

**PROPOSED REVISIONS TO THE RULES OF CIVIL PROCEDURE
FOR THE DISTRICT, MAGISTRATE, AND METROPOLITAN COURTS
PROPOSAL 2021-008**

March 17, 2021

The Rules of Civil Procedure for State Courts Committee has recommended amendments to Rules 1-054, 2-701, and 3-701 NMRA for the Supreme Court's consideration.

If you would like to comment on the proposed amendments set forth below before the Court takes final action, you may do so by either submitting a comment electronically through the Supreme Court's web site at <http://supremecourt.nmcourts.gov/open-for-comment.aspx> or sending your written comments by mail, email, or fax to:

Joey D. Moya, Clerk
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848
nmsupremecourtclerk@nmcourts.gov
505-827-4837 (fax)

Your comments must be received by the Clerk on or before April 16, 2021, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's web site for public viewing.

1-054. Judgments; costs.

A. **Definition; form.** "Judgment₂" as used in these rules₂ includes a decree and any order from which an appeal lies. A judgment shall not contain a recital of pleadings, the report of a master₂ or the record of prior proceedings.

B. **Judgment ~~[upon]~~ on multiple claims or involving multiple parties.** ~~[When]~~ If an action presents more than one claim for relief, whether as a claim, counterclaim, crossclaim, or third-party claim, or ~~[when]~~ if multiple parties are involved, the court may direct entry of a final judgment ~~[as to]~~ about one or more, but fewer than all, claims or parties₂ only if the court expressly ~~[determines that there is]~~ finds no just reason for delay. Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims₂ or the rights and liabilities of fewer than all the parties₂ does not end the action ~~[as to]~~ for any of the claims or parties₂ and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities.

C. **Demand for judgment.** A judgment by default shall not be different in kind from, or exceed₂ the amount prayed for in the demand for judgment. Except ~~[as to a party against whom a judgment is entered by]~~ for a default judgment, ~~[every]~~ each final judgment shall grant the relief ~~[to which]~~ sought by the party in whose favor ~~[it]~~ judgment is rendered ~~[is entitled]~~, even if the party has not demanded ~~[such]~~ the relief in the party's pleadings.

D. **Costs.**

(1) **Costs other than attorney fees.** ~~[Except when express provision therefor is made]~~ Unless expressly stated either in a statute or in these rules, costs, other than attorney fees, shall be allowed to the prevailing party unless the court otherwise directs; but costs against the state, its officers, and agencies shall be imposed only to the extent permitted by law.

(2) **Recoverable costs.** Costs generally are recoverable only as allowed by statute, Supreme Court rule, and case law. The following costs generally are recoverable:

(a) filing fees, including electronic filing and service fees;
(b) fees for service of summonses, subpoenas, writs, and other service of process;

(c) jury fees as provided in Rule 1-038 NMRA;
(d) transcript fees, including those for daily transcripts and transcripts of hearings ~~[prior or subsequent to]~~ before or after trial, ~~[when]~~ if requested or approved by the court;

(e) the cost of a deposition:
(i) if any part is used at trial;
(ii) in successful support or defense of a motion for summary judgment ~~[pursuant to]~~ under Rule 1-056 NMRA; or
(iii) ~~[when]~~ if the court determines the deposition was reasonably necessary to the litigation;

(f) witness mileage or travel fare and per diem expenses, ~~[when]~~ if the witness testifies at trial or at a deposition, which is deemed reasonable and necessary, and as limited by Sections 38-6-4(A), 39-2-8, 39-2-9, and 39-2-10 NMSA 1978;

(g) expert witness fees for services as provided by Section 38-6-4(B) NMSA 1978 or ~~[when]~~ if the court determines that the expert witness was reasonably necessary to the litigation;

(h) translator fees, ~~[when]~~ if the translated document is admitted into evidence;

(i) reasonable expenses involved in the production of exhibits, which are admitted into evidence;

(j) official certification fees for documents admitted into evidence; and

(k) interpreter fees for judicial proceedings and depositions.

