

THE JUDICIAL PROCEDURES MANUAL OF THE ASSOCIATED ASSOCIATED STUDENTS OF NEW MEXICO STATE UNIVERSITY

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Chief Justice

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This manual provides a brief description of the processes of filing complaints, civil action, impeachment proceedings, and how to respond to these actions in turn. Example forms for these processes are also included in the order that they are first mentioned.

A Special Note about *The Judicial Procedures Manual*

Thank you for your interest in the judicial procedures of YOUR student government. This manual offers all New Mexico State University students an accessible delineation of the judicial processes.

The Associated Students of New Mexico State University Supreme Court (hereafter the Supreme Court or Court) is charged with hearing a variety of complaints, cases, and trials. The various processes for initiating and resolving these issues can be complicated and somewhat confusing. This basic manual outlines the different courses of action one can take through the Supreme Court. Special attention has been given to clarifying what forms are needed at what points in the judicial process. The names of all forms are italicized (e.g., *Summons)* and can be found in a supplementary manual called "Judicial Forms" on the ASNMSU website or Crimson Connection.

The purpose of this manual is not to encourage litigation. Nor is it a substitute for reading and understanding the laws and statutes of the Associated Students of New Mexico State University (hereafter ASNMSU), found in the ASNMSU Bylaws and past Court decisions. This manual references all applicable parts of the Bylaws, but a current copy should always be referred to during any action. Questions regarding interpretations of the Bylaws should be directed to the ASNMSU Attorney General's office. Any questions of judicial procedure should be directed to the Chief Justice or Court Clerk if applicable.

If you have any suggestions for the improvement of this manual, please forward them to the Chief Justice at asnmsu_court@nmsu.edu.

Anaya Gonzalez, Chief Justice

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RULES AND PROCEDURES

The ASNMSU Supreme Court is modeled after the United States Supreme Court. Therefore, the procedures of the U.S. Federal Court system will be used as a guide.

Conference Procedure

Seating in the conference room is by rank of seniority. Discussion or introduction of a case will be announced by the Chief Justice and shall include a brief description of events at hand. Discussion will continue down the rank of seniority.

Voting on a matter will begin with the Chief Justice and proceed down the line of seniority. Each Justice may give a brief explanation of their vote.

Official notes will be taken by the Chief Justice, Court Clerk, or designee. If any documents or materials are needed an Associate Justice will retrieve them or designate the Court Clerk to do so. An Associate Justice will also answer the door if necessary.

All matters discussed in the conference are to be held in the utmost of confidentiality. The Chief Justice shall be responsible for releasing any comments on conference to the various media if required.

Courtroom Etiquette

In the courtroom, all Justices shall refer to each other by title (Justice) and last name.

The Supreme Court is exempt from the ASNMSU Open Meetings Act during conference, deliberation, and voting. All conferences between the Supreme Court with parties involved in a case will also be private.

LAWSUITS

There are two basic types of lawsuits handled by the Supreme Court. In Lawsuits (I), we will examine how an individual or party sues another. In Lawsuits (II), we will explore how an individual petitions the Supreme Court to hear a case over a legal issue, such as an objection to a part of ASNMSU law.

LAWSUITS (I)

Filing a Lawsuit Against Another Party

To sue a member of ASNMSU, you must file a *Complaint*, or *(Initial Complaint),* in which you detail how you have been wronged, and the remedy that you seek. As the person filing the complaint, you are the plaintiff (the person suing.)

Once you have finished this form, file it with the Court. A *Summons will* be delivered to the opposing party (the defendant, e.g., the person who is being sued.) A copy of the original *Complaint* will be attached to the *Summons*; a *Certificate of Service* will be presented to the defendant, which shall be signed by both the official serving the *Summons* and the defendant, stating that the documentation was delivered intact.

If you receive a *Summons*, you have three options. You may file an *Entry of Appearance*, *Answer to Complaint*, or *Motion for an Order to Dismiss*.

- An *Entry of Appearance* is a form that you return to the Supreme Court to acknowledge that you have been summoned, and that you will appear as ordered.

