

**PROPOSED REVISIONS TO THE RULES OF CIVIL PROCEDURE FOR THE  
DISTRICT COURTS, THE PROBATE COURT RULES, THE RULES OF CIVIL  
PROCEDURE FOR THE MAGISTRATE COURTS, THE RULES OF CIVIL  
PROCEDURE FOR METROPOLITAN COURTS, THE RULES OF CRIMINAL  
PROCEDURE FOR THE DISTRICT COURTS, THE RULES OF CRIMINAL  
PROCEDURE FOR THE MAGISTRATE COURTS, THE RULES OF CRIMINAL  
PROCEDURE FOR METROPOLITAN COURTS, THE RULES OF PROCEDURE FOR  
THE MUNICIPAL COURTS, THE CHILDREN'S COURT RULES AND FORMS, AND  
THE RULES OF APPELLATE PROCEDURE**

**PROPOSAL 2025-031**

**March 6, 2025**

The Supreme Court Clerk's Office has recommended amendments to Rules 1-008.1, 1-010, 1B-202, 2-203.1, 3-203.1, 5-202, 6-301, 7-301, 8-301, 10-112, 10-114, 12-305, and 12-305.1 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.

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**1-008.1. Pleadings and papers; captions.**

**A. Required contents.** Pleadings and papers filed in the district courts shall have a caption or heading which shall [~~briefly~~] include:

[~~A.~~](1) the name of the court as follows:

"State of New Mexico

County of \_\_\_\_\_

\_\_\_\_\_ Judicial District";

[~~B.~~](2) the names of the parties; and

[~~C.~~](3) a title which describes the cause of action or relief requested. The title of a pleading or paper shall have no legal effect in the action.

B. **Optional contents.** Parties and attorneys may include Ms./Mrs., Mr., or Mx. as a preferred form of address and one of the following personal pronouns after the party's name in the caption of pleadings and papers: he/him/his, she/her/hers, or they/them/theirs. Courts and attorneys appearing before the court must use the individual's name, the designated salutation or personal pronouns, or other respectful means that are not inconsistent with the individual's designated salutation or personal pronouns when addressing, referring to, or identifying the party or attorney, either orally or in writing.

[Approved, effective March 1, 2000; as amended by Supreme Court Order No. \_\_\_\_\_, effective for all cases pending or filed on or after \_\_\_\_\_.]

#### **1-010. Form of pleadings.**

A. **Caption; names of parties.** Every pleading shall contain a caption setting forth the name of the court, the title of the action, the file number, and a designation as in Paragraph A of Rule 1-007 NMRA. In the complaint the title of the action shall include the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties.

1. **Optional contents.** Parties and attorneys may include Ms./Mrs., Mr., or Mx. as a preferred form of address and one of the following personal pronouns after the party's name in the caption of pleadings and papers: he/him/his, she/her/hers, or they/them/theirs. Courts and attorneys appearing before the court must use the individual's name, the designated salutation or personal pronouns, or other respectful means that are not inconsistent with the individual's designated salutation or personal pronouns when addressing, referring to, or identifying the party or attorney, either orally or in writing.

B. **Paragraphs; separate statements.** All averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.

C. **Adoption by reference; exhibits.** Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.

[Approved, effective August 1, 1942; as amended, effective January 1, 1987; August 1, 1989; as amended by Supreme Court Order No. 07-8300-016, effective August 1, 2007; as amended by Supreme Court Order No. \_\_\_\_\_, effective for all cases pending or filed on or after \_\_\_\_\_.]

#### **1B-202. Probate court pleadings; identification of party and lawyer.**

A. **Required contents.** All documents presented or filed by a lawyer shall bear the name, address, email address, and telephone number of the lawyer. For self-represented parties, the name and address are required, while the email address and telephone number are optional.

B. **Optional contents.** Parties and attorneys may include Ms./Mrs., Mr., or Mx. as a preferred form of address and one of the following personal pronouns after the party's name in the caption of pleadings and papers: he/him/his, she/her/hers, or they/them/theirs. Courts and attorneys appearing before the court must use the individual's name, the designated salutation or personal

pronouns, or other respectful means that are not inconsistent with the individual's designated salutation or personal pronouns when addressing, referring to, or identifying the party or attorney, either orally or in writing.

[Approved by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018; as amended by Supreme Court Order No. \_\_\_\_\_, effective for all cases pending or filed on or after \_\_\_\_\_.]

### **2-203.1. Pleadings and papers; captions.**

**A. Required contents.** Pleadings and papers filed in the magistrate court shall have a caption or heading, which shall [~~briefly~~] include:

[~~A.~~](1) the name of the court as follows:  
"State of New Mexico  
County of \_\_\_\_\_  
Magistrate Court";

[~~B.~~](2) the names of the parties; and

[~~C.~~](3) a title that describes the cause of action or relief requested. The title of a pleading or paper shall have no legal effect in the action.

**B. Optional contents.** Parties and attorneys may include Ms./Mrs., Mr., or Mx. as a preferred form of address and one of the following personal pronouns after the party's name in the caption of pleadings and papers: he/him/his, she/her/hers, or they/them/theirs. Courts and attorneys appearing before the court must use the individual's name, the designated salutation or personal pronouns, or other respectful means that are not inconsistent with the individual's designated salutation or personal pronouns when addressing, referring to, or identifying the party or attorney, either orally or in writing.

[Approved, effective December 17, 2001; as amended by Supreme Court Order No. \_\_\_\_\_, effective for all cases pending or filed on or after \_\_\_\_\_.]

