

4A-312. Verified marital settlement agreement (*complex*).

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

_____, Petitioner

v.

No. _____

_____, Respondent

VERIFIED MARITAL SETTLEMENT AGREEMENT¹
(complex)²

_____ (*husband's name*) and _____ (*wife's name*) are married. We agree to this entire agreement. We will each follow this agreement beginning on the day we both sign it. We understand that the judge may make changes to this agreement and that we must comply with any changes made.

PROPERTY WE ARE DIVIDING³

Anything that one of us buys after we have both signed this agreement will belong only to that person. Any money that one of us borrows after we have both signed this agreement will be the debt of, and owed by, that person only. We understand that this agreement may not bind creditors.

1. **Property.** We have divided all of our property that we know about between us. We attach a Property List (Attachment A) showing property that we are keeping so that we have a written list of the items we have divided.⁴

(Choose either A or B)

A. Each of us already has possession of all the personal property (*such as clothing, furniture or artwork*) that we each expect to receive. All assets that list one of us as owner are in the name of the person who is entitled to receive

them.

B. We will make sure that each of us has our own property by _____
_____ (date).

Check here if one of these assets is a retirement or savings plan like an IRA, a retirement account, pension plan or 401(K) plan.⁵

2. Home ownership (Choose A, B or C)⁶

A. We do not own a home, mobile home or lot together. (Go to Section 4.)

B. We owned a home, mobile home or lot together but have sold it. We have divided the money from the sale like this: _____.
(Go to Section 3 "Dividing the home or lot we own").

C. We own a home mobile home lot
 building together. (Go to Section 3, "Dividing the home or lot we own".)

3. Dividing the home or lot we own

(Complete the correct section: A. Keep the home,

B. Sell the home or C. Other plan.)

A. **Keep the home.**

(Choose 1)

Husband shall keep the home.

Wife shall keep the home.

The person who keeps the home is called the "homeowner". The other person is called the "moving spouse".

(Check all that apply.)

Each of us has money invested in the home. The amount owed to the moving spouse to buy out that person's interest is \$_____.

The homeowner will apply to refinance the home within _____ [days] [months] [years]

(Complete and circle one).

Here is our plan for buying out the person who is moving from the home or getting that person off of the loan papers:

B. Sell the home.

We are going to sell the home and divide the money from the sale as follows: _____
_____.

While the home is being sold, husband wife will stay in the home.

Until the home sells, we will pay expenses, including utility bills for the home as follows
(who is to pay and how much each person will pay): _____
_____.

We both will cooperate with the showing of the home and the sale of the home, including signing all paperwork needed in order to sell it and transfer title⁶. Both of us will preserve the home in a reasonable way including the following things:

C. **Other plan.** We have attached a separate sheet with our plan regarding the home.

4. Vehicles.⁷

(Choose A or B)

A. We do not have any motor vehicles.

B. We have motor vehicles and are dividing them as follows:

Husband will keep the following vehicles: *(describe each vehicle and list the vehicle identification number):*

Vehicle	Vehicle Identification No.	Notes
_____	_____	_____
_____	_____	_____
_____	_____	_____

Wife will keep the following vehicles: *(describe each vehicle and list the vehicle identification number):*

Vehicle	Vehicle Identification No.	Notes
_____	_____	_____
_____	_____	_____
_____	_____	_____

Each person listed above as keeping the vehicles will pay for the costs of the vehicles, including insurance. The parties will transfer title as needed.⁷

DEBTS WE ARE DIVIDING³

1. **Debt.** Any debt not listed is the responsibility of the person who created it. Each of us will

pay debts we created prior to our marriage, unless we state differently here. Unless we state differently here, a person who takes property (such as a house or car) with a debt associated with it, that person will take the debt³. (*Choose A or B*)

A. We have no debt from our marriage.

B. We attach a debt list (Attachment A) showing the debts we each will pay.

2. **Credit cards and charge cards.** Each of us will turn in and cancel all joint credit cards or we will have the credit card company take the other person's name off of the account.

3. **Taxes.** Each of us will file separate returns for this tax year. We will share information necessary to correctly file our income tax returns. We will get the help we need to file our taxes.⁸

4. **Problem with tax returns.** If any of our returns that we filed together are audited or contested, we will meet to decide what to do. If we cannot decide who pays the taxes owed or who gets any refund, we will ask a judge to decide at the time the problem comes up.

5. **Legal promise.** Each of us makes the following legal promise: Our debts have been divided in a fair way. I will pay the debts listed under my name on the debt list. If I don't, my spouse may be forced to make that payment. I must pay back my spouse for that payment and other extra costs (like lawyer fees) spent by my spouse because I failed to pay.

