

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 HEARING¹**
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 management² 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 6. The total amount awarded in the Judgment, including unpaid rent, damages, attorney's
14 fees, costs, and interest, is \$ _____.

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

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

20 Itemized charges: _____
21 _____
22 _____

23 A copy of any relevant rental agreement with Defendant is attached to this application.
24

25 (*check, if applicable, and complete*)
26

- 27 8. Since the Judgment, Plaintiff has received payments from Defendant totaling
28 \$ _____ to address the Judgment.
29

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

35 Plaintiff is aware of a pending government rental assistance application made on
36 behalf of Defendant for the premises listed in Paragraph 4 by:
37

38 Defendant
39 Plaintiff
40 Other (*specify*): _____
41

- 42 9. Plaintiff holds \$ _____ as a damage deposit for Defendant under the rental
43 agreement.
44
45

- 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.¹
8
9 12. Plaintiff certifies that Plaintiff has provided, or immediately will provide, a copy of
10 the Resource Information Sheet³ 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.⁴
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.⁵
20

21 _____
22 Plaintiff (*signature*)

23 _____
24 Plaintiff (*print*)

25 _____
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.]

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 owner¹ 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 agreement² 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

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

16 hand delivery to the Defendant; hand delivery to _____
17 mail; (full name); and
18 posting on exterior door.
19

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

21 5. Plaintiff certifies that Plaintiff has provided, or immediately will provide, a copy of
22 the Resource Information Sheet³ 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.⁴
28

29 (*check and complete Questions 7 and 8, if applicable*)

30 7. 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. 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. Plaintiff holds \$_____ as a damage deposit for Defendant under the rental agreement.

6

7 10. Plaintiff requests separate trials on the issues of restitution and damages.

8

9 11. Plaintiff requests judgment against Defendant, remedied by (*select all remedies that*

10 *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;⁵
- 15 4. Court costs;⁶
- 16 5. Reasonable attorney fees;⁶
- 17 6. A civil penalty as provided by law;⁷
- 18 7. Other relief as the court may deem reasonable.
- 19

AFFIRMATION

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

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 Dated: _____

26 _____

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

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. *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. *See* Section 47-8-48(A) NMSA 1978 (addressing attorney fees and court costs).

12 7. *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.]

21
22 **Commentary** — Question 6 requires the plaintiff to state whether the property at issue is subject
23 to federal thirty (30)-day notice to vacate requirements. Most properties associated with the U.S.
24 Department of Housing and Urban Development (HUD) are subject to this requirement at this
25 time. *See* Extension of Time and Required Disclosures for Notification of Nonpayment of Rent,
26 86 Fed. Reg. 55693 (proposed Oct. 7, 2021) (to be codified at 24 C.F.R. pts. 247, 880, 882, 884,
27 966) (specifying application to public housing and project based rental assistance, including
28 "Section 8, Section 8 Moderate Rehabilitation, Section 202/162 Project Assistance Contract,
29 Section 202/162, Section 202 Project Rental Assistance Contract (PRAC), Section 811 PRAC,
30 Section 236 Rental Housing Assistance Program and Rent Supplement").

31
32 Other properties, including those subject to a federally backed mortgage loan, may fall under a
33 thirty (30)-day notice requirement in the Coronavirus Aid, Relief, and Economic Security Act
34 ("CARES Act"). *See generally* 15 U.S.C. § 9058 (2021). A federally backed mortgage is any loan
35 secured by the real property and made, "insured, guaranteed, supplemented, [secured,
36 administered,] or assisted in any way" by any federal officer or any part of the federal government.
37 *See id.* at §§ 9058(a)(4)-(5).

38
39 While the current HUD and CARES Act provisions may or may not expire, some federal thirty
40 (30)-day notice to vacate requirements are permanent. *See, e.g.*, 24 CFR § 92.253(c) (2021).

41
42 [Provisionally adopted by Supreme Court Order No. 22-8300-003, effective for all cases filed or
43 pending on or after February 1, 2022, that are subject to the Eviction Prevention and Diversion
44 Program.]

1 **4-905A. Summons and notice of hearing on post-judgment application for writ of restitution.**

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

5
6
7
8
9
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11
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13 **EVICTI¹**
14 **PROCEEDINGS**

15
16 **IMPORTANT**
17 **READ NOW**

1 **4-905A. Summons and notice of hearing on post-judgment application for writ of**
2 **restitution.**

3
4 [For use in Magistrate, Metropolitan, and District Courts with the
5 Eviction Prevention and Diversion Program and Form 4-904A]

6
7 STATE OF NEW MEXICO
8 _____ COURT
9 _____ COUNTY

10
11 _____, Plaintiff(s),

12
13 v. No. _____

14
15 _____, Defendant(s).

