

Application For Default Judgment Contested Divorce WITHOUT Children

FIRST JUDICIAL DISTRICT COURT
Serving The Counties of Santa Fe, Rio Arriba, and Los Alamos
Website: <https://firstdistrictcourt.nmcourts.gov>

225 Montezuma Ave.

Santa Fe, NM 87501

Telephone: 505-455-8250

Self-Help Office: 505-455-8166

7 Mainstreet

Tierra Amarilla, NM 87575

Telephone: 505-455-8335

2500 Trinity Drive Suite D

Los Alamos, NM 87544

Telephone: 505-662-9561

(Wednesday Only)

Family Court

Office of Judge Shannon Broderick Bulman
Telephone: 505-455-8165

Office of Judge Denise M. Thomas
Telephone: 505-455-8150

Questions To Ask Yourself Before Completing This Packet:

1. Have I legally notified/served* the Respondent?
Yes, go to question #2.
No, you must legally notify the Respondent that you have filed a petition against them.
2. Have I filed proof that the Respondent was properly served* in accordance with Rule 1-004 NMRA?
Yes, go to question #3.
No, you must legally notify the Respondent. If the Respondent has been served you must file proof.
3. Has it been thirty (30) days or more since I served the Respondent?
Yes, go to question #4.
No, you cannot request a default until thirty (30) days or more have passed, as the Respondent has thirty (30) days from the day they are served to file a Response or otherwise respond to the Petition.
4. Has the Respondent filed some sort of Response or other type of pleading in the case?
Yes, please consult with a licensed attorney before proceeding with this packet.
No, you may continue completing this packet.

*Please refer to the *Legal Notice/Service* page that was included in your divorce packet for more information. If you have any questions, please consult a licensed attorney.

Fill out your forms in **print** using **only blue** or **black ink**. Do **not** use whiteout or correction tape, even if you make a mistake. Make sure that the case caption, which includes the county, district court, petitioner and the respondent, are the same on all forms.

Once you have completed your forms, take them to the Self-Help office for review. After they are reviewed, you may take them to the clerk's office for filing. The Certificate As To The State of The Record will be completed by a clerk, if applicable, and then will be forwarded along with the Application, Affidavit, and Default Decree to the judge for review.

If the judge approves, the clerk's office will contact you after your documents have been processed and are ready for pick-up. The clerk's office charges 35 cents per page for copies and an additional \$1.50 for each certified copy requested.

NM Supreme Court Forms: <https://nmcourts.gov/forms-library/>

First District Court Forms: <https://firstdistrict.nmcourts.gov/forms-library/>

Website To Verify Military Status: <https://scra.dmdc.osd.mil/scra/#/home>

4A-310. Domestic relations forms; instructions for default proceedings.

If you are the Petitioner AND more than thirty (30) days have passed since you served the Respondent with the Petition AND the Respondent has failed to file a Response or to otherwise respond to the Petition, you may be granted a divorce without the agreement of the Respondent. This is called a default judgment. You may request a default judgment and final decree of dissolution of marriage by doing the following:

A. Complete and file with the Court Clerk's Office an Affidavit as to Respondent's Failure To Plead or Otherwise Defend (Form 4A-311 NMRA); your affidavit must include a certificate verifying the other party's active duty military status, which you can obtain online at https://dmdc.osd.mil/appj/scra/single_record.xhtml; when you file your affidavit, bring a blank Certificate as to the State of the Record (Form 4A-312 NMRA) and a self-addressed, stamped envelope so that the Clerk can return a completed certificate to you;

B. After you receive the completed Certificate as to the State of the Record (Form 4A-312 NMRA) from the Clerk, attach the certificate to an Application for Default Judgment and Final Decree of Dissolution of Marriage (Form 4A-313 NMRA), and file the application with the Court Clerk's Office; and

C. Complete and submit to the judge a copy of the Default Judgment and Final Decree of Dissolution of Marriage (Form 4A-314 NMRA (without children) or Form 4A-315 NMRA (with children)). Check with the clerk of your district to determine if your district has additional requirements.

The Court may sign and file the Default Judgment and Final Decree of Dissolution of Marriage without further notice, or it may order you to appear for a hearing. **WARNING:** Once the Court enters the Default Judgment and Final Decree of Dissolution of Marriage, your divorce will be final, and the terms of your Default Judgment and Final Decree of Dissolution of Marriage will be legally binding on both parties.

