# Rules of the District Court of the Fifth Judicial District

## LR5-101. Divisions of court.

For the purpose of identifying the judicial positions, the district shall be divided into ten divisions. The judges of divisions I, V and IX shall reside in Eddy county; the judges of divisions II, VI, VIII and X shall reside in Chaves county, and the judges of divisions III, IV and VII shall reside in Lea county. The foregoing divisions are made pursuant to the provisions of Section 34-6-18 NMSA 1978.

[Approved, effective April 1, 1999; as amended by Supreme Court Order 06-8300-15, effective May 23, 2006.]

**ANNOTATIONS**

**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.

Beginning in 1998, 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 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.]

**ANNOTATIONS**

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

## LR5-103. Terms of court.

Pursuant to the provisions of Section 34-6-2 NMSA 1978, the regular terms of the district court shall be held and commenced as follows:

CHAVES COUNTY, commencing on the second Monday of January, April, July and October;

EDDY COUNTY, commencing on the second Monday of February, May, August and November;

LEA COUNTY, commencing on the second Monday of March, June, September and December.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

**The 1999 amendment,** effective April 1, 1999, renumbered LR5-104 as LR5-103.

## LR5-104. Disqualification; designation of judges.

Pursuant to Rule 1-088 of the Rules of Civil Procedure for the District Courts and Rule 5-105 of the Rules of Criminal Procedure for the District Courts, in the event of recusal or excusal of an assigned district judge, the clerk of the district court shall immediately randomly assign the case to another district judge who resides in the county in order that at all times a district judge will be assigned to a pending case. Counsel for all parties will have ten (10) days in which to agree upon a district judge to hear the case, and if that district judge so agrees, the clerk of the district court shall reassign the case to that district judge.

If all district judges who reside in the county have been excused or recused, and counsel for all parties fail to agree upon 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 in the district to hear the case.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

**The 1999 amendment,** effective April 1, 1999, renumbered LR5-106 as LR5-104 and rewrote the rule.

## LR5-105. Default and motion days.

A. Default and motion days in each county must be obtained by the attorney from the clerk of district court or the assigned judge's trial court administrative assistant.

B. The clerk of the district court or the assigned judge's trial court administrative assistant is directed to provide the court with a calendar showing all defaults, motions, and arraignments which are set for hearing, pursuant to this rule. The attorneys shall provide the clerk with notice of defaults to be heard prior to noon on the second to last court day preceding the scheduled default day.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

**The 1999 amendment,** effective April 1, 1999, renumbered LR5-107 as LR5-105; in Paragraph A, added "or the assigned judge's trial court administrative assistant at the end; in Paragraph B, deleted "judge's secretary" following "district court or" and "legal defenses" following "motions," and added "second to" preceding "last court date"; and deleted Paragraph C.

## LR5-106. Local rule exemption to Rule 1-016(B) of the Rules of Civil Procedure for the District Courts; pretrial scheduling.

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. Such request shall be filed upon the attorney's certification that scheduling is necessary.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

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

## LR5-107. 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 such judge and consent of all parties to the action.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

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

## LR5-108. 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 such articles. Jean-style pants, denim pants or other similar pants shall not be worn.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

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

## LR5-109. Local rules advisory committee.

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 upon advice of the president of each county bar association.

The duties of the local rules advisory committee will include:

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

B. review of proposed local rules;

C. initiation of proposals for local rules as needed.

This committee will meet upon the request of the chief judge or as is reasonable.

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.]

### ANNOTATIONS

**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.

## LR5-201. Requested findings of fact and conclusions of law.

When requested by the judge, findings of fact and conclusions of law shall be submitted within twenty (20) days after such submission is ordered by the court unless a longer period is granted. The original of the requested findings of fact and conclusions of law shall be filed with the clerk of the court, and a copy thereof shall be delivered to the judge by counsel.

[Approved, effective April 1, 1999.]

### ANNOTATIONS

**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.

## LR5-202. Orders, decrees and judgments.

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 to the clerk of the district court or 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 such filing. Orders and judgments will not be signed by the judge unless they have been 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.

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.

