

**PROPOSED REVISIONS TO THE RULES OF CIVIL PROCEDURE FOR THE
MAGISTRATE COURTS AND THE CIVIL FORMS
PROPOSAL 2026-009**

March 6, 2026

The Rules of Civil Procedure for State Courts Committee has recommended amendments to Rules 2-202, 2-303, and 2-801 NMRA and Forms 4-208, 4-303, 4-805A, and 4-806 NMRA for the Supreme Court's consideration.

If you would like to comment on the proposed amendments set forth below before the Court takes final action, you may do so by either submitting a comment electronically through the Supreme Court's website at <https://supremecourt.nmcourts.gov/rules-forms-files/rules-forms/open-for-comment/> or sending your written comments by mail, email, or fax to:

Elizabeth A. Garcia, Chief Clerk of Court
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848
rules.supremecourt@nmcourts.gov
505-827-4837 (fax)

Your comments must be received by the Clerk on or before April 5, 2026, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's website for public viewing.

2-202. Summons.

A. **Summons; issuance.** On receipt of a complaint and payment of the docket fee, the clerk or the magistrate shall docket the action, issue a summons, and deliver it to the plaintiff or the plaintiff's attorney, who shall be responsible for prompt service of the summons and a copy of the complaint. On request of the plaintiff, separate, additional, or amended summons shall issue against any defendant. A defendant waives the service of summons by filing an answer in the proceedings.

B. **Summons; how issued; form.** The summons shall be signed by the clerk, be directed to the defendant, be substantially in the form approved by the Supreme Court, and must contain:

(1) the name of the court in which the action is brought, the name of the county in which the complaint is filed, the docket number of the case, the name of the first party on each side, with an appropriate indication of the other parties, and the name of each party to whom the summons is directed;

(2) a direction that the defendant serve a responsive pleading or motion within twenty (20) days after service of the summons, and file the same, all as provided by law, and a notice that unless the defendant so serves and files a responsive pleading or motion, the plaintiff will apply to the court for the relief demanded in the complaint; and

(3) the name and address of the plaintiff's attorney shall be shown on the summons, otherwise the plaintiff's address.

C. **Summons; service of copy.** A copy of the summons (with a copy of the complaint attached) and a copy of the form for answer shall be served together. The plaintiff shall furnish the person making service with the necessary copies.

D. **Summons; by whom served.** In civil actions, any process may be served by the sheriff of the county where the defendant may be found or by any other person who is over the age of eighteen (18) years, except for writs of attachment and writs of replevin, which shall be served by the sheriff or by any person over the age of eighteen (18) years who may be designated by the court to perform the service or by the sheriff of the county where the property or person may be found. With the exception of service under Paragraph E, process must be served by a person who is not a party to the action.

E. **Summons; service by mail.**

(1) A summons and complaint may be served on a defendant of any class referred to in Subparagraph (F)(1) or (F)(2) of this rule by mailing a copy of the summons and the complaint (by first-class mail, postage prepaid) to the person to be served, together with two (2) copies of a notice and acknowledgment substantially conforming with the form approved by the Supreme Court, and a return envelope, postage prepaid, addressed to the sender.

(2) If no acknowledgment of service under this paragraph is received by the sender within twenty (20) days after the date of mailing, plus three (3) days as provided by Rule 2-104 NMRA, service of the summons and the complaint shall be made by a person authorized by Paragraph D of this rule, in the manner prescribed by Paragraph F of this rule. Service of a summons by mail is only effective if an acknowledgment of service signed by the person being served is filed with the court.

(3) The court shall order the payment of the costs of personal service by the person served if ~~[the person does not complete and return to the sender within twenty three (23) days after mailing the notice and acknowledgment of receipt of summons]~~ personal service authorized by Paragraph D of this rule was made under Subparagraph E(2) of this Rule, unless good cause is shown for not signing, filing, and serving a signed acknowledgment of service in the time required by ~~[this paragraph]~~ Subparagraph E(2).

The form of the notice and acknowledgment of receipt of the summons and the complaint shall be substantially in the form approved by the Supreme Court.

