

CHAPTER 571

GARNISHMENT

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571.01-571.31 [Repealed, 1945 c 424 s 27]

571.41 GARNISHEE SUMMONS; EXCEPTIONS. In any action in a court of record or justice court for the recovery of money, at the time of issuing the summons or at any time during the pendency of the action or after judgment therein against the defendant, a garnishee summons may be issued against any third person as provided in this chapter; except that in any action commenced in any court by an informer or other person pursuant to the provisions of United States Code, Title 31, Sections 231, 232, and 233, no garnishee summons may be issued hereunder unless the United States District Attorney, after entering appearance for the United States in such an action, issues the garnishee summons and garnishment so commenced shall be dismissed if the United States withdraws from or fails to prosecute the action as provided in United States Code, Title 31, Section 232. The plaintiff and defendant shall be so designated and the person against whom the summons issues shall be designated garnishee. Any individual, partnership or corporation within the state having property subject to garnishment may be named as garnishee.

[1945 c 424 s 1; 1951 c 197 s 1]

571.42 EFFECT OF SERVICE OF SUMMONS. Subdivision 1. Except as provided in sections 571.43 and 571.50, service of the garnishee summons upon the garnishee shall attach and bind, to respond to final judgment in the action, all personal property of the defendant in his possession or under his control and all indebtedness owing by him to the defendant at the time of such service.

Subd. 2. All moneys and other personal property including such property of any kind due from or in the hands of an executor, administrator, receiver or trustee and all written evidences of indebtedness whether negotiable or not or under or overdue may be attached by garnishment, and money or any other thing due or belonging to the defendant may be attached by this process before it has become payable if its payment or delivery does not depend upon any contingency, but the garnishee shall not be compelled to pay or deliver the same before the time appointed by the contract.

[1945 c. 424 s. 2]

571.43 GARNISHMENT PROHIBITED. No person or corporation shall be adjudged a garnishee by reason of:

- (1) Any money or other thing due to the defendant, unless at the time of the service of the summons the same is due absolutely, and without depending on any contingency;
- (2) Any debt due from such garnishee on a judgment, so long as he is liable to an execution thereon;
- (3) Any liability incurred upon any negotiable instrument;
- (4) Any money or other thing due to the defendant where the defendant is a bank, savings bank, trust company, credit union, or savings and loan association.

[1945 c 424 s 3; 1957 c 184 s 1; 1967 c 337 s 1]

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571.44 AGENT TO ACCEPT SERVICE. In addition to the officers designated by law for the service of process, a domestic corporation may designate an agent upon whom the garnishee summons may be served. Service upon any agent of a foreign corporation doing business in this state is service upon such corporation.

[1945 c 424 s 4]

571.45 SALARY OF PUBLIC SERVANTS. The salary or wages of any official or employee of a county, town, city, village, or school district, or any department thereof, is subject to garnishment. In the case of such officer, the garnishee summons shall be served upon the auditor, treasurer, or clerk of such body, or department thereof of which he is an officer; and in other cases, shall be served upon the officer in whose office, or the head of the department in which, or the presiding officer of the body by which, such person is employed; and the disclosure shall be made by the officer or person so served, or by some person designated by him having knowledge of the facts. If payment is made by such county, town, city, village, or school district, or any department thereof pursuant to a judgment against it as garnishee, a certified copy of the judgment with a certificate of satisfaction to the extent of such payment endorsed thereon shall be delivered to the treasurer as his voucher for such payment.

[1945 c 424 s 5]

571.46 MONEY DUE FROM HIGHWAY DEPARTMENT. Money due or owing to any corporation or person by the state on account of any employment, work, or contract with the commissioner of highways is liable to garnishment. The garnishee summons may be served upon the commissioner of highways by registered mail; and the disclosure shall be made by the commissioner or by some person designated by him having knowledge of the facts. If payment is made pursuant to judgment against the state as garnishee a certified copy of the judgment, with a certificate of satisfaction to the extent of such payment endorsed thereon; shall be delivered to the commissioner as his voucher for such payment.

