

Administrative Office of the Courts

Supreme Court of New Mexico

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Judicial Information Division (JID)

Guide to Free Process Applications for Waiver Accounts Standard Operating Procedure Version 1.2

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Free Process Applications / Waiver Accounts

COURT / DEPARTMENT / DIVISION

For Attorneys Submitting Filings at District Courts

USERS

Attorneys and Court Clerks

PURPOSE

Guide for submitting and processing Free Process Applications for Waiver Accounts as per Rule 23-114. Free Process in Civil cases. Section B. <http://public.nmcompcomm.us/nmpublic>

OUTLINE

1. Application:
 - a. Filing attorneys must apply for a free process waiver accounts by submitting documentation to a District Court
2. Review:
 - a. The District Court will review and either approve or deny the application
3. Decision:
 - a. The decision to approve or deny will be delivered to the attorney that submitted the application
4. Filing:
 - a. If approved, the attorney using File and Serve will then create the Client's Waiver Account in File and Serve
 - b. The approved attorney will submit filings using the Waiver Account
 - c. If denied, the attorney will continue to submit and pay the associated filing fees

STEPS TO APPLY FOR FREE PROCESS / WAIVER ACCOUNTS

For Attorneys Using File & Serve for Electronic Filings

1. An Attorney shall submit the following documents **via the proposed Free Process Application email found here by District Location**– www.nmcourts.gov/e-filing/proposeddocs
The documents may be found at <https://supremecourt.nmcourts.gov/forms.aspx> under District Court Forms, Civil.
 - a. Application for Free Process – 4-222
 - b. Affidavit of Indigency – 4-222
 - c. Proposed Order for Free Process – 4-223
 - d. Originating document (i.e., a Petition or Complaint)
 - e. Other required papers (e.g., Interpreter Request Form)

For Attorneys Described in Subsection B(2) as a Legal Services Organization, Nonprofit Organization, or Pro Bono Attorney

1. If the submitting Attorney falls under Subsection B(2) as a Legal Services organization, a Nonprofit organization or a Pro Bono Attorney they shall submit the following documents **via the proposed Free Process Application email found here by District Location**– www.nmcourts.gov/e-filing/proposeddocs
The documents may be found at <https://supremecourt.nmcourts.gov/forms.aspx> under District Court Forms, Civil.
 - a. Attorney’s Certificate supporting Indigency and Free Process - 4-224
 - b. Proposed Order for Free Process 4-223
 - c. Originating document (i.e., a Petition or a Complaint)
 - d. Choose the court location to email the proposed Free Process Application

For Attorneys Filing Paper Submissions to the Court

1. The attorney will submit the following to the District Clerk’s office. These documents may be found at <https://supremecourt.nmcourts.gov/forms.aspx> under District Court Forms, Civil.
 - a. Application for Free Process – 4-222
 - b. Affidavit of Indigency (Attorney’s only) – 4-222
 - c. Proposed Order for Free Process – 4-223
 - d. A copy of the Originating document (i.e., a Petition or Complaint)
 - e. A copy of the Summons (if necessary)
 - f. A copy of the Domestic Matters: DM Info Cover sheet
 - g. Self-addressed stamped envelope

Review and Decision Process

1. Review Process:
 - a. If submitted in hard copy, clerks will log the acceptance of the packet in the Free Process Application log book. The packet is stamped “received”, dated and initialed by the clerk, and stored
 - b. The assigned Judge is delivered all hard copy, emailed, and e-filed applications for review
 - c. Once the Judge has made their decision the TCAA shall return the signed order to the Clerk’s Office. The Clerk’s Office shall log the order and mail or place in the attorney’s court pick-up box.
2. If Approved, the attorney may submit filings using the waiver account as detailed below
3. If Denied, the attorney may continue to submit filings and pay the associate filing fee

e-Filing with a Waiver Account

1. Once Approved:
 - a. In File and Serve create a waiver account for the indigent client
 - i. In File and Serve, click on dropdown arrow on Actions
 - ii. Select Payment Accounts
 - iii. Click Add Payment Account

- iv. Enter name of Indigent Client in Payment Account Name followed by waiver account (ex. John Smith – waiver account)
 - v. Click dropdown arrow on Payment Account Type
 - vi. Select Waiver
 - vii. Click Save Changes
 - b. The filing Attorney shall open a new case under their waiver account in File and Serve system and submit a filing using the following codes, **with the Application, Order and supporting documents filed along with the Petition or Complaint:**
 - i. Petition or Complaint: OPN: [Choose the appropriate document description]
 - ii. Application for Free Process
 - iii. Affidavit of Indigency: Financial Affidavit
 - iv. Order for Free Process: Indigency determination (court clerks will change code to ORD: For Free Process in Odyssey)
2. If Free Process Denied
 - a. The filing Attorney shall open a new case using their billing account in the File and Serve system and submit a filing, using the following codes, **with the Application, Order and supporting documents filed along with the Petition or Complaint:**
 - i. Petition or Complaint: OPN: [Choose the appropriate document description]
 - ii. Application for Free Process
 - iii. Affidavit of Indigency: Financial Affidavit
 - iv. Order for Free Process: Indigency determination (court clerks will change code to ORD: For Free Process in Odyssey)

Filing Non-Electronic Cases with Free Process

1. If Approved:
 - a. The Attorney submits the paper packet.
 - b. Upon receipt of the decision and paperwork from the Judge's office the Clerk will open the case in Odyssey.
 - c. The Clerk will file stamp the entire packet and issues a summons if necessary.
 - d. The Clerk will contact the applicant, inform them of the decision, the case number and the next steps to take, just as they would have if the applicant was at the counter.
 - e. The Clerk will make copies of all the filed and issued documents and mail them to the applicant in the SASE provided or if no envelope is provided, inform them they are able to come in a pick up their documents.
2. If Denied:
 - a. The Clerk will contact the applicant and inform them of the decision. The applicant is informed they have 30 days to return to the court with the required fee or send it to the court by mail (including proper forms of payment). The Clerk

notes the date and time the applicant was notified and who they notified in the Free Process Application log book and the packet is stored for safe keeping

- b. **Fee Received**: Once the party returns with the filing fee or mails it in the clerk will open the case in Odyssey. The entire packet, including the application and the order denying the free process needs to be file stamped. If a summons needs to be issued, the clerk will do so. If the applicant mailed in the fee the clerk will mail back all of the stamped and issued documents in the SASE provided by the applicant.
- c. **No Fee Received**: If the party fails to return to the court or mail in the required filing fee within the 30 day time period, the Clerk will mail the packet back to the applicant using the SASE provided, if no SASE is provided the documents should be destroyed after 90 days. The Clerk will provide a cover letter to the applicant explaining the denial and the steps to be taken to process their case. The Clerk will make a notation in the Free Process Application log book that the packet was returned and the date it was returned.