Rules of the District Court of the Eighth Judicial District

Table of Corresponding Rules

Local Rules of the Eighth 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.
LR8-101	Withdrawn
LR8-102	LR8-101
LR8-103	Withdrawn
LR8-201	LR8-109
LR8-202	LR8-102
LR8-203	Withdrawn
LR8-204	LR8-104
LR8-205	Withdrawn
LR8-206	LR8-105
LR8-207	Withdrawn
LR8-208	Withdrawn
LR8-301	Withdrawn
LR8-302	LR8-106
LR8-303	LR8-107
LR8-304	LR8-108
LR8-401	Withdrawn
LR8-402	Withdrawn
LR8-403	Withdrawn
LR8-404	Withdrawn
LR8-405	Withdrawn
LR8-406	LR8-201
LR8-501	Withdrawn
LR8-Form 1	Withdrawn
LR8-Form 2	Withdrawn
LR8-Form 3	Withdrawn
LR8-Form 4	Withdrawn

New Rule No.	Corresponding Former Rule No.
LR8-101	LR8-102
LR8-102	LR8-202
LR8-103	New
LR8-104	LR8-204
LR8-105	LR8-206
LR8-106	LR8-302
LR8-107	LR8-303
LR8-108	LR8-304
LR8-109	LR8-201
LR8-201	LR8-406
LR8-601	New

LR8-Form 5	Withdrawn
LR8-Form 6	Withdrawn
LR8-Form 7	Withdrawn
LR8-Form 8	Withdrawn
LR8-Form 9	Withdrawn
LR8-Form 10	Withdrawn

I. Rules Applicable to All Cases

LR8-101. Title.

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

[Adopted, effective July 1, 2000; LR8-102 recompiled as LR8-101 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR8-102 NMRA was recompiled as LR8-101 NMRA, effective December 31, 2016.

LR8-102. Assignment of cases; consolidation.

[Related Statewide rules 1-088, 5-105, and 10-161 NMRA]

A. **Primary responsibility of each division; recusal or excusal in Division I.** The judges of Divisions II and III are primarily responsible for all cases in Taos County. The judge of Division I is primarily responsible for all cases in Colfax and Union Counties. In the event of recusal or excusal of the judge in Division I, the case will be assigned to either Division II or Division III by random selection. In the event of recusal or excusal of the subsequently assigned judge, the case will be reassigned to the remaining judge in the district.

B. **Recusal or excusal in Divisions II, III.** In the event of the recusal or excusal of the judge of Division II or Division III, the other judge in the Taos County docket shall be automatically assigned to the case unless that judge has been either recused or excused, in which event the case will be reassigned to the judge of Division I.

C. **Assigned judge to hear case.** 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 Paragraphs D and E of this rule.

D. **Exception; when assigned judge is unavailable.** 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, and may sign orders presented with signatures of all counsel and parties pro se, which may arise.

E. **Consolidated cases.** Motions to consolidate and cases consolidated for trial shall be heard by the judge assigned to the case bearing the lowest case number (the oldest case).

F. **Reassignment of cases.** The chief judge shall have the authority, in consultation with the other judges, to reassign cases amongst the judges when justified due to case load, judicial economy, or the interest of justice.

[As amended, approved by Supreme Court Order No. 05-8300-026, effective December 20, 2005; LR8-202 recompiled and amended as LR8-102 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, provided for the assignment of cases, including reassignment of cases in the event of recusal or excusal of judges, and clarified the authority of the chief judge to reassign cases; added "[Related Statewide Rules 1-088, 5-105, and 10-161 NMRA]"; in Paragraph A, added the heading, deleted "Subject to Rules 1-088 and 1-088.1 NMRA, the chief judge of the district, in consultation with the other judge, shall determine the assignment and reassignment of cases." and added all new language; in Paragraph B, added the heading, deleted "In any case in which Division I is disqualified pursuant to Rule 1-088.1 NMRA, Division II shall be automatically assigned. In any case in which Division II is disqualified pursuant to Rule 1-088.1 NMRA, Division I shall be automatically assigned. Reassignment shall be noted by mailing of notice of reassignment to counsel of record or parties pro se or by publishing notice in the Bar Bulletin, at the time of the reassignment." and added all new language; in Paragraph C, added the heading, and after "described in", deleted "Paragraph" and added "Paragraphs D and"; in Paragraph D, added the heading; in Paragraph E, added the heading, and after "assigned to the case", deleted "hearing" and added "bearing"; and added Paragraph F.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR8-202 NMRA was recompiled and amended as LR8-102 NMRA, effective December 31, 2016.

LR8-103. Page limitations.

A motion, response, or other brief shall not exceed ten (10) type-written pages, exclusive of exhibits. A reply shall not exceed five (5) pages, exclusive of exhibits. A

party seeking to submit any document exceeding these page limits shall seek leave of the court prior to doing so.

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

LR8-104. Forum shopping.

A. **Previous submission; disclosure required.** If a matter or proposition has previously been submitted to another district judge within the state or in any other state or territory, an attorney shall disclose that fact to the judge to whom it is being submitted.

B. **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.

[Adopted, effective July 1, 2000; LR8-204 recompiled and amended as LR8-104 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, in Paragraph A, added the heading, and after “within the state”, added “or in any other state or territory”; and in Paragraph B, added the heading.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR8-204 NMRA was recompiled and amended as LR8-104 NMRA, effective December 31, 2016.

LR8-105. Control of court files.

Court files shall not be removed from the courthouse except with the written approval of the judge.

[Adopted, effective July 1, 2000; LR8-206 recompiled as LR8-105 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR8-206 NMRA was recompiled as LR8-105 NMRA, effective December 31, 2016.

