

UNANNOTATED

Rules of the District Court of the Sixth Judicial District

Table of Corresponding Rules

Local Rules of the Sixth 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.

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I. Rules Applicable to All Cases

LR6-101. Title.

These rules shall be known and cited as the Local Rules of the Sixth Judicial District Court.

[Adopted, effective October 2, 2000; as amended by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-102. Disciplinary action for failure to comply.

[Related Statewide Rules 1-011, 5-112, and 5-206 NMRA]

Any violation of these rules may, in addition to other appropriate remedies, subject the attorney or non-complying party to sanctions as may be deemed appropriate, including civil contempt.

[Adopted, effective October 2, 2000; LR6-104 recompiled and amended as LR6-102 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-103. Control of court files.

[Related Statute NMSA 1978, §34-6-28]

The district court clerk's case files are maintained for the judges and are public record, but sequestered files and sealed files may be viewed only by persons who are permitted by statute or rule, or as authorized by the assigned judge. The district court clerk shall receive a signed receipt for all files checked out. The court's files shall not be removed from the courthouse. Court files may be viewed in the district court clerk's office and must be returned to the district court clerk when the person has finished with the file. The person viewing the file shall neither open the grippers on the file nor remove any documents from the file, but may mark documents the person wants copied with a paper clip or post-it note. The district court clerk will on request make copies of documents from the court file and charge the copy fee required by Rule 1-099(C) NMRA. The assigned judge may authorize a person to check out a file other than as authorized by this rule.

[Adopted by Supreme Court Order No. 07-8300-039, effective December 28, 2007; LR6-105 recompiled and amended as LR6-103 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-104. Assignment of cases.

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

A. Chief judge to determine assignments. Subject to Rule 1-088 NMRA, Rule 1-088.1 NMRA, Rule 5-105 NMRA, Rule 5-106 NMRA, and Rule 10-161 NMRA the chief judge of the district, in consultation with the other judges, shall determine the manner of assignment or re-assignment of cases.

B. Cases to be heard by assigned judge. Cases assigned to one judge shall not be heard by another judge except by consent of the judge to whom the case is assigned and the parties involved, except in those circumstances described in Paragraph C of this rule.

C. Exceptions; when other judge may hear. Whenever the assigned judge is not available, any judge of the district, or any judge from another district who is present in the county by designation, may hear any default matter, emergency matter, guilty plea to original charges in the indictment or information, or ex parte matter which may arise. A judge pro tem may hear any case or matter assigned to the judge, as though the judge were assigned the case when it was filed.

[Adopted, effective October 2, 2000; LR6-106 recompiled and amended as LR6-104 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-105. Court schedules; itinerary; settings.

[Related Statute NMSA, 1978 §34-6-2]

A. **Judge to determine division's itinerary and schedule.** The judge of each division shall determine the general itinerary and schedule for that division.

B. **Settings; notice required.** The district court clerk or the judge's administrative assistant shall give reasonable notice, in writing, of the time and place of settings to counsel of record or to parties. All settings so made shall be binding on all parties and attorneys properly notified. No setting shall be vacated except on good cause shown.

C. **Notification if setting should be removed.** Attorneys shall timely advise the judge's office when a matter is to be taken off the calendar so that other matters may be set.

[Adopted, effective October 2, 2000; LR6-107 recompiled and amended as LR6-105 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-106. Civil process; issuance.

[Related Statute NMSA 1978, §34-6-27 and Related Statewide Rule 1-004 NMRA]

Process of the district court shall be issued under seal of the court with the name of the district judge assigned to hear the case appearing on the first page.

[Adopted, effective October 2, 2000; LR6-108 recompiled and amended as LR6-106 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-107. District court clerk's trust and litigant accounts.

[Related Statute NMSA 1978, §34-6-36 and Related Statewide Rule 1-102 NMRA]

A. **Tendering money into court's registry.** The district court clerk shall not disburse or accept any money except under court order or statute. Any tender of money to the district court clerk shall be in the form of a money order, certified check, or cash, or, at the sole discretion of the district court clerk, by attorney's trust check.

B. **Interest bearing accounts.** The district court clerk is authorized under Rule 1-102 NMRA to set up and open separate interest-bearing accounts to be known as the

“district court clerk’s trust account” and the “litigant account”, with any authorized bank or savings and loan association in Grant County, New Mexico, for Grant County cases; in Luna County, New Mexico, for Luna County cases; and in Hidalgo County, New Mexico, for Hidalgo County cases, for the purpose of depositing litigants’ funds and producing the best authorized interest on those funds. When funds are to be placed in an interest-bearing account the party who will receive the interest must furnish the district court clerk with the name, mailing address, and social security number or employer identification number of the party to whom payment is to be made, utilizing IRS Form W-9 (Request for Taxpayer Identification Number and Certification). The IRS Form W-9 may be downloaded from the government’s website.

C. Disbursement of funds.

(1) Orders of disbursement shall specifically provide what disposition is to be made as to any accrued interest on the funds held as provided by Rule 1-102 NMRA.

(2) Disbursement of monies held in the district court clerk’s litigants’ account shall be on court order only. Disbursements shall be made forthwith on the order of the court unless the order otherwise states.

(3) All disbursement orders will be reviewed and verified by the district court clerk before going to the judge for approval.

[Adopted, effective October 2, 2000; LR6-109 recompiled and amended as LR6-107 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-108. Court appointments.

[Related Statewide Rule 12-303 NMRA]

Each attorney appearing in a civil case in the Sixth Judicial District shall be responsible for accepting court appointments.

[Adopted, effective October 2, 2000; LR6-110 recompiled and amended as LR-108 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-109. Court security.

[Related Statute NMSA 1978, §4-41-16 and Related Statewide Rule 5-115 NMRA]

A. **Weapons.** All deadly weapons, including knives and objects which could be used to inflict bodily harm, except those carried by court security personnel and law enforcement officers and those intended for use at a trial or hearing, are prohibited in the courtroom of each county court building and any other related judicial office. Law

enforcement officers who are witnesses in trials or not part of court security shall not carry weapons in the courtroom.

B. Prisoner procedures.

(1) The law enforcement agency having custody of any prisoner appearing for a court proceeding shall be responsible for keeping the prisoner secure while the prisoner is at the judicial complex. That agency shall be responsible for searching the prisoner and keeping the prisoner handcuffed or manacled. Prisoners taken to court shall at all times be kept separate from court personnel, members of the public, and the jury. A defendant in custody should not be brought in front of the jury either in prison clothing or visibly restrained.

(2) No attorney shall have the authority to authorize a prisoner to be released from handcuffs or manacles. Law enforcement officers having custody of a prisoner may remove handcuffs or manacles so a prisoner may sign documents or perform other functions necessary for the court proceeding and as otherwise ordered by the court.

(3) Prisoners shall not be allowed to mingle with family members or other persons, except at the discretion of the court or law enforcement agency having custody of the prisoner.

