

Prepared by:

Case No. _____

Filer's name, SC#

Filer's address

Filer's phone number

{Filer's fax phone number}

{Filer's e-mail address}

Attorney for Judgment Creditor

In The District Court of _____ County, Kansas

Judgment Creditor name

Type of Service Requested: _____ by _____

REQUEST FOR GARNISHMENT
(To Attach Other Than Earnings)

The judgment creditor requests that the court issue an Order of Garnishment (To Attach Other Than Earnings) for the judgment debtors listed below in the amount of the judgment(s) shown below.

<u>Case No</u>	<u>Judgment Debtor Name, and Address</u>	<u>Garnishee's Name and Address</u>	<u>Judg Amount *</u>	<u>Amount to be Withheld (110%)</u>
_____	_____	_____	\$ _____	\$ _____
	_____	_____		
	_____	_____		

* The judgment amount is the current balance due and may also include costs, fees, interest and any other items included in the judgment.

If this Garnishment is to attach funds, credits or indebtedness held by a bank, savings and loan association, credit union or finance company, the amount to be withheld is indicated above, which is 110% of the amount of judgment creditor's claim, in the case of prejudgment garnishment, or 110% of the amount of the current balance due under the judgment, in the case of postjudgment garnishment.

I hold a good faith belief that the party to be served with this garnishment order has, or will have, assets of the judgment debtor(s).

Dated: _____, _____.

Judgment Creditor or Attorney Signature
SC#

{If applicable, include the following:

This is a communication from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.}

Note: If this form is filed on paper, you must submit copies in a number equal to the number of requests for garnishment.

Prepared by:

Filer's name, SC#

Case No. _____

Filer's address

Filer's phone number

{Filer's fax phone number}

{Filer's e-mail address}

Attorney for Judgment Creditor

In The District Court of _____ County, Kansas

Judgment Creditor name

vs.

Case No. _____

Judgment Debtor name

Judgment Debtor address

{Judgment Debtor SSN/TIN}

Garnishee name

Garnishee's address

Garnishee's county

{Garnishee's fax phone number (if known)}

{Garnishee's e-mail address (if known)}

Type of Service Requested: _____ by _____

ORDER OF GARNISHMENT
(To Attach Other Than Earnings)

To the above named Garnishee:

The attached Instructions to Garnishee are incorporated by reference. You are ordered as a garnishee to follow the attached instructions as if they were set forth in this Order.

If you are indebted to the judgment debtor, complete the attached Answer under penalty of perjury as set forth in the instructions.

If you are a bank, savings and loan association, credit union or finance company, and are holding any funds, credits or indebtedness belonging to or owing the judgment debtor, the amount to be withheld by you pursuant to this order is not to exceed \$_____.

If you fail to complete and send your answer as required in the instructions, the judgment creditor may file a motion for judgment against you for the amount of judgment against the judgment debtor or such other amount as the court shall order, including the expenses and attorney fees of the judgment creditor.

Dated this _____ day of _____, _____.

BY ORDER OF THE COURT

Signature or Seal

{If applicable, include the following:

This is a communication from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.}

RETURN ON SERVICE OF GARNISHMENT ORDER

I hereby certify that I have served this garnishment order in the following manner:

(1) Personal Service. By delivering a copy of the garnishment order along with two copies of the answer form to each of the following persons on the dates indicated:

_____, _____,
_____, _____
(Name) (Date)

(2) Agent Service. By delivering a copy of the garnishment order along with two copies of the answer form to each of the following agents authorized by appointment or by law to receive service of process on the dates indicated:

_____, _____,
_____, _____
(Name) (Date)

(3) Service by Return Receipt Delivery. By causing to be delivered on the _____ day of _____, _____, a copy of the garnishment order along with two copies of the answer form by return receipt delivery to each of the following persons at the following address:

with such delivery made by the following person or entity: _____.

Attached hereto is a copy of the return receipt evidencing such delivery.

