Rules of the District Court of the Fifth Judicial District

Table of Corresponding Rules

Local Rules of the Fifth Judicial District Court

The table below lists the former rule number and corresponding new number, and the new rule number and the corresponding former rule number prior to recompilation by Supreme Court Order No. 16-8300-015.

Former Rule No.	Corresponding New Rule No.
LR5-101	LR5-101
LR5-102	LR5-102
LR5-103	Withdrawn
LR5-104	LR5-103
LR5-105	Withdrawn
LR5-106	LR5-201
LR5-107	LR5-202
LR5-108	LR5-104
LR5-109	LR5-105
LR5-110	LR5-212
LR5-201	LR5-203
LR5-202	LR5-106
LR5-203	LR5-204
LR5-204	LR5-205
LR5-205	LR5-206
LR5-206	LR5-207
LR5-401	LR5-208
LR5-501	LR5-401
LR5-601	LR5-209
LR5-602	LR5-117
LR5-701	LR5-107
LR5-702	LR5-210
LR5-703	LR5-108
LR5-801	LR5-109
LR5-802	LR5-211
LR5-803	LR5-110
LR5-901	Withdrawn

New Rule No.	Corresponding Former Rule No.
LR5-101	LR5-101
LR5-102	LR5-102
LR5-103	LR5-104
LR5-104	LR5-108
LR5-105	LR5-109
LR5-106	LR5-202
LR5-107	LR5-701
LR5-108	LR5-703
LR5-109	LR5-801
LR5-110	LR5-803
LR5-111	LR5-1001
LR5-112	LR5-1002
LR5-113	LR5-1004
LR5-114	LR5-1005
LR5-115	New
LR5-116	New
LR5-117	LR5-602
LR5-201	LR5-106
LR5-202	LR5-107
LR5-203	LR5-201
LR5-204	LR5-203
LR5-205	LR5-204
LR5-206	LR5-205
LR5-207	LR5-206
LR5-208	LR5-401
LR5-209	LR5-601
LR5-210	LR5-702

LR5-902	Withdrawn
LR5-903	Withdrawn
LR5-1001	LR5-111
LR5-1002	LR5-112
LR5-1003	Withdrawn
LR5-1004	LR5-113
LR5-1005	LR5-114
LR5-Form B	Withdrawn
LR5-Form C	Withdrawn
LR5-Form D	Withdrawn
LR5-211	LR5-802
LR5-212	LR5-110
LR5-213	New
LR5-301	New
LR5-302	New
LR5-401	LR5-501

I. Rules Applicable to All Cases

LR5-101. Divisions of court.

[Related Statute NMSA 1978, § 34-6-8]

The offices of the judges of divisions I, V, and IX shall be in Eddy county; the offices of the judges of divisions II, VI, VIII, and X shall be in Chaves county; and the offices of the judges of divisions III, IV, and VII shall be in Lea county.

[Approved, effective April 1, 1999; as amended by Supreme Court Order No. 06-8300-015, effective May 23, 2006; as amended by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added “[Related Statute NMSA 1978, § 34-6-8]”; deleted “For purpose of identifying the judicial positions, the district shall be divided into ten divisions.”, after “The”, added “offices of the”, after each occurrence of “shall”, deleted “reside” and added “be”, prior to each occurrence of “judges”, added “offices of the”, and after “Lea county”, deleted “The foregoing divisions are made pursuant to the provisions of Section 34-6-18 NMSA 1978.”.

The 1999 amendment, effective April 1, 1999, substituted "eight" for "seven" at the end of the first sentence and in the last sentence, deleted "34-6-17 and" preceding "34-6-18 NMSA 1978."

LR5-102. Chief judge.

[Related Statewide Rule 23-109 NMRA]

Beginning in 2013, every third year in the month of May, the district judges of the fifth judicial district shall, by a majority vote, elect the chief judge. In each successive term, the county of the chief judge shall rotate in the following order: Eddy, Chaves, Lea. If all the judges of a county decline to serve as chief judge, it shall rotate to the next county. In the event of a vacancy in the office of the chief judge, the district judges shall, by majority vote, elect one of their number to serve for the remainder of the term. All administrative matters of the district shall be accomplished by the chief judge through the district court administrator's office in Roswell, New Mexico.

[Approved, effective April 1, 1999; as amended by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rule 23-109 NMRA]", after "Beginning in", deleted "1998" and added "2013", and after the first sentence, added the second and third sentences.

The 1999 amendment, effective April 1, 1999, renumbered LR5-103 as LR5-102 and rewrote the first sentence.

LR5-103. Disqualification; designation of judges.

[Related Statewide Rules 1-088, 5-105, and 10-161 NMRA]

If all district judges who reside in the county have been excused or recused, and counsel for all parties fail to agree on another district judge to hear the case, the clerk of the district court in the county in which the case is pending shall randomly assign a district judge of another division in the district to hear the case.

[Approved, effective April 1, 1999; LR5-104 recompiled and amended as LR5-103 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rules 1-088, 5-105, and 10-161 NMRA]" and deleted the first undesignated paragraph, which provided for assigning a judge in the event of recusal or excusal.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-104 NMRA was recompiled and amended as LR5-103 NMRA, effective December 31, 2016.

LR5-104. Dress requirements.

Attorneys and employees of the district court shall wear dresses, dress suits, dress slack suits, dress slacks, sport or suit coats, and ties while attending or appearing before the court, unless some physical reason prevents the wearing of the described articles. Jean-style pants, denim pants, or other similar pants shall not be worn.

[Approved, effective April 1, 1999; LR5-108 recompiled and amended as LR5-104 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, after "wearing of", deleted "such" and added "the described".

The 1999 amendment, effective April 1, 1999, renumbered LR5-112 as LR5-108; rewrote the rule.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-108 NMRA was recompiled and amended as LR5-104 NMRA, effective December 31, 2016.

