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1           **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 Opinion Number: \_\_\_\_\_

3 Filing Date: October 10, 2023

4 **No. A-1-CA-40419**

5 **IN THE MATTER OF THE PROTECTIVE**  
6 **PROCEEDINGS FOR ELIZABETH A., an**  
7 **adult incapacitated person,**

8 **JOHN E.A.,**

9           Petitioner-Appellee,

10 and

11 **PATRICIA A.V.**

12           Interested Party/Co-Conservator/  
13           Co-Guardian-Appellant,

14 and

15 **JACK D. A.**

16           Intervenor/Co-Conservator/  
17           Co-Guardian,

18 and

19 **DAVID MCNEILL, JR.,**

20           Guardian Ad Litem,

21 and

1 **MATTHEW P. HOLT,**

2 Counsel for Elizabeth A.

3 **APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY**

4 **James T. Martin, District Court Judge**

5 Kemp Smith LLP

6 CaraLyn Banks

7 Las Cruces, NM

8 for Appellee

9 Lakins Law Firm, P.C.

10 Charles N. Lakins

11 Albuquerque, NM

12 for Appellant

1 **OPINION**

2 **WRAY, Judge.**

3 {1} This case involves the payment of fees to the attorney of an interested party  
4 who petitioned for the appointment of a guardian or conservator. The petitioner in  
5 the present case (Petitioner), one of the children of Elizabeth A. (Mother), through  
6 Appellee CaraLyn Banks (Banks), an attorney, filed a petition for the appointment  
7 of a guardian and conservator for Mother under Article 5 of the New Mexico  
8 Uniform Probate Code, “Protection of Persons Under Disability and Their Property,”  
9 NMSA 1978, §§ 45-5-101 to -436 (1975, as amended through 2022) (Article 5).  
10 Banks’ fees had been paid by the temporary conservator until interested parties  
11 objected. After protracted proceedings, the district court ordered Banks’ fees to be  
12 paid from funds from Mother’s estate (Mother’s Estate or the Estate). On appeal,  
13 Appellant Patricia Vandver (Current Guardian), whom the district court eventually  
14 appointed to be co-guardian and co-conservator, argues that the district court was  
15 without authority to order Mother’s Estate to pay Banks’ attorney fees. To the  
16 contrary, however, Article 5 conservators may expend reasonably necessary sums  
17 for the benefit of a protected person after considering the impact such expenditures  
18 would have on the protected person’s care and finances. *See* § 45-5-425(A)(2). The  
19 district court found, among other things, that Banks’ actions were necessary and  
20 taken for Mother’s benefit and that the bills were reasonable, and no party suggested

1 that paying the bills would be detrimental to Mother. We therefore affirm, although  
2 on a different basis, the district court’s order to pay Banks’ bills. Because we affirm,  
3 Current Guardian’s motion in this Court to stay collection of the judgment is denied  
4 as moot.

5 **BACKGROUND**

6 {2} It is difficult to disagree with the assessment of the court-appointed guardian  
7 ad litem that the present case was “complex and time consuming.” Mother had six  
8 children (collectively, Siblings), including Current Guardian and Petitioner. In 2017,  
9 Mother granted another son (Intervenor) a durable power of attorney. In the summer  
10 of 2020, Petitioner became concerned about Mother’s decline in health and capacity.  
11 Shortly thereafter, on Petitioner’s behalf, Banks filed a petition for the appointment  
12 of a temporary and permanent guardian and conservator.

13 {3} The district court granted the petition for a temporary guardian and  
14 conservator; ordered that “any [p]owers of [a]ttorney that [Mother] may have  
15 executed prior” were “[n]ull and [v]oid”; and appointed a temporary guardian and  
16 conservator, a visitor, a qualified healthcare provider, and a guardian ad litem. All  
17 six Siblings were involved in the proceedings, and four were individually  
18 represented by counsel at various points throughout. Additionally, counsel  
19 (Mother’s Attorney)—apart from the guardian ad litem—appeared on Mother’s  
20 behalf.

