

1 4-811

2
3 [1-065.2]

4
5 STATE OF NEW MEXICO

6 IN THE _____ COURT No. _____
7 _____ COUNTY

8
9
10 _____, Plaintiff (Judgment creditor)

11 v.

12
13
14 _____, Defendant (Judgment debtor)

15
16 _____, Garnishee

17
18
19 **JUDGMENT ON WRIT OF GARNISHMENT, CLAIM OF**
20 **EXEMPTION AND ORDER TO PAY**

21
22 This matter coming before the court, the court finds:

23
24 [] 1. At the time the writ of garnishment was served on the
25 garnishee, the amount of \$_____ was unpaid and
26 owing to the judgment creditor.

27
28 [] 2. As a result of this garnishment proceeding, judgment
29 creditor has spent additional costs and fees of
30 \$_____

31
32 [] 3. The total amount of judgment and costs to date are
33 \$_____ plus interest of ____% per year from
34 _____, _____

35
36 [] 4. The garnishee is not an employer of the judgment
37 debtor and has also certified that it has mailed
38 copies of the application for a writ of garnishment;
39 the writ of garnishment; notice of right to claim
40 exemptions and a claim of exemption form and a copy of
41 its answer to the judgment debtor(s) or their attorney
42 of record, if any.

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44 [] 5. The judgment debtor:
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46 [] has not filed a claim of exemption;
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48 [] has filed a claim of exemption and the judgment
49 creditor has not disputed the claim of exemption

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for the following property and such money or
property is therefore exempt:

_____;

or

[] has filed a claim of exemption which has been
disputed and after a hearing, the court finds
that the following property is exempt from
garnishment: _____

[] 6. The garnishee:

[] is in default;

[] is indebted to the judgment debtor in the amount
of \$_____;

[] is indebted to the judgment debtor for wages;

[] is not indebted to the judgment debtor;

[] holds property of the judgment debtor;

[] does not hold property of the judgment debtor.

[] 7. Pursuant to the Support Enforcement Act, the
garnishee:

[] is withholding \$_____ of the judgment
debtor's income pursuant to a Notice to Withhold
Income;

or

[] is not withholding any income of the judgment
debtor pursuant to such a Notice.

[] 8. Pursuant to Section 35-12-16 NMSA 1978, the judgment
creditor:

[] is entitled to additional fees and costs of
\$_____;

or

1 [] is not entitled to additional fees and costs.

2

3 THE COURT ORDERS:

4

5 **1. Default judgment against garnishee**

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7 [] The judgment creditor recover from the garnishee the
8 sum of \$_____, plus _____ percent per
9 annum interest from the date the application was
10 executed, the garnishee having failed to answer the
11 writ; or

12

13 **2. Payment of money other than wages**

14

15 [] The judgment creditor recover from the garnishee the
16 sum of \$_____, which includes _____% per annum
17 interest thereon from the date the application was
18 executed to the date the answer was filed, such sum
19 being held by garnishee other than as wages;

20

21 or

22

23 **3. Wage withholding other than child support**

24

25 [] The judgment being other than for child support, the
26 judgment creditor recover from the garnishee the sum
27 of \$_____, plus interest at the original
28 judgment rate, until paid in full, to be deducted from
29 the judgment debtor's wages.

30

31 The garnishee shall pay the judgment debtor only:

32

33 (a) 75% of judgment debtor's disposable earnings
34 (*salary less social security, federal and*
35 *state tax withholdings, and any other*
36 *deduction required by law) for any pay*
37 *period;*

38

39 OR

40

41 (b) any amount each week equal to forty times
42 the federal minimum hourly wage rate;

43

44 whichever is greater.

45

46 The balance of the judgment debtor's disposable
47 earnings shall be paid over to the judgment creditor

1 each payday until the judgment herein is satisfied,
2 after this balance is first used to pay any prior
3 garnishment. If the wages of the judgment debtor are
4 not subject to garnishment because of the application
5 of the formula set forth above, this order shall
6 continue and shall automatically take effect when the
7 wages of the judgment debtor shall increase to an
8 amount which creates disposable earnings based upon
9 the formula set forth above.

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11 **4. Wage withholding for child support**

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13 [] **No prior writ or order.** The order or decree being for
14 child support, the judgment creditor shall recover
15 from the garnishee the sum of \$_____, plus interest
16 at the original judgment rate, until paid in full, to
17 be deducted from the judgment debtor's wages. The
18 garnishee shall pay the judgment debtor 50% of
19 judgment debtor's disposable earnings (*salary less*
20 *social security, federal and state tax withholdings,*
21 *and any other deduction required by law*) for any pay
22 period. If there is no prior garnishment, the balance
23 of the judgment debtor's disposable earnings each
24 payday shall be paid to satisfy this judgment.

25
26 [] **Prior writ or order.** If there is a prior garnishment
27 (one that was served on the garnishee prior to the
28 date and time the garnishment in this case was
29 served), up to fifty percent (50%) of the judgment
30 debtor's disposable earnings each pay period shall be
31 paid as follows:

32
33 first, the amount provided for in the judgment
34 entered on the prior writ of garnishment shall be
35 applied to the prior garnishment. If a judgment
36 has not yet been entered on the prior writ of
37 garnishment, the garnishee shall withhold the
38 amount ordered by the prior writ of garnishment
39 to be applied to the prior writ of garnishment
40 when the judgment is entered;

41
42 next, until all prior writs have been fully
43 satisfied the remainder of the balance of fifty
44 percent (50%) of the judgment debtor's disposable
45 earnings, shall be paid to this judgment creditor
46 to satisfy the child support order. Upon
47 satisfaction of all prior writs of garnishment,

1 the entire balance of the judgment debtor's
 2 disposable earnings shall be applied to satisfy
 3 this child support order judgment. If the wages
 4 of the judgment debtor are not subject to
 5 garnishment because of the application of the
 6 formula set forth above, this order shall
 7 continue and shall automatically take effect when
 8 the wages of the judgment debtor shall increase
 9 to an amount which creates disposable earnings
 10 based upon the formula set forth above.

11
 12 [] **Prior child support writ.** Upon motion of the judgment
 13 debtor, this court orders the distribution of the
 14 judgment debtor's child support obligations as
 15 follows: _____
 16 _____

17
 18 If the moneys being withheld pursuant to a notice to
 19 withhold income under the Support Enforcement Act
 20 exceed the otherwise garnishable amounts this
 21 garnishment shall continue in effect until the notice
 22 to withhold income has been voided, modified,
 23 suspended or terminated, at which time the full amount
 24 allowed for garnishment shall be paid to the judgment
 25 creditor.

26
 27 If the wages being withheld pursuant to a notice to
 28 withhold income under the Support Enforcement Act are
 29 less than twenty-five percent (25%) of the judgment
 30 debtor's disposable earnings, the difference between
 31 the amount withheld for child support and the amount
 32 equal to twenty-five percent (25%) of the judgment
 33 debtor's disposable earnings shall be paid to the
 34 judgment creditor, until the child support notice to
 35 withhold income has been voided, modified, suspended
 36 or terminated, at which time the full amount allowed
 37 for garnishment shall be paid to the judgment
 38 creditor.

39
 40 **5. Money or property other than wages**

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 42 [] The money or property held by the garnishee is exempt
 43 from garnishment and the writ of garnishment in this
 44 case is hereby released and discharged; and the
 45 garnishee no longer has any obligation to withhold
 46 wages, money or property from the judgment debtor on
 47 account of that writ.

