

# RULES OF THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT

## LR1-001

FIRST JUDICIAL DISTRICT COURT  
STATE OF NEW MEXICO

IN THE MATTER OF THE RULES  
OF THE FIRST JUDICIAL DISTRICT COURT

### ORDER

This matter having come before the Court on its own motion after having been submitted on June 27, 1992, to the Supreme Court District Court Civil and Criminal Rules Committees and after consultation between the Chief Judge and the Chairman of the District Court Civil Rules Committee.

The Court orders that local rules LR1-102, LR1-203, LR1-209, LR1-405, LR1-601, LR1-602 and LR1-605 be and the same are hereby amended;

It is further ordered that local rule 212 be and the same is hereby withdrawn and a new local rule LR1-212 relating to filing by FAX be and the same is hereby approved;

It is further ordered that local rule 302 be and the same is hereby withdrawn;

It is further ordered that local rules 303, 304, 305, 306, 307, 308, 309, 310 and 311 be renumbered as local rules LR1-302, LR1-303, LR1-304 and LR1-305, LR1-306, LR1-307, LR1-308, LR1-309 and LR1-310 respectively;

It is further ordered that local rule 305 (renumbered local rule LR1-304) be and the same is hereby amended;

It is further ordered that local rule 307 (renumbered rule LR1-306) be and the same is hereby withdrawn and a new rule LR1-306 be and the same is hereby approved;

It is further ordered that a new local rule LR1-606 be and the same is hereby approved;

It is further ordered that local form LR1-Form F and the same is hereby amended;

It is further ordered that new local forms LR1-Form J1 and LR1-Form J2 be and the same are hereby approved;

It is further ordered that the above revisions to the local rules and forms of the First Judicial District Court be

effective for cases filed in the First Judicial District Court on and after September 1, 1993;

It is further ordered that the amended local rules be transmitted to the Clerk of the Supreme Court for filing and to the New Mexico Compilation Commission for publication in accordance with Supreme Court rules.

DONE at Santa Fe, New Mexico this 26th day of March, 1993.

/s/ HONORABLE PETRA JIMENEZ MAES  
/s/ HONORABLE JOE CRUZ CASTELLANO  
/s/ HONORABLE PATRICIO M. SERNA  
/s/ HONORABLE BRUCE E. KAUFMAN  
/s/ HONORABLE ART ENCINIAS  
/s/ HONORABLE STEVE HERRERA

## I.

### **AUTHORITY, TITLE AND SCOPE**

#### **LR1-101. Authority.**

The following rules are hereby adopted and promulgated by the Judges of the First Judicial District of the State of New Mexico, comprised of the Counties of Los Alamos, Rio Arriba and Santa Fe, pursuant to the authority vested in the court by Rule 1-083, Rules of Civil Procedure for the District Courts.

#### **LR1-102. Title.**

The following local rules of procedure for the First Judicial District Court shall be known as the "Local Rules of the First Judicial District Court". [As amended, effective September 1, 1993.]

#### **LR1-103. Scope.**

These local rules apply to all cases brought in the First Judicial District Court.

#### **LR1-104. Applicability.**

Local rules shall apply to all cases pending as of the effective date.

## II.

### **GENERAL POWERS AND DUTIES OF THE COURT**

#### **LR1-201. Terms of Court.**

There are hereby established the following terms of court for each year and each county within the First Judicial District:

Santa Fe County:

First Term: January 1 through June 30

Second Term: July 1 through December 31

Rio Arriba County and Los Alamos County:

First Term: January 1 through June 30

Second Term: July 1 through December 31

### **LR1-202. Failure to comply.**

The failure to comply with the requirements of these rules may subject counsel to sanctions.

### **LR1-203. Assignment of cases; consolidation.**

A. Subject to Rules 1-088 and 1-088.1 of the Rules of Civil Procedure for the District Courts, the chief judge of the district, in consultation with the other judges, shall determine the assignment and re-assignment of cases.

B. Cases assigned to one judge shall not be heard by another judge except by consent of the judge to whom the case is assigned, except in those circumstances described in Paragraph C below.

C. Any judge of the district, or any judge from another district who is present in the county by designation, may hear any default matter, emergency matter, guilty plea or ex parte matter which may arise whenever the assigned judge is not available.

D. Motions to consolidate and cases consolidated for trial shall be heard by the judge assigned to the case hearing the lowest case number (the oldest case). [As amended, effective September 1, 1993.]

### **LR1-204. Mode of attire.**

All attorneys and all officers of the 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.

### **LR1-205. Forum shopping.**

A. If a matter or proposition has previously been submitted to another judge, an attorney shall disclose that fact to the judge to whom it is being submitted.

B. A failure to inform the second or subsequent judge of the prior submission or submissions may be deemed contempt of court and punished accordingly.

### **LR1-206. Interpreters.**

A. It shall be the duty of the attorney to promptly and diligently inquire into and ascertain the need for an interpreter and to advise the clerk of the court and assigned judge of the need for an interpreter not less than twenty-four (24) hours before the hearing.

B. If the failure to comply with this local rule results in postponement of a hearing, the associated costs may be imposed upon the responsible party or attorney.

### **LR1-207. Control of court files.**

A. Court files shall not be removed from the office of the clerk of the court except by court personnel.

B. Court files are not to be removed from the judicial complex except with the written approval of a judge.

### **LR1-208. Sealing of court files.**

A. It is the policy of the court to allow free public access to official court files of each case docketed and filed in the First Judicial District.

B. No court file, except those matters required by law to remain confidential, shall be ordered sealed from public inspection, except in extraordinary cases to be determined by the court:

(1) Upon a written and verified application for the sealing of such file;

(2) A showing of good cause; and

(3) A showing that significant and irreparable harm will result unless the file is sealed.

C. Every file sealed in accordance with this rule shall be unsealed after one hundred and eighty (180) days unless the order sealing the file is extended upon a showing of good cause.

### **LR1-209. Case decision deadlines.**

A. All cases shall be decided within sixty (60) days after submission.

B. If a decision is not made within the sixty (60) day period it shall be brought to the attention of the judge. [As amended, effective September 1, 1993.]

## **ANNOTATIONS**

**Cross-references.** - For judgments and costs in district courts, see Rule 1-054 NMRA.

### **LR1-210. Appearance and withdrawals, change of address or telephone.**

A. Whenever counsel undertakes to participate in a case on behalf of a party, counsel shall file a written entry of appearance in the cause. The filing of any signed pleading in a case will be considered as compliance with this rule.

B. Withdrawal of counsel shall be in accordance with Rule 1-089 of the Rules of Civil Procedure for the District Courts. The application of counsel to withdraw shall state the last known mailing address and telephone number of the client.

C. Counsel shall inform the court of any change of mailing address or telephone number by filing a notice and serving it upon all parties and to the court.

### **LR1-211. Payment to the clerk of the court.**

A twenty-five dollar (\$25.00) assessment shall be charged to any person submitting a check that is returned by a bank.

### **LR1-212. Filing by FAX.**

A. The clerk of the court will accept documents that do not require a filing fee or other payment which are sent for filing by electronically transmitted image (fax).

B. When a document is faxed to the clerk's office (FAX 505-827-5055), the original must be mailed within twenty-four (24) hours of the time it is faxed. The envelope shall be addressed as follows: Fax Department, District Court Clerk's Office, P.O. Box 2268, Santa Fe, NM 87504.

C. When the original document is received in the clerk's office, it will be hand-stamped as of the date that the document was faxed.

D. Every document faxed to the clerk's office for filing shall indicate above the caption the date it was faxed and shall have a cover letter stating that the original documents will be mailed within twenty-four (24) hours for filing in the clerk's office.

E. When the original document is received and hand-stamped, it shall be entered into the computer and filed in the court file. A separate file for all faxed documents, cover

letters and transaction reports shall be maintained by the clerk for a period of one-hundred eighty (180) days from receipt. [Former Rule 212 is withdrawn, effective September 1, 1993 and a new Rule LR1-212 is approved, effective September 1, 1993.]

## ANNOTATIONS

**Cross-references.** - For electronic authentication and substitution for signature, see 14-3-15.2 NMSA 1978.

For district court civil and criminal rules on filing facsimile pleadings, see Rules 1-005.1 and 5-103.1 NMRA.

