

CHAPTER 571

GARNISHMENT

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571.01-571.31 [Repealed, 1945 c 424 s 27]

571.41 GARNISHEE SUMMONS; EXCEPTIONS.

Subdivision 1. In any action in a court of record for the recovery of money, at any time after a judgment therein, a garnishee summons may be issued against any third person as provided in this chapter. The judgment creditor and judgment debtor 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.

Subd. 2. Notwithstanding anything to the contrary herein contained, a plaintiff in any action in a court of record for the recovery of money may issue a garnishee summons before judgment therein in the following instances only:

(a) Following by at least 40 days service of the summons and complaint upon the debtor in the main action where judgment by default could be entered pursuant to Rule 55.01(1) of the Minnesota Rules of Civil Procedure; or

(b) If the court shall order the issuance of such summons, if a summons and complaint is filed with the appropriate court and either served on the defendant or delivered to a sheriff for service on the defendant not more than 30 days after the order is signed, and if, upon application to the court it shall appear that:

(1) Defendant is about to take property out of the state which might be necessary to satisfy any judgment awarded plaintiff, or

(2) The purpose of the garnishment is to establish quasi in rem jurisdiction and that

(a) defendant is a resident individual having departed from the state with intent to defraud creditors, or to avoid service; or

(b) defendant is a nonresident individual, or a foreign corporation, partnership or association.

(3) The garnishee and the debtor are parties to a contract of suretyship, guarantee, or insurance, because of which the garnishee may be held to respond to any person for the claim asserted against the debtor in the main action.

(4) The creditor has been unable to serve upon the debtor the summons and complaint in the main action because the debtor has been inaccessible due to residence and employment in buildings where access is restricted.

Subd. 3. In the instances where garnishment is permitted before the entry of judgment the parties for the purposes of Laws 1969, Chapter 1142, will be known as judgment debtor or judgment creditor respectively.

Subd. 4. If the court shall order the issuance of a garnishee summons before entry of judgment, such summons and attendant documents shall designate the parties plaintiff and defendant. To obtain such an order, the creditor shall file an affidavit stating that a cause of action exists, specifying the amount of the claim and the ground thereof, and setting forth in detail the specific facts upon which the creditor bases the claim of entitlement to garnishment before entry of judgment. Such an order shall provide that a hearing shall be held no later than seven days from the date of service of the garnishee summons for the purpose of determining whether probable cause exists for the continuation of the garnishment, unless the debtor knowingly waives in writing said hearing. Notice of said hearing shall be given to the debtor by such method as shall be prescribed by the court. At said hearing the burden of proving probable cause shall rest upon the creditor.

Subd. 5. **Prior notice required.** If the garnishee summons is to be used to garnish the earnings of an individual to enforce a judgment, or to garnish earnings prior to entry of judgment pursuant to subdivision 2, clause (a), prior to the first garnishment on any debt, the creditor shall serve upon the debtor, no less than ten days prior to the service of the garnishee summons, a notice that a summons may be issued. If the garnishee summons has not been served within one year after service of the notice, the judgment creditor shall serve another notice upon the judgment debtor prior to serving the garnishee summons on the judgment debtor's employer. If more than one year has passed since service of the judgment creditor's most recent garnishee summons, the judgment creditor shall no less than ten days prior to service of a subsequent garnishee summons serve notice that another garnishee summons may be served. The notice shall (1) be substantially in the form set out in this chapter; (2) be served personally, in the manner of a summons and complaint, or by first class mail to the last known address of the debtor; (3) inform the debtor that a garnishee summons may be served on the debtor's employer in ten days, and that the debtor may, within that time, cause to be served on the creditor a signed statement under penalties of perjury asserting an entitlement to an exemption from garnishment; (4) inform the debtor of the wage garnishment exemptions contained in section 550.37, subdivision 14; and (5) advise the debtor of the relief set forth in this chapter to which the debtor may be entitled if a creditor in bad faith disregards a valid claim and the fee, costs, and penalty which may be assessed against a debtor who in bad faith falsely claims an exemption or in bad faith takes action to frustrate the garnishment process. If no statement of exemption is received by the creditor within ten days from the service of the notice, the creditor may proceed with the garnishment. Failure of the debtor to serve a statement does not constitute a waiver of any right the debtor may have to an exemption. If the statement of exemption is received by the creditor, the creditor may still cause a garnishee summons to be issued. If the debtor subsequently asserts a claim of exemption successfully to the court having jurisdiction over the action, and the court finds that the creditor disregarded the claim of exemption in bad faith, the debtor shall be entitled to costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100. If in subsequent proceedings which may be brought by the debtor or creditor, the claim is not upheld, and the court finds that it was asserted in bad faith, or if the court finds that the debtor has in bad faith taken action to frustrate the garnishment process, the debtor shall be assessed costs and reasonable attorney fees resulting from the additional proceedings, and an amount not to exceed \$100.

