

**Bridge the Gap Mentoring Program  
Introduction to Legal Writing  
Resource 38**

Resource 38 is intended to facilitate a discussion about relevant issues surrounding effective legal writing, such as techniques for the most effective legal writing, how to avoid common mistakes that may cause pleadings to be ineffective, how to effectively use sample legal pleadings and forms, techniques for efficient legal research, etc.

- Share with the new lawyer tips for effective legal writing, including:
  - Using active instead of passive voice
  - Using concrete words instead of abstractions
  - Using familiar words instead of lawyerisms
  - Omitting superfluous words
  - Avoiding multiple negatives
  - Using headings and bullet-points when appropriate
- Share with the new lawyer common mistakes that lawyers make in legal writing that may cause pleadings to be ineffective and provide tips for avoiding pitfalls. Share mistakes you have made in briefs and how you learned from these experiences.
- Discuss the requirements for briefs in your local courts rules.
- Discuss the correct use of legal citations. See the attached Citations for Pleadings and Other Papers.
- Talk about the fine line between effective persuasion and misrepresentations in legal writing. When does framing the facts of a case in the most positive light cross over into misrepresentation? What ethical obligations does a lawyer have to reveal case law that is negative to a client's case? See Rule 16-303 NMRA. (find at <http://www.conwaygreene.com/nmsu/lpext.dll?f=templates&fn=main-h.htm&2.0> or <http://www.law.cornell.edu/ethics/nm/code/> )
- Discuss how to properly include emotion (if at all) in brief-writing.
- Discuss how to effectively use sample legal pleadings and forms and where a new lawyer can find such samples and forms. If mentoring Inside, discuss the Inside resources that are available for the new lawyer.
- Talk about how you perform legal research. To the extent that you have knowledge about different online research tools, discuss their pros and cons from your perspective. Discuss ways to efficiently use online research tools, especially if the new lawyer is in a small firm setting which prohibits prolonged use of costly online databases. If mentoring inside, explain the policies for utilizing online research tools if any are available.
- Provide advice on the legal citation rules. See Rule 23-112 NMRA.

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- Discuss how to properly prepare complaints, including the importance of making sure the complaint asks for everything being sought and applying the notice-pleading requirement to a draft complaint.

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**23-112. Citations for pleadings and other papers.**

A. **Applicability; citation rule appendix.** This rule governs the form of citations included in pleadings and papers filed in the courts of this state. Additional citation requirements and examples of correct forms of citation are included in an appendix immediately following this rule.

B. **State appellate court citations.** For citation to opinions of the New Mexico Supreme Court and New Mexico Court of Appeals, use of the vendor neutral citation with citation to both reporters is required. For citations for opinions issued prior to January 1, 1996, that do not have a vendor neutral citation, follow citation rules in *The Bluebook: A Uniform System of Citation*.

C. **Subsequent history.** Subsequent history, when cited, shall include the vendor neutral citation for certiorari information, as assigned by the Supreme Court. When a vendor neutral citation number is not available, the Supreme Court docket number shall be substituted for the vendor neutral citation.

D. **Pinpoint citations.** If a pinpoint citation is used:

(1) for opinions issued after 1996 that have a paragraph number, the paragraph number shall be used after the vendor neutral citation.

(2) for opinions issued prior to 1997 or if paragraph numbering is unavailable, the applicable page number of the New Mexico Reports and Pacific Reporter print publication shall be used.

E. **Citation to New Mexico statutes.** Citations to the New Mexico statutes shall be to the chapter, article and section of the 1978 compilation of the New Mexico Statutes Annotated (NMSA).

F. **Citation to court rules and uniform jury instructions.** Citation to the rules, uniform jury instructions and forms promulgated or approved by the Supreme Court shall be to the New Mexico Rules Annotated (NMRA) version by set and rule number. You may also use the citation form approved by the Supreme Court and published in the NMRA. For example, Rule 4A-100 NMRA provides that rules published in set number 4A of the NMRA may be cited as "Domestic Relations Form 4A-\_\_\_\_". If the rule has been amended since the date the proceedings were filed, it may be necessary to refer to the year of the version of the rule relied upon in the pleading or paper. In such cases the year of the NMRA is added after "NMRA".

