

**9-405. Waiver of arraignment - Entry of plea of not guilty.**  
[For use with District Court Rule 5-303 NMRA]

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
IN THE DISTRICT COURT

No. \_\_\_\_\_

STATE OF NEW MEXICO

v.

\_\_\_\_\_, Defendant

**WAIVER OF ARRAIGNMENT<sup>1</sup>**  
**ENTRY OF PLEA OF NOT GUILTY**

I understand that I am charged with the following criminal offense or offenses under the law of the State of New Mexico: \_\_\_\_\_ (*list all offenses charged*).

I understand that I am entitled to personally appear before the district court and enter my plea to the crime or crimes charged and to have my rights explained to me.

I hereby acknowledge receipt of a copy of the complaint, indictment or information which I have read and had explained to me by defense counsel. I understand the crime or crimes charged and the penalty provided by law for the crime or crimes charged.

I further understand that: I have a right to trial by jury; I have a right to the assistance of an attorney at all stages of the proceeding, and to an appointed attorney, to be furnished free of charge, if I cannot afford one; I have a right to confront the witnesses against me and to cross-examine them as to the truthfulness of their testimony; I have a right to present evidence on my own behalf and to have the state compel witnesses of my choosing to appear and testify; I have a right to remain silent and that any statement made by me may be used against me; I have a right to trial by jury and that all jurors must agree on my guilt of the crime charged beyond a reasonable doubt for me to be found guilty.

After reading and understanding the above, I hereby give up my right to personally appear before the district court for arraignment and I hereby enter a plea of not guilty to all criminal offenses charged in the above-styled cause.

I understand that any conditions of release previously imposed remain in effect.

I further understand that the district court may impose additional conditions of release,

and, if no conditions of release have been previously set, the district court may impose conditions of release and may require me to attend a hearing to address conditions of release.

\_\_\_\_\_ Date

\_\_\_\_\_ Name of Defendant

I have explained to the defendant the defendant's right to personally appear before the district court to enter a plea of not guilty and to have the defendant's rights explained to the defendant by the judge and I am satisfied that the defendant understands the waiver of this right.

I certify that I served a copy of this waiver on opposing counsel. I also certify that:

if conditions of release were previously imposed, a copy of the order imposing those conditions of release is attached to this waiver; or

the parties have entered into a stipulated order setting conditions of release, which is attached to this waiver for the court's approval; or

the parties request a hearing to consider conditions of release.

\_\_\_\_\_ Date

\_\_\_\_\_ Defense counsel

### ADDITIONAL PROVISIONS<sup>2</sup>

Defendant shall appear on \_\_\_\_\_ to review conditions of release.

Release on personal recognizance. It is ordered that the defendant be released without bail on the defendant's promise to appear and subject to the conditions checked below.

Third party custody release  
to: \_\_\_\_\_.

Bond is continued as set in Magistrate Court and shall be transferred to District Court.

Bond is set in the sum of: \_\_\_\_\_ dollars (\$), and the defendant and their sureties will execute a bond binding them to pay the State of New Mexico the amount set in the event that the defendant fails to appear as required. The bond shall be posted in the manner indicated below:

Secured by signature – by the defendant and their sureties.

- Cash only - the posting of the entire amount of the bond set.
- Corporate surety – the posting of a security for the full amount by a certified and approved bonding company.
- 10% cash deposit – the deposit of not more than 10% of the bond in cash into the court registry.
- Property – the posting of unencumbered real estate to cover the amount of the bond.
- Defendant must contact their attorney \_\_\_\_\_ (*frequency, e.g., weekly*).
- Pre-trial conference date is: \_\_\_\_\_.
- Docket call date is: \_\_\_\_\_.
- Trial date is: \_\_\_\_\_.
- Defendant must sign Waiver of Extradition.
- Defendant is not to leave the jurisdiction of the court.
- Defendant is not to consume any alcoholic beverages or non-prescription drugs.
- Defendant is not to have contact with any co-defendants, victims or any witnesses.
- Defendant is to obey all law of the United States and the State of New Mexico.
- Defendant is to be booked at \_\_\_\_\_ county detention center and released.
- Other: \_\_\_\_\_.

\_\_\_\_\_  
Date

\_\_\_\_\_  
District Judge

#### USE NOTES

1. This waiver must be served on the state in time for the state to notify victims and others that an arraignment will not be held. This waiver shall not be filed and is not effective unless signed by the district court judge.

2. If the court decides to impose new or additional conditions of release prior to accepting the waiver of arraignment, the court shall issue a notice of hearing to all parties to address conditions of release.

[As amended, effective September 1, 2005; as amended by Supreme Court Order No. 07-8300-029, effective December 10, 2007.]