

**PROPOSED REVISIONS TO THE RULES OF APPELLATE PROCEDURE  
PROPOSAL 2026-003**

**March 6, 2026**

The Appellate Rules Committee has recommended the adoption of new Rule 12-502.1 NMRA for the Supreme Court’s consideration.

If you would like to comment on the proposed new rule 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, 2026**, 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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**12-502.1. Expedited appeals from certain proceedings.**

A. **Scope.** This rule governs petitions filed under Rule 12-502 NMRA in the following categories of cases unless otherwise ordered by the Supreme Court: abuse and neglect proceedings initiated under the Children’s Court Rules; termination of parental rights proceedings initiated under the Children’s Court Rules; delinquency proceedings initiated under the Children’s Court Rules; and applications for interlocutory appeal filed in the Court of Appeals under Rule 12-203 NMRA. If any provisions of the Rules of Appellate Procedure otherwise conflict with this Rule, the provisions of this Rule shall apply.

B. **Record from the Court of Appeals.** When a petition for writ of certiorari is granted in an expedited appeal governed by this Rule, the record forwarded by the Court of Appeals in accordance with Rule 12-502(M) shall include all briefs filed in the Court of Appeals. If the case was disposed of on the summary calendar in the Court of Appeals, the record forwarded by the Court of Appeals under Rule 12-502(M) shall include all memoranda filed in response to notices of proposed disposition under Rule 12-210(D)(3) NMRA.

C. **Briefing Schedule and Oral Argument.** Upon receipt of the record from the Court of Appeals under Rule 12-502(M), the Clerk of Court for the Supreme Court shall issue an order establishing a briefing schedule and setting oral argument in accordance with the following deadlines:

(1) Oral argument shall be scheduled no later than sixty (60) days after the date of the order;

(2) Simultaneous, supplemental briefs shall be filed by the parties no later than twenty (20) days after the date of the order; and

(3) Simultaneous replies to the supplemental briefs shall be filed by the parties no later than five (5) days before the date of oral argument.

**D. Briefing Requirements.** Briefs shall otherwise be filed and served in accordance with Rule 12-318 NMRA, except supplemental briefs shall be limited to 20 pages or 6,300 words if using proportionally spaced type style or typeface or 684 lines if using a monospaced type style or typeface, and supplemental replies shall be limited to 10 pages or 3,150 words or 342 lines.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]

**Committee commentary.** – In Order No. 13-8500, the Supreme Court established an expedited process for briefing and oral argument in “specific categories of time-sensitive cases.” Rule 12-502.1 codifies these procedures for expedited briefing and argument from the Court’s Administrative Order into the Rules of Appellate Procedure. Paragraph (D) contains limitations on the length of briefs filed under this Rule regularly employed by the Court for expedited briefing.

[Adopted by Supreme Court Order No. \_\_\_\_\_, effective \_\_\_\_\_.]



**New Mexico  
Courts**

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

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

Thu, Apr 2, 2026 at 11:29 AM

Reply-To: noreply@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

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**Proposal  
Number** 2026-003

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**Comment** The new Rule 12-502.1(C)(2)-(3) is confusing in requiring supplemental briefs without establishing that the Appellate briefs from the Court of Appeals are in the place of a Brief in Chief to the Supreme Court as described in Rule 12-502(K), if that is the case. I suggest making this clear by stating that the briefs submitted under this rule serve as supplements to those submitted to the Court of Appeals and that no brief in chief or answer brief is permitted.

Also, if parties are only submitting supplemental briefs, should some note of this procedure be added to Rule 12-318(D) NMRA?

Next, the new Rule should clearly state whether and to what extent supplemental briefs must comply with Rule 12-318(F) NMRA, which does not specifically address supplemental briefs in its enumeration of length, preparation, and service. There is a circular logic in saying that supplemental briefs must comply with Rule 12-318, without specifying which limits apply. It seems logical that the supplemental briefs would follow the limits for the brief in chief, answer brief, or amicus brief (11,000 words), but this should be made clear to avoid confusion. The replies seem more clearly intended to follow the limits for replies, which would be limited to 4,400 words

Finally, I suggest that the replies to the supplemental briefs (12-502.1(C)(3) be optional ("may") rather than mandatory ("shall"). Respondents (especially those paying private counsel) may feel that they have expended enough legal resources on the case thus far, including the supplemental brief, or that their arguments are before the Court and the State's supplemental brief merits no reply. This may be a good or bad strategy; however, Respondent should retain the right to direct their counsel whether to file an additional filing based on their own resources and confidence in their arguments made in the prior briefings and the supplemental brief.

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