

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

PROPOSAL 2025-020

March 6, 2025

The Third Judicial District Court has recommended amendments to LR3-102, LR3-105, LR3-106, LR3-112, LR3-203, and LR3-207 NMRA and the adoption of new LR3-115, LR3-116, and LR3-117 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 <https://supremecourt.nmcourts.gov/rules-forms-files/rules-forms/open-for-comment/> 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 5, 2025, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's website for public viewing.

LR3-102. Disciplinary action for failure to comply.

[Related Statewide Rules 1-011, 5-112, and 5-206 NMRA]

Failure to comply with these rules may subject the attorney or non-complying party to any disciplinary action as the court deems appropriate under the circumstances, including, but not limited to, ~~[civil or criminal]~~ remedial or punitive contempt or other appropriate sanction.

[Adopted 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 _____.]

LR3-105. Court security; prohibited items; recording of court proceedings.

[Related Statewide ~~[Rule]~~ Rules 5-115 and 22-101 to -701 NMRA, and Statute NMSA 1978, § 4-41-16]

A. **Weapons.** All deadly weapons, including knives and objects that could be used to inflict bodily harm, except those carried by authorized court security officers, are prohibited in the judicial complex and any other related judicial office. Weapons that are intended for use as trial or hearing exhibits are not subject to this rule. Law enforcement officers who are witnesses shall not

carry weapons in the courtroom and shall comply with all applicable sections of the court's security manual.

B. Prisoner procedures.

(1) The law enforcement agency having custody of any prisoner appearing for a court proceeding shall be responsible for keeping the prisoner secure while the prisoner is at the judicial complex. That agency shall be responsible for searching the prisoner and keeping the prisoner handcuffed or manacled. Prisoners are to be taken to the holding facility in the judicial complex immediately on arrival, and shall be kept separate from court personnel and members of the public.

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

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

C. Other precautions.

(1) All court users will be required to submit to screening and inspection. Items subject to inspection will include, but not be limited to, coats, jackets, belts, and any other items security deems necessary to be scanned. Metal detectors and physical searches may be used in any case 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 shall promptly notify the court. The court may implement appropriate security measures on such occasions.

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

D. Other prohibited items. All backpacks, purses, and other personal carrying cases, and all electronic devices, including, but not limited to, cellular phones, laptops, tablet computers, personal digital assistants, smart watches, and earbuds are prohibited from entering the court unless being carried by one of the following individuals for their own use:

(1) court employees (including hearing officers and interpreters);

(2) attorneys and accompanying support staff members on court business, provided that their possession and use of the otherwise banned items are related to their official duties;

(3) adult and juvenile probation officers, CYFD personnel, and other government representatives on official court business;

(4) representatives of the media;

(5) those individuals who are required to have any of the above items as an ADA accommodation; and

(6) any individual exempted from the application of Paragraph D of this rule by order of a judge and court security having been advised of the judge's exemption order.

Any individual that is exempt from Paragraph D of this rule may be required to provide proper identification to court security that reflects the reason for the exemption. Failure to provide identification on request of court security shall result in the prohibited items not being admitted into the judicial complex until proper identification is produced.

E. Audio recording of court proceedings, photographs of court proceedings, and video recordings of court proceedings. With regard to broadcasting, televising, photographing and recording court proceedings, all persons shall comply with the provisions of Rule 23-107 NMRA. The broadcasters, photographers, and recorders shall notify the clerk of the court and the presiding Judge's T.C.A.A. at least thirty-six (36) hours in advance of coverage of their desire to cover the proceeding. The presiding judge has the discretionary power to limit or deny coverage for good cause. In all proceedings before judges, hearing officers, and special commissioners, official court reporters and monitors are responsible for taking the official record. When parties in such proceedings need stenographic services which the official court reporter cannot provide and the managing court reporter so certifies, non-official reporters may be used, unless a non-certified reporter is otherwise permitted under statewide Rule Governing the Recording of Judicial Proceedings.