LR5-105. Local rules advisory committee.

[Related Statewide Rules 1-083 and 5-102 NMRA]

A. **Appointment.** The chief judge may appoint a local rules advisory committee consisting of members of the New Mexico State Bar who practice law in Chaves, Lea, and Eddy counties. Appointments shall be made on advice of the president of each county bar association.

B. **Duties.** The duties of the local rules advisory committee will include

(1) review of local rules to determine that they are in compliance with New Mexico Rules of Civil and Criminal Procedure;

(2) review of proposed local rules; and

(3) initiation of proposals for local rules as needed.

C. **Meetings.** This committee will meet on the request of the chief judge or as is reasonable.

D. **Attendance.** A representative or representatives of the committee will attend the district judge's meeting when necessary to present the committee's view of existing or proposed rules.

[Approved, effective April 1, 1999; LR5-109 recompiled and amended as LR5-105 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rules 1-083 and 5-102 NMRA]"; designated the former first introductory paragraph as Paragraph A, the former second introductory paragraph as Paragraph B, and redesignated former Paragraphs A, B, and C as Subparagraphs B(1), B(2), and B(3), respectively; in Paragraph A, added the heading "Appointment."; in Paragraph B, added the heading "Duties."; and designated the two sentences after Subparagraph B(3) as Paragraphs C and D, respectively and added the paragraph headings.

The 1999 amendment, effective April 1, 1999, renumbered LR5-115 as LR5-109; in the first undesignated paragraph, deleted "composed of a workable number of" preceding "members", and substituted "upon the request of the chief judge or as is reasonable" for "bi-monthly" in the undesignated paragraph following Subparagraph C.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-109 NMRA was recompiled and amended as LR5-105 NMRA, effective December 31, 2016.

LR5-106. Orders, decrees, and judgments.

[Related Statewide Rules 1-054, 1-058, 5-121, and 5-701 NMRA]

A. **Filing.** Orders and judgments shall be separately filed and shall not be included as part of any pleading.

B. **Date of execution.** Orders and judgments shall not be dated nor shall they show the place of execution. The date of filing and of entry shall be the same in all cases and shall be shown by the clerk's stamp and record unless filed in open court.

C. **Submission to the court.** Orders, decrees, and judgments shall be submitted by email to the proposed text email address for the trial judge, to the clerk of the district court, or to the assigned judge's trial court administrative assistant for delivery to the trial judge unless the case is assigned to an out-of-county or out-of-district judge, in which case the document shall be submitted to the trial judge or the judge's trial court administrative assistant. Orders, decrees, and judgments should be submitted not later than fifteen (15) days following the announcement of the court's decision unless

otherwise ordered. The prevailing party shall be responsible for the filing. Orders and judgments will not be signed by the judge unless they have been approved by counsel for all parties to the cause.

D. **Disagreement as to form of order; pro se parties.**

(1) Should the counsel for any party or pro se party fail or refuse to approve a proposed order or judgment within five (5) working days, the attorney submitting the proposed order shall certify to the court that the opposing counsel or pro se party has failed or refused to approve the order and shall submit the order for entry.

(2) Should the counsel for any party or pro se party indicate a disagreement with the proposed form of order, then either party may file a Request for Hearing attaching that party's proposed form of order. The court may then either schedule a hearing or enter an order determined by the court to be appropriate.

(3) In cases where all parties are appearing pro se, the court may enter an order. The parties shall then have seven (7) days in which to file an objection to the order. If an objection is filed, the court shall set the matter for hearing.

E. **Multiple defendants.** Cases which have multiple defendants and are ready for a partial closing against one or more defendants will not be signed by the judge unless the title of the judgment or order specifies the name of the defendant or defendants to whom the judgment or order applies that relief is being entered against.

F. **Filing with clerk.** Every order, judgment, or other instrument signed by the court shall be immediately delivered to the clerk for filing. No order or judgment will be taken from the courthouse after it has been signed.

[Approved, effective April 1, 1999; LR5-202 recompiled and amended as LR5-106 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, provided for email submissions of orders, decrees and judgments, and provided the procedure when there is a disagreement as to a proposed order or judgment; added "[Related Statewide Rules 1-054, 1-058, 5-121, and 5-701 NMRA]"; in Paragraph C, after "submitted", added "by email to the proposed text email address for the trial judge", after "unless they have been", deleted "initialed by attorneys for all parties to the cause or pro se parties. Should the attorney for any party fail or refuse to so initial a proposed order or judgment within five (5) working days, the attorney submitting the proposed order shall certify to the court that opposing counsel or pro se party has failed or refused to initial the same" and added "approved by counsel for all parties to the cause"; added a new Paragraph D, redesignated the last sentence from

Paragraph C as Paragraph E, and redesignated former Paragraph D as Paragraph F; in Paragraph E, added the heading "Multiple defendants."; and deleted former Paragraph E, which provided for notice of entry of judgment.

The 1999 amendment, effective April 1, 1999, rewrote Paragraph C and added Paragraph E.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-202 NMRA was recompiled and amended as LR5-106 NMRA, effective December 31, 2016.

LR5-107. Motions; settings.

[Related Statewide Rule 1-007.1, 5-120, and 10-111 NMRA]

A. **Setting hearings.** At the time of the filing of a motion, the movant shall either file a request for hearing (using Form 4-110 NMRA) or a notice of hearing (using Form 4-111 NMRA) on the motion. If a request for hearing is filed, the movant shall furnish the judge's trial court administrative assistant with a notice of hearing form (using Form 4-111 NMRA) reflecting the style, caption, and number of the case. The trial court administrative assistant shall complete the notice of hearing setting forth the date, time, and place of the hearing, file the original notice of hearing in the clerk's office, place the motion on the court's docket for hearing, and mail a copy to the movant's attorney if not served electronically on all parties.