[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; approved 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-311. Affidavit as to Respondent's failure to plead or otherwise defend
(domestic relations actions)**

STATE OF NEW MEXICO
COUNTY OF _____
FIRST JUDICIAL DISTRICT COURT

Case No.: D-1 _____ -DM- _____

_____,
Petitioner,

-vs.-

_____,
Respondent.

**AFFIDAVIT AS TO RESPONDENT'S
FAILURE TO PLEAD OR OTHERWISE DEFEND
(domestic relations actions)¹**

Petitioner affirms under penalty of perjury under the laws of the State of New Mexico that the following statements are true and correct:

(1) I am the Petitioner, and I submit this Affidavit to show that Respondent has failed to file an answer or otherwise respond to the Petition For Dissolution of Marriage that I filed on _____.

(2) Respondent was served as follows (*choose and complete one*):

As shown by the Affidavit of Service filed on _____,
Respondent was personally served on _____.

(Or)

As shown by the Affidavit of Publication filed on _____,
Respondent was served by publication.

(3) Respondent has not filed an answer, motion, or otherwise responded, and more than thirty (30) days have passed since Respondent was served with the Summons and Petition for Dissolution of Marriage.

(4) Upon information and belief, Respondent is not in the military service of the United States and is not an infant or incompetent person.

YES (required) I have attached a certificate verifying Respondent's active duty status.²

WHEREFORE, Petitioner asks the Clerk of this Court to certify Respondent's Default.

Signature of party

Name (*printed*)

Mailing address

City, state, and zip code (*print*)

Telephone number

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 Affidavit are true to the best of my knowledge and belief.

Signature of Petitioner

Date

USE NOTE

1. This form may be used anywhere in this state to request the clerk of the court to issue a certificate as to the state of the record (Form 4A-312 NMRA) in a domestic relations action.
2. This affidavit must include a certificate verifying the petitioner's active duty status, which you can obtain online at https://dmdc.osd.mil/appj/scra/single_record.xhtml.

[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 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-312. Certificate as to the state of the record (*domestic relations actions*).

STATE OF NEW MEXICO
COUNTY OF _____
FIRST JUDICIAL DISTRICT COURT

Case No.: D-1 _____ -DM- _____

_____,
Petitioner,

-vs.-

_____,
Respondent.

CERTIFICATE AS TO THE STATE OF THE RECORD
(*domestic relations actions*)¹

I, Clerk of the District Court of this Judicial District in this County, New Mexico, pursuant to the Affidavit as to Respondent's Failure to Plead or Otherwise Defend on file herein, certify as follows:

(1) The Petition for Dissolution of Marriage was filed on _____.

(2) Respondent was served as follows (*choose and complete one*):

As shown by the Affidavit of Service filed on _____,
Respondent was personally served on _____.

(Or)

As shown by the Affidavit of Publication filed on _____,
Respondent was served by publication.

(3) Respondent has not filed an answer, motion, or otherwise responded, and more than thirty (30) days have passed since Respondent was served with the Summons and Petition for Dissolution of Marriage.

WHEREFORE, I, _____, hereby certify Respondent's default.

Kathleen Vigil
Clerk of the District Court

By: _____
Deputy Clerk

USE NOTES

1. This form may be used anywhere in this state by the clerk of the court to certify a default in a domestic relations action.

[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; as amended by Supreme Court Order No. 15-8300-017, effective for all pleadings and papers filed on or after December 31, 2015, in all cases filed or pending on or after December 31, 2015.]

4A-313. Application for default judgment and final decree of dissolution of marriage.

STATE OF NEW MEXICO
COUNTY OF _____
FIRST JUDICIAL DISTRICT COURT

Case No.: D-1 _____ -DM- _____

Petitioner,

-vs.-

Respondent.

**APPLICATION FOR DEFAULT JUDGMENT
AND FINAL DECREE OF DISSOLUTION OF MARRIAGE¹**

Petitioner applies for entry of judgment by default against Respondent and in support of the application states:

- (1) The statements in the Affidavit as to Respondent's Failure to Plead or Otherwise Defend are included here by reference.
- (2) As shown by the Certificate as to the State of the Record filed in this case on _____, the Clerk of this Court has certified Respondent's default.

