

ASNMSU SUPREME COURT

Judicial Process Manual

Stewart M. Burk Vidmar, Chief Justice

8/22/2008

This manual provides a brief description of the processes of filing complaints, civil action, impeachment proceedings, and how to respond to these actions in turn. Example forms for these processes are also included in the order that they are first mentioned.

FORWARD

Due to the fact that the Associated Students of New Mexico's Supreme Court (hereafter the Court) is charged with hearing a variety of complaints, cases, and trials, the various processes for initiating and resolving these issues have become rather complicated and sometimes confusing.

This is a basic manual for understanding the different courses of action one can take through the Court. Special attention has been given to clarifying what forms are needed at what points in the judicial process. The names of all forms are italicized (e.g. *Summons*) and example copies are included in Appendix A in the back of this manual.

The purpose of this manual is not to encourage litigation. Nor is it a substitute for reading and understanding the laws and statutes of the Associated Students of New Mexico State University (hereafter ASNMSU), found in the ASNMSU Law Book and past Court decisions. This manual attempts to reference all applicable parts of the Law Book, but a current copy should always be referred to during any action.

All Court decisions can be checked out from the Court Clerk.

Any questions regarding interpretations of the Law Book should be directed to the ASNMSU Attorney General's office. Any questions of judicial procedure regarding the Court should be directed to the Chief Justice.

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CIVIL ACTION

To file a civil action suit you must deliver an *Initial Complaint* form stating the facts and circumstances that gave rise to the action. This form is to be delivered to the Court Clerk. To ask that your case go directly to the Supreme Court instead of first to the lower Court you may submit a *Petition for a Writ of Certiorari* to the Court Clerk.

Upon receipt of the *Initial Complaint* form, the Court Clerk will issue you (the plaintiff) a *Summons* (RP-202). You are to deliver this *Summons* to the opposing party (the defendant) with a copy of the *Initial Complaint* attached.

Again, always refer to the Law Book; other parties such as the President, Senate, or some faculty may require a copy of your complaint, depending on who the suit is against. If your suit is against ASNMSU, the Attorney General will distribute copies of your complaint to appropriate parties, but you are responsible for providing these copies. You may ask the Court to provide you with copies using a *Request for Copies* but there will be a charge.

Seal all documents for privacy. You may leave a *Summons* at a party's residence or securely in their place of work if they refuse to receive it but you must provide proof to the Court Clerk that the *Summons* was delivered.

If you receive a *Summons* you have several options. First you may file an *Entry of Appearance* form with the Court Clerk which constitutes an agreement to have further pleadings sent to a specific address and to appear in front of the Court when called.

If you wish to challenge the complaint you must file an *Answer to Complaint* (RP-302). An *Answer to Complaint* is a form you may use to answer complaints against you and either affirm or deny them individually, or request more information. You may also cite any defenses you believe you have such as statutes and ordinances from the ASNMSU Law Book that you believe justify your defense. Finally, you may also use this form to file a counter claim against the plaintiff.

A claimant seeking to recover damages (the plaintiff) may at any time seek for the case to be voluntarily dismissed by filing a *Motion to Dismiss*. This may be done if the plaintiff feels that he or she no longer has a valid case.

APPEALS

In civil suits the Chief Justice of the Court assigns an Associate Justice to act as a Special Master. This process of appointing a Special Master serves to relieve the Court's caseload; however all cases are within the Court's original jurisdiction and can be brought directly to the Supreme Court in the Court's discretion. If appointed, the Special Master hears the case and gives a ruling. Trial procedures are dealt with below, and in detail in the ASNMSU Law Book. If one or both parties are not satisfied with the result of this lower Court's ruling they may appeal the decision to the Supreme Court, which will then be made up of the Chief Justice and two Associate Justices with the remaining Associate Justice sitting on the Court with no vote, in case they are needed to fill a vacancy. The Supreme Court will not hear new evidence;

it will review the appeal and affirm, modify, reverse it, or set it aside.

An appeal must be filed by delivering a *Notice of Appeal* to the Court Clerk, to be delivered to the Special Master. The Special Master will docket the appeal and deliver it to the Supreme Court (AP-103, AP-104, and AP-105).

Both parties will then file briefs with the Supreme Court; the appealing party will file a brief in chief with the Court and serve it on the opposing party within two (2) days of filing the *Notice of Appeal*. The defending party will then have two (2) days to file an answer brief with the Court, and serve a copy to the opposing party (AP-106).

The Court then has five (5) days to either dispose of the argument or schedule oral arguments with a notice of hearing (RP-402).

