

UNANNOTATED

Rules of the District Court of the Ninth Judicial District

Table of Corresponding Rules

Local Rules of the Ninth Judicial District Court

The table below lists the former rule number and corresponding new number, and the new rule number and the corresponding former rule number prior to recompilation by Supreme Court Order No. 16-8300-015.

Former Rule No.	Corresponding New Rule No.	New Rule No.	Corresponding Former Rule No.
LR9-101	Withdrawn	LR9-101	LR9-102
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LR9-105	Withdrawn	LR9-105	LR9-109
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LR9-201	Withdrawn	LR9-201	LR9-200
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LR9-209	Withdrawn
LR9-300	LR9-205
LR9-301	Withdrawn
LR9-302	Withdrawn
LR9-303	LR9-306
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LR9-305	LR9-114
LR9-306	Withdrawn
LR9-307	Withdrawn
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LR9-309	LR9-210
LR9-400	LR9-115
LR9-401	LR9-116
LR9-402	Withdrawn
LR9-403	LR9-207
LR9-404	Withdrawn
LR9-405	Withdrawn
LR9-406	Withdrawn
LR9-500	LR9-208
LR9-501	LR9-209
LR9-506	LR9-301
LR9-507	Withdrawn
LR9-508	LR9-302
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LR9-600	LR9-303
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LR9-602	LR9-304
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LR9-608	Withdrawn
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LR9-700	LR9-401
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LR9-708	Withdrawn
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LR9-403	New
LR9-404	New
LR9-601	New

I. Rules Applicable to All Cases

LR9-101. Title.

The following Local Rules for the Ninth Judicial District Court shall be known as the “local rules.”

[LR9-102 recompiled and amended as LR9-101 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-102. Scope.

Except where otherwise designated, the local rules apply to all cases brought in the Ninth Judicial District Court.

[LR9-103 recompiled as LR9-102 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-103. Assignment of judge.

[Related Statewide Rules 1-088 and 5-105 NMRA]

A. **Clerk to identify assigned judge at case inception.** The name of the judge before whom a case is to be tried shall appear on the receipt given by the clerk of the district court on receiving the filing fee. In cases filed in forma pauperis, the clerk of the district court shall orally notify the person filing of the name of the judge.

B. **Assigned judge to preside over criminal proceedings; exceptions.** In criminal proceedings no hearing or proceeding may be heard by any judge other than the assigned judge, unless

(1) by consent of the judge to whom the case is assigned and the parties involved, except in the circumstances described in Subparagraph (2) of this paragraph; or

(2) whenever the assigned judge is not available, 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. A judge pro tem may hear any case or matter assigned to the judge, as though the judge were assigned the case when it was filed.

C. **Disclosure of previous submission required.** If a matter or proposition has previously been submitted to a judge, an attorney shall disclose that fact to the judge to whom it is being subsequently submitted.

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

[LR9-106 recompiled and amended as LR9-103 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-104. Mode of attire.

All attorneys, their employees, law clerks, law students, officers, and employees of the court, social workers, probation officers, and other case workers appearing in court or in the judge's office or chambers shall be properly attired befitting the dignity of the court.

[LR9-107 recompiled and amended as LR9-104 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-105. Control of court files.

Court files of closed or pending causes shall not be removed from the office of the clerk of the district court except by court personnel, or by order or direction of the district judge assigned to the case.

[LR9-109 recompiled and amended as LR9-105 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-106. Books belonging to the district court.

A. Reference materials. A limited number of books and treatises (hereinafter reference books) are maintained at the district courthouse for use by the district court. After the needs of the court are met and should it not interfere with the operation of the court, members of the bar shall be allowed to use the reference books.

B. Conditions for removal. Any reference book belonging to the Ninth Judicial District Court may not be removed from the courthouse at anytime except for use in court. No volume shall be checked out by members of the bar unless approved in writing by a district court judge.