LR8-106. Requests for hearing; telephonic appearances.

A. **Requests for hearing.** Requests for hearing shall be submitted to the assigned judge's trial court administrative assistant (judge's secretary), along with a notice of hearing, in the forms approved by the district court for that purpose. Filing requests for hearing with the clerk's office does not ensure that the judge's office has received the request. It is the requesting party's responsibility to ensure that the judge has received the request.

B. **Telephonic appearance by attorney.** Any attorney may appear at any hearing by telephone through a court-approved call-in system. Permission of the court is not required to appear at hearings by a court-approved call-in system. Payment of the costs and adequate notice to appear must be worked out between the attorney appearing by telephone and the provider of the court-approved call-in system according to the provider's fee schedule and notice requirements.

C. **Telephonic appearance by party or witness.** Other telephonic appearances by parties (represented or pro se) or witnesses are permitted only with permission of the court and must be arranged with the assigned judge's trial court administrator as early as possible, but no later than one (1) business day before any hearing.

[Adopted, effective July 1, 2000; LR8-302 recompiled and amended as LR8-106 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, and rewrote the rule to provide for telephonic appearances by attorneys and parties; in the rule heading, "telephonic appearances"; in Paragraph A, added the heading, after "submitted to the", added "assigned judge's", after "hearing, in the", deleted "form set forth in Forms LR8-Form 1 and LR8-Form 2" and added "forms approved by the district court for that purpose" and added the last sentence; and added Paragraphs B and C.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR8-302 NMRA was recompiled and amended as LR8-106 NMRA, effective December 31, 2016.

LR8-107. Submission of orders, decrees, and judgments.

A. **Timing of submission.** 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 or other document announcing the decision.

B. **Prevailing party responsible for submission; timing; objections.** The prevailing party shall be responsible for submission of orders. If approval of opposing counsel cannot be obtained by the tenth (10th) or twelfth (12th) day, request for hearing on notice of presentment, with proposed order attached, shall be made immediately.

(1) In matters decided by the court after a hearing or trial, the prevailing party or the party designated by the court shall prepare orders or judgments and shall submit them to opposing counsel or parties pro se within five (5) days from the date the order or judgment was made by the court, unless otherwise directed by the court at time of hearing.

(2) If the proposed order or judgment is approved by all counsel or parties pro se, the order or judgment shall so indicate and may be signed by the court immediately, if appropriate. Orders may be approved telephonically and so indicated.

(3) Any order which the parties have agreed and stipulated to shall be approved without reservation by counsel or parties pro se, and not "Approved as to Form" or in any other way limiting approval.

(4) If opposing counsel or parties pro se do not agree as to the form of order or judgment, such person shall send written objection, if any, to the drafter of the order within five (5) days of receipt of the order. At a presentment hearing, the court shall consider the order attached to the notice of presentment and objector's proposed form of order.

(5) On request for a presentment hearing, the party requesting the hearing must attach the requesting party's proposed form of order and the objecting party's proposed form of order.

(6) The court may prepare a proper order or judgment, if different from the one initially submitted, in accordance with the court's decision on the objections.

[Adopted, effective July 1, 2000; LR8-303 recompiled and amended as LR8-107 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, removed the provision relating to orders to show cause; in Paragraph A, added the heading; in Paragraph B, added the heading, added Subparagraph B(5) and redesignated former Subparagraph B(5) as Subparagraph B(6); and deleted Paragraph C, which related to orders to show cause.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR8-303 NMRA was recompiled and amended as LR8-107 NMRA, effective December 31, 2016.

LR8-108. Exhibits and exhibit lists.

A. **Label requirements.** Prior to the beginning of any court proceeding, all exhibits shall have affixed to them the court's standard exhibit stickers, bearing the case number and date of hearing. The exhibit number or letter shall be added by the court reporter at the time the exhibit is displayed to a witness or tendered to the court, whichever event occurs first.

B. **More than five exhibits; list required.** When more than five (5) exhibits are to be tendered, a list identifying the exhibits is to be provided to the court reporter and the judge in advance of the hearing.

C. **Numeric and alphabetic designation.** Plaintiffs' and petitioners' exhibits shall be designated numerically. Defendants' and respondents' exhibits shall be designated alphabetically.

D. **Copies to opposing counsel.** Copies of all exhibits shall be provided to opposing counsel at the time of displaying them to a witness or at time of tender, unless otherwise controlled by NMRA rules of procedure or court order.

E. **Use of court's technology resources.** Counsel and parties pro se shall familiarize themselves with the court's technology resources prior to the hearing or trial if counsel or party pro se intends to use these resources during the hearing or trial.

[Adopted, effective July 1, 2000; LR8-304 recompiled and amended as LR8-108 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, provided instructions to counsel and parties when using the court's technology resources; in Paragraphs A, B, C, and D, added the headings; and added Paragraph E.

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR8-304 NMRA was recompiled and amended as LR8-108 NMRA, effective December 31, 2016.

LR8-109. Failure to comply.

[Related Statewide Rule 5-112 NMRA]

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

[Approved, effective July 1, 2000; LR8-201 recompiled and amended as LR8-109 by Supreme Court Order No. 16-8300-015, effective December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rule 5-112 NMRA]".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR8-201 NMRA was recompiled and amended as LR8-109 NMRA, effective December 31, 2016.

II. Rules Applicable to Civil Cases

LR8-201. 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 Eighth 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; LR8-406 recompiled and amended as LR8-201 by Supreme Court Order No. 16-8300-015, effective for all cases pending or filed on or after December 31, 2016.]

