

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 Judgment Creditor

Type of Service Requested: _____ by _____

REQUEST FOR GARNISHMENT
(To Attach Earnings)

The judgment creditor requests that the court issue an Order of Garnishment (To Attach 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> |
|----------------|--|---|----------------------|
| _____ | _____ | _____ | \$ _____ |
| | _____ | _____ | |
| | _____ | _____ | |

The purpose of the Garnishment is _____.

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

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:

Case No. _____

Filer's name, Supreme Court Number

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)}

Type of Service Requested: _____ by _____

ORDER OF GARNISHMENT
(To Attach Earnings)

To the above-named Garnishee:

The amount of the unsatisfied balance under this judgment, as of the date this Order is issued, is:

\$ _____.

Complete the attached Answer under penalty of perjury as set forth in the instructions. 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.

This order of garnishment has the effect of attaching the nonexempt portion of the judgment debtor's earnings for all pay periods which end while the order is in effect. The order takes effect the day it is served on you. This order of garnishment is a continuing order and remains in effect until the judgment against the judgment debtor has been paid or the garnishment is released, whichever occurs sooner.

This order also constitutes an order of the court directing the garnishee to pay to the judgment creditor all earnings which are to be withheld under this order. You are ordered to withhold and pay the earnings in accordance with the attached instructions.

If you fail to comply with the terms of this order and the attached 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. If you fail to make payment of funds as required under this order and the attached instructions, the judgment creditor may file a motion for judgment against you for contempt or such 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

Attach the following: **Instructions to Garnishee**
Answer of Garnishee
Written Explanation

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)}

ANSWER OF GARNISHEE
(To Attach Earnings)

To the above-named Garnishee:

1. If the judgment debtor (employee) was never employed by you or terminated employment before the first day of the prior month for which this answer is made, complete the following section and sign and date the answer at the bottom and send to the judgment creditor(s) and judgment debtor as instructed below.

The Judgment debtor (employee) [Check one of the following]:

___ terminated employment on _____
(date)

___ was never employed.

2. If the above paragraph does not apply you must complete the rest of the Answer Form.
3. Read carefully the attached Instructions to Garnishee.
4. You must complete this answer within 14 days following the date the initial garnishment order is served on you. Only one answer needs to be completed under this garnishment for each judgment debtor and you may duplicate the completed answer in any manner you desire for distribution to the judgment creditor(s) and judgment debtor.
5. This answer covers all pay periods which end within 14 days following the date the garnishment order is served on you. Indicate the pay periods covered under this answer:

start date: _____
end date: _____

6. The normal pay period for employee is (designate one):
weekly _____ every two weeks _____ semi-monthly _____ monthly _____.

7. Total gross earnings due for the pay period or periods covered by this answer are:
.....\$_____.

8. Amounts required by law to be withheld for the pay period or periods covered are:

- (1) Federal FICA (includes social security tax and medicare tax)\$_____.
- (2) Federal income tax.....\$_____.
- (3) State income tax.....\$_____.
- (4) Railroad Retirement Tax\$_____.

TOTAL DEDUCTIONS\$_____.
(Deduct only those items listed above)

9. Disposable earnings for the pay period or periods covered are:\$_____.

(7 minus 8)

See the attached Instructions to Garnishee to determine amount of disposable earnings to be withheld.

10. I am subtracting from the disposable earnings in 9 pursuant to an income withholding order for support the amount of\$_____.

11. I am subtracting from the disposable earnings in 9 pursuant to a lien which has priority over garnishments under the law the following amount: type of lien
.....\$_____.

12. In accordance with the instructions accompanying this answer form, I have determined that the amount which may be paid to employee is\$_____.

13. I am holding from the amount in 12 an administrative fee in the amount of ..\$_____.

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

14. After paying to the employee the amount stated in 12 less the administrative fee in 13, and deducting any amount shown in 10 and 11, I am holding the remainder of the employee's disposable earnings in the amount of \$_____.

15. If I do not receive an objection to this Answer within 14 days after I deliver it to all parties entitled to a copy, I will promptly pay the amount held in 14 to the following judgment creditors, unless I receive prior to such payment an order of the court to the contrary:

| Case No. | Name | Address | Amount |
|----------|-------|-------------------------|----------|
| A. _____ | _____ | _____ _____ _____ | \$ _____ |
| B. _____ | _____ | _____ _____ _____ | \$ _____ |
| C. _____ | _____ | _____ _____ _____ | \$ _____ |
| D. _____ | _____ | _____ _____ _____ | \$ _____ |

I will continue to withhold earnings as long as the garnishment order remains in effect. As the earnings are withheld, I will promptly pay thereafter the earnings as they are withheld to the judgment creditors entitled thereto, unless I receive prior to such payment an order of the court to the contrary.