B. **Notice to parties.** The movant's attorney shall promptly serve notice of hearing on all persons entitled to notice at least five (5) working days before the scheduled hearing. It shall be the responsibility of the movant to assure that all parties have received notice of the hearing if the parties are not served electronically.

[Approved, effective April 1, 1999; LR5-701 recompiled and amended as LR5-107 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, tasked the movant with ensuring that all parties have received notice of hearings, and revised certain citations to forms; added "[Related Statewide Rule 1-007.1, 5-120, and 10-111 NMRA]"; designated the former undesignated paragraphs as Paragraph A and B, respectively; in Paragraph A, added the heading "Setting hearings.", after "request for hearing", deleted "(LR5-FORM B)" and added "(using Form 4-110 NMRA)", after "notice of hearing", deleted "(LR5-FORM C)" and added "(using Form 4-111 NMRA)", after "shall furnish the", deleted "clerk of the district court" and added "judge's trial court administrative assistant", after "hearing form", added "(using Form 4-111 NMRA)", after "The", deleted "clerk of the district court shall

deliver the file and the notice of hearing form to the”, and after “movant’s attorney”, added “if not served electronically on al parties”; and in Paragraph B, added the heading “Notice to parties.”, and added the last sentence of the paragraph.

The 1999 amendment, effective April 1, 1999, rewrote the rule.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-701 NMRA was recompiled and amended as LR5-107 NMRA, effective December 31, 2016.

LR5-108. Motions to vacate and continue trial settings.

All motions to vacate and continue trial settings for civil cases set on the merits shall state in detail the reason for the request to vacate the trial setting and must be approved by the party litigant as well as the attorney. All motions to vacate and continue trial settings for civil cases set on the merits filed less than ten (10) days before trial shall also include a showing of good cause of why the motion could not be filed more than ten (10) days prior to trial. No motion to vacate and continue a trial setting will be considered or granted in the absence of good cause and in the absence of the signature of the party litigant or certification by counsel that the party litigant approves the motion for continuance.

[Approved, effective April 1, 1999; LR5-703 recompiled and amended as LR5-108 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, required a showing of good cause when motions to vacate are filed less than ten (10) days before trial settings for civil cases; and after “on the merits shall”, deleted “be filed not less than ten (10) working days prior to trial”, after “state”, added “in detail”, after “the reason”, added “for the request to vacate the trial setting”, added the second sentence, and in the third sentence, after “party litigant”, added “or certification by counsel that the party litigant approves the motion for continuance.”

The 1999 amendment, effective April 1, 1999, added "be filed not less than ten (10) working days prior to trial" following "merits shall be" near the end of the first sentence.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-703 NMRA was recompiled and amended as LR5-108 NMRA, effective December 31, 2016.

LR5-109. Mailing of pleadings.

Copies of papers or pleadings will not be returned to attorneys by mail unless accompanied by a self-addressed envelope with sufficient postage to carry them to their destination.

[Approved, effective April 1, 1999; LR5-801 recompiled and amended as LR5-109 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, removed the provision regarding endorsed copies of pleadings; in the heading, after “Mailing”, deleted “and endorsement”, deleted the paragraph designation “A.” and paragraph heading “Mailing of pleadings.”; and deleted Paragraph B.

The 1999 amendment, effective April 1, 1999, renumbered LR5-803 as LR5-801; in Paragraph B, deleted "endorsed" preceding "copy"; and deleted "made by the clerk. A duplicate copy must be" preceding "presented".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-801 NMRA was recompiled and amended as LR5-109 NMRA, effective December 31, 2016.

LR5-110. Removal of court files.

A. **No removal.** Court files shall not be removed from the office of the district court clerk except by court personnel.

B. **Reproduction costs.** Attorneys, abstractors, and other persons may have the court files, except for sequestered and sealed files, reproduced at their own expense.

[Approved, effective April 1, 1999; LR5-803 recompiled and amended as LR5-110 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, designated the first paragraph as Paragraph A, and added the heading “No removal.”; and designated the second paragraph as Paragraph B, and added the heading “Reproduction costs.”.

The 1999 amendment, effective April 1, 1999, rewrote the rule.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-803 NMRA was recompiled and amended as LR5-110 NMRA, effective December 31, 2016.

LR5-111. Duplicating of recorded proceedings.

A. **Prior notice.** Ten (10) working days notice must be given to the clerk by anyone requesting the duplication of recordings maintained in the clerk's office. In the case of an emergency, the ten (10) day requirement shall be waived by the clerk or court.

B. **Blank CDs or other recording medium.** The district attorney's office and the public defender's office must furnish the clerk of the district court with sufficient blank CDs or other recording medium for the duplication of recordings maintained in the clerk's office.

C. **Limit.** Only one set of CDs or other recording medium per counsel or pro se party will be reproduced without a court order showing good cause. A record will be made of the CDs or other recording medium duplicated and a receipt given by the receiving party.

D. **Subpoenas.** Any subpoena duces tecum used to circumvent the time limits of this rule shall issue only on order of a district judge.

E. **Nonapplicability.** This rule does not apply to the reproduction of CDs or other recording medium for the appellate courts or grand jury proceedings.

[Approved, effective April 1, 1999; LR5-1001 recompiled and amended as LR5-111 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, removed the provision regarding fees for copies of tapes, and provided paragraph headings; in the rule heading, after "Duplicating of", deleted "of tapes" and added "recorded proceedings"; in Paragraph A, added the heading, after "duplication of", deleted "tapes filed" and added "recordings maintained", after "waived by", added "the clerk or", and after "court", deleted "order only"; in Paragraph B, added the heading, after "sufficient blank", deleted "tapes" and added "CDs or other recording medium", and after "duplication of", deleted "tapes filed" and added "recordings maintained"; in Paragraph C, added the heading, after "one set of", deleted "tapes" and added "CDs or other recording medium", after "per", added "counsel or pro se", and after "will be made of the", deleted "tapes" and added "CDs or other recording medium"; deleted Paragraph D and redesignated former Paragraphs E and F as Paragraphs D and E, respectively; in Paragraph D, added the heading, and after "district judge",

deleted “for emergency reasons only”; and in Paragraph E, added the heading, and after “reproduction of”, deleted “tapes” and added “CDs or other recording medium”.

