

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA**

**IN RE:**

**Case No.**

**Debtor.**

**Plaintiff(s),**

**vs.**

**Adversary No.**

**Defendant(s).**

**PROCESS OF GARNISHMENT**

**GARNISHEE:**

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**Date of Judgment:** \_\_\_\_\_

**Judgment Amount:** \_\_\_\_\_

**Costs:** \_\_\_\_\_

**Less Credit:** \_\_\_\_\_

**Other:** \_\_\_\_\_

**Total:** \_\_\_\_\_

**AFFIDAVIT**

I make oath that I have obtained the foregoing judgment and believe the named garnishee is indebted to the defendant or has effects of the defendant under his control. I believe that a Process of Garnishment against the said garnishee is necessary to obtain satisfaction of judgment.

The garnishment \_\_\_\_\_ IS \_\_\_\_\_ IS NOT subject to restrictions of Section 5-19-15, Code of Alabama, 1975, which pertains to consumer loans, consumer credit sales, and consumer leases.

\_\_\_\_\_  
Affiant/Attorney for Plaintiff

**SWORN** to and **SUBSCRIBED** before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

OF COUNSEL:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Firm Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Telephone

**PROCESS OF GARNISHMENT**  
**ATTACHMENT A**

Instructions for Determining the Percentage of Wages, Salary or Other Compensation to be Withheld.

I. **GARNISHMENTS TO COLLECT JUDGMENTS ARISING FROM SITUATIONS OTHER THAN CONSUMER LOANS, CONSUMER CREDIT SALES OR CONSUMER LEASES ARE SUBJECT TO THE RESTRICTIONS OF:** §6-10-7, Code of Alabama 1975, and Title 15, §1673, United States Code (“U.S.C.”). Under Alabama and federal law, the amount subject to garnishment to collect such judgments shall not exceed the **LESSER** of:

- (1) twenty-five (25) percent of “disposable earnings” for the week **OR**
- (2) the amount by which “disposable earnings” for the week exceed thirty (30) times the federal minimum hourly wage in effect at the time the earnings are payable.

II. **GARNISHMENTS TO COLLECT JUDGMENTS ARISING FROM CONSUMER LOANS, CONSUMER CREDIT SALES OR CONSUMER LEASES ARE SUBJECT TO THE RESTRICTIONS OF:** §5-19-15, Code of Alabama, 1975 as amended by Act 88-294, effective April 12, 1988.

A. Under this law, **if the debt or demand was created ON OR AFTER April 12, 1988**, the amount subject to garnishment shall not exceed the **LESSER** of:

- (1) twenty-five (25) percent of “disposable earnings” for the week **OR**
- (2) the amount by which “disposable earnings” for the week exceed thirty (30) times the federal minimum hourly wage in effect at the time the earnings are payable.

B. **If the debt or demand was created BEFORE April 12, 1988**, the amount subject to garnishment shall not **exceed the LESSER** of:

- (1) twenty (20) percent of “disposable earnings” for the week **OR**
- (2) the amount by which “disposable earnings” for the week exceed fifty (50) times the federal minimum hourly wage in effect at the time the earnings are payable.

**DISPOSABLE EARNINGS DEFINED:** An employee’s “disposable earnings” means that part of earnings of an individual remaining after deduction of amounts required by law to be withheld such as Federal Income Tax, Federal Social Security Tax, and State and Local Taxes.

## NOTICE TO GARNISHEE

**Note:** If you have in your possession or control property or money belonging to the defendant (which **is not wages, salary or other compensation**), you should hold the property or money subject to the orders of the court. The formula outlined below only applies if the property sought to be garnished is wages, salary or other compensation of the defendant.

### **Use the following formula to calculate a garnishment of wages, salary or other compensation)**

- (1) Calculate “disposable earnings” for the week (see definition of “disposable earnings”)
- (2) If the twenty-five (25) percent block is checked on Writ of Garnishment, multiply the “disposable earnings” amount by twenty-five (25) percent. Then multiply the “minimum wage amount” (in effect at the time the earnings are payable by you) by thirty (30).

### **OR**

- (3) If the twenty (20) percent block is checked on the Writ of Garnishment, multiply the “disposable earnings” amount by twenty (20) percent. Multiply the “minimum wage amount” (in effect at the time the earnings are payable by you) by fifty (50).
- (4) After the calculation is made in accordance with (2) or (3) above (whichever is applicable), the amount of the garnishment for the week is the **LESSER** amount.

Withhold this amount and pay it into court as instructed in the “Writ of Garnishment”.

