

GARNISHMENT SUMMONS (revised 10/09)

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA

Case No: 7:23-cv-00524-MFU

Case Name: Western Surety Company v. James C. Justice, II, et al.

Western Surety Company, 151 N. Franklin Street, Chicago, IL 60606
(Name and street address of judgment creditor)

James C. Justice, II, 208 Dwyer Lane, Lewisburg, WV 24901, xxx-xx-0039
(Name, street address and last four digits of the social security number of judgment debtor)

EQ Shareowner Services (aka Equiniti), 1110 Centre Point Curve, Suite 101, Mendota Heights, MN 55120, x-1885
(Name and street address of garnishee, last four digits of the bank account number, if applicable)

Hearing Date and Time: March 28, 2025 at 10:00 a. m.
Date of Judgment: June 13, 2024

MAXIMUM PORTION OF DISPOSABLE EARNINGS SUBJECT TO GARNISHMENT <u> </u> SUPPORT 50% <u> </u> 55% <u> </u> 60% <u> </u> 65% (if not specified, then 50%) <u> </u> STATE OR FEDERAL TAXES 100% IF NONE OF THE ABOVE ARE CHECKED THEN SEC. 34-29(a) & 15 USC 1673 APPLIES	JUDGMENT PRINCIPAL: \$ <u>3,179,383.83</u> CREDITS: \$ <u>0.00</u> INTEREST: \$ <u>101,396.69</u> JUDGMENT COSTS: \$ <u>0.00</u> ATTORNEYS' FEES: \$ <u>0.00</u> GARNISHMENT COSTS: \$ <u>0.00</u> TOTAL BALANCE DUE: \$ <u>3,271,780.52</u> (The garnishee shall rely on this amount)
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TO THE MARSHAL OF THE WESTERN DISTRICT OF VIRGINIA OR AN AUTHORIZED OFFICER: You are hereby commanded to serve this summons on the judgment debtor and the garnishee.

TO THE GARNISHEE: You are hereby commanded to (1) file a written answer with this court, or (2) deliver payment to this court (checks to be made payable to judgment creditor) and mailed to the Clerk, U.S. District Court, 116 North Main St., Room 314, Harrisonburg, VA 22802 or (3) appear before the U.S. District Court, 116 North Main St. Harrisonburg, Virginia 22802 on the hearing date and time shown on this summons to answer the Suggestion for Summons in Garnishment of the judgment creditor that, by reason of the lien of the writ of execution, there is a liability as shown in the statement upon the garnishee.

As garnishee, you shall withhold from the judgment debtor any sums of money to which the judgment debtor is or may be entitled from you during the period between the date of service of this summons on you and the date for your appearance in court, subject to the following limitations: (1) The maximum amount which may be garnished is the "TOTAL BALANCE DUE" as shown on this summons. (2) If the sums of money being garnished are earnings of the judgment debtor, then the provision of "MAXIMUM PORTION OF DISPOSABLE EARNINGS SUBJECT TO GARNISHMENT" shall apply.

If a garnishment summons is served on an employer having one thousand or more employees, then money

to which the judgment debtor is or may be entitled from his or her employer shall be considered those wages, salaries, commission or other earnings which, following service on the garnishee-employer, are determined and are payable to the judgment debtor under the garnishee-employer's normal payroll procedure with a reasonable time allowance for making a timely return by mail to this court.

DATE OF ISSUANCE: 1/28/2025

Laura A. Austin, Clerk of Court

Marguerite Lee DeVoll, Watt, Tieder, Hoffar & Fitzgerald, LLP
1765 Greensboro Station Place, Ste. 1000, McLean, VA
22102 703.749.1046



s/ Robin Bordwine
Deputy Clerk

Name, address & telephone no.
of Judgment Creditor's Attorney

Virginia Code Section 34-29

§ 34-29. Maximum portion of disposable earnings subject to garnishment.

(a) Except as provided in subsections (b) and (b1), the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment may not exceed the lesser of the following amounts:

(1) Twenty-five percent of his disposable earnings for that week, or

(2) The amount by which his disposable earnings for that week exceed thirty times the federal minimum hourly wage prescribed by §§ 206 (a) (1) of Title 29 of the United States Code in effect at the time earnings are payable.

In the case of earnings for any pay period other than a week, the State Commissioner of Labor and Industry shall by regulation prescribe a multiple of the federal minimum hourly wage equivalent in effect to that set forth in this section.

(b) The restrictions of subsection (a) do not apply in the case of

(1) Any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure, which is established by state law, which affords substantial due process, and which is subject to judicial review.

(2) Any order of any court of bankruptcy under Chapter XIII of the Bankruptcy Act.

(3) Any debt due for any state or federal tax.

(b1) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed:

(1) Sixty percent of such individual's disposable earnings for that week; or

(2) If such individual is supporting a spouse or dependent child other than the spouse or child with respect to whose support such order was issued, fifty percent of such individual's disposable earnings for that week.

The fifty percent specified in subdivision (b1) (2) shall be fifty-five percent and the sixty percent specified in subdivision (b1) (1) shall be sixty-five percent if and to the extent that such earnings are subject to garnishment to enforce an order for support for a period which is more than twelve weeks prior to the beginning of such workweek.

(c) No court of the Commonwealth and no state agency or officer may make, execute, or enforce any order or process in violation of this section.

The exemptions allowed herein shall be granted to any person so entitled without any further proceedings.