G. **Administrative code.** If a pleading or paper cites a state agency rule or regulation, the New Mexico Administrative Code (NMAC) shall be cited using Title, Chapter, Part and Section. It may also be necessary to use a year after "NMAC" to identify the year of the rule applicable to the pending case;

H. **Bluebook citations.** Except as provided in Paragraphs A through F and the appendix of this rule, the form of citations as set forth in the current edition of *The Bluebook: A Uniform*

*System of Citation* shall be used for all citation reference for all pleadings and other papers filed in all courts in this state.

[Approved, effective June 4, 2004, as amended by Supreme Court Order 05-8300-16, effective August 15, 2005; by Supreme Court Order 07-8300-11, effective May 10, 2007; by Supreme Court Order 08-8300-023, effective August 20, 2008.]

## **Appendix To Rule 23-112 NMRA**

The function of legal citation is to inform readers of the name, the location, the authority, and the date of legal documents in a brief and understandable form. In addition the citation enables the reader to find a document when the official citation is to a source that is unique, obscure, or otherwise not easily located.

For most citation questions, the legal writer will use the current edition of *The Bluebook, A Uniform Manual of Citation*. Citation form differs from the *Bluebook* only when New Mexico practice requires a different format, most notably for our statutes and rules.

If material within a direct quotation does not comply with Rule 23-112 NMRA or this appendix, reproduce the quotation as written, but note in brackets the form approved for use in New Mexico.

### **I. NEW MEXICO APPELLATE COURT CITATIONS**

#### **A. Supreme Court and Court of Appeals Opinions**

1. For opinions of the New Mexico Supreme Court and New Mexico Court of Appeals, cite the vendor-neutral number followed by the New Mexico Reports and Pacific Reporter citations. When using the vendor-neutral citation, the court name and the year are not repeated in parentheses unless the year the opinion is filed differs from the date in the vendor-neutral citation.
 

|                 |   |
|-----------------|---|
| Full citation:  | <i>Collier v. Pennington</i> , 2003-NMCA-064, ¶ 6, 133 N.M. 728, 69 P.3d 238. |
| Short citation: | <i>Collier</i> , 2003-NMCA-064, ¶ 6.  |
2. If the date on which the opinion was filed differs from the date in the vendor-neutral citation, the year of filing should be included in a parenthetical.
 

|                 |   |
|-----------------|---|
| Full citation:  | <i>State v. Pittmann</i> , 2006-NMCA-006, ¶ 2, 139 N.M. 29, 127 P.3d 1116 (filed 2005). |
| Short citation: | <i>Pittmann</i> , 2006-NMCA-006, ¶ 2.   |
3. For opinions not yet published in the reporter system, but which have been assigned a vendor-neutral citation number, cite as follows:
 

|                |  |
|----------------|--|
| Full citation: | <i>Davis v. Farmers Ins. Co. of Ariz.</i> , 2006-NMCA-099, ¶ 2<br>____ N.M. ____, ____ P.3d ____, <i>cert. granted</i> ,<br>____-NMCERT-____, ____ N.M. ____, ____ P.3d ____, (No.<br>29,895, Sept. 13, 2006). |
|----------------|--|

Short citation: *Davis*, 2006 NMCA-099, ¶ 26.

4. For slip opinions with no vendor-neutral citation number, cite as follows:

• Supreme Court:

Full citation: *State v. Saiz*, No. 29,386, slip op. at 3 (N.M. Sup. Ct. July 22, 2002).

Short citation: *Saiz*, No. 29,386, slip op. at 3.

• Court of Appeals:

Full citation: *Mannick v. Wakeland*, No. 21,989, slip op. at 8-9 (N.M. Ct. App. Jan 4, 2002).

