

POST JUDGMENT INSTRUMENTS

CERTIFICATION OF JUDGMENT FOR REGISTRATION IN ANOTHER DISTRICT: BR 9021

AO Form B 265: There is no fee for the preparation of AO Form B 265 which will accompany the certified copy of the Judgment from our court to be registered in another district. (Attachment G)

Copy fee: Fee of .50 per page for the reproduction of the Judgment.

Certification Fee: Fee of \$7.00 for the certification of the Judgment.

Filing Fee: None.

REGISTRATION OF A FOREIGN JUDGMENT IN OUR COURT: 28 USC § 1963

Judgment: A certified copy of the judgment from the other district court.

Form AO B 265: Form AO B 265 (Certification of Judgment for Registration in Another District) from the other district where judgment was entered.

Filing Fee: \$30.00.

Case No: Filed as a miscellaneous case in District Court, with a miscellaneous civil case number assigned.

EXECUTION ON JUDGMENTS: FRCP 62(a); 64; 69

Process: A process to enforce a judgment for the payment of money shall be called a Writ of Execution. The purpose of the writ is to demand satisfaction of the payment entered.

Fee: No filing fee is required, however there are costs for service payable to the U.S. Marshal or other process server (See Attachment H for Schedule of Fees and Commissions). (28 USC § 1921).

Time: After a judgment has been entered, the prevailing party cannot attempt to execute on the judgment for a period of ten (10) days. Executions can be made after the ten (10) day period and even throughout an appeal, provided the appellant has not filed a supersedeas bond and motion for stay pending appeal.

Execution: Execution on a judgment is accomplished by filing a general writ of execution or writ initiating garnishment proceedings.

Local Forms: To initiate executions on a judgment, a local forms packet must be submitted by the prevailing party. All forms should be captioned in pleading form. The packet received from the prevailing party should contain an original plus copies of each of the following:

Forms Packet: (Sample Set at Attachment I)

Praecipe: Original and return copy. The execution process is initiated with a praecipe which requests the clerk to issue a particular writ. The praecipe must state the date and amount of judgment as well as the unsatisfied amount and the period for which the execution is to be effective (30, 60, 90 days). Include stamped envelope for return.

Motion and Order for Appointment of Special Process Server: As required, original and return copy.

Writ of Execution: Original and three copies. Prepared by requesting party. Must specify the judgment amount, accrued costs and fees, amount paid and unsatisfied balance, as well as the return date.

Summons: If garnishment proceedings are being initiated, a summons of garnishee is also submitted and prepared for the U.S. Marshal's signature (original and three). The summons tells the garnishee the correct Missouri Statutes which authorize the garnishment and also explains what can be garnished (salary, bank account, etc.).

Notice to Garnishee: Provides instructions to garnishee/employer. Original and 3 copies.

Interrogatories to Garnishee: Usually served with the Summons of Garnishee. To be answered within ten (10) days of the return date of the summons.

Marshal's Form: If the U.S. Marshal effects service, a Form 285, available from the clerk's office, must accompany the Writ of Execution. If service is effected by the sheriff, the sheriff's procedures should be followed.

Motion and Order for Payment of Garnishment Proceeds: Completed after garnishment period has run and answers to interrogatories have been received. Original and three copies, accompanied by addressed, stamped envelopes.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

In re: _____, Debtor
_____, Plaintiff,
vs _____, Defendant.

)
) Case No. _____
) Adv. No. _____
)
) (Complete the following if judgment was rendered in another district.)
)
) District _____
) Docket No. _____
) Date Entered _____
)

WRIT OF EXECUTION

TO THE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF MISSOURI:

WHEREAS, on the ____ day of _____, A.D., 20__ in a cause styled as above, judgment was rendered in this Court, or other United States District Court as indicated above and registered herein, in favor of _

and against _____
hereinafter called judgment debtor, for the sum of \$_____.

AND WHEREAS, the judgment was entered and docketed in the office of the Clerk, and the sum of _____ (\$_____) dollars is now actually due and unpaid thereon, with interest and costs as computed by _____.

THEREFORE YOU ARE COMMANDED, that of the goods and chattels, lands and tenements of the said judgment debtor you cause to be made the full amount of said judgment, interest and costs.

HEREIN FAIL NOT, and have you the said monies, together with this writ, before this Court on _____ (____ days from the date of service on this writ.)

WITNESS my hand and the seal of this Court at _____, Missouri, this _____ day of _____, 20__.

Patricia L. Brune, Clerk

By: _____
Deputy Clerk

Principal: _____
Interest: _____
Garnishment Proceedings Received: _____
Costs to Date: _____
Total for Garnishment: _____

And I further declare to you that you are hereby summoned and required to mail, or exhibit and file, your original answer to the Interrogatories served simultaneously with this Notice and Summons of Garnishment within ten (10) days after the return date of the Writ of Execution (___ days from the date of the issuance of the Writ), also the return date of the Notice of Garnishment and Summons, to the Clerk of the said Court at:

Patricia L. Brune
Clerk of U.S. Bankruptcy Court
U.S. Courthouse, Room 1510
400 East 9th Street
Kansas City, MO 64106

and mail a copy of the answer to plaintiff's attorney at:

otherwise, **YOU ARE HEREBY SUMMONED** to be and appear before the said court on said day, then and there to answer upon oath such allegations and interrogatories as have been exhibited to you by Plaintiff, and abide by the further order of the Court.

