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STATE OF WASHINGTON
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No. 92565-8

**IN THE SUPREME COURT
OF THE STATE OF WASHINGTON**

PATRICIA M. CARTER, and all others similarly situated,

Plaintiffs,

vs.

PETERSON ENTERPRISES, INC., Defendant.

PLAINTIFF'S OPENING BRIEF

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 ORIGINAL

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I. INTRODUCTION
Certified Questions

The following questions were certified to the Washington State Supreme Court by the United States District Court for the Eastern District of Washington¹:

1) In garnishment of the property of a judgment debtor by a judgment creditor based on a District Court judgment, can the attorney of record for a judgment creditor issue a legally enforceable writ of garnishment under RCW 6.27.020(2) without an application by affidavit under RCW 6.27.060?

2) In garnishment of the property of a judgment debtor by a judgment creditor based on a District Court judgment, does RCW 6.27.070 require an application by affidavit under RCW 6.27.060 where the writ of garnishment is issued by the attorney of record for the judgment creditor under RCW 6.27.020(2)?

3) If the answer to Question No. 2 is yes, then please answer whether, in garnishment of the property of a judgment

¹ Case No: 2:15-CV-257-RMP, ECF No. 12 pp. 3-4

debtor by a judgment creditor based on a District Court judgment, a writ of garnishment issued by a judgment creditor's attorney of record pursuant to RCW 6.27.020(2) is legally enforceable if the application for writ of garnishment by affidavit under RCW 6.27.060 does not state that "the plaintiff has reason to believe, and does believe that the garnishee . . . is indebted to the defendant **in amounts exceeding those exempted from garnishment by any state or federal law**, or that the garnishee has possession or control of personal property or effects belonging to the defendant **which are not exempted from garnishment by any state or federal law**"?

II. STATEMENT OF THE CASE

For the purpose of certification, the federal court indicated the following²:

Plaintiff Patricia M. Carter brings this case on her own behalf, as well as on behalf of all others similarly situated, against Defendant Peterson Enterprises, Inc. ("Peterson"), which

² ECF No. 12, pp. 2-3

does business as Valley Empire Collection. Carter alleges that on or about August 31, 2015, a writ of garnishment was issued by Peterson's attorney of record based on a judgment against Carter in the Spokane County District Court. On September 2, 2015, the writ of garnishment was filed in the Spokane County District Court and served on JP Morgan Chase Bank NA. Also on September 2, 2015, an affidavit of garnishment with proper case caption and proper signature before a notary was filed in Spokane County District Court. The affidavit of garnishment followed the template below:

The undersigned, first being duly sworn on oath, deposes and says: That he/she is an employee of Plaintiff corporation and makes this affidavit as such;
The Plaintiff holds a judgment, by assignment, against Defendant/s in the sum of \$[amount identified]. The garnishment costs are \$[amount identified]. The interest is \$[amount identified]. The funds received before this garnishment are \$[amount identified]. That this garnishment is not out to injure either Defendant/s or the Garnishee. That the Plaintiff has good reason to believe and does believe that the Garnishee: [Garnishee identified] is/are indebted to the

Defendant/s, or either of them or has possession of, or has control of personal property or effects belonging to the Defendant/s, or is a corporation and that the Defendant/s is/are owner/s of share thereof.

Carter alleges that the funds affected by Peterson's writ of garnishment were exempt under Washington State Law. Plaintiff has asserted a claim for damages under the Fair Debt Collection Practices Act, the Washington Collection Agency Act, and the Washington Consumer Protection Act.

III. ARGUMENT

a. Interpretation of a Statute

The determination of the certified questions requires this Court to interpret the practical effect of the 2003 legislative change to RCW 6.27 that allows attorneys, rather than the clerk of the court to issue writs of garnishment. Specifically, this Court is asked to determine whether RCW 6.27.020(2) was intended and does supersede the RCW 6.27.060 obligation to apply for a writ of garnishment by affidavit stating in pertinent

part that “the plaintiff has reason to believe, and does believe that the garnishee, stating the garnishee's name and residence or place of business, is indebted to the defendant in amounts exceeding those exempted from garnishment by any state or federal law, or that the garnishee has possession or control of personal property or effects belonging to the defendant which are not exempted from garnishment by any state or federal law”. *Id.*

“The primary objective of any statutory construction inquiry is ‘to ascertain and carry out the intent of the Legislature.’” *HomeStreet, Inc. v. State, Dep't of Revenue*, 166 Wn.2d 444, 451, 210 P.3d 297, 300 (2009) (citing: *Rozner v. City of Bellevue*, 116 Wash.2d 342, 347, 804 P.2d 24 (1991)). When possible, the court derives legislative intent solely from the plain language enacted by the legislature, considering the text of the provision in question, the context of the statute in which the provision is found, related provisions, and the statutory scheme as a whole. *State v. Ervin*, 169 Wash.2d 815, 820, 239 P.3d 354 (2010); *Dep't of Ecology v. Campbell & Gwinn, LLC*, 146 Wash.2d 1, 9 - 10,

43 P.3d 4 (2002). Legislation is never “read in isolation or applied in a vacuum.” *Expert Drywall, Inc. v. Brain*, 17 Wn. App. 529, 541, 564 P.2d 803, 810 (1977) *dismissed sub nom. Expert Drywall, Inc., et al, Respondents, v. Brain, et al, Petitioners*, 92 Wn.2d 1004 (1978). Plain language that is not ambiguous does not require construction. *State v. Delgado*, 148 Wash.2d 723, 727, 63 P.3d 792 (2003); *State v. Wilson*, 125 Wash.2d 212, 217, 883 P.2d 320 (1994); *State v. Evans*, 298 P.3d 724, 727-28 (Wash. 2013).

- b. Amendments to Washington’s Garnishment Statute (RCW 6.27, et seq.) did not exempt attorney issued writs of garnishment from the requirements of RCW 6.27.060.

