

# Bar

OFFICIAL PUBLICATION OF THE STATE BAR OF NEW MEXICO

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# BULLETIN

MAY 22, 2006 • VOLUME 45, NO. 21



*Abiquiu, ca 1800s, #13695  
Photo by T. Harmon Parkhurst*

*Courtesy Palace of the Governors (MNMI/DCA)  
www.palaceofthegovernors.org/photoarchives*

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**2006-NMSC-020, No. 29,422:** Campos v. Murray

**2006-NMSC-021, No. 29,552:** In the Matter of Honorable Florencio "Larry" Ramirez

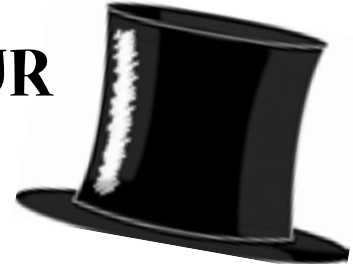
**2006-NMCA-048, No. 24,801:** Smith v. City of Santa Fe

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**2006-NMCA-050, No. 24,518:** Chevron U.S.A., Inc. v. State of New Mexico ex rel. Department of Taxation and Revenue



# HATS OFF TO OUR VOLUNTEERS



The Young Lawyers Division would like to thank the following volunteers for their time & effort in making the Junior Judges Program a huge success!

Mikal Altomare  
Christina Anaya  
Sarah Armstrong  
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Lara Sundermann  
Lindsay Van Meter  
Christina Vigil  
David Waymire  
Paul Yarbrough  
Briana Zamora

YLD also thanks to the New Mexico State Bar Prosecutor's Section for co-sponsoring the 2006 Junior Judges Program

Special thanks to **Junior Judges Chair Martha Chicoski** for her hard work and dedication in bringing this great program to New Mexico!

# Bill Kitts Mentor Program

*Creating Partnerships for Professional Development*



## Who was Bill Kitts?

Albuquerque lawyer Bill Kitts was a professional who loved and respected the law. He committed time and expertise in assisting young and new lawyers. A great loss to the community, Bill Kitts was killed in an automobile accident in 1982. The Bill Kitts Mentor Program was formed in the fall of 1992 to remember and honor this dedicated attorney.

Visit [www.nmbar.org](http://www.nmbar.org) and select "Attorney Services/Practice Resources," then "Mentorship Program" to obtain mentor practice area and contact information. For more assistance, or to become a mentor, contact the State Bar at [membership@nmbar.org](mailto:membership@nmbar.org); or call (505) 797-6033.

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*\*Mentor volunteers acknowledge that they have been in practice for at least five years, have had no formal disciplinary sanctions during the past five years, maintain malpractice coverage, and are members in good standing of the State Bar of New Mexico.*



# JUNE

## NATIONAL SATELLITE

1

### Advanced Estate Planning Practice Update - Spring 2006

State Bar Center • via satellite  
Thursday, June 1, 2006 • 10 a.m. - 2 p.m.  
3.6 General CLE Credits

For practitioners whose experience is at an intermediate (or higher) level, this update offers an opportunity to explore the most current and important issues in estate planning and wealth transfer taxation. Topics are selected with emphasis upon identifying and solving problems that practitioners will confront in their practice, how to bring about desired results, as well as when and why particular procedures or choices are appropriate.

Standard Fee \$199

**also available via  
LIVE WEBCAST**

7

### Cause and Effect of Arbitration Clauses: What Should You Consider When Drafting an Arbitration Clause for a Contract?

State Bar Center, Albuquerque  
Wednesday, June 7, 2006 • 11:30 a.m.  
1.0 General CLE Credit

*Co-Sponsor: Business Law Section*

What considerations should be taken into account when deciding whether to use an arbitration clause in a contract? What are the practical effects that certain drafting decisions might have on any arbitration proceeding pursuant to the clause? Are there particular New Mexico issues that you should consider? Hear comments on and gain insights into these matters from two knowledgeable and experienced New Mexico practitioners.

Standard Fee \$45

## FOUR WAYS TO REGISTER

**PHONE:** (505) 797-6020, Monday - Friday, 9 a.m. - 4 p.m.

(Please have credit card information ready)

**FAX:** (505) 797-6071, Open 24 hours

**INTERNET:** www.nmbar.org, click CLE,  
then area of interest

**MAIL:** CLE, PO Box 92860, Albuquerque, NM 87199

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**Program Date** \_\_\_\_\_

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Purchase Order (Must be attached to be registered)

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Make check payable to: CLE

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Contributions and announcements to the *Bar Bulletin* are welcome but the right is reserved to select material to be published. Unless otherwise specified, publication of any announcement or statement is not deemed to be an endorsement by the State Bar of New Mexico of the views expressed therein, nor shall publication of any advertisement be considered an endorsement by the State Bar of the product or service involved. Editorial policy is available upon request.

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• **Professionalism Tip** •

With respect to opposing parties and their counsel:

In depositions, negotiations and other proceedings, I will conduct myself with dignity, avoiding groundless objections and other actions that are disrupting and disrespectful.

## Meetings

### May

- 23**  
**Technology Committee,**  
 4 p.m., State Bar Center
- 24**  
**Membership Services Committee,**  
 noon, State Bar Center
- 25**  
**Natural Resources, Energy and  
 Environmental Law Section,**  
 noon, State Bar Center
- 25**  
**Appellate Practice Section Board  
 of Directors,** 3 p.m., Montgomery &  
 Andrews, P.A., Santa Fe

### June

- 5**  
**Attorney Support Group,**  
 5:30 p.m., Law Office of Scott Vorhees,  
 Santa Fe
- 6**  
**Employment and Labor Law Section  
 Board of Directors,** noon, State Bar  
 Center

## State Bar Workshops

### May

- 24**  
**Consumer Debt/Bankruptcy Workshop**  
 6 p.m., State Bar Center, Albuquerque
- 25**  
**Lawyer Referral for the Elderly Workshop**  
 Topic: Nursing Home Medicaid  
 1:15 p.m., Meadowlark Senior Center,  
 Rio Rancho
- 25**  
**Consumer Debt/Bankruptcy Workshop**  
 5:30 p.m., Branigan Library, Las Cruces
- 31**  
**Consumer Debt/Bankruptcy Workshop**  
 6 p.m., Las Vegas VFW, Las Vegas

### June

- 22**  
**Consumer Debt/Bankruptcy Workshop**  
 5:30 p.m., Branigan Library, Las Cruces
- 28**  
**Consumer Debt/Bankruptcy Workshop**  
 6 p.m., State Bar Center, Albuquerque

*Consumer Debt/Bankruptcy workshops include a one-on-one consultation with an attorney. For more information, call Marilyn Kelley at (505) 797-6048 or 1-800-876-6227; or visit the SBNM Web site, www.nmbar.org.*

# NOTICES

## **COURT NEWS** **NM Supreme Court** **Proposed Revisions to the** **Rules of Appellate Procedure**

The Supreme Court is considering proposed revisions to the Rules of Appellate Procedure. Written comments on the proposed amendments may be sent to Kathleen J. Gibson, Chief Clerk, New Mexico Supreme Court, PO Box 848, Santa Fe, New Mexico 87504-0848, by May 29. For reference, see the May 8, (Vol. 45, No. 19) *Bar Bulletin*.

## **NM Court of Appeals** **Open Meeting of Committee** **on Administrative Appeals**

An ad hoc committee of district and appellate judges and lawyers practicing in the area of administrative appeals will meet at 1:30 p.m., July 11, at the State Bar Center. The purpose of the meeting is to evaluate practice and procedures under Section 39-3-1.1 now that the statute is over five years old. Some of the problems that have been noted include: (1) the time for appeal needs clarification; (2) the definition and manner of preparation of the record needs clarification; (3) the rules governing statements of issues could be improved; (4) decisions by administrators, particularly city and county governments, are sometimes inadequate for review; (5) the standards of review do not seem to be complied with; (6) some cases should go directly to the Court of Appeals; and (7) administrative decision makers, district and appellate judges and practitioners could benefit from education on the issues related to Section 39-3-1.1. Those who have interest in this area of law or who have noted these or additional problems should attend this meeting. For more information, contact Judge Lynn Pickard at (505) 827-4903 or [coalp@nmcourts.com](mailto:coalp@nmcourts.com).

