

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

COURT
COUNTY

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: _____

Judge

By: _____

- [] 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.]