## **Civil Forms**

# **ARTICLE 1 General Provisions**

[For use with Magistrate Court Rule 2-106 and

4-101. Notice of [excusal] facts requiring recusal (constitution or code of conduct).

Metropolitan Court Rule 3-100	5]
STATE OF NEW MEXICO COUNTY OF	
COUNTY OF COUR	T Plaintiff
	_, Flaillill
v.	No
	_, Defendant
NOTICE OF [E	EXCUSAL] FACTS REQUIRING RECUSAL
(CONST	TITUTION OR CODE OF CONDUCT)1
•	that the impartiality of the Honorable _ may reasonably be questioned because:
the judge from presiding. The Constitution or the Code of Ju	(set forth specific facts which prohibit facts must be grounds for excusal under the New Mexico udicial Conduct.)
	that participation of the above-named judge would be in of the Code of Judicial Conduct.
Signature of party	

1. Each party must be served with a copy of this notice. See Rules 2-203 and 3-303 NMRA. See Civil Form 4-221 for the certificate of service and affidavit of service.

**USE NOTE** 

[As amended, effective May 1, 1986; November 1, 1995; May 1, 2002.]

#### **ANNOTATIONS**

**The 2002 amendment,** effective May 1, 2002, inserted "Facts Requiring Recusal" in the form heading and added the Use Note.

The 1995 amendment, effective November 1, 1995, rewrote the form.

## 4-102. Certificate of excusal or recusal.

[For use with Magistrate Court Rule 2-105 NMRA and Metropolitan Court Rule 3-105 NMRA]

STATE OF NEW MEXICO
COUNTY OF
IN THE COURT
, Plaintiff,
v. No
, Defendant.
CERTIFICATE OF EXCUSAL OR RECUSAL
I hereby certify that I have [been excused] [recused myself] from presiding in the above case.
The parties have not filed a stipulation agreeing to another judge of the district to hear the case.
It is requested that another judge be designated according to law.
,,
Judge
Division

[As amended, effective May 1, 1986; September 1, 1989; November 1, 1995; as amended by Supreme Court Order No. 10-8300-016, effective May 14, 2010.]

#### **ANNOTATIONS**

The 2010 amendment, approved by Supreme Court Order No. 10-8300-016, effective May 14, 2010, at the beginning of the form, deleted the reference to "2-105, 3-105" and added the current use note; deleted the former style of the case and added the current style of the case; and after the title of the form, in the first paragraph, after "certify that I have", deleted "(been excused)(recused myself)" and added "[been excused][recused myself]"; and after "in the above case", deleted "and ten (10) days have passed since the parties were notified of such recusal or excusal".

The 1995 amendment, effective November 1, 1995, rewrote the form.

#### 4-103. Notice of excusal.

[For use with Magistrate Court Rule 2-106 NMRA and Metropolitan Court Rule 3-106 NMRA]

Sī	TATE OF NEW MEXICO
C	OUNTY OF
IN	THE COURT
	, Plaintiff,
٧.	No
	, Defendant.
	NOTICE OF EXCUSAL
	The undersigned hereby notifies the court that the Honorable is excused from presiding over the above-captioned case.
	Dated this day of
	(Party or attorney for party)
	OPTIONAL STIPULATION
be	By our signatures below we stipulate that the Honorablee assigned to preside over the above-captioned case.
	Dated this day of,

(Party or attorney for party)
Dated this day of,
(Party or attorney for party)
USE NOTE
Each party must be served with a copy of this notice. See Rules 2-203 and 3-303 NMRA. See Civil Form 4-221 NMRA for the certificate of service and affidavit of service.
[As amended, effective May 1, 1986; November 1, 1995; May 1, 2002; as amended by Supreme Court Order No. 10-8300-016, effective May 14, 2010.]
ANNOTATIONS
<b>The 2010 amendment,</b> approved by Supreme Court Order No. 10-8300-016, effective May 14, 2010, deleted the former style of the case and added the current style of the case; and added the second part of the form under the title "Optional Stipulation".
The 2002 amendment, effective May 1, 2002, added the Use Note.
<b>The 1995 amendment,</b> effective November 1, 1995, deleted "he is exercising his right to excuse" preceding "the Honorable" and inserted "is excused".
4-104. Notice of recusal.
[For use with Magistrate Court Rule 2-106 NMRA and Metropolitan Court Rule 3-106 NMRA]
STATE OF NEW MEXICO
COUNTY OF
IN THE COURT
, Plaintiff,
v. No
, Defendant.

### **NOTICE OF RECUSAL**

The Honorablepresiding over the above-captioned case	has recused [himself] [herself] from e.
You will be notified when another jud	lge is designated according to law.
Dated this day of	·
Clerk	
- • •	s amended, effective November 1, 1995; May 1, order No. 10-8300-016, effective May 14, 2010.]
ANI	NOTATIONS
May 14, 2010, deleted the former style of case; after the title of the form, deleted to notice that the judge has been recused days the parties do not file a stipulation	preme Court Order No. 10-8300-016, effective of the case and added the current style of the he former language of the form which gave from presiding in the case and that if within ten agreeing to another judge to hear the case, he case; and added the current language of the
<b>The 2002 amendment,</b> effective May 1 line and added the Use Note.	2002, deleted the judicial division designation
have recused myself" for "The undersigned recusing himself", "ten (10) days" for "five processing himself", "ten (10) d	re (5) days", "file with the court a stipulation her judge will be assigned to hear the case" for
4-104B. Notice of assignment.	
[For use with Magistrate Court Rules 2-	105 and 2-106 NMRA]
STATE OF NEW MEXICO	
COUNTY OF	
IN THE MAGISTRATE COURT	
, F	Plaintiff,

v. No		
	, Defend	ant.
	NOTICE OF AS	SIGNMENT
The Honorable above-captioned case.		has been assigned to preside over the
Dated this	day of	,·
Clerk		
[As adopted by Supreme	Court Order No. 09-	8300-036, effective November 16, 2009.]
4-105. Motion to wi	thdraw as couns	el; order approving withdrawal.
[For use with Magistrate and Metropolitan Court F		IRA
STATE OF NEW MEXIC	O	
[COUNTY OF	]	
[CITY OF	]	
	COURT	
No		
	, Plaintiff	
V.		
	, Defenda	ınt
M	IOTION TO WITHDRA	AW AS COUNSEL <sup>1</sup>
	ORDER APPROVING	3 WITHDRAWAL
	o withdraw as counse	drawing attorney or firm) requests I for the above named party. The reason (set forth reason for the

## [My] [Our] client

(check and complete applicable alternative)

has consented to the withdrawal and has been notified of all pending court dates.
has refused to agree to the withdrawal because (set reason given by client).
could not be notified after the following attempts: A return receipt for certified or registered or my client's last known address is attached to this motion.
k and complete applicable alternative)
(name of attorney) is entering an appearance to sent the above named party <sup>1</sup> .
(name of party) will appear pro se. The last known ss of (name of party) is:
(name of party)
(mailing address)
(city, county and zip code)
(telephone number)
:
Withdrawing attorney
Signed
Name (print)
Address ( <i>print</i> )

	Telephone number
	Entry of appearance by new attor
	Signed
-	Name ( <i>print</i> )
	Address ( <i>print</i> )
	City, state and zip code ( <i>print</i> )
	Telephone number
	Last known address of pro se par
	Address ( <i>print</i> )
	City, state and zip code ( <i>print</i> )
	Telephone number

attorney or pro se party
Date
CERTIFICATE OF SERVICE ON OPPOSING PARTY
hereby certify that on this day of, this motion was
mailed by United States mail, postage prepaid, and addressed to:
lame:
Address:
City, State
nd zip code:]
faxed by (name of person who faxed) to the above named person. The transmission was reported as complete and without error. The time and date of the transmission was (a.m.) (p.m.) ondate).]
e-mailed to at (name of person who transmitted) to
which address is on file with the clerk of the Supreme Court. The transmission was uccessful. The time and date of the transmission was (p.m.) (a.m.) on (date).]
Signature of attorney or party
Date of signature
CERTIFICATE OF SERVICE ON WITHDRAWING ATTORNEY'S CLIENT
hereby certify that on this day of, this motion was
mailed by United States mail, postage prepaid, and addressed to:
lame:

Address:
City, State
and zip code:]
[faxed by (name of person who faxed) to the above named person. The transmission was reported as complete and without error. The time and date of the transmission was (a.m.) (p.m.) on (date).]
[e-mailed to (name of person who transmitted) to at (electronic address of recipient)
which address is on file with the clerk of the Supreme Court. The transmission was successful. The time and date of the transmission was (a.m.) (p.m.) on (date).]
Signature of attorney
Date of signature
WITHDRAWAL AND SUBSITUTUTION OF ATTORNEY
[APPROVED] [DENIED]:
Judge
Date

- 1. This form may also be used for the substitution of counsel. Unless there is a new attorney representing the party, insert "none". New counsel must also enter an appearance for the client.
  - 2. Use only applicable alternative.

[Approved by Supreme Court Order No. 05-8300-005, effective March 21, 2005.]

## 4-110. Request for hearing.

Telephone:

[District Court Civil Rules]<sup>1</sup> STATE OF NEW MEXICO COUNTY OF \_\_\_\_\_ JUDICIAL DISTRICT No. \_\_\_\_\_, Plaintiff ٧. , Defendant **REQUEST FOR HEARING** Assigned judge: \_\_\_\_\_ Matters to be heard: Hearings presently set: Time requested by plaintiff: Time requested by defendant: (Provide names and addresses of parties who need to be notified – attach a list if necessary.)2 I hereby certify that I have caused a copy of the foregoing to be [mailed] [delivered] [faxed] to each of the opposing parties listed above on or before \_\_\_\_\_ (date of service). Hearing requested by: Signature Printed name: Address:

#### USE NOTE

1. A local district court notice of hearing form that has been approved by the Supreme Court may be used instead of this form.

2. This request must be served on all other parties pursuant to Rule 1-005 NMRA. See also Rule 1-007.1 NMRA for how motions are presented to the court.

[Provisionally approved, effective August 15, 2003 until August 31, 2004; approved, October 14, 2004.]

#### **ANNOTATIONS**

**Compiler's notes.** — This form was provisionally approved by the Supreme Court effective August 15, 2003 until August 31, 2004. This form was permanently approved by the Supreme Court effective October 14, 2004.

## 4-111. Notice of hearing.

[For use with District Court Civil Rules] <sup>1</sup>		
STATE OF NEW MEXICO		
COUNTY OF		
JUDICIAL DISTRICT		
No		
, Plaintiff		
v.		
, Defendant		
NOTICE OF HEARING <sup>2</sup>		
The Honorable will hear (describe matter to be heard) in the above matter in the		
County courthouse located at		
on, the, day of,,, (minutes) (hours) is allotted for the hearing.	at	(a.m.) (p.m.).
Notice [mailed] [delivered] [faxed] on day of		,·
Administrative assistant to the judge		

**USE NOTE** 

- 1. The district court complies with the Americans with Disabilities Act. Please notify the clerk of the court of the nature of any disability at least five (5) days before any hearing, so appropriate accommodations can be made.
- 2. A local district court notice of hearing form that has been approved by the Supreme Court may be used instead of this form.

[Provisionally approved, effective August 15, 2003 until August 31, 2004; approved, October 14, 2004; as amended by Supreme Court Order No. 05-8300-020, effective December 15, 2005.]

#### **ANNOTATIONS**

**The 2005 amendment,** effective December 15, 2005, added a blank space for a description of the matter to be heard.

## 4-112. Request for hearing.

STATE OF NEW MEXICO

defendant:

[For use with Magistrate Court Civil Rule 2-307 NMRA and Metropolitan Court Civil Rule 3-307 NMRA]

STATE OF NEW MEXICO	
IN THE	COURT
COUN	TY
No	
	, Plaintiff
v.	
	, Defendant
	REQUEST FOR HEARING
Assigned judge:	
Matters to be heard:	
Hearings presently set:	
Time requested by plaintiff:	
Time requested by	

(Provide names necessary.)¹	and addresses of parties who need to be notified attach a list if
Hearing request	
Signature	
Printed name: Address:	
Telephone:	
	CERTIFICATE OF SERVICE
I hereby certify t	hat on this day of,, this _ ( <i>insert paper served, such as "answer" or "notice"</i> ) was
[mailed by Unite	d States first class mail, postage prepaid, and addressed to:
Name:	
Address:	
City, State	
and zip code:	]
[faxed by	(name of person who faxed document) to (name of recipient) at (telephone
<i>number</i> ). The tra	ansmission was reported as complete. The time and date of the s (a.m.) (p.m.) on (date).]
	(name of party or attorney) at (electronic mail address of recipient) upon agreement of the party
	onic service. The transmission was reported as complete. The time and mission was (p.m.) (a.m.) on

[delivered to (	
made. See Use Note 1 for the methods service	· · · · · · · · · · · · · · · · · · ·
	·J
Signature of person sending paper	
Date of signature	
•	
USE NO	TE
1. This request must be served on all other Rule 3-203 NMRA. See also Rule 2-307 NMRA court.	
[Approved by Supreme Court Order No. 05-830	00-005, effective March 21, 2005.]
4-113. Notice of hearing.	
[For use with Magistrate Court Civil Rule 2-307 Metropolitan Court Civil Rule 3-307 NMRA]	NMRA and
STATE OF NEW MEXICO	
IN THE COURT	
COUNTY	
No	
, Plaintiff	
v.	
, Defendar	nt
NOTICE OF H	
	-
The Honorable will hear County courthouse loc	the above cause in the
(street) in room on the	day of, at
(a.m.) (p.m.) <sup>1</sup> .	- · · · · · · · · · · · · · · · · · · ·

( <i>minutes</i> ) ( <i>hours</i> ) is allotted for the hearing on	2
Notice [mailed] [delivered] [faxed] on day of,	
Judge	

- 1. Please notify the clerk of the court of the nature of any disability at least five (5) days before any hearing, so appropriate accommodations can be made.
  - 2. Specify the matters to be heard.

[Approved by Supreme Court Order No. 05-8300-005, effective March 21, 2005.]

# 4-114. Suggested questions for assessing qualifications of proposed court interpreter.

[For use with District Court Rule 1-103, Magistrate Court Rule 2-113, Metropolitan Court Rule 3-113, and Evidence Rule 11-604 NMRA]

#### SUGGESTED QUESTIONS FOR PROPOSED COURT INTERPRETERS

- 1. Do you have any particular training or credentials as an interpreter?
- 2. What is your native language?
- 3. How did you learn English?
- 4. How did you learn [the foreign language]?
- 5. What was the highest grade you completed in school?
- 6. Have you spent any time in the foreign country?
- 7. Did you formally study either language in school? Extent?
- 8. How many times have you interpreted in court?
- 9. Have you interpreted for this type of hearing or trial before? Extent?

  Are you familiar with the code of professional responsibility for court
- 10. interpreters? Please tell me some of the main points (e.g., interpret everything that is said).
- 11. Are you a potential witness in this case?
- 12. Do you know or work for any of the parties?
- 13. Do you have any other potential conflicts of interests?
- 14. Have you had an opportunity to speak with the non-English speaking person

- informally? Were there any particular communication problems?
- 15. Are you familiar with the dialectal or idiomatic peculiarities of the witnesses?
- Are you able to interpret simultaneously without leaving out or changing anything that is said?
- 17. Are you able to interpret consecutively?

This list of proposed question is taken from Court Interpretation: Model Guides for Policy and Practice in the State Courts; Chapter 6, Judges Guide to Standards for Interpreted Proceedings; NCSC, 9/4/2002. The list of questions is not mandatory nor exclusive, and the judge retains the discretion to inquire into any subject matter necessary to determine whether the proposed court interpreter is qualified to serve.

[Adopted by Supreme Court Order No. 12-8300-022, effective for all cases filed or pending on or after January 1, 2013.]

### 4-115. Request for court interpreter.

[For use with District Court Rule 1-103, Magistrate Court Rule 2-113, Metropolitan Court Rule 3-113, and Evidence Rule 11-604 NMRA]

**SPECIFIC MATTERS TO BE HEARD:** 

STATE OF NEW MEXICO	
[COUNTY OF	
[CITY OF	]
IN THE	_COURT
	, Plaintiff,
V.	No
, Defen	dant.
REQU	EST FOR COURT INTERPRETER
PERSON NEEDING INTERP	RETER: Party Witness for
NAME OF PERSON NEEDIN	G INTERPRETER:

DATE:	TIME:	LOCATION:	
JUDGE:		TIME REQU	IRED:
LANGUAGE NEEDE	D: Spanish	Sign	Other
REQUESTED BY: _			
Sign	nature of party or p	party's attorney	
	[BELOW FOR	CLERK'S USE ONL	Y
NAME OF INTERPR	ETER:		
DATE INTERPRETE	R CONTACTED: _		
DATE/TIME VERIFIE	D WITH INTERPR	ETER:	
	Deputy (	Clerk	
	U	SE NOTE	
if cancellation of the i	nterpreter services nat party may be resordance with the Ad	is required. If the required is ponsible for the fees imministrative Office of	fying the court clerk's office uesting party fails to do so and mileage expenses of the Courts Court
[Adopted by Supreme pending on or after Ja		2-8300-022, effective	e for all cases filed or
4-116. Cancellati	on of court inte	erpreter.	
[For use with District Magistrate Court Rule Metropolitan Court R Evidence Rule 11-60	e 2-113, ule 3-113, and		
STATE OF NEW ME [COUNTY OF [CITY OF IN THE	]		

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

V.		No
	, Defendant.	
	CANCELLATION O	F COURT INTERPRETER
The court int court interpreter		sted is no longer needed. Please cancel the
DATE:	TIME:	LOCATION:
JUDGE:		<del></del>
REQUESTE	D BY:	
	Signature of party or party	arty's attorney
	[BELOW FOR C	CLERK'S USE ONLY]
NAME OF IN	NTERPRETER:	
DATE INTER	RPRETER CONTACTED	FOR CANCELLATION:
	BY	
	Deputy C	lerk

The party requesting the interpreter is responsible for notifying the court clerk's office if cancellation of the interpreter services is required. If the requesting party fails to do so in a timely manner, that party may be responsible for the fees and mileage expenses of the interpreter in accordance with the Administrative Office of the Courts Court Interpreter Standards of Practice and Payment Policies.

[Adopted by Supreme Court Order No. 12-8300-022, effective for all cases filed or pending on or after January 1, 2013.]

# 4-117. Notice of non-availability of certified court interpreter or justice system interpreter.

[For use with District Court Rule 1-103, Magistrate Court Rule 2-113,

Metropolitan Court Rule 3-113, and Evidence Rule 11-604 NMRA]

STATE OF NEW ME	
[COUNTY OF	
[COUNTY OF [CITY OF IN THE	J COURT
	, Plaintiff,
v.	No
	, Defendant.
	CE OF NON-AVAILABILITY OF CERTIFIED COURT ERPRETER OR JUSTICE SYSTEM INTERPRETER
the Courts for assist interpreter to provide is reasonably availal nature of the court p the proceeding, the proceeding can be a	by given that the court has contacted the Administrative Office of ance in locating a certified court interpreter or justice system a requested court interpretation services in this proceeding but none ole. After evaluating the totality of the circumstances including the roceeding and the potential penalty or consequences flowing from court concludes that an accurate and complete interpretation of the accomplished with a non-certified court interpreter. The court arrangements to provide interpretation services by a qualified non-reter.
	Signature of Judge
[Adopted by Suprempending on or after a	ne Court Order No. 12-8300-022, effective for all cases filed or January 1, 2013.]
4-118. Order on	motion to seal court records.
[For use with Magist Metropolitan Court F	rate Court Rule 2-112 NMRA, Rule 3-112 NMRA]
STATE OF NEW MI	EXICO
[COUNTY OF	]
	COURT

	, Plaintiff,
V.	No
	, Defendant.
	ORDER ON MOTION TO SEAL COURT RECORDS
	HIS MATTER having come before the Court upon a motion to seal court records, he Court being otherwise fully advised, FINDS:
[]	That the motion is well-taken and is GRANTED because:
1. the co	There exists an overriding interest that overcomes the right of public access to ourt record and supports sealing the court record;
2. the co	There is a substantial probability that the overriding interest will be prejudiced if ourt record is not sealed;
3.	The proposed sealing is narrowly tailored; and
4.	There are no less restrictive means to achieve the overriding interest.
5.	
	(Insert detailed facts that support each finding above. Note: This paragraph will to be sealed from public access as it may reveal too much about what is being ed. Delete these instructions in the final order.)
[] return motic	That the motion is not well-taken and is DENIED. The court clerk is instructed to any lodged pleadings to the pro se party or counsel of record who filed the on.
(Com	plete the following only if motion is GRANTED.)
IT IS	THEREFORE ORDERED THAT:
The f	ollowing court records are sealed from public access:
[]	Motion to seal
[]	Brief in support of motion to seal

[]	Response to motion to seal
[]	Reply to response to motion to seal
[] Seale	Lodged pleading now named (e.g., Sealed Affidavit or d Pleading)
[] seale	Individual docket entries for each of the court records sealed above shall also be d and titled:
[] the M	Entire court case file shall be sealed and the case shall now be referred to as, "In atter of a Sealed Case," but the court case number shall remain the same.
[]	Register of actions
[]	(other)
Only t	he following individuals shall be authorized to have access to the sealed court ds:
[]	Judge
[]	Court personnel
[]	Plaintiff
[]	Defendant
[]	Counsel of record
[] inform	Local, state, tribal, and federal agencies authorized by law to collect or use the nation (criminal justice agencies)
[]	(other)
	e Movant is hereby ordered to prepare redacted copies of the sealed court ds that may be made available for public access.
	is order shall remain in effect until (date) or until further of the court.
	otice will be given to the following upon any future motions to unseal this order or y this sealing order:

Name and address of Plaintiff:

Name and address of Defendant:
Name and address of non-party entitled to notice:
Name and address of non-party entitled to notice:
[Email addresses should also be provided above, if available. Service by email is limited under Rules 2-205 and 3-205 NMRA.]
Judge
[Adopted by Supreme Court Order No. 13-8300-035, effective for all cases pending or filed on or after December 31, 2013.]
4-119. Order on motion to unseal court records.
[For use with Magistrate Court Rule 2-112 NMRA, Metropolitan Court Rule 3-112 NMRA]
STATE OF NEW MEXICO
[COUNTY OF]
COURT
, Plaintiff,
v. No

Defendant.
 Defendant.

#### ORDER ON MOTION TO UNSEAL COURT RECORDS

THIS MATTER having come before the Court upon a motion to unseal court records, and the Court being otherwise fully advised, FINDS:

- [] That the motion is well-taken and is GRANTED because:
- 1. There is no longer an overriding interest that overcomes the right of public access to the court record or supports sealing the court record;
- 2. There is no interest that will be prejudiced if the court record is no longer sealed;
- 3. The current sealing is no longer narrowly tailored; and
- 4. There are less restrictive means to achieve the overriding interest that prompted the original order to seal.

5.

(Insert detailed facts that support each finding above. Note: This paragraph will not need to be sealed from public access. Delete these instructions in the final order.)

- [] That the motion is not well-taken and is DENIED because:
- 1. There continues to exist an overriding interest that overcomes the right of public access to the court record and supports the continued sealing of the court record;
- 2. There is a substantial probability that the overriding interest will be prejudiced if the court record does not remain sealed;
- 3. The existing sealing is narrowly tailored; and
- 4. There are no less restrictive means to achieve the overriding interest.

5.

(Insert detailed facts that support each finding above. Note: This paragraph will need to be sealed from public access as it may reveal too much about what is being sealed. Delete these instructions in the final order.)
[] IT IS THEREFORE ORDERED THAT the motion to unseal is DENIED and the court clerk is instructed that all court records previously sealed by order of this court are to remain sealed.
(Complete the following only if motion is GRANTED.)
IT IS THEREFORE ORDERED THAT:
The following court records are unsealed and are now available for public access:
[] Motion to seal
[] Brief in support of motion to seal
[] Response to motion to seal
[] Reply to response to motion to seal
[] Lodged pleading named (List specific pleading or portions of pleadings that are to be unsealed.)
[] Individual docket entries for each of the court records unsealed above shall also be unsealed and shall be titled as they would have been if they had not been sealed.
[] Register of actions
[] All records
[] (other)
The court records that are hereby unsealed as set forth above are subject to public access.
This order shall remain in effect until (date) or until further order of the court.
Notice will be given to the following upon any future motions to seal this order or to modify this unsealing order:
Name and address of Plaintiff:

Name and address of Defendant:
Name and address of non-party entitled to notice:
Name and address of non-party entitled to notice:
[Email addresses should also be provided above, if available. Service by email is limited under Rules 2-205 and 3-205 NMRA.]
Judge
[Adopted by Supreme Court Order No. 13-8300-035, effective for all cases pending or filed on or after December 31, 2013.]
ARTICLE 2 Commencement of Action
4-201. Civil complaint.
[For use with Rules 2-201 and 3-201 NMRA]
STATE OF NEW MEXICO
IN THE COURT No
COUNTY , Plaintiff

against	, Defendant
	, City
CIV	IL COMPLAINT
1. Plaintiff or defendant resides, c this county.	or may be found in, or the cause of action arose in
2. Plaintiff claims from Defendant claims interest and court costs.	the amount of \$ and also
Plaintiff claims from Defendant per which is described as follows:	rsonal property of the value of \$,
3. Plaintiff's claim arises from the	e following event or transaction:
4. Trial by jury is (not) demanded paid upon filing.)	. (If a jury is demanded, an additional cost must be
Date	Signed
	Name (print)
	Address (print)
	City, State and Zip Code (print)
	Telephone Number

[As amended, effective January 1, 1995.]

### **ANNOTATIONS**

**The 1995 amendment,** effective January 1, 1995, added the lines for the address of the defendant in the caption.

## 4-202. Civil complaint.

[For use with Rule 3-201 NMRA]

STATE OF NEW MEXI	СО
IN THE COURT	No
against	COUNTY , Plaintiff
	, Defendant
	CIVIL COMPLAINT
<ol> <li>Plaintiff or defer this county.</li> </ol>	ndant resides, or may be found in, or the cause of action arose in
2. Plaintiff claims fr interest and court costs	rom Defendant the amount of \$ Plaintiff also claims
Plaintiff claims from which is described as fo	Defendant personal property of the value of \$, ollows:
3. Plaintiff's claim a	arises from the following event or transaction:
4. Trial by jury is (n paid upon filing.]	ot) demanded. [If a jury is demanded, an additional cost must be
	ing of the trial is (not) demanded. [If you do not request an audio appeal may be limited.]
,	Signed
	Name [print]
	Address [print]

	City, State	e and Zip Code	[print]
	Telephon	e Number	
4-203. Complaint	in forcible	entry or unla	awful detainer.
[Magistrate Court - M	etropolitan Cou	ırt]	
STATE OF NEW MEX	KICO		
IN THE		_ COURT	No
		COUNTY	Plaintiff
against		, [	
	COMPLAI	NT IN FORCIBL	LE ENTRY
	OR UN	ILAWFUL DET	AINER
Plaintiff says: On t was lawfully possesse described as follows:	heed or lawfully election [describe with]	reasonable cert	ssession of the premises or property ainty.]
and on that date the I premises or property,	Defendant unla as follows:	wfully entered o	r retained possession of the
·			
WHEREFORE, PI granted judgment of \$			emoved and that Plaintiff be ourt costs.
	_, Signed		

	Name [print]	
	Address [print]	
	City, State and Zip Code [print]	
	Telephone Number	
4-204. Civil su	mmons.	
[For use with Rule	es 2-202 and 3-202 NMRA]	
STATE OF NEW I	MEXICO	
	_ COURT	
	COUNTY	
	, Plaintiff	
v. No		
Judge assi	gned:	
	, Defendant	
	CIVIL SUMMONS	
TO:		, Defendant¹
ADDRESS:		
ADDRESS:		

GREETINGS: THIS IS A COURT ISSUED SUMMONS.

A LAWSUIT HAS BEEN FILED AGAINST YOU. A copy of the lawsuit (complaint) and a response form (answer form)<sup>2</sup> are attached.

YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THE COMPLAINT WITHIN TWENTY (20) DAYS AFTER THE SUMMONS HAS BEEN SERVED ON YOU. You must file (in person or by mail) your written response with the court. When you file your response, you must give or mail a copy to the person who signed the complaint.

<u>IF YOU DO NOT FILE A WRITTEN RESPONSE WITH THE COURT</u> WITHIN THE TWENTY (20) DAY PERIOD, NO COURT DATE WILL BE SET, AND THE COURT

MAY ENTER A DEFAULT JUDGMENT AGAINST YOU FOR THE MONEY OR OTHER RELIEF REQUESTED IN THE COMPLAINT. A DEFAULT JUDGMENT MEANS <u>YOU LOSE THE CASE AND YOU OWE THE PLAINTIFF.</u>

<u>IF YOU DO NOT FILE A WRITTEN RESPONSE WITH THE COURT</u> YOU MAY BE GIVING UP ANY DEFENSES YOU MAY HAVE, FOR EXAMPLE, THAT YOU DO NOT OWE THE PLAINTIFF OR THAT TOO MUCH TIME HAS PASSED.

You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.

You are entitled to a jury trial in most types of lawsuits. To get a jury trial, you must request one in your written response, and you must pay a jury fee when you file your response.

If you need an interpreter, you must ask the court for one in writing.

Your answer must be filed with the court which is located at:

(The following paragraph is for use only if summons issued by the Metropolitan Court.)

IF YOU WANT A TAPE RECORDING OF ANY PROCEEDING, YOU MUST REQUEST IT PRIOR TO THE BEGINNING OF THE PROCEEDING. IF YOU DO NOT ASK FOR A TAPE RECORDING, YOU WILL NOT HAVE A RECORD OF THE PROCEEDINGS TO TAKE TO THE DISTRICT COURT FOR ANY APPEAL.

of

Tour answer must be med wit	in the court which is located at.	(street address of
court)		(0.000 du d.000 0.
A copy of your answer or respondering the plaintiff or plaintiff's attorney)	ponsive pleading must be maile	ed to: ( <i>name and address</i>
Name:		
Address:		
	Clerk	
	RETURN	
STATE OF NEW MEXICO	) ) ss	
COUNTY OF	_ )	

## (complete the following, unless service by sheriff or deputy)<sup>3</sup>

I, being sworn, state that I am over the age of eig	phteen (18) years and not a party to this
lawsuit, and that I served this summons in	county on the
, day of,, b	by delivering a copy of this summons, a
copy of the complaint and an answer (indicate be	elow how served):
(complete if service by sheriff or deputy) <sup>3</sup>	
I certify that I served this summons in	county on the
day of,, by delivering	g a copy of this summons, a copy of
the complaint and an answer form in the followin	g manner:
(person serving summons must check one be	ox and fill in appropriate blanks)
[] by delivering a copy of this summons, a co	
form to the defendant, (us	sed when defendant receives copy of
summons or refuses to receive summons).	
[] by delivering a copy of this summons, a copy of this summons, a copy of the usual home of the defendant,	opy of the complaint and an answer een (15) years of age and residing at
(address).	(used when defendant is not presently
at the home.)	(adda When defendant is not presently
[] by posting a copy of the summons, compl public part of the usual home of(address) (used if r	
of residence).	·
(If service is by posting a copy of the summust also be mailed to the person served. The person serving by mail must each sign a return. complete the certificate of mailing at the end of the	erson serving by posting and the The person mailing must check and
[] by delivering a copy of this summons, a coform to, an agent authorized defendant.	

[] by delivering a copy of this summor form to, (parent) (go defendant is a minor or an incompetent per	ns, a copy of the complaint and an answer guardian) (custodian) of defendant (used when erson).
form to (name of p authorized to receive service) (used when	ns, a copy of the complaint and an answer person),, (title of person a defendant is a corporation or an association a land grant board of trustees, the State of
[] by service by mail.	
Fees:	
	Signature of person making service
	Title (if any)
Subscribed and sworn to	
before me this	
day of,	
Judge, notary or other officer	
authorized to administer oaths <sup>3</sup>	
Official title	
(To be completed if service is made by po	osting)⁴
lawsuit, and that I served a copy of this su	e of eighteen (18) years and not a party to this immons on the day of irst class mail, postage prepaid, a copy of this
summons, a copy of the complaint, and ar	
	(name of person served)
	(address where mailed)

-		_ (county)
-		_ (city, state and zip code)
-	Signature of person making service	
-	Title (if any)	
-	Place of mailing	
	Date	
Sub	oscribed and sworn to	
	before me this	
	day of,	
	Judge, notary or other officer	
	authorized to administer oaths <sup>3</sup>	
	Official title	
(То	be completed if service is made by mail.)5	
laws	eing sworn, state that I am over the age of eighteesuit, and that I served a copy of this summons on,, by mailing first class m	the day of
sum	nmons, a copy of the complaint, an answer form a nowledgment and a return envelope, postage pre	and two copies of the notice and
		(name of person served)

	(address where mailed)
	(county)
	(city, state and zip code)
	Signature of person making service
	Title (if any)
	Place of mailing
	Date
scribed and sworn to before me	
this day of	,
·	
Judge, notary or other officer	
authorized to administer oaths	
Official title <sup>3</sup>	

- 1. A separate summons must be used for each defendant.
- 2. An answer form must be attached to the summons at the time of service. For answer forms, see Rules 4-301 and 4-302 NMRA.
- 3. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy need not be notarized.
- 4. For use when service is by posting.
- 5. If service is by mail, Civil Form 4-208 must be completed and mailed with this summons.

[As amended, effective January 1, 1987; January 1, 1990; July 1, 1990; October 1, 1991; January 1, 1993; May 1, 1994; September 2, 1997; as amended by Supreme Court Order No. 16-8300-032, effective for all cases pending or filed on or after December 31, 2016.]

#### **ANNOTATIONS**

**The 2016 amendment,** approved by Supreme Court Order No. 16-8300-032, effective December 31, 2016, rewrote the form.

**The 1997 amendment,** effective September 2, 1997, inserted "Civil" and deleted "The State of New Mexico" in the form heading, substituted "pleading" for "motion" throughout the form, substituted "and an answer form are attached" for "is attached" in the first paragraph, inserted "or responsive pleading" in the fifth paragraph, deleted the former sixth paragraph relating to witness by a magistrate or municipal court judge and substituted "clerk" for "judge" below the signature line at the end of the form, rewrote the return, and made stylistic changes throughout.

**The 1994 amendment,** effective May 1, 1994, added the present third paragraph relating to tape recordings and the instruction parenthetical relating to the Metropolitan Court.

**The 1993 amendment,** effective January 1, 1993, in the "Summons", added the second sentence and third and fourth paragraphs, inserted "plaintiff or" near the end, and made stylistic changes.

**The 1991 amendment,** effective October 1, 1991, added the space for "Judge assigned" near the beginning of the form and for "abode located at" in two places near the middle.

**The 1990 amendment,** effective July 1, 1990, in the first two paragraphs of the "Return" form substituted "(in said county) (in .... County)" for "in said county".

## 4-205. Civil complaint for interpleader.

[For use with Rules 2-301 and 3-301 NMRA]

STATE OF NEW MEXICO		
	COUNTY	No
IN THE		COURT
		, Interpleader

against, D	efendant
and, D	
CIVIL COMPLAINT F INTERPLEADER	OR
Interpleader hereby complains against defendants	
as follows:	
1. Interpleader is	
(briefly describe the position of interpleader and the r	elationship to the defendants);
2. Defendants, on information and belief, are resident county.	es of
3. Interpleader is presently holding money in the a money held by interpleader belongs to either or both	
4. Interpleader is in doubt and cannot safely deter claims for the money held by interpleader and hereby court in order that the claims of the defendants may be	offers to deliver the money to the
WHEREFORE, Interpleader asks that:	
Defendant be ordered to interplead an rights and claims to the money held by interpleader.	d settle between themselves their
2. Interpleader be discharged from any further liab of (set forth defendants).	
3. Interpleader also requests court costs and such just and proper.	other relief as the court deems

		Signed	
		Name [print]	
		Address	
•		City, State and Zip Code	
		Telephone Number	
[Adopted, effective July 1	, 1988.]		
4-206. Summons.			
For use with District Cou	rt Civil Rule 1-004	NMRA]	
	SUM	MONS	
Mexico	County, New	Case Number:	
Court Address: Court Telephone Number	:	Judge:	
Plaintiff(s): v. Defendant(s):		Defendant Name: Address:	

## TO THE ABOVE NAMED DEFENDANT(S): Take notice that

- 1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
- 2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
- 3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.

- 4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
- 5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
  - 6. If you need an interpreter, you must ask for one in writing

6. If you need an interpreter,	you must ask for one in writing.
•	lawyer. You may contact the State Bar of New Mexiconmbar.org; 1-800-876-6227; or 1-505-797-6066.
Dated at 20	, New Mexico, this day of,
CLERK OF COURT	
By: Deputy	Attorney for Plaintiff or Plaintiff pro se Name: Address: Telephone No.: Fax No.: Email Address:
	RSUANT TO RULE 1-004 NMRA OF THE NEW CEDURE FOR DISTRICT COURTS.
	RETURN <sup>1</sup>
STATE OF NEW MEXICO ) )s: COUNTY OF )	S
a party to this lawsuit, and that I s	e that I am over the age of eighteen (18) years and not served this summons in county on,, by delivering a copy of this summons, with a following manner:
(check one box and fill in appro	opriate blanks)
[] to the defendant of summons and complaint or ref	(used when defendant accepts a copy uses to accept the summons and complaint)

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons with a copy of complaint attached, in the following manner:  [] to		to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA d when service is by mail or commercial courier service).
residing at the usual place of abode of defendant	servic	ce or by mail or commercial courier service, by delivering a copy of this summons,
place of business or employment of the defendant and by mailing by first class mail to the defendant at	residi defen defen	ing at the usual place of abode of defendant, (used when the adant is not presently at place of abode) and by mailing by first class mail to the adant at (insert defendant's last known mailing address) a
[] to	place the de by ma	e of business or employment of the defendant and by mailing by first class mail to efendant at (insert defendant's business address) and ailing the summons and complaint by first class mail to the defendant at
[] to		
incompetent person).  [] to	proce	ess for defendant
[] to		
alternative when the defendant is a corporation or an association subject to a suit und a common name, a land grant board of trustees, the State of New Mexico or any political subdivision).  Fees:  Signature of person making service  Title (if any)		to (name of person),
Signature of person making service  Title (if any)	a con	native when the defendant is a corporation or an association subject to a suit under mmon name, a land grant board of trustees, the State of New Mexico or any
Signature of person making service  Title (if any)	Fees:	<u> </u>
Title (if any)		
Subscribed and sworn to before me this day of,	Subs	cribed and sworn to before me this day of,²

Judge, notary or other officer authorized to administer oaths				
Official title				

- 1. Unless otherwise ordered by the court, this return is not to be filed with the court prior to service of the summons and complaint on the defendant.
- 2. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy sheriff need not be notarized.

[Adopted effective August 1, 1988; as amended by Supreme Court Order No. 05-8300-001, effective March 1, 2005; by Supreme Court Order No. 07-8300-016, effective August 1, 2007; by Supreme Court Order No. 12-8300-026, effective for all cases filed or pending on or after January 7, 2013; as amended by Supreme Court Order No. 13-8300-022, effective for all cases pending or filed on or after December 31, 2013; as amended by Supreme Court Order No. 14-8300-017, effective for all cases pending or filed on or after December 31, 2014.]

#### **ANNOTATIONS**

**The 2014 amendment,** approved by Supreme Court Order No. 14-8300-017, effective December 31, 2014, changed the State Bar contact information; and in the Summons, in Paragraph 7, changed "1-800-876-6657" to "1-800-876-6227".

**The 2013 amendment,** approved by Supreme Court Order No. 13-8300-022, effective December 31, 2013, deleted the signature line for the attorney for plaintiff; required the name and the contact information of a plaintiff pro se; and after Paragraph 7 of the Summons, deleted the signature line for the attorney for plaintiff, under the former signature line, deleted "Signature of", and after "Attorney for Plaintiff", added "or Plaintiff pro se".

The 2012 amendment, approved by Supreme Court Order No. 12-8300-026, effective January 7, 2013, completely revised the form of the Summons to include the address and telephone number of the court and the name of the assigned judge in the caption of the case; to include detailed instructions to the defendant concerning the filing of the complaint and issuance of the summons, the obligation of the defendant to file an answer to the complaint with the clerk of the court and to serve the answer on the plaintiff within thirty days, the authority of the court to enter judgment against the defendant if the defendant fails to timely file an answer to the complaint, the right of the defendant to request a jury trial, the availability of interpreters if requested by the defendant, and the service offered by the State Bar in helping the defendant find a

lawyer; required plaintiff's attorney to sign the Summons; and added the new caption, Paragraphs 1 through 7 of the Summons, and the signature line for the plaintiff's attorney.

**The 2007 amendment,** effective August 1, 2007, deleted "a copy of" after "file" and before "your answer" in the first paragraph.

**The 2005 amendment,** effective March 1, 2005, deleted "and file the same, all as provided by law" at the end of the first paragraph and inserted after "this summons" "and file a copy of your answer or motion with the court as provided in Rule 1-005 NMRA", replaced the second paragraph and revised the return paragraphs to conform those paragraphs with the amendment of Rule 1-004 NMRA also approved as of March 1, 2005.

#### 4-207. Withdrawn.

#### **ANNOTATIONS**

**Withdrawals.** — Pursuant to a court order, Form 4-209 NMRA, relating to service of a summons and complaint by mail, was withdrawn effective March 1, 2005. For provisions of former form, see the 2004 NMRA on *NMOneSource.com*.

For comparable provisions, see Paragraph F of Rule 1-004 NMRA. For service by mail, see Form 4-206 NMRA.

# 4-208. Notice and acknowledgment of receipt of summons and complaint.

[For use with Rules 2-202 and 3-202 NMRA]

STATE OF NEW MEXICO	
COURT	No
COOKI	
	(COUNTY)
	, Plaintiff
V.	
	. Defendant

NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT

TO:						
 ADDRE	SS:					
<b>—</b> .		 				

The enclosed summons, complaint, answer form, two copies of this notice and acknowledgment of receipt of summons and a postage prepaid return envelope are served pursuant to the rules of civil procedure.

You must sign and date the receipt. If you are served on behalf of a corporation, unincorporated association (including a partnership) or other entity, you must indicate under your signature your relationship, position or title. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your relationship, position or title.

You must complete and return one copy of the completed form to the sender within twenty (20) days of the date upon which this notice was mailed. This date appears below. If you fail to complete and return this form to the sender within twenty (20) days plus three (3) days for mailing, you may be required to pay any expenses incurred in serving a summons and complaint in any other manner permitted by law. It must be received by the sender within twenty-three (23) days from the date it was mailed to you.

A stamped and addressed envelope has been included with this notice. You may use this envelope to return this form to the sender.

In addition to completing this form and returning it to the sender, you must also answer the complaint and file an answer with the court within twenty-three (23) days from the date this notice was mailed to you. This date appears below. An answer form has been included with this notice for your use. If an answer is not filed with the court a default judgment may be granted for the relief demanded in the complaint.

this notice and acknowledg prepaid return envelope we	ment of receipt of sun	•	•
		(p.a.co or animagy)	
	Signature of pe	erson mailing	
	Date of signatu	ıre	

#### RECEIPT OF SUMMONS AND COMPLAINT

I received a copy of the summons and complaint.

I understand that a judgment may be entered against me (or the party on whose behalf I received service) if I do not file an answer to the complaint with the court within twenty-three (23) days from the date this notice was mailed to me.

Signature of defendant or defendant's attorney	
Position or title	
Date of signature	

(To be completed prior to filing with the clerk of the court.

Proof of service is required for each party.)

## **AFFIDAVIT OF SERVICE**

copies postag entities	of this notice and acknow ge prepaid return envelopes on this day of	jury that a copy of the complaint, an answer form, two ledgment of receipt of summons and complaint and a were served by mail on the following persons or:
(1)		
	(Name of party)	
	(Address)	
(2)	(Name of party)	
	(Address)	
		Signature of person mailing pleadings
		Date of signature

Subscribed and sworn to before me this day of,	
Judge, notary or other officer authorized to administer oaths	
Official title	
[As amended, effective January 1, 1993; Septe	ember 2, 1997.]
ANNOTAT	IONS
The 1997 amendment, effective September 2, the form heading, increased the time for return days to allow three days for mailing and rewrot Summons and Complaint, and added the Affida	of the answer form from 20 days to 23 e the form, rewrote the Receipt of
<b>The 1993 amendment,</b> effective January 1, 19 with the 1992 amendments to Rules 2-202 and	
4-209. Motion for service by publication	tion.
[For use with District Court Civil Rule 1-004 NM	IRA]
STATE OF NEW MEXICO COUNTY OF	_
JUDICIAL DISTRICT	, Plaintiff
v.	No
	, Defendant
MOTION FOR BY PUBLIC	
, the pl search efforts, plaintiff has been unable to serv defendant personally and the following diligent the above-named defendant personally with a	efforts were made to locate and serve

(Check each method of service attempted and complete applicable blank spaces.)

[]	personal service;		
[]	service at the defendant's last (name of p		esidential address by fempting service);
[]	service by mail or courier serv	rice pursu	uant to Paragraph F of Rule 1-004 NMRA;
[]	service at the defendant's last	known b	ousiness address;
[] driver	service at the address listed a er's license;	t the mot	or vehicle division for the defendant's
	service at the address listed in or county:		telephone directory listing for the following (list cities and counties);
	a search of the records of the courts);	following	courts
[] defen	endant);		(describe other attempts to locate
	contacted the post office for the endant and there was no forwardi		de of the last known address of the ess;
[] serve	ve the defendant).		(describe other attempts to locate and
	state upon my oath or affirmatio and correct to the best of my info		s document and the statements in it are and belief.
Date:	∋:		Signature of plaintiff
STAT	TE OF NEW MEXICO )	SS	Gignaturo er pianian
COUI OF	) )		
Si	Signed and sworn to before me th	nis	day of
 Notar	ary		

**CERTIFICATE OF SERVICE** 

I hereby certify that on this day of [mailed by United States mail, postage prepaid, and add	
Name:	
Address:	
City, state and zip code:	
[faxed by (name of perso (defendant or defendant's attorney	n who faxed) to
reported as complete and without error. The time and da	ate of the transmission was
(a.m.) (p.m.) on (name of p	erson who transmitted) to ectronic address of recipient
who agreed to service in this manner. The transmission date of the transmission was (a.m.) (date).]	was successful. The time and
Signature of attorney	
Date of signature  If this motion was served by a person other than an atto- completed and filed with the court:	rney, the following must also be
AFFIDAVIT OF SERVICE	E
I declare under penalty of perjury that a copy of this r [fax] [electronic transmission] as described above on this 	
Signature of person who made service Subscribed and sworn to before me this day of	_
Judge, notary or other officer authorized to administer oaths	
Official title	
Signature	
Date of signature	

This form was prepared for service by publication. It is used in conjunction with Form 4-209A or 4-210B NMRA.

[Provisionally approved, effective August 15, 2003 until August 31, 2004; approved, October 14, 2004.]

[For use with District Court Civil Rule 1-004 NMRA]

## 4-209A. Order for service of process by publication in a newspaper.

STATE OF NEW MEXICO COUNTY OF \_\_\_\_\_ \_\_\_\_\_ JUDICIAL DISTRICT No. \_\_\_\_\_ \_\_\_\_\_, Plaintiff ٧. . Defendant ORDER FOR SERVICE OF PROCESS<sup>1</sup> BY PUBLICATION IN A NEWSPAPER [Plaintiff] [Petitioner] has filed a motion requesting that the court approve service of process upon \_\_\_\_\_ (name of each person to be served) by publication in a newspaper of general circulation. The court finds that the [plaintiff] [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 person to be served) is The court further finds that the newspaper of general circulation in this county is (name of newspaper) [and that this newspaper is most likely to give the defendant notice of the pendency of the action]1 [and 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 the petitioner serve process on by publication once a week for three consecutive weeks in the (newspaper) [and once a week for three consecutive weeks in

(newspaper) in (county)]¹. The [plaintiff] [petitioner] shall file a proof of service with a copy of the affidavit of publication when service has been completed.
Dated this day of
District Judge
USE NOTE
1. Use applicable alternative. Unless the newspaper of general circulation in the county where the action is pending is most likely to give notice of the pendency of the action to the person to be served, the notice must also be published in a newspaper of general circulation in the county where the person to be served is most likely to get notice.
[Approved by Supreme Court Order No. 05-8300-001, effective March 1, 2005.]
4-209B. Order for service of process by publication in a newspaper (guardianship proceedings).
[For use with District Court Civil Rule 1-004 NMRA]
STATE OF NEW MEXICO
COUNTY OF JUDICIAL DISTRICT
, Plaintiff
v. No
, Defendant
ORDER FOR SERVICE OF PROCESS BY PUBLICATION IN A NEWSPAPER (guardianship proceedings)'
Petitioner has filed a motion requesting that the court approve service of process upon (name of each person to be served) by publication in a newspaper of general circulation.
The court finds that the 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 person to be served) is

The court further finds that the newspaper of general circulation in this county is
(name of newspaper) [and that this newspaper is most likely to give
the defendant notice of the pendency of the action] <sup>2</sup> [and 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 the petitioner serve process on
by publication once a week for three consecutive weeks in the
(newspaper) [and once a week for three
consecutive weeks in (newspaper) in
(county)]¹. The [plaintiff] [petitioner] shall file a proof of service with a
copy of the affidavit of publication when service has been completed.
The notice shall include a statement that the action involves the guardianship of
(name of child), born (date) to
(mother's name).
Dated this,
District Judge

- 1. This form is used in guardianship proceedings.
- 2. Use applicable alternative. Unless the newspaper of general circulation in the county where the action is pending is most likely to give notice of the pendency of the action to the person to be served, the notice must also be published in a newspaper of general circulation in the county where the person to be served is most likely to get notice.

[Provisionally approved, effective August 15, 2003 until August 31, 2004; approved, October 14, 2004.]

## 4-211. Recompiled.

#### **ANNOTATIONS**

**Recompilations.**— Former Form 4-211 NMRA, relating to domestic relations cover sheet, was recompiled as 4A-101 NMRA.

## 4-212. Recompiled.

#### **ANNOTATIONS**

**Recompilations.**— Former Form 4-212 NMRA, relating to domestic relations information sheet, was recompiled as 4A-102 NMRA.

## 4-213. Attorney's certificate.

[For use with Rule 1-099 NMRA] STATE OF NEW MEXICO \_\_\_\_\_ COUNTY JUDICIAL DISTRICT No. \_\_\_\_\_ ٧. Judge: \_\_\_\_\_ ATTORNEY'S CERTIFICATE \_\_\_\_\_, attorney for \_\_\_\_\_\_, certify pursuant to Rule 1-011 NMRA that no fee is required by Rule 1-099 NMRA because the attached paper is: 1. [ being filed within ninety (90) days of the disposition; 2. [ requesting action which may be performed by the clerk of the court or seeking to correct a mistake in the judgment or record filed; 3. [ requesting entry of a stipulated order; 4. [ seeking only enforcement of a child support order; 5. [ being filed by an entity exempt by law from paying a docket fee. Attorney's signature Attorney's name Address

Telephone number		

## IF THE REQUIRED FEE IS NOT PAID, THE CASE WILL BE CLOSED WITHOUT DISPOSITION OF PENDING MATTERS UNTIL PAYMENT IS MADE.

FOR CLERK'S USE ONLY Fees Paid: [] Yes [] No [] Check [] Cash	
C	lerk:
[Approved, effective August 1, 2001.]	
4-221. Certificate of service.	
[For use with Metropolitan Court Rules 3-203, 3-20	4 and 3-205 NMRA]
CERTIFICATE OF S	ERVICE
I hereby certify that on this day of this (insert paper set was [mailed by United States first class mail, posta	rved, such as "answer" or "notice")  age prepaid, and addressed to]
Name:	
Address:	
City, State	
and zip code:	
Telephone:	
[faxed by (name of recipient) at number). The transmission was reported as complete.	(telephone
transmission was [a.m.] [p.m.] on	
[e-mailed to (name of (nectronic mail address of re	party or attorney) at ecipient) upon agreement of the party
to accept electronic service. The transmission was date of the transmission was [a.m.] [p.m (date).]	

[delivered to (Specify how service by delivery was made. See Use Note for the methods service may be made using this alternative.)]
Signature of person sending paper
Date of signature
USE NOTE
This form may be used in the metropolitan court to prepare a certificate or affidavit of service. Only the applicable parts should be used. See Rule 3-303 NMRA for service of papers after the complaint.
[As amended by Supreme Court Order No. 05-8300-005, effective March 21, 2005; by Supreme Court Order No. 09-8300-036, effective November 16, 2009.]
ANNOTATIONS
<b>The 2009 amendment,</b> approved by Supreme Court Order No. 09-8300-036, effective November 16, 2009, in the brackets at the beginning of the form, deleted "Magistrate Court Rules 2-203, 2-204, 2-205 and"; in the last paragraph, after "This form may be used in the", deleted "magistrate and"; and in the third sentence, after "See", deleted "Rules 2-203" and inserted "Rule".
<b>The 2005 amendment,</b> effective March 21, 2005, revised this form to be consistent with the March 21, 2005 amendment of Magistrate Court Rules 2-203, 2-204, 2-205 and Metropolitan Court Rules 3-203, 3-204, 3-205 NMRA.
4-221A. Party's certificate of service.
[For use by parties in the Magistrate Courts]
CERTIFICATE OF SERVICE
I hereby certify that on this day of, this (insert paper served, such as "answer" or "notice") was [mailed by United States first class mail and addressed to]
Name:
Address:

City, State
and zip code:
Telephone:
[faxed by (name of person who faxed document) to (name of recipient) at (telephone
number). The transmission was reported as complete. The time and date of the
transmission was [a.m.] [p.m.] on (date).]
[e-mailed to (name of party or attorney) at
(electronic mail address of recipient) upon agreement of the party to accept electronic service. The transmission was successful. The time and date of the
transmission was [a.m.] [p.m.] on (date).]
[delivered to (Specify how service by delivery was
made. See Use Note for the methods service may be made using this alternative.)
·J
Signature of person conding paper
Signature of person sending paper
Date of signature
USE NOTE
This form may be used in the magistrate courts to prepare a certificate or affidavit of service. Only the applicable parts should be used. See Rule 2-203 NMRA for service of papers after the complaint.
[As adopted by Supreme Court Order No. 09-8300-036, effective November 16, 2009.]
4-222. Application for free process and affidavit of indigency.
[For use with Supreme Court General Rule 23-114 NMRA]
STATE OF NEW MEXICO
COUNTY OF
COURT

	, Petitioner,
V.	No
	, Respondent.
	APPLICATION FOR FREE PROCESS AND AFFIDAVIT OF INDIGENCY
prepa	request that the court enter an order permitting me to file this case without ayment of fees and costs and give upon my oath or affirmation the following ment.
-	narital status is: Single Married Divorced Separated wed
I requ	uest interpretation services: yesno (If yes, please describe what you need)
	IFORMATION ABOUT MY FINANCES (check all that apply to you and fill in planks):
	olanks):
the b	olanks):
A.  EMP	PUBLIC ASSISTANCE  I do not receive public assistance (If you check this blank, go directly to Section B
A.  EMP	PUBLIC ASSISTANCE  I do not receive public assistance (If you check this blank, go directly to Section B LOYMENT/UNEMPLOYMENT).  I currently receive the following public assistance inCounty
A.  EMP	PUBLIC ASSISTANCE  I do not receive public assistance (If you check this blank, go directly to Section B LOYMENT/UNEMPLOYMENT).  I currently receive the following public assistance inCounty se check all applicable public assistance programs): Temporary Assistance for Needy Families (TANF)Food Stamps
A.  EMP	PUBLIC ASSISTANCE  I do not receive public assistance (If you check this blank, go directly to Section B LOYMENT/UNEMPLOYMENT).  I currently receive the following public assistance inCounty se check all applicable public assistance programs): Temporary Assistance for Needy Families (TANF)Food StampsMedicaid (for myself)General Assistance (GA)Supplemental Security Income (SSI)
A.  EMP	PUBLIC ASSISTANCE  I do not receive public assistance (If you check this blank, go directly to Section B LOYMENT/UNEMPLOYMENT).  I currently receive the following public assistance inCounty se check all applicable public assistance programs): Temporary Assistance for Needy Families (TANF) Food Stamps Medicaid (for myself) General Assistance (GA) Supplemental Security Income (SSI) Public Housing
A.  EMP	PUBLIC ASSISTANCE  I do not receive public assistance (If you check this blank, go directly to Section B LOYMENT/UNEMPLOYMENT).  I currently receive the following public assistance inCounty se check all applicable public assistance programs): Temporary Assistance for Needy Families (TANF)Food StampsMedicaid (for myself)General Assistance (GA)Supplemental Security Income (SSI)

## B. EMPLOYMENT/UNEMPLOYMENT

	I am currently unemployed and have been unemployed for months in the ear. I am unemployed because
	I receive unemployment benefits in the amount of \$ per month I have no income because I am unemployed.
	I am employed. I am paid \$ per hour and work hours per week.
	My employer's name, address and phone number is:
	I am married, and my spouse is unemployed and has been unemployed fors in the past year because
	My spouse receives unemployment benefits in the amount of \$ per month.
	I am married, and my spouse is employed. My spouse is paid \$ per hour orks hours per week.
	My spouse's employer's name, address and phone number is:
C.	OTHER SOURCES OF INCOME (check all that apply)
	I have income from another source not mentioned above.
	Child Support \$ Alimony \$
	Investments \$ Community property from my spouse \$
	Community property from my spouse \$

I do not have any other s	ources of income.	
I am married, and my spo above.	ouse has income from	another source not mentioned
Child Support \$ Alimony \$ Investments \$ Other Other		\$ \$
		y other sources of income. in the following amount: \$
	e list other assets ow	ned by you or your spouse
Cash on hand	\$	
Bank accounts	\$	
Income tax refund	\$	
Other assets (describe below):	'	
,	\$	
	\$	
IF YOU DO NOT HAVE ACCES ASSETS, EXPLAIN WHY.	SS TO YOUR OWN OF	R YOUR SPOUSE'S INCOME OR
E. MONTHLY EXPENSES		
House Payment/Rent	\$	
Utilities	\$	
Telephone	\$	
Groceries (after food stamps)	\$	

Car Payment(s)		\$		
Gasoline		\$		
Insurance		\$		
Child Care		\$		
Student and Consumer Loans		\$		
Court-ordered family support obl	igations	\$		
Other court-ordered payments		\$		
Medical expenses		\$		
Other		\$		
F. HOUSEHOLD				
I live at				and
the head of the household is				, and 
Other than myself, the other mer	mbers of the	e household a	re:	
Name	Age	Em	ployment	I Support
				()
				()
				()
				()
				()
				()
				()
This statement is made under regarding my financial conditi authorize the Court to obtain it relatives, the federal internal retime the Court discovers that it false, misleading, inaccurate, submitted, the Court may requivalized under an order of free in this application.	on is corre nformation evenue se information or incomp uire me to p	ect to the best of from financi rvice and oth on in this appli lete at the tim pay for any co	t of my know ial institution er state agen ication for fre e the applica osts or fees t	ledge. I hereby is, employers, icies. If at any ee process was ition was that were
	(	(Signature)		
		(Print Name)		
	_	Petitioner	Res <sub>l</sub>	oondent

	(Pro Se)
	(Street Address)
	(City, State, Zip Code)
	(Telephone)
State of	)
) ss	
County of	)
Signed and sworn to (or affirmed of applicant).	d) before me on ( <i>date</i> ) by ( <i>name</i>
IF YOU ARE REPRESENTED E THE FOLLOWING CERTIFICA	Notary My commission expires:  BY AN ATTORNEY, YOUR ATTORNEY MUST SIGN TE.
I,	_, hereby certify that I have not received any attorney
(Name of attorney)	
fee to representunderstand	If any attorney fee is paid to me, I
(Name of applicant)	
that I shall pay to the court clerk may	from such attorney fee any court fees and costs that
be waived by the court.	
be waived by the court.	(Attorney signature)

City, State, Zip Code	
Telephone/Fax Number	

[Adopted by Supreme Court Order No. 07-8300-043, effective February 25, 2008; as amended by Supreme Court Order No. 08-8300-031, effective November 17, 2008; by Supreme Court Order No. 10-8300-044, effective February 9, 2011.]