The 1999 amendment, effective April 1, 1999, renumbered LR5-1002 as LR5-1001; in Paragraph A, substituted "duplication" for "reproduction" preceding "of tapes"; in Paragraph B, substituted "duplication of tapes filed in the clerk's office" for "reproduction"; in Paragraph C, substituted "Only one set of tapes per party" for "No more than two tapes (except for preliminary hearing tapes); deleted Paragraph E and redesignated Paragraphs F and G as Paragraphs E and F; and in present Paragraph F, added "or grand jury proceedings" at the end.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-1001 NMRA was recompiled and amended as LR5-111 NMRA, effective December 31, 2016.

LR5-112. Audio recording free process; civil cases.

In all civil cases where the court allows free process, the record of the hearing shall be by audio recording. The clerk shall stamp the file “free process.”

[Approved, effective April 1, 1999; LR5-1002 recompiled and amended as LR5-112 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, in the rule heading, after “recording”, deleted “tapes”, after “audio recording”, deleted “tape”, added “The clerk shall stamp the file ‘free process.’” to the end of the first paragraph, and deleted the second undesignated paragraph.

The 1999 amendment, effective April 1, 1999, renumbered LR5-1003 as LR5-1002.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-1002 NMRA was recompiled and amended as LR5-112 NMRA, effective December 31, 2016.

LR5-113. Interviewing, examining, and questioning jurors.

[Related Statewide Rules 1-047 and 5-606 NMRA]

No attorney or any party to an action or any other person shall personally or through any investigator or other person acting for an attorney or party, interview, examine, or question any juror either in person or in writing during the juror’s term of jury service to the court, except with the prior permission of the court granted by the trial judge on good cause shown.

[Approved, effective April 1, 1999; LR5-1004 recompiled and amended as LR5-113 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rules 1-047 and 5-606 NMRA]", and after "trial judge", deleted "upon" and added "on".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-1004 NMRA was recompiled and amended as LR5-113 NMRA, effective December 31, 2016.

LR5-114. Violation of local rules.

Violations of any of these rules may result in sanctions.

[Approved, effective April 1, 1999; LR5-1005 recompiled as LR5-114 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-1005 NMRA was recompiled as LR5-114 NMRA, effective December 31, 2016.

LR5-115. Death certificates.

Neither an original nor a copy of a death certificate shall be filed with the court, either as a separate pleading or as an attachment to any pleading. If a death certificate needs to be considered, the original shall either be submitted to the clerk on filing of a pleading, or presented to the judge in open court during a hearing. If a death certificate is presented to the clerk, the clerk shall deliver the original death certificate to the judge. The judge shall review the death certificate, and shall subsequently file an acknowledgment confirming review and establishment of the death and the date of death of the decedent. The original death certificate shall be returned to the presenting party or attorney for the presenting party. The presenting party shall make arrangements for the return of the original.

[Adopted by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR5-116. Notice of unavailability.

Except as part of a request for hearing, a notice of unavailability shall not be filed or submitted to the judge assigned to the case. The clerk shall not accept for filing any notice of unavailability.

[Adopted by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR5-117. District court clerk trust account; court registry.

[Related Statewide Rules 1-007, 5-120, and 10-111 NMRA]

A. **Disbursements**. Except as provided by statute or court rule, the clerk shall not make any disbursement or accept any actual tender of property or money unless under court order.

B. **Method of payment**. The clerk shall not accept payment of judgments, money in garnishment, or restitution in criminal cases unless required by statute, Supreme Court rule, or court order.

[Approved, effective April 1, 1999; LR5-602 recompiled and amended as LR5-117 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rules 1-007, 5-120, and 10-111 NMRA]"; and in Paragraphs A and B, added the headings.

The 1999 amendment, effective April 1, 1999, renumbered LR5-603 as LR5-602; and combined former Paragraphs B and C as present Paragraph B.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-602 NMRA was recompiled and amended as LR5-117 NMRA, effective December 31, 2016.

II. Rules Applicable to Civil Cases

LR5-201. Local rule exemption to Rule 1-016(B) of the Rules of Civil Procedure for the District Courts; pretrial scheduling.

[Related Statewide Rule 1-016 NMRA]

All civil non-jury cases shall be exempt from any pretrial scheduling unless one of the attorneys involved files a request for scheduling of the case or the judge orders a

scheduling conference. The request shall be filed on the attorney's certification that scheduling is necessary.

[Approved, effective April 1, 1999; LR5-106 recompiled and amended as LR5-201 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rule 1-016 NMRA]", after "conference", deleted "Such" and added "The", and after "shall be filed", deleted "upon" and added "on".

The 1999 amendment, effective April 1, 1999, renumbered LR5-108 as LR5-106 and rewrote the rule.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-106 NMRA was recompiled and amended as LR5-201 NMRA, effective December 31, 2016.

LR5-202. Action by more than one judge.

A district judge shall not act in any civil case within the district in which any other judge of the district has acted in a discretionary manner without prior consent of the other judge and consent of all parties to the action.

[Approved, effective April 1, 1999; LR5-107 recompiled and amended as LR5-202 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, after "prior consent of", deleted "such" and added "the other".

The 1999 amendment, effective April 1, 1999, renumbered LR5-111 as LR5-107 and deleted the second sentence in the first paragraph and deleted the last paragraph.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-107 NMRA was recompiled and amended as LR5-202 NMRA, effective December 31, 2016.

LR5-203. Requested findings of fact and conclusions of law.

