

Garnishment

(MC 12, MC 13, MC 14)

When to Use:	<ul style="list-style-type: none"> You were awarded a judgment in a Small Claims case or General Civil Case, and At least 21 days has passed, without payment from the defendant, since the judgment was entered. 				
Filing Fees:	\$15.00				
Method of Payment:	<ul style="list-style-type: none"> Cash Credit Card Money Order payable to: <i>58th District Court</i> 				
Where to File:	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <u>Grand Haven</u> 414 Washington Grand Haven, MI 49417 </td> <td style="width: 50%; vertical-align: top;"> <u>Hudsonville</u> 3100 Port Sheldon Rd. Hudsonville, MI 49426 </td> </tr> <tr> <td colspan="2" style="padding-top: 10px;"> <u>Holland</u> 85 West 8th St. Holland, MI 49423 </td> </tr> </table>	<u>Grand Haven</u> 414 Washington Grand Haven, MI 49417	<u>Hudsonville</u> 3100 Port Sheldon Rd. Hudsonville, MI 49426	<u>Holland</u> 85 West 8 th St. Holland, MI 49423	
<u>Grand Haven</u> 414 Washington Grand Haven, MI 49417	<u>Hudsonville</u> 3100 Port Sheldon Rd. Hudsonville, MI 49426				
<u>Holland</u> 85 West 8 th St. Holland, MI 49423					
Copies:	Original +2 copies				
Additional Information:	<ul style="list-style-type: none"> Periodic Garnishment Payments are payments made by the garnishee to the defendant on a regular basis. These payments could be paychecks, rent payments, land contract payments, or other contract payments. Non-periodic Garnishment is a garnishment of property or obligations made on a non-periodic basis, including but not limited to bank accounts, property, money, goods, chattels, credits, and negotiable instruments or effects. A "garnishee" is a person who has control over some or all of the money that is paid to the defendant. For example, an employer could be a garnishee. 2 copies of the Writ of Garnishment, along with the Garnishee Disclosure, must be served on the Garnishee with an additional fee of \$35.00 (\$6.00 if the Garnishee is the State of Michigan) payable to the Garnishee. 				

<ul style="list-style-type: none"> • STATE OF MICHIGAN _____ JUDICIAL DISTRICT _____ JUDICIAL CIRCUIT 	REQUEST AND WRIT FOR GARNISHMENT (PERIODIC)	<ul style="list-style-type: none"> • CASE NO.
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Court address • Zip Code Court telephone no.

Plaintiff's name and address (judgment creditor)
Plaintiff's attorney, bar no., and address
Telephone no.

v

Defendant's name and address (judgment debtor)	
Social security no.	Employee ID or account no.
Garnishee name and address	

REQUEST See separate instructions.

1. Plaintiff received judgment against defendant for \$ _____ on _____ .
2. The total amount of judgment interest accrued to date is \$ _____ . The total amount of postjudgment costs accrued to date is \$ _____ . The total amount of postjudgment payments made and credits to date is \$ _____ .
The amount of the unsatisfied judgment now due (including interest and costs) is • \$ _____ .
3. Plaintiff knows or with good reason believes the garnishee is indebted to or possesses or controls property belonging to defendant.
4. **Plaintiff requests** a writ of periodic garnishment be paid to plaintiff, plaintiff's attorney, the court, and mailed to plaintiff. plaintiff's attorney. the court.

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

_____ Date

_____ Plaintiff/Agent/Attorney signature

WRIT OF GARNISHMENT IT IS ORDERED:

TO THE PLAINTIFF: Have all copies of the Garnishee Disclosure (MC 14), two copies of this writ, and the disclosure fee (\$6 if the State of Michigan is the garnishee; \$35 for all others) served on the garnishee within 182 days from the date of issue. If not properly served, the writ of garnishment is invalid. After receiving your first payment under the garnishment, provide the garnishee and defendant a statement of the balance remaining on the judgment, including interest and costs, at least once every 6 months. Within 21 days after the judgment has been paid, including all interest and costs, provide the garnishee and defendant a garnishment release (MC 50).

