

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 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). 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 able to ask the court to set aside the judgment, and allow you to present a defense to the claim. For

You may also need...

Related Guides

- [Claim of Exemption for Bank Levy](#)
- [Exemptions from Enforcement of Judgment](#)

Related Videos

- [Enforcement of Judgments](#)

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.

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 than 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 amount 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

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 [qualifying case](#) 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.

RETURN TO LEVYING OFFICER. DO NOT FILE WITH COURT

WG-006

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Street Address, Telephone Number, and E-mail Address)
PETER PERPETRATOR
11 MAIN ST. #22
SACRAMENTO, CA 95814
TELEPHONE NO. 916-123-9876
E-MAIL ADDRESS (Optional):
ATTORNEY FOR (Name) IN PRO PER

Your name, address, and phone number. "In Pro Per" means you are representing yourself.

FOR LEVYING OFFICER USE ONLY (Levying Officer Name and Address)
Sacramento County Sheriff's Department
Civil Division
3341 Power Inn Road
Sacramento, CA 95826

Insert the name and address of the Sheriff's Civil Division as shown on the Earnings Withholding Order (EWO).

Court name, address, and branch.

COURT OF CALIFORNIA, COUNTY OF Sacramento
ADDRESS 720 Ninth Street
ADDRESS 720 Ninth Street
CITY AND ZIP CODE Sacramento, CA 95814
COURT NAME Civil

PLAINTIFF/PETITIONER: PAUL SAMPLE
DEFENDANT/RESPONDENT: PETER PERPETRATOR

Plaintiff = Judgment Creditor
Defendant = Judgment Debtor as they appear in EWO.

FILE NUMBER 11-0004958

CLAIM OF EXEMPTION (Wage Garnishment)

Sheriff's Levy number.

READ EMPLOYEE INSTRUCTIONS (FORM WG-003) BEFORE COMPLETING THIS FORM
Copy all the information required above (except the top left space) from the Earnings Withholding Order. The top left space is for your name or your attorney's name and address. The original and one copy of this form with the Financial Statement attached must be filed with the levying officer. DO NOT FILE WITH THE COURT.

Case Number.

CASE NUMBER 34-2011-00012345

- 1. My name is: PETER PERPETRATOR
2. I need the following earnings to support myself or my family (check a or b):
a. [X] All earnings.
b. [] \$ each pay period.
3. Please send all papers to
[X] me.
[] my attorney
at the address [X] shown above [] following (specify):

Check the boxes that pertain to your situation and indicate where you want the mail sent.

- 4. I am willing for the following amount to be withheld from my earnings each pay period during the withholding period. I understand that the judgment creditor can accept this offer by not opposing the Claim of Exemption, which will result in the following sum being withheld each pay period (check a or b):
a. [X] None
b. [] Withhold \$ 0.00 each pay period.

Check either box 4a or 4b to indicate what you consent to have withheld from your paychecks.

- 5. I am paid
[] daily [] every two weeks [] monthly
[] weekly [X] twice a month [] other (specify):

Check the appropriate box.

NOTE: You must attach a properly completed Financial Statement form to this Claim of Exemption. The Financial Statement form is available without charge from the levying officer.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 7/13/2011

Print Name and Date.

Signature.

PETER PERPETRATOR

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

Page 1 of 1

Sheriff's Levy Number.

Insert judgment creditor's last name v. your last name.

SHORT TITLE: SAMPLE v PERPETRATOR		LEVYING OFFICER FILE NO. 11-0004958	COURT CASE NO. 34-2011-00012345
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WG-007/ EJ-165

Court Case Number.

FINANCIAL STATEMENT (Wage Garnishment - Enforcement of Judgment)

NOTE: If you are married, this form must be signed by your spouse unless you and your spouse are living separate and apart. If this form is not signed by your spouse, check the applicable box on the reverse in item 9.

1. The following persons other than myself depend, in whole or in part, on me or my spouse for support:

	NAME	AGE	RELATIONSHIP TO ME	MONTHLY TAKE-HOME INCOME & SOURCE
a.	none		Spouse	none
b.				
c.	Insert names, ages, relationship to you of anyone you are supporting and any income they may have. If none, state none.			
d.				
e.				