Subd. 5a. **Exemption notice.** If the garnishee summons is used to garnish funds of a judgment debtor who is a natural person and if the funds to be garnished are held on deposit at any financial institution, the judgment creditor shall serve with the garnishee summons two copies of an exemption notice. The notice shall be substantially in the form set out in subdivision 7. Failure of the judgment creditor to send the exemption notice shall render the garnishment void, and the financial institution shall take no action.

Subd. 5b. **Duty of financial institution; exemption; objection.** Upon receipt of the garnishee summons and exemption notices, the financial institution shall attach and bind as much of the amount due under section 571.471 as the financial institution has

on deposit owing to the judgment debtor. Within two business days after receipt of the garnishee summons and exemption notices, the financial institution shall serve upon the judgment debtor two copies of the exemption notice. The financial institution shall serve the notice by first class mail to the last known address of the judgment debtor. If no claim of exemption is received by the financial institution within 14 days after the exemption notices are mailed to the judgment debtor, the funds shall remain subject to the garnishment summons. On electing to claim an exemption, the judgment debtor shall complete the exemption notice, sign it under penalty of perjury, and deliver one copy to the financial institution and one copy to the judgment creditor within 14 days of the date postmarked on the correspondence mailed to the judgment debtor containing the exemption notices. Failure of the judgment debtor to serve the executed exemption notice does not constitute a waiver of any right to an exemption. Upon timely receipt of a claim of exemption, funds not claimed to be exempt by the judgment debtor shall remain subject to the garnishment summons. All money claimed to be exempt shall be released to the judgment debtor upon the expiration of seven days after the date postmarked on the correspondence containing the executed exemption notice mailed to the judgment creditor, or the date of personal delivery of the executed exemption notice to the judgment creditor, unless within that time the judgment creditor interposes an objection to the exemption. Objection shall be interposed by mailing or delivering one copy of the written objection to the financial institution and one copy of the written objection to the judgment debtor. Upon receipt of a written objection from the judgment creditor within the specified seven-day period, the financial institution shall retain the funds claimed to be exempt. Unless the financial institution receives a notice of motion and motion from the judgment debtor asserting exemption rights within ten days after receipt of the written objection to the exemption, the funds shall remain subject to the garnishment summons as if no claim of exemption has been made. Either the judgment creditor or the judgment debtor may bring a motion to determine the validity of an exemption claim by following the procedure set out in subdivision 7. If a notice of motion and motion to determine the validity of a claim of exemption is received by the financial institution within the period provided, the financial institution shall retain the funds claimed to be exempt until otherwise ordered by the court, or until the garnishment lapses pursuant to section 571.69. However, at any time during the procedure specified in this subdivision, the judgment debtor or the judgment creditor may, by a writing dated subsequent to the service of the execution, direct the financial institution to release the funds in question to the other party. Upon receipt of a release, the financial institution shall release the funds as directed.

Subd. 5c. Subsequent proceedings; bad faith claims. If in subsequent proceedings brought by the judgment debtor or the judgment creditor, the claim of exemption is not upheld, and the court finds that it was asserted in bad faith, the judgment creditor shall be awarded actual damages, costs, and reasonable attorney fees resulting from the additional proceedings and an amount not to exceed \$100. If the claim of exemption is upheld, and the court finds that the judgment creditor disregarded the claim of exemption in bad faith, the judgment debtor shall be awarded costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100. The underlying judgment shall be modified to reflect assessment of damages, costs, and attorney fees. However, if the party in whose favor a penalty assessment is made is not actually indebted to the party's attorney for fees, the attorney's fee award shall be made directly to the attorney and an appropriate judgment in favor of the attorney shall be entered. Upon motion of any party in interest, on notice, the court shall determine the validity of any claim of exemption and may make any order necessary to protect the rights of those interested. No garnishee shall be liable for damages for complying with this section. Both copies of an exemption claim or an objection to an exemption claim shall be mailed or delivered on the same date. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section.

Subd. 6. Form of notice. The ten-day notice informing a judgment debtor that a garnishee summons may be used to garnish the earnings of an individual to enforce a judgment, shall be substantially in the following form:

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STATE OF MINNESOTA)

) ss.

County of)

..... Court

..... (Judgment Creditor)

..... (Judgment Debtor)

Garnishment Exemption Notice

The State of Minnesota

To the above named Judgment Debtor:

Please take notice that a Garnishment Summons may be served upon your employer or other third parties, without any further court proceedings or notice to you, ten days or more from the date hereof. Your earnings are completely exempt from garnishment if you are now a recipient of relief based on need, if you have been a recipient of relief within the last six months, or if you have been an inmate of a correctional institution in the last six months. Relief based on need includes, only AFDC, general assistance medical care, supplemental security income, medical assistance, Minnesota supplemental assistance, and general assistance.

