

1 ~~[1-073. Appeal from metropolitan court on the record.~~

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

15 B. ~~—~~ **Notice of appeal.** An appeal from the metropolitan court is taken by:

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

18 (2) ~~—~~ promptly filing with the metropolitan court:

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

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

22 C. ~~—~~ **Content of the notice of appeal.** The notice of appeal shall be substantially in the
23 form approved by the Supreme Court. A copy of the metropolitan court judgment or final order

1 ~~appealed from, showing the date of the judgment or final order, shall be attached to the notice of~~
2 ~~appeal filed in the district court.~~

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

5 ~~(1) serve each party or such party's attorney in the metropolitan court~~
6 ~~proceedings with a copy of the notice of appeal in accordance with Rule 1-005;~~

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

9 ~~(3) if evidentiary or factual matters are involved in the appeal, file with the clerk~~
10 ~~of the district court a certificate of the clerk of the metropolitan court that satisfactory arrangements~~
11 ~~have been made with the metropolitan court for preparation and payment for the transcript of the~~
12 ~~proceedings.~~

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

16 ~~F. **Record on appeal.** Within fifteen (15) days after the appellant files a copy of the~~
17 ~~notice of appeal with the metropolitan court pursuant to Paragraph B of this rule, the metropolitan~~
18 ~~court shall file with the clerk of the district court the record on appeal taken in the action in the~~
19 ~~metropolitan court. For purposes of this rule, the record on appeal shall consist of:~~

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

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

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

3 (4) ~~— any exhibits; and~~

4 (5) ~~— any transcript of the proceedings made by the metropolitan court, either~~
5 ~~stenographically recorded or tape recorded. If the transcript of the proceedings is a tape recording,~~
6 ~~the metropolitan court clerk shall prepare and file with the district court a duplicate of the tape and~~
7 ~~index log.~~

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

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

12 ~~G. — **Correction or modification of the record.** If anything material to either party is~~
13 ~~omitted from the record on appeal by error or accident, the parties by stipulation, or the~~
14 ~~metropolitan court on motion, or the district court, on proper suggestion or on its own initiative,~~
15 ~~may direct that the omission be corrected and a supplemental record transmitted to the district~~
16 ~~court.~~

17 ~~H. — **Statement of appellate issues.** A statement of appellate issues shall be filed with~~
18 ~~the district court as follows:~~

19 (1) ~~— the appellant's statement shall be filed and served within thirty (30) days~~
20 ~~from the date of service of the notice of filing of the record on appeal in the district court; and~~

21 (2) ~~— the appellee's response shall be filed and served within thirty (30) days after~~
22 ~~service of the appellant's statement of issues.~~

1 I. ~~Appellant's statement of appellate issues.~~ The appellant's statement of appellate
2 issues, under appropriate headings and in the order here indicated, shall contain:

3 (1) ~~a statement of the issues;~~

4 (2) ~~a summary of the proceedings which shall indicate briefly the nature of the~~
5 ~~case, the course of proceedings, and the disposition of the metropolitan court. The summary shall~~
6 ~~include a short recitation of all facts relevant to the issues presented for review, with appropriate~~
7 ~~references to the record on appeal showing how the issues were preserved in the proceedings~~
8 ~~before the metropolitan court;~~

9 (3) ~~an argument which shall contain the contentions of the appellant with~~
10 ~~respect to each issue presented in the statement of issues, with citations to the authorities, statutes~~
11 ~~and parts of the record on appeal relied upon. New Mexico decisions, if any, shall be cited; and~~

12 (4) ~~a statement of the precise relief sought.~~

13 J. ~~Appellee's statement of appellate issues; response.~~ The appellee's response shall
14 conform to the requirements of Subparagraphs (1) to (4) of Paragraph I of this rule, except that a
15 statement of the issues or a summary of the proceedings shall not be made unless the appellant's
16 statement of issues or summary of the proceedings is disputed or is incomplete.

17 K. ~~References in statement of appellate issues.~~ References in the statement of
18 appellate issues shall be to the pages of the record on appeal or, if the reference is to a tape
19 recording, the approximate counter numbers of the tape as shown on the index log shall be used.
20 If reference is made to evidence the admissibility of which is in controversy, reference shall be to
21 the place in the record on appeal at which the evidence was identified, offered, and received or
22 rejected.

1 L. — ~~Length of statements of appellate issues.~~ Except by permission of the court, the
2 argument portion of the appellant's statement of appellate issues shall not exceed eight (8) pages.
3 Except by permission of the court, the argument portion of appellee's response shall not exceed
4 eight (8) pages.

5 M. — ~~Briefs.~~ Briefs may be filed only by leave of the district court and upon such
6 conditions as the court may direct.

7 N. — ~~Oral argument.~~ Upon motion of a party or on the court's own motion, the court
8 may allow oral argument.

9 O. — ~~Scope of review.~~ To preserve a question for review it must appear that a ruling or
10 decision by the metropolitan court was fairly invoked, but formal exceptions are not required, nor
11 is it necessary to file a motion for a new trial to preserve questions for review. Further, if a party
12 has no opportunity to object to a ruling or order at the time it is made, the absence of an objection
13 does not thereafter prejudice the party. This paragraph shall not preclude the district court from
14 considering jurisdictional questions or, in its discretion, questions involving:

15 (1) — general public interest; or

16 (2) — fundamental error or fundamental rights of a party.

17 P. — ~~Stay of proceedings to enforce a judgment.~~

18 (1) — When an appeal is taken, the appellant may obtain a stay of the proceedings
19 to enforce the judgment by posting a supersedeas bond with the clerk of the metropolitan court as
20 provided in the Rules of Civil Procedure for the Metropolitan Courts.

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

1 Q.—**Review of supersedeas.** At any time after an appeal is filed pursuant to Paragraph
2 ~~B of this rule, the district court may, upon motion and notice, review any action of, or any failure~~
3 ~~or refusal to act by the metropolitan court dealing with supersedeas or stay. If the district court~~
4 ~~modifies the terms, conditions or amount of a supersedeas bond or if it determines that the~~
5 ~~metropolitan court should have allowed supersedeas and failed to do so on proper terms and~~
6 ~~conditions, it may grant additional time within which to file in the district court a supersedeas bond~~
7 ~~complying with the requirements for a supersedeas bond set forth in the Rules of Civil Procedure~~
8 ~~for the Metropolitan Courts. Any change ordered by the district court shall be certified by the clerk~~
9 ~~of the district court and filed with the metropolitan court clerk by the party seeking the review.~~

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

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

21 (1) — fifteen (15) days after entry of the order disposing of the case;

22 (2) — fifteen (15) days after disposition of a motion for rehearing; or

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

1 T. ~~Remand.~~ Upon expiration of the time for appeal from the final order or judgment
2 of the district court, the district court shall remand the case to the metropolitan court for
3 enforcement of the district court's judgment.

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

9 [Adopted, effective January 1, 1996; withdrawn by Supreme Court Order No. S-1-RCR-2025-
10 00175, effective for all cases filed on or after December 31, 2025.]