

STARTING YOUR DIVORCE WITHOUT CHILDREN

INSTRUCTIONS AND FIRST COURT PAPERS

THIS PACKET IS NOT A SUBSTITUTE FOR PROFESSIONAL LEGAL ADVICE

Inside are basic, fill-in-the-blank forms; they do not deal with every situation.

Divorce can be complicated and using legal forms without a lawyer's help can harm your legal rights. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents.

In this packet you will find . . .

Third Judicial District Court
Las Cruces, NM

4A-100 Instructions (6 pages)

4A-101 DR Information Sheet (3 pages)

4A-103 Petition for Dissolution of Marriage
(Without Children) (2 pages)

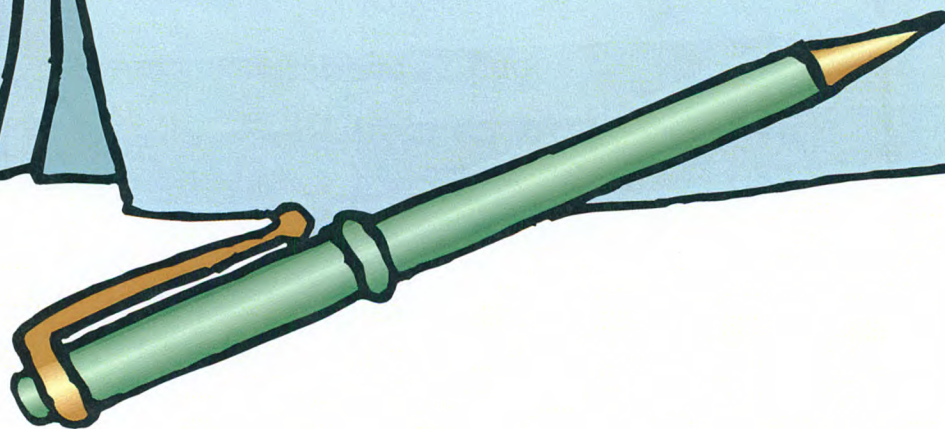
4-206 Summons (2 pages)

Flyers - - -

Sample Temporary Domestic Order (2 pages)

Giving legal notice (1 page)

How to serve your divorce papers (1 page)



LETS GET STARTED . . .

4A-100. Domestic relations forms; instructions and cautions regarding use of forms.

A. **Short title.** These forms, compiled as Forms 4A-100 through 4A-403 NMRA, shall be known as the Domestic Relations Forms and shall be cited by their New Mexico Rules Annotated set and form number, as in “Form 4A-____ NMRA.”

B. **Mandatory acceptance of forms by district court.** The New Mexico Supreme Court has approved these Domestic Relations Forms for use in domestic relations actions by self-represented litigants and attorneys appearing in the district courts. As provided by Rule 1-120 NMRA, these forms supersede conflicting local district court domestic relations forms and shall be accepted by the district courts.

C. **Responsibility of self-represented parties.** A self-represented person shall abide by the same rules of procedure and rules of evidence as lawyers. It is the responsibility of a self-represented person to determine what needs to be done and to take the necessary action. A self-represented person involved in a divorce proceeding may need the advice of an attorney or other appropriate professional during the process and is responsible for finding an attorney or other appropriate professional for advice or representation.

(1) All notices from the court will be mailed to you at the last address on file with the court. If you move, you must file a Notice of Change of Address so that you receive your mail from the court.

(2) Rule 1-005 NMRA requires that you provide a copy of anything you file in court to the other party on the same day you file it. This is what the Certificate of Service confirms.

D. **Definitions.** The following definitions apply to the terms used in the Domestic Relations Forms:

(1) “contested divorce proceeding” means a divorce proceeding in which the parties cannot reach an agreement on one or more decisions that must be made to finalize a divorce, including but not limited to the division of property, debts, spousal support, child custody, time sharing, visitation, or child support, and therefore are unable to file all of the required forms at the same time;

(2) “creditor” means a person, agency, bank, or business to whom a debt is owed;

(3) “custody plan” means Form 4A-302 NMRA, which sets forth the type of legal custody and includes a parenting plan, when required by law;

(4) “debt” means separate or community debt as defined in Section 40-3-9 NMSA 1978. Debt is an amount of money owed to a creditor that may include, but is not limited to: loans (signature, car, school, payday), mortgages, credit card balances, balances owed on bills (utilities, phone, cell phone, cable television), and federal and state tax bills. The party whose name is on the debt may not be the only party responsible for payment of the debt;