If you wish to claim an exemption, you should fill out the appropriate form below, sign it, and send it to the judgment creditor's attorney and the garnishee.

You may wish to contact the attorney for the Judgment Creditor in order to arrange for a settlement of the debt.

PENALTIES

1. Be advised that even if you claim an exemption, a Garnishment Summons may still be served on your employer. If your earnings are garnished after you claim an exemption, you may petition the court for a determination of your exemption. If the court finds that the creditor disregarded your claim of exemption in bad faith, you will be entitled to costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100.

2. HOWEVER, BE WARNED if you claim an exemption, the creditor can also petition the court for a determination of your exemption, and if the court finds that you claimed an exemption in bad faith, you will be assessed costs and reasonable attorney's fees plus an amount not to exceed \$100.

3. If after receipt of this notice, you in bad faith take action to frustrate the garnishment, thus requiring the creditor to petition the court to resolve the problem, you will be liable to the creditor for costs and reasonable attorney fees plus an amount not to exceed \$100.

Dated:

.....
(Attorney for) Judgment Creditor

Address

Telephone

I hereby claim under penalty of perjury that my earnings are exempt from garnishment because:

(1) I am presently a recipient of relief based on need. (Specify the program, case number, and the county from which relief is being received.)

.....
Program

.....
Case Number (if known)

.....
County

(2) I am not now receiving relief based on need, but I have received relief based on need within the last six months. (Specify the program, case number, and the county from which relief has been received.)

.....
Program

.....
Case Number (if known)

.....
County

(3) I have been an inmate of a correctional institution within the last six months. (Specify the correctional institution and location.)

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.....
Correctional Institution

.....
Location

I hereby authorize any agency that has distributed relief to me or any correctional institution in which I was an inmate to disclose to the above-named creditor or the creditor's attorney whether or not I was a recipient of relief based on need or an inmate of a correctional institution within the last six months.

.....
Judgment Debtor
Address

Subd. 7. **Form of exemption notice.** The notice informing a judgment debtor that a writ of attachment, garnishee summons, or levy of execution has been used to attach and bind funds of the judgment debtor to satisfy a claim shall be substantially in the following form:

EXEMPTION NOTICE

STATE OF MINNESOTA
COUNTY OF

.....Court
(Judgment Creditor)
(Judgment Debtor)

To.....(Judgment Debtor):

A writ of attachment, garnishee summons, or levy of execution (strike inapplicable language) has been served on(Bank or other Financial Institution).....where you have an account.

Your account balance is \$.....

The amount being held is \$.....

However, the funds in your account will normally be exempt from creditors' claims if they are in one of the following categories:

(1) Relief based on need. This includes AFDC, Medical Assistance, Supplemental Security Income (SSI), Minnesota Supplemental Assistance, General Assistance, and General Assistance Medical Care.

(2) Social Security benefits (Old Age, Survivors, or Disability Insurance).

(3) Unemployment compensation, workers' compensation, or veteran's benefits.

(4) An accident, disability, or retirement pension or annuity.

(5) Life insurance proceeds, or the earnings of your minor child.

(6) Money from a claim for damage or destruction of exempt property (such as household goods, farm tools, business equipment, a mobile home, or a car).

The following funds are also exempt:

(7) All earnings of a person in category (1).

(8) All earnings of a person who has received relief based on need, or who has been an inmate of a correctional institution, within the last six months.

(9) Seventy-five percent of every debtor's after tax earnings.

(10) All of a debtor's after tax earnings below 40 times the federal minimum wage (this equals \$134 for a 40-hour week).

TIME LIMIT ON EXEMPTIONS AFTER DEPOSIT IN BANK:

Categories (9) and (10): 20 days.

Categories (7) and (8): 60 days.

All others: no time limit, as long as funds are traceable to the exempt source. (In tracing funds, the first-in, first-out method is used. This means money deposited first is spent first.) The money being sought by the creditor is being held in your account to give you a chance to claim an exemption.

TO CLAIM AN EXEMPTION:

Fill out, sign, and mail or deliver one copy of this exemption claim form to the

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institution which sent you this notice, and one copy to the judgment creditor. Both copies must be mailed or delivered on the same day.

If they don't get the exemption claim back from you within 14 days of the date they mailed or gave it to you, they will be free to turn the money over to the sheriff or the creditor. If you are going to claim an exemption, do so as soon as possible, because your money may be frozen until it is decided.

IF YOU CLAIM AN EXEMPTION:

(1) Nonexempt money can be turned over to the creditor or sheriff;
(2) The financial institution will keep holding the money claimed to be exempt;
and

(3) Seven days after receiving your exemption claim, the financial institution will release the money to you unless before then it receives an objection to your exemption claim.