### **3-203.1. Pleadings and papers; captions.**

**A. Required contents.** Pleadings and papers filed in the metropolitan court shall have a caption or heading which shall [~~briefly~~] include:

[~~A.~~](1) the name of the court as follows:  
"State of New Mexico  
County of \_\_\_\_\_  
Metropolitan Court";

[~~B.~~](2) the names of the parties; and

[~~C.~~](3) a title that describes the cause of action or relief requested. The title of a pleading or paper shall have no legal effect in the action.

**B. Optional contents.** Parties and attorneys may include Ms./Mrs., Mr., or Mx. as a preferred form of address and one of the following personal pronouns after the party's name in the caption of pleadings and papers: he/him/his, she/her/hers, or they/them/theirs. Courts and attorneys appearing before the court must use the individual's name, the designated salutation or personal pronouns, or other respectful means that are not inconsistent with the individual's designated salutation or personal pronouns when addressing, referring to, or identifying the party or attorney, either orally or in writing.

[Approved, effective December 17, 2001; as amended by Supreme Court Order No. \_\_\_\_\_, effective for all cases pending or filed on or after \_\_\_\_\_.]

## 5-202. General rules of pleadings.

A. **Form; caption.** Every pleading shall contain a caption.  
(1) **Required contents.** The caption shall ~~[setting]~~ set forth the name of the court, the title of the action, the file number, and a designation as to the type of pleading.

(2) **Optional contents.** Parties and attorneys may include Ms./Mrs., Mr., or Mx. as a preferred form of address and one of the following personal pronouns after the party's name in the caption of pleadings and papers: he/him/his, she/her/hers, or they/them/theirs. Courts and attorneys appearing before the court must use the individual's name, the designated salutation or personal pronouns, or other respectful means that are not inconsistent with the individual's designated salutation or personal pronouns when addressing, referring to, or identifying the party or attorney, either orally or in writing.

B. **Adoption by reference.** Statements made in one part of a pleading may be adopted by reference in another part of the same pleading.

C. **Name of defendant.** In any pleading, the name of the defendant, if known, shall be stated. If the name of the defendant is not known, ~~[he]~~ the defendant may be described by any name or description by which ~~[he]~~ the defendant can be identified with reasonable certainty.

D. **Joinder of defendants.** No complaint, information or indictment may charge more than one defendant. Defendants may be joined for trial pursuant to Rule 5-203 NMRA.

[As amended, effective March 1, 1991; as amended by Supreme Court Order No. \_\_\_\_\_, effective for all cases pending or filed on or after \_\_\_\_\_.]

**Committee commentary.** — "Pleading," as used in this rule, includes a complaint, an information or an indictment. See Paragraph A of Rule 5-201 NMRA.

Paragraph A of this rule is patterned after Paragraph A of Rule 1-010 NMRA. Paragraph B of this rule is patterned after Paragraph C of Rule 1-010 NMRA.

## 6-301. General rules of pleading; captions.

A. **Caption.** Pleadings and papers filed in the magistrate court shall have a caption or heading.

(1) **Required contents.** The caption or heading ~~[which]~~ shall ~~[briefly]~~ include:  
~~[(1)]~~ (a) the name of the court as follows:  
"State of New Mexico  
County of \_\_\_\_\_  
Magistrate Court";  
~~[(2)]~~ (b) the names of the parties; and  
~~[(3)]~~ (c) a title that describes the cause of action or relief requested. The title of a pleading or paper shall have no legal effect in the action.

(2) **Optional contents.** Parties and attorneys may include Ms./Mrs., Mr., or Mx. as a preferred form of address and one of the following personal pronouns after the party's name in the caption of pleadings and papers: he/him/his, she/her/hers, or they/them/theirs. Courts and attorneys appearing before the court must use the individual's name, the designated salutation or personal pronouns, or other respectful means that are not inconsistent with the individual's

designated salutation or personal pronouns when addressing, referring to, or identifying the party or attorney, either orally or in writing.

B. **Plaintiff.** All actions shall be brought in the name of the state or political subdivision, as plaintiff.

C. **Adoption by reference.** Statements made in one part of a pleading may be adopted by reference in another part of the same pleading.

[As amended, effective December 17, 2001; as amended by Supreme Court Order No. \_\_\_\_\_, effective for all cases pending or filed on or after \_\_\_\_\_.]

### **7-301. General rules of pleading; captions.**

A. **Caption.** Pleadings and papers filed in the metropolitan court shall have a caption or heading.

(1) ***Required contents.*** The caption or heading [~~which~~] shall [~~briefly~~] include:  
[~~(1)~~] (a) the name of the court as follows:  
"State of New Mexico  
County of \_\_\_\_\_  
Metropolitan Court";  
[~~(2)~~] (b) the names of the parties; and  
[~~(3)~~] (c) a title that describes the cause of action or relief requested. The title of a pleading or paper shall have no legal effect in the action.

(2) ***Optional contents.*** Parties and attorneys may include Ms./Mrs., Mr., or Mx. as a preferred form of address and one of the following personal pronouns after the party's name in the caption of pleadings and papers: he/him/his, she/her/hers, or they/them/theirs. Courts and attorneys appearing before the court must use the individual's name, the designated salutation or personal pronouns, or other respectful means that are not inconsistent with the individual's designated salutation or personal pronouns when addressing, referring to, or identifying the party or attorney, either orally or in writing.

