

**PROPOSED REVISIONS TO THE RULES OF THE DISTRICT COURT OF THE FIRST
JUDICIAL DISTRICT
PROPOSAL 2022-008**

March 7, 2022

The First Judicial District Court has recommended new Rules LR1-117, LR1-406, LR1-407, LR1-408, LR1-409, LR1-410, and LR1-411 NMRA, new Forms LR1-Form 701, LR1-Form 702, LR1-Form 703, LR1-Form 704A, LR1-Form 704B NMRA, amendments to Rules LR1-102, LR1-104, LR1-106, LR1-108, LR1-111, LR1-112, LR1-113, LR1-114; LR1-201, LR1-202, LR1-302, LR1-401, LR1-403, and LR1-404 NMRA, and amendments and recompilation of Rule LR1-116 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:

Sally A. Paez, Deputy Clerk of Court
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 6, 2022, 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.

LR1-102. Locations of principal offices.

A. Composition of the court. The First Judicial District shall consist of ten separate divisions.

~~[A.]~~**B. Santa Fe County.** ~~[Divisions I, II, III, IV, VI, VII, and VIII]~~ Nine of the ten divisions of the First Judicial District shall maintain their principal offices at the county seat of Santa Fe County.

~~[B.]~~**C. Rio Arriba County.** ~~[Division V]~~ One of the ten divisions of the First Judicial District shall maintain its principal office at the county seat of Rio Arriba County.

D. Division designation. Whenever a judicial vacancy occurs in any of the nine divisions which maintain their principal offices at the county seat of Santa Fe County, the chief judge may designate the division with the judicial vacancy to be reassigned as the division that maintains its principal office at the county seat of Rio Arriba County, provided that the judge of the division sitting in Rio Arriba County at the time of said judicial vacancy has served for at least six (6) years as judge of the division sitting in Rio Arriba County. The qualifying Rio Arriba County judge shall be reassigned to Santa Fe County.

E. **Chief judge assignment of cases.** This local rule shall not interfere with the ability of the chief judge to assign cases among divisions.

[Approved, effective January 1, 2003; LR1-203.1 recompiled and amended as LR1-102 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; as amended by Supreme Court Order No. _____, effective _____.]

LR1-104. [Return check charge.] Tendering money to and disbursing money from the court; insufficient funds checks; refunds; daily jury receipt.

[Related to Rule 1-102 NMRA and Section 34-6-36 NMSA 1978]

[Any person submitting a check that is returned by a financial institution for insufficient funds shall be required to reimburse the court for all service charges.]

A. **Court order or statute required.** The clerk shall not accept or disburse money unless under court order, rule, or statute.

B. **Form of tender.** Any tender of any type of bond, litigant funds, or eminent domain funds shall be in the form of cash, money order, cashier's check, certified check, or government agency warrant. Any tender for fees and other payments may be in the form of cash, money order, cashier's check, certified check, credit card, debit card, government agency warrant, attorney trust or operating account check, or law firm check. Personal checks shall not be accepted.

C. **Insufficient funds checks.** The court shall refuse checks from attorneys, law firms, or agencies who have previously presented insufficient funds checks. Upon written request, the chief judge may waive this requirement. The clerk shall assess a service charge consistent with what the financial institution charges the court on checks which are returned for any reason. This requirement shall not be waived.

D. **Fee refunds.** Filing fees will not be refunded unless ordered by the court for good cause shown. Court clinic assessment fees in domestic relations court cases will not be refunded unless ordered by the court for good cause shown.

E. **Daily jury fee receipt.** The party or parties requesting a jury trial must present their receipt for payment of the daily jury fee to the assigned judge before the trial will continue as a jury trial each day.

[As amended, effective January 1, 1998; LR1-211 recompiled and amended as LR1-104 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

LR1-106. Mode of attire and decorum.

[Related [Statewide] to Rules 1-090 and 5-115 NMRA]

All attorneys, officers of the court, and other persons present in court must be dressed in a dignified manner at all times in court. No attire or dress so flamboyant, disheveled, or revealing as to create a distraction to the orderly conduct of court proceedings will be permitted. A person is deemed to be present in court when the person appears for hearings conducted by remote means. Cellular phones, laptops, and other portable electronic devices shall be set to silent mode and not used in any manner that disrupts a court proceeding.

[LR1-204 recompiled and amended as LR1-106 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

LR1-108. ~~[Assignment of consolidated]~~Consolidated cases.

[Related ~~[Statewide]~~ to Rule 1-042 NMRA]

A. **Judge.** Motions to consolidate and ~~[eases]~~ consolidated ~~[for trial]~~cases shall be heard by the judge assigned to the oldest case (the case bearing the lowest case number in which the judge has not been excused, challenged, or recused). ~~[(the oldest case). All pleadings will be filed in the case with the lowest case number.]~~

B. **Filings.** The motion to consolidate and the court's order to consolidate shall be filed in the oldest case (the case bearing the lowest case number); copies of the motion and order shall be filed in all the consolidated cases. Following consolidation, all pleadings, motions, and other papers shall be filed only in the oldest case. No papers, including copies, shall be filed in the remaining cases, except in criminal court cases, copies shall be filed in all the remaining cases.

C. **Captions; titles.** The case number of each case consolidated shall appear in the caption of all pleadings, motions, and other papers filed after consolidation. In addition, if the pleading, motion, or other paper does not apply to all the consolidated cases, its title shall include the case number(s) to which it pertains, e.g., "Motion for Summary Judgment on Count II of D-101-CV2021-00000."

D. **Pretrial detention cases.** This rule shall not apply to pretrial detention cases consolidated into the corresponding criminal cause number.

[Adopted by Supreme Court Order No. 16-8300-015, effective December 31, 2016; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

LR1-111. Appearances and withdrawals by self-represented parties (pro se parties).

[Related ~~[Statewide]~~ to Rules 1-089, 5-107, and 10-165 NMRA]

A. **Appearances by pro se parties.** Parties who represent themselves shall enter an appearance, shall sign their pleadings, motions, or other papers, and shall include their name, address, e-mail address, if any, and telephone number on all pleadings.

B. **Pro se parties' changes of address.** Parties who represent themselves shall inform the court of any change of mailing address, e-mail address, if any, or telephone number by filing a notice with the clerk of the court and serving it on all parties and the judge assigned to the case.

C. **Pleadings and other documents.** If a pleading, motion, response, or any other document (other than an exhibit) submitted by a pro se party has been prepared in whole or in part by a person other than the pro se party, then that person shall be identified as the drafter and the drafter's name, address, telephone number, and e-mail address shall be noted on the document. If a pro se party fails to identify the drafter, then the court may strike the document from the record and disregard its contents.

