

# Rules of the District Court of the Fourth Judicial District

## Table of Corresponding Rules

### Local Rules of the Fourth 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.	New Rule No.	Corresponding Former Rule No.
LR4-101	Withdrawn	LR4-101	LR4-102
LR4-102	LR4-101	LR4-102	LR4-201
LR4-103	Withdrawn	LR4-103	LR4-202
LR4-104	Withdrawn	LR4-104	LR4-203
LR4-105	Withdrawn	LR4-105	LR4-206
LR4-201	LR4-102	LR4-106	LR4-209
LR4-202	LR4-103	LR4-107	New
LR4-203	LR4-104	LR4-108	LR4-303
LR4-204	Withdrawn	LR4-109	LR4-308
LR4-205	Withdrawn	LR4-110	LR4-401
LR4-206	LR4-105	LR4-111	New
LR4-207	Withdrawn	LR4-112	LR4-501
LR4-208	Withdrawn	LR4-113	LR4-212
LR4-209	LR4-106	LR4-201	New
LR4-210	Withdrawn	LR4-202	LR4-310
LR4-211	Withdrawn	LR4-301	New
LR4-212	LR4-113	LR4-401	LR4-702
LR4-213	Withdrawn	LR4-Form 701	LR4-Form A
LR4-301	Withdrawn	LR4-Form 702	New
LR4-303	LR4-108		
LR4-304	Withdrawn		
LR4-305	Withdrawn		
LR4-306	Withdrawn		
LR4-307	Withdrawn		

LR4-308	LR4-109
LR4-309	Withdrawn
LR4-310	LR4-202
LR4-401	LR4-110
LR4-501	LR4-112
LR4-601	Withdrawn
LR4-701	Withdrawn
LR4-702	LR4-401
LR4-Form A	LR4-Form 701
LR4-Form B	Withdrawn

## I. Rules Applicable to All Cases

### LR4-101. Title.

These local rules shall be known as the Local Rules of the Fourth Judicial District Court.

[LR4-102 recompiled and amended as LR4-101 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 LR4-102 NMRA was recompiled and amended as LR4-101 NMRA, effective December 31, 2016.

**The 2016 amendment,** approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, deleted quotations marks around “Local Rules of the Fourth Judicial District Court”.

### LR4-102. Failure to comply.

The failure to comply with the requirements of these rules may subject counsel or any pro se party to sanctions.

[LR4-201 recompiled and amended as LR4-102 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 LR4-201 NMRA was recompiled and amended as LR4-102 NMRA, effective December 31, 2016.

**The 2016 amendment,** approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, after “counsel or any”, deleted “party appearing”, and after “pro se”, added “party”.

### **LR4-103. Assignment of cases.**

All cases filed shall be randomly assigned to Divisions I, II, and III.

[LR4-202 recompiled and amended as LR4-103 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 LR4-202 NMRA was recompiled and amended as LR4-103 NMRA, effective December 31, 2016.

**The 2016 amendment,** approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, deleted “The district court clerk alternately shall assign all cases filed to the two court divisions (divisions I and II), with each district judge initially receiving an equal number of cases.” and added the new language.

### **LR4-104. Mode of attire.**

All attorneys and other officers of the court shall be dressed in a dignified manner in court. Flamboyant, disheveled, or revealing attire or clothing will not be permitted. Bolo ties are allowed.

[LR4-203 recompiled and amended as LR4-104 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 LR4-203 NMRA was recompiled and amended as LR4-104 NMRA, effective December 31, 2016.

**The 2016 amendment,** approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, after the first sentence, added the next two sentences.

### **LR4-105. Removal of court files.**

Court files shall not be removed from the office of the district court clerk except by a district judge, a hearing officer, or the judge's or hearing officer's designee.

[LR4-206 recompiled and amended as LR4-105 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 LR4-206 NMRA was recompiled and amended as LR4-105 NMRA, effective December 31, 2016.

**The 2016 amendment,** approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, after “except by”, deleted “employees of the Fourth Judicial District Court” and added “a district judge, a hearing officer, or the judge's or hearing officer's designee”.

### **LR4-106. Payment to district court clerk.**

All fees, fines, assessments, costs, or other payments to the district court clerk shall be paid by cash, money order, cashier's check, or a check drawn on an attorney's trust account. No personal checks shall be accepted for payment by the district court clerk.

[LR4-209 recompiled as LR4-106 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 LR4-209 NMRA was recompiled as LR4-106 NMRA, effective December 31, 2016.