## **First Judicial** **District Court** **Family Law Brownbag**

The First Judicial Court will host its family law brownbag meeting at noon, June 13, in the Grand Jury Room, second floor, of the Steve Herrera Judicial Complex in Santa Fe. The meeting will focus on the role of accountants and/or financial planners in the divorce process. For more information or to suggest agenda items to be discussed, contact Elege Simons, (505) 988-5600, or

[esimons@simonsfirm.com](mailto:esimons@simonsfirm.com). Provide one dollar, name and bar number and receive 1.0 CLE credit, pending approval.

## **Destruction of Exhibits** **Criminal, Civil, Children's** **Court, Domestic,** **Incompetency/Mental Health,** **Adoption and Probate Cases** **1974 to 1988**

Pursuant to the Supreme Court ordered Judicial Records Retention and Disposition Schedules, the 1st Judicial District Court will destroy exhibits filed with the Court, in Criminal, Civil, and Children's Court, Domestic, Incompetency/Mental Health, Adoption and Probate cases for years 1974 to 1988, included but not limited to cases that have been consolidated. Cases on appeal are excluded. Counsel for parties are advised that exhibits can be retrieved through June 9.

Attorneys who may have cases with exhibits may verify exhibit information with the Special Services Division, (505) 476-0196, from 8 a.m. to 5 p.m., Monday through Friday. 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 allotted time will be considered abandoned and will be destroyed by Order of the Court.

## **Destruction of Tapes** **Criminal, Civil, Children's** **Court, Domestic,** **Incompetency/Mental Health,** **Adoption and Probate Cases** **1971 to 1995**

Pursuant to the Supreme Court ordered Judicial Records Retention and Disposition Schedules, the First Judicial District Court will destroy tapes filed with the Court, in Criminal, Civil, Children's Court, Domestic, Incompetency/Mental Health, Adoption and Probate cases for years 1971 to 1995, included but not limited to cases that have been consolidated. Cases on appeal are excluded.

Attorneys who have cases with tapes, and wish to have duplicates made, should verify tape information with the Special Services Division (505) 476-0196, from 8 a.m. to 5 p.m., Monday through Friday. Aforementioned tapes will be destroyed after May 24 by Order of the Court.

## **Second Judicial** **District Court** **Nominees**

The District Court Judicial Nominating Commission convened on May 10 in Albuquerque and completed its evaluation of the eight applicants for the vacancy on the 2nd Judicial District Court. The Commission recommends the following two applicants (in alphabetical order) to Governor Bill Richardson:

*William Parnall*  
*Stan Whitaker*

## **Eleventh Judicial** **District Court** **Announcement of Vacancy**

A vacancy on the 11th Judicial District Court will exist in Gallup as of June 30 due to the retirement of Judge Joseph L. Rich.

The chair of the 11th Judicial District Nominating Commission solicits applications for this position from lawyers who meet the statutory qualifications in Article VI, Section 14, of the New Mexico Statutes Annotated 1978. Applications may be obtained from the Judicial Selection Web site at <http://lawschool.unm.edu/judsel/application.php>, or e-mailed/faxed/mailed by calling Sandra Bauman, (505) 277-4700. The deadline for applications is 5 p.m., May 22. Applications received after that date are not considered.

## **District Courts and** **Bernalillo County** **Metropolitan Court** **Announcement of Vacancies**

The following seven vacancies will exist as of July 1 due to the creation of new judgeships by the New Mexico State Legislature.

- One vacancy in the 3rd Judicial District in Las Cruces.
- Two vacancies in the 5th Judicial District: one vacancy will exist in Carlsbad, and one will exist in Roswell.
- One vacancy in the 9th Judicial District in Clovis.
- One vacancy in the 11th Judicial District in Farmington.
- One vacancy in the 13th Judicial District in Bernalillo.
- One vacancy in the Bernalillo County Metropolitan Court in Albuquerque.

The chair of the Judicial Nominating Commission solicits applications for these

positions from lawyers who meet the statutory qualifications in Article VI, Section 14, of the New Mexico Statutes Annotated 1978. Applications may be obtained from the Judicial Selection Web site at <http://lawschool.unm.edu/judsel/application.php>, or e-mailed/faxed/mailed by calling Sandra Bauman, (505) 277-4700. Applicants are advised to clearly indicate which position they are applying for. The deadline for applications is 5 p.m., May 22. Applications received after that date are not considered.

## **U. S. District Court for the District of New Mexico Opinion Retrieval System**

The Federal Bar Association is sponsoring a program to produce a collection of the Court's opinions on compact disc. The CD collection contains a master disc which includes all documents that are contained in the Court's Opinion Retrieval System and weekly discs which contain documents filed in each of the weeks during the program. The CD collection will be maintained by the 10th Circuit Library, Albuquerque Branch, and can be viewed at the library, or copies of the discs can be provided at no cost. This program will be available until the replacement of the Court's Opinion Retrieval System is implemented in Fall 2006.

## **Workers' Compensation Administration Destruction of Exhibits and Depositions**

The New Mexico Workers' Compensation Administration will be destroying all exhibits and depositions filed in causes closed in 2004 (excluding causes on appeal). The exhibits and depositions are stored at 2410 Centre Ave SE, Albuquerque. They can be picked up until May 26.

For further information, contact the Workers' Compensation Administration, Clerk of the Court Alex Maestas, (505) 841-6843 or (800) 255-7965. Exhibits and depositions not claimed by the specified date will be destroyed.

## **STATE BAR NEWS Annual Meeting Resolutions and Motions**

The 2006 Annual Meeting of the State Bar of New Mexico will be held at noon, July 21, at the Taos Convention Center in

Taos. Resolutions and motions to be considered must be submitted in writing and received in the office of Executive Director Joe Conte, PO Box 92860, Albuquerque, NM 87199; fax, (505) 828-3765; or e-mail, [jconte@nmbar.org](mailto:jconte@nmbar.org), by 5 p.m., June 21.

## **Attorney Support Group**

The attorney support group monthly meeting in June will be held in Santa Fe rather than Albuquerque. It will be at 5:30 p.m., June 5, at the office of Scott Vorhees, (505) 820-3302, located at 411 St. Michaels Drive, Suite A, Santa Fe (at the intersection of Old Pecos Trail and St. Michaels Drive). The meeting is generally held at 5:30 p.m. on the first Monday of each month at the First United Methodist Church in Albuquerque, and it will be back at that location on July 3. For further information, contact Bill Stratvert, (505) 242-6845.

## **Bankruptcy Law Section and Tenth Circuit Bankruptcy Appellate Panel**

An open forum presentation for the Bankruptcy Law Section will be held from 4:30 to 6 p.m., June 12, at the State Bar Center. Judge Tom R. Cornish, Eastern District of Oklahoma, Judge Robert E. Nugent, District of Kansas, and Judge William T. Thurman, District of Wyoming, will be conducting the presentation.

Public hearings will begin at 9 a.m., June 13, Pecos Courtroom, Room 340, United States Courthouse, 333 Lomas Boulevard NW, Albuquerque. The same judges will be hearing cases.

The BAP was created by a resolution of the Judicial Council of the 10th Circuit for an initial three-year period beginning July 1. On March 8, 1999, the Judicial Council of the 10th Circuit voted to authorize the permanent establishment of the BAP in the 10th Circuit. All districts in the 10th Circuit have authorized participation in the BAP.

The BAP is composed of nine active bankruptcy judges appointed by the chief judge of the 10th Circuit. A BAP judge may not hear an appeal originating from his or her own district.

The office of the clerk of the BAP is located in Denver, CO. More information may be obtained at [www.bap10.uscourts.gov](http://www.bap10.uscourts.gov); by e-mail to [10th\\_Circuit\\_BAP@ca10.uscourts.gov](mailto:10th_Circuit_BAP@ca10.uscourts.gov); or by calling the BAP Clerk's Office at (303) 335-2900.

## **Casemaker Coming Soon for New Mexico Lawyers**

The State Bar of New Mexico is proud to offer its newest member benefit, Casemaker. Casemaker is online legal research made available to State Bar members at no charge. That's free legal research.

