

New Mexico Supreme Court Employment Cases

Aguilera v. Board of Educ. of Hatch Valley Schs.

132 P.3d 587 (N.M. 2006) 4/24/2006

A public school system ran into financial difficulties and discharged a certified arts teacher in a RIF (reduction in force). The New Mexico teacher's tenure statute, however, provides a certified teacher may be discharged only for "just cause," which it defines as "a reason that is rationally related to an employee's competence or turpitude or the proper performance of his duties." The teacher was not charged with any such failings. The Court of Appeals ruled the school board therefore did not have the right to discharge her. On further appeal, the Supreme Court decided the tenure statute's "plain meaning" is not an appropriate interpretation of it. The legislature, the Court argued, could not have intended that the statute it passed would deny the school board the right to discharge certified teachers when financial circumstances require a cut-back in staffing. Rather, the courts should presume the legislature meant to incorporate the existing case law regarding teacher tenure: when a school board is forced by financial circumstances to reduce its teaching staff by way of a RIF, it has the right to discharge a certified teacher, but first it must show there is no other position available in the school district for which the teacher is qualified consistent with the academic needs of the district.

The justices are given a positive rating in this case because their decision shields school districts from liability for damages when financial circumstances force them to cut back their staff of certified teachers.

Disposition: Affirmed

Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Wrote Opinion	+
Chavez	Concur	+
Daniels	NA	NA
Maes	Concur	+
Serna	Concur	+

New Mexico Supreme Court Additional Employment Cases

Gill v. Public Employees Ret. Bd. of Pub. Employees Ret. Ass'n of New Mexico

90 P.3d 491 (N.M. 2004) 4/28/2004

Disposition: Reversed and remanded

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Wrote Opinion	-
Chavez	Concur	-
Daniels	NA	NA
Maes	Concur	-
Serna	Concur	-

Ocana v. American Furniture Co.

91 P.3d 58 (N.M. 2004) 5/17/2004

Disposition: Affirmed in part, reversed in part, remanded

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Concur	-
Daniels	NA	NA
Maes	Wrote Opinion	-
Serna	Concur	-

Spencer v. Health Force, Inc.

107 P.3d 504 (N.M. 2005) 1/31/2005

Disposition: Reversed and remanded

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Concur	-
Daniels	NA	NA
Maes	Concur	-
Serna	Wrote Opinion	-

Archuleta v. Santa Fe Police Dep't

108 P.3d 1019 (N.M. 2005) 2/24/2005

Disposition: Reversed

Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	+
Chavez	Concur	+
Daniels	NA	NA
Maes	NP	NP
Serna	Concur	+

Gormley v. Coca-Cola Enters.

109 P.3d 280 (N.M. 2005) (1st Imp.) 2/28/2005

Disposition: Affirmed

Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Wrote Opinion	+
Chavez	Concur	+
Daniels	NA	NA
Maes	Concur	+
Serna	Concur	+

Juneau v. Intel Corp.

127 P.3d 548 (N.M. 2005) 12/23/2005

Disposition: Reversed and remanded

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Wrote Opinion	-
Chavez	Concur	-
Daniels	NA	NA
Maes	Concur	-
Serna	Concur	-

New Mexico Supreme Court Additional Employment Cases

Callahan v. New Mexico Fed'n of Teachers-TVI

131 P.3d 51 (N.M. 2006) (1st Imp.) 3/27/2006

Disposition: Affirmed in part, reversed in part, remanded

Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	+
Chavez	Wrote Opinion	+
Daniels	NA	NA
Maes	Concur	+
Serna	Concur	+

Deflon v. Sawers

137 P.3d 577 (N.M. 2006) 6/29/2006

Disposition: Remanded

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Wrote Opinion	-
Daniels	NA	NA
Maes	Concur	-
Serna	Concur	-

New Mexico Supreme Court Insurance Cases

Padilla v. State Farm Mut. Auto. Ins. Co.

68 P.3d 901 (N.M. 2003) 5/15/2003

Disposition: Affirmed

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Concur	-
Daniels	NA	NA
Maes	Concur	-
Serna	Wrote Opinion	-

McMillan v. Allstate Indem. Co.

