

# ALBUQUERQUE DIVORCE LAWYER BLOG

PUBLISHED BY

**COLLINS & COLLINS, P.C.**

ATTORNEYS AT LAW

## **Litigating a Divorce or Family Law Case from Outside New Mexico Poses Unique Challenges**

By Collins & Collins

August 17, 2011

A person cannot be made a proper party to a [divorce or 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 this case involves a divorce, custody or paternity. 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.

No matter the circumstances, if jurisdiction is properly established in New Mexico 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 an experienced family law attorney.

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 disputing jurisdiction could itself lead to jurisdiction. The response should solely address jurisdiction or there is a risk that the judge will rule that the out-of-state party has submitted themselves to jurisdiction even though this was not the intention.

Once it has been determined that New Mexico has jurisdiction over an out-of-state party, that party soon find that litigating from out-of-state can be a very expensive and burdensome process when they consider the cost of travel and missed work for court appearance. To avoid these hardships, the parties may be able arrange for the out of state party to appear at some court hearings via telephone. However, most judges require that the party wishing to appear via telephone files a motion asking permission to do so.

### DISCLAIMER

Main Office:

500 4<sup>th</sup> St. NW, Suite 405

Albuquerque, NM 87102

Phone: (505) 242-5958/Fax: (505) 242-5968

<http://www.albuquerquedivorcelawyerblog.com/>

A Motion for Telephonic Appearance must be filed well in advance of the subject hearing and may not always be granted. For instance, 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 work an attorney to make sure those appearances are approved. The cost of hiring an attorney is often well worth the costs when weighed against travel costs and lost income in the case where the party fails to follow court procedures and is forced to travel to New Mexico.

In addition to the telephonic appearance, one way to avoid hearing costs is to avoid unnecessary hearings. The attorney can play a very important role by working out many issues without a hearing, and by minimizing the number of hearings. 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. 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 successful and cost effective family law litigation.

**DISCLAIMER**

Main Office:  
500 4<sup>th</sup> St. NW, Suite 405  
Albuquerque, NM 87102  
Phone: (505) 242-5958/Fax: (505) 242-5968

<http://www.albuquerquedivorcelawyerblog.com/>