12-503. Writs of error.

A. **Scope.** This rule governs the procedure for issuance of a writ of error by the Supreme Court or Court of Appeals to the district court.

B. **Court of Appeals; authority to issue.** Under Article VI, Section 29 of the New Mexico Constitution, the Supreme Court authorizes the Court of Appeals to issue writs of error in those cases over which it would have appellate jurisdiction from a final judgment.

C. **Time.** A petition for writ of error shall be filed within thirty (30) days after the order sought to be reviewed is filed in the district court clerk's office unless, [~~prior to~~] before the expiration of this time limit, a motion is filed that has the potential to affect the conclusiveness of the district court's order under Subparagraph (E)(2)(a) of this rule, in which event, the full time prescribed in this rule for the filing of a petition for writ of error shall commence to run and be computed from the filing of an order expressly disposing of the last such remaining motion. The three (3)[-]day [~~mailing~~] period set forth in Rule [~~12-308~~] 12-308(B) NMRA does not apply to this time limit.

D. **Parties.** The first party to file a petition for writ of error, and any party joining in that petition, shall be designated an "appellant." Any opposing party, regardless of whether that party has also filed a petition, shall be designated an "appellee." The district court shall not be a party to the proceeding on a writ of error.

E. **Contents.** A party seeking a writ of error shall attach to the petition a copy of the order of the district court, with the date of filing noted on its face, and shall include in the petition

(1) a concise statement of the nature of the case, a summary of the proceedings, the disposition below, and the facts relevant to the petition;

(2) a concise statement of how the order sought to be reviewed

(a) conclusively determines the disputed question;

(b) resolves an important issue completely separate from the merits of the action; and

(c) would be effectively unreviewable on appeal from a final judgment because the remedy by way of appeal would be inadequate; and

(3) any other matters of record that will assist the appellate court in exercising its discretion.

F. **Length [~~limitations~~] limits.** Except by permission of the appellate court, the petition shall comply with Rule 12-305 NMRA and the following length [~~limitations~~] limits:

(1) **Body of the petition defined.** The body of the petition consists of headings, footnotes, quotations, and all other text except any cover page, table of contents, table of authorities, signature blocks, and certificate of service.

(2) **Page [~~limitation~~] limit.** Unless the petition complies with Subparagraph (E)(3) of this rule, the body of the petition shall not exceed ten (10) pages.

(3) **Type-volume [~~limitation~~] limit.** The body of the petition shall not exceed three thousand one hundred fifty (3,150) words, if the party uses a proportionally-spaced type style or typeface, such as Times New Roman, or three hundred forty-two (342) lines, if the party uses a monospaced type style or typeface, such as Courier.

G. **Statement of compliance.** If the body of the petition exceeds the page [~~limitations~~] limits of Subparagraph (F)(2) of this rule, then the petition must contain a statement that it complies with the [~~limitations~~] limits of Subparagraph (F)(3) of this rule. If the petition is prepared using a proportionally-spaced type style or typeface, such as Times New Roman, the statement shall specify the number of words contained in the body of the petition as defined in Subparagraph (F)(1) of this rule. If the petition is prepared using a monospaced type style or typeface, such as Courier, the statement shall specify the number of lines contained in the body of the petition. If the word-count or line-count information is obtained from a word-processing program, the statement shall identify the program and version used.

H. **Filing.** The petition shall be filed in the court that would have appellate jurisdiction over a final judgment in the case along with the appellate docket fee or free process order.

I. **Service.** The party filing the petition shall serve a copy of it on all other parties to the proceeding and on the district court judge.

J. **Response.** Any party may file a response to a petition for writ of error within fifteen (15) days of service of the petition. The response shall comply with Paragraphs F and G of this rule and shall be served on all other parties and on the district court judge.

K. **Reply.** A reply is not permitted without leave of the appellate court, which may be granted [~~upon~~] on a showing of good cause. A motion seeking leave to file a reply must be filed and served within seven (7) days after service of the response and must include the proposed reply.

L. **Proceedings on issuance of writ.** The appellate court in its discretion may issue the writ. On issuance of the writ, the court shall assign the case to a calendar, and the parties shall proceed in accordance with Rule 12-210 NMRA. The district court clerk shall [~~transmit~~] send a copy of the record proper on receipt of the notice of calendar assignment. On issuance of the writ, a copy of the writ shall be served on all persons required to be served under Rule 12-202 NMRA.

M. **Stay on issuance of the writ.** On issuance of the writ, a party seeking either a stay of the order that is the subject of the writ of error or a stay of proceedings pending appeal shall first seek [~~such an~~] that order from the district court, and any party may thereafter seek appellate review of the district court's ruling under Rule 12-205 NMRA, Rule 12-206 NMRA, or Rule 12-207 NMRA.

[As amended, effective December 1, 1993; 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. S-1-RCR-2023-00005, effective for all cases filed on or after December 31, 2026.]

Committee commentary. – In *Pincheira v. Allstate Ins. Co.*, 2004-NMCA-030, ¶ 7, 135 N.M. 220, 86 P.3d 645, the New Mexico Court of Appeals held that Paragraph C of Rule 12-503 NMRA "does not contain any provision extending the time to appeal based upon the filing of a post-order motion seeking further review by the trial court." The 2026 amendments to Paragraph C add language acknowledging the tolling effect of post-order motions filed in the district court that could affect the "conclusiveness" of the order under Subparagraph (E)(2)(a) of the rule. In the context of a writ of error, which by definition involves review of an interlocutory order, the requirement of "conclusiveness" under

Subparagraph (E)(2)(a) serves a similar function to the requirement of finality embodied in the final judgment rule. *See, e.g., Capco Acquisub, Inc. v. Greka Energy Corp.*, 2007-NMCA-011, ¶¶ 17, 20, 140 N.M. 920, 149 P.3d 1017 (observing that the final judgment rule serves multiple purposes, such as the prevention of piecemeal appeals and the promotion of judicial economy, and that tolling provisions in the appellate rules serve to avoid the confusion and inefficiency resulting from having multiple courts decide the same issues at the same time). The amendments are modeled on the language of Rule 12-201(D)(1) NMRA, which sets forth tolling provisions applicable to post-trial or post-judgment motions that affect the time for filing an ordinary appeal from a final judgment.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00005.]