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Sacramento County Public Law Library & Civil Self Help Center

ALERT: COVID-19 has temporarily changed the way courts are providing services. Our guides do not reflect these temporary changes. Contact the court directly for the most up to date information on court processes and procedures. www.saccourt.ca.gov

CLAIM OF EXEMPTIO

Ask the Court to Stop or Reduce a Wage Garnishment

This Guide includes instructions and sample forms. Links to download the fillable forms are at the end of this Guide. Additional copies of this Guide can be accessed at saclaw.org/coe-wg.

BACKGROUND

Wage garnishment is one of the primary ways creditors attempt to collect judgments. The creditor files papers in court to have a portion of your paycheck garnished (taken) to pay off your debt. A creditor can collect up to 25% of your income after mandatory deductions, unless part of your paycheck is exempt under other rules.

A Claim of Exemption (WG-006) is the form you must file with

the Sheriff to explain why some or all of the wages the creditor wants your employer to garnish should be exempt (excluded) from being taken. There are laws and rules that say which types of income or property are exempt. You can read about many of these exemptions in *Exemption from the Enforcement of Judgments* (EJ-155). An adaptation of this document, with hyperlinks to the applicable code sections, is available on the Law Library's website at saclaw.org/exemptions-enforce-judgment.

In order to garnish your wages a creditor must ask the court for a Writ of Execution (EJ-130), which is an order directing the Sheriff to enforce the judgment in the county where your assets are located, and an Earnings Withholding Order (WG-002) (EWO). Once granted, the Sheriff serves your employer with the EWO, which requires the employer to pay part of your earnings to the Sheriff.

IMPORTANT: Once your employer instructs you that they have received an EWO, you have 10 days in which to file your Claim of Exemption (WG-006) and Financial Statement (WG-007) with the Sheriff's department listed on the EWO to prevent the garnishment from starting. If submitted late, the garnishment will continue unchanged until your claim of exemption is granted by the court or the creditor fails to timely request a hearing to oppose the claim of exemption (in which case the sheriff will consider your claim of exemption granted).

NOTE: A Claim of Exemption can only be used to ask the court to determine whether a specific source of funds or other asset is exempt from being collected against and cannot be used to attack the underlying validity of the debt or judgment. If the judgment was obtained by default, you may be

Disclaimer: This Guide is intended as general information only. Your case may have factors requiring different procedures or forms. The information and instructions are provided for use in the Sacramento County Superior Court. Please keep in mind that each court may have different requirements. If you need further assistance consult a lawyer.

You may also need...

Related Guides

- Claim of Exemption for Bank Levy
- Exemptions from Enforcement of Judgment

Related Videos

• Enforcement of Judgments

able to ask the court to set aside the judgment, and allow you to present a defense to the claim. For more information, see the Step-by-Step guide on Relief from Default Judgments on our website at saclaw.org/relief-default-judgment.

STEP-BY-STEP INSTRUCTIONS

Step 1: Complete the Required Forms

The Judicial Council forms needed for a claim of exemption for wage garnishment are:

- Claim of Exemption (WG-006)
- Financial Statement (WG-007)

Instructions for completing the necessary forms are included at the end of this packet.

Step 2: Make Photocopies

Make two copies of each:

- Claim of Exemption (WG-006)
- Financial Statement (WG-007)

Step 3: File Your Documents

Take your completed documents to the Sheriff's Department listed on the Earnings Withholding Order (WG-002). The Sheriff will mail one copy to the judgment creditor and keep the original. The other copy is for you to keep for your records.

Step 4: What Happens Next?

The garnished money will be held until either: 1) 10 days go by and the creditor does not oppose your claim of exemption; or 2) the judge makes a decision on the claim of exemption. If the creditor does not oppose your claim of exemption, the garnished money will be returned to you.

