

INSTRUCTIONS:

WHAT DO I DO IF THE PLAINTIFF HAS FILED A MOTION FOR HEARING ON MY AFFIDAVIT OF EXEMPTION?

If the judgment creditor does not dispute your claim of exemption, the sheriff/constable must return your property to you six (6) days after you file your “Affidavit Claiming Exemption from Execution.”

If the judgment creditor disputes your claim of exemption – for example, if your car was taken and you claim the car is worth less than \$15,000, but the creditor claims the car is worth more – the judgment creditor can request a court hearing. The hearing will generally occur within ten (10) days after you file and serve your exemption affidavit.

- ☐ You must attend the hearing. Be sure to arrive early. If your case is called and you aren’t there, the judge may rule in favor of the plaintiff.
- ☐ Bring proof that your property and/or money is exempt. You may need to provide such things as receipts, bills of sale, Kelley Blue Books, assessor’s statements, vehicle registration renewals, or whatever else is necessary to prove your claim. If your bank account was garnished, you may want to bring six months of bank statements. If you receive Social Security or other public benefit, bring your award letter.
- ☐ Before the hearing, complete the attached “Order Regarding Exemption” and bring it to the hearing.
 - ☐ On page 1 of the Order, complete your name (line 1), address (lines 2 and 3), and telephone number (line 4).
 - ☐ On page 1, line 7, select the Justice Court in which your case is pending.
 - ☐ On page 1, lines 9 to 14, complete the case caption: plaintiff’s name, defendant’s name, case number, and department number.
 - ☐ On page 1, line 15 to 16, enter the date the hearing is taking place.
 - ☐ On page 1, line 17, enter the name of the law firm representing plaintiff.
- ☐ At the conclusion of the hearing, ask the judge if he or she will complete and sign the Order. If the judge agrees, wait for the bailiff to take your Order to the judge, or ask the judge for permission “to approach the bench” and hand the judge your Order. It’s important that you remember to get the Order signed by the judge at the hearing if possible. The sheriff or constable may not be willing to release your money or property unless you can provide an order, signed by the judge and filed with the court, directing the return of your money or property to you.

This document has been prepared as a courtesy and to assist you with completing the attached forms. It is not to be construed as providing legal advice or representation on how to prepare your case or defense.

- ☐ Once the Order has been signed by the judge, you must complete the attached "Notice of Entry of Order."
 - ☐ On page 1 of the Notice, complete your name (line 1), address (lines 2 and 3), and telephone number (line 4).
 - ☐ On page 1, line 7, select the Justice Court in which your case is pending.
 - ☐ On page 1, lines 9 to 14, complete the case caption: plaintiff's name, defendant's name, case number, and department number.
 - ☐ On page 1, line 15 to 16, enter the date the hearing took place.
 - ☐ Date and sign your Notice on page 1, lines 17 to 20.
 - ☐ Page 2 of the Notice contains the Certificate of Mailing. On line 2, enter the date that you're sending the Notice to plaintiff's attorney, and enter the name and address for plaintiff's attorney on lines 5 to 8. Sign the Certificate of Mailing on line 11.
- ☐ Make four (4) copies of the Order and Notice of Entry of Order.
- ☐ File your Order and Notice of Entry of Order with the clerk of the Justice Court.
- ☐ Mail a copy of the Notice of Entry of Order (with a copy of the Order attached) to plaintiff's attorney (on the date reflected on the Certificate of Mailing, line 2).
- ☐ Take a copy of the Notice of Entry of Order (with a copy of the Order attached) to the sheriff or constable that is handling the execution on your money or property.

HEARING AND ORDER CHECKLIST

- ☐ **Attended the hearing**
- ☐ **Asked judge to sign Order, and obtained signed Order**
- ☐ **Completed Notice of Entry of Order (and Certificate of Mailing)**
- ☐ **Made four (4) copies of signed Order and Notice of Entry of Order**
- ☐ **Filed Order and Notice of Entry of Order with Justice Court clerk**
- ☐ **Mailed copy of Notice of Entry of Order (with Order attached) to plaintiff's attorney (on the date indicated on the Certificate of Mailing)**
- ☐ **Delivered copy of Notice of Entry of Order (with Order attached) to sheriff or constable**

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