16
17
18 **SUMMONS AND NOTICE OF HEARING ON**
19 **POST-JUDGMENT APPLICATION FOR WRIT OF RESTITUTION²**
20 **(Uniform Owner-Resident Relations Act; Mobile Home Park Act)**

21
22 On _____ (date of filing), Plaintiff, whose name is _____
23 _____ (include names of all Plaintiffs, if more than one),
24 requested that this Court issue a writ of restitution to evict you, all of the people living with you,
25 and all personal items from the property where you live, located at _____
26 _____
27 (include street number and street, name of apartment complex, building, and unit number (if any),
28 city, state, and zip code), and to restore legal possession of that property to the Plaintiff.

29
30 The Honorable Judge _____ will conduct an (in person)
31 (online video) (telephone) hearing on _____
32 (date, including day of the week), beginning at _____ (a.m.) (p.m.). You are required to
33 attend (select one):

34 live in person at the _____ Courthouse located at
35 _____ (address,
36 including City) in Room _____.

37
38 using (online video) (telephone), and you must closely follow these instructions to
39 connect and take part in the hearing: _____
40 _____
41 _____.

42
43 The Court has scheduled _____ (hours and/or minutes) for the hearing on the
44 Plaintiff's Post-judgment Application for Writ of Restitution.

1 ***(complete and notarize if service IS NOT by the Sheriff or a deputy sheriff)***⁶

2 I, being sworn, state that I am over the age of eighteen (18) years and not a party to this lawsuit,
3 and that I served this Summons and Notice of Hearing in _____ County
4 on the _____ day of _____, _____ *(date)*, by delivering a copy of this
5 Summons and Notice of Hearing, a copy of the Post-judgment Application for Writ of Restitution,
6 a copy of the Judgment, and a copy of the specified Resource Information Sheet in the following
7 manner:

8
9 ***(complete if service IS by the Sheriff or a deputy sheriff)***⁶

10 I certify that I served this Summons and Notice of Hearing in _____
11 County on the _____ day of _____, _____ *(date)*, by delivering a copy of this
12 Summons and Notice of Hearing, a copy of the Post-judgment Application for Writ of Restitution,
13 a copy of the Judgment, and a copy of the specified Resource Information Sheet in the following
14 manner:

15
16 ***(person serving summons must check and complete all applicable alternative(s) below)***

17
18 by hand delivering a copy of this Summons and Notice of Hearing, a copy of the Post-
19 judgment Application for Writ of Restitution, a copy of the Judgment, and a copy of the specified
20 Resource Information Sheet to Defendant _____ *(name)* *(used when*
21 *Defendant directly receives a copy of this Summons and Notice or refuses to accept)*.

22
23 by hand delivering a copy of this Summons and Notice of Hearing, a copy of the Post-
24 judgment Application for Writ of Restitution, a copy of the Judgment, and a copy of the specified
25 Resource Information Sheet to _____ *(name)*, a person over fifteen
26 (15) years of age and residing at the usual residence of Defendant _____
27 _____ *(name)*, located at _____ *(include*
28 *street number and street, name of apartment complex, building, and unit number (if any) OR name*
29 *of mobile home park, mailing address, mobile home space number or location, AND city, county,*
30 *state, and zip code)* *(used when Defendant is not presently at the residence)*.

31
32 by hand delivering a copy of this Summons and Notice of Hearing, a copy of the Post-
33 judgment Application for Writ of Restitution, a copy of the Judgment, and a copy of the specified
34 Resource Information Sheet to _____ *(name)*, an agent authorized to
35 receive service of process for Defendant.

36
37 by hand delivering a copy of this Summons and Notice of Hearing, a copy of the Post-
38 judgment Application for Writ of Restitution, a copy of the Judgment, and a copy of the specified
39 Resource Information Sheet to _____ *(name)*, who is the (parent)
40 (guardian) (custodian) *(circle one)* of Defendant. *(used when defendant is a minor or an*
41 *incompetent person)*.

42
43 by hand delivering a copy of this Summons and Notice of Hearing, a copy of the Post-
44 judgment Application for Writ of Restitution, a copy of the Judgment, and a copy of the specified
45 Resource Information Sheet to _____ *(name of person)*,

1 _____ (title of person authorized to receive service) (used when Defendant is a
2 corporation or an association subject to a suit under a common name, a land grant board of
3 trustees, the State of New Mexico, or any political subdivision).
4

5 by posting a copy of this Summons and Notice of Hearing, a copy of the Post-judgment
6 Application for Writ of Restitution, a copy of the Judgment, and a copy of the specified Resource
7 Information Sheet on the most utilized exterior door, at a visible level, of the premises of Defendant
8 _____ (name) located at _____
9 _____ (include
10 street number and street, name of apartment complex, building, and unit number (if any) OR name
11 of mobile home park, mailing address, mobile home space number or location, AND city, county,
12 state, and zip code (used if no person found at the residence)(if this option is selected, service by
13 mail is also required).
14

15 by service by mail (mailing must be used in addition to service by posting).
16

