

4-226. Civil complaint provisions; consumer debt claims. (Effective July 1, 2017.)

[For use with Rule 1-009(J) NMRA]

In addition to the requirements set forth in the New Mexico Rules of Civil Procedure, a pleading asserting a claim subject to Rule 1-009(J) shall include, at a minimum, the following provisions:

STATE OF NEW MEXICO
COUNTY OF _____
_____ JUDICIAL DISTRICT

_____, Plaintiff

v. _____ No. _____

_____, Defendant

CIVIL COMPLAINT

___ (a) The full name and address of the Defendant is as follows: _____

(b) The last two (2) digits of the Defendant's social security number, contained in the original creditor's records are as follows: _____

(c) If the Plaintiff does not provide the social security number above, Plaintiff states, with specificity, that the basis on which it was determined that the named Defendant is the debtor on the debt is as follows: _____

___ [] The Plaintiff in this action IS the original creditor; OR
[] The Plaintiff IS NOT the original creditor and the name and address under which the original creditor did business with the Defendant is as follows: _____

___ The last four (4) digits of the Defendant's account number, used by the original creditor as of the date of default are as follows: _____

___ The balance due at the time of default is as follows: _____

___ (a) The total amount of the debt claimed is \$ _____, itemized as follows:

Principal amount due: _____

Interest: _____

Other charges, fees, and expenses (specified individually): _____

The itemization of the amount of the debt claimed set forth above does not include attorney fees and court costs.

(b) The basis for each of the itemized charges, fees, or expenses is as follows:

___ The date of last payment made by Defendant is as follows: _____

___ Plaintiff states, consistent with Rule 1-011 NMRA, that the applicable statute of limitations on this claim has not run.

___ The name and address of the current owner of this debt is as follows: _____

___ Plaintiff [] IS or [] IS NOT a collection agency. If the Plaintiff is a collection agency:

(a) the name and address of the collection agency is as follows: _____

(b) The New Mexico license number for the collection agency is as follows:

(c) The specific facts demonstrating that the collection agency is the real party in interest are as follows: _____

___ [] The original or copy of any instrument of writing on which the action is founded IS attached as Exhibit A. *See* Rule 1-009(J)(2) NMRA.

[] The original or copy of any instrument of writing on which the action is founded IS NOT attached. The reason the instrument of writing is not attached is as follows:

___ [] Plaintiff alleges entitlement to enforce the debt but is not the original creditor. Plaintiff has attached an affidavit showing the chain of title or assignment of the debt. *See* Rule 1-017(E)(2) NMRA.

___ Plaintiff also seeks court costs and the following additional relief as specified:

WHEREFORE, Plaintiff demands judgment in the amount of \$ _____, and costs [and attorney fees] and such further relief as the court deems proper.

Date

Signature

Name (print)

Address (print)

City, State, and Zip Code (print)

Telephone Number

USE NOTE

Rule 1-008(A)(3) NMRA bars asking for damages in any specific amount “unless it is a necessary allegation of the complaint.” Rule 1-054(C) NMRA bars default judgments exceeding the amount stated in the demand for judgment. Consistent with Rule 1-008(A)(3) and Rule 1-054(C), and in order to provide notice to the defendant of the consequences of a default judgment, the demand for judgment in a specific amount is here made a necessary part of the complaint.

[Adopted by Supreme Court Order No. 16-8300-031, effective for all cases pending or filed on or after July 1, 2017.]