

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

Case No.

Debtor(s).

Plaintiff(s),

v.

Adv. Pro. No.

Defendant(s).

Balance due upon  
application for writ: \$ \_\_\_\_\_  
(includes interest at \_\_\_% per year  
through \_\_\_\_\_, 20\_\_)

**WRIT OF GARNISHMENT**

The United States of America to \_\_\_\_\_, garnishee. \_\_\_\_\_  
is the judgment debtor in this case, and owes the amount set out above to judgment creditor,  
\_\_\_\_\_. The judgment creditor believes you hold or control money or property  
that belongs to the judgment debtor.

YOU ARE ORDERED to file a written answer with the United States Bankruptcy Court,  
Pete V. Domenici U.S. Courthouse, 333 Lomas Blvd NW, Ste 360, Albuquerque, New Mexico  
87102, within 21 days from the day you receive this writ. Your answer must be under oath and  
on the attached form, "Answer by Garnishee."

YOU ARE FURTHER ORDERED:

1. If you owe the judgment debtor any money (other than wages), or become  
indebted to the judgment debtor before filing your answer, you must keep a sufficient amount  
of that money to satisfy the judgment and all costs and attorney fees due as a result of service of  
this writ and not pay it to the judgment debtor, unless this Court enters an order releasing this writ  
of garnishment.

2. If the judgment debtor is an employee of yours, unless the debt is for child support, you shall pay the judgment debtor only

A. 75% of the debtor's disposable earnings (salary less social security, federal and state withholdings, and any other deduction required by law) for any pay period;

or

B. Any amount each week equal to forty times the federal minimum hourly wage rate; whichever is greater.

If the debt is for child support payments, you shall pay the judgment debtor 50% of the debtor's disposable earnings (salary less social security, federal and state withholding). Any wages you owe the employee in excess of that amount or that you may come to owe the employee in excess of that amount must be kept by you until further order of this Court. (A table giving equivalent exemptions for pay periods of other than one week may be obtained from the Financial Institutions Division of the Regulations and Licensing Department, 725 St. Michael's Drive, Santa Fe, NM 87503).

3. If you have any property which belongs to the judgment debtor including any rights, credits, bonds, bills, notes, drafts and other rights to property or money which belongs to the judgment debtor or if you acquire any such property, money or rights to property or money before filing your answer, you must keep a sufficient amount of that property to satisfy the existing judgment and costs and not turn it over to the judgment debtor unless the Court enters an order releasing the property or money.

4. If you hold property or money belonging to the judgment debtor, within four (4) business days after service of this writ you are to mail or deliver a copy of this writ and the application for writ provided by the judgment creditor. If you hold property or money of the judgment debtor's other than wages, you shall also mail or deliver to the judgment debtor, the attached notice of right to claim exemptions and a copy of the attached claim of exemption forms, to each person identified as a judgment debtor. You shall also send or deliver a copy of your answer to this writ to the judgment debtor at:

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

and to the judgment creditor:

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

5. The Court will be asked to enter an order awarding \$ \_\_\_\_\_ for the judgment creditor's costs relative to the service of the writ of garnishment and \$ \_\_\_\_\_ for judgment creditor's attorney's fees in connection with the writ of garnishment in addition to the balance

due upon application for writ, shown above.

THIS IS A COURT ORDER. If you fail to file the answer, or if you disobey any of these orders, a judgment may be entered against you for the full amount of the unpaid judgment in this case.

CLERK OF COURT

By: \_\_\_\_\_

Deputy Clerk

United States Bankruptcy Court

Pete V. Domenici U.S. Courthouse

333 Lomas Blvd NW, Ste 360

Albuquerque, New Mexico 87102

Telephone: 505-415-7999; Toll-free: 866-291-6805

(SEAL)

Return for Completion by Sheriff or Deputy:

I certify that I served this writ in said district on the \_\_\_ day of \_\_\_\_\_, 20 \_\_, by delivering a copy of the writ and a copy of the application for writ

\_\_\_\_ (and, if applicable) a copy of a form for answer by garnishee, a copy of a notice of right to claim exemptions for each judgment debtor and a copy of the claim of exemption form for each judgment debtor:

to \_\_\_\_\_, garnishee, at the following address:

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

SHERIFF OF \_\_\_\_\_ COUNTY  
NEW MEXICO

By: \_\_\_\_\_

Deputy

Fees:

**Return for Completion by Other Person Making Service:**

I, being duly sworn, on oath, say that I am over the age of 18 years and not a party to this lawsuit, and that I served this writ in said district on the \_\_\_ day of \_\_\_\_\_, 20 \_\_, by delivering a copy of the writ and a copy of the application for writ

\_\_\_\_ (and, if applicable) a copy of a form for answer by garnishee, a copy of a

notice of right to claim exemptions for each judgment debtor and a copy of the claim of exemption form for each judgment debtor:

to \_\_\_\_\_, garnishee, at the following address:

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

\_\_\_\_\_  
Name:

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

\_\_\_\_\_  
Judge, Notary or Other Officer Authorized to Administer  
Oaths  
Official title: \_\_\_\_\_

My commission expires:

\_\_\_\_\_

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

Case No.

