

DOMESTIC RELATIONS
INSTRUCTIONS FOR APPLICATION FOR FREE PROCESS
For Petitioners

If you are “indigent” you may ask the Court to waive filing fees, service of process fees, and other fees that you must pay when filing a legal action. If the Court waives fees for you, you have been granted “free process”. To determine whether you qualify for free process, the Court reviews your application in light of the Federal Poverty Guidelines. If you fall within those guidelines, you will be granted free process. Depending upon your income, assets, and obligations, the Court may waive all of the required fees, or part of the required fees.

1. APPLICATION FOR FREE PROCESS AND AFFIDAVIT OF INDIGENCY

Using the form with the heading “Application for Free Process and Affidavit of Indigency” in this packet, complete the caption:

A. In the blank provided, write in what County you reside in. Legal actions must be filed in the County where you reside.

B. In the blank provided, write in the name of the Court where you are filing your Application. If you reside in Bernalillo County, the court is the “Second Judicial District” Court. Do not write anything in the blank next to “No.”. The court clerk will assign this number when your application is filed.

C. In the blank provided, write in your name as the person who will be filing the legal action. That person is the “Petitioner”.

D. In the blank provided, write in the name of the person or persons you are suing. That person (or persons) is the “Respondent”.

E. Read the form carefully and fill in the rest of the blanks in the form. You must fill in the form completely. Do not omit information. If the response is zero, you must write in “zero” or “0”. Do not skip any sections. When an explanation for your answer is required, be sure to give a complete explanation. Lack of sufficient information is the most common reason the Court denies applications for free process. Be complete!

F. On the last page of the application, indicate your address and telephone number. If you do not have a telephone, write “none”. Make sure you check the blank to indicate that you are the Petitioner. Check the blank to indicate that you are “pro se” (which means that you do not have an attorney). ~~DO NOT SIGN THE FORM UNTIL YOU ARE WITH THE NOTARY.~~

~~G. This form MUST be notarized. Enter the State and County in the blanks provided. Sign your name on the signature block on the last page before a notary. Be prepared to show a picture ID to the Notary. Notary service is available in the Domestic Relations Clerks Office, Room 240 of the courthouse, or in the Civil/Criminal Clerks Office, Room 119 of the courthouse.~~

~~You may also go to any available notary public.~~ ***As a COVID 19 safety measure, notarization of this document is temporarily suspended. On the last page of the application, fill out the affirmation, enter the date, and sign and print your name in the blanks provided.***

2. ORDER ON APPLICATION FOR FREE PROCESS

A. On the Order on Application for Free Process, you are only responsible for completing the caption. Write in the Petitioner(s) and Respondent(s) names exactly the same as it appears on the Application for Free Process.

B. In the blank provided for “No.”, write in the case number that was assigned by the court clerk.

C. DO NOT WRITE IN ANYTHING ELSE. The judge will fill in the rest of the Order.

3. IF YOU ARE REPRESENTED BY AN ATTORNEY IN THIS CASE

If you are represented by an attorney in this case, ask your attorney to fill out an “ATTORNEY’S AFFIDAVIT SUPPORTING INDIGENCY”. This form is only required if you are represented by an attorney.

4. PROCESSING AND FILING YOUR APPLICATION AND ORDER

A. Take your completed Application and Order packet to the Family Court Information Desk along with the Petition or Motion you wish to file. The Family Court Information Desk is located on the Second Floor of the Bernalillo County Courthouse, at 400 Lomas Blvd., NW and is open between the hours of 8:00 a.m. - 12:00 noon and 1:00 p.m. - 5:00 p.m., Monday through Friday. You will leave your completed packet with the desk clerk. That clerk will send the packet to the assigned judge for review and approval (or denial).

B. Wait five (5) business days to check whether the judge approved your Order on Application for Free Process. Return to the Family Court Information Desk and ask for your packet. Once you have received your packet, be sure to carefully read your free process Order. The judge may decide to waive all of your fees, or only a part of your fees, or the judge may deny your request. Read all of your Order to determine whether you must pay some, or none, or all of the court fees. Other costs normally not covered by free process are listed at the bottom of the Order.

C. Although your Order for free process might include waiver of the service of process fee charged by the Sheriff within Bernalillo County, YOU are responsible for arranging for that service with the Sheriff’s Office.

D. If the judge did not grant your Order for Free Process, you must pay the full filing fee before you can file your petition or motion.

DOMESTIC RELATIONS

INSTRUCTIONS FOR APPLICATION FOR FREE PROCESS

For Respondents

If you are “indigent” you may ask the Court to waive filing fees, service of process fees, and other fees that you must pay when filing a legal action. If the Court waives fees for you, you have been granted “free process”. To determine whether you qualify for free process, the Court reviews your application in light of the Federal Poverty Guidelines. If you fall within those guidelines, you will be granted free process. Depending upon your income, assets, and obligations, the Court may waive all of the required fees, or part of the required fees.