C. Chargeout card. A chargeout card signed by the attorney shall be inserted in place of the volume removed.

[LR9-111 recompiled and amended as LR9-106 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-107. Appearances and withdrawals.

[Related Statewide Rules 1-089 and 5-107 NMRA]

A. **Written entry of appearance or signed pleading.** Whenever counsel undertakes to participate in a cause in behalf of a party, counsel will file a written entry of appearance in the cause. For the purposes of this local rule, the filing of any signed pleading in a cause will be considered as compliance with the requirement of making a written formal entry of appearance.

B. **Rule 1-089 applies; mailing address required.** Withdrawal of counsel in both criminal and civil actions shall be in accordance with Rule 1-089 NMRA. The application of counsel to withdraw shall state the last known mailing address of the client.

C. **Civil cases.** Following withdrawal by counsel, in a civil action an unrepresented party shall have twenty (20) days within which to secure counsel or be deemed to have entered an appearance pro se.

D. **Criminal cases.** In criminal proceedings if no counsel enters an appearance within twenty (20) days the state shall set a determination of counsel hearing with the district court.

E. **Requirements for pro se entry of appearance.** Entry of appearance by a party pro se shall be by an entry of appearance and by filing an initial pleading, responsive motion, or other document that includes the party pro se's name, address, and telephone number.

F. **Corporations.** Corporations must be represented by counsel. The court may strike by court order on its own motion, any document filed by an unrepresented corporation.

[LR9-112 recompiled and amended as LR9-107 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-108. Payment to the clerk of the district court.

A. **Returned check; fees.** Any check payable to the clerk of the district court that is returned for insufficient funds shall subject the person submitting the returned check to a service charge consistent with what the financial institution charges the district court. The check together with the service charge shall be paid by cash, cashiers check, or money order to the clerk of the district court within five (5) working days from the date of mailing notification to the address of the check issuer as set forth on the check.

B. **Returned checks; future check writing restrictions.** Any person who issues a check that is returned for insufficient funds to the clerk of the district court shall be prohibited in the future from making payment by check to the Ninth Judicial District Court, unless authorized by the chief judge of the district court.

[LR9-113 recompiled and amended as LR9-108 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-109. Conflicts and priorities.

A. **Resolving conflicting settings; priorities categories.** To resolve conflicts in hearings and trials, the following priorities shall govern, unless otherwise ordered by the court:

Priority 1: criminal, juvenile, and children's court matters;

Priority 2: all matters given preference by statute;

Priority 3: civil jury trials;

Priority 4: civil non-jury trials;

Priority 5: domestic relations matters;

Priority 6: all other matters.

B. **Conflicts in categories; first matter takes precedence; criminal case exception.** The case or matter first set for hearing shall take precedence in each of the above categories, except that in criminal cases the oldest cases on the court's docket shall be given priority.

[LR9-114 recompiled and amended as LR9-109 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-110. Disbursement of trust monies.

[Related Statewide Rule 1-102 NMRA]

Monies that are held by the court in interest bearing accounts will not be disbursed to a prevailing party until a judgment or order is filed with the clerk of the district court. The judgment or order shall set forth the name of the prevailing party and the amount awarded. The judgment or order shall also set forth the name of the party who has been awarded the accrued interest of those monies. Trust monies will not be disbursed until the clerk of the district court is furnished the name, address, last four digits of social security number, and such other identifiers as reasonably requested.

[LR9-115 recompiled and amended as LR9-110 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-111. Case decision deadlines.

[Related Statewide Rule 1-054.1 NMRA]

If a decision is not made within the sixty (60) day period required by Rule 1-054.1 NMRA it may be brought to the attention of the assigned judge by counsel for either party.

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

LR9-112. Form of pleadings.

[Related Statewide Rules 1-010 and 5-118 NMRA]

A. **Caption; title required.** All pleading, motions, or other papers filed shall bear a caption and a descriptive title so as to alert the court to the nature and purpose of the document.

