

DEFAULT PACKET

HOW TO ASK FOR A JUDGMENT BY DEFAULT

IF the defendant hasn't filed an answer to your lawsuit ...

AND the deadline to file the answer has expired ...

THEN you can use the forms in this packet to ask for a judgment by default.

STEP 1 - FILL-OUT THE FORMS. All 5 forms in this packet are *required*.

FORM #1 Motion for Default Judgment: This form asks the judge for a default judgment. Fill in all blanks, sign, and print your name, address and telephone number.

FORM #2 Affirmation of Plaintiff in Support of Default Judgment: Anyone who asks the court for a default judgment *must* complete this form. For more information, read the "Military Service" box on this page. Print the MILITARY STATUS REPORT and attach it to your Affirmation.

FORM #3 Certificate as to the State of the Record and Non-Appearance: The clerk certifies for the Judge that the defendant has not filed an answer to your lawsuit. YOU will ONLY fill out the caption and the court clerk fills-out the rest of the form.

FORM #4 Request for Setting: This form asks the Judge for a hearing on the default judgment.

FORM #5 Default Judgment/Judgment on the Pleadings: You are *required* to fill out and submit your default judgment form **AT THE SAME TIME** you file and submit the documents in this packet.

STEP 2 - MAKE COPIES. Make 2 copies of each form and any attachments.

STEP 3 - BRING THE ORIGINAL FORMS & COPIES TO THE COURT CLERK.

The court clerk file-stamps your documents, returns the copies to you, and submits the rest to the Judge. **IMPORTANT** - Read the ENVELOPE REMINDER box.

STEP 4 - WAIT.

If the defendant has not filed an answer to your lawsuit, the Judge decides to hold a hearing or sign your default judgment. You will receive either your hearing notice or your default judgment in the mail.



Military Service

When you ask the court for a default judgment, you must file a sworn statement (called an Affidavit) that the defendant is, or is not, in the armed services. This protects people in the military serving our country. The web address to verify Active Duty status is: <https://scra.dmdc.osd.mil/scra>

Attach the MILITARY STATUS REPORT to your Affirmation.

Forms in this Packet:

- #1 Motion for Default Judgment
- #2 Certificate as to the State of the Record and Non-Appearance
- #3 Affidavit of Military Service
- #4 Request for Setting
- #5 Default Judgment/Judgment on the Pleading.

DO NOT USE THIS PACKET IF ...

- You did not serve the Defendant
- The Defendant has filed an answer to your lawsuit
- The Defendant is in the military

ENVELOPE REMINDER

- When you bring your forms to the Court Clerk, also bring 2 letter-sized envelopes with a first-class stamp on each.
- Address one to YOU and one to the defendant/respondent.



4-702. Motion for default judgment.
[For use with Rules 2-702 and 3-702 NMRA]

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

_____, Plaintiff,

v.

No. _____

Judge _____

_____, Defendant.

MOTION FOR DEFAULT JUDGMENT

Plaintiff requests the court to enter a default judgment, and in support of this request, plaintiff states as follows:

The Complaint in the above described case was filed on the _____ day of _____, _____.

Service of a copy of the Summons, Complaint, and Answer form in this case were made on defendant(s) on the _____ day of _____, _____.

The defendant(s) _____, _____ and _____ (have) (has) failed to appear or to file an Answer or other responsive pleading to the Complaint.

The return of service was filed with this court on the _____ day of _____, _____.

Plaintiff previously has filed or has attached to this motion an affidavit or affirmation regarding the (defendant's) (defendants') military status.¹

The Plaintiff requests the court to enter judgment for the following damages, costs, and fees:

Damages	\$ _____
Attorneys' fees (if allowable)	\$ _____
Interest (if allowable)	\$ _____
Filing fee	\$ _____
Service fee	\$ _____
Witness fees	\$ _____
Total Judgment	\$ _____

Attorney for Plaintiff

If the Plaintiff is not represented by an attorney, the Plaintiff must complete the following affirmation.

I, _____, affirm under penalty of perjury under the laws of the State of New Mexico that the statements in this motion are true and correct.

Dated: _____

Signature of person making affirmation

Printed name of person making affirmation

USE NOTE

1. The plaintiff may fulfill this requirement by completing and filing Form 4-702A NMRA.
[As amended by Supreme Court Order No. 16-8300-019, effective for all cases pending or filed on or after December 31, 2016.]

4-702A. Affirmation in support of default judgment.
[50 U.S.C. § 3931]

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

_____, Plaintiff,

v.

No. _____

Judge _____

_____, Defendant.

**AFFIRMATION OF PLAINTIFF
IN SUPPORT OF APPLICATION FOR DEFAULT JUDGMENT**

I, _____, affirm under penalty of perjury under the laws of the State of New Mexico that the following statements are true and correct:

1. I am over the age of 18, of sound mind, have personal knowledge of the matters contained in this affirmation, and if called as a witness, I would and could testify competently thereto.