C. Other precautions.

(1) Metal detectors and physical searches may be used in any case on court order.

(2) Any law enforcement officer, court employee, or attorney who believes that an altercation or violent situation may occur at a court proceeding should promptly notify the court. The court may implement appropriate security measures on those occasions.

(3) During court proceedings where a party is in custody, security personnel must remain in the courtroom near the prisoner during the entire proceeding.

[Adopted, effective October 2, 2000; LR6-111 recompiled and amended as LR6-109 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-110. Attorney's attire.

All attorneys, their employees, law clerks, and law students appearing in court shall be properly attired in a manner befitting the dignity of the court. Men shall wear full length trousers, coat, and tie; women shall wear similarly suitable attire.

[Adopted, effective October 2, 2000; LR6-112 recompiled and amended as LR6-110 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-111. Legal research materials.

[Related Statewide Rules 23-108 and 1-099 NMRA]

A. **Use of facility.** No computer, computer software, or computer discs (*e.g.*, New Mexico One Source) shall be removed from the courthouse. Members of both the public and the bar may utilize the computer research facilities for specific, limited legal and case research. When another person is waiting for the computer, research shall be limited to one (1) hour from the time the waiting person arrives.

B. **Copy fees.** Any person who either makes photocopies on the clerk's copy machine or prints material on the computer printer shall pay the clerk thirty-five cents (\$.35) for each page copied or printed. Payment to the clerk shall be by attorney check or cash.

[Adopted, effective October 2, 2000; LR6-113 recompiled and amended as LR6-111 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

LR6-201. Withdrawals and substitution of counsel.

[Related Statute NMSA 1978, §36-2-14 and Related Statewide Rules 1-011 and 1-089 NMRA]

A. Withdrawal.

(1) Any application for withdrawal of counsel under Rule 1-089 NMRA shall state the last known mailing address and telephone numbers of the attorney's client, unless another attorney enters an appearance for the party prior to or simultaneously with the application for withdrawal.

(2) If no hearing on any pending issue is set, the court may consent, without a hearing, to the withdrawal of the counsel if it is accompanied by an entry of appearance of substitute counsel or party *pro se*.

(3) If a hearing on pending issues has been set, the court may consent, without a hearing, to the withdrawal of counsel if it is accompanied by an entry of appearance of substitute counsel or party *pro se*, and if the entry waives any right substitute counsel or party *pro se* may have to request vacation of the hearing that has

been set on the grounds of the new entry and if the entry is approved by opposing counsel or party *pro se*.

(4) If the conditions set forth in Subparagraph (2) or (3) of this paragraph are not met, the court shall approve the withdrawal of counsel only for good cause shown on motion and hearing, with notice to opposing counsel or party *pro se*. If there is no entry of appearance of substitute counsel or of a party *pro se*, the withdrawing attorney shall provide the court with a certificate stating the party's last known telephone number and address at which service of papers may be made in accordance with Rule 1-005 NMRA.

B. Change of address or telephone number. *Pro se* parties and counsel shall inform the court of any change of mailing address or telephone number by filing a notice thereof in each pending matter and serving it on all parties involved in the matter.

[Adopted, effective October 2, 2000; as amended by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-202. Service of notices and mailing of other papers.

A. Scope. This rule applies to the service or delivery of "court originated" notices and other papers. Notices and other papers are considered "court originated" if the court initiated the notice or paper. Any notice or paper submitted by a party for the court's consideration or to be completed by court staff is not considered court originated for purposes of this rule but instead is considered to be a party originated paper. The party submitting a party originated paper that is subsequently filed by the court is responsible for serving the paper on the other parties to the proceeding in accordance with the applicable statewide rules of procedure unless delivery by the court is permitted under Paragraph B of this rule.

B. Designation of attorney boxes at courthouse. All attorneys maintaining an office in Silver City, New Mexico, and who consent in writing, will have an appropriate box or other place designated in the district judge's office in Silver City where copies of notices and other papers will be placed. All attorneys maintaining an office in Deming, New Mexico, and who consent in writing, will have an appropriate box or other place designated in the district judge's office in Deming where copies of notices and other papers will be placed. All attorneys maintaining offices in Lordsburg, New Mexico, and who consent in writing, will have an appropriate box or other place designated in the district court clerk's office in Lordsburg where copies of notices and other papers will be placed. (See Appendix, LR6-Form 702 for consent form.)

C. Use of attorney boxes for service. For those attorneys who do not consent to placement of copies in the areas designated in Paragraph B of this rule, the district court clerk's office will not mail notices or other papers to counsel, except court originated notices and other papers, unless the attorney provides a stamped, self-addressed envelope along with the proposed notice or other paper. Court originated

notices and other papers will be mailed at the court's expense to counsel who either do not maintain an office in the municipality where the district court clerk's office is located or do not consent to the use of the box in the courthouse. An attorney may request that a conformed copy of a paper be mailed to the attorney. The request shall be accompanied by a stamped, self-addressed envelope.

D. Three-day mailing period. When notices and papers are placed in a designated area at the courthouse as provided by this rule, the three (3) days mailing period provided in Rule 1-006(D) NMRA shall be added to any prescribed period. If a notice, order, writ, pleading, or other paper is transmitted by facsimile to counsel under Rule 1-005.1 NMRA, the additional three (3) days provided in Rule 1-006(D) NMRA shall not be added to any prescribed period.

[Adopted, effective October 2, 2000; LR6-206 recompiled and amended as LR6-202 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-203. Consolidation of cases.

[Related Statewide Rule 1-042 NMRA]

A. Motion to consolidate. A motion to consolidate shall be determined by the judge assigned to the case first filed. Domestic violence cases are not consolidated with domestic relations cases.

B. Order. If consolidation is ordered,

- (1) the case shall be assigned to the judge in the case first filed; and
- (2) a copy of the order shall be served on each party in the proceedings with a notice of reassignment in accordance with Rule 1-088.1 NMRA.

C. Filing of pleadings and papers. All pleadings and papers filed subsequent to service of the order consolidating the cases and notice of reassignment shall be filed in the parent case.

[Adopted, effective October 2, 2000; as amended, effective December 12, 2001; as amended by Supreme Court Order No. 06-8300-003, effective January 20, 2006; Supreme Court Order No. 07-8300-017, effective June 27, 2007; LR6-207 recompiled and amended as LR6-203 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-204. Orders and judgments.

[Related Statewide Rule 1-058 NMRA]

A. Other judge may sign when assigned judge unavailable; exception. A district judge may sign an order or judgment when the judge who presided is unavailable, if satisfied that the order or judgment complies with the assigned judge's decision. Any order or other matter once presented to a judge for approval or signature and refused shall not be presented to any other judge except the assigned judge.

B. Separately filed. Orders and judgments shall be separately filed, and shall not be included as part of any pleading or paper.