Under the former version of RCW 6.27.020, only clerks of the superior and district courts were authorized to issue writs of garnishment in Washington. In 2003, the Washington legislature amended RCW 6.27, et seq. to include provisions for attorney-issued writs of garnishment. See A-1 to A-18³. As part of the

³<http://apps.leg.wa.gov/billinfo/summary.aspx?year=2003&bill=5592#history> (last accessed on January 6, 2016)

2003 legislation, RCW 6.27.020 was amended to add a new section (2), which states “Writs of garnishment may be issued in district court with like effect by the attorney of record for the judgment creditor, and the form of writ shall be substantially the same as when issued by the court except that it shall be subscribed only by the signature of such attorney.” *Id.*; RCW 6.27.020(2). RCW 6.27.070, which also demands compliance with RCW 6.27.060 added an additional sentence to reflect that attorney issued writs are now permitted⁴. *Id.* Other amendments were made throughout RCW 6.27 et seq. to reflect the existence of the newly-authorized attorney issued writs of garnishment. *Id.*

Notably, RCW 6.27.060, which requires the judgment creditor or someone on the judgment creditor’s behalf to apply for a writ of garnishment by affidavit containing specific

⁴ The language added to RCW 6.27.070 in the 2003 amendment is: “The clerk shall likewise docket the case when a writ of garnishment issued by the attorney of record of a judgment creditor is filed. Whether a writ is issued by the clerk or an attorney, the clerk shall bear no responsibility for errors contained in the writ.”

language, was not modified by the 2003 amendments. *Id.* An exemption from the RCW 6.27.060 requirements for attorney issued writs was not mentioned in any of the legislation commentary. *Id.* No case law or other authority supports the notion that RCW 6.27.060 does not apply to attorney issued writs.

On the contrary, the Final Bill Report (as enacted) provides a brief description of the amendments to RCW 6.27 as “Allowing attorney issued garnishments and simplifying garnishment answer forms.” *Id.* at A-17. The proponents stated purpose for the amendments was that it would “reduce delays in the garnishment process and give clerks more time to attend to other duties.” *Id.* Significantly, the Final Bill Report also unequivocally states in relevant part that:

Writs of garnishment may be issued by the attorney of record for the judgment creditor. The effect of the writ is the same as one issued by a clerk of district court and the fee for the writ is \$6 in district court. *In district court, the plaintiff must supply the defendant with a copy of the affidavit submitted in*

*application for the writ, a copy of the writ, and the exemption documents.*⁵

Id (emphasis added).

Based on the senate and house reports, it defies reason to believe that the legislators who voted for the 2003 amendments had any intention of removing the protections for defendants found at RCW 6.27.060. Construing the language added to the former RCW 6.27.070 as allowing attorneys to issue valid writs of garnishment without the RCW 6.27.060 affidavit would require the analysis of RCW 6.27.070 to occur in a vacuum with disregard to the other sections of RCW 6.27, the legislative intent of the 2003 modifications, and the legislative history of the 2003 bill itself. “Statutory language, however, ‘cannot be construed in a vacuum. It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme.’” *Roberts v.*

⁵ Identical or equivalent language also appears in the summaries of the Senate Bill Report, the Substitute Senate Bill Report, Substitute House Bill Report, and Substitute House Bill Analysis.

Sea-Land Servs., Inc., 132 S. Ct. 1350, 1357, 182 L. Ed. 2d 341 (2012)(citing: *Davis v. Michigan Dept. of Treasury*, 489 U.S. 803, 809, 109 S.Ct. 1500, 103 L.Ed.2d 891 (1989)). If Washington legislators intended to exempt attorney issued writs from the requirements of RCW 6.27.060, they would have articulated their intent in the 2003 amendments.

c. Writs of Garnishment Issued Without the Required Affidavit Are Void

A judgment creditor who chooses to avail itself of the garnishment process must utilize the methods of enforcement specifically provided by applicable state statutes. *Sprinkle v. SB&C Ltd.*, 472 F. Supp. 2d 1235, 1243-44 (W.D. Wash. 2006)(citing: *Boundary Dam Constructors v. Lawco Contractors, Inc.*, 9 Wash.App. 21, 25, 510 P.2d 1176, 1179 (1973)). RCW 6.27.060 requires in relevant part that:

The judgment creditor as the plaintiff or someone in the judgment creditor's behalf *shall* apply for a writ of garnishment by affidavit, stating the following facts: (1) The plaintiff has a judgment wholly or partially unsatisfied in the court from which the writ is

sought; (2) the amount alleged to be due under that judgment; (3) the plaintiff has reason to believe, and does believe that the garnishee, stating the garnishee's name and residence or place of business, is indebted to the defendant in amounts exceeding those exempted from garnishment by any state or federal law, or that the garnishee has possession or control of personal property or effects belonging to the defendant which are not exempted from garnishment by any state or federal law; and (4) whether or not the garnishee is the employer of the judgment debtor.

Id. (emphasis added)

“Since garnishment is an extraordinarily harsh remedy, with specific procedures relating to filing, notice, and enforcement, the party seeking the remedy must follow those exclusive methods provided in the statute.” *Watkins v. Peterson Enterprises, Inc.*, 137 Wn. 2d 632, 646, 973 P.2d 1037, 1047 (1999). “The extraordinary advantage afforded a creditor by the garnishment statutes is a harsh remedy.” *Huzzy v. Culbert Const. Co.*, 5 Wn. App. 581, 584, 489 P.2d 749, 752 (1971). The “garnishment statute should be strictly construed against the

party seeking the remedy ...” *Watkins, supra*. “Enforcement of the garnishment statute requires strict adherence to its statutory procedures.” *Id.*

As set forth in the record submitted to this Court from the United States District Court, Defendant in this case applied for the attorney issued writ of garnishment with a form of affidavit that wholly excluded the language: “the plaintiff has reason to believe, and does believe that the garnishee . . . is indebted to the defendant in amounts exceeding those exempted from garnishment by any state or federal law, or that the garnishee has possession or control of personal property or effects belonging to the defendant which are not exempted from garnishment by any state or federal law.” As an apparent substitute for the clear statutory requirement, the Defendant states in its application “That this garnishment is not out to injure either Defendant/s or the Garnishee.” The Defendant’s substituted language in its application for writ of garnishment does not strictly comply or substantially comply with the requirements of RCW 6.27.060.

The language used by Defendant in their affidavit template appears to be a vestige from an earlier version of the statute. Washington's garnishment statute was originally codified at RCW 7.32. In 1969, RCW 7.32 was repealed and recodified at RCW 7.33. A-19. 1981 is the first time that the statute added language requiring the plaintiff to swear that the garnishee was in possession of property that is not exempt. A-24. In 1987, RCW 7.33 was repealed and recodified at RCW 6.27. A-26. The former RCW 7.33.040 became RCW 6.27.060.

Language in the application for writ of garnishment used by Defendant in this case is identical to the language in the 1969 amendment that established RCW 7.33. A-19. The relevant portion of the 1969 amendment is identical to the language used in the Act that created the original garnishment statute in 1893 and was abandoned sometime prior to the early 1980s. A-29. Thus, it seems that Defendant in this case was aware that they must apply for writ by affidavit and that they needed to strictly comply with the statutory language requiring

application by affidavit. However, the statutory language on which they relied had been superseded by statute for decades.

