

Official Publication of the State Bar of New Mexico

DIGITAL

# BAR BULLETIN

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*Tidal Wave*, by Rachel Rickerman (see page 5)

## Inside This Issue

Save the Date!

State Bar of New Mexico 2026 Annual Meeting ..... 9

Now Announcing:

The Young Attorney Voices Series! ..... 10

New Mexico State Bar Foundation:

Help Us Reach Our Goal ..... 11

2026 State Bar of New Mexico

New Officer Swearing-In Ceremony ..... 12

An Inclusive Interview

with Judge Jannette Mondragón ..... 14

Digital Resource Deskbook 2026-2027:

Advertising Opportunities Now Available ..... 16

Center for Legal Education Planner ..... 17

Legal Education Calendar ..... 21

New Mexico Supreme Court Opinions ..... 23

New Mexico Court of Appeals Formal Opinions ..... 43

New Mexico Court of Appeals

Memorandum Opinions ..... 49

# Aldridge, Hammar & Wexler, P.A.



**Allison Block-Chavez**



Aldridge, Hammar & Wexler, PA congratulates our Partner, Allison Block-Chavez, on her selection to serve as 2026 State Bar of New Mexico President. We are confident that Allison's tenure as President will be marked by strong leadership and continued commitment to serving our legal community. We are proud to support her on this journey!

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# WILLIAM B. KELEHER

1933 - 2025

The lawyers and staff at Jennings Haug Keleher McLeod Waterfall LLP celebrate the life and memory of William B. Keleher, who passed away on November 12, 2025.

William practiced as our colleague at Keleher & McLeod for almost 60 years before his retirement in 2017.

William was a gifted lawyer, who was highly respected and admired by his colleagues and clients. He also was a selfless mentor, instilling in young attorneys the values of absolute professionalism and exceptional client representation. These qualities, together with his unwavering dedication to family and the Albuquerque community, left an indelible mark on all who knew him, and our lives were made richer for it.

We will miss William, and we extend our condolences to William's family and friends.



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# DIGITAL BAR BULLETIN



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January 14, 2026 • Volume 65, No. 1

[www.sbnm.org](http://www.sbnm.org)



## Table of Contents

**06** Notices  
**09** Save the Date! State Bar of New Mexico 2026 Annual Meeting  
**10** Now Announcing: The Young Attorney Voices Series!  
**11** New Mexico State Bar Foundation: Help Us Reach Our Goal  
**12** 2026 State Bar of New Mexico New Officer Swearing-In Ceremony  
**14** An Inclusive Interview with Judge Jannette Mondragón  
**16** Digital Resource Deskbook 2026-2027: Advertising Opportunities Now Available!  
**17** Center for Legal Education Planner  
**21** Legal Education Calendar  
**23** New Mexico Supreme Court Opinions  
**43** New Mexico Court of Appeals Formal Opinions  
**49** New Mexico Court of Appeals Memorandum Opinions  
**53** Advertising



### CLE COURSE SPOTLIGHT

GAIN THE EDGE!® NEGOTIATION STRATEGIES FOR LAWYERS  
W/MARTY LATZ

**DATE** Jan. 16, 2026  
 **TIME** 9 AM – 4 PM (MT)  
 **LOCATION** Virtual  
 **CREDITS** 5.0 G, 1.0 EP

**REGISTER AT:**  
[HTTPS://BIT.LY/CLE-01162026](https://bit.ly/CLE-01162026)

505-797-6020 [cle.sbnm.org](http://cle.sbnm.org)



**About Cover Image and Artist:** This oil painting is submitted by a native New Mexican, Rachel Rickerman, who has worked as a legal assistant in Albuquerque for the past 25 years. She has always wanted to paint but never took the initiative, believing she could not paint because she felt she could not draw. Come to find out, drawing had nothing to do with it. With a break through in her healing process a creative energy was ignited. She recently became inspired by 'The Joy of Painting with Bob Ross' television series. She purchased the supplies, picked up a brush and began painting along. She has now taken up oil painting as a regular outlet and comments that painting has brought about confidence, a deep satisfaction in achieving a goal, much peace and relaxation and most of all the love she feels sharing these beautiful colors on canvas with others.

# Notices

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

## COURT NEWS

### New Mexico Supreme Court

#### Rule-Making Activity

To view recent Supreme Court rule-making activity, visit the Court's website at <https://supremecourt.nmcourts.gov>. To view all New Mexico Rules Annotated, visit New Mexico OneSource at <https://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](mailto:libref@nmcourts.gov) or visit: <https://lawlibrary.nmcourts.gov>.

#### First Judicial District Court Notice of Destruction of Exhibits in Criminal, Sequestered Miscellaneous and Civil Cases

##### 1973 to 2010

Pursuant to the Supreme Court ordered Judicial Records Retention and Disposition Schedules and Rule LR1-113 NMRA, the First Judicial District Court will destroy exhibits filed with the court, in Criminal, Sequestered Miscellaneous and Civil cases within the years 1973 to 2010 included but not limited to cases that have been consolidated. Cases on appeal are excluded. Counsel representing parties with exhibits admitted within the applicable case date range and seeking retrieval prior to final disposition may contact the Court Clerk's Office at 505-455-8274 to verify exhibit information during regular business hours (8 a.m. to 5 p.m. (MT), Monday through Friday) through March 15. Plaintiff exhibits will be released to counsel of record for the plaintiff(s) and defendant(s) exhibits will be released to counsel of record for the defendant(s) by Order of the Court. All exhibits will be released in their entirety. Exhibits not claimed by the specified date

## Professionalism Tip

#### With respect to the public and to other persons involved in the legal system:

I will respect and protect the image of the legal profession and will be respectful of the content of my advertisements or other public communications.

will be considered abandoned and will be destroyed by Order of the Court.

#### First Judicial District Judicial Nominating Commission

#### Announcement of Applications

Six (6) applications were received by the Judicial Selection Office as of 5 p.m. (MT) on Jan. 2 for the First Judicial District Court vacancy created by the retirement of the Hon. Shannon Broderick Bulman, effective Jan. 1. The First Judicial District Court Judicial Nominating Commission will reconvene on Jan. 16 at a time to be determined, at the First Judicial District Court, located at 225 Montezuma Avenue, Santa Fe, N.M. The Commission meeting will be open to the public. Members of the public who wish to be heard regarding any of the candidates will be given an opportunity to do so. The applicants include **Elizabeth K. Allen, Jennifer Jean Burrill, Todd A. Coberly, Tracy Hofmann, Marcos Domenico Martinez and Morgan Holly Wood**.

#### Third Judicial District Court Notice of Destruction of Exhibits

Pursuant to the New Mexico Judicial Retention and Destruction Schedules, the Third Judicial District Court in Las Cruces, New Mexico will destroy exhibits filed with the Court in civil cases for the years of 1996 to 2024. Cases on appeal are excluded. Parties and their attorneys are advised that exhibits may be retrieved until March 30, 2026. Should you have cases with exhibits, please verify exhibit information with the Court by calling at (575) 528-8357 from 8 a.m. to 4 p.m. (MT), Monday through Friday. All exhibits will be released in their entirety. Exhibits not claimed by March 30 will be considered abandoned and will be destroyed by Order of the Court.

#### U.S. District Court, District of New Mexico Notice for Reappointment of Incumbent United States Magistrate Judge

The current term of office of Part-Time United States Magistrate Judge Barbara Smith Evans is due to expire on Sept. 10. The United States District Court is required by law to establish a panel of citizens to consider the reappointment of the magistrate judge to a new four-year term. The duties of a magistrate judge in this court include the following: (1) presiding over most preliminary proceedings in criminal cases, (2) trial and disposition of misdemeanor cases, (3) presiding over various pretrial matters and evidentiary proceedings on delegation from a district judge, (4) taking of felony pleas, and (5) trial and disposition of civil cases upon consent of the litigants. Comments from members of the bar and the public are invited as to whether either incumbent magistrate judge should be recommended by the panel for reappointment by the court. Comments may be submitted by email to [MJMSP@nmcourt.uscourts.gov](mailto:MJMSP@nmcourt.uscourts.gov). Questions or issues may be directed to Lucy Carruthers at 505-348-2126. Comments must be received by Feb. 27.

## STATE BAR NEWS

### License Renewal and MCLE Compliance Due Feb. 2, 2026

State Bar of New Mexico annual license renewal and Minimum Continuing Legal Education requirements are due Feb. 2. For more information, visit [www.sbnm.org/compliance](http://www.sbnm.org/compliance). To complete your annual license renewal and verify your MCLE compliance, visit [www.sbnm.org/mydashboard](http://www.sbnm.org/mydashboard). For questions about license renewal and MCLE compliance, email [license@sbnm.org](mailto:license@sbnm.org). For technical assistance accessing your account, email [techsupport@sbnm.org](mailto:techsupport@sbnm.org).



## New Mexico Medical Review Commission

### Serve as a Hearing Panelist

The New Mexico Medical Review Commission invites State Bar of New Mexico licensees to volunteer as hearing panelists to review malpractice claims against qualified medical providers covered by the Medical Malpractice Act.

Volunteer panelists provide an important public service. The Commission relies exclusively on volunteer medical providers and attorneys to serve as hearing panelists.

Attorneys who volunteer for panel hearing are eligible for one (1) General Continuing Legal Education (CLE) credit per panel, up to four (4) credits per year.

To view more information, visit <https://www.sbnm.org/Leadership/Committees/Medical-Review-Panel-Opportunities>. To sign up, visit <https://nmmmedicalreview-commission.org/panelists/>



### Give Back Through the New Mexico State Bar Foundation During License Renewal Season

As you renew your license to practice this year, please consider donating to the New Mexico State Bar Foundation, a 501(c)(3) nonprofit organization. 100% of your donations are tax deductible and support Bar Foundation programs that provide and promote access to civil legal services to underserved New Mexicans.

For more information about donating to the New Mexico State Bar Foundation, contact [nmsbfdevelopment@sbnm.org](mailto:nmsbfdevelopment@sbnm.org).

Donations are gratefully accepted year-round at [www.sbnm.org/donate](http://www.sbnm.org/donate).

## 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](mailto: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>.

## Featured Member Benefit



The  
Solutions  
Group

The Solutions Group partners with the New Mexico Lawyer Assistance Program to offer comprehensive, statewide 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.**

## UNM SCHOOL OF LAW

### Law Library Hours

The Law Library is happy to assist attorneys via chat, email or in person by appointment from 8 a.m. to 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/>.

# Notices

## OTHER NEWS

### Center for Civic Values

#### Judges Needed for Gene

#### Franchini High School Mock Trial Competition

The Gene Franchini New Mexico High School Mock Trial Competition is seeking volunteer judges for its qualifier rounds Feb. 20 - 21 in Albuquerque, N.M. This hands-on experience builds critical thinking, confidence and a deeper understanding of the justice system. Tentative participants may sign up at:

[registration.civicvalues.org/mock-trial/registration](https://registration.civicvalues.org/mock-trial/registration). The mock trial requires **100 judges per round**. Volunteers may earn CLE credits for their participation in the event. The deadline for registration is Feb. 4. For questions, contact Kristen at the Center for Civic Values at 505-764-9417 or [Kristen@civicvalues.org](mailto:Kristen@civicvalues.org).

## 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>.

## Join a State Bar Practice Section

*Benefits of Section Membership include:*

- Practice area-targeted resources
- Networking
- Public service opportunities
- Leadership experience

*And so much more!*

Browse Sections and join today at [www.sbnm.org/Leadership/Sections](http://www.sbnm.org/Leadership/Sections).



Save the Date!

State Bar of New Mexico

# Annual Meeting 2026

Adventure  
Awaits!

Learn, Network and Explore  
in Colorful Southern Colorado!

Aug. 13-15  
Sky Ute Casino Resort  
Ignacio, Colorado

**Sky Ute** CASINO  
RESORT  
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More information and registration coming soon.  
[www.sbnm.org/AnnualMeeting2026](http://www.sbnm.org/AnnualMeeting2026)



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Now Announcing:

# THE YOUNG ATTORNEY VOICES SERIES!

**Tell Your Story - Inspire Your Peers!**

**\* ARE YOU A NEW ATTORNEY IN NEW MEXICO? DO YOU KNOW ANY NEWCOMERS IN THE PROFESSION?**

**Young Attorney Voices** is a brand-new series giving new attorneys the opportunity to answer questions pertaining to their experiences as legal professionals and be featured in the *Bar Bulletin* and the State Bar of New Mexico's social media!

**\* PARTICIPATING IS EASY!**

Each installment of the Young Attorney Voices series will include a randomized single question about your experiences in the legal field, which will range from the challenges you faced when you first entered law practice to your most rewarding moments as a practicing attorney. Submissions may be sent in writing or as a video.

To participate, visit <https://form.jotform.com/sbnm/young-attorney-voices> and follow the instructions to submit your answer to the question for review.

Written submissions will be featured in the *Bar Bulletin*, and video submissions will be transcribed for the *Bar Bulletin* and posted to the State Bar of New Mexico's Instagram, LinkedIn, Facebook and X profiles.



*The State Bar of New Mexico reserves the right to edit submissions for any reason, including for volume and length. All submissions will be reviewed, approved and posted by the State Bar of New Mexico.*

For questions regarding this series, please contact notices@sbnm.org.



State Bar of New Mexico  
Young Lawyers Division





# Help Us Reach Our Goal!

**10% MORE**  
**In Donations This Year**  
During License Renewal Season

Donating to the New Mexico State Bar Foundation is **EASY!** State Bar of New Mexico licensees can donate during license renewal by visiting

[www.sbnm.org/licensing](http://www.sbnm.org/licensing)



**100%** of your donation to the New Mexico State Bar Foundation, a 501(c)(3) nonprofit organization, is tax deductible and supports Bar Foundation programs that provide and promote access to civil legal services to underserved New Mexicans:

- ★ Each of the Bar Foundation's two legal helplines/referral programs have assisted in **over 3,400 cases** in fiscal year 2025, for a grand total of **over 6,800 cases** where assistance was provided! The two helplines are the **Modest Means Helpline** (MMH) for New Mexicans of limited financial means and the **Legal Resources for the Elderly Program** (LREP) for senior citizens in New Mexico.
- ★ **FREE Divorce Options** and **Consumer Debt/Bankruptcy Workshops** are monthly virtual legal workshops open to the public and presented by volunteer attorneys.

**Have you met your pro bono obligation for the year?**

Sign up to volunteer for MMH and LREP at <https://bit.ly/AttorneyVolunteerSignUp> or contact [caitlin.cacerano@sbnm.org](mailto:caitlin.cacerano@sbnm.org). Alternatively, donating to the State Bar Foundation will help you fulfill your pro bono obligation.

**Other ways to support the New Mexico State Bar Foundation's programs:**

- ★ Attend New Mexico State Bar Foundation Center for Legal Education's high quality, affordable educational programs for the legal community at [cle.sbnm.org](http://cle.sbnm.org)
- ★ Donations to the New Mexico State Bar Foundation are gratefully accepted year-round at [www.sbnm.org/donate](http://www.sbnm.org/donate)

**For more information about donating to the New Mexico State Bar Foundation, contact [nmsbfdevelopment@sbnm.org](mailto:nmsbfdevelopment@sbnm.org).**



**New Mexico  
State Bar Foundation**

# 2026 State Bar of New Mexico New Officer Swearing-In Ceremony



New Mexico Supreme Court Chief Justice Thomson swears in 2026 State Bar of New Mexico President Allison H. Block-Chavez

2026 State Bar of New Mexico (“State Bar”) **President Allison H. Block-Chavez, President-Elect Lucy H. Sinkular and Secretary-Treasurer Tomas J. Garcia** were sworn into office on Dec. 10, 2025, at the New Mexico Supreme Court in Santa Fe, N.M. by Chief Justice David K. Thomson. Senior Justice Michael E. Vigil, Justice C. Shannon Bacon and Justice Julie J. Vargas were also present at the swearing-in ceremony, each of whom gave moving remarks to the incoming State Bar President, President-Elect and Secretary-Treasurer for 2026.

During his remarks, Chief Justice Thomson thanked each of the attending past State Bar Presidents for their work and collaboration with the Supreme Court. He also expressed his gratitude to 2025 President Aja N. Brooks for her leadership of the State Bar this past year before turning remarks over to Justices Bacon, Vargas and finally Senior Justice Vigil, who gave closing remarks. In his conclusive remarks, Senior Justice Vigil gave Allison H. Block-Chavez ample praise, recalling numerous professional experiences with her and expressing his confidence in her ability to carry out her mission as State Bar President.

Toward the end of her speech at the ceremony, Allison H. Block-Chavez remarked, “Our profession protects rights, solves problems, holds institutions accountable and ensures that justice is not merely a word but a lived experience. Our responsibility, especially now, is to restore trust through professionalism, competence and unwavering commitment to the rule of law.”



(From left to right): 2026 President-Elect Lucy H. Sinkular, Justice Julie J. Vargas, Chief Justice David K. Thomson, 2026 President Allison H. Block-Chavez, Senior Justice Michael E. Vigil, Justice C. Shannon Bacon and 2026 Secretary-Treasurer Tomas J. Garcia



2025 President Aja N. Brooks (right) passes the gavel to her successor, Allison H. Block-Chavez (left)



(From left to right): 2026 President Allison H. Block Chavez, 2025 President Aja N. Brooks, 2024 President Erinna M. "Erin" Atkins, 2023 President Benjamin I. Sherman, 2022 President Carolyn A. Wolf, 2019 President Gerald G. Dixon

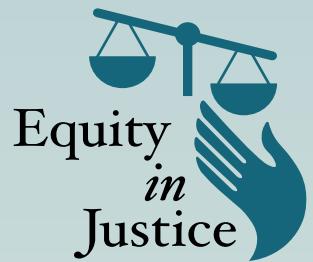


Chief Justice Thomson swears in 2026 President-Elect Lucy H. Sinkular



Chief Justice Thomson swears in 2026 Secretary-Treasurer Tomas J. Garcia

# An Inclusive Interview



## with Judge Jannette Mondragón



**T**he 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 and belonging in our profession is beneficial to all legal employers; be they private firms, government entities or nonprofits.

This *Inclusive Interview* is with Judge Jannette Mondragón. Judge Mondragón has been practicing law since 2018 and is currently a Doña Ana County Magistrate Court.

### Q: What is your background?

**A:** Before law school, I worked as a caseworker for Child Protective Services and later as an HIV Specialist with Planned Parenthood in El Paso. After graduating, I joined the 13th Judicial District Attorney's Office

I later transitioned to a nonprofit focused on immigration detention work, where I helped secure the release of approximately 42 individuals with serious medical conditions.

I then served as a case enforcement attorney with the Child Support Services Division, working to ensure New Mexico children received the financial support they were entitled to.

Today, I serve as a magistrate court judge in Doña Ana County. I've heard thousands of cases—magistrate court is truly the people's court, handling roughly 90% of the public's first contact with the judiciary. I preside over jury trials, bench trials, and preliminary hearings in felony cases, along with landlord-tenant matters, general civil disputes involving \$10,000 or less, traffic cases, code-enforcement violations, and lower-level misdemeanors.

### Q: What made you want to become a judge?

**A:** I always knew I wanted to work in the legal system—as a lawyer and eventually as a judge. A personal experience ultimately set that path in motion. I was hit by a vehicle as a pedestrian, and when I testified in court, I felt ignored until I mentioned that I was an attorney. That moment stayed with me. No one should be treated that way, and no one should need a title to be heard or respected.

I wanted to create a courtroom where every person—regardless of background—is treated with dignity, heard fully, and guided fairly through the process. I draw on my lived experiences as an enrolled member of the Chickasaw Nation, a first-generation Mexican-American woman, a mother, a former caseworker, and someone who grew up in difficult circumstances. Those experiences help me foster a courtroom environment that is inclusive, respectful, and grounded in fairness.



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

**A:** I am incredibly proud to be the first Native American judge to serve in the Third Judicial District. Native American attorneys make up less than 1% of the Bar, so bringing that representation and perspective to the bench is meaningful to me and to the communities I serve.

I am also proud of creating space for Indigenous culture within the judiciary. At my second swearing-in, members of the Pueblo of Tortugas offered a blessing, and my sister sang an honor song—traditions rarely seen in judicial spaces. Bringing cultural visibility and honoring those traditions in the courtroom is something that means a great deal to me.

**Q: Who is one of your heroes in the legal profession?**

**A:** Barbara Romo is one of my greatest role models. She is a veteran, was a caregiver to a disabled veteran, and a leader who exemplified compassion and balance. She made it clear that family responsibilities would never jeopardize our jobs, and she taught that justice isn't always prosecution—sometimes justice is mercy.

When I raised concerns about inappropriate law-enforcement behavior toward Native Americans in a DWI case, she listened, validated my concerns, and turned it into a teaching moment for the entire office. She modeled accountability, professionalism, integrity, and what true justice looks like in practice.

**Q: What advice do you have for new lawyers from diverse backgrounds?**

**A:** First, stay grounded in your community. Those are the people who will support you through difficult moments—whether you need to vent, seek advice, or navigate challenging situations.

Early in my career, a defense attorney grabbed me by the hips and moved me aside in the courtroom. I was stunned and didn't know how to respond. Talking it through with attorneys from my community helped me decide how to address it appropriately. Community support is essential—make sure you have it.

Second, stay open to opportunities. Don't box yourself in. Be flexible, take risks, and don't fear failure or being told "no." Growth often comes from trying again.

Finally, make space for others. Stick your elbows out and create room at the table for more diverse voices.

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

**A:** New Mexico is more intentional and welcoming than many jurisdictions, and I believe we do a strong job overall. That said, there is always room for improvement.

One major challenge is language access. We do not have enough interpreters statewide, which leads to delays, longer case timelines, and barriers to meaningful participation for non-English speakers.