C. District court clerk to file and date. Every order, judgment, or other paper which has been signed by the court shall be immediately delivered to the district court clerk for filing. Orders and judgments shall not be dated. The date of filing and of entry shall be the same in all cases and shall be shown by the district court clerk's stamp, unless filed in open court. Documents filed in open court will not be date-stamped with a different date when the document is filed with the clerk.

D. Signature or telephonic approval required. Orders, judgments, and decrees may not be signed by the court unless legibly signed or telephonically approved by all counsel of record.

E. Approved orders; requirements. Names or addresses of attorneys shall not appear on any judgment or order except to reflect their approval. Any judgment or order which the parties have agreed and stipulated to shall be approved without reservation by counsel, and not "Approved as to Form" or in any other way limiting approval. If the proposed order, decree, or judgment is approved by all counsel as to form or otherwise, the order, decree, or judgment shall so indicate and may be signed by the court immediately, if appropriate. Orders, decrees, and judgments may be approved telephonically and so indicated.

F. Proposed orders and judgments following hearings or trials; preparation; objection. Subject to Rule 1-058(B) NMRA, in matters decided by the court after a hearing or trial, a proposed order or judgment shall be submitted to the assigned judge within ten (10) days of the decision.

(1) The prevailing party or the person designated by the court shall submit the proposed order or judgment to opposing counsel for approval as to form within five (5) days from the court's ruling. If the preparer is unable to obtain approval as to form, the form of order shall be sent to the judge with a letter of transmittal so indicating. If opposing counsel does not comply with Subparagraph (2) below, the court may either enter the order as presented or modify it to fit the court's ruling.

(2) If opposing counsel does not agree as to the form of order or judgment, that counsel shall file a written objection thereto, if any, with copies to the judge and all other counsel within five (5) days from the receipt of the form of order or judgment. A copy of the form of order or judgment to which the objection is made shall be attached to the filed objection. The objection shall set forth the specific language to which

objection is made and each reason for the objection. The objecting party shall submit a separate form of order or judgment.

(3) The court will inform all counsel of its ruling on the objections, or may order a hearing thereon. The prevailing or designated party shall prepare a proper order or judgment, if different from the one initially submitted, in accordance with the court's decision on the objections.

G. Failure to comply. The court may award attorney fees and costs required because of a failure to comply with this rule.

[Adopted, effective October 2, 2000; LR6-208 recompiled and amended as LR6-204 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-205. Orders to show cause.

Orders to show cause shall be submitted to the judge assigned to hear the case. The orders must be based on a motion and supporting affidavit specifying in particularity the necessity for the relief requested. If, however, the assigned judge is unavailable, the proposed order may be signed by any judge, but only after the date for hearing has been obtained from the administrative assistant of the judge who will hear the matter.

[Adopted, effective October 2, 2000; LR6-209 recompiled and amended as LR6-205 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-206. Default judgments.

[Related Statewide Rule 1-055 NMRA]

A. Certificates as to the state of the record. Certificates as to the state of the record are to be used without modification. (See Appendix, LR6-Form 703 for form of certificate.)

B. Setting aside. Any judge may sign a default judgment, but only the judge to whom the case is assigned shall hear a motion to set aside the default judgment.

[Adopted, effective October 2, 2000; LR6-210 recompiled and amended as LR6-206 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-207. Attorney fees.

[Related Statewide Rule 1-054 NMRA]

A. Attorney statement required. In all proceedings in which a party is entitled to recover attorney fees, a written statement signed by the attorney shall be attached to the motion. The attorney's statement shall contain, at a minimum, the following:

- (1) the time and effort expended by the attorney;
- (2) the extent to which the issues were contested;
- (3) the novelty and complexity of the issues involved;
- (4) fees normally charged in the locality for similar legal services;
- (5) the experience (in years of practice), ability, experience, skill, and reputation of the attorney and the fees generally charged in this locality for similar legal services;
- (6) the relative success in the court proceedings;
- (7) the amount involved, expressed monetarily or by a general description if the issues involve matters other than a money demand;
- (8) the rate of inflation;
- (9) in debt collection cases, the type of security held and the estimated amount of the judgment which can be collected from the foreclosure sale, or if the debt is unsecured, so state; and
- (10) unless the judgment will be collected from a foreclosure sale, an estimate of the approximate time which is anticipated to be involved in collection of the judgment.

B. Court to consider factors. The court will consider the above factors in awarding fees in accordance with Rule 1-054 NMRA.

[Adopted, effective October 2, 2000; LR6-211 recompiled and amended as LR2-207 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-208. Settings.

A. Request for settings. All requests for settings shall be in the approved form and completed except for the date and time for the setting. (See Appendix A, LR6-Form 2.01.) 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 judge's administrative assistant will file the original request for setting form. Attorneys who have consented in accordance with LR6-202 NMRA will have their notices placed in their respective boxes at the courthouse.

B. Vacating settings.

(1) Settings will not be vacated ex parte or by agreement of counsel, but only by the court.

(2) On receipt of the motion to vacate a setting, the court may either vacate the case, refuse to vacate, or schedule a hearing on the request.

(3) An order entered under this rule shall contain the reason for vacating the setting.

(4) If a hearing is vacated, the party who requested that the hearing be vacated shall timely request a new setting of the matter which was vacated.

C. Conflicts in settings. LR6-211 NMRA shall govern any conflicts in settings.

[Adopted, effective October 2, 2000; LR6-212 recompiled and amended as LR6-208 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-209. Audio or audio-video conferences and hearings.

A. Audio or audio-video appearances permitted. The court may hear any matter by audio or audio-video conference.

B. Responsibility and cost. When an audio or audio-video conference is conducted, it will be set up by either the movant or the attorney seeking an audio or audio-video conference, at the movant's or requesting attorney's expense, and not at the expense of the court. If the court initiates the conference, the court may require the parties to reimburse the court for charges.

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

[Adopted, effective October 2, 2000; LR6-213 recompiled and amended as LR6-209 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-210. Scheduling conferences; pretrial conferences.

[Related Statewide Rule 1-016 NMRA]

A. Scheduling conference. A pretrial scheduling conference shall be requested by the attorney for the plaintiff or *pro se* plaintiff, in all civil (CV) actions. The face of the request shall state the date that a scheduling order must be filed in order to comply with

Rule 1-016(B) NMRA, and counsel shall be prepared to advise the court on those matters contained in Rule 1-016(B) NMRA.

B. Pretrial conference.

(1) At any pretrial conference, counsel who will handle the case at trial shall be in attendance, in person, at the conference, unless excused by the court.

(2) Counsel shall be prepared to advise the court of those matters provided for in Rule 1-016(C) NMRA.

(3) The pretrial order shall be substantially in the form as LR6-Form 704. Only matters actually agreed on shall be included.