- (5) **THE CLERK AND OTHER COURT PERSONNEL CANNOT GIVE YOU LEGAL ADVICE. IF YOU NEED ASSISTANCE YOU SHOULD CONSULT A LAWYER FOR ADVICE.**

**PROTECTION AGAINST DISCHARGE:** Title 15, §1674, U.S.C., prohibits an employer from discharging any employee because his or her earnings have been subjected to garnishment for any one indebtedness.

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	)	
<b>Debtor(s).</b>	)	
	)	
	)	
	)	
<b>Plaintiff(s)</b>	)	
	)	
	)	<b>ADVERSARY NO.</b>
<b>Vs.</b>	)	
	)	
	)	
	)	
	)	
<b>Defendant(s).</b>	)	

**WRIT OF GARNISHMENT**

**NOTICE TO GARNISHEE: YOU ARE THE GARNISHEE IN THE ABOVE ACTION.**

You must complete and file the enclosed Answer form within thirty (30) days from service of process. If you fail to file an Answer, the plaintiff can proceed for judgment against you for the amount of the claim, plus costs. Mailing the **Notarized Answer Form** to the Clerk of the Court at the address below constitutes making a proper appearance in the court. **YOU MUST ANSWER:**

- (1) whether you are or were indebted to the defendant at the time you received this process, or when you make your answer, or during the intervening time, or
- (2) whether you will be indebted to the defendant in the future by existing contract, or
- (3) whether by existing contract you are liable to the defendant for the delivery of personal property or for the payment of money, or
- (4) whether you have in your possession or control, money or other effects belonging to the defendant.

You are commanded to **RETAIN WAGES, SALARY OR OTHER COMPENSATION** in accordance with the instructions contained in the paragraph marked by you (X) below (additional instructions on Exhibit "A" attached hereto):

\_\_\_\_\_ Twenty-five percent (25%) of disposable earnings OR the amount by which his disposable earnings exceed thirty (30) times the Federal minimum hourly wage per week, **WHICHEVER IS LESS,**

**OR**

\_\_\_\_\_ Twenty percent (20%) of disposable earnings OR the amount by which his disposable earnings exceed fifty (50) times the Federal minimum hourly wage per week, **WHICHEVER IS LESS,**

**DUE OR WHICH WILL BECOME DUE TO THE DEFENDANT FOR SUCH PERIOD OF TIME AS IS NECESSARY TO ACCUMULATE THE SUM OF \$\_\_\_\_\_ (judgment and costs).** You are required, after a period of 30 days from the first retention of any sum from the defendant's wages, salary, or other compensation, to begin paying the moneys withheld into the court as they are deducted or withheld and continue to do so on a monthly or more frequent basis until the full amount is withheld. If employment of the defendant is terminated BEFORE the sum is accumulated, you are required by law to report the termination and pay into court within 15 days AFTER termination, all sums withheld in compliance with this garnishment. (See Attachment A for Instructions on Garnishments).

If you have in your possession or control property or money belonging to the Defendant, which is NOT wages, salary or other compensation, you are further commanded to hold the property or money subject to orders of this court.

**Date Issued:**

**IN THE UNITED STATES BANKRUPTCY COURT  
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**IN RE:**

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**Debtor.**

**Plaintiff(s),**

**vs.**

**ADVERSARY NO.**

**Defendant(s).**

**Garnishee.**

**NOTICE TO DEFENDANT**

You will take notice that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a  
Writ of Garnishment was issued from the United States Bankruptcy Court for the Middle District  
of Alabama in the above case against \_\_\_\_\_,  
as garnishee, on behalf of \_\_\_\_\_  
for the satisfaction of a judgment against \_\_\_\_\_  
recovered on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. The balance due on  
the judgment is \$\_\_\_\_\_.

**DEFENDANT'S MAILING ADDRESS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**ADVERSARY NO:**

**Defendant(s).**

**RIGHT TO CLAIM EXEMPTION FROM GARNISHMENT**

A process of garnishment has been delivered to you. This means a Court may order your wages, money in a bank, sums owed to you, or other property belonging to you to be paid into Court to satisfy a judgment against you.

Laws of the State of Alabama and of the United States provide that in some circumstances certain money and property may not be taken to pay certain types of court judgments because certain money or property may be “exempt” from garnishment. For example, under State law in some circumstances up to \$7,500.00 in wages and/or personal property (including money, bank accounts, automobiles, appliances, etc.) may be exempt from garnishment. Similarly, under federal law, certain benefits and certain welfare payments may be exempt from garnishment. Benefits and payments ordinarily exempt from garnishment include, for example, Social Security payments, SSI payments, veteran’s benefits, AFDC (welfare) payments, unemployment compensation payments and workman’s compensation payments.