Given under my hand at Kansas City, Missouri, on the date first below written.

Brad C. English
United States Marshal

By: _____
Deputy

Date

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

| | | |
|-------------------|---|-----------------|
| In re: |) | |
| |) | |
| _____ |) | |
| Debtor. |) | Case No. |
| |) | |
| _____ |) | Adv. No. |
| Plaintiff, |) | |
| |) | |
| vs |) | |
| |) | |
| _____ |) | |
| Defendant. |) | |

NOTICE TO GARNISHEE/EMPLOYER

1. Interrogatories are served with a **summons of garnishment**. You must file and serve your answers to the interrogatories within ten days after the return date.
2. **If you are an employer:** Notify your employee that his/her wages have been garnished and that you will hold 25% of his/her earnings (if not for child support or maintenance), **after deductions required by law**, or, if the employee is a head of a family and a resident of this state, 10% **after deductions required by law** (AMOUNTS TO WITHHOLD FOR CHILD SUPPORT AND MAINTENANCE ARE ESTABLISHED BY FEDERAL LAW), until:
(a) He secures a release from the Court; or (b) You get an order from the Court.
Then withhold the amount required to be held until the return date shown on the garnishment form. Do not send money to the Court without further instructions from the Court. **Deductions required by law** are limited to federal, state and city income and earnings taxes and FICA taxes.
3. **If you are a depository such as a bank or savings and loan:** You are required to hold funds in the account of the defendant(s) **as directed by the summons of garnishment** and notify the defendant(s) of what you have done. If any further funds subject to garnishment are deposited by the defendant(s) these also must be held. You are responsible for all funds in the account or deposited into the account from the date you get these papers until the return date shown on the garnishment papers. Do not release funds subject to garnishment from the account until you receive further instructions from the Court.
4. If you have questions you should contact your attorney or attorney for the plaintiff.

YOUR ANSWERS TO INTERROGATORIES ARE TO BE MAILED TO:

G Bankruptcy Court
U.S. Courthouse
400 East 9th Street
Kansas City, MO 64106

G Attorney for Plaintiff
Address:

2. At the time of service of the garnishment, or at an time thereafter until the return date stated in the Summons of Garnishment, did you owe the defendant any money (including wages, salary, and commissions), or do you owe defendant any now?

ANSWER:

IF NOT YET DUE, WHEN WILL IT BECOME DUE?

If the amount owed defendant is for wages, salary or commission, state:

- (a) Amount owed after deductions required by law:
\$_____ (Deductions required by law are limited to federal, state, and city income and earnings taxes and FICA taxes).
- (b) Amount withheld pursuant to the garnishment:
\$_____.

3. Is the defendant still within your employ? If not, state the date his employment terminated.

ANSWER:

4. At the time of service of the garnishment, or at any time thereafter until the return date stated in the Summons of Garnishment, will you or have you since become or are you now bound in any contract to pay the judgment debtor money not yet due? If so, state the amount to be paid out and when due and payable.

ANSWER:

STATE OF MISSOURI)
) §
COUNTY OF _____)

The undersigned, being duly sworn on oath states that he/she has read the foregoing interrogatories and the answers given are true to the best of affiant's knowledge and belief.

Signature of Garnishee

The foregoing answers to interrogatories were subscribed and sworn to before me on _____, 20__.

Notary Public

My Commission Expires:

(Attorney for Garnishor/Judgment Creditor)

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MISSOURI
_____ DIVISION**

| | | |
|--|---|--|
| <p>In Re:</p> <p>_____</p> <p style="text-align: center;">Debtor,</p> <p>_____</p> <p>_____</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>_____</p> <p>_____</p> <p style="text-align: center;">Defendant.</p> | <p>)</p> | <p>Case No. _____</p> <p>Adversary No. _____</p> |
|--|---|--|

MOTION FOR ORDER ON GARNISHEE AND COURT CLERK

Comes now _____, hereinafter referred to as Judgment Creditor, and exhibits to the Court the answer of the garnishee, _____, dated _____, showing that the garnishee has in its possession the sum of _____, owed _____, hereinafter referred to as Judgment Debtor, none of which appears exempt to the said Judgment Debtor. Judgment Creditor states that the Judgment Debtor is indebted to the Judgment Creditor in the sum of at least _____, plus interest and costs on the judgment in this action.

WHEREFORE, Judgment Creditor prays that the Court order the Garnishee to pay the Clerk of the United States Bankruptcy Court for the Western District of Missouri the sum of _____ within ten days, and that upon receipt the Court Clerk pay said sum, less costs, within fifteen days to Judgment Creditor to apply on the within Judgment, unless a motion to quash the execution or garnishment has been filed.

(Name & Address of Attorney)