1 {4} In the first few months of the proceeding, Banks submitted to the temporary  
2 conservator at least one bill for legal services, which was paid from Mother's Estate.  
3 Mother's Attorney, however, filed a motion to protect the assets of the Estate. The  
4 district court reserved ruling on the motion but ordered the temporary conservator to  
5 refrain from paying Banks' bills. The hearing on the petition for a permanent  
6 guardian and conservator was held over the course of nine months, and at its  
7 completion, the district court appointed Current Guardian and Intervenor as co-  
8 guardians and co-conservators. The district court reasoned that Mother had granted  
9 Intervenor a power of attorney to act on her behalf and that the Siblings' recently  
10 deceased father had selected Current Guardian to act as power of attorney with  
11 regard to certain benefits he had received. At the same time, the district court  
12 "order[ed] payment of [Banks'] fees."

13 {5} After this determination, the parties litigated whether Mother's Estate should  
14 pay Banks' bills. The district court, in a letter decision, provided a summary of the  
15 parties' arguments, including: (1) Banks' contention that her work was for Mother's  
16 benefit; (2) Mother's Attorney's position in the motion to protect assets that if  
17 Banks' work was for Mother's benefit, it was duplicative of the guardian ad litem's  
18 work; and (3) Current Guardian's argument that Banks provided no authority to  
19 support an award of attorney fees and did not satisfy procedural requirements. The  
20 district court concluded that (1) Banks had initiated and furthered the

1 guardianship/conservatorship process; (2) Banks' work was not duplicative of the  
2 guardian ad litem's work; and (3) Banks had complied with the court's orders  
3 regarding submission of a fee affidavit. The district court denied Mother's  
4 Attorney's motion to protect assets and concluded that "[t]he only issue remaining  
5 is the amount of attorney[] fees to be awarded." The district court followed the letter  
6 decision with an order, which further directed the parties to "outline any objections  
7 they have to specific itemized attorney fee entries" that were set forth in the fee  
8 affidavit that Banks had already submitted.

9 {6} Further disputes about the amounts to be paid ensued, after which the district  
10 court largely overruled objections to the amount of fees that Banks requested and  
11 entered an order to pay the fees from Mother's Estate, finding that Banks' services  
12 were "for the benefit of" Mother. The district court additionally granted both Current  
13 Guardian's motion to stay pending appeal subject to obtaining an appeal bond and  
14 Banks' motion for reimbursement of certain costs paid to the guardian ad litem. This  
15 appeal followed.

16 {7} While the record sheds further light on the context in which this appeal arises,  
17 we are mindful of the sequestered nature of the proceedings and therefore limit  
18 further discussion of the facts to those that are necessary to our analysis.

1 **DISCUSSION**

2 {8} In general, New Mexico adheres to the American rule and holds parties  
3 responsible for their own attorney fees unless provided otherwise by statute, court  
4 rule, or contractual agreement. *See N.M. Right to Choose/NARAL v. Johnson*, 1999-  
5 NMSC-028, ¶ 9, 127 N.M. 654, 986 P.2d 450. Our Supreme Court has recognized  
6 some limited and narrow exceptions to this rule, including: “(1) exceptions arising  
7 from a court’s inherent powers to sanction the bad faith conduct of litigants and  
8 attorneys, (2) exceptions arising from certain exercises of a court’s equitable powers,  
9 and (3) exceptions arising simultaneously from judicial and legislative powers.” *Id.*  
10 ¶ 15. Because New Mexico has “strictly adhered to th[e American] rule since our  
11 territorial days,” *id.* ¶ 9, there is a “need for special justification before we depart  
12 from [that] precedent” and our Supreme Court has expressed a “reluctance to extend  
13 awards of attorney[] fees except in limited circumstances,” *id.* ¶ 11 (alteration,  
14 internal quotation marks, and citation omitted). Current Guardian argues that the  
15 district court did not have contractual or statutory authority to award attorney fees  
16 and that even if an award of attorney fees was appropriate, Mother’s Estate should  
17 not be required to pay the amounts ordered. In relevant part, Banks responds that the  
18 fees were appropriately awarded as a sanction for Intervenor’s litigation behavior  
19 and that the Estate should pay the amounts ordered because Banks acted for the  
20 benefit of Mother’s Estate.

