

Hon. Timothy L. Garcia



Hon. Timothy L. Garcia (Ret.) was appointed to the New Mexico Court of Appeals by Governor Richardson in 2009 after serving for over seven years as a District Court judge in the First Judicial District Court for the State of New Mexico. Judge Garcia ultimately retired from the New Mexico Court of Appeals in 2018. He presided over numerous noteworthy cases that were ultimately affirmed by the New Mexico Supreme Court. Judge Garcia sat on several judicial committees, including the chairperson of the Court of Appeals mediation committee.

[Read Article: Hon. Timothy Garcia \(Ret.\) joins FedArb](#)

Judge Garcia began practicing law in Santa Fe, New Mexico in the mid-80s. His practice at the Schwartz, Davenport firm involved numerous civil litigation and transactional endeavors. His most noteworthy early work involved his representation of the niece of Georgia O’Keeffe in the disputed will contest that arose upon the artist’s death. In 1988, he left to become a partner with the firm Sommer, Udall, Othmer, Hardwick & Garcia. In 1994 he started his own firm and represented a diverse range of clients in cases involving commercial, business and tax litigation, in both state and federal court. He was elected to the New Mexico District Court in 2002. After his election, Judge Garcia was the first district judge assigned to sit and serve full-time at the Rio Arriba County Courthouse in Tierra Amarilla, New Mexico, the site of the famous 1967 “Courthouse Raid” that arose after decades of Spanish land grant disputes were never resolved by Congress under the Treaty of Guadalupe Hidalgo.

His experiences acquired in almost four decades of private practice and service on the bench make him an exceptionally well-qualified neutral to assist parties and their counsel in resolving disputes through mediation or arbitration.

Areas of Expertise:

- CIVIL RIGHTS
- CLASS ACTION
- COMMERCIAL LITIGATION
- CONSTRUCTION
- CONTRACTS
- ENTERTAINMENT, MEDIA & SPORTS
- PERSONAL INJURY
- TRUSTS & ESTATES

REPRESENTATIVE MATTERS

Liability and Insurance Law:

- *Encinias v. Whitener Law*, 2015-NMSC-045. Sitting by designation on the New Mexico Supreme Court, this ruling recognized and expanded the exception to sovereign immunity regarding government entities in New Mexico. A student was severely struck by another

suspended student on the public street in front of a high school campus that was cordoned off during the lunch hour for food truck vendors. The public location in front of the school was monitored by school staff during the lunch hour.

- *Morga v. FedEx*, 2018-NMCA-039. The Court addressed the issue of judicially imposed liability limits regarding extremely large non-economic wrongful death damage awards imposed by a jury and the trial court's denial of post-trial remitter. Affirmed on all issues after certiorari was granted by the New Mexico Supreme Court. 2022-NMSC-013.
- *Estate of Saenz v. Ranack Construction Inc.*, 2015-NMCA-113. The Court addressed the application of joint and several liability against a bridge building contractor for the work-related fatality of an employee of one of its subcontractors.
- *Estate of Gutierrez v. Durand*, District Court Case No. D-0101-CV-2006-311. Conducted trial addressing employer liability for a fatal wrongful death accident. Accident occurred when an alcoholic part-time free-lancer who worked a piecemeal schedule and left employer's property extremely intoxicated.
- *Gallegos v. Hacienda Home Centers*, District Court Case No. D-0117-CV-2005-323. Conducted trial addressing liability and damages to neighboring properties as a result of a major fire of unknown origin that began at a hardware store/lumber yard and spread to adjoining ranch and residential properties.
- *Gurule v. Ford Motor Company*, District Court Case No. D-0117-CV-2007-214. Conducted jury trial addressing a wrongful death and a product liability claim resulting from a single-car roll-over accident involving a Ford Ranger pickup truck. Affirmed on all issues after appeal was filed with the New Mexico Court of Appeals, Docket No. 29,296.
- Addressed and ruled on numerous civil liability and insurance related claims while serving on the District Court and Court of Appeals.

Civil Rights and Constitutional Law:

- *Morris v. Brandenburg*, Case 2015-NMCA-100. The Court addressed a physician's constitutional rights to provide aid-in-dying assistance to a terminally ill patient under the New Mexico Constitution. Affirmed on all issues after certiorari was granted by the New Mexico Supreme Court, 2016-NMSC-027).
- *Elane Photography v. Willock*, 2012-NMCA-086. The Court addressed a photographer's constitutional right to refuse photography services to a gay couple because of their sexual orientation – a protected class specifically enumerated under the New Mexico civil rights statutes. Affirmed on all issues after certiorari was granted by the New Mexico Supreme Court, 2013-NMSC-040).
- Addressed and ruled on hundreds of Fourth and Fifth Amendment claims raised by defendants in criminal proceedings before the District Court and Court of Appeals while serving on the bench.