#### **ANNOTATIONS**

**The 2010 amendment,** approved by Supreme Court Order No. 10-8300-044, effective February 9, 2011, in Paragraph A, deleted the blank for social security disability income; in Paragraph B, required the applicant to state the applicant's and the applicant's spouse's hourly wages and hours worked per week instead of a statement of their pay periods and net take home pay and required the applicant to state the amount any other person contributes to household income; and after the applicant's signature line, added a statement notifying the applicant that if the applicant is represented by an attorney, the applicant's attorney must sign the certificate.

**The 2008 amendment,** approved by Supreme Court Order No. 08-8300-31, effective November 17, 2008, added the attorney's certificate below the verification.

## 4-223. Order for free process.

STATE OF NEW MEXICO	
COUNTY OF	
	_ COURT
	, Petitioner,
v.	No
	, Respondent.

[For use with Supreme Court General Rule 23-114 NMRA]

#### ORDER ON APPLICATION FOR FREE PROCESS

**THIS MATTER** having come before the court on Petitioner's application for free process and affidavit of indigency, or upon Petitioner's attorney's certificate supporting indigency and free process pursuant to Rule 23-114(B)(2) NMRA, and the court being otherwise advised in the premises, **FINDS** that:

[] NMR	the applicant is entitled to free process in accordance with Rule 23-114(B)(2) A.
[] proce	the applicant receives public assistance and is, therefore, entitled to free
	the applicant's annual gross income does not exceede federal poverty guidelines, and the applicant is, therefore, entitled to free process.
	the applicant's annual gross income exceeds of the all poverty guidelines, but the applicant is not reasonably able to pay fees or costs s, therefore, entitled to free process.
	on the basis of the applicant's available funds or annual gross income, the cant is not entitled to free process.
THE	COURT ORDERS that:
[]	the filing fee is waived.
	the filing fee is waived except for the \$ alternative dispute resolution ) fee.
Coun	the applicant is granted free service of process by the Sheriff in ty, New Mexico for 1 2 3 4 5 or summons(es), provided that the cant first attempts service by certified mail pursuant to Rule 1-004 NMRA.
	the applicant is granted free service by the Sheriff in County, Mexico, of a temporary restraining order or
[]	the applicant is to pay the filing fee on, 20
[]	interpretation services shall be provided to the applicant.
[]	free process is denied.
[]	Other:

Unless specifically granted above, this order of free process does not include the following costs: jury fees, certification fees, subpoena fees for witnesses, witness fees for hearings or trials, mailings, long distance charges, transcripts for appeals or

record proper, duplication fees for audiotapes or compact discs, copy charges, publication fees, or facsimile services. Application for all other costs are to be made to the judge assigned to your case. If the applicant prevails in this law suit and collects money by judgment or settlement, the court may order reimbursement for any waived costs. If the applicant is represented by an attorney who is paid an attorney fee, any fees or costs waived by this order must be deducted from any such attorney fee and paid to the court clerk. This order is subject to revision, modification or rescission by the judge assigned to your case.

IUDGE		

[Adopted by Supreme Court Order No. 07-8300-043, effective February 25, 2008; as amended by Supreme Court Order No. 08-8300-031, effective November 17, 2008; by Supreme Court Order No. 10-8300-044, effective February 9, 2011; as amended by Supreme Court Order No. 17-8300-022, effective for all cases pending or filed on or after December 31, 2017.]

#### **ANNOTATIONS**

**The 2017 amendment,** approved by Supreme Court Order No. 17-8300-022, effective December 31, 2017, changed "recission" to "rescission" at the end of the form.

**The 2010 amendment,** approved by Supreme Court Order No. 10-8300-044, effective February 9, 2011, required the court to base a finding of indigency with respect to federal poverty guidelines on the applicant's gross annual income and to state the percentage that the applicant's gross annual income either does or does not exceed the federal poverty guidelines.

The 2008 amendment, approved by Supreme Court Order No. 08-8300-31, effective November 17, 2008, in the first paragraph, added the alternative recital that the matter came before the court upon the petitioner's attorney's certificate supporting indigency and free process pursuant to Rule 23-114(B)(2) NMRA; added the first and fourth findings; in the last paragraph, changed "is to be reimbursed" to "may order reimbursement"; and added the last sentence requiring that fees and costs that are waived be deducted from any fees paid to the applicant's attorney and paid to the clerk of the court.

## 4-224. Attorney's certificate supporting indigency and free process.

[For use with Supreme Court General Rule 23-114 NMRA]
STATE OF NEW MEXICO
COUNTY OF

COURT	
,	Petitioner,
v. No.	·
,	Respondent.
ATTORNEY'S CERTIFICATE SUPP	ORTING INDIGENCY AND FREE PROCESS
I,, hereby certify	that (check one)
(Attorney name)	
	, ( <i>Client name</i> ) and that my client is 23-114(B)(2) NMRA without the necessity of affidavit of indigency, or
has met the income qualifications of a le training program designed and presente (name of legal services organization) to own action in court and is therefore enti-	assist self-represented litigants in filing their tled to free process pursuant to Rule 23-of filing an application for free process or
auspices I am providing representation representing the client named above or	as any legal services organization under whose or training, received any attorney fee for providing the training program to the person d to me or said legal services organization, court from such fee.
	Respectfully submitted,
	(legal services organization or referring local pro bono committee)
	Address
	City, State, Zip Code

#### Telephone/Fax Number

[Adopted by Supreme Court Order No. 08-8300-031, effective November 17, 2008; as amended by Supreme Court Order No. 10-8300-044, effective February 9, 2011.]

#### **ANNOTATIONS**

**The 2010 amendment,** approved by Supreme Court Order No. 10-8300-044, effective February 9, 2011, changed the title of the form; added a certification by an attorney that a named self-represented litigant has satisfied the criteria for free process without the necessity of filing an application for free process or affidavit of indigency and added a certification that the attorney has not received any attorney fee for providing training to the self-represented person.

#### 4-225. Court's certificate of service.

[For use by Magistrate Court staff]

CERTIFICATE O	OF SERVICE
I hereby certify that on thisnotice was served on all parties and counsel.	day of,
Signature	
Title	_
[As adopted by Supreme Court Order No. 09-	3300-036, effective November 16, 2009.]
4-226. Civil complaint provisions; c	onsumer debt claims.
[For use with Rule 1-009(J) NMRA]	
In addition to the requirements set forth in a pleading asserting a claim subject to Rule 1-following provisions:	
STATE OF NEW MEXICO	
COUNTY OF	

JUDICIAL DISTRICT

v. No		
		, Defendant
		CIVIL COMPLAINT
(	a)	The full name and address of the Defendant is as follows:
`	b) cords are	The last two (2) digits of the Defendant's social security number, conta
with specificity, that		If the Plaintiff does not provide the social security number above, Plain on which it was determined that the named Defendant is the debtor on the social security number above, Plain on which it was determined that the named Defendant is the debtor on the social security number above, Plain on which it was determined that the named Defendant is the debtor on the social security number above, Plain on which it was determined that the named Defendant is the debtor on the social security number above, Plain on which it was determined that the named Defendant is the debtor on the social security number above, Plain on which it was determined that the named Defendant is the debtor on the social security number above.
]	] ] did busin	The Plaintiff in this action IS the original creditor; OR The Plaintiff IS NOT the original creditor and the name and address uness with the Defendant is as follows:
as of the date of defa	ault are a	our (4) digits of the Defendant's account number, used by the original creas follows:  as follows:  account number, used by the original crease follows:
·	a)	The total amount of the debt claimed is \$itemized
	nterest:	amount due:arges, fees, and expenses (specified individually):
The itemization fees and court costs		mount of the debt claimed set forth above does not include attorney
	b)	The basis for each of the itemized charges, fees, or expenses is as follows:

	The da	ate of last payment made by Defendant is as follows:	
	Plaintif	ff states, consistent with Rule 1-011 NMRA, that the applicable	statute of
limitations on thi			
	The na	ame and address of the current owner of this debt is as follows:	:
	Plaintif	ff [ ] IS or [ ] IS NOT a collection agency. If the Plaintiff is a colle	ection agenc
	(a)	the name and address of the collection agency is as follow	vs:
	(b)	The New Mexico license number for the collection agency	is as follows
	(c)	The specific facts demonstrating that the collection agency	y is the real p
interest are as fo	ollows:		
	[]	The original or copy of any instrument of writing on which	the action is
IS attached as E		See Rule 1-009(J)(2) NMRA.	d a sada da
IS NOT attached	[] d. The reas	The original or copy of any instrument of writing on which son the instrument of writing is not attached is as follows:	the action is
Plaintiff has atta Rule 1-017(E)(2	) NMRA.	Plaintiff alleges entitlement to enforce the debt but is not the fidavit showing the chain of title or assignment of the debt. Set also seeks court costs and the following additional relief as set of the second seeks court costs and the following additional relief as second seeks.	е
		tiff demands judgment in the amount of \$, and rther relief as the court deems proper.	costs [and
		Signature	
		Name (print)	
Date		Address (print)	
		City, State, and Zip Code (print)	
		Telephone Number	

Rule 1-008(A)(3) NMRA bars asking for damages in any specific amount "unless it is a necessary allegation of the complaint." Rule 1-054(C) NMRA bars default judgments exceeding the amount stated in the demand for judgment. Consistent with Rule 1-008(A)(3) and Rule 1-054(C), and in order to provide notice to the defendant of the consequences of a default judgment, the demand for judgment in a specific amount is here made a necessary part of the complaint.

[Adopted by Supreme Court Order No. 16-8300-031, effective for all cases pending or filed on or after July 1, 2017.]

# **ARTICLE 3 Pleadings and Motions**

## 4-301. Answer to civil complaint.

[For use with Magistrate Court Rule 2-302 NMRA and Metropolitan Court Rule 3-302 NMRA]

STATE OF NEW MEX	ICO	
COUNTY OF		
	_COURT	
No		
		, Plaintiff
V.		
		, Defendant

#### ANSWER TO CIVIL COMPLAINT1

1. The Plaintiff is not entitled to the amount claimed because:

1. The personal property claimed by Plaintiff sh because:	ould not be turned over to Plaintiff
<ul><li>2. (<i>If applicable</i>) Defendant asserts the following Plaintiff:</li></ul>	g counterclaim or set-off against
3. Trial by jury is (not) demanded. (If Plaintiff has indicated in the complaint, a jury will be provided at this item. If Plaintiff has not demanded trial by jury, you must pay an additional cost upon filing this answer.	ntomatically and you need not fill in you may do so here, but if you do
Dated:	
Signed	
Name (print)	
Address (print)	
City, state and zip code (print)	
Telephone number	
CERTIFICATE OF SE	RVICE <sup>2</sup>
I hereby certify that on this day of (insert paper served, such as "an	, this swer" or "notice") was
[mailed by United States first class mail, postage pr	epaid, and addressed to:

Name:		
Address:	s:	
City, Sta	ate	
and zip o	code:	]
[faxed by	y (r	name of person who faxed document) to pient) at (telephone
number)	). The transmission was reported a	is complete. The time and date of the
transmis	ssion was (a.m.) (p.m.) o	on ( <i>date</i> ).]
[e-mailed	d to (r	name of party or attorney) at ress of recipient) upon agreement of the party
to accep	ot electronic service. The transmiss	sion was reported as complete. The time and a.m.) (p.m.) on
[delivere made. S	ed to See Use Note 1 for the methods se	(Specify how service by delivery was rvice may be made using this alternative)
Si	signature of person sending paper	
D	ate of signature	

- 1. This Answer must be filed with the court on or before the date set in the Summons.
- 2. This request must be served on all other parties pursuant to Rule 2-203 NMRA or Rule 3-203 NMRA. *See also* Rule 2-307 NMRA for how motions are presented to the court.

[As amended, effective January 1, 1995; as amended by Supreme Court Order No. 05-8300-005, effective March 21, 2005.]

#### **ANNOTATIONS**

**The 2005 amendment,** effective March 21, 2005, added the certificate of service at the end of the form and Use Note 2.

**The 1995 amendment,** effective January 1, 1995, rewrote the first alternative Paragraph 1 in the answer.

## 4-302. Answer to civil complaint.

[For use with Rule 3-302 NMRA]

STATE OF NEW MEXICO		
IN THE	_ COURT	No
against COUNTY		ant
ANSWER TO CI	VIL COMPLAIN	ІТ
1. The amount of damages claimed by F	Plaintiff is not ov	ved because
C	or	
The personal property claimed by Plabecause:	aintiff should no	t be turned over to Plaintiff
2. [If applicable] Defendant asserts the fill Plaintiff:	following counte	erclaim or set-off against
3. Trial by jury is (not) demanded. [If Plaindicated in the complaint, a jury will be provided item. If Plaintiff has not demanded trial by you must pay an additional cost upon filing to 4. An audio recording of the trial is (not) recording, your right to appeal may be limited.	vided automatica by jury, you may this answer.] demanded. [If y	ally and you need not fill in o do so here, but if you do
,Signed		

	Name [print]
	Address [print]
	City, State and Zip Code [print]
	Telephone number
(This Answer must be filed	with the court on or before the date set in the Summons.)
4-303. Motion for judgm	nent on the pleadings.
[For use with Magistrate Court Metropolitan Court Rule 3-303	
STATE OF NEW MEXICO	
COUNTY OF	
COUI	RT
No	
NO	
	, Plaintiff
V.	
	Dofondant
	, Defendant
MOTION F	OR JUDGMENT ON THE PLEADINGS
	e court to enter judgment against the other party based on use for the following damages, costs and fees:
Damages	\$
Attorney fee ( <i>if allowable</i> )	
Interest ( <i>if allowable</i> )	
Filing fee	
	¢
Service fee	\$
Service fee Return fee	
	\$

,(date)
(Plaintiff) (Defendant)
(A copy of this motion must be served on the other party or the attorney for the other party not less than eight (8) days before the time fixed for the hearing.)
CERTIFICATE OF SERVICE
I hereby certify that on this day of, a copy of this motion was
[mailed by United States first class mail, postage prepaid, and addressed to:]
Name: Address: City, State and zip code:
[faxed by (name of person who faxed document) to (name of recipient) at (telephone number). The transmission was reported as complete and without error. The time and date of the transmission was (a.m) (p.m) on (date).]
[e-mailed to (name of party or attorney) at (electronic mail address of recipient). The transmission was successful. The time and date of the transmission was (a.m) (p.m) on (date).]
[delivered to (Specify how service by delivery was made. See Use Note 1 for the methods service may be made using this alternative)]
Signature of person sending paper

Date of signature

[As amended, effective October 1, 1987; as amended by Supreme Court Order No. 05-8300-005, effective March 21, 2005.]

### **ANNOTATIONS**

**The 2005 amendment,** effective March 21, 2005, added the certificate of service at the end of the form and replaced "mailed to" with "served on" in Use Note 1.

**Cross references.** — For rule governing computation of time for service of this form, see Rules 2-104 and 3-104 NMRA.

## 4-303A. Notice of court's intent to render judgment on the pleadings.

[For use with Magistrate Court Rule 2	2-303 NMRAJ
STATE OF NEW MEXICO	
COUNTY OF	
MAGISTRATE COURT	
No	
,	Plaintiff
V.	
,	Defendant
	NTION TO ENTER JUDGMENT THE PLEADINGS
The parties are notified that the court (r	intends to enter judgment in favor of name of party) based on the pleadings on file in this
cause for the following damages, cos	
Damages	\$
	<b></b> \$
Interest (if allowable)	
Filing fee	
Service fee	
Return fee	
Witness fees	\$

Total Judgment		\$
	ırns a signed objec	ate at least fifteen days after filing of tion (see below) to the court before that matter for trial.
	Jud	ge
	Date	e of signature
C	CERTIFICATE OF	SERVICE
I hereby certify that on this was	day of	, a copy of this notice
[mailed by United States first of	ass mail, postage	prepaid, and addressed to:]
Name:		
Address:		
City, State		
and zip code:		
[faxed by	(name c	of person who faxed document) to
(nnumber). The transmission wa	name of recipient) a ns reported as com	plete and without error. The time and (p.m) on (date).]
[e-mailed to		(name of party or attorney) at
successful. The time and date (da	of the transmission	n was (a.m) (p.m) on
[delivered to made. See Rule 2-203 NMRA alternative.) .]	for the methods se	_ (Specify how service by delivery was ervice may be made using this
Signature of person ser	nding paper	
Date of signature		

### **OBJECTION**

I object to judgment on the pleadings and re	equest that this matter be set for trial.
I object because:	
	Signature of party
	Printed name of party
	Date of signature
[Approved by Supreme Court Order No. 07-	8300-027, effective November 1, 2007.]
4-304. Stipulation of dismissal.	
[For use with Rules 2-305 and 3-305 NMRA	<b>.</b> ]
STATE OF NEW MEXICO COUNTY OF	_
IN THECOURT	No
	, Plaintiff
V.	, Defendant
STIPULATION	OF DISMISSAL
The parties hereby stipulate that this act	ion be dismissed (with) (without) prejudice.
Plaintif	f or Attorney for Plaintiff
Defend	lant or Attorney for Defendant
[As amended, effective November 1, 2000.]	
ΔΝΝΟΤ	ATIONS

**The 2000 amendment,** effective November 1, 2000, no longer provides for approval by a judge to a stipulation of dismissal.

## 4-305. Notice of dismissal of complaint.

[For use with Magistrate Court Rule 2-305 and Metropolitan Court Rule 3-305]

STATE OF NEV	V MEXICO
COUNTY OF _	
	COURT
	, Plaintiff
V.	
	, Defendant
	NOTICE OF DISMISSAL OF COMPLAINT <sup>1</sup>
Plaintiff hereby	dismisses plaintiff's complaint without prejudice.
Plaintiff o	or attorney for plaintiff
	CERTIFICATE OF SERVICE <sup>2</sup>
I hereby certify	that on this day of,, this ( <i>insert paper served, such as "answer" or "notice"</i> ) was
[mailed by Unite	ed States first class mail, postage prepaid, and addressed to:
Name:	
Address:	
City, State	
and zip code:	]
[faxed by	(name of person who faxed document) to
	(name of recipient) at (telephone
transmission wa	ansmission was reported as complete. The time and date of the as (a.m.) (p.m.) on (date).]

		( <i>name of party or attorney</i> ) at <i>dress of recipient</i> ) upon agreement of the party
to accept electr	onic service. The transmis	ssion was reported as complete. The time and (a.m.) (p.m.) on
[delivered to made. See Use	Note 1 for the methods s	(Specify how service by delivery was service may be made using this alternative)
Signatur	e of person sending pape	r
Date of s	signature	

### **USE NOTE**

- This form may not be used if the defendant has filed an answer or other responsive pleading. Civil Form 4-306A NMRA is used if the defendant has filed an answer or other responsive pleading.
- 2. This request must be served on all other parties pursuant to Rule 2-203 NMRA or Rule 3-203 NMRA. See also Rule 2-307 NMRA for how motions are presented to the court.

[As amended, effective November 1, 2000; as amended by Supreme Court Order No. 05-8300-005, effective March 21, 2005.]

### **ANNOTATIONS**

The 2005 amendment, effective March 21, 2005, added the certificate of service at the end of the form and Use Note 2.

The 2000 amendment, effective November 1, 2000, made a gender neutral change; deleted the entry for approval by the judge for dismissal without prejudice and added the Use Note.

4-306. Order dismissing action for failure to prosecute.

[For use with Rule 3-305 NMRA]

STATE OF NEW MEXICO

COURT
COUNTY
, Plaintiff,
v. No
, Defendant.
ORDER DISMISSING ACTION FOR FAILURE TO PROSECUTE
This action has remained pending for six (6) months from the date of the complaint and the court, at a hearing pursuant to the rules governing procedure in this court, has foun that ( <i>Plaintiff has failed to take all available steps to bring the matter to trial</i> ) ( <i>Defendan has failed to take all available steps to bring his counterclaim to trial</i> ).
IT IS ORDERED that this action is dismissed without prejudice.
Judge
[As amended by Supreme Court Order No. 16-8300-021, effective for all cases pending or filed on or after December 31, 2016.]
ANNOTATIONS
<b>The 2016 amendment,</b> approved by Supreme Court Order No. 16-8300-021, effective December 31, 2016, in the "For use with" note, deleted "2-305 and"; and revised the caption of the case, and deleted the blank space for the date on the last line of the form
4-306A. Motion to dismiss action.
[General Form for use in the Magistrate or Metropolitan Court]
STATE OF NEW MEXICO
COUNTY OF
COURT
No
, Plaintiff

[Plaintiff] [Defendant] requests the court to dismiss the above cause of action for the following reason:

.

(Plaintiff) (Defendant)

### **USE NOTE**

A copy of this motion must be served on the other party or, if represented by an attorney, on the attorney for the other party not less than eight (8) days before the time fixed for the hearing.

[As amended, effective November 1, 2000; as amended by Supreme Court Order No. 05-8300-005, effective March 21, 2005.]

### **ANNOTATIONS**

**The 2005 amendment,** effective March 21, 2005, deleted the "order" part of this form. The prior form included a form order for granting or denying a motion to dismiss.

**The 2000 amendment,** effective November 1, 2000, changed the form from an order dismissing action to a motion to dismiss action and order and made stylistic changes in the form.

**Cross references.** — For rule governing computation of time for service of this form, see Rules 2-104 and 3-104 NMRA.

For form order granting or denying a motion to dismiss, see 4-306B NMRA.

### 4-306B. Order dismissing action.

[General Form for use in Magistrate or Metropolitan Court]

STATE OF NEW MEXICO	
COUNTY OF	

COURT	
No	
	Plaintiff
V.	
,	Defendant
ORDER	DISMISSING ACTION
This matter having come before the court having considered the argument	court on the motion of the [Plaintiff] [Defendant] and ment presented, finds that:
[] the motion should be denied.	
[] the above cause of action sho	uld be dismissed (with) (without) prejudice.
IT IS ORDERED that:	
[] the motion to dismiss the action	n is denied.
[] this action is dismissed (with)	(without) prejudice.
,((	date)
Judge	
[Approved by Supreme Court Order N	No. 05-8300-005, effective March 21, 2005.]
4-307. Notice of pretrial confe	erence.
[For use with Rules 2-306 and 3-306	NMRA]
STATE OF NEW MEXICO COUNTY OF COUR	RT
Plaintiff	_1
V.	No

Defen	dout
Defen	dant
	NOTICE OF PRETRIAL CONFERENCE
	, Plaintiff; and, Attorney, Defendant; and, Attorney.
You ar	re ordered to appear for a pretrial conference on,
court v	
[]	make an order clarifying the pleadings;
[]	enter such orders as may be desirable to expedite the disposition of the action;
[]	hold discussions to facilitate the settlement of the case;
[]	consider the following matters:
	e court will also consider such other matters as may aid in the disposition of the
	e failure of any party to appear at the time and place specified for the pretrial rence may be grounds for entering a default judgment against such party.
Date	Judge
	LISE NOTE

### USE NOTE

Each party must be served with a copy of this notice. See Rules 2-203 and 3-303 NMRA. See Civil Form 4-221 for the certificate of service and affidavit of service.

[As amended, effective September 1, 1989; October 1, 1991; December 17, 2001.]

### **ANNOTATIONS**

The 2001 amendment, effective December 17, 2001, substituted "You are ordered to appear for a pretrial conference" for "A pretrial conference will be held in this case" in the first paragraph under the heading "NOTICE OF PRETRIAL CONFERENCE", made stylistic changes, and added the Use Note.

The 1991 amendment, effective October 1, 1991, near the middle of the form, inserted "(check only applicable alternatives)" and added the last three alternatives.

### 4-308. Order to interplead.

[For use with Rules 2-301 and 3-301 NMRA]	
STATE OF NEW MEXICO	
COURT	No
COUNTY	. Interpleader
against	
and	
ORDER TO INTER	PLEAD
The interpleader having filed complaint herein,	
IT IS ORDERED that the court take into its trust acrepresents the total amount interpleader owes the	
IT IS FURTHER ORDERED, that the money pobe retained until further order of the court;	aid into the court trust account shall
IT IS FURTHER ORDERED, that the defendar claims an interest in or to said money in the custor to, interplead in this action within twenty (20) days upon them; and	dy of this court shall, and are directed
IT IS FURTHER ORDERED that (name of interpleader) be a liability to the defendants on account of interpleader to defendants).	

Date	Judge

[Adopted, effective July 1, 1988; as amended, effective July 1, 1990.]

### **ANNOTATIONS**

**The 1990 amendment,** effective July 1, 1990, substituted "twenty (20) days" for "thirty (30) days" in the fourth paragraph.

# 4-309. Thirty (30)-day notice of intent to dismiss for failure to prosecute.

[For use with Rule 2-305 NMRA]	
STATE OF NEW MEXICO	
IN THE COURT	
COUNTY	
	, Plaintiff,
v. No	
	, Defendant.
	Y NOTICE OF INTENT TO FAILURE TO PROSECUTE
The court finds that [the plaintiff] [the detake any available steps to have the classerting a counterclaim] fails to take a	) months from the date the complaint was filed. efendant asserting a counterclaim] has failed to aims resolved. If the [the plaintiff] [the defendant any available steps to bring the case to trial or hirty (30) days after service of this notice, the prejudice for failure to prosecute.
	Judge
[Adopted by Supreme Court Order No.	16-8300-021, effective for all cases pending or

4-310. Order of dismissal for failure to prosecute.

[For use with Rule 2-305 NMRA]

filed on or after December 31, 2016.]

STATE OF NEW MEXICO		
IN THE COURT		
COUNTY		
	_, Plaintiff,	
v. No		
	_, Defendant.	
	R OF DISMIS	
The [plaintiff] [defendant asserting a counterclaim] the complaint was filed to take any average prosecute the claims. On	ailable steps (date), failure to proe any available	to take this case to trial or otherwise the court filed and served a thirty secute. The [plaintiff] [defendant le steps to bring the case to trial or
IT IS ORDERED that the [plaintiff's clawithout prejudice for failure to prosecu		ant's counterclaims] are dismissed
	Judge	
[Adopted by Supreme Court Order No filed on or after December 31, 2016.]	. 16-8300-02	1, effective for all cases pending or
ARTICLE 4 Parties		
4-401. Notice of trial.		
[For use in Magistrate Court and Metr	opolitan Cour	rt]
STATE OF NEW MEXICO		
IN THE	COURT	No
	COUNTY	Digintiff

NOTICE OF TRUE	
NOTICE OF TRIAL	
TO:	
Plaintiff; and	
, Attorney.	
Defendant; and	
, Attorney.	
This action will come on for trial before Judge on on on on on on on on day of,m. The failure of any party to appear at the trial will be ground for entering a default judgment against	the, at the hour of time and place specified for
The motion	
will be heard by the court (immediately before trial)	· · · · · · · · · · · · · · · · · · ·
will be heard by the court <i>(immediately before trial)</i> atm.  Judge or Clerk	
will be heard by the court (immediately before trial)atm.  Judge or Clerk  4-402. Order appointing guardian ad litem.	
will be heard by the court (immediately before trial)atm.  Judge or Clerk  4-402. Order appointing guardian ad litem.  For use with District Court Rule 1-053.3 NMRA]	
will be heard by the court (immediately before trial)atm.  Judge or Clerk  4-402. Order appointing guardian ad litem.  [For use with District Court Rule 1-053.3 NMRA]  STATE OF NEW MEXICO	
will be heard by the court (immediately before trial)atm.  Judge or Clerk  4-402. Order appointing guardian ad litem.  [For use with District Court Rule 1-053.3 NMRA]  STATE OF NEW MEXICO	
will be heard by the court (immediately before trial)at, Judge or Clerk  4-402. Order appointing guardian ad litem.  [For use with District Court Rule 1-053.3 NMRA]  STATE OF NEW MEXICO  COUNTY OF	
will be heard by the court (immediately before trial)at,	

Respondent.			
ORDER APPOINTING GUARDIAN AD LITEM			
THIS MATTER came before the court on, 20 The petitioner was present and was represented by The respondent was present and was represented by The court having reviewed the file and being otherwise advised FINDS:			
1. The court has jurisdiction over the parties and subject matter.			
2. This action concerns the following minor [child] [children]:			
, DOB, age;, DOB, age;, DOB, age;, DOB, age;			
3. Good cause exists to appoint a Guardian <i>Ad Litem</i> (hereinafter "GAL") pursuant to Section 40-4-8 NMSA 1978 and Rule 1-053.3 NMRA to represent the [child's] [children's] best interests in this case.			
IT IS HEREBY ORDERED, ADJUDGED AND DECREED:			
1. <b>Appointment and duties to the court:</b> is hereby appointed as GAL. The GAL shall perform each of the following duties on behalf of the court:			
(a) monitor, investigate, and protect the best interests of the [child] [children];			
(b) interview the [child] [children] face-to-face outside the presence of the parties and counsel if the [child is] [children are] six (6) years of age or older; If the [child is] [children are] under the age of six (6), the GAL may interview the [child] [children] outside the presence of the parties and counsel at the GAL's discretion;			
(c) interview all available parties in conformity with Rule 16-402 NMRA outside the presence of the [child] [children];			
(d) interview each mental health professional treating the [child] [children];			
(e) interview any other [person] [persons] and review any relevant records the GAL deems reasonably necessary;			

- (f) determine the [child's] [children's] wishes, if appropriate;
- (g) 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;
- (h) file the recommendations, but not the report, with the court;
- (i) perform the duties to the [child] [children] as set forth in Paragraphs H and I of Rule 1-053.3 NMRA; and

(J)	in addition to the foregoing, the court directs the GAL to:				

### 2. 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 one or both parties are not willing to adopt the recommendations, such party may file objections to the recommendations within eleven (11) days after the recommendations are filed and 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 will 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.
- 3. **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.

4.	Expiration of appointment.	This appointment shall expire on

5. **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.

inforn	<b>Duties of parties.</b> The parties and minor children over the age of fourteen (14) assist the GAL in carrying out the duties set forth in this order, including providing nation and documents requested by the GAL and signing any releases requested e GAL.
7.	GAL fees.
of	On or before, 20, petitioner shall advance and respondent shall advance \$ to the GAL as a ler toward the GAL's fees and expenses. The GAL shall be paid at an hourly rate When the GAL fees exceed the retainer, petitioner shall pay% of the additional fees.
(b) partie	·
(c)	The GAL may recommend reallocation of GAL fees and expenses.
(d) GAL	Either party or the GAL may request a hearing on the GAL fees and costs. The 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) appoi	The GAL shall not begin work until receiving a copy of the endorsed order nting the GAL and full payment of the retainer.
8. with t	<b>Hearings.</b> The GAL may request an expedited hearing if there is non-compliance his order.
	District court judge
	CERTIFICATE OF MAILING
	, certify that I caused an endorsed copy of this appointing guardian <i>ad litem</i> to be served on the following persons by (delivery) on thisday of,:
(Nam	ne of petitioner)
(Nam	ne of petitioner's attornev)

(Name of respondent)	
(Name of respondent's attorney)	
(Name of guardian ad litem)	

(Name of person signing certificate)

[4A-342 NMRA; provisionally approved by Supreme Court Order No. 06-8300-029, effective January 15, 2007 until January 15, 2008; approved and recompiled by Supreme Court Order No. 07-8300-021, effective August 21, 2007; as amended by Supreme Court Order No. 17-8300-017, effective for all cases pending or filed on or after December 31, 2017.]

#### **ANNOTATIONS**

The 2017 amendment, approved by Supreme Court Order No. 17-8300-017, effective December 31, 2017, provided additional duties for a court-appointed guardian ad litem, enlarged the time within which a guardian ad litem must submit written recommendations to the parties and counsel prior to filing the recommendations with the court, enlarged the time within which a party may object to the guardian ad litem's recommendations, provided that a party's failure to file timely objections to the guardian ad litem's recommendations shall be deemed a waiver of the right to object, and provided additional duties for the parties when a guardian ad litem is appointed by the court; in the form heading, after "Order", deleted "of appointment for" and added "appointing"; under the heading "IT IS HEREBY ORDERED, ADJUDGED AND DECREED", in Paragraph 1, in the introductory clause, after "duties", added "on behalf of the court", added a new Subparagraph 1(a) and redesignated former Subparagraphs 1(a) through 1(i) as Subparagraphs 1(b) through 1(j), respectively, in Subparagraph 1(b), after "outside the presence of", deleted "both parents" and added "the parties", after "age or older", added the remainder of the subparagraph, in Subparagraph 1(c), after "interview all", added "available", after "parties", deleted "and any available parent subject to" and added "in conformity with", and after "Rule 16-402 NMRA", added "outside the presence of the [child] [children]", in Subparagraph 1(d), after "[children]", deleted "after obtaining any necessary authorization", in Subparagraph 1(e), after "reasonably necessary", deleted "after obtaining any necessary authorization", in Subparagraph 1(g), after "at least", deleted "ten" and added "eleven (11)", in Paragraph 2, Subparagraph 2(a), after "recommendations within", deleted "ten (10)" and added

"eleven (11)", in Subparagraph 2(b), after "recommendations within", deleted "ten (10)" and added "eleven (11)", in Subparagraph 2(c), deleted "If no party files timely objections, the court shall enter an appropriate order." and added the new language, in Paragraph 6, after "The parties", added "and minor children over the age of fourteen (14)", after "in this order", added the remainder of the paragraph, in Paragraph 7, Subparagraph 7(d), deleted "guardian ad litem" and added "GAL" in two places, and added Subparagraphs 7(e) and 7(f).

**Recompilations.** — Pursuant to Supreme Court Order No. 07-8300-021, effective August 21, 2007 former Domestic Relations form 4A-342 NMRA has been recompiled as a new Civil Form.

### 4-403. Appearance by corporation or limited liability corporation.

[For use with Magistrate Court Rule 2-107 NMRA; Metropolitan Court Rule 3-107 NMRA] STATE OF NEW MEXICO COUNTY OF \_\_\_\_ \_\_\_\_\_ COURT \_\_\_\_\_, Plaintiff(s) No. ٧. , Defendant(s) **CORPORATION OR LIMITED LIABILITY CORPORATION (LLC) AUTHORIZATION OF AGENT TO APPEAR** I, \_\_\_\_\_ (insert name and office held – President, Vice President, Secretary, or Treasurer), of (insert name of corporation or LLC), state as follows: I am the sole shareholder of the stock of the above Corporation or LLC; or I am one of a closely knit group of shareholders of the above Corporation or 1. LLC, all of whom are: [] natural persons; and [] active in the conduct of the above Corporation or LLC; and 2. I am an officer of the above Corporation or LLC; and [] Under Subparagraph (B)(1)(b) of Rule 2-107 NMRA or Rule 3-107 NMRA, I [] 3. authorize \_\_\_\_\_\_, a director or general manager; or

	[]	Under Subparagraph (B)(3) of Rule 2-10 authorize,		
		on behalf of the above Corporation or LL	C.	
	(Nam	ne of Corporation or LLC)	(Seal, if any)	
Ву:	(Signature of President, Vice President, Secretary or Treasurer)			
	(Prin	ted Name of President, Vice President, S	•	
		sical Address of Corporation or LLC)	(Mailing Address of Corporation or LLC, if Different from Physical Address)	
	( Telep	) bhone Number	E-mail Address	
Subs	-	d and sworn to before me this day	of	
		(Seal)		
	ry Pul			
My c	ommı	ssion expires:		
		by Supreme Court Order No. 14-8300-007 n or after December 31, 2014.]	7, effective for all cases filed or	
4-40	)4. A	ppearance by partnership.		
-		rith Magistrate Court Rule 2-107 NMRA; an Court Rule 3-107 NMRA]		
STA	ΓE OF	NEW MEXICO		
COU	NTY	OF		
		COURT		
		, Plaintiff(s)		
v.			No	
		, Defendant(	s)	

PARTNERSHIP AUTHORIZATION OF GENERAL PARTNER TO APPEAR

I,		(insert name of general partner), of (insert name of partnership), under Subparagraph		
(B)(1		or Subparagraph (B)(4) of Rule 2-107 NMRA or Rule 3-107 NMRA, state as		
1.	[]	The general partnership has less than ten (10) partners who are Limited or General (Husband and Wife treated as one partner);		
2.	[]	All of the partners (General or Limited) are natural persons; and		
3.	[]	I authorize (insert name of general partner) of (insert name of partnership) to appear on behalf of the partnership.		
	(Nan	ne of Partnership)		
Ву:	: (Signature, General Partner)			
	(Printed Name, General Partner)			
	(Phy	sical Address of Partnership (Mailing Address of Partnership Different than Physical Address)		
	() Telephone Number			
E-mail Address				
-	•	by Supreme Court Order No. 14-8300-007, effective for all cases filed or n or after December 31, 2014.]		
		LE 5 very and Pretrial Matters		
4-50	01. N	lotion for production.		
-		vith Magistrate Court Rule 2-501 NMRA and and Court Rule 3-501 NMRA]		
STA	TE O	F NEW MEXICO		
COL	JNTY	OF		
		COURT		

No
, Plaintiff
v.
, Defendant
MOTION FOR PRODUCTION
[Plaintiff] [Defendant] asks the court to order that the other party produce for inspection and copying the following items of evidence:
<del></del>
•
[] Request has been made of the other party and the other party has failed to produce the evidence.
[] This inspection and copying is necessary in the preparation for trial of this case because
<del></del>
•
,(date) (Plaintiff) (Defendant)
CERTIFICATE OF SERVICE <sup>1</sup>
I hereby certify that on this day of, this (insert paper served, such as "answer" or "notice") was
[mailed by United States first class mail, postage prepaid, and addressed to:
Name:
Address:

City, State	
and zip code:	]
	(name of person who faxed document) to (name of recipient) at (telephone
number). The transmis	on was reported as complete. The time and date of the (a.m.) (p.m.) on (date).]
	(name of party or attorney) at lectronic mail address of recipient) upon agreement of the part
	vice. The transmission was reported as complete. The time and was (a.m.) (p.m.) on
delivery was made. Se	Use Note 1 for the methods service may be made using this
Signature of per	on sending paper
Date of signatur	

#### **USE NOTE**

1. A copy of this motion must be served on the other party or the attorney for the other party not less than eight (8) days before the time fixed for the hearing.

[As amended by Supreme Court Order No. 05-8300-005, effective March 21, 2005.]

### **ANNOTATIONS**

**The 2005 amendment,** effective March 21, 2005, added the certificate of service at the end of the form and replaced "mailed to" with "served on" in Use Note 1.

**Cross references.** — For rule governing computation of time for service of this form, see Rules 2-104 and 3-104 NMRA.

### 4-502. Order for production.

[For use with Magistrate Court Rule 2-501 NMRA and Metropolitan Court Rule 3-501 NMRA]

STATE OF NEW MEXICO	
COUNTY OF COUR	RT
Plaintiff	_
V.	No
Defendant	-
ORDER	FOR PRODUCTION
IT IS ORDERED that for trial or hearing at of (a.m.) (p.m.), the fortangible evidence (describe briefly):	(defendant) (plaintiff) produce,, at the hour ollowing records, papers, documents or other
, Date	
	Judge
(If you fail to obey this order, you may fine or imprisonment.)	be held in contempt of this court and punished by
	USE NOTE

This form is to be used when a party fails to comply with Rule 2-501 or 3-501 NMRA.

[As amended, effective January 1, 1996; May 1, 2002.]

### **ANNOTATIONS**

**The 2002 amendment,** effective May 1, 2002, deleted "The (plaintiff) (defendant) demanded production and the court finds that good cause exists for production;" immediately following the form heading "Order For Production", deleted "in the

(defendant) (plaintiff)" following "tangible evidence" in the form, and added the Use Note.

**The 1996 amendment,** effective January 1, 1996, made gender neutral changes near the end of the form and substituted the parenthetical at the end for "Willful failure to obey this order shall constitute a contempt of court".

### 4-503. Subpoena.

[For use with Magistrate Court Rule 2-502 NMRA and Metropolitan Court Rule 3-502 NMRA]

STATE OF NEW MEXICO		
COUNTY OF		No
COURT, F	Plaintiff	
, [	Defendant	
	SUBPOENA <sup>1</sup>	
SUBPOENA		
[] FOR APPEARANCE OF	PERSON FOR [] TRIAL [	] HEARING
[] TO PRODUCE DOCUME	NTS OR OBJECTS AT A	HEARING OR TRIAL <sup>2</sup>
[] FOR INSPECTION OF PR	REMISES OF A PARTY <sup>2</sup>	
TO:		
YOU ARE HEREBY COMMAND Place:		
Before Judge:		
Date:, to:	Time:	(a.m.) (p.m.)
[] testify at trial		

[]	produce the following described books, documents or tangible things:
[]	permit the inspection of the premises of a party located at:
	(address).
	YOU ARE ALSO COMMANDED to bring with you the following: (describe document bjects to be produced)
	F YOU DO NOT COMPLY WITH THIS SUBPOENA, you may be held in contempt ourt and punished by fine or imprisonment, (date).
	Judge, clerk or attorney
	RETURN FOR COMPLETION BY SHERIFF OR DEPUTY
deliv	certify that on the day of,, in, in by vering to the person named a copy of the subpoena, the statutory witness fee and eage in the amount of \$
	Deputy sheriff
	RETURN FOR COMPLETION BY OTHER PERSON
	MAKING SERVICE <sup>4</sup>
not a	, being duly sworn, on oath say that I am over the age of eighteen (18) years and a party to this lawsuit, and that on the day of,, in County, I served this subpoena on by delivering to the person named a copy of the subpoena, the utory witness fee and mileage in the amount of \$
	Person making service

SUBSCRIBED AND SWOI	RN to before me this	day of
	(uuto).	
	Judge, notary or other authorized to administe	
THIS SUBPOENA issued by o	or at request of:	
Name of attorney of party		
Address		
Telephone		
CERTIFIC	CATE OF SERVICE BY ATTO	ORNEY⁴
(Name of party)	<u></u>	,
(Address)		
(2)		
(Name of party)		
(Address)		
	Attorney	
	Signature	
	Date of signature	

### TO BE PRINTED ON EACH SUBPOENA

- 1. If a person's attendance is commanded, one full day's per diem must be tendered with the subpoena.
- 2. If a person is ordered to produce books, documents, or tangible things in the person's possession for a hearing or trial, the person, unless ordered to personally

appear, may have a custodian of the books, documents or tangible things to the hearing or trial produce them for trial. If a party is ordered to permit the inspection of the party's premises before trial, the party need not appear in person at the time of the inspection.

- 3. The judge or clerk may issue a *pro se* party a subpoena duces tecum ordering the production of books, documents or tangible things for trial only if the subpoena is completed prior to issuance by the court. See Rules 2-502 and 3-502 NMRA.
- 4. A copy of the subpoena must be served on each party in the manner provided by Rule 1-005 NMRA. If service is by a party, an affidavit of service must be used instead of a certificate of service.

#### PROTECTION OF PERSONS SUBJECT TO SUBPOENAS

A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (1) fails to allow reasonable time for compliance;
- (2) requires a person who is not a party or an officer of a party to travel outside the county in which the person resides or is employed or regularly transacts business in person, except as provided below, such a person may in order to attend a hearing or trial be commanded to travel from any place within the county in which the hearing or trial is held, or
- (3) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (4) subjects a person to undue burden.

If a subpoena

- (1) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (2) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(3) requires a person who is not a party or an officer of a party to incur substantial expense to travel,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

### **DUTIES IN RESPONDING TO SUBPOENA**

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

[Approved, effective May 1, 2002; as amended, effective January 20, 2005.]

#### **ANNOTATIONS**

**The 2004 amendment,** effective January 20, 2005, substituted "statutory" for "\$75.00" and deleted "as provided by law" following "mileage" under the headings "RETURN FOR COMPLETION BY SHERIFF OR DEPUTY" and "RETURN FOR COMPLETION BY OTHER PERSON MAKING SERVICE."

**Statutory witness fee.**— Section 38-6-4 NMSA 1978 provides for the payment of witness fees at the rate set forth in the Per Diem and Mileage Act for "nonsalaried public officers". Section 10-8-4 NMSA 1978 of the Per Diem and Mileage Act provides for per diem and mileage for nonsalaried public officers in the amount of \$95.00 for each meeting attended.

### 4-504. Subpoena.

[Fo	r use	with	Metro	politan	Court Rule	3-501.1	NMRA <sup>1</sup>
		**	1110110	Pontan	Courtitato	0 00 1.1	1 41411 (/ /

STATE OF	NEW	MEXICO	
		СО	UNTY

METROPOLITAN COURT	No
	, Plaintiff
V.	, Defendant
	SUBPOENA <sup>1</sup>
SUBPOENA FOR APPEARANC	E OF PERSON FOR A STATEMENT:
TO: YOU ARE HEREBY COMMANDE Place:	ED TO APPEAR as follows:
Date:, to give a statement in the above of	Time: (a.m.) (p.m.) case.
	Judge <sup>2</sup> or attorney
RETURN FOR CO	MPLETION BY SHERIFF OR DEPUTY <sup>3</sup>
County, I s	day of,, in served this subpoena on delivering to the person named a copy of the ee and mileage in the amount of \$
	Deputy sheriff
RETURN FOR	COMPLETION BY OTHER PERSON MAKING SERVICE 3
not a party to this lawsuit, and tha	ay that I am over the age of eighteen (18) years and at on the day of, County, I served this subpoena on delivering to the person named a copy of the ee and mileage in the amount of \$
,	
	Person making service
SUBSCRIBED AND SWORN	to before me this day of date).

## Judge, notary or other officer authorized to administer oaths

THIS SUBPOENA issued by or a	t request of:
Name of attorney of party	
Address	
Telephone	
CERTIFICA	TE OF SERVICE BY ATTORNEY <sup>3</sup>
	of this subpoena to be served on the following persons this,
(1) (Name of party)	
(Address)	
(2) (Name of party)	
(Address)	
	Attorney
	Signature
	Date of signature

### TO BE PRINTED ON EACH SUBPOENA

- 1. If a person's attendance is commanded, one full day's per diem must be tendered with the subpoena.
- 2. The judge may issue a *pro se* party a subpoena for a statement only if the subpoena is completed prior to issuance by the court. *See* Rules 2-502 and 3-502 NMRA.

3. A copy of the subpoena must be served on each party in the manner provided by Rule 1-005 NMRA. If service is by a party, an affidavit of service must be used instead of a certificate of service.

### PROTECTION OF PERSONS SUBJECT TO SUBPOENAS

A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

- (1) fails to allow reasonable time for compliance;
- (2) requires a person who is not a party or an officer of a party to travel outside the county in which the person resides or is employed or regularly transacts business in person, except as provided below, such a person may in order to attend a hearing or trial be commanded to travel from any place within the county in which the hearing or trial is held, or
- (3) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (4) subjects a person to undue burden.

If a subpoena

- (1) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (2) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (3) requires a person who is not a party or an officer of a party to incur substantial expense to travel, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

#### **DUTIES IN RESPONDING TO SUBPOENA**

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

[Approved, effective May 1, 2002; as amended, effective January 20, 2005.]

### **ANNOTATIONS**

**The 2004 amendment,** effective January 20, 2005, substituted "statutory" for "\$75.00" and deleted "as provided by law" following "mileage" under the headings "RETURN FOR COMPLETION BY SHERIFF OR DEPUTY" and "RETURN FOR COMPLETION BY OTHER PERSON MAKING SERVICE."

**Statutory witness fee.** — Section 38-6-4 NMSA 1978 provides for the payment of witness fees at the rate set forth in the Per Diem and Mileage Act for "nonsalaried public officers". Section 10-8-4 NMSA 1978 of the Per Diem and Mileage Act provides for per diem and mileage for nonsalaried public officers in the amount of \$95.00 for each meeting attended.

### 4-505. Subpoena.

r=	D:			
[For use with	District Co	urt Civil Rul	le 1-045	NMRAJ

STATE OF NEW MEXICO	
COUNTY OF	No
JUDICIAL D	ISTRICT, Plaintiff, Defendant
SUBF	POENA <sup>1</sup>

SUBPOENA FOR APPEARANCE OF PERSON FOR<sup>2</sup>
[ ] DEPOSITION [ ] TRIAL
TO:

Daic	e: ::, <sub>.</sub>	Tin	ne:	(a.m.) (p.m.)
to: []	testify at the taking of a testify at trial.			
Y obje	OU ARE ALSO COMMAN	NDED to bring with	you the follow	wing document(s) or
	F YOU DO NOT COMPLY tand punished by fine or i		·	
		Judge, clerk	or attorney	
	RETURN FOR	COMPLETION BY	SHERIFF O	R DEPUTY
subp	certify that on the County, I se poena, a witness fee in the	rved this subpoend by deliveri	a on ng to the pers	on named a copy of th
		Deputy she	riff	
		Deputy sile		
	RETURN FO	Deputy sile OR COMPLETION MAKING SER		PERSON
not a	being duly sworn, on oatle party to this lawsuit, and, in	DR COMPLETION MAKING SER In say that I am over that on the County, I serv by deliveri	er the age of e day ed this subpo	ighteen (18) years and of, ena on son the copy of the
not a	being duly sworn, on oatl a party to this lawsuit, and , in	DR COMPLETION MAKING SER In say that I am over that on the County, I serv by deliveri	er the age of e day day ded this subpoong to the person in the amoun	ighteen (18) years and of, ena on son the copy of the

Judge, notary or other officer authorized to administer oaths

Nar	ne of attorney of party	
Add	Iress	
Tele	ephone	
	CERTIFICATE OF SERVICE	BY ATTORNEY
	I certify that I caused a copy of this subpoena to entities by <i>(delivery) (mail)</i> on this	
(1)	(Name of party)	
	(Address)	
(2)	(Name of party)	
	(Address)	
		Attorney
		Signature
		Date of signature

THIS SUBPOENA issued by or at request of:

### TO BE PRINTED ON EACH SUBPOENA

- 1. This subpoena must be served on each party in the manner provided by Rule 1-005 NMRA. If service is by a party, an affidavit of service must be used instead of a certificate of service.
- 2. A command to produce evidence or to permit inspection may be joined with a command to appear for a deposition or trial.
- 3. If a person's attendance is commanded, one full day's per diem must be tendered with the subpoena, unless the subpoena is issued on behalf of the state or an

officer or agency thereof. See Section 38-6-4 NMSA 1978 for per diem and mileage for witnesses. See Paragraph A of Section 10-8-4 NMSA 1978 for per diem and mileage rates for nonsalaried public officers. Mileage must also be tendered at the time of service of the subpoena as provided by the Per Diem and Mileage Act. Payment of per diem and mileage for subpoenas issued by the state is made pursuant to regulations of the Administrative Office of the Courts. See Section 34-9-11 NMSA 1978 for payments from the jury and witness fee fund.

#### PROTECTION OF PERSONS SUBJECT TO SUBPOENAS

A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

Subject to Subparagraph (2) of Paragraph D below, a person commanded to produce and permit inspection and copying may, within fourteen (14) days after service of the subpoena or before the time specified for compliance if such time is less than fourteen (14) days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises or within fourteen (14) days after service of the subpoena may file a motion to quash the subpoena and serve the motion on all parties to the action. If an objection is served or a motion to quash is filed and served on the parties, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

- (1) fails to allow reasonable time for compliance,
- (2) requires a person who is not a party or an officer of a party to travel to a place more than one hundred miles from the place where that person resides, is employed or regularly transacts business in person, except as provided below, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (3) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(4) subjects a person to undue burden.

If a subpoena:

- (1) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (2) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (3) requires a person who is not a party or an officer of a party to incur substantial expense to travel,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

### **DUTIES IN RESPONDING TO SUBPOENA**

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

[Adopted, effective January 1, 1998; as amended, effective November 1, 2002; January 20, 2005; as amended by Supreme Court Order No. 08-8300-002, effective March 15, 2008.]

#### **ANNOTATIONS**

**The 2008 amendment,** approved by Supreme Court Order No. 08-8300-02, effective March 15, 2008, added the "Certificate of Service by Attorney" at the end of the form.

**The 2004 amendment,** effective January 20, 2005, substituted "statutory" for "\$75.00" and deleted "as provided by law" following mileage under the heading "RETURN FOR COMPLETION BY OTHER PERSON MAKING SERVICE."

The 2002 amendment, effective November 1, 2002, deleted the references for "subpoena for documents or objects" and "inspection of premises" under the heading "Subpoena"; deleted the Certificate of Service by Attorney section in the form; renumbered former Use Note 1 as present Use Note 2, inserted present Use Note 1; in Use Note 3, inserted the second, third and sixth sentences, and deleted Use Note 4 which read "To be completed only if the subpoena is commanding production of documents and things or inspection of premises before trial. If the subpoena is commanding production of documents and things or inspection of premises before trial, it must be served on each party in the manner provided by Rule 1-005. If service is by a party, an affidavit of service must be used instead of a certificate of service"; deleted the second paragraph under the heading "Protection of Persons Subject to Subpoenas" which formerly read "A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial"; in the third paragraph, inserted "or within fourteen (14) days after service of the subpoena may file a motion to guash the subpoena and serve the motion on all parties to the action" at the end of the first sentence, and, in the second sentence inserted "an objection is served or a motion to quash is filed and served on the parties".

**Statutory witness fee.**— Section 38-6-4 NMSA 1978 provides for the payment of witness fees at the rate set forth in the Per Diem and Mileage Act for "nonsalaried public officers". Section 10-8-4 NMSA 1978 of the Per Diem and Mileage Act provides for per diem and mileage for nonsalaried public officers in the amount of \$95.00 for each meeting attended.

## 4-505A. Subpoena for production or inspection.

[For use with District Court Civil Rule 1-045 NMRA]

		•
STATE OF NEW MEXICO		
COUNTY OF	No	
JUDICIAL DISTRIC	CT	
		, Plaintiff
V.		
		, Defendant

SUBPOENA FOR PRODUCTION OR INSPECTION1

**SUBPOENA FOR** 

[]	DOCUMENTS OR OBJECTS2		
[]	INSPECTION OF PREMISES2		
TO:			
YOU A	ARE HEREBY COMMANDED ON:		
DATE	≣:,	TIME:	_ (a.m.) (p.m.)
TO:			
[] tangib	permit inspection of the following de ole things:	escribed books, papers, do	ocuments or
[]	at (address).  permit the inspection of the premise	es located at:	
	(address).		
ABSENT A COURT ORDER, DO NOT RESPOND TO THIS SUBPOENA UNTIL THE EXPIRATION OF FOURTEEN (14) DAYS AFTER THE DATE OF SERVICE OF THE SUBPOENA.			
DO NOT RESPOND TO THIS SUBPOENA FOR PRODUCTION OR INSPECTION IF YOU ARE SERVED WITH WRITTEN OBJECTIONS OR A MOTION TO QUASH UNTIL YOU RECEIVE A COURT ORDER REQUIRING A RESPONSE.			
You may comply with this subpoena for production or inspection by providing legible copies of the items requested to be produced by mail or delivery to the attorney whose name appears on this subpoena. You may condition the preparation of the copies upon the payment in advance of the reasonable cost of inspection and copying. You have the right to object to the production pursuant to this subpoena as provided below.			

## READ THE SECTION "DUTIES IN RESPONDING TO SUBPOENA".

IF YOU DO NOT COMPLY WITH THIS SUBPOENA you may be held in contempt of court and punished by fine or imprisonment.

.


Judge, clerk or attorney

## RETURN FOR COMPLETION BY SHERIFF OR DEPUTY

I certify that on the County, I s	served this subpoena on	1
subpoena and a fee of \$ fee is tendered, "none")3.	by delivering to t ( <i>insert the a</i>	the person named a copy of the mount of fee tendered or, if no
Deputy sheriff		
RETURN FOR COMPL	ETION BY OTHER PER	RSON MAKING SERVICE
not a party to this lawsuit, and t	that on the County, I served this by delivering to t	s subpoena on the person named a copy of the
Person making service		
SUBSCRIBED AND SWOR		day of
Judge, notary or other o	fficer	
authorized to administer	oaths	
THIS SUBPOENA issued b	y or at request of:	
Name of attorney of party		

Address	
Telephone	
CERTIFICATE OF SERVICE BY A	TTORNEY
I certify that I caused a copy of this subpoena to be sor entities by (delivery) (mail) on this day	
(1)	_
(Name of party)	
(Address)	
(2)	_
(Name of party)	
(Address)	
Attorney	
Signature	
Date of signature	<u> </u>

## TO BE PRINTED ON EACH SUBPOENA

1. This subpoena must be served on each party in the manner provided by Rule 1-005 NMRA. If service is by a party, an affidavit of service must be used instead of a certificate of service.

- 2. A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.
- 3. If a person's attendance is commanded, one full day's per diem must be tendered with the subpoena, unless the subpoena is issued on behalf of the state or an officer or agency thereof. Mileage must also be tendered at the time of service of the subpoena as provided by the Per Diem and Mileage Act. See Section 38-6-4 NMSA 1978 for per diem and mileage for witnesses. See Paragraph A of Section 10-8-4 NMSA 1978 for per diem and mileage rates for nonsalaried public officers. Payment of per diem and mileage for subpoenas issued by the state is made pursuant to regulations of the Administrative Office of the Courts. See Section 34-9-11 NMSA 1978 for payments from the jury and witness fee fund.

#### PROTECTION OF PERSONS SUBJECT TO SUBPOENAS

A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

Subject to Subparagraph (2) of Paragraph D below, a person commanded to produce and permit inspection and copying may, within fourteen (14) days after service of the subpoena or before the time specified for compliance if such time is less than fourteen (14) days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises or within fourteen (14) days after service of the subpoena may file a motion to quash the subpoena and serve the motion on all parties to the action. If an objection is served or a motion to quash is filed and served on the parties, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

- (1) fails to allow reasonable time for compliance,
- (2) requires a person who is not a party or an officer of a party to travel to a place more than one hundred miles from the place where that person resides, is employed or regularly transacts business in person, except as provided below, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (3) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (4) subjects a person to undue burden.

If a subpoena:

- (1) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (2) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (3) requires a person who is not a party or an officer of a party to incur substantial expense to travel,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

#### **DUTIES IN RESPONDING TO SUBPOENA**

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(3) A person commanded to produce documents or material or to permit the inspection of premises shall not produce the documents or materials or permit the inspection of the premises if a written objection is served or a motion to quash has been filed with the court until a court order requires their production or inspection.

[As amended, effective November 1, 2002; as amended by Supreme Court Order No. 08-8300-002, effective March 15, 2008; by Supreme Court Order No. 09-8300-030, effective October 12, 2009.]

#### ANNOTATIONS

The 2009 amendment, approved by Supreme Court Order No. 09-8300-030, effective October 12, 2009, after "ABSENT A COURT ORDER", deleted the former provision which stated that the date for production of documents entered on the subpoena shall not be less than fifteen (15) days from the date of service unless ordered by the court before the stated date; after "DO NOT RESPOND TO THIS SUBPOENA", added "UNTIL THE EXPIRATION OF FOURTEEN (14) DAYS AFTER THE DATE OF SERVICE OF THE SUBPOENA"; and added the certificate of service by attorney at the end of the form.

