## STATE OF NEW YORK

COUNTY OF : SUPREME COURT

Plaintiff-Judgment-Creditor,

**INCOME EXECUTION** 

VS.

Original Index No.

Defendant(s)-Judgment-Debtor(s).

**ASSIGNED JUDGE:** 

Hon.

RE:

**EMPLOYER:** 



WHEREAS, in the above-captioned action between the parties listed above, a Judgment was entered in in favor of said Judgment-Creditor and against said 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 .

The Judgment Debtor is receiving or will receive gross income/disposable earnings in excess of \$217.50 per week pay period from his(her) employer. **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 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 the same shall become a lien and continuing levy upon such wages, salary 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 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 who will deduct these payments

from your gross wages and earnings. Payments need not be made unless your disposable earnings exceed the amount exempt under State and Federal Law.

# TO: **EMPLOYER:**

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 and earnings of the Judgment Debtor until the amount of this Execution, plus interest at a rate of 3/4% on the unpaid balance each month, is fully paid. If Judgment Debtor is not in your employ or leaves, 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.). \*(\$7.25 per hour effective July 24, 2009).

IF EMPLOYEE IS TERMINATED you must hold Execution for 90 days. If employee is rehired within the 90-day period, deductions must begin again.

Dated:	
	Attorney for Judgment-Creditor

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# 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 (\$7.25 PER HOUR), OR \$217.50, 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 (3) TIMES THE GREATER OF THE CURRENT FEDERAL OR STATE MIMUM HOURLY WAGE (\$7.25 PER HOUR), OR \$217.50, 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 JUDGMENT DEBTOR'S EARNINGS UNDER ANY ORDERS FOR JUDONY, SUPPORT OR MAINTENANCE FOR FAMILY MEMBERS OR FORMER POURS, AND THOSE DEDUCTIONS ARE LESS THAN TWENTY-FIVE PERCENT (25%) OF THE JUDGMENT DEBTOR'S DISPOSABLE EARNINGS, DEDUCTION MAY BE MADE FROM THE JUDGMENT DEBTOR'S EARNINGS UNDER HIS IN OME EXECUTION. HOWEVER, THE AMOUNT ARRIVED AT BY ADDING THE DUCLIONS FROM EARNINGS MADE UNDER THIS EXECUTION TO DEDUCTIONS MADE FROM EARNINGS UNDER ANY ORDERS FOR ALIMONY, SUPPORT OR MAINTENANCE FOR FAMILY MEMBERS OR FORMER SPOUSES CANNOT EXCLED THE STORY 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(I), \$2,500.00 of an account containing direct deposit or electronic payments reasonably identifiable as statutorily exempt payments, as defined in CPLR 5205(I)(2), is exempt from execution and that the garnishee cannot levy upon or restrain \$2,500.00 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:

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

- (a) 30 TIMES GREATER OF FEDERAL OR STATE MINIMUM WAGE (\$217.50) OR LESS
  - NO PAYMENT OR DEDUCTION ALLOWED
- (b) MORE THAN 30 TIMES GREATER OF FEDERAL OR STATE MINIMUM WAGE (\$217.50) AND LESS THAN 40 TIMES FEDERAL MINIMUM WAGE (\$290.00)
- THE LESSER OF: THE EXCESS OVER 30 TIMES THE GREATER OF FEDERAL OF STATE MINIMUM W. GE (\$217 50) IN DISPOSABLE EARNINGS, OR 10% OF GROSS E RNINGS.
- (c) 40 TIMES FEDERAL MINIMUM WAGE (\$290.00)
- THE LESSER OF: 25% OF DISPOSABLE EARNINGS OF 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 MOME BEING DEDUCTED UNDER THIS INCOME EXECUTION EXCEELS THE AMOUNT PLANITTED BY STATE OR FEDERAL LAW, YOU SHOULD ACT PROMPTLY BE AUSE THE MONEY WILL BE APPLIED TO THE JUDGMENT. IF YOU CLAIM THAT THE MOUNT OF YOUR INCOME BEING DEDUCTED UNDER THIS INCOME EXECUTION EXCEEDS THE MOUNT PERMITTED BY STATE OR FEDERAL LAW, YOU SHOULD CONTACT TO REMFLOYER OR OTHER PERSON PAYING YOUR INCOME. FUFTHER YOU MAY CONSULT A ATTORNEY, INCLUDING LEGAL AID IF YOU QUALIFY. NEW YOR 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.

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