Casemaker will be available from the State Bar's Web site at [www.nmbar.org](http://www.nmbar.org) with an anticipated launch date of summer 2006.

Watch for more information about Casemaker and visit [www.casemaker.us](http://www.casemaker.us). Contact Joe Conte, [jconte@nmbar.org](mailto:jconte@nmbar.org), or (505) 797-6099 with questions.

## **Committee on Women and the Legal Profession Family Leave Policy Survey**

A family leave policy survey, created by the State Bar's Committee on Women and the Legal Profession, was sent by e-mail to State Bar members on May 17. The committee encourages members to complete the survey by May 31. Results should provide information on the types of leave policies that are in place across different segments of practice, types of policies that are significant to practitioners, ways in which firms/organizations might improve their policies and a means to compare New Mexico with other jurisdictions. The survey may also be accessed through [www.nmbar.org](http://www.nmbar.org).

## **Employment and Labor Law Section Board Meetings Open to Section Members**

The Employment and Labor Law Section board of directors welcomes section members to attend its meetings. The next meeting will be held at noon, June 6, at the State Bar Center, a departure from its regularly scheduled meeting on the first Wednesday of each month. Lunch is not provided. For information about the section, visit the State Bar Web site, [www.nmbar.org](http://www.nmbar.org), or call Carlos M. Quinoñes, section chair, (505) 248-0500.

## **Solo and Small Firm Practitioners Section Meeting Rescheduled**

The next meeting of the Solo and Small Firm Practitioners Section will be held June 20 at the State Bar Center in conjunction

with the CLE, *Lurking Dangers in Real Estate Contracts for all NM Lawyers*, presented by Ron Taylor. The program will begin at 11:45 a.m. with registration and lunch and will conclude at 1:15 p.m. The cost of the program is \$45, lunch included. To register, call (505) 797-6020; fax (505) 797-6071; visit [www.nmbar.org](http://www.nmbar.org) and click on *CLE*; or mail CLE, PO Box 92860, Albuquerque, NM 87199.

## Young Lawyers Division Professional Clothing Drive

The Young Lawyers Division is collecting professional clothing to donate to both Dismas House, a nonprofit organization that transitions nonviolent offenders from incarceration to parole, and The Crossroads, a nonprofit organization that assists homeless women and children.

Professional clothing donations are being accepted at the following four locations:

- *State Bar of New Mexico*  
5121 Masthead NE, Albuquerque
- *The Romero Law Firm*  
1001 5th Street NW, Albuquerque
- *Butt, Thornton & Baehr, P.C.*  
4101 Indian School Road NE  
Albuquerque
- *State Bar of New Mexico Annual Meeting*, Taos Convention Center  
July 20-22, 2006

Contact Briana Zamora, [bhzamora@btblaw.com](mailto:bhzamora@btblaw.com), or (505) 884-0777, with questions or to volunteer as a clothing collection point outside of Albuquerque.

## OTHER BARS Albuquerque Bar Association Monthly Luncheon and CLE

The Albuquerque Bar Association's monthly luncheon will be held at noon, June 6, at the Albuquerque Petroleum Club. *The State of the Courts* will be presented by The Honorable Richard C. Bosson, Chief Justice, New Mexico Supreme Court.

The CLE, *Inside the Court of Appeals: Pointers on Appellate Practice* will be presented by The Honorable Cynthia Fry, New Mexico Court of Appeals; The Honorable Michael D. Bustamante, Chief Judge, New Mexico Court of Appeals; and Edward Ricco, Rodey Dickason Sloan Akin & Robb P.A. The CLE, from 1:30 to 3 p.m., will qualify for 1.5 general CLE credits.

Lunch only: \$20 members/\$25 non-members; lunch and CLE: \$50 members/\$70 non-members; CLE only: \$30 members/\$45 non-members.

Register for lunch by noon, June 5. Lunch is an additional \$5 without reservations. Register at [www.abqbar.com](http://www.abqbar.com); by e-mail at [abqbar@abqbar.com](mailto:abqbar@abqbar.com); by mail to ABA, 400 Gold SW, Suite 620, Albuquerque, NM 87102; by fax to (505) 842-0287; or call (505) 842-1151 or (505) 243-2615.

## NM Criminal Defense Lawyers Association Summer CLE

The Summer CLE of the New Mexico Criminal Defense Lawyers Association will be held from 9 a.m. to 5 p.m., June 23, at the UNM School of Law. Timothy P. O'Toole, chief of the Special Litigation Division of the Public Defender Service for the District of Columbia, will speak on *Litigating Eyewitness ID Issues in the Courtroom*. Barbara Bergman, UNM law professor and current president of the National Association of Criminal Defense Lawyers, will present *Creative Uses of Evidence*. Other topics include *Winning Motions to Suppress*, *Case Law Updates* and *Fourth Amendment Issues*. There will be a membership meeting and Driscoll Award presentation at lunch. Registration begins at 8:30 a.m., and participants may earn 6.25 general CLE credits. For more information, visit [www.nmcdla.org](http://www.nmcdla.org), e-mail [nmcdladir@aol.com](mailto:nmcdladir@aol.com), or call (505) 992-0050. Discounts and partial scholarships are available for NMCDLA members.

## UNM SCHOOL OF LAW Library Summer Hours

Closed Monday, May 29

Monday–Thursday	8 a.m.–9 p.m.
Friday	8 a.m.–6 p.m.
Saturday	9 a.m.–6 p.m.
Sunday	Noon–9 p.m.

### Reference

Monday–Thursday	9 a.m.–6 p.m.
Friday	9 a.m.–6 p.m.
Saturday	Closed
Sunday	Noon–4 p.m.

## OTHER NEWS

### Legal FACS Torrance County Pro Se Forms Clinic

Legal FACS will conduct a free pro se forms clinic from 9 a.m. to noon, June 21, at the Neil Mertz Judicial Complex in Estancia (Highway 14, west side of the road). The clinic is for self-represented litigants and domestic violence victims who cannot afford to hire an attorney for divorce, legal separation, annulment, name change, child custody orders, spousal/child support enforcement orders and/or other related family matters. Litigants will have the opportunity to discuss their case with an attorney and visit with a paralegal and/or domestic violence victim advocate.

Individuals interested in the clinic must call Legal FACS, (505) 256-0417. Legal FACS will conduct intake to verify qualification for the program. All pro se litigants must make an appointment and will be seen by appointment only on June 21.

### NM Center on Law and Poverty 2006 Legal Services Training

The New Mexico Center on Law and Poverty announces its annual Statewide Legal Services Conference, a training which addresses poverty law issues. This conference will be of interest to those working in the system of civil legal service providers as a professional or volunteer or to those doing pro bono work in this area.

The conference will be held June 13–14 at the Professional Development Center of the State Bar. The keynote address will be delivered on the morning of June 13th by Lieutenant Governor Diane Denish. The conference will also feature professionalism training by Chief Justice Richard Bosson, ethics training by Michael Browde of the UNM School of Law, and *A Look at the Significant New ABA Standards on Providing Civil Legal Aid* with Sarah Singleton. Other topics to be covered include: consumer law, family law, Medicaid, bankruptcy law, predatory lending, depositions, discovery techniques, housing law, unemployment law, and more.

The registration fee is \$100 for public interest lawyers and \$150 for private attorneys. To learn more, including how to register for the event, check the *Trainings* section at [www.nmpovertylaw.org](http://www.nmpovertylaw.org); call Stacey Leaman at the Center on Law and Poverty, (505) 255-2840; or e-mail [stacey@nmpovertylaw.org](mailto:stacey@nmpovertylaw.org). CLE credit is pending.

# Court Interpreters

## Ensuring Racial and Ethnic Fairness

by A. Samuel Adelo

Throughout the history of New Mexico, interpreters have played an important role. Two historic events show us that the people of New Mexico have been conscious that languages and cultures are a dynamic part of our state. Before 1846, New Mexicans communicated in Spanish and in the languages of the Indian tribes and pueblos, including Navajo, Keres, Tiwa and Towa. In 1846, General Stephen Watts Kearney rode into Santa Fe with U.S. troops and declared New Mexico to be part of the United States. Captain David Waldo, who was a master of the Spanish language, assisted General Kearney in writing the code of laws, known as the Kearney Code, and translating them into Spanish. Consequently, the functionally literate people of the times could read the Kearney Code in either English or Spanish.