[Adopted 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 _____.]

LR3-106. Pleadings and filed papers.

[Related Statewide Rules 1-005, 1-005.1, 1-005.2, 1-011, 1-089.1, 5-108, 5-206, [~~5-108,~~ 10-115, and 10-165 NMRA]

A. **Pleadings and filed papers.** In addition to the contact information required by the applicable statewide rules of procedure, all pleadings and papers filed by counsel shall contain the State Bar number of the attorney who is filing the pleading or other paper, and shall identify the party who is being represented. Attorneys appearing pro hac vice shall state that they have complied with Rule 1-089.1 NMRA or Rule 5-108 NMRA.

B. **Approval required, font size, and page limit; and exhibits.** Except by leave of the Court under Paragraph G of this rule, the following limitations apply to all filings, both electronic and paper copies. All motions, responses, briefs, or other pleadings shall not exceed thirty-five (35) pages excluding exhibits and attachments. A reply shall not exceed fifteen (15) pages, exhibits, and attachments. All typed filings shall be in twelve-point (12), Times New Roman font (for both text and footnotes), and double-spaced.

C. **Signature required.** All pleadings filed shall contain the signature of the pro se party or attorney filer of the pleading. If any unsigned pleading is presented at the office of the clerk of court for filing and, after request is made by the court clerk for the pro se party or the attorney to sign the pleading prior to its filing, the pleading remains unsigned, then the clerk of court's office shall reject the proposed pleading lacking signature for filing.

D. **Attachments.** Attachments of any kind shall not exceed a cumulative total of sixty (60) pages. The size of any attachment, other than exhibits, shall not exceed eight and one-half inches in width by eleven (8 1/2 x 11) inches in length. The size of any exhibits shall be their original size, or any smaller size, not less than eight and one-half by eleven (8 1/2 x 11) inches.

E. **Electronic File Size.** In addition to being subject to the above provisions, the filing of documents by way of electronic transmission under NMRA 1-005.2 shall not exceed thirty-five (35) megabytes (MB) and shall not contain any embedded data. With prior written approval from the Judge assigned to the case, an electronic transmission may be divided into multiple transmissions, however, with each transmission not to exceed thirty-five (35) megabytes (MB). Approval must be obtained from the judge assigned to the case prior to submitting the multiple

transmissions and payment of any additional electronic services fees must be made as is required by Rule 1-005.2(E) NMRA.

F. **Legibility.** All filings, whether handwritten or typed, must be legible or they may be rejected for filing by the court clerk's office.

G. **Non-duplication.** Exhibits, appendices, and other attachments (hereinafter "attachments") to pleadings, motions, and other papers shall be filed with the court only once; subsequent use of such attachments shall be by reference to the document name and filing date.

H. **Waiver of limits for good cause.** The Court generally looks with disfavor on motions to exceed page or data limits; however, such a motion may be granted on a showing of good cause. A filing party seeking to submit a motion, brief, or exhibit exceeding the limitations must move for relief prior to the filing deadline, stating with specificity the reasons for the waiver of the limitations, the number of additional pages requested, and the position of the opposing parties on the relief requested in the motion. The filing of a motion to exceed page or data limits does not stay the deadline of the underlying motion or brief. The motion to exceed page or data limits shall be deemed denied if not disposed of by court order before the underlying motion or brief is due.

I. **Violations.** The court may, in its discretion, strike the motion, brief, or other pleading of a party in violation of any provision of this rule. The court may also continue any relevant hearings, or subject the attorney or non-complying party to any other disciplinary action as the court deems appropriate, including remedial or punitive contempt or impose other appropriate sanctions.

[Adopted 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 _____.]

LR3-112. Audiovisual appearances, [Telephone conferences] telephonic appearances, and hearings.