F. **Summons; personal service.** Personal service shall be made as provided by law as follows:

(1) on an individual other than a minor or an incompetent person by delivering a copy of the summons and the complaint to the individual personally; or if the defendant refuses to receive a copy of the summons and the complaint by leaving the same at the location where the individual has been found; and if the defendant refuses to receive the copies or permit them to be left, this action shall constitute valid service. If the defendant is absent, service may be made by delivering a copy of the process or other papers to be served to some person residing at the defendant's usual place of abode who is over the age of fifteen (15) years; and if no person is available or willing to accept delivery, then service may be made by posting the copies in the most public part of the defendant's premises, and by mailing to the defendant at the defendant's last known mailing address copies of the process;

(2) on a domestic or foreign corporation by delivering a copy of the summons and the complaint to an officer, a managing or a general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant; on a partnership by delivering a copy of the summons and the complaint to any general partner; and on other unincorporated association, which is subject to suit under a common name, by delivering a copy of the summons and the complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by law to receive service and the statute so requires, by also mailing a copy to the unincorporated association. If the person refuses to receive the copies, this action shall constitute valid service. If none of the persons mentioned is available, service may be made by delivering a copy of the process or other papers to be served at the principal office or place of business during regular business hours to the person in charge of the business;

(3) on the State of New Mexico:

(a) in garnishment actions, service of writs of garnishment shall be made on the department of finance and administration, on the attorney general, and on the head of the branch, agency, bureau, department, commission, or institution; and

(b) service of process on the governor, attorney general, agency, bureau, department, commission, or institution or head of the institution may be made either by delivering a copy of the summons and the complaint to the head or to that individual's receptionist. If an executive secretary is employed, this person shall be considered the head;

(4) on any county by delivering a copy of the summons and the complaint to the county clerk, who shall notify the district attorney of the judicial district in which the county sued is situated;

(5) on a municipal corporation by delivering a copy of the summons and the complaint to the city clerk, town clerk, or village clerk, who in turn shall notify the head of the commission or other form of governing body;

(6) on the board of trustees of any land grant referred to in Sections 49-1-1 through 49-9-12 NMSA 1978, process shall be served on the president, or in the president's absence, on the secretary of the board;

(7) on a conservator of an estate or the guardian of a minor, by delivering a copy of the summons and the complaint to the conservator or the guardian. Service of process so made shall be considered as service on the minor. In all other cases, process shall be served by delivering a copy of the summons and the complaint to the minor, and if the minor is living with an adult, a copy of the summons and the complaint shall also be delivered to the adult residing in the same household. If a guardian ad litem has been appointed, a copy of the summons and the complaint shall be delivered to the representative, in addition to serving the minor;

(8) on a conservator of an estate or the guardian of an incompetent person, by delivering a copy of the summons and the complaint to the conservator or the guardian. Service of process so made shall be considered as service on the ward. In all other cases, process shall be served on the ward in the same manner as on competent persons; or

(9) on a personal representative, guardian, conservator, trustee, or other fiduciary in the same manner as provided in Subparagraph (F)(1) or (F)(2) as may be appropriate. Service shall be made with reasonable diligence, and the original summons with proof of service shall be returned to the clerk of the court from which it was issued.

G. **Return.** If service is made by mail under Paragraph E of this rule, return shall be made by the sender's filing with the court the acknowledgment received under Paragraph E. If service within the state includes mailing, the return shall state the date and place of mailing. If service is by personal service under Paragraph F of this rule, the person serving the process shall make proof of service to the court promptly and, in any event, within the time during which the person served must respond to the process. If service is made by the sheriff (or deputy), proof of service shall be by certificate; and if made by a person other than a sheriff (or deputy), proof of service shall be made by affidavit. If service within the state includes mailing, the return shall state the date and place of mailing. Failure to make proof of service shall not affect the validity of service.

H. **Service by publication.** Service by publication may not be made, unless provided by law in cases of attachment or replevin.

I. **Alias process.** If the process has not been returned, or has been returned without service, or has been improperly served, the clerk, on application of any party to the suit, shall issue other process as the party applying may direct.

J. **Service; applicable statute.** If the rules make no provision for service of process, process shall be served as provided for by any applicable statute.