(5) “default” means the process to get relief from the court in the form of an order when a party fails to respond or defend a case (either party is subject to a default judgment for failure to respond). See Rule 1-055 NMRA for more information;

(6) “dissolution of marriage” means a divorce;

(7) “divorce proceeding” means the judicial process used to get a divorce;

(8) “minor child” means a child who is under eighteen (18) years of age and who is the child of both parties to a divorce. For the purposes of support only, a child who is under the age of nineteen (19) and attending high school full time may be considered a minor

child;

(9) “parenting plan” means a plan as defined by Section 40-4-9.1 NMSA 1978, setting forth the responsibilities of each parent individually and the parents jointly in a joint custody arrangement. For an example of a parenting plan, see Form 4A-302(II)(B) NMRA;

(10) “party” means a spouse named in a divorce proceeding;

(11) “petition for dissolution of marriage” means the document that requests a divorce;

(12) “petitioner” means the first party named on a petition for dissolution of marriage. This person is referred to as a “petitioner” solely for purposes of identifying the parties in the court system;

(13) “property” means the types of property the parties to a divorce may own, including community, separate, or quasi-community as defined in Section 40-3-8 NMSA 1978. Property includes, but is not limited to: homes, land, livestock, cars/vehicles, furniture, savings and checking accounts, retirement accounts, jewelry, inheritances, tools, and art. The name of the party on the title to the property may not be the sole owner of the property. Questions about whether property is separate or community should be referred to a private attorney or the court, as appropriate;

(14) “respondent” means the second party named on a petition in a domestic relations proceeding;

(15) “service” or “service of process” means having a person eighteen (18) years or older, who is not a party to the action, give papers to a named party in a case by personally handing the paperwork to the person, or having the papers delivered to a named party in a case by some other way as described in Rule 1-004 NMRA;

(16) “summons” means a notice to the respondent that a lawsuit has started.

The summons notifies the respondent to respond to the divorce petition within the specified deadline. The summons is a two-part form. On the first part, the summons has information about the court, names and addresses of the parties, the deadline for a response, and notice that a default may happen for failure to respond. The second part of the summons is the return. The summons is served on the respondent. Once the respondent is served, the return must be filled out by the person who did the service of process and signed by that person with a notarized signature. When the original summons, including the return, is completely filled out and signed, the petitioner is responsible for filing it with the district court. The summons form is Form 4-206 NMRA. Filing the completed summons and return lets the court know that the respondent has been served;

(17) “summons packet” means a copy of the summons (Form 4-206 NMRA), petition for dissolution of marriage (Form 4A-102 or 4A-103 NMRA), temporary domestic order (Form 4A-201 NMRA), and a blank copy of the Domestic Relations Information Sheet (Form 4A-101 NMRA). See Paragraph E below for more information. The summons packet is served on the respondent;

(18) “temporary domestic order” means an order issued by the court when a divorce proceeding is filed that instructs the parties on how to conduct themselves regarding interactions with each other, finances, children, and property until the divorce is final. The temporary domestic order is Form 4A-201 NMRA;

(19) “time sharing and order for support and care of children” means one or more orders of the court to include a parenting plan as defined in Paragraph L of Section 40-4-9.1

NMSA 1978 containing the duties of the parents of minor children relating to child custody, time sharing, visitation, and support, including support of a child under nineteen (19) years of age who is attending high school;

(20) “uncontested divorce proceeding” means a divorce proceeding in which the parties are in complete agreement as to all the decisions that must be made to finalize a divorce, including but not limited to decisions regarding the division of property, debts, spousal support, child custody, timesharing, visitation, and child support, and present the following required forms, completed and signed by both parties, for filing at the same time:

(a) *Without children.* If the parties do not have minor children, the following forms must be filed in an uncontested divorce proceeding:

- (i) Domestic relations information sheet, Form 4A-101 NMRA
- (ii) Petition for dissolution of marriage (without minor children), Form 4A-102 NMRA;
- (iii) Marital settlement agreement, Form 4A-301 NMRA; and
- (iv) Final decree of dissolution of marriage (without minor children), Form 4A-305 NMRA.

