

**4-905A. Summons and notice of hearing on post-judgment application for writ of restitution.**

[For use in Magistrate, Metropolitan, and District Courts with the Eviction Prevention and Diversion Program]

# **EVICTION<sup>1</sup> PROCEEDINGS**

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**IMPORTANT  
READ NOW**

**4-905A. Summons and notice of hearing on post-judgment application for writ of restitution.**

[For use in Magistrate, Metropolitan, and District Courts with the Eviction Prevention and Diversion Program and Form 4-904A]

STATE OF NEW MEXICO  
\_\_\_\_\_ COURT  
\_\_\_\_\_ COUNTY

\_\_\_\_\_, Plaintiff(s),

v.

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

\_\_\_\_\_, Defendant(s).

**SUMMONS AND NOTICE OF HEARING ON  
POST-JUDGMENT APPLICATION FOR WRIT OF RESTITUTION<sup>2</sup>  
(Uniform Owner-Resident Relations Act; Mobile Home Park Act)**

On \_\_\_\_\_ (date of filing), Plaintiff, whose name is \_\_\_\_\_ (include names of all Plaintiffs, if more than one), requested that this Court issue a writ of restitution to evict you, all of the people living with you, and all personal items from the property where you live, located at \_\_\_\_\_

\_\_\_\_\_ (include street number and street, name of apartment complex, building, and unit number (if any), city, state, and zip code), and to restore legal possession of that property to the Plaintiff.

The Honorable Judge \_\_\_\_\_ will conduct an (in person) (online video) (telephone) hearing on \_\_\_\_\_ (date, including day of the week), beginning at \_\_\_\_\_ (a.m.) (p.m.). You are required to attend (select one):

live in person at the \_\_\_\_\_ Courthouse located at \_\_\_\_\_ (address, including City) in Room \_\_\_\_\_.

using (online video) (telephone), and you must closely follow these instructions to connect and take part in the hearing:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

The Court has scheduled \_\_\_\_\_ (hours and/or minutes) for the hearing on the Plaintiff's Post-judgment Application for Writ of Restitution.

**YOU MUST ATTEND THIS HEARING.** This hearing will provide you with access to the Court's Eviction Prevention and Diversion Program, through which you may qualify for emergency government rental assistance **funding to remain in your home or move.**

At the hearing, you will also have the opportunity to tell the judge why the Court should not grant Plaintiff's Post-Judgment Application and present any evidence that supports your argument.<sup>3</sup>

**IF YOU DO NOT SHOW UP AT THE HEARING AT THE RIGHT TIME, ON THE RIGHT DAY, THE COURT MAY ALLOW THE COUNTY SHERIFF TO EVICT YOU, EVERYONE LIVING WITH YOU, AND ANY PERSONAL ITEMS IN AS LITTLE AS THREE (3) DAYS AFTER THE HEARING,** depending on the applicable law.

Attached to this Summons and Notice of Hearing are copies of:

1. The Plaintiff's Post-judgment Application for Writ of Restitution;
2. The existing Court Judgment, finding that you owe back rent and any damages;
3. This Court's specified Resource Information Sheet that provides information about government-provided rental assistance programs and legal assistance.<sup>4</sup> **You should use this Information Sheet and do all that you can to start an application for the emergency rental assistance funding prior to the hearing,** if you have not already done so. The Court's Eviction Prevention and Diversion Program can help you start and complete the application.

If you have a disability or need language interpretation: Please let the Clerk of the Court know at least five (5) business days before any hearing, so that the Court can make accommodations. You can contact the Clerk at \_\_\_\_\_  
\_\_\_\_\_ (clerk phone number and email address).

**FOR METROPOLITAN COURT CASES ONLY:**

If this case DOES NOT involve a mobile home, and you want or need the hearing to be recorded, you MUST request an audio recording of the hearing before the hearing begins.

All hearings held in Metropolitan Court under the Mobile Home Park Act shall be recorded by the Metropolitan Court.

By: \_\_\_\_\_

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Clerk

**RETURN OF SERVICE <sup>5</sup>**

STATE OF NEW MEXICO )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

***(complete and notarize if service IS NOT by the Sheriff or a deputy sheriff)<sup>6</sup>***

I, being sworn, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this Summons and Notice of Hearing in \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (date), by delivering a copy of this Summons and Notice of Hearing, a copy of the Post-judgment Application for Writ of Restitution, a copy of the Judgment, and a copy of the specified Resource Information Sheet in the following manner:

***(complete if service IS by the Sheriff or a deputy sheriff)<sup>6</sup>***

I certify that I served this Summons and Notice of Hearing in \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (date), by delivering a copy of this Summons and Notice of Hearing, a copy of the Post-judgment Application for Writ of Restitution, a copy of the Judgment, and a copy of the specified Resource Information Sheet in the following manner:

***(person serving summons must check and complete all applicable alternative(s) below)***

by hand delivering a copy of this Summons and Notice of Hearing, a copy of the Post-judgment Application for Writ of Restitution, a copy of the Judgment, and a copy of the specified Resource Information Sheet to Defendant \_\_\_\_\_ (name) (used when Defendant directly receives a copy of this Summons and Notice or refuses to accept).

by hand delivering a copy of this Summons and Notice of Hearing, a copy of the Post-judgment Application for Writ of Restitution, a copy of the Judgment, and a copy of the specified Resource Information Sheet to \_\_\_\_\_ (name), a person over fifteen (15) years of age and residing at the usual residence of Defendant \_\_\_\_\_ (name), located at \_\_\_\_\_ (include street number and street, name of apartment complex, building, and unit number (if any) OR name of mobile home park, mailing address, mobile home space number or location, AND city, county, state, and zip code) (used when Defendant is not presently at the residence).

by hand delivering a copy of this Summons and Notice of Hearing, a copy of the Post-judgment Application for Writ of Restitution, a copy of the Judgment, and a copy of the specified Resource Information Sheet to \_\_\_\_\_ (name), an agent authorized to receive service of process for Defendant.

[ ] by hand delivering a copy of this Summons and Notice of Hearing, a copy of the Post-judgment Application for Writ of Restitution, a copy of the Judgment, and a copy of the specified Resource Information Sheet to \_\_\_\_\_ (name), who is the (parent) (guardian) (custodian) (circle one) of Defendant. (used when defendant is a minor or an incompetent person).

[ ] by hand delivering a copy of this Summons and Notice of Hearing, a copy of the Post-judgment Application for Writ of Restitution, a copy of the Judgment, and a copy of the specified Resource Information Sheet to \_\_\_\_\_ (name of person), \_\_\_\_\_ (title of person authorized to receive service) (used when Defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico, or any political subdivision).

[ ] by posting a copy of this Summons and Notice of Hearing, a copy of the Post-judgment Application for Writ of Restitution, a copy of the Judgment, and a copy of the specified Resource Information Sheet on the most utilized exterior door, at a visible level, of the premises of Defendant \_\_\_\_\_ (name) located at

\_\_\_\_\_  
\_\_\_\_\_ (include street number and street, name of apartment complex, building, and unit number (if any) OR name of mobile home park, mailing address, mobile home space number or location, AND city, county, state, and zip code (used if no person found at the residence)(if this option is selected, service by mail is also required).

[ ] by service by mail (mailing must be used in addition to service by posting).

Fees: \_\_\_\_\_

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

\_\_\_\_\_  
Judge, notary, or other officer  
authorized to administer oaths<sup>6</sup>

\_\_\_\_\_  
Official title (if any)

\_\_\_\_\_  
Signature of person making service

\_\_\_\_\_  
Printed name of person making service

\_\_\_\_\_  
Title (if any)

\_\_\_\_\_  
Date

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### CERTIFICATE OF MAILING

I, being sworn, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served a copy of this Summons and Notice of Hearing, a copy of the Post-judgment Application for Writ of Restitution, a copy of the Judgment, and a copy of

the specified Resource Information Sheet on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by mailing first-class mail, postage prepaid, a copy of this Summons and Notice of Hearing, a copy of the Post-judgment Application for Writ of Restitution, a copy of the Judgment, and a copy of the specified Resource Information Sheet to:

\_\_\_\_\_ (name of person served)  
\_\_\_\_\_ (address where mailed, including unit or space number)  
\_\_\_\_\_ (county)  
\_\_\_\_\_ (city, state and zip code)

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

\_\_\_\_\_ Signature of person making service  
\_\_\_\_\_ Printed name of person making service

\_\_\_\_\_ Judge, notary, or other officer authorized to administer oaths<sup>5</sup>  
\_\_\_\_\_ Title (if any)  
\_\_\_\_\_ Date \_\_\_\_\_  
\_\_\_\_\_ Official title (if any)

### USE NOTES

1. This cover sheet should be the first page of any service packet, mailing, or posting.
2. This Summons and Notice of Hearing is for use only in conjunction with Supreme Court Order No. 22-8500-001, which created a pilot project to implement the Eviction Prevention and Diversion Program ("Program") in the Ninth Judicial District, or any subsequent Supreme Court Order implementing the Program in the applicable judicial district.
3. Evidence may include receipts, pictures, letters, bank statements, or any other item, document, or sworn testimony from a witness (including from Defendant) that supports your argument, a claim of domestic violence in the home, or that the property you live in is assisted by the federal government.
4. Provide the Resource Information Sheet designated for use in the applicable court. For example, separate sheets exist for: (1) unincorporated areas of Bernalillo County; (2) Doña Ana County; and (3) Albuquerque and other parts of the State of New Mexico.
5. The plaintiff must provide a separate Summons and Notice of Hearing, all required attachments, and a Return of Service for each defendant.

6. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy need not be notarized.

[Provisionally adopted by Supreme Court Order No. 22-8300-003, effective for all cases pending or filed on or after February 1, 2022, that are subject to the Eviction Prevention and Diversion Program.]