary Board

- 3 attorney member positions

Domestic Relations Rules Committee

- 2 general member positions

Judicial Branch Personnel Grievance Board

- 1 district court judge position
- 1 full-time non-supervisory employee position

Judicial Technology Council (JTech)

- 1 district court IT technician

Magistrate Judge Advisory Committee

- 5 magistrate court judge positions

NM Children's Court Improvement Commission

Voting member positions

- 1 law enforcement member position
- 1 legislative member of the Senate/House (Minority Party)
- 2 youth advocate for foster youth positions

Non-voting member positions

- 1 public defender

NM Commission on Access to Justice

- 1 general member position

NM Supreme Court Commission on Equity and Justice

- 1 at-large member position

Rules of Civil Procedure of State Courts Committee

- 3 general member vacancies
(judicial applicants encouraged)

Rules of Criminal Procedure for State Courts Committee

- 2 general member positions

Rules of Evidence Committee

- 2 general member positions

Statewide Alternative Dispute Resolution Commission

- 1 business community representative position
- 1 general member position

Tribal-State Judicial Consortium

- 2 state judge member positions

Uniform Jury Instructions-Civil Committee

- 2 general member positions

Uniform Jury Instructions-Criminal Committee

- 1 general member position

Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

- 2 NM legislature representative positions
- 1 family member not guardian or conservator position
- 1 CEO of Interagency Behavioral Health Purchasing Collaborative Representative
- 1 protected person position
- 1 judiciary member position
- 1 tribal member position

Anyone interested in volunteering to serve on one or more of the foregoing committees, boards, or commissions may apply by submitting an 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, NM 87504. The required application form can be found on the Supreme Court's website at <https://supremecourt.nmcourts.gov/careers/current-vacancies/>.

Please submit applications by October 10, 2025.

On August 26, 2025, the Paralegal Division celebrated 30 years as a division of the State Bar of New Mexico. To honor this milestone, the Division recognizes all current and past members of the Paralegal Division for their contribution to the profession and extends its appreciation to their employers, as well as the State Bar of New Mexico staff, for their support. Below is a list of current Paralegal Division members as of August 26, 2025.

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Hinkle Shanor LLP

Denise Amisli

Davis Miles PLLC

Katie Anih

Laura Truitt PC Attorneys at Law

Sarah Archuleta

Kevin A. Zangara PA

Cindi Aston CP

Atwood Malone Turner & Sabin PA

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Central New Mexico Community College

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Third Judicial District Court

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Katy Cornett

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Fina Day

Miller Stratvert PA

Vanessa Delgado

Matthew Watson Attorney at Law LLC

Denise Dubose

Rio Rancho Public Schools Off. of Gen. Counsel

David Duhigg

Saucedo Harrigan Apodaca Grismeyer

Christine Ellis

Allen Law Firm LLP

Miranda Flores

Martina Forglarini

McCarthy & Holthus LLP

Jaelyn Foster

Miller Stratvert PA

Ellice Goldstein

Larkin Padilla McDougall Family Law

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Santa Fe Law Group

Marissa Gonzalez

NM Legal Aid Inc.

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Wiggins Williams & Wiggins PC

Vanessa Griego

Eaton Law Office PC

Zaira Gutierrez

The Gentry Law Firm

Joyce O'Neill Hammerschmidt

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Carrillo Law Firm PC

Laurie Herrera

Batley Riley Family Law PA

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Kathryn Holland

Renee Holland

Presbyterian Healthcare Services

Kay Homan CP

Cuddy & McCarthy LLP

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NM Department of Transportation

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Marie Marino ACP

O'Brien & Padilla PC

Gloria Marlow

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Cortney Myers

NM Local Government Law LLC

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Yolanda Ortega

Cuddy & McCarthy LLP

Elizabeth Page

NM Local Government Law LLC

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Almee Powers

Evernorth Health Services

Aadarsh Prasad

Shaharazad Booth Attorney at Law

April Puckett AACP

Eastern New Mexico Medical Center

Julie Rael CP

Modrall Sperling Law Firm

Dawne Roberto

Duhigg & Berlin PA

John Roberts ACP

Rodey Dickason Sloan Akin & Robb PA

Lynette Rocheleau

Sandia National Laboratories

Raquel Rodriguez

RH&C LLC & The Harbour Law Firm PC

Sasha Rojo

The Law Office of Cristy Z. Carbon-Gaul

Christopher Rollins ACP

Los Alamos County Attorney's Office

James Romero

Shaharazad Booth Attorney at Law

Shannon Rooney

Madison Mroz Steinman Kenny & Olexy PA

Linda Sanders

Yolanda Sandoval

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German • Burnette & Associates LLC

Shenina Sena

Parnall & Adams Law LLC

Julia Shang CP

Catron Catron & Glassman PA

Tanvi Sharma

Parnall & Adams Law LLC

Christy Shije

Law Office of Levi M. Chavez II

Tomma Shumate

Atwood Malone Turner & Sabin PA

Ruby Silva

Wayne G. Chew PC

Donna Sowers

Kenneth C. Leach & Associates PC

Amanda Stahl

Law Office of Matt Madrid

Kim Steele ACP

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Suzanna Tenorio CP

German • Burnette & Associates LLC

Samantha Torrez

Heidel Samberson Cox & McMahon

Tianie Toya

Barnhouse Keegan Soliman & West LLP

Marcia Treadwell

Gaddy Law Firm

Paula Vasquez CP

NM Local Government Law LLC

Mickie Vega

Lincoln County Magistrate Court

Michel Wallace

NM Local Government Law LLC

Devon Westphal

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Nicole Woodards Ph.D.

Law Office of Joel A. Davis

Kimberly Zufelt

Larkin Padilla McDougall Family Law

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Nettie L. Condit

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Linda C. Flores

Peggy B. Jones, CLAS

Sandra June-Peterson

John Thomas Logan

Natalie Pino

Linda L. Schilling

Deborah R. Tope, CP Ret.

Richard C. Wade

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Ellice Goldstein, Chair-elect

Kay L. Homan, CP, Past Chair

Vacant, Secretary

Andrea Pompeo, Treasurer



State Bar of New Mexico
Paralegal Division

Directors

Christina Babcock (2025-2026)

Michelle Jaramillo, CP (2024-2025)

Madeline Lovato (2025)

John Roberts, ACP (2025-2026)

Christy L. Shije (2024-2025)

Attorneys and Paralegals—How Familiar are You with the New Mexico Rules Governing Paralegal Services and the Paralegal Division of the State Bar of New Mexico?

By Kathleen F. Campbell, MPS, ACP Ret., and Deborah R. Tope, CP Ret., Charter Paralegal Division Members and Former Division Chairs

In 1981, following the national trend and the American Bar Association's endorsement of the "legal assistant" profession in the late 1960s, the New Mexico Supreme Court adopted **Rules Governing Legal Assistant Services**—now **Rules Governing Paralegal Services—Rule 20-101 through Rule 20-115 NMRA**; but it was not until 1995 that through the efforts of a group of paralegals, the New Mexico Supreme Court created a division of the State Bar of New Mexico for legal assistants (now known as the Paralegal Division)—one of only a handful of state bar paralegal divisions throughout the country—by amending **Rule 24-101.1 NMRA** of the **Rules Governing the New Mexico Bar**.

Subsequently, the term "paralegal" was adopted on a national basis as the preferred term to identify a highly-trained, highly-skilled legal support staff member who engages primarily in substantive work under an attorney's supervision—work that the attorney otherwise would perform. New Mexico followed suit in 2004 by amending its "legal assistant" rules to conform to the use of the term "paralegal." In New Mexico, the terms "paralegal" and "legal assistant" are *not* synonymous.

In Rule 20-101 of the Rules Governing Paralegal Services, the Supreme Court states the purpose of the Rules as follows:

Increasing the availability of legal services to the public at a cost the public can afford is a goal of the legal profession and one which finds its support in Article 5 of the Rules of Professional Conduct. The employment of paralegals is a particularly significant means by which lawyers can render legal services more economically, in greater volume and

with maximum efficiency while maintaining the quality of legal services. Rapid growth in the employment of legal assistants and paralegals and the trend in the legal community toward the use of the designation "paralegal" to identify highly-trained, highly-skilled legal support staff who engage in substantive legal work increases the necessity of providing guidelines for the qualifications and use of paralegals.

The Rules go on to define "paralegal" (**Rule 20-102**), set out qualifications for calling oneself a paralegal in New Mexico (**Rule 20-115**), and outline ethical duties of paralegals and attorneys who use paralegal services.

In **Rule 24-101.1** of the **Rules Governing the New Mexico Bar**, the Supreme Court established qualifications for joining the Paralegal Division that include categories identical to **Rule 20-115** with the exception of the experience-only category. That distinction serves to advance the professional status of paralegals in New Mexico.

The Paralegal Division will celebrate 30 years as a division of the State Bar on August 26, 2025. It continues to promote the profession through the following goals:

- encourage a high order of ethical and professional attainment;
- further education among its members;
- carry out programs within the State Bar; and
- establish cooperation and respect among Division members, the State Bar of New Mexico, and the members of the legal community.

2025 Officers

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Ellice Goldstein, Chair-Elect
Kay L. Homan, CP, Past Chair
Vacant, Secretary
Andrea Pompeo, Treasurer



State Bar of New Mexico
Paralegal Division

Directors

Christina Babcock (2025-2026)
Michelle Jaramillo, CP (2024-2025)
Madeline Lovato (2025)
John Roberts, ACP (2025-2026)
Christy L. Shije (2024-2025)
Ruby Silva (2025)

To learn more about the Paralegal Division and to see the qualifications to join, visit our webpage:
[State Bar of New Mexico > Leadership > Divisions > Paralegal.](#)

An Inclusive Interview



with Kateri Hope Eisenberg, Esq.



The mission of the State Bar of New Mexico's Equity in Justice Program is to cultivate and grow a legal profession in New Mexico that is representative of and reflective of the people of New Mexico. As part of that mission, we bring you the series "Inclusive Interviews." We call these *inclusive* interviews both as a play on words and as a contrast to the term "Exclusive Interview."

Because legal employers with inclusive hiring and employment practices have a bigger talent pool from which to hire and access to a larger client base, these interviews serve to amplify that growing and cultivating inclusivity in our profession is beneficial to all legal employers, be they private firms, government entities or nonprofits.

This *Inclusive Interview* is with Kateri Hope Eisenberg, Esq. Kateri has been practicing law for four years and currently serves as a Rules Attorney for the New Mexico Supreme Court.

Q: What is your background?

A: I'm Native American from Taos Pueblo on my father's side, and New Mexican on my mother's side. I'm also part of the LGBTQ+ community.

The summer before law school I attended the American Indian Law Center's Pre-Law Summer Institute (PLSI). I graduated from UNMSOL in 2021. After graduation, I clerked for Justice Thomson on the New Mexico Supreme Court. During my clerkship I gained a deep appreciation and respect for the Judiciary and sought to continue my career through service to the judicial branch. I'm also on the PLSI Judicial Clerkship Committee (PLSI JCC).

Q: What made you want to become a lawyer?

A: I wanted to be a lawyer my whole life. My father was a public defender for over 25 years. When I was little he used to take me to his office. I spent my childhood hearing stories about how he protected someone's rights, or corrected an injustice. To me, my dad was a hero and I wanted to be just like him.

Q: Who is your hero in the legal profession? Who's career or work do you wish to emulate?

A: I think I take little pieces from everyone I work with. Justice Thomson is my example for mentorship. Rodina Cave-Parnall for passion and work ethic. My father for compassion. My husband, Michael Woods, for attention to detail. My best friend, Hailey Zock, for zealous advocacy. Professor Jenny Moore for how to teach and learn. Everywhere I look there are heroes.



Q: What has been your greatest accomplishment in your legal career or of what in your legal career are you the most proud?

A: Definitely joining the PLSI JCC. During PLSI, we had a panel about judicial clerkships. Several Native American lawyers who clerked presented to us about their clerkships. Those lawyers were all members of the JCC. Members from the committee continued to encourage me to pursue a clerkship throughout law school, and when I accepted my clerkship I joined the committee. Now I get to give back to Native law students and encourage them to pursue clerkships. Our committee assists with resume prep, holds mock interviews, connects students with former law clerks, and provides networking opportunities where students have the chance to interact with judges and justices. I'm so proud to be a part of the PLSI JCC.

Q: What has been the biggest challenge you have had in your legal career?

A: Probably the realization that I had to believe that I belong as an attorney because there were people who would look at me and instantly assume that I could not be one or that I did not deserve to take up space in that role. There were just a lot of assumptions about what role a young Native women could or should have. I had to be secure enough to know that none of those assumptions were a reflection of my capabilities.

Q: What is your favorite part of your current position?

A: The variety. I can work on any type of case and any kind of issue and it is never ever the same. I feel like I'm always learning and I love that. I also really appreciate the judges in the First Judicial, they are kind, hard-working, and committed to ensuring fair and just outcomes. I'm proud to work with everyone at the First.

Q: What is your advice for new lawyers who are from diverse backgrounds? What do you wish someone had told you when you were starting your legal career?

A: You can be a lawyer, and be true to your culture. And sometimes it will be hard to come back from a long trip home because the two worlds seem so different, but if the goals you have for yourself are rooted in your traditions you will find fulfillment in both worlds.

Q: If you could have a meal with any person real or fictional, who would it be, and why?

A: My Nani (grandmother) because I miss her. I'd make her all of the recipes she taught me, and we'd start a new puzzle. I'd show her my wedding pictures.

Q: What is something the legal profession in New Mexico can do to be more inclusive?

A: Things like these interviews! Centering the voices of those the legal profession seeks to include, listening to those voices, and recognizing where there is room for improvement without feeling attacked, or putting up walls to avoid uncomfortable conversations. When someone shares a difficult experience or lets you know they are feeling excluded try to decenter your own feelings about what they've shared. It's hard when, after best-efforts, someone says "Hey, I'm still feeling unsupported," but the priority should be addressing it instead of taking it personally.

Interested in being the subject of an Inclusive Interview?

Contact SBNM Equity in Justice Attorney Abby Lewis at abby.lewis@sbnm.org.



Legal Education Calendar

September

- | | | |
|---|--|--|
| <p>25 Environmental Justice on Life Support: Maintaining a Commitment to Equity
1.0 EIJ
Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-09252025</p> | <p>25 Ethics, Juror Misconduct, and Jury Tampering: The Murdaugh Motion For New Trial
2.0 EP
Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-09252025-2</p> | <p>26 Why Women Attorneys Get Paid Less: What's Gender Bias Got to Do With it?
1.0 EIJ
Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-09262025-2</p> |
| | <p>26 Fall Family Law Institute
6.0 G
In-Person or Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-09262025</p> | |

October

- | | | |
|--|---|---|
| <p>3 2025 Health Law Institute: A Survey of Health Law in 2025 – A State and Federal Perspective
4.0 G, 1.0 EP, 1.0 EIJ
In-Person or Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-10032025</p> | <p>15 Appellate Series, Session 7: Standard(s) Time-Strategies for Winning Under Every Standard of Review
2.0 G, 1.0 EP
Web Cast (Live Credits)
Administrative Office of the U.S. Courts
https://www.uscourts.gov</p> | <p>21 Teicher Tuesdays: Harmony in Justice: Using Classic R&B to Address Bias and Diversity in the Legal Profession
1.0 EIJ
Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-10212025-2</p> |
| <p>7 Teicher Tuesdays: The Ethics of Asking for Work
1.0 EP
Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-10072025</p> | <p>17 Killers of the Flower Moon: The Osage Murders and How Attorneys Can Combat Bias
1.0 EIJ
Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-10172025</p> | <p>22 70th Annual New Mexico Water Conference
1.0 G
Live Program
New Mexico Water Resources Research Institute
https://nmwrri.nmsu.edu</p> |
| <p>8 How to Practice: Adult Guardianship and Conservatorship (Virtual)
3.0 G, 1.0 EP
Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-10082025</p> | <p>21 AI, Explained: From Code to Courtroom and Beyond
2.0 G, 1.0 EP
Live Program
United States District Court, District of New Mexico
https://forms.office.com/g/znvsXtLwcD</p> | <p>22 Navigating the New Frontier: Ethical Uses of Generative Artificial Intelligence in Legal Practice
1.0 EP
Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-10222025</p> |
| <p>14 Teicher Tuesdays: Learn By Doing: ANOTHER Hour of Legal Writing Exercises with Stuart Teicher!
1.0 G
Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-10142025</p> | <p>21 Breaking Barriers: Addressing Bias and Advancing Women in the Legal Profession (Live Replay)
1.0 EIJ
Webinar
NMSBF Center for Legal Education
https://bit.ly/CLE-10212025</p> | <p>31 Fall Basic Mediation
30.0 G, 2.0 EP
Live Program
University of New Mexico Law School
https://lawschool.unm.edu</p> |

Listings in the *Bar Bulletin* Legal Education Calendar are derived from course provider submissions and from New Mexico Minimum Continuing Legal Education. All MCLE approved continuing legal education courses can be listed free of charge. Send submissions to notices@sbnm.org. 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>.



CLE PLANNER

Your Guide to Continuing Legal Education

Need to Know....

Center for Legal Education course registration fees go to support the important efforts of the **New Mexico State Bar Foundation**:

- Legal Resources for the Elderly Program
- Modest Means Helpline
- Legal Education for Attorneys
- *And more*



Inside this Issue

- ▶ Introducing Teicher Tuesdays
- ▶ How to Practice Series
- ▶ Upcoming CLE courses



New Mexico State Bar Foundation
Center for Legal Education

The Center for Legal Education is a non-profit New Mexico accredited CLE course provider dedicated to providing high-quality, affordable educational programs to the legal community. The Center offers a full range of educational services. For more information, contact us or visit us online.



LinkedIn

▶ Register online at <https://cle.sbnm.org> or call 505-797-6020
Email cleonline@sbnm.org with any questions

TEICHER TUESDAYS



Stuart Teicher, The CLE Performer, is returning (*virtually*) to New Mexico for Teicher Tuesdays in October!

Register to attend an individual webinar or register for the series and **SAVE!**



The Ethics of Asking for Work

Oct. 7, Noon-1 p.m. (MT) • 1.0 EP



Client development can feel like walking through an ethical minefield - one wrong step and you're facing disciplinary action. The solicitation rules are notoriously tricky to navigate, creating unique challenges that trip up even experienced practitioners. Join Stuart Teicher as he demystifies the rule on solicitation and talks

about the weird "hybrid" situation that arises when a lawyer talks to a potential client.

Register at:

<https://bit.ly/CLE-The-Ethics-of-Asking-for-Work> ←



Harmony in Justice: Using classic R&B to Address Bias and Diversity in the Legal Profession

Oct. 21, Noon-1 p.m. (MT) • 1.0 EIJ



Discover how the powerful messages of R&B music can help lawyers confront implicit and explicit bias and disparities within the legal profession. "Harmony in Justice" ties iconic R&B songs to the essential principles of equity and inclusion.

Register at:

<https://bit.ly/CLE-Harmony-in-Justice> ←



Learn By Doing: ANOTHER Hour of Legal Writing Exercises with Stuart Teicher!

Oct. 14, Noon-1 p.m. (MT) • 1.0 G



Last year, Stuart Teicher taught an engaging program called "Learn By Doing." Well, he's back for more! Join Stuart for new legal writing exercises (and instruction). And there's no need to have taken part one ... this class stands on its own!

Register at:

<https://bit.ly/CLE-Learn-By-Doing> ←



5 Ways to Ethically Use ChatGPT Safely in the Practice of Law

Oct. 28, 1-2 p.m. (MT) • 1.0 EP



Enough with the scaring everyone about generative Artificial Intelligence. It's all ethics educators have been doing for months. In an interesting departure, Stuart Teicher is taking a different ethical approach.

Register at:

<https://bit.ly/CLE-5-Ways-to-Ethically-Use-ChatGPT> ←

Bundle All Four Webinars and SAVE 10% at

https://cle.sbnm.org/product_bundles/15609!



► ***Contact the New Mexico State Bar Foundation with any questions regarding Teicher Tuesday Webinars at 505-797-6020 or cleonline@sbnm.org.***

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:

- ▶ **How to Practice: Family Law**
- ▶ **How to Practice: Estate Planning**



October 8, 2025

▶ **How to Practice: Adult Guardianship and Conservatorship**

Now open for registration. Click here to register.



Watch for more
How to Practice
courses coming soon!

Click **HERE** to view and register for on-demand
How to Practice Series courses!



State Bar Committee, Section, and Division Annual CLE Programs

Join the Center for Legal Education, in collaboration with various Committees, Sections, and Divisions of the State Bar of New Mexico, for their Annual CLE Programs

- ▶ September 26 – **Fall Family Law Institute**
- ▶ October 3 – **Health Law Institute**
- ▶ October 15 – **Alternative Dispute Resolution Institute**
- ▶ October 29 – **Procurement Code Institute**
- ▶ November 6 – **Indian Law Institute**
- ▶ November 7 – **Annual Diversity in the Legal Profession Symposium**
- ▶ November 13 – **Probate Institute**
- ▶ November 14 – **Real Property Institute**
- ▶ November 19 – **Business Law Institute**
- ▶ November 20 – **Immigration Law Institute**
- ▶ December 2 – **Intellectual Property Institute**
- ▶ December 4 – **Cannabis Law Institute**
- ▶ December 5 – **Guardian ad Litem Institute**
- ▶ December 10 – **Tax Law Institute**
- ▶ December 12 – **Natural Resources, Energy, and Environmental Law Institute**
- ▶ January 23, 2026 – **5th Annual Women in the Law Symposium**



September/October Programs

September 25

Environmental Justice on Life Support: Maintaining a Commitment to Equity

1.0 EIJ

Noon–1 p.m.