TO THE DEFENDANT: See separate instructions. You have 14 days after this writ is mailed or delivered to you to file objections with the court. If you do not file objections within this time, periodic payments (money) owed to you by the garnishee may be withheld and paid directly to the plaintiff until the judgment is satisfied.

TO THE GARNISHEE:

1. Within 7 days after you are served with this writ, deliver a copy of this writ to the defendant in person or mail a copy to his or her last-known address by first-class mail.
2. Within 14 days after you are served with this writ, deliver or mail copies of your completed Garnishee Disclosure (MC 14) to the court, plaintiff/attorney, and defendant. A default may be entered against you for failure to disclose.
3. Do not pay any obligations to the defendant unless allowed by statute or court rule.
4. If indebted to the defendant, withholding must begin according to court rule and continue until the judgment is satisfied. Unless notified that an objection has been filed, begin forwarding withheld payments 28 days after you are served with this writ.
5. Make all payments withheld under this writ payable and mailed as specified in the request.
6. Within 14 days after the judgment is satisfied or you are no longer obligated to make periodic payments to the defendant, file a final statement of the total amount paid on this writ with the court and mail or deliver copies to the plaintiff/attorney and defendant.

_____ Date of issue

_____ Date of deadline for service
(182 days from date of issue)

_____ Clerk of the court/Deputy

<ul style="list-style-type: none"> • STATE OF MICHIGAN _____ JUDICIAL DISTRICT _____ JUDICIAL CIRCUIT 	REQUEST AND WRIT FOR GARNISHMENT (PERIODIC)	<ul style="list-style-type: none"> • CASE NO.
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Court address • Zip Code Court telephone no.

Plaintiff's name and address (judgment creditor)
Plaintiff's attorney, bar no., and address
Telephone no.

v

Defendant's name and address (judgment debtor)	
	Employee ID or account no.
Garnishee name and address	

REQUEST See separate instructions.

1. Plaintiff received judgment against defendant for \$ _____ on _____ .
2. The total amount of judgment interest accrued to date is \$ _____ . The total amount of postjudgment costs accrued to date is \$ _____ . The total amount of postjudgment payments made and credits to date is \$ _____ .
The amount of the unsatisfied judgment now due (including interest and costs) is • \$ _____ .
3. Plaintiff knows or with good reason believes the garnishee is indebted to or possesses or controls property belonging to defendant.
4. **Plaintiff requests** a writ of periodic garnishment be paid to plaintiff, plaintiff's attorney, the court, and mailed to plaintiff. plaintiff's attorney. the court.

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

Date

Plaintiff/Agent/Attorney signature

WRIT OF GARNISHMENT IT IS ORDERED:

TO THE PLAINTIFF: Have all copies of the Garnishee Disclosure (MC 14), two copies of this writ, and the disclosure fee (\$6 if the State of Michigan is the garnishee; \$35 for all others) served on the garnishee within 182 days from the date of issue. If not properly served, the writ of garnishment is invalid. After receiving your first payment under the garnishment, provide the garnishee and defendant a statement of the balance remaining on the judgment, including interest and costs, at least once every 6 months. Within 21 days after the judgment has been paid, including all interest and costs, provide the garnishee and defendant a garnishment release (MC 50).

TO THE DEFENDANT: See separate instructions. You have 14 days after this writ is mailed or delivered to you to file objections with the court. If you do not file objections within this time, periodic payments (money) owed to you by the garnishee may be withheld and paid directly to the plaintiff until the judgment is satisfied.

TO THE GARNISHEE:

1. Within 7 days after you are served with this writ, deliver a copy of this writ to the defendant in person or mail a copy to his or her last-known address by first-class mail.
2. Within 14 days after you are served with this writ, deliver or mail copies of your completed Garnishee Disclosure (MC 14) to the court, plaintiff/attorney, and defendant. A default may be entered against you for failure to disclose.
3. Do not pay any obligations to the defendant unless allowed by statute or court rule.
4. If indebted to the defendant, withholding must begin according to court rule and continue until the judgment is satisfied. Unless notified that an objection has been filed, begin forwarding withheld payments 28 days after you are served with this writ.
5. Make all payments withheld under this writ payable and mailed as specified in the request.
6. Within 14 days after the judgment is satisfied or you are no longer obligated to make periodic payments to the defendant, file a final statement of the total amount paid on this writ with the court and mail or deliver copies to the plaintiff/attorney and defendant.

