

4-805. Application for writ of garnishment.

[For use with Rules 1-065.2, 2-802, and 3-802 NMRA]

STATE OF NEW MEXICO
COUNTY OF DONA ANA
IN THE MAGISTRATE COURT

_____, Plaintiff,

v. No. _____

_____, Defendant.

APPLICATION FOR WRIT OF GARNISHMENT

The judgment creditor, _____, states:

- (1) The judgment creditor has a judgment dated _____ against the judgment debtor whose name is _____, and whose last known address is _____.
- (2) The total amount of the judgment including the principal, interest, costs, and attorney fees awarded by the judgment was \$_____.
- (3) From the date the judgment was filed through the date this Application was signed, additional interest at the rate of _____% totals \$_____. Judgment creditor has incurred additional costs of \$_____ and additional attorney fees of \$_____.
- (4) Payments totaling \$_____ have been received.
- (5) The unpaid balance now due is \$_____ (*Insert this amount on Civil Form 4-806 NMRA as "Balance Due upon Application for Writ."*) plus interest from the date this Application is filed.
- (6) Estimated costs would equal \$_____ and the judgment creditor will seek \$_____ in attorney fees.
- (7) Judgment debtor, to my knowledge, does not have sufficient property within New Mexico subject to execution to satisfy the judgment. I understand that I have a duty to make a reasonable investigation into the truth of this statement and have done so as follows:¹
(*This allegation is not necessary prior to garnishment of funds for child support or alimony obligations.*)

_____,
_____,
_____.

(8) I have reason to believe, and do believe, that the garnishee, _____
_____ (*name of garnishee*) _____ (*address*),
holds or controls money or personal property which belongs to the judgment debtor or is
indebted to the judgment debtor.²

(9) The money or property held by the garnishee is not exempt from garnishment.

Therefore the judgment creditor requests a Writ of Garnishment.

Judgment creditor or attorney for judgment creditor

Judgment creditor's or attorney's name printed

Address of judgment creditor or attorney

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

Telephone number of judgment creditor or attorney

Date of signing

AFFIDAVIT

*(application must be sworn to
unless signed by an attorney)*

Subscribed and sworn to before me this _____ day of

_____, _____.

Notary or other officer authorized
to administer oaths

(*seal*)

[As amended, effective June 15, 1986; January 1, 1987; July 1, 1992; January 1, 1996; as amended
by Supreme Court Order No. 09-8300-024, effective September 4, 2009; by Supreme Court Order
No. 12-8300-030, effective for all cases filed or pending on or after January 7, 2013.]

USE NOTE

1. The judgment creditor shall list any steps taken to investigate whether the judgment debtor possesses property within New Mexico subject to execution to satisfy the judgment. A reasonable investigation may be made, for example, by conducting a credit check or by asking the judgment debtor to identify all of the judgment debtor's assets during a court hearing.

2. See *Jemko v. Liaghat*, 106 N.M. 50, 52, 738 P.2d 922, 925 (Ct. App. 1987) (providing that a judgment creditor, acting pursuant to a writ of garnishment, may only seize property belonging to the judgment debtor); *Alcantar v. Sanchez*, 2011-NMCA-073, 150 N.M. 146, 257 P.3d 966 (discussing garnishment procedures in the case of joint bank accounts).

[Adopted by Supreme Court Order No. 12-8300-030, effective for all cases filed or pending on or after January 7, 2013.]