(b) *With children.* If the parties have minor children, the following forms must be filed in an uncontested divorce proceeding:

- (i) Domestic relations information sheet, Form 4A-101 NMRA;
- (ii) Petition for dissolution of marriage (with minor children), Form 4A-103 NMRA;
- (iii) Marital settlement agreement, Form 4A-301 NMRA;
- (iv) Custody plan and order, Form 4A-302 NMRA;
- (v) Child support obligation and order, Form 4A-303 NMRA, with attached child support worksheet as described in Section 40-4-11.1 NMSA 1978; and
- (vi) Final decree of dissolution of marriage (with minor children), Form 4A-306 NMRA; and

(21) “wage withholding order” means an order that requires child support to be withheld from the wages of the named parent.

E. **STARTING THE DIVORCE PROCESS; CONTESTED.** These are the first forms that must be filed with the court. When starting this process, each spouse must be named as a party on the forms. One spouse is the petitioner and the other is the respondent. The spouse starting the lawsuit is the named petitioner. The other spouse is the respondent. The claims or rights of either party are not determined on the basis of being named as the petitioner or respondent. See Paragraph F of this rule for instructions on completing forms and next steps after these forms are filled out. In a divorce proceeding, the case is started by filing the following completed forms with the court:

(1) ***Domestic Relations Information Sheet.*** Form 4A-101 NMRA shall be submitted to the court in all cases. This form is used to provide the court with essential information about the parties to the divorce proceeding, such as addresses, social security numbers, dates of birth, and the names and ages of the children of the parties. Although this form is required to be turned into the court, it is not a public record and is not part of the court file; and

(2) ***Divorce Petition (Petition for Dissolution of Marriage).*** Depending on

whether there are minor children of both parties, one of the following two forms are used to request a divorce:

(a) Form 4A-102 NMRA is used if the parties do not have any minor children together; or

(b) Form 4A-103 NMRA is used if the parties have minor children together.

(3) **Summons.** The Summons Form is Form 4-206 NMRA. The petitioner must complete this form. When the petitioner completes the contact information, the court will fill in additional information to complete the summons and return the original summons to the petitioner. A copy of the summons shall be served on the respondent as part of the Summons Packet. See Paragraph J of this rule for serving the Summons Packet. It is the responsibility of the petitioner to file the original summons with a completed return with the court.

(4) **Temporary Domestic Order (TDO).** The TDO is Form 4A-201 NMRA. Each judicial district has different procedures about who provides the standard form and how a TDO is issued. Some courts provide the form when the lawsuit is filed and others require the party starting the lawsuit to complete the form. Check with the court where you are filing your lawsuit to find out if you need to bring a TDO form with you. The contents of the TDO form shall not be changed by any person. The form requires only the completion of the court caption on the first page. If the court where you are filing your lawsuit does not issue its own TDO, bring additional copies of the TDO with you when filing your lawsuit.

F. **Completion of forms.** When filling out any forms, please do the following:

(1) **Type or print.** You must type or print all of the information required to be completed on forms filed with the court. If there is not enough room on the form to provide all of the information required, add a separate page for the information and include the page with the rest of the form before making copies and filing the form with the court. Your handwriting should be clear and easy to read.

(2) **Signing the forms and other papers.** Your signature on a form or other paper filed with the court means the following:

(a) you have read and understand the form or paperwork;

(b) the information provided by you on the form is factually correct to the best of your knowledge; and

(c) the information in the paperwork is accurate and true. Some forms may need to be signed in front of a notary public and notarized.

G. **Required number of copies to file with the court.** After completing and signing any required forms, take the original and two copies of each form to the court clerk for filing. The clerk will file the originals and return stamped copies to you. One copy is for you, and you must provide the other copy to the other party.

H. **Pay the filing fee.** A filing fee must be paid to the court clerk in cash or money order at the time the divorce case is opened. A divorce case is opened by filing a domestic relations information sheet, divorce petition, and summons. If you cannot afford to pay the filing fee, you may ask the court to allow you to file for free or a reduced rate by filing an application for free process. The application for free process is Form 4-222 NMRA.

I. **Filing the first forms with the court.** After completing the Summons Packet, take the original and two (2) copies of each completed form to file in the district court. The court clerk will sign and stamp the original summons and give the original and two (2) copies of it

back to you with a copy of your filed divorce petition so that a copy of the summons can be served on the respondent. The clerk may also give you two (2) copies of the TDO or will endorse (stamp) copies of a TDO provided by you. One copy of the temporary domestic order must be served on your spouse as part of the summons packet.

J. Serving the summons packet.

(1) After a divorce petition and summons and TDO are filed with the court, copies of all papers must be served on the respondent. This is known as service of process.