Short citation: *Mannick*, No. 21,989, slip op. at 8-9.

5. For citations for opinions issued prior to January 1, 1996, citation is first to New Mexico Reports, then to Pacific Reporter, followed by the year of the opinion in parentheses.

Full citation: *State v. Ogden*, 118 N.M. 234, 236, 880 P.2d 845, 847 (1994).

Short citation: *Ogden*, 118 N.M. at 236, 880 P.2d at 847.

Since opinions of the Court of Appeals issued before 1996 do not have a vendor-neutral citation that identifies the court, they require a parenthetical to identify the court and the year the opinion was filed.

Full citation: *State v. Fuentes*, 119 N.M. 104, 107, 888 P.2d 986, 989 (Ct. App. 1994).

Short citation: *Fuentes*, 119 N.M. at 107, 888 P.2d at 989.

#### B. Subsequent History

Subsequent history, which, under *Bluebook* Rule 10.7, includes denials of certiorari if the case is less than two years old or the denial is particularly relevant, must include the vendor-neutral citation for certiorari information, including whether certiorari was granted, denied, or quashed, as assigned by the Supreme Court.

*State v. Boergadine*, 2005-NMCA-029, 137 N.M. 29, 107 P.3d 532, *cert. denied*, 2005-NMCERT-001, 137 N.M. 290, 110 P.3d 506.

**Note:** Electronic sources do not provide pinpoint citations to the page on which the case appears. Citation is therefore made to the page on which the certiorari table begins.

New Mexico Reports prior to Volume 134 do not include the vendor-neutral citation for certiorari tables. When a vendor-neutral certiorari table citation is not available, the Supreme Court docket number is substituted for the vendor neutral citation.

*State v. Joe*, 2003-NMCA-071, 133 N.M. 741, 69 P.3d 251, *cert. denied*, Sup. Ct. No. 28,019, 133 N.M. 727, 69 P.3d 237.

#### C. Pinpoint Citations

For opinions issued after 1996 that have paragraph numbers, pinpoint citation is to the vendor-neutral citation followed by the paragraph number in which the particular proposition for which the case is cited is to be found, followed by the pages of the New Mexico Reports and Pacific Reporter volumes on which the case begins. Pinpoint page numbers are not included since paragraph numbers appear in the reporters.

*State v. Joe*, 2003-NMCA-071, ¶ 12, 133 N.M. 741, 69 P.3d 251.

*State v. Pittmann*, 2006-NMCA-006, ¶ 6, 139 N.M. 29, 127 P.3d 1116 (filed 2005).

*Lozano v. GTE Lenkurt, Inc.*, 1996-NMCA-074, ¶ 16, 122 N.M. 103, 920 P.2d 1057.

Subsequent pinpoint citations in the same document use the short form of the case name followed by the vendor-neutral citation and paragraph number with no reporter citations.

*Joe*, 2003-NMCA-071, ¶ 12.

or

*Id.* ¶ 12.

For opinions issued prior to 1997, or if paragraph numbering is unavailable, the citation is to the pages of the New Mexico Reports and Pacific Reporter print publications where the opinion begins, followed by the pinpoint page citations:

*Vaca v. Whitaker*, 86 N.M. 79, 83, 519 P.2d 315, 319 (Ct. App. 1974).

Subsequent pinpoint citations in the same document use the short form of the case name followed by reporter citations to the relevant page.

*Vaca*, 86 N.M. at 83, 519 P.2d at 319.

