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 [~~after~~] 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~~]NMSA 1978, Section 51-1-37.

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-2026-00233, effective for all cases pending or filed on or after December 31, 2026.]

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)~~] NMSA 1978, § 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)~~] NMSA 1978, § 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~~]; as amended by Supreme Court Order No. S-1-RCR-2026-00233.]