Metro Court LLT Eviction Case Checklist (Short Version)

Case Number: _____
Parties: _____

☐ **Gather the basic facts:**

☐ **What kind of tenancy is in question?**

☐ **Do the eviction filings include the lease and relevant notice(s)?**

Filing Date: _____
Notice Date(s): _____ _____

☐ **What type of lease are we dealing with?**

Lease Start Date: _____ *End Date:* _____
Rent Due by: _____

- ☐ Active term lease (the eviction filing came within the term of the attached lease)
- ☐ Term lease that has converted to month-to-month (the eviction filing came outside the term of the attached lease)
- ☐ Other: _____

☐ **What is the claimed rationale for the eviction?**

- ☐ Nonpayment of rent
- ☐ Material noncompliance
- ☐ Substantial violation
- ☐ Lease termination (no-cause)

☐ **Is the unit or property federally subsidized?**

- ☐ Is the individual unit in question federally subsidized?
  - *Where to check:*
    - ☐ *Within eviction filings for the case (look for 30-day notices)*

- ☐ Is the property as a whole federally subsidized?*
  - *Where to check:*
    - ☐ *National Housing Preservation Database*
    - ☐ *Freddie Mac*
    - ☐ *Fannie Mae*
    - ☐ *HUD Database*
    - ☐ *NM Mortgage Finance Authority (source for links to relevant databases if links above are not working)*

* If it is clear that the individual unit is subsidized, checking for property-wide subsidies may be unnecessary. Once you find the property in one database, it is unnecessary to check the others.

- ☐ Do any other units in the building receive federal subsidies?[*]
  - *Where to check:*
    - ☐ *Within other recent eviction filings by that landlord for other units in the same property (look for 30-day notices)*

☐ **Is the filing party (landlord) registered to do business in the state of New Mexico?**

- *Where to check: https://enterprise.sos.nm.gov/search/business*

☐ **Are there substantive issues with the eviction claim?**

- For nonpayment-of-rent evictions:
  - ☐ Is the amount identified as unpaid correct?

	Amount Charged	**Amount Specified in Lease**[**]
Baseline Rent		
Late Fee		
Utility Cost		
Insurance		
Other		
Other		
Other		
Other		

  - ☐ Does the amount of unpaid rent over the timeframe specified align with the monthly rent specified in the lease?

    Number of Months Allegedly Unpaid: _____
    Total Amount Allegedly Unpaid: _____
    *Lease Rent **x** Months Allegedly Unpaid:* _____

  - Fees:
    - ☐ Are any **late fees** charged equal to or less than 5 percent of the monthly rent?
    - ☐ Does the lease specify a late fee that is more than 5 percent of the monthly rent?
    - ☐ Are **all fees** identified in the lease?
    - ☐ Did the landlord charge a fee for posting a notice of nonpayment?
  - ☐ Did the owner continue accepting rent payments?

[**] Note if charges are not identified in lease.

- For substantial-violation evictions:
  - ☐ Is the alleged violation one of the seven types of violations that constitute a substantial violation pursuant to § 47-8-3(V)?
    (1) possession, use, sale, distribution or manufacture of a controlled substance, excluding misdemeanor possession and use;
    (2) unlawful use of a deadly weapon;
    (3) unlawful action causing serious physical harm to another person;
    (4) sexual assault or sexual molestation of another person;
    (5) entry into the dwelling unit or vehicle of another person without that person's permission and with intent to commit theft or assault;
    (6) theft or attempted theft of the property of another person by use or threatened use of force;
    (7) intentional or reckless damage to property in excess of one thousand dollars ($1,000)

  - ☐ Is the tenant alleged to have committed the violation or consented to a guest committing it?

- For material-noncompliance evictions:
  - ☐ (If eviction on first notice) Is there information to suggest that the violation was cured?
  - ☐ Was the noncompliance truly material?

- For lease-termination (no cause) evictions:
  - ☐ Is the individual unit subsidized?
  - ☐ If there is an active term lease, is there a provision for no-cause termination in that lease? If so, did the notice comply with that provision?

☐ **Did the landlord comply with notice requirements?**

- For all eviction types, if the individual unit is subsidized:
  - ☐ Did *all* the notices provided also include:
    - ☐ Notice of rights under VAWA
    - ☐ VAWA certification form

- For nonpayment-of-rent evictions:
  - ☐ Did the landlord provide **3-day notice** (regular), § 47-8-33(D), or **30-day notice** (subsidized), 15 U.S.C. § 9058(c)?
    - ☐ Was the notice served after the date the rent was actually due?
  - ☐ Was notice provided via either (1) hand delivery, (2) first-class mail, or (3) posting?

- For substantial violation evictions:
  - ☐ Did the landlord provide **3-day notice** pursuant to § 47-8-33(I)?
  - ☐ Was notice provided via either (1) hand delivery or (2) first-class mail?
  - ☐ Did the notice specify the time, place, and nature of the alleged substantial violation pursuant to § 47-8-33(I)?

- For material-noncompliance evictions:
  - ☐ Did the landlord provide **7-day notice** (regular), § 47-8-33(A)-(B)?
  - ☐ Was notice provided via either (1) hand delivery or (2) first-class mail?
  - ☐ Did the notice(s) specify the date(s) on which the noncompliance occurred?
  - ☐ Was/were the notice(s) provided within 30 days of landlord's knowledge of the incident(s)?

    - If the eviction is based on failure to cure the material noncompliance:
      - ☐ Did the notice state that the rental agreement would terminate upon the second material noncompliance within six months pursuant to § 47-8-33(C)?
    - If the eviction is based is based on the tenant engaging in two (or more) acts of material noncompliance within six months:
      - ☐ Did the landlord provide both notices?
      - ☐ Did the second noncompliance occur within six months of the first noncompliance?
      - ☐ If the second notice is for the same noncompliance as the first notice, was it provided prior to the close of the tenant's period to cure the noncompliance (i.e., within the 7-day cure period)?

- For termination-of-lease evictions (no-cause):
  - ☐ Is there an active term lease (versus a month-to-month or week-to-week lease)?
  - ☐ If it's a month-to-month lease, did the landlord provide **notice of at least 30-days prior to the next rent due date** as required pursuant to § 47-8-37(B)?
  - ☐ Was notice provided via either (1) hand delivery or (2) first-class mail?

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