K. **Construction of terms.** If the terms "summons," "process," "service of process," or similar terms are used, the terms shall include the summons, complaint, and any other papers required to be served.

[As amended, effective January 1, 1990; July 1, 1990; January 1, 1993; May 1, 1994; October 15, 2002; as amended by Supreme Court Order No. 18-8300-015, effective December 31, 2018; as amended by Supreme Court Order No. 21-8300-012, effective for all cases filed or pending on or after December 31, 2021; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

2-303. Judgment on the pleadings.

A. **For claimant.** A party seeking to recover upon a claim or counterclaim may, at any time after an answer or a reply by the adverse party, move for a judgment on the pleadings in his favor upon all or any part thereof.

B. **For defending party.** A party against whom a claim or counterclaim is asserted may, at any time, move for a judgment on the pleadings in his favor as to all or any part thereof.

C. **Motion and proceedings thereon.** The motion shall be served by mail at least [~~five~~ **(5)**] **ten (10)** days before the time fixed for the hearing. The judgment sought shall be rendered forthwith if the pleadings, on file, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A judgment on the pleadings may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

D. **Judgment on the pleadings.** The court may, on its own motion, enter judgment on the pleadings if there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A judgment on the pleadings may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages. At least fifteen days before entering such judgment on the pleadings, the court shall provide written notice of its intention to the parties to enter the judgment unless objections are received by a certain date.

[As amended, effective December 17, 2001; as amended by Supreme Court Order No. 07-8300-027, effective November 1, 2007; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

2-801. Writs of execution.

A. **Issuance of writs of execution.** Unless the judgment has been stayed, on the timely filing of an application, the clerk of the court shall issue a writ of execution for seizure of property to satisfy a judgment on an underlying dispute:

- (1) if the judgment debtor is not a natural person, at any time after the filing of the judgment;
- (2) if the judgment debtor is a natural person:
 - (a) on filing of either a certificate by an attorney for the judgment creditor or an affidavit by the judgment creditor stating that:
 - (i) the judgment creditor served the judgment debtor with a notice of right to claim exemptions as required by this rule; and
 - (ii) the judgment debtor has not filed a claim of exemption for the property to be seized and sold as provided by this rule;
 - (b) on entry of an order finding that the property to be seized and sold is not exempt from execution; or
 - (c) on filing of a waiver of the right to claim a statutory exemption from execution. The judgment debtor's written waiver shall specifically describe the property which may be seized and sold to satisfy the debt.

B. **Service of notice of right to claim exemptions from execution.** If the judgment debtor is a natural person, no later than ten (10) days before the date of [~~seizure of property to be sold under~~] filing of an application for a writ of execution, the judgment creditor shall serve on each judgment debtor a notice of right to claim exemptions and a claim of exemption form in the following manner:

- (1) if the judgment debtor has entered an appearance in the proceeding, service shall be made and proof of service filed with the court in the manner provided by Rule 2-203 NMRA;
- (2) if the judgment debtor has not entered an appearance in the proceeding, service shall be made and return of service filed in the same manner as provided by Rule 2-202 NMRA for service of the summons and complaint; or
- (3) if service cannot be made on the judgment debtor under Subparagraphs (1) or (2) of this Paragraph, service shall be made on the judgment debtor in a manner reasonably calculated to ensure actual notice of the right to claim exemptions.

C. **Claim of exemptions from execution.** Within ten (10) days after service of a notice of right to claim exemptions, a judgment debtor who is a natural person may claim a statutory exemption by filing a claim of exemption form with the court.

D. **Service of claim of exemption.** At the time of filing of the claim of exemption, the judgment debtor shall serve a copy of the claim of exemption on the judgment creditor.

E. **Failure to file claim of exemption.** If the judgment debtor fails to file a claim of exemption within ten (10) days after service of the notice of the right to claim exemptions, the judgment debtor shall be deemed to have waived the right to claim an exemption. Notwithstanding the foregoing, for actions filed on or after July 1, 2023, it shall not be necessary for a judgment

debtor to assert an exemption to the first two thousand four hundred dollars (\$2,400.00) held in a depository or investment account. Nor shall any failure to assert a claim of exemption constitute waiver of any protections for Unemployment Compensation under Section 51-1-37 NMSA 1978.