### III.

## PLEADING AND PRACTICE

### **LR1-301. Form of pleadings, motions, or other papers.**

A. All pleadings, motions, or other papers, shall be: clearly legible; typewritten or printed on good quality white paper eight and one-half by eleven (8-1/2 x 11) inches in size; with a left margin of one and one-half (1-1/2) inches, a right margin of one-half (1/2) inch, and top and bottom margins of one and one-half (1-1/2) inches; and stapled at the upper left hand corner. The contents, except for quotations and footnotes, shall be double spaced. Footnotes and quotations shall be sparingly used, if used at all.

B. All pleadings, motions or other papers filed shall bear a caption and descriptive title so as to alert the court to the nature and purpose of the document.

C. All pleadings other than the original complaint, motions or other papers must bear a certificate of service which shall state the name and address of each attorney or party upon whom the pleading was served.

### **LR1-302. Depositions.**

A. **Depositions not to be filed.** Depositions shall not be routinely filed with the court. In lieu of filing the original deposition with the clerk of the court, a certificate shall be filed with the clerk of the court identifying the witness, date of the deposition, and the name and address of the attorney or party retaining the original deposition.

B. **Reasonable notice.** Notice of deposition shall be served not less than five (5) days prior to the date scheduled for the deposition. Upon application and for good cause shown, the time may be shortened. Whenever possible, before setting notice, counsel must confer and attempt to agree upon a date and time for the deposition. If counsel did not confer, this must be stated in the deposition notice with the reason for not conferring. [Recompiled, effective September 1, 1993.]

### **LR1-303. Interrogatories, requests for production, and requests for admission.**

A. **Filing not required; certificate of service.** Interrogatories, answers to interrogatories, requests for production, responses to requests for production, requests for admissions and responses to requests for admissions shall be served upon the other counsel but shall not be routinely filed with the court. However, a certificate of service shall be filed with the court indicating the date of service.

B. **Interrogatories.** Parties propounding interrogatories shall serve original upon each party who is required to answer them, and one copy upon all other parties. Interrogatories shall be numbered consecutively. Adequate spacing shall be left under each interrogatory for the answer. The party answering the interrogatory shall serve the original upon the party propounding the interrogatories and one copy upon all other parties.

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. The party upon whom objections are served shall proceed under Paragraph D within twenty (20) days of receipt of an objection, or will be deemed to have accepted the objection as valid. The twenty (20) day period may be enlarged or shortened by order of the court.

D. **Motions to compel; motions for protective order.** A motion to compel or for a protective order will not be entertained unless counsel for the moving party has conferred in good faith with opposing counsel concerning the matter in dispute or has made a reasonable effort to confer before the filing of the motion.

E. **Fifty interrogatories.** No party shall serve more than fifty (50) interrogatories in the aggregate, including subparts, without leave of court. Subparts of an interrogatory shall relate directly to the subject matter of the interrogatory. [Recompiled, effective September 1, 1993.]

### **LR1-304. Submission of orders, decrees and judgments.**

A. Unless otherwise ordered by the court all orders, judgments and decrees shall be submitted to the judge by the prevailing party not later than ten (10) days following the date of announcement by the judge of the decision, if announced in open court, or twelve (12) days following the date of the letter announcing the decision.

B. Orders, judgments and decrees will not be signed by the judge unless:

(1) the order, judgment or decree bears the signatures or initials of the attorneys for all parties to the cause;

(2) in matters where a party appears pro se, the attorney who has prepared the order, judgment or decree certifies that a copy has been sent to the pro se party with a notice that objections must be received by the court in writing within ten (10) days and that no objections were received; or

(3) written notice is provided to all affected parties or their counsel that the proposed order, judgment or decree will be presented to the court at a time and date set by the court, upon request provided that a copy of the proposed order, judgment or decree accompanies the notice and that notice is served not less than five (5) days before the date set for presentment.

C. Where there is objection to an order, judgment or decree, the objecting party shall file the objections and deliver a courtesy copy to the judge, no less than one (1) day before the time set for submission of the proposed order, judgment or decree under subparagraph B (3) of this rule. [As amended, effective September 1, 1993.]

### **LR1-305. Filing of orders and other instruments.**

Every order, judgment or other instrument which has been signed by the judge shall be delivered immediately to the clerk of the court for filing. No signed order, judgment or other instrument shall be taken from the building until after it has been docketed, filed and recorded. [Recompiled, effective September 1, 1993.]

### **LR1-306. Motion practice.**

A. **Concurrence; when required.** No motion shall be filed without a statement that moving counsel has conferred or attempted to confer in good faith with opposing counsel with respect to the relief sought in the motion in order to resolve any differences or to secure concurrence in the motion. The motion shall state, with particularity, the efforts made to comply with this rule. The concurrence requirement shall not apply to those motions, such as motions for dismissal or for summary judgment, which by their very nature can be deemed opposed pursuant to Paragraph C of Rule 1-007.1 of the Rules of Civil Procedure for the District Courts.

B. **Service of motion, response and reply.** Every motion shall include a certificate of counsel setting forth the name and address of the person served and the date and manner of service. Two copies of the response shall be served. No "courtesy" copy of a motion, response or reply shall be provided to the judge.

C. **Citation of authority.** Every motion, response or reply shall cite authority for the positions advanced, or alternatively, shall be accompanied by a separate brief or memorandum filed and served contemporaneous with the motion, response or reply. A brief or memorandum shall not exceed ten (10) pages of argument, without express permission of the court.



**D. Failure to respond.** The failure to file a response to a motion within the time limits set forth in Rule 1-007.1 of the Rules of Civil Procedure for the District Courts shall be deemed as consent to the granting of the motion. In such event, moving counsel may obtain a time and date to formally present an appropriate order to the court for signature and entry, upon not less than five (5) days notice to opposing counsel.

**E. No cross-motions permitted.** The practice of filing cross-motions to operate as both a motion and as a response to the original motion is prohibited.

**F. Exhibits to motion, response or reply.** If exhibits are attached to a motion, response or reply, only relevant excerpts from depositions or other papers shall be attached to the motion and pertinent portions shall be highlighted, underlined or otherwise emphasized for the court's attention. Exhibits shall not be duplicated but shall be made part of the pleadings once and later use or reference to the exhibits shall be to the pleading's name, the date filed and exhibit number.

**G. "Package" procedure.** At the expiration of all responsive times, under Rule 1-007.1 of the Rules of Civil Procedure for the District Courts, the movant shall submit to the court a copy of the motion, response, any reply and a request for hearing (in accordance with Paragraph I of this rule) in a "package". The submission of the "package" alerts the court that the motion is ripe for decision.

**H. Hearing.** After the filing of the motion, response and reply or the expiration of the applicable time limit in the absence of filing, the movant shall request a hearing or by filing a request for hearing (LR1-Form A) with the clerk and providing a "courtesy" copy to the judge. 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.

**I. Expedited matters.** If the motion requests a decision before the expiration of the time limits set forth in Rule 1-007.1 of the Rules of Civil Procedure for the District Courts, 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.

[Adopted effective September 1, 1993.]

### **LR1-307. Costs bill.**

Within twenty (20) days after filing of final judgment, the party recovering costs shall file with the clerk of the court an itemized and verified cost bill, with proof of service of a

copy on opposing counsel. Any party failing to file a cost bill within the said twenty (20) days 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 court shall tax the claimed costs which are allowable by law. The judge shall settle any objections filed. [Recompiled, effective September 1, 1993.]

### **LR1-308. Findings and conclusions.**

Any requested findings of fact and conclusions of law shall be submitted within ten (10) days after such submission is ordered by the court, unless a different time is ordered. The original of all requested findings of fact and conclusions of law shall be filed with the clerk of the court and a copy thereof shall be delivered to the judge. [Recompiled, effective September 1, 1993.]

### **LR1-309. Judgments based on written instruments.**

A final judgment, based upon a written instrument, shall be accompanied by said instrument, which shall be filed as an exhibit in the case at the time the judgment is entered and shall be appropriately marked as having been merged into the judgment and returned to the party filing the same as in the case of other exhibits. [Recompiled, effective September 1, 1993.]

### **LR1-310. Exhibits.**

Exhibits admitted in a hearing or at trial may be returned to the party submitting them only upon the written request therefor and upon order of the court. Each exhibit shall contain an identification sticker which shall contain:

- A. Party tendering the exhibit,
- B. Exhibit number or letter,
- C. Case number,
- D. Date of hearing.