B. **Plaintiff.** All actions shall be brought in the name of the state or political subdivision, as plaintiff.

C. **Adoption by reference.** Statements made in one part of a pleading may be adopted by reference in another part of the same pleading.

[As amended, effective December 17, 2001; as amended by Supreme Court Order No. \_\_\_\_\_, effective for all cases pending or filed on or after \_\_\_\_\_.]

### **8-301. General rules of pleading; captions.**

A. **Caption.** Pleadings and papers filed in the municipal court shall have a caption or heading.

(1) ***Required contents.*** The caption or heading [~~which~~] shall [~~briefly~~] include:  
[~~(1)~~] (a) the name of the court as follows:  
"State of New Mexico  
City of \_\_\_\_\_  
Municipal Court";  
[~~(2)~~] (b) the names of the parties; and  
[~~(3)~~] (c) a title that describes the cause of action or relief requested. The title of a pleading or paper shall have no legal effect in the action.

(2) **Optional contents.** Parties and attorneys may include Ms./Mrs., Mr., or Mx. as a preferred form of address and one of the following personal pronouns after the party's name in the caption of pleadings and papers: he/him/his, she/her/hers, or they/them/theirs. Courts and attorneys appearing before the court must use the individual's name, the designated salutation or personal pronouns, or other respectful means that are not inconsistent with the individual's designated salutation or personal pronouns when addressing, referring to, or identifying the party or attorney, either orally or in writing.

B. **Plaintiff.** All actions shall be brought in the name of the municipality as plaintiff.

C. **Adoption by reference.** Statements made in one part of a pleading may be adopted by reference in another part of the same pleading.

[As amended, effective December 17, 2001; as amended by Supreme Court Order No. \_\_\_\_\_, effective for all cases pending or filed on or after \_\_\_\_\_.]

#### **10-112. Pleadings and papers; captions.**

A. **Caption.** Pleadings and papers filed in the children's court shall have a caption or heading.

(1) **Required contents.** The caption or heading ~~[which]~~ shall ~~[briefly]~~ include:

~~[(4)]~~ (a) the name of the court as follows:

"State of New Mexico

County of \_\_\_\_\_  
\_\_\_\_\_ Judicial District"

In the Children's Court;

~~[(2)]~~ (b) the names of the parties; and

~~[(3)]~~ (c) a title which describes the cause of action or relief requested. The title of a pleading or paper shall have no legal effect in the action.

(2) **Optional contents.** Parties and attorneys may include Ms./Mrs., Mr., or Mx. as a preferred form of address and one of the following personal pronouns after the party's name in the caption of pleadings and papers: he/him/his, she/her/hers, or they/them/theirs. Courts and attorneys appearing before the court must use the individual's name, the designated salutation or personal pronouns, or other respectful means that are not inconsistent with the individual's designated salutation or personal pronouns when addressing, referring to, or identifying the party or attorney, either orally or in writing.

B. **Style.** The petition and all other papers filed in the delinquency and abuse and neglect proceedings shall be entitled "In the Matter of \_\_\_\_\_, (insert name of each child)".

[Approved, effective July 1, 2002; Rule 10-107 NMRA recompiled as Rule 10-112 NMRA by Supreme Court Order No. 08-8300-042, effective January 15, 2009; as amended by Supreme Court Order No. \_\_\_\_\_, effective for all cases pending or filed on or after \_\_\_\_\_.]

#### **10-114. Form of pleadings.**

A. **Caption; names of parties.** Every pleading shall contain a caption.

(1) **Required contents.** The caption shall ~~[setting]~~ set forth the name of the court, the title of the action, the file number, and a designation as to the type of pleading. In the petition, the title of the action shall include the names of all parties.

(2) **Optional contents.** Parties and attorneys may include Ms./Mrs., Mr., or Mx. as a preferred form of address and one of the following personal pronouns after the party's name in the caption of pleadings and papers: he/him/his, she/her/hers, or they/them/theirs. Courts and attorneys appearing before the court must use the individual's name, the designated salutation or personal pronouns, or other respectful means that are not inconsistent with the individual's designated salutation or personal pronouns when addressing, referring to, or identifying the party or attorney, either orally or in writing.

B. **Paragraphs; separate statements.** All averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters.

C. **Adoption by reference.** Statements made in one part of a pleading may be adopted by reference in another part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.

D. **Name of respondent.** In any pleading, the name of the respondent shall be stated, or, if the respondent's name is not known, the respondent may be described by any name or description by which the respondent can be identified with reasonable certainty, together with a statement that respondent's name is not known.

[Adopted by Supreme Court Order No. 08-8300-042, effective January 15, 2009; as amended by Supreme Court Order No. \_\_\_\_\_, effective for all cases pending or filed on or after \_\_\_\_\_.]

### **12-305. Form of papers prepared by parties.**

A. **Scope.** This rule applies to briefs, motions, applications, petitions, and all other papers, except exhibits, prepared by parties or their attorneys and filed in the appellate court.

B. **General requirements.** All papers filed by a represented party or an attorney shall be

- (1) clearly legible;
- (2) computer-generated or typewritten on good quality white paper, eight and one-half by eleven (8 1/2 x 11) inches in size, with left, right, top, and bottom margins of one (1) inch;
- (3) paginated with consecutive page numbers at the bottom;
- (4) stapled at the upper left-hand corner; and
- (5) signed in accordance with Rule 12-302(A) NMRA, with the signature block containing the name, address, and telephone number of counsel filing the paper.