(3) **Non-recoverable costs.** Unless specifically authorized by statute, Supreme Court rule, or case law, the following costs generally are not recoverable:

(a) except as provided in ~~[Paragraph]~~ Subparagraph (D)(2)(i) of this rule, photocopying and other reproduction expenses;

(b) telephone expenses;

(c) facsimile expenses;

(d) courier service expenses;

(e) attorney mileage, travel fare, and per diem expenses;

(f) paralegal and other support staff expenses;

(g) general office expenses; and

(h) legal research, including computer-assisted research.

(4) **Procedure for recovery of costs.** Within fifteen (15) days after filing of the final judgment, the party recovering costs shall file with the clerk of the district court an itemized

cost bill, with proof of service ~~[of a copy]~~, on opposing counsel. Any party failing to file a cost bill within fifteen (15) days after the filing of the final judgment shall be deemed to have waived costs. If no objections are filed within ten (10) days after service of the cost bill, the clerk of the district court shall tax the claimed costs, which are allowable by law. The judge shall settle any objections filed.

E. Attorney fees.

(1) Claims for attorney fees and related nontaxable expenses shall be made by motion unless the substantive law governing the action provides for the recovery of ~~[such]~~ the fees as an element of damages to be proved at trial.

(2) Unless otherwise provided by statute or order of the court, the motion must be filed and served no later than fifteen (15) days after entry of judgment; must specify the judgment and the statute or other grounds entitling the moving party to the award; and must state the amount sought and the basis for the amount claimed.

(3) On request of a party or class member, the court shall afford an opportunity for adversary submissions with respect to the motion. The court may determine issues of liability for fees before receiving submissions bearing on issues of evaluation of services for which liability is imposed by the court. A judgment shall be prepared and entered as provided in Rule 1-058 NMRA.

F. Applicability. The provisions of this rule do not apply to claims for fees and expenses as sanctions.

[As amended, effective October 1, 1996; December 15, 1999; February 1, 2001; as amended by Supreme Court Order No. 08-8300-011, effective May 23, 2008; as amended by Supreme Court Order No. 16-8300-009, effective for all cases pending or filed on or after December 31, 2016; as amended by Supreme Court Order No. _____, effective _____.]

2-701. Judgments; costs.

A. Definition; form. “Judgment,” as used in these rules, includes a decree and any order from which an appeal lies. A judgment should not contain a recital of pleadings or the record of prior proceedings.

B. Judgment ~~[upon]~~ on multiple claims or involving multiple parties.

(1) Except as provided in Subparagraph (B)(2) ~~[of this paragraph]~~, ~~[when]~~ if more than one claim for relief is presented in an action, whether as a claim or counterclaim, the court may enter a final judgment ~~[as to]~~ about one or more, but fewer than all of the claims, only ~~[upon an express determination that there is]~~ after expressly finding no just reason for delay. ~~[In the absence of such determination]~~ If the court fails to make a determination of no just reason for delay, any order or other form of decision, however designated, which adjudicates fewer than all of the claims, shall not terminate the action ~~[as to]~~ for any of the claims, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims.

(2) ~~[When]~~ If multiple parties are involved, judgment may be entered adjudicating all issues ~~[as to]~~ about one or more, but fewer than all parties. ~~[Such]~~ The judgment shall be a final judgment unless the court, in its discretion, expressly provides otherwise in the judgment. If the judgment ~~[provides]~~ states that it is not a final judgment, ~~[it]~~ the judgment shall not terminate the action ~~[as to such]~~ about a party or parties and shall be subject to revision at any

time before the entry of judgment adjudicating all claims and the rights and liabilities of all the parties.

C. **Entry of judgment.** ~~Following~~ After the trial, the court shall enter a written judgment in accordance with the jury's verdict ~~[of the jury]~~ or, if the trial was without a jury, in accordance with the court's decision. The court may direct counsel for any party to prepare the judgment. If ~~[any]~~ a setoff or a counterclaim is established by the defendant, the amount of the setoff or counterclaim shall be offset against any sum owed the plaintiff and judgment shall be entered accordingly.