F. **Dispute of claimed exemption.** Within ten (10) days after service of a claim of exemption on the judgment creditor under Paragraph D of this rule, the judgment creditor may dispute any claimed exemption and request a hearing. If the judgment creditor does not dispute a claimed exemption, the property shall be exempt and the judgment creditor may proceed against any other property as provided in Paragraph A of this rule. If the judgment creditor files a notice of dispute and request for hearing, the judgment creditor shall at the time of filing of the notice serve a copy on the judgment debtor.

G. **Notice of hearing on dispute.** If the judgment creditor files a notice of dispute and request for hearing, the court shall promptly give notice of the date and time of the hearing to the parties.

H. **Hearing on disputed claim of exemptions.** Within ten (10) days after the filing of a notice of dispute and request for hearing, the court shall hold a hearing on the disputed claim. At the hearing the court may determine the merits of the dispute or may postpone decision pending such discovery as may be required to determine the status of the property.

I. **Issuance and executions of writ.** A writ of execution issued under Paragraph A of this rule shall be served by the sheriff within sixty (60) days from the date issued. If an execution is not served within that time, on request of the judgment creditor, a second or subsequent writ shall be issued by the clerk. A writ of execution issued under this rule may be served in the manner provided by law.

J. **Sheriff's sale.** A sale shall be conducted in the manner provided by law.

K. **Form of writs, notices and claim of exemptions.** Applications for writs of execution, writs of execution, answers, notices of right to claim exemptions, claims of exemptions, notices of dispute of claimed exemptions and request for hearing, and judgments shall be substantially in the form approved by the Supreme Court.

[Withdrawn and new rule adopted, effective January 1, 1996; as amended by Supreme Court Order No. S-1-RCR-2024-00107, effective for all cases pending or filed on or after December 31, 2024; as amended by Supreme Court Order No. S-1-RCR-2025-00174, effective for all cases pending or filed on or after December 31, 2025; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

Committee commentary. — Applications for writs of garnishment or execution are timely if filed “within seven years after the rendition or revival of the judgment” in the case. NMSA 1978, Section 39-1-20 (1971). But no writ of garnishment or execution may issue “after fourteen years from the date of the original judgment upon which it is founded.” NMSA 1978, Section 37-1-2 (2021).

[Adopted by Supreme Court Order No. S-1-RCR-2024-00107, effective for all cases pending or filed on or after December 31, 2024.]

4-208. Notice and acknowledgment of receipt of summons and complaint.

[For use with Rules 2-202 and 3-202 NMRA]

STATE OF NEW MEXICO

_____ COURT No. _____

_____ (COUNTY)
_____, Plaintiff
v.
_____, Defendant

**NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF
SUMMONS AND COMPLAINT**

TO: _____

ADDRESS: _____

The enclosed summons, complaint, answer form, two copies of this notice and acknowledgment of receipt of summons and a postage prepaid return envelope are served pursuant to the rules of civil procedure.

You must sign and date the receipt. If you are served on behalf of a corporation, unincorporated association (including a partnership) or other entity, you must indicate under your signature your relationship, position or title. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your relationship, position or title.

You must complete and return one copy of the completed form to the sender within twenty (20) days of the date upon which this notice was mailed. This date appears below. If you fail to complete and return this form to the sender within twenty (20) days plus three (3) days for mailing as provided by Rule 2-104 NMRA, you may be required to pay any expenses incurred in serving a summons and complaint in any other manner permitted by law. It must be received by the sender within twenty[~~three (23)~~] (20) days, plus three (3) days for mailing as provided by Rule 2-104 NMRA, from the date it was mailed to you.

A stamped and addressed envelope has been included with this notice. You may use this envelope to return this form to the sender.

In addition to completing this form and returning it to the sender, you must also answer the complaint and file an answer with the court within twenty[~~three (23)~~] (20) days, plus three (3) days for mailing as provided by Rule 2-104 NMRA, from the date this notice was mailed to you. This date appears below. An answer form has been included with this notice for your use. If an answer is not filed with the court a default judgment may be granted for the relief demanded in the complaint.