[~~Telephonic~~] Audiovisual appearances and telephonic appearances must be arranged in advance through [~~a telephone conference~~] an audiovisual provider approved by the court, unless otherwise authorized by the judge assigned to the case. On motion and good cause shown the court may permit an alternative method of [~~telephonic~~] remote appearance. [~~Any costs associated with the telephone conference must be borne by the party making the telephonic appearance.~~]

A. **Civil cases.** [~~Telephonic~~] Audiovisual appearances and telephonic appearances by parties and attorneys are permitted in civil cases, with prior approval of the Court. In addition, when a party seeks to take audiovisual or telephonic testimony, that party must request leave of the court for such audiovisual or telephonic testimony.

B. **Criminal cases.** [~~Telephonic~~] Audiovisual and telephonic appearances in criminal cases are permitted only if all parties of record agree and only if the hearing is one where the physical presence of the defendant is not required in the courtroom and no testimony is required for the hearing.

[Adopted 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 _____.]

[NEW MATERIAL]

LR3-115. Exhibits and witnesses for evidentiary proceedings.

A. **Rule scope.** This rule shall apply to all civil and criminal evidentiary proceedings whether held before a judge, a domestic violence special commissioner, a domestic relations hearing officer, a child support hearing officer, or a special master.

B. **Exhibits.**

(1) A pre-numbered exhibit list describing each exhibit shall be submitted to all other parties at least ten (10) calendar days prior to a motion hearing and to the court two (2) business days before the scheduled motion hearing or such other time as may be set by the court.

(2) ***Production of exhibits.***

(a) Actual exhibits shall be made available to all counsel and each pro se party for examination no less than five (5) calendar days prior to a motion hearing.

(b) To the court:

(i) For in person hearings, the attorneys or the pro se parties shall bring the court's copies of the exhibits for the court to the hearing to be tendered at the time of the hearing.

(ii) For remote hearings, the attorneys or the pro se parties shall deliver a hard copy of the exhibits to the court no later than forty-eight (48) business hours prior to the time the motion hearing is scheduled to begin.

(c) Each exhibit shall be numbered separately. The exhibits shall be numbered Plaintiff's or Petitioner's No. 1, 2, 3, etc.; Defendant's or Respondent's No. A, B, C, etc.

(d) Drawings by experts and non-experts shall be prepared prior to motion hearings and made available to all counsel and each pro se party along with exhibits.

(e) The parties shall notify each other, in writing, of objections to each other's exhibits two (2) business days prior to a motion hearing. A copy of the objections shall be given to the court one (1) business day prior to the motion hearing, 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 at the motion hearing and may be referred to and shown to the court during opening statements.

C. **Witnesses.**

(1) It is the responsibility of each party to subpoena that party's witnesses.

(2) A separate witness list shall be exchanged by all parties at least ten (10) calendar days prior to a motion hearing and a copy delivered to the court two (2) business days before the scheduled motion hearing or at such other time as may be directed by the court. No witnesses, including expert witnesses, may be permitted to testify if the witness has not been disclosed as required by this rule except rebuttal witnesses or when good cause has been shown.

(3) Objections to witnesses shall be made known to each party in writing two (2) business days prior to the motion hearing and to the court one (1) business days prior to the scheduled motion hearing.

(4) Each party is responsible to have witnesses available as needed and to obtain interpreters, in accordance with Rule 1-103 NMRA and Rule LR3-116 NMRA, as may be required at the time of the motion hearing.

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

LR3-116. Court interpreters.

[Related Statewide Rules 1-103, 5-122, 10-167, and 23-111 NMRA]

All pro se parties and attorneys shall be responsible for following the provisions of the court interpreter rules: Rules 1-103, 5-122, and 10-167 NMRA. In addition to the terms contained therein, the following shall apply:

A. **Identifying a need for interpretation.** In no event shall a pro se party or a party's attorney advise the court of the need for a court interpreter any later than five (5) days before a scheduled hearing.

B. **Violations.** Failure to comply with this rule may result in cancellation of a scheduled hearing without prior notice.