- An *Answer to Complaint* is the form you send if you believe that the complaint against you is in error, and/or you wish to lodge a counter-complaint.

- A *Motion for an Order to Dismiss* is the form you file if you believe that the complaint filed against you has no legal basis, and you wish for the Supreme Court to dismiss the case. An example of this would be if you discovered that the person suing you is not an NMSU student. If the Supreme Court agrees, the *Motion for an Order to Dismiss* will be granted, resulting in the case being dismissed. If the case is not dismissed, a trial will be scheduled. This will be announced with a *Notice of Trial*.

Pretrial

The pretrial stage is where the trial is planned and prepared for. After notice has been sent, the Chief Justice may call for discovery and/or a pretrial conference.

Discovery is a session in which both sides, or their counsel, present all evidence they wish to bring to trial, both to the Supreme Court and to the opposing side. Both sides will be given the chance to examine evidence against them.

A pretrial hearing is a hearing in which a member of the Court meets with both parties and schedules the trial. During this hearing, you may ask the justice any questions you have about procedure, time frames, etc. This hearing will often be combined with discovery.

At either of these hearings, you may submit a *Request for Copies*. This is a form you submit if you wish for copies of material from the Supreme Court of from the other side (such as evidence.)

You will also be required to submit a *Witness List* at this time. This is a list of all witnesses you wish to examine during trial.

You may substitute a *Sworn Affidavit* for witness testimony, but this will be regarded with skepticism and may delay judgment, as all sworn testimony must be verified by the Supreme Court.

At any time during the proceeding, you may ask for a *Summary Judgment* from the Supreme Court. This is a judgment that is granted without a full trial. It will only be granted if there is a compelling reason, such as an approaching deadline or a lack of evidence presented by one side.

Ideally, these proceedings should occur within two weeks of a *Complaint* being filed. The sooner, the better.

Trial

Once an answer to a claim or complaint has been filed, or a reasonable amount of time of no more than one week has passed since the *Summons* was issued, the Supreme Court will set a date for trial.

The Supreme Court may issue a *Subpoena* commanding a party of the suit to produce testimony, documents, or other objects.

If a party does not appear at the trial, and the opposing party can prove that the other party was given proper notice to the absent party, the present party can call for a default judgment in their favor provided they prove that proper notice was given. This judgment would come in the form of a *Certificate as to the State of the Record* form signed by the Chief Justice.

Again, any party in the suit may at any time call for *Summary Judgment* on all or part (s) of the case by presenting a letter calling for such judgment to be presented to the Chief Justice. This type of judgment is rendered when the facts of the case are not contested and one or both parties believe that they are entitled to judgment without trial as a matter of law.

The format of the trial will be agreed upon during the pretrial conference. Traditionally, each side will get to make a short opening statement. Then, the plaintiff will make their argument and call on witnesses. After each witness has finished, the defense will have a chance to cross-examine the witness. Then, the plaintiff will rest their case.

Next, the defendant will make their case, following the same procedure as stated above. They may call witnesses, and the plaintiff will be given the chance to cross-examine these witnesses.

Each side will make a brief closing statement.

The Justices can limit the time slots allotted for opening statements, questioning, and closing statements at their own discretion.

Disposition (Judgment)

At the conclusion of arguments, the Supreme Court will go into deliberation. This period is not subject to ASNMSU open meeting policy act and is therefore private. At the end of deliberation, a verdict will be announced, notarized, and posted in the ASNMSU office (e.g., the door or window). The announcement of the decision may be delayed, if the Justices need to collect further evidence. However, the decision must be posted within five (5) days of deliberations.

In a traditional judgment, the Supreme Court will rule in favor of one party, write an opinion, and compile a transcript of the trial. The Supreme Court may rule only in partial favor of one side's case. If a party does not show up, the Supreme Court will issue a default judgment, and a *Certificate as to the State of Record* will be signed by the Chief Justice, closing the case in favor of the present day.

