

1 **2-702. Default.**

2 A. **Failure to respond to summons.** If the defendant fails to appear at the hearing
3 date set forth in the summons or fails to file an answer or other responsive pleading within the time
4 period set forth in the summons, and if the plaintiff proves by an appropriate return that proper
5 service was made [~~upon~~] on the defendant, the court may enter judgment for the plaintiff for the
6 amount due, including interest, costs, and other items allowed by law. The court may require
7 evidence [~~as to~~] about any fact before entering default judgment. At a minimum, before entering a
8 default judgment, the court shall require the plaintiff to allege sufficient facts to demonstrate the
9 following:

- 10 (1) the plaintiff is a proper party to bring the lawsuit;
- 11 (2) the defendant is a proper party;
- 12 (3) a legal relationship exists between the plaintiff and the defendant that forms
13 the basis of the lawsuit; and
- 14 (4) the amount of the damages, debt, or other relief requested, including
15 principal, interest, and all other charges or costs.

16 In cases controlled by Rule 2-201(E) NMRA, before entry of default judgment, the court
17 shall determine that the party seeking relief has stated a claim on which relief can be granted, has
18 complied with Rules [~~2-201(E)(2)]~~ 2-201(E)(1) and 2-401(D) NMRA, and has substantially
19 complied with the requirements of Form 4-226 NMRA, or has complied with Rules 2-201(E)(2)
20 and 2-401(D), and has substantially complied with the requirements of Form 4-226A NMRA.

21 A copy of the default judgment shall forthwith be mailed by the clerk of the court to each
22 party against whom judgment has been entered. The clerk shall endorse on the judgment the date
23 of mailing.

1 B. **Failure to appear at trial.** Failure to appear at the time and date set for trial shall
2 be grounds for entering a default judgment against the nonappearing party.

3 C. **Setting aside default.** For good cause shown, within thirty (30) days after entry of
4 judgment and if no appeal has been timely taken, the court may set aside a default judgment.

5 [As amended by Supreme Court Order No. 16-8300-032, effective for all cases pending or filed
6 on or after December 31, 2016; as amended by Supreme Court Order No. 20-8300-005, effective
7 for all cases filed on or after December 31, 2020; as amended by Supreme Court Order No. S-1-
8 RCR-2025-00174, effective for all cases pending or filed on or after December 31, 2025.]

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

12 Paragraph A of this rule was amended in 2020 to provide additional protections to
13 consumers in consumer debt collection cases. *See* Rule 2-201 NMRA[~~Committee commentary~~]
14 comm. cmt. In addition, Rules 2-201, 2-401, 2-703, 3-201, 3-401, 3-702, and 3-704 NMRA, as
15 well as Form 4-226 [NMRA], were amended in 2020 to align the magistrate and metropolitan
16 court rules for consumer debt claims with the district court rules.

17 Paragraph A references Rule 2-201(E)(2) [NMRA], which requires a party seeking relief
18 in a consumer debt claim to serve with the pleading, and file with the magistrate court, the written
19 instrument on which the party based its claim. If the party seeking relief fails to comply with this
20 provision, the magistrate court shall not enter a default judgment without the party establishing
21 good cause for its failure to comply.

22 Paragraph A was amended in 2025, based on the Supreme Court’s amendment to Rule 2-
23 201(E), which modified the pleading rules that apply to consumer debt claims and created a

1 separate pleading rule for collection actions pursuing “medical debt” as defined in the Patients’
2 Debt Collection Protection Act, NMSA 1978, Section 57-32-2(I) (2021).
3 [~~Adopted by Supreme Court Order No. 16-8300-032[; effective for all cases pending or filed on~~
4 ~~or after December 31, 2016]; amended by Supreme Court Order No. 20-8300-005[; effective for~~
5 ~~all cases filed on or after December 31, 2020]; as amended by Supreme Court Order No. S-1-RCR-~~
6 2025-00174.]