IF THE CREDITOR OBJECTS TO YOUR EXEMPTION CLAIM:

(1) The institution will hold the money until a court decides if your exemption claim is valid, BUT ONLY IF the institution gets a copy of your court motion papers asserting the exemption WITHIN 10 DAYS after the objection is mailed or given to you. You may wish to consult an attorney at once if the creditor objects to your exemption claim.

MOTION TO DETERMINE EXEMPTION:

At any time after your funds have been frozen, you may ask for a court decision on the validity of your exemption claim by filing a request for hearing which may be obtained at the office of the court administrator of the above court.

PENALTIES:

If you claim an exemption in bad faith, or if the creditor wrongly objects to an exemption in bad faith, the court may order the person who acted in bad faith to pay costs, actual damages, attorney fees, and an additional amount of up to \$100.

.....
Date

.....
(Attorney for) Judgment Creditor
Address

EXEMPTION:

(a) Amount of exemption claim.

/ / I claim ALL the funds being held are exempt.

/ / I claim SOME of the funds being held are exempt. The exempt amount
is \$.....

(b) Basis for exemption.

Of the ten categories listed above, I am in category number (If more than one category applies, you may fill in as many as apply.) The source of the exempt funds is the following:

.....
(If the source is a type of relief based on need, list the case number and county:

case number:;

county:)

Dated:

.....
Judgment Debtor
Address

Subd. 8. Form of motion. (1) A motion to determine the validity of an exemption claim may be brought by either the judgment creditor or the judgment debtor by filing with the court administrator out of which the attachment, garnishment, or execution issued a Request for Hearing which shall be in substantially the following form:

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STATE OF MINNESOTA
COUNTY OF

..... COURT
.....

Plaintiff(s),

v.

REQUEST FOR HEARING ON
EXEMPTION CLAIM

Defendant(s).

I hereby request a hearing to resolve the exemption claim which has been made in this case regarding funds in the account of(Debtor)..... at the(Financial Institution)..... I believe the property being held is (not) exempt because

DATED:

Judgment (Debtor, Creditor)

Address

Hearing date:

Time:

Place:

(Note to both parties: Bring with you to the hearing all documents and materials relevant to the exemption claim. Failure to do so could delay the court's decision.)

(2) The court shall provide Request for Hearing forms and clerical assistance to help with the writing and filing of a Request for Hearing by any person not represented by counsel. The court administrator may charge a fee of \$1 for the filing of a Request for Hearing.

(3) Upon the filing of a Request for Hearing, the court administrator shall schedule the matter for a hearing no later than five business days from the date of filing. The court administrator shall forthwith send a completed copy of the request, including the hearing date, time, and place to the adverse party and to the financial institution by first class mail.

History: 1945 c 424 s 1; 1951 c 197 s 1; 1969 c 1142 s 1; 1976 c 335 s 11-15; 1983 c 235 s 12-18; 1985 c 248 s 67; 1985 c 306 s 10,11; 1986 c 444; 1Sp1986 c 3 art 1 s 82

571.42 EFFECT OF SERVICE OF SUMMONS.

Subdivision 1. **Attach for judgment.** 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 judgment debtor in the possession of or under the control of the garnishee and all indebtedness owing by the garnishee to the judgment debtor at the time of service and all nonexempt disposable earnings earned or to be earned within that pay period and within 60 days thereafter.

Subd. 2. **Property attached.** Subject to the provisions of sections 550.37 and 571.55 all money, all nonexempt disposable earnings earned or to be earned within that pay period and within 60 days thereafter and other personal property including 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 judgment debtor 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 it before the time appointed by the contract.

History: 1945 c 424 s 2; 1969 c 1142 s 2; 1983 c 235 s 19; 1985 c 306 s 12; 1986 c 444

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 judgment debtor, 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 the garnishee is liable to an execution thereon;

(3) Any liability incurred upon any negotiable instrument;

(4) Any money or other thing due to the judgment debtor where the judgment debtor is a bank, savings bank, trust company, credit union, or savings and loan association.

History: 1945 c 424 s 3; 1957 c 184 s 1; 1967 c 337 s 1; 1969 c 1142 s 3; 1986 c 444

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.

History: 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, 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 the person subject to garnishment 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 the person so served having knowledge of the facts. If payment is made by such county, town, city, 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 a voucher for such payment.

History: 1945 c 424 s 5; 1973 c 123 art 5 s 7; 1986 c 444

571.46 MONEY DUE FROM STATE DEPARTMENTS.

Money due or owing to any corporation or person by the state on account of any employment, work, or contract with any state department or agency is liable to garnishment. The garnishee summons may be served upon the head of the department or agency by certified mail; and the disclosure shall be made by the head of the department or agency, or by some person designated by the head 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 head of the department or agency as a voucher for such payment.

