

OFFICE OF THE GENERAL COUNSEL  
Division of Operations-Management

MEMORANDUM OM 94-59

July 13, 1994

TO: All Regional Directors, Officers-in-Charge,  
and Resident Officers

FROM: William G. Stack, Associate General Counsel

SUBJECT: Sample FDCPA Post-Judgment Garnishment Papers

Pursuant to the requests of various Regions, the Contempt Litigation Branch has prepared a sample set of papers to be utilized in post-judgment garnishment proceedings under the Federal Debt Collection Procedures Act of 1990 (28 U.S.C. 3001, 3205, et seq.) Enclosed is a floppy disk containing a full sample set of such papers, in Word format; included are the following documents (file names are shown in parenthesis):

1. APPLICATION FOR WRIT OF GARNISHMENT (fdcpagar.app)
2. WRIT OF GARNISHMENT (fdcpagar.wri)
3. CLERK'S NOTICE OF POST-JUDGMENT GARNISHMENT TO GARNISHEE (fdcpagar.cnt)
4. INSTRUCTIONS TO GARNISHEE (fdcpagar.int)
5. ANSWER OF GARNISHEE (fdcpagar.ans)
6. CLERK'S NOTICE OF POST-JUDGMENT GARNISHMENT TO RESPONDENT (fdcpagar.not)
7. NOTICE TO RESPONDENT ON HOW TO CLAIM EXEMPTIONS (including "CLAIMS FOR EXEMPTION FORM") (fdcpagar.exe)
8. CERTIFICATION OF SERVICE (fdcpagar.cer)

The sample garnishment papers will of course need to be modified to reflect the particulars of each situation, e.g., the appropriate U.S. District Court, the particular garnishee(s) (bank(s), customer(s), etc.), and the particular assets being garnished (bank account, accounts receivable, etc.). Additionally, the "Major Exemptions Under State Law" section of the Notice To Respondent On How To Claim Exemptions (fdcpagar.exe) will need to be amended to reflect the exemptions applicable in your jurisdiction.<sup>1</sup>

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<sup>1</sup> A listing of such exemptions can be obtained from the office of the U.S. Attorney in your jurisdiction.

The Application For Writ Of Garnishment, Writ Of Garnishment, Clerk's Notice Of Post-Judgment Garnishment to Garnishee, Clerk's Notice Of Post-Judgment Garnishment to Respondent, and Notice To Respondent On How To Claim Exemptions (including "Claims For Exemption Form") should be submitted to the Clerk of the appropriate U.S. District Court for processing.<sup>2</sup> Do not mail a copy of these papers to the respondent(s) (and do not file the certificate of service with the district court), until the court has issued the Writ and you have served the Writ (along with the Clerk's Notice Of Post-Judgment Garnishment, Instructions to Garnishee, and the Answer Of Garnishee form) on the garnishee.<sup>3</sup>

Once you have effected service of the Writ Of Garnishment, Clerk's Notice Of Post-Judgment Garnishment to Garnishee, Instructions To Garnishee, and Answer of Garnishee form on the garnishee, copies of the Application for Writ of Garnishment, Writ of Garnishment, Clerk's Notice to Garnishee, Instructions to Garnishee, Answer of Garnishee form, Clerk's Notice to Respondent, and Notice on How to Claim Exemptions (including "Claim for Exemptions" form) should immediately be served upon the respondent(s), and copies of these papers, along with the Certification Of Service, should be filed with the court.

If you have any questions regarding the procedures to be followed in filing or serving garnishment papers, or should you require assistance or advice with respect to any other aspect of this or related matters, you should contact the Contempt Litigation Branch for assistance.

  
W. G. S.

Enclosure

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<sup>2</sup> The procedures vary from jurisdiction to jurisdiction; in some courts a designated judge or magistrate will consider and act upon the Application immediately; in other jurisdictions, the clerk will notify you by mail or telephone when the court has acted (in this latter case, it may be necessary to check periodically with the clerk's office to ensure that the matter is acted upon with reasonable dispatch). In any case, you must also ensure that the clerk executes the Clerk's Notice Of Post-Judgment Garnishment to Garnishee, and the Clerk's Notice Of Post-Judgment Garnishment to Respondent.

<sup>3</sup> To the extent practical, personal service on the garnishee is preferred, in that the precise time of service can be more easily established, should that later become an issue.