#### D. Record Below and Pleadings

For citation to the record below of the case at issue, cite as follows:

|  |                         |
|--|-------------------------|
| Record proper, page one                      | [RP 1]                  |
| Transcript, page one                         | [Tr. 1]                 |
| Tape 6, May 9, 2007, counter #1303           | [T.6, 5-9-07. 6/1303]   |
| Compact Disc 2, May 9, 2007, counter 9:23:21 | [CD 2, 5-9-07, 9:23:21] |
| Record proper 77, finding of fact 20         | [RP 77, FOF 20]         |
| Record proper 80, conclusion of law 5        | [RP 80, COL 5]          |
| Exhibit 5                                    | [Ex. 5]                 |
| Deposition of John Smith, p. 30              | [Dep. JS 30]            |

For citation to pleadings and court documents, cite as follows:

|   |         |
|---|---------|
| Brief-in-Chief, p. 5                    | [BIC 5] |
| Answer Brief, p. 3                      | [AB 3]  |
| Reply Brief, p. 2                       | [RB 2]  |
| Calendar Notice, p. 1                   | [CN 1]  |
| Memorandum in Opposition, p. 3          | [MIO 3] |
| Dispositional Order of Affirmance, p. 4 | [DOA 4] |
| Dispositional Order of Reversal, p. 2   | [DOR 2] |
| Motion, p. 3                            | [MOT 3] |

## II. CITATION TO NEW MEXICO STATUTES ANNOTATED (NMSA)

### A. NMSA 1978

Cite the New Mexico Statutes to the chapter, article, and section of NMSA 1978. The date in parentheses (following the first occurrence) is the date of the enactment or amendment of the particular section being cited, as shown in the history note following the section in the published versions of the statutes. The word "Section" is spelled out the first time the statute is cited if the reference to the statute is in a textual sentence. It is also spelled out for subsequent references to the statute when the reference is in a textual sentence or when it is the first word in a citation sentence. It is always capitalized. In all other occurrences, use the "\$" symbol.

1. First occurrence:

· In a textual sentence, cite as follows:

The Legislature enacted NMSA 1978, Section 39-3-1.1(C) (1998, as amended through 1999), to create a comprehensive scheme for appealing final decisions of certain administrative agencies.

· In a citation sentence, cite as follows:

In 1998, the Legislature created a comprehensive scheme for appealing the final decisions of certain administrative agencies. *See* NMSA 1978, § 39-3-1.1(C) (1998, as amended through 1999).

· In a citation clause, cite as follows:

Plaintiff asserts that jurisdiction is limited only by the venue statute, NMSA 1978, § 38-3-1(G) (1998 which states that . . .

2. Subsequent occurrences:

· In a textual sentence, cite as follows:

Plaintiff suggests that this statutory provision does not conflict with the specific restrictions in Section 39-3-1.1(C).

· In a citation sentence, cite as follows:

*See* §§ 38-3-1(G) & 39-3-1.1(C).

or

Section 38-3-1(G).

· In a citation clause, cite as follows:

We are not persuaded that the Legislature could have intended the general jurisdictional and venue statutes, Sections 39-3-1.1 and 38-3-1, to unconstitutionally expand the appellate jurisdiction of the district courts.

or

The general jurisdiction and venue statutes, *see* §§ 39-3-1.1 and 38-3-1, do not expand the appellate jurisdiction of the district courts.

3. If a statute has been amended, and the applicable statute is the most recently amended version, cite to the most recent amendment:

NMSA 1978, § 30-2-1 (1994).

4. If the statute has been amended more than once, but the applicable version of the statute is an earlier version, cite to the applicable version, noting that it is no longer current and citing to the most recent amendment:

NMSA 1978, § 30-2-1 (1980, prior to amendments through 1994).

5. When referring to an entire act, such as the Procurement Code, cite the date of the original enactment and the date of the most recent amendment. Do NOT use "*et seq.*":

NMSA 1978, §§ 13-1-28 to -199 (1984, as amended through 2006).

6. If the applicable statute has been repealed, cite the date of enactment and the date the statute was repealed:

NMSA 1978, Section 60-13-12(B) (1989, repealed effective July 1, 2006).

#### B. Earlier Compilations

1. New Mexico Statutes 1953

Citation to New Mexico Statutes 1953 requires that the volume and supplemental pamphlets or pocket parts be specified in order to locate the statute in question. The section number precedes the compilation designation:

NMSA 1953, § 59-10-12.12 (Vol. 9, 2d Repl., Part 1, 1975 Pocket Supp.).

