Rules of the District Court of the Second Judicial District

Table of Corresponding Rules

Local Rules of the Second 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.
LR2-101	LR2-101
LR2-102	LR2-102
LR2-103	LR2-103
LR2-104	LR2-104
LR2-105	LR2-105
LR2-106	LR2-106
LR2-107	LR2-107
LR2-108	LR2-108
LR2-109	LR2-109
LR2-110	LR2-110
LR2-111	Withdrawn
LR2-112	Withdrawn
LR2-113	Recomp. as LR2-111
LR2-114	Recomp. as LR2-112
LR2-115	Withdrawn
LR2-116	Recomp. as LR2-113
LR2-117	Recomp. as LR2-114
LR2-118	Withdrawn
LR2-119	Recomp. as LR2-115
LR2-120	Recomp. as LR2-116
LR2-121	Recomp. as LR2-117
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LR2-123	Recomp. as LR2-119
LR2-124	Recomp. as LR2-120
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New Rule No.	Corresponding Former Rule No.
LR2-101	LR2-101
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LR2-123	LR2-127
LR2-124	LR2-129
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LR2-127	Recomp. as LR2-123
LR2-128	Withdrawn
LR2-129	Recomp. as LR2-124
LR2-130	Recomp. as LR2-125
LR2-131	Withdrawn
LR2-132	Recomp. as LR2-126
LR2-133	Withdrawn
LR2-134	Recomp. as LR2-127
LR2-201	Recomp. as LR2-501
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LR2-301	Recomp. as LR2-201
LR2-302	Recomp. as LR2-202
LR2-303	Recomp. as LR2-203
LR2-400	Recomp. as LR2-308
LR2-401	Recomp. as LR2-301
LR2-402	Recomp. as LR2-302
LR2-403	Recomp. as LR2-303
LR2-404	Withdrawn
LR2-405	Recomp. as LR2-304
LR2-406	Withdrawn
LR2-407	Recomp. as LR2-305
LR2-409	Recomp. as LR2-306
LR2-504	Recomp. as LR2-401
LR2-506	Recomp. as LR2-402
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LR2-603	LR2-603
LR2-Form A	Withdrawn
LR2-Form B	Withdrawn
LR2-Form C	Withdrawn
LR2-Form D	Withdrawn
LR2-Form E	Recomp. as LR2-Form 701
LR2-Form F	Recomp. as LR2-Form 702
LR2-Form G	Recomp. as LR2-Form 703
LR2-Form H	Recomp. as LR2-Form 704
LR2-Form I	Recomp. as LR2-Form 705
LR2-Form J	Recomp. as LR2-Form 706
LR2-Form K	Withdrawn

LR2-127	LR2-134
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LR2-203	LR2-303
LR2-301	LR2-401
LR2-302	LR2-402
LR2-303	LR2-403
LR2-304	LR2-405
LR2-305	LR2-407
LR2-306	LR2-409
LR2-307	New
LR2-308	LR2-400
LR2-401	LR2-504
LR2-402	LR2-506
LR2-501	LR2-201
LR2-502	LR2-202
LR2-601	LR2-601
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LR2-603	LR2-603
LR2-Form 701	LR2-Form E
LR2-Form 702	LR2-Form F
LR2-Form 703	LR2-Form G
LR2-Form 704	LR2-Form H
LR2-Form 705	LR2-Form I
LR2-Form 706	LR2-Form J
LR2-Form 707	LR2-Form L
LR2-Form 708	New
LR2-Form 709	LR2-Form T

LR2-Form L	Recomp. as LR2-Form 707
LR2-Form M	Withdrawn
LR2-Form T	Recomp. as LR2-Form 709
LR2-Form U	Withdrawn

I. Rules Applicable to All Cases

LR2-101. Title.

These rules shall be cited as the “Local Rules of the Second Judicial District Court.”

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

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, in the heading, deleted “Applicability”; deleted Paragraph A and the paragraph designation “B”; and after “cited as the”, deleted “Second Judicial District Local Rules” and added “Local Rules of the Second Judicial District Court.”

LR2-102. Chief judge.

[Related Statewide Rule 23-109 NMRA]

Under Rule 23-109 NMRA, the chief judge shall be elected during March of the year in which the current chief judge’s term expires. The term of the chief judge shall begin July 1 of the year of his or her election.

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

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added “[Related Statewide Rule 23-109 NMRA]”, and in the first sentence, changed “Pursuant to” to “Under”.

LR2-103. Children’s, civil, criminal, and domestic relations courts; judge assignments; partner judges; presiding judges.

A. **Second judicial district courts.** The second judicial district judges and clerks are divided into four courts: children’s court, civil court, criminal court, and domestic relations court. Cases are assigned to the four courts as follows.

(1) Children's court cases include all delinquency, youthful offender, and families in need of court ordered services cases; neglect and abuse cases; termination of parental rights cases; child and adult adoption cases; cases under the Interstate Compacts on Juveniles and the Placement of Children; authorizations of marriages of minors; and emancipation of minors. Delinquency cases shall be designated with a "JR" number; youthful offender cases shall be designated with a "YR" number; families in need of court ordered services cases, abuse and neglect cases, and termination of parental rights cases brought by the department shall be designated with a "JQ" number; and child and adult adoption cases brought by private parties shall be designated with an "SA" number.

(2) Civil court cases include all civil cases not assigned to the other courts and shall be designated by a "CV" (Civil), "SQ" (Sequestered Mental Health), "PQ" (Sequestered Probate), "PB" (Probate), "MS" (Miscellaneous), or "SL" (Student Loans) number.

(3) Criminal court cases include all criminal cases, including metropolitan court criminal appeals, except those cases involving domestic violence which do not result in the death of the victim and shall be designated by a "CR" number.

(4) Domestic relations court cases include all cases of a domestic relations nature, except cases seeking money damages for spousal torts, including but not limited to all divorces, annulments, legal separations, allocation of property and debt, parentage actions, child custody and child support cases, and disputes arising from a cohabitation relationship between non-married persons, which shall be designated by a "DM" number; and domestic violence protection order cases brought pursuant to the Family Violence Protection Act, which shall be designated by a "DM/DV" number.

B. **Incorrect case assignment.** If a case has been incorrectly assigned to a court, upon a party's motion or the court's own motion the assigned judge shall order the proper reassignment. No refund or increase in filing fees shall be required by such reassignment.

C. **Judge assignments.** The chief judge shall assign each judge to hear cases in one of the four courts.

D. **Alternate judges.** The chief judge may designate an alternate judge or judges for each court. The alternate judge shall be assigned cases in the court in which he or she acts as an alternate when all other judges in that court have been excused, challenged, or recused.

E. **Partner judges.** The chief judge shall assign each judge a partner judge who shall sign orders and hear emergency matters in the other's absence.

F. **Presiding judges.** The chief judge shall appoint a presiding judge for each of the four courts. All administrative matters that cannot be resolved by the judge assigned to

the case shall be referred to the presiding judge of the court to which the case is assigned.

G. **Monthly meetings.** Unless otherwise directed by the chief judge, all of the judges shall meet at noon on the second Thursday of each month. The judges of each court shall meet at least quarterly at a time and place set by the presiding judge.

[As amended, effective November 21, 1996; December 19, 2000; as amended by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, in Subparagraph A(1), after “ordered services” and after “neglect”, added “cases”; in Subparagraph A(2), after “shall be designated”, deleted “CV, SQ, PB, MS or TX” and added “CV (Civil), SQ (Sequestered Mental Health), PQ (Sequestered Probate), PB (Probate), MS (Miscellaneous), or SL (Student Loans)”; and in Paragraph F, after “administrative matters”, deleted “which” and added “that”.

The 2000 amendment, effective December 19, 2000, deleted "and domestice violence" from the section catchline; in Paragraph A, substituted "four" for "five" for the number of courts that the second judicial district judges and clerks are divided and deleted the reference to the domestic violence court; in Paragraph A(1), substituted "youthful offender and families in need of court ordered services cases" for "need of supervision cases" near the beginning, deleted "guardianships arising under the Children's Code; and", substituted "and emancipation of minors" for "and shall be designated by a 'CH'" in the first sentence and added the second sentence, relating to how different cases would be designated; in Paragraph A(4), deleted "or petitions for domestic violence protection orders pursuant to the Family Violence Protection Act" following "spousal torts", substituted "separations, allocation of property and debt, parentage actions, child custody and child support" for "separation, property division, parentage, child custody and non-support", substituted "DM" for "DR" and added the language beginning "and domestic violence protection" at the end; deleted Paragraph A(5) pertaining to domestic violence court cases; and in Paragraph C, substituted "four" for "five" for the number of courts.

The 1996 amendment, effective November 21, 1996, added "and domestic violence" in the rule heading; in Paragraph A, deleted "and" preceding "domestic relations court", added "and domestic violence court", and substituted "five" for "four" twice; in Subparagraph A(3), added "except those cases involving domestic violence which do not result in the death of the victim"; in Subparagraph A(4), added "or petitions for domestic violence protection orders pursuant to the Family Violence Protection Act" and deleted "domestic violence cases" following "non-support cases"; added Subparagraph A(5); and substituted "five" for "four" in Paragraph C.

LR2-104. Assignment of cases.

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

A. **General.** All cases will be assigned at random exclusively to the judges of the court in which the cases are filed, except motor vehicle division appeals which are filed in the civil court will be assigned at random to the judges of the criminal court.

B. **Criminal cases.** If a criminal case involving multiple defendants is reassigned, all defendants in that case shall be reassigned to the replacement judge.

C. **Stipulation.** If the parties in any case timely file a stipulation to district judge under Rule 1-088 or Rule 5-105 NMRA, the case will be assigned to the stipulated judge provided the judge's written approval has been filed with the clerk.

D. **Random reassignment.** If no stipulation is timely filed, the case will be randomly reassigned to a judge in the court in which the case is filed. If no judges remain in that particular court, the case shall be randomly reassigned to that court's alternate judge(s), if any. In exigent circumstances, a party may request that the chief judge, or in his or her absence, the alternate chief judge or a presiding judge, direct the clerk to make an immediate judge reassignment.

[As amended, effective January 23, 1998; as amended by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rules 1-088, 5-105, and 10-161 NMRA]"; and in Paragraph C, after "district judge", deleted "pursuant to" and added "under", and after "judge provided", deleted "such" and added "the".

The 1998 amendment, rewrote Paragraph B.

LR2-105. Consolidating cases.

[Related Statewide Rule 1-042 NMRA]

A. **Judge.** Motions to consolidate and consolidated cases shall be heard by the judge assigned to the oldest case (the case bearing the lowest case number) in which the judge has not been excused, challenged, or recused.

B. **Filings.** The motion to consolidate and the court's order to consolidate shall be filed in the oldest case (the case bearing the lowest case number); copies of the motion and order shall be filed in all the consolidated cases. Following consolidation, all pleadings, motions, and other papers shall be filed only in the oldest case; no papers

including copies shall be filed in the remaining cases, except in criminal court cases copies shall be filed in all the remaining cases.

C. **Captions; titles.** The case number of each case consolidated shall appear in the caption of all pleadings, motions, and other papers filed after consolidation. In addition, if the pleading, motion, or other paper does not apply to all the consolidated cases, its title shall include the case number(s) to which it pertains, *e.g.*, "Motion for Summary Judgment on Count II of CV-88-08888."

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

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide rule 1-042 NMRA]".

LR2-106. Priorities for resolving scheduling conflicts.

A. **Scheduling priorities.** Scheduling conflicts between or within the various courts (i.e., children's court, civil court, criminal court, and domestic relations court) shall be resolved using the following order of priorities:

(1) all matters given preference by statute or Supreme Court rule;

(2) trials and hearings on the merits, with jury trials taking precedence over non-jury trials;

(3) children's court cases, with the oldest case generally taking precedence;

(4) criminal court cases, with the following factors all being considered to determine priority:

(a) date of indictment or date or information;

(b) date of arraignment; and

(c) whether the defendant is or is not in custody;

(5) domestic relations court cases, with the oldest case generally taking precedence but child related issues taking precedence over all other issues;

(6) civil court cases;

(7) all other matters.

B. **Court-appointed hearing officers.** Trials, hearings, or conferences scheduled by a court-appointed hearing officer (arbitrator, settlement facilitator, special master, etc.) shall be given the same priority as those set by a judge.

C. **Scheduling conflicts.** Scheduling conflicts which are not resolved under Subsection A of this rule or by the assigned judges shall be resolved by the presiding judge(s). If the presiding judge(s) cannot resolve the conflict, the matter may be referred to the chief judge.

[As amended, effective January 23, 1998; as amended by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, deleted Subparagraph A(4)(d); in Paragraph C, after “resolve”, deleted “pursuant to” and added “under”, and after “Subsection A”, deleted “above” and added “of this rule”.

The 1998 amendment added the factors to be considered to determine criminal court case priority in Subparagraph A(4).

LR2-107. Court hours; holidays; weather delays and closings.

A. **Working hours; holidays.** The usual working hours for Second Judicial District Court offices shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday. The usual working hours for the court may be different than those of the individual clerks’ offices. District court offices will observe those legal holidays published annually by the Administrative Office of the Courts and any others designated as legal holidays by the Supreme Court.

B. **Weather delays and closings.** The second judicial district court shall observe the same schedule as the Albuquerque Public Schools with respect to court closing and delayed opening due to weather conditions.

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

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, revised the provisions related to working hours for court offices; in Paragraph A, deleted “The usual working hours for second judicial district court offices shall be from 8:00 a.m. to 12:00 noon, and from 1:00 p.m. to 5:00 p.m., Monday through Friday.” and added the first two sentences of the paragraph; after “annually by the”, deleted “administrative office of the courts” and added “Administrative Office of the

Courts"; and in Paragraph B, deleted "As provided by Supreme Court order filed March 7, 1990".

LR2-108. Court security.

[Related Statewide Rule 5-115 NMRA]

A. **Potentially violent situations; duty of party.** In any type of case where a party believes that a potentially violent situation might arise, that party, through counsel or pro se, should notify the assigned judge and court administrator sufficiently in advance so that appropriate security measures can be taken.

B. **Entry.** All persons entering and all packages, briefcases, bags, and containers brought into the Bernalillo County Courthouse or the John E. Brown Juvenile Justice Center shall be subject to search by x-ray or other screening method.

C. **Deadly weapons.** No deadly weapon of any type will be allowed either in the Bernalillo County Courthouse or the John E. Brown Juvenile Justice Center. All weapons must be turned in to security personnel at the security barrier. Legal weapons will be returned to the possessor upon departure from the building. Deadly weapons are subject to confiscation by security personnel in the course and performance of their duties. A "deadly weapon" includes any deadly weapon as defined by Section 30-1-12 NMSA 1978, any knife, mace, pepper spray, or other caustic chemicals. Persons found entering the building with a "deadly weapon" may be turned away until they have secured the weapon off the premises.

D. **Exemptions.** The following individuals are exempt from Subsections B and C of this rule:

(1) on-duty Bernalillo County sheriff's department security personnel assigned to the courthouse or the juvenile justice center;

(2) law enforcement officers transporting prisoners from any detention facility; and

(3) law enforcement officers appearing for court on official business who secure their weapons in the provided gun lockers.

[As amended, effective August 7, 2001; as amended by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, removed the definition of deadly weapon; added "[Related Statewide Rule 5-115 NMRA]"; in Paragraph C, deleted "A 'deadly weapon' includes

any deadly weapon as defined by Section 30-1-12 NMSA 1978, any knife, mace, pepper spray and other caustic chemicals. Persons found entering the building with a ‘deadly weapon’ may be turned away until they have secured the weapon off the premises.”

The 2001 amendment, effective August 7, 2001, in Subsection C, inserted "Deadly" in the subsection heading, substituted "deadly weapon" for "weapons" at the beginning of the subsection and added the fourth and fifth sentences pertaining to deadly weapons and substituted "Deadly" for "Illegal" at the beginning of the sixth sentence; and added Paragraph D(3).

LR2-109. Decorum.

[Related Statewide Rules 1-090 and 5-115 NMRA]

Individuals appearing in court or in a judge’s office or chambers shall conduct themselves in a manner befitting the dignity of the court. Portable telephones, pagers, and beepers shall be turned off. Attorneys, their employees, law clerks, runners, law students, and court employees appearing in court or in a judge’s office or chambers shall dress in a manner befitting the dignity of the court.

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

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added “[Related Statewide Rules 1-090 and 5-115 NMRA]”.

LR2-110. Official record of court proceedings.

[Related Statewide Rules 22-101 to -701 NMRA]

In proceedings before second judicial district judges, hearing officers, and special commissioners, official court reporters and monitors are responsible for taking the official record. When parties in such proceedings need stenographic services which the official court reporter cannot provide and the managing court reporter so certifies, non-official certified reporters may be used, unless a non-certified reporter is otherwise permitted under statewide Rules Governing the Recording of Judicial Proceedings. No one may record any such proceeding without the prior approval of the assigned judge.

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

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rules 22-101 to -701 NMRA]"; and after "reporters may be used", added "unless a non-certified reporter is otherwise permitted under statewide Rules Governing the Recording of Judicial Proceedings".

LR2-111. Transportation of incarcerated and in-custody persons for hearings and trial; dress.

[Related Statewide Rule 5-502 NMRA]

A. **Submission of transportation orders.** A court order is required for the transportation for trial, hearing, or other proceeding of any person under the jurisdiction of the second judicial district and incarcerated or in custody at the New Mexico State Penitentiary, state hospital, or other such institution except the Bernalillo County Detention Center. In criminal cases, the prosecutor shall submit a proposed transportation order for all proceedings and shall serve an endorsed copy of the transportation order on the institution in such a manner that the copy is received at least twenty-one (21) days prior to the date of the requested transport.

Upon court order, incarcerated or in-custody persons should be transported to allow sufficient time for consultation with counsel, if any. This section does not apply to transportation orders obtained under Rule 5-502(D) NMRA

B. **Contents of proposed order.** Proposed transportation orders shall include the following:

(1) the full name and any aliases of the person to be transported and that person's date of birth and social security number;

(2) the applicable case number and caption;

(3) the designated transporting agency (usually the sheriff of the appropriate county);

(4) the place where the person is incarcerated or in custody;

(5) the place(s) where the person is to be transported;

(6) the reason for the transport;

(7) the place, date, and time of the proceeding and, if known, the length of such proceeding;

(8) the date the person is to be returned, if applicable; and

(9) the requirement, if any, for civilian clothing.

C. **Notice to Bernalillo County Detention Center.** The criminal clerk shall notify the Bernalillo County Detention Center ("BCDC") of criminal trials and other hearings for defendants in custody or incarcerated at BCDC. BCDC personnel shall transport such defendants to such hearings.

D. **Prisoners' dress.** The incarcerating or custodial institution shall ensure that prisoners appearing for jury trials be clean and in civilian clothing.

[LR2-113 recompiled and amended as LR2-111 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, revised the notice provisions for transport orders in criminal cases; added "[Related Statewide Rule 5-502 NMRA]"; in Paragraph A, after "Bernalillo County Detention Center", deleted "In criminal cases, the prosecutor shall submit a proposed transportation order for all proceedings set at the state's request and for all trials, and the defendant, through counsel or pro se, shall submit a proposed transportation order for proceedings set at his or her request. In all cases the submitting party shall serve an endorsed copy of the transportation order on the institution in such a manner that the copy is received at least five (5) days prior to the date of the requested transport." and added the last sentence of the first paragraph; in the second undesignated paragraph, after "incarcerated", added "or" and the last sentence; and in Paragraph D, after "shall", deleted "insure" and added "ensure".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-113 NMRA was recompiled and amended as LR2-111 NMRA, effective December 31, 2016.

LR2-112. Tendering money to and disbursing money from the court; insufficient funds checks; refunds; daily jury receipt.

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

A. **Court order or statute required.** The clerk shall not accept or disburse money except pursuant to court order, rule, or statute.

B. **Disbursements.** Except for routine orders submitted by court staff, all proposed orders for disbursement of funds from a court account shall be approved by the court accountant prior to presentment to any judge, such approval to signify that funds necessary to execute the order are available.

C. **Form of tender.** Any tender of any type of bond, litigant funds, or eminent domain funds shall be in the form of cash, money order, cashier's check, certified check, or government agency warrant. Any tender for fees and other payments may be

in the form of cash, money order, cashier's check, certified check, government agency warrant, attorney trust or operating account check, or law firm check. Personal checks shall not be accepted.

D. **Insufficient funds checks.** The court shall refuse checks from attorneys, law firms, or agencies who have previously presented insufficient funds checks. Upon written request, the chief judge may waive this requirement. The clerk shall assess a service charge consistent with what the financial institution charges the court on checks which are returned for any reason. This requirement shall not be waived.

