

1 **3-201. Commencement of action.**

2 A. **How commenced.** A civil action is commenced by filing with the court a  
3 complaint 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. **Nature of claim.** Metropolitan judges have jurisdiction in all cases as may be  
6 provided by law.

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

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

13 E. **Consumer debt claims.**

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

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

1            [(2)] (3) *Copy to be served and filed.* When any instrument of writing on which a  
2 consumer debt claim is founded is referred to or relied on in the pleadings, the original or a copy  
3 of the instrument shall be served with the pleading and filed with the court unless otherwise  
4 excused by the court on a showing of good cause.

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

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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 \_\_\_\_\_ Paragraphs C and E of this rule were added in 2020 to provide additional protections to  
13 consumers in consumer debt collection cases. In addition, Rules 2-201, 2-401, 2-702, 2-703, 3-  
14 401, 3-702, and 3-704 NMRA, as well as Form 4-226 [~~NMRA~~], were amended in 2020 to align  
15 the metropolitan and magistrate court rules for consumer debt claims with the district court rules.

16 \_\_\_\_\_ After considering the New Mexico Supreme Court's 2016 amendments to Rules 1-009, 1-  
17 017, 1-055, and 1-060 [~~NMRA~~], and its creation of Form 4-226 [~~NMRA~~], about consumer debt  
18 claim litigation in the district courts, the Committee concluded that similar amendments to the  
19 metropolitan and magistrate court rules are necessary to alleviate systemic problems and abuses  
20 that currently exist in the litigation of consumer debt cases in these courts. The abuses include  
21 pleadings and judgments based on insufficient or unreliable evidence, "robo-signing" of affidavits  
22 by those with no personal knowledge of the debt at issue, creditors suing and obtaining judgments  
23 on time-barred debts, and an alarmingly high percentage of default judgments (often caused in part

1 by a lack of sufficient detail in the complaint for a self-represented defendant to determine the  
2 nature of the claim and its validity).

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

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

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