D. **Demand for judgment.** A judgment by default shall not be different in kind from, or exceed in amount, that claimed in the complaint. Except ~~[as to a party against whom a judgment is entered by]~~ for a default judgment, ~~[every]~~ each final judgment shall grant the relief ~~[to which]~~ sought by the party in whose favor ~~[it]~~ judgment is rendered ~~[is entitled]~~, even if the party has not demanded ~~[such]~~ the relief in the party's pleadings.

E. **Costs.** Any docket fee, filing fee (including an electronic filing and service fee), jury fee, or copying fee paid by the prevailing party to the court shall be a recoverable cost and shall be awarded to the prevailing party against the losing party. The court may award any fees actually paid by the prevailing party for service of the complaint, summons and subpoenas, and for attendance of witnesses, including expert witnesses. No costs or fees shall be taxed against the state, its officers, and agencies. Expert witness fees for any case shall not exceed five hundred dollars (\$500), plus the fee for per diem expenses provided by ~~[Subsection A of Section 10-8-4]~~ Section 10-8-4(A) NMSA 1978 for nonsalaried public officers attending a board or committee meeting and the mileage provided by ~~[Subsection D of Section 10-8-4]~~ Section 10-8-4(D) NMSA 1978. The fee for per diem expenses shall not be prorated.

[As amended, effective January 1, 1995; as amended by Supreme Court Order No. _____,
effective _____.]

3-701. Judgments; costs.

A. **Definition; form.** "Judgment," as used in these rules, includes a decree and any order from which an appeal lies. A judgment should not contain a recital of pleadings or the record of prior proceedings.

B. **Judgment ~~[upon]~~ on multiple claims or involving multiple parties.**

(1) Except as provided in Subparagraph (B)(2) ~~[of this paragraph]~~, ~~[when]~~ if more than one claim for relief is presented in an action, whether as a claim or counterclaim, the court may enter a final judgment ~~[as to]~~ about one or more, but fewer than all of the claims, only ~~[upon an express determination that there is]~~ after expressly finding no just reason for delay. ~~[In the absence of such determination]~~ If the court fails to make a determination of no just reason for delay, any order or other form of decision, however designated, which adjudicates fewer than all of the claims, shall not terminate the action ~~[as to]~~ for any of the claims, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims.

(2) ~~[When]~~ If multiple parties are involved, judgment may be entered adjudicating all issues ~~[as to]~~ about one or more, but fewer than all parties. ~~[Such]~~ The judgment shall be a final judgment unless the court, in its discretion, expressly provides otherwise in the judgment. If the judgment ~~[provides]~~ states that it is not a final judgment, ~~[it]~~ the judgment shall not terminate the action ~~[as to such]~~ about a party or parties and shall be subject to revision at any

time before the entry of judgment adjudicating all claims and the rights and liabilities of all the parties.

C. **Entry of judgment.** ~~[Following]~~ After the trial, the court shall enter a written judgment in accordance with the jury's verdict ~~[of the jury]~~ or, if the trial was without a jury, in accordance with the court's decision. The court may direct counsel for any party to prepare the judgment. If ~~[any]~~ a setoff or a counterclaim is established by the defendant, the amount of the setoff or counterclaim shall be offset against any sum owed the plaintiff and judgment shall be entered accordingly.

D. **Demand for judgment.** A judgment by default shall not be different in kind from, or exceed in amount, that claimed in the complaint. Except ~~[as to a party against whom a judgment is entered by]~~ for a default judgment, ~~[every]~~ each final judgment shall grant the relief ~~[to which]~~ sought by the party in whose favor ~~[it]~~ judgment is rendered ~~[is entitled]~~, even if the party has not demanded ~~[such]~~ the relief in the party's pleadings.

