

ALBUQUERQUE DIVORCE LAWYER BLOG

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ATTORNEYS AT LAW

Litigating a New Mexico Divorce Case from Outside the State

By Collins & Collins

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A person cannot be made a proper party to a [family law case](#) in New Mexico unless the New Mexico courts have [jurisdiction](#) over that party.

The issue of jurisdiction can be complicated and can vary depending on whether the case involves a divorce, custody, paternity, or a division of property. However, once jurisdiction is properly established, an out of state party can be faced with participating in family law litigation in New Mexico, which can be a very daunting task. Situations like these commonly arise when a divorce or custody action is started in New Mexico and then one party relocates, but the other party remains in New Mexico. It can arise when one party relocates to New Mexico as well.

No matter the circumstances, if New Mexico has chosen to exercise jurisdiction over an out-of-state party, he or she will not be excused from a court case merely because they do not reside in New Mexico. Any out-of-state party faced with this situation should seriously consider hiring legal counsel.

If the out-of-state party believes that New Mexico does not have jurisdiction, then their attorney can properly object to jurisdiction and have the court decide that issue prior to moving on to the substance of the case. Failure to properly limit a response to a petition filed in New Mexico may result in the court ruling that the out-of-state party has submitted themselves to jurisdiction even though they may not have intended to do so.

Once it has been determined that New Mexico has jurisdiction over an out-of-state party, that party generally realizes that litigating from out-of-state can be a very expensive process when they consider the cost of travel and missed work for court appearances. Parties may be able arrange for that party to appear at some court hearings via telephone.

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Most New Mexico judges require that the party wishing to appear via telephone file a motion asking permission to do so. Such motions must be filed well in advance of any court appearances. Depending on the substance of the hearing, motions for telephonic appearance may not always be granted. For example, at a trial or other evidentiary hearing where extensive testimony or exhibits will be presented, the court may require that the out-of-state party travel to New Mexico to appear in person.

Although parties representing themselves can certainly figure out how to arrange for telephonic appearance, it is often much more efficient to hire an attorney to make sure those appearances are approved. The cost of hiring an attorney is often well worth it in comparison to the damage that can be done to an out-of-state party's case if they are forced to travel to every hearing or if they are not allowed to appear at a hearing because their request for telephonic appearance was not properly submitted.

Another way in which an attorney can help out-of-state parties is by keeping costs down is by limiting court appearances. This can be done in a variety of ways. First, in many cases, it is possible to settle the case without numerous hearings or a trial. In some cases, this can include negotiating directly with the other party or their attorney, or finding a mediator that will allow the out-of-state party to participate in a mediation, or settlement facilitation, by phone. Even in the absence of complete and final settlement, hearings can often be minimized by addressing as many issues as possible outside of court.

Hiring a [family law attorney](#) experienced in representing clients who reside outside of New Mexico can substantially improve an out-of-state party's chances of success in family law litigation.

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