2. New Mexico Statutes 1941

Citation to the 1941 compilation does not require volume citation, but does require citation to the appropriate supplemental pocket part:

§ 51-619, 1941 Comp. (1953 Supp.).

or

Section 51-619, 1941 Comp. (1953 Supp.).

3. New Mexico Statutes 1929

The 1929 statutes were supplemented only in 1938. Statutes passed or amended between 1929 and 1938 should be cited to this supplement. Statutes passed or amended after 1938, but before the 1941 recompilation, should be cited to the session law:

§ 105-2525, Comp. St. 1929.

or

§ 105-167, Comp. St. 1929 (1938 Supp.).

4. New Mexico Statutes 1915

Cite the 1915 codification as 1915 Code. There are no supplements.

§ 1142, 1915 Code.

or

Section 1142, 1915 Code.

5. 1897 Compiled Laws of New Mexico

§ 3420, C. L. 1897.

or

Section 3420, C. L. 1897.

### III. SESSION LAWS

- A. Session laws are cited by year, chapter, and section:

1986 N.M. Laws, ch. 38, § 7. (in a citation sentence or clause)

or

1986 N.M. Laws, ch. 38, Section 7. (in textual sentence)

- B. For years in which the Legislature met more than once, indicate the session in a parenthetical:

1990 Laws (2d S.S.), ch. 2, § 56.

- C. Bills introduced in the Legislature are cited by title, number, and session:



Navajo and English Educational Programming, H.B. 11, 47th Leg., 2d Sess. (N.M. 2006).

Domestic Partner Benefits Bill, H.B. 86, 47th Leg., 1st Sess. (N.M. 2005).

- D. If passed and signed into law, the chapter number and codification, if available, should follow:
- Commercial Drivers License Changes, H.B. 250, 46th Leg., 1st Sess. (N.M. 2003), Laws 2003, ch. 51.
- Crimes Against Household Members Act, H.B. 512, 42nd Leg., 1st Sess. (N.M. 1995), Laws 1995, ch. 23, § 1, codified at NMSA 1978, § 30-3A-3(B) (1995).

#### IV. NEW MEXICO RULES ANNOTATED (NMRA)

##### A. Citation to Court Rules, Forms, and Uniform Jury Instructions

Rules, uniform jury instructions, and forms promulgated or approved by the Supreme Court are cited to the New Mexico Rules Annotated version by set and rule number.

First Occurrence

Rule 5-103(C)(1)(a) NMRA.

Form 9-406 NMRA.

UJI 14-210 NMRA.

Subsequent Occurrence

Rule 5-103(C)(1)(a).

or

*id.* (if appropriate)

Form 9-406.

UJI 14-210.

or

*id.* (if appropriate)

If the rule has been amended since the date the proceedings were filed, but the applicable version of the rule is an earlier version, cite to the applicable version, noting that the version is no longer current, and citing to the most recent amendment.

Rule 1-004 NMRA (1998, prior to amendments through March 2005).

##### B. Superseded Rules

1. From 1986 to 2000 the rules were codified as Supreme Court Rules Annotated, and should be cited by the rule number, followed by SCRA and the date of the pamphlet in which the rule is found:

Rule 12-216 SCRA (1990 Pamp.).

2. Rules in effect from 1978 to 1985 require more complete citation for identification, including citation to the NMSA judicial volume in which the rule appears:

N.M. R. Civ. P. 16, NMSA 1978 (1980 Repl. Pamp.).

N.M. R. Crim. P. 47(a), NMSA 1978 (1980 Repl. Pamp.).

N.M. R. Crim. P. 17(f), NMSA 1978 (1980 Repl. Pamp.).

N.M. R. Evid. 803, NMSA 1978 (1982 Cum. Supp.).

3. Rules in effect during the period of the 1953 compilation are cited both by rule number and to NMSA 1953 in brackets:

N.M. R. Civ. P. 56 [§ 21-1-1(56), NMSA 1953 (1970 Repl.)].