C. Preparation of pretrial orders. The plaintiff shall prepare plaintiff's portion of the working pretrial order and submit it to all other counsel thirty (30) days prior to the pretrial conference. All other parties shall return their portion of the pretrial order to the plaintiff no later than fifteen (15) days prior to the pretrial conference. Plaintiff shall incorporate each portion submitted into a working pretrial order to be submitted to the court five (5) days prior to the pretrial conference. The final pretrial order shall be prepared after the pretrial conference, or as the court may direct.

[Adopted, effective October 2, 2000; LR6-214 recompiled and amended as LR6-210 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-211. Continuances and conflicts.

A. First case scheduled to control. Continuances requested because counsel have conflicts in settings with other courts shall be governed by the rule that the first case scheduled will control, unless otherwise directed by the court.

B. Good cause required. Continuances will only be granted on the showing of good cause.

[Adopted, effective October 2, 2000; LR6-215 recompiled and amended as LR6-211 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-212. Excusal of judges.

[Related Statewide Rule 1-088.1 NMRA]

A party exercising the election to excuse a judge under Rule 1-088.1 NMRA shall submit two (2) copies of the peremptory election to excuse to the clerk of the court. The clerk shall file one (1) copy and shall immediately send the other copy to the district

judge being excused. The party shall serve all other parties with a copy of the peremptory election.

[Adopted, effective October 2, 2000; LR6-216 recompiled and amended as LR6-212 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-213. 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 actions in the Sixth Judicial District Court as defined in Rule 1-005.2(B)(1) NMRA, as well as domestic relations actions involving the New Mexico Child Support Enforcement Division. 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. 13-8300-LR2, effective for cases filed or pending on or after April 15, 2013; LR6-217 recompiled and amended as LR6-213 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. 19-8300-002, effective for all cases pending or filed on or after September 1, 2019.]

III. Rules Applicable to Criminal Cases

LR6-301. Orders and judgments in criminal matters.

[Related Statewide Rules 5-121 and 5-701NMRA]

The following rules apply to all orders and judgments presented or filed in any criminal case.

A. **Resubmitting refused orders not permitted.** Any order or other matter once presented to a judge for approval or signature and refused shall not be presented to any other judge.

B. **Orders and judgments to be separately filed.** Orders and judgments shall be separately filed, and shall not be included as part of any other filing.

C. **Parties shall not date orders and judgments; district clerk to stamp.** Orders and judgments shall not be dated by the parties. The date of filing and of entry shall be the same in all cases and shall be shown by the district court clerk's stamp, unless filed in open court or nunc pro tunc.

D. Immediate filing after judge signs. All orders and judgments signed by a judge shall be filed immediately with the district court clerk.

[Adopted, effective October 2, 2000; LR6-402 recompiled and amended as LR6-301 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-302. Arrest warrants and affidavits.

[Related Statute NMSA 1978, §31-1-4 and
Related Statewide Rule 5-208 NMSA]

Any person obtaining an arrest warrant shall cause a copy of the arrest warrant and the affidavit or order for the arrest warrant to be immediately filed with the district court clerk to be placed in the defendant's file for information purposes.

[Adopted, effective October 2, 2000; LR6-403 recompiled and amended as LR6-302 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-303. Docket call.

[Related Statewide Rule 5-603 NMRA]

A. Docket call for each trial period. Each judge within the district has an annual criminal trial schedule, an integral part of which is the scheduling of a docket call pretrial conference (docket call) in advance of each trial period.

B. Appearances required; counsel to confer in advance; authority required. The counsel for the State of New Mexico and trial counsel for the defendant (or child, in juvenile cases) are required to appear at the ordered time for docket call to address the status of pending cases. At each docket call, the attorneys will certify to the court that they have, sufficiently in advance of the docket call, "met and conferred" in good faith with their client and opposing counsel regarding the resolution of the case and its status. Out of town counsel may make arrangements in advance to appear by telephone. The attorney who appears at docket call must be prepared to discuss the status of the case, must have the same authority to make decisions in the case as the attorney of record, must have the calendar of the attorney of record available so matters can be set, and must have conferred with both opposing counsel and the attorney's client, or sanctions may be imposed on the attorney of record.

C. Sanctions. Lack of familiarity with a case at the docket call, failure to have met and conferred in advance of the docket call, or failure to attend a docket call may result in sanctions.

D. **Client's appearance.** A judge may require the client to also appear at the docket call.

[Adopted, effective October 2, 2000; LR6-404 recompiled and amended as LR6-303 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-304. Pretrial conference.

[Related Statewide Rule 5-603 NMRA]

Unless defendant (or child, in juvenile cases) is in custody, a pretrial conference may be held on the day preceding any jury trial at a time to be designated in the pretrial order, in order to avoid having jurors appear unnecessarily. Both the defendant and counsel must be present.

[Adopted, effective October 2, 2000; LR6-405 recompiled and amended as LR6-304 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-305. Excusal of judges.

[Related Statewide Rule 5-106 NMRA]

A party exercising the election to excuse a judge under Rule 5-106 NMRA shall submit two (2) copies of the peremptory election to excuse to the clerk of the court. The clerk shall file one (1) copy and shall immediately send the other copy to the district judge being excused. The party shall serve all other parties with a copy of the peremptory election.

[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

LR6-401. Safe exchange and supervised visitation, and domestic relations mediation.

[Related Statutes NMSA 1978, §§ 40-12-5.1 & 40-12-6 and 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 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.

[Adopted, effective October 2, 2000; as amended, effective September 28, 2001; LR6-301 recompiled and amended as LR6-401 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.]

LR6-402. Parent education workshop.

Except by a motion showing good cause for waiver, in all domestic relations cases with children, whether contested or uncontested, the parents shall separately attend a parenting education workshop in a program lasting at least two and one-half (2 1/2) hours approved by the district court for the purpose of educating the parents on making appropriate decisions regarding the welfare of their children. The parents shall pay the cost of the workshop in cash, attorney trust check, or money order (not by personal check) at the time of attendance at the workshop. Verification of attendance, signed by the workshop coordinator, must be submitted to the court before a final decree may be entered.

[Adopted, effective October 2, 2000; LR6-302 recompiled and amended as LR6-402 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-403. Parenting plans.

[Related Statute NMSA 1978, §40-4-9.1 and Related Statewide Rule 1-124 NMRA]

All parenting plans required under Section 40-4-9.1 NMSA 1978 shall include those topics set forth in Appendix, LR6-Form 6-707.

[Adopted, effective November 21, 2002; LR6-303 recompiled and amended as LR6-403 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-404. Withdrawn

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

VI. Rules Applicable to Court Alternative Dispute Resolution Programs

LR6-601. Court-annexed alternative dispute resolution program for civil cases.

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

A. **Application.** This rule applies to civil cases as determined by the court. Mediation of domestic relations cases is covered by Rule LR6-401 NMRA.

