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CLAIM OF EXEMPTION FOR WAGE GARNISHMENT

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 www.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.

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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). 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 www.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 your case 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).

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.

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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)
- <u>Financial Statement (WG-007)</u>

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.

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 (more if income varies monthly)
- A list of your monthly expenses, such as rent, utilities, insurance, etc.

Step 4: What Happens Next?

Your employer will hold on to the money garnished 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, your employer will return the wages 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 court reviews all oppositions to claims of exemptions and makes a tentative ruling on whether to allow a claim *the day before the scheduled hearing*. These tentative rulings are posted and available for viewing after 2:00 p.m. on the day before the scheduled hearing. The tentative ruling will become the final ruling on the matter, unless either party asks for the hearing to be held. If you would like the judge to hear oral arguments on the matter, you must notify the other party, the other party's attorney, and the department clerk of your intent to appear at the hearing no later than 4 p.m. the day before the scheduled hearing. If you do not give this notice, your hearing will be taken off the schedule. The tentative ruling will become the final ruling of the court. For more information, see the Sacramento County Superior Court's website at www.saccourt.ca.gov/civil/motions-hearings-tentative.aspx.

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FOR HELP

Sacramento County Public Law Library Civil Self Help Center

609 9th Street, Sacramento 95814

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Services Provided: The Sacramento County Public Law Library Civil Self Help Center provides general information and basic assistance to self-represented litigants on a variety of civil legal issues. Appointments will be made beginning at 8:30 a.m. Patrons who are present at 8:30 a.m. will be entered into a random drawing to determine the order their case will be evaluated. If an appointment is appropriate, it will be made for later in the day. You are encouraged to arrive by 8:25 a.m. to participate in the appointment setting drawing.

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.

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updated 5/2015 mpj

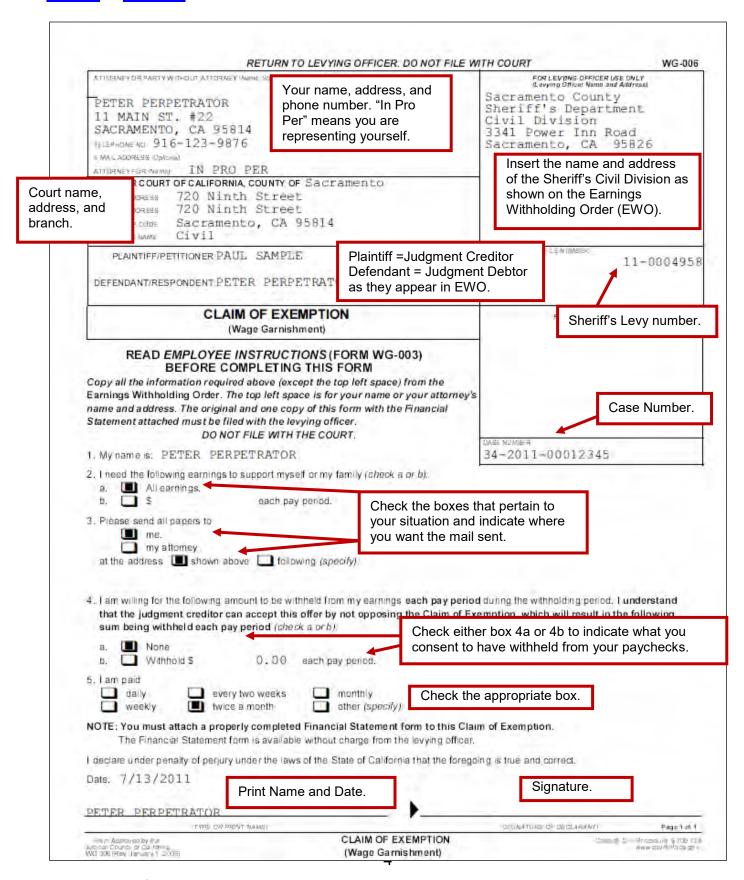
ATTACHMENTS: FORMS AND INSTRUCTIONS

The Judicial Council forms commonly used in this procedure are:

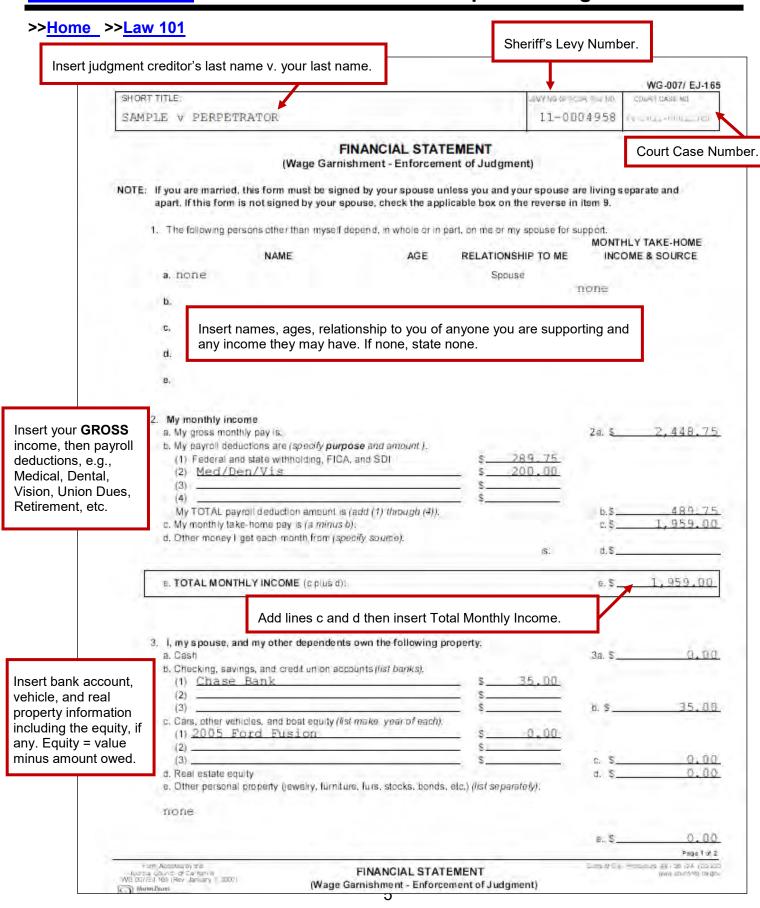
- Claim of Exemption (WG-006)
- Financial Statement (WG-007)

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

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Claim of Exemption - Wage Garnishment



Claim of Exemption - Wage Garnishment