C. **Handwritten papers.** Self-represented, non-attorney litigants may file handwritten papers. The submission of handwritten papers is discouraged. Handwritten papers shall be

- (1) clearly legible;
- (2) written in black or blue ink on white paper, eight and one-half by eleven (8 1/2 x 11) inches in size, with no more than thirty (30) lines per page and fifteen (15) words per line, and left, right, top, and bottom margins of one (1) inch;
- (3) paginated with consecutive page numbers at the bottom;

(4) signed in accordance with Rule 12-302(A) NMRA, with the signature block containing the name, address, and telephone number of the party filing the paper.

D. **Minimum size for type style or typeface.** Except for handwritten papers, all papers shall be computer-generated or typed using either a proportionally-spaced or monospaced type style or typeface.

(1) A proportionally-spaced type style or typeface, such as Times New Roman, must include serifs and must be fourteen (14) point or larger. The cover page of a brief, docketing statement, or statement of issues may be eleven (11) point or larger if necessary to fit all information required by Paragraphs F and G of this rule on a single page. A proportionally-spaced type style or typeface varies the horizontal spacing of each character based on its relative shape.

(2) A monospaced type style or typeface, such as Courier, may not contain more than ten (10) characters per inch. A monospaced type style or typeface allots the same amount of horizontal space for each character, whatever the relative shape of the characters.

E. **Spacing.** All papers shall be double-spaced, except that information required by Paragraph F of this rule, cover page, table of contents, table of authorities, headings, subheadings, footnotes, quotations, signature blocks, and addresses contained in a certificate of service may be single-spaced.

F. **Caption.** The front page of all papers shall ~~[show]~~ have a caption.

(1) **Required contents.** The caption shall include:

(a) the name of the appellate court;

~~[(2)]~~ (b) the parties to the appeal and their status below and on appeal, with the plaintiff, petitioner, or party initiating the proceeding in the trial court or administrative body listed first (e.g., John Doe, Plaintiff-Appellee v. Richard Roe, Defendant-Appellant), or, for extraordinary writ proceedings filed under Rule 12-504 NMRA, the party or parties seeking the writ, the respondent(s), and the name(s) of the real parties in interest, if any, with the party seeking the writ listed first;

(c) the docket number in the appellate court if one has been assigned;  
and

(d) the title of the paper being filed.

(2) **Optional contents.** Parties and attorneys may include Ms./Mrs., Mr., or Mx. as a preferred form of address and one of the following personal pronouns after the party's name in the caption of pleadings and papers: he/him/his, she/her/hers, or they/them/theirs. Courts and attorneys appearing before the court must use the individual's name, the designated salutation or personal pronouns, or other respectful means that are not inconsistent with the individual's designated salutation or personal pronouns when addressing, referring to, or identifying the party or attorney, either orally or in writing.

~~[(3) — the docket number in the appellate court if one has been assigned; and~~

~~(4) — the title of the paper being filed.]~~

G. **Cover page.** The front cover of a docketing statement, statement of the issues, or brief shall also show

(1) the county or administrative body in which the case was filed or tried, except for briefs filed in the Supreme Court under Rule 12-502 NMRA;

(2) the name of the trial judge or administrative officer, except for briefs filed in the Supreme Court under Rule 12-502 NMRA;

(3) the name, mailing address, and telephone number of counsel filing the document, or, if a party is not represented by counsel, the name, address, and telephone number of the party; and

(4) if the party requests oral argument under Rule 12-319(B)(1) NMRA, a statement on the front cover of the party's brief that oral argument is requested.

H. **Captions in appeals under the Children's Code.** In appeals concerning children involved in litigation under the provisions of the Children's Code, the captioning shall conform to the following practice:

(1) in criminal appeals involving a child adjudicated as a delinquent offender under Article 2 of the Children's Code, the caption should identify the child by the child's first name and the first initial of the child's last name, and the status of the child on appeal should be listed as "Child-Appellant" or "Child-Appellee," as the case may be;

(2) in criminal appeals involving a child adjudicated as a serious youthful offender or youthful offender and sentenced as an adult under Article 2 of the Children's Code, the caption should identify the child by the child's full first and last name, and the status of the child on appeal should be listed as "Defendant-Appellant" or "Defendant-Appellee," as the case may be;

(3) in civil appeals involving a child who is the subject of an abuse and neglect proceeding or a termination of parental rights proceeding under Article 4 of the Children's Code, the caption should identify the child and the child's parents by their first names and the first initial of their last names, and should name any guardian ad litem;

(4) in all other appeals involving a child under the provisions of the Children's Code, the caption should identify the child, and the child's parents when necessary, by their first names and the first initial of their last names, and should name any guardian ad litem[-];

(5) in all appeals involving a child under the provisions of the Children's Code, parties and attorneys may include Ms./Mrs., Mr., or Mx. as a preferred form of address and one of the following personal pronouns after the party's name in the caption of pleadings and papers: he/him/his, she/her/hers, or they/them/theirs. Courts and attorneys appearing before the court must use the individual's name, the designated salutation or personal pronouns, or other respectful means that are not inconsistent with the individual's designated salutation or personal pronouns when addressing, referring to, or identifying the party or attorney, either orally or in writing.

[As amended, effective July 1, 1990; August 1, 1992; September 1, 1995; April 1, 1998; June 15, 2000; as amended by Supreme Court Order No. 05-8300-018, effective October 11, 2005; by Supreme Court Order No. 07-8300-024, effective November 1, 2007; as amended by Supreme Court Order No. 09-8300-014, effective May 25, 2009; as amended by Supreme Court Order No. 10-8300-001, effective April 12, 2010; as amended by Supreme Court Order No. 16-8300-011, 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 \_\_\_\_\_.]