B. **Certificate of service.** Other than the original complaint, all pleadings, motions, or other papers, including subpoenas, must bear a certificate of service which shall state the name and address of each attorney or party on whom the pleading was served.

C. **Contact information.** All pleadings filed with the district court must contain the name, correct address, and correct telephone number for the party filing the pleadings.

[LR9-119 recompiled and amended as LR9-112 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-113. Motion practice.

[Related Statewide Rules 1-007.1 and 5-120 NMRA]

The following procedures for motion practice shall apply to all civil and criminal cases.

A. **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. Documents already in the court file shall not be attached as exhibits, but shall be referred to by name and date of filing and may be furnished to the court.

B. **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.

C. **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 shall also be served on all parties.

[LR9-204 recompiled and amended as LR9-113 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-114. Time-stamped copies of pleadings.

The clerk of the district court will time-stamp the original and no more than two copies of a filed pleading. Additional time-stamped copies shall be made from the copies procured at the time of filing the pleading and are not the responsibility of the clerk of the district court.

[LR9-305 recompiled as LR9-114 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-115. Settings.

A. **Calendar clerk to make settings.** Requests for settings for trial or for motions shall be directed to the calendar clerk who will make the setting. The calendar clerk will enter the date and time of the setting for the trial or hearing.

B. **Requesting party to give notice.** The party or interested person of record requesting the setting shall give written notice of the setting to all other parties and interested persons of record, and shall have the calendar clerk or district court clerk sign the original notice of setting before filing with the clerk of the district court.

[LR9-400 recompiled and amended as LR9-115 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-116. Vacating trials or settings.

A. **Judge's prior approval.** Neither criminal nor civil settings involving hearings on the merits will be vacated without prior approval of the judge assigned to the case.

B. **Parties' positions.** Before counsel contacts the assigned judge to vacate a setting, counsel shall contact all parties or attorneys entitled to notice in order to inform the court of each party's position as regards the vacation.

C. **Order; reason required.** An order entered under this rule shall contain the reason(s) for the vacation.

D. **Conflicts.** LR9-109 NMRA shall govern in conflicts in settings.

[LR9-401 recompiled and amended as LR9-116 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-117. Disciplinary action.

Any infraction of these rules shall, in addition to other appropriate remedies, subject the attorney or non-complying party to disciplinary action as the judges of the Ninth Judicial District shall deem appropriate.

[LR9-803 recompiled and amended as LR9-117 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

II. Rules Applicable to Civil Cases

LR9-201. Interrogatories, requests for production, and requests for admission.

[Related Statewide Rule 1-033 NMRA]

A. **Interrogatories.** Parties propounding interrogatories shall serve at least two copies on each party to be served. Interrogatories shall be numbered consecutively. Adequate spacing shall be left under each interrogatory for an answer. The party answering interrogatories shall serve at least two copies on the party propounding interrogatories.

B. **Objections.** In objection to an interrogatory or request, the objector shall first set out the complete interrogatory or request followed by the reason for the objection.

C. **Motions; exhibits.** If relief is sought in accordance with the Rules of Civil Procedure for the District Courts concerning an interrogatory, request for production or inspection, request for admission, or the response or objection thereto, a copy of the interrogatory, request, response, or objection in dispute shall be filed with the court with any motions filed.

D. **Timing of motions.** No motion under this local rule will be considered unless filed not less than ten (10) days before trial or before the termination date of any discovery deadline set by the court.

E. **Number of interrogatories.** No party shall serve more than fifty (50) interrogatories in the aggregate, including all discrete subparts, without leave of court,

which shall be freely granted in all complex litigation. Discrete subparts of an interrogatory shall relate directly to the subject matter of the interrogatory.

[LR9-200 recompiled and amended as LR9-201 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-202. Appointments of counsel.

