

**4-806. Writ of garnishment.**

[For use with Rules 1-065.2, 2-802 and 3-802 NMRA]

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
[IN THE [MAGISTRATE] [METROPOLITAN] COURT]  
[\_\_\_\_\_ JUDICIAL DISTRICT]

\_\_\_\_\_, Plaintiff

v.

No. \_\_\_\_\_

\_\_\_\_\_, Defendant

Balance Due Upon Application for Writ: \$ \_\_\_\_\_  
Includes Interest at \_\_\_\_\_%  
Through \_\_\_\_\_, \_\_\_\_\_ (date)

**WRIT OF GARNISHMENT**

THE STATE OF NEW MEXICO to \_\_\_\_\_, garnishee.

\_\_\_\_\_ is the judgment debtor in this case and owes the amount set out above to the judgment creditor, \_\_\_\_\_, whose address is \_\_\_\_\_.

The above judgment creditor believes that you hold or control money or property that belongs to the judgment debtor.

YOU ARE ORDERED to file a written answer with the \_\_\_\_\_ court located at \_\_\_\_\_ within twenty (20) days from the day you receive this writ. Your answer must be under oath and on the attached form (*answer by garnishee*).

YOU ARE FURTHER ORDERED, as follows:

1. If you owe the judgment debtor any money (other than wages), or become indebted to the judgment debtor before filing your answer, you must keep a sufficient amount of that money to satisfy the judgment and all costs and attorney fees due as a result of service of this writ and not pay it to the judgment debtor, unless this court enters an order releasing this writ of garnishment.
2. If the judgment debtor is an employee of yours, unless the debt is for child or spousal support, YOU SHALL PAY YOUR EMPLOYEE, THE JUDGMENT DEBTOR, whichever amount is greater, one of the following:

- A. seventy-five percent (75%) of the debtor's disposable earnings (salary less social security, federal and state withholdings, and any other deduction required by law) for any pay period;

OR

- B. an amount each week equal to forty (40) times the federal minimum hourly wage rate.

If the debt is for child support or spousal support payments, you shall pay the judgment debtor fifty percent (50%) of the debtor's disposable earnings (*salary less social security, federal, and state withholding*).

If employee's wages or salary are subject to more than one garnishment or wage withholding proceeding, the writs shall be satisfied in the order they have been served on you.<sup>1</sup>

In no event may you withhold from your employee's net disposable earnings more than fifty percent (50%) of the employee's net disposable earnings if one of the writs is for child or spousal support or more than twenty-five percent (25%) if none of the garnishments is for child or spousal support.<sup>2</sup>

Any wages you owe the employee in excess of that amount or that you may come to owe the employee in excess of that amount must be kept by you until further order of this court. (*A table giving equivalent exemptions for pay periods of other than one (1) week may be obtained from the Financial Institutions Division of the Regulation and Licensing Department, 725 St. Michaels Drive, Santa Fe, New Mexico 87503.*)

3. If you have any property that belongs to the judgment debtor, including any rights, credits, bonds, bills, notes, drafts, and other rights to property or money that belongs to the judgment debtor, or if you acquire any such property, money, or rights to property or money before filing your answer, you must keep a sufficient amount of that property to satisfy the existing judgment and costs and not turn it over to the judgment debtor unless the court enters an order releasing the property or money.
4. If you hold property or money belonging to the judgment debtor, within four (4) business days after service of this writ, you are to mail or deliver a copy of this writ and the application for writ provided by the judgment creditor. If you hold property or money of the judgment debtor's other than wages and the debtor is a natural person, you shall also mail or deliver to the judgment debtor, the attached notice of right to claim exemptions and a copy of the attached claim of exemption forms to each person identified as a judgment debtor. You shall also send or deliver a copy of your answer to this writ to the judgment debtor and to the



Deputy

**RETURN FOR COMPLETION BY OTHER PERSON MAKING SERVICE:**

I, being duly sworn, on oath, say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this writ in said county on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by delivering a copy of the writ, a copy of the application for writ, a copy of a form for answer by garnishee, a copy of a notice of right to claim exemptions for each judgment debtor, and a copy of the claim of exemption form for each judgment debtor to \_\_\_\_\_ garnishee.

By \_\_\_\_\_

Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature of private person  
making service

Subscribed and sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Judge, notary, or other officer  
authorized to administer oaths

\_\_\_\_\_  
Official title

**USE NOTES**

1. Section 35-12-9 NMSA 1978 provides that if an employee's wages are subject to more than one garnishment proceeding, the writs shall be satisfied in the order in which they are served on the garnishee.

2. Section 35-12-7(C) NMSA 1978 provides that the maximum amount that may be taken from a person's disposable earnings is fifty percent (50%) of the employee's disposable earnings.

[As amended, effective June 15, 1986; January 1, 1987; July 1, 1992; January 1, 1996; December 3, 2001; as amended by Supreme Court Order No. 12-8300-030, effective for all cases filed or pending on or after January 7, 2013.]