WEBINAR

September 26

2025 Fall Family Law Institute

6.0 G

8:45 a.m.–4:30 p.m.

IN-PERSON AND WEBINAR

October 1

Crafting Contracts: Ethical Issues for Drafters

1.0 EP

11 a.m.–Noon

TELESEMINAR

October 3

2025 Health Law Institute: A Survey of Health Law in 2025

4.0 G, 1.0 EIJ, 1.0 EP

9:15 a.m.–4:45 p.m.

IN-PERSON AND WEBINAR

October 7

Letters of Intent in Real Estate

1.0 G

11 a.m.–Noon

TELESEMINAR

October 8

How to Practice: Adult Guardianship and Conservatorship

3.0 G, 1.0 EP

8:30 a.m.–1 p.m.

IN-PERSON AND WEBINAR

October 15

Impeach Justice Douglas!

3.0 EP

11 a.m.–Noon

WEBINAR

October 15

Alternative Dispute Resolution Institute

5.5 G

9 a.m.–4 p.m.

WEBINAR

October 17

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

1.0 EIJ

11 a.m.–Noon

WEBINAR

October 21

Breaking Barriers: Addressing Bias and Advancing Women in the Legal Profession (Live Replay)

1.0 EIJ

3–4 p.m.

WEBINAR

October 21

Drafting LLC Operating Agreements Tax and Non-Tax Provisions, Part 1

1.0 G

11 a.m.–Noon

TELESEMINAR

October 22

Drafting LLC Operating Agreements Tax and Non-Tax Provisions, Part 2

1.0 G

11 a.m.–Noon

TELESEMINAR

October 22

Navigating the New Frontier: Ethical Uses of Generative Artificial Intelligence in Legal Practice (Live Replay)

1.0 EP

3–4 p.m.

WEBINAR

October 22

Defeating Imposter Syndrome for Lawyers

1.0 G

11 a.m.–Noon

WEBINAR

October 23

Tribal and State Collaborations: Sovereigns Working Together to Better One Another (Live Replay)

1.0 G

3–4 p.m.

WEBINAR

October 24

Bryan Stevenson: 2025 Annual Meeting Keynote Address (Live Replay)

1.0 EIJ

9–10 a.m.

WEBINAR

CLE Registration



Check our website for more updates to our program schedule!

Ways to Register:

➔ Online: <https://cle.sbnm.org> ☎ Phone: 505-797-6020 @ Email: cleonline@sbnm.org

REGISTER EARLY! Advance registration is recommended. Online registration closes one day ahead of each program. **CLE Cancellations & Refunds:** We understand that plans change. If you find you can no longer attend a program, please contact the Center for Legal Education. We are happy to assist you by transferring your registration to a future CLE event or providing a refund, subject to Center policy. **MCLE Credit Information:** The NM State Bar Foundation's Center for Legal Education is an accredited CLE course provider. **Note: Programs subject to change without notice.**

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5121 Masthead NE, Albuquerque, NM 87109 • PO Box 92860, Albuquerque, NM 87199



Navigating Alternative Dispute Resolution

Part One of a Three-Part Series by the State Bar of New Mexico
Alternative Methods of Dispute Resolution (“ADR”) Committee



Navigating ADR: *From Negotiation to Arbitration*

In the realm of conflict resolution, Alternative Dispute Resolution (ADR) offers a flexible, efficient and often less adversarial path compared to traditional courtroom battles. ADR encompasses a spectrum of techniques designed to help parties resolve disputes without going through full-scale litigation. These methods range from informal person-to-person negotiations to formal arbitration proceedings, with each method differing in terms of cost, time and the degree of control the parties maintain over the outcome.

What Is ADR?

ADR is an umbrella term that includes various techniques used to resolve disputes outside of the courtroom. The most commonly used methods are mediation, settlement facilitation and arbitration, although informal negotiation also falls within the broader ADR framework. These methods may be adapted to the needs of the dispute and the preferences of the parties involved.

What sets ADR apart from litigation is its emphasis on collaboration, efficiency and often confidentiality. While courts are bound by strict procedural rules and public records, ADR processes offer more privacy and the opportunity for creative, mutually beneficial solutions.

The ADR Spectrum: From Informal to Formal

ADR techniques exist along a continuum. At one end is informal negotiation, where parties communicate directly with each other in an attempt to “just work it out.” If direct communication fails, the parties may turn to a mediator—a neutral third party who facilitates conversation and helps uncover underlying interests without making any decisions for the parties.

A step further into formality is settlement facilitation, which, while similar to mediation, often involves a neutral party with legal or subject-matter expertise, and may take place as part of a litigation process. At the far end of the spectrum lies arbitration, a process where a neutral party acts as a decision-maker and issues a binding or non-binding ruling after hearing evidence and arguments.

Time, Cost and Control

As one moves from negotiation to mediation, then to settlement facilitation and finally to arbitration, three key factors shift:

- Time and cost increase. Arbitration, while typically faster than full litigation, requires more time and financial resources than mediation or facilitation.
- Control over the outcome decreases. In negotiation and mediation, the parties have full control over the outcome. Settlement facilitation adds some external influence, especially if directed by a court. In arbitration, the outcome is largely out of the parties' hands, as the arbitrator makes the final decision.
- Formality increases. Arbitration resembles a court trial in structure and rules, whereas mediation and facilitation are more flexible and informal.

Why Choose ADR?

Many parties opt for ADR to avoid the high costs, public exposure and rigid structure of traditional litigation. Courts themselves often encourage or require the use of ADR to reduce caseloads and promote faster resolution of disputes. In many jurisdictions, including New Mexico, local court rules mandate ADR processes such as mediation or settlement facilitation before a case can proceed to trial.

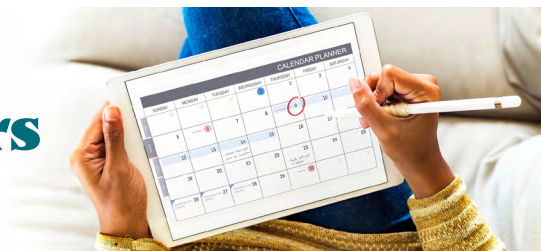
Furthermore, ADR often allows for more preservation of relationships, which can be crucial in disputes involving ongoing business or family relationships. The private and collaborative nature of ADR makes it an attractive option for many types of disputes, from construction contracts to workplace conflicts.

Conclusion

Understanding the full range of ADR options empowers individuals and organizations to choose the most appropriate method for resolving their conflicts. Whether through informal negotiation, mediation, settlement facilitation or arbitration, ADR offers a path that balances efficiency, fairness and adaptability. As we explore mediation and arbitration more closely in upcoming articles, the differences—and strategic value—of each method will become clearer. ■

For more information about the ADR Committee, email us at: memberservices@sbnm.org

Stay Up-to-Date with the Statewide Legal Fairs and Clinics Calendar!



Our online Statewide Legal Fairs and Clinics Calendar includes:

Pro Bono Opportunities

- Legal fairs and clinics around New Mexico
- Virtual statewide teleclinics

Resources for the Public

- Webinars and in-person presentations hosted by the New Mexico State Bar Foundation
- Workshops held by New Mexico's legal service providers on a variety of topics

Visit <https://www.sbnm.org/Statewide-Legal-Fairs-and-Clinics-Calendar> to see upcoming opportunities to fulfill your pro bono requirements or gain insight in crucial areas of law and legal issues.

Fri 12	1:15 PM 2:15 PM MST	Metro Telephone Legal Clinic (civil, no family)
Thu 18	9:00 AM 3:00 PM MST	Las Vegas Legal Fair - Hosted by NMLA VAP & t...
Fri 19	10:00 AM 2:00 PM MST	Taos Legal Fair - Hosted by NMLA VAP & the Ei...
Wed 24	6:00 PM 8:00 PM MST	Consumer Debt/Bankruptcy Workshop - Hosted...



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GOLF
Classic

SEPTEMBER 29, 2025
Tee Time: 8 a.m. (MT)

SANDIA GOLF CLUB
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You don't have to be a lawyer to play!

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*Proceeds benefit the New Mexico State Bar Foundation,
a 501(c)(3) nonprofit organization.*



Sponsorship opportunities are also available!

Please contact Joey Gutierrez at 505-797-6057 or
nmsbdevelopment@sbnm.org with any questions regarding the Golf Classic.



Visit www.sbnm.org/barfoundation for more information
about the New Mexico State Bar Foundation and its programs.



**New Mexico
State Bar Foundation**



Peter D. White, Attorney, is pleased to welcome **Lucy River** as an Associate Attorney in his Santa Fe office. Before joining the firm, Lucy represented clients in matters of personal injury, medical malpractice, civil rights, whistleblower protection and housing and employment discrimination. She was named a 2024 Super Lawyers Rising Star of the Southwest in personal injury law while with the Lee Hunt Law Firm. Lucy is the former President of the First Judicial District Bar Association.

Gallagher & Kennedy is pleased to announce that 57 of its attorneys across 49 practice areas have been selected for inclusion in the 2026 edition of *The Best Lawyers In America*® and *Ones To Watch*®. In addition, two G&K shareholders received the highest overall peer feedback for a specific practice area and geographic region and were named “Lawyer of the Year,” including **Shannon L. Clark** (Product Liability Litigation – Plaintiffs) and **Dalva L. Moellenberg** (Natural Resources Law).



Gallagher & Kennedy is thrilled to welcome three talented first-year attorneys to the firm: **Sarah LeFevre**, **Kyle James**, and **Angela Sheppard**. All three previously worked at the firm as summer associates and return to Gallagher & Kennedy after graduating from law school in May. Their admission to the Bar is pending admittance this October.



Gallagher & Kennedy is thrilled to announce the return of shareholder **Kiersten A. Murphy** to its litigation and public bidding and procurement practices. Kiersten originally joined the firm in 2004 after a post-law school judicial clerkship and returns after 10 years operating her own firm. In her public bidding and procurement practice, Kiersten provides legal counsel to Arizona business owners who want to do business with local and state government.



Christopher M. Gatton has been selected by his peers for inclusion in the 2026 edition of *The Best Lawyers in America*® for his work in five practice areas, including Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law, Commercial Litigation, Banking and Finance Law, Mortgage Banking Foreclosure Law and Litigation - Bankruptcy.

In Memoriam



The New Mexico legal community honors the life and legacy of **Hon. Don J. Svet**, whose career in public service and law spanned more than four decades, distinguished by his leadership in the U.S. Attorney's Office and his dedicated tenure as a judicial officer of the federal district court. Born in Richwood, West Virginia, to Frank and Frances Svet, Don brought the values of hard work, humility, and integrity with him when he made Albuquerque his lifelong home in 1959. Don's path to the law was anything but conventional. A standout athlete at WV

Cowen High School, he earned All-State honors in both basketball and football and was celebrated for his academic excellence. After a brief stint at WV Tech University, he joined the U.S. Marine Corps, where he continued to play basketball and serve with distinction. Upon returning to civilian life, Don joined the Albuquerque Police Department, becoming the youngest officer promoted to Sergeant and serving as an instructor at the Police Academy. In 1968, Don and his beloved wife Norma (Ordonez) earned their college degrees together from New Mexico Highlands University. Don went on to graduate at the top of his class from the University of New Mexico School of Law in 1971, earning membership in the Order of the Coif. His legal career began as an Assistant City Attorney for Albuquerque, but it was his 20-year tenure as an Assistant United States Attorney for the District of New Mexico that defined his federal service. Don held key leadership roles as Criminal Chief and First Assistant U.S. Attorney, and was selected to serve as an Evaluator for the Evaluation and Review Staff of the Executive Office for United States Attorneys, an honor reserved for attorneys of exceptional judgment and experience. He was widely respected as an outstanding prosecutor and trial attorney, principled, persuasive, and deeply committed to justice. During his career at the U.S. Attorney's Office, he briefed and argued numerous cases before the Tenth Circuit Court of Appeals. A notable example from early in his career, is *United States v. Anderson*, 468 F.2d 1280 (10th Cir. 1972). Don's advocacy played a pivotal role in shaping the legal framework remaining in place today, concerning the government's authority to conduct immigration enforcement within a reasonable distance of the Mexican border. As United States Attorney for the

District of New Mexico, appointed in 1992 by President George H. W. Bush, Don served as the chief federal law enforcement officer in the state. He oversaw all federal criminal prosecutions, was involved in civil litigation where the United States was a party, set enforcement priorities, managed Assistant U.S. Attorneys and staff, coordinated with law enforcement agencies, and ensured the interests of the United States were vigorously and fairly represented in court. In 1993, Don was appointed United States Magistrate Judge for the District of New Mexico, serving until 2003, which coincided with his retirement and subsequent recall, until his final retirement in 2012. His duties included assisting district judges by presiding over misdemeanor and petty offense cases, issuing search and arrest warrants, conducting initial appearances and detention hearings, managing discovery and other pretrial matters in civil cases, and making recommendations on dispositive motions in felony and complex civil matters. In his years as a federal prosecutor and his service on the bench, he was distinguished by an unwavering commitment to fairness, sound judgment, and the highest ideals of justice, earning him the admiration of attorneys and colleagues alike. Don's legacy is not only legal but deeply personal. He was married to Norma for 66 years, and together they built a life rooted in love, laughter, and shared purpose. He is survived by their daughter Donna Miller (Tom), son Frank James, grandchildren Christian Miller (Raquel), Sean Miller, Frank Jr., and Samantha Svet, brother John Svet (Jeanette), sister Nancy Burnett (Bill), and extended family in Slovenia. Norma lovingly compiled three scrapbooks chronicling Don's journey from athlete to officer to member of the bar and bench, capturing the fullness of a life well lived. A skilled handyman, green chile roaster, Dallas Cowboys fan, and storyteller, Don brought humor and warmth to every room. He built a cabin near El Malpais National Monument with his dear friend Tom Hubeny, a testament to his craftsmanship and love of the outdoors. His family remains inspired by his extraordinary legal achievements and prominent public presence, yet most of all by the unwavering humility with which he carried his successes. When agents presenting a case for prosecution would ask "what's the reason for that," Don would reply, "There's no reason for it, it's just our policy." His family imagines that when Don asks that question of God, the reply will be much the same. Don J. Svet will be remembered not only for his legal brilliance but for the grace, humor, and humanity that defined his life. His legacy lives on in the courtroom, in the hearts of his family, and in the stories that continue to be told.

In Memoriam

Mark William Taylor went home to be with his Lord and Savior Jesus Christ on May 16, 2025, in Roswell, New Mexico. He finished his race with unwavering faith, leaving behind a legacy of steadfast devotion to Christ, selfless love for his family, and a life marked by honor and service. Mark was born October 30, 1966, in the Village of Warsaw, New York. He lived in upstate New York with his loving parents, William and Sherrie Taylor, until age 7, when they moved to Denton, TX. He graduated from Denton High School in 1984, then attended McMurry University in Abilene, TX, where he graduated Magna Cum Laude with a BBA in Accounting in 1988. It is also where he met Kelly Denise Long, the love of his life and the person God so carefully chose for him. After a beautiful courtship of three years, they married in Abilene, TX, December 16, 1989. In 1991, he received his Doctorate of Jurisprudence from Texas Tech University School of Law and shortly after was licensed to practice law in New Mexico, and then Texas. Mark and Kelly moved to Roswell, NM, in 1991, where Mark worked as an attorney for Sanders, Bruin, Coll & Worley. Then in 1995, he joined Bassett & Copple. He started his own law firm, Mark W. Taylor & Associates, PC, in 2000. He was a general practitioner with a focus on estate planning, probate, and adoption matters. His law career spanned nearly 34 years, based on mutual trust and respect with his clients. He had a heart for children who needed good homes, and one of his most passionate legal endeavors was facilitating adoptions. He helped many children join loving families throughout his career. He served his clients well, always crediting God for his success and accomplishments. Building a worthy legal practice was important to Mark, but it paled in comparison to his relationship with God and the extraordinary love he shared with Kelly. As a husband, Mark lived out Ephesians 5:25, cherishing and honoring Kelly with unwavering devotion. He was relentlessly thoughtful, always putting her needs before his own. Every anniversary, he planned a surprise getaway for her, sharing only how to pack, delighting in creating meaningful memories together. For over 35 years, their favorite place was not a destination, but each other — often found dancing in the living room to Lionel Richie songs, wrapped in love and laughter. Their marriage was a testimony of God's design, a sacred bond built on faith, friendship, and a deep, abiding love. They were blessed with two beautiful children, Christopher and Alison, through whom his spirit shines brightly. Many of Christopher's favorite memories with his father involved sports and athletics of various kinds. Whether they were playing one on one in the driveway, throwing batting practice before games, watching college football or chasing big game animals across New Mexico public lands, they were always having fun together. Mark always reminded Christopher how to honor the Lord in both the wins and losses of life. Alison's childhood was filled with memories of bike rides, culinary lessons on the best method to make popcorn and many father-daughter dates. Mark took seriously the call to lead his family in faith. His legacy continues through their lives and the lives of his grandchildren. Mark was a very involved and devoted member of Christ Church in Roswell. He loved giving his time to people and spreading the love of Christ. He participated in numerous mission trips throughout his life, starting in childhood with the Methodist Youth Fellowship into adulthood with Christ's Church. One of his favorite trips was serving at the 1996 Olympics in Atlanta, Georgia with Youth With a Mission. Mark was a sports enthusiast, an outdoorsman, and an avid cyclist, and greatly enjoyed fellowship with his cycling buddies. He spent countless hours coaching his kids' teams in sports leagues and at Gateway Christian School. Kelly once said if he could fit into a tutu, he would have "coached" ballet for his daughter. He was fiercely competitive and loved playing games. He was always up for a good game of Spades, but more recently, Go

Fish with the grandchildren had become his game of choice. His six grandchildren, who range from three weeks to six years old, were a source of overwhelming joy. His everyday actions, whether public or private, were his living testimony. He lived and died by the words of Jesus. John 14:6 says, "Jesus answered, 'I am the way and the truth and the life. No one comes to the Father except through me.'" Mark believed that true success in life was measured by obedience to Christ and love for others. Mark is survived by wife, Kelly Taylor of Roswell, NM; two children, Christopher Taylor and wife Rachel of Waco, TX, and Alison and husband Joshua Capps of Gardendale, TX; six grandchildren, Zion, Zayla, Luke, Zadok, Miles, and Zoey; mother, Sherrie Taylor of Denton, TX; sister, Tammy and husband Steve Marley of Denton, TX; mother-in-law, Sandra Long of Valliant, OK; and sister-in-law, Pam and husband Joe O'Neal of Valliant, OK. He is preceded in death by his father, William Taylor, and father-in-law, Jerry Long. A memorial service will be held Saturday, June 7, at Christ Church, Roswell, NM, at 10 am. Donations may be made in lieu of flowers to Focus on the Family or Compassion International. Though our hearts ache, we rejoice in the promise of eternal life, knowing Mark now hears the words, "Well done, good and faithful servant."

Thor Emblem Sr. passed on Nov. 4, 2018, in a car accident. He is preceded in death by his father, Olav; mother, Vivian; and his brother, Erik. He is survived by his brothers, Gary, Kurt and Olaf; his wife of 33 years, Tracy; daughters, Lillian, Vivian and Erin; his sons, Steven, Thor Jr., Bryan and Olav; by 15 grandchildren; 6 great grandchildren; many nieces; nephews; cousins; and countless friends. He worked as a contractor/developer for almost 20 years and became an attorney and practiced law for the last 30 years. In his spare time, he spent it with family, working as a political activist and being an enigmatologist.

Jay L. Faurot, II passed away peacefully at home on August 9, 2025, surrounded by loved ones. He is survived by his wife, Laurelle "Squeak" Faurot; children Dr. Jay L. Faurot, III (Melissa), Leslie Faurot, Soni Faurot (Miles), and Michael D. Faurot (Susanna); grandchildren and great-grandchildren Jay L. Faurot, IV and wife Kelly their daughter Kaysea Faurot; Jared Faurot; Kyrie Faurot-Euler and husband Matt Euler; Jesse Faurot and fiancé Paige Mandy Faurot and Jacob (J.T.) Faurot; Virginia Sue Seabrook and husband Isaac Pena and her children Lana Gentry, Lanie Seabrook, McKinsie Seabrook and Ashlynn Perkins. Wendy Faurot and fiancé Alex Spalding of Spring, Texas; Mason Brennan and wife Adel and his child Ronin David Brennan; Bryson M Brennan and Westin M. Brennan and Lydia Faurot; and his sister, Priscilla "Penny" Bailey (Steve). He was preceded in death by his first wife, Virginia, his parents, Jay L. Faurot and Helen Mason, stepfather Walter Mason, and sister Judith Sanger. Born in Missouri in 1939, Jay grew up in various areas throughout Missouri including during the war when they were in Kirksville, where his family ran a funeral home. Despite the early loss of his father and his mother's illness, Jay pursued education with determination, earning his law degree from the University of Missouri in 1965. That same year, he moved to Farmington, New Mexico, where he began a lifelong legal career. A proud Mizzou Law alumnus, Jay supported the Law Society and Jefferson Club, and he actively recruited graduates to join the San Juan County Bar. Beyond law, Jay was known for his love of the outdoors, particularly hunting. His deep knowledge of firearms, reloading, and ballistics was widely respected and generously shared. Friends and family also remember his cooking, hospitality, and the many gatherings he hosted at his home, where his swimming pool welcomed generations of children.

