

# UNANNOTATED

## Rules of the District Court of the Eleventh Judicial District

### Table of Corresponding Rules

#### Local Rules of the Eleventh 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.
LR11-101	LR11-101	LR11-100	New
LR11-102	LR11-102	LR11-101	LR11-101
LR11-103	LR11-103	LR11-102	LR11-102
LR11-104	LR11-104	LR11-103	LR11-103
LR11-105	LR11-201	LR11-104	LR11-104
LR11-106	LR11-202	LR11-105	LR11-107
LR11-107	LR11-105	LR11-106	LR11-111
LR11-108	Withdrawn	LR11-107	New
LR11-109	LR11-301	LR11-108	LR11-112
LR11-110	Withdrawn	LR11-109	LR11-113
LR11-111	LR11-106	LR11-110	LR11-116
LR11-112	LR11-108	LR11-111	LR11-117
LR11-113	LR11-109	LR11-112	LR11-118
LR11-114	LR11-401	LR11-113	New
LR11-115	LR11-402	LR11-114	New
LR11-116	LR11-110	LR11-115	New
LR11-117	LR11-111	LR11-116	New
LR11-118	LR11-112	LR11-117	New
LR11-119	Withdrawn	LR11-118	New
LR11-120	LR11-207	LR11-119	New
LR11-121	LR11-210	LR11-120	New
		LR11-121	New
		LR11-201	LR11-105
		LR11-202	LR11-106

LR11-203	New
LR11-204	New
LR11-205	New
LR11-206	New
LR11-207	LR11-120
LR11-208	New
LR11-209	New
LR11-210	LR11-121
LR11-301	LR11-109
LR11-302	New
LR11-303	New
LR11-304	New
LR11-401	LR11-114
LR11-402	LR11-115

## I. Rules Applicable to All Cases

### LR11-100. Title and citation.

These rules shall be known as the Local Rules of the Eleventh Judicial District Court and shall be cited by set and rule number of the New Mexico Rules Annotated, "NMRA," as in Rule LR11-\_\_\_\_ NMRA.

[LR11-title and citation compiled and amended as LR11-100 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

### LR11-101. Settings and telephonic appearances.

A. **Notice of setting.** Each judge, hearing officer, or commissioner shall determine the setting schedule for each one's respective divisions and will furnish the court clerk, with service to the parties, a notice of hearing, trailing docket list, or other notice document appropriate to the matter.

B. **Notice is binding.** Whatever the form of notice, all settings made by the court shall be binding on all parties and attorneys who have been served.

C. **Telephonic appearances permitted.** A party may appear by telephone as permitted by law and with prior approval of the court. Prior approval shall be sought by written motion and order unless otherwise directed by the court. The party shall bear the cost of the party's telephonic appearance.

**D. Telephone conferences.** When a telephone conference is conducted at the request of a party, it shall be set up and paid for by the requesting party and shall not be paid for by the court. The record of the conference, if any, will be made by the standard method used by the court in the case.

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

## **LR11-102. Case assignment, reassignment; unavailability of judges.**

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

**A. Assignment.** Cases are typically assigned to judges sitting in the county where the case is filed. In the event of recusal or excusal, the case will be reassigned as described in Paragraph B to one of the other judges sitting in the county where the case was filed. In the event all judges in one county have been disqualified, the case will be reassigned at random to one of the judges in the other county.

**B. Immediate reassignment in case of excusal or recusal.** In the event of recusal or excusal of an assigned judge, the clerk of the court shall immediately reassign the case so that a judge will be assigned to a pending case at all times. The clerk will serve notice of this reassignment on the parties. Under Rules 1-088 and 5-105 NMRA, the parties have ten (10) days from the date of recusal or excusal in which to agree on and enlist a district court judge to hear the case. Parties who agree on a district court judge to hear the case must file a document signed by the agreed-on judge indicating acceptance of the case. On filing, the case will be reassigned to the judge designated in the agreement. Absent the filing of an agreement within ten (10) days, the reassignment noticed by the clerk remains in effect subject to lawful excusals filed by other parties within ten (10) days of the clerk's notice of reassignment.

