

# Domestic Relations Forms

## Stage One (1) Divorce Forms

### 4A-100. Domestic relations forms; instructions and cautions regarding use of forms.

A. **Short title.** These forms, compiled as Forms 4A-100 through 4A-403 NMRA, shall be known as the Domestic Relations Forms and shall be cited by their New Mexico Rules Annotated set and form number, as in “Form 4A-\_\_\_\_ NMRA.”

B. **Mandatory acceptance of forms by district court.** The New Mexico Supreme Court has approved these Domestic Relations Forms for use in domestic relations actions by self-represented litigants and attorneys appearing in the district courts. As provided by Rule 1-120 NMRA, these forms supersede conflicting local district court domestic relations forms and shall be accepted by the district courts.

C. **Responsibility of self-represented parties.** A self-represented person shall abide by the same rules of procedure and rules of evidence as lawyers. It is the responsibility of a self-represented person to determine what needs to be done and to take the necessary action. A self-represented person involved in a divorce proceeding may need the advice of an attorney or other appropriate professional during the process and is responsible for finding an attorney or other appropriate professional for advice or representation.

(1) All notices from the court will be mailed to you at the last address on file with the court. If you move, you must file a Notice of Change of Address so that you receive your mail from the court.

(2) Rule 1-005 NMRA requires that you provide a copy of anything you file in court to the other party on the same day you file it. This is what the Certificate of Service confirms.

D. **Definitions.** The following definitions apply to the terms used in the Domestic Relations Forms:

(1) “contested divorce proceeding” means a divorce proceeding in which the parties cannot reach an agreement on one or more decisions that must be made to finalize a divorce, including but not limited to the division of property, debts, spousal support, child custody, time sharing, visitation, or child support, and therefore are unable to file all of the required forms at the same time;

(2) “creditor” means a person, agency, bank, or business to whom a debt is owed;

(3) “custody plan” means Form 4A-302 NMRA, which sets forth the type of legal custody and includes a parenting plan, when required by law;

(4) “debt” means separate or community debt as defined in Section 40-3-9 NMSA 1978. Debt is an amount of money owed to a creditor that may include, but is not limited to: loans (signature, car, school, payday), mortgages, credit card balances, balances owed on bills (utilities, phone, cell phone, cable television), and federal and state tax bills. The party whose name is on the debt may not be the only party responsible for payment of the debt;

(5) “default” means the process to get relief from the court in the form of an order when a party fails to respond or defend a case (either party is subject to a default judgment for failure to respond). See Rule 1-055 NMRA for more information;

(6) “dissolution of marriage” means a divorce;

(7) “divorce proceeding” means the judicial process used to get a divorce;

(8) “minor child” means a child who is under eighteen (18) years of age and who is the child of both parties to a divorce. For the purposes of support only, a child who is under the age of nineteen (19) and attending high school full time may be considered a minor child;

(9) “parenting plan” means a plan as defined by Section 40-4-9.1 NMSA 1978, setting forth the responsibilities of each parent individually and the parents jointly in a joint custody arrangement. For an example of a parenting plan, see Form 4A-302(II)(B) NMRA;

(10) “party” means a spouse named in a divorce proceeding;

(11) “petition for dissolution of marriage” means the document that requests a divorce;

(12) “petitioner” means the first party named on a petition for dissolution of marriage. This person is referred to as a “petitioner” solely for purposes of identifying the parties in the court system;

(13) “property” means the types of property the parties to a divorce may own, including community, separate, or quasi-community as defined in Section 40-3-8 NMSA 1978. Property includes, but is not limited to: homes, land, livestock, cars/vehicles, furniture, savings and checking accounts, retirement accounts, jewelry, inheritances, tools, and art. The name of the party on the title to the property may not be the sole owner of the property. Questions about whether property is separate or community should be referred to a private attorney or the court, as appropriate;

(14) “respondent” means the second party named on a petition in a domestic relations proceeding;

(15) “service” or “service of process” means having a person eighteen (18) years or older, who is not a party to the action, give papers to a named party in a case by personally handing the paperwork to the person, or having the papers delivered to a named party in a case by some other way as described in Rule 1-004 NMRA;

(16) “summons” means a notice to the respondent that a lawsuit has started. The summons notifies the respondent to respond to the divorce petition within the specified deadline.

The summons is a two-part form. On the first part, the summons has information about the court, names and addresses of the parties, the deadline for a response, and notice that a default may happen for failure to respond. The second part of the summons is the return. The summons is served on the respondent. Once the respondent is served, the return must be filled out by the person who did the service of process and signed by that person with a notarized signature. When the original summons, including the return, is completely filled out and signed, the petitioner is responsible for filing it with the district court. The summons form is Form 4-206 NMRA. Filing the completed summons and return lets the court know that the respondent has been served;

(17) “summons packet” means a copy of the summons (Form 4-206 NMRA), petition for dissolution of marriage (Form 4A-102 or 4A-103 NMRA), temporary domestic order (Form 4A-201 NMRA), and a blank copy of the Domestic Relations Information Sheet (Form 4A-101 NMRA). See Paragraph E below for more information. The summons packet is served on the respondent;

(18) “temporary domestic order” means an order issued by the court when a divorce proceeding is filed that instructs the parties on how to conduct themselves regarding interactions with each other, finances, children, and property until the divorce is final. The temporary domestic order is Form 4A-201 NMRA;

(19) “time sharing and order for support and care of children” means one or more orders of the court to include a parenting plan as defined in Paragraph L of Section 40-4-9.1 NMSA 1978 containing the duties of the parents of minor children relating to child custody, time sharing, visitation, and support, including support of a child under nineteen (19) years of age who is attending high school;

(20) “uncontested divorce proceeding” means a divorce proceeding in which the parties are in complete agreement as to all the decisions that must be made to finalize a divorce, including but not limited to decisions regarding the division of property, debts, spousal support, child custody, timesharing, visitation, and child support, and present the following required forms, completed and signed by both parties, for filing at the same time:

(a) *Without children.* If the parties do not have minor children, the following forms must be filed in an uncontested divorce proceeding:

- (i) Domestic relations information sheet, Form 4A-101 NMRA
- (ii) Petition for dissolution of marriage (without minor children), Form 4A-102 NMRA;
- (iii) Marital settlement agreement, Form 4A-301 NMRA; and
- (iv) Final decree of dissolution of marriage (without minor children), Form 4A-305 NMRA.

(b) *With children.* If the parties have minor children, the following forms must be filed in an uncontested divorce proceeding:

- (i) Domestic relations information sheet, Form 4A-101 NMRA;
- (ii) Petition for dissolution of marriage (with minor children), Form 4A-103 NMRA;
- (iii) Marital settlement agreement, Form 4A-301 NMRA;
- (iv) Custody plan and order, Form 4A-302 NMRA;
- (v) Child support obligation and order, Form 4A-303 NMRA, with attached child support worksheet as described in Section 40-4-11.1 NMSA 1978; and
- (vi) Final decree of dissolution of marriage (with minor children), Form 4A-306 NMRA; and

(21) “wage withholding order” means an order that requires child support to be withheld from the wages of the named parent.

**E. STARTING THE DIVORCE PROCESS; CONTESTED.** These are the first forms that must be filed with the court. When starting this process, each spouse must be named as a party on the forms. One spouse is the petitioner and the other is the respondent. The spouse starting the lawsuit is the named petitioner. The other spouse is the respondent. The claims or rights of either party are not determined on the basis of being named as the petitioner or respondent. See Paragraph F of this rule for instructions on completing forms and next steps after these forms are filled out. In a divorce proceeding, the case is started by filing the following completed forms with the court:

(1) ***Domestic Relations Information Sheet.*** Form 4A-101 NMRA shall be submitted to the court in all cases. This form is used to provide the court with essential

information about the parties to the divorce proceeding, such as addresses, social security numbers, dates of birth, and the names and ages of the children of the parties. Although this form is required to be turned into the court, it is not a public record and is not part of the court file; and

(2) ***Divorce Petition (Petition for Dissolution of Marriage)***. Depending on whether there are minor children of both parties, one of the following two forms are used to request a divorce:

(a) Form 4A-102 NMRA is used if the parties do not have any minor children together; or

(b) Form 4A-103 NMRA is used if the parties have minor children together.

(3) ***Summons***. The Summons Form is Form 4-206 NMRA. The petitioner must complete this form. When the petitioner completes the contact information, the court will fill in additional information to complete the summons and return the original summons to the petitioner. A copy of the summons shall be served on the respondent as part of the Summons Packet. See Paragraph J of this rule for serving the Summons Packet. It is the responsibility of the petitioner to file the original summons with a completed return with the court.

(4) ***Temporary Domestic Order (TDO)***. The TDO is Form 4A-201 NMRA. Each judicial district has different procedures about who provides the standard form and how a TDO is issued. Some courts provide the form when the lawsuit is filed and others require the party starting the lawsuit to complete the form. Check with the court where you are filing your lawsuit to find out if you need to bring a TDO form with you. The contents of the TDO form shall not be changed by any person. The form requires only the completion of the court caption on the first page. If the court where you are filing your lawsuit does not issue its own TDO, bring additional copies of the TDO with you when filing your lawsuit.

F. **Completion of forms.** When filling out any forms, please do the following:

(1) ***Type or print.*** You must type or print all of the information required to be completed on forms filed with the court. If there is not enough room on the form to provide all of the information required, add a separate page for the information and include the page with the rest of the form before making copies and filing the form with the court. Your handwriting should be clear and easy to read.

(2) ***Signing the forms and other papers.*** Your signature on a form or other paper filed with the court means the following:

(a) you have read and understand the form or paperwork;

(b) the information provided by you on the form is factually correct to the best of your knowledge; and

(c) the information in the paperwork is accurate and true. Some forms may need to be signed in front of a notary public and notarized.

**G. Required number of copies to file with the court.** After completing and signing any required forms, take the original and two copies of each form to the court clerk for filing. The clerk will file the originals and return stamped copies to you. One copy is for you, and you must provide the other copy to the other party.

**H. Pay the filing fee.** A filing fee must be paid to the court clerk in cash or money order at the time the divorce case is opened. A divorce case is opened by filing a domestic relations information sheet, divorce petition, and summons. If you cannot afford to pay the filing fee, you may ask the court to allow you to file for free or a reduced rate by filing an application for free process. The application for free process is Form 4-222 NMRA.

**I. Filing the first forms with the court.** After completing the Summons Packet, take the original and two (2) copies of each completed form to file in the district court. The court clerk will sign and stamp the original summons and give the original and two (2) copies of it back to you with a copy of your filed divorce petition so that a copy of the summons can be served on the respondent. The clerk may also give you two (2) copies of the TDO or will endorse (stamp) copies of a TDO provided by you. One copy of the temporary domestic order must be served on your spouse as part of the summons packet.

**J. Serving the summons packet.**

(1) After a divorce petition and summons and TDO are filed with the court, copies of all papers must be served on the respondent. This is known as service of process.

(2) The summons packet and any other documents the clerk instructs you to serve may be served on the respondent by hand-delivery by a person who is over the age of eighteen (18) and is not a party to the divorce proceeding. The petitioner cannot be the person who serves the respondent. Have someone deliver the summons packet to the respondent as required by Rule 1-004(F) NMRA. It is the sole responsibility of the petitioner to have the summons packet served on the respondent and to provide proof that the service was completed. The court is not responsible for serving documents on any party.

(a) If you and respondent are not living together and you know the respondent's current mailing address, the summons packet may also be served by certified mail, return receipt requested. If served by certified mail, the respondent must sign a receipt indicating that he or she received the summons packet for service to be

completed. The return receipt from the certified mailing must be filed with the district court.

(b) There are other ways of serving the summons packet on the respondent. Read Rule 1-004 NMRA to learn more about those methods.

(c) Service of process may be done by a private process server, law enforcement, or any other person who is over eighteen (18) and not a party to the lawsuit. You may have to pay a fee to someone to do the service of process for you. Check with your local law enforcement or look in the phone book for resources for service of process.

(3) If you cannot find the respondent after reasonable attempts to find him or her to serve the summons packet, you may file a motion with the court asking permission to serve the summons packet by publication in a newspaper. If you need to serve the summons packet by publication in a newspaper, use Forms 4-209 and 4-209A NMRA.

(4) After successful service on the respondent, the petitioner is responsible for making sure that the original summons with the completed return is filed with the court to prove that the respondent was served.

**K. Responding to the petition.** In a contested divorce proceeding, the respondent must file a written response to the divorce petition. Form 4A-104 NMRA may be used to respond to the divorce petition. The response must be filed with the court and a copy mailed to the petitioner within thirty (30) days after the summons packet was served on the respondent. Failure to file a response to the divorce petition within the thirty (30) days can result in serious consequences, including entry of a default judgment against the respondent.

**L. Issues not addressed by the forms.** The Domestic Relations Forms may not address all domestic relations issues relevant to you. The forms address only the most common divorce issues. If there are issues that are not addressed in the forms, you are responsible for bringing those issues to the attention of the court or you should seek the assistance of an attorney. You may need to get other forms that are not provided in these rules to finish the transfer of property, businesses, etc. For example, the forms **do not** include the following:

(1) federal and state tax treatment of income, expenses, and deductions both before and after a divorce, or as a result of a child support order, for claiming children as dependents, or for paying or receiving alimony;

(2) how to transfer title to property or assets;

(3) how to divide a business or retirement income;

- (4) how to divide or transfer other complicated assets; or
- (5) how to divide or transfer debts.

**M. Keeping Records.** Any party to an action should make copies of all documents, paperwork, or forms filed with the court for his or her own records.

**N. Paying Creditors.** These forms, including the final decree of dissolution of marriage, do not change the legal responsibility of the parties to pay their creditors.

**O. Role of judge, clerk, and court.** Court clerks can only help you with filing forms with the court; they cannot help you complete them. The judge makes decisions in your case, but neither the judge nor the judge's staff can give advice to either party, including how to fill out the forms. If you need assistance or have questions about how to complete the forms, you may seek help from an attorney. The court clerks may give you information about resources for legal assistance. See Rule 23-113 NMRA, which provides more guidance on what information and assistance court staff may give to self-represented litigants. You may also want to use your local library to get information about the forms or legal citations in these rules, which may include internet searches of New Mexico court websites ([www.nmcourts.gov](http://www.nmcourts.gov)) and the New Mexico compilation commission ([www.nmcompcomm.us](http://www.nmcompcomm.us)).

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No.14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

## ANNOTATIONS

**The 2014 amendment,** approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, required the parties to notify the court when they change their address; required a party to provide the opposing party with copies of all documents filed with the court; added and modified definitions of terms; and clarified the use of the form. The amendment rewrote the rule to the extent that a detailed comparison was impracticable.

**Compiler's note.** — Pursuant to Supreme Court Order No. 13-8300-010, a new 4A-100 NMRA was adopted effective May 31, 2013.

**Withdrawals.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-100 NMRA, relating to the purpose and use of domestic relations forms, was withdrawn effective May 31, 2013.

### **4A-101. Domestic relations information sheet.**



**DOMESTIC RELATIONS INFORMATION SHEET<sup>1</sup>**  
**NOTE TO CLERK: DO NOT FILE THE INFORMATION SHEET**  
*Type or print responses. Required in all domestic relations cases.<sup>2</sup>*  
*(Do not use in domestic violence cases.)*

**A. Petitioner's attorney information. (Complete only if Petitioner has an attorney.)**

Petitioner's name: \_\_\_\_\_  
Attorney's name: \_\_\_\_\_  
Attorney's address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip code: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**B. Information regarding petitioner and respondent. (Do not use an attorney's mailing address. Use a separate sheet if necessary.)**

**Petitioner**

Name: \_\_\_\_\_  
(Last name, first, middle)  
Other names (e.g. maiden name): \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip code: \_\_\_\_\_  
Date of birth: \_\_\_\_\_  
Social Security number<sup>3</sup>: \_\_\_\_\_

**Respondent**

Name: \_\_\_\_\_  
(Last name, first, middle)  
Other names (e.g. maiden name): \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip code: \_\_\_\_\_  
Date of birth: \_\_\_\_\_  
Social Security number<sup>3</sup>: \_\_\_\_\_

**C. Parties' minor children. (Provide the date of birth and social security number for each minor child, if any. Use a separate sheet if necessary.)**

Name: \_\_\_\_\_  
(Last name, first, middle)  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_  
Name: \_\_\_\_\_  
(Last name, first, middle)  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_

Name: \_\_\_\_\_  
(Last name, first, middle)  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_  
Name: \_\_\_\_\_  
(Last name, first, middle)  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_

**D. Request to limit access to information.**

***(Optional – complete only if applicable)***

[ ] The [petitioner] [respondent] has reason to fear domestic violence or child abuse. For this reason, please limit access to information about the [petitioner] [respondent] in the Child Support & Paternity Case Registry to the extent possible.<sup>4</sup> The [petitioner] [respondent] realizes that this request may make it more difficult to assist in collecting child support. The [petitioner] [respondent] understands that the other party and the public might still view information about this case under some circumstances.

I affirm that this request is legitimately made and not designed to harass or intimidate the other party or mislead the court.

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Signature of Petitioner

**END OF INFORMATION SHEET**

**USE NOTES**

1. The Domestic Relations Information Sheet is not required in domestic violence, commitment, guardianship, probate, or adoption actions; or if you are filing a pleading that does not change or add to the first pleading.

In uncontested domestic relations matters, the parties may submit one Information Sheet with the initial pleading, and the documents need not be served.

In all other contested domestic relations cases each attorney representing a petitioner, or the petitioner proceeding pro se, in a contested case must submit the Information Sheet and serve a blank copy of the Information Sheet on the respondent. Respondents must submit the completed Information Sheet with their first responsive pleading.

The information submitted on these forms does not replace or supplement the filing and service of pleadings or other papers required by law. These forms, approved by the Supreme Court of New Mexico, are required to initiate domestic relations cases and are used by the courts for case management.

Forms are available from the court clerks and the NMRA. Electronic copies may be obtained from the Supreme Court's internet site ([www.supremecourt.nm.org](http://www.supremecourt.nm.org)) and New Mexico Law on Disc. If re-keying the form it must appear substantially in the same format as the Supreme Court approved form. Type or print only. If using a word processing system, please print your answers in bold.

2. Unless there are more than four children, the Information Sheet is to be submitted on a single page. The clerk will key-enter the information on the Information Sheet. The Information Sheet will not be filed in the court file.

3. If the party has more than one social security number, please include it. Pursuant to Sections 27-1-10 and 27-1-11 NMSA 1978 and federal law, each party must submit the social security number of each party as well as the name, date of birth and social security number for each minor child. This information will be provided to the State Case Registry and, upon request, to child support enforcement agencies. The parties' addresses and social security numbers are also used to accurately identify and track court users, obtain feedback from court users on a periodic basis and to issue process in contempt proceedings. Addresses provided on this page will not be made a part of the public record unless that party is or becomes self represented.

4. The Child Support & Paternity Case Registry is a required, nationwide database of child support and paternity orders. Access to registry information is strictly limited to court and child support administrative personnel. Requesting that your registry information be "nondisclosed" does not prevent authorized parties from reviewing the information. Rather, it alerts courts and child support administrative personnel to act with caution when viewing your information. However, be aware that requesting "nondisclosure" of registry information does not limit access to your official district court case file which is a public record. If you are concerned about such access, ask your lawyer, or the court clerk if you do not have a lawyer, about ways in which the court may restrict access to your court file.

[Provisionally approved as 4-211 NMRA, effective November 1, 1999 until November 1, 2000; approved, as amended, effective November 1, 2000; as amended by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all cases filed on or after December 31, 2014.]

## ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, converted the form from a cover sheet to an information sheet; in the title of the rule, changed "cover" to "information"; in the title of the form, after the word "RELATIONS", deleted "COVER" and added "INFORMATION" and added the second line "NOTES TO CLERK"; deleted the former section for official use, for the court clerk's use and for the judge's use; deleted the former instruction to the court clerk to file the cover sheet in the court file; at the beginning of the information sheet, deleted the former statement that the information on the information sheet is required by New Mexico and federal law for child support enforcement and to identify and monitor the case; added Paragraph A; in Paragraph C, deleted the former questions about orders for child support and changes in child support; at the end of the information sheet, deleted the claims for relief for each primary case type, including dissolution with minor

children, dissolution with no minor child, establish custody or visitation, enforce or modify custody, visitation or support, property division, and establish parentage or paternity; and in the Use Note, in Paragraph 1, in the first paragraph, deleted “Cover Sheet and the Domestic Relations”, and in the second paragraph, deleted “both the cover sheet and”; deleted former Paragraph 2 which provided that the information in the “official use only” section of the cover sheet would be filed with the court clerk and that the court clerk would fill in the case number and assigned judge information sheet; deleted former Paragraph 3 which provided that the identification of the case type, primary and other claims for relief were for court data keeping purposes and not binding for any purpose and instructions for selecting the code for the primary case type; deleted former Paragraph 4 which provided instructions for selecting codes for other claims for relief; in renumbered Paragraph 2, deleted the former first sentence which instructed that the cover sheet is be submitted to the clerk on one page, deleted the former third sentence which instructed the clerk to key-enter the information on the cover sheet and place it in the court file, and deleted the former fourth sentence which provided that only the cover sheet was to be filed; and deleted former Paragraph 6 which required that the “notes” on the form were to be submitted to the court clerk.

**The 2013 amendment**, approved by Supreme Court Order No. 13-8300-010, effective May 31, 2013, made minor formatting changes.

**The 2000 amendment**, effective November 1, 2000 added Item 3 at the end of the Information Sheet and added Use Note 8.

#### **4A-101A. Withdrawn.**

### **ANNOTATIONS**

**Withdrawals.** — Pursuant to Supreme Court Order No. 14-8300-011, Form 4A-101A NMRA, a domestic relations information sheet, was withdrawn effective for all cases filed on or after December 31, 2014. For provisions of former form, see the 2014 NMRA on *NMONESOURCE.COM*.

#### **4A-102. Petition for dissolution of marriage (without children).**

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT COURT

\_\_\_\_\_,  
Petitioner,

v.

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

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

**PETITION FOR DISSOLUTION OF MARRIAGE  
(WITHOUT CHILDREN)**

Petitioner, \_\_\_\_\_, asks this Court for a *Final Decree of Dissolution of Marriage*, and states:

1. The parties, or at least one party, is a resident of \_\_\_\_\_ County, State of New Mexico.
2. At least one party has resided in the state of New Mexico for at least six (6) months immediately preceding the filing of this Petition and has domicile in New Mexico as defined by Section 40-4-5 NMSA 1978.
3. The parties were married on \_\_\_\_\_ (date) in \_\_\_\_\_ (city), \_\_\_\_\_ (state), and have remained spouses since that date.
4. A state of incompatibility and irreconcilable differences exists and the parties are not likely to reconcile.
5. The parties do not have any children and none are expected.
6. Any sole and separate property or debts of the parties should be confirmed by the Court.
7. Any community property of the parties should be equitably divided.
8. Any community debts of the parties should be equitably divided.
9. CIRCLE ONE: My spouse [is] [is not] a member of the military.
10. OPTIONAL (*Cross out if this does not apply to you*): Petitioner is in need of spousal support (alimony) to be paid to him/her by Respondent, who has the ability to pay spousal support.
11. OPTIONAL (*Cross out if this does not apply to you*): Petitioner wishes to be restored to his/her former name, \_\_\_\_\_.

Petitioner asks that the Court:

- A. Enter a *Final Decree of Dissolution of Marriage* on the grounds of incompatibility;
- B. Confirm any separate property and separate debts of the parties;

- C. Equitably divide any community property and community debt of the parties;
- D. Order Respondent to pay spousal support (*cross out if this does not apply*);
- E. Restore Petitioner to his/her former name, \_\_\_\_\_ (*cross out if this does not apply*); and
- F. Provide such other and further relief as the Court may deem just and proper.

Submitted by:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Street/mailling address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Telephone number

### VERIFICATION

I, \_\_\_\_\_, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause, and I know and understand that the contents contained in the above Petition are true to the best of my knowledge and belief. I have read and understand the Temporary Domestic Order as described in Rule 1-121 NMRA. I understand that upon the filing of this Petition with the Court that I am bound by the contents of the Temporary Domestic Order.

\_\_\_\_\_  
Signature of Petitioner    Date

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

### ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, modified the verification form; deleted the requirement that the verification be notarized; deleted the former verification form which provided that the petitioner was sworn upon oath before making the statements in the verification form; added the new verification form; deleted the former affirmation by the notary public that the petitioner signed the verification and swore to the truth of the statements in the

verification; deleted the former signature line for the notary public; and deleted the Use Note which required the verification form to be notarized.

**Compiler's note.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-102 NMRA was recompiled as 4A-101A NMRA and a new 4A-102 NMRA was adopted effective May 31, 2013.

### **4A-103. Petition for dissolution of marriage (with children).**

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT COURT

\_\_\_\_\_,  
Petitioner,

v.

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

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

#### **PETITION FOR DISSOLUTION OF MARRIAGE (WITH CHILDREN)**

Petitioner, \_\_\_\_\_, asks this Court for a *Final Decree of Dissolution of Marriage*, and states:

1. The parties, or at least one party, is a resident of \_\_\_\_\_ County, State of New Mexico.
2. At least one party has resided in the state of New Mexico for at least six (6) months immediately preceding the filing of this Petition and has domicile in New Mexico as defined by Section 40-4-5 NMSA 1978.
3. The parties were married on \_\_\_\_\_ (date) in \_\_\_\_\_ (city), \_\_\_\_\_ (state), and have remained spouses since that date.
4. A state of incompatibility and irreconcilable differences exists and the parties are not likely to reconcile.
5. The parties have \_\_\_\_\_ child/children:

Name

Year of Birth

Age

- A. \_\_\_\_\_
- B. \_\_\_\_\_
- C. \_\_\_\_\_
- D. \_\_\_\_\_

6. Choose only one:  
 \_\_\_\_\_ There are no more children expected.  
 \_\_\_\_\_ The parties are expecting another child/children.

7. The minor child/children have been residents of the state of New Mexico for at least the past six (6) months and jurisdiction to determine custody issues is present in the state of New Mexico. New Mexico is the home state of the child/children.

8. Petitioner's current address is: \_\_\_\_\_

Respondent's current address is: \_\_\_\_\_

The current address of each child under the age of eighteen (18) is (*list name and address of each child*): \_\_\_\_\_

9. For the last five (5) years, list the names of the persons with whom each child under the age of eighteen (18) named in paragraph 6 above has resided, and the dates at each residence for each child:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

10. Petitioner has information about custody proceeding(s) involving the minor child/children either pending or in the past in a court in this state or any other state.

(Choose one)  
 \_\_\_\_\_ Yes  
 \_\_\_\_\_ No

If yes, provide court information:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

11. Choose only one:  
 \_\_\_\_\_ Petitioner has not participated as a party, witness, or in any other capacity in any other litigation concerning the custody of the minor child/children in New Mexico or in any other jurisdiction and/or state.

OR  
 \_\_\_\_\_ Petitioner has participated as a party, witness, or in some other capacity in other litigation concerning the custody of the minor child/children. List all case names including names of parties, name of court, location of the court, and court case number:



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12. Someone other than Respondent and me has physical custody of the minor child/children or claims to have custody or visitation rights with respect to the minor child/children. (*Choose one*)

\_\_\_\_\_ Yes  
\_\_\_\_\_ No

If yes, list the name of any such individual(s):

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13. Choose only one:

\_\_\_\_\_ Petitioner and Respondent are fit and proper persons to have joint legal custody of the minor child/children, with the rights and responsibilities identified in Paragraphs F and J of Section 40-4-9.1 NMSA 1978, and subject to a parenting plan that is consistent with the best interests of the child/children.

OR

\_\_\_\_\_ Petitioner is a fit and proper person to have sole legal custody of the child/children and is able to show the Court why sole legal custody is appropriate for the child/children.

14. The parties should be ordered to contribute to the support and maintenance of the parties' child/children pursuant to the New Mexico Child Support Guidelines.

15. Any sole and separate property or debts of the parties should be confirmed by the Court.

16. Any community property of the parties should be equitably divided.

17. Any community debts of the parties should be equitably allocated.

18. CIRCLE ONE: My spouse [is] [is not] a member of the military.

19. OPTIONAL (*Cross out if this does not apply to you*): Petitioner is in need of spousal support (alimony) to be paid to him/her by Respondent.

20. OPTIONAL (*Cross out if this does not apply to you*): Petitioner wishes to be restored to his/her former name, \_\_\_\_\_.

Petitioner asks that the Court:

A. Enter a Final Decree of Dissolution of Marriage on the grounds of incompatibility;

B. (Choose only one)

\_\_\_\_\_ Award joint legal custody of the child/children and adopt a parenting plan in the child/children's best interests;

OR

\_\_\_\_\_ Award sole legal custody of the child/children to Petitioner/Respondent (*circle one*), with visitation for the other parent that is consistent with the best interests of the child/children;

C. Order the parties to contribute to the support and maintenance of the parties' minor child/children pursuant to the New Mexico Child Support Guidelines;

D. Confirm the separate property and separate debts of the parties;

E. Equitably divide the community property and community debt of the parties;

F. Order the Respondent to pay spousal support (*cross out if this does not apply*);

G. Order that Petitioner's name be restored to his/her former name of \_\_\_\_\_ (*cross out if this does not apply*); and

H. Provide for such other and further relief as the Court may deem just and proper.

Submitted by:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Street/mailling address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Telephone number

### VERIFICATION

I, \_\_\_\_\_, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause, and I know and understand that the contents contained in the above Petition are true to the best of my knowledge and belief. I have read and understand the Temporary Domestic Order as described in Rule 1-121 NMRA. I understand that upon the filing of this Petition with the Court that I am bound by the contents of the Temporary Domestic Order.

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
Date

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31,

2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

### ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, modified the verification form; deleted the requirement that the verification be notarized; deleted the former verification form which provided that the petitioner was sworn upon oath before making the statements in the verification form; added the new verification form; deleted the former affirmation by the notary public that the petitioner signed the verification and swore to the truth of the statements in the verification; deleted the former signature line for the notary public; and deleted the Use Note which required the verification form to be notarized.

### 4A-104. Response.

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT COURT

\_\_\_\_\_,  
Petitioner,

v.

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

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

### RESPONSE

Respondent, \_\_\_\_\_, responds to the Petition for Dissolution of Marriage, and states:

1. I admit (agree with) the statements in the following paragraphs (*list the paragraph numbers below*) of the Petition: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

2. I deny (disagree with) the statements in the following paragraphs (*list the paragraph numbers below*) of the Petition: \_\_\_\_\_

\_\_\_\_\_

- 
- 
3. I also want a divorce and the legal remedies to which I am entitled.
4. OPTIONAL (*Cross out if this does not apply to you*): I want my name to be restored to my former name, \_\_\_\_\_.

Respondent asks that the Court:

- A. Enter a *Final Decree of Dissolution of Marriage* on the grounds of incompatibility;
- B. Confirm any separate property and separate debt of the parties;
- C. Equitably divide any community property and community debt of the parties;
- D. Enter an order for spousal support, as appropriate;
- E. Provide for the custody, support, and maintenance of the child/children. (*cross out if this does not apply*);
- F. Order that my name be restored to my former name of \_\_\_\_\_ (*cross out if this does not apply*); and
- G. Provide for such other and further relief as the Court may deem just and proper.

Submitted by:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Mailing address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Physical Address (*this must be provided unless address is sealed by court order*)

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Telephone number

**VERIFICATION OF SERVICE**

I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ (date), I (check the applicable item below and fill in all information)

mailed a copy of this response by United States mail, postage prepaid, to:  
Name: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
City, state, and zip code: \_\_\_\_\_;

delivered a copy of this response to \_\_\_\_\_ (the other party or the other party's attorney); or

faxed a copy of this response to \_\_\_\_\_ (the other party or the other party's attorney) using the following fax number: \_\_\_\_\_. The transmission was reported as complete and without error. The time and date of the transmission was \_\_\_\_\_ (a.m.) (p.m.) on \_\_\_\_\_ (date).

\_\_\_\_\_  
Signature of person who made service

\_\_\_\_\_  
Date of signature

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

### ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, deleted the former form for certification of mailing and added the verification of service form.

### 4A-105. Entry of appearance pro se.

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

\_\_\_\_\_ JUDICIAL DISTRICT COURT

\_\_\_\_\_

Petitioner,

v.

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

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

**ENTRY OF APPEARANCE PRO SE**

I,  Petitioner (or)  Respondent (*check one*), \_\_\_\_\_ (*your name*), hereby enter my appearance pro se in this action. I understand that **NOTICE OF ALL HEARINGS WILL BE MAILED TO THE ADDRESS GIVEN BELOW UNLESS I PROVIDE A DIFFERENT ADDRESS IN WRITING** to the Clerk of the Court and to all parties of record.

\_\_\_\_\_  
Petitioner pro se/Respondent pro se

\_\_\_\_\_  
Mailing address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Telephone number

I hereby certify that a true and correct copy of this Entry of Appearance was mailed to \_\_\_\_\_ (*name of other party*), \_\_\_\_\_ (*address of other party*) on \_\_\_\_\_ (*date*).

\_\_\_\_\_  
Signature of person filing this Entry of Appearance

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013.]

**Stage Two (2) Divorce Forms**

**4A-200. Domestic relations forms; instructions for stage two (2) forms.**

A. **Temporary orders.** After your petition for dissolution of marriage has been filed but before the court issues a final decree, you may request assistance on a temporary basis using Form 4A-202 NMRA. The court may provide such assistance by issuing one of the following temporary orders:

(1) **Temporary domestic order.** See Subparagraphs (D)(18) and (E)(4) of Form 4A-100 NMRA for an explanation of when to request a temporary domestic order from the court. For the temporary domestic order, see Form 4A-201 NMRA;

(2) **Temporary division of property.** You may request this relief when you need assistance from the court with access to property such as a home (e.g., a house, apartment) or a vehicle;

(3) **Temporary division of income and debts.** You may request this relief when you cannot agree about how bills will be paid, or you are having trouble paying the bills with only your income. This relief will include child support if you and your spouse have minor children together;

(4) **Temporary custody of minor children.** You may request this relief when you cannot agree on important decisions about the children, including decisions about medical treatment and where the children will go to school. For more information about child custody, see Section 40-4-9.1 NMSA 1978;

(5) **Temporary order establishing timesharing or visitation schedule.** You may request this relief when you cannot agree on a schedule of how much time each parent will spend with the child and when the child will be with each parent;

(6) **Temporary child support and request for wage withholding.** If you have not already requested a temporary division of property and debts as provided in Paragraph (A)(3) of this rule, you may request this relief when you cannot agree on the amount of money that one party should pay the other party to help support the children. If the court grants a temporary child support order, the child support payment may be taken from the paying party's paycheck pursuant to a wage withholding order. For more information about a wage withholding order, see Form 4A-300(D)(2)(b) NMRA. For the wage withholding order, see Form 4A-304 NMRA; and

(7) **Temporary allocation of community resources to permit both parties to hire an attorney.** You may request this relief when you need money to hire an attorney and there is money or credit available from either or both of the parties.

B. **Motion to modify temporary order.** You may file this motion (Form 4A-203 NMRA) if you have a temporary order and you want to change it. In your motion, you must state specific reasons why the temporary order should be changed.

C. **Motion for referral to mediation (child custody, timesharing, or visitation).** You may file this motion (Form 4A-204 NMRA) when you believe that there is a

reasonable likelihood that you will be able to reach an agreement about child custody or visitation with the assistance of a mediator. Requesting a referral for mediation on child custody does not require the issue of child support to be resolved at the same time. To mediate child support, the parties must have exchanged all documentation required by Rule 1-123 NMRA, as provided by Paragraph D of this rule.

**D. Motion for referral to mediation (child support or other financial issues).**

You may file this motion (Form 4A-205 NMRA) only if each of the following circumstances has been met:

(1) the parties have exchanged all documentation required by Rule 1-123 NMRA (see the appendix to this Rule for more information);

(2) you believe that there is a reasonable likelihood that you can reach a final agreement on some or all of the matters in your divorce other than child custody or visitation, such as child support, division of income and debt, or division of a retirement account. See Form 4A-202 NMRA (Motion for temporary order) for other matters that may be mediated; and

(3) the judicial district that you are filing in has a mediation program for this purpose, or the parties have funds available to pay for a private mediator.

