

## EARNINGS GARNISHMENT PROCEDURE

### Commencement

To begin an earnings garnishment (wage garnishment), the creditor must file with the court an Earnings Garnishment Notice and pay the proper fee. (\$92.50 for amounts equal to or less than \$10,000, \$210.50 for amounts greater than \$10,000)

The court will then provide to the creditor a garnishment packet which needs to be completed. Forms included in the packet are:

- 2 Earnings Garnishment forms (CV-422), blank with court seals
- Earnings Garnishment – Exemption Notice (CV-423)
- Earnings Garnishment – Debtor’s Answer (CV-424)
- Earnings Garnishment – Objection to Debtor’s Answer and Demand for Hearing (CV-425)
- Garnishment Exemption Worksheet (CV-426)
- Poverty Guidelines for Earnings (CV-427)

### Service on the Garnishee

Within 60 days after filing the Earnings Garnishment Notice with the court, the creditor must serve the following on the garnishee (employer):

- 1 of the completed Earnings Garnishment forms (CV-422)
- \$15.00 Tender Fee

Service may be made by first class mail, certified mail with return receipt requested, any means permissible for the service of a summons in a civil action (other than publication) or by other means if the garnishee signs an admission of service.

### Service on the Debtor

Within 7 business days after the date of service on the garnishee the creditor must serve the following on the debtor:

- 1 of the completed Earnings Garnishment forms (CV-422)
- Exemption Notice (CV-423)
- Debtor’s Answer (CV-424)
- Garnishment Exemption Worksheet (CV-426)
- Poverty Guidelines for Earnings (CV-427)

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Service may be made by first class mail, certified mail with return receipt requested, or any means permissible for the service of a summons in a civil action (other than publication).

### How the garnishment works

The garnishment will run for a continuous 13 weeks after the garnishee receives the garnishment form unless the debtor's earnings are already being garnished. If the debtor's wages are already currently being garnished the new garnishment will go into effect at the end of the current garnishment (end of the 13 weeks or until paid in full which ever comes first).

Between five and ten business days after each payday of a pay period affected by this earnings garnishment the creditor will be paid 20% of the debtor's disposable earnings for that pay period. "Disposable earnings" are those remaining after deducting Social Security, state and federal income taxes.

If the debtor has assigned his or her earnings for support by court order, those support payments take priority over the earnings garnishment. If 25% or more of the debtor's disposable earnings is assigned for support by court order, no amount is garnished. If less than 25% of the debtor's earnings is assigned for support by court order, the amount the creditor must be paid is reduced so that the total of earnings assigned and garnished does not exceed 25% of the debtor's disposable earnings.

### Debtor files the Debtor's Answer

If the debtor feels they are exempt from the garnishment they can file the Debtor's Answer (CV-424) with the garnishee (their employer). It is the garnishee's duty to send a copy of the answer to the creditor. An answer can be sent to the garnishee or amended at any time during the effective period of the earnings garnishment.

### Objecting to the Debtor's Answer

If the creditor objects to the Debtor's Answer they may file the Earnings Garnishment Objection to Debtor's Answer and Demand for Hearing (CV-425) and have a hearing in court to review the appropriateness of the debtor's claim. The original is filed with the court with a copy to the debtor and garnishee. Within 5 business days after the objection is filed, the court shall schedule the matter for a hearing to be held as promptly as practicable. The court shall notify the parties of the time and place of the hearing.