

4-805.1. Application for writ of garnishment in consumer debt collection case. (Effective September 1, 2021 through January 31, 2022.)

[For use with Rules 1-065.2, 2-802, and 3-802 NMRA]

STATE OF NEW MEXICO
COUNTY OF _____
IN THE _____ COURT

_____, Plaintiff,

v.

No. _____

_____, Defendant.

APPLICATION FOR WRIT OF GARNISHMENT

The judgment creditor, _____, states:

- (1) The judgment creditor has a judgment dated _____ against the judgment debtor whose name is _____, and whose last known address is _____.
- (2) The total amount of the judgment including the principal, interest, costs, and attorney fees awarded by the judgment was \$ _____.
- (3) From the date the judgment was filed through the date this Application was signed, additional interest at the rate of ____% totals \$ _____. Judgment creditor has incurred additional costs of \$ _____ and additional attorney fees of \$ _____.
- (4) Payments totaling \$ _____ have been received.
- (5) The unpaid balance now due is \$ _____ (*insert this amount on Civil Form 4-806 NMRA as "Balance Due upon Application for Writ"*) plus interest from the date this Application is filed.
- (6) Estimated costs would equal \$ _____ and the judgment creditor will seek \$ _____ in attorney fees.
- (7) Judgment debtor, to my knowledge, does not have sufficient property within New Mexico subject to execution to satisfy the judgment. I understand that I have a duty to make a reasonable investigation into the truth of this statement and have done so as follows:¹

(This allegation is not necessary prior to garnishment of funds for child support or alimony obligations.)

(8) I have reason to believe, and do believe, that the garnishee,
_____ (*name of garnishee*)
_____ (*address*), holds or controls money
or personal property which belongs to the judgment debtor or is indebted to the
judgment debtor.²

(9) The money or property held by the garnishee is not exempt from garnishment.

(10) The undersigned certifies that on _____, a true and correct copy of the
List of Resources (as defined in Supreme Court Order No. 21-8500-018) was
sent to each individual consumer judgment debtor for whom a Writ is sought at
each individual consumer judgment debtor's last known address.

(11) The undersigned further certifies that although this is a consumer debt collection
case, the stay of issuance of writs of garnishment provided by New Mexico
Supreme Court Order No. 20-8500-021 has been lifted by Supreme Court Order
No. 21-8500-018, as applicable to this case, prior to the date of this Application.

Therefore the judgment creditor requests a Writ of Garnishment.

Judgment creditor or attorney for judgment creditor

Judgment creditor's or attorney's name printed

Address of judgment creditor or attorney

City, state, and zip code (*print*)

Telephone number of judgment creditor or attorney

Date of signing

AFFIDAVIT

*(application must be sworn to
unless signed by an attorney)*

Subscribed and sworn to before me this ____ day of _____, _____.

_____ (seal)

Notary or other officer authorized
to administer oaths

USE NOTES

1. The judgment creditor shall list any steps taken to investigate whether the judgment debtor possesses property within New Mexico subject to execution to satisfy the judgment. A reasonable investigation may be made, for example, by conducting a credit check or by asking the judgment debtor to identify all of the judgment debtor's assets during a court hearing.

2. *See Jemko v. Liaghat*, 106 N.M. 50, 52, 738 P.2d 922, 925 (Ct. App. 1987) (providing that a judgment creditor, acting pursuant to a writ of garnishment, may only seize property belonging to the judgment debtor); *Alcantar v. Sanchez*, 2011-NMCA-073, 150 N.M. 146, 257 P.3d 966 (discussing garnishment procedures in the case of joint bank accounts).

[Adopted by Supreme Court Order No. 21-8300-005, effective for a limited time from September 1, 2021 to January 31, 2022.]