4-806. Writ of garnishment.

[For use with Rules 1-065.2, 2-802, and 3-802 NMRA]

STATE OF NEW MEXICO
COUNTY OF _____
[IN THE [DISTRICT] [MAGISTRATE] [METROPOLITAN] COURT]
[_____ JUDICIAL DISTRICT]

_____, Plaintiff

v. No. _____

_____, Defendant

Balance Due On Application for Writ: $ _____
Includes Interest at _____%
Through _____, _____ (*date*)

WRIT OF GARNISHMENT

THE STATE OF NEW MEXICO to _____, garnishee.

You are ordered to appear before the _____ court located at _____ within twenty days from the day of [~~the~~] service of this writ on you to answer under oath the following questions, as of the date of service and as of the date of your answer:

1. What, if anything, are you indebted to the defendant in this action and on what account?

2. What, if any, personal property of the defendant is in your possession or under your control?

3. What other persons, if any, within your knowledge are indebted to the defendant or have personal property of the defendant in their possession?

_____ is the judgment debtor in this case and owes the amount set out above to the judgment creditor, _____, whose address is _____.

The above judgment creditor believes that you hold or control money or property that belongs to the judgment debtor.

YOU ARE ORDERED to file a written answer with the _____ court located at _____ within twenty (20) days from the day [~~you receive~~] of

service of this this writ on you. Your answer must be under oath and on the attached form (*answer by garnishee*).

Service of this writ on you has the effect of attaching all nonexempt personal property, money, rights, credits, bonds, bills, notes, drafts, and other choses in action of the defendant in your possession or under your control at the time of service and that may come into your possession or under your control or be owing by you between the time of service and the time of making your answer.

This writ was issued in (advance) (aid of execution) of judgment against the defendant. If this writ was issued in advance of judgment, it does not attach any wages or salary due from you to the defendant.

If this writ was issued in aid of execution of judgment, it attaches to wages or salary due from you to the defendant IN EXCESS OF THE GREATER OF THE FOLLOWING EXEMPT portions of the defendant's disposable earnings:

A. seventy-five percent (75%) of the defendant's disposable earnings for any pay period; or

B. an amount each week equal to forty (40) times the highest applicable minimum hourly wage rate at the place the wages were earned.

A table giving equivalent exemptions for pay periods of other than one week may be obtained from the director of the financial institutions division of the regulation and licensing department. "Disposable earnings" means that part of the defendant's wage or salary remaining after deducting the amounts that are required by law to be withheld. "Highest applicable minimum hourly wage rate" means the highest federal, state, or local minimum hourly wage rate for an eight-hour day or a forty-hour week. It is immaterial whether you are exempt under federal, state, or local law from paying the highest applicable minimum hourly wage rate.

ANY WAGES IN EXCESS OF THE LARGER EXEMPTION AMOUNT ABOVE THAT YOU OWE THE EMPLOYEE, OR THAT YOU MAY COME TO OWE THE EMPLOYEE, MUST BE KEPT BY YOU UNTIL FURTHER ORDER OF THIS COURT.

If the debt is for child support or spousal support payments, you shall pay the judgment debtor fifty percent (50%) of the debtor's disposable earnings (*salary less social security, federal, and state withholding*).

If employee's wages or salary are subject to more than one garnishment or wage withholding proceeding, the writs shall be satisfied in the order they have been served on you.[1]

In no event may you withhold from your employee's net disposable earnings more than fifty percent (50%) of the employee's net disposable earnings if one of the writs is for child or spousal support or more than twenty-five percent (25%) if none of the garnishments is for child or spousal support.[2]

Any wages you owe the employee in excess of that amount or that you may come to owe the employee in excess of that amount must be kept by you until further order of this court. (*A table giving equivalent exemptions for pay periods of other than one (1) week may be obtained from the Financial Institutions Division of the Regulation and Licensing Department, 725 St. Michaels Drive, Santa Fe, New Mexico 87503*.)

If you have any property that belongs to the judgment debtor, including any rights, credits, bonds, bills, notes, drafts, and other rights to property or money that belongs to the judgment debtor, or if you acquire any property, money, or rights to property or money before filing your answer, you must keep a sufficient amount of that property to satisfy the existing judgment and costs and not turn it over to the judgment debtor unless the court enters an order releasing the property or money.