**C. Assigned judge unavailable.** Other than hearing a default or ex parte matter, cases assigned to one judge who is unavailable will not be heard by another judge without consent of the judge to whom the case is assigned. In case of an emergency, the requesting party must document the emergency to the satisfaction of the substitute judge who may hear a matter without the consent of the unavailable judge to whom the case is assigned.

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

## **LR11-103. Submission of orders following decision or settlement.**

[Related Statewide Rules 1-058, 5-121, and 5-701 NMRA]

**A. In civil cases.** When a case settles, the parties shall immediately notify the judge by calling the judge's chambers during regular business hours. Orders, decrees, and

judgments will be submitted to the judge not later than thirty (30) days following settlement or the date of announcement by the court of its decision. Orders, decrees, and judgments shall indicate approval by the opposing party to include the date and means of approval, whether by telephone, email, or otherwise.

**B. In criminal cases.** Orders submitted after decision in which a constitutional or other substantive issue was in dispute shall indicate approval by the opposing party to include the date and means of approval, whether by telephone, email, or otherwise. Orders submitted after decision concerning a matter in which there was no dispute as to the facts and the law need not indicate approval by the opposing party.

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

## **LR11-104. Motions; proposed orders; briefs.**

[Related Statewide Rules 1-007, 1-007.1, and 5-120 NMRA]

### **A. In civil and criminal cases.**

(1) Motions that do not state with particularity the grounds for the requested order may be summarily denied by the court.

(2) Parties who choose to file a brief in support of an opposed motion shall file the brief separately and apart from the motion itself.

(3) A courtesy copy of a supporting brief, response, or reply should not be furnished to the judge unless requested by the judge.

(4) Briefed motions will be decided on the basis of briefs alone unless a party's request for hearing has been granted by the court.

(5) Time limits set forth in Rule 1-007.1 NMRA and Rule 5-120 NMRA shall be observed. If no response or reply is to be filed, the parties should advise the court.

(6) Proposed orders accompanying unopposed motions: In complying with Rules 1-007.1(B) and 5-120(C) NMRA, the opposing party's approval on the order shall indicate the date and means of approval, whether by telephone, email, or otherwise.

### **B. In criminal cases.**

(1) In addition to the requirements of Rule 5-120 NMRA, each motion shall indicate on its face whether the motion is opposed or unopposed.

(2) Proposed orders in opposed motions may be submitted but shall indicate that the order was not approved by opposing counsel because the motion is opposed or because of other applicable reasons from Rule 5-120 NMRA.

(3) Motions for work search furloughs: In addition to the requirements of this rule, the motion shall be styled as a numbered motion (first, second, and so on) depending on the number of previous motions for work search furloughs that have been filed, regardless of whether a previous motion was or was not granted. Any motion subsequent to a first motion for work search furlough must inform the court about the results of all work search furloughs previously granted. At a minimum, the motion should indicate the employers that were contacted while on furlough previously and the result of the contact.

(4) The requirements of Subparagraph 3 above apply to all motions for furlough with respect to other ongoing needs.

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

### **LR11-105. Continuance.**

A. **Written motion required.** No setting shall be continued except on good cause shown by written motion. Settings will not be continued ex parte or by agreement of counsel.

B. **Good cause.** At the court's discretion, good cause may include a conflict with a prior setting in any court, including federal, magistrate, municipal, or tribal court. Documentation of the prior setting shall be attached to the motion.

C. **Title of motion.** On the face of the motion, counsel will indicate whether the motion is opposed or unopposed.

D. **Proposed order.** Submission of a proposed order shall be in accordance with Rules 1-007.1, 5-120, and LR11-104 NMRA.

[LR11-107 recompiled and amended as LR11-105 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

### **LR11-106. Jury trials; instructions.**

[Related Statewide Rules 1-051 and 5-608 NMRA]

A. **Failure to appear.** Parties who fail to appear for jury trial without cause may, at the discretion of the judge, be assessed the cost of paying the jurors who appeared for jury duty.

**B. Time of submission of instructions.** The assigned judge will notify the parties when requested instructions are to be submitted to the court.

