

# **RULES OF THE DISTRICT COURT OF THE THIRTEENTH JUDICIAL DISTRICT**

## **I. AUTHORITY, TITLE AND SCOPE**

### **LR13-101. Authority.**

The following rules are hereby adopted and promulgated by the judges of the Thirteenth Judicial District of the State of New Mexico, comprised of the counties of Valencia, Sandoval and Cibola, pursuant to the authority vested in the court by Rule 1-083 of the Rules of Civil Procedure for the District Courts.

[Adopted, effective January 1, 1998.]

### **ANNOTATIONS**

**Effective dates.** - Pursuant to a court order filed with the Supreme Court on September 10, 1997, these rules are effective on and after January 1, 1998.

### **LR13-102. Title.**

These rules shall be cited as the "Local Rules of the Thirteenth Judicial District Court".

[Adopted, effective January 1, 1998.]

### **LR13-103. Supreme court rules control.**

If any local rule directly conflicts in letter or application with a rule of civil or criminal procedure adopted by the Supreme Court of New Mexico, the latter shall control.

[Adopted, effective January 1, 1998.]

### **LR13-104. Severability.**

If any local rule is invalidated either by court action or otherwise, the remainder of these rules shall continue in force unless otherwise modified or changed by further order of the court.

[Adopted, effective January 1, 1998.]

## **II. GENERAL POWERS AND DUTIES OF THE COURT**

### **LR13-201. Terms of court.**

The following terms of court are established for each calendar year for each county of the Thirteenth Judicial District:

First Term: January 1 through June 30;

Second Term: July 1 through December 31.

[Adopted, effective January 1, 1998.]

### **LR13-202. Conflicts and priorities.**

A. **Priorities.** Unless otherwise ordered by the court, the following priorities shall govern:

- (1) criminal and juvenile matters;
- (2) all matters given preference by statute;
- (3) civil jury trials;
- (4) civil nonjury trials;
- (5) domestic relations matters; and
- (6) all other matters.

B. **Precedence.** The case or matter first set for hearing shall take precedence in each of the above categories.

[Adopted, effective January 1, 1998.]

### **LR13-203. Forum shopping.**

A. **Disclosure.** If a matter or proposition has previously been submitted or assigned to another judge, an attorney shall disclose that fact to the judge to whom it is being submitted.

B. **Sanctions.** A failure to inform the second or subsequent judge of the prior submission or submissions may be deemed contempt of court and punished accordingly.

[Adopted, effective January 1, 1998.]

### **LR13-204. Interpreters.**

A. **Civil cases.**

(1) It is the duty of each party's attorney to promptly and diligently inquire into and ascertain the need for an interpreter and to advise the clerk of the court and assigned judge of the need for an interpreter not less than one (1) week before the hearing.

(2) The party requiring the interpreter shall arrange for the presence of the interpreter at hearing and for payment of the interpreter. Interpreter charges in civil cases may be taxed as costs.

(3) If the failure to comply with this local rule results in the postponement of a hearing, the associated costs may be imposed upon the responsible party or attorney.

#### **B. Criminal cases.**

(1) If an interpreter is needed in a criminal case involving an indigent defendant, defense counsel shall notify the district court clerk and the assigned judge at least one (1) week prior to hearing.

(2) The court, in its discretion, may waive the one-week notice requirement where the facts and circumstances merit waiver.

[Adopted, effective January 1, 1998.]

### **ANNOTATIONS**

**Cross references.** - For interpreters for the deaf, see Chapter 38, Article 9 NMSA 1978.

For court interpreters, see Chapter 38, Article 10 NMSA 1978.

### **LR13-205. Americans with Disabilities Act compliance.**

#### **A. Civil cases.**

(1) It shall be the duty of the attorney to promptly and diligently inquire into and ascertain the need for any assistance or modification of court facilities to serve special needs of parties with disabilities and to advise the clerk of the court and assigned judge of the need for such modifications or assistance not less than one (1) week before the hearing.

(2) If the failure to comply with this local rule results in the postponement of a hearing, the associated costs may be imposed upon the responsible party or attorney.

#### **B. Criminal cases.**

(1) If any modification or assistance is needed in a criminal case involving a defendant, defense counsel shall notify the district court clerk and the assigned judge at least one (1) week prior to hearing.

(2) The court, in its discretion, may waive the one (1) week notice requirement where the facts and circumstances merit waiver.

[Adopted, effective January 1, 1998.]

### **LR13-206. Payment to the clerk of the court.**

A twenty-five dollar (\$25.00) assessment shall be charged to any person submitting a check that is returned by a financial institution.

[Adopted, effective January 1, 1998.]

### **LR13-207. Control of court files.**

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

B. Court files are not to be removed from the courthouse except with written approval of a judge.

[Adopted, effective January 1, 1998.]

### **LR13-208. Copying court file contents.**

If copies of court file contents are needed, a clerk shall make copies and charge at the rate of thirty-five cents (\$0.35) per page. Title companies shall be billed for copies on a monthly basis. The clerk making copies should make a notation of the number of copies made on the tablet provided for such purpose. A separate sheet shall be used for each title company.

[Adopted, effective January 1, 1998.]

## **ANNOTATIONS**

**Cross references.** - For fees relating to district court services, see 34-6-43 NMSA 1978.

### **LR13-209. Change of venue.**

When a change of venue has been granted, the district court shall forward the court file in that case to the district court clerk of the county to which venue has been changed.

Any additional pleadings or other matters shall be filed with the district court clerk of the county to which venue has been changed.

[Adopted, effective January 1, 1998.]

### **LR13-210. Courthouse security.**

A. **Deadly weapons prohibited.** All deadly weapons, such as guns or knives, are prohibited in any courthouse or judicial complex in the Thirteenth Judicial District. No law enforcement officer shall be allowed to carry firearms into any courthouse or judicial complex in the district, unless authorized to do so by a district judge.

B. **Search.** All persons entering any courthouse in the district shall be subject to search of their person and search of any items brought into a courthouse, to ensure that no deadly weapons are carried into a courthouse or judicial complex.

C. **Contempt of court.** All violators of this local rule are subject to punishment by contempt of court.

[Adopted, effective January 1, 1998.]

### **LR13-211. Disciplinary action.**

Any infraction of these rules shall, in addition to other appropriate remedies, subject the attorney or non-complying party to such disciplinary action as the judges of the district deem appropriate.

[Adopted, effective January 1, 1998.]

### **LR13-212. Library.**

Books may be removed from the library in accordance with the local rules of the particular county. Local rules governing library use shall conform with Rule 23-108 NMRA.

[Adopted, effective January 1, 1998.]

### **LR13-213. Courthouse closures; inclement weather.**

Court closures due to inclement weather conditions shall be tied to the closure of the local school district in which the court is located or judicial business is held. If the schools have determined a delay in opening or full closure is necessary, the local court may also have the same delay or closure. If severe weather conditions develop during the course of a day, early closure shall be at the discretion of the chief judge of the court or by a person designated by the chief judge.

It is understood that the local school district where the court or agency is located shall be the controlling factor in determining delay or closure. For example, the Sandoval County Judicial Complex shall follow the policy of the Bernalillo school district and the Valencia courts shall follow the policy of the Los Lunas school district.

[Adopted, effective January 1, 1998.]

### **III. ATTORNEYS**

#### **LR13-301. Arrival prior to time of hearing.**

Attorneys shall be at their counsel tables at least five (5) minutes before the time set for the commencement of any trial or hearing.

[Adopted, effective January 1, 1998.]

#### **LR13-302. Mode of attire.**

All attorneys, their employees, probation officers, law clerks, law students and officers of the court shall be dressed in a dignified manner at all times in court. No attire or dress so flamboyant, disheveled or revealing as to create a distraction to the orderly conduct of court proceedings shall be permitted.

[Adopted, effective January 1, 1998.]

#### **LR13-303. Courtroom comportment.**

Attorneys shall stand when examining witnesses or when addressing the court, unless otherwise permitted by the court.

[Adopted, effective January 1, 1998.]

#### **LR13-304. Attorneys as witnesses.**

Attorneys shall not be witnesses in behalf of their own clients, or otherwise, in cases in which they appear, except in those instances permitted by Rule 16-307 of the Rules of Professional Conduct.

[Adopted, effective January 1, 1998.]

### **IV. PLEADING AND PRACTICE**

#### **LR13-401. Interrogatories, requests for production and requests for admissions.**

A. **Interrogatories.** Parties propounding interrogatories shall serve an original upon each party who is required to answer them, and one (1) copy upon all other parties. Interrogatories shall be numbered consecutively. Adequate spacing shall be left under each interrogatory for the answer. The party answering the interrogatory shall serve the original upon the party propounding the interrogatories and one (1) copy upon all other parties.

B. **Twenty-six (26) interrogatories.** No party shall serve more than twenty-six (26) interrogatories in the aggregate, including subparts, without leave of court. Subparts of an interrogatory shall relate directly to the subject matter of the interrogatory.

[Adopted, effective January 1, 1998.]

### **LR13-402. Submission of orders, decrees and judgments.**

A. Unless otherwise ordered by the court all orders, judgments and decrees shall be submitted to the judge by the prevailing party not later than ten (10) days following the date of announcement by the judge of the decision, whether in open court or by dated letter announcing the decision.

B. Orders, judgments and decrees shall not be signed by the judge unless:

(1) the order, judgment or decree bears the signatures or initials of the attorneys for all parties or parties *pro se* to the cause or telephonic approval of the same is indicated on the order and the order is accompanied by stamped, self-addressed envelopes, sufficient in size and number, for the purposes of returning court orders to all parties. Orders shall not be held for future pick-up by attorneys or their staff; or

(2) written notice is provided to all parties or their counsel that the proposed order, judgment or decree will be presented to the court not less than five (5) days before the date set for presentment.

C. Where there is 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.

[Adopted, effective January 1, 1998.]

### **LR13-403. Filing orders and other instruments.**

Every order, judgment or other instrument which has been signed by the judge shall be delivered immediately to the clerk of the court for filing. No signed order, judgment or other instrument shall be taken from the building until after it has been docketed, filed and recorded.

[Adopted, effective January 1, 1998.]

## **LR13-404. Motion practice.**

A. **Concurrence sought.** Except for those motions that by their very nature can be deemed opposed pursuant to Paragraph C of Rule 1-007.1 of the Rules of Civil Procedure for the District Courts, no motion shall be filed unless moving counsel filing the motion has conferred in good faith with opposing counsel with respect to the relief sought in the motion and has attempted to resolve any differences or secure opposing counsel's concurrence in the motion. Every motion shall state with particularity the efforts made to comply with this rule.

B. **Briefs.** A party may file with any opposed motion, a brief of supporting points with citations or authorities. Unless the motion contains citation to authority in support of the position, a party shall submit any brief contemporaneous with service of the motion. The brief may not be filed without the approval of the court. A courtesy copy shall be provided to the court.

C. **Responses and replies to motions.** Responses to motions may be filed within fifteen (15) days from the date the motion is served. Replies to responses may be filed within fifteen (15) days from the date a response is served. Failure to respond timely may be deemed as consent to the motion.