**The 2008 amendment,** approved by Supreme Court Order No. 08-8300-02, effective March 15, 2008, added the "Certificate of Service by Attorney" at the end of the form.

## 4-506. Scheduling order.

[For use with Rules 2-306 and 3-306 NMRA]

STATE OF NEW MEX COUNTY OF	COURT	
Plaintiff	,	
V.		No
Defendant	,	

#### SCHEDULING ORDER<sup>1</sup>

The parties shall comply with the following scheduling order:

۱.	Motions to amend the pleadings or to join parties must be filed by
	(date)².

2. (date	<u></u>	
3.	Any permitted discovery must be completed by	(date).
4.	All motions must be filed by (date).	
	The plaintiff shall disclose to the defendant a witness list, includinesses and telephone numbers of their witnesses, along with a summony of each witness by (date).	•
	The defendant shall disclose to the plaintiff a witness list, including esses and telephone numbers of their witnesses, along with a summony of each witness by (date).	•
	The plaintiff shall make all of plaintiff's exhibits available to each dection or copying no later than (date).	defendant for
8. inspe	The defendant shall make all of defendant's exhibits available to extion or copying no later than (date).	each plaintiff for
9.	[Proposed jury instructions shall be submitted to the court by (date).] <sup>3</sup>	
by	[Proposed findings of fact and conclusions of law shall be submitt (date).]	ed to the court
	Any party may request a pretrial conference by filing a written recose of the conference. The parties shall advise the court promptly if	
IA se	ttlement conference is scheduled on (date).	1
[A mo	otion hearing will be held on (date).]	
	etrial conference will be held on (date).]	
	hen this order states that a document shall be submitted by a certaceived by the recipient by that date. Dates may be changed only by	
Tł	nis matter is set for [jury] [non-jury] trial on (	date).
lf	it is brought to the attention of the court that a party has failed to co	mply with this

If it is brought to the attention of the court that a party has failed to comply with this order, the court may: order such party to permit the discovery or inspection of materials not previously disclosed; grant a continuance; prohibit the party from calling a witness not disclosed; prohibit the party from introducing in evidence the material not disclosed; or enter such other order as it deems appropriate under the circumstances, including, but not limited to, holding an attorney or party in contempt of court.

Failure to comply with any provision of this order of court and punished by fine or imprisonment.	er, may result in a finding of contempt	
Judge		
Date of signat	ure	
USE NOTE		
1. This form may be adapted to local practice. require settlement conferences or pretrial conferencetc. Dates should be in consecutive order.	• • •	
2. Dates should be calendar dates, not " " days before trial".	days after entry of this order", or	
3. The alternatives in this paragraph may be used only if a party is represented by an attorney.		
[Approved, effective December 17, 2001.]		
4-507. Scheduling order.		
[For use with District Court Civil Rule 1-016 NMRA	]	
STATE OF NEW MEXICO		
COUNTY OF JUDICIAL DISTRICT	, Plaintiff	
V.	No	
	, Defendant	
SCHEDULING OR	DER <sup>1</sup>	
Pursuant to Rule 1-016 NMRA, the court enters	the following scheduling order:	
1. Motions to amend the pleadings or to join pa	arties shall be filed by	
2. Motions addressed to the pleadings shall be (date).	e filed by	

*3. testify	Plaintiffs shall file with the court a list of a at trial by (date).	all lay witnesses who may be called to
*4. testify	Defendants shall file with the court a list at trial by (date).	of all lay witnesses who may be called to
*5. to tes	Plaintiffs shall file with the court a list of a tify at trial by (date	
*6. called	Defendants shall file with the court a list to testify at trial by	· · · · · · · · · · · · · · · · · · ·
	Discovery shall be completed byvery sufficiently before this date so that penably may comply with discovery requests	
	All other motions, except for motions in la (date).	imine, shall be filed by
	All parties shall file with the court an exhi xhibit list shall state the reasonable place opied.	
*10.	All parties shall file specific objections to (date).	other parties' proposed exhibits by
[11.	Plaintiffs shall submit their portions of a p (date).	pretrial order to defendants by
	Defendants shall file the proposed final p	retrial order with the court by
witnes listed	All parties shall file a final witness list by ss list shall list "will call" and "may call" wit on any party's earlier witness list but may live of court or consent of all parties.]	nesses and may include any witnesses
11.	[Proposed jury instructions shall be subm (date).]	nitted to the court by
or		
	osed findings of fact and conclusions of la (date).]	w shall be filed with the court by
12	Motions <i>in limine</i> shall be filed by	(date)

13. Dates contained in paragraphs of this order marked with an asterisk (*) may be modified by written agreement of all parties, without court approval. Only the court, for good cause, may change other dates.		
14. This matter is set for [jury] [non-jury] trial on (date) [on a railing docket].		
District Judge		
USE NOTE		
1. Dates should be in consecutive order.		
2. Dates should be calendar dates, not "		
days after entry of this order", or " days before trial".		
3. Depending on the complexity of the case, the court may wish to use the paragraphs that are bracketed, which require submission of a pretrial report and final witness list.		
4. This form may be adapted to local practice. For example, the court may want to require settlement conferences or pretrial conferences, or may schedule docket calls, etc.		
5. If a scheduling order is not appropriate, the court shall enter an order indicating hat no scheduling order will be entered, indicating the reason, and shall set the case for rial not later than eighteen (18) months after the filing of the complaint. Rule 1-016(B) NMRA.		
[Approved, effective July 1, 2002.]		
ARTICLE 6 Trials		
4-601. Subpoena for jury service.		
For use with Rules 2-603 and 3-603 NMRA]		
STATE OF NEW MEXICO		
N THE COURT No		

<del></del>	OUNTY
against	, Plaintiff
against	, Defendant
SURPOFNA I	FOR JURY SERVICE
3351 3EW.	ON JOHN JEHNIGE
TO:	
YOU ARE ORDERED TO APPEAR b	pefore this court located at
,, at the	e hour of m. for jury service. IF
YOU DO NOT APPEAR and are not exc punished by fine or imprisonment.	used, you may be held in contempt of court and
, Ju	dge or Clerk
RETURN FOR COMPLET	TION BY SHERIFF OR DEPUTY
I certify that on the day of _	, in said by delivering a copy of
county, I served this subpoena on	by delivering a copy of
the subpoena to such person.	
 Dep	buty Sheriff
·	•
4-602. Withdrawn.	
ANN	IOTATIONS
relating to juror summons, qualification a	Court Order No. 17-8300-016, 4-602 NMRA, and questionnaire form, was withdrawn effective December 31, 2017. For provisions of former burce.com.
4-602A. Juror summons.	
[For use with Rules 1-047, 2-603, 3-603	NMRA]
COURT	JURY SUMMONS
[Street Address]	PLEASE BRING SUMMONS

[City, NM, Zip Code] STATE OF NEW MEXICO		TO ALL APPEARANCES FOR QUESTIONS CALL:
COUNTY OF	_ TO:	[Name] [Telephone Number]
[Juror name] [Street Address] [City, State, Zip Code] [USPS Bar Code]		[
	SUMMONS TO JURY S	ERVICE
formularios, llame al núme servir como jurado	ro telefónico indicado en	e es posible leer o llenar estos la primera página del citatorio para disponibles en español en web address).
		5-10 NMSA 1978, you have been  1 ( <i>date</i> ) through
Your Juror Badge Number	er is:	
Your Juror Group Numbe	r is:	
address) to complete and s forms by (insert	ubmit your <b>online Juror</b> date forms are due). If yo (insert telephone nu	Questionnaire and Qualification ou do not have internet access, you umber from top of page) by
for contempt of court. An the court may be punished	y person willfully failing d under Section 38-5-10	nit these forms may be punished g to appear at the time ordered by O NMSA 1978. Both contempt of that may result in jail time, a fine,
spoken language interprete accommodations for jurors (insert telephone number fr	ers at no cost to jurors. The with special needs. Pleas from top of page) of your n	ies Act and provides signed and e court will make reasonable se notify the court ateed for an accommodation for a eter by (insert
Witness the Honorable name) and the Seal of the 0	( <i>Judge's nan</i> Court, this	ne) of the (court (date).

## PLEASE READ ALL INSTRUCTIONS AND INFORMATION CAREFULLY. RETAIN THIS PAGE FOR YOUR RECORDS.

#### **General Information and Instructions for Jurors**

THE RIGHT TO TRIAL BY JURY IS GUARANTEED TO ALL PERSONS BY BOTH THE UNITED STATES AND NEW MEXICO CONSTITUTIONS. THE SUCCESS OF THE JURY SYSTEM DEPENDS UPON CITIZENS PERFORMING THEIR SOLEMN DUTY TO SERVE AS JURORS, WHILE ACTING WITH INTEGRITY IN DISCHARGING THIS RESPONSIBILITY.

### Reporting an Emergency Absence

It is very important that you report as directed for jury service. Only the most urgent, unexpected, and unavoidable emergencies can be considered as valid reasons for your absence. If you MUST be absent, you MUST call the number at the bottom of this page as soon as possible. If you fail to report or call in, an order to show cause why you should not be held in contempt of court may be issued.

### **Travel and Medical Appointments**

We understand that some jurors may have conflicts that occur during their term of service. We strive to accommodate all jurors. You **ONLY** need to notify the court if your preplanned vacation, work-related travel, or medical appointments **CONFLICT** with the dates you are scheduled to appear. Please send this information in writing to the court including your name, Juror Badge Number, telephone number, and any other information necessary to expedite your request. Telephone calls or messages regarding these types of conflicts will **not be** accepted except in emergencies.

**Meals** will not be provided by the court, nor will meals be reimbursed, unless jurors are deliberating at the close of the case during the lunch hour or after 5:00 p.m.

#### **Dress**

Please dress comfortably but befitting the dignity of the court. Shorts, hats, sunglasses, tank tops, bare midriffs, sweats, and similar dress are not allowed. Men are not required to wear coats and ties, nor are women required to wear similar business attire. Due to the variable temperature in the courtroom it is recommended that you dress in layers.

## **Juror Fees and Payments**

The court is authorized by Supreme Court order to reimburse for jury service at the rate of \$\_\_\_\_\_ per hour (*insert current rate*). In addition, if your round-trip mileage from your

home to the courthouse is more than forty (40) miles, you will be paid at \$\_\_\_\_\_ per mile (insert current rate). Mileage is computed based on the information you provide on the juror qualification form and your mailing ZIP code. Checks will be mailed to your mailing address. Your payment cannot be split between hourly and mileage reimbursement. Reimbursement payments take about six (6) weeks to process. If you have not received payment within ten (10) weeks of jury service, please call the number at the bottom of this page.

Employers are not required by law to pay employees for time spent in jury service. Contact your employer regarding its policy. The court does not compensate those employed by the public schools, local government, or the State of New Mexico.

NO CITIZEN IS EXEMPT FROM JURY SERVICE BECAUSE OF HIS OR HER JOB, RACE, ETHNICITY, RELIGION, SEX, NATIONAL ORIGIN, SEXUAL ORIENTATION, ECONOMIC STATUS, OR LACK OF ENGLISH PROFICIENCY.

Request for Postponement: If the date scheduled for your service will create a severe hardship for you, you may request a postponement and must complete and submit ALL forms. Please specify your reasons for requesting a postponement and submit the completed forms by the date noted above. Your request will be reviewed by the court, and you will be notified of the decision. Be assured that the court will work with you around scheduled vacations, medical appointments, etc., whenever possible.

Request for Excusal: If you have an extreme mental, physical, or financial hardship that prevents you from serving as a juror, you may request an excusal and must complete and submit ALL forms. See Section 38-5-1(A) NMSA 1978. Please specify your reasons for requesting an excusal and submit the completed forms by the date noted above. You also must submit a letter from a healthcare provider with any request for excusal for medical reasons. Until you have received notification from the court, you are not excused.

**Request for Exemption:** If you have served on a jury in state or federal court in the past three (3) years or are seventy-five (75) years of age or older, you may request an exemption from jury service and must complete and submit ALL forms. If you are requesting an exemption based on age you must also submit an affidavit form. See Sections 38-5-2(A) and (B) NMSA 1978. Until you have received notification from the court, you are not exempted.

**Employment Protections:** State law prohibits your employer from penalizing you for your jury service. See Sections 38-5-18 and -19 NMSA 1978.

All Jury Service Statutes Cited in This Summons Can Be Found Online at
(insert web address)
First Step to Successful Jury Service

Fill out all forms. Please answer all questions, taking special care to provide the court with contact information. Submit the completed forms by the dates listed under "SUMMONS TO JURY SERVICE."

[Adopted by Supreme Court Order No. 17-8300-016, effective December 31, 2017.]

## 4-602B. Juror qualification.

[For use with Rules 1-047, 2-603, 3-603 NMRA]

#### **JUROR QUALIFICATION FORM**

Juror Badge Number:			
Dear Prospective Juror:			
Please answer each of the fol provide will by used only by c attorneys or parties in the cas	ourt employees and	d shall not be made a	available to the
Estos formularios están dispo address). Si neccesita más a primera página del citatorio pa	yuda en español, lla	ame al número telefó	( <i>insert web</i> ónico indicado en la
Name as it appears on the su	mmons:		
Legal name:			
Mailing address:			
Home address (if different):			<del></del>
City:			
Phone numbers:			
Home:			
Business:	Ext:		
Cell:			

E-mail:		
1. Do you live more than forty (40) round-trip miles from your home to the courthouse?		
Yes No		
If yes, what is your round-trip mileage?		
Would you like to be compensated for milage? Yes No		
2. Are you employed by the public schools, local government, or the State of New Mexico?		
(Note: these public employees cannot be compensated by the court for their jury service.)		
Yes No		
3. Of which New Mexico county are you a resident?		
4. Are you a United States citizen? Yes No		
If no, country of citizenship:		
5. Will you need an interpreter? Yes No		
If yes, which language?		
6. Have you ever been convicted of a felony? Yes No		
a. If yes, please explain:		
b. If yes, have you completed all conditions of parole or probation?		
Yes No		
c. If yes, please enclose a copy of one of the following:		
Certificate or letter of completion issued by the Department of Corrections of New Mexico, or another state.		
Certificate or letter of pardon from the Governor of New Mexico, or another state.		
SELECT ONE:		
I am available to serve for the dates listed on my summons (skip to signature,		

sign and return form).
I am requesting a postponement for the reasons noted below until the following date: (jury service may be postponed for up to six (6) months).
I am requesting to be excused or exempted for the reasons noted below. I am submitting the required documents.
REQUEST FOR POSTPONEMENT, EXCUSAL, OR EXEMPTION
If your jury service is scheduled for a date that conflicts with your schedule, please request a postponement for a more convenient time.
There are NO AUTOMATIC EXEMPTIONS. All exemptions must be requested, including exemptions based on age or prior jury service.
ALL situations will be considered on a case-by-case basis. Please enclose a detailed explanation for cases of:
Prior jury service (provide appropriate date(s) of service and court)
Medical (must submit a current letter on letterhead from healthcare provider)
Financial hardship (not being compensated by your employer is not grounds for excusal)
Age: (persons seventy-five (75) and older may contact the court for an affid form requesting an exemption)
Not a resident of the State of New Mexico or County (please submit proof of results as a current driver's license or a voter registration card)
Caregiver: (must submit a current letter on letterhead from healthca provider)
Nursing mother (a current letter on letterhead from healthcare provider required if requesting seem postponement)
Student or teacher (request to be postponed until school breaks - please provide below the dat your school break begins and ends):
Other:

**PLEASE NOTE:** Unless you receive a letter from the court stating you are excused from attending jury service, you MUST appear on the date required by the court. Not showing up for jury duty when summoned is called Failure to Appear and can result in a fine of up to five hundred dollars (\$500), up to six (6) months in jail, or both. Section 31-19-1 NMSA 1978. You can call the jury division to check on the status of your excusal or postponement.

I swear or affirm that the information I have provided is true and correct to the best of my knowledge. I am aware that failure to submit required documentation may result in the denial of my request.

Signa	ture of prospective juror		Date		
	ture of the person prepar rent from prospective jure		Date		
	e return completed Jure listed on the summons		n and Juror Questionnaire forms to the		
[Adop	[Adopted by Supreme Court Order No. 17-8300-016, effective December 31, 2017.]				
4-60	2C. Juror questionn	naire.			
[For u	se with Rules 1-047, 2-60	03, 3-603]			
	JUR	ROR QUESTION	NNAIRE FORM		
Juror	Badge Number.				
to the The a under not ha separa and a	attorneys, parties, and junch and junch attempts you provide will a stand a question, please are enough room to answate sheet of paper. If ther	idges in all case id in the proces place a question rer the question is a question	The Juror Questionnaire will be provided as you may be selected to hear as a juror. It is of selecting a jury. If you do not an mark (?) next to the question. If you do please use the space in question 35 or a you would rather discuss with the judge an asterisk (*). Thank you for your		
Date of	of jury service: day	month			
1.	Legal name and former	names:			
2.	Gender: Male Fe	male			
3.	Date of birth:				
	Birth place (city and state	te; country if out	tside the United States):		

4.	How long have you lived in New Mexico?
5.	In which New Mexico county do you live?
	How long?
6.	Which town or city do you live in?
	Neighborhood?
	What major intersection is closest to your home?
7.	Where else have you lived (city, state, country)?
8.	What is your marital status? single married
	domestic partner separated divorced widowed
9.	What is your ethnic background?
10.	Do you own or rent your home? own rent
11.	Your occupation:
	(If retired or unemployed please state, and also state your previous occupation.
12.	If employed please state:
	Name of employer and place of work:
	Job title and duties:
	Time worked there:
	Normal working hours:
	How many hours per week do you work?
13.	Do you have a second job? Yes No
14.	What other jobs have you had as an adult?

15.	How many years of schooling have you completed?		
	Highest level completed? high school or GED associate trade or		
ΙD	vocational school bachelor master Ph.D M.D		
J.D	Major areas of study:		
16.	Have you served in the military? Yes No		
	Highest rank:		
17. frater	Do you belong to or participate in any religious, civic, social, union, professional, nal, political, or recreational organizations? Yes No		
	Organization: Office held:		
18.	Current voter registration: Democrat Republican		
	Not registered No party selected		
	Other, please specify:		
19. full na	If you are married or in a domestic partnership, please provide spouse's/partner's ame and occupation:		
20.	Do you have any children or stepchildren? Yes No		
	How many? ages occupations		
21.	Have you ever been a witness in a court proceeding? Yes No		
	If yes, what type of case was it? civil criminal		
	What were the circumstances?		
22.	Have you ever served as a juror? Yes No		
	If yes, year: court or location: case type:		

	If yes, year:	court or location	:	case type:
	Were you ever t	he foreperson? Yes _	No	
	If yes, courts: _		years:	
23. care?	Have you ever h	nad an injury that req	uired hospitalizat	ion or extended medical
	Yes No _			
	If yes, what was	the injury?		
	Did the injury ca	use you to lose time	from work? Yes	No
	If yes, how long	?		
24.	Have you or any	member of your fan	nily ever filed a ci	vil suit against someone?
	Yes No _			
	If yes, please ex	κplain:		
25.	Have you or any	member of your fan	nily ever been su	ed? Yes No
	If yes, please ex	xplain:		
26. repres	•	immediate family me surance company? Y		an agent, employee, or
	If yes, who and	relationship to you:		
27.	Have you or any	member of your imr	mediate family be	en the victim of a crime?
	Yes No _			
	If yes, who was	the victim?		
	What crime?		When?	
	Was an arrest n	nade? Yes No		
28.	Have you or an	immediate family me	mber been a def	endant in a criminal case?

	Yes No
	If yes, who and relationship to you?
	Crime accused of committing?
	Was there a conviction? Yes No
volunte	Have you, any family member, or close friend ever been employed by, or eered for, any federal, state, or local law enforcement agency; a jail, prison or ion center; or a district attorney or other prosecuting attorney's office?
	Yes No
	If yes, who?
	Relationship to you:
	Position held:
	Dates of employment:
	Name of agency, or attorney and office:
30.	Have you or any family member ever worked for any other attorney?
	Yes No
	If yes, who?
	Relationship to you:
	Position held:
	Dates of employment:
	Name of attorney and office:
31. office?	Have you or any family member ever been represented by an attorney or law
	Yes No
	If yes, name of attorney and office:

32.	Do you have a physical disability o	f which we need to be aware? Yes No		
provic	If yes, are there any special accom le during your jury service? Yes	nmodations, services, or assistance we can No		
	Please explain:			
33. juror?	, , , , , , , , , , , , , , , , , , , ,	cation that may affect your ability to serve as a		
	Yes No			
	If yes, please explain:			
		serve as a juror? Yes No (If you ent for this reason, you must complete and xcusal, or Exemption Form)		
	If yes, please explain:			
35.	Use this space for any additional comments:			
	EAR OR AFFIRM THAT THE ABOV HE BEST OF MY KNOWLEDGE AI	/E INFORMATION IS TRUE AND CORRECT ND BELIEF.		
Signa	ture of prospective juror	Date		
_	ture of preparer, if different than ective juror	Date		

Please return completed Juror Qualification and Juror Questionnaire forms to the court listed on the summons you received.

[Approved by Supreme Court Order No. 17-8300-016, effective December 31, 2017.]

4-602D. Juror questionnaire privacy and destruction certification.

[For use with Rules 1-047, 2-603, 3-603] STATE OF NEW MEXICO COUNTY \_\_\_\_\_ COURT ٧. No. \_\_\_\_\_, Defendant. **JUROR QUESTIONNAIRE** PRIVACY AND DESTRUCTION CERTIFICATION I, \_\_\_\_\_, certify and affirm under penalty of perjury under the laws of the State of New Mexico that I have complied with the confidentiality and destruction requirements in Rule [1-047(C)] [2-603(G)] [3-603(G)] NMRA. Signature of person making certification and affirmation Printed name of person making certification and affirmation

#### **USE NOTE**

1. This form must be filed by all attorneys and parties within one hundred twenty (120) days after final disposition of the proceeding for which the juror or prospective juror was called unless permitted by written order of the court to retain copies for a longer period of time or within the deadline otherwise set by court order.

[Approved by Supreme Court Order No. 18-8300-008, effective December 31, 2018.]

# **ARTICLE 7 Judgment and Appeal**

**4-701. Judgment.** 

[For use with Rules 2-701 and 3-701 NMRA]

	URT
CO(	JNTY
No	
-	, Plaintiff
against	
	, Delendant
JUD	GMENT
This cause coming on for trial, plaintiff a defendant appearing (in person) (and) (by evidence and argument presented, finds	appearing (in person) (and) (by attorney); attorney), and the court, having heard the
[] in favor of plaintiff and against defer	ndant.
[] in favor of defendant and against pla	aintiff.
[] in favor of plaintiff on his complaint a counterclaim/setoff.	and in favor of defendant on his
IT IS THEREFORE ORDERED, ADJUI (defendant) recover the following:	DGED AND DECREED, that (plaintiff)
Damages	\$
Interest to date (if allowable)	\$
Attorney fee (if allowable)	\$
Costs	\$
TOTAL JUDGMENT	\$
(check if appropriate)	
[] that plaintiff have possession of: the premises at	
(for forcible entry or detainer)	

[]	the following personal property:
•	replevin actions) be completed if appellant desires to stay execution of judgment)
defe	s case is appealed and the appellant wishes to stay execution of the judgment the indant shall file with the (magistrate) (metropolitan) court an appeal bond in the junt of \$
	USE NOTE
appr a ne mon	f a bond secured by personal surety or sureties is tendered, the bond may be roved only on notice to the appellee. Each personal surety shall be required to show it worth at least double the amount of the bond. If the judgment is for the recovery of ey, the amount of the bond shall be the amount of the judgment remaining atisfied, together with costs, attorneys' fees and interest, if any.
[As a	amended, effective October 1, 1996.]
	ANNOTATIONS
	<b>1996 amendment,</b> effective October 1, 1996, added the final paragraph of the form ing to appeal bond, and added the Use Note.
4-70	02. Motion for default judgment.
[For	use with Rules 2-702 and 3-702 NMRA]
STA	TE OF NEW MEXICO
	COURT
	COUNTY
	, Plaintiff,
V	v. No
	Defendant

**MOTION FOR DEFAULT JUDGMENT** 

plaintiff states as follows:			
[] The Complaint in the above de	The Complaint in the above described case was filed on the day of		
	ons, Complaint, and Answer form in this case day of,		
[] The defendant(s)(has) failed to appear or to file an Ans Complaint.	, and (have) wer or other responsive pleading to the		
[] The return of service was filed	with this court on the day of		
	has attached to this motion an affidavit or ) (defendants') military status.1		
fees:	er judgment for the following damages, costs, and		
Damages			
Attorneys' fees (if allowable) Interest (if allowable) Filing fee Service fee	\$ \$ \$		
Witness fees	\$ \$		
Total Judgment	\$		
	Attorney for Plaintiff		
If the Plaintiff is not represented by an affirmation.	attorney, the Plaintiff must complete the following		
I,, af State of New Mexico that the stateme	firm under penalty of perjury under the laws of the nts in this motion are true and correct.		
Dated:	Signature of person making affirmation		

Plaintiff requests the court to enter a default judgment, and in support of this request,

## Printed name of person making affirmation

## **USE NOTE**

1. The plaintiff may fulfill this requirement by completing and filing Form 4-702A NMRA.

[As amended by Supreme Court Order No. 16-8300-019, effective for all cases pending or filed on or after December 31, 2016.]

## **ANNOTATIONS**

The 2016 amendment, approved by Supreme Court Order No. 16-8300-019, effective

December 31, 2016, changed the caption of the case; in the section titled "Motion for
Default Judgment", in the second box option, after "copy of", added "the", after "in this
case", added "were", after "day of,", deleted "; on the day of
day of; in the third box option, after "(have) (has)", deleted "not entered an appearance or filed" and added "failed to appear"
or to file"; added the fifth box option; in the list of damages, costs and fees, after the
"Service fee" line, deleted the "Return fee" line; after the "Attorney for Plaintiff" signature
line, after "If the Plaintiff is not represented by an attorney", deleted "this motion must be
sworn to by the plaintiff" and added "the Plaintiff must complete the following
affirmation"; rewrote the affirmation provision; and added the Use Note.
4-702A. Affirmation in support of default judgment.
[50 U.S.C. § 3931]
STATE OF NEW MEXICO
COUNTY
COURT
, Plaintiff,
v. No
, Defendant.
AFFIRMATION OF PLAINTIFF
IN SUPPORT OF APPLICATION FOR DEFAULT JUDGMENT
I,, affirm under penalty of perjury under the laws of
the State of New Mexico that the following statements are true and correct:

	1. I am over the age of 18, of sound mind, have personal knowledge of the matters contained in this affirmation, and if called as a witness, I would and could testify competently thereto.			
2.	(Check applicable box.)			
[]	The defendant is in military service;			
[]	The defendant is not in military service; or			
[]	I am unable to determine whether the defendant is in military service.			
3.	The following facts support the statements in this affidavit:			
	<del></del> •			
Dated	d: Signature of person making affirmation			
	Printed name of person making affirmation			
	USE NOTE			
Civil F	The plaintiff may be able to access the federal government's Servicemembers Relief Act (SCRA) website to obtain a certificate setting forth the defendant's ry status. See https://scra.dmdc.osd.mil/.			
[Adopted by Supreme Court Order No. 16-8300-019, effective for all cases pending or filed on or after December 31, 2016.]				
4-703. Default judgment; judgment on the pleadings.				
[For use with Rules 2-303, 2-702, 3-303 and 3-702 NMRA]				
STATE OF NEW MEXICO				
IN TH	IECOURT			
	COUNTY			
	, Plaintiff,			
V.	No			

## **DEFAULT JUDGMENT** JUDGMENT ON THE PLEADINGS

This cause coming before the court on motion of (plaintiff) (defendant) (the court itself)

and the	court finding it has jurisdiction and that:	,		
[] F	Plaintiff appeared (in person) (and) (by attorney) and defendant failed to appear;			
[] [	Defendant appeared (in person) (and) (by attorney) and plaintiff failed to appear;			
	nere is no genuine issue as to any material fact and that ( <i>plaintiff</i> ) ( <i>defendant</i> ) o a judgment on the pleadings;	is		
[] [ summoi	efendant failed to answer on or before the appearance date fixed in the s;			
[] F	aintiff has filed an affidavit or affirmation regarding defendant's military status	• 1 •		
	rt, having heard the evidence and argument presented, finds that service of was duly made and finds:			
[] ir	favor of plaintiff and against defendant.			
[] ir	in favor of defendant and against plaintiff.			
	favor of plaintiff on the complaint and in favor of defendant on the laim/setoff.			
IT IS TH	EREFORE ORDERED, ADJUDGED, AND DECREED that:			
(Plaintif	(Defendant) recover the following:			
Dar	ages \$			
Oth Dan	ages \$			
Inte Date	est to \$			
	vable)			
Fee	neys' (if \$ vable)			

Costs TOTAL JUDGN	*
(check if ap	ppropriate)
[] [Plai	ntiff] [Defendant] have possession of:
[]	the premises at
(for forcible	e entry or detainer)
or	
[]	the following personal property:
(for replevi	n and restitution actions)
	Judge
	LICE NOTE

#### USE NOTE

1. The Servicemembers Civil Relief Act, which provides certain protections to servicemembers against default judgments, applies to any civil action or proceeding in which the defendant has not made an appearance. See 50 U.S.C. § 3931.

[As amended, effective October 1, 1987; October 1, 1991; as amended by Supreme Court Order No. 16-8300-019, effective for all cases pending or filed on or after December 31, 2016.]

#### **ANNOTATIONS**

The 2016 amendment, approved by Supreme Court Order No. 16-8300-019, effective December 31, 2016, changed the caption of the case; in the section titled "Default Judgment; Judgment on the Pleadings", after the fourth box option, added "[] Plaintiff has filed an affidavit or affirmation regarding defendant's military status;1; in the eighth box option, after "in favor of plaintiff on", deleted "his" and added "the", and after "defendant on", deleted "his" and added "the"; after "(for replevin and restitution)", deleted "\_\_\_\_\_\_\_\_"; and added the Use Note.

**The 1991 amendment,** effective October 1, 1991, inserted "on motion of (plaintiff) (defendant) (the court itself) and the court finding it has jurisdiction and that:" near the beginning; in the first group of alternatives, deleted "Upon motion of the (plaintiff)

(defendant) for a judgment on the pleadings, the court finds that" from the beginning of the third alternative and added the fourth alternative; and in the order, inserted the line for "Other damages" and inserted "[Defendant]" and "and restitution".

## 4-704. Motion to set aside default judgment.

[For use with Magistrate Court Rule 2-702 NMRA and Metropolitan Court Rule 3-702 NMRA]

STATE OF NEW MEXICO	
COUNTY OF	
COURT	
No	
	_, Plaintiff
V.	
	_, Defendant
MOTION TO SE	T ASIDE DEFAULT JUDGMENT
The undersigned asks that the cour	
This motion is filed within thin	rty (30) days from date of judgment; and
No appeal has been taken fr	om the judgment; and
Undersigned has a defense	to present; and
My excuse for being in defau	ult is:
(Plaintiff) (Defendant)	<del></del>

Date:	
	CERTIFICATE OF SERVICE
I hereby certify	that on this day of,, this ( <i>insert paper served, such as "answer" or "notice"</i> ) was
[mailed by Unite	ed States first class mail, postage prepaid, and addressed to:
Name:	
Address:	
City, State	
and zip code:	]
[faxed by	(name of person who faxed document) to (name of recipient) at (telephone
number) The tr	(name of recipient) at (telephone
transmission wa	ansmission was reported as complete. The time and date of the as (a.m.) (p.m.) on (date).]
[e-mailed to	(name of party or attorney) at
	(electronic mail address of recipient) upon agreement of the party
	onic service. The transmission was reported as complete. The time and
(date).]	smission was (a.m.) (p.m.) on
Idelivered to	(Specify how service by delivery was
made. See Use	Note 1 for the methods service may be made using this alternative.)
:]	, , , , , , , , , , , , , , , , , , ,
Cianatura	a of paragraphing paper
Signature	e of person sending paper
Date of s	ignature
	USE NOTE

A copy of this motion must be served on the other party or attorney for the other party.

[As amended by Supreme Court Order No. 05-8300-005, effective March 21, 2005.]

## **ANNOTATIONS**

**The 2005 amendment,** effective March 21, 2005, of this form added the certificate of service at the end of the form and substituted "motion must be served on" for "mailed or delivered to" in Use Note.

**Cross references.** — For rule governing computation of time, see Rules 2-104 and 3-104 NMRA.

# 4-705. Order setting aside default judgment and giving notice of trial date.

[For use with Rules 2-702 and 3-702 NMRA] STATE OF NEW MEXICO IN THE COURT COUNTY against ORDER SETTING ASIDE DEFAULT JUDGMENT AND GIVING NOTICE OF TRIAL DATE A motion having been made to set aside the default judgment, and the court having held a hearing, finds that Defendant has a defense to present, that good cause has been shown, and that the motion should be granted. IT IS ORDERED that the default judgment dated \_\_\_\_\_, \_\_\_\_, is set aside, and Defendant shall file an Answer to the Complaint within days. Plaintiff and Defendant are notified that THIS CASE WILL BE TRIED \_\_\_\_\_, \_\_\_\_, at \_\_\_\_\_ m. at and the failure of any party to appear at the time and place set for trial will be ground for default judgment against such party. Judge

## 4-706. Satisfaction of judgment.

[For use with Rules 2-704 and 3-704 NMRA]

<b>२</b> Т	No		
NTY			
, Plaint	tiff		
against, Defendant			
OF JUDGME	ENT		
<i>rtial)</i> satisfact	ion of the judgment in this		
3-706 NMR	4]		
Dist. C	ourt No		
(Mag.	) (Met.) Ct. No		
,	Plaintiff		
(appella	ant) (appellee)		
	Defendant		
	Defendant ant) (appellee)		
	Garnishee (if applicable)		
1	Dist. C  (Mag.  (appella		

## **NOTICE OF APPEAL**

	(plaintiff) (defendant) (other party)
	t from the judgment or final order of the (magistrate)
(metropolitan) court entere	d in the above cause on the day of
	·
	Signed
	Name (print)
	u ,
	Address (print)
	· · ·
	City, state and zip code (print)
	Telephone number
	(To be completed prior to filing
	with the clerk of the district court.
Prod	of of service is required for each party.)
	• • • • •
CERT	TIFICATE OF SERVICE BY ATTORNEY
	copy of this notice of appeal to be served on the following
	very) (mail) on this day of
,	·
(1)	
(Name of party)	
<del>-,</del>	
(Address)	
(2)	
(2)(Name of party)	<del></del>
(Ivaille of party)	
(Address)	
	<del></del>
	(Attorney for appellant)
	Signature
	5.3
	Date of signature

## AFFIDAVIT OF SERVICE OF PARTY

I declare under penalty of perjuthe following persons or entities by	y <i>(delivery) (mail)</i> on this	
(1)		_
(Name of party)		
(Address)		
(2)(Name of party)		_
(Address)		
	Signature of appellant	
	Date of signature	
Subscribed and sworn to before me this day of,		
Judge, notary or other officer authorized to administer oaths	<del></del>	
Official title		

## **USE NOTE**

A copy of the judgment or final order appealed from, showing the date of the judgment or final order, shall be attached to the notice of appeal filed in the district court.

[As amended, effective January 1, 1996.]

## **ANNOTATIONS**

**The 1996 amendment,** effective January 1, 1996, rewrote the form, added the certificate of service and affidavit of service, and added the use note.

## 4-707A. Appeal bond.

[For use with Rules 1-072, 1-073, 2-706 and 3-706 NMRA]

## STATE OF NEW MEXICO

IN THE DISTRICT COURT	Dist. Court No.
JUDICIAL DISTRICT	
COUNTY	(Mag.) (Met.) Ct. No
	(appellant) (appellee)
against	
	, Defendant
	(appellant) (appellee)
	, Garnishee (if applicable)
APPEAL	BOND
Appeal bond is hereby set at \$	
Judge	
USE N	OTE
If a supersedeas bond is approved by the immediately filed with the District Court.	trial court, a copy of the bond shall be
[Adopted, effective January 1, 1996.]	
4-708. Title page of transcript of civ	vil proceedings.
[For use with Rules 2-705 and 3-706 NMRA]	
STATE OF NEW MEXICO IN THECOUR	
	No
	, Plaintiff
against	
	, Defendant
	, Garnishee

TITLE PAGE OF TRANSCRIPT OF CIVIL PROCEEDINGS

1. Name of plaintiff or plaintiff's attorney		
	Address of plaintiff or plaintiff's attorney	
2.	Name of defendant or defendant's attorney	
	Address of defendant or defendant's attorney	
3.	Attached: (Please check appropriate boxes.)  [] COMPLAINT	
	[] ANSWER [] OTHER PAPERS AND PLEADINGS	
	[] JUDGMENT OR FINAL ORDER (with date of filing) [] EXHIBITS	
	[] TRANSCRIPT OF THE PROCEEDINGS	
	Judge	
[As ame	nded, effective July 1, 1996.]	
	ANNOTATIONS	
Paragrap "other pl for "final	<b>6 amendment,</b> effective for appeals filed after July 1, 1996, rewrote phs 1 and 2; and in Paragraph 3, substituted "other papers and pleadings" for eadings and exhibits", substituted "judgment or final order (with date of filing)" order or judgment (with date of filing noted thereon)", added "exhibits", and ted "transcript of the proceedings" for "record of the hearing".	
4-709.	Order declaring judgment of this court satisfied in full.	
[For use	with Rules 2-703 and 3-704 NMRA]	
	OF NEW MEXICO  COURT  COUNTY	
	No	
	, Plaintiff	
against	, Defendant	

# ORDER DECLARING JUDGMENT OF THIS COURT SATISFIED IN FULL

A motion having been made for an order of this court declaring the judgment in the above case to be satisfied in full and the court being satisfied that notice has been given to the defendant in accordance with the Rules of Civil Procedure and further that the judgment and any post-judgment costs and interest has been paid in full:

[] to the judgment creditor.	
[] by deposit with this court of a <i>(money order) (cashier's check)</i> made payable to the administrative office of the courts in an amount equal to the full amount of such judgment, costs and interest.	
IT IS ORDERED that the judgment in the above case is satisfied in full.	
, Judge	
[Approved, effective October 1, 1991.]	
4-710. Order setting aside judgment, order or writ of this court.	
[For use with Rules 2-703 and 3-704 NMRA]	
STATE OF NEW MEXICO IN THE COURT COUNTY	
No	
, Plaintiff	
against, Defendant	
ORDER SETTING ASIDE JUDGMENT, ORDER OR WRIT OF THIS COURT	
A motion having been made to set aside the (judgment)(an order ) (writ) entered in the above styled case on the day of, upon the grounds that such	

(judgment) (order) (writ):

[] was entered because of (a) (mistake) (inadvertence) (surprise) (excusable neglect) (fraud).			
[] is void because			
(set forth the reason the judgment is void)			
The court having held a hearing finds that the motion was timely filed and there are good grounds to grant the relief requested.			
IT IS ORDERED that the above (judgment) (order) (writ) be set aside.			
[It is further ordered that ]			
(set forth if other proceedings or trial is to be held)			
Dated:			
<del></del>			
Judge			
[Approved, effective October 1, 1991.]			
ARTICLE 8 Special Proceedings			
Special Proceedings			
4-801. Writ of execution.			
[For use with Rules 2-801 and 3-801 NMRA]			
STATE OF NEW MEXICO IN THE COURT			
COUNTY No			
, Plaintiff, Plaintiff's Address			
v, Defendant, Defendant's Address			

#### WRIT OF EXECUTION

THE STATE OF NEW MEXICO to the sheriff or a full-time salaried deputy sheriff of any New Mexico county: Judgment having been entered in this action, you are ordered to levy against personal property of \_\_\_\_\_ at \_\_\_\_ in your county, the sum of \$\_\_\_\_ (which is the judgment and costs to date) plus interest at the rate of \_\_\_\_\_ % per year from the \_\_\_\_ day of \_\_\_\_ (date of judgment), and your fees thereon, and return this writ to me within sixty (60) days. Judge or clerk (This form may also be issued as a second or subsequent writ.) RETURN I certify that I carried out this writ of execution, as follows: (check appropriate box or boxes and fill in blanks) [] The writ was served on judgment debtor on [] full payment was made [ ] partial payment was made in the amount of \$\_\_\_\_\_ No non-exempt personal property of judgment debtor was found on which levy could be made. Property seized: Personal property was taken into custody on \_\_\_\_\_, \_\_\_\_\_, [] A written inventory is attached. Judgment debtor provided bond to retain possession; a copy of the bond is [] attached. Date of return: SHERIFF OF COUNTY, State of New Mexico Deputy or other authorized person

#### **USE NOTE**

The sheriff is obligated by law to make timely return.

Only non-exempt property may be seized. The sheriff may not seize any personal clothing, furniture or books or any jewelry unless the total value of all jewelry exceeds \$2,500.

[As amended, effective July 1, 1992; January 1, 1995; January 1, 1996.]

## **ANNOTATIONS**

**The 1996 amendment,** effective January 1, 1996, substituted "a second or subsequent writ" for "an alias or pluries writ" in the parenthetical following the writ form, substituted "non-exempt personal property" for "personal property" in the second alternative in the Return, and added the last paragraph in the Use Note.

**The 1995 amendment,** effective January 1, 1995, added the lines for the addresses of the parties in the caption, and deleted "or clerk" following "judge" below the signature line of the writ of execution.

**The 1992 amendment**, effective July 1, 1992 for use in the magistrate and metropolitan courts, substituted "any New Mexico county" for "said county" and "your County" for "this County" and inserted "or Clerk" in the Writ of Execution and rewrote the Return.

**Case law.** — The postjudgment execution statutes are unconstitutional as not providing adequate notice of allowable exemptions and the right to a hearing. *Aacen v. San Juan County Sheriff's Dep't*, 944 F.2d 691 (10th Cir. 1991).

By creating exemptions from execution, New Mexico has granted judgment debtors a property interest in retaining their exempt property. While the state need not grant such exemptions, once given, the property rights they create are entitled to due process protection. *Aacen v. San Juan County Sheriff's Dep't*, 944 F.2d 691 (10th Cir. 1991).

## 4-801A. Writ of execution.

[For use with Rule 1-065.1 NMRA]	
STATE OF NEW MEXICO IN THE DISTRICT COURT	
COUNTY	No

, Plaintiff
v, Defendant
WRIT OF EXECUTION
THE STATE OF NEW MEXICO to the sheriff or a full-time salaried deputy sheriff of any New Mexico county:
Judgment having been entered in this action, you are ordered to levy against property of at in your county, the sum of \$ (which is the judgment and costs to date) plus interest at the rate of % per year from the day of, (date of judgment), and your fees thereon, and return this writ to me within sixty (60) days.
Judge or clerk
(This form may also be issued as a second or subsequent writ.)
RETURN
I certify that I carried out this writ of execution, as follows:
(check appropriate box or boxes and fill in blanks)
[] The writ was served on judgment debtor on,, and
[ ] full payment was made [ ] partial payment was made in the amount of
[] No non-exempt property of judgment debtor was found on which levy could be made.
Property seized:
[ ] I levied upon the following real property [ ] Personal property was taken into custody on,, A written inventory is attached. [ ] Judgment debtor provided bond to retain possession. A copy of the bond is attached
Date of return:

SHERIFF OF

COUNTY, State of New Mexico
By
Deputy or other authorized person

#### **USE NOTE**

The sheriff is obligated by law to make timely return.

Only non-exempt property may be seized. The sheriff may not seize any personal clothing, furniture or books or any jewelry unless the total value of all jewelry exceeds \$2,500.

[Adopted, effective July 1, 1992; as amended, effective January 1, 1996.]

#### **ANNOTATIONS**

**The 1996 amendment,** effective January 1, 1996, substituted "a second or subsequent writ" for "an alias or pluries writ" in the parenthetical following the writ form, substituted "non-exempt personal property" for "personal property" in the second alternative in the Return, and added the last paragraph in the Use Note.

**Case law.** — The postjudgment execution statutes are unconstitutional as not providing adequate notice of allowable exemptions and the right to a hearing. *Aacen v. San Juan County Sheriff's Dep't*, 944 F.2d 691 (10th Cir. 1991).

By creating exemptions from execution, New Mexico has granted judgment debtors a property interest in retaining their exempt property. While the state need not grant such exemptions, once given, the property rights they create are entitled to due process protection. *Aacen v. San Juan County Sheriff's Dep't*, 944 F.2d 691 (10th Cir. 1991).

## 4-802. Writ of execution in forcible entry or detainer.

[For use with District Court Civil Rule 1-065.1 NMRA; Magistrate Court Civil Rule 2-801 NMRA; and Metropolitan Court Civil Rule 3-801 NMRA]

STATE OF NEW MEXICO IN THE	COURT		
COUNTY		No	

	, Plaintiff
against	
WRIT OF EXECUTION IN FORCI	
THE STATE OF NEW MEXICO to the sheriff o county:	r a full-time salaried deputy sheriff of said
Judgment having been entered for the plaintiff the defendant from the premises at possession of the premises to plaintiff on (time) and to ret	and to restore (date) at
RETUR	N.
I certify that I carried out this writ of execution premises and restoring possession of the premise day of	•
	SHERIFF OF COUNTY, State of New Mexico By
	Deputy
(The sheriff is obligated by law	w to make timely return.)
[As amended, effective July 1, 1992; May 15, 2	003.]
ANNOTAT	IONS
The 2003 amendment, effective May 15, 2003 unnecessary delay and to levy against personal the sum of \$ plus interest at the rate of thereon," following "restore possession of the pocurt" for "me within thirty (30) days" following paragraph, deleted the language concerning set of personal property.	al property of the defendant in this county,% per year, and your fees remises to plaintiff" and substituted "the 'return this writ to"; in the second
The 1992 amendment, effective July 1, 1992 f metropolitan courts, in the Return, substituted " near the middle and deleted from near the end,	Property seized:" for "[ ] Levy and Sale:"

interest, amount of accrued costs, amount received, and amount paid to judgment creditor.

**Cross references.**— For statutory form of forcible entry or detainer, see Section 35-10-6 NMSA 1978.

## 4-803. Claim of exemptions on execution.

[For use with District, Magistrate and Metropolitan Court Rules of Civil Procedure 1-065.1, 2-801 and 3-801 NMRA]

STATE OF NEW ME. COUNTY OF [	JUDICIAL DIST	
V.		No
		_, Defendant
	CLAIM OF EXEMP	TIONS ON EXECUTION
YOU POSSESS MAY MUST COMPLETE A	/ BE SEIZED AND S AND RETURN THIS	GAINST YOU. ALL OF THE PROPERTY SOLD TO PAY THIS JUDGMENT. YOU FORM WITHIN TEN (10) DAYS TO CLAIM THIS SEIZURE AND SALE.
(check only applicable	e boxes)	
Part I. Homestead (This part is for	<b>exemption</b> r use only in the district of	court)
debtor occupies and i	is entitled to hold exe	s purchasing a dwelling house which judgment empt a homestead in the amount of sixty 42-10-9 NMSA 1978.
Part Exemption	in lieu of homestea	d exemption
(Parts II and III	are for use in the distric	t court, magistrate court and metropolitan court)
		is state who does not claim a homestead al or personal property in the amount of five

thousand dollars (\$5,000) under Section 42-10-10 NMSA 1978. The property claimed to be exempt is as follows:

	LIST PROPERTY	STATED VALUE\$
(A	ttach additional page if necessary)	\$
Part III.	Personal property exemptions	
	ss the judgment debtor files a written waiver of exen dgment debtor's personal clothing, furniture or bool	
	dition to the property claimed or listed as exempt above claims the following exemptions:	ove, the judgment debtor
(chec	k only applicable boxes)	
[]	personal property worth up to \$500	
	LIST ITEMS	STATED VALUE
(A	ttach additional page if necessary)	\$
[] Occu	tools of the trade worth up to \$1,500. pation of judgment debtor:	
	LIST ITEMS	STATED VALUE
(A	ttach additional page if necessary)	\$
[] vehic	one motor vehicle worth up to \$4,000 or that amou	unt of equity in a more valuable
M	AKE, MODEL AND YEAR OF VEHICLE	FAIR MARKET VALUE
		\$
Amou	unt of any lien on vehicle: \$	
[]	jewelry worth up to \$2,500	
	LIST JEWELRY ITEMS	STATED VALUE

purposes for which it was purchased as provided by Section 70-4-12 NMSA 1978;

	•	se and children from estate of a deceased estate 45-2-401 and 45-2-402 NMSA 1978;
	LIST MAY NOT BE COMPLETING BY LAW BY COMPLETING BY LAW BY COMPLETING BY LAW BY COMPLETING BY THE BY	TE. YOU MAY CLAIM ANY OTHER EXEMPTION ETING THE FOLLOWING:
[]	other exemption (specify)	
I am a	aware of my exemption rights:	
[]	I desire to claim my exemptio	n rights
[]	I waive my right to claim my e	exemption rights to the following property
	LIST ITEMS	STATED VALUE
(Att	ach additional page if necessa	<i>ry)</i> \$
I understand that by waiving my statutory right to exempt property, this property may be seized and sold.		
CLER		ED AND SIGNED COPY OF THIS FORM TO THE ADDRESS IS SHOWN BELOW. YOU MUST ALSO ENT CREDITOR.
Retur	n to clerk of the court	Signature of judgment debtor
 Name	e of court	Printed name of judgment debtor
Addre	ess	Street address or P.O. box
City, s	state & zip code	City, state & zip code
		Telephone number

## **USE NOTE**

The judgment creditor may dispute any of the claimed exemptions. If the judgment creditor disputes claimed exemptions and files a request for hearing on the claimed exemptions, the clerk will schedule a hearing on the claimed exemptions.

[As amended, effective January 1, 1986; July 1, 1992; May 1, 1994; January 1, 1996; as amended by Supreme Court Order No. 09-8300-005, effective May 6, 2009.]

## **ANNOTATIONS**

<b>e 2009 amendment,</b> approved by Supreme Court Order No. 09-8300-005, effective 6, 2009, added the Use Note at the beginning of the form; in the caption, deleted by line for "IN THE COURT", the line for the case number, and the line for OUNTY OF ", the line for " DICIAL DISTRICT COURT" and the line for " COURT"; in Part I, changed the mestead amount from thirty thousand dollars (\$30,000) to sixty thousand dollars (\$0,000); and in Part II, changed the exemption of real or personal property from the busand dollars (\$2,000) to five thousand dollars (\$5,000).	ed ne
<b>e 1996 amendment,</b> effective January 1, 1996, added the bold instruction line at ginning of the form, rewrote Part III, rewrote the bold instruction line at the end of m, and rewrote the Use Note.	
<b>e 1994 amendment,</b> effective May 1, 1994, rewrote the paragraph in Part I to crease the amount of the exemption from \$20,000 to \$30,000, and to expand the plicability of the former section exemption.	
<b>e 1992 amendment,</b> effective July 1, 1992 for use in the district, magistrate and etropolitan courts, rewrote this form.	
se law. — The postjudgment execution statutes are unconstitutional as not proviequate notice of allowable exemptions and the right to a hearing. <i>Aacen v. San Jounty Sheriff's Dep't</i> , 944 F.2d 691 (10th Cir. 1991).	
creating exemptions from execution, New Mexico has granted judgment debtors operty interest in retaining their exempt property. While the state need not grant semptions, once given, the property rights they create are entitled to due process otection. Aacen v. San Juan County Sheriff's Dep't, 944 F.2d 691 (10th Cir. 1991)	uch
804. Order on claim of exemption and order to pay in execution oceedings.	n
or use with Rules 1-065.1, 2-801 and 3-801 NMRA]	
TATE OF NEW MEXICO	
THE COURT No	
COUNTY , Plaintiff	

against	
	, Defendant

# ORDER ON CLAIM OF EXEMPTION AND ORDER TO PAY IN EXECUTION PROCEEDINGS

This matter coming before the court, THE COURT FINDS:

111151	Παιι	er coming before the court, THE COOKT TINDS.
[	1.	At the time the writ of execution was served on the judgment debtor, the amount of \$ was unpaid and owing to the judgment creditor.
[ ]	2.	As a result of this execution proceeding, judgment creditor has spent additional costs of \$
[	3.	The total amount of judgment and costs to date is \$ plus interest of % per year from,
[	4.	An affidavit of service or return of service of the writ of execution, a notice of right to claim exemption form, and a claim of exemption form were served on the judgment debtor(s) or their attorney of record, if any.
[ ]	5.	The judgment debtor:
	[]	has not filed a claim of exemption; or
	[]	has filed a claim of exemption and the judgment creditor has not disputed the claim of exemption for the following property and such property is therefore exempt:
		; and the following disputed property is not exempt and may be seized and sold by the sheriff
THE	COL	JRT ORDERS:
] [ ]	1	The judgment creditor is awarded, in addition to the amount of the judgment, the sum of \$ as additional costs.  The following property held by the sheriff is exempt from execution and the writ of execution in this case is hereby released and discharged as to that

		property:		
[	3.	The sheriff may seize and sell that as set forth above.	ne property of the judgment de	btor except
		,	Judge	
[As a	mend	ed, effective July 1, 1992; January	y 1, 1996.]	
		ANNOT	ATIONS	
		amendment, effective January 1, and rewrote Paragraphs 2 and 3 of		nd 5 of the
		amendment, effective July 1, 199 n courts, rewrote this form.	2 for use in the district, magist	rate and
4-80	5. Ap	oplication for writ of garni	shment.	
[For u	ıse wi	th Rules 1-065.2, 2-802, and 3-80	02 NMRA]	
STAT	E OF	NEW MEXICO		
COU	NTY C	)F		
IN TH	1E	COURT		
		, Pla	aintiff	
v.		No	·	
		, De	fendant	
		APPLICATION FOR WE	RIT OF GARNISHMENT	
The j	udgme	ent creditor,	, states:	
(1)	debtor	dgment creditor has a judgment of whose name isss isss		
(2)	The to	tal amount of the judgment included by the judgment was \$	ling the principal, interest, cost	

(3)	interest at the rate of	iled through the date this Application was signed, additional % totals \$ Judgment creditor has incurred and additional attorney fees of		
(4)	Payments totaling \$	have been received.		
(5)	The unpaid balance now due is \$ 806 NMRA as "Balance Due upor Application is filed.	(Insert this amount on Civil Form 4-n Application for Writ.") plus interest from the date this		
(6)	Estimated costs would equal \$ in atto	and the judgment creditor will seek rney fees.		
(7)	Judgment debtor, to my knowledge, does not have sufficient property within New Mexico subject to execution to satisfy the judgment. I understand that I have a duty to make a reasonable investigation into the truth of this statement and have done so as follows:  (This allegation is not necessary prior to garnishment of funds for child support or alimony			
	Lhove reason to believe, and do h	policy that the garnishes		
I have reason to believe, and do believe, that the garnishee, (address), hole		(address), holds or controls		
(8)	money or personal property which debtor. <sup>2</sup>	belongs to the judgment debtor or is indebted to the judgment		
(9)	The money or property held by th	e garnishee is not exempt from garnishment.		
The	refore the judgment creditor reque	sts a Writ of Garnishment.		
	Judgment	creditor or attorney for judgment creditor		
	Judgment	creditor's or attorney's name printed		
	Address of	f judgment creditor or attorney		
	City, state	and zip code (print)		
	Telephone	number of judgment creditor or attorney		
	Date of sig	 Ining		

**AFFIDAVIT** 

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

Subscribed and sworn to before me this	day of	
,·		
Noton, or other officer sytherized		
Notary or other officer authorized to administer oaths	(seal)	

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

#### **USE NOTE**

- 1. The judgment creditor shall list any steps taken to investigate whether the judgment debtor possesses property within New Mexico subject to execution to satisfy the judgment. A reasonable investigation may be made, for example, by conducting a credit check or by asking the judgment debtor to identify all of the judgment debtor's assets during a court hearing.
- 2. See *Jemko v. Liaghat*, 106 N.M. 50, 52, 738 P.2d 922, 925 (Ct. App. 1987) (providing that a judgment creditor, acting pursuant to a writ of garnishment, may only seize property belonging to the judgment debtor); *Alcantar v. Sanchez*, 2011-NMCA-073, 150 N.M. 146, 257 P.3d 966 (discussing garnishment procedures in the case of joint bank accounts).

[Adopted by Supreme Court Order No. 12-8300-030, effective for all cases filed or pending on or after January 7, 2013.]

## **ANNOTATIONS**

The 2012 amendment, approved by Supreme Court Order No. 12-8300-030, effective January 7, 2013, required Magistrate Courts to use the Application form as the basis for issuing a writ of garnishment; reorganized the sentences contained in former Paragraph (1) as separate numbered paragraphs; required the creditor to state the amount of the estimated costs and the attorney fees the creditor will seek; required the creditor to describe the steps taken by the creditor to investigate whether the debtor has property to satisfy the judgment; at the top of the form, after "Rule 1-065", added "2-802"; deleted former Paragraph (1); restated the sentences contained in former Paragraph (1) as Paragraphs (1) through (9); and required either the creditor or the creditor's attorney to sign the application.

**The 2009 amendment,** approved by Supreme Court Order No. 09-8300-024, effective September 4, 2009, after the number and title of the Form, in the brackets, deleted the reference to Rule "2-802"; in the style of the case, deleted "against" and added "v."; in the first sentence, after "judgment creditor, states", added "the following"; and in Paragraph (1), in the fifth sentence, in the parenthesis, deleted "insert" and added "Insert" and changed "Rule 4-806" to "Civil Form 4-806 NMRA".

**The 1996 amendment,** effective January 1, 1996, deleted "and affidavit" from the form heading, and added the "Affidavit" heading and the parenthetical use note preceding the affidavit form.

**The 1992 amendment,** effective July 1, 1992 for use in the district, magistrate and metropolitan courts, in Item (1), substituted "upon Application for Writ" for "per Application"; in Item (2), added the parenthetical at the end; and deleted former Item (4), relating to said garnishee being a commercial bank, savings and loan association, credit union or representative payee.

## 4-805A. Application for writ of execution.

[For use with Magistrate Court Rule 2-801 NMRA and Metropolitan Court Rule 3-801 NMRA]

COUNTY OF		
IN THE		
Plaintiff		
V.		No
Defendant		
APPLIC	CATION FOR WRIT OF EXE	CUTION
	,	the judgment creditor, states:
` ,	, ,	(date
judgment filed) against the ju		
	_, and whose last known add The total of the principal, i	
fees awarded by the judgmer		morodi, codio and automoy o
Since the judgment was ente% and costs tota	red, additional interest at the	judgment rate of
Payments totaling \$		I.