[Related Statewide Rule 1-052 NMRA]

When requested by the judge prior to issuance of a decision, findings of fact and conclusions of law shall be submitted within a time designated by the court after consultation with the attorneys or parties. The original of the requested findings of fact and conclusions of law shall be filed with the clerk of the court, and a copy shall be delivered to the judge by counsel.

[Approved, effective April 1, 1999; LR5-201 recompiled and amended as LR5-203 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, removed the twenty (20) day time limit within which to submit proposed findings of fact and conclusions of law; added "[Related Statewide Rule 1-052 NMRA]"; after "by the judge", added "prior to issuance of a decision", after "shall be submitted", deleted "twenty (20) days after such submission is ordered by" and added "a time designated by", after "the court", deleted "unless a longer period is granted" and added "after consultation with the attorneys or parties", and after "and a copy", deleted "thereof".

The 1999 amendment, effective April 1, 1999, added "and conclusions of law" in the rule heading and substituted "judge by counsel" for "or the judge's secretary" at the end of the second sentence.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-201 NMRA was recompiled and amended as LR5-203 NMRA, effective December 31, 2016.

LR5-204. Judgment based on written instrument.

[Related Statewide Rule 1-055 NMRA]

A default judgment based on a written instrument shall be accompanied by the instrument which shall be filed as an exhibit in the case at the time the judgment is entered. The instrument may be returned to the filing party only as is done in case of other exhibits. The substitution by a copy of the instrument shall be appropriately marked as having been merged into the judgment and shall show the docket number of the action.

[Adopted, effective April 1, 1999; LR5-203 recompiled and amended as LR5-204 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added “[Related Statewide Rule 1-055 NMRA]”.

The 1999 amendment, effective April 1, 1999, at the beginning of the first sentence, added "A default" preceding "judgment"; substituted "the" for "said" preceding "instrument"; in the second sentence, substituted "The" for "Said" at the beginning; and substituted "the" for "said" preceding "instrument".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-203 NMRA was recompiled and amended as LR5-204 NMRA, effective December 31, 2016.

LR5-205. Certificates as to the state of the record.

[Related Statewide Rule 1-055 NMRA]

Certificates as to the state of the record (default certificates) are not automatically entered or prepared by the clerk. Attorneys should submit a prepared certificate as to the state of the record to the clerk for signature and filing. A duplicate copy must be furnished if the attorney wishes an endorsed copy.

[Adopted, effective April 1, 1999; LR5-204 recompiled and amended as LR5-205 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added “[Related Statewide Rule 1-055 NMRA]”.

The 1999 amendment, effective April 1, 1999, renumbered LR5-205 as LR5-204.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-204 NMRA was recompiled and amended as LR5-205 NMRA, effective December 31, 2016.

LR5-206. Settlement conference.

[Related Statewide Rule 1-016 NMRA]

A. **Procedure; standards; reporting.** Under Rule 1-016 NMRA, a settlement conference may be conducted by a judge of this district who is not assigned to the case and who is acceptable to both parties. A settlement conference will be ordered if the trial judge deems it to be appropriate or after agreement by counsel that a settlement conference may result in a settlement of some or all of the issues in the case. The judge conducting the settlement conference shall determine the details and proceedings

involved in the settlement conference. The settlement conference shall be conducted in conformance with recognized standards for alternative dispute resolution and the Model Standards of Conduct for Mediators. At the completion of the conference, the judge, judge pro tem, or lawyer conducting the settlement conference shall report to the judge assigned to the case only whether the case settled or not. At any time before the mediation, on a party's motion or the court's own motion, the court may deny or cancel the referral to mediation.

B. **Position statements.** The initial step following the entry of a settlement conference order prior to the actual mediation will be submission by both parties to the judge hearing the settlement conference of short confidential written statements of fact with the applicable law supporting those contentions from each side. This submission should be a statement of what the lawsuit is about and why each side believes it should prevail. The statement should clearly set out the issues to be determined by the jury, *e.g.* liability (including statement of facts), damages (medical expenses, etc.). The statements should contain frank and realistic appraisals of the strengths and weaknesses of both positions, and the settlement value of the lawsuit. This may be a statement of a range or other requested relief. The statement shall also include the parties' last offer of settlement.

C. **Appearances required.** When the settlement conference is held, each party, together with the party's attorney and a person with settlement authority, shall appear personally or by telephone as directed by the settlement judge.

[Adopted, effective April 1, 1999; LR5-205 recompiled and amended as LR5-206 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, revised the procedures and standards for conducting settlement conferences; added "[Related Statewide Rule 1-016 NMRA]"; in Paragraph A, added the heading, after "assigned to the case", deleted "a judge pro tem, or a member of the bar" and added "and", and deleted "If the conference is assigned to a judge pro tem or lawyer, the parties will arrange directly with the judge pro tem or lawyer for the payment of the hourly fee and expenses.", and added the remainder of the paragraph; deleted Paragraphs B and C, and redesignated former Paragraphs D and E as Paragraphs B and C, respectively; in Paragraph B, added the heading; in Paragraph C, added the heading, after "together with", deleted "his or her" and added "the party's", after "attorney", added "and a person with settlement authority", and after "shall appear", deleted the remainder of the paragraph, which related to insurance coverage, and added "personally or by telephone as directed by the settlement judge"; and deleted Paragraphs F through J.

The 1999 amendment, effective April 1, 1999, renumbered LR5-206 as LR5-205 and rewrote the rule.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-205 NMRA was recompiled and amended as LR5-206 NMRA, effective December 31, 2016.