E. **Costs.** Any docket fee, filing fee (including an electronic filing and service fee), jury fee, or copying fee paid by the prevailing party to the court shall be a recoverable cost and shall be awarded to the prevailing party against the losing party. The court may award any fees actually paid by the prevailing party for service of the complaint, summons and subpoenas, and for attendance of witnesses, including expert witnesses. No costs or fees shall be taxed against the state, its officers, and agencies. Expert witness fees for any case shall not exceed five hundred dollars (\$500), plus the fee for per diem expenses provided by ~~[Subsection A of Section 10-8-4]~~ Section 10-8-4(A) NMSA 1978 for nonsalaried public officers attending a board or committee meeting and the mileage provided by ~~[Subsection D of Section 10-8-4]~~ Section 10-8-4(D) NMSA 1978. The fee for per diem expenses shall not be prorated.

[As amended, effective January 1, 1995; as amended by Supreme Court Order No. _____,
effective _____.]



[nmsupremecourtclerk-grp] Comments to 2021 Proposed Rule Amendments

1 message

Chief Judge Jennifer DeLaney <demdjed@nmcourts.gov>

Fri, Apr 16, 2021 at 10:04 AM

Reply-To: demdjed@nmcourts.gov

To: nmsupremecourtclerk@nmcourts.gov

Cc: "Hofacket, Jarod" <demdjkh@nmcourts.gov>, Tom Stewart <sildtfs@nmcourts.gov>, Jim Foy <sildjbf@nmcourts.gov>

Mr. Moya,

Attached are the comments from the District Judges of the Sixth Judicial District concerning the 2021 proposed rule amendments. Please let me know if I need to submit each one separately or if the attached document is sufficient to distribute to each of the rule committees. Thank you,

Chief Judge DeLaney

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Jennifer E. DeLaney

Chief Judge, Division II

Sixth Judicial District Court

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2021 Proposed Rule Amendment Comments.docx

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Code of Professional Conduct Committee

Proposal 2021-006 – Lawyer communications and solicitation of clients

[Rules 16-701, 16-702, and 16-703 NMRA; and Withdrawn Rules 16-704 and 16-705 NMRA]

The Code of Professional Conduct Committee proposes to amend Rules 16-701, 16-702, and 16-703 NMRA to incorporate certain of the 2018 amendments to the ABA Model Rules of Professional Conduct. Because the proposed amendments to Rules 16-701, 16-702, and 16-703 also incorporate some provisions and commentary from Rules 16-704 and 16-705 NMRA, the Committee proposes to withdraw Rules 16-704 and 16-705.

No issues regarding this proposed change.

Rules of Civil Procedure for State Courts Committee

Proposal 2021-007 – Production of documents and things

[Rule 1-034 NMRA]

The Rules of Civil Procedure for State Courts Committee proposes to amend Rule 1-034 NMRA to: (1) clarify that in answering a request for production, the responding party shall permit inspection in its entirety unless the responding party files a proper objection; (2) require the responding party to state the specific reasons for an objection to a request for production; (3) require the responding party to state whether the response includes all responsive materials; and (4) if the responding party withholds any responsive materials based on an objection, the objection must clearly describe with reasonable particularity the materials withheld for each objection. The Committee also added committee commentary to further explain the amendments.

No issues regarding this proposed change.

Proposal 2021-008 – Electronic filing and service fees as recoverable costs

[Rules 1-054, 2-701, and 3-701 NMRA]

The Rules of Civil Procedure for State Courts Committee proposes to amend Rules 1-054, 2-701, and 3-701 NMRA to clarify that electronic filing and service fees are recoverable costs.

This rule change helps to clarify what is included in fees and that is helpful to the Court.

Proposal 2021-009 – Court trust account requirements

[Rule 1-102 NMRA]

The Rules of Civil Procedure for State Courts Committee proposes to amend Rule 1-102 NMRA to clarify that district courts must deposit litigant funds within two (2) business days of receipt in a bank that is a member of the Federal Deposit Insurance Corporation and in an account that is distinct from the court's accounts for general funds. The Committee additionally proposes to amend Rule 1-102 NMRA to specify that funds deposited in a court trust fund checking account

must be invested and maintained in a financial institution located within the court’s judicial district and in accordance with governing statutes and any regulation prescribed by the Director of the Administrative Office of the Courts. The Committee also replaced the references to “social security number” and “employer identification number” with the more-inclusive term “taxpayer identification number,” and also cited Form W-9 (Request for Taxpayer Identification Number and Certification) by name.