[Recompiled, effective September 1, 1993.]

## **IV.**

### **CASE CONTROL**

### **LR1-401. Settings.**

The judge of each division shall determine his or her general itinerary and schedule and shall inform the clerk of the court of the county affected thereby.

A. The judge of each division shall make trial and other settings for the division and furnish counsel and the clerk of the court with a calendar of settings as far in advance as possible. As a general rule, notice of settings shall be given counsel at least four (4) weeks prior to the trial or hearing date but shorter notice may be given upon the consent and agreement of counsel or where, in the discretion of the judge, less notice is required.

B. If a hearing is scheduled as a "back-up" to another matter, or on a trailing docket, the court shall so advise counsel. Counsel shall be responsible for advising the court of any scheduling difficulties, such as arrangements with witnesses, which may make the matter difficult or inappropriate for hearing on a "back-up" or trailing docket basis.

C. All settings made by or with the approval of the court shall be binding upon all parties and attorneys properly notified. No setting shall be vacated except upon written motion and upon the signature of the party approving the continuance, unless this requirement is waived by the court.

D. Failure to give timely notice to the court of an inability to meet a trial setting, where such failure is willful or the result of negligence, may subject the offending party or attorney to appropriate sanctions, including, but not limited to:

(1) dismissal of the case;

(2) payment of jury and other costs;

(3) payment of attorneys fees; or

(4) sanctions as available under the inherent powers of the court.

### **LR1-402. Notice of settings.**

A. Contested matters, preliminary and final, shall not be called up for hearing except upon prior approval by the court. Notice of any hearing, unless given by the court, shall state it is given at the court's direction.

B. It shall be the obligation of counsel to make the necessary arrangements and give the necessary notices to have the represented party present in court for all hearings and trials, whether or not the party is in custody. Unless good cause is shown for the absence of any party at any trial or hearing, it may be presumed by the court that such party has waived the right to be present.

### **LR1-403. Status of docket.**

The court may require of attorneys, in a particular case, a status report setting forth information about the case in order that the court may arrange its docket to expedite the disposition of cases.

#### **LR1-404. Pretrial orders and conferences.**

Pretrial orders shall be utilized in all civil cases to facilitate the setting of cases for trial. (LR1-Form C). The court may, in lieu of requiring a pretrial order, conduct a pretrial conference either on its own initiative or at the request of any counsel of record. At the pretrial conference, the items listed on the form will be covered. The court may also dispense with both requirements in appropriate cases.

A. The following procedure will be followed in making use of the pretrial order:

(1) The party initiating the form shall complete the applicable portions and forward the form to the opposing party;

(2) The second party shall complete the applicable portions of the form and return it to the first party within twenty (20) days. If there are more than two parties in the case, counsel shall forward the report along in the order the parties entered the case;

(3) The parties shall hold a discovery conference and list all remaining discovery in the appropriate sections of the form along with each party's estimate of a completion date for its discovery;

(4) The completed report shall be forwarded to the court which will supply discovery, motion and witness disclosure deadlines and sign the report, adopting it as the pretrial order;

(5) The case shall be set for trial upon the merits, either upon:

(a) receipt by the court of a certificate of readiness signed by all counsel of record to the effect that all discovery is complete and there are no pending pretrial motions; or

(b) filing a request for trial; or

(c) in accordance with the pretrial scheduling order.

B. The pleadings will be considered merged into the final pretrial order.

#### **LR1-405. Settlement conferences.**

A. Settlement conferences may be utilized in civil cases to facilitate settlement of cases. Civil cases in which a settlement conference is requested shall be referred by the court to an attorney trained as a settlement referee. The procedure shall be:

(1) Either party may submit a request for referral to settlement conference using the form attached to these rules as LR1-Form J2.

(2) The request shall be submitted at any time after the filing of a summons and complaint, but in no event later than ninety (90) days prior to the docket call or pretrial conference, whichever is earlier, or as otherwise directed by the judge to whom the case is assigned.

B. Upon receipt of the request, the court shall assign the case to a settlement referee by entry of an order in the form attached as LR1-Form J2 to these rules. A settlement referee shall be disqualified only for conflicts of interest, using the standards contained in Rule 21-400 of the Code of Judicial Conduct, and only upon order of the judge making the assignment.

C. A district court judge may sit as a settlement referee only upon request of the judge to whom the case is assigned.

D. A request for settlement conference may be withdrawn only with permission of the court, after the filing of a motion for good cause.

E. The attorney who will try the case, and each party or representative of a party having actual authority to compromise or settle the claims, shall attend the settlement conference in person. [As amended, effective September 1, 1993.]

## V.

### JURY MATTERS

#### **LR1-501. Jury fees.**

Jury fees, once deposited, shall not be returned.

#### **LR1-502. Jury instructions.**

Requested jury instructions, including a statement of the case, will be prepared by counsel for each of the parties in accordance with the following guidelines:

A. Each instruction shall be typed on a separate page of unlined, unmarginated bond paper, "8 1/2" by "11" in dimension.

B. Instructions shall be submitted firmly clipped or stapled together with a cover sheet bearing the caption, the title of the pleading (i.e. "Plaintiff's Requested Instructions"), and a signature line and a Praeceptum (LR1-Form D). An original is to be filed and copies are to be provided to each party and to the court.

C. Each instruction shall bear the heading "(Party's) Requested Instruction No. \_\_\_\_\_." and counsel is to insert consecutive numbers.

D. At the bottom of each instruction counsel shall list the UJI number or other citations supporting the instruction as a correct statement of the applicable law and the following information:

Given \_\_\_\_\_

Denied \_\_\_\_\_

Modified \_\_\_\_\_

Withdrawn \_\_\_\_\_

E. For each instruction submitted the party is to provide the court with a "clean" copy that bears the text of the instruction and the heading "Instruction No. \_\_\_\_\_," with no numbers inserted. This set is given to the court and is not filed.

F. In settling instructions, the court's action will be noted on the praecipe and be entered on the filed copy of each instruction.

## VI.

### CRIMINAL CASES

#### **LR1-600. Transport of persons in custody.**

A. The application for a transport order shall be made no later than five (5) working days before the proceeding for which transport is sought unless a shorter time is allowed by the court.

B. The application and proposed transport order shall address the following matters.

(1) the name of the person to be transported and, if known, that 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 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 certified copy of the transport order shall be served upon the transporting agency and upon the custodian of the person sought to be transported no later than three (3) working days before the proceeding unless a shorter time is allowed by the court. Where circumstances require, a district court judge may modify the time requirements of this local rule or may require transport upon verbal order, provided that a written transport order is served upon 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.

### **LR1-601. Indictment and summons.**

Upon the filing of an indictment, criminal complaint or criminal information, a summons shall be issued unless, upon the request of the district attorney or attorney general, the court determines a warrant is appropriate. [As amended, effective September 1, 1993.]

### **LR1-602. Grand jury.**

A. Grand jury proceedings, including but not limited to subpoenas for witnesses, docket records or subpoenas issued or returned or filed, are confidential. A separate docket of grand jury subpoenas shall be maintained by the clerk of the court to insure their confidentiality [confidentiality].

B. Upon the filing of a written request by a party, the clerk of the court shall provide the requesting party with a copy of the grand jury proceedings. No grand jury records or proceedings shall be transcribed, made public or released by the clerk to any person, except upon written order of the court where law or the interests of justice so require. The following, however, constitute information which may be made available to the public:

(1) final reports and reports of grand juries, after they have been accepted and received by the court and filed; and

(2) the drawing and selection of grand juries and indictments, after the defendant has been served with an arrest warrant incident to such indictment, except that the fact of true bill may be disclosed, prior to the service of a summons or arrest warrant, where a target letter has been issued, the target is represented by counsel and there is no risk of flight.

C. No narrative report shall be received by the court from any grand jury except upon those matters set out by statute and relating to the conditions of jails, penal institutions and persons incarcerated therein within the county where the grand jury is sitting. It is not the function of the grand jury - an arm of the judiciary - to criticize or regulate other branches or agencies of government or private persons or institutions. The judicial power is loaned to the grand jury so that it may determine probable cause in criminal cases and return indictments where it finds probable cause but for no other purpose not required by statute.

D. The shorthand notes or audio tapes of the court reporter attending any grand jury shall be deposited with the clerk of the court no later than fifteen (15) days after attendance. Such notes or tapes shall be in the custody of the clerk and subject to rules relating to records in the custody of the clerk. [As amended, effective September 1, 1993.]