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

LR3-117. "Package" procedure.

[Related Statewide Rules 1-007.1, 1-100, and 5-120 NMRA]

At the expiration of all responsive times, under Rules 1-007.1 and 5-120 NMRA, if a party is seeking a hearing, the movant shall submit to the assigned judge a copy of a request for hearing (after filing the request with the clerk of the court). The submission of the request for hearing alerts the court that the motion is ripe for decision. Not less than ten (10) days before a scheduled hearing on the motion, the moving party shall submit a copy of the motion, any response, and any reply, as a complete package. The package shall be submitted in electronic form to the judge's proposed text email address, in hard copy form, or in both, depending on the presiding judge's preference. Each judge's delivery preference for the form of the package and delivery instructions for the delivery of the physical package will be listed on the court's website. Copies of the package submission must be served on all parties and the service must be indicated on the transmittal. Failure to comply with this rule may result in a hearing being cancelled by the judge without further notice.

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

LR3-203. Civil case control.

[Related Statewide Rule 1-016 NMRA]

A. **Case management scope.** This case management system is to guide and control the progress of cases from filing of the complaint to the time of trial. These case control rules shall apply to all civil cases, with the exception of the following:

- (1) commitments;
- (2) conservator and guardian proceedings;
- (3) probate proceedings;
- (4) writ actions; and
- (5) domestic relations proceedings.

B. **Scheduling.**

(1) ***Order requiring scheduling reports and a discovery plan and limiting stipulations to enlarge time for responsive pleadings.*** [~~Upon~~ On the filing of the initial pleading

in civil cases to which these rules apply, the court will enter an order requiring scheduling reports and a discovery plan and limiting stipulations to enlarge time for responsive pleadings. The court will issue this order with the summons, to be served on the defendant(s) with the summons and complaint. A party other than the party filing the initial pleading who asserts a claim against another party who has not been served with a copy of this order shall serve a copy of this order on each person against whom a claim is asserted and shall file a certificate of such service.

(2) ***Requirements of scheduling reports.*** As further detailed in the order requiring scheduling reports, the parties shall confer with the goal of agreeing on the track to which each case should be assigned, based on the criteria laid out below. Scheduling reports will provide information to allow the court to schedule trial and certain pretrial hearings early in the case and to allow the court to allocate the necessary judicial resources to fairly and promptly resolve the dispute. To accomplish this, the order shall

(a) require the filing of scheduling reports by all parties sixty (60) calendar days after the filing of the initial pleading or ten (10) business days after entry of appearance;

(b) require the parties to either
(i) stipulate to a discovery plan; or
(ii) timely request a hearing at which the court will formulate a discovery plan;

(c) inform the parties that, in the absence of a discovery order filed under either Subparagraphs (2)(b)(i) or (2)(b)(ii) of this paragraph, the parties shall comply with the discovery plan set forth in the scheduling order;

(d) provide limits on the power of parties to stipulate to an extension of time to file responsive pleadings; and

(e) direct the parties to inform the court and the alternative dispute resolution coordinator when the case is at issue.

(3) ***Scheduling reports.***

(a) *Scheduling reports required.* Within sixty (60) calendar days after the initial pleading in a civil action is filed, parties of record shall file a scheduling report. A copy of the scheduling report shall be served on each party of record and a copy delivered to the assigned judge.

(i) If all parties can agree that the matter is likely to be ready for trial within four (4) to six (6) months, they shall confer and submit a joint scheduling report stipulating to Track A, using a form approved by the district court for that purpose.

(ii) If all parties cannot agree that the matter is likely to be ready for trial within four (4) to six (6) months, the parties shall confer and each party shall submit a scheduling report in a form approved by the district court for that purpose with a caption that describes the party, e.g. "Plaintiff's Scheduling Report," "Defendant's Scheduling Report."

(iii) If the parties agree on a track other than Track A, they may submit a joint scheduling report in a form approved by the district court for that purpose.

