

4-807. Answer by garnishee.

[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,

Garnishee

ANSWER BY GARNISHEE

In answer to the writ of garnishment, garnishee states:
(Complete only applicable parts of this form.)

1. Wages

I do not employ the judgment debtor or pay the judgment debtor any wages.

~~The judgment debtor was my employee but is not any longer. Judgment debtor's employment was ended _____, _____, before I was served with the writ of garnishment.~~

~~I pay the judgment debtor \$ _____ (per week) (per hour) (per _____) as wages.~~

_____ GROSS WAGES per pay period	\$ _____
_____ Federal income tax	\$ _____
_____ F.I.C.A.	\$ _____
_____ State income tax	\$ _____
_____ Other deduction required by law	\$ _____
_____ NET WAGES per pay period	\$ _____
_____ 75% of net wages per pay period	\$ _____

~~_____ 40 times weekly federal minimum wage for each week in pay period _____ \$ _____]~~

~~The judgment debtor was my employee but the employment ended _____.~~

~~Calculated on a weekly basis, I pay the judgment debtor \$ _____~~

as NET WAGES (*see definition below*). I pay the judgment debtor [weekly] [every other week] [twice a month] [monthly].

NET WAGES equal GROSS WAGES less Federal income tax, F.I.C.A., State income tax, and other deductions required by law. They do not include voluntary deductions.

75% of judgment debtor's NET WAGES per week is \$ _____

40 times hourly federal minimum wage per week is \$ _____

2. **Money other than wages**

I do not now owe the judgment debtor any money.

I owe the judgment debtor \$ _____.

I did not owe the judgment debtor any money at the time of the service of the writ of garnishment; however, between the date of the service of the writ of garnishment and the date of filing this answer the sum of \$ _____ belonging to the judgment debtor came into my possession.—

— On the date of this answer I do not now owe the judgment debtor any money.]

3. **Property other than money**

I have no property of the judgment debtor in my possession and have not received any since receiving the writ of garnishment.

I have in my possession the following property that belongs to the judgment debtor:

<i>(description)</i>	<i>(approximate value)</i>
_____	\$ _____
_____	\$ _____

~~4. **Wage withholding**~~

~~(check and complete all applicable alternatives)~~

~~I am presently withholding _____% of the judgment debtor's net disposable earnings pursuant to the Support Enforcement Act. (Attach a copy of order and file it with this answer.)~~

~~I have been served with other writs or orders to withhold wages of the above judgment debtor that have not been satisfied. (If you have been served with other writs of garnishment or court orders to withhold wages of the above judgment debtor, attach and file a copy of each writ or order with this answer.)~~

~~The percent of the judgment debtor employee's net disposable earnings I am presently withholding for all garnishment proceedings is _____% of the debtor's net disposable earnings.—~~

5. ~~**Money other than wages**~~

~~I have been served with other writs or orders to withhold money owed to the above judgment debtor that have not yet been satisfied. (*Attach a copy of each order and file it with this answer.*)~~

4. **Prior Garnishments and/or Support Enforcement Orders**

I am withholding judgment debtor's NET WAGES due to other writs or orders to withhold wages. (*If you have been served with other writs of garnishment or court orders to withhold wages of the above judgment debtor, you must attach and file a copy of each writ or order with this answer.*)

~~6. **Service requirements compliance**~~

~~I have sent the following papers which have been provided to me by the judgment creditor to the judgment debtor:—~~

~~**if wages withheld:** a copy of the application for a writ of garnishment; the writ of garnishment; and a copy of this answer have been mailed to each judgment debtor.—~~

~~**if money or property other than wages withheld:** a copy of the application for a writ of garnishment; the writ of garnishment; a notice of right to claim exemptions; a claim of exemption form and a copy of this answer have been mailed to each judgment debtor.—~~

~~I am not aware of the location or address of the judgment debtor and therefore am unable to serve the notices set forth in this paragraph.—~~

~~A copy of this answer has been mailed or delivered to the judgment creditor.]~~

5. **Service requirements to judgment debtor**

I have sent the following papers which have been provided to me by the judgment creditor to the judgment debtor, or if the judgment debtor has an attorney, to the judgment debtor's attorney:

If wages withheld: a copy of the application for a writ of garnishment; the writ of garnishment; and a copy of this answer have been mailed to each judgment debtor.

If money or property other than wages withheld: a copy of the application for a writ of garnishment; the writ of garnishment; a notice of right to claim exemptions; a claim of exemption form; and a copy of this answer have been mailed to each judgment debtor.

I am not aware of the location or address of the judgment debtor and therefore am unable to serve the notices set forth in this paragraph.

6. **Service requirements to judgment creditor**

A copy of this answer has been mailed or delivered to the judgment creditor, or if the judgment creditor has an attorney, to the judgment creditor's attorney.

7. **Attorney fees**

[] The garnishee has incurred \$ _____ in attorney fees in preparing this answer.

[The undersigned, the named garnishee or an officer, partner or authorized representative of the named garnishee verifies that the foregoing answer by garnishee is true to the best of garnishee's knowledge and belief, that the undersigned is the custodian of the records upon which the answer is based and that the answer is true and correct based upon these records.] The undersigned verifies under penalty of perjury that the above foregoing answer by garnishee is true to the best of the garnishee's knowledge and belief.

Signature of garnishee or attorney

Printed name of person signing

Address

City, state, and zip code (*print*)

Telephone number

Subscribed and sworn to before
me this _____ day of _____
_____, _____

Judge, notary, or other officer
authorized to administer oaths

[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.]

USE NOTE

See *Jemko v. Liaghat*, 106 N.M. 50, 52, 738 P.2d 922, 925 (Ct. App. 1987) (providing that a judgment creditor, acting pursuant to a writ of garnishment, may only seize property belonging to the judgment debtor); *Alcantar v. Sanchez*, 2011-NMCA-073, 150 N.M. 146, 257 P.3d 966 (discussing garnishment procedures in the case of joint bank accounts).

[Adopted by Supreme Court Order No. 12-8300-030, effective for all cases filed or pending on or after January 7, 2013.]