E. **Fee refunds.** Filing fees will not be refunded. Court clinic assessment fees in domestic relations court cases will not be refunded except upon court order for good cause shown.

F. **Daily jury fee receipt.** The party or parties requesting a jury trial must present their receipt for payment of the daily jury fee to the assigned judge before the trial will continue as a jury trial each day.

[As amended, effective December 27, 1999; LR2-114 recompiled and amended as LR2-112 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rule 1-102 NMRA and Statute NMSA 1978, § 34-6-36]"; in Paragraph A, after "court order", deleted "or"; in Paragraph D, after "The clerk shall assess a", deleted "twenty-five dollar ($25.00) fee" and added "service charge consistent with what the financial institution charges the court"; and in Paragraph E, after "Filing fees", deleted "and jury fees".

The 1999 amendment, effective December 27, 1999, deleted the last sentence of Paragraph B, relating to the availability of disbursements.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-114 NMRA was recompiled and amended as LR2-112 NMRA, effective December 31, 2016.

LR2-113. Pro se appearance and filings; corporations as parties.

[Related Statewide Rules 1-089, 5-107, and 10-165 NMRA]

A. **Entry of appearance by parties pro se.** Parties who represent themselves shall enter an appearance and shall do so by filing an initial pleading, responsive motion, or other paper that includes their name, address, and telephone number. Parties pro se

shall promptly file notice of any change of address or telephone number, and serve the notice on all other parties.

B. **Filings by parties pro se.** The clerk shall accept for filing a pro se party's pleadings, motions, and other papers without regard to such pro se party's failure to comply with the requirements of Rule 1-100 NMRA, or any second judicial district local rule, provided the papers are legible and sufficient information is provided for the clerk to identify the case to which the papers apply.

C. **Corporations as parties.** Corporations must be represented by counsel. The court may strike, by court order on its own motion, any papers filed by an unrepresented corporation.

[LR2-116 recompiled and amended as LR2-113 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rules 1-089, 5-107, and 10-165 NMRA]"; and in Paragraph A, after "and serve", deleted "such" and added "the notice".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-116 NMRA was recompiled and amended as LR2-113 NMRA, effective December 31, 2016.

LR2-114. Counsel of record; appearance; withdrawal.

[Related Statewide Rules 1-089, 5-107, and 10-165 NMRA]

A. **Entry of appearance required.** All counsel for a party, including state prosecutors and public defenders and counsel in appeals from metropolitan court, shall enter an appearance and shall do so either (1) by filing the party's initial pleading, criminal information or indictment, or delinquency petition, or (2) by filing an entry of appearance. Counsel shall promptly file notice of any change of address or telephone number and serve such notice on all other parties.

B. **Additional appearance requirements for criminal cases.** In all criminal cases, at arraignment or within seven (7) days thereafter, the prosecutor and the public defender or other defense counsel who will actually try the case shall file an entry of appearance as trial counsel. Within seven (7) days after discovery of any conflict affecting public defender representation, the public defender shall file a notice of conflict, and provide a copy of such notice to the assigned judge.

C. **Withdrawal of counsel.** All withdrawals in all cases shall be by court order upon motion and shall not be granted ex parte. In addition to the grounds for withdrawal,

motions to withdraw shall set forth the dates and times of any hearings set, and the dates of any relevant Supreme Court deadlines (*e.g.*, in criminal cases, the date the trial deadline expires). In addition, unless the court otherwise orders for good cause, motions to withdraw shall

(1) be accompanied by an entry of appearance by substitute counsel or the client as a party pro se in which such substitute counsel or party pro se certifies that he or she is ready and able to proceed without delay; or

(2) set forth in the motion the client's last known address and telephone numbers including work number, and acknowledge that the client has twenty (20) days in which to obtain counsel or be deemed appearing pro se.

Motions to withdraw shall be in the form set forth in LR2-Form 701 NMRA; entries of appearance by substitute counsel or party pro se shall be in the form set forth in LR2-Form 702 NMRA. A copy of the motion to withdraw shall be served on the client as well as all other parties. An endorsed copy of the order allowing withdrawal shall be served on the client and all other parties.

[LR2-117 recompiled and amended as LR2-114 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rules 1-089, 5-107, and 10-165 NMRA]"; in Paragraph C, after "the date the", deleted "six-month rule" and added "trial deadline"; and in the last undesignated paragraph, after "set forth in", deleted "LR2-Form E" and added "LR2-Form 701 NMRA", after "form set forth in", deleted "LR2-Form F" and added "LR2-Form 702 NMRA", and after "served on the client", deleted "as well as" and added "and".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-117 NMRA was recompiled and amended as LR2-114 NMRA, effective December 31, 2016.

LR2-115. Attachments.

[Related Statewide Rules 1-100, 5-118, and 10-113 NMRA]

A. **Non-duplication.** Exhibits, appendices, and other attachments (hereinafter "attachments") to pleadings, motions, and other papers shall be filed with the court only once; subsequent use of such attachments shall be by reference to the document name and filing date.

B. **Size and page limit.** The size of any attachment, other than exhibits, shall not exceed eight and one-half (8 1/2) inches in width by fourteen (14) inches in length, and the total number of pages of attachments shall not exceed twenty-five (25), except by leave of the court. The size of any exhibits shall be their original size or any smaller size not less than eight and one-half by eleven (8 1/2 x 11) inches.

C. **Legal authority.** Copies of cited cases, treatises, annotations, law review articles, and other such legal authority shall not be filed with the clerk but shall be given to the assigned judge if requested.

D. **Court clinic records.** Copies of court clinic records, including psychological and psychiatric reports, shall not be attached to any pleading, motion, or other paper.

E. **Violations.** Attachments filed in violation of this rule may be stricken by court order on the court's own motion.

[LR2-119 recompiled and amended as LR2-115 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rules 1-100, 5-118, and 10-113 NMRA]"; and in Paragraph B, after "any attachment", added "other than exhibits", after "shall not exceed", deleted "8 and ½" and added "eight and one-half (8 ½)", after "width by", deleted "14" and added "fourteen (14)"; and after "leave of the court", added the last sentence of the paragraph.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-119 NMRA was recompiled and amended as LR2-115 NMRA, effective December 31, 2016.

LR2-116. Briefs and statements of supporting points and authorities; approval; page limit.

A. **Approval required.** Except for briefs regarding opposed motions, prior court approval is required for the filing of all briefs and statements of supporting points and authorities.

B. **Page limit.** Except by leave of the court, briefs and statements shall not exceed ten (10) pages.

[LR2-120 recompiled as LR2-116 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-120 NMRA was recompiled as LR2-116 NMRA, effective December 31, 2016.

LR2-117. Exhibits at hearings and trial.

A. **Size limitations.** Exhibits presented at trial or other hearing which exceed fifteen (15) inches by seventeen (17) inches or which cannot be folded to fit within that size envelope may be admitted, provided the proponent of such exhibit provides the court a copy of the exhibit reduced to fifteen (15) inches by seventeen (17) inches. After the hearing or trial at which the exhibit was admitted, the reduced copy shall be substituted for the larger exhibit and made part of the permanent court record. The court will allow the proponent to withdraw a large exhibit from the court in order to obtain a reduced copy. This rule is not intended to limit the introduction of objects at issue in any case, *e.g.*, the alleged faulty product, clothing, etc.

B. **Marking, filing and copying.** The court reporter will mark, log, and file all exhibits used during court proceedings. Photocopies of exhibits in the form of paper may be requested from the special services division. A fee will be charged for all photocopies. Exhibits sealed by the court may not be photocopied without court order.

[LR2-121 recompiled and amended as LR2-117 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, in Paragraph A, changed “15 inches by 17 inches” to “fifteen (15) inches by seventeen (17) inches” in two places.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-121 NMRA was recompiled and amended as LR2-117 NMRA, effective December 31, 2016.

LR2-118. Interrogatories; counting.

[Related Statewide Rule 1-033 NMRA]

A. **Counting interrogatories.** When determining compliance with the fifty (50) interrogatories limit in Rule 1-033 NMRA, the counting guidelines in Paragraph B of this rule apply.

B. **Counting guidelines for certain categories.** The following interrogatories shall each be counted as one:

(1) the first interrogatory requesting biographical information of the person, corporation, or other entity that is a party to the lawsuit, which may request names,

addresses, places of doing business, social security number, age, marriage, children, occupation, and other such pertinent biographical data;

(2) an interrogatory on expert witnesses, which may request names, addresses, job titles, qualifications, and matters set forth in Rule 1-026(B)(5) NMRA;

(3) an interrogatory on lay witnesses, which may request names, addresses, job titles, relationship to any party, subject matter, and a summary of the anticipated testimony; and

(4) an interrogatory on exhibits, which may request titles, descriptions of contents, identification of any limited purpose for which the exhibit will be offered, and the names, addresses, and job titles of authenticating witnesses and current custodians.

[LR2-122 recompiled and amended as LR2-118 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, provided paragraph headings and revised the language regarding counting guidelines; added "[Related Statewide Rule 1-033 NMRA]"; in the heading, after "Interrogatories", deleted "limitation"; rewrote Paragraph A; and in Paragraph B, deleted the paragraph heading "Counting interrogatories." and added the new paragraph heading "Counting guidelines for certain categories.".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-122 NMRA was recompiled and amended as LR2-118 NMRA, effective December 31, 2016.

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

LR2-119. Opposed motions and other opposed matters; filing; hearings.

[Related Statewide Rules 1-007.1, 5-120, and 10-111 NMRA]

A. **Presentment for filing.** Unless subject to mandatory electronic filing as set forth in Rule 1-005.2 NMRA, LR2-203 NMRA, and the Electronic User Filing Guide, as a condition of filing, all opposed motions, objections, and other opposed matters requiring a hearing (hereinafter "motions") shall be presented to the clerk with the following:

(1) a copy of the motion, along with any required and other attachments to the motion, for the assigned judge;

(2) an original request for hearing in the form set forth in LR2-Form 703 NMRA, along with a copy of the request for the assigned judge;

(3) an original notice of hearing in the form set forth in LR2-Form 704 NMRA and sufficient copies for all parties entitled to notice; and

(4) stamped, addressed, plain (without return address) envelopes for all parties entitled to notice.

B. **Service of request.** The movant shall serve copies of the request for hearing on all parties entitled to notice.

C. **Filing; forwarding to judge.** The clerk will file the motion and request for hearing, and endorse a copy of each for the assigned judge. The clerk shall forward the endorsed copies, the original notice of hearing and copies, and the envelopes to the assigned judge.

D. **Package procedure.** At the time the notice of completion of briefing is filed in civil court as required by Paragraph H of Rule 1-007.1 NMRA, the movant shall submit to the assigned judge endorsed copies of the motion, response, and any reply. The submission of the package alerts the court that the motion is ripe for decision.

E. **Notice of hearing.** At the time the package required by Paragraph D of this rule is submitted to the assigned judge, either the judge will make a decision based on the papers filed or the assigned judge's staff will complete and file the notice of hearing and mail or deliver copies to all parties entitled to notice, adding to the envelopes the court address as the return address. The judge also may direct the movant to complete this process.

F. **General exceptions.** The clerk also shall file opposed motions presented without a request for hearing, notice of hearing, or stamped, addressed envelopes, in the following circumstances:

(1) prior to presentment to the clerk, the movant has delivered a copy of the motion and the request, the original and copies of the notice of hearing, and envelopes to the assigned judge's office, and receipt is indicated on the original motion by initials of the judge's staff;

(2) the motion has been approved for filing by the assigned judge's staff in circumstances other than those set forth in Subparagraph (1) of this paragraph;

(3) the motion is presented with a signed order disposing of the matter; or

(4) the motion is presented with a proposed order in which the date and time of the hearing will be entered, such as an order to show cause or temporary restraining

order. Notwithstanding the application of these exceptions, movant is nevertheless required to comply with the package procedure set forth in Paragraph D of this rule.

G. **Exception for motions requiring fifteen minutes or less in criminal, delinquency, and need-of-supervision cases.** All motions in criminal, delinquency, and need-of-supervision cases requiring fifteen minutes or less for hearing shall be presented only with sufficient copies of the motion for all parties entitled to notice. The clerk, at the time of filing, will stamp a hearing date and time on the original and copies of the motion. The movant shall serve a copy of the motion with the hearing date and time indicated, on all parties entitled to notice. With criminal cases, motions for Monday hearings must be filed by the preceding Monday; motions for Friday hearings must be filed by the preceding Friday. Any motions filed after these deadlines will be scheduled on the next regular calendar, unless otherwise ordered by the court.

H. **Required attachments.** With all motions requiring an evidentiary hearing, a list of witnesses shall be attached to the motion. With motions filed in domestic relations cases, a Rule 1-099 NMRA certificate shall be attached as required by LR2-126 NMRA.

I. **Requests alone.** A request for hearing may be filed without a motion provided the request is presented with a notice of hearing, copies, and envelopes. A copy of the request shall be served on all parties entitled to notice.

[As amended by Supreme Court Order No. 09-8300-017, effective June 1, 2009; LR2-123 recompiled and amended as LR2-119 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, provided an exception for electronic filing, and revised citations to local rules; added “[Related Statewide Rules 1-007.1, 5-120, and 10-111 NMRA]”; in Paragraph A, added “Unless subject to mandatory electronic filing as set forth in Rule 1-005.2 NMRA, LR2-203 NMRA, and the Electronic User Filing Guide”; in Subparagraph A(2), after “set forth in”, deleted “LR2-Form G” and added “LR2-Form 703 NMRA”; in Subparagraph A(3), after “set forth in”, deleted “LR2-Form H” and added “LR2-Form 704 NMRA”; in Paragraph E, after “return address”, deleted “or the” and added “. The”, and after “judge”, added “also”; in Subparagraph F(3), added “or”; and after Subparagraph F(4), deleted the subparagraph designation “(5)”; and in Paragraph H, after “as required by”, deleted “Second Judicial District Local Rules, Rule LR2-132” and added “LR2-126 NMRA”.

The 2009 amendment, approved by Supreme Court Order No. 09-8300-017, effective June 1, 2009, added a new Paragraph D and renumbered the succeeding paragraphs accordingly; in Paragraph E, in the first sentence, added "At the time the package required by Paragraph D of this rule is submitted to the assigned judge, either the judge will make a decision based on the papers filed or,"; in Paragraph F(2), replaced

"Subsection E(1) above" with "Subparagraph (1) of this paragraph;"; and added Paragraph F(5).

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-123 NMRA was recompiled and amended as LR2-119 NMRA, effective December 31, 2016.

LR2-120. Unopposed motions and other unopposed matters; filing.

[Related Statewide Rules 1-007.1, 5-120, and 10-111 NMRA]

A. **Presentment for filing.** Unless subject to mandatory electronic filing as set forth in Rule 1-005.2 NMRA, LR2-203 NMRA, and the electronic User Filing Guide, as a condition of filing, all unopposed motions and other unopposed matters (hereinafter "motions") shall be presented to the clerk with the following:

(1) a copy of the motion, along with any required and other attachments to the motion, for the assigned judge; and

(2) an original proposed order disposing of the motion approved by all parties entitled to notice; approval of counsel may be indicated as telephonic approval; approval of a party pro se must be indicated by the party's signature on the proposed order.

B. **Filing; forwarding to judge.** The clerk will file the motion and endorse a copy for the assigned judge. The clerk shall forward the endorsed copy of the motion and the original proposed order to the assigned judge for consideration.

C. **Signed orders; filing; copies.** The movant shall retrieve and file the order promptly after it is signed, and shall mail or deliver endorsed copies to all parties entitled to notice. The court takes no responsibility for the filing of orders.

D. **Required attachments.** With motions filed in domestic relations cases, a Rule 1-099 NMRA, certificate shall be attached as required by LR2-126 NMRA.

[LR2-124 recompiled and amended as LR2-120 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, provided an exception for electronic filing, and revised citations for local rules; added "[Related Statewide Rules 1-007.1, 5-120, and 10-111 NMRA]"; in Paragraph A, added "Unless subject to mandatory electronic filing as set forth in Rule 1-005.2 NMRA, LR2-203 NMRA and the electronic User Filing Guide"; and in Paragraph

D, after “as required by”, deleted “Second Judicial District Local Rules, Rule LR2-132” and added “LR2-126 NMRA”.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-124 NMRA was recompiled and amended as LR2-120 NMRA, effective December 31, 2016.

LR2-121. Trial and merits hearings.

[Related Statewide Rule 1-016 NMRA]

A. **Permissive and mandatory requests for trial.** In any case, except where a trial or merits hearing (hereinafter “trial”) has already been set by pretrial scheduling order, trailing calendar, or other written notice, any party may request a trial by filing a request for hearing with the clerk. Where trial has not been set within fourteen (14) months after the complaint is filed, the plaintiff shall file either a request for hearing or a motion for extension of the Rule 1-016 NMRA, deadlines for commencement of trial.

B. **Requests for hearing; presentment.** Unless subject to mandatory electronic filing as set forth in Rule 1-005.2 NMRA, LR2-203 NMRA, and the Electronic User Filing Guide, as a condition of filing, all requests for hearing shall be in the form set forth in LR2-Form 703 NMRA and shall be presented to the clerk with the following:

(1) a copy of the request for hearing for the assigned judge;

(2) an original notice of hearing in the form set forth in LR2-Form 704 NMRA and sufficient copies for all parties entitled to notice; and

(3) stamped, addressed, plain (without return address) envelopes for all parties entitled to notice.

C. **Service of request.** The party requesting trial shall serve copies of the request for hearing on all parties entitled to notice.

D. **Filing; forwarding to judge.** The clerk will file the request for hearing and endorse the copy for the assigned judge. The clerk shall forward the endorsed copy of the request, the original notice of hearing and copies, and the envelopes to the assigned judge.

E. **Notice of hearing.** The assigned judge’s staff will complete and file the notice of hearing and mail or deliver copies to all parties entitled to notice, adding to the envelopes the court address as the return address, or the judge may direct the party requesting trial to complete this process.

F. **Pretrials and status conferences.** Any party may request a pretrial or status conference by filing, without accompanying motion, a request for hearing in the manner

set forth above. The court on its own motion may set pretrial[s] and status conferences, and will mail or deliver notice to all parties entitled to notice.

G. **Exceptions.**

(1) ***Civil court jury cases.*** The court will set all civil court jury cases by trailing calendar mailed or delivered to all parties entitled to notice. Cases generally shall be set on the calendar in chronological order by filing date with oldest cases being tried first. For good cause upon motion, the court may provide a definite setting for a jury case.

(2) ***Delinquency and need of supervision cases.*** The clerk, under the direction of the assigned judge, will set all delinquency and need-of-supervision trials, and mail or deliver notice to all parties entitled to notice.

(3) ***Criminal cases.*** The district court judge's trial court administrative assistant sets all criminal trials and metropolitan court criminal appeals, and mails or delivers notice to all parties entitled to notice.

[LR2-125 recompiled and amended as LR2-121 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, provided an exception for electronic filing, revised the citations to local rules, and revised the rule providing for notice of criminal trials and criminal appeals; added "[Related Statewide Rule 1-016 NMRA]"; in Paragraph B, added "Unless subject to mandatory electronic filing as set forth in Rule 1-005.2 NMRA, LR2-203 NMRA, and the Electronic User Filing Guide", and after "set forth in", deleted "LR2-Form G" and added "LR2-Form 703 NMRA"; in Subparagraph B(2), after "set forth in", deleted "LR2-Form H" and added "LR2-Form 704 NMRA"; and in Subparagraph G(3), deleted "The clerk, under the direction of the assigned judge, will set all metropolitan court criminal appeals, and mail or deliver notice to all parties entitled to notice. The assigned judge's secretary will set all other criminal trials, and mail or deliver notice to all parties entitled to notice." and added the last sentence.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-125 NMRA was recompiled and amended as LR2-121 NMRA, effective December 31, 2016.

LR2-122. Vacating settings; notice to court of resolution.

A. **Vacated only by court.** Settings will be vacated only with the assigned judge's approval.

B. **Procedure.** With trial and merits settings, if all parties entitled to notice agree to vacate a setting, a proposed stipulated order stating the grounds for vacating must be presented to the assigned judge. The order shall be signed by all counsel and parties pro se.

With other settings, if all parties entitled to notice agree to vacate, a proposed stipulated order may be presented to the assigned judge, or all parties may request the assigned judge's approval by telephone followed by a proposed stipulated order.

Even if all parties entitled to notice agree to vacate, the court may refuse to vacate.

