

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
\_\_\_\_\_ JUDICIAL DISTRICT COURT

\_\_\_\_\_ ,

Plaintiff,

v.

No. D- \_\_\_\_\_

\_\_\_\_\_ ,

Defendant(s).

**PEREMPTORY ELECTION TO EXCUSE**

COMES NOW, Defendant(s) \_\_\_\_\_ and pursuant to NMRA 1-088.1 peremptorily elects to excuse the Honorable Judge \_\_\_\_\_ from presiding over this matter.

Respectfully submitted,

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Mailing address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone number

**Certificate of Service**

I hereby certify that a copy of this Answer was mailed/faxed/hand-delivered (circle one) to the attorney for the Plaintiff on \_\_\_\_\_.  
month/day/year

\_\_\_\_\_  
Signature

This form prepared by NM Legal Aid for pro se use.

## DO NOT FILE—INSTRUCTIONS PAGE

Disclaimer: The contents of this *pro se* form and instructions do not constitute legal advice. Foreclosure is a complicated area of law and it is strongly recommended that you contact a licensed NM attorney for advice about your specific case.

If you are not represented by an attorney you have the option of filing a Judge excusal for yourself or *pro se*. **A defendant may file a peremptory election to excuse a Judge within ten (10) days after the defendant files the first pleading such as an Answer or motion pursuant to Rule 1-012 NMRA.**

Filling out the Excusal form:

1. Hand-write or type all of the information at the top of the first page of the Response (called the caption) exactly as it is written on the first page of the Complaint, being sure to notate the appropriate court, plaintiff and defendant names, and case number.
2. Next write in your name in on the blank line as the Defendant and write your Judge's name on the second blank line.
3. When you have written all of the information in double check everything and then sign and print your name, include your mailing address, and telephone number.
4. There is a Certificate of Service prepared at the bottom of your excusal for your use. This certificate is a statement that you have mailed a copy of your excusal to the Plaintiff's attorney. You should be sure to sign and date the Certificate of Service and mail out the copy of the excusal on the date indicated on the certificate.
5. Make two copies of the *pro se* excusal; take the original and two copies to the district court clerk for filing. The Clerk will stamp all three documents. The Clerk will keep the original and return the two copies to you. Mail one of the copies to the attorney for the Plaintiff and keep one for your records.

### The language of the rule on Judge Excusals

1-088.1. Peremptory challenge to a district judge; recusal; procedure for exercising.

A. Limit on excusals or challenges. No party shall excuse more than one judge. A party may not excuse a judge after the party has attended a hearing or requested that judge to perform any act other than an order for free process or a determination of indigency.

B. Mass reassignment. A mass reassignment occurs when one hundred (100) or more pending cases are reassigned contemporaneously.

C. Procedure for excusing a district judge. A party may exercise the statutory right to excuse the district judge before whom the case is pending by filing a peremptory election to excuse as follows:

(1) A plaintiff may file a peremptory election to excuse within ten (10) days after service of notice of assignment of the first judge in the case. A defendant may file a peremptory election to excuse within ten (10) days after the defendant files the first pleading or motion pursuant to Rule 1-012 NMRA.

(2) Any party may file a peremptory election to excuse within ten (10) days after the clerk serves notice of reassignment on the parties or completes publication of a notice of a mass reassignment.

(3) In situations involving motions to reopen a case to enforce, modify, or set aside a judgment or order, if the case has been reassigned to a different judge since entry of the judgment or order at issue, the movant may file a peremptory election to excuse within ten (10) days after filing the motion to reopen and service of the notice of reassignment, and the non-movant may file a peremptory election to excuse within ten (10) days after service of the motion to reopen.