

Court address

Court telephone no.

Plaintiff's name, address, and telephone no. (judgment creditor)

Defendant's name, address, and telephone no. (judgment debtor)

v

Plaintiff's attorney, bar no., address, and telephone no.

Garnishee name and address

SEE INSTRUCTIONS

1. This disclosure is for a writ of garnishment issued on \_\_\_\_\_ and received by garnishee on \_\_\_\_\_ .
- a. The garnishee mailed or delivered a copy of the writ of garnishment to the defendant on \_\_\_\_\_ .
  - b. The garnishee was unable to mail or deliver a copy of the writ of garnishment to the defendant.
  - c. The garnishee will not withhold payments under the writ of garnishment. The writ of garnishment was served after the deadline date for service and the writ is invalid.

2. At the time of service of the writ:

**Nonperiodic Garnishments**

a. The garnishee is not indebted to the defendant for any amount and does not possess or control the defendant's property, money, etc. Reason: \_\_\_\_\_

b. The garnishee is indebted to the defendant for nonperiodic payments as follows:

\_\_\_\_\_  
Description of property, money, negotiable instruments, etc. under garnishee's control

\_\_\_\_\_  
Type of account, if applicable

The amount to be withheld is \$ \_\_\_\_\_ and does not exceed the amount stated in item 2 of the writ.

c. Withholding is exempt because \_\_\_\_\_  
State the exemption and legal authority

**Periodic Garnishments**

d. The garnishee is not obligated to pay the defendant during the period of the writ.

Reason:  not employed.  other \_\_\_\_\_

2. (continued)

e. The garnishee is obligated to pay the defendant during the period of the writ.

Payments are for  earnings.  nonearnings \_\_\_\_\_  
Specify nature of payment (see instructions on next page)

Payments are made  weekly.  biweekly.  semimonthly.  monthly.  other: \_\_\_\_\_  
frequency of payment

A higher priority writ/order  is  is not currently in effect. If a higher priority writ/order is in effect, complete the following.

\_\_\_\_\_  
Name of court that issued higher priority writ/order      Case number      Date issued      Date served

Withholding under this writ

will begin immediately if sufficient funds are available.

will not begin immediately because defendant is  laid off.  sick.  on leave.  other: \_\_\_\_\_  
specify

I declare under the penalties of perjury that this disclosure has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Garnishee/Agent/Attorney signature

**CERTIFICATE OF MAILING**

**I certify that:**

on \_\_\_\_\_ I mailed or personally delivered the original of this disclosure to the court.

on \_\_\_\_\_ I mailed or personally delivered a copy of this disclosure to the plaintiff/attorney.

on \_\_\_\_\_ I mailed or personally delivered a copy of this disclosure to the defendant.

I declare under the penalties of perjury that this certificate of mailing has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Garnishee/Agent/Attorney signature

**DO NOT Include Your Payment With This Disclosure. See item 3 of How to Fill Out Garnishee Disclosure Form.**

## GARNISHEE INSTRUCTIONS

### Definitions

- A garnishment is a court order allowing the plaintiff (creditor) to take part or all of money owed to the defendant to pay for a judgment. You have been identified as a “garnishee,” a person who has control over some or all of the money that is paid to the defendant.
- Periodic payments are payments you make to the defendant on a regular basis. These payments could be paychecks, rent payments, land contract payments, or other contract payments.
- Nonperiodic payments include bank accounts, other property, money, goods, chattels, credits, negotiable instruments or effects, or earnings in the form of bonuses that are not paid to the principal defendant on a periodic basis. The rest of these instructions do not apply to garnishment of property, which needs to be sold before it can be applied to the judgment.

**Responsibility to Disclose:** Within 14 days after being served with the writ of garnishment, you must deliver or mail copies of this completed disclosure to the court, plaintiff’s attorney (or plaintiff, if no attorney), and the defendant. This applies even if you are not indebted or not obligated to make periodic payments to the defendant. No further disclosures are required.

**Withholding Instructions:** As the garnishee, you are being court ordered to withhold all or part of the money you owe the defendant to pay the plaintiff’s judgment. You are required to withhold money until the plaintiff’s judgment is satisfied or the court orders otherwise. If you do not do this, a judgment may be entered against you.

### 1. Determine when funds should be withheld.

- a. If item 2b is checked, funds or other property available at the time of service of the writ must be withheld from the defendant from the time of this disclosure.
- b. If item 2e is checked, funds must be withheld for each period you are indebted to the defendant. For example, if the defendant is your employee and he or she is paid weekly, you would withhold weekly.

