



NEW MEXICO LAW REVIEW

Volume 37
Issue 3 *Summer*

Summer 2007

Introduction

New Mexico Law Review

Recommended Citation

New Mexico Law Review, *Introduction*, 37 N.M. L. Rev. ix (2007).
Available at: <https://digitalrepository.unm.edu/nmlr/vol37/iss3/2>

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INTRODUCTION

Welcome to our final issue of Volume 37! This issue, composed of seven articles authored by members of the *New Mexico Law Review*, represents an immense amount of time, effort, and dedication, both by the student authors and the student editors. We are pleased to have the opportunity to present the work of our staff and our editors, while at the same time highlighting issues of importance to New Mexico practitioners.

Our final issue begins with an article by Maya Anderson, *The Constitutionality of Faith-Based Programs: A Real World Analysis Based in New Mexico*. This article examines challenges to faith-based programming in prisons, in light of the U.S. Supreme Court's decision in *Hein v. Freedom From Religion Foundation, Inc.*, as well as other seminal Establishment Clause cases. The author focuses on a New Mexico case that had been pending regarding the constitutionality of a faith-based unit at the New Mexico Women's Correctional Facility in Grants, New Mexico. While the claim fails the new standing requirements set forth in *Hein*, the author concludes that the claim may still be viable and, if maintained, the faith-based programming would likely be found unconstitutional.

The next article in Issue III discusses the tax incentives for film production offered by the State of New Mexico. The article, *New Mexico as Hollywood's Backlot: An Examination of Film Financing, State Tax Incentives, and Constitutional Limitations*, written by Danielle M. Cantrell, first explores the relationship between runaway production and state tax incentives and the specific offerings of the New Mexico Film Incentive Program. The author then analyzes the constitutional implications of New Mexico's film-financing scheme. The author concludes that the state's film incentives will likely survive constitutional attack under both the Dormant Commerce Clause and the Privileges and Immunities Clause because the incentives advance legitimate local purposes in a nondiscriminatory manner.

Nat Chakeres analyzes a recent New Mexico Supreme Court opinion discussing state sovereign immunity in his article, *Manning v. Mining and Minerals Division: Sovereign Immunity as a Bar Against Claims for Damages Brought Under the U.S. Constitution*. In this article, the author examines the court's willingness to hold that the Takings Clause effectively bars Contracts Clause claims and that the Takings Clause abrogates sovereign immunity. The author concludes that the court's holding may make it more difficult for future litigants who have constitutionally based claims for monetary damages to overcome the bar of sovereign immunity. Additionally, the author argues that portions of the opinion may allow the State to alter the procedures that litigants must follow in order to recover monetary damages in light of a taking.

In *Multiple Tortfeasors Defined by the Injury: Successive Tortfeasor Liability After Payne v. Hall*, Megan P. Duffy examines the New Mexico Supreme Court's

treatment of a complex area of law, successive tortfeasor liability. The author argues that, while the court's opinion created much needed clarity for disputes involving more than one tortfeasor, the opinion left many important questions unanswered. In addition to discussing the practical impact of the court's decision, the author examines the development and adoption of the new Uniform Jury Instructions dealing with successive tortfeasor liability. The author posits that these new jury instructions may provide additional clarity for courts and practitioners faced with the challenges inherent in a dispute involving multiple tortfeasors.

Jeremy K. Harrison discusses the Albuquerque Sex Offender Registration and Notification Act (ASORNA) in his article, *ACLU of New Mexico v. City of Albuquerque: Does Current Equal Protection Adequately Protect Some of the Most Hated Members of Our Society?* The author, after examining the background of sex offender registration laws, reviews the New Mexico Court of Appeals' analysis of ASORNA. Relying on established equal protection jurisprudence, the author suggests that the court applied a heightened form of scrutiny while purporting to apply the rational basis test. The author argues that current equal protection jurisprudence should be rejected in favor of a balancing test that weighs the interests of both the individual and the government.

In *State v. Romero: The Legacy of Pueblo Land Grants and the Contours of Jurisdiction in Indian Country*, Robert L. Lucero, Jr. examines the New Mexico Supreme Court's holding that the State lacks jurisdiction to prosecute crimes committed by Indians within the external boundaries of Pueblo land grants. The author provides a historical background of both the Pueblo land grants and the legal issue of adjudicative jurisdiction in Indian country. The author also discusses the implications of *Romero* with respect to civil jurisdiction in Pueblo Indian country, and suggests that although the *Romero* court correctly decided the legal issue of whether the State of New Mexico may prosecute Pueblo members for alleged crimes committed within the exterior boundaries of Pueblo land grants, it created considerable uncertainty for New Mexico practitioners in Pueblo Indian country.

Our final issue concludes with Marshall J. Ray's article, *The Right to Consul and the Right to Counsel: A Critical Re-examining of State v. Martinez-Rodriguez*. In this article, the author examines the approach that the New Mexico Supreme Court has taken when faced with questions concerning the Vienna Convention on Consular Relations. The author concludes that the New Mexico Supreme Court's interpretation of the Vienna Convention is contrary to the text of the Convention and contrary to the International Court of Justice's interpretation of that text. The article concludes with a suggestion for an appropriate remedy for those detainees whose rights have been violated and underscores the continued importance of Article 36 of the Vienna Convention.

Enjoy!