Judgment Debtor Name & Address: _____

If more space is needed, attach separate sheet.

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

THIS COMPLETED ANSWER OF GARNISHEE MUST BE SENT TO ALL OF THE JUDGMENT CREDITORS LISTED ABOVE AND TO THE JUDGMENT DEBTOR. DO NOT SEND TO CLERK OF THE DISTRICT COURT.

INSTRUCTIONS TO GARNISHEE
(To Attach Earnings)
Effective July 1, 2010

Attached to these instructions is the Answer form and a form entitled Written Explanation of Garnishee's Computation of Earnings Withheld (called hereafter "Written Explanation form").

You must complete the attached Answer form within 14 days following the date the initial order of garnishment is served on you. You only need to complete one Answer form for this garnishment.

You should complete the attached Written Explanation form for each payroll period which comes due after the garnishment order is served on you. The garnishment order served upon you is a continuing order and shall remain in effect until the judgment against the judgment debtor has been paid or the garnishment is released, whichever occurs sooner. As long as the garnishment order remains in effect, you must continue to withhold money from the wages of the judgment debtor in accordance with these instructions and the garnishment order. Each time you do payroll for the judgment debtor, complete the attached Written Explanation form for the pay period covered by the payroll, and retain a copy of the form with your normal payroll records. **You do not need to furnish a copy of the Written Explanation form unless you are requested to do so.**

More than one order of garnishment may be served on you against the same judgment debtor. If more than one order is served on you, you need only complete one Written Explanation form for each pay period, and retain the original with your normal payroll records.

The Answer form and Written Explanation form are provided for your convenience in furnishing the required information. They are designed so that you may prepare these forms in conjunction with the preparation of your payroll. If you do not choose to use the attached forms, the forms you use must contain at least the same information contained on the attached forms and your answer must be signed under penalty of perjury. If you are requested to furnish a written explanation of your computation, you must sign your explanation under penalty of perjury.

Here are the instructions to complete the attached forms:

1. Earnings are defined as compensation for personal services, whether called wages, salary, commission, bonus or otherwise.

A. **Answer Form.** Complete the Answer form for all pay periods which end within 14 days following the date the initial order of garnishment is served on you.

B. **Written Explanation Form.** Complete the Written Explanation form for each pay period which ends after the garnishment order is served on you. You should complete the form as you do your normal payroll for the judgment debtor for each pay period.

2. If the order of garnishment states at the top of the order that it is issued for the purpose of enforcing (1) an order of any court of bankruptcy under chapter XIII of the federal bankruptcy act or (2) a debt due for any state or federal tax, you must retain in your possession until further order of the court all of the disposable earnings for all pay periods ending during the month. If this paragraph applies, sign and date the form at the bottom and send a copy to all judgment creditors who have a garnishment in effect on the date you sign the form.

3. If the order of garnishment states at the top of the order that it is issued for the purpose of enforcing an

order of any court for child support or spousal support, you must retain in your possession until further order of the court 50% of the disposable earnings for all pay periods ending during the month, or such greater percentage as may be indicated in paragraph A in the table below in paragraph 7. If this paragraph applies, sign and date the form at the bottom and send a copy to all judgment creditors who have a garnishment in effect at the end of the month and to the judgment debtor.

4. If paragraphs 2 or 3 do not apply, continue to paragraph 5.
5. If you are withholding money from the judgment debtor=s earnings under an income withholding order, complete paragraph 10 of the form.
6. If you are withholding money from the judgment debtor=s earnings under any other lien which has priority over garnishments under the law, complete paragraph 11 of the form.
7. Compute the amount of earnings which may be withheld from the earnings of the judgment debtor (your employee) and complete paragraphs 12, 13 and 14 of the Answer form in accordance with the following table:

DISPOSABLE EARNINGS TABLE

| | | | |
|---|----------------------------------|---|----------------------------------|
| <u>Employee paid weekly</u> | | <u>Employee paid every two weeks</u> | |
| Disposable Earnings: | Withhold: | Disposable Earnings: | Withhold: |
| Less than 217.51 | \$0.00 | Less than 435.01 | \$0.00 |
| \$217.51 to 290.00 | all over \$217.50 | \$435.01 to 580.00 | all over \$435.00 |
| \$290.01 and over | 25% of total disposable earnings | \$580.01 and over | 25% of total disposable earnings |
| <u>Employee paid semimonthly (twice per month)</u> | | <u>Employee paid monthly</u> | |
| Disposable earnings: | Withhold: | Disposable earnings: | Withhold: |
| Less than 471.26 | \$0.00 | Less than 942.51 | \$0.00 |
| \$471.26 to 628.33 | all over \$471.25 | \$942.51 to 1256.67 | all over \$942.50 |
| \$628.34 and over | 25% of total disposable earnings | \$1256.68 and over | 25% of total disposable earnings |

NOTE: The numbers used in this paragraph are illustrative only and must be adjusted to comply with K.S.A. 60-2310.