No comment.

Proposal 2021-010 – Tribal court personal representative
[Rule 1B-102 NMRA; and Forms 4B-801 and 4B-802 NMRA]

The Rules of Civil Procedure for State Courts Committee proposes to amend Rule 1B-102 NMRA, and Forms 4B-801 and 4B-802 NMRA, to clarify that a domiciliary foreign personal representative includes a tribal court appointee designated by a tribal court or the Bureau of Indian Affairs. The Committee further proposes to amend Forms 4B-801 and 4B-802 NMRA to recognize tribal court appointments. Finally, the Committee proposes to amend Form 4B-801 NMRA to allow “equivalent indicia of authority from a tribal court or the Bureau of Indian Affairs” to serve as a substitute for Letters of Administration or Letters Testamentary, recognizing that tribal courts may title documents differently than probate courts.

No comment.

Proposal 2021-011 – Summons and order for free process
[Rules 2-202 and 3-202 NMRA; and Forms 4-204 and 4-223 NMRA]

The Rules of Civil Procedure for State Courts Committee proposes to amend Rules 2-202 and 3-202 NMRA by replacing “incapacitated” with “incompetent” for consistency with Rules 1-004(I) and 1-017(D) NMRA applicable to the district courts.

The Committee also proposes to amend Rules 2-202 and 3-202 NMRA, as well as Form 4-204 NMRA, to permit *pro se* parties to serve a summons by mail.

Finally, the Committee proposes to amend Form 4-223 NMRA to specify the methods of service a person seeking free service of process must first attempt in the district, magistrate, and metropolitan courts.

The revisions are helpful in making the rule more clear.

Proposal 2021-012 – Title page of transcript of civil proceedings
[Form 4-708 NMRA]

The Rules of Civil Procedure for State Courts Committee proposes to amend Form 4-708 NMRA for consistency with the comparable criminal form, Form 9-608 NMRA, to reflect that the court clerk, rather than the judge, issues the title page of a transcript of civil proceedings.

No objections to the new forms as proposed.

Rules of Criminal Procedure for State Courts Committee

Proposal 2021-013 – Order of trial

[Rule 5-607 NMRA; and New Rules 6-603.1 and 7-603.1 NMRA]

The Rules of Criminal Procedure for State Courts Committee proposes to amend Rule 5-607 NMRA to clarify and make housekeeping changes to its text and committee commentary, and to adopt new Rules 6-603.1 and 7-603.1 NMRA that import Rule 5-607's sequence of trial events into jury trial practice in the magistrate and metropolitan courts.

No objections to the new rules as proposed.

Proposal 2021-014 – Time limits for filing citations

[Rules 6-201, 7-201, and 8-201 NMRA]

The Rules of Criminal Procedure for State Courts Committee proposes to amend Rules 6-201, 7-201, and 8-201 NMRA to incorporate an express time limitation for the filing of a citation and an explicit remedy—the potential dismissal of the citation with prejudice—for a late-filed citation.

This is a necessary amendment to each of the above listed rules.

Proposal 2021-015 – Interview subpoenas

[Rule 6-606 NMRA]

The Rules of Criminal Procedure for State Courts Committee proposes to amend Rule 6-606 NMRA to provide that a judge-issued subpoena in magistrate court will lie “only after good faith efforts to secure an interview . . . have been unsuccessful[,]” the same criterion that governs the issuance of interview subpoenas in metropolitan court under Rule 7-606 NMRA

The changes help to clarify and will reduce the procedure where litigants come straight to the court to obtain an interview subpoena.

Proposal 2021-016 – Time limits for probation violation hearings

[Rules 6-802, 7-802, and 8-802 NMRA]

6-802 (C)(2), 7-802 (C)(2), and 8-802(C)(2) With our current use of technology, there is no reason that a hearing should take two days longer to set if the person is in custody in an out of district detention center. It should be 3 days regardless if the defendant is in detention.