“If the right of anyone depends upon giving the word Shall an imperative construction, the presumption is that Shall is used in reference to that right or benefit, and it receives a mandatory interpretation.” *Snyder v. Cox*, 1 Wn. App. 457, 462, 462 P.2d 573, 576 (1969)(citing: *State v. Mavrikas*, 148 Wash. 651, 269 P. 805 (1928); *State ex rel. Nicomen Boom Co. v. North Shore Boom & Driving Co.*, 55 Wash. 1, 103 P. 426 (1909); *Tolmie v. Dean*, 1 Wash.Terr. 46 (1858); *Wheeler v. Chicago*, 24 Ill. 105, 76 Am.Dec. 736 (1860); *Wisdom v. Board of Supervisors*, 236 Iowa 669, 19 N.W.2d 602 (1945)). “The court must give words in a statute their plain and ordinary meaning unless a contrary intent is evidenced in the statute.” *Erection Co. v. Dep't of Labor & Indus. of State of Wash.*, 121 Wn.2d 513, 518, 852 P.2d 288, 291 (1993) (citing: *In re Estate of Little*, 106 Wash.2d 269, 283, 721 P.2d 950 (1986)). “It is well settled that the word ‘shall’ in a statute is presumptively imperative and operates to create a

duty.” *Id* (citing: *Crown Cascade, Inc. v. O’Neal*, 100 Wash.2d 256, 261, 668 P.2d 585 (1983); *State v. Q.D.*, 102 Wash.2d 19, 29, 685 P.2d 557 (1984) (citing *State v. Bryan*, 93 Wash.2d 177, 183, 606 P.2d 1228 (1980))). “The word ‘shall’ in a statute thus imposes a mandatory requirement unless a contrary legislative intent is apparent.” *Id* (citing: *Bryan*, 93 Wash.2d at 183, 606 P.2d 1228 (quoting *State Liquor Control Bd. v. State Personnel Bd.*, 88 Wash.2d 368, 377, 561 P.2d 195 (1977))).

RCW 6.27 “permits the writ to be issued on specified grounds only.” *Boundary Dam Constructors v. Lawco Contractors, Inc.*, 9 Wn. App. 21, 25-26, 510 P.2d 1176, 1178-79 (1973). Compliance with RCW 6.27.060 is a mandatory component of those specified grounds. *Id.* “Garnishment being statutory, compliance with the applicable statutes is essential to the validity and preservation of the writ.” *Id* (citing: *Pacific Coast Paper Mills v. Pacific Mercantile Agency*, 165 Wash. 62, 66, 4 P.2d 886 (1931); *Mahomet v. Hartford Ins. Co.*, 3 Wash.App. 560, 564-565, 477 P.2d 191 (1970); *Snyder v. Cox*, 1

Wash.App. 457, 492 P.2d 573 (1969). In Washington, garnishment is a “special proceeding”. *Putman v. Wenatchee Valley Med. Ctr., P.S.*, 166 Wn.2d 974, 981, 216 P.3d 374, 378 (2009). Strict compliance with time and manner is required in all special proceedings. *Christensen v. Ellsworth*, 162 Wn.2d 365, 372, 173 P.3d 228, 231 (2007). Failure to strictly comply with statutory time and manner requirements deprives the court from exercising subject matter jurisdiction over the proceeding. *Id.* Thus, any writ issued without the mandatory prerequisite of compliance with RCW 6.27.060 is void.

IV. CONCLUSION

In the Original Senate Bill Report, the limited opposition to the 2003 amendment allowing attorneys to issue writs of garnishment was that superior courts should be excluded from the amendments because “Superior courts are courts of permanent record and they deal with judgments of substantial weight.” (A-13) “Clerks provide a check and balance and give extra protection to creditors and debtors.” *Id.* In this case, the

attorney issued writs were based on a statutorily non-compliant application form.

Far from a scrivener's error, Defendant's form of application allowed it to skirt the requirement that it have any reason to believe that the money in Plaintiff's bank account was not exempt. The consequence of the omission and modification was that the entire balance of the Plaintiff's bank account was frozen. Every penny in Ms. Carter's bank account was exempt. While the judgment may have been comparatively small, it was and is a judgment of substantial weight for her. It is imperative that if judgment creditors, and particularly collection agencies that obtain thousands of judgments against Washington consumers each year, intend to utilize the garnishment statutes, then they must be required to strictly comply with RCW 6.27.060 as a minimal check and balance on this extraordinarily harsh remedy.

Based on the foregoing, Plaintiff respectfully requests that the Court answer the certified questions as follows:

Question No. 1: No

Question No. 2: Yes

Question No. 3: No

Respectfully submitted this 7th day of January, 2016.

Kirk D. Miller, P.S.

/s Kirk D. Miller
Kirk D. Miller, WSBA #40025
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I certify that on the 7th day of January, 2016, I caused a true and correct copy of this Plaintiff's Opening Brief to be served on the following in the manner indicated below:

| | |
|------------------------|--|
| Counsel for Defendant | <input type="checkbox"/> U.S. Mail |
| Jeffrey I. Hasson | |
| Davenport & Hasson LLP | <input type="checkbox"/> Hand Delivery |
| 12707 NE Halsey Street | |
| Portland, OR 97230 | <input checked="" type="checkbox"/> E-mail per agreement |

By: /s Kirk D. Miller
Kirk D. Miller, WSBA 40025
Attorney for Plaintiffs

V. APPENDIX

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WASHINGTON
COURTS

SUMMARY

of Selected

2003 LEGISLATION

of Interest to the Courts

JUNE 2003

We are pleased to present a **Summary of Selected 2003 Legislation of Interest to the Courts** and hope it will be useful to implement bills that impact your court. During the 2003 Legislative session, the Legislature and Governor enacted nearly 80 bills that affect the courts and are of general interest to the legal community.

Brief descriptions of these measures follow, arranged alphabetically according to bill subjects. Designators indicate whether the measure is of primary interest to judges and/or court managers in appellate (A), superior (S), juvenile (J), or district/municipal courts (D/M). Following each bill summary is a section that outlines implementation plans to be undertaken by the Administrative Office of the Courts (AOC) and/or the courts.



The effective date of bills is July 27, 2003, unless otherwise noted at the end of the bill summary. Any bills which had partial vetoes by the Governor are indicated next to the bill number. For details on vetoes, please go to the Legislative website at: <http://www.leg.wa.gov>.

