

1 INSTRUCTIONS TO GARNISHEE:

2 GARNISHMENT OF EARNINGS

3 You have been served with two (2) copies of a Writ and Summons of Garnishment, a copy of the
4 underlying Judgment, four (4) copies of an Answer form; two (2) copies of a Notice to Judgment
5 Debtor, two (2) copies of a Request for Hearing form, two (2) copies of these Instructions, and four (4)
6 copies of Non- Exempt Earnings Statements.

7 The following definitions apply to the Writ of Garnishment and other documents served on you:

8 You are the "GARNISHEE".

9 "JUDGMENT CREDITOR" means a party who has a money Judgment or an Order for Support of
10 a person that is due and unpaid.

11 "EARNINGS" means compensation paid or payable for personal services, whether these payments
12 are called wages, salary, commissions, bonus or otherwise. Earnings include periodic payments
13 pursuant to a pension or retirement program.

14 "DISPOSABLE EARNINGS" means that amount remaining from the gross earnings for a pay
15 period after the deductions required by State and Federal law.

16 "EXEMPT EARNINGS" means those earnings or that portion of earnings which, pursuant to State
17 or Federal law, is not subject to judicial process including garnishment.

18 "NON-EXEMPT EARNINGS" means those earnings or that portion of earnings which is subject to
19 judicial process including garnishment.

20 "PAYDAY" means the fixed, regular day for payment of wages designated by an employer.

21 If the Judgment Debtor is employed by you, or you otherwise owe earnings to the Judgment
22 Debtor, the Writ and Summons and Garnishment is a lien on the non-exempt earnings of the
23 Judgment Debtor from the date of service of the Writ. You must start to withhold non-exempt
24 earnings of the Judgment Debtor each payday as of that time although you are not liable to the
25 Judgment Creditor for failing to withhold earnings from a Judgment Debtor if those earnings are paid
26 to a Judgment Debtor on a payday falling within three (3) days, not including weekends and
27 holidays, after the date of the service of the Writ of Garnishment.

28 **Within ten (10) days of being served the Writ and Summons of Garnishment, you must file
an Answer to the Garnishment with the Clerk of the Court that issued the Garnishment.** The
Answer shall be in writing, signed by you, true and under oath. If there is more than one Judgment
Debtor, you must answer as to each Judgment Debtor named in the Writ of Garnishment. The
Answer may be filed without representation by an attorney. **At the time of filing the Answer, you
must hand deliver, serve, or mail by regular first class mail, a copy of the Answer to the Judgment
Creditor or the Judgment Creditor's attorney if the Judgment Creditor is represented by an attorney.
At the same time, you must hand deliver, serve, or mail by regular first class mail to the Judgment
Debtor a copy of the Answer and a copy of the Notice to Judgment Debtor, and a Request for
Hearing form.** You shall state the time and manner of delivery to the Judgment Creditor and
Judgment Debtor in the Answer. The answer shall contain the information which is set forth in the
Answer form provided you and you may use that form. The case number and the names of both the
Judgment Creditor and Judgment Debtor must be inserted in the appropriate spaces on the Answer.
Use the case number and the names that appear on the Writ of Garnishment. The court's address is as
follows:

1 If it appears from the Answer you file that the Judgment Debtor was employed by you, or that
2 you otherwise owed earnings to the Judgment Debtor when the Writ was served, or earnings would be
3 owed within sixty (60) days thereafter and there is no timely written objection to the Writ or your
4 Answer, on application by the Judgment Creditor, the Court will Order that the non-exempt earnings
5 withheld by you after service of the Writ be transferred to the Judgment Creditor who is entitled to such
6 monies subject to the Judgment Debtor's right to objection and hearing. The Court will order that the
7 garnishment is a continuing lien against the non-exempt earnings of the Judgment Debtor. The Judgment
8 Creditor will deliver a copy of this Order of Continuing Lien to you. When you receive this Order, you
9 are to immediately send all of the earnings withheld since service of the Writ of Garnishment to the
10 Judgment Creditor or the Judgment Creditor's attorney if represented by an attorney. Furthermore, you
11 are to withhold and send to the Judgment Creditor or his attorney the non-exempt earnings of the
12 Judgment Debtor each succeeding payday until the occurrence of any of the following:

1. The underlying Judgment is satisfied in full or is vacated or expires.
2. The Judgment Debtor leaves your employ for more than sixty (60) days.
3. The Judgment Creditor releases the garnishment.
4. The proceedings are stayed by a Court of competent jurisdiction, including the United States
13 Bankruptcy Court.
5. The Judgment Debtor has not earned any non-exempt earnings for at least sixty (60) days.
6. The Court orders that the Garnishment be quashed.

14 If no objections are filed to your Answer to the Writ and Summons of Garnishment and the above
15 mentioned order of Continuing Lien is not entered within forty-five (45) days after the filing of your
16 Answer, any earnings held by you shall be released to the Judgment Debtor and you will be discharged
17 from any liability on the Garnishment. You have been provided with four (4) copies of the Non-Exempt
18 Earnings Statements. **Beginning with the pay period during which the Writ was served, and while the
19 Order of Continuing Lien remains in effect, for each pay period you must do the following:**

1. Complete the Non-Exempt Earnings Statement.
2. Hand deliver, serve or mail by regular first class mail the Non-Exempt Earnings Statement to the
20 Judgment Debtor with his exempt earnings for that pay period.
3. At the same time hand deliver, serve or mail by regular first class mail a copy of the Non-Exempt
21 Earnings Statement to the Judgment Creditor or his attorney.