IMPEACHMENT

If a Resolution of Impeachment is filed against you in the Senate, you will be notified within two days with a copy of the resolution. The entire Court (or a quorum) will be convened to serve as the Court of Impeachment (5-6).

The Court of Impeachment will then convene within five (5) days of this notification and proceed to trial, if necessary.

TRIAL

Once an answer to a claim or complaint has been filed, or a reasonable amount of time has passed, the Court will set a date for trial.

The Court may issue a *Subpoena* commanding a party of the suit to produce testimony, documents, or other objects (RP-502).

If a party does not appear at the trial and the opposing party can prove that they gave proper notice to the absent party, the present party can call for a default judgment in their favor provided they prove that proper notice was given (RP-702). This judgment would come in the form of a *Certificate as to the State of the Record* form signed by the Chief Justice.

You may call witnesses during trial provided that you have submitted a *Witness List* to the Court Clerk and served a copy to the opposing party before the trial.

Any party in the suit may at any time call for summary judgment on all or part(s) of the case by presenting a letter calling for such judgment to the Court Clerk, to be presented to the Chief Justice. This type of judgment is rendered when the facts of the case are not contested and one or both parties believe that that they are entitled to judgment without trial as a matter of law (RP-703).

ORAL ARGUMENTS

The Court will schedule oral arguments. Each side will be given a chance to present their case. Usually they are restricted to ten minutes time (AP-107).

DISPOSITION (JUDGMENT)

At the conclusion of arguments, the Court will go into deliberation. This period is not subject to ASNMSU open meeting policy and is therefore private (5-7). At the end of deliberation a verdict will be announced, notarized, and posted in the ASNMSU office. The announcement of the decision may be delayed to collect further evidence (AP-200).

What types of judgments the Court can give are detailed in Section 5-9 of the Law Book.

Appendix A

FORMS

**NEW MEXICO STATE UNIVERSITY
ASNMSU SUPREME COURT**

Plaintiff/Petitioner,

,

vs.

Case No.:

Justice:

Defendant/Respondent.

,

COMPLAINT

COMES NOW the Plaintiff(s), _____, and hereby files this complaint against Defendants/Respondents and for their causes of action states as follows:

PARTIES AND JURISDICTION

1. Plaintiff(s) is a student of New Mexico State University.
- Upon information and belief Defendant(s) is a student of New Mexico State University.
- The facts giving rise to this complaint arose at New Mexico State University.
- Venue is proper in The Supreme Court of the Associated Students.
- The court has jurisdiction over the parties and the matters involved.

GENERAL ALLEGATIONS

- Plaintiff incorporates by reference paragraphs 1-5 above.
- *Insert statement of allegations. Site the specific citation of the ASNMSU Law Book that the complaint concerns. (You may add as many new paragraphs necessary to state your claim).*

DAMAGES AND PRAYER FOR RELIEF

8. Plaintiff hereby incorporates by reference paragraphs 1-___ above.
9. Plaintiff seeks damages for allegations that shall to be proven at trial.
10. State specific damages that are being sought.
11. Plaintiffs respectfully request this Court award any and all other relief as this Court deems appropriate.

WHEREFORE, Plaintiffs respectfully requests this Court find Defendants liable in the causes of actions set forth above, and to award damages as requested.

Respectfully submitted by:

Signature of plaintiff
Printed name of plaintiff
Address
E-mail
Phone
Date

**NEW MEXICO STATE UNIVERSITY
ASNMSU SUPREME COURT**

Petitioner,

,

vs.

Case No.:

Justice:

Respondent.

PETITION FOR WRIT OF CERTIORI

COMES NOW the Petitioner(s), _____, and hereby files this Request for Writ of Certiorari against Respondents and for their causes of action, and states as follows:

PARTIES AND JURISDICTION

1. Plaintiff(s) is a student of New Mexico State University.

- Upon information and belief Defendant(s) is a student of New Mexico State University.
- The facts giving rise to this complaint arose at New Mexico State University.
- Venue is proper in The Supreme Court of the Associate Students.
- The court has jurisdiction over the parties and the matters involved.

GENERAL ALLEGATIONS

Insert statement of allegations. Site the specific citation of the ASNMSU Law Book that the complaint concerns. (You may add as many new paragraphs necessary to state your claim).

REQUESTED ACTION

Petitioner seeks damages for *allegations* that shall to be proven at trial.

State specific damages that are being sought.

Petitioner respectfully requests this Court award any and all other relief as this Court deems appropriate.

WHEREFORE, Petitioner(s) respectfully requests this Court find Respondent(s) liable in the causes of actions set fourth above, and to award damages as requested.