**Committee commentary.** — In an effort to provide additional options for producing more readable documents, the 2007 amendments to this rule move the formatting requirements for transcripts and records proper to new Rule 12-305.1 NMRA and otherwise restate the formatting requirements for all other papers filed with the appellate courts. Of particular note are the new minimum type style or typeface requirements set forth in Paragraph D of this rule. For example,

except for handwritten papers, all papers filed with the Court must now use a proportionally-spaced or monospaced type style or typeface.

A proportionally-spaced type style or typeface allots a different amount of space to each letter based on the particular size and shape of that letter. Proportional fonts use less space and, therefore, less paper to print. A commonly used proportionally-spaced type style is Times New Roman. A monospaced type style or typeface look like typewritten text because each letter uses the same amount of space on the page regardless of its size or shape. A commonly used monospaced type style is Courier.

If a proportionally-spaced type style or typeface is used, it must include serifs and it must be fourteen (14) point or larger. If a monospaced type style or typeface is used, it may not contain more than ten (10) characters per inch. If the practitioner is not sure whether a particular type style or typeface is proportionally-spaced or monospaced, the rule provides guidance by stating that Times New Roman is a proportionally-spaced type style and Courier is a monospaced type style. The selection of a particular proportionally-spaced or monospaced type style is a matter of personal preference, but the choice must comply with the requirements of Paragraph D of this rule. Moreover, the choice will determine the applicable minimum type-volume limitations set forth in these rules if the practitioner chooses to exceed the traditional page limitations set forth in these rules. *See* Rule 12-318(F)(3) NMRA and Rule 12-502(D)(3) NMRA.

[Adopted by Supreme Court Order No. 07-8300-024, effective November 1, 2007; as amended by Supreme Court Order No. 10-8300-001, effective April 12, 2010; as amended by Supreme Court Order No. 16-8300-011, effective for all cases pending or filed on or after December 31, 2016.]

#### **12-305.1. Form of transcripts of proceedings and records proper.**

A. **Preparation of transcripts of proceedings and records proper.** Copies of stenographic transcripts of proceedings shall be reproduced from the original transcript by any duplicating or copying process that produces a clear black image on white paper or shall be typed or printed on white paper. The format of transcripts of proceedings shall comply with the provisions of Paragraphs B and C of this rule. Transcripts and records proper shall be bound and paginated with consecutive page numbers at the bottom.

B. **Cover page.** The front cover shall show:

- (1) the name of the appellate court;
- (2) the parties to the appeal and their status below and on appeal, with the plaintiff, petitioner or party initiating the proceeding in the trial court or administrative body listed first (e.g., John Doe, Plaintiff-Appellee v. Richard Roe, Defendant-Appellant);
- (3) the county or administrative body in which the case was filed or tried;
- (4) the name of the trial judge or administrative officer;
- (5) the title of the paper being filed; and
- (6) the name, mailing address and telephone number of all counsel or, if a party is not represented by counsel, the name, mailing address and telephone number of the party.

C. **Caption in appeals under the Children's Code.** In appeals concerning children involved in litigation under the provisions of the Children's Code, the captioning shall conform to the following practice:

- (1) in criminal appeals involving a child adjudicated as a delinquent offender under Article 2 of the Children's Code, the caption should identify the child by the child's first

name and the first initial of the child's last name, and the status of the child on appeal should be listed as "Child-Appellant" or "Child-Appellee", as the case may be;

(2) in criminal appeals involving a child adjudicated as a serious youthful offender or youthful offender and sentenced as an adult under Article 2 of the Children's Code, the caption should identify the child by the child's full first and last name, and the status of the child on appeal should be listed as "Defendant-Appellant" or "Defendant-Appellee", as the case may be;

(3) in civil appeals involving a child who is the subject of an abuse and neglect proceeding or a termination of parental rights proceeding under Article 4 of the Children's Code, the caption should identify the child and the child's parents by their first names and the first initial of their last names, and should name any guardian ad litem;

(4) in all other appeals involving a child under the provisions of the Children's Code, the caption should identify the child, and the child's parents when necessary, by their first names and the first initial of their last names, and should name any guardian ad litem[-]; and

(5) in all appeals involving a child under the provisions of the Children's Code, parties and attorneys may include Ms./Mrs., Mr., or Mx. as a preferred form of address and one of the following personal pronouns in the name section of the caption of pleadings and papers: he/him/his, she/her/hers, or they/them/theirs. Courts and attorneys appearing before the court must use the individual's name, the designated salutation or personal pronouns, or other respectful means that are not inconsistent with the individual's designated salutation or personal pronouns when addressing, referring to, or identifying the party or attorney, either orally or in writing.

[Approved by Supreme Court Order No. 07-8300-024 effective November 1, 2007; as amended by Supreme Court Order No. \_\_\_\_\_, effective for all cases pending or filed on or after \_\_\_\_\_.]

**New Mexico  
Courts**

Alyssa Segura &lt;supams@nmcourts.gov&gt;

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**[rules.supremecourt-grp] Open for Comment Form submitted on Supreme Court**

1 message

**Supreme Court** <noreply@nmcourts.gov>

Thu, Mar 6, 2025 at 11:25 AM

Reply-To: noreply@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

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<b>Name</b>	Sharon
	Shaheen
<b>Phone Number</b>	505-986-2678
<b>Email</b>	<a href="mailto:sshaheen@spencerfane.com">sshaheen@spencerfane.com</a>
<b>Proposal Number</b>	2025-031
<b>Comment</b>	Suggest moving the second sentence of "Optional Contents" to a separate subsection because use of the word "must" indicates this conduct is not optional.