WHEREFORE, Petitioner applies to the Court for entry of judgment by default against the Respondent as requested in the Petition for Dissolution of Marriage, and as more specifically stated in the proposed Default Judgment and Final Decree of Dissolution of Marriage submitted with this application.

Signature of party

Name (*printed*)

Mailing address

City, state, and zip code (*print*)

Telephone number

Email Address

USE NOTE

1. This form may be used anywhere in this state to request the court to enter a default judgment and final decree of dissolution of marriage in a domestic relations action.

[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-314. Default judgment and final decree of dissolution of marriage (without children).

STATE OF NEW MEXICO
COUNTY OF _____
FIRST JUDICIAL DISTRICT COURT

Case No.: D-1 _____ -DM- _____

Petitioner,

-vs.-

Respondent.

**DEFAULT JUDGMENT AND
FINAL DECREE OF DISSOLUTION OF MARRIAGE
(without children)**

_____ (*Petitioner's name*) and _____
(*Respondent's name*) are married. Respondent failed to respond to the petition for dissolution of marriage after being served. The judge may make changes to this default decree and both parties must comply with any changes made.

The parties were married on _____ (*date of marriage*).

I. PROPERTY BEING DIVIDED²

A. Personal property (*such as clothing, furniture, jewelry, or artwork*). Attached is a Personal Property List (Attachment A) showing all property and which party shall receive that property. (*Choose 1 or 2*)

[] 1. Each party already has possession of all the personal property each party will receive in this judgment.

(*or*)

[] 2. The party in possession of personal property to be received by the other party shall give that property to the receiving party within ____ days after this default judgment is signed by the judge and filed in the court.

B. Real Property (*such as a home, mobile home, condominium, lot, or commercial building*).³ (*Choose all that apply*)

1. Neither party owns real property.

2. The parties own a marital home, which is located at _____ (street address), and with which they shall do the following:

(Complete the correct section: a. Keep the home; b. Sell the home; or c. Other plan.)

a. **Keep the home.**

_____ (name of Petitioner or Respondent) shall keep the home and shall be responsible for all debts related to the home.

The person who keeps the home is called the “homeowner.” The other person is called the “moving spouse.”

(Choose all that apply)

i. The amount owed to the moving spouse to buy out that person’s interest is \$_____, which is included in the calculation of the Cash Payment, Section III, below.

ii. The homeowner shall apply to refinance the debt owed on the home no later than _____ (date).

iii. The homeowner shall buy out the moving spouse’s interest in the home or get the moving spouse off of the loan papers as follows:⁴

b. **Sell the home.** The home shall be sold and the money from the sale shall be divided as follows:

While the home is being sold, Petitioner (or) Respondent (choose one) shall stay in the home.

Until the home sells, the parties shall pay expenses, including mortgage, taxes and insurance, utility bills, and repairs for the home as follows (describe who is to pay and how much each person will pay):

_____.

The parties shall cooperate with the showing of the home and the sale of the home, including signing all paperwork needed in order to sell it and transfer title. Both parties shall preserve the home in a reasonable way including the following things:

_____.

c. **Other plan.** Attached is a separate sheet with the plan regarding the home.

3. One or both of the parties has other real property as set forth in the attached Real Property List (Attachment B), and that property shall be divided as set forth in the attachment. If one party owes the other money for the division of the other real property, that amount is included in the calculation of the Cash Payment, Section III, below.

C. Bank and investment accounts (*such as checking accounts, savings accounts, stocks, bonds, certificates of deposit, mutual funds, or life insurance policies with cash value*).
(Choose 1 or 2)

1. The parties do not have any bank or investment accounts.

(Or)

2. The parties have the following bank or investment accounts and shall divide them as follows:

Petitioner shall have the following bank or investment accounts:

Name of institution	Last four (4) digits of account number
---------------------	--

_____	_____
_____	_____
_____	_____

Respondent shall have the following bank or investment accounts:

Name of institution	Last four (4) digits of account number
---------------------	--

_____	_____
_____	_____
_____	_____

D. Retirement Plans (such as IRAs, retirement accounts, pension plans, or 401(k) plans).⁵ (Choose 1 or 2)

1. Neither party has a retirement plan.

(Or)

2. The parties shall divide the retirement plan(s) as follows:

Petitioner has the following retirement plan(s):	(Circle one to show whether Petitioner will KEEP the entire plan, DIVIDE the plan with Respondent, or TRANSFER the entire plan to Respondent)	If plan will be DIVIDED, the amount or % to be given to Respondent:
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	