A. **Affidavit of party seeking counsel.** Any party desiring appointment of counsel in any proceeding where the appointment is mandated by law shall make application for appointment of counsel by filing an affidavit in the form prescribed by the court.

B. **Clerk to maintain list.** In all actions requiring appointment of counsel, after filing of appropriate financial statements and after order of the court determining the appropriateness of the appointment, the party preparing the order for appointment shall apply to the clerk of the court in the applicable county who shall maintain a list (which shall be updated on an annual basis with a copy provided to the presiding judge and the local rules committee) of all attorneys who practice primarily in that county. The clerk shall endorse the name next appearing in alphabetical order for appointment in that specific case. No attorney's names may be removed from the alphabetical list of those eligible for appointment without the concurrence of the chief district judge. The chief judge shall refer this list to the sitting local rules committee to be updated annually.

C. **Financial affidavit.** Individuals applying for court appointed counsel in applicable situations will be responsible for filling out the necessary financial affidavit.

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

LR9-203. Default judgments; setting aside.

[Related Statewide Rule 1-054 NMRA]

Any judge may sign a default judgment, however only the judge to whom the case is assigned shall hear a motion to set aside the default judgment.

[LR9-205 recompiled and amended as LR9-203 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-204. Consolidated cases.

Motions to consolidate and the cases consolidated for trial shall be heard by the judge assigned to the case bearing the lowest case number. Pleadings filed after consolidation shall contain in the caption the case numbers of each case consolidated.

[LR9-206 recompiled as LR9-204 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-205. Orders and judgments.

[Related Statewide Rule 1-058 NMRA]

A. **Timing of submission.** Civil orders, judgments, and decrees will be submitted to the court for signature not later than ten (10) business days following the day of announcement by the court of its decision, unless a longer time is granted by the court.

B. **Delivery to clerk.** Every civil order, judgment, decree, or other instrument which has been signed by the court shall be immediately delivered to the appropriate clerk for filing.

C. **Signatures or notice required; assessment of fees.** Civil orders, judgments, or decrees will not be signed by the court unless they have been initialed by the attorney or attorneys for all parties to the cause or after proper notice to opposing counsel of record. On a notice of presentment, the court may assess attorney fees if the court determines there was not a good faith basis for a refusal to timely approve the proposed form of order or judgment.

D. **Submission to assigned judge; exception.** Orders, decrees, and judgments will be submitted and delivered directly to the judge who is trying or has tried the case unless the presiding judge is unavailable, and in that instance another judge may sign an order or judgment approved by all counsel.

[LR9-300 recompiled and amended as LR9-205 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-206. Application for payment of attorney fees.

All applications for payment of attorney fees submitted by appointed counsel shall be accompanied by a copy of the order appointing counsel. Counsel shall submit the application to the trial judge for approval prior to submission to the district court financial specialist for payment.

[LR9-304 recompiled as LR9-206 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-207. Dismissal of civil cases.

[Related Statewide Rules 1-041 and 1-55 NMRA]

A. **Dismissal for failure to proceed to judgment.** If an examination of the case file reveals that (1) a cause is ready for default, or (2) there remains no issue for the

consideration of the court, the court may direct counsel to proceed to judgment forthwith. On failure of counsel to submit judgment within thirty (30) days thereafter, the court may, of its own motion, dismiss the cause.

B. Dismissal for inactivity. If an examination of the court file shows that no substantial activity has occurred in the action for a period of six (6) months or more, the court will send a notice to all parties of record that it intends to dismiss the action for lack of prosecution and that if no response to the same is received within fourteen (14) days the action will be deemed to be dismissed without prejudice.

[LR9-403 recompiled and amended as LR9-207 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-208. Filing fees.

Filing fees will not be refunded.

[LR9-500 recompiled and amended as LR9-208 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-209. Requested instructions in civil cases.

