

1 **12-405. Opinions.**

2           A.     **Necessity.** It is unnecessary for the appellate court to write precedential opinions in  
3 every case. Disposition by order, decision or memorandum opinion does not mean that the case is  
4 considered unimportant. It does mean that the disposition is not precedent. Non-precedential  
5 dispositions may be cited for any persuasive value and may also be cited under the doctrines of  
6 law of the case, claim preclusion, and issue preclusion.

7           B.     **Disposition by order, decision or memorandum opinion.** The appellate court  
8 may dispose of a case by non-precedential order, decision or memorandum opinion under the  
9 following circumstances:

10                   (1)    The issues presented have been previously decided by the Supreme Court  
11 or Court of Appeals;

12                   (2)    The presence or absence of substantial evidence disposes of the issue;

13                   (3)    The issues are answered by statute or rules of court;

14                   (4)    The asserted error is not prejudicial to the complaining party; or

15                   (5)    The issues presented are manifestly without merit.

16           C.     **Precedential effect; publishing opinions.** Except for any disposition under  
17 Paragraph B of this rule, opinions become precedent when filed pursuant to Paragraph A of  
18 Rule 12-402 NMRA unless suspended pursuant to Paragraph C of Rule 12-404 NMRA. A petition  
19 for a writ of certiorari filed pursuant to Rule 12-502 NMRA or a Supreme Court order granting  
20 the petition does not affect the precedential value of an opinion of the Court of Appeals, unless  
21 otherwise ordered by the Supreme Court. Except for dispositions under Paragraph B of this rule,  
22 all opinions shall be published in an authenticated, digital format by the New Mexico Compilation

1 Commission and collectively known as the New Mexico Appellate Reports unless the Supreme  
2 Court directs otherwise.

3           D.     **Citation.** Any citation to a non-precedential disposition from any jurisdiction shall  
4 indicate in a parenthetical that the disposition is non-precedential or unpublished and shall  
5 otherwise be in accordance with ~~[Paragraph H of]~~ the Appendix to Rule 23-112 NMRA. If a party  
6 cites a non-precedential disposition that is unavailable in a publicly accessible electronic database,  
7 the party shall separately file and serve a copy contemporaneously with the brief or other paper in  
8 which it is cited.

9 [As amended by Supreme Court Order No. 11-8300-031, effective for cases pending or filed on or  
10 after September 12, 2011; by Supreme Court Order No. 12-8300-006, effective March 1, 2012; as  
11 amended by Supreme Court Order No. S-1-RCR-2024-00109, effective December 31, 2024.]

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13 **Committee commentary.** — "Non-precedential dispositions" referred to in this rule are also  
14 commonly described as unpublished opinions or dispositions. In addition to the citation  
15 requirements in Paragraph D of this rule, all citations to unpublished orders, decisions, and  
16 memorandum opinions must comply with the applicable provisions in Rule 23-112 NMRA and  
17 the most current edition of The Bluebook: A Uniform System of Citation. For purposes of this  
18 rule, the New Mexico Compilation Commission's web site is a publicly accessible electronic  
19 database that provides free access to some unpublished orders, decisions, and memorandum  
20 opinions issued by the New Mexico Supreme Court and Court of Appeals. A publicly accessible  
21 electronic database also includes pay-for-access sites like Westlaw and Lexis.

22 [Adopted by Supreme Court Order No. 11-8300-031, effective for cases pending or filed on or  
23 after September 12, 2011.]