

1 **4-711. Mandate to magistrate court after appeal.**

2 [For use in district court]

3
4 STATE OF NEW MEXICO
5 COUNTY OF _____
6 _____ JUDICIAL DISTRICT

7
8 _____, Plaintiff

9
10 v. No. _____

11
12 _____, Defendant

13
14 **MANDATE TO MAGISTRATE COURT AFTER APPEAL**

15
16 This matter came before the district court on appeal. The matter now being resolved,
17 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that this case is remanded to
18 _____ (*enter name of court*), in Case No. _____
19 (*enter court case number*), with instructions that the court take the following actions (*district*
20 *court to check all appropriate instructions*):

21
22 [] Vacate its dismissal and enter judgment as stated in the attached order.¹

23
24 [] Vacate its judgment and dismiss the case as stated in the attached order.²

25
26 [] Enter a judgment on mandate affirming its prior judgment as stated in the attached
27 order.³

28
29 [] Enter an amended judgment as stated in the attached order.⁴

30
31 [] Proceed with its case because the appeal has been dismissed.⁵

32
33 [] Collect the supersedeas bond.⁶

34
35 [] Release a bond (supersedeas or other) to _____ (*enter name of*
36 *party entitled to receive the bond*).⁷

37
38 [] Issue any writ necessary to carry out the judgment.⁸

39
40 [] Other: _____

41

USE NOTES

1
2
3 The district court must ensure that this order is provided to the magistrate court,
4 either electronically or by hard copy.

5 1. This instruction is to be used when the magistrate court originally dismissed
6 the case but the district court reversed dismissal and found in favor of a party. The magistrate
7 court must enter judgment consistent with the district court's decision in the event
8 enforcement actions are needed.

9 2. This instruction is to be used when the magistrate court judgment is reversed
10 and the case is dismissed.

11 3. This instruction is to be used when the magistrate court judgment is affirmed.
12 This closing document is needed so that the case may be closed with an enforceable
13 judgment.

14 4. This instruction is to be used when it is necessary to update the amount of the
15 judgment, such as interest or ongoing rent that is due.

16 5. This instruction is to be used when there is some type of interlocutory appeal
17 in a case that is otherwise within the jurisdiction of the magistrate court.

18 6. Under Rule 2-705(G) NMRA, the supersedeas bond is enforceable on
19 dismissal of the appeal or affirmance of the judgment.

20 7. This instruction is to be used, probably in addition to one of the other
21 instructions above, where a bond has been posted and is to be released. An example is a
22 landlord/tenant case where a bond has been posted to stay the eviction.

23 8. This instruction is to be used if a writ is needed, such as in a landlord/tenant
24 case where eviction is ordered.

25
26 [Adopted by Supreme Court Order No. 19-8300-017, effective for all cases pending or filed
27 on or after December 31, 2019.]