D. **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.

E. **Notice of entry of judgment to opposing parties.** In all contested civil cases, attorneys for the parties who wish notice of entry of judgment, shall send a notice of entry of judgment form (LR5-FORM D) and a stamped, self-addressed envelope to the clerk of the district court. The clerk of the district court shall enter the date of entry of judgment and mail the notice to all attorneys or parties who have complied with this rule.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

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

## LR5-203. Judgment based on written instrument.

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.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

**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".

## LR5-204. Certificates as to the state of the record.

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.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

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

## LR5-205. Settlement conference.

A. Pursuant to Rule 1-016 NMRA, a settlement conference may be conducted by a judge of this district who is not assigned to the case, a judge pro tem, or a member of the bar 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 such a conference may result in a settlement of some or all of the issues in the case. 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.

B. Upon a settlement conference being ordered, the trial judge or the settlement conference judge may enter a settlement conference order. All parties shall participate

at the settlement conference in good faith and sanctions shall be imposed if the settlement conference judge finds that a party has not participated in good faith in the settlement conference, and the trial judge adopts the findings made by the settlement conference judge.

C. The judge or lawyer hearing such settlement conference is expected to promote a settlement, and will be an active participant in the conference. The judge may ask questions of counsel regarding testimony they expect to elicit and may state the judge's opinion of the strength or weakness of any position taken by either or both parties.

D. 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 they 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.

E. When the settlement conference is held, each party, together with his or her attorney, shall appear. If one of the parties has insurance coverage, a representative of the insurance company shall be present for the settlement conference, unless the settlement conference judge allows the representative to be present by telephone. Each side must have settlement authority.

F. The first discussion in the settlement conference hearing will be a short statement by counsel of the lawsuit. All parties and counsel will be present at this stage.

G. Each side may address the strengths and weaknesses of the other side's case. These statements may include discussions of testimony which is expected from the witnesses on either side of the case.

H. Then the judge will excuse defense counsel and the defendant and confer with the plaintiff and plaintiff's counsel. The judge will discuss with the plaintiff, the costs of further litigation and give a frank appraisal of the judge's opinion of the strengths and weaknesses of the plaintiff's case, including the judge's appraisal of the value of the lawsuit. The judge will excuse the plaintiff and counsel, and confer with the defendant and defense counsel. The same procedure will be followed.

I. Thereafter the judge will continue alternate meetings with the parties until such time as the judge is satisfied that no further progress toward settlement can be made or that the case has been settled.

J. With all parties present, the judge will address what the judge believes to be the strengths and weaknesses of each side of the case, and state the judge's opinion of the lawsuit, and what a fair settlement would be. The parties will be allowed to confer with each other to see if an agreement can be reached.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

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

**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.

## LR5-206. Motions and exhibits.

A. 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. 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.

[Approved, effective April 1, 1999.]

## LR5-401. Written interrogatories.

A. **Limit.** No more than twenty-five (25) interrogatories per set and only two sets of interrogatories per party, for a total of fifty (50) interrogatories per party may be served without leave of the court. Each sub-part shall be considered an interrogatory.

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

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

**Cross references.** — For statewide rule governing interrogatories, see Rule 1-033 NMRA.

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

## LR5-501. Domestic relations; mediation.

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.

A. **To effect the program.** A thirty dollar ($30.00) surcharge will be collected in Chaves, Eddy and Lea counties for all new and reopened domestic relations cases except in actions to enforce previously ordered child support.

B. **Payments from mediation fund.**

(1) **Mediation fees.** Mediators shall be paid fifty dollars ($50.00) per hour, not to exceed three hundred fifty dollars ($350.00) (seven hours) plus gross receipts tax. The court may order additional mediation not to exceed five hours. The court may order additional mediation or counseling upon 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.

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

[LR5-504 NMRA approved effective July 31, 2001; recompiled effective July 31, 2001.]

**ANNOTATIONS**

**Compiler's notes.** — *See* 4A-101 and 4A-102 NMRA for domestic relations cover sheets.

The New Mexico Supreme Court entered an order effective November 1, 2000 provisionally approving statewide domestic relations rules and forms. That order

provided that the "statewide rules and forms supersede all local domestic rules and forms". See 1-120 to 1-127 NMRA and 4A-111 to 4A-363 NMRA for the Supreme Court statewide domestic relations rules and forms.