(2) The summons packet and any other documents the clerk instructs you to serve may be served on the respondent by hand-delivery by a person who is over the age of eighteen (18) and is not a party to the divorce proceeding. The petitioner cannot be the person who serves the respondent. Have someone deliver the summons packet to the respondent as required by Rule 1-004(F) NMRA. It is the sole responsibility of the petitioner to have the summons packet served on the respondent and to provide proof that the service was completed. The court is not responsible for serving documents on any party.

(a) If you and respondent are not living together and you know the respondent's current mailing address, the summons packet may also be served by certified mail, return receipt requested. If served by certified mail, the respondent must sign a receipt indicating that he or she received the summons packet for service to be completed. The return receipt from the certified mailing must be filed with the district court.

(b) There are other ways of serving the summons packet on the respondent. Read Rule 1-004 NMRA to learn more about those methods.

(c) Service of process may be done by a private process server, law enforcement, or any other person who is over eighteen (18) and not a party to the lawsuit. You may have to pay a fee to someone to do the service of process for you. Check with your local law enforcement or look in the phone book for resources for service of process.

(3) If you cannot find the respondent after reasonable attempts to find him or her to serve the summons packet, you may file a motion with the court asking permission to serve the summons packet by publication in a newspaper. If you need to serve the summons packet by publication in a newspaper, use Forms 4-209 and 4-209A NMRA.

(4) After successful service on the respondent, the petitioner is responsible for making sure that the original summons with the completed return is filed with the court to prove that the respondent was served.

K. Responding to the petition. In a contested divorce proceeding, the respondent must file a written response to the divorce petition. Form 4A-104 NMRA may be used to respond to the divorce petition. The response must be filed with the court and a copy mailed to the petitioner within thirty (30) days after the summons packet was served on the respondent. Failure to file a response to the divorce petition within the thirty (30) days can result in serious consequences, including entry of a default judgment against the respondent.

L. Issues not addressed by the forms. The Domestic Relations Forms may not address all domestic relations issues relevant to you. The forms address only the most common divorce issues. If there are issues that are not addressed in the forms, you are responsible for bringing those issues to the attention of the court or you should seek the assistance of an attorney. You may need to get other forms that are not provided in these rules to finish the transfer of property, businesses, etc. For example, the forms **do not** include the following:

(1) federal and state tax treatment of income, expenses, and deductions both

before and after a divorce, or as a result of a child support order, for claiming children as dependents, or for paying or receiving alimony;

- (2) how to transfer title to property or assets;
- (3) how to divide a business or retirement income;
- (4) how to divide or transfer other complicated assets; or
- (5) how to divide or transfer debts.

M. **Keeping Records.** Any party to an action should make copies of all documents, paperwork, or forms filed with the court for his or her own records.

N. **Paying Creditors.** These forms, including the final decree of dissolution of marriage, do not change the legal responsibility of the parties to pay their creditors.

O. **Role of judge, clerk, and court.** Court clerks can only help you with filing forms with the court; they cannot help you complete them. The judge makes decisions in your case, but neither the judge nor the judge's staff can give advice to either party, including how to fill out the forms. If you need assistance or have questions about how to complete the forms, you may seek help from an attorney. The court clerks may give you information about resources for legal assistance. *See* Rule 23-113 NMRA, which provides more guidance on what information and assistance court staff may give to self-represented litigants. You may also want to use your local library to get information about the forms or legal citations in these rules, which may include internet searches of New Mexico court websites (www.nmcourts.gov) and the New Mexico compilation commission (www.nmcompcomm.us).

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

4A-101. Domestic relations information sheet.

DOMESTIC RELATIONS INFORMATION SHEET¹

NOTE TO CLERK: DO NOT FILE THE INFORMATION SHEET

Type or print responses. Required in all domestic relations cases.²

(Do not use in domestic violence cases.)

A. Petitioner's attorney information. (Complete only if Petitioner has an attorney.)

Petitioner's name: _____

Attorney's name: _____

Attorney's address: _____

City: _____

State: _____

Zip code: _____

Telephone: _____

I request interpretation services (check one) YES NO

If yes, please describe what you need: _____

B. Information regarding petitioner and respondent. (Do not use an attorney's mailing address. Use a separate sheet if necessary.)

Petitioner

Name: _____

(Last name, first, middle)

Other names (e.g. maiden name): _____

Address: _____

City: _____

State: _____

Zip code: _____

Date of birth: _____

Social Security number³: _____

Respondent

Name: _____

(Last name, first, middle)

Other names (e.g. maiden name): _____

Address: _____

City: _____

State: _____

Zip code: _____

Date of birth: _____

Social Security number³: _____

C. Parties' minor children. (Provide the date of birth and social security number for each minor child, if any. Use a separate sheet if necessary.)