Date of issue

Date of deadline for service
(182 days from date of issue)

Clerk of the court/Deputy

INSTRUCTIONS

Definitions

- A periodic garnishment lets the plaintiff (creditor) take money from a source that pays you on a regular basis such as your earnings or income from rental properties.
- A “garnishee” is a person who has control over some or all of the money that is paid to the defendant. For example, an employer could be a garnishee.
- Periodic payments are payments made by the garnishee to the defendant on a regular basis. These payments could be paychecks, rent payments, land contract payments, or other contract payments.

Instructions for the Plaintiff for Item 2:

If a civil judgment does not include judgment interest in the “total judgment” field, the interest amount reported in item 2 should be accrued from the date the complaint was filed.

If a civil judgment includes judgment interest in the “total judgment” field (as in the forms in use before the 5/07 revisions), the interest amount reported in item 2 should not include any postfiling interest already included in the judgment.

Instructions for the Defendant:

1. This writ has been issued because there is a judgment against you that you have not paid. In order to collect on this judgment, income to be paid to you may be garnished.
2. You may object to this garnishment if:
 - a. your income is exempt from garnishment by law (see examples below),
 - b. you have a pending bankruptcy proceeding,
 - c. the maximum withheld exceeds the amount allowed by law,
 - d. you have an installment payment order,
 - e. you have paid the judgment in full,
 - f. the garnishment was not properly issued or is otherwise invalid,
 - g. you believe the balance on the statement the creditor sent to you is wrong.
3. Certain income is exempt from garnishment and the law gives you the right to claim this income as exempt to prevent it from being used to collect on this judgment. You may want to contact your lawyer or legal aid agency for further assistance.
4. You may send the plaintiff a written request to review postjudgment costs and fees listed in item 2 of the request. Within 28 days after receiving your request, the plaintiff must send an itemized list of the postjudgment costs and fees to you and the court. Within 28 days after receiving the itemized list, you may file a motion with the court to review the postjudgment costs and fees if you believe they are wrong. If the judge rules in your favor, the judge may order the motion fee to be deducted from the judgment balance.
5. For more information on garnishments and debt collection, visit www.michiganlegalhelp.org.

EXAMPLES OF INCOME EXEMPT FROM GARNISHMENT

The following are examples of **some** types of income that are exempt from garnishment and the citations where each type may be found in the law. **Please note that this is not intended as a complete list. You may want to contact your lawyer or legal aid agency for further assistance.**

- Individual Retirement Account (IRA) - [MCL 600.6023(1)(k)]
- Social Security Benefits - [42 USC, Section 407]
- Supplemental Security Income Benefits (SSI) - [42 USC, Section 1383(d)]
- Aid to Families with Dependent Children (AFDC) - [MCL 400.63]
- General Assistance Benefits (GA) - [MCL 400.63]
- Unemployment Compensation Benefits - [MCL 421.30]
- Veterans Assistance Benefits - [38 USC, Section 3101]
- Workers' Compensation Benefits - [MCL 418.821]
- Cash value or proceeds of life insurance or annuity, payable to the spouse or children of the insured - [MCL 500.2207(1)]
- Income benefits under the Michigan Civil Service Act - [MCL 38.40]
- Income benefits under the Michigan Retirement Act - [MCL 421.30]
- U.S. Civil Service Retirement Benefits - [5 USC, Section 8346]

PROOF OF SERVICE

TO PROCESS SERVER: You must serve the request and writ for garnishment and file proof of service with the court clerk before the deadline for service. If you are unable to complete service, you must return this original and all copies to the court clerk.