The unpaid balance now due is \$ (insert this amount on Civil Form 801 NMRA as "Balance Due upon Application for Writ") plus interest from the date t Application is executed.			
	stimated costs would equal \$ \$ in attorney fees.	; and the judgment creditor will	
(2)	(check one of the following)		
ten (1	I served the judgment debtor with a notice 0) days prior to filing this application for work of filed a claim of exemption for the proper	rit of execution and the judgment debtor	
[] prope	The judgment debtor has filed a waiver or ty to be seized and sold.2	of the right to claim exemption for the	
[]	The judgment debtor is not a natural pers	son.	
-	udgment creditor requests the court to issurtly for the judgment debt.	ue a Writ of Execution for non-exempt	
		Judgment creditor or attorney for judgment creditor	
		Judgment creditor's name printed	
		Address of judgment creditor	
		Printed name of person signing for judgment creditor	
		Telephone of judgment creditor	
<del></del>			
(if any	ed name of judgment creditor's attorney		
	g address of judgment creditor's attorney ber and street or P.O. box)	<del></del>	
City, S	State, zip code	<del></del>	
Telep	hone number of judgment creditor's attorn	rey	

## **AFFIDAVIT**

## (This application must be sworn to unless it is signed by an attorney.)

I declare under penalty of perjury that the foregoing is true and correct.  Subscribed and sworn to before me this day of
Notary or other officer authorized to administer oaths
USE NOTE
1. If the judgment debtor is a natural person Civil Form 4-808A NMRA, Notice of Right to Claim Exemptions from Execution, must have been served on the judgment debtor.
2. This alternative may be checked if the judgment debtor filed a waiver of the right to claim exemptions. See Civil Form 4-803, Claim of Exemptions, also contains the waiver form.
[Approved, effective May 15, 2003.]
4-805B. Withdrawn.
ANNOTATIONS
<b>Withdrawals.</b> — Pursuant to Supreme Court Order No. 12-8300-030, Form 4-805B NMRA, relating to application for writ of garnishment, was withdrawn effective for all cases filed or pending on or after January 7, 2013. For provisions of former form, see the 2012 NMRA on <i>NMOneSource.com</i> .
4-806. Writ of garnishment.
[For use with Rules 1-065.2, 2-802 and 3-802 NMRA]
STATE OF NEW MEXICO
COUNTY OF
[IN THE [MAGISTRATE] [METROPOLITAN] COURT]
[JUDICIAL DISTRICT]
, Plaintiff
v No

		, Defendant
	Bala	ance Due Upon Application for Writ: \$
	Incl	udes Interest at%
	Thro	ough,(date)
		WRIT OF GARNISHMENT
THE	STAT	E OF NEW MEXICO to, garnishee.
		is the judgment debtor in this case and owes the amount set out ne judgment creditor,, whose
		judgment creditor believes that you hold or control money or property that the judgment debtor.
locate	ed	ORDERED to file a written answer with the court within twenty (20) days from the day you
recei garni	ve this	s writ. Your answer must be under oath and on the attached form ( <i>answer by</i>
YOU	ARE	FURTHER ORDERED, as follows:
1.	indek suffic fees	u owe the judgment debtor any money (other than wages), or become oted to the judgment debtor before filing your answer, you must keep a cient amount of that money to satisfy the judgment and all costs and attorney due as a result of service of this writ and not pay it to the judgment debtor, as this court enters an order releasing this writ of garnishment.
2.	spou	e judgment debtor is an employee of yours, unless the debt is for child or isal support, YOU SHALL PAY YOUR EMPLOYEE, THE JUDGMENT TOR, whichever amount is greater, one of the following:
	A.	seventy-five percent (75%) of the debtor's disposable earnings (salary less social security, federal and state withholdings, and any other deduction required by law) for any pay period;
OR	B.	an amount each week equal to forty (40) times the federal minimum hourly wage rate.

If the debt is for child support or spousal support payments, you shall pay the judgment debtor fifty percent (50%) of the debtor's disposable earnings (salary less social security, federal, and state withholding).

If employee's wages or salary are subject to more than one garnishment or wage withholding proceeding, the writs shall be satisfied in the order they have been served on you.<sup>1</sup>

In no event may you withhold from your employee's net disposable earnings more than fifty percent (50%) of the employee's net disposable earnings if one of the writs is for child or spousal support or more than twenty-five percent (25%) if none of the garnishments is for child or spousal support.<sup>2</sup>

Any wages you owe the employee in excess of that amount or that you may come to owe the employee in excess of that amount must be kept by you until further order of this court. (A table giving equivalent exemptions for pay periods of other than one (1) week may be obtained from the Financial Institutions Division of the Regulation and Licensing Department, 725 St. Michaels Drive, Santa Fe, New Mexico 87503.)

If you have any property that belongs to the judgment debtor, including any rights, credits, bonds, bills, notes, drafts, and other rights to property or money that belongs to the judgment debtor, or if you acquire any such

any such 3. property, money, or rights to property or money before filing your answer, you must keep a sufficient amount of that property to satisfy the existing judgment and costs and not turn it over to the judgment debtor

unless the court enters an order releasing the property or money. If you hold property or money belonging to the judgment debtor, within four (4) business days after service of this writ, you are to mail or deliver a copy of this writ and the application for writ provided by the judgment creditor. If you hold property or money of the judgment debtor's other

4. than wages and the debtor is a natural person, you shall also mail or deliver to the judgment debtor, the attached notice of right to claim exemptions and a copy of the attached claim of exemption forms to each person identified as a judgment debtor. You shall also send or deliver a copy of your answer to this writ to the

<b>DER.</b> If you fail to file the answer, or if you disobey any of these be entered against you for the full amount of the unpaid
Judge or clerk
RETURN
EXICO)
)
1E

**RETURN FOR COMPLETION BY SHERIFF OR DEPUTY:** 

I certify that I served this writ in said county on the,, by delivering a c	
application for writ, a copy of a form for answer by to claim exemptions for each judgment debtor, ar form for each judgment debtor to	y garnishee, a copy of a notice of right a copy of the claim of exemption
(For garnishment of wages, serve only copies garnishment, writ of garnishment, and answer wages, if the judgment debtor is a natural pergarnishment, the writ of garnishment, a copy exemptions, a copy of the claim of exemption garnishee. Judgment debtors who are not nat garnishment exemptions.)	r form. For garnishment other than son, serve the application for writ of of the notice of right to claim form, and a copy of the answer by
By Name	
Title Fees:	SHERIFF OF
	COUNTY, State of New Mexico By
	Deputy
RETURN FOR COMPLETION BY OTHER PERS	SON MAKING SERVICE:
I, being duly sworn, on oath, say that I am over the party to this lawsuit, and that I served this writ in sof, by delivering a application for writ, a copy of a form for answer by to claim exemptions for each judgment debtor, are form for each judgment debtor to	said county on the day a copy of the writ, a copy of the y garnishee, a copy of a notice of right and a copy of the claim of exemption
By Name	
Title	
	Signature of private person making service
Subscribed and sworn to before me this day of,	

Judge, notary, or other officer authorized to administer oaths	

#### Official title

#### **USE NOTE**

- 1. Section 35-12-9 NMSA 1978 provides that if an employee's wages are subject to more than one garnishment proceeding, the writs shall be satisfied in the order in which they are served on the garnishee.
- 2. Section 35-12-7(C) NMSA 1978 provides that the maximum amount that may be taken from a person's disposable earnings is fifty percent (50%) of the employee's disposable earnings.

[As amended, effective June 15, 1986; January 1, 1987; July 1, 1992; January 1, 1996; December 3, 2001; as amended by Supreme Court Order No. 12-8300-030, effective for all cases filed or pending on or after January 7, 2013.]

### **ANNOTATIONS**

**The 2012 amendment,** approved by Supreme Court Order No. 12-8300-030, effective January 7, 2013, reorganized the language of Paragraph 2; in Paragraph 2, in the first sentence, after "child or spousal support", deleted "you shall pay your employee, the judgment debtor, only" and added "YOU SHALL PAY YOUR EMPLOYEE, THE JUDGMENT DEBTOR, whichever amount is greater, one of the following"; and at end of Subparagraph B of Paragraph 2, deleted "whichever is greater".

**The 2001 amendment,** effective December 3, 2001, in the introductory language in Paragraph 2, inserted "or spousal" following "for child", and "your employee" following "you shall pay"; in the first undesignated paragraph following Paragraph 2, inserted "or spousal support" following "child support"; added the second and third undesignated paragraphs following Paragraph 2; inserted "and the debtor is a natural person" following "than wages" in Paragraph 4; inserted "For garnishment of wages, serve only copies of the application for writ of garnishment" in the second paragraph under "Return"; and added the Use Notes.

**The 1996 amendment**, effective January 1, 1996, substituted "unless the court enters an order releasing this writ of garnishment" for "unless this court gives permission" in Paragraph 1, substituted "unless the court enters an order releasing the property or money" for "unless and until this court gives permission" in Paragraph 3, and rewrote Paragraph 4.

**The 1992 amendment,** effective July 1, 1992 for use in the district, magistrate and metropolitan courts, rewrote this form.

## 4-807. Answer by garnishee.

[For use	with Rules 1-065.2, 2-802, and 3-802 NMRA]
STATE C	OF NEW MEXICO
COUNTY	OF
[IN THE	MAGISTRATE] [METROPOLITAN] COURT]
[	JUDICIAL DISTRICT]
	, Plaintiff,
V.	No
	, Defendant.
Garnishe	e
	ANSWER BY GARNISHEE
In answe	r to the writ of garnishment, garnishee states:
(Complet	e only applicable parts of this form.)
1. <b>Wa</b> [] []	I do not employ the judgment debtor or pay the judgment debtor any wages.  The judgment debtor was my employee but the employment ended

2.	<b>Mo</b> i	ney other than wages		
	[]	I do not now owe the judgment		
		I do not now owe the judgment	debtor any money	/.
	[]	I owe the judgment debtor \$		
3.	Pro	perty other than money		
[]	[]	I have no property of the judgmereceived any since receiving the	• •	
	[]	I have in my possession the follobtor:	owing property tha	at belongs to the judgment
		(description)	(approxi	mate value)
			\$	
4.	Pric	or Garnishments and/or Suppo		
	[]	I am withholding judgment debte to withhold wages. (If you have or court orders to withhold wage attach and file a copy of each w	been served with es of the above jud	other writs of garnishment dgment debtor, you must
5.	Ser	vice requirements to judgment	debtor	
	[]	I have sent the following papers which have been provided to me by the		
		If wages withheld: a copy of the of garnishment; and a copy of the judgment debtor.	• •	•
		If money or property other that for a writ of garnishment; the wr exemptions; a claim of exemption mailed to each judgment debtor	it of garnishment; on form; and a cop	a notice of right to claim
	[]	I am not aware of the location o therefore am unable to serve the		
6.	Ser	vice requirements to judgment	creditor	
	[]	A copy of this answer has been or if the judgment creditor has a		
7.	Atto	orney fees		
	[]	The garnishee has incurred \$ _ preparing this answer.		in attorney fees in

	Signature of garnishee or attorney
	Printed name of person signing
	Address
	City, state, and zip code (print)
	Telephone number
Subscribed and sworn to before me this day of	,
	Judge, notary, or other officer

[As amended, effective June 15, 1986; January 1, 1987; July 1, 1992; January 1, 1996; December 3, 2001; as amended by Supreme Court Order No. 12-8300-030, effective for all cases filed or pending on or after January 7, 2013.]

authorized to administer oaths

## **USE NOTE**

See Jemko v. Liaghat, 106 N.M. 50, 52, 738 P.2d 922, 925 (Ct. App. 1987) (providing that a judgment creditor, acting pursuant to a writ of garnishment, may only seize property belonging to the judgment debtor); *Alcantar v. Sanchez*, 2011-NMCA-073, 150 N.M. 146, 257 P.3d 966 (discussing garnishment procedures in the case of joint bank accounts).

[Adopted by Supreme Court Order No. 12-8300-030, effective for all cases filed or pending on or after January 7, 2013.]

#### **ANNOTATIONS**

The 2012 amendment, approved by Supreme Court Order No. 12-8300-030, effective January 7, 2013, reorganized the sentences and simplified the language of former Paragraphs 1, 2, 4, 5, and 6; required the garnishee to state the debtor's net wages rather than the debtor's gross wages and payroll deductions; deleted the requirement that the garnishee state the amount of withholding of the debtor's wages pursuant to other writs or orders; in Paragraph 1, deleted the former language, including the line items for gross wages and payroll withholding, added the rephrased language of former Paragraph 1, and defined "net wages"; in Paragraph 2, deleted the former third paragraph which concerned the debtor's property that came into the garnishee's possession after service of the writ of garnishment and deleted the former fourth paragraph which concerned money owned by the garnishee to the debtor; deleted former Paragraph 4, which concerned wage withholding pursuant to other writs and

orders; added Paragraph 4, which restates and simplified the information required in former Paragraph 4; deleted former Paragraph 6, which concerned service requirements compliance; added Paragraph 5, which rephrased the language of former Paragraph 6; and added Paragraph 6, which rephrased the last paragraph of former Paragraph 6; and in the last unnumbered paragraph, deleted the former verification of the person signing the Answer that it is true to the best of the signatory's knowledge and belief, that the signatory is the custodian of the records upon which the Answer is based, and that the Answer is true and correct based on those records, and added the last sentence.

**The 2001 amendment,** effective December 3, 2001, in Paragraph 4, required that all alternatives be completed that were applicable and inserted the third alternative; and, at the end of the form, included the signature of the garnishee or attorney, including the address and telephone number.

The 1996 amendment, effective January 1, 1996, rewrote the form.

**Cross references.**— For attorney fees and costs, see Section 35-12-16 NMSA 1978.

For garnishments, see Section 35-12-18 NMSA 1978.

For child support withholding, see Sections 40-4A-4.1 and 40-4A-6 NMSA 1978.

For duties of payor, see Section 40-4A-8 NMSA 1978.

For maximum allowable garnishment under federal law, see 15 U.S.C. § 1673.

For student loan requirements, see 20 U.S.C. § 1095a.

## 4-808. Notice of right to claim exemptions (garnishment).

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

STATE OF NEW MEXI	CO		
COUNTY OF			
[IN THE [MAGISTRATE	E] [METROPOLITAN] COURT]		
<u> </u>	JUDICIAL DISTRICT]		
	, Plaintiff		
V.		No	
	, Defendant		

NOTICE OF RIGHT TO CLAIM EXEMPTIONS (GARNISHMENT)

## 1. THE JUDGMENT CREDITOR IS GARNISHING YOUR PROPERTY, WHICH MAY INCLUDE YOUR BANK ACCOUNT:

A ruling has been made in this case that you owe money to the judgment creditor. The judgment creditor has started to collect that money from your property, which may include your bank account.

#### 2. PURPOSE OF THIS NOTICE:

This notice is to tell you that some kinds of property or money may NOT be taken from you even after the court has ruled that you owe the judgment creditor money. These funds or property are protected under federal or state law. Money or property that may not be taken is called "exempt" property. You may claim an exemption by filing with the court a claim of exemption (garnishment) form. There are limits on how much of your wages may be taken. You do not need to file a claim of exemption form to protect your exempt wages.

Here is a list of some exempt money and property. Other kinds of money or property not listed may also be exempt. YOU MAY WISH TO CONSULT AN ATTORNEY BEFORE COMPLETING AND FILING THIS FORM.

## 3. PARTIAL LIST OF EXEMPTIONS:

- a. social security benefits (OASDI, SSI);
- b. public assistance benefits (AFDC, welfare, GA);
- c. life, accident or health insurance proceeds;
- d. workers' compensation benefits (part may be garnished for child or spousal support);
- e. occupational health benefits;
- f. unemployment compensation benefits subject to the limitations of Section 51-1-37 NMSA 1978;
- q. veterans' benefits;
- h. pensions or retirement funds;
- i. a partner's interest in specific partnership property subject to the limitations of Section 54-1-25 NMSA 1978 [repealed];
- j. crime victims' reparation fund payments;
- k. a family allowance to a decedent's surviving spouse and children, subject to the limitations of Sections 45-2-401 and 45-2-402 NMSA 1978:

- I. the minimum amount of shares necessary for certain cooperative associations as provided by Section 53-4-28 NMSA 1978;
- m. fraternal benefit society payments;
- n. oil and gas equipment not financed by the judgment creditor to be used for purposes for which it was purchased as provided by Section 70-4-12 NMSA 1978.

## 4. HOW TO PROTECT EXEMPT PROPERTY:

A "claim of exemption (garnishment)" form is attached for you to complete and file with the court. YOU MUST COMPLETE AND RETURN THE ATTACHED CLAIM OF EXEMPTIONS (GARNISHMENT) FORM TO THE CLERK OF THE COURT WITHIN TEN (10) DAYS AFTER SERVICE OF THIS NOTICE UPON YOU. YOU MUST ALSO SERVE A COPY OF THE COMPLETED AND SIGNED CLAIM OF EXEMPTIONS (GARNISHMENT) FORM ON THE JUDGMENT CREDITOR AND ON THE GARNISHEE.

If the judgment creditor disputes a claimed exemption, the clerk or the judge will notify you of the date and time for a court hearing on your claim. You must go to that hearing and explain why your money or property is exempt. You must bring to the hearing any proof that your money or property is exempt.

If you do not complete and file the claim of exemptions (garnishment) form within ten (10) days and attend the hearing, your money or property may be turned over to the judgment creditor.

DO NOT FILE THE CLAIM OF EXEMPTION FORM TO PROTECT ONLY WAGES.

YOU SHOULD COMPLETE AND RETURN THE CLAIM OF EXEMPTION FORM TO THE CLERK OF THE COURT WITHIN TEN (10) DAYS AFTER SERVICE OF THIS FORM UPON YOU. MAKE A COPY OF THE COMPLETED FORM FOR YOUR RECORDS AND SERVE A COPY ON THE JUDGMENT CREDITOR AND ON THE GARNISHEE.

[As amended, effective July 1, 1992; January 1, 1996; December 3, 2001.]

#### **ANNOTATIONS**

**The 2001 amendment,** effective December 3, 2001, inserted "or spousal" in Subparagraph 3d.

**The 1996 amendment,** effective January 1, 1996, in Paragraph 2, deleted the former second sentence in the first paragraph which read: "There are limits on how much of your wages can be taken", added the last sentence of the first paragraph, and added the last sentence of the second paragraph; and rewrote Paragraph 4.

**The 1992 amendment,** effective July 1, 1992 for use in the district, magistrate and metropolitan courts, added the reference to Rule 1-065.1 at the beginning, rewrote

Items 3(e), 3(f), and 3(h), added Items 3(i) to 3(n), and, near the beginning of Item 4, substituted "three (3) copies" for "two (2) copies".

## 4-808A. Notice of right to claim exemptions from execution.

[For use with District, Magistrate and Metropolitan Court Rules of Civil Procedure Rules 1-065.1, 2-801 and 3-801 NMRA]

STATE OF NEW MEXICO

· · · · · · · · · · · · · · · · · · ·	
COUNTY OF	
[	JUDICIAL DISTRICT COURT]
[	COURT]
	, Plaintiff
v. No	
	, Defendant

### NOTICE OF RIGHT TO CLAIM EXEMPTIONS FROM EXECUTION

## 1. THE JUDGMENT CREDITOR (IS SEIZING) (HAS A RIGHT TO SEIZE)1 YOUR PROPERTY

A ruling has been made in this case that you owe money to the judgment creditor. The judgment creditor may collect that money from seizure and sale of your property. (Before the judgment creditor has the sheriff seize your property, you may have a right to claim exemptions of certain property.)

#### 2. PURPOSE OF THIS NOTICE:

This notice is to tell you that some kinds of property or money may NOT be taken from you even after the court has ruled that you owe the judgment creditor money. This property is protected under state law. The property which may not be taken is called "exempt property".

YOU MUST FILE A CLAIM OF EXEMPTION FORM TO CLAIM ANY EXEMPT PROPERTY. YOU MAY WISH TO CONSULT WITH AN ATTORNEY BEFORE COMPLETING AND FILING THE CLAIM OF EXEMPTION FORM.

Here is a list of some exempt money and property. Other kinds of money or property not listed may also be exempt.

### 3. PARTIAL LIST OF EXEMPTIONS FROM EXECUTION.

### Part I. Homestead exemption.

(This exemption may only be used in the district court.)

A judgment debtor who owns, leases or is purchasing a dwelling occupied by the judgment debtor is entitled to hold as exempt property a homestead in the amount of sixty thousand dollars (\$60,000) under Section 42-10-9 NMSA 1978.

### Part II. Exemption in lieu of homestead exemption.

(Parts II and III are for use in the district court, magistrate court and metropolitan court.)

Residents of this state who do not claim a homestead exemption are entitled to an exemption of real or personal property in the amount of five thousand dollars (\$5,000) under Section 42-10-10 NMSA 1978. You may not claim this exemption if you claimed a homestead exemption above.

### Part III. Personal property exemptions.

In addition to the property claimed as exempt above, judgment debtors are entitled to claim certain personal property exemptions. Most of those exemptions are listed below:

- a. personal property worth up to \$500;
- b. tools of the trade worth up to \$1,500;
- c. a motor vehicle worth up to \$4,000 or that amount of equity in a more valuable vehicle;
- d. jewelry worth up to \$2,500;
- e. clothing, furniture, books and medical-health equipment being used for the health of the claimant or a member of the household of the claimant and not in a profession;
- f. pension or retirement funds;
- g. not more than \$5,000 in benefits from a benevolent association of which the judgment debtor is a member;
- h. building materials not financed by the judgment creditor in this action as provided by Section 48-2-15 NMSA 1978;
- i. a partner's interest in specific partnership property subject to the limitations of Section 54-1-25 NMSA 1978 [repealed];

- j. worker's compensation benefits subject to the limitations of Section 52-1-52 NMSA 1978;
- k. occupational health benefits as provided by Section 52-3-37 NMSA 1978;
- I. unemployment compensation benefits subject to the limitations of Section 51-1-37 NMSA 1978 for necessities furnished while the debtor was unemployed and child support;
- m. public assistance and welfare benefits;
- n. cash surrender values and benefits of life insurance contracts;
- o. payment from life, accident and health insurance policies or annuity contracts;
- p. crime victims' reparation fund payments;
- q. fraternal benefit society benefits;
- r. the minimum amount of shares necessary for certain cooperative associations subject to the limitations provided by Section 53-4-28 NMSA 1978;
- s. the debtor's membership interest in the property of a club or association pursuant to Section 53-10-2 NMSA 1978;
- t. oil and gas equipment not financed by the judgment creditor to be used for purposes for which it was purchased as provided by Section 70-4-12 NMSA 1978;
- u. allowances to surviving spouse and children from estate of a deceased estate subject to the limitations of Sections 45-2-401 and 45-2-402 NMSA 1978.

You may not claim an exemption for personal property which is subject to a security interest under the Uniform Commercial Code given to the judgment creditor.

### 4. HOW TO PROTECT EXEMPT PROPERTY.

The sheriff may not seize your personal clothing, furniture and books or any jewelry unless the total value of all jewelry is more than \$2,500. For other property, you must claim an exemption or it may be seized and sold. A claim of exemptions on execution form is attached for you to complete and file with the court.

YOU MUST COMPLETE AND RETURN THE ATTACHED CLAIM OF EXEMPTIONS ON EXECUTION FORM TO THE CLERK OF THE COURT WITHIN TEN (10) DAYS AFTER SERVICE OF THIS NOTICE UPON YOU. YOU MUST ALSO SERVE A COPY OF THE COMPLETED AND SIGNED CLAIM OF EXEMPTIONS ON EXECUTION FORM ON THE JUDGMENT CREDITOR.

If the judgment creditor disputes a claimed exemption, the clerk or the judge will notify you of the date and time for a court hearing on your claim. You must go to that hearing and explain why your money or property is exempt. You must bring to the hearing any proof that your money or property is exempt.

If you do not complete and file the claim of exemptions on execution form within ten (10) days and attend the hearing, your property may be seized and sold by the sheriff.

FAILURE TO COMPLETE AND FILE A CLAIM OF EXEMPTIONS ON EXECUTION FORM WITHIN TEN (10) DAYS AND SERVE A COPY ON THE JUDGMENT CREDITOR WILL RESULT IN THE LOSS OF YOUR RIGHT TO CLAIM AN EXEMPTION.

(The following proof of service may be used ONLY if the judgment debtor has entered an appearance in the case.)

### AFFIDAVIT OF SERVICE

I declare, under penalty of perjury, that this execution form and a copy of the judgment in the day of,	the above cause of action we	re mailed on
address or post office branch) in	, New Mexico.	
Signature		
Date of signature  (If the judgment debtor has not entered an appropriate depth and the sample to depth and the sample to depth size of the sample to depth size depth the sample to depth size depth	•	
completed and filed with the court.)		
RETU	RN	
STATE OF NEW MEXICO )		
) ss		
COUNTY OF )		
(check one box and fill in appropriate blanks)		

[] I, being duly sworn, on oath, say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served the notice of right to claim exemptions (executions) and a claim of exemptions on execution form (in said county) (in County) on the day of
County) on the day of,, by delivering a copy thereof, with copy of the judgment attached, in the following manner:
(check only if service by sheriff or deputy)
[] I certify that I served the Notice of Right to Claims Exemptions ( <i>Execution</i> ) (in said county) (in County) on the day of,, by delivering a copy thereof, with copy of judgment
attached in the following manner:
(about one boy and fill in annuantiate blanks)
(check one box and fill in appropriate blanks)
[] to defendant
[] to, a person over fifteen (15) years of age and residing at the usual place of abode of defendant, who at the
time of such service was absent therefrom. Abode located at .
[] by posting a copy of the Notice of Right to Claim Exemptions in the most public part of the premises of defendant (used if no person
found at dwelling house or usual place of abode). Abode located at .
[] to, an agent authorized to receive service of process for defendant .
[] to, (parent) (guardian) of defendant, (parent) (guardian) (guardian) of defendant, (parent) (guardian) (g
[] after due diligence I was unable to serve this notice.

Fees:					
	Signature of person making service				
	Title (if any)				
Subscribed and sworn2 to					
before	me this				
day of					
Judge	, notary or other officer				
author	ized to administer oaths				
Officia	I title				

### **USE NOTE**

- 1. Strike out the inapplicable alternative.
- 2. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy need not be notarized.

[As amended, effective January 1, 1993; May 1, 1994; January 1, 1996; as amended by Supreme Court Order No. 09-8300-030, effective October 12, 2009.]

#### **ANNOTATIONS**

The 2009 amendment, approved by Supreme Court Order No. 09-8300-030, effective October 12, 2009, in the brackets at the beginning of the form, added "For use with district, magistrate and metropolitan court rules of civil procedure"; revised the caption of the form to add the blanks for "\_\_\_\_\_\_ Judicial District Court" and "\_\_\_\_\_ Court"; in Part I, changed the amount of the homestead exemption from thirty thousand dollars (\$30,000) to sixty thousand dollars (\$60,000); and in Part II, changed the amount of the exemption in lieu of the homestead exemption from two thousand dollars (\$2,000) to five thousand dollars (\$5,000).

**The 1996 amendment,** effective January 1, 1996, added the last sentence in Paragraph 2, deleted "state and local" preceding "pension" in Paragraph f of Part III, rewrote Paragraph 4, and substituted "a claim of exemptions on execution form" for "three copies of the claim of exemption form" in the Affidavit for Service form and in the first alternative in the Return form.

**The 1994 amendment,** effective May 1, 1994, amended the heading of the first paragraph to add "(HAS A RIGHT TO SEIZE) 1", to change "plaintiff" to "judgment creditor", to rewrite the second sentence and to add the last sentence of the paragraph; amended paragraph 3, Part I to increase the exemption from \$20,000 to \$30,000 and to substitute "A judgment debtor who owns, leases or is purchasing a dwelling occupied by the judgment debtor is" for "Married persons, widows, widowers and persons who are supporting another person".

**The 1993 amendment,** effective January 1, 1993, deleted "(clerk) (judge)" adjacent to the signature line in the "Notice of Right to Claim Exemptions from Execution".

### 4-809. Claim of exemption from garnishment.

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

2	ΓΑ٦	$\cap$	F	N	$\vdash$	۸/	Λ	Λ	⊏`	V	$\cap$	$\cap$
. 7	. ~ .	<b>、</b> ,		ıv	Ι (	w	١١	/1	_	$^{\prime}$		

IN THE	COURT	No	
	COUNTY	, Plaintiff	
against		, Defendant , Garnishee	

### **CLAIM OF EXEMPTION FROM GARNISHMENT**

Judgment debtor claims the following exemptions: *(check box next to exemption)* 

a. [ social security benefits (OASDI, SSI);
b. [ public assistance benefits (AFDC, welfare, GA);
c. [ life, accident or health insurance proceeds;
d. [ workers' compensation awards;

e. [	unemployment compensation benefits;
f. [	veterans' benefits;
g. [	pensions and retirement funds;
h. [	crime victims' reparation fund payments;
i. [	allowances to surviving spouse and children from deceased's estate subject to the limitations of Sections 45-2-401 and 45-2-402 NMSA 1978;
j. [	the minimum amount of shares necessary for certain non-profit cooperative associations as provided by Section 53-4-28 NMSA 1978;
k. [	fraternal benefit society payments as provided by Section 59A-44-18 NMSA 1978.
judgment of claimed ex	ed and signed copy of the claim of exemption form shall be served on the creditor and the garnishee named above. If the judgment creditor disputes a kemption, a court hearing will be scheduled to consider the disputed is. At this hearing you must bring evidence supporting each of your claims of it.
Date	Signature of judgment debtor
	Printed name of judgment debtor
	Number and street or P.O. box
	City, state, zip code
	Telephone number

**ANNOTATIONS** 

[As amended, effective July 1, 1992; January 1, 1995; January 1, 1996.]

The 1996 amendment, effective January 1, 1996, near the end of the form, substituted "A completed and signed copy" for "Two (2) copies", inserted "A completed and signed copy of the claim of exemption form shall be served on the judgment creditor and the garnishee named above. If the judgment creditor disputes a claimed exemption", substituted "the disputed exemptions" for "the above exemptions", and deleted the former parenthetical use note relating to scheduling a hearing within 10 business days.

**The 1992 amendment,** effective July 1, 1992 for use in the district, magistrate and metropolitan courts, inserted "from" in the heading, rewrote Item g, added Items h to k, added the two sentences preceding the signature lines, and added the parenthetical at the end.

## 4-810. Motion for default judgment against garnishee.

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

STATE OF NEW MEXICO IN THE \_\_\_\_\_ COURT No. \_\_\_\_\_ COUNTY \_\_\_\_\_, Plaintiff V. \_\_\_\_\_, Defendant , Garnishee MOTION FOR DEFAULT JUDGMENT AGAINST GARNISHEE Judgment creditor moves the court to enter a default judgment against the garnishee. The Writ of Garnishment was served on the garnishee on (date) and the return of service of the writ on the garnishee has been filed with the court. The garnishee has not filed an answer or other responsive pleading with the court nor has the judgment creditor been served with a responsive pleading. The judgment creditor requests the court to set a hearing on this motion on not less than three (3) days notice to the garnishee. Date Attorney for plaintiff

If the plaintiff is not represented by an attorney, this motion must be sworn to or affirmed by the plaintiff.	
I,declare or affirm that this motion cor	, upon my oath or affirmation do solemnly ntains a complete, accurate statement of the facts to and that if I make a material misstatement of fact, I r perjury.
	Signature of plaintiff
	Signature of Judge, Notary or Other Officer Authorized to Administer Oaths
	Official title
My commission expires:	
(SEAL)	
CERTI	FICATE OF SERVICE
I hereby certify that on this motion was	, day of,, this
[mailed by United States mail, po	ostage prepaid, and addressed to:
Name:	
City, State	1
and zip code:	J
[faxed by(defe	(name of person who faxed) to ndant or defendant's attorney). The transmission
was reported as complete and witho (a.m.) (p.m.) on	ut error. The time and date of the transmission was
[e-mailed by	(name of person who transmitted)
toat	(electronic address
	n this manner. The transmission was successful.
(date).1	(α.π.) (μ.π.) στ

If this notice was served by a person other than an attorney, the following must also be completed and filed with the court:

### **AFFIDAVIT OF SERVICE**

I declare under penalty of perjury the [fax] [electronic transmission] as descr	nat a copy of this motion was served by [mail] ibed above on this day of
	Signature of person who made service
Subscribed and sworn to before me this day of	_,
Judge, notary or other officer authorized to administer oaths	
Official title	
[Approved, effective August 1, 1999.]	
AN	INOTATIONS
•	preme Court order dated April 15, 1992, former f notice of garnishment, was withdrawn, effective
4-810A. Notice of dispute and	request for hearing.
[For use with Rules 1-065.1, 1-065.2, 2 2-802, 3-801 and 3-802 NMRA]	2-801,
STATE OF NEW MEXICO IN THE COUR	T COUNTY
	, Plaintiff
V.	No
	, Defendant

NOTICE OF DISPUTE AND REQUEST FOR HEARING<sup>1</sup>

1. 2.	Assigned Judge: [Execution proceeding] [Garnishment proceeding] <sup>2</sup>
•	udgment [creditor disputes the following claimed exemptions] [debtor disputes the ving] <sup>2</sup> and requests a hearing be held on this dispute
	Judgment creditor or attorney
	(Requesting party shall attach a separate sheet listing the name, firm, capacity address, and telephone number of each party entitled to notice and a stamped addressed, plain (without return address) envelope for each party entitled to notice.)
	NOTICE OF HEARING
above locate	hearing is scheduled on the [disputed claims of exemption] [dispute] <sup>2</sup> described e before the Honorable, at the court ed at, on the day of, at the hour ofm.
	, Judge
	USE NOTE
clerk court	A hearing must be held within 10 business days of the filing of this form. The will file the request for hearing and endorse the copy for the assigned judge. The shall give notice of the hearing on the disputed claim of exemption by mailing a of this form to the judgment debtor, judgment creditor and the garnishee, if any.
2.	Use applicable alternative.
[Ador	oted, effective January 1, 1996.]
	1. Judgment on writ of garnishment, claim of exemption and er to pay.
[For ι	use with Rule 1-065.2 NMRA]

			EW MEXICO
CC	I MUC	YOF	JUDICIAL DISTRICT
			, Plaintiff (Judgment creditor)
٧.			No
			, Defendant (Judgment debtor), Garnishee
			JUDGMENT ON WRIT OF GARNISHMENT, CLAIM OF
			EXEMPTION AND ORDER TO PAY
	This	matte	r coming before the court, the court finds:
[]	1.	garr	ne time the writ of garnishment was served on the hishee, the amount of \$ was aid and owing to the judgment creditor.
[]	2.	cred	result of this garnishment proceeding, judgment itor has spent additional costs and fees of
[]	3.	\$	total amount of judgment and costs to date are plus interest of% per year,
[]	4.	debt the a garr clair	garnishee is not an employer of the judgment or and has also certified that it has mailed copies of application for a writ of garnishment; the writ of ishment; notice of right to claim exemptions and a nof exemption form and a copy of its answer to the
[]	5.		ment debtor(s) or their attorney of record, if any. judgment debtor:
LJ	Э.		has not filed a claim of exemption;
		[]	has filed a claim of exemption and the judgment creditor has not disputed the claim of exemption for the following property and such money or property is therefore exempt:
			or ,
		[]	has filed a claim of exemption which has been disputed and after a hearing, the court finds that the following property is exempt from garnishment:

[]	6.	The	garnishee:
		[]	is in default;
		[]	is indebted to the judgment debtor in the amount of \$;
		[]	is indebted to the judgment debtor for wages;
		[]	is not indebted to the judgment debtor;
		[]	holds property of the judgment debtor;
		[]	does not hold property of the judgment debtor.
[]	7.		suant to the Support Enforcement Act, the nishee:
		[]	is withholding \$ of the judgment debtor's income pursuant to a Notice to Withhold Income;
			or
		[]	is not withholding any income of the judgment debtor pursuant to such a Notice.
[]	8.		suant to Section 35-12-16 NMSA 1978, the ment creditor:
		[]	is entitled to additional fees and costs of \$;
		or	
		[]	is not entitled to additional fees and costs.
THE	СО	URT	ORDERS:
1.	D	efaul	t judgment against garnishee
[] plus exec			dgment creditor recover from the garnishee the sum of \$ percent per annum interest from the date the application was garnishee having failed to answer the writ;
or			
2.	P	ayme	ent of money other than wages
appl	ch ind licati	clude: on wa	dgment creditor recover from the garnishee the sum of \$s percent per annum interest thereon from the date the as executed to the date the answer was filed, such sum being held by er than as wages;

3. Wage with	nolding other than child or spousal support		
[] The judgment being other than for child or spousal support, the judgment creditor recover from the garnishee the sum of \$, plus interest at the original judgment rate, until paid in full, to be deducted from the judgment debtor's wages. The garnishee shall pay the judgment debtor only:			
(a)	seventy-five percent (75%) of judgment debtor's disposable earnings (salary less social security, federal and state tax withholdings, and any other deduction required by law) for any pay period;		
OR			
(b)	an amount each week equal to forty (40) times the federal minimum hourly wage rate;		
whichever is greate	er.		
judgment creditor of is first used to pay subject to garnishr order shall continu	judgment debtor's disposable earnings shall be paid over to the each payday until the judgment herein is satisfied, after this balance any prior garnishment. If the wages of the judgment debtor are not nent because of the application of the formula set forth above, this e and shall automatically take effect when the wages of the judgment se to an amount that creates disposable earnings based upon the poove.		
4. Wage with	nolding for child or spousal support		
the judgment credit plus interest at the judgment debtor's (50%) of judgment state tax withholding there is no prior gar	tor order. The order or decree being for child or spousal support, tor shall recover from the garnishee the sum of \$		
[] Prior writ o	r order. If there is a prior garnishment (one that was served on the		

first, the amount provided for in the judgment entered on the prior writ of garnishment shall be applied to the prior garnishment. If a judgment has not yet been entered on the prior writ of garnishment, the garnishee shall withhold the amount ordered by the prior writ of garnishment to be applied to the prior writ of garnishment when the judgment is entered;

paid as follows:

garnishee prior to the date and time the garnishment in this case was served), up to fifty percent (50%) of the judgment debtor's disposable earnings each pay period shall be

next, until all prior writs have been fully satisfied, the remainder of the balance of fifty percent (50%) of the judgment debtor's disposable earnings shall be paid to this judgment creditor to satisfy the child or spousal support order. Upon satisfaction of all prior writs of garnishment, the entire balance of the judgment debtor's disposable earnings shall be applied to satisfy this child or spousal support order judgment. If the wages of the judgment debtor are not subject to garnishment because of the application of the formula set forth above, this order shall continue and shall automatically take effect when the wages of the judgment debtor shall increase to an amount that creates disposable earnings based upon the formula set forth above.

[] **Prior child or spousal support writ.** Upon motion of the judgment debtor, this court orders the distribution of the judgment debtor's child or spousal support obligations as follows:

If the money being withheld pursuant to a notice to withhold income under the Support Enforcement Act exceeds the otherwise garnishable amounts, this garnishment shall continue in effect until the notice to withhold income has been voided, modified, suspended or terminated, at which time the full amount allowed for garnishment shall be paid to the judgment creditor.

If the wages being withheld pursuant to a notice to withhold income under the Support Enforcement Act are less than twenty-five percent (25%) of the judgment debtor's disposable earnings, the difference between the amount withheld for child or spousal support and the amount equal to twenty-five percent (25%) of the judgment debtor's disposable earnings shall be paid to the judgment creditor until the child or spousal support notice to withhold income has been voided, modified, suspended or terminated, at which time the full amount allowed for garnishment shall be paid to the judgment creditor.

### 5. Money or property other than wages

garni	The money or property held by the garnishee is exempt from garnishment and rit of garnishment in this case is hereby released and discharged; and the shee no longer has any obligation to withhold wages, money or property from the nent debtor on account of that writ.
[] disch	The garnishee, having no money or property of the judgment debtor, is arged and released from the writ of garnishment.
[] judgn	The garnishee shall turn over to the judgment creditor the property of the nent debtor shown on Exhibit A attached hereto.
6.	Costs and fees
[] \$	The judgment creditor is awarded, in addition to the above amounts, the sum of as additional costs and fees pursuant to Section 35-12-16 NMSA 1978.

[] The garnishee shal	I be reimbursed \$	for its costs and \$	for its
attorney fees, the same to	be paid by the	If paid by the	<del>)</del>
		first money otherwise payab	
· •		nt the judgment creditor is to	
as ordered above.			•
7. Payments			
Payments under this order	r shall be sent to:		
(name of judgment credito			
(name or judgment credito	")		
(address of judgment cred	litor)		
	, 		
(city, state and zip code)			
Date	Judge		
[As amended effective lu	no 15 1086: January 1	I. 1987: July 1. 1992: January	, 1 1006·
173 811611464. 61166176 34	no io. iado.January	i. 1307. July I. 1332. Jailualy	1. 1330.

#### **ANNOTATIONS**

**The 2001 amendment,** effective December 3, 2001, inserted "or spousal" in Paragraphs 3 and 4 and added Paragraph 7 following the heading "THE COURT ORDERS."

**The 1999 amendment,** effective October 15, 1999, deleted "[15%]" following "plus" in Paragraph I of the court orders.

**The 1996 amendment,** effective January 1, 1996, in the findings, substituted "a claim of exemption" for "three copies of the claim of exemption" in Paragraph 4, and added the second alternative in Paragraph 5 and inserted "which has been disputed" in the third alternative in Paragraph 5; and in the order, rewrote former Paragraphs 4 through 11 as Paragraphs 4 through 6.

**The 1992 amendment,** effective July 1, 1992 for use in the district courts, deleted former Finding 4, relating to certification in writing by the judgment creditor that the latter had mailed copies of specified items; redesignated former Findings 5 to 9 as present Findings 4 to 8; rewrote present Finding 4; deleted "Civil Form" preceding "Garnishment" at the fifth occurrence of that word in the fourth sentence of Order 4; and made several gender neutral substitutions.

**Cross references.**— For attorney fees and costs, see Section 35-12-16 NMSA 1978.

For garnishments, see Section 35-12-18 NMSA 1978.

October 15, 1999; December 3, 2001.]

For support enforcement, see Section 40-4A-1 NMSA 1978 et seq.

For maximum allowable garnishment under federal law, see 15 U.S.C. § 1673.

For student loan requirements, see 20 U.S.C. § 1095a.

# 4-812. Judgment on writ of garnishment, claim of exemption and order to pay.

[Fo	r use with Rules 2-802 and 3-802 NMRA]
STA	ATE OF NEW MEXICO
СО	UNTY OF
IN 7	THE [MAGISTRATE] [METROPOLITAN] COURT
	, Plaintiff (Judgment Creditor),
V.	No
	, Defendant (Judgment Debtor).
	, Garnishee.
This	EXEMPTION, AND ORDER TO PAY  s matter coming before the court, the court finds:  The judgment creditor,, has a judgment dated
1.	against the judgment debtor,
2.	The total amount of the judgment including the principal, interest, costs, and attorney fees awarded by the judgment was \$
3.	From the date the judgment was filed through the date this Application was signed, additional interest at the rate of % totals \$ Judgment creditor has incurred additional costs of \$ and additional attorney fees of \$ have beer received.
4.	The unpaid balance now due is \$ plus interest from the date this Application is filed. Interest at% shall continue to accrue or any outstanding balance until the judgment is fully paid.
5.	The judgment debtor:

		[]	has not filed a claim of exemption;
		[]	has filed a claim of exemption, which was not disputed. Therefore, the property or money shown on the claim of exemption is exempt;
		[]	has filed a claim of exemption that has been disputed and after hearing, the court finds that the following property is not exempt from garnishment:;
6.	The g	garni	shee:
		[]	is in default;
		[]	is indebted to the judgment debtor for wages;
		[]	is indebted to the judgment debtor in the amount of \$
		[]	is not indebted to the judgment debtor;
		[]	holds property of the judgment debtor;
		[]	does not hold property of the judgment debtor.
7.	The	garni	shee:
		[]	is garnishing wages, and has certified that it has mailed copies of the application for a writ of garnishment; the writ of garnishment; and a copy of its answer to the judgment debtor(s) or their attorney of record, if any.
		[]	is garnishing property or money other than wages, and has certified that it has mailed copies of the application for a writ of garnishment; the writ of garnishment; a notice of right to claim exemptions; a claim of exemption form; and a copy of its answer to the judgment debtor(s) or their attorney of record, if any.
8.	Pursi	uant <sup>·</sup>	to the Support Enforcement Act, the garnishee:
		[]	is withholding \$ of the judgment debtor's income pursuant to a notice to withhold income.
THE	COU	RT O	RDERS:
[]	1.	Th	efault judgment against garnishee ne garnishee having failed to answer the writ, the judgment creditor shall cover from the garnishee the sum of \$ plus interest at% per year from the date this judgment is filed.
		Pa	ayment of money other than wages
		Th	ne judgment creditor shall recover from the garnishee the sum of
[]	2.		us interest at% per year from the date this judgment is filed, such m being held by garnishee other than as wages.
[]	3.	Th	age withholding other than child or spousal support ne judgment being other than for child or spousal support, the judgment editor shall recover from the garnishee the sum of \$,

plus interest at \_\_\_\_\_% per year from the date this judgment is filed, until paid in full, to be deducted from the judgment debtor's wages.

The garnishee **SHALL PAY THE JUDGMENT DEBTOR**, whichever amount is greater, one of the following:

- seventy-five percent (75%) of the judgment debtor's disposable earnings (salary less social security, federal and state tax withholdings, and any other deduction required by law) for any pay period; **OR**
- (b) an amount each week equal to forty (40) times the federal minimum hourly wage rate.

The remaining balance of the judgment debtor's disposable earnings shall be paid over to the judgment creditor each payday until the judgment herein is paid in full. If the wages of the judgment debtor are not enough to garnish because of the application of the formula set forth above, this order shall continue and shall automatically take effect when the wages of the judgment debtor shall increase to an amount that creates disposable earnings based upon the formula set forth above.

If wages are being withheld pursuant to a notice to withhold income under the Support Enforcement Act, this garnishment shall continue in effect until the notice to withhold income has been voided, modified, suspended or terminated, at which time the full amount allowed for garnishment shall be paid to the judgment creditor.

If the wages are being withheld pursuant to a notice to withhold income under the Support Enforcement Act, but are less than twenty-five percent (25%) of the judgment debtor's disposable earnings, the difference between the amount withheld for child or spousal support and the amount equal to twenty-five percent (25%) of the judgment debtor's disposable earnings shall be paid to the judgment creditor until the child or spousal support notice to withhold income has been voided, modified, suspended, or terminated, at which time the full amount allowed for this garnishment shall be paid to the judgment creditor.

If wages are being withheld pursuant to a prior garnishment and/or a prior demand warrant for unpaid taxes, the prior garnishment and/or prior demand warrant shall be paid first and upon full payment of the prior garnishment and/or prior demand warrant, the full amount allowed for this garnishment shall be paid to the judgment creditor.

## [] 4. Money or property other than wages

The money or property held by the garnishee is exempt from garnishment and the writ of garnishment in this case is hereby released and discharged; and the garnishee no longer has any obligation to withhold wages, money, or property from the judgment debtor on account of that writ.

[] The garnishee, having no money or property of the judgment

			debtor, is discharged ar	nd released from the w	rit of garnishment.
		[]	The garnishee shall turn of the judgment debtor		
[]	5.	Costs	and fees of garnishee		
		[]	The garnishee shall be \$ for its attorn If paid by the judgment money otherwise payable reduce the amount due	ney fees to be paid by to debtor, said sum shall able to the judgment creat	he be paid from the first ditor but shall not
6.	Payme	ents			
	Payme	ents un	der this order shall be se	ent to:	
	(name	of judg	gment creditor)		
	(addre	ss of ju	udgment creditor)		
	(city, s	tate, aı	nd zip code)		
	(phone	numb	er of judgment creditor)		
Date			<del></del>	Judge	

### **USE NOTE**

See Jemko v. Liaghat, 106 N.M. 50, 52, 738 P.2d 922, 925 (Ct. App. 1987) (providing that a judgment creditor, acting pursuant to a writ of garnishment, may only seize property belonging to the judgment debtor); Alcantar v. Sanchez, 2011-NMCA-073, 150 N.M. 146, 257 P.3d 966 (discussing garnishment procedures in the case of joint bank accounts).

[As amended, effective July 1, 1992; January 1, 1996; December 3, 2001; by Supreme Court Order No. 12-8300-030, effective for all cases filed or pending on or after January 7, 2013.]

### **ANNOTATIONS**

**The 2012 amendment,** approved by Supreme Court Order No. 12-8300-030, effective January 7, 2013, simplified the former language of the court's findings and order; required findings concerning service of the pleadings on the debtor; added Paragraph 1

of the court's findings; in Paragraphs 2 through 3 of the court's findings, simplified the language of former Paragraphs 1 through 3; deleted former Paragraph 4 of the court's findings that the debtor is not an employee of the garnishee and that the garnishee has complied with service requirements; in Paragraph 5 of the court's findings, in the second paragraph, simplified the former language of the paragraph and deleted the former fourth paragraph which duplicated the first paragraph; added Paragraph 7 of the court's findings; renumbered former Paragraph 7 of the court's findings as Paragraph 8; in Paragraph 8 of the court's findings, deleted the former second paragraph which stated that the garnishee is not withholding income pursuant to a Notice; deleted former Paragraph 8 of the court's findings which concerned the award of fees and costs pursuant to Section 35-12-16 NMSA 1978; in Paragraphs 1, 2, and 3 of the court's order, simplified the former language of these paragraphs; in Paragraph 3 of the court's order, in the fourth paragraph, added the last sentence; in Paragraph 5 of the court's order, deleted the former first paragraph which concerned the award of costs and fees pursuant to Section 35-12-16 NMSA 1978; and in Paragraph 6 of the court's order, added the creditor's telephone number.

**The 2001 amendment,** effective December 3, 2001, following the heading "THE COURT ORDERS", substituted the fill-in the blank percentage for "15%" in Paragraph 1, inserted "or spousal" in Paragraph 3, and added Paragraph 6.

**The 1996 amendment,** effective January 1, 1996, in the findings, substituted "a claim of exemption" for "three copies of the claim of exemption" in Paragraph 4, and added the second alternative in Paragraph 5 and inserted "which has been disputed in the third alternative in Paragraph 5; and in the order, rewrote former Paragraphs 4 through 10 as Paragraphs 4 and 5.

**The 1992 amendment,** effective July 1, 1992 for use in the magistrate and metropolitan courts, deleted former Finding 4, relating to certification by the judgment creditor that the latter had mailed copies of specified items; redesignated former Findings 5 to 9 as present Findings 4 to 8; and rewrote present Finding 4.

Cross references.— For attorney fees and costs, see Section 35-12-16 NMSA 1978.

For garnishments, see Section 35-12-18 NMSA 1978.

For support enforcement, see Section 40-4A-1 NMSA 1978 et seq.

For maximum allowable garnishment under federal law, see 15 U.S.C. § 1673.

For student loan requirements, see 20 U.S.C. § 1095a.

## 4-813. Default judgment against garnishee.

[For use with Rules 1-065.1, 2-802 and 3-801 NMRA]

## 

## 4-814. Release of garnishment.

[As amended, effective June 15, 1986.]

[For use with Rules 1-065.1, 2-802 and 3-801 NMRA]

### STATE OF NEW MEXICO

	, Defendar , Garnishe		
against			
	COUNTY , Plaintiff		
IN THE	COURT	No.	

### **RELEASE OF GARNISHMENT**

The WRIT OF GARNISHMENT in this case is hereby released and discharged; and the Garnishee no longer has any obligation to withhold wages, money or property from the Judgment Debtor on account of that writ.

,	Judge	
4-815. Sheriff's report of sale	of seized	property.
[For use with Rules 1-065.1, 2-801 ar		
[For use with Kules 1-003.1, 2-001 at	IU 3-001 INIVIE	VA]
STATE OF NEW MEXICO		
IN THE	_COURT	No
	COUNTY	
V.		, Plaintiff
		, Defendant
SHERIFF'S REPORT	OF SALE OF	SEIZED PROPERTY
Description of property sold:		
(invente	ory may be at	ttached)
Date of sale:	-	laorica
Date of judgment		Interest rate %
Amount of judgment		\$
Amount of interest since date of judgr	nent	\$
Amount of accrued costs since date of	f judgment	\$
Amount of sheriff's costs		\$
Total amount received from sale		\$
Amount paid to judgment creditor		\$
Date of return:	_	
	SHERIFF OF COUNTY, Sta	ate of New Mexico
	By Deputy or oth	er authorized person
(The Sheriff is obliga	ated by law to	make timely return)

4-820. Certificate of Dean of law school.

[Adopted, effective July 1, 1992.]

[For use with Rule 1-094.1 NMRA]	
CERTIFICATE OF DEAN OF	SCHOOL OF LAW
I hereby certify that I am the dean of theSchool of Law and that this school of law is an Ai school that complies with the current standards or regarding field placement programs.	merican Bar Association accredited law
I further certify that	ve-named law school who has
I further certify that the above-named student program and will receive law school credit hours Mexico under the direction or supervision of (name of supervising attorney or judge), a memb has been admitted to practice law for a period of credit will be earned during the period beginning	er of the State Bar of New Mexico who five or more years. This law school and ending
(Set forth beginning and a four-month period.)	ending dates of program not to exceed
I further certify that the above-named law studentains standards required of a student in good standing	
, Dean	
[Adopted, effective January 1, 1995.]	
4-821. Order approving clinical law st	udent appearance.
[For use with Rules 1-094 and 1-094.1 NMRA]	
STATE OF NEW MEXICO IN THE DISTRICT COURT JUDICIAL DISTRICT	Plaintiff
against	
	, Defendant

	_, a qualified supervising attorney participating
in a clinical law program of the	School of Law,
Procedure for the District Courts has red	1-094) (Rule 1-094.1) of the Rules of Civil
	a law student enrolled in a qualified clinical law
program, be permitted to participate in the 1-094.1).	his matter as authorized by (Rule 1-094) (Rule
It is hereby ordered that the above-n as authorized by (Rule 1-094) (Rule 1-0	amed law student may participate in this case 94.1).
Date	District Judge
U	SE NOTE
If the clinical law student is enrolled in the dean of the law school must be filed	in an out-of-state law school, the certificate of with this order. See Rule 4-820 NMRA.
[Adopted, effective January 1, 1995.]	
4-830. Writ of certiorari.	
[For use with Rule 1-075 NMRA]	
STATE OF NEW MEXICO	
IN THE DISTRICT COURT	UDIOIAL DIOTRICT
J	UDICIAL DISTRICT , Petitioner
	, i dudonoi
V.	No
	, Respondent
WRIT O	F CERTIORARI
To:	
(name of administrative agency);	
The court has reviewed the petition f and finds:	or writ of certiorari filed in the above-styled case
1. That the court has jurisdiction over administrative agency).	er (name of

2. That the petitioner does not have a statutory right to an appeal or review from orders or decisions of the above administrative agency;
3. That the petition makes a prima facie showing that the petitioner may be entitled to the relief sought by the petition.
IT IS THEREFORE ORDERED that the petition for writ of certiorari in the above case be and hereby is granted.
IT IS FURTHER ORDERED that (name of administrative agency) prepare and file with this court within thirty (30) days after the date of service of this writ on (name of administrative agency) the record on appeal in compliance with Paragraph F of Rule 1-075 of the Rules of Civil Procedure for the District Courts.
IT IS FURTHER ORDERED that the review in this case shall proceed in compliance with Rule 1-075 of the Rules of Civil Procedure for the District Courts.
District Judge
Dated:
CERTIFICATE OF SERVICE
I certify that I caused a copy of this writ of certiorari to be served on the following persons or entities by (delivery) (certified mail, postage prepaid) on this day of,:
(1)(Name of administrative agency)
(Address)
(2)
(Name of party)
(Address)
(3)
(Name of party)

(Address)

(Petitioner) (Attorney for petitioner)

## **AFFIDAVIT OF SERVICE OF PARTY**

	I caused a copy of this writ of certiorari to be s by (delivery) (certified mail, postage prepaid)
on this day of	
(1)	
(1)(Name of administrative agency)	<del></del>
(Address)	
(Address)	
(2) (Name of party)	
(Name or party)	
(Address)	
(3)	
(Name of party)	
(Address)	
(Peti	itioner)
[Adopted, effective January 1, 1996.]	
4-831. Petition for writ of certions	ari in anneal nursuant to
Unemployment Compensation L	• • •
[For use with Rule 1-077 NMRA]	
STATE OF NEW MEXICO	
COUNTY OF	
JUDICIAL DIS	TRICT
Petitioner,	_,
v.	No
V.	No Admin. Case No
New Mexico Department of Workforce So	lutions,

and
(Former Employer or Employee),
Respondents.
PETITION FOR WRIT OF CERTIORARI
Petitioner appeals from the decision of the Workforce Transition Services Division of the State of New Mexico Department of Workforce Solutions in this case and states the following in support of this petition for a writ of certiorari:
1. Petitioner resides inCounty, New Mexico, and venue is therefore properly in this court.
2. This petition is timely filed within thirty (30) days from the date of the final decision of the secretary of the Department of Workforce Solutions or the board of review. The date of the final decision is, and copy of the final decision is attached to this petition.
Statement of issues.
3. Petitioner believes the final decision was incorrect for the following reasons. (Please list below in numerical order the reasons why you believe the final decision is incorrect. If you are raising more than three issues, list them on a separate sheet and attach it to this petition. See Rule 1-077(J) NMRA for a list of the reasons why the district court may reverse a decision of the board of review or secretary. After each statement of issue, state how the issue was raised in the administrative agency below.)
Issue No. 1:
Issue No. 2:
Issue No. 3:

## Summary of proceedings.

4. The following is a concise summary of what happened in this case, and it includes a short statement of all the facts that are relevant to the issues listed in this petition. (*Attach additional pages if necessary*):

tatement of relief sought.	
5. Petitioner asks the court to issue a writ of certiorari to review the issues listed above. A copy of the proposed writ of certiorari is attached to this petition. (See Form 4 832 NMRA) Petitioner also asks the court to provide the following specific relief after reviewing this petition and issuing the writ:	
(Signature of Petitioner)	
(Petitioner's address)	
(Petitioner's phone number)	
CERTIFICATE OF SERVICE	
I certify that I caused a copy of this petition for writ of certiorari to be served on the ollowing persons or entities by (delivery) (certified mail, postage prepaid) on this ay of, 20:	
Office of General Counsel of the State of New Mexico Department of Workforce Solutions	
(Address)	
<u></u>	

	(Name of Respondent Former En	nployer or Employee)
(3)	(Address)	<del></del>
(3)	(Name of any other party to the p	roceedings)
	(Address)	
	Ō	(Petitioner)
	USE	NOTE
1. If to complete		counsel, the affidavit of service must be
decision	•	ot filed within thirty (30) days of the final freview, the district court will not have
employee		olutions and the former employer or rties (respondents) to the appeal on the ertiorari.
[Adopted	by Supreme Court Order No. 11-8	3300-012, effective April 18, 2011.]
	Writ of certiorari in appeal nsation Law.	pursuant to Unemployment
[For use	with Rule 1-077 NMRA]	
STATE C	OF NEW MEXICO	
COUNTY	OF	
	JUDICIAL DIST	RICT
	,	
Petitione	-,	
V.		No Admin. Case No

New Mexico Department of Workforce Solutions,

and	
	(Former Employer or Employee),
Respo	ondents.
	WRIT OF CERTIORARI
To: Soluti	Office of General Counsel of the State of New Mexico Department of Workforce ons
	ne court has reviewed the petition for writ of certiorari filed in the above-styled case nds the following:
State	The court has jurisdiction over the Workforce Transition Services Division of the of New Mexico Department of Workforce Solutions and the other named ondent and venue is proper in this county;
	The petitioner has a statutory right to judicial review of the administrative decision above-styled case under the Unemployment Compensation Law; and
	The petition seeks relief from the administrative decision on one or more of the ds set forth in Subparagraphs (1), (2), or (3) of Paragraph J of Rule 1-077 NMRA.
State within	IS FURTHER ORDERED that the Workforce Transition Services Division of the of New Mexico Department of Workforce Solutions prepare and file with this court twenty (20) days from the date of service of this writ the record on appeal in liance with Paragraph G of Rule 1-077 NMRA.
	IS FURTHER ORDERED that the review in this case shall proceed in compliance Rule 1-077 NMRA.
	District Judge
Dated	l:
	CERTIFICATE OF SERVICE
perso	ertify that I caused a copy of this writ of certiorari to be served on the following ns or entities by ( <i>delivery</i> ) ( <i>certified mail, postage prepaid</i> ) on this day of
(1)	Office of General Counsel of the State of New Mexico Department of Workforce Solutions

(2)	(Address)
(2)	(Name of Respondent Former Employer or Employee)
(3)	(Address)
	(Name of any other party to the proceedings)
	(Address)
	(Petitioner)
	USE NOTE
1. comp	If the Petitioner is not represented by counsel, the affidavit of service must be leted.
decisi	If the petition for writ of certiorari is not filed within thirty (30) days of the final ion issued by the secretary or board of review, the district court will not have iction to hear the appeal.
emplo	Both the Department of Workforce Solutions and the former employer or byee must be named and joined as parties (respondents) to the appeal on the on for writ of certiorari and the writ of certiorari.
[Adop	oted by Supreme Court Order No. 11-8300-012, effective April 18, 2011.]
4-83	3. Stipulation of dismissal; mediated settlement agreement.
-	use with Magistrate Court Rule 2-806 NMRA, opolitan Court Rule 3-806 NMRA]
STAT	E OF NEW MEXICO
[COU	NTY OF]
	COURT
	, Plaintiff,
V.	No

, Defendant.	
STIPULATION OF DISMISSAL AFTER MEDIATED SETTLEMENT AGREEMENT	
The parties have entered into a Mediated Settlement Agreement. The parties stipulate that this case should be dismissed because the Mediated Settlement Agreement fully and finally resolves all of the issues in this case. However, if the terms of the Mediated Settlement Agreement are not fulfilled, the parties reserve the right to ask the court to reopen this case within five years from the filing date of this document for the limited purpose of entering a judgment to enforce the terms of the Mediated Settlement Agreement and for such other relief as the court deems just and proper.	
The parties have agreed (check one):	
[] To file the Mediated Settlement Agreement in this case; or	
[] To waive filing the Mediated Settlement Agreement in this case. Each party will take responsibility for retaining a copy of the Mediated Settlement Agreement. In any action related to the Mediated Settlement Agreement, the responsibility to produce a copy of the Mediated Settlement Agreement belongs to the parties and not to the court.	
Plaintiff or Attorney for Plaintiff	
Defendant or Attorney for Defendant	
[Adopted by Supreme Court Order No. 14-8300-012, effective for all cases filed or pending on or after December 31, 2014.]	
4-834. Motion for judgment and statement of noncompliance.	
[For use with Magistrate Court Rule 2-806 NMRA; Metropolitan Court Rule 3-806 NMRA]	
STATE OF NEW MEXICO	
[COUNTY OF]	
COURT	
, Plaintiff,	

٧.