ANNOTATIONS

The 2016 amendment, approved by Supreme Court Order No. 16-8300-015, effective December 31, 2016, added "[Related Statewide Rule 1-005.2 NMRA]".

Recompilations. — Pursuant to Supreme Court Order No. 16-8300-015, former LR8-406 NMRA was recompiled and amended as LR8-201 NMRA, effective December 31, 2016.

III. Rules Applicable to Criminal Cases

LR8-301. Case management pilot program for criminal cases.

A. **Scope; application.** This is a special pilot rule governing time limits for criminal proceedings in the Eighth Judicial District Court. This rule applies in all criminal proceedings in the Eighth Judicial District Court but does not apply to probation violations, which are heard as expedited matters separately from cases awaiting a determination of guilt, nor to any other special proceedings in Article 8 of the Rules of Criminal Procedure for the District Courts. The Rules of Criminal Procedure for the District Courts and existing case law on criminal procedure continue to apply to cases filed in the Eighth Judicial District Court, but only to the extent they do not conflict with this pilot rule. The Eighth Judicial District Court may adopt forms to facilitate compliance with this rule, including the data tracking requirements in Paragraph L.

B. **Arraignment.**

(1) ***Deadline for arraignment.*** The defendant shall be arraigned on the information or indictment within fifteen (15) days after the date of the filing of the bind-over order, indictment, or the date of the arrest, whichever is later, except that the arraignment of a defendant in custody on the case to be arraigned shall be held no later than seven (7) days after the filing of the bind-over order, information, indictment, or date of arrest, whichever is later. The state shall file and directly submit its arraignment request to the trial court administrative assistant concurrently with the filing of the bind-over order, information, indictment, or date of arrest, whichever is later.

(2) ***Certification by prosecution required; matters certified.*** At or before arraignment or waiver of arraignment, or on the filing of a bind-over order, the state shall certify that before obtaining an indictment or filing an information the case has been investigated sufficiently to be reasonably certain that

(a) the case will reach a timely disposition by plea or trial within the case processing time limits set forth in this rule;

(b) the court will have sufficient information on which to rely in assigning a case to an appropriate track at the status hearing provided for in Paragraph F;

(c) all discovery in the possession of the state and relied on in the investigation leading to the bind-over order, indictment or information will be provided in accordance with Subparagraph (C)(2) of this rule; and

(d) the state understands that, absent extraordinary circumstances, the state's failure to comply with the case processing time lines set forth in this rule will result in sanctions as set forth in Paragraph H.

(3) ***Certification form.*** The court may adopt a form and require use of the form to fulfill the certification and acknowledgment required by this paragraph.

C. **Disclosure by the state; requirement to provide contact information; continuing duty; failure to comply.**

(1) ***Scope of disclosure by the state.*** The scope of the state's discovery disclosure obligation shall be governed by Rule 5-501(A)(1)-(6) NMRA. In addition to producing a "speed letter" authorizing the defendant to examine physical evidence in possession of the state. the state shall provide the defendant with physical copies of any documentary evidence and audio, video, and audio-video recordings made by law enforcement officers or otherwise in possession of the state at the time of the disclosure. As part of its production obligation under Rule 5-501(A)(5) NMRA. the state shall provide contact information for its witnesses that is current as of the date of disclosure, including, to the extent available, witness addresses, phone numbers, and email addresses.

(2) ***Deadline for disclosure by the state.*** If the case is a ten (10)-day case as described by Rule 5-302(A)(l) NMRA, the state shall make its discovery disclosures to the defendant within five (5) days after the first appearance. If the case is a sixty (60)-day case as described by Rule 5-302(A)(1) NMRA, the state shall make its initial discovery disclosures to the defendant within fifteen (15) days of the first appearance.

(3) ***Motion to withhold contact information for safety reasons.*** A party may seek relief from the court by motion, for good cause shown, to withhold specific contact information if necessary to protect a victim or a witness. If the address of a witness is not disclosed under court order, the party seeking the order shall arrange for a witness interview or accept at its business offices a subpoena for purposes of deposition under Rule 5-503 NMRA.

(4) ***Continuing duty.*** The state shall have a continuing duty to disclose additional information to the defendant, including the names and current contact information for newly-discovered witnesses and updated contact information for witnesses already disclosed, within seven (7) days of receipt of this information.

(5) ***Evidence deemed in the possession of the state.*** Evidence is deemed to be in possession of the state for purposes of this rule and Rule 5-501(A) NMRA if this evidence is in the possession or control of any person or entity who has participated in the investigation or evaluation of the case.

(6) ***Deadline for the state to submit evidence to the crime lab.*** Within fifteen (15) days of arraignment or the filing of a waiver of arraignment, the state shall file a certification that it has exercised due diligence to ensure that all evidence that may require testing has been submitted to the state crime lab.

D. **Disclosure by defendant; notice of alibi; entrapment defense; failure to comply.**

(1) ***Initial disclosures; deadline; witness contact information.*** Not less than five (5) days before the scheduled date of the status hearing described in Paragraph F, the defendant shall disclose or make available to the state all information described in Rule 5-502(A)(1)-(3) NMRA. At the same time, the defendant shall provide

addresses, and also phone numbers and email addresses if available, for its witnesses that are current as of the date of disclosure.

(2) ***Deadline for notice of alibi and entrapment defense.*** Notwithstanding Rule 5-508 NMRA or any other rule, not less than ninety (90) days before the date scheduled for commencement of trial as provided in Paragraph F, the defendant shall serve on the state a notice in writing of the defendant's intention to offer evidence of an alibi or entrapment as a defense.

(3) ***Continuing duty.*** The defendant shall have a continuing duty to disclose additional information to the state, including the names and contact information for newly-discovered witnesses and updated contact information for witnesses already disclosed, within seven (7) days of receipt of this information.