LAWSUITS (II)

If you have a legal issue with ASNMSU law (such as a part of the Elections Code which prevents you from running), you may file a *Writ of Certiorari* with the Supreme Court. This is a request asking the Supreme Court to hear your case. In this type of suit, you are called the "Petitioner," and not the "Plaintiff." The opposing side is called the "Respondent."

If granted, you will be asked to write a *Brief in Chief*, which is a short summary of your legal points. This *Brief in Chief* will be given to the respondent, who then writes their own *Brief in Chief*.

Once both sides have turned in briefs, oral arguments will be scheduled. There will be a *Notice of Oral Arguments* posted publicly. The Chief Justice may call for a pretrial hearing (see "Lawsuits I" for more information about the pretrial hearing process).

In this type of case, both sides will be given a time to make their oral arguments, usually ten (10) minutes. After this is done, the Supreme Court will adjourn, and the justices will go into conference to draft an opinion, as such was detailed above.

Impeachment

If a resolution of Impeachment is filed against you in the Senate, you will be notified with a *Call for Impeachment* within two days with a copy of the resolution. The entire Supreme Court will be convened to serve as the Court of Impeachment.

The Court of Impeachment will then convene within five (5) days of this notification and proceed to trial, if necessary.

TRIAL PROCEDURE

This is a brief explanation of what occurs in an ASNMSU trial or hearing. This document is broken into two parts; the first part details the different parts of an actual trial (such as suit between two individuals or an impeachment) is heard by the Supreme Court. This section coincides with "Lawsuits I".

The second part details the oral arguments the Court will hear when hearing an appeal or a legal issue (when an individual or party files a Petition of Certiorari asking the Supreme Court to hear the case.) This process coincides with the Lawsuits II section of the Judicial Process Manual.

This manual progresses chronologically. Questions should be directed to the Chief Justice of the Supreme Court.

THE PHASES OF A TRIAL

Pretrial Conference and Discovery

I. Both parties shall be notified of the conference and informed that they are to bring all evidence they are to present, as well as a *Witness List* of people who are going to be called to the stand to testify.
II. Witnesses may be excluded from parts of the trial to avoid witness contamination.
III. Only parties and their council are to be allowed into conference. The proceedings of the conference are private.
IV. During the conference, the Supreme Court shall present both parties with the format and order of the trial. Rules and procedures are to be emphasized.
V. Both parties will present any evidence that they wish to exhibit. Both sides will be allowed to obtain copies of evidence. An Associate Justice will make copies for the Court's record.
VI. The Supreme Court may choose not to allow evidence to be presented.
VII. Affidavits may substitute witness testimony but only with corroborating evidence. These will be looked upon with suspicion.
VIII. The Standard of Evidence is preponderance, not reasonable doubt.

Trial Procedure

An Associate Justice will begin the trial by stating: "All rise, the ASNMSU Supreme Court is now in session. The matter of [Plaintiff] vs. [Defendant] is before the Court, Chief Justice [Name] presiding."

Justices may interrupt testimony of witnesses or counsel at any time for questions or clarification of an issue. Opening and closing statements will generally be interrupted only over matters of procedure.

Either side may object to an action of the opposing side by calling "Objection." They must then explain themselves. Common objections include:

- Irrelevant
- The witness is incompetent
- Hearsay
- Speculative
- Leading
- Repetitive

I. Opening Statements

a. Each side will explain to the Supreme Court what they are going to present. They may frame their argument and give a basic overview.
b. No evidence, arguments, or witness testimony will be presented during opening statements.
c. The prosecutor shall open first, then rest.
d. The defense shall follow the prosecutor, then rest.

II. The Prosecution's Case

a. The prosecution presents its evidence, explaining what the defense did, how they did it and why they are guilty of an infraction.
b. The prosecution may call witnesses to the stand. Evidence may also be presented for witnesses to identify. A list of witnesses must be submitted to the Court before trial, usually at the pretrial conference.
c. The defense may cross-examine each witness after the prosecution is done.