The next historic event was the State Constitutional Convention in 1911 when New Mexico sought statehood in the North American Union. At least 33 of the delegates to that convention were of Hispanic descent. Protecting the rights of all citizens, the 1911 Constitution states that citizens will not be deprived of the right to vote because they cannot write English or Spanish. Section 14 is of particular note to persons who are interested in racial and ethnic fairness in the courts and who want to ensure the administration of justice across languages and cultures. It states, "In all criminal prosecutions, the accused shall have the right to appear and defend himself in person, and by counsel; to demand the nature and the cause of the accusation; to be confronted with witnesses against him; to have the charge and the testimony interpreted to him in a language he understands."

There are many stories about the quality of interpreting in the courts—some factual, some apocryphal. Those stories refer to the professional quality of interpreters before a 1985 law required court interpreter certification. This law was based on a project undertaken by Dr. Guadalupe Valdes, then a professor of linguistics at New Mexico State University and a certified federal court interpreter. She tape-recorded interpretations done in Doña Ana County courts, and I monitored the courts in the northern part of New Mexico. We found many errors committed by court interpreters who had never been certified by an objective criterion reference test as is now done in federal and many state courts. We received the support of then Justice Daniel Sosa, who many years before as an attorney had been an active member and leader of the Mexican American Legal Defense Fund. We succeeded in persuading the legislature to pass a law requiring certification of court interpreters by an objective criterion-referenced written and oral test. Today, New Mexico, as a member of the National Consortium of Court Interpreters, certifies

interpreters by requiring candidates to pass simultaneous, consecutive and sight translation tests. However, for the court interpreter to ensure racial and ethnic fairness and guarantee the linguistically challenged defendant due process of law, teamwork is essential.

In this context, *teamwork* means that the judge, the prosecutor, defense counsel and, in juvenile cases, the probation officer have to work closely with the court interpreter. The judge should speak no faster than 140 words per minute and ensure that all participants do likewise. He should also ensure that all participants avoid jargon and acronyms and speak clearly and loudly enough so that the court interpreter can hear every word clearly. When the court interpreter cannot hear the words of the judge, counsel, witnesses and probation officers, due process is thwarted. Remember, the court interpreter does a very unnatural thing not usually done in civilized society—speak while someone else is speaking. Moderate speed in the source language is basic. The interpreter has to process what was said in the source language through 19 cognitive steps before he or she can translate into the target language. The linguistically challenged defendant has to understand in his or her language what was said in the source language. Otherwise, only a babble of unintelligible voices is heard.

For too long, the public in general has misunderstood the nature of the work performed by court interpreters and translators. Some people erroneously think that being bilingual suffices in order to be a qualified and effective court interpreter. The court interpreter must have a working knowledge of legal, substantive and procedural terms, regional expressions and slang. He or she must keep abreast of the continual changes in both the source and the target languages and have a working knowledge in two languages of technical terms and police and layman's jargon.

For the court interpreter to ensure due process of law, racial and ethnic fairness requires teamwork among the judge, the prosecutor, defense counsel, the witnesses and all the parties who participate in the judicial system at all levels.



Adelo, now retired, has been a free lance court interpreter for 24 years in the U.S. District Court and the New Mexico state district courts. He taught court interpreting for the Haury Court Interpreter Institute at the University of Arizona. He has interpreted in Texas, Oklahoma, Nebraska and Arizona. Adelo served as chair of the New Mexico Court Interpreters Advisory Committee to the New Mexico Supreme Court.

Articles printed in this publication are solely the opinion of the author. Publication of any article in the *Bar Bulletin* is not deemed to be an endorsement by the State Bar of New Mexico or the Board of Bar Commissioners of the views expressed therein. Our purpose is to provide an educational resource for all members of the State Bar on matters related to the justice system, the regulation of the legal profession and the improvement of the quality of legal services.

# LEGAL EDUCATION

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## MAY

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| <p><b>23-24 FMLA Update</b><br/>Albuquerque<br/>Council on Education in Management<br/>11.0 G<br/>(800) 942-4494<br/>www.counciloned.com</p>  | <p><b>24 International Treaties</b><br/>Teleconference<br/>TRT, Inc.<br/>1.0 G, 1.0 E<br/>(703) 779-2006<br/>www.trtcle.com</p>             | <p><b>26 Ethical Dilemmas: How to Solve Them</b><br/>Teleconference<br/>TRT, Inc.<br/>2.0 E<br/>(703) 779-2006<br/>www.trtcle.com</p>                                     |
| <p><b>23 Liability Issues for Trustees: What a Trustee Must Tell Beneficiaries</b><br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>1.0 G<br/>(505) 797-6020<br/>www.nmbar.org</p>   | <p><b>24 Is an LLC Right for You?</b><br/>Albuquerque<br/>National Business Institute<br/>6.6 G<br/>(800) 835-8525<br/>www.nbi-sems.com</p> | <p><b>30 Effective Jury Persuasion</b><br/>Teleconference<br/>TRT, Inc.<br/>2.0 G<br/>(703) 779-2006<br/>www.trtcle.com</p>   |
| <p><b>24 Electronic Legal Resources: A World of Legal Information at UNM School of Law Library</b><br/>State Bar Center, Albuquerque<br/>Law Office Management Committee<br/>Center for Legal Education of NMSBF<br/>1.0 G<br/>(505) 797-6020<br/>www.nmbar.org</p> | <p><b>24 Wage and Hour Law</b><br/>Albuquerque<br/>National Business Institute<br/>6.0 G<br/>(800) 835-8525<br/>www.nbi-sems.com</p>        | <p><b>30 Malpractice Insurance: What Attorneys Should Know</b><br/>Teleseminar<br/>Center for Legal Education of NMSBF<br/>1.0 G<br/>(505) 797-6020<br/>www.nmbar.org</p> |
|   | <p><b>25 Major Issues in Arbitration</b><br/>Teleconference<br/>TRT, Inc.<br/>2.0 G<br/>(703) 779-2006<br/>www.trtcle.com</p>               | <p><b>31 Professionalism and Ethics Issues Regarding Addictive Behaviors</b><br/>Teleconference<br/>TRT, Inc.<br/>2.0 P<br/>(703) 779-2006<br/>www.trtcle.com</p>         |

## JUNE

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| <p><b>1 Advanced Estate Planning Practice Update, Spring 2006</b><br/>National Satellite<br/>State Bar Center, Albuquerque<br/>Center for Legal Education of NMSBF<br/>3.6 G<br/>(505) 797-6020<br/>www.nmbar.org</p> | <p><b>6-7 2006 Estate Planning Update, Parts 1 and 2</b><br/>Teleseminar<br/>State Bar Center, Albuquerque<br/>Center for Legal Education of NMSBF<br/>2.0 G<br/>(505) 797-6020<br/>www.nmbar.org</p> | <p><b>7 Cause and Effect of Arbitration Clauses: What Should You Consider When Drafting an Arbitration Clause for a Contract?</b><br/>State Bar Center, Albuquerque<br/>Business Law Section<br/>Center for Legal Education of NMSBF<br/>1.0 G<br/>(505) 797-6020<br/>www.nmbar.org</p> |
| <p><b>2 EEOC Technical Assistance Program</b><br/>Albuquerque<br/>US EEOC<br/>6.5 G<br/>(505) 248-5210</p>  | <p><b>6 Advanced Section 1031 Exchanges</b><br/>Albuquerque<br/>National Business Institute<br/>6.6 G<br/>(800) 835-8525<br/>www.nbi-sems.com</p>   | <p><b>7 Ethical Forms of Compensation</b><br/>Teleconference<br/>TRT, Inc.<br/>2.0 E<br/>(703) 779-2006<br/>www.trtcle.com</p>  |

**G = General**

**E = Ethics**

**P = Professionalism**

**VR = Video Replay**

*Programs have various sponsors; contact appropriate sponsor for more information.*