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

Defendent
 Defendant.

## MOTION FOR JUDGMENT AND STATEMENT OF NONCOMPLIANCE

I request that the court reopen this case and enter a judgment enforcing the terms of a Mediated Settlement Agreement. In support of this request, I state as follows:

1.	[]	The parties entered a Mediated Settlement Agreement, and a Stipulation of Dismissal After Mediated Settlement Agreement was filed on (date).
2.	[]	Plaintiff/Defendant has breached the terms of the Mediated Settlement Agreement.
3.	[]	A copy of the Mediated Settlement Agreement was filed with the court on (date); or
	[]	A copy of the Mediated Settlement Agreement was not filed, but is attached.
	(che	eck all that apply)
	[]	Under the terms of the Mediated Settlement Agreement, Plaintiff/Defendant agreed to pay \$ Under the terms of the Mediated Settlement Agreement,
4.	[]	Plaintiff/Defendant agreed to the following:
	(che	ck all that apply)
5.	[]	As of today's date, Plaintiff/Defendant has paid a total of \$  As of today's date, Plaintiff/Defendant has done the following:
	(che	ck all that apply)
6.	[]	Under the terms of the Mediated Settlement Agreement, Plaintiff/Defendant still owes a total of \$ Under the terms of the Mediated Settlement Agreement, Plaintiff/Defendant still needs to do the following:
7.	[]	I request that the court reopen this case and enter judgment in the amount listed below and for any other relief that the court deems just and proper.
	Paym	ents remaining: \$
	Intere	st, costs, fees, and other amounts (if allowable):
		\$
		\$ \$
		\$
		vD

	_ \$
Total judgment requested:	\$
	e laws of the State of New Mexico that the day of
	Signature
	Printed Name
	Address
	City, State, and Zip Code
	Phone
STATEME	NT OF SERVICE
	the laws of the State of New Mexico that I ent on the following person(s) by certified mail, of:
Name	Name
Address	Address
City, State, and Zip Code	City, State, and Zip Code
Signature	
Printed Name	

[Adopted by Supreme Court Order No. 14-8300-012, effective for all cases filed or pending on or after December 31, 2014.]

# **ARTICLE 9 Statutory Proceedings**

4-901. Three-day notice of nonpayment of rent (Uniform Owner-Resident Relations Act).

[Section 47-8-33 NMSA 1978]

THREE-DAY NOTICE OF NONPAYMENT OF RENT<sup>1</sup> (Uniform Owner-Resident Relations Act)

To: Address:	
	, New Mexico
You are notified that you are no agreement concerning the prer	ot in compliance with the rental agreement or separate mises at <sup>2</sup> :
, New Mexico	
by failure to pay rent as follows	:
	\$ \$ \$
Total due:	\$
below, the rental agreement sh Payment will be accepted only	
[] cashiers or certified check	[] personal check
Dated this day of	·
	(Owner) (Agent)
Service of notice:	
[] personally delivered to reside [] posted [] mailed certified mail, return r [] mailed	
[] Delivered [] posted:	Mailed:
Time:	
	Time:
Date:	Date:
By <sup>3</sup> :	By <sup>3</sup> :

**USE NOTE** 

1. The party giving notice should retain two (2) copies for possible court action.

- 2. If the leased premises is an apartment, include the name of the apartments and the apartment number. This form may also be used for a mobile home park with less than 12 units. See Subsection C of Section 47-10-2 NMSA 1978.
  - 3. Include the name of the person delivering, posting or mailing the notice.

[As amended, effective September 2, 1997; April 6, 1998.]

#### **ANNOTATIONS**

**The 1998 amendment,** effective April 6, 1998, inserted "rent" following "by failure to pay", deleted the explanation of entries for different charges, substituted "amount due" for "rent", deleted "and mailed certified mail, return receipt requested" following "posted" in the service certification, deleted Use Note 3, renumbered Use Note 4 as Use Note 3 and substituted "Include" for "Set forth" in Use Note 3.

**The 1997 amendment,** effective September 2, 1997, deleted "rent as due" following "failure to pay" and added the entries for the different charges, added the payment method choices, rewrote the service certification, added Use Notes 2 through 4, and made stylistic changes throughout.

## 4-901A. Three-day notice of substantial violation of rental agreement (*Uniform Owner-Resident Relations Act*).

[Section 47-8-33 NMSA 1978]

# THREE-DAY NOTICE OF SUBSTANTIAL VIOLATION OF RENTAL AGREEMENT (Uniform Owner-Resident Relations Act)

To:	and all other occupants	
Address:	·	Unit:
		, New Mexico
	re notified that you, or someone with your agreement or separate agreement conce	
		New Mexico
	or about,, and the following:	(date), you, or someone with your

This conduct occurred on or within apply):	300 feet of the premises and includes (check all that		
[] possession, use, sale, distril other than misdemeanor possession	bution or manufacture of a controlled substance, on and use;		
[] unlawful use of a deadly we	apon;		
[] unlawful action causing serio	unlawful action causing serious physical harm to another person;		
[] sexual assault or sexual mo	lestation of another person;		
[] entry into the dwelling unit or vehicle of another person without that person's permission and with intent to commit theft or assault;			
[] theft or attempted theft of th use of force; or	e property of another person by use or threatened		
[] intentional or reckless dama (\$1,000.00).	age to property in excess of one thousand dollars		
date of service set out below. You (date). Failure to va	tal agreement shall terminate three (3) days from the must vacate the premises no later than acate by this date will result in a legal action against		
you. Dated this day of	,·		
	(Owner) (Agent)		
Service of notice <sup>2</sup> :			
<ul><li>personally delivered to resident posted and mailed certified mailed by certified mail, return</li></ul>	mail, return receipt requested		
[] Delivered [] posted:	Mailed:		
Time:	Time:		
Date:	Date:		
By <sup>3</sup> :	By <sup>3</sup> :		

- 1. If the leased premises is an apartment, include the name of the apartments and the apartment number. This form may also be used for a mobile home park with less than 12 units. See Subsection C of Section 47-10-2 NMSA 1978.
- 2. If this notice is personally delivered to the resident, mailing or posting is not required. If posted, mailing by certified mail is also required by this form. A posted notice must be affixed to a door by taping all sides or placing it in a fixture or receptacle designed for notices. See Paragraph D of Section 47-8-13 NMSA 1978.

The party giving notice should retain two (2) copies for possible court action.

3. Set forth the name of the person delivering, posting or mailing the notice.

[Adopted, effective September 2, 1997; as amended, effective October 15, 1999.]

#### **ANNOTATIONS**

**The 1999 amendment,** effective October 15, 1999, conforms this form with the 1999 amendment of 47-8-3 NMSA 1978 by Laws 1999, ch. 99, § 1.

4-902. Seven-day notice of noncompliance with rental agreement (other than failure to pay rent) (Uniform Owner-Resident Relations Act).

[Sections 47-8-27.1, 47-8-33, 47-8-37 NMSA 1978]

SEVEN-DAY NOTICE OF NONCOMPLIANCE WITH RENTAL AGREEMENT (OTHER THAN FAILURE TO PAY RENT)<sup>1</sup> (Uniform Owner-Resident Relations Act)

То:	
Address:	, New Mexico
You are notified that you are not in agreement concerning the premise	compliance with the rental agreement or separate s at2:
	, New Mexico

in that on or about,	(date), the following
noncompliance occurred:	
(describe the noncompliance specifically and necessary.)	in detail. Attach additional pages if
[] <b>First notice.</b> If this noncompliance is not the date of delivery set out below, the rental against shall be required to vacate the premises. Regarderected, if a second material noncompliance separate agreement occurs within six (6) montagreement will be terminated.	greement shall be terminated and you ardless of whether this noncompliance is with the rental agreement or any
[] Second notice. You were given previo (date). Therefore you he twice or more within a six month period. As a reseven (7) days from the date of delivery set ou no later than (date). Fallegal action against you.	have been in material noncompliance result the rental agreement shall terminate at below. You must vacate the premises
Dated this,	·
(Owner)	(Agent) (Resident)
Service of notice	
[] personally delivered to resident [] posted [] mailed certified mail, return receipt requeste	ed
[] Delivered [] posted:	Mailed:
Time:	Time:
Date:	Date:
By <sup>3</sup> :	By <sup>3</sup> :

1. The party giving notice should retain two (2) copies for possible court action. If this form is used by the resident some modifications will be necessary.

- 2. If leased premises is an apartment, include the name of the apartments and the apartment number. This form may also be used for a mobile home park with less than 12 units. See Subsection C of Section 47-10-2 NMSA 1978.
  - 3. Include the name of the person delivering, posting or mailing the notice.

[As amended, effective September 2, 1997; April 6, 1998.]

#### **ANNOTATIONS**

**The 1998 amendment,** effective April 6, 1998, deleted "and mailed, return receipt requested" following "posted" in the service certification, deleted Use Note 3, renumbered Use Note 4 as Use Note 3 and substituted "Include" for "Set forth" in Use Note 3.

The 1997 amendment, effective September 2, 1997, inserted "or separate agreement" near the beginning, inserted the entry for when the noncompliance occurred, designated the exist language as "First Notice" and added the language at the end of the First Notice beginning "and you shall be", added the second notice, added "(Agent)" below the signature line, rewrote the certification of service, added the last sentence in Use Note 1, added Use Notes 2 through 4, and made stylistic changes throughout.

## 4-902A. Resident's seven-day notice of abatement or termination of rental agreement (*Uniform Owner-Resident Relations Act*).

[Sections 47-8-27.2 and 47-8-37 NMSA 1978]

т...

# RESIDENT'S SEVEN-DAY NOTICE OF ABATEMENT OR TERMINATION OF RENTAL AGREEMENT' (Uniform Owner-Resident Relations Act)

10.		
Address:	(include name and unit number if applicable), New Mexico	(zip code).
	otified that you have breached the rental agreement or Relations Act concerning the premises at:	the Uniform Owner-
	(include name and unit number in (z	f applicable) ip code),

Service of notice		
<ul><li>[ ] personally delivered to owner</li><li>[ ] posted and mailed</li><li>[ ] mailed</li><li>[ ] mailed certified mail</li></ul>		
[] Delivered [] posted:	Mailed:	
Time:	Time:	
Date: By <sup>2</sup> :	Date: By²:	
•		
USE NO	DTE	
1. The party giving notice should retain two	o (2) copies for possible court action.	
2. Include the name of the person delivering, posting or mailing the notice.		
[Approved, effective March 1, 2000; as amended by Supreme Court Order No. 08-8300-019, effective August 4, 2008.]		
ANNOTAT	TIONS	
<b>The 2008 amendment,</b> effective August 4, 200 for withholding of one-third of rent from monthly take reasonable steps to correct the landlord's	y rent to daily rent if the landlord does not	
4-903. Thirty-day notice to terminate Owner-Resident Relations Act).	rental agreement (Uniform	
[Sections 47-8-33, 47-8-37 NMSA 1978]		
THIRTY-DAY TO TERMINATE RENT (Uniform Owner-Resid	AL AGREEMENT	
То:		
Address:	, New Mexico	

You are notified that the undersigned terminates the rental agreement concerning the premises at<sup>2</sup>:

	, New Mexico
effective, (date to the owner on that date. Prepaid rent and date accordance with the Uniform Owner-Resident between the parties. Failure to vacate by this cagainst you.	mage deposit, if any, will be dealt with in Relations Act and any agreement late will result in a legal action being filed
Dated this day of,	·
(Owner) Service of notice	(Agent) (Resident)
<ul><li>[ ] personally delivered to resident</li><li>[ ] posted</li><li>[ ] mailed by certified mail, return receipt reque</li></ul>	ested
[] Delivered [] posted:	Mailed:
Time:	Time:
Date:	Date:
By <sup>3</sup> :	By <sup>3</sup> :

1. The party giving notice should retain two (2) copies for possible court action.

This form may also be used for a mobile home park with less than 12 units. See Subsection C of Section 47-10-2 NMSA 1978.

If the residency is week-to-week, strike the words "Thirty-Day" in the title to this form, and insert the words "One-Week".

If the residency is month-to-month, the thirty (30) day notice must be given at least thirty (30) days before the periodic rental date; for example, if the rent is due on the 1st, the notice must be given at least thirty (30) days before the 1st.

- 2. If the leased premises is an apartment, include the name of the apartments and the apartment number.
  - 3. Include the name of the person delivering, posting or mailing the notice.

[As amended, effective September 2, 1997; April 6, 1998.]

#### **ANNOTATIONS**

**The 1998 amendment,** effective April 6, 1998, deleted "and mailed certified mail, return receipt requested" following "posted" in the service certification, substituted "include" for "set forth" in Use Note 2, deleted Use Note 3, renumbered Use Note 4 as Use Note 3 and substituted "Include" for "Set forth" in Use Note 3.

**The 1997 amendment,** effective September 2, 1997, added "Failure to vacate by this date will result in a legal action being filed against you", inserted "(Agent)" below the signature line, rewrote the certification of service, added Use Notes 2 through 4, and made stylistic changes throughout.

### 4-904. Petition by owner for restitution.

[Castians 47 0 42 and 47 0 46 NIMCA 1070]

2.

[Sections 47-6-42 and 47-6-46 NIVISA 1976]		
STATE OF NEW MEXICO		
COUNTY OF		
COURT		
No		
, Plaintiff		
V.		
, Defendant		
PETITION BY OWNER FOR RESTITUTION		
(Uniform Owner-Resident Relations Act)		
The plaintiff alleges:		
1. Plaintiff is lawfully entitled to possession of the premises located at1:		
, New Mexico		

Defendant entered into possession of the premises under a rental agreement

and has breached the terms of the agreement, as follows:

		·	
3.	Plaiı	ntiff gave written notice of	
[] terr	minati	ion	
[] bre	ach c	of the rental agreement	
	to defendant on,, (date), and defendant has failed to remedy the breach.		
А сор	y of t	he written notice is attached as Exhibit A.	
(chec	k and	d complete if applicable)	
[]	4.	Defendant is indebted to plaintiff in the sum of \$ for unpaid rent, plus \$ rent per day to date of restitution, plus damages as determined by the court.	
[]	5.	Plaintiff holds \$ of defendant as a damage deposit under the rental agreement.	
[]	6.	Plaintiff requests separate trials on the issues of restitution and damages.	
Plaint	iff rec	quests judgment against defendant, as follows:	
1.	Imm	nediate possession of the premises;	
2. restitu		aid rent of \$, plus \$ per day to date of	
3.	Damages as may be determined by the court;		
4.	Costs of this action;		
5.	Reasonable attorneys fees;		
6.	A civil penalty as provided by law;		
7.	Suc	h other relief as the court may deem reasonable.	
Dated:			

Signed
Name ( <i>print</i> )
Address ( <i>print</i> )
City, state and zip code ( <i>print</i> )
Telephone number

- 1. If the leased premises is an apartment, include the name of the apartments and the apartment number.
- 2. The owner must bring a copy of any written rental agreement to court for the hearing on the petition for restitution.

[Former Rule 4-905 SCRA 1986; recompiled as Rule 4-904 and amended, effective September 2, 1997; April 6, 1998; as amended by Supreme Court Order No. 05-8300-005, effective March 21, 2005.]

#### **ANNOTATIONS**

**The 2005 amendment,** effective March 21, 2005, substituted "Exhibit A" for "Exhibit B" in Paragraph 3 of this form.

**The 1998 amendment,** effective April 6, 1998, in the allegations, deleted "A copy of the rental agreement is attached as Exhibit A." in Paragraph 2, substituted "include" for "set forth" in Use Note 1 and added Use Note 2.

The 1997 amendment, effective September 2, 1997, recompiled this form, which was formerly compiled as Rule 4-905 NMRA; in the allegations, substituted "has breached" for "is now in default under" and added "A copy of the rental agreement is attached as Exhibit A" in Paragraph 2, substituted "gave" for delivered" and added "termination" in Paragraph 3, substituted "damages as determined by the court" for a blank for specific amount for damage to the premises in Paragraph 4, and deleted former Paragraph 7 relating to demand for a jury trial; in the prayer for relief, substituted "damages as

determined by the court" for a blank for specific amount for damage to the premises in Paragraph 3, added Paragraphs 5 and 6, and redesignated former Paragraph 5 as paragraph 7; and made stylistic changes throughout.

**Recompilations.**— Former Rule 4-904 NMRA, relating to summons and notice of trial on petition for writ restitution, was recompiled as Rule 4-905 NMRA, effective September 2, 1997.

## 4-905. Summons and notice of trial on petition for writ of restitution (Uniform Owner-Resident Relations Act).

[Section 47-8-43 NMSA 1978] STATE OF NEW MEXICO \_\_\_\_\_COURT COUNTY No. \_\_\_\_ , Plaintiff \_\_\_\_\_, Defendant SUMMONS AND NOTICE OF TRIAL ON PETITION FOR WRIT OF RESTITUTION (Uniform Owner-Resident Relations Act) To: , defendant Address: \_\_\_\_\_, New Mexico **GREETINGS:** You are ordered to appear for trial before the Honorable \_\_\_\_\_, Judge, Div.\_\_\_\_, located at \_\_\_\_\_, New Mexico on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ (date), at the hour of \_\_\_\_\_.m. to show cause and present all evidence you may have why the plaintiff's petition for a writ of restitution for the property located at \_\_\_\_\_\_ should not be granted and why the plaintiff should not have judgment against you for any back rents or damages you caused to the property, in accordance with the petition filed by the plaintiff in this

action, a copy of which is attached.

Your failure to appear at the time and place specified above may result in the entry of judgment against you in accordance with the petition filed by the plaintiff in this action, a copy of which is attached.

You may file a written answer and assert any claims you may have prior to the trial.

#### FOR USE ONLY IN METROPOLITAN COURT CASES

[IF YOU WANT A TAPE RECORDING OF ANY PROCEEDING, YOU MUST REQUEST IT BEFORE THE BEGINNING OF THE PROCEEDING. IF YOU DO NOT ASK FOR A TAPE RECORDING, YOU WILL NOT HAVE A RECORD OF THE PROCEEDINGS TO TAKE TO THE DISTRICT COURT FOR ANY APPEAL.]

Dated:	
	Judge
Ву:	Clerk
THIS IS YOUR NOTICE OF TRIAL and will be the only notice that you will receive.	
	RETURN¹
STATE OF NEW MEXICO	) ) ss
COUNTY OF	)
lawsuit, and that I served this summ	he age of eighteen (18) years and not a party to this nons in county on the, (date), by delivering a copy of this
summons, a copy of the petition and (check and complete only if served I certify that I served this summons	d a copy of the answer form2 in the following manner:
summons, a copy of the petition and	d an answer form <sup>2</sup> in the following manner: check one of following boxes and fill in

[] by delivering a copy of this summons, a copy of the petition and an answer for to the defendant (used when defendant receives copy of	n
summons or refuses to receive summons).	
[] by delivering a copy of this summons, a copy of the petition and an answer for to, a person over fifteen (15) years of age and residing at the usual place of abode of defendant, located at	n
	ly
at the abode).	
by posting a copy of the summons, petition and an answer form in the most public part of the premises of defendant located at	
(address). (Used if no person found at dwelling house or usual place of abode.) (If service is by posting a copy of the summons, petit and an answer form must also be mailed to the person served. The person serving by posting and the person serving by mail must each sign a return. The person mailing must check and complete the certificate of mailing at the end of this summons.)	ion
[] by delivering a copy of this summons, a copy of the petition and an answer for to, an agent authorized to receive service of process for defendant.	n
[] by delivering a copy of this summons, a copy of the complaint and an answer form to, (parent) (guardian) (custodian) of defendant (used when defendant is a minor or an incompetent person).	
[] by delivering a copy of this summons, a copy of the petition and an answer for to	
[] by service by mail.	
Fees:	
Signature of person making service	
Title (if any)	
Subscribed and sworn to before me this day of,	
Judge, notary or other officer authorized to administer oaths <sup>3</sup>	

Official title	_
lawsuit, and that I served a copy of t	he age of eighteen (18) years and not a party to this his summons on the day of illing first class mail, postage prepaid, a copy of this
summons, a copy of the complaint, a	and an answer form to:
	(name of person served) (address where mailed) (county) (city, state and zip code)
	Signature of person making service
	Title (if any)
	Place of mailing
	Date
Subscribed and sworn to before me this day of	
Judge, notary or other officer authorized to administer oaths <sup>3</sup>	_
lawsuit, and that I served a copy of t	he age of eighteen (18) years and not a party to this his summons on the day of tilling first class mail, postage prepaid, a copy of this
summons, a copy of the complaint, a	an answer form and two copies of the notice and elope, postage prepaid, addressed to:
	(name of person served) (address where mailed) (county) (city, state and zip code)

Signature of person making service

	Title (if any)
	Place of mailing
	Date
Subscribed and sworn to before me his day of	,
Judge, notary or other officer authorized to administer oaths	_

- 1. A separate summons must be used for each defendant.
- 2. An answer form must be attached to the summons at the time of service. For answer forms, see Rule 4-907 NMRA.
- 3. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy need not be notarized.
  - 4. For use when service is by posting.

Official title<sup>3</sup>

5. If service is by mail, Civil Form 4-208 NMRA must be completed and mailed with this summons.

[Former Rule 4-904 SCRA 1986; recompiled as Rule 4-905 NMRA and amended, effective September 2, 1997.]

#### **ANNOTATIONS**

**The 1997 amendment,** effective September 2, 1997, recompiled this form, which was formerly compiled as Rule 4-904 NMRA, added the blanks for the name and address of the defendant, added the provisions relating to recording of the proceeding in metropolitan court cases, deleted the former certificate of service by sheriff and the affidavit of service by private citizen and added the return of service, added the use notes, and made stylistic changes throughout.

**Recompilations.**— Former Rule 4-905 NMRA, relating to petition by owner for restitution, was recompiled as Rule 4-904 NMRA, effective September 2, 1997.

## 4-906. Petition by resident for relief (*Uniform Owner-Resident Relations Act*).

[Sections 47-8-42, 47-8-43, 47-8-46]	NMSA 1978]
STATE OF NEW MEXICO	
IN THE	_ COURT
COUNTY	
No	
	, Plaintiff
V.	
	, Defendant
PETITION BY R	ESIDENT FOR POSSESSION
(Uniform Own	ner-Resident Relations Act)
The plaintiff alleges:	
, ,	ossession of the premises located at:
, New	Mexico
the defendant is now in default under	on of the premises under a rental agreement and rethe terms of such agreement by excluding plaintiffering with plaintiff's right to occupy the premises,

Defendant owes plaintiff damages as may be determined by the court.

3.

4. on	Plaintiff delivered written notice of breach of the rental agreement to defendant,, (date) and defendant has failed to remedy the breach.
(A co	by of the notice is attached as Exhibit A.)
5. agree	Defendant holds \$ of plaintiff's money under the rental ment.
6.	Plaintiff requests separate trials on the issues of restitution and damages.
Plaint	iff requests judgment against defendant, as follows:
1.	Immediate possession of the premises;
2.	Damages as may be determined by the court;
3.	Costs of this action;
4.	Reasonable attorneys fees;
5.	A civil penalty as provided by law;
6.	Such other relief as the court may deem reasonable.
Dated	<b>!</b> :
Signe	od .
Name	e (print)
Addre	ess ( <i>print</i> )
City, s	state and zip code ( <i>print</i> )
Telep	hone number

This petition may be only used for cases in which the resident is excluded from the dwelling unit or the landlord is interfering with the resident's right to occupy the premises. It should not be used when the resident primarily seeks monetary relief. This petition is to be scheduled for hearing within ten (10) days after it is filed.

[Rule 10-406 SCRA 1986; as amended, effective September 2, 1997; as amended by Supreme Court Order No. 05-8300-005, effective March 21, 2005.]

#### **ANNOTATIONS**

The 2005 amendment, effective March 21, 2005, revised Paragraph 2 of the allegations to substitute "Plaintiff is entitled to" for "Defendant let Plaintiff have", added to Paragraph 2 "by excluding plaintiff from the premises or otherwise interfering with plaintiff's right to occupy the premises, deleted the request paragraph designated "2.", redesignated the requests paragraphs numbered 3 to 7 as paragraphs 2 to 6, deleted "(check only if applicable)" preceding the request that the court award "a civil penalty as provided by law" and added the Use Note at the end of the form.

The 1997 amendment, effective September 2, 1997, in the allegations, substituted "damages as may be determined by the court" for a blank for specific amount in Paragraph 3, and deleted former Paragraph 7 relating to demand for jury trial; in the prayer for relief, substituted "damages as may be determined by the court" for a blank for specific amount in Paragraph 3, added Paragraphs 5 and 6, and redesignated former Paragraph 5 as Paragraph 7; and made stylistic changes throughout.

**Cross references.** — For rule governing computation of time for service of this form, see Rules 2-104 and 3-104 NMRA.

## 4-906A. Complaint by resident for return of deposit (Uniform Owner-Resident Relations Act).

[Sections 47-8-42, 47-8-43, 47-8-46 NMSA 1978]

STATE OF NEW MEXICO

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

\_\_\_\_\_ COUNTY

No. \_\_\_\_\_\_, Plaintiff

v.

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

### COMPLAINT BY RESIDENT FOR RETURN OF DEPOSIT<sup>1</sup>

## (Uniform Owner-Resident Relations Act)

The plaintiff alleges:

1.	Plaintiff entered into a rental agreement with Defendant for property located at
	, New Mexico
2. depos	As part of the rental agreement, plaintiff delivered to defendant one or more sits totaling \$
3. retain	Plaintiff vacated the above premises on (date), and defendant ed all of part of plaintiff's deposit.
4.	Defendant
(chec	ek one)
	mailed written notice to plaintiff of the amounts deduced from plaintiff's deposit a thirty (30) days after the date plaintiff vacated the premises or the date the rental ement terminated. A copy of the notice is attached as Exhibit A of this complaint.
	did not mail written notice to plaintiff of the amounts deducted from plaintiff's sit within thirty days of the date plaintiff vacated the premises or the date the rental ement terminated.
5.	Defendant kept the following amount of the deposit: \$
6.	Plaintiff is asking for the return of the following amount: \$
Plaint	tiff requests judgment against defendant, as follows:
1.	Damages as may be determined by the court;
2.	Costs of this action;
3.	Reasonable attornevs fees:

4. A civil penalty if provided by law <sup>2</sup> ;	
5. Such other relief as the court may deem rea	sonable.
Dated:	
Signed	
Name ( <i>print</i> )	
Address ( <i>print</i> )	
City, state and zip code ( <i>print</i> )	
Telephone number	
USE NOTE	
1. This form is used for cases in which the resi complaint for return of deposit is not required to be	
2. See Paragraph E of Section 47-8-18 NMSA	1978 for civil penalty.
[Approved by Supreme Court Order No. 05-8300-0	05, effective March 21, 2005.]
4-907. Answer to petition for restitution Relations Act).	(Uniform Owner-Resident
[Sections 47-8-37, 47-8-40 to 47-8-43, 47-8-46 NM	ISA 1978]
STATE OF NEW MEXICO	
COURT	No

		COUNTY	N. 1. 477
		,	Plaintiff
		, [	Defendant
	ANSWER TO PE	TITION FOR	RESTITUTION
	(Uniform Owne	er-Resident R	elations Act)
1.	Defendant should not have to va	acate the pren	nises because:
2. becau	The amount of rent claimed by tause:	he plaintiff in t	his action is not owed
3. plaint	The damages claimed by the platiff because:	aintiff in this a	ction are not owed to the
4. plaint	The defendant asserts the followntiff:	ving countercl	aim or setoff against the
5.	Defendant requests separate tri	als on the issu	ues of restitution and damages.
	Sig	ned	
Name (print)			
	Ado	dress (print)	······································
	City	y, state and zi	p code (print)
	Tel	ephone numb	er
_	e 4-907 SCRA 1986; as amended, tember 2, 1997.]	effective Aug	ust 1, 1992; January 1, 1993;

**ANNOTATIONS** 

**The 1997 amendment,** effective September 2, 1997, substituted "should not have to vacate the premises" for "is not in default" in Paragraph 1, rewrote Paragraph 5 to delete language relating to demand for jury trial, and made stylistic changes throughout.

**The 1993 amendment,** effective January 1, 1993, inserted "on the issue of damages" in Item 5.

#### 4-908. Withdrawn.

[] the defendant.

#### **ANNOTATIONS**

**Withdrawals.** — Pursuant to a court order dated June 16, 1997, Form 4-908 NMRA, relating to answer by owner to petition by resident, was withdrawn effective September 2, 1997. For provisions of former form, see the 1996 NMRA on *NMOneSource.com*. For present comparable provisions, see Rule 4-907 NMRA.

### 4-909. Judgment for restitution.

[For use in Metropolitan and District Courts Sections 47-8-33, 47-8-43, 47-8-46, 47-8-48 NMSA 1978]

STATE OF NEW MEXICO	
COURT	
COUNTY	
, F	Plaintiff,
v. No	
, [	Defendant.
JUDGMENT I	FOR RESTITUTION
(Uniform Owner-F	Resident Relations Act)¹
appeared (in person) (and) (by attorney_	, (date). The plaintiff). The defendant (did not attorney). Having heard se court finds in favor of:
[] the plaintiff.	

## IT IS THEREFORE ORDERED: 1. The premises at: \_\_\_\_\_, New Mexico be restored to (plaintiff) (defendant); 2. The rental agreement (is) (is not) terminated; (check, if applicable, and complete) [] Plaintiff shall recover from defendant the following amounts: Rents Damages Attorney's fees Costs \$ TOTAL (check, if applicable, and complete) A writ of restitution be issued effective \_\_\_\_\_\_, \_\_\_\_\_\_ (date).3 (check, if applicable, and complete) The court further orders \_\_\_\_\_ (other relief). [] (check, if applicable, and complete) [] A hearing on the issue of damages will be held by this court on \_\_\_\_\_, \_\_\_\_ (date) at \_\_\_\_ (a.m.) (p.m.).² 3. If this case is appealed, the (plaintiff) (defendant) shall

#### **USE NOTE**

Judge⁴

- 1. This form may also be used for a mobile home park with less than 12 units. See Subsection C of Section 47-10-2 NMSA 1978.
  - 2. Use Civil Form 4-701 if damages are determined at a separate hearing.

Dated: \_\_\_\_\_

- 3. Insert a date which is not less than three (3) nor more than seven (7) days from the date of filing of the judgment.
- 4. Section 47-8-47 provides for a stay of execution upon appeal. If the defendant appeals a writ of restitution, the court shall require an escrow to be paid into the court within five (5) days after the notice of appeal is filed to stay the execution. If a money judgment is appealed the court may require a deposit with the court or a supersedeas bond be filed. See Section 47-8-47 NMSA 1978 for appeals by the plaintiff.

[Rule 4-909 SCRA 1986; as amended, effective September 2, 1997; January 1, 1999; as amended by Supreme Court Order No. 16-8300-033, effective for all cases pending or filed on or after December 31, 2016.]

#### **ANNOTATIONS**

**The 2016 amendment,** approved by Supreme Court Order No. 16-8300-033, effective December 31, 2016, at the beginning of the form, added "For use in Metropolitan and District Courts".

**The 1998 amendment,** effective January 1, 1999, substituted "This matter was set" for "This matter came on" near the beginning and in Item 2 of the Order substituted "agreement (is) (is not) terminated" for "agreement is terminated" near the beginning and inserted the footnote 3 designation at the end.

**The 1997 amendment,** effective September 2, 1997, added "for restitution" in the heading, deleted "and against the plaintiff" following "court finds in favor of the plaintiff" and added the alternative for finding for the defendant, added "[defendant]" in Paragraph 1 of the order, substituted "terminated" for "forfeited" in Paragraph 2, added Paragraphs 5, 6, and 7, and added the use notes.

. Defendant.

### 4-909A. Judgment for restitution.

[For use in Magistrate Court Sections 47-8-33, 47-8-43, 47-8-46, 47-8-48 NMSA 1978]
STATE OF NEW MEXICO
COURT
COUNTY
, Plaintiff,
v. No

## JUDGMENT FOR RESTITUTION (Uniform Owner-Resident Relations Act)<sup>1</sup>

appea appea	nis matter was set for trial on,, ared (in person) (and) (by attorney).  ar) (appeared) (in person) (and) (by attorney)  vidence and argument presented, the court finds in favor of	The defendant ( <i>did not</i> ). Having heard
[ ] the	plaintiff.	
[] the	defendant.	
IT IS	THEREFORE ORDERED:	
1.	The premises at:	New Mexico he
restor	red to (plaintiff) (defendant);	, INEW INICAICO DE
2.	The rental agreement (is) (is not) terminated;	
(chec	k, if applicable, and complete)	
[]	Plaintiff shall recover from defendant the following amoun	ts:
	Rents \$ Damages \$ Attorneys' fees \$ Costs \$ TOTAL \$² Plus % interest per year until the judgment is paid	.3
(chec	k, if applicable, and complete)	
[ ] ( <i>date</i> )	A writ of restitution be issued effective,	
(chec	k, if applicable, and complete)	
[] relief)	The court further orders	(other
3. for se	A hearing on the issue of damages shall be held by this catting.2	ourt only upon request

4. If this case is appealed and the resident wants to stay the eviction pending appeal, the resident shall pay rent in the manner set forth in Section 47-8-47 NMRA. If

\$ (if I	left blank, the appeal bond is set at zero dollars (\$0)).
	Judge
	CERTIFICATE OF SERVICE
I certify that a copy of the	e foregoing was served on all parties and counsel on:
	Signature
	Title

the money judgment is appealed, the court sets the appeal hond at

- USE NOTE
- 1. This form may also be used for a mobile home park with less than 12 units. See NMSA 1978, § 47-10-2(C).
  - 2. Use Form 4-701 NMRA if damages are determined at a separate hearing.
- 3. Interest is calculated at the statutory rate set forth in NMSA 1978, Section 56-8-4(A), unless the judgment is rendered on a lease having a different rate of interest.
- 4. Insert a date which is not less than three (3) nor more than seven (7) days from the date of filing of the judgment.

[Adopted by Supreme Court Order No. 16-8300-033, effective for all cases pending or filed on or after December 31, 2016.]

#### 4-910. Withdrawn.

#### **ANNOTATIONS**

**Withdrawals.** — Pursuant to a court order dated June 16, 1997, Form 4-910 NMRA, relating to judgment for damages on default, was withdrawn effective September 2, 1997. For provisions of former form, see the 1996 NMRA on *NMOneSource.com*. For present comparable provisions, see Rule 4-703 NMRA.

#### 4-911. Withdrawn.

#### **ANNOTATIONS**

**Withdrawals.** — Pursuant to a court order dated June 16, 1997, Form 4-911 NMRA, relating to judgment for damages on appearance by the parties, was withdrawn effective September 2, 1997. For provisions of former form, see the 1996 NMRA on *NMOneSource.com*. For present comparable provisions, see Rule 4-701 NMRA.

#### 4-912. Withdrawn.

#### **ANNOTATIONS**

**Withdrawals.** — Pursuant to a court order dated June 16, 1997, Form 4-912, relating to judgment for restitution reserving question of damages, was withdrawn effective September 2, 1997. For provisions of former form, see the 1996 NMRA on *NMOneSource.com*. For present comparable provisions, see Rule 4-909 NMRA.

## 4-913. Writ of restitution (Restitution to owner) (Uniform Owner-Resident Relations Act).

[Section 47-8-46 NMSA 1978]

STATE OF NEW MEXICO		
	COURT COUNTY	
	, Plaintiff	
V.	No	
	, Defendant	
(Uniforn	WRIT OF RESTITUTION (Restitution to owner) n Owner-Resident Relations Act)	
THE STATE OF NEW MEXICO above county:	O to the sheriff or a full-time salaried deputy s	heriff of the
remove the defendant(s) from the	ered for the plaintiff(s) in this action, you are o the premises at and to plaintiff(s) on or after (	restore
You are ordered to return th	nis writ to this court immediately after its exec	ution.

## Judge or Designee

### **RETURN ON WRIT OF RESTITUTION**

I certify that I carried out this writ of restituti premises and restoring possession of the p, (date).	
Date of return:	
	Sheriff of County, State of New Mexico  By Sheriff or deputy sheriff
	Sheriff or deputy sheriff
[Rule 4-913 SCRA 1986; as amended, effe amended by Supreme Court Order No. 13-filed on or after December 31, 2013.]	ctive September 2, 1997; April 6, 1998; as 8300-027, effective for all cases pending or
ANNO	TATIONS
The 2013 amendment, approved by Supre December 31, 2013, made stylistic changes date line next to the signature line for the ju	
<b>The 1998 amendment,</b> effective April 6, 19 language of the restitution to owner, and de	
The 1997 amendment, effective September from the heading, inserted "(Restitution to collanguage directing the sheriff to execute the "restitution" in the return heading and delete execution, added Use Note 1 and designate made stylistic changes throughout.	owner)" following the heading, deleted ewrit, deleted "and execution" following
4-913A. Order setting escrow dep Resident Relations Act).	osit/appeal bond (Uniform Owner-
[Section 47-8-47 NMSA 1978]	
STATE OF NEW MEXICO	
COUR	Г
COLINI	rv

, Plaintiff,	
V.	No
, Defendant	<b>i.</b>
ORDER SETTING ESCROW DEP (Uniform Owner-Resident	
THIS MATTER having come before the Court a and the Court being otherwise fully advised in the part of the court being otherwise fully advised in the part of the court being otherwise fully advised in the part of the court being otherwise fully advised in the part of the court being otherwise fully advised in the part of the court being otherwise fully advised in the part of the court being otherwise fully advised in the part of the court being otherwise fully advised in the part of the court being otherwise fully advised in the part of the court being otherwise fully advised in the part of the court being otherwise fully advised in the part of the court being otherwise fully advised in the part of the court being otherwise fully advised in the part of the court being otherwise fully advised in the part of the court being otherwise fully advised in the part of the court being otherwise fully advised in the part of the court being otherwise fully advised in the part of the court being otherwise fully advised in the part of the court being otherwise fully advised in the part of the court being otherwise fully advised in the court being otherwise fully advised in the court of the court being otherwise fully advised in the court being of the court being of the court of the court being of the court of the court being of the court of the cour	
[] IT IS ORDERED that if the case is appealed tenant(s)/resident(s), wishes to stay eviction from the filing the Notice of Appeal with the District Court, the cashier's check \$ (representing an amount shall come due following the Judgment through the filled to make the following the Judgment through the filled to make the following the Judgment through the filled the following the filled through through the filled through through the filled through throu	the property, within five (5) days of the Appellant(s) must pay in cash or punt equal to the rental amount that the end of the rental period from deposit that amount into an escrowion, the Appellant shall continue to blished in the rental agreement) to the offessional escrow agent on the ontinuing until the Appeal is decided
[] IT IS ORDERED that if the case is appealed tenant(s)/resident(s), wishes to stay collection of th (such as late fees, damages, etc.) due under the J with the Court an Appeal Bond in the amount of \$_ described amounts).	ne monetary amounts other than rent udgment, the Appellant(s) shall file
IT IS FURTHER ORDERED that the parties are Section 47-8-47 NMSA 1978, a copy of which is at of the Appeal or except as otherwise ordered by the	tached hereto, during the pendency
NOTICE: IT IS THE RESPONSIBILITY OF THE DENSURE THAT THE COURT IS NOTIFIED IN WEDEPOSITED WITH AN ESCROW AGENT OR THALLOWED BY LAW. FAILURE TO GIVE THE COURTS OF THE DEPOSIT MAY RESULT IN A WRESING ISSUED BY THE COURT.	RITING THAT MONEY HAS BEEN E PLAINTIFF WITHIN THE TIME DURT NOTICE WITHIN FIVE (5)
I certify that a copy of the foregoing Order was mailed/hand delivered to	Judge
on	

Clerk	
US	SE NOTE
promptly file a copy of the Notice of Appe	rith the District Court, the Appellant must eal that has been endorsed by the Clerk of the opolitan Court, together with a copy of the
[Adopted by Supreme Court Order No. 18 filed on or after December 31, 2013.]	3-8300-027, effective for all cases pending or
4-914. Writ of restitution (Restit Resident Relations Act).	tution to resident) (Uniform Owner-
[Section 47-8-46 NMSA 1978]	
	OURT OUNTY
	No
	, Plaintiff, resident
V.	, Defendant, owner
(Uniform Owner-	RESTITUTION Resident Relations Act) tion to resident)
THE STATE OF NEW MEXICO to the shabove county:	neriff or a full-time salaried deputy sheriff of the
	e plaintiff, resident, in this action, you are to on the
You are to ordered to return this writ t (date).	to the court by,
Date:	Judge

### **RETURN ON WRIT OF RESTITUTION**

	this writ of restitution by rest	
premises to	on the (a m ) (p m )	day of,
(date) at	(a) (p)	
Date of return:		
	Sheriff of	
	County, State of N	lew Mexico
	By	.h.a.wiff
	Sheriff or deputy s	snem
(The sheri	ff is obligated by law to make	e timely return.)
[As amended, effective Sep	tember 2, 1997.]	
	ANNOTATIONS	
following the heading, and r		ded "(Restitution to resident)" guage relating to removing the throughout.
4-915. Petition for pos	st-judgment writ of rep	olevin.
[Sections 35-11-1 to 35-11-3	3 NMSA 1978]	
STATE OF NEW MEXICO		
IN THE	COURT	No
	COUNTY	
	, Plair	tiff
against	, Defe	ndant
PETITION F	OR POST-JUDGMENT WRI	T OF REPLEVIN
Comes now the Plaintiff, per	titioner herein, and alleges:	
	ent against the Defendant in, with a present value g \$, the term	including post-judgment costs
right to recover following pe	rsonal property	

(attach exhibit if necessary) 2. Plaintiff believes that the property may be found at which is within the jurisdiction of this court; 3. This court has jurisdiction to issue a writ of replevin returning to Plaintiff the property described; 4. The specific facts upon which a writ of replevin is requested are that Plaintiff holds a valid, unsatisfied judgment against Defendant, declaring that property formerly in the possession of Plaintiff has been wrongfully taken or retained by Defendant and Defendant refuses to return it to Plaintiff or pay the judgment amount; WHEREFORE Plaintiff prays for an order of this court requiring the sheriff of county to take possession of the property and return it to the Plaintiff. Signed Name (print) Address (print) City, State and Zip Code (print) Telephone number Dated: [Approved, effective January 1, 1993.] 4-916. Post-judgment writ of replevin. [For use with Rules 2-202 and 3-202 NMRA]

STATE OF NEW MEXICO

IN THE \_\_\_\_\_COURT

\_\_\_\_\_ COUNTY

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

against	, Defendant
POST-JUI	DGMENT WRIT OF REPLEVIN
a Writ of Replevin ordering the sh	efore the court on the petition of the Plaintiff herein for eriff of County to seize; and the Court finding that the petition is well taken
to seize and to return to the Plaint	if of County is hereby ordered tiff the property described in the Petition (Exhibit "A") be found within the State of New Mexico.
	Judge
RETUR	RN OF WRIT OF REPLEVIN
I certify that I served this Writ of R	Replevin as follows:
No personal property listed	l in the writ was found.
	fied in the Writ was recovered on , and returned to the Plaintiff. A written inventory is
Date of return:	
STATE OF NEW MEXICO  COUNTY OF	Sheriff ) ) ss.
<del></del> -	re me this day of, _, personally known to me.
Notary Public or Other Officer Aut	horized to Take Oaths
My commission expires:	
[Approved, effective January 1, 19	993.]

## 4-921. Three-day notice of nonpayment of rent (Mobile Home Park Act).

[Sections 47-10-3 and 47-10-6 NMSA 1978]

# THREE-DAY NOTICE OF NONPAYMENT OF RENT<sup>1</sup> (Mobile Home Park Act)

To:	
Address:	, New Mexico
You are notified that you have faile separate agreement for a mobile ho County, New Mexico at:	d to pay rent as required by the agreement or ome located in
	(name of mobile home park) (mobile home address) (mobile home lot or space), New Mexico
The amount of rent and utilities owe	ed is as follows:
Rent:	\$
Late fee:	\$
Utilities:	\$
Other ( <i>explain</i> )	\$
Total due:	\$
If the total shown above is not paid below, the rental agreement is term Payment will be accepted only by:	within three (3) days from the date of delivery set or inated.
[] cash	[] money order
[] cashiers or certified check	[] personal check
Dated this day of	,
	(owner, manager or agent)

Service of not		
	delivered to resident	(data) and mailed sortified mail
return receipt		(date) and mailed certified mail,
rotani roco.pt	- oquootou	
[] Delivered [	] posted:	Mailed:
Time:		Time:
Date:		Date:
By <sup>3</sup> :		By <sup>3</sup> :
		USE NOTE
1. The pa	rty giving notice should	retain two (2) copies for possible court action.
served by deli main entrance return receipt posting is not	vering the notice to the of the mobile home an requested. If this notice	provides that service of a notice to quit shall be tenant personally or by posting the notice at the ad sending a copy to the tenant by certified mail, a is personally delivered to the resident, mailing or osting must be included on the posted notice and ne tenant.
3. Set fort	h the name of the perso	on delivering, posting or mailing the notice.
[Adopted, effe	ctive September 2, 199	7.]
	A	NNOTATIONS
•		21 NMRA, relating to notice of judgment, was ective September 2, 1997.
4-922. [Thii <i>Park Act)</i> .	ty-day notice] [six	cty-day notice] to quit (Mobile Home
[Section 47-10	)-3 NMSA 1978]	
	-	OTICE] [SIXTY-DAY NOTICE]¹ TO QUIT² ile Home Park Act)
То:		
Address:	County	, New Mexico

You are notified that the undersigned term home located inC	ersigned terminates the rental agreement for a mobile County, New Mexico at:	
	(mobile home address)	
effective, (date). You are to remove your mobile home from the premises by,  1. This notice of termination is given for the following reasons <sup>3</sup> :		
Failure to vacate by this date will result in Dated this day of		
(ow	ner, manager or agent)	
Service of notice⁴:		
[] personally delivered to resident		
[] posted on the mobile home on return receipt requested	(date) and mailed certified mail,	
[ ] Delivered [ ] posted: Time:  Date:  By <sup>5</sup> :	Mailed: Time: Date: By <sup>5</sup> :	

#### **USE NOTE**

- 1. See Section 47-10-3 NMSA 1978. The tenant must be given a period of not less than thirty days from the end of the rental period during which the termination notice was served to remove any mobile home from the premises. If the mobile home is a multisection mobile home and the tenant is the owner of the mobile home, the tenant must be given sixty (60) days from the end of the rental period to move the mobile home from the premises. However, if the multisection mobile home is being leased to or occupied by a person other than its owner a thirty-day notice is all that is required.
  - 2. Use Civil Form 4-921 NMRA if termination is for non-payment of rent.

- 3. Set forth the reason for termination of the tenancy and the date, place and circumstances of any acts allegedly justifying the termination. See Section 47-10-5 NMSA 1978 for the reasons a mobile home park tenancy may be terminated.
- 4. Section 47-10-3 NMSA 1978 provides that service of a notice to quit shall be served by delivering the notice to the tenant personally or by posting the notice at the main entrance of the mobile home and sending a copy to the tenant by certified mail, return receipt requested. If this notice is personally delivered to the resident, mailing or posting is not required. The date of posting must be included on the posted notice and on the copy mailed to the mobile home tenant.
- 5. Set forth the name of the person delivering, posting or mailing the notice. The party giving notice should retain two (2) copies for possible court action.

[Adopted, effective September 2, 1997.]

#### **ANNOTATIONS**

**Recompilations.**— Former Rule 4-922 NMRA, relating to judgment, was recompiled as Rule 4-927 NMRA, effective September 2, 1997.

# 4-923. Petition by landlord for termination of tenancy and judgment of possession (Mobile Home Park Act).

[Sections 47-8-35, 47-10-4 to 47-10-6 and 47-10-9 NMSA 1978]

STATE OF NEW MEXICO	COURT COUNTY	
		No
	, Plainti	ff
V.	, Defen	dant

PETITION BY LANDLORD FOR TERMINATION OF TENANCY AND JUDGMENT OF POSSESSION (Mobile Home Park Act)

The plaintiff alleges:

1. Plaintiff is lawfully entitled to possession of the premises located at1:

			, New Mexico
2. and		efendant entered into possession of the preached the terms of the agreement as	·
A cc	py of	the rental agreement is attached as Ex	hibit A.
•	nere i	ne mobile home (is) (is not) subject to the sa first lien, complete the following.) older is and the	·
4.	Pla	aintiff gave written:	
[] owe		tice of non-payment of rent and the defe	endant has failed to pay all amounts
		nirty) (sixty) <sup>3</sup> day notice to quit on t has failed to vacate the premises.	, ( <i>date</i> ), and
		the written notice is attached as Exhibind complete if applicable)	t B.
[]	5.	The amount of rent and utilities owed i	s as follows:
		Unpaid rent	\$
		Rent per day until the mobile home	
		is moved from the premises	\$
		Late fee	\$
		Utilities	\$
		Other (explain)	\$
		Total due:	\$
[]	6.	Plaintiff holds \$ deposit under the rental agreement.	
[]	7.	Plaintiff requests separate trials on the damages.	issues of termination and

Plaintiff requests judgment against defendant, as follows:

1. Immediate [removal of the mobile home from the premises] [possession of the above described premises];

2. restitu	Unpaid rent of \$ ution;	pius \$	_ per day to date of
3.	Damages as may be determ	ined by the court;	
4.	Costs of this action;		
5.	Reasonable attorney fees;		
6.	Such other relief as the cour	t may deem reasonable.	
Dated	l:		
		Signed	
		Name (print)	
		Address (print)	
		City, state and zip code (prin	nt)
		Telephone number	

## **USE NOTE**

- 1. Section 47-10-4 NMSA 1978 provides that the property description is deemed legally sufficient if it states the name of the landlord or of the mobile home park, the mailing address of the property, the location or space number upon which the mobile home is situated and the county in which the mobile home is situated.
- 2. The reasons for termination are set forth in Sections 47-10-5 and 47-10-6 NMSA 1978. One of these reasons must be described for termination.
- 3. Sixty days notice is required if the mobile home is a multisection mobile home. See Subsection C of Section 47-10-4 NMSA 1978.

[Adopted, effective September 2, 1997.]

# 4-924. Summons and notice of trial on petition for termination of tenancy (Mobile Home Park Act).

[Sections 47-10-4 and 47-8-43 NMSA 1978]

STATE OF NEW	MEXICO			
		COURT		
		0001111		
				No
			_, Plaintiff	
V.			_, Defendant	
	PETITION FOR	SUMMONS NOTICE OF T R TERMINATION Sobile Home Pa	RIAL ON ON OF TENAN	ICY
To:	, defendant			
Address:				, New Mexico
				rental agreement or County, New
			_ (mobile home _ (mobile home	e address)
	ed to appear for tr , Jud , Nev	ge, Div v Mexico on th	, located at e da	y of,
have why the tena	ancy should not be	e terminated.1	·	nt all evidence you may

Your failure to appear at the time and place specified above may result in the entry of judgment against you in accordance with the petition filed by the plaintiff in this action, a copy of which is attached.

You may file a written answer and assert any claims you may have prior to the trial.

# FOR USE ONLY IN METROPOLITAN COURT CASES

[IF YOU WANT A TAPE RECORDING OF ANY PROCEEDING, YOU MUST REQUEST IT BEFORE THE BEGINNING OF THE PROCEEDING. IF YOU DO NOT

# ASK FOR A TAPE RECORDING, YOU WILL NOT HAVE A RECORD OF THE PROCEEDINGS TO TAKE TO THE DISTRICT COURT FOR ANY APPEAL.]

Dat	ted:	
		Judge
		By:
		Clerk
and	IS IS YOUR NOTICE OF TRIAL d will be the only notice at you will receive.	
		RETURN <sup>2</sup>
STA	ATE OF NEW MEXICO	)
		) ss
CO	DUNTY OF	)
sum (che I ce day peti (pei blai	vsuit, and that I served this summ day of, mmons, a copy of the petition and neck and complete only if service ertify that I served this summons y of, (date), by eition and an answer form in the formson serving summons must che enks)	in county on the delivering a copy of the summons, a copy of the ollowing manner: eck one of following boxes and fill in appropriate
to th		ummons, a copy of the petition and an answer form (used when defendant receives copy of nmons).
to	.a	ummons, a copy of the petition and an answer form person over fifteen (15) years of age and residing a
the	usual place of abode of defenda	ant, located at, located at, address) (used when defendant is not presently
at ti	the abode).	(address) (used when detendant is not presently
[] pub		mons, petition and an answer form in the most dant located at

	(address). (used if no person found at
sumn perso perso	ing house or usual place of abode.) (If service is by posting a copy of the nons, petition and an answer form must also be mailed to the person served. The on serving by posting and the person serving by mail must each sign a return. The on mailing must check and complete the certificate of mailing at the end of this nons.)
[] to defen	, an agent authorized to receive service of process for
acicii	ddift.
	by delivering a copy of this summons, a copy of the complaint and an answer to, (parent) (guardian) (custodian) of defendant I when defendant is a minor or an incompetent person).
to	by delivering a copy of this summons, a copy of the petition and an answer form
of per	rson authorized to receive service) (used when defendant is a corporation or an ciation subject to a suit under a common name, a land grant board of trustees, the of New Mexico or any political subdivision).
[]	by service by mail.
Fees:	
	Signature of person making service
	Title (if any)
	cribed and sworn to e me this f,
_	e, notary or other officer rized to administer oaths³
Ì, beir lawsu	al title e completed if service is made by posting) <sup>5</sup> ng sworn, state that I am over the age of eighteen (18) years and not a party to this lit, and that I served a copy of this summons on the day of,, by mailing first class mail, postage prepaid, a copy of this nons, a copy of the complaint, and an answer form to:
2	, a. 22py 3 22p.a, a a a a
	(name of person served)

	(county) (city, state and zip code)
	Signature of person making service
	Title (if any)
	Place of mailing
	Date
lawsuit, and that I served a copy of t	by mail.)6 he age of eighteen (18) years and not a party to this his summons on the day of hilling first class mail, postage prepaid, a copy of this an answer form and two copies of the notice and elope, postage prepaid, addressed to: (name of person served) (address where mailed)
	(county) (city, state and zip code)
	Signature of person making service
	Title (if any)
	Place of mailing
	Date
Subscribed and sworn to before me this day of	

·		
Judge, notary or other officer authorized to administer oaths	-	
Official title <sup>3</sup>	-	
	USE NOTE	
1. The trial setting must be not lesservice of this summons. See Section		an ten (10) days after
2. A separate summons must be	used for each defendant.	
3. If service is made by the sherif signature of the sheriff or deputy need		Mexico county, the
4. An answer form must be attack Rule 4-925 NMRA for answer to petition		e of service. See
5. For use when service is by post by posting under the Mobile Home Pa addition to posting.	· ·	
6. If service is by mail, Civil Form this summons.	4-208 NMRA must be comple	ted and mailed with
[Adopted, effective September 2, 199	7.]	
4-925. Answer to petition for <i>Park Act)</i> .	termination of tenacy (I	Mobile Home
[Sections 47-8-30, 47-8-41 to 47-8-43	3, 47-8-46 NMSA 1978]	
STATE OF NEW MEXICO	_ COURT _ COUNTY	
		No
	Plaintiff	

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

٧.

# ANSWER TO PETITION FOR TERMINATION OF TENANCY (Mobile Home Park Act)

1.	Defendant is not in default because:
2.	The amount of rent that the plaintiff states is owed is not correct because:
3.	The damages claimed by the plaintiff are not owed to the plaintiff because:
4.	The defendant asserts the following counterclaim or setoff against the plaintiff:
(chec	( if applicable)
5. [][	efendant requests separate trials on the issues of restitution and damages.
	Signed
	Name (print)
	Address (print)
	City, state and zip code (print)
	Telephone number
[Adop	red, effective September 2, 1997.]
4-92	6. Judgment for possession (Mobile Home Park Act).
[Section	ons 47-10-9, 47-8-40 and 47-8-41 NMSA 1978]
STAT	E OF NEW MEXICO
	COURT No
	COLINTY

	, Plaintiff
V.	
	, Defendant
JUDGMENT FOI (Mobile Hom	
This matter came on for trial on plaintiff appeared (in person) (and) (by attorn (did not appear) (appeared) (in person) (and Having heard the evidence and argument processing	ney). The defendant I) (by attorney).
[] the plaintiff	
[] the defendant.	
The court further finds that the mobile home:	:
[] is subject to the security interest of a first	lienholder².
[] is not subject to the security interest of a f	irst lienholder.
IT IS THEREFORE ORDERED:	
The premises located in     County, New Mexico	
	(name of mobile home park) (mobile home address) (mobile home lot or space), New Mexico
be restored to plaintiff;	, .ven mexico
2. The rental agreement is terminated;	
3. <i>(complete applicable)</i> Plaintiff shall recover from defendant the following	owing amounts:
Rents	\$
Damages	\$
Attorney fees	\$
Costs	\$
TOTAL	\$

[A he	aring on the issue of damages will be held by this court on at (a.m.) (p.m.)] <sup>3</sup>
4.	A writ of restitution be issued effective, (date)
(The	following paragraph is used
if their	re is a security interest of
a first	t lienholder on the mobile home)
	The plaintiff will promptly serve notice of this judgment on the first lienholder in dance with civil form 4-928. The cost of removal by the first lienholder shall be by the first lienholder.] <sup>4</sup>
[6.	If this case is appealed the <i>(plaintiff) (defendant)</i> shall] <sup>5</sup>
Date:	Judge

#### **USE NOTE**

- 1. Section 47-10-9 NMSA 1978 provides that not less than 48 hours after entry of a notice of judgment (Civil Form 4-926 NMRA) and upon execution of a writ of restitution (Civil Form 4-929) the sheriff will oversee the removal of a mobile home.
- 2. Section 47-10-9 NMSA 1978 provides that prior to issuance of the writ of restitution the court shall make a finding of fact that the mobile home is or is not subject to the security interest of a first lienholder. In those cases where the court finds there is a security agreement on the mobile home, the landlord must give written notice to the first lienholder. See Civil Form 4-928 NMRA for notice to lienholder of mobile home judgment.
  - 3. Use Civil Form 4-701 NMRA if damages are determined at a separate hearing.
- 4. Use this paragraph only if the court finds that the mobile home is subject to a first lien. Notice shall be substantially in the form approved by the Supreme Court. See Civil Form 4-928 NMRA.
- 5. Section 47-8-47 NMSA 1978 of the Owner-Resident Relations Act provides for a stay of execution upon appeal. If the defendant appeals a writ of restitution, the court shall require an escrow to be paid into the court within five (5) days after the notice of appeal is filed to stay the execution. If a money judgment is appealed the court may require a deposit with the court or a supersedeas bond be filed. See Section 47-8-47 NMSA 1978 for appeals by the plaintiff.