(4) Return Receipt Delivery Refused. By mailing on the ____ day of _____, _____, a copy of the garnishment order along with two copies of the answer form to each of the following persons at the following address:

(5) Mail Service. By mailing on the ____ day of _____, _____, a copy of the garnishment order, along with two copies of the answer form, by first class mail to each of the following persons at the following addresses:

(6) Telefacsimile communication. By faxing on the ____ day of _____, _____, at ____ o'clock _m., a copy of the garnishment order, along with two copies of the answer form, to the following persons: _____

Number of transmitting machine: _____

Number of receiving machine: _____

(7) Internet electronic mail. By e-mailing on the ____ day of _____, _____, at ____ o'clock _m., a copy of the garnishment order, along with a copy of the answer form, to the following persons at the following e-mail addresses:

Transmitting person's e-mail address: _____

(8) No Service. The following persons were not served:

Pursuant to K.S.A. 53-601, as amended, I declare under the penalty of perjury that the foregoing is true and correct.

EXECUTED on _____, _____.

Signature, Sheriff or Process Server

Prepared by:

File Stamp Date

Case No. _____

Filer's name, SC#

Filer's address

Filer's phone number

{Filer's fax phone number}

{Filer's e-mail address}

Attorney for Judgment Creditor

In The District Court of _____ County, Kansas

Judgment Creditor name

vs.

Case No. _____

Judgment Debtor name

Judgment Debtor address

Garnishee name

Garnishee's address

Garnishee's county

{Garnishee's fax phone number (if known)}

{Garnishee's e-mail address (if known)}

ANSWER OF GARNISHEE
(To Attach Money or Other Intangible Property
Other Than Earnings)

To be completed by the above named garnishee:

1. Read carefully the attached Instructions to Garnishee.

2. I was served with this garnishment on the _____ day of _____, _____.

3. I have not delivered to the judgment debtor any money or other intangible property belonging to him or her, other than earnings, since receiving the order of garnishment.

4. If I am a bank, savings and loan association, credit union or finance company, and I am holding any funds, credits or indebtedness belonging to or owing the judgment debtor, the amount to be withheld by me pursuant to this order shall not exceed \$_____.

5. **Money or Indebtedness Due.** I hold money or am indebted to the judgment debtor, other than for earnings, as of the date of this answer, in the following manner and amounts:

6. **To be answered by garnishee who is an executor or administrator of an estate.** I am an _____ of the estate of _____, containing funds or intangible property to which the judgment debtor is or may become entitled as a _____, and I understand that the order of garnishment has the effect of attaching and creating a first and prior lien on all such funds or intangible property to which the judgment debtor becomes entitled upon distribution to the estate and that I am prohibited from delivering to the judgment debtor any such funds or intangible property until further order of the Court from which the order of garnishment was issued. The approximate date for distributing the assets of the estate is _____, _____.

7. I am holding from funds, credits or indebtedness due the judgment debtor an administrative fee in the amount of \$_____.

See attached Instructions to Garnishee for amount of the administrative fee that can be retained.

8. _____ This account is owned in joint tenancy.

9. I will hold the above described moneys or other items in my possession until further order from the court or until this garnishment is released by the court or the Judgment Creditor. If I do not receive an order to pay from the court within 60 days following the date my Answer is received by the judgment creditor, I may release the funds or property I am holding pursuant to my Answer.

Pursuant to K.S.A. 53-601, as amended, I declare under the penalty of perjury that the foregoing is true and correct.

EXECUTED on _____, _____.

Garnishee

ANSWER OF GARNISHEE - NO ASSETS

To be completed by the above named garnishee:

1. Read carefully the attached Instructions to Garnishee.

2. I was served with this garnishment on the _____ day of _____, _____.

3. I have in my possession or control no intangible property, funds, credits or other indebtedness belonging to or owing to the judgment debtor.

4. I have not delivered to the judgment debtor any money or other intangible property belonging to him or her, other than earnings, since receiving the order of garnishment.

Pursuant to K.S.A. 53-601, as amended, I declare under the penalty of perjury that the foregoing is true and correct.

EXECUTED on _____, _____.

Garnishee

DO NOT SEND THIS COMPLETED ANSWER TO THE CLERK OF THE DISTRICT COURT.