History: 1945 c 424 s 6; 1974 c 562 s 2; 1978 c 674 s 60; 1986 c 444

571.47 [Repealed, 1976 c 335 s 24]

571.471 COURT OF RECORD.

Subdivision 1. Procedure. To enforce a judgment arising from an action in a court of record, or, before entry of judgment in those instances permitted, a garnishee summons may be issued by a judgment creditor or judgment creditor's attorney and shall be served upon the garnishee in the same manner as other summons in that court of record except that service must be personal. The judgment creditor shall serve with the garnishee summons a garnishment disclosure form, which shall be substantially in

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the form set out in this chapter. The judgment creditor may also serve written interrogatories with the garnishee summons. The garnishee summons shall state that the garnishee shall serve upon the judgment creditor or judgment creditor's attorney within 20 days after service of the garnishee summons, a written disclosure, under oath, of the garnishee's indebtedness to the judgment debtor and answers to all written interrogatories which are served with the garnishee summons. The judgment creditor shall not require disclosure of an indebtedness to the judgment creditor or property of judgment debtor in the garnishee's possession or under the garnishee's control in excess of 110 percent of the amount of the judgment which remains unpaid. The garnishee summons shall include the full name of the judgment debtor and the judgment debtor's place of residence, the amount of the judgment which remains unpaid. The garnishee summons shall also state that the garnishee shall retain property or money in possession pursuant to this chapter until the judgment creditor causes a writ of execution to be served upon the garnishee or until the judgment debtor authorizes release to the judgment creditor, and shall state that after the expiration of the period of time specified in section 571.69 from the date of service of the garnishee summons, the garnishee shall release all such retained property and money to the judgment debtor and shall be discharged and relieved of all liability thereon. The garnishee summons shall also state that no employer may discharge any employee because the employee's earnings have been subject to garnishment. The garnishee summons shall further state that any assignment of wages made by the debtor or indebtedness to the garnishee incurred by the debtor within 10 days prior to the receipt of the first garnishment on a debt is void. The garnishee summons shall further state the date of the entry of judgment against the judgment debtor, or in those instances in which there is garnishment before judgment, the garnishee summons shall include for service a copy of the court order permitting said garnishment. A copy of the garnishee summons and copies of all other papers served on the garnishee shall be served by mail upon the judgment debtor not later than five days after service is made upon the garnishee. A single garnishee 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 judgment debtor, together with the affidavit of service, shall be substantially in the following form:

State of Minnesota)
) ss.
County of) Court
..... (Judgment Creditor)
..... (Judgment Debtor)
..... (Garnishee)

Garnishment Summons

The State of Minnesota

To the above named Garnishee:

You are hereby summoned and required to serve upon the judgment creditor or judgment creditor's attorney, within 20 days after service of this summons upon you, written disclosure, under oath, setting forth your indebtedness to the judgment debtor above named, (Give full name and residence of judgment debtor) and any property, money or effects of said judgment debtor which are in your possession. Your disclosure need not exceed 110 percent of the amount of the judgment creditor's judgment which remains unpaid. Judgment was entered against the judgment debtor on, in the amount of \$....., and the amount of said judgment which remains unpaid is \$....., you are further hereby required to retain in your possession such property, money and effects in an amount not exceeding 110 percent of the amount of the judgment which remains unpaid. You may not, however, pursuant to this summons, withhold from the debtor any earnings due to the debtor that are exempt from garnishment pursuant to section 571.55.

Failure to disclose and withhold in accordance with this summons may render you liable to the judgment creditor for an amount not exceeding the judgment creditor's

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judgment against the judgment debtor or 110 percent of the amount claimed in the garnishee summons, whichever is smaller.

You shall retain such property, money and effects in your possession until such time as the judgment creditor causes a writ of execution to be served upon you, until the judgment debtor authorizes release to the judgment creditor, or until the expiration of days from the date of service of this summons upon you, when you shall return such property, money and effects to the judgment debtor.

Any assignment of wages made by the judgment debtor or indebtedness to you incurred by the judgment debtor within ten days prior to the receipt of the first garnishment on a debt is void and should be disregarded.

You are prohibited by law from discharging said judgment debtor because the judgment debtor's earnings have been subjected to garnishment.

Attorney for Judgment Creditor

Address

Dated:, 19.. .

NOTICE TO JUDGMENT DEBTOR

To: Judgment Debtor:

Sir

Take notice that a garnishee summons, garnishment disclosure form and written interrogatories (strike out if not applicable), which are herewith served upon you, were personally served upon the garnishee named therein, by delivering copies thereof to, the said garnishee, and the said garnishee was paid in advance the sum of \$2 fees.

Attorney for Judgment Creditor

Address

AFFIDAVIT OF SERVICE

State of Minnesota)
County of) ss.

....., being duly sworn upon oath, says that on the day of, 19.., at of in said county ..he served upon the within-named judgment debtor copies of the within garnishee summons, garnishment disclosure form, written interrogatories (strike out if not applicable), and order, together with a notice to said judgment debtor, of which the foregoing is a copy, stating that the above-described documents were personally served upon said garnishee, signed by Said service was made by depositing in the United States mail at said City of, said documents properly enveloped, with postage prepaid, and addressed to:

Subscribed and sworn to before me

This day of, 19..