We must also continue addressing hidden barriers in our system and work toward courts that are equitable, accessible, and ensure full and meaningful participation for everyone.

**Q: If you could have one superpower, what would it be and why?**

**A:** Teleportation. Flying would be nice, but teleportation would let me instantly be where I need to be. If my kid has a cross-country meet, I could finish work, take care of things at home, and appear there right on time—no rushing, no traffic, no stress.

Of course, the deeper answer would be the ability to create a perfect legal system—one that delivers true justice for all.

***Interested in being the subject of an Inclusive Interview?***

Contact SBNM Equity in Justice Attorney Abby Lewis at [abby.lewis@sbnm.org](mailto:abby.lewis@sbnm.org).



# DIGITAL RESOURCE DESKBOOK 2026-2027

Coming March 2026!

## ► *Your Direct Connection to New Mexico's Legal Community*

Showcase your firm, business or services to over 9,000 attorneys, judges and legal professionals by securing premium ad space in the Digital Resource Deskbook 2026-2027! This essential digital reference is downloaded, bookmarked and used throughout the year - making it one of the most impactful places to promote your brand to the New Mexico legal community.

### *Why Advertise in the Digital Resource Deskbook?*



*Unmatched visibility* to thousands of State Bar of New Mexico licensees.



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***Reserve Your Space Today***

Contact Tom Ende at 651-288-3422 or [marketing@sbnm.org](mailto:marketing@sbnm.org) for more advertising information.

[www.sbnm.org](http://www.sbnm.org)



**State Bar of  
New Mexico**  
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# 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

- ▶ National Speakers in January
- ▶ New on-demand courses
- ▶ Upcoming CLE courses
- ▶ 2026 Annual Pass



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**11:30 a.m.** <https://bit.ly/CLE-01302026-D>  
**2 p.m.** <https://bit.ly/CLE-01302026-E>



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# January Programs

## January 15

**Artificial Intelligence and Animals: Using Technology for Good**  
1.0 G  
Noon-1 p.m.  
**WEBINAR**  
<https://bit.ly/CLE-01152026-B>

## January 15

**Consumer Protection Law for Tenants (Live Replay)**  
1.0 G  
3-4 p.m.  
**WEBINAR**  
<https://bit.ly/CLE-01152026-C>

## January 15

**2026 Trade Secret Update**  
1.0 G  
11 a.m.-Noon  
**TELESEMINAR**  
<https://bit.ly/CLE-01152026-D>

## January 20

**Arbitration Clauses in Business Agreements**  
1.0 G  
11 a.m.-Noon  
**TELESEMINAR**  
<https://bit.ly/CLE-01202026>

## January 21

**Legal Representation of Persons with Diminished Capacity (Live Replay)**  
1.0 EP  
9-10 a.m.  
**WEBINAR**  
<https://bit.ly/CLE-01212026-A>

## January 21

**Ethics of Working with Experts and Witnesses**  
1.0 EP  
11 a.m.-Noon  
**TELESEMINAR**  
<https://bit.ly/CLE-01212026-B>

## January 21

**Due Process in Tribal Courts (Live Replay)**  
1.0 G  
Noon-1 p.m.  
**WEBINAR**  
<https://bit.ly/CLE-01212026-C>

## January 22

**Taxation of Settlements & Judgments in Civil Litigation**  
1.0 G  
11 a.m.-Noon  
**TELESEMINAR**  
<https://bit.ly/CLE-01222026-A>

## January 22

**Appellate Basics for Attorneys: Navigating the New Mexico Court of Appeals**  
1.5 G  
Noon-1:30 p.m.  
**WEBINAR**  
<https://bit.ly/CLE-01222026-B>

## January 22

**Cracking the Medicaid Code (Live Replay)**  
1.5 G  
3-4:30 p.m.  
**WEBINAR**  
<https://bit.ly/CLE-01222026-C>

## January 23

**5th Annual Women in the Law Symposium**  
2.5 G, 1.0 EIJ, 2.5 EP  
8:50 a.m.-4:40 p.m.  
**IN-PERSON AND WEBINAR**  
<https://bit.ly/CLE-01232026>

## January 27

**“I’ve Got a Secret.” The Broad Reach of Attorneys’ Duties of Confidentiality (LIVE REPLAY)**  
1.0 EP  
9-10 a.m.  
**WEBINAR**  
<https://bit.ly/CLE-01272026-C>

## January 27

**Part 4: Advance Cross-Examination - with Emphasis on Remote (Zoom) Cross Featuring Viewing Considerations and Playing at Trial Considerations**  
1.2 G  
11 a.m.-12:15 p.m.  
**WEBINAR**  
<https://bit.ly/CLE-01272026-A>

## January 27

**Lawyer Ethics of Using Paralegals**  
1.0 EP  
11 a.m.-Noon  
**TELESEMINAR**  
<https://bit.ly/CLE-01272026-B>

## January 27

**Mitigating AI Bias with Prompt Augmentation (LIVE REPLAY)**  
1.0 EIJ  
Noon-1 p.m.  
**WEBINAR**  
<https://bit.ly/CLE-01272026-E>

## January 28

**Gone But Not Forgotten: the Ethical and Malpractice Risks When Lawyers Leave Law Firms (LIVE REPLAY)**  
1.0 EP  
9-10 a.m.  
**WEBINAR**  
<https://bit.ly/CLE-01282026-E>

## January 28

**Pee-wee Herman and the Criminal Justice System’s History of Bias Against the Gay Community**  
1.0 EIJ  
11 a.m.-Noon  
**WEBINAR**  
<https://bit.ly/CLE-01282026>

## January 28

**Contract Drafting: Advanced Techniques for Risk Mitigation and Enforcement (LIVE REPLAY)**  
1.0 G  
Noon-1 p.m.  
**WEBINAR**  
<https://bit.ly/CLE-01282026-B>

## January 28

**What’s Status Got to Do with It? How Immigration Status Can Affect Access to Justice (LIVE REPLAY)**  
1.0 EIJ  
3-4 p.m.  
**WEBINAR**  
<https://bit.ly/CLE-01282026-D>

### January 29

#### Basic Practices for Taking and Defending Depositions (LIVE REPLAY)

1.0 G

9-10 a.m.

**WEBINAR**

<https://bit.ly/CLE-01292026-C>

### January 29

#### True Crime Ethics: The Alec Baldwin Dismissal and the Karen Read Acquittal

2.0 EP

11 a.m.-1 p.m.

**WEBINAR**

<https://bit.ly/CLE-01292026-A>

### January 29

#### Trust and Estate Planning for Health Care, Part 1

1.0 G

11 a.m.-Noon

**TELESEMINAR**

<https://bit.ly/CLE-01292026-B>

### January 29

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

1.0 EIJ

Noon-1 p.m.

**WEBINAR**

<https://bit.ly/CLE-01292026-D>

### January 29

#### Harmony in Justice: Using Classic R&B to Address Bias and Diversity in the Legal Profession (Live Replay)

1.0 EIJ

3-4 p.m.

**WEBINAR**

<https://bit.ly/CLE-01292026-E>

### January 30

#### Trust and Estate Planning for Health Care, Part 2

1.0 G

11 a.m.-Noon

**TELESEMINAR**

<https://bit.ly/CLE-01302026-A>

### January 30

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

1.0 EIJ

11 a.m.-Noon

**WEBINAR**

<https://bit.ly/CLE-01302026-C>

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# Legal Education Calendar

## January

15	<b>Artificial Intelligence and Animals: Using Technology for Good</b> 1.0 G Webinar NMSBF Center for Legal Education <a href="https://bit.ly/CLE-01012026-A">https://bit.ly/CLE-01012026-A</a>	20	<b>The Necessary Bookends to Reduce Child Sex Abuse: Statute of Limitations Reform and Strong Prevention</b> 1.0 G Web Cast (Live Credits) Third Judicial District Court <a href="https://thirddistrict.nmcourts.gov">https://thirddistrict.nmcourts.gov</a>	22	<b>Cracking the Medicaid Code (LIVE REPLAY)</b> 1.5 G Webinar NMSBF Center for Legal Education <a href="https://bit.ly/CLE-01222026-C">https://bit.ly/CLE-01222026-C</a>
15	<b>Consumer Protection Law for Tenants (LIVE REPLAY)</b> 1.0 G Webinar NMSBF Center for Legal Education <a href="https://bit.ly/CLE-01152026-C">https://bit.ly/CLE-01152026-C</a>	20	<b>Spanish for Lawyers: Motions &amp; Trial Practice</b> 20.0 G Live Program University of New Mexico School of Law <a href="https://lawschool.unm.edu">https://lawschool.unm.edu</a>	22	<b>Appellate Basics for Attorneys: Navigating the New Mexico Court of Appeals</b> 1.5 G Webinar NMSBF Center for Legal Education <a href="https://bit.ly/CLE-01222026-B">https://bit.ly/CLE-01222026-B</a>
15	<b>2026 Capital Mitigation Skills Workshop</b> 17.0 G Web Cast (Live Credits) Administrative Office of the US Courts <a href="https://www.uscourts.gov">https://www.uscourts.gov</a>	21	<b>Legal Representation of Persons with Diminished Capacity (LIVE REPLAY)</b> 1.0 EP Webinar NMSBF Center for Legal Education <a href="https://bit.ly/CLE-01212026-A">https://bit.ly/CLE-01212026-A</a>	22	<b>Structured Settlement Strategies in Brain Injury Cases</b> 1.0 G Web Cast (Live Credits) New Mexico Trial Lawyers Association & Foundation <a href="https://www.nmtla.org">https://www.nmtla.org</a>
15	<b>Demystifying Autopilot</b> 1.0 G Web Cast (Live Credits) New Mexico Trial Lawyers Association & Foundation <a href="https://www.nmtla.org">https://www.nmtla.org</a>	21	<b>Ethics of Working with Experts and Witnesses</b> 1.0 G Teleseminar NMSBF Center for Legal Education <a href="https://bit.ly/CLE-01212026-B">https://bit.ly/CLE-01212026-B</a>	23	<b>5th Annual Women in the Law Symposium</b> 2.5 G, 1.0 EIJ, 2.5 EP In-Person or Webinar NMSBF Center for Legal Education <a href="https://bit.ly/CLE-01232026">https://bit.ly/CLE-01232026</a>
15	<b>Dr. King's Legacy of Hope in Action: Lessons for Lawyers and Leadership</b> 1.0 EIJ Web Cast (Live Credits) New Mexico Black Lawyers Association <a href="https://bit.ly/nm-bla">https://bit.ly/nm-bla</a>	21	<b>Due Process in Tribal Courts (LIVE REPLAY)</b> 1.0 G Webinar NMSBF Center for Legal Education <a href="https://bit.ly/CLE-01212026-C">https://bit.ly/CLE-01212026-C</a>	27	<b>Part 4: Cross-Examination - with Emphasis on Remote (Zoom) Cross Featuring Viewing Considerations and Playing at Trial Considerations</b> 1.2 G Webinar NMSBF Center for Legal Education <a href="https://bit.ly/CLE-01272026-A">https://bit.ly/CLE-01272026-A</a>
16	<b>Gain the Edge! Negotiation Strategies for Lawyers w/Marty Latz</b> 5.0 G, 1.0 EP Webinar NMSBF Center for Legal Education <a href="https://bit.ly/CLE-01162026">https://bit.ly/CLE-01162026</a>	22	<b>Taxation of Settlements &amp; Judgments in Civil Litigation</b> 1.0 G Teleseminar NMSBF Center for Legal Education <a href="https://bit.ly/CLE-01222026-A">https://bit.ly/CLE-01222026-A</a>	27	<b>"I've Got a Secret." The Broad Reach of Attorneys' Duties of Confidentiality (LIVE REPLAY)</b> 1.0 EP Webinar NMSBF Center for Legal Education <a href="https://bit.ly/CLE-01272026-C">https://bit.ly/CLE-01272026-C</a>

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## From the New Mexico Supreme Court

From the New Mexico Supreme Court

**Opinion Number: 2025-NMSC-018**

No. S-1-SC-39826 (filed February 27, 2025)

**JOHN MARTENS and PAT MARTENS, Individually and Co-Personal Representatives of the Estate of V.M.,**

Plaintiffs-Respondents,

v.

**CITY OF ALBUQUERQUE, JOHN DOES 1-10, and JANE DOES 1-10, Individually,**

Defendants-Petitioners.

### ORIGINAL PROCEEDING ON CERTIORARI

Denise Barela-Shepherd, District Judge

Office of the City Attorney  
Lauren Keefe, City Attorney  
Stephanie M. Griffin, Deputy City  
Attorney  
Albuquerque, NM

for Petitioners

Bowles Law Firm  
Jason Bowles  
Albuquerque, NM

Gorence Law Firm, LLC  
Robert J. Gorence,  
Albuquerque, NM

for Respondents

## OPINION

**BACON, Justice.**

{1} Defendant-Petitioner City of Albuquerque (the City) challenges the Court of Appeals' ruling that written notice by Plaintiffs-Respondents John Martens and Pat Martens (Respondents), individually and on behalf of the Estate of V.M., was sufficient under NMSA 1978, Section 41-4-16(A) (1977) of the New Mexico Tort Claims Act (TCA), NMSA §§ 41-4-1 to -27 and 41-4-30 (1976, as amended through 2020).<sup>1</sup> See *Martens v. City of Albuquerque*, 2023-NMCA-037, ¶ 12, 531 P.3d 607. Section 41-4-16(A) requires persons, such as Respondents, who assert tort claims against a public body to send notice of their claims to the public body and sets out the requirements for such notice. Because the notice Respondents sent to the City was sufficient under Section 41-4-16(A) of the TCA, we affirm the Court of Appeals.

### I. BACKGROUND

{2} Central here, Section 41-4-16(A) ("Notice of Claims") of the TCA provides:

Every person who claims damages from the state or any local public body under the Tort Claims Act shall cause to be presented to the risk management division for claims against the state, the mayor of the municipality for claims against the municipality, the superintendent of the school district for claims against the school district, the county clerk of a county for claims against the county, or to the administrative head of any other local public body for claims against such local public body, within ninety days after an occurrence giving rise to a claim for which immunity has been waived under the Tort Claims Act, a written notice stating the time,

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place and circumstances of the loss or injury.

(Emphasis added.)

{3} On November 17, 2016, Respondents sent their "Notice of Claims Resulting in Injury/Death Per [Section 41-4-16]" (the Notice) to the Bernalillo County Clerk, the New Mexico Risk Management Division, and the Mayor of the City of Albuquerque. The text of the Notice read in full:

Re: Incident on or about, in the City of Albuquerque, County of Bernalillo, State of New Mexico, in which the minor child [V.M.] suffered serious injuries, and subsequently death, after the New Mexico Corrections Department Probation and Parole Division, located at 111 Gold Ave. SE, Albuquerque, NM 87102, the New Mexico Children, Youth and Families Department [(CYFD)], located at 1031 Lamberton Pl. NE, Albuquerque, New Mexico 87107, and the Second Judicial District Court in Bernalillo County, located at 400 Lomas Blvd. NW, Albuquerque, New Mexico 87102, failed to properly monitor her alleged killer, Fabian Gonzales, on probation; this is the Notice of Claims pursuant to [Section 41-4-16 of the TCA].

**To Whom It May Concern:**  
Please take notice that Michael Martens, Wrongful Death Personal Representative of the Estate of [V.M.], may make a claim or claims against the County of Bernalillo, and all affected departments, agencies and divisions within the State, County, and City arising out of the incident involving an accident which took place on August 24, 2016, when Fabian Gonzales, along with two others (Michelle Martens and Jessica Kelley), drugged, sexually assaulted, tortured and killed 10-year-old [V.M.], after the State of New Mexico, County of Bernalillo, and City of Albuquerque

<sup>1</sup> Section 41-4-30 was explicitly enacted as a "new section of the Tort Claims Act." 2010 N.M. Laws, ch. 22, § 1.

## ► From the New Mexico Supreme Court

generally engaged in tortious conduct and circumstances leading to injury and death of [V.M.], including failure to properly monitor Fabian Gonzales on probation.

Notice is provided that claims may be brought regarding the negligence of the State of New Mexico, County of Bernalillo, and City of Albuquerque, which resulted in the death of [V.M.] on or about August 24, 2016.

{4} The City's response letter of December 15, 2016, to Respondents' counsel relevantly included the following paragraphs:

Regarding the claim against the City . . . , it was determined that subsequent to a murder investigation by the Albuquerque Police Department [(APD)], the manner in which the crime was investigated was appropriate and in accordance with departmental policies and procedures.

Based on these circumstances and in the absence of any verifiable City negligence, there is no legal or factual basis by which your client's claim can be honored, and we are obliged to respectfully deny it.

We note the City's letter inherently acknowledges receipt of the Notice while referring only to the City's investigation of events *subsequent* to V.M.'s death, whereas the Notice refers to "tortious conduct and circumstances *leading to* injury and death of [V.M.]."  
(Emphasis added.)

{5} Respondents filed a complaint in 2017 under the TCA alleging negligence by the City, APD, and unknown officers, including negligence in failing to investigate a referral made by CYFD that arose from an incident before V.M. was killed. The relevant incident involved an allegation that one of V.M.'s mother's boyfriends had attempted to kiss V.M.

{6} The district court granted the City's motion for summary judgment regard-

ing dismissal of the unknown APD officers and, central to the issue here, Respondents' lack of compliance "with the requirement of Section 41-4-16(A) to give written notice of the[ir] claims."<sup>2</sup> See Mem. Op. and Order, *Martens v. City of Albuquerque*, D-202-CV-2017-05905, at 4 (2d Jud. Dist. Ct. June 29, 2020). The district court quoted the proposition articulated in *Cummings v. Board of Regents* that "[t]he purpose of the TCA notice requirement is . . . to reasonably alert the agency to the necessity of investigating the merits of the potential claim against it." See *Cummings*, 2019-NMCA-034, ¶ 21, 444 P.3d 1058 (internal quotation marks and citation omitted). The district court focused its analysis on the Notice's allegation of "fail[ure] to properly monitor a person on probation," concluding such an allegation "does not reasonably alert the City to the necessity of investigating the merits of a claim that it failed to investigate a report of child abuse." Mem. Op. and Order 4.

{7} The district court further analyzed this allegation in the Notice under the four purposes of the TCA notice requirement articulated in *Ferguson v. New Mexico State Highway Commission*:

- (1) to enable the person or entity to whom notice must be given, or its insurance company, to investigate the matter while the facts are accessible;
- (2) to question witnesses;
- (3) to protect against simulated or aggravated claims; and
- (4) to consider whether to pay the claim or to refuse it.

1982-NMCA-180, ¶ 12, 99 N.M. 194, 656 P.2d 244. The district court concluded Respondents' allegation of failure to supervise a person on probation failed the first, second, and fourth of these purposes by not referring to a potential violation of the Abuse and Neglect Act, NMSA 1978, §§ 32A-4-1 to -35 (1993, as amended through 2023).

{8} The Court of Appeals reversed, holding

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Respondents' "Notice provided the City with the information necessary to investigate its involvement with the circumstances leading to V.M.'s injuries and death" and "satisfied the requirements of Section 41-4-16(A)." *Martens*, 2023-NMCA-037, ¶ 12. ¶9 Under de novo review, the Court of Appeals considered solely whether "the contents of the Notice satisfied the Section 41-4-16(A) written notice requirement." *Id.* ¶ 4. While acknowledging the legislative purposes identified in *Ferguson*, the Court concluded the TCA's written notice provision requires only "a written notice stating the time, place and circumstances of the loss or injury[,] . . . directed to at least one of the named individuals in the statute or an agent of those individuals[,] . . . presented 'within ninety days after an occurrence giving rise to a claim for which immunity has been waived under the [TCA]'." *Id.* ¶¶ 5-6 (third alteration in original) (quoting Section 41-4-16(A)).

{10} Applying this standard, the Court of Appeals concluded the Notice satisfied Section 41-4-16(A), notwithstanding general references to negligent supervision:

The Notice states the time, place, and circumstances of the injury by generally referring to the tortious conduct and negligence by the State, the County, and the City, which caused V.M.'s injuries and death on August 24, 2016. . . . The Notice was timely, was sent to appropriate individuals, and identified the time, place, and injury.

*Id.* ¶ 7.

{11} The Court of Appeals also addressed and distinguished the City's citations of *Cummings*, *Ferguson*, and *Marrujo v. New Mexico State Highway Transportation Department*, 1994-NMSC-116, 118 N.M. 753, 887 P.2d 747, regarding the specificity required by Section 41-4-16. *Martens*, 2023-NMCA-037, ¶¶ 8-9. First, the Court noted that *Marrujo* "considered the sufficiency of an actual notice claim and not the requirements for written notice under Section

<sup>2</sup> The district court's opinion and order denied the motion for summary judgment regarding the TCA notice generally, pending determination of the issue of actual notice. Subsequently, the district court denied Respondents' Motion to Reconsider regarding noncompliance of their written notice, and ruled the City "did not have actual notice." Mem. Op. and Final Order, *Martens v. City of Albuquerque*, D-202-CV-2017-05905, at 1 (2d Jud. Dist. Ct. Feb. 8, 2021).

## ► From the New Mexico Supreme Court

41-4-16(A)." *Id.* ¶ 8. Second, the Court noted that *Ferguson* considered "whether the notice requirement violated due process protections and not whether a particular notice satisfied the statutory requirements." *Id.* Finally, the Court acknowledged *Cummings* addressed "the sufficiency of a written TCA notice." *Id.* ¶ 9. However, where the plaintiff in *Cummings* submitted a relevant affidavit in joining an existing class action, "[t]he *Cummings* Court did not consider whether or decide that a written tort claim notice must specifically identify a claim or meet a factual threshold that would permit an investigation. Instead, [the *Cummings*] Court held that the already-filed class action complaint provided notice and the affidavit alerted the defendants that the plaintiffs intended to make claims." *Martens*, 2023-NMCA-037, ¶ 9. Based on these distinctions, the Court of Appeals concluded *Cummings* does not govern here, where "the Notice [does] . . . meet the statutory requirements on its own terms." *Id.* Accordingly, the Court of Appeals reversed and remanded. *Id.* ¶ 12.