(d) For the purposes of this section

(1) The term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, payments to an independent contractor, or otherwise, whether paid directly to the individual or deposited with another entity or person on behalf of and traceable to the individual, and includes periodic payments pursuant to a pension or retirement program,

(2) The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld, and

(3) The term "garnishment" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt.

(e) Every assignment, sale, transfer, pledge or mortgage of the wages or salary of an individual which is exempted by this section, to the extent of the exemption provided by this section, shall be void and unenforceable by any process of law.

(f) No employer may discharge any employee by reason of the fact that his earnings have been subjected to garnishment for any one indebtedness.

(g) A depository wherein earnings have been deposited on behalf of and traceable to an individual shall not be required to determine the portion of such earnings which are subject to garnishment.

Federal garnishment statutes, 5 U.S.C. § 5520a(c)(1) and 42 U.S.C. § 659 provide that the garnishee, when a federal agency, may be served either personally or by certified or registered mail, return receipt requested.

**NOTICE TO JUDGMENT DEBTOR
HOW TO CLAIM EXEMPTIONS FROM GARNISHMENT**

The attached Summons in Garnishment has been issued on request of a creditor who holds a judgment against you. The Summons may cause your property or wages to be held or taken to pay the judgment.

The law provides that certain property and wages cannot be taken in garnishment. Such property is said to be exempted. A summary of some of the major exemptions is set forth in the request for hearing form. There is no exemption solely because you are having difficulty paying your debts.

If you claim an exemption, you should (i) fill out the claim for exemption form and (ii) deliver or mail the form to the clerk's office of this court.

You have a right to a hearing within seven business days from the date you file your claim with the court. If the creditor is asking that your wages be withheld, the method of computing the amount of wages which are exempt from garnishment by law is indicated on the Summons in Garnishment attached. You do not need to file a claim for exemption to receive this exemption, but if you believe the wrong amount is being withheld, you may file a claim for exemption.

On the day of the hearing, you should come to court ready to explain why your property is exempted, and you should bring any documents which may help you prove your case. If you do not come to court at the designated time and prove that your property is exempt, you may lose some of your rights.

If you do not claim an exemption and do not otherwise contest the garnishment, you are not required to appear in court on the return date on the Garnishment Summons.

It may be helpful for you to seek the advice of an attorney in this matter.

THE REQUEST FOR HEARING FORM IS PRINTED ON THE REVERSE OF THIS FORM.

**REQUEST FOR HEARING —
GARNISHMENT EXEMPTION CLAIM**

Case No.: 7:23-cv-00524-MFU

Commonwealth of Virginia VA. CODE § 8.01-512.4

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF VIRGINIA, HARRISONBURG DIVISION

COURT NAME

WESTERN SURETY COMPANY

v. JAMES C. JUSTICE, II

JUDGMENT CREDITOR

JUDGMENT DEBTOR

and

I claim that the exemption(s) from garnishment which are checked below apply in this case:

Major Exemptions Under Federal and State Law

- _____ 1. Social Security benefits and Supplemental Security Income (SSI), (42 U.S.C. § 407).
- _____ 2. Veterans' benefits (38 U.S.C. § 3101).
- _____ 3. Federal civil service retirement benefits (5 U.S.C. § 8346)
- _____ 4. Annuities to survivors of federal judges (28 U.S.C. § 376(n)).
- _____ 5. Longshore and Harborworkers' Compensation Act (33 U.S.C. § 916).
- _____ 6. Black lung benefits.

Exemptions listed under 1 through 6 above may not be applicable in child support and alimony case (42 U.S.C. § 659).

- _____ 7. Seaman's or master's or fisherman's wages, except for child or spousal support and maintenance (42 U.S.C. § 11109).
- _____ 8. Unemployment compensation benefits (§ 60.2-600, Code of Virginia). This exemption may not be applicable in child support cases (§ 60.2-308, Code of Virginia).
- _____ 9. Amounts in excess of portions of wages subject to garnishment (§ 34-29, Code of Virginia).
- _____ 10. Public assistance payments (§ 63.1-88, Code of Virginia).
- _____ 11. Homestead exemption of \$5,000 in case (§§ 34-4, Code of Virginia). This exemption may not be claimed in certain cases, such as payment of child or spousal support (§ 34-5, Code of Virginia).
- _____ 12. Property of disabled veterans — additional \$2,000 case (§34-4.1, Code of Virginia).
- _____ 13. Worker's Compensation benefits (§ 65.2-531, Code of Virginia).
- _____ 14. Growing crops (§ 8.01-489, Code of Virginia)
- _____ 15. Benefits from group life insurance policies (§ 38.2-3339, Code of Virginia).
- _____ 16. Proceeds from industrial sick benefits insurance (§ 38.2-3549, Code of Virginia).
- _____ 17. Assignments of certain salary and wages (§ 55-165, Code of Virginia)
- _____ 18. Benefits for victims of crime (§ 19.2-368.12, Code of Virginia).
- _____ 19. Proceeds from funeral trusts (§ 54.1-2823, Code of Virginia).
- _____ 20. Certain retirement benefits (§ 34-34, Code of Virginia).
- _____ 21. Other (describe exemption): \$.....

I request a court hearing to decide the validity of my claim. Notice of the hearing should be given to me at:

ADDRESS

TELEPHONE NUMBER

The statements made in this request are true to the best of my knowledge and belief.

DATE

SIGNATURE OF JUDGMENT DEBTOR