### **LR4-107. Prohibition against forum shopping.**

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

A. **Assigned judge to hear case.** Cases assigned to one judge shall not be heard by another judge except by consent of the judge to whom the case is assigned, except in those circumstances described in Paragraph B.

B. **Exceptions when assigned judge is unavailable.** Any judge of the district may hear any default matter, emergency matter, guilty plea, or ex parte matter that may arise whenever the assigned judge is not available.

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

## **LR4-108. Telephonic hearings.**

A. **When appropriate.** The court may hear any matter by telephone conference when to do so would legitimately serve justice, the economic needs of the parties and attorneys, or the logistics of travel.

B. **Permission required; provider; cost.** Permission to appear telephonically must be obtained from the judge to whom the case is assigned. Telephonic appearances shall be arranged through the court's authorized telephone conference provider. However, the court may permit an alternate method of telephonic appearance. The costs of the telephone conference shall be borne by the party making the telephonic appearance. The court reserves the right to require the parties to reimburse the court for telephone expenses incurred by the court for participating in a conference or hearing by telephone.

[LR4-303 recompiled and amended as LR4-108 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 LR4-303 NMRA was recompiled and amended as LR4-108 NMRA, effective December 31, 2016.

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

## **LR4-109. Submission of orders, judgments, and decrees.**

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

A. **When submitted.** Unless otherwise ordered by the court all orders, judgments, and decrees shall be submitted to the assigned judge not later than five (5) working days following the date of the judge's oral or written decision.

B. **Judge's signature; requirements.** Orders, judgments, and decrees will not be signed by the judge unless

(1) the order, judgment, or decree bears the signatures or telephonic approval of the attorneys and all pro se parties to the cause; or

(2) written notice is provided to all affected parties or their counsel that the proposed order, judgment, or decree will be presented to the court at a time and date set by the court, on request provided that a copy of the proposed order, judgment, or decree accompanies the notice and that notice is served not less than five (5) days before the date set for presentment.

C. **Objections.** Where there is an objection to an order, judgment, or decree, the objecting party shall file the objections and deliver a courtesy copy to the judge no less than one (1) day before the time set for submission of the proposed order, judgment, or decree under Subparagraph (B)(2) of this rule.

[LR4-308 recompiled and amended as LR4-109 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 LR4-308 NMRA was recompiled and amended as LR4-109 NMRA, effective December 31, 2016.

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

### **LR4-110. Request for hearings.**

Any party who requests a hearing on a matter other than a motion shall file a Request For Setting (LR4-Form 702 NMRA) and simultaneously submit to the assigned judge an endorsed copy of the Request for Setting, a Notice of Hearing (LR4-Form 701 NMRA), and pre-addressed, stamped envelopes for any counsel or party entitled to notice who does not have a bin at the courthouse.

[LR4-401 recompiled and amended as LR4-110 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 LR4-401 NMRA was recompiled and amended as LR4-110 NMRA, effective December 31, 2016.

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

### **LR4-111. Vacating settings.**

A. **Order required.** Settings shall not be vacated ex parte or by agreement of counsel, but only on order of the judge assigned to the case.

B. **Conferring with other counsel and pro se parties required.** Before counsel requests that the judge assigned to the case vacate a setting, counsel shall contact all attorneys and pro se parties entitled to notice to determine their positions regarding the

request, and then shall inform the court of the positions. The court shall vacate the setting, refuse to vacate it, or schedule a hearing on counsel's request.

C. **Order contents.** An order entered under this rule shall contain the reasons for vacating the setting.

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

## **LR4-112. Jury instructions.**

[Related Statewide Rules 1-051 and 5-608 NMRA]

Jury instructions shall be prepared by counsel for the parties in accordance with these guidelines.

A. **Stipulated instructions.** Prior to commencement of the trial, attorneys and pro se parties shall confer and agree on those jury instructions which are necessary and common to the case. These instructions shall be prepared by the plaintiff's counsel and shall be approved by all other counsel. These "stipulated jury instructions" shall be submitted to the judge assigned to the case at least five (5) days prior to the commencement of the trial.

B. **Contested instructions.** Jury instructions on which the parties cannot agree or "contested jury instructions" shall be submitted to the judge at least five (5) days prior to commencement of trial. This rule does not preclude additional instructions being submitted at the close of the evidence.

C. **Organization.** Jury instructions shall be clipped or stapled together with a cover sheet bearing the caption of the case, the title of the pleading (*i.e.*, "Plaintiff's Contested Instructions," "Defendant's Contested Instructions," "Stipulated Instructions"), and a signature line for counsel who is submitting the instructions. Copies of the instructions shall be provided to each party and to the judge assigned to the case.