22 **NEITHER THE ORIGINAL NOR A COPY OF THE NON-EXEMPT EARNINGS STATEMENT
23 SHALL BE FILED WITH THE COURT UNLESS AN OBJECTION TO THE AMOUNT WITHHELD,
24 IF ANY, IS TIMELY FILED BY A PARTY. NOR SHOULD YOU SEND ANY WITHHELD EARNINGS
25 TO THE COURT.**

26 The Judgment Creditor must deliver to you sufficient copies of the appropriate Non-Exempt Earnings
27 Statement and Request for Hearing forms so that you are able to comply with these requirements unless
28 the Judgment Creditor is advised that you will supply your own forms.

While a continuing lien is in effect you may deduct from the Non-Exempt earnings of the Judgment
Debtor the amount of FIVE DOLLARS (\$5.00) each payday as a fee for preparing and delivering the
Non-Exempt Earnings Statement. If a party has an objection to the Writ and Summons of Garnishment,
your Answer to the Writ and Summons of Garnishment, or a Non-Exempt Earnings Statement, he may
file a written objection and Request for Hearing form. A hearing must be requested no later than ten (10)
days after receipt of the Answer or Non-Exempt Earnings Statement objected to unless good cause for
filing the request later is shown. At the time of filing the Request for Hearing form, the party filing the
objection shall mail by regular first class mail or hand deliver or serve a copy of the form to all parties
to the Writ. A hearing will then be held within ten (10) days of the filing of an objection, the Court will
enter an Order, and a copy of the Order will be delivered to you. You may conclusively rely on and you

1 are not liable to the Judgment Debtor for acting in reliance on the validity and authenticity of a
2 Garnishment which is regular on its face. **However, for noncompliance with your responsibilities set
3 forth in these Instructions, the garnishment law provides as follows:**

4 **If you fail to answer the Writ and Summons of Garnishment within ten (10) days, the Judgment
5 Creditor may petition the Court for the issuance of an Order requiring you to appear before the Court
6 at a time and place specified in the Order to answer the Writ or to file and serve a copy of the Answer
7 on the Judgment Creditor or on his attorney at least five (5) days before the appearance date.** If you fail
8 to appear or file and serve the Answer after the service of the Order requiring the appearance in person
9 or Answer upon you, the Court may render Judgment by Default against you for the full amount of the
10 Judgment against the Judgment Debtor. The Court may award a reasonable attorney's fee to the
11 Judgment Creditor and against you if the Writ was not answered within ten (10) days of service and a
12 petition requiring you to appear or answer was filed.

13 **Furthermore, A.R.S. §12-1598.13 provides for contempt proceedings as follows:**

14 **B. If a Garnishee fails after written notice to deliver non- exempt earnings to the Judgment
15 Creditor within thirty (30) days after the ending date of the pay period, or fails after written notice to
16 deliver the Non-Exempt Earnings Statement to the Judgment Debtor with the exempt earnings, the
17 Judgment Debtor may petition the Court for relief.** The Court shall, after notice, hold a hearing to
18 determine if such failure, if any, was willful or the result of gross negligence. If the Court determines
19 that the failure was willful or the result of gross negligence, the Court shall find the Garnishee in
20 contempt and shall award the Judgment Debtor all of the
21 following:

- 22 1. An amount to compensate for actual losses, if any, caused by the failure to comply.
- 23 2. Reasonable attorney's fees, if the Judgment Debtor was represented by an attorney at such
24 hearing.
- 25 3. Court costs.

26 The Court may award the Judgment Debtor an additional amount not to exceed FOUR HUNDRED
27 DOLLARS (\$400.00).

28 **C. While an Order of Continuing Lien pursuant to §12-1598.10 is in effect, if the Garnishee fails
to deliver to the Judgment Creditor the non-exempt earnings of the Judgment Debtor, if any, and the
copy of the Non-Exempt Earnings Statement within fourteen (14) days of the end of the pertinent pay
period, and the Judgment Creditor thereafter delivers a written demand for the Non-Exempt Earnings
and Statement, and the Garnishee does not comply within fourteen (14) days of the receipt of the
written demand, the Judgment Creditor may petition the Court for relief.** The Court shall, after notice,
hold a hearing to determine whether the failure to comply with the written demand within fourteen (14)
days of receipt, if any, was willful or the result of gross negligence. if the Court determines that the
failure was willful or the result of gross negligence, the Court shall find the Garnishee in contempt and
shall award the Judgment Creditor all of the following:

1. An amount to compensate for actual losses, if any, caused by the failure to comply.
2. Reasonable attorney's fees, if the Judgment Creditor was represented by an attorney at such
hearing.
3. Court costs.

The Court may award the Judgment Creditor an additional amount not to exceed FOUR
HUNDRED DOLLARS (\$400.00).

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In the event you have already been served, or are hereafter served, with a Garnishment, Wage Assignment, or Levy, A.R.S. §12- 1598.14 provides for priority as follows:

A. Except as provided in subsections B and C, conflicting Wage Assignments, Garnishments and Levies rank according to priority in time of service.

B. Garnishments, Levies and Wage Assignments which are not for the support of a person or inferior to Wage Assignments for the support of a person. Garnishments which are not for the support of a person and Levies are inferior to Garnishments for the support of a person.

C. If a Judgment Debtor's earnings become subject to more than one Writ of Garnishment pursuant to this Article, and because of the application of the priorities set forth in subsections A and B, a Judgment Creditor recovers no non- exempt earnings for two (2) consecutive paydays, the lien on earnings of such Judgment Creditor is invalid and of no force and effect, and the Garnishee shall notify the Judgment Creditor accordingly.