SPOUSAL SUPPORT

(*Choose either A or B*)

A. **No spousal support.** Each of us can support ourselves and neither will pay spousal support to the other. (*Go on to Section 5.*)

B. **Spousal support⁸.**

Husband Wife will pay spousal support to the other spouse for the following reason:

_____.

Payment method. It will be paid as follows:

(Choose A or B)

A. \$_____ per month on _____ (*date each month*) for _____ (*period of time*) or until the court says differently.

B. Here is our other plan: _____
_____.

Tax deduction.

(Choose A or B)

A. The person paying the support will deduct the payments on [his] [her] income tax return. The person receiving the support will show the support as income on [his] [her] income tax return. The support will end if the person to receive the support dies.

B. The person paying the support will not deduct the payments on [his] [her] income tax return. The person receiving the support will include the payment as income on [his] [her] income tax return.⁸

OTHER STATEMENTS BY PARTIES

1. **Good faith disclosure.** I, the husband, and I, the wife, state under oath that we have disclosed all assets and debts that we are aware of. We discussed and exchanged documents giving important information about the issues in this agreement. Each of us has relied on that information.

2. **Documents.** We will each sign the documents we need to divide the property.
3. **Future issues.⁹**
 - A. **Completing the agreement.** If:
 - (1) one of us does not do what we said in this agreement; or
 - (2) we cannot agree on what this agreement says, either of us may ask the judge to decide the issue. The judge may make one party pay costs such as attorney fees.
 - B. **Things left out of the agreement.** If we forgot or failed to list any property or debt, we will seek the help we need in order to include the property or debt in our agreement.¹⁰
4. **Final agreement.** After signing this agreement, neither of us can later claim that we agreed to something different from either
 - A. what is in this agreement; or
 - B. a signed written change.

VERIFICATION

When I sign here, I am telling the judge, under oath and penalty of perjury, that:

I have read this agreement and agree with everything in it; I have read the warnings and cautions listed in this agreement;

I have gotten the help I needed before signing this agreement; and this document and the statements in it, are true and correct to the best of my knowledge and belief.

I understand that I can be punished both civilly and criminally if any information in this agreement is false.

Husband's signature

Address: _____

Telephone: _____

Wife's signature

Address: _____

Telephone: _____

STATE OF NEW MEXICO)
) ss
COUNTY OF _____)

Acknowledged, signed and sworn to before me this _____ day of _____, _____
by _____, the husband.

Notary public

My commission expires: _____.

STATE OF NEW MEXICO)
) ss
COUNTY OF _____)

Acknowledged, signed and sworn to before me this _____ day of _____, _____
by _____, the wife.

Notary public

My commission expires: _____.

**ATTACHMENT A
PROPERTY LIST**
(Attach separate page if needed.)

Each of us lists the property we are keeping so that we have a written history of the items we have divided. *(List all items over two hundred fifty dollars (\$250.00) that you own, such as land, a home, mobile home, motor vehicles, bank accounts or art.*

Husband		Wife	
Item	Value	Item	Value
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____

DEBT LIST
(Attach separate page if needed.)

Husband's Debt. I, the husband, will pay these debts, including credit cards:

Creditor and last four numbers of the account¹¹	Amount
1. _____	\$ _____
2. _____	\$ _____
3. _____	\$ _____
4. _____	\$ _____

Wife's debt. I, the wife, will pay these debts, including credit cards:

Creditor and last four numbers of the account¹¹	Amount
1. _____	\$ _____
2. _____	\$ _____
3. _____	\$ _____

4. _____ \$ _____

USE NOTES

1. This form is used if the parties own a home, mobile home, motor vehicle, retirement plan or if spousal support is to be paid. Use Domestic Relations Form 4A-311 NMRA for other divorce proceedings. *See* Domestic Relations Form 4A-204 NMRA for additional information relating to completing and filing this form.
2. It is highly recommended that you see an attorney or tax professional. There can be serious consequences, including tax consequences, for not properly transferring assets, especially retirement accounts. You may need separate documents to transfer divided assets.
3. This agreement does not affect the rights of creditors even when approved by the court as part of the final decree. See an attorney if you have questions about separate and community debts and separate and community property.
4. There can be serious tax consequences resulting from certain divisions of assets or debts. It is highly recommended that you see a professional about all property issues.
5. If the parties are going to divide a retirement plan, contact the retirement plan before completing and filing this form.
6. To transfer land, a building or a home other than a mobile home, the parties must prepare, sign and record a deed in the real property records where the property is located. To transfer a mobile home, contact the Motor Vehicle Division or see a professional.
7. To transfer motor vehicles, contact the Motor Vehicle Division or see a professional.
8. There can be serious tax consequences resulting from certain divisions of assets or debts and spousal support. See a tax professional for advice.
9. See an attorney if difficult problems arise later.
10. Each person should see an attorney to discuss what to do in this situation.
11. This document is a public document. Do not list the full account number for any credit card or other loan information that you would not want to make public.

[Approved effective November 15, 2002.]