### **LR1-603. Appearance and withdrawals.**

A. At arraignment or within seven (7) days thereafter, the district attorney or assistant district attorney who shall actually try the case shall enter a written appearance as trial attorney in each criminal case coming before the court. A signed criminal information or indictment shall constitute an entry of appearance for the purposes of this local rule. Additional counsel may enter an appearance at any stage of the proceedings.

It shall be the responsibility of the district attorney to see that strict compliance with this local rule shall be made.

B. At arraignment or within seven (7) days thereafter, the public defender or assistant public defender or the attorney under contract with the public defender's office to actually try the case shall be designated and shall enter a written appearance as trial attorney in each criminal case coming before the court when the defendant is indigent. Additional counsel may enter an appearance at any stage of the proceedings.

(1) In cases where the representation of an indigent defendant would result in a conflict of interest in the public defender's office and no contract attorney to represent such defendant is available to the public defender's office, such fact shall be made known to the trial judge at arraignment or within seven (7) days thereafter.

(2) In the event a conflict develops after the expiration of seven (7) days after arraignment, such fact shall be made known to the trial judge within seven (7) days after the conflict is apparent to the public defender's office, but in no event shall such information be given to the trial judge any later than thirty (30) days before trial or at any date more than thirty (30) days before trial where such delay would result in a delay in final disposition of the case.

It shall be the duty of the public defender, in all indigent cases, to see that strict compliance with this local rule shall be made.



C. Counsel retained by a defendant shall enter a written appearance as trial counsel within seven (7) days after retention. The retaining of counsel in a case or substitution of a retained attorney for another attorney for defendant shall be accomplished sufficiently in advance of any proceeding scheduled or to be scheduled in the case so as to prevent undue delay.

D. The trial attorneys of record shall have the responsibility for full compliance with all pre-trial obligations and for trial of the case unless it shall be disposed of without trial.

E. Extensions of time for compliance with Paragraphs A and B of this rule or waiver of the requirement thereof shall be granted of record only for good cause shown and only upon application in writing personally called to the attention of the trial judge within the seven (7) day period provided.

F. The trial attorney shall not be permitted to withdraw from the case, except upon entry of appearance in writing of another trial attorney in replacement, sufficiently in advance of trial or other hearing or obligation to avoid any continuances and to avoid undue delay. For good cause shown brought to the attention of the trial judge in ample time to avoid delay, the trial judge may grant appropriate relief from the obligations imposed by this paragraph.

G. Willful or negligent failure to comply with this local rule may subject the attorney to contempt of court or other sanctions.

#### **LR1-604. Waiver of arraignments.**

A. Before presentment of any written waiver of arraignment to a district court judge the waiver of arraignment must carry the signature of the defendant, his or her attorney and a certificate of service indicating the district attorney has been served.

B. The original and two (2) copies of the written waiver of arraignment must be presented to the district court judge along with a self-addressed stamped envelope for defense counsel. One (1) copy shall be delivered by the court to the district attorney.

C. Before the waiver of the arraignment is presented or immediately after presentment of the waiver of arraignment, the defendant must present himself at the appropriate law enforcement agency for formal booking and processing on the warrant, if one has been issued.

#### **LR1-605. Search warrants.**

A. All search warrants issued by a district court judge and the accompanying affidavit when filed in the district court clerk's office shall be sealed from [from] public view until a return and inventory has been filed in that case. Upon filing with a return and inventory, said file shall no longer be sealed.

B. Return and inventory shall be filed with the clerk of the court within five (5) working days of the search. [As amended, effective September 1, 1993.]

## **ANNOTATIONS**

**Cross-references.** - For rule of procedure in district courts on search warrants, see Rule 5-211 NMRA.

### **LR1-606. Negotiated pleas.**

A. All plea and disposition agreements in criminal court and consent decrees in children's court must be submitted to the court for approval no later than five (5) working days before the date set for the trial of the case.

B. No plea and disposition agreement or consent decree which is submitted later than five (5) working days before the date set for trial shall be approved by the court unless good cause is shown for the late submittal.

C. Nothing in this rule is intended to prohibit a guilty plea or admission to the original charge or charges, without bargaining, at any time otherwise permitted by law. [Approved, effective September 1, 1993.]

## **VII.**

### **DOMESTIC RELATIONS RULES**

#### **LR1-700. Scope of rules in this section.**

The rules contained in this section govern the procedures in all actions involving dissolution of marriage, separation, custody, spousal or child support, or community property division.

#### **LR1-701. Docketing sheet.**

The attorney or party filing an initial pleading or a post-decree motion reopening a file in any domestic relations action shall file a completed domestic relations docketing sheet with the petition or motion in the form appended to these local rules. (LR1-Form E) The docketing sheet shall be signed by the attorney or party filing the same.

#### **LR1-702. Mandatory mediation; advisory consultation.**

All domestic relations action which involve a dispute over custody or visitation of minor children shall be subject to the procedures of the family court mediation services program.

A. Unless a parenting plan has been approved by the parties and filed with the court or adopted by order of the court, all parties to a domestic relations action which involves a dispute over custody or visitation of minor children shall attend a general information session of the family court mediation services program. The parties shall attend the session designated in the temporary domestic order or, if there is no temporary domestic order the first scheduled general information session held after custody or visitation is placed at issue by the pleadings.

B. Following the general information session, the parties shall participate in mediation with the family court mediation services program. If the parties do not voluntarily participate in this program, the family court mediation services shall notify the court and provide a form of order (LR1-Form H) to the court.

C. If the mediation is successful, the family court mediation services shall prepare a parenting plan which shall be submitted to the parties and their respective counsel for approval. Counsel shall submit the approved parenting plan, together with a form of order approving and implementing it to the court.

D. If mediation is unsuccessful, the custody issues shall be submitted to the mediation service for an advisory consultation. The report of the advisory consultation shall be given to each party and counsel for each party. The report shall be confidential and shall not be disclosed by the mediation service to either the court or any third party.

E. Mediation is an attempt at settlement and compromise of custody and visitation issues between the parties. All conduct or statements of the parties made during such mediation sessions shall, therefore, be considered as compromise and settlement negotiations pursuant to Rule 11-408 of the Rules of Evidence.

### **LR1-703. Interim relief and temporary domestic order.**

In actions for dissolution of marriage or proceedings under Section 40-4-3 NMSA 1978, the following pendente lite procedures shall apply:

#### **A. Temporary domestic order.**

(1) Immediately following the filing of a petition for dissolution of marriage or an action pursuant to Section 40-4-3 NMSA 1978, the court shall enter a temporary domestic order (TDO) in the form appended to these local rules. (LR1-Form F) The TDO shall be prepared by petitioner and shall be served upon respondent along with the summons and petition. Counsel for petitioner shall provide a copy of the TDO to the petitioner at the time the petition is signed; receipt of the TDO by petitioner shall be acknowledged in the verification of the petition.

If there are minor children of the parties affected by the petition, the temporary domestic order shall include all material contained in brackets in LR1-Form F. If minor children are not involved, the material contained in brackets may be deleted.

(2) The TDO shall be in effect from the time the petition and the TDO are served upon the respondent, or respondent's counsel, unless the parties by stipulation filed with the clerk, agree otherwise.

#### **B. Ex parte application for temporary restraining order.**

(1) Any party seeking an ex parte order must personally appear before the court at the time of the application for a temporary restraining order. The affidavit filed with the application shall contain specific facts, including dates and incidents, sufficient to show the circumstances required for the issuance of the order. The provisions of Rule 1-066 of the Rules of Civil Procedure for the District Courts, shall be strictly applied.

(2) A copy of the order and all supporting document [documents] shall be served upon the other party and the other party's attorney as soon as practicable. A party against whom such an order is issued may obtain a hearing within two (2) days of service, if the party disagrees with the terms of the order. The court will contact counsel for the party who obtained the order and advise of the date and time of the court appearance. Both parties must appear at that time.

(3) No ex parte order to vacate the marital residence will be issued against a party, unless:

(a) There are minor children and they or the party seeking the order, are in immediate physical danger from the other party; or

(b) There are no minor children and there is a reasonable need for separation (which shall be stated with particularity in the affidavit), and the party seeking the order is so situated that moving would be a substantial and material hardship.

