

1 **12-302. Appearance, withdrawal, or substitution of attorneys; changes of address or**
2 **telephone number.**

3 A. **Signatures.** The original of each brief, motion, or other paper filed shall bear the
4 signature of at least one of the counsel filing it, or if a party is proceeding pro se, the signature of
5 the party. A “signature” means an original signature, a copy of an original signature, a computer
6 generated signature, or any other signature otherwise authorized by law.

7 B. **Appearance.** An attorney or firm shown as participating in the filing of any brief,
8 motion, or other paper shall, unless otherwise indicated, be deemed to have appeared in the cause.
9 If an attorney’s appearance is limited under Rule 16-102(C) NMRA, the limitation shall be
10 specified on the cover page and in the signature block of each paper filed by the attorney under the
11 limited appearance, and the cover page and signature block of the paper shall include an address
12 where service may be made on the client.

13 C. **Motion to withdraw.**
14 (1) No attorney or firm that has appeared without limitation in a cause may
15 withdraw from it without filing a motion to withdraw and obtaining an order from the appellate
16 court. The appellate court may condition withdrawal upon substitution of other counsel, the filing
17 by the attorney’s client of an address at which service may be made on the client, or other
18 requirements as ordered by the appellate court. Proof of service by the withdrawing attorney shall
19 be made on all other parties. Attorneys whose appearances are limited as set forth in Paragraph B
20 of this rule need not obtain consent of the appellate court before withdrawing or otherwise ceasing
21 to act in the matter, except if the purpose of the limited representation is not completed. An attorney
22 from a firm or agency may file a withdrawal of appearance from a particular case by notice if at
23 least one attorney of the firm or agency remains in the case.

1 (2) Where the Court of Appeals appoints an attorney in a proceeding arising
2 from a petition alleging abuse or neglect, from a motion to terminate parental rights, or from a
3 custody hearing, the attorney may file a motion to withdraw with the Court of Appeals within (15)
4 fifteen days after the Court of Appeals issues a decision fully disposing of the issues on appeal. If
5 an attorney files a motion to withdraw with the Court of Appeals as provided herein, then the
6 attorney must notify the client of the filing of the motion to withdraw and inform the client when
7 a petition for a writ of certiorari may be filed with the Supreme Court under Rule 12-502(B)
8 NMRA. An order disposing of the motion to withdraw is the final action by the Court of Appeals
9 for purposes of Rule 12-502(B) NMRA.

10 D. **Notice of change of address or telephone number.** Counsel for a party, or any
11 party proceeding pro se, shall promptly give notice of any change of mailing address or telephone
12 number by filing a notice with the clerk of the court in each pending cause in which counsel or the
13 party is appearing and by serving the notice upon all other counsel and pro se parties.

14 E. **Nonadmitted counsel in civil cases.**

15 (1) Counsel not admitted to practice law in New Mexico, but who are admitted
16 to practice law and in good standing in another jurisdiction, may, upon compliance with Rule 24-
17 106 NMRA, sign briefs, motions, and other papers, and may orally argue before the appellate
18 court, only in association with counsel admitted to practice law and in good standing in New
19 Mexico. New Mexico counsel shall sign the first paper filed in the appellate court, and New
20 Mexico counsel's name and address shall appear on all subsequent papers filed. Unless excused
21 by the appellate court, New Mexico counsel shall also be present in person in all proceedings.

22 (2) Nonadmitted counsel shall state by affidavit that they are admitted to
23 practice law and are in good standing to practice law in another jurisdiction and that they have

1 complied with Rule 24-106 NMRA. Such affidavit shall be filed with the first paper filed in the
2 appellate court, or as soon as practicable after a party decides on representation by nonadmitted
3 counsel. If nonadmitted counsel has already filed an affidavit in compliance with Rule 24-
4 106 NMRA in a lower court, then a copy of that affidavit shall be filed in the appellate court. Upon
5 filing of the affidavit, nonadmitted counsel will be deemed admitted subject to the other terms and
6 conditions of this paragraph. Proof of service of the affidavit shall be made as provided in Rule 12-
7 307 NMRA. A separate motion and order are not required for the participation of nonadmitted
8 counsel.

9 (3) For good cause shown, the appellate court may revoke the privilege of any
10 nonadmitted counsel to appear in any proceeding.

11 (4) New Mexico residents not admitted to practice law in this state may not
12 appear as counsel, except pro se.

13 **F. Nonadmitted counsel in criminal cases.**

14 (1) Counsel not admitted to practice law in New Mexico but who are admitted
15 to practice law and in good standing in another jurisdiction may, upon compliance with Rule 5-
16 108 NMRA, sign briefs, motions, and other papers, and may orally argue before the appellate
17 court, only in association with counsel admitted to practice law and in good standing in New
18 Mexico. New Mexico counsel shall sign the first paper filed in the appellate court, and New
19 Mexico counsel's name and address shall appear on all subsequent papers filed. Unless excused
20 by the appellate court, New Mexico counsel shall also be present in person in all proceedings.

21 (2) Nonadmitted counsel shall state by affidavit that they are admitted to
22 practice law and are in good standing to practice law in another jurisdiction and that they have
23 complied with Rule 5-108 NMRA. Such affidavit shall be filed with the first paper filed in the

1 appellate court, or as soon as practicable after a party decides on representation by nonadmitted
2 counsel. If nonadmitted counsel has already filed an affidavit in compliance with Rule 5-
3 108 NMRA in a lower court, then a copy of that affidavit shall be filed in the appellate court. Upon
4 filing of the affidavit, nonadmitted counsel will be deemed admitted subject to the other terms and
5 conditions of this paragraph. Proof of service of the affidavit shall be made as provided in Rule 12-
6 307 NMRA. A separate motion and order are not required for the participation of nonadmitted
7 counsel, unless nonadmitted counsel has not previously complied with Rule 5-108 NMRA.