D. **Rules of procedure and evidence applicable.** Pro se parties must adhere to all applicable rules of procedure and evidence to the same extent as a party represented by an attorney.

[As amended, effective January 1, 1998; LR1-210 recompiled and amended as LR1-111 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

LR1-112. Corporations and other business entities as parties.

[Related [~~Statewide~~] to Rule 1-089 NMRA]

A. **Representation of corporations and other business entities required.** Corporations, limited liability companies, partnerships, trusts, and any other business entities must be represented by a licensed attorney at all court hearings, including any settlement conferences ordered by the court.

B. **Failure of corporations and other business entities to obtain representation.** The court may strike any papers filed by an unrepresented corporation, limited liability company, partnership, trust, or any other business entity.
[Adopted by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

LR1-113. Exhibits.

A. **Purpose.** The purpose of this policy is to establish guidelines for maintaining exhibits in the court's custody.

~~[A-]~~B. **Identification.** Each exhibit shall contain an identification sticker or label containing:

- (1) the party tendering the exhibit; and
- (2) the assigned exhibit number or letter.

C. **Procedures.**

(1) Court reporters and court monitors shall follow the procedures set out in the Court Reporter Manual and Court Monitor Manual for the proper handling of exhibits during judicial proceedings.

(2) During a hearing, the court reporter or monitor shall ensure that all exhibits are appropriately marked and submitted to the clerk of the court.

(3) During any trial, monitors or reporters are responsible for the custody and safe-keeping of all exhibits and physical/documentary evidence.

(4) Except as provided by Subparagraph C(6) of this rule, at the conclusion of a trial or hearing in a civil, criminal, or domestic relations matter, all admitted exhibits and physical/documentary evidence shall be turned over to the court reporter/monitor. The reporter/monitor is to prepare an exhibit receipt and, in turn, submit the exhibits and evidence to the clerk of the court within five (5) working days of the conclusion of the proceedings.

(5) In criminal cases, in the instance of an acquittal, all exhibits and evidence shall be returned to the parties at the conclusion of trial.

(6) Under Rule 5-117 NMRA, biological and physical evidence shall be returned to the appropriate representative of the state (i.e., law enforcement).

(7) Exhibits which exceed 15 by 17 inches, or which cannot be folded to fit within that size envelope, may be admitted if the proponent of such exhibits provides the court a

copy of the exhibit reduced to 15 by 17 inches. After the hearing or trial at which the exhibit was admitted, the reduced copy shall be substituted for the larger exhibit and made part of the permanent court record.

[B.]D. Copies of originals attached to filed pleadings. Except as otherwise required by law, including these rules, only copies of original writings shall be attached as exhibits to pleadings filed with the court. Original writings not otherwise required to be submitted to the court shall be made available for inspection on order of the court or on a party's request.

E. Disposition of exhibits.

(1) Exhibits and evidence are kept for one (1) year after the final disposition date for the case, which normally will be one (1) year from the conclusion of any direct appeal from trial, or if no appeal is made, the conclusion of the time for filing an appeal.

(2) Criminal cases are an exception to the one (1)-year limit on retention due to the possibility of the defendant filing a petition for writ of habeas corpus, or even post-sentence relief. In criminal cases, the exhibits and evidence is kept for the length of time of the defendant's sentence.

(3) The actual disposal of exhibits shall be made according to the state retention guidelines.

[Recompiled, effective September 1, 1993; as amended, effective January 1, 1998; LR1-310 recompiled and amended as LR1-113 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

LR1-114. Submission of orders, decrees, and judgments.

[Related ~~[Statewide]~~ to Rules 1-058 and 5-121 NMRA]

A. **Time for submissions ~~[pursuant to]~~ after court's decision.** Unless otherwise ordered by the court, all orders, judgments, and decrees shall be submitted to the judge by the prevailing party not later than fourteen (14) days ~~[following]~~ after the date of oral announcement of the decision or of the letter announcing the decision.

B. **Indication of opportunity to examine required.** The party proposing the order, judgment, or decree shall indicate on the document that all parties were given an opportunity to examine the proposed document and make suggestions or objections using the following procedures:

(1) Orders, judgments, and decrees that have been approved by all parties shall bear the signatures or initials, or indication of telephonic or electronic approval of the attorneys for all parties to the cause. Orders approved by the parties shall be submitted for the judge's signature without a request for hearing.

(2) If the attorney proposing the order, judgment, or decree certifies on the proposed document that a copy has been served on attorneys for all parties and that the attorneys have failed to respond or indicate objections to the proposing party within five (5) days of service, regardless of the means of service, the document may be submitted to the judge for signature without a request for hearing[~~and may be signed if no objection is received by the judge within seven (7) days of the date the proposed order was submitted to the judge~~]. These time periods may be enlarged or shortened by order of the court.

(3) In matters where a party appears pro se, if the attorney who has prepared the order, judgment, or decree certifies on the proposed document that a copy has been sent to

the pro se party with a notice that objections must be received by the court and opposing counsel in writing within ~~[fourteen (14)]~~seven (7) days and that no objections were received, the document may be submitted to the judge for signature without a request for hearing. These time periods may be enlarged or shortened by order of the court.

(4) Orders, judgments, and decrees to which objections have been indicated to the proposing party may be signed by the court after submission in accordance with ~~[paragraph]~~ Paragraph C of this rule.

C. **Presentment hearings.** If objections to an order, judgment, or decree have been indicated to the proposing party, the party proposing the document shall submit it to the judge with a request for a hearing to present the document to the court. Copies must be served on all parties. Within seven (7) days of the date of the request, any party who has not approved the document shall file the objections with the clerk of the court and deliver a courtesy copy to the judge. Further, within seven (7) days of the date of the request, any objecting party who has not approved the document must submit the party's alternate proposed order to the court, together with a redline to show changes to the initial proposed order. Copies of the alternate proposed order and redline must be served on all parties. Unless otherwise ordered, the court will not accept an alternate proposed order in lieu of objections. The court may resolve the objections and sign the document or the alternate document without a presentment hearing. The court may also, sua sponte, set a matter for presentment.

D. **Court-issued order.** This local rule shall not limit the court's authority to enter its own form of order, judgement, or decree.

E. **Electronic file format of proposed order.** All proposed orders, judgments, and decrees sent electronically shall be submitted to the judge in both Microsoft Word and portable documents format ("PDF") file formats.

[As amended, effective September 1, 1993; January 1, 1998; LR1-304 recompiled and amended as LR1-114 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[RECOMPILED]

[LR1-205.]LR1-116. Electronic filing authorized.