Jay's hallmark was his respect for people from all walks of life. Wheth-

In Memoriam

er judge, client, colleague, or neighbor, he treated everyone with kindness and honesty, leaving a legacy of integrity and friendship.

Dick Arthur Blenden, “The Legend,” passed away peacefully in the comfort of his home on July 23, 2025. He was 90 years old. Born on February 17, 1935, in Spur, Texas, to Harry Elton Blenden and Ruth Elizabeth Blenden, Dick spent his formative years in Lockney, Texas, and later graduated from Andrews High School. He went on to earn a B.A. from Texas Technological College (now Texas Tech University) in 1957 and a law degree from the University of Texas in 1961. After being admitted to the bar in Texas (1961) and New Mexico (1962), he moved to Carlsbad, New Mexico, where he established a celebrated legal career that spanned more than six decades. A tireless advocate for justice, Dick earned widespread respect as both a formidable trial lawyer and a principled human being. He was known not only for the significant verdicts and settlements he secured but for the way he practiced law with deep integrity, fairness, and a steadfast commitment to ethical conduct. He believed that a lawyer’s word mattered, that justice required honesty, and that doing right by one’s clients and community was paramount. In Sept. 2022, the City of Carlsbad formally recognized his lifelong contributions by proclaiming September 15, 2022, as Dick Blenden Day. He had a masterful sense of humor and was known for spinning vivid stories and telling jokes—often ones you’d already heard, and often ones that made you laugh in spite of yourself. Dick was preceded in death by his brother Harry Easton Blenden, his sister Sue Thornton, his infant brother James Platter Blenden, his nephew Kenneth Blenden, and his grandsons J.T. Shelton and Brandon Blenden. He is survived by his wife, Sara Beth “Betty” Blenden; his children: Phil Blenden (Carlsbad, NM), Sandi Blenden (Hollywood, CA), and Robin Shelton (Tacoma, WA); and four stepchildren from previous marriages, whom he loved as his own: Wendy Humphrey (Lubbock, TX), Johnse Humphrey (West Palm Beach, FL), Ben Etcheverry (Deming, NM), and Tai Pettigrew (Tatum, NM). He is also survived by six grandchildren and four great-grandchildren.

Felix Briones, Jr. passed away peacefully in his sleep on Monday, May 19, surrounded by family and lifted up in prayer. Felix was born on July 14, 1933 in Carlsbad, NM to Felix and Tomasa Pompa Briones, the oldest of six children and big brother to his three close cousins. An early advocate for justice, as the Carlsbad High School student government president, he petitioned the Carlsbad School Board to integrate the public high school, resulting in the first racially integrated graduation class in 1951 – three years prior to *Brown v. Board of Education*. This experience influenced his desire to enter the legal profession. He graduated from the University of New Mexico with a bachelor’s degree in business administration and a Juris Doctor in 1957. He served two years as a JAG Officer in the US Air Force. Upon discharge, he moved to Farmington to begin the practice of law with Jim Cooney and Kendal Schlenker on October 1, 1959. A year later, he met the love of his life, Viola Sandoval, at a breakfast hosted by the St. Joseph Altar Society for the Knights of Columbus. He proposed on Valentine’s Day, 1961, and they were married at that same St. Joseph Catholic Church on July 17, 1961. Vi and Felix had five children: Felix, III, Giré, Paul, Tom, and Ramona. They were Grandma and Grandpa to eleven grandchildren: Francine, David, Anthony, Carmen, Monica, Felicia, Vivienne, Tomasa, Anna, Isabella, and Charles. Felix lived a life dedicated to God, family and service. An esteemed attorney for 67 years, Felix served on many boards, organizations, committees

and campaigns. To list a few: The University of New Mexico Foundation, San Juan College Foundation, New Mexico Mortgage Finance Authority, New Mexico Judicial Performance Evaluation Commission, New Mexico State Bar Association and Disciplinary Board, Farmington Public Utilities Commission, Four Corners Community Bank, and Knights of Columbus. Felix was endlessly involved in his children and grandchildren’s activities, frequently attending games, recitals, and graduations, even if attending meant traveling many miles to do so. And Felix loved to travel! Vi and Felix have visited nearly every town in New Mexico, along with most of the 50 states and many foreign countries. Family lore would have it that despite the destination, all roads led through Vegas! Never a man to be far from a deck of cards, Felix was complimented at age 90 by a seasoned casino pit boss as being the best blackjack player she had ever seen. Felix had a zest for life. He loved to laugh, was quick with a joke, liable to break out into song, and enjoyed dancing with Vi. Felix’s adroitness at the ping-pong table translated well into his new-found hobby of playing pickleball through Christmas of last year. Felix’s generosity was boundless – pro-bono legal work, philanthropic contributions, a pillar of St. Mary’s Parish, and always the first to reach for the dinner check or slip a little something into a birthday card. Felix may have been born to wear Carlsbad Caveman blue, but his wardrobe became heavy on the Farmington Scorpion Kelly green, and you better believe his blood ran UNM Lobo cherry red! Perhaps Felix’s defining characteristic was his love of God, abiding faith in the Catholic Church, and a reverence for the Blessed Virgin Mary. Vi and Felix maintained a holy hour at the St. Mary’s Adoration Chapel for over 30 years. Vi and Felix traveled with Terry and Paul to France in 2019 and were able to pray the rosary at the Grotto of Our Lady of Lourdes. All travel roads may have led through Vegas, but it did not matter in what city they were, on Sunday morning, they found a Mass. Felix profoundly influenced the spirituality of his children, grandchildren, siblings, nieces, nephews, and many others. We, his family and friends, take solace in knowing that Dad, Grandpa, FB, Junior/JR, Mr. B walked this life knowing God, loving God, and serving God. He was preceded in death by his son Paul, his parents Tomasa and Felix Briones, sister Betty Ortiz, and brother Joe Briones. He is survived by his wife Viola Briones; children Felix Briones, III (Kathi), Giré Dragun (Michael), Tom Briones (Stephanie), and Ramona Moseley (Mark); daughter-in-law Terry Briones; grandchildren Francine Briones, David Briones, Anthony Dragun, Carmen Dragun, Monica Briones (Miguel Sabol), Felicia Moseley, Vivienne Dragun, Tomasa Moseley, Anna Briones, Isabella Moseley, and Charles Briones; and sisters Patsy Rodriguez, Rosie Gonzalez and Cristina Briones. Honorary pallbearers are David Briones, Anthony Dragun, Charles Briones, Kris Chavez, Marnie Saiz, and Sheila Mathews.

In Memoriam



Carol Leach, passed away on Tuesday, July 29, 2025, in Albuquerque, NM. She is survived by her husband; brother and sister-in-law, Mr. and Mrs. Kevin David Lynch Hockmuth, Sr. of Los Lunas; nephew, Mr. Andrew Leach of Carthage, Illinois, nieces: Mrs. Erich Bergman of Carthage, Illinois, Mrs. Rafael Olguin of Albuquerque, New Mexico; and nephew, Mr. Kevin David Lynch Hockmuth, Jr. of Los Lunas. A longtime resident of Santa Fe, Ms. Leach was born on August 11, 1949, and raised

in Lubbock, Texas. She received her undergraduate degree from Texas Tech University, an M.A. in Journalism from the University of Wyoming, and her law degree from Texas Tech University (Order of the Coif). She began practicing law in Santa Fe in 1978 with Brown, Bain and Bingaman, becoming a partner. In 1984, she became General Counsel for the Corrections Department of the State of New Mexico. In 1988, she became General Counsel for the Energy, Minerals and Natural Resources Department of the State of New Mexico. She returned to private practice, joining Beatty and Wozniak P. A. in 2010 and, in 2012, Concho Resources (acquired by ConocoPhillips). She retired in 2021. She married Donald E. Hockmuth, Jr., on April 20, 1996. She was a parishioner of Santa Maria de la Paz Catholic Community for the past thirty years.

District Judge **Ricky Dale Purcell**, age 76, won his battle with cancer on September 5, 2025, at home surrounded by family and was welcomed to his heavenly home by many friends and family. Ricky was born June 14, 1949, to Hermann and Leona Faye (Gates) Purcell and he grew up in the Porter community. Ricky attended all 12 years in San Jon Schools and graduated in 1967. He became interested in music, mostly the guitar at the age of twelve and later added the steel guitar. In 8th grade he formed his first band and in later years you could find him playing dances in Eastern New Mexico with his bands "The Rain" in college, The Mesquite Band in the 1980's and in recent years his band the "Rocker Riders". While in high school he excelled at sports and had the opportunity to play with the San Jon Coyotes in 2 State Basketball tournaments, 2 State Baseball tournaments winning the State Baseball Championship in 1966, and 3 State High School Championship rodeos. His talents and love of basketball and calf roping has been passed down to his sons and now his grandsons. He loved to retell these stories to his grandkids, and they often got exaggerated every time he told them, and his grandkids loved to give him a hard time about these "facts". In 1967 Ricky graduated from San Jon High School and enrolled in Eastern New Mexico University in the fall of 1967. Ricky met his wife of 54 years Peggy (Malone) Purcell on the campus of ENMU in 1970 and they married a year later on April 10, 1971. They both continued their education at ENMU where Ricky received his Bachelor of Science in History in 1971. In January of 1972, Ricky and Peggy moved to Houston where Ricky was accepted at South Texas College of Law. In August of 1974, Ricky graduated with the American Jurisprudence Award in Equity and his Juris Doctorate degree. After passing the state bar exams in both Texas and New Mexico they packed their belongings and eagerly headed back to the plains of Eastern New Mexico settling close to home in Tucumcari. In March of 1975, Ricky became Partner in the law firm of Rowley, Bowen and Purcell. During this time, he was actively engaged in farming, ranching and the raising and racing of Quarter Horses with his dad. Also during this time Ricky was a member and President of Kiwanis Club, The Tucumcari Bar Association and was named "Outstanding Young

Men of America" in 1982. Ricky served as Tucumcari City Attorney from 1975 to 1992 while also growing his private practice. Ricky and family were members of the First Baptist Church of Tucumcari where he was blessed to see all three of his kids saved and baptized. In 1992 Ricky was appointed as District Judge of the 10th Judicial District of New Mexico by Governor Bruce King. He served as District Judge of the 10th Judicial District which encompassed Quay, Harding, and De Baca counties for 17 years until his retirement in 2007. Throughout his legal career, Ricky surrounded himself with the best, most qualified friends and employees who became like family. "Judge Purcell" was referred to by his peers as one of the most impartial, fair, honest, ethical, and moral attorneys, and later Judge to serve on the bench for the State of New Mexico. Together Ricky and Peggy had three children Payton, Lance, and Chris. His greatest enjoyment besides music, horses, and sports was whatever activities his kids were participating in- whether it was soccer, basketball, rodeos, horse shows, or pig shows you would find him there supporting his family. He took great pride in his kid's successes and now in their successes as adults. Ricky was blessed by 9 grandkids who were his pride and joy and who have inherited his love of music, horses, calf roping, and all sports. You could usually find him following his grandkids watching rodeos, basketball, baseball, softball, volleyball, football, golf, and stock shows. He enjoyed reading, drinking coffee with his friends, continuing to run cattle and playing guitars with his band. His family is proud of the legacy he leaves behind both personally and professionally and have received multiple heart felt comments in the past few weeks regarding the lives he has touched. Ricky is preceded in death by his parents Hermann and Leona Faye Purcell. Survivors include his wife of 54 years Peggy Purcell, daughter Payton Purcell Darrow and husband Justin of Wellington TX, son Lance Purcell and wife Johnna of Bushland TX, son Chris Purcell and wife Jessica of Artesia NM. Six Grandsons Cole Purcell, Tripp Purcell, Luke Purcell, Jake Purcell, Ryder Purcell and Jace Darrow. Three granddaughters Kenna Darrow Smith and husband Tyler, Bailey Purcell, and Harlow Purcell. Two sisters Debi Ware and husband Jimmy of Grady NM, and Tonya Cornett and husband Jay of Gardendale TX, Uncle Donnie Purcell and wife Patty and numerous cousins, nieces, and nephews.

Bertrand Edward Allen died peacefully in his sleep at his home in Palm Springs, CA on March 2, 2025. He is survived by his children Amanda Celine Allen, Theodore Mark Allen and Elliot Ian Allen, all of Sacramento, CA; his sister Celine Marie Allen, of Hackettstown, NJ; and his dear long-time friend Michelle Hellmann, of Palm Springs. Bert was born in Newark, NJ on July 3, 1946. His family's travels in his early years and his school attendance took him to Venezuela, Miami, Canada and various places in the Northeastern United States as he grew up. He graduated from Marquette University in 1968. His studies at Washington University Law School were interrupted when he was drafted into the U.S. Army in June 1969. After his tour in Germany, he completed law school, in 1973, and subsequently received an honorable discharge in 1975. He practiced law in St. Louis, MO and worked as an attorney for the State of New Mexico before moving to Portland, OR. Bert developed a passion for tennis-playing and moved to the Palm Springs area to take advantage of the great tennis-playing weather there. He lived at the Tennis Court Apartments his last 20 years with his parrot Snowflake. He was an avid reader, with interests ranging from all aspects of science to sports and history; he also read widely among the great writers of English literature and appreciated other fiction. He loved to laugh and was always ready to engage in a lively argument.

In Memoriam

Ronald R. Walker was born in Pittsburgh PA on February 1, 1942, to Harry R. Walker and Alice Walker who preceded him in death. Also preceding him in death was his sister, Karen S. Lefcakis (Walker), and her husband Nicholas Lefcakis. Ron was born in Pittsburgh, Pennsylvania and would spend the rest of his life rooting for the Steelers and Pitt. Being from Pittsburgh Ron was loyal to Heinz Ketchup and would not touch the “other” stuff. He also was famous for his complete avoidance of mayonnaise, quizzing every waitress, server and chef as to ensure no mayo came close to his food, much to the entertainment of his lunch guest. He famously told his nieces and nephews that, “Mayonnaise was the only condiment that can kill you.” Ron loved to travel and spend many months circling the globe on a cruise ship, plane, or train. He was widely regarded as an expert in travel, hotels, and things to do, holding regular infotainment sessions with friends planning trips. Ron’s travels took him to some of the most remote places on the planet, but his favorite destination would always be when he visited his family out East. After finishing high school Ron joined the U.S. Army and was stationed in West Germany. It was in Germany that he served in a “Davy Crockett Unit.” The Davy Crockett was a small nuclear weapon launched from the back of a jeep and despite being such a serious assignment, Ron was always quick to tell jokes about his time carrying a nuclear bomb on his back. Ron was a veteran storyteller and often talked about his first “cruise” to Germany aboard a troop ship. Years later he would famously compare the food on said ship to a Princess Cruise he took in 2015, writing a classic letter to the cruise line comparing and contrasting the quality of the trip as only Ron could do. After his time in the service Ron’s travels took him far and wide, working in California and Detroit, Michigan (where he worked for General Motors). From there he would end up in New Mexico, where he would obtain his bachelor’s degree at New Mexico Western. After getting his BA he continued his studies at the University of New Mexico School of Law. After law school Ron worked as an Attorney for the city of Albuquerque before heading south to take a job working for the 5th Judicial District Attorney’s Office in Roswell. Ron moved to Hobbs in 1983 and would serve in the role of Deputy District Attorney. He was renowned for his skills as an attorney, possessing not only a knack for arguing a case before a jury but also possessing a brilliant knowledge of the law. Over his career as a prosecutor, he tried many of the most important cases in New Mexico over his tenure in Lea County. After retiring from the District Attorney’s Office over 20 years ago he found he was unable to resist the call of the courtroom and returned for a second stint as Deputy District Attorney in Lea County. As an attorney he mentored many young lawyers over the years and when he retired from the District Attorney’s Office a second time he continued to excel as an attorney, practicing law for the remainder of his life. Despite being “retired” for over 15 years Ron spent his last week of life in the courtrooms of Lea and Eddy County, arguing over a dozen cases and demonstrating his acute knowledge of the law. Ron made many friends from many different walks of life. He was a dedicated friend and a person who would not let you down. His most outstanding trait was his generosity. Not only was he generous with his time, but he always made sure to visit his friends and family on birthdays and during holidays. He would always start his Christmas shopping in June and would have his gifts selected by July. And to those friends with children, he was always a favorite “uncle,” bringing presents and his infectious laughter. Ron is survived by two nephews, James R. Lefcakis and his wife Leigh Ann of Pittsburgh, PA as well as

Nicholas Lefcakis and his wife Rose Walther. Cousin Shirley Fascetti and her husband Al Fascetti of Peabody, MA. Also surviving Ron are his great nephew Riley Lefcakis as well as nieces Sabrina Walther and Alexandria, Nicolette, and Alexa Lefcakis. Ron was above all a loyal family man and friend. He was a loyal friend to all who were blessed to have him in their lives, and a loyal mentor to so many young lawyers in this community. He was full of life, knowledge, passion and was truly “the smartest and most skilled attorney in the room” throughout his 50-year legal career. No attorney will ever fill the shoes of Ron, he was simply the best...a friend to many. “And in the end” his service and generosity stand as a testament to his character and how much he influenced his community.

Donald Richard House, a devoted husband, father, son, brother, and friend, peacefully departed this life on April 4, 2024, at the Desert Banner Hospital in Mesa, Arizona. He was 59 years old. Born on August 24, 1964, in Pittsburgh, Pennsylvania, Don was the cherished son of Jackie Smith and the late Robert House. In his early years he lived in Pennsylvania, New York, California, and Florida before moving to Arizona at the age of eight. After graduating high school, Don joined The Russ Morgan Orchestra and toured the entire country playing Big Band music. After two years on the tour bus, Don joined the Coast Guard and served as a radio man, carrying out water rescue missions, and law enforcement duties, stationed in California, Alaska, Louisiana, and Florida. After serving his country for five years, he enrolled at Arizona State University, earning his undergraduate degree in Political Science and his Juris Doctorate in 1995. Don worked at various law firms, both local and national, before founding The House Law Firm in 2006 during which time he encountered many colleagues who later became lifelong friends. Don married his true love Leslie in 2003 and was blessed in 2007 when he became a father with the birth of his daughter Lauren, followed by twin sons Christian and Derek, who were all his pride and joy. In addition to his dedication to the law, Don enjoyed collecting and listening to vintage Big Band music, reading, spending time at the family cabin in the mountains, and traveling with his family. Don left an impression upon everyone with his intelligence, extraordinary sense of humor, and compassion. Don’s memory will forever be treasured in the heart of his wife, Leslie. He will live on through his children, Lauren, Christian, and Derek. He will forever be missed by his mother Jackie, along with his siblings, Susan Grim (Dale), Christopher House (Lauri), Alan House (Jackie), and Gretchen House. Don is also survived by Step-Siblings Mike Smith (Gabriela) and Lynne Litjen (Bob); Mother-in-Law Donna Becker (Denny); Sister-in Law Angela Redmond (Jim); and many nieces and nephews. Don was preceded in death by his father, Robert House; Stepfather Al Smith; and Brother-in-Law Mike Rothery.