(4) No ex parte custody or visitation order will be issued unless a child is in immediate physical danger, is in danger of being concealed, or is in danger of being removed by another for the purpose of interfering with the court's jurisdiction.

#### **LR1-704. Summary hearing.**

A. Upon notice to all parties, or pursuant to a calendar as set from time to time by the court, all interim motions and other matters that can be disposed of by summary hearing shall first be heard by the court at summary hearings.

B. The following matters should first be heard at a summary hearing.

(1) Motions for interim relief, including support, custody and visitation, interim attorneys fees, prohibition on disposal of assets, and for payment of debts;

(2) Discovery motions;

(3) Motions to enforce interim orders of the court;

(4) Motions to enforce compliance with the Rules of Civil Procedure for the District Courts or these local rules; and

(5) Motions to modify the temporary domestic order.

C. The procedure for summary hearing shall be as follows:

(1) The proponent of the motion shall deliver a copy of the motion and any supporting memoranda and affidavits to the court and shall request that the matter be set on the summary hearing docket.

(2) The proponent of the motion shall provide a notice of summary hearing, with sufficient copies for all counsel or parties of record.

(3) The motion shall be set for summary hearing not less than ten (10) days from the date the motion is filed.

D. After reviewing the motion, supporting pleadings and the record, and, if necessary, receiving argument of counsel and additional tender of proof, the court shall determine if it is able to rule on the matter. If the court is able to rule on the matter, in whole or in part, the court shall state its ruling, the factual allegations relied upon for the ruling, and any specific concerns the court would have if the matters were not decided by summary hearing. If the court is not able to rule upon the motion, the court shall set the matter for hearing on the next available motion day and may enter a temporary order, if the circumstances require. The proponent of the motion shall be responsible for notice to all counsel or pro se parties of record of the setting on the motion.

## **LR1-705. Affidavit regarding assets, debts, income and expenses.**

A. **Statement of financial condition.** In all cases involving property division, child support, spousal support or award of attorney's fees and costs, the parties shall file and serve upon opposing counsel a verified statement as to their financial condition, in form similar to that appended to these local rules (LR1-Form G). The statement shall include:

(1) *Community property:* A list of the assets with estimated values including liabilities thereon and a list of debts, including terms of payment.

(2) *Separate property:* A list of separate assets and liabilities, as above.

(3) *Income:* Each party shall report his or her monthly income, including a statement of all deductions from income, and general expenses, exclusive of items of expense specifically for the benefit of children and exclusive of child support.

(4) *Expenses*: Each party shall provide a detailed list of his or her expenses with all expenses for the children separately stated.

**B. Filing procedure.** The procedure for filing of affidavits shall be as follows:

(1) Each party shall file and serve a copy of the affidavit no later than one hundred-twenty (120) days after the filing of the petition.

(2) Failure to timely file or serve the affidavit may, in the discretion of the court, be the basis for the assessment of costs and attorneys fees against the delinquent party.

(3) The affidavit shall be in a form similar to the affidavit regarding assets, debts, income and expenses appended to these local rules (LR1-Form G).

(4) Within fifteen (15) days of receipt of the opposing party's affidavit, a party may file an amended affidavit.

### **LR1-706. Modification of Rule 1-016 scheduling dates.**

A. In all domestic relations actions the following modifications shall apply to the scheduling dates set forth in Rule 1-016 of the Rules of Civil Procedure for the District Courts.

B. The pretrial scheduling order set forth in Rule 1-016(B) shall be filed within sixty (60) days after the petition is filed.

C. The trial date shall be not later than nine (9) months after the date the scheduling order is filed.

D. 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 filing of the petition.

### **LR1-707. Pretrial conference and order.**

In addition to the matters set forth in Rule 1-016 of the Rules of Civil Procedure for the District Courts, the pretrial conference and pretrial order shall address:

A. The names, dates of birth, and the addresses of any minor children for the past three (3) years;

B. A statement as to whether arbitration, mediation or evaluation has already been conducted, and the results thereof; and

C. A designation of those areas where expert testimony is required or expected.

### **LR1-708. Partial decree.**

A. A party may request the entry of a partial decree dissolving the marriage of the parties and reserving jurisdiction in the court over all other issues.

B. The movant for partial decree shall address in the motion the following matters:

(1) Status of mediation concerning custody and visitation;

(2) Compliance with all discovery obligations and court orders; and

(3) The potential impact of the partial decree on medical coverage for the parties and the minor children, child support, spousal support and tax consequences.

C. In response, the other party may address the impact of a partial decree on the same matters.

D. A partial decree entered by the court shall comply with Rule 1-054 of the Rules of Civil Procedure for the District Courts and may incorporate provisions which the court deems necessary for the protection of the parties and the minor children.

### **LR1-709. Contempt.**

No order to show cause for contempt shall issue except upon verified motion and affidavit specifying with particularity [particularity] the manner in which the court's order or orders have been violated.

### **LR1-710. Tolling of procedural deadlines.**

Notwithstanding the provisions of these rules providing for schedules and deadlines for filings in domestic relations matters, the parties may extend the deadlines or toll the running of time, in accordance with the following procedure:

A. Where the parties are making significant progress towards settlement or are attempting reconciliation, the deadlines provided for in these rules may be abated by the filing of a certificate of abatement containing the following:

(1) A statement that the parties are making significant progress towards settlement or are attempting reconciliation and wish to toll the running of the time periods provided in these rules;

(2) A statement of the present status of the case, including a list of all documents which have been filed as required by these rules; and

(3) The signatures of counsel for both parties and of both parties themselves. Any certificate filed which does not include all required signatures shall be of no effect.

B. The period of abatement or tolling may be terminated by either party upon the filing of a withdrawal of consent to abatement signed by counsel or the party pro se, stating that the parties are no longer making significant progress towards settlement or that withdrawal of consent shall be served upon the other party in the same manner as generally provided for service of pleadings.

C. Immediately upon the filing of the withdrawal of consent to abatement, the time periods provided for in these rules shall again begin to run, excluding the time from the filing of the original certificate or abatement until the filing of the withdrawal of consent; provided, however, that the parties shall have no less than fifteen (15) days from the filing of the withdrawal of consent in which to file any pleading or document required by these rules.

D. The purpose of this local rule is to allow the parties to reach a reasonable settlement or to attempt reconciliation, not to delay the court proceedings. This local rule shall not affect any limits otherwise provided by statute or the Rules of Civil Procedure for the District Courts.

### **LR1-711. Automatic withdrawal.**

Service of pleadings on counsel of record shall only be effective during the pendency of the action and for forty-five (45) days following the entry of the final decree. Nothing in this rule prevents the earlier withdrawal of counsel pursuant to the Rules of Civil Procedure for the District Courts.

### **LR1-712. Final decree.**

The procedure for the presentation and entry of a final decree shall be as follows:

A. The following conditions shall have been met prior to the presentation of a form of final decree to the court:

(1) The petition filed in the case shall have been verified pursuant to Section 40-4-6 NMSA 1978.

(2) The response to the petition shall have been signed by counsel for respondent, if the respondent is represented, or, signed and verified by the respondent, if the respondent is appearing pro se.

(3) The stipulation, marital settlement agreement or separation contract shall be signed and verified before a notary public by both parties as required by Section 40-2-4 NMSA 1978.

(4) The form of order shall be approved by counsel for both parties or, if one or both of the parties are appearing pro se, by the acknowledged signature of each pro se party.



(5) The parties shall have filed completed Rule LR1-705 affidavits, or affidavits in similar form containing substantially the same information. The filed stipulation or marital settlement agreement may be used as a substitute for said affidavits if it contains an adequate description of the property being divided between the parties.

**B. Appearance before the court at presentation of form of final decree.**

(1) If both parties are appearing pro se, both parties shall be present in person for the presentation of the form of final decree to the court. The time for such appearance shall be scheduled in advance with the office of the judge who has been assigned to the case.

(2) If all of the requirements of Paragraph A of this rule have been met, and the form of order has been approved by counsel (both counsel if both parties are represented), the parties need not be present for presentation of the form of order to the court.

**C. Form of final decree.**

(1) If the parties are presenting a form of final decree to the court based upon agreements reached by them which are not included in the stipulation or marital settlement agreement, the form of order shall set forth each of those agreements in detail.

(2) The court reserves the right to review any stipulation or marital settlement agreement, to approve or disapprove the agreement, and to strike, modify, or add language to the form of final decree presented.