B. **Scope.** The purpose of this district's court-annexed alternative dispute resolution 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. The failure of the court-annexed alternative dispute resolution program to produce a settlement will not adversely affect the parties' treatment by the court.

C. **Administration.** The program shall be administered by the court's staff attorney.

D. **Order required.** All referrals to the program require the filing of a written court order.

E. **Limitation.** The number of cases referred to the program shall necessarily be limited due to availability to provide alternative dispute resolution services under court-appointment, and the sufficiency of court resources to administer the program.

F. **Alternative dispute resolution surcharge.** Under Section 34-6-45 NMSA 1978, the district court clerk shall collect a fifteen dollar (\$15.00) surcharge for all new and reopened cases except domestic relations cases, which are charged a surcharge under Rule LR6-401. The surcharge shall be in addition to the civil filing fee required under Section 34-6-40 NMSA 1978 for new and reopened cases. See Rule 1-099 NMRA for the definition of reopened cases. The district court clerk shall deposit all surcharges collected under this local rule in the alternative dispute resolution fund.

G. **Civil mediation fees.** Each party shall pay a fee to the district court clerk's office to offset the costs of the alternative dispute resolution program before mediation has begun. Each party shall fill out a financial information sheet with supporting income documentation and the court shall determine by using the sliding scale fee approved by the Supreme Court.

H. **Immunity.** Court appointed mediators or the staff attorney appointed by the court to serve as settlement facilitators, arbitrators, mediators, or in other such roles under the rules governing this district's court-annexed alternative dispute resolution program, are appointed to serve as arms of the court and as such are immune from liability for conduct within the scope of their appointment as provided by law.

I. **Forms.** When available, applicable court forms shall be used. Forms shall be available to the public on the court's website and at the district court clerk's office.

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

VII. Forms

LR6-Form 701. Request for setting.

STATE OF NEW MEXICO
COUNTY OF _____
SIXTH JUDICIAL DISTRICT COURT

_____,
[Plaintiff] [Petitioner],

No. _____

v.

_____,
[Defendant] [Respondent].

REQUEST FOR SETTING

Type of case: _____ Non-jury _____ Jury _____

Judge assigned to case: _____

Any hearing presently set in this matter: _____

Specific matters to be heard: _____

Time requested for hearing: _____

By requesting trial on the merits, the undersigned attorney or pro se party certifies the cases is ready for trial. A party who disagrees that the case is ready for trial on the merits shall, within ten (10) days from service of this request for setting, file a response setting forth why it is not ready for trial on the merits and when it will be. Rule 1-040 NMRA.)

(Provide names and addresses of pro se parties who need to be notified - attach a list if necessary.)

I hereby certify that I have caused a copy of the foregoing to be [mailed] [delivered] [faxed] to opposing [counsel] [parties pro se] this _____ day of _____, 2____.

Requested by:

NOTICE OF HEARING

The Honorable _____ will hear the above matter in the _____ County courthouse on _____ the _____ day of _____, _____ at _____] (a.m.) (p.m.). _____ time is allotted for the hearing.

Notice [mailed] [delivered] [faxed] on _____ day of _____, _____.

Administrative assistant to the judge

The District Court complies with the Americans with Disabilities Act. Counsel or pro se persons must notify the clerk of the court of the nature of any disability at least five (5) days before any hearing, so appropriate accommodations can be made. The same requirements apply if an interpreter is required.

[Approved, effective October 2, 2000; as amended, effective May 7, 2001; LR6-Form 2.01 recompiled as LR6-Form 701 by Supreme Court Order No. 16-8300-015, effective December 31, 2016.]

LR6-Form 702. Local Rule 6-202 consent to service.

LOCAL RULE 6-202 CONSENT TO SERVICE

I, the undersigned, an attorney maintaining an office in (Silver City) (Deming) (Lordsburg), New Mexico, understand that in accordance with LR6-202 NMRA, I may have an appropriate box or other place designated in the district court clerk's or judge's office of such district where copies of notices and other papers will be placed by the court personnel, thus obviating the necessity of making arrangements to reimburse the court clerk's or judge's office for the cost of mailing.

In accordance with LR6-202 NMRA, I hereby consent to service by court personnel of notices and other papers by placement of such in said box or other appropriate place designated in the district court clerk's or judge's office for such purpose in connection with any case or proceeding in which I may be a counsel of record.

Any such service shall be considered effective as of the date stamped thereon, which shall be the date that such is placed in said box or other place designated in the district court clerk's or judge's office for such purpose.

This consent shall be effective until specifically revoked in writing delivered to the appropriate district court judge, Sixth Judicial District Court.

DATED this _____ day of _____, _____.

Attorney's name

[Adopted, effective October 2, 2000; LR6-Form 2.02 recompiled and amended as LR6-Form 702 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-Form 703. Certificate as to the state of the record and nonappearance.

STATE OF NEW MEXICO
COUNTY OF _____
SIXTH JUDICIAL DISTRICT COURT

(Plaintiff) (Petitioner)

No. _____

v.

Judge:

(Defendant) (Respondent)

CERTIFICATE AS TO THE STATE OF THE RECORD AND NONAPPEARANCE

I, the undersigned, district court clerk of the Sixth Judicial District of the State of New Mexico, within and for the County of _____ do hereby certify that a complaint in the above-entitled cause was filed in my office on the _____ day of _____, _____, that process was issued on the same day, and that it appears from the return made by _____ of _____ County that the process was served on _____ (*name of each defendant or respondent who has not appeared*) on the _____ day of _____, _____, by _____ (*type of service*).

I further certify that no appearance for the above named defendant or respondent has been filed in my office.

IN WITNESS HEREOF, I set my hand and the seal of said court on this _____ day of _____, 20____.

District Court Clerk

By: _____
Deputy

[Approved, effective October 2, 2000; LR6-Form 2.03 recompiled as LR6-Form 703 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-Form 704. Pretrial order.

STATE OF NEW MEXICO
COUNTY OF _____
SIXTH JUDICIAL DISTRICT COURT

(Plaintiff) (Petitioner)

v.

(Defendant) (Respondent)

No. _____

Judge:

PRETRIAL ORDER

Unless otherwise ordered by the court, the pretrial order shall contain the following:

(1) Jurisdiction. _____

(State whether there is a question of jurisdiction over the parties or subject matter and, if so, each party shall provide citation of authority for their position.)

(2) Propriety of parties. _____

(State if there is a need for a guardian, personal representative, etc.; whether parties are correctly stated as an individual, partnership, corporation, etc.; and whether there is a question of misjoinder of parties or need for realignment of parties.)

(3) Outline of events. _____

(Statement by each counsel outlining the events or transactions out of which the claim, counter-claim or cross-claim arose, or upon which the defense is founded.)

(4) Factual allegations; plaintiff. _____

(The plaintiff shall state the factual contentions as to the liability of each defendant, specifically including the injuries and damages claimed by each plaintiff. Special damages, general damages and punitive damages, as well as the specific factual and legal basis for punitive damages, shall be separately stated.)