{12} We granted the City's timely petition for certiorari, which presented the following four questions:

(1) Whether a written notice that references a different time, place, and circumstance that allegedly results in loss or injury than what was pled in a lawsuit against the governmental entity complies with the Section 41-4-16 TCA notice requirement.

(2) To what degree is a claimant required to describe the time, place, and circumstance of the loss or injury to satisfy the written notice requirement set forth in Section 41-4-16(A) of the TCA.

(3) Whether the Legislative objective underlying Section 41-4-16 should be considered in determ[in]ing the degree and sufficiency of a written notice submitted pursuant to Section 41-4-16(A) of the TCA.

(4) Whether the rationale expressed in precedential decisions

addressing the sufficiency of *actual* notice should be applied when determining the degree and sufficiency of a *written* notice submitted pursuant to Section 41-4-16(A) of the TCA.

(Emphasis added.)

## II. DISCUSSION

### A. Standard of Review

{13} "Whether the district court properly dismissed [Respondents'] claims for failing to comply with the TCA's notice requirement presents an issue of law, which we review *de novo*." *Cummings*, 2019-NMCA-034, ¶ 16. "Under the TCA[,] defendants have the burden of proving that the notice requirement was not met." *Id.* ¶ 11 (text only).<sup>3</sup>

{14} We address the parties' arguments regarding each of the petition questions in turn.

### B. Respondents' Notice Satisfied Section 41-4-16(A)

#### 1. The time, place, and circumstance in the Notice satisfied Section 41-4-16 and did not differ from the time, place, and circumstance of the loss in the subsequent complaint

{15} The City characterizes information in the Notice regarding time, place, and circumstance of the loss or injury as "completely different" from that in Respondents' subsequent complaint. The City asserts the Notice "only provided notice of Fabian Gonzales'[s] conduct and alleged that [the City] and other governmental agencies were negligent in supervising [him]" without specifying the subsequent complaint's child abuse, neglect, or general negligence allegations. The City argues under *Cummings* that Section 41-4-16(A) is not satisfied by such differences where "[t]he purpose of the TCA notice requirement is to ensure that the agency allegedly at fault is notified that it may be subject to a lawsuit and to reasonably alert the agency to the necessity of investigating the merits of the potential claim against it." *Cummings*, 2019-NMCA-034, ¶ 21 (internal quotation marks and citation omitted). The City generally asserts that by not requiring a party to "provide the governmental entity with notice of proba-

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tive evidence/facts pre-suit," the Court of Appeals' "reasoning defeats the purpose of the Section 41-4-16 TCA notice requirement to put the governmental entity on notice of a potential claim."

{16} Respondents argue for affirming the Court of Appeals, asserting that, compared to the subsequent complaint, "[t]here was no 'different' time, place or circumstance of injury as to the City's negligence" alleged in the Notice. Respondents point to the Notice's references to V.M.'s death "on August 24, 2016[,] . . . in the City of Albuquerque," which occurred "after the [State, the County, and the City] generally engaged in tortious conduct and circumstances leading to injury and death of [V.M.]." Respondents argue these references alone satisfied Section 41-4-16(A) and aligned with the general negligence claims against the City in Respondents' complaint. Respondents highlight the Notice's claims that the City "generally engaged in tortious conduct" as distinct from the Notice's claims of *negligent supervision* "explicitly directed [against] the other [governmental] entities," arguing the district court and the City indulged a false premise by misreading negligent supervision as a claim against the City.

{17} At its core, the City asserts the Notice is critically different from Respondents' complaint in identifying the time, place, and circumstance of the loss or injury and this alleged difference frustrates the purposes of the TCA notice requirement. As we discuss, the City fails to demonstrate such a critical difference exists.

{18} Importantly, the City misrepresents the relevant allegations by stating the Notice "only provided notice" relating to negligent supervision. Instead, the Notice clearly alleges the City "generally engaged in tortious conduct and circumstances leading to injury and death of [V.M.]" and "claims may be brought regarding the negligence of the . . . City of Albuquerque which resulted in the death of [V.M.] on or about August 24, 2016." The City neither acknowledges these broader claims of negligence nor explains how they were insufficient to relevantly alert the City to potential litigation. While negligent supervision, "fail[ure] to properly

<sup>3</sup> "(Text only)" indicates the omission of nonessential punctuation marks—including internal quotation marks, ellipses, and brackets—that are present in the text of the quoted source, leaving the quoted text otherwise unchanged.

## ► From the New Mexico Supreme Court

monitor [V.M.'s] alleged killer," was specified in the subject line of the Notice, that claim named governmental entities other than the City; implicitly, inclusion of negligent supervision in the body text remained directed against those other entities and did not negate the broader and distinct claims of negligence against the City. Thus, as the Court of Appeals concluded, the district court erred in deeming the references to negligent supervision as rendering the Notice insufficient. *See Martens*, 2023-NMCA-037, ¶ 7 ("Despite the references to probation monitoring, however, the City was made aware that a claim could be brought based on the crime committed against V.M. and associated negligence and tortious conduct leading to that crime."). The City fails to address this conclusion and instead mimics the district court's unduly limited reading of the Notice in this regard.

{19} The complaint filed by Respondents does not provide a description of time, place, and circumstance "completely different" from that provided in the Notice. The complaint includes claims that a CYFD report of allegations of sexual violence against V.M. was referred to the City and that APD "made the decision to not investigate" those allegations contrary to the Department's responsibility under Section 32A-4-3(C) of the Abuse and Neglect Act. While these and related claims are certainly more specific than the Notice's allegations against the City, they share the same nature of being claims of general negligence.

{20} *Cummings* supports the proposition that the TCA written notice standard is satisfied by a *correlation* between the allegations in a written notice and allegations in a lawsuit's complaint. In *Cummings*, the plaintiffs' notice affidavit included specific information relating to diagnosis, treatment, the relevant physician, and the patient's death that correlated to complaints in the existing class-action lawsuits which the plaintiffs joined. *See* 2019-NMCA-034, ¶¶ 17-18. However, nothing in *Cummings*

establishes the minimum correlation that must exist between a written notice and a complaint to satisfy Section 41-4-16(A). Stated differently, the degree of specificity in the *Cummings* notice affidavit demonstrated a sufficient but not necessary level of correlation.

{21} Regardless, the City has not shown a lack of correlation. By relying on a noncredible characterization of the Notice—that it only provided notice regarding negligent supervision—the City has not shown a critical difference between the Notice and the complaint.

### 2. The City does not show Section 41-4-16 requires specificity greater than the Notice provided

{22} The City argues a claimant under Section 41-4-16 must include "relevant facts" regarding the time, place, and circumstance of the injury. The City asserts that, because *Cummings* quoted *Maestas v. Zager*, 2007-NMSC-003, 141 N.M. 154, 152 P.3d 141, for the proposition that accrual of the TCA notice requirement is triggered by a claimant's knowledge of relevant facts, "it is evident that a [TCA] notice must contain the time, place, and circumstances that fall within the scope of Rule 11-401 NMRA." *See Cummings*, 2019-NMCA-034, ¶¶ 23-24; *see also* Rule 11-401 (governing the admissibility of evidence based on relevance). The City further construes *Cummings* as "suggest[ing] that the notice pleading standard [for a civil complaint under Rule 1-008 NMRA] is similar [to] or the same as what is required for a sufficient Section 41-4-16 written notice." Under this reading of *Cummings* and *Maestas*, the City asserts the Court of Appeals erred in "conclud[ing] that the sufficiency of a written notice is limited to what is stated in Section 41-4-16(A)."

{23} Respondents answer with three arguments: (1) that *Cummings* cited *Maestas* regarding *timeliness* of a TCA notice, "not the *sufficiency* of what is required"; (2) that the Legislature did not require particularized facts in a written TCA notice; and (3)

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that a written TCA notice "cannot be held to a specificity requirement higher than that of a civil complaint" under Rule 1-008. Respondents relatedly reason requiring greater specificity "would put an enormous burden on claimants who have had fewer than ninety days to recover from an injury and consult legal counsel all without the benefit of any formal discovery."

{24} The City misreads and misapplies *Cummings*. As Respondents correctly note, the *Cummings* Court cited *Maestas* solely in the context of timeliness of a TCA notice, and nothing in *Cummings* suggests a "relevant facts" requirement pursuant to Rule 11-401 for a written TCA notice. As we have discussed, the specificity in the *Cummings* notice affidavit was *sufficient* to satisfy Section 41-4-16(A) and should not be read as *necessary*. *See* 2019-NMCA-034, ¶ 21 ("[W]ritten notice under the TCA [was] satisfied."). Further, the *Cummings* Court's recitation of the purpose of the TCA notice requirement—"to ensure that the agency allegedly at fault is notified that it may be subject to a lawsuit and to reasonably alert the agency to the necessity of investigating the merits of the potential claim against it"—does not suggest the time, place, and circumstance requirement in Section 41-4-16(A) bears a relationship to the notice pleading standard.<sup>4</sup> *Id.* ¶ 21 (internal quotation marks and citation omitted).

{25} In short, the City presents no authority for its claim that the Court of Appeals erred when it concluded, "The written notice required by Section 41-4-16(A) is limited to the time, place, and circumstances of the loss or injury. Nothing more is required." *Martens*, 2023-NMCA-037, ¶ 6 (internal quotation marks and citation omitted). Accordingly, the City does not establish a higher standard under which the Notice would be deficient for lack of relevant facts, such as "not mention[ing] a time-period other than the date of V.M.'s death; or any City of Albuquerque employee; or any alleged tortious conduct by a City employee; or any

<sup>4</sup> Even if it did, under our notice pleading standard, as Respondents highlight, "general allegations of conduct are sufficient," *Zamora v. St. Vincent Hosp.*, 2014-NMSC-035, ¶ 16, 335 P.3d 1243 (internal quotation marks and citation omitted), and "it is sufficient that defendants be given only a fair idea of the nature of the claim asserted against them sufficient to apprise them of the general basis of the claim; specific evidentiary detail is not required at the [complaint] stage of the pleadings," *Petty v. Bank of N.M. Holding Co.*, 1990-NMSC-021, ¶ 7, 109 N.M. 524, 787 P.2d 443.

## ► From the New Mexico Supreme Court

<https://www.nmcompcomm.us>

witnesses of the alleged tortious conduct by the City; or any place or circumstance of the alleged tortious conduct.”

{26} We agree with the City that the purposes of the notice requirement must be fulfilled, as discussed next. However, the City presents no basis for us to further define the degree of specificity required by Section 41-4-16(A).

### 3. The City does not show the Court of Appeals failed to consider the legislative purposes of Section 41-4-16

{27} Pointing to the four legislative purposes of the TCA notice requirement articulated in *Ferguson*, the City asserts the Court of Appeals “readily disregarded” those purposes and “conclud[ed] that the[y] . . . are not relevant.” The City appears to suggest the Court of Appeals erred in not expressly analyzing the Notice under those purposes and thereby set an improperly low standard that “renders the Section 41-4-16(A) written notice requirement meaningless.”

{28} Respondents argue the legislative purposes noted in *Ferguson* were fulfilled where the Notice “enable[d] the City to notify its insurance carrier, contact APD, investigate its involvement in [V.M.’s] sexual assault and murder, and analyze its policies and procedures to see if there were violations or exposure to litigation by way of paying the claim.”

{29} The City again misreads authority. First, the Court of Appeals quoted *Ferguson* for the four legislative purposes of the TCA notice provision, which we reiterate:

“(1) to enable the person or entity to whom notice must be given, or its insurance company, to investigate the matter while the facts are accessible; (2) to question witnesses; (3) to protect against simulated or aggravated claims; and (4) to consider whether to pay the claim or to refuse it.”

*Martens*, 2023-NMCA-037, ¶ 5 (quoting *Ferguson*, 1982-NMCA-180, ¶ 12). Importantly, the Court of Appeals distinguished the district court’s misreading of the Notice, as previously discussed, and properly did not analyze that misreading under the legislative purposes. *Id.* ¶ 5. That the Court of Appeals did not

give credence to the district court’s misreading does not suggest the purposes themselves were ignored by the Court. To the contrary, the Court implicitly considered those purposes in its conclusion two paragraphs later: “the City was made aware that a claim could be brought based on the crime committed against V.M. and associated negligence and tortious conduct leading to that crime.” *Id.* ¶ 7. Second, the Court of Appeals properly placed *Ferguson* in the context in which it was decided. *Ferguson* did not analyze the plaintiffs’ compliance with the statutory requirements of Section 41-4-16; instead, the *Ferguson* Court considered whether the ninety-day limitations period violated due process protections. See *Martens*, 2023-NMCA-037, ¶ 8 (citing *Ferguson*, 1982-NMCA-180, ¶¶ 3, 11, 14). The Court of Appeals’ rejection of the City’s position pertained to the City’s use of *Ferguson*, not to the legislative purposes articulated in *Ferguson*. In short, the City has failed to explain how the Court of Appeals’ consideration of the legislative purposes in their proper context constituted error.

{30} We consider it self-evident in our jurisprudence that statutes should not be construed in ways that frustrate legislative purposes. Cf. *Regents of Univ. of N.M. v. N.M. Fed’n of Tchrs.*, 1998-NMSC-020, ¶ 28, 125 N.M. 401, 962 P.2d 1236 (“The principal objective in the judicial construction of statutes is to determine and give effect to the intent of the [L]egislature.” (internal quotation marks and citation omitted)). As the *Ferguson* Court expressed in relation to the particular legislative purposes of the notice requirement, “Determination of what is reasonably necessary for the preservation of the health, safety, and welfare of the general public is a legislative function and should not be interfered with absent clear abuse.” 1982-NMCA-180, ¶ 12 (citing *State v. Collins*, 1956-NMSC-046, ¶ 8, 61 N.M. 184, 297 P.2d 325). The City has not met its burden to show the Court of Appeals erred in this regard.

### 4. The City does not show the need to apply actual notice cases to determine the standard for a written TCA notice

{31} The City quotes *City of Las Cruces v.*

*Garcia* for the proposition that Subsections 41-4-16(A) and (B), respectively providing requirements for written notice and actual notice, share the same purpose: “to ensure that the agency allegedly at fault is notified that it may be subject to a lawsuit.” *City of Las Cruces*, 1984-NMSC-106, ¶ 5, 102 N.M. 25, 690 P.2d 1019 (internal quotation marks and citation omitted). From this shared purpose, the City reasons actual notice cases are precedential in considering the standard for whether a written notice satisfies Section 41-4-16(A). Specifically, the City points to *Marrujo*, in which this Court held two Uniform Accident Reports to be insufficient as actual notice to the state where the reports

offered no suggestion that a tort had occurred or that a lawsuit was impending. There was nothing in the reports to distinguish th[e] case from the many other traffic fatalities in New Mexico in which the [s]tate is blameless and the driver or a private party is completely at fault. The reports served a purely statistical function.

1994-NMSC-116, ¶ 25. The City asserts “the vague and general nature of [the Notice], like the accident reports discussed in *Marrujo*, make it indistinguishable so as to put the City reasonably on notice of the alleged tortious conduct” in Respondents’ complaint. Based on this reading of legislative intent underlying Subsections 41-4-16(A) and (B), the City concludes the Court of Appeals erred in ruling the Notice satisfied the written TCA notice requirement.

{32} Respondents reply *Marrujo* is inapposite in that the police reports there “offered no suggestion that a tort had occurred or that a lawsuit was impending,” *Marrujo*, 1994-NMSC-116, ¶ 25, while here, Respondents “provided timely written notice of a potential claim.”

{33} While the City’s citation of *City of Las Cruces* regarding the shared purpose of Subsections 41-4-16(A) and (B) is germane, the City’s argument under *Marrujo* fails on three fronts. First, that shared purpose applied here would be to ensure the City was notified it may be subject to a lawsuit. Contrary to the City’s argument, the Notice clearly accomplished this purpose. The City

# Advance Opinions

## ► From the New Mexico Supreme Court

does not explain how a “Notice of Claims Resulting in Injury/Death per [Section 41-4-16]” does not alert the receiver of a potential lawsuit. In its title alone, the Notice’s clear relation to potential litigation stands in stark contrast to the accident reports in *Marrujo*, which “offered no suggestion that a tort had occurred or that a lawsuit was impending.” 1994-NMSC-116, ¶ 25. Second, *Marrujo*’s discussion of other cases does not demonstrate more detail is necessary to satisfy actual notice under Section 41-4-16(B) than was provided in the Notice. *See, e.g., id.* ¶ 27 (“[U]nder some circumstances, a police or other report could serve as actual notice under [S]ection 41-4-16(B), but only where the report contains information which puts the governmental entity allegedly at fault on

notice that there is a claim against it.” (internal quotation marks omitted) (quoting *City of Las Cruces*, 1984-NMSC-106, ¶ 6)). Third, in comparing the Notice to the *Marrujo* reports, the City characterizes the Notice as similarly “indistinguishable” but provides no explanation as to *what* it is indistinguishable *from*. The *Marrujo* Court made clear the reports there did not distinguish the decedent’s accident from the many other traffic fatalities that do not involve lawsuits against the state, while here, the City offers no object for a parallel comparison. To the extent the City merely implies the Notice is too vague and general, that position has been addressed.

### III. CONCLUSION

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{34} Respondents’ Notice was sufficient under Section 41-4-16(A) of the TCA. The City failed to show the Court of Appeals erred either in determining the proper standard for a written TCA notice or in evaluating the Notice under that standard. Accordingly, we affirm the Court of Appeals.

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

**C. SHANNON BACON, Justice**

**WE CONCUR:**

**DAVID K. THOMSON, Chief Justice**

**MICHAEL E. VIGIL, Justice**

**JULIE J. VARGAS, Justice**

**BRIANA H. ZAMORA, Justice**

## From the New Mexico Supreme Court

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From the New Mexico Supreme Court

**Opinion Number: 2025-NMSC-019**  
No. S-1-SC-39901 (filed March 20, 2025)

**STATE OF NEW MEXICO,**  
Plaintiff-Appellee,  
v.  
**ALAN MAESTAS,**  
Defendant-Appellant.

### CERTIFICATION FROM THE NEW MEXICO COURT OF APPEALS

Melissa A. Kennelly, District Judge

Kathryn Hardy Law  
Kathryn J. Hardy  
Taos, NM

for Appellant

Raúl Torrez, Attorney General  
Aletheia V.P. Allen, Solicitor General  
Santa Fe, NM

for Appellee

## OPINION

**THOMSON, Chief Justice.**

{1} Attorney Alan Maestas was found guilty of direct punitive contempt<sup>1</sup> for “refus[ing] to proceed to trial in defiance of the orders and warnings of the [c]ourt.” The district court sanctioned Maestas to ten days in jail, with ten days suspended, and to pay a \$1,000 fine to the New Mexico State Bar Foundation (the Foundation).<sup>2</sup> Maestas appealed, and the Court of Appeals certified to this Court the question of whether a contempt fine ordered payable to a third party is permitted by statute and the New Mexico Constitution. *See Order of Certification to the New Mexico Supreme Court, In re Maestas*, No. A-1-CA-40832 (N.M. Ct. App. May 4, 2023).

{2} The certified question requires us to consider whether a fine payable to a third party is permitted under the judiciary’s contempt power and Article VI, Section 30 of the New Mexico Constitution. We review questions of statutory and constitutional interpretation *de novo*. *State v. Boyse*, 2013-NMSC-024, ¶ 8, 303 P.3d 830.

{3} We hold that Maestas’s fine payable to a third party is permitted under the judiciary’s inherent and uniquely broad contempt power and is constitutional. In addition, the Legislature has not imposed a relevant constraint on the type of fine ordered against Maestas. We also clarify that only *fees collected*, not fines imposed, by the judicial department are subject to the limitations of Article VI, Section 30 of the New Mexico Constitution.

## I. DISCUSSION

### A. The Fine Payable to the Foundation Is Permitted Under the Judiciary’s Contempt Power

{4} Contempt is classified as either remedial (designed to coerce) or punitive (designed to punish). *In re Marshall*, 2023-NMSC-009, ¶¶ 12-13. An individual can be held in direct contempt for conduct committed in the presence of the court, or indirect contempt for conduct committed outside the presence of the court. *Id.* ¶ 14. In this case, Maestas was found guilty of direct punitive contempt and argues that contempt fines must be paid directly to the court.

{5} The judiciary has inherent authority to preserve order by holding individuals in contempt. *State ex rel. Bliss v. Greenwood*, 1957-NMSC-071, ¶ 17, 63 N.M. 156, 315 P.2d 223. “The real basis of [the contempt] power is to be found in the doctrine of separation of powers as provided for . . . in the New Mexico Constitution.” *Id.* Even without statutory authority, courts have the power to require respect, decorum, and compliance with their mandates. *Concha v. Sanchez*, 2011-NMSC-031, ¶ 23, 150 N.M. 268, 258 P.3d 1060. This inherent authority is codified in NMSA 1978, Section 34-1-2 (1915) which provides that “[i]t shall be within the power of each and every presiding [officer] of the several courts of this state . . . to punish contempt[] by reprimand, arrest, *fine* or imprisonment.” (Emphasis added.); *see also Concha*, 2011-NMSC-031, ¶ 22 (“[Section 34-1-2] is declaratory of the common law.” (internal quotation marks and citation omitted)).