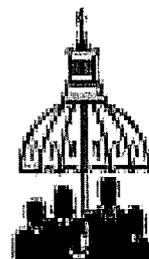
A list of AOC "bill trackers" is provided below. Please contact the tracker directly if you have questions about a particular bill, or you may call Janet McLane at 360-705-5305 or Jeff Hall at 360-357-2131 for general legislative inquiries.

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BILL TRACKERS

- YVONNE PETTUS; Appellate court legislation; fiscal notes
yvonne.pettus@courts.wa.gov(360) 705-5314
- DOUG HAAKE; District and municipal court legislation
douglas.haake@courts.wa.gov.....(360) 705-5226
- JANET SKREEN; Juvenile and family court legislation
janet.skreen@courts.wa.gov(360) 705-5252
- REGINA MCDOUGALL; Juvenile offender legislation
regina.mcdougall@courts.wa.gov.....(360) 705-5337
- RICK NEIDHARDT; Superior court civil legislation
rick.neidhardt@courts.wa.gov(360) 357-2125
- LYNNE ALFASSO; Superior court criminal legislation
lynne.alfasso@courts.wa.gov(360) 357-2157
- GIL AUSTIN; Superior court legislation
gil.austin@courts.wa.gov.....(360) 705-5228
- BRIAN BACKUS; Public Disclosure; JIS/Technology legislation
brian.backus@courts.wa.gov(360) 705-5320
- JANET MCLANE; Fiscal notes; court data and statistics
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- JEFF HALL; Legislative Liaison
jeff.hall@courts.wa.gov(360) 357-2131
- JENNIFER O'HERN; Fiscal Note Coordinator
jennifer.ohern@courts.wa.gov(360) 705-5307



CIVIL JURISDICTION

CIVIL TRIAL PROVISIONS (S,D)

SHB 1675

Chapter 406, Laws 2003

Updates civil procedure statutes, many of which have not been amended since the 19th century. The act brings the statutes into conformity with modern court practices (including struck jury procedures), with existing court rules, and with notions of plain and direct language. The bill was drafted by the SCJA and sponsored by the BJA.

CLEAN & SOBER HOUSING (S)

ESB 5389

Chapter 382, Laws 2003

Allows a landlord to designate "drug and alcohol free housing" by using leases that prohibit tenants from using or possessing alcohol or illegal drugs. If a tenant violates these provisions, the landlord may terminate the tenancy after providing the tenant with three days' notice and a brief opportunity to cure. If the tenant cures the violation, the lease stays in effect, but a second violation allows the lease to be terminated without an opportunity to cure.

COMMERCIAL E-MAIL (D)

SB 5574

Chapter 27, Laws of 2003

Clarifies that district courts have jurisdiction to hear cases involving commercial e-mail.

FOREIGN JUDGMENTS (S,D)

SSB 5251

Chapter 43, Laws 2003

Requires the party filing a foreign judgment in this state to submit an

affidavit stating the filing and expiration dates in the other jurisdiction. This information is then entered on the judgment's summary cover sheet. The act fixes a loophole in legislation from last year.

GARNISHMENTS (S,D)

SSB 5592

Chapter 222, Laws 2003

Allows, in district court, writs of garnishment to be issued by the judgment creditor's attorney rather than by the court clerk. (This provision apparently applies only in district court, see sections 1 and 2, even though the Legislature's final bill report summarizes the bill as if attorneys could issue these writs at either level of court.) In both district and superior court, the judgment creditor's attorney may issue a release of garnished funds without first obtaining a court order to that effect. (See section 7.) Other changes, applying to both superior and district courts, are included elsewhere in the act.

MENTAL HEALTH COUNSELORS—PRIVILEGED INFORMATION (S)

SHB 1785

Chapter 204, Laws of 2003

Adds new section to RCW 18.225 that creates a privilege between clients and mental health counselors, marriage and family therapists and social workers. Provides exceptions for written authorization, waiver of privilege by bringing charges against the provider, in response to subpoena, required by statute, and where the provider reasonably believes disclosure will avoid or minimize an imminent danger to the individual.

MENTAL HEALTH DIRECTIVES (S)

SSB 5223

Chapter 283, Laws 2003

Allows any competent person to create a "mental health advance directive" expressing the person's preferences and instructions about mental health treatment. The validity of any such directive may be determined in superior court. A directive cannot change the standards or procedures for civil commitment under RCW Chapter 71.05. A person may nominate a proposed guardian if guardianship proceedings are commenced in the future. Creates the new crime of fraudulent creation or revocation of a mental health directive, a Class C felony.

Courts must update law tables on any non-JIS local systems and AOC will update JIS law tables. Courts that publish model local guardianship forms may want to consider revising the petition to solicit information about whether or not the alleged incapacitated person has executed a mental health advance directive and nominated a proposed guardian.

REVIEW OF PERMIT DECISIONS (A,S)

ESSB 5776

Chapter 393, Laws 2003

Provides, for a few large economic development projects in economically-distressed rural counties, an expedited appeal process for permit decisions. For these qualifying projects, a new administrative board is created that directly reviews the permit decisions issued by local and state agencies. Judicial review of the administrative board's decisions is on the record and is

5592

Sponsor(s): Senators Mulliken, Eide, Johnson, Haugen, Sheahan and McCaslin

Brief Description: Allowing attorney issued garnishments and simplifying garnishment answer forms.

SB 5592 - DIGEST

(SUBSTITUTED FOR - SEE 1ST SUB)

Provides that writs of garnishment may be issued with like effect by the attorney of record for the judgment creditor, and the form of writ shall be substantially the same as when issued by the court except that it shall be subscribed only by the signature of such attorney.

SENATE BILL 5592

State of Washington 58th Legislature 2003 Regular Session

By Senators Mulliken, Eide, Johnson, Haugen, Sheahan and McCaslin

Read first time 01/31/2003. Referred to Committee on Judiciary.

1 AN ACT Relating to garnishments; amending RCW 6.27.020, 6.27.070,
2 6.27.100, 6.27.130, 6.27.140, 6.27.160, 6.27.190, 6.27.200, 6.27.250,
3 6.27.265, 6.27.320, 6.27.340, and 6.27.350; and reenacting and amending
4 RCW 6.27.040.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 6.27.020 and 1987 c 442 s 1002 are each amended to
7 read as follows:

8 (1) The clerks of the superior courts and district courts of this
9 state may issue writs of garnishment returnable to their respective
10 courts for the benefit of a judgment creditor who has a judgment wholly
11 or partially unsatisfied in the court from which the garnishment is
12 sought.