**LR1-Form A.**

FIRST JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
NO. \_\_\_\_\_  
Plaintiff,  
vs.  
Defendant.

**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:

---

**LR1-Form B.**

FIRST JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

NO. \_\_\_\_\_

Plaintiff,

vs.

Defendant.

**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:

\_\_\_\_\_  
Secretary

I hereby certify that a true copy of the foregoing Notice was mailed to the following parties/ counsel of record at the following addresses this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_.

---

**LR1-Form C.**

FIRST JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

NO. \_\_\_\_\_

Plaintiff,

vs.

Defendant.

**PRETRIAL ORDER**

This matter having come before the Court on \_\_\_\_\_, 1990, 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 LR1-404 of the Local Rules of the First Judicial District Court, and \_\_\_\_\_ having appeared as counsel for Plaintiff and \_\_\_\_\_ having appeared as counsel for Defendant and \_\_\_\_\_ having appeared as counsel for \_\_\_\_\_; the following action was taken.

1. JURISDICTION AND PARTIES: the jurisdiction of the Court is not disputed and is hereby determined to be present. *(Or, if disputed)*. The question of jurisdiction was decided as follows: *(Appropriate recitation of preliminary hearing and findings)*. There is no remaining question as to propriety of the parties. *(Or, if there is, state the nature of dispute)*.

2. GENERAL NATURE OF THE CLAIMS OF THE PARTIES:

A. Plaintiff claims: *(Set out brief summary without detail)*.

B. Defendant claims: *(Set out brief summary without detail)*.

C. All other parties claim: *(Same type of statement where third parties are involved)*.

3. UNCONTROVERTED FACTS: The following facts are establish [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)*.

4. CONTESTED ISSUES OF FACTS: The contested issues of fact remaining for decision are: *(Set out)*

5. CONTESTED ISSUES OF LAW: The contested issues of law in addition to those implicit in the foregoing issues of fact are: *(Set out)*. *(Or)* There are no special issues of law reserved other than those implicit in the foregoing issues of fact.

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

A. Plaintiff's Exhibits: *(List)*.

B. Defendant'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 thereof. Lists of such Exhibits will be furnished to all opposing counsel and the Court as [at] least 10 days prior to trial. At that time all such Exhibits will be made available for examination by opposing counsel. This rule does not apply to rebuttal Exhibits, which cannot be anticipated.

E. Any counsel requiring authentication of an Exhibit must so notify in writing the offering counsel within 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 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 of 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.

7. Any party proposing to offer all or any portion of a deposition shall notify opposing counsel at least 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 as [at] least 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 3 days before trial.

8. DISCOVERY: Discovery has been completed. *(Or)* Discovery is to be completed by \_\_\_\_\_. *(Or)* Further discovery is limited to \_\_\_\_\_. *(Or)* The following provisions were made for discovery: *(Specify)*.

9. WITNESSES:

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

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

C. 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)* *(Use of third parties, if any)*.

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.

10. REQUESTS FOR INSTRUCTIONS: *(If the case is to be tried to a jury, include the following. Otherwise omit)*. 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.

11. AMENDMENTS TO PLEADINGS: There were no requests to amend pleadings *(Or)* The following order was made with regard to amendments to the pleadings: *(Set out)*.

12. 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.).

13. 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.

14. TRIAL SETTING: The case was set for trial (with) (without) a jury on \_\_\_\_\_, 199\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ m. (Or) No definite setting was made, but it was estimated that the case will be reached for trial \_\_\_\_\_.

15. MEMORANDUM: Estimated length of trial is \_\_\_\_\_ days. Possibility of settlement of this case is considered (good) (fair) (poor).

DATED: \_\_\_\_\_

\_\_\_\_\_  
DISTRICT JUDGE

The foregoing proposed pretrial order (prior to execution by the Court) is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_.

\_\_\_\_\_  
Address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Attorney for Plaintiff  
\_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Attorney for Defendant

\_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Attorney for Other Parties (if any)

**LR1-Form D(1).**

FIRST JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

NO. \_\_\_\_\_

Plaintiff,

vs.

Defendant.

**PRAECIPE**

Plaintiff \_\_\_\_\_, requests that this Court give the following jury instructions in this case:

REQ.	NO.	TITLE	GIVEN	REF
. MOD.	UJI			
----	---	-----	-----	---
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:

---

**LR1-Form D(2).**

FIRST JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO  
 COUNTY OF \_\_\_\_\_  
 NO. \_\_\_\_\_  
 Plaintiff,  
 vs.  
 Defendant.

**PRAECIPE**

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

Instruction No.	U.J.I. No.	Given	Refused	Modified	W ithdrawn
---	---	-----	-----	-----	-
1. 107	13- _____	_____	_____	_____	
2. 203	13- _____	_____	_____	_____	
3. 202	13- _____	_____	_____	_____	
4. 207	13- _____	_____	_____	_____	
5. 205	13- _____	_____	_____	_____	



Submitted by:

\_\_\_\_\_

**LR1-Form E.**

**DOMESTIC RELATIONS DOCKETING SHEET**

*(This docketing sheet and the information required on it do not replace or supplement the filing of pleadings as required by law).*

SF

\_\_\_\_\_ (DR) \_\_\_\_\_

DOCKET CASE NO:

\_\_\_\_\_

**PETITIONER:** Attorneys *(name, address and phone number)*

Name:

Address and Phone No. *(if pro se)*

\_\_\_\_\_

**RESPONDENT:** Attorneys *(name, address and phone number, if known)*

Name:

Address and Phone No. *(if pro se)*

\_\_\_\_\_

**CAUSE OF ACTION** *(check appropriate box and fill in blank.)*

\_\_\_\_\_ Annulment \_\_\_\_\_ Original

Action for \_\_\_\_\_ No

n-Support \_\_\_\_\_

\_\_\_\_\_ Sec. 40-4-3 Action \_\_\_\_\_ Original

Action \_\_\_\_\_ fo

r Custody \_\_\_\_\_

\_\_\_\_\_ Dissolution \_\_\_\_\_ Post Decree

Motion \_\_\_\_\_ (

\_\_\_\_\_ )

\_\_\_\_\_ Paternity \_\_\_\_\_ Other

(Identify) \_\_\_\_\_

---

**CHILDREN:** Are there minor children of this marriage? \_\_\_\_\_

\_Yes \_\_\_\_\_ No \_\_\_\_\_

Has a written Parenting Plan been agreed upon by both parties? \_\_\_\_\_

Yes \_\_\_\_\_ No \_\_\_\_\_

*(If "yes", it must be immediately filed with the court)*

---

**OTHER STATES:** Does this proceeding involve a pending or previously decided court action filed in another state or county? \_\_\_\_\_

\_Yes \_\_\_\_\_ No \_\_\_\_\_

---

ALL RELATED PROCEEDINGS: *(List all related domestic relations proceedings by state, district, name and cause Number, whether previously decided or pending.)*

---

Signature of Petitioner or Attorney of Record: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Attorney for \_\_\_\_\_

**LR1-Form F.**

**FIRST JUDICIAL DISTRICT COURT**

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

NO. \_\_\_\_\_  
Petitioner,

vs.

Respondent.

TEMPORARY DOMESTIC ORDER

THIS MATTER comes before the court upon the filing of a Petition for Dissolution of Marriage or upon the filing of an action pursuant to Section 40-4-3 NMSA 1978. The court finds it is in the best interests of the parties and of the public to issue this order on its own motion.

IT IS THEREFORE ORDERED:

1. Neither party shall molest, intimidate, threaten, harass, injure, or physically or mentally abuse the other party (or any children of the parties).

2. Neither party shall incur unreasonable or unnecessary debts hereafter. Any such debt or any debt which did not contribute to the benefit of both spouses (or their minor children) incurred after the separation of the parties, except for the expenses and fees of this action, shall presumptively be the separate debt of the party incurring such debt.

3. Neither party shall cause the other party or the children of the marriage to be removed from any medical, hospital and/or dental insurance coverage, and each party shall maintain the existing medical, hospital and dental insurance coverage in full force and effect.

4. Neither party shall change the beneficiaries of any existing life insurance policies owned in whole or party [part] by the community and each party shall maintain the existing life insurance policies in full force and effect.

5. Neither party shall see, remove, assign, transfer, dispose of, conceal, encumber, or damage any property, real or personal, community or separate, except in the usual course of business or for the necessities of life, in which case an accounting shall be made to the other party and to the court.

