

**PROPOSED REVISIONS TO THE RULES OF THE DISTRICT COURT OF THE
SIXTH JUDICIAL DISTRICT**

PROPOSAL 2024-021

March 13, 2024

The Sixth Judicial District Court has recommended amendments to LR6-104, LR6-105, LR6-107, LR6-109, LR6-110, LR6-204, LR6-205, LR6-206, LR6-208, LR6-210, LR6-301, and LR6-302 NMRA, and the withdrawal of LR6-103, LR6-111, LR6-201, LR6-202, LR6-209, LR6-212, LR6-303, LR6-305, LR6-Form 701, LR6-Form 702, LR6-Form 703, LR6-Form 704, LR6-Form 705, and LR6-Form 706 NMRA for the Supreme Court's consideration.

If you would like to comment on the proposed amendments set forth below before the Court takes final action, you may do so by either submitting a comment electronically through the Supreme Court's website at <http://supremecourt.nmcourts.gov/open-for-comment.aspx> or sending your written comments by mail, email, or fax to:

Elizabeth A. Garcia, Chief Clerk of Court
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848
rules.supremecourt@nmcourts.gov
505-827-4837 (fax)

Your comments must be received by the Clerk on or before April 12, 2024, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's website for public viewing.

[WITHDRAWN]

[LR6-103. Control of court files.

~~[Related Statute NMSA 1978, §34-6-28]~~

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

~~[Adopted by Supreme Court Order No. 07-8300-039, effective December 28, 2007; LR6-105 recompiled and amended as LR6-103 by Supreme Court Order No. 16-8300-015, effective for all~~

cases pending or filed on or after December 31, 2016; as withdrawn by Supreme Court Order No. _____, effective _____.]

LR6-104. Assignment of cases.

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

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

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

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

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

LR6-105. Court ~~[schedules; itinerary;]~~ communications and settings.

[Related Statute NMSA, 1978 §34-6-2]

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

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

C. **Notification if setting should be removed.** Attorneys shall timely advise the judge's office via their respective proposed text accompanied by the subject line containing the proper case number and hearing type when a matter is to be taken off the calendar ~~[so that other matters may be set]~~ subject to the provisions in LR6-208(B)(1).

D. **Communication with parties.** Self-represented parties shall inform the court of any changes of mailing address, telephone number, and email address by filing a notice thereof in each pending matter and serving it on all parties involved in the matter. Additionally, a self-represented party must fill out the Consent Form For Self-Represented Party's Service Of Pleadings From The Sixth Judicial District Court of New Mexico.

E. **Parties' communication with the Court.** Except for self-represented parties, any proposed order must be submitted to the respective judge's proposed text with the proper case number and order name in the subject line of the email. No added communication will be addressed by the judge as such is considered ex parte communication. Further, all attorneys must ensure they are listed as a service contact for each party they represent under e-file and serve, and promptly

remove themselves as a service contact in e-file and serve when no longer representing a party in the case.

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

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

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

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

B. **Interest bearing accounts.** The district court clerk is authorized under Rule 1-102 NMRA to set up and open separate interest-bearing accounts to be known as the "district court clerk's trust account" and the "litigant account", with any authorized bank or savings and loan association in Grant County, New Mexico, for Grant County cases; in Luna County, New Mexico, for Luna County cases; and in Hidalgo County, New Mexico, for Hidalgo County cases, for the purpose of depositing litigants' funds and producing the best authorized interest on those funds. When funds are to be placed in an interest-bearing account the party who will receive the interest must furnish the district court clerk with the name, mailing address, and social security number or employer identification number of the party to whom payment is to be made, utilizing IRS Form W-9 (Request for Taxpayer Identification Number and Certification). The IRS Form W-9 may be downloaded from the government's website.

C. **Disbursement of funds.**

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

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

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

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

LR6-109. Court security.

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

A. **Weapons.** ~~[All deadly weapons, including knives and objects which could be used to inflict bodily harm, except those carried by court security personnel and law enforcement officers and those intended for use at a trial or hearing, are prohibited in the courtroom of each county court building and any other related judicial office. Law enforcement officers who are witnesses in trials or not part of court security shall not carry weapons in the courtroom.]~~ Only

court security officers are allowed to carry weapons in the courtroom of each county court building and any other related judicial office unless otherwise approved by the Chief Judge.

B. ~~[Prisoner]~~ Detainee procedures.

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

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

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

C. Other precautions.

(1) ~~[Metal detectors and physical]~~ Physical searches may be used in any case upon ~~[on]~~ court order.