1 {9} To determine whether the district court had authority to order the payment of  
2 fees, however, we must account for the context in which this case arose—an Article  
3 5 proceeding for guardianship and conservatorship. We therefore begin with a brief  
4 overview of the relevant statutes. *See In re Guardianship of C.G.*, 2020-NMCA-023,  
5 ¶ 40, 463 P.3d 487 (“When construing statutes, our guiding principle is to determine  
6 and give effect to legislative intent, considering the language of the provisions at  
7 issue in the context of the statute as a whole, including the purposes and  
8 consequences of the Act.” (alteration, internal quotation marks, and citation  
9 omitted)).

10 **I. The Relevant Law of Conservatorships of Incapacitated/Protected**  
11 **Persons Under Article 5**

12 {10} Article 5 permits district courts to appoint a conservator to protect an adult  
13 person who “demonstrates over time either partial or complete functional  
14 impairment . . . to the extent that the person is unable to manage the person’s personal  
15 affairs or . . . financial affairs or both.” Section 45-5-101(F) (defining incapacitated  
16 persons); *see also* § 45-5-102(A) (defining the applicability of Article 5). District  
17 courts are directed “to encourage the development of maximum self-reliance and  
18 independence of a protected person and make protective orders only to the extent  
19 necessitated by the protected person’s mental and adaptive limitations and other  
20 conditions warranting the procedure.” Section 45-5-402.1(A). Overall, the  
21 legislative goal is “to preserve and protect the rights of incapacitated persons.” *In re*



1 *Guardianship of C.G.*, 2020-NMCA-023, ¶¶ 42, 58 (construing Article 5 to define  
2 the district court’s duty to protect incapacitated persons while confining a  
3 conservator’s role to that “made necessary by the incapacitated person’s  
4 limitations”).

5 {11} A “‘conservator’ means a person who is appointed by a court to manage the  
6 property or financial affairs or both of a protected person.” Section 45-5-101(A). A  
7 petition to appoint a conservator may be filed by “a person interested in the estate.”  
8 Section 45-5-404(A)(1). When a petition to appoint a conservator for an adult is  
9 filed, the district court is required, in relevant part, to set a hearing on the petition  
10 (petition hearing) and appoint a qualified health care professional, who must  
11 examine the allegedly incapacitated person and submit a report to the court with  
12 specific information. *See* § 45-5-407(B)-(C), (D) (addressing the appointment of a  
13 court visitor). If, however, the district court finds that “adherence to the procedures”  
14 for the petition hearing “would cause serious, immediate and irreparable harm to the  
15 alleged incapacitated person’s . . . estate or financial interests,” after an initial  
16 hearing, the court “shall appoint a temporary conservator and shall specify the  
17 temporary conservator’s powers.” Section 45-5-408(A)-(C).

18 {12} After the petition hearing, if the district court makes the required findings, it  
19 may appoint either a full or limited conservator. Section 45-5-407(I)-(J). A

1 permanent, as opposed to temporary, conservator for an incapacitated adult is  
2 appointed only if the district court finds

3 that the person has property that may be wasted or dissipated unless  
4 proper management is provided; that funds are needed for the support,  
5 care and welfare of the person or those entitled to be supported by him;  
6 that protection is necessary or desirable to obtain or provide funds; and  
7 that . . . the person is incapacitated.

8 Section 45-5-401(B)(1).

9 {13} The conservator’s powers and duties are defined by statute. *See* §§ 45-5-424,  
10 -425. Most relevant to this proceeding, Section 45-5-425(A)(2) provides:

11 A conservator may expend or distribute income or principal of the  
12 estate without court authorization or confirmation for the protected  
13 person and his dependents in accordance with the following principles:  
14 . . . the conservator is to expend or distribute sums reasonably necessary  
15 for the support, education, care or benefit of the protected person.

16 To make such expenditures or distributions, a conservator must give “due regard to”  
17 the protected person’s needs and financial circumstances. *See* § 45-5-425(A)(2).

18 Article 5 additionally explicitly permits compensation by the estate for certain  
19 appointed professionals: “If not otherwise compensated for services rendered, any  
20 visitor, attorney, qualified health care professional or guardian appointed in a  
21 guardianship proceeding is entitled to reasonable compensation from the estate of  
22 the incapacitated person.” Section 45-5-105.