D. **Service of motion and number of copies.** Every motion shall contain the name and address upon whom service was made as well as the manner and date of service. A party filing a response shall serve two (2) copies upon the movant. At the close of the responsive times, the movant shall submit to the court copies of the motion, any response and any reply with a request for oral argument.

E. **Oral argument.** The moving party shall request a hearing on the motion. The court has the discretion to grant or deny a request for hearing. The moving party shall:

(1) file a request for setting and notice of hearing form (LR13-Form A) with the clerk of the court;

(2) submit an endorsed copy to the judge along with a notice of hearing (included in LR13-Form A);

(3) send an endorsed copy of the request for hearing to all opposing counsel or parties appearing of record within five (5) days of filing;

(4) file a certificate of service showing compliance with this provision of the local rules; and

(5) provide the court with stamped, self-addressed envelopes, sufficient in size and number for the purpose of returning court settings to all parties entitled to notice, at the same time the request for setting form is submitted. Only one request will be filed,



unless more than six (6) months has elapsed without ruling upon the motion; then the party may file a second request.

**F. Page limitation.** A motion, response or brief shall not exceed ten (10) typewritten pages, exclusive of exhibits. A reply shall not exceed five (5) pages, exclusive of exhibits. A party seeking to file a motion in excess of the page limitation must obtain leave of court.

**G. Motion for leave.** Motions requesting leave to file another motion after the close of motion practice shall have a copy of the proposed motion attached.

[Adopted, effective January 1, 1998.]

### **ANNOTATIONS**

**Cross references.** - For form of motions and how presented, see Rules 1-007 and 1-007.1 NMRA.

#### **LR13-405. Consolidated cases.**

Motions to consolidate and the cases consolidated for trial shall be heard by the judge assigned to the case bearing the lowest case number. Pleadings filed after consolidation shall contain in the caption the case numbers of each case consolidated.

[Adopted, effective January 1, 1998.]

#### **LR13-406. Costs bill.**

Within twenty (20) days after filing of final judgment, the party recovering costs shall file with the clerk of the court an itemized and verified costs bill, with proof of service of a copy on opposing counsel. Any party failing to file a costs bill within twenty (20) days shall be deemed to have waived costs. On one (1) days notice, costs may be taxed by the clerk. On motion served within five (5) days after service of the costs bill, the court may review the action of the clerk.

[Adopted, effective January 1, 1998.]

### **ANNOTATIONS**

**Cross references.** - For costs allowed the prevailing party, see Rule 1-054E NMRA.

#### **LR13-407. Findings and conclusions.**

Any requested findings of fact and conclusions of law shall be submitted within ten (10) days after such submission is ordered by the court, unless a different time is ordered.

The original of all 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.

[Adopted, effective January 1, 1998.]

#### **ANNOTATIONS**

**Cross references.** - For findings and conclusions, see Rule 1-052 NMRA.

#### **LR13-408. Judgments based on written instruments.**

A final judgment, based upon a written instrument, shall be accompanied by said instrument, which shall be filed as an exhibit in the case at the time the judgment is entered and shall be appropriately marked as having been merged into the judgment and returned to the party filing the same as in the case of other exhibits.

[Adopted, effective January 1, 1998.]

#### **ANNOTATIONS**

**Cross references.** - For judgments against the state, see Rule 1-055E NMRA.

For similar rules in other judicial districts, see LR1-309, LR3-212G and LR5-203 NMRA.

#### **LR13-409. Telephone conferences and hearings.**

A. **Telephone appearances permitted.** 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. **Responsibility and cost.** When a telephone conference is conducted at the request of a party, it shall be set up by either the movant or the attorney seeking a telephone conference, at their expense, and not at the expense of the court. The costs of such telephone conferences may be taxed in accordance with the law.

C. **Record.** The record, if any, on any telephone conference will be by electronic recording device or such other method approved by the court.

[Adopted, effective January 1, 1998.]

#### **LR13-410.**

A. **Entry of appearance by parties *pro se*.** 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, telephone number and any fax number.

Parties *pro se* shall promptly file notice of any change of address or telephone number and serve such on all parties.

**B. Corporations as parties.** Except as otherwise provided by rule, corporations must be represented by counsel. The court may strike, by court order on its own motion, any papers filed in violation of this paragraph.

[Adopted, effective January 1, 1998.]

## ANNOTATIONS

**Cross references.** - See for appearance of a corporation as a garnishee, see Rule 1-065.2E NMRA.

## V. CASE CONTROL

### LR13-501. Settings.

The judge of each division shall determine the judge's general itinerary and schedule and shall inform the clerk of the court of the county affected thereby.

A. The judge of each division shall make trial and other settings for the division and furnish counsel and the clerk of the court with a calendar of settings as far in advance as possible. As a general rule, notice of settings shall be given to counsel at least four (4) weeks prior to the trial or hearing date but shorter notice may be given upon the consent and agreement of counsel or where, in the discretion of the judge, less notice is required.

B. If a hearing is scheduled as a "back-up" to another matter, or on a trailing docket, the court shall so advise counsel. Counsel shall be responsible for advising the court of any scheduling difficulties, such as arrangements with witnesses, which may make the matter difficult or inappropriate for hearing on a "back-up" or trailing docket basis.

C. All settings made by or with the approval of the court shall be binding upon all parties and attorneys properly notified. No setting shall be vacated except upon written motion and upon the signature of the party approving the continuance, unless this requirement is waived by the court.

D. Failure to give timely notice to the court of an inability to meet a trial setting, where such failure is willful or the result of negligence, may subject the offending party or attorney to appropriate sanctions, including, but not limited to:

(1) dismissal of the case;

(2) payment of jury and other costs;

(3) payment of attorneys fees; or

(4) sanctions as available under the inherent powers of the court.

E. Request for Settings. All requests for setting shall be in the approved form and completed except for the date and time for the setting. (LR13-Form A). Counsel requesting a setting shall provide pre-addressed, stamped envelopes for any counsel or party entitled to notice who does not have a box at the courthouse. The assigned judge's secretary will file the original of the request for setting form.

[Adopted, effective January 1, 1998.]

### **LR13-502. Vacating trials or settings.**

A. No setting involving a hearing on the merits will be vacated without prior approval of the judge assigned to the case.

B. Before counsel contacts the assigned judge to vacate a setting, counsel shall contact all parties or attorneys entitled to notice in order to inform the court of each party's position as regards the vacation. The court shall either vacate the case, refuse to vacate or schedule a hearing on the request. Request to vacate settings of hearings on the merits shall be by motion or stipulated order.

C. An order entered pursuant to this rule shall contain the reason for the vacation.

[Adopted, effective January 1, 1998.]

### **LR13-503. Pretrial conferences.**

Pretrial conferences will be held upon request of counsel or in cases in which it appears to the court that such conferences would be desirable.

[Adopted, effective January 1, 1998.]

## **ANNOTATIONS**

**Cross references.** - For pretrial conferences, see Rule 1-016 NMRA.

### **LR13-504. No change in matters filed.**

No alterations, deletions, additions or corrections will be made to any document filed unless by approval of the court.

[Adopted, effective January 1, 1998.]

## **LR13-505. Settlement conference.**

A. **Purpose.** The purpose of this district's settlement facilitation program is the early, fair, efficient, cost-effective and informal resolution of disputes. Nothing in the rules governing this program shall be construed to discourage or prohibit parties from stipulating to private alternative dispute resolution.

B. **Scope.** The court may, pursuant to Rule 1-016 NMRA, refer cases to settlement conferences conducted by court-appointed settlement facilitators on an *ad hoc* basis throughout the year and during periodic "settlement weeks" scheduled by the court.

C. **Application.** This rule applies to civil cases, whether jury or non-jury, except for cases within the following categories:

appeals;

extraordinary writs;

court-annexed arbitration program, pending cases;

adoption;

commitment;

conservatorship;

guardianship;

student loan;

election;

tax.

This rule does not apply to disputes where a law suit has not yet been filed.

D. **Referral upon request.** Any party at any time may request referral to a settlement conference by motion or letter directed to the assigned judge. The letter may be *ex parte*. The letter should include the following:

(1) case number and caption;

(2) estimated time required for conference;

(3) whether other parties know a request is being made;

(4) whether other parties agree a conference is appropriate;

(5) brief list of pending issues;

(6) type of facilitator or facilitator team preferred, e.g., judge, attorney, psychologist or other professional, judge and attorney, judge and psychologist, attorney and psychologist, attorney and attorney; and

(7) names of all parties entitled to notice and any other persons who should be present at the conference, along with law firm, address, telephone number and capacity, e.g., attorney for petitioner, witness for respondent.

The assigned judge will determine whether to grant the request for referral. The assigned judge may refuse to grant a request even if all parties agree to a settlement conference.

**E. Referral upon judge's own motion.** The assigned judge at any time and without agreement of the parties may refer a case to a settlement conference.

**F. Referral order.** In all cases to be referred, whether upon party's request or judge's motion, the court will complete and file an order requiring a settlement conference, appointing a settlement facilitator or facilitators, and setting a deadline for the conference, and will mail or deliver endorsed copies to the facilitator(s) and all parties entitled to notice. The order shall not indicate whether the referral was made upon a party's request or the judge's motion. The order may be modified only by subsequent written court order.

**G. Time, place and deadline for settlement conference.** Unless set by the referral order, the time and place of the settlement conference shall be set by the settlement facilitator within a deadline set by the court. Any party or facilitator may request an extension of the deadline by motion directed to the assigned judge.

**H. Attendance.** The following shall attend and be present in person during the entire conference: each party of record including parties represented by counsel; each counsel of record who will be trying the case; and, for each party, the person or persons with complete authority to settle the case including but not limited to insurance company representatives and guardians *ad litem*. This provision may be waived only by written order of the assigned judge. The court may refuse to grant a motion to waive attendance even if all parties agree to the motion. Upon motion of any party or its own motion, the court shall impose sanctions for failure to attend the settlement conference or have present all necessary parties or their representatives with settlement authority, except upon a showing of good cause.

**I. Settlement conference information.** At least five (5) days prior to the conference, all parties shall provide the facilitator with the information listed below. This information shall not be filed with the court nor in any way be made part of the court record, and at

the providing party's discretion, need not be produced to other parties. Upon motion of any party or its own motion, the court may impose sanctions for failure to provide the information to the facilitator:

- (1) case number and caption;
- (2) brief description of the case; in domestic relations cases include date of marriage, separation and divorce, names, ages, occupations and current annual incomes of parties, and names and ages of children;
- (3) description of the relief sought;
- (4) list of pending factual issues;
- (5) list of pending legal issues;
- (6) list of all remaining discovery;
- (7) list of any pending dispositive motions;
- (8) estimate of costs and attorney fees through trial;
- (9) the last offer made to other parties; and
- (10) copies of case law, statutes, pleadings, exhibits, orders and any other information which would be helpful to the facilitator.

**J. Good faith participation.** Parties shall participate in good faith in settlement conferences. Good faith participation includes but is not limited to sufficiently preparing for the conference and engaging in meaningful negotiations during the conference. Upon motion of any party or its own motion, the court may award attorney fees and costs for failure to participate in good faith.