Sanctions for bad faith. — Where the defendant expressly agreed to participate in a settlement conference and agreed to do so in good faith; the defendant understood that the settlement conference would be governed by the express good faith requirement in the local rule and in the court order for the settlement conference and that the parties were expected to compromise from their last offer; the defendant understood that a district judge would act as mediator, that the district judge was expected to promote a settlement, and that the district court carried the power of sanction; the defendant was a sophisticated participant who should have been aware that it would be required to make a bona fide effort to reach a compromise; the defendant had determined before the conference that it had no liability and had no intention of ever settling; and the defendant offered a token amount in settlement only after a warning and threat of sanctions by the mediator; the district court did not abuse its discretion in imposing sanctions against the defendant. Carlsbad Hotel Associates, L.L.C. v. Patterson-UTI Drilling Co., 2009-NMCA-005, 145 N.M. 385, 199 P.3d 288, cert. granted, 2009-NMCERT-001.

LR5-207. Motions and exhibits.

[Related Statewide Rule 1-007.1 NMRA]

A. **Page limit.** Except for motions filed under Rule 1-056 NMRA, the page limit for briefs shall be fifteen (15) pages. Briefs filed under Rule 1-056 NMRA shall not exceed twenty-five (25) pages in length. These page limits may be exceeded with leave of the court.

B. **Conformance of submissions.** All exhibits or other submissions to the court with a motion shall be provided to opposing counsel in the same form as they are provided to the court.

[Adopted, effective April 1, 1999; LR5-206 recompiled and amended as LR5-207 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added “[Related Statewide Rule 1-007.1 NMRA]”; in Paragraph A, added the paragraph heading; and in Paragraph B, added the paragraph heading.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-206 NMRA was recompiled and amended as LR5-207 NMRA, effective December 31, 2016.

LR5-208. Written interrogatories.

[Related Statewide Rule 1-033 NMRA]

A. **Limit.** No more than fifty (50) interrogatories per party may be served without leave of the court. Each discrete sub-part shall be considered an interrogatory.

B. **Supplemental interrogatories.** Subject to the provisions of Rules 1-026 and 1-033 NMRA, supplemental interrogatories seeking disclosure of witnesses and exhibits shall be supplemented no less than thirty (30) days before trial.

C. **Counting interrogatories.** The following interrogatories shall be counted as one:

(1) the first interrogatory requesting biographical information of the person, corporation, or other entity that is a party to the lawsuit, which may request names, addresses, places of doing business, social security number, age, marriage, children, occupation, and such other permitted biographical data;

(2) an interrogatory on expert witnesses, which may request names, addresses, job titles, qualifications, and matters set forth in Rule 1-026(B)(5) NMRA;

(3) an interrogatory on lay witnesses, which may request names, addresses, job titles, relationship to any party, subject matter, and a summary of the anticipated testimony; and

(4) an interrogatory on exhibits, which may request titles, descriptions of contents, identification of any limited purpose for which the exhibit will be offered, and the names, addresses, and job titles of authenticating witnesses and current custodians.

D. **Interrogatories that request completion of forms.** When an interrogatory requests the completion of a form, every space of the form shall be considered one interrogatory, subject however to the provisions of Paragraph C of this rule.

E. **Preliminary instructions and preliminary general objections not permitted.** Interrogatories shall not include preliminary instructions. Answers to interrogatories shall not include preliminary general objections applicable to all interrogatories.

[Adopted, effective April 1, 1999; LR5-401 recompiled and amended as LR5-208 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, provided a method for counting interrogatories, and prohibited instructions and objections from being included with interrogatories; added "[Related Statewide Rule 1-033 NMRA]"; in Paragraph A, after "No more than", deleted "twenty-five (25) interrogatories per set and only two sets of interrogatories per party, for a total of", and after "Each", added "discrete"; in Paragraph B, after "1-033", added "NMRA", and after "seeking disclosure", deleted "witness" and added "witnesses"; and added new Paragraphs C through E.

The 1999 amendment, effective April 1, 1999, rewrote the rule.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-401 NMRA was recompiled and amended as LR5-208 NMRA, effective December 31, 2016.

LR5-209. Filing fees and other fees.

A. **No refunds.** No filing fees or other fees collected by the clerk will be refunded except in instances where a fee was mistakenly paid at the instance of the clerk.

B. **Method of payment.** Fees are to be paid to the clerk by attorney firm checks, cash, money order, or certified check. No personal checks shall be accepted.

[Approved, effective April 1, 1999; LR5-601 recompiled and amended as LR5-209 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, provided for refunds of fees in certain instances; in the rule heading, deleted "Jury fees," and added "Filing"; in Paragraph A, added the heading, after "No", deleted "jury deposits", and after "refunded", added "except in instances where a fee was mistakenly paid at the instance of the clerk"; and in Paragraph B, added the paragraph heading.

The 1999 amendment, effective April 1, 1999, deleted former Paragraph B and redesignated Paragraph C as Paragraph B.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-601 NMRA was recompiled and amended as LR5-209 NMRA, effective December 31, 2016.

LR5-210. Motion for default in multiparty cases.

[Related Statewide Rule 1-055 NMRA]

In cases where there are multiple parties, a motion for default and corresponding order or judgment must specify the party or parties to whom the default motion applies.

[Adopted, effective April 1, 1999; LR5-702 recompiled and amended as LR5-210 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rule 1-055 NMRA]", and after "motion for default", added "and corresponding order or judgment".

The 1999 amendment, effective April 1, 1999, added "In cases where there are multiple parties," at the beginning of the paragraph, and deleted "in cases where multiple parties are involved" at the end of the rule.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-702 NMRA was recompiled and amended as LR5-210 NMRA, effective December 31, 2016.

LR5-211. Pro se appearance and filings; business organizations as parties.

[Related Statewide Rules 1-065.2 and 2-107 NMRA]

A. **Entry of appearance by pro se parties.** Parties who represent themselves shall enter an appearance and shall do so by filing an initial pleading, responsive motion, or other paper that includes their name, address, and telephone number. Pro se parties shall promptly file notice of any change of address or telephone number, and serve the notice on all other parties.

B. **Filings by pro se parties.** Subject to review and approval by the trial court judge, the clerk shall accept for filing a pro se party's pleadings, motions, and other papers without regard to the pro se party's failure to comply with the requirements of Rule 1-100 NMRA, or any fifth judicial district local rule, provided the papers are legible and sufficient information is provided for the clerk to identify the case to which the papers apply.