84 P.3d 65 (N.M. 2003) 11/20/2003

Disposition: Reversed and remanded

Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	+
Chavez	Wrote Opinion	+
Daniels	NA	NA
Maes	Concur	+
Serna	Concur	+

Sloan v. State Farm Mut. Auto. Ins. Co.

85 P.3d 230 (N.M. 2004) 1/20/2004

Disposition: Certified question answered

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Wrote Opinion	-
Daniels	NA	NA
Maes	Concur	-
Serna	Concur	-

Hovet v. Allstate Ins. Co.

89 P.3d 69 (N.M. 2004) (1st Imp.) 4/8/2004

Disposition: Affirmed and remanded

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Wrote Opinion	-
Chavez	NP	NP
Daniels	NA	NA
Maes	Concur	-
Serna	Concur	-

Government Employees Ins. Co. v. Welch

90 P.3d 471 (N.M. 2004) (1st Imp., NDO) 4/21/2004

Disposition: Affirmed

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Concur	-
Daniels	NA	NA
Maes	Concur	-
Serna	Wrote Opinion	-

Montano v. Allstate Indem. Co.

92 P.3d 1255 (N.M. 2004) 5/20/2004

Disposition: Reversed and remanded

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Wrote Opinion	-
Daniels	NA	NA
Maes	Concur	-
Serna	Concur	-

New Mexico Supreme Court Insurance Cases

State Farm Mut. Auto. Ins. Co. v. Fennema

110 P.3d 491 (N.M. 2005) (1st Imp., NDO) 3/28/2005

Disposition: Affirmed

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Wrote Opinion	-
Daniels	NA	NA
Maes	Concur	-
Serna	Concur	-

Battishill v. Farmers Alliance Ins. Co.

127 P.3d 1111 (N.M. 2006) 1/9/2006

Disposition: Reversed

Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	+
Chavez	Concur	+
Daniels	NA	NA
Maes	Concur	+
Serna	Concur	+

Hartford Ins. Co. v. Cline

139 P.3d 176 (N.M. 2006) 6/20/2006

Disposition: Certified question answered

Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	+
Chavez	Wrote Opinion	+
Daniels	NA	NA
Maes	Concur	+
Serna	Dissent	-

Boradiansky v. State Farm Mut. Auto. Ins. Co.

156 P.3d 25 (N.M. 2007) (1st Imp.) 3/26/2007

Disposition: Certified questions answered

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Concur	-
Daniels	NA	NA
Maes	Concur	-
Serna	NP	NP

Maes v. Audubon Indem. Ins. Group

164 P.3d 934 (N.M. 2007) (1st Imp.) 6/15/2007

Disposition: Reversed and remanded

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Concur	-
Daniels	NA	NA
Maes	Concur	-
Serna	Wrote Opinion	-

Garcia v. Underwriters at Lloyd's, London

182 P.3d 113 (N.M. 2008) (1st Imp.) 3/13/2008

Disposition: Affirmed and remanded

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Wrote Opinion	-
Chavez	Concur	-
Daniels	Concur	-
Maes	Concur	-
Serna	Concur	-

New Mexico Supreme Court Insurance Cases

Ferrell v. Allstate Ins. Co.

188 P.3d 1156 (N.M. 2008) (1st Imp.) 6/6/2008

Disposition: Reversed and remanded
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Wrote Opinion	-
Chavez	Concur	-
Daniels	NP	NP
Maes	Concur	-
Serna	Concur	-

Pincheira v. Allstate Ins. Co.

190 P.3d 322 (N.M. 2008) (1st Imp.) 8/5/2008

Disposition: Affirmed and remanded
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	+
Chavez	Wrote Opinion	+
Daniels	NP	NP
Maes	Concur	+
Serna	Concur	+

Platte v. First Colony Life Ins. Co.

194 P.3d 108 (N.M. 2008) 9/16/2008

Disposition: Remanded
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	+
Chavez	Concur	+
Daniels	NP	NP
Maes	Wrote Opinion	+
Serna	Concur	+

New Mexico Pub. Schs. Ins. Auth. v. Arthur J. Gallagher & Co.