6. Neither party may deny the other party the residence of the parties, whether it be community or separate property, without court order. If necessary the parties should attempt to resolve the question of who shall vacate the residence in a fair manner. If the parties are unable [to] resolve this issue, they may apply to the court for relief.

7. The person moving from the family residence may return to pick up personal belongings and effects at any reasonable time, upon giving prior notice, and shall provide an accounting of items taken.

8. The party who vacates the family residence shall notify the other party (or the other party's attorney), in writing, within twenty-four (24) hours of such vacation, of an address where the vacating party can receive written communications.

9. The parties are advised that all earned income is community property, and that income from all other sources is generally community property. Likewise, each party is advised that all debt obligations, existing and recurring, are generally community obligations. Each party has one-half (1/2) interest in all community property and is obligated for one-half (1/2) of all community debts.

10. This order is binding upon the parties unless modified by agreement of the parties in a Stipulation filed in this cause or by order of the court, upon application of either party.

*(The following provisions set forth in parenthesis shall be used only if there are minor children.)*

(11.

a. Neither party shall remove, cause to remove or permit the removal of any minor children of the marriage from the State of New Mexico without giving reasonable prior written notice to the other party, and neither party shall interfere with the parent-child relationship of the other.

b. If the parties are living apart, both parents shall continue to have frequent contact and communication with the minor children of the parties, personally and by telephone.

c. Both parents shall attend the general information session regarding mediation on the \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_ at 3:30 (a.m.) (p.m.) in the conference room, County Judicial Complex, Santa Fe, New Mexico.)

**FAILURE TO OBEY THIS ORDER MAY BE PUNISHABLE BY CONTEMPT OF COURT.**

Dated: \_\_\_\_\_, 199\_\_\_\_\_

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DISTRICT JUDGE

[As amended, effective September 1, 1993.]

**LR1-Form G.**

**FIRST JUDICIAL DISTRICT COURT**

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

NO. \_\_\_\_\_

Petitioner,

vs.

Respondent.

**AFFIDAVIT REGARDING ASSETS, DEBTS,  
INCOME, AND EXPENSES**

**Introduction.** The information requested by this form must be supplied as completely as possible by the party signing the Affidavit. You have the duty to make such inquiry as may be necessary to obtain the information requested or provide a complete statement of why you were unable to obtain the information. All statements and information are to be provided under oath.

You may find that there is not enough space on this form to provide all of information requested. Please add any extra pages that may be necessary.

List all community and joint assets and debts in Section I through IV and VI, and all separate assets and debts in Section V.

When referring to a party, please use the designation H for husband and W for wife.

STATE OF NEW MEXICO )

) ss.

COUNTY OF SANTA FE )

COMES NOW

---

(Husband) (Wife), and, being first duly sworn, upon oath, states that the following information is true and correct to the best of affiant's knowledge.

**I. REAL PROPERTY:**

**A. Principal Residence**

Address: \_\_\_\_\_

\_\_\_\_\_  
Current Occupant(s):

---

1. If you rent:  
Monthly rental \$ \_\_\_\_\_

- Security and/or damage deposit \$ \_\_\_\_\_

\_\_\_\_\_  
Date of lease: \_\_\_\_\_

- Term of lease: \_\_\_\_\_

- Renewal option: \_\_\_\_\_

2. If you own:  
Is a copy of the deed attached? \_\_\_\_\_  
In what name(s) are title held? \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Current market value: \$ \_\_\_\_\_

Basis for value \_\_\_\_\_  
Mortgage:

Current balance due \$ \_\_\_\_\_

Original amount due \$ \_\_\_\_\_

Date of Mortgage: \_\_\_\_\_  
Interest rate: \_\_\_\_\_ % per annum  
Payments \$ \_\_\_\_\_

\_\_\_\_\_  
Monthly

Other payment terms \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Interest and taxes, if extra \_\_\_\_\_  
Original purchase: When? \_\_\_\_\_

\_\_\_\_\_  
How Much? \$ \_\_\_\_\_

\_\_\_\_\_  
Cost and dates of improvements  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Source of funds: \_\_\_\_\_  
Separate property interest of Husband

\$ \_\_\_\_\_  
Wife \$ \_\_\_\_\_ (Also provide complete details on any separate property interest in Section V.

3. If you live in a mobile home:  
Is a copy of the title attached? \_\_\_\_\_

If you own the mobile home and/or lot, complete Section 2 above.

If you rent the mobile home and/or lot, complete Section 1 above.

4. Other:

If you neither rent nor own your house or the lot on which it is located, provide details on another sheet.

**B. Vacation or recreational real property.**

*(Provide the same information, in the same format, as requested for principal residence.)*

**C. Other real property.**

*(For each other parcel of real property owned or rented provide the same information, in the same format, as requested for principal residence.)*

**II. PERSONAL PROPERTY:**

**A. Household furnishings and appliances.**

Market	Debt Owed	Current Value
Appliances currently in husband's possession	\$ _____	\$ _____
Appliances currently in wife's possession	\$ _____	\$ _____
_____ Furnishings currently in		





Bank or of Date	Name on Account Balance	Type Account	Current Number	on of
Separation				
_____				
_____				
_____				
_____				
_____				
_____				
_____				
_____				
_____				
_____				
_____				
_____				
_____				
_____				

**E. Cash.**

Date		On
Separation	Currently	of
Cash in Husband's possession	\$ _____	\$ _____
Cash in Wife's possession	\$ _____	\$ _____

**F. Life Insurance Policies.**

Insured of	Beneficiary Cash	Company	Face Amount	Date of Issue	Type Policy
Value					
_____					
_____					
_____					
_____					
_____					
_____					
_____					
_____					
_____					

**G. Retirement Accounts.**

1. Company Pension and Profit Sharing Accounts.  
*(Provide information separately for each account)*

Company \_\_\_\_\_  
 Address \_\_\_\_\_  
 \_\_\_\_\_

Administrator \_\_\_\_\_  
 \_\_\_\_\_  
 Address \_\_\_\_\_  
 \_\_\_\_\_  
 Name of participant \_\_\_\_\_  
 \_\_\_\_\_  
 Date account opened \_\_\_\_\_  
 Type of Account \_\_\_\_\_  
 \_\_\_\_\_  
 Vesting and participation status \_\_\_\_\_  
 Amount Invested \_\_\_\_\_  
 \_\_\_\_\_  
 and present balance \_\_\_\_\_  
 or  
 Current value of interest \_\_\_\_\_  
 and basis of value calculation \_\_\_\_\_  
 \_\_\_\_\_

2. Individual Retirement Accounts.

Depository of	Amount	Date Opened	Current Investment	Type	Name Invested	Balance
H/W						

3. Other pension or retirement accounts.  
 (Provide the same type of information as requested above on any other accounts.)

**III. BUSINESSES, INVESTMENTS, AND PROFESSIONAL PRACTICES:**

**A. Stocks, Bonds, Limited Partnerships, and Other Securities.**

Number of or % Interest	Type Company Shares Stock Purchased Interest	Date	Cost Value	Market Owed	Debt	Title H/W

**B. Business Interests.**

*(For each business or profession in which you have an interest (and which is not listed above) provide a complete description with adequate detail to substantiate the value which you have assigned to each such interest.)*

The detail must include at least the following information:

- Name of Business;
- Nature and extent of interest;
- Title on ownership documents;
- Date interest acquired;

Source of all funds or assets contributed and dates of contribution; and

Current fair market value of all assets of the business, including:

- Cash and cash equivalents;
- Marketable securities;
- Accounts receivable;
- Other receivables;
- Inventories;
- Pre-paid expenses;

Fixed assets *(including: cost, depreciation, and current fair market value)*;

- Leases; and
- Intangibles, including goodwill *(showing method of valuation)*.

**IV. OTHER ASSETS.**

*(Provide complete detail for all other assets not otherwise completely described above.)*

**V. SUMMARY OF DEBTS AND OBLIGATIONS.**

Creditors	Debt
-----------	------

Incurred Name	Date for	Monthly Payable	Balance Payments

**VI. SEPARATE PROPERTY.**

(For each item of separate property listed provide the following information:

- Description;
- Date of acquisition;
- Title holder;
- Current possession;
- Current fair market value; and
- Basis of claim for separate property).