[1945 c. 424 s. 6]

571.47 DISTRICT COURT. Subdivision 1. Procedure. In an action in the district court the garnishee summons may be issued by plaintiff or his attorney and shall be served upon the garnishee in the same manner as other district court summons except that service must be personal. The plaintiff may also serve with the garnishee summons written interrogatories, and if so served the garnishee shall as a part of his disclosure under oath answer said interrogatories. The garnishee summons shall require that the garnishee within 20 days after service thereof, serve upon the plaintiff or his attorney a written disclosure of his indebtedness to defendant and any property of defendant in his possession or under his control, which disclosure need not exceed twice the amount of plaintiff's claim in the case of the garnishee's indebtedness to the defendant, and shall state the full name of the defendant and his place of residence, the amount of plaintiff's claim against defendant, including disbursements to date, and require the garnishee to retain in his possession such property of defendant or indebtedness owing to defendant in an amount not exceeding twice the amount of such claim. A copy of the summons with a notice showing the time and manner of service upon the garnishee shall be served upon defendant in the same manner as a district court summons not later than 20 days after the service on the garnishee; provided that if the sheriff or other court officer shall make a return that defendant cannot be found, or if the plaintiff, his agent, or attorney make and file an affidavit either that the whereabouts of the defendant is unknown or if known that he is outside the county, or that the plaintiff has unsuccessfully attempted to make service upon the defendant, such service upon the defendant may be made by mail addressed to defendant's last known address. A single summons may be addressed to two or more garnishees but shall state whether each is summoned separately or jointly.

Subd. 2. Forms: summons, notice, and affidavit. The garnishee summons and notice to defendant, together with the affidavit of service, shall be substantially in the following form:

STATE OF MINNESOTA, }
County of } ss

DISTRICT COURT
..... JUDICIAL DISTRICT

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.....
Against Plaintiff
.....
And Defendant
.....
Garnishee

GARNISHMENT SUMMONS
THE STATE OF MINNESOTA,
To the above named Garnishee:

You are hereby summoned and required to serve upon the plaintiff or his attorney, within 20 days after the service of this summons upon you, a written disclosure under oath, touching your indebtedness to the defendant,

(Give full name and residence of defendant)
erty, money, or effects of said defendant in your possession or under your control, which disclosure need not exceed twice the amount of plaintiff's claim in the case of your indebtedness to the defendant. The amount of plaintiff's claim against the defendant is \$.....; and you are hereby required to retain in your possession such property, money, and effects in an amount not exceeding twice the amount of such claim.

Dated 19.....
Attorney for plaintiff
Address

NOTICE TO DEFENDANT

To Defendant.....:
SIR

Take notice that a Garnishment Summons, of which the above is a true copy, and which is herewith served upon you, was personally served upon The Garnishee named therein, by delivering a copy thereof to the said Garnishee, at in said County, on the day of, 19....., and that at said time and place the said Garnishee was paid in advance the sum of \$2 fees.

Attorney for plaintiff
Address

AFFIDAVIT OF SERVICE

STATE OF MINNESOTA,
County of } ss

....., being duly sworn, on oath says, that on the day of 19....., at the of of, in said county, he served the within Summons on the within named Garnishee by delivering a copy thereof to the said Garnishee and paid to in advance the sum of \$2 fees; and that on the day of, 19....., at the in said County, he served upon the within named Defendant a copy of the within Summons, together with a notice to said Defendant of which the foregoing is a copy, stating the time, place and manner of service of said Summons upon said Garnishee, signed by Said service was made by leaving with a copy of said Summons and Notice at the last usual place of abode of said Defendant in said said being a person of suitable age and discretion then resident therein.

FEES: Service of Summons, \$..... Notice, \$..... \$.....
Copy of Summons, \$..... Notice, \$..... \$.....
Mileage \$..... Notice, \$..... \$.....

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Subscribed and sworn to before me
this day of, 19.....

Notary Public

..... County, Minnesota.