2. *(Check applicable box.)*

The defendant is in military service;

The defendant is not in military service; or

I am unable to determine whether the defendant is in military service.

3. The following facts support the statements in this affidavit: _____

_____.

Dated: _____

Signature of person making affirmation

Printed name of person making affirmation

USE NOTE

1. The plaintiff may be able to access the federal government’s Servicemembers Civil Relief Act (SCRA) website to obtain a certificate setting forth the defendant’s military status. See <https://scra.dmdc.osd.mil/scra>.

[Adopted by Supreme Court Order No. 16-8300-019, effective for all cases pending or filed on or after December 31, 2016.]

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

_____, Plaintiff,

v.

No. _____

Judge _____

_____, Defendant.

**CERTIFICATE AS TO THE STATE OF THE RECORD AND NON-
APPEARANCE**

I, the undersigned, Clerk of the District Court of the Third Judicial District of the State of New Mexico, within and for the County of Dona Ana, do hereby certify:

1.	That a complaint/petition in the above-entitled cause was filed in my office on the _____ (day) of _____ (month), 20 _____;
2.	That process was issued on the _____ (day) of _____ (month), 20 _____;
3.	That it appears from the return made by _____ (name) of _____ County, that the process was served on said Defendant(s);
4.	That the process was served on said Defendant(s) _____ (name) on the _____ (day) of _____ (month), 20 _____ by _____ (type of)

I further certify that no appearance, for the said Defendant(s) has been filed in my office or of record. **IN WITNESS WHEREOF**, I have hereunto set my hand and the seal of said Court this _____ of _____, 20 _____.

BERNICE A. RAMOS
Clerk of the District Court

(SEAL)

By: _____
Deputy

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

_____, Plaintiff,

v.

No. _____

Judge _____

_____, Defendant.

REQUEST FOR SETTING

NON-JURY

Specific Matter(s) to be Heard: MOTION FOR DEFAULT JUDGMENT

Time requested for hearing: 15 minutes 30 minutes other _____

Any hearing presently set in this matter (*check one box*): Yes No

Requested by: PLAINTIFF/PETITIONER

Including yourself, list the names, addresses & telephone numbers of all the other parties (or their lawyer if they have one) who are entitled to receive notice of a hearing: (attach a separate sheet if necessary):

Name:	Name:
Address :	Address :
Telephone:	Telephone:

I certify that I have caused a copy of this REQUEST FOR HEARING to be mailed to the above party(ies) (or their lawyer, if they have one) on _____
(*print the date here*)

(Sign Your Name)
(Print Your Name) _____
(Your mailing address) _____
(City/State/Zip) _____
(Your Telephone) _____

4-703. Default judgment; judgment on the pleadings.

[For use with Rules 2-303, 2-702, 3-303 and 3-702 NMRA]

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

_____, Plaintiff,

vi.

No. _____

Judge _____

_____, Defendant.

**DEFAULT JUDGMENT
JUDGMENT ON THE PLEADINGS**

This cause coming before the court on motion of (*plaintiff*) (*defendant*) (*the court itself*) and the court finding it has jurisdiction and that:

- Plaintiff appeared (*in person*) (*and*) (*by attorney*) and defendant failed to appear;
- Defendant appeared (*in person*) (*and*) (*by attorney*) and plaintiff failed to appear;
- There is no genuine issue as to any material fact and that (*plaintiff*) (*defendant*) is entitled to a judgment on the pleadings;
- Defendant failed to answer on or before the appearance date fixed in the summons;
- Plaintiff has filed an affidavit or affirmation regarding defendant's military status;¹

The Court, having heard the evidence and argument presented, finds that service of process was duly made and finds:

- in favor of plaintiff and against defendant.
- in favor of defendant and against plaintiff.
- in favor of plaintiff on the complaint and in favor of defendant on the counterclaim/setoff.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that:

(Plaintiff) (Defendant) recover the following:

Damages	\$ _____
Other Damages	\$ _____
Interest to Date (if allowable)	\$ _____
Attorneys' Fees (if allowable)	\$ _____
Costs	\$ _____
TOTAL JUDGMENT	\$ _____

(check if appropriate)

- [Plaintiff] [Defendant] have possession of:

[] the premises at _____
(for forcible entry or detainer)

or

[] the following personal property: _____
(for replevin and restitution actions)

District Court Judge

SUBMITTED BY:

(Signature)

Print Name: _____

Address: _____

City/State: _____

Telephone: _____

USE NOTE

1. The Servicemembers Civil Relief Act, which provides certain protections to servicemembers against default judgments, applies to any civil action or proceeding in which the defendant has not made an appearance. *See* 50 U.S.C. § 3931.

[As amended, effective October 1, 1987; October 1, 1991; as amended by Supreme Court Order No. 16-8300-019, effective for all cases pending or filed on or after December 31, 2016.]