

UNANNOTATED

Rules of the District Court of the Fourth Judicial District

Table of Corresponding Rules

Local Rules of the Fourth Judicial District Court

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

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LR4-101	Withdrawn	LR4-101	LR4-102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LR4-103	Withdrawn	LR4-103	LR4-202
LR4-104	Withdrawn	LR4-104	LR4-203
LR4-105	Withdrawn	LR4-105	LR4-206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LR4-204	Withdrawn	LR4-109	LR4-308
LR4-205	Withdrawn	LR4-110	LR4-401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LR4-207	Withdrawn	LR4-112	LR4-501
LR4-208	Withdrawn	LR4-113	LR4-212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LR4-210	Withdrawn	LR4-202	LR4-310
LR4-211	Withdrawn	LR4-301	New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LR4-213	Withdrawn	LR4-Form 701	LR4-Form A
LR4-301	Withdrawn	LR4-Form 702	New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LR4-304	Withdrawn		
LR4-305	Withdrawn		
LR4-306	Withdrawn		
LR4-307	Withdrawn		

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LR4-309	Withdrawn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LR4-601	Withdrawn
LR4-701	Withdrawn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LR4-Form B	Withdrawn

I. Rules Applicable to All Cases

LR4-101. Title.

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

[LR4-102 recompiled and amended as LR4-101 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR4-102. Failure to comply.

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

[LR4-201 recompiled and amended as LR4-102 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR4-103. Assignment of cases.

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

[LR4-202 recompiled and amended as LR4-103 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR4-104. Mode of attire.

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

[LR4-203 recompiled and amended as LR4-104 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR4-105. Removal of court files.

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

[LR4-206 recompiled and amended as LR4-105 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR4-106. Payment to district court clerk.

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

[LR4-209 recompiled as LR4-106 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR4-107. Prohibition against forum shopping.

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

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

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

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

LR4-108. Telephonic hearings.

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

B. **Permission required; provider; cost.** Permission to appear telephonically must be obtained from the judge to whom the case is assigned. Telephonic appearances shall be arranged through the court's authorized telephone conference provider. However, the court may permit an alternate method of telephonic appearance. The

costs of the telephone conference shall be borne by the party making the telephonic appearance. The court reserves the right to require the parties to reimburse the court for telephone expenses incurred by the court for participating in a conference or hearing by telephone.

[LR4-303 recompiled and amended as LR4-108 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

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

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

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

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

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

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

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

[LR4-308 recompiled and amended as LR4-109 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR4-110. Request for hearings.

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

[LR4-401 recompiled and amended as LR4-110 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR4-111. Vacating settings.

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

B. **Conferring with other counsel and pro se parties required.** Before counsel requests that the judge assigned to the case vacate a setting, counsel shall contact all attorneys and pro se parties entitled to notice to determine their positions regarding the request, and then shall inform the court of the positions. The court shall vacate the setting, refuse to vacate it, or schedule a hearing on counsel's request.

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

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

LR4-112. Jury instructions.

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

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

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

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

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

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

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

Given _____

Denied _____

Modified _____

Withdrawn _____

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

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

[LR4-501 recompiled and amended as LR4-112 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR4-113. Copies of juror questionnaires.

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

[LR4-212 recompiled as LR4-113 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

II. Rules Applicable to Civil Cases

LR4-201. Filing fees.

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

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

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

LR4-202. Electronic filing authorized.

[Related Statewide Rule 1-005.2 NMRA]

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

[Adopted by Supreme Court Order No. 12-8300-LR2, effective for all cases filed or pending on or after August 20, 2012; LR4-310 recompiled and amended as LR2-202 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

III. Rules Applicable to Criminal Cases

LR4-301. Technical violation program for adult probationers.

[Related Statewide Rule 5-805 NMRA]

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

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

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

- (1) having a positive urine test for drugs or alcohol;
- (2) possessing alcohol;
- (3) missing a counseling appointment;
- (4) missing a community service appointment;

- (5) missing an educational appointment; or
- (6) failing to inform the probation officer of a traffic citation received.

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

- (1) first violation - up to three (3) days in jail;
- (2) second violation - up to seven (7) days in jail;
- (3) third violation - up to fourteen (14) days in jail; and
- (4) fourth violation - up to twenty-one (21) days in jail.

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

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

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

IV. Rules Applicable to Domestic Relations Cases

LR4-401. Safe exchange and supervised visitation, and domestic relations mediation.