Name: _____

(Last name, first, middle)

Date of birth: _____

Social Security number: _____

Name: _____

(Last name, first, middle)

Date of birth: _____

Social Security number: _____

Name: _____

(Last name, first, middle)

Date of birth: _____

Social Security number: _____

Name: _____

(Last name, first, middle)

Date of birth: _____

Social Security number: _____

D. Request to limit access to information.

(Optional - complete only if applicable)

[] The [petitioner] [respondent] has reason to fear domestic violence or child abuse. For this reason, please limit access to information about the [petitioner] [respondent] in the Child Support & Paternity Case Registry to the extent possible.⁴ The [petitioner] [respondent] realizes that this request may make it more difficult to assist in collecting child support. The [petitioner] [respondent] understands that the other party and the public might still view information about this case under some circumstances.

I affirm that this request is legitimately made and not designed to harass or intimidate the other party or mislead the court.

Signature of Petitioner

END OF INFORMATION SHEET

USE NOTE

1. The Domestic Relations Information Sheet is not required in domestic violence, commitment, guardianship, probate, or adoption actions; or if you are filing a pleading that does not change or add to the first pleading.

In uncontested domestic relations matters, the parties may submit one Information Sheet with the initial pleading, and the documents need not be served.

In all other contested domestic relations cases each attorney representing a petitioner, or the petitioner proceeding pro se, in a contested case must submit the Information Sheet and serve a blank copy of the Information Sheet on the respondent. Respondents must submit the completed Information Sheet with their first responsive pleading.

The information submitted on these forms does not replace or supplement the filing and service of pleadings or other papers required by law. These forms, approved by the Supreme Court of New Mexico, are required to initiate domestic relations cases and are used by the courts for case management.

Forms are available from the court clerks and the NMRA. Electronic copies may be obtained from the Supreme Court's internet site (www.supremecourt.nm.org) and New Mexico Law on Disc. If re-keying the form it must appear substantially in the same format as the Supreme Court approved form. Type or print only. If using a word processing system, please print your answers in bold.

2. Unless there are more than four children, the Information Sheet is to be submitted on a single page. The clerk will key-enter the information on the Information Sheet. The Information Sheet will not be filed in the court file.

3. If the party has more than one social security number, please include it. Pursuant to Sections 27-1-10 and 27-1-11 NMSA 1978 and federal law, each party must submit the social security number of each party as well as the name, date of birth and social security number for

each minor child. This information will be provided to the State Case Registry and, upon request, to child support enforcement agencies. The parties' addresses and social security numbers are also used to accurately identify and track court users, obtain feedback from court users on a periodic basis and to issue process in contempt proceedings. Addresses provided on this page will not be made a part of the public record unless that party is or becomes self represented.

4. The Child Support & Paternity Case Registry is a required, nationwide database of child support and paternity orders. Access to registry information is strictly limited to court and child support administrative personnel. Requesting that your registry information be "nondisclosed" does not prevent authorized parties from reviewing the information. Rather, it alerts courts and child support administrative personnel to act with caution when viewing your information. However, be aware that requesting "nondisclosure" of registry information does not limit access to your official district court case file which is a public record. If you are concerned about such access, ask your lawyer, or the court clerk if you do not have a lawyer, about ways in which the court may restrict access to your court file.

[Provisionally approved as 4-211 NMRA, effective November 1, 1999 until November 1, 2000; approved, as amended, effective November 1, 2000; as amended by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all cases filed on or after December 31, 2014.]

4A-102. Petition for dissolution of marriage (without children).

STATE OF NEW MEXICO
COUNTY OF DONA
THIRD JUDICIAL DISTRICT COURT

_____,
Petitioner,

v.

