

**INSTRUCTIONS TO THE GARNISHEE (EARNINGS)  
FORM 5**

(A.R.S. §12-1598.04(C))

**WARNING !**

*ALL PARTIES TO A GARNISHMENT ARE STRONGLY URGED TO OBTAIN LEGAL ADVICE FROM AN ATTORNEY. Garnishment procedures are governed by Arizona law and are extremely complicated. All parties involved must follow these laws and procedures correctly. The Court may issue an Order for monetary penalties against any party who does not proceed properly.*

*If you, the garnishee, fail to meet your responsibilities in this garnishment proceeding you run the risk that the Court may order you to pay the judgment creditor's attorney fees, costs and even the amount of money which the judgment debtor owes the judgment creditor. This can happen even if you do not owe the judgment debtor any wages.*

You have been served with a Writ of Garnishment and summons (Earnings) which names you as the garnishee and identifies the parties and the reason for the garnishment. The party who filed this Court action (the "judgment creditor") is attempting to collect payment from a party named as the "judgment debtor." You are involved in this proceeding because the judgment creditor believes you owe the judgment debtor "**earnings**" such as wages, salary or compensation for services performed by the judgment debtor.

The judgment creditor should have served you with the following documents:

- Writ of Garnishment and Summons (Earnings) – 2 copies
- Instructions to the Garnishee (Earnings) – 2 copies
- Garnishee's Answer (Earnings) – 4 copies
- Second Notice to Judgment Debtor of Garnishment (Earnings) – 2 copies
- Request for Hearing on Garnishment (Earnings) (A.R.S. §12-1598, 16(F)) – 2 copies
- Notice of Hearing on Garnishment (Earnings) – 2 copies
- Nonexempt Earnings Statement (Support Judgment) or (Not for Support of a Person) – 4 copies
- Request for Hearing on Nonexempt Earnings Statement – 4 copies
- One copy of the Judgment in the original lawsuit between the judgment creditor and the judgment debtor (*This document shows you how much money was awarded to the judgment creditor in the case against the judgment debtor.*)

**CAUTION: Failure to file a Garnishee's Answer can result in an Order being entered against you in the full amount of the debt owed by the judgment debtor to the judgment creditor. This can happen even if you do not know the judgment debtor or do not owe the judgment debtor any earnings.**

**STEP 1: Respond to the Writ of Garnishment and Summons within 10 business days**

You must file a Garnishee's Answer with the Court Clerk within 10 business days after you receive the Writ of Garnishment and Summons.

**(A) If you do not and will not owe earnings to the judgment debtor**

Within 10 business days after you receive the paperwork listed above, fill out a Garnishee's Answer (Earnings)(FORM 6) and file it with the Court Clerk. Even

if you have never owed the judgment debtor any earnings you must respond to the Writ of Garnishment by filing a Garnishee's Answer.

After you file your Answer, you are entitled to be released from the garnishment if any of the following are true:

- You have never employed the judgment debtor and do not expect to employ the judgment debtor within the next 60 days.
- You do not owe the judgment debtor any earnings, regardless of whether the judgment debtor was ever your employee, and you do not expect to owe the judgment debtor any earnings within the next 60 days.
- You employed the judgment debtor in the past but do not currently owe the judgment debtor any earnings and do not expect to employ the judgment debtor again within the next 60 days.

Once you file your Garnishee's Answer with the Court Clerk and complete STEP 2, you will not need to do anything further unless one of the other parties objects to your answer.

**(B) If you do owe or will owe earnings to the judgment debtor within 60 days**

If you employ the judgment debtor or otherwise owe the judgment debtor earnings at the time you are served with the Writ or will owe the judgment debtor earnings within 60 days thereafter, you must now begin withholding nonexempt earnings from the judgment debtor's pay. You must complete and file a Garnishee's Answer with the Court Clerk within 10 business days after you receive the paperwork listed above.