(iv) The assigned judge will set the case on a docket and set other pretrial hearings without a hearing, based ~~upon~~on the information in the scheduling reports, as provided in Paragraph C of this rule.

(b) *Cases not at issue within sixty (60) days.*

(i) If all parties are not of record within sixty (60) calendar days after the filing date of the initial pleading, each party making a claim against one or more absent parties (plaintiff for defendant, third-party plaintiff for third-party defendant, etc.) shall, within five (5) business days after the sixtieth (60th) day, file with the court, serve parties of record, and deliver a copy to the assigned judge, a written explanation in a form approved by the district court for that purpose.

(ii) Any party who enters an appearance in the case more than sixty (60) calendar days after the filing of the initial pleading shall file a scheduling report within ten (10) business days and deliver a copy to the assigned judge.

C. **Assigning Case Track.** Each case will fall into Track A, B, or C, depending on the complexity and time requirements. Cases will be designated considering the criteria below, either by stipulation of the parties or by determination of the court.

(1) **Track A.**

(a) Cases ready for trial within four (4) to six (6) months of filing of the initial pleading;

(b) No more than two (2) trial days required;

(c) Legal issues are few and clear;

(d) No multiple claims or third-party complaints;

(e) Defendants served quickly; responsive pleadings filed promptly;

(f) Required discovery limited;

(g) Witnesses: five (5) or fewer witnesses, with expert witnesses allowed if testimony is concise and brief; and

(h) Damages are in a fixed amount or capable of determination with limited evidence.

(2) **Track B.**

(a) Cases ready for trial within six (6) to twelve (12) months of filing the initial pleading;

(b) No more than five (5) trial days required;

(c) Required discovery is not extensive;

(d) Expert witnesses are limited to two (2) per party; and

(e) Damage issues are not complex.

(3) **Track C.**

(a) Trial preparation likely to require more than twelve (12) months;

(b) Trial likely to require more than five (5) days;

(c) Legal issues are numerous, complicated, novel, or unique;

(d) Numerous claims;

(e) Numerous parties represented by different counsel;

(f) Required discovery is extensive;

(g) Large number of fact and expert witnesses; and

(h) Damage issues are complex or require extensive evidence.

D. **Scheduling Order.** The court will consider the scheduling report(s) submitted by the parties and will enter a scheduling order that will govern discovery and trial dates unless amended. The parties may request a scheduling conference under Rule 1-016 NMRA if the case presents unique or complex issues that require the court's attention.

E. **Sanctions.** If a party fails to timely comply with the provisions of this rule, the party will be subject to appropriate sanctions, which may include dismissal or default.

F. **Pre-trial conferences; scheduling orders; management.**

(1) ***Scheduling conference.*** Any party may request a scheduling conference before the court files a scheduling order. 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.

(2) ***Pretrial conference.***

(a) Unless excused by the court, counsel who will handle the case at trial shall participate at any pretrial or scheduling conference set by the court.

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

(c) The parties shall exchange pretrial statements five (5) business days before the pretrial conference. After the conference plaintiff shall incorporate each portion submitted into a pretrial order to be submitted to the parties five (5) business days after the pretrial conference and to the court ten (10) business days after the pretrial conference.

(d) The pretrial order shall contain the following:

(i) 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 that party's position.

(ii) 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.

(iii) 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~~on which the defense is founded.

(iv) Factual allegations; plaintiff. The plaintiff shall state the factual contentions ~~[as to]~~about 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.

(v) Factual allegations; defendant. The defendant shall state the factual contentions ~~[as to]~~about non-liability and ~~[as to]~~about each affirmative defense, and shall specifically respond to plaintiff's claims and state the basis for each affirmative defense.

(vi) Factual allegations; others. Where counter-claims, cross-claims, or third-party claims exist, a statement of that party's factual contentions ~~[as to]~~about liability, non-liability, and affirmative defenses shall be stated in the manner described in Subparagraphs (G)(2)(d)(iv) and (G)(2)(d)(v) of this rule.

