

1 **12-404. Rehearings.**

2           A.     **Motion; when filed.** A motion for rehearing may be filed within fifteen (15) days  
3 after filing of the appellate court’s disposition, or any subsequent modification of its disposition,  
4 unless the time is shortened or enlarged by order. The three (3) day mailing period set forth in  
5 Rule 12-308 NMRA does not apply to the time limits set by this rule. The motion shall state briefly  
6 and with particularity, but without argument, the points of law or fact which in the opinion of the  
7 movant the court has overlooked or misapprehended. If the motion is based on a point of law or  
8 fact not raised, briefed, or argued by any party but relied on by the court in its disposition of the  
9 matter, the motion shall specifically so state, and shall be accompanied by a brief in support  
10 thereof. In all other cases the movant may, but is not required to, file a brief in support of the  
11 motion at the time it is filed. No response to a motion for rehearing shall be filed unless requested  
12 by the court. If a motion for rehearing is granted, the appellate court clerk shall give notice thereof  
13 and any party who has not filed a brief on rehearing may, within fifteen (15) days after notice, file  
14 a brief addressed to the issues on rehearing. There shall be no other briefs or argument unless the  
15 appellate court shall otherwise direct.

16           B.     **How granted.**

17                 (1)     **Supreme Court.** Rehearing in the Supreme Court may be granted on the  
18 request of any three justices. Any [~~justice or acting justice~~] member of the current court may  
19 participate in a rehearing or consideration of a motion for rehearing irrespective of whether the  
20 justice participated in the original decision or was a member of the court at the time the original  
21 decision was filed. When necessary the court may designate any justice or judge to participate in  
22 a rehearing or consideration of a motion for rehearing.

1                   (2)    ***Court of Appeals.*** Rehearing in the Court of Appeals may be granted at the  
2 request of any two judges who participated in the hearing or decision. If any judge of the Court  
3 who participated in the hearing or decision is unable, for any reason, to participate in a rehearing  
4 or consideration of a motion for rehearing, the chief judge or acting chief judge shall designate  
5 another judge or acting judge of the Court as a replacement, and the judge so designated shall have  
6 the same duties and authority as though the judge had participated in the hearing and concurred in  
7 the decision.

8                   C.    **Effect on decision or opinion.** The granting of a motion for rehearing shall have  
9 the effect of suspending the decision or opinion of the appellate court until final determination by  
10 the appellate court.

11 [As amended, effective September 1, 1991; September 1, 1993; January 1, 1997; as amended by  
12 Supreme Court Order No. 09-8300-010, effective May 6, 2009; as amended by Supreme Court  
13 Order No. 16-8300-011, effective for all cases pending or filed on or after December 31, 2016; as  
14 amended by Supreme Court Order No. 22-8300-007, effective for all cases pending or filed on or  
15 after March 30,2022.]

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