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

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

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

LR6-110. Attorney's attire.

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

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

[WITHDRAWN]

~~LR6-111. Legal research materials.~~

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

~~A. Use of facility. No computer, computer software, or computer discs (e.g., New Mexico One Source) shall be removed from the courthouse. Members of both the public and the bar may utilize the computer research facilities for specific, limited legal and case research. When~~

another person is waiting for the computer, research shall be limited to one (1) hour from the time the waiting person arrives.

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

~~[Adopted, effective October 2, 2000; LR6-113 recompiled and amended as LR6-111 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; as withdrawn by Supreme Court Order No. _____, effective _____.]~~

[WITHDRAWN]

[LR6-201. Withdrawals and substitution of counsel.

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

~~_____ A. **Withdrawal.**~~

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

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

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

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

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

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

[WITHDRAWN]

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

~~_____ A. **Scope.** This rule applies to the service or delivery of "court originated" notices and other papers. Notices and other papers are considered "court originated" if the court initiated the notice or paper. Any notice or paper submitted by a party for the court's consideration or to be completed by court staff is not considered court originated for purposes of this rule but instead is~~

considered to be a party originated paper. The party submitting a party originated paper that is subsequently filed by the court is responsible for serving the paper on the other parties to the proceeding in accordance with the applicable statewide rules of procedure unless delivery by the court is permitted under Paragraph B of this rule.

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

~~_____ C. **Use of attorney boxes for service.** For those attorneys who do not consent to placement of copies in the areas designated in Paragraph B of this rule, the district court clerk's office will not mail notices or other papers to counsel, except court originated notices and other papers, unless the attorney provides a stamped, self-addressed envelope along with the proposed notice or other paper. Court originated notices and other papers will be mailed at the court's expense to counsel who either do not maintain an office in the municipality where the district court clerk's office is located or do not consent to the use of the box in the courthouse. An attorney may request that a conformed copy of a paper be mailed to the attorney. The request shall be accompanied by a stamped, self-addressed envelope.~~

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

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

LR6-204. Orders and judgments.

[Related Statewide Rule 1-058 NMRA]

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

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

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

~~filed in open court will not be date stamped with a different date when the document is filed with the clerk.]~~

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

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

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

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

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

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

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

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

LR6-205. Orders to show cause.

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

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

LR6-206. Default judgments.

[Related Statewide Rule 1-055 NMRA]

A. **Certificates as to the state of the record.** Certificates as to the state of the record are to be used without modification. (See [Appendix,] LR6-Form 703, available on the Sixth Judicial District Court website. ~~[for form of certificate.]~~)

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

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

LR6-208. Settings.

A. **Request for settings.** All requests for settings shall be in the approved form and filed with the court. ~~[completed except for the date and time for the setting.]~~ (See [Appendix A,] LR6-Form 2.01, available on the Sixth Judicial District Court website.) ~~[Counsel]~~ Parties requesting a setting shall provide pre-addressed, stamped envelopes for any self-represented ~~[counsel or]~~ party entitled to notice and provided an e-mail address for all parties if available. ~~[who does not have a box at the courthouse.]~~ All attorneys shall provide a filed copy to the judge's proposed text. The judge's administrative assistant will issue a notice of setting. ~~[file the original request for setting form. Attorneys who have consented in accordance with LR6-202 NMRA will have their notices placed in their respective boxes at the courthouse.]~~

B. **Vacating settings.**

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

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

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

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

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

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

[WITHDRAWN]

~~**[LR6-209. Audio or audio-video conferences and hearings.**~~

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

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

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

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

LR6-210. Scheduling conferences; pretrial conferences.

[Related Statewide Rule 1-016 NMRA]

A. **Scheduling conference.** A pretrial scheduling conference shall be requested no later than thirty (30) days of the defendant's answer by the attorney for the plaintiff or self-represented [pro-se] plaintiff, in all civil (CV) actions. The face of the request shall state the date that a scheduling order must be filed in order to comply with Rule 1-016(B) NMRA, and counsel shall be prepared to advise the court on those matters contained in Rule 1-016(B) NMRA. Parties shall meet and confer to provide the court with a draft scheduling order via the judge's proposed text at least forty-eight (48) hours prior to the hearing.

B. **Pretrial conference.**

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

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

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

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

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

[WITHDRAWN]

[LR6-212. Excusal of judges.