{6} The judiciary’s authority to hold individuals in contempt is uniquely broad and can only be constrained by the Legislature in limited circumstances. *See Concha*, 2011-NMSC-031, ¶¶ 23, 29-30. We require judges to exercise restraint to avoid abuse of this uniquely broad authority. *See id.* ¶ 30. For example, when imposing a sanc-

<sup>1</sup> Both the Court of Appeals in their order of certification and the parties in their briefs use the term “criminal” contempt. In accordance with *In re Marshall*, 2023-NMSC-009, ¶ 23, 528 P.3d 670, we use the term “punitive” contempt throughout this opinion. We reiterate that “[c]ontempt charges formerly classified as either ‘civil’ or ‘criminal’ should instead be regarded as ‘remedial’ or ‘punitive’ to more accurately reflect the distinctions between the different types of contempt.” *Id.*

<sup>2</sup> The Court of Appeals affirmed the district court’s contempt finding but held that the initial sanction imposed by the district court was an abuse of discretion. *In re Maestas*, 2022-NMCA-057, ¶ 1, 517 P.3d 942. The sanction described here was imposed upon remand. *See Judgment and Sentence on Mandate, In re Maestas*, No. D-818-CR-2020-00038 (8th Jud. Dist. Ct. Nov. 03, 2022).

## ► From the New Mexico Supreme Court

tion for punitive contempt, courts consider “the seriousness of the consequences of the contumacious behavior, the public interest in enforcing a termination of a defendant’s defiance and the importance of deterring future defiance.” *State v. Pothier*, 1986-NMSC-039, ¶ 5, 104 N.M. 363, 721 P.2d 1294. The Legislature may reasonably regulate the contempt power but may not “substantially impair or destroy” it. *In re Marshall*, 2023-NMSC-009, ¶ 10 (internal quotation marks and citation omitted). The only legislative constraint on the judiciary’s contempt power does not apply to the facts of this case. See NMSA 1978, § 44-3-10 (1919) (limiting the fine and jail sentence a court may impose for disobeying a court order to give up an office if another party is deemed entitled to it in a quo warranto proceeding). Significantly, this Court has, in the past, imposed a fine on an attorney payable to a third party as a sanction for punitive contempt. See *In re Marshall*, 2023-NMSC-009, ¶ 18 (affirming the appropriateness of requiring an attorney to pay a \$2,000 punitive contempt sanction to the Client Protection Fund).

{7} Maestas relies on *State v. Dominguez* to support his argument that his contempt fine must be paid directly to the court. 1993-NMCA-042, 115 N.M. 445, 853 P.2d 147.<sup>3</sup> In *Dominguez*, the defendant was convicted of aggravated battery and sentenced to make a \$500 donation to the Taos County Sheriff’s Office. *Id.* ¶¶ 8, 45. The Court held that the donation was unauthorized because a “trial court’s authority to sentence is only that which has been provided by statute” and, at the time, the relevant statute, NMSA 1978, § 31-20-6(E) (1988, amended 2007), only permitted donations to local crime stopper programs. *Dominguez*, 1993-NMCA-042,

¶¶ 47-48 (citation omitted). Maestas argues that *Dominguez* prohibits payments to third parties that are not explicitly permitted by Section 34-1-2.

{8} We reiterate that the contempt power exists even absent Section 34-1-2, *see Concha*, 2011-NMSC-031, ¶ 23, and the corresponding power to sanction is not limited to what has been specifically provided by statute as the power to punish is in the criminal context, *State v. Chavarria*, 2009-NMSC-020, ¶ 12, 146 N.M. 251, 208 P.3d 896. Moreover, Section 31-20-6(E) (1988) enumerates specific conditions for when a judge defers or suspends a sentence, as opposed to Section 34-1-2, which broadly lists permissible sanctions for contempt, including fines. Maestas’s argument that any sanction not permitted by Section 34-1-2 must be prohibited does not comport with how we interpret statutes. See *Coal. for Clean Affordable Energy v. N.M. Pub. Regul. Comm’n*, 2024-NMSC-016, ¶ 26, 549 P.3d 500 (“We will not read language into a statute that is not there.” (citation omitted)). It also does not comport with how the Legislature regulates the contempt power: through clear and specific limitations. See § 44-3-10. This argument, and its reliance on *Dominguez*, is unavailing.

{9} Therefore, Maestas’s fine payable to the Foundation is permissible under the judiciary’s contempt power because the power is both inherent and uniquely broad, especially where, as here, there is no relevant legislative constraint.

### B. The Fine Payable to the Foundation Is Constitutional

{10} Under Article VI, Section 30 of the New Mexico Constitution, “[a]ll fees collected by the judicial department shall be paid into the state treasury as may be

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provided by law and no justice, judge or magistrate of any court shall retain any fees as compensation or otherwise.” (Emphasis added.) Maestas argues that contempt fines must, according to constitutional mandate, be paid into the treasury. This is incorrect for two reasons: (1) a fine is not a fee and (2) the fine ordered payable to the Foundation was not collected by the judicial department. {11} When interpreting the New Mexico Constitution, we apply the rules of statutory construction. *Boyse*, 2013-NMSC-024, ¶ 8. In doing so, “we seek to give effect to the Legislature’s intent, and in determining intent we look to the language used and consider the statute’s history and background.” *Key v. Chrysler Motors Corp.*, 1996-NMSC-038, ¶ 13, 121 N.M. 764, 918 P.2d 350 (citation omitted). Under the plain meaning rule, “when a statute contains language which is clear and unambiguous, we must give effect to that language and refrain from further statutory interpretation.” *Truong v. Allstate Ins. Co.*, 2010-NMSC-009, ¶ 37, 147 N.M. 583, 227 P.3d 73 (brackets, internal quotation marks, and citation omitted).

{12} The plain meaning of Article VI, Section 30 unambiguously provides that only fees collected by the judicial department must be paid into the state treasury and supports our conclusion that a fine is not a fee, and a fine made payable to a third party is not collected by the judicial department. Although our holding is based on the plain meaning of the constitutional provision, this Court’s interpretation is supported by the historical context of Article VI, Section 30.

<sup>3</sup> Maestas makes other arguments related to *Dominguez*, but they are unclear and rely on citations to statutes that do not exist, citing for example Section 31-15-18 and Section 31-1-18. “We will not review unclear arguments, or guess at what a party’s arguments might be.” *Elane Photography, LLC v. Willock*, 2013-NMSC-040, ¶ 70, 309 P.3d 53 (brackets, internal quotation marks, and citation omitted). This Court will not consider propositions that are unsupported by citation to authority. See *Wilburn v. Stewart*, 1990-NMSC-039, ¶ 18, 110 N.M. 268, 794 P.2d 1197.

Maestas also relies on *Rhinehart v. Nowlin* for the holding that “the proceeding is one of criminal contempt, and the sanction is paid to the court.” 1990-NMCA-136, ¶ 28, 111 N.M. 319, 805 P.2d 88. Maestas’s quotation of *Rhinehart* is deceptively selective because the case was about the difference between remedial and punitive contempt, not about whether contempt fines must be paid to the court. *Id.* ¶¶ 28-29. We clarify today that while punitive contempt fines may be paid to the court, *Rhinehart* does not require that exclusively.

## ► From the New Mexico Supreme Court

<https://www.nmcompcomm.us>

### 1. History of Article VI, Section 30 of the New Mexico Constitution

{13} The Legislature proposed Article VI, Section 30 in 1965 as part of a comprehensive scheme to “abolish justices of the peace and to establish magistrate courts.” 1965 N.M. Laws, Constitutional Amendment No. 10, §§ 1-8 (detailing how the comprehensive scheme also included proposed amendments to Article VI, Sections 1, 18, 21, 26, and 27 and proposed additions of two Sections to Article VI). One common criticism of justices of the peace (JPs) was their method of compensation. Thomas A. Donnelly, N.M. Const. Revision Comm’n, The Justice of the Peace System in New Mexico 19; *see also* Philip T. Manly, State Jud. Sys. Study Comm., Constitutional Amendment No. 10 in the 1966 General Election 1 (1966). JPs charged parties \$7.50 for each case docketed in their court, \$0.50 for each document notarized, and a discretionary fee for performing marriages. Donnelly, *supra*, at 16 (citing NMSA 1953, § 36-19-1 (1963)). Monthly, JPs sent these funds to the Administrative Office of the Courts (AOC), after which the AOC remitted back to JPs \$5.00 for each case presided over in that same month. *Id.* (citing NMSA 1953 §§ 36-19-21, -24 (1963) (“Payments . . . due justices of the peace shall be at the rate of five dollars . . . for each civil and criminal case docketed.”); *see also* Manly, *supra*, at 1. {14} This system invited abuse. In criminal cases, JPs routinely found defendants guilty to encourage police officers to bring cases to their court instead of others, offered to split fees with officers, and actively encouraged officers to issue more citations. Manly, *supra*, at 1-2; *see also* Donnelly, *supra*, at 20; State Jud. Sys. Study Comm., The Courts in New Mexico: A Report to the Twenty-Fifth Legislature of New Mexico 11-12 (1961) (providing that when one JP was asked what he did if a defendant pled not guilty,

he responded “I find them guilty”). In civil debt collection cases, JPs found in favor of creditors to encourage them to bring cases to their court in the future. Manly, *supra*, at 2; *see also* Donnelly, *supra*, at 19-20.

{15} Legislators feared that the administration of justice was influenced by JPs effectively retaining the fees they collected. *See Chavez Blasts JP Fee Plan*, Farmington Daily Times, Feb. 16, 1965, at 10 (quoting a former state senator saying, “Every complaint before a justice of the peace looks like a \$5 bill”). It was “[o]nly by virtue of sheer volume of cases [that] the office of justice of the peace [was] a profitable one.” Donnelly, *supra*, at 19. In response, the Legislature included Article VI, Section 30 in its proposal to abolish JPs, and in their place establish magistrate courts, effectively ending this method of compensation for judges in New Mexico. *See* 1965 N.M. Laws, Constitutional Amendment No. 10 § 6; *see also* Piecemeal Amendment of the Constitution of New Mexico Since 1911 21, 47 (Dec. 2018) (explaining that the constitutional amendments were approved in 1966 by a vote of 81,055 to 26,317).

### 2.. A fine is not a fee

{16} Article VI, Section 30 of the New Mexico Constitution and Section 34-1-2 regulate two different things. Under their plain language, Article VI, Section 30 places restrictions on fees collected by the judicial department; Section 34-1-2 enumerates the common law principle that judges may punish contempt by fine. *Compare* N.M. Const. art. VI, § 30 (“[a] ll fees collected by the judicial department”) *with* § 34-1-2 (“[i]t shall be within the power of each and every presiding [officer] . . . to punish contempt[] by . . . fine”); *see also* Concha, 2011-NMSC-031, § 22.

{17} The common legal usage of the terms “fee” and “fine” support our holding. *Black’s*

*Law Dictionary* defines “fee” as “[a] charge or payment for labor or services, esp. professional services” and “fine” as “[a] pecuniary criminal punishment or civil penalty . . .” (12th ed. 2024).<sup>4</sup> As explained in Part (B) (1), paragraphs 13 through 15, *supra*, Article VI, Section 30 was enacted to regulate fees paid for the court’s professional services by providing that judges could not retain fees “as compensation or otherwise.” In contrast here, Maestas’s \$1,000 fine payable to the Foundation was imposed as a punishment.

{18} Only two precedential New Mexico opinions consider the meaning of the terms “fee” and “fine.” In *Dominguez*, the Court held that a \$500 donation to the Taos County Sheriff’s Office was unauthorized because the relevant statute only permitted donations to local crime stopper programs. 1993-NMCA-042, ¶ 48. The *Dominguez* Court relied on the statutory text to reach its conclusion, so did not reach the constitutional question of whether a fine is synonymous with a fee under Article VI, Section 30. 1993-NMCA-042, ¶ 48.<sup>5</sup> Thus, *Dominguez* has no bearing on our reasoning on this point. The Court also explained that the defendant’s donation was punitive and therefore properly considered a fine, *see id.* ¶ 51 (citing *Black’s Law Dictionary* (5th ed., abr. 1983)), an example of our courts comporting with the common legal usage of the term fine.

{19} *Board of Commissioners v. Greacen*, is the only case to consider the meanings of “fee” and “fine” within the context of Article VI, Section 30. *See* 2000-NMSC-016, ¶¶ 26-27, 129 N.M. 177, 3 P.3d 672. In *Greacen*, Rio Arriba County enacted traffic ordinances almost identical to the State Motor Vehicle Code, sought enforcement of their violation in Española Magistrate Court, and then had the Magistrate direct the penalty payments received to the County Treasurer. *Id.* ¶¶ 2, 22. This Court invalidated the scheme,

<sup>4</sup> The complete definition of “fine” is “[a] pecuniary criminal punishment or civil penalty payable to the public treasury.” Fine, *Black’s Law Dictionary* (12th ed. 2024) (emphasis added). As will be discussed later in this opinion, a punitive contempt fine in New Mexico need not be “payable to the public treasury.”

<sup>5</sup> In *State v. Darner*, A-1-CA-29768, mem. op. ¶ 20 (N.M. Ct. App. Sept. 26, 2013) (nonprecedential), the Court of Appeals cited Article VI, Section 30 and *Dominguez* in the same string citation to support the proposition that a fine payable to a third party was unpermitted. While this citation suggests that *Dominguez* stands for the proposition that a fine payable to a third party violates the constitutional provision, we expressly hold today that *Dominguez* reaches no such holding on Article VI, Section 30 and disavow *Darner* to the extent that it suggests as much.

## ► From the New Mexico Supreme Court

reasoning that “magistrate courts are clearly and unambiguously directed to send all monies collected to the Administrative Office of the Courts.” *Id.* ¶ 24 (citing NMSA 1978, § 35-7-4 (1993, amended 2023), which states “[e]ach magistrate court shall pay to the Administrative Office of the Courts . . . the amount of all fines, forfeitures and costs collected by him during the previous month.”)

{20} Unlike the Court in *Dominguez*, which relied solely on the statutory text, the *Greacen* Court referenced Article VI, Section 30 to support its conclusion. *Greacen*, 2000-NMSC-016, ¶ 26. The Court reasoned that “penalties” as described in the Rio Arriba County Code were not distinct from “fees” as described in the constitutional provision because penalties are public money under NMSA 1978, Section 35-7-5(A) (1979, amended 2021), which states that “[a]ll money collected by a magistrate court . . . is public money of the state.” *Greacen*, 2000-NMSC-016, ¶ 27. The Court’s reasoning suggests that “public money” under Section 35-7-5(A) (1979)—whether called a “fee” or a “fine”—is synonymous with “fees collected by the judicial department” that must be “paid into the state treasury” under Article VI, Section 30. In so reasoning, the Court seemed to ignore that the terms fee and fine have distinct common legal usages.

{21} Having invalidated Rio Arriba County’s scheme as contrary to statute, it was imprudent for the *Greacen* Court to consider whether the scheme was allowed under Article VI, Section 30. *See Lovelace Med. Ctr. v. Mendez*, 1991-NMSC-002, ¶ 12, 111 N.M. 336, 805 P.2d 603 (“It is, of course, a well-established principle of statutory construction that statutes should be construed, if possible, to avoid constitutional questions.”). Today we make clear that the *Greacen* Court’s conclusion that penalties or fines are synonymous with fees for the purpose of Article VI, Section 30 ignores the common legal usages of the terms and is incorrect.

### 3. Fines merely imposed have not been collected

{22} Article VI, Section 30 of the New Mexico Constitution states that “[a]ll fees collected by the judicial department shall be paid into the state treasury.” (Emphasis added.) The State argues that the provision “makes sense as written: fees collected by the judiciary are state funds.” It further argues that the provision “does not prohibit courts from imposing fines that are payable to other entities, or require that such fines be collected by the court.”; *see Coal. for Clean Affordable Energy*, 2024-NMSC-016, ¶ 26 (“We will not read language into a statute that is not there.” (citation omitted)). We agree with the State on this and two other points it makes that support a plain language reading of the provision.

{23} First, *Greacen* is a case about penalties that had already been collected and that Rio Arriba County wanted to retain, which is not analogous to the *imposition* of a fine payable to a third party. The history of Article VI, Section 30, discussed in Part (B)(1), paragraphs 13 through 15, *supra*, makes it clear that the provision was passed to solve a problem specific to fees that had already been collected by the judicial department. JPs were incentivized to reach certain legal conclusions to increase their caseload, collect more fees, and raise their salaries. The present case, in which a judge imposed a fine payable to a third party, does not create a similar problem. The fine will never be collected by the judicial department and therefore cannot be retained by the judge.

{24} Second, the State correctly argues that a reading of Article VI, Section 30 that prevents the imposition of fines payable to third parties would render statutes such as Section 31-20-6(E), authorizing trial courts to order charitable contributions to local crime stopper programs, unconstitutional. Further, many court administration statutes use collection-focused language similar to that in Article VI, Section 30<sup>6</sup>. Reading those statutes as prohibiting fines made payable to

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third parties would also render statutes such as Section 31-20-6(E) contrary to statute. We operate “under the presumption that the legislature acted with full knowledge of relevant statutory and common law and did not intend to enact a law inconsistent with existing law.” *State ex rel. King v. B & B Inv. Grp., Inc.*, 2014-NMSC-024, ¶ 38, 329 P.3d 658 (alterations, internal quotation marks, and citation omitted).

{25} Maestas argues that allowing judges to direct fines to third parties “may be another way for judges to unlawfully gain a benefit similar to, or equivalent of, a retention of a fee as compensation.” We believe this theoretical critique is unfounded. If an appellate court determines that a fine was made payable to a third party for an improper reason, the Court may invalidate the fine as an abuse of discretion. *See Case v. State*, 1985-NMSC-103, ¶ 5, 103 N.M. 501, 709 P.2d 670 (defining abuse of discretion as “a decision that is clearly untenable and clearly against reason and evidence” (citation omitted)).

{26} In conclusion, Maestas’s fine payable to the Foundation is constitutional because only fees collected by the judicial department fall within the ambit of Article VI, Section 30.

## II. CONCLUSION

{27} The district court was permitted to order Maestas’s \$1,000 fine payable to the Foundation under the judiciary’s contempt power and its order does not violate Article VI, Section 30 of the New Mexico Constitution.

{28} Having decided the certified question, this matter is remanded to the Court of Appeals for consideration of the other issues raised on appeal by Maestas.

{29} IT IS SO ORDERED.

DAVID K. THOMSON, Chief Justice

WE CONCUR:

MICHAEL E. VIGIL, Justice

C. SHANNON BACON, Justice

JULIE J. VARGAS, Justice

BRIANA H. ZAMORA, Justice

## ► From the New Mexico Supreme Court

From the New Mexico Supreme Court

**Opinion Number: 2025-NMSC-020**  
No. S-1-SC-39517 (filed March 27, 2025)

**STATE OF NEW MEXICO,**  
Plaintiff-Appellee,  
v.  
**CRISTAL CARDENAS,**  
Defendant-Appellant.

### APPEAL FROM THE DISTRICT COURT OF ANA COUNTY

Conrad F. Perea, District Judge

Bennett J. Baur, Chief Public Defender  
Caitlin C.M. Smith,  
Assistant Appellate Defender  
Santa Fe, NM

for Appellant

Raúl Torrez, Attorney General  
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for Appellee

## OPINION

### VIGIL, Justice.

{1} Defendant Cristal Cardenas appeals directly to this Court from her convictions of first-degree murder, NMSA 1978, § 30-2-1(A)(1) (1994), conspiracy to commit first-degree murder, NMSA 1978, § 30-28-2 (1979), and criminal solicitation to commit first-degree murder, NMSA 1978, § 30-28-3 (1979). Defendant presents four arguments: (1) a series of evidentiary rulings resulted in reversible cumulative error, (2) the State presented insufficient evidence to convict Defendant of first-degree murder, (3) the convictions for conspiracy and criminal solicitation constitute double jeopardy, and (4) the district judge violated her constitutional right to a public trial.

{2} We reverse Defendant's convictions based on a single evidentiary ruling. We conclude that the district court abused its discretion and committed reversible error when it allowed the State to question Defendant about her six-month-old child's positive methamphetamine test. We reject Defendant's sufficiency of the evidence and double jeopardy arguments and, therefore,

remand for a new trial on all charges for which the jury convicted Defendant. Finally, we emphasize that the First Amendment to the United States Constitution provides the general public and the press with the right to access criminal trials. Therefore, although we do not reverse Defendant's convictions on the basis of this issue, we conclude that the district court erred by seizing the notes of Defendant's trial observer without legal justification.

#### I. BACKGROUND

{3} In the early morning hours of March 25, 2018, Mario Cabral and Vanessa Mora were shot to death in their home. Mora's thirteen-year-old daughter, S.D., awoke to the sounds of a vehicle. She heard sliding glass doors shattering, footsteps, and gunshots. Struck with fear, S.D. covered herself with her blanket and fell asleep. She was awakened at about 9:00 a.m. by Cabral's and Mora's phones ringing without an answer. Upon entering the living room, she found Cabral and Mora deceased. S.D. ran to her neighbor's home for help, and the neighbor called the police.

{4} In 2007, Defendant and Cabral had a child together, Y.C., but the couple's relationship ended. In 2015, Defendant filed

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a petition in family court against Cabral to establish paternity, determine custody and time-sharing, and assess child support. Subsequently, in early November 2016, the family court entered an interim child custody and visitation order limiting Cabral's visitation with Y.C.

{5} Defendant testified that she was not angry about the family court's decision to allow expanded visitation with Cabral, but the State presented evidence that Defendant hired a hitman to kill Cabral over the custody case. Edward Alonso testified at trial that, shortly after he got out of prison in January 2018, a friend connected him by phone with Defendant, who asked if he would kill someone for her. For \$10,000—half upfront—he agreed.