(vii) 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. date(s);
- b. place;
- c. time;
- d. vehicles;
- e. ownership;

- f. passengers;
- g. traffic control devices;
- h. weather;
- i. foundation matters; and
- j. other.

Only matters actually agreed ~~[upon]~~on 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.

(viii) Discovery. 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.

(ix) Laws involved. State as follows:

- a. Source of law.
 - 1. United States of America (constitution or statute);
 - 2. State (constitution or statute);
 - 3. Ordinances (attach copies);
 - 4. Regulations (attach copies);
 - 5. Decisions (attach copies if not published).
- b. Issues of law; evidentiary problems.
- c. Memoranda of law. State whether necessary, due date, and the issues to be included in the memorandum.

(x) 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.

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

(xii) 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.

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

G. Exhibits.

(1) A pre-numbered exhibit list describing each exhibit shall be submitted to all other parties at least twenty-one (21) calendar days ~~[prior to]~~before trial and to the court five (5) business days before the scheduled trial or such other time as may be set by the court.

(2) Actual exhibits shall be made available to all counsel and each pro se party for examination no less than fifteen (15) calendar days ~~[prior to]~~before trial.

(3) Each exhibit shall be numbered separately. The exhibits shall be numbered Plaintiff's No. 1, 2, 3, etc.; Defendant's No. A, B, C, etc.

(4) Drawings by experts and non-experts shall be prepared ~~[prior to]~~before trial and made available to all counsel and each pro se party along with exhibits.

(5) The parties shall notify each other, in writing, of objections to each other's exhibits ten (10) business days ~~[prior to]~~ before trial. A copy of the objections shall be given to the court five (5) business days ~~[prior to]~~ before 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.

H. **Witnesses.**

(1) It is the responsibility of each party to subpoena that party's witnesses.

(2) A separate witness list shall be exchanged by all parties twenty-one (21) calendar days ~~[prior to]~~ before trial and a copy delivered to the court five (5) business days before trial or at such other time as may be directed by the court. No witnesses, including expert witnesses, may be permitted to testify if the witness has not been disclosed as required by the scheduling order except rebuttal witnesses or when good cause has been shown.

(3) Objections to witnesses shall be made known to each party ten (10) business days ~~[prior to]~~ before trial and to the court five (5) business days ~~[prior to]~~ before trial.

(4) Each party is responsible to have witnesses available as needed and to obtain interpreters, in accordance with Rule 1-103 NMRA, as may be required.

I. **Jury instructions.**

(1) ***Plaintiff to defendant.*** Plaintiff shall submit instructions to other parties fifteen (15) business days ~~[prior to]~~ before trial and shall include all applicable mandatory instructions.

(2) ***Defendant to plaintiff.*** Defendant and all other parties shall submit instructions to all parties ten (10) business days ~~[prior to]~~ before trial. The parties shall not offer any alternate for an instruction requested by the plaintiff unless the requested alternate is accompanied by objections to the plaintiff's requested instruction.

(3) ***All parties to court.*** All parties shall submit instructions to the court five (5) business days ~~[prior to]~~ before trial.

(4) Each party shall submit verdict forms with their instructions. Verdict forms shall include the caption of the case.

(5) Additional instructions may be submitted as the court permits.

J. **Findings of fact and conclusions of law.** The parties shall comply with LR3-205 NMRA.

[Adopted 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 cases pending or filed on or after _____.]

LR3-207. Reopening cases; filing fees.

[Related Statewide Rules 1-004, ~~[and]~~ 1-005, 1-005.1, 1-041, and 1-099 NMRA]

A. **Closed files.** After a final judgment, decree, or order of dismissal has been entered, the Court Executive Officer or designee shall close the court file.