If all parties entitled to notice do not agree to vacate, the party desiring to vacate the setting shall file a motion on the issue. When vacation is granted and a hearing is still necessary, a new request for hearing shall be filed along with the order granting the vacation, except in civil court jury cases. Unless subject to mandatory electronic filing as set forth in Rule 1-005.2 NMRA, LR2-203 NMRA, and the Electronic User Filing Guide, the request for hearing shall be presented with a notice of hearing and envelopes in the manner set forth in LR2-119 and LR2-121 NMRA.

C. **Notice of resolution.** Upon dismissal, consent judgment, bankruptcy, or other resolution reached which makes a setting unnecessary, all parties shall promptly notify the assigned judge.

[LR2-126 recompiled and amended as LR2-122 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, provided an exception for electronic filing, and revised citations to local rules; in Paragraph B, after "except in civil court jury cases", added "Unless subject to mandatory electronic filing as set forth in Rule 1-005.2 NMRA, LR2-203 NMRA, and the Electronic User Filing Guide", and after "the manner set forth in", deleted "Second Judicial District Local Rules, Rules LR2-123 and LR2-125" and added "LR2-119 and LR2-121 NMRA".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-126 NMRA was recompiled and amended as LR2-122 NMRA, effective December 31, 2016.

LR2-123. Default judgments.

[Related Statewide Rule 1-055 NMRA]

A. **Notice of default judgment.** Plaintiff shall promptly mail or deliver endorsed copies of default judgments to defaulting parties at their last known address.

B. **Proof of damages.** Where default judgment entitles a party to unliquidated damages, that party must establish the amount of damages by evidence satisfactory to the court.

C. **Setting aside default; suspending execution.** Only the assigned judge shall hear a motion to set aside a default judgment. In exigent circumstances, if the assigned judge is unavailable, any judge may suspend execution on a default judgment.

[LR2-127 recompiled and amended as LR2-123 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rule 1-055 NMRA]"; and in Paragraph B, after "satisfactory to the", deleted "Court' and added "court".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-127 NMRA was recompiled and amended as LR2-123 NMRA, effective December 31, 2016.

LR2-124. Findings of fact and conclusions of law.

[Related Statewide Rule 1-052 NMRA]

Unless subject to mandatory electronic filing as set forth in Rule 1-005.2 NMRA, LR2-203 NMRA, and the Electronic User Filing Guide, as a condition of filing, requested findings and conclusions shall be presented to the clerk with a copy for the assigned judge. The clerk shall endorse and forward the copy to the assigned judge. Copies of requested findings and conclusions shall be served upon all other parties.

[LR2-129 recompiled and amended as LR2-124 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, removed the provision for submitting requested findings of fact and conclusions of law, and provided an exception for electronic filing; added "[Related Statewide Rule 1-052 NMRA]"; deleted Paragraph A, which related to submitting requested findings of fact and conclusions of law; and deleted the paragraph designation and heading "B. Filing; service.", and added "Unless subject to mandatory electronic filing as set forth in Rule 1-005.2 NMRA, LR2-203 NMRA, and the Electronic User Filing Guide".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-129 NMRA was recompiled and amended as LR2-124 NMRA, effective December 31, 2016.

LR2-125. Orders, judgments, and decrees.

[Related Statewide Rules 1-058, 5-121, and 5-701 NMRA]

A. **Judge shopping prohibited.** Any order, judgment, decree, or other matter (hereinafter "order") once presented to a judge for signature and refused shall not be presented to any other judge. Proposed orders shall be presented to the assigned judge unless unavailable. The assigned judge's name shall be typed or printed on all proposed orders, directly below the judge's signature line.

B. **Date of filing and entry.** The date of entry of any order shall be the same as the date of filing and shall be shown by the clerk's stamp unless the order is filed in open court.

C. **Parties' signatures required.** Orders shall not be signed by the court unless signed by all parties entitled to notice except on presentment hearing or consideration by the court under Paragraph D of this rule, or as otherwise provided by Supreme Court rule, second judicial district local rule, or statute.

D. **Deadline for presentment; presentment hearing.** Unless otherwise ordered by the court, all proposed orders shall be presented to the court within fourteen (14) days after the court's decision. The prevailing party shall be responsible for the presentment, except in domestic relations court cases, unless the court orders otherwise both parties shall bear the responsibility.

If the signatures of all parties entitled to notice cannot be obtained by the fourteenth day, the prevailing party shall, no later than the fourteenth day, request a hearing on the issue in the manner set forth in LR2-119 NMRA. Before the hearing, all parties shall submit proposed forms of order. The court may review the proposed forms of order and rule on the form without hearing.

E. **Filing; notice.** The submitting party shall promptly file the order after it is signed and mail or deliver endorsed copies to all parties entitled to notice. The court takes no responsibility for the filing of such orders.

F. **Service of orders filed by the court.** The court will mail or deliver endorsed copies of all orders filed by the court to all parties entitled to notice.

[LR2-130 recompiled and amended as LR2-125 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rules 1-058, 5-121, and 5-701 NMRA]"; in Paragraph C, after "notice except", deleted "upon" and added "on", and after "consideration by the court", deleted "pursuant to Subsection D below" and added "under Paragraph D of this rule"; and in Paragraph D, after "responsible for", deleted "such" and added "the", and after "manner set forth in", deleted "second judicial district local rule LR2-123" and added "LR2-119 NMRA".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-130 NMRA was recompiled and amended as LR2-125 NMRA, effective December 31, 2016.

LR2-126. Rule 1-099 NMRA filing fee and certificate.

[Related Statewide Rule 1-099 NMRA]

A. **Filing fee.** For every pleading, motion, or other paper (hereinafter "paper") filed in a civil court, domestic relations court, or children's court civil case, the submitting party shall determine whether Rule 1-099 NMRA requires payment of a filing fee and shall pay the fee at the time the paper is presented for filing.

B. **Required certificate.** In domestic relations court cases, the submitting party shall attach a Rule 1-099 NMRA certificate in the form set forth in LR2-Form 706 NMRA to every motion, application, and petition, except applications for writs of garnishment and the first filed petition, unless that paper is accompanied by a Rule 1-099 NMRA filing fee.

C. **Required fee not paid.** If a required Rule 1-099 NMRA fee is not paid, no judicial action will be taken in the case.

[LR2-132 recompiled and amended as LR2-126 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rule 1-099 NMRA]"; and in Paragraph B, after "set forth in", deleted "LR2-Form J" and added "LR2-Form 706 NMRA".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-132 NMRA was recompiled and amended as LR2-126 NMRA, effective December 31, 2016.

LR2-127. Orders to show cause.

The court may issue an ex parte order to show cause why a party should not be held in contempt only if the motion therefor is verified or accompanied by an affidavit specifically describing the factual basis for the claim of contempt and identifying verbatim that portion of the prior order of the court on which the contempt charge is based. The order to show cause shall include the date, time, and place of the hearing.

[LR2-134 recompiled as LR2-127 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-134 NMRA was recompiled as LR2-127 NMRA, effective December 31, 2016.

II. Rules Applicable to Civil Cases

LR2-201. Rule 1-016 NMRA, pretrial scheduling orders and final pretrial orders.

[Related Statewide Rules 1-016 and 1-041 NMRA]

A. **Forms.** Proposed pretrial scheduling orders and final pretrial orders submitted pursuant to Rule 1-016 NMRA shall be in the form set forth in LR2-Form 707 for the final pretrial orders and in any form approved by the Second Judicial District Court for the pretrial scheduling orders.

B. **Reinstated cases.** A party seeking to reinstate a case pursuant to Rule 1-041(E)(2) NMRA shall attach a copy of a proposed pretrial scheduling order to the motion to reinstate.

C. **Exemptions.** The following categories of cases are exempted from the pretrial scheduling order requirements of Rule 1-016(B) NMRA:

Commitment

Conservatorship

Guardianship

Probate.

[LR2-301 recompiled and amended as LR2-201 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rules 1-016 and 1-041 NMRA]"; and in Paragraph A, after "set forth in", deleted "LR2-Form K and LR2-Form L" and added "LR2-Form 707 for the final pretrial orders and in any form approved by the Second Judicial District Court for the pretrial scheduling orders".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-301 NMRA was recompiled and amended as LR2-201 NMRA, effective December 31, 2016.

LR2-202. Rule 1-054 NMRA, attorney fees.

[Related Statewide Rule 1-054 NMRA]

Attorney fees in default judgments shall be based on the attorney's actual time spent in obtaining the default judgment, and shall not be presumed to be twenty percent (20%) of the default judgment amount. Such fees shall not exceed twenty percent (20%) except for good cause.

[LR2-302 recompiled and amended as LR2-202 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, removed provisions relating to costs; added "[Related Statewide Rule 1-054 NMRA]"; deleted Paragraphs A through D, which related to recovering costs; deleted Subparagraphs E(1) and E(2), which related to the procedure for recovering attorney fees; and in former Subparagraph E(3), deleted the subparagraph designation and heading "Default judgment.", and after "default judgment", deleted "and anticipated time in executing thereon".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-302 NMRA was recompiled as LR2-202 NMRA, effective December 31, 2016.

Costs not authorized. — Expenses for photocopies, telephone, facsimile, courier, mileage, travel, per diem, and expenses paid to obtain plaintiff's own medical records, were not properly recoverable as costs. Gillingham v. Reliable Chevrolet, 1998-NMCA-143, 126 N.M. 30, 966 P.2d 197.

LR2-203. 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 Second 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 and habeas corpus actions. 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. 11-8300-040, effective for all cases filed or pending on or after October 31, 2011; as amended by Supreme Court Order No. 14-8300-024, effective for all cases pending or filed on or after December 31, 2014; as amended by Supreme Court Order No. 15-8300- 002, effective for all cases pending or filed on or after July 1, 2015; LR2-303 recompiled and amended as LR2-203 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. 18-8300-022, effective for all cases pending or filed on or after January 14, 2019.]

ANNOTATIONS

The 2018 amendment, approved by Supreme Court Order No. 18-8300-022, effective January 14, 2019, implemented electronic filing for habeas corpus actions; and after "New Mexico Child Support Enforcement Division", added "and habeas corpus actions".

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

The 2015 amendment, approved by Supreme Court Order No. 15-8300-002, effective for all cases pending or filed on or after July 1, 2015, specified, in accordance with Rule 1-005.2 NMRA, that electronic filing is required for all civil actions and domestic relations actions in which the New Mexico Child Support Enforcement Division is a party or participant, removed general language stating that electronic filing applies to domestic relations cases, probate cases and proposed documents submitted for issuance by the court; after "civil", deleted "domestic relations, and probate", after "Second Judicial District Court", added "as defined in Rule 1-005.2(B)(1) NMRA as well as domestic relations actions involving the New Mexico Child Support Enforcement Division"; and after "The electronic filing of documents", deleted "including proposed documents submitted to the court".

The 2014 amendment, approved by Supreme Court Order No. 14-8300-024, effective December 31, 2014, implemented electronic filing for domestic relations cases; in the first sentence, after "implemented for all civil", added "domestic relations"; and in the second sentence, after "electronic filing of documents" added "including proposed documents submitted to the court".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-303 NMRA was recompiled and amended as LR2-203 NMRA, effective December 31, 2016.

III. Rules Applicable to Criminal Cases

LR2-301. Grand jury proceedings.

[Related Statutes NMSA 1978, §§ 31-6-1 to -15, and Statewide Rules 5-123 and 5-302A NMRA]

A. **Recording.** Grand jury proceedings to be recorded include, but are not limited to, impaneling, charge, oath, any orientation of the grand jury, and testimony. For pre-indictment proceedings commenced under Chapter 31, Article 6, and presentations resulting in a no-bill, only parties, through counsel or pro se, shall have access to grand jury recordings without an order of the court.

B. **Orientation.** Every district attorney's and attorney general's orientation of the grand jury shall be made on the record.

C. **Impaneling of grand jury.** Grand jurors and alternate grand jurors shall be selected and impaneled at random.

D. **Printed information.** The district attorney and attorney general shall obtain the grand jury judge's approval of any manuals, literature, and other printed information prior to distribution to the grand jury.

E. **Indictments.** Grand jury indictments shall be available to counsel, parties pro se, and the general public only after such indictments have been filed.

[LR2-401 recompiled and amended as LR2-301 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, revised the provisions regarding the recording of grand jury proceedings; added "[Related Statutes NMSA 1978, §§ 31-6-1 to -15, and Statewide Rules 5-123 and 5-302A NMRA]"; in Paragraph A, deleted "All grand jury proceedings with the exception of deliberations shall be taped. Those", after "jury proceedings to be", deleted "taped" and added "recorded", after "testimony", added "For pre-indictment proceedings commenced under Chapter 31, Article 6, and presentations resulting in a no-bill", and after "access to grand jury", deleted "tapes" and added "recordings"; and in Paragraph B, "on the record", deleted "in the presence of a district judge".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-401 NMRA was recompiled and amended as LR2-301 NMRA, effective December 31, 2016.

LR2-302. Bond procedures.

[Related Statewide Rules 5-401 to -407 and Forms 9-302 to -304 NMRA]

A. **Order and bond form required.** An order setting conditions of release or a bench warrant setting bond shall be filed before any bond is posted. For each bond to be posted, the defendant, through counsel or pro se, shall file an appearance or appeal bond form. Form orders setting conditions of release and appearance or appeal bond forms shall be available from the criminal clerk.

B. **Bench warrants.** After conditions of release have been set, a bench warrant may be issued for the defendant unless the district court file reflects the conditions of release have been met.

C. **Type of tender in lieu of cash.** Only cashier's checks, certified checks, money orders, and government agency warrants made payable to the clerk of the district court shall be accepted in lieu of cash.

D. **Return of bond monies.** Prior to presentment, all proposed orders authorizing the release and return of bond monies must be approved by the prosecutor, the defendant, through counsel or pro se, the clerk, and the court accountant, except when the order is prepared by the clerk pursuant to the Uniform Disposition of Unclaimed Property Act, Sections 7-8A-1 to -31 NMSA 1978.

E. **Property bonds.** After the appropriate documents necessary for the posting of a property bond are presented to the criminal clerk pursuant to Rules 5-401 and 5-401A NMRA, the criminal clerk shall present such documents to the assigned judge to review and determine whether proof is required of any matters set forth by affidavit.

[LR2-402 recompiled and amended as LR2-302 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, in Paragraph A, after each occurrence of "appearance", added "or"; added "[Related Statewide Rules 5-401 to -407 and Forms 9-302 to -304 NMRA]"; in Paragraph B, after "bench warrant", deleted "will" and added "may"; and in Paragraph D, after "Property Act", deleted "Sections 7-8-1 NMSA 19878 et seq." and added "Sections 7-8A-1 to -31 NMSA 1978"

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-402 NMRA was recompiled and amended as LR2-302 NMRA, effective December 31, 2016.

LR2-303. Waivers of arraignment.

[Related Statewide Rule 5-303 NMRA and Form 9-405 NMRA]

A. **Policy; approval; form.** The court's policy is to encourage defendants to waive arraignment in appropriate circumstances. Waivers of arraignment shall be signed by the defendant and his or her counsel, if any, and approved by the assigned judge. Notice to the prosecutor shall be indicated by the prosecutor's signature on the waiver of arraignment. Waivers of arraignment shall be in a form approved by the Second Judicial District Court; form waivers shall be available from the criminal clerk.

B. **Conditions of release.** If no conditions of release have been set, the defendant shall submit to the assigned judge a proposed stipulated order setting conditions of release along with the waiver of arraignment or arrange a hearing to set conditions. Form orders setting conditions of release shall be available from the criminal clerk.

C. **Presentment to law enforcement agency.** Before a waiver of arraignment is submitted to the assigned judge for approval, or immediately thereafter, the defendant must present himself or herself at the appropriate law enforcement agency for formal booking and processing on the warrant, if any has been issued.

[LR2-403 recompiled and amended as LR2-303 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rule 5-303 NMRA and Form 9-405 NMRA]"; in Paragraph A, after "shall be in", deleted "the form set forth in LR2-Form M" and added "a form approved by the Second Judicial District Court".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-403 NMRA was recompiled and amended as LR2-303 NMRA, effective December 31, 2016.

LR2-304. Furloughs.

The court's policy is to refuse furloughs for incarcerated and in custody defendants under the jurisdiction of the second judicial district. In exigent circumstances, on agreement of the parties, or for good cause shown, the assigned judge may order that a furlough be granted.

[LR2-405 recompiled and amended as LR2-304 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, after “exigent circumstances”, deleted “upon” and added “on”.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-405 NMRA was recompiled and amended as LR2-304 NMRA, effective December 31, 2016.

LR2-305. Designation of proceedings for transcript conference.

[Related Statewide Rules 12-210 and -211 NMRA]

In all criminal cases where an appeal has been filed and any portion of the proceedings before the district court was taken stenographically, within seven (7) days after having been served with the notice that the case is placed on the appellate court’s general calendar or in the expedited bench decision program, the prosecuting attorney and the defense attorney shall attend a conference with the managing court reporter or the managing court reporter’s designee for the purpose of ensuring that the appellant’s designation of proceedings to be included in the transcript (hereinafter called “designation”) is complete and accurate. The managing court reporter’s office shall set the date, time, and place of the conference. Each attorney shall bring to the conference the following information: the dates of all proceedings and the specific portions of these proceedings that should be included in the transcript, *e.g.*, pretrial hearing, voir dire, opening, testimony, closing, verdict, post-trial hearing. The managing court reporter or the managing court reporter’s designee may, but is not required to, assist the appellant with the typing and filing of the designation. This rule shall not be construed to relieve the appellant of the burden of filing the designation as required by Rules 12-201(E), 12-210(B), and 12-211(C)(1) NMRA. The district court, on its own motion or a party’s motion, may impose an appropriate sanction for failure to comply with this rule.

[LR2-407 recompiled and amended as LR2-305 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, applied the rule to the expedited bench decision program; added “[Related Statewide Rules 12-210 and -211 NMRA]”; after “appellate court’s general calendar”, added “or in the expedited bench decision program”, after “for the purpose of”, deleted “insuring” and added “ensuring”, after “court reporter or”, deleted “a designee of”, after “managing court reporter”, added “’s designee”, and after “required by Rules”, added “12-201(E),”.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-407 NMRA was recompiled and amended as LR2-305 NMRA, effective December 31, 2016.

LR2-306. Appeals from driver's license revocation hearings.

[Related Statutes NMSA 1978, §§ 66-8-105 to -112, and Statewide Rule 1-074 NMRA]

A. **Applicability.** This rule governs appeals to the district court from driver's license revocation proceedings and proceedings conducted under the Implied Consent Act, Sections 66-8-105 through -112 NMSA 1978.

B. **Pleadings.** The first page of all pleadings shall include the civil division docket number of the case followed by the capital letters "LRA" (License Revocation Appeal).

C. **Extensions.** All requests for extension of time to file pleadings shall be by written motion filed in the civil clerk's office, which will direct the motions to the on-record appeals division. The division will refer the motions to the appropriate judge. Motions for extension of time will be granted only for good cause. Motions shall contain specific grounds. Requests for extensions of time due to press of business, whether or not that press of business is explained with reference to specific cases, will not ordinarily be seen as good cause. In most cases, the time requested should not exceed fourteen (14) calendar days. Motions requesting subsequent extensions on the same pleading will rarely be granted. A motion requesting an extension that is filed on the day that the appellant's statement of appellate issues or the appellee's response is due or later will not be favored and may be denied.

D. **Failure to comply with Rule 1-074.** Pleadings that fail to comply with Rule 1-074 NMRA, particularly Paragraphs K through N, may be stricken or other sanctions may be imposed. If the re-filing of the noncomplying pleadings is permitted by the express order of the court, the revised pleadings shall be re-filed within fourteen (14) calendar days of the filing of that order.

E. **Stays.** Motions filed to stay the revocation of driving privileges pending the appeal to district court under Rule 1-074 NMRA, and their corresponding orders, may be presented directly to the judge of the criminal division assigned to the appeal for signature of the order. Prior concurrence by the motor vehicle division with the stay will expedite the court's decision regarding the stay while also complying with Rule 1-007.1 NMRA.

[Approved, effective November 3, 1999; LR2-409 recompiled and amended as LR2-306 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, changed "such" to "the" and "pursuant to" to "under" throughout the rule; added "[Related Statutes NMSA 1978, §§ 66-8-105 to -112, and Statewide Rule 1-074 NMRA]"; and in Paragraph A, after "66-8-105 through", deleted "66-8".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-409 NMRA was recompiled and amended as LR2-306 NMRA, effective December 31, 2016.

LR2-307. Technical violation program.

[Related Statewide Rule 5-805 NMRA]

A. **Program established.** In accordance with Rule 5-805 NMRA, the Second Judicial District Court establishes a technical violation program (STEPS) for adult probationers on supervised probation allowing automatic sanctions to occur for technical violations of a probation agreement.