[Related [Statewide] to Rule 1-005.2 NMRA]

In accordance with Rule 1-005.2 NMRA, electronic filing is implemented for all civil, ~~[and]~~ probate, criminal, child abuse and neglect, and domestic relations actions (including domestic relations actions in which the New Mexico Child Support Enforcement Division is a party or participant, but excluding domestic violence actions) ~~[actions]~~ in the First Judicial District Court. The electronic filing of documents is mandatory for parties represented by attorneys in accordance with Rule 1-005.2 NMRA, which includes attorneys who represent themselves. Guidelines for using the electronic filing system are set forth in the court's user guide that is available in the clerk's office and on the court's website.

[Adopted by Supreme Court Order No. 11-8300-039, effective for all cases filed or pending on or after October 3, 2011; LR1-312 recompiled as LR1-205 by Supreme Court Order No. 16-8300-015, effective for all cases pending on or after December 31, 2016; LR1-205 recompiled and amended as LR1-116 by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

LR1-117. Remote hearings.

A. **Remote hearings authorized.** Within the discretion of the court, persons may remotely appear for hearings through video conferencing when the court expressly designates a hearing as a remote hearing through the applicable notice of hearing. Absent express court approval by order, telephonic appearances are not otherwise permitted. All attorneys arguing or presenting evidence shall appear by video. All witnesses shall appear by video unless excused by the court before the hearing. Unless otherwise ordered by the court, all witnesses, including parties who are testifying, shall be alone and physically separated from attorneys and other persons in a separate room. All witnesses, including parties who are testifying, shall not be coached during their testimony by any person using any means of communication including, but not limited to, electronic communication. Persons appearing remotely must have sufficient internet connectivity and speed to ensure that he or she is heard and seen when presenting to the court. If a remote hearing is disrupted by audio or video issues, the court may delay or reset the hearing, or require the parties to appear before the court in person. If a litigant or attorney is unable to appear via video conferencing at a hearing designated as remote by the applicable notice of hearing, then the party shall inform the court and the opposing parties (or their attorneys) of the need for an in-person hearing.

B. **Recordings of remote hearings.** The court, or its designated court personnel, are the only persons authorized to record the remote court hearing. All other persons must obtain permission from the court before recording, photographing, live streaming, or broadcasting remote court hearings.

C. **Conduct of remote hearings.** All persons appearing before the court via remote means shall conduct themselves in the same dignified manner as if such persons appeared before the court in person in the courtroom. Persons appearing remotely shall follow all requirements set forth in LR1-106 NMRA and all other pertinent rules requiring court decorum. Unless necessary to announce timely verbal objections, persons shall place their microphone on mute when not presenting to the court to ensure that background noise does not disrupt court hearings. Persons shall maintain their video during the course of the hearing such that the court may verify that the person is present throughout the hearing.

D. **Exhibits.** If a party intends to introduce any exhibit during a remote court hearing, the party shall provide a copy of the exhibit to the opposing party (or their attorney) and two (2) physical copies to the court, delivered to the judge's box at the clerk's office, no later than forty-eight (48) hours in advance of the scheduled remote court hearing.

E. **Failure to comply.** If a person fails to comply with this local rule, the court may impose sanctions upon the person or the party he or she represents, including, but not limited to, monetary fines and denial of the motion or relief requested at the hearing.

[Adopted by Supreme Court Order No. _____, effective for all cases filed or pending on or after _____.]

LR1-201. Motion practice.

[Related [~~Statewide Rule~~] to Rules 1-007.1 and 1-100 NMRA]

A. **Maximum page length.** A brief or memorandum shall not exceed ten (10) pages, not including the cover page, conclusion, certificate of service, and exhibits, without an order of the court.

B. **Form of motions.** Motions and other pleadings filed by electronic transmission under Rule 1-005.2 NMRA shall be electronically formatted in conformity with the requirements for physically filed pleadings and papers set forth in Rule 1-100 NMRA.

~~[B-]~~C. **Failure to respond.** If a party fails to respond to a motion under Rule 1-007.1.D NMRA, the moving party may submit a proposed order to the court so long as the moving party has served a copy of the proposed order on opposing counsel or a party pro se, and opposing counsel or the pro se party has not ~~[objected in writing]~~ filed an objection within five (5) days of service.

~~[C-]~~D. **Exhibits to motion, response, or reply.** Only relevant excerpts from depositions or other papers shall be attached as exhibits. Pertinent portions shall be highlighted, underlined, or otherwise emphasized for the court's attention and on all copies. All relevant exhibits, appendices, and other attachments (hereinafter "attachments") shall be attached to the motion, response, or reply at the time such pleading is submitted; except that no attachment shall be attached to a reply unless such attachment refers to a new matter raised in a response. Attachments filed in violation of this rule may be stricken by court order on the court's own motion.

E. **Sur-replies not permitted.** Sur-replies, or an additional reply to a motion after such motion has been fully briefed by the parties, shall not be permitted unless a party first obtains leave of the court to file such sur-reply.

~~[D-]~~F. **"Package" procedure.** At the expiration of all responsive times, under Rule 1-007.1 NMRA, the movant shall submit to the judge assigned to the case a copy of the motion, any response, any reply, and a copy of a request for hearing (after filing the request with the clerk of the court) and notice of hearing form, if a party is seeking a hearing, in a package. The submission of the a package alerts the court that the motion is ripe for decision. The package shall be submitted either in electronic form to the judge's e-mail address or in hard copy form, or both, depending on the presiding judge's preference. Each judge's preference for the form of the package will be listed on the court's website. The notice of hearing must be submitted in Microsoft Word ~~[or WordPerfect]~~ when the package is submitted electronically. Copies of the package submission must be served on all parties and the service must be indicated on the transmittal.

~~[E-]~~G. **Hearing.** The court may grant or deny a request for hearing and if the request is denied, the court shall make a decision based on the papers filed.

~~[F-]~~H. **Expedited matters.** If the motion requests a decision before the expiration of the time limits set forth in Rule 1-007.1 NMRA, the movant shall

- (1) so indicate in the title of the motion;
- (2) state in the motion the reason for requesting an expedited decision;
- (3) provide a courtesy copy of the motion to the judge; and
- (4) file with the motion a request for expedited hearing and notice of hearing form.

~~[G-]~~I. **Copies of cases.** Copies of cases relied on in the memorandum in support of the motion shall not be filed with the clerk of the court. However, courtesy copies may be furnished

to the judge hearing the motion. Copies of cases provided to the judge assigned to the case shall also be provided to all parties.

[Adopted effective September 1, 1993; as amended, effective January 1, 1998; LR1-306 recompiled and amended as LR1-201 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

LR1-202. Interrogatories, requests for production, and requests for admission.

[Related [~~Statewide~~] to Rules 1-033, 1-034, 1-036, and 1-037 NMRA]

A. **Interrogatories.** Interrogatories shall be numbered consecutively. Adequate spacing shall be left under each interrogatory for the answer.

