

**4-805. Application for writ of garnishment.**

[For use with Rules 1-065.2, 2-802, and 3-802 NMRA]

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

IN THE \_\_\_\_\_ COURT

\_\_\_\_\_, Plaintiff

v.

No. \_\_\_\_\_

\_\_\_\_\_, Defendant

**APPLICATION FOR WRIT OF GARNISHMENT**

The judgment creditor, \_\_\_\_\_, states:

- (1) The judgment creditor has a judgment dated \_\_\_\_\_ against the judgment debtor whose name is \_\_\_\_\_, and whose last known address is \_\_\_\_\_.
- (2) The total amount of the judgment including the principal, interest, costs, and attorney fees awarded by the judgment was \$ \_\_\_\_\_.
- (3) From the date the judgment was filed through the date this Application was signed, additional interest at the rate of \_\_\_\_\_% totals \$ \_\_\_\_\_. Judgment creditor has incurred additional costs of \$ \_\_\_\_\_ and additional attorney fees of \$ \_\_\_\_\_.
- (4) Payments totaling \$ \_\_\_\_\_ have been received.
- (5) The unpaid balance now due is \$ \_\_\_\_\_ (*Insert this amount on Form 4-806 NMRA as "Balance Due upon Application for Writ."*) plus interest from the date this Application is filed.
- (6) Estimated costs would equal \$ \_\_\_\_\_ and the judgment creditor will seek \$ \_\_\_\_\_ in attorney fees.
- (7) Judgment debtor, to my knowledge, does not have sufficient property within New Mexico subject to execution to satisfy the judgment. I understand that I have a duty to make a reasonable investigation into the truth of this statement and have done so as follows:<sup>1</sup>  
(*This allegation is not necessary before garnishment of funds for child support or alimony obligations.*)

\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_.

- (8) I have reason to believe, and do believe, that the garnishee,  
\_\_\_\_\_  
\_\_\_\_\_  
money or personal property which belongs to the judgment debtor or is  
indebted to the judgment debtor.<sup>2</sup>
- (9) The money or property held by the garnishee is not exempt from  
garnishment.

Therefore, the judgment creditor requests a Writ of Garnishment.

\_\_\_\_\_  
Judgment creditor or attorney for judgment creditor

\_\_\_\_\_  
Judgment creditor's or attorney's name printed

\_\_\_\_\_  
Address of judgment creditor or attorney

\_\_\_\_\_  
City, state, and zip code (print)

\_\_\_\_\_  
Telephone number of judgment creditor or attorney

\_\_\_\_\_  
Date of signing

### **AFFIDAVIT**

*(application must be sworn to  
unless signed by an attorney)*

Subscribed and sworn to before me this \_\_\_\_\_ day of  
\_\_\_\_\_, \_\_\_\_\_.

(seal)

\_\_\_\_\_  
Notary or other officer authorized  
to administer oaths

USE NOTES

1. The judgment creditor shall list any steps taken to investigate whether the judgment debtor possesses property within New Mexico subject to execution to satisfy the judgment. A reasonable investigation may be made, for example, by conducting a credit check or by asking the judgment debtor to identify all of the judgment debtor's assets during a court hearing.

2. See *Jemko, Inc. v. Liaghat*, 1987-NMCA-069, ¶ 10, 106 N.M. 50, 738 P.2d 922 (providing that a judgment creditor, acting under a writ of garnishment, may only seize property belonging to the judgment debtor); *Alcantar v. Sanchez*, 2011-NMCA-073, 150 N.M. 146, 257 P.3d 966 (discussing garnishment procedures in the case of joint bank accounts).

3. Applications for writs of garnishment or execution are timely if filed "within seven years after the rendition or revival of the judgment" in the case. NMSA 1978, Section 39-1-20 (1971). But no writ of garnishment or execution may issue "after fourteen years from the date of the original judgment upon which it is founded." NMSA 1978, Section 37-1-2 (2021).

[As amended, effective June 15, 1986; January 1, 1987; July 1, 1992; January 1, 1996; as amended by Supreme Court Order No. 09-8300-024, effective September 4, 2009; by Supreme Court Order No. 12-8300-030, effective for all cases filed or pending on or after January 7, 2013; as amended by Supreme Court Order No. S-1-RCR-2024-00107, effective for all cases pending or filed on or after December 31, 2024.]