C. **Business organizations as parties.** Business organizations, including corporations, partnerships, limited liability companies, or business entities other than a natural person, must be represented by counsel. The court may strike, by court order on its own motion, any papers filed by an unrepresented business organization. An exception to this rule shall be made when a business organization

(1) is a party to an appeal from the magistrate court where it was allowed to appear pro se under Rule 2-107 NMRA; or

(2) files a disclaimer of any interest in the proceeding when suit has been brought against it in district court.

[Adopted, effective April 1, 1999; LR5-802 recompiled and amended as LR5-211 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, completely rewrote the rule.

The 1999 amendment, effective April 1, 1999, renumbered LR5-804 as LR5-802, and rewrote the rule.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-802 NMRA was recompiled and amended as LR5-211 NMRA, effective December 31, 2016.

LR5-212. Electronic filing authorized.

[Related Statewide Rule 1-005.2 NMRA]

In accordance with Rule 1-005.2 NMRA, electronic filing is implemented for all civil and probate actions in the Fifth Judicial District Court. The electronic filing of documents is mandatory for parties represented by attorneys in accordance with Rule 1-005.2 NMRA, which includes attorneys who represent themselves. Guidelines for using the electronic filing system are set forth in the court's user guide that is available in the clerk's office and on the court's website.

[Adopted by Supreme Court Order No. 12-8300-LR1, effective for all cases filed or pending on or after March 12, 2012; LR5-110 recompiled and amended as LR5-212 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rule 1-005.2 NMRA]".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-110 NMRA was recompiled and amended as LR5-212 NMRA, effective December 31, 2016.

LR5-213. Consolidating cases.

A. **Judge.** Motions to consolidate and consolidated cases shall be heard by the judge assigned to the oldest case (the case bearing the lowest case number) in which the judge has not been excused, challenged, or recused.

B. **Filings.** The motion to consolidate and the court's order to consolidate shall be filed in the oldest case (the case bearing the lowest case number); copies of the motion and order shall be filed in all consolidated cases. Following consolidation, all pleadings, motions, and other papers shall be filed only in the oldest case; no other papers, including copies, shall be filed in the remaining cases. The continuing case will be assigned to the judge for the oldest case unless otherwise ordered by that judge.

C. **Captions; titles.** The case number of each case consolidated shall appear in the caption of all pleadings, motions, and other papers filed after consolidation. In addition, if the pleading, motion, or other paper does not apply to all the consolidated cases, its title shall include the case number(s) to which it pertains, *e.g.*, "Motion for Summary Judgment on Count II of CV-88-0888."

[Adopted by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

III. Rules Applicable to Criminal Cases

LR5-301. Technical violation program for adult probationers.

[Related Statewide Rule 5-805 NMRA]

A. **Program established.** This judicial district establishes a technical violation program (TVP) for adult probationers on supervised probation allowing automatic sanctions to occur for technical violations of an order of probation or probation agreement.

B. **Assignment to program.** The court, in its discretion, and with the knowing and voluntary consent of the probationer, may order placement of a probationer into the TVP at any time during the probationer's period of supervised probation. Prior to placement in the TVP, the probationer shall be advised that the probationer is waiving rights to any probation violation procedures and hearings under Rule 5-805 NMRA if the probationer is found by the Adult Probation and Parole Office (APPO) to have committed a technical violation.

C. **Technical violations defined.** Technical violations of an order of probation or probation agreement mean any violation that does not involve new criminal charges.

D. **Sanctions.** Sanctions for violation in the TVP are as follows:

(1) first violation: up to three (3) days in jail and up to ten (10) hours of community service;

(2) second violation: up to seven (7) days in jail and up to twenty (20) hours of community service;

(3) third violation: up to fourteen (14) days in jail and up to thirty (30) hours of community service; and

(4) fourth violation: up to twenty-one (21) days in jail and up to forty (40) hours of community service.

E. **Additional services allowed.** The TVP does not limit the APPO from referring the probationer to counseling or other services.

F. **Removal from the program.** After a hearing, a probationer may be subject to removal from the TVP so that subsequent violations may be prosecuted under Rule 5-805 NMRA for the following reasons:

(1) committing a fifth technical violation;

(2) incurring new criminal charges;

(3) absconding from supervision; or

(4) on motion by a party or the court.

G. **Other sanctions for technical violations precluded.** Sanctions imposed under the TVP for a particular probation violation preclude further sanctions for that probation violation, but the judge may consider the probationer's removal from the TVP at sentencing.

[Adopted by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR5-302. Transportation of persons in custody.

A. **Motion required.** A motion for an order to transport a person in custody shall be made no later than ten (10) working days before the proceeding for which transport is sought unless a shorter time is ordered by the court.

B. **Matters included.** The motion and proposed order shall address the following matters:

(1) the name of the person to be transported and, if known, that person's date of birth and social security number;

(2) the agency designated to transport the person in custody to and from the proceeding, usually the sheriff of the appropriate county;

(3) the place where the person is in custody;

(4) the nature of the district court proceeding for which transport is sought;

(5) the place, date, and time of the district court proceeding and, if known, the length of the proceeding; and

(6) the requirement, if any, for civilian clothing.

C. **Transport order; service.** A copy of the transport order shall be served by the movant on the transporting agency and on the custodian of the person sought to be transported no later than three (3) working days before the proceeding unless a shorter time is allowed by the court.

D. **Modification.** Where circumstances require, a district court judge may modify the time requirements of this local rule or may require transport on verbal order, provided that a written order is served on the transporting agency and the custodian as soon as practicable thereafter. In addition, if the transporting agency determines that a written transport order is not required then it may waive the requirements of this rule.