[Former Rule 4-921 SCRA 1986; adopted, effective November 1, 1995; recompiled as Rule 4-926 NMRA and amended, effective September 2, 1997; as amended, effective January 1, 1999.]

#### **ANNOTATIONS**

**The 1998 amendment,** effective January 1, 1999, substituted "security interest" for "security agreement" at the second instance of the term and rewrote the first sentence in Item 5 of the Order, which read: "The plaintiff will promptly serve notice on the first lienholder that the first lienholder may pay the rent and charges due in accordance with the defendant's lease within thirty (30) days of receipt of the notice or, upon payment of the rent and charges owed, remove the mobile home".

**The 1997 amendment,** effective September 2, 1997, recompiled this form, which was formerly compiled as Rule 4-921 NMRA, and rewrote the form.

# 4-927. Notice of judgment (Mobile Home Park Act).

[Section 47-10-9 NMSA 1978]

2.

STATE OF NEW MEXICO	COURT COUNTY
	No
	, Plaintiff
V. 	, Defendant
	OTICE OF JUDGMENT Tobile Home Park Act)
To:	(mobile home owner)
You are notified that:	
effectivesheriff will serve a writ of restitution	red against you and a writ of restitution will be issued (date). Without additional notice to you, the n on or after 8:00 a.m. on other.

You are to prepare the mobile home for removal from the premises by removing

the skirting, disconnecting utilities, attaching tires and otherwise making the mobile

home safe and ready for highway travel. Your mobile home should be removed or ready for removal by the date and time specified in paragraph one of this notice.

- 3. If your mobile home is not removed from the landlord's land by the date and time specified in paragraph 1 of this notice, the landlord and sheriff shall have the right to take possession of your mobile home for purposes of removal and storage. If you have a property interest in the mobile home it is your responsibility to prevent weather damage to the mobile home.
- 4. You may be held responsible for utility charges, rents and reasonable removal and storage charges. Those charges constitute a lien on your mobile home. Any person who claims the mobile home will owe that sum to the person who paid it.

as
as
me
, , , , , , , , , , , , , , , , , , ,

NOTICE TO LIENHOLDER
OF MOBILE HOME JUDGMENT
(Mobile Home Park Act)

To:	(lienholder or other security
interest)	
You are notified that:	
A judgment has been entered against _	(name of
defendant) and a writ of restitution will be issue	ed effective (date)
to remove the mobile home from the premises	located in County
New Mexico at:	
	(name of mobile home nork)
	(name of mobile home park) (mobile home address)
	(mobile home lot or space)
Without additional notice to you, the sheriff will a.m. on (date) for the re (date)¹.	serve a writ of restitution on or after 8:00 emoval of the mobile home on or before
<ol> <li>You have thirty (30) days from the date and charges permitted by law and to advise th pay the rent and other charges under the term</li> <li>If you want to remove the mobile home removal, you may do so by paying the landlord provided by law. The amount of rent, utility charges (date) is as follows:</li> </ol>	e landlord in writing whether you intend to s of the rental agreement. at your expense before the date set for d all rent, utility and other removal costs
Rent:	\$
Utilities:	\$
Removal and storage charges	\$
Other	•
(explain)	\$
Total due:	\$
Daily rent	\$
4. The tenant is required to pay rent on	(day of month).
5. A copy of the lease and the landlord's re Exhibits A and B.	ules and regulations are attached as

6. This notice does not relieve you of complying with other applicable provisions of law relating to the repossession of the mobile home.

Date:	Judge
	RETURN <sup>2</sup>
STATE OF NEW MEXICO	)
COUNTY OF	) ss )
lawsuit, and that I served this day of	outy) <sup>3</sup> over the age of eighteen (18) years and not a party to this summons in, (date), by delivering a copy of this
summons and a copy of the r following manner: (check and complete only i I certify that I served this sum	otice of judgment with Exhibits A and B attached in the service by sheriff or deputy) <sup>3</sup> mons in county on the (date), by delivering a copy of the summons and a
copy of the notice of judgmer	t with Exhibits A and B attached in the following manner:  must check one of following boxes and fill in
Exhibits A and B attached to	this summons and a copy of the notice of judgment with he defendant (used when ummons or refuses to receive summons).
Exhibits A and B attached to years of age and residing at t	this summons and a copy of the notice of judgment with
(used when defendant is not	, located at (address) presently at the abode).
	e summons and the notice of judgment with Exhibits A and part of the premises of defendant located at (address) (This
service is by posting a copy of B attached must also be main and the person serving by ma	n found at dwelling house or usual place of abode.) (If if the summons, the notice of judgment with Exhibits A and ed to the person served. The person serving by posting il must each sign a return. The person mailing must check f mailing at the end of this summons.)

[] by delivering a copy of this summons and a copy of the notice of judgment with Exhibits A and B attached to, an agent authorized to receive service of process for defendant.
[] by delivering a copy of this summons and a copy of the notice of judgment with Exhibits A and B attached to
[] by delivering a copy of this summons and a copy of the notice of judgment with Exhibits A and B attached to (name of person),, (title of person authorized to receive service) (used
when defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision).
[] by service by certified mail, return receipt requested.
CERTIFICATE OF SERVICE BY ATTORNEY (for service on a party)
I certify that I caused a copy of this notice to be served on the following persons or entities by (delivery) (mail) () on this day of
(1)(Name of party)
(Address)
(2)(Name of party)
(Address)
Attorney for landlord
Signature
Date of signature
USE NOTE

1. A writ of restitution directs the sheriff to restore the premises to the plaintiff. A copy of the writ need not be served on the lienholder unless the lienholder intervenes as a party.

- 2. If the lienholder is a party or has entered an appearance in the proceedings, service may be made in the manner provided by the rules of civil procedure for the service of papers on a party subsequent to service of the original pleading. See, however, Subsection J of Section 47-10-9 NMSA 1978 for statutory notice.
- 3. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy need not be notarized. If service is made on a party by an attorney the signature of the attorney need not be notarized.

[Adopted, effective September 2, 1997; as amended, effective April 6, 1998.]

## **ANNOTATIONS**

**The 1998 amendment,** effective April 6, 1998, in the notice to lienholder, substituted "permitted by law" for "accrued to the date of this notice" in Paragraph 2, substituted "provided" for "permitted" in Paragraph 3, in the return portion, inserted "This alternative is" in the third paragraph of the list for the person serving summons, and substituted "to the plaintiff" for "on a specified date not less than three nor more than seven days after entry of the judgment" in Use Note 1.

# 4-929. Writ of restitution (Mobile Home Park Act).

[Sections 47-10-9 and 47-8-46 NMSA 1978]

STATE OF NEW MEXICO	COURT COUNTY
	No
	, Plaintiff
V.	, Defendant
	VRIT OF RESTITUTION Mobile Home Park Act)
THE STATE OF NEW MEXICO t above county:	to the sheriff or a full-time salaried deputy sheriff of the
	or the plaintiff, you are ordered to remove the tenant lowing mobile home on or before
	(name of mobile home park)

(mobile home address)

(mobil	
for the purpose of storage. You are ordered to return this writ to this court by	
Dated:,,	
RETURN ON WRIT OF RESTITE	JTION <sup>2</sup>
I certify that I carried out this writ of restitution by remonent mobile home located at and restorant premises to on on (a.m.) (p.m.). The mobile home is now locat (address).	ring possession of the
Date of return:  Sheriff of County, State of New By Sheriff or deputy she	
USE NOTE	
1. See Section 47-8-46 NMSA 1978 for service of the	e writ of restitution.
2. The sheriff is obligated by law to make timely retur	n.
[Adopted, effective September 2, 1997; as amended, effe	ective January 1, 1999.]
ANNOTATIONS	
<b>The 1998 amendment,</b> effective January 1, 1999, amend Form 4-913 NMRA.	ded this form to conform it with
4-930. Petition for appointment of a treatment	nt guardian for an adult.
[For use with Rule 1-130 NMRA]	
STATE OF NEW MEXICO	
COUNTY OF	
DISTRICT COURT	

In the Matter of		,	SI No	
	PETITION I	FOR APPOINT GUARDIAN F		
Petitioner,		, under S	ection 43-1-15 NMSA 197	'8 states:
			, is years of a County, New Mexico.	ige and
2. Responder	nt is currently			
[] a patient af facility).	t		(name of institution	n or
OR				
[] in the custon facility).	ody of		(name of ins	titution or
OR				
	the community at st-known address).			
•			by the New Mexico Menta diagnosed as follows:	l Health
4. The sympton	oms or behaviors that	support the dia	agnosis are as follows:	
5. Responder	nt is receiving treatme	nt at		
[]		(nan	ne of institution or facility).	
OR				
[] in commun	ity based services.			

6. Respondent's mental health or developmental disabilities professional or

physician, \_\_\_\_\_\_ (name and address of professional or physician), is proposing the following course of treatment:

7. (OPTIONAL) Respondent was administered emergency medications on (date) pursuant to Section 43-1-15(M) NMSA 1978.
8. Petitioner believes that Respondent is incapable of giving or withholding informed consent to the proposed course of treatment, and therefore lacks capacity to make [his] [her] own mental health care treatment decisions.
9. The following efforts have been made by (name of mental health or
developmental disabilities professional or physician) to discuss the proposed course of treatment and the associated risks and benefits with Respondent:
10. The following individual or entity has expressed a willingness to serve as a treatment guardian to make substitute decisions for Respondent as to the course of treatment which would be in Respondent's best interest and consistent with the least drastic means for accomplishing the treatment objective:
Name: Phone Number:
11. The proposed treatment guardian is:
(check all that apply)
[] A family member or friend of Respondent.
[] A "contract treatment guardian" with the Office of Guardianship.
[] A court appointed guardian under the Probate Code.
[] An agent designated or nominated by Respondent when Respondent had capacity.
[] A surrogate under the Uniform Health Care Decisions Act.
12. Petitioner has provided the proposed treatment guardian with a copy of Form 4-931 NMRA which sets forth the duties and responsibilities of a treatment guardian.

13. (OPTIONAL) Petitioner believes that Respondent has the following designated or court-appointed agent(s):

(name and type of all designated or court-appointed agents).

14. Petitioner intends to call the following witnesses:

mak nam	WHEREFORE, Petitioner prays that the Court find that Respondent is not capable of king [his] [her] own mental health treatment decisions, and that it appoint the above- ned person to serve as a treatment guardian for Respondent and to serve in such acity for
[]	days;
[]	months;
[]	Respondent's course of hospitalization
[]	Respondent's duration of detention or incarceration; or
[]	other:;
	ew and shall be for a time period consistent with the treatment needs of pondent. Petitioner further prays for such other relief as the Court may deem per.  Respectfully submitted,
	(Signature of attorney or of self-represented Petitioner)
	<b>VERIFICATION</b> (To be used only by self-represented petitioners)
I of th	,, affirm under penalty of perjury under the laws are State of New Mexico that the information above is true and correct.
	(Signature and date)

[Adopted by Supreme Court Order No. 14-8300-013, effective for all cases filed or pending on or after December 31, 2014.]

# 4-931. Acceptance of appointment, duties, and responsibilities as treatment guardian.

[For use with Rule 1-130 NMRA and Form 4-930 NMRA] STATE OF NEW MEXICO COUNTY OF \_\_\_\_\_ DISTRICT COURT In the Matter of \_\_\_\_\_\_, No. ACCEPTANCE OF APPOINTMENT, DUTIES, AND RESPONSIBILITIES AS TREATMENT GUARDIAN I, (name of treatment guardian), agree to perform the following duties and responsibilities in accordance with Section 43-1-15 NMSA 1978. 1. I shall make decisions on behalf of Respondent \_\_\_\_\_ (*name*) about whether to accept treatment. 2. I shall base decisions about whether to accept treatment on behalf of Respondent on whether the treatment appears to be in Respondent's best interest. 3. I shall verify that the proposed treatment is the least drastic means (i.e., **no more** harsh, hazardous, or intrusive than necessary) to achieve the treatment objectives for Respondent. 4. In making treatment decisions I shall (A) consult with Respondent and consider his or her expressed opinions; consult with the mental health or developmental disabilities professional or physician who is proposing treatment; (C) consult with Respondent's attorney; (D) consult with any interested friends or relatives of Respondent to the extent reasonably practical; and give consideration to previous decisions made by Respondent when

5. I shall have the authority to review and release information concerning

Respondent as provided in Section 43-1-19 NMSA 1978. This authority is not intended

Respondent was competent.

to automatically limit Respondent's ability to access Respondent's own records, including Respondent's ability to authorize an attorney to access such records. Any restrictions on Respondent's access will be made in accordance with state and federal law.

- 6. If during my term of appointment as treatment guardian I believe that Respondent has regained capacity to make Respondent's own decisions, I shall petition the court for termination of the treatment guardianship.
- 7. If during my term of appointment as treatment guardian I believe that I am unable to carry out the duties and responsibilities of a treatment guardian, I shall petition the court for substitution of treatment guardian.

## ORDER FOR APPOINTMENT OF A TREATMENT GUARDIAN

No.

THIS MATTER came before the Court upon the Petition of \_\_\_\_\_ for Appointment of a Treatment Guardian for an Adult. The parties were represented by counsel; Respondent [was] [was not] present;

DISTRICT COURT

In the Matter of \_\_\_\_\_\_,

	e Court being fully advised in the premises FINDS BY CLEAR AND INCING EVIDENCE the following:
	, Respondent, is not capable of making [his] wn mental health treatment decisions, as [he] [she] is incapable of providing ed consent.
under	The proposed Treatment Guardian,, stands the duties and responsibilities of a Treatment Guardian under Section 43-IMSA 1978 and has agreed to fulfill those duties and responsibilities as required.
1978, makin	S THEREFORE ORDERED that, in accordance with Section 43-1-15 NMSA is appointed Treatment Guardian for the purpose of g substitute mental health treatment decisions for Respondent. Treatment ons shall be limited to the following:
A. Respo	Decisions permitted under Section 43-1-15 NMSA 1978, including whether ndent should receive psychotropic medication; and
NMSA not int	Decisions regarding release of information as provided in Section 43-1-19(H) 1978. The authority related to the release and review of Respondent's records is ended to automatically limit Respondent's ability to access [his] [her] own records. strictions on Respondent's access will be made in accordance with state and I law.
about treatm	S FURTHER ORDERED that the Treatment Guardian shall make decisions whether Respondent shall receive treatment based on a determination that the ent appears to be in Respondent's best interest and is the least drastic means for plishing the treatment objective.
	S FURTHER ORDERED that the Treatment Guardian for Respondent shall serven capacity
[]	until (date);
[]	Respondent's course of hospitalization;
[]	Respondent's course of detention or incarceration; or
[]	other:;

provided that such appointment shall terminate not later than one year from the date of this order. Nothing in this order shall preclude the appointment of the treatment guardian to another term upon the filing of a subsequent petition for appointment of a treatment guardian.

IT IS FURTHER ORDERED that the previous Order of the Court appointing to represent Respondent herein is reaffirmed, and an
attorney's fee for services in this case shall be granted as per the contract between Respondent's attorney and the Attorney for the Administrative Office of the Court.
DISTRICT JUDGE
ATTORNEY FOR PETITIONER
ATTORNEY FOR RESPONDENT
[] Following a hearing
[] By stipulation of the parties
[Adopted by Supreme Court Order No. 14-8300-013, effective for all cases filed or pending on or after December 31, 2014.]
4-933. Order denying petition for appointment of a treatment guardian for an adult.
[For use with Rule 1-130 NMRA]
STATE OF NEW MEXICO
COUNTY OF
DISTRICT COURT
In the Matter of, No
ORDER DENYING PETITION FOR APPOINTMENT OF A TREATMENT GUARDIAN FOR AN ADULT
THIS MATTER came before the Court upon the Petition of for Appointment of a Treatment Guardian for an Adult. The parties were represented by counsel, and the Court being fully advised in the premises FINDS:
1, Respondent, was present at the hearing on this matter and was represented by counsel; and

2. The Petition for Appointment of a Treatment Guardian for an Adult is not well taken.				
IT IS THEREFORE ORDERED that the Petition for Appointment of a Treatment Guardian for an Adult is denied.				
DISTRICT JUDGE				
ATTORNEY FOR PETITIONER				
ATTORNEY FOR RESPONDENT				
[Adopted by Supreme Court Order No. 14-8300-013, effective for all cases filed or pending on or after December 31, 2014.]				
4-940. Notice of federal restriction on right to possess or receive a firearm or ammunition.				
[For use with Rule 1-131 NMRA]				
STATE OF NEW MEXICO				
COUNTY OF				
JUDICIAL DISTRICT				
Petitioner,				
v. No				
Respondent.				
NOTICE OF FEDERAL RESTRICTION ON RIGHT TO				
POSSESS OR RECEIVE A FIREARM OR AMMUNITION				
TO: ADDRESS:				

\_\_\_\_\_

YOU ARE HEREBY NOTIFIED that as a result of the order entered against you in this proceeding, you are prohibited from possessing or receiving a firearm or ammunition as provided by 18 U.S.C. § 922(g)(4).

YOU ARE FURTHER NOTIFIED that the Administrative Office of the Courts is required under Section 34-9-19(B) NMSA 1978 to report information about your identity to the Federal Bureau of Investigation for entry into the National Instant Criminal Background Check System (NICS).

YOU ARE FURTHER NOTIFIED that you may petition the Court as provided in Section 34-9-19 NMSA 1978 to restore your right to possess or receive a firearm or ammunition and to remove your name from the NICS.

## DISTRICT COURT

[Provisionally approved by Supreme Court Order No. 16-8300-003, effective for all orders filed on or after May 18, 2016; approved by Supreme Court Order No. 17-8300-003, effective for all orders filed on or after March 31, 2017.]

# 4-941. Motion to restore right to possess or receive a firearm or ammunition.

[For use with Costion 24 0 40 NIMCA 4070]

[For use with Section 34-9-18	BININGA 1970]	
STATE OF NEW MEXICO		
COUNTY OF		
JUDICI#	AL DISTRICT	
In the matter of	,	No
Respondent	t.	
	MOTION TO RESTORE OR RECEIVE A FIREA	_
I,as follows:	_ ( <i>name</i> ), am the Resp	ondent in this proceeding and state
		nat I am subject to the firearm and g)(4) as a result of the following

[] incapa	Order appointing a full or plenary guardian that includes a finding of total pacitation.				
[] incapa	Order appointing a full or plenary conservator that includes a finding of total pacitation.				
[]	Order for involuntary commitment.				
[]	Order for involuntary protective serv	ices or protective placement.			
[] behav	Order for assisted outpatient treatmerior or of threatened or attempted seri	ent that includes a finding of serious violent ous physical harm.			
2.	The Court entered the order identified	ed in Paragraph 1, above, in this case.			
[]	YES (required) I have attached	a copy of the order to this motion.			
	I request that this Court restore my runition, including my right to be eligible	ight to possess or receive a firearm or e for a concealed handgun license.			
	4. I have not filed a Motion To Restore Right To Possess or Receive a Firearm or Ammunition within the past two (2) years.				
	5. I request that this Court schedule a hearing to consider whether my rights should be restored under Section 34-9-19(E) NMSA 1978. <sup>2</sup>				
WHEREFORE, I ask the Court to grant this motion and for any other relief that the Court deems proper.					
	Respectfully submitted,				
	Signature of Respondent				
		Name of Respondent ( <i>print</i> )			
	Mailing address				
	Telephone number				

# **VERIFICATION**

- I, the Respondent, affirm under penalty of perjury under the laws of the State of New Mexico the following:
  - (A) I am the respondent in the above-entitled cause;

- (B) I have read the motion to restore right to possess or receive a firearm or ammunition:
- (C) The contents of the motion are true and correct to the best of my information and belief; and
  - (D) I understand the following:
- (1) If the Court sets a hearing on the motion, I must offer evidence of the following when I come to Court:
- (a) The circumstances regarding the firearm disabilities from which I am seeking relief;
- (b) My mental health records and criminal history records, if any (It is my responsibility to provide these records);
- (c) My reputation, which must be supported, at the very least, by a person who can come to the hearing to testify about my character; a sworn, written statement by a person familiar with my character; or by other character evidence; and
- (d) Changes in my condition or circumstances since the order identified in Paragraph 1 of this motion was entered;
- (2) The evidence described above will be used to determine whether I am likely to act in a manner dangerous to public safety and whether restoring my right to possess or receive a firearm or ammunition is contrary to the public interest; and

(3)	After I file this	s motion with the court,	, I must mail d	or hand-deliver	a court-stamped
copy <sup>-</sup>	to the Office of	the Attorney General	and to all par	ties to the proce	eeding that
result	ed in the order	identified in Paragrap	h 1 of this mo	otion.3	J
		<b>.</b>			

Date	Respondent

## **USE NOTE**

- 1. You may be required to pay a filing fee to the court clerk in cash or money order at the time the motion is filed. If you cannot afford to pay the filing fee, you may ask the court to allow you to file for free or for a reduced rate by filing an application for free process, Form 4-222 NMRA.
- 2. You must bring a self-addressed stamped envelope with you when you file your motion. The clerk will use the envelope to notify you by mail of the date and time of your hearing.

3. You should bring the original and at least two copies of the motion with you when you file the motion. The clerk will file the original and will stamp and return the copies to you. You may keep one copy for your records, and you must mail or hand-deliver the other copies to the attorney general and to all parties to this proceeding as required by NMSA 1978, § 34-9-19(D). The court may ask you for proof that you mailed or hand-delivered the other copies.

[Approved by Supreme Court Order No. 17-8300-003, effective for all cases filed on or after March 31, 2017; as amended by Supreme Court Order No. 17-8300-026, effective December 31, 2017.]

## **ANNOTATIONS**

The 2017 amendment, approved by Supreme Court Order No. 17-8300-026, effective December 31, 2017, changed the form from a petition to a motion; deleted "petition" and added "motion" throughout the form; deleted "Petitioner" and added "Respondent" throughout the form; in the first undesignated sentence of the form, after "in this proceeding", deleted "under Section 34-9-19(D) NMSA 1978"; in Paragraph 1, after "following order", deleted "or finding", deleted the final two options to select, which provided "Finding of incompetent to stand trial." and "Finding of not guilty by reason of insanity at the time of the offense."; in Paragraph 2, after "in", deleted "Case No. \_\_\_\_\_" and added "this case", and after "of the order", deleted "or finding"; in Subparagraph (D)(1)(d) of the Verification, after "the order", deleted "or finding"; and in the Use Note, in Paragraph 1, after "You", deleted "must" and added "may be required to", and in Paragraph 3, after "all parties to", deleted "the original" and added "this".

4-950. Tribal court order for initial involuntary commitment of an adult for mental health evaluation and treatment not to exceed 30 days.

	, an adult.
IN THE MATTER OF	No
STATE OF NEW MEXI	CO
[NAME OF TRIBE]	
I RIBAL COURT	

TDIDAL COLIDT

TRIBAL COURT ORDER FOR INITIAL INVOLUNTARY COMMITMENT
OF AN ADULT FOR MENTAL HEALTH EVALUATION
AND TREATMENT NOT TO EXCEED 30 DAYS

THIS MATTER, having come before the	Court upon proper notice and hearing on
the petition concerning	( <i>name of petitioner</i> ) for involuntary

	(name
of residential or evaluating treatment facility) will admit	
(name of adult client) for evaluation and treatment.	
The adult was represented by (na appointed counsel by the Tribal Court. The adult has been present evidence, including the testimony of a mental hea disabilities professional of the adult's own choosing, to creaccess the complete record in this case. The adult has be appeal this order.	Ith and developmental oss-examine witnesses, and to
THE COURT FINDS on the basis of clear and convinc of (name), who is a phys qualified by training or experience to work with persons widevelopmental disability, that the adult's medical and psycdemonstrate the following.	sician or other professional ith a mental disorder or a
<ol> <li>Involuntary treatment is in the best interest of the amental disorder creates a likelihood of serious harm to the</li> </ol>	
2. As a result of a mental disorder:	
a. The adult needs treatment and is likely to benefit from	om the proposed treatment;
b. The involuntary commitment is consistent with the	adult's treatment needs; and
<ul> <li>The proposed involuntary commitment is consisten means principle.</li> </ul>	t with the least restrictive
3. Taking into account efforts to ascertain the opinion any, involuntary treatment is necessary to maintain the he The guardian has had an opportunity to appear at every someans of communication (phone, affidavit, skype, etc.).	ealth and safety of the adult. tage of the hearing by any
THE COURT HEREBY ORDERS the involuntary commoustody of (name of residential facility), pursuant to (applicable tributansported to the above-named facility by	mitment of the adult into the lor evaluating treatment bal statute). The adult shall be
IT IS FURTHER ORDERED that the adult shall be sub	eject to the continuing

IT IS FURTHER ORDERED that the adult shall be subject to the continuing jurisdiction of the tribal court, provided that any decisions regarding discharge or release from the evaluation facility shall be made by the administrator of that facility. Further, prior to discharging the adult, the facility shall make arrangements with the adult and the adult's guardian, power of attorney for health care, treatment guardian, surrogate, or other alternate decision maker and establish a plan for the adult's aftercare. Any state district court order entered for the adult for continued treatment under Section 43-1-12

NMSA 1978 or for the appointment of a treatment guardian under Section 43-1-15 NMSA 1978 that is related to this order shall be sent to the tribal court judge signing this order for informational purposes after execution in state court.

	Tribal Court Judge
Prep	ared by:
[App	roved by Supreme Court Order No. 18-8300-011, effective December 31, 2018.]
4-96	31. Petition for order of protection from domestic abuse.
-	nily Violence Protection Act, ions 40-13-1 to 40-13-8 NMSA 1978]
STA	TE OF NEW MEXICO
COU	NTY OF
	JUDICIAL DISTRICT COURT
	, Petitioner
V.	No
	, Respondent
	PETITION FOR ORDER OF PROTECTION FROM DOMESTIC ABUSE <sup>1</sup>
1.	COURT ASSISTANCE REQUEST
	We will need an interpreter in to translate at hearings for [ ] the respondent.
[]	We will need (describe other request for special help).
2.	INFORMATION ABOUT THE RESPONDENT (the person I am filing against)
A.	The respondent is:
[]	my husband or [] my wife
[]	my ex-husband or [] my ex-wife

[]	the parent of my	[child] [children]		
[] relati	a family member ionship)	r		_ (describe the family
[]		nom I have had a cor ( <i>de</i> s		
[]	a person who ha	as sexually assaulted	me	
[]	a person who ha	as stalked me		
B.	The respondent	has the following wea	apons:	
3.	[CHILD] [CHILD	PREN] <sup>2</sup>		
A.	List minor [child]	[children] of either pa	arty.	
Name				f [Child] [Children] To Respondent
B.		I with whom the [child		rently living. (List each
C. (List		ss where [child] [child tely if [child] [children		ing the last five (5) years. In same person.)
D. custo	Does anyone elsody or visitation rig		tody of the [child] [c	children] or claim to have
If yes	s, complete the foll	lowing for the [child] [	[children]:	
	Child's name	•	Person clair	ming rights

4.	OTHE	R CASES	6		
[] abus		_	· · · · · · · · · · · · · · · · · · ·	order of protection, child ously filed by me, the res	• • • • • • • • • • • • • • • • • • • •
T;	ype of C	ase	Year Filed (if known)	Case Number (if known)	Where Filed (city and state)
<b>5</b> .	DOME	ESTIC AB	USE		
	ember of	my house		lowing act(s) of domestice detail what happened to	c abuse against me or or you or to a member of
Phy	sical ab	use:			
Thre	eats whi	ch cause	d fear that you or	any household memb	er would be injured:
Oth	er abuse	<b>)</b> :			
	. e of abuse of abuse	_			
В.	Others	s present	during the abuse:		
C.	Did drugs or alcohol play a role in the domestic abuse? [] yes [] no				
D. If ye		weapons veapons?	used during the ab	ouse? [] yes [] no	
E.	Has th	nere been	prior domestic abo	use?[]yes[]no	
<b>6.</b> I RE			THE COURT E COURT ORDER	R (check all that you war	nt):
[	A. awa	y from m	y residence [and] [	place of employment] [a	
[ ]	B. (1)	that the re	espondent shall im	mediately leave [] my []	] our residence at 
[	(2)	that the re	spondent provide	me with temporary suita	able alternative housing.

] [ ]	C.	that the respondent shall not sell, remove, pawn, hide, destroy or damage any property owned by me or the two of us jointly.				
[	D.	that law enforcement officers assist me in retrieving my clothing and personal belongings from the residence at				
[ ]	E.	that	I be given temporary custody of the [child] [chi	Idren] listed in this petition.		
[ ]	F.	that	until the court hearing:			
-		[]	respondent shall have the following contact w	ith the [child] [children]:		
		[]	respondent shall have no contact with the [chi	ld] [children].		
l ]	G.	that	the respondent shall pay:			
		[] []	support for the [child] [children]. support for me.			
[ ]	Н.	that the respondent shall hav me for the damage and medical hills resulting				
[	I.	other relief that is necessary to resolve this domestic abuse problem ( <i>list or describe what relief is necessary</i> )				
incli (Fo	rou d ude i rms 4	o not it on t 4-961	MATION ABOUT THE PETITIONER (ME) want the respondent to know your address an his form. Tell the court clerk that you need to o A and 4-961B NMRA) for your name and addr our address under seal.)	complete two other forms		
	[]	A	I DO NOT WANT RESPONDENT TO KNOOR AFTER THE HEARING FOR THE FIND PROTECTION. I HAVE COMPLETED FOR TO THE COURT CLERK.	IAL ORDER OF		
		0				
	[]	В	My physical address is: the [ ] County [ ] Indian Country of			
		Му	mailing address is:			
	(street address)					

	(city and zip)		
	My telephone numb	ers are:	
	Home	Work	Message
8. I	NOTICE TO RESPOND	DENT	
[ A.	protection because I coming to court. (Des	believe irreparable h scribe what might ha	a petition to ask the court for an order of narm would result if I told respondent before uppen to you or what you are afraid might asking for a court order of protection.)
[ ] В.	I have told responder	nt that I am filing this	petition.
9. I	LOCATION OF RESPO	ONDENT	
A.	Respondent may be	e found at:	
		,	address) city)
		(;	state and zip code)
	or pueblo).	(/	if in Indian Country, please name tribe
	Respondent's:		
	r toop on don't or	((	date of birth)
		(	home telephone number)
			work address) work telephone number).
B.	Is respondent in jail	•	work tolophone nambory.
		VERIFICATIO	ON .
Mexico for orde	that I am the Petitioner	r in the above-entitle mestic abuse; and th	under the laws of the State of New ed cause; that I have read the petition nat the contents of the petition are belief.
Date		 Sign	ature of Petitioner

- 1. Petitioner should complete all information known by the petitioner.
- 2. This part must be completed if there are children. NMSA 1978, Section 40-10A-209 of the Uniform Child-Custody Jurisdiction Enforcement Act requires the first pleading of every custody action to give information as to the child's present address, the places where the child has lived within the last five (5) years and the names and present addresses of the persons with whom the child has lived during that period. If a child lives with you now, but you do not want the respondent to know your address, do not put your current address here, but do fill out Forms 4-961A and 4-961B NMRA.
- 3. Use Notes 1 and 2 are to be printed on pre-printed forms published for use by pro se petitioners. This note and Use Note 4 should not be printed on the form. This form has been approved by the Supreme Court of New Mexico for use in the courts of this state and distribution pursuant to NMSA 1978, Section 40-13-3. Pre-printed pro se forms should include a lined blank page at the end of the form for use by the petitioner if the pre-printed form does not include adequate space for a complete answer to a question.
- 4. NMSA 1978, Section 40-13-3.1(A)(4) provides that a victim in a domestic abuse case shall not be required to pay for "the filing, issuance or service of a petition for an order of protection."

[Approved, effective November 1, 1999 until July 1, 2001; approved, as amended, effective May 1, 2001; as amended, effective February 16, 2004; as amended by Supreme Court Order No. 08-8300-040, effective December 15, 2008; as amended by Supreme Court Order No. 14-8300-023, effective for all pleadings and papers filed on or after December 31, 2014.]

#### **ANNOTATIONS**

**The 2014 amendment,** approved by Supreme Court Order No. 14-8300-023, effective December 31, 2014, eliminated the requirement that the form be notarized; in the Verification, deleted the former affirmation of the signatory and the certification and signature line of the notary public; and in the Use Note, in Paragraph 2, in the first sentence, after "give information", deleted "under oath".

The 2008 amendment, approved by Supreme Court Order No. 08-8300-040, effective December 15, 2008, in Subparagraph A of Paragraph 2, added that the respondent is "a person who has sexually assaulted me" and that the respondent is "a person who has stalked me"; in Subparagraph A of Paragraph 5, added the blank for "Date of abuse" and the blank for "Place of abuse"; in Item (1) of Subparagraph B of Paragraph 6, added the blank for the petitioner's residence location; in Subparagraph A of Paragraph 9, deleted the blank for the respondent's social security number; in the Verification section, added the initial statement that the petitioner, being duly sworn upon oath, deposes and states that the petitioner is the petitioner, deleted language that the petition is true to the best of the petitioner's knowledge and belief, and that the petitioner

understands that the petitioner can be punished civilly and criminally if any information in the petition is false, and added the last sentence; in the Use Notes, in Paragraph 4, added the reference to Subparagraph (4) of Paragraph (A) of Section 40-13-3.1 NMSA 1978, changed "the issuance or service of a protection order" to "the filing, issuance or service of a petition for an order of protection", and deleted the sentence which stated that the former statement has been construed to mean that a petitioner or counterpetitioner in a domestic abuse case is not required to pay a docket fee or other filing fees, or fee for service of process.

**The 2003 amendment,** effective February 16, 2004, substituted "five (5)" for "3" in Paragraph C of item 3 and "40-10A-209 NMSA 1978 of the Uniform Child-Custody Jurisdiction Enforcement " for "40-10-10 NMSA 1978 of the Child Custody Jurisdiction" and "five (5)" for "3" in the second sentence of Use Note 2.

**The 2001 amendment,** effective May 1, 2001, combined the provisions of the former second paragraph in item 8, "Notice to Respondent," into the first paragraph and, in Use Note 4, substituted "a victim" for "a petitioner" in the first sentence and inserted "or counter-petitioner in a domestic abuse case" in the second sentence.

4-961A. Service of process information for petition for order of protection from domestic abuse and petition for emergency order protection.

[For use with Rules 4-961 and 4-972 NMRA]

STATE OF NEW COUNTY OF	MEXICO		
	JUDICIAL DISTRICT COURT, Petitioner		
v.		No	
	, Respondent		

SERVICE OF PROCESS INFORMATION FOR
PETITION FOR ORDER OF PROTECTION FROM DOMESTIC ABUSE
AND
PETITION FOR EMERGENCY ORDER OF PROTECTION
INFORMATION ABOUT THE RESPONDENT

Respondent's name		

Respondent's date	of birth	
Is respondent in ja If yes, where?	il? [] yes [] no	
Respondent's phys		
		· · · · · · · · · · · · · · · · · · ·
		(state and zip code)
Respondent's work	•	(employer's name)
		(city)
[] Tribe [] Pueblo		(state and zip code)
Respondent works		urs:
(a.	m.) (p.m.) to	(a.m.) (p.m.)
Respondent's telep	ohone numbers a	are:
Home	Work	Message
What does respon	dent look like?	
Hair	_ <i>(color)</i> Eyes	(color)
Height		
Race - ethnicity: Other physical cha		
·		arro.
Do you consider th	•	be dangerous?
Does respondent h		s?[]yes[]no.
If yes, please desc Places where resp		und apart from physical address and workplace
Date		Signature of Petitioner
		(Petitioner's street address
		unless petitioner files Form 4-961B)

(City, state and zip code unless petitioner files Form 4-961B)

#### **USE NOTE**

This form should be used with Form 4-961 NMRA (Petition for Order of Protection from Domestic Abuse) and Form 4-972 (Petition for Emergency Order of Protection from Domestic Abuse). It should be distributed to *pro se* petitioners pursuant to Section 40-13-3 NMSA 1978. This use note need not be printed on pre-printed *pro se* forms.

[Approved, effective November 1, 1999 until July 1, 2001; approved, effective May 1, 2001; as amended by Supreme Court Order No. 08-8300-040, effective December 15, 2008.]

#### **ANNOTATIONS**

**The 2008 amendment,** approved by Supreme Court Order No. 08-8300-040, effective December 15, 2008, deleted the blank for the respondent's social security number and added blanks for the respondent's home, work and message telephone numbers.

4-961B. Request for order to omit petitioner's address and telephone number from petition, to place references to petitioner's address under seal and for an order providing alternative means of service on petitioner.

Standard simplified request to seal petitioner's address form

Family Violence Protection Act, Sections 40	
JUDICIAL DISTRIC	T COURT
COUNTY OF	
STATE OF NEW MEXICO	
Petitioner	
V.	No
Respondent	

REQUEST FOR ORDER TO OMIT PETITIONER'S ADDRESS AND TELEPHONE NUMBER FROM PETITION,

# TO PLACE REFERENCES TO PETITIONER'S ADDRESS UNDER SEAL AND FOR AN ORDER PROVIDING ALTERNATIVE MEANS OF SERVICE ON PETITIONER

1.

the respondent for the following reasons:

I have reviewed this request

I do not want my current address and telephone number to be made known to

2.	My current mailing addre	ss and telephor	ne number are:
(addre	ess)		
(city,	state and zip code)		
Му	telephone numbers are:		
ph 	one number	work phone	message phone
3.	I ask the court not to disc	close my curren	t address and telephone number.
4. delive			ocess and papers be served on me by all serve me at my current address.
5. I will ii numb	mmediately file another fo		hone number change during this lawsuit, giving my new address or telephone
		VERIFICA	TION
Mexic knowl	o that I have read the abo	ve information; I understand tha	ury under the laws of the State of New that it is true to the best of my at I can be punished both civilly and lse.
		Sig	gnature of petitioner
Date		Pe	titioner's street address
		(C	ity, state and zip code)

[]	I recommend that the request	be granted.
[]	I recommend that the request	be denied.
		Signed
		Title
		Court's telephone number
plea plea	r papers required to be served be ding or papers the date and mar	ed. The respondent shall serve all pleadings and by filing them with the clerk who will note on the nner of service. The clerk shall promptly serve such the noting in the court file the date and manner of
	·	enied. The petitioner shall place petitioner's name, opropriate places on the petition prior to service of
		District Judge
		Date

[Approved, effective November 1, 1999 until July 1, 2001; approved, effective May 1, 2001; as amended by Supreme Court Order No. 14-8300-023, effective for all pleadings and papers filed on or after December 31, 2014.]

**Committee commentary.** — The committee assumes that the district court has inherent power to grant requests of this type under compelling circumstances when petitioner demonstrates a reasonable basis to believe that the petitioner's physical safety or that of a household member would be threatened if petitioner's current address is made available to respondent. The form provides an alternative means by which respondent can serve pleadings and other papers on petitioner.

#### **ANNOTATIONS**

**The 2014 amendment,** approved by Supreme Court Order No. 14-8300-023, effective December 31, 2014, eliminated the requirement that the form be notarized; and in the Verification, deleted the former affirmation of the signatory and the certification and signature line of the notary public.

# 4-962. Response to petition for order of protection from domestic abuse.

-	dard simplified response to petition form, Family nce Protection Act, Sections 40-13-1 to 40-13-8 NMSA 1978]
	JUDICIAL DISTRICT COURT
COU	NTY OF
STAT	E OF NEW MEXICO
Petitio	oner
V.	No
Respo	ondent
dome	RESPONSE TO PETITION FOR ORDER OF PROTECTION FROM DOMESTIC ABUSE  espondent in response to the allegations in the petition for order of protection from stic abuse states: (Set forth a response to each paragraph of the petition you do gree with. Please include the paragraph number of the petition preceding each onse.)
(If you	u need additional space, please attach additional pages.)
Respo	ondent requests that the court:
(chec	k and complete applicable alternatives)
[]	modify the temporary order of protection as follows:
[]	terminate the temporary order of protection because:

[]	hold an earlier hearing on the per	tition for protection order because:
[]	hold a later hearing on the petitio	n for protection order because:
[]	dismiss the petition for protection	order because:
	•	(Signature of respondent)
		(Respondent's name printed)
		(Respondent's address)
		(Respondent's telephone number)
copy (che	y of this response was served on the	
(add	dress)	=
OR		_
[]	the following means:	
OR		
		sent address is unknown to respondent and not e clerk of the court by filing two copies of this y of
		Signature of respondent

Date of signature	

#### SERVICE OF PETITIONER BY CLERK (to be completed by clerk when petitioner's address has been sealed

petitioner's address has been sealed by order of the court)

I served this response on the peti day of,	tioner by first class mail, postage prepaid on this
	Clerk

#### **USE NOTE**

This Response to Petition gives respondent an opportunity to state defenses against the charges in the petition. This Response to Petition does not contain a counter petition charging the petitioner with an act of domestic abuse. If the respondent only wants to defend against the petitioner's charge of abuse, this form should be used as drafted. If the respondent wants both to defend against the petitioner's charge of domestic abuse and also to charge the petitioner with domestic abuse, the respondent should fill out this form and also fill out Form 4-962A NMRA. Respondent then should attach Form 4-962A and Form 4-962A.

[Approved, effective November 1, 1999 until July 1, 2001; approved, as amended, effective May 1, 2001; as amended by Supreme Court Order No. 14-8300-023, effective for all pleadings and papers filed on or after December 31, 2014.]

#### **ANNOTATIONS**

**The 2014 amendment,** approved by Supreme Court Order No. 14-8300-023, effective December 31, 2014, eliminated the requirement that the form be notarized; and in the Affidavit of Service, at the beginning of the sentence, deleted "declare" and added "affirm", after "perjury", added "under the laws of the State of New Mexico", and deleted the former certification and signature lines of the judge, notary, and other officer authorized to administer oaths.

**The 2001 amendment,** effective May 1, 2001, substituted "fill out this form and also fill out Form 4-962A NMRA" for "add a section to this form titled "Counter Petition' and should include in it suitably modified relevant proviosions from Form 4-961" in the next-to-last sentence in the Use Note and added the last sentence thereto.

4-962A. Counter-petition for order of protection from domestic abuse.

[Family Violence Protection Act, Sections 40-13-1 to 40-13-8 NMSA 1978] STATE OF NEW MEXICO COUNTY OF \_\_\_\_\_ \_\_\_\_\_ JUDICIAL DISTRICT COURT \_\_\_\_\_, Petitioner No. \_\_\_\_\_ ٧. \_\_\_\_\_, Respondent **COUNTER-PETITION** FOR ORDER OF PROTECTION FROM DOMESTIC ABUSE<sup>1</sup> 1. **COURT ASSISTANCE REQUEST** We will need an interpreter in \_\_\_\_\_\_ to translate at hearings for [ ] me [] the petitioner. We will need \_\_\_\_\_ (describe other request for special help). [] **INFORMATION ABOUT THE PETITIONER** (the person I am filing against) 2. A. The petitioner is: [] my husband or [] my wife [] my ex-husband or [] my ex-wife [] the parent of my [child] [children] a family member \_\_\_\_\_ (describe the family relationship) [] a person with whom I have had a continuing personal relationship \_\_\_\_\_ (describe the relationship) [] a person who has sexually assaulted me [] a person who has stalked me

The petitioner has the following weapons: \_\_\_\_\_\_.

B.

<ol> <li>[CHILD]</li> </ol>	[CHILDREN] <sup>2</sup>
-----------------------------	-------------------------

A. List minor	[child]	[children]	of either	party.
---------------	---------	------------	-----------	--------

Name 	Date of Birth	Relationship of   To You	[Child] [Children] To Petitioner
	<del>-</del>	nild] [children] are curre	, ,
		ildren] have lived durin en] did not reside with	ig the last five (5) years same person.)
.  D. Does anyone custody or visitation		ustody of the [child] [ch	ildren] or claim to have
If yes, complete the Child's na	following for the [child me	d] [children]: Person claim	ing rights
	divorce, separation,	order of protection, chilusly filed by me, the pe	
Type of Case	Year Filed (if known)	Case Number (if known)	Where Filed (city and state)

5.	D	OMESTIC ABUSE
	ber	he petitioner committed the following act(s) of domestic abuse against me or a of my household: (describe in detail what happened to you or to a member of usehold and when and where.)
Phys	ica	I abuse:
Threa	ats	which caused fear that you or any household member would be injured:
Othe	r al	ouse:
	_	abuse: . fabuse: .
B.	0	thers present during the abuse: .
C.	D	id drugs or alcohol play a role in the domestic abuse? [] yes [] no
D. If yes		/ere weapons used during the abuse? [] yes [] no hat weapons? .
E.	Н	as there been prior domestic abuse? [] yes [] no
<b>6.</b> I REC		EQUESTS TO THE COURT EST THAT THE COURT ORDER (check all that you want):
] [	А. В.	that the petitioner not contact me, not abuse me and that the petitioner stay away from my residence [and] [place of employment] [and] [school].  (1) that the petitioner shall immediately leave [] my [] our residence at
[ ]		(2) that the petitioner provide me with temporary suitable alternative housing.
[ ]		(3) Provide (address of the place of eviction).
[ (	C.	that the petitioner shall not sell, remove, pawn, hide, destroy or damage any property owned by me or the two of us jointly.
] [	D.	that law enforcement officers assist me in retrieving my clothing and personal belongings from the residence at
[ ] E	E.	that I be given temporary custody of the [child] [children] listed in this petition.
[ F	F.	that until the court hearing:

petitioner shall have the followi	ng contact with the [child] [children]:
petitioner shall have no contact	t with the [child] [children]:
G. that the petitioner shall pay:	
support for the [child] [children]	
l support for me.	
[ H. that the petitioner shall pay me for abuse.	the damage and medical bills resulting from the
other relief that is necessary to res [ describe what relief is necessary) ] I.	solve this domestic abuse problem (list or
$_{\Gamma 1}$ $_{\Delta}$ AFTER THE HEARING F	nat you need to complete two other forms
OR	
[] B. the [] County	in, State of New Mexico.
My mailing address is:	
(street address)	
(city and zip)	
My telephone numbers are:	
Home Work	Message

### 8. **NOTICE TO PETITIONER** I have not told petitioner that I am filing a petition to ask the court for an order of protection because I believe irreparable harm would result if I told petitioner before coming to court. (Describe what might happen to you or what you are afraid might happen if the petitioner knew you were asking for a court order of protection.) B. I have told petitioner that I am filing this petition. 9. LOCATION OF PETITIONER Α. Petitioner may be found at: \_\_\_\_\_ (address) \_\_\_\_\_ (state and zip code) (if in Indian Country, please name tribe or pueblo). Petitioner's: \_\_\_\_\_ (date of birth) (home telephone number) \_\_\_\_\_(work address) (work telephone number). B. Is petitioner in jail? [] yes [] no VERIFICATION I, the Respondent/Counter-Petitioner affirm under penalty of perjury under the laws of the State of New Mexico that I am the Respondent/Counter-Petitioner in the above-

entitled cause; that I have read the counter-petition for order of protection from domestic abuse; and that the contents of the counter-petition are true and correct to the best of my information and belief.

Signature of Respondent Date

#### **USE NOTE**

- 1. Respondent should complete all information known by the respondent.
- 2. This part must be completed if there are children. NMSA 1978, Section 40-10A-209 of the Uniform Child-Custody Jurisdiction Enforcement Act requires the first pleading of every custody action to give information as to the child's present address,

the places where the child has lived within the last five (5) five years and the names and present addresses of the persons with whom the child has lived during that period. If a child lives with you now, but you do not want petitioner to know your address, do not put your current address here, but do fill out Forms 4-961A and 4-961B NMRA.

- 3. Use Notes 1 and 2 are to be printed on pre-printed forms published for use by pro se respondents. This note and Use Note 4 should not be printed on the form. This form has been approved by the Supreme Court of New Mexico for use in the courts of this state and distribution pursuant to NMSA 1978, Section 40-13-3. Pre-printed pro se forms should include a lined blank page at the end of the form for use by the respondent if the pre-printed form does not include adequate space for a complete answer to a question.
- 4. NMSA 1978, Section 40-13-3.1(A)(4) provides that a victim in a domestic abuse case shall not be required to pay for "the filing, issuance or service of a petition for an order of protection."

[Approved, effective November 1, 1999 until July 1, 2001; approved, as amended, effective May 1, 2001; as amended, effective February 16, 2004; as amended by Supreme Court Order No. 08-8300-40, effective December 15, 2008; as amended by Supreme Court Order No. 14-8300-023, effective for all pleadings and papers filed on or after December 31, 2014.]

#### **ANNOTATIONS**

**The 2014 amendment,** approved by Supreme Court Order No. 14-8300-023, effective December 31, 2014, eliminated the requirement that the form be notarized; in the Verification, deleted the former affirmation of the signatory and the certification and signature line of the notary public; and in the Use Note, in Paragraph 2, in the first sentence, after "give information", deleted "under oath".

The 2008 amendment, approved by Supreme Court Order No. 08-8300-40, effective December 15, 2008, in Subparagraph A of Paragraph 2, added that the petitioner is "a person who has sexually assaulted me" and that the petitioner is "a person who has stalked me"; in Subparagraph A of Paragraph 5, added the blanks for "Date of abuse" and for "Place of abuse"; in Item (1) of Subparagraph B of Paragraph 6, added the blank for the location of the respondent's residence; added Item (3) of Subparagraph B of Paragraph 6; in Subparagraph A of Paragraph 9, deleted the blank for the petitioner's social security number; in the Verification section, added the initial statement that the respondent, being duly sworn upon oath, deposes and states that the respondent is the respondent, deleted language that the counter-petition is true to the best of the respondent can be punished civilly and criminally if any information in the counter-petition is false, and added the last sentence; in the Use Notes, in Paragraph 4, added the reference to Subparagraph (4) of Paragraph (A) of Section 40-13-3.1 NMSA 1978, changed "the issuance or service of a protection order" to "the filing, issuance or service

of a petition for an order of protection", and deleted the sentence which stated that the former statement has been construed to mean that a petitioner or counter-petitioner in a domestic abuse case is not required to pay a docket fee or other filing fees, or fee for service of process.

**The 2003 amendment**, effective February 16, 2004, substituted "(5) five" for "3" in Paragraph C of item 3 and "40-10A-209 NMSA 1978 of the Uniform Child-Custody Jurisdiction Enforcement " for "40-10-10 NMSA 1978 of the Child Custody Jurisdiction" and "(5) five" for "3" in the second sentence of Use Note 2.

### 4-963. Temporary order of protection and order to appear.

[Family Violence Protection Act, Sections 40-13-1 to 40-13-8 NMSA 1978.]

STATE OF NEW COUNTY OF	MEXICO	
	JUDICIAL DISTRICT	
	, Petitioner	
V.		No
	, Respondent	

## TEMPORARY ORDER OF PROTECTION AND ORDER TO APPEAR

The court has reviewed the sworn petition alleging domestic abuse. The court having considered the petition, **FINDS** that the court has jurisdiction and that there is probable cause to believe that an act of domestic abuse has occurred. The court **ORDERS**:

Respondent shall not write to, talk to, visit or [] 1. contact the petitioner in any way except through petitioner's lawyer, if petitioner has a lawyer. Respondent shall not abuse the petitioner or the petitioner's household members in any way. "Abuse" means any incident by respondent against petitioner or petitioner's household member resulting in (1) physical harm; (2) severe emotional [] 2. distress; (3) bodily injury or assault; (4) a threat causing imminent fear of bodily injury; (5) criminal trespass; (6) criminal damage to property; (7) repeatedly driving by a residence or work place; (8) telephone harassment; (9) stalking; (10)

		nent; (11) harm or threatened harm to in any manner set forth above.	
[] 3.	•	dent shall not ask or cause other persons ne petitioner or the petitioner's household s.	
[] 4.	of the pe Respon	dent shall not go within yard etitioner's home or school or work place. dent shall not go within yard etitioner at all times except	
	•	ublic place, such as a store, respondent go within yards of petitione shall have	
[] 5.	tempora child(rer	ry physical custody of the following	
[] 6.		pect to the child(ren) named in the ng paragraph, [] respondent [] petitioner ve:	
	[] /	No contact with the child(ren) until further order of this court and shal stay yards away from the child(ren)'s school.	 
	[] E	Contact with the child(ren), subjec to:  3.	l
[] 7.	the prec Mexico ( child(rer	party shall remove the child(ren) named eding paragraph from the State of New or disenroll the child(ren) from the n)'s present school during the period of the ry order of protection.	
[] 8.	support shall brii form of t returns f related o	rt may decide temporary child and interir at the hearing listed below. Both parties ng to the hearing proof of income in the he two latest pay stubs or the federal tax rom the previous year, proof of work day-care costs and proof of medical se costs for the child(ren).	
[] 9.	[] /	Respondent is ordered to immediately leave the residence a and to not return until further court	

order. Law enforcement officers are hereby ordered to evict respondent from the [] B. residence at Respondent is ordered to surrender all keys to the residence to law [] C. enforcement officers. Law enforcement officers or shall accompany [] respondent [] petitioner to remove [] 10. essential tools (as specified in No. 13), clothing, and personal belongings from the residence at Neither party shall transfer, hide, add debt to, sell or otherwise dispose of the other's property or the joint property of the parties except in the usual course of business or for the necessities of life. The parties [] 11. shall account to the court for all such changes to property made after the order is served or communicated to the party. Neither party shall disconnect the utilities of the other party's residence. This order supersedes any inconsistent prior order in Cause No. \_\_\_\_\_ and any other prior domestic relations order and domestic [] 12. violence restraining orders between these two parties. Other: [] 13. While this order of protection is in effect, petitioner should refrain from any act that would cause the respondent to violate this order. This provision is 14. not intended to and does not create a mutual order of protection. Under Section 40-13-6(D) NMSA 1978, only the restrained party can be arrested for violation of this order. **HEARING** IT IS FURTHER ORDERED that the parties shall appear in the \_\_\_\_\_ Judicial District Court, Room \_\_\_\_\_, at \_\_\_\_\_, before \_\_\_\_\_, at \_\_\_\_\_ (a.m.) (p.m.) on \_\_\_\_\_ \_\_\_\_ (date) for hearing on whether an extended order of protection against domestic abuse will be

issued. Either party may bring witnesses or evidence and may be represented by

Protection from Domestic Abuse, see For the respondent fails to attend this hearing against respondent and a bench warran	y file a Response to the Petition for Order of orm 4-962 NMRA, on or before the hearing. If ig, an extended order may be entered by default t may be issued for respondent's arrest. If nearing, the petition may be dismissed. This			
[] DO NOT BRING ANY CHILDREI PERMISSION OF THE COURT.	N TO THE HEARING WITHOUT PRIOR			
ENFORCEMENT OF ORDER				
If the respondent violates any part of this crime, arrested, held in contempt of cou	s order, the respondent may be charged with a rt, fined or jailed.			
SERVICE AND NOTICE TO LAW ENFO	DRCEMENT AGENCIES			
Upon the signing of this order by a district court judge, a law enforcement officer shall serve on the respondent a copy of this order and a copy of the petition.				
A LAW ENFORCEMENT OFFICER SHENFORCE THIS ORDER.	ALL USE ANY LAWFUL MEANS TO			
[] I have reviewed the petition for or to the district judge regarding its disposit	der of protection and made recommendations tion.			
(Signed)	Court telephone number			
(Title)				
SO ORDERED:				
District Judge	Date and time approved			
U	SE NOTE			

- 1. The temporary order of protection and order to appear requires a proof of return of service. The committee has been informed that each local law enforcement agency has its own return of service form that will be used for this purpose.
- 2. Personal service of the temporary order of protection and order to appear will assure that the temporary order is fully enforceable. It is possible that actual notice to the respondent of the content of the temporary order will also suffice to bind the

respondent to comply with the order. *Territory of New Mexico v. Clancy*, 7 N.M. 580, 583 (1894).

[Approved, effective November 1, 1999 until July 1, 2001; approved, as amended, effective May 1, 2001; as amended by Supreme Court Order No. 07-8300-020, effective September 17, 2007; by Supreme Court Order No. 08-8300-040, effective December 15, 2008.]

#### **ANNOTATIONS**

**The 2008 amendment,** approved by Supreme Court Order No. 08-8300-040, effective December 15, 2008, in the Findings section, deleted language which provided that the petitioner or a household member of petitioner will suffer immediate and irreparable injury, loss or damage unless the court enters this order; added Paragraph 7; renumbered former Paragraphs 7 through 13 as Paragraphs 8 through 14; in Paragraph 14, added the last sentence; and in the Hearing section, added the reference to Form 4-962 NMRA.

**The 2007 amendment,** effective September 17, 2007, amended Paragraph 13 to change "shall refrain" to "should refrain" and added the last sentence providing Paragraph 13 does not create a mutual protection order.

The 2001 amendment, effective May 1, 2001, inserted "of petitioner" in the second sentence in the introductory paragraph, substituted "petitioner's household" for "another household" in the second sentence in item 1., substituted "may decide" for "shall decide" near the beginning of item 7., substituted "shall accompany respondent/petitioner" for "shall assist respondent" near the beginning of item 9., and rewrote item 13.

# 4-963A. Temporary order of protection against petitioner and order to appear.

[Family Violence Protection Act, Sections 40-13-1 to 40-13-8 NMSA 1978.]