I declare, under penalty of perjury, that the complaint, an answer form, two copies of this notice and acknowledgment of receipt of summons and complaint and a postage prepaid return envelope were mailed on the _____ day of _____, _____ from _____
(*place of mailing*).

Signature of person mailing

Date of signature

RECEIPT OF SUMMONS AND COMPLAINT

I received a copy of the summons and complaint.

I understand that a judgment may be entered against me (or the party on whose behalf I received service) if I do not file an answer to the complaint with the court twenty[-three (23)] (20) days, plus three (3) days for mailing as provided by Rule 2-104 NMRA, from the date this notice was mailed to me.

Signature of defendant
or defendant's attorney

Position or title

Date of signature

*(To be completed prior to filing
with the clerk of the court.
Proof of service is required for each party.)*

AFFIDAVIT OF SERVICE

I declare under penalty of perjury that a copy of the complaint, an answer form, two copies of this notice and acknowledgment of receipt of summons and complaint and a postage prepaid return envelope were served by mail on the following persons or entities on this _____ day of _____, _____:

(1) _____
(Name of party)

(Address)

(2) _____
(Name of party)

(Address)

Signature of person mailing pleadings

Date of signature

Subscribed and sworn to
before me this _____
day of _____, _____

Judge, notary or other officer authorized to administer oaths

Official title

[As amended, effective January 1, 1993; September 2, 1997; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

4-303. Motion for judgment on the pleadings.

[For use with Magistrate Court Rule 2-303 NMRA and Metropolitan Court Rule 3-303 NMRA]

STATE OF NEW MEXICO

COUNTY OF _____

_____ COURT

No. _____

_____, Plaintiff

v.

_____, Defendant

MOTION FOR JUDGMENT ON THE PLEADINGS

(Plaintiff) (Defendant) asks the court to enter judgment against the other party based on the pleadings on file in this cause for the following damages, costs and fees:

Damages _____	\$ _____
Attorney fee (if allowable) _____	\$ _____
Interest (if allowable) _____	\$ _____
Filing fee _____	\$ _____
Service fee _____	\$ _____
Return fee _____	\$ _____
Witness fees _____	\$ _____
Total Judgment _____	\$ _____

_____, _____ (date)

(Plaintiff) (Defendant)

(A copy of this motion must be served on the other party or the attorney for the other party not less than ~~eight (8)~~ ten (10) days, as provided by Rule 2-104(A)(2) NMRA, before the time fixed for the hearing.)

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, _____ a copy of this motion was

[mailed by United States first class mail, postage prepaid, and addressed to:]

Name: _____
Address: _____
City, State _____
and zip code: _____]

[faxed by _____ (name of person who faxed document) to
_____ (name of recipient) at _____ (telephone number). The
transmission was reported as complete and without error. The time and date of the transmission
was _____ (a.m) (p.m) on _____ (date).]

[e-mailed to _____ (name of party or attorney) at _____
(electronic mail address of recipient). The transmission was successful. The time and date of the
transmission was _____ (a.m) (p.m) on _____ (date).]

[delivered to _____ (Specify how service by delivery was made. See Use
Note 1 for the methods service may be made using this alternative)
_____.]

Signature of person sending paper

Date of signature

[As amended, effective October 1, 1987; as amended by Supreme Court Order No. 05-8300-005,
effective March 21, 2005; as amended by Supreme Court Order No. _____, effective for
all cases pending or filed on or after _____.]

4-805A. Application for writ of execution.

[For use with Magistrate Court Rule 2-801 NMRA
and Metropolitan Court Rule 3-801 NMRA]

STATE OF NEW MEXICO
COUNTY OF _____
IN THE _____ COURT

Plaintiff

v.

No. _____

Defendant

APPLICATION FOR WRIT OF EXECUTION

_____, the judgment creditor, states:

(1) The judgment creditor has a judgment dated _____ (*date judgment filed*) against the judgment debtor whose name is _____, and whose last known address is _____. The total of the principal, interest, costs, and attorney's fees awarded by the judgment was \$ _____. Since the judgment was entered, additional interest at the judgment rate of _____% and costs total \$ _____. Payments totaling \$ _____ have been received. The unpaid balance now due is \$ _____ (*insert this amount on Form 4-801 NMRA as "Balance Due upon Application for Writ"*) plus interest from the date this Application is executed. The estimated costs would equal \$ _____; and the judgment creditor will seek \$ _____ in attorney fees.

