

,
Plaintiff-Judgment-Creditor,

INCOME EXECUTION

vs.

Original Index No.

,
Defendant(s).

RE: , Judgment-Debtor(s)

SSN:

EMPLOYER OR PAYER OF MONEY:

TO: ENFORCEMENT OFFICER:

WHEREAS, in an action in , Index No. , (Assigned Judge- Hon.), between the parties listed above, a Judgment was entered on , in favor of said Judgment-Creditor and against Judgment Debtor(s), , in the amount of , and the total principal Judgment balance due is , plus interest from . A transcript of the Judgment was filed in the County Clerk's Office on .

Upon information and belief, the Judgment Debtor is receiving or will receive gross income/disposable earnings/money in excess of \$262.50 per week pay period from his(her) employer or payer of money. **NOW THEREFORE**, we direct that you satisfy the judgment with interest thereon from the date of its entry together with your fees, out of all monies now and hereafter due and owing to the said Judgment Debtor from the employer/payer until this Execution and the expenses thereof are fully satisfied and paid, or until modified, and on presentation of this Execution to the said employer/payer the same shall become a lien and continuing levy upon such wages, salary, money or income to the amount specified herein.

TO: JUDGMENT-DEBTOR:

THIS EXECUTION requires you to pay to the Enforcement Officer who delivered it to you a sum to be determined by law, from your gross wages, money and earnings each time you are paid. If you fail to begin to make these payments within TWENTY (20) DAYS after receiving this Execution, it will be served on your employer/payer (upon

information and belief, as noted above) who will deduct these payments from your gross wages, money and earnings. Payments need not be made unless your disposable earnings exceed the amount exempt under State and Federal Law.

TO: EMPLOYER OR PAYER OF MONEY:

THIS EXECUTION requires you to withhold and pay over to the Enforcement Officer, who delivered it to you, payments each time you pay Judgment Debtor, an amount determined by law, from all gross wages, money and earnings of the Judgment Debtor until the amount of this Execution, plus interest at a rate of 9% on the unpaid balance per annum, is fully paid. **If Judgment Debtor is not in your employ, leaves employment or does not receive money from you, it is your duty to notify the Enforcement Officer at once.**

IF YOU FAIL TO WITHHOLD and pay over the amount, determined by law, due and hereafter becoming due, you may be held personally responsible and be required to pay the sums which should have been withheld and may be subjected to enforcement proceedings or penalties.

UNDER STATE AND FEDERAL LAW WITHHOLDINGS NEED NOT BE MADE unless Judgment Debtor's disposable earnings for a weekly pay period exceed the greater of 30 times the current* Federal Minimum Hourly Wage prescribed in the Fair Labor Standards Act of 1938, or 30 times the State Minimum Hourly Wage prescribed in New York Labor Law §652. Disposable Earnings are the earnings left after deducting the amounts required by law to be withheld, i.e. Federal and State income taxes, Social Security taxes and Unemployment Insurance (15 U.S.C. 1671 et seq.). *(\$8.75 per hour effective December 31, 2014).

If the money due to the judgment debtor consists of salary or wages and his employment is terminated by resignation or dismissal at any time after service of the execution, the levy shall thereafter be ineffective, and the execution shall be returned, unless the debtor is reinstated or re-employed within ninety days after such termination, at which point deductions must begin again.

Dated:

Attorney for Judgment-Creditor

NOTICE TO JUDGMENT DEBTOR RECEIVING INCOME EXECUTION

THIS INCOME EXECUTION DIRECTS THE WITHHOLDING OF TEN PERCENT (10%) OF THE JUDGMENT DEBTOR'S GROSS INCOME. IN CERTAIN CASES, HOWEVER, STATE OR FEDERAL LAW DOES NOT PERMIT THE WITHHOLDING OF THAT MUCH OF THE JUDGMENT DEBTOR'S GROSS INCOME. THE JUDGMENT DEBTOR IS REFERRED TO NEW YORK CIVIL PRACTICE LAW AND RULES §5231 AND 15 UNITED STATES CODE §1671 *ET. SEQ.*

