

4-905. Summons and notice of trial on petition for writ of restitution (*Uniform Owner-Resident Relations Act*).

[Section 47-8-43 NMSA 1978]

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

No. _____

_____, Plaintiff

v.

_____, Defendant

**SUMMONS AND NOTICE OF TRIAL
ON PETITION FOR WRIT OF RESTITUTION
(*Uniform Owner-Resident Relations Act*)**

To: _____, defendant

Address: _____
_____, New Mexico _____

GREETINGS:

You are ordered to appear for trial before the Honorable _____, Judge, Div. _____, located at _____, New Mexico on the _____ day of _____, _____ (*date*), at the hour of _____m. to show cause and present all evidence you may have why the plaintiff's petition for a writ of restitution for the property located at _____ should not be granted and why the plaintiff should not have judgment against you for any back rents or damages you caused to the property, in accordance with the petition filed by the plaintiff in this action, a copy of which is attached.

Your failure to appear at the time and place specified above may result in the entry of judgment against you in accordance with the petition filed by the plaintiff in this action, a copy of which is attached.

You may file a written answer and assert any claims you may have prior to the trial.

FOR USE ONLY IN METROPOLITAN COURT CASES

[IF YOU WANT A TAPE RECORDING OF ANY PROCEEDING, YOU MUST REQUEST IT BEFORE THE BEGINNING OF THE PROCEEDING. IF YOU DO NOT ASK FOR A TAPE RECORDING, YOU WILL NOT HAVE A RECORD OF THE PROCEEDINGS TO TAKE TO THE DISTRICT COURT FOR ANY APPEAL.]

Dated: _____ .

By: _____
Judge

Clerk

**THIS IS YOUR NOTICE OF TRIAL
and will be the only notice
that you will receive.**

RETURN¹

STATE OF NEW MEXICO)
) ss
COUNTY OF _____)

*(complete if service is by a person
other than the sheriff or deputy³)*

I, being sworn 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 the _____ day of _____, _____ (date), by delivering a copy of this summons, a copy of the petition and a copy of the answer form² in the following manner:

(check and complete only if service by sheriff or deputy)³

I certify that I served this summons in _____ county on the _____ day of _____, _____ (date), by delivering a copy of the summons, a copy of the petition and an answer form² in the following manner:

(person serving summons must check one of following boxes and fill in appropriate blanks)

- by delivering a copy of this summons, a copy of the petition and an answer form to the defendant _____ (used when defendant receives copy of summons or refuses to receive summons).
- by delivering a copy of this summons, a copy of the petition and an answer form to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, located at _____ (address) (used when defendant is not presently at the abode).
- by posting a copy of the summons, petition and an answer form in the most public part of the premises of defendant _____ located at _____ (address). (Used if no person found at dwelling house or usual place of abode.) (If service is by posting a copy of the summons, petition and an answer form must also be mailed to the person served. The person serving by posting and the person serving by mail must each sign a return. The person mailing must check and complete the certificate of mailing at the end of this summons.)
- by delivering a copy of this summons, a copy of the petition and an answer form to _____, an agent authorized to receive service of process for defendant.
- by delivering a copy of this summons, a copy of the complaint and an answer form to _____, (parent) (guardian) (custodian) of defendant (used when defendant is a minor or an incompetent person).
- by delivering a copy of this summons, a copy of the petition and an answer form

to _____ (name of person), _____, (title of person authorized to receive service) (used when defendant 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).

[] by service by mail.

Fees: _____

Signature of person making service

Title (if any)

Subscribed and sworn to
before me this _____
day of _____, _____

Judge, notary or other officer
authorized to administer oaths³

Official title
(To be completed if service is made by posting)⁴

I, being sworn, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served a copy of this summons on the _____ day of _____, _____, by mailing first class mail, postage prepaid, a copy of this summons, a copy of the complaint, and an answer form to:

_____ (name of person served)
_____ (address where mailed)
_____ (county)
_____ (city, state and zip code)

Signature of person making service

Title (if any)

Place of mailing

Date

Subscribed and sworn to before me
this _____ day of _____,
_____.

Judge, notary or other officer

authorized to administer oaths³

Official title

(To be completed if service is made by mail.)⁵

I, being sworn, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served a copy of this summons on the _____ day of _____, _____, by mailing first class mail, postage prepaid, a copy of this summons, a copy of the complaint, an answer form and two copies of the notice and acknowledgement and a return envelope, postage prepaid, addressed to:

_____ *(name of person served)*
_____ *(address where mailed)*
_____ *(county)*
_____ *(city, state and zip code)*

Signature of person making service

Title *(if any)*

Place of mailing

Date

Subscribed and sworn to before me
this _____ day of _____,
_____.

Judge, notary or other officer
authorized to administer oaths

Official title³

USE NOTES

1. A separate summons must be used for each defendant.
2. An answer form must be attached to the summons at the time of service. For answer forms, see Rule 4-907 NMRA.
3. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy need not be notarized.
4. For use when service is by posting.
5. If service is by mail, Civil Form 4-208 NMRA must be completed and mailed with this summons.

[Former Rule 4-904 SCRA 1986; recompiled as Rule 4-905 NMRA and amended, effective September 2, 1997.]