[Related Statewide Rule 1-125 NMRA]

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

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

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

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

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

D. Mediation surcharge. Under Section 40-12-6 NMSA 1978, in addition to the filing fee required by Section 34-6-40 NMSA 1978, a thirty dollar (\$30.00) surcharge will be collected by the district court clerk for all new and reopened domestic relations cases. All surcharges shall be deposited by the district court clerk in the domestic relations mediation fund.

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

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

[LR4-702 recompiled and amended as LR4-401 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; as amended by Supreme Court Order No. 18-8300-006, effective for all cases pending or filed on or after September 1, 2018.]

V. Rules Applicable to Children's Court Cases

[Reserved]

VI. Rules Applicable to Court Alternative Dispute Resolution Programs

LR4-601. Alternative dispute resolution programs, generally.

[Related Statutes NMSA 1978, §§ 34-6-44 and -45]

A. **Program established.** The court operates a civil ADR program in accordance with Section 34-6-44 NMSA 1978 (District court alternative dispute resolution fund; administration) and Sections 44-7B-1 to -6 NMSA 1978 (Mediation Procedures Act).

B. **Definitions.** When used in this rule, unless the context otherwise provides,

(1) “ADR” means all alternative dispute resolutions by means of the district’s court-annexed, alternative dispute resolution programs, including mediation and settlement facilitation;

(2) “mediation” means a confidential process by which a neutral third party helps parties to resolve differences through negotiation and collaborative problem solving;

(3) “settlement facilitation” means a process where a neutral third party meets with parties and their attorneys in a settlement conference seeking a negotiated settlement agreement on all or some of the issues of the cases.

C. **Deposit and disbursement of fees.** The court maintains a civil ADR fund for the deposit of all fees collected under the program, which are used to offset the costs of operations.

(1) Deposits into the civil mediation fund shall include the following:

(a) the surcharge authorized under Section 34-6-45(A) NMSA 1978 on all new and reopened civil cases; and

(b) fees paid by the parties for program services.

(2) **Sliding fee scale.** Services provided under the program will be paid by the parties in accordance with a sliding fee scale as approved by the Supreme Court. Any fees collected from any party under the sliding fee scale will be paid to the district court clerk, which will be deposited into the civil ADR fund. The fees paid by the parties for program services are non-refundable. The current sliding fee scale approved by the Supreme Court will be posted on the district court’s website and inside the courthouse.

(3) **Judge’s discretion.** The court may, at the judge’s discretion, waive any fees related to the ADR program.

D. **Initiating services; cooperation required.** The court may, upon request of any party or on the court’s own motion, order the parties to participate in the program. All referrals to the program require the filing of a written order.

E. **Admissibility.** For purposes of admissibility as evidence in potential future hearings, the ADR mediation process will be subject to all applicable evidence and discovery rules and statutes, including but not limited to Rule 11-408 NMRA 1978

(Compromise offers and negotiations) and Sections 44-7B-5 and -6 NMSA 1978 (Exceptions; admissibility; discovery).

F. **Participation.** Any party ordered to participate in the program shall make their best effort to cooperate with court staff and any outside service providers designated by the court to operate the program. Any party who fails to do so may be sanctioned by the court.

G. **Immunity.** Persons appointed by the court to serve as mediators, settlement facilitators, or in other such roles under the rules governing this district's program, are arms of the court and are immune from liability for conduct within the scope of their duties as provided by law.

[Adopted by Supreme Court Order No. 19-8300-013, effective December 31, 2019.]

VII. Forms

LR4-Form 701. Notice of hearing.

FOURTH JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF _____

NO. _____

_____,
Plaintiff,

vs.

_____,
Defendant.

NOTICE OF HEARING

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

DATE:

TIME:

PLACE:

MATTER TO BE HEARD:

TIME ALLOCATED:

JUDGE ASSIGNED:

CERTIFICATE OF SERVICE

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

Trial Court Administrative Assistant

[LR4-Form A recompiled and amended as LR4-Form 701 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR4-Form 702. Request for setting.

FOURTH JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF _____

No. _____

_____,
Plaintiff,

vs.

_____,
Defendant.

REQUEST FOR SETTING

1. Specific matter to be heard:
2. Date of any hearings presently set:
3. Date pretrial order was filed:
4. Total time required for hearing:
5. Applicable time limits:
6. Request submitted by:

7. Names, addresses and telephone numbers of all counsel or parties pro se entitled to notice:

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