**E. Motion to enforce order.** You may file a motion to enforce order (Form 4A-209 NMRA) when you want to ask the court for help because you believe the other party is not following a court order. You should be very specific when completing the motion; tell the court what the court order says and what the other person is doing or not doing that is violating the order. State only serious violations and be as complete as possible. Bring a copy of the order with you to the hearing. If you do not have a copy of the order, you may obtain one from the clerk's office. Standard copying fees may apply.

**F. General instructions for filing motions.**

(1) Either party may file a motion seeking help from the court. When you file a motion, it must be filed with the Court Clerk's Office. You must fill out and bring a Request for Hearing (Form 4A-206 NMRA) to the court to be filed at the same time as your motion. You may be required to bring an original, completed Notice of Hearing (Form 4A-207 NMRA) with self-addressed stamped envelopes for both parties. The court will send each party a Notice of Hearing that will include your assigned hearing date and time in the self-addressed stamped envelopes you provided. **WARNING:** Generally, this rule must be followed when filing a motion; however, many courts have special rules when the parties need a hearing. You should inquire at the Court Clerk's Office to determine if special rules apply when you request a hearing.

(2) If the motion relates to money (see Subparagraphs (1), (2), (3), (6) and (7) of Paragraph A, above), you must take the steps required by Rule 1-123 NMRA and file a Notice of Compliance with Rule 1-123 NMRA (Form 4A-208 NMRA), with the Court



Clerk's Office. For further information on Rule 1-123 NMRA, please refer to the appendix to this rule.

(3) There may be other motions that you want to file. You should follow these general instructions with all motions. Any response to a motion should be served on the other party as set forth in Form 4A-100(J) NMRA.

(4) **WARNING:** All forms include a verification of service which tells the court that you gave a copy of your motion to the other party. Your motion cannot be heard by the court unless you have properly served a copy on the other party.

**G. Hearings.** You will receive a notice of hearing from the court mailed to you in the self-addressed stamped envelope that you or your spouse provided to the court when filing the motion. See the appendix to this rule for instructions about how to prepare for the hearing. If someone you need to be your witness does not want to go to the hearing, you will need to request a subpoena from the court before the hearing. If a subpoena is issued by the court, the person will be ordered to appear at the court at the date, time, and place of your hearing. You are responsible for getting the subpoena served on the witness and for filing the return of service with the Clerk of the Court. For further information about subpoenas, see Rule 1-045 NMRA.

**H. Hearing officers.** From time to time, the judge may appoint a hearing officer to preside over your hearing. The hearing officer is required to prepare a Hearing Officer Report within thirty (30) days after your hearing, which contains findings of fact and recommendations to the judge on how the court should rule. The court will mail each party a copy of the Hearing Officer Report and a Notice of Filing. If you do not agree with the hearing officer's recommendations, you must complete and file written objections within ten (10) days after service of the recommendations using Form 4A-211 NMRA. You must send a copy of the written objections to the other party. If no written objections are received by the district court, then the recommendations of the hearing officer may be adopted by the court without further notice to you. If the court receives written objections to the recommendations, the court will decide whether to set a hearing or to enter its own order. The court will notify you of the action it has taken. For further information about hearing officers in domestic relations actions, see Rule 1-053.2 NMRA.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. 17-8300-017, effective for all pleadings and papers filed on or after December 31, 2017.]

## ANNOTATIONS

**The 2017 amendment**, approved by Supreme Court Order No. 17-8300-017, effective December 31, 2017, removed the instruction related to filing a motion for an order to show cause why a party is not following a court order and added an instruction related to filing a motion to enforce a court order; added a new Paragraph E and redesignated former Paragraph E as Paragraph F; and deleted former Paragraph F, which related to special instructions for filing a motion for order to show cause when the other party is not following a court order.

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, clarified the language of the instructions and changed “should” to “may” throughout; in Paragraph A (4), deleted “where the children should live and which parent should have the authority to make”, and after “decisions about the children”, added the remainder of the sentence; and in Paragraph A (6), in the second sentence, after “wage withholding order”, deleted “unless there is good cause not to do so”; in Paragraph D, in the introductory sentence, after “only if”, added “each of the following circumstances has been met”; in Paragraph E (1), in the third sentence, after “You”, deleted “must also” and added “may be required”; in Paragraph E (4), deleted the former first sentence which provided that the motion could not be heard unless it is served on the other party, in the current first sentence, after “include a”, deleted “certificate” and added “verification”, and after “verification of service”, added the remainder of the sentence, and added the second sentence; in Paragraph F, in the first paragraph, after “you want to”, deleted “tell the court that the other person is not following an existing court order and to”, and after “ask the court for help”, added the remainder of the sentence, and added the fourth sentence; in the second paragraph, added the second sentence; in the third paragraph, in the first sentence, added “If the court grants the motion, you”, and after “Cause”, deleted “sent to you from the court, or it may be available to be picked up from the court”, added the second sentence, in the third sentence, added “The order or notice”; in the fourth paragraph, in the first sentence, deleted “You are responsible for serving a copy of the” and after “Cause”, added “must be personally served”, deleted the former third sentence which provided that the court might help if the papers could not be served on the other party, deleted the former fourth sentence which instructed the party to keep one copy of the affidavit of service, and added the fifth sentence; and in Paragraph G, in the third sentence, after “request a subpoena”, added “from the court before the hearing”.

## **4A-200 APPENDIX. Supplement to the notice of hearing and mandatory compliance with Rule 1-123.**

### **SUPPLEMENT TO THE NOTICE OF HEARING AND MANDATORY COMPLIANCE WITH RULE 1-123**

**If your case involves a pending dissolution of marriage with a division of property, income, and/or debt**

Complete Rule 1-123 discovery forms and file your certificate of compliance with this rule in the District Court. With the other party, exchange a list of your community property and debts (using

Form 4A-214 NMRA) and a list of separate property and debts (using Form 4A-215 NMRA) and include all supporting documents. Bring copies of the lists and supporting documents to the court for your hearing. **DO NOT FILE THE LISTS WITH THE COURT.**

If either party is seeking *interim division of income and expenses*, then the parties should complete the interim monthly income and expenses statement (Form 4A-212 NMRA) and provide the form and all supporting documentation to the other party before the hearing. **DO NOT FILE THE FORM WITH THE COURT.** Bring copies of any supporting documents (e.g., pay stubs, tax returns, mortgage statements, credit card statements, utility bills, etc.) and forms to the hearing. Each party must file a notice of compliance with Rule 1-123 (Form 4A-208 NMRA) before a hearing on interim division of income and expenses.

The parties can obtain copies of the court-approved Marital Settlement Agreement (Form 4A-301 NMRA) from the court where your case is filed or from [www.nmcourts.gov](http://www.nmcourts.gov). The parties should exchange drafts of the Marital Settlement Agreement before the hearing. Bring a copy of your draft Marital Settlement Agreement and of the Final Decree of Dissolution of Marriage (Form 4A-305 NMRA) to your hearing.

**If your case involves establishing, modifying, or enforcing child support**

<b>Employed by a company or individual</b>	<b>Self employed</b>
Exchange with the other party and bring to the court copies of current year-to-date earnings statement or pay stubs.	Exchange with the other party and bring to the court copies of Profit & Loss Statements with supporting documents.
Exchange tax returns, including your W-2 & 1099 Statements with all schedules for the prior two years.	Business tax returns with supporting documents and verification of income and expenses for the prior two years.

Exchange and bring to the court receipts for current daycare expenses.

Exchange and bring to the court documentation of health insurance costs for the child(ren). Most Human Resources Offices can provide you with payroll deduction information for "employee"/"employee plus one" or "employee plus family" coverage.

Bring proof of payment of child support (i.e. canceled checks, money orders or receipts) to the hearing.

If you are seeking a wage withholding order (Form 4A-303 NMRA) or child support enforcement services, contact CSED at 1-800-288-7207 to apply for services and obtain a CSED case number. If CSED has an interest in the case, the parties are responsible for notifying CSED of the hearing.

**If your case involves child custody, timesharing, or visitation issues**

Obtain a copy of the court-approved Custody Plan (Form 4A-302) at [www.nmcourts.gov](http://www.nmcourts.gov). Each party should develop a proposed temporary, age appropriate timesharing or visitation plan and exchange the proposal with the other party prior to the hearing.

Bring a copy of your proposed Custody Plan to the hearing.

**If your case involves spousal support or alimony**

Bring documentation of your income and the income of the other party (e.g., pay stubs, personal and business tax returns, along with supporting documentation such as bank records, business expenses, etc.). In addition you should bring documentation of monthly recurring expenses such as rent, mortgage, vehicle costs, insurance, utilities, credit card statements, payments, loans, health insurance, and/or medical care costs to the hearing.

**If your case involves an issue not addressed above, bring copies of any proposed document to support your case to any hearing scheduled or hearing that you are requesting.**

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

### ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, in the first box, added “DO NOT FILE THE LISTS WITH THE COURT”; and in the second box, added “DO NOT FILE THE FORM WITH THE COURT”.

### 4A-201. Temporary domestic order.

[For use with Rule 1-121 NMRA ]

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v.

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

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

### TEMPORARY DOMESTIC ORDER<sup>1</sup>

This order is issued pursuant to Rule 1-121 NMRA. This is not an order of protection under federal or state law. It is otherwise fully enforceable. It applies to both parties. This order will continue in effect until modified. The procedure for modification of this order is described below.

## THE COURT ORDERS THE PARTIES AS FOLLOWS:

(1) **Do not** injure or physically or mentally abuse, molest, intimidate, threaten or harass the other party or any child of either party.

(2) **Do not** interfere with the relationship of your spouse with any child of either party. If you are living apart, you shall each continue to have frequent contact and communication with any minor child of both parties, personally and by telephone. A party shall notify the other party of any change of address or telephone number within twenty-four (24) hours of the change.

(3) **Do not** change a child's school, religion, child care, doctor, dentist, physical or mental treatment or recreational activities in which the child has been participating.

(4) **Do not** remove, cause or permit the removal of any minor child of both parties from the State of New Mexico without court order or written consent of the other party.

(5) **Do not** make the other party leave the family home, whether it be community or separate property, without court order. You should attempt to resolve the question of who leaves the home in a fair manner. If you cannot agree, you must ask the court to decide.

(a) Whoever moves from the family home may return to pick up personal belongings at a reasonable time as you may agree. Personal belongings do not include furniture unless you agree or the court permits. If an order prohibiting domestic violence has been entered, you must arrange to have a law enforcement officer present to monitor the removal of personal belongings. The party moving out of the residence is not prejudiced by reason of the move in any way with respect to custody of any minor child, with respect to a claim of any interest in the family residence or the personal property in or on the premises.

(b) Whoever leaves the family residence shall notify the other party, within twenty-four (24) hours of an address where the vacating party can receive mail.

(c) At a reasonable time, you are entitled to examine the contents of the marital residence and to have access to all properties owned by either of you, for inspection, valuation or appraisal. If you ask, the other party must provide access to the home within fifteen (15) days after the date of the request.

(6) **Do not** incur unreasonable or unnecessary debts. Any debt that does not contribute to the benefit of both spouses or the minor children of the parties which is incurred after you have separated, may be the separate debt of the party who incurs the debt.

(7) **Do not** sell, remove, transfer, dispose of, hide, encumber or damage any property, real or personal, community or separate, except in the usual course of

business or for the necessities of life. Keep an accounting of any transactions to show to the court.

(8) **Do not** drop or cancel any insurance policy, including automobile or other vehicle insurance, household insurance, medical or dental insurance or life insurance.

(9) **Do not** terminate or change the beneficiaries of any existing life insurance policy.

(10) **Do not** close any financial institution account<sup>2</sup> or cancel any credit cards nor remove the other party from any credit card account during pendency of this case, unless the parties otherwise agree in writing.

(11) **Do not** liquidate, cash out, remove funds from or take loans against any retirement account, including but not limited to PERA, pension, IRA, Roth IRA, SARSEP, SEP, profit sharing, 401(k), 403(b), defined benefit, money purchase, employee stock ownership (ESOP), or 457 or 409A accounts, unless the parties otherwise agree in writing, except in the usual course of business or for the necessities of life. Keep an accounting of any transactions to show to the court.

### **MODIFICATION BY COURT<sup>3</sup>**

This order may be modified by the court upon request of either party. To request the court to modify this order, a motion must be filed with the clerk of the court. The motion must include reference to each paragraph number the party is requesting to be modified or terminated. The party making the request must provide the other party with a copy of the motion requesting the change. If the other party agrees with the request, an order approving the request, which has been initialed by both parties as “approved,” shall be filed with the motion.

### **WAIVER BY PARTIES**

The parties may modify a specific provision of this order by entering into a written agreement and filing it with the court. The parties may also waive a provision of this order on a specific occasion if both parties sign an agreement to waive the provision. A waiver must include the paragraph number of each paragraph waived by the parties.

### **OTHER ORDERS**

If an order of protection from a domestic violence case has been served on either party or if there is any other order in effect governing the relationship of the parties, and there is a conflict between this order and the other order, the other order controls unless the court specifically orders otherwise.

### **VIOLATIONS**

Violation of this court order may result in the imposition of a fine or imprisonment. This order is binding on the petitioner at the time the petition is filed. This order is effective on the respondent immediately upon service. The parties are cautioned that actions taken by either party that are contrary to the terms of this order are subject to redress by the court, including costs and attorney fees.

---

Date

---

District Judge

### USE NOTES

1. A scheduling order may be issued at the time a domestic relations case is docketed and served with the petition, however, the scheduling order must be issued as a separate order.

2. See NMSA 1978, Section 58-1-7 for notice to any bank of an adverse claim to a bank account.

3. Within two (2) days after service of this order, a party may file a motion requesting a hearing to dissolve this order. If the court finds the motion was frivolous or was not filed in good faith it may assess the party filing the motion with costs and attorney fees.

[Approved, effective November 1, 2000 until November 1, 2001; approved, effective November 1, 2002; 4A-112 recompiled and amended as 4A-201 by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 17-8300-017, effective for all pleadings and papers filed on or after December 31, 2017.]

**Committee commentary.** — This form deviates from the forms used by some judicial districts, however, the changes are necessary to comply with due process requirements. See Rules 1-121 and 1-066(B) NMRA.

### ANNOTATIONS

**The 2017 amendment**, approved by Supreme Court Order No. 17-8300-017, effective December 31, 2017, added a provision ordering the parties not to take or remove certain family assets unless the parties agree in writing and to keep an accounting of any financial transaction, and provided that a temporary domestic order is effective on the respondent immediately upon service; under the heading “THE COURT ORDERS THE PARTIES AS FOLLOWS”, added Paragraph (11); and under the heading “VIOLATIONS”, deleted “two (2) days after it is served on the respondent” and added “immediately upon service”.

**Compiler's note.** — Pursuant to Supreme Court Order No. 13-8300-010, 4A-112 NMRA was recompiled and amended as 4A-201 NMRA, effective May 31, 2013.

**Withdrawals.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-201 NMRA, relating to pro se forms, was withdrawn effective May 31, 2013.

### **4A-202. Motion for temporary order (domestic relations actions).**

[For use with Rules 1-121 and 1-122 NMRA]

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v.

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

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

#### **MOTION FOR TEMPORARY ORDER (domestic relations actions)<sup>1</sup>**

I, \_\_\_\_\_ (*name of Petitioner or Respondent*) request the court to enter the following temporary order(s): (*check all that apply*)

- (1)  temporary domestic order;<sup>2</sup>
- (2)  temporary division of property;
- (3)  temporary division of income and debts;
- (4)  temporary custody of minor children;
- (5)  temporary order establishing timesharing or visitation;
- (6)  temporary child support and request for wage withholding;
- (7)  temporary allocation of community resources to permit both parties to hire an attorney;
- (8)

\_\_\_\_\_ (other).

I have tried to talk to \_\_\_\_\_ (*name of the other party or the other party's attorney if represented*). This is what happened: (*You MUST check one of these boxes.*)

The other party AGREES with my motion.



- The other party DOES NOT AGREE with my motion.
- The other party WILL NOT TALK TO ME about my motion.
- I CANNOT TALK TO THE OTHER PARTY because there is a protective order between us and the other party does not have a lawyer.
- I HAVE NOT TALKED TO THE OTHER PARTY because:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_.

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Name (*print*)

\_\_\_\_\_  
Mailing address (*print*)

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

\_\_\_\_\_  
Telephone number

**VERIFICATION OF SERVICE**

I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ (*date*), I (*check the applicable item below and fill in all information*)

mailed a copy of this motion by United States mail, postage prepaid, to:  
Name: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
City, state, and zip code: \_\_\_\_\_;

delivered a copy of this motion to \_\_\_\_\_ (*the other party or the other party's attorney*); or

faxed a copy of this motion to \_\_\_\_\_ (*the other party or the other party's attorney*) using the following fax number: \_\_\_\_\_. The transmission was reported as complete and without error. The time and date of the transmission was \_\_\_\_\_ (a.m.) (p.m.) on \_\_\_\_\_ (*date*).

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Date of signature

## USE NOTES

1. See Committee Commentary to Rule 1-120 NMRA for what constitutes a domestic relations action.
2. See Rule 1-121 NMRA and Form 4A-201 NMRA for the Supreme Court approved Temporary Domestic Order.

[Approved, effective November 1, 2000 until November 1, 2001; approved, effective November 1, 2001; 4A-111 recompiled and amended as 4A-202 by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

## ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, eliminated the signature of the party's attorney; changed the certification of service to a verification of service; in the title of the service verification form, changed "CERTIFICATE" to "VERIFICATION OF SERVICE"; in the introductory sentence, deleted "I certify that on \_\_\_\_ (*date*), I" and added the new introductory sentence; under the signature line, changed "attorney" to "party", and deleted the former note that the verification of service form was to be used if notice was served by a person other than an attorney.

**Compiler's note.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-111 NMRA was recompiled and amended as 4A-202 NMRA effective May 31, 2013.

**Withdrawals.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-202 NMRA, relating definitions used in the Domestic Relations Forms, was withdrawn effective May 31, 2013.

### **4A-203. Motion to modify temporary order (domestic relations actions).**

[For use with Rules 1-121 and 1-122 NMRA]

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v.

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

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

**MOTION TO MODIFY TEMPORARY ORDER  
(domestic relations actions)<sup>1</sup>**

I, \_\_\_\_\_ (name of Petitioner or Respondent) request the court to do the following: (check and complete all that apply)

Modify paragraph \_\_\_\_ of the temporary domestic order as follows:  
\_\_\_\_\_  
\_\_\_\_\_.

Terminate the temporary domestic order because:  
\_\_\_\_\_  
\_\_\_\_\_.

Terminate or modify the temporary child support because:  
\_\_\_\_\_  
\_\_\_\_\_.

Modify the temporary division of income and debts of the parties because<sup>2</sup>:  
\_\_\_\_\_  
\_\_\_\_\_.

Dismiss the temporary restraining order because<sup>3</sup>:  
\_\_\_\_\_  
\_\_\_\_\_.

Terminate or modify the temporary wage withholding order because:  
\_\_\_\_\_  
\_\_\_\_\_.

Terminate or modify the temporary order establishing timesharing or visitation because:  
\_\_\_\_\_  
\_\_\_\_\_.

I have tried to talk to \_\_\_\_\_ (name of the other party or the other party's attorney if represented). This is what happened: (You MUST check one of these boxes.)

The other party AGREES with my motion.

- The other party DOES NOT AGREE with my motion.
- The other party WILL NOT TALK TO ME about my motion.
- I CANNOT TALK TO THE OTHER PARTY because there is a protective order between us and the other party does not have a lawyer.
- I HAVE NOT TALKED TO THE OTHER PARTY because:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_.

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Name (*print*)

\_\_\_\_\_  
Mailing address (*print*)

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

\_\_\_\_\_  
Telephone number

**VERIFICATION OF SERVICE**

I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ (*date*), I (*check the applicable item below and fill in all information*)

mailed a copy of this motion by United States mail, postage prepaid, to:  
Name: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
City, state, and zip code: \_\_\_\_\_;

delivered a copy of this motion to \_\_\_\_\_ (*the other party or the other party's attorney*); or

faxed a copy of this motion to \_\_\_\_\_ (*the other party or the other party's attorney*) using the following fax number: \_\_\_\_\_. The transmission was reported as complete and without error. The time and date of the transmission was \_\_\_\_\_ (a.m.) (p.m.) on \_\_\_\_\_ (*date*).

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Date of signature

## USE NOTES

1. This form may be used anywhere in this state to request the court to modify a temporary order entered by the court in a domestic relations action.
2. If a court order of temporary division of income and debts is being challenged, you must complete an Interim Monthly Income and Expenses Statement (Form 4A-212 NMRA) and file it with the court at the time you file this motion.
3. If you believe that the other party may injure you or cause some other harm to you, your children, or other household member, you may file a petition for a temporary restraining order or you may file a “Petition for Order for Protection from Domestic Abuse.” See Form 4-961 NMRA.

[Approved, effective November 1, 2000 until November 1, 2001; approved, effective November 1, 2001; 4A-113 recompiled and amended as 4A-203 by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

## ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, changed the former Certificate of Service form to a Verification of Service form; in the signature block, after “Signature of party”, deleted “or attorney”; in the title of the service form, changed “CERTIFICATE” to “VERIFICATION”, in the first sentence, deleted “I certify that on \_\_\_\_\_ (*date*), I” and added “I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ (*date*), I” and under the signature line, after “Signature of”, changed “attorney” to “party”; following the service verification form, deleted the former sentence which provided that if the notice was served by a person other than an attorney, the verification must be filed with the court; and deleted the former Verification of Service form.

**Compiler’s note.** — Pursuant to Supreme Court Order No. 13-8300-010, 4A-113 NMRA was recompiled and amended as 4A-203 NMRA effective May 31, 2013.

**Withdrawals.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-203 NMRA, relating to forms not available through the courts, was withdrawn effective May 31, 2013.

**4A-204. Motion for referral to mediation (child custody, timesharing, or visitation) (domestic relations actions).**

[For use with Rules 1-124 and 1-125 NMRA]

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v.

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

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

**MOTION FOR REFERRAL TO MEDIATION  
(CHILD CUSTODY, TIMESHARING, OR VISITATION)  
(*domestic relations actions*)<sup>1</sup>**

I, \_\_\_\_\_ (*name of Petitioner or Respondent*), request the Court to refer the custody, timesharing, or visitation matters in this case to mediation.

1. The minor children of the parties are:

Name	Age	Year of Birth
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

2. I have tried to talk to \_\_\_\_\_ (*name of the other party or the other party's attorney if represented*). This is what happened: (*You MUST check one of these boxes.*)

The other party AGREES with my motion.

The other party DOES NOT AGREE with my motion.

The other party WILL NOT TALK TO ME about my motion.

I CANNOT TALK TO THE OTHER PARTY because there is a protective order between us and the other party does not have a lawyer.

I HAVE NOT TALKED TO THE OTHER PARTY because:

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

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Name (*print*)

\_\_\_\_\_  
Mailing address (*print*)

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

\_\_\_\_\_  
Telephone number

### VERIFICATION OF SERVICE

I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ (*date*), I (*check the applicable item below and fill in all information*)

mailed a copy of this motion by United States mail, postage prepaid, to:

Name: \_\_\_\_\_

Mailing address: \_\_\_\_\_

City, state, and zip code: \_\_\_\_\_;

delivered a copy of this motion to \_\_\_\_\_ (*the other party or the other party's attorney*); or

faxed a copy of this motion to \_\_\_\_\_ (*the other party or the other party's attorney*) using the following fax number: \_\_\_\_\_. The transmission was reported as complete and without error. The time and date of the transmission was \_\_\_\_\_ (a.m.) (p.m.) on \_\_\_\_\_ (*date*).

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Date of signature

### USE NOTES

1. This form may be used anywhere in this state to request the court to refer a matter to mediation regarding child custody, timesharing, or visitation in a domestic relations action.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

**ANNOTATIONS**

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, changed the former Certificate of Service form to a Verification of Service form; in the signature block, after “Signature of party”, deleted “or attorney”; in the title of the service form, changed “CERTIFICATE” to “VERIFICATION”, in the first sentence, deleted “I certify that on \_\_\_\_\_ (date), I” and added “I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ (date), I” and under the signature line, after “Signature of”, changed “attorney” to “party”; following the service verification form, deleted the former sentence which provided that if the notice was served by a person other than an attorney, the verification must be filed with the court; and deleted the former Verification of Service form.

**Compiler’s note.** — Pursuant to Supreme Court Order No. 13-8300-010, a new 4A-204 NMRA was adopted effective May 31, 2013.

**Withdrawals.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-204 NMRA, relating to forms needed for divorce cases and filing fees, was withdrawn effective May 31, 2013.

**4A-205. Motion for referral to mediation (child support or other financial issues) (domestic relations actions).**

[For use with Rules 1-124 and 1-125 NMRA]

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v.

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

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

**MOTION FOR REFERRAL TO MEDIATION  
(CHILD SUPPORT OR OTHER FINANCIAL ISSUES)  
(domestic relations actions)<sup>1</sup>**

I, \_\_\_\_\_ (name of Petitioner or Respondent), request the Court to refer the following matters in this case to mediation:



- division of property;
- division of income and debts;
- child support;
- spousal support; or
- other: .

I have tried to talk to \_\_\_\_\_ (*name of the other party or the other party's attorney if represented*). This is what happened: (*You MUST check one of these boxes.*)

- The other party AGREES with my motion.
- The other party DOES NOT AGREE with my motion.
- The other party WILL NOT TALK TO ME about my motion.
- I CANNOT TALK TO THE OTHER PARTY because there is a protective order between us and the other party does not have a lawyer.
- I HAVE NOT TALKED TO THE OTHER PARTY because:

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

\_\_\_\_\_  
 Signature of party

\_\_\_\_\_  
 Name (*print*)

\_\_\_\_\_  
 Mailing address (*print*)

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

\_\_\_\_\_  
 Telephone number

**VERIFICATION OF SERVICE**

I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ (*date*), I (*check the applicable item below and fill in all information*)

- mailed a copy of this motion by United States mail, postage prepaid, to:  
 Name: \_\_\_\_\_

Mailing address: \_\_\_\_\_  
City, state, and zip code: \_\_\_\_\_;

[ ] delivered a copy of this motion to \_\_\_\_\_ (*the other party or the other party's attorney*); or

[ ] faxed a copy of this motion to \_\_\_\_\_ (*the other party or the other party's attorney*) using the following fax number: \_\_\_\_\_. The transmission was reported as complete and without error. The time and date of the transmission was \_\_\_\_\_ (a.m.) (p.m.) on \_\_\_\_\_ (*date*).

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Date of signature

### USE NOTES

1. This form may be used anywhere in this state to request the court to refer a case to mediation regarding matters other than child custody, timesharing, or visitation in a domestic relations action.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

### ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, eliminated the allocation of community resources as a matter subject to mediation; changed the former Certificate of Service form to a Verification of Service form; in the first paragraph, following the first sentence, deleted “[ ] allocation of community resources to permit both parties to hire an attorney”; under the signature line, after “party”, deleted “or attorney”; in the title of the service form, changed “CERTIFICATE” to “VERIFICATION”, in the first sentence, deleted “I certify that on \_\_\_\_\_ (*date*), I” and added “I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ (*date*), I” and under the signature line, after “Signature of”, changed “attorney” to “party”; following the service verification form, deleted the former sentence which provided that if the notice was served by a person other than an attorney, the verification must be filed with the court; and deleted the former Verification of Service form.

**Compiler's note.** — Pursuant to Supreme Court Order No. 13-8300-010, a new 4A-205 NMRA was adopted effective May 31, 2013.

**Withdrawals.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-205 NMRA, relating to parenting plan and child support worksheet, and wage withholding orders, was withdrawn effective May 31, 2013.

**4A-206. Request for hearing (domestic relations actions).**

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT COURT

\_\_\_\_\_,  
Petitioner,

v.

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

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

**REQUEST FOR HEARING  
(domestic relations actions)<sup>1</sup>**

Assigned judge: \_\_\_\_\_

Matters to be heard: \_\_\_\_\_

Hearings presently set: \_\_\_\_\_

Amount of time requested: \_\_\_\_\_

(Provide names, mailing addresses, and telephone numbers of parties who need to be notified — attach a list if necessary.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Hearing requested by:

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Name (*print*)

\_\_\_\_\_  
Mailing address (*print*)

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

\_\_\_\_\_  
Telephone number

### VERIFICATION OF SERVICE

I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ (date), I (check the applicable item below and fill in all information)

mailed a copy of this request by United States mail, postage prepaid, to:

Name: \_\_\_\_\_

Mailing address: \_\_\_\_\_

City, state, and zip code: \_\_\_\_\_;

delivered a copy of this request to \_\_\_\_\_ (the other party or the other party's attorney); or

faxed a copy of this request to \_\_\_\_\_ (the other party or the other party's attorney) using the following fax number: \_\_\_\_\_. The transmission was reported as complete and without error. The time and date of the transmission was \_\_\_\_\_ (a.m.) (p.m.) on \_\_\_\_\_ (date).

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Date of signature

### USE NOTES

1. This form may be used anywhere in this state to request a hearing in a domestic relations action.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

### ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, changed the former Certificate of Service form to a Verification of Service form; in the signature block, after "Signature of party", deleted "or attorney"; in the title of the service form, changed "CERTIFICATE" to "VERIFICATION", in the first sentence, deleted "I certify that on \_\_\_\_\_ (date), I" and added "I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ (date), I" and under the signature line, after "Signature of", changed "attorney" to "party"; following the

service verification form, deleted the former sentence which provided that if the notice was served by a person other than an attorney, the verification must be filed with the court; and deleted the former Verification of Service form.

**Compiler's note.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-206 NMRA was recompiled as 4A-401 NMRA and a new 4A-206 NMRA was adopted effective May 31, 2013.

**4A-207. Notice of hearing (domestic relations actions).**

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v.

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

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

**NOTICE OF HEARING  
(domestic relations actions)<sup>1</sup>**

NOTICE IS HEREBY GIVEN that a hearing in this case has been set as follows:

Date of hearing: \_\_\_\_\_  
Time of hearing: \_\_\_\_\_  
Place of hearing: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Matter(s) to be heard: \_\_\_\_\_  
Comments: \_\_\_\_\_  
Length of hearing: \_\_\_\_\_  
Judicial Officer: \_\_\_\_\_

If this hearing requires more or less time than the court has designated, or if this hearing conflicts with any prior setting, please contact us immediately as continuances may not be granted on late notice. The District Court complies with the American with Disabilities Act. Counsel or self-represented litigants may notify the Clerk of the Court of the nature of the disability at least five (5) days before ANY hearing so appropriate accommodations may be made. Please contact us if an interpreter will be needed.

**CERTIFICATE OF SERVICE**

I, the undersigned Employee of the District Court of \_\_\_\_\_ County, New Mexico, do hereby certify that I served a copy of this document to all parties listed on the attached page on \_\_\_\_\_ (date).

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

**PARTIES ENTITLED TO NOTICE**

*(The party requesting the hearing must list the name, address, and phone number of every party entitled to notice, including the requesting party. If a party has an attorney, list the name and address of the attorney.)*

Party's name: \_\_\_\_\_

Mailing address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Party's name: \_\_\_\_\_

Mailing address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

*(Repeat as necessary.)*

**USE NOTES**

1. This form may be used anywhere in this state to give notice of a hearing in a domestic relations action.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

**ANNOTATIONS**

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, provided for a list of parties entitled to notice; in the Certificate of

Service, after "to all parties listed" deleted "below" and added "on the attached page"; and added the section entitled "PARTIES ENTITLED TO NOTICE".

**4A-208. Notice of compliance with Rule 1-123 NMRA (domestic relations actions).**

[For use with Rule 1-123 NMRA]

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v.

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

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

**NOTICE OF COMPLIANCE WITH  
RULE 1-123 NMRA  
(domestic relations actions)<sup>1</sup>**

In accordance with the mandatory disclosure requirement of Rule 1-123 NMRA, I certify that I served all required documents as indicated below to the opposing party on \_\_\_\_\_ (date) as required in the rule.

Property and Debt (*Check this box if there is property and debt to be divided, and check all boxes below for the documents that you completed and provided to the other party.*)

Interim monthly income and expenses statement (Form 4A-212)  
List documents used to complete this statement:

\_\_\_\_\_

Community property and liabilities schedule (Form 4A-214)  
List documents used to complete this schedule:

\_\_\_\_\_

Separate property and liabilities schedule (Form 4A-215)  
List documents used to complete this schedule:

---

Spousal support or child support (*Check this box if spousal support and/or child support is an issue in your case, and check all boxes below for the documents that you completed and provided to the other party.*)

Documents provided:

- Federal and state tax returns, including all schedules, for the year preceding the request
- W-2 statements for the year preceding the request
- Internal Revenue Service Form 1099s for the year preceding the request
- Work related daycare statements for the year preceding the request
- Dependent medical insurance premiums for the year preceding the request
- Wage and payroll statements for four months preceding the request
- (Spousal support only) Interim monthly income and expenses statement (Form 4A-212)

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Name (*print*)

\_\_\_\_\_  
Mailing address (*print*)

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

\_\_\_\_\_  
Telephone number

### VERIFICATION OF SERVICE

I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ (*date*), I (*check the applicable item below and fill in all information*)

mailed a copy of this notice by United States mail, postage prepaid, to:

Name: \_\_\_\_\_

Mailing address: \_\_\_\_\_

City, state, and zip code: \_\_\_\_\_;



[ ] delivered a copy of this notice to \_\_\_\_\_ (*the other party or the other party's attorney*); or

[ ] faxed a copy of this notice to \_\_\_\_\_ (*the other party or the other party's attorney*) using the following fax number: \_\_\_\_\_. The transmission was reported as complete and without error. The time and date of the transmission was \_\_\_\_\_ (a.m.) (p.m.) on \_\_\_\_\_ (*date*).

---

Signature of party

---

Date of signature

### USE NOTES

1. This form may be used anywhere in this state to give notice of a party's compliance with Rule 1-123 NMRA in a domestic relations action.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

### ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, changed the former Certificate of Service form to a Verification of Service form; in the signature block, after "Signature" deleted "of party"; in the title of the service form, changed "CERTIFICATE" to "VERIFICATION", in the first sentence, deleted "I certify that on \_\_\_\_\_ (*date*), I" and added "I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ (*date*), I" and under the signature line, after "Signature of", changed "attorney" to "party"; following the service verification form, deleted the former sentence which provided that if the notice was served by a person other than an attorney, the verification must be filed with the court; and deleted the former Verification of Service form.

### 4A-209. Motion to enforce order.

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v.

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

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

### MOTION TO ENFORCE ORDER

[ ] Petitioner (or) [ ] Respondent states:

1. I am filing this motion regarding the following order(s) issued by the court: (*check the order(s) that you are seeking to have enforced and complete the additional information required*)

Name of Order:	Section/Paragraph/Page # that you believe is not being followed	Date of order
_____ Temporary Domestic Order	_____	_____
_____ Interim Order	_____	_____
_____ Custody Plan and Order	_____	_____
_____ Child Support Obligation and Order	_____	_____
_____ Final Decree (adopting Marital Settlement Agreement)	_____	_____
_____ Default Final Decree	_____	_____
_____ Domestic Violence Order of Protection	_____	_____
_____ Other: _____ _____	_____	_____

2. The other party is not following the referenced sections/paragraphs of the order(s) in the following way(s): (*You should be very specific when completing the motion; tell the court what the court order says and what the other person is doing or not doing that is violating the order. State only serious violations and be as complete as possible.*)

A. \_\_\_\_\_

(*Name of first order checked in Paragraph 1 above*)

i. What the section/paragraph of the order says:

\_\_\_\_\_

\_\_\_\_\_

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ii. What the other party is doing or not doing that is violating the order:

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B. \_\_\_\_\_

*(Name of next order checked in Paragraph 1 above)*

i. What the section/paragraph of the order says:

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ii. What the other party is doing or not doing that is violating the order:

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*(Use additional pages if necessary. Use the same format as above to tell the court what order you are talking about, what the order says, and what the other party is doing or not doing that is violating the order.)*

3. I have tried to talk to \_\_\_\_\_ (*name of the other party or the other party's attorney if represented*). This is what happened: (*You MUST check one of these boxes.*)

The other party AGREES with my motion.

The other party DOES NOT AGREE with my motion.

The other party WILL NOT TALK TO ME about my motion.

I CANNOT TALK TO THE OTHER PARTY because there is a protective order between us and the other party does not have a lawyer.