No. _____

_____,
Respondent.

**PETITION FOR DISSOLUTION OF MARRIAGE
(WITHOUT CHILDREN)**

Petitioner, _____, asks this Court for a *Final Decree of Dissolution of Marriage*, and states:

1. The parties, or at least one party, is a resident of _____ County, State of New Mexico.
2. At least one party has resided in the state of New Mexico for at least six (6) months immediately preceding the filing of this Petition and has domicile in New Mexico as defined by Section 40-4-5 NMSA 1978.
3. The parties were married on _____ (date) in _____ (city), _____ (state), and have remained spouses since that date.
4. A state of incompatibility and irreconcilable differences exists and the parties are not likely to reconcile.
5. The parties do not have any children and none are expected.
6. Any sole and separate property or debts of the parties should be confirmed by the Court.
7. Any community property of the parties should be equitably divided.
8. Any community debts of the parties should be equitably divided.
9. CIRCLE ONE: My spouse [is] [is not] a member of the military.
10. OPTIONAL (*Cross out if this does not apply to you*): Petitioner is in need of spousal support (alimony) to be paid to him/her by Respondent, who has the ability to pay spousal support.
11. OPTIONAL (*Cross out if this does not apply to you*): Petitioner wishes to be restored to his/her former name, _____.

Petitioner asks that the Court:

- A. Enter a *Final Decree of Dissolution of Marriage* on the grounds of incompatibility;
- B. Confirm any separate property and separate debts of the parties;
- C. Equitably divide any community property and community debt of the parties;
- D. Order Respondent to pay spousal support (*cross out if this does not apply*);

- E. Restore Petitioner to his/her former name,
_____ (*cross out if this does not apply*); and
- F. Provide such other and further relief as the Court may deem just and proper.

Submitted by:

Name

Street/mailling address

City, State, Zip

Telephone number

Email Address

VERIFICATION

I, _____, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause, and I know and understand that the contents contained in the above Petition are true to the best of my knowledge and belief. I have read and understand the Temporary Domestic Order as described in Rule 1-121 NMRA. I understand that upon the filing of this Petition with the Court that I am bound by the contents of the Temporary Domestic Order.

Signature of Petitioner

Date

[Approved by Supreme Court Order No. 13-8300-010, effective for all pleadings and papers filed on or after May 31, 2013, in all cases pending or filed on or after May 31, 2013; as amended by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]

SUMMONS

THIRD JUDICIAL DISTRICT COURT DONA ANA COUNTY, NEW MEXICO Court Address: 201 W. Picacho Las Cruces, NM 88005 Court Telephone: 575-523-8200	CASE NO.: (D-307) DM- _____ JUDGE: _____
Petitioner: _____ v. Respondent: _____	RESPONDENT: Name: _____ Address: _____ _____

TO THE ABOVE NAMED RESPONDENT

TAKE NOTICE THAT:

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA). The Court's address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing & pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657 or 505-797-6066.

Dated at Las Cruces, New Mexico, this _____ day of _____, 20_____.

BERNICE A. RAMOS CLERK OF THE COURT By: _____ Deputy
--

Signature of Attorney for Petitioner or Petitioner, Pro Se

Print Name: _____

Mailing Address: _____

City/State/Zip: _____

Telephone#: _____

Fax #: _____

Email Address: _____

RETURN

STATE OF _____)
)ss
COUNTY OF _____)

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in _____ County on (month) _____ (day) _____, (year) _____, by delivering a copy of this summons, with a copy of the Petition for Dissolution of Marriage and the Temporary Domestic Order attached, in the following manner: **(check one box and fill in appropriate blanks)**

- to the respondent (name of person): _____ (used when respondent accepts a copy of summons, petition and temporary domestic order or refuses to accept the summons, petition and temporary domestic order)
- to the respondent by [mail] [courier service] as provided by Rule 1-004 NMRA (used when service is by mail or commercial courier service).

After attempting to serve the summons, petition and temporary domestic order on the respondent by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of petition and temporary domestic order attached, in the following manner:

- to _____, a person over fifteen (15) years of age and residing at the usual place of abode of respondent _____, (used when the respondent is not presently at place of abode) and by mailing by first class mail to the respondent at _____ (insert respondent's last known mailing address) a copy of the summons, petition and temporary domestic order.
- to _____, the person apparently in charge at the actual place of business or employment of the respondent and by mailing by first class mail to the respondent at _____ (insert respondent's business address) and by mailing the summons, petition and temporary domestic order by first class mail to the respondent at _____ (insert respondent's last known mailing address).
- to _____, an agent authorized to receive service of process for respondent _____.
- to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of respondent _____ (used when respondent is a minor or an incompetent person).
- to _____ (name of person), _____, (title of person authorized to receive service. Use this alternative when the respondent is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision).