[Adopted by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

IV. Rules Applicable to Domestic Relations Cases

LR5-401. Safe exchange and supervised visitation; domestic relations mediation.

[Related Statewide Rule 1-125 NMRA]

A. **Programs established.** The district court establishes a "safe exchange and supervised visitation" program and a domestic relations mediation program in accordance with the Domestic Relations Mediation Act.

B. **Domestic relations mediation fund; deposit and disbursement of fees.** The district court maintains a domestic relations mediation fund for the deposit of all fees collected under the Domestic Relations Mediation Act, which are used to offset the costs of operating the court’s safe exchange and supervised visitation program and domestic relations mediation program. Deposits into the domestic relations mediation fund shall include the following:

(1) the surcharge authorized under Section 40-12-6 NMSA 1978 on all new and reopened domestic relations cases; and

(2) fees paid by the parties for domestic relations mediation and safe exchange and supervised visitation services provided under the Domestic Relations Mediation Act.

C. **Payments from domestic relations mediation fund.**

(1) ***Domestic relations mediation fees.*** Mediators shall be paid seventy-five dollars ($75.00) per hour, not to exceed three hundred seventy-five dollars ($375.00) (five hours) plus gross receipts tax. The court may order additional mediation not to exceed two additional hours. The court may order additional mediation or counseling on showing of good cause.

(2) ***Other.*** Money in the fund may be used to offset the cost of operating the domestic relations mediation program on written order of the chief judge.

D. **Sliding fee scales.** Mediation and safe exchange and supervised visitation services provided under the Domestic Relations Mediation Act shall be paid by the parties in accordance with a sliding fee scale submitted to and approved by the Supreme Court. The current sliding fee scales approved by the Supreme Court shall be posted on the district court's website and inside the courthouse. Any fees collected from a party under the sliding fee scale shall be paid to the district court clerk, who shall deposit the fees into the domestic relations mediation fund. Any fees assessed shall be paid by the parties based on their ability to pay using the Supreme Court approved sliding fee scale in effect at the time.

E. **No refunds.** No fees collected by the clerk will be refunded except in instances where a fee was mistakenly paid at the direction of the clerk.

F. **Method of payment.** Fees are to be paid to the clerk by cash, money order, certified check, or attorney firm check. No personal checks shall be accepted.

G. **Initiating services; cooperation required.** The court may, on request of any party or on the court's own motion, order the parties to participate in the safe exchange and supervised visitation program or domestic relations mediation program in accordance with the requirements in Rule 1-125 NMRA. Any party ordered to participate in one or both programs shall cooperate with all court staff and outside service providers designated by the court to operate the program(s), and any party who fails to do so may be sanctioned or held in contempt of court.

H. **Contact with mediator.** When a case has been ordered to mediation by the court, neither attorney shall individually contact the mediator regarding the case, except as requested by the mediator, or attempt to influence the outcome of the mediation.

I. **Immunity.** Attorneys and other persons appointed by the court to serve as mediators, or in other such roles under the rules governing this district's programs under the Domestic Relations Mediation Act, are arms of the court and are immune from liability for conduct within the scope of their duties as provided by law.

[Adopted effective July 31, 2001; recompiled effective July 31, 2001; LR5-501 recompiled and amended as LR5-401 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; as amended by Supreme Court Order No. 18-8300-006, effective for all cases pending or filed on or after September 1, 2018.]

ANNOTATIONS

The 2018 amendment, approved by Supreme Court Order No. 18-8300-006, effective September 1, 2018, established a safe exchange and supervised visitation program for the Fifth Judicial District Court, provided for the deposit and disbursement of funds collected for the domestic relations mediation fund, lowered the cap on domestic relations mediation fees, provided for a sliding fee scale for parties to pay for mediation services and safe exchange and supervised visitation services provided under the Domestic Relations Mediation Act, required parties ordered to participate in the domestic relations mediation program or in the safe exchange and supervised visitation program to cooperate with program staff and provided penalties for the failure to do so, and provided immunity from liability for attorneys and other persons appointed by the court to serve as mediators for conduct within the scope of the Domestic Relations Mediation Act; in the heading, deleted "Domestic" and added "Safe exchange and supervised visitation; domestic", deleted "The fifth judicial district court shall provide a domestic relations mediation program in Chaves, Eddy, and Lea counties to assist the court, parents, and other interested parties in determining the best interest of children involved in domestic relations cases."; in Paragraph A, in the heading, changed "To effect the program" to "Programs established", deleted "A thirty dollar ($30.00) surcharge will be collected in Chaves, Eddy, and Lea counties for" and rewrote the paragraph; added Paragraph B and redesignated former Paragraph B as Paragraph C; in Paragraph C, in the heading, after "Payments from", added "domestic relations", in Subparagraph C(1), in the heading, changed "Mediation" to "Domestic relations mediation", after the first occurrence of "not to exceed", deleted "five hundred twenty-five dollars ($525.00) (seven hours)" and added "three hundred seventy-five dollars ($375.00) (five hours)", and after the second occurrence of "not to exceed", deleted "five" and added "two additional"; added Paragraphs D through G and redesignated former Paragraph C as Paragraph H; in Paragraph H, after "regarding the case", added "except as requested by the mediator"; and added Paragraph I.

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, increased the amount of mediation fees; added "[Related Statewide Rule 1-125 NMRA]"; and in Subparagraph B(1), after "shall be paid", deleted "fifty dollars ($50.00)" and added "seventy-five dollars ($75.00)", after "not to exceed",

deleted “three hundred fifty dollars ($350.00)” and added “five hundred twenty-five dollars ($525.00)”, and after “counseling”, deleted “upon” and added “on”.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR5-501 NMRA was recompiled and amended as LR5-401 NMRA, effective December 31, 2016.

V. Rules Applicable to Children’s Court Cases [Reserved]

VI. Rules Applicable to Court Alternative Dispute Resolution Programs [Reserved]

VII. Forms [Reserved]