1-072. Appeal from magistrate and metropolitan courts in trial de novo cases.

A. **Right of appeal.** A party who is aggrieved by the judgment or final order in a civil action in the magistrate or metropolitan court may appeal, as permitted by law, to the district court of the county within which the magistrate or metropolitan court is located. The notice of appeal shall be filed in the district court within fifteen (15) days after the judgment or final order appealed from is filed in the magistrate or metropolitan court clerk's office. If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within ten (10) days after the date on which the first notice of appeal was served or within the time otherwise prescribed by this rule, whichever period expires last. The [~~three (3) day~~] three (3)-day mailing period set forth in Rule 1-006 NMRA does not apply to the time limits set forth above. A notice of appeal filed after the announcement of a decision, or return of the verdict, but before the judgment or order is filed in the magistrate or metropolitan court clerk's office, shall be treated as timely filed. Notwithstanding any other provision of this rule, no docket fee or other cost shall be imposed against the state, its political subdivisions, or the nonprofit corporations authorized to be formed under the Educational Assistance Act, NMSA 1978, Section 21-21A-5 [~~21-21A-1 NMSA 1978~~] in any such appeal.

B. **Notice of appeal.** An appeal from the magistrate or metropolitan court is taken by:

(1) filing with the clerk of the district court a notice of appeal with proof of service; and

(2) promptly filing with the magistrate or metropolitan court:

(a) a copy of the notice of appeal that has been endorsed by the clerk of the district court; and

(b) a copy of the receipt of payment of the docket fee.

C. **Content of the notice of appeal.** The notice of appeal shall be substantially in the form approved by the Supreme Court. A copy of the magistrate or metropolitan court judgment or final order appealed from, showing the date of the judgment or final order, shall be attached to the notice of appeal filed in the district court.

D. **Service of notice of appeal.** At the time the notice of appeal is filed in the district court, the appellant shall:

(1) serve each party or [~~such~~] that party's attorney in the proceedings in the magistrate or metropolitan court with a copy of the notice of appeal in accordance with Rule 1-005 NMRA; and

(2) file proof of service with the clerk of the district court that a copy of the notice of appeal has been served in accordance with Rule 1-005 NMRA.

E. **Docketing the appeal.** Upon the filing of the notice of appeal and proof of service and payment of the docket fee, if required, the clerk of the district court shall docket the appeal in the district court.

F. **Jury trial.** Any party may demand a jury trial by filing a demand and paying the jury fees as provided by Rule 1-038 NMRA. A demand for jury trial shall be filed at the time the notice of appeal is filed in the district court, but [~~not~~] no later than:

(1) thirty (30) days after service of the notice of appeal on each party to the action; or

(2) ten (10) days after the last pleading is filed, if additional pleadings are filed [~~pursuant to~~] under Paragraph I of this rule.

G. **Record on appeal.** Within fifteen (15) days after the appellant files a copy of the notice of appeal with the magistrate or metropolitan court [~~pursuant to~~] under Paragraph B of this

rule, the magistrate or metropolitan court shall file with the clerk of the district court the record on appeal taken in the action in the magistrate or metropolitan court. For purposes of this rule, the record on appeal shall consist of:

(1) a title page containing the caption of the case in the magistrate or metropolitan court and the names and mailing addresses of each party or, if the party is represented by counsel, the name and address of the attorney;

(2) a copy of all papers and pleadings filed in the magistrate or metropolitan court;

(3) a copy of the judgment or order sought to be reviewed with date of filing noted thereon;

(4) any exhibits; and

(5) any transcript of the proceedings made by the magistrate or metropolitan court, either stenographically recorded or [~~tape~~] audio recorded. If the transcript of the proceedings is [~~a tape~~] an audio recording, the magistrate or metropolitan court shall prepare and file with the district court a duplicate of the [~~tape~~] audio recording and an index log.

Any party desiring a copy of the transcript of the proceedings shall be responsible for paying the cost, if any, of preparing [~~such~~] the copy.

The magistrate or metropolitan court clerk shall give prompt notice to all parties of the filing of the record on appeal with the district court.