### Determine the date withholding will begin as follows.

- 1) For garnishees with weekly, biweekly, or semimonthly pay periods, withholding begins with the first full pay period after the writ was served.
- 2) For garnishees on a monthly pay period.
  - if the writ is served on the garnishee within the first 14 days of the pay period, withholding begins on the date the writ was served.
  - if the writ is served on or after the 15th day of the pay period, withholding begins on the next full pay period after the writ was served.

### 2. Priority Writs or Orders and Multiple Writs (for periodic garnishments only):

Garnishments with a higher priority than this garnishment of periodic payments are

- orders of bankruptcy court.
  - orders for past due federal or state taxes.
  - income withholding for support of any person.
  - other general garnishments served before this writ.
- a. If a higher priority writ/order is currently in effect and withholding under this writ is not appropriate at this time, you must keep this writ until (1) the higher priority writ/order has been satisfied or is otherwise not applicable, (2) the defendant’s wages are sufficient for multiple writs, or (3) other circumstances change, which make funds available. Then, you must determine whether withholding can begin under this writ.
  - b. If a higher priority writ/order is served on you while this writ is in effect and there is not enough money available for multiple writs, you must suspend withholding under this writ and inform the plaintiff of that fact.
  - c. The plaintiff may not file another writ of garnishment of periodic payments for the same defendant, garnishee, and judgment while the existing writ is pending.

**3. Determine the amount to be withheld.** The amount withheld cannot exceed the amount of the balance of the judgment specified in item 2 of the request. For periodic garnishment of earnings only, a calculation sheet (the last sheet of this multipart form) is provided to determine the amount to be withheld. You do not need to use this calculation sheet, but if you do, you are not required to file it with the court or provide it to the defendant and plaintiff. However, a record of payment calculations must be maintained and made available for review by the plaintiff, defendant, or court upon request.

**Payment Instructions:** Determine when disclosed amounts may be released. Funds available under this writ of garnishment may not be released to the plaintiff or court until 28 days after you were served with the writ. After 28 days, funds must be paid as ordered in this writ unless otherwise notified by the court.

For periodic garnishments only. After 28 days from the date of the service of the writ on the garnishee, the garnishee shall transmit all withheld funds to the plaintiff or the court as directed by the court unless notified that objections have been filed. Every time a periodic payment is withheld, the garnishee must provide the plaintiff, defendant (and the court if funds are deposited with the court) with the case name, case number, date of withholding, amount withheld, and the balance due on the writ. At least once every six months, the creditor must provide a statement of the balance remaining on the judgment, including interest and costs. The garnishee should rely on this statement to determine when the judgment is satisfied.

**Final Statement Instructions:** A final statement of withholding is required for periodic garnishments. Within 14 days after the garnishee is no longer obligated to make periodic payments or the judgment is satisfied, the garnishee must file with the court and mail or deliver to the plaintiff and defendant a final statement of the total amount paid on the writ. The statement must include the names of the parties, the court in which the case is pending, the case number, the date of the statement, and the total amount withheld. The “Final Statement on Garnishment of Periodic Payments” form (Form MC 48) can be used for this.