17 Fees: _____

Signature of person making service

19 Subscribed and sworn to
20 before me this _____
21 day of _____, _____.

Printed name of person making service

Title (if any)

24 Judge, notary, or other officer
25 authorized to administer oaths⁶

Date

27 _____
28 Official title (if any)

29 **CERTIFICATE OF MAILING**
30

31 I, being sworn, state that I am over the age of eighteen (18) years and not a party to this lawsuit,
32 and that I served a copy of this Summons and Notice of Hearing, a copy of the Post-judgment
33 Application for Writ of Restitution, a copy of the Judgment, and a copy of the specified Resource
34 Information Sheet on the _____ day of _____, _____, by mailing first-class
35 mail, postage prepaid, a copy of this Summons and Notice of Hearing, a copy of the Post-judgment
36 Application for Writ of Restitution, a copy of the Judgment, and a copy of the specified Resource
37 Information Sheet to:

(name of person served)

(address where mailed, including unit or space
number)

(county)

(city, state and zip code)

1
2 Subscribed and sworn to _____
3 before me this _____ Signature of person making service
4 day of _____, _____.
5 _____
6 Printed name of person making service
7 _____
8 Judge, notary, or other officer Title (if any)
9 authorized to administer oaths⁵ _____
10 _____
11 Date
12 Official title (if any)

13
14 **USE NOTES**

- 15 1. This cover sheet should be the first page of any service packet, mailing, or posting.
16 2. This Summons and Notice of Hearing is for use only in conjunction with Supreme
17 Court Order No. 22-8500-001, which created a pilot project to implement the Eviction Prevention
18 and Diversion Program ("Program") in the Ninth Judicial District, or any subsequent Supreme
19 Court Order implementing the Program in the applicable judicial district.
20 3. Evidence may include receipts, pictures, letters, bank statements, or any other item,
21 document, or sworn testimony from a witness (including from Defendant) that supports your
22 argument, a claim of domestic violence in the home, or that the property you live in is assisted by
23 the federal government.
24 4. Provide the Resource Information Sheet designated for use in the applicable court.
25 For example, separate sheets exist for: (1) unincorporated areas of Bernalillo County; (2) Doña
26 Ana County; and (3) Albuquerque and other parts of the State of New Mexico.
27 5. The plaintiff must provide a separate Summons and Notice of Hearing, all required
28 attachments, and a Return of Service for each defendant.
29 6. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the
30 signature of the sheriff or deputy need not be notarized.
31 [Provisionally adopted by Supreme Court Order No. 22-8300-003, effective for all cases filed or
32 pending on or after February 1, 2022, that are subject to the Eviction Prevention and Diversion
33 Program.]

1 **4-905B. Summons and notice of hearing on petition for restitution or petition for termination**
2 **of tenancy and judgment of possession.**

3
4 [For use in Magistrate, Metropolitan, and District Courts with the
5 Eviction Prevention and Diversion Program]
6
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15 **EVICTION¹**
16 **PROCEEDINGS**

17
18 **IMPORTANT**
19 **READ NOW**
20
21
22

1 **4-905B. Summons and notice of hearing on petition for restitution or petition for termination**
2 **of tenancy and judgment of possession.**

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

6
7 STATE OF NEW MEXICO
8 COUNTY OF _____
9 _____ COURT

10 _____, Plaintiff(s),

11
12 v. No. _____

13
14 _____, Defendant(s).

15
16
17 **SUMMONS AND NOTICE OF HEARING ON**
18 **PETITION FOR RESTITUTION OR**
19 **PETITION FOR TERMINATION OF TENANCY AND JUDGMENT OF POSSESSION²**
20 **(Uniform Owner-Resident Relations Act; Mobile Home Park Act)**

21
22 On _____ (date of filing), Plaintiff, whose name is _____
23 _____ (include names of all Plaintiffs, if more than one),
24 requested that this Court issue a judgment to evict you, all of the people living with you, and all
25 personal items from the property where you live, located at _____
26 _____ (include street number and street,
27 name of apartment complex, building, and unit number (if any) OR name of mobile home park,
28 mailing address, mobile home space number or location), _____ (city), New
29 Mexico, _____ (zip code) and to restore legal possession of that property to the
30 Plaintiff.

31
32 The Honorable Judge _____ will conduct an (in person)
33 (online video) (telephone) hearing on _____
34 (date, including day of the week), beginning at _____ (a.m.) (p.m.). You are required to
35 attend (select one):

36 live in person at the _____ Courthouse located at
37 _____ (address,
38 including City) in Room _____.

39
40 using (online video) (telephone), and you must closely follow these instructions to
41 connect and take part in the hearing: _____
42 _____
43 _____.