In Memoriam

Susan Tomita moved on to her next adventure upon passing on October 25, 2024. Not surprisingly she approached this transition with the utmost strength and grace and faith. She was born January 10, 1954 to Kazuo and Helen Tomita. Her professional credentials were exemplary having completed college at Stanford University and law school at Santa Clara law school. After clerking for the California Court of Appeals, she immediately embarked upon a life of service working for the National Indian Youth Council and then as an associate and then partner with Luebben, Hughes, Tomita and Borg practicing Indian Law. She then focused on Elder Law as a shareholder with Tomita & Simpson and in her solo practice. Her professional accolades are many including former Chairperson of the Elder Law Section of the NM Bar Association, the NM Bar Association Committee on the Delivery of Legal Services to Persons with Disabilities, a member of the Special Needs Alliance, the National Academy of Elder Law Attorneys, and the NM Estate Planning Council. Susan was on the Board of Directors of the Legal Aid Society and the Indian Pueblo Legal Services and she served as Chairperson of the Indian Law Section of the NM Bar Association. She is a co-author of the Handbook for Guardians and Conservators and Alternatives to Guardianships and Conservatorships. She is listed in Best Lawyers in America in practice areas Trusts and Estates and Elder Law, in Martindale Hubbell's Directory of Preeminent Attorneys and was named by Best Lawyers as Lawyer of the Year for 2015 for Elder Law and 2016 for Trusts and Estates. As remarkable as her professional career was, Susan was equally devoted to her work within the Catholic church. She was a member of the Parish of St. Joseph's on the Rio Grande and served three terms on the Pastoral Council. She also worked in the Ministry of Loaves and Fish and St. Vincent de Paul. She was a frequent facilitator for programs in Faith and Engaging Spirituality. She served on several committees for the Archdiocese including the Archdiocese Campaign for Human Development Local Advisory Committee. She was a pilot member of the Just Faith program and served as a program facilitator for that program's Crossing Borders, Faith and Immigration Justice. She served in the Shrine of St. Bernadette's Social Concerns Ministry and most recently served on the Archdiocese Social Concerns Ministry with the Justice, Peace and Life Commission. She received the Archdiocese of Santa Fe's St. Francis award in 2006 and the Bernadette Institute's Mother Teresa Award in 2005. Susan connected with her Native religion as well on her spiritual journey participating in Native sweat lodge ceremonies and studying and following the teachings of Native leaders such as Black Elk. Consistent with her strong conviction that faith called upon her to serve those less fortunate, she was selfless in her commitment to organizations that served those less fortunate. She served on the Board of Directors and as President of St. Joseph's Community Health and in that role was instrumental in the passage of the NM Constitutional Amendment making early childhood education a constitutional right. She also served on the boards of the Alzheimers Association and Friends in Time. She also worked with Francis House and Casa de Comunidad providing leadership, legal services, and street outreach. She was co-founder of Crossroads for Women serving women with co-occurring mental health and substance disorders in the criminal justice system and their children. Susan's professional and charitable activities are an inspiration to us all. But to her friends and family, Susan will also be known as a devoted friend, a wonderful story teller, an engaging conversationalist, a source of endless funny stories, a steel trap memory, and a fiercely

devoted mom. She was empathetic, caring, ethical, hardworking, unassuming, modest, generous in every way, and welcoming to all. Susan is survived by her son Tony Tomita, her sister, Lisa Oshiro, and her brother Roy Tomita, and a countless number of friends who will miss her dearly.

Kathleen A. Miller, a beloved resident of Albuquerque, New Mexico, passed away peacefully on March 29, 2025, at the age of 74. Born on March 18th, 1951, in Gainesville, Texas, Kathleen, known as Kitty to her family and friends, led a life marked by dedication to her profession, community, and family. Kitty earned her law degree from the University of Washington, setting the foundation for an illustrious career in law. She served with distinction as an attorney for the Department of Veteran's Affairs and later as a solicitor for the Department of the Interior. Her professional life was characterized by a deep commitment to justice and advocacy, values she carried into her retirement when health challenges prompted her to step back from her formal career. In retirement, Kitty's passion for helping others found new expression as she became a guardian ad litem for children in need, ensuring their voices were heard and their rights protected. She also dedicated her time to tutoring school children, imparting not only knowledge but also her contagious enthusiasm for learning. Kitty's life was a testament to resilience and optimism. Despite facing numerous health issues, she remained upbeat and positive. Her family and friends can attest that she was always there to help them through rough spots. Kitty is survived by her husband of 38 years, Frank Jones, her sister Candace Blashak, nephew Ted Blashak, his wife Dawn Yount-Blashak, her brother Kevin Miller, his wife Sue, nieces Tommasina Miller and CK Miller, her brother Robert Miller, his wife Anita, her son and daughter-in-law Zachariah and Rebekah Zinn, grandchildren Dahlia Zinn and Oren Zinn, her stepchildren Mike and Jake Jones, and grandchildren, Mariel Jones, Michaela Jones, Frankie Jones, and Silas Jones. A celebration of life will be announced later this summer. As a transplant recipient, Kitty was passionate about promoting organ donations. In her memory, please consider registering with your state as an organ donor so that a heart or other symbol appears on your driver's license, or donate to the New Mexico Donor Services at <https://donatelifenm.org>.

In Memoriam

Born September 13, 1926, in Arroyo Hondo, New Mexico, and raised in San Cristobal, **Eliu E. Romero** loved and took great pride in his Northern New Mexico and Spanish roots. After attending a rural school run by the Carnegie Institute in San Cristobal, Eliu enrolled at the University of New Mexico at the age of 15. He interrupted his studies to serve in World War II as a Navy Communications Officer. After service, Eliu earned his bachelor's degree from UNM and his law degree from the University of Denver School of Law. He then returned to Taos to open his law practice. Eliu's legal career was extensive and varied. He loved presenting a case to a jury. His confidence and abilities in the courtroom earned him the reputation throughout the state of New Mexico as a fierce and agile litigator. Eliu took on all types of matters; from land disputes and personal injury, to contracts and business, to wills and estates. His practice, which spanned over 70 years, touched the interests and concerns of generations of the Taos community. In the early days of his law practice, Eliu identified a need for a financial institution devoted to the interests of the local community. In 1969, Eliu, along with a group of 300 stockholders, led the formation of Centinel Bank of Taos. Eliu was a passionate entrepreneur who felt strongly about the need to keep community capital in the community to foster future generations of growth and development. In addition to his law practice, Eliu participated actively in the Democratic Party and served on the Democratic Party of New Mexico Central Committee to support state and congressional candidates. He also took great pride in being a founder of the National Hispanic Cultural Center in Albuquerque. Eliu held a deep and passionate love for the land of northern New Mexico. He was always most at peace either picking apples from the orchard in Upper San Cristobal near where he grew up, or working on his ranch in Tres Piedras and then sitting under the porch of the old shepherd's cabin to gaze at the view of the expansive Sangre de Cristo Mountains. The conservation easement he placed on his property in the San Cristobal valley was among the first in Taos County and will preserve the beauty of that land for eternity. Eliu was preceded in death by his parents, Domitila and Gabriel Romero; sisters, Licia Vigil (Leopoldo), Cora Chai (Calvin), Pricilla Romero McComas (Robert), and Ernestine Romero; brothers, Joe Romero and Adelmo Romero; nephews, Leopoldo Vigil, Jr., Wilbert Vigil, and Edward Romero. He is survived by his wife, Kimberly Grant-Romero; stepsons, Justin S. Grant (Ivy) and Colin W. Grant; former wife and mother of his two sons, Elizabeth Romero; sons, Martin Romero (Cheryl) and Dennis Romero (Sibylle); grandchildren, Rebeca Romero Rainey (John), Miguel Romero (Regina), Chris Romero (Leslie), and Gabriela Romero (and her mother, Lisa Dreger); great-grandchildren, Miquela Romero, Miguel Mateo Romero, Marcos Romero, Izabella Romero Rainey, Elliana Romero Rainey, Andrew Romero, Allie Romero; great-great-grandchild, Mariana Romero. His sisters, Fabi Romero, Veronica Romero, and Eleanor Romero (Alfredo Vigil); brothers, Robert Romero (Vera) and Ramon Pacheco (Amy); sister-in-law, Marcella Romero. And numerous nieces, nephews, great-nieces and -nephews, and great-great-nieces and -nephews. Eliu's love of the land, the law, and community was only surpassed by love of his family. The charisma, passion, and dedication Eliu brought to everything he did will live on for generations to come-his legacy endures in his family, the stewardship and conservation of the lands, his love of the law, Centinel Bank, and the many lives that he touched over the years. Eliu will be greatly missed by his family, his many friends and associates in the community, and by his wife, Kym, who says

theirs was "a match made in Heaven." Services will be held at the following locations and times: Rosary and eulogy at Our Lady of Guadalupe Church on Thursday, March 7, at 6 pm. Mass will be held on Friday, March 8, at 10 am at Our Lady of Guadalupe. Arrangements by Rivera Family Funeral home.

On Sept. 21, a day in which the Sun and Moon found equal balance during the Equinox transition from Summer to Fall, **James Alton Askew** (a.k.a. Jim, Jimbo) passed away peacefully in his sleep at his home in Albuquerque, New Mexico; he was 64 years old. Jim was born January 28th, 1960, in Fayetteville, North Carolina. After completing high school in Asheboro, NC Jim went on to attend North Carolina State University (as the men in the Askew family did), where he graduated with his Bachelors in 1982 and went on to finish Law School at the University of Denver in 1986. As proud member of the Wolf Pack he never had a kind word about Tar Heels. *Esse quam videri*, "To be rather than to seem." Jim is survived by his Mother, Mary, siblings Rebecca, Mary, John and Joe as well as many friends around the world. He is preceded by his father Eddie, as well as his beloved dogs Colter, Fremont, Tim Stray Dog and Sea Biscuit. As an Eagle Scout, Jim visited Philmont Scout Ranch in Cimarron, NM. It was there Jim's fondness for the West was born and where he would spend the rest of this life exploring the vast landscapes and high mountains. During college summers, Jim worked at Philmont as a Ranger, Rayado Trek Coordinator, Associate Chief Ranger and eventually the Manager of Logistics. As Manager of Logistics, he oversaw thousands of participants on the ranch. Jim loved to plan, and he found that few things made him happier than a plan well executed. After Working at Philmont and getting his law license, Jim moved to Albuquerque, NM, which he called home, for the rest of his life. He started his law career as a Clerk for Judge Stewart Rose in Federal Bankruptcy Court. Jim then went on to specialize in Bankruptcy. He worked for various law firms in Albuquerque until finally establishing his own practice, The Askew Law Firm. Jim was also listed in the Best Lawyers in America and the Southwest Super Lawyers 2010-2024 for his expertise and experience in Bankruptcy & Creditor/Debtor Rights Law. "*Esse quam videri*," is found in Cicero's essay, "On Friendship," and Jim definitely had many friends from all around the world and all walks of life. He loved sharing adventures around the western United States with his vast network of comrades. Jim climbed all the fourteen-thousand-foot-high mountain peaks in Colorado (twice) and was a few peaks short of all of them three times. It is estimated that around 3,000 people have climbed all 54-peaks once, so twice put Jim in rare company. He also climbed Wheeler Peak, the highest point in New Mexico over 50-times. Jim also took a copy of Lonesome Dove to the top of Denali Peak in Alaska, the highest mountain in the United States. Finally, Jimbo loved the outdoors, Jerry Jeff Walker, the study of history, camping, rye whiskey ("provided it got here quick, Larry McMurtry"), and steam engines (in particular, the 473 out of Durango, Colorado). Perhaps, he must have heard a steam whistle blow and the call, "All Aboard," as he passed on. The only healthy way to live life is, "to learn to like all the little everyday things - like a sip of good whiskey in the evening, a soft bed, a glass of buttermilk, or a feisty gentleman, Larry McMurtry," like Jimbo. You will be missed by all the lives you touched. While we have lost Jim he still lives on, just in another part of our heart. "Uva Uvam Vivendo Varia Fit, 'The grape changes ripens by looking at another grape'" a memorial service is being planned for Jan. 2025.

From the New Mexico Supreme Court

Opinion Number: 2025-NMSC-013

No: S-1-SC-39432 (filed January 16, 2025)

SOUTHWESTERN PUBLIC SERVICE COMPANY,

Appellant,
and

EL PASO ELECTRIC COMPANY, PUBLIC SERVICE COMPANY OF NEW MEXICO,

Intervenors-Appellants,

v.

NEW MEXICO PUBLIC REGULATION COMMISSION,

Appellee,
and

**COALITION FOR COMMUNITY SOLAR ACCESS, RENEWABLE ENERGY INDUSTRIES ASSOCIATION OF NEW MEXICO,
CITY OF LAS CRUCES, NEW ENERGY ECONOMY, and COALITION OF SUSTAINABLE COMMUNITIES NEW MEXICO,**

Intervenors-Appellees.

**In the Matter of the Commission's Adoption of Rules Pursuant to the Community Solar Act,
NMPRC Case No. 21-00112-UT**

APPEAL FROM THE NEW MEXICO PUBLIC REGULATION COMMISSION

Hinkle Shanor, LLP
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New Energy Economy
Mariel Nanasi
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for Intervenor-Appellee
New Energy Economy

Stephanie Dzur
Albuquerque, NM

for Intervenor-Appellee Coalition for
Sustainable Communities
New Mexico

CONSOLIDATED WITH

No. S-1-SC-39558

SOUTHWESTERN PUBLIC SERVICE COMPANY,
Appellant,
v.
NEW MEXICO PUBLIC REGULATION COMMISSION,
Appellee.

**In the Matter of the Commission's Adoption of Rules Pursuant to the Community Solar Act,
NMPRC Case No. 21-00112-UT**

APPEAL FROM THE NEW MEXICO PUBLIC REGULATION COMMISSION

Hinkle Shanor, LLP Dana S. Hardy Timothy B. Rode Santa Fe, NM	for Appellant
Erika M. Kane, Lead General Counsel Austin TX	Russell R. Fisk, Associate General Counsel Erin E. LeCocq, Special Counsel Santa Fe, NM for Appellee

AND

No. S-1-SC-39611

SOUTHWESTERN PUBLIC SERVICE COMPANY,
Appellant,
v.
NEW MEXICO PUBLIC REGULATION COMMISSION,
Appellee.

**In the Matter of Implementation and Administration of the Community Solar Program,
Case No. 22-00020-UT**

**In the Matter of the Compliance Filing of Southwestern Public Service Company Pursuant to 17.9.573.9 NMAC,
Case No. 22-00240-UT**

**In the Matter of the Application of El Paso Electric Company for Approval of Tariffs Necessary
for Implementation of the New Mexico Community Solar Program and Accounting Order,
Case No. 22-00243-UT**

APPEAL FROM THE NEW MEXICO PUBLIC REGULATION COMMISSION

Hinkle Shanor, LLP Dana S. Hardy Timothy B. Rode Santa Fe, NM	Erika M. Kane, Lead General Counsel Austin TX for Appellant	Russell R. Fisk, Associate General Counsel Erin E. LeCocq, Special Counsel Santa Fe, NM for Appellee
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AND

No. S-1-SC-39678

SOUTHWESTERN PUBLIC SERVICE COMPANY,

Appellant,

v.

NEW MEXICO PUBLIC REGULATION COMMISSION,

Appellee.

**In the Matter of Implementation and Administration of the Community Solar Program,
Case No. 22-00020-UT**

**In the Matter of the Compliance Filing of Southwestern Public Service Company
Pursuant to 17.9.573.9 NMAC,
Case No. 22-00240-UT**

**In the Matter of the Application of El Paso Electric Company for Approval
of Tariffs Necessary for Implementation of the New Mexico
Community Solar Program and Accounting Order,
Case No. 22-00243-UT**

APPEAL FROM THE NEW MEXICO PUBLIC REGULATION COMMISSION

Hinkle Shanor, LLP
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for Appellant

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Associate General Counsel
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Santa Fe, NM

for Appellee

OPINION

ZAMORA, Justice.

{1} In this appeal we decide whether the Community Solar Rule, 17.9.573 NMAC (7/12/2022 as amended through 10/22/2024) (the Rule), is contrary to various provisions of the Community Solar Act (the Act), NMSA 1978, §§ 62-16B-1 to -8 (2021, as amended through 2022), and is therefore “unreasonable or unlawful,” NMSA 1978, § 62-11-5 (1982). Among other things, Appellant Southwestern Public Service Company (SPS) and

Intervenors Public Service Company of New Mexico (PNM) and El Paso Electric Company (EPE) (the Utilities)¹ challenge the Rule’s prohibition against subtracting transmission costs from a utility’s community solar bill-credit rate as an unlawful subsidy under the Act. *See* 17.9.573.20(D) NMAC; *see also* § 62-16B-7(B)(8) (setting forth requirements for “a community solar bill credit rate mechanism,” including that “non-subscribers shall not subsidize costs attributable to subscribers”). We hold that prohibiting the subtraction of transmission costs from the bill-credit rate is a reasonable exercise of the policy-making authority delegated under the Act to the New Mexico

Public Regulation Commission. We therefore affirm the Commission on that issue. *See* § 62-11-5. We similarly hold that the other provisions of the Rule challenged by the Utilities are neither unreasonable nor unlawful, and we affirm the Commission’s adoption of the Rule in full. *See id.*

{2} We also must decide (1) whether the Rule must be vacated and annulled because of possible ex parte communications after the close of the rulemaking record purportedly in violation of statute and due process and (2) whether the Commission violated statute and due process by rejecting SPS’s original, proposed bill-credit rate without a hearing. Answering both questions in the

¹ Unless otherwise noted, SPS is joined in its substantive challenges to the Rule by PNM and EPE. The City of Las Cruces and four advocacy organizations also intervened and filed an answer brief in support of the Rule and the various orders challenged in this appeal.

► From the New Mexico Supreme Court

<https://www.nmcompcomm.us>

negative, we affirm the Commission's orders challenged in this appeal.

I. BACKGROUND

{3} This consolidated appeal centers on the Commission's efforts to promulgate and enforce rules to implement the Community Solar Act. In brief, the Act provides for the creation and development of community solar facilities, which are subscriber-owned or operated facilities that produce solar-generated electricity, are located within a public utility's service territory, and are interconnected to the utility's distribution system. *See* § 62-16B-2(D) (defining "community solar facility"); § 62-16B-3(A)(2) (setting forth requirements for the location and interconnection of community solar facilities); § 62-16B-4(A) (providing for ownership of community solar facilities). A community solar subscriber receives a credit from the utility on the subscriber's electric bill, calculated by multiplying a per-kilowatt-hour rate determined by the Commission by up to one hundred percent of the electricity the subscriber consumed. Section 62-16B-2(D); *see also* § 62-16B-2(C) (defining "community solar bill credit rate"); § 62-16B-5(A)(1) (setting forth subscription requirements). The Rule's requirements for establishing the bill-credit rate are the subjects of several challenges in this appeal. {4} The Act, which was signed into law in April 2021, mandates an aggressive timeline for promulgating rules to establish a community solar program. *See* 2021 N.M. Laws ch. 34, § 7; *see also* § 62-16B-7(B) ("The Commission shall adopt rules to establish a community solar program by no later than April 1, 2022."); *see also* § 62-16B-7(E) (requiring a comprehensive report to "the appropriate interim legislative committee" by November 1, 2024, "on the status of the community solar program, including . . . an evaluation of the effectiveness of the [C]ommission's rules to implement the [Act] and any recommended changes"). The Act also prescribes a detailed list of ten subject areas the eventual rules must address through a broadly inclusive rule-making process. *See* § 62-16B-7(B); *see also* § 62-16B-7(D) (requiring the Commission to "solicit input from relevant state agencies, public utilities, low-income stakeholders, disproportionately impacted communities,

potential owners or operators of community solar facilities, Indian nations, tribes and pueblos and other interested parties in its rulemaking process").

{5} In response to the Act's timeline and detailed rulemaking requirements, the Commission opened a rulemaking docket in May 2021 and contracted with a specialized consulting firm to "advise and assist with regard to the . . . rulemaking . . . , including substantive issues such as the content of any rule as well as procedural issues such as facilitating stakeholder engagement in the process." The Commission also announced the formation, "within the Commission, [of] a Community Solar Action Team (the 'Team')," composed of two commissioners and unnamed representatives of the Commission's Utilities Division Staff, Office of General Counsel, and Chief of Staff, "among others." The Team's stated purposes were to "take a leading role in the rulemaking process, [to] interface with [the consultant], and [to] endeavor to maximize stakeholder engagement."

{6} After five months of soliciting input through workshops and working groups, the Commission filed its Order Issuing Notice of Proposed Rulemaking (the Notice) in late October 2021. The Notice summarized the Commission's informal proceedings, culminating in the consultant's comprehensive status report summarizing stakeholder input and providing recommendations for the proposed rule. The Notice also included the proposed rule itself, which the Commission acknowledged was incomplete due to "insufficient time and insufficient resources to formulate a comprehensive proposed rule in the informal proceedings." Accordingly, the Notice included a list, recommended by the Team, of "Additional Issues to be Addressed in Formal Comment Process."

{7} After the comment period ended, the Commission issued its Order Adopting the Rule on March 30, 2022, two days before the statutory deadline. *See* § 62-16B-7(B). In addition to providing the text of the final rule, the order summarized the formal comment process and identified the parties who had submitted comments during the comment period, including the Utilities. For each issue raised during the comment period, the order summarized the comments received,

provided the Team's recommendations and reasoning for addressing the issue in the final rule, and stated the Commission's decision.

{8} A spate of motions followed, challenging the Order Adopting the Rule. In response, the Commission issued its Order on Rehearing on May 18, 2022, partially granting five motions for rehearing, reconsideration, and clarification of the Order Adopting the Rule, denying four motions seeking similar relief on other grounds, and partially granting SPS's and EPE's request for procedural clarifications. Relevant here, the Commission denied many of the Utilities' substantive challenges to the Rule. The Commission also rejected the Utilities' argument that the Team's recommendations after the close of the record may have amounted to prohibited *ex parte* communications.

{9} SPS first appealed to this Court from the Order on Rehearing and the Order Adopting the Rule, challenging various provisions of the Rule as contrary to the Act and challenging the Commission's reliance on the Team's recommendations after the close of the record as a violation of statute and due process. PNM and EPE intervened in the appeal and joined SPS's arguments except as noted later in this opinion.