**K. Cancelling conferences.** Settlement conferences may be cancelled only by written court order. By motion, any party may request that a settlement conference be cancelled. By letter to the assigned judge, the facilitator may request that a conference be cancelled.

**L. Choice of settlement facilitator.** The court will choose the settlement facilitator from a list of facilitators maintained by the court. The court will consider any recommendations made by the parties. The parties may present to the assigned judge a stipulated order appointing any licensed attorney or other qualified person as facilitator. Judges shall not act as facilitators in their own cases.

**M. Replacement of settlement facilitator.** By letter to the assigned judge with a copy to all parties and facilitators, any party or facilitator may request that the facilitator be

replaced. The party or the facilitator requesting replacement need not provide an explanation. Upon approval of the assigned judge, the facilitator will be replaced; the court will choose the replacement facilitator from the court's list and will complete and file an amended referral order and mail or deliver endorsed copies to all parties entitled to notice; or, the parties may present to the assigned judge a stipulated order appointing any licensed attorney or other qualified person.

**N. Compensation to settlement facilitator.** Compensation shall not be required for any settlement facilitator for a settlement conference conducted as part of a settlement week. The court may order the parties to pay reasonable compensation to the facilitator for a settlement conference not conducted as part of a settlement week. Judges shall not receive compensation for serving as settlement facilitators.

**O. Forms.** When available, applicable court forms shall be used.

[Adopted, effective January 1, 1998.]

### **LR13-506. Party's failure to appear.**

If a moving party does not appear on the date set for hearing, the motion shall be denied. If a plaintiff does not appear on the date set for trial, the cause shall be dismissed. If a defendant does not appear on the date set for trial, a default judgment shall be entered against such defendant.

[Adopted, effective January 1, 1998.]

### **LR13-507. Dismissals for lack of prosecution.**

**A. Dismissal 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) lack of prosecution for a six (6) month period in cases not subject to a pretrial scheduling order entered pursuant to Rule 1-016 NMRA.

**B. Notice.** 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 pretrial scheduling order pursuant to Rule 1-016 NMRA.

[Adopted, effective January 1, 1998.]

## **VI. TRIALS**

### **LR13-601. Jury fees.**

Jury and filing fees will not be refunded.

[Adopted, effective January 1, 1998.]

### **LR13-602. Jury instructions.**

**A. Stipulated jury instructions.** Prior to commencement of the trial, plaintiff's and defendant's attorneys or any unrepresented parties shall confer between or among themselves and agree upon those jury instructions that are necessary and common to both plaintiff's and defendant's case. Instructions necessary and common to both plaintiff's and defendant's case shall be prepared by plaintiff's counsel and approved by defendant's counsel. Such stipulated instructions shall be submitted to the court at least one (1) week prior to the commencement of the trial.

**B. Contested jury instructions.** All other instructions to which the parties are unable to agree shall be submitted to the court for its consideration. Each party shall submit its contested jury instructions separately at least one (1) week prior to commencement of the case.

**C. Rule 1-051 Compliance.** All jury instructions submitted to the court, whether stipulated or contested, shall conform with the requirements of Paragraph G of Rule 1-051 of the Rules of Civil Procedure for the District Courts. In addition:

(1) all such jury instructions shall contain the following language at the top center of the page: "INSTRUCTION NO. \_\_\_\_\_." Attorneys shall write the number of the requested instruction in pencil on the lower right hand corner of the original page. The original shall not be bound together;

(2) attorneys shall prepare sufficient copies of their requested instructions for opposing counsel and the court to be furnished with one (1) copy of each;

(3) a cover sheet preceding the requested instructions shall contain the style of the case and the label of "Plaintiff's or Defendant's Requested Instructions No. \_\_\_\_\_ through \_\_\_\_\_", and a praecipe (LR13-Form D). An original shall be filed and copies are to be provided to each party and to the court;

(4) each instruction shall bear the heading "(Party's) Request Instruction No. \_\_\_\_\_", and counsel will insert consecutive numbers;

(5) at the bottom of each instruction, counsel shall list the UJI number or other citations supporting the instruction as a correct statement of the applicable law and the following:

Given \_\_\_\_\_  
Denied \_\_\_\_\_  
Modified \_\_\_\_\_  
Withdrawn \_\_\_\_\_

(6) for each instruction submitted the party shall provide the court with a clean copy that bears the text of the instruction and the heading "Instruction No. \_\_\_\_\_", with no numbers inserted. This set is given to the court and is not filed.

**D. Settling instructions.** In settling instructions, the court's action shall be noted on the praecipe and on the filed copy of each instruction.

[Adopted, effective January 1, 1998.]

## VII. DOMESTIC RELATIONS

### LR13-701. Temporary domestic orders.

**A. Automatically filed when divorce proceedings commence.** Coincident with the filing of a petition for dissolution of marriage or proceedings under Section 40-4-3 NMSA 1978, relating to the disposition of children, division of property or alimony, the clerk shall, at the time the summons is issued, provide a temporary domestic order and temporary domestic order affidavit.

## **B. Exceptions.**

(1) Temporary domestic orders are not issued if the case is a paternity, child non-support or Revised Uniform Reciprocal Enforcement Act case or if the case begins as a domestic violence case. If the issue is amended from domestic violence to domestic relations, the clerk shall issue a temporary domestic order at the time the summons is issued.

(2) A signed stipulated waiver of the temporary domestic order may be submitted at the time the petition is filed. If petition is accompanied by a summons and the parties have a stipulation waiving the temporary domestic order, no temporary domestic order will issue.

(3) If a party fails to have summons issued and subsequently obtains a court order, a temporary domestic order shall be issued and a notation shall be made on the court order.

(4) If a party amends the petition and issues a summons on the amended petition, a temporary domestic order shall be issued unless the party can prove that the initial temporary domestic order was served.

**C. Forms.** The clerk of the court shall distribute unsigned temporary domestic orders and temporary domestic order affidavits for the sole purpose of providing one (1) blank copy of each to a party. It is the attorney's responsibility to make any additional copies for the attorney's file.

(1) Forms provided by court clerk. Unless approved by the court, attorneys and parties are not allowed to use their own temporary domestic orders as the contents of the order cannot be modified or supplemented. Unless otherwise approved by the court, forms LR13-Form F1, LR13-Form F2 and LR13-Form G shall be used.

(2) Modification of temporary domestic order. The party must apply to the court, by motion and notice to the opposing party, for any change in the basic temporary domestic order. The standard temporary domestic order shall be issued at the time the petition is filed and summons is issued and any supplemental information or modifications shall be decided at a later date.

**D. Income and expense affidavit.** The parties shall complete an income and expense affidavit.

(1) **Filing.** The affidavits are not to be filed with the court; however, verification of service of the income and expense affidavit may be filed in the form of a certificate and affidavit of service. Income and expense affidavits shall not be accepted for filing unless ordered by the court.

(2) **Failure to comply.** Certificates as to the state of the record shall not be issued if a party fails or refuses to complete the affidavit. An attorney may direct either party to apply to the court, by motion and notice, for the relief requested.

E. **Strict enforcement.** The issuance of a temporary domestic order shall be strictly enforced as of the effective date of these rules.

F. **Filing.** At the time the petition is submitted for filing, the clerk shall be provided one (1) copy of the temporary domestic order affidavit and two (2) temporary domestic orders: one (1) signed by the judge assigned to the case and one (1) which is endorsed and returned for service on the respondent. The original temporary domestic order shall be filed with the clerk of the court. The clerk of the court shall endorse the copy of the temporary domestic order with the judge's name stamp and file stamp. This copy shall be given to the attorney.

[Adopted, effective January 1, 1998.]

## **ANNOTATIONS**

**Cross references.** - For dismissal for lack of prosecution, see Rule 1-041 NMRA.

### **LR13-702. Domestic relations mediation and advisory consultation.**

#### **A. Filing fees.**

(1) A thirty dollar (\$30.00) surcharge will be collected for all new and reopened domestic relations cases.

(2) Parties who proceed to mediation will pay an initial sum of one hundred dollars (\$100.00) to the clerk of the court. Mediation shall not commence until one hundred dollars (\$100.00) is paid in full. The domestic relations mediation fund may pay up to four hundred eighty dollars (\$480.00) for each mediated case. The total sum of four hundred eighty dollars (\$480.00) pays for eight (8) hours of mediation at sixty dollars (\$60.00) per hour. If the parties need or desire additional mediation, they may petition the court for payment or make their own arrangements with the mediator.

(3) Parties who proceed to advisory consultation shall pay an additional sum of one hundred dollars (\$100.00) to the clerk of the court. Advisory consultation shall not commence until the one hundred dollars (\$100.00) is paid in full. The domestic relations advisory consultation fund may pay up to four hundred eighty dollars (\$480.00) for each case. The total sum of four hundred eighty dollars (\$480.00) pays for eight (8) hours of consultation at sixty dollars (\$60.00) per hour. If the parties need or desire additional consultation, they may petition the court for payment or make their own arrangements with the evaluator.

#### **B. Mediation results.**

(1) Upon partially successful or successful mediation, the mediator shall prepare a parenting plan in the mediation agreement and provide copies to the parties and their attorneys.

(2) In all cases of mediation, the mediator shall file a final mediation report with the court in the parties' cause of action within ten (10) days after the mediation is completed. The final report shall state whether any agreement was reached and, if so, what issues have been mediated and what issues remain unresolved, and suggestions of the mediator for resolution. Copies of the report shall be sent to the parties and their attorneys. The court may appoint an attorney or mental health professional to review the file and interview the parties and thereafter to provide an advisory consultation to the court.

(3) The court reserves the right to select and appoint sufficient qualified mediators. A list of court approved mediators who are willing to mediate at the rate of sixty dollars (\$60.00) per hour shall be available from the clerk of the court.

(4) Mediators who have performed mediation for parties in actions filed within the district shall not be subject to subpoena regarding statements made by the parties during mediation.

(5) An advisory consultation shall result in written recommendations to the parties. The written recommendations shall be forwarded to the judge.

### **C. Procedure.**

(1) Any case involving child custody is subject to the mediation rule by stipulation or by court order, in the discretion of the court. The party requesting mediation shall submit a motion and order to the court for its consideration.

(2) Whether upon stipulation or court ruling, the parties must file an order stating they are going to mediate.

(3) Mediators and evaluators shall charge at the rate of sixty dollars (\$60.00) per hour.

(4) The parties must pay one hundred dollars (\$100.00) directly to the clerk of the court. Mediation shall not commence until the one hundred dollars (\$100.00) is received by the clerk of the court. Any unused balance shall be refunded directly to the parties.

(5) The domestic relations mediation fund may pay up to four hundred eighty dollars (\$480.00) for eight (8) hours of mediation, and eight (8) hours of evaluation for advisory consultation purposes. If the parties desire additional mediation or evaluation they may petition the district court for payment or make their own arrangements with the mediator or evaluator.

(6) The mediator shall submit the final report.

(7) After mediation is complete, either party can request a hearing on unresolved issues.