N.M. R. Crim. App. 601(b)(1) [§ 41-23A-601(b)(1),

NMSA 1953 (1975 Supp.)].

#### V. NEW MEXICO ADMINISTRATIVE CODE (NMAC)

##### A. Current Rules

The format for full citation of material contained in the NMAC is the title number, the chapter number, the part number, the section number, "NMAC," and, if necessary to identify the applicable year, the effective date in parentheses. When a provision has been amended, the effective date is the effective date of the version that is being cited.

3.1.3.8 NMAC (10/31/1996).

When reference is to the whole part, the reference date shall be the original effective date together with the date of last amendment:

3.1.3.8 NMAC (11/5/85, as amended through 12/29/2000).

When citation below the level of a section is desired, cite as follows:

3.1.3.8(A) NMAC.

or

Subsection A of Section 3.1.3.8 of the Administrative Code.

#### B. New Mexico Register

When it is not possible to cite to the New Mexico Administrative Code (e.g., if a provision has been repealed), cite to the New Mexico Register for rules promulgated by administrative agencies since 1990. The format is volume number in Roman numerals followed by the page and the date of promulgation in parentheses. Page numbering in the New Mexico Register was issue by issue through 1992, so both volume and issue numbers must be included when citing these volumes. Beginning in 1993, page numbering is in a single sequence throughout the volume, so issue numbers are not included in the citation. Note that rules published in early register volumes often retain rule numbering sequences developed by individual agencies even though they are published in the register and made part of the administrative code.

Standards of Apprenticeship, XIII N.M. Reg., p. 1023.

Formal Complaints, NMPSC Rule 410, II N.M. Reg., No.16, p. 24 (8/9/91).

#### C. Superseded Rules

Rules promulgated by New Mexico administrative agencies are effective when published in the New Mexico Register. A note following the date of promulgation should indicate that the rule has since been amended or repealed. The page numbering in the New Mexico Register was issue by issue through 1992, so both volume and issue must be included in the citation. Beginning in 1993, page numbering is in a single sequence throughout the volume, so issue number is not included in the citation.

Standards of Apprenticeship, New Mexico Department of Labor, XIII N.M. Reg., p. 1023 (12/30/02, codified at 11.2.3.22 NMAC, as amended through 8/13/04).

Expedited Food Stamp Service, Certification Periods, Human Services Department, ISD FS-220, III N.M. Reg. No. 9, p.14 (5/15/92, amended and codified at 8.139.110.16 NMAC).

#### D. Pre-NMAC Rules

Prior to the creation of the New Mexico Administrative Code there existed no uniform numbering system for rules. Citation follows the practice of the individual agency:

Department of Labor, Job Training Division, Request for JTBA Funds, JSI No. 2-89 (12/18/86).

Board of Educational Finance, State Student Incentive Grant Program, BEF Rule 840 (2/27/85).

**Effective dates.** — Pursuant to a court order dated June 4, 2004, this rule is effective June 4, 2004.

**The 2005 amendment,** approved by Supreme Court order 05-8300-16, effective August 15, 2005

amended Paragraph H to change the bluebook edition from the 17th to the 18th edition.

**The 2007 amendment**, approved by Supreme Court order 07-8300-11, effective May 10, 2007, amended Paragraph G to change "Subpart" to "Section".

**The 2008 amendment**, approved by Supreme Court Order No. 08-8300-023, effective August 20, 2008, added the last sentence in Subsection A; deleted examples of citations in Subsections B through G; deleted the rule in Subsection B for citation of opinions not yet published in the reporter system; deleted the rule in Subsection D for using short citation forms for cases that have been cited within the same general textual discussion; deleted the rule in Subsection E for citation of compilation references; deleted the reference in Subsection H to the 18th edition 2005 of *The Bluebook, A Uniform System of Citation* and provided that the form of citations shall be as set forth in the current edition of the *Bluebook*; and added the Appendix.