{6} Alonso testified that he met with Defendant several times and that sometimes Defendant's boyfriend, Luis Flores, was present. Defendant gave him the layout of the property where Cabral lived, the address of the property, a description of the property, and a photo of Cabral. Together, Defendant and Alonso surveilled where Cabral lived. Defendant told Alonso that there was a narrow time frame for the murder because of the custody battle and that if he would not murder Cabral, Flores would do it. At one meeting, Defendant and Flores showed Alonso a .45-caliber gun. Defendant paid Alonso \$3,000. Because it was less than the agreed-upon amount, he decided not to murder Cabral.

{7} In mid-February of 2018, Alonso was arrested on the way back from where Cabral lived for having a gun while on probation. He decided to inform the FBI of the plot to kill Cabral. He told the FBI that Cabral would be killed in the following month with a .45-caliber gun and gave them a description of the property where Cabral lived.

{8} Former FBI agent George Dougherty testified about his interactions with Alonso. He stated that Alonso offered information about a murder for hire that Alonso agreed to commit. According to Agent Dougherty, Alonso offered physical descriptions of the persons involved, Defendant's first name, Cabral's first name, and directions to where Cabral lived. Following Alonso's directions, Agent Dougherty was able to locate where Cabral lived, which matched Alonso's de-

## ► From the New Mexico Supreme Court

scription. He learned that Defendant was, in fact, involved in a custody battle with Cabral.

{9} Agent Dougherty concluded that he "couldn't find anything to show that [Alonso] wasn't being 100 percent truthful" and that Alonso's account "had merit." On the basis of Alonso's information, the FBI warned Cabral that there was a threat against his life.

{10} Additional inculpatory evidence presented by the State included photographs from Defendant's phone showing the back of the house where the murders occurred. Although a witness testified that she took pictures of where Cabral lived at Defendant's request to assist in the custody battle, that witness did not recall ever taking pictures of the back of the house. Defendant also had numerous aerial images on one of her phones depicting where the victims lived and the surrounding area.

{11} Further, Cabral's aunt and uncle both testified that Defendant picked up a gun that, according to the aunt, Defendant had previously left with her. Neither the aunt nor uncle was certain about when the gun was picked up, and their accounts differed by several years. The uncle testified that the gun was .45-caliber. Police found .45 caliber ammunition, among other types, in one of the bedrooms in Defendant's house. At the scene of the killings, police found .45 caliber shell casings.

{12} Defendant testified that she never had a gun, did not know Alonso, never paid Alonso any money, never told him that Flores would kill Cabral, and did not want Cabral dead.

{13} The jury acquitted Defendant of the first-degree murder of Mora but convicted her of the first-degree murder of Cabral, conspiracy to commit first-degree murder, and criminal solicitation of first-degree murder.

{14} Additional facts are provided as necessary in the following discussion.

### II. DISCUSSION

#### A. The District Court Erred by Allowing the State to Question Defendant About Her Child's Positive Methamphetamine Test; Because the Error Is Not Harmless, We Reverse Defendant's Convictions

##### 1. Cross-examination of Defendant

{15} Defendant had a child, Y.C., with Cabral. She also had a child, A.F., with Flores, who was approximately six months old at the time of Defendant's arrest.

{16} Defendant testified in her defense. During cross-examination, the State asked Defendant why six-month-old A.F. tested positive for methamphetamine. The exchange was as follows:

State: [Cabral] didn't care as much about [Y.C.] as you did, did he?

Defendant: I always had [Y.C.] since she was born.

State: And [A.F.]?

Defendant: And [A.F.]

State: Both of those girls, they are your life, right?

Defendant: Yes, they are.

State: You would do anything to keep them safe?

....

Defendant: Like, danger-wise?

State: Danger-wise, yes.

Defendant: Well, that's what a parent would keep a child safe.

State: I agree. So why is it that your child [A.F.] tested positive for meth when y'all got arrested?

Defense counsel objected immediately. In a sidebar, defense counsel explained to the district court that he had not received the required notice that the State intended to use this evidence and that he had not heard until that moment of a child of Defendant testing positive for methamphetamine. He further argued that the methamphetamine test seemed to relate to the actions of Flores, not Defendant, and that the evidence was prejudicial and without probative value.

{17} The State asserted that Flores pleaded guilty to endangering A.F. The State argued Defendant was

leaving a misrepresentation on this jury of how great parents they are, how she's the only one who cared for them, that all she ever wanted . . . was these children to be safe and calm and comfortable. And that is a big misrepresentation because if that were the truth, your honor, these children would not

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be testing positive for methamphetamine.

{18} The State further argued that Defendant's testimony on direct examination placed her character at issue. More specifically, the State argued to the district court that Defendant stated that she is "peaceful," "a good mother," and a "law-abiding citizen." In addition, the State argued that Defendant was incorrect in maintaining that notice is required under these facts:

[Rule 11-]404 [NMRA] goes to notice and character evidence when you are trying to use that in your case in chief, not when if the defendant is going to take the stand and this and that. That goes when you are trying to bring in extraneous offenses in the case in chief for the purposes of there's relevancy; there's modus operandi, whatever it is that you're going to try and prove under that except . . . under the exception to hearsay and under [Rule] 404, etc.

{19} The district court concluded that the State could elicit limited testimony about A.F.'s positive methamphetamine test. Upon return to the courtroom, the State asked Defendant whether A.F. tested positive for methamphetamine, to which she responded, "I believe so."

{20} On redirect examination, Defendant stated that subsequent to A.F.'s positive drug test, Flores was charged on the basis of A.F.'s test. She further testified that she believed that the case against Flores was dismissed by the prosecutor.

##### 2. Preservation and standard of review

{21} At trial, Defendant objected and preserved five distinct arguments against the State's questioning regarding A.F.'s positive methamphetamine test. See *State v. Clarkson*, 1938-NMSC-012, ¶¶ 6-7, 42 N.M. 289, 76 P.2d 1161 (holding an objection must specify particular reasons for a "review . . . by this [C]ourt" on appeal).

{22} First, in accord with Rules 11-401 NMRA and 11-403 NMRA, Defendant argued that the State's questioning was prejudicial and lacked value probative to this case. See Rule 11-401 ("Evidence is relevant if it has any tendency to make a fact more or less probable than it would

## ► From the New Mexico Supreme Court

<https://www.nmcompcomm.us>

be without the evidence, and the fact is of consequence in determining the action.”); Rule 11-403 (“The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.”). Next, in response to the State’s assertion under Rule 11-404(A)(2)(a)<sup>1</sup> that Defendant “put[] her character in on direct,” Defendant argued that she did not, in fact, do so. See 11-404(A)(2)(a) (stating that if evidence is admitted of a defendant’s “pertinent trait, . . . the prosecutor may offer evidence to rebut it”). Finally, Defendant argued that the State’s inquiry concerning A.F.’s positive test did not comply with Rule 11-404(B) due to insufficient notice and that this Rule generally prohibits such character evidence. See 11-404(B)(1) (“Evidence of a crime, wrong, or other act is not admissible to prove a person’s character in order to show that on a particular occasion the person acted in accordance with the character.”); Rule 11-404(B)(3) (requiring “reasonable notice” to a defendant when the prosecution intends to use “any evidence of crimes, wrongs, or other acts”; the notice must be provided prior to trial unless the court excuses that failure “for good cause”).

{23} The district court then issued an oral ruling as follows: “This is a 11-404 argument, and with that, I’m not looking at propensity itself; I am just looking, in fact, that the door was opened, and we can use this; I am going to allow this question, but I am going to ask that it be, that it be limited.” {24} Based on the district court’s language in its oral ruling, we infer that it considered the arguments made by counsels to be governed by Rule 11-404(A)(2)(a), thus permitting rebuttal character evidence by “opening the door.” See Christopher B. Mueller and Laird C. Kirkpatrick, *1 Federal Evidence*, § 4.24 at 703-04 (4th ed. 2013) (“When testimony ranges beyond these basic [background] facts . . . and beyond matters that are directly relevant to the

charges or defenses, and paints not only a picture of innocence but a self-portrait of a person whose background, outlook, personality, or philosophy make it unlikely that he committed the crime or had the necessary mental state, then it is fair to view this strategy as an effort to prove good character, thus opening the door to counterattack by the prosecutor.”).

{25} Defendant, on appeal, only argues that the State’s inquiry into A.F.’s positive methamphetamine test was improper under Rule 11-404(B). Thus, Defendant may have abandoned her objections under Rules 11-401, -403, and -404(A) despite raising these objections at trial. See *State v. Sandoval*, 1975-NMCA-096, ¶ 11, 88 N.M. 267, 539 P.2d 1029 (concluding that issues not addressed in briefings were deemed abandoned).

{26} However, this unique preservation and potential abandonment issue can and should be cured by this Court by addressing the Rule 11-404(A)(2)(a) issue *sua sponte*. See *State v. Goss*, 1991-NMCA-003, ¶ 12, 111 N.M. 530, 807 P.2d 228 (“Where defendants have failed to comply with [briefing rules] . . . , an appellate court *may* decline to address such contention on appeal.” (emphasis added)); *State v. Martinez*, 1996-NMCA-109, ¶ 13, 122 N.M. 476, 927 P.2d 31 (stating that the defendant’s failure to explain how the issue was preserved in his briefing did not compel the Court of Appeals to disregard the issue); *cf. Doe v. State*, 1975-NMCA-108, ¶ 36, 88 N.M. 347, 540 P.2d 827 (recognizing that an issue of a party’s fundamental rights which trial counsel “adequately notified” the district court of, but did not raise on appeal, could still be reviewed on appeal). Because Defendant articulated the proper objections at trial, fairness tilts in favor of reviewing the Rule 11-404(A) issue as if put adequately before this Court. Cf. *Huckins v. Ritter*, 1983-NMSC-033, ¶ 3, 99 N.M. 560, 661 P.2d 52 (“The transcripts and briefs in this case are sufficient to present the essential question for review on the merits.”). We review because the issue was adequately preserved

in the district court. Rule 12-321 NMRA (“To preserve an issue for review, it must appear that a ruling or decision by the trial court was fairly invoked.”).

{27} “We review the district court’s decision to admit or exclude evidence for an abuse of discretion.” *State v. Fernandez*, 2023-NMSC-005, ¶ 8, 528 P.3d 621 (internal quotation marks and citation omitted). “An abuse of discretion occurs when the ruling is clearly against the logic and effect of the facts and circumstances of the case. We cannot say the trial court abused its discretion by its ruling unless we can characterize it as clearly untenable or not justified by reason.” *State v. Bailey*, 2017-NMSC-001, ¶ 12, 386 P.3d 1007 (internal quotation marks and citation omitted).

{28} As we explain below, the result is the same for analyses under Rules 11-404(A)(2)(a) and -404(B): the district court abused its discretion to admit this inquiry. Because we further conclude that the error was not harmless, we reverse Defendant’s convictions.

### 3. Analysis

#### a. Inquiry into A.F.’s positive methamphetamine test was inadmissible under Rule 11-404(B)

{29} Defendant argues that the State did not give the notice required by Rule 11-404(B)(3) and that A.F.’s test was not admissible for any permitted use under Rule 11-404(B)(2). The State counters that the notice was sufficient because Defendant seemed “familiar[] with the issue” based on the discussion with the district court during the sidebar. The State additionally argues “that Defendant opened the door” to the question about the positive methamphetamine test, invoking the doctrine of curative admissibility.

{30} Rule 11-404(B)(1) states, “Evidence of a crime, wrong, or other act is not admissible to prove a person’s character in order to show that on a particular occasion the person acted in accordance with the character.” However, such evidence is admissible “for another purpose, such as proving motive, opportunity, intent, preparation, plan,

<sup>1</sup> Rule 11-404 NMRA was amended in 2022 and became effective following the trial of this case. The 2022 amendment, which added subparagraph (B)(3), does not affect our substantive analysis. For clarity and ease of reference, we refer to the current version of the rule throughout this opinion.

## ► From the New Mexico Supreme Court

knowledge, identity, absence of mistake, or lack of accident.” Rule 11-404(B)(2). Further, Rule 11-404(B)(3)(a) requires that “[i]n a criminal case, the prosecution must provide reasonable notice of the general nature of any evidence of crimes, wrongs, or other acts that the prosecutor intends to offer at trial, so that the defendant has a fair opportunity to review it.”

{31} We need not reach Defendant’s notice argument because the State has not offered, or even made a serious attempt at presenting, any admissible purpose under Rule 11-404(B) in this Court or the district court. Moreover, the doctrine of curative admissibility argued by the State is inapposite. “Under the doctrine of curative admissibility, a party may introduce inadmissible evidence to counteract the prejudice created by their opponent’s earlier introduction of similarly inadmissible evidence.” *State v. Gonzales*, 2020-NMCA-022, ¶ 12, 461 P.3d 920; *see also United States v. Nardi*, 633 F.2d 972, 977 (1st Cir. 1980) (stating that the doctrine applies “only when inadmissible evidence has been allowed, when that evidence was prejudicial, and when the proffered testimony would counter that prejudice”); Frederick C. Moss, *The Sweeping-Claims Exception and the Federal Rules of Evidence*, 1982 Duke L.J. 61, 76 (February 1982) (“The doctrine of curative admissibility should be limited, at least conceptually, to cases . . . in which the admission of rebuttal evidence is justified to counteract prejudicial inadmissible evidence introduced by the other side.”). The State does not argue that Defendant presented inadmissible evidence. Therefore, the doctrine of curative admissibility cannot justify the prosecutor’s inquiry into A.F.’s positive methamphetamine test.

{32} “[I]t is incumbent upon the proponent of Rule 11-404(B) evidence to . . . cogently inform the court—whether the trial court or a court on appeal—[of] the rationale for admitting the evidence to prove something other than propensity.” *State v. Gallegos*, 2007-NMSC-007, ¶ 25, 141 N.M. 185, 152 P.3d 828. Here, the State has made no argument that the inquiry into A.F.’s positive methamphetamine test was admissible to prove “motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of

accident” or any other purpose that might satisfy Rule 11-404(B)(2).

{33} In light of the total absence of a permissible use under Rule 11-404(B)(2), we conclude that it was an abuse of discretion to admit the inquiry into A.F.’s positive methamphetamine test under Rule 11-404(B). *See Bailey*, 2017-NMSC-001, ¶ 12 (stating that a district court abuses its discretion when the ruling is “untenable or not justified by reason” (citation omitted)).

### **b. Inquiry into A.F.’s positive methamphetamine test was inadmissible under Rule 11-404(A)(2)(a)**

{34} Under Rule 11-404(A)(2)(a), a criminal defendant “may offer evidence of the defendant’s pertinent [character] trait.” *See also State v. Martinez*, 2008-NMSC-060, ¶ 29, 145 N.M. 220, 195 P.3d 1232 (stating that “substantive character testimony” may be offered by a defendant to “establish a general character inconsistent with guilt of the crime with which [the defendant] stood charged” (internal quotation marks and citation omitted)). But if a defendant does so, a prosecutor may offer evidence to rebut evidence of the pertinent character trait. *Id.* ¶ 24; *cf. id.* ¶ 33 (stating that by requiring a pertinent trait, Rule 404(A) confirms “that character evidence must relate to a specific relevant trait in order to be admissible” and that “Rule 404 permits evidence of traits only” (internal quotation marks and citation omitted)).

{35} The classic way of offering character evidence involves calling a “defense character witness” who testifies to the defendant’s reputation or provides an opinion on a defendant’s pertinent trait. *See Mueller & Kirkpatrick, supra*, § 4.24 at 698. However, defendant-witnesses can also address their own character by testifying beyond background information and presenting self-portraits as persons whose experience, personality, philosophy, and disposition make it less likely that they committed the crime. *See id.* at 703-04. In such cases, “the defendant personally opens the door to . . . counterattacks” on character, allowing the State to offer evidence to rebut the image the defendant has created. *Id.* The State claims the latter method of introducing character

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evidence is what happened in this case.

{36} At trial, the State argued that Defendant offered evidence of three character traits: that she is a “law-abiding citizen,” “peaceful,” and “a good mother.” Our review of the record indicates that Defendant did not offer, or attempt to offer, proof of these character traits on direct examination. In other words, there was no such testimony to rebut.

{37} Defendant did not testify that she was a law-abiding citizen. The testimony in that broad ambit was that she was not prohibited from exercising her Second Amendment rights and did not have a conviction for a felony, a crime of violence, or domestic violence. Defendant’s specific statements do not constitute evidence for her character as a generally law-abiding citizen. *See State v. Bogle*, 376 S.E.2d 745, 751 (N.C. 1989) (stating that evidence of a lack of convictions merely indicates that one has not been convicted of a crime, whereas “law-abiding” addresses a person’s character trait of abiding by all laws).

{38} The State similarly overreaches to contend that Defendant testified that she had a character trait of peacefulness. Defendant stated that she was not angry with the judge adjudicating her custody issues and that she “just wanted everything to go right for [her] daughter[, Y.C.].” She stated that she “always encouraged [her daughter, Y.C.,] to have visits with her dad” despite parenting difficulties, that she never had a gun, and that she did not have a conviction for a felony, a crime of violence, or domestic violence. This testimony does not equate to Defendant testifying that she had a peaceful character. Moreover, even if she had, the State’s inquiry into A.F.’s positive methamphetamine test would be off-target and inadmissible as a rebuttal.

{39} Finally, we conclude that Defendant did not testify that she had the specific character trait of being a good mother. In addition to stating that she wanted everything to go well for her daughter, Y.C., Defendant testified that she planned to transfer ownership of their house to Y.C. and that she put child support payments into a savings account for Y.C. and encouraged Y.C. to have visits with her father, Cabral. This does not amount to a proof or attempted proof of

## ► From the New Mexico Supreme Court

<https://www.nmcompcomm.us>

a character trait of being a good mother. And there is no suggestion in this case that Defendant was responsible for A.F.'s exposure to methamphetamine, so we are not persuaded that the inquiry into A.F.'s positive test would be admissible to rebut evidence that she had the character trait of a good mother had there been such evidence. {40} When as in this case the defendant-witness testimony is focused on background information and facts relevant to the charged crime, no "door" is opened to an attack on character. See Mueller & Kirkpatrick, *supra*, § 4.24 at 703-04. Only if the defendant-witness "ranges beyond these basic [background and relevant] facts" to "personally" self-identify to a jury as the kind of person who would not engage in the charged crime does the character-evidence "door" open. *Id.* Accordingly, we conclude that it was an abuse of the district court's discretion to allow the inquiry into the evidence under Rule 11-404(A)(2)(a) because Defendant did not personally open the door to evidence of the specific character traits of being law-abiding, peaceful, or a good mother. See *Bailey*, 2017-NMSC-001, ¶ 12 (stating that a district court abuses its discretion when its ruling is "untenable or not justified by reason" (citation omitted)).

### c. The district court's error was not harmless

{41} Having concluded that a nonconstitutional error has been committed, it is our responsibility to reverse and remand for a new trial unless there is no reasonable probability that the error affected the jury's verdict. *State v. Tollardo*, 2012-NMSC-008, ¶¶ 25, 36, 275 P.3d 110. To assess the probable effect of evidentiary error, we evaluate the circumstances surrounding the error. *Fernandez*, 2023-NMSC-005, ¶ 24. This evaluation includes, but is not limited to, "the source of the error, the emphasis placed on the error, evidence of the defendant's guilt apart from the error, the importance of the erroneously admitted evidence to the prosecution's case, and whether the erroneously admitted evidence was merely cumulative." *Id.* (internal quotation marks and citation omitted).

{42} We begin by noting that the issue of A.F.'s drug test arose again during Defendant's closing argument. Defendant stated

that the question about the positive drug test was a "punch below the belt," given that it referred to a case brought against Flores, not her. And furthermore, argued Defendant, the case was dismissed.

{43} The State interrupted with an objection: Defendant was "misrepresenting things." The prosecutor asserted that there was no evidence put forth that the case against Flores was dismissed and vehemently asserted that the case was not, in fact, dismissed. The district court sustained the State's objection and instructed the jury to disregard the discussion related to the charges against Flores.

{44} During her closing statement, Defendant attempted to mitigate the prejudice from the inquiry but was improperly thwarted by the State. Defendant sought to highlight that the child endangerment case against Flores was dismissed. But the State objected and argued to the district court that there was no evidence presented that the case against Flores was dismissed. This was false: Defendant testified that she thought the case was dismissed. The prosecutor further stated unequivocally that the case was not dismissed. This, too, was a false statement: as the State concedes on appeal, the case was, in fact, dismissed. And, boldly, the prosecutor accused Defendant's attorney of "misrepresenting things." All of these false statements were made in front of the jury and quickly reinforced by the district court in its sustaining of the State's objection. Under these circumstances, we are unconvinced by the State's contention that the error was harmless.

{45} Moreover, the harmless error argument offered by the State is weak. The State argues that it only "asked one question to rebut the image Defendant had painted of herself" and that the "question did not go to the heart of the State's case or Defendant's defense." Essentially, the State argues that the inquiry into A.F.'s positive methamphetamine test was not very important or impactful. And yet the State made multiple misstatements to the district court that, cumulatively, had the effect of keeping this question in front of the jury and adding to the question's impact.

{46} Defendant makes a more compelling argument that the error was not harm-

less. Defendant states that Defendant's credibility was an important aspect of the case. The evidence, although sufficient to support Defendant's convictions, was largely circumstantial. Defendant contends that the State's inquiry into A.F.'s positive methamphetamine test portrayed her in a negative light, suggesting to the jury that she might have criminal ties and might be capable of hiring a hitman or committing murder. Moreover, the prosecutor's false statements during closing—which were implicitly endorsed by the district court's ruling to disregard Defendant's discussion of Flores's case—unfairly undermined her credibility by implying to the jury that she and her lawyer were untrustworthy.