**C. In civil cases.** Under Rule 1-051(G) NMRA, the plaintiff shall initiate discussion and the preparation of a mutually-agreed on set of jury instructions. Only those instructions about which the parties disagree shall indicate the party who has tendered the requested instruction. Instructions that are not taken from the Uniform Jury Instructions for Civil Cases will carry citations to the law on which the instruction is based.

[LR11-111 recompiled and amended as LR11-106 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

### **LR11-107. Voir dire at trial.**

[Related Statewide Rules 1-047 and 5-606 NMRA]

**A. Questions by court.** At its discretion, the court may require attorneys to submit proposed questions for the jury which may be asked by the court rather than the attorneys.

**B. Identify juror number.** In order to make a complete record, as attorneys address a juror, the attorney should verbally identify the number of the juror to whom the attorney is speaking.

#### **C. Prohibitions.**

(1) No attorney will be permitted, under the guise of questions, to argue the case to the jury or to seek commitments from the jurors not related to their qualifications to hear the case.

(2) No question may be asked as to the juror's attitude toward an anticipated instruction.

(3) Questions that can be asked collectively of the jury may not be asked individually.

(4) Jurors may not be questioned concerning what their verdict might be under a hypothetical situation.

(5) Counsel will not repeat questions that have been asked by the court.

(6) Except for purposes of clarification of a jury questionnaire, jurors may not be asked the same questions that have been asked and answered in the jury questionnaire.

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

### **LR11-108. Withdrawal of court files.**

Files of cases docketed in the court may not be removed from the courthouse except by court personnel.

[LR11-112 recompiled and amended as LR11-108 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

### **LR11-109. Court administration.**

[Related Statewide Rule 23-109 NMRA]

A. **Selection of chief judge.** The chief judge shall be selected in the manner provided by Article VI, Section 38 of the New Mexico Constitution and Rule 23-109 NMRA.

B. **Chief judge vacancy.** In the event of a vacancy in the office of the chief judge, the district judges shall, by majority vote, elect one of their number to serve for the remainder of the term.

C. **Administrative authority.** The chief judge may, after taking counsel with all of the judges of the district, designate another individual to act as the administrative authority in the district subject to approval of the New Mexico Supreme Court.

D. **In McKinley County.** The judge of Division II shall have primary responsibility for judicial administration in McKinley County unless a majority of the judges in McKinley County vote to assign the responsibility to a judge of a different division.

[LR11-113 recompiled and amended as LR11-109 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

### **LR11-110. Place of filing; forum shopping; docket number.**

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

A. **San Juan County cases.** Civil, criminal, and domestic relations cases in San Juan County shall initially be filed at the courthouse in Aztec except that children's court, delinquency, Child Support Enforcement Division, and abuse and neglect cases shall initially be filed at the courthouse in Farmington. Petitions for orders of protection under the Family Violence Protection Act may be filed in either location. At the time of initial filing, the case will be assigned to a judge's division. Subsequent documents shall be filed at the courthouse where the assigned judge is located.

**B. Required disclosure.** If a case filed in this district has been filed previously in another district within this state, the filing party shall disclose that fact to the judge to whom the case is assigned in this district.

**C. Docket number.** Preceding the case number assigned by the court, the docket number shall indicate D-1113 for McKinley County and D-1116 for San Juan County. The last digit in the docket number indicates the division to which the case has been assigned. When a case is transferred from one division to another, the division number shall be changed accordingly. When a case is assigned to a judge located outside of the Eleventh Judicial District, the division number shall be zero (0).

[As amended, effective June 17, 2003; LR11-116 recompiled and amended as LR11-110 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

**Committee commentary.** — If a docket fee has been previously paid or waived, a party may file a stipulated order at any time without paying a filing fee even though the signature of the judge is required. This permits the parties to agree to modifications of court orders such as custody orders.

### **LR11-111. Hours; inclement weather.**

**A. Hours.** The offices of the district clerks in San Juan and McKinley Counties shall be open from 8:00 a.m. through 12:00 noon, and from 1:00 p.m. to 5:00 p.m., Monday through Friday except on holidays and at other times designated by the court.