I. LIMITATIONS ON THE AMOUNT THAT CAN BE WITHHELD.

- A.) AN INCOME EXECUTION FOR INSTALLMENTS FROM A JUDGMENT DEBTOR'S GROSS INCOME CANNOT EXCEED TEN PERCENT (10%) OF THE JUDGMENT DEBTOR'S GROSS INCOME.
- B.) IF A JUDGMENT DEBTOR'S WEEKLY DISPOSABLE EARNINGS ARE LESS THAN THE GREATER OF THIRTY (30) TIMES THE CURRENT FEDERAL OR STATE MINIMUM HOURLY WAGE (\$8.75 PER HOUR), OR \$262.50, NO DEDUCTION CAN BE MADE FROM THE JUDGMENT DEBTOR'S EARNINGS UNDER THIS INCOME EXECUTION.
- C.) A JUDGMENT DEBTOR'S WEEKLY DISPOSABLE EARNINGS CANNOT BE REDUCED BELOW THE AMOUNT ARRIVED AT BY MULTIPLYING THIRTY (30) TIMES THE GREATER OF THE CURRENT FEDERAL OR STATE MINIMUM HOURLY WAGE (\$8.75 PER HOUR), OR \$262.50, UNDER THIS INCOME EXECUTION.
- D.) IF DEDUCTIONS ARE BEING MADE FROM A JUDGMENT DEBTOR'S EARNINGS UNDER ANY ORDERS FOR ALIMONY, SUPPORT OR MAINTENANCE FOR FAMILY MEMBERS OR FORMER SPOUSES, AND THOSE DEDUCTIONS EQUAL OR EXCEED TWENTY-FIVE PERCENT (25%) OF THE JUDGMENT DEBTOR'S DISPOSABLE EARNINGS, NO DEDUCTION CAN BE MADE FROM THE JUDGMENT DEBTOR'S EARNINGS UNDER THIS INCOME EXECUTION.
- E.) IF DEDUCTIONS ARE BEING MADE FROM A JUDGMENT DEBTOR'S EARNINGS UNDER ANY ORDERS FOR ALIMONY, SUPPORT OR MAINTENANCE FOR FAMILY MEMBERS OR FORMER SPOUSES, AND THOSE DEDUCTIONS ARE LESS THAN TWENTY-FIVE PERCENT (25%) OF THE JUDGMENT DEBTOR'S DISPOSABLE EARNINGS, DEDUCTIONS MAY BE MADE FROM THE JUDGMENT DEBTOR'S EARNINGS UNDER THIS INCOME EXECUTION. HOWEVER, THE AMOUNT ARRIVED AT BY ADDING THE DEDUCTIONS FROM EARNINGS MADE UNDER THIS EXECUTION TO THE DEDUCTIONS MADE FROM EARNINGS UNDER ANY ORDERS FOR ALIMONY, SUPPORT OR MAINTENANCE FOR FAMILY MEMBERS OR FORMER SPOUSES CANNOT EXCEED TWENTY-FIVE PERCENT (25%) OF THE JUDGMENT DEBTOR'S DISPOSABLE EARNINGS.

NOTE: NOTHING IN THIS NOTICE LIMITS THE PROPORTION OR AMOUNT WHICH MAY BE DEDUCTED UNDER ANY ORDER FOR ALIMONY, SUPPORT OR MAINTENANCE FOR FAMILY MEMBERS OR FORMER SPOUSES.

Pursuant to CPLR 5205(l), \$2,750.00 of an account containing direct deposit or electronic payments reasonably identifiable as statutorily exempt payments, as defined in CPLR 5205(l)(2), is exempt from execution and that the garnishee cannot levy upon or restrain \$2,750.00 in such an account. Pursuant to CPLR 5222(i), an execution shall not apply to an amount equal to or less than 90% of the greater of two hundred forty times the federal minimum hourly wage prescribed in the Fair Labor Standards Act of 1938 or two hundred forty times the state minimum hourly wage prescribed in New York Labor Law §652 as in effect at the time the earnings are payable, except such part as a court determines to be unnecessary for the reasonable requirements of the judgment debtor and his or her dependents.

