[4-811. Judgment on writ of garnishment, claim of exemption and order to pay.

[For use with Rule 1-065.2 NMRA]

STATE OF NEW MEXICO
COUNTY OF _____
_____ JUDICIAL DISTRICT
_____, Plaintiff *(Judgment creditor)*

No. _____

v.

_____, 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. At the time the writ of garnishment was served on the garnishee, the amount of $_____ was unpaid and owing to the judgment creditor.

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

[ ] 3. The total amount of judgment and costs to date are $_____ plus interest of _____% per year from _____, _____.

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

[ ] 5. The judgment debtor:

[ ] has not filed a claim of exemption;

[ ] has filed a claim of exemption and the judgment creditor has not disputed the claim of exemption 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~~
~~[ ] is not entitled to additional fees and costs.~~

~~THE COURT ORDERS:~~

~~1. **Default judgment against garnishee**~~
~~[ ] The judgment creditor recover from the garnishee the sum of $_____, plus _____ percent per annum interest from the date the application was executed, the garnishee having failed to answer the writ;~~

~~or~~

~~2. **Payment of money other than wages**~~
~~[ ] The judgment creditor recover from the garnishee the sum of $_____, which includes _____ percent per annum interest thereon from the date the application was executed to the date the answer was filed, such sum being held by garnishee other than as wages;~~

~~or~~

~~3. **Wage withholding other than child or spousal support**~~
~~[ ] The judgment being other than for child or spousal support, the judgment creditor recover from the garnishee the sum of $_____, plus interest at the original judgment rate, until paid in full, to be deducted from the judgment debtor's wages. The garnishee shall pay the judgment debtor only:~~

(a) seventy-five percent (75%) of judgment debtor's disposable earnings (salary less social security, federal and state tax withholdings, and any other deduction required by law) for any pay period;

OR

(b) an amount each week equal to forty (40) times the federal minimum hourly wage rate;

whichever is greater.

The balance of the judgment debtor's disposable earnings shall be paid over to the judgment creditor each payday until the judgment herein is satisfied, after this balance is first used to pay any prior garnishment. If the wages of the judgment debtor are not subject to garnishment because of the application of the formula set forth above, 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 upon the formula set forth above.

4. **Wage withholding for child or spousal support**

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

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

first, the amount provided for in the judgment entered on the prior writ of garnishment shall be applied to the prior garnishment. If a judgment has not yet been entered on the prior writ of garnishment, the garnishee shall withhold the amount ordered by the prior writ of garnishment to be applied to the prior writ of garnishment when the judgment is entered;

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next, until all prior writs have been fully satisfied, the remainder of the balance of fifty percent (50%) of the judgment debtor's disposable earnings shall be paid to this judgment creditor to satisfy the child or spousal support order. Upon satisfaction of all prior writs of garnishment, the entire balance of the judgment debtor's disposable earnings shall be applied to satisfy this child or spousal support order judgment. If the wages of the judgment debtor are not subject to garnishment because of the application of the formula set forth above, 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 upon the formula set forth above.

[ ] **Prior child or spousal support writ.** Upon motion of the judgment debtor, this court orders the distribution of the judgment debtor's child or spousal support obligations as follows: _____
_____
_____
_____
If the money being withheld pursuant to a notice to withhold income under the Support Enforcement Act exceeds the otherwise garnishable amounts, 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 being withheld pursuant to a notice to withhold income under the Support Enforcement Act 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 garnishment shall be paid to the judgment creditor.

5. **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.

6. **Costs and fees**

[ ] The judgment creditor is awarded, in addition to the above amounts, the sum of $_____ as additional costs and fees pursuant to Section 35-12-16 NMSA 1978.

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

7. **Payments**

Payments under this order shall be sent to:
_____
(name of judgment creditor)
_____
(address of judgment creditor)
_____
(city, state and zip code)

_____,_____
Date

_____
Judge]

[As amended, effective June 15, 1986; January 1, 1987; July 1, 1992; January 1, 1996; October 15, 1999; December 3, 2001; withdrawn by Supreme Court Order No. S-1-RCR-2025-00138, effective for all cases pending or filed on or after December 31, 2026.]