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Name Sharon Shaheen

Phone Number 505-986-2678

Email [sshaheen@spencerfane.com](mailto:sshaheen@spencerfane.com)

Proposal Number 2025-031

Comment

Suggest moving the second sentence of "Optional Contents" to a separate subsection because use of the word "must" indicates this conduct is not optional.



**New Mexico  
Courts**

Alyssa Segura <supams@nmcourts.gov>

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## [nmsupremecourtclerk-grp] Second Judicial District Court's Comments on 2025 Rulemaking Proposals

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**Alison Orona** <albdayg@nmcourts.gov>

Fri, Apr 4, 2025 at 3:15 PM

Reply-To: albdayg@nmcourts.gov

To: nmsupremecourtclerk@nmcourts.gov

Good afternoon Ms. Garcia,

Please see attached letter from Acting Chief Judge Levy regarding the Supreme Court's 2025 Rulemaking Proposals.

The letter comments on the following proposals:

- Proposal 2025-001 – CASA Duties
- Proposal 2025-002 – Improving Outcomes for Crossover Youth
- Proposal 2025-003 – Service by Social Media
- Proposal 2025-006 – Residential Foreclosures
- Proposal 2025-028 – Pronouns in UJIs
- Proposal 2025-030 – Orders of Expungement
- Proposal 2025-031 – Use of Personal Pronouns and Designated Salutations in Court Pleadings

Thank you for the opportunity to comment, and please let me know if you have any questions. Thank you. Respectfully,

Alison K. Orona (she/her)  
Second Judicial District Court  
General Counsel  
400 Lomas Blvd. NW  
Albuquerque, NM 87102  
(505) 841-7615

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**Second Judicial District Court Comments on 2025 Rulemaking.pdf**  
292K



**STATE OF NEW MEXICO  
SECOND JUDICIAL DISTRICT**

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April 4, 2025

Elizabeth A. Garcia, Chief Clerk of the Court  
New Mexico Supreme Court  
P.O. Box 848  
Santa Fe, New Mexico 87504-0848

***Via email only to [nmsupremecourtclerk@nmcourts.gov](mailto:nmsupremecourtclerk@nmcourts.gov)***

Re: Comments on New Mexico Supreme Court 2025 Rulemaking:  
*Proposal 2025-001 – CASA Duties*  
*Proposal 2025-002 – Improving Outcomes for Crossover Youth*  
*Proposal 2025-003 – Service by Social Media*  
*Proposal 2025-006 – Residential Foreclosures*  
*Proposal 2025-028 – Pronouns in UJIs*  
*Proposal 2025-030 – Orders of Expungement*  
*Proposal 2025-031 – Use of Personal Pronouns and Designated Salutations in Court Pleadings*

Dear Ms. Garcia,

As Acting Chief Judge of the Second Judicial District Court (the Court), I write to submit public comment to the 2025 proposed amendments to the Supreme Court's Rules of Practice and Procedure. My comments are on behalf of the Court as a whole, although individual judges and staff may submit their own additional comments, as well. My comments are as follows:

*I. Proposal 2025-001 – CASA Duties*

Proposal 2025-001 seeks to clarify CASA duties, including that "[a]ny report prepared by a CASA shall be served on the parties and the court at least five (5) days prior to the hearing at which it will be considered." However, Rule 10-164.1(F) and 10-164.2(G) do not include whether the CASA report is also intended to be filed into the case.

If the intention is to have the court file the report, I recommend clarifying language for the clerks, such as (addition in yellow):

. . . Any report prepared by the CASA shall be served on the parties and the court at least five (5) days prior to the hearing at which it will be considered. Upon receipt, the court shall file into the case. . . .

## II. *Proposal 2025-002 – Improving Outcomes for Crossover Youth*

The Court appreciates the Committee’s work on providing a mechanism for parties in crossover youth matters to have notice of the other case(s). The Court understands the importance of this facilitation. However, the Court has concerns about (1) the Court’s responsibility to complete and send the notices, and (2) the proposed rules do not account for whether the filings would be sealed or the hearings would be sequestered.

### **(1) The Court’s Responsibility to Create and File the Notice is Contrary to a Court Clerk’s Responsibilities and Overly Burdens the Court.**

Proposed Rule 10-172(A) requires the Court to complete and file a notice of crossover youth. This poses practical and logistical issues. First, the Court’s Clerk’s Office does not typically *create* filings. *See e.g.*, Rule 23-113(C)(3) (prohibiting court staff from “creating documents” when communicating with self-represented litigants). This proposed rule would require the Clerk’s Office to do independent research, complete a document, and then file and serve the document. This is contrary to the Clerk’s Office’s role, which is predominantly to be the record keeper. *See* NMSA 1978, § 34-1-6 (“The clerks of the . . . inferior courts, . . . shall seasonably record the judgments, rules, orders and other proceedings of the respective courts and make a complete alphabetical index thereto, issue and attest all processes issuing from their respective offices, and affix the seal of office thereto; they shall preserve the seal and other property belonging to their respective offices.”); *see e.g.*, *Ennis v. KMART Corp.*, 2001-NMCA-068, ¶ 10, 131 N.M. 32, 33 P.3d 32, (holding that a court clerk lacks the discretion to reject pleadings for technical violations).

