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

[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

_____, Plaintiff (*Judgment Creditor*),

v. No. _____

_____, Defendant (*Judgment Debtor*).

_____, Garnishee.

JUDGMENT ON WRIT OF GARNISHMENT, CLAIM OF EXEMPTION, AND ORDER TO PAY

This matter coming before the court, the court finds:

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

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

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

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

5. The judgment debtor:

    [ ] has not filed a claim of exemption;

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

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

6. The garnishee:

[ ] is in default;

[ ] is indebted to the judgment debtor for wages;

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

[ ] is not indebted to the judgment debtor;

[ ] holds property of the judgment debtor;

[ ] does not hold property of the judgment debtor.

7. The garnishee:

[ ] **is garnishing wages**, and has certified that it has mailed copies of the application for a writ of garnishment; the writ of garnishment; and a copy of its answer to the judgment debtor(s) or their attorney of record, if any.

[ ] **is garnishing property or money other than wages**, and has certified that it has mailed copies of the application for a writ of garnishment; the writ of garnishment; a notice of right to claim exemptions; a claim of exemption form; and a copy of its answer to the judgment debtor(s) or their attorney of record, if any.

8. Under the Support Enforcement Act, the garnishee:

[ ] is withholding $_____ of the judgment debtor's income under a notice to withhold income.

THE COURT ORDERS:

[ ] 1. **Default judgment against garnishee**
The garnishee having failed to answer the writ, the judgment creditor shall recover from the garnishee the sum of $_____ plus interest at _____% per year from the date this judgment is filed.

[ ] 2. **Payment of money other than wages**
The judgment creditor shall recover from the garnishee the sum of $_____

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

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

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

[~~The garnishee **SHALL PAY THE JUDGMENT DEBTOR**, whichever amount is greater, one of the following: ~~] **THE HIGHER OF THE FOLLOWING AMOUNTS IS EXEMPT FROM GARNISHMENT:**

(a) seventy-five percent (75%) of the judgment debtor'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.

If the wages of the judgment debtor are not enough to garnish because of the application of the formula set forth above, DO NOT WITHHOLD WAGES. If there are disposable earnings based on the formula set forth above, the [~~The~~] remaining balance of the judgment debtor's disposable earnings shall be paid over to the judgment creditor each payday until the judgment herein is paid in full. [~~If the wages of the judgment debtor are not enough to garnish because of the application of the formula set forth above, this~~] This order shall continue and shall automatically take effect when the wages of the judgment debtor shall increase to an amount that creates disposable earnings based on the formula set forth above. Exempt amounts should be calculated with each pay-period.

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

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

If wages are being withheld under a prior garnishment and/or a prior demand warrant for unpaid taxes, the prior garnishment and/or prior demand warrant shall be paid first and on full payment of the prior garnishment and/or prior demand warrant, the full amount allowed for this garnishment shall be paid to the judgment creditor.

[ ] 4. **Money or property other than wages**

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

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

[ ] The garnishee shall turn over to the judgment creditor the property of the judgment debtor shown on Exhibit A attached hereto.

[ ] 5. **Costs and fees of garnishee**

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

6. **Payments**

Payments under this order shall be sent to:

_____
(*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, 738 P.2d 922 (providing that a judgment creditor, acting 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; as amended by Supreme Court Order No. S-1-RCR-2025-00138, effective for all cases pending or filed on or after December 31, 2026.]