

**IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO,
THE SECOND JUDICIAL DISTRICT COURT,
and THE BERNALILLO COUNTY METROPOLITAN COURT**

**IN THE MATTER OF ON-RECORD
APPEALS FROM METROPOLITAN
COURT TO THE COURT OF APPEALS,**

**Joint Miscellaneous Order
No. 2019-001**

**ADMINISTRATIVE ORDER FOR ON-RECORD APPEALS FROM THE
METROPOLITAN COURT TO THE COURT OF APPEALS**

This matter has come before the Court of Appeals, Second Judicial District Court, and Bernalillo Metropolitan Court, due to the transfer of jurisdiction over on-record appeals from Metropolitan Court to the Court of Appeals as provided by NMSA 1978, Section 34-8A-6 (2019), effective for final orders filed by the metropolitan court on or after June 14, 2019. The New Mexico Supreme Court has issued Order No.19-8300-004 withdrawing Rules of Criminal Procedure 5-829, 5-830, and 5-831 related to on-record appeals. However, new rules governing the process for on-record appeals of Metropolitan Court orders directly to the Court of Appeals have not yet been promulgated. Accordingly, we issue this Order to reconcile the remaining Rules of Criminal, Civil, and Appellate Procedure and to clarify and articulate a process for parties to follow for these on-record appeals. This order applies until specific rules have been promulgated.

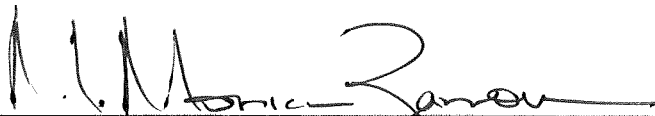
Notice of Appeal - Fifteen Day Deadline. Following the entry of a final order by the Metropolitan Court, an aggrieved party may initiate an appeal by filing a *notice of appeal* in the *District Court* **within fifteen (15) days of the judgment** being entered. See Rule 1-073 NMRA (“A party who is aggrieved by the judgment or final order in a civil action in the metropolitan court may appeal, as permitted by law, to the district court The notice of appeal shall be filed in the district court within fifteen (15) days after the judgment or final order appealed from is filed in the metropolitan court clerk’s office.”); Rule 3-706 NMRA (same); Rule 7-703 NMRA (“A party who is aggrieved by the judgment or final order in a criminal action may appeal, as permitted by law, to the district court The notice of appeal shall be filed in the district court within fifteen (15) days after the judgment or final order appealed from is filed in the metropolitan court clerk’s office[.]”). In light of these specific rules regarding filing notices of appeal in appeals from Metropolitan Court, parties appealing from final orders in cases in Metropolitan Court *shall not* apply the thirty (30) day deadline otherwise provided in the Rules of Appellate Procedure, which governs appeals from district court. See Rule 12-201(A)(1)(b) NMRA. The Metropolitan Court will transmit the record proper and any audio recordings to the District Court on receipt of the notice of appeal.

Criminal Appeals. Criminal appeals from Metropolitan Court involving driving while intoxicated or domestic violence charges *shall* follow the process in this paragraph. Because of the Supreme Court’s withdrawal of Rules 5-827 (Appeals from metropolitan court), 5-830 (Statement of appellate issues; appeals on the record), and 5-831 (Scope of review by district court; appeals on the record), an appellant shall file a *docketing statement* in the *Court of Appeals* **within thirty (30) days** of filing the notice of appeal, in accordance with the rules governing appeals from district court. *See* Rule 12-208(B) NMRA (“Within thirty (30) days after filing the notice of appeal . . . the appellant shall file a docketing statement, if the appeal has been docketed in the Court of Appeals[.]”). The docketing statement must meet the content requirements of Rule 12-208(D) and must also be served on the District Court in accordance with Rule 12-208(C). The District Court and Court of Appeals will ensure the record proper is available to the Court of Appeals for use in resolving these criminal on-record appeals. Once the docketing statement is filed, the Court of Appeals will proceed to address the appeal as provided in the Rules of Appellate Procedure.

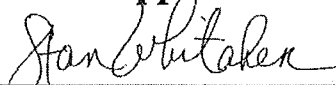
Civil Appeals. Civil appeals from Metropolitan Court, *except for* those involving the Uniform Owner-Resident Relations Act, Sections 47-8-1 to -52, NMSA 1978, should follow the process in this paragraph. Because the Supreme Court has *not* withdrawn Rule 1-073 NMRA, an appellant appealing from

Metropolitan Court civil cases to the Court of Appeals must still file *a statement of appellate issues* in the *District Court*, “within thirty (30) days from the date of service of the notice of filing of the record on appeal in district court[.]” Rule 1-073(H)(1) (emphasis added). Rule 1-073 permits a response by appellee, which must “be filed [in the district court] and served within thirty (30) days after service of the appellant’s statement of issues.” Rule 1-073(H)(2). Once the statement of issues has been filed and either a response has been filed or the time for filing a response has expired, the District Court and Court of Appeals will effectuate the transfer of the appeal and the record proper to the Court of Appeals, after which the Court of Appeals will proceed to address the appeal.

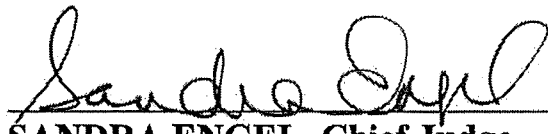
IT IS THEREFORE ORDERED that parties appealing decisions of the Bernalillo Metropolitan Court entered on or after June 14, 2019 that are subject to direct appeal to the Court of Appeals pursuant to Section 34-8A-6, follow the procedures articulated in this order until specific rules governing on-record appeals from Metropolitan Court to the Court of Appeals are established by the Supreme Court.



M. MONICA ZAMORA, Chief Judge
Court of Appeals



STAN WHITAKER, Chief Judge
Second Judicial District Court

A handwritten signature in cursive script, appearing to read "Sandra Engel", is positioned above a horizontal line.

**SANDRA ENGEL, Chief Judge
Bernalillo Metropolitan Court**