B. **Voluntary participation; waiver of certain probation violation procedures.** Participation in STEPS is voluntary. A probationer who consents to automatic sanctions for a technical violation of the conditions of probation in STEPS acknowledges that he or she waives any right to the probation violation procedures outlined in Rule 5-805(D)-(L) NMRA and agrees not to contest the alleged technical violation of probation.

C. **Technical violations defined.** Technical violations of a probation agreement consist of the following acts or events:

(1) urine tests positive for drugs, including spice and pep, or for alcohol if prohibited by order of probation, except where exempted by the judge in the notice and order authorizing STEPS;

(2) possessing alcohol, if prohibited by an order of probation;

(3) missing a counseling appointment or group session;

(4) missing a community service appointment;

(5) missing an educational appointment;

(6) failing to inform the probation officer of a traffic citation received;

(7) moving without permission from the probation officer; and

(8) any other violations other than a new criminal offense.

D. **Sanctions.** The imposition of any sanction by probation and parole requires a supervisor’s approval. Sanctions for violations in STEPS are as follows:

(1) first violation: three (3) days of community service;

(2) second violation: five (5) days of community service;

(3) third violation: seven (7) days in jail; and

(4) fourth violation: no bond hold, possible removal from STEPS after a hearing, and immediate referral to the Second Judicial District Court for a hearing subject to the provisions of Rule 5-805(D)-(L) NMRA.

E. **Failure to complete community service.** If a probationer fails to complete any part of the community service imposed under the sanctions described in Paragraph D of this rule, the probationer shall be incarcerated for the balance of time remaining under the sanction.

F. **Participation in detox program.** At any incremental sanction level, probation and parole may seek incarceration for a period of time sufficient to allow the probationer to participate in the detox program at MDC. In such cases, probation and parole shall make an immediate referral to the Second Judicial District Court, which may hold a hearing under Rule 5-805(D)-(L) NMRA, unless the probationer waives his or her right to such a hearing for purposes of entering the detox program.

G. **Additional sanctions for same violation prohibited.** Once sanctions under STEPS are imposed, a probationer shall not be subject to further probation violation sanctions on the same probation violation unless the probationer fails to comply with the imposed sanctions.

H. **Notice and order; probationer's responsibility.** It is the probationer's responsibility to furnish a signed copy of LR2-Form 708 NMRA, Notice and Order authorizing STEPS, to probation and parole. STEPS shall not be authorized without a copy of LR2-Form 708 NMRA being provided to probation and parole.

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

LR2-308. Case management pilot program for criminal cases.

A. **Scope; application.** This is a special pilot rule governing time limits for criminal proceedings in the Second Judicial District Court. This rule applies in all criminal proceedings in the Second Judicial District Court but does not apply to probation violations, which are heard as expedited matters separately from cases awaiting a determination of guilt, nor to any other special proceedings in Article 8 of the Rules of Criminal Procedure for the District Courts. The Rules of Criminal Procedure for the District Courts and existing case law on criminal procedure continue to apply to cases filed in the Second Judicial District Court, but only to the extent they do not conflict with this pilot rule. The Second Judicial District Court may adopt forms to facilitate compliance with this rule, including the data tracking requirements in Paragraph M.

B. **Arraignment.**

(1) ***Deadline for arraignment.*** The defendant shall be arraigned on the information or indictment within fifteen (15) days after the date of the filing of the bind-over order, indictment, or the date of the arrest, whichever is later, except that the arraignment of a defendant in custody at the Bernalillo County Metropolitan Detention Center on the case to be arraigned shall be held not later than seven (7) days after the filing of the bind-over order, indictment, or date of arrest, whichever is later.

(2) ***Certification by prosecution required; matters certified.*** At or before arraignment or waiver of arraignment, or upon the filing of a bind-over order, the state shall certify that before obtaining an indictment or filing an information the case has been investigated sufficiently to be reasonably certain that

(a) the case will reach a timely disposition by plea or trial within the case processing time limits set forth in this rule;

(b) the court will have sufficient information upon which to rely in assigning a case to an appropriate track at the status hearing provided for in Paragraph G;

(c) all discovery in the possession of the state or relied upon in the investigation leading to the bind-over order, indictment or information will be provided in accordance with Subparagraph (C)(2) of this rule; and

(d) the state understands that, absent extraordinary circumstances, the state's failure to comply with the case processing time lines set forth in this rule will result in sanctions as set forth in Paragraph I.

(3) ***Certification form.*** The court may adopt a form and require use of the form to fulfill the certification and acknowledgment required by this paragraph.

C. **Disclosure by the state; requirement to provide contact information; continuing duty; failure to comply.**

(1) ***Scope of disclosure by the state.*** The scope of the state's discovery disclosure obligation shall be governed by Rule 5-501(A)(1)-(6) NMRA. In addition to producing a "speed letter" authorizing the defendant to examine physical evidence in possession of the state, the state shall provide the defendant with physical copies of any documentary evidence and audio, video, and audio-video recordings made by law enforcement officers or otherwise in possession of the state at the time of the disclosure. As part of its production obligation under Rule 5-501(A)(5) NMRA, the state shall provide contact information for its witnesses that is current as of the date of disclosure, including, to the extent available, witness addresses, phone numbers, and email addresses.

(2) ***Deadline for disclosure by the state.*** If the case is a ten (10)-day case as described by Rule 5-302(A)(l) NMRA, the state shall make its discovery disclosures to the defendant within five (5) days after arraignment or the filing of a waiver of

arraignment under Rule 5-303(J) NMRA. If the case is a sixty (60)-day case as described by Rule 5-302(A)(1) NMRA, the state shall make its initial discovery disclosures to the defendant at arraignment or within five (5) days of when a written waiver of arraignment is filed under Rule 5-303(J) NMRA.

(3) ***Motion to withhold contact information for safety reasons.*** A party may seek relief from the court by motion, for good cause shown, to withhold specific contact information if necessary to protect a victim or a witness. If the address of a witness is not disclosed pursuant to court order, the party seeking the order shall arrange for a witness interview or accept at its business offices a subpoena for purposes of deposition under Rule 5-503 NMRA.

(4) ***Continuing duty.*** The state shall have a continuing duty to disclose additional information to the defendant, including the names and contact information for newly-discovered witnesses and updated contact information for witnesses already disclosed, within seven (7) days of receipt of such information, including current contact information for witnesses.

(5) ***Evidence deemed in the possession of the state.*** Evidence is deemed to be in possession of the state for purposes of this rule and Rule 5-501(A) NMRA if such evidence is in the possession or control of any person or entity who has participated in the investigation or evaluation of the case.

(6) ***Providing copies; electronic or paper; e-mail addresses for district attorney and public defender required.*** Notwithstanding Rule 5-501(B) NMRA or any other rule, the state shall provide to the defendant electronic or printed copies of electronic or printed information subject to disclosure by the state. The Second Judicial District Attorney's Office and the Law Offices of the Public Defender shall provide to each other a single e-mail address for delivery of discovery electronically. In addition to delivering discovery to the given general address for the Law Offices of the Public Defender, the state shall copy such delivery to any attorney for the Law Offices of the Public Defender who has entered an appearance in the case at the time discovery is sent electronically.

(7) ***Service of subsequent pleadings.*** Service of pleadings and papers between the parties shall be made to the attorney, or to the party if not represented by counsel, by emailing an electronic scan of the file-endorsed pleading or paper, attachments included, to the attorney or party. If the attachments are too voluminous for emailing, or otherwise cannot be sent by email, the email to the attorney or party will recite this circumstance and certify that the attachments have been mailed or delivered to the attorney's or party's last known address. Service by email is complete upon transmission and, in case of attachments that cannot be emailed, upon mailing or delivery.

D. **Disclosure by defendant; notice of alibi; entrapment defense; failure to comply.**

(1) ***Initial disclosures; deadline; witness contact information.*** Not less than five (5) days before the scheduled date of the status hearing described in Paragraph G, the defendant shall disclose or make available to the state all information described in Rule 5-502(A)(1)-(3) NMRA. At the same time, the defendant shall provide addresses, and also phone numbers and email addresses if available, for its witnesses that are current as of the date of disclosure.

(2) ***Deadline for notice of alibi and entrapment defense.*** Notwithstanding Rule 5-508 NMRA or any other rule, not less than ninety (90) days before the date scheduled for commencement of trial as provided in Paragraph G, the defendant shall serve upon the state a notice in writing of the defendant's intention to offer evidence of an alibi or entrapment as a defense.

(3) ***Continuing duty.*** The defendant shall have a continuing duty to disclose additional information to the state, including the names and contact information for newly-discovered witnesses and updated contact information for witnesses already disclosed, within seven (7) days of receipt of such information.

(4) ***Providing copies required; electronic or paper.*** Notwithstanding Rule 5-502(B) NMRA or any other rule, the defendant shall provide to the state electronic or printed copies of electronic or printed information subject to disclosure by the defendant. The Second Judicial District Attorney's Office and the Law Offices of the Public Defender shall provide to each other a single e-mail address for delivery of discovery electronically. In addition to delivering discovery to the given general address for the Second Judicial District Attorney's Office, the defendant shall copy such delivery to any attorney for the Second Judicial District Attorney's Office who has entered an appearance in the case at the time discovery is sent electronically.

(5) ***Service of subsequent pleadings.*** Service of pleadings and papers between the parties shall be made to the attorney, or to the party if not represented by counsel, by emailing an electronic scan of the file-endorsed pleading or paper, attachments included, to the attorney or party. If the attachments are too voluminous for emailing, or otherwise cannot be sent by email, the email to the attorney or party will recite this circumstance and certify that the attachments have been mailed or delivered to the attorney's or party's last known address. Service by email is complete upon transmission and, in case of attachments that cannot be emailed, upon mailing or delivery.

E. **Remote Audio-Visual Pretrial Interviews.** Pretrial interviews shall be completed remotely via court-approved audio-visual technology unless the parties otherwise agree to in-person interviews or a party files a Notice of In-Person Interview and the court orders in-person interviews. Absent extraordinary circumstances, each witness in a given case shall be interviewed only once, and each witness interview shall be recorded by interviewing counsel.

F. **Peremptory excusal of a district judge; limits on excusals; time limits; reassignment.** A party on either side may file one (1) peremptory excusal of any judge in the Second Judicial District Court, regardless of which judge is currently assigned to the case, within ten (10) days of the arraignment or the filing of a waiver of arraignment. If necessary, the case may later be reassigned by the chief judge to any judge in the Second Judicial District Court, so long as that judge has not been previously excused on the case. The chief judge may also reassign the case to a judge pro tempore previously approved to preside over such matters by order of the Chief Justice, who shall not be subject to peremptory excusal.

G. **Status hearing; witness disclosure; case track determination; scheduling order.**

(1) ***Witness list disclosure requirements.*** Within twenty-five (25) days after arraignment or waiver of arraignment each party shall, subject to Rule 5-501(F) NMRA and Rule 5-502(C) NMRA, file a list of names and contact information for known witnesses the party intends to call at trial and that the party has verified is current as of the date of disclosure required under this subparagraph, including a brief statement of the expected testimony for each witness, to assist the court in assigning the case to a track as provided in this rule. The continuing duty to make such disclosure to the other party continues at all times prior to trial, requiring such disclosure within five (5) days of when a party determines or should reasonably have determined the witness will be expected to testify at trial.

(2) ***Status hearing; factors for case track assignment.*** A status hearing, at which the defendant shall be present, shall be commenced within thirty (30) days of arraignment or the filing of a waiver of arraignment.

(3) ***Case track assignment required; factors.*** At the status hearing, the court shall determine the appropriate assignment of the case to one of three tracks. Written findings are required to place a case on track 3 and such findings shall be entered by the court within five (5) days of assignment to track 3. Any track assignment under this rule only shall be made after considering the following factors:

(a) the complexity of the case, starting with the assumption that most cases will qualify for assignment to track 1; and

(b) the number of witnesses, time needed reasonably to address any evidence issues, and other factors the court finds appropriate to distinguish track 1, track 2, and track 3 cases.

(4) ***Defendants detained pending trial.*** When the defendant is detained pending trial, the case shall be given the highest priority for trial scheduling.

(5) ***Scheduling order required.*** After hearing argument and weighing the above factors, the court shall, before the conclusion of the status hearing, issue a

scheduling order that assigns the case to one of three tracks and identifies the dates when events required by that track shall be scheduled, which are as follows for tracks 1, 2, and 3:

(a) *Track 1; deadlines for commencement of trial and other events.* For track 1 cases, the scheduling order shall have trial commence within two hundred ten (210) days of arraignment, the filing of a waiver of arraignment, or other applicable triggering event identified in Paragraph H, whichever is the latest to occur. The scheduling order shall also set dates for other events according to the following requirements for track 1 cases:

(i) Track 1 - deadline for plea agreement. A plea agreement entered into between the defendant and the state shall be submitted to the court substantially in the form approved by the Supreme Court not later than ten (10) days before the trial date. A request for the court to approve a plea agreement less than ten (10) days before the trial date shall not be accepted by the court except upon a written finding by the assigned district judge of extraordinary circumstances. A defendant may plead guilty, the state may dismiss charges, and the parties may recommend a sentence but the court shall not agree to comply with a plea agreement in this circumstance absent a written finding of extraordinary circumstances;

(ii) Track 1 - deadline for pretrial conference. The final pretrial conference, including any hearing on any remaining pretrial motions if needed, shall be scheduled fifteen (15) days before the trial date. Each party shall file its final trial witness list on or before this date. The defendant shall be present for the final pretrial conference;

(iii) Track 1 - deadline for notice of need for court interpreter. All parties shall identify by filing notice with the court any requirement for language access services at trial by a party or witness fifteen (15) days before the trial date;

(iv) Track 1 - deadline for pretrial motions hearing. A hearing for resolution of pretrial motions shall be set not less than thirty-five (35) days before the trial date;

(v) Track 1 - deadline for pretrial motions. Pretrial motions shall be filed not less than fifty (50) days before the trial date;

(vi) Track 1 - deadline for responses to pretrial motions. Written responses to any pretrial motions shall be filed within ten (10) days of the filing of any pretrial motions and in any case not less than forty (40) days before the trial date. Failure to file a written response shall be deemed, for purposes of deciding the motion, an admission of the facts stated in the motion;

(vii) Track 1 - deadlines for requesting and completing witness interviews. Witness interviews shall be completed not less than sixty (60) days before

the trial date. Absent agreement by the parties or order of the court the state shall be responsible for scheduling pretrial witness interviews of the state's witnesses, and the defendant shall be responsible for scheduling pretrial witness interviews of the defendant's witnesses. A party wishing to interview witnesses of the other party's initial witness list shall request those interviews no later than fourteen (14) days after the issuance of the scheduling order. The requesting party shall give dates of availability for witness interviews during the thirty (30) days following the request and the party receiving the request shall make reasonable efforts to schedule the requested interviews during that thirty (30)-day period. If a party files a new witness list adding new witnesses, any requests to interview those new witnesses shall be made no later than seven (7) days after the new witness list is served upon the requesting party. At all times the parties shall act diligently and in good faith in requesting, scheduling, and, as necessary, rescheduling witness interviews. The court shall not consider failure to conduct pretrial interviews of witnesses as the basis of any sanction unless the party moving for sanctions followed the requirements of this subparagraph in requesting those interviews; and

(viii) Track 1 - deadline for disclosure of scientific evidence. All parties shall produce the results of any scientific evidence, if not already produced, not less than one hundred twenty (120) days before the trial date. The court may provide for production of scientific evidence less than one hundred twenty (120) days before the trial date as long as the modification does not result in a delay of the date scheduled for trial;

(b) *Track 2; deadlines for commencement of trial and other events.* For track 2 cases, the scheduling order shall have trial commence within three hundred (300) days of arraignment, the filing of a waiver of arraignment, or other applicable triggering event identified in Paragraph H, whichever is the latest to occur. The scheduling order shall also set dates for other events according to the following requirements for track 2 cases:

(i) Track 2 - deadline for plea agreement. A plea agreement entered into between the defendant and the state shall be submitted to the court substantially in the form approved by the Supreme Court not later than ten (10) days before the trial date. A request for the court to approve a plea agreement less than ten (10) days before the trial date shall not be accepted by the court except upon a written finding by the assigned district judge of extraordinary circumstances. A defendant may plead guilty, the state may dismiss charges, and the parties may recommend a sentence but the court shall not agree to comply with a plea agreement in this circumstance absent a written finding of extraordinary circumstances;

(ii) Track 2 - deadline for pretrial conference. The final pretrial conference, including any hearing on any remaining pretrial motions if needed, shall be scheduled fifteen (15) days before the trial date. Each party shall file its final trial witness list on or before this date. The defendant shall be present for the final pretrial conference;

(iii) Track 2 - deadline for notice of need for court interpreter. All parties shall identify by filing notice with the court any requirement for language access services at trial by a party or witness fifteen (15) days before the trial date;

(iv) Track 2 - deadline for pretrial motions hearing. A hearing for resolution of pretrial motions shall be set not less than thirty-five (35) days before the trial date;

(v) Track 2 - deadline for pretrial motions. Pretrial motions shall be filed not less than sixty (60) days before the trial date;

(vi) Track 2 - deadline for responses to pretrial motions. Written responses to any pretrial motions shall be filed within ten (10) days of the filing of any pretrial motions and in any case not less than forty-five (45) days before the trial date. Failure to file a written response shall be deemed, for purposes of deciding the motion, an admission of the facts stated in the motion;

(vii) Track 2 - deadlines for requesting and completing witness interviews. Witness interviews shall be completed not less than seventy-five (75) days before the trial date. Absent agreement by the parties or order of the court, the state shall be responsible for scheduling pretrial witness interviews of the state's witnesses, and the defendant shall be responsible for scheduling pretrial witness interviews of the defendant's witnesses. A party wishing to interview witnesses of the other party's initial witness list shall request those interviews no later than twenty-one (21) days after the issuance of the scheduling order. The requesting party shall give dates of availability for witness interviews during the forty-five (45) days following the request and the party receiving the request shall make reasonable efforts to schedule the requested interviews during that forty-five (45)-day period. If a party files a new witness list adding new witnesses, any requests to interview those new witnesses shall be made no later than seven (7) days after the new witness list is served upon the requesting party. At all times the parties shall act diligently and in good faith in requesting, scheduling, and, as necessary, rescheduling witness interviews. The court shall not consider failure to conduct pretrial interviews of witnesses as the basis of any sanction unless the party moving for sanctions followed the requirements of this subparagraph in requesting those interviews; and

(viii) Track 2 - deadline for disclosure of scientific evidence. All parties shall produce the results of any scientific evidence, if not already produced, not less than one hundred twenty (120) days before the trial date. The court may provide for production of scientific evidence less than one hundred twenty (120) days before the trial date as long as the modification does not result in a delay of the date scheduled for trial; and

(c) *Track 3; deadlines for commencement of trial and other events.* For track 3 cases, the scheduling order shall have trial commence within four hundred fifty-five (455) days of arraignment, the filing of a waiver of arraignment, or other applicable

triggering event identified in Paragraph H, whichever is the latest to occur, except that no case may be set past three hundred sixty-five (365) days where the defendant is detained pending trial except upon consent by defense counsel or upon a finding of exceptional circumstances beyond the control of the parties. The scheduling order shall also set dates for other events according to the following requirements for track 3 cases:

(i) Track 3 - deadline for plea agreement. A plea agreement entered into between the defendant and the state shall be submitted to the court substantially in the form approved by the Supreme Court not later than ten (10) days before the trial date. A request for the court to approve a plea agreement less than ten (10) days before the trial date shall not be accepted by the court except upon a written finding by the assigned district judge of extraordinary circumstances. A defendant may plead guilty, the state may dismiss charges, and the parties may recommend a sentence but the court shall not agree to comply with a plea agreement in this circumstance absent a written finding of extraordinary circumstances;

(ii) Track 3 - deadline for pretrial conference. The final pretrial conference, including any hearing on any remaining pretrial motions if needed, shall be scheduled twenty (20) days before the trial date. Each party shall file its final trial witness list on or before this date. The defendant shall be present for the final pretrial conference;

(iii) Track 3 - deadline for notice of need for court interpreter. All parties shall identify by filing notice with the court any requirement for language access services at trial by a party or witness fifteen (15) days before the trial date;

(iv) Track 3 - deadline for pretrial motions hearing. A hearing for resolution of pretrial motions shall be set not less than forty-five (45) days before the trial date;

(v) Track 3 - deadline for pretrial motions. Pretrial motions shall be filed not less than seventy (70) days before the trial date;

(vi) Track 3 - deadline for responses to pretrial motions. Written responses to any pretrial motions shall be filed within ten (10) days of the filing of any pretrial motions and in any case not less than fifty-five (55) days before the trial date. Failure to file a written response shall be deemed, for purposes of deciding the motion, an admission of the facts stated in the motion;

(vii) Track 3 - deadlines for requesting and completing witness interviews. Witness interviews shall be completed not less than one hundred (100) days before the trial date. Absent agreement by the parties or order of the court the state shall be responsible for scheduling pretrial witness interviews of the state’s witnesses, and the defendant shall be responsible for scheduling pretrial witness interviews of the defendant’s witnesses. A party wishing to interview witnesses of the other party’s initial witness list shall request those interviews no later than twenty (21) days after the

issuance of the scheduling order. The requesting party shall give dates of availability for witness interviews during the sixty (60) days following the request and the party receiving the request shall make reasonable efforts to schedule the requested interviews during that sixty (60)-day period. If a party files a new witness list adding new witnesses, any requests to interview those new witnesses shall be made no later than seven (7) days after the new witness list is served upon the requesting party. At all times the parties shall act diligently and in good faith in requesting, scheduling, and, as necessary, rescheduling witness interviews. The court shall not consider failure to conduct pretrial interviews of witnesses as the basis of any sanction unless the party moving for sanctions followed the requirements of this subparagraph in requesting those interviews; and

(viii) Track 3 - deadline for disclosure of scientific evidence. All parties shall produce the results of any scientific evidence, if not already produced, not less than one hundred fifty (150) days before the trial date. The court may provide for production of scientific evidence less than one hundred fifty (150) days before the trial date as long as the modification does not result in a delay of the date scheduled for trial.