- Addressed and ruled on numerous tort claim cases, ancillary to federal civil rights claims, that were either removed to federal court or remanded after failing to satisfy Section 1983 claims.
- Represented an individual client in 1988 asserting workplace discrimination and civil rights violations in a federal court proceeding. Satisfactorily settled and resolved shortly before trial

Class Actions:

- *Armijo v. Walmart Stores*, District Court Case No. D-0117-CV-2000-2211. Class action proceedings addressing claims for non-payment of wages and overtime compensation at Walmart and Sam's Club stores throughout the State of New Mexico. Affirmed on all issues after interlocutory appeal was granted by the New Mexico Court of Appeals, 2007-NMCA-120.
- Presided over numerous other class action claims and appeals while serving on the First Judicial District Court and Court of Appeals.

Employment and Labor Law:

- *Armijo v. Walmart Stores*, District Court Case No. D-0117-CV-2000-2211. Class action proceedings addressing claims for non-payment of wages and overtime compensation at Walmart and Sam's Club stores throughout the State of New Mexico. Denial of summary dismissal for wage and overtime claims arising from management's locked door policy during overnight stocking hours. Affirmed on all issues after interlocutory appeal was granted by the New Mexico Court of Appeals, 2007-NMCA-120.
- Presided over numerous other employment-based claims and appeals involving collective bargaining agreements, wrongful termination, breach of contract, wage and discrimination claims while serving on the First Judicial District Court and Court of Appeals.
- Prior to being appointed to the court, successfully served as lead counsel on a federal employment case involving discrimination and civil rights violations.

Construction Law:

- In private practice, served as trial and appellate counsel on a construction lien case through final decision by the New Mexico Supreme Court. Also served as trial counsel on a construction bond case in district court.
- Served on numerous other Court of Appeals panels addressing defective construction, construction worksite injuries, indemnification, first-party liability, and exclusivity of jurisdiction claims.
- Served as the mediator on several construction cases involving defective construction, payment and contract disputes.

Sports Law:

- *American Arbitration Association.* Current member of the designated sports law group of arbitrators for AAA that are designated to hear Olympic sports matters as the selected arbitration association for the United States Olympic and Paralympic Committee.
- *United States Tennis Association.* Served as chair of the national grievance committee for the United States Tennis Association assigned to hear all USTA national level grievance proceedings for the term 2013-14.

Commercial and Business Related Matters:

Judge Garcia has a very extensive background in addressing commercial and business disputes. Prior to serving on the bench, Judge Garcia represented numerous clients in business related disputes and lawsuits in both state and federal court. This was a significant aspect of his private practice.

As a mediator in the First Judicial District Court Volunteer Mediation Program, Judge Garcia successfully mediated numerous commercial and business disputes that were pending on the district court docket.

- See e.g., *Hegerty v. Skilled Healthcare*, A-1-CA-34846. The Court addressed the substantive unconscionability of an arbitration agreement based upon a small claims court exception to arbitration in the initial admission agreement.

Arbitration:

- As an arbitrator for the American Arbitration Association since 2018, Judge Garcia has arbitrated numerous cases in the areas of commercial, construction, consumer, and Olympic sport disputes. Judge Garcia has also served as a private arbitrator in cases for various public entities in New Mexico.

Other Engagements:

- Since leaving the bench, Judge Garcia served as New Mexico appellate counsel with a Colorado law firm to successfully brief and affirm a jury verdict regarding liability issues raised before the New Mexico Court of Appeals.
- Since leaving the bench, Judge Garcia served as a court-appointed Pro Tempore judge for Division II of the Eighth Judicial District Court, Hon. Melissa Kennelly, to reduce the post-Covid 19 backlog in the criminal docket for the district.
- Since leaving the bench, Judge Garcia served as a hearing officer for the New Mexico Regulation & Licensing Department regarding the creation and implementation of new regulations to address recent legislation that legalized recreational cannabis in New Mexico.
- For decades, Judge Garcia has served as a national tennis volunteer with the United States Tennis Association and has been assigned to various national committees, including serving as the chair for the national grievance committee assigned to hear all USTA grievance proceedings for the term 2013-14. More than a dozen formal grievance hearings and decisions were issued during this term as the grievance chair.