{47} We conclude there is a reasonable probability that the error affected the jury's verdict. See *Tollardo*, 2012-NMSC-008, ¶ 36 (stating that our harmless error review of nonconstitutional error examines whether there was a reasonable probability that the error affected the verdict). In this case, the State was the source of the error; the evidence of Defendant's guilt, although substantial, was circumstantial; the error affected an important issue in the case—credibility; the State, although it disavows the importance of the evidence at issue, went to great lengths to preserve its impact; and, finally, the evidence at issue was not cumulative. See *Fernandez*, 2023-NMSC-005, ¶ 24 (instructing appellate courts to examine "the source of the error, the emphasis placed on the error, evidence of the defendant's guilt apart from the error, the importance of the erroneously admitted evidence to the prosecution's case, and whether the erroneously admitted evidence was merely cumulative" (internal quotation marks and citation omitted)). Accordingly, we reverse Defendant's convictions and remand for a new trial.

### B. Defendant's Convictions of

#### Criminal Conspiracy and Criminal Solicitation Do Not Violate Double Jeopardy Protections

{48} "A double jeopardy challenge is a constitutional question of law which we review *de novo*." *State v. Swick*, 2012-NMSC-018, ¶ 10, 279 P.3d 747.

{49} Defendant argues that her convictions of conspiracy to commit first-degree

## ► From the New Mexico Supreme Court

murder and criminal solicitation of first-degree murder violate double jeopardy protections afforded by the Fifth Amendment to the United States Constitution. When we conclude that there was a double jeopardy violation, we “vacate the conviction carrying the shorter sentence.” *State v. Montoya*, 2013-NMSC-020, ¶ 55, 306 P.3d 426.

{50} “Double jeopardy protects against multiple punishments for the same offense.” *State v. Silvas*, 2015-NMSC-006, ¶ 8, 343 P.3d 616. “Cases involving multiple violations of a single statute are referred to as ‘unit-of-prosecution’ cases, while cases involving violations of multiple statutes are ‘double-description’ cases.” *Id.* This is a double-description case.

{51} To analyze double-description cases, we apply a two-part framework. *Id.* ¶ 9. First, we examine whether the defendant’s conduct is unitary. *Id.* If not, there is no double jeopardy violation and our analysis concludes. *Id.*

{52} However, if the conduct at issue is unitary, we examine whether the Legislature intended to punish the offenses separately. *Id.* If we conclude that separate punishments for the offenses are the Legislature’s intent, there is no double jeopardy violation. *Id.* Thus, to establish a double jeopardy violation in double-description cases, a defendant must demonstrate that the conduct is unitary and that the Legislature did not intend separate punishments for the offenses at issue. *Id.*

{53} To determine whether conduct is unitary, we examine whether the defendant’s acts are “separated by sufficient indicia of distinctness.” *State v. Phillips*, 2024-NMSC-009, ¶ 38, 548 P.3d 51 (internal quotation marks and citation omitted). “Conduct is unitary when not sufficiently separated by time or place, and the object and result or quality and nature of the acts cannot be distinguished.” *Silvas*, 2015-NMSC-006, ¶ 10. {54} Defendant argues that we must presume that unitary conduct underlies the solicitation and conspiracy convictions pursuant to the *Foster* presumption. See *State v. Foster*, 1999-NMSC-007, ¶ 28, 126 N.M. 646, 974 P.2d 140, *abrogated on other grounds by Kersey v. Hatch*, 2010-NMSC-020, ¶¶ 9, 17, 148 N.M. 381, 237 P.3d 683. Under *Foster*, we presume that conduct is

unitary where jury instructions provide alternative bases for conviction of an offense, one of which violates double jeopardy, and where the record fails to disclose which alternative the jury relied on. *State v. Sena*, 2020-NMSC-011, ¶ 47, 470 P.3d 227.

{55} The solicitation charge, in this case, required the jury to find that Defendant “intended that another person commit first degree murder” and that Defendant “solicited, requested, induced, or employed the other person to commit” the murder. The conspiracy charge required the jury to find that “[D]efendant and another person by words or acts agreed . . . to commit first degree murder” and that “[D]efendant and the other person intended to commit first degree murder.” Defendant argues that both relevant jury instructions indicated the same date of offense—“on or about” the date of the murders—and both stated that Defendant acted with “another person” without specifying the other person. Furthermore, the prosecutor said during the closing argument that Defendant conspired with Alonso and Flores. In other words, argues Defendant, the jury could have found Defendant guilty of conspiracy not with Flores but with Alonso, which would have been based on the same conduct by Defendant as for the crime of solicitation. Defendant concluded that “[t]he evidence presented at trial did not establish separate factual bases for conspiracy and solicitation.”

{56} We disagree. In this case, the record discloses which alternative the jury relied upon. The solicitation conviction is clearly based on Defendant’s request that Alonso murder Cabral for money. The crime was completed at the time of the request; the later payment bolstered the evidence of Defendant’s intent that Alonso commit the murder.

{57} We further conclude that Defendant’s conspiracy conviction was not grounded in these actions but, instead, in an agreement with Flores. The jury acquitted Defendant of the murder of Mora but convicted her of the murder of Cabral. We can infer that Defendant was convicted of conspiracy with Flores in the killing of Cabral.

{58} The evidence comports with this theory. There was testimony indicating that a conspiracy between Defendant and

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Flores developed in response to Alonso’s delay and ultimate failure to complete the murder for hire. That is, Alonso testified that Defendant told him that Flores would murder Cabral if Alonso “wasn’t able to finish the job.” Defendant and Flores also showed Alonso a .45 caliber gun and asked whether he had an extra magazine for it. The structure of the verdict, in combination with the evidence, indicates that the jury found a conspiracy between Defendant and Flores, whereas the solicitation conviction is based on Defendant’s request to Alonso. Stated otherwise, the solicitation and conspiracy convictions were based on entirely distinct conduct. Accordingly, we conclude that the *Foster* presumption has been overcome in this case. See *Sena*, 2020-NMSC-011, ¶¶ 52, 56 (concluding that the *Foster* presumption was overcome because “[a]lthough the [jury] instructions permitted the jury to convict” the defendant of multiple crimes under the same instruction’s alternatives, the evidence demonstrated that the crimes were separated by sufficient indicia of distinctness); see also *State v. Franco*, 2005-NMSC-013, ¶ 7, 137 N.M. 447, 112 P.3d 1104 (“The proper analytical framework is whether the facts presented at trial establish that the jury reasonably could have inferred independent factual bases for the charged offenses.” (internal quotation marks and citation omitted)). We thus conclude that there was no double jeopardy violation in Defendant’s convictions of both conspiracy and solicitation. *Silvas*, 2015-NMSC-006, ¶ 9.

### C. Substantial Evidence Supports Defendant’s Conviction of First-Degree Murder

{59} Defendant argues that the first-degree murder conviction is not supported by sufficient evidence, which, if true, would bar retrial for that charge. *State v. Consaul*, 2014-NMSC-030, ¶ 41, 332 P.3d 850. The jury was required to find beyond a reasonable doubt that, in relevant part, Defendant killed Cabral and did so with the deliberate intent to take away his life.

{60} “Our standard of review for sufficiency of the evidence is highly deferential to the jury’s verdict.” *State v. Chavez*, 2024-NMSC-023, ¶ 40, 562 P.3d 521. The jury’s verdict can be supported by “substantial

## ► From the New Mexico Supreme Court

evidence of either a direct or circumstantial nature.” *State v. Sutphin*, 1988-NMSC-031, ¶ 21, 107 N.M. 126, 753 P.2d 1314.

{61} “We view the evidence in the light most favorable to the guilty verdict, indulging all reasonable inferences and resolving all conflicts in the evidence in favor of the verdict.” *Chavez*, 2024-NMSC-023, ¶ 40 (internal quotation marks and citation omitted). We do “not invade the jury’s province as fact-finder by second guessing the jury’s decision concerning the credibility of witnesses, reweighing the evidence, or substituting [our] judgment for that of the jury.” *Id.* (internal quotation marks and citation omitted). Accordingly, “evidence supporting acquittal does not provide a basis for reversal because the jury is free to reject [the defendant’s] version of the facts.” *State v. Rojo*, 1999-NMSC-001, ¶ 19, 126 N.M. 438, 971 P.2d 829. “So long as a rational jury could have found beyond a reasonable doubt the essential facts required for a conviction, we will not upset a jury’s conclusions.” *Chavez*, 2024-NMSC-023, ¶ 40 (internal quotation marks and citation omitted).

{62} Alonso identified Defendant as the person with whom he discussed murdering Cabral, testifying that Defendant expressed a desire to have him killed within sixty days. The murder ultimately occurred within that approximate time frame. Cabral’s aunt and uncle testified that Defendant obtained a .45-caliber gun from them before the murders and Alonso testified that Defendant and Flores showed him a .45-caliber gun. Police found .45-caliber ammunition in one of the bedrooms in Defendant’s home. The murder weapon was a .45-caliber gun. On a phone seized from Defendant’s car or home, police found photos of the back of the house where Cabral lived—where the murders took place. Additionally, on a phone seized from Defendant’s home, police found numerous aerial images of the property where the murders took place and the surrounding area. Alonso testified that Defendant told him that if he was not able to murder Cabral, her boyfriend “was gonna take care of it.”

{63} Defendant argues that because the evidence from the crime scene was, as she characterizes it, exculpatory of both herself

and Flores, the *foregoing* nominally circumstantial evidence is insufficient. Defendant notes, for example, that footprints found at the scene did not match any shoes belonging to Flores and fingerprints found on shell casings did not match Flores’ fingerprints. However, to accept Defendant’s argument would invade the province of the jury, which we cannot do. *See Chavez*, 2024-NMSC-023, ¶ 40 (stating that we will not reweigh the evidence or substitute our judgment for that of the jury); *Rojo*, 1999-NMSC-001, ¶ 19 (“[E]vidence supporting acquittal does not provide a basis for reversal because the jury is free to reject [the defendant’s] version of the facts.”). Accordingly, we conclude that Defendant’s conviction of first-degree murder is supported by sufficient evidence.

### D. The First Amendment Affords a Right of Access to Criminal Trials to the General Public and the Press

{64} On the third day of trial, the district court judge confirmed the State’s “understanding” that notetaking by trial observers is generally forbidden. Then, having been alerted by the State that there was a woman taking notes in the back of the courtroom, the judge instructed the woman to surrender her notes. Nothing in the record demonstrates that she interfered with or disrupted the proceedings in any way.

{65} Defense counsel argued that observers may take notes at a public trial. Defense counsel identified the notetaker as a family friend of Defendant, the sister of a local attorney, and the only guest observer allowed to Defendant during her COVID-19-era trial. On appeal, Defendant argues that the ban on notetaking was tantamount to an unjustified “partial closure of the courtroom” that “violated her right to public trial,” warranting reversal.

{66} Defendant has the right to a public trial under the Sixth Amendment to the United States Constitution, *Gannett Co. Inc. v. DePasquale*, 443 U.S. 368, 379-80 (1979), and New Mexico has an established test to determine whether a closure violates that right, *State v. Turrietta*, 2013-NMSC-036, ¶ 19, 308 P.3d 964. But, because we have already granted Defendant a new trial, we decline to reach her argument on this issue.

{67} Defendant, however, is not the only party with a constitutional interest in the

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public nature of a criminal trial. “[T]he press and general public have a constitutional right” to access criminal trials. *Globe Newspaper Co. v. Superior Ct. for Cnty. of Norfolk*, 457 U.S. 596, 603 (1982). The right to access criminal trials “is embodied in the First Amendment.” *Id.* We are compelled to discuss this issue based on the actions of the district court judge.

{68} The First Amendment to the United States Constitution, of course, protects freedom of expression. But not just that. The First Amendment “has a *structural* role to play in securing and fostering our republican system of self-government”. *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 587 (1980) (Brennan, J., concurring in judgment) (emphasis in original). This structural role reflects “not only the principle that debate on public issues should be uninhibited, robust, and wide-open but also the antecedent assumption that valuable public debate . . . must be informed.” *Id.* (internal quotation marks and citation omitted); *see also* *Globe Newspaper*, 457 U.S. at 603 (“[T]he First Amendment serves to ensure that the individual citizen can effectively participate in and contribute to our republican system of self-government.”).

{69} The constitutional guarantee of open trials has two important functions. “Open trials . . . assure the criminal defendant a fair and accurate adjudication.” *Richmond Newspapers*, 448 U.S. at 593 (Brennan, J., concurring in judgment). But in addition, and importantly, open trials “serve[] other, broadly political, interests” by allowing the public to keep watch over the justice system itself. *See id.* at 594, 596 (Brennan, J., concurring in judgment). “[J]udges bear responsibility for the vitally important task of construing and securing constitutional rights.” *Id.* at 595 (Brennan, J., concurring in judgment). And “court rulings impose official and practical consequences upon members of society at large.” *Id.* (Brennan, J., concurring in judgment) “Under our system, judges are not mere umpires, but, in their own sphere, lawmakers—a coordinate branch of government.” *Id.* at 595-96 (Brennan, J., concurring in judgment). The trial—as a “genuine governmental proceeding”—“plays a pivotal role in the entire judicial process, and, by extension,

## ► From the New Mexico Supreme Court

in our form of government.” *Id.* at 595-96 (Brennan, J., concurring in judgment).

{70} “It follows that the conduct of the trial is pre-eminently a matter of public interest.” *Id.* at 596 (Brennan, J., concurring in judgment). And open trials are “akin in purpose to the other checks and balances that infuse our system of government.” *Id.* (Brennan, J., concurring in judgment); *see also In re Oliver*, 333 U.S. 257, 270 (1948) (“The knowledge that every criminal trial is subject to contemporaneous review in the forum of public opinion is an effective restraint on possible abuse of judicial power.”). “Without publicity, all other checks are insufficient: in comparison of publicity, all other checks are of small account.” *In re Oliver*, 333 U.S. at 271 (quoting 1 Jeremy Bentham, *Rationale of Judicial Evidence* 524 (1827)). “Open trials assure the public that . . . justice is afforded equally.” *Richmond Newspapers*, 448 U.S. at 595 (Brennan, J., concurring in judgment); *see also Globe Newspaper*, 457 U.S. at 606 (“[P]ublic access to the criminal trial fosters an appearance of fairness, thereby heightening public respect for the judicial process.”).

{71} Secrecy, on the other hand, “is profoundly inimical to” demonstrating “the fairness of the law to our citizens.” *Richmond Newspapers*, 448 U.S. at 594-95 (Brennan, J., concurring in judgment). “Closed trials breed suspicion of prejudice and arbitrariness, which in turn spawns disrespect for law.” *Id.* at 595 (Brennan, J., concurring in judgment). And closed trials are deeply contrary to historical practice: the United States Supreme Court was unable to find a single instance of an *in camera* criminal trial in any federal, state, or municipal court in our country’s entire history. *See Globe Newspaper Co.*, 457 U.S. at 605.

{72} In sum, “a right of access to *criminal trials* . . . is properly afforded protection by the First Amendment.” *Id.* at 605-06 (emphasis in original). “Where . . . the [s]tate attempts to deny the right of access in order to inhibit the disclosure of sensitive information, it must be shown that the denial is necessitated by a compelling governmental interest, and is narrowly tailored to serve that interest.” *Id.* at 606-07. In this case, the district court wrongly construed notetaking by a member of the public as a problematic

rather than protected activity, compelling us to issue this reproach. Prohibiting handwritten notes during court sessions restricts the public’s and press’s rights of access, distancing the judicial process from public scrutiny and weakening the opportunity for informed discussions on judicial matters. *See Craig v. Harney*, 331 U.S. 367, 374 (1947) (“There is no special perquisite of the judiciary which enables it, as distinguished from other institutions of democratic government, to suppress, edit, or censor events which transpire in proceedings before it.”).

### III. CONCLUSION

{73} For the reasons stated, we reverse Defendant’s convictions and remand for a new trial.

### {74} IT IS SO ORDERED.

**MICHAEL E. VIGIL, Justice**

**WE CONCUR:**

**C. SHANNON BACON, Justice**

**JULIE J. VARGAS, Justice**

**BRIANA H. ZAMORA, Justice**

**DAVID K. THOMSON, Chief Justice, dissenting**

**THOMSON, Chief Justice (dissenting).**

{75} The majority bases its decision to order a new trial on what it calls cumulative error, a result of the trial court’s admission of one piece of testimony regarding Defendant’s infant child, A.F., testing positive for methamphetamine and the State’s objection when Defendant raised the issue a second time in closing argument. *Maj. op.* ¶¶ 1-2, 42-45. I disagree that admitting the evidence was an abuse of discretion and would hold that it was proper rebuttal evidence under Rule 11-404(A)(2)(a) NMRA in light of Defendant’s testimony. Even if admitting the testimony was error, it was neither cumulative nor reversible. For these reasons, I respectfully dissent.

### I. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION

{76} The trial court’s conclusion that Defendant opened the door to the State’s question regarding the positive methamphetamine test makes it apparent that the court admitted the testimony as rebuttal evidence under Rule 11-404(A)(2)(a). We review the trial court’s decision to admit the testimony under that rule for an abuse of discretion. *State v. Sena*, 2008-NMSC-053, ¶ 12, 144 N.M. 821, 192 P.3d 1198. An

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abuse of discretion “occurs when the court’s ruling is clearly against the logic and effect of the facts and circumstances of the case. We cannot say the trial court abused its discretion . . . unless we can characterize [its ruling] as clearly untenable or not justified by reason.” *Id.* (internal quotation marks and citation omitted).

{77} The defense repeatedly elicited testimony from Defendant surrounding her children, her demeanor as a parent, and her care for her children. As the majority notes, Defendant testified that she was not angry about the judge’s ruling in the custody dispute because she wanted what was right for her daughter, Y.C., that she encouraged her daughter to see Cabral even though the child was reluctant, and that she “had to put [Y.C.] in counseling.” She testified that she was sad to hear of Cabral’s death because “that was [Y.C.]’s father.” While Defendant may not have outright stated “I am a good mother,” that is not required. Rule 11-404(A)(2)(a) does not require that the prosecution be confronted with *proof* of a trait as the majority suggests, only that the defense offer evidence of the character trait to open the door to rebuttal. *See Rule 11-404(A)(2)(a)* (“[A] defendant may offer evidence of the defendant’s pertinent trait, and if the evidence is admitted, the prosecutor may offer evidence to rebut it.”); *State v. Moultrie*, 1954-NMSC-056, ¶ 7, 58 N.M. 486, 272 P.2d 686 (“The price a defendant must pay for attempting to prove his good name is to throw open the entire subject which the law has kept closed for his benefit and to make himself vulnerable where the law otherwise shields him.”) (quoting *Michelson v. United States*, 335 U.S. 469, 479 (1948))). The trial court, having heard the testimony, concluded that Defendant presented testimony seeking to portray herself as a good parent, something otherwise irrelevant. With that, Defendant expanded the scope of relevant evidence in the case, opening the door to rebuttal evidence on her otherwise irrelevant character as a parent. *See Coates v. Wal-Mart Stores, Inc.*, 1999-NMSC-013, ¶ 38, 127 N.M. 47, 976 P.2d 999 (reasoning that a party opens the door to the admission of rebuttal evidence when it makes a statement that causes the evidence to become “relevant to rebut[tal]”). Given Defendant’s

## ► From the New Mexico Supreme Court

<https://www.nmcompcomm.us>

statements, the trial court's decision to admit testimony on Defendant's child testing positive for methamphetamines as rebuttal evidence cannot be characterized as "clearly untenable or not justified by reason," and this Court should defer to the trial court's conclusion. *Sena*, 2008-NMSC-053, ¶ 12 (internal quotation marks and citation omitted).

{78} The majority asserts, however, that because Defendant's boyfriend, Luis Flores, was charged with child endangerment and not Defendant herself, the positive test cannot be relevant to Defendant's character as a parent. *Maj. op.* ¶¶ 16, 39. I disagree. Defendant need not be charged with child endangerment in order for the jury to reasonably infer a level of responsibility for her child testing positive for methamphetamine. The young child tested positive after living in the home that Defendant shared with Flores. There is no dispute that the child was in her care and that Defendant was responsible for her well-being. The majority provides no reasoning for limiting the jury's ability to infer that Defendant knew there was meth in the home and that her child might be exposed, and there is no basis for questioning such an inference. The positive methamphetamine test was relevant and appropriate rebuttal evidence given Defendant's portrayal of her character as a parent, and the trial court did not abuse its discretion in admitting the testimony under Rule 11-404(A)(2).

### II. THERE WAS NO REVERSIBLE ERROR

{79} Even if the trial court abused its discretion in admitting the testimony regarding the positive methamphetamine test, there is no reasonable probability of that evidence inducing the guilty verdict given "all of the circumstances surrounding" the testimony. *State v. Fernandez*, 2023-NMSC-005, ¶ 24, 528 P.3d 621 (internal quotation marks and citation omitted); *State v. Bailey*, 2015-NMCA-102, 357 P.3d 423, ¶¶ 29-30 (holding that admitting testimony is not error if there is no reasonable probability that the testimony affected the verdict), *aff'd*, 2017-NMSC-001, ¶ 29, 386 P.3d 1007.

{80} The majority frames the evidence in this case as circumstantial, with Defen-

dant's credibility as key. *See maj. op.* ¶¶ 46-47. However, the "evidence of the defendant's guilt apart from the" testimony was substantial. *Fernandez*, 2023-NMSC-005, ¶ 24 (internal quotation marks and citation omitted). The jury heard testimony from Edward Alonso, the man whom Defendant allegedly hired to kill Victim Cabral mere weeks before Victim Cabral was found dead. Alonso described his conversations with Defendant and the plot in detail, recounted meeting with Defendant multiple times so Defendant could lead Alonso to Cabral, and identified Defendant for the jury as the woman who hired him. Alonso testified that Defendant pressured him to kill Cabral and told him that her boyfriend "Luis was going to take care of it" if Alonso did not kill Cabral.