Fees: _____

Signature of person making service

Print Name and Title (if any)

Subscribed and sworn to before me on: _____.
_____ Judge/notary/other officer authorized to administer oaths
Official Title: _____
My commission expires: _____

SAMPLE

STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT COURT

_____, Petitioner,

v. Case No. DM _____

Judge: _____

_____, Respondent.

TEMPORARY DOMESTIC ORDER

This order is issued pursuant to Rule 1-121 NMRA. This is not an order of protection under federal or state law. It is otherwise fully enforceable. It applies to both parties. This order will continue in effect until modified. The procedure for modification of this order is described below.

THE COURT ORDERS THE PARTIES AS FOLLOWS:

- (1) Do not injure or physically or mentally abuse, molest, intimidate, threaten or harass the other party or any child of either party.
- (2) Do not interfere with the relationship of your spouse with any child of either party. If you are living apart, you shall each continue to have frequent contact and communication with any minor child of both parties, personally and by telephone. A party shall notify the other party of any change of address or telephone number within twenty-four (24) hours of the change.
- (3) Do not change a child's school, religion, child care, doctor, dentist, physical or mental treatment or recreational activities in which the child has been participating.

SAMPLE

(4) Do not remove, cause or permit the removal of any minor child of both parties from the State of New Mexico without court order or written consent of the other party.

(5) Do not make the other party leave the family home, whether it be community or separate property, without court order. You should attempt to resolve the questions of who leaves the home in a fair manner. If you cannot agree, you must ask the court to decide.

(a) Whoever moves from the family home may return to pick up personal belongings at a reasonable time as you may agree. Personal belongings do not include furniture unless you agree or the court permits. If an order prohibiting domestic violence has been entered, you must arrange to have a law enforcement officer present to monitor the removal of personal belongings. The party moving out of the residence is not prejudiced by reason of the move in any way with respect to custody of any minor child, with respect to a claim of any interest in the family residence or the personal property in or on the premises.

(b) Whoever leaves the family residence shall notify the other party, within twenty-four (24) hours of an address where the vacating party can receive mail.

(c) At a reasonable time, you are entitled to examine the contents of the marital residence and to have access to all properties owned by either of you, for inspection, valuation or appraisal. If you ask, the other party must provide access to the home within fifteen (15) days after the date of the request.

(6) Do not incur unreasonable or unnecessary debts. Any debt which does not contribute to the benefit of both spouses or the minor children of the parties which is incurred after you have separated, may be the separate debt of the party who incurs the debt.

SAMPLE

(7) Do not sell, remove, transfer, dispose of, hide, encumber or damage any property, real or personal, community or separate, except in the usual course of business or for the necessities of life. Keep an accounting of any transactions to show to the court.

(7) Do not drop or cancel any insurance policy, including automobile or other vehicle insurance, household insurance, medical or dental insurance or life insurance.

(9) Do not terminate or change the beneficiaries of any existing life insurance policy.

(10) Do not close any financial institution account or cancel any credit cards nor remove the other party from any credit card account during pendency of this case, unless the parties otherwise agree in writing.

MODIFICATION BY COURT

This order may be modified by the court upon request of either party. To request the court to modify this order a motion must be filed with the clerk of the court. The motion must include reference to each paragraph number the party is requesting to be modified or terminated. The party making the request must provide the other party with a copy of the motion requesting the change. If the other party agrees with the request, an order approving the request which has been initialed by both parties as "approved" shall be filed with the motion.

WAIVER BY PARTIES

The parties may modify a specific provision of this order by entering into a written agreement and filing it with the court. The parties may also waive a provision of this order on a specific occasion if both parties sign an agreement to waive the provision. A waiver must include the paragraph number of each paragraph waived by the parties.

SAMPLE

OTHER ORDERS

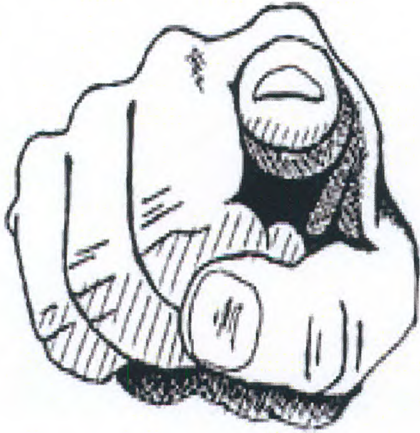
If an order of protection from a domestic violence case has been served on either party or if there is any other order in effect governing the relationship of the parties, and there is a conflict between this order and the other order, the other order controls unless the court specifically orders otherwise.