Respectfully submitted by:

Signature of Petitioner

Printed name of Petitioner

Address

E-mail

Phone

Date

**NEW MEXICO STATE UNIVERSITY
ASNMSU SUPREME COURT**

,

Plaintiff/Petitioner,

vs.

Case No.:

Justice:

Defendant/Respondent.

SUMMONS

TO: Address to the defendant/respondent.

GREETINGS:

This summons notifies you that a complaint has been filed against you. A copy of the complaint is attached to this summons. You are required to serve and file an answer to the complaint, or a responsive pleading, within FIVE (5) DAYS AFTER THE SUMMONS HAS BEEN SERVED ON YOU. You must file the answer or responsive pleading with the Supreme Court of the Associated Students and you must serve a copy of the answer or responsive pleading on the opposing party.

IF YOU DO NOT FILE AND SERVE AN ANSWER OR RESPONSIVE PLEADING WITHIN THE FIVE (5) DAY PERIOD, A DEFAULT JUDGMENT MAY BE ENTERED AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.

WITNESS Stewart M. Burk Vidmar, Chief Justice of the Supreme Court of the Associated Students of New Mexico State University.

It is so ordered by: _____ on this the ____ day of _____, 200__.

(Signature & Title of Supreme Court Member)

**NEW MEXICO STATE UNIVERSITY
ASNMSU SUPREME COURT**

Plaintiff/Petitioner, _____,

vs.

Case No.:

Justice:

Defendant/Respondent. _____,

REQUEST FOR COPIES

Specific Document(s) to be copied:

Justice Assigned:
Hearing/Trial:

Date of Court

Requested By:

For:

Phone:

Number of copies requested:

Endorsed Copy: [] yes [] no
yes [] no

Certified copy: []

TO BE COMPLETED BY AUTHORIZED JUSTICE

Document: _____ Date copied:

Date delivered: _____ Cost (\$0.08/page):

Approved:

Justice

**NEW MEXICO STATE UNIVERSITY
ASNMSU SUPREME COURT**

Plaintiff/Petitioner, _____ ,

vs.

Case No.:

Justice:

Defendant/Respondent. _____ ,

ENTRY OF APPEARANCE

COMES NOW, _____ , and enters her/his appearance herein for and on behalf of the Petitioner/Respondent, _____ , and requests that all further pleadings be sent to the below address.

Respectfully submitted by:

Signature of plaintiff/respondent's counsel
Printed name of plaintiff/respondents counsel
Address
E-mail
Phone
Date

CERTIFICATE OF SERVICE

I hereby certify that I delivered a true and correct copy of the foregoing pleading to opposing party on this ____ day of _____, 200__.

Signature of Counsel
Title

**NEW MEXICO STATE UNIVERSITY
ASNMSU SUPREME COURT**

_____,
Plaintiff/Petitioner,

vs.

Case No.:

Justice:

_____,
Defendant/Respondent.

ANSWER TO COMPLAINT

COMES NOW the Defendant/Counter Claimant, (hereinafter “Defendant”), _____, and files this answers to the Plaintiff’s complaints setting forth their admissions, denials, affirmative defenses, and counter claims against Plaintiff, Defendant states as follows:

ANSWERS AND DENIALS

- For each allegation in the initial complaint, enter either an admission, a denial or state whether you are without information and belief to either admit or deny the allegation and therefore at that time and as such deny the allegation. An Amended Complaint can be filed at a later time.

AFFIRMATIVE DEFENSES

- As to all charges, state any and all defenses and please cite any statute, ordinance or rule of law that you believe justifies your defense.

COUNTER CLAIM

Comes now, the Defendant, _____, and hereby files a counter claim in the above styled action and as grounds states:

PARTIES AND JURISDICTION

- The Defendant/counter claimant is a student of New Mexico State University.
- Upon information and belief, Plaintiff is a student of New Mexico State University
- The facts giving rise to the counter claim arose at New Mexico State University.
- Venue is proper in the Supreme Court of the Associated Students.
- The court has jurisdiction over the parties involved.

GENERAL ALLEGATIONS

- Plaintiff incorporates by reference paragraphs 1-5 above.
 - *Insert statement of allegations. (You may add as many new paragraphs necessary to state your claim).*

DAMAGES AND PRAYER FOR RELIEF

- Defendant incorporates by reference paragraphs 1-____ above.
- 9. Plaintiff seeks damages for allegations that shall to be proven at trial.
- 10. State specific damages that are being sought.
- 11. Plaintiffs respectfully request this Court award any and all other relief as this Court deems appropriate.