{81} The jury also heard from George Dougherty, the federal agent who interviewed Alonso regarding what Alonso described as "a murder for hire" scheme stemming out of a custody dispute. Agent Dougherty testified that Alonso told him the first names of the parties involved, including the woman who hired Alonso, "Cristal," which is Defendant's first name, and "Mario," which is Cabral's first name. Alonso testified that he told Agent Dougherty the place and time frame for the killing and that Cabral would be killed with a .45 caliber gun, which was the caliber ultimately used. Additionally, Agent Dougherty was able to corroborate the existence of a custody battle between Defendant and Cabral and identified police reports indicating conflict between the two. Using the detailed information Alonso provided, Agent Dougherty was able to identify Defendant as the likely individual who hired Alonso and to locate and warn Cabral that his life was in danger. In terms of physical evidence, police found .45 caliber ammunition in Defendant's home and dozens of photos of the house Cabral occupied, obtained from a cell phone located in a car seized from Defendant.

{82} To overcome the evidence and reach reversible error, the majority portrays the State's reliance on the positive methamphetamine test as pervasive and

rooted in egregious prosecutorial behavior. *Maj. op.* ¶¶ 44-47. However, in doing so, the majority diminishes Defendant's own actions centering the evidence as well as our caselaw governing reversible error and closing argument.

{83} The State's invocation of the methamphetamine test was limited to one question asked of Defendant on cross-examination. It was Defendant who raised the issue for a second time on redirect examination and chose to rehash it again in closing argument. And while the State objected in closing argument and ultimately misstated the disposition of the case against Flores, it was not the State's actions that had the effect of "keeping this question in front of the jury and add[ing] to the question's impact." *Maj. op.* ¶¶ 44-45. Ultimately, the State's actions simply do not satisfy the requirements of reversible error; the State did not emphasize the information, and it was not central or necessary to the State's case while the other evidence of Defendant's guilt was overwhelming. *See Fernandez*, 2023-NMSC-005, ¶ 24.

{84} Seemingly aware of this, the majority frames the State's statements in closing as egregious and unduly harmful to Defendant's credibility in order to support a finding of error. *Maj. op.* ¶¶ 44-47. But damage to Defendant's credibility is not enough, nor are statements in closing argument evidence. UJI 14-104 NMRA. To determine whether the State's erroneous statements during closing argument support reversal, we assess "(1) whether the statement invades some distinct constitutional protection; (2) whether the statement is isolated and brief, or repeated and pervasive; and (3) whether the statement is invited by the defense." *See State v. Sosa*, 2009-NMSC-056, ¶ 26, 147 N.M. 351, 223 P.3d 348. "In applying these factors, the statements must be evaluated objectively in the context of the prosecutor's broader argument and the trial as a whole." *Id.*

{85} Here, the statements did not violate any constitutional protection, and they were completely isolated. Most importantly, the statements were *invited by the defense*. *Id.* ¶ 33 ("[W]e are least likely to

# Advance Opinions

## ► From the New Mexico Supreme Court

find error where the defense has ‘opened the door’ to the prosecutor’s comments by its own argument or reference to facts not in evidence.”). There is also no reason to believe the State was deliberately

misleading the court and jury, but rather it appears that the State was confused and acting out of perceived need to correct the record. Those actions simply do not support reversible error justifying a new trial, par-

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ticularly given the totality of the trial where “evidence of guilt is overwhelming.” *Id.* ¶ 34. {86} Accordingly, I would affirm Defendant’s convictions.

**DAVID K. THOMSON, Chief Justice**

# FORMAL OPINION

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

**Filing Date: 10/31/2025**

**No. A-1-CA-41478**

**STATE OF NEW MEXICO,**

Plaintiff-Appellant,

v.

**MELVIN JOHN BILLEY,**

Defendant-Appellee.

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

Daylene A. Marsh, District Court Judge

Raúl Torrez, Attorney General

Santa Fe, NM

Meryl E. Francolini, Assistant Solicitor General

Albuquerque, NM

for Appellant

Bennet J. Baur, Chief Public Defender

Kimberly Chavez Cook, Appellate Defender

Santa Fe, NM

for Appellee

## ► Introduction of Opinion

The State appeals the district court's order suppressing evidence that was seized as a result of the investigative detention of Defendant Melvin John Billey for a violation of the Motor Vehicle Code, NMSA 1978, §§ 66-1-1 to -8-141 (1931, as amended through 2025). The district court concluded that the arresting officer did not have reasonable suspicion to seize Defendant for violating Section 66-3-707(A) by riding a bicycle at night without a rear reflector. The district court provided two alternative rationales. First, it concluded that Section 66-3-707(A) applies only to bicycles ridden in areas reserved for vehicular travel, and that sidewalks are not such an area. We disagree and hold that our Legislature intended to require bicycles to have rear reflectors and headlights when used on sidewalks at night. Second, the district court concluded that an officer may only form reasonable suspicion of a violation of Section 66-3-707(A) if the officer was able to observe the bicycle from directly behind it, and that the arresting officer in this case was never in a position to do so. We believe that the manner in which the district court applied the statute is overly rigid in the context of a determination about whether reasonable suspicion warranted an investigatory detention. **View full PDF online.**

Zachary A. Ives, Judge

WE CONCUR:

Shammara H. Henderson, Judge

Jane B. Yohalem, Judge

To read the entire opinion, please visit  
the following link: <https://bit.ly/A-1-CA-41478>

# FORMAL OPINION

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

**Filing Date: 11/12/2025**

**No. A-1-CA-42053**

**IN THE MATTER OF THE PROTEST OF VALUATION AND ASSESSMENT OF IMPROVEMENTS FOR TAXATION AS REAL PROPERTY OF NON-EXEMPT ENTITY,**

**AMERICAN CAMPUS COMMUNITIES, INC.,**

Appellant-Petitioner,

and

**REGENTS OF THE UNIVERSITY OF NEW MEXICO,**

Interested Party-Petitioner,

v.

**BERNALILLO COUNTY ASSESSOR,**

Appellee-Respondent.

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

Elaine P. Lujan, District Court Judge

Rodey, Dickason, Sloan, Akin & Robb, P.A.

John P. Salazar

Edward Ricco

Kara B. Murphy

Albuquerque, NM

for Petitioners

N.M. Local Government Law, LLC

Charles Rennick

Patrick F. Trujillo

Lea Corinne Strife

Albuquerque, NM

for Respondent

► **Introduction of Opinion**

American Campus Communities (ACC) and the University of New Mexico (UNM) protested the assessment of property tax by the Bernalillo County Assessor (the Assessor), claiming an exemption for certain shared properties under Article VIII, Section 3 of the New Mexico Constitution. The County Valuation Protests Board (the Board) denied the protests and upheld the assessment on the grounds that there was never an application for the tax exemption, nor are the Properties eligible for the exemption, as the primary use of the Properties is residential, not educational use. The district court agreed, from which order ACC and UNM appeal. We affirm.

J. Miles Hanisee, Judge

WE CONCUR:

Megan P. Duffy, Judge

Gerald E. Baca, Judge

To read the entire opinion, please visit  
the following link: <https://bit.ly/A-1-CA-42053>

# FORMAL OPINION

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

**Filing Date: 11/12/2025**

**No. A-1-CA-41954**

**BRUCE THRONE, ANNIE CAMPBELL, MARK BAKER, ROBERT JOSEPHS, CHRISTOPHER WORLAND, STEVEN CLARK, SOL Y LOMAS HOMEOWNER ASSOCIATION, INC., and PLAZAS AT PECOS TRAIL HOMEOWNERS ASSOCIATION, INC.,**

Plaintiffs-Petitioners,

v.

**THE GOVERNING BODY OF THE CITY OF SANTA FE,**

Defendant-Respondent,  
and

**PIERRE AMESTOY,**

Real Party in Interest-Respondent.

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

Bryan Biedscheid, District Court Judge

Hinkle Shanor LLP  
Thomas M. Hnasko  
Santa Fe, NM

for Petitioners

City of Santa Fe

Erin K. McSherry, City Attorney  
Rebecca Mnuk-Herrmann, Assistant City Attorney  
Santa Fe, NM

for Respondent

Sommer Karnes & Associates, LLP  
Joseph M. Karnes  
Karl H. Sommer  
Santa Fe, NM

for Real Party in Interest-Respondent

## ► Introduction of Opinion

Multiple community members and community organizations (the Community) appeal the decision (the Decision) to approve a request from Pierre Amestoy (Developer) to rezone a piece of property (the Property) from one residential unit per gross acre (R1) to three residential units per gross acre (R3). The Property is adjacent to Old Pecos Trail, which the City of Santa Fe, N.M. General Plan (the SF General Plan, the General Plan, or the general plan) describes as "an unspoiled entryway into downtown." SF General Plan, ch. 3, § 3.5 at 3-13 (1999). The Community opposed the rezoning and maintained that when the SF General Plan was adopted in 1999, the Governing Body of the City of Santa Fe (the Governing Body) had committed to (1) designating an area that included the Property as a scenic corridor, and (2) developing land use, density, and design control standards for that area through a public participation process. [View full PDF online.](#)

Katherine A. Wray, Judge

WE CONCUR:

Megan P. Duffy, Judge

Gerald E. Baca, Judge

To read the entire opinion, please visit  
the following link: <https://bit.ly/A-1-CA-41954>

# FORMAL OPINION

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

**Filing Date: 11/19/2025**

**No. A-1-CA-41987**

**STATE OF NEW MEXICO,**

Plaintiff-Appellee,

v.

**VINCENT MARIO CARBAJAL,**

Defendant-Appellant.

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

Steven Ochoa, District Court Judge

Raúl Torrez, Attorney General  
Santa Fe, NM

Christa Street, Assistant Solicitor General  
Albuquerque, NM

for Appellee

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

for Appellant

## ► Introduction of Opinion

Defendant Vincent Mario Carbajal appeals his conviction of one count of possession of a stolen motor vehicle, contrary to NMSA 1978, Section 30-16D-4(A)(2009, amended 2025), asserting two claims of error. First, Defendant claims that his conviction must be vacated because the general/specific rule of statutory construction requires a prosecutor to charge the unlawful taking of a motor vehicle, NMSA 1978, § 30-16D-1(A) (2009, amended 2025)—the statute Defendant alleges is more specific—rather than possession of a stolen motor vehicle, Section 30-16D10 (A)—the statute Defendant alleges is more general—when there is evidence supporting the violation of both statutes. Defendant also claims that the in-court identification procedure employed to allow a witness to identify Defendant at trial was unduly suggestive and violated his constitutional right to due process. We affirm.

Jane B. Yohalem, Judge

WE CONCUR:

Zachary A. Ives, Judge

Gerald E. Baca, Judge

To read the entire opinion, please visit  
the following link: <https://bit.ly/A-1-CA-41987>

# FORMAL OPINION

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

**Filing Date: 11/24/2025**

**No. A-1-CA-40464**

**IN THE MATTER OF THE ESTATE  
OF SALOCHNA D. GROVER, Deceased,  
REENA ROMAN and DAVID ROMAN,**  
Petitioners-Appellants,  
v.  
**SEEMA CHRISTENSEN,**  
Interested Party-Appellee.

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

David Reeb, Jr., District Court Judge

Hurley Toevs Styles Hamblin & Panter PA  
Gregory W. MacKenzie  
Lalita Devarakonda  
Albuquerque, NM  
for Appellants

Harmon, Barnett & Morris, P.C.  
Tye Harmon  
Clovis, NM

Doerr & Knudson, P.A.  
Randy Knudson  
Portales, NM

for Appellee

## ► Introduction of Opinion

Petitioner Reena Roman appeals the district court's dismissal with prejudice of her creditor's claim against the probate estate of her mother as a sanction for her noncompliance with a scheduling order. Petitioner argues the district court abused its discretion in imposing the sanction of dismissal on the grounds that the scheduling order at issue was ambiguous, her noncompliance was not willful, and the totality of the circumstances did not warrant such a harsh sanction. Because Petitioner understood her obligations under the scheduling order, any ambiguity on the face of that order is not a bar to sanctions in this case. Further, Petitioner has not adequately impeached the district court's finding of willful noncompliance or otherwise convinced us that the district court committed a clear error of judgment in imposing the sanction of dismissal under the totality of the circumstances. We accordingly affirm.

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

To read the entire opinion, please visit  
the following link: <https://bit.ly/A-1-CA-40464>

# FORMAL OPINION

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

**Filing Date: 11/24/2025**

**No. A-1-CA-40097**

**STATE OF NEW MEXICO,**  
Plaintiff-Appellee,  
v.  
**SANDRA PERRY,**  
Defendant-Appellant.

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

Tom Stewart, District Court Judge

Raúl Torrez, Attorney General  
Santa Fe, NM  
Van Snow, Assistant Solicitor General  
Albuquerque, NM  
for Appellee

Harrison, Hart & Davis, LLC  
Daniel J. Gallegos  
Nicholas T. Hart  
Albuquerque, NM

for Appellant

## ► Introduction of Opinion

Defendant Sandra Perry appeals the denial of her motion to suppress and her convictions for possession of a controlled substance (methamphetamine), in violation of NMSA 1978, Section 30-31-23(A) (2019, amended 2021); and possession of drug paraphernalia, in violation of NMSA 1978, Section 30-31-25.1(A) (2019, amended 2022). Defendant contends that the district court erred in denying her motion to suppress evidence obtained pursuant to a search of her truck by arguing that (1) the officer did not have probable cause to obtain a search warrant because the smell of marijuana could not support a finding of probable cause when possession of less than one-half ounce of marijuana was a penalty assessment rather than a criminal offense; and (2) Defendant's consent to search her truck was involuntary. This Court certified the question of whether the smell of marijuana alone can support a finding of probable cause for the search of a vehicle in light of New Mexico's progressive decriminalization of marijuana possession to our Supreme Court. See Rule 12-606 NMRA.

**[View full PDF online.](#)**

Shammara H. Henderson, Judge  
WE CONCUR:  
Jennifer L. Attrep, Judge  
Gerald E. Baca, Judge

To read the entire opinion, please visit  
the following link: <https://bit.ly/A-1-CA-40097>

# 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-41427**  
**Matthew J. Channon**

v.  
**KRQE-TV**

**No. A-1-CA-41081**  
**State of New Mexico**

v.  
**Efrain Bernal-Corral**

**No. A-1-CA-42062**  
**Kurt Hill**

v.  
**City of Santa Fe**

## Introduction of Opinion

Plaintiff Matthew J. Channon filed a complaint for defamation, false light, public disclosure of private facts, misappropriation, and civil conspiracy against KRQE-TV, KA-SA-TV, LIN of New Mexico, LLC, Bill Anderson, Iain Munro, Tina Jensen, Justin Cox, Automattic Inc., and Debrahna Mansini (collectively, Defendants). The district court disposed of all of Plaintiff's claims via summary judgment, and Plaintiff, a self-represented litigant, appeals from those orders, as well as the district court's denial of Plaintiff's motion for default judgment. Concluding that Plaintiff has not demonstrated error on appeal, we affirm.

Megan P. Duffy, Judge  
WE CONCUR:  
Zachary A. Ives, Judge  
Gerald E. Baca, Judge

To read the entire opinion,  
please visit:

<https://bit.ly/A-1-CA-41427>

## Introduction of Opinion

Following a jury trial, Defendant was convicted of criminal sexual penetration (CSP) in the second degree, contrary to NMSA 1978, Section 30-9-11 (2009); and false imprisonment, contrary to NMSA 1978, Section 30-4-3 (1963). Defendant appeals his convictions claiming that a number of errors occurred during the proceedings below. Specifically, Defendant argues that (1) his convictions for both CSP in the second degree and false imprisonment violated his right to be free from double jeopardy; (2) his post-Miranda statements should have been suppressed; (3) the district court abused its discretion during voir dire; (4) the prosecutor engaged in misconduct resulting in the denial of his right to a fair trial; and (5) his trial counsel was ineffective. We affirm.

Jacqueline R. Medina, Chief Judge  
WE CONCUR:  
Megan P. Duffy, Judge  
Katherine A. Wray, Judge

To read the entire opinion,  
please visit:

<https://bit.ly/A-1-CA-41081>

## Introduction of Opinion

This appeal arises from proceedings in which the district court barred enforcement of an ordinance enacted by the City of Santa Fe that imposes "a three percent (3%) excise tax" on home sales exceeding one million dollars. Santa Fe, N.M., Code of Ordinances ch. 18, art. 18, § 18-18-18.6(A) (2023). Plaintiffs Kurt Hill and Richard Newton, in their individual capacities as realtors and owners of property located in Santa Fe, and as members of Plaintiff Santa Fe Association of Realtors, Inc. (SFAR), filed a declaratory judgment action against Santa Fe seeking a declaration that the ordinance is unlawful and unenforceable. [View full PDF online.](#)

Megan P. Duffy, Judge  
WE CONCUR:  
J. Miles Hanisee, Judge  
Shammara H. Henderson, Judge

To read the entire opinion,  
please visit:

<https://bit.ly/A-1-CA-42062>

# 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-41358**  
**State of New Mexico**  
v.  
**Alix Gilmore**

## Introduction of Opinion

The metropolitan court convicted Defendant for driving under the influence of intoxicating liquor (DWI), impaired to the slightest degree, contrary to NMSA 1978, Section 66-8-102(A) (2016), after the State presented evidence that a vehicle registered to Defendant drove into three parked cars, that she admitted to police that she had consumed alcohol and was on her way home, and that she performed poorly on field sobriety tests. Defendant appeals the conviction and argues (1) the metropolitan court should have suppressed the statements she made to the officer in the ambulance; (2) the State relied on Defendant's confession and offered no corroborating evidence; (3) insufficient evidence supported the conviction; (4) the metropolitan court improperly relied on facts not in evidence; **View full PDF online.**

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

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-41358>

**No. A-1-CA-41573**  
**State of New Mexico**  
v.  
**Angel Benavidez**

## Introduction of Opinion

Defendant Angel Antonio Benavidez-Moore appeals his convictions for two counts of second degree criminal sexual contact with a minor (CSCM), contrary to NMSA 1978, Section 30-9-13(B)(1) (2003), regarding one victim; and one count of third degree CSCM, contrary to Section 30-9-13(C)(1), with respect to a second victim. The victims M.R. and J.A. (Victims), are siblings. Defendant raises a number of alleged evidentiary errors. The majority of these are raised under plain error. **View full PDF online.**

Jacqueline R. Medina, Chief Judge  
WE CONCUR:  
Jennifer L. Atrep, Judge  
Shammara H. Henderson, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-41573>

**No. A-1-CA-41985**  
**State of New Mexico**  
v.  
**Stephen James Griffin**

## Introduction of Opinion

Defendant Stephen James Griffin appeals his conviction of aggravated assault with a deadly weapon, see NMSA 1978, §§ 30-3-2(A) (1963), 31-18-16 (2022), arguing that the district court committed reversible error by denying his request for a jury instruction on defense of property. See UJI 14-5180 NMRA. Defendant contends that he used his gun only to fire a single shot into the air in order to scare away a dog that was attacking his dog, thereby defending his property. Defendant argues that he was therefore entitled to a defense of property instruction and that he presented evidence supporting each element of the requested instruction. **View full PDF online.**

J. Miles Hanisee, Judge  
WE CONCUR:  
Shammara H. Henderson, Judge  
Gerald E. Baca, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-41985>

# 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-41805**  
**Jose Gutierrez**  
v.  
**Cristin Anaya**

## Introduction of Opinion

Jose Gutierrez (Father) and Cristin Anaya (Mother) first separated in March 2020 and after a period of reconciliation, separated again in the fall of 2021. After the first separation, the district court ordered joint custody of the couple's one-year-old child (Child) and required each parent to pay for Child's needs while Child was in their respective care. In January 2022, after the parties had again separated, Mother relocated with Child from the city of Rio Rancho, Sandoval County, to the city of Santa Fe, Santa Fe County, without Father's agreement or approval from the district court. Immediately and continuously over the next nearly two years, Father protested Mother's relocation and Child's resulting part-time attendance at daycare in Rio Rancho (Springstone). For her part, Mother requested child support. **View full PDF online.**

Katherine A. Wray, Judge  
WE CONCUR:  
J. Miles Hanisee, Judge  
Gerald E. Baca, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-41805>

**No. A-1-CA-41206**  
**State of New Mexico**  
v.  
**Alexis Nicole Avila**

## Introduction of Opinion

Defendant Alexis Nicole Avila appeals her conviction for intentional or reckless abuse of a child in the first degree (resulting in great bodily harm), contrary to NMSA 1978, Section 30-6-1(D), (E) (2009). On appeal, Defendant contends that the district court erred by giving a limiting instruction that misdirected the jury and by failing to instruct the jury on the defense of insanity. Defendant also asserts that she received ineffective assistance of counsel. We affirm.

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

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-41206>

**No. A-1-CA-42021**  
**State of New Mexico**  
v.  
**Joshua Delozier**

## Introduction of Opinion

Defendant Joshua Delozier appeals the district court's denial of his motions to dismiss for lack of speedy trial. Central to the district court's decision was its determination that there was not "any kind of undue prejudice to the Defendant in the delay." Because Defendant has not demonstrated that this determination was erroneous or that there is any other basis for reversal, we affirm.

Zachary A. Ives, Judge  
WE CONCUR:  
Megan P. Duffy, Judge  
Katherine A. Wray, Judge

To read the entire opinion,  
please visit:  
<https://bit.ly/A-1-CA-42021>

# 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-41809**  
**State of New Mexico**  
v.  
**Thomas Howard**

**No. A-1-CA-41472**  
**The Bank of New York Mellon**  
v.  
**Russell L. Barnes**

**No. A-1-CA-41324**  
**Adanelly Aguilar Garcia**  
v.  
**Adrian Deleon**

## Introduction of Opinion

Defendant Thomas Howard appeals his conviction for second-degree murder. Defendant asks us to extend our prohibition of pretextual stops, under State v. Ochoa, 2009-NMCA-002, 146 N.M. 32, 206 P.3d 143, to so-called “pretextual arrests”—arrests made pursuant to warrants that are used to investigate unrelated crimes. This Court first rejected such an argument in State v. Peterson, 2014-NMCA-008, 315 P.3d 354, holding that Ochoa did not apply when officers performed a traffic stop to execute an arrest warrant in hopes of furthering an unrelated drug trafficking investigation.