[1945 c 424 s 7; 1967 c 429 s 1; 1967 c 689 s 1]

571.48 JUSTICE COURT. Subdivision 1. Procedure. In an action in justice court, the summons shall be issued by the justice, and shall require that the garnishee within 12 days from the date of service thereof serve upon plaintiff or his attorney a written disclosure of his indebtedness to the defendant, and any property or money of the defendant in his possession or under his control, which disclosure need not exceed twice the amount of plaintiff's claim in the case of the garnishee's indebtedness to the defendant, and shall state the full name of the defendant and his place of residence and the amount of plaintiff's claim against defendant and require the garnishee to retain in his possession property of defendant or indebtedness owing to defendant not exceeding twice the amount of such claim. The summons shall be served in the same manner as a justice court summons against a defendant, except that the service must be personal. A copy of the summons, together with a notice to the defendant of such service upon the garnishee, signed by the justice or the officer who served the same, shall be served upon the defendant within six days after service upon the garnishee; provided that if the court officer shall make a return that defendant cannot be found, such service may be made by mail addressed to defendant's last known address.

Subd. 2. Forms. The garnishee summons and notice to defendant, together with the affidavit of service, shall be substantially in the following form:

STATE OF MINNESOTA, } ss
County of }

IN JUSTICE COURT
Before.....
Justice of the Peace

Plaintiff

Address

Defendant

Garnishee

THE STATE OF MINNESOTA,
To the above named Garnishee.....:

You are hereby summoned and required to serve upon the plaintiff or his attorney, within 12 days after the service of this

(Name and address of attorney)

summons upon you, a written disclosure under oath, touching your indebtedness to defendant above named, and any property, money or

(Name and address)

effects of the said Defendant in your possession or under your control, which disclosure need not exceed twice the amount of plaintiff's claim in the case of your indebtedness to the defendant. The amount of plaintiff's claim is \$.....; and you are hereby required to retain in your possession such property, money, and effects in an amount not exceeding twice the amount of such claim. Given under my hand, this day of, 19.....

Justice of the Peace.

NOTICE TO DEFENDANT

STATE OF MINNESOTA, } ss
County of }

To Defendant.....:

SIR.....: Take Notice that a Garnishee Summons, of which the within is a true copy, and which is herewith served upon you, was personally served upon

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..... the Garnishee named therein, by delivering a copy thereof to the said Garnishee, at the of in said County, on the day of, 19....., and that at said time and place the said Garnishee was paid in advance the sum of \$2 fees.

..... Justice of the Peace.

STATE OF MINNESOTA, }
County of } ss

I hereby certify and return that on the day of, 19....., at the of in said County, I served the within Summons upon the within named Garnishee, by delivering a copy thereof to the said Garnishee, and paid him in advance the sum of \$2 fees; and I further certify that on the day of, 19....., at the of in said County, I served upon the within named Defendant, a copy of the within Summons, together with a Notice to said Defendant, of which the foregoing is a copy, stating the time, place and manner of service of said Summons upon said Garnishee, signed by

Constable.

Table with 4 columns: FEES, Service of Summons, Copy of Summons, Mileage, Notice, and dollar amounts.

[1945 c 424 s 8; 1967 c 429 s 2; 1967 c 689 s 2]

571.49 DISCLOSURE. Subdivision 1. Garnishee to disclose. Within the time herein limited the garnishee shall serve upon the plaintiff or his attorney a disclosure in writing and under oath setting forth the amount and character of defendant's property in his hands or indebtedness owing to defendant and the facts in reference thereto including answers to any interrogatories served upon him. In the case of the garnishee's indebtedness to the defendant, the amount of such disclosure need not exceed twice the amount of plaintiff's claim, after subtracting the total of set-offs, defenses, exemptions, ownerships, or other interests. Such disclosure may be served personally or by mail. If such disclosure is by a corporation it shall be verified by some officer or agent having knowledge of the facts.

Subd. 2. Contents of disclosure. Such disclosure shall state:

(1) Whether he was, at the time of the service of the garnishee summons indebted or under any liability to the defendant, naming him, in any manner or upon any account, specifying, if indebted or liable, the amount, the interest thereon, the manner in which evidenced, when payable, whether an absolute or contingent liability, and the facts necessary to a complete understanding of such indebtedness or liability. When the garnishee shall be in doubt respecting any such liability or indebtedness he may set forth the facts concerning the same.

(2) Whether he held at the time aforesaid the title or possession of or any interest in any personal property or any instruments or papers relating to any such belonging to the defendant or in which he is interested. If he admits any such interest or any doubt respecting the same he shall set forth a description of such property and the facts concerning the same, and the title, interest or claim of the defendant in or to the same.