**STEP 2: Deliver copies of documents to the other parties**

Also within 10 business days of receiving the Writ of Garnishment and Summons (Earnings), you must:

- Deliver or mail to the judgment debtor a copy of each of the following documents:
  - Your completed Garnishee's Answer (Earnings)
  - Second Notice to Judgment Debtor of Garnishment (Earnings)
  - Request for Hearing on Garnishment (Earnings)(A.R.S. §12-1598.16(F))
  - Notice of Hearing on Garnishment (Earnings)
- Deliver or mail to the judgment debtor a copy of your completed Garnishee's Answer

**STEP 3: Complete the Nonexempt Earnings Statement and withhold the proper amount from the judgment debtor's pay**

The Writ of Garnishment and Summons is an Order from the Court requiring you to immediately withhold non-exempt earnings from the judgment debtor. For each pay period, fill out a Nonexempt Earnings Statement to determine how much money to withhold and withhold that amount. Always keep a blank copy of the Nonexempt Earnings Statement for use in future pay periods. You may claim a \$5.00 fee on each Nonexempt Earnings Statement that you complete. Deliver a copy of the Nonexempt Earnings Statement to the judgment debtor with the judgment debtor's paycheck, even if the amount withheld is \$0. Also deliver a copy of the Nonexempt Earnings Statement to the judgment creditor, but do not deliver any withheld earnings to the judgment creditor until you receive a signed Order of Continuing Lien. Do not send any Nonexempt Earnings Statements to the Court. Keep the original Nonexempt Earnings Statements in your file.

**PLEASE NOTE:** You may be discharged from any liability on the garnishment if both of the following occur:

- No objections are filed on the Writ of Garnishment or your Garnishee's Answer
- The Order of Continuing Lien is not entered within 45 days after you filed your Answer

If you are discharged, you must return any earnings you have withheld to the judgment debtor.

**STEP 4: Await receipt of the Order of Continuing Lien, and then pay the judgment creditor**

Do not pay the judgment debtor's nonexempt earnings to the judgment creditor until you receive the Order of Continuing Lien signed by the Court. Once you receive the Order, send the judgment creditor any nonexempt earnings you have withheld from the judgment debtor.

For every pay period in which the Order of Continuing Lien is in effect, you must:

- Complete a Nonexempt Earnings Statement
- Withhold the nonexempt earnings from the judgment debtor
- Pay the nonexempt earnings you withheld to the judgment creditor
- Deliver a copy of the completed Nonexempt Earnings Statement and a blank Request for Hearing form to the judgment debtor
- Deliver a copy of the completed Nonexempt Earnings Statement to the judgment creditor
- Keep the original Nonexempt Earnings Statement for your files
- **Do not send any Nonexempt Earnings Statements to the Court**

**Notice: Deadlines apply to this process. See A.R.S. §12.1598.13(B)&(C) for more information.**

**ADDITIONAL INFORMATION**

**If the judgment debtor or judgment creditor objects to the Garnishment, the garnishee's Answer or a Nonexempt Earnings Statement**

The judgment debtor may file an objection and request a hearing on the Writ of Garnishment, your Garnishee's Answer or any Nonexempt Earnings Statement. The judgment creditor or the judgment debtor may file an objection and request a hearing if you fail to provide them with the appropriate Nonexempt Earnings Statement or if you fail to pay nonexempt earnings to the judgment creditor when due. Parties have 10 business days after they receive a Garnishee's Answer or Nonexempt Earnings Statement to file a Request for Hearing and state their objections, unless good cause is shown for filing their objections later (see A.R.S. §12-1598.07).

**If you receive more than one garnishment, or a garnishment and a wage assignment for the same judgment debtor's earnings**

A.R.S. §12-1598.14 establishes the priority of payments you must honor if you receive more than one Writ of Garnishment and/or Wage Assignment against the same person's earnings. Usually, the first one you received is entitled to be paid first. Special rules may apply to debts owed for child support, spousal maintenance and unpaid taxes which may give them priority regardless of when they were received. You should consult an attorney to determine which judgment creditors to pay first in the case of multiple garnishments against the same judgment debtor.