H. **Correction or modification of the record.** If anything material to either party is omitted from the record on appeal by error or accident, the parties by stipulation, or the magistrate or metropolitan court on motion, or the district court, on proper suggestion or on its own initiative,

may direct that the omission be corrected and a supplemental record [~~transmitted~~] sent to the district court.

I. **Pleadings.** The complaint and other pleadings filed in the magistrate or metropolitan court shall be the complaint and pleadings in the district court. An amended complaint may be filed within thirty (30) days after service of the notice of appeal. An amended complaint shall be served in the manner provided by Rule 1-004 NMRA of these rules. If an amended complaint is filed, a responsive pleading shall be filed within thirty (30) days and served as provided by these rules.

J. **Procedure on appeal.** Unless otherwise provided by this rule, all other Rules of Civil Procedure for the District Courts shall apply to appeals from the magistrate or metropolitan court.

K. **Stay of proceedings to enforce a judgment.**

(1) When an appeal is taken, the appellant may obtain a stay of the proceedings to enforce the judgment by posting a supersedeas bond with the clerk of the magistrate or metropolitan court as provided in the Rules of Civil Procedure for the Magistrate Courts, the Rules of Civil Procedure for the Metropolitan Courts, and NMSA 1978, Section 47-8-47.

(2) When an appeal is taken by the state, by an officer or agency of the state, by direction of any department of the state, by any political subdivision or institution of the state, or by any municipal corporation, the taking of an appeal shall operate as a stay.

L. **Review of supersedeas.** At any time after an appeal is filed [~~pursuant to~~] under Paragraph B of this rule, the district court may, upon motion and notice, review any action of, or any failure or refusal to act by the magistrate or metropolitan court dealing with supersedeas or stay. If the district court modifies the terms, conditions, or amount of a supersedeas bond or if it

determines that the magistrate or metropolitan court should have allowed supersedeas and failed to do so on proper terms and conditions, it may grant additional time within which to file in the district court a supersedeas bond complying with the requirements for a supersedeas bond set forth in the Rules of Civil Procedure for the Magistrate Courts and the Rules of Civil Procedure for the Metropolitan Courts. Any change ordered by the district court shall be certified by the clerk of the district court and filed with the magistrate or metropolitan court clerk by the party seeking the review.

M. **Rehearing.** A motion for reconsideration may be filed within ten (10) days after filing of the district court's final order. The [~~three (3) day~~] three (3)-day mailing period set forth in Rule 1-006 NMRA does not apply to the time limits set by this rule. The motion shall state briefly and with particularity, but without argument, the points of law or fact that in the opinion of the movant the court has overlooked or misapprehended. No response to a motion for rehearing shall be filed unless requested by the court.

N. **Disposal of appeals.** The district court shall dispose of appeals by entry of an appropriate order disposing of the appeal. The court in its discretion may accompany the order with a formal or memorandum opinion. Opinions shall not be published and shall not be used as precedent in subsequent cases. A mandate shall be issued by the court upon expiration of whichever of the following events occurs latest:

(1) thirty (30) days after entry of the order disposing of the case;

(2) thirty (30) days after disposition of a motion for rehearing; or

(3) if a notice of appeal is filed, upon final disposition of the appeal.

O. **Remand.** Upon expiration of the time for appeal from the judgment or final order of the district court, if the relief granted is within the jurisdiction of the magistrate or metropolitan

court, the district court shall remand the case to the magistrate or metropolitan court for enforcement of the district court's judgment.

P. **Appeal.** Any aggrieved person may appeal from a judgment of the district court to the New Mexico Supreme Court or Court of Appeals, as authorized by law in accordance with the Rules of Appellate Procedure. Any supersedeas bond approved by the magistrate or metropolitan court, or modified by the district court, shall continue in effect pending appeal to the Supreme Court or Court of Appeals, unless modified [~~pursuant to~~] under Rule 12-207 NMRA [~~of the Rules of Appellate Procedure~~].

Q. **Return of record.** After final determination of the appeal, the clerk of the district court shall return the record on appeal to the magistrate or metropolitan court clerk.

[Adopted, effective January 1, 1996; as amended by Supreme Court Order No. 19-8300-017, effective for all cases pending or filed on or after December 31, 2019; as amended by Supreme Court Order No. S-1-RCR-2025-00175, effective for all cases filed on or after December 31, 2025.]