

1 **4-904B. Petition by owner for restitution.**  
2 [Sections 47-8-42 and 47-8-46 NMSA 1978; for use  
3 only with the Eviction Prevention and Diversion Program]  
4

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

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

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

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

15 **PETITION BY OWNER FOR RESTITUTION**  
16 ***(Uniform Owner-Resident Relations Act)***  
17

18 Plaintiff, whose name is \_\_\_\_\_  
19 \_\_\_\_\_ *(include names of all Plaintiffs, if more than one)*, alleges:  
20

21 1. Plaintiff is an owner<sup>1</sup> lawfully entitled to possession of the premises located at:  
22 \_\_\_\_\_,  
23 \_\_\_\_\_, New Mexico \_\_\_\_\_.  
24 *(include street number and street, name of apartment complex, building, and unit number*  
25 *(if any), city, and zip code).*  
26

27 2. Defendant entered into possession of the premises under a rental agreement<sup>2</sup> and has  
28 breached the terms of the agreement by *(check all that apply)*:  
29  nonpayment of rent;  substantial violation of, or material non-  
30  damage to premises;  compliance with, rental or other agreement; or  
31  other *(explain facts)*:  
32 \_\_\_\_\_  
33 \_\_\_\_\_.

34 A copy of any relevant rental agreement with Defendant is attached to this petition.  
35

36 3. Defendant's contact information is as follows *(check one of the following)*:  
37  Per Plaintiff's good faith search, Defendant's last known contact information is as  
38 follows *(include for all Defendants, if more than one)*:  
39 Physical address: \_\_\_\_\_  
40 \_\_\_\_\_  
41 Mailing address *(if different)*: \_\_\_\_\_  
42 \_\_\_\_\_  
43 Phone number with area code: \_\_\_\_\_  
44 \_\_\_\_\_

1 Email address: \_\_\_\_\_  
2 \_\_\_\_\_

3  Despite Plaintiff's good faith search, Plaintiff has been unable to determine  
4 Defendant's current physical, mailing, or email address or phone number, and  
5 Plaintiff states that Plaintiff communicates with Defendant as follows (*include*  
6 *information for all Defendants, if more than one*): \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_

10 4. On \_\_\_\_\_, \_\_\_\_\_ (*specific date*), Plaintiff gave Defendant  
11 written notice of (*check all that apply*):

12  termination of the rental agreement or residency; and  
13  breach of the rental agreement that Defendant has failed to remedy.

14 This notice was given by (*select all delivery methods Plaintiff used*):

15  hand delivery to the Defendant;  hand delivery to \_\_\_\_\_  
16  mail; (full name); and  
17  posting on exterior door.

18 A copy of any relevant written notice given to Defendant is attached to this Petition.  
19

20  
21 5. Plaintiff certifies that Plaintiff has provided, or immediately will provide, a copy of  
22 the Resource Information Sheet<sup>3</sup> designated for use in this particular Court to the  
23 Defendant, along with this Petition for Restitution.  
24

25 ~~[6.] Plaintiff certifies that the property at issue in this case (*check one*):~~

26  ~~IS subject to federal 30-day notice to vacate requirements;~~

27  ~~IS NOT subject to federal 30-day notice to vacate requirements.<sup>4</sup>~~

28  
29 (*check and complete Questions ~~[7 and 8]~~ 6 and 7, if applicable*)

30 ~~[7.]~~ 6.  Defendant owes the Plaintiff the following itemized unpaid rent and/or other  
31 charges in the total amount of \$ \_\_\_\_\_ as of the date of this Petition.  
32

33 (*attach an itemized list or insert amounts below for the monthly rent and other charges*  
34 *due through the date of this Petition, as may be evidenced by the rental agreement(s)*)  
35

36 Itemized charges: \_\_\_\_\_  
37 \_\_\_\_\_  
38 \_\_\_\_\_  
39 \_\_\_\_\_

40 ~~[8.]~~ 7.  Plaintiff has received \$ \_\_\_\_\_ in total government emergency  
41 rental assistance on behalf of the Defendant for the premises listed in Paragraph 1.  
42 \$ \_\_\_\_\_ addressed back rent, and \$ \_\_\_\_\_ was applied as future rent.  
43

44  Plaintiff is aware of a pending government rental assistance application made on  
45 behalf of Defendant for the premises listed in Paragraph 1 by:

- 1  Defendant
- 2  Plaintiff
- 3  Other (*specify*): \_\_\_\_\_
- 4

5 [9:]8. Plaintiff holds \$\_\_\_\_\_ as a damage deposit for Defendant under the rental agreement.

