

1           **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2   **April 22, 2022**

3 **NO. 22-8300-010**

4 **IN THE MATTER OF THE AMENDMENT**  
5 **OF RULE 1-054.2 NMRA OF THE RULES**  
6 **OF CIVIL PROCEDURE FOR THE**  
7 **DISTRICT COURTS AND OF CIVIL**  
8 **FORMS 4-227 AND 4-712 NMRA, AND THE**  
9 **ADOPTION OF NEW CIVIL FORMS 4-228,**  
10 **4-229, AND 4-230 NMRA, CONCERNING**  
11 **CHANGES TO THE PRE-FILING AND**  
12 **PRE-JUDGMENT REQUIREMENTS IN**  
13 **FORECLOSURE ACTIONS IN RESPONSE**  
14 **TO THE CREATION OF THE**  
15 **HOMEOWNER ASSISTANCE FUND AND**  
16 **EXPANDED LOSS MITIGATION**  
17 **OPTIONS**

18   **ORDER**

19           WHEREAS, this matter came on for consideration upon recommendation to  
20 amend Rule 1-054.2 NMRA of the Rules of Civil Procedure for the District Courts,  
21 to amend Forms 4-227 and 4-712 NMRA of the Civil Forms, and to adopt new  
22 Forms 4-228, 4-229, and 4-230 NMRA of the Civil Forms;

23           WHEREAS, on August 2, 2021, this Court issued Order No. 21-8300-004,  
24 which adopted new Rules 1-003.3 and 1-054.2 NMRA of the Rules of Civil  
25 Procedure for the District Courts and new Forms 4-227 and 4-712 NMRA of the  
26 Civil Forms for pre-filing and pre-judgment requirements in foreclosure actions;

1           WHEREAS, the American Rescue Plan Act of 2021 established a  
2 Homeowner Assistance Fund (HAF) as a response to the COVID-19 pandemic in an  
3 effort to mitigate the financial hardships associated with the pandemic, prevent  
4 displacement of homeowners who fell behind, and provide housing stability;

5           WHEREAS, the United States Department of Treasury has allocated HAF  
6 funds to New Mexico to operate the state HAF program and to disburse HAF grants  
7 to income-eligible homeowners who meet program criteria to prevent displacement  
8 of New Mexicans and provide for housing stability within the state;

9           WHEREAS, in furtherance of the goal of achieving broad economic  
10 recovery following the COVID-19 pandemic, many federal entities also have  
11 established significant and expanded loss mitigation options to address the impacts  
12 many Americans are experiencing in recovering financially from the long-lasting  
13 effects of the pandemic;

14           WHEREAS, the creation of the HAF and the expanded loss mitigation  
15 options require the amendment of Rule 1-054.2 NMRA of the Rules of Civil  
16 Procedure for the District Courts, the amendment of Forms 4-227 and 4-712 NMRA  
17 of the Civil Forms, and the adoption of new Forms 4-228, 4-229, and 4-230 NMRA  
18 of the Civil Forms to promote the fair and orderly administration of foreclosure  
19 actions in New Mexico, in light of the significant increase in the number of

1 foreclosure actions expected to result from the expiration of the federal foreclosure  
2 moratoriums; and

3 WHEREAS, in light of the foregoing, and the Court having considered the  
4 recommendation and being sufficiently advised, Chief Justice C. Shannon Bacon,  
5 Justice Michael E. Vigil, Justice David K. Thomson, Justice Julie J. Vargas, and  
6 Justice Briana H. Zamora concurring;

7 NOW, THEREFORE, IT IS ORDERED that the amendment of Rule 1-054.2  
8 NMRA and Forms 4-227 and 4-712 NMRA is APPROVED;

9 IT IS FURTHER ORDERED that new Forms 4-228, 4-229, and 4-230 NMRA  
10 are ADOPTED;

11 IT IS FURTHER ORDERED that the above-referenced amendments and new  
12 forms shall be **effective for all cases pending or filed on or after May 23, 2022;**

13 IT IS FURTHER ORDERED that paragraph number five (5) of Form 4-227  
14 NMRA of the Civil Forms and the Notice to Defendant referenced therein and  
15 attached to this Order as Attachment 2 shall expire and be withdrawn on September  
16 30, 2025, or upon notification to the Court of the exhaustion of the HAF program  
17 funds, whichever is earlier;

1 IT IS FURTHER ORDERED that new Forms 4-228, 4-229, and 4-230 NMRA  
2 shall expire and be withdrawn on September 30, 2025, or upon notification to the  
3 Supreme Court of the exhaustion of HAF program funds, whichever is earlier;


4 IT IS FURTHER ORDERED that the list of resources and the Notice to  
5 Defendant of the Homeowner Assistance Fund and Ability to Request a Stay While  
6 Applying for HAF referenced in Form 4-227 NMRA should be substantially in the  
7 forms posted on the New Mexico Judiciary website (see also Attachments 1 and 2  
8 to this Order); and

9 IT IS FURTHER ORDERED that the Clerk of the Court is authorized and  
10 directed to give notice of the above-referenced amended rule and new and amended  
11 forms by publishing them in the *Bar Bulletin* and *New Mexico Rules Annotated*.

12 IT IS SO ORDERED.

13 WITNESS, the Honorable C. Shannon Bacon, Chief  
14 Justice of the Supreme Court of the State of New Mexico,  
15 and the seal of said Court this 22nd day of April, 2022.



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Elizabeth A. Garcia, Chief Clerk of the Supreme Court  
of the State of New Mexico