[Related Statewide Rule 1-088.1 NMRA]

~~A party exercising the election to excuse a judge under Rule 1-088.1 NMRA shall submit two (2) copies of the peremptory election to excuse to the clerk of the court. The clerk shall file~~

~~one (1) copy and shall immediately send the other copy to the district judge being excused. The party shall serve all other parties with a copy of the peremptory election.]~~

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

LR6-301. ~~[Orders and judgments]~~ Judgments in criminal matters.

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

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

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

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

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

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

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

LR6-302. Arrest warrants and affidavits.

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

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

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

[WITHDRAWN]

[LR6-303. Docket call.

[Related Statewide Rule 5-603 NMRA]

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

B. **Appearances required; counsel to confer in advance; authority required.** The counsel for the State of New Mexico and trial counsel for the defendant (or child, in juvenile cases) are

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

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

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

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

[WITHDRAWN]

[LR6-305. Excusal of judges.]

~~[Related Statewide Rule 5-106 NMRA]~~

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

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

[WITHDRAWN]

[LR6-Form 701. Request for setting.]

STATE OF NEW MEXICO

COUNTY OF _____

SIXTH JUDICIAL DISTRICT COURT

_____,

[Plaintiff] [Petitioner],

-

No. _____

v.

_____,

[Defendant] [Respondent].

REQUEST FOR SETTING

Type of case: _____ Non-jury _____ Jury _____

Judge assigned to case: _____

Any hearing presently set in this matter: _____

Specific matters to be heard: _____

Time requested for hearing: _____

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

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

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

Requested _____ by:

NOTICE OF HEARING

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

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

Administrative assistant to the judge

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

[Approved, effective October 2, 2000; as amended, effective May 7, 2001; LR6-Form 2.01 recompiled as LR6-Form 701 by Supreme Court Order No. 16-8300-015, effective December 31, 2016; withdrawn by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[WITHDRAWN]

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

LOCAL RULE 6-202 CONSENT TO SERVICE

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

In accordance with LR6-202 NMRA, I hereby consent to service by court personnel of notices and other papers by placement of such in said box or other appropriate place designated in

~~the district court clerk's or judge's office for such purpose in connection with any case or proceeding in which I may be a counsel of record.~~

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

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

DATED this _____ day of _____,

Attorney's name]

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

[WITHDRAWN]

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

STATE OF NEW MEXICO

COUNTY OF _____

SIXTH JUDICIAL DISTRICT COURT

(Plaintiff) — (Petitioner)

No. _____

v.

(Defendant) (Respondent)

Judge: _____

CERTIFICATE AS TO THE STATE OF THE RECORD AND NONAPPEARANCE

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

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

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

-

-

-

District Court Clerk

By:

Deputy]

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

[WITHDRAWN]

[LR6-Form 704. Pretrial order.

STATE OF NEW MEXICO

COUNTY OF _____

SIXTH JUDICIAL DISTRICT COURT

(Plaintiff) — (Petitioner)

No. _____

v.

(Defendant) (Respondent)

Judge: _____

PRETRIAL ORDER

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

(1) Jurisdiction. _____

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

(2) Propriety of parties. _____

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

(3) Outline of events. _____

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

(4) Factual allegations; plaintiff. _____

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

(5) Factual allegations; defendants. _____

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

(6) Factual allegations; others. _____

(Where counter-claims, cross-claims or third-party claims exist, a statement of that party's factual

~~contentions as to liability, non-liability and affirmative defenses shall be stated in the same manner as (4) and (5) supra.)~~

~~(7) Admissions or stipulations. _____~~

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

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

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

~~(8) Exhibits. (Each party shall acknowledge that the party is aware of the following requirements concerning exhibits and, in addition, each party shall state the current status of its compliance with the following requirements. Unless stated differently in a Rule [1-016\(B\)](#) NMR4 scheduling order:~~

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

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

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

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

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

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

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

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

~~_____ C. A separate witness list shall be exchanged by all parties fifteen (15) days prior to trial and a copy thereof delivered to the court at 8:30 a.m. on the morning of trial or at such other time as may be directed by the court. No witnesses, including expert witnesses, shall be permitted to testify if the witness has not been disclosed as required by the scheduling order except when good cause has been shown.~~

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

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

~~_____ (10) Laws involved. (State as follows:~~

~~_____ A. Source of law:~~

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

~~_____ (2) State (constitution or statute)~~

~~_____ (3) Ordinances~~

~~_____ (4) Regulations (attach copies)~~

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

~~_____ B. Issues of law; evidentiary problems.~~

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

~~_____ (11) Amendments to pleadings. _____~~

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

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

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

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

DATED this _____ day of _____, _____.