CERTIFICATE OF SERVICE / NONSERVICE

- I served personally by registered or certified mail, return receipt requested, and delivery restricted to the garnishee (copy of return receipt attached) two copies of the request and writ for garnishment, together with the disclosure form, applicable fee, and the attachments listed below, on:

- I served the Michigan Department of Treasury electronically pursuant to MCR 3.101(F)(3) as follows:

- I have attempted to serve two copies of the request and writ for garnishment, together with the disclosure form, applicable fee, and the attachments listed below, and have been unable to complete service on:

Garnishee's name	Date and time of service
Place or address of service	
Attachments (if any)	

- I am a sheriff, deputy sheriff, bailiff, appointed court officer or attorney for a party.

- I am a legally competent adult who is not a party or an officer of a corporate party. I declare under the penalties of perjury that this certificate of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Fee	
\$		\$	
Incorrect address fee	Miles traveled	Fee	TOTAL FEE
\$		\$	\$

Signature

Name (type or print)

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of two copies of the request and writ for garnishment, together with the disclosure form, applicable fee, and _____
Attachments (if any)

on _____ .
Date and time

Signature on behalf of _____

Name (type or print)

Approved, SCAO

<ul style="list-style-type: none"> • STATE OF MICHIGAN _____ JUDICIAL DISTRICT _____ JUDICIAL CIRCUIT 	REQUEST AND WRIT FOR GARNISHMENT (NONPERIODIC)	<ul style="list-style-type: none"> • CASE NO.
---	---	---

Court address • Zip Code Court telephone no.

<ul style="list-style-type: none"> • Plaintiff's name and address (judgment creditor)
<ul style="list-style-type: none"> • Plaintiff's attorney, bar no., and address
<ul style="list-style-type: none"> • Telephone no.

v

<ul style="list-style-type: none"> • Defendant's name and address (judgment debtor) 	
<ul style="list-style-type: none"> • Social security no. 	<ul style="list-style-type: none"> • Account no.
<ul style="list-style-type: none"> • Garnishee name and address 	

REQUEST

1. Plaintiff received judgment against defendant for \$ _____ on _____.
2. The total amount of judgment interest accrued to date is \$ _____. The total amount of postjudgment costs accrued to date is \$ _____. The total amount of postjudgment payments made and credits to date is \$ _____.
The amount of the unsatisfied judgment now due (including interest and costs) is • \$ _____.
3. Plaintiff knows or with good reason believes the garnishee is indebted to or possesses or controls property belonging to defendant.
4. **Plaintiff requests** a writ of nonperiodic garnishment be paid to plaintiff, plaintiff's attorney, the court, and mailed to plaintiff. plaintiff's attorney. the court.

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

Date

Plaintiff/Agent/Attorney signature

WRIT OF GARNISHMENT To be completed by the court.

TO THE PLAINTIFF: You must provide all copies of the disclosure form (MC 14), two copies of this writ for serving on the garnishee, and a \$1.00 disclosure fee for serving on the garnishee. You are responsible for having these documents served on the garnishee within 182 days. If the disclosure states that the garnishee holds property **other than money** belonging to the defendant, you must motion the court within 56 days after the disclosure is filed for an order to apply the property toward the judgment. **NOTE:** The social security number field is blacked out for security reasons on all parts except the garnishee copy.

TO THE DEFENDANT:

1. Do not dispose of any negotiable instrument representing a debt of the garnishee or any negotiable instrument of title representing property in which you claim an interest held in the possession or control of the garnishee.
2. You have **14 days** after this writ is mailed or delivered to you to file objections with the court. If you do not take this action within this time, without further notice, the property or debt held under this writ may be applied to the judgment **28 days** after this writ was mailed or delivered to the garnishee.

TO THE GARNISHEE:

1. Within **7 days** after you are served with this writ, you must deliver a copy of this writ to the defendant in person or mail a copy to his or her last-known address by first-class mail.
2. Deliver no tangible or intangible property and pay no obligation to the defendant unless allowed by statute or court rule.
3. Within **14 days** after you are served with this writ, you must deliver or mail copies of your verified disclosure (MC 14) to the court, plaintiff/attorney, and defendant. A default may be entered against you for failure to comply with this order.
4. If indebted to the defendant, you must withhold an amount not to exceed the amount of the judgment stated in item 2 of the request. Payment of withheld funds must be made **28 days** after you are served with this writ unless notified that an objection has been filed.
5. Make all payments withheld under this writ payable and mailed as specified in the request.
6. If you hold property other than money belonging to the defendant, do not transfer it until further order of the court.