**D. Payment of mediators.** No bills for domestic mediation shall be processed by the court without the following documentation attached to the bill:

(1) a copy of receipt showing the parties' initial payment of one hundred dollars (\$100.00) made to the clerk of the court;

(2) a copy of the order for mediation;

(3) a copy of an order stating mediation has been completed; and

(4) an itemized billing statement of the charges submitted for payment.

[Adopted, effective January 1, 1998.]

### **LR13-703. Dismissal for lack of prosecution.**

Any domestic relations proceeding pending in the district may be dismissed without prejudice if, for a period of over six (6) months, no action has been taken by any of the parties to the suit to bring such proceeding to its final determination.

[Adopted, effective January 1, 1998.]

## **ANNOTATIONS**

**Cross references.** - For dismissal for lack of prosecution, see Rule 1-041 NMRA.

### **LR13-704. Statement of financial condition for trial.**

Unless otherwise ordered by the court upon stipulation of the parties or for good cause shown, in every domestic relations case to be tried on the merits that involves property, debt, child support, alimony, costs, attorney fees, or any other financial consideration, each party shall serve a verified statement of financial condition on all other parties and file a certificate of service thereof. The statement shall be in the form available from the domestic relations clerk. Unless the parties stipulate otherwise, the statement shall be served no later than five (5) days before the trial on the merits. A copy of the statement shall be delivered to the assigned judge at least one (1) day before trial. The statement shall not be filed with the clerk.

[Adopted, effective January 1, 1998.]

### **LR13-705. Interim allocation of income and expenses.**

**A. Order required.** Upon motion or stipulation of the parties, the court may enter an interim order allocating income and expenses in any case for dissolution of marriage or for relief pursuant to Section 40-4-3 NMSA 1978. The order shall be in the form set forth in LR13-Form I. An interim monthly income and expenses statement in the form set forth in LR13-Form J shall be completed in accordance with the instructions set forth in LR13-Form K.

**B. Standards for allocation.** During the pendency of the case, community income and expenses shall generally be equally divided between the parties. Separate income and expenses also shall be divided equally unless the community did not routinely use separate income or pay separate expenses.

**C. Modification.** Any party may file a motion to modify or supplement the interim order allocating income and expenses. The order shall continue in effect while such motion is pending.

[Adopted, effective January 1, 1998.]

## **LR13-Form A. Request for hearing.**

THIRTEENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

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

\_\_\_\_\_  
Plaintiff,

v.

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

\_\_\_\_\_  
Defendant.

### REQUEST FOR HEARING

1. Jury: \_\_\_\_\_ Non-Jury: \_\_\_\_\_

2. Judge to whom assigned: \_\_\_\_\_

\_\_\_\_\_  
3. Disqualified judges: \_\_\_\_\_

\_\_\_\_\_  
4. Specific matter(s) to be heard: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
5. Estimated time for hearing all parties and witnesses: \_\_\_\_\_

---

6. Date pretrial order was filed or date of pre-trial conference: \_\_\_\_\_

7. There (are) (are not) any hearings currently set; and if so, when: \_\_\_\_\_

8. Counsel for (plaintiff) (defendant) is unavailable on the following dates: \_\_\_\_\_

---

9. Names, addresses and telephone numbers of all counsel or parties *pro se*, entitled to notice (*attach sheet*).

Submitted by: \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone number

NOTICE OF HEARING

The above matters will be heard before Judge \_\_\_\_\_ at the \_\_\_\_\_ at \_\_\_\_\_ (a.m.) (p.m.), on \_\_\_\_\_, with \_\_\_\_\_ allocated for hearing.

\_\_\_\_\_  
Judge or designee  
Notice mailed \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_

[Adopted, effective January 1, 1998.]

**LR13-Form B. [Reserved.]**

**LR13-Form C. [Reserved.]**

**LR13-Form D. Praecipe.**

THIRTEENTH JUDICIAL DISTRICT COURT



STATE OF NEW MEXICO

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

No.

\_\_\_\_\_  
Plaintiff,  
v.

No.

\_\_\_\_\_  
Defendant.

PRAECIPE

Comes now, \_\_\_\_\_, by and through the attorney of record, \_\_\_\_\_ and hereby submits the following instructions in the above-referenced matter.

No.	U.J.I. No.	Title	Given	Refused	Modified
Withdrawn					
---	---	-----	-----	-----	-----
-----					
1.	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____
5.	_____	_____	_____	_____	_____
_____					

Submitted by:

\_\_\_\_\_

[Adopted, effective January 1, 1998.]

**LR13-Form E-1. Petition for order prohibiting domestic violence.**

THIRTEENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

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

\_\_\_\_\_  
Petitioner,  
v.

No.

\_\_\_\_\_  
-DR

\_\_\_\_\_  
Respondent.

PETITION FOR ORDER PROHIBITING DOMESTIC VIOLENCE

1. The respondent, \_\_\_\_\_, is ( ) a member ( ) a former member of my household.

Respondent is ( ) my former spouse ( ) a family member ( ) the other parent of my child(ren).

2. The respondent and I ( ) have ( ) have not been involved in other court cases. (Example: divorce, custody, child support, domestic violence)

County of \_\_\_\_\_ Case No. \_\_\_\_\_

3. The respondent and I are the parents of these children (list birth dates) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I am the parent of these children, who are not respondent's (list birth dates) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\* LEAVE THIS QUESTION BLANK IF YOU DO NOT WANT RESPONDENT TO KNOW YOUR ADDRESS:

4. I am living at \_\_\_\_\_.

\_\_\_\_\_  
The head of the household is \_\_\_\_\_.

Other persons living in this household are

---

---

---

---

---

---

---

---

5. The respondent has committed an act of domestic abuse against me or a member of my household as described below:

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Location: \_\_\_\_\_

A. Describe physical abuse (actual harm or injuries)

---

---

---

---

---

---

---

---

B. Describe any threats that caused you to fear that you were going to be injured

---

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---

---

---

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---

---

I REQUEST THE COURT TO MAKE THE FOLLOWING ORDERS (*check blanks*)

\_\_\_\_\_ 1. The respondent shall not contact me, abuse me and that respondent be ordered to stay at least 100 yards away from my residence and place of employment.

\_\_\_\_\_ 2. The respondent shall immediately leave my residence which I have a right to live in because I ( ) own it ( ) rent it either myself or jointly with the respondent because if the respondent is not evicted I may suffer great injury.

\_\_\_\_\_ 3. I be given temporary custody of our children and that the respondent have no contact with them until a court hearing.

\_\_\_\_\_ 4. The respondent shall pay  
( ) support for me ( ) support for our children  
( ) actual damages.

\_\_\_\_\_ 5. A \_\_\_\_\_ interpreter for all hearings regarding this matter for ( ) petitioner ( ) respondent.

\_\_\_\_\_  
Petitioner

*LEAVE THE FOLLOWING BLANK IF YOU DO NOT WANT RESPONDENT TO KNOW YOUR ADDRESS*

\_\_\_\_\_  
Street

\_\_\_\_\_  
City State  
Zip

\_\_\_\_\_  
Home telephone

\_\_\_\_\_  
Work telephone  
STATE OF NEW MEXICO )  
) ss.  
COUNTY OF \_\_\_\_\_ )

#### VERIFICATION

The petitioner was sworn and states: I have read this domestic violence petition and it is true to the best of my knowledge and belief. I also understand that I can be prosecuted for a fourth degree felony if this petition is false.

\_\_\_\_\_  
Date Signature of petitioner

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

[Adopted, effective January 1, 1998.]

#### ANNOTATIONS

**Cross references.** - For the Family Violence Protection Act, see 40-13-1 NMSA 1978.

**LR13-Form E-2. Application for free process.**

THIRTEENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

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

\_\_\_\_\_  
Petitioner,

v.

No.

\_\_\_\_\_  
-DR

\_\_\_\_\_  
Respondent.

APPLICATION FOR FREE PROCESS

STATE OF NEW MEXICO )

) ss.

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

I, \_\_\_\_\_, being first duly sworn, make the following statements in support of my application for free process in this case. Section 34-6-27B NMSA 1978.

1. My address is:

\_\_\_\_\_  
\_\_\_\_\_

2. My age is:

\_\_\_\_\_  
3. My marital status is:

4. Number of dependents:

Self: \_\_\_\_\_

Children: \_\_\_\_\_

Other: \_\_\_\_\_

Dependents names: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

5. My Income: \$ \_\_\_\_\_  
[ ] per week [ ] 2 weeks [ ] month [ ] year

6. Source of Income:

\_\_\_\_\_  
Employer: \_\_\_\_\_  
Food stamps \$ \_\_\_\_\_ per month  
General assistance \$ \_\_\_\_\_ per  
month  
SSI \$ \_\_\_\_\_ per month

Unemployment comp. \$ \_\_\_\_\_ per month

Veterans benefits \$ \_\_\_\_\_ per month

Other \_\_\_\_\_ \$ \_\_\_\_\_ per month

7. My expenses:

Rent or mortgage payment \$ \_\_\_\_\_ per month

Utilities \$ \_\_\_\_\_ per month

Medical bills \$ \_\_\_\_\_ per month

Car payment(s) \$ \_\_\_\_\_ per month

Other living expenses \$ \_\_\_\_\_ per month

Total expenses: \$ \_\_\_\_\_

\_\_\_\_\_  
Applicant signature  
Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_  
[ ] The petitioner is indigent.  
[ ] The petitioner is not indigent.

\_\_\_\_\_  
District court judge

[Adopted, effective January 1, 1998.]

**ANNOTATIONS**

**Cross references.** - For the Family Violence Protection Act, see 40-13-1 NMSA 1978.

**LR13-Form E-3. Order for free process.**

THIRTEENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

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

\_\_\_\_\_  
Petitioner,  
v.

No.

\_\_\_\_\_ - DR

\_\_\_\_\_  
Respondent.

ORDER FOR FREE PROCESS

The matter was carefully considered by the court and, based upon the application for free process, the court orders that:

The application is (granted) (denied) and the applicant is permitted to maintain this limited action to conclusion without payment of filing fees or costs.

The application is (granted) (denied).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
District court judge

[Adopted, effective January 1, 1998.]

**LR13-Form E-4. Domestic violence temporary restraining order and order to appear.**

THIRTEENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

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

\_\_\_\_\_  
Petitioner,

v.

No.

\_\_\_\_\_  
-DR

\_\_\_\_\_  
Respondent.

DOMESTIC VIOLENCE

TEMPORARY RESTRAINING ORDER AND ORDER TO APPEAR

This matter came before the court on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, on Petitioner's allegations of domestic violence. Petitioner was present in person; respondent was not present. The court, having considered the petition and affidavit and finding probable cause therefrom to believe that

an act of domestic abuse has occurred, FINDS:

Respondent shall appear before the court in the district court,  
located at

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_,  
New Mexico, on \_\_\_\_\_, \_\_\_\_\_ at the hour of \_\_\_\_\_  
to respond to allegations of domestic violence. Failure of petitioner to appear will result in dismissal of action or issuance of a bench warrant. Either party may be represented by an attorney at the hearing.