{10} While SPS's first appeal was pending, it filed its first advice notice with the Commission under the Rule, which included a proposed bill-credit rate that openly excluded transmission costs contrary to Rule 573.20(D). *See* 17.9.573.20(D) NMAC ("The utility shall not subtract any costs of transmission from the solar bill credit rate calculation."). The Commission rejected the bill-credit rate without a hearing, finding that SPS had subtracted transmission costs in "flagrant disregard" of the Rule and ordering SPS to file a compliant rate within two business days. SPS filed a second advice notice under protest, with a bill-credit rate that did not subtract transmission costs, and demanded a hearing on its original proposed bill-credit rate. The Commission again concluded that no hearing was necessary and allowed SPS's revised bill-credit rate to take effect. SPS appealed from both orders, arguing that the denial of its original proposed bill-credit rate violated SPS's

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statutory and due process rights.

{11} We consolidated these various appeals, ordered briefing, and heard oral argument. Shortly after the argument, we filed an order upholding the Rule and affirming the Commission's orders challenged in this appeal. *See* Order, S-1-SC-39432 (Mar. 11, 2024). We now issue this opinion to explain our reasoning.

II. DISCUSSION

{12} We consider this appeal in three sections. In Section II.A, we consider the Utilities' various challenges to the Rule itself, beginning with their challenge to the prohibition against subtracting transmission costs from the bill-credit rate. In Section II.B, we consider whether the Commission engaged in prohibited ex parte communications with the Team after the close of the record in violation of statute and due process. In Section II.C, we address the Commission's refusal to hold a hearing before rejecting SPS's original bill-credit rate or allowing SPS's revised bill-credit rate to take effect. We provide additional background as necessary throughout our analysis.

A. The Utilities Have Not Met Their Burden to Show the Rule Is Unreasonable or Unlawful

{13} The Utilities challenge the Rule on seven grounds, arguing that it violates various provisions of the Act, is vague and unenforceable, or is arbitrary and capricious. Specifically, the Utilities argue that the Rule (1) creates an unlawful subsidy by prohibiting the subtraction of transmission costs from the bill-credit rate, (2) creates an unlawful subsidy by allowing interconnection costs to be shared with non-subscribers on a case-by-case basis, (3) violates the prohibition against co-location by allowing co-location of community solar facilities on a case-by-case basis, (4) ignores the Commission's duty to oversee the selection of community solar projects by delegating responsibility to a third-party administrator, (5) ignores the requirement to promulgate interconnection rules specifically for community solar facilities, (6) ignores the requirement to promulgate guidelines for low-income customers, and (7) fails to implement adequate consumer protection standards and enforcement procedures. These are legal questions that

we review de novo and that we address in turn. *N.M. Atty. Gen. v. N.M. Pub. Regul. Comm'n*, 2015-NMSC-032, ¶ 24, 359 P.3d 133. As the parties challenging the Rule, the Utilities bear the burden of demonstrating the Rule is unreasonable or unlawful. *See* NMSA 1978, § 62-11-4 (1965).

1. The Commission's interpretation of Section 62-16B-7(B)(8) to prohibit subtracting transmission costs from the bill-credit rate is reasonable and within the Commission's policy-making authority

{14} The Utilities first challenge the Rule's prohibition against subtracting transmission costs from the bill-credit rate. The Rule provides that "[t]he utility shall not subtract any costs of transmission from the solar bill credit rate calculation." 17.9.573.20(D) NMAC. The Utilities argue the prohibition will result in non-subscribers subsidizing transmission "costs attributable to subscribers," in violation of Section 62-16B-7(B)(8), and will exceed the scope of the Act's definition of *community solar bill credit*, which is limited to "the credit value of electricity generated by a community solar facility." Section 62-16B-2(B) (emphasis added). The Utilities contend that the Rule's mandate against subtracting transmission costs from the bill-credit rate "is directly contrary to the Act" and amounts to an abuse of discretion.

a. Additional background

{15} We provide three points of additional background before proceeding with our analysis. First, we take note of the terms *generation* (production), *transmission*, and *distribution* in this context and how they apply to community solar facilities. In general, electricity is *generated* at the production location, *transmitted* over long distances at high voltage, and stepped down to a lower voltage so it can be *distributed* to customers at a local level. *See* 17.9.531.7(F) NMAC ("Generation means the production or acquisition of energy supply."); 17.9.531.7(G) NMAC ("Transmission means the activities involved in the transmission of electric power from the source or producer of power to the distribution system."); 17.9.531.7(D) NMAC ("Distribution means the delivery of electric power from the transmission system through distribution lines to the meter of

<https://www.nmcompcomm.us>

the retail customer."). By definition, a community solar facility is a generation source *within* a utility's distribution system that produces additional electricity for the utility and its customers, including both subscribers and non-subscribers. *See* § 62-16B-3(A) (2) (requiring a community solar facility to be interconnected to a utility's distribution system); *see also* § 62-16B-6(A)(1) ("A qualifying utility shall . . . acquire the entire output of a community solar facility connected to its distribution system."). Accordingly, electricity generated by a community solar facility is distributed and consumed locally, without requiring use of a utility's transmission system.

{16} Second, we note the significance of the bill-credit rate itself, which the Commission's rulemaking consultant described as "a central feature of any community solar program and . . . critical to its success." As the consultant explained,

A bill credit rate set too low will erode developer interest in pursuing community solar projects and undermine the value proposition for prospective customer-subscribers. The net effect is likely a community solar program in name only; with few, if any, community solar projects developed and customers enjoying little by way of bill savings. Conversely, a bill credit rate set too high can catalyze an "overheated" community solar market, driving difficult interconnection queue issues, consumer protection concerns, and potentially impacting utility revenue collection from the application of credits on Subscribers['] bills.

In practical terms, the bill-credit rate determines the credit that a community solar subscriber will receive from a utility for each kilowatt-hour of electricity consumed, for up to one hundred percent of the subscriber's average annual consumption. *See* § 62-16B-2(C); § 62-16B-5(A) (1). By definition, the bill-credit rate is *less* than the approved rate charged by a utility for each kilowatt-hour of electricity consumed. *See* § 62-16B-7(B)(8) (prescribing the bill-credit rate as the "total aggregate retail rate [(TARR)] . . . less the

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[C]ommission-approved distribution cost components”). For example, the approved bill-credit rate challenged by SPS in this appeal will reduce a residential-service subscriber’s monthly electricity rate by approximately seventy percent for each kilowatt-hour of electricity eligible for the credit.²

{17} Third, the Act requires the Commission to establish a “mechanism” by rule for calculating the bill-credit rate on a per-customer-class basis. Section 62-16B-7(B) (8). The relevant provision, quoted here in full, mandates the creation of rules that provide a community solar bill credit rate mechanism for subscribers derived from the qualifying utility’s [TARR] on a per-customer-class basis, less the [C]ommission-approved distribution cost components, and identify all proposed rules, fees and charges; provided that non-subscribers shall not subsidize costs attributable to subscribers; and provided further that if the [C]ommission determines that it is in the public interest for non-subscribers to subsidize subscribers, non-subscribers shall not be charged more than three percent of the non-subscribers’ aggregate retail rate on an annual basis to subsidize subscribers.

Id. For purposes of our discussion, this provision has two main components. First, it sets forth a basic formula: the bill-credit rate is “derived from the qualifying utility’s [TARR] . . . , less the [C]ommission-approved distribution cost[s].”³ *Id.* Second, the statute sets forth a proviso to the basic formula: “non-subscribers

shall not subsidize costs attributable to subscribers.” *Id.*

{18} How to calculate the bill-credit rate under Section 62-16B-7(B)(8)—and specifically whether transmission costs should be subtracted from the TARR—was, according to the Team, “perhaps the point of greatest contention between utilities, on the one hand, and subscriber organizations and other commenters, on the other hand.” For its part, SPS insisted that including transmission costs in the bill-credit rate would “result in an unrecognized subsidy of community solar by non-subscribers,” in violation of the statute’s proviso. *Id.* However, both the Team and the Commission were persuaded that “the express exclusion of distribution costs from the credit [in the basic formula] renders the Legislature’s silence on transmission costs a clearly intentional omission, and thus, indicates an intent not to exclude transmission costs.” The final version of the Rule therefore prohibits subtracting (excluding) transmission costs from the bill-credit rate. See 17.9.573.20(D) NMAC. Later in the proceedings, the Commission elaborated on its reasons for the prohibition, explaining that its view of legislative intent is “consistent with the Commission’s understanding of community solar projects.” In the Commission’s view, “It is difficult . . . to conceive of any situation in which transmission costs might reasonably be considered to have been caused by a community solar project. On the contrary, community solar projects bring generation within the distribution level of the grid.”

b. Discussion

{19} We must decide whether the Commission’s interpretation of Section 62-16B-7(B)(8) as prohibiting subtracting transmission costs from the bill-credit rate is

contrary to the Act. We are not bound by the Commission’s interpretation of a statute and “may substitute (our) own judgment for that of the agency” because “[i]t is the function of the courts to interpret the law.” *Doña Ana Mut. Domestic Water Consumers Ass’n v. N.M. Pub. Regul. Comm’n*, 2006-NMSC-032, ¶ 10, 140 N.M. 6, 139 P.3d 166 (internal quotation marks and citation omitted). In certain circumstances, however,

[w]e are . . . more likely to defer to an agency interpretation if the relevant statute is unclear or ambiguous, the legal questions presented implicate special agency expertise or the determination of fundamental policies within the scope of the agency’s statutory function, and it appears that the agency has been delegated policy-making authority in the area.

Id. (internal quotation marks and citations omitted). When these circumstances are present, we will defer to “the agency’s interpretation of a law [unless it] is unreasonable or unlawful.” *Morningstar Water Users Ass’n v. N.M. Pub. Util. Comm’n*, 1995-NMSC-062, ¶ 11, 120 N.M. 579, 904 P.2d 28; see also *Gila Res. Info. Project v. N.M. Water Quality Control Comm’n*, 2018-NMSC-025, ¶ 35, 417 P.3d 369 (“We will overturn the administrative construction of statutes by appropriate agencies *only if they are clearly incorrect*.” (internal quotation marks and citation omitted)). For the reasons that follow, we defer to the Commission’s interpretation of Section 62-16B-7(B)(8).

{20} To start, the statute’s meaning is ambiguous and “reasonably subject to multiple interpretations.” See *State v. Almanzar*, 2014-NMSC-001, ¶ 15, 316 P.3d 183. While the

² The community solar bill credit is distinct from the cost of a community solar subscription, which is paid directly to a community solar subscriber organization. See § 62-16B-2(M) (defining subscriber organization); § 62-16B-2(N) (defining subscription); § 62-16B-6 (setting forth duties of utilities and subscriber organizations in administering a community solar program).

³ The Act separately defines the TARR, which provides the starting point for calculating the bill-credit rate as the total amount of a qualifying utility’s demand, energy and other charges converted to a kilowatt-hour rate, including fuel and power cost adjustments, the value of renewable energy attributes and other charges of a qualifying utility’s effective rate schedule applicable to a given customer rate class, but does not include charges described on a qualifying utility’s rate schedule as minimum monthly charges, including customer or service availability charges, energy efficiency program riders or other charges not related to a qualifying utility’s power production, transmission or distribution functions, as approved by the [C]ommission, franchise fees and tax charges on utility bills. Section 62-16B-2(O).

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basic formula for calculating the bill-credit rate is clear and undisputed, the proviso's language—"provided that non-subscribers shall not subsidize costs attributable to subscribers," § 62-16B-7(B)(8)—"does not lend itself well to judicial construction" when several of its key terms are undefined and "general enough . . . to have a variety of meanings." *Doña Ana*, 2006-NMSC-032, ¶ 15 (holding that the phrase "'unreasonably interfere with the service or system' of a utility" was ambiguous when *interfere* and *service or system* were undefined).

{21} For instance, the Act does not define *subsidize* or prescribe how to determine whether the bill-credit rate could result in a subsidy by non-subscribers, whose electricity bills are not directly affected by the bill-credit rate. *Cf.* § 62-16B-6(A)(2) ("A qualifying utility shall . . . apply community solar bill credits to *subscriber* bills . . ." (emphasis added)). Similarly, the Act does not define *costs* or identify the types of costs that may be subject to the proviso prohibiting subsidization. Notably, the only costs identified in Section 62-16B-7(B)(8) are the "distribution cost components" that must be subtracted from the TARR, *see id.*, and the "fuel and power cost adjustments" incorporated by reference from the definition of the TARR itself, § 62-16B-2(O). Whether the proviso applies only to these identified costs, to other, unnamed costs, or to these and other costs is unclear. Nor does the Act define the phrase *attributable to subscribers*, including whether it refers to subscribers as generic ratepayers or specifically as a result of their subscription. When the Legislature has left such questions open to reasonable interpretation, the statute is ambiguous. *See Doña Ana*, 2006-NMSC-032, ¶ 15.

{22} In addition, Section 62-16B-7(B)(8) addresses the Commission's regulatory authority, justifying our deference to the Commission's interpretation. The statute implicates the Commission's specialized expertise, namely regulating public utilities and setting "fair, just, and reasonable rates." NMSA 1978, § 62-3-1(B) (2008);

see also, e.g., Doña Ana, 2006-NMSC-032, ¶ 16 (describing "a comprehensive regulatory scheme granting the [Commission] the policy-making authority to plan and coordinate the activities of New Mexico public utilities, in a manner consistent with the Legislature's stated goals"). The statute also delegates responsibility to the Commission for adopting a rule to "provide a community solar bill credit rate mechanism for subscribers." Section 62-16B-7(B)(8). This delegation necessarily includes the policy-making authority to promulgate a rule consistent with the purposes of the Act and the Commission's expertise. *See* NMSA 1978, § 62-19-9(A) (2020) ("The [C]ommission shall administer and enforce the laws with which it is charged and has every power conferred by law."). Given the Legislature's express delegation of authority to effectuate the ambiguous requirements of Section 62-16B-7(B)(8), "[t]he Commission is the appropriate policy-making entity in this context." *Gila Res. Info. Project*, 2018-NMSC-025, ¶ 36.

{23} We therefore defer to the Commission's interpretation of Section 62-16B-7(B)(8) unless it is unreasonable or unlawful. *Morningstar Water Users Ass'n*, 1995-NMSC-062, ¶ 11. It is neither. The Commission concluded that the Legislature intended transmission costs *not* to be subtracted from the TARR when determining the bill-credit rate given (1) the statute's clear, exclusive mandate to subtract *distribution* costs from the TARR and (2) the absence of any reference to transmission costs in the statute. We have applied this reasoning before, albeit in different contexts. *See State v. Nick R.*, 2009-NMSC-050, ¶¶ 16, 23, 147 N.M. 182, 218 P.3d 868 (holding that the Legislature's inclusion of the specific term "switchblade" in the definition of "deadly weapon" showed an intent not to include "all pocketknives" in the definition); *see also City of Santa Rosa v. Jaramillo*, 1973-NMSC-119, ¶¶ 9-11, 85 N.M. 747, 517 P.2d 69 (holding that the Legislature's inclusion of two exceptions to the prohibition against transferring liquor

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licenses signaled an intent not to permit other exceptions). Consistent with our reasoning in those cases, the explicit mandate to subtract distribution costs from the TARR—with no mention of transmission costs—is highly persuasive of the Legislature's intent not to subtract transmission costs from the TARR.

{24} This reading of the statute is also supported by the Commission's explanation that community solar projects "bring generation within the distribution level of the grid" and therefore do not result in transmission costs. *See* § 62-16B-3(A)(2) (providing that a community solar facility must be interconnected to a utility's distribution system). The Commission could reasonably conclude that if a community solar project does not result in transmission costs, then such a project does not introduce transmission costs that are *attributable to subscribers* and subject to the prohibition against subsidization. *See* § 62-16B-7(B)(8). The Utilities advance a different reading of the statute under which transmission costs are shared among all ratepayers, such that crediting subscribers for their transmission costs will necessarily result in a subsidy by non-subscribers. While that may be a plausible interpretation of the statute, we defer to the Commission's reasonable interpretation as the entity delegated policy-making authority under the Act.

{25} As a final matter, we are not persuaded by the Utilities' argument that the Act's definition of *community solar bill credit* requires a different result. *See* § 62-16B-2(B). The Utilities argue that because the Act defines the bill credit as "the credit value of electricity *generated* by a community solar facility," the bill-credit *rate* must not include any costs unassociated with the costs of generation. *Id.* (emphasis added). Again, the Utilities' preferred reading of Section 62-16B-2(B) is not the only permissible reading of that provision.⁴ And importantly, the Utilities' interpretation would render other provisions of the Act surplusage. If the bill credit were limited to the cost of genera-

⁴ For instance, one could reasonably emphasize "the credit value of electricity generated by a community solar facility," § 62-16B-2(B), an interpretation that would consider all of the costs and benefits that result from electricity generated by a community solar facility, not merely the cost of generation. This reading of the statute would readily support the Commission's interpretation of Section 62-16B-7(B)(8).

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tion, it would be unnecessary to prescribe in detail how to calculate the TARR and then to mandate the subtraction of distribution costs. See § 62-16B-2(O) (defining the TARR); § 62-16B-7(B)(8). We decline to read Section 62-16B-2(B) in a manner that would impermissibly render these other provisions unnecessary. See, e.g., *State v. Hobbs*, 2022-NMSC-018, ¶ 23, 518 P.3d 489. The Commission's interpretation of Section 62-16B-7(B)(8) is reasonable, lawful, and within the scope of the policy-making authority delegated by the Legislature under the Act.

2. The Commission's interpretation of Section 62-16B-7(B)(6) to allow the sharing of interconnection costs on a case-by-case basis is reasonable and within the Commission's policy-making authority

{26} The Utilities next challenge Rule 573.13(A), which provides that “[t]he [C]ommission may determine on a case-by-case basis whether the cost of distribution system upgrades necessary to interconnect one or more community solar facilities may be eligible for some form of cost-sharing” among ratepayers, including both subscribers and non-subscribers. 17.9.573.13(A)(2) NMAC. The Utilities argue that *any* sharing of interconnection costs with non-subscribers necessarily results in subsidization, in violation of Section 62-16B-7(B)(6). That provision requires the Commission, in relevant part, to adopt rules that “establish . . . standards, fees, and processes for the interconnection of community solar facilities . . . , such that a qualifying utility and its non-subscrib[ers] do not subsidize the costs attributable to the subscriber organization under this paragraph.” *Id.* In the Utilities' view, subsidization and cost sharing are synonymous, so the Commission erred by allowing the potential for any interconnection costs to be shared with non-subscribers.

{27} In response, the Commission argues that the Rule does not violate Section

62-16B-7(B)(6) because cost sharing with non-subscribers may be permitted only when subsidization would *not* occur. According to the Commission, a subscriber organization requesting cost sharing must demonstrate under Rule 573.13(C) that “the costs borne by [non-subscribing] ratepayers are matched or exceeded by demonstrable benefits to such ratepayers, so that there will be no subsidization of interconnection costs by nonsubscribing ratepayers in appropriate cases.” 17.9.573.13(C) NMAC (emphasis added). The Commission also points to the Rule's standards for evaluating the public benefit of a “cost-sharing mechanism,” which are derived from the existing statutory standards for “considering cost sharing or rate basing grid modernization projects.” 17.9.573.13(B) NMAC; see NMSA 1978, § 62-8-13 (2021) (setting forth requirements for a public utility to apply for “grid modernization projects”). The Commission argues that allowing cost sharing in these limited circumstances may be necessary when, for example, interconnection costs would otherwise be prohibitive to a subscriber organization.⁵ The Commission states that this flexible approach balances its duty to adopt rules that satisfy Section 62-16B-7(B)(6) and that “reasonably allow for the creation, financing and accessibility of community solar facilities.” Section 62-16B-7(B)(9).

{28} The Utilities' argument again requires us to consider whether the Commission's interpretation of a statute—this time, the prohibition against subsidization set forth in Section 62-16B-7(B)(6)—is worthy of deference. As a threshold matter, we hold that Section 62-16B-7(B)(6) is ambiguous and concerns substantive issues within the Commission's policy-making authority and expertise. See *Doña Ana*, 2006-NMSC-032, ¶ 10 (describing circumstances when the Court is likely to defer to the Commission's interpretation of a statute). The statute's meaning is ambiguous when the Act neither

defines the term *subsidize* nor prescribes how to ensure that “a qualifying utility and its non-subscrib[ers] do not subsidize the costs attributable to the subscriber organization.” Section 62-16B-7(B)(6). And by requiring rules that establish “standards, fees, and processes for the interconnection of community solar facilities,” the Legislature has tasked the Commission with interpreting Section 62-16B-7(B)(6) in a manner that balances the various interests at stake. See *Gila Res. Info. Project*, 2018-NMSC-025, ¶ 34. This task falls squarely within the Commission's expertise. See, e.g., *S.W. Pub. Serv. Co. v. N.M. Pub. Regul. Comm'n*, 2024-NMSC-012, ¶ 40, 548 P.3d 97 (describing the Commission's “overarching duty to regulate public utilities in a manner that balances the interests of the public, consumers, and investors to ensure that reasonable and proper services shall be available at fair, just and reasonable rates” (internal quotation marks and citation omitted)).