E. **Peremptory excusal of a district judge; time limits; limits on excusal; reassignment.**

(1) ***Peremptory excusal.*** A party on either side may file one (1) peremptory excusal of any judge in the Eighth Judicial District Court, regardless of which judge is currently assigned to the case, within ten (10) days of the arraignment or the filing of a waiver of arraignment.

(2) ***Limits on excusal.*** Peremptory excusals shall not hinder, delay, or obstruct the administration of justice. If it appears that an attorney or group of attorneys may be using peremptory excusals for improper purposes or with any frequency by impeding the administration of justice, the Chief Judge of the district may take appropriate action to address any misuse, including issuance of an order providing that the attorney or attorneys or any party they represent may not file peremptory excusals for a specified period of time or until further order of the Chief Judge.

(3) ***Reassignment.*** If necessary, following the exercise of peremptory excusal, the case may later be reassigned by the chief judge to any judge in the Eighth Judicial District Court, so long as that judge has not been previously excused on the case. The chief judge may also reassign the case to a judge pro tempore previously approved to preside over such matters by order of the Chief Justice, who shall not be subject to peremptory excusal.

F. **Status hearing; witness disclosure; case track determination; scheduling order.**

(1) ***Witness list disclosure requirements.*** Within twenty-five (25) days after arraignment or waiver of arraignment each party shall, subject to Rule 5-501(F) NMRA and Rule 5-502(C) NMRA, file a list of names and contact information for known witnesses the party intends to call at trial and that the party has verified is current as of the date of disclosure required under this subparagraph, including a brief statement of the expected testimony for each witness, to assist the court in assigning the case to a

track as provided in this rule. The continuing duty to make the disclosure to the other party continues at all times before trial, requiring this disclosure within five (5) days of when a party determines or should reasonably have determined the witness will be expected to testify at trial.

(2) ***Status hearing; factors for case track assignment.*** A status hearing, at which the defendant shall be present, shall be commenced within thirty (30) days of arraignment or the filing of a waiver of arraignment.

(3) ***Case track assignment required; factors.*** At the status hearing, the court shall determine the appropriate assignment of the case to one of three tracks. Written findings are required to place a case on track 3 and any findings shall be entered by the court within five (5) days of assignment to track 3. Any track assignment under this rule only shall be made after considering the following factors:

(a) the complexity of the case, starting with the assumption that most cases will qualify for assignment to track 1; and

(b) the number of witnesses, time needed reasonably to address any evidence issues, and other factors the court finds appropriate to distinguish track 1, track 2, and track 3 cases.

(4) ***Defendants detained pending trial.*** When the defendant is detained pending trial, the case shall be given the highest priority for trial scheduling.

(5) ***Scheduling order required.*** After hearing argument and weighing the above factors, the court shall, on the conclusion of the status hearing, issue a scheduling order that assigns the case to one of three tracks and identifies the dates when events required by that track shall be scheduled, which are as follows for tracks 1, 2, and 3:

(a) *Track 1; deadlines for commencement of trial and other events.* For track 1 cases, the scheduling order shall have trial commence within two hundred ten (210) days of arraignment, the filing of a waiver of arraignment, or other applicable triggering event identified in Paragraph G, whichever is the latest to occur. The scheduling order shall also set dates for other events according to the following requirements for track 1 cases:

(i) Track 1 - deadline for plea agreement. A fully executed plea agreement entered into between the defendant and the state shall be submitted to the court substantially in the form approved by the Supreme Court no later than ten (10) days before the trial date. A request for the court to approve a plea agreement less than ten (10) days before the trial date shall not be accepted by the court except on a written finding by the assigned district judge of extraordinary circumstances. A defendant may plead guilty and the parties may recommend a sentence but the court shall not agree to comply with a plea agreement in this circumstance absent a written finding of

extraordinary circumstances. Should the prosecutor dismiss counts from the criminal information within ten (10) business days before trial, along with the defendant intending to plead guilty to the remaining charges within ten (10) business days before trial or on the day of trial, the Court will not accept the guilty plea and will dismiss all the counts remaining in the criminal information with prejudice in the event the Court deems the prosecutor's and the defendant's conduct in this regard to be an effort to circumvent the plea agreement deadline.

(ii) Track 1 - deadline for pretrial conference. The final pretrial conference, including any hearing on any remaining pretrial motions if needed, shall be scheduled no less than fourteen (14) days before the trial date. Each party shall file its final trial witness list on or before this date. The defendant shall be present for the final pretrial conference;

(iii) Track 1 - deadline for notice of need for court interpreter. All parties shall identify by filing notice with the court any requirement for language access services at trial by a party or witness fifteen (15) days before the trial date;

(iv) Track 1 - deadline for pretrial motions hearing. A hearing for resolution of pretrial motions shall be set not less than thirty (30) days before the trial date;

(v) Track 1 - deadline for pretrial motions. Pretrial motions shall be filed not less than fifty (50) days before the trial date. Concurrent with the filing of each pretrial motion, the movant shall file and directly submit to the trial court administrative assistant a request for hearing on the motion.