SEND A COPY OF THIS COMPLETED ANSWER OF GARNISHEE TO THE JUDGMENT DEBTOR AND THE JUDGMENT CREDITOR'S ATTORNEY – OR TO THE JUDGMENT DEBTOR AND THE JUDGMENT CREDITOR IF THE CREDITOR HAS NO ATTORNEY – AT THE ADDRESSES LISTED ABOVE. IF YOU DO **NOT** HAVE ASSETS OF THE JUDGMENT DEBTOR, YOU NEED NOT SEND A COPY OF THE COMPLETED ANSWER FORM TO THE JUDGMENT DEBTOR.

INSTRUCTIONS TO GARNISHEE
(To Attach Other Than Earnings)

You must complete the Answer form which accompanies these instructions within 14 days after the garnishment order is served on you. The Answer form covers two (2) types of property:

(1) **Money, funds, credits or other indebtedness you owe to the judgment debtor (other than earnings).** You must disclose on the Answer any money that you owe to the judgment debtor as of the date the order is served on you and any money that you owe to the judgment debtor up until the time you complete the Answer form.

(2) **Intangible property or funds of an estate in which the judgment debtor is a beneficiary under the estate.** If you are an executor or administrator of the estate, you must disclose the information about the estate required on the Answer form and not deliver to the judgment debtor any such intangible property or funds until further order of the Court from which the order of garnishment was issued.

If more than one of the categories above applies to you, then you must complete all sections of the Answer form which apply.

Earnings are defined as compensation for personal services, whether called wages, salary, commission, bonus or otherwise, which is paid to an employee. If the judgment debtor is an employee of yours, then the compensation you pay for personal services is earnings and you do not disclose this under category 1. If the judgment debtor works for you other than as an employee, such as under a contract or as a contractor, then the money you pay for the work is not earnings and you must disclose all of the money due the judgment debtor in category 1 above.

Joint Account. If you are a bank, savings and loan association, credit union or finance company and you hold funds or credits or are indebted to the judgment debtor on an account which the judgment debtor owns in joint tenancy with one or more individuals who are not subject to the garnishment, you shall withhold the entire amount sought by the garnishment. You shall not be liable to the joint owners if it is later determined that the judgment debtor does not own the funds.

Administrative Fee: From funds, credits or indebtedness due the judgment debtor, you may withhold and retain to defray your costs an administrative fee of \$10 (\$15 if you are a bank, savings and loan association, credit union, or finance company) for each garnishment order served on you that attaches funds, credits or indebtedness. Such administrative fee shall be in addition to the amount required to be withheld under the order for garnishment, except that if the amount required to be withheld under the order for garnishment is greater than the amount of the funds, credits or indebtedness held by the garnishee, the fee shall be deducted from the amount withheld.

If you are a bank, savings and loan association, credit union or finance company, and are holding any funds, credits or indebtedness belonging to or owing the judgment debtor, the amount to be withheld by you pursuant to the order shall not exceed the amount stated in the order.

If, after reviewing the above instructions, you determine that you do not have any assets of the judgment debtor, fill out the section of the Answer form with the heading "Answer of Garnishee - No Assets."

Sign and date the Answer form under penalty of perjury on the line provided at the bottom of the first section of the form. If you have no assets of the judgment debtor in your possession or control, sign and date the section of the Answer form with the heading "Answer of Garnishee - No Assets."

After you have signed and dated the appropriate section of the Answer form, you must deliver the completed form as follows:

Where to Deliver the Completed Answer Form:

If the judgment creditor is represented, deliver a copy of the completed Answer form to the judgment creditor's attorney and the judgment debtor at the addresses listed on the form.

If the judgment creditor has no attorney, deliver a copy of the completed Answer form to the judgment creditor and the judgment debtor at the addresses listed on the form. However, if you do not have assets of the judgment debtor, you need not deliver a copy of the completed Answer form to the judgment debtor.

How to Deliver the Completed Answer Form:

You may deliver a copy by regular mail, fax transmission, electronic mail, personal delivery, or any other reliable delivery method.