(6) ***Form of scheduling order; additional requirements and shorter deadlines allowed.*** The court may adopt upon order of the chief judge of the district court a form to be used to implement the time requirements of this rule. Additional requirements may be included in the scheduling order at the discretion of the assigned judge and the judge may alter any of the deadlines described in Subparagraph (G)(5) of this rule to allow for the case to come to trial sooner.

(7) ***Extensions of time; cumulative limit.*** The court may shorten or extend deadlines in the scheduling order provided any extensions of time shall not result in delay of the plea deadline or the date scheduled for commencement of trial.

H. **Time limits for commencement of trial.** As deemed necessary, the court may enter an amended scheduling order to extend the time limits for commencement of trial consistent with the deadlines in Paragraph G whenever one of the following triggering events occurs:

(1) the date of arraignment or the filing of a waiver of arraignment of the defendant;

(2) if an evaluation of competency has been ordered, the date an order is filed in the court finding the defendant competent to stand trial;

(3) if a mistrial is declared by the trial court, the date such order is filed in the court;

(4) in the event of a remand from an appeal, the date the mandate or order is filed in the court disposing of the appeal;

(5) if the defendant is arrested on any valid warrant in the case or surrenders in this state on any valid warrant in the case, the date of the arrest or surrender of the defendant;

(6) if the defendant is arrested or surrenders in another state or country, the date the defendant is returned to this state;

(7) if the defendant has been referred to a preprosecution or court diversion program, the date a notice is filed in the court that the defendant has been deemed not eligible for, is terminated from, or is otherwise removed from the preprosecution or court diversion program;

(8) if the defendant's case is severed from a case to which it was previously joined, the date from which the cases are severed, except that the nonmoving defendant or at least one of the nonmoving defendants shall continue on the same basis as previously established under these rules for track assignment and otherwise;

(9) if a defendant's case is severed into multiple trials, the date from which the case is severed into multiple trials, except that the court shall continue at least one of the previously-joined defendants or counts on the original track assignment, which defendant or counts shall be determined by the court upon consideration of the complexity of the now-severed cases or counts;

(10) if a judge enters a recusal and the newly-assigned judge determines the change in judge assignment reasonably requires additional time to bring the case to trial, the date the recusal is entered;

(11) if the court grants a change of venue and the court determines the change in venue reasonably requires additional time to bring the case to trial, the date of the court's order; or

(12) if the court grants a motion to withdraw defendant's plea, the date of the court's order.

I. **Failure to comply.**

(1) If a party fails to comply with any provision of this rule or the time limits imposed by a scheduling order entered under this rule, the court shall impose sanctions as the court may deem appropriate in the circumstances and taking into consideration the reasons for the failure to comply.

(2) In considering the sanction to be applied the court shall not accept negligence or the usual press of business as sufficient excuse for failure to comply. If the case has been refiled following an earlier dismissal, dismissal with prejudice is the presumptive outcome for a repeated failure to comply with this rule, subject to the provisions in Subparagraph (I)(6).

(3) A motion for sanctions for failure to comply with this rule or any of the Rules of Criminal Procedure must be made in writing, except that an oral motion may be made during a setting scheduled for another purpose if the basis of the motion was not and reasonably could not have been known prior to that setting.

(4) The sanctions the court may impose under this paragraph include, but are not limited to, the following:

(a) a reprimand by the judge;

(b) prohibiting a party from calling a witness or introducing evidence;

(c) a monetary fine imposed upon a party's attorney or that attorney's employing office with appropriate notice to the office and an opportunity to be heard;

(d) civil or criminal contempt; and

(e) dismissal of the case with or without prejudice, subject to the provisions in Subparagraph (I)(6).

(5) The court shall not impose any sanction against the State for violation of this rule if an in-custody defendant was not at a court setting as a result or a failure to transport, except that the court may impose a sanction if the failure to transport was attributable to the prosecutor's failure to properly prepare and serve a transportation order if so required.

(6) The sanction of dismissal, with or without prejudice, shall not be imposed if the failure to comply with this rule is caused by extraordinary circumstances beyond the control of the parties. Any court order of dismissal with or without prejudice or prohibiting a party from calling a witness or introducing evidence shall be in writing and include findings of fact regarding the moving party's proof of and the court's consideration of the above factors.

J. **Extension of time for trial; reassignment; dismissal with prejudice; sanctions.**

(1) ***Extending date for trial; good cause or exceptional circumstances; reassignment to available judge for trial permitted; sanctions****.* The court may extend the trial date for a total of up to thirty (30) days for a track 1 case, forty-five (45) days for a track 2 case, and sixty (60) days for a track 3 case, upon showing of good cause which is beyond the control of the parties or the court. To grant such an extension the court shall enter written findings of good cause. If on the date the case is set or reset for trial the court is unable to hear a case for any reason, including a trailing docket, the case may be reassigned for immediate trial to any available judge or judge pro tempore, in the manner provided in Paragraph K of this rule. If the court is unable to proceed to trial and must grant an extension for reasons the court does not find meet

the requirement of good cause, the court shall impose sanctions as provided in Paragraph I of this rule, which may include dismissal of the case with prejudice subject to the provisions in Subparagraph (I)(6). Without regard to which party requests any extension of the trial date, the court shall not extend the trial date more than sixty (60) days beyond the original date scheduled for commencement of trial without a written finding of exceptional circumstances approved in writing by the chief judge or a judge, including a judge pro tempore previously approved to preside over such matters by order of the Chief Justice, that the chief judge designates.

(2) ***Requirements for extension of trial date for exceptional circumstances.*** When the chief judge or the chief judge's designee accepts the finding by the trial judge of exceptional circumstances, the chief judge shall approve rescheduling of the trial to a date certain. The order granting an extension to a date certain for extraordinary circumstances may reassign the case to a different judge for trial or include any other relief necessary to bring the case to prompt resolution.

(3) ***Requirements for multiple requests.*** Any extension sought beyond the date certain in a previously granted extension will again require a finding by the trial judge of exceptional circumstances approved in writing by the chief judge or designee with an extension to a date certain.

(4) ***Rejecting extension request for exceptional circumstances; dismissal required.*** In the event the chief judge or designee rejects the trial judge's request for an extension based on exceptional circumstances, the case shall be tried within the previously ordered time limit or shall be dismissed with prejudice if it is not, subject to the provisions in Subparagraph (I)(6).

K. **Assignment calendar for cases.**

(1) ***Scheduling by event categories; trailing docket; functional overlap among judges.*** The presiding judge of the criminal division shall establish an assignment calendar for all judges. The assignment calendar shall identify the weeks or other time periods when each judge will schedule events in the following categories: trials; motions and sentencing; arraignments, pleas and miscellaneous matters. Each judge may schedule an event in the week or other time period set aside for that event category, on a trailing docket. The assignment calendar shall include functional overlap so that more than one judge is always scheduled to hear matters in each event category on any given day. In the scheduled weeks or other time periods, the judges shall schedule events within the time requirements of Paragraph G of this rule.

(2) ***Reassignments permitted.*** If on or before the date of a scheduled event, the assigned judge is or will be unable to preside over the scheduled event for any reason, including a trailing docket, vacation, or illness, the case may be reassigned by order of the presiding judge of the criminal division to another judge on the assignment calendar so long as the other judge

(a) is scheduled that day to hear that category of scheduled event; and

(b) was not subject to a previously-exercised peremptory excusal.

This subparagraph does not apply to sentencing hearings following a trial. The judge who presided at trial shall conduct the sentencing. The court may adopt a form of order to expedite permitted reassignments.

(3) ***Reassignment for scheduled event; case returns to original judge.*** If another judge scheduled on the assignment calendar for the type of scheduled event is not available to immediately preside over the scheduled event, the assigned judge may designate any other new calendar judge, or a judge pro tempore previously approved by order of the Chief Justice and designated by the chief judge for this purpose, to preside over the scheduled hearing, trial, or other scheduled event. A judge designated for this purpose shall not have been previously excused from the case. Upon conclusion of the hearing, trial, or other scheduled event, the case shall again be assigned to the original judge without requirement of further order, except when the reassignment was for trial in which case the judge who presided over the trial shall also preside over sentencing.

L. **A new probable cause determination is not required for recently refiled charges.** If a probable cause determination has been made by preliminary hearing or grand jury and the court dismisses the case without prejudice, the same charges may be refiled under the same case number by information within six (6) months of the dismissal without requiring a new probable cause determination.

M. **Data reporting to the Supreme Court required.** The chief judge, district attorney, and public defender shall provide statistical reports to the Supreme Court as directed.

[Adopted by Supreme Court Order No. 14-8300-025, effective for all cases pending or filed on or after February 2, 2015; as amended by Supreme Court Order No. 16-8300-001, effective for new cases filed and for pending cases in which a track assignment is made on or after February 2, 2016; LR2-400 recompiled and amended as LR2-308 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 Nos. 17-8300-031 and 18-8300-001, effective for all cases pending or filed on or after January 15, 2018; as amended by Supreme Court Order Nos. 22-8300-012 and 22-8300-014, effective September 12, 2022, as directed in Supreme Court Order No. 22-8500-031.]

ANNOTATIONS

The second 2022 amendment, approved by Supreme Court Order No. 22-8300-014, effective September 12, 2022, removed a provision that set a time limit for the chief judge to reassign a case when a party has filed a peremptory excusal of an assigned judge, and clarified that the provision permitting judicial reassignments to preside over scheduled events does not apply to sentencing hearings following a trial; in Paragraph

F, after “previously excused on the case”, deleted “within ten (10) days of the arraignment or the filing of a waiver of arraignment of the defendant”; and in Paragraph K, Subparagraph (2)(b), after “sentencing hearings”, added “following trial”.

The first 2022 amendment, approved by Supreme Court Order No. 22-8300-012, effective September 12, 2022, as directed in Supreme Court Order No. 22-8500-031, provided that pretrial interviews shall be completed remotely via court-approved audio-visual technology unless the parties agree to in-person interviews or the court orders in-person interviews at the request of one of the parties, provided that, absent extraordinary circumstances, witnesses shall be interviewed only once, required each witness interview to be recorded by the interviewing attorney, authorized the court to modify deadlines for the disclosure of scientific evidence as long as the modification does not result in a delay of the date scheduled for trial, revised provisions related to requests for extensions of time to conduct pretrial interviews, authorizing the court to shorten or extend deadlines as long as any extension does not result in a delay of the plea deadline or the date scheduled for commencement of trial, removed a provision prohibiting the sanction of dismissal for the State’s failure to comply with this rule if the State can prove by clear and convincing evidence that the defendant is a danger to the community, and made clarifying and conforming amendments; in Subparagraph B(1), after “Bernalillo”, added “County”, in Subparagraph B(2)(b), after “Paragraph”, deleted “F” and added “G”, and in Subparagraph B(2)(d), after “Paragraph”, deleted “H” and added “I”; in Subparagraph D(1), after “Paragraph”, deleted “F” and added “G”; in Subparagraph D(2), after “Paragraph”, deleted “F” and added “G”; added a new Paragraph E and redesignated former Paragraphs E through H as Paragraphs F through I, respectively; in Paragraph F, after the second occurrence of “Second Judicial District Court”, deleted “not excused” and added “so long as that judge has not been previously excused on the case”; in Subparagraph G(5)(a), after “Paragraph”, deleted “G” and added “H”, in Subparagraph G(5)(a)(viii), deleted “In a case where justified by good cause”, after “The court may”, deleted “but is not required to”, and deleted “In no case shall the order provide for production of scientific evidence less than ninety (90) days before the trial date” and added “as long as the modification does not result in a delay of the date scheduled for trial”, in Subparagraph G(5)(b), after “Paragraph”, deleted “G” and added “H”, in Subparagraph G(5)(b)(viii), “In a case where justified by good cause”, after “The court may”, deleted “but is not required to”, and deleted “In no case shall the order provide for production of scientific evidence less than ninety (90) days before the trial date” and added “as long as the modification does not result in a delay of the date scheduled for trial”, in Subparagraph G(5)(c), after “Paragraph”, deleted “G” and added “H”, in Subparagraph G(5)(c)(viii), deleted “In a case where justified by good cause”, after “The court may”, deleted “but is not required to”, and deleted “In no case shall the order provide for production of scientific evidence less than one hundred twenty (120) days before the trial date” and added “as long as the modification does not result in a delay of the date scheduled for trial”, in Subparagraph G(6), after “deadlines described in”, deleted “Subparagraph (F)(5)” and added “Subparagraph G(5)”, in Subparagraph (G)(7), deleted “In the scheduling order the court may shorten the deadlines for the parties to request pretrial interviews set forth in Subparagraphs (F)(5)(a)(vii), (F)(5)(b)(vii), and (F)(5)(c)(vii) of this rule. The court may,

for good cause, grant any party an extension of the time requirements imposed by an order entered in compliance with Paragraph F of this rule. In no case shall a party be given time extensions that in total exceed thirty (30) days for track 1 cases, sixty (60) days for track 2 cases, and ninety (90) days for track 3 cases. Unless required by good cause, such" and added "The court may shorten or extend deadlines in the scheduling order provided any", after "shall not result in delay of", added "the plea deadline or", and deleted "Substitution of counsel alone ordinarily shall not constitute good cause for an extension of time. A stipulated request for extension of time in order to consolidate and resolve multiple cases against the same defendant under one plea agreement shall ordinarily be considered good cause for an extension of time."; in Paragraph H, added "As deemed necessary, the", after "amended scheduling order", added "to extend the time limits for commencement of trial consistent with the deadlines in Paragraph G", and after "triggering events occurs", deleted "to extend the time limits for commencement of trial consistent with the deadlines in Paragraph F", and in Subparagraph H(9), after "previously-joined defendants", added "or counts", after "which defendant", added "or counts", and after "now-severed cases", added "or counts", and in Subparagraph H(11), after "bring the case to trial", added "the date of the court's order", and in Subparagraph H(12), after "withdraw defendant's plea", added "the date of the court's order"; in Subparagraphs I (2)and (4)(e), added "(I)", and after "(6)", deleted "of this paragraph", and in Subparagraph I(6), after "shall not be imposed", deleted "under the following circumstances: (a) the state proves by clear and convincing evidence that the defendant is a danger to the community; and (b)" and added "if"; deleted former Paragraph I, which provided for certifications that the parties are ready to proceed to trial; in Subparagraph J(1), after "Paragraph", deleted "H" and added "I", and after "subject to the provisions in", deleted "Subparagraph (H)(6)" and added "Subparagraph (I)(6)", and in Subparagraph J(4), after "subject to the provisions in", deleted "Subparagraph (H)(6)" and added "Subparagraph (I)(6)"; in Subparagraph K(2), after "assignment calendar", deleted "who" and added "so long as the other judge", added new subparagraph designations (2)(a) and (2)(b), and after Subparagraph K(2)(b), added "This subparagraph does not apply to sentencing hearings.", in Subparagraph K(3), after "other scheduled event", added "A judge designated for this purpose shall not have been previously excused from the case."; and in Paragraph L, in the paragraph heading, added "new", after "probable cause determination", deleted "need not be repeated" and added "is not required", and added "recently" preceding "refiled charges".

The 2017 and 2018 amendments, approved by Supreme Court Order Nos. 17-8300-031 and 18-8300-001, effective January 15, 2018, rewrote this rule to the extent that a detailed comparison would be impracticable.

The second 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, made certain stylistic changes; and in Paragraph A, after "Rules of Criminal Procedure for the District", deleted "Court" and added "Courts".

The first 2016 amendment, approved by Supreme Court Order No. 16-8300-001, effective for new cases filed and for pending cases in which a track assignment is made on or after February 2, 2016, made comprehensive amendments to the criminal case

management pilot program; in Paragraph A, in the last sentence, deleted “M” and added “N”; in Subparagraph B(1), in the first sentence, after “July 1, 2014,”, deleted “shall” and added “will”, after “‘special calendar’ judges”, deleted “as provided in” and added “under”, after “Paragraph”, deleted “L” and added “M”, and after “this rule”, added the remainder of the sentence; in the second sentence, after “assigned or reassigned to”, deleted “one of seven (7)” and added “a”, and after “‘new calendar’”, deleted “judges” and added “judge”; in the third sentence, after “The”, deleted “seven (7)”; in Subparagraph C(1), after “date of the filing of the”, deleted “information or” and added “bind-over order,”; in Subparagraph C(2), in the introductory sentence, after “arraignment or”, deleted “wavier” and added “waiver”, and after “upon the filing of”, deleted “an information” and added “a bind-over order”; in Item (c), after “all discovery”, deleted “produced” and added “in the possession of the state”, and after “leading to the”, added “bind-over order,”; in Item (d), after “will result in”, deleted “dismissal of the case” and added “sanctions as set forth in Paragraph I”; in Subparagraph D(1), in the second sentence, after “the state shall provide”, deleted “phone numbers and e-mail addresses of witnesses if available” and added “addresses, and also phone numbers and email addresses if available, for its witnesses that are current as of the date of disclosure”; in Subparagraph D(3), in the heading, after “duty”, deleted “; evidence possessed by state, law enforcement, and other government agencies”, and in the first sentence, after “such information”, added “, including current contact information for witnesses”; added the new designation for Subparagraph D(4) and the new heading “Evidence deemed in the possession of the state.”, and in new Subparagraph D(4), after “Evidence”, deleted “in the possession of a law enforcement agency or other government agency”, and after “purposes of this rule”, added “if such evidence is in the possession or control of any person or entity who has participated in the investigation or evaluation of the case”; deleted former Subparagraph D(4), which related to sanctions for failure to comply; in Subparagraph D(5), in the first sentence, after “NMRA or”, added “any”, after “other rule,”, deleted “a party” and added “the state”, after “shall provide to”, deleted “every other party” and added “the defendant”, and after “subject to disclosure”, deleted “under these rules” and added “by the state”; in the third sentence, after “general address”, added “for the Law Offices of the Public Defender”, after “, the”, deleted “party” and added “state”, and after “any attorney for the”, deleted “Second Judicial District Attorney’s Office or”; added new Subparagraph D(6); in Subparagraph E(1), in the heading, after “deadline”, added “; witness contact information”, and added the second sentence; in Subparagraph E(2), after the subparagraph designation, deleted the remainder of the subparagraph and the subparagraph designation for Subparagraph E(3); renumbered former Subparagraph E(4) as new Subparagraph E(3); deleted former Subparagraph E(5) which related to sanctions for failure to comply; renumbered former Subparagraph E(6) as Subparagraph E(4); in new Subparagraph E(4), added the second and third sentences; added new Subparagraph E(5); in Subparagraph G(1), in the first sentence, after “arraignment or”, deleted “wavier” and added “waiver”, and after “intends to call at trial”, added “and that the party has verified is current as of the date of disclosure required under this subparagraph”; in Subparagraph G(3), in the introduction, added the second sentence, and after the second sentence, added “Any track assignment under this rule only shall be made” to the third sentence; in Item (a), after the semicolon, added “and”; in Item (b), after “track