(5) Factual allegations; defendants. _____

(The defendant shall state the factual contentions as to non-liability and as to each affirmative defense, and shall specifically respond to plaintiff's claims and state the basis for each affirmative defense.)

(6) Factual allegations; others. _____

(Where counter-claims, cross-claims or third-party claims exist, a statement of that party's factual contentions as to liability, non-liability and affirmative defenses shall be stated in the same manner as (4) and (5) supra.)

(7) Admissions or stipulations. _____

(Counsel or pro se litigants shall make an effort to stipulate to all matters not at issue, including, but not limited to, the following:

- A. *dates;*
- B. *places;*
- C. *times;*
- D. *vehicles;*
- E. *ownership;*
- F. *passengers;*
- G. *traffic control devices;*
- H. *weather;*
- I. *foundation matters;*

J. *other.*

Only matters actually agreed upon shall be included. It is the responsibility of each party to introduce stipulations at the appropriate time. A party may read any stipulation to the jury or request the court, out of the presence of the jury, to do so.)

(8) Exhibits. (Each party shall acknowledge that the party is aware of the following requirements concerning exhibits and, in addition, each party shall state the current status of its compliance with the following requirements. Unless stated differently in a Rule 1-016(B) NMRA scheduling order:

A. A pre-numbered exhibit list, describing each exhibit shall be submitted to all other parties at least fifteen (15) days prior to trial and to the court on the day of trial at 8:30 a.m. or such other time as may be set by the court.

B. Actual exhibits shall be made available to all counsel for examination no less than fifteen (15) days prior to trial.

C. Each exhibit shall be numbered separately. The exhibits shall be numbered by plaintiffs and lettered by defendants.

D. Drawings by experts and non-experts shall be prepared prior to trial and made available to all counsel along with exhibits.

E. The parties shall notify each other, in writing, of objections to each other's exhibits at least ten (10) days prior to trial. A copy of the objections shall be given to the court at least five (5) days prior to trial and objections will be considered by the court at such time as may be set by the court. Any exhibit not objected to may be admitted into evidence the morning of trial and may be referred to and shown to the jury during opening statements.)

(9) Discovery. (Each party shall acknowledge that it is aware of the following requirements concerning discovery and, in addition, each party shall state the current status of its compliance with the following requirements.

A. State what discovery has been completed and, if the deadlines for discovery set in the scheduling conferences have not been met, state why, in detail, and when discovery is expected to be completed. Discovery includes the exchange of names of witnesses along with a brief summary of the subject matter of each witness's testimony.

B. It is the responsibility of each party to subpoena that party's witnesses.

C. A separate witness list shall be exchanged by all parties fifteen (15) days prior to trial and a copy thereof delivered to the court at 8:30 a.m. on the morning of trial or at such other time as may be directed by the court. No witnesses, including expert

witnesses, shall be permitted to testify if the witness has not been disclosed as required by the scheduling order except when good cause has been shown.

D. Objections to witnesses shall be made known to each party ten (10) days prior to trial and to the court five (5) days prior to trial.

E. Each party is responsible to have witnesses available as needed and to obtain interpreters as may be required.)

(10) Laws involved. (State as follows:

A. Source of law.

(1) United States of America (constitution or statute)

(2) State (constitution or statute)

(3) Ordinances

(4) Regulations (attach copies)

(5) Decisions (attach copies if not available in the district court law library)

B. Issues of law; evidentiary problems.

C. Memoranda of law. State whether necessary, due date and the issues to be included in the memorandum.)

(11) Amendments to pleadings. _____

(State whether amendments addressed in the scheduling order have been completed and, if not, state why not. If additional amendments are requested, state, in detail, why they were not included in the scheduling order. State requested amendments.)

(12) Briefs. (The parties shall state the need and schedule for filing and exchanging pretrial briefs.)

(13) Masters. (The parties shall state the advisability of referring the matter to a master, settlement facilitator or a mediator, and shall state the possibilities of settlement.)

(14) Other matters. (Such other matters as the court may require with or without a party's request, which shall include any deviations from the scheduling order.)

DATED this _____ day of _____, _____.

District Judge
Sixth Judicial District

SUBMITTED BY AND AGREED TO
IN SUBSTANCE AND FORM

(Plaintiff) (Petitioner)

(Defendant) (Respondent)

[Approved, effective October 2, 2000; LR6-Form 2.04 recompiled as LR6-Form 704 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-Form 705. Attorney's certificate.

[Related Statewide Rule 1-099 NMRA]

STATE OF NEW MEXICO
COUNTY OF _____
SIXTH JUDICIAL DISTRICT COURT

_____, Petitioner

No. _____

v.

Judge: _____

_____, Respondent

ATTORNEY'S CERTIFICATE

I, _____, attorney for _____, certify under Rule 1-011 NMRA that no fee is required by Rule 1-099 NMRA because the attached motion is:

1. being filed within ninety (90) days of final disposition;
2. requesting action which may be performed by the clerk of the court or seeking to correct a mistake in the judgment or record filed;
3. requesting entry of a stipulated order; or

4. seeking only enforcement of a child support order.

Attorney's signature

Attorney's name

Address

Telephone number

IF THE REQUIRED FEE IS NOT PAID, THE CASE WILL BE CLOSED WITHOUT DISPOSITION OF PENDING MATTERS UNTIL PAYMENT IS MADE.

FOR CLERK'S USE ONLY

Fees Paid: Yes No Check Cash
Clerk: _____

[Approved, effective October 2, 2000; ; LR6-Form 3.01 recompiled and amended as LR6-Form 705 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR6-Form 706. Ordered parenting plan for children of separated parents.

STATE OF NEW MEXICO

COUNTY OF _____

SIXTH JUDICIAL DISTRICT COURT

_____, Petitioner

No. _____

v.

Judge: _____

_____, Respondent

**ORDERED PARENTING PLAN
FOR THE CHILDREN OF**

_____ and

1. **Children involved:** The children's names and dates of birth are as follows:

Name

Date of birth

2. **Primary physical custody:** The children shall be in the primary physical custody of the [mother] [father] (hereinafter sometimes referred to as the "custodial parent") with the [father] [mother] (hereinafter sometimes referred to as the "non-custodial parent") having periods of responsibility as set forth in this order.

PROPER CONDUCT OF SEPARATED PARENTS

To father and mother:

You are involved in a divorce suit and are the parents of minor children. As you know, your children are usually the losers when their parents separate. They are deprived of the full-time, proper guidance that two parents can give -- guidance and direction essential to their moral and spiritual growth.

Although there is probably some bitterness between you, it should not be inflicted upon your children. In every child's mind there must and should be an image of two good parents. Your future conduct with your children will be helpful if you will follow these suggestions:

A. Do not poison your children's minds against either their mother or father in discussing their shortcomings. Do not attempt to buy your children's favor by presents or special treatment.