(2) (*check one of the following*)

I served the judgment debtor with a notice of right to claim exemptions more than ten (10) days before filing this application for writ of execution and the judgment debtor has not filed a claim of exemption for the property to be seized and sold.¹

The judgment debtor has filed a waiver of the right to claim exemption for the property to be seized and sold.²

The judgment debtor is not a natural person.

The judgment creditor requests the court to issue a Writ of Execution for non-exempt property for the judgment debt.

Judgment creditor or
attorney for judgment creditor

Judgment creditor's name printed

Address of judgment creditor

Printed name of person signing for judgment
creditor

Telephone of judgment creditor

Printed name of judgment creditor's attorney
(*if any*)

Mailing address of judgment creditor's attorney
(*number and street or P.O. box*)

City, State, zip code

Telephone number of judgment creditor's attorney

AFFIDAVIT

(This application must be sworn to unless it is signed by an attorney.)

I declare under penalty of perjury that the foregoing is true and correct.
Subscribed and sworn to before me this _____ day of _____, _____.

(seal)

Notary or other officer authorized
to administer oaths

USE NOTES

1. If the judgment debtor is a natural person, Form 4-808A NMRA, Notice of Right to Claim Exemptions from Execution, must have been served on the judgment debtor.

2. This alternative may be checked if the judgment debtor filed a waiver of the right to claim exemptions. See Form 4-803 NMRA, Claim of Exemptions on Execution, which also contains the waiver form.

3. Applications for writs of garnishment or execution are timely if filed “within seven years after the rendition or revival of the judgment” in the case. NMSA 1978, Section 39-1-20 (1971). But no writ of garnishment or execution may issue “after fourteen years from the date of the original judgment upon which it is founded.” NMSA 1978, Section 37-1-2 (2021).
[Approved, effective May 15, 2003; as amended by Supreme Court Order No. S-1-RCR-2024-00107, effective for all cases pending or filed on or after December 31, 2024; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

4-806. Writ of garnishment.

[For use with Rules 1-065.2, 2-802, and 3-802 NMRA]

STATE OF NEW MEXICO

COUNTY OF _____

[IN THE [DISTRICT] [MAGISTRATE] [METROPOLITAN] COURT]

[_____ JUDICIAL DISTRICT]

_____, Plaintiff

v.

No. _____

_____, Defendant

Balance Due On Application for Writ: \$ _____

Includes Interest at _____ %

Through _____, _____ (date)

WRIT OF GARNISHMENT

THE STATE OF NEW MEXICO to _____, garnishee.

You are ordered to appear before the _____ court located at _____ within twenty days from the day of [~~the~~] service of this writ on you to answer under oath the following questions, as of the date of service and as of the date of your answer:

1. What, if anything, are you indebted to the defendant in this action and on what account?
2. What, if any, personal property of the defendant is in your possession or under your control?
3. What other persons, if any, within your knowledge are indebted to the defendant or have personal property of the defendant in their possession?

_____ is the judgment debtor in this case and owes the amount set out above to the judgment creditor, _____, whose address is _____.

The above judgment creditor believes that you hold or control money or property that belongs to the judgment debtor.

YOU ARE ORDERED to file a written answer with the _____ court located at _____ within twenty (20) days from the day [~~you receive~~] of service of this this writ on you. Your answer must be under oath and on the attached form (*answer by garnishee*).

Service of this writ on you has the effect of attaching all nonexempt personal property, money, rights, credits, bonds, bills, notes, drafts, and other choses in action of the defendant in your possession or under your control at the time of service and that may come into your possession or under your control or be owing by you between the time of service and the time of making your answer.

This writ was issued in (advance) (aid of execution) of judgment against the defendant. If this writ was issued in advance of judgment, it does not attach any wages or salary due from you to the defendant.

If this writ was issued in aid of execution of judgment, it attaches to wages or salary due from you to the defendant IN EXCESS OF THE GREATER OF THE FOLLOWING EXEMPT portions of the defendant's disposable earnings:

- A. seventy-five percent (75%) of the defendant's disposable earnings for any pay period; or
- B. an amount each week equal to forty (40) times the highest applicable minimum hourly wage rate at the place the wages were earned.

