

1 **2-705. Appeal.**

2           A.     **Right of appeal.** A party who is aggrieved by the judgment or final order in a civil  
3 action may appeal, as permitted by law, to the district court of the county within which the  
4 magistrate court is located. The notice of appeal shall be filed in the district court within fifteen  
5 (15) days after the judgment or final order appealed from is filed in the magistrate court. [~~If a~~  
6 ~~timely notice of appeal is filed by a party, any other party may file a notice of appeal within ten~~  
7 ~~(10) days after the date on which the first notice of appeal was served or within the time otherwise~~  
8 ~~prescribed by this rule, whichever period expires last. The three (3) day mailing period set forth in~~  
9 ~~Rule 2-104 NMRA does not apply to the time limits set forth above. A notice of appeal filed after~~  
10 ~~the announcement of a decision, or return of the verdict, but before the judgment or order is filed~~  
11 ~~in the magistrate court, shall be treated as timely filed. Notwithstanding any other provision of this~~  
12 ~~rule, no docket fee or other cost shall be imposed against the state or its political subdivisions in~~  
13 ~~any such appeal.~~]

14           B.     ~~[Notice of]~~ **Procedure on appeal.** The notice of appeal shall be substantially in the  
15 form approved by the Supreme Court. Rule 1-072 NMRA shall govern the procedure on appeal.  
16 [~~An appeal from the magistrate court is taken by~~

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

19                   (2) ~~— promptly filing the following with the magistrate court~~

20                           (a) ~~— a copy of the notice of appeal which has been endorsed by the clerk~~  
21 ~~of the district court; and~~

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

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

5           D. ~~Service of notice of appeal.~~ At the time the notice of appeal is filed in the district  
6 court, the appellant shall

7                   (1) ~~serve each party or such party's attorney in the proceedings in the magistrate~~  
8 court with a copy of the notice of appeal in accordance with Rule 1-005 NMRA of the Rules of  
9 Civil Procedure for the District Courts; and

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

12           E. ~~Record on appeal.~~ Within fifteen (15) days after the appellant files a copy of the  
13 notice of appeal with the magistrate court under Paragraph B of this rule, the magistrate court shall  
14 file with the clerk of the district court the record on appeal taken in the action in the magistrate  
15 court. For purposes of this rule, the record on appeal shall consist of

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

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

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

21 and

22                   (4) ~~any exhibits.~~

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

3           ~~F. — **Correction or modification of the record.** If anything material to either party is~~  
4 ~~omitted from the record on appeal by error or accident, the parties by stipulation, or the magistrate~~  
5 ~~court or the district court, on proper suggestion or on its own initiative, may direct that the omission~~  
6 ~~be corrected and a supplemental record transmitted to the district court.~~

7           ~~G. — **Stay of proceedings to enforce a judgment.**~~

8           ~~(1) — Except as provided in Subparagraph (2) of this paragraph, when an appeal~~  
9 ~~is taken, the appellant may obtain a stay of the proceedings to enforce the judgment by posting a~~  
10 ~~supersedeas bond with the clerk of the magistrate court. The bond may be posted at any time after~~  
11 ~~docketing the appeal. The stay is effective when the supersedeas bond is approved by the~~  
12 ~~magistrate court and shall continue in effect until final disposition of the appeal. The bond shall be~~  
13 ~~conditioned for the satisfaction of and compliance with the judgment in full, as may be modified~~  
14 ~~by an appellate court, together with costs, attorneys' fees, and interest, if any. The bond shall be~~  
15 ~~enforceable on dismissal of the appeal or affirmance of the judgment. If the judgment is reversed~~  
16 ~~or satisfied, the bond is void. The surety, sureties, or collateral securing such bond, and the terms~~  
17 ~~thereof, must be approved by and the amount fixed by the magistrate court. If a bond secured by~~  
18 ~~personal surety or sureties is tendered, the bond may be approved only on notice to the appellee.~~  
19 ~~Each personal surety shall be required to show a net worth of at least double the amount of the~~  
20 ~~bond. If the judgment is for the recovery of money, the amount of the bond shall be the amount of~~  
21 ~~the judgment remaining unsatisfied, together with costs, attorneys' fees, and interest, if any. In~~  
22 ~~determining the sufficiency of the surety or sureties and the extent to which the surety or sureties~~  
23 ~~shall be liable on the bond, or whether any surety will be required, the court shall take into~~

1 ~~consideration the type and value of any collateral that is in, or may be placed in, the custody or~~  
2 ~~control of the court and that has the effect of securing payment of and compliance with the~~  
3 ~~judgment.~~

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

7 ~~H. — **District court review of supersedeas.** At any time after an appeal is filed under~~  
8 ~~Paragraph B of this rule, the district court may, on motion and notice, review any action of, or any~~  
9 ~~failure or refusal to act by, the magistrate court dealing with supersedeas or stay. If the district~~  
10 ~~court modifies the terms, conditions, or amount of a supersedeas bond, or if it determines that the~~  
11 ~~magistrate court should have allowed supersedeas and failed to do so on proper terms and~~  
12 ~~conditions, it may grant additional time within which to file in the district court a supersedeas bond~~  
13 ~~as provided by this rule. Any change ordered by the district court shall be certified by the clerk of~~  
14 ~~the district court and filed with the magistrate court by the party seeking the review.~~

15 ~~I. — **Procedure on appeal.** The Rules of Civil Procedure for the District Courts shall~~  
16 ~~govern the procedure on appeal from the magistrate court.~~

17 ~~J. — **Remand.** On remand of the case by the district court to the magistrate court, the~~  
18 ~~magistrate court shall enforce the mandate of the district court.~~

19 ~~K. — **Return of record.** After final determination of the appeal, the clerk of the district~~  
20 ~~court shall return the record on appeal to the magistrate court clerk.]~~

21 [As amended, effective November 1, 1988; January 1, 1994; July 1, 1996; as amended by Supreme  
22 Court Order No. 16-8300-021, effective for all cases pending or filed on or after December 31,

- 1 2016; as amended by Supreme Court Order No. S-1-RCR-2025-00175, effective for all cases filed
- 2 on or after December 31, 2025.]