**[View full PDF online.](#)**

Kristopher N. Houghton, Judge  
WE CONCUR:  
Jacqueline R. Medina, Chief Judge  
Jennifer L. Attrep, Judge

To read the entire opinion,  
please visit:  
**<https://bit.ly/A-1-CA-41809>**

## Introduction of Opinion

This is the second appeal to have been generated by this case, which was initiated when The Bank of New York Mellon (BNYM) brought a foreclosure action against Russell Barnes (Barnes). The district court entered default and summary judgment against Barnes in October 2018 and awarded BNYM attorney fees and costs. Barnes appealed, and this Court affirmed the summary judgment and order awarding attorney fees and costs. The Bank of New York Mellon v. Barnes, A-1-CA-38554, mem. op. ¶¶ 1, 40 (N.M. Ct. App. Feb. 1, 2022) (non-precedential). Barnes then filed a motion to set aside “void judgments” for fraud upon the court due to BNYM’s attorneys’ conduct and a second Rule 1-060(B) NMRA motion to address a new, allegedly jurisdictional, issue. **[View full PDF online.](#)**

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

To read the entire opinion,  
please visit:  
**<https://bit.ly/A-1-CA-41472>**

## Introduction of Opinion

Defendants Adrian DeLeon and Loya Insurance Company appeal three orders from the district court, which granted Plaintiff Adanelly Aguilar Garcia’s motions for summary judgment regarding medical expenses she incurred after an automobile collision. The sole issue on appeal is whether the district court erred in granting the motions for summary judgment. For the following reasons, we affirm.

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

To read the entire opinion,  
please visit:  
**<https://bit.ly/A-1-CA-41324>**

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

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Harrison & Hart, LLC is a busy, collegial, and highly collaborative law firm in Albuquerque, New Mexico that handles complex litigation, including federal and high-level state criminal defense, civil rights, class actions, constitutional and election-law cases, and commercial disputes. We are seeking a senior or mid-level attorney with a strong academic background that can immediately take a leading role in complex criminal and civil cases. The ideal candidate will have exceptional writing ability, the capacity to think rigorously and creatively about the law, strong advocacy instincts, a collaborative spirit, and a genuine passion for the law. We take pride in the variety of our caseload—we handle large numbers of both trials and appeals, both civil and criminal, in both federal and state court—with the only real common denominators being that the work be interesting, important, difficult, and worthwhile; associates should similarly relish the opportunity to practice in a broad array of areas. Associates can expect immediate hands-on experience, both in the courtroom and out. Past associates have been first chair counsel in civil jury trials, tried federal criminal cases with the firm's partners, conducted oral argument in appeals before the New Mexico Court of Appeals and the New Mexico Supreme Court, taken and defended depositions, and are given full responsibility to manage and guide cases. We offer an extremely competitive salary, with a salary scale beginning at \$125,000 for new graduates plus annual bonuses. Those who join the firm directly from a clerkship with a federal court or for a state's highest court receive a \$25,000 clerkship bonus. The firm also offers a 401(k) and profit-sharing plan, employer-provided health benefits, vision insurance, dental insurance, generous sick leave, and up to 5 weeks of paid vacation. Please send a cover letter, resume, 2-3 writing samples (full documents), and 3 references to [elise@harrisonhartlaw.com](mailto:elise@harrisonhartlaw.com). Edited writing samples are acceptable if the editing is explained as part of the submission. Applicants will be accepted on a rolling basis and reviewed immediately.

### Attorney

Opening for Associate Attorney in Silver City, New Mexico. No experience necessary. Thriving practice with partnership opportunities with focus on criminal defense, civil litigation, family law, and transactional work. Call (575) 538-2925 or send resume to Lopez, Dietzel & Perkins, P. C., [david@ldplawfirm.com](mailto:david@ldplawfirm.com), Fax (575) 388-9228, P.O. Box 1289, Silver City, New Mexico 88062.

### Attorney Senior

**#00044836**

### Civil Court

The Second Judicial District Court is accepting applications for a full time, At-Will Attorney Senior assigned to the Civil Division. The Attorney Senior acts under the direction of the Civil Division Managing Attorney. The successful candidate will perform legal research and analysis, make recommendations to the court or Judicial Entity, and must possess excellent writing skills. The Senior Attorney may act as a team leader reviewing and coordinating the work of staff attorneys. Qualifications: Must be a graduate of a law school meeting the standards of accreditation of the American Bar Association; possess and maintain a license to practice law in the State of New Mexico. Five (5) years of experience in the practice of applicable law. SALARY: \$56.576 hourly, plus benefits. Send application or resume supplemental form with proof of education and writing sample to the Second Judicial District Court, Human Resource Office, P.O. Box 488 (400 Lomas Blvd. NW), Albuquerque, NM, 87102. Applications without copies of information requested on the employment application will be rejected. Application and resume supplemental form may be obtained on the Judicial Branch web page at [www.nmcourts.gov/careers](http://www.nmcourts.gov/careers). CLOSES: Wednesday, February 4, 2025 at 5:00PM.

### Associate

NM Probate & Estate Lawyers seeks an associate (2-10 years) for probate and estate litigation, with accelerated partnership potential. Litigation experience preferred. Flexible compensation and schedules, including part-time. We prioritize high-quality client work and quality of life. Please email [eric@nmprobatelaw.com](mailto:eric@nmprobatelaw.com)

### Domestic Relations Hearing Officer

**#00000518**

### Family Court

The Second Judicial District Court is accepting applications for a full-time, term at-will Domestic Relations Hearing Officer in Family Court (position #00000518). Under the supervision of the Presiding Family Court Judge, the hearing officer will be assigned a domestic relations and domestic violence caseload. Consistent with Rules 1-053.1 and 1.053.2, duties may include: (1) review petitions for indigency; (2) conduct hearings on all petitions and motions, both before and after entry of the decree; (3) in child support enforcement division case, carry out the statutory duties of a child support hearing officer; (4) carry out the statutory duties of a domestic violence special commissioner and utilize the procedures as set for in Rule 1-053.1 NMRA; (5) assist the court in carrying out the purposes of the Domestic Relations Mediation Act; and (6) prepare recommendations for review and final approval by the court. Qualifications: J.D. from an accredited law school, New Mexico licensed attorney in good standing, minimum of (5) years of experience in the practice of law with at least 20% of practice having been in family law or domestic relations matters. Skills: able to establish effective working relationships with judges, the legal community, and staff; able to communicate complex rules clearly and concisely be professional and courteous; have a strong working knowledge of New Mexico and federal case law, constitution and statutes, court rules, and policies and procedures; legal research and analysis; be dependable;; detail-oriented, accurate, maintain confidentiality, and have effective organizational skills. SALARY: \$77.838000 hourly (\$161,903.04 annually), plus benefits. Send a New Mexico Judicial Branch Application or a Resume and a New Mexico Judicial Branch Resume Supplemental form, along with proof of education and a writing sample to the Second Judicial District Court, Human Resources Office, P.O. Box 488 (400 Lomas Blvd. NW), Albuquerque, NM 87102, or by email to [2ndjobapply@nmcourts.gov](mailto:2ndjobapply@nmcourts.gov). Incomplete applications will be rejected. The NMJB Application and the NMJB Resume Supplemental form may be obtained on the NM Judicial Branch web page at [www.nmcourts.gov](http://www.nmcourts.gov). This position is open until filled.

### **Associate Attorney Job Opportunity**

The RSW Law Firm, a small, but rapidly expanding law firm is searching for an Associate attorney to join our general civil litigation and real estate practice. Our practice primarily focuses on large ranch and land transactions (including water and mineral rights), real estate litigation, and general civil litigation. The ideal candidate should be adventurous, enjoy the outdoors, and be comfortable meeting with clients in-person. Excellent research, writing, verbal advocacy skills, and experience with legal AI programs are a plus. Qualified applicants should be entrepreneurial, motivated, and be willing to perform in-person site visits to some of the most beautiful ranches in New Mexico. If hired, our associate will have the opportunity to learn and be involved in unique land and ranch litigation. Must-haves: Comfort with meeting with clients in-person; Must be willing and able to work in-office daily in Santa Fe, NM for the first 90 days post-hire, and then flexible in-person work schedule can be discussed. Preferred: Experience with ranching, real estate, or natural resources law; Enjoys the outdoors; Comfortable with Clio and legal AI programs. Please send a letter of interest and resume [Russell@RanchLawyer.com](mailto:Russell@RanchLawyer.com). All inquiries will be kept confidential.

### **Staff Attorney**

The New Mexico Prison & Jail Project (NMPJP) is a nonprofit law firm that advocates to protect the rights of incarcerated people in New Mexico by bringing civil rights lawsuits and other legal actions on their behalf. NMPJP has an open position for a full-time staff attorney. Generous benefits package. Salary dependent on experience. The ideal candidate will have a passion for advocating for the rights of people who are incarcerated and significant experience with federal and/or state litigation. We also seek candidates with a proficiency in legal research and document drafting; and excellent written, verbal and interpersonal communication skills. Email a letter of interest, resume and legal writing sample to the selection committee at [info@nmpjp.org](mailto:info@nmpjp.org)

### **Staff Attorney**

Senior Citizens' Law Office, Inc. (SCLO) seeks an experienced full-time staff attorney to provide free legal services to low-income seniors aged 60 and older. Salary is DOE with a generous benefits package. See SCLO's website at [www.sclonm.org](http://www.sclonm.org) for our complete job ad.

### **Associate Attorney**

Quiñones Law Firm LLC is a well-established civil defense firm in Santa Fe, NM in search of a full-time associate attorney with minimum 5 years legal experience or 2-3 years background in civil defense work. Must be willing to work a minimum of 35 billable hours per week. Generous compensation and health benefits. Please send resume and writing sample to [quinoneslaw@cybermesa.com](mailto:quinoneslaw@cybermesa.com)

### **Full-Time Manager of Career Services**

UNM Law School seeks a motivated individual for a full-time Manager of Career Services, School of Law (UNM job title is Manager, Employer Outreach). This position qualifies for a hiring incentive; details provided upon offer. Best consideration date, February 13, 2026. General duties: Manages promotion and execution of employer outreach services in the legal community and other employment markets, including employer liaison, on/off campus recruitment, career fairs, and other initiatives; advises students and graduates regarding employment options. Develops, administers, and manages the externship program, including teaching related externship courses. Requires: ability to create/deliver presentations on legal career/employer development topics; knowledge of legal career outreach methods, programs, services, resources. Must be able to interact professionally with diverse constituencies. Occasional evening/weekend work required. Applicants possessing a J.D degree from ABA accredited law school strongly preferred. To apply: <http://unmjobs.unm.edu>

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Advertising will be accepted for publication in the Bar Bulletin in accordance with standards and ad rates set by publisher and subject to the availability of space. No guarantees can be given as to advertising publication dates or placement although every effort will be made to comply with publication request. The publisher reserves the right to review and edit ads, to request that an ad be revised prior to publication or to reject any ad. **Cancellations must be received via email by 5 p.m. (MT) 13 business days prior to the issue publication date.**

**For more advertising information, contact Tom Ende:  
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**Attorney Associate****#10115519****Foreclosure Settlement Program**

The Second Judicial District Court is accepting applications for a Full Time At-Will Attorney. Associate in the Foreclosure Settlement Program (FSP) and will operate under the direction of the Chief Judge, the Presiding Civil Judge, Managing Attorney, and/or Supervising Attorney. The Attorney Associate will facilitate settlement conferences between lenders and borrowers in residential foreclosure cases pending before the Court and will be responsible for conducting status conferences, settlement facilitations and reporting of statistical data to Court administration. Communications occur telephonically, by email, by video conference and in-person. The Attorney Associate is independent and impartial and shall be governed by the Rules of Professional Conduct, Mediation Procedures Act, NMSA 1978 §44-7B-1 to 44-7B-6, and Mediation Ethics and Standards of Practice. The Attorney Associate will coordinate with program administrative staff to support the FSP. Qualifications: Must be a graduate of a law school meeting the standards of accreditation of the American Bar Association; possess and maintain a license to practice law in the State of New Mexico and have three (3) years of experience in the practice of applicable law. Experience in settlement facilitation/mediation and residential mortgage foreclosure matters and loss mitigation is strongly encouraged. Target Pay: \$52.629 hourly, plus benefits. Send application or resume supplemental form with proof of education and one (1) writing sample to [2ndjobapply@nmcourts.gov](mailto:2ndjobapply@nmcourts.gov) or to Second Judicial District Court, Human Resource Office, 400 Lomas Blvd. NW, Albuquerque, NM, 87102. Applications without copies of information requested will be rejected. Application and resume supplemental form may be obtained on the New Mexico Judicial Branch web page at [www.nmcourts.gov/careers](http://www.nmcourts.gov/careers). CLOSES: Wednesday, February 4, 2026 at 5:00 P.M.

**Associate Attorney Sought**

Description: Our top-rated regional litigation defense firm is seeking an associate to join our busy practice in our Albuquerque office. We have opportunities for associates who want to hit the ground running with interesting cases and strong mentors. The ideal candidate will have civil litigation experience, a strong background in legal research and writing, and will be comfortable working in a fast-paced environment. The successful candidate will be responsible for providing legal advice to clients, preparing legal documents, and representing clients in court proceedings, including trial. This is an excellent opportunity for a motivated individual to join a highly respected AV-rated law firm and gain valuable experience in the legal field. Salary for this role is competitive with a full benefits package, straightforward partner/shareholder track and a casual work environment. If you join us, you will be well supported with the infrastructure of a multi-state firm and a group of professionals that want you to succeed. Apply by sending your resume and writing sample to the contact listed in this ad. Additional info: Full time, indefinite; Competitive salaries based on experience. Contact: Paula palvarez@raylaw.com

**Experienced Litigation Attorney**

Cordell & Cordell, P.C., a domestic litigation firm with over 100 offices across 35 states, is currently seeking an experienced litigation attorney for an immediate opening in its office in Albuquerque, NM. The candidate must be licensed to practice law in the state of New Mexico, have minimum of 3 years of litigation experience with 1st chair family law preferred. The firm offers competitive starting base salaries, multiple bonus opportunities, long term career growth, 100% employer paid premiums including medical, dental, short-term disability, long-term disability, and life insurance, as well as 401K and wellness plan. This is a wonderful opportunity to be part of a growing firm with offices throughout the United States. To be considered for this opportunity please email your resume to Hamilton Hinton at [hhinton@cordelllaw.com](mailto:hhinton@cordelllaw.com)

**City of Santa Fe****City Attorney's Office****Assistant City Attorney**

The Santa Fe City Attorney's Office seeks a full-time lawyer to advise and represent the City in a variety of matters, including advice and counsel to the City's departments, boards, and commissions. The City Attorney's Office seeks applicants who are mission-driven and dedicated to public service and have excellent interpersonal skills, strong academic credentials, and exceptional written and verbal communication. Experience in government general counsel work, administrative law, litigation, appellate practice, and related law, particularly in the public context, is preferred. Initial client assignments may include land use and community development. Evening meetings may be required up to a few times a month. The pay and benefits package are excellent and pay is partially dependent on experience. Hybrid and alternative work schedules are negotiable. The position is based in downtown Santa Fe at City Hall and reports to the City Attorney. The position is exempt and open until filled. Qualified applicants are invited to apply online at <https://santafenm.gov/human-resources>.

**City Attorney****City of Santa Fe**

The City of Santa Fe seeks a City Attorney to lead its 20-person legal team spanning three programs: a legal team, an Office of Legislative and Policy Innovation and the Office of Records Custodians. Reporting directly to Mayor Michael Garcia, the City Attorney provides legal counsel to the Mayor, Governing Body, and City staff, prepares legislation, defends the City in litigation, and oversees prosecution of certain offenses. Ideal candidates will have strong leadership experience, deep knowledge of municipal and New Mexico law, and a commitment to public service. The position requires a license to practice law in New Mexico. The City Attorney serves as a key member of the senior administrative team in Santa Fe's strong mayor form of government. Salary range is \$145,000–\$165,000, with excellent benefits including group medical and State PERA pension. The position is exempt and open until it is filled. Candidate identities are subject to public disclosure. Apply online at [santafenm.gov/jobs](https://santafenm.gov/jobs).

### **At-Will Attorney Associate Position**

The Seventh Judicial District Court is recruiting for a full-time, At-Will Attorney Associate position to support Catron, Sierra, Socorro, and Torrance counties. Post of duty will be determined at the time of hiring. Acting under general direction of the Judge or Court Executive Officer, will provide legal advice, perform legal research and analysis, and make recommendations to the court. For a detailed job description, qualifications and application requirements, please refer to <https://nmcourts.gov/careers/> or contact HR at hr.7thdistrictcourt-grp@nmcourts.gov.

### **Attorney Senior**

The Thirteenth Judicial District Court is recruiting for an Attorney Senior (U) in Bernalillo, Grants or Los Lunas. Summary: Acting under administrative direction of the Judge, Court Executive officer, or a supervising attorney provides legal advice, performs legal research and analysis, and makes recommendations to the court or Judicial Entity. To apply: please visit [www.nmcourts.gov/careers](http://www.nmcourts.gov/careers)

### **Financial Institutions**

#### **Division Counsel**

The NM Regulation & Licensing Department is hiring for the Financial Institutions Division Counsel located in Santa Fe. This incumbent of the position provides legal advice, counsel, and other legal services to the Financial Institutions Division Director, Deputy Director, and other FID personnel. The incumbent will, among other duties: study, interpret and apply laws, court decisions, and other legal authorities; prepare legal documents, pleadings, memoranda, reports, opinions, and other materials; process request to inspect public records; intake, investigate, and prosecute administrative violations; draft administrative rules and coordinate their implementation; draft and/or review agency initiated/backed bill language; and provide legal representation in judicial proceedings in state and federal courts. Interested candidates must apply through <https://careers.share.nm.gov> and submit your application for position #10106318+ under job opening ID 160191 by 02/12/2026.

### **Attorney Associate**

The Third Judicial District Court in Las Cruces is accepting applications for a permanent, full-time Attorney Associate. Requirements include admission to the NM State Bar plus a minimum of three years' experience in the practice of applicable law, or as a law clerk. Under general direction, as assigned by a judge or supervising attorney, review cases, analyze legal issues, perform legal research and writing, and make recommendations concerning the work of the Court. For a detailed job description, requirements and application/resume procedure please refer to <https://www.nmcourts.gov/careers.aspx> or contact the Human Resources Division at lcrdhr@nmcourts.gov.

### **Paralegal**

The Spence Law Firm, LLC, a leading plaintiff's law firm, is looking to add to our core team at our Jackson Hole, Casper, Wyoming, and/or Albuquerque, New Mexico office. We represent injured victims and their families throughout Wyoming, New Mexico, and across the country. We are looking to add a Paralegal to work in all aspects of litigation. If you are interested in joining a team that fights for people, we would like to talk to you. The job requires you to work directly with clients and multiple teams within our firm. You must be able to read, write, think critically, and manage multiple projects and large files simultaneously. Curiosity, a sharp mind, and a strong drive to help people are important, as is patience, empathy, and the ability to be calm under pressure. Being tech-savvy, fast on your feet, organized, and attentive to detail are important. Must be willing to do what it takes as both a team-player and self-starter, unafraid to take the lead and work solo when needed. Salary commensurate with experience and qualifications. Strong benefits package, flexible work environment, and great experience available. Only applicants meeting the criteria outlined above will be contacted as part of the shortlisting process. For immediate consideration, please e-mail your resume and cover letter to [apply@spencelawyers.com](mailto:apply@spencelawyers.com).

### **Experienced Litigation Paralegal**

Paralegal for civil litigation department. Five plus years of experience in litigation (commercial, defense litigation preferred). Paralegal certificate a plus. Extensive knowledge of litigation procedures in New Mexico, proficient in office applications and software, attention to detail and deadlines, proficient in word processing and grammar skills, motivated and able to assist and support busy litigation team in large and complex litigation cases, multi-attorney docket and calendar system, and trial. Competitive benefits package. Salary is commensurate with experience. Additional info: Full time, indefinite; Competitive salaries based on experience. Contact: Paula palvarez@raylaw.com

## **Services**

### **Does Your Office Need a Hand?**

If you're a sole practitioner in need of occasional help, I can assist with your discovery, motions, trial prep, appeals and everything reasonably needed by your law office. I have over 35 years in law (independent contract paralegal 18 years, 19 as attorney), and offer hourly fees. Christa M. Okon 505-690-6047; cmokon@aol.com

## **Office Space**

### **Office For Rent:**

Two Santa Fe Offices Available January 1, 2026. Two adjacent offices in a six-office professional suite. Centrally located in The Saint Francis Professional Center, the suite has a large reception area, kitchenette, and ample parking for clients. Rent includes alarm, utilities, and janitorial services. Includes basement storage. 505-795-0077.

### **620 Roma NW**

The building is located a few blocks from the federal, state and metropolitan courts. Monthly rent of \$550 includes utilities (except phones), internet access, fax, copiers, front desk receptionist and janitorial service. You will have access to a law library, four conference rooms, a waiting area, and off-street parking. Several office spaces are available. Call (505) 2433751 for an appointment.

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

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# A Guide to



## 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](mailto: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](mailto:marketing@sbnm.org). To have your organization's announcements or events published in eNews, please contact [enews@sbnm.org](mailto: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](mailto: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](mailto: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](mailto: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](mailto:probono@sbnm.org).