Notary Public

....., County, Minnesota.

History: 1976 c 335 s 16; 1986 c 444

571.48 [Repealed, 1976 c 335 s 24]

571.49 [Repealed, 1976 c 335 s 24]

571.495 DISCLOSURE.

Subdivision 1. Garnishee to disclose. Within the time herein limited, the garnishee shall serve upon the judgment creditor or the judgment creditor's attorney written answers, under oath, to the questions in the garnishment disclosure form and to any written interrogatories which are served upon the garnishee. The amount of the garnishee's disclosure need not exceed 110 percent of the amount of the judgment creditor's judgment which remains unpaid, after subtracting the total of set-offs, defenses, exemptions, ownerships, or other interest. The garnishment disclosure form and all written interrogatories 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) The amount of disposable earnings earned or to be earned within the judgment debtor's pay periods which may be subject to garnishment and all of the garnishee's indebtedness to the judgment debtor.

(2) Whether the garnishee 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 property belonging to the judgment debtor or in which the judgment debtor is interested. On admitting any such interest or any doubt respecting the same, the garnishee shall set forth a description of such property and the facts concerning the same, and the title, interest or claim of the judgment debtor in or to the same.

(3) If the garnishee claims any set-off or defense or claim or lien to such disposable earnings, indebtedness or property, the garnishee shall disclose the amount and the facts.

(4) Whether the judgment debtor claims any exemption from execution, or any other objection, known to the garnishee or the judgment debtor, against the right of the judgment creditor to apply upon the judgment creditor's demand the debt or property disclosed.

(5) If other persons make claims to any disposable earnings, debt or property of the judgment debtor, the garnishee shall disclose the names and addresses of such other claimants and, so far as known, the nature of their claims.

Subd. 3. Form of disclosure. A garnishment disclosure form must be served upon the garnishee. The disclosure shall be substantially in the following form:

State of Minnesota)
) ss.
 County of) Court

 Judgment Creditor
 vs.

 Judgment Debtor
 and

 Garnishee

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

On the day of, 19.., the time of service of garnishee summons herein on said garnishee, there was due and owing the judgment debtor above named from said garnishee the following:

(1) **Earnings.** For the purposes of garnishment, "earnings" means compensation paid or payable for personal service or compensation paid or payable to the producer for the sale of agricultural products; livestock or livestock products; milk or milk products; or fruit or other horticultural products produced when the producer is

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operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commission, bonus or otherwise, and includes periodic payments pursuant to a pension or retirement program. "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. If the garnishee summons was served upon you at a time when earnings from a prior completed pay period were owing but not paid, complete the following disclosure for earnings from both that past pay period and the current pay period.

(a) Enter on the line below the amount of disposable earnings earned or to be earned by the judgment debtor within the judgment debtor's pay periods which may be subject to garnishment.

(b) Enter on the line below 40 times the hourly federal minimum wage times the number of work weeks within the judgment debtor's pay periods which may be subject to garnishment. When such pay periods consists of other than a whole number of work weeks, each day of a pay period in excess of the number of completed work weeks shall be counted as a fraction of a work week equal to the number of work days divided by the number of work days in the normal work week.

(c) Enter on the line below the difference obtained (never less than zero) when line (b) is subtracted from line (a).

(d) Enter on the line below 25 percent of line (a).

(e) Enter on the line below the lesser of line (c) and line (d).

(2) Money. Enter on the line below any amounts due and owing the judgment debtor, except earnings, from the garnishee.

(3) Property. Describe on the line below any personal property, instruments or papers belonging to the judgment debtor and in the possession of the garnishee.

(4) Set-off. Enter on the line below the amount of any set-off, defense, lien or claim which the garnishee claims against the amount set forth on lines (1)(e), (2) and (3) above. Allege the facts by which such set-off, defense, lien or claim is claimed. (Any indebtedness to a garnishee incurred by the judgment debtor within 10 days prior to the receipt of the first garnishment on a debt is void and should be disregarded.)

(5) Exemption. Enter on the line below any amounts or property claimed by the judgment debtor to be exempt from execution.

(6) Adverse Interest. Enter on the line below any amounts claimed by other persons by reason of ownership or interest in the judgment debtor's property. (Any assignment of wages made by the judgment debtor within 10 days prior to the receipt of the first garnishment on a debt is void and should be disregarded. State the names and addresses of such persons and the nature of their claim, if known.)

(7) Enter on the line below the total of lines (4), (5) and (6).

(8) Enter on the line below the difference obtained (never less than zero) when line (7) is subtracted from the sum of lines (1)(e), (2) and (3).

