

EARNINGS GARNISHMENT INFORMATION

The following information is provided as a courtesy through the Eau Claire County Clerk of Court (COC) to assist you with procedural court information on the 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. Garnishments are referenced in part under Chap. 812 of the WI STATS.

GARNISHMENT PROCESS

- **FILE EARNINGS GARNISHMENT NOTICE (CV-421)**
 - The "Earnings Garnishment Notice" is found at the COC office or on wicourts.gov. It should be completed by the Creditor and filed with the COC office along with payment of the statutory filing fee (\$92.50 for judgment \$10,000 or less OR \$210.50 for judgment over \$10,000).
 - 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 and tender fees will still apply see §973.20(1r)).

- **COMPLETE EARNINGS GARNISHMENT PACKET**
 - Upon payment and filing of the Earnings Garnishment Notice, the COC will issue a packet containing the following:
 - Two blank **Earnings Garnishments (CV-422)** with the court seal, one for service on the debtor, and one for service on the garnishee.
 - **Garnishee Answer to Creditor Earnings Garnishment (SC-518)**
 - **Earnings Garnishment – Exemption Notice (CV-423)**
 - **Earnings Garnishment – Debtor's Answer (CV-424)**
 - **Poverty Guidelines for Earnings (CV-427)**
 - **Garnishment Exemption Worksheet (CV-426)**

- **SERVE EARNINGS GARNISHMENT FORMS:**
 - The Creditor is advised to maintain a written record of service, which should include method of service, who was served, date of service, or other, as appropriate.

 - Within 60 days after filing the Notice, **the Creditor shall serve the Garnishee the following items** (may be served by First Class Mail, Certified Mail with Return Receipt, Sheriff's Department, private process server, or personal service by Creditor):
 - Earnings Garnishment (CV-422)
 - Garnishee Answer to Creditor Earnings Garnishment (SC-518)
 - \$15.00 tender fee

 - Within 7 business days after the date of service on the Garnishee, **the Creditor shall serve the Debtor the following items** (may be served by First Class Mail, Certified Mail with Return Receipt, Sheriff's Department, or private process server):
 - Earnings Garnishment (CV-422)
 - Earnings Garnishment – Exemption Notice (CV-423)
 - Earnings Garnishment – Debtor's Answer (CV-424)
 - Poverty Guidelines for Earnings (CV-427)
 - Garnishment Exemption Worksheet (CV-426)

ANSWERS:

DEBTOR'S ANSWER (CV-424):

- The debtor is given an opportunity to complete and file an answer to the garnishment. This answer may be filed at any time before or during the effective period of the earnings garnishment. If and/or when the debtor chooses to answer, they are to mail the answer to the garnishee. It is the garnishee's duty to send a copy of the answer to the Creditor. If the Creditor receives an answer, they are responsible for providing a copy to the Court within 7 business days after receipt.

CREDITOR'S OBJECTIONS TO DEBTOR'S ANSWER:

- If the Debtor files an answer which asserts a defense or exemption, the Garnishee is to treat the Debtor's answer as true and binding until otherwise ordered by the Court. The Garnishee is to mail a copy of the answer to the Creditor by the end of the 3rd business day after receiving the Debtor's answer, writing on that copy the date of receipt of the answer by the Garnishee.
- The Creditor may challenge the answer by filing a motion for hearing and a written objection to the Debtor's answer with the Court. Within 5 business days after a motion or petition is filed, the Court is to schedule the matter for hearing as promptly as practicable. Upon conclusion of the hearing, the Court shall make findings and conclusions and issue necessary orders. This may include the award of actual damages, costs and attorney fees, if the Court finds that the Debtor or Creditor has acted in bad faith.

GARNISHEE'S ANSWER (SC-518):

- **When the Garnishee has no indebtedness to the Debtor:** If it is unlikely that the Garnishee will become obligated to the Debtor, the Garnishee shall send a statement of that fact to the Creditor by the end of the 7th business day after receiving the earnings garnishment form. **The Creditor shall send a copy of this statement to the Court within 7 business days after receipt of the statement.**
- **When the Garnishee is indebted to the Debtor for wages and no other earning garnishment is in effect:** If determined that there is indebtedness to the Debtor for earnings in pay periods beginning within the next 13 weeks, the Garnishee is to place the earnings garnishment into effect the pay period after they receive it. If no answer is filed by the Debtor, the Garnishee shall pay the "determined amount", if any, to the Creditor between 5 and 10 business days after each payday of a pay period affected by the earnings garnishment. Payment is complete upon mailing.
- **When the Debtor files an answer with the Garnishee:** If the Debtor files an answer, which claims an exemption or defense, the Garnishee is not to withhold or pay the Creditor any part of the Debtor's earnings unless ordered by the Court. The Debtor or Debtor's spouse may file an answer or an amended answer at any time before or during the effective period of the earnings garnishment. See "Debtor's Answer" above.
- **When another earnings garnishment is in effect for the Debtor with the Garnishee:** If the Garnishee may become obligated to the Debtor for earnings, but another garnishment is already in effect, the Garnishee shall statutorily notify the Debtor and Creditor. The earning garnishment is to be retained and placed into effect after any prior earning garnishments terminate.
- **When there is a status change while another earnings garnishment is in effect:** If before the earnings garnishment takes effect, the Garnishee determines that it is unlikely that the Garnishee will continue to be obligated to the Debtor for earnings, the Garnishee shall notify the Creditor and Court according to statute.

PAYMENTS OR NON-PAYMENTS:

- The Creditor should maintain written records as to payments received and costs incurred to enforce collection of the judgment. Statutory costs are allowed to the Creditor and may be added to the outstanding judgment amount owing.
- If the Garnishee fails to properly pay over funds to the Creditor, the Creditor has an opportunity for recourse against the Garnishee, as outlined in 812.41. The Garnishee may assert an affirmative defense. If proven, the Garnishee's liability may be limited. See "Garnishee liability" under WI STATS 812.41.

****See Definitions under WI STATS 812.30****