

1 **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2 **August 2, 2021**

3 **NO. 21-8300-004**

4 **IN THE MATTER OF THE ADOPTION**
5 **OF NEW RULES 1-003.3 AND 1-054.2 NMRA**
6 **OF THE RULES OF CIVIL PROCEDURE**
7 **FOR THE DISTRICT COURTS AND**
8 **CIVIL FORMS 4-227 AND 4-712 NMRA**
9 **FOR PRE-FILING AND PRE-JUDGMENT**
10 **REQUIREMENTS IN FORECLOSURE ACTIONS**

11 **ORDER**

12 WHEREAS, this matter having come on for consideration by the Court upon
13 recommendation to adopt new rules and forms for certain pre-filing and pre-
14 judgment requirements to promote the fair and orderly administration of foreclosure
15 actions in New Mexico;

16 WHEREAS, a significant increase in the number of foreclosure actions filed
17 in New Mexico state courts is expected when current federal moratoriums on
18 foreclosure actions expire; and

19 WHEREAS, in light of the foregoing, and the Court having considered the
20 recommendation and being sufficiently advised, Chief Justice Michael E. Vigil,
21 Justice C. Shannon Bacon, Justice David K. Thomson, and Justice Julie J. Vargas
22 concurring;

23 NOW, THEREFORE, IT IS ORDERED that new Rules 1-003.3 and 1-054.2
24 of the Rules of Civil Procedure for the District Courts and new Forms 4-227 and 4-
25 712 NMRA of the Civil Forms are ADOPTED;

26 IT IS FURTHER ORDERED that the above-referenced new rules and forms
27 shall be **effective for all cases filed on or after September 7, 2021;**

28 IT IS FURTHER ORDERED that the list of resources referenced in Form 4-
29 227 NMRA should be substantially in the form of the list of resources posted on the

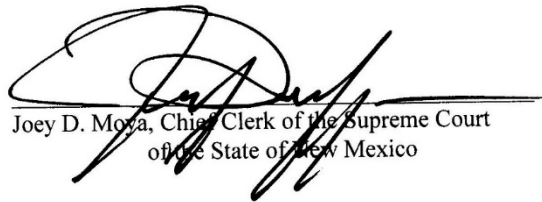
1 New Mexico Judiciary website (see also Attachment 1 to this order); and

2 IT IS FURTHER ORDERED that the Clerk of the Court is authorized and
3 directed to give notice of the above-referenced new rules and forms by publishing
4 them in the *Bar Bulletin* and *New Mexico Rules Annotated*.

5 IT IS SO ORDERED.



WITNESS, the Honorable Michael E. Vigil, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 2nd day of August, 2021.


Joey D. Moya, Chief Clerk of the Supreme Court
of the State of New Mexico

6

HOMEOWNER HELP RESOURCES

- **HOUSING COUNSELING AND LEGAL SERVICES**

- United South Broadway Corporation (USBC)
 - (505) 764-8867
 - <https://www.unitedsouthbroadway.org/>
 - 1500 Walter St., SE, Albuquerque, NM 87102
- Southwest Neighborhood Housing Services
 - (505) 243-5511
 - <https://www.nhsfalb.org/>
 - 6301 Fourth St., NW, Albuquerque, NM 87107
- Senior Citizens Law Office (SCLO)
 - (505) 265-2300
 - <http://sclonm.org/>
 - 4317 Lead Ave., SE, Suite A, Albuquerque, NM 87108
- New Mexico Legal Aid (NMLA)
 - (833) 545-4357
 - <https://www.newmexicolegalaid.org/>
 - 505 Marquette Ave., NW, Albuquerque, NM 87102
- New Mexico Center on Law & Poverty
 - <http://nm-poverty-law.org/find-services-and-benefits/legal-help/>

- **ATTORNEY REFERRAL**

- State Bar of New Mexico Lawyer Referral
 - (505) 797-6066 or (800) 876-6227, option 2
 - <https://www.sbnm.org/For-Public/I-Need-a-Lawyer/State-Bar-General-Referral>
- Legal Resources for the Elderly Program (55+)
 - (505) 797-6005 or (800) 876-6657
 - <https://www.sbnm.org/For-Public/I-Need-a-Lawyer/Legal-Resources-for-the-Elderly>

- Albuquerque Bar Association Lawyer Referral
 - (505) 243-2615
- **PUBLIC ASSISTANCE FUNDS**
 - New Mexico Homeowner Assistance Fund
 - (505) 308-4206 or (866) 488-0498
 - <https://www.housingnm.org/static/homeowner-assistance-fund>
- **FEDERAL GOVERNMENT RESOURCES**
 - **Consumer Financial Protection Bureau (CFPB)**
 - If you are a homeowner struggling to pay your mortgage, you may have more time to seek mortgage forbearance and foreclosure relief. Learn about mortgage relief options during the coronavirus pandemic.
 - <https://go.usa.gov/xHXQW>
 - **HUD**
 - https://www.hud.gov/coronavirus?utm_medium=email&utm_source=govdelivery
 - https://www.hud.gov/program_offices/housing/sfh/nsc/lossmit
 - https://www.hud.gov/topics/avoiding_foreclosure
 - **FNMA**
 - <https://www.fanniemae.com/here-help-homeowners>
 - <https://www.knowyouroptions.com/loanlookup>
 - **Freddie Mac**
 - <https://myhome.freddie.mac.com/getting-help/>
 - <https://myhome.freddie.mac.com/getting-help/relief-for-homeowners.html>
 - <https://loanlookup.freddie.mac.com/>
 - **USDA**
 - <https://www.rd.usda.gov/newsroom/news-release/usda-extends-foreclosure-and-eviction-moratorium-single-family-housing-direct>