13 (2) Writs of garnishment may be issued with like effect by the
14 attorney of record for the judgment creditor, and the form of writ
15 shall be substantially the same as when issued by the court except that
16 it shall be subscribed only by the signature of such attorney.

17 (3) Except as otherwise provided in RCW 6.27.040 and 6.27.330, the
18 superior courts and district courts of this state may issue prejudgment

1 writs of garnishment to a plaintiff at the time of commencement of an
2 action or at any time afterward, subject to the requirements of chapter
3 6.26 RCW.

4 **Sec. 2.** RCW 6.27.040 and 1987 c 442 s 1004 and 1987 c 202 s 134
5 are each reenacted and amended to read as follows:

6 (1) The state of Washington, all counties, cities, towns, school
7 districts and other municipal corporations shall be subject to
8 garnishment after judgment has been entered in the principal action,
9 but not before, in the superior and district courts, in the same manner
10 and with the same effect, as provided in the case of other garnishees.

11 (2) The venue of any such garnishment proceeding shall be the same
12 as for the original action, and the writ shall be issued by the clerk
13 of the court having jurisdiction of such original action or by the
14 attorney of record for the judgment creditor.

15 (3) The writ of garnishment shall be served (~~in the same manner~~
16 ~~and~~) upon the same officer as is required for service of summons upon
17 the commencement of a civil action against the state, county, city,
18 town, school district, or other municipal corporation, as the case may
19 be.

20 **Sec. 3.** RCW 6.27.070 and 1987 c 442 s 1007 are each amended to
21 read as follows:

22 (1) When application for a writ of garnishment is made by a
23 judgment creditor and the requirements of RCW 6.27.060 have been
24 complied with, the clerk shall docket the case in the names of the
25 judgment creditor as plaintiff, the judgment debtor as defendant, and
26 the garnishee as garnishee defendant, and shall immediately issue and
27 deliver a writ of garnishment to the judgment creditor in the form
28 prescribed in RCW 6.27.100, directed to the garnishee, commanding the
29 garnishee to answer said writ on forms served with the writ and
30 complying with RCW 6.27.190 within twenty days after the service of the
31 writ upon the garnishee. The clerk shall likewise docket the case when
32 a writ of garnishment issued by the attorney of record of a judgment
33 creditor is filed. Whether a writ is issued by the clerk or an
34 attorney, the clerk shall bear no responsibility for errors contained
35 in the writ.

SSB 5592 - H COMM AMD
By Committee on Judiciary

ADOPTED 04/14/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 6.27.020 and 1987 c 442 s 1002 are each amended to
4 read as follows:

5 (1) The clerks of the superior courts and district courts of this
6 state may issue writs of garnishment returnable to their respective
7 courts for the benefit of a judgment creditor who has a judgment wholly
8 or partially unsatisfied in the court from which the garnishment is
9 sought.

10 (2) Writs of garnishment may be issued in district court with like
11 effect by the attorney of record for the judgment creditor, and the
12 form of writ shall be substantially the same as when issued by the
13 court except that it shall be subscribed only by the signature of such
14 attorney.

15 (3) Except as otherwise provided in RCW 6.27.040 and 6.27.330, the
16 superior courts and district courts of this state may issue prejudgment
17 writs of garnishment to a plaintiff at the time of commencement of an
18 action or at any time afterward, subject to the requirements of chapter
19 6.26 RCW.

20 Sec. 2. RCW 6.27.040 and 1987 c 442 s 1004 and 1987 c 202 s 134
21 are each reenacted and amended to read as follows:

22 (1) The state of Washington, all counties, cities, towns, school
23 districts and other municipal corporations shall be subject to
24 garnishment after judgment has been entered in the principal action,
25 but not before, in the superior and district courts, in the same manner
26 and with the same effect, as provided in the case of other garnishees.

27 (2) The venue of any such garnishment proceeding shall be the same
28 as for the original action, and the writ shall be issued by the clerk

1 of the court having jurisdiction of such original action or by the
2 attorney of record for the judgment creditor in district court.

3 (3) The writ of garnishment shall be served (~~in the same manner~~
4 and) upon the same officer as is required for service of summons upon
5 the commencement of a civil action against the state, county, city,
6 town, school district, or other municipal corporation, as the case may
7 be.

8 **Sec. 3.** RCW 6.27.070 and 1987 c 442 s 1007 are each amended to
9 read as follows:

10 (1) When application for a writ of garnishment is made by a
11 judgment creditor and the requirements of RCW 6.27.060 have been
12 complied with, the clerk shall docket the case in the names of the
13 judgment creditor as plaintiff, the judgment debtor as defendant, and
14 the garnishee as garnishee defendant, and shall immediately issue and
15 deliver a writ of garnishment to the judgment creditor in the form
16 prescribed in RCW 6.27.100, directed to the garnishee, commanding the
17 garnishee to answer said writ on forms served with the writ and
18 complying with RCW 6.27.190 within twenty days after the service of the
19 writ upon the garnishee. The clerk shall likewise docket the case when
20 a writ of garnishment issued by the attorney of record of a judgment
21 creditor is filed. Whether a writ is issued by the clerk or an
22 attorney, the clerk shall bear no responsibility for errors contained
23 in the writ.

24 (2) The writ of garnishment shall be dated and attested as in the
25 form prescribed in RCW 6.27.100. The name and office address of the
26 plaintiff's attorney shall be indorsed thereon or, in case the
27 plaintiff has no attorney, the name and address of the plaintiff shall
28 be indorsed thereon. The address of the clerk's office shall appear at
29 the bottom of the writ.

30 **Sec. 4.** RCW 6.27.100 and 2000 c 72 s 3 are each amended to read as
31 follows:

32 (1) The writ shall be substantially in the following form(~~(+~~
33 ~~PROVIDED, That)~~), but if the writ is issued under a court order or
34 judgment for child support, the following statement shall appear
35 conspicuously in the caption: "This garnishment is based on a judgment

SENATE BILL REPORT

SB 5592

As Reported By Senate Committee On:
Judiciary, February 28, 2003

Title: An act relating to garnishments.

Brief Description: Allowing attorney issued garnishments and simplifying garnishment answer forms.

Sponsors: Senators Mulliken, Eide, Johnson, Haugen, Sheahan and McCaslin.

Brief History:

Committee Activity: Judiciary: 2/26/03, 2/28/03 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5592 be substituted therefor, and the substitute bill do pass.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Brandland, Hargrove, Haugen, Johnson, Kline, Roach and Thibaudeau.