D. **Heading; numbering.** Each contested jury instruction shall bear the heading "(Party's) Requested Instruction No. \_\_\_\_\_", and shall be numbered consecutively by counsel.

E. **Uniform Jury Instruction number required.** At the bottom of each contested jury instruction, counsel shall list the Uniform Jury Instruction number or other citations supporting the instruction as a correct statement of law, along with the following information:

Given \_\_\_\_\_

Denied \_\_\_\_\_

Modified \_\_\_\_\_

Withdrawn \_\_\_\_\_

**F. Instructions submitted to judge; not filed.** For each stipulated or contested jury instruction submitted, a clean copy that bears the text of the instruction and the heading “Instruction No. \_\_\_\_\_”, with no number inserted shall be provided to the judge assigned to the case. This set shall be given to the judge and not filed with the district court clerk.

**G. Settling instructions.** In settling jury instructions, the action of the judge assigned to the case shall be entered on the filed copy of each instruction.

[LR4-501 recompiled and amended as LR4-112 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 LR4-501 NMRA was recompiled and amended as LR4-112 NMRA, effective December 31, 2016.

**The 2016 amendment**, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added “[Related Statewide Rules 1-051 and 5-608 NMRA]”; in the introductory sentence, deleted “Requested”; in Paragraph A, after “attorneys”, deleted “for all parties or any parties” and added “and”, after “pro se”, added “parties”, after “agree”, deleted “upon” and added “on”, in the second sentence, deleted “Instructions necessary and common to the case” and added “These instructions”, in the third sentence, deleted “Such stipulated instructions” and added “These ‘stipulated jury instructions’”; in Paragraph B, deleted “All jury instruction to which the parties cannot agree shall be submitted to the district judge assigned to the case for consideration. Each party shall submit its contested jury instructions separately at least five (5) days prior to commencement of the trial.” and added the new first sentence, and in the second sentence, after “evidence”, deleted “pursuant to Rule 5-608 of the Rules of Criminal Procedure for the District Courts”; in Paragraph C, after “shall be”, deleted “submitted firmly”, after “Plaintiff’s”, deleted “Requested” and added “Contested”, after “Instructions”, added “‘Defendant’s Contested Instructions.’”, after “counsel”, added “who is submitting the instructions”, and after “each party and to the”, deleted “district”; in Paragraph D, after “and”, deleted “counsel”, and after “shall”, deleted “number them consecutively” and added “be numbered consecutively by counsel”; in Paragraph E, after “statement of”, deleted “the applicable”; in Paragraph F, after “For each”, added “stipulated or”, after “submitted,”, deleted “the party shall provide the district judge assigned to the case with”, and after “inserted”, added “shall be provided to the judge assigned to the case”; and in Paragraph G, after “the action of the”, deleted “district”, and after the first sentence, deleted “In addition, the action of the judge shall be noted on a praecipe (LR4-Form B) to be submitted by counsel.”.



### **LR4-113. Copies of juror questionnaires.**

All requests for copies of jury questionnaires shall be made to the district court clerk at least three (3) working days before the copies are desired.

[LR4-212 recompiled as LR4-113 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 LR4-212 NMRA was recompiled as LR4-113 NMRA, effective December 31, 2016.

## **II. Rules Applicable to Civil Cases**

### **LR4-201. Filing fees.**

[Related Statewide Rules 1-099, 1-125, and 23-114 NMRA]

A filing fee shall be collected by the district court clerk in all new and reopened cases under law, unless waived by a judge on a proper showing of indigency. A surcharge shall be collected by the district court clerk in all new and reopened domestic relations cases under the domestic relations mediation program, unless waived by a judge.

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

### **LR4-202. 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 Fourth 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-LR2, effective for all cases filed or pending on or after August 20, 2012; LR4-310 recompiled and amended as LR2-202 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 LR4-310 NMRA was recompiled and amended as LR4-202 NMRA, effective December 31, 2016.

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

### **III. Rules Applicable to Criminal Cases**

#### **LR4-301. 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 a probation agreement.

B. **Assignment to program.** The court in its discretion, and with the approval of the probationer, shall order placement of a probationer into the TVP at any time during the probationer’s period of supervised probation. A probationer in the TVP shall waive the probationer’s right to any probation violation procedures and hearings, under Rule 5-805 NMRA, if found to have committed a technical violation.

