

**12-607. Certification from other courts.**

**A. Power to answer.**

(1) The Supreme Court may answer by formal written opinion questions of law certified to it by a court of the United States, an appellate court of another state, a tribe, Canada, a Canadian province or territory, Mexico or a Mexican state if the answer may be determinative of an issue in pending litigation in the certifying court and the question is one for which answer is not provided by a controlling:

~~[(1)]~~ (a) appellate opinion of the New Mexico Supreme Court or the New Mexico Court of Appeals; or

~~[(2)]~~ (b) constitutional provision or statute of this state.

(2) The Supreme Court may answer by formal written opinion questions of law certified to it by a New Mexico stream adjudication court if:

(a) the answer may materially advance the ultimate resolution of the adjudication; and

(b) the question is one for which answer is not provided by a controlling:

(i) appellate opinion of the New Mexico Supreme Court or the New Mexico Court of Appeals; or

(ii) constitutional provision or statute of this state.

**B. Method of invoking.** The court certifying a question of law shall issue a certification order and forward it to the Supreme Court.

**C. Contents of certification request.** A certification order must contain:

(1) the names and addresses of counsel of record and parties appearing without counsel;

(2) the question of law to be answered;

(3) the facts relevant to the question, showing fully the nature of the controversy out of which the question arose. If the parties cannot agree on a statement of facts, the certifying court shall determine the relevant facts and state them as part of its certification order; and

(4) a statement acknowledging that the Supreme Court may reformulate the question.

D. **Response.** The Supreme Court shall notify the certifying court of acceptance or rejection of the question and, in accordance with notions of comity and fairness, respond to an accepted certified question as soon as practicable.

E. **Briefs.** Unless otherwise ordered by the Supreme Court, the court, in its acceptance of certification, shall designate which party shall file the first brief in the court on the question certified. Unless otherwise ordered, the first brief shall be filed with the court within thirty (30) days of mailing of notification by the court that it will answer the question certified. The opposing party shall file its answer brief or briefs within thirty (30) days of service of the first brief. A reply brief may be filed within fifteen (15) days of service of the answer brief. The time for filing briefs may be extended as provided for in Paragraph C of Rule 12-309 NMRA of these rules. Briefs and service thereof shall be in the manner and form provided in Rules 12-213, 12-302, 12-305, 12-307 and 12-308 NMRA.

F. **Oral argument.** Oral argument shall be as provided in Rule 12-214 NMRA for appeals.

G. **Record.** The Supreme Court, on its own motion or upon motion of any party, may request that copies of all or any portion of the record before the certifying court be filed with the Court.

H. **Opinion.** The Supreme Court shall forward to the certifying court and all parties a copy of its formal written opinion answering the question certified.