8 (3) For good cause shown, the appellate court may revoke the privilege of any
9 nonadmitted counsel to appear in any proceeding.

10 (4) New Mexico residents not admitted to practice law in this state may not
11 appear as counsel, except pro se.

12 G. **Capital appellate counsel.** The defendant in any appeal in a case in which a
13 sentence of death may be imposed must be represented by at least two (2) attorneys, one (1) of
14 whom meets the minimum standards set forth in this paragraph for first-chair capital appellate
15 defense attorneys and another who meets the minimum standards set forth in this paragraph for
16 first-chair or second-chair capital appellate defense attorneys.

17 (1) The minimum standards for first-chair capital appellate defense attorneys
18 include the following:

19 (a) membership in good standing of any state bar;

20 (b) a minimum of five (5) years active trial or appellate experience in
21 criminal cases as a licensed attorney immediately preceding appointment;

1 (c) prior experience in the last three (3) years as lead counsel or co-
2 counsel in the appeal of at least six (6) felony jury convictions in federal or state court, at least two
3 (2) of which were murder convictions; and

4 (d) completion within two (2) years prior to entry of appearance of at
5 least twelve (12) hours of training in capital representation in a program approved by the Law
6 Offices of the Public Defender and qualified for New Mexico MCLE credit.

7 (2) The minimum standards for second-chair capital appellate defense attorneys
8 include the following:

9 (a) membership in good standing of any state bar;

10 (b) a minimum of three (3) years active trial or appellate experience in
11 criminal cases as a licensed attorney immediately preceding appointment;

12 (c) prior experience in the last eighteen (18) months as lead counsel in
13 the appeal of at least four (4) felony convictions in state or federal court; and

14 (d) completion within two (2) years prior to entry of appearance of at
15 least twelve (12) hours of training in capital representation in a program approved by the Law
16 Offices of the Public Defender and qualified for New Mexico MCLE credit. This requirement may
17 be met within one (1) year after appointment as second-chair counsel in a death penalty appeal.

18 The district court shall require any attorney who enters an appearance to show that the
19 attorney is a qualified capital appellate defense attorney in accordance with the requirements of
20 this paragraph. If the district court determines that the defendant is not represented by two (2)
21 qualified capital appellate defense attorneys, at least one (1) of whom is qualified to act as first
22 chair, the district court, in the case of indigent defendants, shall order the Law Offices of the Public

1 Defender to appoint one (1) or more qualified attorneys to ensure that the defendant is represented
2 as required by this paragraph.

3 [As amended, effective September 1, 1993; January 1, 1997; May 1, 2003; January 20, 2005; as
4 amended by Supreme Court Order No. 05-8300-018, effective October 11, 2005; by Supreme
5 Court Order No. 07-8300-024, effective November 1, 2007; by Supreme Court Order No. 08-
6 8300-016, effective June 20, 2008; by Supreme Court Order No. 09-8300-010, effective May 6,
7 2009; by Supreme Court Order No. 11-8300-017, effective May 16, 2011; by Supreme Court Order
8 No. 12-8300-025, effective for all cases filed or pending on or after January 7, 2013; as amended
9 by Supreme Court Order No. 16-8300-011, effective for all cases pending or filed on or after
10 December 31, 2016; as amended by Supreme Court Order No. S-1-RCR-2024-00110, effective
11 for all cases pending or filed on or after December 31, 2024.]

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13 **Committee commentary.**— New Mexico has enacted an Electronic Authentication
14 Documentation Act which provides for the Secretary of State to register electronic signatures using
15 the public key technology. *See* NMSA 1978, § 14-15-4.

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17 In 2016, Paragraph C of this rule was amended, and former Paragraph D was omitted, to more
18 accurately reflect the procedure for attorney withdrawal or substitution in cases before the
19 appellate courts. The 2016 revisions reflect that an individual attorney, law firm, or governmental
20 agency may withdraw from a case only upon motion and order from the appellate court, except
21 that an attorney of a law firm or governmental agency may withdraw from a case by filing a notice
22 with the appellate court if at least one other attorney from the firm or agency remains in the case.

1 When a successor attorney from a law firm or governmental agency enters an appearance in a case,
2 the original attorney retains discretion either to stay in the case or to file a notice of withdrawal.

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4 The 2024 amendments to Rule 12-302 NMRA allow motions to withdraw by appellate counsel
5 whom the Court of Appeals appoints in proceedings involving appeals from adjudications of abuse
6 or neglect or the termination of parental rights. After the Court of Appeals issues a decision fully
7 disposing of the issues on appeal, court-appointed counsel may file a motion to withdraw and, after
8 filing, must inform their client both of the motion to withdraw and by when a petition for a writ of
9 certiorari may be filed with the Supreme Court. Under the 2024 amendments to Rule 12-302
10 NMRA, the filing of a motion to withdraw extends the time by which a party may file a petition
11 for a writ of certiorari. The final action of the Court of Appeals for purposes of seeking certiorari
12 review under Rule 12-502(B) NMRA is the order disposing of the motion to withdraw.
13 Accordingly, the withdrawal of court-appointed counsel in appellate proceedings involving
14 adjudications of abuse or neglect or the termination of parental rights does not decrease the time
15 ordinarily allowed to a party seeking certiorari review of a judgment by the Court of Appeals.

16
17 [As amended by Supreme Court Order No. 16-8300-011, effective for all cases pending or filed
18 on or after December 31, 2016; as amended by Supreme Court Order No. S-1-RCR-2024-00110,
19 effective for all cases pending or filed on or after December 31, 2024.]