

NOTICE OF GARNISHMENT

CONTACT your attorney if you have any questions about answering garnishments.

A. By virtue of this execution by garnishment in my hands and issued in this styled cause YOU ARE HEREBY COMMANDED to answer to this Court (Clerk's Office) by mail or in person within TEN (10) DAYS AFTER THE DATE OF SERVICE OF THIS GARNISHMENT:

- (1) The gross amount of money earned by the defendant during this pay period to the time of service of this garnishment.
- (2) The total amount of social security and withholding taxes incurred during the pay period to the time of service of this garnishment.
- (3) The net amount due the defendant, which net amount shall be deemed to be the gross amount less social security and withholding taxes. No assignment, payroll savings plan or other agreement shall be deemed to reduce the net amount due for the purpose of this section.
- (4) The net amount due the defendant from any other salaries, wages or income, including any amounts deducted under any payroll savings plan or agreement.
- (5) Whether you had in your possession or under your control any property, debts, or effects belonging to said defendant, at the time of serving the notice, or at the time of answering, or at any time between the date of service and the time fixed herein for answering; and if so, the kind of amount.
- (6) Whether there are to your knowledge or belief any and what property, debts, and effects in the possession or under the control of any other, and what person; and you will answer such other questions as may be put to you by the Court for the judgment or attaching creditors as may tend to elicit the information sought.
- (7) Based upon the statements and certification of the defendant, we have calculated the amount of such funds exempt from execution and garnishment by applying either the Federal Law or the Tennessee Law (but not both) to the total net amount due the debtor computed by combining the amounts shown in Items 3 and 4 above.
- (8) Such other questions appearing on or attached to the original execution put to you by the court or the judgment creditor as may tend to elicit the information sought.

B. **NOTICE** – Although you have a longer time in which to answer the court concerning this garnishment, **you must do the following on the same day you receive this garnishment or on the next working day.** Determine if you possess or control money or property of the judgment debtor. If so, within that same time period, you shall furnish a copy of the garnishment summons and Notice to Judgment Debtor by mailing them first class, postage prepaid, to the judgment debtor's last known address as

shown by your records, or by actual delivery to the judgment debtor. If the address shown by your records differs from that shown, you shall also mail a copy of the garnishment and notice to the latter address.

THIS NOTICE FOR WAGE GARNISHMENT ONLY

NOTICE TO THE GARNISHEE (EMPLOYER)

THE MAXIMUM PART OF THE AGGREGATE DISPOSABLE EARNINGS OF AN INDIVIDUAL FOR ANY WORK WEEK WHICH IS SUBJECT TO GARNISH MAY NOT EXCEED:

- (a) Twenty-five percent (25%) of his/her disposable earnings for that week, minus \$2.50 for each of his/her dependent children under the age of sixteen (16) who resides in the state of Tennessee as provided in Tennessee Code Annotated, Section 26-2-107; or
- (b) The amount by which his/her disposable earnings for that week exceed thirty (30) times the federal minimum hourly wage at the time the earnings for any pay period become due and payable, minus \$2.50 for each of his/her dependent children under the age of sixteen (16) who resides in the state of Tennessee, whichever is less.

"Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amounts required by the law to be withheld.

In the case of earnings for a pay period other than a week, the weekly formula must be changed to apply to that pay period so as to exempt an equivalent percentage of disposable earnings. For example, the calculation concerning the federal minimum wage in sub-section (b) should be computed as follows: WEEKLY: 30 times the federal minimum hourly wage at the time the earnings for any pay period become due and payable (FMW); BI-WEEKLY: 2 times 30 fmw; SEMI-MONTHLY: 2 and one-sixth (2 1/6) times 30 fmw; and MONTHLY: 4 and one-third (4 1/3) times fmw equals the amount to be subtracted from disposable earnings for that pay period.

If the judgment orders alimony or child support and the person in whose favor the judgment was rendered has remarried, the above exemption applies. If the judgment orders the debtor to support another person (for example, alimony or child support) and the person in whose favor the judgment was rendered has not remarried; the different standards apply under 15 U.S.C., Section 1673(b). If the debtor is supporting a spouse or dependent child other than those for whom the order was entered, then fifty percent (50%) of such additional dependents, a maximum of sixty percent (60%) may be garnished. These figures rise fifty-five percent (55%) and sixty-five (65%)

respectively, if the support order is for a period more than twelve (12) weeks before the pay period to be garnished.