THESE EXAMPLES ARE FOR PURPOSES OF ILLUSTRATION ONLY. WHETHER YOU WILL BE ENTITLED TO CLAIM ANY EXEMPTION FROM THE PROCESS OF GARNISHMENT AND, IF SO, WHAT PROPERTY MAY BE EXEMPT, WILL BE DETERMINED BY THE FACTS IN YOUR PARTICULAR CASE. IF YOU ARE UNCERTAIN AS TO YOUR POSSIBLE EXEMPTION RIGHTS, YOU SHOULD CONSULT A LAWYER FOR ADVICE.

TO CLAIM ANY EXEMPTION THAT MAY BE AVAILABLE TO YOU, YOU MUST (1) PREPARE A “CLAIM OF EXEMPTION” FORM LISTING ON IT ALL YOUR WAGES AND PERSONAL PROPERTY, (2) HAVE THE CLAIM OF EXEMPTION NOTARIZED,



AND (3) FILE IT IN THE CLERK'S OFFICE. ALSO, IT IS YOUR RESPONSIBILITY TO MAIL OR DELIVER A COPY OF THE CLAIM OF EXEMPTION TO THE PLAINTIFF WHO HAS A JUDGMENT AGAINST YOU. YOU MUST INDICATE ON THE CLAIM OF EXEMPTION THAT YOU FILE IN THE CLERK'S OFFICE WHETHER YOU MAILED OR DELIVERED THE COPY TO THE PLAINTIFF AND THE DATE ON WHICH YOU MAILED OR DELIVERED IT. THE CLERK CANNOT GIVE YOU LEGAL ADVICE. IF YOU NEED ASSISTANCE, YOU SHOULD SEE A LAWYER.

If you file a claim of exemption, the plaintiff will have approximately ten (10) days to file a "contest" of your claim of exemption. If a contest is filed, a Court hearing will be scheduled and you will be notified of the time and place of the hearing. If the plaintiff does not file a contest, the property claimed by you as exempt will be released from the garnishment.

If you do not file a claim of exemption, your property may be turned over to the Court and paid to the plaintiff on the judgment against you.

**TO PROTECT YOUR RIGHTS, IT IS IMPORTANT THAT YOU ACT PROMPTLY. IF YOU HAVE ANY QUESTIONS, YOU SHOULD CONSULT A LAWYER.**

## **NOTICE TO PLAINTIFF OF RIGHT TO CONTEST CLAIM OF EXEMPTION OF DEFENDANT**

If a “Claim of Exemption” is filed in the clerk’s office and mailed or delivered to you by the defendant, you have approximately ten (10) days to file a “Contest” to the Claim of Exemption with the clerk of the court.

**If a Contest is timely filed**, a court hearing will be scheduled within seven (7) calendar days (or on the next business day thereafter if the court is not open on the seventh day). You and the defendant will be notified of the time and place of the hearing.

**If you fail to make timely Contest of the Claim of Exemption**, after fifteen (15) calendar days from the filing of such claim by the defendant, the Process of Garnishment and any writ of garnishment issued therein shall be **dismissed** or, where appropriate, **modified** to the extent necessary to give effect to the claimed exemptions.

**IF YOU ARE UNCERTAIN AS TO HOW TO FILE A CONTEST TO THE CLAIM OF EXEMPTION, YOU SHOULD CONSULT A LAWYER FOR ADVICE. THE CLERK AND OTHER COURT PERSONNEL CANNOT GIVE YOU LEGAL ADVICE.**

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	)	
	)	
	)	
<b>Defendant(s).</b>	)	

**GARNISHEE'S ANSWER**

**GARNISHEE:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOTICE TO GARNISHEE:**

After reading the Process of Garnishment and Instructions on Attachment A of the Process of Garnishment, check the appropriate answer(s) below, sign and have notarized. Keep a copy of this Answer for your records and return the original and other copies to this court at the address below.

- ☐ Defendant is employed and garnishee will withhold from the salary, wages, or other compensation, as required, and pay into court.
- ☐ Defendant is employed, but defendant's disposable earnings are not sufficient to be subject to garnishment.
- ☐ Garnishee has in garnishee's possession or control property or money belonging to defendant, which is not wages, salary or other compensation, namely:

\_\_\_\_\_  
\_\_\_\_\_ and is holding the property or money subject to orders of the court.

- ☐ Defendant not employed - garnishee not indebted to defendant when process was received, or when making this Answer, or during intervening time and garnishee does not have possession or control of any belongings of defendant.
- ☐ If garnishee is a corporation, the person signing below is the duly authorized agent of garnishee to make this Answer and has knowledge of the facts stated herein.
- ☐ Other (Explain): \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Garnishee or Authorized Agent (Signature)

RETURN THIS ANSWER TO:

Clerk, U.S. Bankruptcy Court  
One Church Street  
Montgomery, AL 36104

**Sworn** to and **Subscribed** before me this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

\_\_\_\_\_  
Notary Public