INSTRUCTIONS

Definitions

Nonperiodic Garnishment - a garnishment of property or obligations made on a nonperiodic basis, including but not limited to bank accounts, property, money, goods, chattels, credits, and negotiable instruments or effects. **Do not use this form to garnish income tax refunds from the State of Michigan; see Michigan statutes for specific procedures to garnish state income tax.**

Additional Instructions for the Plaintiff:

You must provide information that will permit the garnishee to identify the defendant such as the defendant's address, social security number, account number, etc.

Instructions for Item 2:

If a civil judgment does not include judgment interest in the "total judgment" field, the interest amount reported in item 2 should be accrued from the date the complaint was filed.

If a civil judgment includes judgment interest in the "total judgment" field (as in the forms in use before the 5/07 revisions), the interest amount reported in item 2 should not include any postfiling interest already included in the judgment.

If the disclosure states that the garnishee holds property belonging to the defendant, you must motion the court (with notice to the defendant and the garnishee) for an order, which will tell the garnishee to take the defendant's property, sell it, and apply it toward your judgment. If there are no pending objections to the garnishment and you have not filed such a motion within 56 days after the filing of the disclosure, the garnishment is dissolved and the garnishee may release the property to the defendant.

Additional Instructions for the Defendant:

1. This writ has been issued because there is a judgment against you that you have not paid. In order to collect on this judgment, income owed to you may be withheld or property belonging to you may be taken from you and sold.
2. You may object to this garnishment if:
 - a. your income is exempt from garnishment by law,
 - b. you have a pending bankruptcy proceeding,
 - c. the maximum withheld exceeds the amount allowed by law,
 - d. you have paid the judgment in full,
 - e. the garnishment was not properly issued or is otherwise invalid.
3. You may send the plaintiff a written request to review postjudgment costs and fees listed in item 2 of the request. Within 28 days after receiving your request, the plaintiff must send an itemized list of the postjudgment costs and fees to you and the court. Within 28 days after receiving the itemized list, you may file a motion with the court to review the postjudgment costs and fees if you believe they are wrong. If the judge rules in your favor, the judge may order the motion fee to be deducted from the judgment balance.
4. Certain income is exempt from garnishment and the law gives you the right to claim this income as exempt to prevent it from being used to collect on this judgment.
5. For more information on garnishments, visit www.MichiganLegalHelp.org.

EXAMPLES OF INCOME EXEMPT FROM GARNISHMENT

The following are examples of **some** types of income that are exempt from garnishment and the citations where each type may be found in the law. **Please note that this is not intended as a complete list. You may want to contact your lawyer or legal aid agency for further assistance.**

- Individual Retirement Account (IRA) - [MCL 600.6023(1)(k)]
- Social Security Benefits - [42 USC, Section 407]
- Supplemental Security Income Benefits (SSI) - [42 USC, Section 1383(d)]
- Aid to Families with Dependent Children (AFDC) - [MCL 400.63]
- General Assistance Benefits (GA) - [MCL 400.63]
- Unemployment Compensation Benefits - [MCL 421.30]
- Veterans Assistance Benefits - [38 USC, Section 3101]
- Workers' Compensation Benefits - [MCL 418.821]
- The first \$500.00 on deposit in a savings and loan savings account - [MCL 491.628]
- Cash value or proceeds of life insurance or annuity, payable to the spouse or children of the insured - [MCL 500.2207(1)]
- Income benefits under the Michigan Civil Service Act - [MCL 38.40]
- Income benefits under the Michigan Retirement Act - [MCL 421.30]
- U.S. Civil Service Retirement Benefits - [5 USC, Section 8346]

PROOF OF SERVICE

TO PROCESS SERVER: You must serve the request and writ for garnishment and file proof of service with the court clerk before the expiration date for service. If you are unable to complete service, you must return this original and all copies to the court clerk.