1”, added a comma and deleted “and”, after “track 2”, added “, and track 3”, and after “cases”, deleted “; and”; deleted Item (c) which related to written findings by the court; in Item (a) of Subparagraph G(4), in the introduction, after “commence within”, deleted “one hundred eighty (180)” and added “two hundred ten (210)”; after the item designation (a)(v), deleted the language in Item (a)(v), which related to the deadline for responses to pretrial motions; deleted the item designation for Item (a)(vi) of Subparagraph G(4); added new Item (a)(vi) of Subparagraph G(4); in Item (a)(vii), after “Witness interviews”, deleted “will” and added “shall”, and after “completed”, added “not less than”; in Item (a)(viii), in the first sentence, after “scientific evidence, if”, deleted “different from Rule 5-501(A) NMRA and Rule 5-502(A) NMRA” and added “not already produced”; in Item (b), in the introduction, after “commence within”, deleted “two hundred seventy (270)” and added “three hundred (300)”; after the item designation “(b)(v)”, deleted the language in Item (b)(v), which related to the deadline for responses to pretrial motions; deleted the item designation for Item (b)(vi) of Subparagraph G(4); added new Item (b)(vi) of Subparagraph G(4); in Item (b)(vii), after “Witness interviews”, deleted “will” and added “shall”, and after “completed”, added “not less than”; in Item (b)(viii), in the first sentence, after “scientific evidence, if”, deleted “different from Rule 5-501(A) NMRA and Rule 5-502(A) NMRA” and added “not already produced”; in Item (c), in the introduction, after “commence within”, deleted “three hundred sixty-five (365)” and added “four hundred fifty-five (455)”; deleted the language in Item (c)(v), which related to the deadline for responses to pretrial motions; deleted the item designation for Item (c)(vi) of Subparagraph G(4), added new Item (c)(vi) of Subparagraph G(4); in Item (c)(vii), after “Witness interviews”, deleted “will” and added “shall”, and after “completed”, added “not less than”; in Item (c)(viii), in the first sentence, after “scientific evidence, if”, deleted “different from Rule 5-501(A) NMRA and Rule 5-502(A) NMRA” and added “not already produced”; in Subparagraph G(5), in the second sentence, after “Additional requirements”, deleted “, and shorter time periods, may be imposed in the court’s order in any particular case where appropriate” and added the remainder of the subparagraph; in Subparagraph G(6), in the first sentence, after “compliance with”, added “Paragraph G of”, in the second sentence, after “exceed”, deleted “fifteen (15)” and added “thirty (30)”, in the third sentence, after “a total of”, deleted “fifteen (15)” and added “thirty (30), in the fourth sentence, deleted “It shall not be assumed that substitution” and added “Substitution”, and after “counsel alone”, deleted “constitutes” and added “ordinarily shall not constitute”; in Paragraph H, in the introductory sentence, after “The”, added “court may enter an amended scheduling order whenever one of the following triggering events occurs to extend the”, after “commencement of trial”, added “consistent with the deadlines”, and after “Paragraph G”, deleted “shall be calculated from whichever of the following events occurs latest” and added “as deemed necessary by the court”; in Subparagraph H(7), after the semicolon, deleted “or”; in Subparagraph H(8), after “non-moving defendant or”, added “at least one of the non-moving”, and after “otherwise”, added a semicolon; added new Subparagraphs H(9), H(10), H(11), and H(12); in Paragraph I, in the heading, after “comply”, deleted “with scheduling order”, after the heading, added new subparagraph designation “I(1)”, in new Subparagraph I(1), after “provision of this rule”, deleted “, including” and added “or”, after “limits imposed by”, deleted “the” and added “a”, after “scheduling order”, added “entered under this rule”, and after “circumstances”, deleted the remainder of the sentence and

added “and taking into consideration the reasons for the failure to comply”; added new subparagraph designation I(2), in new Subparagraph I(2), after “comply with this rule”, added “, subject to the provisions in Subparagraph (4) of this paragraph”; added new Subparagraphs I(3) and I(4); added new Paragraph J and relettered the subsequent paragraphs accordingly; in Subparagraph K(1), in the third sentence, after “Paragraph”, deleted “K” and added “L”, in the fourth sentence, after “with prejudice”, added “subject to the provisions in Subparagraph (I)(4); in Subparagraph K(4), after “with prejudice if it is not”, added “, subject to the provisions in Subparagraph (I)(4); in Subparagraph L(1), in the sixth sentence, after “may organize the”, deleted “seven (7)”; in Paragraph M, in the introduction, in the second sentence, deleted “Three (3) district” and added “District”; in Paragraph N, in the introductory sentence, after “chief judge shall cause a”, added “monthly statistical”, and after “Supreme Court,”, deleted “at least every month that includes at least the following data:” and added “in a form approved by the Supreme Court, for cases on the new and special calendars containing data as directed by the Supreme Court”; and deleted Subparagraphs N(1) and N(2), which related to special calendar data and new calendar data.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-400 NMRA was recompiled and amended as LR2-308 NMRA, effective December 31, 2016.

Case management rule is not jurisdictional. — Where Defendant was charged with aggravated assault with a deadly weapon, and where Defendant moved to dismiss the charge on the grounds that the State failed to bring the case to trial within the deadline set by LR2-308 NMRA, and where the district court, in granting Defendant’s motion to dismiss, concluded that because the time limits set by LR2-308 for commencing trial had expired more than a month earlier without an extension having been sought, the court lost subject matter jurisdiction, the district court erred in dismissing the case because the only question relevant to determine whether a district court has subject matter jurisdiction is whether the case falls within the general scope of authority conferred upon such court by the constitution or statute, and criminal cases plainly fall within the general scope of authority conferred upon the district court. *State v. Stevens*, 2022-NMCA-017, cert. denied.

Rule does not mandate dismissal with prejudice when the deadline for commencing trial has passed. — Where Defendant was charged with aggravated assault with a deadly weapon, and where Defendant moved to dismiss the charge on the grounds that the State failed to bring the case to trial within the deadline set by LR2-308 NMRA, and where the district court, in granting Defendant’s motion to dismiss, concluded that because the time limits set by LR2-308 for commencing trial had expired more than a month earlier without an extension having been sought, the court was without discretion and was required by the terms of the rule to dismiss the case with prejudice, the district court erred in dismissing the case because LR2-308(H)(1) requires the district court to exercise discretion in light of the circumstances and, in particular, in light of the reasons for the failure to comply in deciding what sanction is appropriate. *State v. Stevens*, 2022-NMCA-017, cert. denied.

Exclusion of witnesses as a sanction for violation of special order. — In order for the district court to exclude material witnesses, there must be an intentional refusal to comply with a court order, prejudice to the opposing party, and consideration of less severe sanctions. *State v. Navarro-Calzadillas*, 2017-NMCA-034, cert. granted, 2017-NMCERT-____.

Where defendant filed a motion to exclude witnesses due to the State's failure to meet certain deadlines set forth in the special calendar portion of the former version of this local rule, the district court abused its discretion in granting defendant's motion because the court failed to consider less severe sanctions. *State v. Navarro-Calzadillas*, 2017-NMCA-034, cert. granted, 2017-NMCERT-____.

Exclusion of witnesses and audio-visual evidence. — Where defendant filed motions, under the former version of this local rule, to exclude witnesses and to suppress all audio and video evidence based on the State's refusal to assist in scheduling witness interviews in the four months since defendant had been arraigned and for failure to comply with its discovery obligations, the district court abused its discretion in granting defendant's motions, because, with regard to the motion to exclude witnesses, no deadline for witness interviews was included in the scheduling order and, based on the requirements of the local rule, the deadline for pretrial interviews had not yet passed when defendant filed his motion, and with regard to the motion to suppress, the court failed to consider less severe sanctions and defendant was not prejudiced because he received the discovery four months prior to trial and two months prior to the pre-trial motions deadline. *State v. Seigling*, 2017-NMCA-035, cert. granted, 2017-NMCERT-____.

Denial of speedy trial motions, under formal rule, as a sanction for untimely filing. — Where defendant, a franchisee, wrote checks provided by franchisor payable to herself and co-defendant, neither of whom was authorized to receive these funds, in amounts totaling over $200,000, and where defendant was charged with forgery, conspiracy to commit forgery, fraud, conspiracy to commit fraud and embezzlement, and co-defendant was charged with forgery, conspiracy to commit forgery, fraud (over $2,500 but less than $20,000) and fraud (over $20,000), the district court did not err in denying defendants' speedy trial motions as untimely filed because the motions were filed well after the scheduling order's pretrial motion deadline ,and the district court had the authority, both inherent and under court rule, to deny defendants' speedy trial motions as a sanction for their untimely filing. *State v. Candelaria*, 2019-NMCA-032, cert. denied.

Dismissal was an abuse of discretion where state did not fail to comply with scheduling order. — Where the district court judge, based on his view that the parties were ready for trial, and in an effort to move the case along more quickly, rescheduled the trial to start a full year earlier than the trial dates set forth in the scheduling order, and where, during a status hearing, the state's attorney indicated that he still needed to interview a witness and that the state was not ready to proceed to trial the next business day, the district court abused its discretion in dismissing the case without prejudice,

because the dismissal was based on a faulty premise that the case should not be delayed further for pretrial interviews when the deadline for pretrial interviews had not yet passed, because the district court erred in finding that a substitute counsel for the state indicated that the state was ready to proceed to trial, and because the district court treated the hearing on defendant's motion to review his conditions of release as a docket call, despite the fact that the hearing had been clearly noticed as a hearing on the motion to review defendant's conditions of release and the docket call deadline was scheduled for the following month. *State v. Lucero*, 2017-NMCA-079, cert. denied, 2017-NMCERT-____.

Timeline for arraignment should run from the decision to keep the defendant in custody. — In consolidated cases, where the district court dismissed the charges against the defendants because the defendants were in custody, the defendants had not been arraigned, and more than seven days had passed since the bind-over orders for each defendant were filed in metropolitan court, and where the State appealed the district court's order dismissing the charges in both cases, arguing that the district court erred in relying on the bind-over order's filing date in metropolitan court instead of its filing date in district court, the district court did not err in relying on the bind-over order's metropolitan court filing date in determining that the delay in filing violated this rule, because LR2-308 NMRA is intended to limit the time a defendant remains in custody, and consequently, the timeline should run from the decision to keep the defendant in custody. When there is a delay in filing the bind-over order in district court following its filing in metropolitan court, for the purposes of measuring the timeline provided by LR2-308(B)(1), the district court should rely on the bind-over order's filing date in metropolitan court. *State v. McWhorter*, 2022-NMCA-011, cert. denied.

Dismissal for failure to comply with deadlines was an abuse of discretion. — In consolidated cases, where the district court dismissed the charges against the defendants because the defendants were in custody, the defendants had not been arraigned, and more than seven days had passed since the bind-over orders for each defendant were filed in metropolitan court, and where the State appealed the district court's order dismissing the charges in both cases, arguing that even if the district court properly relied on the bind-over order's metropolitan court filing date, the district court abused its discretion by dismissing the charges without prejudice as a sanction for violating Rule LR2-308 NMRA, the district court's orders dismissing the charges against defendants without prejudice did not satisfy the requirements of LR2-308(H)(6), because the district court failed to include in its written order any findings about the defendants' danger to the community or extraordinary circumstances that may have caused a violation of the rule. Moreover, when ordering the dismissal of charges as a sanction, courts must assess the culpability of the offending party, the prejudice to the adversely affected party, and the availability of lesser sanctions. *State v. McWhorter*, 2022-NMCA-011, cert. denied.

LR2-309. Electronic filing authorized.

[Related Statewide Rule 5-103.2 NMRA]

After the initial filing of the criminal proceeding and assignment of a case number in the Second Judicial District Court, the electronic filing of documents is mandatory for parties represented by attorneys, including attorneys who represent themselves, in all criminal proceedings in accordance with Rule 5-103.2 NMRA. 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. 18-8300-022, effective for all cases pending or filed on or after January 14, 2019.]

IV. Rules Applicable to Domestic Relations Cases

LR2-401. Court clinic mediation program and other services for child-related disputes.

[Related Statewide Rule 1-125 NMRA]

A. **Mediation program established.** Under Sections 40-12-1 to -6 NMSA 1978, the second judicial district elected to establish and will continue to maintain a domestic relations mediation program to assist the court, parents, and other interested parties to determine the best interests of children involved in domestic relations cases. The program shall be administered and services provided by the second judicial district court clinic.

B. **Referrals.** In cases involving a dispute over any child related issues, other than child support, the parties may stipulate to or the court may order, for good cause shown, the parties to participate in confidential mediation in the court clinic. In the alternative or in addition to an order for mediation, the court may order that the parties submit to other court clinic services including but not limited to advisory consultation, priority consultation, evaluation, and decision-making. Except for initial mediations the court will not order court clinic services simply on stipulation of the parties, and shall require a showing of good cause.

C. **Submission of order.** The order shall be in the form set forth in LR2-Form 709 NMRA (Court clinic referral order). The court clinic shall not conduct services without a court clinic referral order.

D. **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 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 court clinic services provided under the Domestic Relations Mediation Act.

E. **Sliding fee scales.** Court clinic 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 in accordance with the requirements of Rule 1-125(I) NMRA. 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 owed by a party under the sliding fee scale shall be paid by the party to the district court clerk, who shall deposit the fees into the domestic relations mediation fund.

(1) The parties shall pay all assessed fees before any services are provided. The court may waive fees for good cause shown.

(2) Fees owed for an advisory consultation must be paid prior to the service being scheduled. Fees owed for priority consultations must be paid on the day of the appointment.

F. **Scheduling services.** Parties shall receive notification of their appointment with the court clinic either in a court order or by letter from the court clinic. All parties are required to attend an orientation with the court clinic prior to the scheduled service.

G. **Clinic services and requested hearings.**

(1) ***Request for hearing*.** In any case in which a court clinic referral order has been filed, the clinic may request a hearing or status conference by filing a request for hearing in the manner set forth in LR2-119 NMRA. The clinic shall mail or deliver a copy of the request to all parties entitled to notice.

(2) ***Noncompliance*.** The court clinic shall notify the court when a party fails to show for a scheduled appointment.

(3) ***Priority consultations*.** The court may order assessment results in the form of oral testimony rather than a written report. Priority consultations with recommendations provided in oral testimony are called "scheduled consultations" and assessments with recommendations provided in written reports are called "priority consultations." Both assessments are conducted the same.

H. **Modification.** Any party may file a motion to modify or supplement the order of referral. The order shall continue in effect while the motion is pending.

I. **Written materials.** All court clinic written materials that are provided to the parties, shall be available on the court's website and on request.

J. **Providers as witnesses.** Court clinic staff and other persons who have provided services under this rule may be called as witnesses under the New Mexico Rules of Evidence.

K. **Out-of-district referrals.** Parties in out-of-district cases may receive services from the court clinic provided the referral order is signed by both the assigned out-of-district judge and the Second Judicial District presiding domestic relations court judge. As a condition of filing the order, the parties shall pay a thirty dollar ($30.00) fee to the clerk. This filing fee shall be in addition to any service or assessment fees.

L. **Objections.** Any party filing objections to the written recommendations from a priority consultation or an advisory consultation shall also file a request for hearing and notice of hearing.

M. **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 mediation program in accordance with the requirements in Rule 1-125 NMRA. Any party ordered to participate in the domestic relations mediation program shall cooperate with all court staff designated by the court to operate the program, and any party who fails to do so may be sanctioned or held in contempt of court.

N. **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.

[As amended by Supreme Court Order No. 09-8300-012, effective May 18, 2009; LR2-504 recompiled and amended as LR2-401 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.]

ANNOTATIONS

The 2018 amendment, approved by Supreme Court Order No. 18-8300-006, effective September 1, 2018, removed the mandatory referral provisions and provided that the parties may stipulate to or the court may order, for good cause shown, the parties to participate in confidential mediation in cases involving disputes over any child related issue other than child support, provided for the deposit and disbursement of funds collected for the domestic relations mediation fund, provided for a sliding fee scale for parties to pay for court clinic services provided under the Domestic Relations Mediation Act, required that notice be provided to parties prior to scheduled services with the court clinic, provided the court with the authority to order either oral or written assessment results of court clinic priority consultations, required the court clinic to make available on the court's website all written materials that are provided to the parties, removed the provision authorizing mediation and other services to be provide by a qualified service

provider other than the court clinic, provided additional procedures for filing objections to the court clinic's written recommendations, required parties ordered to participate in the domestic relations mediation program to cooperate with program staff and provided penalties for the failure to do so, and provided immunity from liability for attorneys and other persons appointed by the court to serve as mediators for conduct within the scope of the Domestic Relations Mediation Act; in Paragraph B, in the heading, deleted "Mandatory" and added "Referrals", deleted "Unless otherwise ordered by the court on stipulation of the parties or for good cause shown, in every case involving a dispute over any child related issue except child support the court shall enter an order referring the parties to the court clinic for confidential mediation" and added the first sentence of the paragraph, and after "Except for initial mediations", deleted "and advisory consultations"; in Paragraph C, deleted "Within thirty (30) days after service of the petition or promptly after learning of any dispute over any child related issue, the petitioner shall present to the assigned judge a proposed order referring the parties to the court clinic", after "LR2-Form 709 NMRA", added "(Court clinic referral order)", and deleted the last two sentences of the paragraph, which provided for notice of the court clinic referral order, and added "The court clinic shall not conduct services without a court clinic referral order"; rewrote Paragraphs D through F; in Paragraph G, in the heading, added "services and", added subparagraph designation "(1)" added the heading, and added Subparagraphs G(2) and G(3); in Paragraph I, in the heading, deleted "Policies and procedures" and added "Written materials", and after "written", deleted "policies and procedures including those regarding scheduling" and added "materials that are provided to the parties", and after "shall be available", deleted "for review by parties and the general public" and added "on the court's website and"; deleted Paragraph J, which provided for referrals to qualified service providers other than the court clinic, and redesignated former Paragraphs K and L as Paragraphs J and K, respectively; in Paragraph K, after "in addition to any", added "service or"; and added Paragraphs L through N.

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, changed "upon" to "on", and changed "such" to "the" throughout the rule; revised citations to local rules and made certain stylistic changes; added "[Related Statewide Rule 1-125 NMRA]"; in Paragraph A, deleted "Pursuant to" and added "Under", after "40-12-1", added "to -6", and after "NMSA 1978", deleted "et seq."; in Paragraph C, after "set forth in", deleted "LR2-Form T" and added "LR2-Form 709 NMRA", and after "manner set forth in", deleted "Second Judicial District Local Rules, Rule LR2-123" and added "LR2-119 NMRA"; in Paragraph D, after "form set forth in", deleted "LR2-Form U" and added "LR2-Form 710 NMRA"; in Paragraph G, after "manner set forth in", deleted "Second Judicial District Local Rules, Rule LR2-123" and added "Rule LR2-119 NMRA"; in Paragraph J, after "form set forth in", deleted "LR2-Form T" and added "LR2-Form 709 NMRA"; and in Paragraph K, after "services", deleted "pursuant to" and added "under", and after "witnesses", deleted "pursuant to NMRA" and added "under the".

The 2009 amendment, approved by Supreme Court Order No. 09-8300-012, effective May 18, 2009, in the first sentence of Paragraph B, replaced "non-confidential" with "confidential".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-504 NMRA was recompiled and amended as LR2-401 NMRA, effective December 31, 2016.

LR2-402. Exemption from Rule 1-016 NMRA.

All domestic relations court cases shall be exempt from the pretrial scheduling order requirements of Rule 1-016(B) NMRA.

[LR2-506 recompiled as LR2-402 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-506 NMRA was recompiled as LR2-402 NMRA, effective December 31, 2016.

LR2-403. Safe exchange and supervised visitation.

[Related Statewide Rule 1-125 NMRA and
related Statute NMSA 1978, §§ 40-12-1 to -6]

A. **Program established.** The district court operates a "safe exchange and supervised visitation program" (SESV) 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 SESV 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 and SESV services provided under the Domestic Relations Mediation Act.

C. **Sliding fee scales.** SESV 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 in accordance with the requirements of Rule 1-125(I) NMRA. 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 owed by a party under the sliding fee scale shall be paid by the party prior to receiving services. Fees collected for SESV services shall be remitted to the district court and shall be deposited into the domestic relations mediation fund.

D. **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 SESV program in accordance with the requirements in Rule 1-125 NMRA. Any party ordered to participate in the SESV program shall cooperate with all court staff and outside service providers designated by the court to operate the program, and any party who fails to do so may be sanctioned or held in contempt of court.

E. **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 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

LR2-501. Adoption; new birth certificate.

