4A-201. Temporary domestic order for dissolution of marriage cases.

[For use with Rule 1-121 NMRA]

STATE OF NEW MEXICO
COUNTY OF _____
_____ JUDICIAL DISTRICT
_____,
Petitioner,
v. No. _____
_____,
Respondent.

TEMPORARY DOMESTIC ORDER[1]

This order is issued pursuant to Rule 1-121 NMRA. This is not an order of protection under federal or state law. It is otherwise fully enforceable. It applies to both parties. This order will continue in effect until modified. The procedure for modification of this order is described below.

THE COURT ORDERS THE PARTIES AS FOLLOWS:

(1) **Do not** injure or physically or mentally abuse, molest, intimidate, threaten or harass the other party or any child of either party.

(2) **Do not** interfere with the relationship of your spouse with any child of either party. If you are living apart, you shall each continue to have frequent contact and communication with any minor child of both parties, personally and by telephone. A party shall notify the other party of any change of address or telephone number within twenty-four (24) hours of the change.

(3) **Do not** change a child's school, religion, child care, doctor, dentist, physical or mental treatment or recreational activities in which the child has been participating without court order or the written consent of the other party.

(4) **Do not** remove, cause or permit the removal of any minor child of both parties from the State of New Mexico without court order or written consent of the other party. Consent shall not be unreasonably withheld.

(5) **Do not** make the other party leave the family home, whether it be community or separate property, without court order. You should attempt to resolve the question of who leaves the home in a fair manner. If you cannot agree, you must ask the court to decide.

(a) Whoever moves from the family home may return to pick up personal belongings at a reasonable time as you may agree. Personal belongings do not include furniture unless you agree or the court permits. If an order prohibiting domestic violence has been entered, you must arrange to have a law enforcement officer present to monitor the removal of personal belongings. The party moving out of the residence is not prejudiced by reason of the move in any

way with respect to custody of any minor child, with respect to a claim of any interest in the family residence or the personal property in or on the premises.

(b) Whoever leaves the family residence shall notify the other party, within twenty-four (24) hours of an address where the vacating party can receive mail.

(c) At a reasonable time, you are entitled to examine the contents of the marital residence and to have access to all properties owned by either of you, for inspection, valuation or appraisal. If you ask, the other party must provide access to the home within fifteen (15) days after the date of the request.

(d) Whoever leaves the residence shall surrender access to all smart home, home security and video monitoring systems. The person remaining in the residence is permitted to restrict access to the home, including smart home, home security and video monitoring systems for the home in which they reside.

(6) **Do not** incur unreasonable or unnecessary debts. Any debt that does not contribute to the benefit of both spouses or the minor children of the parties which is incurred after you have separated, may be the separate debt of the party who incurs the debt.

(7) **Do not** sell, remove, transfer, dispose of, hide, encumber or damage any property, real or personal, community or separate, except in the usual course of business or for the necessities of life. Keep an accounting of any transactions to show to the court.

(8) **Do not** drop or cancel any insurance policy, including automobile or other vehicle insurance, household insurance, medical or dental insurance or life insurance.

(9) **Do not** terminate or change the beneficiaries of any existing life insurance policy.

(10) **Do not** close any financial institution account[2] or cancel any credit cards nor remove the other party from any credit card account during pendency of this case, unless the parties otherwise agree in writing.

(11) **Do not** liquidate, cash out, remove funds from or take loans against any retirement account, including but not limited to PERA, pension, IRA, Roth IRA, SARSEP, SEP, profit sharing, 401(k), 403(b), defined benefit, money purchase, employee stock ownership (ESOP), or 457 or 409A accounts, unless the parties otherwise agree in writing, except in the usual course of business or for the necessities of life. Keep an accounting of any transactions to show to the court.

(12) In every domestic relations case involving property and debt division or characterization, within forty-five (45) days after service of the petition, the parties shall serve a disclosure as provided in Domestic Relations Form 4A-212 NMRA. The disclosure shall contain

(a) an interim monthly income and expense statement;

(b) a community property and liabilities schedule; and

(c) a separate property and liabilities schedule.

The statements and schedules shall substantially comply with Domestic Relations Forms 4A-212, 4A-214, and 4A-215 NMRA approved by the Supreme Court. The schedules shall be accompanied by a list of the documents utilized to complete the schedules.

(13) In actions concerning spousal support or child support, within forty-five (45) days of service of process on the opposing party, the petitioner or movant shall serve on the opposing party, and the opposing party shall serve on the petitioner or movant, an affidavit of disclosure containing the following information

(a) federal and state tax returns, including all schedules, for the year preceding the request;

(b) W-2 statements for the year preceding the request;

(c) Internal Revenue Service Form 1099s for the year preceding the request;

(d) work-related daycare statements for the year preceding the request, if applicable;

(e) dependent medical insurance premiums for the year preceding the request, if applicable; and

(f) wage and payroll statements for four months preceding the request.

MODIFICATION BY COURT[3]

This order may be modified by the court upon request of either party. To request the court to modify this order, a motion must be filed with the clerk of the court. The motion must include reference to each paragraph number the party is requesting to be modified or terminated. The party making the request must provide the other party with a copy of the motion requesting the change. If the other party agrees with the request, an order approving the request, which has been initialed by both parties as "approved," shall be filed with the motion.

WAIVER BY PARTIES

The parties may modify a specific provision of this order by entering into a written agreement and filing it with the court. The parties may also waive a provision of this order on a specific occasion if both parties sign an agreement to waive the provision. A waiver must include the paragraph number of each paragraph waived by the parties.

OTHER ORDERS

If an order of protection from a domestic violence case has been served on either party or if there is any other order in effect governing the relationship of the parties, and there is a conflict between this order and the other order, the other order controls unless the court specifically orders otherwise.

VIOLATIONS

Violation of this court order may result in the imposition of a fine or imprisonment. This order is binding on the petitioner at the time the petition is filed. This order is effective on the respondent immediately upon service. The parties are cautioned that actions taken by either party that are contrary to the terms of this order are subject to redress by the court, including costs and attorney fees.

_____ _____

Date District Judge

USE NOTES

1. A scheduling order may be issued at the time a domestic relations case is docketed and served with the petition, however, the scheduling order must be issued as a separate order.

2. *See* NMSA 1978, Section 58-1-7 for notice to any bank of an adverse claim to a bank account.

3. Within two (2) days after service of this order, a party may file a motion requesting a hearing to dissolve this order. If the court finds the motion was frivolous or was not filed in good faith it may assess the party filing the motion with costs and attorney fees.

[Approved, effective November 1, 2000 until November 1, 2001; approved, effective November 1, 2002; 4A-112 recompiled and amended as 4A-201 by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 17-8300-017, effective for all pleadings and papers filed on or after December 31, 2017; as amended by Supreme Court Order No. S-1-RCR-2026-00231, effective for all cases filed on or after December 31, 2026.]

Committee commentary. — This form deviates from the forms used by some judicial districts, however, the changes are necessary to comply with due process requirements. *See* Rules 1-121 and 1-066 NMRA.