

1 **12-302. Appearance, withdrawal or substitution of attorneys.**

2 A. **Signatures.** The original of each brief, motion or other paper filed shall bear
3 the signature of at least one of the counsel filing it, or if a party is proceeding pro se, the
4 signature of the party. A "signature" means an original signature, a copy of an original
5 signature, a computer generated signature or any other signature otherwise authorized by
6 law.

7 B. **Appearance.** An attorney or firm shown as participating in the filing of any
8 brief, motion or other paper shall, unless otherwise indicated, be deemed to have appeared
9 in the cause. If an attorney's appearance is limited pursuant to Paragraph C of Rule 16-102
10 NMRA, the limitation shall be specified on the cover page and in the signature block of each
11 paper filed by the attorney pursuant to the limited appearance and the cover page and
12 signature block of the paper shall include an address at which service may be made on the
13 client.

14 C. **Withdrawal.** No attorney or firm that has appeared in a cause may withdraw
15 from it without written consent of the appellate court, filed with the appellate court clerk.
16 Such consent may be conditioned upon substitution of other counsel or the filing by the
17 attorney's client of an address at which service may be made on the client or otherwise
18 conditioned by the appellate court. Proof of service by the withdrawing attorney shall be
19 made on all other parties.

20 D. **Notice.** Notice of withdrawal or substitution of counsel shall be given to all
21 parties either by withdrawing counsel or by substituted counsel and proof of service filed
22 with the appellate court clerk. If an attorney ceases to act in a cause for a reason other than

1 withdrawal with consent, upon motion of any party, the appellate court may require the
2 taking of such steps as it may be advised to insure that the cause will proceed with
3 promptness and dispatch.

4 E. **Nonadmitted counsel in civil cases.**

5 (1) Counsel not admitted to practice law in New Mexico, but who are
6 admitted to practice law and in good standing in another state or territory, may, upon
7 compliance with Rule 24-106 NMRA sign briefs, motions and other papers, and may orally
8 argue before the appellate court, only in association with counsel admitted to practice law
9 and in good standing in New Mexico. New Mexico counsel shall sign the first paper filed
10 in the appellate court, and New Mexico counsel's name and address shall appear on all
11 subsequent papers filed. Unless excused by the appellate court, New Mexico counsel shall
12 also be present in person in all proceedings.

13 (2) Nonadmitted counsel shall state by affidavit that they are admitted to
14 practice law and are in good standing to practice law in another state or country and that they
15 have complied with Rule 24-106 NMRA. Such affidavit shall be filed with the first paper
16 filed in the appellate court, or as soon as practicable after a party decides on representation
17 by nonadmitted counsel. Such an affidavit need not be filed if nonadmitted counsel has
18 already filed an affidavit in compliance with Rule 24-106 NMRA in a lower court. Upon
19 filing of the affidavit, nonadmitted counsel will be deemed admitted subject to the other
20 terms and conditions of this subsection. Proof of service of the affidavit shall be made as
21 provided in Rule 12-307 NMRA. A separate motion and order are not required for the
22 participation of nonadmitted counsel.

1 (3) For good cause shown, the appellate court may revoke the privilege
2 granted herein of any nonadmitted counsel to appear in any proceeding.

3 (4) New Mexico residents not admitted to practice law in this state may
4 not appear as counsel, except pro se.

5 **F. Nonadmitted counsel in criminal cases.**

6 (1) Counsel not admitted to practice law in New Mexico, but who are
7 admitted to practice law and in good standing in another state or territory, may, upon
8 compliance with Rule 5-108 NMRA sign briefs, motions and other papers, and may orally
9 argue before the appellate court, only in association with counsel admitted to practice law
10 and in good standing in New Mexico. New Mexico counsel shall sign the first paper filed
11 in the appellate court, and New Mexico counsel's name and address shall appear on all
12 subsequent papers filed. Unless excused by the appellate court, New Mexico counsel shall
13 also be present in person in all proceedings.

14 (2) Nonadmitted counsel shall state by affidavit that they are admitted to
15 practice law and are in good standing to practice law in another state or country and that they
16 have complied with Rule 5-108 NMRA. Such affidavit shall be filed with the first paper
17 filed in the appellate court, or as soon as practicable after a party decides on representation
18 by nonadmitted counsel. Upon filing of the affidavit, nonadmitted counsel will be deemed
19 admitted subject to the other terms and conditions of this subsection. Proof of service of the
20 affidavit shall be made as provided in Rule 12-307 NMRA. A separate motion and order are
21 not required for the participation of nonadmitted counsel, unless nonadmitted counsel has
22 not previously complied with Rule 5-108 NMRA.

1 (3) For good cause shown, the appellate court may revoke the privilege
2 granted herein of any nonadmitted counsel to appear in any proceeding.

3 (4) New Mexico residents not admitted to practice law in this state may
4 not appear as counsel, except pro se.

5 **G. Capital appellate counsel.** The defendant in any appeal in a case in which
6 a sentence of death may be imposed must be represented by at least two (2) attorneys, one
7 of whom meets the minimum standards set forth in this paragraph for first-chair capital
8 appellate defense attorneys and another who meets the minimum standards set forth in this
9 paragraph for first-chair or second-chair capital appellate defense attorneys.

10 (1) The minimum standards for first-chair capital appellate defense
11 attorneys are:

12 (a) membership in good standing of any state bar;

13 (b) a minimum of five (5) years active trial or appellate
14 experience in criminal cases as a licensed attorney immediately preceding appointment;

15 (c) prior experience in the last three (3) years as lead counsel or
16 co-counsel in the appeal of at least six (6) felony jury convictions in federal or state court,
17 at least two of which were murder convictions: and

18 (d) completion within two (2) years prior to entry of appearance
19 of at least twelve (12) hours of training in capital representation in a program approved by
20 the New Mexico Department of the Public Defender and qualified for New Mexico MCLE
21 credit.

22 (2) The minimum standards for second-chair capital appellate defense

1 attorneys are:

2 (a) membership in good standing of any state bar;

3 (b) a minimum of three (3) years active trial or appellate
4 experience in criminal cases as a licensed attorney immediately preceding appointment;

5 (c) prior experience in the last eighteen (18) months as lead
6 counsel in the appeal of at least four (4) felony convictions in state or federal court; and

7 (d) completion within two (2) years prior to entry of appearance
8 of at least twelve (12) hours of training in capital representation in a program approved by
9 the New Mexico Department of the Public Defender and qualified for New Mexico MCLE
10 credit. This requirement may be met within one (1) year after appointment as second-chair
11 counsel in a death penalty appeal.

12 The district court shall require any attorney who enters an appearance to show that
13 the attorney is a qualified capital appellate defense attorney in accordance with the
14 requirements of this paragraph. If the district court determines that the defendant is not
15 represented by two (2) qualified capital appellate defense attorneys, at least one of whom is
16 qualified to act as first chair, the district court, in the case of indigent defendants, shall order
17 the New Mexico Department of the Public Defender to appoint one or more qualified
18 attorneys to ensure that the defendant is represented as required by this paragraph.

19 [As amended, effective September 1, 1993; January 1, 1997; May 1, 2003; January 20, 2005;
20 as amended by Supreme Court Order 05-8300-18, effective October 11, 2005; by Supreme
21 Court Order 07-8300-24, effective November 1, 2007; as amended by Supreme Court Order
22 No. 09-8300-010, effective May 6, 2009.]