

1 **4-812. Judgment on writ of garnishment, claim of exemption, and order to pay.**

2 [For use with Rules 2-802 and 3-802 NMRA]

3
4 STATE OF NEW MEXICO
5 COUNTY OF _____

6
7 IN THE [MAGISTRATE] [METROPOLITAN] COURT

8
9 _____, Plaintiff (*Judgment Creditor*),

10
11 v. No. _____

12
13 _____, Defendant (*Judgment Debtor*).

14
15 _____, Garnishee.

16
17 **JUDGMENT ON WRIT OF GARNISHMENT, CLAIM OF**
18 **EXEMPTION, AND ORDER TO PAY**

19
20 This matter coming before the court, the court finds:

21
22 1. The judgment creditor, _____, has a judgment dated
23 _____ against the judgment debtor, _____.

24
25 2. The total amount of the judgment including the principal, interest, costs, and attorney fees
26 awarded by the judgment was \$ _____.

27
28 3. From the date the judgment was filed through the date this Application was signed,
29 additional interest at the rate of _____% totals \$ _____. Judgment
30 creditor has incurred additional costs of \$ _____ and additional attorney fees of
31 \$ _____. Payments totaling \$ _____ have been received.

32
33 4. The unpaid balance now due is \$ _____ plus interest from the date this
34 Application is filed. Interest at _____% shall continue to accrue on any outstanding
35 balance until the judgment is fully paid

36
37 5. The judgment debtor:

38
39 has not filed a claim of exemption;

40
41 has filed a claim of exemption, which was not disputed. Therefore, the
42 property or money shown on the claim of exemption is exempt;

1 has filed a claim of exemption that has been disputed and after hearing, the
2 court finds that the following property is not exempt from garnishment:
3 _____;
4

5 6. The garnishee:

- 6 is in default;
7
8 is indebted to the judgment debtor for wages;
9
10 is indebted to the judgment debtor in the amount of \$ _____;
11
12 is not indebted to the judgment debtor;
13
14 holds property of the judgment debtor;
15
16 does not hold property of the judgment debtor.
17
18

19 7. The garnishee:

- 20
21 **is garnishing wages**, and has certified that it has mailed copies of the
22 application for a writ of garnishment; the writ of garnishment; and a copy
23 of its answer to the judgment debtor(s) or their attorney of record, if any.
24
25 **is garnishing property or money other than wages**, and has certified that
26 it has mailed copies of the application for a writ of garnishment; the writ of
27 garnishment; a notice of right to claim exemptions; a claim of exemption
28 form; and a copy of its answer to the judgment debtor(s) or their attorney of
29 record, if any.
30
31

32 8. ~~[Pursuant to]~~ Under the Support Enforcement Act, the garnishee:

- 33 is withholding \$ _____ of the judgment debtor's income
34 ~~[pursuant to]~~ under a notice to withhold income.
35
36

37 **THE COURT ORDERS:**

- 38
39 1. **Default judgment against garnishee**
40 The garnishee having failed to answer the writ, the judgment creditor shall recover
41 from the garnishee the sum of \$ _____ plus interest at _____ % per year
42 from the date this judgment is filed.
43
44 2. **Payment of money other than wages**
45 The judgment creditor shall recover from the garnishee the sum of
46 \$ _____

1 plus interest at _____% per year from the date this judgment is filed, [~~such~~] this
2 sum being held by garnishee other than as wages.

3
4 [] 3. **Wage withholding other than child or spousal support**

5 The judgment being other than for child or spousal support, the judgment creditor
6 shall recover from the garnishee the sum of \$_____, plus interest at
7 _____% per year from the date this judgment is filed, until paid in full, to be
8 deducted from the judgment debtor’s wages.

9
10
11 The garnishee **SHALL PAY THE JUDGMENT DEBTOR**, whichever amount is
12 greater, one of the following:

13
14
15 (a) seventy-five percent (75%) of the judgment debtor’s disposable
16 earnings [~~salary less social security, federal and state tax~~
17 ~~withholdings, and any other deduction required by law~~] for any pay
18 period; **OR**

19
20 (b) an amount each week equal to forty (40) times the [~~federal minimum~~
21 ~~hourly wage rate~~] highest applicable minimum hourly wage rate at
22 the place the wages were earned. A table giving equivalent
23 exemptions for pay periods of other than one week may be obtained
24 from the director of the financial institutions division of the
25 regulation and licensing department.