[Related Statewide Statute NMSA 1978, § 32A-5-38]

To apply for a birth certificate in the new name of the adoptee, the petitioner, through counsel or pro se, shall present a completed application for a birth certificate to the children's court clerk for certification within thirty (30) days after the final decree of adoption is filed. Petitioner then shall forward the application along with any appropriate fee in accordance with Section 32A-5-38 NMSA 1978. Application forms shall be available from the children's court clerk.

[LR2-201 recompiled and amended as LR2-501 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, revised the provisions for applying for a birth certificate in the name of a new adoptee; added "[Related Statewide Statute NMSA 1978, § 32A-5-38]"; after "name of the adoptee, the", deleted "petitioner(s)" and added "petitioner", after "present a completed", deleted "certificate of adoption" and added "application for a birth certificate", after "certification within", deleted "five (5)" and added "thirty (30)", after "filed", deleted "Petitioner(s)" and added "Petitioner", after "then shall", deleted "mail the certified certificate of adoption to the New Mexico vital statistics bureau" and added

“forward the application”, after “along with”, deleted “the” and added “any”, and after “appropriate fee”, added “in accordance with Section 32A-5-38 NMSA 1978, deleted “Certificate of Adoption” and added “Application”.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-201 NMRA was recompiled and amended as LR2-501 NMRA, effective December 31, 2016.

LR2-502. Exemption from Rule 1-016 NMRA.

All children’s court civil cases shall be exempt from the pretrial scheduling order requirements of Rule 1-016(B) NMRA.

[LR2-202 recompiled and amended as LR2-502 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, changed “NMRA, Rule 1-016(B)” to “Rule 1-016(B) NMRA”.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-202 NMRA was recompiled and amended as LR2-502 NMRA, effective December 31, 2016.

VI. Rules Applicable to Court Alternative Dispute Resolution Programs

LR2-601. Court-annexed alternative dispute resolution programs generally.

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

B. **Administration.** These programs shall be administered by a court alternatives director appointed by the court. The court may appoint standing committees of judges, lawyers, and others to provide guidance and assistance.

C. **Order required.** All referrals to these programs require the filing of a written court order.

D. **Limitation.** The number of cases referred to these programs shall necessarily be limited by the number of attorneys and other professionals available to provide

alternative dispute resolution services under court-appointment, and the sufficiency of court resources to administer the programs.

E. **Immunity.** Attorneys and other persons 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 programs, are appointed to serve as arms of the court and as such are immune from liability for conduct within the scope of their appointment.

F. **Forms.** When available, applicable court forms shall be used. Forms shall be available through the court alternatives director.

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

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, in Paragraph E, after "such roles", deleted "pursuant to" and added "under".

Am. Jur. 2d, A.L.R. and C.J.S. references. — Alternative dispute resolution: sanctions for failure to participate in good faith in, or comply with agreement made in, mediation, 43 A.L.R.5th 545.

LR2-602. Settlement facilitation program.

A. **Scope**. The court may, under Rule 1-016 NMRA, refer cases to settlement conferences conducted by court-appointed settlement facilitators on an ad hoc basis throughout the year and during periodic "settlement weeks" scheduled by the court. The court will generally hold a "settlement week" during September every year.

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

Appeals

Extraordinary writs

Court-annexed arbitration program, pending cases

Adoption

Commitment

Conservatorship

Guardianship

Student Loan

Election

Tax

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

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

(1) case number and caption;

(2) estimated time required for conference;

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

(4) whether other parties agree conference is appropriate;

(5) brief list of pending issues;

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

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

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

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

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

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

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

H. **Settlement conference information**. At least five (5) days prior to the conference, all parties shall provide the facilitator(s) with the information listed below. This information shall not be filed with the court nor in any way be made part of the court record, and at the providing party's discretion, need not be produced to other parties. On motion of any party or its own motion, the court may impose sanctions for failure to provide the information to the facilitator(s):

(1) case number and caption;

(2) brief description of the case; in domestic relations cases include date of marriage, separation, and divorce; names, ages, occupations, and current annual incomes of parties; and names and ages of children;

(3) description of the relief sought;

(4) list of pending factual issues;

(5) list of pending legal issues;

(6) list of all remaining discovery;

(7) list of any pending dispositive motions;

(8) estimate of costs and attorney fees through trial;

(9) the last offer made to other parties; and

(10) copies of case law, statutes, pleadings, exhibits, orders, and any other information that would be helpful to the facilitator(s).

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

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

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

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

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

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

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, substituted "under" for each occurrence of "pursuant to" and "on" for each occurrence of "upon" throughout the rule.

LR2-603. Court-annexed arbitration.

A. **General provisions.**

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

Appeals

Uniform Arbitration Act

Extraordinary writs

Adoption

Commitment

Conservatorship

Guardianship

Probate

Children's Code

Domestic relations

Workers' compensation

Student loan

Driver's license

Election

Tax

(2) ***Court hearings***. If a court hearing is required about any aspect of arbitration prior to referral or any matter during referral, the court shall set and hear the matter promptly after the matter is brought to the attention of the assigned judge by request for hearing or by the court alternatives director.

(3) ***"At issue" required.*** All cases referred to arbitration must be "at issue" before referral. For purposes of this rule, a case is "at issue" when at least one answer to the complaint has been filed. Answers to cross-claims, counterclaims, and third-party complaints need not have been filed. Service on all parties need not have been made.

B. **Mandatory referral.**

(1) ***Types of cases for mandatory referral.*** All cases, jury and non-jury, shall be referred to arbitration when no party seeks relief other than a money judgment and no party seeks an amount in excess of fifty thousand dollars ($50,000.00) from any party or combination of parties, exclusive of punitive damages, interest, costs, and attorney fees.

(2) ***Mandatory certification.*** In all cases filed on or after the effective date of this rule, any party filing a complaint, counterclaim, cross-claim, third-party complaint, or any other pleading in which affirmative relief is requested shall file and serve concurrently with the pleading for affirmative relief, a separate certification indicating whether the party is or is not seeking relief other than a money judgment and whether the amount sought exceeds or does not exceed fifty thousand dollars ($50,000.00) exclusive of punitive damages, interest, costs, and attorney fees. The certification shall be a good faith attempt to state the type and amount of relief to be sought at trial and shall not act as a limit on relief.

(3) ***Review of certification; referral order.*** Within thirty (30) days after a case is at issue, the court will review the court file, including the certifications filed, to determine whether referral to arbitration is mandated by Subparagraph (B)(1) of this rule. If so mandated, the court will prepare and file an order referring the case to arbitration and mail or deliver endorsed copies of the order to all parties entitled to notice. The court on its own motion may postpone filing a referral order if it appears from the court file that the case may be resolved on a pending motion for judgment on the pleadings or other pending dispositive motion. If referral is not mandated, no order will be entered.

(4) ***Failure to file certification.*** If a party fails to file a certification, the court after written notice may impose an appropriate sanction including but not limited to dismissing the party's complaint without prejudice. The court in its discretion may impose the sanction without hearing.

(5) ***Referral on motion.*** At any time after a case is at issue and notwithstanding any certifications filed, on a party's motion or the court's own motion, the court may enter an order referring the case to arbitration provided the court finds that the requirements of Subparagraph (B)(1) are met. The court in its discretion may enter the order without hearing.

(6) ***Denial of referral.*** Notwithstanding a finding that the requirements of Subparagraph (B)(1) have been met, at any time before referral, on a party's or the court's own motion, the court for good cause may deny referral to arbitration. The court in its discretion may enter the order without hearing.

C. **Permissive referral.** Any case may be referred to arbitration when the parties stipulate to arbitration. The court may require the parties to stipulate to an arbitrator as set forth in Subparagraph (D)(3)(c) of this rule.

D. **Arbitrators.**

(1) ***Arbitrator pool.*** The court will maintain a pool from which arbitrators will be appointed. The pool shall include all active members of the State Bar of New Mexico who have been licensed to practice law for five (5) or more years and who are residents of or have an office in Bernalillo County. Other attorneys licensed for five or more years, including inactive attorneys, out-of-Bernalillo County attorneys, and out-of-state attorneys, may be included in the pool on written request to the court alternatives director. The chief judge for good cause may remove an attorney from the arbitrator pool either temporarily or permanently. The removal may be on the court's own motion without notice to the attorney, or it may be on written request to the court alternatives director. The court will periodically review the pool of arbitrators for completeness and accuracy, and it may require any member of the State Bar of New Mexico to submit information necessary for this purpose. The court will provide written notice to attorneys as they are added to the pool, either by letter or notice published in the Bar Bulletin.

(2) ***Training.*** The court may require any attorney who is part of the arbitrator pool to attend arbitrator training.

(3) ***Appointment to case.*** After a case is referred to arbitration, an attorney shall be appointed as arbitrator by the filing of a court order on either random selection, court selection, or stipulation. With appointments on random or court selection, the court will file an order appointing the arbitrator and mail or deliver endorsed copies to the arbitrator and all parties entitled to notice. With stipulations, the parties shall file the order of appointment.

(a) *Random selection.*

(i) *Notice of choices.* Within ten (10) days after a case is referred to arbitration, the court alternatives director will mail to all parties a notice listing three attorneys as choices for arbitrator. The three attorneys shall be selected at random from the arbitrator pool but none of the three may be employed by the same law firm as any of the other three or as any counsel in the case. The notice of choices shall not be filed with the clerk.

(ii) *Peremptory strikes.* Within seven (7) days after the notice of choices is mailed, each party may peremptorily strike one attorney by written notice to the court alternatives director. A maximum of two strikes will be counted altogether; a maximum of one strike will be counted for each side, *e.g.*, all plaintiffs or defendants or third-party defendants; and strikes will be counted in the order received. The first attorney remaining after strikes are counted shall be appointed. The period for making strikes shall not be extended. The notice of strikes shall not be filed with the clerk.

(b) *Court selection.* For good cause, the court may select an arbitrator rather than provide the parties with a notice of choices.

(c) *Stipulation.* The parties may stipulate to the appointment of any licensed attorney, whether or not part of the pool and with any length of experience, by stipulated order filed within seven (7) days after the notice of choices is mailed, or within seven (7) days after a vacancy is created by order of excusal or otherwise. The stipulated order must be approved by all parties and by the proposed arbitrator. Approval of counsel and the proposed arbitrator may be telephonic; approval of parties pro se must be by signature. The court or the proposed arbitrator may require the parties to pay compensation at the arbitrator's usual hourly fee.

(d) *Excusal; conflicts check.* Promptly on appointment, the arbitrator shall attempt to discern any conflicts of interest in hearing the case and shall notify the parties of any conflict. On discovery of a conflict of interest in hearing a case, an arbitrator shall file a motion for excusal. On a party's, the arbitrator's, or the court's own motion, the court for good cause may order that the arbitrator be excused from appointment to the case. The court in its discretion may enter the order without hearing.

(e) *Vacancy.* Vacancies caused by excusal or otherwise shall be filled by appointment of the first of the remaining three choices or if none remains, by appointment of an attorney selected by the court, or the parties may stipulate to a replacement as provided in Subparagraph (D)(3)(c) of this rule.

4. ***Compensation.*** The court shall compensate arbitrators in the amount of one hundred dollars ($100.00) per case. An arbitrator is entitled to compensation when the arbitrator files an award or the arbitration proceedings are otherwise concluded or when the arbitrator is excused from appointment. The arbitrator shall submit a written request for compensation to the court alternatives director within thirty (30) days after the arbitrator is entitled to compensation. Failure to submit a request shall be deemed a waiver of compensation. Arbitrators compensated by the parties under Subparagraph (D)(3)(c) of this rule shall not be compensated by the court.

E. **Procedures during referral.**

(1) ***General.***

(a) *Court jurisdiction.* The assigned judge continues to have jurisdiction over a case during referral to arbitration. In general, however, the assigned judge should not hear any matters after an arbitrator is appointed except the judge may hear the following:

(i) motions to excuse the arbitrator;

(ii) motions to withdraw referral to arbitration;

(iii) motions for sanctions under Subparagraph (D)(3)(c) of this rule;

(iv) motions for free process;

(v) motions about attorney representation;

(vi) motions to add new parties;

(vii) motions to set aside default or any other judgment;

(viii) motions to compel settlement;

(ix) any post-judgment enforcement and execution matters; and

(x) requests for settlement conference under Rule LR2-602 NMRA.

After a case is referred to arbitration and before an arbitrator is appointed, the court in its discretion may vacate any pending hearings on matters that may be heard by the arbitrator, and may set hearings on matters needing immediate consideration.

(b) *Arbitrator jurisdiction, powers, and duties.* The arbitrator's jurisdiction begins when the order of appointment is filed and continues until the arbitrator is excused, ten (10) days after an award is filed, or the arbitration proceedings are otherwise concluded, whichever period is shorter. While the arbitrator has jurisdiction, the arbitrator's decisions shall be considered equivalent to court orders. The arbitrator may decide all issues of fact and law unless specifically prohibited by this rule or court order. The arbitrator shall consider the efficient, cost-effective, and informal resolution of the case as a factor in all the arbitrator's decisions and in all aspects of the arbitrator's management of the case. The arbitrator may limit discovery when appropriate. The arbitrator may administer oaths. With the exception of contempt, the arbitrator may enter appropriate sanctions including sanctions under Rules 1-016, 1-030, and 1-037 NMRA or any other Supreme Court rule, sanctions for failure to comply with any of the provisions of this rule, and sanctions for failure to comply with any of the arbitrator's decisions. On agreement of the parties, the arbitrator may serve as a mediator or settlement facilitator. The arbitrator's jurisdiction, powers, and duties may not be delegated. The arbitrator must personally conduct the hearings and trial, and must personally sign decisions and the award.

(c) *Supreme Court and local rules.* All Supreme Court rules, including rules of civil procedure (including Rule 1-006 NMRA) and rules of evidence, and all second judicial district local rules apply during referral to arbitration unless specifically waived by written court order or the arbitrator. The arbitrator may waive rules of evidence only on agreement of the parties.

(d) *Good faith participation.* All parties shall participate in good faith in the arbitration proceedings. The arbitrator may enter an award of default or of dismissal against any party failing to participate in good faith or reflect the failure in the award. In any award, the arbitrator shall include a certification that the party failed to participate in

good faith. The court shall consider the certification when deciding attorney fees, costs, and interest on appeal, or when considering whether to set aside the default.

(e) *120-day deadline; sanction.* Within one hundred twenty (120) days after the arbitrator is appointed, the arbitrator shall file an award unless the arbitration proceedings have otherwise been concluded. On a party's, the arbitrator's, or the court's own motion, the court for good cause may extend the one hundred twenty (120) day period. The court in its discretion may enter the order without hearing. If the arbitrator or a party fails to comply with this provision, the court after written notice may impose an appropriate sanction including but not limited to requiring the arbitrator or party to pay a penalty into the second judicial district arbitration fund.

(f) *Filing papers.* Any motion or other paper to be heard or otherwise considered by the arbitrator shall not be filed with the court. The arbitrator shall not file any decisions except for the award. On a party's or the court's own motion, the court may order that an inappropriately filed paper be stricken. The court in its discretion may enter the order without hearing. Failure to submit a motion to strike shall be deemed waiver of any prejudice caused by a paper inappropriately filed.

(g) *Court file; review; copy.* The arbitrator may review the court file at any time during regular court hours. The court shall provide the arbitrator a copy of the file or parts of the file at no cost on request; requests shall be made to the court alternatives director.

(h) *Summonses; subpoenae.* The clerk shall issue summonses and subpoenae in cases referred to arbitration in the same manner as with other civil cases. The summonses and subpoenae shall be served and enforceable as provided by law.

(i) *Record of proceeding.* Any party to an arbitration proceeding, at the party's own expense, may engage a certified court reporter to make a record of testimony given at an arbitration proceeding for use as allowed by the rules of evidence. A copy of the record may be obtained by any other party to the arbitration proceeding in the same manner that deposition copies are obtained. Costs associated with making the record or obtaining a copy of it shall not be recoverable.

(j) *Withdrawal of referral.* At any time after a case is referred to arbitration, on a party's, the arbitrator's, or the court's own motion, the court for good cause may order that the referral to arbitration be withdrawn and the case be returned to the court's docket. The court in its discretion may enter the order without hearing.

(2) ***Hearings; trial.***

(a) *Place, date, and time.* The arbitrator shall set an appropriate place, date, and time for all hearings and trial. Hearings shall be set during regular business hours except on agreement of the parties. The arbitrator may conduct hearings by telephone.

(b) *Notice.* The arbitrator shall provide twenty (20) days written notice of trial. The arbitrator shall provide five (5) days notice, in writing or by telephone, of all other hearings. Notice of trial or hearings may be waived by the parties.

(c) *Requests for hearing.* Unless otherwise directed by the arbitrator, parties may request hearings informally, by letter, or by telephone, provided the requesting party notifies all other parties as well as the arbitrator. The arbitrator may decide motions and other preliminary matters on written submissions.

(d) *Statement of witnesses, exhibits.* No later than ten (10) days before trial, each party shall serve on all other parties a statement listing all the exhibits and witnesses the party may use and briefly describing the matters about which each witness will be called to testify. The arbitrator may waive this provision.

(e) *Return of exhibits and depositions.* After an award is filed or the arbitration proceedings are otherwise concluded, the arbitrator shall return all exhibits and depositions to the submitting party.

(3) ***Evidentiary exceptions.*** The following exceptions apply during referral to arbitration.

(a) *Depositions.* The arbitrator may hear testimony by deposition.

(b) *Documentary evidence.* The following documents, if relevant, shall be admitted in evidence without further proof, provided a copy of the documents is served on all parties no later than ten (10) days before the hearing or trial:

(i) estimates and bills for services and products, if dated and itemized;

(ii) reports of experts, if dated and signed; and

(iii) records and reports as described in Rule 11-803(6), (8), (9), (11), (12), and (14) through (18) NMRA.

(4) ***Award.***

(a) *Final decision; scope.* The arbitrator's final decision shall be called an "award". The award shall clearly set forth the amount awarded to each party and address all pending claims, attorney fees, costs and interest as allowed by law, including any required award of costs under Rule 1-068 NMRA. The award may be an award of default, dismissal, summary judgment, or money damages.

(b) *Amount.* The amount of the award shall be limited only by the evidence and shall not be limited by the circumstances under which the case was referred to arbitration.

(c) *Filing.* Unless the parties agree otherwise, within ten (10) days after the last hearing, the arbitrator shall file an award with the clerk and serve copies on all parties entitled to notice. If an arbitrator fails to comply with this provision, the court after written notice may impose an appropriate sanction including but not limited to requiring the arbitrator to pay a penalty into the second judicial district's arbitration fund.

(d) *Amended award.* Within ten (10) days after an award is filed, the arbitrator may file an amended award. Copies shall be served on all parties entitled to notice.

(e) *Binding award.* At any time before the award is filed, the parties may file with the clerk a stipulation that the award will be binding and that the right to appeal the award is waived.

(f) *Judgment on award.* If no appeal is taken and the time for appeal has expired, the right to appeal has been waived, or the appeal has been voluntarily dismissed, the court shall prepare and file a judgment or final order adopting that part of the award not appealed as a judgment or final order of the court and shall mail or deliver endorsed copies to all parties entitled to notice. The judgment or final order shall be enforceable and binding as any other judgment or final order.

F. **Appeal.**

(1) ***Right to appeal.*** Any party of record at the time the arbitrator's award is filed may appeal the award, but a party may not appeal an award of default, including an award of default entered under Subparagraph (E)(1)(d) of this rule. An award of default shall only be set aside under Rules 1-055 and 1-060 NMRA.

(2) ***Procedures to appeal.***

(a) *Notice of appeal.* To exercise the right to appeal, a party must file a "notice of appeal from arbitration" with the clerk within fifteen (15) days after the award or amended award is filed. If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within fifteen (15) days after the date on which the first notice of appeal was served. The period for filing the notice shall not be extended. A copy of the notice of appeal shall be served on all parties entitled to notice. Cross-appeals are not required.

(b) *Voluntary dismissal.* At any time after filing a notice of appeal and before trial before the assigned judge, a party may withdraw the appeal by filing a notice of voluntary appeal dismissal. A copy of the notice shall be served on all parties.

(3) ***Procedures on appeal.***

(a) *Docket status.* After a notice of appeal is filed, the case shall be returned to the same status on the assigned judge's docket that it had before referral to arbitration. Requests for trial must be submitted as required by local rule.

(b) *De novo proceedings.* All appeals shall be in the form of de novo proceedings before the assigned judge. No reference shall be made to any of the arbitrator's decisions including the award. Neither the arbitrator nor the court alternatives director shall be permitted to testify about the arbitration proceedings. Promptly after the notice of appeal is filed and until disposition of the appeal, the court shall seal the award.

