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Introduction

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Introduction

Hello, and welcome to the second (and as I write on-time) issue of Volume 44 of the *New Mexico Law Review*. The introduction in the first issue was about the ‘big picture’; this one will attempt to get down to brass tacks on citations. Last year, the board of the *Review* voted to amend its bylaws to explicitly mandate compliance with the New Mexico Supreme Court’s citation rule.¹

This has caused some variability in the way citations to New Mexico authorities are formatted. For example, citations to New Mexico case law before 2013 requires citation to the vendor-neutral and *New Mexico Reports*, but doesn’t require citation to the *Pacific Reporter*.² For cases published after the *New Mexico Reports* were discontinued, vendor-neutral citations remain mandatory and citations in *Pacific Reports* remain voluntary. All this means that a New Mexico case plucked at random from 1852 (the first year in the New Mexico Supreme Court’s *Appellate Reports*)³ to today could be cited correctly in any one of four different ways.

How you format a citation can have political significance. The *Bluebook* mandates parallel citation to the *Pacific Reports* in law review articles. One potential explanation for the difference is the *Bluebook*’s ‘Uniform System of Citation’: Because states make their vendor-neutral reports available on different websites and in different formats, the *Bluebook* might prefer the unified national state court reports. Thus the *Review*’s decision to follow the New Mexico Supreme Court’s citation rule: a journal whose mission is to provide useful scholarship for practitioners and judges in New Mexico should provide citations in a format that New Mexico-based practitioners are used to.⁴

This summer’s issue contains a number of fascinating and politically significant professional and student articles. First, Brent Ferguson provides a compelling case for revising plain error review in criminal appeals, arguing that the current system creates inconsistent results and unfairly prejudices criminal defendants (page 303). Next, Professor Neil Sobol describes how dead debts with murky chains of ownership are revived by abusive debt collectors (page 327). Professor Sobol provides a comprehensive account of the rise of “zombie debts” and how to stop them.

1. Rule 23-112 NMRA.

2. Rule 23-112(II)(A).

3. *Bray v. United States*, 1852-NMSC-001, 1 N.M. 1.

4. The Federal District Court for the District of New Mexico and the Tenth Circuit follows the *Bluebook*, which could be seen as adding a further political gloss to the decision of whether to follow Rule 23-112 NMRA or the *Bluebook*.

Tara Ross and Professor Robert Hardaway discuss the history and constitutional implications of the “National Popular Vote” movement, which seeks to use interstate compacts to replace the Electoral College system with a popular vote. (page 383). Their illuminating account will raise interesting questions about the movement’s constitutional legitimacy and the purpose of the Electoral College in the twenty-first century.

Finally, we have four particularly compelling student notes on recent decisions from the New Mexico Supreme Court and Court of Appeals. Abby Marrs discusses the court of appeals’ recent adoption of comparative negligence principles to the tort of negligent misrepresentation in *Hicks v. Eller*⁵ (page 435). Next, Ryan Schotter discusses the mandatory joinder rule in criminal proceedings in New Mexico and the significance of the supreme court’s recent decision interpreting the rule, *State v. Gonzales* (page 467).⁶ Third, Ashley Funkhouser writes about how *State v. Montoya*⁷ liberalizes appellate review of multiple convictions for violations of the Double Jeopardy Clause (page 507). Finally, Matthew Zidovsky (my successor) writes about what effect *Martinez v. New Mexico Department of Transportation*⁸ will have on government tort liability for automobile accidents on public highways (page 529).

Before I sign off as the Editor in Chief of the *Review*, I must thank my colleagues on the editorial board. It’s a cliché but it’s worth repeating: without their devotion to publishing quality legal scholarship, this volume would not have come to pass. I particularly want to thank KC Manierre, the *Review*’s indefatigable managing editor. She has more than anyone ensured that the *Review* stayed on deadline and looking good besides.

J. Walker Boyd
Editor-in-Chief

5. 2012-NMCA-061, 280 P.3d 304.

6. 2013-NMSC-016.

7. 2013-NMSC-020.

8. 2013-NMSC-005, 296 P.3d 468.