Staff: Lidia Mori (786-7755)

Background: The clerks of the superior courts and district courts issue writs of garnishment for the benefit of a judgment creditor who has an unsatisfied judgment in the court where the garnishment is sought. The judgment creditor or plaintiff applies for the writ by affidavit and pays a fee to the court clerk. In district court, the plaintiff gives the defendant copies of the application for the writ, the writ, and the exemption documents. In superior court, a copy of the underlying judgment is given to the defendant, instead of the application for the writ.

A defendant may claim exemptions from garnishment and, if the plaintiff elects not to object to the exemptions, he or she must obtain a court order directing the garnishee to release the portion of the debt or property covered by the exemption claim.

A garnishee that has allowed a default judgment to be taken against it for failure to answer a writ can move to reduce the judgment amount within seven days of the time it is garnished.

Proponents of this bill believe allowing attorneys to issue writs of garnishment would reduce delays in the garnishment process and give court clerks more time to attend to other duties.

Summary of Substitute Bill: Writs of garnishment may be issued by the attorney of record for the judgment creditor. The effect of the writ is the same as one issued by a clerk of district court. In district court, the plaintiff must supply the defendant with a copy of the affidavit submitted in application for the writ, a copy of the writ, and the exemption documents.

If a defendant claims exemptions from a garnishment, the attorney for the plaintiff may authorize the release of claimed exempt funds or property instead of having to obtain a court order. The form of the answer to the writ of garnishment is a simple, worksheet format.

A garnishee that has allowed a default judgment to be taken against it for failure to answer a writ can move to reduce the judgment amount within seven days of the first time it is garnished.

Substitute Bill Compared to Original Bill: In district court, writs of garnishment may be issued by the attorney of record for the judgment creditor. The answer form for garnishees is amended to show that "disposable earnings" includes periodic payments pursuant to a nongovernmental pension or retirement program.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Garnishment is a post judgment remedy. This bill removes the requirement that an attorney go to court to get the writ of garnishment. It also simplifies the answer form for employers. This bill will help overburdened courts.

Testimony Against: Superior courts should be removed from this bill; delays are only occurring in district courts. Superior courts are courts of permanent record and they deal with judgments of substantial weight. Clerks provide a check and balance and give extra protection to creditors and debtors.

Testified: Kevin Underwood, WA Collector's Assn. (pro); Dave Quigley (pro); Debbie Wilke, WA Assn. of County Officials (con to original bill).

SENATE BILL REPORT

SSB 5592

As Passed Senate, March 18, 2003

Title: An act relating to garnishments.

Brief Description: Allowing attorney issued garnishments and simplifying garnishment answer forms.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Mulliken, Eide, Johnson, Haugen, Sheahan and McCaslin).

Brief History:

Committee Activity: Judiciary: 2/26/03, 2/28/03 [DPS].

Passed Senate: 3/18/03, 43-4.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5592 be substituted therefor, and the substitute bill do pass.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Brandland, Hargrove, Haugen, Johnson, Kline, Roach and Thibaudeau.

Staff: Lidia Mori (786-7755)

Background: The clerks of the superior courts and district courts issue writs of garnishment for the benefit of a judgment creditor who has an unsatisfied judgment in the court where the garnishment is sought. The judgment creditor or plaintiff applies for the writ by affidavit and pays a fee to the court clerk. In district court, the plaintiff gives the defendant copies of the application for the writ, the writ, and the exemption documents. In superior court, a copy of the underlying judgment is given to the defendant, instead of the application for the writ.

A defendant may claim exemptions from garnishment and, if the plaintiff elects not to object to the exemptions, he or she must obtain a court order directing the garnishee to release the portion of the debt or property covered by the exemption claim.

A garnishee that has allowed a default judgment to be taken against it for failure to answer a writ can move to reduce the judgment amount within seven days of the time it is garnished.

Proponents of this bill believe allowing attorneys to issue writs of garnishment would reduce delays in the garnishment process and give court clerks more time to attend to other duties.

Summary of Bill: Writs of garnishment may be issued by the attorney of record for the judgment creditor. The effect of the writ is the same as one issued by a clerk of district court. In district court, the plaintiff must supply the defendant with a copy of the affidavit submitted in application for the writ, a copy of the writ, and the exemption documents.

If a defendant claims exemptions from a garnishment, the attorney for the plaintiff may authorize the release of claimed exempt funds or property instead of having to obtain a court order. The form of the answer to the writ of garnishment is a simple, worksheet format.

A garnishee that has allowed a default judgment to be taken against it for failure to answer a writ can move to reduce the judgment amount within seven days of the first time it is garnished.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Garnishment is a post judgment remedy. This bill removes the requirement that an attorney go to court to get the writ of garnishment. It also simplifies the answer form for employers. This bill will help overburdened courts.

Testimony Against: Superior courts should be removed from this bill; delays are only occurring in district courts. Superior courts are courts of permanent record and they deal with judgments of substantial weight. Clerks provide a check and balance and give extra protection to creditors and debtors.

Testified: Kevin Underwood, WA Collector's Assn. (pro); Dave Quigley (pro); Debbie Wilke, WA Assn. of County Officials (con to original bill).

House Amendment(s): The fee for a writ of garnishment is \$6 in district court. Only nongovernmental pensions are subject to garnishment.

Judiciary Committee

SSB 5592

Title: An act relating to garnishments.

Brief Description: Allowing attorney issued garnishments and simplifying garnishment answer forms.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Mulliken, Eide, Johnson, Haugen, Sheahan and McCaslin).

Brief Summary of Substitute Bill

- Allows attorneys for creditors to issue writs of garnishment following a district court judgment against a debtor.
- Allows attorneys in district court and superior court to release a garnishment without a court order.
- Changes the format of the worksheet used by a garnishee to answer a writ of garnishment.
- Allows a garnishee to make a motion to reduce a default judgment only on the first writ of garnishment.

Hearing Date: 4/3/03

Staff: Edie Adams (786-7180).

Background:

There are several ways a creditor may satisfy a judgment against a debtor. The garnishment process is a remedy that allows a creditor to obtain a debtor's funds or property that are in the possession of a third person (garnishee). Garnishment is used to force a debtor's employer to pay the creditor directly out of the debtor's paycheck. Garnishment may also be used to reach other assets of the debtor, such as a bank account.