**B. Inclement weather.** Parties are advised to check the Eleventh Judicial District Court's website for information about the court's current inclement weather policy.

[LR11-117 recompiled and amended as LR11-111 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

### **LR11-112. Trust fund.**

[Related Statewide Rule 1-102 NMRA]

**A. Deposits and disbursements.** The clerk shall neither disburse money from nor accept money into the trust account except under court order, statute, or as provided in these local rules.

**B. Interest.** If accrued interest is also to be disbursed, the disbursement order shall so state and shall provide the legal basis for the disbursement of the interest.

**C. Bail money.** In a criminal case, the clerk may disburse bail money held in the trust account to the person who posted the bail on the filing of a nolle prosequi by the prosecuting entity or on entry of an order of dismissal.

[LR11-118 recompiled and amended as LR11-112 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

### **LR11-113. Filing fees and forms of payment.**

A. **Filing fees.** Filing fees will not be refunded.

B. **Forms of payment.** Payment to the court of any kind shall be by attorney firm check, cash, money order, or certified check. Personal checks will not be accepted.

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

### **LR11-114. Summonses and subpoenas.**

[Related Statewide Rules 1-004, 1-045, 5-208, and 5-511 NMRA]

Summonses and subpoenas compelling appearance in court shall contain the following language: “The district court complies with the Americans With Disabilities Act. It is counsel’s or a pro se party’s obligation to notify the clerk of the court at least five (5) days before any hearing of the anticipated attendance of a disabled person so that appropriate accommodations can be made. The court must be notified as to the appropriate type of accommodation which will be necessary.”

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

### **LR11-115. Fax filing; copies; return envelopes; changes to documents.**

[Related Statewide Rules 1-005.1 and 5-103.1 NMRA]

A. **Fax filed documents.** Documents filed with the clerk by facsimile under Rules 1-005.1 and 5-103.1 NMRA shall constitute the original document for purposes of entry into the court record. The faxed document will be file-stamped by the court clerk. Parties shall not thereafter file the “original” document that was previously fax-filed. A document that was previously fax-filed and is subsequently submitted to the court for filing will not be file-stamped, will not be entered into the court record, and will be destroyed.

B. **Ten page limit strictly enforced.** Documents faxed to the clerk that are more than ten (10) pages in length will not be accepted for filing unless approved by the court prior to transmission as required by Rules 1-005.1 and 5-103.1 NMRA.

C. **Conformed copies.** Parties who need conformed copies of fax-filed documents shall request the copies in writing with instructions concerning payment and delivery of

the copies. The clerk will not back-stamp copies of a previously fax-filed document presented by a party for conformation. A party may request a copy of the first page of the fax-filed document on which was affixed the clerk's file stamp for purposes of conforming the copy presented.

**D. Cost of copies.** Parties shall pay for all copies at the cost set by Rule 1-099 NMRA.

**E. Return mailing envelopes required.** Parties shall bear the cost of obtaining conformed copies by providing the clerk with addressed envelopes of sufficient size and with sufficient postage for mailing the requested documents. Conformed copies shall not be faxed to any party.

**F. Changes to fax filed documents.** Documents once filed may not be removed, withdrawn, or altered except on order of the court.

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

### **LR11-116. Juror questionnaires.**

[Related Statewide Rules 1-047, 4-602, 5-606, and 9-513 NMRA]

**A. Limited free copies.** One copy of the relevant juror questionnaires shall be provided free of charge to the Office of the District Attorney. In San Juan County, one copy of relevant juror questionnaires shall be provided free of charge to the Office of the Public Defender which shall provide its contract attorneys with copies of questionnaires as required. In McKinley County, one copy of relevant juror questionnaires shall be provided free of charge to attorneys who are representing indigent criminal defendants by appointment.

**B. Juror contact information.** Contact information for jurors shall not be made available to parties or their attorneys.

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

### **LR11-117. Exhibits.**

**A. In criminal cases.** Unless otherwise ordered by the court, weapons, controlled substances, or non-documentary items of value tendered as evidence during a criminal proceeding shall be secured by the court's bailiff during court recesses. On completion of the proceeding, weapons, controlled substances, or items of value shall be released into the custody of the law enforcement agency having had custody of the items at the beginning of the proceeding. The court monitor or reporter shall make a detailed record

of the items released which shall be delivered to the clerk of the court for filing in the court record.

