

1 **1-055. Default.**

2 A. **Entry.** When a party against whom a judgment for affirmative relief is sought has  
3 failed to plead or otherwise defend as provided by these rules and that fact is made to appear by  
4 affidavit or otherwise, the clerk shall enter the party's default.

5 B. **Judgment.** Judgment by default may be entered as follows: in all cases the party  
6 entitled to a judgment by default shall apply to the court for judgment by default; but no judgment  
7 by default shall be entered against an infant or incompetent person unless represented in the action  
8 by a general guardian, committee, conservator, or other such representative who has appeared in  
9 the action. If the party against whom judgment by default is sought has appeared in the action, the  
10 party (or, if appearing by representative, the party's representative) shall be served with written  
11 notice of the application for judgment at least three (3) days [~~prior to~~] before the hearing on the  
12 application; provided, however, that the filing of an appearance and disclaimer of interest shall not  
13 be construed as requiring the service of written notice of application for judgment under the terms  
14 of this rule. In cases controlled by Rule 1-009(J) NMRA, [~~prior to~~] before entry of default  
15 judgment, the court shall determine that the party seeking relief has stated a claim on which relief  
16 can be granted, has complied with [~~Rule 1-009(J)(2)~~] Rules 1-009(J)(3) and 1-017(E) NMRA, and  
17 has substantially complied with the requirements of Form 4-226 NMRA, or has complied with  
18 Rule 1-009(J)(2) and 1-017(E), and has substantially complied with the requirements of Form 4-  
19 226A. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to  
20 take an account or to determine the amount of damages or to establish the truth of any averment  
21 by evidence or to make an investigation of any other matter, the court may conduct those hearings  
22 or order those references as it deems necessary and proper and shall accord a right of trial by jury  
23 to the parties entitled [~~thereto~~] to that.

1 C. **Setting aside default.** For good cause shown, the court may set aside an entry of  
2 default and, if a judgment by default has been entered, may likewise set it aside in accordance with  
3 Rule 1-060 NMRA.

4 D. **Plaintiffs, counterclaimants, cross-claimants.** The provisions of this rule apply  
5 whether the party entitled to the judgment by default is a plaintiff, a third-party plaintiff, or a party  
6 who has pleaded a cross-claim or counterclaim. In all cases a judgment by default is subject to the  
7 limitations of Rule 1-054(C) NMRA.

8 E. **Limitations.** No judgment by default shall be entered against the state or an officer  
9 or agency of the state or against a party in any case based on a negotiable instrument, unless the  
10 original negotiable instrument is filed with the court and merged with the judgment, or where the  
11 damages claimed are unliquidated unless the claimant establishes the claimant's claim or right to  
12 relief by evidence satisfactory to the court.

13 [As amended, effective August 27, 1999; as amended by Supreme Court Order 16-8300-031,  
14 effective for all cases pending or filed on or after July 1, 2017; as amended by Supreme Court  
15 Order No. S-1-RCR-2025-00174, effective for all cases pending or filed on or after December 31,  
16 2025.]

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18 \_\_\_\_\_ **Committee commentary.** Paragraph B of this rule was revised in 2016 to provide  
19 additional protections to consumers in consumer debt collection cases. *See* [~~Commentary to~~]  
20 Rule 1-009 NMRA comm. cmt. Paragraph B references Rule 1-009(J)(2) [~~NMRA~~], under which,  
21 if the party seeking relief in a consumer debt claim has not served and filed with the district court  
22 the instrument of writing on which the party's claim is based, the district court shall not enter a  
23 default judgment without the court's finding of the party's good cause failure to do so. For cases

1 involving a negotiable instrument which is not part of a consumer debt claim, Paragraph E of this  
2 rule requires that the original negotiable instrument be filed with the court unless the party seeking  
3 default judgment provides sufficient alternative evidence to demonstrate the party's right to relief.

4 **2025 amendment**

5 In 2025, the Supreme Court amended Rule 1-009(J) NMRA, modifying the pleading rules  
6 that apply to consumer debt claims and creating a separate pleading rule for collection actions  
7 pursuing "medical debt" as defined in the Patients' Debt Collection Protection Act, NMSA 1978,  
8 Section 57-32-2(I) (2021). The amendments to Rule 1-009(J) are reflected in the 2025 amendment  
9 to Rule 1-055 NMRA.

10 [As amended, effective August 27, 1999; as amended by Supreme Court Order 16-8300-031[  
11 ~~effective for all cases pending or filed on or after July 1, 2017~~]; as amended by Supreme Court  
12 Order No. S-1-RCR-2025-00174.]