I HAVE NOT TALKED TO THE OTHER PARTY because: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

4.  Petitioner (or)  Respondent asks the Court to:

A. \_\_\_\_\_

B. Order the other relief deemed necessary.

5.  **YES**, I understand that I must bring a copy of the order(s) listed in Paragraph 2 to the hearing.<sup>1</sup>

\_\_\_\_\_  
Signature of Petitioner/Respondent  
pro se

\_\_\_\_\_  
Name (*print*)

\_\_\_\_\_  
Mailing address (*print*)

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

\_\_\_\_\_  
Telephone number

**YOU MUST FILL OUT THE INFORMATION BELOW AND YOU MUST  
SERVE THE OTHER PARTY AS YOU TELL THE COURT BELOW**

**VERIFICATION**

I, \_\_\_\_\_, affirm under penalty of perjury under the laws of the State of New Mexico that I am the [ ] Petitioner (or) [ ] Respondent in the above-entitled cause, and I know and understand that the contents of this Motion are true to the best of my knowledge and belief.

\_\_\_\_\_  
Signature of party    Date

### VERIFICATION OF SERVICE

I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ (date), I (check the applicable item below and fill in all information)

[ ] mailed a copy of this motion by United States mail, postage prepaid, to:

Name: \_\_\_\_\_

Mailing address: \_\_\_\_\_

City, state, and zip code: \_\_\_\_\_;

[ ] delivered a copy of this motion to \_\_\_\_\_ (the other party or the other party's attorney); or

[ ] faxed a copy of this motion to \_\_\_\_\_ (the other party or the other party's attorney) using the following fax number: \_\_\_\_\_. The transmission was reported as complete and without error. The time and date of the transmission was \_\_\_\_\_ (a.m.) (p.m.) on \_\_\_\_\_ (date).

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Date of signature

### USE NOTES

1. If you do not have a copy of the order(s) listed in Paragraph 2, you may request one from the clerk's office. Standard copying fees may apply.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order 17-8300-017, effective for all pleadings and papers filed on or after December 31, 2017.]

### ANNOTATIONS

**The 2017 amendment**, approved by Supreme Court Order No. 17-8300-017, effective December 31, 2017, substantially rewrote the form changing it from a verified motion for order to show cause to a motion to enforce order; in the form heading and title, deleted

“Verified motion for order to show cause (domestic relations actions)” and added “Motion to enforce order”; deleted former Paragraphs 1 and 2, which provided space allowing the Petitioner to describe the court order and to describe how the other party is not following the order, and added new Paragraphs 1 and 2, in Paragraph 3, deleted provisions related to what the Petitioner was requesting of the court; added new paragraph designation “4” and added Subparagraphs 4(A) and 4(B); added Paragraph 5; and completely rewrote the Use Note.

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, changed the language of the former Verification form; eliminated the requirement that the Verification be signed before a notary public; changed the former Certificate of Service form to a Verification of Service form; in Paragraph 1, after “in detail”, added “and attach a copy of the order”; deleted the former Verification form, including the notary public certificate, and added the new Verification form; in the former Certificate of Service form, changed “CERTIFICATE” to “VERIFICATION”, in the first sentence, deleted “I certify that on \_\_\_\_\_ (date), I” and added “I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ (date), I” and under the signature line, after “Signature of”, changed “attorney” to “party”; following the former Certificate of Service form, deleted the former sentence which provided that if the notice was served by a person other than an attorney, the verification must be filed with the court; deleted the former Verification of Service form; and in the Use Note, deleted Paragraph 2 which required the form to be notarized.

#### **4A-210. Withdrawn.**

### **ANNOTATIONS**

**Withdrawals.** – Pursuant to Supreme Court Order No. 17-8300-017, 4A-210 NMRA, relating to order to appear and show cause, domestic relations actions, was withdrawn effective for all cases pending or filed on or after December 31, 2017. For provisions of former rule, see the 2017 NMRA on *NMOneSource.com*.

#### **4A-211. Objection to hearing officer report (domestic relations actions).**

[For use with Rule 1-053.2 NMRA]

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v.

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

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

**OBJECTION TO HEARING OFFICER REPORT  
(domestic relations actions)<sup>1</sup>**

I, \_\_\_\_\_ (name of Petitioner or Respondent), object to the Hearing Officer Report filed on \_\_\_\_\_ (date) for the following reasons: (identify the specific paragraph(s) to which you are objecting, and state the reason(s) for each objection)

- 1. \_\_\_\_\_  
\_\_\_\_\_
- 2. \_\_\_\_\_  
\_\_\_\_\_
- 3. \_\_\_\_\_  
\_\_\_\_\_
- 4. \_\_\_\_\_  
\_\_\_\_\_
- 5. \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Mailing address (print)

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

\_\_\_\_\_  
Telephone number

**VERIFICATION OF SERVICE**

I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ (date), I (check the applicable item below and fill in all information)

mailed a copy of this objection by United States mail, postage prepaid, to:

Name: \_\_\_\_\_

Mailing address: \_\_\_\_\_  
City, state, and zip code: \_\_\_\_\_;

[ ] delivered a copy of this objection to \_\_\_\_\_ (*the other party or the other party's attorney*); or

[ ] faxed a copy of this objection to \_\_\_\_\_ (*the other party or the other party's attorney*) using the following fax number: \_\_\_\_\_. The transmission was reported as complete and without error. The time and date of the transmission was \_\_\_\_\_ (a.m.) (p.m.) on \_\_\_\_\_ (*date*).

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Date of signature

### USE NOTES

1. This form may be used anywhere in this state to object to a hearing officer's report in a domestic relations action.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

### ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, changed the former Certificate of Service form to a Verification of Service form; in the title of the rule and form, and in the first sentence, after "officer", deleted "recommendation" and added "report"; in the signature block, after "Signature", added "of party"; in the former Certificate of Service form, in the title, changed "CERTIFICATE" to "VERIFICATION", in the first sentence, deleted "I certify that on \_\_\_\_\_ (*date*), I" and added "I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ (*date*), I" and under the signature line, after "Signature of", changed "attorney" to "party"; following the former Certificate of Service form, deleted the former sentence which provided that if the notice was served by a person other than an attorney, the verification must be filed with the court; deleted the former Verification of Service form; and in the Use Note, in Paragraph 1, after "officer's", deleted "recommendation" and added "report".

### **4A-212. Interim monthly income and expenses statement.**

[For use with Rule 1-122 NMRA]





f.	Health insurance	\$ _____	\$ _____	\$ _____
g.	Life and disability insurance	\$ _____	\$ _____	\$ _____
h.	Union dues	\$ _____	\$ _____	\$ _____
i.	Mandatory retirement	\$ _____	\$ _____	\$ _____
j.	Other	\$ _____	\$ _____	\$ _____
4.	Total payroll deductions (Add items in #3)	\$ _____	\$ _____	\$ _____
5.	Net monthly income (Subtract Line 4 from Line 2)	\$ _____	\$ _____	\$ _____
6.	Monthly fixed expenses <sup>4</sup> :	\$ _____	\$ _____	\$ _____
a.	Residence <sup>5</sup>	\$ _____	\$ _____	\$ _____
b.	Utilities <sup>6</sup>	\$ _____	\$ _____	\$ _____
c.	Car payments	\$ _____	\$ _____	\$ _____
d.	Insurance premiums	\$ _____	\$ _____	\$ _____
	(1) Car or other vehicle	\$ _____	\$ _____	\$ _____
	(2) Life <sup>7</sup>	\$ _____	\$ _____	\$ _____
	(3) Health <sup>7</sup>	\$ _____	\$ _____	\$ _____
	(4) Homeowners <sup>8</sup> or renters	\$ _____	\$ _____	\$ _____
	(5) Other	\$ _____	\$ _____	\$ _____
e.	Day care <sup>9</sup>	\$ _____	\$ _____	\$ _____
f.	Credit card payments <sup>10</sup>	\$ _____	\$ _____	\$ _____
g.	Loan payments	\$ _____	\$ _____	\$ _____
h.	Child support payments <sup>11</sup>	\$ _____	\$ _____	\$ _____
i.	Medical	\$ _____	\$ _____	\$ _____
j.	Other	\$ _____	\$ _____	\$ _____
7.	Total monthly fixed expenses (Add items in #6 and #7) <sup>12</sup>	\$ _____	\$ _____	\$ _____
8.	Net spendable income (Line 5 minus Line 7)	\$ _____	\$ _____	\$ _____
9.	1/2 of combined net spendable income (1/2 of Line 8 Column 3) <sup>13</sup>	\$ _____	\$ _____	
10.	Amount transferred and received <sup>14</sup>	\$ _____	\$ _____	
11.	Child support adjustment <sup>15</sup> (see table, Use Note 15)	\$ _____	\$ _____	
12.	Total to be transferred <sup>16</sup>	\$ _____	\$ _____	

I, \_\_\_\_\_, affirm under penalty of perjury under the laws of the State of New Mexico that I am the [ ] Petitioner (or) [ ] Respondent in the above-entitled

cause, and I know and understand that the contents of this Statement are true to the best of my knowledge and belief.

---

Signature      Date

### USE NOTES

1. This form is to be used with an Interim Order Allocating Income and Expenses, Form 4A-213 NMRA. Unless, upon motion of a party, the court orders the division of separate income and expenses, only community income and expenses should be included on this form. In minimal or negative income cases, the court will have discretion to fashion an appropriate order.

2. "Gross monthly income" is income from all sources except child support received from a prior court order. For self-employed individuals, gross monthly income means gross receipts less reasonable and ordinary business expenses. For varying income and expenses use the average of the last three (3) months' income and expenses.

Gross monthly income is to be computed by using one of the following: hourly wage x average hours worked per week x 52 divided by 12; weekly wage x 52 divided by 12; every two weeks wage x 26 divided by 12; twice monthly x 2. For varying wages, use the average of the last three months' income.

3. "Deductions" are payroll deductions for taxes, social security, health insurance, union dues, retirement and other employer-related deductions. Payroll deductions are to be computed on a monthly basis as described in Use Note 2.

4. "Monthly fixed expenses" include periodic expenses even though paid quarterly, semiannually or yearly. Fixed expenses are to be computed on a monthly basis by using one of the following: annual income or expenses divided by 12. For varying expenses, use the average of the last three months' receipts or expenses.

5. Residence fixed expense is mortgage or rent actually paid. If a party receives free rent, *e.g.*, by living with parents, that party's rent is imputed as zero. If residence expense is a mortgage payment for the residence of a party, unless already separately stated, include insurance and taxes.

6. Include monthly average payments for gas, electricity, water, sewer, refuse, and basic telephone bill, if not paid as part of rent. Use average for last 12 months if known.

7. Do not include medical, dental, liability, life, or other insurance that is deducted by payroll deduction.

8. Do not include homeowners insurance premiums if the premium is included as part of the residence expense, Line 6(a).

9. Day care fixed expense is work-related day care and does not include baby-sitting or occasional day care.

10. "Credit card payments" is listed as a fixed expense and includes only the minimum monthly payment as of the date of the filing of the petition.

11. Any regular monthly payment ordered by a prior order of child support or alimony, which is actually paid, is a fixed expense.

12. Line 8. "Net spendable income" and "combined net spendable income" are determined by subtracting Line 7, "total monthly fixed expenses," from Line 5, "net monthly income."

Negative combined net spendable income. If the "combined net spendable income" (Line 8, Column 3) is a negative number, and there are no children, adjust the allocations of income or expenses between the parties, or transfer an amount from one party to another so that the amount of net spendable income for the petitioner and respondent on Line 9 is equal. Do not complete Lines 10, 11, and 12. If Line 8, Column 3 has a negative or minimal "combined net spendable income," and there are children, the court will need to fashion an appropriate form to divide interim income and expenses of the parties.

13. Line 9. Equalizing spendable income. If "net spendable income" on Line 8, Column 3, is a positive number, divide "combined net spendable income" by two and enter the result in each column of Line 9.

14. Line 10. Amount transferred and received. The party with the larger net spendable income will transfer an equalizing amount to the party with the smaller net spendable income. To determine the amount of the transfer or receipt, subtract Line 9 (one-half of combined net spendable income) from Line 8, "net spendable income" and enter the amount on Line 10. This is the amount to be transferred by the party with the larger net spendable income to the party with the lower net spendable income.

For example, if the petitioner has a net spendable income of \$1,000.00 per month and the respondent has a net spendable income of \$500.00 per month, divide the total, \$1,500.00, by two. Since the petitioner has the larger net spendable income, enter the result, \$750.00, on Line 9, under Column 1. To determine the amount the petitioner transfers, subtract Line 9 of Column 1 from Line 8 of Column 1 (\$1,000.00 minus \$750.00 = \$250.00) and this amount (\$250.00) will be transferred each month by the petitioner to the respondent.

15. Line 11. Children. If Line 8, Column 3, is a positive number, an adjustment for child support is made by multiplying the amount on Line 8, Column 3 (combined "net spendable income") by the applicable percentage in the table below and enter the amount in the party column of the party with primary custody of the child or children. Do not count children who are covered by a prior child support order.

One child	10%
Two children	15%
Three children	19%
Four children	22%
Five children	25%
Six children	28%

If more than six children, add three percent (3%) for each additional child.

For example, if the combined "net spendable income" of the petitioner and respondent (Column 3, Line 8) is \$1,500.00 and there is one child, multiply Column 3, Line 8 (\$1,500.00) by ten percent (10%) and enter the result (\$150.00) on Line 11 in the petitioner and respondent columns.

16. Line 12. Total amount transferred. Line 11 is used to adjust the amount to be transferred by a party or received by a party on Line 10 by the parties. Using the example in Use Notes 14 and 15, if there is one child and the combined net spendable income of the parties is \$1,500.00, an adjustment of ten percent (10%) of \$1,500.00 (\$150.00) is made for child support. If the respondent has primary custody, the respondent will receive another \$150.00. If the petitioner has primary custody, subtract \$150.00 from the amount the respondent is to receive on Line 10. Using the example in Use Notes 14 and 15, if the respondent has primary custody, the petitioner will transfer \$400.00 to the respondent. If the petitioner has primary custody, the petitioner will transfer \$100.00 to the respondent.

[Approved, effective November 1, 2000 until November 1, 2001; approved, effective November 1, 2001; 4A-122 recompiled and amended as 4A-212 by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

## ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, eliminated the requirement that the form be signed before a notary public; after the caption of the case, added "SERVE THIS FORM ON THE OTHER PARTY. DO NOT FILE WITH THE COURT"; in the column headings, changed "Husband" to "Petitioner" and "Wife" to "Respondent"; following the table of income and expenses, added a verification; and deleted the notary public certificate.

**Compiler's note.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-122 NMRA was recompiled and amended as 4A-212 NMRA effective May 31, 2013.

### **4A-213. Interim order allocating income and expenses.**

[For use with Rule 1-122 NMRA]

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v.

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

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

**INTERIM ORDER ALLOCATING INCOME AND EXPENSES<sup>1</sup>**

This matter having come on for a hearing by the court and the court being sufficiently advised **FINDS, CONCLUDES, AND ORDERS:**

1. NOTICE AND APPEARANCES

*(check only applicable paragraphs)*

- Petitioner was present.
- Petitioner was represented by counsel.
- Respondent was present.
- Respondent was represented by counsel.
- Respondent was properly served with a copy of the notice of hearing on the motion for temporary order dividing income and expenses.

2. The parties have agreed to the income and expenses of the parties except:

\_\_\_\_\_.

3. The parties shall receive the income and pay the expenses as listed on the Interim Monthly Income and Expense Statement.

4. Each party shall presumptively be responsible for any debts the party incurs during the pendency of this case.

5. Any assets obtained by either party after the entry of this order from that party's share of net spendable income are presumptively the separate property of the obtaining party.

6. Each party shall use the party's share of the income to pay the party's respective expenses for food, clothing, telephone, utilities, gasoline, car maintenance, entertainment, meals out, haircuts, attorney fees, ordinary medical and dental expenses, and other personal expenses.

7. \_\_\_\_\_ (*name of party*) shall pay to \_\_\_\_\_ (*name of party*) \_\_\_\_\_ dollars (\$\_\_\_\_\_)<sup>2</sup> per month by check or money order, delivered or postmarked on or before the \_\_\_\_\_ of each month during the pendency of this case.

8. The medical and dental expenses of the child or children not covered by insurance shall be paid one-half by each party.

9. Notwithstanding entry of this order, all claims and defenses are preserved.

10. This order shall remain in effect during the pendency of this case except as modified by court order.

11. Disobedience of this order can constitute contempt of court and subject the violator to fine, imprisonment, and other sanction, plus payment of attorney fees and costs to the other party.

---

District Judge

**Recommended by:**

---

Hearing Officer

#### USE NOTES

1. This form is used with Form 4A-212 NMRA.
2. For the amount to be transferred or paid, see Line 12 of Form 4A-212 NMRA.

[Approved, effective November 1, 2000 until November 1, 2001; approved, effective November 1, 2001; 4A-123 recompiled and amended as 4A-213 by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

**ANNOTATIONS**

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, after the signature line for the hearing officer, deleted signature lines for the attorney for petitioner and the attorney for respondent, and deleted the former form of certificate of mailing.

**Compiler’s note.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-123 NMRA was recompiled and amended as 4A-213 NMRA effective May 31, 2013.

**4A-214. Community property and liabilities schedule.**

[For use with Rule 1-123 NMRA]

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_

Petitioner,

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

\_\_\_\_\_

Respondent.

SERVE THIS FORM ON THE OTHER PARTY. DO NOT FILE WITH THE COURT.

**COMMUNITY PROPERTY  
AND DEBTS SCHEDULE**

Neither party is required to submit a proposed distribution. Any stipulation regarding value or distribution should be indicated by an asterisk.

ASSETS	Value		
	Petitioner	Respondent	Combined
1. Cash	\$ _____	\$ _____	\$ _____
2. Financial institution accounts: <sup>1</sup>	\$ _____	\$ _____	\$ _____
a. _____ Account# _____	\$ _____	\$ _____	\$ _____
b. _____ Account# _____	\$ _____	\$ _____	\$ _____
c. _____ Account# _____	\$ _____	\$ _____	\$ _____



d.	_____	Account# _____	\$ _____	\$ _____	\$ _____
3.	Stocks, bonds and mutual funds:				
a.	_____	Sh. _____	\$ _____	\$ _____	\$ _____
b.	_____	Sh. _____	\$ _____	\$ _____	\$ _____
c.	_____	Sh. _____	\$ _____	\$ _____	\$ _____
4.	Insurance policies:				
a.	Company _____				
	[Face amount \$ _____]				
	Cash value		\$ _____	\$ _____	\$ _____
	Loan balance \$ _____		\$ _____	\$ _____	\$ _____
b.	Company _____				
	[Face amount \$ _____]				
	Cash value		\$ _____	\$ _____	\$ _____
	Loan balance \$ _____		\$ _____	\$ _____	\$ _____
5.	Real estate:				
a.	_____	\$ _____			
	Mortgage	\$ _____			
	(\$/mo)				
	REC (\$/mo)	\$ _____			
	Cost of sale				
	(\$/%)	\$ _____	\$ _____	\$ _____	\$ _____
b.	_____	\$ _____			
	Mortgage	\$ _____			
	(\$/mo)				
	REC (\$/mo)	\$ _____			
	Cost of sale				
	(\$/%)	\$ _____	\$ _____	\$ _____	\$ _____
6.	Vehicles:				
a.	_____	\$ _____			
	Lien (\$/mo)	\$ _____	\$ _____	\$ _____	\$ _____
b.	_____	\$ _____			
	Lien (\$/mo)	\$ _____	\$ _____	\$ _____	\$ _____
7.	Business assets		\$ _____	\$ _____	\$ _____
8.	Household furniture and goods		\$ _____	\$ _____	\$ _____
9.	Tax refunds		\$ _____	\$ _____	\$ _____

10. IRA/Keogh/Annuity		\$ _____	\$ _____	\$ _____
11. Retirement		\$ _____	\$ _____	\$ _____
12. Retirement		\$ _____	\$ _____	\$ _____
13. Other total assets		\$ _____	\$ _____	\$ _____
Total assets		\$ _____	\$ _____	\$ _____
<b>DEBTS</b>	<b>(Mo/Pmt)</b>	<b>Value:</b>	<b>Petitioner:</b>	<b>Respondent:</b>
1. _____	\$(_____)	\$ _____	\$ _____	\$ _____
2. _____	\$(_____)	\$ _____	\$ _____	\$ _____
3. _____	\$(_____)	\$ _____	\$ _____	\$ _____
4. _____	\$(_____)	\$ _____	\$ _____	\$ _____
5. Tax Liability	\$(_____)	\$ _____	\$ _____	\$ _____
Total debts:	\$(_____)	\$ _____	\$ _____	\$ _____
<b>ESTIMATED NET ASSETS:</b>		\$ _____	\$ _____	\$ _____
Equalization of Assets:		\$ _____	\$ _____	\$ _____
<b>EQUAL ASSETS:</b>		\$ _____	\$ _____	\$ _____

I, \_\_\_\_\_, affirm under penalty of perjury under the laws of the State of New Mexico that I am the [ ] Petitioner (or) [ ] Respondent in the above-entitled cause, and I know and understand that the contents of this Schedule are true to the best of my knowledge and belief.

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (*print*)

\_\_\_\_\_  
Mailing address (*print*)

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

\_\_\_\_\_  
Telephone number

#### USE NOTES

1. Include all checking, savings, and money market accounts and certificates of deposit.

[Approved, effective November 1, 2000 until November 1, 2001; approved, effective November 1, 2001; 4A-131 recompiled and amended as 4A-214 by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme

Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

### ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, added an unnotarized affirmation that the schedule is correct; in the title of the rule, changed “liabilities” to “debts”; after the case name, added “SERVE THIS FORM ON THE OTHER PARTY. DO NOT FILE WITH THE COURT”; in the title of the form, changed “LIABILITIES” to “DEBTS”; in the assets schedule, in the column headings, changed “Husband” to “Petitioner” and changed “Wife” to “Respondent”; in the column headings in the debts schedule, changed “LIABILITIES” to “DEBTS”, changed “Husband” to “Petitioner” and changed “Wife” to “Respondent”; after “EQUAL ASSETS”, deleted the former affirmation “I have read the foregoing and the amounts are true and correct. I understand that if I make a material misstatement of fact, I may be prosecuted and punished for perjury”, and added the new affirmation; and deleted the former statement by the notary public that the affirmation was signed and sworn before the notary public.

**Compiler’s note.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-131 NMRA was recompiled and amended as 4A-214 NMRA effective May 31, 2013.

### 4A-215. Separate property and liabilities schedule.

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

\_\_\_\_\_ JUDICIAL DISTRICT  
\_\_\_\_\_

Petitioner,

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

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

SERVE THIS FORM ON THE OTHER PARTY. DO NOT FILE WITH THE COURT.

### SEPARATE PROPERTY AND DEBTS SCHEDULE

**ASSETS:**

		<b>Petitioner</b>	<b>Respondent</b>
1.	Checking & Savings Accounts:		
a.	_____ Bk, Ck. # _____	\$ _____	\$ _____
b.	_____ Bk, Sav. # _____	\$ _____	\$ _____
c.	_____ CD # _____	\$ _____	\$ _____
d.	_____ Cr Un # _____	\$ _____	\$ _____
2.	Bonds/Stocks:		
a.	_____ Sh. _____	\$ _____	\$ _____
b.	_____ Sh. _____	\$ _____	\$ _____
3.	Financial institution accounts: <sup>1</sup>		
a.	_____ Account # _____	\$ _____	\$ _____
b.	_____ Account # _____	\$ _____	\$ _____
c.	_____ Account # _____	\$ _____	\$ _____
d.	_____ Account # _____	\$ _____	\$ _____
4.	Stocks, bonds and mutual funds:		
a.	_____ Sh. _____	\$ _____	\$ _____
b.	_____ Sh. _____	\$ _____	\$ _____
c.	_____ Sh. _____	\$ _____	\$ _____
5.	Insurance policies:		
a.	Company _____		
	Policy No. _____		
	Face amount \$ _____		
	Cash value \$ _____		
	Loan balance \$ _____	\$ _____	\$ _____
b.	Company _____		
	Policy No. _____		
	Face amount \$ _____		
	Cash value \$ _____		
	Loan balance \$ _____	\$ _____	\$ _____
6.	Real estate:		
a.	_____		
	Present value \$ _____		
	Mortgage (\$/mo) \$ _____		
	REC (\$/mo) \$ _____	\$ _____	\$ _____
b.	_____		
	Present value \$ _____		
	Mortgage (\$/mo) \$ _____		
	REC (\$/mo) \$ _____	\$ _____	\$ _____

7. Vehicles:		
a. _____	\$ _____	\$ _____
Lien (\$/mo)	\$ _____	\$ _____
b. _____	\$ _____	\$ _____
Lien (\$/mo)	\$ _____	\$ _____
8. Business assets	\$ _____	\$ _____
9. Household furniture and goods	\$ _____	\$ _____
10. Tax refunds	\$ _____	\$ _____
11. IRA/Keogh/Annuity	\$ _____	\$ _____
12. Retirement	\$ _____	\$ _____
13. Retirement	\$ _____	\$ _____
14. Other total assets	\$ _____	\$ _____
Total Separate Assets:	\$ _____	\$ _____
<b>DEBTS:</b>		
a. _____	\$ _____	\$ _____
b. _____	\$ _____	\$ _____
c. _____	\$ _____	\$ _____
d. _____	\$ _____	\$ _____
Total Separate Debts:	\$ _____	\$ _____
<b>NET SEPARATE PROPERTY:</b>	\$ _____	\$ _____

I, \_\_\_\_\_, affirm under penalty of perjury under the laws of the State of New Mexico that I am the [ ] Petitioner (or) [ ] Respondent in the above-entitled cause, and I know and understand that the contents of this Schedule are true to the best of my knowledge and belief.

---

Signature of party                      Date

---

Name (*print*)

---

Mailing address (*print*)

---

City, state, and zip code (*print*)

---

Telephone number

[Approved, effective November 1, 2000 until November 1, 2001; approved, effective November 1, 2001; 4A-132 recompiled and amended as 4A-215 by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31,

2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

## ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, added an unnotarized affirmation under penalty of perjury that the schedule is correct; in the title of the rule and form, changed “liabilities” to “debts”; after the case name, added “SERVE THIS FORM ON THE OTHER PARTY. DO NOT FILE WITH THE COURT”; in the assets schedule, in the column headings, changed “Husband” to “Petitioner” and changed “Wife” to “Respondent”; in the debts schedule, changed “Liabilities” to “Debts” in two places, after “NET SEPARATE PROPERTY”, deleted the former affirmation “I have read the foregoing and the amounts are true and correct. I understand that if I make a material misstatement of fact, I may be prosecuted and punished for perjury”, and added the new affirmation; and deleted the former statement by the notary public that the affirmation was signed and sworn before the notary public.

**Compiler’s note.** — Pursuant to Supreme Court Order No. 13-8300-010, 4A-132 NMRA was recompiled and amended as 4A-215 NMRA effective May 31, 2013.

## Stage Three (3) Divorce Forms

### 4A-300. Domestic relations forms; instructions for stage three (3) forms.

A. **Stage three (3) forms; scope.** The stage three (3) forms are the last forms that you must complete to dissolve your marriage (i.e., get a “divorce”). Once approved by the Court, the agreements and promises that you have made in these forms will settle financial matters between you and the other party, and will control your rights as a parent. When both parties sign the Marital Settlement Agreement (Form 4A-301 NMRA), the Custody Plan and Order (Form 4A-302 NMRA), and the Child Support Obligation and Order (Form 4A-303 NMRA), they may be enforced by either party as contracts. When the Court signs a Final Decree of Dissolution of Marriage (Form 4A-305 or 4A-306 NMRA), you will be divorced, and the Marital Settlement Agreement, the Custody Plan and Order, and the Child Support Obligation and Order will become legally binding on both of you. Any important changes to these agreements should be in writing and signed by both parties. These changes should be filed with the Court. You should be careful when filling out these forms, and be as complete as possible. It is highly recommended that you consult with an attorney.

B. **Marital Settlement Agreement.** A Marital Settlement Agreement (“MSA”) must be completed, signed by both parties, and filed with the Court in every dissolution of marriage case. (Use Form 4A-301 NMRA.) Although the MSA is called an “Agreement,”

if the parties do not agree on its terms, the Court may use the terms of either party's proposed MSA in its final order after a hearing. The MSA describes how you and the other party will divide your property and debts, and how you will settle any other financial matters, including whether one party will pay spousal support or make a cash payment to the other. When the parties sign the MSA or the Court signs and files a Final Decree of Dissolution of Marriage, the MSA is legally binding on both parties. See Paragraph A, above.

If you and the other party cannot agree on some or all of the terms of the MSA, you may request the assistance of a mediator, if available, by completing and filing a Motion for Referral to Mediation (child support or other financial issues) (Form 4A-205 NMRA) with the Court. If you do not believe a mediator will be helpful, you may complete and file a Request for Hearing (Form 4A-206 NMRA), and the Court will make a decision for you. For more information about how to request a hearing, see Subparagraph (1) of Paragraph E of Form 4A-200 NMRA.

The MSA includes the following sections:

(1) **Property we are dividing.** This is where you describe how you will divide your property, including personal property, real property, bank and investment accounts, retirement plans, vehicles, and any other property. Examples of each type of property are included on the form. Complete the Personal Property List (Attachment A) to identify any personal property you own that is valuable to you and to show how you will divide it. If you have real property other than the home you lived in while you were married, complete the Real Property List (Attachment B) to identify the property and to show how you will divide it;

(2) **Debts we are dividing.** This is where you describe how you will divide your debts (e.g., credit cards, loans, etc.), cancel joint credit cards, file your taxes, and handle any issues that may come up with tax returns that were filed while you were married. Complete the Debt List (Attachment C) to identify each of your debts and to show how you will divide them;

(3) **Cash payment.** This is where you show any dollar amount that you have agreed one party should pay the other to settle the division of your property and debts. This amount will be included in the Final Decree of Dissolution of Marriage as a judgment in favor of the party who is to receive the cash payment. This judgment may be enforced as provided by law;

(4) **Spousal support.** This is where you show any dollar amount that you have agreed one party should pay the other as monthly spousal support. If the Court approves this section, the amount and timing of spousal support can be modified only by a court order. For more information on spousal support, see Section 40-4-7 NMSA 1978;

(5) **Other statements by parties.** This is where you promise to do what is necessary to carry out your agreements in the MSA and how you will resolve any arguments you may have about the MSA in the future; and

(6) **Verification.** This is where you affirm the truth of the statements in the MSA and sign it under penalty of perjury.

**C. Custody plan and order.** A Custody Plan and Order must be completed and filed with the Court in every dissolution of marriage case when the parties are the parents of one or more children under eighteen (18) years of age or under the age of nineteen (19) and attending high school. (Use Form 4A-302 NMRA.) This document describes decisions that have been made, and how decisions will be made in the future, about the children. When the Court signs and files a Final Decree of Dissolution of Marriage, the Custody Plan and Order is legally binding on both parties. See Paragraph A, above.

If you and the other party cannot agree on the terms of a Custody Plan and Order, you may request the assistance of a mediator by completing and filing a Motion for Referral to Mediation (child custody, timesharing, or visitation) (Form 4A-204 NMRA) with the Court. If you do not believe that a mediator will be helpful, you may complete and file a Request for Hearing (Form 4A-206 NMRA), and the Court will make a decision for you. For more information about how to request a hearing, see Form 4A-200(E)(1) NMRA. Some courts will not set a hearing on custody matters until the parties have tried mediation but failed to reach an agreement. Check with the Court before you request a hearing to find out if mediation is required.

The Custody Plan and Order includes the following sections:

(1) **Identification and contact information.** This is where you list the names and contact information of the parties and the children who are covered by the form;

(2) **Custody of the children.** This is where you describe the agreement you have reached about how you will make decisions and who will have custody of your children. If you choose sole legal custody, you must provide the specific reason why sole legal custody is in the best interests of the children. Also describe how often, when, and where the non-custodial parent will be allowed to visit the children, if at all. If you choose joint legal custody, you must complete the parenting plan in Subparagraphs one (1) through five (5) of Paragraph B to describe how you will share the custody of your children; and

(3) **Verification.** This is where you affirm the truth of the statements in the Custody Plan and Order and sign it under penalty of perjury.

**D. Child support obligation and Order.** A Child Support Obligation and Order must be completed and filed with the Court in every dissolution of marriage case when the parties are the parents of one or more children under eighteen (18) years of age or



under the age of nineteen (19) and attending high school. (Use Form 4A-303 NMRA.) This document describes how you will divide the expenses of raising the children, including child support and health insurance, and tax issues relating to the children. When the Court signs and files a Final Decree of Dissolution of Marriage, the Child Support Obligation and Order will become legally binding on both parties. See Paragraph A, above.

If you and the other party cannot agree on the terms of the Child Support Obligation and Order, you may request the assistance of a mediator by completing and filing a Motion for Referral to Mediation (child support or other financial issues) (Form 4A-205 NMRA) with the Court. If you do not believe that a mediator will be helpful, you may complete and file a Request for Hearing (Form 4A-206 NMRA), and the Court will make a decision for you. For more information about how to request a hearing, see Form 4A-200(E)(1) NMRA.

The Child Support Obligation and Order includes the following sections:

(1) **Identification and contact information.** This is where you list the names and contact information of the parties and the children who are covered by the form;

(2) **Child support.** This is where you describe how you will share the expenses of raising your children. This portion of the form refers to these additional documents:

(a) *Child support worksheet.* To complete Paragraph A of this section, you must complete and attach a child support worksheet to your Child Support Obligation and Order. The worksheet will help you figure out the amount of child support required by law. The worksheet is available at Section 40-4-11.1 NMSA 1978, or you can find an interactive version at [www.nmcourts.com](http://www.nmcourts.com) by clicking on the "Family Law Forms" link and selecting "Child Support Worksheet." The interactive worksheet will automatically calculate the monthly child support obligation. The amount shown on the child support worksheet will be awarded by the Court. If the parties need to deviate from the amount shown on the child support worksheet, they must request a different amount, explain why that amount is necessary, and the deviation must be approved by the Court; and

(b) *Wage withholding order.* Under Paragraph D of this section, you must tell the Court how you will begin wage withholding for child support. Payment of child support by wage withholding is mandatory unless otherwise agreed by the parties or ordered by the Court. Wage withholding will not take effect until the parties complete a Wage Withholding Order (Form 4A-304 NMRA) and submit it to the Court for filing, or until the Court signs and files the Child Support Obligation and Order and the parties open a case with the New Mexico Human Services Department, Child Support Enforcement Division ("CSED"). CSED can issue a notice of wage withholding for the parties on full service cases. You may request the Court to order wage withholding by attaching a completed Wage Withholding Order to the Child Support Obligation and Order; and

(3) **Verification.** This is where you affirm the truth of the statements in the Child Support Obligation and Order and sign it under penalty of perjury.

E. **Final decree of dissolution of marriage.** When the Court signs and files a Final Decree of Dissolution of Marriage, you and the other party will be divorced. You may request a Final Decree of Dissolution of Marriage as follows:

(1) **Uncontested.** If you and the other party agree on the terms of your MSA (and Custody Plan and Order and Child Support Obligation and Order, if you have children), you may request a Final Decree of Dissolution of Marriage by doing the following:

(a) filing your completed MSA (and completed Custody Plan and Order and Child Support Obligation and Order, if you have children) with the Court Clerk's Office; and

(b) submitting a completed Final Decree of Dissolution of Marriage (Form 4A-305 (without children) or 4A-306 (with children) NMRA) to the judge for approval.

The Court may sign the Final Decree of Dissolution of Marriage without further notice, or it may order you and the other party to appear for a hearing. **WARNING:** Once the Court signs and files the Final Decree of Dissolution of Marriage, your divorce will be final, and the terms of the MSA (and the Custody Plan and Order and Child Support Obligation and Order) will be binding as a court order on both parties. See Paragraph A, above;

(2) **Contested.** If you and the other party do not agree on the terms of your MSA (and Custody Plan and Order and Child Support Obligation and Order, if you have children) and you cannot submit completed forms to the Court, you should request a trial in your case by submitting a Request for Hearing (Form 4A-206 NMRA). For more information about how to request a hearing, see Form 4A-200(E)(1) NMRA.