(3) If he claims any set-off or defense to any debt or liability or any lien or claim to such property he shall allege the facts.

(4) He may state any claim of exemption from execution on the part of the defendant or other objection, known to him, against the right of the plaintiff to apply upon his demand the debt or property disclosed.

(5) If he discloses any debt or the possession of any property to which the defendant and other persons make claim he shall allege the names and residences of such other claimants and, so far as known, the nature of their claims.

Subd. 3. Form of disclosure. If interrogatories have been served, such interrogatories answered under oath shall be deemed a disclosure. If no interrogatories are served, the disclosure in any court by the garnishee shall be substantially in the following form:

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STATE OF MINNESOTA, } ss
County of

.....COURT

Plaintiff

vs.

Defendant and

Garnishee

I am the of the garnishee herein, and duly authorized to disclose for said garnishee.

On the 19....., the time of the service of garnishee summons herein on said garnishee:

(1) There was due and owing the defendant above named,, from said garnishee, the sum of \$.....; (State how evidenced, when

payable, whether an absolute or contingent liability. The amount disclosed above need not exceed twice the plaintiff's claim, after subtracting from such total the total of items (3) through (5) below.)

(2) There was in the possession of the garnishee the following personal property, instruments, and papers belonging to the above named defendant:

(Describe the property and state the title or claim of the defendant to same.)

(3) The garnishee claims the following set-off or defense or lien or claim to such property:

(4) The defendant claims the following exemption from execution:

(5) claims ownership of, or an interest in, such property as follows:

Subscribed and sworn to before me this day of....., 19.....

Notary Public

..... County, Minnesota.

[1945 c 424 s 9; 1967 c 689 s 3, 4]

571.50 EFFECT OF DISCLOSURE. Subject to the provisions of sections 571.51 and 571.52, the disclosure shall be conclusive against plaintiff as to all property of defendant. If the garnishee denies that he is indebted to defendant or has any property of defendant in his possession the filing in court of a copy thereof shall operate as a full discharge of the garnishee at the end of 20 days from date of service of such disclosure, in the absence of further proceedings as provided for in sections 571.51 and 571.52. The filing of objections to the disclosure or the filing of any motion or other proceedings shall operate as a stay of such discharge. The court may, upon proper showing, relieve the plaintiff from the operation of such discharge after the expiration of 20 days. The garnishee may be discharged where the value of the property of defendant held or indebtedness owing to defendant does not exceed \$25, if the action is in district court, or where the value of the property of defendant held or indebtedness owing to defendant does not exceed \$10, if the action is in justice court, and the garnishee may apply to the court to be discharged as to any property or indebtedness in excess of the amount which may be required to satisfy plaintiff's judgment.

[1945 c. 424 s. 10]

571.51 ORAL DISCLOSURE; SUPPLEMENTAL COMPLAINT. Either before or after such written disclosure any party to the garnishment proceedings may obtain an ex parte order requiring oral disclosure. Such order may be obtained upon affidavit showing upon information and belief facts justifying the said order, and the court shall require the garnishee to appear for oral examination before the court. If the garnishee hold the garnished property by a title that is void as to defendant's creditors, he may be charged therefor although the defendant could not have maintained an action against him therefor; but in this, and in all other cases where the garnishee denies liability, the plaintiff may move the court at any time before the garnishee is discharged, on notice to both the defendant and the garnishee, for leave to file a supplemental complaint making the latter a party to the action, and setting forth the facts upon which he claims to charge him; and, if probable cause is shown, such motion shall be granted. The supplemental complaint shall be served upon both defendant and garnishee, either or both of whom may answer, and the plaintiff may reply. Such issues shall be brought to trial and tried as in other actions after judgment is rendered for plaintiff in the main action.

[1945 c 424 s 11]

571.52 THIRD PARTY MAY INTERVENE. If it appears that any person not a party to the action has or claims an interest in any of the garnished property antedating the garnishment, the court may permit such person to appear and maintain his rights; and if he does not so appear, may direct that he be notified to appear or be barred of his claim. The notice in such case may be served in such manner as the court directs, and the person so appearing or notified shall be joined as a party and be bound by judgment against the garnishee.