{29} We therefore will defer to the Commission unless we agree with the Utilities that the Commission's interpretation of Section 62-16B-7(B)(6) “is unreasonable or unlawful.” See *Morningstar Water Users Ass'n*, 1995-NMSC-062, ¶ 11. As previously noted, the Utilities argue that the Act's prohibition of subsidization applies to cost sharing with equal force. We disagree that the statute's meaning is so clear when the Act provides no guidance about the form or substance that a prohibited subsidy may—or must—take. The term *subsidize* certainly does not forbid consideration of both the costs and benefits of interconnection upgrades when evaluating whether “some form of cost-sharing . . . among all rate payers” may be permitted without violating the prohibition against subsidization. 17.9.573.13(A)(2) NMAC.

{30} Moreover, the Utilities cite no authority that would require their preferred reading of the statute, particularly when the Rule limits cost sharing to circumstances

⁵ This argument is consistent with the Team's recommendation about sharing interconnection costs, in which it warned that “some, perhaps many, [community solar] projects will be met with prohibitive interconnection costs involving upgrades to the system that would benefit other projects and non-subscribing ratepayers. Cost sharing could well be the critical factor determining the feasibility of many projects.”

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when there will be *no* subsidization because of the off-setting benefit to all ratepayers of the resulting system upgrades. We defer to the Commission's interpretation of Section 62-16B-7(B)(6) to allow cost sharing in appropriate circumstances as a reasonable balancing of the interests of community solar facilities, subscribers, non-subscribers, and utilities, in accordance with the authority delegated under the Act. *See New Energy Econ., Inc. v. N.M. Pub. Regul. Comm'n*, 2018-NMSC-024, ¶ 25, 416 P.3d 277 (“[I]f it is clear that our Legislature delegated to the [Commission] (either explicitly or implicitly) the task of giving meaning to interpretive gaps in a statute, we will defer to the [Commission]’s construction of the statute as the [Commission] has been delegated policy-making authority and possesses the expertise necessary to make sound policy”).

3. The Commission’s interpretation of the Act’s prohibition against the co-location of community solar facilities is reasonable and within the Commission’s policy-making authority

{31} The Utilities next argue the Rule unlawfully allows co-location of community solar facilities, in violation of two provisions of the Act that expressly prohibit co-location. *See* § 62-16B-3(A)(4) (“A community solar facility shall . . . have the option to be co-located with other energy resources, *but shall not be co-located with other community solar facilities*.” (emphasis added)); § 62-16B-7(B)(10) (“The rules shall . . . provide requirements for the siting and co-location of community solar facilities with other energy resources; *provided that community solar facilities shall not be co-located with other community solar facilities*.” (emphasis added)). The Utilities challenge Rule 573.18, which provides as follows:

As long as a community solar facility is not located on the same parcel as another community solar facility, it shall not be considered co-located with another community solar facility. For any parcel

that has been subdivided in the two years prior to a community solar project bid, all subdivided parcels shall be considered a single parcel for the purposes of this rule. The [C]ommission will consider, on a case-by-case basis, allowing more than one community solar facility to be located on the same parcel.

17.9.573.18 NMAC. According to the Utilities, this provision defines *co-location* as being located on the same parcel of land and then violates the Act by permitting the Commission to “consider, on a case-by-case basis, allowing more than one community solar facility to be located on the same parcel.” 17.9.573.18 NMAC. The Utilities argue the Commission lacks “authority to create this type of *ad hoc* exception” to the prohibition against the co-location of community solar facilities. {32} We agree with the Commission that the prohibition against co-location is ambiguous because the Act neither defines *co-locate* nor provides a reason for the prohibition. *See* §§ 62-16B-3(A)(4), -7(B)(10). The Utilities contend, however, that the term *co-locate* is not ambiguous and that its plain meaning dictates a one-facility-per-parcel definition. That assertion certainly does not follow from the Utilities’ only cited authority: a common dictionary that defines the term *colocate* to mean, “to locate (two or more things) together or be located together.” *See colocate*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/colocate> (last visited Jan. 6, 2025). The Utilities make no attempt to explain how being “located together” necessarily means being “located together [*on the same parcel*].” *Id.* Nor does any provision of the Act or the Rule require the prohibition against co-location to be enforced on a per-parcel basis. Thus, we are faced again with an ambiguous statutory term that requires the Commission to exercise its policy-making authority and apply its specialized expertise to carry out its statutory

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duties. *See* § 62-16B-7(B)(10) (requiring the Commission to adopt rules that “provide requirements for the siting and co-location of community solar facilities with other energy resources; provided that community solar facilities shall not be co-located with other community solar facilities”).

{33} The Commission’s exercise of that authority was reasonable. Rather than adopting a rigid definition of *co-locate*, the Commission opted for a flexible approach to determining whether community solar facilities are co-located. First, the Commission established a categorical rule that facilities that are not on the same parcel are *not* co-located. *See* 17.9.573.18 NMAC. This categorical rule, which we presume is lawful, has not been challenged on appeal.⁶ *See, e.g., Tenneco Oil Co. v. N.M. Water Quality Control Comm’n*, 1987-NMCA-153, ¶ 14, 107 N.M. 469, 760 P.2d 161 (“Rules and regulations enacted by an agency are presumed valid and will be upheld if reasonably consistent with the statutes that they implement.”), *superseded by statute on other grounds as stated in N.M. Mining Ass’n v. N.M. Water Quality Control Comm’n*, 2007-NMCA-010, ¶ 19, 141 N.M. 41, 150 P.3d 991.

{34} Second, the Commission opted to consider on a case-by-case basis whether two or more facilities may be located on the same parcel without violating the prohibition against co-location. *See* 17.9.573.18 NMAC. Relevant to this inquiry, the Commission found during the rulemaking that the reason for the prohibition is to avoid gaming by developers who would evade the Act’s five-megawatt limit for a single community solar facility by subdividing a parcel to locate multiple facilities in close proximity. *See* § 62-16B-3(A)(1) (providing that a community solar facility shall “have a nameplate capacity rating of five megawatts alternating current or less”). This finding is similarly unchallenged on appeal and will guide the Commission in deciding whether more than one community solar facility may be located on the same parcel

⁶ Although we defer to the Commission’s interpretation of the Act on this issue, we also note that the failure to challenge the location of community solar facilities consistent with this presumption is fatal to the Utilities’ pre-enforcement challenge. *See, e.g., Gila Res. Info. Project*, 2018-NMSC-025, ¶ 6 (“Petitioners must establish that no set of circumstances exist where the . . . [r]ule could be valid.”).

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without violating the prohibition against co-location. *Cf.* 17.9.573.18 NMAC (“For any parcel that has been subdivided in the two years prior to a community solar project bid, all subdivided parcels shall be considered a single parcel for the purposes of this rule.”). We defer to the Commission’s reasonable interpretation of the Act based on its specialized expertise. *See, e.g., New Energy Econ.*, 2018-NMSC-024, ¶ 25.

4. The Commission’s delegation of responsibility to a third-party administrator to oversee the selection process for community solar projects is not unreasonable or unlawful

{35} SPS challenges the Rule’s delegation of responsibility to a third-party administrator “for selection of proposed projects for building and operating community solar facilities” and the Rule’s detailed rubric for the administrator to follow when scoring and selecting bids.⁷ *See* 17.9.573.12 NMAC. SPS takes issue mainly with the Rule’s disclaimer that “[t]he [C]ommission will have no involvement in the process except to the extent that the administrator or any participant in the process may raise before the [C]ommission an issue that is not fully addressed in this rule and that the [C]ommission finds, in its discretion, that it should address.” 17.9.573.12(A) NMAC. SPS argues that the “wholesale delegation of all aspects of the selection of projects” violates the Act’s mandate, which requires the Commission to “establish a process for the selection of community solar facility projects,” § 62-16B-7(B)(4). In SPS’s view, this language does not allow the Commission to delegate the administration of the selection process to a third party.

{36} We disagree. Although the Act itself does not authorize the Commission to delegate the administration of the selection process, the Commission has broad authority to “enter into contracts to carry out its powers and duties.” Section 62-19-9(B)(9); *see also* §

62-19-19(A) (authorizing the Commission’s Chief of Staff to “hire on a temporary, term or contract basis such other experts or staff as the [C]ommission requires for a particular case” (NMSA 1978, § 62-19-11(A) (2020) (establishing the Commission’s Chief of Staff)); *Qwest Corp. v. N.M. Pub. Regul. Comm’n*, 2006-NMSC-042, ¶ 58, 140 N.M. 440, 143 P.3d 478 (discussing responsibilities that may be delegated to advisory staff hired on “temporary, term, or contract employment relationships with the [Commission]”). Here, the Commission’s relevant duties are to “administer and enforce the rules and provisions of the . . . Act” and to promulgate rules that “establish a process for the selection of community solar facility projects.” Section 62-16B-7(A), (B)(4). The Commission carried out these duties by first prescribing a detailed selection process by rule and then “engag[ing] a third-party administrator to manage” that process, 17.9.573.12(A) NMAC, in accordance with the Commission’s authority under Section 62-19-9(B)(9).

{37} SPS’s arguments to the contrary are overstated and unavailing. First, SPS argues that the Act does not authorize the Commission to “abdicate its duties to a third party.” This assertion does not withstand scrutiny. The Commission has prescribed a detailed, transparent process for the selection of community solar facility projects and hired a third-party administrator to manage that process. To guide the administrator, the Rule includes detailed minimum eligibility requirements for bids that will be considered, *see* 17.9.573.12(B)(1)-(5) NMAC, criteria for scoring and awarding points to eligible bids, 17.9.573.12(E)(1)-(9) NMAC, and instructions for establishing wait lists of eligible projects in each utility’s territory, 17.9.573.12(H) NMAC. SPS cites no legal authority to support its argument that the Rule’s guidance is insufficient or that the Commission may not contract with a third-party administrator to implement this

detailed, transparent selection process. We therefore assume no such authority exists. *See, e.g., State v. Veleta*, 2023-NMSC-024, ¶ 39, 538 P.3d 51 (“[W]here [the party] has not provided authority to support his position, we may assume no such authority exists.”).

{38} Second, SPS argues that the Commission exceeded its delegation authority by authorizing the “third-party administrator to make important policy decisions regarding the selection of community solar facility projects.” But SPS cites no authority that (1) proscribes the Commission from delegating “important” policy decisions, or more importantly (2) distinguishes “important” decisions, which assertedly may *not* be delegated, from “[un]important” decisions, which implicitly *may* be delegated. Nor does SPS explain how its lone example of an important decision—the administrator’s discretion to award up to five points for an innovative proposal—amounts to a policy decision at all. *See* 17.9.523.12(E)(9) NMAC. We decline to reach these unsupported arguments. *See Veleta*, 2023-NMSC-024, ¶ 39.

{39} Third, SPS challenges the provision that allows the administrator to award up to five points for an innovative proposal as void for vagueness. *See* 17.9.523.12(E)(9) NMAC. This argument may be readily answered in the context of a pre-enforcement challenge to a regulation that does not implicate constitutionally protected conduct: “A court . . . may sustain a vagueness challenge only if the law ‘is impermissibly vague in all of its applications.’” *N.M. Petroleum Marketers Ass’n v. N.M. Env’t. Improvement Bd.*, 2007-NMCA-060, ¶ 16, 141 N.M. 678, 160 P.3d 587 (quoting *Vill. of Hoffman Ests. v. The Flipside, Hoffman Ests., Inc.*, 455 U.S. 489, 495 (1982)). That standard is not met here. The Rule allows the administrator to award up to five points for a proposal that “includes an innovative commitment or provision beneficial to the local community,

⁷ PNM and EPE do not join SPS on this issue.

⁸ We also agree with the Commission and Intervenor-Appellees that this argument contradicts SPS’s position during the rule-making. The Commission requested input during the rulemaking about whether the selection process should be overseen by the Commission’s internal staff, a third party, or the Utilities themselves. SPS favored delegation, “strongly prefer[ing] that the utilities manage the process of solicitation of projects.” SPS’s argument on appeal that the Act does not permit delegation of the selection process therefore rings hollow.

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to potential subscribers, or to the program overall.” 17.9.573.12(E)(9) NMAC. While the words “innovative” and “beneficial” carry a certain amount of subjectivity, they do not “confer whimsical discretion” upon the third-party administrator or otherwise require “persons of common intelligence [to] guess at [their] meaning[s].” *Old Abe Co. v. N.M. Mining Comm’n*, 1995-NMCA-134, ¶¶ 25, 32, 121 N.M. 83, 908 P.2d 776 (internal quotation marks and citation omitted) (upholding a regulation against a void-for-vagueness facial challenge when it did not “confer whimsical discretion” on the director or impose a “criminal or civil penalty for guessing incorrectly” about the regulation’s meaning).

{40} Fourth, SPS argues, quoting 17.9.573.12(F) NMAC, that the Rule provides too much discretion to the administrator by allowing bids to be scored by unidentified “selection criteria within each qualifying utility’s territory.” This argument relies on a misreading of the Rule. Taken in context, the language challenged by SPS refers not to unidentified selection criteria but to the detailed criteria set forth in the Rule itself. *Id.* (“The program administrator shall select projects *based upon these qualifications and selection criteria* within each qualifying utility’s territory until the allocated capacity cap for each utility has been reached.” (emphasis added)). The Rule’s meaning about the *qualifications and criteria* that will be used to select projects is sufficiently clear to provide notice to “a hypothetical recipient desirous of actually being informed,” which is sufficient to satisfy due process. *See S.W. Pub. Serv. Co.*, 2024-NMSC-012, ¶ 48 (internal quotation marks and citation omitted).

{41} Finally, SPS argues that the Rule is void for vagueness because it fails to provide a right to seek review of the third-party administrator’s actions. This argument lacks merit. The right to seek review has no particular significance to whether a provision is void for vagueness; rather, it provides an important check on whether a delegation of authority is permissible at all. “An important aspect of gauging the delegation of discretion is whether the discretion is reviewable.” *See, e.g., Old Abe Co.*, 1995-NMCA-134, ¶ 34. Moreover, the

Rule expressly allows “the administrator or any participant in the process [to] raise before the [C]ommission an issue that is not fully addressed in this rule.” 17.9.573.12(A) NMAC. Given this explicit right of review, SPS’s pre-enforcement challenge must fail. *See Gila Res. Info. Project*, 2018-NMSC-025, ¶ 6 (explaining that a challenge to the validity of a rule not yet applied must establish that no set of circumstances exist where the [rule] could be valid”).

5. The Utilities’ remaining challenges to the Rule lack merit

{42} The Utilities’ remaining challenges to the Rule lack merit, and we therefore treat them summarily.

a. The Commission’s reliance on its existing interconnection rules does not violate Section 62-16B-7(B)(6)

{43} The Utilities argue that the Rule is unlawful because it omits standards for the recovery of a utility’s costs resulting from the interconnection of community solar facilities, purportedly in violation of Section 62-16B-7(B)(6). We disagree. The Rule requires the Commission to adopt rules that establish “standards, fees and processes for the interconnection of community solar facilities that are consistent with the [C]ommission’s *existing interconnection rules and interconnection manual* that allows a qualifying utility to recover . . . interconnection costs for each community solar facility.” Section 62-16B-7(B)(6) (emphasis added). While the Utilities are correct that the Rule does not establish *new* interconnection rules specific to community solar facilities, they ignore that the Commission clarified in its Order on Rehearing that the recovery of interconnection costs would be governed by its *existing* interconnection rules. *See* 17.9.568 NMAC (10/15/2008, repealed and replaced effective 2/14/2023) (interconnection rules for facilities producing up to ten megawatts of electricity). The Utilities neither argue nor explain why the Commission’s existing interconnection rules are inadequate for community solar facilities. Nor do the Utilities cite authority requiring the Commission to promulgate duplicative interconnection rules for community solar facilities after a determination that its existing interconnection rules are sufficient. We therefore assume no such authority exists

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and decline to consider this argument any further. *See Veleta*, 2023-NMSC-024, ¶ 39.

b. The Rule does not violate the requirement to promulgate guidelines for serving low-income customers

{44} The Utilities next argue the Rule unlawfully ignores the statutory requirement to issue guidelines to achieve an annual thirty-percent “carve-out” of available capacity from community solar facilities for serving low-income customers. *See* § 62-16B-7(B)(3). Rather than including guidelines, the Utilities argue that the Rule “merely parrots the Act by stating that the Commission ‘will issue guidelines’ at some unknown time in the future.” According to the Utilities, the omission of guidelines from the Rule itself “renders the Rule defective.”

{45} We are unpersuaded. The requirement to issue guidelines arises under Section 62-16B-7(B)(3), which mandates the adoption of rules that require a thirty-percent carve-out for low-income customers. The Rule meets this requirement explicitly. *See* 17.9.573.10(B) NMAC (“At least thirty percent of electricity produced from each community solar facility shall be reserved for low-income subscribers and low-income service organizations.”). Section 62-16B-7(B)(3) also provides as follows: “The Commission shall issue guidelines to ensure the carve-out is achieved each year and develop a list of low-income service organizations and programs that may pre-qualify low-income customers.” The Commission opted to include the required list of service organizations and programs in the Rule itself. *See* 17.9.573.15(A) NMAC (listing low-income service organizations and programs that may pre-qualify low-income customers to be eligible for the carve-out); *see also* 17.9.573.15(B), (C) NMAC (providing “other ways for households and low-income service organizations to qualify” for eligibility as low-income subscribers). The Commission also chose to issue the guidelines separately, at an unidentified time in the future. *See* 17.9.573.10(B) NMAC (“The [C]ommission will issue guidelines to ensure the carve-out is achieved each year.”). The Utilities do not argue or explain why the guidelines must be included in the Rule itself or cite authority to support their

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argument that “sever[ing]” guidelines from the Rule renders it unlawful. In the absence of such argument or authority, we reject this argument without further discussion. *See Veleta*, 2023-NMSC-024, ¶ 39.

c. The Rule’s consumer protections are not inadequate under Section 62-16B-7(B)(7)

{46} For their final challenge to the Rule, the Utilities argue that the Rule is unlawful because it lacks “specific consumer protection standards and establishes no consumer protection enforcement procedures,” as required by Section 62-16B-7(B)(7) (“The rules shall . . . provide consumer protections for subscribers, including a uniform disclosure form that identifies the information that shall be provided by a subscriber organization to a potential subscriber . . . as well as grievance and enforcement procedures.”). This argument is meritless. The Act requires the Commission to provide only two specific subscriber-protection measures: (1) a uniform disclosure form and (2) grievance and enforcement procedures. *See id.* The Commission has fulfilled both requirements. *See* Subscriber Information Disclosure Form (attached as Exhibit B to order adopting rule); 17.9.573.17(C) NMAC (providing that complaints may be filed with the Commission’s consumer relations division and referred to the Attorney General as appropriate). Further, the Utilities ignore that the Rule includes other consumer protection measures, including requirements for subscriber organizations to maintain minimum levels of general liability insurance, *see* 17.9.573.16(B) NMAC, and to develop and implement written subscriber agreements that comply with a detailed list of minimum terms and conditions for subscribing to a community solar project, 17.9.573.17(A) NMAC. The latter measures exceed the minimum requirements set forth in Section 62-16B-7(B)(7). The Utilities have not identified any specific protections that are missing from the Rule and have not explained the inadequacy of an informal process of referral to consumer relations for most subscriber complaints when serious matters may be referred to the Attorney General. *See* 17.9.573.17(C) NMAC. The Utilities thus fail to meet their burden to demonstrate that the Rule is unreasonable

or unlawful.

B. The Utilities Have Not Demonstrated That the Commission’s Reliance on Recommendations from the Team Was Unreasonable, Unlawful, or a Violation of Due Process

{47} In addition to their substantive challenges to the Rule, the Utilities argue that the Order Adopting the Rule must be vacated and annulled because of the Commission’s reliance on the Team’s purportedly “nonpublic, non-record recommendations” throughout the rulemaking, including after the close of the record. The Utilities argue that the Team’s participation requires vacating and annulling the Rule as a violation of their right to due process and of the statutory prohibition against *ex parte* communications. We address these arguments in turn.

1. The Commission’s reliance on the Team’s recommendations does not implicate due process

{48} First, the Utilities argue “reliance on the Team’s undisclosed recommendations” violated due process by depriving the Utilities of notice and “any opportunity to respond on the record to the Team’s recommendations before the record closed.” This argument is misplaced. Any right in a rulemaking to notice and an opportunity to be heard is statutory and does not result from the constitutional guarantee of due process. *See Livingston v. Ewing*, 1982-NMSC-110, ¶ 14, 98 N.M. 685, 652 P.2d 235 (“There is no fundamental right to notice and hearing before the adoption of a rule; such a right is statutory only” (citing, among others, *Bi-Metallic Co. v. Colorado*, 239 U.S. 441, 445 (1915)) (“The [answer to the] question, . . . whether all individuals have a constitutional right to be heard, before a matter can be decided in which all are equally concerned, . . . was that it was hard to believe that the proposition was seriously made.”).