STATE OF NE\	N MEXICO		
COUNTY OF _			
	JUDICIAL DISTRICT		
	, Petitioner		
٧.		No	
	, Respondent		

TEMPORARY ORDER OF PROTECTION
AGAINST PETITIONER
AND ORDER TO APPEAR

The court has reviewed the sworn counter-petition alleging domestic abuse. The court having considered the petition, **FINDS** that the court has jurisdiction and that there is probable cause to believe that an act of domestic abuse has occurred. The court **ORDERS**: Petitioner shall not write to, talk to, visit or contact the respondent in any [] 1. way except through respondent's lawyer, if respondent has a lawyer. Petitioner shall not abuse the respondent or the respondent's household members in any way. "Abuse" means any incident by petitioner against respondent or respondent's household members resulting in (1) physical harm; (2) severe emotional distress; (3) bodily injury or assault; (4) a threat [] 2. causing imminent fear of bodily injury; (5) criminal trespass; (6) criminal damage to property; (7) repeatedly driving by a residence or workplace; (8) telephone harassment; (9) stalking; (10) harassment; (11) harm or threatened harm to children in any manner set forth above. Petitioner shall not ask or cause other persons to abuse the respondent or [] 3. the respondent's household members. Petitioner shall not go within \_\_\_\_\_ yards of the respondent's home or school or workplace. Petitioner shall not go within \_\_\_\_\_ yards of the respondent at all times except [] 4. \_\_\_\_. If at a public place, such as a store, petitioner shall not go within \_\_\_\_\_ yards of respondent. \_\_\_\_ shall have temporary physical custody of the following child(ren): [] 5. With respect to the child(ren) named in the preceding paragraph, [] [] 6. respondent [] petitioner shall have: No contact with the child(ren) until further order of this court and shall stay \_\_\_\_\_ yards away from the child(ren)'s [] A. school. Contact with the child(ren), subject to: [] В. Neither party shall remove the child(ren) named in the preceding paragraph from the State of New Mexico or disenroll them from the child(ren)'s [] 7. present school during the period of this temporary order of protection. The court may decide temporary child and interim support at the hearing listed below. Both parties shall bring to the hearing proof of income in the form of the two latest pay stubs or the federal tax returns from the previous [] 8. year, proof of work-related daycare costs and proof of medical insurance costs for the child(ren).

Petitioner is ordered to immediately leave the residence at

[]

9.

Α.

				and to not return until
				further court order.
		[]	B.	Law enforcement officers are hereby ordered to evict petitioner from the residence at .
		[]	C.	Petitioner is ordered to surrender all keys to the residence to law enforcement officers.
[]	10.	accor	npany	ment officers or shall [] respondent [] petitioner to remove essential tools (as No. 13), clothing, and personal belongings from the residence
[]	11.	the ot cours the co	her's p e of bu ourt for nunicat	y shall transfer, hide, add debt to, sell or otherwise dispose of roperty or the joint property of the parties except in the usual siness or for the necessities of life. The parties shall account to all such changes to property made after the order is served or ed to the party. Neither party shall disconnect the utilities of the residence.
[]	12.	dome	stic vio	upersedes any inconsistent prior order in Cause No and any other prior domestic relations order and lence restraining orders between these two parties.
[]	13.	Other	•	
[]	14.	any a is not Section	ct that intendon 10-1	der of protection is in effect, respondent should refrain from would cause the petitioner to violate this order. This provision ed to and does not create a mutual order of protection. Under 3-6(D) NMSA 1978, only the restrained party can be arrested of this order.
HEAF	RING			
IT IS Judic	FURTI ial Dist	HER C	RDER ourt, Ro	ED that the parties shall appear in the, before tt (a.m.) (p.m.) on (date) n extended order of protection against domestic abuse will be
couns Prote the pe again response	d. Eithesel at the ction from the ction from the ctition extractions and continuous terms of the ctition extraction extracti	er part his hea rom Do er fails tioner a willfull	y may aring. For mestice to attended to attended to attended to the fails to the fa	n extended order of protection against domestic abuse will be bring witnesses or evidence and may be represented by Petitioner may file a Response to the Petition for Order of a Abuse, see Form 4-962 NMRA, on or before the hearing. If and this hearing, an extended order may be entered by default bench warrant may be issued for petitioner's arrest. If a papear at this hearing, the counter-petition may be mains in force until

# DO NOT BRING ANY CHILDREN TO THE HEARING WITHOUT PRIOR PERMISSION OF THE COURT. ENFORCEMENT OF ORDER

If the petitioner violates any part of this order, the petitioner may be charged with a crime, arrested, held in contempt of court, fined or jailed.

#### SERVICE AND NOTICE TO LAW ENFORCEMENT AGENCIES

Upon the signing of this order by a district court judge, a law enforcement officer shall serve on the petitioner a copy of this order and a copy of the counter-petition.

## A LAW ENFORCEMENT OFFICER SHALL USE ANY LAWFUL MEANS TO ENFORCE THIS ORDER.

ENFORCE THIS ORDER.	
[] I have reviewed the counter-petitic recommendations to the district judge reg	on for an order of protection and made garding its disposition.
(Signed)	Court telephone number
(Title)	
SO ORDERED:	
District Judge	Date and time approved
US	SE NOTE
, ,	and order to appear requires a proof of return

- 1. The temporary order of protection and order to appear requires a proof of return of service. The committee has been informed that each local law enforcement agency has its own return of service form will be used for this purpose.
- 2. Personal service of the temporary order of protection and order to appear will assure that the temporary order is fully enforceable. It is possible that actual notice to the petitioner of the content of the temporary order will also suffice to bind the petitioner to comply with the order. *Territory of New Mexico v. Clancy*, 7 N.M. 580, 583 (1894).

[Approved, effective May 1, 2001; as amended by Supreme Court Order No. 07-8300-020, effective September 17, 2007; by Supreme Court Order No. 08-8300-040, effective December 15, 2008.]

#### **ANNOTATIONS**

The 2008 amendment, approved by Supreme Court Order No. 08-8300-040, effective December 15, 2008, in the Findings section, deleted language which provided that the respondent or a household member of respondent will suffer immediate and irreparable injury, loss or damage unless the court enters this order; added Paragraph 7; renumbered former Paragraphs 7 through 13 as Paragraphs 8 through 14; in Paragraph 14, added the last sentence; and in the Hearing section, added the reference to Form 4-962 NMRA.

**The 2007 amendment,** effective September 17, 2007, amended Paragraph 13 to change "shall refrain" to "should refrain" and added the last sentence providing Paragraph 13 does not create a mutual protection order.

### 4-964. Order to appear.

[Standard simplified order to appear at hearing Family Violence Protection Act, Sections 40-1	<del>-</del> -
IUDICIAI DISTRICT (	`OURT
JUDICIAL DISTRICT (	7001(1
STATE OF NEW MEXICO	
Petitioner	
V.	No
Respondent ORDER TO	APPEAR
You are hereby ordered to appear in the room, at	judicial district court, (address), before
room, at at (a.m.) (p.m.) on order of protection against domestic abuse will evidence and may be represented by counsel to Petition for Order of Protection from Domes before the hearing. If you fail to attend this hearing, an order of pro-	I be issued. You may bring witnesses or at this hearing. You may file a Response tic Abuse (Form 4-962 NMRA) at or
against you and a bench warrant may be issue [] DO NOT BRING ANY CHILDREN TO THE	

#### **USE NOTE**

This form is for use when petitioner does not seek a temporary order of protection and also when the petitioner seeks a temporary order of protection, but the court denies the request.

The date for hearing should be set in accordance with the mandate of Section 40-13-4(D) NMSA 1978 which provides that "if an ex parte order is not granted," the court "shall serve notice to appear upon the parties and hold a hearing on the petition for order of protection within seventy-two hours after the filing of the petition."

The Order to Appear requires a proof of return of service. The Committee has been informed that each local law enforcement agency has its own return of service form which will be used for this purpose.

[Approved, effective November 1, 1999 until July 1, 2001; approved, effective May 1, 2001.]

### 4-965. Order of protection, mutual, non-mutual.

[Click here for PDF version of Order of Protection cover page]

Judicial DistrictCounty, New Mexico Case No.  [] Amended									
PROTECTED PARTY ([ ] PETITIONER [ ] RESPONDENT)					PROTECTED PARTY IDENTIFIERS				•
First Middle Last Date of Birth of Protected Party					Protected				
And/or on behalf of minor family member(s): (list name and DOB)			•				her Prote ersons/D		
		٧.							
RESTRAINED PARTY					RESTRAINED PARTY IDENTIFIERS				
		SEX	RACE	DOB	HT	WT	1 1	ı	
	First	Middle	Last						ı
					<b>EYES</b>	HAIR	SOCIAL	SECURIT	Υ

					#		
Relationship to Protected Party:		:			N	ot used ii Mexic	
				IVERS ENSE #	L -	STATE	EXP DATE
	Restrained Party's Addre	SS					
			Disting	uishing	Fea	tures	
CA	AUTION:						
[	]Weapon Involved						
	THE COURT HEREBY FI	_					. =
	it it has jurisdiction over the been provided with reason		ect mat	ter, and	the	Restraine	ed Party
	notice and opportunity to b	oe heard.					
[]	Additional findings of this		ucceedi	ng page	es.		
	THE COURT HEREBY O	_					
[]	That the above named Re acts of abuse or threats of	•	e restrai	ned fror	m co	mmitting	further
[]	That the above named Re Protected Party.	strained Party be	e restrai	ned fror	m an	y contact	with the
[]	Additional terms of this ord	der are as set for	th on su	ucceedir	ng pa	ages.	
_	terms of this order shall effective until						
- DC C	THE CHILD		, _			<u> </u>	
WARI	NINGS TO RESTRAINED F	PARTY:					
Distric U.S.C	is order shall be enforced, e t of Columbia, any U.S. Te . Section 2265. Crossing st esult in federal imprisonme	rritory, and may bate, territorial, or	oe enfor tribal b	ced by oundario	Triba	al Lands u	ınder 18
As a result of this order, it may be unlawful for you to possess or purchase ammunition or a firearm, including a rifle, pistol or revolver, under 18 U.S.C. Section 922(g)(8). If you have any questions whether federal law makes it illegal for you to possess or purchase a firearm, you should consult an attorney.							
On	ly the court can change this	s order.					
		Page 1 of		Ju	udge	's signatu	ıre on last page

## ADDITIONAL PAGES¹ OF ORDER OF PROTECTION

THIS	MATTER came before the court on the day of, through a hearing on the [] petitioner's [] respondent's request for an
order	prohibiting domestic abuse.
	e court further <b>FINDS, CONCLUDES AND ORDERS</b> : k only applicable paragraphs)
1.	NOTICE, APPEARANCES AND STATUS
[]	Petitioner was present.
[]	Petitioner was represented by counsel.
[]	Respondent was present.
[]	Respondent was represented by counsel.
[] proted	Respondent was properly served with a copy of the petition, temporary order of ction prohibiting domestic abuse and order to appear. <sup>2</sup>
[]	Respondent was properly served with a copy of the petition and order to appear. <sup>2</sup>
[] partici	Respondent received actual notice of the hearing and had an opportunity to pate in the hearing. <sup>2</sup>
[] appea	Petitioner was properly served with a copy of the counter-petition and order to ar.2
[] appea	Petitioner was properly served with a copy of the temporary order and order to
[] partici	Petitioner received actual notice of the hearing and had an opportunity to pate in the hearing. <sup>2</sup>
[] USC	The relationship of the parties is that of an "intimate partner" as defined in 18 Section 921 (a)(32). (See 2(B) below)

2. CONSEQUENCES OF ENTRY OF ORDER OF PROTECTION Violation of this order by the [] respondent [] petitioner can have serious consequences, including:

- A. If you violate the terms of this order, you may be charged with a misdemeanor, which is punishable by imprisonment of up to three hundred sixty-four (364) days and a fine of up to one thousand dollars (\$1,000) or both. You may be found in contempt of court.
- B. If you are the spouse or former spouse of the other party, an individual who cohabitates with or has cohabitated with the other party, or if you and the other party have had a child together, federal law prohibits you from possessing or transporting firearms or ammunition while this order is in effect. If you have a firearm or ammunition, you should immediately dispose of the firearm or ammunition. Violation of this law is a federal crime punishable by imprisonment for up to ten (10) years and a fine of up to two hundred fifty-thousand dollars (\$250,000).
- C. If you are not a citizen of the United States, violation of this order may have a negative effect on your application for residency or citizenship.

#### 3. FINDING OF DOMESTIC ABUSE

An act of domestic abuse was committed by [] respondent [] petitioner that necessitates an order of protection. [] Petitioner [] Respondent is the protected party under this order.

#### 4. DOMESTIC ABUSE PROHIBITED

anoth (3) bo fear o (6) cri a hou	s household. "Abuse" means any incident by one party against the other party or er household member resulting in (1) physical harm; (2) severe emotional distress dily injury or assault; (4) a threat by petitioner or respondent causing imminent f bodily injury to the other party or any household member; (5) criminal trespass; minal damage to property; (7) repeatedly driving by petitioner's or respondent's or sehold member's residence or workplace; (8) telephone harassment; (9) stalking; arassment; or (11) harm or threatened harm to children in any manner set forth
[] party	Respondent [] Petitioner shall not ask or cause other persons to abuse the other or any other household members.
5.	CONTACT PROHIBITIONS
party, where	Respondent [] Petitioner shall stay yards away from the other the other party's home and any workplace at all times, unless at a public place, the [] respondent [] petitioner shall remain yards away from her party except as specifically permitted by this order.
[] party i	Respondent [] Petitioner shall not telephone, talk to, visit or contact the other in any way except as follows:

•

[] of min	The parties may contact each other by telephone regarding medical emergencies nor children;
[]	Other .
[]	The parties may attend joint counseling sessions at the counselor's discretion.
(Unle	ss the court has sealed the protected party's address, include it below.)
	cted party's addresses
6.	COUNSELING
	Respondent shall attend counseling at, contacting that office five (5) days. The respondent shall participate in, attend and complete counseling commended by the named agency.
within	Petitioner shall attend counseling at, contacting that office five (5) days. The petitioner shall participate in, attend and complete counseling commended by the named agency.
[] screer	Respondent shall report to, for a [] drug [and] [] alcohol n by, (date) with the results returned to this court.
[] by	Petitioner shall report to, for a [ ] drug [and] [ ] alcohol screen, (date) with the results returned to this court.
[]	Other counseling requirements:
7.	CUSTODY
[] Suppo	The court's orders regarding the minor child(ren) are addressed in the Custody, ort and Division of Property Attachment of this order of protection. <sup>3</sup>
8.	PROVISIONS RELATING TO SUPPORT
[] Custo	The court's orders regarding support issues for the parties are found in the dv. Support and Division of Property Attachment of this order of protection.

9.	PROPERTY, DEBTS AND PAYMENTS OF MONEY
	The court's orders regarding property, debts and payment of money are found in stody, Support and Division of Property Attachment of this order of protection. <sup>3</sup>
While that wo to and	PARTIES SHALL NOT CAUSE VIOLATION this order of protection is in effect the protected party should refrain from any act buld cause the restrained party to violate this order. This provision is not intended does not create a mutual order of protection. Under Section 40-13-6 (D) NMSA only the restrained party can be arrested for violation of this order.
11.	ADDITIONAL ORDERS
Failure	Review hearing. The parties are ordered to appear for a review hearing on the day of,, at, at (a.m.) (p.m.). e to appear may result in the issuance of a bench warrant for your arrest or sal of this order.
Any pa	arty ordered to attend counseling shall bring proof of counseling to the review g.
IT IS F	URTHER ORDERED⁴:
ANY L	NOTICE TO LAW ENFORCEMENT AGENCIES AW ENFORCEMENT OFFICER SHALL USE ANY LAWFUL MEANS TO RCE THIS ORDER.
	Respondent [] Petitioner is ordered to surrender all keys to the residence to law ement officers.
	Law enforcement officers or shall be present during any ty exchange.
[] provisi	This order supersedes prior orders in County, State of, Cause No to the extent that there are contradictory ons.
This or or sup To ma	NOTICE TO PARTIES rder does not serve as a divorce and does not permanently resolve child custody port issues. ke a request to extend this order, the protected party should return to the court copy of this order at least three weeks before the order expires.

#### 14. **RECOMMENDATIONS**

I have:

[]	reviewed the petition for order of protection;
[]	reviewed the counter-petition for order of protection;
[]	conducted hearings on the merits of the petition;
party o writter within	after notice and hearing, I prepared this order as my recommendation to the t court judge regarding disposition of the request for order of protection. If any disagrees with the recommendations, that party may, but is not required to, file to objections and a request for hearing on those objections with the district court ten (10) days. A copy of those objections and a request for hearing must be d by mail on the other party.
	Signed
	Title Court's telephone number:
effect are file	ourt has reviewed the recommendations and adopts them. This order remains in unless and until it is modified by a district court judge or it expires. If objections ed the court may conduct a hearing to resolve the objections. (See Rule 1-(H)(1)(a) NMRA).
SO O	RDERED:
Distric	et Judge Date
[ ] [ ] res <sub>l</sub>	A copy of this order was [] hand delivered [] faxed [] mailed to [] respondent pondent's counsel on (date) <sup>5</sup> .
[ ] [ ] peti	A copy of this order was [] hand delivered [] faxed [] mailed to [] petitioner itioner's counsel on (date).
	Signed
	Title
	USE NOTE

1. The first page of this order of protection shall be in the uniform format preceding the heading for additional pages of the order.

- 2. This order may be entered only after a hearing at which respondent received actual notice and at which respondent had an opportunity to participate if 18 U.S.C. Section 922 is to apply to this order.
- 3. See Form 4-967 NMRA for the Custody, Support and Division of Property Order attachment.
- 4. If appropriate, an order providing for restitution may be included in this paragraph.
- 5. Respondent or petitioner should be served at the time this order is issued, before leaving the courthouse. If a default order is issued, service upon the non-attending party shall be made by mail or by personal service. See Section 40-13-6(A) NMSA 1978.

[Approved, effective November 1, 1999 until July 1, 2001; approved, as amended, effective May 1, 2001; as amended by Supreme Court Order No. 07-8300-020, effective September 17, 2007; by Supreme Court Order No. 08-8300-040, effective December 15, 2008.]

**Committee commentary.** — The Family Violence Protection Act provides that "a peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order" of protection entered pursuant to the Act. Section 40-13-6(C) NMSA 1978.

This statute would allow a warrantless misdemeanor arrest for conduct occurring outside the presence of the officer and would not require exigent circumstances in addition to probable cause. That a misdemeanor must occur in the presence of the arresting officer is a long standing common law requirement for a warrantless misdemeanor arrest. *Eg. State v. Luna*, 93 N.M. 773, 777, 606 P.2d 183, 187 (1980). The "exigent circumstances" requirement is mandated by the New Mexico Constitution. *Campos v. State*, 117 N.M. 155, 159, 870 P.2d 117, 121 (1994) ("[F]or a warrantless arrest to be reasonable it must be based upon both probable cause and sufficient exigent circumstances."). Absent the exigent circumstance that the misdemeanor is committed in the presence of the officer, *id.*, ("If an officer observes the person arrested committing a felony, exigency will be presumed."), the New Mexico Constitution appears to bar blanket authority to make warrantless arrests for misdemeanors committed outside the presence of the officer.

The legislature, of course, lacks power to provide by statute for an arrest procedure that violates the New Mexico Constitution. *Campos v. State*, 117 N.M. 155, 158, 870 P.2d 117, 120 (1994). To avoid having the Supreme Court give approval to a form containing language of questionable constitutional validity, the committee did not use the statutory language in the portion of the final order describing the power of a law enforcement officer to make a warrantless arrest for the misdemeanor crime (Section 40-13-6(D) NMSA 1978), of violating the final order of protection. The committee substituted more general language, which does not prejudge the constitutional issue.

The general provisions of the order of protection, including injunctive orders, "shall continue until modified or rescinded . . . or until the court approves a subsequent consent agreement. . . . " Section 40-13-6(B) NMSA 1978. In contrast, "[a]n order of protection . . . involving custody or support shall be effective for a fixed period of time not to exceed six months". *Id.* The custody or support "order may be extended for good cause upon motion . . . for an additional period of time not to exceed six months", *id.*, unless "the order supersedes or alters prior orders of the court" pertaining to child custody or child support. *See* Section 40-13-5(C) NMSA 1978. In the latter situation, "the court may enter an initial order of protection, but the portion of the order dealing with child custody or child support will then be transferred to the court that has or continues to have jurisdiction over the pending or prior custody or support action". *Id.* 

#### **ANNOTATIONS**

The 2008 amendment, approved by Supreme Court Order No. 08-8300-040, effective December 15, 2008, changed the title from "Order of Protection [] Mutual []Non-Mutual" to "Additional Pages of Order of Protection"; deleted the former introductory paragraph which provided that the order was an order of protection under 18 U.S.C. §922, 18 U.S.C. §2265 and Section 40-13-6(D) NMSA 1978 and that the order shall be accorded full faith and credit and be enforced as if it were an order of the other state or Tribe; in the Findings section, deleted the provision that the court has legal jurisdiction over the parties and the subject matter; in Paragraph 1 added "And Status" to the title; in Paragraph 1, added the last item; in Subparagraph A of Paragraph 2, added "or both" at the end of the first sentence; in Subparagraph B of Paragraph 2, changed "spouse of the other party" to "spouse or former spouse of the other party", changed "lives" and "lived" to "cohabitates" and "cohabitated"; in Subparagraph C of Paragraph 2, changed "entry" to "violation"; in Paragraph 3, added the last sentence; in Paragraph 5, in the bold, italicized paragraph, changed "petitioner's or respondent's" to "the protected party's" and changed "address of residence and employment for the appropriate party or parties" to "it below"; changed "Respondent's addresses" to "Protected party's addresses", deleted the blanks for the Petitioner's addresses; in Paragraph 10, changed "petitioner" to "protected party" and "respondent" to "restrained party" and added the last sentence; in Paragraph 11, added the last sentence of the first paragraph; deleted former Paragraph 12 which provided for the effective date, extension and modification of the order; renumbered former Paragraphs 13 through 15 as Paragraphs 12 through 14; in Paragraph 13, added the last sentence; in Paragraph 14, added the last sentence of the last check item and added the last paragraph; in the Use Notes, in Paragraph 1, deleted the note which provided that the notes shall not be included in the order and added the current note; deleted former Paragraph 2 which provided that mutual orders of protection are binding on the petitioner and the respondent and are entitled to full faith and credit when certain procedural requirements are met and pursuant to 18 U.S.C. §2265(c) and Section 40-13-6(D) NMSA 1978; deleted former Paragraph 3 which provided that a mutual order may be entered only after a counter-petition has been filed and a hearing has been held; and renumbered former Paragraphs 5 through 7 as Paragraphs 3 through 5.

**The 2007 amendment,** effective September 17, 2007, amended Paragraph 10 to change "shall refrain" to "should refrain"; added the last sentence providing Paragraph 13 does not create a mutual protection order; deleted Use Note 6 providing that a violation of the order may result in a finding of contempt of court; and renumbered the following paragraphs of the Use Notes.

**The 2001 amendment,** effective May 1, 2001, substituted "Mutual/Non Mutual" for "Against Respondent" in the title of the order and rewrote the order to reflect the fact that the order addresses the actions of both parties in the protection order.

Order of protection did not violate respondent's due process rights. — Where respondent was found in criminal contempt for her violation of an order of protection, which expressly prohibited respondent from engaging in conduct that would cause petitioner to suffer severe emotional distress, and where respondent repeatedly posted on the internet photos of petitioner snorting prescription drugs, implying that petitioner had a substance abuse problem, accompanied by statements claiming that petitioner was a "junkie," a drug-addled imbecile," and a "drug-addicted hypocrite," respondent's due process rights were not violated, because the order provided respondent with sufficient notice that her online activity would constitute a violation. Best v. Marino, 2017-NMCA-073, cert. denied.

Order of protection's restriction of respondent's ability to access the Internet was unconstitutionally overbroad. — Where the district court issued an order of protection based on respondent's sustained pattern of stalking and harassment of petitioner, the court's restriction of respondent's ability to access the internet was a clear prior restraint on respondent's first amendment rights and was not the least restrictive means by which to address the harm in this case, and therefore the district court's restriction was unconstitutionally overbroad and violated respondent's first amendment rights. Best v. Marino, 2017-NMCA-073, cert. denied.

#### 4-966. Withdrawn.

#### **ANNOTATIONS**

**Withdrawals.**— Pursuant to a court order dated April 9, 2002, Form 4-966 NMRA, an order of protection against the petitioner in a domestic abuse proceeding, was withdrawn, effective April 9, 2002. For provisions of former form, see the 2001 NMRA on *NMOneSource.com*.

#### 4-966A, Withdrawn.

#### **ANNOTATIONS**

**Withdrawals.**— Pursuant to a court order dated February 27, 2001, Form 4-966A, pertaining to mutual order of protection, was withdrawn, effective May 1, 2001. For

provisions of former form, see the 2000 NMRA on *NMOneSource.com*. For comparable provisions, see Form 4-965 NMRA.

### 4-967. Custody, support and division of property order attachment.

# CUSTODY, SUPPORT AND DIVISION OF PROPERTY ORDER ATTACHMENT <sup>1</sup>

#### 1. CUSTODY

[	[] Petitioner [] Respondent shall have temporary legal custody of the following child(ren):
]A.	
[ ]B.	[] Petitioner [] Respondent shall have physical custody of the above child(ren) at all times, except that [] respondent [] petitioner shall have contact as follows:
	[ ]No contact, and stay yards from the child(ren)'s school at all times.
	[ ]Contact at the following specified times:
	The child(ren) shall be exchanged for visitation at on
	[]Referred to for evaluation or mediation, with appropriate safeguards to protect the parties and allow them to mediate fairly. Contact with the child(renis deferred until findings of mediator or counselor.
[ ]C	Custody, visitation and child support will be continued in accordance with the court order in, Cause No,
[ ]D	Other
[ ]E.	[] Petitioner [] Respondent shall not hide the child(ren) from the other parent or permanently remove the child(ren) from the State of New Mexico. Neither parent should
[ ]F.	Each parent shall immediately notify the other parent about any emergency condition of the child(ren).
2.	PROVISIONS RELATING TO SUPPORT
]	Temporary support shall be paid by [] respondent [] petitioner to [] respondent [] petitioner in the amount of \$ per month payable
	Respondent [] Petitioner shall provide suitable alternative housing to [] respondent [] petitioner
L 1	and any child(ren) to whom the respondent owes a legal obligation of support. This shall be provided as follows:

ade by check or money order made payable to and mall be entered and directed to ( <i>employer</i> )  TS OF MONEY  encumber or otherwise dispose of the other party's property of tin the usual course of business or for the necessities of life. party for all such transfers, encumbrances and expenditures entered.  yay, hide, add debt to, sell or pawn the property.
encumber or otherwise dispose of the other party's property of tin the usual course of business or for the necessities of life. party for all such transfers, encumbrances and expenditures entered.
encumber or otherwise dispose of the other party's property of tin the usual course of business or for the necessities of life. party for all such transfers, encumbrances and expenditures entered.
encumber or otherwise dispose of the other party's property of tin the usual course of business or for the necessities of life. party for all such transfers, encumbrances and expenditures entered.
party for all such transfers, encumbrances and expenditures entered.
ay, hide, add debt to, sell or pawn the property.
arily distributed as follows:
e temporary physical custody of the following physical assets

#### 5. EFFECT OF ORDER

If there is a pending or completed action relating to child custody or child support at the time this order is filed, the court may modify the order, but the portion of the order dealing with child custody or child support must then be transferred to the court that has or continues to have jurisdiction over the pending or prior custody or support action.

This order does not serve as a divorce and does not permanently resolve child custody or support issues.

#### 6. EXPIRATION

The provisions set forth regarding custody, support, and division of property shall expire on the day of at 5:00 p.m., unless explicitly extended by court order. Either party may petition the court to extend the provisions regarding custody, support, and division of property.
USE NOTE
1. This form may be modified as appropriate and attached to an order of protection in any domestic violence proceeding.
2. List personal assets. A separate schedule may be attached to this order.
3. If appropriate, an order providing for restitution may be included in this paragraph.
[Approved, effective November 1, 1999 until July 1, 2001; approved, as amended, effective May 1, 2001; as amended by Supreme Court Order No. 12-8300-026, effective for all cases filed or pending on or after January 7, 2013.]
ANNOTATIONS
<b>The 2012 amendment,</b> approved by Supreme Court Order No. 12-8300-026, effective January 7, 2013, provided for the expiration of the order with regard to custody, support, and division of property; and in Paragraph 6, in the first sentence, after "The provisions set forth" deleted "in this attachment shall expire on day of at 5:00 p.m." and added "regarding custody, support, and division of property shall expire on the day of at 5:00 p.m.", and added the last sentence.
<b>The 2001 amendment,</b> effective May 1, 2001, rewrote this form, deleting provisions relating to the counseling of the respondent and the petitioner.
4-968. Application to modify, terminate, or extend the order of protection from domestic abuse.
[Standard simplified domestic abuse form, Family Violence Protection Act, Sections 40-13-1 to 40-13-8 NMSA 1978]
STATE OF NEW MEXICO
COUNTY OF
JUDICIAL DISTRICT COURT
, Petitioner

V.	No
	, Respondent
	APPLICATION TO MODIFY, TERMINATE, OR EXTEND THE ORDER OF PROTECTION FROM DOMESTIC ABUSE
[] Pe	titioner [] Respondent asks the court:
(chec	k and complete applicable alternatives)
[]	to modify the protection order as follows:
[]	to terminate the protection order because:
[] becau	to extend the protection order for an additional(days) (months) use:
The o	other party:
[]	objects to the extension, modification, or termination of the protection order.
[]	agrees to the extension, modification, or termination of the protection order.
[] modif	has not told me whether (he) (she) objects or agrees to the extension, ication, or termination of the protection order.
	VERIFICATION
laws of entitle	the [] Petitioner [] Respondent, affirm under oath and penalty of perjury under the of the State of New Mexico that I am the [] Petitioner [] Respondent in the aboved cause; that I have read this application to modify, terminate, or extend the order of tection from domestic abuse; and that the contents of the application are true and ct to the best of my information and belief.
COU	Signature of party filing this application  TE OF NEW MEXICO  NTY OF  Solution  Signature of party filing this application  NTY OF  Signature of party filing this application  Signature of party filing this application  NTY OF  Signature of party filing this application  Signature of party filing this application  NTY OF  Signature of party filing this application  NTY OF  Signature of party filing this application  Signature of party filing this application

Signed and sworn before me on this	day of,
Notary public My commission expires:	
CERTIFICAT	TE OF SERVICE
I hereby certify that on this day of	, this application was
[mailed by United States mail, postage pre	epaid, and addressed to:
Name:	
Address:	
City, State and zip code:	]
[faxed by (name of recip	
number).	te and without error. The time and date of the
[e-mailed by	(name of person who transmitted) to pient) at (electronic mail
address of recipient) who agreed to service successful. The time and date of the trans (date).]	e in this manner. The transmission was
	Signature of attorney
	Date of signature
If this notice was served by a person other completed and filed with the court:	r than an attorney, the following must also be
AFFIDAVIT	OF SERVICE
	the laws of the State of New Mexico that a il] [fax] [electronic transmission] as described,
	Signature of person who made service
	orginature of person who made service

[Approved, effective November 1, 1999 until July 1, 2001; approved, effective May 1, 2001; as amended by Supreme Court Order No. 08-8300-40, effective December 15, 2008; by Supreme Court Order No. 12-8300-026, effective for all cases filed or pending on or after January 7, 2013; as amended by Supreme Court Order No. 14-8300-023, effective for all pleadings and papers filed 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 party to sign the application before a notary public; in the "Verification" provision, after "I affirm under", added "oath and", and after "Signature of party filing this application", added the new notarization section of the Verification.

The 2014 amendment, approved by Supreme Court Order No. 14-8300-023, effective December 31, 2014, eliminated the requirement that the form be notarized; in the Verification, deleted the former affirmation of the signatory and the certification and signature line of the notary public; and in the Affidavit of Service, at the beginning of the sentence, deleted "declare" and added "affirm", after "perjury", added "under the laws of the State of New Mexico", and deleted the former certification and signature lines of the judge, notary, and other officer authorized to administer oaths.

The 2012 amendment, approved by Supreme Court Order No. 12-8300-026, effective January 7, 2013, provided that the order may be extended; in the title of the rule, after "terminate or", deleted "renew" and added "extend"; in the title of the form after "terminate or", deleted "renew" and added "extend", in the last paragraph regarding the petitioner, after "to", deleted "renew and"; in each of the three paragraphs regarding the other party, after "to the", deleted "renewal" and added "extension"; and in the verification, in the first sentence, after "terminate or", deleted "renew" and added "extend".

The 2008 amendment, approved by Supreme Court Order No. 08-8300-40, effective December 15, 2008, in the Verification section, added the initial statement that the petitioner, being duly sworn upon oath, deposes and states that the petitioner is the petitioner and that the petitioner has read the application to modify, terminate or renew the order; deleted the language that the petition is true to the best of the petitioner's knowledge and belief and that the petitioner understands that the petitioner can be punished civilly and criminally if any information in the petition is false, and added the last sentence; and added the Certificate of Service and the Affidavit of Service.

# 4-970. Stipulated order of protection against respondent.

[Click here for PDF version of Order of Protection cover page]

Judicial Order of Protection
------------------------------

District	_ County,	[] An	nendec	l Order				
New Mexico Case No.								
	D PARTY ([ ] F RESPONDEN		[]				ΓED PAR ΓIFIERS	TY
First	Middle	Last			Date of		h of Prote	cted
	half of minor fa list name and	•				her F	arty Protected ns/DOB	
	V.							
RES	TRAINED PAI	RTY		I			ED PART	Y
	SEX	RACE	DOB	HT	WT			
First	Middle	Last						
				EYES	HAIR	SO	CIAL SEC	CURITY
Relationship to Protected Party:				N	ot used i Mexic	_		
				IVERS ENSE #	<u>t</u>	STATE	EXP DATE	
Restrai	ined Party's A	ddress						
Distinguishing Features  CAUTION:								
[]Weapor	n Involved							
	URT HEREB	Y FINDS:						
•	risdiction over	•	nd sub	ject mat	ter, and	l the	Restraine	ed Party
•	nd opportunity							
	al findings of t		w on s	ucceedi	na page	es.		
	URT HEREB							
	That the above named Restrained Party he restrained from committing further					further		
That the above named Restrained Party be restrained from any contact with the Protected Party.								

[] Additional terms of this order are as set forth on succeeding pages.				
The terms of this order shall be effective until	,	,		

#### **WARNINGS TO RESTRAINED PARTY:**

This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands under 18 U.S.C. Section 2265. Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment under 18 U.S.C. Section 2262.

As a result of this order, it may be unlawful for you to possess or purchase ammunition or a firearm, including a rifle, pistol or revolver, under 18 U.S.C. Section 922(g)(8). If you have any questions whether federal law makes it illegal for you to possess or purchase a firearm, you should consult an attorney.

Only the court can change this order.

Page 1 of	Judge's signature on las
age i oi	page

### ADDITIONAL PAGES¹ OF STIPULATED ORDER OF PROTECTION AGAINST RESPONDENT

The court further FINDS, CONCLUDES AND ORDERS:

#### 1. NOTICE, APPEARANCES AND STATUS

This order was entered on stipulation of the parties.

[] The relationship of the parties is that of an "intimate partner" as defined in 18 USC Section 921(a)(32). (See 2 below)

#### 2. EFFECT OF STIPULATION TO ORDER OF PROTECTION

Violation of this order can have serious consequences, including:

- A. If you violate the terms of this order, you may be charged with a misdemeanor, which is punishable by imprisonment of up to three hundred sixty-four (364) days and a fine of up to one thousand dollars (\$1,000) or both. You may be found to be in contempt of court.
- B. If you are the spouse or former spouse of the other party, an individual who cohabitates with or has cohabitated with the other party, or if you and the other party have had a child together, federal law prohibits you from possessing or transporting firearms or ammunition while this order is in effect. If you have a firearm or ammunition,

you should immediately dispose of the firearm or ammunition. Violation of this law is a federal crime punishable by imprisonment for up to ten (10) years and a fine of up to two hundred fifty-thousand dollars (\$250,000).

C. If you are not a citizen of the United States, violation of this order may have a negative effect on your application for residency or citizenship.

#### 3. DOMESTIC ABUSE PROHIBITED

The respondent shall not abuse the petitioner or members of the petitioner's household. "Abuse" means any incident by respondent against the petitioner or petitioner's household member resulting in (1) physical harm; (2) severe emotional distress; (3) bodily injury or assault; (4) a threat by respondent causing imminent fear of bodily injury to petitioner or petitioner's household member; (5) criminal trespass; (6) criminal damage to property; (7) repeatedly driving by petitioner's or petitioner's household members' residence or work place; (8) telephone harassment; (9) stalking; (10) harassment; or (11) harm or threatened harm to children in any manner set forth above. Respondent shall not ask or cause other persons to abuse the petitioner or petitioner's household members.

4.	CONTACT PROHIBITIONS	
•	ndent shall stay yards away from the petitione	-
	and workplace at all times, unless at a public place, whe yards away from the petitioner except as spe	•
order.	yards away from the petitioner except as spe	ecinically permitted by this
	ndent shall not telephone, talk to, visit or contact petitior :	ner in any way except as
(check	only applicable paragraphs)	
	The parties may contact each other by telephone regard or children;	ding medical emergencies
[]		
[]	The parties may attend joint counseling sessions at the	counselor's discretion.
include	s the court has entered an order sealing the protect e it below.) ted party's addresses:	ed party's address,
	(home add	,
	(work addre	ess)
	(city)	la triba ar nuabla)
	(ii applicable) (state and z	le, tribe or pueblo) zip code)

# Petitioner shall attend and complete counseling at contacting that office within five (5) days. The petitioner shall participate in, attend and complete counseling as recommended by the named agency. Respondent shall attend and complete counseling at \_\_\_\_\_ [] contacting that office within five (5) days. The respondent shall participate in, attend and complete counseling as recommended by the named agency. [] Petitioner shall report to \_\_\_\_\_\_ for a [] drug [and] [] alcohol screen by \_\_\_\_\_, \_\_\_\_ (date) with the results returned to this court. Respondent shall report to \_\_\_\_\_\_ for a [] drug [and] [] alcohol [] screen by \_\_\_\_\_\_, \_\_\_\_\_(date) with the results returned to this court. Other counseling requirements: 6. CUSTODY<sup>2</sup> The court's orders regarding the minor [child] [children] of the parties are found in the Custody, Support and Division of Property Attachment of this order of protection. 7. PROVISIONS RELATING TO SUPPORT<sup>2</sup> The court's orders regarding support issues for the parties are found in the Custody, Support and Division of Property Attachment of this order of protection. 8. PROPERTY, DEBTS, PAYMENTS OF MONEY<sup>2</sup> The court's orders regarding property, debts and payment of money are addressed in the Custody, Support and Division of Property Attachment of this order of protection. 9. ADDITIONAL ORDERS Review hearing. The parties are ordered to appear for a review hearing on the \_ day of \_\_\_\_\_, \_\_\_\_, at \_\_\_\_\_(a.m.) (p.m). Failure to appear may result in the issuance of a bench warrant for your arrest or dismissal of this order. Any party ordered to attend counseling shall bring proof of counseling to the review hearing.

5.

COUNSELING

#### IT IS FURTHER ORDERED3:

.

#### 10. PETITIONER SHALL NOT CAUSE VIOLATION

While this order of protection is in effect, the petitioner should refrain from any act that would cause the respondent to violate this order. This provision is not intended to and does not create a mutual order of protection. Under Section 40-13-6(D) NMSA 1978 only the restrained party can be arrested for violation of this order.

# 11. NOTICE TO LAW ENFORCEMENT AGENCIES ANY LAW ENFORCEMENT OFFICER SHALL USE ANY LAWFUL MEANS TO ENFORCE THIS ORDER.

[] office	·	er all keys to the residence to law enforcement
	Law enforcement officers or	shall be present during any property
[]	This order supersedes prior orders, Cause No radictory provisions.	s in County, State of to the extent that there are
		RESPONDENT and does not permanently resolve child custody
With this		as occurred, the parties stipulate to the entry of and do understand the effects of this order as
F	Petitioner's signature	Respondent's signature
F	Petitioner's counsel, if any	Respondent's counsel, if any
С	Date	Date
<b>14.</b> I hav	RECOMMENDATIONS /e:	
[]	reviewed the pleading for order of	protection:

[] prepared this order as my red disposition of requests for order of p	commendation to the district court judge regarding protection.
	Signed
	Domestic Violence Commissioner Court's telephone number:
SO ORDERED.	
	District Judge
[] A copy of this order was [] har respondent's counsel on	and delivered [] faxed [] mailed to [] respondent [] (date).3
[] A copy of this order was [] hapetitioner's counsel on	and delivered [] faxed [] mailed to [] petitioner [] (date).
	Signed
	USE NOTE

- 1. The first page of this stipulated order of protection form shall be in the uniform format preceding the heading for additional pages of the order.
  - 2. See Form 4-967 NMRA, "Custody, Support and Division of Property Attachment".
- 3. If appropriate, an order providing for restitution may be included in this paragraph.
- 4. Respondent may be served at the time this order is issued. If respondent is not present at the time this order is issued, service upon respondent shall be made by delivering a copy to the party. See Section 40-13-6(A) NMSA 1978.

[Approved, effective November 1, 1999 until July 1, 2001; approved, as amended, effective May 1, 2001; April 9, 2002; as amended by Supreme Court Order No. 07-8300-020 effective September 17, 2007; by Supreme Court Order No. 08-8300-040, effective December 15, 2008.]

**Committee commentary.**— This Stipulated Order of Protection against Respondent is not the same as an Order of Protection entered pursuant to Form 4-965 NMRA. This order provides fewer protections to the parties than does the Form 4-965 Order of

Protection. The decreased protection is the result of the fact that the order is not based upon findings of abuse, but is entered without reference to whether abuse has occurred. Nonetheless, there may be occasions when the parties and the court are satisfied that this Stipulated Order of Protection provides adequate relief to the parties.

The general provisions of the order of protection, including injunctive orders, shall "continue until modified or rescinded ... or until the court approves a subsequent consent agreement...." Section 40-13-6(B) NMSA 1978. In contrast, "[a]n order of protection ... involving custody or support shall be effective for a fixed period of time not to exceed six months". *Id.* The custody or support "order may be extended for good cause upon motion ... for an additional period of time not to exceed six months", *id.*, unless "the order supersedes or alters prior orders of the court" pertaining to child custody or child support. See Section 40-13-5(C) NMSA 1978. In the latter situation, "the court may enter an initial order of protection, but the portion of the order dealing with child custody or child support will then be transferred to the court that has or continues to have jurisdiction over the pending or prior custody or support action". *Id.* 

# Factual Distinction Between Mutual Order of Protection and Stipulated Order of Protection

The core factual difference between the Form 4-965 NMRA order of protection and this stipulated order of protection is that Form 4-965 NMRA requires the court to make findings that each party has committed an act of domestic abuse. In contrast, this order is entered by the court with no finding of domestic abuse by respondent, but rather, is based solely on the stipulation of the parties that, without admitting to acts of abuse, each party is willing to have the restraining order issued against respondent.

[Amended by Supreme Court Order No. 08-8300-040, effective December 15, 2008.]

#### **ANNOTATIONS**

The 2008 amendment, approved by Supreme Court Order No. 08-8300-040, effective December 15, 2008, added "Additional Pages Of" to the title and deleted the statement that this order is not an order under 18 U.S.C. §922; deleted language which provided that the matter came before the court by agreement of the parties to enter an order; deleted language which stated that the court has legal jurisdiction over the parties and the subject matter; in Paragraph 1, in the title, added "And Status"; in Paragraph 1 in the first sentence, deleted the statement that the order was entered in a proceeding that does not satisfy the requirements of 18 U.S.C. §922.2; in Paragraph 1, added the second sentence; in Subparagraph 2, added "or both" in the first sentence and added the second sentence; in Subparagraph B of Paragraph 2, deleted language which provided that the parties may be found in contempt and added the current paragraph; in Subparagraph C of Paragraph 2, changed "entry" to "violation"; in Paragraph 4, changed "petitioner's" to "the protected party's" and changed "address of residence and employment for the petitioner" to "it below"; in Paragraph 4, deleted the blanks for the Respondent's addresses and changed "Petitioner's addresses" to

"Protected party's addresses"; in Paragraph 9, added the last sentence in the checked item; in Paragraph 10, added the last sentence; deleted former Paragraph 11 which provided for the effective date, extension, and modification of the order; deleted former Paragraph 12 which provided that the order shall not be entered in the federal registry; renumbered former Paragraphs 13 through 16 as Paragraphs 11 through 14; in the Use Notes, in Paragraph 1, deleted language which provided that the form may be used if the parties stipulate to an order against respondent without any findings of abuse and added the current sentence; deleted former Paragraph 2 which provided that the order may be entered only upon a stipulation of the parties without a hearing on abuse, that if a hearing is held on abuse, Form 4-965 should be used and if a hearing is held on other matters, Form 4-967 may be attached to this order; and renumbered former Paragraphs 4 and 5 as Paragraphs 3 and 4.

**The 2007 amendment,** effective September 17, 2007, amended Paragraph 10 to change "shall refrain" to "should refrain"; added the last sentence providing Paragraph 13 does not create a mutual protection order; deleted Use Note 5 providing that a violation of the order may result in a finding of contempt of court; and renumbered former Use Note 6 as Use Note 5.

**The 2002 amendment**, effective April 9, 2002, specifically made this form a stipulated order of protection against respondent to compliment the new Form 4-971 which is a stipulated order against petitioner.

**The 2001 amendment,** effective May 1, 2001, added the option of nonmutuality to the stipulated order and deleted provisions relating to child custody, support, and property, debts, and payments of money, referring instead to the "Custody, Support and Division of Property Attachment of this Order of Protection".

# 4-971. Stipulated order of protection against petitioner.

[Click here for PDF version of Order of Protection cover page]

District	Judicial				
New Mex Case No			<b>Protection</b> ded Order		
PROTI	ECTED PARTY ([ ] P RESPONDEN			TECTED PARTY DENTIFIERS	1
First	Middle	Last	Date o	of Birth of Protected Party	ı
	on behalf of minor fa er(s): (list name and I	•		Other Protected Persons/DOB	

٧. **RESTRAINED PARTY RESTRAINED PARTY IDENTIFIERS** DOB SEX **RACE** HT WT First Middle Last SOCIAL SECURITY **HAIR** EYES # Not used in New Relationship to Protected Party: Mexico **DRIVERS EXP** STATE LICENSE # DATE Restrained Party's Address **Distinguishing Features CAUTION:** []Weapon Involved THE COURT HEREBY FINDS: That it has jurisdiction over the parties and subject matter, and the Restrained Party has been provided with reasonable notice and opportunity to be heard. [] Additional findings of this order follow on succeeding pages. THE COURT HEREBY ORDERS: That the above named Restrained Party be restrained from committing further [] acts of abuse or threats of abuse.

#### **WARNINGS TO RESTRAINED PARTY:**

Protected Party.

The terms of this order shall

be effective until

[]

This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands under 18 U.S.C. Section 2265. Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment under 18 U.S.C. Section 2262.

That the above named Restrained Party be restrained from any contact with the

Additional terms of this order are as set forth on succeeding pages.

As a result of this order, it may be unlawful for you to possess or purchase ammunition or a firearm, including a rifle, pistol or revolver, under 18 U.S.C. Section 922(g)(8). If you have any questions whether federal law makes it illegal for you to possess or purchase a firearm, you should consult an attorney.

Only the court can change this order.

Dogo 1 of	Judge's signature on last
Page 1 of	page

### ADDITIONAL PAGES¹ OF STIPULATED ORDER OF PROTECTION AGAINST PETITIONER

The court further **FINDS**, **CONCLUDES AND ORDERS**: *(check only applicable paragraphs)* 

#### 1. NOTICE, APPEARANCES AND STATUS

This order was entered on stipulation of the parties.

[] The relationship of the parties is that of an "intimate partner" as defined in 18 USC Section 921(a)(32). (See 2 below)

#### 2. EFFECT OF STIPULATION TO ORDER OF PROTECTION

Violation of this order can have serious consequences, including:

- A. If you violate the terms of this order, you may be charged with a misdemeanor, which is punishable by imprisonment of up to three hundred sixty-four (364) days and a fine of up to one thousand dollars (\$1,000) or both. You may be found to be in contempt of court.
- B. If you are the spouse or former spouse of the other party, an individual who cohabitates with or has cohabitated with the other party, or if you and the other party have had a child together, federal law prohibits you from possessing or transporting firearms or ammunition while this order is in effect. If you have a firearm or ammunition, you should immediately dispose of the firearm or ammunition. Violation of this law is a federal crime punishable by imprisonment for up to ten (10) years and a fine of up to two hundred fifty-thousand dollars (\$250,000).
- C. If you are not a citizen of the United States, violation of this order may have a negative effect on your application for residency or citizenship.

#### 3. DOMESTIC ABUSE PROHIBITED

The petitioner shall not abuse the respondent or members of the respondent's household. "Abuse" means any incident by petitioner against the respondent or respondent's household member resulting in (1) physical harm; (2) severe emotional

distress; (3) bodily injury or assault; (4) a threat by petitioner causing imminent fear of bodily injury to respondent's or respondent's household members; (5) criminal trespass; (6) criminal damage to property; (7) repeatedly driving by respondent's or respondent's household members' residence or workplace; (8) telephone harassment; (9) stalking; (10) harassment; or (11) harm or threatened harm to children in any manner set forth above.

Petitioner shall not ask or cause other persons to abuse the respondent or respondent's household members.

respo petiti spec	contact prohibitions foner shall stay yards away from the respondent and the ondent's home and workplace at all times, unless at a public place, where the oner shall remain yards away from the respondent except as ifically permitted by this order.  soner shall not telephone, talk to, visit or contact respondent in any way except as
follov	
[] of mi	The parties may contact each other by telephone regarding medical emergencies nor children;
[]	
[]	The parties may attend joint counseling sessions at the counselor's discretion.
Prote	ess the court has entered an order sealing the protected party's address, ude it below.) ected party's addresses (home address) (work address) (city)
	(if applicable, tribe or pueblo) (state and zip code)
5.	COUNSELING
	Petitioner shall attend and complete counseling at, acting that office within five (5) days. The petitioner shall participate in, attend and olete counseling as recommended by the named agency.
	Respondent shall attend and complete counseling at, acting that office within five (5) days. The respondent shall participate in, attend and olete counseling as recommended by the named agency.
	Petitioner shall report to for a [] drug [and] [] alcohol en by, (date) with the results returned to this court.

[] scree	Respondent shall report to n by,	for a [] drug [and] [] alcohol (date) with the results returned to this court.
[]	Other counseling requirements:	
6.	CUSTODY <sup>2</sup>	
[] the Cu		nor [child] [children] of the parties are found in erty Attachment of this order of protection.
7.	PROVISIONS RELATING TO SUP	PORT <sup>2</sup>
[] Custo		rt issues for the parties are found in the Attachment of this order of protection.
8.	PROPERTY, DEBTS, PAYMENTS	OF MONEY <sup>2</sup>
	ssed in the Custody, Support and Di	rty, debts and payment of money are vision of Property Attachment of this order of
Failure dismis Any p hearin	day of, e to appear may result in the issuand saal of this order.  arty ordered to attend counseling sh	d to appear for a review hearing on the, at (a.m.) (p.m). ce of a bench warrant for your arrest or all bring proof of counseling to the review
would does i	cause the petitioner to violate this o	ne respondent should refrain from any act that order. This provision is not intended to and on. Under Section 40-13-6(D) NMSA 1978, or violation of this order.
ANY I		HALL USE ANY LAWFUL MEANS TO
[] officer		Il keys to the residence to law enforcement

[] excha			shall be present during any property
[]	This order supersedes prior ord , Cause No adictory provisions.	ers in _	County, State ofto the extent that there are
	NOTICE TO PETITIONER AND order does not serve as a divorce oport issues.	_	ONDENT bes not permanently resolve child custody
this o			curred, the parties stipulate to the entry of do understand the effects of this order as
Р	etitioner's signature		Respondent's signature
Р	etitioner's counsel, if any		Respondent's counsel, if any
D	ate		Date
<b>14.</b> I have	RECOMMENDATIONS e:		
[]	reviewed the pleading for order	of prote	ection;
[] dispos	prepared this order as my recor sition of requests for order of pro		ation to the district court judge regarding
			c Violence Commissioner elephone number:
SO O	RDERED.		
	С	District J	Judge
[] respo	A copy of this order was [] hand note that the counsel on		red [] faxed [] mailed to [] respondent [] ate).4

[]	A copy of this order	was [] hand delivered	[] faxed [] ma	ailed to [ ] pe	titioner [ ]
petitio	ner's counsel on	(date).			

#### Signed

#### **USE NOTE**

- 1. The first page of this stipulated order of protection form shall be in the uniform format preceding the heading for additional pages of the order.
  - 2. See Form 4-967 NMRA, "Custody, Support and Division of Property Attachment".
- 3. If appropriate, an order providing for restitution may be included in this paragraph.
- 4. Petitioner may be served at the time this order is issued. If petitioner is not present at the time this order is issued, service upon petitioner shall be made by delivering a copy to the party. See Section 40-13-6(A) NMSA 1978.

[Approved, effective April 9, 2002; as amended by Supreme Court Order 07-8300-20, effective September 17, 2007; by Supreme Court Order No. 08-8300-40, effective December 15, 2008.]

**Committee commentary.** — See Committee Comment to Civil Form 4-970 NMRA.

#### **ANNOTATIONS**

The 2008 amendment, approved by Supreme Court Order No. 08-8300-040, effective December 15, 2008, added "Additional Pages Of" to the title and deleted the statement that this order is not an order under 18 U.S.C. §922; deleted the first sentence which provided that the matter came before the court by agreement of the parties to enter an order; deleted language which stated that the court has legal jurisdiction over the parties and the subject matter; in Paragraph 1, in the title, added "And Status"; in Paragraph 1 in the first sentence, deleted the statement that the order was entered in a proceeding that does not satisfy the requirements of 18 U.S.C. §922; in Paragraph 1, added the second sentence; in Subparagraph A of Paragraph 2, added "or both" in the first sentence and added the second sentence; in Subparagraph B of Paragraph 2, deleted the sentence which provided that the parties may be found in contempt and added the current paragraph; in Subparagraph C of Paragraph 2, changed "entry" to "violation"; in Paragraph 4, in the bold, italicized paragraph, changed "respondent's" to "the protected party's" and deleted "address of residence and employment for the respondent"; in Paragraph 4, changed "Petitioner's addresses" to "Protected party's addresses" and deleted the blanks for the Respondent's addresses; in Paragraph 9, added the last sentence in the checked item; in Paragraph 10, added the last sentence; deleted former Paragraph 11 which provided for the effective date, extension, and modification of the

order; deleted former Paragraph 12 which provided that the order shall not be entered in the federal registry; renumbered former Paragraphs 13 through 16 as Paragraphs 11 through 14; in the Use Notes, in Paragraph 1, deleted the sentence which provided that the form may be used if the parties stipulate to an order against respondent without any findings of abuse and added the current sentence; deleted former Paragraph 2 which provided that the order may be entered only upon a stipulation of the parties without a hearing on abuse, that if a hearing is held on abuse, Form 4-965 NMRA should be used and if a hearing is held on other matters, Form 4-967 NMRA may be attached to this order; and renumbered former Paragraphs 4 and 5 as Paragraphs 3 and 4.

**The 2007 amendment,** effective September 17, 2007, amended Paragraph 10 to change "shall refrain" to "should refrain"; added the last sentence providing Paragraph 10 does not create a mutual protection order; deleted Use Note 5 providing that a violation of the order may result in a finding of contempt of court; and renumbered former Use Note 6 as Use Note 5.

# 4-972. Petition for emergency order of protection from domestic abuse.

	RGENCY ORDER OF I	PROTECTION
	, Respondent	
V.		No
	, Petitioner	
STATE OF NEW MEXICO ON BEHA	ALF OF:	
JUDICIAL DIS	STRICT COURT	
COUNTY OF		
STATE OF NEW MEXICO		
Family Violence Protection Act, Sections 40-13-1 to 40-13-8 NMSA 1	1978]	

## 1. INFORMATION ABOUT THE RESPONDENT

[]	the husband of [] wife of petitioner
[]	the ex-husband of [] ex-wife of petitioner

The respondent is:

[]	a family member of petitioner (describe relationship)			
[] (desc	[] a person with whom petitioner has had a continuing personal relationship. (describe relationship)			
[]	a person who ha	as sexually assaulted	d me	
[]	a person who ha	as stalked me		
	Petitioner's	initials		
2.	CHILD(REN)			
	st minor child(ren) orary custody.	who may be in imm	nediate danger or in nee	ed of an order of
				ship of Child
Na	me	Date of Birth	To Petitioner	To Respondent
	Petiti	oner's initials		
3.	DOMESTIC ABI	USE		
	oner or the petitior		ving act(s) of domestic	abuse against
Phys	ical abuse:			
Threa injure		l fear that	or any household ı	member would be
Othe	r abuse:			

B.	Others present during the abuse:			
C.	Did drugs or alcohol play a role in the domestic abuse? [] yes [] no			
D.	Were weapons used during the abuse? [] yes [] no.			
If yes,	what weapons?			
E.	Has there been prior domestic abuse? [] yes [] no.			
	Petitioner's initials			
4.	REQUESTS TO THE COURT			
	THE COURT IS REQUESTED TO ENTER AN EMERGENCY ORDER OF ECTION prohibiting respondent from abusing petitioner or any member of ner's household as follows:			
	(check applicable)			
	providing for law enforcement officers to assist [] petitioner [] respondent in ring [] petitioner's [] respondent's clothing and personal belongings from the ence at			
[]	granting petitioner temporary custody of the child(ren) listed in this petition.			
[]	prohibiting respondent from contact with the child(ren) listed in this petition.			
[] descri	other relief that is necessary to resolve this domestic abuse problem ( <i>list or ibe what relief is necessary</i> ):			
	Petitioner's initials			
includ	INFORMATION ABOUT THE PETITIONER (ME) If do not want the respondent to know your address and phone number, do not the it on this form. Tell the court clerk that you need a separate form (Form 4-961B A) for your name and address and request that the clerk place your address under			
[	I DO NOT WANT RESPONDENT TO KNOW MY ADDRESS NOW OR AFTER THE HEARING FOR THE FINAL ORDER OF PROTECTION. I			
	A. HAVE COMPLETED FORM 4-961B AND GIVEN IT TO THE COURT CLERK.  OR			

	My mailing address is:		(street address) (city and zip)
	My telephone numbers ar	e: Work	Message
	Petitioner's initials		<del></del>
6.	LOCATION OF RESPONDEN	т	
A. 			code) untry, please name tribe or
puel	olo).		
Resp	oondent's:	(home telephor	•
B.	Is respondent in jail? [] yes [] Petitioner's initials	no	
	OATH	OF PETITION	ER
OF I	AFFIRM UNDER PENALTY OF NEW MEXICO THAT THE FACTS OF MY INFORMATION AND E	S SET FORTH A	
Date	}	Signatur	re of petitioner
	OATH OF LAW	ENFORCEME	NT OFFICER
facts		est of my informa	the State of New Mexico that the ation and belief. I understand that onment if I make a false statement
Date	}	 Signatur	re of law enforcement officer

#### **USE NOTE**

- 1. Complete all information known by the officer.
- 2. NMSA 1978, Section 40-13-3.1(A)(4) provides that the petitioner in a domestic abuse case shall not be required to pay for the "the filing, issuance or service of a petition for an order of protection."

[Approved, effective November 1, 1999 until July 1, 2001; as amended, effective August 29, 2000; approved, effective May 1, 2001; as amended by Supreme Court Order No. 08-8300-40, effective December 15, 2008; as amended by Supreme Court Order No. 14-8300-023, effective for all pleadings and papers filed on or after December 31, 2014.]

