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Trial Handbook for New Mexico Lawyers

by

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Former member of the New Mexico Bar

2026–2027 EDITION

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HIGHLIGHTS OF THE 2026-2027 EDITION

The 2026-2027 Edition of *Trial Handbook for New Mexico Lawyers* reflects recent developments in New Mexico trial practice. This Edition includes new material on the following topics:

Access to Criminal Trials and Courtroom Observers (§ 2.11). New authority from the New Mexico Supreme Court addresses the First Amendment right of access to criminal trials. The Supplement adds discussion of the limits on a trial court's power to seize the notes of a party's trial observer, holding that such action requires a compelling governmental interest and narrow tailoring. *State v. Cardenas*, 2025-NMSC-020, 572 P.3d 958.

Court's Contempt Power (§ 5.1). The Supplement adds new material on the scope of the court's inherent contempt authority, including the permissibility of a fine payable to a third party where no clear and specific legislative limitation exists. *State v. Maestas*, 2025-NMSC-019, 572 P.3d 950.

Juror Need for an Interpreter (§ 6.2). New Court of Appeals authority addresses the procedure a trial court must follow when a question arises about a juror's need for an interpreter. The Supplement adds discussion of the court's obligation to provide a reasoned explanation before requiring a person to serve without interpreter assistance. *State v. Multine*, 2025-NMCA-013, 584 P.3d 898.

Rights of Prospective Jurors (§ 6.4). The Supplement adds new material recognizing that the striking of a potential juror may implicate the juror's own constitutional rights, not only the rights of the defendant. *State v. Sandoval*, 2025-NMCA-002, 561 P.3d 1102.

Retroactivity of New Civil Rules of Law (§ 12.1). The Supplement adds substantial new discussion of the presumption of retroactivity that applies when a new rule of law is announced in a civil case in New Mexico. The Supplement addresses both methods by which the presumption may be rebutted—express prospective declaration by the announcing court, or a sufficiently weighty combination of the Chevron Oil factors—and explains how those factors are applied. *Smith v. Interinsurance Exch.*, 2025-NMSC-004, 563 P.3d 868.

About the Author

J. Duke Thornton practiced in the areas of general liability litigation, professional liability and trucking and transportation. He graduated from the University of New Mexico School of Law with a J.D. in 1969. He was admitted to practice in New Mexico and New York and is a former member of the State Bar of New Mexico American Bar Association, the Defense Research and Trial Lawyers Association, the International Association of Insurance Counsel, the Association for Transportation Law, Logistics and Policy, and the American Board of Trial Advocates, as well as a former associate member of the American Board of Trial Advocates. In 1987, he was appointed by the Governor as the public member of the N.M. Board of Dentistry. In 1988, he was appointed by the Governor to the New Mexico State Racing Commission. He also served as Chairman of the American Law Firm Association Transportation from 1999 to 2000. He is a former NCAA authorized player-agent and a former member of the National Football League Players Association. He has a passion for flying and is a licensed commercial pilot. He also trained as a commercial motor vehicle operator.

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