[Related Statewide Rule 1-051 NMRA]

A. Form of requested instructions. Each requested instruction shall be identified by party and consecutive number, *e.g.*, "Plaintiff John Smith's Requested Instruction No. 1," "Plaintiff John Smith's Requested Instruction No. 2," and so forth.

B. Supporting citations. Citations supporting the requested instruction as a correct statement of the applicable law shall be listed on the bottom of each requested instruction.

C. Form provided to court. A copy of each instruction with the heading "Instruction No. ____," with no numbers inserted and no citations listed, also shall be provided to the court.

[LR9-501 recompiled and amended as LR9-209 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-210. Electronic filing authorized.

[Related Statewide Rule 1-005.2 NMRA]

In accordance with Rule 1-005.2 NMRA, electronic filing is implemented for all civil and probate actions in the Ninth 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. 13-8300-LR1, effective for all cases filed or pending on or after February 4, 2013; LR9-309 recompiled and amended as LR9-210 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

III. Rules Applicable to Criminal Cases

LR9-301. Transportation of prisoners.

Defendants under the jurisdiction of the Ninth Judicial District Court and incarcerated at the state penitentiary may be transported to court for attorney conferences not more than three (3) full days prior to trial or hearing, if requested. Prisoners may not be transported to court for attorney conferences at any other time.

[LR9-506 recompiled as LR-301 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-302. Time for presentation of plea and disposition agreements.

[Related Statewide Rule 5-304(E) NMRA]

Plea and disposition agreements or other similar agreements entered into shall only be accepted by the court if presented and accepted at least thirty (30) days prior to the time the cause has first been scheduled for trial on its merits. The provisions of this rule may be waived by the court on a showing that factors which were justifiably unanticipated by the parties necessitated the entry into the subject agreement.

[LR9-508 recompiled and amended as LR9-302 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-303. Order setting defendant's bond.

[Related Statewide Rules 5-301; 5-303; 5-401 NMRA]

An order shall be prepared encompassing the release conditions immediately after the conditions are established. Conditions of release identical to those by prior district or magistrate court order may be established by attaching a copy of the prior order setting forth those conditions as an exhibit to the order contemplated in this rule.

[LR9-600 recompiled and amended as LR9-303 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-304. Jointly charged defendants; case caption; effect.

[Related Statewide Rule 5-203 NMRA]

A. **Procedure.** In situations where a prosecutor desires to jointly charge two or more defendants in a criminal complaint, indictment, or information, the prosecutor shall instead file individual charging documents for each defendant, under separate cause numbers, cross-referenced in the case caption with the words “CONSOLIDATED WITH...” followed by the cause number(s) of the co-defendants who would otherwise have been jointly charged. Individual charging documents styled in this manner shall be treated for all purposes as if there were one charging document filed with all co-defendants listed thereon, including the transfer of all co-defendants together when one exercises the right of peremptory challenge against the assigned judge or the judge recuses himself or herself as to one or more co-defendants.

B. **Assigned judge.** All co-defendants charged in this manner shall be assigned the same judge and shall be tried together unless severed by the court.

C. **Compliance with Rule 5-203 NMRA.** Any prosecutor seeking to jointly charge two or more defendants under this rule must also comply with the provisions of Rule 5-203(B) NMRA.

[LR9-602 recompiled and amended as LR9-304 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-305. Criminal orders; judgments and sentences.

The judgment and sentence in all criminal cases shall be signed by both parties or their attorneys and submitted to the court for signature under this rule.

A. **Approval; timing.** Any final order or judgment and sentence which affects in any manner the custody or release of a defendant in a criminal proceeding shall be prepared and approved by the parties and their attorneys and submitted to the court for approval no later than ten (10) business days after the court's decision.