B. **Prefatory instructions or definitions.** Interrogatories, requests for production, and requests for admission shall not contain prefatory instructions except to say that they are served in accordance with the Rules of Civil Procedure for the District Courts.

C. **Objections.** In objecting to an interrogatory, request for production, or request for admission, the objector shall first set out the complete interrogatory or request followed by the reason for the objection. All objections must cite supporting authority.

D. **Motions to compel.** A party shall file a motion to compel not later than sixty (60) days after either of the following two triggering events: (1) the date of service of an objection to the requesting party's discovery request; or, (2) if a party fails to receive a timely answer or response to a discovery request, the date the discovery request was due to the requesting party. If a party fails to file a motion to compel within sixty (60) days of the preceding two events, then the opposing party's objection or failure to respond shall be deemed valid and accepted by the requesting party. This sixty (60)-day period may be enlarged or shortened by order of the court.

~~[D.]~~E. **Subparts of interrogatories.** Subparts of an interrogatory shall relate directly to the subject matter of the interrogatory.

[Recompiled, effective September 1, 1993; as amended, effective January 1, 1998; LR1-303 recompiled and amended as LR1-202 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

LR1-302. Transport of persons in custody.

[Related [~~Statewide~~] to Rule 5-502 NMRA]

A. **Request for transport order.** The prosecution shall request ~~[for]~~ a transport order ~~[shall be made]~~ no later than five (5) ~~[working]~~ business days before the proceeding for which transport is sought unless a shorter time is allowed by the court. For inmates at out-of-county detention centers or jail facilities, the prosecution shall transmit an endorsed copy of the transport order to the transporting agency no later than two (2) business days before the proceeding for which transport is sought. For prisoners at New Mexico Corrections Department prisons, the prosecution shall transmit an endorsed copy of the transport order to the transporting agency no later than three (3) business days before the proceeding for which transport is sought.

B. **Contents of request for transport order.** The request for a transport order and proposed transport order shall address the following matters:

(1) the name of the person to be transported and, if known, that ~~[person's]~~ person's date of birth and social security number;

- (2) the agency designated to transport the person in custody to and from the proceeding, usually the ~~[Sheriff]~~ sheriff of the appropriate county;
- (3) the place where the person is in custody;
- (4) the nature of the district court proceeding for which transport is sought;
- (5) the place, date, and time of the district court proceeding and, if known, the length of the proceeding;
- (6) the requirement, if any, for civilian clothing; and
- (7) ~~[a copy of the transport order shall be served on the transporting agency no later than three (3) working days before the proceeding unless a shorter time is allowed by the court. Where]~~ where circumstances require, a district court judge may modify the time requirements of this local rule or may require transport on verbal order, provided that a written transport order is served on the transporting agency and the custodian as soon as practicable thereafter. In addition, if the transporting agency determines that a written transport order is not required, then it may waive the requirements of this rule. Copies of transport orders need not be certified unless certification is required by the transporting agency or the custodian of the person to be transported.

[LR1-600 recompiled and amended as LR1-302 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

LR1-401. Modification of Rule 1-016 scheduling dates.

[Related ~~[Statewide]~~ to Rule 1-016 NMRA]

In all domestic relations actions the following modifications shall apply to the scheduling dates set forth in Rule 1-016 NMRA.

- A. **Pretrial scheduling order.** The pretrial scheduling order set forth in Rule 1-016(B) NMRA shall be filed within ~~[sixty (60)]~~ ninety (90) days after the petition is filed.
- B. **Trial date; scheduling order filed.** The trial date shall be no later than nine (9) months after the date the scheduling order is filed.
- C. **Trial date; no scheduling order.** If a pretrial scheduling order is not entered, the court shall set the case for trial in a timely manner~~[,]~~ but no later than nine (9) months after the petition is filed.

[LR1-706 recompiled and amended as LR1-401 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

LR1-403. Contempt.

~~[No]~~ For alleged violations of orders, decrees, or judgments in domestic relations cases, no order to show cause for contempt shall issue except on verified motion ~~[and]~~ or affidavit specifying with particularity the manner in which the court's order or orders have been violated. Any motion for an order to show cause must state with particularity the relief requested. Any order to show cause must be personally served on the alleged contemnor.

[LR1-709 recompiled and amended as LR1-403 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

LR1-404. Family ~~[court services]~~ Court Services and other services for child-related disputes.

[Related ~~[Statewide]~~ to Rule 1-125 NMRA and ~~[related Statute NMSA 1978, § 40-12-4]~~ Section 40-12-4 NMSA 1978]

A. **Mediation program established.** Under Sections 40-12-1 to -6 NMSA 1978, the First Judicial District Court elected to establish, and will continue to maintain, a domestic relations mediation program in accordance with the Domestic Relations Mediation Act to assist the court, parents, and other interested parties to determine the best interests of children involved in domestic relations cases. The program shall be administered and services provided by ~~[family court services]~~ Family Court Services in First Judicial District Court.

B. **Mandatory referral.** Unless otherwise ordered by the court on stipulation of the parties or for good cause shown, in every case involving a dispute over any child-related issue except child support, the court shall enter an order referring the parties to ~~[family court services]~~ Family Court Services for confidential mediation. In the alternative, or in addition to an order for mediation, the court may order that the parties submit to other services conducted by ~~[family court services]~~ Family Court Services including, but not limited to, advisory consultation, priority consultation, or mediation in adjudicated abuse and neglect cases. The court will not order advisory consultations simply on stipulation of the parties, but rather, shall require a showing of good cause.

C. **Fees.** The parties shall be assessed a fee based on the sliding fee scale approved by the Supreme Court and posted on the court's website and inside the courthouse. Unless payment arrangements are approved by ~~[family court services]~~ Family Court Services or the court prior to scheduled appointments, fees are payable on the day of the appointment for all mediations and priority consultations and ten (10) days in advance of any scheduled advisory consultation. If fees for advisory consultations are not paid a minimum of ten (10) days in advance of the scheduled appointment, ~~[family court services]~~ Family Court Services will present an order to vacate the advisory consultation to the assigned judge due to non-compliance with this rule. Fees for all procedures in ~~[family court services]~~ Family Court Services are payable to the First Judicial District Court and payment must be by attorney firm check, cash, money order, or certified check. No personal checks are accepted. The First Judicial District Court will maintain a domestic relations mediation fund. Fees collected from ~~[family court services]~~ Family Court Services will be deposited into the domestic relations mediation fund and used to offset the cost of operating the mediation program ~~[as well as]~~ and the supervised visitation program.