II. EXPLANATION OF LIMITATIONS:

DEFINITIONS:

DISPOSABLE EARNINGS - DISPOSABLE EARNINGS ARE THAT PART OF AN INDIVIDUAL'S EARNINGS LEFT AFTER DEDUCTING THOSE AMOUNTS THAT ARE REQUIRED BY LAW TO BE WITHHELD (FOR EXAMPLE, TAXES, SOCIAL SECURITY, AND UNEMPLOYMENT INSURANCE, BUT NOT DEDUCTIONS FOR UNION DUES, INSURANCE PLANS, ETC.)

GROSS INCOME - GROSS INCOME IS SALARY, WAGES OR OTHER INCOME, INCLUDING ANY AND ALL OVERTIME EARNINGS, COMMISSIONS, AND INCOME FROM TRUSTS, BEFORE ANY DEDUCTIONS ARE MADE FROM SUCH INCOME.

ILLUSTRATIONS REGARDING EARNINGS:

IF DISPOSABLE EARNINGS IS:
EARNINGS

AMOUNT TO PAY OR DEDUCT FROM
UNDER THIS INCOME EXECUTION IS:

(a) 30 TIMES GREATER OF FEDERAL OR STATE
MINIMUM WAGE (\$262.50) OR LESS

NO PAYMENT OR DEDUCTION ALLOWED

(b) MORE THAN 30 TIMES GREATER OF
TIMES
FEDERAL OR STATE MINIMUM WAGE (\$262.50)
AND LESS THAN 40 TIMES FEDERAL MINIMUM
WAGE (\$290.00)

THE LESSER OF: THE EXCESS OVER 30

THE GREATER OF FEDERAL OR STATE
MINIMUM WAGE (\$262.50) IN DISPOSABLE
EARNINGS, OR 10% OF GROSS *EARNINGS*.

(c) 40 TIMES FEDERAL MINIMUM
WAGE (\$290.00)

THE LESSER OF: 25% OF DISPOSABLE
EARNINGS, OR 10% OF GROSS *EARNINGS*.

III. NOTICE: YOU MAY BE ABLE TO CHALLENGE THIS INCOME EXECUTION THROUGH THE PROCEDURES PROVIDED IN CPLR §5231(I) AND CPLR §5240

IF YOU THINK THAT THE AMOUNT OF YOUR *INCOME* BEING DEDUCTED UNDER THIS INCOME EXECUTION EXCEEDS THE AMOUNT PERMITTED BY STATE OR FEDERAL LAW, YOU SHOULD ACT PROMPTLY BECAUSE THE MONEY WILL BE APPLIED TO THE JUDGMENT. IF YOU CLAIM THAT THE AMOUNT OF YOUR *INCOME* BEING DEDUCTED UNDER THIS INCOME EXECUTION EXCEEDS THE AMOUNT PERMITTED BY STATE OR FEDERAL LAW, YOU SHOULD CONTACT YOUR EMPLOYER OR OTHER PERSON PAYING YOUR *INCOME*. FURTHER YOU MAY CONSULT AN ATTORNEY, INCLUDING LEGAL AID IF YOU QUALIFY. NEW YORK STATE LAW PROVIDES TWO PROCEDURES THROUGH WHICH AN INCOME EXECUTION CAN BE CHALLENGED.

CPLR §5231(I) MODIFICATION. AT ANY TIME, THE JUDGMENT DEBTOR MAY MAKE A MOTION TO A COURT FOR AN ORDER MODIFYING AN INCOME EXECUTION.

CPLR §5240 MODIFICATION OR PROTECTIVE ORDER: SUPERVISION OF ENFORCEMENT. AT ANY TIME, THE JUDGMENT DEBTOR MAY MAKE A MOTION TO A COURT FOR AN ORDER DENYING, LIMITING, CONDITIONING, REGULATING, EXTENDING OR MODIFYING THE USE OF ANY POST-JUDGMENT ENFORCEMENT PROCEDURE, INCLUDING THE USE OF INCOME EXECUTIONS.