Respondent has the following retirement plan(s):	(Circle one to show whether Respondent will KEEP the entire plan, DIVIDE the plan with Petitioner, or TRANSFER the entire plan to Petitioner)	If plan will be DIVIDED, the amount or % to be given to Petitioner:
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	

If any retirement plan will be divided, a Qualified Domestic Relations Order (“QDRO”) shall be prepared and submitted to the Court by Petitioner by _____ (date).⁶

E. Vehicles (such as cars, trucks, motorcycles, recreational vehicles, boats, tractors, or trailers).⁷ (Choose 1 or 2)

1. The parties do not have any vehicles.

(or)

2. The parties have vehicles and shall divide them as follows:

Petitioner shall keep the following vehicles and assume any debt relating to each vehicle (*provide the make, model, and year of each vehicle and list the vehicle identification number*):

Vehicle description	Vehicle Identification No. (last six digits)
_____	_____
_____	_____
_____	_____

Respondent shall keep the following vehicles and assume any debt relating to each vehicle (*provide the make, model, and year of each vehicle and list the vehicle identification number*):

Vehicle description	Vehicle Identification No. (last six digits)
_____	_____
_____	_____
_____	_____

Each party listed above as keeping the vehicles shall pay for the costs of the vehicles, including insurance. The parties shall transfer title by the following date:

_____ (date).

(or)

when the vehicle is paid off.

(or)

the party who is keeping the vehicle already has the title in his/her name.

F. Other property (*such as business interests, patents, trademarks, copyrights, royalties, manuscripts, or any other property*). (Choose 1 or 2)

1. Neither party has any other property.

(or)

2. One or both parties has the other property listed below, and shall divide it as follows:

II. DEBTS BEING DIVIDED⁸

A. Debt. Attached is a Debt List (Attachment C) which lists all of the parties' debts, including mortgages, vehicle payments, taxes, credit cards, student loans, medical debts, judgments, and any other debts the parties may have. Any debt not listed is the responsibility of the person who created it. Each party shall pay debts created by that party prior to the marriage, unless stated differently here. Unless stated differently here, a party who takes property (such as a house or car) with a debt associated with it, shall take the debt.

(Choose all that apply)

The parties have no debt from the marriage.

Each party shall pay the debts as listed on Attachment C.

The amount owed from _____ to _____ for the division of the debts is \$ _____, which is included in the calculation of the Cash Payment, Section III, below.

B. Credit cards and charge cards. Each party shall turn in and cancel all joint credit cards, or shall have the credit card company take the other party's name off of the account.

C. Taxes. The parties shall share information necessary to correctly file income tax returns. Each party will get the help needed to file taxes.

D. Problem with tax returns. If any tax returns that the parties filed jointly are audited or contested, the parties should meet to decide what to do. If the parties cannot decide who pays the taxes owed or who gets any refund, they will ask a judge to decide at the time the problem comes up.

E. Failure to pay debts. If either party fails to pay the debts each is ordered to pay, the other party may end up making that payment. If that happens, the party who should have paid may have to repay the other party, including any other extra costs caused by the failure to pay, such as attorney fees, late fees, and interest charged by the creditor.

III. CASH PAYMENT

To equalize the division of property and debts, _____ (*name*) shall pay _____ (*name*) the amount of \$ _____ no later than _____ (*date*). Judgment shall enter in this amount in favor of _____ (*name of person owed money*). The statutory interest rate shall apply as provided in Section 56-8-4(A) NMSA 1978.

IV. SPOUSAL SUPPORT⁹

(Choose 1 or 2)

1. **No spousal support.** Each party can support himself or herself and neither shall pay spousal support to the other.

(or)

2. **Spousal support.** Petitioner (or) Respondent (*choose one*) shall pay spousal support to the other party.

Spousal support shall be paid as follows:

(Choose i, ii, or iii)

i. \$ _____ per month on the _____ (date) of each month for _____ (period of time), which is not modifiable.

