

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

2 **December 13, 2023**

3 **NO. S-1-AO-2023-00025**

4 **IN THE MATTER OF PROPOSED**
5 **PUBLIC CENSURES IN ATTORNEY AND**
6 **JUDICIAL DISCIPLINARY**
7 **PROCEEDINGS**

8 **ORDER**

9 WHEREAS, this matter comes on for consideration upon the Court's own
10 motion to implement policies and procedures for submitting proposed public
11 censures in attorney and judicial disciplinary proceedings under Rule 17-206 NMRA
12 and JSC Rule 36 NMRA, respectively;

13 WHEREAS, a public censure may be recommended to the Court by the
14 Disciplinary Board and the Judicial Standards Commission (JSC) as a form of
15 discipline for attorney and judicial misconduct for the purpose of admonishing a
16 respondent for misconduct, to guard against future similar misconduct, and to restore
17 public confidence in the practice of law and our judicial system, *see Matter of*
18 *Ferguson*, 2021-NMSC-024, ¶ 1, 491 P.3d 745 (admonish and caution against future
19 misconduct); *In re Naranjo*, 2013-NMSC-026, ¶ 22, 303 P.3d 849 (assure public and
20 caution others);

1 WHEREAS, in general, a public censure may be recommended to the Court
2 as a form of discipline in a proceeding initiated by the filing of either (1) a petition
3 to accept stipulation agreement and consent to discipline, or (2) a decision and
4 recommendation for discipline;

5 WHEREAS, disciplinary matters frequently come before the Court on the
6 petition and record only, without the benefit of briefing or oral argument;

7 WHEREAS, the Disciplinary Board and JSC adjudicate disciplinary
8 proceedings, conduct investigations and hearings, and review findings of fact and
9 conclusions of law prior to submitting petitions for discipline to this Court, *see* Rule
10 17-102 NMRA; JSC Rules 4, 5 NMRA, making them well-suited to prepare and
11 submit proposed public censures that, in part, outline the disciplinary matter's
12 procedural history and provide relevant citations to authority and the record;

13 WHEREAS, the Court being desirous of the timely and efficient adjudication
14 of disciplinary matters to safeguard the public by providing prompt notice of
15 attorney and judicial misconduct, to warn attorneys and judges against future similar
16 misconduct, and to provide attorneys and judges with timely resolution of
17 disciplinary matters, the Court concludes that it would be in the best interest of
18 judicial economy and the efficient administration of justice to require that proposed

1 public censures be submitted in attorney or judicial disciplinary proceedings wherein
2 public censure is recommended; and

3 WHEREAS, in light of the foregoing and the Court being otherwise
4 sufficiently advised, Chief Justice C. Shannon Bacon, Justice Michael E. Vigil,
5 Justice David K. Thomson, Justice Julie J. Vargas, and Justice Briana H. Zamora
6 concurring;

7 NOW, THEREFORE, IT IS ORDERED that proposed public censures shall
8 be prepared in the following form, unless otherwise ordered by the Court:

9 (1)proposed public censures shall be non-precedential;

10
11 (2)proposed public censures shall be limited to fifteen (15) pages, double-
12 spaced, 14-pt Times New Roman font;

13
14 (3)proposed public censures shall include, at minimum, a procedural history,
15 including a citation to and explanation of the rules violated, and
16 background and discussion sections with citations to the record proper and
17 to authority;

18
19 (4)all citations in proposed public censures shall conform to Rule 23-112
20 NMRA;

21
22 IT IS FURTHER ORDERED that public censures shall be submitted to the
23 Court in accordance with one of two procedures outlined below:

24 (1)For proceedings before the Court on petition to accept stipulated
25 agreement and consent to discipline, proposed public censures shall be
26 stipulated to and filed with the petition;

1 (2) For proceedings before the Court on a decision and recommendation for
2 discipline, proposed public censures:

3
4 a. shall be filed with the Court within forty-five (45) days after the filing
5 of an order imposing a public censure as a form of discipline;

6
7 b. a response/objection to the proposed public censure shall be timely if
8 filed within fifteen (15) days of the filing of the proposed public
9 censure, *see* Rule 12-309(E) NMRA, provided that the findings and
10 conclusions adopted by this Court in its order imposing discipline are
11 final, and any motions for rehearing must be filed separately and in
12 accordance with Rule 12-404 NMRA;

13
14 c. no reply to the response shall be permitted without further order of the
15 Court;

16 IT IS FURTHER ORDERED that the final form and substance of a public
17 censure shall be subject to the Court's discretion, irrespective of whether the parties
18 have consented or stipulated to the proposed public censure;


19 IT IS FURTHER ORDERED that these policies and procedures shall be
20 effective the date of this order and shall remain in place until further order of the
21 Court; and

1 IT IS FURTHER ORDERED that the Clerk of Court is authorized and
2 directed to give notice of the above referenced policy and procedures by posting
3 notice on the New Mexico Judiciary website and by publishing notice in the *Bar*
4 *Bulletin*.

5 IT IS SO ORDERED.



6 WITNESS, the Honorable C. Shannon Bacon, Chief
7 Justice of the Supreme Court of the State of New Mexico,
8 and the seal of said Court this 13th day of December, 2023.

9

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

I CERTIFY AND ATTEST:
A true copy was served on all parties
or their counsel of record on date filed.
Elizabeth A. Garcia
Chief Clerk of the Supreme Court
of the State of New Mexico