

1 **4-805.1 Application for writ of garnishment in consumer debt collection case.**

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

4  
5 STATE OF NEW MEXICO  
6 COUNTY OF \_\_\_\_\_  
7 IN THE \_\_\_\_\_ COURT

8  
9 \_\_\_\_\_, Plaintiff,

10  
11 v. No. \_\_\_\_\_

12  
13 \_\_\_\_\_, Defendant.

14  
15 **APPLICATION FOR WRIT OF GARNISHMENT**

16  
17 The judgment creditor, \_\_\_\_\_, states:

- 18  
19 (1) The judgment creditor has a judgment dated \_\_\_\_\_ against the  
20 judgment debtor whose name is \_\_\_\_\_,  
21 and whose last known address is \_\_\_\_\_.
- 22  
23 (2) The total amount of the judgment including the principal, interest, costs, and  
24 attorney fees awarded by the judgment was \$ \_\_\_\_\_.
- 25  
26 (3) From the date the judgment was filed through the date this Application was signed,  
27 additional interest at the rate of \_\_\_\_\_% totals \$ \_\_\_\_\_.  
28 Judgment creditor has incurred additional costs of \$ \_\_\_\_\_ and  
29 additional attorney fees of \$ \_\_\_\_\_.
- 30  
31 (4) Payments totaling \$ \_\_\_\_\_ have been received.
- 32  
33 (5) The unpaid balance now due is \$ \_\_\_\_\_ (*Insert this amount on*  
34 *Civil Form 4-806 NMRA as "Balance Due upon Application for Writ."*) plus  
35 interest from the date this Application is filed.
- 36  
37 (6) Estimated costs would equal \$ \_\_\_\_\_ and the judgment creditor  
38 will seek \$ \_\_\_\_\_ in attorney fees.
- 39  
40 (7) Judgment debtor, to my knowledge, does not have sufficient property within New  
41 Mexico subject to execution to satisfy the judgment. I understand that I have a  
42 duty to make a reasonable investigation into the truth of this statement and have  
43 done so as follows:<sup>1</sup>

1            *(This allegation is not necessary prior to garnishment of funds for child support or*  
2            *alimony obligations.)*

3            \_\_\_\_\_,  
4  
5            \_\_\_\_\_,  
6  
7            \_\_\_\_\_.

8  
9        (8) I have reason to believe, and do believe, that the garnishee,  
10            \_\_\_\_\_ (name of garnishee)  
11            \_\_\_\_\_ (address), holds or controls money or  
12            personal property which belongs to the judgment debtor or is indebted to the  
13            judgment debtor.<sup>2</sup>

14  
15        (9) The money or property held by the garnishee is not exempt from garnishment.

16  
17        (10) The undersigned certifies that on \_\_\_\_\_, a true and correct copy of the  
18        List of Resources (as defined in Supreme Court Order No. 21-8500-018) was sent to each  
19        individual consumer judgment debtor for whom a Writ is sought at each individual  
20        consumer judgment debtor's last known address.

21  
22        (11) The undersigned further certifies that although this is a consumer debt collection  
23        case, the stay of issuance of writs of garnishment provided by New Mexico Supreme  
24        Court Order No. 20-8500-021 has been lifted by Supreme Court Order No. 21-8500-018,  
25        as applicable to this case, prior to the date of this Application.

26  
27        Therefore the judgment creditor requests a Writ of Garnishment.

28  
29  
30  
31            \_\_\_\_\_  
32            Judgment creditor or attorney for judgment creditor

33  
34            \_\_\_\_\_  
35            Judgment creditor's or attorney's name printed

36  
37            \_\_\_\_\_  
38            Address of judgment creditor or attorney

39  
40            \_\_\_\_\_  
41            City, state, and zip code (*print*)  
42

1  
2 \_\_\_\_\_  
3 Telephone number of judgment creditor or attorney  
4

5 \_\_\_\_\_  
6 Date of signing  
7

8 **AFFIDAVIT**

9 *(application must be sworn to*  
10 *unless signed by an attorney)*

11 Subscribed and sworn to before me this \_\_\_\_\_ day of  
12 \_\_\_\_\_, \_\_\_\_\_.

13  
14 \_\_\_\_\_  
15 Notary or other officer authorized  
16 to administer oaths

(seal)

17  
18 [Adopted by Supreme Court Order No. 21-8300-005, effective for a limited time from  
19 September 1, 2021, to January 31, 2022.]

20  
21 **USE NOTE**

22  
23 1. The judgment creditor shall list any steps taken to investigate whether the  
24 judgment debtor possesses property within New Mexico subject to execution to satisfy the  
25 judgment. A reasonable investigation may be made, for example, by conducting a credit  
26 check or by asking the judgment debtor to identify all of the judgment debtor's assets  
27 during a court hearing.

28 2. *See Jemko v. Liaghat*, 106 N.M. 50, 52, 738 P.2d 922, 925 (Ct. App. 1987)  
29 (providing that a judgment creditor, acting pursuant to a writ of garnishment, may only  
30 seize property belonging to the judgment debtor); *Alcantar v. Sanchez*, 2011-NMCA-073,  
31 150 N.M. 146, 257 P.3d 966 (discussing garnishment procedures in the case of joint bank  
32 accounts).  
33

34 [Adopted by Supreme Court Order No. 21-8300-005, effective for a limited time from  
35 September 1, 2021, to January 31, 2022.]