III. The Defense's Case

a. The defense may explain its case.
b. The defense may call witnesses to the stand. Evidence may also be presented for witnesses to identify. A list of witnesses must be submitted to the Court before trial, usually at the pretrial conference.
c. The defense may call request the Court to allow a prosecutor's witness(es) to be re-examined.
d. The defendant may not be required to take the stand at any time during the trial.
e. The defense may rest at any time after the prosecution makes its case if they feel that a case has not been made by the prosecutor.

IV. Closing Arguments

a. The prosecutor may make a closing argument stating why the defense is guilty. No evidence, arguments or witness testimony will be presented during closing arguments.
b. The defense may make a closing argument stating why the defendant is innocent.

V. Conference

a. At this time the Supreme Court will adjourn into conference for deliberation. A decision will be announced within five (5) days of the close of the trial.

Note about time limits: It is up to the discretion of the Supreme Court to decide time limits for each segment of the trial. Time constraints allow all parties to have an idea of how long the trial should take and are helpful for scheduling purposes. Consult the Chief Justice with questions about specific time limits.

Oral Argument Procedure

Pretrial Conference

I. Both parties shall be notified of the conference.
II. Only parties and their council are to be allowed into the conference. The proceedings of the conference are private.
III. During the conference the Supreme Court shall present both parties with the format and order of the trial. Rules and procedure are to be emphasized.

Oral Arguments

I. Both sides can shake hands.
II. The petitioner will present their case. They will have ten minutes to make their argument. Justices may question the petitioner at any time.
III. The respondent will present their case. They will have ten minutes to make their argument. Justices may question the defendant at any time.
IV. At this time the Supreme Court will adjourn into conference for deliberation. A decision will be announced within five (5) days after the hearing.

EXPLANATION OF TERMS

This is a brief overview of forms you may be required to use when filing a case with the Associated Students of New Mexico State University Supreme Court. All forms are available on the ASNMSU website or Crimson Connection in the "Judicial Forms" file.

Plaintiff- the person or party initiating a lawsuit by charging that they have been wronged by another person or party.
Defendant- the respondent to a lawsuit, or the person or party who is being sued.
Complaint- the complaint (or initial complaint) is the first form you (as the plaintiff) submit to the Supreme Court. On it, you declare how the party you are suing has wronged you, and what remedy you seek.
Summons- this is a document issued by the Supreme Court, ordering a party in the lawsuit (usually the defendant) or a witness, to appear in court for testimony.
Certificate of Service- This is a form used to verify that the required documents have been sent to the correct parties, and all documentation has been delivered intact.

If you receive a summons to appear in court, you have three options. You may file an Entry of Appearance, an Answer to Complaint, or a Motion for an Order to Dismiss.

- *Entry of Appearance*- this is a from that you send to the Court to acknowledge that you have been summoned and that you will appear.
- *Answer to Complaint*- this is the form you send if you believe that the complaint against you is in error, and/or you wish to lodge a counterclaim against the party suing you.
- *Motion for an Order to Dismiss*- this is the form to file if you believe the complaint against you has no legal validity (e.g., you believe the party cannot sue you; for example, the person suing you is not an NMSU student), and you wish for the case to be dismissed. After filing, the Court will consider the matter; if the Supreme Court agrees, a Certificate as to the State of the Record (discussed later) will be issued, and the case will be dismissed. If the Supreme Court does not agree, you must appear in court.

Notice of Trial- this is a form sent to all parties of a dispute, notifying them that a trial has been scheduled.
Subpoena- this is a form requesting the production of documents, or a request to appear in court or other legal proceeding.
Certificate as to the State of the Record- this is a document signed by the Chief Justice, that will grant for default judgment in either of the party's favor if the other party failed to appear in court, and they had been given proper notice of time and date of the