**B. Inspection and copying.** Exhibits in both civil and criminal cases that remain in the court's custody are deemed to be the property of the party who tendered the exhibit. Nevertheless, exhibits are also considered to be public records (unless excepted by court order or law to the contrary) and will be made available for public inspection and copying.

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

### **LR11-118. Cell phones and other electronic devices.**

If a cell phone or other electronic device of any kind disrupts the proceedings in the courtroom, the device is subject to immediate confiscation until the end of the proceeding and the person who possesses the device is subject to sanctions at the discretion of the court.

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

### **LR11-119. Decorum in the courtroom.**

**A. Addressing the court.** Attorneys and pro se parties shall stand when addressing the court or examining witnesses unless permission to remain seated is granted by the court.

**B. Gum; tobacco.** The chewing of gum or the presence of tobacco in the mouth is prohibited in all courtrooms.

**C. Civility.** Attorneys and pro se parties shall be civil and courteous to opposing attorneys and pro se parties in all matters, both inside and outside the courtroom.

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

### **LR11-120. Attire in the courtroom.**

**A. Head wear.** Other than head wear with religious significance, hats are not allowed to be worn in the courtroom.

**B. Attire.** Attire worn by attorneys, parties, and witnesses shall befit the dignity of the court and shall not interfere with or detract from the orderly conduct of court proceedings.

C. **Judicial discretion.** Each judge has the sole discretion to determine the appropriateness of attire worn in the courtroom.

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

### **LR11-121. Court appointments.**

Except for attorneys employed by the Office of the District Attorney and the Office of the Public Defender, attorneys appearing in cases in the Eleventh Judicial District shall be responsible for providing representation on a pro bono basis as appointed by the court. Execution of this rule shall be by administrative order.

[Adopted 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**

### **LR11-201. Interrogatories.**

[Related Statewide Rule 1-033 NMRA]

A. **Nature of first interrogatory.** The first interrogatory shall be limited to the inquiry into the biographical information of the person, corporation, or other entity that is a party to the lawsuit. The interrogatory shall inquire only into information such as names (including registered agent), places of doing business, contact information, census number, age, marital status, children, and occupation of the party, and if so limited, shall constitute one interrogatory.

B. **Additional interrogatories.** Leave to serve additional interrogatories under Rule 1-033(A) NMRA is not required when the interrogatories number five (5) or less, are submitted less than thirty (30) but more than fifteen (15) days before trial or an evidentiary hearing, and are addressed only to the identity and addresses of fact witnesses and expert witnesses, the substance of their testimony, and the listing and description of exhibits not covered in (if applicable) or subsequent to the pretrial order. Interrogatories in compliance with this sub-paragraph shall be answered in ten (10) days, mailing time included, and impose a continuing duty on opposing counsel to revise and amend, by phone if necessary, to the time of trial or evidentiary hearing.

[LR11-105 recompiled and amended as LR11-201 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

### **LR11-202. Request for trial setting.**

[Related Statewide Rule 1-040 NMRA]

In cases where a pretrial scheduling order has not been entered under Rule 1-016 NMRA, a party who believes the matter is ready for trial shall submit a request for trial on the merits stating, in addition to the requirements of Rule 1-040 NMRA, that all discovery is completed, that the parties have engaged in good faith settlement negotiations which have not resolved the issues and that the case is in all respects ready for trial. The request shall state whether a final pretrial conference is requested.

[LR11-106 recompiled and amended as LR11-202 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

### **LR11-203. Entry of appearance in a civil case; business entities.**

[Related Statewide Rule 1-089 NMRA]

A. **Oral entry at hearing.** An attorney who enters an appearance at a hearing on the record shall follow up by filing a written entry of appearance.

B. **Entry after pleading stage.** An attorney entering a case who files a motion or document other than a pleading, as the term pleading is defined in Rule 1-007 NMRA, shall also file a written entry of appearance.

