

1 **3-704. Relief from judgment or order.**

2 A. **Clerical mistakes.** Clerical mistakes and errors in judgments, orders, or parts of
3 the record [~~and errors therein arising~~] that arise from oversight or omission may be corrected by
4 the court at any time of its own initiative or on the motion of any party, [~~and after such notice, if~~
5 ~~any, as the court orders.~~] During the pendency of an appeal, [~~such~~] clerical mistakes may be so
6 corrected before the appeal is docketed in the [~~district~~] appellate court[~~].~~ [~~and thereafter while~~
7 While the appeal is pending, clerical mistakes may be so corrected with leave of the district court
8 or the appellate court before which the appeal is pending.

9 B. **Mistakes; inadvertence; excusable neglect; fraud, etc.** On motion and [~~upon~~
10 ~~such~~] on just terms [~~as are just~~], the court may relieve a party or [~~his~~] the party's legal
11 representative from a final judgment, order, or proceeding for the following reasons:

12 (1) mistake, inadvertence, surprise, or excusable neglect;

13 (2) fraud (whether heretofore denominated intrinsic or extrinsic),
14 misrepresentation, or other misconduct of an adverse party;

15 (3) the judgment is void;

16 (4) the judgment has been satisfied, released or discharged, or a prior judgment
17 [~~upon~~] on which it is based has been reversed or otherwise vacated; or

18 (5) any other reason justifying relief from the operation of a judgment,
19 including failure of a party who was subject to the provisions of Rule 3-201(E) NMRA to comply
20 with Rules [~~3-201(E)(2)~~] 3-201(E)(1) and 3-401(D) NMRA, and to substantially comply with
21 Form 4-226 NMRA, or to comply with Rules 3-201(E)(2) and 3-401(D) NMRA, and to
22 substantially comply with Form 4-226A NMRA.

1 A motion filed [~~pursuant to Subparagraph (1) or (2) of this paragraph~~] under Subparagraphs
2 (B)(1) or (B)(2) shall be filed not more than one (1) year after the judgment, order or proceeding
3 was entered or taken. A motion under this paragraph does not affect the finality of a judgment or
4 suspend its operation.

5 An order granting or denying relief from a final judgment under this rule may be appealed to the
6 [~~district~~] appellate court in the same manner as other appeals from final judgments of the
7 metropolitan court are taken.

8 C. **Satisfied judgments.** [~~Upon~~] On the filing with the court of a motion for an order
9 declaring the judgment to be satisfied and notice to the opposing party, the court may set a hearing
10 to determine if the judgment has been satisfied, released or discharged. The application shall be
11 served [~~upon~~] on the judgment creditor in the manner prescribed by Rule 3-202 NMRA for service
12 of summons and complaint. A hearing on the application shall be held within a reasonable time
13 after the filing of the application. Notice of the hearing shall be mailed to the parties by the clerk
14 of the court. If the judgment creditor fails to appear at [~~such~~] the hearing, a default satisfaction of
15 judgment may be entered [~~upon~~] on completing of the following:

16 (1) the filing of the return of service or an affidavit that after “diligent search”
17 the judgment creditor could not be located. For purposes of this subparagraph “diligent search”
18 includes, but shall not be limited to, an affidavit that[;]

19 (a) the judgment creditor no longer has a business or residence at the
20 judgment creditor’s last known address as shown in the court file; and

21 (b) the judgment creditor could not be located through a search of
22 telephone and city directories in each county where the judgment creditor was known to have
23 resided or maintained a place of business in this state; and

1 (2) proof of payment of the full amount of ~~[such]~~ the judgment with interest
2 thereon to date of payment, plus post-judgment costs incurred by the judgment creditor which can
3 be determined from the court record or, if the judgment, including any interest and costs has not
4 been paid in full, payment into the court registry of the balance owed in accordance with NMSA
5 1978, Section 39-1-6.2 ~~[NMSA-1978]~~ plus any court costs ~~[of court]~~ for receiving into and paying
6 the money out of the registry of the court.

7 [As amended, effective July 1, 1990; January 1, 1997; as amended by Supreme Court Order No.
8 20-8300-005, effective for all cases filed on or after December 31, 2020; as amended by Supreme
9 Court Order No. S-1-RCR-2025-00174, effective for all cases pending or filed on or after
10 December 31, 2025.]

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

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

20 _____ *Deutsche Bank Nat'l Trust Co. v. Johnston*, 2016-NMSC-013, ¶ 34, 369 P.3d 1046,
21 provides that a judgment “is not voidable under Rule 1-060(B) ~~[NMRA]~~ due to a lack of prudential
22 standing.” ~~[(Emphasis added)]~~. Rule 1-060(B)(4) NMRA is equivalent to ~~[Rule 3-704(B)(3)~~
23 ~~NMRA]~~ Subparagraph (B)(3) of this rule in providing grounds for relief of a void judgment. The

1 2020 amendment to ~~[Rule 3-704 NMRA]~~ this rule (adding Subparagraph (B)(5)) provides a
2 ground for relief in consumer debt litigation separate from the relief from voidable judgments
3 under ~~[Rule 3-704(B)(3) NMRA]~~ Subparagraph (B)(3) of this rule.

4 ~~[Rule 3-704(B)(5) NMRA]~~ Subparagraph (B)(5) of this rule now provides that
5 noncompliance with the requirements of Rule 3-201(E)(2) ~~[NMRA]~~ or Rule 3-401(D) ~~[NMRA]~~,
6 or the failure to substantially comply with Form 4-226 ~~[NMRA]~~, can provide a basis for granting
7 relief from a judgment entered in a case controlled by Rule 3-201(E) ~~[NMRA]~~. The addition of
8 this language provides a ground for relief, but does not compel the metropolitan court to grant
9 relief in every case in which the movant shows noncompliance with these consumer debt
10 provisions. The movant must also demonstrate that it has a meritorious defense. *See Rodriguez v.*
11 *Conant*, 1987-NMSC-040, ¶ [18] 16, 105 N.M. 746, 737 P.2d 527. When the movant meets this
12 requirement, the court may exercise discretion to determine whether intervening equities or other
13 considerations outweigh the desire “that the ultimate result will address the true merits and
14 substantial justice will be done.” *Phelps Dodge Corp. v. Guerra*, 1978-NMSC-053, ¶¶ 15, 20,
15 21, 92 N.M. 47, 582 P.2d 819.

16 ~~_____~~ In contrast, a motion to void the judgment under ~~[Rule 3-704(B)(3) NMRA]~~ Subparagraph
17 (B)(3) does not permit the trial court to exercise discretion to deny the motion, *Classen v. Classen*,
18 1995-NMCA-022, ¶¶ 10, 13, 119 N.M. 582, 893 P.2d 478, and does not require proof of a
19 meritorious defense. *Peralta v. Heights Med. Ctr., Inc.*, 485 U.S. 80, 86-87 (1988).

20 Subparagraph (B)(5) was amended in 2025, based on the Supreme Court’s amendment to
21 Rule 3-201(E) NMRA, which modified the pleading rules that apply to consumer debt claims and
22 created a separate pleading rule for collection actions pursuing “medical debt” as defined in the
23 Patients’ Debt Collection Protection Act, NMSA 1978, Section 57-32-2(I) (2021).

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