B. **Procedure for submission.** The prosecuting attorney shall prepare the judgment and have the judgment submitted to counsel for the defendant, or directly to the defendant if pro se, within five (5) business days of the court's decision. Any judgment and sentence that has not been approved by the defendant or the defendant's attorney after the expiration of ten (10) business days after the court's decision or the jury's verdict shall be submitted to the trial court for approval with a notation that it has been submitted to the defendant or the defendant's attorney, that more than ten (10) business days have elapsed since the court's decision, and that the defendant or the defendant's attorney has failed or refused to sign it. The notation shall include the date that the proposed order or judgment and sentence was submitted to the defendant or the defendant's attorney for review. The court shall ensure that opposing counsel has

had sufficient time to review the document. If the order or judgment and sentence meets with the court's approval, the court shall sign the document.

C. Objections. The defendant or defendant's attorney shall be responsible to ensure that the defendant or the defendant's attorney reviews and either approves or objects to any proposed written judgment and sentence in a criminal case. If the defendant or the defendant's attorney does not or cannot agree to the form of the judgment and sentence, it shall be the defendant's or the defendant's attorney's responsibility to file a written objection and notify the trial court of the objection prior to ten (10) business days after the court's decision. If the defendant or the defendant's attorney opposes the form of order, it shall be the defendant's or the defendant's attorney's obligation to schedule a hearing before the trial judge as quickly as possible on the objection(s).

D. Hearing on objections. Objections or hearing on objections to the form and content of judgment and sentence, or other orders and judgments which affect in any manner the custody or release of a defendant, shall be heard by the court as quickly as possible. The time limits set forth in the rules with regard to hearings on motions or other pleadings shall not apply to hearings with regard to the contents of a judgment and sentence or other order or judgment affecting custody or release of a defendant and the court may schedule the same with twenty-four (24) hour notice to parties of record or their attorneys, except victim cases under Section 31-26-3 and Section 31-26-10 NMSA 1978, which requires seven (7) days' notice.

E. Date of filing, entry. The date of filing and entry shall be the same in all cases and shall be shown by the court administrator's stamp, unless filed in open court or nunc pro tunc.

F. Filing; notification. All orders or judgments and sentences submitted to the court shall be signed and thereafter immediately filed with the court clerks' office. The court shall immediately contact each counsel's office and notify counsel that the order or judgment and sentence has been signed and filed. If not yet filed by the court, the prosecutor's office shall be responsible for the filing of any order or judgment under this policy. If the court has filed the order or judgment and sentence, the prosecutor's office shall be responsible for obtaining copies of the order or judgment and sentence from the judge's clerk on immediate notification by the court that it has filed the order or judgment and sentence and distributing copies of the same.

G. Court to provide copy to authorities. A copy of all judgments and sentences or other orders and judgments that affect in any manner the custody or release of a defendant shall be provided by the court to the Curry or Roosevelt County Detention Facility or the Curry or Roosevelt County Sheriff's Office within two (2) business days after the judgment and sentence or other order or judgment is filed with the Ninth Judicial District Court Clerk's Office.

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

LR9-306. Order to release property in custody of court.

No cash bonds shall be returned without an order setting forth the amount and to whom the funds are to be returned.

[LR9-303 recompiled and amended as LR9-306 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

IV. Rules Applicable to Domestic Relations Cases

LR9-401. Contempt.

Orders to show cause for contempt must be based on motion and affidavit specifying with particularity the manner in which the court's order has been violated.

[LR9-700 recompiled and amended as LR9-401 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-402. Presence of parties before court.

A. **Agreement; parties' presence not required.** In all domestic relations cases where the parties have reached an agreed result, an order encompassing the agreement may be presented to the court together with appropriate waivers without the necessity of the parties' presence.

B. **Personal appearance required for show cause.** Parties shall be required to personally attend, and may not attend telephonically, in regard to any order to show cause that has been issued involving them.

[LR9-701 recompiled and amended as LR9-402 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

LR9-403. Telephone appearance and emergency relief.

A. **Advance permission needed.** No witness nor witness's counsel may appear telephonically for any hearing without first obtaining the permission and an order from the court at least two (2) days prior to the scheduled hearing. This rule may be suspended in emergency circumstances or on a showing of good cause.

