

1 **2-201. Commencement of action.**

2 A. **How commenced.** A civil action is commenced by filing with the court a complaint
3 consisting of a written statement of a claim or claims setting forth briefly the facts and
4 circumstances giving rise to the action.

5 B. **Jurisdiction.** Magistrates have jurisdiction in all cases as may be provided by law.

6 C. **Form of complaint.** The complaint shall be in substantially the form approved by
7 the court administrator and the Supreme Court.

8 D. **Verified accounts.** Except in cases controlled by Paragraph E, accounts duly
9 verified by the oath of the party claiming the same, or his agent, and promissory notes and other
10 instruments in writing not barred by law are sufficient evidence in any suit to create a rebuttable
11 presumption, sufficient to enable the plaintiff to recover judgment for those accounts.

12 E. **Consumer debt claims.**

13 (1) ~~[Definition.]~~ The pleading of a party, acting in the ordinary course of
14 business, whose cause of action is to collect a debt arising out of a transaction in which the money,
15 property, insurance, or services, which are the subject of the original transaction, are primarily for
16 personal, family, or household purposes, other than loans secured by real property, shall comply
17 with Rules ~~[2-201(E)(2)]~~ 2-201(E)(3) and 2-401(D) NMRA, and Form 4-226 NMRA.

18 (2) *Medical debt claims.* The pleading of a party whose cause of action is to
19 collect a medical debt, as defined in NMSA 1978, Section 57-32-2(I), shall comply with Rule 2-
20 201(E)(3), Rule 2-401(D), Form 4-226A NMRA, and shall include a copy of the current
21 Attestation of Indigency form promulgated by the New Mexico Superintendent of Insurance.

22 ~~[(2)]~~ (3) *Copy to be served and filed.* When any instrument of writing on which a
23 consumer debt claim is founded is referred to or relied on in the pleadings, the original or a copy

1 of the instrument shall be served with the pleading and filed with the court unless otherwise
2 excused by the court on a showing of good cause.

3 [As amended by Supreme Court Order No. 20-8300-005, effective for all cases filed on or after
4 December 31, 2020; as amended by Supreme Court Order No. S-1-RCR-2025-00174, effective
5 for all cases pending or filed on or after December 31, 2025.]

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7 _____ **Committee commentary.** In 2016, the New Mexico Supreme Court
8 approved amendments to Rules 1-009, 1-017, 1-055, and 1-060 NMRA, and created a new civil
9 complaint form for consumer debt claims, Form 4-226 NMRA, for use in the district courts.

10 _____ Paragraph E of this rule was added in 2020 to provide additional protections to consumers
11 in consumer debt collection cases. In addition, Rules 2-401, 2-702, 2-703, 3-201, 3-401, 3-702,
12 and 3-704 NMRA, as well as Form 4-226 NMRA, were amended in 2020 to align the magistrate
13 and metropolitan court rules for consumer debt claims with the district court rules.

14 _____ After considering the New Mexico Supreme Court’s 2016 amendments to Rules 1-009, 1-
15 017, 1-055, and 1-060 NMRA, and its creation of Form 4-226 NMRA, about consumer debt claim
16 litigation in the district courts, the Committee concluded that similar amendments to the magistrate
17 and metropolitan court rules are required to alleviate systemic problems and abuses that currently
18 exist in the litigation of consumer debt cases in these courts. The abuses include pleadings and
19 judgments based on insufficient or unreliable evidence, “robo-signing” of affidavits by those with
20 no personal knowledge of the debt at issue, creditors suing and obtaining judgments on time-barred
21 debts, and an alarmingly high percentage of default judgments (often caused in part by a lack of
22 sufficient detail in the complaint for a self-represented defendant to determine the nature of the
23 claim and its validity).

1 _____ For an interpretation of the phrase “acting in the ordinary course of business,” see *Wilson*
2 *v. Mass. Mut. Life Ins. Co.*, 2004-NMCA-051, ¶ 32, 135 N.M. 506, 90 P.3d 525, overruled on other
3 grounds by *Schultz ex rel. Schultz v. Pojoaque Tribal Police Dep’t*, 2010-NMSC-034, 148 N.M.
4 692, 242 P.3d 259 (interpreting course of business as “business practice that is routine, regular,
5 usual, or normally done”). Medical bills, subject to relevant Health Insurance Portability and
6 Accountability Act (HIPAA) regulations, and student loans, are considered consumer debt claims
7 for the purposes of this rule.

8 **2025 amendment**

9 For actions filed on or after July 1, 2021, seeking recovery for “medical debt,” as defined
10 in the Patients’ Debt Collection Protection Act, NMSA 1978, Section 57-32-2(I) (2021), the
11 pleadings must comply with the 2025 amendments to Paragraph E of this rule.

12 Subparagraph (E)(2) of this rule requires the claimant seeking to recover on charges for
13 medical debt to serve with the initial pleading a copy of the current Attestation of Indigency form
14 promulgated by the New Mexico Office of the Superintendent of Insurance. The current version
15 of the form may be found via the link on the Office of Superintendent of Insurance’s Patients Debt
16 Collection Protection Act webpage at [https://www.osi.state.nm.us/pages/misc/patients-debt-](https://www.osi.state.nm.us/pages/misc/patients-debt-collection-protection-act)
17 collection-protection-act.

18 [~~As adopted by Supreme Court Order No. 20-8300-005~~ ~~effective for all cases filed on or after~~
19 ~~December 31, 2020~~]; as amended by Supreme Court Order No. S-1-RCR-2025-00174.]