A. List of Property (assets and debts) which you claim as your separate property:

B. List of Property (*assets and debts*) which you acknowledge as separate property of your spouse.

**VII. MEDICAL, DISABILITY, AND SIMILAR INSURANCE POLICIES.**

Type of Insurance	Company	Benefits	Insured	Premium
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

**VIII. INCOME AND EXPENSES**

A. Income	HU
SBAND WIFE	--
-----	-----
Gross monthly income from salary & wages, including commissions, bonuses, allowances, overtime and tips, before deductions*: \$ _____	\$
Pension & retirement: Social security, supplemental retirement or disability, workman's comp or unemployment: \$ _____	\$
Public assistance ( <i>AFDC, food stamps</i> ): \$ _____	\$
Child support from any prior marriage: \$ _____	\$
Dividends and interest: \$ _____	\$
Other investment income: \$ _____	\$
Rents: \$ _____	\$
All other sources ( <i>specify</i> ):	\$

_____	\$ _____		
	TOTAL MONTHLY INCOME:		\$
_____	\$ _____		
	Itemize monthly deductions from gross income: *		
	Federal taxes (number of exemptions: _____ )		\$
_____	\$ _____	State taxes:	\$
_____	\$ _____	Social Security:	\$
_____	\$ _____	Union dues:	\$
_____	\$ _____	Medical insurance only for children (Subtract individual coverage from family coverage):	\$
_____	\$ _____	NET MONTHLY INCOME	\$
_____	\$ _____	Mandatory retirement deduction	\$
_____	\$ _____		

Have you worked any overtime in the last 6 months?

Yes \_\_\_\_\_ No \_\_\_\_\_

Please attach your three most recent pay stubs. If you worked overtime attach pay stubs for the previous 6 months.

\* If you are paid weekly, multiply your weekly income and deduction by 4.3; if bi-weekly multiply the bi-weekly figure by 2.15; and if bi-monthly, multiply by 2.

**B. Average monthly expenses for maintaining your household:**

		Current	
Estimated		Actual	
after		-----	
	Separation		

-----  
**1. General household and your personal expenses**

Residence			
Mortgage or rent:	\$ _____		\$
Taxes and Insurance, if not include in Mortgage payment:	\$ _____		\$

Maintenance and repairs:	\$ _____	\$
<hr/>		
Utilities		
Gas:	\$ _____	\$
<hr/>		
Electricity:	\$ _____	\$
<hr/>		
Garbage & sewer:	\$ _____	\$
<hr/>		
Water:	\$ _____	\$
<hr/>		
Telephone:	\$ _____	\$
<hr/>		
Food		
Groceries, including household supplies;	\$ _____	\$
<hr/>		
Meals out	\$ _____	\$
<hr/>		
Automobile		
Car Payment:	\$ _____	\$
<hr/>		
Gas:	\$ _____	\$
<hr/>		
Insurance:	\$ _____	\$
<hr/>		
Repairs:	\$ _____	\$
<hr/>		
Personal clothing:	\$ _____	\$
<hr/>		
Personal medical:	\$ _____	\$
<hr/>		
Doctor:	\$ _____	\$
<hr/>		
Dentist:	\$ _____	\$
<hr/>		
Medication:	\$ _____	\$
<hr/>		
Other monthly payments:	\$ _____	\$
<hr/>		
Charge cards:	\$ _____	\$
<hr/>		
Furniture:	\$ _____	\$
<hr/>		
Loans:	\$ _____	\$
<hr/>		
Vacation/Recreation:	\$ _____	\$

_____	Miscellaneous (e.g. cleaning, beauty shop cosmetics, charity, gifts, pets, etc.):	\$ _____	\$ _____
_____	Insurance	\$ _____	\$ _____
_____	Health (children included? Yes _____ No _____):	\$ _____	\$ _____
_____	Life:	\$ _____	\$ _____
_____	Child support, alimony to former spouse:	\$ _____	\$ _____
<b>2. Expenses for Children (number</b>			
<b>_____)</b>			
_____	Child care or Babysitter:	\$ _____	\$ _____
_____	Clothing:	\$ _____	\$ _____
_____	School supplies, trips:	\$ _____	\$ _____
_____	Tuition:	\$ _____	\$ _____
_____	School lunches:	\$ _____	\$ _____
_____	Medical:     Doctor:	\$ _____	\$ _____
_____	Dentist:	\$ _____	\$ _____
_____	Medication:	\$ _____	\$ _____
_____	Miscellaneous (allowance, gifts, etc.):	\$ _____	\$ _____
_____	TOTAL:	\$ _____	\$ _____

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 199\_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_



NOTARY PUBLIC

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Affidavit Regarding Assets, Debts, Income and Expenses was mailed this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_ to the following parties/counsel of record, \_\_\_\_\_, by first-class mail, postage prepaid.

\_\_\_\_\_

\_\_\_\_\_

**ANNOTATIONS**

**Cross-references.** - For child support guidelines, see 40-4-11.1 NMSA 1978.

**LR1-Form H.**

FIRST JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

NO. \_\_\_\_\_

Petitioner,

vs.

Respondent.

**ORDER FOR MEDIATION**

It has been made to appear to the court that a controversy exists between the parties hereto regarding the custody and visitation rights affecting the parties' children.

It is, therefore, ordered by the court that:

1. This controversy regarding custody and visitation shall be referred to the Family Court Mediation Services, for the purpose of mediation, and for advisory consultation if mediation has been unsuccessfully attempted, by order of the court.

2. The clerk's office shall be paid by the parties prior to

any sessions in accordance with the sliding scale fee determined by the Family Court Mediation Services.

3. The parties shall furnish the Family Court Mediation Services with the completed Mediation Services Information Sheet at the General Information Session.

4. The parties shall attend a General Information Session set for \_\_\_\_\_, at \_\_\_\_\_ (a.m.) (p.m.) at the Santa Fe County Judicial Complex in the conference room.

5. The mediator shall encourage and assist the parties to resolve the contested child custody and visitation matters in a way that is mutually satisfactory to the parties and beneficial to the best interests of the child or children.

6. Mediation proceedings shall be held in private and shall be confidential. All communications, verbal or written, from the parties to the mediator made pursuant to the order, shall be inadmissible in any court hearing.

7. No report of the personal content of mediation shall be made to the court, to the advisory consultant, or the Counsel for either party. The mediator shall inform the court by written report the result of the mediation session. If the mediation process is successful, the agreement shall be reduced to writing on a form to be signed by the parties.

8. The parties shall make themselves and their children available for consultation with the mediator and/or advisory consultant, and shall participate and cooperate fully with the program.

9. If a mediation agreement cannot be reached, the case will proceed for an advisory consultation.

10. After the advisory consultation has been completed, a report shall be made to counsel for each party.

11. In the event of a hearing on custody and visitation, a report shall be made to the court.

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DISTRICT JUDGE

**ANNOTATIONS**

**Cross-references.** - For domestic relations mediation program, see 40-12-5 NMSA 1978.

**LR1-Form I.**

**(Reserved)**

**LR1-Form J1.**

FIRST JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

No

\_\_\_\_\_  
Plaintiff,  
vs.  
Defendant.

REQUEST FOR REFERRAL TO SETTLEMENT CONFERENCE

Pursuant to Rule LR1-405, the undersigned respectfully requests that this cause be referred to a settlement conference, that a settlement referee be promptly appointed and that the parties be directed to comply with the provisions of LR1-405.

The names, addresses and telephone numbers of all counsel or parties *pro se* entitled to participate are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Submitted by:

\_\_\_\_\_

[Approved, effective September 1, 1993.]

**LR1-Form J2.**

**FIRST JUDICIAL DISTRICT COURT**

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

No

• \_\_\_\_\_  
Plaintiff,  
vs  
Defendant.

ORDER OF REFERRAL TO SETTLEMENT CONFERENCE

This matter came before the court upon the request of a party for referral to settlement conference pursuant to Rule LR1-405. Having carefully considered the request, the court finds it is to be well-taken.

IT IS THEREFORE ORDERED that this matter be and hereby is referred to settlement conference and that the parties be and hereby are directed to comply with the provisions of LR1-405.

IT IS FURTHER ORDERED that \_\_\_\_\_ attorney at law, be and hereby is appointed to serve as settlement referee for this matter and, for the purpose of discharging the duties of settlement referee.

\_\_\_\_\_  
District Judge

[Approved, effective September 1, 1993.]