{49} The two cases cited by the Utilities do not hold to the contrary. The first case arose in the context of an adjudication and is therefore inapposite. *See TW Telecom of N.M., LLC v. N.M. Pub. Regul. Comm’n*, 2011-NMSC-029, ¶ 7, 150 N.M. 12, 256 P.3d 24 (“The [Commission] determined that the . . . case would be conducted as

an adjudicated case and all interested parties would be given an opportunity to participate . . .”). Unlike a rulemaking, an adjudicatory proceeding may deprive an individual of a protected liberty or property interest and therefore must satisfy constitutional due process. *See, e.g., Mills v. N.M. State Bd. of Psych. Exam’rs*, 1997-NMSC-028, ¶ 14, 123 N.M. 421, 941 P.2d 502 (“The Fourteenth Amendment protects citizens from deprivations of liberty and property without due process of law.”); *see also Miles v. Bd. of Cnty. Comm’rs of Cnty. of Sandoval*, 1998-NMCA-118, ¶ 8, 125 N.M. 608, 964 P.2d 169 (discussing the difference between “individualized [fact-based] deprivations, that are protected by procedural due process, and policy-based deprivations of the interests of a class, that are not protected by procedural due process” (alteration in original) (internal quotation marks and citation omitted))).

{50} While the second case cited by the Utilities arose in the relevant context of a rulemaking, the discussion of due process was unnecessary to our holding. *See Rivas v. Bd. of Cosmetologists*, 1984-NMSC-076, ¶ 13, 101 N.M. 592, 686 P.2d 934 (holding that the repeal of a regulation was invalid when the board “failed to . . . comply with the repeal procedure of the statute in failing to give notice to interested parties and to hold a hearing prior to taking action” (emphasis added)). Moreover, the suggestion in *Rivas* that due process may apply in a rulemaking relied on persuasive authority construing the right to notice and comment under statute, NMSA 1978, § 12-8-4 (1969), not due process. *See Rivas*, 1984-NMSC-076, ¶¶ 8, 9 (“Case law suggests . . . ‘the minimum protections upon which administrative action may be based.’” (quoting *Mobil Oil Corp. v. Fed. Power Comm’n*, 483 F.2d 1238, 1253 (D.C. Cir. 1973)) (discussing the “minimum protections” in informal rulemaking proceedings under the Administrative Procedure Act, 5 U.S.C. § 553 (1970))). Neither *TW Telecom* nor *Rivas* supports the Utilities’ argument that due process was violated—much less implicated—in the rulemaking in this case. {51} The Utilities cite a final case, *Santa Fe Exploration Co. v. Oil Conservation Comm’n*, 1992-NMSC-044, 114 N.M. 103, 835 P.2d

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819, in support of a second claimed due-process violation. They argue that the Commission violated due process “[b]y failing to clarify the identity of all Team members, . . . [thereby] depriv[ing] the Utilities of their right to raise possible defenses arising from [ex parte] communications.” By doing so, the Commission purportedly ran afoul of the general proposition that “procedural due process requires that before being deprived of life, liberty, or property, a person or entity be given notice of the possible deprivation and an opportunity to defend.” *Id.* ¶ 14. This argument is similarly unavailing. “[T]o claim the protections of the due process clause, an opponent must possess a cognizable property or liberty interest.” *Citizens for Fair Rates & the Env’t v. N.M. Pub. Regul. Comm’n*, 2022-NMSC-010, ¶ 34, 503 P.3d 1138. The Utilities make no attempt to identify such an interest, in the rulemaking or otherwise, that could trigger the due-process protections they claim. We therefore decline to consider this argument any further. *See, e.g., Elane Photography v. Willock*, 2013-NMSC-040, ¶ 70, 309 P.3d 53 (“We will not review unclear arguments, or guess at what [a party’s] arguments might be.” (alteration in original) (internal quotation marks and citation omitted))).

2. The Commission’s reliance on the Team’s recommendations did not violate the statutory prohibition against ex parte communications

{52} Turning to the Utilities’ statutory argument, they rely on NMSA 1978, Section 62-19-23 (2004), which prohibits ex parte communications and, should such a communication occur, requires the Commission to “disclose it to all parties and give other parties an opportunity to respond.” Section 62-19-23 (D). The Utilities assert that the Commission refused to identify all members of the Team during the rulemaking and made it impossible to determine whether communications with the Team after the close of the record violated the prohibition. *See* § 62-19-23(A) (prohibiting ex parte communications “concerning a pending rulemaking after the record has been closed”); *see also* 1.2.3.7(B) NMAC (9/1/2008) (defining an *ex parte* commu-

nication in a Commission proceeding, in part, as a communication “concerning a pending rulemaking after the record has been closed”). In particular, the Utilities object to the Team’s inclusion of “representatives of Staff of the Commission’s Utilities Division,” who, unlike advisory staff, are expressly prohibited from engaging in ex parte communications with the Commission. *Compare* NMSA 1978, § 62-19-17(E) (2003) (“Utility division staff shall not have ex parte communications with commissioners or a hearing examiner assigned to a utility case.”) with § 62-19-23(C)(2) (“[A] commissioner may consult with another commissioner or with advisory staff whose function is to advise the [C]ommission in carrying out the commissioner’s rulemaking or adjudicative responsibilities.”). In considering the Utilities’ argument, we note a considerable amount of uncertainty in the record about the Team’s composition. We therefore provide additional background before we address the Utilities’ argument in detail.

a. Additional background

{53} SPS and EPE first raised concerns about the Team after the Commission filed its Order Adopting the Rule.⁹ In a request for procedural clarifications, SPS and EPE argued that the Team’s “composition and role are unclear[, which] creates ambiguity as to the record in this matter[and] ambiguity as to the rationale underlying the Order Adopting Rule.” The utilities asserted that they had “been unable to locate any complete listing of the membership of the ‘Team’ in the record” and that the Commission’s “partial descriptions” differed. The Initial Order described the Team as including two commissioners, plus “representatives of Staff of the Commission’s Utilities Division, the Office of General Counsel, and the Chief of Staff, among others.” The Notice of Proposed Rulemaking later described the Team as including two commissioners, “several employees of the Commission, and a Commission contractor.” SPS and EPE also observed that, in the Commission’s public deliberations during the rulemaking, “Mr. Arthur O’Donnell appeared to have the role of speaking for the ‘Team’ and providing its

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recommendations.”

{54} SPS and EPE urged that the Team’s recommendations should be disclosed “for the benefit of participating stakeholders and the general public, regardless of formal applicability of the Commission’s ex parte rules.” They also observed that, depending on the Team’s composition, its substantive recommendations after the close of the record—its recommendations about the final rule in particular—may have amounted to undisclosed ex parte communications under the Commission’s rules. *See* 1.2.3.1 to .11 NMAC (7/15/2004 as amended 9/1/2008) (regulating ex parte communications in Commission proceedings); *see also* § 62-19-23. SPS and EPE asked the Commission to clarify the Team’s role and the scope of its authority in any remaining proceedings related to the Community Solar Rule, which were ongoing. SPS later moved for rehearing and requested reopening the record to supplement it with all of the Team’s recommendations relied on by the Commission “in crafting the final rule” and providing an opportunity for public comment.

{55} The Commission rejected these concerns and denied SPS’s request to reopen the record. The Commission characterized the Utilities’ “suddenly urgent concerns [about] the Team” as “disingenuous if not frivolous” and “baseless and untimely” given the Commission’s transparency about the Team’s participation and recommendations throughout the rulemaking. The Commission also clarified that Utility Division Staff “did not participate in Team discussions after the closing of the record” and that all Staff recommendations had been “entirely contained within Staff’s filed comments.” Notably however, the Commission did not identify individual members of the Team and again described the Team as “Commissioners, expert consultants, and others.” In a subsequent order, the Commission repeated its description of the Team as “Commissioners, expert consultants, and others” and specifically identified Arthur O’Donnell as a member. According to the Commission, Mr. O’Donnell’s role was “that of advisory staff to the Commission, initially pursuant to a consulting contract and subsequently

⁹ PNM later raised substantially identical concerns in its motion for rehearing.

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pursuant to an appointment in the U.S. Department of Energy's Office of Energy Efficiency & Renewable Energy (EERE) Research Participation Program."

d. Discussion

{56} Before we address the merits of the Utilities' argument, we make three preliminary points. First, other than questioning the nature of Mr. O'Donnell's role during the rulemaking, the Utilities have not argued to the Commission or on appeal that his participation was actually improper or that his advice after the close of the record required disclosure under Section 62-19-23(E) or the Commission's rules governing ex parte communications. See 1.2.3.10 NMAC (requiring disclosure of ex parte communications and an opportunity for all parties to respond). We therefore assume without deciding that the Commission's description of Mr. O'Donnell's role sufficiently identified him as "advisory staff whose function is to advise the [C]ommission in carrying out the commissioner's rulemaking . . . responsibilities." Section 62-19-23(C)(2); see also § 62-19-19(A), (B)(4) (authorizing the Chief of Staff to hire advisory staff on a "temporary, term or contract basis" to *inter alia* "assist the [C]ommission in the development of rules"). As such, Mr. O'Donnell's communications with the Commission are exempt from the prohibition against ex parte communications and need not be disclosed. See also *Qwest Corp.*, 2006-NMSC-042, ¶ 60 (holding that the Commission "need not provide [the] parties with the substance of [the] advice" of an expert hired by the Commission as advisory staff); 1.2.3.9(C) NMAC ("Commissioners, hearing examiners and advisory staff may consult with each other.").

{57} Second, in the course of our whole-record review, we have discovered an apparently full disclosure of the Team's member-

ship that has not been cited on appeal or in any of the pleadings or Commission orders relevant to this issue. Shortly after the Team's creation, the Commission filed its first Order Scheduling Workshop and explicitly stated that "*all* members of the Team will participate." (Emphasis added.) In a footnote, the order identified "the members of the Team" by name and job title.¹⁰ Of note, the list of nine individual Team members is consistent with the Commission's repeated, varying descriptions of the Team, including Mr. O'Donnell as an "advisor to the Commission." Assuming the list is accurate, the Utilities' arguments on this issue are essentially moot when the only member of the Team subject to the prohibition against ex parte communications was the director of the Commission's Utility Division Staff, who according to the Commission, did not participate in Team discussions after the close of the record.

{58} Accordingly, we hold that the Utilities have failed to meet their burden to show that the Order Adopting the Rule must be vacated and annulled. The Utilities rely on speculation and innuendo to argue that we should vacate and annul the order because, in essence, ex parte communications *may* have occurred. Focusing on the Team's inclusion of Utility Division Staff, the Utilities argue that "the Commission's after-the-fact representation regarding Utility Division Staff should not be deemed to cure the infirmity evident in the original order adopting the Rule." They effectively invite us to disregard or disbelieve the Commission's on-record assurances that all input from Utility Division Staff was contained in their publicly filed comments and that no Utility Division Staff participated in Team discussions after the close of the record.

{59} The Utilities misunderstand their burden on appeal. "The burden shall be

on the party appealing to show that the order appealed from is unreasonable, or unlawful." Section 62-11-4. We presume that "administrative action is correct and that the orders and decisions of the administrative body are valid and reasonable; presumptions will not be indulged against the regularity of the administrative agency's action." *State ex rel. Reynolds v. Aamodt*, 1990-NMSC-099, ¶ 9, 111 N.M. 4, 800 P.2d 1061 (internal quotation marks and citation omitted). The Utilities seek to flip the presumption of regularity on this issue without evidence or legal authority. We will not grant relief under these circumstances, when the Utilities have made no attempt to substantiate their accusations after the Commission addressed the Utilities' questions about the participation of Utility Division Staff after the close of the record.¹¹ To hold otherwise would set too low a bar for undoing a Commission order under the ex parte statute.

{60} We also agree with the Commission that its reliance on the Team was "more transparent than applicable law requires." Even assuming the Team included members subject to the prohibition against ex parte communications, the Commission routinely disclosed the Team's recommendations throughout the rulemaking, including before the prohibition applied. See § 62-19-23(A) (prohibiting ex parte communications "concerning a pending rulemaking *after* the record has been closed" (emphasis added)); 1.2.3.7(B) NMAC (defining *ex parte communication*). And assuming the Team consisted entirely of advisory staff after the close of the record, the Commission was under no duty to disclose its recommendations at all. See § 62-19-23(C)(2); *Qwest Corp.*, 2006-NMSC-042, ¶ 60; see also 1.2.3.9(C) NMAC ("Commissioners, hearing examiners and advisory staff may

¹⁰ The order identified the following members of the Team: Commissioners Joseph Maestas and Cynthia Hall, "Wayne Probst (the Commission's Chief of Staff), John Reynolds (Director of the Commission's Utility Division Staff), Arthur O'Donnell (advisor to the Commission), Jonas Armstrong (assistant to Comm. Maestas), Collin Gillespie (assistant to Comm. Hall), Russell Fisk (of the Commission's Office of General Counsel), Sarah Valencia (the Commission's Public Information Officer), and representatives of Strategen."

¹¹ As noted by the Commission, "The Utilities did not seek from the Commission and do not include in the record before the Court any public records of the Commission to support their baseless claims." We agree that the Utilities' failure to undertake basic measures to investigate or substantiate their accusations undermines any argument for appellate relief. See, e.g., NMSA 1978, § 14-2-8(A) (2009) (providing a right to inspect public records on request).

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consult with each other.”). The Commission’s detailed disclosure of the Team’s recommendations throughout the rulemaking process, including in the Order Adopting the Rule, provided ample explanation of the Commission’s reasons for adopting the Rule, which we hold was sufficient under law. *See* NMSA 1978, § 62-19-21(E) (2001) (providing that all Commission rules “shall be filed in accordance with the State Rules Act [Chapter 14, Article 4 NMSA 1978]” (bracketed text in original)); *see also* NMSA 1978, § 14-4-5.5 (2017) (requiring “a concise explanatory statement” when an agency adopts a rule).

{61} We are not persuaded that the Commission’s reliance on the Team’s recommendations after the close of the record deprived the Utilities of their statutory right to notice and an opportunity to respond to *ex parte* communications. The Utilities’ claims that *ex parte* communications may have occurred are speculative, unsupported by evidence, and inconsistent with the record. We therefore affirm on this issue.

C. The Commission Did Not Violate the Public Utility Act or Due Process by Summarily Rejecting SPS’s Proposed Bill-Credit Rate Without a Hearing

{62} For the final issue on appeal, SPS challenges the Commission’s refusal to hold a hearing when it rejected SPS’s initial proposed bill-credit rate, ordered SPS to file a rate that complied with Rule 573.20(D), and allowed SPS’s revised bill-credit rate to take effect. SPS argues that the Commission’s failure to hold a hearing violates the Public Utility Act and due process. We first provide additional background and then address these arguments on their merits.

1. Background

{63} After the Rule was adopted, SPS filed Advice Notice 309, which included the bill-credit rate that SPS initially proposed for community solar subscribers. The advice notice openly revealed that SPS had subtracted transmission costs from the bill-credit rate, and it included written testimony that explained, among other things, why SPS had subtracted transmission costs notwithstanding the Rule’s prohibition. According to SPS’s two experts, transmission costs were subtracted “based

on a concern that crediting the entirety of the transmission cost rate to [s]ubscribers would result in subsidization of such costs by nonsubscribers, in light of the fact that [s]ubscribers will necessarily continue to use SPS’s transmission system for the delivery of their energy.” The experts explained that during periods when solar energy is not being generated, including at night, subscribers will use electricity delivered through the transmission system, which serves a similar function as the distribution system.

{64} Four advocacy groups filed written protests, urging the Commission to summarily reject SPS’s proposed bill-credit rate as “unlawful on its face” and “in complete disregard for the Commission’s orders and the [Act].” Commission Staff similarly recommended suspending the advice notice because SPS had subtracted transmission costs from the proposed bill-credit rate in violation of Rule 573.20(D).

{65} SPS argued in response that it had a right to continue to raise the issue of transmission costs until it was resolved in this appeal. SPS also argued that it was making a good-faith effort to resolve the Rule with the Commission’s order clarifying implementation of the Rule. The Commission rejected SPS’s proposed bill-credit rate, finding that it was submitted “in flagrant disregard” of Rule 573.20(D). The Commission also ordered SPS to file a compliant bill-credit rate and specifically held that no hearing was necessary.

{66} SPS then filed a motion to vacate or stay the order, as well as a conditionally filed advice notice under protest (Advice Notice 311). SPS argued that the previous order should be vacated because it compelled SPS to file a different bill-credit rate without first conducting a hearing. SPS further explained that it was “vigorously contesting inclusion of transmission costs in the bill credit—an as-applied challenge to the Commission’s implementation of 17.9.573.20.D NMAC—on the basis that it is an improper subsidy in violation of [the Act].” SPS further argued that rejecting the first advice notice without a hearing and ordering resubmission of a compliant advice notice violated due process.

{67} The Commission denied SPS’s motion to vacate or stay the order and allowed

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the bill-credit rate proposed in the Advice Notice 311 to take effect, again without a hearing. The Commission reiterated that the first advice notice was submitted in “flagrant violation” of the Rule, which the Commission could determine without a hearing because “SPS expressly disputed the rule itself, and there was no dispute about application of the rule to SPS’s specific facts and circumstances.”

2. Discussion

{68} SPS argues that the Commission’s failure to hold a hearing on either advice notice renders the ensuing orders void. SPS first argues that under the Public Utility Act, the Commission must hold a hearing before it can order “a rate different than [the rate] proposed by the utility itself.” SPS relies on NMSA 1978, Section 62-8-7(D) (2011), which provides as follows:

If *after a hearing* the [C]ommission finds the proposed rates to be unjust, unreasonable or in any way in violation of law, the [C]ommission shall determine the just and reasonable rates to be charged or applied by the utility for the service in question and shall fix the rates by order to be served upon the utility[,] or the [C]ommission by its order shall direct the utility to file new rates respecting such service that are designed to produce annual revenues no greater than those determined by the [C]ommission in its order to be just and reasonable.

(Emphasis added.) SPS argues that, without a hearing on either advice notice, the Commission lacked authority under Section 62-8-7(D) to reject the original proposed bill-credit rate, order the filing of a revised rate, and approve the revised rate that was filed under protest. Relatedly, SPS argues that the failure to hold a hearing violated due process by preventing SPS from “develop[ing] a record on contested issues” concerning its proposed bill-credit rate. *See Resolute Wind 1 LLC v. N.M. Pub. Regul. Comm’n*, 2022-NMSC-011, ¶ 24, 506 P.3d 346 (holding that the Commission violated due process by using a “summary [disposition] procedure” that “precluded [the appellant] from present-

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ing evidence and developing a record on the disputed . . . issue”).

{69} Under the specific circumstances of this case, we disagree that a hearing was required under Section 62-8-7(D) or as a matter of due process. *See, e.g., TW Telecom*, 2011-NMSC-029, ¶ 17 (“Due process is not a concrete concept, but rather is flexible in nature and may adhere to such requisite procedural protections as the particular situation demands.”) (internal quotation marks and citation omitted)). Neither the statute nor due process requires a hearing when, as here, the proposed bill-credit rate was submitted in open defiance of prescribed requirements. *See, e.g., 1 Kristin E. Hickman & Richard J. Pierce, Jr., Administrative Law Treatise*, § 6.3, at 847 (7th ed. 2024) (“An oral evidentiary hearing is never required if the only disputes involve issues of law or policy.”).

{70} Moreover, the Commission was well-positioned to determine whether SPS was merely attempting to relitigate arguments of law or policy previously raised and considered during the rulemaking or genuinely attempting to develop a record on disputed issues of fact. By the time the Commission considered Advice Notice 309, SPS’s position on the issue of transmission costs was well known. The Commission had repeatedly considered and addressed SPS’s arguments throughout the rulemaking, including in (1) the Notice of Proposed Rulemaking, which called out the Utilities’ arguments during the informal proceedings and specifically solicited comment on whether transmission costs should be included or excluded from the bill-credit rate, (2) the Order Adopting the Rule, which summarized and addressed SPS’s initial, response, and reply comments on the proposed rule, (3) the Order on Rehearing which denied SPS’s arguments in its motion

for rehearing, and (4) the order denying SPS’s Motion to Stay Implementation of the Rule pending appeal. The Commission had also responded to the same arguments in this Court after SPS filed its Motion to Stay Implementation of [the Commission’s] Orders Pending Appeal.

{71} Suffice it to say, SPS’s position on the issue of transmission costs was well-understood by the Commission when it rejected the proposed bill-credit rate in Advice Notice 309 without a hearing. The same is true of SPS’s arguments when it filed Advice Notice 311 under protest. Indeed, SPS candidly admitted in support of Advice Notice 309 that it was making the very same arguments it had been making throughout the rulemaking: “As SPS has repeatedly noted in its filings in the Community Solar rulemaking and in its pending appeal of the Commission’s rulemaking order, [Rule 573.20(D)] must be interpreted and applied as SPS has proposed in its Advice Notice in order to comply with the plain language of the Community Solar Act.” This admission made clear that SPS was merely attempting to accomplish through expert testimony what it had failed to achieve during the rulemaking: to persuade the Commission to adopt SPS’s preferred reading of the statute. “When the regulated party’s own admissions make clear that no material facts are in dispute, it is unnecessary to require a judge to recite these facts as ‘findings’ after a hearing.” *See Kourouma v. Fed. Energy Regul. Comm’n*, 723 F.3d 274, 278 (D.C. Cir. 2013). Under these circumstances, lacking any dispute of material facts, when the proposed bill-credit rate was openly submitted “in violation of law,” § 62-8-7(D), the Commission was free to reject Advice Notice 309 without a hearing.