1 The Court has scheduled _____ (*hours and/or minutes*) for the hearing on the
2 Plaintiff's Petition for (Restitution) or (Termination of Tenancy and Judgment of Possession)
3 (*circle one*).
4

5 **YOU MUST ATTEND THIS HEARING.** This hearing will provide you with access to
6 the Court's Eviction Prevention and Diversion Program, through which you may qualify for
7 emergency government rental assistance **funding to remain in your home or move.**
8

9 At the hearing, you will also have the opportunity to tell the judge why the Court should
10 not grant Plaintiff's Petition and present any evidence that backs up your argument.³
11

12 **IF YOU DO NOT SHOW UP AT THE HEARING AT THE RIGHT TIME, ON THE**
13 **RIGHT DAY, THE COURT MAY ALLOW THE COUNTY SHERIFF TO EVICT YOU,**
14 **EVERYONE LIVING WITH YOU, AND ANY PERSONAL ITEMS IN AS LITTLE AS**
15 **THREE (3) DAYS AFTER THE HEARING,** depending on the applicable law.
16

17 Attached to this Summons and Notice of Hearing are copies of:

18
19 1. The Plaintiff's Petition for (Restitution) or (Termination of Tenancy and Judgment
20 of Possession (*circle one*); and

21 2. This Court's specified Resource Information Sheet that provides information about
22 government-provided rental assistance programs and legal assistance.⁴ **You should use this**
23 **Information Sheet and do all that you can to start an application for the emergency rental**
24 **assistance funding prior to the hearing,** if you have not already done so. The Court's Eviction
25 Prevention and Diversion Program can help you start and complete the application.
26

27 If you have a disability or need language interpretation: Please let the Clerk of the Court
28 know at least five (5) business days before any hearing, so that the Court can make
29 accommodations. You can contact the Clerk at _____
30 _____ (*clerk phone number and email address*).
31

32 **FOR METROPOLITAN COURT CASES ONLY:**
33

34 If this case DOES NOT involve a mobile home, and you want or need the hearing to be
35 recorded, you MUST request an audio recording of the hearing before the hearing begins.
36

37 All hearings held in Metropolitan Court under the Mobile Home Park Act shall be recorded
38 by the trial court.
39

40 By: _____
41 _____
42 Judge Clerk

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RETURN OF SERVICE⁵

STATE OF NEW MEXICO)
) ss
COUNTY OF _____)

(complete and notarize if service IS NOT by the Sheriff or a deputy sheriff)⁶

I, being sworn, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this Summons and Notice of Hearing in _____ County on the _____ day of _____, _____ (date), by delivering a copy of this Summons and Notice of Hearing, a copy of the Plaintiff's Petition for (Restitution) or (Termination of Tenancy and Judgment of Possession) (circle one), and a copy of the specified Resource Information Sheet in the following manner:

(complete if service IS by the Sheriff or a deputy sheriff)⁶

I certify that I served this Summons and Notice of Hearing in _____ County on the _____ day of _____, _____ (date), by delivering a copy of this Summons and Notice of Hearing, a copy of the Plaintiff's Petition for (Restitution) or (Termination of Tenancy and Judgment of Possession) (circle one), and a copy of the specified Resource Information Sheet in the following manner:

(person serving summons must check and complete all applicable alternative(s) below)

by hand delivering a copy of this Summons and Notice of Hearing, a copy of the Plaintiff's Petition for (Restitution) or (Termination of Tenancy and Judgment of Possession) (circle one), and a copy of the specified Resource Information Sheet to Defendant _____ (name) (used when Defendant directly receives a copy of this Summons and Notice or refuses to accept).

by hand delivering a copy of this Summons and Notice of Hearing, a copy of the Plaintiff's Petition for (Restitution) or (Termination of Tenancy and Judgment of Possession) (circle one), and a copy of the specified Resource Information Sheet to _____ (name), a person over fifteen (15) years of age and residing at the usual residence of Defendant _____ (name), located at _____

(include street number and street, name of apartment complex, building, and unit number (if any) OR name of mobile home park, mailing address, mobile home space number or location, AND city, county, state, and zip code) (used when Defendant is not presently at the residence).

by hand delivering a copy of this Summons and Notice of Hearing, a copy of the Plaintiff's Petition for (Restitution) or (Termination of Tenancy and Judgment of Possession) (circle one), and a copy of the specified Resource Information Sheet to _____ (name), an agent authorized to receive service of process for Defendant.

1 by hand delivering a copy of this Summons and Notice of Hearing, a copy of the Plaintiff's
2 Petition for (Restitution) or (Termination of Tenancy and Judgment of Possession) (*circle one*),
3 and a copy of the specified Resource Information Sheet to _____
4 (*name*), who is the (parent) (guardian) (custodian) (*circle one*) of Defendant. (*used when defendant*
5 *is a minor or an incompetent person*).

6
7 by hand delivering a copy of this Summons and Notice of Hearing, a copy of the Plaintiff's
8 Petition for (Restitution) or (Termination of Tenancy and Judgment of Possession) (*circle one*),
9 and a copy of the specified Resource Information Sheet to _____
10 (*name of person*), _____ (*title of person authorized to receive service*) (*used when*
11 *Defendant is a corporation or an association subject to a suit under a common name, a land grant*
12 *board of trustees, the State of New Mexico, or any political subdivision*).

