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NON-EARNINGS GARNISHMENT (NEG) INFORMATION (WI STATS Chapter 812)

The following information is provided as a courtesy through the Eau Claire County **Clerk of Court (COC)** to assist in processing a non-earnings garnishment process. This information should not be considered as a substitute for legal advice or services. If you are proceeding on your own, you are responsible for roles an attorney would otherwise handle. If you have legal questions, you are advised to consult an attorney or make a decision based on your own study and conclusions of the law.

The COC is responsible for court record keeping processes. When calling the COC for case information, please provide the name of the case and case number. If you do not have that information, you can either try to track it yourself through the Wisconsin Court website on-line under www.wicourts.gov or pay the clerk \$5 to do a record search.

A garnishment is a proceeding that may be initiated after judgment by a creditor seeking to attach monies that may be owing to the debtor by the garnishee. The creditor is the party whom the money is owed to. The debtor is the party that owes the money. The garnishee is a third party who may owe the debtor money. If the garnishee is indebted to the debtor, they may be ordered to pay monies over to the creditor. The two types of garnishment are for “**Earnings**”, and for “**Non-Earnings**”.

The following information relates to the NON-EARNINGS GARNISHMENT PROCESS which is an action to collect indebtedness other than earnings.

1. FORMS:

- a. The creditor may obtain the non-earning garnishment form (Form #CV-301) through the COC or on-line @ www.wicourts.gov (through the Circuit Court Forms access).
- b. It is the creditor's responsibility to properly complete the form which is to clearly identify the name of the case, case parties, the Eau Claire County case number, party addresses, and is to be signed and dated.
 - The creditor is the party who the judgment is owed to.
 - The debtor is the party who owes the money.
 - The garnishee is the party indebted to the debtor (owes or holds money belonging to the debtor).

2. FILING:

- a. Completed forms are submitted to the COC for filing along with payment of fees (if applicable) and a return self-addressed stamped envelope (SASE).
- b. The original should be submitted with sufficient copies for all named parties. The original is filed and kept by the Court and the remaining file stamped copies are for the case parties.
- c. After the creditor receives the file stamped copies back, they will need to arrange for service of the pleadings on the debtor and garnishee. **For information on service, see section 4.**

3. FEES:

- a. **COURT FILING FEES** - Filing fees are paid to the COC based on the judgment amount owing.
 1. The fee to file a NEG for a judgment amount owing **under \$10,000 is \$92.50.**
 2. The fee to file a NEG for a judgment amount owing **over \$10,000, is \$210.50.**
 3. Effective July 1, 2016, if you are a victim of a crime and have a judgment for outstanding restitution, there is no garnishment filing fee to the Clerk of Court (service & tender fees will still apply).

- b. **SERVICE FEES BY PROCESS SERVER:**
Additional fees will be incurred by the creditor when making service arrangements through the sheriff or a private process server. To inquire about these fees, contact the sheriff or private process server. For further information on service, see section 4.

- c. **FEE TO THE GARNISHEE (tender fee) :**
 1. When the NEG is served on the **garnishee defendant, a tender fee should be included.** This represents their fee for processing the NEG and the amount should be payable to the garnishee.
 2. If the garnishee is non-governmental, the tender fee is \$3.00
 3. If the garnishee is governmental, (city, county, state, or federal), the tender fee is \$10.00.

- d. **OTHER:**
The creditor is advised to keep track of costs and fees incurred through filing and service of the garnishment. Statutory costs and fees may be added to the judgment amount owing by the defendant and considered before the judgment is satisfied. The creditor may reflect these amounts on the garnishment as they are incurred.

4. SERVICE OF GARNISHMENT:

The creditor is responsible for deciding and arranging for service of the garnishment action upon the debtor and garnishee. For information on service, access the following circuit court form through the Wisconsin Court Website. Even though this form is identified and included under the small claims section, it contains service information which applies to a Non-Earnings Garnishment. The **form # SC-6050V** is called: **Basis Steps to Small Claims Service.**

5. GARNISHEE ANSWER AND/OR PAYMENT PROCESSES:

- a. Upon proper service, the garnishee is to file an answer with the COC and copy opposing parties. The answer should state whether there is any indebtedness. The debtor may also file an answer asserting exemptions or other defenses. Failure of the garnishee to answer may result in liability for all or part of the judgment.
- b. If the garnishee files an answer stating there are monies subject to the garnishment, those monies should be paid over to the Court by the garnishee.
- c. If the monies are paid over to the COC, the COC may release the monies to the creditor pursuant to court order. The creditor should contact the COC for procedure on this..
- d. If the garnishee defendant requires a court order before releasing monies, contact the COC for procedure.
- e. If the garnishee turns monies directly over to the creditor, the creditor should submit written documentation of the payment to the COC for reference in the Courts' file.

6. OTHER:

Disputes by any party in the action to the non-earnings garnishment process, need to be submitted in writing so the Clerk can refer them to the proper Court Official.