Summary Judgment- at any time during the proceeding, you may ask for a summary judgment from the Court. This is a judgment that is granted without a full trial[1]. It will only be granted if there is a compelling reason, such as an approaching deadline or a lack of evidence presented by one side.
Discovery- in a case where one party is suing another, the Chief Justice may call for *Discovery*. This is a session in which both sides, or their counsel, present all evidence they wish to bring to trial, both to the Court and to the opposing side. Both sides will be given the chance to examine evidence against them.
Pretrial Hearing- this is a hearing in which a member of the Court meets with both parties and schedules the trial. During this hearing, you may ask the justice any questions you have about procedure, time frames, etc. This hearing will often occur at the same time as discovery.
Witness List- you must submit a list of all witnesses that you wish to question during trial. This list should be submitted during discovery or the pretrial hearing. Witnesses will be subpoenaed if necessary.
Request for Copies- this is a form with which you request copies from the Court. You may wish to use this form during discovery so that you have a copy of the opposing sides' evidence. You may also request copies of summons, complaints, etc.
Call for Impeachment- this is a form sent to you if a resolution for impeachment is filed against you and said resolution has been passed.

At this point, a trial will be held.

Pro Se- "On one's own behalf"; refers to a person who presents their case without representation. This is common in the ASNMSU Supreme Court.
Judgment- at the end of the trial the Court will go into recess. A judgment will be posted shortly with the Court's opinion and its reasoning.
Default Judgment- a default judgement may be granted if a party fails to appear in Court or fails to file the appropriate material. Exceptions may be made by the Court if it deems a party has committed harmless error.
Dismissal (Without Prejudice)- the discharge of a case from the Court with no effect on the rights or privileges of the parties concerned. In a dismissal, these words maintain the right to bring a subsequent suit on the same claim.
Dismissal (With Prejudice)- this is applied to order of judgment dismissing a case; the plaintiff is forever barred from bringing a lawsuit on the same claim or cause.
Transcript of Oral Arguments- this is a transcript compiled by the Court Clerk, but not usually published. It is available for check out.

[1] Remember, a trial is a confrontational argument designed to find the truth; the point is not to trick an opponent by springing evidence. Evidence brought forth in trial that was not presented in discovery will usually not be allowed.

The following terms are relevant for people who wish to petition the Court regarding a legal issue, such as part of the Constitution.

Petitioner- the petitioner is the person who is asking the Court to hear their case. The petitioner is the equivalent to the plaintiff in a traditional lawsuit.
Respondent- the respondent is the party that responds to the action. Often, this is the ASNMSU Attorney General (who represents ASNMSU in suits.) Other times it is an official or a party affiliated with NMSU.
Petition for Writ of Certiorari- this is a request that the Court hear your case. It is the traditional method of filing a case regarding a legal issue. [2]
Petition for Writ of Mandamus- a Writ of Mandamus- is an order from the Court, to an official in ASNMSU, which orders them to perform a job or function that they are legally required to perform. The party petitioning the Court must give sound reason as to why a normal suit will not grant them relief.
Notice of Appeal- the Supreme Court may, if overburdened, appoint one justice as a Special Master to hear a case. If one of the parties is not satisfied with the decision of the Special Master, they may appeal to the fully constituted Supreme Court by filing a Notice of Appeal with the Clerk. Normally, the ASNMSU Supreme Court does not utilize a Special Master, and your case will probably go directly to the whole court.
Brief in Chief- a brief is a short document that you file with the Clerk before oral arguments, in which you summarize your argument. A petitioner files his/her brief in chief first. A copy is then given to the respondent, who responds with their own brief in chief. The Court may request both parties to submit briefs in chief at the same time.
Notice of Oral Arguments- this form is identical to the Notice of Trial form. It notifies all parties that oral arguments have been scheduled.

At this point oral arguments are held.

[2] CLARIFICATION- If someone had done something illegal that has harmed you, you file a complaint against them, initiating a suit. If there is something in the ASNMSU Constitution, Law Book, Election Code, etc. that has harmed you and you believe it is unconstitutional, you file a Writ of Certiorari, asking the court to hear your case.

This version of the Judicial Procedures Manual is based upon three previous versions of the manual. I would like to pay special thanks to the following previous authors:

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