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(9) Enter on the line below 110 percent of the amount of the judgment creditor's judgment which remains unpaid.

(10) Enter on the line below the lesser of line (8) and line (9). As garnishee, you are hereby instructed to retain this amount only if it is \$10 or more.

Authorized Representative of Garnishee

Title

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

Notary Public

..... County, Minnesota.

History: 1976 c 335 s 17; 1985 c 306 s 13; 1986 c 444; 1Sp1986 c 3 art 1 s 64

571.50 EFFECT OF DISCLOSURE.

Subject to the provisions of sections 571.51 and 571.52, the disclosure shall be conclusive against the judgment creditor as to all property of the judgment debtor. If the garnishee denies indebtedness to the judgment debtor or possession of any property of the judgment debtor, the filing in court of a copy of the denial shall operate as a full discharge of the garnishee at the end of 20 days from the date of service of the 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 the discharge. The court may, upon proper showing, relieve the judgment creditor from the operation of the discharge after the expiration of 20 days. 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 judgment creditor's judgment.

History: 1945 c 424 s 10; 1969 c 1142 s 7; 1983 c 359 s 79; 1986 c 444

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 judgment debtor's creditors, the garnishee may be charged therefor although the judgment debtor could not have maintained an action against the garnishee therefor; but in this, and in all other cases where the garnishee denies liability, the judgment creditor may move the court at any time before the garnishee is discharged, on notice to both the judgment debtor 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 the judgment creditor claims to charge the garnishee; and, if probable cause is shown, such motion shall be granted. The supplemental complaint shall be served upon both judgment debtor and garnishee, either or both of whom may answer, and the judgment creditor may reply. Such issues shall be brought to trial and tried as in other actions.

History: 1945 c 424 s 11; 1969 c 1142 s 8; 1986 c 444

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 the person's rights; and if the person does not so appear, may direct that the person be notified to appear or be barred of the 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.

History: 1945 c 424 s 12; 1986 c 444

571.53 DEFAULT.

If any garnishee who is duly summoned fails to serve a disclosure as required in this chapter, upon proof by affidavit of such facts, the court may render judgment against the garnishee for an amount not exceeding judgment creditor's judgment against judgment debtor or 110 percent of 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.

History: 1945 c 424 s 13; 1969 c 1142 s 9; 1986 c 444

571.54 JUDGMENT AGAINST GARNISHEE.

Judgment against a garnishee shall be rendered, if at all, for the amount due the judgment debtor, or so much thereof as may be necessary to satisfy the judgment creditor's judgment against such judgment debtor, with costs taxed and allowed in the proceeding against the garnishee but not to exceed 110 percent of 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 the person's possession other than an indebtedness payable in money, the person 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 judgment debtor; 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 the garnishee and the judgment debtor.

History: 1945 c 424 s 14; 1969 c 1142 s 10; 1986 c 444

571.55 LIMITATION ON GARNISHMENT.

Subdivision 1. For the purposes of this section, "earnings" means compensation paid or payable for personal service or compensation paid or payable to the producer for the sale of agricultural products; livestock or livestock products; milk or milk products; or fruit or other horticultural products produced when the producer is operating a family farm, a family farm corporation, or an authorized farm corporation, as defined in section 500.24, subdivision 2, whether denominated as wages, salary, commissions, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program. "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld.

Subd. 2. The maximum part of the aggregate disposable earnings of an individual for any pay period which may be subjected to garnishment may not exceed the lesser of

(a) 25 percent of the disposable earnings or

(b) the amount by which the disposable earnings exceeds the following product: 40 times the federal minimum hourly wage prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, United States Code, title 29, section 206(a)(1), in effect at the time the earnings are payable times the number of work weeks in such pay period. When a pay period consists of other than a whole number of work weeks, each day of that pay period in excess of the number of completed work weeks shall be counted as a fraction of a work week equal to the number of excess work days divided by the number of days in the normal work week.

Subd. 3. No court may make, execute, or enforce an order or process in violation of this section.

History: 1945 c 424 s 15; 1959 c 535 s 2; 1969 c 1142 s 11; 1976 c 335 s 18, 19; 1985 c 306 s 14; 1986 c 444

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 judgment debtor in the hands of the garnishee and may make any order relative to the 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, the garnishee may be punished for contempt, and also shall be liable to the judgment creditor 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 the garnishee, the judgment creditor, on motion, may be permitted to pay the amount thereof, and the amount so paid shall be repaid to judgment creditor, 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 the garnishee's 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 for all liability to the judgment creditor for the nondelivery thereof.

History: 1945 c 424 s 16; 1969 c 1142 s 12; 1986 c 444

571.57 GARNISHEE FEES.

Subdivision 1. Witness fees. A garnishee other than an employer whose employee is the judgment debtor shall be paid \$2 fees at the time of service of garnishee summons. If required to appear and submit to oral examination a garnishee shall be tendered 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 counsel fees and other necessary expenses. If the garnishee be charged as a garnishee, the amount of such fees and allowances may be recovered by judgment creditor out of the property in the garnishee's possession. 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 the garnishee's reasonable charges for storage.