B. **Rule 1-066 controls.** Rule 1-066 NMRA shall strictly control any ex parte appearance or request by counsel or a party before the court and an attorney's or pro

se litigant's affidavit shall be filed demonstrating efforts to provide notice to the opposing party or counsel in all instances.

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

LR9-404. Custody education workshop for child-related proceedings.

A. **Participation required.** In any domestic relations proceeding where children are involved, whether custody or visitation is stipulated to, disputed, or otherwise, the court shall require each party to attend a custody education workshop, either as may be offered by the Ninth Judicial District Family and Children's Court Services or as may be offered in the judicial district where a party primarily resides if outside the Ninth Judicial District, a like or similar custody education workshop.

B. **Order.** In any domestic relations proceeding where children are involved, there shall be filed with the court clerk a form of order requiring the parties' attendance at a custody education workshop.

C. **Court may waive requirement.** On motion made to the court by a party or on stipulation of counsel, for good cause shown, the court may waive a party's attendance at a custody education workshop.

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

LR9-405. Domestic relations mediation.

[Related Statewide Rule 1-125 NMRA]

A. **Parties may request.** Either party may request the presiding district judge to order the parties to attend mediation. The parties shall exercise self-determination, and the parties shall equally bear the cost of the mediator unless the district court orders otherwise, or orders the parties to participate in the court mediation program as set forth below.

B. **Court may order; attendance.** A district judge may enter a *sua sponte* order requiring the parties and representatives to attend in person one or more mediations.

C. **Self-determination.** In self-determination, the decision-making authority rests with the mediation parties themselves. Self-determination is the core value of court-connected mediation services.

(1) Courts may mandate referral to mediation, but should not require mediation parties to settle. There should be no adverse response by courts to non-

settlement by the mediation parties. For that reason, mediation parties should be permitted to opt out of mediation at any time.

(2) A mediator should facilitate negotiations between mediation parties and assist them in trying to reach a settlement, but should not have the authority to impose a settlement on the mediation parties or to coerce them into settlement.

D. Court's mediation program. Under Section 40-12-5 NMSA 1978, the court mediation program serves as a domestic relations mediation program. The program will provide mediation services to parties in domestic relation cases involving children. The court mediation program shall be administered and services provided by the court's staff attorney and/or contract mediators.

E. Case assignment to court's mediation program. Cases will be sent to the court mediation program upon the discretion and order of a district judge. A district judge may enter a *sua sponte* order requiring the parties to participate in the court mediation program. Additionally, parties may request mediation through the court mediation program at the district judge's discretion.

F. Court mediation program fees. In order to implement the court mediation program, the following fees shall be charged:

(1) in accordance with Section 40-12-6 NMSA 1978, in addition to fees collected under Section 34-6-40 NMSA 1978 for the docketing of civil cases, the district court clerk shall collect a surcharge of thirty dollars (\$30.00) on all new and reopened domestic relations cases; and

(2) the parties shall pay a fee to the court's mediation program prior to mediation. These fees are to be set by the Ninth Judicial District Court under governing statute.

G. Mediation Fund. Court mediation program fees shall be paid to the Ninth Judicial District Court to be credited to the domestic relations mediation fund. Money deposited in these funds may be used to offset the cost of the court mediation program.

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.

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

LR9-406. Safe exchange and supervised visitation program.

[Related Statutes Section 40-12-5.1 NMSA 1978 and Statewide Rule 1-125 NMRA.]

A. **Establishment of program.** The Ninth Judicial District Court hereby establishes a safe exchange and supervised visitation program.

B. **Initiating services; cooperation required.** The court may, on request of any party or on the court's own motion, order the parties to participate in the safe exchange and supervised visitation program. Any party ordered to participate in the safe exchange and supervised visitation program shall cooperate with court staff and outside service providers designated by the court to operate the program. Failure to abide by an order of the court related to the safe exchange and supervised visitation program may be deemed to be contempt of court and punished accordingly.