198 P.3d 342 (N.M. 2008) 11/26/2008

Disposition: Affirmed in part, reversed in part, remanded
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Wrote Opinion	-
Daniels	Concur	-
Maes	Concur	-
Serna	Concur	-

Salas v. Mountain States Mut. Cas. Co.

202 P.3d 801 (N.M. 2009) 2/4/2009

Disposition: Remanded
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Concur	-
Daniels	Concur	-
Maes	Wrote Opinion	-
Serna	Concur	-

New Mexico Supreme Court Medical Malpractice Cases

Maestas v. Zager

152 P.3d 141 (N.M. 2007) 1/23/2007

A woman died while undergoing dialysis. Fifteen months later, her sister obtained EMT records that suggested the woman might have died because of contamination in the dialysis equipment. A year and a half later—almost three years after the incident—the sister sued. Because the defendants were working for the state when they administered the dialysis, the New Mexico Tort Claims Act statute of limitations applied. It requires suit be brought “within two years after the date of occurrence resulting in loss, injury or death.” The district court therefore granted summary judgment to the defendants, and the Court of Appeals affirmed. The Supreme Court reversed—it found the language quoted above here “ambiguous” and, therefore, in need of interpretation by judges. What this statute of limitations really means, the Court decided, is suit must be brought within two years after the plaintiff “knows or with reasonable diligence should have known of the injury and its cause.” The case was remanded for trial.

The justices are given negative ratings in this case because their interpretation of the language of the statute will increase medical professionals’ and hospitals’ exposure to malpractice lawsuits.

Disposition: Reversed and remanded

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Concur	-
Daniels	NA	NA
Maes	Wrote Opinion	-
Serna	Concur	-

New Mexico Supreme Court Additional Medical Malpractice Cases

Tomlinson v. George

116 P.3d 105 (N.M. 2005) 6/30/2005

Disposition: Affirmed

Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	NA	NA
Chavez	NA	NA
Daniels	NA	NA
Maes	Concur	+
Serna	Wrote Opinion	+

New Mexico Supreme Court Other Liability Lawsuits

Benavidez v. City of Gallup

161 P.3d 853 (N.M. 2007) 5/11/2007

A woman fell and broke her ankle when she stepped out the rear door of a building into an alley owned by the city. She claimed she had tripped over a water meter in the alley and she sued the city. At the end of trial, her lawyer asked the judge to instruct the jury specifically that by law the city would be liable for a fall caused by a protruding meter even if the city did not know about the meter: if ordinary care of its alley would have alerted the city to a danger posed by the meter, the city was on the hook. Instead, the judge simply gave a more general instruction, "a city has a duty to use ordinary care to maintain [alleys] in a safe condition." The jury found the city not liable, and, on appeal, the Court of Appeals affirmed the jury's decision. On further appeal, a majority of the justices on a divided Supreme Court voted to reverse and order a new trial. The more general instruction the trial judge had given the jury, the majority ruled, did not fully state the law in this situation: namely, the city could be held liable even if it did not actually know about a dangerous meter but should have known. The jury may not have understood this, the majority concluded, and this might have hurt the plaintiff's case. The dissenting justices, one of whom is no longer on the bench, agreed the more specific instruction should have been given to the jury, but argued this error was harmless because the city's defense in the trial did not involve this point of law at all—the city contended the water meter in fact was not a hazard and that the woman had fallen only because the building's owner had left a large drop from the last step down to the alley instead of building proper stairs. Therefore, the dissenters contended, the jury's verdict should be affirmed.

Justice Bosson is given a positive rating because, in the opinion of the evaluators, his conclusion that the judge's error was harmless and the jury's verdict therefore should be honored shows a legal reasoning that would tend to restrain the expansion of liability in New Mexico's law and courts.