Following a judgment or court order, the creditor files an application with the court clerk, who is then required to issue a writ of garnishment to the creditor. The creditor serves the writ on the third party garnishee. In superior court, the creditor also sends a copy of the

writ and a copy of the judgment to the debtor. In district court, the creditor sends a copy of the writ and a copy of the creditor's application for the writ to the debtor. Service may be in person or by certified mail. Service on a government entity is by the same manner as service of a summons for a civil action, meaning that certified mail is not acceptable.

The writ of garnishment directs the garnishee to answer whether it holds funds or property owed to the debtor. The proper form for the answer details the amount owed by the garnishee to the debtor, and includes a worksheet for figuring the appropriate amounts exempted from garnishment. The creditor provides copies of this form when serving the writ of garnishment.

If the garnishee fails to answer the writ within 20 days after service, the court may enter judgment by default against the garnishee for the full amount of the judgment against the debtor, along with interests and costs, whether or not the garnishee owes anything to the debtor. The garnishee may make a motion to have this default judgment reduced to the amount owed to the debtor that is actually in the possession of the garnishee, as long as the motion is made within seven days of the service of the writ of execution or garnishment on the judgement.

Summary of Bill:

The attorney of record for a creditor may issue a writ of garnishment following a judgment or court order from a district court. This writ follows the same form as that used when the court issues such writ, and the clerk of the court docket the case in the same manner as when the court issues the writ. The form of an attorney-issued writ incorporates changes to accommodate the signature of the attorney and to note that the writ requires the same compliance as a court-issued writ.

The service provisions are modified so that government entities may be served by certified mail. The provisions for service in superior court are modified to require mailing of a copy of the creditor's application for garnishment, rather than a copy of the judgment, to the debtor.

The form for the garnishee's answer is altered, creating a worksheet with calculation instructions. The formulas used are not changed. The garnishee's ability to make a motion for reduction of a default judgment within seven days of the writ of execution or garnishment is limited to the first such writ.

Attorneys for creditors are authorized to release exempted funds from garnishment, and a form is provided for such a release. Attorneys for creditors may also dismiss a garnishment. Payments to a creditor may be made either to the creditor or the creditor's attorney.

The garnishment answer form is amended to reference, as subject to garnishment, non-governmental pensions or retirement programs, as opposed to any pension or retirement program.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

FINAL BILL REPORT

SSB 5592

C 222 L 03
Synopsis as Enacted

Brief Description: Allowing attorney issued garnishments and simplifying garnishment answer forms.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Mulliken, Eide, Johnson, Haugen, Sheahan and McCaslin).

Senate Committee on Judiciary
House Committee on Judiciary

Background: The clerks of the superior courts and district courts issue writs of garnishment for the benefit of a judgment creditor who has an unsatisfied judgment in the court where the garnishment is sought. The judgment creditor or plaintiff applies for the writ by affidavit and pays a fee to the court clerk. In district court, the plaintiff gives the defendant copies of the application for the writ, the writ, and the exemption documents. In superior court, a copy of the underlying judgment is given to the defendant, instead of the application for the writ.

A defendant may claim exemptions from garnishment and, if the plaintiff elects not to object to the exemptions, he or she must obtain a court order directing the garnishee to release the portion of the debt or property covered by the exemption claim.

A garnishee that has allowed a default judgment to be taken against it for failure to answer a writ can move to reduce the judgment amount within seven days of the time it is garnished.

Proponents of this bill believe allowing attorneys to issue writs of garnishment would reduce delays in the garnishment process and give court clerks more time to attend to other duties.

Summary: Writs of garnishment may be issued by the attorney of record for the judgment creditor. The effect of the writ is the same as one issued by a clerk of district court and the fee for the writ is \$6 in district court. In district court, the plaintiff must supply the defendant with a copy of the affidavit submitted in application for the writ, a copy of the writ, and the exemption documents.

If a defendant claims exemptions from a garnishment, the attorney for the plaintiff may authorize the release of claimed exempt funds or property instead of having to obtain a court order. The form of the answer to the writ of garnishment is a simple, worksheet format. Only non-governmental pensions are subject to garnishment.

A garnishee that has allowed a default judgment to be taken against it for failure to answer a writ can move to reduce the judgment amount within seven days of the first time it is garnished.

Votes on Final Passage:

Senate 43 4
House 93 0 (House amended)
Senate 40 4 (Senate concurred)

Effective: July 27, 2003

1969
SESSION LAWS
OF THE
STATE OF WASHINGTON

REGULAR SESSION, FORTY-FIRST LEGISLATURE
Convened January 13, 1969. Adjourned March 13, 1969.

FIRST EXTRAORDINARY SESSION,
FORTY-FIRST LEGISLATURE
Convened March 14, 1969. Adjourned May 12, 1969.



VOLUME NO. 2

Containing Chapters 223 through 284 (end)
First Extraordinary Session

Published at Olympia by the Statute Law Committee pursuant
to Chapter 6, Laws of 1969.

RICHARD O. WHITE
Code Reviser



the purpose of carrying out the functions previously administered by the Higher Education Facilities Commission. Since this sum is included in the budget as an appropriation through the Council on Higher Education to the commission, I have vetoed Section 10 of this bill."

CHAPTER 264
[Engrossed Substitute Senate Bill No. 168]
GARNISHMENT

AN ACT Relating to garnishment; creating new sections; adding a new section to chapter 50.20 RCW, repealing section 1, chapter 56, Laws of 1893 and RCW 7.32.010; repealing section 2, chapter 56, Laws of 1893 and RCW 7.32.020; repealing section 3, chapter 56, Laws of 1893, section 1, chapter 110, Laws of 1931, section 1, chapter 26, Laws of 1955, section 4, chapter 304, Laws of 1961, section 1, chapter 142, Laws of 1967, and RCW 7.32.030; repealing section 4, chapter 56, Laws of 1893, section 2, chapter 142, Laws of 1967, and RCW 7.32.040; repealing section 1, chapter 130, Laws of 1915, section 1, chapter 15, Laws of 1933, and RCW 7.32.060; repealing section 2, chapter 130, Laws of 1915, section 2, chapter 15, Laws of 1933, and RCW 7.32.070; repealing section 3, chapter 15, Laws of 1933, section 4, chapter 142, Laws of 1967, and RCW 7.32.080; repealing section 4, chapter 15, Laws of 1933, section 5, chapter 142, Laws of 1967, and RCW 7.32.090; repealing section 6, chapter 56, Laws of 1893, section 6, chapter 142, Laws of 1967, and RCW 7.32.100; repealing section 7, chapter 56, Laws of 1893, section 1, chapter 68, Laws of 1903, section 7, chapter 142, Laws of 1967, and RCW 7.32.110; repealing section 8, chapter 56, Laws of 1893, section 2, chapter 68, Laws of 1903, section 1, chapter 44, Laws of 1933 ex. sess., section 1, chapter 267, Laws of 1959, section 8, chapter 142, Laws of 1967, and RCW 7.32.120; repealing section 9, chapter 56, Laws of 1893; section 2, chapter 44, Laws of 1933 ex. sess., section 9, chapter 142, Laws of 1967, and RCW 7.32.130; repealing section 9½, chapter 56, Laws of 1893, section 1, chapter 146, Laws of 1903, and RCW 7.32.140; repealing section 10, chapter 56, Laws of 1893.