**PLEASE DO NOT BRING CHILDREN TO THE HEARING**

The parties are prohibited from having any type of contact with one another pending the hearing. Respondent shall not go within 100 yards of petitioner's home located at

\_\_\_\_\_

\_\_\_\_\_

A law enforcement officer shall assist the  
 petitioner  respondent in retrieving the  
 petitioner's  respondent's  
personal belongings located at

\_\_\_\_\_.

Respondent shall not have visitation with the parties' children pending the hearing.

Respondent shall have visitation with the parties' children subject to:  
\_\_\_\_\_ visitation cannot take place at petitioner's home or workplace.  
\_\_\_\_\_ other

\_\_\_\_\_

\_\_\_\_\_

The parties shall not add debt to, sell, remove, hide, destroy or damage any property owned by either party.

A law enforcement officer shall immediately evict respondent from \_\_\_\_\_. Respondent is to surrender all keys to that dwelling to the law enforcement officer.

**A LAW ENFORCEMENT OFFICER SHALL ARREST EITHER OF THE PARTIES FOR VIOLATION OF THIS ORDER BASED ON PROBABLE CAUSE TO BELIEVE THIS ORDER HAS BEEN VIOLATED; THE VIOLATOR SHALL BE HELD WITHOUT BOND; AND THE LAW ENFORCEMENT OFFICER SHALL IMMEDIATELY NOTIFY THE DISTRICT COURT OFFICE AT**



\_\_\_\_\_.  
This temporary restraining order shall be filed with the following law enforcement agencies:

**Agency**

**Address**

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

\_\_\_\_\_ District Judge

( ) Respondent is in jail.

[Adopted, effective January 1, 1998.]

**LR13-Form E-5. Permanent restraining order prohibiting domestic violence.**

THIRTEENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

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

\_\_\_\_\_  
Petitioner,

v.

No.

\_\_\_\_\_ -DR

\_\_\_\_\_  
Respondent.

PERMANENT RESTRAINING ORDER

PROHIBITING DOMESTIC VIOLENCE

On the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, a hearing on the petitioner's request for an order prohibiting domestic violence was heard by the court. Petitioner and counsel \_\_\_\_\_ appeared; respondent and counsel \_\_\_\_\_ appeared; the court heard the evidence and arguments and finds:

\_\_\_\_\_ A. The court has jurisdiction over the parties and the subject matter.

\_\_\_\_\_ B. Respondent did commit acts of domestic abuse necessitating that protection be given to petitioner and all members of petitioner's household. This finding is based on:

- \_\_\_\_\_ 1. police report filed herein.
- \_\_\_\_\_ 2. admission by respondent.
- \_\_\_\_\_ 3. other: \_\_\_\_\_

\_\_\_\_\_ C. Parties stipulated to the entry of a one-hundred eighty (180) day restraining order.

\_\_\_\_\_ D. The court finds mutual abuse.

**The court makes the following findings:**

\_\_\_\_\_ A. **No abuse**

\_\_\_\_\_ 1. Respondent shall not nor shall respondent ask other persons to abuse petitioner, members of petitioner's household, petitioner's family or abused petitioner at petitioner's place of employment. "Abuse" includes harassing, pushing, shoving, hitting, biting, kicking, sexually assaulting, swearing at, threatening, destroying property, throwing things at, following, making harassing telephone calls, causing physical or mental injury to or battering in any manner.

\_\_\_\_\_ 2. Petitioner shall not abuse respondent in any way, including but not limited to the ways mentioned above.

\_\_\_\_\_ B. **Stay away**

\_\_\_\_\_ 1. Petitioner and respondent shall not [ ] write to [ ] talk to [ ] visit or [ ] contact each other in any way (except as follows:)

Regarding medical emergencies of minor children (telephone only).

\_\_\_\_\_ Other

\_\_\_\_\_ 2. Respondent shall not go within 100 yards of petitioner's:

\_\_\_\_\_ residence located at

\_\_\_\_\_ place of employment located at

\_\_\_\_\_ children's school located at

\_\_\_\_\_ 3. Petitioner shall not go within 100 yards of respondent's:

\_\_\_\_\_ residence located at

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ place of employment located at

\_\_\_\_\_

\_\_\_\_\_ children's school located at

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ C. **Property and debts**

\_\_\_\_\_ 1. The parties shall not sell, take, hide, add debts to or damage any property owned separately or jointly by the parties.

\_\_\_\_\_ 2. The parties' property and debts shall be temporarily distributed as follows:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ D. **Payments of money**

These payments shall be made:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ E. **Findings regarding the parties' children:**

\_\_\_\_\_ 1. Legal custody of the children

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ is awarded to both parties, but \_\_\_\_\_ shall have physical custody of them at all times except that \_\_\_\_\_ shall have visitation or time-sharing as follows:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ 2. Neither party shall hide the children from the State of New Mexico. Each party shall encourage the absent parent's relationship with the children, and neither parent shall speak negatively about the absent parent in front of the children.

\_\_\_\_\_ 3. Support for the children shall be paid by [ ] petitioner [ ] respondent to [ ] petitioner [ ] respondent the sum of \$ \_\_\_\_\_ per \_\_\_\_\_ commencing on \_\_\_\_\_, \_\_\_\_\_ and terminating on \_\_\_\_\_,

\_\_\_\_\_

\_\_\_\_\_ 4. No child support payment. Petitioner is on welfare.

The above is payable as follows:

\_\_\_\_\_

\_\_\_\_\_ F. **Service of this order**

\_\_\_\_\_ 1. Respondent was present and (received)  
(was mailed) a copy.

\_\_\_\_\_ 2. Petitioner was present and (received)  
(was mailed) a copy.

\_\_\_\_\_ G. **Notice to both parties**

**THIS ORDER IS EFFECTIVE TODAY. IF YOU VIOLATE ANY PART OF THIS ORDER YOU MAY BE HELD IN CONTEMPT OF COURT AND YOU COULD BE FINED, JAILED OR BOTH. IF JAILED, YOU COULD BE HELD WITHOUT BOND.**

\_\_\_\_\_ H. **Notice to law enforcement agencies**

This order is effective when made, and shall be enforced by all New Mexico law enforcement agencies immediately upon receipt. This order will expire at \_\_\_\_\_ .m. on \_\_\_\_\_.

This order shall be filed with the following law enforcement agencies:

Agency	Address
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

This order shall be enforced by you at any location in your jurisdiction. Law enforcement officers shall arrest either of the parties for violation of this order based on probable cause to believe this order has been violated.

**IF EITHER PARTY IS TAKEN INTO CUSTODY FOR VIOLATION OF THIS ORDER, THE VIOLATOR IS TO BE HELD WITHOUT BOND AND THE \_\_\_\_\_ SHALL NOTIFY THE DISTRICT COURT AT \_\_\_\_\_.**

\_\_\_\_\_  
District Judge

[Adopted, effective January 1, 1998.]

**LR13-Form E-6. Affidavit.**

AFFIDAVIT

STATE OF NEW MEXICO )  
 ) ss.

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

The petitioner was sworn and states unto the court that the following statements are true:

1. The respondent and I are the parents of these children under the age of eighteen (18) years:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The children's present address is:

\_\_\_\_\_  
\_\_\_\_\_

3. I [ ] have [ ] have not participated as a party, witness or in any other capacity in any other lawsuits concerning the custody of our children in New Mexico or any other state.

4. I do not know of any other person besides the respondent and myself who has physical custody of the children or who claims to have custody or visitation rights with respect to the children.

\_\_\_\_\_  
\_\_\_\_\_  
Petitioner  
Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

[Adopted, effective January 1, 1998.]

**LR13-Form E-7. Order of dismissal.**

THIRTEENTH JUDICIAL DISTRICT COURT  
STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_

\_\_\_\_\_  
Petitioner,

v.

No.

\_\_\_\_\_  
-DR

\_\_\_\_\_  
Respondent.

ORDER OF DISMISSAL

This matter having come on for hearing on the motion of the  
\_\_\_\_\_,  
and good cause appearing.

It is therefore ordered, adjudged and decreed that the  
petition for order prohibiting domestic violence be, and the  
same hereby is dismissed.

Adopted as an order of this court on \_\_\_\_\_,  
\_\_\_\_\_ at \_\_\_\_\_ .m.

\_\_\_\_\_  
District Judge

[Adopted, effective January 1, 1998.]

**LR13-Form E-8. Release order.**

THIRTEENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

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

\_\_\_\_\_  
Petitioner,

v.

No.

\_\_\_\_\_  
-DR

\_\_\_\_\_  
Respondent.

RELEASE ORDER

This matter having come on before the court and the court  
being fully advised in the premises finds:

1. The respondent was arrested for violations of a domestic violence order filed herein.

2. A contempt hearing was held on \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ .m.

3. Respondent [ ] was [ ] was not found to be in violation of the court.

4. Respondent was purged of contempt and should be released from incarceration.

It is therefore ordered that the respondent be immediately released from the

\_\_\_\_\_  
\_\_\_\_\_.  
Adopted as an order of this court on \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ .m.

\_\_\_\_\_  
District court judge

[Adopted, effective January 1, 1998.]

**LR13-Form E-9. Return of service; verification.**

THIRTEENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

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

\_\_\_\_\_  
Petitioner,

v.

No.

\_\_\_\_\_  
-DR

\_\_\_\_\_  
Respondent.

RETURN OF SERVICE

I, \_\_\_\_\_, a person over the age of 18, hereby certify that I received a petition, domestic violence order and order to appear in the above-entitled matter on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and that I served the same on the \_\_\_\_\_ day of \_\_\_\_\_, by delivering to:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ in person, within the county of \_\_\_\_\_ and a true copy of the domestic violence order and order to appear to which was attached a true and correct copy of the petition filed in the above-entitled action.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
STATE OF NEW MEXICO                             )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

VERIFICATION

\_\_\_\_\_ was sworn and states: I have read this return of service and it is true to the best of my knowledge and belief. I also understand that I can be prosecuted for a fourth degree felony if this return of service is false.

\_\_\_\_\_  
Date   Signature of server  
\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

[Adopted, effective January 1, 1998.]

**LR13-Form E-10. Sheriff's return of service.**

THIRTEENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

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

\_\_\_\_\_  
Petitioner,

v.

No.

-DR

\_\_\_\_\_  
Respondent.

SHERIFF'S RETURN OF SERVICE

I, \_\_\_\_\_, a duly qualified and acting deputy sheriff in and for the county and state set forth above, hereby certify that I received a petition, domestic violence



order and order to appear in the above-entitled matter on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and that I served the same on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by delivering to: \_\_\_\_\_ in person, within the county and state set forth above, a true copy of the domestic violence order and order to appear to which was attached a true and correct copy of the petition filed in the above-entitled action.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
County sheriff

By:

\_\_\_\_\_  
Deputy

[Adopted, effective January 1, 1998.]

## LR13-Form F-1. Temporary domestic order.

THIRTEENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

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

\_\_\_\_\_  
Petitioner,

v.

No.

\_\_\_\_\_  
-DR

\_\_\_\_\_  
Respondent.