The Court will set one or more hearings to resolve the remaining disagreements over the terms of the MSA (and the Custody Plan and Order and Child Support Obligation and Order, if you have children). You must complete your own proposed MSA (and Custody Plan and Order and Child Support Obligation and Order if you have children) and Final Decree of Dissolution of Marriage (Form 4A-305 (without children) or Form 4A-306 (with children) NMRA) and bring them with you to the hearing. Once the Court has decided the terms of the MSA (and the Custody Plan and Order and Child Support Obligation and Order if you have children), it will sign and file a Final Decree of Dissolution of Marriage, and you will be divorced from the other party; or

(3) **Default.** If more than thirty (30) days have passed since you filed and served the Petition for Dissolution of Marriage and the other party has not filed an answer or otherwise responded to your petition, you may be able to request a Final Decree of Dissolution of Marriage without the other party's participation. This is called a

default judgment. See Form 4A-310 NMRA for instructions on how to request a default judgment and Final Decree of Dissolution of Marriage.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

### ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, clarified the language of the instructions; changed “your spouse” to “the other party” throughout; added “and Order” after “Custody Plan” and “Child Support Obligation” throughout; in Paragraph A, in the fourth sentence, after “Form 4A-305”, added “or 4A-306”; in Paragraph B, in the fourth sentence, after “When”, added “the parties sign the MSA or”; in Paragraph B (6), after “sign it”, added “under penalty of perjury” and deleted the former second sentence which instructed the petitioner to sign the Marital Settlement Agreement in the presence of a notary; in Paragraph C, in the second sentence, after “in the future, about”, deleted “which parent the children will live with” and added “the children”; in Paragraph C (3), after “sign it”, added “under penalty of perjury”, and deleted the former second sentence which instructed the petitioner to sign the Custody Plan in the presence of a notary; in Paragraph D (3), after “sign it”, added “under penalty of perjury” and deleted the former second sentence which instructed the petitioner to sign the Child Support Obligation before a notary; in Paragraph E (1), after “Dissolution”, added “of Marriage”, and after “Marriage by”, added “doing the following”; in Paragraph E (1)(b), after “Form 4A-305”, added “(without children) or 4A-306 (with children)” and deleted the former second sentence which instructed the parties to sign the final decree in the presence of a notary; in Paragraph E, in the second unnumbered subparagraph, after “will be binding”, added “as a court order”; and in Paragraph E, in the third unnumbered subparagraph, after “complete your own” added “proposed”, and added “and Order if you have children” in two places.

### 4A-301. Marital settlement agreement.

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v.

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

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

## MARITAL SETTLEMENT AGREEMENT<sup>1</sup>

\_\_\_\_\_ (*Petitioner's name*) and  
\_\_\_\_\_ (*Respondent's name*) are married and agree to follow this agreement beginning on the day we both sign it. We understand that the judge may make changes to this agreement and that we must comply with any changes made.

### I. PROPERTY WE ARE DIVIDING<sup>2</sup>

**A. Personal property** (*such as clothing, furniture, jewelry, or artwork*). We have agreed how we will divide our property. We have attached a Personal Property List (Attachment A) showing all our property and which of us will receive that property.

(Choose 1 or 2)

1. Each of us already has possession of all the personal property we each expect to receive.
- (Or)
2. We will make sure we each have our own property by \_\_\_\_\_

**B. Real Property** (*such as a home, mobile home, condominium, lot, or commercial building*).<sup>3</sup>

(Choose all that apply)

1. Neither of us owns real property.
2. We own a marital home, which is located at \_\_\_\_\_  
(*street address*), and we agree to do the following:  
(Complete the correct section: a. Keep the home; b. Sell the home; or c. Other plan)

- a. **Keep the home.** We agree to the following:

(Choose i or ii)

- i. Petitioner shall keep the home and be responsible for all debts related to the home.
- (Or)

- ii. Respondent shall keep the home and be responsible for all debts related to the home.
- The person who keeps the home is called the "homeowner." The other person is called the "non-homeowner."

We further agree to the following:

(Choose all that apply)

- iii. The amount owed to the moving spouse to buy out that person's interest is \$\_\_\_\_\_, which is included in the calculation of the Cash P below.
- iv. The homeowner will apply to refinance the debt owed on the home no later than \_\_\_\_\_ (date).
- v. This is our plan for the homeowner to buy out the moving spouse's interest in the moving spouse off of the loan papers:<sup>4</sup>

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- b. **Sell the home.** We are going to sell the home and divide the money from the sale as

While the home is being sold,  Petitioner (or)  Respondent (choose one) will stay  
Until the home sells, we will pay expenses, including mortgage, taxes and insurance  
repairs for the home as follows (describe who is to pay and how much each person v

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We both will cooperate with the showing of the home and the sale of the home, inclu  
paperwork needed in order to sell it and transfer title. Both of us will preserve the hom  
way including the following things:

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- c. **Other plan.** We have attached a separate sheet with our plan regarding the home.
- 3. One or both of us has other real property as set forth in the attached Real Property List ( we have agreed to divide that property as set forth in the attachment. If one party owes t division of the other real property, that amount should be included in the calculation of th Section III, below.

**C. Bank and investment accounts** (such as checking accounts, savings accounts, stocks, bonds, certificates of deposit, mutual funds, or life insurance policies with cash value).

(Choose 1 or 2)

- 1. We do not have any bank or investment accounts.  
(Or)
- 2. We have the following bank or investment accounts and will divide them as follows:

Petitioner will have the following bank or investment accounts:

**Name of institution**

**Last four (4) digits  
of account number**

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Respondent will have the following bank or investment accounts:

**Name of institution**

**Last four (4) digits  
of account number**

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**D. Retirement Plans** (such as IRAs, retirement accounts, pension plans, or 401(k) plans).<sup>5</sup>

(Choose 1 or 2)

1. Neither of us has a retirement plan.

(Or)

2. We will be dividing our retirement plan(s) as follows:

Petitioner has the following retirement plan(s):

(Circle one to show whether Petitioner will KEEP the entire plan, DIVIDE the plan with Respondent, or TRANSFER the entire plan to Respondent)

If plan will be DIVIDED, the amount or % to be given to Respondent:

[KEEP] [DIVIDE] [TRANSFER]

[KEEP] [DIVIDE] [TRANSFER]

[KEEP] [DIVIDE] [TRANSFER]

Respondent has the following retirement plan(s):

(Circle one to show whether Respondent will KEEP the entire plan, DIVIDE the plan with Petitioner, or TRANSFER the entire plan to Petitioner)

If plan will be DIVIDED, the amount or % to be given to Petitioner:

[KEEP] [DIVIDE] [TRANSFER]

[KEEP] [DIVIDE] [TRANSFER]

[KEEP] [DIVIDE] [TRANSFER]

(Check and complete if retirement plan(s) will be divided)

For the following retirement plans that will be divided, Petitioner shall prepare a Qualified Domestic Relations Order ("QDRO"), obtain the signature of the other party, and submit the QDRO to the Court by \_\_\_\_\_ (date).<sup>6</sup> (List the plans)

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For the following retirement plans that will be divided, Respondent shall prepare a Qualified Domestic Relations Order ("QDRO"), obtain the signature of the other party, and submit the QDRO to the Court by \_\_\_\_\_ (date).<sup>6</sup> (List the plans)

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**E. Vehicles** (such as cars, trucks, motorcycles, recreational vehicles, boats, tractors, or trailers).<sup>7</sup>

(Choose 1 or 2)

1. We do not have any vehicles.

(Or)

2. We have vehicles and are dividing them as follows:

Petitioner will keep the following vehicles and assume any debt relating to each vehicle (per year of each vehicle and list the vehicle identification number):

**Vehicle description**

**Vehicle Identification No.  
(last six digits)**

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Respondent will keep the following vehicles and assume any debt relating to each vehicle (per year of each vehicle and list the vehicle identification number):

**Vehicle description**

**Vehicle Identification No.  
(last six digits)**

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Each person listed above as keeping the vehicles will pay for the costs of the vehicles, and will transfer title by the following date:

\_\_\_\_\_ (date).

(Or)

when the vehicle is paid off.

(Or)

the party who is keeping the vehicle already has the title in his/her name.

**F. Other property** (such as business interests, patents, trademarks, copyrights, royalties, manuscripts, or any other property).

(Choose 1 or 2)

1. Neither party has any other property.

(Or)

2. One or both parties has the other property listed below, and we have agreed to divide it as

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## II. DEBTS WE ARE DIVIDING<sup>8</sup>

**A. Debt.** We attach a Debt List (Attachment C) which lists all of our debts, including mortgages, vehicle payments, taxes, credit cards, student loans, medical debts, judgments, and any other debts we may have. Any debt not listed is the responsibility of the person who created it. Each of us will pay debts we created prior to our marriage, unless we state differently here. Unless we state differently here, a person who takes property (such as a house or car) with a debt associated with it, will take the debt.

(Choose all that apply)

We have no debt from our marriage.

We will pay our debts as listed on Attachment C.

The amount owed from \_\_\_\_\_ to \_\_\_\_\_ for the division of the debts is \$\_\_\_\_\_, which is included in the calculation of the Cash Payment, Section III, below.

**B. Credit cards and charge cards.** Each of us will turn in and cancel all joint credit cards, or we will have the credit card company take the other person's name off of the account.



**C. Taxes.** We will share information necessary to correctly file our income tax returns. We will get the help we need to file our taxes.

**D. Problem with tax returns.** If any of our returns that we filed together are audited or contested, we will meet to decide what to do. If we cannot decide who pays the taxes owed or who gets any refund, we will ask a judge to decide at the time the problem comes up.

**E. Legal promise.** We understand that if either of us fails to pay the debts we have promised to pay, the other party may end up making that payment. If that happens, the party who should have paid promises to repay the other party, including any other extra costs caused by the failure to pay, such as attorney fees, late fees, and interest charged by the creditor.

### III. CASH PAYMENT

*(If the parties have agreed that one party should pay money to the other in any of the preceding sections, those amounts should be included in this section.)*

In order to settle the division of property and debts, we agree that \_\_\_\_\_ (name) shall pay \_\_\_\_\_ (name) the amount of \$\_\_\_\_\_ no later than \_\_\_\_\_ (date). We agree that judgment shall enter in this amount for \_\_\_\_\_ (name of person owed money). The statutory interest rate shall apply as provided in Section 56-8-4(A) NMSA 1978.

### IV. SPOUSAL SUPPORT<sup>9</sup>

A. We agree to spousal support as follows:

*(Choose 1 or 2)*

1. **No spousal support.** Each of us can support ourselves and neither will pay spousal support.  
*(Or)*

2. **Spousal support.**  Petitioner *(or)*  Respondent *(choose one)* will pay spousal support.

Spousal support shall be paid as follows:

*(Choose i, ii, or iii)*

i. \$\_\_\_\_\_ per month on the \_\_\_\_\_ (date) of each month until \_\_\_\_\_ (date), which is not modifiable.

*(Or)*

ii. \$\_\_\_\_\_ per month on the \_\_\_\_\_ (date) of each month until \_\_\_\_\_ (date).

*(Or)*

[ ] iii. This is our other plan:

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## V. OTHER STATEMENTS BY PARTIES

**A. Documents.** We will each sign the documents we need to divide the property and debts, and each will deliver to the other party all documents related to property and debt awarded to the other.

**B. Future issues.<sup>10</sup>**

1. Either of us may ask the judge for help if
  - a. one of us does not do what we said in this agreement; or
  - b. we cannot agree on what this agreement says.

We understand that the judge may make one party pay costs such as attorney fees.

2. If we forgot or failed to list any property or debt, we will seek the help we need to divide that property or debt.<sup>11</sup>

**C. Final agreement.** This is the final and entire agreement of the parties. Neither party is relying on other promises or statements that are not specifically included in this document.

## VERIFICATION

When I sign here, I am telling the judge under oath and penalty of perjury:

I have read this agreement and agree with everything in it; I have read the warnings and cautions listed in this agreement;

I have disclosed all assets and debts known to me, and I understand that my spouse is relying on my disclosures;

I have gotten the help I needed before signing this agreement; and this document and the statements in it are true and correct to the best of my knowledge and belief.

I understand that I can be punished both civilly and criminally if any information in this agreement is false.

\_\_\_\_\_  
Petitioner's signature  
Date: \_\_\_\_\_

\_\_\_\_\_  
Mailing address: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Respondent's signature  
Date: \_\_\_\_\_

\_\_\_\_\_  
Mailing address: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Telephone

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

Acknowledged, signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_ by \_\_\_\_\_, the petitioner.

\_\_\_\_\_  
Notary public  
My commission expires: \_\_\_\_\_.

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

Acknowledged, signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_ by \_\_\_\_\_, the respondent.

\_\_\_\_\_  
Notary public  
My commission expires: \_\_\_\_\_.

**ATTACHMENT A: PERSONAL PROPERTY LIST**

*(Attach additional pages if needed)*

*List all items of value to you, such as furniture, household items, electronics, art, jewelry, and tools.*

Item	Dollar Value	Will belong to ( <i>check box for each item</i> ):	
		Petitioner	Respondent


**ATTACHMENT B: REAL PROPERTY LIST**  
*(Attach additional pages if needed)*

*List all homes (other than the marital home), land, or other real property owned by Petitioner or Respondent.*

**Other Real Property**

1. Address/Description of property: \_\_\_\_\_

We agree to do the following with the property after the divorce:

*(Choose all that apply)*

\_\_\_\_\_ Petitioner will keep the property;

\_\_\_\_\_ Respondent will keep the property;

\_\_\_\_\_ [ ] Petitioner [ ] Respondent shall pay the other party \$\_\_\_\_\_.

\_\_\_\_\_ The property will be sold and the proceeds divided as follows:

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\_\_\_\_\_ Other plan:

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2. Address/Description of property: \_\_\_\_\_

We agree to do the following with the property after the divorce:

*(Choose all that apply)*

\_\_\_\_\_ Petitioner will keep the property;

\_\_\_\_\_ Respondent will keep the property;

\_\_\_\_\_ [ ] Petitioner [ ] Respondent shall pay the other party \$\_\_\_\_\_.

\_\_\_\_\_ The property will be sold and the proceeds divided as follows:

---

---

\_\_\_\_\_ Other plan

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**ATTACHMENT C: DEBT LIST**  
*(Attach additional pages if needed)*



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**DO NOT FILE THIS PAGE: FOR PARTY USE ONLY**

USE NOTES

1. A marital settlement agreement must be filed in every dissolution of marriage cause. See Forms 4A-100, -200, and -300 NMRA for additional information about completing and filing this form.

2. It is highly recommended that you consult with an attorney. Whether property is separate or community is a complicated issue. There can be serious consequences, including tax consequences, for the division of property and for not properly transferring property, including retirement accounts. You may need separate documents to transfer divided property.

3. To transfer land, a building or a home other than a mobile home, the parties must prepare, sign and record a deed in the real property records where the property is located. To transfer a mobile home, contact the Motor Vehicle Division.

4. If both parties are listed on the mortgage, you must seek lender approval to remove the moving spouse from the mortgage and from responsibility for payment.

5. If the parties are going to divide a retirement plan, contact the retirement plan before completing and filing this form. Depending on the plan, a QDRO may be necessary. If the parties cannot agree on the terms of the QDRO, they should request a hearing.

6. CAUTION: You may want to consult an attorney about your retirement, pension, deferred compensation, 401k plans, and/or benefits. If you do not see an attorney regarding these assets, you risk losing any interest you have in these plans and/or benefits. There are certain documents the plan administrator must have. An attorney can help you prepare these documents.

7. To transfer vehicles or a mobile home, contact the Motor Vehicle Division.

8. This agreement may not affect the rights of creditors even when approved by the Court as part of the final decree. The creditor may expect payment from you no matter who agrees to pay the debt in this agreement. See an attorney if you have questions about separate and community debts and separate and community property.

9. There can be serious consequences resulting from spousal support awards. If your agreement includes spousal support, you should consult with an attorney.

10. Consult with an attorney if problems arise later.

11. To divide property or debts left out of this agreement, see Section 40-4-20(A) NMSA 1978.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. 15-8300-024, effective for all pleadings and papers filed after November 18, 2015; as amended by Supreme Court Order No. 19-8300-006, effective for all pleadings and papers filed on or after July 1, 2019.]

## ANNOTATIONS

**The 2019 amendment**, approved by Supreme Court Order No. 19-8300-006, effective after July 1, 2019, made technical and clarifying changes to the form, provided an additional option related to transferring vehicle titles, removed an option on the form related to tax claims for spousal support, and revised the Verification language; in Section I, Paragraph B(1), replaced “has” with “owns” preceding “real property”, in Paragraph B(2), replaced “have” with “own” preceding “a marital home”, in Paragraph E, in option 2, after each occurrence of “Vehicle Identification No.”, added “(last six digits)”, and after “when the vehicle is paid off”, added the option “[ ] the party who is keeping the vehicle already has the title in his/her name.”; in Section III, after the third occurrence of “name”, added “of person owed money”; in Section IV, in option “2.”, deleted Subparagraph b, which related to tax claims for spousal support, and made conforming changes; and in the Verification section, deleted “I affirm under oath and penalty of perjury under the laws of the State of New Mexico the following:” and added “When I sign here, I am telling the judge under oath and penalty of perjury:”, and after “I understand that”, deleted “the other party” and added “my spouse”.

**The 2015 amendment**, approved by Supreme Court Order No. 15-8300-024, effective November 18, 2015, required the parties to sign the agreement before a notary public; in the “Verification” provision, in the first sentence, after “I affirm under”, added “oath and”, and added the petitioner and respondent notarization sections of the Verification.

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, eliminated the requirement that the parties sign the agreement before a notary public; clarified the information that the parties are required to submit; changed “Husband” to “Petitioner” and changed “Wife” to “Respondent” throughout; in the introductory sentence, after “married”, deleted “We agree to this entire agreement. We will each” and added “and agree to”; in Section I, Paragraph B 2(a), in the first sentence, after “We agree”, deleted “that” and added “to the following”, in Item i, in the second sentence, after “We further agree”, deleted “that” and added “to the following”; in Section I, Paragraph C, after “Choose”, changed “all that apply” to “1 or 2”, and between



Subparagraphs 1 and 2, added "(Or)", in Paragraph C 2, added the first sentence, in the second sentence, changed "Husband has" to "Petitioner will have", in the third sentence, changed "Wife has" to "Respondent will have", deleted the former third sentence which provided for a list of joint bank or investment accounts, and deleted the former fourth sentence which provided for a list of bank or investment accounts that the parties agreed to divide; in Section I, Paragraph D, after "Choose", changed "all that apply" to "1 or 2" and between Subparagraphs 1 and 2, added "(Or)"; in Paragraph D 2, added the first sentence, deleted the former first sentence which provided for a list of the husband's retirement plans, deleted the former second sentence which provided for a list of the wife's retirement plans, deleted the former third sentence which provided for a list of retirement plans the parties had agreed to divide, added the table showing the parties retirement plans and how they will be divided between the parties, added the parenthesis and sentence following the table, in the first paragraph following the table, added the first sentence, in the second sentence, deleted "Husband (or) Wife" and added "Petitioner", after "shall prepare", deleted "and submit", after "('QDRO')", added "obtain the signature of the other party, and submit the QDRO", and after "(date)", added "(List the plans)", and after the table, added the second paragraph; in Section I, Paragraph E, in the third paragraph, second sentence, after "transfer of title by", added "the following date"; in Section IV, Paragraph A 2(a), after "Choose i", deleted "or" and after "ii", added "or iii"; in Paragraph A 2, Item i, after "(period of time)", deleted "or until the court says differently", and added "which is not modifiable"; in Paragraph A 2(a), added Item ii; in the Verification, in the first paragraph, deleted "When I sign here, I am telling the judge under oath and penalty of perjury" and added the new sentence; in the third sentence, after "I understand that", changed "my spouse" to "the other party", in the signature block, added a blank for the date; deleted the former separate acknowledgments for each party; and in the Use Notes, in Paragraph 1, in the first sentence, after "A", deleted "verified", in Paragraph 3, at the end of the second sentence, deleted "or see a professional", in Paragraph 5, added the last sentence, added Paragraph 6, in Paragraph 7, at the end of the sentence, deleted "or see a professional", and in Paragraph 8, in the first sentence, after "The agreement", changed "does" to "may".

**Compiler's note.** — Pursuant to Supreme Court Order No. 13-8300-010, a new 4A-301 NMRA was adopted effective May 31, 2013.

**Withdrawals.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-301 NMRA, relating to petition for dissolution of marriage without children, was withdrawn effective May 31, 2013.

## **4A-302. Custody plan and order.**

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v.

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

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

### CUSTODY PLAN AND ORDER<sup>1</sup>

\_\_\_\_\_ and \_\_\_\_\_ are the parents of the children listed below. This document is the custody plan and is in the best interests of the children.

#### I. IDENTIFICATION AND CONTACT INFORMATION

**Parent's name**

**Physical address and phone number**

**Place of employment and phone number**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Child's name**

**Year of birth**

**Age**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The parties shall advise each other of any change to this contact information within ten (10) days of new information becoming available.

#### II. CUSTODY OF THE CHILDREN<sup>2</sup>

*(Choose either Option A, Sole legal custody, or Option B, Joint legal custody)*

A. **Sole legal custody and visitation plan. (Do not fill out Option B if you choose this option)**

*(Complete 1, 2, and 3)*

1. \_\_\_\_\_ (*name of parent with sole custody*) shall have sole legal custody of the children. The parent with sole custody shall make the important decisions regarding the children.

2. The reason that sole custody is in the best interest of the children is because:

\_\_\_\_\_

3. This is the visitation plan:

(Choose a, b, or c)

a. There shall be **no visitation** until further order of the Court.

(Or)

b. \_\_\_\_\_ (name of other parent) shall have **unsupervised visitation** with the children as follows: (Fully describe visitation plan to include who shall transport the children and where and when the visitation shall occur. Attach additional sheets if necessary.)

(Or)

c. \_\_\_\_\_ (name of other parent) shall have **supervised visitation** with the children as follows: (Fully describe visitation plan to include who shall supervise the visitation, who shall transport the children and where and when the visitation shall occur. Attach additional sheets if necessary.)

B. **Joint legal custody and parenting plan. (Do not fill out Option A if you choose this option)**

1. **Important decisions.** The parents shall share joint legal custody of the children and shall make important decisions about the children together. No change regarding any of the following shall happen unless the parents both agree to the change in writing or the court changes it:

a. City and county of residence: \_\_\_\_\_

b. Religion: \_\_\_\_\_

c. Activities: \_\_\_\_\_

	<b>Name</b>	<b>Address and telephone</b>
d. Doctor	_____	_____
e. Dentist	_____	_____
f. School	_____	_____
g. Child care	_____	_____
h. Other	_____	_____

2. **Solving arguments.** The parents shall resolve any parenting or time-sharing dispute regarding the children in this way (*steps continue until problem solved*):
- a. Talk together; or
  - b. Communicate in writing as follows:
    - i. parent requests change, and gives reasons for the change; and
    - ii. answering parent sends response within \_\_\_\_\_ days.

If the answering parent does not agree to the change, that parent must say why, and, if possible, make a new proposal.

- c. Take the following steps:  
(*check all that apply and number them if there is a particular order*)
  - \_\_\_\_\_. Go to couple, family, or other counseling;
  - \_\_\_\_\_. Go to mediation with a neutral party;
  - \_\_\_\_\_. Other: \_\_\_\_\_;
  - \_\_\_\_\_. Go to court.

3. **Timesharing schedule.**

(*Complete "Schedule 1" or "Schedule 2" below.*)

- Schedule 1. Same schedule each week or every two weeks.** (*Set out the time that each parent shall have the children for that day.*)

<b>Week 1</b>	<u>                    </u> 's time ( <i>name of parent</i> )	<u>                    </u> 's time ( <i>name of parent</i> )
Monday	_____	_____
Tuesday	_____	_____
Wednesday	_____	_____
Thursday	_____	_____
Friday	_____	_____
Saturday	_____	_____
Sunday	_____	_____
<b>Week 2</b>	<u>                    </u> 's time ( <i>name of parent</i> )	<u>                    </u> 's time ( <i>name of parent</i> )
Monday	_____	_____
Tuesday	_____	_____
Wednesday	_____	_____
Thursday	_____	_____
Friday	_____	_____
Saturday	_____	_____
Sunday	_____	_____

- Schedule 2. Write your own schedule.** (*Write your own schedule here or attach a separate sheet or calendar or make additions to Schedule 1.*)

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4. **Vacation and holiday plan.**

- a. **Vacations.** The parents shall each have \_\_\_\_ [days] [weeks] (*circle one*) of uninterrupted time with the children each year. Each parent shall give the other parent at least \_\_\_\_ [days] [weeks] (*circle one*) notice of the vacation time.
- b. **Holidays.** Regardless of the day of the week, the children shall spend holidays as follows: (*Insert name of parent who will have the children on each holiday*)

<b>Holidays:</b>	<b>Even year</b>	<b>Odd Year</b>	<b>Times (if split)</b>
Mother's Day	_____	_____	From _____ To _____
Father's Day	_____	_____	From _____ To _____
Child's Birthday	_____	_____	From _____ To _____
Halloween	_____	_____	From _____ To _____
Thanksgiving break	_____	_____	From _____ To _____
Winter religious holidays	_____	_____	From _____ To _____
1st 1/2 winter break	_____	_____	From _____ To _____
2nd 1/2 winter break	_____	_____	From _____ To _____
Spring Break	_____	_____	From _____ To _____
July 4th	_____	_____	From _____ To _____
Other religious holidays	_____	_____	From _____ To _____
Other:	_____	_____	From _____ To _____

The Monday of a 3-day weekend due to a school, federal, or state holiday is the same as the Sunday schedule unless we agree differently.

5. **Details about the timesharing.**

- a. **Communication.** Each parent may have reasonable communication with the children at all times. Neither parent shall unreasonably interfere with the children's communications with the other parent.

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b. **Transfer of children.** Responsibility for transferring the children from one parent to the other shall be as follows (*write what you will do here*):

c. **Long-distance transfer of children.** Responsibility for transferring the children from one parent to the other in long-distance arrangements shall be as follows (*write down what you will do here*):

d. **Emergencies.** If there is a medical emergency, the parent with the children shall try to call the other parent about the emergency. If the other parent cannot be reached, any decision for emergency medical treatment shall be made by the available parent in the best interest of the children.

e. **Changes.** Each parent may ask the other for changes to this schedule. The other parent has the right to say "no." If the other parent says "no," the parent asking for changes shall not argue or criticize the other parent's decision.

f. **Review of plan.** The parents agree to meet  every year (*or*)  every \_\_\_\_ years to make sure this plan continues to work well.

### VERIFICATION

I affirm under oath and penalty of perjury under the laws of the State of New Mexico that I have read this document, that I agree with everything in it, and that the statements in it are true and correct to the best of my knowledge and belief.

\_\_\_\_\_  
Name of parent (*print*)

\_\_\_\_\_  
Parent's signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mailing address

\_\_\_\_\_  
Physical address

\_\_\_\_\_  
Telephone

STATE OF NEW MEXICO     )  
COUNTY OF                    )     ss.

\_\_\_\_\_  
Name of parent (*print*)

\_\_\_\_\_  
Parent's signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mailing address

\_\_\_\_\_  
Physical address

\_\_\_\_\_  
Telephone

Acknowledged, signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_ by \_\_\_\_\_, the parent.

\_\_\_\_\_  
Notary public

My commission expires: \_\_\_\_\_.

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

Acknowledged, signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_ by \_\_\_\_\_, the parent.

\_\_\_\_\_  
Notary public

My commission expires: \_\_\_\_\_.

Approved, adopted, and ordered  
by the District Court

\_\_\_\_\_  
Date

\_\_\_\_\_  
District Court Judge

### USE NOTES

1. A custody plan must be filed in every dissolution of marriage case if the parties have minor children or a child under nineteen years of age who is attending high school. For more information about filling out this form, see Form 4A-300 NMRA.

2. The parties should understand the difference between the rights and obligations of joint custodians and a sole custodian. Descriptions of these terms are set out in NMSA 1978, Section 40-4-9.1. See an attorney with questions you may have. Joint custody does not imply an equal division of the child's time between the parents or an equal division of financial responsibility for the child.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. 15-8300-024, effective for all pleadings and papers filed after November 18, 2015.]

### ANNOTATIONS

**The 2015 amendment**, approved by Supreme Court Order No. 15-8300-024, effective November 18, 2015, required the parents to sign the agreement before a notary public; in the “Verification” provision, in the first sentence, after “I affirm under”, added “oath and”, and after the parents’ personal information, added the two parent notarization sections of the Verification.

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, made the custody plan an order of the court; eliminated the requirement that the parties sign the agreement before a notary public; changed “will” to “shall” throughout; changed “we” to “the parents” throughout; in the title of the rule and form, after “plan”, added “and order”; in the first paragraph, deleted the former second sentence which provided that the parties agreed that the document was their custody plan, and at the beginning of the second sentence, added “This document is the custody plan and”; in Section II, Paragraph A (3), deleted “We agree to the following” and added “This is the”; in Section II, Paragraph B (3), deleted the column headings “Mother’s time” and “Father’s time”; in Section II, Paragraph B (4)(a), deleted the former third sentence which provided that disputes would be resolved as agreed in the agreement; in Section II, Paragraph B (4)(b), after “shall spend”, added “holidays as follows”, and in the table, deleted the column headings “Mother” and “Father”; in Section II, Paragraph B (4)(e), in the second sentence, after “parent says ‘no’”, deleted “we” and added “the parent asking for changes”; in the Verification, in the first sentence, deleted “When I sign here, I am telling the judge under oath and”, and added “I affirm under” and after “penalty of perjury”, added “under the laws of the State of New Mexico”, under the signature lines, changed “Father’s” and “Mother’s” to “Parent’s”, and deleted the acknowledgments for each of the parties; and above the signature line for the judge, after “Approved”, added “adopted, and ordered”.

**Compiler’s note.** — Pursuant to Supreme Court Order No. 13-8300-010, a new 4A-302 NMRA was adopted effective May 31, 2013.

**Withdrawals.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-302 NMRA, relating to petition for dissolution of marriage with children, was withdrawn effective May 31, 2013.

### **4A-303. Child support obligation and order.**

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_

Petitioner,

v.

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



\_\_\_\_\_,'

Respondent.

**CHILD SUPPORT OBLIGATION AND ORDER<sup>1</sup>**

\_\_\_\_\_ and \_\_\_\_\_ are the parents of the children listed below.

**I. IDENTIFICATION AND CONTACT INFORMATION**

<b>Parent's name</b>	<b>Physical address and phone number</b>	<b>Place of employment and phone number</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

<b>Child's name</b>	<b>Year of birth</b>	<b>Age</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The parents shall advise each other of any change to this contact information within ten (10) days of new information becoming available.

**II. CHILD SUPPORT<sup>2</sup>**

- A. **Child Support Worksheet.**<sup>3</sup> A signed child support worksheet is attached to this plan. (Complete)  
**Child support:** \_\_\_\_\_ pays \_\_\_\_\_ \$\_\_\_\_\_ per month.  
the youngest child turns eighteen (18); however, if the youngest child turns eighteen (18) within \_\_\_\_\_,  
(Choose 1 or 2)
  - 1. This amount is the amount shown on the worksheet;(Or)

2. This is a deviation from the amount shown on the child support worksheet because \_\_\_\_\_

**B. Health insurance coverage<sup>6</sup>**

*(Choose 1, 2, or 3)*

1. \_\_\_\_\_ (*name of parent*) shall keep the minor children covered under \_\_\_\_\_  
(Or)

2. Neither parent has private health or dental insurance coverage available at a reasonable cost. The Child Support Enforcement Division ("CSED"), has been given sufficient information to determine that \_\_\_\_\_  
(Or)

3. Other health insurance coverage shall be provided as follows:  
\_\_\_\_\_

**C. Additional healthcare expenses to be determined by percentage.** The parents shall split the cost of \_\_\_\_\_

**D. Wage withholding of child support.**

*(Choose and complete 1 or 2)*

1. **Withhold wages for child support.** Child support payment shall be withheld from \_\_\_\_\_  
(Choose a or b)

a. Attached is a completed Form 4A-304 NMRA Wage Withholding Agreement.  
(Or)

b. \_\_\_\_\_ (*name of parent*) shall take a course in wage withholding.  
(Or)

2. **Other plan.** Wage withholding is not appropriate at this time as the parents have \_\_\_\_\_  
\_\_\_\_\_

**E. Health and dental insurance.** The parents shall do the following:

1. follow the insurance plan in selecting a doctor or dentist;
2. use doctors and dentists who are part of the insurance plan;
3. make sure each parent has a copy of the insurance card and policy; and
4. cooperate and work together to promptly submit all insurance forms.

**F. Exchange of information.** Once a year either parent can ask, in writing, for both parents to provide:

1. federal and state tax returns for the prior year;
2. W-2 statements for the prior year;
3. IRS form 1099s for the prior year;
4. work related day care statements for the prior year;
5. dependent medical insurance premiums for the prior year; and
6. wage and payroll statements for the four months prior to the request.

**G. Tax issues.<sup>9</sup>** This is the plan about tax issues, such as the dependency exemption, that relate to \_\_\_\_\_

Follow IRS regulations; or

[ ] Adopt another plan as follows:

H. **Other expenses.** Each parent shall provide the children with items they need while they are

[ ] (If applicable) The parents shall pay for special activities as follows:

### VERIFICATION

I affirm under oath and penalty of perjury under the laws of the State of New Mexico that I have read this document, that I agree with everything in it, and that the statements in it are true and correct to the best of my knowledge and belief.

_____ Name of parent ( <i>print</i> )	_____ Name of parent ( <i>print</i> )
_____ Parent's signature	_____ Parent's signature
_____ Mailing address	_____ Mailing address
_____ Telephone	_____ Telephone
STATE OF NEW MEXICO ) COUNTY OF ) ss.	
_____	

Acknowledged, signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_ by \_\_\_\_\_, the parent.

\_\_\_\_\_  
Notary public

My commission expires: \_\_\_\_\_.

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

Acknowledged, signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_ by \_\_\_\_\_, the parent.

\_\_\_\_\_  
Notary public

My commission expires: \_\_\_\_\_.

Approved, adopted, and ordered by the District Court

\_\_\_\_\_  
Date

\_\_\_\_\_  
District Court Judge

### USE NOTES

1. A child support obligation must be filed in every dissolution of marriage case if the parties have minor children or a child under nineteen years of age who is attending high school. For more information about filling out this form, see Form 4A-300 NMRA.

2. If child support is not paid in a timely manner, interest will be added to the amount owed at the rate provided by law. See NMSA 1978, Section 40-4-7.3 for accrual of interest on delinquent child support.

3. See NMSA 1978, Section 40-4-11.1 for the child support worksheet. An interactive version of this worksheet may be found at [www.nmcourts.com](http://www.nmcourts.com), click on "Family Law Forms." See also Form 4A-300 NMRA for a further explanation of the child support worksheet. The child support worksheet is used to determine the monthly child support obligation.

4. If child support is being paid for more than one child, the end of a child support obligation for a child may be a change of circumstances that justifies a different child support amount. A new child support worksheet must be completed and adopted by the court. If your child has an intellectual or physical disability, you should consult with an attorney.

5. The judge may or may not accept a proposed change from the worksheet amount. Proposed changes may be appropriate if application of the child support guidelines would be unjust or inappropriate, or create a substantial hardship. If child support has been ordered in another proceeding, tell the court about it here and attach that child support worksheet.

6. See NMSA 1978, Section 40-4C-4 for medical support orders. In some circumstances the court may order both parties to provide employer-provided health insurance.

7. See Form 4A-304 NMRA for the Wage Withholding Order. Wage withholding is required unless the parties show good cause and make alternate payment arrangements. Wage withholding is mandatory if the children are receiving public assistance. Payments made by wage withholding go through the Title IV-D agency (CSED) and cannot be directly sent by the employer to a party. Either party may request

the court to enter a Wage Withholding Order. See *also* Form 4A-300 NMRA for a further explanation of the Wage Withholding Order.

8. You need a court order to adjust child support payments.
9. Consult with a professional about tax issues that relate to any children.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. 15-8300-024, effective for all pleadings and papers filed after November 18, 2015.]

### ANNOTATIONS

**The 2015 amendment**, approved by Supreme Court Order No. 15-8300-024, effective November 18, 2015, required the parents to sign the agreement before a notary public; in the “Verification” provision, in the first sentence, after “I affirm under”, added “oath and”, and after the parents’ signatures and personal information, added the two parent notarization sections of the Verification.