C. **Pro se parties.** Parties who represent themselves shall enter their appearance by filing an initial pleading, responsive motion, or other paper that includes their name, address, and telephone number, or their substitute address for purposes of service. They shall inform the court of any change in their service address or telephone number by filing a notice with the clerk of the court and serving it on all parties.

D. **Non-attorney representation of business entity prohibited.** Corporations, limited liability companies, partnerships, limited partnerships, and all other business entities that can sue or be sued must be represented by a licensed attorney to include the filing of a complaint, appearances at all court hearings, and any settlement conferences ordered by the court. The court may strike, by court order on its own motion, any papers filed on behalf of a business entity by a person who is not licensed to practice law.

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

### **LR11-204. Exemption from filing fee.**

[Related Statewide Rule 1-099 NMRA]

Parties filing a document in a closed civil case who assert that a filing fee is not required to reopen the case shall file with the court a certificate stating the provision of law or Rule 1-099 NMRA under which the party is exempted.

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

### **LR11-205. Consolidation of cases.**

A motion to consolidate cases shall be determined by the judge assigned to the case first filed. If consolidation is ordered, the consolidated case shall be assigned to the judge in the case first filed. A copy of the consolidation order shall be served on each party with a notice of reassignment in accordance with Rule 1-088.1 NMRA. All papers filed subsequent to service of the consolidation order shall be filed in the consolidated case.

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

### **LR11-206. Notice of bankruptcy proceedings in civil cases.**

[Related Statewide Rule 1-084 NMRA]

A. **Case closed.** Once a written notice of a bankruptcy court stay has been filed as required by Rule 1-084 NMRA, the case shall be closed in the district court.

B. **Reopen optional.** Any party has thirty (30) days to file a paper showing cause, if any, why the case should be reopened. If no paper is filed, the case shall remain closed.

C. **Reopen automatic.** Once a written notice of the termination of a bankruptcy court stay has been filed as required by Rule 1-084 NMRA, the case shall automatically be reopened.

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

### **LR11-207. Service by electronic transmission; water rights adjudication proceedings.**

In a water rights adjudication suit conducted under Section 72-4-17 NMSA 1978, service of documents by electronic transmission shall be an authorized method of service for purposes of Rule 1-005 NMRA and shall proceed in accordance with Rule 1-005.2 NMRA except that the consent of a party or the party's attorney is not required. Every attorney representing a party in a water rights adjudication suit shall file written notice with the court providing an email address to be used for electronic service under this rule. Every party in a water rights adjudication suit who is not represented by an attorney shall file written notice with the court that either provides the court with an email address to be used for electronic service under this rule or that states that the party

does not have access to an email address. If an unrepresented party does not have access to an email address, service shall be made on that party by any other method authorized by Rule 1-005 NMRA. Every attorney or party who provides an email address to the court under this rule shall file written notice with the court to notify the court of a change of email address.

[Adopted by Supreme Court Order No. 11-8300-002, effective February 21, 2011 for all new and pending cases; LR11-120 recompiled and amended as LR11-207 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

**Committee commentary.** — Rule 1-005.2 NMRA permits the service of documents by electronic transmission on the consent of the party or the party's attorney. Due to the exceptionally large number of parties to a water rights adjudication suit, the cost of service by mail would be unduly burdensome on all parties and the courts. Accordingly, the Supreme Court's approval of this local rule permits electronic service notwithstanding the consent that would otherwise be required by Rule 1-005.2 NMRA.

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

### **LR11-208. Service of process by publication; notice of pendency of action.**

[Related Statewide Rule 1-004 NMRA]

The notice of pendency of action to accomplish service of process by publication is not required to be issued by the court clerk and need only contain the information required by Rule 1-004(K) NMRA. The notice of pendency of action shall not include a signature line for the court clerk or the judge and shall not be presented to the court clerk for issuance. The notice of pendency of action is ready for publication on the court's order for service of process by publication, the notice having been submitted to the court with the motion and necessarily approved when the motion is granted. A copy of the notice of pendency of action should be kept for use in publishing the notice once publication is ordered by the court.