### TEMPORARY DOMESTIC ORDER

This matter comes before the court upon the filing of a petition for dissolution of marriage or upon the filing of an action pursuant to Section 40-4-3 NMSA 1978. The court finds it is in the best interests of the parties and of the public in this action to issue this order.

IT IS THEREFORE ORDERED:

1. Neither party shall molest, intimidate, threaten, harass, injure or physically or mentally abuse the other party or any children of either party.

2. Neither party shall remove, cause to be removed or permit the removal of any minor children of the parties from this state without the written consent of the other party.

3. Neither party shall incur unreasonable or unnecessary debts hereafter. An unreasonable debt is one that is incurred during separation that does not contribute to the benefit of both spouses or their dependents. Any unreasonable or unnecessary debt incurred after the date of the filing of the petition shall be presumptively assessed against the party incurring the debt. The court specifically reserves the right to allocate the expenses and fees of this action.

4. Neither party shall cause the other party or the children of the parties to be removed from any existing insurance coverage, including but not limited to medical, hospital, dental, automobile or disability insurance, and each party shall maintain all such insurance coverage in full force and effect.

5. Neither party shall change the beneficiaries of any existing life insurance policies, and each party shall maintain the existing life insurance policies in full force and effect.

6. No party shall conceal or damage any property, real or personal, community or separate. Neither party shall dissipate, sell, remove, assign, transfer, dispose of, lend, mortgage, or encumber any property, real or personal, community or separate, except in the ordinary course of business or for the necessities of life. In the case of transactions made in the ordinary course of business, an itemized written accounting shall be made at least quarterly to the other party. In the case of dispositions made for the necessities of life, an itemized written accounting shall be made to the other party within thirty (30) days.

7. In the event the parties are living in the same residence at the time of the service of this order, the parties shall attempt to decide between themselves which party shall move from the family residence. The party moving out of the residence is not prejudiced by reason of the move in any way with respect to custody of any minor children or with respect to a claim of any interest in the family residence or the personal property in or on the premises.

8. If the parties do not determine which party will move from the residence, the court will decide the issue at a hearing on interim relief, considering among others the following factors:

a. minor children should continue to reside in the family residence during the pendency of this case;

b. the parent who is and has been primarily caring personally for the children's basic daily needs should remain in the family residence during the pendency of this case; and

c. the spouse who maintains a principal place of business within the family residence should continue to reside in the family residence during the pendency of this case.

9. If there are minor children, the person moving from the family residence shall continue to have frequent contact and communicate with the children, in person and by telephone. If the parties cannot agree on a time-sharing arrangement during the pendency of this case, the court clinic referral order will be entered immediately. If the issue is not resolved by agreement through the court clinic, the court shall establish a time-sharing arrangement at a hearing on a motion for interim relief.

10. The person moving from the family residence may return to pick up personal belongings and effects at a reasonable time to be agreed upon. Personal belongings and effects do not include furniture unless the parties agree or the court decides the issue at a hearing on interim relief.

11. Any party receiving personal mail or packages addressed only to the other party shall not open them, but shall forward or arrange to have the mail or packages delivered promptly to the other party. Personal mail addressed to both parties may be opened by the person who receives it, but any party receiving such mail shall promptly send a copy to the other party.

12. Unless the parties agree in writing, neither party shall cancel any credit cards during pendency of this action or cause the other party to be removed from any credit card account. All charges on credit cards are subject to the limitations of Paragraph 3 of this order.

13. Each party is advised that all earned income is community property, and that income from all other sources acquired during marriage is generally community property. Likewise, each party is advised that all debt obligations, existing and recurring, are generally community obligations. Each party has a one-half interest in all community income and property and is obligated to pay one-half of all existing and recurring community debts.

During the pendency of the case the income and debts are generally equally divided; provided, however, that the party who has the principal care of the children shall be allocated a greater proportion of the income during the pendency of the action. If the parties agree upon the interim division of income and payment of debts, a stipulated order on the court approved form regarding the interim division of income and expenses shall be submitted to the court for signature and filing. If the parties cannot agree, the court shall determine the division at a hearing on a motion for interim relief.

14. Within twenty (20) days of the service of this order on respondent, respondent shall complete respondent's portion of the temporary domestic order affidavit and mail it to petitioner.

15. Within twenty (20) days of the service of this order on respondent, each party shall mail or deliver to the other party documents reflecting current income from all sources, including but not limited to wage statements for the last four pay periods and interest, dividend or other income statements showing the current total gross income, deductions and net income received by that party. Within the same period each party shall also mail or deliver to the other party copies of the most recent personal state and federal tax returns with all schedules and attachments.

16. Within twenty (20) days of the service of this order on respondent, each party shall deliver or mail to the other party copies of all current unpaid bills, statements, and due notices from all creditors.

17. This order is effective on the petitioner as of the date and time of filing and is effective on the respondent when it is served on the respondent or respondent's counsel.

18. This order shall continue in effect except as specifically or necessarily modified by written agreement of the parties or order of the court.

DISOBEDIENCE OF THIS ORDER CAN CONSTITUTE CONTEMPT OF COURT, AND SUBJECT THE VIOLATOR TO FINE, IMPRISONMENT OR OTHER SANCTIONS, PLUS PAYMENT OF ATTORNEY FEES AND COSTS TO THE OTHER PARTY.

---

District Judge

[Adopted, effective January 1, 1998.]

## LR13-Form F-2. Order regarding parenting instructions.

THIRTEENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

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

\_\_\_\_\_  
Petitioner,

v.

No.

\_\_\_\_\_  
-DR

\_\_\_\_\_  
Respondent.

### ORDER REGARDING PARENTING INSTRUCTIONS

THE PARTIES SHALL FOLLOW, OBEY AND CAREFULLY ABIDE BY EACH AND ALL OF THE PROVISIONS INITIALED BELOW:

\_\_\_\_\_ 1. Neither parent will threaten, harass, intimidate, unlawfully assault or batter or physically or mentally abuse the other parent, or a minor child. Law enforcement officers are authorized and required to enforce this provision by preparing a report of the incident, and submitting a copy of it to this court's mailing address, which is \_\_\_\_\_ or to this court's chambers at \_\_\_\_\_, New Mexico. The law enforcement officers are also authorized and encouraged to arrest any person they have probable cause to believe has committed unlawful assault (*See Section 30-3-1 NMSA 1978*) or battery (*see Section 30-3-4 NMSA 1978*) upon another. See Section 30-3-6 NMSA 1978 for authorization regarding warrantless arrests of assailants when there is probable cause to believe such person assaulted or battered another. This provision remains in full force and effect unless and until it is modified or revoked by subsequent written order of this court.

\_\_\_\_\_ 2. Neither parent nor any stepparent, fiancée, or grandparent will criticize, disparage, demean, insult or otherwise "bad-mouth" the other parent, step-parent, fiancée or grandparent to a child or in the presence of a child, nor allow or encourage anyone else, including relatives and friends, to do so. This prohibition applies even to information that is truthful and accurate.

\_\_\_\_\_ 3. Neither parent will argue or fight, verbally or physically, in the presence or hearing of a child.

\_\_\_\_\_ 4. Neither parent will align or attempt to align a child against a parent, or other relative, nor allow or encourage anyone else, including relatives and friends, to do so. This especially means that neither parent will directly or indirectly ask a child to choose between the parents, or choose to reside with one parent instead of the other, or choose one household over the other household.

\_\_\_\_\_ 5. Both parents must encourage a positive parent-child relationship between a child and both parents, and not say or do anything, including "grimace" or put on a "long face", against the child's love for the other parent when a child is about to visit the other parent or asks or talks about the other parent.

\_\_\_\_\_ 6. Neither parent will interfere with the parent-child relationship with the other parent, and neither parent will conceal a child from the other parent during the other parent's period of responsibility (time-sharing).

\_\_\_\_\_ 7. Neither parent will make plans for a child that conflicts with the other parent's period of responsibility with a child, or discuss such plans with a child or make promises about such plans with a child, unless and until both parents agree in advance to the plans. Doing so creates a serious risk that a child will count on and look forward to a planned or promised activity, only to be disappointed with and distrustful of the parent who made or promised a plan with a child and then could not carry it out.

\_\_\_\_\_ 8. If a parent asks the other parent for additional time with a child, or for an activity or plan that would conflict with the other parent's scheduled time or plans with the child, the other parent has an absolute right to say "no" and the requesting parent must accept that answer without bringing such request or negative answer of the other parent to the attention of any of the minor children.

\_\_\_\_\_ 9. Neither parent will ask a child to pass orders or instructions or uncomplimentary messages to the other parent through a child, verbally or in writing. Complimentary messages are allowed and encouraged.

\_\_\_\_\_ 10. Neither parent will ask a child to keep secrets from the other parent or ask or encourage a child to lie to the other parent about events or persons the child experienced during a visit with a parent, grandparent or relative.

\_\_\_\_\_ 11. Neither parent will ask a child to spy on the other parent or the other parent's lifestyle or household; nor ask any detailed, probing questions about the other parent or lifestyle or household of the other parent. This only puts the child in the middle, angering a parent if the question is

not answered, or getting the other parent in trouble if it is answered.

\_\_\_\_\_ 12. Children have a right to receive unlimited letters, postcards, cassette tape letters and gifts from each parent; and to write unlimited letters and postcards, including tape-recorded messages and letters, and send gifts to each parent. Homemade video tapes by parents to children (and vice-versa) are allowed and encouraged. All such letters, gifts and tapes shall be provided, read or played forthwith to the children. These letters, cards and tapes must not violate other provisions of this order (*see especially Paragraphs 1 through 11 above*). This provision shall not be justification or excuse not to provide, read or play the message to any of the children, but the improper words or sentence can be deleted during reading or playing the message to the children. If a parent deletes words, sentences, etc., the parent should keep the original letter and deletions. Children age ten (10) or over should receive the letter, card, or recording unopened and uncensored, and may allow either parent to read or see or hear the message, even if the writing or sending parent does not want the child to do so or asks the child not to do so.

\_\_\_\_\_ 13. If the parents are not in locations requiring long-distance calls to contact the children, the children will have a right to make unlimited phone calls to the absent parent during the absent parent's normal waking hours. Also, the absent parent may make up to two 15-minute calls per week (Monday to Monday week) with the minor children, but should never force them to remain on the phone longer than the children want to. This will only cause the children to not want to receive phone calls from the absent parent. The parent having time-sharing with a child at the time of a phone call between a child and the absent parent must not listen in on both sides of the phone call, nor in any way cause a child to believe the custodial parent is intentionally listening in on the child's words or taking note of what the child said during the conversation. Also, the parent having time-sharing shall never ask, order or encourage a child not to be available to receive a phone call or not to answer the phone, or to refuse to speak with the calling parent or to hang up or terminate the call sooner than the child wants to on the child's own initiative.

\_\_\_\_\_ 14. If the parents are in locations requiring long-distance phone calls to contact a minor child of the parties, then:

A. the absent parent will have a right to make up to two 15-minute calls each week (Monday to Monday week) with each child, at the expense of the calling parent. These calls ordinarily should be made in the evening or on weekends to

enable the children to be at home to receive the call, and to reduce the costs of phone calls themselves;

B. each child shall have the right to make up to two 15-minute calls per week (Monday to Monday week) to the absent parent. The first call during that week will be at the expense of the custodial parent. Unless both parents agree otherwise before the second call, the second call will be at the expense of the parent receiving the call (i.e. collect to the receiving parent with request that the receiving parent call back station-to-station to the phone number where the child will receive the call).