1. APPLICATION FOR FREE PROCESS AND AFFIDAVIT OF INDIGENCY

Using the form with the heading “Application for Free Process and Affidavit of Indigency” in this packet, complete the caption by duplicating the caption on the legal action that has already been filed in this matter:

A. In the blanks provided, write in the County, the Court, the case number, the Petitioner’s name, and the Respondent’s name (yours) exactly as they are indicated on the legal action that you are re-opening.

B. Read the form carefully and fill in the rest of the blanks in the form. You must fill in the form completely. Do not omit information. If the response is zero, you must write in “zero” or “0”. Do not skip any sections. When an explanation for your answer is required, be sure to give a complete explanation. Lack of sufficient information is the most common reason the Court denies applications for free process. Be complete!

C. On the last page of the application, indicate your address and telephone number. If you do not have a telephone, write “none”. Make sure you check the blank to indicate that you are the Respondent. Check the blank to indicate that you are “pro se” (which means that you do not have an attorney). ~~DO NOT SIGN THE FORM UNTIL YOU ARE WITH THE NOTARY.~~

~~D. This form MUST be notarized. Enter the State and County in the blanks provided. Sign your name on the signature block on the last page before a notary. Be prepared to show a picture ID to the Notary. Notary service is available in the Domestic Relations Clerks Office, Room 240 of the courthouse, or in the Civil/Criminal Clerks Office, Room 119 of the courthouse. You may also go to any available notary public.~~ *****As a COVID 19 safety measure, notarization of this document is temporarily suspended. On the last page of the application, fill out the affirmation, enter the date, and sign and print your name in the blanks provided.*****

2. ORDER ON APPLICATION FOR FREE PROCESS

A. On the Order on Application for Free Process, you are only responsible for completing the caption. Write in the caption exactly as it appears on the legal action in which you intend to

file a motion. This should be exactly the same as the caption appears on the Application for Free Process.

B. In the blank provided for “No.”, write in the case number that was previously assigned by the court clerk.

C. DO NOT WRITE IN ANYTHING ELSE. The judge will fill in the rest of the Order.

3. IF YOU ARE REPRESENTED BY AN ATTORNEY IN THIS CASE

If you are represented by an attorney in this case, ask your attorney to fill out an “ATTORNEY'S AFFIDAVIT SUPPORTING INDIGENCY”. This form is only required if you are represented by an attorney.

4. PROCESSING AND FILING YOUR APPLICATION AND ORDER

A. Take your completed Application and Order packet to the Family Court Information Desk along with the Motion you wish to file. The Family Court Information Desk is located on the Second Floor of the Bernalillo County Courthouse, at 400 Lomas Blvd., NW and is open between the hours of 8:00 a.m. - 12:00 noon and 1:00 p.m. - 5:00 p.m., Monday through Friday. You will leave your completed packet with the desk clerk. That clerk will send the packet to the assigned judge for review and approval (or denial).

B. Wait five (5) business days to check whether the judge approved your Order on Application for Free Process. Return to the Family Court Information Desk and ask for your packet. Once you have received your packet, be sure to carefully read your free process Order. The judge may decide to waive all of your fees, or only a part of your fees, or the judge may deny your request. Read all of your Order to determine whether you must pay some, or none, or all of the court fees. Other costs normally not covered by free process are listed at the bottom of the Order.

C. Although your Order for free process might include waiver of the service of process fee charged by the Sheriff within Bernalillo County, YOU are responsible for arranging for that service with the Sheriff's Office.

D. If the judge did not grant your Order for Free Process, you must pay the full filing fee before you can file your motion.

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

_____,
Petitioner

v.

No. _____

_____,
Respondent

APPLICATION FOR FREE PROCESS AND AFFIDAVIT OF INDIGENCY

I request that the court enter an order permitting me to file this case without prepayment of fees and costs and give upon my oath or affirmation the following statement.

My marital status is: Single _____ Married _____ Divorced _____ Separated _____ Widowed _____

I request interpretation services: _____ yes _____ no (If yes, please describe what you need)

INFORMATION ABOUT MY FINANCES (check all that apply to you and fill in the blanks):

A. PUBLIC ASSISTANCE

_____ I do not receive public assistance. (If you check this blank, go directly to Section B
EMPLOYMENT/UNEMPLOYMENT).

_____ I currently receive the following public assistance in _____ County (please check all
applicable public assistance programs):

_____ Temporary Assistance for Needy Families (TANF)

_____ Food Stamps

_____ Medicaid

_____ General Assistance (GA)

_____ Supplemental Security Income (SSI)

_____ Social Security Disability Income (SSDI)

_____ Public Housing

_____ Disability Security Income (DSI)

_____ Department of Health Case Management Services (DHMS)

_____ Other (please describe _____)

B. EMPLOYMENT/UNEMPLOYMENT

_____ I am currently unemployed and have been unemployed for _____ months in the past year.
I am unemployed because _____.

_____ I receive unemployment benefits in the amount of \$ _____ per month.

_____ I have no income because I am unemployed.

_____ I am employed. I am paid \$ _____ per hour and work _____ hours per week.

My employer's name, address and phone number is:

_____ I am married, and my spouse is unemployed and has been unemployed for _____ months in the past year because _____
_____ My spouse receives unemployment benefits in the amount of \$ _____ per month.