-

District Judge
Sixth Judicial District

~~SUBMITTED BY AND AGREED TO
IN SUBSTANCE AND FORM~~

(Plaintiff) (Petitioner)

(Defendant) (Respondent)]

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

2016; withdrawn by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[WITHDRAWN]

~~[LR6-Form 705. Attorney's certificate.~~

~~[Related Statewide Rule 1-099 NMRA]~~

~~STATE OF NEW MEXICO~~

~~COUNTY OF _____~~

~~SIXTH JUDICIAL DISTRICT COURT~~

_____, Petitioner

No.

v.

Judge:

_____, Respondent

ATTORNEY'S CERTIFICATE

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

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

Attorney's signature

Attorney's name

Address

Telephone number

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

~~FOR CLERK'S USE ONLY~~

Fees Paid:

☐ Yes

☐ No

☐ Check

☐ Cash

Clerk:

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

December 31, 2016; withdrawn by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[WITHDRAWN]

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

STATE OF NEW MEXICO

COUNTY OF _____

SIXTH JUDICIAL DISTRICT COURT

_____, Petitioner

No. _____

v.

Judge: _____

_____, Respondent

**ORDERED PARENTING PLAN
FOR THE CHILDREN OF**

_____ and

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

Name

Date of birth

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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

PROPER CONDUCT OF SEPARATED PARENTS

~~To father and mother:~~

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

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

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

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

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

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

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

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

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

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

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

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

~~3. — Legal custody:~~

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

~~4. — Contact with non-custodial parent: The custodial parent shall encourage and support frequent contact between the non-custodial parent and the children. When a parent does not have the children in their care, such parent is entitled to keep in touch with the children. Both parents have the right to contact the children by mail as frequently as they desire without interference or supervision of correspondence by the other parent. During any time that the children are out of the custody of one parent or the other for more than a weekend, the children shall not only be allowed, but required by the parent who has them in their custody, to call the other parent twice each week and once per weekend; that is, if the children are with one parent for an entire week, they will call the other parent twice during that week period; and if they are in the custody of one parent for a weekend they will call the other parent one time during the weekend. Such telephone conversations shall not be monitored or supervised by the parent in whose custody the children are in at the time.~~

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

6. General care:

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

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

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

7. Visitation:

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

~~B. Non-custodial parent shall have visitation with the children every other weekend. The weekend of _____, _____ (date), shall be the first alternating weekend visitation of the children with the non-custodial parent. The exchange of the children shall occur at 6:00 p.m. on Friday evenings and at 6:00 p.m. on Sunday evenings at _____.~~

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

~~(1) Mother's Day and mother's birthday with mother;~~

~~(2) Father's Day and father's birthday with father;~~

~~(3) Thanksgiving holiday with father in even-numbered years from Wednesday when school recesses for the holiday to 6:00 p.m. Sunday following the holiday, and with mother in odd-numbered years;~~

~~(4) For purposes of the Christmas holiday exchange, the parties will each have the children for a one (1) week period. During the first Christmas holiday after this parenting plan is entered by the court, the first week is with mother. During the second Christmas holiday after this parenting plan is entered by the court, the first week is with father. The parties will thereafter alternate that arrangement. In addition to alternating the weeks, the parties shall also alternate the children spending Christmas Day and Christmas Eve with each parent. During the first Christmas holiday after this parenting plan is entered by the court, the children shall spend Christmas Eve and Christmas Day with mother. During the second Christmas holiday after this parenting plan is entered by the court, the children shall spend Christmas eve and Christmas day with father. During the third Christmas holiday after this parenting plan is entered by the court, the children will spend Christmas Eve with mother and Christmas Day with father. During the fourth Christmas holiday after this parenting plan is entered by the court, the children will spend Christmas Eve with father and Christmas Day with mother, and they will alternate that arrangement from that time forward;~~

~~_____ (5) Spring break will be alternated with mother having the children during the first Spring break that occurs after this parenting plan is entered by the court. Fall Break will be alternated with father having the children during the first Fall break that occurs after this parenting plan is entered by the court;~~

~~_____ (6) Easter day will be with whichever parent has custody of the children during that weekend.~~

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

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

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

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

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

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

~~10. **Medical decisions:**~~

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

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

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

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

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

~~11. **Change of residence:**~~

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

~~_____ B. Neither parent will remove, cause to be removed, or permit removal of the children from the State of New Mexico, except as agreed to in this plan or for temporary visits which do~~