[1945 c 424 s 12]

571.53 DEFAULT. If any garnishee who is duly summoned fails to serve his disclosure as required in this chapter, upon proof by affidavit of such facts, the court may render judgment against him for an amount not exceeding plaintiff's judgment against defendant or twice the amount claimed in the garnishee summons, whichever is the smaller but the court upon good cause shown may remove such default and permit the garnishee to disclose on such terms as may be just.

[1945 c 424 s 13]

571.54 JUDGMENT AGAINST GARNISHEE; WHEN; EFFECT. No judgment shall be rendered against a garnishee until after judgment is rendered against the defendant. If the garnishee is not discharged, the cause shall be continued to abide the result in the main action. Judgment against a garnishee shall be rendered, if at all, for the amount due the defendant, or so much thereof as may be necessary to satisfy the plaintiff's judgment against such defendant, with costs taxed and allowed in the proceeding against the garnishee but not to exceed twice the amount claimed in the garnishee summons. Such judgment shall acquit and discharge the garnishee from all claims of all the parties named in the process in and to the property or money paid, delivered, or accounted for by such garnishee by force of such judgment.

When any person is charged as garnishee by reason of any property in his possession other than an indebtedness payable in money, he shall deliver the same, or so much thereof as may be necessary, to the officer holding execution, and such property shall be sold and the proceeds accounted for in the same manner as if it had been taken on execution against the defendant; but the garnishee shall not be compelled to deliver any specific articles at any time or place other than as stipulated in the contract between him and the defendant.

[1945 c 424 s 14]

571.55 RELEASE OF PORTION OF IMPOUNDED PROPERTY; DISCHARGE FOR LACHES. To prevent undue hardship or harassment any court in which a main action has been commenced, upon motion and notice to the parties, may limit or restrict prospective garnishments prior to the entry of any final judgment in the main action, and may release such part of the property impounded which exceeds the amount of the claim, and may condition its order upon such terms as are just and fair. Upon a proper showing the court may discharge the garnishee in any action in which there is lack of diligent prosecution.

[1945 c 424 s 15; 1959 c 535 s 2]

571.56 VALUE. Subdivision 1. **Court may determine.** Upon application of any party in interest, on notice, the court may determine the value of any property of defendant in the hands of the garnishee and may make any order relative to the

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keeping, delivery or sale thereof, or touching any of the property, that is necessary to protect the rights of those interested, and may require the property to be brought into court or delivered to a receiver by it appointed. If the garnishee refuses or neglects to comply with any order of the court hereunder, he may be punished for contempt, and also shall be liable to the plaintiff for the value of such property, less the amount of any lien.

Subd. 2. **Lien of garnishee.** If it appears that the garnishee has a lien on the property, or that it is in any way liable for the payment of a debt due to him, the plaintiff, on motion, may be permitted to pay the amount thereof, and the amount so paid shall be repaid to plaintiff, with interest, out of the proceeds of the sale of such property. The garnishee may sell the property to satisfy the lien, if a sale be authorized by his contract, at any time before such payment or tender.

Subd. 3. **Property destroyed.** If any garnished property be destroyed without negligence of the garnishee, the garnishee shall be discharged from all liability to the plaintiff for the non-delivery thereof.

[1945 c 424 s 16]

571.57 GARNISHEE FEES. A garnishee shall be paid \$2 fees at the time of service of garnishee summons and if required to appear and submit to oral examination shall be tendered his fees and mileage for attendance at the rate allowed by law to a witness, and in extraordinary cases, may be allowed such further sum as the court shall deem reasonable for his counsel fees and other necessary expenses. If he be charged as a garnishee, the amount of such fees and allowances may be recovered by plaintiff out of the property in his hands. If charged as garnishee on account of specific articles of personal property, the garnishee shall not be required to deliver the same to an officer until payment of his reasonable charges for storage.

[1945 c 424 s 17; 1967 c 429 s 3]

571.58 MINIMUM JUDGMENT. No judgment shall be rendered against a garnishee in a justice court where the judgment against the defendant is less than \$10, exclusive of costs, or in the district court where the judgment against the defendant is less than \$25, exclusive of costs, and, in all such cases, the garnishee shall be discharged.