\_\_\_\_\_ 15. Unless there is a court order or written parenting plan providing for out-of-state time-sharing with children for more than fifteen (15) days, neither parent will remove a child from this state for more than fifteen (15) days without notifying the other parent in writing at least thirty (30) days before such removal, and must specify the purpose and destination of the trip and expected date of return. Any visitation period of the other parent that is reduced or overridden by such vacation period shall be made up in full to the other parent.

\_\_\_\_\_ 16. Each parent must notify the other parent in writing of any change of home address, mailing address, if different from home address, and all home telephone numbers no later than seven (7) calendar days from any such change, and preferably even before a change occurs. This insures that written and telephone communications between the children and absent parent can continue, and that child support payments and other written communications can be completed. This court recommends, but does not order or require, that each parent provide the parent's work telephone number to the other parent and children for use on urgent or emergency matters. Neither parent shall telephone the other parent or employer or supervisor of a parent and threaten, harass, intimidate, or mentally abuse the parent or employer or supervisor nor allow or encourage or cause anyone else, including the children or relative or friend, to do so.

\_\_\_\_\_ 17. If both parents reside within 60 miles of one another, neither parent may relocate out of state or more than 100 miles from the other parent without giving the other parent at least sixty (60) days advance written notice, and specifying therein where the planned new permanent residence will be.

\_\_\_\_\_ 18. In the event of a move or planned move as described in Paragraph 17 the parents should quickly begin discussions before the move occurs about child time-sharing or visitation. If they cannot agree on a new time-sharing plan at



least thirty (30) days before the date of the move, they must engage in mediation pursuant to LR13-703. It is highly recommended that a new written parenting plan be agreed upon and signed by both parents and a district judge before the move occurs or is completed, so that the moving parent will not have to return and complete the mediation and new parenting plan.

\_\_\_\_\_ 19. Unless both parents agree otherwise in advance, the clothing, books and toys a child takes to the other parent shall be returned with the child at the conclusion of that parent's responsibility or visitation with the child - even if the original clothes, books, and toys are returned in a bag carried by the child. Preferably, the clothes should be washed before their return with the child.

\_\_\_\_\_ 20. Each child shall have a right to have a photograph of each parent and grandparent in the child's room or child's private area; such photographs shall be clearly visible to the child and not hidden in drawers or turned toward a wall.

\_\_\_\_\_ 21. Child support shall not be reduced, delayed, or cut off because of disagreements between the parents or because visitation had been reduced or cut off. *(The court can handle wrongful reduction or cutting off of visitation by contempt of court or other remedy, without penalizing a child's right to be both supported emotionally and financially by both parents.)*

\_\_\_\_\_ 22. Time sharing or visitation shall not be reduced or cut off because of disagreements between the parents, or because child support is not being paid in full or on time. *(The court can handle wrongful reduction or cutting off of visitation by contempt of court or other remedy, without penalizing a child's right to visitation and good relationship with the other parent.)*

\_\_\_\_\_ 23. Both parents and all others driving a child in a motor vehicle shall have the children securely fastened in child restraint devices, for younger children, and seatbelts and shoulder harnesses, for older children, whenever the engine of the vehicle is running, or the motor vehicle is moving. If the vehicle is a bicycle, motorscooter, motorcycle or three-wheel or four-wheel motorized all-terrain vehicle (ATV), parents and drivers of such vehicle shall have the child-passenger wear a securely fastened helmet approved by the federal Department of Transportation (DOT) or Snell Memorial Foundation whenever the engine of the vehicle is running or the bicycle or vehicle is moving.

\_\_\_\_\_ 24. Neither parent, nor their spouse, fiancée or girlfriend or boyfriend may possess, use or be under the influence of any alcoholic beverages, including hang-overs, or illegal drugs in the presence of a child.

\_\_\_\_\_  
District Court Judge

[Adopted, effective January 1, 1998.]

**LR13-Form G. Affidavit regarding assets, debts, income and expenses temporary domestic order affidavit.**

THIRTEENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

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

\_\_\_\_\_  
Petitioner,

v.

No.

\_\_\_\_\_  
-DR

\_\_\_\_\_  
Respondent.

AFFIDAVIT REGARDING ASSETS, DEBTS, INCOME AND EXPENSES

TEMPORARY DOMESTIC ORDER AFFIDAVIT

STATE OF NEW MEXICO )

) ss.

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

The petitioner and respondent, under penalty of perjury, each state by their signatures below that to the best of their knowledge and belief the following information is true and correct as it relates to the statement below filled out by each of them at the time they signed it:

**Petitioner's statement of income**

1. Gross monthly salary or wages (hourly wage x average hours worked per week x 52 divided by 12; weekly wage x 52 divided by 12; bi-weekly wage x 26 divided by 12; semi-monthly x 2; etc.; for varying wages, average last three months' income). \$ \_\_\_\_\_
2. Other income:

rental \_\_\_\_\_  
 self-employment \_\_\_\_\_  
 other \_\_\_\_\_  
 Subtotal \_\_\_\_\_  
 \$ \_\_\_\_\_  
 3. Deductions:  
   federal withholding < \_\_\_\_\_  
   state withholding < \_\_\_\_\_  
   FICA < \_\_\_\_\_  
   health ins. premium (for children or family) < \_\_\_\_\_  
   union dues < \_\_\_\_\_  
   estimated tax payments < \_\_\_\_\_  
   other < \_\_\_\_\_  
           Subtotal < \_\_\_\_\_  
 <\$ \_\_\_\_\_  
 4. Net monthly income \_\_\_\_\_ \$ \_\_\_\_\_

**Petitioner's statement of fixed debts of both parties:**  
*(State who is paying at the time of the affidavit.)*

er Respondent \_\_\_\_\_ Petition  
 -----  
 -----  
 5. House, apartment or other residence monthly payment \_\_\_\_\_  
 6. Vehicle payment (list here: \_\_\_\_\_  
   #1 \_\_\_\_\_, #2 \_\_\_\_\_,  
   #3 \_\_\_\_\_)  
 7. Minimum monthly payments on credit cards (list here:  
   \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_)

\_\_\_\_\_, \_\_\_\_\_,  
 \_\_\_\_\_)  
 8. Other loans monthly payment \_\_\_\_\_  
 (list here: \_\_\_\_\_,  
 \_\_\_\_\_,  
 \_\_\_\_\_,  
 \_\_\_\_\_)  
 9. Vehicle insurance \_\_\_\_\_  
 (monthly) \_\_\_\_\_  
 10. Child support to another \_\_\_\_\_  
 family \_\_\_\_\_  
 11. Day care for this \_\_\_\_\_  
 family \_\_\_\_\_  
 12. \_\_\_\_\_  
 Other \_\_\_\_\_  
 \_\_\_\_\_  
 13. \_\_\_\_\_  
 Total \_\_\_\_\_  
 \_\_\_\_\_

**Respondent's statement of income**

14. Gross monthly salary or wages (hourly wage x  
 average hours worked per week x 52 divided by 12;  
 weekly wage x 52 divided by 12; bi-weekly wage x  
 26 divided by 12; semi-monthly x 2; etc.; for  
 varying wages, average last three months'  
 income). \$ \_\_\_\_\_  
 15. Other income:  
 rental \_\_\_\_\_  
 self-employment \_\_\_\_\_  
 other \_\_\_\_\_  
 Subtotal \_\_\_\_\_  
 \$ \_\_\_\_\_  
 16. Deductions:  
 federal withholding \_\_\_\_\_  
 state withholding < \_\_\_\_\_  
 FICA < \_\_\_\_\_

health ins. premium (for children or family) < \_\_\_\_\_  
 union dues < \_\_\_\_\_  
 estimated tax payments < \_\_\_\_\_  
 other < \_\_\_\_\_  
 Subtotal < \_\_\_\_\_  
 <\$ \_\_\_\_\_  
 17. Net monthly income \$ \_\_\_\_\_

**Respondent's statement of fixed debts of both parties:**  
*(State who is paying at the time of the affidavit.)*

er Respondent Petition  
 -----

18. House, apartment or other residence monthly payment \_\_\_\_\_  
 19. Vehicle payment (list here: \_\_\_\_\_)

#1 \_\_\_\_\_, #2 \_\_\_\_\_,  
 #3 \_\_\_\_\_)

20. Minimum monthly payments on credit cards (list here:  
 \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,  
 \_\_\_\_\_, \_\_\_\_\_,  
 \_\_\_\_\_)

21. Other loans monthly payment (list here: \_\_\_\_\_,  
 \_\_\_\_\_, \_\_\_\_\_,  
 \_\_\_\_\_, \_\_\_\_\_,  
 \_\_\_\_\_)

22. Vehicle insurance (monthly) \_\_\_\_\_

23. Child support to another family \_\_\_\_\_

24. Day care for this \_\_\_\_\_

family \_\_\_\_\_  
 25. \_\_\_\_\_  
 Other \_\_\_\_\_  
 \_\_\_\_\_  
 26. \_\_\_\_\_  
 Total \_\_\_\_\_  
 \_\_\_\_\_

I swear that my statements in petitioner's statements of income and fixed debts are true to the best of my knowledge.

\_\_\_\_\_  
 \_\_\_\_\_  
 Petitioner  
 Subscribed to and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_  
 \_\_\_\_\_  
 Notary Public  
 I swear that my statements in respondent's statements of income and fixed debts are true to the best of my knowledge.

\_\_\_\_\_  
 \_\_\_\_\_  
 Respondent  
 Subscribed to and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_  
 \_\_\_\_\_  
 Notary Public

[Adopted, effective January 1, 1998.]

**LR13-Form H. Order for mediation.**

THIRTEENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

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

\_\_\_\_\_  
 Petitioner,

v.

No.

\_\_\_\_\_ -DR

\_\_\_\_\_  
 Respondent.

ORDER FOR MEDIATION

It has been made to appear to the court that a controversy exists between the parties hereto regarding the custody and visitation rights affecting the parties' children.

It is, therefore, ordered by the court that:

1. This controversy regarding custody and visitation shall be referred to mediation, for the purpose of mediation, and for advisory consultation if mediation has been unsuccessfully attempted, by order of the court.

2. The clerk's office shall be paid by the parties prior to any sessions in accordance with the sliding scale fee determined by the court.

3. The mediator shall encourage and assist the parties to resolve the contested child custody and visitation matters in a way that is mutually satisfactory to the parties and beneficial to the best interests of the child or children.

4. Mediation proceedings shall be held in private and shall be confidential. All communications, verbal or written, from the parties to the mediator made pursuant to the order, shall be inadmissible in any court hearing.

5. No report of the personal content of mediation shall be made to the court, to the advisory consultant, or the counsel for either party. The mediator shall inform the court by written report the result of the mediation session. If the mediation process is successful, the agreement shall be reduced to writing on a form to be signed by the parties.

