

1 **4-904A. Post-judgment application for writ of restitution and request for hearing.**

2  
3 [For use in Magistrate, Metropolitan, and District Courts with the  
4 Eviction Prevention and Diversion Program]

5  
6 STATE OF NEW MEXICO  
7 \_\_\_\_\_ COURT  
8 \_\_\_\_\_ COUNTY

9  
10 \_\_\_\_\_, Plaintiff(s),

11  
12 v. No. \_\_\_\_\_

13  
14 \_\_\_\_\_, Defendant(s).

15  
16  
17 **POST-JUDGMENT APPLICATION FOR WRIT OF RESTITUTION**  
18 **AND REQUEST FOR HEARING<sup>1</sup>**  
19 ***(Uniform Owner-Resident Relations Act; Mobile Home Park Act)***

20  
21 Plaintiff, whose name is \_\_\_\_\_  
22 \_\_\_\_\_ *(include names of all Plaintiffs, if more than one)*, states as follows:

23  
24 1. Plaintiff is an owner, landlord, or authorized representative of management<sup>2</sup> that has a  
25 *(check one of the following)*

- 26  Judgment for Restitution under the Uniform Owner-Resident Relations Act; or  
27  Judgment for Possession under the Mobile Home Park Act.

28  
29 2. The Judgment is against Defendant, whose name is \_\_\_\_\_  
30 \_\_\_\_\_ *(include names of all Defendants, if more than one)*.

31  
32 3. Defendant's contact information is as follows *(check one of the following)*:

- 33  Per Plaintiff's good faith search, Defendant's last known contact information is as  
34 follows *(include for all Defendants, if more than one)*:

35 Physical address: \_\_\_\_\_

36  
37 Mailing address *(if different)*: \_\_\_\_\_

38  
39 Phone number with area code: \_\_\_\_\_

40  
41 Email address: \_\_\_\_\_

- 42  
43  Despite Plaintiff's good faith search, Plaintiff has been unable to determine  
44 Defendant's current physical, mailing, or email address or phone number, and  
45 Plaintiff states that Plaintiff communicates with Defendant as follows *(include*

1 information for all Defendants, if more than one): \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_

5 4. Defendant is a resident of, and remains in possession of, the property identified in Plaintiff's  
6 rental agreement with Defendant, located at the following full street address (*include street*  
7 *number and street, name of apartment complex, building, and unit number (if any), city,*  
8 *state, and zip code*):  
9 \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_

12 5. The Judgment is dated: \_\_\_\_\_.

13  
14 6. The total amount awarded in the Judgment, including unpaid rent, damages, attorney's  
15 fees, costs, and interest, is \$ \_\_\_\_\_.

16  
17 7. Since the date of the Judgment, Defendant has accrued the following additional,  
18 itemized unpaid rent and/or other charges in the total amount of \$ \_\_\_\_\_.

19  
20 (*attach an itemized list or insert amounts below for the monthly rent and other charges*  
21 *due through the date of this Application, as may be evidenced by the rental agreement(s)*)  
22

23 Itemized charges: \_\_\_\_\_  
24 \_\_\_\_\_  
25 \_\_\_\_\_  
26 \_\_\_\_\_

27 A copy of any relevant rental agreement with Defendant is attached to this application.

28  
29 (*check, if applicable, and complete*)

30 8.  Since the Judgment, Plaintiff has received payments from Defendant totaling  
31 \$ \_\_\_\_\_ to address the Judgment.  
32

33  Since the date of Judgment, Plaintiff has received \$ \_\_\_\_\_ in total  
34 government rental assistance on behalf of the Defendant for the premises listed in  
35 Paragraph 4. \$ \_\_\_\_\_ addressed the Judgment, and \$ \_\_\_\_\_  
36 was applied for rent due subsequent to the Judgment.  
37

38  Plaintiff is aware of a pending government rental assistance application made on  
39 behalf of Defendant for the premises listed in Paragraph 4 by:

40  Defendant

41  Plaintiff

42  Other (*specify*): \_\_\_\_\_  
43

44 9. Plaintiff holds \$ \_\_\_\_\_ as a damage deposit for Defendant under the rental  
45 agreement.