B. **Certificate to reopen.** To reopen a closed case, the attorney or pro se party shall file a certificate of reopen status with the new pleading in a form approved by the district court for that purpose.

C. **Service of pleadings on reopening case.**

(1) If ninety (90) or more calendar days have passed since the final disposition of the case, service on the opposing party must be accomplished under Rule 1-004 NMRA for personal service.

(2) If fewer than ninety (90) calendar days have passed since the final disposition of the case, service on the opposing party or opposing party's attorney, if the opposing party is represented, may be accomplished under Rule 1-005 NMRA or Rule 1-005.1 NMRA.

D. Filing fees to reopened case.

(1) Case reopened within thirty (30) days of case closing for lack of prosecution or any other reason. If the case is reopened for any reason within thirty (30) days of being closed for lack of prosecution pursuant to Rule 1-041(E)(2) NMRA or any other reason, then there is no filing fee owed for reopening the case.

(2) Case reopened more than thirty (30) days of case closing for lack of prosecution. If the case is reopened more than thirty (30) days after being dismissed for lack of prosecution pursuant to Rule 1-041(E)(2) NMRA, then a filing fee shall be paid unless the party reopening the case applies for and is granted free process.

(3) Case reopened when no filing fee owed. There shall be no filing fee owed to the court to reopen a case under the following circumstances pursuant to Rule 1-099(B)(1)-(4) NMRA:

(a) A party is filing into the case within ninety (90) days of the final disposition of the case;

(b) The parties are submitting a stipulated order or other request for action that may be performed by the clerk of the court;

(c) A party is filing a motion seeking to correct a mistake in the judgment, order, or record; or

(d) A motion to enforce a child support order.

(4) Case reopened when filing fee owed. A filing fee is owed by a party under the following circumstances, unless they apply for and are granted free process:

(a) Post-decree relief is sought in addition to or other than enforcement of a prior child support order; and

(b) A party is filing ninety (90) days or more after a final disposition of the case and is not filing within the categories enumerated in Subparagraph (D)(3) of this rule and Rule 1-099(B)(1)-(4) NMRA.

[Adopted 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 _____.]



New Mexico
Courts

Alyssa Segura <supams@nmcourts.gov>

[rules.supremecourt-grp] Proposed new Third Judicial District LR3-115

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

Thu, Apr 3, 2025 at 11:32 AM

Reply-To: victoria.katz@aderant.com

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

Good morning,

We are writing to bring the Court's attention to an ambiguity in proposed new Local Rule for the Third Judicial District, LR3-115.

Proposed LR3-115.B(2)(ii) says, "For remote hearings, the attorneys or the pro se parties shall deliver a hard copy of the exhibits to the court no later than forty-eight (48) business hours prior to the time the motion hearing is scheduled to begin." [Emphasis added.]

It is unclear what it means to count a deadline in "business hours." Does it mean parties should count back 48 hours from the time of the motion hearing, minus the hours between 4 pm and 8 am, when the Third Judicial District Court is closed (according to the Third Judicial District Court website)? Does it mean to count back 48 hours from the time of the motion hearing, skipping only any intervening holidays?

Moreover, we note that NMRA 1-006.A(3) provides that when a period of time is stated in hours:

- (a) begin counting immediately on the occurrence of the event that triggers the period;
- (b) count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and
- (c) if the period would end on a Saturday, Sunday, or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.

Does proposed LR3-115.B(2)(ii) require parties to count the 48-hour period differently from NMRA 1-006.A(3)?

To avoid any confusion, we respectfully request that the Third Judicial District further revise LR3-115.B(2)(ii) to clarify the calculation of the 48-hour period. For example, LR3-115.B(2)(ii) might be revised to say simply, "For remote hearings, the attorneys or the pro se parties shall deliver a hard copy of the exhibits to the court no later than *forty-eight (48) hours* prior to the time the motion hearing is scheduled to begin."

Thank you for your time and consideration.

Sincerely,

Victoria Katz
Senior Rules Attorney

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