D. **Scheduling services.** After the referral order is filed, ~~[family court services]~~ Family Court Services will contact the parties to schedule all services.

E. **Clinic services and requested hearings.**

(1) **Request for hearing.** In any case in which a ~~[court clinic referral]~~ Family Court Services order has been filed, the clinic may request a hearing or status conference by filing a request for hearing in the manner set forth in LR1-201 NMRA. The clinic shall mail or deliver a copy of the request to all parties entitled to notice.

(2) **Noncompliance.** The court clinic shall notify the court when a party fails to show for a scheduled appointment.

(3) **Priority consultations.** The court may order assessment results in the form of oral testimony rather than a written report. Priority consultations with recommendations provided in oral testimony are called "scheduled consultations" and assessments with recommendations provided in written reports are called "priority consultations." Both assessments are conducted the same.

F. **Referral to other providers.** On agreement of the parties or for good cause shown, the court may order that the parties be referred for mediation and other services to a qualified service provider other than ~~[family court services]~~ Family Court Services.

G. **Out-of-district referrals.** Parties in out-of-district cases may receive services from ~~[family court services]~~ Family Court Services provided the referral order is signed by both the assigned out-of-district judge and a First Judicial District domestic relations district court judge. As a condition of services provided to out-of-district cases, the parties shall pay a thirty dollar (\$30.00) fee, in addition to the regular fee for each service. All fees are payable to the First Judicial District Court, as set forth above, in advance of the procedure or the procedure will not be conducted.

H. **Immunity.** Attorneys and other persons appointed by the court to serve as mediators, or in other such roles under the rules governing this district's programs under the Domestic Relations Mediation Act, are arms of the court and are immune from liability for conduct within the scope of their duties as provided by law.

I. **Subpoenas.** Subpoenas directed to Family Court Services clinicians must be served no later than five (5) days before the applicable hearing.

[Adopted by Supreme Court Order No. 18-8300-006, effective for all cases pending or filed on or after September 1, 2018; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

LR1-406. Preliminary orders required before issuance of summons.

A. **Preliminary orders required.** With respect to the types of domestic relations cases set forth below, a party shall submit the following orders to the court for approval and filing before the party requests the issuance of a summons:

(1) For contested divorces where parties have a minor child or children, (a) Temporary Domestic Order, (b) Scheduling Order (Contested Divorce, With Minor Children), and (c) Notice of Hearing for Interim Order Dividing Income and Expenses and Order for Production (hearing with domestic relations hearing officer);

(2) For contested divorces where parties do not have a minor child or children, (a) Temporary Domestic Order, (b) Scheduling Order (Contested Divorce, No Minor Children), and (c) Notice of Hearing for Interim Order Dividing Income and Expenses and Order for Production (hearing with assigned judge);

(3) For contested parentage cases, (a) Temporary Domestic Order, (b) Scheduling Order (Parentage), and (c) Notice of Hearing and Order to Produce Discovery for Child Support Hearing (hearing with domestic relations hearing officer); and

(4) For kinship guardianship cases, (a) Order for Mediation, and (b) Ex Parte Order Appointing Temporary Kinship Guardian(s) (if temporary guardianship is requested).

B. **Availability of forms.** Forms of the above orders are available on the First Judicial District Court’s website and at the Self-Help Center in the Steve Herrera Judicial Complex, 225 Montezuma Ave, Santa Fe, New Mexico.

[Adopted by Supreme Court Order No. _____, effective for all cases filed or pending on or after _____.]

[NEW MATERIAL]

LR1-407. Consolidating domestic relations cases.

Domestic relations cases may only be consolidated if the parties are identical, the issues are substantially related (*i.e.*, same case type), and consolidation will serve judicial economy.

[Adopted by Supreme Court Order No. _____, effective for all cases filed or pending on or after _____.]

[NEW MATERIAL]

LR1-408. Applications to withdraw.

In addition to the requirements set forth in LR1-110 NMRA (Informing the Court of Contact Information), applications by counsel to withdraw in domestic relations cases shall set forth the dates and times of any hearings set and the dates of any relevant deadlines in the case.

[Adopted by Supreme Court Order No. _____, effective for all cases filed or pending on or after _____.]

[NEW MATERIAL]

LR1-409. Exhibits, appendices, and other attachments to pleadings.

In addition to the requirements set forth in LR1-201 NMRA (Motion practice), all relevant exhibits, appendices, and other attachments (hereinafter “attachments”) shall be filed only once with the applicable pleading, motion, or other paper. Subsequent use of such attachments in a filed pleading, motion, or other paper shall be by reference to the attachment name and original filing date.

[Adopted by Supreme Court Order No. _____, effective for all cases filed or pending on or after _____.]

[NEW MATERIAL]

LR1-410. Administrative closures.

If there is no activity in a domestic relations matter for a period in excess of one hundred eighty (180) days, the court may, on its own motion, enter an order of administrative closure in the matter. A party may file a motion to reopen the matter within thirty (30) days after service of the order of administrative closure. A party must make a showing of good cause in the motion to reopen the matter.

[Adopted by Supreme Court Order No. _____, effective for all cases filed or pending on or after _____.]

[NEW MATERIAL]

LR1-411. Applicability of local rules for civil cases.

Unless specifically contradicted by these local rules set forth in Part IV, all local rules applicable to civil cases in Part II shall also apply to domestic relations cases.

[Adopted by Supreme Court Order No. _____, effective for all cases filed or pending on or after _____.]

[NEW MATERIAL]

LR1-Form 701. Request for hearing.

FIRST JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

COUNTY OF _____

No. _____

Plaintiff/Petitioner

v.

Defendant/Respondent

REQUEST FOR HEARING

1. Jury: _____ Non-jury: _____
2. Judge to whom assigned: _____
3. Disqualified judges: _____
4. Specific matter(s) to be heard: _____
5. Estimated time for hearing all parties and witnesses: _____
6. Date pretrial order was filed or date of pretrial conference: _____
7. There [are/are not] any hearings presently set; and if so, when: _____
8. Names, addresses, and telephone numbers of all counsel or parties pro se, entitled to notice: _____

Submitted by:

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

LR1-Form 702. Notice of hearing.

FIRST JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

COUNTY OF _____

No. _____

Plaintiff/Petitioner

v.

Defendant/Respondent

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that this matter has been called for hearing before the court, for the time, place, date, and purpose indicated:

Date: _____

Time: _____

Place: _____

Purpose of hearing: _____

Time allocated: _____

Judge assigned: _____

I hereby certify that a true copy of the foregoing Notice was electronically served on the date of acceptance for electronic filing to counsel registered for electronic service and mailed to pro se parties, if any, to:

Trial Court Administrative Assistant

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

LR1-Form 703. Pretrial Order.

