

4-226. Civil complaint provisions; consumer debt claims.

[For use with District Court Rule 1-009(J) NMRA,
Magistrate Court Rule 2-201(E) NMRA, and
Metropolitan Court Rule 3-201(E) 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) NMRA, Rule 2-201(E) NMRA, or Rule 3-201(E) NMRA shall include, at a minimum, the following provisions:

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT/MAGISTRATE COURT/

METROPOLITAN COURT

_____, 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, Rule 2-301 NMRA, or Rule 3-301 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, Rule 2-201(E)(2) NMRA, or Rule 3-201(E)(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, Rule 2-401(D)(2) NMRA, or Rule 3-401(D)(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 NOTES

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; as amended by Supreme Court Order No. 20-8300-005, effective for all cases filed on or after December 31, 2020.]