B. Do not expose your children to any member of the opposite sex with whom you may be emotionally involved.

C. Do not use your visitation as an excuse to continue arguments with the other parent.

D. Do not visit your children if you have been drinking. Do not visit your children at unreasonable hours.

E. Be prompt in paying child support as ordered. You will not be credited with presents, clothes, etc., as part of the child support ordered.

F. Do not fail to notify the other parent as soon as possible if you are unable to keep your visitation. It's unfair to your children to keep them waiting -- and worse to disappoint them by not coming at all.

G. Make your visitation as pleasant as possible for your children by not questioning them regarding the activities of the other parent and by not making extravagant promises which you know you cannot or will not keep.

H. The parent with whom the children live must prepare them both physically and mentally for the visitation. The children should be available at the time mutually agreed upon.

I. If one parent has plans for the children that conflict with the visitation and these plans are in the best interests of the children, be adults and work out the problem together.

J. Always work for the spiritual well-being, health, happiness and safety of your children.

3. **Legal custody:**

The parties shall have joint legal custody of the children, with significant periods of responsibility allocated to each parent in accordance with the terms of this parenting plan and with authority and responsibility for making major decisions in the children's best interests as set out herein. Joint legal custody means that neither of you will unilaterally make a major change affecting your children in the areas of religion, residence, non-emergency medical or dental care, education or major recreational activities. Before such a decision is made, you will discuss the matter, and both of you must agree. If you cannot agree, your disagreement will be resolved by the methods chosen in Paragraph 14 of this plan. Until agreement or resolution, no change will be made. This agreement shall set forth the authority and responsibility for making major decisions in the children's best interest as set out in this order. Except as otherwise specified in this order, you shall have joint responsibility and authority for the major decisions affecting the children's health, medical and dental treatment, education, religious activities, recreational activities and residence. Neither of you shall implement a decision which constitutes a major change in either of the children's lives with respect to these designated areas without consultation with the other parent.

4. **Contact with non-custodial parent:** The custodial parent shall encourage and support frequent contact between the non-custodial parent and the children. When a parent does not have the children in their care, such parent is entitled to keep in touch with the children. Both parents have the right to contact the children by mail as frequently as they desire without interference or supervision of correspondence by the other parent. During any time that the children are out of the custody of one parent or the other for more than a weekend, the children shall not only be allowed, but required by the parent who has them in their custody, to call the other parent twice each week

and once per weekend; that is, if the children are with one parent for an entire week, they will call the other parent twice during that week period; and if they are in the custody of one parent for a weekend they will call the other parent one time during the weekend. Such telephone conversations shall not be monitored or supervised by the parent in whose custody the children are in at the time.

5. **The children's wishes:** The children's wishes should and must be considered when decisions are made about them. How much weight you give a child's wishes will depend on the age of the child and the nature of the decision. You will not ask a child to choose between you, and you will not burden a child with any decision that is inappropriate for the child's age and development.

6. **General care:**

A. The children shall generally be in the custodial parent's care. The custodial parent will ensure the children have adequate food, clothing, shelter, medical care and attend school regularly. The non-custodial parent shall ensure that the children have adequate food, clothing, shelter, medical care, and attend school during the non-custodial parent's periods of responsibility, if appropriate.

B. Each parent shall be responsible for the day-to-day care and control of the children during those periods in which the children are physically with such parent's household.

C. Each parent shall arrange for day care for the children with a private caretaker or licensed day care center during the parent's work hours during the parent's period of responsibility. If the children's caretaker that the custodial parent normally uses is not available, the custodial parent shall contact the non-custodial parent to determine if the non-custodial parent is available to care for the children.

7. **Visitation:**

A. All visitation, other than the non-custodial parent's weekend visitations, shall be confirmed by the non-custodial parent and custodial parent arranging the upcoming visitation at least twenty-four (24) hours prior to the time the visitation commences. That is, the custodial parent shall give the non-custodial parent at least twenty-four (24) hours notice prior to dropping the children off at the non-custodial parent's home and the non-custodial parent shall give the custodial parent at least twenty-four (24) hours notice prior to picking up the children at the custodial parent's home. If a party fails to provide the other with confirmation of the upcoming visitation at least twenty-four (24) hours prior to the scheduled visitation, the visitation is forfeited.

B. Non-custodial parent shall have visitation with the children every other weekend. The weekend of _____, _____ (date), shall be the first alternating weekend visitation of the children with the non-custodial parent. The exchange of the

children shall occur at 6:00 p.m. on Friday evenings and at 6:00 p.m. on Sunday evenings at _____.

C. Holidays. The children will spend holidays as follows:

- (1) Mother's Day and mother's birthday with mother;
- (2) Father's Day and father's birthday with father;
- (3) Thanksgiving holiday with father in even-numbered years from Wednesday when school recesses for the holiday to 6:00 p.m. Sunday following the holiday, and with mother in odd-numbered years;
- (4) For purposes of the Christmas holiday exchange, the parties will each have the children for a one (1) week period. During the first Christmas holiday after this parenting plan is entered by the court, the first week is with mother. During the second Christmas holiday after this parenting plan is entered by the court, the first week is with father. The parties will thereafter alternate that arrangement. In addition to alternating the weeks, the parties shall also alternate the children spending Christmas Day and Christmas Eve with each parent. During the first Christmas holiday after this parenting plan is entered by the court, the children shall spend Christmas Eve and Christmas Day with mother. During the second Christmas holiday after this parenting plan is entered by the court, the children shall spend Christmas eve and Christmas day with father. During the third Christmas holiday after this parenting plan is entered by the court, the children will spend Christmas Eve with mother and Christmas Day with father. During the fourth Christmas holiday after this parenting plan is entered by the court, the children will spend Christmas Eve with father and Christmas Day with mother, and they will alternate that arrangement from that time forward;
- (5) Spring break will be alternated with mother having the children during the first Spring break that occurs after this parenting plan is entered by the court. Fall Break will be alternated with father having the children during the first Fall break that occurs after this parenting plan is entered by the court;
- (6) Easter day will be with whichever parent has custody of the children during that weekend.

D. Telephone and mail: Both parents will keep the other informed of current phone numbers and addresses on an ongoing basis, and will not disrupt phone or mail service (*i.e.*, unplug phone, have mail held other than during absence from home).

E. Changes: You may each ask the other for exceptions to this schedule from time to time, but the other parent has the right to say "no", and you will not argue about it nor criticize the other parent's decisions in front of the children.

F. **Scheduled activities:** If either of the children have school or recreational activities planned on weekends during the non-custodial parent's period of responsibility, the non-custodial parent shall take the child involved or make arrangements for the child to attend or participate in such activities during the visit. The non-custodial parent should be notified in advance of such weekend activities whenever possible.