8-802 (D). Municipal ordinances are generally very low-level offenses and allowing someone to remain in custody for 18 days (3 before initial hearing and 15 from that date) seems extremely severe. There should be limited reasons why this kind of case could not be adjudicated with seven days from the initial appearance. The time should be reduced.

The Rules of Criminal Procedure for State Courts Committee proposes to amend Rules 6-802, 7-802, and 8-802 NMRA to provide explicit time limits for the holding of a probation violation hearing in the limited jurisdiction criminal courts.

[Proposal 2021-017](#) – *Waiver of counsel and other public defender forms*
[Forms 9-401, 9-403, 9-403A, and 9-403B NMRA; and Withdrawn Form 9-401A NMRA]

The Rules of Criminal Procedure for State Courts Committee proposes to amend Forms 9-401, 9-403, 9-403A, and 9-403B NMRA, and to withdraw Form 9-401A NMRA, to adopt a single, detailed “Waiver of Counsel Advisement” for use in all courts of criminal jurisdiction, align the form provisions governing the appointment of defense counsel with the current policies of the Law Offices of the Public Defender, and clarify the form provisions governing appeals of indigency determinations.

In the Waiver of Counsel form, the language is definitely much clearer than the previous form; however, there is still a lot of legalese especially in paragraphs six and seven. Additionally, there should be added language that the prosecutor has not duty to assist a self-represented criminal defendant and has no duty of loyalty to him/her.

[Proposal 2021-018](#) – *Dismissal of criminal charges on completion of deferred sentence*
[Form 9-603A NMRA]

The Rules of Criminal Procedure for State Courts Committee proposes to amend Form 9-603A NMRA to make clear the mandatory nature of the dismissal remedy available to a defendant upon the defendant’s completion of the terms of a deferred sentence without revocation.

No comment.

UJI-Civil Committee

[Proposal 2021-019](#) – *Insurance has no bearing*
[UJI 13-208 NMRA]

The UJI-Civil Committee proposes to amend UJI 13-208 NMRA to align the instruction with jurors’ current understanding of the role played by insurance and to provide for possible use of the instruction prior to the commencement of a trial.

The amendments appear to clarify the UJI, which is helpful.

[Proposal 2021-020](#) – *Request for admission*
[New UJI 13-215 NMRA]

The UJI-Civil Committee proposes to adopt new UJI 13-215 NMRA to address the introduction of admitted facts at trial. The proposed instruction provides jurors with the definition of a request for admission and informs them of the effect of an admitted fact at trial.

These amendments help to streamline the UJI and increase clarity.

Proposal 2021-021 – Unfair Practices Act claims

[New UJI 13-25 Introduction NMRA; New UJI 13-2501, 13-2502, 13-2503, 13-2504, 13-2505, and 13-2506 NMRA; and New UJI 13-25 Appendix NMRA]

The UJI-Civil Committee proposes to adopt a new Chapter 25 to the Civil Uniform Jury Instructions to use with Unfair Practices Act (UPA) claims. Proposed Chapter 25 includes new UJI 13-25 Introduction NMRA; new UJI 13-2501, 13-2502, 13-2503, 13-2504, 13-2505, and 13-2506 NMRA; and new UJI 13-25 Appendix NMRA. The proposed Introduction orients practitioners and judges to Chapter 25 and explains how the instructions in the chapter may be used with other UJI chapters. Proposed UJI 13-2501 sets out the elements that a plaintiff alleging a UPA violation must prove and is intended for use in all cases alleging a UPA violation. Proposed UJI 13-2502 instructs the jury on the proof required to establish that a defendant engaged in an unconscionable trade practice under the UPA. Proposed UJI 13-2503, -2504, and -2505 are definitional instructions to be used as appropriate in a given case. Proposed UJI 13-2506 provides a damages framework for UPA claims. The proposed Appendix provides a sample set of jury instructions for a hypothetical case containing UPA violations.

The new UJI will help to give the parties a better framework for proceeding in these cases and assisting jurors in their role as fact finders.