[1945 c 424 s 18]

571.59 DISCHARGE NOT A BAR. If any person summoned as a garnishee is discharged, the judgment shall be no bar to an action brought against him by the defendant or other claimants for the same demand.

[1945 c 424 s 19]

571.60 GARNISHMENT BY DEFENDANT. If the defendant recovers judgment against the plaintiff, or sets up in his answer a counter-claim exceeding in amount the sum admitted in such answer to be due to the plaintiff, he may institute and prosecute garnishment under this chapter as if he were plaintiff. For the purposes of such proceedings he is to be considered as plaintiff, and the plaintiff as defendant, and his answer is deemed a complaint.

[1945 c 424 s 20]

571.61 RELEASE OF GARNISHED PROPERTY. Subdivision 1. At any time before the entry of judgment a party whose property has been garnished may secure its release by giving a bond, approved by a judge or court commissioner if the action is in the district court, by the judge if in a municipal court, and by the justice if in justice court, in a penal sum at least double the amount claimed in the garnishee summons, or, if the value of the property garnished is less than such amount, then in double such value, conditioned to pay any judgment recovered against him in the action, or so much thereof as shall equal such value. Thereupon the judge or justice shall make an order discharging the garnishment and releasing the property. The order becomes effective upon filing the same with the bond and serving a copy on the garnishee.

Subd. 2. If a party whose property has been garnished and who has given a corporate surety bond as provided in subdivision 1 prevails in the action, he shall be allowed the cost of the premium for such bond as a disbursement. In case of recovery against a party whose property has been garnished and who has given a corporate surety bond for the release thereof as provided in subdivision 1, if the value of the property for which such bond was given exceeds double the amount recovered, such party shall be allowed as a disbursement that part of the cost of the premium for such bond attributable to such excess, to be determined by the court

and offset against the judgment. If the amount so determined exceeds the amount for which the prevailing party would otherwise be entitled to judgment, judgment for the deficiency shall be awarded against him in favor of the party whose property was garnished.

[1945 c 424 s 21; 1967 c 9 s 1]

571.62 TRANSFER TO ANOTHER COURT. In case any original action pending in a court not of record is transferred under the provisions of law to any other court, except by appeal, any garnishee proceeding, the judgment in which is conditioned on the judgment in the original action is transferred therewith and written notice of such transfer, specifying the court to which the same is made shall be served by the plaintiff on the garnishee. Such transfer shall carry with it all proceedings already had and any disclosure made therein.

[1945 c 424 s 22]

571.63 CHANGE OF VENUE. In case of a change of venue in an action in the district court, whether before or after full disclosure, the garnishee proceedings shall be changed to the county to which the action is transferred.

[1945 c 424 s 23]

571.64 APPEAL. Any party to a garnishment proceeding deeming himself aggrieved by any order or final judgment therein may remove the same from the justice court to the district court, or from the district court to the supreme court, by appeal, in like case, manner, and effect, as in a civil action.

[1945 c 424 s 24]

571.65 IMPLIED REPEALS. The purpose of this chapter is to provide a uniform system of garnishment disclosure in all districts, municipal and justice courts, and all statutes or parts thereof inconsistent herewith are hereby amended to conform to this chapter.

[1945 c 424 s 25]

571.66 Subdivision 1. [Renumbered 181.063]

Subd. 2. [Repealed, 1953 c 110 s 4]

Subd. 3. [Repealed, 1953 c 110 s 4]

571.67 PENALTY IN CERTAIN GARNISHMENT PROCEEDINGS. Subdivision 1. A party who serves a garnishment summons prior to the issuance of the summons in the main action is liable to the defendant named in the garnishment proceedings in the amount of \$50, except where the defendant is a nonresident.

Subd. 2. The garnishment shall be ineffective and the garnishee shall be discharged and relieved of any liability thereon if the amount garnished and attached is less than \$10. Any garnishment shall lapse and the garnishee thereof shall be discharged and relieved of any liability thereon after the expiration of three years from the date of service of the garnishment summons, providing the garnishee shall have given a 30 day written notice following said three year period, by certified mail to the last known address of the attorney for the garnishing party, or if he has no attorney, to the garnishing party, and within 30 days thereafter neither the garnishing party nor his attorney has objected in writing to said discharge.

[1959 c 535 s 1; 1967 c 689 s 5]