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## Introduction

Sophie S. Martin

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## INTRODUCTION

It's the most over-used cliché in New Mexico politics: former Governor Lew Wallace's 1881 observation that "All calculations based on our experiences elsewhere fail in New Mexico." Its ubiquity is followed (if none too closely) by former Governor Bruce King's quip that a proposal before the state's legislature would "open a box of Pandoras."

The past few years in New Mexico jurisprudence have shown the prescience of both gentlemen. Wallace's quote has always seemed rather sour to me, but I can't help thinking that New Mexico's unusual history, distinct from that of the rest of the U.S., stands it in good stead during periods of change. New Mexico as a model for the nation is a theme that arises in a number of this issue's articles, including Curtis Hayes' discussion of the "new federalism" and state constitutional analysis of Fourth Amendment rights.

In two articles in this issue, authors discuss changes in Indian law that will affect practitioners in New Mexico. In their update on the Navajo Preference in Employment Act, Howard L. Brown and the Honorable Raymond D. Austin highlight the difficult balance between employee rights and business interests in the Navajo Nation. Attorney James D. Leach provides valuable insight into his attempt to change the interpretation of "bad men among the whites" provisions in nine treaties between the U.S. Government and tribal nations, including the Navajo.

Matthew Holt takes up the fascinating issue of tort claims by employers against their employees, ultimately arguing that the imbalance of power in the workplace creates an argument in equity against such claims. Also concerned with issues of equity is Professor Steven Keith Berenson, a clinical law professor at the Thomas Jefferson School of Law. Professor Berenson makes the case that clinical law programs should serve indigent clients in poor peoples' courts, an argument that may surprise alumni of the UNM School of Law clinic, which has long fulfilled this mission.

Two student articles round out our issue. Julio C. Romero's timely analysis of the New Mexico Supreme Court ruling in *Chattergee v. King* provides valuable context for the current litigation over marriage equality in the state. J. Walker Boyd discusses the unusual supreme court ruling in *Romero v. Philip Morris*, in which, he argues, the court created a summary judgment standard for antitrust cases in New Mexico which it then failed to apply. In both cases, although in very different ways, the courts have opened Governor King's box. We now wait to see what will emerge.

Sophie S. Martin  
Editor-in-Chief