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, made the custody plan an order of the court; eliminated the requirement that the parties sign the agreement before a notary public; in the title of the rule and form, after “obligation”, added “and order”; deleted the former second sentence which provided that the parties agreed that the document was their child support obligation; in Section I, in the last sentence, changed “parties will” to “parents shall”; in Section II, Paragraph A, in the first sentence, changed “We attach a” to “A”, after “A signed”, added “child support” and after “worksheet”, added “is attached”; in Section II, Paragraph A (2), deleted “We ask the judge to order” and added “This is”; in Section II, Paragraph B (1), deleted “[Father][Mother] agrees to]” and added “shall”, after “insurance available to”, changed “[Father][Mother]” to “[him][her]”, and after “from”, changed “[Father’s][Mother’s]” to “[his][her]”; in Section II, Paragraph B (3), after “coverage”, changed “will” to “shall”; in Section II, Paragraph D (1), after “payment”, changed “will” to “shall”; in Paragraph D (1)(b), deleted “We”, after the parenthesis, changed “will” to “shall”, and after “withholding on”, changed “our” to “[he][her]”; in Section II, Paragraph E, deleted “Unless we agree otherwise, we will” and added “The parents shall do the following”; in the Verification, deleted “When I sign here, I am telling the judge under oath and” and added “I affirm under” and after “penalty of perjury”, added “under the laws of the State of New Mexico”, under the signature lines, changed “Father’s” and “Mother’s” to “Parent’s”, and deleted the acknowledgments for each of the parties; and above the signature line for the judge, after “Approved”, added “adopted, and ordered”.

### **4A-304. Wage withholding order (*domestic relations actions*).**

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

\_\_\_\_\_ JUDICIAL DISTRICT  
\_\_\_\_\_

Petitioner,

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

\_\_\_\_\_  
Respondent.

**WAGE WITHHOLDING ORDER**  
***(domestic relations actions)***<sup>1</sup>

This matter, having come before the Court for entry of a wage withholding order and the parties having submitted a completed Income Withholding for Support Form,<sup>2</sup> the Court ORDERS:

1. The provisions of the Income Withholding for Support Form, attached as Exhibit A and signed by the Court, are incorporated by reference and adopted in full.
2. Wage withholding shall be implemented as stated in Exhibit A.
3. Exhibit A, which includes personal identifier information that is necessary to include in the record, shall be protected in accordance with Rule 1-079 NMRA if requested to be sealed by the parties.

**IT IS SO ORDERED.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
District judge

APPROVED: \_\_\_\_\_

Mother's  
signature: \_\_\_\_\_

Mailing address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

Father's signature: \_\_\_\_\_

Mailing address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

USE NOTES

1. See Form 4A-300 NMRA for an explanation of the Wage Withholding Order.

2. A completed Income Withholding for Support Form (OMB 0970-0154) is required in all cases where a Wage Withholding Order is issued by the Court. A copy of the form is available at [http://www.acf.hhs.gov/sites/default/files/ocse/omb\\_0970\\_0154.pdf](http://www.acf.hhs.gov/sites/default/files/ocse/omb_0970_0154.pdf). Instructions for filling out the form are available at [http://www.acf.hhs.gov/sites/default/files/ocse/omb\\_0970\\_0154\\_instructions.pdf](http://www.acf.hhs.gov/sites/default/files/ocse/omb_0970_0154_instructions.pdf). The form and instructions also may be obtained from the New Mexico Human Services Department, Child Support Enforcement Division.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013.]

**4A-305. Final decree of dissolution of marriage (without children).**

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_  
Petitioner,

v.

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

\_\_\_\_\_  
Respondent.

**FINAL DECREE OF DISSOLUTION OF MARRIAGE  
(without children)<sup>1</sup>**

This matter was brought before the Court to enter a Final Decree of Dissolution of Marriage by Petitioner and Respondent (“the parties”).

This decree references a Marital Settlement Agreement that has been signed and filed by the parties, and that settles the claims related to their marital relationship.

The Court, having considered the evidence FINDS AND CONCLUDES:

1. The Court has jurisdiction over the subject matter of this action and over the parties.
2. The parties were married on \_\_\_\_\_ (*date of marriage*).
3. The parties are incompatible.
4. The Marital Settlement Agreement is fair and reasonable and should be adopted by the Court.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

1. The marriage of Petitioner and Respondent is dissolved on the grounds of incompatibility.
2. The parties are ordered to comply with the terms of the Marital Settlement Agreement, which has been filed with the Court and is incorporated here by reference.

*(Select and complete the following paragraphs if applicable)*

3. The Court retains jurisdiction to enter QDROs or other orders dividing the retirement plans Agreement.
4. Judgment in favor of  Petitioner (or)  Respondent is awarded in the amount of \$\_\_\_\_\_ Marital Settlement Agreement (Cash Payment). The statutory interest rate shall apply as per 1978.
5. Petitioner's name is restored to the former name of \_\_\_\_\_ (*write full name*)
6. Respondent's name is restored to the former name of \_\_\_\_\_ (*write full name*)

SO ORDERED:

\_\_\_\_\_  
District Court Judge

By signing below I affirm under penalty of perjury under the laws of the State of New Mexico that everything in this document is true and correct to the best of my knowledge, information and belief, including the following:

1. **Right to trial is waived.** I understand that by signing the Final Decree, I am waiving my right to a trial before a Judge.
2. **No duress or coercion; complete agreement.** I am not under force, threats, duress, coercion or undue influence from anyone, including the other party, to sign this



Final Decree. This Decree and any attachments that I have signed is our full agreement. I have not agreed to something different from what is stated in writing in this Decree.

3. **Legal advice.** I understand that even if I am representing myself without an attorney, I have the right to be represented by an attorney. I have the right to call an attorney and get legal advice before I sign this Final Decree.

\_\_\_\_\_  
Petitioner's signature  
Date: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

\_\_\_\_\_  
Respondent's signature  
Date: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

**DO NOT FILE THIS PAGE: FOR PARTY USE ONLY**

**USE NOTES**

1. This form may be used anywhere in this state by the court to enter a final decree of dissolution of marriage when the parties do not have minor children or a child under nineteen years of age who is attending high school.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings or papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 19-8300-006, effective for all pleadings and papers filed on or after July 1, 2019.]

**ANNOTATIONS**

**The 2019 amendment**, approved by Supreme Court Order No. 19-8300-006, effective July 1, 2019, removed certain language that conflicts with the requirement that a marital settlement agreement must be filed in every dissolution of marriage, made technical and clarifying changes to the form, and revised the Use Notes; in the second undesignated paragraph, deleted the option which stated "A Marital Settlement Agreement that is attached as Exhibit A, because the parties did not settle the claims related to their marital relationship", and made conforming changes; in the third undesignated paragraph, added subparagraph designation "1.", added new Subparagraph 2 and redesignated the succeeding subparagraphs accordingly; in the Order portion of the form, in Paragraph 2, deleted the option stating "[ ] is attached and adopted as the order of the Court." and made conforming changes, and in Paragraphs 5 and 6, deleted "first, middle, and last name" and added "write full legal name"; and in the Use Note, deleted Use Note 2, which provided "If the parties are not in agreement, each party must

complete and submit a proposed draft of this document to the court with this decree. See Form 4A-301 NMRA (Marital Settlement Agreement). The court may approve some or all of the proposed terms of either party, or it may order any other terms that it deems are just and proper.”.

**The 2016 amendment**, approved by Supreme Court Order No. 16-8300-020, effective December 31, 2016, in Paragraphs 5 and 6, added “(first, middle, and last name)” after each signature line.

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, simplified the form for use when no children are involved; eliminated the requirement that the parties sign the decree before a notary public; in the title of the rule and form, added “(without children)”; in the introductory sentence, after “Marriage by”, added “Petitioner and Respondent (‘the parties’)”; added the second, third and fourth sentences; deleted former language acknowledging that the respondent had been properly served, that the decree refers to the documents that the parties have selected from a list of documents, including a marital settlement agreement, custody plan, and child support obligation; in the Findings and Conclusions, deleted language that the court has jurisdiction over children, language approving the marital settlement agreement, custody plan, and child support obligation, and language that the respondent is in default; and added Paragraph 3; in the Decree, deleted language that orders the parties to comply with the custody plan, child support obligation, specifies the monthly amount of child support, custody of children, and the court’s continuing jurisdiction; added Paragraph 6; after the judge’s signature line, added an affirmation by the parties concerning the right to trial, duress and coercion, completeness of the parties’ agreement as expressed in the Decree, and legal advice; deleted the acknowledgments for each party; and in the Use Note, in Paragraph 1, after “dissolution of marriage”, added the remainder of the sentence; and in Paragraph 2, in the first sentence, after “each party”, deleted “(or the petitioner alone, if the respondent is in default)”.

#### **4A-306. Final decree of dissolution of marriage (with children).**

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_  
Petitioner,

v.

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

\_\_\_\_\_  
Respondent.

**FINAL DECREE OF DISSOLUTION OF MARRIAGE**  
**(with children)**

This matter was brought before the Court to enter a Final Decree of Dissolution of Marriage by Petitioner and Respondent (“the parties”).

The following documents are referenced in this decree:

[ ] A Marital Settlement Agreement signed and filed by the parties, that settles the claims related to their marital relationship;

[ ] A Custody Plan and Order signed and submitted by the parties, that sets out the custody of their children;

[ ] A Child Support Obligation and Order, including a child support worksheet signed and submitted by the parties, that sets out the child support for their children.

The Court, having considered the evidence FINDS AND CONCLUDES:

1. The Court has jurisdiction over the subject matter of this action and over the parties and the children.
2. The parties were married on \_\_\_\_\_ (*date of marriage*).
3. The parties are incompatible.
4. The Marital Settlement Agreement is fair and reasonable and should be adopted by the Court.
5. The Custody Plan and Order is fair and reasonable and should be adopted by the Court.
6. The Child Support Obligation and Order is fair and reasonable and should be adopted by the Court.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

1. The marriage of Petitioner and Respondent is dissolved on the grounds of incompatibility.
2. The parties are ordered to comply with the terms of the Marital Settlement Agreement, which has been filed with the Court and is incorporated here by reference.
3. The parties are ordered to comply with the terms of the Custody Plan and Order, which has been adopted by the Court and is incorporated here by reference.

4. The parties are ordered to comply with the terms of the Child Support Obligation and Order, which has been adopted by the Court and is incorporated here by reference.

5.  Petitioner (or)  Respondent is ordered to pay child support in the amount of \$\_\_\_\_\_ per month to the other parent.

6. Legal custody of the children is as follows (*select one*):

The parties have joint legal custody of the children.

(Or)

Petitioner (or)  Respondent has sole legal custody of the children.

7. The Court has continuing jurisdiction over issues relating to the children of the marriage until the children reach the age of majority as provided by law.

(*Select and complete the following paragraphs if applicable*)

8. The Court retains jurisdiction to enter QDROs or other orders dividing the retirement plans referenced in the Marital Settlement Agreement.

9. Judgment in favor of  Petitioner (or)  Respondent is awarded in the amount of \$\_\_\_\_\_, as set forth in Section III of the Marital Settlement Agreement (Cash Payment). The statutory interest rate shall apply as provided in Section 56-8-4(A) NMSA 1978.

10. Petitioner's name is restored to the former name of \_\_\_\_\_ (*insert full legal name*).

11. Respondent's name is restored to the former name of \_\_\_\_\_ (*insert full legal name*).

SO ORDERED:

\_\_\_\_\_  
District Court Judge

By signing below I affirm under penalty of perjury under the laws of the State of New Mexico that everything in this document is true and correct to the best of my knowledge, information and belief, including the following:

1. **Right to trial is waived.** I understand that by signing the Final Decree, I am waiving my right to a trial before a Judge.

2. **No duress or coercion; complete agreement.** I am not under force, threats, duress, coercion or undue influence from anyone, including the other party, to sign this

Final Decree. This Decree and any attachments that I have signed is our full agreement. I have not agreed to something different from what is stated in writing in this Decree.

3. **Legal advice.** I understand that even if I am representing myself without an attorney, I have the right to be represented by an attorney. I have the right to call an attorney and get legal advice before I sign this Final Decree.

\_\_\_\_\_  
Petitioner's signature  
Date: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

\_\_\_\_\_  
Respondent's signature  
Date: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

**DO NOT FILE THIS PAGE: FOR PARTY USE ONLY**

**USE NOTES**

1. This form may be used anywhere in this state by the court to enter a final decree of dissolution of marriage when the parties have minor children or a child under nineteen years of age who is attending high school.

[Approved by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 19-8300-006, effective for all pleadings and papers filed on or after July 1, 2019.]

**ANNOTATIONS**

**The 2019 amendment**, approved by Supreme Court Order No. 19-8300-006, effective July 1, 2019, removed options indicating that the parties did not agree on the terms of a Marital Settlement Agreement, a Custody Plan or a Child Support Obligation, added provisions requiring additional personal information, removed provisions indicating that certain documents are adopted as orders of the court, and revised the Use Note; in the first undesignated section describing referenced documents, in the Marital Settlement Agreement option, deleted "attached as Exhibit A, because the parties did not agree on the terms of a Marital Settlement Agreement", in the Custody Plan and Order option, deleted "attached as Exhibit B, because the parties did not agree on the terms of a Custody Plan", and in the Child Support Obligation and Order option, deleted "attached as Exhibit C, because the parties did not agree on the terms of a Child Support Obligation"; in the second undesignated section, in Paragraph 2, added "The parties were married on \_\_\_\_\_ (*date of marriage*)"; in the third undesignated section, in Paragraphs 2, 3, and 4, deleted "is attached and adopted as the order of the Court.",

and in Paragraphs 10 and 11, added “(insert full legal name)”; in the Use Notes, deleted Use Note 2, which provided “If the parties are not in agreement, each party must complete and submit a proposed draft of this document to the court with this decree. See Form 4A-301 NMRA (Marital Settlement Agreement); Form 4A-302 NMRA (Custody Plan and Order); Form 4A-303 NMRA (Child Support Obligation and Order). The court may approve some or all of the proposed terms of either party, or it may order any other terms that it deems are just and proper.”.

**The 2016 amendment**, approved by Supreme Court Order No. 16-8300-020, effective December 31, 2016, in Paragraphs 10 and 11, added “(first, middle, and last name)” after each signature line.

## **4A-310. Domestic relations forms; instructions for default proceedings.**

If you are the Petitioner AND more than thirty (30) days have passed since you served the Respondent with the Petition AND the Respondent has failed to file a Response or to otherwise respond to the Petition, you may be granted a divorce without the agreement of the Respondent. This is called a default judgment. You may request a default judgment and final decree of dissolution of marriage by doing the following:

A. Complete and file with the Court Clerk’s Office an Affidavit as to Respondent’s Failure To Plead or Otherwise Defend (Form 4A-311 NMRA); your affidavit must include a certificate verifying the other party’s active duty military status, which you can obtain online at [https://dmdc.osd.mil/appj/scra/single\\_record.xhtml](https://dmdc.osd.mil/appj/scra/single_record.xhtml); when you file your affidavit, bring a blank Certificate as to the State of the Record (Form 4A-312 NMRA) and a self-addressed, stamped envelope so that the Clerk can return a completed certificate to you;

B. After you receive the completed Certificate as to the State of the Record (Form 4A-312 NMRA) from the Clerk, attach the certificate to an Application for Default Judgment and Final Decree of Dissolution of Marriage (Form 4A-313 NMRA), and file the application with the Court Clerk’s Office; and

C. Complete and submit to the judge a copy of the Default Judgment and Final Decree of Dissolution of Marriage (Form 4A-314 NMRA (without children) or Form 4A-315 NMRA (with children)). Check with the clerk of your district to determine if your district has additional requirements.

The Court may sign and file the Default Judgment and Final Decree of Dissolution of Marriage without further notice, or it may order you to appear for a hearing. **WARNING:** Once the Court enters the Default Judgment and Final Decree of Dissolution of Marriage, your divorce will be final, and the terms of your Default Judgment and Final Decree of Dissolution of Marriage will be legally binding on both parties.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; approved by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

## ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, clarified the language of the instructions; instructed the parties to use specified forms; in the introductory paragraph, after “you are the”, deleted “party who filed the Petition for Dissolution of Marriage” and added “Petitioner”, changed “your spouse” to “the Respondent” in three places, and changed “an Answer” to “a Response”; in Paragraph A, deleted “your spouse’s” and added “the other party’s”; in Paragraph C, in the first paragraph, deleted “Submit a copy” and added “Complete and submit to the judge a copy”, after “a copy of the” added “Default Judgment and”, after “Dissolution of Marriage”, deleted “(Form 4A-305 NMRA) to the judge; you must also complete and submit to the judge a proposed Marital Settlement Agreement (Form 4A-301 NMRA) and, if you have children as defined in these forms, a proposed Custody Plan (Form 4A-302 NMRA) and a proposed Child Support Obligation (Form 4A-303 NMRA)” and added “(Form 4A-314 NMRA (without children) or Form 4A-315 NMRA (with children))” and added the second sentence; and in Paragraph C, in the second paragraph, added “Default Judgment and” in two places, after “and the terms of your”, deleted “proposed Marital Settlement Agreement (and proposed Custody Plan and proposed Child Support Obligation)” and added “Default Judgment and Final Decree of Dissolution of Marriage”; and deleted the former third sentence which referred the petitioner to Form 4A-300 NMRA for information about the marital settlement agreement, custody order, and child support obligation.

### **4A-311. Affidavit as to Respondent’s failure to plead or otherwise defend (*domestic relations actions*).**

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v.

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

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

**AFFIDAVIT AS TO RESPONDENT'S  
FAILURE TO PLEAD OR OTHERWISE DEFEND  
(domestic relations actions)<sup>1</sup>**

Petitioner affirms under penalty of perjury under the laws of the State of New Mexico that the following statements are true and correct:

(1) I am the Petitioner, and I submit this Affidavit to show that Respondent has failed to file an answer or otherwise respond to the Petition For Dissolution of Marriage that I filed on \_\_\_\_\_.

(2) Respondent was served as follows (*choose and complete one*):

As shown by the Affidavit of Service filed on \_\_\_\_\_,  
Respondent was personally served on \_\_\_\_\_.

(Or)

As shown by the Affidavit of Publication filed on \_\_\_\_\_,  
Respondent was served by publication.

(3) Respondent has not filed an answer, motion, or otherwise responded, and more than thirty (30) days have passed since Respondent was served with the Summons and Petition for Dissolution of Marriage.

(4) Upon information and belief, Respondent is not in the military service of the United States and is not an infant or incompetent person.

**YES (required)** I have attached a certificate verifying Respondent's active duty status.<sup>2</sup>

WHEREFORE, Petitioner asks the Clerk of this Court to certify Respondent's Default.

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Name (*printed*)

\_\_\_\_\_  
Mailing address

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

\_\_\_\_\_  
Telephone number

**VERIFICATION**



I, \_\_\_\_\_, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause, and I know and understand that the contents contained in the above Affidavit are true to the best of my knowledge and belief.

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
Date

### USE NOTES

1. This form may be used anywhere in this state to request the clerk of the court to issue a certificate as to the state of the record (Form 4A-312 NMRA) in a domestic relations action.

2. This affidavit must include a certificate verifying the petitioner's active duty status, which you can obtain online at [https://dmdd.osd.mil/appj/scra/single\\_record.xhtml](https://dmdd.osd.mil/appj/scra/single_record.xhtml).

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

### ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, added a verification; in Paragraph 2, changed "Petitioner" to "Respondent"; after Paragraph 4, added "Yes (required)"; and added the Verification.

**Compiler's note.** — Pursuant to Supreme Court Order No. 13-8300-010, a new 4A-311 NMRA was adopted effective May 31, 2013.

**Withdrawals.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-311 NMRA, relating to verified marital settlement agreement, simple, was withdrawn effective May 31, 2013.

### **4A-312. Certificate as to the state of the record (*domestic relations actions*).**

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v.

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

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

**CERTIFICATE AS TO THE STATE OF THE RECORD  
(domestic relations actions)<sup>1</sup>**

I, Clerk of the District Court of this Judicial District in this County, New Mexico, pursuant to the Affidavit as to Respondent's Failure to Plead or Otherwise Defend on file herein, certify as follows:

(1) The Petition for Dissolution of Marriage was filed on \_\_\_\_\_.

(2) Respondent was served as follows (*choose and complete one*):

As shown by the Affidavit of Service filed on \_\_\_\_\_,  
Respondent was personally served on \_\_\_\_\_.

(Or)

As shown by the Affidavit of Publication filed on \_\_\_\_\_,  
Respondent was served by publication.

(3) Respondent has not filed an answer, motion, or otherwise responded, and more than thirty (30) days have passed since Respondent was served with the Summons and Petition for Dissolution of Marriage.

WHEREFORE, I, \_\_\_\_\_, hereby certify Respondent's default.

Clerk of the District Court

By: \_\_\_\_\_  
Deputy Clerk

**USE NOTES**

1. This form may be used anywhere in this state by the clerk of the court to certify a default in a domestic relations action.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31,

2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. 15-8300-017, effective for all pleadings and papers filed on or after December 31, 2015, in all cases filed or pending on or after December 31, 2015.]

### ANNOTATIONS

**The 2015 amendment**, approved by Supreme Court Order No. 15-8300-017, effective December 31, 2015, in Paragraph (2), changed “Petitioner” to “Respondent”.

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, simplified the statement of judicial district of the court; and in the first sentence, changed “[the \_\_\_\_\_ Judicial District in \_\_\_\_\_] County” to “Clerk of the District Court of this Judicial District in this County”.

**Compiler’s note.** — Pursuant to Supreme Court Order No. 13-8300-010, a new 4A-312 NMRA was adopted effective May 31, 2013.

**Withdrawals.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-312 NMRA, relating verified marital settlement agreement, complex, was withdrawn effective May 31, 2013.

### **4A-313. Application for default judgment and final decree of dissolution of marriage.**

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v.

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

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

### **APPLICATION FOR DEFAULT JUDGMENT AND FINAL DECREE OF DISSOLUTION OF MARRIAGE<sup>1</sup>**

Petitioner applies for entry of judgment by default against Respondent and in support of the application states:

(1) The statements in the Affidavit as to Respondent's Failure to Plead or Otherwise Defend are included here by reference.

(2) As shown by the Certificate as to the State of the Record filed in this case on \_\_\_\_\_, the Clerk of this Court has certified Respondent's default.

WHEREFORE, Petitioner applies to the Court for entry of judgment by default against the Respondent as requested in the Petition for Dissolution of Marriage, and as more specifically stated in the proposed Default Judgment and Final Decree of Dissolution of Marriage submitted with this application.

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Name (*printed*)

\_\_\_\_\_  
Mailing address

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

\_\_\_\_\_  
Telephone number

#### USE NOTES

1. This form may be used anywhere in this state to request the court to enter a default judgment and final decree of dissolution of marriage in a domestic relations action.

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

#### ANNOTATIONS

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-011, effective December 31, 2014, changed the name of the Decree; and in the last paragraph, after "in the proposed", added "Default Judgment and" and after "Final Decree of Dissolution of Marriage", deleted "attached to this document as Exhibit \_\_\_\_\_" and added "submitted with this application".

**Compiler's note.** — Pursuant to Supreme Court Order No. 13-8300-010, a new 4A-313 NMRA was adopted effective May 31, 2013.

**Withdrawals.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-313, relating to parenting plan and child support obligation, was withdrawn effective May 31, 2013.

**4A-314. Default judgment and final decree of dissolution of marriage (without children).**

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_

Petitioner,

v.

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

\_\_\_\_\_

Respondent.

**DEFAULT JUDGMENT AND  
FINAL DECREE OF DISSOLUTION OF MARRIAGE  
(without children)<sup>1</sup>**

\_\_\_\_\_ (*Petitioner's name*) and \_\_\_\_\_

(*Respondent's name*) are married. Respondent failed to respond to the petition for dissolution of marriage after being served. The judge may make changes to this default decree and both parties must comply with any changes made.

The parties were married on \_\_\_\_\_ (*date of marriage*).

**I. PROPERTY BEING DIVIDED<sup>2</sup>**

**A. Personal property** (*such as clothing, furniture, jewelry, or artwork*). Attached is a Personal Property List (Attachment A) showing all property and which party shall receive that property.

(Choose 1 or 2)

1. Each party already has possession of all the personal property each party will receive.

(Or)

2. The party in possession of personal property to be received by the other party shall within \_\_\_\_\_ days after this default judgment is signed by the judge and filed in the

**B. Real Property** (such as a home, mobile home, condominium, lot, or commercial building).<sup>3</sup>

(Choose all that apply)

1. Neither party owns real property.
2. The parties own a marital home, which is located at \_\_\_\_\_ address), and with which they shall do the following:

(Complete the correct section: a. Keep the home; b. Sell the home; or c. Other plan.)

- a **Keep the home.**  
] . \_\_\_\_\_ (name of Petitioner or Respondent) shall keep the home and shall be responsible for all debts related to the home.

The person who keeps the home is called the "homeowner." The other person is called the "moving spouse."

(Choose all that apply)

- i. The amount owed to the moving spouse to buy out that person's interest is \$\_\_\_\_\_, which is included in the calculation of the Cash Payment, Section III, below.
- ii. The homeowner shall apply to refinance the debt owed on the home no later than \_\_\_\_\_ (date).
- iii. The homeowner shall buy out the moving spouse's interest in the home or get the moving spouse off of the loan papers as follows:<sup>4</sup>

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- b **Sell the home.** The home shall be sold and the money from the sale shall be divided as follows:

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

While the home is being sold, [ ] Petitioner (or) [ ] Respondent (*choose one*) shall stay in the home.

Until the home sells, the parties shall pay expenses, including mortgage, taxes and insurance, utility bills, and repairs for the home as follows (*describe who is to pay and how much each person will pay*):

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The parties shall cooperate with the showing of the home and the sale of the home, including signing all paperwork needed in order to sell it and transfer title. Both parties shall preserve the home in a reasonable way including the following things:

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- [ ] c **Other plan.** Attached is a separate sheet with the plan regarding the home.
- [ ] 3 One or both of the parties has other real property as set forth in the attached Real Property List (Attachment B), and that property shall be divided as set forth in the attachment. If one party owes the other money for the division of the other real property, that amount is included in the calculation of the Cash Payment, Section III, below.

**C. Bank and investment accounts** (*such as checking accounts, savings accounts, stocks, bonds, certificates of deposit, mutual funds, or life insurance policies with cash value*).

(Choose 1 or 2)

[ ] 1. The parties do not have any bank or investment accounts.

(Or)

[ ] 2. The parties have the following bank or investment accounts and shall divide them as follows:

Petitioner shall have the following bank or investment accounts:

**Name of institution**

**Last four (4) digits  
of account number**

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Respondent shall have the following bank or investment accounts:	
<b>Name of institution</b>	<b>Last four (4) digits of account number</b>

**D. Retirement Plans (such as IRAs, retirement accounts, pension plans, or 401(k) plans).<sup>5</sup>**

(Choose 1 or 2)

1. Neither party has a retirement plan.

(Or)

2. The parties shall divide the retirement plan(s) as follows:

Petitioner has the following retirement plan(s):	<i>(Circle one to show whether Petitioner will KEEP the entire plan, DIVIDE the plan with Respondent, or TRANSFER the entire plan to Respondent)</i>	If plan will be DIVIDED, the amount or % to be given to Respondent:
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	
Respondent has the following retirement plan(s):	<i>(Circle one to show whether Respondent will KEEP the entire plan, DIVIDE the plan with Petitioner, or TRANSFER the entire plan to Petitioner)</i>	If plan will be DIVIDED, the amount or % to be given to Petitioner:
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	

If any retirement plan will be divided, a Qualified Domestic Relations Order (“QDRO”) shall be prepared and submitted to the Court by Petitioner by \_\_\_\_\_ (date).<sup>6</sup>

**E. Vehicles (such as cars, trucks, motorcycles, recreational vehicles, boats, tractors, or trailers).<sup>7</sup>**

(Choose 1 or 2)

1. The parties do not have any vehicles.



(Or)

2. The parties have vehicles and shall divide them as follows:

Petitioner shall keep the following vehicles and assume any debt relating to each vehicle (*each vehicle and list the vehicle identification number*):

Vehicle description	Vehicle Identification No. (last six digits)
_____	_____
_____	_____
_____.	_____.

Respondent shall keep the following vehicles and assume any debt relating to each vehicle (*of each vehicle and list the vehicle identification number*):

Vehicle description	Vehicle Identification No. (last six digits)
_____	_____
_____	_____
_____.	_____.

Each party listed above as keeping the vehicles shall pay for the costs of the vehicles, including transfer title by the following date:

\_\_\_\_\_ (date).

(Or)

when the vehicle is paid off.

(Or)

the party who is keeping the vehicle already has the title in his/her name.

**F. Other property** (*such as business interests, patents, trademarks, copyrights, royalties, manuscripts, or any other property*).

(Choose 1 or 2)

1. Neither party has any other property.

(Or)

2. One or both parties has the other property listed below, and shall divide it as follows:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_.

**II. DEBTS BEING DIVIDED<sup>8</sup>**

**A. Debt.** Attached is a Debt List (Attachment C) which lists all of the parties' debts, including mortgages, vehicle payments, taxes, credit cards, student loans, medical debts, judgments, and any other debts the parties may have. Any debt not listed is the responsibility of the person who created it. Each party shall pay debts created by that

party prior to the marriage, unless stated differently here. Unless stated differently here, a party who takes property (such as a house or car) with a debt associated with it, shall take the debt.

*(Choose all that apply)*

The parties have no debt from the marriage.

Each party shall pay the debts as listed on Attachment C.

The amount owed from \_\_\_\_\_ to \_\_\_\_\_ for the division of the debts is \$\_\_\_\_\_, which is included in the calculation of the Cash Payment, Section III, below.

**B. Credit cards and charge cards.** Each party shall turn in and cancel all joint credit cards, or shall have the credit card company take the other party's name off of the account.

**C. Taxes.** The parties shall share information necessary to correctly file income tax returns. Each party will get the help needed to file taxes.

**D. Problem with tax returns.** If any tax returns that the parties filed jointly are audited or contested, the parties should meet to decide what to do. If the parties cannot decide who pays the taxes owed or who gets any refund, they will ask a judge to decide at the time the problem comes up.

**E. Failure to pay debts.** If either party fails to pay the debts each is ordered to pay, the other party may end up making that payment. If that happens, the party who should have paid may have to repay the other party, including any other extra costs caused by the failure to pay, such as attorney fees, late fees, and interest charged by the creditor.

### III. CASH PAYMENT

To equalize the division of property and debts, \_\_\_\_\_  
(name) shall pay \_\_\_\_\_ (name) the amount of  
\$\_\_\_\_\_ no later than \_\_\_\_\_ (date). Judgment shall enter in  
this amount in favor of \_\_\_\_\_ (name of person owed money). The statutory  
interest rate shall apply as provided in Section 56-8-4(A) NMSA 1978.

### IV. SPOUSAL SUPPORT<sup>9</sup>

*(Choose 1 or 2)*

1. **No spousal support.** Each party can support himself or herself and neither shall other.

*(Or)*

2. **Spousal support.**  Petitioner (or)  Respondent (*choose one*) shall pay spousal

Spousal support shall be paid as follows:

(*Choose i, ii, or iii*)

i. \$\_\_\_\_\_ per month on the \_\_\_\_\_ (*date*) of each month  
(*period of time*), which is not modifiable.

(*Or*)

ii. \$\_\_\_\_\_ per month on the \_\_\_\_\_ (*date*) of each month

iii. Other plan:

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The Court, having considered the evidence FINDS AND CONCLUDES:

1. The Court has jurisdiction over the subject matter of this action and over the parties.

2. The parties are incompatible.

3. The division of property and debts in this Default Judgment and Final Decree of Dissolution of Marriage is fair and reasonable.

4. Respondent's default has been certified by the Court.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

1. The marriage of Petitioner and Respondent is dissolved on the grounds of incompatibility.

2. The parties are ordered to comply with the terms of this Default Judgment and Final Decree of Dissolution of Marriage.

(*Select and complete the following paragraphs if applicable*)

3. The Court retains jurisdiction to enter QDROs or other orders dividing the retirement plan in the Default Judgment and Final Decree of Dissolution of Marriage.

4. Judgment in favor of  Petitioner (or)  Respondent is awarded in the amount of \$\_\_\_\_\_ Section III (Cash Payment) of this Default Judgment and Final Decree of Dissolution of Marriage. The interest rate shall apply as provided in Section 56-8-4(A) NMSA 1978.

5. Petitioner's name is restored to the former name of \_\_\_\_\_ (*written*)

SO ORDERED:





**ATTACHMENT B: REAL PROPERTY LIST**  
*(Attach additional pages if needed)*

*List all homes (other than the marital home), land, or other real property owned by Petitioner or Respondent.*

**Other Real Property**

1. Address/Description of property: \_\_\_\_\_

The parties shall do the following with the property after the divorce:

*(Choose all that apply)*

\_\_\_\_\_ Petitioner will keep the property;

\_\_\_\_\_ Respondent will keep the property;

\_\_\_\_\_ [ ] Petitioner [ ] Respondent shall pay the other party \$\_\_\_\_\_.

\_\_\_\_\_ The property will be sold and the proceeds divided as follows:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Other plan:

\_\_\_\_\_  
\_\_\_\_\_

2. Address/Description of property: \_\_\_\_\_

The parties shall do the following with the property after the divorce:

*(Choose all that apply)*

\_\_\_\_\_ Petitioner will keep the property;

\_\_\_\_\_ Respondent will keep the property;

\_\_\_\_\_ [ ] Petitioner [ ] Respondent shall pay the other party \$\_\_\_\_\_.

\_\_\_\_\_ The property will be sold and the proceeds divided as follows:




**THIS PAGE IS NOT FOR FILING**

USE NOTES

1. This form may be used anywhere in this state to enter a default judgment and final decree of dissolution of marriage when the parties do not have minor children or a child under nineteen years of age who is attending high school.

2. It is highly recommended that you consult with an attorney. Whether property is separate or community is a complicated issue. There can be serious consequences, including tax consequences, for the division of property and for not properly transferring property, including retirement accounts. You may need separate documents to transfer divided property.

3. To transfer land, a building or a home other than a mobile home, the parties must prepare, sign and record a deed in the real property records where the property is located. To transfer a mobile home, contact the Motor Vehicle Division.

4. If both parties are listed on the mortgage, you must seek lender approval to remove the moving spouse from the mortgage and from responsibility for payment.

5. If the parties are going to divide a retirement plan, contact the retirement plan before completing and filing this form. Depending on the plan, a QDRO may be necessary.

6. CAUTION: You may want to consult an attorney about your retirement, pension, deferred compensation, 401k plans, and/or benefits. If you do not see an attorney regarding these assets, you risk losing any interest you have in these plans and/or



benefits. There are certain documents the plan administrator must have. An attorney can help you prepare these documents.

7. To transfer vehicles or a mobile home, contact the Motor Vehicle Division.

8. This default judgment may not affect the rights of creditors even when approved by the Court as part of the final decree. The creditor may expect payment from you no matter who is ordered to pay the debt in this default judgment. See an attorney if you have questions about separate and community debts and separate and community property.

9. Consult with an attorney if problems arise later.

[Adopted by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. 15-8300-024, effective for all pleadings and papers filed after November 18, 2015; as amended by Supreme Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 19-8300-006, effective for all pleadings and papers filed on or after July 1, 2019.]

## ANNOTATIONS

**The 2019 amendment**, approved by Supreme Court Order No. 19-8300-006, effective July 1, 2019, added provisions requiring additional personal information, made technical and clarifying changes to the form, provided an additional option related to transferring vehicle titles, and removed an option on the form related to tax claims for spousal support; in the undesignated section after the title, added “The parties were married on \_\_\_\_\_ (date of marriage)”; in Section I, in Paragraph A, option 2, after “The”, deleted “parties shall get some or all of the property from the other party” and added “party in possession of personal property to be received by the other party shall give that property to the receiving party within \_\_\_\_\_ days”, in Paragraph B, replaced “has” with “owns” preceding “real property” and replaced “have” with “own” preceding “a marital home”, in Paragraph E, after each occurrence of “Vehicle Identification No.”, added “(last six digits)”, and added the option “[ ] the party who is keeping the vehicle already has the title in his/her name.”; in Section III, after “amount”, deleted “for” and added “in favor of”, and after the third occurrence of “name”, added “of person owed money”; in Section IV, in option “2.”, deleted Subparagraph b, which related to tax claims for spousal support, and made conforming changes; and in the last undesignated section, in option 5, deleted “first, middle, and last name” and added “write full legal name”.

**The 2016 amendment**, approved by Supreme Court Order No. 16-8300-020, effective December 31, 2016, in the Order portion of the form, in Paragraphs 5, added “(first, middle, and last name)” after the signature line.