(or)

ii. \$ _____ per month on the _____ (date) of each month until modified by the court.

iii. Other plan:

The Court, having considered the evidence FINDS AND CONCLUDES:

1. The Court has jurisdiction over the subject matter of this action and over the parties.
2. The parties are incompatible.
3. The division of property and debts in this Default Judgment and Final Decree of Dissolution of Marriage is fair and reasonable.
4. Respondent's default has been certified by the Court.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

1. The marriage of Petitioner and Respondent is dissolved on the grounds of incompatibility.
2. The parties are ordered to comply with the terms of this Default Judgment and Final Decree of Dissolution of Marriage.

(Select and complete the following paragraphs if applicable)

3. The Court retains jurisdiction to enter QDROs or other orders dividing the retirement plans referenced in this Default Judgment and Final Decree of Dissolution of Marriage.

4. Judgment in favor of Petitioner (or) Respondent is awarded in the amount of \$ _____, as set forth in Section III (Cash Payment) of this Default Judgment and Final Decree of Dissolution of Marriage. The statutory interest rate shall apply as provided in Section 56-8-4(A) NMSA 1978.

[] 5. Petitioner's name is restored to the former name of _____ (write full legal name).

SO ORDERED:

Date

District Court Judge

VERIFICATION

I, _____, am the Petitioner, and I affirm under oath and penalty of perjury under the laws of the State of New Mexico the following:

I am signing this document alone because Respondent is in default;

I have disclosed all assets and debts known to me;

This document and the statements in it are true and correct to the best of my knowledge and belief;

I understand that I can be punished both civilly and criminally if any information in this document is false.

Submitted/Approved by

Petitioner

Date

Mailing address

City, state, and zip code

Telephone number

STATE OF NEW MEXICO)
COUNTY OF _____) ss.

Acknowledged, signed and sworn to before me this _____ day of _____, _____
by _____, the petitioner.

Notary public

My commission expires: _____.

ATTACHMENT B: REAL PROPERTY LIST

(Attach additional pages if needed)

List all homes (other than the marital home), land, or other real property owned by Petitioner or Respondent.

Other Real Property

1. Address/Description of property: _____

The parties shall do the following with the property after the divorce:

(Choose all that apply)

_____ Petitioner will keep the property;

_____ Respondent will keep the property;

_____ [] Petitioner [] Respondent shall pay the other party \$_____.

_____ The property will be sold and the proceeds divided as follows:

_____ Other plan:

2. Address/Description of property: _____

The parties shall do the following with the property after the divorce:

(Choose all that apply)

_____ Petitioner will keep the property;

_____ Respondent will keep the property;

_____ [] Petitioner [] Respondent shall pay the other party \$_____.

_____ The property will be sold and the proceeds divided as follows:

_____ Other plan:

THIS PAGE IS NOT FOR FILING

USE NOTES

1. This form may be used anywhere in this state to enter a default judgment and final decree of dissolution of marriage when the parties do not have minor children or a child under nineteen years of age who is attending high school.
2. It is highly recommended that you consult with an attorney. Whether property is separate or community is a complicated issue. There can be serious consequences, including tax consequences, for the division of property and for not properly transferring property, including retirement accounts. You may need separate documents to transfer divided property.
3. To transfer land, a building or a home other than a mobile home, the parties must prepare, sign and record a deed in the real property records where the property is located. To transfer a mobile home, contact the Motor Vehicle Division.
4. If both parties are listed on the mortgage, you must seek lender approval to remove the moving spouse from the mortgage and from responsibility for payment.
5. If the parties are going to divide a retirement plan, contact the retirement plan before completing and filing this form. Depending on the plan, a QDRO may be necessary.
6. CAUTION: You may want to consult an attorney about your retirement, pension, deferred compensation, 401k plans, and/or benefits. If you do not see an attorney regarding these assets, you risk losing any interest you have in these plans and/or benefits. There are certain documents the plan administrator must have. An attorney can help you prepare these documents.
7. To transfer vehicles or a mobile home, contact the Motor Vehicle Division.
8. This default judgment may not affect the rights of creditors even when approved by the Court as part of the final decree. The creditor may expect payment from you no matter who is ordered to pay the debt in this default judgment. See an attorney if you have questions about separate and community debts and separate and community property.
9. Consult with an attorney if problems arise later.

[Approved by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases pending or filed on or after December 31, 2014; as amended by Supreme Court Order No. 15-8300-024, effective for all pleadings and papers filed after November 18, 2015; as amended by Supreme Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 19-8300-006, effective for all pleadings and papers filed on or after July 1, 2019.]