Instead, the Clerk’s Office accepts filings, *see* Rule 1-005 NMRA, Rule 5-103 NMRA, issues subpoenas, *see* Rule 1-045(A) NMRA, Rule 5-511(A) NMRA, issues writs, *see* Rule 1-065, and issues summons, *see* Rule 1004(A) and (B) that the *parties* or *attorneys* provide to the Clerk’s Office. In these scenarios, the *parties* or *attorneys* create the document, not the court clerk. The Clerk’s Office does not do independent research on a case, create a document, and then file it.

In Indian Family Protection Act (IFPA) cases, the Child, Youth, and Families Department (CFYD) notifies the Clerk’s Office when a child custody proceeding involves an Indian child, and the Clerk’s Office will create and file the notice. *See* NMSA 1978, § 32A-28-5 (A) (“In a child custody proceeding when the court knows or has reason to know that an Indian child is involved, the department shall notify the parent, guardian or Indian custodian and the Indian child's tribe[. . . ]”) (emphasis added). Similarly, in adoption cases, the party or attorney presents a completed application for a birth certificate and the clerk will certify it. *See* NMSA 1978, § 32A-5-38; Rule LR2-501 NMRA.

Additionally, the Court is concerned that the turnaround time under 10-172(B) is very quick – “within one (1) day of the filing of the petition or criminal information or indictment.” Requiring this on the Court would be a huge influx of work, with timelines that may not be feasible.

Furthermore, the proposed rule does not include any district-wide jurisdiction limitations. This would further increase the Court’s work load and create a new requirement for the Clerk’s Office to search across jurisdictions.

Putting this requirement on the Court – which in turn, will put it on court clerks – is impractical, contrary to Section 34-1-6, and improper. The Court and court clerks can only respond with the information parties to present to them; the Court is not an independent fact gatherer. The responsibility to determine if a child is involved in both a child welfare case and a delinquency case should be to the parties in the case, not to the Court, an independent and neutral arbitrator.

The Court appreciates the work of the Committee on this important issue. The Court respectfully recommends the Committee explore collaboration with other stakeholders, including CYFD. While this Court cannot speak on behalf of the judiciary as a whole, this Court would happy to discuss facilitation of getting CYFD the relevant information, such as daily or weekly reports if needed and if legally appropriate.

**(2) The Proposal Does Not Account for When Filings Would be Sealed and When Hearings Would be Sequestered.**

Since delinquency proceedings are open hearings and delinquency filings are not sealed, yet child welfare proceedings are sequestered and child welfare filings are sealed, I recommend adding language clarifying when filings are sealed pursuant to NMSA 1978, § 32A-4-33 (2022) and hearings are sequestered pursuant to NMSA 1978, § 32A-4-20 (B) (2014), such as:

**E. Notice upon filing of petition for abuse and neglect or families in need of court-ordered services cases.** If the child has a pending delinquency or criminal case, is under the supervision of juvenile probation, or is serving a commitment, and is subsequently placed in the CYFD’s legal custody in an abuse and neglect case or a family in need of court-ordered services case, the court shall notify juvenile probation and all parties to both the delinquency or criminal case and the child welfare case that the child is a crossover youth within ten (10) days of the entry of the order granting legal custody of the child in CYFD. The notice shall be automatically sealed.

**F. Sequestered proceedings.** Proceedings that discuss the crossover youth’s child welfare case shall be closed to the general public.

*III. Proposal 2025-003 – Service by Social Media*

The Court appreciates the Committee’s work on the proposed amendments to Rule 1-004 allowing service via email, social media, and text messages. The proposed rule change reflects the evolving nature of communication and the need for more effective, practical means of ensuring notice to parties. The goal of service is to ensure actual notice of a pending case. Service through alternative means, such as email, text message, and social media direct messaging is more likely to lead to actual notice than would publication of notice in a newspaper of general circulation. Many individuals use digital communication on a daily (or more frequently) basis. They are unlikely to see a legal notice in a newspaper but are likely to check their email or direct messages. By expanding acceptable service methods, the rule will be acknowledging this reality and making it more likely that people will have actual notice of cases wherein they are a named party.

The cost of publication is also prohibitive for many parties. For example, any of the cases filed in the Family Court division are grandparents or other family members seeking kinship guardianship of children. The parents are often impossible to locate and are certainly not providing child support to the parties filing for kinship guardianship. Requiring temporary guardians to pay almost \$300 (the cost of a legal notice in the Albuquerque Journal) would devastate their finances. The ability to serve parents through electronic means will hugely benefit the guardians, and therefore the children, in these cases. Instead of spending rent money on publishing, they can provide actual notice through an email or the equivalent.

Further, judges will still be required to determine if service was properly effectuated and the proposed rule changes still require judges to exercise discretion in determining whether electronic service is appropriate in a given case.

This rule change would modernize the service process, improve access to justice, and uphold due process by embracing the communication tools people already use daily.

However, with this said, the Court has concerns with the implementation of the rule.

1. First, the proposal requires the movant to submit admissible evidence (affidavit or other sworn testimony) that “the defendant is the sole owner of the specific social media account, e-mail address, or telephone number proposed for service and [that] the defendant, within thirty (30) days of the motion, has sent or received transmissions from that specific social media account, e-mail address, or telephone number proposed for service.” This standard seems impossible, as how will a party seeking to serve the party would have personal knowledge and/or a sufficient foundation to actually provide evidence of “sole ownership”? This standard appears to invite parties to be forced to attest to something that cannot possibly know.
2. Second, the Court recommends that the Committee change the requirement that the defendant have received the electronic service within 30 days *of the motion* to be within 30 days of entry of the order allowing such service of process.