C. **Responsibility of parties regarding fees of the program.** Any party ordered to participate in the safe exchange and supervised visitation program shall pay fees related to the program under a sliding fee scale approved by the Supreme Court. The sliding fee scale shall be based on the ability to pay for services.

D. **Availability of services.** Services offered by the safe exchange and supervised visitation program may differ in each county.

[Adopted by Supreme Court Order No. 21-8300-006, effective September 21, 2021.]

V. Rules Applicable to Children's Court Cases [Reserved]

VI. Rules Applicable to Court Alternative Dispute Resolution Programs

LR9-601. Civil mediation.

[Related Statutes NMSA 1978, §§ 34-6-44 and -45]

A. **Parties may request.** Either party may request the presiding district judge to order the parties to attend mediation. Parties participating in mediation shall be afforded the opportunity to exercise self-determination. The parties shall equally bear the cost of the mediator, unless the district court orders otherwise.

B. **Court may order; attendance.** A district judge may enter a sua sponte order requiring the parties and representatives or insurance carriers to attend in person one or more mediations. Any party ordered to participate in mediation shall cooperate with all court staff and outside service providers, and any party who fails to do so may be sanctioned or held in contempt of court.

C. **Non-presiding judge may conduct.** If a non-presiding district judge is available and agrees, the parties may conduct a mediation before another district judge.

D. Court's Mediation Program. The Court Mediation Program is established and serves dual purposes. First, pursuant to Section 40-12-5 NMSA 1978, the Court Mediation Program serves as a domestic relations mediation program. The Program will provide mediation services to parties in domestic relation cases involving children. Second, the Court Mediation Program is an alternative dispute resolution program in accordance with Section 34-6-45 NMSA 1978. The program will provide mediation services to parties in civil cases and other types of cases. The Court Mediation Program shall be administered and services provided by the Court's staff attorney and/or contract mediators.

E. Case assignment to court's mediation program. Cases will be sent to the Court Mediation Program upon the discretion and order of a district judge. A district judge may enter a sua sponte order requiring the parties to participate in the Court Mediation Program. Additionally, parties may request mediation through the Court Mediation Program at the district judge's discretion.

F. Court Mediation Program fees. In order to implement the Court Mediation Program, the following fees shall be charged:

(1) in accordance with Section 40-12-6 NMSA 1978, in addition to fees collected pursuant to Section 34-6-40 NMSA 1978 for the docketing of civil cases, the district court clerk shall collect a surcharge of thirty dollars (\$30.00) on all new and reopened domestic relations cases;

(2) in accordance with Section 34-6-45 NMSA 1978, in addition to fees collected pursuant to Section 34-6-40 NMSA 1978 for the docketing of civil cases, the district court clerk shall collect a surcharge of fifteen dollars (\$15.00) on all new and reopened civil cases except domestic relations cases; and

(3) the parties shall pay a fee to the Court Mediation Program prior to mediation. Said fees are to be set by the Ninth Judicial District Court pursuant to statute and shall be paid by the parties in accordance with a sliding fee scale provided by the Ninth Judicial District Court. Fees collected through the Court Mediation Program are to be used to offset the costs of operation of the Program.

G. Mediation Fund. Court Mediation Program fees shall be paid to the Ninth Judicial District Court to be credited to the domestic relations mediation fund or alternative dispute resolution fund. Money deposited in these funds may be used to offset the cost of the Court Mediation Program.

H. Online Dispute Resolution. When available, parties may be given the opportunity to use court-connected online dispute resolution.

I. 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, are

arms of the court and are immune from liability for conduct within the scope of their duties as provided by law.

[Adopted by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; amended by Supreme Court Order No. 19-8300-010, effective July 1, 2019.]

VII. Forms

[Reserved]