(vi) Track 1 - deadline for responses to pretrial motions. Written responses to any pretrial motions shall be filed within ten (10) days of the filing of any pretrial motions and in any case not less than forty (40) days before the trial date. Failure to file a written response shall be deemed, for purposes of deciding the motion, an admission of the facts stated in the motion;

(vii) Track 1 - deadlines for requesting and completing witness interviews. Witness interviews shall be completed not less than sixty (60) days before the trial date. Absent order of the court the state shall be responsible for scheduling pretrial witness interviews of the state's witnesses, and the defendant shall be responsible for scheduling pretrial witness interviews of the defendant's witnesses. A party wishing to interview witnesses on the other party's initial witness list shall request those interviews no later than fourteen (14) days after the issuance of the scheduling order. The requesting party shall give dates of availability for witness interviews during the thirty (30) days after the request and the party receiving the request shall make reasonable efforts to schedule the requested interviews during that thirty (30)-day period. If a party files a new witness list adding new witnesses, any requests to interview those new witnesses shall be made no later than seven (7) days after the new witness list is served on the requesting party. At all times the parties shall act diligently

and in good faith in requesting, scheduling, and, as necessary, rescheduling witness interviews. The court shall not consider failure to conduct pretrial interviews of witnesses as the basis of any sanction unless the party moving for sanctions followed the requirements of this subparagraph in requesting those interviews; and

(viii) Track 1 - deadline for disclosure of scientific evidence. All parties shall produce the results of any scientific evidence, if not already produced, not less than one hundred twenty (120) days before the trial date. In a case when justified by good cause, the court may but is not required to provide for production of scientific evidence less than one hundred twenty (120) days before the trial date. In no case shall the order provide for production of scientific evidence less than ninety (90) days before the trial date;

(ix) Track 1 – deadline for amending criminal information or indictment. The state shall file any amendment to the criminal information not less than one hundred twenty (120) days before the trial date, unless otherwise ordered by the court on good cause shown.

(x) Track 1 – deadline for submitting transport orders. The state shall submit transport orders for any person(s) required to be present at any hearing and trial to the Court no less than ten (10) days before the scheduled date and time of the setting, unless for expedited hearings set with fewer than ten (10) days' notice, the state shall submit transport orders within one (1) business day of the filing of the notice of the expedited hearing.

(b) *Track 2; deadlines for commencement of trial and other events.* For track 2 cases, the scheduling order shall have trial commence within three hundred (300) days of arraignment, the filing of a waiver of arraignment, or other applicable triggering event identified in Paragraph G, whichever is the latest to occur. The scheduling order shall also set dates for other events according to the following requirements for track 2 cases:

(i) Track 2 - deadline for plea agreement. A fully executed plea agreement entered into between the defendant and the state shall be submitted to the court substantially in the form approved by the Supreme Court no later than ten (10) days before the trial date. A request for the court to approve a plea agreement less than ten (10) days before the trial date shall not be accepted by the court except on a written finding by the assigned district judge of extraordinary circumstances. A defendant may plead guilty and the parties may recommend a sentence but the court shall not agree to comply with a plea agreement in this circumstance absent a written finding of extraordinary circumstances. Should the prosecutor dismiss counts from the criminal information within ten (10) business days before trial, along with the defendant intending to plead guilty to the remaining charges within ten (10) business days before trial or on the day of trial, the court will not accept the guilty plea and will dismiss all the counts remaining in the criminal information with prejudice in the event the court deems the

prosecutor's and the defendant's conduct in this regard to be an effort to circumvent the plea agreement deadline.

(ii) Track 2 - deadline for pretrial conference. The final pretrial conference, including any hearing on any remaining pretrial motions if needed, shall be scheduled no less than fourteen (14) days before the trial date. Each party shall file their final trial witness list on or before this date. The defendant shall be present for the final pretrial conference;

(iii) Track 2 - deadline for notice of need for court interpreter. All parties shall identify by filing notice with the court any requirement for language access services at trial by a party or witness fifteen (15) days before the trial date;

(iv) Track 2 - deadline for pretrial motions hearing. A hearing for resolution of pretrial motions shall be set not less than thirty (30) days before the trial date;

(v) Track 2 - deadline for pretrial motions. Pretrial motions shall be filed not less than sixty (60) days before the trial date. Concurrent with the filing of each pretrial motion, the movant shall file and directly submit to the trial court administrative assistant a request for hearing on the motion.

(vi) Track 2 - deadline for responses to pretrial motions. Written responses to any pretrial motions shall be filed within ten (10) days of the filing of any pretrial motions and in any case not less than forty (40) days before the trial date. Failure to file a written response shall be deemed, for purposes of deciding the motion, an admission of the facts stated in the motion;

(vii) Track 2 - deadlines for requesting and completing witness interviews. Witness interviews shall be completed not less than seventy-five (75) days before the trial date. Absent order of the court, the state shall be responsible for scheduling pretrial witness interviews of the state's witnesses, and the defendant shall be responsible for scheduling pretrial witness interviews of the defendant's witnesses. A party wishing to interview witnesses on the other party's initial witness list shall request those interviews no later than twenty-one (21) days after the issuance of the scheduling order. The requesting party shall give dates of availability for witness interviews during the forty-five (45) days after the request and the party receiving the request shall make reasonable efforts to schedule the requested interviews during that forty-five (45)-day period. If a party files a new witness list adding new witnesses, any requests to interview those new witnesses shall be made no later than seven (7) days after the new witness list is served on the requesting party. At all times the parties shall act diligently and in good faith in requesting, scheduling, and, as necessary, rescheduling witness interviews. The court shall not consider failure to conduct pretrial interviews of witnesses as the basis of any sanction unless the party moving for sanctions followed the requirements of this subparagraph in requesting those interviews; and

(viii) Track 2 - deadline for disclosure of scientific evidence. All parties shall produce the results of any scientific evidence, if not already produced, not less than one hundred twenty (120) days before the trial date. In a case when justified by good cause, the court may but is not required to provide for production of scientific evidence less than one hundred twenty (120) days before the trial date. In no case shall the order provide for production of scientific evidence less than ninety (90) days before the trial date; and

(ix) Track 2 – deadline for amending criminal information or indictment. The state shall file any amendment to the criminal information not less than one hundred twenty (120) days before the trial date, unless otherwise ordered by the court on good cause shown.