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| <p><b>8 Corporate Counsel: Caught in the Crossfire</b><br/>Teleconference<br/>TRT, Inc.<br/>2.0 E<br/>(703) 779-2006<br/>www.trtcle.com</p>  | <p><b>14 Intermediate Gross Receipts and Compensating Tax in NM</b><br/>Albuquerque<br/>Lorman Education Services<br/>6.6 G<br/>(715) 833-3940<br/>www.lorman.com</p>                          | <p><b>15 Sometimes It's All About Losses: Understanding the "Passive Activity" and "At Risk" Limitations</b><br/>Teleseminar<br/>State Bar Center, Albuquerque<br/>Center for Legal Education of NMSBF<br/>1.0 G<br/>(505) 797-6020<br/>www.nmbar.org</p> |
| <p><b>8 Immigration</b><br/>Las Cruces<br/>Paralegal Division of New Mexico<br/>1.0 G<br/>(505) 522-2338</p>   | <p><b>14 Moral Character Test: Its Affect on Admissions and Retention</b><br/>Teleconference<br/>TRT, Inc.<br/>2.0 P<br/>(703) 779-2006<br/>www.trtcle.com</p>                                 | <p><b>16 2006 Tax Symposium: Matters Affecting Federal and State Tax Practice</b><br/>State Bar Center, Albuquerque<br/>Center for Legal Education of NMSBF<br/>6.5 G<br/>(505) 797-6020<br/>www.nmbar.org</p>  |
| <p><b>9 Internet Sources and Resources</b><br/>Teleconference<br/>TRT, Inc.<br/>2.0 G<br/>(703) 779-2006<br/>www.trtcle.com</p>  | <p><b>14 New Animal Legislation in New Mexico</b><br/>Albuquerque<br/>Paralegal Division of New Mexico<br/>1.0 G<br/>(505) 883-8181</p>  | <p><b>16 Deeds Descriptions and the Law</b><br/>Albuquerque<br/>PESI LLC<br/>7.0 G<br/>(715) 833-5296<br/>www.pesi.com</p>  |
| <p><b>12 Prescriptions for Electronic Discovery</b><br/>Teleconference<br/>TRT, Inc.<br/>2.0 G<br/>(703) 779-2006<br/>www.trtcle.com</p>   | <p><b>14-16 Public Sector Employment Law Update</b><br/>Albuquerque<br/>Council on Education in Management<br/>16.5 G<br/>(800) 942-4494<br/>www.counciloned.com</p>                           | <p><b>16 Scientific Evidence: Constitutional Issues</b><br/>Teleconference<br/>TRT, Inc.<br/>2.0 G<br/>(703) 779-2006<br/>www.trtcle.com</p>  |
| <p><b>13-14 Creative Tax Planning for Real Estate Transactions, Parts 1 and 2</b><br/>Teleseminar<br/>State Bar Center, Albuquerque<br/>Center for Legal Education of NMSBF<br/>2.0 G<br/>(505) 797-6020<br/>www.nmbar.org</p> | <p><b>15-16 Arbitration Training Course</b><br/>Albuquerque<br/>Construction Dispute Resolution Services<br/>12.0 G, 1.0 E, 2.0 P<br/>(505) 474-9050<br/>www.constructiondisputes-cdrs.com</p> | <p><b>17 Dispute Review Board Training Course</b><br/>Albuquerque<br/>Construction Dispute Resolution Services<br/>5.5 G, 1.0 E, 1.0 P<br/>(505) 474-9050<br/>www.constructiondisputes-cdrs.com</p>   |
| <p><b>13 Insurance Coverage Litigation</b><br/>Albuquerque<br/>National Business Institute<br/>5.0 G, 1.0 E<br/>(800) 835-8525<br/>www.nbi-sems.com</p>  | <p><b>15 Current Issues in Mediation</b><br/>Teleconference<br/>TRT, Inc.<br/>2.0 G<br/>(703) 779-2006<br/>www.trtcle.com</p>  | <p><b>19 Turning the Tables: Bias Directed at Attorneys</b><br/>Teleconference<br/>TRT, Inc.<br/>2.0 P<br/>(703) 779-2006<br/>www.trtcle.com</p>  |
| <p><b>13 Sarbanes-Oxley: Does Privilege Still Exist?</b><br/>Teleconference<br/>TRT, Inc.<br/>2.0 E<br/>(703) 779-2006<br/>www.trtcle.com</p>  | <p><b>15 Legal Aspects of Condominium Development and Homeowners Associations</b><br/>Albuquerque<br/>Lorman Education Services<br/>6.0 G<br/>(715) 833-3940<br/>www.lorman.com</p>            |   |
| <p><b>14 ACE-PACER Electronic Filing</b><br/>Santa Fe<br/>Paralegal Division of New Mexico<br/>1.0 G<br/>(505) 982-3873</p>  |  |   |

# WRITS OF CERTIORARI

AS UPDATED BY THE CLERK OF THE NEW MEXICO SUPREME COURT

Kathleen Jo Gibson, Chief Clerk New Mexico Supreme Court  
PO Box 848 • Santa Fé, NM 87504-0848 • (505) 827-4860

**EFFECTIVE MAY 22, 2006**

## PETITIONS FOR WRIT OF CERTIORARI FILED AND PENDING:

	Date Petition Filed
NO. 29,797 State v. Padilla (COA 26,462)	5/15/06
NO. 29,795 Hernandez v. Holguin (12-501)	5/11/06
NO. 29,794 Sanchez v. Zanos (COA 24,315/24,500)	5/11/06
NO. 29,793 State v. Roybal (COA 26,083)	5/11/06
NO. 29,790 Board of Veterinary Medicine v. Riegger (COA 25,610)	5/10/06
NO. 29,786 Case v. Hatch (12-501)	5/10/06
NO. 29,789 State v. Rodriguez (COA 26,254/26,255)	5/8/06
NO. 29,787 Graham v. Hatch (12-501)	5/5/06
NO. 29,786 Case v. Hatch (12-501)	5/3/06
NO. 29,784 Jacobs v. Ulibarri (12-501)	5/2/06
NO. 29,785 State v. Williams (COA 25,031)	5/1/06
NO. 29,783 Gardiner v. Galles Chevrolet (COA 26,560)	5/1/06
NO. 29,782 Flores v. Ulibarri (12-501)	5/1/06
NO. 29,781 State Farm Insurance v. Jones (COA 25,507)	4/27/06
NO. 29,779 State Farm Insurance v. Jones (COA 25,507)	4/26/06
NO. 29,776 Edward Family Ltd. Partnership v. Brown (COA 25,303)	4/25/06
NO. 29,775 State v. Martinez (COA 24,601)	4/24/06
NO. 29,770 State v. Arroyo (COA 25,447)	4/21/06
NO. 29,769 State v. Kennedy (COA 24,873)	4/21/06
NO. 29,768 Luna v. Lewis Casing Crews (COA 26,338)	4/21/06
NO. 29,766 Ortiz v. Rustys Plumbing (COA 25,959)	4/21/06
NO. 29,763 Rehders v. Allstate Insurance Company (COA 25,284)	4/20/06
NO. 29,762 Cameron v. Thomas (COA 25,758)	4/18/06
NO. 29,761 Sedillo v. Jenecka (12-501) <i>Response due 6/5/06 by extn</i>	4/17/06
NO. 29,732 State v. Diaz (COA 26,049)	4/17/06
NO. 29,760 Swanton v. Ortiz (COA 25,201)	4/12/06
NO. 29,757 State v. Billips (COA 26,093)	4/10/06
NO. 29,754 Bartlett v. Williams (12-501) <i>Response filed 5/8/06</i>	4/7/06
NO. 29,753 State v. Drennan (COA 26,002)	4/7/06
NO. 29,727 State v. Kittell (COA 25,292)	4/7/06
NO. 29,750 State v. Robbs (COA 25,636)	4/5/06
NO. 29,745 State v. Salazar (COA 24,468)	4/5/06
NO. 29,746 State v. Rubio (COA 25,310)	4/3/06
NO. 29,744 Johnston v. Romero (12-501) <i>Response due 5/18/06</i>	4/3/06
NO. 29,743 Marshall v. Hobbs Iron & Metal Co. (COA 24,195)	4/3/06
NO. 29,739 State v. Santana (COA 25,269) <i>Response filed 5/8/06</i>	3/29/06
NO. 29,734 State v. Soto (COA 24,871)	3/27/06
NO. 29,728 State v. Gastelum (COA 26,092) <i>Response filed 5/3/06</i>	3/22/06
NO. 29,717 Rael v. Blair (12-501) <i>Response filed 4/27/06 by extn</i>	3/15/06
NO. 29,702 State v. Henderson (COA 24,850) <i>Response filed 4/20/06</i>	3/6/06