FIRST JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

COUNTY OF _____

No. _____

Plaintiff/Petitioner

v.

Defendant/Respondent

PRETRIAL ORDER

This matter having come before the court on _____, _____, at pretrial conference held before _____, District Judge, Division _____, pursuant to Rule 1-016(E) of the Rules of Civil Procedure for the District Courts, and _____ having appeared as counsel for Plaintiff/Petitioner and _____ having appeared as counsel for Defendant/Respondent and _____ having appeared as counsel for _____; the following action was taken.

1. JURISDICTION: *(check and complete applicable alternative)*

☐ The jurisdiction of the court is not disputed and is hereby determined to be present.

☐ The question of jurisdiction was in dispute and decided as follows: _____

(appropriate recitation of preliminary hearing and findings).

2. PARTIES. *(check and complete applicable alternative)*

☐ There is no remaining question as to propriety of the parties.

☐ The propriety of the parties is disputed as follows: _____

(state the nature or the dispute).

3. GENERAL NATURE OF THE CLAIMS OF THE PARTIES:

A. Plaintiff/Petitioner claims: _____

(set out brief summary without detail).

B. Defendant/Respondent claims: _____

(set out brief summary without detail).

C. All other parties claim: _____

(same type of statement where third parties are involved).

4. UNCONTROVERTED FACTS: The following facts are established by admissions in the pleadings or by stipulations of counsel at the pretrial conference: _____

(set out uncontroverted facts, including admitted jurisdictional facts and all other significant facts, concerning which there is no genuine issue).

5. CONTESTED ISSUES OF FACTS: The contested issues of fact remaining for decision are: _____ *(set out).*

6. CONTESTED ISSUES OF LAW: *(check and complete the applicable alternative)*

☐ The contested issues of law in addition to those implicit in the foregoing issues of fact are: _____ *(set out).*

☐ There are no special issues of law reserved other than those implicit in the foregoing issues of fact.

7. EXHIBITS: There are received in evidence (or identified and offered) the following:

A. Plaintiff/Petitioner's exhibits: _____ *(list).*

B. Defendant/Respondent's exhibits: _____ *(list).*

C. Exhibits of other parties: _____ *(If involved, list).*

D. If other exhibits are to be offered, the offering party will mark his own exhibits and make a list of them. Lists of these exhibits will be furnished to all opposing counsel and the court at least ten (10) days prior to trial. At that time all such exhibits will

be made available for examination by opposing counsel. This order does not apply to rebuttal exhibits, which cannot be anticipated.

E. Any counsel requiring authentication of an exhibit must so notify the offering counsel in writing within five (5) days after the exhibit is made available to opposing counsel for examination. Failure to do so is an admission of authenticity.

F. Any other objections to admissibility of exhibits must, where possible, be made at least three (3) days before trial, and the court notified of such objections. Where possible, admissibility will be ruled on before trial, and objections reserved for the record.

G. At any time of trial, each counsel will furnish to the court two copies (and one copy to each opposing counsel) of the list of all exhibits to be offered.

H. All exhibits will be offered and received in evidence as the first item of business at the trial.

8. Any party proposing to offer all or any portion of a deposition shall notify opposing counsel at least ten (10) days before trial of the offers to be made (*unless the necessity for using the deposition develops unavoidably thereafter*). If objection is to be made, or if additional portions of a deposition are to be requested, opposing counsel will notify offering counsel at least five (5) days before trial of such objections or requests. If any differences cannot be resolved, the court must be notified in writing of such differences at least three (3) days before trial. In the party's notice to the court, an objecting party shall provide a redline, or electronically marked pdf document, to show the portions of a deposition to which objections are made.

9. DISCOVERY. (*check and complete applicable options, can check more than one*)

☐ Discovery has been completed.

☐ Discovery is to be completed by _____.

☐ Further discovery is limited to _____.

☐ The following provisions were made for discovery: _____ (*specify*).

10. WITNESSES:

A. In the absence of reasonable notice to opposing counsel to the contrary, Plaintiff/Petitioner will call, or will have available at the trial: _____ (*list*).
Plaintiff/Petitioner may call: _____ (*list*).

B. In the absence of reasonable notice to opposing counsel to the contrary, Defendant/Respondent will call, or will have available at the trial: _____ (*list*).
Defendant/Respondent may call: _____ (*list*).

C. (*Use for third parties, if any*). In the absence of reasonable notice to opposing counsel to the contrary, _____ will call, or will have available at the trial: (*list*). _____ may call: _____ (*list*).

D. In the event there are other witnesses to be called at the trial, a statement of their names and addresses and the general subject matter of their testimony will be served upon opposing counsel and filed with the court at least _____ days prior to trial. This restriction shall not apply to rebuttal witnesses, the necessity of whose testimony reasonably cannot be anticipated before the time of trial.

11. REQUESTS FOR INSTRUCTIONS: (*If the case is to be tried to a jury, include the following. Omit otherwise.*). It is directed that requests for instructions be submitted to the court _____ days before trial, subject to the right of counsel to supplement such request during the course of the trial on matters that cannot be reasonably anticipated.

12. AMENDMENTS TO PLEADINGS: *(check and complete applicable alternative)*

☐ There were no requests to amend pleadings.

☐ The following order was made with regard to amendments to the pleadings: _____
(set out).

13. OTHER MATTERS: The following additional matters to aid in the disposition of the action were determined: *(Set out to the extent determined with reference to schedule for briefs, requests for questions on voir dire examination of jury, advance proposals for findings of fact; also trial schedule, further pretrial conferences, preliminary rulings on questions of law, exchange of medical reports, indexing or abstracting of exhibits, specification of objections, etc.)*.

14. MODIFICATIONS - INTERPRETATION: This pretrial order has been formulated after conference at which counsel for the respective parties have appeared. Reasonable opportunity has been afforded counsel for corrections or additions prior to signing by the court. Hereafter, this order will control the course of the trial and may not be amended except by consent of the parties and the court, or by order of the court to prevent manifest injustice. The pleadings will be deemed merged herein. In the event of ambiguity in any provision of this order, reference may be made to the record of this conference to the extent reported by stenographic notes, and to the pleadings.

15. TRIAL SETTING: *(check and complete applicable alternative)*

☐ The case was set for trial (with) (without) a jury on _____, _____ at _____ o'clock _____ m.

☐ No definite setting was made, but it was estimated that the case will be reached for trial _____.

16. MEMORANDUM: Estimated length of trial is _____ days. Possibility of settlement of this case is considered: *(check applicable alternative)*

☐ Good

☐ Fair

☐ Poor.

IT IS SO ORDERED.

Dated

District Judge

The foregoing proposed pretrial order (prior to execution by the court) is hereby approved this ____ day of _____, _____.