UJI-Criminal Committee

Proposal 2021-022 – Explanation of trial procedure

[UJI 14-101 NMRA]

The UJI-Criminal Committee proposes to amend UJI 14-101 NMRA to simplify instructions on outside communications and internet use and to clarify that jurors ordinarily will not receive transcripts of witness testimony.

This seems like an excellent rule change. This has always been a challenging part of the jury script.

Proposal 2021-023 – Procedure for instructing on uncharged offenses

[UJI 14-202, 14-213, 14-221A, 14-308, 14-309, 14-310, 14-311, 14-312, 14-313, 14-360, 14-361, 14-362, 14-363, 14-378, 14-379, 14-380, 14-381, 14-382, 14-383, 14-403, 14-403A, 14-601, 14-954, and 14-971 NMRA]

The UJI-Criminal Committee proposes to amend the Use Notes to UJI 14-202, 14-213, 14-221A, 14-308, 14-309, 14-310, 14-311, 14-312, 14-313, 14-360, 14-361, 14-362, 14-363, 14-378,

14-379, 14-380, 14-381, 14-382, 14-383, 14-403, 14-403A, 14-601, 14-954, and 14-971 NMRA to reference the procedure for instruction on uncharged offenses outlined in UJI 14-140 NMRA.

This seems like a helpful correction to make the use of 14-140 mandatory instead of referencing it. I think the old rule was adequate. This is more clear.

Proposal 2021-024 – Stalking and aggravated stalking
[UJI 14-331 and 14-333 NMRA]

The UJI-Criminal Committee proposes to amend UJI 14-331 and 14-333 NMRA to conform more closely to the language of NMSA 1978, Section 30-3A-3 (2009), defining the crime of stalking, and NMSA 1978, Section 30-3A-3.1 (1997), defining the crime of aggravated stalking.

I think this change is a reach. The statute changed in 2009. No case has interpreted the statute the way the committee is attempting to, namely that proving that the Defendant was acting without lawful authority is an element for the State to prove. I do not believe the rules committee should be making this fundamental change to the law so long after the statute they are referencing changed.

Proposal 2021-025 - Reliance in fraud
[UJI 14-1640 NMRA]

The UJI-Criminal Committee proposes to amend the committee commentary to UJI 14-1640 NMRA to reference the definition of reliance provided in *State v. Garcia*, 2016-NMSC-034, 384 P.3d 1076, and to remove outdated citations.

No problem with this change. Nice update.

Proposal 2021-026 – Securities offenses
[UJI 14-4301, 14-4302, 14-4310, 14-4311, 14-4312, 14-4320, and 14-4321 NMRA]

The UJI-Criminal Committee proposes to amend UJI 14-4301, 14-4302, 14-4310, 14-4311, 14-4312, 14-4320, and 14-4321 NMRA to update statutory references and style conventions.

No problem with this change. Nice update.

Proposal 2021-027 – Life without possibility of release or parole
[UJI 14-7010, 14-7011, 14-7012, 14-7014, 14-7015, 14-7016, 14-7017, 14-7018, 14-7019, 14-7022, 14-7023, 14-7026, 14-7027, 14-7029, 14-7030, 14-7030A, 14-7031, 14-7032, 14-7033, and 14-7034 NMRA]

Good clarity to provide the Court and practitioners guidance on these cases. No issues.

The UJI-Criminal Committee proposes to amend UJI 14-7010, 14-7011, 14-7012, 14-7014, 14-7015, 14-7016, 14-7017, 14-7018, 14-7019, 14-7022, 14-7023, 14-7026, 14-7027, 14-7029,

14-7030, 14-7030A, 14-7031, 14-7032, 14-7033, and 14-7034 NMRA to provide instructions for sentencing proceedings for life imprisonment without possibility of release or parole in response to the repeal of the death penalty and in conformity with *State v. Chadwick-McNally*, 2018-NMSC-018, 414 P.3d 326, Rule 5-705 NMRA, and proposed changes to Rule 14-101 NMRA.