C. **Technical violations defined.** Technical violations of a probation agreement consist of the probationer

- (1) having a positive urine test for drugs or alcohol;
- (2) possessing alcohol;
- (3) missing a counseling appointment;
- (4) missing a community service appointment;
- (5) missing an educational appointment; or
- (6) failing to inform the probation officer of a traffic citation received.

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

- (1) first violation - up to three (3) days in jail;
- (2) second violation - up to seven (7) days in jail;
- (3) third violation - up to fourteen (14) days in jail; and

(4) fourth violation - up to twenty-one (21) days in jail.

E. **Removal from the program.** After a fourth technical violation a probationer may be subject to removal from the TVP and subsequent violations may be prosecuted under Rule 5-805 NMRA.

F. **Other sanctions for technical violations precluded.** Sanctions imposed under the TVP preclude further sanctions for the probation violation.

[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**

### **LR4-401. Domestic relations mediation program.**

[Related Statewide Rule 1-125 NMRA]

A. **Establishment of program.** Under the Domestic Relations Mediation Act, Sections 40-12-1 to -6 NMSA 1978, the Fourth Judicial District has elected to establish a domestic relations mediation program to assist the court, parents, and other interested parties in determining the best interests of minor children involved in domestic relations cases. A domestic relations mediation fund is hereby established in accordance with Section 40-12-6 NMSA 1978.

B. **Mediation surcharge.** Under Section 40-12-6 NMSA 1978 the district court clerk shall collect a thirty dollar (\$30.00) surcharge for all new and reopened domestic relations cases. This surcharge shall be in addition to the filing fee for new and reopened cases. The district court clerk shall deposit all surcharges collected under this local rule in the “domestic relations mediation fund”.

C. **Child-related issues.** Unless otherwise ordered by the court on stipulation of the parties or for good cause shown, in every case involving a dispute over any child-related issue, except child support, the court shall enter an order referring the parties to mediation. In the alternative, or in addition to, an order for mediation, the court may order that the parties submit to a priority or advisory consultation.

D. **Mediation costs.** Each party to the case shall pay a fee to offset the costs of the domestic relations mediation program. The fee shall be determined by using the sliding fee scale approved by the Supreme Court.

E. **Petitioner to present order.** Within thirty (30) days after service of the petition or promptly after learning of any dispute over any child-related issue, except child support, the petitioner shall present to the assigned judge a proposed order referring the parties to mediation in a form approved by the court.

[LR4-702 recompiled and amended as LR4-401 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 LR4-702 NMRA was recompiled and amended as LR4-401 NMRA, effective December 31, 2016.

**The 2016 amendment**, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, revised the process for court-ordered mediation; added “[Related Statewide Rule 1-125 NMRA]”; in Paragraph A, after “Sections 40-12-1 to”, deleted “40-12-6” and added “-6”, and added quotations marks around “domestic relations mediation fund”; in Paragraph B, after “domestic relations cases”, deleted “other than those filed pursuant to the Family Violence Protection Act, Sections 40-13-1 to 40-13-8 NMSA 1978”; in Paragraph C, deleted the former language, which provided for requests for mediation, and added all new language; in Paragraph D, after “approved”, deleted “as Appendix A of these local rules” and added “by the Supreme Court”; and in Paragraph E, deleted the former language, regarding court-appointed mediators, and added all new language.

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

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

## VII. Forms

### LR4-Form 701. Notice of hearing.

FOURTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

NO. \_\_\_\_\_

\_\_\_\_\_

Plaintiff,

vs.

\_\_\_\_\_ ,

Defendant.

### NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that this matter has been called for hearing before the Court as follows:

DATE:

TIME:

PLACE:

MATTER TO BE HEARD:

TIME ALLOCATED:

JUDGE ASSIGNED:

### CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing notice of hearing were mailed/faxed/placed in the bin for all counsel and parties pro se listed above on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Trial Court Administrative Assistant

[LR4-Form A recompiled and amended as LR4-Form 701 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 LR4-Form A NMRA was recompiled and amended as LR4-Form 701 NMRA, effective December 31, 2016.

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

**LR4-Form 702. Request for setting.**

FOURTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

No. \_\_\_\_\_

\_\_\_\_\_ ,

Plaintiff,

vs.

\_\_\_\_\_ ,

Defendant.

**REQUEST FOR SETTING**

1. Specific matter to be heard:
2. Date of any hearings presently set:
3. Date pretrial order was filed:
4. Total time required for hearing:
5. Applicable time limits:
6. Request submitted by:
7. Names, addresses and telephone numbers of all counsel or parties pro se entitled to notice:

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