A. **SUPPORT ORDERS.** If the person seeking the garnishment for court ordered support desires to garnish more than 50% of disposable earnings, that person may request in writing to the clerk of the court to check one of the below applicable percentages:

55% Employee also supports a spouse or dependent child not covered by this support order and payments are 12 weeks overdue.

- 60% Employee does not support a spouse or dependent child and payments are not 12 weeks overdue.
- 65% Employee does not support a spouse or dependent child and payments are 12 weeks overdue.

Any disposable earnings remaining after payment of the above amounts shall be retained until further order of the court.

- B. **ADMINISTRATIVE FEE:** From income due the employee, and from income due the judgment debtor which is child support, you may withhold and retain to defray your costs an administrative fee of \$10 for each 30 day period for which income is withheld. Such administrative fee shall be in addition to the amount required to be withheld under the order for garnishment. If the addition of this fee causes the total amount withheld to exceed the amount you are to withhold pursuant to the instructions above, the fee shall be deducted from the amount withheld.

8. Complete paragraph 15 by listing the case number, name and address for all judgment creditors who have a garnishment in effect against the judgment debtor on the date you complete the attached forms. Compute the amount to be paid to each judgment creditor. For example, if there is only one judgment creditor, pay all to that one; if there are two judgment creditors, pay each one-half (1/2); if there are three judgment creditors, pay each one-third (1/3); etc. This allocation should be followed even if some or all of the garnishments were in effect for less than the entire pay period.

9. Answer Form and Written Explanation Form.

A. Answer Form. Sign and date the Answer form under penalty of perjury on the line provided at the bottom of the form and deliver a copy to all judgment creditors listed in 15 and to the judgment debtor. You may deliver a copy by regular mail, fax transmission, electronic mail, personal delivery, or any other reliable delivery method. If you do not receive an objection to the Answer within 14 days after you have delivered it, promptly pay the earnings withheld as indicated on the Answer to all judgment creditors designated on the Answer in the amount due each creditor as indicated on the Answer, unless you receive prior to such payment an order of the court to the contrary.

B. Written Explanation Form. Complete the form for each pay period for the judgment debtor as you do your normal payroll. Retain the original of the form with your normal payroll records. You do not need to furnish this form to anyone unless requested to do so. If requested to furnish a copy of this form, make a copy from the original to furnish in response to the request. As long as the garnishment order is in effect, continue to pay the earnings withheld as they are withheld, to the judgment creditors indicated on the form, unless you receive prior to such payment an order of the court to the contrary.

10. If any judgment creditor receives more than they are entitled to, that judgment creditor must promptly return the excess amount to you for distribution pro-rata to the other judgment creditors designated on the answer, or if no such other judgment creditors are designated, you must promptly pay the excess amount to the employee.

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
(earnings 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 personal earnings, now in the possession of your employer, be used to satisfy some of your debt to the judgment creditor instead of being paid to you. This order was issued to enforce the judgment obtained by the judgment creditor against you in this case on _____, _____.

This order, called a garnishment order, requires your employer to withhold a certain amount from your earnings each pay period until your debt to the judgment creditor is satisfied or the order is released by the judgment creditor or set aside by the court.

The laws of Kansas and the United States provide that you have a right to be paid a certain amount of your personal earnings regardless of the claims of your creditors. In general, this amount is 75% of your earnings after federal and state taxes, social security, and any other deductions required by law are taken out. If the debt is for child support or the support of any other person, the protected amount is less, ranging from 35% to 50%. In addition, if your earnings are less than 30 times the federal minimum hourly wage for each week in the pay period, all of your earnings should be paid to you.

On each normal payday you should receive a paycheck for the amount your employer calculates you are entitled to receive by law. Your employer should furnish you with a written explanation of how the amount of your paycheck was calculated with the check.

If you believe that too much of your earnings have been withheld from your paycheck, you may request a hearing before this court.

If you were prevented from working at your regular job for two weeks or more because you or a member of your family were sick, your earnings may not be garnished for two months after recovery from such illness. You do not need to ask for a hearing to assert this right if it applies to you. All you need to do is to file an affidavit with the court setting out the facts about the illness and how it prevented you from working. If the garnishment order is not released after you file this affidavit, you may ask for a hearing.

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, the court will hold a hearing no sooner than 7 nor later than 14 days from the date it receives your request. At the hearing, you should present any evidence you have in support of your position. The burden is on you to prove that some or all of your income subject to the garnishment is exempt. You may wish to consult an attorney to represent you at this hearing.

_____, Petitioner,

Case Number _____

and

_____, 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 Daniel Vokins
Division M4/Chapter 61