(x) Track 2 – deadline for submitting transport orders. The state shall submit transport orders for any person(s) required to be present at any hearing and trial to the Court no less than ten (10) days before the scheduled date and time of the setting, except that for expedited hearings set with fewer than ten (10) days' notice, the state shall submit transport orders within one (1) business day of the filing of the notice of the expedited hearing.

(c) *Track 3; deadlines for commencement of trial and other events.* For track 3 cases, the scheduling order shall have trial commence within four hundred fifty-five (455) days of arraignment, the filing of a waiver of arraignment, or other applicable triggering event identified in Paragraph G, whichever is the latest to occur, except that no case may be set past three hundred sixty-five (365) days when the defendant is detained pending trial except on consent by defense counsel or on a finding of exceptional circumstances beyond the control of the parties. The scheduling order shall also set dates for other events according to the following requirements for track 3 cases:

(i) Track 3 - deadline for plea agreement. A fully executed plea agreement entered into between the defendant and the state shall be submitted to the court substantially in the form approved by the Supreme Court no later than ten (10) days before the trial date. A request for the court to approve a plea agreement less than ten (10) days before the trial date shall not be accepted by the court except on a written finding by the assigned district judge of extraordinary circumstances. A defendant may plead guilty and the parties may recommend a sentence but the court shall not agree to comply with a plea agreement in this circumstance absent a written finding of extraordinary circumstances. Should the prosecutor dismiss counts from the criminal information within ten (10) business days before trial, along with the defendant intending to plead guilty to the remaining charges within ten (10) business days before trial or on the day of trial, the court will not accept the guilty plea and will dismiss all the counts remaining in the criminal information with prejudice in the event the court deems the prosecutor's and the defendant's conduct in this regard to be an effort to circumvent the plea agreement deadline.

(ii) Track 3 - deadline for pretrial conference. The final pretrial conference, including any hearing on any remaining pretrial motions if needed, shall be scheduled no less than twenty (20) days before the trial date. Each party shall file its final trial witness list on or before this date. The defendant shall be present for the final pretrial conference;

(iii) Track 3 - deadline for notice of need for court interpreter. All parties shall identify by filing notice with the court any requirement for language access services at trial by a party or witness fifteen (15) days before the trial date;

(iv) Track 3 - deadline for pretrial motions hearing. A hearing for resolution of pretrial motions shall be set not less than forty-five (45) days before the trial date;

(v) Track 3 - deadline for pretrial motions. Pretrial motions shall be filed not less than seventy (70) days before the trial date. Concurrent with the filing of each pretrial motion, the movant shall file and directly submit to the trial court administrative assistant a request for hearing on the motion.

(vi) Track 3 - deadline for responses to pretrial motions. Written responses to any pretrial motions shall be filed within ten (10) days of the filing of any pretrial motions and in any case not less than fifty-five (55) days before the trial date. Failure to file a written response shall be deemed, for purposes of deciding the motion, an admission of the facts stated in the motion;

(vii) Track 3 - deadlines for requesting and completing witness interviews. Witness interviews shall be completed not less than one hundred (100) days before the trial date. Absent order of the court the state shall be responsible for scheduling pretrial witness interviews of the state's witnesses, and the defendant shall be responsible for scheduling pretrial witness interviews of the defendant's witnesses. A party wishing to interview witnesses on the other party's initial witness list shall request those interviews no later than twenty (21) days after the issuance of the scheduling order. The requesting party shall give dates of availability for witness interviews during the sixty (60) days after the request and the party receiving the request shall make reasonable efforts to schedule the requested interviews during that sixty (60)-day period. If a party files a new witness list adding new witnesses, any requests to interview those new witnesses shall be made no later than seven (7) days after the new witness list is served on the requesting party. At all times the parties shall act diligently and in good faith in requesting, scheduling, and, as necessary, rescheduling witness interviews. The court shall not consider failure to conduct pretrial interviews of witnesses as the basis of any sanction unless the party moving for sanctions followed the requirements of this subparagraph in requesting those interviews; and

(viii) Track 3 - deadline for disclosure of scientific evidence. All parties shall produce the results of any scientific evidence, if not already produced, not less than one hundred fifty (150) days before the trial date. In a case when justified by good

cause, the court may but is not required to provide for production of scientific evidence less than one hundred fifty (150) days before the trial date. In no case shall the order provide for production of scientific evidence less than one hundred twenty (120) days before the trial date.

(ix) Track 3 – deadline for amending criminal information or indictment. The state shall file any amendment to the criminal information not less than one hundred twenty (120) days before the trial date, unless otherwise ordered by the court on good cause shown.

(x) Track 3 – deadline for submitting transport orders. The state shall submit transport orders for any person(s) required to be present at any hearing and trial to the Court no less than ten (10) days before the scheduled date and time of the setting, except that for expedited hearings set with fewer than ten (10) days' notice, the state shall submit transport orders within one (1) business day of the filing of the notice of the expedited hearing.

(6) ***Form of scheduling order; additional requirements and shorter deadlines allowed.*** The court may adopt on order of the chief judge of the district court a form to be used to implement the time requirements of this rule. Additional requirements may be included in the scheduling order at the discretion of the assigned judge and the judge may alter any of the deadlines described in Subparagraph (F)(5) of this rule to allow for the case to come to trial sooner.