What to Do With Money or Property Disclosed in the Answer Form:

Hold the money or property disclosed in the Answer form until you receive an order from the court which will instruct you how to pay the amount that you are holding as indicated by your Answer or such lesser amount as may be indicated in the order, or until this garnishment is released. This garnishment may be released in full by the court or the Judgment Creditor.

If you do not receive an order to pay within 60 days following the date your Answer is received by the judgment creditor, you may release the funds or property you are holding pursuant to your Answer.

Prepared by:

Filer's name, SC#

Filer's address

Filer's phone number

{Filer's fax phone number}

{Filer's e-mail address}

Attorney for Judgment Creditor

In The District Court of _____ County, Kansas

Judgment Creditor name

vs.

Case No. _____

Judgment Debtor name

Judgment Debtor address

Garnishee name

Garnishee's address

Garnishee's county

{Garnishee's fax phone number (if known)}

{Garnishee's e-mail address (if known)}

TO BE DELIVERED BY THE JUDGMENT CREDITOR TO THE JUDGMENT DEBTOR IN ANY REASONABLE MANNER IMMEDIATELY FOLLOWING SERVICE OF THE GARNISHMENT ORDER ON THE GARNISHEE.

**NOTICE TO JUDGMENT DEBTOR
(nonearnings garnishment)**

You are hereby notified that the court has issued an order in the above case in favor of (name and address of judgment creditor), the judgment creditor in this proceeding, directing that some of your money, property or credits now in the possession of (name and address of garnishee), the garnishee in this

proceeding, be used to satisfy your debt to the judgment creditor. This order was issued to enforce the judgment obtained by the judgment creditor against you in this case on _____, _____. This order prohibits the garnishee from releasing all or part of your money or property to you, and the court will order that this money or property be turned over to the judgment creditor unless it finds that there is some reason why this money or property should not be used to satisfy the judgment.

The law of Kansas and the United States provides that certain benefit payments cannot be taken from you to pay a debt, even if they are deposited in a bank, savings and loan, or credit union. Such payments are commonly referred to as exempt property. Examples of exempt benefit payments which cannot be attached or executed upon by a creditor are:

- (1) Social Security disability and retirement benefits;
- (2) Supplemental Security Income (SSI) benefits;
- (3) Veteran's benefits;
- (4) Black lung benefits;
- (5) Cash assistance payments under the Temporary Assistance for Families (TAF) program;
- (6) Cash assistance payments under the General Assistance (GA) program;
- (7) Unemployment compensation payments;
- (8) Workers compensation payments;
- (9) Certain pension benefits and retirement funds, including KPERS.

This is not an exclusive list. Other state and federal exemptions may apply to you. Certain exemptions may not apply to support orders or to back taxes. An attorney can assist you in determining which benefit payments are exempt.

If the court order affects property other than money which belongs to you, some or all of this property may also be exempt. Examples of exempt personal property are:

- (1) Furnishings, equipment and supplies in your possession and reasonably necessary at your principal residence;
- (2) Personal jewelry and other ornaments up to \$1,000 in value;
- (3) One vehicle regularly used for transportation up to \$20,000 in value;
- (4) Tools and equipment used in your principal trade or business up to \$7,500 in value.

If you believe that the money or property being held by the garnishee is exempt and should not be given to the judgment creditor, you may request a hearing before the court to assert this claim. In order to request a hearing, you should fill out the form at the bottom of this notice and obtain from the clerk of the court or the court a date and time for the hearing, and file the form with the clerk of the court at (address of court). Immediately after the request for hearing is filed, you shall hand deliver a copy of the request for hearing to the judgment creditor or judgment creditor's attorney, if judgment creditor is represented by an attorney, or mail a copy of the request for hearing to the judgment creditor or judgment creditor's attorney, if judgment creditor is represented by an attorney, by first-class mail at the judgment creditor's, or judgment creditor's attorney's, last known address. You should ask for this hearing as soon as possible, but no later than 14 days after this notice is served on you. If you ask for a hearing to claim that your money or property is exempt, the court will hold a hearing no sooner than 7 nor later than 14 days after it receives your request. At the hearing you should present any evidence you have to show that your money or property is exempt. The burden is on you to prove that some or all of your property subject to the garnishment is exempt. You may wish to consult an attorney to represent you at this hearing.