This district court rule, effective July 31, 2001 was originally filed as LR5-504 but was automatically withdrawn in 2000 when the statewide domestic relations rules took effect. The rule has been recompiled to its present rule number.

## LR5-502. Deleted.

### ANNOTATIONS

**Compiler's notes.** — The New Mexico Supreme Court entered an order effective November 1, 2000 provisionally approving statewide domestic relations rules and forms. That order provided that the "statewide rules and forms supersede all local domestic rules and forms". See 1-120 to 1-127 NMRA and 4A-111 to 4A-132 NMRA for the Supreme Court statewide domestic relations rules and forms.

## LR5-503. Deleted.

### ANNOTATIONS

**Compiler's notes.** — The New Mexico Supreme Court entered an order effective November 1, 2000 provisionally approving statewide domestic relations rules and forms. That order provided that the "statewide rules and forms supersede all local domestic rules and forms". See 1-120 to 1-127 NMRA and 4A-111 to 4A-132 NMRA for the Supreme Court statewide domestic relations rules and forms.

## LR5-504. Deleted.

### ANNOTATIONS

**Compiler's notes.** — The New Mexico Supreme Court entered an order effective November 1, 2000 provisionally approving statewide domestic relations rules and forms. That order provided that the "statewide rules and forms supersede all local domestic rules and forms". See 1-120 to 1-127 NMRA and 4A-111 to 4A-132 NMRA for the Supreme Court statewide domestic relations rules and forms.

## LR5-505. Deleted.

### ANNOTATIONS

**Compiler's notes.** — The New Mexico Supreme Court entered an order effective November 1, 2000 provisionally approving statewide domestic relations rules and forms. That order provided that the "statewide rules and forms supersede all local domestic

rules and forms". See 1-120 to 1-127 NMRA and 4A-111 to 4A-132 NMRA for the Supreme Court statewide domestic relations rules and forms.

## LR5-506. Deleted.

### ANNOTATIONS

**Compiler's notes.** — The New Mexico Supreme Court entered an order effective November 1, 2000 provisionally approving statewide domestic relations rules and forms. That order provided that the "statewide rules and forms supersede all local domestic rules and forms". See 1-120 to 1-127 NMRA and 4A-111 to 4A-132 NMRA for the Supreme Court statewide domestic relations rules and forms.

## LR5-507. Deleted.

### ANNOTATIONS

**Compiler's notes.** — The New Mexico Supreme Court entered an order effective November 1, 2000 provisionally approving statewide domestic relations rules and forms. That order provided that the "statewide rules and forms supersede all local domestic rules and forms". See 1-120 to 1-127 NMRA and 4A-111 to 4A-132 NMRA for the Supreme Court statewide domestic relations rules and forms.

## LR5-508. Deleted.

### ANNOTATIONS

**Compiler's notes.** — The New Mexico Supreme Court entered an order effective November 1, 2000 provisionally approving statewide domestic relations rules and forms. That order provided that the "statewide rules and forms supersede all local domestic rules and forms". See 1-120 to 1-127 NMRA and 4A-111 to 4A-132 NMRA for the Supreme Court statewide domestic relations rules and forms.

## LR5-601. Jury fees, filing fees and other fees.

A. No jury deposits, filing fees or other fees collected by the clerk will be refunded.

B. 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.]

### ANNOTATIONS

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

## LR5-602. District court clerk trust account; court registry.

A. 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 pursuant to court order.

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

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

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

## LR5-701. Motions; settings.

At the time of the filing of a motion, movant shall either file a request for hearing (LR5-FORM B) or a notice of hearing (LR5-FORM C) on the motion. If a request for hearing is filed, the movant shall furnish the clerk of the district court with a notice of hearing form reflecting the style, caption and number of the case. The clerk of the district court shall deliver the file and the notice of hearing form to the trial court administrative assistant who 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.

