

1 4-926

2

3 [Sections 47-10-9, 47-8-40 and 47-8-41 NMSA 1978]

4

5 STATE OF NEW MEXICO

6 \_\_\_\_\_ COURT

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

7 \_\_\_\_\_ COUNTY

8

9

10 \_\_\_\_\_, Plaintiff

11

12 v.

13

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

15

16 **JUDGMENT FOR POSSESSION**  
17 **(Mobile Home Park Act)<sup>1</sup>**

18

19 This matter came on for trial on \_\_\_\_\_,  
20 (date). The plaintiff appeared (in person) (and) (by  
21 attorney \_\_\_\_\_). The defendant (did not appear)  
22 (appeared) (in person) (and) (by attorney \_\_\_\_\_).  
23 Having heard the evidence and argument presented, the court  
24 finds in favor of:

25

- 26 [ ] the plaintiff
- 27 [ ] the defendant.

28

29 The court further finds that the mobile home:

30

- 31 [ ] is subject to the security interest of a first  
32 lienholder<sup>2</sup>.
- 33 [ ] is not subject to the security interest of a first  
34 lienholder.

35

36 IT IS THEREFORE ORDERED:

37

- 38 1. The premises located in \_\_\_\_\_ County,  
39 New Mexico at:

40

\_\_\_\_\_ (name of mobile home park)

41

\_\_\_\_\_ (mobile home address)

42

\_\_\_\_\_ (mobile home lot or space)

43

\_\_\_\_\_, New Mexico \_\_\_\_\_

44

be restored to plaintiff;

45

- 46 2. The rental agreement is terminated;

47

- 48 3. (complete applicable)

49

Plaintiff shall recover from defendant the following

1 amounts:  
 2 Rents \$ \_\_\_\_\_  
 3 Damages \$ \_\_\_\_\_  
 4 Attorney fees \$ \_\_\_\_\_  
 5 Costs \$ \_\_\_\_\_  
 6 TOTAL \$ \_\_\_\_\_  
 7

8 [A hearing on the issue of damages will be held by this  
 9 court on \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ (a.m.)  
 10 (p.m.)]<sup>3</sup>  
 11

12 4. A writ of restitution be issued effective  
 13 \_\_\_\_\_, \_\_\_\_\_ (date).  
 14

15 *(The following paragraph is used*  
 16 *if there is a security interest of*  
 17 *a first lienholder on the mobile home)*  
 18

19 [5. The plaintiff will promptly serve notice of this  
 20 judgment on the first lienholder in accordance with civil  
 21 form 4-928. The cost of removal by the first lienholder  
 22 shall be paid by the first lienholder.]<sup>4</sup>  
 23

24 [6. If this case is appealed the (plaintiff) (defendant)  
 25 shall \_\_\_\_\_.]<sup>5</sup>  
 26  
 27

28 Dated: \_\_\_\_\_  
 29 \_\_\_\_\_  
 30 Judge

**USE NOTE**

- 31  
 32  
 33 1. Section 47-10-9 NMSA 1978 provides that  
 34 not less than 48 hours after entry of a  
 35 notice of judgment (Civil Form 4-926)  
 36 and upon execution of a writ of  
 37 restitution (Civil Form 4-929) the  
 38 sheriff will oversee the removal of a  
 39 mobile home.  
 40  
 41 2. Section 47-10-9 NMSA 1978 provides that  
 42 prior to issuance of the writ of  
 43 restitution the court shall make a  
 44 finding of fact that the mobile home is  
 45 or is not subject to the security  
 46 interest of a first lienholder. In  
 47 those cases where the court finds there  
 48 is a security agreement on the mobile

1           home, the landlord must give written  
2           notice to the first lienholder. See  
3           Civil Form 4-928 for notice to  
4           lienholder of mobile home judgment.

5  
6           3.    Use Civil Form 4-701 if damages are  
7           determined at a separate hearing.

8  
9           4.    Use this paragraph only if the court  
10          finds that the mobile home is subject to  
11          a first lien. Notice shall be  
12          substantially in the form approved by  
13          the Supreme Court. See Civil Form  
14          4-928.

15  
16          5.    Section 47-8-47 NMSA 1978 of the  
17          Owner-Resident Relations Act provides  
18          for a stay of execution upon appeal. If  
19          the defendant appeals a writ of  
20          restitution, the court shall require an  
21          escrow to be paid into the court within  
22          five (5) days after the notice of appeal  
23          is filed to stay the execution. If a  
24          money judgment is appealed the court may  
25          require a deposit with the court or a  
26          supersedeas bond be filed. See Section  
27          47-8-47 NMSA 1978 for appeals by the  
28          plaintiff.

29  
30    [Former Rule 4-921 SCRA 1986; adopted effective November 1,  
31    1995; recompiled as Rule 4-926 NMRA and amended effective  
32    September 2, 1997; as amended January 1, 1999.]

33    DBD::DB2::st execute failed: [IBM][CLI Driver][DB2/6000]  
34    SQL0530N The insert or update value of the FOREIGN KEY  
35    "DBUSER.BILLDETAIL.SQL980508102800170" is not equal to any  
36    value of the parent key of the parent table. SQLSTATE=23503  
37