NO. 29,660 Balabas v. Ohkay Casino (COA 26,139)	2/8/06
NO. 29,626 Muniz v. Janecka (12-501) <i>Response filed 3/13/06</i> <i>Reply filed 3/28/06</i>	1/12/06

## CERTIORARI GRANTED BUT NOT YET SUBMITTED TO THE COURT:

(Parties preparing briefs)

	Date Writ Issued
NO. 28,995 State v. Salomon (COA 24,986)	1/14/05
NO. 28,954 State v. Schoonmaker (COA 23,927)	1/21/05
NO. 29,105 State v. Cook (COA 25,137)	3/22/05
NO. 29,153 State v. Armijo (COA 24,951)	4/26/05
NO. 29,174 State v. Vincent (COA 23,832)	5/20/05
NO. 29,213 State v. Evans (COA 25,332)	6/8/05
NO. 29,223 State v. Ransom (COA 25,171)	6/13/05
NO. 29,257 State v. Kirby (COA 24,845)	8/1/05
NO. 29,334 State v. Garvin (COA 24,299)	8/5/05
NO. 29,373 State v. Martinez (COA 25,376)	8/26/05
NO. 29,436 Martinez v. Mills (COA 24,673)	9/23/05
NO. 29,442 State v. Jojola (COA 24,148)	10/13/05
NO. 29,441 State v. Jojola (COA 24,148)	10/13/05
NO. 29,456 State v. Salazar (COA 24,465)	10/14/05
NO. 29,478 State v. Monteleone (COA 24,811/24,795)	11/15/05
NO. 29,495 State v. Campos (COA 25,513)	12/5/05
NO. 29,513 State v. Grogan (COA 25,699)	12/5/05
NO. 29,517 State v. Bonjour (COA 25,633)	12/5/05
NO. 29,521 State v. Parra (COA 25,484)	12/6/05
NO. 29,507 State v. Noriega (COA 25,593)	12/7/05
NO. 29,505 State v. Bocanegra (COA 25,382)	12/8/05
NO. 29,538 State v. Gallegos (COA 24,480)	12/12/05
NO. 29,543 State v. Tkach (COA 23,500)	12/20/05
NO. 29,557 State v. Pacheco (COA 24,154)	12/21/05
NO. 29,562 State v. Scott (COA 24,735)	1/5/06
NO. 29,529 State v. Phillips (COA 25,147)	1/5/06
NO. 29,584 State v. Pittman (COA 24,671)	1/10/06
NO. 29,581 Carrillo v. Qwest (COA 25,833)	1/19/06
NO. 29,593 State v. Dean (COA 25,854)	1/19/06
NO. 29,624 Maes v. Audubon Indemnity Ins. Group (COA 25,598)	2/2/06
NO. 29,597 State v. Harbison (COA 24,940)	2/2/06
NO. 29,604 State v. Bravo (COA 23,992)	2/2/06
NO. 29,580 State v. Graham (COA 25,836)	2/9/06
NO. 29,613 Marshall v. Marshall (COA 25,895)	2/9/06
NO. 29,518 Torrez v. State (COA 26,050)	2/9/06
NO. 29,649 State v. Garcia (COA 26,118)	3/3/06
NO. 29,673 Torres v. Board of Regents (COA 26,009)	3/20/06
NO. 29,677 Torres v. Board of Regents (COA 26,009)	3/20/06
NO. 29,687 State v. Worrick (COA 24,557)	3/20/06
NO. 29,598 Krieger v. Wilson (COA 24,421/24,497)	3/23/06
NO. 29,699 Wood v. Educational Retirement Board (COA 24,819)	4/3/06
NO. 29,715 Weber v. RT Lodge (COA 24,942)	4/10/06

# WRITS OF CERTIORARI

AS UPDATED BY THE CLERK OF THE NEW MEXICO SUPREME COURT

Kathleen Jo Gibson, Chief Clerk New Mexico Supreme Court  
PO Box 848 • Santa Fé, NM 87504-0848 • (505) 827-4860

EFFECTIVE MAY 22, 2006

NO. 29,690	State v. Romero (COA 24,389)	4/10/06	NO. 29,437	City of Sunland Park v. Harris (COA 23,593)	6/12/06
NO. 29,735	Allen v. Edelman (COA 26,024)	4/18/06			
NO. 29,725	McMinn v. MBF Operating Acquisition Corp. (COA 25,006)	4/20/06	NO. 29,336	State v. Kerby (COA 24,350)	6/13/06
NO. 29,689	Garcia v. Dorsey (12-501)	4/20/06	NO. 29,533	State v. Kerby (COA 25,891)	6/13/06
NO. 29,724	NM Dept. of Labor v. Echostar (COA 25,777)	4/20/06	NO. 29,411	State v. McClure (COA 25,436)	6/13/06
NO. 29,751	State v. Bricker (COA 24,719)	5/1/06	NO. 29,537	State v. Rodarte (COA 25,273)	6/13/06
NO. 29,752	Campos v. Bravo (12-501)	5/3/06	NO. 29,576	State v. Cook (COA 25,150)	6/13/06
			NO. 29,563	State v. Simmons (COA 25,594)	6/13/06
			NO. 29,528	State v. Jensen (COA 24,905)	6/13/06

## CERTIORARI GRANTED AND SUBMITTED TO THE COURT:

(Submission = date of oral argument or briefs-only submission)

	Submission Date
NO. 28,500 Manning v. New Mexico Energy & Minerals (COA 23,396)	12/13/04
NO. 28,410 State v. Romero (COA 22,836)	2/14/05
NO. 28,688 State v. Gutierrez (COA 24,731)	2/14/05
NO. 28,660 State v. Johnson (COA 23,463)	3/11/05
NO. 28,816 Romero v. City of Santa Fe (COA 24,775)	5/9/05
NO. 28,823 Payne v. Hall (COA 22,383)	6/13/05
NO. 28,997 Maestas v. Zager (COA 24,200)	6/14/05
NO. 29,058 Sanchez v. Pellicer (COA 25,082)	9/29/05
NO. 29,016 State v. Jade G. (COA 23,810)	10/11/05
NO. 29,017 State v. Jade G. (COA 23,810)	10/11/05
NO. 29,134 State v. Kathleen D.C. (COA24,540)	11/14/05
NO. 29,202 Montgomery v. Lomos Altos (COA 24,297)	11/16/05
NO. 29,196 Grine v. Peabody (COA 24,354)	11/16/05
NO. 29,226 Upton v. Clovis (COA 24,051)	12/12/05
NO. 29,246 Chavarria v. Fleetwood (COA 23,874/24,444)	12/12/05
NO. 29,178 State v. Maestas (COA 24,507)	12/13/05
NO. 28,950 State v. Nyce (COA 25,075)	12/13/05
NO. 29,160 Benavidez v. City of Gallup (COA 25,373)	12/13/05
NO. 29,158 State v. Otto (COA 23,280)	2/13/06
NO. 29,385 State Farm v. Luebbers (COA 23,556)	2/15/06
NO. 29,128 State v. Stephen F. (COA 24,007)	3/14/06
NO. 29,350 Doe v. Santa Clara Pueblo (COA 25,125)	3/27/06
NO. 29,351 Lopez v. San Felipe Pueblo (COA 25,884)	3/27/06
NO. 29,344 State v. Hughey (COA 24,732)	3/27/06
NO. 29,244 State v. Attson (COA 25,274)	3/27/06
NO. 29,218 Montoya v. Ulibarri (12-501)	4/10/06
NO. 29,476 Salazar v. Torres (COA 23,841)	4/11/06
NO. 29,484 State v. Wilson (COA 25,017)	5/22/06
NO. 29,515 Shiver v. NM Mutual Casualty (COA 25,106)	5/22/06
NO. 29,286 State v. Gutierrez (COA 25,279)	5/22/06
NO. 29,527 State v. Chee (COA 25,112)	5/22/06
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NO. 29,712 Smith v. City of Santa Fe (COA 24,801)	6/12/06