If the judgment is for state or federal taxes, no disposable earnings are exempt under 15 U.S.C., Section 1673(b).

NOTICE TO JUDGEMENT DEBTOR, NOTICE TO GARNISHEE (EMPLOYER) and NOTICE TO THE DEBTOR (EMPLOYEE):

Your earnings have been subjected to a garnishment, which has been served upon your employer. The garnishment creates a lien on a portion of your wages until the judgment is satisfied, or for six (6) months, whichever occurs first. You have the following rights:

Some of your wages are protected by state and federal law from garnishment. See the notice to the employer to find out how much of your wages are protected from garnishment.

IF YOUR EMPLOYER IS TAKING TOO MUCH MONEY FROM YOUR WAGES:

You may apply to the court at the clerk's office within twenty (20) days from any improper withholding of your wages for a motion to stop the garnishment. The court clerk identified shall provide you with a form for making such a motion. You may wish to seek counsel of a lawyer. If you are unable to afford an attorney, you may be eligible for free legal services to assist you.

PLEASE NOTE: If you file a motion, the court must hear and decide your motion promptly, and in no event later than fourteen (14) days from filing. The clerk will notify you of the time, date, and place of hearing. The court clerk's office can provide you with forms and with information about legal services in your area, but the clerk cannot give you legal advice.

IF THE RIGHT AMOUNT OF MONEY IS BEING TAKEN FROM YOUR WAGES BUT YOU WANT TO GET THE GARNISHMENT STOPPED THROUGH A PAYMENT PLAN:

You may apply to the court for an order suspending further garnishments by the same creditor upon your paying a certain sum of money weekly, biweekly, or monthly, to pay the judgment. If you file this motion, the garnishment of your wages will stop for as long as you make the payments ordered by the court.

The court clerk shall provide with necessary forms to make this application, or you may seek the counsel of a lawyer. If you are unable to afford an attorney, you may be eligible for free legal services to assist you.

THIS NOTICE FOR NON-WAGE GARNISHMENTS ONLY

NOTICE TO JUDGEMENT DEBTOR

To collect a judgment against you in this lawsuit, your money or other property has been seized by execution or garnishment. An execution allows the sheriff to sell the property levied upon. A garnishment requires your bank (or other person holding money or property) to transfer your property to the court or to hold it to satisfy the judgement.

READ THIS CAREFULLY. YOU MAY BE ABLE TO KEEP YOUR MONEY OR PROPERTY OR GET IT BACK.

State and federal laws prevent certain types of money or property from being used to pay a judgment. Such money or property is "exempt." Examples of exempt money are Social Security benefits, SSI, unemployment benefits, Veteran's benefits, AFDC, and most government pensions. Examples of exempt property are certain health care aids and "tools of trade." These examples of exempt money and property constitute only a partial list, and you may have other exemptions.

If you think you have exempt money or property that has been seized, you have the right to file a motion with the court clerk's office identified below claiming your exemption and asking for the release or return of your money or property.

You can get a form for filing this motion at the clerk's office. YOU SHOULD ACT QUICKLY. If you file a motion within twenty (20) days from the date this notice was mailed to you or was given to you, the court must hear and decide your motion promptly, and in no event later than fourteen (14) days from filing. The clerk will notify you of the time, date and place of the hearing.

IF YOU DO NOT UNDERSTAND YOUR RIGHTS OR HOW TO EXERCISE THEM, YOU MAY WISH TO CONSULT WITH A LAWYER. IF YOU CANNOT AFFORD A LAWYER, YOU MAY BE ELIGIBLE FOR FREE LEGAL ASSISTANCE. The court clerk's office can provide you with forms and with information about legal services in your area, but the clerk cannot give you legal advice.

REMIT FUNDS AND ANSWERS TO:

General Sessions Court Clerk

Mail to: P O Box 3824, Memphis, TN 38173

Office: 140 Adams Room 106, Memphis, Tn 38103