3. Third, the language to be included in the email, text, social media message, etc. that “You have been sued” (etc.) is potentially harmful. It reads like a scam, and it may deter people from reading the message. This is especially true because the person making the service is not someone the recipient will likely know. Furthermore, the rule should also include a prohibition on serving the documents by hyperlink, e.g., “You have been sued. Click on this link to get your summons and complaint.” The actual documents must be served, and I think the rule should prohibit service by hyperlink.
4. Finally, the proposal does not appear to account for Domestic matters or Children’s Court matters for which the Rules of Civil Procedure apply. Rule 1-004 applies to all domestic matters, emancipations, adoptions, and expungements. However, the proposed language for the substance of the message to the party under new Subparagraph Rule 1-004(F)(4) assumes service only in the context of a civil lawsuit. That required language is “Important information—You have been sued. If you do not file a response to the lawsuit, the court may decide the case without hearing from you, and you could lose the case.” This language would be required for service by social media (Rule 1-004(F)(4)(c)(i)), email (Rule 1-004(F)(4)(d)(ii)-(iii)), and text message (Rule 1-004(F)(4)(e)(i)).

I would recommend a change to that standard required language to contemplate civil cases where “being sued” is not what is commonly understood to occur in those cases. For example, while perhaps technically accurate, a parent likely would not think of “being sued” for emancipation or adoption. Instead, the required language should read something like, “Important information—You ~~[have been sued]~~ are part of a court case. If you do not file a response ~~[to the lawsuit]~~, the court may decide the case without hearing from you, and you could lose the case.” I would further suggest a corresponding change to the email subject line under Rule 1-004(F)(4)(d)(ii) as such: “Important information—You are ~~[being sued]~~ are part of a court case.”

A smaller recommendation is to fix the errant “be” in Subparagraph (4)(a). “...service cannot ~~[be]~~ reasonably be made under Subparagraphs (F)(1), (F)(2), or (F)(3).”

#### *IV. Proposal 2025-006 – Residential Foreclosures*

The Court recommends adding the word “residential” in the last sentence within the body of Rule 1-003.3, as follows (addition in yellow):

**1-003.3. Commencement of residential foreclosure action; certification of pre-filing notice required.**

A certification of pre-filing notice, substantially in the form approved by the Supreme Court as Form 4-227 NMRA, shall be submitted with any complaint initiating a residential foreclosure action. Notwithstanding the provisions of Rule 1-005(F) NMRA, the clerk shall not accept for filing any residential foreclosure complaint that is not submitted with the certification form required under this rule.

*V. Proposal 2025-028 – Pronouns in UJIs*

The Court supports this proposal and has not further comments.

*VI. Proposal 2025-030 – Orders of Expungement*

This proposal includes a requirement that any appellate court with related records be served the order. The Court suggests that, in order for the Court to be able to find all related appellate case, the Committee also updates the form petition to include an additional paragraph for appellate cases. We recommend the following:

5. The following appellate court case(s) are related to Petitioner's Petition to Expunge:  
New Mexico Court of Appeals case number(s): \_\_\_\_\_  
New Mexico Supreme Court case number(s): \_\_\_\_\_

*VII. Proposal 2025-031 – Use of Personal Pronouns and Designated Salutations in Court Pleadings*

The Court supports this proposal and has not further comments.

Respectfully,



Jane C. Levy  
Acting Chief Judge  
Second Judicial District Court

**New Mexico  
Courts**

Alyssa Segura &lt;supams@nmcourts.gov&gt;

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**[rules.supremecourt-grp] Open for Comment Form submitted on Supreme Court**

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**Supreme Court** <noreply@nmcourts.gov>

Sat, Apr 5, 2025 at 11:59 PM

Reply-To: noreply@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

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**Name** MichaelVenegas

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**Phone  
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**Proposal  
Number** PROPOSAL 2025-031

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**Comment** It is proposed to change the rules of procedure to require attorneys to use others' preferred pronouns in Court. This purports to be an implementation of a Supreme Court Order S-1-AO-2024-00016, but it is a clear over-application of the Order, as the Order does not anywhere require private attorneys to use other's preferred pronouns in Court. Private attorneys should not be compelled to say something that affirms a ideology in a way that conflicts with their religious beliefs or conscience. It appears that NM would be the 1st state which would seek to compel the speech of private attorneys in court in this manner. This raises serious constitutional free speech and freedom of religion issues which may result in costly and unnecessary litigation. These rule changes, if implemented, should be limited in scope to what the underlying order says.

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Name Michael Venegas

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Proposal Number PROPOSAL 2025-031

Comment

It is proposed to change the rules of procedure to require attorneys to use others' preferred pronouns in Court. This purports to be an implementation of a Supreme Court Order S-1-AO-2024-00016, but it is a clear over-application of the Order, as the Order does not anywhere require private attorneys to use other's preferred pronouns in Court. Private attorneys should not be compelled to say something that affirms a ideology in a way that conflicts with their religious beliefs or conscience. It appears that NM would be the 1st state which would seek to compel the speech of private attorneys in court in this manner. This raises serious constitutional free speech and freedom of religion issues which may result in costly and unnecessary litigation. These rule changes, if implemented, should be limited in scope to what the underlying order says.