Disposition: Affirmed in part, reversed in part, remanded

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur/Dissent	+
Chavez	Concur	-
Daniels	NA	NA
Maes	Wrote Opinion	-
Serna	Concur	-

New Mexico Supreme Court Additional Other Liability Lawsuits

Lozoya v. Sanchez

66 P.3d 948 (N.M. 2003) (1st Imp.) 3/24/2003

Disposition: Affirmed in part, reversed in part, remanded
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Concur	-
Daniels	NA	NA
Maes	Concur	-
Serna	Concur	-

Rutherford v. Chaves County

69 P.3d 1199 (N.M. 2003) 4/23/2003

Disposition: Affirmed and remanded
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Wrote Opinion	-
Daniels	NA	NA
Maes	Concur	-
Serna	Concur	-

Herrera v. Quality Pontiac

73 P.3d 181 (N.M. 2003) 5/16/2003

Disposition: Reversed and remanded
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	NP	NP
Daniels	NA	NA
Maes	Concur	-
Serna	Wrote Opinion	-

Berlangieri v. Running Elk Corp.

76 P.3d 1098 (N.M. 2003) 8/28/2003

Disposition: Affirmed and remanded
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	+
Chavez	NP	NP
Daniels	NA	NA
Maes	Concur	+
Serna	Concur	+

Celaya v. Hall

85 P.3d 239 (N.M. 2004) 1/29/2004

Disposition: Affirmed in part, reversed in part, remanded
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Wrote Opinion	+
Chavez	Concur	+
Daniels	NA	NA
Maes	Concur	+
Serna	Concur	+

Baker v. BP Am. Prod. Co.

110 P.3d 1071 (N.M. 2005) 3/31/2005

Disposition: Reversed
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Wrote Opinion	+
Chavez	Concur	+
Daniels	NA	NA
Maes	Concur	+
Serna	Concur	+

New Mexico Supreme Court Additional Other Liability Lawsuits

U.S. Xpress, Inc. v. State

136 P.3d 999 (N.M. 2006) 4/13/2006

Disposition: Reversed
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	+
Chavez	Wrote Opinion	+
Daniels	NA	NA
Maes	Concur	+
Serna	Concur	+

Sam v. Sam

134 P.3d 761 (N.M. 2006) (1st Imp.) 4/24/2006

Disposition: Reversed
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	+
Chavez	Concur	+
Daniels	NA	NA
Maes	Wrote Opinion	+
Serna	Concur	+

Campos v. Murray

134 P.3d 741 (N.M. 2006) 5/10/2006

Disposition: Certified question answered
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Wrote Opinion	-
Chavez	Concur	-
Daniels	NA	NA
Maes	Concur	-
Serna	Concur	-

Payne v. Hall

137 P.3d 599 (N.M. 2006) 6/8/2006

Disposition: Reversed and remanded
Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Wrote Opinion	+
Chavez	Concur	+
Daniels	NA	NA
Maes	Concur	+
Serna	Concur	+

Upton v. Clovis Mun. Sch. Dist.

141 P.3d 1259 (N.M. 2006) 9/12/2006

Disposition: Reversed and remanded
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Wrote Opinion	-
Chavez	Concur	-
Daniels	NA	NA
Maes	Concur	-
Serna	Concur	-

Chavarria v. Fleetwood Retail Corp.

143 P.3d 717 (N.M. 2006) 10/11/2006

Disposition: Affirmed in part, reversed in part, remanded
Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Wrote Opinion	-
Daniels	NA	NA
Maes	Concur	-
Serna	Concur	-

New Mexico Supreme Court Additional Other Liability Lawsuits

Baldonado v. El Paso Natural Gas Co.

176 P.3d 277 (N.M. 2007) 12/10/2007

Disposition: Affirmed and remanded

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Wrote Opinion	-
Daniels	NP	NP
Maes	Concur	-
Serna	Concur	-

Heath v. La Mariana Apartments

180 P.3d 664 (N.M. 2008) 3/12/2008

Disposition: Affirmed

Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Wrote Opinion	+
Chavez	Concur	+
Daniels	NP	NP
Maes	Concur	+
Serna	Concur	+

Tafoya v. Rael

193 P.3d 551 (N.M. 2008) (1st Imp.) 9/10/2008

Disposition: Affirmed in part, reversed in part, remanded

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Wrote Opinion	-
Chavez	Concur	-
Daniels	Concur	-
Maes	Concur	-
Serna	Concur	-

New Mexico Supreme Court Product Liability Cases

Fiser v. Dell Computer Corp.

