

STATE OF INDIANA)
) SS:
COUNTY OF TIPTON)

IN THE CIRCUIT COURT OF TIPTON COUNTY
SMALL CLAIMS COURT
CAUSE NO.: 80C01- -SC-

Plaintiff,

vs.

Judgment Defendant,

Garnishee Defendant,

FINAL ORDER IN

GARNISHMENT ON WAGES,

COMMISSIONS AND INCOME

Comes now the following parties: Plaintiff, by counsel; Judgment Defendant (in person) (by counsel) (fails to appear); and Garnishee Defendant by submission of Answers to Interrogatories; and pursuant to the Summons and Order to Answer Interrogatories, Notice of Hearing and Interrogatories heretofore issued by this Court and served on Garnishee Defendant and pursuant to Plaintiff's Verified Petition for Proceedings Supplemental heretofore filed and the Order to Appear served on Judgment Defendant, and the Court having heard evidence at a Proceedings Supplemental hearing and being duly advised, finds that the Court's personal jurisdiction over the Judgment Defendant is continuing jurisdiction based on proper service of the Verified Petition and the Court's personal jurisdiction over Garnishee Defendant is based on the Garnishee Defendant's filing responses to interrogatories without objecting to the jurisdiction of the Court. The Court finds that it has subject matter jurisdiction based on having entered the Judgment which is the basis for the Proceedings Supplemental and collection of the Judgment has not been stayed.

The Court further finds that the Plaintiff has an unsatisfied Judgment against the Judgment Defendant with a balance due of \$ _____, which includes court costs and post judgment interest at the rate of 8% per annum from and after _____, and that the Plaintiff is entitled to recover from the earnings of the Judgment Defendant (Employee) the amount required to satisfy the Judgment, plus said interest and costs above, until said amounts are fully paid. Costs \$ _____.

The Court further finds that the Judgment Defendant is entitled to the resident householder exemption provided by IC 34-2-28-1.

IT IS ORDERED that the Tipton County Sheriff levy on the income due or to become due to Judgment Defendant (Employee) from the Garnishee Defendant (Employer). Garnishee Defendant (Employer) is therefore **ORDERED** to pay the Clerk at least monthly:

A. All non-disposable net-earnings/net-income in their entirety (including but not limited to severance payments), without reference to the limitations imposed upon the retention of disposable earnings in Paragraph B below, and

IND. CODE 24-4.5-5-105 provides in part as follows:

- (1) (a) "Disposable earnings" means that part of the earnings of an individual, including wages, commissions, income, rents or profits remaining after the deduction from those earnings of amounts required by law to be withheld;
 - (b) "Garnishment" means any legal or equitable proceedings through which the earnings of an individual are required to be withheld by garnishee, by the individual debtor, or by any other person for the payment of a judgment; and
 - (c) "Support Withholding" means that part of the earnings that are withheld from an individual for child support in accordance with the laws of this state.
- (2) Except as provided in subsection (8), the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment to enforce the payment of one (1) or more judgments against him may not exceed:
- (a) Twenty-five percent (25%) of his disposable earnings for that week; or
 - (b) The amount by which his disposable earnings for that week exceed thirty (30) times the federal minimum hourly wage prescribed by 29 U.S.C. 206(a)(1) in effect at the time the earnings are payable;

whichever is less. In the case of earnings for a pay period other than a week, the earnings shall be computed upon a multiple of the federal minimum hourly wage equivalent to thirty (30) times the federal minimum hourly wage as prescribed in this section.

- (3) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment or support withholding to enforce any order for the support of any person shall not exceed:
- (a) Where such individual is supporting his spouse or dependent child (other than a spouse or child with respect to whose support such order is used), fifty percent (50%) of such individual's disposable earnings for that week; and
 - (b) Where such individual is not supporting such spouse or dependent child described in subsection (a), sixty percent (60%) of such individual's disposable earnings for that week; except that, with respect to the disposable earnings of any individual for any workweek, the fifty percent (50%) specified in subsection (a) shall be deemed to be fifty-five percent (55%) and the sixty percent (60%) specified in subsection (b) shall be deemed to be sixty-five percent (65%), if and to the extent that such earnings are subject to garnishment or support withholding to enforce a support order with respect to a period which is prior to the twelve (12) week period which ends with the beginning of such workweek.

- (5) An employer who is required to make deductions from an individual's disposable earnings pursuant to a garnishment order or series of orders arising out of the same judgment debt.

(excluding a judgment for payment of child support) may collect, as a fee to compensate the employer for making these deductions, an amount equal to the greater of twelve dollars (\$12.00) or three percent (3%) of the total amount required to be deducted by the garnishment order or series of orders arising out of the same judgment debt. If the employer chooses to impose a fee, the fee shall be allocated as follows:

- (a) One-half (1/2) of the fee shall be borne by the debtor, and that amount may be deducted by the employer directly from the employee's disposable earnings.
- (b) One-half (1/2) of the fee shall be borne by the creditor, and that amount may be retained by the employer from the amount otherwise due the creditor.