As your children grow, it may be necessary to change the schedule from time to time. This would be a major change that you will have to discuss and agree on. If you cannot agree, you must follow the dispute resolutions in Paragraph 14.

8. **Grandparents and other relatives:** The children's relationships with grandparents and other extended family members are important, and it is beneficial for the children to spend time with your extended families, as long as the members of those families do not try to alienate the children from either of you. You will communicate about visitation with the grandparents.

9. **Step-parents, step-children, step-siblings:** Deep and important relationships between step-relatives can develop. It is not in the children's best interest to cut off those relationships.

10. **Medical decisions:**

A. [Father] [Mother] agrees to keep the minor children covered by health and dental insurance under the policy of insurance available to that parent from either that parent's employer or other group health care insurance plan.

B. In case of a medical emergency, the parent with that period of responsibility will contact the other parent concerning treatment of the child, if possible. If the absent parent cannot be reached, any decision for emergency medical treatment will be made in the best interest of the child by the available parent.

C. Elective medical and dental treatment, other than routine medical and dental treatment, such as regularly required vaccinations and checkups, shall require the consent of both parents.

D. Medical treatment shall be by a licensed physician, osteopath, chiropractor or other recognized health care provider. Any dental work, including orthodontal or periodontal work, shall be done by a licensed dentist.

E. Both parents shall have full access to all medical and dental records and to health care providers.

11. **Change of residence:**

A. Both parents presently intend to continue to live in the city of their residence.

B. Neither parent will remove, cause to be removed, or permit removal of the children from the State of New Mexico, except as agreed to in this plan or for temporary visits which do not interfere with the time-sharing schedule, without the written consent of the other parent or resolution of the dispute by the method set forth in Paragraph 14 of this plan.

C. If either parent plans to change their current home city or state of residence, that parent shall provide to the other parent thirty (30) days notice, in writing, stating the date and destination of the move. As soon as possible thereafter, the moving parent shall provide an address and phone number where the children may send correspondence or call. Absent agreement of the other parent or order of the court, no change of home city or state of residence will be made.

12. Educational decisions:

A. Changes in educational environments or programs shall require the consent of both parents.

B. The children shall continue to attend the school or schools in which they are currently enrolled. The children shall be placed in programs appropriate for their needs based upon recommendations by the school counselors, teachers and advisors and agreement by both parents.

C. School districts shall not be changed unless necessitated by a move or agreement of both parents.

D. Both parents shall have complete access to the children's school records and shall be entitled to participate in conferences with the children's teachers and supervisors. The custodial parent shall ensure that the non-custodial parent receives, and will forward to the non-custodial parent, copies of the children's report cards, progress reports and special testing results. In addition, the custodial parent will ensure that the non-custodial parent receives copies of order forms for the children's school pictures, notices of their parent-teacher meetings and any recreational activities that the children may be involved in.

13. Recreational activities, school activities and public activities:

A. Major changes in the children's recreational activities, such as enrolling a child in a series of recreational lessons, shall require the consent of both parents, and the parents shall not withhold consent arbitrarily or capriciously.

B. The children shall continue in the recreational activities in which they are currently participating. They shall be entitled to participate in any recreational activities sponsored by the school which they are attending. Recreational activities shall expand as the children's interests develop. The parents shall take into account the children's expressed preferences for recreational activities. Unless the activity is dangerous or

unusual (any sports or recreational activities sponsored by the children's school shall not be considered to fall within this category), the custodial parent may enroll the children without the other parent's consent, but shall inform the other parent of the activity. It is understood that the children may participate in programs such as soccer, baseball, gymnastics, softball, volleyball, tennis, swimming, diving, etc.

C. Each parent shall have the right to attend and participate in the children's school and other recreational activities, and each parent shall advise the other of such events that come to the parent's attention.

14. **Dispute resolution:**

A. Disputes concerning interpretation or application of this parenting plan and failure of the parents to reach agreement when required under the provisions of this plan shall be resolved in accordance with this section. While a dispute is being resolved, neither parent shall alter the status quo.

B. In the event that a problem arises in which an immediate agreement cannot be reached, the parents shall set aside a portion of time in which to discuss the matter, either in person or by telephone, without distractions, and without the children being present. Issues other than the specific problem at hand shall not be discussed at that time. The parents shall attempt, in good faith, to resolve their differences and reach an agreement. Each parent agrees to keep in mind what is in the best interests of the children and to take the children's wishes and desires into account.

C. Written proposals:

If either parent wishes to permanently change the time-sharing plan or one or more aspects of the status quo, the one who wishes the change will give to the other a written change proposal which will include what the other party wants to change and why, and which will provide enough information so the other will be able to investigate. For example, the change proposal will include necessary names, addresses and phone numbers, and a reasonable time limit for responding.

The parent who receives the change proposal will investigate the proposed change and will respond in a reasonable time, in writing. If the parent disagrees with the proposed change, the parent must explain why the parent disagrees, and when appropriate, the parent who disagrees shall make a written counter proposal.

D. Oral Discussion:

You will discuss all major changes in the children's lives in order to try to reach an agreement.

E. If you cannot agree to the proposed change, no change will be made until you submit the issue to, and participate in, mediation to try and reach an agreement.

F. Only after you have attempted all these avenues to resolve the issue and they fail, will the matter then be submitted to the district court. The district court may refer the matter to a special master or may terminate joint custody among other resolutions.

G. The cost involved in the dispute resolution will be paid fifty percent (50%) by each parent. You will use the above methods of dispute resolution and neither parent will withhold financial support or access to the children before, during or after dispute resolution.

15. General:

A. You will both be actively involved in the major decisions and legal responsibilities for your children.

B. You will communicate and be flexible about the needs of the children, especially as those needs change due to a child's growth and development.

C. You will be supportive of the children's relationship with the other parent and positive about that relationship. You will give permission to the children to enjoy the relationship with the other parent and will not interfere with the parent-child relationship of the other.

D. Neither of you will align the children against the other parent, or the other parent's family.

E. You shall foster a positive relationship between the other parent and the children. You will refrain from making negative or derogatory comments about the absent parent. Neither of you shall discuss disputes regarding property matters, support payments or other issues with the children or in their presence. You will not use the children as intermediaries in transmitting money, documents or messages.

F. This parenting plan shall continue in force and effect until modified by order of a court of competent jurisdiction or until modified by written agreement.

Dated this _____ day of _____, _____.

District Judge
Sixth Judicial District

I certify that I have [] mailed [] delivered a copy of the foregoing to the petitioner at _____ and to the respondent at _____ on this _____ day of _____, _____.

Administrative assistant to the judge

SUBMITTED BY AND AGREED TO
IN SUBSTANCE AND FORM:

Petitioner

Respondent

[Approved, effective November 21, 2002; as amended by Supreme Court Order No. 06-8300-006, effective February 16, 2006; LR6-Form 3.03 recompiled as LR6-Form 706 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]