6

7 [10:]9.  Plaintiff requests separate trials on the issues of restitution and damages.

8

9 [11:]10. Plaintiff requests judgment against Defendant, remedied by (*select all remedies*  
10 *that Plaintiff seeks*):

- 11  1. Immediate possession of the premises;
- 12  2. Unpaid rent of \$\_\_\_\_\_, plus future rent calculated as  
13 \$\_\_\_\_\_ per \_\_\_\_\_ (*time period*) up to the date of restitution;
- 14  3. Damages as may be determined by the Court; [<sup>5</sup>]4
- 15  4. Court costs; [<sup>6</sup>]2
- 16  5. Reasonable attorney fees; [<sup>6</sup>]2
- 17  6. A civil penalty as provided by law; [<sup>7</sup>]6
- 18  7. Other relief as the court may deem reasonable.

**AFFIRMATION**

(*required, unless signed by an active New Mexico attorney*)

22

23 I SWEAR OR AFFIRM, under penalty of perjury under the laws of the State of New Mexico,  
24 that the statements in this petition are true and correct to the best of my knowledge.

25

26 Dated: \_\_\_\_\_

27 \_\_\_\_\_

28 **Plaintiff Signature**

29 \_\_\_\_\_

30 **Plaintiff Name (*print*)**

31 \_\_\_\_\_

32 **Plaintiff Address (*print*)**

33 \_\_\_\_\_

34 **City, State and Zip Code (*print*)**

35 \_\_\_\_\_

36 **Plaintiff Telephone Number**

37 \_\_\_\_\_

38 **Plaintiff Email Address**

**USE NOTES**

39

40

41

42 1. See Section 47-8-3 NMSA 1978 (defining "owner" under the Uniform Owner-  
43 Resident Relations Act); Section 47-8-19(C) NMSA 1978 (addressing owner disclosures under  
44 the Uniform Owner-Resident Relations Act and describing who constitutes the owner's agent).

1           2.       The owner must bring a copy of any written rental agreement to court for any  
2 hearing or trial on the Petition for Restitution.

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

6           ~~[4.—This may be a complicated legal determination, and Plaintiff is encouraged to  
7 consult an attorney. See generally the commentary to this form.]~~

8           ~~[5.]4.~~ See Section 47-8-33(F) NMSA 1978 (addressing the recovery of damages and  
9 injunctive or other relief); Section 47-8-35 NMSA 1978 (addressing claims for rent, damages, and  
10 reasonable attorney fees).

11           ~~[6.]5.~~ See Section 47-8-48(A) NMSA 1978 (addressing attorney fees and court costs).

12           ~~[7.]6.~~ See Section 47-8-22(F) NMSA 1978 (providing that a "resident shall . . . not  
13 deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or  
14 knowingly permit any person to do so"); Section 47-8-48(C) NMSA 1978 (providing that a  
15 "resident who intentionally violates a provision of Subsection F of Section 47-8-22 NMSA 1978  
16 shall be subject to a civil penalty equal to two times the amount of the monthly rent.").

17  
18 [Provisionally adopted by Supreme Court Order No. 22-8300-003, effective for all cases filed or  
19 pending on or after February 1, 2022, that are subject to the Eviction Prevention and Diversion  
20 Program; as amended by Supreme Court Order No. 22-8300-008, effective for all cases filed or  
21 pending on or after April 13, 2022, that are subject to the Eviction Prevention and Diversion  
22 Program.]

23  
24 ~~[**Commentary**—Question 6 requires the plaintiff to state whether the property at issue is subject~~  
25 ~~to federal thirty (30)-day notice to vacate requirements. Most properties associated with the U.S.~~  
26 ~~Department of Housing and Urban Development (HUD) are subject to this requirement at this~~  
27 ~~time. See Extension of Time and Required Disclosures for Notification of Nonpayment of Rent,~~  
28 ~~86 Fed. Reg. 55693 (proposed Oct. 7, 2021) (to be codified at 24 C.F.R. pts. 247, 880, 882, 884,~~  
29 ~~966) (specifying application to public housing and project based rental assistance, including~~  
30 ~~"Section 8, Section 8 Moderate Rehabilitation, Section 202/162 Project Assistance Contract,~~  
31 ~~Section 202/162, Section 202 Project Rental Assistance Contract (PRAC), Section 811 PRAC,~~  
32 ~~Section 236 Rental Housing Assistance Program and Rent Supplement").~~

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

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

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

- 1 Program; withdrawn by Supreme Court Order No. 22-8300-008, effective for all cases filed or
- 2 pending on or after April 13, 2022, that are subject to the Eviction Prevention and Diversion
- 3 Program.]