13
14 by posting a copy of this Summons and Notice of Hearing, a copy of the Plaintiff's Petition
15 for (Restitution) or (Termination of Tenancy and Judgment of Possession) (*circle one*), and a copy
16 of the specified Resource Information Sheet on the main entrance door, at a visible level, of the
17 premises of Defendant _____ (*name*) located at _____
18 _____ (*include street number and street, name*
19 *of apartment complex, building, and unit number (if any) OR name of mobile home park, mailing*
20 *address, mobile home space number or location, AND city, county, state, and zip code*) (*used if no*
21 *person found at the residence*) (*if this option is selected, service by mail is also required*).

22
23 by service by mail (*mailing must be used in addition to service by posting*).

24
25 Fees: _____

Signature of person making service

26
27 Subscribed and sworn to
28 before me this _____
29 day of _____, _____.

Printed name of person making service

Title (if any)

30
31 _____
32 Judge, notary, or other officer
33 authorized to administer oaths⁶

Date

34
35 _____
36 Official title (if any)

37
38 **CERTIFICATE OF MAILING**
39

40 I, being sworn, state that I am over the age of eighteen (18) years and not a party to this lawsuit,
41 and that I served a copy of this Summons and Notice of Hearing, a copy of the Plaintiff's Petition
42 for Restitution or Termination of Tenancy (*circle one*), and a copy of the specified Resource
43 Information Sheet on the _____ day of _____, _____, by mailing first class
44 mail, postage prepaid, a copy of this Summons and Notice of Hearing, a copy of the Plaintiff's(')

1 Petition for Restitution or Termination of Tenancy (*circle one*), and a copy of the specified
2 Resource Information Sheet to:

3
4 _____ (*name of person served*)
5 _____ (*address where mailed, including unit or*
6 *space number*)
7 _____ (*county*)
8 _____ (*city, state and zip code*)
9

10 Subscribed and sworn to _____
11 before me this _____ Signature of person making service
12 day of _____, _____.
13 _____
14 Printed name of person making service
15 _____
16 Judge, notary, or other officer _____ Title (if any)
17 authorized to administer oaths⁶ _____
18 _____ Date
19 Official title (if any) _____
20

21 **USE NOTES**
22

- 23 1. This cover sheet should be the first page of any service packet, mailing, or posting.
24 2. This Summons and Notice of Hearing is for use only in conjunction with Supreme
25 Court Order No. 22-8500-001, which created a pilot project to implement the Eviction Prevention
26 and Diversion Program ("Program") in the Ninth Judicial District, or any subsequent Supreme
27 Court Order implementing the Program in the applicable judicial district.
28 3. Evidence may include receipts, pictures, letters, bank statements, or any other item,
29 document, or sworn testimony from a witness (including from Defendant) that supports your
30 argument, a claim of domestic violence in the home, or that the property you live in is assisted by
31 the federal government.
32 4. Provide the Resource Information Sheet designated for use in the applicable court.
33 For example, separate sheets exist for: (1) unincorporated areas of Bernalillo County; (2) Doña
34 Ana County; and (3) Albuquerque and other parts of the State of New Mexico.
35 5. The plaintiff must provide a separate Summons and Notice of Hearing, all required
36 attachments, and a Return of Service for each defendant.
37 6. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the
38 signature of the sheriff or deputy need not be notarized.
39

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

1 **4-908A. Order of referral to facilitation.**

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 **ORDER OF REFERRAL TO FACILITATION**
18 ***(Uniform Owner-Resident Relations Act; Mobile Home Park Act)***

19
20 The Court, with consent of the parties, finds that this case is appropriate for referral to
21 facilitation through the Court's Eviction Prevention and Diversion Program and orders:

- 22
- 23 1. The parties must immediately read this Order in full;
 - 24
25 2. This case is stayed for a minimum of sixty (60) days to allow for facilitation and
26 government rental assistance processing;
 - 27
28 3. The parties shall participate in the Eviction Prevention and Diversion Program's
29 confidential pre- and post-facilitation processes by providing the Program's staff
30 with up-to-date contact information, communicating with the staff, and cooperating
31 and collaborating with staff to identify, locate, complete, submit, accept, and
32 receive necessary documents;
 - 33
34 4. The Clerk shall mail a Notice of Facilitation to the parties clearly stating the date,
35 time, and location of the facilitation, including remote videoconference connection
36 and participation information via simple instructions;
 - 37
38 5. The parties shall attend and meaningfully participate in a confidential settlement
39 facilitation with a facilitator assigned by the Eviction Prevention and Diversion
40 Program;
 - 41
42 6. Before the confidential settlement facilitation, the parties may contact the Eviction
43 Prevention and Diversion Program, via the contact information immediately below,
44 with questions about rescheduling, technological requirements and resources,