26 “Disposable earnings” means that part of the defendant’s wage or
27 salary remaining after deducting the amounts that are required by
28 law to be withheld. “Highest applicable minimum hourly wage
29 rate” means the highest federal, state, or local minimum hourly wage
30 rate for an eight-hour day or a forty-hour week. It is immaterial
31 whether you are exempt under federal, state, or local law from
32 paying the highest applicable minimum hourly wage rate.

33
34
35 The remaining balance of the judgment debtor’s disposable earnings shall be paid
36 over to the judgment creditor each payday until the judgment herein is paid in full.
37 If the wages of the judgment debtor are not enough to garnish because of the
38 application of the formula set forth above, this order shall continue and shall
39 automatically take effect when the wages of the judgment debtor shall increase to
40 an amount that creates disposable earnings based [~~upon~~] on the formula set forth
41 above.
42
43

1 If wages are being withheld [~~pursuant to~~] under a notice to withhold income under
2 the Support Enforcement Act, this garnishment shall continue in effect until the
3 notice to withhold income has been voided, modified, suspended or terminated, at
4 which time the full amount allowed for garnishment shall be paid to the judgment
5 creditor.

6 If the wages are being withheld [~~pursuant to~~] under a notice to withhold income
7 under the Support Enforcement Act, but are less than twenty-five percent (25%) of
8 the judgment debtor's disposable earnings, the difference between the amount
9 withheld for child or spousal support and the amount equal to twenty-five percent
10 (25%) of the judgment debtor's disposable earnings shall be paid to the judgment
11 creditor until the child or spousal support notice to withhold income has been
12 voided, modified, suspended, or terminated, at which time the full amount allowed
13 for this garnishment shall be paid to the judgment creditor.

14
15 If wages are being withheld [~~pursuant to~~] under a prior garnishment and/or a prior
16 demand warrant for unpaid taxes, the prior garnishment and/or prior demand
17 warrant shall be paid first and [~~upon~~] on full payment of the prior garnishment
18 and/or prior demand warrant, the full amount allowed for this garnishment shall be
19 paid to the judgment creditor.

20
21 4. **Money or property other than wages**

22
23 The money or property held by the garnishee is exempt from garnishment and the
24 writ of garnishment in this case is hereby released and discharged; and the garnishee
25 no longer has any obligation to withhold wages, money, or property from the
26 judgment debtor on account of that writ.

27
28 The garnishee, having no money or property of the judgment debtor, is discharged
29 and released from the writ of garnishment.

30
31 The garnishee shall turn over to the judgment creditor the property of the judgment
32 debtor shown on Exhibit A attached hereto.

33
34 5. **Costs and fees of garnishee**

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36 The garnishee shall be reimbursed \$_____ for its costs and \$_____ for its
37 attorney fees to be paid by the _____. If paid by the judgment debtor,
38 [~~said~~] the sum shall be paid from the first money otherwise payable to the judgment
39 creditor but shall not reduce the amount due the judgment creditor as determined
40 above.

41
42 6. **Payments**

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44 Payments under this order shall be sent to:
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(name of judgment creditor)

(address of judgment creditor)

(city, state, and zip code)

(phone number of judgment creditor)

Date

Judge

USE NOTES

1. See *Jemko, Inc. v. Liaghat*, 1987-NMCA-069, ¶ 10, 106 N.M. 50, [52,] 738 P.2d 922[~~, 925~~ (Ct. App. 1987)] (providing that a judgment creditor, acting [~~pursuant to~~] under a writ of garnishment, may only seize property belonging to the judgment debtor); *Alcantar v. Sanchez*[~~;~~], 2011-NMCA-073, 150 N.M. 146, 257 P.3d 966 (discussing garnishment procedures in the case of joint bank accounts).

2. Use this form only for actions filed on or after July 1, 2023.

[As amended, effective July 1, 1992; January 1, 1996; December 3, 2001; by Supreme Court Order No. 12-8300-030, effective for all cases filed or pending on or after January 7, 2013; as amended by Supreme Court Order No. S-1-RCR-2024-00107, effective for all cases pending or filed on or after December 31, 2024.]