## PETITION FOR WRIT OF CERTIORARI DENIED:

NO. 29,641	Fallis v. Blair (12-501)	5/10/06
NO. 29,772	Johnson v. Janecka (12-501)	5/10/06
NO. 29,707	Montoya v. Janecka (12-501)	5/10/06
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NO. 29,774	Garcia v. Hatch (12-501)	5/11/06
NO. 29,738	Fallis v. Blair (12-501)	5/11/06

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# OPINIONS

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AS UPDATED BY THE CLERK OF THE NEW MEXICO COURT OF APPEALS  
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**EFFECTIVE MAY 12, 2006**

## UNPUBLISHED OPINIONS

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NO. 26259 5th Jud Dist Eddy DM-01-478, STATE v FABIAN R (affirm)	5/8/2006
NO. 26285 3rd Jud Dist Dona Ana DM-01-478, P POLLAT v S POLLAT (affirm)	5/8/2006
NO. 26419 13th Jud Dist Sandoval LR-05-55, RIO RANCHO CITY v D CLOPTON	5/9/2006
NO. 24849 2nd Jud Dist Bernalillo CR-00-4692 STATE v H Katz (affirm)	5/10/2006
NO. 26284 5th Jud Dist Eddy CR-04-316, STATE v D WEST (affirm)	5/10/2006
NO. 25950 9th Jud Dist Curry CR-02-691, STATE v J. ROGERS (affirm)	5/11/2006
NO. 25968 9th Jud Dist Curry CR-02-691, STATE v J. ROGERS (affirm)	5/11/2006
NO. 26095 12th Jud Dist Lincoln CR-04-148, CR-04-82, STATE v P LEMON (affirm)	5/11/2006
NO. 26228 3rd Jud Dist Dona Ana CR-05-136, STATE v T LUKO (affirm)	5/11/2006
NO. 26273 5th Jud Dist Eddy CV-05-282, G CHAVEZ v BURLINGTON NORTHERN (affirm)	5/11/2006
NO. 26330 2nd Jud Dist Bernalillo CV-05-275, MORTGAGE ELECTRONIC v S T BROWN (affirm in part, reverse in part)	5/11/2006
NO. 26427 2nd Jud Dist Bernalillo JQ-05-78, CYFD v JOHN L (affirm)	5/11/2006
NO. 26464 2nd Jud Dist Bernalillo CR-05-75, STATE v J MAYNARD (affirm)	5/11/2006
NO. 25626 3rd Jud Dist Dona Ana CR-04-659, STATE v T VALDEZ (affirm)	5/12/2006
NO. 26458 3rd Jud Dist Dona Ana CV-03-1309, J. RIPLEY v LAS CRUCES REALTORS (affirm)	5/12/2006

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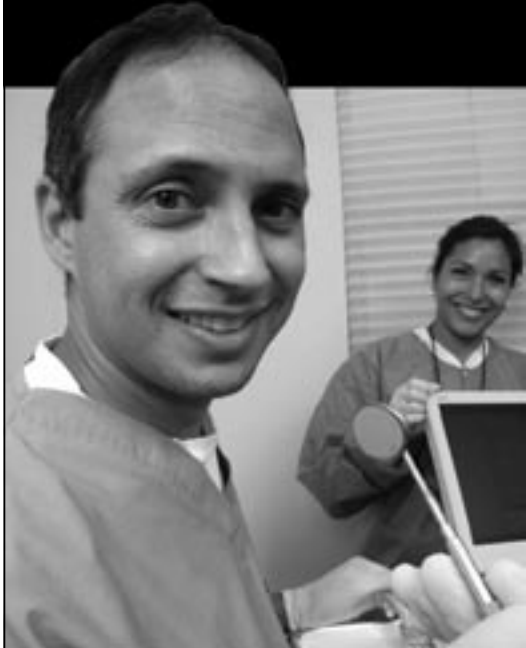
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## SCHOOL OF LAW Calendar of Events

### July

- 7 The 5th Annual  
Summer Golf Classic  
University South Course  
11:30 a.m.

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### Associate Attorney

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### Lawyer B Position

The New Mexico Public Education Department is seeking an attorney in the Office of General Counsel. This attorney will carry out all aspects of complaint management and resolution functions pursuant to the Individuals with Disabilities Education Act's state-level complaint procedures. Working within state and federal special education laws and timelines, the attorney will perform intake, investigate complaints, prepare complaint resolution reports, recommend corrective actions and monitor corrective actions. This attorney will also carry out some general legal duties. Must hold a valid NM Bar license. Primarily looking for someone experienced in special education laws and regulations, or secondarily someone with public school law or administrative law experience. Salary: \$34,056 – 60,543 per year w/benefits, depending on experience. Term. Send a copy of a letter of interest, your résumé, copy of Bar Card, an under 15-pg writing sample by June 5, 2006 to Public Education Department, Human Resources- Rm 131, 300 Don Gaspar, Santa Fe, NM 87501-2786. The State of NM is an EOE.

### Assistant Trial Attorney - Sandoval County

The Thirteenth Judicial District Attorney's Office is accepting applications for an experienced attorney to fill the position of Assistant Trial Attorney in the Sandoval County Office, Bernalillo, NM. This position requires a felony caseload and at times some misdemeanor prosecutions. Salary will be based upon experience and the District Attorney Personnel and Compensation Plan. Please send resumes to Filemon Gonzalez, District Office Manager, 333 Rio Rancho Blvd. Suite 303, Rio Rancho, New Mexico 87124. Deadline for submission of resumes: Immediate opening until filled.

### Assistant Trial Attorney - Valencia County

The Thirteenth Judicial District Attorney's Office is accepting applications for an experienced attorney to fill the position of Assistant Trial Attorney in the Valencia County Office, Los Lunas, NM. This position requires a felony caseload and at times some misdemeanor prosecutions. Salary will be based upon experience and the District Attorney Personnel and Compensation Plan. Please send resumes to Filemon Gonzalez, District Office Manager, 333 Rio Rancho Blvd. Suite 303, Rio Rancho, New Mexico 87124. Deadline for submission of resumes: Immediate opening until filled.

### Executive Director

The Albuquerque Bar Association, New Mexico's largest voluntary bar association, is seeking a qualified person for its position of Executive Director. Applicants should have the ability to manage the 700+ member organization, office staff and the Association's Lawyer Referral Service. Qualifications include proficiency in the areas of financial/accounting, budgeting, fundraising and personnel management. Position requires a highly organized person with excellent communication skills and the ability to interact with Board of Directors, Association members, legal service organizations, and other community organizations and vendors. Web design experience and Spanish-speaker, a plus. Send cover letter and resume with references to ED Position, Albuquerque Bar Association, 400 Gold SW, Suite 620, Albuquerque, NM 87102.

### Associate or Contract Attorney

Small downtown Santa Fe AV rated litigation firm seeks an associate or contract attorney with three or more years of experience. Please send resume to Post Office Box 1234, Santa Fe, NM 87504-1234.

### The Eleventh Judicial District Attorney's Office Division II

The District Attorney's Office (McKinley County), is currently seeking immediate resumes immediate resumes for Assistant Trial Attorney. Duties consists of extensive criminal misdemeanor and felony prosecution in Magistrate, Children's and District Courts. Position requires considerable knowledge in the areas of criminal prosecution, rules of evidence and rules of criminal procedure Salary negotiable range from \$38,000.00 to \$45,000.00. Submit letter of interest and resume to R. Alfred Walker, Deputy District Attorney, 201 West Hill, Suite 100, Gallup, NM 87301, or e-mail to Awalker@da.state.nm.us by 5:00 p.m. June 2, 2006.

### Real Estate/Land Use Law Attorney

The Law Firm of Rodey, Dickason, Sloan, Akin & Robb, P.A. is accepting resumes for an attorney with 2-4 years experience in the real estate and/or land use area. A New Mexico practitioner with a strong academic background preferred. Firm offers excellent benefit package. Salary commensurate with experience. Please send resume, references and a writing sample to Deborah E. Mann, P.O. Box 1888, Albuquerque, NM 87103-1888 or via e-mail to hr@rodey.com. All inquiries kept confidential.