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

### **LR11-209. Attorney fee awards in default judgment.**

[Related Statewide Rule 1-054 NMRA]

When default judgment is obtained in a case where attorney fees are recoverable by statute, court rule, or contractual agreement, the fee shall be based on the reasonable and actual time spent in obtaining the default judgment (unless the fee was

predetermined by written agreement) and shall not be based on a percentage of the default judgment amount. Unless the fee had been predetermined, a fee award of one thousand five hundred dollars (\$1,500.00) or more shall be by motion and order only.

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

### **LR11-210. 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 Eleventh 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. 12-8300-LR3 effective for cases filed or pending on or after November 13, 2012; LR11-121 recompiled and amended as LR11-210 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**

### **LR11-301. Entry of appearance, withdrawal in a criminal case.**

[Related Statewide Rule 5-107 NMRA]

A. **State's attorney.** When an attorney undertakes to represent the State on a continuing basis subsequent to the filing of the charging document by another attorney, the attorney shall file a written entry of appearance.

B. **Defense attorney.** A defense attorney seeking to withdraw under Rule 5-107 NMRA while the case is pending shall, by motion, set forth the grounds for withdrawal, the dates and times of any hearings set, the date the six-month rule expires, and the name of the attorney who is proposed to be substituted as counsel. Withdrawal shall be allowed only by court order.

[LR11-109 recompiled and amended as LR11-301 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

### **LR11-302. Withdrawn.**

### **LR11-303. Quashing bind overs.**

[Related Statewide Rule 5-201 NMRA]

When a criminal information has not been filed in the district court within thirty (30) days after completion of a preliminary examination or waiver of the preliminary examination, and time has not been enlarged by the district court on motion of the district attorney, the bind over shall be quashed and the criminal complaint shall be remanded to the magistrate court for dismissal without prejudice. For cases that include motor vehicle code citations, the magistrate court shall submit the abstract of record to the Motor Vehicle Division as “dismissed.”

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

### **LR11-304. Post adjudication problem solving courts; ex parte communications.**

[Related Statewide Rule 21-209 NMRA]

District court judges presiding over problem solving courts in this district are expressly authorized to initiate, permit, and consider ex parte communications about the program’s participants with social workers, representatives of the treatment provider, court probation and surveillance officers, court program personnel, and other members of the problem solving court’s operational team. Ex parte communications are authorized to occur individually or in the context of operational team meetings except that individual ex parte communications are not authorized between the district court judge and the law enforcement member, if any, of the operational team.

[Adopted 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**

### **LR11-401. Domestic relations cases.**

[Related Statewide Rule 1-121 NMRA]

In original domestic relations actions where a summons is issued, the court shall prepare the temporary domestic order required to be entered under Rule 1-121 NMRA. Parties shall not submit a form of temporary domestic order.

[LR11-114 recompiled and amended as LR11-401 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

### **LR11-402. Domestic relations mediation; safe exchange and supervised visitation.**

[Related Statutes NMSA 1978, §§ 40-12-1 to -6]

A. **Programs established.** Under the Domestic Relations Mediation Act, Sections 40-12-1 to -6 NMSA 1978, a "domestic relations mediation program" and a "safe exchange and supervised visitation program" are hereby established.

B. **Mediation fund established.** A domestic relations mediation fund is hereby established in accordance with Section 40-12-4 NMSA 1978, the funds of which shall be deposited in an interest bearing account. The following shall be credited to the fund:

(1) the surcharge authorized under Section 40-12-6 NMSA 1978 on all new and reopened domestic relations cases; and

(2) payment by the parties for the services rendered on a sliding fee scale approved by the Supreme Court, which shall be posted on the Eleventh Judicial District Court's website and inside the courthouse.

C. **Mediation required.** Mediation will be ordered in accordance with the provisions of Section 40-4-8 NMSA 1978 and any other applicable law. A final custody determination shall not be made unless mediation has first been considered or completed.

D. **Conduct of mediation.** Mediation shall conform to the Mediation Procedures Act, Sections 44-7B-1 to -6 NMSA 1978.

E. **Implementation.** The court may enter any order for effective implementation of the "domestic relations mediation program" and the "safe exchange and supervised visitation program." Failure to abide by an order of the court which implements the rules and regulations of the programs may be deemed to be contempt of court and punished accordingly.