**The 2015 amendment**, approved by Supreme Court Order No. 15-8300-024, effective November 18, 2015, required the petitioner to sign the default judgment and final decree before a notary public; in the "Verification" provision, in the first sentence, after "I affirm under", added "oath and", and after the petitioner's signature and personal information, added the petitioner's notarization section of the Verification.

**4A-315. Default judgment and final decree of dissolution of marriage (with children).**

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_  
Petitioner,

v.

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

\_\_\_\_\_  
Respondent.

**DEFAULT JUDGMENT AND  
FINAL DECREE OF DISSOLUTION OF MARRIAGE  
(with children)<sup>1</sup>**

\_\_\_\_\_ (*Petitioner's name*) and  
\_\_\_\_\_ (*Respondent's name*) are married. Respondent failed to respond to the petition for dissolution of marriage after being served. The judge may make changes to this default decree and both parties must comply with any changes made.

The parties were married on \_\_\_\_\_ (*date of marriage*).

**I. PROPERTY BEING DIVIDED<sup>2</sup>**

**A. Personal property** (*such as clothing, furniture, jewelry, or artwork*). Attached is a Personal Property List (Attachment A) showing all property and which party shall receive that property.

(Choose 1 or 2)

1. Each party already has possession of all the personal property each party will receive.  
(Or)

2. The party in possession of personal property to be received by the other party shall be received by the other party within \_\_\_\_ days after this default judgment is signed by the judge and filed.

**B. Real Property** (such as a home, mobile home, condominium, lot, or commercial building).<sup>3</sup>

(Choose all that apply)

1. Neither party owns real property.
2. The parties own a marital home, which is located at \_\_\_\_\_ (street address), and with which they shall do the following:

(Complete the correct section: a. Keep the home; b. Sell the home; or c. Other plan.)

- a **Keep the home.**  
] . \_\_\_\_\_ (name of Petitioner or Respondent) shall keep the home and shall be responsible for all debts related to the home.

The person who keeps the home is called the "homeowner." The other person is called the "moving spouse."

(Choose all that apply)

- i. The amount owed to the moving spouse to buy out that person's interest is \$\_\_\_\_\_, which is included in the calculation of the Cash Payment, Section III, below.
- ii. The homeowner shall apply to refinance the debt owed on the home no later than \_\_\_\_\_ (date).
- iii. The homeowner shall buy out the moving spouse's interest in the home or get the moving spouse off of the loan papers as follows:<sup>4</sup>

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- b **Sell the home.** The home shall be sold and the money from the sale shall be divided as follows:

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

While the home is being sold, [ ] Petitioner (or) [ ] Respondent (*choose one*) shall stay in the home.

Until the home sells, the parties shall pay expenses, including mortgage, taxes and insurance, utility bills, and repairs for the home as follows (*describe who is to pay and how much each person will pay*):

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The parties shall cooperate with the showing of the home and the sale of the home, including signing all paperwork needed in order to sell it and transfer title. Both parties shall preserve the home in a reasonable way including the following things:

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- [ ] c **Other plan.** Attached is a separate sheet with the plan regarding the home.
- [ ] 3 One or both of the parties has other real property as set forth in the attached Real Property List (Attachment B), and that property shall be divided as set forth in the attachment. If one party owes the other money for the division of the other real property, that amount is included in the calculation of the Cash Payment, Section III, below.

**C. Bank and investment accounts** (*such as checking accounts, savings accounts, stocks, bonds, certificates of deposit, mutual funds, or life insurance policies with cash value*).

(Choose 1 or 2)

[ ] 1. The parties do not have any bank or investment accounts.

(Or)

[ ] 2. The parties have the following bank or investment accounts and shall divide them as follows:

Petitioner shall have the following bank or investment accounts:

**Name of institution**

**Last four (4) digits  
of account number**

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Respondent shall have the following bank or investment accounts:

**Name of institution**

**Last four (4) digits  
of account number**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**D. Retirement Plans (such as IRAs, retirement accounts, pension plans, or 401(k) plans).<sup>5</sup>**

(Choose 1 or 2)

1. Neither party has a retirement plan.

(Or)

2. The parties shall divide the retirement plan(s) as follows:

Petitioner has the following retirement plan(s):	(Circle one to show whether Petitioner will KEEP the entire plan, DIVIDE the plan with Respondent, or TRANSFER the entire plan to Respondent)	If plan will be DIVIDED, the amount or % to be given to Respondent:
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	
Respondent has the following retirement plan(s):	(Circle one to show whether Respondent will KEEP the entire plan, DIVIDE the plan with Petitioner, or TRANSFER the entire plan to Petitioner)	If plan will be DIVIDED, the amount or % to be given to Petitioner:
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	

If any retirement plan will be divided, a Qualified Domestic Relations Order ("QDRO") shall be prepared and submitted to the Court by Petitioner by \_\_\_\_\_ (date).<sup>6</sup>

**E. Vehicles (such as cars, trucks, motorcycles, recreational vehicles, boats, tractors, or trailers).<sup>7</sup>**

(Choose 1 or 2)

1. The parties do not have any vehicles.

(Or)

2. The parties have vehicles and shall divide them as follows:

Petitioner shall keep the following vehicles and assume any debt relating to each vehicle (list the make, model, and year of each vehicle and list the vehicle identification number):

Vehicle description	Vehicle Identification No. (last six digits)
_____	_____
_____	_____
_____	_____

Respondent shall keep the following vehicles and assume any debt relating to each vehicle (list the make, model, and year of each vehicle and list the vehicle identification number):

Vehicle description	Vehicle Identification No. (last six digits)
_____	_____
_____	_____
_____	_____

Each party listed above as keeping the vehicles shall pay for the costs of the vehicles, including insurance, and the parties shall transfer title by the following date:

\_\_\_\_\_ (date).

(Or)

when the vehicle is paid off.

(or)

the party who is keeping the vehicle already has the title in his/her name.

**F. Other property** (such as business interests, patents, trademarks, copyrights, royalties, manuscripts, or any other property).

(Choose 1 or 2)

1. Neither party has any other property.

(Or)

2. One or both parties has the other property listed below, and shall divide it as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## II. DEBTS BEING DIVIDED<sup>8</sup>

**A. Debt.** Attached is a Debt List (Attachment C) which lists all of the parties' debts, including mortgages, vehicle payments, taxes, credit cards, student loans, medical debts, judgments, and any other debts the parties may have. Any debt not listed is the responsibility of the person who created it. Each party shall pay debts created by that

party prior to the marriage, unless stated differently here. Unless stated differently here, a party who takes property (such as a house or car) with a debt associated with it, shall take the debt.

*(Choose all that apply)*

The parties have no debt from the marriage.

Each party shall pay the debts as listed on Attachment C.

The amount owed from \_\_\_\_\_ to \_\_\_\_\_ for the division of the debts is \$\_\_\_\_\_, which is included in the calculation of the Cash Payment, Section III, below.

**B. Credit cards and charge cards.** Each party shall turn in and cancel all joint credit cards, or shall have the credit card company take the other party's name off of the account.

**C. Taxes.** The parties shall share information necessary to correctly file income tax returns. Each party will get the help needed to file taxes.

**D. Problem with tax returns.** If any tax returns that the parties filed jointly are audited or contested, the parties should meet to decide what to do. If the parties cannot decide who pays the taxes owed or who gets any refund, they will ask a judge to decide at the time the problem comes up.

**E. Failure to pay debts.** If either party fails to pay the debts each is ordered to pay, the other party may end up making that payment. If that happens, the party who should have paid may have to repay the other party, including any other extra costs caused by the failure to pay, such as attorney fees, late fees, and interest charged by the creditor.

### III. CASH PAYMENT

To equalize the division of property and debts, \_\_\_\_\_ (*name*) shall pay \_\_\_\_\_ (*name*) the amount of \$\_\_\_\_\_ no later than \_\_\_\_\_ (*date*). Judgment shall enter in this amount for \_\_\_\_\_ (*name of person owed money*). The statutory interest rate shall apply as provided in Section 56-8-4(A) NMSA 1978.

### IV. SPOUSAL SUPPORT<sup>9</sup>

*(Choose 1 or 2)*

1. **No spousal support.** Each party can support himself or herself and neither shall other.

*(Or)*

2. **Spousal support.**  Petitioner (or)  Respondent (*choose one*) shall pay spousal support as follows:

Spousal support shall be paid as follows:

(Choose *i, ii, or iii*)

i. \$\_\_\_\_\_ per month on the \_\_\_\_\_ (*date*) of each month  
(*period of time*), which is not modifiable.

(Or)

ii. \$\_\_\_\_\_ per month on the \_\_\_\_\_ (*date*) of each month

iii. Other plan:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**V. CUSTODY PLAN<sup>10</sup>**

(Provide identification and contact information for each parent and child)

**Parent's name**

**Physical address and  
phone number**

**Place of employment  
and phone number**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Child's name**

**Year of birth**

**Age**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The parties shall advise each other of any change to this contact information within ten (10) days of new information becoming available.

(Choose either Option A, Sole legal custody, or Option B, Joint legal custody)

A. **Sole legal custody and visitation plan.** (**Do not fill out Option B if you choose this option**)  
(Complete 1, 2, and 3)

1. \_\_\_\_\_ (*name of parent with sole custody*) shall have sole legal custody of the children. The parent with sole custody shall make the important decisions regarding the children.
2. The reason that sole custody is in the best interest of the children is because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



3. This is the visitation plan:

(Choose a, b, or c)

a. There shall be **no visitation** until further order of the Court.

(Or)

b. \_\_\_\_\_ (name of other parent) shall have **unsupervised** visitation with the children as follows: (Fully describe visitation plan to include who shall transport the children and where and when the visitation shall occur. Attach additional sheets if necessary.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Or)

c. \_\_\_\_\_ (name of other parent) shall have **supervised** visitation with the children as follows: (Fully describe visitation plan to include who shall supervise the visitation, who shall transport the children and where and when the visitation shall occur. Attach additional sheets if necessary.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. **Joint legal custody and parenting plan. (Do not fill out Option A if you choose this option.)**

1. **Important decisions.** The parents shall share joint legal custody of the children and shall make all important decisions about the children together. No change regarding any of the following shall be made unless both agree to the change in writing or the court changes it:

a. City and county of residence: \_\_\_\_\_

b. Religion: \_\_\_\_\_

c. Activities: \_\_\_\_\_

	<b>Name</b>	<b>Address and telephone</b>
d. Doctor	_____	_____
e. Dentist	_____	_____
f. School	_____	_____
g. Child care	_____	_____
h. Other	_____	_____

2. **Solving arguments.** The parents shall resolve any parenting or time-sharing disputes by talking together or communicating in writing. If a parent requests a change to the plan, the answering parent should respond within five (5) days. If the answering parent agrees to the change, that parent must say why, and if possible make a new proposal.

3. **Timesharing schedule.**  
(Complete "Schedule 1" or "Schedule 2" below.)

[ ] **Schedule 1. Same schedule each week or every two weeks.**  
*(Set out the time that each parent shall have the children for that day.)*

<b>Week 1</b>	_____’s time <i>(name of parent)</i>	_____’s time <i>(name of parent)</i>
Monday	_____	_____
Tuesday	_____	_____
Wednesday	_____	_____
Thursday	_____	_____
Friday	_____	_____
Saturday	_____	_____
Sunday	_____	_____
<b>Week 2</b>	_____’s time <i>(name of parent)</i>	_____’s time <i>(name of parent)</i>
Monday	_____	_____
Tuesday	_____	_____
Wednesday	_____	_____
Thursday	_____	_____
Friday	_____	_____
Saturday	_____	_____
Sunday	_____	_____

[ ] **Schedule 2. Write your own schedule.** *(Write your own schedule here or attach a calendar or make additions to Schedule 1.)*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. **Vacation and holiday plan.**

- a. **Vacations.** The parents shall each have \_\_\_\_ [days] [weeks] (*circle one*) of \_\_\_\_\_ children each year. Each parent shall give the other parent at least \_\_\_\_ [days] notice of the vacation time.
- b. **Holidays.** Regardless of the day of the week, the children shall spend holidays \_\_\_\_\_ *(of parent who will have the children on each holiday)*

<b>Holidays:</b>	<b>Even year</b>	<b>Odd Year</b>	<b>Times (if split)</b>
Mother’s Day	_____	_____	From _____ To _____
Father’s Day	_____	_____	From _____ To _____
Child’s Birthday	_____	_____	From _____ To _____
Halloween	_____	_____	From _____ To _____

Thanksgiving break	_____	_____	From _____ To _____
Winter religious holidays	_____	_____	From _____ To _____
1st 1/2 winter break	_____	_____	From _____ To _____
2nd 1/2 winter break	_____	_____	From _____ To _____
Spring Break	_____	_____	From _____ To _____
July 4th	_____	_____	From _____ To _____
Other religious holidays	_____	_____	From _____ To _____
Other:	_____	_____	From _____ To _____

The Monday of a 3-day weekend due to a school, federal, or state holiday is the \_\_\_\_\_ schedule unless the parents both agree differently in writing or the court orders a different arrangement.

**5. Details about the timesharing.**

- a. **Communication.** Each parent may have reasonable communication with the children and the other parent shall unreasonably interfere with the children’s communications with the other parent.
- b. **Transfer of children.** Responsibility for transferring the children from one parent to the other shall be as follows (*write what the parents will do here*):

---



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- c. **Long-distance transfer of children.** Responsibility for transferring the children from one parent to the other in long-distance arrangements shall be as follows (*write down what the parents will do*):

---



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- d. **Emergencies.** If there is a medical emergency, the parent with the children shall try to contact the other parent about the emergency. If the other parent cannot be reached, any decision for emergency care shall be made by the available parent in the best interest of the children.

- e. **Changes.** Each parent may ask the other for changes to this schedule. The other parent shall not say “no.” If the other parent says “no,” the parent asking for changes shall not argue or criticize the other parent’s decision.

**VI. CHILD SUPPORT OBLIGATION.<sup>11</sup>**

**A. Child Support Worksheet.**<sup>12</sup> A signed child support worksheet is attached to this plan.  
(Complete and sign a child support worksheet prior to completing this section.)

**Child support:** \_\_\_\_\_ pays \_\_\_\_\_  
\$\_\_\_\_\_ per month. Payments shall begin on \_\_\_\_\_ (date)  
and shall be paid in the amount of \$\_\_\_\_\_ every [ ] week [ ] two weeks [ ]  
month. Payments shall continue each month until the youngest child turns eighteen  
(18); however, if the youngest child turns eighteen (18) while still attending high school,  
payments shall continue until the month the child graduates or turns nineteen (19),  
whichever occurs first.<sup>13</sup>

(Choose 1 or 2)

1. This amount is the amount shown on the worksheet.

(Or)

2. This is a deviation from the amount shown on the child support worksheet because (fill in)

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

**B. Health insurance coverage.**<sup>15</sup>

(Choose 1, 2, or 3)

1. \_\_\_\_\_ (name of parent) shall keep the minor children covered by health  
policy of insurance available from his or her employer or other group health care insurance.

(Or)

2. Neither parent has private health or dental insurance coverage available at a reasonable cost  
under Medicaid, the child support obligor shall pay a cash medical support payment as determined  
in which the State of New Mexico, Child Support Enforcement Division ("CSED"), has been notified  
the stipulation of the parties and with the agreement of CSED. The notification to and agreement of CSED  
cash medical support.

(Or)

3. Other health insurance coverage shall be provided as follows:

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

**C. Additional healthcare expenses to be determined by percentage.** The  
parents shall split the cost of uncovered necessary healthcare expenses in proportion to  
their income on the child support worksheet.

**D. Wage withholding of child support.**

(Choose and complete 1 or 2)

1. **Withhold wages for child support.** Child support payment shall be withheld from paycheck.<sup>16</sup>

(Choose a or b)

a. Attached is a completed Form 4A-304 NMRA Wage Withholding Order which directed to the Child Support Enforcement Division ("CSED").

(Or)

b. \_\_\_\_\_ (name of parent) shall I take a copy of this order signed by the Court to CSED to open a case and to request that CSED issue a wage withholding order on [his] [her] behalf.

(Or)

2. **Other plan.** Wage withholding is not appropriate at this time as the parties have made the following arrangements for the payment of support (*describe alternate payment arrangements, such as*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**E. Health and dental insurance.** The parents shall do the following:

1. follow the insurance plan in selecting a doctor or dentist;
2. use doctors and dentists who are part of the insurance plan;
3. make sure each parent has a copy of the insurance card and policy; and
4. cooperate and work together to promptly submit all insurance forms.

**F. Exchange of information.** Once a year either parent can ask, in writing, for both parties to exchange the following information (*this paragraph is required by statute, Section 40-4-11.4 NMSA 1978*):<sup>17</sup>

1. federal and state tax returns for the prior year;
2. W-2 statements for the prior year;
3. IRS form 1099s for the prior year;
4. work related day care statements for the prior year;
5. dependent medical insurance premiums for the prior year; and
6. wage and payroll statements for the four months prior to the request.

**G. Tax issues.**<sup>18</sup> The parents shall address tax issues, such as the dependency exemption, that relate to the children as follows:

Follow IRS regulations; or

Adopt another plan as follows:

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**H. Other expenses.** Each parent shall provide the children with items that they need while they are with that parent.

The Court, having considered the evidence FINDS AND CONCLUDES:

1. The Court has jurisdiction over the subject matter of this action and over the parties.

2. The parties are incompatible.

3. The division of property and debts in this Default Judgment and Final Decree of Dissolution of Marriage is fair and reasonable.

4. The Custody Plan in this Default Judgment and Final Decree of Dissolution of Marriage is fair, reasonable, and in the best interests of the children.

5. The Child Support Obligation in this Default Judgment and Final Decree of Dissolution of Marriage is fair, reasonable, and in the best interests of the children.

6. Respondent's default has been certified by the Court.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

1. The marriage of Petitioner and Respondent is dissolved on the grounds of incompatibility.

2. The parties are ordered to comply with the terms of this Default Judgment and Final Decree of Dissolution of Marriage.

3. The Court has continuing jurisdiction over issues relating to the children of the marriage until the children reach the age of majority as provided by law.

*(Select and complete the following paragraphs if applicable)*

4. The Court retains jurisdiction to enter QDROs or other orders dividing the retirement plan in this Default Judgment and Final Decree of Dissolution of Marriage.








**ATTACHMENT B: REAL PROPERTY LIST**

*(Attach additional pages if needed)*

*List all homes (other than the marital home), land, or other real property owned by Petitioner or Respondent.*

**Other Real Property**

1. Address/Description of property: \_\_\_\_\_

The parties shall do the following with the property after the divorce:

*(Choose all that apply)*

\_\_\_\_\_ Petitioner will keep the property;

\_\_\_\_\_ Respondent will keep the property;

\_\_\_\_\_ [ ] Petitioner [ ] Respondent shall pay the other party \$\_\_\_\_\_.

\_\_\_\_\_ The property will be sold and the proceeds divided as follows:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Other plan:

\_\_\_\_\_

\_\_\_\_\_

2. Address/Description of property: \_\_\_\_\_

The parties shall do the following with the property after the divorce:

*(Choose all that apply)*

\_\_\_\_\_ Petitioner will keep the property;

\_\_\_\_\_ Respondent will keep the property;

\_\_\_\_\_ [ ] Petitioner [ ] Respondent shall pay the other party \$\_\_\_\_\_.

\_\_\_\_\_ The property will be sold and the proceeds divided as follows:

---

---

\_\_\_\_\_ Other plan:

---

---

**ATTACHMENT C: DEBT LIST**  
*(Attach additional pages if needed)*

*(NOTE: This document is a public document. DO NOT list the full account number for any credit card or other loan information that you would not want to make public.)*

*This decree may not bind creditors.*

Creditor	Last four (4) numbers on account	Amount owed	Will be paid by ( <i>check box</i> ):	
			Petitioner	Respondent


### USE NOTES

1. This form may be used anywhere in this state to enter a default judgment and final decree of dissolution of marriage when the parties have minor children or a child under nineteen years of age who is attending high school.

2. It is highly recommended that you consult with an attorney. Whether property is separate or community is a complicated issue. There can be serious consequences, including tax consequences, for the division of property and for not properly transferring property, including retirement accounts. You may need separate documents to transfer divided property.

3. To transfer land, a building or a home other than a mobile home, the parties must prepare, sign and record a deed in the real property records where the property is located. To transfer a mobile home, contact the Motor Vehicle Division.

4. If both parties are listed on the mortgage, you must seek lender approval to remove the moving spouse from the mortgage and from responsibility for payment.

5. If the parties are going to divide a retirement plan, contact the retirement plan before completing and filing this form. Depending on the plan, a QDRO may be necessary.

6. CAUTION: You may want to consult an attorney about your retirement, pension, deferred compensation, 401k plans, and/or benefits. If you do not see an attorney regarding these assets, you risk losing any interest you have in these plans and/or benefits. There are certain documents the plan administrator must have. Only an attorney can help you prepare these documents.

7. To transfer vehicles or a mobile home, contact the Motor Vehicle Division.

8. This default judgment may not affect the rights of creditors even when approved by the Court as part of the final decree. The creditor may expect payment from you no matter who agrees to pay the debt in this default judgment. See an attorney if you have questions about separate and community debts and separate and community property.

9. Consult with an attorney if problems arise later.

10. You should understand the difference between the rights and obligations of joint custodians and a sole custodian. Descriptions of these terms are set out in NMSA 1978, Section 40-4-9.1. See an attorney with questions you may have. Joint custody does not imply an equal division of the child's time between the parents or an equal division of financial responsibility for the child.

11. If child support is not paid in a timely manner, interest will be added to the amount owed at the rate provided by law. See NMSA 1978, Section 40-4-7.3 for accrual of interest on delinquent child support.

12. See NMSA 1978, Section 40-4-11.1 for the child support worksheet. An interactive version of this worksheet may be found at [www.nmcourts.com](http://www.nmcourts.com), click on "Family Law Forms." See also Form 4A-300 NMRA for a further explanation of the child support worksheet. The child support worksheet is used to determine the monthly child support obligation.

13. If child support is being paid for more than one child, the end of a child support obligation for a child may be a change of circumstances that justifies a different child support amount. A new child support worksheet must be completed and adopted by the court. If your child has an intellectual or physical disability, you should consult with an attorney.

14. The judge may or may not accept a proposed change from the worksheet amount. Proposed changes may be appropriate if application of the child support guidelines would be unjust or inappropriate, or create a substantial hardship. If child support has been ordered in another proceeding, tell the court about it here and attach that child support worksheet.

15. See NMSA 1978, Section 40-4C-4 for medical support orders. In some circumstances the court may order both parties to provide employer-provided health insurance.

16. See Form 4A-304 NMRA for the Wage Withholding Order. Wage withholding is required unless the parties show good cause and make alternate payment arrangements. Wage withholding is mandatory if the children are receiving public assistance. Payments made by wage withholding go through the Title IV-D agency (CSED) and cannot be directly sent by the employer to a party. Either party may request the court to enter a Wage Withholding Order. See also Form 4A-300 NMRA for a further explanation of the Wage Withholding Order.

17. You need a court order to adjust child support payments.

18. Consult with a professional about tax issues that relate to any children.

[Adopted by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. 15-8300-024, effective for all pleadings and papers filed after November 18, 2015; as amended by Supreme Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 19-8300-006, effective for all pleadings and papers filed on or after July 1, 2019.]

## ANNOTATIONS

**The 2019 amendment**, approved by Supreme Court Order No. 19-8300-006, effective July 1, 2019, added provisions requiring additional personal information, made technical and clarifying changes to the form, provided an additional option related to transferring vehicle titles, and removed an option on the form related to tax claims for spousal support; in the undesignated section after the title, added “The parties were married on \_\_\_\_\_ (date of marriage)”; in Section I, in Paragraph A, option 2, after “The”, deleted “parties shall get some or all of the property from the other party” and added “party in possession of personal property to be received by the other party shall give that property to the receiving party within \_\_\_\_\_ days”, in Paragraph B, replaced “has” with “owns” preceding “real property” and replaced “have” with “own” preceding “a marital home”, in Paragraph E, after each occurrence of “Vehicle Identification No.”, added “last six digits”, and added the option “[ ] the party who is keeping the vehicle already has the title in his/her name.”; in Section III, after the third occurrence of “name”, added “of person owed money”; in Section IV, in option “2.”, deleted Subparagraph b, which related to tax claims for spousal support, and made conforming changes; and in the last undesignated section prior to the Verification, in Paragraph 6, deleted “first, middle, and last name” and added “write full legal name”.

**The 2016 amendment**, approved by Supreme Court Order No. 16-8300-020, effective December 31, 2016; in Section V, in the heading, after “CUSTODY PLAN”, change the

Use Note designation from "12" to "10"; in Section VI, in the heading, changed the Use Note designation from "13" to "11"; in Subsection VI(A), in the heading, after "Child Support Worksheet", changed the Use Note designation from "14" to "12", after "whichever occurs first", changed the Use Note designation from "15" to "13", and after Subsection VI(A)(2), changed the Use Note designation from "16" to "14"; in Subsection VI(B), in the heading, changed the Use Note designation from "17" to "15"; in Subsection VI(D)(1), after "paycheck", changed the Use Note designation from "18" to "16"; in Subsection VI(F), after the introductory sentence, deleted the Use Note designation from "19" to "17"; in Subparagraph VI(G), after the heading, changed the Use Note designation from "20" to "18"; and in the Order portion of the form, after Paragraphs 6, added "(first, middle, and last name)" after the signature line.

**The 2015 amendment**, approved by Supreme Court Order No. 15-8300-024, effective November 18, 2015, required the petitioner to sign the default judgment and final decree before a notary public; in the "Verification" provision, in the first sentence, after "I affirm under", added "oath and", and after the petitioner's signature and personal information, added the petitioner's notarization section of the Verification.

#### **4A-321. Motion to modify final order.**

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_,  
Petitioner,

v.

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

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

#### **MOTION TO MODIFY FINAL ORDER<sup>1</sup>**

[ ] Petitioner (or) [ ] Respondent states:

1. I am asking the court to modify the following order(s): (*check the order(s) that you are seeking to have modified and complete the additional information required*)

Name of Order:

Section/Paragraph/Page # that you believe should be modified

Date of order

\_\_\_\_\_ Custody Plan and Order

\_\_\_\_\_

\_\_\_\_\_

_____	Child Support Obligation and Order	_____	_____
_____	Spousal Support Provision	_____	_____
_____	Other: _____	_____	_____

2. The order(s) should be modified because: *(describe in detail why the order(s) should be modified, including what has changed since the order was entered, and how it should be modified; if you are asking that more than one order be modified, list why and how each should be modified separately below)*

A. \_\_\_\_\_

*(Name of first order checked in Paragraph 1 above)*

i. What the section/paragraph of the order says:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

ii. What has changed so that the order should be modified:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

iii. What a new order should provide that is different from the current order:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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B. \_\_\_\_\_

*(Name of next order checked in Paragraph 1 above)*

i. What the section/paragraph of the order says:

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ii. What has changed so that the order should be modified:

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iii. What a new order should provide that is different from the current order:

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*(Use additional pages if necessary. Use the same format as above to tell the court what order you are talking about, what the order says, what has changed so that the order should be modified, and what a new order should provide that is different from the current order.)*



3. I have tried to talk to \_\_\_\_\_ (*name of the other party or the other party's attorney if represented*). This is what happened: (*You MUST check one of these boxes.*)

The other party AGREES with my motion.

The other party DOES NOT AGREE with my motion.

The other party WILL NOT TALK TO ME about my motion.

I CANNOT TALK TO THE OTHER PARTY because there is a protective order between us and the other party does not have a lawyer.

I HAVE NOT TALKED TO THE OTHER PARTY because:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4.  Petitioner (*or*)  Respondent asks the Court to:

\_\_\_\_\_ Modify the order(s) as described in Paragraph 2 above.

\_\_\_\_\_ Other \_\_\_\_\_

\_\_\_\_\_ Order such other relief as may be deemed necessary.

5.  **YES**, I understand that I must bring a copy of the order(s) listed in Paragraph 2 to the hearing.<sup>2</sup>

\_\_\_\_\_  
Signature of Petitioner/Respondent pro se

\_\_\_\_\_  
Name (*print*)

\_\_\_\_\_  
Mailing address (*print*)

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

\_\_\_\_\_  
Telephone number

USE NOTES

1. You may use this form to ask the court to modify the conditions of a final order, including a custody plan and order, a child support obligation and order, or a spousal support provision in a final decree of dissolution of marriage. If more than 90 days have passed from the issuance of the order that you wish to modify, you may have to pay the filing fee required under Rule 1-099 NMRA. You must serve the other party with the documents you filed with the court. Refer to Rules 1-089 and 1-004 NMRA for more information. Failure to have the other party served with the documents may result in a re-set of your hearing or dismissal of your motion.

2. If you do not have a copy of the order(s) listed in Paragraph 2, you may request one from the clerk's office. Standard copying fees may apply.

[Approved by Supreme Court Order No. 17-8300-017, effective for all pleadings and papers filed on or after December 31, 2017.]

## **Paternity Forms**

### **4A-401. Uncontested petition for paternity; forms needed; filing fee.**

A. **Forms to be filed.** In an uncontested paternity proceeding, the parties need to file the following completed forms with the court:

- (1) a Domestic Relations Cover Sheet, Form 4A-101 NMRA is required;
- (2) a Petition to Establish Parentage, Form 4A-402 NMRA is provided; and
- (3) a Final Decree of Parentage. Form 4A-403 NMRA is provided.

B. **Custody Plan and Child Support Obligation.** If child support is to be ordered, a Custody Plan (Form 4A-302 NMRA), Child Support Obligation (Form 4A-303 NMRA), and child support worksheet are required. A Wage Withholding Order (Form 4A-304 NMRA) may also be required if requested by a party. See Form 4A-300 NMRA for an explanation of the Custody Plan, Child Support Obligation, child support worksheet, and Wage Withholding Order.

C. **Type or print.** The parties must type or print all of the information required to be completed on the forms. Many forms may be downloaded and completed or completed on-line. If a pre-printed form is being used by the parties and there is not enough room on the form to provide all of the information required, use a separate page for the information and staple the page to the pre-printed form before making copies and filing the form with the court.

D. **Sign the pleadings.** A party's signature on a pleading or paper filed with the court constitutes a certificate that the party has read the paper and that to the best of the party's knowledge, information and belief there is good grounds to support it.

**E. Forms required to be signed before a notary.** Both the husband and wife must sign the following pleadings and papers before a notary:

- (1) the Petition for Parentage; and
- (2) if child support is to be ordered, the Custody Plan and Child Support Obligation.

**F. File the forms with the court.** After the parties have completed and signed the forms, the parties must file them with the court clerk.

**G. Required number of copies.** An original and two (2) copies of each form must be filed.

**H. Pay the filing fee.** A filing fee must be paid to the clerk in cash or money order at the time the petition and information sheet are filed unless free process is approved.

[Approved, effective November 15, 2002; 4A-206 recompiled as 4A-401 by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 13-8300-014, effective immediately in all cases pending or filed on or after June 24, 2013.]

## ANNOTATIONS

**The 2013 amendment**, approved by Supreme Court Order No. 13-8300-014, effective June 24, 2013, changed the mandatory forms to file an uncontested paternity proceeding; in Paragraph A(1), after “a Domestic Relations”, deleted “Information” and added “Cover”, and after “Cover Sheet”, deleted “Domestic Relations Form 4A-102” and added “Form 4A-101”; in Paragraph A(2), deleted “Domestic Relations Form 4A-331” and added “Form 4A-402”; in Paragraph A(3), deleted “Domestic Relations Form 4A-332” and added “Form 4A-403”; in Paragraph B, deleted the former title “Parenting plan and child support” and added “Custody Plan and Child Support Obligation”, in the first sentence, deleted “Parenting Plan and Child Support Obligation” and added “Custody Plan (Form 4A-302 NMRA), Child Support Obligation (Form 4A-303 NMRA)”, in the second sentence, added “(Form 4A-304 NMRA)”, and in the third sentence, after “See”, deleted “Domestic Relations”, after “See Form”, deleted “4A-205” and added “4A-300” and after “explanation of the”, deleted “Parenting Plan and Child Support Obligation” and added “Custody Plan, Child Support Obligation”; in Paragraph C, deleted the former third sentence, which provided “See Domestic Relations Form 4A-100 NMRA for the availability of forms”; and in Paragraph E(2), after “to be ordered, the”, deleted “Parenting” and added “Custody”.

**Compiler’s note.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-206 NMRA was recompiled as 4A-401 NMRA, effective May 31, 2013.

**4A-402. Petition to establish parentage.**

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_

Petitioner,

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

\_\_\_\_\_

Respondent.

**PETITION TO ESTABLISH PARENTAGE<sup>1</sup>**

I, \_\_\_\_\_, (*person listed as petitioner above*) am the petitioner in this case and I have [a child] [children] with \_\_\_\_\_ (*person listed as respondent*), "the parties". The parties ask the court for a Final Decree Establishing Parentage that establishes that \_\_\_\_\_ (*name of father*) is the father of the [child] [children] listed below and approves the parties' parenting plan for their [child] [children].

1. The parties have [or are expecting] \_\_\_\_\_ (*number*) minor [child] [children] together.
2. The parties are filing a completed Custody Plan, Form 4A-302 NMRA, and Child Support Obligation, Form 4A-303 NMRA, at the same time as this petition.
3. Father lives in \_\_\_\_\_ County. Mother lives in \_\_\_\_\_ County. Venue is proper because one of us lives in the county listed in the case caption above.
4. Both parties have gotten the help needed in order to sign this document.
5. The parties are the parents of:

<b>Child's name</b>	<b>Date of birth</b>	<b>Age</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. Our [child] [children] have lived in New Mexico since birth or for at least the past six (6) months. For the past five (5) years, our children have lived:

<b>Child's addresses</b>	<b>Dates of residence</b>	<b>People in residence</b>
--------------------------	---------------------------	----------------------------



Telephone:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Respondent's signature <sup>3</sup>

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone:

\_\_\_\_\_

STATE OF NEW MEXICO )

) ss.

COUNTY OF )

Acknowledged, subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_ by \_\_\_\_\_, the petitioner.

My commission expires: \_\_\_\_\_  
\_\_\_\_\_ Notary Public

STATE OF NEW MEXICO )

) ss.

COUNTY OF )

Acknowledged, subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_ by \_\_\_\_\_, the respondent.

My commission expires: \_\_\_\_\_  
\_\_\_\_\_ Notary Public

#### USE NOTES

1. See Form 4A-401 NMRA for an explanation of an uncontested paternity proceeding and how to complete these forms.
2. Section 40-10A-209 NMSA 1978 requires the following information be disclosed:
  - name of the child;
  - the places the child has lived in the last five (5) years; and

the names and addresses of the persons with whom the child has lived in the last five (5) years.

3. After completing this form the petitioner and respondent must sign their names before a notary.

[Approved, effective November 1, 2002; 4A-331 recompiled as 4A-402 by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 13-8300-014, effective immediately in all cases pending or filed on or after June 24, 2013.]

### ANNOTATIONS

**The 2013 amendment**, approved by Supreme Court Order No. 13-8300-014, effective June 24, 2013, changed the forms that are required to be filed with the Petition; in Paragraph 2, after "are filing a completed", deleted "Parenting" and added "Custody", after "Custody Plan", added "Form 4A-302 NMRA", and after "Child Support Obligation, Form", deleted "4A-313" and added "4A-303"; and in Paragraph 1 of the Use Note, deleted "Domestic Relations" and after "Form", deleted "4A-206" and added "4A-401".

**Compiler's note.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-331 NMRA was recompiled 4A-402 NMRA, effective May 31, 2013.

### 4A-403. Final decree of parentage.

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

\_\_\_\_\_ JUDICIAL DISTRICT  
\_\_\_\_\_

Petitioner,

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

\_\_\_\_\_

Respondent.

### FINAL DECREE OF PARENTAGE

THIS MATTER was brought before the court by \_\_\_\_\_  
(*father's name*) and \_\_\_\_\_ (*mother's name*), "the parties".  
The parties have asked the court to enter a final decree establishing parentage. In

addition, the parties have filed a Custody Plan and a Child Support Obligation that set out the custody and child support of their [child] [children].

This court has considered the parties' agreements, and finds the parties' Custody Plan, Child Support Obligation, and requests to be reasonable.