1 government rental assistance applications, getting other state benefits, and what to
2 expect in the pre-facilitation, facilitation, and post-facilitation processes;
3 a. Online: _____
4 b. Email: _____
5 c. Text: _____
6 d. Phone: _____
7 e. Smartphone applications (apps): _____;
8

9 7. If a party is represented by an attorney, the attorney's attendance with the party is
10 optional;

11 8. There will be no fees for the Eviction Prevention and Diversion Program pre-
12 facilitation, facilitation, or post-facilitation services;

13 9. The facilitator will report the outcome of the facilitation to the Eviction Prevention
14 and Diversion Program;

15 10. The Eviction Prevention and Diversion Program will ensure that documents
16 necessary to conclude the case are filed with the Court; and

17 11. **A party's failure to attend facilitation may result in sanctions, including
18 sanctions for contempt of court, responsibility for costs or reasonable attorney
19 fees, or reimbursement for the other party's lost wages, if applicable.**
20

21
22
23
24
25
26
27 _____
28 Judge

29 [Provisionally adopted by Supreme Court Order No. 22-8300-003, effective for all cases filed or
30 pending on or after February 1, 2022, that are subject to the Eviction Prevention and Diversion
31 Program.]
32

4-908B. Stipulation of dismissal with prejudice after facilitated settlement agreement.

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

STATE OF NEW MEXICO
_____ COURT
_____ COUNTY

_____, Plaintiff(s),

v. _____ No. _____

_____, Defendant(s).

**STIPULATION OF DISMISSAL WITH PREJUDICE
AFTER FACILITATED SETTLEMENT AGREEMENT
(Uniform Owner-Resident Relations Act; Mobile Home Park Act)**

The Parties entered into a Facilitated Settlement Agreement that fully and finally resolves all of the issues in this case. The Parties stipulate that this case should be dismissed with prejudice upon the filing by a licensed New Mexico attorney from the Eviction Prevention and Diversion Program of a Notice of Payment, certifying that the New Mexico Department of Finance and Administration has issued the rental and/or utility assistance payments contemplated by the Facilitated Settlement Agreement. .

The Parties have agreed to contact the Eviction Prevention and Diversion Program promptly if they encounter significant delay or problems with the processing, distribution, or receipt of government rental or utility assistance payments.

The Parties have agreed to waive filing of the Facilitated Settlement Agreement in this case. Each party takes full responsibility for retaining a copy of the Facilitated Settlement Agreement and understands that the Court will not maintain a copy of the Facilitated Settlement Agreement.

Plaintiff Signature

Dated: _____

Defendant Signature

Dated: _____

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

1 **4-908C. Notice of payment.**

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 **NOTICE OF PAYMENT**
18 ***(Uniform Owner-Resident Relations Act; Mobile Home Park Act)***

19
20 The Court referred this matter to the Eviction Prevention and Diversion Program on
21 _____, _____ *(date of Order of Referral)*.

22
23 The Parties subsequently reached a Facilitated Settlement Agreement and filed a
24 Stipulation of Dismissal with Prejudice after Facilitated Settlement Agreement on
25 _____, _____ *(date of Stipulation of Dismissal with Prejudice after*
26 *Facilitated Settlement Agreement)*.

27
28 The undersigned licensed New Mexico attorney from the Eviction Prevention and
29 Diversion Program hereby certifies to the Court that the New Mexico Department of Finance and
30 Administration has issued rental and/or utility assistance payment(s) to *(Plaintiff) (Defendant)*
31 *(circle all applicable)* and that payment was received, as follows *(attach additional sheets if*
32 *needed)*:

33
34 Recipient (circle one): Type of assistance (circle one): Date of payment (insert):
35 *(Plaintiff) (Defendant)* *(rental) (utility)* _____, _____
36 *(Plaintiff) (Defendant)* *(rental) (utility)* _____, _____
37 *(Plaintiff) (Defendant)* *(rental) (utility)* _____, _____
38 *(Plaintiff) (Defendant)* *(rental) (utility)* _____, _____

39
40 Special circumstances, if any: _____
41 _____.

42
43 By filing this Notice, the undersigned certifies that it is appropriate for the Court to dismiss
44 this matter with prejudice.
45

CIVIL FORMS
RULE 4-908C
[NEW MATERIAL]

Supreme Court Approved Draft
January 18, 2022

1 _____
2 Signature of attorney representative from the
3 Eviction Prevention and Diversion Program
4

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

1 **4-908D. Order of dismissal with prejudice.**

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 **ORDER OF DISMISSAL WITH PREJUDICE**
18 ***(Uniform Owner-Resident Relations Act; Mobile Home Park Act)***
19

20 The Court, having referred this matter to the Eviction Prevention and Diversion Program,
21 finds that the Parties reached a Facilitated Settlement Agreement and filed a Stipulation of
22 Dismissal with Prejudice after Facilitated Settlement Agreement on _____,
23 _____ *(date of Stipulation of Dismissal with Prejudice after Facilitated Settlement Agreement)*.
24