A table giving equivalent exemptions for pay periods of other than one week may be obtained from the director of the financial institutions division of the regulation and licensing department. "Disposable earnings" means that part of the defendant's wage or salary remaining after deducting the amounts that are required by law to be withheld. "Highest applicable minimum hourly wage rate" means the highest federal, state, or local minimum hourly wage rate for an eight-hour day or a forty-hour week. It is immaterial whether you are exempt under federal, state, or local law from paying the highest applicable minimum hourly wage rate.

ANY WAGES IN EXCESS OF THE LARGER EXEMPTION AMOUNT ABOVE THAT YOU OWE THE EMPLOYEE, OR THAT YOU MAY COME TO OWE THE EMPLOYEE, MUST BE KEPT BY YOU UNTIL FURTHER ORDER OF THIS COURT.

If the debt is for child support or spousal support payments, you shall pay the judgment debtor fifty percent (50%) of the debtor's disposable earnings (*salary less social security, federal, and state withholding*).

If employee's wages or salary are subject to more than one garnishment or wage withholding proceeding, the writs shall be satisfied in the order they have been served on you.¹

In no event may you withhold from your employee's net disposable earnings more than fifty percent (50%) of the employee's net disposable earnings if one of the writs is for child or spousal support or more than twenty-five percent (25%) if none of the garnishments is for child or spousal support.²

Any wages you owe the employee in excess of that amount or that you may come to owe the employee in excess of that amount must be kept by you until further order of this court. (*A table giving equivalent exemptions for pay periods of other than one (1) week may be obtained from the Financial Institutions Division of the Regulation and Licensing Department, 725 St. Michaels Drive, Santa Fe, New Mexico 87503.*)

If you have any property that belongs to the judgment debtor, including any rights, credits, bonds, bills, notes, drafts, and other rights to property or money that belongs to the judgment debtor, or if you acquire any property, money, or rights to property or money before filing your answer, you must keep a sufficient amount of that property to satisfy the existing judgment and costs and not turn it over to the judgment debtor unless the court enters an order releasing the property or money.

If you hold property or money belonging to the judgment debtor, within four (4) business days after service of this writ, you are to mail or deliver a copy of this writ and the application for writ provided by the judgment creditor. If you hold property or money of the judgment debtor's other than wages and the debtor is a natural person, you shall also mail or deliver to the judgment debtor, the attached notice of right to claim exemptions and a copy of the attached claim of exemption

the answer by garnishee. Judgment debtors who are not natural persons are not entitled to garnishment exemptions.)

By _____
Name

Title

Fees:

SHERIFF OF _____

COUNTY, State of New Mexico

By _____

Deputy

RETURN FOR COMPLETION BY OTHER PERSON MAKING SERVICE:

I, being duly sworn, on oath, say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this writ in this county on the _____ day of _____, _____, by delivering a copy of the writ, a copy of the application for writ, a copy of a form for answer by garnishee, a copy of a notice of right to claim exemptions for each judgment debtor, and a copy of the claim of exemption form for each judgment debtor to _____ garnishee.

By _____
Name

Title

Signature of private person making service

Subscribed and sworn to before me this _____ day of _____, _____

Judge, notary, or other officer authorized to administer oaths

Official title

USE NOTES

1. Section 35-12-9 NMSA 1978 provides that if an employee's wages are subject to more than one garnishment proceeding, the writs shall be satisfied in the order in which they are served on the garnishee.
2. Section 35-12-7(C) NMSA 1978 provides that the maximum amount that may be taken from a person's disposable earnings is fifty percent (50%) of the employee's disposable earnings.
3. Use this form only for actions filed on or after July 1, 2023.

[As amended, effective June 15, 1986; January 1, 1987; July 1, 1992; January 1, 1996; December 3, 2001; as amended by Supreme Court Order No. 12-8300-030, effective for all cases filed or pending on or after January 7, 2013; as amended by Supreme Court Order No. S-1-RCR-2024-00107, effective for all cases pending or filed on or after December 31, 2024; as amended by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]