

United States Bankruptcy Court
Western District of Missouri

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)

Fees: Current copy and certification fees apply to preparation of the Judgment.

**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: Current filing fee for a District Court miscellaneous case.

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 (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:

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 for the Clerk's signature. 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:)
)
)
) Case No.
)
) Adv. No.
)
)
)
)

PRAECIPE FOR WRIT OF EXECUTION AND/OR GARNISHMENT

TO THE CLERK:

ISSUE WRIT OF EXECUTION in the above matter, directed to the United States Marshal (Special Process Server) for service on **defendant/judgment debtor** and **name and address of garnishee**. A judgment entered in this court against the **(defendant/plaintiff) name** was entered on **(date)** in the amount of \$_____, of which \$____ remains unsatisfied, together with interest of \$_____ and costs of \$_____, for a total of \$_____ which remains unsatisfied, as calculated by the undersigned.

RETURNABLE 30 days 60 days 90 days

Fight, Tight and Slight
A Professional Corporation

By: _____
(Address) Bar #
(Telephone)
ATTORNEYS FOR PLAINTIFF

Date: _____

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

In re:)	
	)	Case No. _____
_____	)	Adv. No. _____
Debtor)	
	)	(Complete the following if judgment was
_____	)	rendered in another district.)
Plaintiff,)	
vs	)	District _____
	)	Docket No. _____
_____	)	Date Entered _____
Defendant.)	

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__.

Paige Wymore-Wynn, Clerk

By: _____
Deputy Clerk

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

In Re:)	
)	
_____ ,	)	Case No. _____
)	
Debtor,	)	Adversary No. _____
)	
_____ ,)	
)	
Plaintiff,)	
v.)	
)	
_____ ,)	
)	
Defendant.)	

**NOTICE OF GARNISHMENT
AND
SUMMONS OF GARNISHEE**

**(Garnishee Name
Garnishee Address)
Return Date:** _____

I, the undersigned United States Marshal, **do declare to you**, that I do attach, levy upon and seize in your hands, not to exceed statutory limitations as provided (see reverse) in 15 U.S.C. Sections 1671-1677 and V.A.M.S. 525.030, all debts owing by you to the above named defendant(s), _____, together with all property, money, rights, credits, bonds, bills, notes, drafts, checks and other choices in action, and also all other personal property, as well as other kinds of property whatsoever liable to garnishment of said defendant(s) in your possession or charge or under your control, or now owing by you and all that may come into your possession and charge or control, or become owing by you, between this time and the time of filing your answer herein (30, 60 or 90 days).

And I further declare to you that I do attach, levy upon and seize in your hands all debts now due from you to the said defendant(s) as well as all that may become due hereafter and before said time of your answer, not to exceed statutory limitations as provided in 15 U.S.C. Sections 1671-1677 and V.A.M.S. 525.030, or so much thereof as shall be sufficient to satisfy the following:

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:

Ann Thompson
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.

Mark James
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

- 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.
- 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.
- 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.
- If you have questions you should contact your attorney or attorney for the plaintiff.

YOUR ANSWERS TO INTERROGATORIES ARE TO BE MAILED TO:

- | | | | |
|--------------------------|---------------------------------|--------------------------|------------------------|
| <input type="checkbox"/> | Bankruptcy Court | <input type="checkbox"/> | Attorney for Plaintiff |
| | U.S. Courthouse | | Address: |
| | 400 East 9 th Street | | |
| | Kansas City, MO 64106 | | |

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
WESTERN DIVISION**

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

MOTION FOR APPOINTMENT OF SPECIAL PROCESS SERVER

Pursuant to Rule 4(c), Federal Rules of Civil Procedure, Plaintiff in the above captioned action hereby moves this court to specially appoint _____ to serve _____ in this action and represents that:

1. Said person is competent and not less than 18 years of age.
2. Said person is not and will not be a party to this action.
3. Granting the instant motion will effect substantial savings in time and fees.

Date

(Name)
(Address)
Attorney for Plaintiff

Bar #

ORDER

Upon application by plaintiff and pursuant to Rule 4(c), Federal Rules of Civil Procedure, it is hereby **ORDERED** that _____ Be specially appointed as special process server for the purpose of serving the _____ in this action.

It is further ORDERED that proof of such service be made by affidavit in accordance with Rule 4(g), Federal Rules of Civil Procedure.

Kansas City, Missouri
Date: _____

Bankruptcy Judge

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

In Re:)	
)	
_____	)	Case No. _____
)	
Debtor,	)	Adversary No. _____
)	
_____)	
_____)	
Plaintiff,)	
)	
v.)	
)	
_____)	
_____)	
Defendant.)	

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)

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

In Re:)	
)	
_____ ,	)	Case No. _____
)	
Debtor,	)	Adversary No. _____
)	
_____)	
_____ ,)	
)	
Plaintiff,)	
v.)	
)	
_____)	
_____ ,)	
)	
Defendant.)	

**ORDER FOR GARNISHEE TO PAY INTO COURT AND FOR
COURT CLERK TO PAY JUDGMENT CREDITOR**

It appearing to the Court from the answer of the above garnishee, dated _____, that said garnishee is indebted to _____, Judgment Debtor, in the sum of _____, and that the Judgment Debtor is indebted to _____, for more than said sum.

IT IS HEREBY ORDERED that said garnishee, within ten days from this date, pay to the United States Bankruptcy Court for the Western District of Missouri, the sum of \$_____. Upon payment thereof, the garnishee is discharged from the garnishment herein served.

IT IS FURTHER ORDERED that within fifteen days following receipt of the aforementioned sum from the garnishee, the Court Clerk shall pay said sum, less costs, to the Judgment Creditor without further order of the Court, unless a motion to quash the execution or garnishment has been filed.

BANKRUPTCY JUDGE

Date