

1 **8-203. Issuance of warrant for arrest and summons.**

2 A. **Issuance.** Upon the docketing of any action, the court may issue either an arrest
3 warrant or a summons.

4 B. **Basis for warrant.** No warrant shall issue except upon a sworn statement of the
5 facts showing probable cause that an offense has been committed. The showing of probable cause
6 shall be based upon substantial evidence, which may be hearsay in whole or in part, provided there
7 is a substantial basis for believing the source of the hearsay to be credible and for believing there
8 is a factual basis for the information furnished. Before ruling on a request for a warrant, the court
9 may require the affiant to appear personally and may examine under oath the affiant and any
10 witnesses produced by the affiant, provided that such additional evidence shall be reduced to
11 writing and supported by oath or affirmation. The court also may permit a request for an arrest
12 warrant by any method authorized by Paragraph G of Rule 8-207 NMRA for search warrants and
13 may issue an arrest warrant remotely provided the requirements of Paragraph H of Rule 8-207
14 NMRA and this rule are met.

15 C. **Preference for summons.** The court shall issue a summons, unless in its discretion
16 [~~and for good cause shown~~], the court finds that the interests of justice may be better served by the
17 issuance of an arrest warrant.

18 D. **Form.** The warrant shall be signed by the court and shall contain the name of the
19 defendant or, if the defendant's name is unknown, any name or description by which the defendant
20 can be identified with reasonable certainty. It shall describe the offense charged. It shall command
21 that the defendant be arrested and brought before the court. The summons shall be in the same
22 form as the warrant except that it shall summon the defendant to appear before the court at a stated

1 time and place. A summons or arrest warrant shall be substantially in the form approved by the
2 Supreme Court.

3 [As amended by Supreme Court Order No. 13-8300-011, effective for all cases pending or filed
4 on or after July 15, 2013; amended by Supreme Court Order No. 15-8300-008, effective for all
5 cases pending or filed on or after December 31, 2015; as amended by Supreme Court Order No.
6 19-8300-018, effective for all cases pending or filed on or after December 31, 2019.]

7 **Committee commentary.** — Paragraph A was amended in 2013 to permit alternate
8 methods for requesting and issuing arrest warrants. See Rule 8-207 NMRA and the related
9 committee commentary for more information.

10 Paragraph C was amended in 2019 to be consistent with Rule 5-208 NMRA, which was
11 amended at the same time.

12 [Adopted by Supreme Court Order No. 13-8300-011, effective for all cases pending or filed on or
13 after July 15, 2013; as amended by Supreme Court Order No. 19-8300-018, effective for all cases
14 pending or filed on or after December 31, 2019.]