

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

2   **June 5, 2020**

3  
4 **NO. 20-8500-021**

5 **IN THE MATTER OF**  
6 **THE STAY OF ISSUANCE OF**  
7 **WRITS OF GARNISHMENT AND**  
8 **WRITS OF EXECUTION IN**  
9 **CONSUMER DEBT COLLECTION CASES**  
10 **DURING THE COVID-19 PUBLIC HEALTH EMERGENCY**

11   **ORDER**

12                   WHEREAS, this matter having come before the Court upon recommendations  
13 to stay the issuance of writs of garnishment and writs of execution in consumer debt  
14 collection cases to preserve public health, safety, and welfare during the COVID-19  
15 public health emergency;

16                   WHEREAS, the current directives from public health authorities emphasize  
17 the need for New Mexicans to avoid unnecessary contact with one another and  
18 remain in their homes to the greatest extent possible during the current public health  
19 emergency;

20                   WHEREAS, the current public health emergency has had a significant  
21 economic impact on New Mexicans—including loss of income and wages—thereby  
22 putting enormous financial strain on New Mexico communities;

1           WHEREAS, New Mexico is experiencing its highest unemployment rate in  
2 recent history, with New Mexicans filing an unprecedented number of  
3 unemployment claims;

4           WHEREAS, the current public health emergency has impacted the ability of  
5 many New Mexicans to appear in court, obtain representation, and avail themselves  
6 of self-help resources to claim exemptions from garnishment and execution;

7           WHEREAS, this Court must exercise its equitable powers and power of  
8 superintending control over pleading and practice in the New Mexico Judiciary in  
9 response to the extraordinary circumstances presented by the current public health  
10 emergency by balancing the need for courts to proceed with garnishment and  
11 execution procedures for the collection of judgments, with protecting the due process  
12 rights of New Mexicans to claim exemptions and protect their assets from  
13 garnishment and execution as provided by law;

14           WHEREAS, this Court amended our rules of practice and procedure in 2016  
15 to define “consumer debt claim,” *see* Rule 1-009(J)(1) NMRA, and provide  
16 additional protections to consumers in consumer debt collection cases,  
17 acknowledging that systemic problems and abuses particular to these cases exist;

18           WHEREAS, in light of the foregoing, and the Court having considered the  
19 recommendations and being sufficiently advised, Justice Barbara J. Vigil, Justice

1 Michael E. Vigil, Justice C. Shannon Bacon, and Justice David K. Thomson  
2 concurring, Chief Justice Judith K. Nakamura dissenting;

3 NOW, THEREFORE, IT IS ORDERED that, effective June 8, 2020, clerks  
4 of court shall not issue any new post-judgment writs of garnishment or writs of  
5 execution under Rules 1-065.1, 1-065.2, 2-801, 2-802, 3-801, and 3-802 NMRA, as  
6 they pertain to consumer debt collection cases, in accordance with the terms of this  
7 order;

8 IT IS FURTHER ORDERED that clerks of court may continue to issue writs  
9 of garnishment and writs of execution in cases other than consumer debt collection  
10 cases;

11 IT IS FURTHER ORDERED that in order to proceed with a new writ of  
12 garnishment or a writ of execution while the stay on the issuance of these writs in  
13 consumer debt collection cases is in effect, a judgment creditor, upon application for  
14 a writ of garnishment or a writ of execution, shall certify to the clerk of court that  
15 the application is not based on a judgment issued in a consumer debt collection case;

16 IT IS FURTHER ORDERED that if a judgment creditor cannot certify to the  
17 clerk of court that the application is not based on a judgment issued in a consumer  
18 debt collection case, the judge presiding over the case shall issue a stay of the  
19 proceedings and the time for collecting on the judgment shall be tolled while the stay  
20 is in effect;

1 IT IS FURTHER ORDERED that writs of garnishment and writs of execution  
2 issued prior to June 8, 2020, shall remain unaffected by the terms of this order;

3 IT IS FURTHER ORDERED that all other rules pertaining to consumer debt  
4 collection cases shall remain unaffected by the terms of this order;

5 IT IS FURTHER ORDERED that no provision of this order shall be construed  
6 to apply to domestic support obligations, including child support and spousal  
7 maintenance obligations;

8 IT IS FURTHER ORDERED that no provision of this order shall be construed  
9 as relieving a debtor of any liability; and

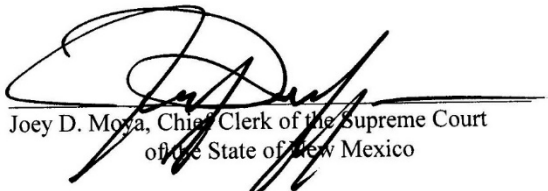
10 IT IS FURTHER ORDERED that this order shall remain in effect until  
11 amended or withdrawn by future order of the Court.

12 IT IS SO ORDERED.

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WITNESS, the Honorable Judith K. Nakamura, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 5th day of June, 2020.

  
Joey D. Moya, Chief Clerk of the Supreme Court  
of the State of New Mexico

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