The movant's attorney shall serve notice of hearing on all persons entitled to notice at least five (5) working days before the scheduled hearing.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

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

## LR5-702. Motion for default in multiparty cases.

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

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

**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.

## LR5-703. Motions to vacate and continue trial settings.

All motions to vacate and continue trial settings for civil cases set on the merits shall be filed not less than ten (10) working days prior to trial, state the reason and must be approved by the party litigant as well as the attorney. 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.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

**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.

## LR5-801. Mailing and endorsement of pleadings.

A. **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.

B. **Endorsed copies of pleadings.** Only one (1) copy of each civil pleading will be presented to the clerk for endorsement.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

**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".

## LR5-802. Pleadings; corporations.

A. **Counsel required.** Unless otherwise provided by rule or law, the clerk of the court will not accept the filing of pleadings by corporations unless such organizations are represented by counsel.

B. **Exceptions.** An exception to this rule shall be made when a corporation:

(1) is a party to an appeal from the magistrate court;

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

(3) through an officer, director or general manager answers a writ of garnishment.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

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

## LR5-803. Removal of court files.

Court files shall not be removed from the office of the district court clerk except by court personnel.

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.]

**ANNOTATIONS**

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

## LR5-901. Appearance of counsel.

Whenever counsel undertakes to participate in a civil case, counsel shall file a written entry of appearance in the cause, except that the filing of any signed pleading in the cause will be considered as compliance with this rule.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

**The 1999 amendment,** effective April 1, 1999, substituted "counsel" for "in behalf of a party thereto, whether civil or criminal, he" in the middle of the paragraph.

## LR5-902. Dismissals for lack of prosecution.

A. **Dismissals without prejudice.** All cases, other than domestic relations cases, may be dismissed by the court without prejudice if an examination of the file, case status report or docket sheet reveals that:

(1) the case has been tried and no judgment or order was entered within a reasonable time;

(2) counsel has indicated that the case has been settled or should be dismissed and no order has been entered within a reasonable time;

(3) there remains no justiciable issue for consideration of the court; or

(4) there has been a lack of prosecution for a six (6) month period in a case not subject to a pre-trial scheduling order entered pursuant to Rule 1-016 NMRA.

B. **Notice of dismissal.** The clerk shall mail a copy of the order of dismissal to all counsel.

C. **Reinstatement.**

(1) Cases dismissed without prejudice by the court may be reinstated upon application being made within thirty (30) days after service of the order of dismissal.

(2) In reinstated cases, the court shall enter a pre-trial scheduling order pursuant to Rule 1-016 NMRA.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

**The 1999 amendment,** effective April 1, 1999, renumbered LR5-903 as LR5-902; redesignated the paragraphs; in present Subparagraph A(4), substituted "case" for "cases"; and in present Subparagraph C(2), substituted "Rule 1-016 NMRA" for "NMRA, Rule 1-016".

## LR5-903. Uncontested matters; appearance and waiver.

When an appearance and waiver reflecting the acceptance of service of a copy of the complaint is to be filed in an uncontested matter, such pleading shall be signed and dated at least one (1) day after the filing of the complaint.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

**The 1999 amendment,** effective April 1, 1999, renumbered LR5-904 as LR5-903.

## LR5-1001. Duplicating of tapes.

A. Ten (10) working days notice must be given to the clerk by anyone requesting the duplication of tapes filed in the clerk's office. In the case of an emergency, the ten (10) day requirement shall be waived by court order only.

B. The district attorney's office and the public defender's office must furnish the clerk of the district court with sufficient blank tapes for the duplication of tapes filed in the clerk's office.

C. Only one set of tapes per party will be reproduced without a court order showing good cause. A record will be made of the tapes duplicated and a receipt given by the receiving party.

D. Non-indigent persons must pay four dollars ($4.00) per tape for the reproduction of tapes plus any certification fees.

E. Any subpoena duces tecum used to circumvent the time limits of this rule shall issue only upon order of a district judge for emergency reasons only.

F. This rule does not apply to the reproduction of tapes for the appellate courts or grand jury proceedings.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

**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.

## LR5-1002. Audio recording (tapes) free process; civil cases.

In all civil cases where the court allows free process, the record of the hearing shall be by audio recording (tape).

The clerk shall stamp the file "free process".