If the creditor opposes your claim of exemption, you will receive a *Notice of Opposition to Claim of Exemption* (EJ-170) and *Notice of Hearing on Claim of Exemption* (EJ-175) that will set a court date for a judge to make a decision, probably within the month. If the judge agrees with your claim of exemption, you will get your money back. If the judge agrees with the creditor, your employer will send the money to the creditor every month until your judgment is paid in full. The judge may also find that the creditor is entitled money from your wages, but in an amount less than 25%. In that situation, your employer will send the court-ordered amount to your creditor each month until the judgment is paid in full.

Pursuant to Local Rule 1.06 (www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf), the court will make a tentative ruling on your claim of exemption by 2:00 p.m. the court day before the hearing. You may read the tentative ruling online, or may call the Presiding Judge's department at 874-8142 to hear it. For more information, see the Sacramento County Superior Court's website at www.saccourt.ca.gov/civil/motions-hearings-tentative.aspx.

Before completing your forms:

It may be useful to gather these documents, which will provide needed information:

- Notice of Wage Garnishment from your employer
- At least one month of paystubs
- A list of your monthly expenses, such as rent, utilities, insurance, etc.

Closely review the tentative ruling, because there will be a lot of important information included in it. Hopefully, you see that your claim of exemption is "GRANTED." If this is the case, the tentative ruling will also order the sheriff to return the funds to you. If your claim is "GRANTED in part," the court will order a specific amount (less that the amount originally taken) be garnished from your paychecks until the judgment is satisfied. If claim is "DENIED," your employer will continue garnishing the same amout from your paychecks until the judgment is satisfied. You may also find that your hearing is "CONTINUED" to a future date. This is common if the court needs more information from you before making a ruling. Be sure to read the tentative ruling very carefully, because the court will specify what information or documents are required from you, and a date by which the information must be provided to the court.

If you are happy with the tentative ruling, you do not need to do anything. You won't have to go to court unless ordered to appear in the tentative ruling or unless the other side calls you and the court between 2:00 p.m. and 4:00 p.m. the court day before your hearing date to request an oral argument in front of the judge. If that happens, you should go to the court hearing and be prepared to argue your case.

If you are not happy with the tentative ruling, and wish to present arguments in front of the judge, you must call all opposing counsel and/or self-represented parties, and the clerk for Department 53 ((916) 874-7858) or Department 54 ((916) 874-7848) no later than 4:00 p.m. the court day before your hearing and state that you are requesting oral argument on the motion. If neither you nor the opposing counsel or self-represented party requests oral argument, the court will simply make the tentative ruling the order of the court, and no oral argument will be permitted.

FOR HELP

Sacramento County Public Law Library Civil Self Help Center 609 9th Street, Sacramento 95814 saclaw.org/self-help/civil-self-help-center (916) 476-2731 (Appointment Request Line)

Services Provided: The Civil Self Help Center provides general information and basic assistance to people without attorneys on a variety of civil legal issues. All assistance is provided by telephone or Zoom videoconference. Visit "Issues We Can And Cannot Assist With" (saclaw.org/cshc-services) for a list of qualifying cases.

Eligibility: Must be a Sacramento County resident or have a <u>qualifying case</u> in the Sacramento County Superior Court.

For assistance with a Claim of Exemption- Wage Garnishment, you must bring:

- Notice of Wage Garnishment from your employer
- At least one month of paystubs (more if income varies monthly)
- A list of your monthly expenses (for example, rent, utilities, insurance, etc.).