Address:

Attorney for Plaintiff/Petitioner

Address:

Attorney for Defendant/Respondent

Address:

Attorney for Other Parties *(if any)*

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

LR1-Form 704A. Praeipce.

FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF _____
No. _____

Plaintiff
v.

Defendant

PRAECIPE

Plaintiff _____ requests that this court give the following jury instructions in this case:

No. Req.	UJI	Title	Given	Ref.	Mod.	W.D.
1.	13-201	Recess instruction	_____	_____	_____	_____
2.	13-202	Discussion of exhibits prohibited	_____	_____	_____	_____
3.	13-203	Deposition testimony	_____	_____	_____	_____
4.	13-205	Patient's history as told to a doctor	_____	_____	_____	_____
5.	13-209	Hypothetical question	_____	_____	_____	_____

Submitted by:

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

LR1-Form 704B. Praeipce.

FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF _____

No. _____

Plaintiff

v.

Defendant

PRAECIPE

COMES NOW, _____ by and through attorney of record, _____, and hereby submits the following Uniform Jury Instructions in the above-referenced matter.

Instruction No.	UJI	Given	Refused	Modified	Withdrawn.
1.	13-201	_____	_____	_____	_____
2.	13-202	_____	_____	_____	_____
3.	13-203	_____	_____	_____	_____
4.	13-205	_____	_____	_____	_____
5.	13-209	_____	_____	_____	_____

Submitted by:

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]



New Mexico
Courts

Amy Feagans <supajf@nmcourts.gov>

Rule Proposal Comment Form, 03/07/2022, 12:53 pm

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Mon, Mar 7, 2022 at 12:53 PM

Reply-To: "gonzaless@hallevans.com" <gonzaless@hallevans.com>

To: supjdm@nmcourts.gov, suptls@nmcourts.gov, supjls@nmcourts.gov, supajf@nmcourts.gov, supsap@nmcourts.gov, supkld@nmcourts.gov

Your
Name: Steven Gonzales

Phone
Number: 505-417-3898

Email: gonzaless@hallevans.com

Proposal
Number: 2022-008

Comment: Dear Justices,

I write in opposition to the proposed change to LR1-202(D), which sets a 60-day deadline to file motions to compel discovery.

In the approximate 22 years of my civil practice, I can't tell you how many times motions to compel have been avoided because a requesting party has been willing to wait to see if an initial or supplementary production or answer will satisfy the needs of a case. The flexibility in the current rule encourages parties to find compromise and to think more carefully about the need to file a motion to compel. Instead, the proposed rule would encourage parties to file motions to compel for fear of losing the opportunity.

For example, Plaintiffs often seek financial discovery in tort cases after perfunctorily seeking punitive damages. Defendants routinely object, and the parties often agree to delay financial discovery until after mediation or some other trigger. In the interim, the cases frequently settle, the punitive damages claim may prove unsupported, or the the case facts may develop to the point where responding parties acknowledge the information sought is discoverable. Motions to compel are thus avoided.

Similarly, requesting parties often seek information for broad timeframes, geographical areas, etc., and responding parties persuade the requesting party to accept a narrower scope, with the understanding that the requesting party may revisit the issue if he or she believes it later necessary. Most of the time, the agreement--premised on the ability to delay motions practice--allows the parties to get the discovery they need. The proposed rule, however, would encourage the requesting party to insist on as broad a scope of discovery as possible because the window to set the scope will quickly close. Relatedly, the natural development of a case often results in a narrower, if unavoidable, motion to compel.

A last reason, though certainly not least, is that the proposed rule may force parties to invest more money in the case early, thereby discouraging settlement and unnecessarily depleting the resources of the parties and the court. Having invested in motions practice early, sometimes parties simply fall victim to their own sunken costs and believe they might as well take a scorched earth approach going forward. Sometimes the sufficiency of discovery requires expert consultation, and parties will need to sink even more costs (before an expert deadline) in order to satisfy themselves that a compromise would not destroy their ability to proceed with claims/defenses. Having represented clients from multinational corporations to impoverished individuals, I believe the effect of sunken costs has very wide application.

Obviously, motions to compel will always be with us. The current rule minimizes their frequency, and thus tends to encourage settlement and the preservation of resources for both the litigants and the court. I urge you to reject this proposed amendment.

Sincerely,
Steven L. Gonzales, Esq.

Santa Fe



New Mexico
Courts

Amy Feagans <supajf@nmcourts.gov>

Rule Proposal Comment Form, 03/09/2022, 12:57 pm

1 message

web-admin@nmcourts.gov <nmcourtswbforms@nmcourts.gov>

Wed, Mar 9, 2022 at 12:57 PM

Reply-To: "lori@bencoelaw.com" <lori@bencoelaw.com>

To: supjdm@nmcourts.gov, suptls@nmcourts.gov, supjls@nmcourts.gov, supajf@nmcourts.gov, supsap@nmcourts.gov, supkld@nmcourts.gov

Your Name: Lori M. Bencoe

Phone Number: (505) 247-8800

Email: lori@bencoelaw.com

Proposal Number: LR1-202D NMRA

Comment: LR1-202D imposing a 60 day DL to file Motions to Compel, will result in even more discovery motions being filed and will otherwise benefit no party that wants to follow the existing discovery rules and litigate about the merits of a case in good faith. In the past 5 years there has been a trend away from initial disclosure and toward initial blanket boilerplate objections and refusal to produce much in order to delay and force motion practice. This is onerous for lawyers like me whose clients are plaintiffs on a contingency fee. Good faith letters are required in every one of my cases to try to get discovery, often to no avail. In cases involving complex matters or need to submit a Pina v Espinosa privilege log to timely assert objections, we need to grant multiple extensions to good faith letters to flush out what we will be filing motions to compel about. But dont get me wrong - in the past year I have had to file motions to compel things i never dreamed of having to file motions about before, like any insurance policies that do or which may provide coverage for a claim per Rule 26B4 NMRA! It is really out of hand. Gone are the days when I get discovery documents because my opponent knows items are reasonably calculated to lead to the discovery of admissible evidence. It is almost as though my opposing lawyers subscribe now to a theory similar to "innocent until proven guilty" that I call "irrelevant until ordered by the Court." My time is increasingly wasted filing motions to compel insurance policies that are discoverable by black letter law and motions explaining why privilege objections like ROIA dont apply to items like policies and procedures for a public hospital, okay?

Proposed Rule 1-202D will reward the very boilerplate evasive discovery misconduct that is getting worse and worse already. It will result in miscarriages of justice but only to the party seeking documents and information they require to meet their burden of proof for a claim. It could result in MORE motions to compel being filed than ever by parties who can't lose their one opportunity to obtain items they should be provided in discovery. I will be filing motions to compel in a panic on the 59th day - perhaps just what my opponent wants to protect my client and not have to call my liability carrier! All of that will be terrible for trial court judges who are already overburdened by discovery disputes.