23 {14} Nevertheless, the conservator’s authority to expend or distribute the estate is  
24 not without check. Broadly, in the exercise of statutory powers, a conservator “shall

1 act as a fiduciary and shall observe the standards of care applicable to trustees as  
2 described by [the Uniform Trust Code, NMSA 1978, §§] 46A-8-801 through 46A-  
3 8-807 [(2003, as amended through 2007)].” Section 45-5-417. Specifically, after a  
4 conservator has been appointed, an interested party “may file a petition in the  
5 appointing court” for an order, in relevant part, requiring an accounting of the estate  
6 or for an order granting appropriate relief. Section 45-5-416(A)(2), (5); *see also*  
7 § 45-5-416(B) (permitting a conservator to “petition the appointing court for  
8 instructions concerning [their] fiduciary responsibility”); § 45-5-416(C) (allowing  
9 for the court to provide instructions or make orders “[u]pon notice and hearing”).

10 **II. The District Court’s Authority to Order Payment of Attorney Fee Bills**

11 {15} With this statutory backdrop, we consider whether the district court had  
12 authority to order the payment of Banks’ bills for attorney fees. Whether an award  
13 of attorney fees is permissible according to a statute, rule, contract, or exception is a  
14 question of law that we review de novo. *NARAL*, 1999-NMSC-028, ¶¶ 7, 9-10. If,  
15 however, payment of fees is authorized, the determination of whether to award fees  
16 and the amount is left to the discretion of the district court, which we do not disturb  
17 absent an abuse of discretion. *See Lewis v. Lewis*, 1987-NMCA-073, ¶ 53, 106 N.M.  
18 105, 739 P.2d 974. With these standards in mind, we first determine that Article 5  
19 gives a conservator authority to pay reasonable and necessary attorney fee bills that  
20 are incurred for the benefit of the estate with due regard for how paying the bill will

1 impact the protected person. Because the district court in the present case did not  
2 rely on this authority to exercise its discretion to order the fees to be paid, we next  
3 consider whether affirming the district court for this reason is appropriate under the  
4 circumstances.

5 **A. The District Court Had Authority to Order the Payment of Fees Under**  
6 **Sections 45-5-425(A) and -508(E)**

7 {16} Our first step is to determine whether the statutory scheme—here, Article 5—  
8 permits the payment of attorney fees under the circumstances. *See NARAL*, 1999-  
9 NMSC-028, ¶ 9 (recognizing statutory authority as a basis for an award of attorney  
10 fees). As we have described, the Legislature has authorized a conservator to  
11 distribute the “income or principle of the estate” provided that (1) the distribution is  
12 “reasonably necessary for the support, education, care or benefit of the protected  
13 person” and (2) the conservator pays “due regard to” a number of identified factors.  
14 *See* § 45-5-425(A)(2). Those factors include

15 (a) the size of the estate, the probable duration of the  
16 conservatorship and the likelihood that the protected person, at some  
17 future time, may be fully able to manage his affairs and the estate which  
18 has been conserved for him;

19 (b) the accustomed standard of living of the protected person  
20 and members of his household; and

21 (c) other funds or sources used for the support of the  
22 protected person.

1 *Id.* The district court in the present case gave the temporary conservator similar  
2 powers and as a result, the temporary conservator had the power to expend sums for  
3 Mother’s benefit. *See* § 45-5-402.1(B)(3) (permitting district courts to authorize a  
4 conservator to exercise “all the powers over the estate and financial affairs which  
5 the person could exercise if present and not under disability”); § 45-5-408(E)  
6 (limiting a temporary conservator’s power to dispose of an alleged incapacitated  
7 person’s property to that specifically authorized by the court). It is no reach to  
8 conclude that filing a petition for guardianship or conservatorship—the act for which  
9 Banks sought to be paid—is an act designed to benefit the protected person “to the  
10 extent made necessary by the incapacitated person’s limitations.” *See In re*  
11 *Guardianship of C.G.*, 2020-NMCA-023, ¶ 42 (noting that “Article 5’s text  
12 evidences legislative intent to preserve and protect the rights of incapacitated  
13 persons”). For these reasons, we conclude that district courts have the power to  
14 authorize a conservator to pay attorney fees that are billed to an estate, within the  
15 parameters of Section 45-5-425(A).