Debtor(s).

Plaintiff(s),

v.

Adv. Pro. No.

Defendant(s).

Garnishee.

**ANSWER BY GARNISHEE**

In answer to the writ of garnishment, garnishee states: (*Complete only applicable parts of this form.*)

1. **Wages**

- I do not employ the judgment debtor or pay the judgment debtor any wages.  
 The judgment debtor was my employee but the employment ended

\_\_\_\_\_  
Calculated on a weekly basis, I pay the judgment debtor \$ \_\_\_\_\_  
as NET WAGES (*see definition below*). I pay the judgment debtor [weekly] [every other week] [twice a month]  
[monthly].

NET WAGES equal GROSS WAGES less Federal income tax, F.I.C.A., State income tax, and other deductions required by law. They do not include voluntary deductions.

75% of judgment debtor's  
NET WAGES per week is \$ \_\_\_\_\_

40 times hourly federal minimum  
wage per week is \$ \_\_\_\_\_

2. **Money other than wages**

- I do not now owe the judgment debtor any money.
- I owe the judgment debtor \$ \_\_\_\_\_.

**3. Property other than money**

- I have no property of the judgment debtor in my possession and have not received any since receiving the writ of garnishment.
- I have in my possession the following property that belongs to the judgment debtor:

<i>(description)</i>	<i>(approximate value)</i>
_____	\$ _____
_____	\$ _____

**4. Prior Garnishments and/or Support Enforcement Orders**

- I am withholding judgment debtor's NET WAGES due to other writs or orders to withhold wages. *(If you have been served with other writs of garnishment or court orders to withhold wages of the above judgment debtor, you must attach and file a copy of each writ or order with this answer.)*

**5. Service requirements to judgment debtor**

- I have sent the following papers which have been provided to me by the judgment creditor to the judgment debtor, or if the judgment debtor has an attorney, to the judgment debtor's attorney:

**If wages withheld:** a copy of the application for a writ of garnishment; the writ of garnishment; and a copy of this answer have been mailed to each judgment debtor.

**If money or property other than wages withheld:** a copy of the application for a writ of garnishment; the writ of garnishment; a notice of right to claim exemptions; a claim of exemption form; and a copy of this answer have been mailed to each judgment debtor.

- I am not aware of the location or address of the judgment debtor and therefore am unable to serve the notices set forth in this paragraph.

**6. Service requirements to judgment creditor**

- A copy of this answer has been mailed or delivered to the judgment creditor, or if the judgment creditor has an attorney, to the judgment creditor's attorney.

**7. Attorney fees**

- The garnishee has incurred \$ \_\_\_\_\_ in attorney fees in preparing this answer.

The undersigned verifies under penalty of perjury that the above foregoing answer by garnishee is true to the best of the garnishee's knowledge and belief.

\_\_\_\_\_  
Signature of garnishee or attorney

\_\_\_\_\_  
Printed name of person signing

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, state, and zip code (*print*)

\_\_\_\_\_  
Telephone number

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

\_\_\_\_\_  
Judge, notary, or other officer  
authorized to administer oaths

#### USE NOTE

*See Jemko v. Liaghat*, 106 N.M. 50, 52, 738 P.2d 922, 925 (Ct. App. 1987) (providing that a judgment creditor, acting pursuant to a writ of garnishment, may only seize property belonging to the judgment debtor); *Alcantar v. Sanchez*, 2011-NMCA-073, 150 N.M. 146, 257 P.3d 966 (discussing garnishment procedures in the case of joint bank accounts).

[The content of this NM LF 5003-6(4-807) matches Form 4-807 NMRA, last amended January 7, 2013.]

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

Case No.

Debtor(s).

Plaintiff(s),

v.

Adv. Pro. No.

Defendant(s).

**NOTICE OF RIGHT TO CLAIM EXEMPTIONS (GARNISHMENT)**

**1. THE JUDGMENT CREDITOR IS GARNISHING YOUR PROPERTY WHICH MAY INCLUDE YOUR BANK ACCOUNT:**

A ruling has been made in this case that you owe money to the judgment creditor. The judgment creditor has started to collect that money from your property which may include your bank account.

**2. PURPOSE OF THIS NOTICE:**

This notice is to tell you that some kinds of property or money may NOT be taken from you even after the court has ruled that you owe the judgment creditor money. These funds or property are protected under federal or state law. Money or property which may not be taken is called "exempt" property. You may claim an exemption by filing with the court a claim of exemption (garnishment) form. There are limits on how much of your wages may be taken. You do not need to file a claim of exemption form to protect your exempt wages.

Here is a list of some exempt money and property. Other kinds of money or property not listed may also be exempt. YOU MAY WISH TO CONSULT AN ATTORNEY BEFORE COMPLETING AND FILING THIS FORM.