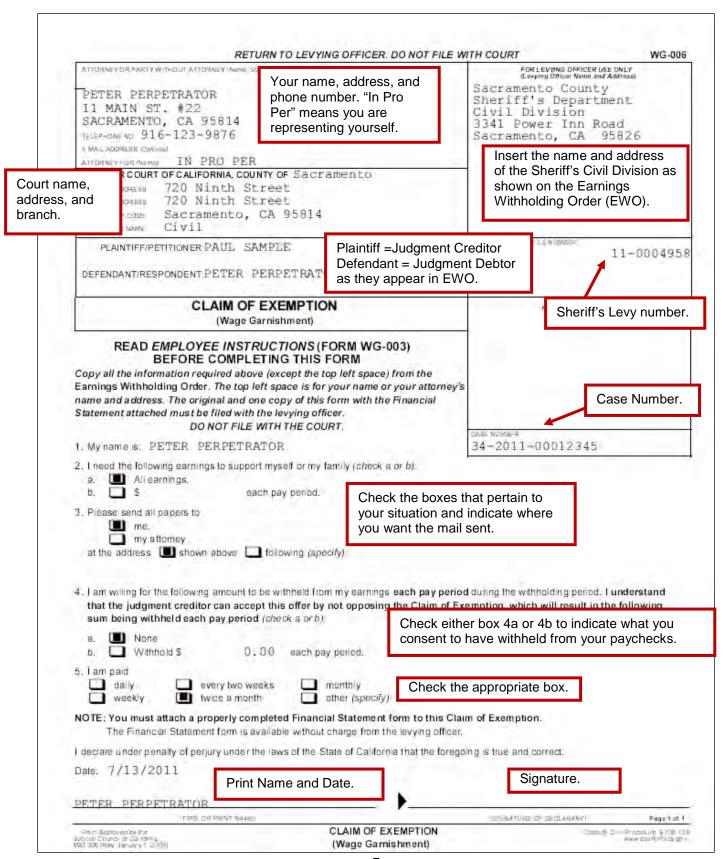
IF YOU HAVE QUESTIONS ABOUT THIS GUIDE, OR IF YOU NEED HELP FINDING OR USING THE MATERIALS LISTED, DON'T HESITATE TO ASK A REFERENCE LIBRARIAN.

ATTACHMENTS: FORMS AND INSTRUCTIONS

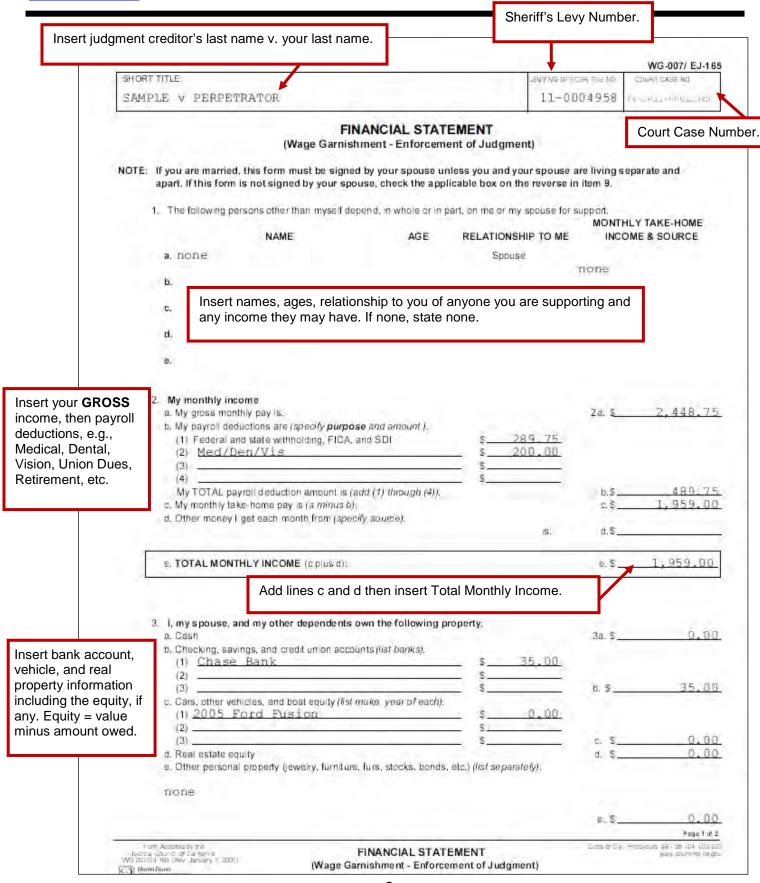
The Judicial Council forms commonly used in this procedure are:

- Claim of Exemption (WG-006)
- Financial Statement (WG-007)

Sample filled-in forms with instructions are available at the end of this Guide.



Claim of Exemption – Wage Garnishment



Claim of Exemption – Wage Garnishment