F. **Available services.** Services offered by the programs may differ in each county and may vary from year to year depending on the availability of funding. Parties are advised to check the Eleventh Judicial District Court's website for current information about the programs.

G. **Immunity.** Attorneys and other persons appointed by the court to serve as mediators, or 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.

[LR11-115 recompiled and amended as LR11-402 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016; as amended by Supreme Court Order No. 18-8300-006, effective for all cases pending or filed on or after September 1, 2018.]

## **V. Rules Applicable to Children’s Court Cases [Reserved]**

## **VI. Rules Applicable to Court Alternative Dispute Resolution Programs**

### **LR11-601. Alternative dispute resolution program, generally.**

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

#### **A. Civil ADR program established.**

(1) The court establishes and operates a civil ADR program in accordance with Section 34-6-44 NMSA 1978 (District Court Alternative Dispute Resolution Fund; Administration), Section 34-6-45 NMSA 1978 (District Court Alternative Dispute Resolution; Fee), and Sections 44-7B-1 to -6 NMSA 1978 (Mediation Procedures Act).

(2) The civil ADR program does not include domestic relations cases which are governed by LR11-402 NMRA. The program does not include arbitration.

(3) Nothing in this rule shall be construed to discourage or prohibit parties from stipulating to private alternative dispute resolution or to prohibit the right to a trial by jury. The failure of ADR to produce a settlement will not adversely affect the parties’ treatment by the court.

#### **B. Definitions.** When used in this rule, unless the context otherwise provides,

(1) “ADR” means alternative dispute resolutions, including mediation and settlement facilitation but not arbitration;

(2) “mediation” means a process pursuant to the Mediation Procedures Act in which a mediator facilitates communication and negotiation between mediation parties to assist them in reaching an agreement regarding their dispute; or promotes reconciliation, settlement or understanding between and among parties.

(3) “settlement facilitation” means a process in which a neutral third party meets with parties and their attorneys in a settlement conference seeking a negotiated settlement agreement on all or some of the issues of the case.

**C. Program fund established.** The court establishes and maintains a civil ADR program fund for the deposit of all fees collected under the program and for disbursement to offset the costs of operations.

(1) Deposits into the civil ADR program fund shall include the following:

(a) the surcharge as authorized under Section 34-6-45(A) NMS 1978 on all new and reopened civil cases; and

(b) fees paid by the parties for program services.

(2) **Sliding fee scale.** Parties shall pay for services provided by the program in accordance with a sliding fee scale as approved by the Supreme Court. Any fees, including intake fees, if any, collected from a party under the sliding fee scale will be paid to the district court clerk, which will be deposited into the civil ADR program fund. The court will post the current sliding fee scale approved by the Supreme Court on the court's web site and inside the courthouses.

(3) **Judge's discretion.** The court may, at the judge's discretion, waive any fees related to the court's civil ADR program.

**D. Initiating Services.** The court may, upon request of any party or on the court's own motion, order the parties to participate in the program. All referrals to the program require the entry of a written court order.

**E. Conduct of mediation.** Mediation shall be conducted pursuant to the Mediation Procedures Act. Rule 11-408 NMRA (Compromise offers and negotiations) shall also apply.

**F. Participation.** Any party ordered to participate in the civil ADR program shall make their best efforts to cooperate with court staff, ADR professionals, and outside service providers designated by the court to operate the program. Any party who fails to do so may be sanctioned by the court.

**G. Implementation.** The court may enter any administrative order necessary for effective implementation of the civil ADR program. Parties will be advised of an implementing order and will be expected to abide by them.

**H. Immunity.** Any person appointed by the court to serve as a mediator, settlement facilitator, or in other like role under the rules governing this district's program is deemed to be an arm of the court and is immune from liability for conduct within the scope of his or her appointment as provided by law.

[Adopted by Supreme Court Order No. 19-8300-013, effective December 31, 2019.]

## **VII. Forms**

### **[Reserved]**