VIOLATIONS

Violation of this court order may result in the imposition of a fine or imprisonment. This order is binding on the petitioner at the time the petition is filed. This order is effective on the respondent two (2) days after it is served on the respondent. The parties are cautioned that actions taken by either party that are contrary to the terms of this order are subject to redress by the court including costs and attorneys' fees.

DISTRICT COURT JUDGE

Giving Legal Notice



YOU . . . are called the **PETITIONER**

THEY . . are called the **RESPONDENT**

YOU . . . must legally notify each respondent that you filed a petition against them

YOU . . . must file proof with the court that you did so.

The court **WILL NOT** do this for you.

To give legal notice, YOU must have a copy of all the paperwork you filed, and a copy of all the paperwork the court issued when you filed your petition, delivered to each respondent.

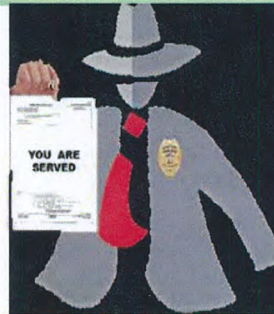
1. LEGAL NOTICE BY PERSONAL SERVICE

If you **KNOW** where the respondent lives, works, lives, or can be found



THIS IS OKAY

A friend or family member (must be over 18) delivers a copy of all the paperwork to the respondent.



THIS IS BETTER

A Process Server delivers a copy of all the paperwork to the respondent.

2. LEGAL NOTICE BY MAIL

If you have a good mailing address for the respondent



The postman delivers a copy of all the paperwork to the respondent. They must sign the green card. Restricting delivery to them helps.

3. LEGAL NOTICE BY PUBLICATION

If you **DON'T** know where the respondent works, lives, or can be found



You can publish a notice in the newspaper **BUT** you have to ask the court's permission to do this.

Your case will **NOT** move forward unless you legally notify each respondent that you filed a petition against them. You may want to see a lawyer for advice.

This information sheet only highlights the 3 most common ways to serve the respondent. For details, see the attached New Mexico Rules of Civil Procedure

Step by
Step

HOW TO SERVE YOUR DIVORCE PAPERS



MAKE A SUMMONS PACKET:

AFTER FILING YOUR DIVORCE PAPERS, STAPLE TOGETHER 1 COPY OF THESE PAPERS IN THIS ORDER:

- #1 **SUMMONS** (Careful! **NOT** the one with the raised seal!);
- #2 **PETITION FOR DISSOLUTION OF MARRIAGE**;
- #3 **TEMPORARY DOMESTIC ORDER**;
- #4 **ORDER FOR PARENT EDUCATION** (ONLY if you have children);
- #5 **A BLANK DOMESTIC RELATIONS INFORMATION SHEET (4A-101A)**

DECIDE HOW TO SERVE THE SUMMONS PACKET:

If you hire a Process Server to hand your spouse the summons packet . . .

YOU:

- Contact the Process Server.
- Tell them need divorce papers served on your spouse.
- Give them the summons packet & the **Summons** *with* the raised seal.

THEY:

Hand your spouse the summons packet.

AFTER THE PAPERS ARE SERVED

The Process Server will:

Fill-out the 2nd page of the Summons with the raised seal and give it back to you.

YOU:

- Pay the Process Server.
- Bring the original, filled-out Summons to the family clerk at the district courthouse.

The family clerk will:

File and keep the filled-out Summons. This is your proof that your spouse was served.

If a family member or friend will hand your spouse the summons packet . . .

YOU:

Give your summons packet to your family member or friend.

THEY:

Hand your spouse the summons packet.

AFTER THE PAPERS ARE SERVED

Your family member or friend will:

Fill-out the 2nd page of the Summons with the raised seal and give it back to you.

YOU:

Bring the original, filled-out Summons to the family clerk at the district courthouse.

The family clerk will:

File and keep the filled-out Summons. This is your proof that your spouse was served.

If you are mailing the summons packet to your spouse . . .

YOU:

Ask a family member or friend to take your summons packet to the post office. You can go with them, but *they* must mail the envelope.

THEY:

Mail your summons packet *certified mail, return receipt requested*. Restrict delivery so only your spouse can sign for the envelope.

AFTER THE PAPERS ARE SERVED

Your family member or friend will:

Fill-out the 2nd page of the Summons with the raised seal and give it back to you.

YOU:

- Wait for the green card to come back from the post office.
- Bring the original, filled-out Summons & the green card to the family clerk at the district courthouse.

The family clerk will:

File and keep the filled-out Summons with the green card. This is your proof that your spouse was served.