**THIS COURT FINDS AND CONCLUDES:**

1. The court has jurisdiction over the parties, the [child] [children] and the subject matter of this action.
2. \_\_\_\_\_ (*name of father*) has acknowledged in the petition filed in this case that he is the father of \_\_\_\_\_ (*name of each child*).
3. The parties have sworn, under oath, that the Custody Plan and Child Support Obligation are complete, true, and correct.
4. The filed Custody Plan and Child Support Obligation determine custody and child support of the parties' minor [child] [children]. The parties have sworn, under oath, that the Custody Plan and Child Support Obligation are in the best interest of the [child] [children].
5. (*Judge to check applicable.*)
  - The child support guidelines are appropriate in this case.
  - The child support guidelines are unjust or inappropriate in this case because they result in substantial hardship. It is appropriate to deviate from the child support guidelines in this case.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:**

1. \_\_\_\_\_ is the father of \_\_\_\_\_  
(*name of each minor child*).
2. The parties are ordered to fully comply with all terms and provisions of the Custody Plan and Child Support Obligation, the terms of which are incorporated by reference.
3.  Father  Mother is ordered to pay child support in the amount of \_\_\_\_\_ to the other parent.
4. (*check applicable alternative*)
  - The parties have joint custody of the [child] [children]
  - Father  Mother is the sole custodian of the [child] [children].
5. The court will have continuing jurisdiction over issues relating to the [child] [children] while the [child is a minor] [children are minors].
6. (*Check and complete if applicable*)
  - The Department of Health, Health Services Division, Vital Statistics Bureau is ordered to change the birth record of \_\_\_\_\_ (*name of each child*) to reflect \_\_\_\_\_ (*name of father*) is the [child's] [children's] father.



7. This case is now closed. However, the court will have continuing jurisdiction over issues relating to the [child] [children] while they are minors and as provided by law.

**IT IS SO ORDERED.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
District court judge

When I sign here, I am telling the judge that I have read this document and agree with everything in it. I state upon my oath or affirmation that this document and the statements in it are true and correct to the best of my information and belief.

\_\_\_\_\_  
Petitioner's signature

\_\_\_\_\_  
Respondent's signature

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Telephone:

\_\_\_\_\_  
Telephone:

[Approved, effective November 15, 2002; 4A-332 recompiled as 4A-403 by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 13-8300-014, effective immediately in all cases pending or filed on or after June 24, 2013.]

### ANNOTATIONS

**The 2013 amendment**, approved by Supreme Court Order No. 13-8300-014, effective June 24, 2013, changed the forms that are referenced in the Final Decree as having been filed; in the first paragraph, in the third sentence, after “the parties have filed a”, deleted “Parenting” and added “Custody” and after “Child Support Obligation”, deleted “(‘parenting plan’)”; in the court’s findings and conclusions, in Paragraph 3, after “under oath, that the”, deleted “parenting plan is” and added “Custody Plan and Child Support Obligation are”, in Paragraph 4, in the first sentence, at the beginning of the sentence, after “The filed”, deleted “parenting plan determines” and added “Custody Plan and Child Support Obligation determine”, and in the second sentence, after “under oath, that the”, deleted “parenting plan is” and added “Custody Plan and Child Support Obligation are”; and in the court’s order, in Paragraph 2, after “provisions of the”, deleted “parenting plan” and added “Custody Plan and Child Support Obligation”.

**Compiler’s note.** — Pursuant to Supreme Court Order No. 13-8300-010, former 4A-332 NMRA was recompiled as 4A-403 NMRA, effective May 31, 2013.

## Kinship Guardianship Forms

### 4A-501. Petition to appoint kinship guardians.

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_, Petitioner(s)

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

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF

\_\_\_\_\_,<sup>1</sup> (a) Child(ren) (*use initials only*), and concerning

\_\_\_\_\_, Respondent(s).

**PETITION TO APPOINT KINSHIP GUARDIAN(S)<sup>2</sup>**

Petitioner(s),<sup>3</sup> \_\_\_\_\_, request(s) the court to grant an Order Appointing Kinship Guardian(s) of the minor child(ren),

\_\_\_\_\_.

The court has jurisdiction of the parties and the subject matter of the cause of action.

**A. INFORMATION ABOUT PETITIONER(S)<sup>3</sup>**

1. Petitioner #1 Name and address:

\_\_\_\_\_

\_\_\_\_\_

2. Petitioner #2 Name and address:

\_\_\_\_\_

\_\_\_\_\_

3. Petitioner(s) are currently providing adequate care, maintenance, and supervision for \_\_\_\_\_ (*names of minor child(ren)*).

[ ] Petitioner(s) have a Guardianship Assistance Agreement with the Children, Youth and Family Department ("CYFD"). Attach a copy of the agreement (*check if applicable*).

**B. INFORMATION ABOUT THE CHILD(REN)<sup>4</sup>**

1 Child's Name \_\_\_\_\_

.

a Address \_\_\_\_\_

.

b Place and year of birth  
City \_\_\_\_\_  
State \_\_\_\_\_  
Month and year of birth \_\_\_\_\_

c Are Petitioner(s) related to the child? \_\_\_\_\_ Yes \_\_\_\_\_ No

d If yes, what is the relationship?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If no, describe Petitioner(s)'s connection with the child.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

e Is the child fourteen (14) years of age or older? \_\_\_\_\_ Yes \_\_\_\_\_ No

f. If yes, has the child stated that he/she wants the named Petitioner(s) as the guardian(s)? \_\_\_\_\_ Yes<sup>5</sup> \_\_\_\_\_ No

f. Is the child a Native American child?<sup>6</sup> \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, what tribe is the child enrolled with or eligible to be enrolled with?

\_\_\_\_\_  
Have you contacted/informed the tribe of this Petition? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If yes, who did you contact and how did you make contact?

\_\_\_\_\_  
\_\_\_\_\_  
Tribal contact information (*address and phone number*):  
\_\_\_\_\_  
\_\_\_\_\_

2 Child's Name \_\_\_\_\_

a Address \_\_\_\_\_

b Place and year of birth

City \_\_\_\_\_  
State \_\_\_\_\_  
Month and year of birth \_\_\_\_\_

c Are Petitioner(s) related to the child? \_\_\_\_\_ Yes \_\_\_\_\_ No

d If yes, what is the relationship?

\_\_\_\_\_  
\_\_\_\_\_  
If no, describe Petitioner(s)'s connection with the child.

- 
- 
- e. Is the child fourteen (14) years of age or older? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If yes, has the child stated that he/she wants the named Petitioner(s) as the guardian(s)? \_\_\_\_\_ Yes<sup>5</sup> \_\_\_\_\_ No
- f. Is the child a Native American child?<sup>6</sup> \_\_\_\_\_ Yes \_\_\_\_\_ No  
If yes, what tribe is the child enrolled with or eligible to be enrolled with?

---

Have you contacted/informed the tribe of this Petition? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If yes, who did you contact and how did you make contact?

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Tribal contact information (*address and phone number*):

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**C. INFORMATION ABOUT CHILD'S PARENTS (RESPONDENTS)<sup>7</sup>**

1 Respondent #1

- a. \_\_\_\_\_ (*name of Respondent-parent if known*) is  
the parent of \_\_\_\_\_.
- b. This Respondent-parent is \_\_\_\_\_ alive \_\_\_\_\_ deceased (*if deceased, provide proof of death*)
- c. If alive, list address (*include physical street address, city, state, and zip code*):

---

d. On information and belief, (*complete only one choice below*)

- i. Respondent-parent \_\_\_\_\_ (*name*) consents to the appointment of Petitioner(s) as Kinship Guardian(s).<sup>8</sup>

Or

- ii. This legal parent is unable or unwilling to provide adequate care, maintenance, and supervision for the minor child(ren) named in this petition (*explain why you think this parent is unable or unwilling to provide care including whether parent(s) have signed a Voluntary Placement Agreement with CYFD*):
- 
-

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2 Respondent #2

a \_\_\_\_\_ (name of Respondent-parent if known) is the parent of \_\_\_\_\_.

b This Respondent-parent is \_\_\_\_\_ alive \_\_\_\_\_ deceased (if deceased, provide proof of death)

c. If alive, list address (include physical street address, city, state, and zip code):

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---

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d On information and belief, (complete only one choice below)

i. Respondent-parent \_\_\_\_\_ (name) consents to the appointment of Petitioner(s) as Kinship Guardian(s).<sup>8</sup>

Or

ii. This legal parent is unable or unwilling to provide adequate care, maintenance, and supervision for the minor child(ren) named in this petition (explain why you think this parent is unable or unwilling to provide care including whether parent(s) have signed a Voluntary Placement Agreement with CYFD):

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**D. FACTS REGARDING REQUEST FOR GUARDIANSHIP**

1. Consent to Guardianship

a. Does Respondent #1 consent to the guardianship? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If no, has the child(ren) lived with Petitioner(s) without Respondent #1 in the home for ninety (90) days immediately prior to filing this petition?  
\_\_\_\_\_ Yes \_\_\_\_\_ No

b. Does Respondent #2 consent to the guardianship? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If no, has the child(ren) lived with Petitioner(s) without Respondent #2 in the home for

90 days immediately prior to filing this petition?  
\_\_\_\_\_ Yes \_\_\_\_\_ No

2. Describe how the child came to reside with you and why you want guardianship.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[ ] Parent(s) signed a Voluntary Placement Agreement with CYFD, placing the children in CYFD's legal custody, and to the best of Petitioner's knowledge, the Voluntary Placement Agreement has not been revoked.

[ ] Petitioner(s) signed a Guardianship Assistance Agreement with CYFD and to the best of petitioner(s) knowledge, it has not been revoked.

3. If a Respondent-parent is willing and able to parent the child(ren), are there extraordinary circumstances that justify granting the guardianship?<sup>9</sup>

\_\_\_\_\_ Yes (*please explain*) \_\_\_\_\_ No

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### E. OTHER INFORMATION

1. Are there any other court cases involving these children? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, please provide:

Case Number

\_\_\_\_\_  
Type of case \_\_\_\_\_

2. Is there current CYFD involvement?

\_\_\_\_\_ Yes \_\_\_\_\_ No

- a. If yes, what is the contact information for the CYFD case worker?

Name: \_\_\_\_\_

Position (*if known*): \_\_\_\_\_

Phone Number and/or email address: \_\_\_\_\_

- b. If yes, does CYFD have legal custody of any of the child(ren) named in this petition? Yes \_\_\_\_\_ No \_\_\_\_\_. If yes, CYFD must be served with a copy of this petition.<sup>10</sup>

- c. If yes, does CYFD consent to this guardianship?

\_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ Don't know (*please explain*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Has CYFD filed a court case against the parents concerning this child?

\_\_\_\_\_ Yes \_\_\_\_\_ No

4. Do any other person(s) have or claim to have court ordered custody of the child(ren)?<sup>10</sup> \_\_\_\_\_ Yes \_\_\_\_\_ No  
If yes, the name(s), phone number(s), and address(es) are:

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5. Do any other person(s) have court ordered visitation with the child(ren)?<sup>10</sup>  
\_\_\_\_\_ Yes \_\_\_\_\_ No  
If yes, the name(s), phone number(s), and address(es) are:

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6. Petitioner(s) are requesting child support from Respondents.<sup>11</sup>  
\_\_\_\_\_ Yes \_\_\_\_\_ No

7. Petitioners accept the duties and responsibilities of guardianship, including providing for the care, maintenance, and supervision of the child(ren).  
8. No guardian of the child(ren) is currently appointed under a provision of the Uniform Probate Code, Section 45-1-101 NMSA 1978.  
9. It is in the best interests of the child(ren) that Petitioner(s) be appointed as kinship guardian(s).

WHEREFORE, Petitioner(s) respectfully request(s) an Order Appointing Kinship Guardian(s) of the minor child(ren).

### VERIFICATION

Petitioner #1:

I, \_\_\_\_\_, Petitioner, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause; that I have read the Petition to Appoint Kinship Guardian(s); and that the contents of the petition are true and correct to the best of my information and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Petitioner #1

\_\_\_\_\_  
Address, phone number, and email for  
Petitioner #1

Petitioner #2:

I, \_\_\_\_\_, Petitioner, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause; that I have read the Petition to Appoint Kinship Guardian(s); and that the contents of the petition are true and correct to the best of my information and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Petitioner #2

\_\_\_\_\_  
Address, phone number, and email for  
Petitioner #2

### USE NOTES

1. Enter the initials of each child. Each child should be listed in the petition under Section A.
2. Forms 4A-501 to -513 NMRA are required to be used by persons representing themselves in kinship guardianship proceedings. Parties represented by an attorney may use other forms that serve the same purpose.
3. A petitioner must be an adult with whom the child has a significant bond. See NMSA 1978, Section 40-10B-5 (2022) for persons who may file as a petitioner under the Kinship Guardianship Act.
4. Fill out Section B for each child you are seeking guardianship over. If you are applying for guardianship of more than two children, repeat the sections as necessary for each child.
5. Any minor child fourteen (14) years of age or older must be served with a copy of this petition. If a child is fourteen (14) years of age or older and does not want the petitioner(s) to be the child's guardian, the court will not appoint the petitioner(s). See NMSA 1978, § 40-10B-11(B) (2001). If the child is fourteen (14) years of age or older and consents to the petitioner(s) as guardian(s), please use the Nomination of Kinship Guardian Form, Form 4A-506 NMRA.
6. The Indian Child Welfare Act defines "Indian child" as "any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe, or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe." See 25 U.S.C. § 1903(4) (1978).
7. If there are more than two parents for the children involved, repeat the information for each additional parent. Unless the child's parent is deceased or the parent's parental rights have been terminated, use Form 4-206 NMRA for service of process on each parent named in the petition unless (a) the parent has waived service



in writing; (b) the parent is deceased; or (c) the parent's rights as a parent have been terminated by a court order.

8. Form 4A-505 NMRA must be signed, notarized, and filed with the court for each respondent-parent who consents to the guardianship.

9. For example: Has the child lived with the petitioner(s) for so long that removing the child would cause anguish or harm to the child? Are there other reasons why the child should not be with the parent?

10. If there are other people claiming to have court-ordered custody or court-ordered visitation of the child(ren), they must also be served with a copy of the petition and notice of the hearing.

11. If CYFD has legal custody of any child named in this petition, CYFD must be served with a copy of this petition. CYFD has designated addresses and individuals to accept service of the petition. Court clerks and the local CYFD office will supply the address and contact information for the address and person that will accept service on behalf of CYFD.

12. Both parents may be ordered to pay child support. The petitioners' income should not be used for calculation of child support.

[Provisionally approved, effective August 15, 2003 until August 31, 2004; approved, effective January 20, 2005; 4-981 recompiled and amended as 4A-501 by Supreme Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022.]

## ANNOTATIONS

**The 2022 amendment**, approved by Supreme Court Order No. 22-8300-020, effective December 31, 2022, provided an instruction to use only the initials of the children involved, added provisions to obtain additional information about the petitioners, the children involved, and the parents involved, and added provisions to obtain additional facts regarding the request for guardianship, substituted "court" for "Court" throughout the form, and revised the Use Notes; in the style of the case, after "Child(ren)", added "(use initials only)"; in Paragraph A, after Item 3, added "[ ] Petitioner(s) have a Guardianship Assistance Agreement with the Children, Youth and Family Department ("CYFD"). Attach a copy of the agreement (check if applicable)."; in Paragraph B, Item 1b, deleted "Year" and added "Month and year", and in Item 2c, deleted "Year" and added "Month and year"; in Paragraph C, Item 1a, after "Respondent-parent", added "if known", and in Item 1dii, after "provide care", added "including whether parent(s) have signed a Voluntary Placement Agreement with CYFD", in Item 2a, after "Respondent-parent", added "if known", in Item 2dii, after "provide care", added "including whether parent(s) have signed a Voluntary Placement Agreement with CYFD"; in Paragraph D,

Item 2, added “[ ] Parent(s) signed a Voluntary Placement Agreement with CYFD, placing the children in CYFD’s legal custody, and to the best of Petitioner’s knowledge, the Voluntary Placement Agreement has not been revoked.” and “[ ] Petitioner(s) signed a Guardianship Assistance Agreement with CYFD and to the best of petitioner(s) knowledge, it has not been revoked.”; in Paragraph E, Item 2, after “current”, deleted “Children, Youth, and Families Department (CYFD)” and added “CYFD, in Item 2a, added lines for “Name,” “Position,” and “Phone Number and/or email address”, added new Item 2b and redesignated former Item 2b as Item 2c, in Item 3, after “court case”, deleted “filed” and added “against the parents concerning this child”, and after “No”, deleted “(If the children are in the custody of CYFD there is a CYFD court case filed)”, in Item 4, after “name(s)”, added “phone number(s)”, in Item 5, after “name(s)”, added “phone number(s)”; in the Verification, after “Signature of Petitioner #1”, added “Address, phone number, and email for Petitioner #1”, and after “Signature of Petitioner #2”, added “Address, phone number, and email for Petitioner #2”; in Use Note 3, after “Section 40-10B-5”, added “(2020)”; in Use Note 5, after “§ 40-10B-11(B)”, added “(2001)”; in Use Note 6, after “U.S.C. § 1903(4)”, added “(1978)”; and added new Use Note 11, and redesignated former Use Note 11 as Use Note 12.

**The 2016 amendment**, approved by Supreme Court Order No. 16-8300-020, effective December 31, 2016, rewrote the form and Use Note.

**Recompilations.** — Pursuant to Supreme Court Order No. 16-8300-020, former 4-981 NMRA was recompiled and amended as 4A-501 NMRA, effective for all pleadings and papers filed on or after December 31, 2016.

## **4A-502. Motion for service by publication.**

STATE OF NEW MEXICO

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

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_, Petitioner(s)

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

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF

\_\_\_\_\_,<sup>1</sup> (a) Child(ren) (*use initials only*), and concerning

\_\_\_\_\_, Respondent(s).

### **MOTION FOR SERVICE BY PUBLICATION<sup>2</sup>**

Petitioner(s), \_\_\_\_\_ (*name(s) of Petitioner(s)*), state(s) that after diligent inquiry and search efforts, Petitioner(s) have been unable to serve process on \_\_\_\_\_ (*name of Respondent*), and the following diligent efforts were made to locate and serve the Respondent with a summons and petition:

(*Check each method of service attempted and complete applicable blank spaces.*)<sup>3</sup>

Personal service;

Service at Respondent's last known residential address by \_\_\_\_\_ (name of person attempting service);

Service by mail or courier service under Rule 1-004(F) NMRA;

Service at Respondent's last known business address;

Service at the address listed at the motor vehicle division for Respondent's driver's license;

Service at the address listed in the last telephone directory listing for the following city or county (list cities and counties):  
\_\_\_\_\_;

A search of the records of the following courts (list courts):  
\_\_\_\_\_  
\_\_\_\_\_;

A search of the records of inmates at the following jails/prisons:  
\_\_\_\_\_  
\_\_\_\_\_;

Contacted the post office for the zip code of the last known address of Respondent and there was no forwarding address;

Other (describe other attempts to locate and serve Respondent, including searches using the internet, Facebook, or other social media):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_;

WHEREFORE, Petitioner(s) ask(s) the court to permit service on Respondent by publication of the attached Notice of Pendency of Action.<sup>4</sup>

Submitted by,

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone number and email address

## VERIFICATION

I, \_\_\_\_\_, Petitioner, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause; that I have read the motion for service by publication; and that the contents of the motion are true and correct to the best of my information and belief.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Petitioner

## USE NOTES

1. Enter the initials of each child listed in the Petition to Appoint Kinship Guardian(s).
2. You need to try to find and serve the respondent(s) with the petition and other documents you filed in the kinship guardianship case. If you are unable to find the respondent, you may want to consider service by publication in a newspaper. If there is more than one respondent that you need to serve by publication (for example the mother and the father of the child), you need to file one motion for each respondent. The information you provide about trying to locate the respondent in the motion is for each individual respondent. If the court allows you to serve by publication, you may use only one Notice of Pendency of Action and include all of the respondents in the same document.
3. Check all of the boxes that apply. You need to tell the court about all of the efforts you made to find and serve the respondent. Be prepared to show the court your efforts to search records to find the respondent, including, for example, a letter from the postmaster, any court docket printouts, or any returned mail.
4. Complete and attach a Notice of Pendency of Action, Form 4A-503 NMRA.

[Adopted by Supreme Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022.]

## ANNOTATIONS

**The 2022 amendment**, approved by Supreme Court Order No. 22-8300-020, effective December 31, 2022, provided an instruction to use only the initials of the children involved, added a provision verifying that the Petitioner, in an effort to locate and serve the named Respondent, searched records of inmates at jails and prisons, provided that

the Petitioner list his or her email address; in the style of the case, after "Child(ren)", added "(use initials only)"; after "A search of the records of the following courts (*list courts*)", added "[ ] A search of the records of inmates at the following jails/prisons:", and after "Phone number", added "and email address.

**4A-503. Notice of pendency of action.<sup>1</sup>**

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_, Petitioner(s)

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

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF

\_\_\_\_\_,<sup>2</sup> (a) Child(ren) (*use initials only*), and concerning

\_\_\_\_\_, Respondent(s).

**NOTICE OF PENDENCY OF ACTION**

STATE OF NEW MEXICO to \_\_\_\_\_,<sup>3</sup> Respondent(s).

Greetings:

You are hereby notified that \_\_\_\_\_,<sup>4</sup> Petitioner(s), filed a Petition to Appoint Kinship Guardian(s) for \_\_\_\_\_<sup>5</sup> against you in the above entitled court and cause.

Unless you enter your appearance and written response in this cause on or before thirty (30) days after the last date of publication, a judgment by default will be entered against you.

*Name and address of Petitioner or Petitioner's attorney:*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**USE NOTES**

1. This form must be filled out and attached to Form 4A-502 NMRA, Motion for Service by Publication.

2. Enter initials of each child listed in the Petition to Appoint Kinship Guardian.

3. Enter name of the respondent. If there is more than one respondent and all respondents are located in the same area (*i.e.*, will be notified by the same newspaper), you may list all of the respondents' names. If the respondents are in different areas (*e.g.*, New Mexico and Texas), then you must fill out a separate Notice of Pendency of Action for each respondent.

4. Enter names of all petitioners.

5. Enter the initials and year of birth for each minor child that is named in the petition.

[Adopted by Supreme Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022.]

### ANNOTATIONS

**The 2022 amendment**, approved by Supreme Court Order No. 22-8300-020, effective December 31, 2022, provided an instruction to use only the initials of the children involved, moved the time limit for entering an appearance and filing a written response to a petition to appoint kinship guardian from the Use Notes to the body of the form, and revised the Use Notes; in the style of the case, after "Child(ren)", added "*(use initials only)*"; after "on or before", deleted "date" and added "thirty (30) days after the last date of publication"; in Use Note 5, after "Enter", deleted "name" and added "the initials"; and deleted Use Note 6, which provided "Enter the date that is thirty (30) days from the first date the notice will be published in the newspaper."

### **4A-504. Order for service of process by publication in a newspaper.**

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_  
\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_, Petitioner(s)

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

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF

\_\_\_\_\_,<sup>1</sup> (a) Child(ren) (*use initials only*), and concerning

\_\_\_\_\_, Respondent(s).

**ORDER FOR SERVICE OF PROCESS  
BY PUBLICATION IN A NEWSPAPER**

Petitioner(s) filed a motion requesting that the court approve service of process on \_\_\_\_\_ (*name of each Respondent to be served*) by publication in a newspaper of general circulation.

The court FINDS that Petitioner has made diligent efforts to make personal service, but has not been able to complete service of process. The last known address of \_\_\_\_\_ (*name of Respondent to be served*) is \_\_\_\_\_ (*Respondent's last known address*).

The court further FINDS that the newspaper of general circulation in this county is (*name of newspaper*) \_\_\_\_\_, and that

1.  this newspaper is most likely to give Respondent notice of the pendency of the action.

**OR**

2.  in the county of \_\_\_\_\_, State of \_\_\_\_\_, a newspaper most likely to give notice of the pendency of this proceeding to the person to be served is (*name of newspaper*) \_\_\_\_\_.

THEREFORE, IT IS HEREBY ORDERED that Petitioner serve process on \_\_\_\_\_ (*name of Respondent*) by publication once a week for three (3) consecutive weeks in the (*name of newspaper*) \_\_\_\_\_

and once a week for (3) three consecutive weeks in (*name of newspaper*) \_\_\_\_\_ in \_\_\_\_\_ County.

Petitioner shall file proof of service with a copy of the affidavit of publication when service has been completed.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
District Judge

**USE NOTES**

1. Enter initials of each child listed in the Petition to Appoint Kinship Guardian.

[Approved by Supreme Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 17-8300-017, effective for all pleadings and papers filed on or after December 31, 2017; as amended by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022.]

## ANNOTATIONS

**The 2022 amendment**, approved by Supreme Court Order No. 22-8300-020, effective December 31, 2022, provided an instruction to use only the initials of the children involved, and made certain technical amendments; in the style of the case, after “Child(ren)”, added “(*use initials only*)”; substituted “court” for “Court” throughout the form; and after each occurrence of “three”, added “(3)”.

**The 2017 amendment**, approved by Supreme Court Order No. 17-8300-017, effective December 31, 2017, enlarged the amount of time that notice must be published in a newspaper of general circulation when serving process by publication in a newspaper; and after each occurrence of “once a week for”, changed “two” to “three”.

### **4A-505. Parental consent to appointment of kinship guardian and waiver of service of process.**

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_, Petitioner(s)

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

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF

\_\_\_\_\_,<sup>1</sup> (a) Child(ren) (*use initials only*), and concerning

\_\_\_\_\_, Respondent(s).

#### **PARENTAL CONSENT TO APPOINTMENT OF KINSHIP GUARDIAN AND WAIVER OF SERVICE OF PROCESS**

1. I, \_\_\_\_\_ (*name of parent*), am the adoptive or biological parent of \_\_\_\_\_ (*name(s) of child(ren)*). I do hereby knowingly and voluntarily consent to the following: (*select all that apply*)<sup>2</sup>

The appointment of Petitioner(s) as TEMPORARY kinship guardian(s) for no more than one hundred eighty (180) days.





---

Notary Public  
My commission expires: \_\_\_\_\_

## USE NOTES

1. Enter the initials of each child listed in the Petition to Appoint Kinship Guardian.
2. You may select either option or both options, depending on whether you consent to the appointment of a temporary kinship guardian or a permanent kinship guardian or both.
3. As used in this form, a permanent kinship guardian is a guardian whose appointment continues until the child's eighteenth birthday or until the guardianship is revoked based on proof that the circumstances justifying the appointment have changed and that revocation is in the child(ren)'s best interests.

[Provisionally approved, effective August 15, 2003 until August 31, 2004; approved, effective January 20, 2005; 4-985 recompiled and amended as 4A-505 by Supreme Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022.]

## ANNOTATIONS

**The 2022 amendment**, approved by Supreme Court Order No. 22-8300-020, effective December 31, 2022, provided an instruction to use only the initials of the children involved, removed a provision certifying that the user of the form has received a copy of the Petition to Appoint Kinship Guardian, added a provision regarding visitation, removed a provision regarding a waiver of the right to be served with the Petition, made certain technical amendments, and revised the Use Notes; in the style of the case, after "Child(ren)", added "*(use initials only)*"; in Paragraph 1, after "*(name(s) of child(ren))*.", deleted "I have received a copy of the Petition to Appoint Kinship Guardian(s) filed by \_\_\_\_\_ *(name(s) of Petitioner(s), and*", after "no more than", deleted "180" and added "one hundred eighty (180)"; in Paragraph 2, substituted "*(child(ren))*" for "*(children)*"; added a new Paragraph 5 and redesignated former Paragraphs 5 through 9 as Paragraphs 6 through 10, respectively; in Paragraph 6, deleted "I waive the right to be served with the Petition, but"; and in the Use Notes, substituted "on" for "upon".

**The 2016 amendment**, approved by Supreme Court Order No. 16-8300-020, effective December 31, 2016, rewrote the form and Use Note.

**Recompilations.** — Pursuant to Supreme Court Order No. 16-8300-020, former 4-985 NMRA was recompiled and amended as 4A-505 NMRA, effective for all pleadings and papers filed on or after December 31, 2016.

**4A-506. Nomination of kinship guardian(s).**

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_, Petitioner(s)

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

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF

\_\_\_\_\_,<sup>1</sup> (a) Child(ren) (*use initials only*), and concerning  
\_\_\_\_\_, Respondent(s).

**NOMINATION OF KINSHIP GUARDIAN(S)**

I, \_\_\_\_\_ (*name of minor child*), was born in the  
year \_\_\_\_\_ and am \_\_\_\_\_ years old (*current age*).

I nominate and request the court to appoint \_\_\_\_\_  
(*name(s) of Petitioner(s)*) as my guardian(s).

I affirm under penalty of perjury under the laws of the State of New Mexico that the  
statements in this document are true and correct.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Minor Child

**USE NOTES**

- 1. Insert the initials of each child listed in the Petition to Appoint Kinship Guardian.

[Provisionally approved, effective August 15, 2003 until August 31, 2004; approved,  
effective January 20, 2005; 4-983 recompiled and amended as 4A-506 by Supreme  
Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after  
December 31, 2016; as amended by Supreme Court Order No. 22-8300-020, effective  
for all pleadings and papers filed on or after December 31, 2022.]

**ANNOTATIONS**

**The 2022 amendment**, approved by Supreme Court Order No. 22-8300-020, effective  
December 31, 2022, provided an instruction to use only the initials of the children  
involved, and made certain technical amendments; and in the style of the case, after  
“Child(ren)”, added “(*use initials only*)”.

**The 2016 amendment**, approved by Supreme Court Order No. 16-8300-020, effective December 31, 2016, rewrote the form and Use Note.

**Recompilations.** — Pursuant to Supreme Court Order No. 16-8300-020, former 4-983 NMRA was recompiled and amended as 4A-506 NMRA, effective for all pleadings and papers filed on or after December 31, 2016.

**4A-507. Ex parte motion to appoint temporary kinship guardian(s).**

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_, Petitioner(s)

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

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF

\_\_\_\_\_,<sup>1</sup> (a) Child(ren) (*use initials only*), and concerning

\_\_\_\_\_, Respondent(s).

**EX PARTE MOTION TO APPOINT  
TEMPORARY KINSHIP GUARDIAN(S)<sup>2</sup>**

Petitioner, \_\_\_\_\_, (*name of Petitioner(s)*), move(s) the court to grant this Ex Parte Motion to Appoint Temporary Kinship Guardian for the minor child(ren). In support of the motion, Petitioner(s) state(s) as follows:

1. A Petition to Appoint Kinship Guardian(s) has been filed in this court under the Kinship Guardianship Act for the following children:

<b>Child's name</b>	<b>Birth year</b>	<b>Age</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____

2. Petitioner(s) incorporate all of the allegations contained in the Petition to Appoint Kinship Guardian(s).

3. Section 40-10B-7(C) NMSA 1978 of the Kinship Guardianship Act allows this court to appoint a temporary guardian ex parte for good cause, to serve for one hundred and eighty (180) days or until the case is decided on the merits, whichever occurs first.



My commission expires: \_\_\_\_\_

### USE NOTES

1. Insert the initials of each child listed in the Petition to Appoint Kinship Guardian.
2. An ex parte motion is used when one party asks the court to issue an order without hearing from the other party. This is used only for emergency purposes.
3. An ex parte motion may be filed at the same time as the petition to appoint kinship guardian(s), see Form 4A-501 NMRA, or after the petition is filed.

[Adopted by Supreme Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022.]

### ANNOTATIONS

**The 2022 amendment**, approved by Supreme Court Order No. 22-8300-020, effective December 31, 2022, provided an instruction to use only the initials of the children involved, required the “birth year” for the children for whom a petition has been filed, required the email address for the person submitting the motion, made certain technical amendments, and revised the Use Notes; in the style of the case, after “Child(ren)”, added “(use initials only)”; in the body of the form, substituted “court” for “Court” throughout the form; after “Child’s name”, added “Birth year”; after “Phone number”, added “and email address”; and added Use Note 3.

### **4A-508. Ex parte order appointing temporary kinship guardian(s).**

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_, Petitioner(s)

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

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF

\_\_\_\_\_,<sup>1</sup> (a) Child(ren) (use initials only), and concerning

\_\_\_\_\_, Respondent(s).

### **EX PARTE ORDER APPOINTING TEMPORARY KINSHIP GUARDIAN(S)**

**[ ] AND NOTICE OF HEARING**

THIS MATTER, coming before the court ex parte on \_\_\_\_\_ (date) on Petitioner(s)' Ex Parte Motion to Appoint Temporary Kinship Guardian for the minor child(ren), and the court being sufficiently advised, FINDS:

1. Section 40 10B 7 NMSA 1978 of the Kinship Guardianship Act allows this court to appoint a temporary guardian ex parte on good cause shown, to serve for one hundred and eighty (180) days.

2. A petition to appoint kinship guardian has been filed regarding the following children:

<b>Child's name</b>	<b>Birth year</b>	<b>Age</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____

3. Based on the Motion, there is good cause for the ex parte appointment of a temporary guardian.

4. If a party files an objection to this Order and submits a copy to the assigned judge with a request for hearing, the court shall schedule a hearing to be held within ten (10) days of the date the objection is filed, as provided in Section 40-10B-7(C) NMSA 1978.

**WHEREFORE IT IS ORDERED:**

1. Petitioner(s) is/are appointed as the temporary guardian(s) of the following children:

<b>Child's name</b>	<b>Birth year</b>	<b>Age</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____

2. The appointment of temporary kinship guardian(s) shall expire in one hundred and eighty (180) days from the date of the filing of this order or further order of this court, whichever occurs first.

3. The guardian(s) has/have the legal rights and duties of a parent except the right to consent to the adoption of the child(ren), as provided in Section 40 10B 13(A) NMSA 1978.

4. The parental rights and duties of \_\_\_\_\_ (names of Respondents) pertaining to the child(ren) are hereby temporarily suspended.

5. Visitation between the legal parents and the minor child(ren), or any other persons, shall be at the discretion of the guardian(s), as provided in Section 40 10B 13(B) NMSA 1978.

6. Petitioner shall immediately have the Petition to Appoint Kinship Guardian(s), this Ex Parte Order Appointing Temporary Kinship Guardian(s), and a copy of the summons personally served on each of the named Respondents.

7. Other orders: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8. A hearing on the Petition to Appoint Kinship Guardian is set for: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
District Court Judge

#### USE NOTES

1. Insert the initials of each child listed in the Petition to Appoint Kinship Guardian.

[Adopted by Supreme Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022.]

#### ANNOTATIONS

**The 2022 amendment**, approved by Supreme Court Order No. 22-8300-020, effective December 31, 2022, provided an instruction to use only the initials of the children involved, included a notice of hearing provision in the title and in the body of the form, required the “birth year” for the children for whom a petition has been filed, and made certain technical amendments; in the style of the case, after “Child(ren)”, added “(use initials only)”; in the title of the form, after “GUARDIAN(S)”, added “AND NOTICE OF HEARING”; substituted “court” for “Court” throughout the form; after “Child’s name”, added “Birth year”; and added new Paragraph 8.

#### **4A-509. Motion to appoint temporary kinship guardian(s).**

STATE OF NEW MEXICO



COUNTY OF \_\_\_\_\_  
\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_, Petitioner(s)

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

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF

\_\_\_\_\_,<sup>1</sup> (a) Child(ren) (*use initials only*), and concerning

\_\_\_\_\_, Respondent(s).

**MOTION TO APPOINT  
TEMPORARY KINSHIP GUARDIAN(S)<sup>2</sup>**

Petitioner(s), \_\_\_\_\_, (*name of Petitioner(s)*), move(s) the court to grant this Motion to Appoint Temporary Kinship Guardian for the minor child(ren) under the Kinship Guardianship Act. In support of the motion, Petitioner(s) state(s) as follows:

1. A Petition to Appoint Kinship Guardian(s) has been filed in this court under the Kinship Guardianship Act for the following child(ren):

<b>Child's name</b>	<b>Birth year</b>	<b>Age</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____

2. Petitioner(s) incorporate(s) all of the allegations contained in the Petition to Appoint Kinship Guardian(s).

3. Petitioner(s) request(s) appointment of a temporary guardian(s) because (*explain why a temporary guardianship is requested before a final hearing is held on the Petition*):

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

4. It is in the child(ren)'s best interests that Petitioner(s) be appointed the child(ren)'s temporary guardian(s) until a hearing on the Petition to Appoint Kinship Guardian(s) is heard.

WHEREFORE, Petitioner(s) request(s) that the court appoint Petitioner(s) as Temporary Kinship Guardian(s) of the minor child(ren).