~~not interfere with the time-sharing schedule, without the written consent of the other parent or resolution of the dispute by the method set forth in Paragraph 14 of this plan.~~

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

12. ~~Educational decisions:~~

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

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

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

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

13. ~~Recreational activities, school activities and public activities:~~

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

~~—— B. The children shall continue in the recreational activities in which they are currently participating. They shall be entitled to participate in any recreational activities sponsored by the school which they are attending. Recreational activities shall expand as the children's interests develop. The parents shall take into account the children's expressed preferences for recreational activities. Unless the activity is dangerous or unusual (any sports or recreational activities sponsored by the children's school shall not be considered to fall within this category), the custodial parent may enroll the children without the other parent's consent, but shall inform the other parent of the activity. It is understood that the children may participate in programs such as soccer, baseball, gymnastics, softball, volleyball, tennis, swimming, diving, etc.~~

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

14. ~~Dispute resolution:~~

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

~~—— B. In the event that a problem arises in which an immediate agreement cannot be reached, the parents shall set aside a portion of time in which to discuss the matter, either in person or by~~

telephone, without distractions, and without the children being present. Issues other than the specific problem at hand shall not be discussed at that time. The parents shall attempt, in good faith, to resolve their differences and reach an agreement. Each parent agrees to keep in mind what is in the best interests of the children and to take the children's wishes and desires into account.

~~_____ C. Written proposals:~~

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

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

~~_____ D. Oral Discussion:~~

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

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

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

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

15. General:

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

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

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

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

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

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

Dated this _____ day of _____, _____.

District Judge
Sixth Judicial District

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

~~Administrative assistant to the judge~~

~~SUBMITTED BY AND AGREED TO~~
~~IN SUBSTANCE AND FORM:~~

Petitioner

Respondent]

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



[rules.supremecourt-grp] Comments re Proposal 2024-021

1 message

'Victoria Katz' via Supreme Court Rules <rules.supremecourt-grp@nmcourts.gov>

Tue, Apr 9, 2024 at 2:04 PM

Reply-To: victoria.katz@aderant.com

To: "rules.supremecourt@nmcourts.gov" <rules.supremecourt@nmcourts.gov>

Good afternoon,

We are writing to comment on Proposal 2024-021 re revisions to the Sixth Judicial District Court local rules, out for comment until April 12, 2024.

LR6-210

As proposed, LR6-210.A says:

A. Scheduling conference. A pretrial scheduling conference shall be requested no later than thirty (30) days of the defendant's answer by the attorney for the plaintiff or self-represented ~~pro se~~ plaintiff, in all civil (CV) actions. The face of the request shall state the date that a scheduling order must be filed in order to comply with Rule 1-016(B) NMRA, and counsel shall be prepared to advise the court on those matters contained in Rule 1-016(B) NMRA. Parties shall meet and confer to provide the court with a draft scheduling order via the judge's proposed text at least forty-eight (48) hours prior to the hearing. [Emphasis in original.]

First, it is unclear what event triggers the 30-day deadline stated in the first sentence. For example, is the deadline triggered from the "filing" of the answer or the "service" of the answer? Although these actions often may occur on the same date, it is not always the case.

Second, the last sentence triggers the 48-hour period from "the hearing." However, no "hearing" is discussed in LR6-210.A, or in any other part of LR6-210. LR6-210.A is entitled "Scheduling conference" and goes on to describe how the "conference" is to be requested.

To avoid confusion and to ensure timely compliance with LR6-210.A, we respectfully request that the Court further revise the first sentence of LR6-210.A to state the specific triggering event for the 30-day period, and if the Court means for the 48-hour deadline in the last sentence of LR6-210.A to be counted back from the scheduling conference, to change the word "hearing" to "scheduling conference." Of course, if the Court does mean for the 48-hour period to be counted back from the date of a "hearing," we would then request that more detail be provided about the name/type of hearing that triggers this deadline.

Finally, LR6-210.B(3) provides that a pretrial order "shall be substantially in the form as LR6-Form 704." Although this provision is clear, we note that LR6-Form 704 is one of the forms recommended for withdrawal as part of this same Proposal 2024-021. If the form is to be withdrawn, will LR6-210.B(3) be revised? Will a different pretrial order form be replacing LR6-210.B(3)?

The following sentence is proposed to be added near the end of the LR6-208.A: “All attorneys shall proved a filed copy to the judge’s proposed text.” [Emphasis added.] It appears there is a typo in this sentence in that the word “proved” should say “provide.”

Thank you for your time and consideration.

Sincerely,

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