25 The Court further finds that a licensed New Mexico attorney from the Eviction Prevention
26 and Diversion Program has filed a Notice of Payment in this matter, confirming that the New
27 Mexico Department of Finance and Administration issued the rental and/or utility payments
28 contemplated by the Facilitated Settlement Agreement and that those payments were actually
29 received by the appropriate party.
30

31 The Court, having reviewed the Stipulation of Dismissal with Prejudice after Facilitated
32 Settlement Agreement and the Notice of Payment, and being otherwise sufficiently advised,
33 hereby ORDERS as follows:
34

35 This case is DISMISSED WITH PREJUDICE.
36

37 _____
38 Judge
39

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

1 **4-923A. Petition by landlord for termination of tenancy and judgment of possession.**

2
3 [Sections 47-8-35, 47-10-4 to 47-10-6 and 47-10-9 NMSA 1978; for use
4 only with the Eviction Prevention and Diversion Program]

5
6 STATE OF NEW MEXICO
7 COUNTY OF _____
8 _____ COURT

9 _____, Plaintiff(s),

10
11 v. No. _____

12
13 _____, Defendant(s).

14
15
16 **PETITION BY LANDLORD FOR TERMINATION OF TENANCY**
17 **AND JUDGMENT OF POSSESSION**
18 **(Mobile Home Park Act)**

19
20 Plaintiff, whose name is _____
21 _____ (include names of all Plaintiffs, if more than one), alleges:

22
23 1. Plaintiff is the landlord,¹ or an authorized representative of the management, of _____
24 _____ (name of mobile home park), and is lawfully entitled to
25 possession of the premises located at: _____
26 _____ (mailing address), _____
27 _____ (mobile home space no. or location), _____ County, New
28 Mexico _____ (zip code).

29
30 2. Defendant entered into possession of the premises under a rental agreement² and has
31 breached the terms of the agreement by (check all that apply)³:
32 [] nonpayment of rent; [] noncompliance with local ordinance or
33 [] condemnation; state law or regulation concerning mobile
34 [] change of use;⁴ homes;
35 [] noncompliance with mobile home [] tenant conduct constituting annoyance to
36 park rules or regulation;⁵ and other tenants or interference with park
37 management.

38 A copy of any relevant rental agreement with Defendant is attached to this Petition.

39
40 3. The mobile home (is) (is not) subject to the security interest of a first lienholder.⁶
41 (If there is a first lien, complete the following.)
42 The first lienholder is _____, as evidenced by (select one): [] the resident's
43 application for tenancy or [] motor vehicle division title search statement. The address of

1 the first lienholder is _____
2 _____.

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

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

7 Physical address: _____

8
9 Mailing address (*if different*): _____

10
11 Phone number with area code: _____

12
13 Email address: _____

14
15 Despite Plaintiff's good faith search, Plaintiff has been unable to determine
16 Defendant's current physical, mailing, or email address or phone number, and
17 Plaintiff states that Plaintiff communicates with Defendant as follows (*include*
18 *information for all Defendants, if more than one*): _____

19
20
21
22 5. Plaintiff gave Defendant written (*check all that apply*):

23 notice of nonpayment of rent on _____, _____ (*specific*
24 *date*), and Defendant has failed to pay the amount due; and

25 (*thirty*) (*sixty*)⁷ day notice to quit on _____, _____
26 (*specific date*), and Defendant has failed to vacate the premises.

27
28 This notice was given by (*select all delivery methods Plaintiff used*):

29 hand delivery to the Defendant; certified mail, return receipt requested; &
30 posting on the mobile home's main entrance.

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

32
33 6. Plaintiff certifies that Plaintiff has provided, or immediately will provide, a copy of the
34 Resource Information Sheet⁸ designated for use in this particular Court to the Defendant,
35 along with this Petition for Termination of Tenancy and Judgment of Possession.

36
37 7. Plaintiff certifies that the property at issue in this case (*check one*):

38 IS subject to federal 30-day notice to vacate requirements;

39 IS NOT subject to federal 30-day notice to vacate requirements.⁹

40
41 (*check and complete Questions 8 and 9, if applicable*)

42 8. Defendant owes the Plaintiff the following itemized unpaid rent, utilities, and/or
43 other charges in the total amount of \$ _____ as of the date of this petition.