16 {17} This conclusion is consistent with the decisions of other jurisdictions, which  
17 permit conservators to pay an attorney who petitions for guardianship or  
18 conservatorship, because the petitioner “most often acts for and on behalf of one  
19 who is unable to act or care for himself or herself.” *See In re Guardianship of*

1 *Donley*, 631 N.W.2d 839, 843-44 (Neb. 2001). We agree with the Nebraska court's  
2 explanation that

3 the filing of the petition and the hearing thereon are indispensable steps  
4 in the preservation of the protected person's estate. It is recognized that  
5 when an individual is in need of physical or financial protection, the  
6 law must in many instances think and act for him or her. The state and  
7 society have a significant interest in bringing the estate of individuals  
8 in need of protection under the vigil of the county court. The court, as  
9 general conservator of the rights of persons in need of protection, is  
10 dependent upon applications being filed by interested persons so that  
11 the court may assume control of the estate and preserve it for the  
12 protected person.

13 *Id.* at 844 (citations omitted); *see also In re Conservatorship of T.K.*, 2009 ND 195,  
14 ¶¶ 18-22, 775 N.W.2d 496, (permitting the award of a petitioner's attorney fees in a  
15 guardianship or conservatorship proceeding); *In re Est. of Bayers*, 1999 MT 154,  
16 ¶¶ 12-13, 17, 983 P.2d 339; *Carney v. Aicklen*, 587 S.W.2d 507, 511 (Tex. App.  
17 1979) (same); *In re Est. & Guardianship of Vermeersch*, 488 P.2d 671, 673-75 (Ariz.  
18 Ct. App. 1971) (same); *In re Sherwood's Est.*, 206 N.E.2d 304, 306-07 (Ill. App. Ct.  
19 1965) (same); *In re Dunn*, 79 S.E.2d 921, 927 (N.C. 1954) (same); *Penney v.*  
20 *Pritchard & McCall*, 49 So. 2d 782, 787 (Ala. 1950) (same); *In re Bundy's Est.*, 186  
21 P. 811, 812 (Cal. Ct. App. 1919) (same). *See generally* C.K. Cobb., Jr., Annotation,  
22 *Allowance of Attorney's Fee Out of Estate of Alleged Incompetent for Services in*  
23 *Connection With Inquisition Into Sanity*, 22 A.L.R.2d 1438 (1952).

24 {18} Current Guardian contends that Section 45-5-425 should not control the  
25 attorney fee order in the present case and maintains that

1 [n]othing in [Section] 45-5-425 supports the authority of a conservator  
2 using estate funds to pay for legal fees incurred by an interested person,  
3 or their attorney, for instituting and pursuing a legal proceeding that is  
4 against the civil rights of the protected person, which is what the  
5 [d]istrict [c]ourt determined was done for the “benefit of” the protected  
6 person.

7 This proposition suggests that guardianships and conservatorships are subject to the  
8 whims of “interested persons.” We disagree. As this Court has explained, the  
9 “importance of court supervision in guardianship and conservatorship proceedings  
10 cannot be overstated, including oversight of the conduct of attorneys appearing in  
11 such cases, whether or not they are appointed by the court.” *In re Guardianship of*  
12 *C.G.*, 2020-NMCA-023, ¶ 58. *See generally Clinesmith v. Temmerman*, 2013-  
13 *NMCA-024*, ¶¶ 23-24, 298 P.3d 458 (explaining that “the goal of a conservatorship  
14 is to protect the person and property of persons whose functional and decision-  
15 making capacity has become impaired” and that conservatorship proceedings require  
16 judicial oversight (internal quotation marks and citation omitted)); *In re*  
17 *Guardianship of Sleeth*, 244 P.3d 1169, 1175 (Ariz. Ct. App. 2010) (“[J]udges play  
18 a vital role in fulfilling the legislature’s intent to safeguard those in need of the  
19 protection of conservators and guardians.”). The district court regulates the  
20 proceeding by obtaining reports from the qualified health care professional and the  
21 visitor, receiving testimony or evidence from the person to be protected, inquiring  
22 into the person’s functional limitations, and ascertaining the person’s capacity to  
23 manage finances. *See* § 45-5-303 (guardianship); § 45-5-407 (conservatorship).