**3. PARTIAL LIST OF EXEMPTIONS:**

- a. social security benefits (OASDI, SSI);

- b. public assistance benefits (AFDC, welfare, GA);
- c. life, accident or health insurance proceeds;
- d. workers' compensation benefits (part may be garnished for child or spousal support);
- e. occupational health benefits;
- f. unemployment compensation benefits subject to the limitations of Section 51-1-37 NMSA 1978;
- g. veterans' benefits;
- h. pensions or retirement funds;
- i. a partner's interest in specific partnership property subject to the limitations of Section 54-1-25 NMSA 1978;
- j. crime victims' reparation fund payments;
- k. a family allowance to a decedent's surviving spouse and children, subject to the limitations of Sections 45-2-401 and 45-2-402 NMSA 1978;
- l. the minimum amount of shares necessary for certain cooperative associations as provided by Section 53-4-28 NMSA 1978;
- m. fraternal benefit society payments;
- n. oil and gas equipment not financed by the judgment creditor to be used for purposes for which it was purchased as provided by Section 70-4-12 NMSA 1978.

**4. HOW TO PROTECT EXEMPT PROPERTY:**

A "claim of exemption (garnishment)" form is attached for you to complete and file with the bankruptcy court. YOU MUST COMPLETE AND RETURN THE ATTACHED CLAIM OF EXEMPTIONS (GARNISHMENT) FORM TO THE CLERK OF THE BANKRUPTCY COURT WITHIN TEN (10) DAYS AFTER SERVICE OF THIS NOTICE UPON YOU. YOU MUST ALSO SERVE A COPY OF THE COMPLETED AND SIGNED CLAIM OF EXEMPTIONS (GARNISHMENT) FORM ON THE JUDGMENT CREDITOR AND ON THE GARNISHEE.

If the judgment creditor disputes a claimed exemption, the clerk or the judge will notify you of the date and time for a court hearing on your claim. You must go to that hearing and explain why your money or property is exempt. You must bring to the hearing any proof that your money or property is exempt.

If you do not complete and file the claim of exemptions (garnishment) form within ten (10) days and attend the hearing, your money or property may be turned over to the judgment creditor.

DO NOT FILE THE CLAIM OF EXEMPTION FORM TO PROTECT ONLY WAGES.

**YOU SHOULD COMPLETE AND RETURN THE CLAIM OF EXEMPTION FORM TO THE CLERK OF THE BANKRUPTCY COURT WITHIN TEN (10) DAYS AFTER SERVICE OF THIS FORM UPON YOU. MAKE A COPY OF THE COMPLETED FORM FOR YOUR RECORDS AND SERVE A COPY ON THE JUDGMENT CREDITOR AND ON THE GARNISHEE.**

[Except for the addition of “bankruptcy” to adapt the form for use in Bankruptcy Court, the content of this NM LF 5003-6(4-808) matches Form 4-808 NMRA, last amended December 3, 2001.]

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

Case No.

Debtor(s).

Plaintiff(s),

v.

Adv. Pro. No.

Defendant(s).

Garnishee.

**CLAIM OF EXEMPTION FROM GARNISHMENT**

Judgment debtor claims the following exemptions:

*(check box next to exemption)*

- a.  social security benefits (OASDI, SSI);
- b.  public assistance benefits (AFDC, welfare, GA);
- c.  life, accident or health insurance proceeds;
- d.  workers' compensation awards;
- e.  unemployment compensation benefits;
- f.  veterans' benefits;
- g.  pensions and retirement funds;
- h.  crime victims' reparation fund payments;

- i.  allowances to surviving spouse and children from deceased's estate subject to the limitations of Sections 45-2-401 and 45-2-402 NMSA 1978;
- j.  the minimum amount of shares necessary for certain non-profit cooperative associations as provided by Section 53-4-28 NMSA 1978;
- k.  fraternal benefit society payments as provided by Section 59A-44-18 NMSA 1978.

A completed and signed copy of this form must be returned to the Clerk of the Court whose address is

United States Bankruptcy Court  
 District of New Mexico  
 Pete V. Domenici U.S. Courthouse  
 333 Lomas Blvd. NW, Suite 360  
 Albuquerque, NM 87102

A completed and signed copy of the claim of exemption form shall be served on the judgment creditor and the garnishee named above. If the judgment creditor disputes a claimed exemption, a court hearing will be scheduled to consider the disputed exemptions. At this hearing you must bring evidence supporting each of your claims of exemption.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of judgment debtor

\_\_\_\_\_  
Printed name of judgment debtor

\_\_\_\_\_  
Number and street or P.O. box

\_\_\_\_\_  
City, State, zip code

\_\_\_\_\_  
Telephone number

[The content of this NM LF 5003-6(4-809), with the addition of the Bankruptcy Court Clerk's address, matches Form 4-809 NMRA, last amended January 1, 1996.]