

You've been served with a writ of garnishment— what now?

by Jodi R. Bohr
Tiffany & Bosco, P.A.

It's happened. You've received a writ of garnishment and summons directing you to garnish the wages of an employee. As the entity garnishing the judgment debtor's (aka the employee's) wages, you are responsible for navigating the process without error, or you risk liability for monetary penalties up to the full amount of the judgment.

Garnishment procedures, which are governed by Arizona law, are extremely complicated. While azcourts.gov offers a 92-page informational booklet, the guidance merely demonstrates how complicated the process is—it doesn't necessarily eliminate the risk of error. That's why the official state court website issues the following warning: "ALL PARTIES TO A GARNISHMENT ARE STRONGLY URGED TO OBTAIN LEGAL ADVICE FROM AN ATTORNEY."

What is a garnishment?

A garnishment is a legal process by which one party (the judgment creditor) may collect money from another (the judgment debtor) after a monetary judgment has been entered. A garnishment becomes necessary if the judgment debtor fails to pay voluntarily. Once that happens, the judgment creditor can use certain financial or employment information to initiate garnishment proceedings.

Garnishments may be collected from earnings (e.g., wages, commissions, and bonuses) or from other sources (e.g., money or property owed to the judgment debtor that's in the possession of another, such as a bank account). An Arizona garnishment proceeding may only be used to collect money or property in Arizona.

What are our obligations as the garnishee?

An employer responsible for garnishing the wages of a judgment debtor is known as a garnishee. As the garnishee, you must review the writ of garnishment and summons, determine the identity and employment status of the judgment debtor, and determine whether he has any other existing garnishments.

Once you have gathered that information, you must complete the garnishee's answer and file it with the court clerk within 10 business days of being served with the writ of garnishment. Failure to comply may result in an order being entered against your company for the full amount of the debt owed by the judgment debtor, even if you don't owe him any earnings. Trust me—it happens.

What if we don't employ the judgment debtor?

You must still file a garnishee's answer even if you don't employ the judgment debtor. You should complete the garnishee's answer, explaining that you do not owe the judgment debtor wages, you don't expect to owe her wages within 60 days, and you are entitled to be released from the garnishment. Once you file the garnishee's answer with that information, you will not need to do anything further unless one of the other parties objects to your answer.

What if the judgment debtor is a current employee?

If you do owe or will owe earnings to the judgment debtor, you must immediately begin withholding nonexempt earnings from his pay. You must also complete the garnishee's answer and file it with the

court clerk *within 10 business days* of being served with the writ of garnishment.

Within 10 business days of receiving the writ of garnishment, you must give the employee a copy of the garnishee's answer and other documents that provide him the various notices related to the garnishment. In addition, you must provide a copy of the garnishee's answer to the judgment creditor.

Tune in for part 2

This column addresses the initial steps employers must take upon receiving a writ of garnishment. If the judgment creditor is a current employee, you are required to take follow-up steps, such as completing a nonexempt earnings statement, determining when to release the funds to the judgment creditor, and knowing when to stop the garnishment. We will provide that information in our August "Work on It" column. Stay tuned for guidance on how to ease the burden of processing a garnishment you will inevitably receive.

Jodi R. Bohr is an attorney with Tiffany & Bosco, P.A. and a contributor to Arizona Employment Law Letter. She practices employment and labor law, with an emphasis on litigation, class actions, and HR matters, and is a frequent speaker on a wide range of employment law topics. She may be reached at jrb@tblaw.com or 602-255-6082.