188 P.3d 1215 (N.M. 2008) 6/27/2008

Disposition: Reversed and remanded

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Concur	-
Daniels	Concur	-
Maes	Concur	-
Serna	Wrote Opinion	-

New Mexico Supreme Court Workers' Compensation Cases

Luna v. Lewis Casing Crews, Inc.

159 P.3d 256 (N.M. 2007) 4/18/2007

A piece of machinery fell on a worker, injuring him. His employer immediately began to pay him "periodic" workers' compensation benefits to give him income until he could return to work. The worker, however, instituted a lawsuit, alleging the employer had injured him deliberately. Injured workers who sue claiming deliberate injury are allowed by New Mexico courts to receive periodic workers' compensation payments while the lawsuit is being litigated. The courts' reasoning is that if such workers were denied these periodic payments, they would be without any income and would be forced to drop perhaps legitimate lawsuits claiming deliberate injury. In this case, the employee asked for more than periodic payments—he also asked the Workers' Compensation Administration for lump sum payments. The Workers' Compensation Judge granted him lump sum payments for certain debts he incurred during his disability after the injury: medical expenses, back rent and property taxes. The majority on a divided Supreme Court upheld these lump sum awards. The dissenting justice, who is no longer on the bench, argued these grants upset the legislature's careful balancing of the legitimate interests of employers and employees in the workers' compensation system. If a worker could receive not only periodic, income-replacing payments while his lawsuit was in process but also lump sums, he would have too much incentive to contrive a claim his injury had somehow been a deliberate act of the employer and to bring a lawsuit—there would be no downside.

The justices in the majority receive a negative rating because their reasoning tends to increase employers' exposure to lawsuits.

Disposition: Affirmed

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Wrote Opinion	-
Chavez	Concur	-
Daniels	NA	NA
Maes	Concur	-
Serna	Concur	-

New Mexico Supreme Court Additional Workers' Compensation Cases

Banks v. IMC Kalium Carlsbad Potash Co.

77 P.3d 1014 (N.M. 2003) 9/9/2003

Disposition: Affirmed

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Concur	-
Daniels	NA	NA
Maes	Concur	-
Serna	Concur	-

Tom Growney Equip. Co. v. Jouett

113 P.3d 320 (N.M. 2005) 5/20/2005

Disposition: Reversed and remanded

Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	+
Chavez	Concur	+
Daniels	NA	NA
Maes	Concur	+
Serna	Wrote Opinion	+

Wagner v. AGW Consultants

114 P.3d 1050 (N.M. 2005) (1st Imp.) 6/29/2005

Disposition: Affirmed

Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur/Dissent	-
Chavez	Wrote Opinion	+
Daniels	NA	NA
Maes	Concur	+
Serna	Concur	+

Breen v. Carlsbad Mun. Schs.

120 P.3d 413 (N.M. 2005) (1st Imp.) 8/15/2005

Disposition: Reversed

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Concur	-
Daniels	NA	NA
Maes	Wrote Opinion	-
Serna	Concur	-

Grine v. Peabody Natural Resources

139 P.3d 190 (N.M. 2006) 6/28/2006

Disposition: Reversed and remanded

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Concur	-
Daniels	NA	NA
Maes	Concur	-
Serna	Concur	-

Salazar v. Torres

158 P.3d 449 (N.M. 2007) 4/18/2007

Disposition: Reversed

Positive Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Wrote Opinion	+
Chavez	Concur	+
Daniels	NA	NA
Maes	Concur	+
Serna	Concur	+

New Mexico Supreme Court Additional Workers' Compensation Cases

Moya v. City of Albuquerque

175 P.3d 926 (N.M. 2007) 12/20/2007

Disposition: Reversed and remanded

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Concur	-
Daniels	Concur	-
Maes	Concur	-
Serna	Wrote Opinion	-

Sommerville v. Southwest Firebird

188 P.3d 1147 (N.M. 2008) 4/9/2008

Disposition: Reversed and remanded

Negative Effect

Judge	Judge's Ruling	Judge's Rating
Bosson	Concur	-
Chavez	Wrote Opinion	-
Daniels	Concur	-
Maes	Concur	-
Serna	Concur	-