(Name and address of court)

Case No. _____

IN THE MATTER OF

_____, Petitioner,
and

Case Number _____

_____, Respondent.

REQUEST FOR HEARING

I request a hearing because the money or property which is being garnished by the judgment creditor is exempt because it is

(reason property or money is exempt)

Name of Judgment Debtor

Signature of Judgment Debtor

Address

Date

City, State, Zip Code

(*Required*) *Email address* _____

Telephone Number _____

THIS PART SHALL BE COMPLETED BY CLERK OF THE DISTRICT COURT:

The hearing requested shall be held on the _____(day) day of _____(month), _____(year), at _____(time) o'clock _____(am or pm).

Certificate of Service

I delivered a copy of the above request for hearing to the judgment creditor or judgment creditor's attorney, if the judgment creditor is represented by an attorney, by hand-delivery or first-class mail in the following manner and at the following address, on the date shown below:

(name of judgment creditor or judgment creditor's attorney)

(address of judgment creditor or judgment creditor's attorney)

(manner delivered--hand-delivery or first-class mail and date)

Notice to Debtor:

1. Debtor's Request for Hearing must be filed within 14 days following the date of the Earnings Garnishment Notice of Exemptions was served on him/her. State above what particular right is claimed to be violated.
2. The Debtor must obtain a hearing date at the same time the Request for Hearing is made. Debtor must show date and time of hearing on all copies and sign. File the original with the Court, immediately mail or personally deliver a copy to the Creditor or Creditor's attorney. Keep other copy. The Debtor has the burden of proof and must be present at the hearing and present evidence.

Signature of Judgment Debtor

IMPORTANT NOTICE

READ CAREFULLY

Per this Court's standing Order, all Hearings in Division M4/Chapter 61 Limited Action cases are being held by Video Conference due to Covid-19 emergency operations to restrict large gatherings in the Courthouse. You are scheduled to appear in court on the date listed in the Request for Garnishment Hearing you filed.

**You will not appear in person on this date.
Instead, you will appear by video or telephone.**

Prior to your court date you must do the following:

1. Call your attorney and he/she may appear for you unless otherwise directed.
2. If you do not have an attorney, you must appear by Video Conference.
3. You will appear by **Zoom Video Conference** as follows:

Zoom.us is the web site for your computer or you can download the Zoom App from your smartphone or tablet app store. **Make sure you test your video and audio.** On the date and time of your hearing, you must appear either:

- a. through the Zoom App using the Meeting ID:

Division M4 Meeting ID: 9137153348

Please make sure you are identified by your name; or

- b. if you do not have internet or have a smartphone, you are required to call in to the hearing by calling **1-888-475-4499 (or 1-346-248-7799 or 1-312-626-6799 if the other telephone number is not working)** and enter the meeting ID for Division M4 (see above).
4. You will not receive an "Invite" to the hearing as the Court does not have your email address so you must follow the instructions above.
5. **When you sign into the Video Conference, you must enter your legal name as it appears on the case caption above.** Failure to do so will cause further delays in the Court calling your case on your scheduled date.

6. Additional instructions on how to use Zoom are at: <https://support.zoom.us/hc/en-us/articles/206175806>
7. If you need special help due to language or hearing issues, to make sure an interpreter will be at your hearing you must email your name, case number, and spoken language immediately upon receipt of this Notice to either:
 - For an interpreter, email to: Dca-foreigninterpreter@jocogov.org
 - For sign language, email to: DCASignInterp@jocogov.org
8. **You need to log in no earlier than 5 minutes prior to the schedule hearing time, nor later than 5 minutes after the scheduled hearing time. Otherwise, to prevent a disruption of the proceedings, you will be locked out of the hearing and unable to appear, and Judgment may be entered against you. Keep your microphone muted until your case is called.**
9. You are required to send a copy of the Request for Hearing to the Plaintiff's Attorney.

Failure to appear for your hearing by video or by phone under Paragraph 3 above may result in the garnishment objection being denied.

Judge John McEntee
Division M4/Chapter 61