_____ I am married, and my spouse is employed. My spouse is paid \$ _____ per hour and works _____ hours per week.

My spouse's employer's name, address and phone number is:

C. OTHER SOURCES OF INCOME (Check all that apply)

_____ I have income from another source not mentioned above.

_____ Child Support \$ _____
_____ Alimony \$ _____
_____ Investments \$ _____
_____ Community property from my spouse \$ _____
_____ Other _____ \$ _____

_____ I do not have any other sources of income.

_____ I am married, and my spouse has income from another source not mentioned above.

_____ Child Support \$ _____
_____ Alimony \$ _____
_____ Investments \$ _____
_____ Other _____ \$ _____
_____ Other _____ \$ _____

_____ I am married, and my spouse does not have any other sources of income.

_____ Another adult contributes to household income in the following amount: \$ _____.

D. OTHER ASSETS (Please list other assets owned by you or your spouse that can be turned into cash. Do not include money you have in retirement accounts):

Cash on hand	\$ _____
Bank accounts	\$ _____
Stocks/bonds	\$ _____
Income tax refund	\$ _____
Other assets (describe below):	\$ _____
_____	\$ _____
_____	\$ _____

IF YOU DO NOT HAVE ACCESS TO YOUR OWN OR YOUR SPOUSE'S INCOME OR ASSETS,
EXPLAIN WHY.

E. MONTHLY EXPENSES

House Payment/Rent	\$ _____
Utilities	\$ _____
Telephone	\$ _____
Groceries (after food stamps)	\$ _____
Car Payment(s)	\$ _____
Gasoline	\$ _____
Insurance	\$ _____
Child Care	\$ _____
Student and Consumer Loans	\$ _____
Court-ordered family support obligations	\$ _____
Other court-ordered payments	\$ _____
Medical expenses	\$ _____
Other _____	\$ _____

F. HOUSEHOLD

I live at _____,

and the head of the household is _____,

Other than myself, the other members of the household are:

<u>Name</u>	<u>Age</u>	<u>Employment</u>	<u>I Support</u>
_____	_____	_____	()
_____	_____	_____	()
_____	_____	_____	()
_____	_____	_____	()
_____	_____	_____	()

*This statement is made under oath. I hereby state that **the above** information regarding my financial condition is correct to the best of my knowledge. I hereby authorize the Court to obtain information from financial institutions, employers, relatives, the federal internal revenue service and other state agencies. If at any time the Court discovers that information in this application for free process was false, misleading, inaccurate, or incomplete at the time the application was submitted, the Court may require me to pay for any costs or fees that were waived under an order of free process that was granted based on the information in this application.*

I, _____, the (Petitioner/Respondent), affirm under penalty of perjury under the laws of the State of New Mexico that the preceding statements are true and correct.

Date: _____

Signature

Name (printed)

Address

Telephone number

**STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT**

_____,
Petitioner

v.

No. _____

_____,
Respondent

ORDER ON APPLICATION FOR FREE PROCESS

THIS MATTER having come before the court on ☐ Petitioner's ☐ Respondent's application for free process and affidavit of indigency, and the court being otherwise advised in the premises,

FINDS that:

☐ the applicant is entitled to free process in accordance with Rule 23-114 (B)(2)NMRA.

☐ the applicant receives public assistance and is, therefore, entitled to free process.

☐ the applicant's annual gross income does not exceed _____ percent of the federal poverty guidelines, and the applicant is, therefore, entitled to free process.

☐ the applicant's annual gross income exceeds _____ percent of the federal poverty guidelines, but the applicant is not reasonably able to pay fees or costs and is, therefore, entitled to free process.

☐ on the basis of the applicant's available funds or annual income, the applicant is not entitled to free process.

THE COURT ORDERS that:

☐ the applicant receives State assistance and therefore, the Court Clerk is directed to issue an

Order of Reference to the Child Support Hearing Officer Division. The Child Support Enforcement Division is granted leave to intervene.

☐ the filing fee is waived.

☐ the filing fee is waived except for the \$_____ alternative dispute resolution (ADR) fee.

☐ the applicant is granted free service of process by the Sheriff in Bernalillo County, New Mexico for 1 2 3 4 5 or _____ summons(es), provided that the applicant first attempts service by certified mail pursuant to Rule 1-004 NMRA.

☐ the applicant is granted free service of process by the Sheriff in Bernalillo County, New Mexico of a temporary restraining order or _____.

☐ the applicant is to pay the filing fee on _____, 20____.

☐ interpretation services shall be provided to the applicant.

☐ free process is denied.

☐ Other: _____.

Unless specifically granted above, this order of free process does not include the following costs: jury fees, certification fees, subpoena fees for witnesses, witness fees for hearings or trials, mailings, long distance charges, transcripts for appeals or record proper, duplication fees for audiotapes or compact discs, copy charges, publication fees, or facsimile services. Application for all other costs are to be made to the judge assigned to your case. If the applicant prevails in this law suit and collects money by judgment or settlement, the court is to be reimbursed for any waived costs. *This order is subject to revision, modification or rescission by the judge assigned to your case.*

DISTRICT JUDGE