CERTIFICATE OF SERVICE / NONSERVICE

I served personally by registered or certified mail, return receipt requested, and delivery restricted to the garnishee (copy of return receipt attached) two copies of the request and writ for garnishment, together with the disclosure form, applicable fee, and the attachments listed below, on:

I served the Michigan Department of Treasury electronically pursuant to MCR 3.101(F)(3) as follows:

I have attempted to serve two copies of the request and writ for garnishment, together with the disclosure form, applicable fee, and the attachments listed below, and have been unable to complete service on:

Garnishee's name	Date and time of service
Place or address of service	
Attachments (if any)	

I am a sheriff, deputy sheriff, bailiff, appointed court officer or attorney for a party.

I am a legally competent adult who is not a party or an officer of a corporate party. I declare under the penalties of perjury that this certificate of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Service fee \$	Miles traveled	Fee \$	
Incorrect address fee \$	Miles traveled	Fee \$	TOTAL FEE \$

Signature

Name (type or print)

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of two copies of the request and writ for garnishment, together with the disclosure form, applicable fee, and _____
Attachments (if any)

on _____
Date and time

Signature on behalf of _____

Name (type or print)

STATE OF MICHIGAN
JUDICIAL DISTRICT
JUDICIAL CIRCUIT

GARNISHEE DISCLOSURE

CASE NO.

Court address

Court telephone no.

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

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

v

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

Garnishee name and address

SEE INSTRUCTIONS ON OTHER SIDE

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

2. At the time of service of the writ:

Nonperiodic Garnishments

- a. The garnishee is not indebted to the defendant for any amount and does not possess or control the defendant's property, money, etc. Reason: _____
- b. The garnishee is indebted to the defendant for nonperiodic payments as follows:

_____ Description of property, money, negotiable instruments, etc. under garnishee's control _____ Type of account and account number, if applicable

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

- c. Withholding is exempt because _____ .
State the exemption and legal authority

Periodic Garnishments

- d. The garnishee is not obligated to pay the defendant during the period of the writ.
Reason: not employed. other _____
- e. The garnishee is obligated to pay the defendant during the period of the writ.
Payments are for earnings. nonearnings _____ .
Specify nature of payment (see instructions on other side)

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

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

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

Withholding under this writ

- will begin immediately if sufficient funds are available.
- will not begin immediately because defendant is laid off. sick. on leave. other: _____ .
specify

I declare that the statements above are true to the best of my information, knowledge, and belief.

_____ Date

_____ Garnishee/Agent/Attorney signature

I certify that:

- on _____ I mailed or personally delivered the original of this disclosure to the court.
- on _____ I mailed or personally delivered a copy of this disclosure to the plaintiff/attorney.
- on _____ I mailed or personally delivered a copy of this disclosure to the defendant.

_____ Date

_____ Garnishee/Agent/Attorney signature

DO NOT Include Your Payment With This Disclosure. See item 3 of the instructions for details.

GARNISHEE INSTRUCTIONS

Definitions

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

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

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

1. Determine when funds should be withheld.

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

Determine the date withholding will begin as follows.

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

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

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

- orders of bankruptcy court.
- orders for past due federal or state taxes.
- income withholding for support of any person.
- other general garnishments served before this writ.

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

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

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

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

Final Statement Instructions: A final statement of withholding is required for periodic garnishments. Within 14 days after the garnishee is no longer obligated to make periodic payments or the judgment is satisfied, the garnishee must file with the court and mail or deliver to the plaintiff and defendant a final statement of the total amount paid on the writ. The statement must include the names of the parties, the court in which the case is pending, the case number, the date of the statement, and the total amount withheld. The "Final Statement on Garnishment of Periodic Payments" form (Form MC48) can be used for this.

HOW TO FILL OUT THE GARNISHEE DISCLOSURE FORM

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

See other side for calculation sheet.

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

GARNISHEE CALCULATION SHEET FOR EARNINGS

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

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