{72} We are unpersuaded by the authorities cited by SPS in favor of reversal. None

involves a circumstance in which the Commission or its predecessor concluded that a hearing was unnecessary based on a rate submitted by a public utility in open defiance of prescribed requirements. *See Tri-State Generation & Transmission Ass’n, Inc. v. N.M. Pub. Regul. Comm’n*, 2015-NMSC-013, ¶¶ 2, 34-35, 347 P.3d 274; *see also TW Telecom*, 2011-NMSC-029, ¶ 1; *see also State v. Mountain States Tel. & Tel. Co.*, 1950-NMSC-055, ¶¶ 5, 26-27, 54 N.M. 315, 224 P.2d 155. We have already held that the Commission reasonably interpreted the Act to prohibit subtracting transmission costs from the bill-credit rate. While SPS was free to preserve this issue in its advice notices pending the outcome of this appeal, the Commission was under no obligation to hold a hearing on a question of policy that was fully debated and considered during the rulemaking and clearly answered by the Rule.

III. CONCLUSION

{73} We hold the Utilities, in their various challenges, failed to meet their burden in demonstrating that the Rule is unreasonable or unlawful in light of the Act. Accordingly, we affirm the Commission’s adoption of the Rule. The Utilities also failed to substantiate their claim that the Rule must be vacated and annulled because of possible ex parte communications after the close of the rulemaking record. Finally, we hold that the Commission did not violate statute or due process when it rejected SPS’s proposed bill-credit rate without a hearing.

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

BRIANA H. ZAMORA, Justice

WE CONCUR:

DAVID K. THOMSON, Chief Justice

MICHAEL E. VIGIL, Justice

C. SHANNON BACON, Justice

JULIE J. VARGAS, Justice

FORMAL OPINION

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Filing Date: 09/11/2025

No. A-1-CA-41730

STATE OF NEW MEXICO,

Plaintiff-Appellee,

v.

JOSE JORGE ROMANIS-BELTRAN

a/k/a JOSE ROMANIS-BELTRAN,

Defendant-Appellant.

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

Clara Moran, District Court Judge

Raúl Torrez, Attorney General

Teresa Ryan, Assistant Solicitor General
Santa Fe, NM

for Appellee

The Law Office of Scott M. Davidson, Ph.D., Esq.

Scott M. Davidson
Albuquerque, NM

for Appellant

► Introduction of Opinion

A jury convicted Defendant Jose Jorge Romanis-Beltran on ten counts arising from allegations that he sexually abused his step-daughter (Victim) over a period of more than ten years. On appeal, Defendant argues that the admission of out-of-court statements made by Victim to Maryanne Chavez, a sexual assault nurse examiner (SANE), violated his confrontation rights under the Sixth Amendment of the United States Constitution, which “bars the admission at trial of testimonial statements of an absent witness unless [they are] unavailable to testify, and the defendant has had a prior opportunity to cross-examine [them].” *Smith v. Arizona*, 602 U.S. 779, 783 (2024) (alteration, internal quotation marks, and citation omitted). After extensive review, the district court excluded many of Victim’s out-of-court statements to Chavez but found that others were “medically relevant” and therefore nontestimonial and admissible through Chavez, pursuant to our Supreme Court’s decisions in *State v. Tsosie*, 2022-NMSC-017, 516 P.3d 1116, and *State v. Romero*, 2007-NMSC-013, 141 N.M. 403, 156 P.3d 694. **View full PDF online.**

Katherine A. Wray, Judge

WE CONCUR:

J. Miles Hanisee, Judge

Megan P. Duffy, Judge

To read the entire opinion, please visit the following link: <https://bit.ly/A-1-CA-41730>

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-41395

Jason Cordova

v.

City of Albuquerque

Introduction of Opinion

Plaintiff Jason Cordova filed this negligence action in the district court against Defendant City of Albuquerque (City), seeking damages for a head injury he sustained when he was thrown from his motorized scooter in a single-vehicle accident on a City street. Plaintiff alleged that the City's negligence in failing to properly maintain, inspect, or repair both a pothole in the City street and a malfunctioning traffic signal at the intersection Plaintiff was approaching was the cause of his injury. The jury entered a verdict for the City, concluding that the City was not negligent. **View full PDF online.**

Jane B. Yohalem, Judge

WE CONCUR:

Shammara H. Henderson, Judge

Katherine A. Wray, Judge

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-41395>

No. A-1-CA-41640

Andrea Michelle Cobb

v.

Sapphire Aviation, LLC

Introduction of Opinion

This case arises from a helicopter crash in which Plaintiff Paul David Cobb (Paul) was killed and his daughter, Plaintiff Andra Michelle Cobb (Andra), was injured. At issue is a dispute over attorney fees between the attorneys representing Paul's estate in a wrongful death action and the attorneys representing Andra in her personal injury action. Andra obtained a \$7 million settlement in the case, and, alongside Plaintiff John Day, the personal representative (PR) of the wrongful death estate of Paul David Cobb, asked the district court to allocate this settlement into personal injury proceeds and wrongful death proceeds. **View full PDF online.**

J. Miles Hanisee, Judge

WE CONCUR:

Jacqueline R. Medina, Chief Judge

Shammara H. Henderson, Judge

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-41640>

No. A-1-CA-41926

James A. Miller

v.

Rober Construction Inc.

Introduction of Opinion

Plaintiffs James A. Miller, Sarah L. Botkin, and Joshua C. Botkin, who own separate tracts of land in an unincorporated subdivision (the Subdivision) within Lincoln County, New Mexico, appeal the district court's order denying their request for a preliminary injunction against Defendants Roper Construction, Inc., and Roper Investments, LLC, who seek to build a concrete batch plant on another tract in the Subdivision. Plaintiffs advance numerous arguments, primarily asserting that the district court erred in concluding that Plaintiffs had not established a substantial likelihood that they would prevail on the merits, and in concluding that the threatened injury to Plaintiffs does not outweigh the damage an injunction would cause Defendants. **View full PDF online.**

J. Miles Hanisee, Judge

WE CONCUR:

Megan P. Duffy, Judge

Katherine A. Wray, Judge

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-38037>

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-41038
State of New Mexico
v.
Linda S. Haney

Introduction of Opinion

Defendant, Linda Haney, appeals the district court's imposition of a four year habitual offender enhancement to her sentence, following her conviction for possession of methamphetamine, pursuant to NMSA 1978, Section 30-31-23(A) (2019, amended 2021), a fourth degree felony. Defendant claims that (1) the enhancement of her sentence with prior convictions for nonviolent felony drug offenses amounts to cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution; and (2) the district court's enhancement of her sentence was an abuse of discretion. We affirm.

Jacqueline R. Medina, Chief Judge
WE CONCUR:
Zachary A. Ives, Judge
Gerald E. Baca, Judge

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-41038>

No. A-1-CA-41584
State of New Mexico
v.
Jason Cervantes-Ponce

Introduction of Opinion

Defendant Jason Cervantes-Ponce appeals his conviction of trafficking a controlled substance by possession with intent to distribute, contrary to NMSA 1978, Section 30-31-20(A)(3) (2006). Defendant, who was subject to a routine traffic stop for speeding that developed into a vehicle search for suspected contraband, advances several arguments urging that the drugs found in the vehicle he was driving should have been suppressed. In pertinent part, Defendant asserts that the consent he gave to search the vehicle was coerced. Defendant acknowledges that this argument was not preserved but argues that his attorney's failure to raise it below amounts to ineffective assistance of counsel. **View full PDF online.**

J. Miles Hanisee, Judge
WE CONCUR:
Zachary A. Ives, Judge
Shammara H. Henderson, Judge

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-41584>

No. A-1-CA-41107
Board of Education for the Gallup-McKinley County Schools
v.
Kurt Steinhaus, Ed. D.

Introduction of Opinion

Plaintiffs, a charter school governing board and numerous public school boards from across New Mexico, appeal a district court order granting summary judgment in favor of Defendants Kurt Steinhaus, as the Secretary of the Public Education Department, and the New Mexico Public Education Department (PED) and denying Plaintiffs' motion for partial summary judgment. **View full PDF online.**

Shammara H. Henderson, Judge
WE CONCUR:
Megan P. Duffy, Judge
Katherine A. Wray, Judge

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-41107>

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-41407
State of New Mexico
v.
Gerald Marcos Trujillo

Introduction of Opinion

A jury found Defendant Gerald Trujillo guilty of two counts of criminal sexual penetration in the second degree (child age 13-18), pursuant to NMSA 1978, Section 30-9-11(E)(1) (2009), and two counts of criminal sexual contact of a minor in the second degree (person in position of authority), pursuant to NMSA 1978, Section 30-9-13(B)(2)(a) (2003). Defendant asks this Court to reverse his convictions on the basis that (1) prosecutors deliberately elicited testimony and commented on Defendant's silence, (2) insufficient evidence was presented to support the convictions, and (3) he received ineffective assistance of counsel. We affirm.

Megan P. Duffy, Judge

WE CONCUR:

Shammara H. Henderson, Judge,
specially concurring

Jane B. Yohalem, Judge, specially
concurring

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-41407>

No. A-1-CA-41122
Albert John Atkins, III
v.
Taos Living Center, LLC

Introduction of Opinion

This case arises out of a fall suffered by Dora Marshall Atkins while she was a resident at a skilled nursing facility in Taos, New Mexico, operated by Defendant Taos Living Center, LLC. Following a jury trial, Plaintiff Albert John Atkins, III, as representative of Mrs. Atkins, appeals a district court order granting Defendant's motion for a directed verdict on the issue of punitive damages and an order denying Plaintiff's motion for prejudgment interest. Plaintiff argues that the district court erred because (1) Plaintiff presented sufficient evidence for the issue of punitive damages to be submitted to the jury based on a theory of cumulative conduct as first articulated in *Clay v. Ferrellgas, Inc.*, 1994-NMSC-080, 118 N.M. 266, 881 P.2d 11; **View full PDF online.**

Shammara H. Henderson, Judge
WE CONCUR:

Megan P. Duffy, Judge
Jane B. Yohalem, Judge

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-41122>

No. A-1-CA-41390
State of New Mexico
v.
John Fierro

Introduction of Opinion

The first trial of Defendant John Fierro ended in a mistrial during closing argument when the district court determined the prosecutor commented upon Defendant's silence. The State retried Defendant and the jury ultimately convicted him of six of the seven counts on which he had been charged, all of which were various infractions or crimes related to an encounter with police stemming from Defendant's use of a bicycle at night without required lighting. On appeal, Defendant raises two issues, arguing (1) his second trial violated his right to be free from double jeopardy, and (2) the State exercised a peremptory challenge in a racially discriminatory manner. We affirm.

Megan P. Duffy, Judge

WE CONCUR:

J. Miles Hanisee, Judge
Katherine A. Wray, Judge

To read the entire opinion,
please visit:
<https://bit.ly/A-1-CA-41390>

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Fadduol, Cluff, Hardy, & Conaway, P.C. continues to grow. Our successful Personal Injury Law firm is currently seeking an Associate Attorney in our Albuquerque, NM office. Associates will have immediate opportunities to be fully involved in every aspect of a case, including taking and defending depositions, drafting, responding to, and arguing motions, actively participating in trials, and building relationships with clients. Starting salaries begin at six figures and are negotiable based on experience. New associates have the opportunity to experience mentorship and training by our team of experienced attorneys. Additionally, associate attorneys immediately qualify for significant bonuses based on performance. We also offer generous retirement (7.5% employer contribution), health, and benefit plans. FCHC is seeking associates looking for a long-term position with the opportunity to grow and a commensurate willingness to work hard to better both themselves and the firm. To apply, please send your resume and a writing sample to Isaac Lopez at ilopez@fchclaw.com.

Assistant Public Defender

The Public Defender at the Pueblo of Isleta is hiring an Assistant Public Defender to provide in-house counsel to clients where the Public Defender has a conflict of interest as well as to assist the Public Defender in cases where there is no conflict. The Assistant Public Defender will represent Native Americans in charged with crimes at the Pueblo of Isleta when the cases are filed in Tribal Court. The position is grant-funded for three years. Applicants should send their letter of interest, resume, and application to poiemployment@isletapueblo.com. The application can be found on the Pueblo of Isleta Careers webpage at <https://www.isletapueblo.com>.

Assistant District Attorney

The Fifth Judicial District Attorney's office has immediate positions open for new and/or experienced attorneys. Salary will be based upon the New Mexico District Attorney's Salary Schedule with salary range of an Assistant Trial Attorney (\$ 80,218.00) to a Senior Trial Attorney (\$100,272.00), based upon experience. Must be licensed in the United States. This position is located in the Carlsbad, NM office. The office will pay for your New Mexico Bar Dues as well as the National District Attorney's Association membership. Please send resume to Dianna Luce, District Attorney, 102 N. Canal, Suite 200, Carlsbad, NM 88220 or email to nshreve@da.state.nm.us

Lawyer - Full Or Part-Time Litigation

Mid- size downtown Defense litigation firm looking for a lawyer to do full or part-time litigation including depositions and trials. Pay range varies with experience \$70,000 - \$120,000. Congenial and easy-going firm. Please e-mail your resume to karrants@stiffllaw.com

Regulatory Attorney Position

PNM has an opening for a regulatory attorney position at an Attorney III or IV level, depending on experience. Attorney will represent the corporation in complex utility matters and administrative proceedings; conduct legal research; draft corporate legal documents; and handle complex transactions. Litigation experience in utility law or before state agencies or FERC desirable. Juris doctorate degree from an accredited law school, with a minimum of eight years related experience in the actual practice of law. Must be licensed to practice law in New Mexico within one year of the hiring date. To read a full job description and apply, go to <https://careers.txnenergy.com/jobs/14690053-regulatory-attorney-iii-or-iv> , register, upload a resume and answer all posting questions. PNM Resources and affiliates are Equal Opportunity/Affirmative Action employers. Women, minorities, disabled individuals and veterans are encouraged to apply.

Senior Trial Attorney and Deputy District Attorney

The 12th Judicial District Attorney's Office, serving Otero and Lincoln counties, is seeking a Senior Trial Attorney and a Deputy District Attorney. Employment will primarily be based out of the Alamogordo office. The 12th Judicial District is recognized as one of the leading districts in the state for the number of jury trials conducted each year. If you are seeking meaningful trial experience, you want to advance your career as a prosecutor, and work with a dedicated team to fight for the justice of victims - Come Join Our Team! Must be admitted to the New Mexico State Bar. Salary range \$100,000-122,000 DOE. Full benefits package and one of the best retirement plans (PERA) in the country. Email resume to: sgann@da.state.nm.us or visit our website <https://12th.nmdas.com/>

Entry Level and Experienced Attorneys

The Thirteenth Judicial District Attorney's Office is seeking both entry level and experienced attorneys. Positions available in Sandoval County which is in Bernalillo, Valencia in Belen and Cibola in Grants. Enjoy the convenience of working near a metropolitan area while gaining valuable trial experience in a smaller office, providing the opportunity to advance more quickly than is afforded in larger offices. The 13th Judicial District offers flex schedules in a family friendly environment. Competitive salary starting @ 83,000+ depending on experience. Contact Krissy Fajardo @ kfajardo@da.state.nm.us or visit our website for an application @<https://www.13th.nmdas.com/> Apply as soon as possible. These positions fill fast!

Paralegal

AV Rated insurance defense firm needs full-time paralegal. Seeking individual with minimum of five years' experience as a paralegal in insurance defense. Excellent work environment, salary private pension, and full benefits. Please submit resume and references to Office Manager, 3880 Osuna Rd., NE, Albuquerque, NM 87109 or email to mvelasquez@rileynmlaw.com.

Office Coordinator

The law firm of Marrs Griebel Law (www.marrslegal.com) is seeking an Office Coordinator. This position will require strong administrative support skills as the Coordinator will be the primary point of contact for the firm's attorneys and paralegals for all administrative support, with the goal of minimizing the time spent by the firm's timekeepers with administrative tasks. Our firm has four attorneys and three paralegals, as well as an additional legal assistant. This position is an in-office, full-time position. The coordinator will also be the first point of contact for clients, vendors, and outside firms. The Coordinator will serve as a legal assistant for one of the firm's partners (only after all administrative training is completed). Compensation and benefits are above market. Please submit your resume and a brief cover letter to hiring@marrslegal.com. We look forward to welcoming a new member to our team who will represent our firm with integrity and professionalism.

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Please contact Marcia Ulibarri at 505-797-6058 or marcia.ulibarri@sbnm.org for more information and current ad rates.

Paralegal

Stiff, Garcia & Associates, LLC, a successful downtown insurance defense firm, seeks sharp, energetic Paralegal. Must be a self-starter, detail-oriented, organized, and have excellent communication skills. Paralegal degree, insurance defense and/or personal injury experience required. Bilingual in Spanish a plus. Please e-mail your resume and list of references to karrants@stiffllaw.com

Experienced Legal Assistant

Stiff, Garcia & Associates, LLC, a successful downtown insurance defense firm, seeks experienced Legal Assistant. Must be detail-oriented, organized, and have excellent communication skills. Bilingual in Spanish a plus. Competitive salary. Please e-mail your resume to karrants@stiffllaw.com

Paralegal

Paralegal -experienced in Trust and Estates, Probate, and Civil litigation. Must have strong leadership skills, excellent communication skills, and must be a team player. Looking for a long-term relationship with our company - Excellent pay and benefits. Please send resume to rejent@hurleyfirm.com

Hiring Litigation Paralegal!

As a Litigation Paralegal at McGinn, Montoya, Love, Curry & Sievers, you will play a critical role in supporting attorneys with all aspects of case management. Responsibilities include managing deadlines, organizing case files, finalizing and filing pleadings, assisting with discovery and trial. You will interact regularly with clients, offering guidance and support as they navigate their legal journey. Solid abilities in MS365 and Adobe Acrobat are necessary. Salary commensurate with experience. Excellent benefit and profit-sharing package. Email your resume and interest letter to mmcladmin@mcginnlaw.com

Services

True North Resolution Mediation Services

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Neutral, experienced mediator; Over 25 years of legal expertise representing plaintiffs and defendants; Reasonable rates; Mediation via Zoom; Online Scheduling available. Email: amy@truenorthresolution.com; www.truenorthresolution.com

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Winrow Tax Services understands the unique bookkeeping and tax challenges attorneys face. As a New Mexico licensed attorney and former prosecutor with advanced degrees in Tax (LL.M.), Law (J.D.), Accounting (MAcc), and Business (MBA), I offer trusted expertise in financial statements, bookkeeping, and tax services. I also assist with Rule 17-204 NMRA trust account compliance to ensure accurate records and peace of mind. Visit winrowtax.com or email info@winrowtax.com to learn more.

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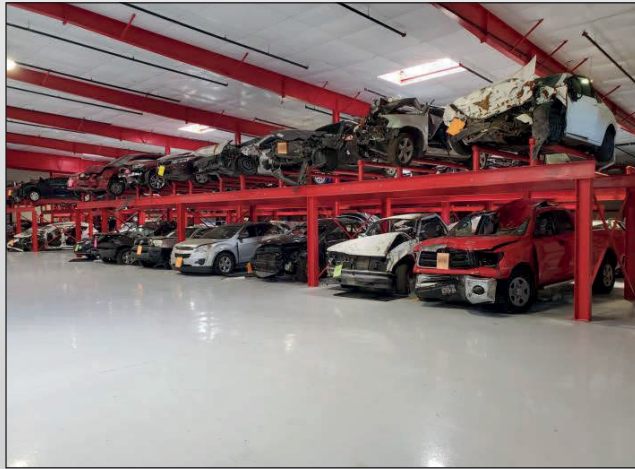
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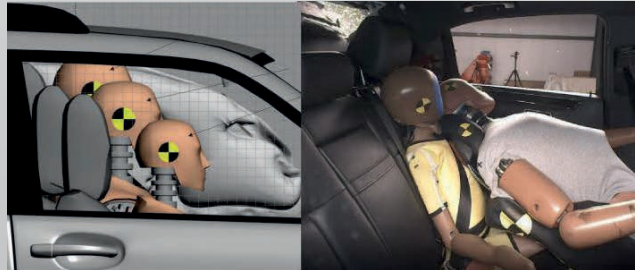
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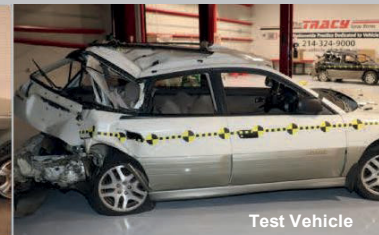
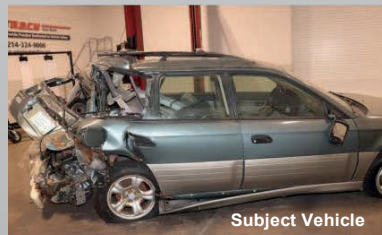


Crashworthiness

focuses on how the vehicle's safety systems performed, not who caused the accident. At my firm's Crash Lab, we continually study vehicle safety through engineering, biomechanics, physics, testing and innovation.



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A Guide to



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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.

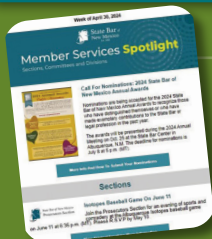


Bar Bulletin

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.