- 1 10. The unpaid balance now due from Defendant to Plaintiff, including the amount from  
2 Questions 7 and 8 above, is \$ \_\_\_\_\_.  
3  
4 11. The undersigned certifies that the stay of writs of restitution for nonpayment of rent  
5 provided by Supreme Court Order Nos. 20-8500-007 and 20-8500-008 has been lifted by  
6 Supreme Court Order No. 22-8500-\_\_\_ in this judicial district prior to the time and date of  
7 this application.<sup>1</sup>  
8  
9 12. Plaintiff certifies that Plaintiff has provided, or immediately will provide, a copy of  
10 the Resource Information Sheet<sup>3</sup> designated for use in this particular Court to the  
11 Defendant, along with this Post-Judgment Application for Writ of Restitution and  
12 Request for Hearing.  
13  
14 13. Plaintiff certifies that the property at issue in this case (*check one*):  
15  IS subject to federal 30-day notice to vacate requirements;  
16  IS NOT subject to federal 30-day notice to vacate requirements.<sup>4</sup>  
17  
18 14. Under Supreme Court Order No. 22-8500-\_\_\_, Plaintiff seeks a post-judgment writ of  
19 restitution and requests a hearing on this application.<sup>5</sup>  
20

21 \_\_\_\_\_  
22 Plaintiff (*signature*)

23 \_\_\_\_\_  
24 \_\_\_\_\_  
25 Plaintiff (*print*)

26 \_\_\_\_\_  
27 \_\_\_\_\_  
28 \_\_\_\_\_  
29 Plaintiff address (*include street number and street, name of apartment complex, building, and unit*  
30 *number (if any), city, state, and zip code*):  
31

32 \_\_\_\_\_  
33 Plaintiff telephone number (*include area code*)

34 \_\_\_\_\_  
35 \_\_\_\_\_  
36 Plaintiff email address

37  
38 **AFFIRMATION**  
39 (*required, unless signed by an active New Mexico attorney*)  
40

41 I SWEAR OR AFFIRM, under penalty of perjury under the laws of the State of New Mexico, that  
42 the statements in this application are true and correct to the best of my knowledge.  
43

44 \_\_\_\_\_  
45 Plaintiff's signature

\_\_\_\_\_ Date of signature

USE NOTES

1  
2  
3 1. This application is for use only in conjunction with Supreme Court Order No. 22-  
4 8500-001, which created a pilot project to implement the Eviction Prevention and Diversion  
5 Program ("Program") in the Ninth Judicial District, or any subsequent Supreme Court Order  
6 implementing the Program in the applicable judicial district.

7 2. See Section 47-8-3 NMSA 1978 (providing definitions for the Uniform Owner-  
8 Resident Relations Act); Section 47-8-19(C) NMSA 1978 (addressing owner disclosures under the  
9 Uniform Owner-Resident Relations Act and describing who constitutes an owner's agent); Section  
10 47-10-2(A) NMSA 1978 (defining "landlord" and "management" for purposes of the Mobile Home  
11 Park Act).

12 3. Provide the Resource Information Sheet designated for use in the applicable court.  
13 For example, separate sheets exist for: (1) unincorporated areas of Bernalillo County; (2) Doña  
14 Ana County; and (3) Albuquerque and other parts of the State of New Mexico.

15 4. This may be a complicated legal determination, and Plaintiff is encouraged to  
16 consult an attorney. See generally the commentary to this form.

17 5. This application must be filed in the court that issued the underlying judgment.

18  
19 [Provisionally adopted by Supreme Court Order No. 22-8300-003, effective for all cases filed or  
20 pending on or after February 1, 2022, that are subject to the Eviction Prevention and Diversion  
21 Program.]

22  
23 **Commentary** — Question 13 requires the applicant to state whether the property at issue is subject  
24 to federal thirty (30)-day notice to vacate requirements. Most properties associated with the U.S.  
25 Department of Housing and Urban Development (HUD) are subject to this requirement at this  
26 time. See Extension of Time and Required Disclosures for Notification of Nonpayment of Rent,  
27 86 Fed. Reg. 55693 (proposed Oct. 7, 2021) (to be codified at 24 C.F.R. pts. 247, 880, 882, 884,  
28 966) (specifying application to public housing and project based rental assistance, including  
29 “Section 8, Section 8 Moderate Rehabilitation, Section 202/162 Project Assistance Contract,  
30 Section 202/162, Section 202 Project Rental Assistance Contract (PRAC), Section 811 PRAC,  
31 Section 236 Rental Housing Assistance Program and Rent Supplement”).

32  
33 Other properties, including those subject to a federally backed mortgage loan, may fall under a  
34 thirty (30)-day notice requirement in the Coronavirus Aid, Relief, and Economic Security Act  
35 (“CARES Act”). See generally 15 U.S.C. § 9058 (2021). A federally backed mortgage is any loan  
36 secured by the real property and made, “insured, guaranteed, supplemented, [secured,  
37 administered,] or assisted in any way” by any federal officer or any part of the federal government.  
38 See *id.* § 9058(a)(4)-(5).

39  
40 While the current HUD and CARES Act provisions may or may not expire, some federal thirty  
41 (30)-day notice to vacate requirements are permanent. See, e.g., 24 C.F.R. § 92.253(c) (2021).

42  
43 [Provisionally adopted by Supreme Court Order No. 22-8300-003, effective for all cases filed or  
44 pending on or after February 1, 2022, that are subject to the Eviction Prevention and Diversion  
45 Program.]