Subd. 2. Employer expenses of garnishment. An employer garnishee administering garnishment of an employee judgment debtor's wages shall be paid \$3 for each processing transaction relating to the garnishment. A processing transaction means any written response the garnishee employer is required by law to mail or deliver for purposes of administering the garnishment of an employee's wages. The \$3 processing fee shall be charged to the employee judgment debtor.

History: 1945 c 424 s 17; 1967 c 429 s 3; 1969 c 1142 s 13; 1982 c 550 s 1; 1986 c 444

571.58 MINIMUM JUDGMENT.

No judgment shall be rendered against a garnishee in a county or municipal court where the judgment against the judgment debtor is less than \$10, exclusive of costs, or in the district court where the judgment against the judgment debtor is less than \$25, exclusive of costs.

History: 1945 c 424 s 18; 1969 c 1142 s 14; 1983 c 359 s 80

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 the person by the judgment debtor or other claimants for the same demand.

History: 1945 c 424 s 19; 1969 c 1142 s 15; 1986 c 444

571.60 GARNISHMENT BY DEFENDANT.

If the defendant recovers judgment against the plaintiff the defendant may institute and prosecute garnishment under this chapter as if the defendant were judgment creditor. For the purposes of such proceedings the defendant is to be considered as judgment debtor, and the defendant's answer is deemed a complaint.

History: 1945 c 424 s 20; 1969 c 1142 s 16; 1986 c 444

571.61 NO DISCHARGE FROM EMPLOYMENT FOR GARNISHMENT OR EXECUTION.

Subdivision 1. Prohibition. No employer may discharge any employee by reason of the fact that the employee's earnings have been subjected to garnishment or execution.

Subd. 2. Remedy. If an employer discharges an employee in violation of this section, the employee may within 90 days of such discharge bring a civil action for recovery of twice the wages lost as a result of the violation and for an order requiring reinstatement.

History: 1945 c 424 s 21; 1967 c 9 s 1; 1969 c 1142 s 17; 1976 c 335 s 20; 1986 c 444

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 is transferred therewith and written notice of such transfer, specifying the court to which the same is made shall be served by the judgment creditor on the garnishee. Such transfer shall carry with it all proceedings already had and any disclosure made therein.

History: 1945 c 424 s 22; 1969 c 1142 s 18

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.

History: 1945 c 424 s 23

571.64 APPEAL.

Any party to a garnishment proceeding aggrieved by any order or final judgment may appeal as in other civil cases.

History: 1945 c 424 s 24; 1983 c 247 s 192; 1986 c 444

571.65 IMPLIED REPEALS.

The purpose of this chapter is to provide a uniform system of garnishment disclosure in all district, municipal and county courts, and all laws inconsistent with this chapter are superseded.

History: 1945 c 424 s 25; 1983 c 359 s 81

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.

A party who serves or causes to be served a garnishment summons prior to judgment in the main action, except where garnishment prior to entry of judgment is permitted, is liable to the debtor named in the garnishment proceedings in the amount of \$100 plus reasonable attorneys fees and costs. Action by a judgment creditor in violation of section 550.041, 550.14, 550.141, or 571.41, causing any third party or

garnishee in possession of funds owing to the judgment debtor to hold or deliver the funds to satisfy a garnishment, attachment, or levy of execution shall render the garnishment, attachment, or levy of execution void and the judgment creditor liable to the judgment debtor named in the garnishment, attachment, or execution in the amount of \$100, actual damages, and reasonable attorney fees and costs.

History: 1959 c 535 s 1; 1967 c 689 s 5; 1969 c 1142 s 19; 1976 c 335 s 21; 1983 c 235 s 20

571.68 GARNISHMENTS; MINIMAL AMOUNT; DISCLOSURE.

If the amount required to be retained by the garnishee is less than \$10, the garnishee shall not retain said sum but shall make the disclosures otherwise required.

History: 1976 c 335 s 22

571.69 TERMINATION OF GARNISHMENT.

Subdivision 1. A garnishee summons shall lapse and the garnishee thereof shall be discharged and relieved of any liability thereon upon the expiration of the following periods of time after service of the summons, or such longer period of time either agreed to in writing by both the judgment creditor and the judgment debtor or ordered by a court:

(1) In the instance of a garnishee summons served before entry of judgment, 270 days;

(2) In the instance of a garnishee summons served after entry of judgment, 180 days.

Subd. 2. Immediately upon the lapse of the garnishee summons, all earnings, money, property, and effects which the garnishee has been retaining pursuant to the garnishment shall be returned to the judgment debtor.

History: 1976 c 335 s 23