1 (attach an itemized list or insert amounts below for the monthly rent and other charges
2 due through the date of this Petition, as may be evidenced by the rental agreement(s))
3

4 Itemized charges: _____
5 _____
6 _____
7

8 9. Plaintiff has received \$ _____ in total government emergency rental
9 assistance on behalf of the Defendant for the premises listed in Paragraph 1.
10 \$ _____ addressed back rent, and \$ _____ was applied as future rent.
11

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

14 Defendant

15 Plaintiff

16 Other (specify): _____
17

18 10. Plaintiff holds \$ _____ as a damage deposit for Defendant under the rental agreement.
19

20 11. Plaintiff requests separate trials on the issues of restitution and damages.
21

22 12. Plaintiff requests judgment against Defendant, remedied by (select all remedies that
23 Plaintiff seeks):

24 1. Immediate possession of the premises;

25 2. Unpaid rent of \$ _____, plus future rent calculated as
26 \$ _____ per _____ (time period) up to the date of
27 restitution;

28 3. Unpaid utilities of \$ _____;

29 4. Damages as may be determined by the Court;¹⁰

30 5. Court costs;¹¹

31 6. Reasonable attorney fees; ¹¹

32 7. Other relief as the court may deem reasonable.
33

AFFIRMATION

34 (required, unless signed by an active New Mexico attorney)
35

36
37 I SWEAR OR AFFIRM, under penalty of perjury under the laws of the State of New Mexico,
38 that the statements in this petition are true and correct to the best of my knowledge.
39

40 Dated: _____

Plaintiff Signature

Plaintiff Name (print)

Plaintiff Address (print)
45

City, State and Zip Code (*print*)

Plaintiff Telephone Number

Plaintiff Email Address

USE NOTES

1. See Section 47-10-2(A) NMSA 1978 (defining "landlord" or "management" under the Mobile Home Park Act).

2. The plaintiff must bring a copy of any written rental agreement to court for any hearing or trial on the petition for termination of tenancy and judgment of possession.

3. One of these reasons must apply. See Section 47-10-5 NMSA 1978 (listing permissible reasons for termination); Section 47-10-6 NMSA 1978 (addressing termination for nonpayment of rent).

4. If the plaintiff seeks to terminate the tenancy to change the use of the property and applicable zoning law permits the change of use, the plaintiff must provide six (6)-months notice. See Section 47-10-5(E) NMSA 1978.

5. See Section 47-10-5(C) NMSA 1978 (addressing when rules and regulations of the mobile home park are applicable).

6. See Section 47-10-2(K) NMSA 1978 (defining "first lienholder"); Section 47-10-9(F)-(J) (providing additional definitions); Section 47-10-9(L) (describing process if first lienholder has paid in full).

7. The law requires sixty (60)-days notice if the tenant must remove a multisection mobile home. See Section 47-10-3(C) NMSA 1978.

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

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

10. See Section 47-10-10(D) NMSA 1978 (allowing actual damages, equitable, and injunctive relief); Section 47-10-18 NMSA 1978 (applying Uniform Owner Resident Relations Act ("UORRA") unless Mobile Home Park Act is in direct conflict); Section 47-8-52 NMSA 1978 (same); Section 47-10-4(A) NMSA 1978 (stating that termination actions are "commenced and prosecuted in the manner described in" UORRA); 47-8-33(F) NMSA 1978 (addressing the recovery of damages and injunctive or other relief); Section 47-8-35 NMSA 1978 (addressing damages for breach of the rental agreement and reasonable attorney fees).

11. See Section 47-10-18 NMSA 1978 (applying UORRA unless Mobile Home Park Act is in direct conflict); Section 47-8-52 NMSA 1978 (same); Section 47-10-4(A) NMSA 1978 (stating that termination actions are "commenced and prosecuted in the manner described in" UORRA); Section 47-8-48(A) NMSA 1978 (addressing attorney's fees and court costs).

1 [Provisionally adopted by Supreme Court Order No. 22-8300-003, effective for all cases filed or
2 pending on or after February 1, 2022, that are subject to the Eviction Prevention and Diversion
3 Program.]
4

5 **Commentary** — Question 7 requires the plaintiff to state whether the property at issue is subject
6 to federal thirty (30)-day notice to vacate requirements. Most properties associated with the U.S.
7 Department of Housing and Urban Development (HUD) are subject to this requirement at this
8 time. *See* Extension of Time and Required Disclosures for Notification of Nonpayment of Rent,
9 86 Fed. Reg. 55693 (proposed Oct. 7, 2021) (to be codified at 24 C.F.R. pts. 247, 880, 882, 884,
10 966) (specifying application to public housing and project based rental assistance, including
11 "Section 8, Section 8 Moderate Rehabilitation, Section 202/162 Project Assistance Contract,
12 Section 202/162, Section 202 Project Rental Assistance Contract (PRAC), Section 811 PRAC,
13 Section 236 Rental Housing Assistance Program and Rent Supplement").
14

15 Other properties, including those subject to a federally backed mortgage loan, may fall under a
16 thirty (30)-day notice requirement in the Coronavirus Aid, Relief, and Economic Security Act
17 ("CARES Act"). *See generally* 15 U.S.C. § 9058 (2021). A federally backed mortgage is any loan
18 secured by the real property and made, "insured, guaranteed, supplemented, [secured,
19 administered,] or assisted in any way" by any federal officer or any part of the federal government.
20 *See id.* at §§ 9058(a)(4)-(5).
21

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

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