
FREQUENTLY ASKED QUESTIONS FOR KANSAS GARNISHEES

Q. What is a "judgment?"

A "judgment" is a written decision by a Judge regarding the rights and liabilities of the parties in a lawsuit. A judgment also generally provides the Court's explanation of why it has chosen to make a particular decision.

Q. What is a "judgment creditor?"

A "judgment creditor" (plaintiff) is the person who is *owed* money in a judgment and is entitled to enforcement of that judgment through a garnishment.

Q. What is a "garnishor?"

A "garnishor" (plaintiff) is another name for the person who is *owed* money in a judgment and is entitled to enforcement of that judgment through a garnishment.

Q. What is a "judgment debtor?"

A "judgment debtor" (defendant) is the person who *owes* money in a judgment.

Q. What is a "garnishee?"

The "garnishee" is the person / entity that is in possession of money or property of the judgment debtor (defendant). You are the garnishee.

Q. What is a "garnishment?"

A "garnishment" is a court order directing that money or property in the possession of a garnishee (you) be seized to satisfy a debt owed by a judgment debtor (defendant) to a judgment creditor (plaintiff).

Q. What are "interrogatories?"

The "interrogatories" are the written questions attached to a garnishment that the garnishee (you) are required to answer under oath.

Q. When are interrogatories due?

In the case of a wage garnishment, the interrogatories are due 30 days after the date on which the garnishee (you) have been served with the garnishment. In the case of a bank garnishment, the interrogatories are due 10 days after the return date stated on the garnishment.

The garnishee (you) are required to send the completed and signed interrogatories and the money to Anderson & Associates at 4800 Rainbow Boulevard, Ste. 200, Westwood, KS 66205. Do **not** send a copy of the interrogatories to the Court. Also, do **not** send money to the Court.

What is a "wage garnishment?"

A "wage garnishment" is a court order directing a garnishee (you) to seize a judgment debtor's (defendant) wages to satisfy a debt owed to a judgment creditor (plaintiff). Wage garnishments are continuous which means they remain in effect until the judgment is paid in full or the employment relationship is terminated, whichever occurs first.

Q. How much money should be withheld on a wage garnishment?

The law sets the maximum amount that may be garnished in a pay period, regardless of the number of garnishment orders received by an employer. The amount that should be garnished is limited to the lesser of (1) 25.00% of the employee's disposable earnings (what is left after mandatory deductions) or (2) the amount by which the employee's weekly wages exceed 30 times the minimum wage (currently \$7.25 an hour in Kansas).

For illustration, please consult the chart below, as it applies to Kansas wages.

<u>Employee paid weekly</u>		<u>Employee paid every two weeks</u>	
Disposable Earnings:	Withhold:	Disposable Earnings:	Withhold:
Less than 217.51	\$0.00	Less than 435.01	\$0.00
\$217.51 to 290.00	all over \$217.50	\$435.01 to 580.00	all over \$435.00
\$290.01 and over	25% of total disposable earnings	\$580.01 and over	25% of total disposable earnings
<u>Employee paid semimonthly (twice per month)</u>		<u>Employee paid monthly</u>	
Disposable earnings:	Withhold:	Disposable earnings:	Withhold:
Less than 471.26	\$0.00	Less than 942.51	\$0.00
\$471.26 to 628.33	all over \$471.25	\$942.51 to 1256.67	all over \$942.50
\$628.34 and over	25% of total disposable earnings	\$1256.68 and over	25% of total disposable earnings

Q. What is a "bank garnishment?"

A "bank garnishment" is a court order directing a garnishee (you) to seize all money held in a judgment debtor's (defendant) bank account to pay the garnishment.

Q. How much money should be withheld on a bank garnishment?

The total amount of the garnishment should be seized. If there are not enough funds to pay the garnishment in full, the entire balance of the bank account should be seized.

Q. What if there is already a garnishment in place on this debtor?

If you are already garnishing the judgment debtor (defendant) for another case, under number 15 on the interrogatories, list all garnishments that are currently in place or in line. You may also mail a letter stating there are previous garnishments in place to Anderson & Associates at 4800 Rainbow Boulevard, Ste. 200, Westwood, KS 66205 or e-mail the information to collect@mokslaw.com. If the plaintiff is

not notified of the reason behind the failure to submit funds, then the Plaintiff may file a Motion to Compel. The garnishee (you) must withhold pursuant to the garnishment after all previous garnishments have been paid in full. The garnishment does not expire.

Q. What is a "motion"?

A “motion” is a written request made to the Court to obtain an order directing a party to do something.

Q. What is a "motion to compel"?

A “motion to compel” is a motion filed by the judgment creditor (plaintiff) requesting an order directing the garnishee (you) to comply with the instructions on a garnishment. This motion may be filed if a garnishee (you) failed to answer the interrogatories and/or account for why the garnishee (you) has or has not withheld money per a garnishment.

Q. What are "sanctions"?

“Sanctions” are a monetary penalty that may be imposed on the garnishee (you) for failure to comply with the instructions on a garnishment.

Q. What is a "judgment against garnishee"?

If the garnishee (you) fail to comply with the instructions on a garnishment and fail to answer the judgment creditor's (plaintiff) motion to compel, the Court may enter a judgment against the garnishee (you) for the amount due under the judgment debtor's (defendant) judgment. In essence, the garnishee (you) now step into the shoes of the judgment debtor (defendant) and become the party that *owes* money to the judgment creditor (plaintiff).

Q. What do I do if a judgment has been entered against me (the garnishee)?

If a judgment has been entered against the garnishee (you), this means that the garnishee (you) failed to comply with the Court's orders (see above). If (1) the judgment debtor (defendant) did not work for the garnishee (you) or (2) did not have any money at the garnishee's (your) bank at the time it was served with the garnishment or (3) the garnishee (you) were not required to withhold any money then the garnishee (you) must immediately answer the interrogatories accordingly. In the case of (1) - (3) above, Anderson & Associates will set aside the judgment upon payment of the \$500.00 sanction. If funds should have been withheld but were not, Anderson & Associates will set aside the judgment upon receipt of the completed interrogatories (indicating the amount of payments that should have been withheld), payment of the \$500.00 sanction, and payment of the amount that *should have been withheld* under the garnishment. The garnishee will also need to begin withholding regularly from the debtor (defendant) going forward.

Q. What is a "motion to set aside judgment"?

A “motion to set aside judgment” is a motion filed by the judgment creditor (plaintiff) requesting an order to undo a court judgment that has been previously entered.

Q. What do I do if the employee quits or is terminated?

If an employee quits or is terminated, the garnishee (you) needs to file amended answers to the interrogatories notifying the Court and Anderson & Associates of the termination date. Both the Court's address and the law firm's address are located on the interrogatories form. Even if the employee is only taking a leave of absence (illness, maternity leave, etc.), any change of employment status should be sent to Anderson & Associates via updated interrogatories to explain why payments may cease.

Q. What is a "satisfaction of judgment?"

Once a judgment is paid in full, the judgment creditor (plaintiff) must acknowledge that the judgment has been paid by filing a "satisfaction of judgment" with the court and mailing a copy to the garnishee (you). The garnishee (you) should immediately stop withholding money upon receipt of this document.