

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

IN THE ALLEN SUPERIOR
SMALL CLAIMS COURT
FORT WAYNE, INDIANA

CASE NUMBER:

Plaintiff(s)

VS.

Defendant(s)

AND Garnishee Defendant

Street Address

Street Address

City, State

Zip Code

City, State

Zip Code

**VERIFIED MOTION FOR PROCEEDINGS SUPPLEMENTAL
TO DEFENDANT AND GARNISHEE DEFENDANT**

Plaintiff / Plaintiff's counsel appears and states that to the best of its/his/her knowledge:

1. Plaintiff owns the judgment rendered in this case against the Defendant(s);
2. Plaintiff's judgment is unsatisfied, with a balance due upon judgment, interest and costs in the amount of \$ _____; and
3. Plaintiff has no cause to believe that levy of execution against the Defendant(s) will satisfy the judgment.
4. Garnishee Defendant has or will have in its possession the following personal property of Defendant(s) to wit: wages, salaries, commission, earnings, and income.

Plaintiff requests that the Court issue an order notifying Defendant(s) of these proceedings and requiring the Garnishee Defendant to answer interrogatories concerning Defendant's property in its/his/her possession. The Garnishee Defendant shall not withhold from the wages of the employee/defendant until the Garnishee Defendant receives a Garnishment Order from this Court directing Garnishee Defendant to withhold the wages. I affirm, under the penalty of perjury, that the foregoing representations are true.

Street Address of Plaintiff / Attorney

Signature of Plaintiff / Attorney

City, State

Zip Code

Printed Name of Plaintiff / Attorney

Telephone Number Supreme Court ID Number

Certificate of Service

I hereby certify that a copy of this document was sent to the parties or their counsel by _____
(US Mail, E-Service, Sheriff, other manner allowed by IN Trial Rules).

Date

Name

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ORDER TO DEFENDANT AND
NOTICE AND SUMMONS TO GARNISHEE DEFENDANT

Plaintiff files verified motion for proceedings supplemental and interrogatories; motion granted.

To the Defendant:

You are ordered to appear in this Court on _____ at _____ A.M./P.M. in the **Allen Superior Court Small Claims Division, 1 West Superior St., Fort Wayne, IN 46802** and bring with you evidence of your income and assets.

If you, the Defendant, believe you are entitled to a reduction of the Garnishment Order due to financial hardship, you may file a written request to reduce the amount of the garnishment.

To the Garnishee Defendant:

On or before _____, you are ordered to answer and return the following interrogatories to the Court.

You shall not withhold from the wages of the employee/defendant until you receive a Garnishment Order from this Court directing you to withhold the wages.

Date

Magistrate, Allen Superior Court

Certificate of Service

I hereby certify that a copy of this document was sent to the parties or their counsel by _____
(US Mail, E-Service, Sheriff, other manner allowed by IN Trial Rules).

Date

Name

DEDUCTION CALCULATIONS

Indiana Code 24-4.5-5-105

Limitation on garnishment and proceedings supplemental to execution; employer's fee

(1) For the purposes of IC 24-4.5-5-101 through IC 24-4.5-5-108:

- (a) "disposable earnings" means that part of the earnings of an individual, including wages, commissions, income, rents, or profits remaining after the deduction from those earnings of amounts required by law to be withheld;
- (b) "garnishment" means any legal or equitable proceedings through which the earnings of an individual are required to be withheld by a garnishee, by the individual debtor, or by any other person for the payment of a judgment; and
- (c) "support withholding" means that part of the earnings that are withheld from an individual for child support in accordance with the laws of this state.

(2) Except as provided in subsection (8), the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment to enforce the payment of one (1) or more judgments against the individual may not exceed the lesser of the following amounts:

(a) An amount equal to twenty-five percent (25%) of the individual's disposable earnings for that week or, upon a showing of good cause by the individual why the amount should be reduced, an amount equal to:

- (i) less than twenty-five percent (25%); and
- (ii) at least ten percent (10%);

of the individual's disposable earnings for that week.

(b) The amount by which the individual's disposable earnings for that week exceed thirty (30) times the federal minimum hourly wage prescribed by 29 U.S.C. 206(a)(1) in effect at the time the earnings are payable.

In the case of earnings for a pay period other than a week, the earnings shall be computed upon a multiple of the federal minimum hourly wage equivalent to thirty (30) times the federal minimum hourly wage as prescribed in this section.

(3) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment or support withholding to enforce any order for the support of any person shall not exceed:

(a) where such individual is supporting the individual's spouse or dependent child (other than a spouse or child with respect to whose support such order is used), fifty percent (50%) of such individual's disposable earnings for that week; and

(b) where such individual is not supporting such a spouse or dependent child described in subdivision (a), sixty percent (60%) of such individual's disposable earnings for that week;

except that, with respect to the disposable earnings of any individual for any workweek, the fifty percent (50%) specified in subdivision (a) shall be deemed to be fifty-five percent (55%) and the sixty percent (60%) specified in subdivision (b) shall be deemed to be sixty-five percent (65%), if and to the extent that such earnings are subject to garnishment or support withholding to enforce a support order with respect to a period which is prior to the twelve (12) week period which ends with the beginning of such workweek.

(4) No court may make, execute, or enforce an order or process in violation of this section.

OPTIONAL EMPLOYER'S FEE

Indiana Code 24-4.5-5-105 further provides:

(5) An employer who is required to make deductions from an individual's disposable earnings pursuant to a garnishment order or series of orders arising out of the same judgment debt (excluding a judgment for payment of child support) may collect, as a fee to compensate the employer for making these deductions, an amount equal to the greater of twelve dollars (\$12) or three percent (3%) of the total amount required to be deducted by the garnishment order or series of orders arising out of the same judgment debt. If the employer chooses to impose a fee, the fee shall be allocated as follows:

(a) One-half (1/2) of the fee shall be borne by the debtor, and that amount may be deducted by the employer directly from the employee's disposable earnings.

(b) One-half (1/2) of the fee shall be borne by the creditor, and that amount may be retained by the employer from the amount otherwise due the creditor.

The deductions made under this subsection for a collection fee do not increase the amount of the judgment debt for which the fee is collected for the purpose of calculating or collecting judgment interest. This fee may be collected by an employer only once for each garnishment order or series of orders arising out of the same judgment debt. The employer may collect the entire fee from one (1) or more of the initial deductions from the employee's disposable earnings. Alternatively, the employer may collect the fee ratably over the number of pay periods during which deductions from the employee's disposable earnings are required.

(6) The deduction of the garnishment collection fee under subsection (5)(a) or subsection (7) is not an assignment of wages under IC 22-2-6.

(7) An employer who is required to make a deduction from an individual's disposable earnings in accordance with a judgment for payment of child support may collect a fee of two dollars (\$2) each time the employer is required to make the deduction. The fee may be deducted by the employer from the individual's disposable earnings each time the employer makes the deduction for support. If the employer elects to deduct such a fee, the amount to be deducted for the payment of support must be reduced accordingly if necessary to avoid exceeding the maximum amount permitted to be deducted under subsection (3).

(8) A support withholding order takes priority over a garnishment order irrespective of their dates of entry or activation. If a person is subject to a support withholding order and a garnishment order, the garnishment order shall be honored only to the extent that disposable earnings withheld under the support withholding order do not exceed the maximum amount subject to garnishment as computed under subsection (2).