If you hold property or money belonging to the judgment debtor, within four (4) business days after service of this writ, you are to mail or deliver a copy of this writ and the application for writ provided by the judgment creditor. If you hold property or money of the judgment debtor's other than wages and the debtor is a natural person, you shall also mail or deliver to the judgment debtor, the attached notice of right to claim exemptions and a copy of the attached claim of exemption forms to each person identified as a judgment debtor. You shall also send or deliver a copy of your answer to this writ to the judgment debtor and to the judgment creditor.

The court will be asked to enter an order awarding $ _____ for the judgment creditor's costs relative to the service of the writ of garnishment and $ _____ for judgment creditor's attorney fees in connection with the writ of garnishment in addition to $ _____, the "Balance Due Application for Writ."

FINANCIAL INSTITUTION WRITS

If you are a financial institution, the defendant who is an individual or sole proprietor has an exemption totaling two thousand four hundred dollars ($2,400) in depository and investment accounts. This writ attaches only to money in excess of two thousand four hundred dollars ($2,400). You may rely on the representations of the person executing this writ as to whether the exemption amount has already been satisfied with other accounts held by other financial institutions. This provision shall not prevent the individual or sole proprietor from claiming that additional money in depository or investment accounts is exempt under any other available exemption provided by law.

It is unlawful to pay or deliver to the defendant any item attached by this writ. If you fail to appear and answer as directed, or if you unlawfully dispose of any item attached by this writ, judgment may be rendered against you for the full amount of the plaintiff's claim against the defendant in this action.

THIS IS A COURT ORDER. If you fail to file the answer, or if you disobey any of these orders, a judgment may be entered against you for the full amount of the unpaid judgment in this case.

(*Seal*)

_____
Judge or clerk

RETURN

STATE OF NEW MEXICO) ss
)
COUNTY OF _____)

RETURN FOR COMPLETION BY SHERIFF OR DEPUTY:

I certify that I served this writ in this county on the _____ day of _____, _____, by delivering a copy of the writ, a copy of the application for writ, a copy of a form for answer by garnishee, a copy of a notice of right to claim exemptions for each judgment debtor, and a copy of the claim of exemption form for each judgment debtor to _____, garnishee.

(*For garnishment of wages, serve only copies of the application for writ of garnishment, writ of garnishment, and answer form. For garnishment other than wages, if the judgment debtor is a natural person, serve the application for writ of garnishment, the writ of garnishment, a copy of the notice of right to claim exemptions, a copy of the claim of exemption form, and a copy of the answer by garnishee. Judgment debtors who are not natural persons are not entitled to garnishment exemptions*.)

By _____
Name

_____
Title

Fees:

SHERIFF OF _____
COUNTY, State of New Mexico
By_____
Deputy

RETURN FOR COMPLETION BY OTHER PERSON MAKING SERVICE:

I, being duly sworn, on oath, say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this writ in this county on the _____ day of _____, _____, by delivering a copy of the writ, a copy of the application for writ, a copy of a form for answer by garnishee, a copy of a notice of right to claim exemptions for each judgment debtor, and a copy of the claim of exemption form for each judgment debtor to _____ garnishee.

By _____
Name

_____
Title

_____
Signature of private person making service

Subscribed and sworn to before me this
_____ day of _____, _____

_____
Judge, notary, or other officer authorized to administer oaths

_____
Official title

USE NOTES

1. Section 35-12-9 NMSA 1978 provides that if an employee's wages are subject to more than one garnishment proceeding, the writs shall be satisfied in the order in which they are served on the garnishee.

2. Section 35-12-7(C) NMSA 1978 provides that the maximum amount that may be taken from a person's disposable earnings is fifty percent (50%) of the employee's disposable earnings.

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

[As amended, effective June 15, 1986; January 1, 1987; July 1, 1992; January 1, 1996; December 3, 2001; as amended 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; as amended by Supreme Court Order No. S-1-RCR-2026-00233, effective for all cases pending or filed on or after December 31, 2026.]