Respectfully submitted by:

Signature of plaintiff

Printed name of plaintiff

Address

E-mail

Phone

Date

**NEW MEXICO STATE UNIVERSITY
ASNMSU SUPREME COURT**

Plaintiff/Petitioner, _____,

vs.

Case No.:

Justice:

Defendant/Respondent. _____,

MOTION TO DISMISS

COMES NOW, Plaintiff/Defendant, _____, and hereby moves this Court to Dismiss this matter with/without prejudice. As grounds states:

1. On _____, Plaintiff/defendant filed a Complaint.
2. *continue with reasons as needed.*

WHEREFORE, Plaintiff/Defendant requests this Court to dismiss this matter with/without prejudice.

Respectfully submitted by:

Signature of plaintiff/respondent's counsel
Printed name of plaintiff/respondents counsel
Address
E-mail
Phone
Date

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion was provided to the opposing party on this the _____ day of _____, 200__.

Printed Name

**NEW MEXICO STATE UNIVERSITY
ASNMSU SUPREME COURT**

Plaintiff/Petitioner, _____,

vs.

Case No.:

Justice:

Defendant/Respondent.

ORDER OF DISMISSAL

THIS MATTER, having come before the Court on the Plaintiff's/Defendant's Motion to Dismiss, the Court being fully advised of the premises, finds that the motion is well taken and that the above titled matter should be dismissed with/without prejudice.

IT IS THEREFORE THE ORDER OF THE COURT that this matter be and hereby is dismissed with/without prejudice.

JUSTICE

Respectfully Submitted by:

Approved/Opposed/No Position:

*Printed Name Printed Name of
opposing party*

Title Title

Address Address

E-Mail E-Mail

Phone Phone

**NEW MEXICO STATE
UNIVERSITY**

ASNMSU SUPREME COURT

Plaintiff/Petitioner,

vs.

Case No.:

Justice:

Defendant/Respondent.

NOTICE OF APPEAL

TO:

COMES NOW the Plaintiff/Defendant, _____, and respectfully serves you with this Notice of Appeal to the ASNMSU Supreme Court of the final order of this Court entered in the underlying action on _____.

Respectfully Submitted by:

Signature of plaintiff/respondent's counsel

Printed name of plaintiff/respondents counsel

Address

E-mail

Phone
Date

**NEW MEXICO STATE UNIVERSITY
ASNMSU SUPREME COURT**

Plaintiff/Petitioner,

vs.

Case No.:

Justice:

Defendant/Respondent.

SUBPOENA

SUBPOENA FOR:

PERSON DOCUMENT(S)

OBJECT(S)

TO: Address to the defendant/respondent.

YOU ARE HEREBY COMMANDED to appear before the ASNMSU SUPREME COURT at the place, on the date and time specified below, and, when so ordered, to bring the following documents listed for review:

PLACE		TIME
	DATE	

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):

WITNESS the Stewart M. Burk Vidmar, Chief Justice of the Supreme Court of the Associated Students of New Mexico State University.

It is so ordered by: _____ on this the ____ day of _____, 200__.

(Signature & Title of Supreme Court Member)

**NEW MEXICO STATE UNIVERSITY
ASNMSU SUPREME COURT**

_____,
Plaintiff/Petitioner,

vs.

Case No.:

Justice:

_____,
Defendant/Respondent.

CERTIFICATE AS TO THE STATE OF THE RECORD

I, the undersigned, Chief/Associate Justice or Clerk of the Supreme Court of the Associated Students, do hereby certify that a Complaint was filed in the above-entitled cause in my office on _____ and the Return of Service that was filed on _____ indicates that process was served to _____, at the following location: _____ on _____.

I further certify that no answer to the Complaint, or other responsive pleading for the Respondent has been filed in my office or of record.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Court this ____ Day of _____, 200__.

THE SUPREME COURT OF THE ASSOCIATED STUDENTS

(Signature and Title of Supreme Court Justice or Clerk)

_____ Date

**NEW MEXICO STATE UNIVERSITY
ASNMSU SUPREME COURT**

Plaintiff/Petitioner, ,

vs.

Case No.:

Justice:

Defendant/Respondent. ,

LIST OF WITNESSES

COMES NOW, The Plaintiff/Defendant, _____, and hereby gives notice that s/he intends to call the following witnesses at trial:

- 1.) ***Name of Witness, Contact information.***
- 9.) Any and all witnesses listed in the opposing parties witness list.
- 10.) Any and all witnesses named in reports and/or statements.

Respectfully submitted by:

Signature of plaintiff/defendant
Printed name of plaintiff/defendant
Address
E-mail
Phone
Date

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was provided to opposing counsel this the ____ day of _____, 200__.

Signature of plaintiff/defendant