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## NOTE

### SUBMISSION DEADLINES

All advertising must be submitted by e-mail or fax by 5 p.m. Wednesday, two weeks prior to publication (*Bulletin* publishes every Monday). Advertising will be accepted for publication in the *Bar Bulletin* in accordance with standards and ad rates set by the editor 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 editor reserves the right to review and edit classified ads, to request that an ad be revised prior to publication or to reject any ad. **Cancellations must be received by 10 a.m. on Thursday, two weeks prior to publication.** For more advertising information, contact: Marcia C. Ulibarri at 505.797.6058 or e-mail ad to [ads@nmba.org](mailto:ads@nmba.org) or fax **505.797.6075**.

### Commercial & Real Estate Attorney

Keleher & McLeod, P.A. is seeking an attorney who has experience, 8 years or more preferred, representing clients in complex business transactions, including financing. Applicants with background in corporate, real estate and securities law preferred. Please send letter of interest and resume to Hiring Attorney, Keleher & McLeod, P.A., P.O. Box AA, Albuquerque, NM 87103-1626 or fax to 505-346-1370 or email to RJF@keleher-law.com.

### Personal Injury Attorney

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### First Judicial District Court Request for Proposals

In accordance with the State of New Mexico Procurement Code, the First Judicial District Court requests proposals from licensed New Mexico attorneys or firms to provide professional services as described below: 1) Attorneys to act as Guardian Ad Litem; 2) Attorneys for Primary Custodian(s); 3) Attorneys for Juveniles or Adults; and 4) Attorneys for Respondents. Order of Appointment is being considered for Fiscal Year 2007 beginning July 1, 2006, through June 30, 2007. Resumes are to be included with proposals. The First Judicial District Court reserves the right to reject any or all proposals. The following will be taken into consideration in awarding the contracts: related case experience; experience working with social services agencies in the community; contract amount proposed; and current Children's Court and Family Court practice. For more information, please call 827-1280. All proposals must be received by 5:00 p.m. on Friday, June 2, 2006, at the following address: Stephen T. Pacheco, Court Administrator, First Judicial District Court, P.O. box 2268, Santa Fe, NM 87504-2268.

### Attorney Position

The REALTORS® Association of New Mexico (RANM) seeks part-time Contract Attorney to: 1) operate Legal Hotline (20 hours/week) and use info to provide Q&A for website; 2) provide copy for monthly and weekly publications; 3) ensure that RANM's existing real estate forms and contracts comply with laws/regulations; draft new forms/contracts as needed; attend Forms Committee meetings; 4) conduct periodic training in forms usage and provide periodic legal updates at conferences and meetings; 5) review legislative bills enacted into law and provide report on measures that affect the industry or members' businesses; and 6) when requested, review pending and approved regulations of the Real Estate Commission and other regulatory bodies to determine industry impact. May consider in-house counsel with enhanced scope of work to include: 1) reviewing decisions of hearing panels for compliance with the National Association of REALTORS® (NAR) Code of Ethics and Arbitration Manual; 2) conducting professional standards training; 3) reviewing association governing documents and providing legal advice about corporate governance matters; 4) giving advice on Robert's Rules of Order; 5) reviewing NAR policies and assisting with their implementation; 6) assisting in review of legislation during session to determine impact on the industry, members' businesses or private property rights. Submit letter of interest, resume, and cost proposal/salary requirements by close of business on June 9th to: Peggy Comeau, RANM Executive Vice President, 2201 Brothers Road, Santa Fe, NM 87505. [505-983-8809 (fax); 505-982-2442, ext. 8 (phone); pcomeau@msn.com (email)].

### Experienced Santa Fe Paralegal

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### Secretary/Legal Assistant

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### Certified Paralegal Position

Insurance defense firm seeks reliable, experienced Certified Paralegal. Must be hard working, a self-starter, able to work independently and efficiently with all personnel. Please send resume with references to State Bar of New Mexico, P.O. 92860, Albuquerque, NM 87199, Attn: Box F.

### Full Time Legal Secretary

Established medium-sized law firm seeks full time legal secretary. Applicants should have 3 years experience in civil litigation and Workers Compensation. Must be a team player who can perform multi-tasks in a high volume, fast paced practice. Please submit cover letter, resume and salary requirements to Office Manager, YLAW, 4908 Alameda Blvd. NE, Albuquerque, NM 87113 or email to [fruz@ylawfirm.com](mailto:fruz@ylawfirm.com). No phone calls please.

### Secretary/Legal Assistant

Full-time position available for secretary/legal assistant for small but extremely busy office. Candidate should have a minimum of 4 years' experience, preferably in municipal and corporate finance and other transactional work. Strong word processing skills a must, as well as organizational and follow-up skills, proofreading, and communication skills. Competitive salary and benefit package. Please submit resume to [rgomez@bhf-law.com](mailto:rgomez@bhf-law.com) or fax to 505.244.9266.

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# 2006 TAX SYMPOSIUM: MATTERS AFFECTING FEDERAL AND STATE TAX PRACTICE

State Bar Center, Albuquerque, NM  
Friday, June 16, 2006  
6.5 General CLE Credits



8:00 a.m. Registration

8:30 a.m. **The IRS New Circular 230 Rules:  
What Lawyers and Accountants Must  
Know to Remain in Compliance**  
*Professor Joseph Walsh, Golden Gate  
University, San Francisco, California*

Joe Walsh will take apart the new Circular 230 Rules governing written tax advice provided by accountants and attorneys to their clients and to other practitioners. He will explain how failure to follow the rules can result in imposition of severe penalties on practitioners providing advice on subjects ranging from choice of business entity to structuring divorces.

9:30 a.m. **Recent Developments in Federal Income  
Taxation: A Comprehensive Examination  
of Statutory, Regulatory and Judicial  
Rulings Affecting Tax Law in the Past Year**  
*Professor Ira B. Shepard, University of  
Houston Law Center, Houston, Texas*

Ira Shepard, a nationally known tax commentator, will present an in-depth examination of regulatory and court decisions in the past year that affect federal tax practice. The decisions they summarize define the parameters within which attorneys and accountants advise their clients on federal tax matters.

10:30 a.m. Break

10:45 a.m. **Recent Developments in Federal Income  
Taxation (cont)**  
*Professor Ira B. Shepard*

11:45 a.m. Lunch (provided at the State Bar Center)

1:15 p.m. **The Tax Fraud Investigations Division Gets  
Equipped to Fight Tax Fraud**  
*Alvan Romero, Director of the Tax Fraud  
Investigations Division, NM Taxation and  
Revenue Department*

Alvan Romero presents an insider's description of the newly revitalized Tax Fraud Division and its investigative activities. The New Mexico Agency charged with fighting tax fraud is becoming increasingly active. He will provide practitioners with insight about what practitioners need to know how to competently represent clients involved in such investigations.

2:15 p.m. **The Top Ten Tax Scams**  
*James H. Maes, Esq., CPA, CFE, Special  
Agent, NM Taxation and Revenue Dept.*

Clients regularly are taken advantage of by those who make money by selling schemes to avoid tax to gullible taxpayers. James Maes will describe the most popular scams used in New Mexico and the sometimes dire consequences attending those who fall prey to them.

3:15 p.m. **State Tax Issues Affecting New Mexico  
Taxpayers: The Impact of the K-Mart and  
the Wal-Mart Decisions on New Mexico  
Tax Law**  
*Curtis W. Schwartz, Esq, Modrall Sperling  
Roehl Harris & Sisk and Bruce Fort, Esq.,  
Staff Attorney, NM Taxation and Revenue Dept.*

Two leading New Mexico tax experts will discuss recent legislative and judicial decisions affecting tax practice as well as relevant decisions from other jurisdictions affecting state taxation of interstate business activity.

3:45 p.m. Break

4:00 p.m. **State Tax Issues Affecting New Mexico  
Taxpayers (cont)**  
*Curtis W. Schwartz, Esq.  
Bruce Fort, Esq.*

5:00 p.m. Adjourn and Reception

## 2006 TAX SYMPOSIUM

Friday, June 16 • State Bar Center, Albuquerque  
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