#### **ANNOTATIONS**

The 2014 amendment, approved by Supreme Court Order No. 14-8300-023, effective December 31, 2014, provided that the oaths of the petitioner and the law enforcement officer are affirmations made under penalty of perjury under the laws of the State of New Mexico; in the Oath of Petitioner, at the beginning of the sentence, deleted "swear or" and after "perjury", added "under the laws of the State of New Mexico"; and in the Oath of Law Enforcement Officer, at the beginning of the sentence, deleted "swear or" and after "perjury", added "under the laws of the State of New Mexico".

The 2008 amendment, approved by Supreme Court Order No. 08-8300-40, effective December 15, 2008, in Paragraph 1, added "a person who has sexually assaulted me" and "a person who has stalked me"; in Paragraph 6, deleted the blank for the respondent's social security number; in the Oath of Petitioner, deleted the last sentence which stated that the petitioner understands that it is a criminal offense subject to imprisonment if the petitioner makes a false statement in the petition; in the Use Notes, added the reference to Subparagraph (4) of Paragraph A of Section 40-13-3.1 NMSA 1978; deleted the provision that the petitioner shall not be required to pay for the issuance or service of a protection order and the sentence that this has been construed to mean that the petitioner is not required to pay a docket fee or other filing fees, or fee for service of process; and added "the filing, issuance or service of a petition for an order of protection".

**The 2000 amendment,** effective August 29, 2000, after Item 6, substituted "Oath of Petitioner" for "Verification of Petitioner" and "Oath of Law Enforcement Officer" for "Verification of Law Enforcement Officer" and deleted the notary public's signature and expiration of his commission in both places.

**Cross references.**— For crime of perjury, see Section 30-25-1 NMSA 1978.

For the need for an emergency order, see Section 40-13-3.2 NMSA 1978 which requires a sworn written statement setting.

# 4-973. Emergency order of protection against respondent.

	y Violence Protection Act, n 40-13-3.2 NMSA 1978]	
STATE	E OF NEW MEXICO	
COUN	ITY OF	
	JUDICIAL DISTRICT	
	, Peti	tioner
V.		No
	, Res	pondent
	EMERGENCY ORDER OF PROTE	ECTION AGAINST RESPONDENT
jurisdic occurre irrepara ORDEF	ed and that petitioner or a household reable injury, loss, or damage unless the RS:	believe that an act of domestic abuse has nember will suffer immediate and
1. I	NO CONTACT	
	Respondent shall not write to, talk to, through petitioner's lawyer, if petitioner	visit, or contact the petitioner in any way er has a lawyer.
in any v househ bodily i trespas workpla	way. "Abuse" means any incident by r hold member resulting in (1) physical h	nlking; (10) harassment; (11) harm or
	Respondent shall not ask or cause ot ner's household members.	ner persons to abuse the petitioner or the
	Respondent shall not go within	yards of the petitioner's home or

# (Unless the court has entered an order sealing petitioner's address, include address of residence and employment for petitioner.)

		(home address) (work address) (city) (if applicable, tribe or pueblo) (state and zip code)
2.		DREN
A.	Petitio	oner shall have temporary physical custody of the following child(ren):
B. this or		ondent shall [have] [not have] visitation with the child(ren) during the term of
C. anyon		er party shall remove the child(ren) from the State of New Mexico or allow to do so.
3.	PROF	PERTY AND RESIDENCE
[]	A.	Respondent is ordered to immediately leave the residence at, and to not return until further court order.
[]	В.	Law enforcement officers are hereby ordered to evict respondent from the residence at
[]	C.	Respondent is ordered to surrender all keys to the residence to law enforcement officers.
[]	D.	Law enforcement officers or shall assist respondent to remove essential tools, clothing, and personal belongings from the residence at
[]	E.	Neither party shall transfer, hide, add debt to, sell, or otherwise dispose of the other's property or the joint property of the parties except in the usual course of business or for the necessities of life. The parties shall account to the court for all such changes to property made after the order is served or communicated to the party.  Neither party shall disconnect the utilities of the other party's residence.

#### 4. OTHER ORDERS SUPERSEDED

This order supersedes any other domestic relations order and domestic violence restraining orders between these two parties.

#### 5. **PETITIONER'S DUTY**

While this order of protection is in effect, petitioner should refrain from any act that would cause the respondent to violate this order. This provision is not intended to and does not create a mutual order of protection. Under Section 40-13-6(D) NMSA 1978, only the restrained party can be arrested for violation of this order.

#### 6. EFFECTIVE AND EXPIRATION DATE OF THIS ORDER

- A. Upon service of this order on respondent, this order becomes effective on respondent.
- B. This order expires seventy-two (72) hours after the time approved by the judge or at 5:00 p.m. on the next business day of the court, whichever time is latest.

#### 7. PETITION FOR ORDER OF PROTECTION OR RESTRAINING ORDER

Petitioner may file a petition for a temporary and permanent order of protection based on the same allegations of domestic abuse.

#### 8. ENFORCEMENT OF ORDER

STATE OF NEW MEXICO

If the respondent violates any part of this order, the respondent may be charged with a crime, arrested, held in contempt of court, fined, or jailed.

#### 9. SERVICE AND NOTICE TO LAW ENFORCEMENT AGENCIES

Upon the signing of this order by a district court judge, a law enforcement officer shall serve on the respondent a copy of this order and shall carry out the other provisions of this order.

A LAW ENFORCEMENT OFFICER SHALL USE ANY LAWFUL MEANS TO ENFORCE THIS ORDER.

SO ORDERED:		
District Judge	Date and time approved	

COUNTY OF	
JUDICIAL DISTRIC	CT COURT
RETURN	OF SERVICE
penalty of perjury under the laws of the St enforcement officer for personally served the respondent with a s	igned copy of this emergency order of spondent in County
	Signature of law enforcement officer
	Title and agency

#### **USE NOTE**

- 1. This emergency order of protection against respondent requires an affidavit of service. See NMSA 1978, § 40-13-3.2.
- 2. Personal service of the emergency order of protection will assure that the emergency order is fully enforceable. It is possible that actual notice to the respondent of the content of the emergency order will also suffice to bind the respondent to comply with the order. *Territory of New Mexico v. Clancy*, 1894-NMSC-012, ¶ 1, 7 N.M. 580, 37 P. 1108.
- 3. The person who serves the respondent with a copy of this order should also "immediately provide the petitioner with a signed copy of the order." See NMSA 1978, § 40-13-3.2(B)(3).

[Approved, effective November 1, 1999 until July 1, 2001; as amended, effective August 29, 2000; approved, effective May 1, 2001; as amended by Supreme Court Order No. 07-8300-020, effective September 17, 2007; as amended by Supreme Court Order No. 08-8300-040, effective December 15, 2008; as amended by Supreme Court Order No. 14-8300-023, effective for all pleadings and papers filed on or after December 31, 2014.]

#### **ANNOTATIONS**

**The 2014 amendment**, approved by Supreme Court Order No. 14-8300-023, effective December 31, 2014, provided that the return of service of the law enforcement officer is an affirmation made under penalty of perjury under the laws of the State of New Mexico;

in the Return of Service, after "(name of law enforcement officer)", deleted "swear or" and after "affirm", added "under penalty of perjury under the laws of the State of New Mexico"; and in the Use Note, in Paragraph 2, added "1894-NMSC-012 ¶ 1", deleted "583 (1894)" and added "37 P. 1108".

**The 2008 amendment,** approved by Supreme Court Order No. 08-8300-040, effective December 15, 2008, in Paragraph 5 of the Order, added the last sentence and in the Use Notes, deleted former Paragraph 4 which provided that although Section 40-13-3.2 NMSA 1978 authorizes law enforcement officers to prepare and sign an emergency order, a judge must sign this order.

**The 2007 amendment,** effective September 17, 2007, amended Paragraph 5 to change "shall refrain" to "should refrain"; and added the last sentence providing Paragraph 5 does not create a mutual protection order.

### 4-974. Order of dismissal.

[Fan	nily Violence Protection Act, Section 40-13-3.2 NMSA 1978.]
STA	TE OF NEW MEXICO
COL	JNTY OF
	JUDICIAL DISTRICT COURT
	, Petitioner
V.	No
	, Respondent
	ORDER OF DISMISSAL
	This matter coming before the court on (date) and the court having ewed the pleadings and being sufficiently advised,
FINI	OS AND ORDERS:
(che	eck applicable)
[] this	The petitioner failed to appear at the hearing and therefore failed to prosecute case.
[]	The petitioner appeared at the hearing and requested dismissal of this case.
[]	The respondent has not been served despite reasonable attempts.

	The allegations in the petition do no on 40-13-2 NMSA 1978.	t allege "domestic abuse" as defined in
	The allegations in the petition involved be addressed in the proper court p	ve child custody and divorce issues which roceeding.
[] Sectio	The allegations in the petition do no on 40-13-2 NMSA 1978.	t involve a "household member" as defined in
[]	Other	
[]	The petition for order of protection f	rom domestic abuse is denied.
[]	This cause of action is dismissed w	ithout prejudice.
[]	This cause of action is dismissed w	ith prejudice.
RECC	OMMENDATIONS	
I have	:	
[]	reviewed the petition for order of pro-	otection;
[]	reviewed the counter-petition for ord	der of protection;
[]	conducted hearings on the merits of	f the petition;
party writter within	t court judge regarding disposition of disagrees with the recommendations objections and a request for hearin	this order as my recommendation to the the request for order of protection. If any that party may, but is not required to, file g on those objections with the district court stions and a request for hearing must be
		Signed
		Title Court's telephone number:
		<u>-</u>

The court has reviewed the recommendations and adopts them. This order remains in effect unless and until it is modified by a district court judge or it expires. If objections are filed the court may conduct a hearing to resolve the objections. (See Rule 1-053.1(H)(1)(a) NMRA).

SO ORDERED.	
District Judge	Date and time approved

#### **USE NOTE**

This form may be modified and used for dismissal of a petition upon motion of the respondent.

[Approved, effective February 16, 2004; as amended by Supreme Court Order No. 08-8300-40, effective December 15, 2008.]

#### **ANNOTATIONS**

**The 2008 amendment,** approved by Supreme Court Order No. 08-8300-40, effective December 15, 2008, added the Recommendations section.

## 4-981. Recompiled.

#### **ANNOTATIONS**

**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.

#### 4-982. Withdrawn.

#### **ANNOTATIONS**

**Withdrawals.** — Pursuant to Supreme Court Order No. 16-8300-020, 4-982 NMRA, relating to summons kinship guardianship proceedings, was withdrawn effective for all pleadings and papers filed on or after December 31, 2016. For provisions of former form, see the 2016 NMRA on *NMOneSource.com*.

# 4-983. Recompiled.

#### **ANNOTATIONS**

**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.

# 4-984. Recompiled.

#### **ANNOTATIONS**

**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.

## 4-985. Recompiled.

#### **ANNOTATIONS**

**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.

#### 4-986. Withdrawn.

#### **ANNOTATIONS**

**Withdrawals.** — Pursuant to Supreme Court Order No. 16-8300-020, 4-986 NMRA, relating to parental consent to appointment of guardian and waiver of service of process, paternity not admitted, was withdrawn effective for all pleadings and papers filed on or after December 31, 2016. For provisions of former form, see the 2016 NMRA on *NMOneSource.com*.

## 4-987. Recompiled.

#### **ANNOTATIONS**

**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.

# 4-988. Recompiled.

#### **ANNOTATIONS**

**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.

#### 4-989. Withdrawn.

#### **ANNOTATIONS**

**Withdrawals.** — Pursuant to Supreme Court Order No. 16-8300-020, 4-989 NMRA, relating to order appointing kinship guardian by consent, paternity not admitted, was withdrawn effective for all pleadings and papers filed on or after December 31, 2016. For provisions of former form, see the 2016 NMRA on *NMOneSource.com*.

4-990. Withdrawn.

#### **ANNOTATIONS**

**Withdrawals.** — Pursuant to Supreme Court Order No. 16-8300-020, 4-990 NMRA, relating to order appointing kinship guardian without consent of both respondents, was withdrawn effective for all pleadings and papers filed on or after December 31, 2016. For provisions of former instructions, see the 2016 NMRA on *NMOneSource.com*.

4-991. Recompiled.

#### **ANNOTATIONS**

**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.

# 4-992. Guardianship and conservatorship information sheet; petition.

[For use with Rule 1-003.2 NMRA]

# GUARDIANSHIP AND CONSERVATORSHIP INFORMATION SHEET (Submit with Petition)

Type or print responses. To be submitted with a petition for the appointment of a guardian or conservator under Chapter 45, Article 5, Parts 3 and 4, NMSA 1978

#### THIS SECTION FOR OFFICIAL USE ONLY

NOT	E TO COURT CLERK:
DOCKET EVENT CODE _	, CRT: G/C Information Sheet (Petition).
Scan document, but wi	ill not become part of the official record.
Case number:	Assigned judge:

I.	Persons entitled to notice and access to court records until the
appoi	ntment of a guardian or conservator.

	1.	Full name,	address.	and date	of birth of	person to be	protected
--	----	------------	----------	----------	-------------	--------------	-----------

$\sim$	E II		
2.	FIIII nama	and address	OT DATITIONARY

For each relationship below, indicate whether the petitioner is aware of anyone with such a relationship to the person to be protected. For each relationship marked "Yes," provide the name and mailing address, if known, of the person with such a relationship to the person to be protected. Attach additional sheets if necessary.

3.	Attorney representing the petitioner: [] Yes; [] No; [] Unknown
4.	Spouse of the person to be protected: [] Yes; [] No; [] Unknown
in th in	no known spouse, an adult with whom the person is in a long-term relationship of definite duration in which the individual has demonstrated an actual commitment to be person to be protected similar to the commitment of a spouse and in which the dividual and the person to be protected consider themselves to be responsible for ach other's well-being: [] Yes; [] No; [] Unknown
5.	Adult children of the person to be protected: [] Yes; [] No; [] Unknown
	no known adult children, each parent and adult sibling of the person to be protected: [Yes; [] No; [] Unknown
	no known parent or adult sibling, at least one adult nearest in kinship to the person to e protected who can be found with reasonable diligence:
[]	Yes; [] No; [] Unknown
01	Adult stepchildren of the person to be protected whom the person actively arented during the stepchildren's minor years and with whom the person had an an an adversarial ngoing relationship in the two-year period immediately preceding the filing of the etition:
[]	Yes; [] No; [] Unknown
7.	A person responsible for the care or custody of the person to be protected:
[]	Yes; [] No; [] Unknown
8.	Any attorney currently representing the person to be protected:
[]	Yes; [] No; [] Unknown

	Any representative payee appointed by the federal social security administration e person to be protected: [] Yes; [] No; [] Unknown
	A guardian or conservator acting for the person to be protected in New Mexico or other jurisdiction: [] Yes; [] No; [] Unknown
11. proted	A trustee or custodian of a trust or custodianship of which the person to be cted is a beneficiary: [] Yes; [] No; [] Unknown
12. of vet	Any fiduciary for the person to be protected appointed by the federal department erans affairs: [] Yes; [] No; [] Unknown
13. perso	An agent designated under a power of attorney for health care in which the n to be protected is identified as the principal: [ ] Yes; [ ] No; [ ] Unknown
14. to be	An agent designated under a power of attorney for finances in which the person protected is identified as the principal: [] Yes; [] No; [] Unknown
15.	A person nominated as guardian or conservator by the person to be protected:
	[] Yes; [] No; [] Unknown
16. proted	A person nominated as guardian by the parent or spouse of the person to be sted in a will or other signed record: [] Yes; [] No; [] Unknown
17.	A proposed guardian or conservator: [] Yes; [] No; [] Unknown
	A person known to have routinely assisted the person to be protected with on making during the six months immediately preceding the filing of the petition: [] No; [] Unknown
19. limit c	If the petition is for a guardianship, any person with whom the petitioner seeks to ontact with the person to be protected: [] Yes; [] No; [] Unknown
II.	Certification/Affirmation.
my kn 405(C	I [certify] [affirm under penalty of perjury under the laws of the State of New o] that the information contained herein is complete and accurate to the best of lowledge and belief. I acknowledge that under Sections 45-5-309(C) and/or 45-5-309 (NMSA 1978, a copy of the petition and notice of a hearing on the petition must rived on the persons identified in this information sheet.

Signature of [Petitioner] [Petitioner's attorney]

Date of signature
[Approved by Supreme Court Order No. 18-8300-005, effective for all cases filed or pending but not adjudicated on or after July 1, 2018.]
4-993. Order identifying persons entitled to notice and access to court records.
[For use with Rules 1-140 and 1-141 NMRA]
STATE OF NEW MEXICO
COUNTY OF
JUDICIAL DISTRICT
In the matter of, No
a Protected Person.
ORDER IDENTIFYING PERSONS ENTITLED TO NOTICE AND ACCESS TO COURT RECORDS
The court, having appointed a guardian and/or conservator in this matter by separate order, ORDERS that the following persons are entitled to notice of further proceedings and access to court records under Rule 1-079.1 NMRA and Sections 45-5-309(D) and/or 45-5-405(D) NMSA 1978.
1. Protected person:
2. Guardian:
Conservator:
3. Other person(s) entitled to notice of subsequent proceedings and access to court records:
Name:
Relationship to protected person:
Mailing address:

Name:	
Relationship to protected person:	
Mailing address:	
Name:	
Relationship to protected person:	
Mailing address:	
	DISTRICT COURT JUDGE
Copies to:	
[Approved by Supreme Court Order No. 1 July 1, 2018.]	8-8300-005, effective for all cases on or after
4-994. Order to secure or waive	bond.
[For use with Rule 1-140 NMRA]	
STATE OF NEW MEXICO	
COUNTY OF	
JUDICIAL DISTRI	ICT

In th	e matter of, No
	a Protected Person.
	ORDER TO SECURE OR WAIVE BOND
pro s	HIS MATTER is before the Court on the petition of,, se or by and through her/his attorney,, to appoint a ervator for, the Protected Person in this matter. The t, having granted the petition by separate order, FINDS:
1.	The Court has appointed as Conservator.
2. Sect	The Protected Person's estate has an aggregate capital value, as defined in ion 45-5-411(B) NMSA 1978, of \$
Т	he Court therefore ORDERS:
sure	The Conservator shall post a surety bond in the amount of \$ in accordance with Section 45-5-411 NMSA 1978. The servator may enlist the services of any insurance agent qualified to issue an A-1 ty bond in the State of New Mexico. The Court herewith provides a listing of able bond agents but the Court makes no recommendation as to specific insurers.
	OR
[] arrar	The Conservator shall comply with the following alternative asset-protection agement, which has been approved and accepted by the Court:
	OR
[	] The requirement to post a bond is waived because,
[	A bond or alternative asset-protection arrangement is not necessary to protect the interests of th
	OR
	A bond is not required because the Conservator is a financial institution that possesses and is exercising

# general trust powers in New Mexico, as provided in Section 45-5-411(C) NMSA 1978.

IT IS SO ORDERED.

	The Honorable DISTRICT COURT JUDGE
Cultimate ad by a	
Submitted by:	
Attorney for Petitioner	
Address	
Copies to:	
[Approved by Supreme Court Ord July 1, 2018.]	ler No. 18-8300-005, effective for all cases on or after
4-995. Conservator's notic	ce of bonding.
[For use with Rule 1-140 NMRA]	
STATE OF NEW MEXICO	
COUNTY OF	
JUDICIAL	DISTRICT
In the matter of	, No
a Protected Person	

**CONSERVATOR'S NOTICE OF BONDING** 

I,, as conservator for, submit this Notice as proof that I have obtained the Court-ordered bond required under Section 45-5-411 NMSA 1978 and the Order To					
Secure or Waive Bond.					
I have attached a copy of the Statement issued by the Corporate Surety,, which acknowledges the issuance of a bond in the					
amount of \$					
I acknowledge that this bond meets the 1978 and must remain in force until further	ne requirements of Section 45-5-411 NMSA er order of the Court.				
	Conservator's Signature				
	Typed/Printed Name				
	Street or Post Office Address				
Date	City, State and Zip Code				
	Telephone Number(s)				
	Fax Number				
	Email				
[Approved by Supreme Court Order No. 18-8300-005, effective for all cases on or after July 1, 2018.]					
4-995.1. Corporate surety states	nent.				
[For use with Rule 1-140 NMRA]					
STATE OF NEW MEXICO					
COUNTY OF					
JUDICIAL DISTR	ICT				

In the matter of	, No
a Protected Person.	
CORPORATE SURI	ETY STATEMENT
We,acting as Corporate Surety in the above refer NMSA 1978, hereby submit the following state	renced matter, under Section 45-5-411 rement to the Court:
By the execution of this Statement, we ac set by the Court in this matter, and that the be \$	knowledge that we are Surety on the bond amount is
We further state that the bond is in force fin effect until we are discharged by further or	•
We will notify the Court of any failure to pa	ay premiums, as required by Section 45-5-
The bond's current expiration date is	
This day of	,
SIGNATURE OF	
NAME OF	
SURETY: ADDRESS:	
[Approved by Supreme Court Order No. 18-8 July 1, 2018.]	300-005, effective for all cases on or after
4-996. Guardian's report.	
[For use with Rule 1-140 NMRA]	
STATE OF NEW MEXICO	
COUNTY OF	
JUDICIAL DISTRICT	

In the matter of	······································	No

#### a Protected Person.

#### **GUARDIAN'S REPORT**

#### Instructions.

You must use this form, Form 4-996 NMRA, when you file a **Guardian's Report**. The purpose of this **Guardian's Report** is to give the court information about an adult for whom a guardian has been appointed.

- 1. You must complete and file this **Guardian's Report**, as follows:
  - a. Within ninety (90) days of your appointment as guardian by the court;

    Every year within thirty (30) days of the
  - b. anniversary date of your appointment as guardian;
  - c. Within thirty (30) days of your resignation, removal, or termination as guardian; and
  - d. As otherwise ordered by the court.
- 2. Please type or print clearly using ink.
- 3. Complete all sections of this report that apply, and answer all questions thoroughly.
- 4. Attach additional pages if necessary.
- 5. After completing this report, you must sign it under penalty of perjury.

Copies of this report must be given to the Protected

- 6. Person, the Protected Person's conservator if one has been appointed, and any other persons specified by the court.
- 7. Keep a copy of this report for your records.

  If you give financial information in Section (IV)(D) of this report, you must keep a copy of **ALL** of the
- 8. Protected Person's financial records for seven (7) years and make them available to the court upon request.

TYPE OF REPORT:	[] 90 day	[] Annual	[] Fina

Date of your appointment as guardian:

If this is a Final Report, please check the box below that explains why you are

filing a <b>Final Report</b> , and fill in the requested info Report, skip to Section I.	rmation. If this is not a Final
[] The Protected Person has died (attach a cavailable).	opy of the death certificate if
Date and place of death:	
[] Name of personal representative, if appoin	ted:
Address:	
[] The court has appointed a new guardian.	
Name of new guardian:	
Address and phone number of new guardia	an:
[] The court has issued an order ending the g	guardianship.
[] Other (please explain):	
SECTION I – Information about the Protected I	Person.
A. Protected Person's name:	
B. Protected Person's age:	
C. Protected Person's physical address:	
Mailing address (if different):	
D. Protected Person's telephone number(s) a	nd other contact information:
Home:	Cell:
Work:	Fax:
Email:	

E.	Has th	e Protected Person's residence changed in the last 12 months?
	[]Yes	[ ] No
	If yes,	please explain why:
F.	Will the	e Protected Person's residence change in the next 12 months?
	[]Yes	[] No [] Unknown
	If yes,	please explain why:
G.	Does t	he Protected Person live in a facility?
_	] Yes ] No	If yes, complete Part A, below (do not complete Part B). If no, complete Part B, below (do not complete Part A).
	Co	PART A property Part A only if the Protected Person lives in a facility.
Н.	What t	type of facility does the Protected Person live in?
	[]	Assisted Living Facility
	[]	Group Home
	[]	Licensed Nursing Facility
	[]	Other (please explain)
l.	Name	of Facility:
	Facility	y contact person's name:

Facility's physical address:			
Facility's contact information:			
Telephone:		Email:	
J. How is the facility paid for?			
K. Do you have any concerns at receiving in the following areas?	oout the qual	ity of care that the Prote	ected Person is
Cleanliness	[]Yes	[] No	
Nutrition/Meals	[]Yes	[] No	
Personal Care	[] Yes	[] No	
Privacy	[]Yes	[] No	
Individualized Care Plans	[]Yes	[] No	
Safety	[]Yes	[] No	
Other:	[]Yes	[] No	
If you marked yes to any of th	ne above, ple	ase explain:	
	, i	·	
L. Has the Protected Person been r interacting with others?	estricted fror Yes[]No	n communicating, visiti	ng, or
If yes, describe the restriction	s:		
What are the reasons for the	restrictions?		
Who imposed the restrictions	?		

	When were the restrictions imposed?
	Are the restrictions still in place? [] Yes[] No
M.	Have others been restricted from communicating, visiting, or interacting with the Protected Person? [] Yes[] No
	If yes, describe the restrictions:
	What are the reasons for the restrictions?
	Who imposed the restrictions?
	When were the restrictions imposed?
	Are the restrictions still in place? [] Yes[] No
	N. Why was this facility chosen for the Protected Person?
	O. How does the Protected Person feel about the placement?
Ρ.	Do you believe the Protected Person could live and function more independently in a different type of setting? [] Yes[] No
	Please explain your answer:

Q.	Have you tried to change the Pi	rotected Perso	on's residence in the past year? [] Yes		
	If yes, what was the outcome	e?			
	How does the Protected Per	rson feel abou	t the change of residence?		
	END OF PART A – If	you filled out	Part A, skip to Section II.		
	PART B  Complete Part B only if the Protected Person does not live in a facility.				
	H. Describe the Protected Pers	son's living arr	angement:		
	I. Who takes care of the Prote	cted Person?			
	Caregiver's physical address:				
	Caregiver's contact informat	ion:			
	Telephone:		Email:		
J.	Do you have any concerns aboreceiving in the following areas?		of care that the Protected Person is		
	Cleanliness	[]Yes	[] No		
	Nutrition/Meals	[]Yes	[] No		
	Personal Care	[] Yes	[] No		
	Privacy	[]Yes	[] No		
	Safety Other:	[]Yes	[] No		
		[]Yes	[] No		

If you marked yes to any of the above, please explain:

Pro		List all people ted Person:	e living with the Protected Person and their relationship to the	)
L.		s anyone mov onths? [] Yes	ved into or out of the Protected Person's residence during the	e last 12
		If yes, please	e explain:	
M.		• •	who lives with the Protected Person and is paid to provide se I Person. (attach additional pages if necessary)	rvices
		Name:		
		Relationship	to Protected Person:	
		Types of Serv	vices:	
		Payment:	Source of Payment:	
N.	Do	you have cor [] No	ncerns about anyone who lives with the Protected Person?	[]Yes
If y	es,	please explai	n:	
	Ο.	Why was this	s living arrangement chosen for the Protected Person?	
	Ρ.	How does the	e Protected Person feel about the living arrangement?	

Q. Do you believe the Protected Person could live and function more independently in a different type of setting? [] Yes[] No
Please explain your answer:
R. Have you tried to change the Protected Person's residence in the past year? [] Yes [] No
If yes, what was the outcome?
How does the Protected Person feel about the change of residence?
S. Has the Protected Person been restricted from communicating, visiting, or interacting with others? [] Yes[] No
If yes, describe the restrictions:
What are the reasons for the restrictions?
Who imposed the restrictions?
When were the restrictions imposed?
Are the restrictions still in place? [] Yes[] No

T. Have others been restr Protected Person?	icted from communio []Yes[]No	cating, visiting, or inte	racting with the
If yes, describe the restrict	ions:		
What are the reasons for the	he restrictions?		
Who imposed the restriction	ons?		
When were the restrictions	s imposed?		
Are the restrictions still in p	olace? []Yes[]No		
END	OF PART B – Con	tinue to Section II.	
SECTION II - Protected P	erson's Health.		
A. Please describe the	Protected Person's	current physical heal	th:
[] Poor	[] Fair	[] Good	[] Excellent
Please explain:			
Please describe any changes to the Protected Person's physical health in the last 12 months:			
Please describe any	y medical treatment	the Protected Person	received in the last

B. Please describe the Protected Person's current mental health:				
[] Poor	[] Fair	[] Good	[] Excellent	
Please explain:				
Please descr 12 months:	ibe any changes to t	he Protected Person's	mental health in the last	
Please descr the last 12 months:	ibe any mental healt	h treatment the Protec	ted Person received in	
C. Is the Protec	ted Person under a h	nealthcare provider's re	gular care?	
[] Yes[] No				
If yes, please identi	fy the Protected Pers	son's healthcare provid	ers:	
Primary care provider:				
Dentist:				
Mental health professional:				
Other:				
D. How does the	e Protected Person f	eel about these healtho	care providers?	
E. Do you atten appointments?	d the Protected Pers	on's medical and/or me	ental health	
[] Yes[] No				

# **SECTION III - Protected Person's Services and Activities.**

A. Is the Protected Person receiving support services, including public benefits?
[] Yes[] No
If yes, please list:
B. Are you in regular contact with the Protected Person's support-service providers?
[] Yes[] No
If yes, how often and in what manner?
If no, why not?
C. Is the Protected Person involved in selecting the Protected Person's services?
[] Yes[] No
If no, please explain:
<ul><li>D. Is the Protected Person involved in developing the Protected Person's care plan or service plan? [] Yes[] No</li></ul>
If no, why not?
E. Does the Protected Person participate in social activities, such as family gatherings, local events, worship services, or community groups? [] Yes[] No
If yes, please describe:

# SECTION IV - Protected Person's Financial Status. A. Does the Protected Person have a conservator? [] Yes[] No If yes, what is the conservator's name and contact information? B. Are you responsible for the Protected Person's money in your role as guardian? [] Yes[] No If yes, are you keeping the Protected Person's money and your money in separate accounts? [] Yes[] No If no, why not? C. Are you responsible for the Protected Person's money in any other capacity or role (e.g., Representative Payee, VA Fiduciary, Power of Attorney, Trustee)? [] Yes[] No If yes, please describe:

D. If you are responsible for the Protected Person's money, please complete the following summary of financial activity **since your appointment or last report**:

Balance of Protected Person's bank accounts on date of your appointment or last report (savings, checking, CDs, money market, etc.)	\$	
Plus (+) money received from any source on behalf of the Protected Person (Social Security, SSI, pension, disability, interest, etc.)	+	
Less (-) total fees to care providers	-	

Less (-) total monies paid to the Protected Person (personal needs, etc.)	-			
Less (-) total fees paid to guardian	-			
Less (-) any other expenses (housing, insurance, maintenance, etc.)	-			
Ending balance of bank accounts	\$			
If you are responsible for the Protected Person's money, you must k of the Protected Person's financial records for seven years and make the court upon request.				
E. Is the Protected Person employed? [] Yes[] No				
If yes, identify the Protected Person's employer, job title, and wages				
Does the Protected Person have control of these wages? [] Yes	[ ] No			
If no, why not?				
F. Describe efforts to allow the Protected Person to make financial decisions:				
G. Have there been any significant changes in the Protected Person's ability to manage finances? [] Yes[] No  If yes, describe:				
<ul><li>H. Have there been any significant changes in the Protected Person's financial situation, such as a settlement, inheritance, lottery winnings, reverse mortgage, etc.?</li><li>[] Yes [] No</li><li>If yes, describe:</li></ul>				
ii yoo, accombo.				

**SECTION V – Information about the Guardianship.** 

A.	Describe significant decisions you have made for the Protected Person in the last months (e.g., change in healthcare providers, enrollment in hospice, discontinuation of treatment, surgery, etc.):		
	B. How often and in what way(s) are you in contact with the Protected Person?		
	C. When was the last time you were in contact with the Protected Person?		
D.	Describe any significant problems or unmet needs of the Protected Person not described elsewhere:		
ter	E. Does the Protected Person believe that the guardianship should be changed or minated?		
[]	Yes[]No		
If y	es, please explain:		
	Have you informed the Protected Person that the Protected Person may contact the court to request changing or terminating the guardianship? [] Yes[] No		
If n	o, why not?		
[]	F. Do you believe that the guardianship should be changed or terminated? Yes[] No		

If yes, you have a duty to file a separate written request asking the court to

schedule a status conference to review the guardianship.
G. How does the Protected Person feel about the guardianship?
H. Is there anything else you would like to tell the court about the guardianship?
SECTION VI – Information about the Guardian.
For purposes of this section, "guardian" means an individual or a corporate entity appointed by the court, and includes any individual working for a corporate entity who is responsible for the Protected Person.
A. Does the guardian have any significant physical or mental health problems that would interfere with the ability to continue as guardian in the next year? [] Yes [] No
If yes, please explain:
B. Does the guardian charge a fee or receive payment for acting as the Protected Person's guardian? [] Yes [] No
If yes, how much have has the guardian received since the guardian's last report (or since the guardian's appointment if this is the guardian's first report)?
How is the guardian's fee or payment calculated?
Who pays the guardian's fee?
C. Since the guardian's last report (or since the guardian's appointment if this is the

guardian's first report), has the guardian,

1. misdemeano	Been arrested for, charged with, or convicted of any felony or r?
	[] Yes[] No
	If yes, please explain:
	2. Been investigated by the Children, Youth and Families Department (CYFD), Adult Protective Services (APS), Internal Revenue Service (IRS), or any other governmental agency?
	[] Yes[] No
	If yes, please explain:
3.	Filed for bankruptcy or received protection from creditors?
	[] Yes[] No
	If yes, please explain:
4.	Had any professional or occupational license revoked or suspended?
	[]Yes[]No
	If yes, please explain:
5.	Had the guardian's driver's license suspended or revoked?
	[] Yes[] No

6.	Delegated any powers over the Pr	rotected Person to another person?	
	[] Yes[] No		
	If yes, who were power(s) delegat	ed to?	
	What power(s) were delegated?		
	For what period(s) of time?		
7.	Received any special training or c	ertification as a guardian?	
	[] Yes[] No		
	If yes, please explain:		
<ul> <li>D. Is the guardian a court-appointed guardian or conservator for any other person?</li> <li>[] Yes [] No</li> <li>If yes, please list the court and case number(s) for each (attach additional pages if necessary):</li> </ul>			
I,, am the guardian of, and I affirm under penalty of perjury under the laws of the State of New Mexico that the information in this report is true and correct.			
Date Submitted:		Guardian's Signature	

If yes, please explain:

	Typed/Printed Name
	Street or Post Office Address
	City, State and Zip Code
	Telephone Number(s)
	Fax Number
	Email
Is this a change in address from your previous report?	[] Yes [] No
CERTIFICATE	OF SERVICE
I certify that on (date)individuals:	I served a copy to the following
[] Protected Person	[] By mail or other delivery service _ [] By fax (number)
	[]By hand delivery []By e-mail
[] Person(s) designated by court order (name and address):	[] By mail or other delivery service _ [] By fax (number)
	 _ [] By hand delivery _ [] By e-mail
	[] By mail or other delivery service [] By fax (number)
	 [] By hand delivery [] By e-mail
	[] By mail or other delivery service [] By fax (number)
	 [] By hand delivery [] By e-mail
	_ [] By mail or other delivery service _ [] By fax (number)

	[] By hand delivery [] By e-mail
Typed/Printed Name	Guardian's Signature
[Approved by Supreme Court Order No July 1, 2018.]	o. 18-8300-005, effective for all cases on or after
4-997. Conservator's inventor	y.
[For use with Rule 1-140 NMRA]	
STATE OF NEW MEXICO	
COUNTY OF	
JUDICIAL DIST	TRICT
In the matter of	, No
a Protected Person.	

#### **CONSERVATOR'S INVENTORY**

**Please note:** Fill out this net asset summary after you have completed this entire inventory. Use the information that you enter in Sections II and III of this inventory.

NET ASSET SUMMARY		Total Amount
A.	Total Assets (SECTION II TOTAL)	\$
B.	Total Debts (SECTION III TOTAL)	<b>-</b> \$
	Net Asset Value (A – B)	\$

#### Instructions.

You must use this form, Form 4-997 NMRA, when you file a **Conservator's Inventory**. The purpose of a **Conservator's Inventory** is to give the court as complete a picture as possible of the financial situation of the person under conservatorship, also called the Protected Person.

This Conservator's Inventory is due within

- 1. ninety (90) days of your appointment as conservator.
- 2. As conservator you will also be required to complete and file a **Conservator's Report**

using Form 4-998 NMRA as follows:

Every year within thirty (30) days after

- a. the anniversary date of your appointment.
  - Within sixty (60) days after your
- b. resignation, removal, or termination as conservator.
- 3. Please type or print clearly using ink.
- 4. Complete all sections of this inventory.
- 5. Attach additional pages if necessary.
- 6. After completing this inventory, you must sign it under penalty of perjury.
  - Copies of this inventory must be given to the
- 7. Protected Person, the Protected Person's guardian if one has been appointed, and any other persons specified by the court.
- 8. Keep a copy of this inventory for your records.

You must keep a copy of **ALL** of the Protected Person's financial records for

9. seven (7) years and make them available to the court upon request.

#### **SECTION I – Information about the Protected Person.**

- 1. Protected Person's name:
- 2. Protected Person's age:
- 3. Protected Person's physical address:

Mailing address (if different):

4. Protected Person's telephone number(s) and other contact information:

Home:	Cell:
Work:	Fax:
Email:	

5. Has a guardian also been appointed for the Protected Person?

	[] Yes	[] No		
	If yes, name of guardian			
	Address			
	Phone numb	er of guardian		
6.	What date w	ere you appointed conservator?		
7.	Is the Protec	eted Person the beneficiary of a trust?	[]Yes	[] No
	If yes, what i	s the name of the trust?		
	What is the o	current value of the trust?		
	Who is the tr	rustee?		
	What is the t	rustee's contact information?		

**Please note:** The information you fill out in Sections II through IV below will show the value of the Protected Person's estate on the date you were appointed.

#### **SECTION II - Assets.**

Please provide information about all of the assets of the Protected Person as of the date of your appointment as conservator. Assets are anything of value owned by the Protected Person. Attach additional pages if necessary.

A. Are you holding cash on hand on behalf of the Protected Person?[] Yes [] No Amount \$If yes, why is cash kept on hand?

B. Bank Accounts.

Name of Bank/Institution	Type of Account (Examples: checking, savings, certificates of deposit, etc.)	Value on Date of Appointment
--------------------------	--	---------------------------------

	\$
	\$
	\$
TOTAL	\$

# C. Investment Accounts.

Name of Bank/Institution	Type of Account (Examples: brokerage, investment, money market, stocks, bonds, IRAs, 401(k) plan, etc.)	Value on Date of Appointment
		\$
		\$
		\$
	TOTAL	\$

# D. Life Insurance Policies.

Name Of Company	Type of Insurance (Examples: whole, term or universal, etc.)	Cash Value on Date of Appointment
		\$
		\$
	TOTAL	\$

# E. Real Estate.

Address of Property (List all land and buildings)	Method for Determining Value (Examples: appraisal, tax assessment, market value, etc.)	Value
		\$
		\$
	TOTAL	\$

# F. Vehicles.

Make, Model, and Year (List all cars, boats, ATVs, etc.)	Value
	\$
	\$
	\$
TOTAL	\$

G. Other Property Not Listed Above. (Attach additional pages if necessary.)

Detailed Description of Item or Collection (Only list items or collections that are worth more than \$500.00)	Method for Determining Value (Examples: appraisal, market value)	Value
		\$
		\$
		\$
	TOTAL	\$

H.	Total value of assets list	ed above. (The	e sum of all '	"Totals" rep	orted in S	Section I	I.
	i otal value of assets list		s sairi oi aii	1 Olais 1 Cp	ortou iii c		

SECTION II TOTAL	\$
------------------	----

# Section III - Debts.

#### A. Real Estate Debts.

Address of Property and Name of Lender	Amount Owed on Date of Appointment
	\$
	\$
TOTAL	\$

# B. Other Loans.

Lender/Creditor Name	Purpose of Loan (Examples: automobile loan or personal payday loan, etc.)	Amount Owed on Date of Appointment
		\$

	\$
TOTAL	\$

#### C. Credit Cards.

Company Name and Address	Amount Owed on Date of Appointment
	\$
	\$
TOTAL	\$

# D. Judgments/Liens.

Judgment/Lien Description	Amount Owed On Date Of Appointment
	\$
	\$
TOTAL	\$

#### E. Other Liabilities/Debts.

Description	Amount Owed On Date Of Appointment
	\$
	\$
	\$
TOTAL	\$

F. Total amount of debts listed above. (*The sum of all "TOTALS" reported in Section III.*)

SECTION III TOTAL	\$

G. Explain any personal or professional relationship between the conservator and any lender/creditor listed in any section above:

H.	Explain any personal or professional relationship between the Protected Person and any lender/creditor listed in any section above:
SE	CTION IV – Management of estate.
A.	What are the Protected Person's expected sources of income? (e.g., Pension, Social Security, SSI, etc.)
ho	B. What are the Protected Person's expected expenses? (e.g., housing, care, usehold, etc.)
C.	If expected expenses will exceed expected income, what is your plan to meet the basic needs of the Protected Person?
D.	Do you anticipate significant one-time income over the next 12 months? (e.g., sale of house or car, back payment of social security, insurance proceeds, etc.)  [] Yes [] No  If yes, list and describe each income source and amount separately:
	If yes, what do you plan on doing with this income? (e.g., pay off debt, invest)

E.	Do you anticipate significant one-tim major home or car repair, medical ex	-		hs? (e.g., [] No
	If yes, list and describe the nature	e and amount of eac	h expense:	
	If yes, how do you plan on paying	g for this expense?		
F.	Are the assets in the estate sufficient Protected Person? [] Yes	-	ngoing care of	f the
Pe	If no, describe why and what steperson:	os should be taken to	provide for th	ne Protected
	AFFIRMATION UND			
	I,, am the irm under penalty of perjury under the ormation in this report is true and corr	e laws of the State of	New Mexico	, and I that the
		Conservator's S	Signature	
Da	ate Submitted:	Typed/Printed N	Name	
		Street or Post C	Office Address	
		City, State and	Zip Code	

	Telephone Number(s)	
	Fax Number	
	Email	
Is this address different from your add	ress in the order of appointment? [] Yes	
CERTIFICA	TE OF SERVICE	
I certify that on (date)individuals:	I served a copy to the following	
[] Protected Person		
	[] By hand delivery	
[] Person(s) designated by court order (name and address):	[] By mail or other delivery service [] By fax (number)	
	[] By hand delivery	
	[] By mail or other delivery service [] By fax (number)	
	[] By hand delivery [] By e-mail	
	[] By mail or other delivery service [] By fax (number)	
	[] By hand delivery [] By e-mail	
	[] By hand delivery	

[] By e-mail			
Typed/Printed Name	Conservator's Signature		
Approved by Supreme Court Order No. 18-8300-005, effective for all cases on or after July 1, 2018.]			
4-998. Conservator's report.			
[For use with Rule 1-140 NMRA]			
STATE OF NEW MEXICO			
COUNTY OF			
JUDICIAL DISTRICT			
In the matter of	. No.		

# a Protected Person.

#### **CONSERVATOR'S REPORT**

Please note: Fill out this financial summary after you have completed this entire report. Use the information that you enter in Sections II through V of this report and the information from the reports that you filed last year and two years ago.

	FINANCIAL SUMMARY	Current	Last Year	Two Years Ago
A.	Net Asset Value of Previous Year's Report (or Beginning Inventory if this is your first report)	\$		
B.	Plus Income ( <b>Total</b> from Section II, below)	\$		
C.	Less Expenses ( <b>Total</b> from Section III, below)	\$		
D.	Plus additions or (minus)	\$		

	deletions to inventory during the year		
E.	(Minus) additions or plus deletions to debt during the year	\$	
F.	Net Asset Value (A + B - C +/- D +/- E)	\$	
	Assets ( <b>Sum Total</b> from Section IV, below)	\$	
	Less Debts ( <b>Sum Total</b> from Section V, below)	\$	
	Net Asset Value (Line F)	\$	

#### Instructions.

If you were appointed conservator within the past ninety (90) days, do not use this form. The first report that you must file is a Conservator's Inventory, Form 4-997 NMRA. The Conservator's Inventory is due within ninety (90) days of your appointment.

You must use this form, Form 4-998 NMRA, when you file a **Conservator's Report**. The purpose of a **Conservator's Report** is to give the court as complete a picture as possible of the current financial situation for the person under conservatorship, also called the Protected Person.

- 1. This **Conservator's Report** is due as follows:
  - You must complete and file this
  - a. **Conservator's Report** every year within thirty (30) days of the anniversary date of your appointment as conservator.
    - You must complete and file this
  - b. **Conservator's Report** within sixty (60) days of your resignation, removal, or termination as conservator.
- 2. Please type or print clearly using ink.
- 3. Complete all sections of this report.
- 4. Attach additional pages if necessary.
- 5. After completing this report, you must sign it under penalty of perjury.
- 6. Copies of this report must be given to the

- Protected Person, the Protected Person's guardian if one has been appointed, and any other persons specified by the court.
- 7. Keep a copy of this report for your records.

  You must keep a copy of **ALL** of the
  Protected Person's financial records for
- 8. seven (7) years and make them available to the court upon request.

#### **REPORTING PERIOD.**

This report c	overs the dates beginning and
ending	·
ls this a Fina	I Report? [] Yes[] No
If yes, please requested in	e check the box that explains why you are filing a Final Report and fill in the formation.
[] available).	The Protected Person has died (attach a copy of the death certificate if
	Date and place of death:
	Name of personal representative, if appointed:
	Address:
[]	The court has appointed a new conservator.
	Name of new conservator:
	Address and phone number of new conservator:
[]	The court has issued an order ending the conservatorship.
[]	Other (please explain):

# **SECTION I - Information about the Protected Person.**

A.	A. Protected Person's name:							
В.	. Protected Person's age:							
C.	. Protected Person's physical address:							
	Mailing addre	ess (if different):						
D.	Protected Person's telephone number(s) and other contact information:							
Home:			Cell:					
Work:			Fax:					
Email:								
E.	E. Has a guardian also been appointed for the Protected Person?							
	[] Yes	[] No						
	If yes, name	of guardian:						
	Address:							
	Phone:							
F.	F. Does the Protected Person have sole control over any money?							
	[] Yes	[] No						
	If yes, explai	n:						
G.	Has the Prot	ected Person's residence ch	anged in the past 12 months?					
	[] Yes	[] No						
If yes, explain:								

H.		•	gnificant actions you have taken on's financial condition during the			the
I.		•	gnificant changes of circumstand ical or mental health, living arran			on
	J.	Is the Protec	cted Person the beneficiary of a	trust? []`	Yes []	No
		If yes, what	is the name of the trust?			
		What is the	current value of the trust?			
		Who is the t	rustee?			
		What is the	trustee's contact information?			
CO		Are the Protervator's funds	ected Person's funds kept in a s s?	eparate acco	unt from the	
		[]Yes	[] No			
		If no, explain	n:			
			me. (Fill in only the boxes that e other boxes blank)	apply to the	e Protected I	Person's
	(	Report only the	of each Income Source he income received by the Person, not your income)	Amount Received this	Amount Received last year	Amount Received two Years

	Reporting Period	ago
Social Security Benefits		•
Social Security	\$	
Social Security Disability Insurance (SSDI)	\$	
Supplemental Security Income (SSI)	\$	
Veterans Financial Benefits	\$	
Trust Income	\$	
Wages	\$	
Worker's Compensation Benefits	\$	
Dividends Received	\$	
Interest Income	\$	
Refunds		
Tax Refunds	\$	
Insurance Refunds	\$	
Other Refunds (explain)	\$	
Realized Gain/Loss on Sale of Asset	\$	
Rental Income	\$	
Royalty Income (oil, gas, etc.)	\$	
Pension or 401(k) Distributions	\$	
Annuity Income	\$	
Alimony or Child Support	\$	
Inheritance and Gifts Received	\$	
Sale of Personal Property Not Listed on Inventory	\$	
IRA Distributions	\$	
Distribution from Tribal or Pueblo Government	\$	
Life Insurance Proceeds	\$	
Other (reverse mortgage, etc.)	\$	

SECTION II TOTAL	\$	

# SECTION III - Expenses. (Fill in only the boxes that apply to the Protected Person's expenses; leave the other boxes blank)

Description of each Type of Expense (money paid to anyone on behalf of the Protected Person or on behalf of his/her legal dependents)		Expense this Reporting Period	Expense one Year ago	Expense two Years ago
Nursing/ Living H	/Assisted ome	\$		
In-Home	e Care	\$		
Rent Pa	yment	\$		
Mortgag	e Payment			
	ortgage terest	\$		
	ortgage scrow	<b>&amp;</b>		
In No Es	omeowner's surance if ot Paid by scrow ccount	\$		
if I	roperty Tax Not Paid by scrow ccount	\$		
Utilities (Gas, Electric, Water, and Sewer)		\$		
Cable/Satellite Television and/or Internet Service		\$		
Cell and Phone S		\$		

Transportation	n (including gasoline expenses)	\$	
*	al, and Vision Treatment Costs surance (including co-pays and	\$	
Medical Supp	lies and Equipment	\$	
Medications N co-pays and c	Not Paid by Insurance (including deductibles)	\$	
Credit Card P	ayments	\$	
Food, Groceri	es, Dining	\$	
Clothing		\$	
Recreation, E	ntertainment, Memberships	\$	
Travel (Vacati	ion, Family Visits, etc.)	\$	
Household Go	oods and Electronics	\$	
Personal Groo	oming	\$	
Personal Spe	nding Allowance	\$	
Pet Care (Foo	od, Veterinary Care, Kennel, etc.)	\$	
Income Tax			
	Total Federal Payments	\$	
	Total State Payments	\$	
•	ty Maintenance Costs (including and yard service)	\$	
Insurance			
	Auto Insurance	\$	
	Medical Insurance	\$	
Life Insurance		\$	
Other Insurance (Long Term Care, Etc.)		\$	
Court Approve	ed Gifts	\$	
Other Gifts or	Charitable Donations	\$	
Child/Spousal	Support	\$	
Legal Fees		\$	

Fees/Costs Paid to Conservator	\$	
Fees/Costs Paid to Guardian	\$	
Accounting Fees	\$	
Court Costs	\$	
Conservator's Bond	\$	
Case Management	\$	
Other Expenses (describe)	\$	
SECTION III TOTAL	\$	

# SECTION IV – Assets. (Fill in only the boxes that apply to the Protected Person's assets; leave the other boxes blank)

Α	Are y	ou holding	cash on I	hand on	behalf of t	the Protecte	d Person?
---	-------	------------	-----------	---------	-------------	--------------	-----------

[] Yes [] No If yes, amount \$

If yes, why is cash kept on hand?

### B. Bank Accounts.

Name Of Bank/Institution	Type of Account (Examples: checking, savings, certificates of deposit, etc.)	Value on last Day of Reporting Period
		\$
		\$
		\$
	TOTAL	\$

### C. Investment Accounts.

Name Of Bank/Institution	Type of Account (Examples: brokerage, investment, money market, stocks, bonds, IRAs, 401(k) plan, etc.)	Value on last Day of Reporting Period
		\$

	\$
	<b>\$</b>
TOTAL	\$

### D. Life Insurance Policies.

Name Of Company	Type Of Insurance (Examples: whole, term or universal, etc.)	Cash Value on last Day of Reporting Period	
		\$	
		\$	
	TOTAL	\$	

### E. Real Estate.

Address And Type Of Property (Examples: residential, rental, commercial, agricultural, or mineral interests)	Method For Determining Value (Examples: appraisal, tax assessment, market value, etc.)	Current Market Value
		\$
		\$
	TOTAL	\$

### F. Vehicles.

Make, Model, and Year (List all cars, boats, ATVs, etc.)		Current Market Value
		\$
		\$
		\$
	TOTAL	\$

### G. Other Property Not Listed Above.

Detailed Description Of Item Or Collection	Method For Determining Value	Current Market Value
---	---------------------------------	----------------------

(Only list items or collections that are worth more than \$500.00)	(Examples: appraisal, market value, etc.)	
		\$
		\$
		\$
		\$
		\$
	TOTAL	\$

H. Total Value Of Assets Listed Above. (*The sum of all "TOTALS" reported in Section IV*)

SECTION IV SUM TOTAL	\$

## SECTION V – Debts. (Fill in only the boxes that apply to the Protected Person's debts; leave the other boxes blank)

#### A. Real Estate Debts.

Address of Property and Name of Lender	Type of Property (examples: residential, rental, commercial, or agricultural)	Amount Owed on last Date of Reporting Period	
		\$	
		\$	
	TOTAL	\$	

### B. Other Loans.

Lender/Creditor Name	Purpose of Loan (Examples: automobile loan or personal payday loan, etc.)	Amount Owed on last Date of Reporting Period
		\$
		\$
	TOTAL	\$

### C. Credit Cards.

Company Name and Address		Amount Owed on last Date of Reporting Period	
		\$	
		\$	
		\$	
	TOTAL	\$	

### D. Judgments/Liens.

Judgment/Lien Description		Amount Owed on last Date of Reporting Period	
		\$	
		\$	
	TOTAL	\$	

E. Other Liabilities/Debts. (promissory notes, IOUs, personal loans, etc.)

Description		Amount Owed on last Date of Reporting Period	
		\$	
		\$	
		\$	
	TOTAL	\$	

F. Tota	al Amount	Owed By	Protected	Person.	(The sum	of all	"TOTALS"	reported in
Section V.	.)							

G. Explain any personal or professional relationship between the conservator and any lender/creditor listed in any section above:

H. Explain any personal or professional relationship between the Protected Person and any lender/creditor listed in any section above:
SECTION VI - Information about the Conservator.
For purposes of this section, "conservator" means an individual or a corporate entity appointed by the court, and includes any individual working for a corporate entity who is responsible for the Protected Person.
A. Does the conservator have any significant physical or mental health problems that would interfere with the ability to continue as conservator in the next year?
[]Yes[]No
If yes, please explain:
B. Does the conservator charge a fee or receive payment for acting as the Protected Person's conservator?
[] Yes[] No
If yes, how much has the conservator received since the conservator's last report?
How is the conservator's fee or payment calculated?
C. Since the conservator's last report (or since the conservator's appointment if this is the conservator's first report), has the conservator,
1. Been arrested for, charged with, or convicted of any felony or misdemeanor?
[] Yes[] No

	If yes, please explain:
	2. Been investigated by the Children, Youth and Families Department (CYFD), Adult Protective Services (APS), Internal Revenue Service (IRS), or any other governmental agency?
	[] Yes[] No
	If yes, please explain:
3.	Filed for bankruptcy or received protection from creditors?
	[] Yes[] No
	If yes, please explain:
4.	Had any professional or occupational license revoked or suspended?
	[] Yes[] No
	If yes, please explain:
5.	Had the conservator's driver's license suspended or revoked?
	[] Yes[] No
	If yes, please explain:

	6.	Delegated any powers over the Protected Person to another person?			
		[] Yes[] No			
		If yes, who were power(s) delegate to?			
		What power(s) were delegated?			
		For what period(s) of time?			
	7.	Received any special training or certification as a conservator?			
		[] Yes[] No			
		If yes, please explain:			
D. person		conservator a court-appointed guardian or conservator for any other			
	[]Yes	[] No			
if nece		please list the court and case number(s) for each (attach additional pages			
E. place?		conservator is required to have a conservator's bond, is the bond still in			
	[]Yes	[] No			
	If no, p	please explain:			

I,, am the conservator of					
of the State of New Mexico that the inform	l affirm under penalty of perjury under the laws nation in this report is true and correct.				
	Conservator's Signature				
	Typed/Printed Name				
Date Submitted:	Street or Post Office Address				
	City, State and Zip Code				
	Telephone Number(s)				
	Fax Number				
	Email				
Is this a change in address from your	previous report? [] Yes[] No				
CERTIFICA	TE OF SERVICE				
I certify that on (date)individuals:	I served a copy to the following				
[] Protected Person	[] By mail or other delivery service [] By fax (number)				
	[] By hand delivery [] By e-mail				
[] Person(s) designated by court order (name and address):	[] By mail or other delivery service [] By fax (number)				
	[] By hand delivery [1] By e-mail				

	[] By hand delivery [] By e-mail
	[] By mail or other delivery service [] By fax (number)
	[] By hand delivery [] By e-mail
	[ ] by lax (Hullibel)
Typed/Printed Name	Conservator's Signature
July 1, 2018.] 4-999. Notice of hearing a	nd rights.
COUNTY OF	
JUDICIAL DISTR	ICT
In the matter of	No
NOTICE (	OF HEARING AND RIGHTS
TO:	• • • • • • • • • • • • • • • • • • •
A hearing will be held at the	<del></del>

Date: Time: Judicial District: Courthouse: Address: Judge:	
needed for	aring will be to determine whether protection is (alleged incapacitated person) and (alleged incapacitated person)'s property.
care professional, and if rabout	e Court will appoint a visitor, a qualified health necessary, a guardian <i>ad litem</i> to advise the Court(alleged incapacitated person)'s uardian and/or conservator should be appointed.
If the Court appoints a and/or conservator,	guardian and/or a conservator, the guardian
` '	o make decisions over some or all of alleged incapacitated person)'s personal and/or
promote and protect the	sion-making authority only when necessary to well being and/or financial interests of(alleged incapacitated person); and
encourages the developn	sion-making authority in a manner that nent of maximum self-reliance and independence (alleged incapacitated person).
	guardian and/or conservator, (alleged incapacitated person) retains all legal
•	se which have been expressly limited by court fically granted to the guardian and/or conservator

### **NOTICE OF RIGHTS**

(alleged incapacitated person) has the following rights under Sections 45-5-309(B) and 45-5-303 and/or 45-5-405(B) and 45-5-407 NMSA 1978:
The right to obtain an attorney of  (alleged incapacitated person)'s choice;
2. The right to object to the individuals appointed as visitor, qualified health care professional, and guardian <i>ad litem</i> ;
3. The right to attend the hearing. If  (alleged incapacitated person) is unable to be present in court, the Court upon request or its own motion may conduct hearings at (alleged incapacitated person)'s location;
4. The right to respond to any statements made by any person at the hearing and to object to any part of this proceeding; and
5. The right to be personally served with a copy of this notice and of the petition filed in this proceeding.
THE COURT SHALL NOT GRANT THE PETITION IF THE PETITION AND THIS NOTICE OF HEARING AND RIGHTS IS NOT PERSONALLY SERVED ON (ALLEGED INCAPACITATED PERSON).
BY: TCAA for Judge
TOAA TOT Judge
A copy of this Notice of Hearing and Rights is being provided as required under Sections 45-5-309(C) and/or 45-5-405(C) NMSA 1978 to the following interested persons who are identified in the information sheet submitted with the Petition under Rule 1-003.2 NMRA:
(list names and addresses of all persons identified on the information sheet and of the guardian ad litem, visitor, and qualified health care professional appointed by the court)


### **USE NOTE**

This Notice of Hearing and Rights must be used in cases filed on or after October 15, 2018. In a case filed after July 1, 2018 but before October 15, 2018, the alleged incapacitated person must receive notice that substantially complies with the notice-of-rights requirements set forth in NMSA 1978, §§ 45-5-309(B) and 45-5-405(B).

[Provisionally approved by Supreme Court Order No. 18-8300-007, effective for all cases filed on or after October 15, 2018; approved as amended by Supreme Court Order No. 19-8300-001, effective January 14, 2019.]

#### **ANNOTATIONS**

**The 2019 amendment,** approved by Supreme Court Order No. 19-8300-0001, effective January 14, 2019, required certain persons to be listed on the form for the purpose of receiving notice of the hearing on the petition and notice of the rights of the alleged incapacitated person; in the parenthetical, after "information sheet", added "and of the guardian ad litem, visitor, and gualified health care professional appointed by the court".