(7) ***Extensions of time; cumulative limit.*** In the scheduling order the court may shorten the deadlines for the parties to request pretrial interviews set forth in Subparagraphs (F)(5)(a)(vii), (F)(5)(b)(vii), and (F)(5)(c)(vii) of this rule. The court may, for good cause, grant any party an extension of the time requirements imposed by an order entered in compliance with Paragraph F of this rule. In no case shall a party be given time extensions that in total exceed thirty (30) days for track 1 cases, sixty (60) days for track 2 cases, and ninety (90) days for track 3 cases. Unless required by good cause, the extensions of time shall not result in delay of the date scheduled for commencement of trial. Substitution of counsel alone ordinarily shall not constitute good cause for an extension of time. A stipulated request for extension of time in order to consolidate and resolve multiple cases against the same defendant under one plea agreement shall ordinarily be considered good cause for an extension of time.

G. **Time limits for commencement of trial.** As deemed necessary, the court may enter an amended scheduling order to extend the time limits for commencement of trial consistent with the deadlines in Paragraph F whenever one of the following triggering events occurs:

(1) the date of arraignment or the filing of a waiver of arraignment of the defendant;

(2) if an evaluation of competency has been ordered, the date an order is filed in the court finding the defendant competent to stand trial;

(3) if a mistrial is declared by the trial court, the date this order is filed in the court;

(4) in the event of a remand from an appeal, the date the mandate or order is filed in the court disposing of the appeal;

(5) if the defendant is arrested on any valid warrant in the case or surrenders in this state on any valid warrant in the case, the date of the arrest or surrender of the defendant, and the assigned judge determines that this circumstance reasonably requires additional time to bring the case to trial;

(6) if the defendant is arrested or surrenders in another state or country, the date the defendant is returned to this state;

(7) if the defendant has been referred to a preprosecution or court diversion program, the date a notice is filed in the court that the defendant has been deemed not eligible for, is terminated from, or is otherwise removed from the preprosecution or court diversion program;

(8) if the defendant's case is severed from a case to which it was previously joined, the date from which the cases are severed, except that the nonmoving defendant or at least one of the nonmoving defendants shall continue on the same basis as previously established under these rules for track assignment and otherwise;

(9) if a defendant's case is severed into multiple trials, the date from which the case is severed into multiple trials, except that the court shall continue at least one of the previously-joined defendants or counts on the original track assignment, which defendant or counts shall be determined by the court on consideration of the complexity of the now-severed cases or counts;

(10) if a judge enters a recusal and the newly-assigned judge determines the change in judge assignment reasonably requires additional time to bring the case to trial, the date the recusal is entered;

(11) if the court grants a change of venue and the court determines the change in venue reasonably requires additional time to bring the case to trial, the date of the court's order; or

(12) if the court grants a motion to withdraw defendant's plea, the date of the court's order.

H. **Failure to comply.**

(1) If a party fails to comply with any provision of this rule or the time limits imposed by a scheduling order entered under this rule, the court shall, on its own motion or on motion of a party, impose sanctions as the court may deem appropriate in the circumstances and taking into consideration the reasons for the failure to comply.

(2) In considering the sanction to be applied the court shall not accept negligence or the usual press of business as sufficient excuse for failure to comply. If the case has been refiled after an earlier dismissal, dismissal with prejudice is the presumptive outcome for a repeated failure to comply with this rule, subject to the provisions in Subparagraph (H)(6).

(3) A motion for sanctions for failure to comply with this rule or any of the Rules of Criminal Procedure must be made in writing, except that an oral motion may be made during a setting scheduled for another purpose if the basis of the motion was not and reasonably could not have been known before that setting.

(4) The sanctions the court may impose under this paragraph include, but are not limited to, the following:

(a) a reprimand by the judge;

(b) prohibiting a party from calling a witness or introducing evidence;

(c) a monetary fine imposed on a party's attorney or that attorney's employing office with appropriate notice to the office and an opportunity to be heard;

(d) civil or criminal contempt; and

(e) dismissal of the case with or without prejudice, subject to the provisions in Subparagraph (H)(6).

(5) The court shall not impose any sanction against the state for violation of this rule if an in-custody defendant was not at a court setting as a result of a failure to transport, except that the court may impose a sanction if the failure to transport was attributable to the prosecutor's failure to properly prepare and serve a transportation order if so required.

(6) The sanction of dismissal, with or without prejudice, shall not be imposed under the following circumstances:

(a) the state proves by clear and convincing evidence that the defendant is a danger to the community; and

(b) the failure to comply with this rule is caused by extraordinary circumstances beyond the control of the parties.

Any court order of dismissal with or without prejudice or prohibiting a party from calling a witness or introducing evidence shall be in writing and include findings of fact about the moving party's proof of and the court's consideration of the above factors.

I. **Certification of readiness before pretrial conference or docket call.** Both the prosecutor and defense counsel shall submit a certification of readiness form three (3) days before the final pretrial conference or docket call, indicating they have been unable to reach a plea agreement, that both parties have contacted their witnesses and the witnesses are available and ready to testify at trial, and that both parties are ready to proceed to trial. This certification may be by stipulation. If either party is unable to proceed to trial, it shall submit a written request for extension of the trial date as outlined in Paragraph J of this rule. If the state is unable to certify the case is ready to proceed to trial and does not meet the requirements for an extension in Paragraph J of this rule, it shall prepare and submit notice to the court that the state is not ready for trial and the court shall dismiss the case.