- VA
 - <https://www.va.gov/housing-assistance/home-loans/trouble-making-payments/>
 - If you're having difficulty making your mortgage payment, contact your loan servicer right away. This is your chance to find a solution that might work for your scenario. If you're nervous about contacting your servicer, or if you'd like our help and advice, please contact a VA loan technician at [877-827-3702](tel:877-827-3702).

1 **1-003.3. Commencement of foreclosure action; certification of pre-filing notice required.**

2 A certification of pre-filing notice, substantially in the form approved by the Supreme
3 Court as Form 4-227 NMRA, shall be submitted with any complaint initiating a foreclosure action.
4 Notwithstanding the provisions of Rule 1-005(F) NMRA, the clerk shall not accept for filing any
5 foreclosure complaint that is not submitted with the certification form required under this rule.

6 [Approved by Supreme Court Order No. 21-8300-004, effective for all cases filed on or after
7 September 7, 2021.]

1 **1-054.2. Judgments in foreclosure actions; certification concerning loan modification and**
2 **loss mitigation negotiations required.**

3 As a precondition to the entry of judgment of foreclosure by the district court, the plaintiff
4 shall file a certification, substantially in the form approved by the Supreme Court as Form 4-712
5 NMRA, concerning loan modification and loss mitigation negotiations with the borrower.

6 [Approved by Supreme Court Order No. 21-8300-004, effective for all cases filed on or after
7 September 7, 2021.]

1 **4-227. Plaintiff's certification of pre-filing notice; foreclosure actions.**

2
3 [For use with District Court Rule 1-003.3 NMRA]

4
5 STATE OF NEW MEXICO
6 COUNTY OF _____
7 _____ JUDICIAL DISTRICT COURT

8
9 _____,

10
11 Plaintiff,

12
13 vs.

No. _____

14
15 _____,

16
17 Defendant.

18
19 **PLAINTIFF'S CERTIFICATION OF PRE-FILING NOTICE**

20
21 I, _____ (*name*), _____ (*title*), for

22 Plaintiff certify that on _____ (*date*) Plaintiff provided pre-filing notice to

23 Defendant of the following:

- 24 1. A list and brief description of each of the types of loss mitigation options available to
25 Defendant by the owner or assignee of Defendant's mortgage loan and the actions
26 Defendant must take to be evaluated for such loss mitigation options;
27
28 2. Notification as to whether the loan is federally backed or a government sponsored
29 enterprise (GSE) loan, and if so, who holds the loan;
30
31 3. Contact information for the loan servicer; and
32
33 4. A list of resources, substantially in a form approved by the Supreme Court, that
34 Defendant may contact for assistance.

35
36 I further certify that one of the following has been met (*check one*):

- 37
38 Defendant submitted a complete loss mitigation application, remained delinquent at all
39 times since submitting the application, and the servicer has completed review of the
40 application.
41

1 **4-712. Plaintiff's certification of absence of loan modification and loss mitigation**
2 **negotiations in foreclosure actions.**

3
4 [For use with District Court Rule 1-054.2 NMRA]

5
6 STATE OF NEW MEXICO
7 COUNTY OF _____
8 _____ JUDICIAL DISTRICT COURT
9

10 _____,

11 Plaintiff,

12 vs.

13 No. _____

14 _____,

15 Defendant.
16
17

18
19
20 **PLAINTIFF'S CERTIFICATION OF THE ABSENCE OF LOAN**
21 **MODIFICATION AND/OR LOSS MITIGATION NEGOTIATIONS**
22

23 I, _____, duly authorized agent for Plaintiff certify that
24 on _____ Plaintiff provided pre-filing notice to Defendant of the following:

- 25 1. Neither Plaintiff nor any affiliate or agent of Plaintiff is currently engaged in any loan
26 modification negotiations with Defendant or Defendant's agents.
27
28 2. Neither Plaintiff nor any affiliate or agent of Plaintiff is currently engaged in any loss
29 mitigation negotiations with Defendant or Defendant's their agents.
30
31 3. Plaintiff or its affiliate or agent has solicited and attempted to engage Defendant
32 homeowner in loan modification negotiations pre-foreclosure.
33
34 4. Plaintiff or its affiliate or agent has solicited and attempted to engage Defendant
35 homeowner in loss mitigation negotiations pre-foreclosure.
36

37
38 _____
39 Company Name

40 _____
41 Signature

42 _____
43 Printed Name

**CIVIL FORMS
RULE 4-712
[NEW MATERIAL]**

**Supreme Court Approved
August 2, 2021**

1
2
3
4
5
6
7

Title

Address

[Approved by Supreme Court Order No. 21-8300-004, effective for all cases filed on or after
September 7, 2021.]