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

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

## LR5-1003. Interpreters.

In criminal and children's court cases it shall be the duty of an attorney representing any non-English speaking party or who calls a non-English speaking witness or needs a sign language interpreter to promptly and diligently inquire into and ascertain such matter and when known to counsel to immediately advise the district court clerk's office and the assigned judge before whom the case is pending of such fact and of the need for an interpreter, but in no event not less than five (5) working days prior to the time of hearing or trial before the court so that adequate arrangements can be made for the presence of a qualified interpreter.

[Approved, effective April 1, 1999.]

### ANNOTATIONS

**The 1999 amendment,** effective April 1, 1999, renumbered LR5-1004 as LR5-1003; deleted the first paragraph; substituted "non-English speaking witness or needs a sign language interpreter" for "who does not speak the English language"; and substituted "interpreter, but in no event" for "for a specific language"; and deleted the last paragraph.

## LR5-1004. Interviewing, examining and questioning jurors.

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 upon good cause shown.

[Approved, effective April 1, 1999.]

## LR5-1005. Violation of local rules.

Violations of any of these rules may result in sanctions.

[Approved, effective April 1, 1999.]

## LR5-Form A. Deleted.

### ANNOTATIONS

**Compiler's notes.** — The New Mexico Supreme Court entered an order effective November 1, 2000 provisionally approving statewide domestic relations rules and forms.

That order provided that the "statewide rules and forms supersede all local domestic rules and forms". See 1-120 to 1-127 NMRA and 4A-111 to 4A-132 NMRA for the Supreme Court statewide domestic relations rules and forms.

## LR5-Form B. Request for hearing.

STATE OF NEW MEXICO

COUNTY OF ________________________

IN THE FIFTH JUDICIAL DISTRICT COURT

____________________________,
Plaintiff-Petitioner,
vs. NO:
____________________________,
Defendant-Respondent.

**REQUEST FOR HEARING**

1. Type of case:______________________________ Jury:________ Nonjury:________

2. Assigned Judge:

3. Hearings presently set:

4. Specific matters to be heard:

5. Estimated total time required for this hearing:

6. Request submitted by:

7. Other attorneys and pro se parties of record entitled to notice:

8. ________ I have consulted with opposing counsel and the following dates are available to both of us:

9. ________ I have called / written opposing counsel to inquire as to available dates and have had no response. I am available on the following dates:

FIRM NAME, ADDRESS, TELEPHONE AND FAX NUMBERS
By:

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

**The 1999 amendment,** effective April 1, 1999, rewrote the form.

## LR5-Form C. Notice of hearing.

STATE OF NEW MEXICO

COUNTY OF __________________

IN THE FIFTH JUDICIAL DISTRICT COURT

_____________________________,
Plaintiff-Petitioner,
vs. NO:
_____________________________,
Defendant-Respondent.

**NOTICE OF HEARING**

The above matter will be heard before the Honorable _________________________, at the __________________ county courthouse, at _________, _________.M., on the _________ day of ___________________, ___________ with _____________ allocated for hearing.

Trial court administrative assistant

Notice of hearing mailed to:____________________________
on the _____________ day of _______________, _____________,
by

**PLEASE ACKNOWLEDGE RECEIPT IN WRITING WITHIN THREE (3) DAYS.**
**RECEIPT ACKNOWLEDGED: __________________________________________,**
,
**BY .**

[Approved, effective April 1, 1999.]

## LR5-Form D. Notice of entry of judgment.

STATE OF NEW MEXICO

COUNTY OF ________________________

IN THE FIFTH JUDICIAL DISTRICT COURT

____________________________,
Plaintiff,
vs. NO:
____________________________,
Defendant.

**NOTICE OF ENTRY OF JUDGMENT**

TO: __________________________________________

Judgment was entered and filed in the above cause on the ________ day of ______________, __________.

Clerk of the District Court

By:

Deputy

Mailed on the ____________ day of __________________, ______________, by ______________________________.

[Approved, effective April 1, 1999.]

**ANNOTATIONS**

**The 1999 amendment,** effective April 1, 1999, placed the form that appeared at former rule, LR5-204 as new Form D.