

1 **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2 **December 30, 2022**

3 **NO. 22-8500-040**

4 **IN THE MATTER OF BRIEFING**
5 **DEADLINES FOR THE LAW OFFICES OF**
6 **THE PUBLIC DEFENDER AND OFFICE**
7 **OF THE ATTORNEY GENERAL**

8 **ORDER**

9 WHEREAS, the Law Offices of the Public Defender informed the Court via
10 letter dated December 6, 2022, of a significant case overload as a result of a
11 combination of factors, including a large number of attorney vacancies, lack of
12 contract counsel, and increased duties for appellate defenders;

13 WHEREAS, the Court met with representatives from the Law Offices of the
14 Public Defender and the Office of the Attorney General to discuss briefing deadlines
15 under the Rules of Appellate Procedure for cases in which the parties to the
16 proceeding were represented by the Law Offices of the Public Defender and Office
17 of the Attorney General, which resulted in general agreement that an automatic
18 extension order would be in the best interest of judicial efficiency; and

19 WHEREAS, in light of the foregoing, and the Court having concluded that it
20 would be appropriate to provide for automatic extensions of briefing deadlines
21 consistent with the agreement of the representatives, and being otherwise

1 sufficiently advised, Chief Justice C. Shannon Bacon, Justice Michael E. Vigil,
2 Justice David K. Thomson, Justice Julie J. Vargas, and Justice Briana H. Zamora
3 concurring;

4 NOW, THEREFORE, IT IS ORDERED that the following policy is hereby
5 ADOPTED and shall apply to all cases in which the parties are represented by the
6 Law Offices of the Public Defender and the Office of the Attorney General;

- 7 1. For all cases in which a general calendar notice is filed on or after
8 January 3, 2023, and only in cases in which the appellant is represented
9 by the Law Offices of the Public Defender, the forty-five (45)-day
10 deadline for filing briefs in chief under Rule 12-210(C)(2) NMRA shall
11 be replaced with a **one hundred twenty (120) day-deadline**. Any
12 request for additional time beyond the one hundred twenty (120) days
13 must be filed by the assigned attorney, will be viewed with disfavor,
14 and must present exceptional circumstances other than the normal press
15 of business;
- 16 2. For all cases in which a briefing schedule is filed on or after January 3,
17 2023, and only in cases in which the petitioner is represented by the
18 Law Offices of the Public Defender, the brief in chief shall be due in
19 **one hundred twenty (120) days**. Any request for additional time
20 beyond the one hundred twenty (120) days must be filed by the assigned
21 attorney, will be viewed with disfavor, and must present exceptional
22 circumstances other than the normal press of business;
- 23 3. For all cases in which a general calendar notice is filed on or after
24 January 3, 2023, briefs in chief in cases in which the appellant is
25 represented by the Office of the Attorney General, answer briefs filed
26 by either appellant or appellee, and reply briefs filed by either appellant
27 or appellee shall be due in accordance with the regular deadlines under
28 Rule 12-210(C)(2) NMRA;

1 4. For all cases in which a briefing order is filed on or after January 3,
2 2023, briefs in chief in cases in which the petitioner is represented by
3 the Office of the Attorney General, answer briefs filed by either
4 petitioner or respondent, and reply briefs filed by either petitioner or
5 respondent shall be due in accordance with the deadlines provided in
6 the briefing order;

7 5. For all cases in which a general calendar notice or a briefing order is
8 filed in a cross appeal or in cases in which a cross petition for writ of
9 certiorari has been granted, the deadline for the briefs in chief shall be
10 **one hundred twenty (120) days** from either the filing of the general
11 calendar notice or from the filing of the briefing order;
12

13 IT IS FURTHER ORDERED that all cases in which contract counsel is
14 substituted in place of the Law Offices of the Public Defender shall continue to
15 proceed in accordance with the regular briefing deadlines and procedures set forth
16 in the Rules of Appellate Procedure and in any briefing orders issued by this Court;

17 IT IS FURTHER ORDERED that briefing in all other cases by the Law
18 Offices of the Public Defender and Office of the Attorney General shall proceed in
19 accordance with the Rules of Appellate Procedure or as otherwise ordered by the
20 Court;

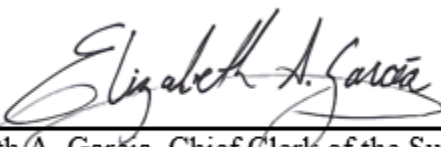
21 IT IS FURTHER ORDERED that cases subject to this order shall be stayed
22 for the length of extra time the Law Offices of the Public Defender has to brief its
23 cases under the policy set forth above, so that the standing extensions do not affect
24 the Court's performance measures; and

1 IT IS FURTHER ORDERED that representatives shall update the Chief Clerk
2 of Court and the Chief Deputy Clerk of Court about the continued need for a standing
3 extension order in six (6) months from the date of this order, and every six (6) months
4 thereafter, for as long as this order remains in effect.

5 IT IS SO ORDERED.



WITNESS, the Honorable C. Shannon Bacon, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 30th day of December 2022.



Elizabeth A. Garcia, Chief Clerk of the Supreme Court
of the State of New Mexico