6. The parties shall make themselves and their children available for consultation with the mediator or advisory consultant, and shall participate and cooperate fully with such professionals.

7. If a mediation agreement cannot be reached, the case shall proceed for an advisory consultation.

8. After the advisory consultation has been completed, a report shall be made to counsel for each party.

9. In the event of a hearing on custody and visitation, a report shall be made to the court.

---

\_\_\_\_\_  
District Judge

Approvals:

\_\_\_\_\_  
Attorney for Petitioner or Petitioner  
Address:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Attorney for Respondent or Respondent  
Address:

\_\_\_\_\_  
\_\_\_\_\_

[Adopted, effective January 1, 1998.]

### ANNOTATIONS

**Cross references.** - For sliding scale fee determined by the court, see LR13-Appendix A NMRA.

For domestic relations mediation program, see Section 40-12-5 NMSA and LR3-Exhibit B, LR4-Appendix A and LR9-Appendix B NMRA.

### LR13-Form I. Interim order allocating income and expenses.

THIRTEENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

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

\_\_\_\_\_  
Petitioner,

v.

No.

\_\_\_\_\_  
-DR

\_\_\_\_\_  
Respondent.

#### INTERIM ORDER ALLOCATING INCOME AND EXPENSES

This matter coming before the court:

[ ] upon stipulation of the parties;

[ ] for hearing upon motion of a party;

and the court having been sufficiently advised,

FINDS AND ORDERS:



1. The court has jurisdiction over the subject matter and the parties.

2. The parties shall receive the income and pay the expenses as listed on the Interim Monthly Income and Expenses Statement.

3. Each party shall presumptively be responsible for any debts the party incurs during the pendency of this case.

4. Any assets obtained by either party after the entry of this order from that party's share of divided income are presumptively the separate property of the obtaining party.

5. Each party shall use the party's share of the income provided by this order to pay the party's respective expenses for food, clothing, telephone, utilities, gasoline, car maintenance, entertainment, meals out, haircuts, attorney fees, ordinary medical and dental expenses, and other personal expenses.

6. The parent with whom the child(ren) primarily resides shall receive the following percentage from the other parent's share of divided income:

One child	- 10%	Four children	-
22%			

Two children	- 15%	Five
children	- 25%	

Three children	- 19%	Six
children	- 28%	

Add three percent (3%) of income for each child after six children.

7. \_\_\_\_\_ shall pay to \_\_\_\_\_ a total of \$\_\_\_\_\_ per month, each month which consists of \$\_\_\_\_\_ to equalize the income (plus) (less) \$\_\_\_\_\_ as child support, by check or money order, delivered or postmarked on or before the \_\_\_\_\_ of each month during the pendency of this case.

8. The medical and dental expenses of the child(ren) not covered by insurance shall be paid one-half by each party.

9. Notwithstanding entry of this order, all claims and

defenses are preserved.

10. This order shall remain in effect during the pendency of this case except as modified by court order.

11. DISOBEDIENCE OF THIS ORDER CAN CONSTITUTE CONTEMPT OF COURT, AND SUBJECT THE VIOLATOR(S) TO FINE, IMPRISONMENT AND/OR OTHER SANCTION, PLUS PAYMENT OF ATTORNEY FEES AND COSTS TO THE OTHER PARTY.

\_\_\_\_\_  
District Judge

[Adopted, effective January 1, 1998.]

**LR13-Form J. Interim monthly income and expenses statement.**

THIRTEENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

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

\_\_\_\_\_  
Petitioner,

v.

No.

\_\_\_\_\_  
-DR

\_\_\_\_\_  
Respondent.

INTERIM MONTHLY INCOME AND EXPENSES STATEMENT

	Combined	Husband
Wife	-----	-----
-----		
1. Average gross monthly income		
Wages	\$ _____	\$ _____
\$ _____		
- Rental		
income	\$ _____	\$ _____
Self-		

employment \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_ Other  
\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_ Other  
\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_ Other  
\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_ Other  
\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

2.  
Deductions  
Fed  
W/H \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_ State  
W/H \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_ FICA  
\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_ Health  
insurance \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_ Union  
dues \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_ Estimated tax  
payments \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_ Other  
\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_ Other  
\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

3.  
Total  
deductions \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_ (add items in Line 2)

4.  
Net monthly  
income \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
(subtract Line 1 from Line 3)

5. Monthly fixed expenses

Residence	\$ _____	\$ _____	
— \$ _____			
Car			
payment	\$ _____	\$ _____	\$ _____
<hr/>			
Insurance premiums			
Car	\$ _____	\$ _____	
— \$ _____			
Life	\$ _____	\$ _____	
— \$ _____			
Other	\$ _____	\$ _____	
— \$ _____			
Day			
care	\$ _____	\$ _____	\$ _____
<hr/>			
Attorney			
fees	\$ _____	\$ _____	\$ _____
Credit			
cards	\$ _____	\$ _____	\$ _____
<hr/>			
Loans		\$ _____	\$ _____
— \$ _____			
Other			
	\$ _____	\$ _____	\$ _____
<hr/>			
Other			
	\$ _____	\$ _____	\$ _____
<hr/>			
Other			
	\$ _____	\$ _____	\$ _____
<hr/>			
Other			
	\$ _____	\$ _____	\$ _____

6. Total fixed expenses \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
*(add items in Line 5)*

7. Net spendable income \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
*(subtract Line 4 from Line 6)*

8. 1/2 of Combined Column, Line 7 \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

9.

Amount transferred/received \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_  
(subtract Line 8 from Line 7)

(Person with positive amount pays that amount to other person.  
See instructions if combined amount in Line 7 is negative.)

\_\_\_\_\_  
Petitioner  
Subscribed to and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
I swear that my statements in respondent's statements of income and fixed debts are true to the best of my knowledge.

\_\_\_\_\_  
Respondent  
Subscribed to and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

[Adopted, effective January 1, 1998.]

**LR13-Form K. Instructions for completing interim monthly income and expenses statement.**

THIRTEENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

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

\_\_\_\_\_  
Petitioner,

v.

No.

\_\_\_\_\_  
-DR

\_\_\_\_\_  
Respondent.

INSTRUCTIONS FOR COMPLETING INTERIM MONTHLY  
INCOME AND EXPENSES STATEMENT

A. "Gross monthly income" is income from all sources except child support received from a prior spouse. For self-employed individuals, gross monthly income means gross receipts less reasonable and ordinary business expenses. Self-employed individuals should attach a separate sheet to Interim Monthly Income and Expenses Statement itemizing the business income and expenses.

B. "Deductions" are payroll deductions for taxes, social security, health insurance, union dues, retirement, and other employer-related deductions. Regular and customary savings deductions may be included.

C. "Fixed Expense" includes periodic, generally invariable expenses even though paid quarterly, semi-annually or yearly, e.g., car payments, insurance, and loan payments.

1. Residence fixed expense is mortgage or rent actually paid. If a party receives free rent, e.g., by living with parents, that party's rent is deemed zero.

2. Credit card fixed expense is listed as a fixed expense and includes only the minimum monthly payment at the time of entry of the interim order.

3. Health insurance includes medical and dental insurance which if not deducted by a payroll deduction, may be included as a fixed expense.

4. Any regular monthly payment ordered by a prior order of child support or alimony which is actually paid is a fixed expense.

5. Day care fixed expense is work-related day care and does not include baby-sitting or occasional child care.

6. An equal sum will generally be allocated each month to pay towards the attorney fees of each party.

7. Utilities are generally not fixed expenses. Telephone and cable TV are never fixed expenses. However, if the utility costs are greatly disproportionate, they may be considered fixed

expenses by agreement or court order.

D. How to figure which party makes payments to the other party:

1. **If the combined amount in Line 7 is a positive number :**  
To complete Lines 8 and 9, compute one-half of the value shown on the "Combined Column" on Line 7, "Net Spendable Income", and enter the result for each party on Line 8. To compute the amount transferred/received, subtract Line 8 from Line 7 for each party. The party who has a positive value on Line 9 pays that amount to the other party, and the same amount is entered in Paragraph 10 of the Interim Order Allocating Income and Expenses.

2. **If the combined amount in Line 7 is a negative number :**  
To complete Line 7, adjust the allocations of income or expenses, or transfer an amount from one party to another so that the amounts under "Husband" and "Wife" in Line 7 are equal. Enter any transferred amount in Paragraph 10 of the Interim Order Allocating Income and Expenses. Do not complete Lines 8 and 9.

[Adopted, January 1, 1998.]

### **Appendix A. Child Custody Mediation Sliding Fee Scale.**

[DOUBLE CLICK TO VIEW Table](#)





## LR13-001

THIRTEENTH JUDICIAL DISTRICT COURT  
STATE OF NEW MEXICO

IN THE MATTER OF THE RULES  
OF THE THIRTEENTH JUDICIAL DISTRICT COURT

### ORDER

This matter having come before the Court on its own motion after having been submitted on April 2, 1997 and April 25, 1997, to the Supreme Court District Court Civil Rules Committees and after consultation between the Chief Judge and the Chairman of the District Court Civil Rules Committee;

The Court orders that local rules, forms and appendix LR13-101, LR13-102, LR13-103, LR13-104, LR13-201, LR13-202, LR13-203, LR13-204, LR13-205, LR13-206, LR13-207, LR13-208, LR13-209, LR13-210, LR13-211, LR13-212, LR13-213, LR13-301, LR13-302, LR13-303, LR13-304, LR13-401, LR13-402, LR13-403, LR13-404, LR13-405, LR13-406, LR13-407, LR13-408, LR13-409, LR13-410, LR13-501, LR13-502, LR13-503, LR13-504, LR13-505, LR13-506, LR13-507, LR13-601, LR13-602, LR13-701, LR13-702, LR13-703, LR13-704, LR13-705, LR13-Form A, LR13-Form D, LR13-Form E-1, LR13-Form E-2, LR13-Form E-3, LR13-Form E-4, LR13-Form E-5, LR13-Form E-6, LR13-Form E-7, LR13-Form E-8, LR13-Form E-9, LR13-Form E-10, LR13-Form F-1, LR13-Form F-2, LR13-Form G, LR13-Form H, LR13-Form I, LR13-Form J, LR13-Form K and LR13-Appendix A, be and the same are hereby approved;

It is further ordered that all previously approved rules and forms of the Thirteenth Judicial District be and the same are hereby withdrawn;

It is further ordered that the above revisions to the local rules and forms of the Thirteenth Judicial District Court be effective on and after January 1, 1998;

It is further ordered that the amended local rules be transmitted to the Clerk of the Supreme Court for filing and to the New Mexico Compilation Commission for publication in accordance with Supreme Court rules.

DONE at Santa Fe, New Mexico this 11th day of September,  
1997.

/s/ HONORABLE WILLIAM A. SANCHEZ  
CHIEF JUDGE

/s/ HONORABLE JOHN W. POPE  
DIVISION I

/s/ HONORABLE KENNETH G. BROWN  
DIV. II

/s/ HONORABLE MARTIN G. PEARL  
DIVISION IV

/s/ HONORABLE LOUIS P. MCDONALD  
DIV. V