The deductions made under this subsection for a collection fee do not increase the amount of the judgment debt for which the fee is collected for the purpose of calculating or collecting judgment interest. This fee may be collected by an employer only once for each garnishment order or series of orders arising out of the same judgment debt. The employer may collect the entire fee from one (1) or more of the initial deductions from the employee's disposable earnings. Alternatively, the employer may collect the fee ratably over the number of pay periods during which deductions from the employee's disposable earnings are required.

(8) A support withholding order takes priority over a garnishment order irrespective of their dates of entry or activation. If a person is subject to a support withholding order and a garnishment order, the garnishment order shall be honored only to the extent that disposable earnings withheld under the support withholding order do not exceed the maximum amount subject to garnishment as computed under subsection (2).

B. The lesser of:

1) 25% of Judgment Defendants (Employee's) disposable earnings (defined as: total wages, commissions and income less Federal Income Tax, Federal Social Security Tax, Indiana Adjusted Gross Income Tax, and Applicable County Option Tax);

2) All amounts of Judgment Defendant's (Employee's) disposable earnings in excess of \$154.50 per week, pursuant to IC 24-4.5-5-105(2).

Garnishee Defendant (Employer) shall indicate upon all Garnishment Deduction Checks: (1) the Judgment Defendant's (Employee's) name; and (2) The Court Cause Number.

Income subject to garnishment in paragraphs A and B above includes all of Garnishee Defendant's contributions to any deferred income plan.

Garnishment Deductions shall continue until the Judgment, with the unpaid balance of \$ _____, plus interest and costs, is fully paid. Inquiries as to interest and costs should be directed to the attorney for Plaintiff, listed below. Costs \$ _____.

A support withholding order takes priority over this order irrespective of their dates of entry or activation. If Judgment Defendant (Employee) is subject to a support withholding order and this garnishment order, this garnishment order shall be honored only to the extent that disposable earnings withheld under the support withholding order do not exceed the maximum amount subject to garnishment as computed under paragraph B above.

This garnishment order is also subject to the provisions of 15 U.S.C. 1671 *et seq.* and if federal law and state law differ, federal law will prevail.

A copy of the relevant garnishment provisions of IC 24-4.5-5-105 accompanies this Order.

This Order shall be effective only after all prior Final Order Orders have been fully satisfied, and only one Order in Garnishment will be carried out by Garnishee Defendant (Employer) at one time.

Failure to comply with this Order may result in punishment for Contempt of Court.

DATED: _____

Inquiries should be made in writing to:

(Name of Attorney for Plaintiff)

(Address)

(City, State, Zip)

(Telephone)

JUDGE, SMALL CLAIMS COURT
of TIPTON County, Room No. _____

SEND PAYMENTS TO:
CLERK OF TIPTON COUNTY

TIPTON COUNTY COURTHOUSE

TIPTON, IN 46072

SHERIFF'S RETURN ON SERVICE OF FINAL ORDER

I hereby certify that I have served this final order on the _____ day of _____, 1998

(1) By delivering a copy of this Final Order In Garnishment On Wages, Commissions And Income to the garnishee defendant,

(2) By leaving a copy of this Final Order In Garnishment On Wages, Commissions And Income at
_____ which is the dwelling place or usual place of abode of
_____ and by mailing a copy of said Final Order In Garnishment On Wages,
Commissions And Income to said garnishee defendant at the above address.

(3) Other Service or Remarks: _____

Sheriff's Costs

Sheriff

By: _____

Deputy

CLERK'S CERTIFICATE OF MAILING

I hereby certify that on the _____ day of _____, 1998 I mailed a copy of this Final Order In Garnishment
On Wages, Commissions And Income to the garnishee defendant, _____
by _____ mail, requesting a return receipt, at the address furnished by the plaintiff.

Dated

Clerk, _____ Court

By: _____

Deputy

RETURN ON SERVICE OF FINAL ORDER BY MAIL

I hereby certify that the attached return receipt was received by me showing that this Final Order In Garnishment On Wages,
Commissions And Income mailed to garnishee defendant, _____
was accepted by garnishee defendant on the _____ day of _____, 1998.

I hereby certify that the attached return receipt was received by me showing that this Final Order In Garnishment On Wages,
Commissions And Income was returned not accepted on the _____ day of _____, 1998.

I hereby certify that the attached return receipt was received by my showing that this Final Order In Garnishment On Wages,
Commissions And Income mailed to garnishee defendant, _____
was accepted by _____ on behalf of said garnishee defendant on the _____
day of _____, 1998.

Dated

Clerk, _____ Court

By: _____

Deputy