1 Ultimately, based on this information, the district court must either dismiss the  
2 petition or conclude by clear and convincing evidence that a guardianship and/or  
3 conservatorship is justified in full or in part. *See* § 45-5-304(B)-(C) (guardianship);  
4 § 45-5-407(H)-(I) (conservatorship). Just as the district court oversees an Article 5  
5 proceeding generally, to safeguard the person in need of protection, the district court  
6 has the discretion to determine whether, when, and in what amount such fees should  
7 be paid by a conservator, subject to Section 45-5-425(A)(2). *See Lewis*, 1987-  
8 NMCA-073, ¶ 53 (placing fees within the discretion of the district court).

9 {19} Current Guardian argues that Article 5 does not support payment by Mother’s  
10 Estate of the fees for the attorney who filed the petition. She first contends that  
11 Article 5 specifically permits “reasonable compensation from the estate of the  
12 incapacitated person” for court-appointed attorneys, *see* § 45-5-105, and because  
13 Banks is not a court-appointed attorney, compensation is inappropriate. Specifically,  
14 Current Guardian posits that because Section 45-5-303(A) permits an interested  
15 person to file a petition, Section 45-5-105 would account for attorney fees if the  
16 Legislature intended for the interested person’s attorney to be paid from the estate.  
17 We do not view the silence in Section 45-5-105, governing compensation for court-  
18 appointed professional fees, to control the conservator’s authority under Section 45-  
19 5-425(A)(2). Had the Legislature intended to limit the conservator’s power in the



1 way Current Guardian suggests, such a limitation would be explicit in Section 45-5-  
2 425(A)(2).

3 {20} Current Guardian additionally argues that because Section 45-5-315 does not  
4 permit an incapacitated person to consent to guardianship, the incapacitated person  
5 is necessarily opposed to the protections sought by the petition and the petitioning  
6 party must meet a burden of proof for the appointment of a guardian or conservator.  
7 For these reasons, Current Guardian maintains that Section 45-5-425 does not  
8 contemplate that the protected person would pay the fees to the attorney who filed  
9 the petition. To the contrary, however, as the district court aptly stated, “[T]hat’s not  
10 what this case should be about, this case is about what should be in the best interest  
11 of the incapacitated persons.”

12 {21} The purpose of the proceeding is to determine whether the person involved  
13 requires any measure of the protection alleged in the petition. *See* § 45-5-301.1  
14 (“Guardianship for an incapacitated person shall be used only as is necessary to  
15 promote and to protect the well[-]being of the person, shall be designed to encourage  
16 the development of maximum self[-]reliance and independence of the person and  
17 shall be ordered only to the extent necessitated by the person’s actual functional  
18 mental and physical limitations.”); § 45-5-402.1(A) (“The court shall exercise the  
19 authority conferred in [Article 5] to encourage the development of maximum self-  
20 reliance and independence of a protected person and make protective orders only to

1 the extent necessitated by the protected person’s mental and adaptive limitations and  
2 other conditions warranting the procedure.”); *see also In re Est. of Bayers*, 1999 MT  
3 154, ¶ 14 (“[A] petition to appoint a guardian is not an adversarial proceeding, but  
4 rather a proceeding to promote the best interests of the person for whom  
5 guardianship is sought.”). *Current Guardian* cites no compelling authority to the  
6 contrary. Viewed in that light, a district court may, as the district court did in the  
7 present case, view the attorney for the petitioner to be seeking to benefit the protected  
8 person.

9 {22} For these reasons, we conclude that district courts have statutory authority to  
10 order a conservator to pay fees to a petitioner’s attorney when fees are reasonably  
11 necessary for the benefit of the protected person, considering the impact that paying  
12 the fees will have on the protected person.

13 **B. Affirmance Is Appropriate Considering This Court’s Appellate Function**  
14 **and the Record in This Case**

15 {23} Neither the parties nor the district court analyzed Banks’ fee bill according to  
16 Sections 45-5-425(A) and -408(E), or the district court’s order of appointment of the  
17 temporary conservator. Thus, the question remains whether affirmance on these  
18 grounds is an appropriate exercise of this Court’s authority. “We are a court of  
19 review and our function is to see if legal error that would change the result occurred.”  
20 *Clayton v. Trotter*, 1990-NMCA-078, ¶ 4, 110 N.M. 369, 796 P.2d 262 (citations  
21 omitted). To that end, we presume the “correctness in the rulings and decisions of