Rather than set an arbitrary deadline that actually gives a party who doesnt want to disclose discovery an even better shot at getting by with not following the existing discovery rules in good faith, I respectfully wish all of our trial courts would address the core issue of discovery misconduct HEAD ON. Stop rewarding parties who are using this as a tactic to withhold discovery and delay cases. It is not an easy problem. But if our trial court judges would decide discovery motions on the papers, aggressively enforce the existing Rules of Civil Procedure relating to discovery and routinely impose costs on parties who force discovery delays and motions to compel clearly discoverable documents and information, over time that would discourage the lawyers who are forcing us to file motions for every piece of evidence we need to prove our cases. That would have a far better effect on reversing this unfortunate trend in my opinion. Stop indirectly rewarding the bad behaviors that have gotten us all here, please.

There's one other reason this Rule will be unfair on all litigants: at times in civil litigation, issues arise that require motions to be filed to compel matters that were objected to in boilerplate fashion in initial discovery but which did not become necessary to compel apparent as central to claims or defenses within 60 days. For example, I may serve initial discovery and get objections to virtually everything. I am then forced to pick my battles. Later I may learn in deposition discovery that my opponent's broad boilerplate objection and refusal to produce something at an earlier point in time is central to my case, warranting a motion to compel based on

the testimony I now have. Please do not foreclose that right of my clients by imposing an arbitrary 60 day deadline on my only avenue for relief - it is often impossible to even set depositions that fast.

Sincerely,

Lori Bencoe
Bencoe & LaCour Law, P.C.
[9201 Montgomery Blvd., NE Ste. 404](#)
[Albuquerque NM 87111](#)
(505) 247-8800
(505) 238-9095 cell
(505) 247-8801 fax
(866) 921-8800 toll free
lori@bencoelaw.com
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<https://TL4J.com/lori-bencoe/>



New Mexico
Courts

Amy Feagans <supajf@nmcourts.gov>

Rule Proposal Comment Form, 03/10/2022, 10:21 am

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Thu, Mar 10, 2022 at 10:21 AM

Reply-To: "tyler@atkinswalker.com" <tyler@atkinswalker.com>

To: supjdm@nmcourts.gov, suptls@nmcourts.gov, supjls@nmcourts.gov, supajf@nmcourts.gov, supsap@nmcourts.gov, supkld@nmcourts.gov

Your
Name: Tyler Atkins

Phone
Number: (505) 508-4640

Email: tyler@atkinswalker.com

Proposal
Number: 2022-008

Comment: This comment pertains to the proposed amendment to LR1-202. I am concerned that the addition of subpart D ("Motions to compel.") would create unnecessary motion practice that would clog judges' dockets with motion to compel hearings. I have represented plaintiffs in personal injury cases since 2008. In complex personal injury litigation, extensive objections from the defense to even the most basic discovery requests are very common. While it makes sense that the proposed 60-day time limit should serve to encourage the parties to work out any objections amongst themselves, I have major doubts that it would have any real impact on corporate defendants' approach to discovery. In my experience, the only way for judges to curb discovery abuses and avoid having to resolve discovery disputes that should be resolved informally between the attorneys is to sanction parties who choose not to comply with the rules and New Mexico's liberal approach to discovery.



New Mexico
Courts

Amy Feagans <supajf@nmcourts.gov>

Rule Proposal Comment Form, 03/10/2022, 10:35 am

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Thu, Mar 10, 2022 at 10:35 AM

Reply-To: "sam@atkinswalker.com" <sam@atkinswalker.com>

To: supjdm@nmcourts.gov, suptls@nmcourts.gov, supjls@nmcourts.gov, supajf@nmcourts.gov, supsap@nmcourts.gov, supkld@nmcourts.gov

Your
Name: Samuel Walker

Phone
Number: 505-508-4640

Email: sam@atkinswalker.com

Proposal
Number: 2022-008

Comment: I strenuously oppose the change to LR1-202(D) regarding motions to compel. Placing a deadline of 60 days to file a motion compel following an objection will not help or facilitate the discovery process. This will only encourage delay and attempts by counsel to use a technical rule to prevent the discovery of admissible evidence. This change would go against the Rules of Discovery, which promotes a fair and full exchange of information by giving parties a technical rule to engage in gamesmanship.



New Mexico
Courts

Amy Feagans <supajf@nmcourts.gov>

Rule Proposal Comment Form, 03/11/2022, 4:22 pm

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Fri, Mar 11, 2022 at 4:22 PM

Reply-To: "nharada@fchclaw.com" <nharada@fchclaw.com>

To: supjdm@nmcourts.gov, suptls@nmcourts.gov, supjls@nmcourts.gov, supajf@nmcourts.gov, supsap@nmcourts.gov, supkld@nmcourts.gov

Your
Name: Nikko

Phone
Number: 15052641215

Email: nharada@fchclaw.com

Proposal
Number: 2022-008

Comment: The proposed change to motions to compel practice in First Judicial is adverse to Plaintiffs' attorneys because it merely places more pressure on Plaintiffs to file MTC within 60 days or face baseless objections being deemed acceptable. Plaintiffs already have to expend vast amounts of time trying to get Defendants to comply with New Mexico's liberal discovery policies without this draconian rule change. Further, when First Judicial had a previous local rule mandating good faith letters within 20 days of discovery being received, it ultimately was rescinded.

First Judicial would save much more judicial resources by requiring Defendants to comply with the Rules of Civil Procedure and, particularly, New Mexico's liberal discovery policies, rather than putting the onus on Plaintiffs to file MTC within 60 days or face ratification of baseless and obstructive discovery practices.



New Mexico
Courts

Amy Feagans <supajf@nmcourts.gov>

Rule Proposal Comment Form, 04/05/2022, 12:31 pm

1 message

web-admin@nmcourts.gov <nmcourtswebforms@nmcourts.gov>

Tue, Apr 5, 2022 at 12:31 PM

Reply-To: "jburton@rodey.com" <jburton@rodey.com>

To: supjdm@nmcourts.gov, suptls@nmcourts.gov, supjls@nmcourts.gov, supajf@nmcourts.gov, supsap@nmcourts.gov, supkld@nmcourts.gov

Your
Name: John P Burton

Phone
Number: 505-670-6325

Email: jburton@rodey.com

Proposal
Number: 2022-008

Comment: LR1-112 This amendment adds "trust" to the list of parties required to appear by counsel. If you are going to add a trust, I suggest also adding "estate". Thanks, Jack