(c) *Discovery.* Any discovery obtained while the case was referred to arbitration may be used in the de novo proceedings.

(4) ***Award of fees, costs, and interest against appellant.*** If the court makes a decision on the merits which is the same as or less favorable to the appellant than the arbitrator's award, the court shall order that the appellant pay all other parties' expenses incurred during the appeal including but not limited to reasonable attorney fees, costs, and pre-judgment interest dating from the arbitration award. The court for good cause shown may waive this provision; the court shall state the basis for its good cause finding on the record.

[As amended, effective March 1, 1997; as amended by Supreme Court Order No. 06-8300-026 effective January 15, 2007; as amended 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. 22-8300-009, effective for all cases pending or filed on or after June 1, 2022.]

ANNOTATIONS

The 2022 amendment, approved by Supreme Court Order No. 22-8300-009, effective June 1, 2022, raised the dollar amount for types of cases requiring mandatory referral to arbitration from twenty-five thousand dollars to fifty thousand dollars, deleted former section headings and added new paragraph headings throughout, redesignated the subparagraphs and items to conform to the new paragraph headings, and made certain technical and conforming changes; and in Subparagraphs B(1) and B(2), changed "twenty-five thousand ($25,000.00)" to "fifty thousand ($50,000.00)".

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, substituted "on" for each occurrence of "upon" and "under" for each occurrence of "pursuant to", and made other stylistic changes; in Subparagraph C(2), after "described in", deleted "Rule 11-803 NMRA, Paragraphs (F), (II), (I), (K), (L), and (N) through (R) NMRA" and added "Rule 11-803(6), (8), (9), (11), (12), and (14) through (18) NMRA".

The 2006 amendment, approved by Supreme Court Order 06-8300-26 effective January 15, 2007, added the second sentence of Subparagraph (1) of Paragraph B of Section VI: Appeal relating to the filing of a notice of appeal by any party within fifteen (15) days after service of the first notice of appeal.

The 1997 amendment, effective May 1, 1997, rewrote this rule.

District courts retain jurisdiction over arbitration awards even though a party's notice of appeal from arbitration was untimely. The arbitration award is merely a nonenforceable order until the district court adopts the award as the court's final judgment following the time to file an appeal. After the district court has adopted the award as its final judgment, Rule 1-060B NMRA applies to set aside the judgment just as Rule 1-060B NMRA would apply to set aside any final judgment of the district court. Aragon v. Westside Jeep/Eagle, 117 N.M. 720, 876 P.2d 235 (1994).

Law reviews. — For article, "Problems with Court-Annexed Mandatory Arbitration: Illustrations from the New Mexico Experience," see 32 N.M.L. Rev. 181 (2002).

VII. Forms

LR2-Form 701. Motion to withdraw.

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

(*case number*)

(*caption*)

MOTION TO WITHDRAW

COMES NOW _____, and moves this court for its order allowing movant to withdraw as counsel of record for _____.
As grounds for this motion, movant states:
(Set out grounds)

_____
_____

Hearings in this case are set as follows:
(Specify date, time and matters to be heard)

_____
_____

Supreme Court deadlines relevant to this case are as follows: *(Specify rule and date deadline expires)*

_____
_____
_____

[ ] This motion is being filed along with an entry of appearance by _____ as a party pro se.

[ ] I acknowledge that _____ has twenty (20) days to obtain counsel or be deemed appearing pro se. The last known address and telephone numbers for _____ are as follows:

_____

_____

_____

_____

(Signature block)

(Certificate of service)

[As amended, effective March 1, 1997; as amended by Supreme Court Order No. 06-8300-026 effective January 15, 2007; LR2-Form E recompiled and amended as LR2-Form 701 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, after "signature block", deleted "see Second Judicial District Local Rules, Rule LR2-118".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-Form E NMRA was recompiled and amended as LR2-Form 701 NMRA, effective December 31, 2016.

LR2-Form 702. Entry of appearance by substitute counsel or party pro se.

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

(case number)

(caption)

ENTRY OF APPEARANCE BY SUBSTITUTE COUNSEL OR PARTY PRO SE

COMES NOW _____, and enters an appearance as counsel of record or *pro se*, as his or her own attorney, in substitution for _____. Further _____ states that he or she is ready to proceed without delay, that he or she is aware of pending hearings listed on the motion for withdrawal and indicated in the court file, and

that he or she waives any right to request that any hearing be vacated on the basis of this entry of appearance.

_____
(Signature block)

(Certificate or affidavit of service)

[LR2-Form F recompiled and amended as LR2-Form 702 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, after "signature block", deleted "see Second Judicial District Local Rules, Rule LR2-118".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-Form F NMRA was recompiled and amended as LR2-Form 702 NMRA, effective December 31, 2016.

LR2-Form 703. Request for hearing.

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

(case number)

(caption)

REQUEST FOR HEARING

1. Assigned Judge:_____

2. Type of Case: _____

3. Jury: _____ Non-jury: _____

4. Dates of hearings presently set: _____
_____

5. Specific matter(s) to be heard upon this request:
_____

6. Estimated total time required: _____

7. Attach separate sheet(s) listing name, firm, capacity, address, and telephone number of all parties entitled to notice.

_____

_____
(Signature block)

(Certificate or affidavit of service)

[LR2-Form G recompiled and amended as LR2-Form 703 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, after "signature block", deleted "see Second Judicial District Local Rules, Rule LR2-118".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-Form G NMRA was recompiled and amended as LR2-Form 703 NMRA, effective December 31, 2016.

LR2-Form 704. Notice of hearing.

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

(*case number*)

(*caption*)

NOTICE OF HEARING

(submitting party shall complete all but date and time)

A hearing in this case is set before the Honorable _____ as follows:

Date of hearing: _____

Time of hearing: _____

Length of hearing: _____

Place of hearing: _____

Matter(s) to be heard: _____

THE HONORABLE

By _____

(or, if completed and filed by party, add signature block)

Notice mailed or delivered on date of filing to parties listed on attached sheet.

(submitting party shall attach a separate sheet listing the name, firm, capacity, address, and telephone number of all parties entitled to notice)

(or, if completed and filed by party, party shall add certificate or affidavit of service)

[LR2-Form H recompiled and amended as LR2-Form 704 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, after “signature block”, deleted “see Second Judicial District Local Rules, Rule LR2-118”.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-Form H NMRA was recompiled and amended as LR2-Form 704 NMRA, effective December 31, 2016.

LR2-Form 705. Praecipe.

SECOND JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF BERNALILLO

(case number)

(caption)

PRAECIPE

COMES NOW _____, and hereby submits the following Instructions:

Instruction No.	U.J.I. No.	Title	Given	Refused	Modified	Withdrawn
1.	____	____	____	____	____	____
2.	____	____	____	____	____	____
3.	____	____	____	____	____	____
4.	____	____	____	____	____	____
5.	____	____	____	____	____	____

_____
(Signature block)

(Certificate or affidavit of service)

[LR2-Form I recompiled and amended as LR2-705 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, after “signature block”, deleted “see Second Judicial District Local Rules, Rule LR2-118”.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-Form I NMRA was recompiled and amended as LR2-Form 705 NMRA, effective December 31, 2016.

LR2-Form 706. Rule 1-099 NMRA, certificate.

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

(case number)

(caption)

RULE 1-099 NMRA, CERTIFICATE

COMES NOW _____, and hereby certifies under Rule 1-099 NMRA, and LR2-126 NMRA, that no Rule 1-099 NMRA fee is required because

[ ] this case is pending.

[ ] the attached pleading, motion, or other paper is filed within ninety (90) days after the last disposition; the last action taken this case was _____; a judgment or decree was filed _____, _____.

[ ] a docket fee has been previously paid or waived in the case and the attached pleading, motion, or other paper is requesting action which may be performed by the clerk pursuant to these rules -or- is a motion accompanied by signed stipulated order disposing of the issue(s) raised by the motion.

[ ] the attached pleading, motion, or other paper is seeking to correct a mistake in the judgment, decree, or record, filed on _____, _____.

[ ] a docket fee has been previously paid or waived in the case and the attached pleading, motion, or other paper is seeking only enforcement of a child support order filed on _____, _____.

(signature block)
(certificate or affidavit of service)

[LR2-Form J recompiled and amended as LR2-Form 706 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, increased the time within which to file a pleading without having to pay a Rule 1-099 NMRA fee, and revised citations to local rules; after "Rule 1-099 NMRA, and", deleted "Second Judicial District Local Rules, Rule LR2-132" and added "LR2-126 NMRA", after "filed within", deleted "sixty (60)" and added "ninety (90)", after the third box, added "a docket fee has been previously paid or waived in the case and", and after "rules -or-", deleted "seeking to correct a mistake in the judgment, decree or record, filed on _____, _____ -or-" and added "is", after the fourth box, added "the attached pleading, motion, or other paper is seeking to correct a mistake in the judgment, decree, or record, filed on _____, _____.", and after the fifth box, added "a docket fee has been previously paid or waived in the case and", and after "signature block", deleted "see Second Judicial District Local Rules, Rule LR2-118".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-Form J was recompiled and amended as LR2-Form 706 NMRA, effective December 31, 2016.

LR2-Form 707. Final pretrial order.

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO

STATE OF NEW MEXICO
(case number)

(caption)

FINAL PRETRIAL ORDER

This matter having come before the court pursuant to Rule 1-016 NMRA, and the court being fully advised in the premises, the court hereby orders:

1. **GENERAL NATURE OF PARTIES' CLAIMS**. The parties' claims are as follows:
(Set out brief summary without detail for each party.)

_____
_____
_____

2. **UNCONTROVERTED FACTS**. The following facts are established by admissions or stipulations:
(Set out uncontroverted facts, including admitted jurisdictional facts and all other significant facts.)

_____
_____
_____

3. **CONTESTED ISSUES OF FACT**. The contested issues of fact are:
(Set out.)

_____
_____

4. **CONTESTED ISSUES OF LAW**. The contested issues of law in addition to those implicit in the foregoing issues of fact are:
(Set out.)

_____
_____

5. **EXHIBITS**. Each party shall provide all other parties copies of all exhibits and shall make all demonstrative exhibits available for inspection no later than _____, _____.
The parties intend to offer the following exhibits in evidence at trial:
(Set out list for each party.)

_____
_____

6. **WITNESSES**. Each party shall provide all other parties a list of witnesses who will or may be testifying at trial with a brief summary of their anticipated testimony no later than _____, _____. Additional witnesses will not be allowed without a showing of good cause why their disclosure did not take place in conformance with this order. The parties will call or have available at trial:
(Set out list for each party.)

_____
_____
The parties may call:

(Set out list for each party.)

_____

_____

The parties will present the following testimony by deposition:
(Set out list for each party.)

_____

_____

7. **DISCOVERY**. Discovery shall be completed by and is limited to: (*Set out limitations made upon agreement of the parties or by the court*.)

8. **JURY INSTRUCTIONS**. Each party shall submit proposed jury instructions by _____, _____.

9. **LENGTH OF TRIAL**. The following number of days will be set for trial: _____.

10. **SETTLEMENT**. The possibility of settlement of this case is considered: *(Specify good, fair or poor.)* _____

11. **MODIFICATION; INTERPRETATION**. This order shall control the course of the trial and may not be modified except by court order upon agreement of the parties or to prevent manifest injustice. The pleadings will be deemed merged herein. In the event of ambiguity in any provision of this order, reference may be made to the pleadings.

_____
(Name of assigned Judge, see LR2-125)

(Signature blocks, LR2-125 NMRA)

[LR2-Form L recompiled and amended as LR2-Form 707 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, after “name of assigned Judge, see”, deleted “Second Judicial District Local Rules, Rule LR2-130” and added “LR2-125”, and after “signature blocks, see”, deleted “Second Judicial District Local Rules, Rules LR2-118 and LR2-130” and added “LR2-125”.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-Form L NMRA was recompiled and amended as LR2-Form 707 NMRA, effective December 31, 2016.

LR2-Form 708. Notice and Order authorizing STEPS.

SECOND JUDICIAL DISTRICT COURT CR _____
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

STATE OF NEW MEXICO,

_____,
Plaintiff,

v. DA #_____

_____,
Defendant

NOTICE AND ORDER AUTHORIZING STEPS

1. **Voluntary participation**. Participation in STEPS is voluntary.

2. **Consent to sanctions**. By choosing to participate in STEPS, you consent to the imposition of automatic sanctions for a technical violation of the conditions of probation and waive any right to either contest the alleged technical violation or to a Rule 5-805 NMRA hearing on the technical violation.

3. **Technical violations defined**. Technical violations include the following acts or events:

a. urine tests positive for drugs, including spice and pep, or alcohol if prohibited by order of probation, except where disallowed by the judge _____. [*If this line is initialed by the judge, urine tests that are positive for drugs or alcohol **do not** qualify as technical violations and instead will result in a Rule 5-805 NMRA revocation hearing*.]

b. possessing alcohol if prohibited by order of probation;

c. missing a counseling appointment or group session;

d. missing a community service appointment;

e. missing an educational appointment;

f. failing to inform the probation officer of a traffic citation received;

g. moving without prior permission from the probation officer; and

h. any other violations other than a new criminal offense.

4. **Sanctions**. Sanctions for technical violations are as follows:

a. first violation: three (3) days of community service;

b. second violation: five (5) days of community service;

c. third violation: seven (7) days in jail; and

d. fourth violation: no bond hold, possible removal from STEPS after hearing, and immediate referral to the second judicial district court for a hearing subject to the provisions of Rule 5-805(D)-(L) NMRA.

The imposition of any sanction under this section by probation and parole requires a probation and parole supervisor's approval.

5. **Failure to complete community service**. If you fail to complete any part of the community service imposed under Paragraph 4 of this Notice and Order, you shall be incarcerated for the balance of time remaining under the sanction.

6. **Additional sanctions for same violation prohibited**. Once sanctions under STEPS are imposed, you will not be subject to further probation violation sanctions on the same probation violation, unless you fail to comply with the imposed sanctions.

7. **Court's authority retained**. At any incremental sanction level, the second judicial district court retains its authority to elect to proceed with the hearing procedures outlined in Rule 5-805(D)-(L) NMRA, which could result in your removal from STEPS.

8. **It is your responsibility to immediately provide a signed copy of this Notice and Order Authorizing STEPS to probation and parole**. STEPS shall not be authorized without a copy of this form being provided to probation and parole.

9. **STEPS authorized**. STEPS is hereby authorized in this case.

IT IS SO ORDERED.

_____
District Court Judge

I hereby acknowledge that I understand the STEPS requirements. By signing this form, I am indicating that I have chosen to participate in the STEPS program.

_____
Defendant

_____
Attorney for Defendant

Copy provided to:

District Attorney's Office

Defendant's Counsel

Defendant

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

LR2-Form 709. Court clinic referral order.

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

_____,

Petitioner,

v. No. _____

_____
_____
_____,

Respondent.

COURT CLINIC REFERRAL ORDER

THIS MATTER came before the court and the court having determined that the parties need assistance in resolving custody and timesharing issues and that participating in court clinic services is in the best interests of the parties' child(ren), the court **FINDS**:

1. The above referenced case involves the following child(ren):

(Name (first, last)	Age	Year of birth
_____	(_____)	_____
_____	(_____)	_____
_____	(_____)	_____
_____	(_____)	_____

2. The parties shall participate in the following court clinic services:

a. ( ) **Mediation** under NMSA 1978, § 40-12-3(F). If the parties are unable to reach a full or partial agreement, the court clinic shall

i. [ ] notify the court and request a hearing on concluded mediation; or

ii. [ ] provide an additional service as indicated below.

b. ( ) The court needs additional information under NMSA 1978, § 40-4-9.1 in order to determine the best interest(s) of the child(ren). The parties are ordered to fully participate in the following service:

i. ( ) advisory consultation under NMSA 1978, § 40-12-3(A);

ii. ( ) priority consultation under NMSA 1978, § 40-12-3(C) with a written recommendation under Rule 1-125 NMRA;

iii. ( ) scheduled consultation with recommendations presented by testimony at a report back hearing under LR2-401;

c. ( ) The court clinic shall address the following issues:

[ ] legal custody
[ ] timesharing/visitation
[ ] communication issues
[ ] grandparent visitation
[ ] domestic abuse
[ ] substance use/abuse
[ ] reunification between:
_____
[ ] other: _____.

[ ] relocation
[ ] safety concerns
[ ] educational concerns
[ ] criminal history
[ ] mental health concerns

IT IS THEREFORE ORDERED:

1. The parties and their child(ren) shall participate in court clinic services as set forth herein.

2. If either party fails to comply with this referral order, the court clinic shall file a notice of noncompliance. The court may schedule a hearing and impose sanctions as may be appropriate.

3. If either party files objections to a parenting plan or recommendations, the parties are to follow the prior order on custody and timesharing until the hearing on the objections and further order of the court.

4. **Supplemental information.** The following applies only if the parties are referred for a scheduled consultation, priority consultation, or advisory consultation.

a. The petitioner (P) and/or respondent (R) shall provide the following records to the court clinic at their first appointment (indicate P and/or R to provide as applicable):

_____ medical/psychiatric hospitalization and/or dental records

_____ daycare/school records

_____ all records from Child Protective Services (CYFD)

_____ psychiatric/psychological/neuropsychological/psychosexual evaluations and/or reports

_____ supervising agency logs

_____ drug test results

_____ academic/school assessment reports (IEP)

_____ police reports

_____ other: _____.

b. The court clinic shall consult with and receive information from individuals and agencies deemed necessary by the court clinic.

5. **Questionnaire.** Parties will receive a questionnaire from the court clinic that should be completed and returned to the clinic at least one week prior to the date of service.

6. **Notice of appointment for court clinic services.**

( ) A date and time to be set by the court clinic (notice will be mailed to all parties ordered to court clinic services);

( ) The parties shall participate in their scheduled appointment on _____ (*date*) at the court clinic (Second Judicial District Court, 2nd Floor, Room 210). Notice of appointment date and time will be mailed to all parties ordered to court clinic services.

7. **Hearing.**

( ) A hearing date and time will be sent by the court, if appropriate;

( ) The parties and the court clinician shall report to the court for a hearing scheduled on _____ at _____ a.m./p.m.

8. **Fees.**

a. ***Advisory consultation fees*.** The parties shall pay required fees as follows:

$_____ Petitioner

$_____ Respondent

$_____ Other

The court clinic shall not schedule services until advisory consultation fees are paid in full by both parties.

b. ***Priority consultation/scheduled consultation fees*.** The parties shall pay required fees as follows:

$_____ Petitioner

$_____ Respondent

$_____ Other

Payment can only be made with cash or money order on the day of the appointment. Parties shall check in with the court clinic prior to making the payment.

9. **Confidentiality of file.** The court clinic file (including but not limited to documents, reports, testing materials and results, and notes) is confidential and information contained in the file shall not be disclosed other than by a clinician testifying in the above referenced case or by order of the court.

10. **Notification of agreement.** The parties shall notify the court clinic if an agreement is reached by the parties and shall provide the court clinic with any order that disposes of any issue in this case.

11. **Interpreter.**

( ) One or more party requires an interpreter.

( ) Petitioner. Language: _____

( ) Respondent. Language: _____

Reviewed/approved by:

_____ _____

Petitioner/Counsel for Petitioner Respondent/Counsel for Respondent

Approved by:

_____
COMMISSIONER/
HEARING OFFICER

_____
DISTRICT COURT JUDGE

COURT CLINIC REFERRAL ORDER
INFORMATION SHEET

	Petitioner	Respondent
Name (Please print)		
Year of birth		
Address		
City, State, ZIP		
Email address (one that you use frequently)		
Telephone: Home Cell Work		
Attorney's name		
Address		
City, State, ZIP		
Telephone		
Gross monthly income	$_____	$_____

I state that the above information is true and correct. I have completely filled in all information. I understand that failure to complete all information will cause delay in services and may result in a notice of noncompliance against me. I agree to pay the Second Judicial District Court my share of any fees for court clinic services. I understand that false statements or failure to pay fees may be grounds for contempt proceedings.

_____ _____
Signature of Petitioner Signature of Respondent

_____ _____
Date Date

[As amended by Supreme Court Order No. 09-8300-012, effective May 18, 2009; LR2-Form T recompiled as LR2-Form 709 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.]

ANNOTATIONS

The 2018 amendment, approved by Supreme Court Order No. 18-8300-006, effective September 1, 2018, rewrote the form to the extent that a detailed comparison would be impracticable.

The 2009 amendment, approved by Supreme Court Order No. 09-8300-012, effective May 18, 2009, replaced the entire form with new material.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR2-Form T NMRA was recompiled as LR2-Form 709 NMRA, effective December 31, 2016.