1 the district court.” *Goodman v. OS Rest. Servs., LLC*, 2020-NMCA-019, ¶ 16, 461  
2 P.3d 906 (alterations, internal quotation marks, and citation omitted). We are not  
3 bound, however, by the district court’s conclusions of law—which we review de  
4 novo—and therefore may analyze legal questions, including those involving  
5 statutory interpretation, that were not considered or brought before the district court.  
6 *See Bounds v. State*, 2011-NMCA-011, ¶ 33, 149 N.M. 484, 252 P.3d 708 (providing  
7 that this Court “is not bound by a district court’s legal conclusions and may  
8 independently draw its own conclusions of law on appeal”), *aff’d sub nom. Bounds*  
9 *v. State ex rel. D’Antonio*, 2013-NMSC-037, 306 P.3d 457; *see also Archuleta v.*  
10 *Santa Fe Police Dep’t ex rel. City of Santa Fe*, 2005-NMSC-006, ¶¶ 30-31, 137  
11 N.M. 161, 108 P.3d 1019 (approving the application of a legal test despite the  
12 parties’ failure to use the test, because “appellate courts can and must apply the  
13 appropriate law”); *Kreutzer v. Aldo Leopold High Sch.*, 2018-NMCA-005, ¶ 31, 409  
14 P.3d 930 (providing that questions of law, including statutory interpretation, are  
15 subject to de novo review).

16 {24} To achieve balance between our appellate presumptions and duty to correctly  
17 apply the law, we will uphold a district court’s decision if it is right for any reason  
18 so long as (1) “reliance on the new ground would not be unfair to the appellant”; (2)  
19 doing so does not require us “to assume the role of the [district] court by delving into  
20 fact-dependent inquiries”; and (3) “there is substantial evidence to support the

1 ground on which we rely.” *Freeman v. Fairchild*, 2018-NMSC-023, ¶ 30, 416 P.3d  
2 264 (alterations, internal quotation marks, and citation omitted). With these  
3 principles and limitations in mind, as we explain, we affirm the district court based  
4 on the grounds articulated in this opinion.

5 {25} The district court’s findings demonstrate that the parties argued the necessary  
6 facts throughout the proceeding. The district court observed that “this case started”  
7 when the appointment of a guardian and conservator became necessary to protect  
8 Mother because she was not receiving “adequate or proper care.” The district court  
9 recounted that resolution of the petition was prolonged because along with other  
10 circumstances and complications arising from the COVID-19 pandemic, Siblings’  
11 intervention caused delay and prompted unnecessary litigation. The district court  
12 provided “example[s] of the unnecessary expenditure of time and effort.” In a  
13 subsequent letter ruling and order related to Banks’ fees, the district court rejected  
14 the argument that Banks’ work was duplicative and specifically found that Banks’  
15 services were “for the benefit of” Mother. During the fee litigation, the district court  
16 additionally received reports from the temporary conservator, and later from  
17 Intervenor, regarding the financial health of Mother’s estate.

18 {26} For these reasons, (1) affirmance on the grounds set forth herein is not unfair  
19 because the relevant facts were established or argued by the parties throughout these  
20 proceedings; (2) this Court has no need to “delv[e] into fact-dependent inquiries”

1 because the district court made the necessary factual findings; and (3) those findings,  
2 as well as our conclusions, were supported by substantial evidence in the record. *See*  
3 *id.* (alterations, internal quotation marks, and citation omitted). Absent a specific  
4 attack, *Stanley v. N.M. Game Comm’n*, \_\_\_-NMCA-\_\_\_, ¶ 15, \_\_\_ P.3d \_\_\_ (A-1-  
5 CA-38739, Aug. 31, 2023), we defer to those findings, *see State v. Almanzar*, 2014-  
6 NMSC-001, ¶ 9, 316 P.3d 183 (providing that appellate courts “review[] factual  
7 matters with deference to the district court’s findings if substantial evidence exists  
8 to support them”). Thus, we conclude that we best fulfill our appellate function by  
9 upholding the district court’s factual determinations regarding the payment of  
10 Banks’ bills on a different legal ground.

11 **CONCLUSION**

12 {27} For these reasons, we affirm the district court.

13 {28} **IT IS SO ORDERED.**

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 **KATHERINE A. WRAY, Judge**

16 **WE CONCUR:**

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 **JENNIFER L. ATTREP, Chief Judge**

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 **JACQUELINE R. MEDINA, Judge**