Insert your GROSS income, then payroll deductions, e.g., Medical, Dental, Vision, Union Dues, Retirement, etc.

2. My monthly income

a. My gross monthly pay is: 2a. \$ 2,448.75

b. My payroll deductions are (specify purpose and amount):

(1) Federal and state withholding, FICA, and SDI	\$ 289.75	
(2) Med/Den/Vis	\$ 200.00	
(3)	\$	
(4)	\$	

My TOTAL payroll deduction amount is (add (1) through (4)): b. \$ 489.75

c. My monthly take-home pay is (a minus b): c. \$ 1,959.00

d. Other money I get each month from (specify source): is: d. \$

e. TOTAL MONTHLY INCOME (c plus d): e. \$ 1,959.00

Add lines c and d then insert Total Monthly Income.

Insert bank account, vehicle, and real property information including the equity, if any. Equity = value minus amount owed.

3. I, my spouse, and my other dependents own the following property:

a. Cash 3a. \$ 0.00

b. Checking, savings, and credit union accounts (list banks):

(1) Chase Bank	\$ 35.00	
(2)	\$	
(3)	\$	

b. \$ 35.00

c. Cars, other vehicles, and boat equity (list make, year of each):

(1) 2005 Ford Fusion	\$ 0.00	
(2)	\$	
(3)	\$	

c. \$ 0.00

d. Real estate equity d. \$ 0.00

e. Other personal property (jewelry, furniture, furs, stocks, bonds, etc.) (list separately):

none

e. \$ 0.00

Insert the judgment creditor's last name v. your last name.

Sheriff's Levy Number.

Case Number.

WG-007/EJ 165

SHORT TITLE: SAMPLE v PERPETRATOR	LEVYING OFFICER FILE NO. 11-0004958	COURT CASE NO. 34-2011-00012345
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4. The monthly expenses for me, my spouse, and my other dependants

Insert responses for 4a through 4m. Note: If there are no expenses insert \$0.00.

Rent or house payment and maintenance	4a.	\$	750.00
Food and household supplies	b.	\$	250.00
Utilities and telephone	c.	\$	225.00
Clothing	d.	\$	0.00
Medical and dental payments	e.	\$	0.00
Insurance (life, health, accident, etc.)	f.	\$	0.00
School, child care	g.	\$	0.00
Child, spousal support (prior marriage)	h.	\$	0.00
Transportation & auto expenses (insurance, gas, repair) (list car payments in item 5)	i.	\$	405.00
Installment payments (insert total and itemize below in item 5)	j.	\$	399.00
Laundry and cleaning	k.	\$	30.00
Entertainment	l.	\$	0.00
Other (specify): none			

Insert any creditors you are paying on a monthly basis. Total amount and insert the amount in 4j.

m.	\$	0.00
TOTAL MONTHLY EXPENSES (add a through m):	n.	\$ 2,059.00

my spouse, and my other dependants owe the following debts:

CREDITOR'S NAME	FOR	MO. PAYMENTS	BALANCE OWED	OWED BY (State person's name)
Ford Motor Company	car payments	399.00	9,852.00	Peter

Insert reasons why you are unable to pay 25% toward judgment.

6. Other facts which support this Claim of Exemption (i.e., unusual medical needs, school tuition, expenses for recent family emergencies, or other unusual expenses to help your creditor and the judge understand your budget) (describe): (If more space is needed, attach page labeled Attachment 6.)

My take home income barely covers of my basic necessities. There are some months that I am unable to pay all of my basic necessities and to have to add additional payments will cost me my living arrangements.

- 7. An earnings withholding order is now in effect with respect to my earnings or those of my spouse or dependants named in item 1 (specify each person's name and monthly amount):
- 8. A wage assignment for support is now in effect with respect to my earnings or those of my spouse or dependants named in item 1 (specify each person's name and monthly amount):
- 9. My spouse has signed below.
 I have no spouse
 My spouse and I are living separate and apart.

Insert information if applicable.

Indicate whether you have a spouse. If so, your spouse must also sign the Financial Statement!

I declare under penalty of perjury that the foregoing is true and correct.

Date: 07/13/2011

Print name and date.

PETER PERPETRATOR
(TYPE OR PRINT NAME)

Signature.

(TYPE OR PRINT NAME OF SPOUSE)

Signature of Spouse, if married.