J. **Extension of time for trial; reassignment; dismissal with prejudice; sanctions.**

(1) ***Extending date for trial; good cause or exceptional circumstances; reassignment to available judge for trial permitted; sanctions.*** The court may extend the trial date for a total of up to thirty (30) days for a track 1 case, forty-five (45) days for a track 2 case, and sixty (60) days for a track 3 case, on showing of good cause which is beyond the control of the parties or the court. To grant the extension the court shall enter written findings of good cause. If on the date the case is set or reset for trial the court is unable to hear a case for any reason, including a trailing docket, the case may be reassigned for immediate trial to any available judge or judge pro tempore, so long as that judge has not been previously excused. If the court is unable to proceed to trial and must grant an extension for reasons the court does not find meet the requirement of good cause, the court shall impose sanctions as provided in Paragraph H of this rule, which may include dismissal of the case with prejudice subject to the provisions in Subparagraph (H)(6). Without regard to which party requests any extension of the trial date, the court shall not extend the trial date more than sixty (60) days beyond the original date scheduled for commencement of trial without a written finding of exceptional circumstances approved in writing by the chief judge or a judge, including a judge pro tempore previously approved to preside over those matters by order of the Chief Justice, that the chief judge designates.

(2) ***Requirements for extension of trial date for exceptional circumstances; reassignment.*** When the chief judge or the chief judge's designee accepts the finding by the trial judge of exceptional circumstances, the chief judge shall approve rescheduling of the trial to a date certain. The order granting an extension to a date certain for extraordinary circumstances may reassign the case to a different judge for trial, so long as that judge has not been previously excused on the case, or include any other relief necessary to bring the case to prompt resolution.

(3) ***Requirements for multiple requests.*** Any extension sought beyond the date certain in a previously granted extension will again require a finding by the trial judge of exceptional circumstances approved in writing by the chief judge or designee with an extension to a date certain.

(4) ***Rejecting extension request for exceptional circumstances; dismissal required.*** In the event the chief judge or designee rejects the trial judge's request for an extension based on exceptional circumstances, the case shall be tried within the previously ordered time limit or shall be dismissed with prejudice if it is not, subject to the provisions in Subparagraph (H)(6).

K. **A new probable cause determination is not required for recently refiled charges.** If a probable cause determination has been made by preliminary hearing or grand jury and the court dismisses the case without prejudice, the same charges may be refiled under the same case number by information within six (6) months of the dismissal without requiring a new probable cause determination.

L. **Data reporting to the Supreme Court required.** The chief judge, district attorney, and public defender shall provide statistical reports to the Supreme Court as directed.

[Adopted by Supreme Court Order Nos. 22-8300-012 and 22-8300-014, effective September 12, 2022, as directed in Supreme Court Order No. 22-8500-032.]

IV. Rules Applicable to Domestic Relations Cases

LR8-401. Safe exchange and supervised visitation; domestic relations mediation.

[Related Statewide Rule 1-125 NMRA and
related Statutes NMSA 1978, §§ 40-12-1 to -6]

A. **Programs established.** The district court operates a "safe exchange and supervised visitation program" and "domestic relations mediation program" in accordance with the Domestic Relations Mediation Act.

B. **Domestic relations mediation fund; deposit and disbursement of fees.** The district court maintains a domestic relations mediation fund for the deposit of all fees collected under the Domestic Relations Mediation Act, which are used to offset the costs of operating the court's safe exchange and supervised visitation program and domestic relations mediation program. Deposits into the domestic relations mediation fund shall include the following:

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

(2) fees paid by the parties for mediation and safe exchange and supervised visitation services provided under the Domestic Relations Mediation Act.

C. **Sliding fee scales.** Mediation and safe exchange and supervised visitation services provided under the Domestic Relations Mediation Act shall be paid by the parties in accordance with a sliding fee scale submitted to and approved by the Supreme Court. The current sliding fee scales approved by the Supreme Court shall be posted on the district court's website and inside the courthouse. Any fees collected from a party under the sliding fee scale shall be paid to the district court clerk, who shall deposit the fees into the domestic relations mediation fund.

D. **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 or domestic relations mediation program in accordance with the requirements in Rule 1-125 NMRA. Any party ordered to participate in one or both programs shall cooperate with all court staff and outside service providers designated by the court to operate the program, and any party who fails to do so may be sanctioned or held in contempt of court.

E. **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 domestic relations mediation program, 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.]

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

VI. Rules Applicable to Court Alternative Dispute Resolution Programs

LR8-601. Alternative dispute resolution.

It is the policy of the Eighth Judicial District to encourage early and fair resolutions of disputes among parties. The court shall have the ability to order and refer a case to an alternative dispute resolution format, including but not limited to mediation, settlement facilitation, and settlement conference at any stage in its progress towards resolution.

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

LR8-603. Civil mediation.

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

A. Programs established. The district court operates a civil mediation and settlement facilitation program in accordance with Sections 34-6-44 and -45 NMSA 1978.

B. Civil mediation fund; deposit and disbursement of fees. The district court maintains a civil mediation fund for the deposit of all fees collected under the program which are used to offset the costs of operations. Deposits into the civil mediation fund shall include the following:

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

(2) fees paid by the parties for mediation and settlement facilitation services provided under the program.

C. **Sliding fee scales.** Mediation and settlement facilitation services provided under the program shall be paid by the parties in accordance with a sliding fee scale. The current sliding fee scales approved by the Supreme Court shall be posted on the district court's website and inside the courthouse. Any fees collected from a party under the sliding fee scale shall be paid to the district court clerk, which shall be deposited into the civil mediation fund.

D. **Initiating services; cooperation required.** The court may, upon request of any party or on the court's own motion, order the parties to participate in the program. Any party ordered to participate in the program shall cooperate with all court staff and outside service providers designated by the court to operate the program, and any party who fails to do so may be sanctioned or held in contempt of court.

E. **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 program, 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. 19-8300-010, effective for July 1, 2019.]

VII. Forms
[Reserved]