Submitted by,

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone number and email address

### VERIFICATION

Petitioner #1:

I, \_\_\_\_\_, Petitioner, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause; that I have read the Petition to Appoint Temporary Kinship Guardian(s); and that the contents of the petition are true and correct to the best of my information and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Petitioner #1

Petitioner #2:

I, \_\_\_\_\_, Petitioner, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause; that I have read the Petition to Appoint Temporary Kinship Guardian(s); and that the contents of the petition are true and correct to the best of my information and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Petitioner #2

### VERIFICATION OF SERVICE<sup>3</sup>

I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ (date), I (check the applicable item below and fill in all information)

- [ ] mailed a copy of this motion by United States mail, postage prepaid, to:
- Name: \_\_\_\_\_
- Mailing address: \_\_\_\_\_
- City, state, and zip code: \_\_\_\_\_;
- [ ] delivered a copy of this motion to \_\_\_\_\_ (*the other party or the other party's attorney*); or
- [ ] emailed a copy of this motion to \_\_\_\_\_ (*the other party or the other party's attorney*) using the following email address: \_\_\_\_\_ . The time and date of the email was \_\_\_\_\_ (a.m.) (p.m.) on \_\_\_\_\_ (*date*).

\_\_\_\_\_  
Signature of person who made service

\_\_\_\_\_  
Date of signature

### USE NOTES

1. Insert the initials of each child listed in the Petition to Appoint Kinship Guardian.
2. This motion may be filed at the same time as, or at anytime after, the Petition to Appoint Kinship Guardian is filed.
3. All respondents must be served with this motion unless the respondent(s) has/have signed a Parental Consent to Appointment of Guardian and Waiver of Service of Process, Form 4A-505 NMRA. The Children, Youth and Families Department must be served with a copy of this motion if it has custody of the minor child(ren).

[Provisionally approved, effective August 15, 2003 until August 31, 2004; approved, effective January 20, 2005; 4-984 recompiled and amended as 4A-509 by Supreme Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022.]

### ANNOTATIONS

**The 2022 amendment**, approved by Supreme Court Order No. 22-8300-020, effective December 31, 2022, provided an instruction to use only the initials of the children involved, required the "birth year" for the children for whom a petition has been filed,

required the email address for the person submitting the motion, made certain technical amendments, and revised the Use Notes; in the style of the case, after "Child(ren)", added "(*use initials only*)"; substituted "court" for "Court" throughout the form; after "Child's name", added "Birth year"; in Paragraph 2, after "Petitioner(s)", deleted "incorporate" and added "incorporate(s)"; after "Phone number", added "and email address"; in the Verification of Service portion of the form, substituted "emailed" for "faxed", after "using the following", deleted "fax number. The transmission was reported as complete and without error" and added "email address", and after "The time and date of the", deleted "transmission" and added "email"; and in Use Note 3, after "Form 4A-505 NMRA", added "The Children, Youth and Families Department must be served with a copy of this motion if it has custody of the minor child(ren)".

**The 2016 amendment**, approved by Supreme Court Order No. 16-8300-020, effective December 31, 2016, rewrote the form and Use Note.

**Recompilations.** — Pursuant to Supreme Court Order No. 16-8300-020, former 4-984 NMRA was recompiled and amended as 4A-509 NMRA, effective for all pleadings and papers filed on or after December 31, 2016.

#### **4A-510. Order appointing temporary kinship guardian(s).**

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_, Petitioner(s)

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

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF

\_\_\_\_\_,<sup>1</sup> (a) Child(ren) (*use initials only*), and concerning

\_\_\_\_\_, Respondent(s).

#### **ORDER APPOINTING TEMPORARY KINSHIP GUARDIAN(S) [ ] AND NOTICE OF HEARING**

THIS MATTER came before the court on Petitioner(s)' motion to appoint temporary kinship guardian of the minor child(ren). Petitioner(s), \_\_\_\_\_ (*name(s) of Petitioner(s)*), appeared pro se. Respondent 1, \_\_\_\_\_ (*name of Respondent 1*), [ ] appeared pro se [ ] did not appear. Respondent 2, \_\_\_\_\_ (*name of Respondent 2*), [ ] appeared pro se [ ] did not appear. The court having reviewed the motion, heard testimony, and being sufficiently advised, **FINDS:**

1. The court has jurisdiction under the Kinship Guardianship Act, Sections 40-10B-1 to -15 NMSA 1978.

2. The court has the authority to appoint a temporary kinship guardian under Section 40-10B-7 NMSA 1978.

3. A Petition to Appoint Kinship Guardian(s) has been filed with this court.

4. Respondent 1

consents to the appointment of Petitioner(s) as the guardian(s);

OR

does not consent to the appointment of Petitioner(s) as the guardian(s) and the minor child(ren) has/have resided with Petitioner(s) for at least ninety (90) days prior to filing the Petition for Kinship Guardianship, and Respondent 1 was not residing in the home and is unable or unwilling to provide appropriate care, maintenance, and supervision for the minor child(ren);

OR

extraordinary circumstances justify granting the guardianship.<sup>2</sup>

5. Respondent 2

consents to the appointment of Petitioner(s) as the guardian(s);

OR

does not consent to the appointment of Petitioner(s) as the guardian(s) and the minor child(ren) has/have resided with Petitioner(s) for at least 90 days prior to filing the Petition for Kinship Guardianship, and Respondent 2 was not residing in the home and is unable or unwilling to provide appropriate care, maintenance, and supervision for the minor child(ren);

OR

extraordinary circumstances justify granting the guardianship.<sup>2</sup>

6. It is in the minor child(ren)'s best interests that Petitioner(s) be appointed as the minor child(ren)'s temporary guardian(s).

7.  A guardian *ad litem* shall be appointed.

8. Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**WHEREFORE IT IS ORDERED:**

1. Petitioner(s) is/are appointed as the temporary kinship guardian(s) of the minor child(ren).

2. The appointment of temporary kinship guardianship shall remain in effect for one hundred eighty (180) days from the date of filing of this order or until further order of the court, whichever comes first.

3. Under Section 40-10B-13(A) NMSA 1978, Petitioner(s) has/have the legal rights and duties of a parent except the right to consent to the adoption of the minor child(ren).

4. Respondents' parental rights pertaining to the minor child(ren) are temporarily suspended until further order of the court.

5. Interim visitation shall be as follows:

Visitation between the legal parents and the minor child(ren), or any other persons, shall be at the discretion of the temporary guardian(s) as provided in Section 40-10B-13(B) NMSA 1978;

OR

Visitation shall be as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Interim child support shall be as follows:

No child support is ordered at this time;

OR

Child support is ordered as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7.  As this is a contested case, a guardian *ad litem* shall be appointed. A separate order will be entered appointing the guardian *ad litem*.<sup>3</sup>

8. Other: \_\_\_\_\_

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9. A hearing on the Petition to Appoint Kinship Guardian is set for: \_\_\_\_\_

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\_\_\_\_\_  
District Judge

### USE NOTES

1. Insert the initials of each child listed in the Petition to Appoint Kinship Guardian(s).

2. In considering whether there are extraordinary circumstances, the court may consider, for example, whether the child lived with the petitioner(s) for so long that removing the child would cause anguish or harm to the child, and whether there are other reasons why the child should not be with the parent.

3. Use Form 4-402 NMRA to order the appointment of a guardian *ad litem*.

[Provisionally approved, effective August 15, 2003 until August 31, 2004; approved, effective January 20, 2005; 4-987 recompiled and amended as 4A-510 by Supreme Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022.]

### ANNOTATIONS

**The 2022 amendment**, approved by Supreme Court Order No. 22-8300-020, effective December 31, 2022, provided an instruction to use only the initials of the children involved, included a notice of hearing provision in the title and in the body of the form, included provisions where the judge can indicate whether extraordinary circumstances justify the granting of the guardianship, added a provision for the judge to indicate if a guardian *ad litem* will be appointed, made certain technical amendments, and revised the Use Note; in the style of the case, after “Child(ren)”, added “(use initials only)”; in the title of the form, after “GUARDIAN(S)”, added “AND NOTICE OF HEARING”; substituted “court” for “Court” throughout the form; in Paragraph 4, after the second occurrence of “child(ren)”, added “[ ] extraordinary circumstances justify granting the guardianship”; in Paragraph 5, after the second occurrence of “child(ren)”, added “[ ] extraordinary circumstances justify granting the guardianship”; in the second section, in Paragraph 7, deleted “is hereby” and added “As this is a contested case, a guardian *ad litem* shall be”, after “appointed”, deleted “and shall serve as the guardian *ad litem*” and added “A separate order will be entered appointing the guardian *ad litem*.”; added

Paragraph 9; and in the Use Notes, added a new Use Note 2 and redesignated former Use Note 2 as Use Note 3.

**The 2016 amendment**, approved by Supreme Court Order No. 16-8300-020, effective December 31, 2016, rewrote the form and Use Note.

**Recompilations.** — Pursuant to Supreme Court Order No. 16-8300-020, former 4-987 NMRA was recompiled and amended as 4A-510 NMRA, effective for all pleadings and papers filed on or after December 31, 2016.

#### **4A-511. Order appointing kinship guardian(s).**

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_, Petitioner(s)

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

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF

\_\_\_\_\_,<sup>1</sup> (a) Child(ren) (*use initials only*), and concerning  
\_\_\_\_\_, Respondent(s).

#### **ORDER APPOINTING KINSHIP GUARDIAN(S)**

THIS MATTER came before the court on \_\_\_\_\_ (*insert date*) regarding the Petition to Appoint Kinship Guardian(s) for the minor child(ren). Petitioner(s) \_\_\_\_\_ (*name(s) of Petitioner(s)*) appeared pro se. Respondent 1, \_\_\_\_\_ (*name of Respondent 1*), [ ] appeared pro se [ ] did not appear. Respondent 2, \_\_\_\_\_ (*name of Respondent 2*), [ ] appeared pro se [ ] did not appear. The court having reviewed the petition, heard testimony, and being sufficiently advised, **FINDS:**

1. The court has jurisdiction under the Kinship Guardianship Act, Sections 40-10B-1 to -15 NMSA 1978.
2. All necessary parties have been given adequate notice of the proceedings.
3. The name and age of the minor child(ren) are as follows:

<b>Child's name</b>	<b>Birth year</b>	<b>Age</b>
_____	_____	_____



\_\_\_\_\_  
\_\_\_\_\_

4. Petitioner(s) is/are the minor child(ren)'s \_\_\_\_\_ (*relationship*) and is/are proper person(s) to be kinship guardian(s) under the Kinship Guardianship Act.

5. (*Select all that apply*)

**Respondent 1** is the minor child(ren)'s legal parent and

consents to the appointment of Petitioner(s) as the guardian(s);

or

the minor child(ren) has/have resided with Petitioner(s) for at least ninety (90) days prior to filing the petition to appoint kinship guardian(s), and Respondent 1 was not residing in the home during that time;

**OR**

There are **extraordinary circumstances** in this matter as follows, which include that Respondent 1 is unable or unwilling to provide appropriate care, maintenance, and supervision for the minor child(ren)<sup>2</sup>:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Respondent 2** is the minor child(ren)'s legal parent and

consents to the appointment of Petitioner(s) as the guardian(s);

or

the minor child(ren) has/have resided with Petitioner(s) for at least ninety (90) days prior to filing the petition to appoint kinship guardian(s), and Respondent 2 was not residing in the home during that time;

**OR**

There are **extraordinary circumstances** in this matter as follows, which include that Respondent 2 is unable or unwilling to provide appropriate care, maintenance, and supervision for the minor child(ren):

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6. Petitioner(s) is/are providing appropriate care, maintenance, and supervision for the minor child(ren).

7. The Indian Child Welfare Act, 25 U.S.C. §§ 1901-1963,

does not apply to this matter or

does apply to this matter.

8. The requirements of Section 40-10B-8(B) NMSA 1978 have been proven by clear and convincing evidence.

9. It is in the minor child(ren)'s best interests that Petitioner(s) be appointed as the minor child(ren)'s kinship guardian(s).

10. Other: \_\_\_\_\_

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**WHEREFORE IT IS ORDERED:**

1. Petitioner(s) is/are appointed as the kinship guardian(s) of the minor child(ren).

2. The appointment of kinship guardianship shall remain in effect until the minor child(ren) reach(es) the age of eighteen (18) or until further order of the court, whichever comes first.

3. Under Section 40-10B-13(A) NMSA 1978, Petitioner(s) has/have the legal rights and duties of a parent except the right to consent to the adoption of the minor child(ren).

4. Respondents' parental rights pertaining to the minor child(ren) are hereby suspended until further order of the court.

5. Visitation shall be as follows:

Under the Kinship Guardianship Act, Section 40-10B-13(B) NMSA, visitation between the legal parents and the minor child(ren), or any other persons shall be at the discretion of the guardian(s);

or

Visitation shall be as follows: \_\_\_\_\_

\_\_\_\_\_

6. Child support shall be as follows:

No child support is ordered because Petitioner(s) waive a request for child support at this time, but reserve his/her/their right to request child support at a later time;

or

Child support is ordered as follows: \_\_\_\_\_

\_\_\_\_\_

7. This order allows the kinship guardian to apply for State programs and assistance on behalf of the minor child(ren) without reference to the kinship guardian(s)'s income.

8. Other: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
District Court Judge

\_\_\_\_\_  
Signature of Petitioner 1

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone number and email address

\_\_\_\_\_  
Signature of Petitioner 2

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone number and email address

---

Signature of Respondent 1

---

Printed name

---

Address

---

Telephone number and email address

---

Signature of Respondent 2

---

Printed name

---

Address

---

Telephone number and email address

#### USE NOTES

1. Insert the initials of each child listed in the Petition to Appoint Kinship Guardian(s).

[Provisionally approved, effective August 15, 2003 until August 31, 2004; approved, effective January 20, 2005; 4-988 recompiled and amended as 4A-511 by Supreme Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022.]

#### ANNOTATIONS

**The 2022 amendment**, approved by Supreme Court Order No. 22-8300-020, effective December 31, 2022, provided an instruction to use only the initials of the children involved, required the “birth year” for the children for whom the order is being filed, included provisions where the court can indicate any extraordinary circumstances in the matter, included a provision allowing the kinship guardian to apply for State programs and assistance on behalf of any minor children, required email addresses for Petitioners, and required signatures and contact information for Respondents, and made certain technical amendments; in the style of the case, after “Child(ren)”, added “(*use initials only*)”; substituted “court” for “Court” throughout the form; after “Child’s name”, added “Birth year”; in Paragraph 5, in the portion for Respondent 1, after “residing in the home”, deleted “and is unable or unwilling to provide appropriate care, maintenance, and supervision for the minor child(ren)” and added “during that time”, after “OR”, added “There are extraordinary circumstances in this matter as follows, which include that Respondent 1 is unable or unwilling to provide appropriate care,

maintenance, and supervision for the minor child(ren)”; in the portion for Respondent 2, after “residing in the home”, deleted “and is unable or unwilling to provide appropriate care, maintenance, and supervision for the minor child(ren)” and added “during that time”, after “OR”, added “There are extraordinary circumstances in this matter as follows, which include that Respondent 2 is unable or unwilling to provide appropriate care, maintenance, and supervision for the minor child(ren)”; in the second section, added a new Paragraph 7 and redesignated former Paragraph 7 as Paragraph 8; after each occurrence of “Telephone”, deleted “Number” and added “number and email address”; and after the Petitioner contact information, added the remainder of the form for Respondents’ signature and contact information.

**The 2016 amendment**, approved by Supreme Court Order No. 16-8300-020, effective December 31, 2016, rewrote the form and Use Note.

**Recompilations.** — Pursuant to Supreme Court Order No. 16-8300-020, former 4-988 NMRA was recompiled and amended as 4A-511 NMRA, effective for all pleadings and papers filed on or after December 31, 2016.

#### **4A-512. Motion to revoke kinship guardianship.**

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_, Petitioner(s)

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

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF

\_\_\_\_\_,<sup>1</sup> (a) Child(ren) (*use initials only*), and concerning  
\_\_\_\_\_, Respondent(s).

#### **MOTION TO REVOKE KINSHIP GUARDIANSHIP**

COME(S) NOW [Respondent] [Kinship Guardian] [Other] (*circle one*),  
\_\_\_\_\_ (*name*) pro se, and respectfully requests  
that this court revoke the kinship guardianship of  
\_\_\_\_\_ (*name(s) of child(ren)*). As grounds for this  
motion, movant states the following:

1. The court has jurisdiction under the Kinship Guardianship Act, Sections 40-10B-1 to -15 NMSA 1978.

2. The name, year of birth, and age of the minor child(ren) are as follows:

**Child's name**

**Birth year**

**Age**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Kinship guardian(s), \_\_\_\_\_ (*name(s) of kinship guardian(s)*), were appointed on \_\_\_\_\_ (*date*).

4. The circumstances have changed as follows (*describe what has changed and why the guardianship should be revoked*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. A transition plan is attached to this motion. A transition plan must be attached to this motion or the judge may not grant this motion.<sup>2</sup>

6. It is in the child(ren)'s best interests to revoke the guardianship.

7.  I have contacted the other parties and they  
 agree with this motion;  
 do not agree with this motion; or  
 did not respond after I asked them if they agreed or disagreed with this motion;

OR

I have not contacted the other parties.

WHEREFORE, Movant(s) respectfully request(s) that the court, after a hearing, grant the Motion to Revoke Kinship Guardianship.

Respectfully submitted by:

Respectfully submitted by,

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone number and email address

## VERIFICATION OF SERVICE

I affirm under penalty of perjury under the laws of the State of New Mexico that on \_\_\_\_\_ (date), I (check the applicable item below and fill in all information)

mailed a copy of this motion by United States mail, postage prepaid, to:

Name: \_\_\_\_\_

Mailing address: \_\_\_\_\_

City, state, and zip code: \_\_\_\_\_;

delivered a copy of this motion to \_\_\_\_\_ (the other party or the other party's attorney); or

emailed a copy of this motion to \_\_\_\_\_ (the other party or the other party's attorney) using the following email address: \_\_\_\_\_ . The time and date of the email was \_\_\_\_\_ (a.m.) (p.m.) on \_\_\_\_\_ (date).

\_\_\_\_\_  
Signature of person who made service

\_\_\_\_\_  
Date of signature

### USE NOTES

1. Insert the initials of each child listed in the Petition to Appoint Kinship Guardian(s).

2. Describe the plan for moving the child(ren) from the kinship guardians to the parent. Include information about how quickly the move will occur and how the child(ren)'s needs will be met like school, doctor(s), activities, and visits with the kinship guardians.

[Provisionally approved, effective August 15, 2003 until August 31, 2004; approved, effective January 20, 2005; 4-991 recompiled and amended as 4A-512 by Supreme Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022.]

### ANNOTATIONS

**The 2022 amendment**, approved by Supreme Court Order No. 22-8300-020, effective December 31, 2022, provided an instruction to use only the initials of the children involved, required the “birth year” for the children involved, added an acknowledgement that a transition plan must be attached to the motion or the motion may not be granted, added a provision for the movant to notify the court whether other parties have been contacted regarding the motion, made certain technical amendments, and revised the Use Notes; in the style of the case, after “Child(ren)”, added “(use initials only)”; substituted “court” for “Court” throughout the form; after “Child’s name”, deleted “Year” and added “Birth year”; in Paragraph 5, added “A transition plan must be attached to this motion or the judge may not grant this motion.”; added Paragraph 7; in the Verification portion, substituted “emailed” for “faxed”, after “using the following”, deleted “fax number. The transmission was reported as complete and without error” and added “email address”, and after “time and date of the”, deleted “transmission” and added “email”.

**The 2016 amendment**, approved by Supreme Court Order No. 16-8300-020, effective December 31, 2016, rewrote the form and Use Note.

**Recompilations.** — Pursuant to Supreme Court Order No. 16-8300-020, former 4-991 NMRA was recompiled and amended as 4A-512 NMRA, effective for all pleadings and papers filed on or after December 31, 2016.

#### **4A-513. Order revoking kinship guardianship.**

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_, Petitioner(s)

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

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF

\_\_\_\_\_,<sup>1</sup> (a) Child(ren) (*use initials only*), and concerning

\_\_\_\_\_, Respondent(s).

#### **ORDER REVOKING KINSHIP GUARDIANSHIP**

THIS MATTER having come before the court on (*insert date*) \_\_\_\_\_ regarding \_\_\_\_\_’s Motion to Revoke Kinship Guardianship of the minor child(ren) and the court being sufficiently advised, **FINDS:**

1. The court has jurisdiction under the Kinship Guardianship Act, Sections 40-10B-1 to -15 NMSA 1978.



2. The name, year child was born, and age of the minor child(ren) are as

<b>Child's name</b>	<b>Birth year</b>	<b>Age</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____

3. Kinship guardian(s), \_\_\_\_\_ (*name(s) of kinship guardian(s)*), were appointed by this court on \_\_\_\_\_ (*date*).

4. The guardianship should be revoked for the following reasons: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**WHEREFORE IT IS ORDERED:**

1. The Order Appointing Kinship Guardianship of \_\_\_\_\_ (*name(s) of child(ren)*) is hereby revoked.

2. The parental rights of \_\_\_\_\_ (*names of Respondent(s)*) are hereby restored.

3. Other: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

[ ] This case is dismissed with prejudice.

\_\_\_\_\_  
District Court Judge

Submitted by:

\_\_\_\_\_

**USE NOTES**

1. Insert the initials of each child listed in the Petition to Appoint Kinship Guardian(s).

[Adopted by Supreme Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022.]

**ANNOTATIONS**

**The 2022 amendment**, approved by Supreme Court Order No. 22-8300-020, effective December 31, 2022, provided an instruction to use only the initials of the children involved, required the “birth year” for the children involved, added a provision for the court to indicate if the case is dismissed with prejudice, and made certain technical amendments; in the style of the case, after “Child(ren)”, added “(use initials only)”; substituted “court” for “Court” throughout the form; in Paragraph 2, after “The name”, added “year child was born”, after “Child’s name”, deleted “Year” and added “Birth year”; and preceding the judge’s signature line, added “[ ] This case is dismissed with prejudice.”

**4A-514. Department consent to appointment of kinship guardian and waiver of service of process.**

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_, Petitioner(s)

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

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF

\_\_\_\_\_,<sup>1</sup> (a) Child(ren) (*use initials only*), and concerning  
\_\_\_\_\_, Respondent(s).

**DEPARTMENT CONSENT TO APPOINTMENT OF KINSHIP GUARDIAN  
AND WAIVER OF SERVICE OF PROCESS**

1. The Children, Youth and Families Department has legal custody of the child by way of an unrevoked Voluntary Placement Agreement (VPA) with the following parents:

- a. Name and relationship to child(ren): \_\_\_\_\_
- b. Name and relationship to child(ren): \_\_\_\_\_
- c. Name and relationship to child(ren): \_\_\_\_\_

For the following child(ren): (*include full names and dates of birth*):

\_\_\_\_\_

2. The Children, Youth and Families Department is the legal custodian and has received a copy of the Petition to Appoint Kinship Guardian(s) filed by (name(s) of Petitioner(s)): \_\_\_\_\_;

3. The Children, Youth and Families Department hereby knowingly and voluntarily consents to the following: (*select all that apply*)<sup>2</sup>

The appointment of Petitioner(s) as TEMPORARY kinship guardian(s) for no more than one hundred eighty (180) days.

The appointment of Petitioner(s) as PERMANENT kinship guardian(s).<sup>3</sup>

4. The Children, Youth and Families Department understands that the purpose of the guardianship is to establish a legal relationship between \_\_\_\_\_ (child(ren)) and \_\_\_\_\_ (Petitioner(s)).

5. The Children, Youth and Families Department states that it is in the child(ren)'s best interests that Petitioner(s) be named as the child(ren)'s kinship guardian(s).

6. The Children, Youth and Families Department understands that while the guardianship is in effect, Petitioner(s) will have the right to make all decisions about visitation and the health, education, and welfare of the child(ren) unless otherwise ordered by the court.

7. The Children, Youth and Families Department waives the right to be served with the Petition, and understands it will be made a party to this case and concurs.

8. The Children, Youth and Families Department understands that the Department or the parents may withdraw a consent before the court enters an order granting the guardianship. The Children, Youth and Families Department understands that to withdraw its consent, it must notify the court in writing.

9. The Children, Youth and Families Department understands that if it desires at a later date to revoke the guardianship, a petition to revoke the guardianship must be filed.

\_\_\_\_\_  
Signature of counsel for CYFD

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone number

\_\_\_\_\_  
Email address

USE NOTES

1. Enter the initials of each child listed in the Petition to Appoint Kinship Guardian.
2. You may select either option or both options, depending on whether you consent to the appointment of a temporary kinship guardian or a permanent kinship guardian or both.
3. As used in this form, a permanent kinship guardian is a guardian whose appointment continues until the child's eighteenth birthday or until the guardianship is revoked based on proof that the circumstances justifying the appointment have changed and that revocation is in the child(ren)'s best interests.

[Adopted by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022.]

**4A-515. Order appointing guardian ad litem.**

STATE OF NEW MEXICO  
 COUNTY OF BERNALILLO  
 SECOND JUDICIAL DISTRICT

\_\_\_\_\_,  
 Petitioner,

No: \_\_\_\_\_

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF  
 \_\_\_\_\_, (a) Child(ren) (*use initials only*), and concerning  
 \_\_\_\_\_, Respondent(s).

**ORDER APPOINTING GUARDIAN AD LITEM**

**THIS MATTER** came before the court on \_\_\_\_\_, 20\_\_\_\_.  
 Petitioner(s), \_\_\_\_\_ (*name(s) of  
 Petitioner(s)*), appeared pro se. Respondent 1, \_\_\_\_\_ (*name of  
 Respondent 1*), [ ] appeared pro se [ ] did not appear. Respondent 2,  
 \_\_\_\_\_ (*name of Respondent 2*), [ ] appeared pro se [ ] did not appear.

The court having reviewed the motion, heard testimony, and being sufficiently advised,  
**FINDS:**

1. The court has jurisdiction over the parties and subject matter. The court has jurisdiction under the Kinship Guardianship Act, Sections 40-10B- 1 to -15 NMSA 1978.

2. This action concerns the following minor [child] [children]:

\_\_\_\_\_, year of birth \_\_\_\_\_, age \_\_\_\_\_;  
 \_\_\_\_\_, year of birth \_\_\_\_\_, age \_\_\_\_\_;

\_\_\_\_\_, year of birth \_\_\_\_\_, age \_\_\_\_\_;  
\_\_\_\_\_, year of birth \_\_\_\_\_, age \_\_\_\_\_;

3. Good cause exists to appoint a guardian *ad litem* (GAL) under the Kinship Guardianship Act, Section 40-10B-9 NMSA 1978, and Rule 1-152 NMRA to represent the [child's] [children's] best interests in this case.

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:**

1. Appointment and duties to the court: \_\_\_\_\_ is hereby appointed as GAL.

2. The GAL shall perform each of the following duties on behalf of the court:

a. If the appointment is to determine if a petition for kinship guardianship should be granted or denied

(i) make a diligent investigation of the circumstances surrounding the petition for guardianship;

(ii) visit the [child] [children] in the home;

(iii) if the [child] [children] are six (6) years old or older, interview the [child] [children] face to face

(iv) interview the person(s) proposed as guardian(s);

(v) interview the parents of the [child] [children], if available;

(vi) interview any mental health professionals working with the [child] [children], Petitioner(s), and Respondent(s); and

(vii) recommend an appropriate transition plan if the [child] [children] is/are residing with Petitioner(s) and the petition for kinship guardianship is not granted or is revoked.

b. If the appointment is to determine if a petition or motion for revocation of a guardianship should be granted or denied

(i) conduct an investigation of the [child] [children]'s best interests as described in Subsections (a)(ii) through (vi) above; and

(ii) recommend an appropriate transition plan in the event the guardianship is revoked; and

c. In any kinship guardianship case

(i) submit, but do not file, a written report of investigation and separate written recommendations to all parties and counsel at least eleven (11) days before the recommendations are filed with the court, except in the case of emergency;

(ii) file the recommendations, but not the report, with the court; and

(iii) at a hearing held in connection with proceedings described in sections (a) or (b) above, report to the court concerning the best interests of the [child] [children] and the [child] [children]'s position on the requested relief.

d. In addition to the foregoing, the court directs the GAL to: \_\_\_\_\_

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3. Adoption of GAL recommendations.

a. If the parties are willing to adopt the GAL's recommendations, they shall submit a stipulated order adopting the recommendations within eleven (11) days after the recommendations are filed.

b. If any of the parties are not willing to adopt the recommendations, that party may file objections to the recommendations within eleven (11) days after the recommendations are filed along with a request and notice for hearing on the objections. The objections shall specifically state what recommendations are objected to and the basis for the objection. The court may set a hearing on the objections.

c. A party's failure to file timely objections to the recommendations of the GAL shall be deemed a waiver of the right to object, and the court shall, without the necessity of a hearing, enter an order adopting the GAL's recommendations.

4. Acceptance of appointment. If the named GAL is willing to serve, the named GAL shall forthwith file an entry of appearance. If the named GAL is unable or unwilling to serve, the named GAL shall promptly advise the court.

5. Expiration of appointment. This appointment shall expire on \_\_\_\_\_.

6. Immunity of GAL. The GAL serves as an arm of the court and assists the court in discharging its duty to adjudicate the [child's] [children's] best interests.

7. Duties of parties. The parties and minor children over the age of fourteen (14) shall assist the GAL in carrying out the duties set forth in this order, including providing information and documents requested by the GAL and signing any releases requested by the GAL.

8. GAL fees.

a. On or before \_\_\_\_\_, 20\_\_\_\_, Petitioner(s) shall advance \$\_\_\_\_\_, Respondent 1 shall advance \$\_\_\_\_\_, and Respondent 2 shall advance \$\_\_\_\_\_ to the GAL as a retainer toward the GAL's fees and expenses. The GAL shall be paid at an hourly rate of \$\_\_\_\_\_. When the GAL fees exceed the retainer, Petitioner(s) shall pay \_\_\_\_\_%, Respondent 1 shall pay \_\_\_\_\_%, and Respondent 2 shall pay \_\_\_\_\_% of the additional GAL fees.

b. The GAL shall submit itemized monthly invoices for professional services to the parties.

c. The GAL may recommend reallocation of GAL fees and expenses.

d. Either party or the GAL may request a hearing on the GAL fees and costs. The GAL shall request a review hearing if the GAL fees and expenses exceed \$\_\_\_\_\_.

e. GAL fees are considered in the nature of support of the child.

f. The GAL shall not begin work until receiving an endorsed copy of the order appointing the GAL and full payment of the retainer.

The court finds that the parties are unable to pay for the services of a GAL and therefore, the court directs that  Administrative Office of the Court funds shall be used to pay for the GAL or  the GAL takes the case pro bono.

9. Hearings. The GAL may request an expedited hearing if there is non-compliance with this order.

10. The parties shall immediately contact the GAL to set up an initial appointment. The GAL's name is \_\_\_\_\_, phone number is \_\_\_\_\_, and email is \_\_\_\_\_.

\_\_\_\_\_  
District Court Judge

### CERTIFICATE OF MAILING

I, \_\_\_\_\_, certify that I caused an endorsed copy of this order appointing guardian ad litem to be served on the following persons by (*delivery*) (*mail*) (*or email*) on this

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_:

\_\_\_\_\_  
(Name of Petitioner)

\_\_\_\_\_  
(Name of Petitioner's attorney)

\_\_\_\_\_  
(Name of Respondent 1)

\_\_\_\_\_  
(Name of Respondent 1's attorney)

\_\_\_\_\_  
(Name of Respondent 2)

\_\_\_\_\_  
(Name of Respondent 2's attorney)

\_\_\_\_\_  
(Name of guardian ad litem)

\_\_\_\_\_  
(Name of person signing certificate)

[Adopted by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022.]

#### **4A-516. Letters of guardianship.**

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
\_\_\_\_\_ JUDICIAL DISTRICT

In the Matter of \_\_\_\_\_, No. \_\_\_\_\_  
\_\_\_\_\_, (a) Child(ren), and Concerning  
\_\_\_\_\_, Petitioner(s)  
\_\_\_\_\_, Respondent(s).

#### **LETTERS OF GUARDIANSHIP**

On \_\_\_\_\_, 20\_\_\_\_ this court entered an order appointing  
\_\_\_\_\_ (Petitioner(s)) as the guardian(s) of  
\_\_\_\_\_ (minor  
child(ren)) under Sections 40-10B-1 to -21 NMSA 1978 and Rule 1-155 NMRA.

**WHEREFORE**, the order appointing kinship guardian(s) suspends the rights of the Respondent(s) and vests in the guardian(s) all rights and responsibilities of a parent, except for the right to consent to adoption of the child(ren), including but not limited to:

1. Petitioner(s) is/are permitted to consent to medical, mental health, and dental services and treatment for the minor child(ren) not prohibited by other law;
2. Petitioner(s) is/are permitted to seek tribal, state, and federal benefits on behalf of the child(ren) without reference to the income of Petitioners (the benefits should be based on the parent(s)' income);



3. Petitioner(s) is/are permitted to enroll the child(ren) in school and extracurricular activities, including religious activities and ceremonies;

4. Petitioner(s) shall be considered the education decision maker or surrogate parent under Section 300.519 of the Individuals with Disabilities Education Act.

5. Petitioner(s) is/are permitted to obtain and modify vital records for the child(ren);

6. Petitioner(s) is/are permitted to

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WITNESS, the Honorable \_\_\_\_\_, District Court Judge, and the seal of the \_\_\_\_\_ Judicial District Court on \_\_\_\_\_.

CLERK OF THE DISTRICT COURT

[SEAL]

\_\_\_\_\_  
Deputy

[Adopted by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022.]

#### **4A-517. Kinship guardianship information sheet.**

##### **KINSHIP GUARDIANSHIP INFORMATION SHEET.**

##### **NOTE TO CLERK: DO NOT FILE THE INFORMATION SHEET**

*Type or print responses. Use only for kinship guardianship cases.*

**1. Petitioner's attorney information.** *(Complete only if Petitioner has an attorney.)*

Petitioner's name: \_\_\_\_\_

Attorney's name: \_\_\_\_\_

Attorney's address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip code: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email address: \_\_\_\_\_

**2. Information regarding Petitioner(s) and Respondent(s).** There may be multiple petitioners and respondents. Fill out the information for each petitioner and respondent. *(Do not use an attorney's mailing address. Use a separate sheet if necessary.)*

**Petitioner 1**

Name: \_\_\_\_\_  
(Last name, first, middle)  
Other names (e.g., maiden name):  
\_\_\_\_\_

Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip code: \_\_\_\_\_  
Email address: \_\_\_\_\_  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_

**Petitioner 2 (if applicable)**

Name: \_\_\_\_\_  
(Last name, first, middle)  
Other names (e.g., maiden name):  
\_\_\_\_\_

Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip code: \_\_\_\_\_  
Email address: \_\_\_\_\_  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_

**Respondent 1**

Name: \_\_\_\_\_  
(Last name, first, middle)  
Other names (e.g., maiden name):  
\_\_\_\_\_

Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip code: \_\_\_\_\_  
Email address: \_\_\_\_\_  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_

**Respondent 2**

Name: \_\_\_\_\_  
(Last name, first, middle)  
Other names (e.g., maiden name):  
\_\_\_\_\_

Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip code: \_\_\_\_\_  
Email address: \_\_\_\_\_  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_

**Respondent 3 (if applicable)**

Name: \_\_\_\_\_  
(Last name, first, middle)  
Other names (e.g., maiden name):  
\_\_\_\_\_

Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip code: \_\_\_\_\_  
Email address: \_\_\_\_\_  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_

**Respondent 4 (if applicable)**

Name: \_\_\_\_\_  
(Last name, first, middle)  
Other names (e.g., maiden name):  
\_\_\_\_\_

Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip code: \_\_\_\_\_  
Email address: \_\_\_\_\_  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_

**3. Minor children.** (Provide the date of birth and social security number for each minor child. Use a separate sheet if necessary.)

Name: \_\_\_\_\_

Name: \_\_\_\_\_

(*Last name, first, middle*)  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_

(*Last name, first, middle*)  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_

Name: \_\_\_\_\_  
(*Last name, first, middle*)  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_

Name: \_\_\_\_\_  
(*Last name, first, middle*)  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_

Name: \_\_\_\_\_  
(*Last name, first, middle*)  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_

Name: \_\_\_\_\_  
(*Last name, first, middle*)  
Date of birth: \_\_\_\_\_  
Social Security number: \_\_\_\_\_

[Adopted by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022.]