## HOW TO FILL OUT THE GARNISHEE DISCLOSURE FORM

1. Determine whether you are obligated to make periodic payments to the defendant.
  2. Write in the date the garnishment was issued (found in the lower left-hand corner of the Request and Writ of Garnishment) and the date you received the Request and Writ for Garnishment and Garnishee Disclosure forms on line 1 of the Garnishee Disclosure.
    - Determine if the writ is valid. The plaintiff is required to serve the Request and Writ for Garnishment within 182 days from the date it was issued. If the Request and Writ for Garnishment was not served within this time, it is invalid. If it is invalid, check box 1c. Date and sign the form and follow the instructions in item 3 below. If the writ is valid, continue on.
    - If you don't know the defendant or are not obligated to make payments to him or her, check boxes 1b and 2d. Then check the box that describes the reason you are not obligated. If you check "other," write out the reason. Date and sign the form and follow the instructions in item 3 below.
    - If you know the defendant and are obligated to make payments to him or her, you must mail or deliver a copy of the Request and Writ for Garnishment to the defendant. After mailing or delivering it to the defendant, check box 1a and write in the date you mailed or delivered it. Follow the instructions in item 2 below. The term "obligated to pay" includes employees who may not necessarily be receiving a paycheck at the time. For example, employees may be sick, laid off, or on leave when this writ was issued, but they are still your employees and will eventually be back to work.
  3. Check box 2e and complete the information in item 2e as explained below.
    - Check either the box "earnings" or "nonearnings" so the plaintiff knows what kind of payments you make to the defendant. If you check "nonearnings," write in the kind of payments (for example, if you make rent payments, write that on the line after the "nonearnings" box).
    - Check the box that describes how often you make the payments to the defendant. If you check the "other" box, write on the line after that box how often you make the payments.
    - Check whether or not you are already garnishing money from the defendant ( a higher priority writ/order). If you check the box that a higher priority writ/order is in effect, copy from those papers the name of the court that issued that writ, the case number of that writ, the date that writ was issued, and the date it was served on you.
    - If the defendant is currently due to receive payments from you from the date the writ was issued, check the box that says withholding "will begin immediately if sufficient funds are available." If the defendant is not due to receive a payment, check the box that says "will not begin immediately." Then check the box that explains why payment is not due; for example, defendant is laid off, sick, or on leave of absence.
- Date and sign the form and follow the instructions in item 4.
4. Fill in the dates that you will be mailing or delivering the copies of this form. Date and sign this part of the form. Separate the four copies of the form. Mail the original to the court and one copy to the plaintiff. You can either mail a copy to the defendant or hand deliver it to him or her. Keep one copy for your records.

**See next page for calculation sheet.**

You do not need to use this calculation sheet. If you do, it does not need to be filed with the court or provided to the defendant and plaintiff. However, you must maintain some type of record of your payment calculations and make it available for review by the plaintiff, defendant, or court upon request.

**GARNISHEE CALCULATION SHEET FOR EARNINGS**

1. The employer's current payday is \_\_\_\_\_ . The principal defendant's gross earnings from the employer that were earned for this pay period are: \$ \_\_\_\_\_
  
2. Deductions required by law to be withheld from gross earnings shown on line 1:
  - a. Federal withholding tax (for income tax) \$ \_\_\_\_\_
  - b. State withholding tax (for income tax) \$ \_\_\_\_\_
  - c. Employee portion of social security tax \$ \_\_\_\_\_
  - d. Employee portion of medicare tax \$ \_\_\_\_\_
  - e. City withholding tax (for income tax) \$ \_\_\_\_\_
  - f. Public employee retirement when required by law \$ \_\_\_\_\_
  - g. Total (add lines 2a through 2f) \$ \_\_\_\_\_
  
3. **Disposable earnings** (subtract line 2g from line 1) \$ \_\_\_\_\_
  
4. Test I for amount available for garnishment (25% of line 3): (this percentage does not apply to garnishments for support of a person) \$ \_\_\_\_\_
  
5. Test II for amount available for garnishment (disposable earnings minus federal minimum wage multiplied by appropriate multiple for normal pay period):
  - a. Locate the appropriate figure from the chart below and insert here \$ \_\_\_\_\_
  - b. Subtract amount on line 5a from amount on line 3. Insert amount here. If the amount is less than zero, enter -0-. \$ \_\_\_\_\_
  
6. Maximum amount subject to garnishment (line 4 or 5b, whichever is less) \$ \_\_\_\_\_
  
7. Amounts withheld from disposable earnings (see line 3) pursuant to orders with priority:
  - a. Order of bankruptcy court \$ \_\_\_\_\_
  - b. Orders for past due federal or state taxes \$ \_\_\_\_\_
  - c. Income withholding for support of any person \$ \_\_\_\_\_
  - d. Other general garnishments served prior to this writ \$ \_\_\_\_\_
  - e. Total of all priority amounts withheld (add lines 7a through 7d) \$ \_\_\_\_\_
  
8. Amount subject to garnishment under this writ (subtract line 7e from line 6) \$ \_\_\_\_\_
  
9. **Amount to be withheld in response to this writ** (line 8 above or line 2 on the request and writ for garnishment, whichever is less) \$ \_\_\_\_\_

| Chart*   |                                 |
|--|---------------------------------|
| Test II for Amount Available for Garnishment   | Beginning: <u>July 24, 2009</u> |
| Weekly (or more frequently) pay period   | \$217.50                        |
| Biweekly pay period  | \$435.00                        |
| Semimonthly pay period   | \$471.25                        |
| Monthly pay period   | \$942.50                        |
| *Training wage: for person aged 16 to 19 on their first job, use 85% of the above figures. |                                 |