[2511]

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. (1) Except as is provided in subsection (2) of this section, the clerks of the superior courts in the various counties in the state may issue writs of garnishment returnable to their respective courts in the following cases:

(a) Where an original attachment has been issued in accordance with the statutes in relation to attachments.

(b) Where the plaintiff sues for a debt and the plaintiff or someone in his behalf makes affidavit that such debt is just, due and unpaid, and that the garnishment applied for is not sued out to injure either the defendant or the garnishee.

(c) Where the plaintiff has a judgment wholly or partially unsatisfied in the court from which he seeks to have a writ of garnishment issued.

(2) A writ of garnishment which is not sought in order to satisfy an existing judgment shall not be issued by the clerk of the superior court against any employer for the purpose of garnishing any earnings he owes his employee, unless the plaintiff sues for a debt and the plaintiff believes that the employee:

(a) is not a resident of this state, or is about to move from this state; or

(b) has concealed himself, absconded, or absented himself so that ordinary process of law cannot be served on him; or

(c) has removed or is about to remove any of his property from this state, with intent to delay or defraud his creditors; and the plaintiff or someone on his behalf files an affidavit stating the specific facts upon which his belief is founded and the court pursuant to an ex parte hearing finds that there is sufficient reason to find the belief true.

(3) As used in this article, the term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

1977
SESSION LAWS
OF THE
STATE OF WASHINGTON

REGULAR SESSION
FORTY-FIFTH LEGISLATURE
Convened January 10, 1977. Adjourned March 10, 1977.

1st EXTRAORDINARY SESSION
FORTY-FIFTH LEGISLATURE
Convened March 11, 1977. Adjourned June 22, 1977.



Published at Olympia by the Statute Law Committee pursuant
to Chapter 6, Laws of 1969.

RICHARD O. WHITE
Code Reviser



[1]

CHAPTER 54

[Senate Bill No. 2301]

WITNESS FEES AND MILEAGE

AN ACT Relating to courts; and amending section 1, chapter 56, Laws of 1907 as amended by section 3, chapter 51, Laws of 1951 and RCW 2.40.010.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 1, chapter 56, Laws of 1907 as amended by section 3, chapter 51, Laws of 1951 and RCW 2.40.010 are each amended to read as follows:

Witnesses shall receive for each day's attendance in all courts of record of this state ~~((, besides mileage at ten cents per mile each way, four dollars))~~ the same compensation per day and per mile as jurors in superior court. Witnesses in any other court shall receive for each day's attendance the same compensation per day and per mile as jurors in justice court.

Passed the Senate April 6, 1977.

Passed the House May 16, 1977.

Approved by the Governor May 24, 1977.

Filed in Office of Secretary of State May 24, 1977.

CHAPTER 55

[Senate Bill No. 2302]

WRIT OF GARNISHMENT—FEE

AN ACT Relating to courts; and amending section 4, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.040.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 4, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.040 are each amended to read as follows:

Before the issuance of the writ of garnishment the plaintiff or someone in his behalf shall make application therefor by affidavit, stating the facts authorizing the issuance of the writ, including the amount alleged to be due, and that the plaintiff has reason to believe, and does believe, that the garnishee, stating his name and residence, is indebted to the defendant, or that he has in his possession, or under his control, personal property or effects belonging to the defendant, and shall pay to the clerk of the superior court ~~((a))~~ the fee ((as)) provided by ((law)) RCW 36-.18.020, or to the clerk of the justice court the fee of two dollars. The party applying for this writ shall state in such affidavit whether or not the party who is to be the garnishee is the employer of the defendant.

Passed the Senate April 1, 1977.

Passed the House May 16, 1977.

Approved by the Governor May 24, 1977.

Filed in Office of Secretary of State May 24, 1977.

1981
SESSION LAWS
OF THE
STATE OF WASHINGTON

REGULAR SESSION
FORTY-SEVENTH LEGISLATURE
Convened January 12, 1981. Adjourned April 26, 1981.

1st EXTRAORDINARY SESSION
FORTY-SEVENTH LEGISLATURE
Convened April 28, 1981. Adjourned April 28, 1981.



Published at Olympia by the Statute Law Committee pursuant to Chapter 6, Laws of 1969.

DENNIS W. COOPER
Code Reviser

Sec. 3. Section 4, chapter 264, Laws of 1969 ex. sess. as amended by section 1, chapter 55, Laws of 1977 ex. sess. and RCW 7.33.040 are each amended to read as follows:

Before the issuance of the writ of garnishment the plaintiff or someone in his behalf shall make application therefor by affidavit, stating the facts authorizing the issuance of the writ, including the amount alleged to be due, and that the plaintiff has reason to believe, and does believe, (a) that the garnishee, stating his name and residence, is indebted to the defendant in amounts exceeding those exempted from garnishment by any state or federal law, or (b) that he has in his possession, or under his control, personal property or effects belonging to the defendant which are not exempted from garnishment by any state or federal law, and shall pay to the clerk of the superior court the fee provided by RCW 36.18.020, or to the clerk of the justice court the fee of two dollars. The party applying for this writ shall state in such affidavit whether or not the party who is to be the garnishee is the employer of the defendant.

Sec. 4. Section 11, chapter 264, Laws of 1969 ex. sess. and RCW 7.33-.110 are each amended to read as follows:

Said writ shall be substantially in the following form:

"IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF

..... ,
Plaintiff, No.
vs.

..... ,
Defendant WRIT OF
GARNISHMENT
..... ,
Garnishee

THE STATE OF WASHINGTON TO:
Garnishee

AND TO:
Defendant

The above-named plaintiff claims that the above-named defendant is indebted to plaintiff and that the amount of dollars should be held to satisfy that indebtedness and has applied for a writ of garnishment against you.

You are hereby commanded to answer this writ by filling in the attached form according to the instructions thereon, and you must mail or deliver the original of such answer to the court, one copy to the plaintiff or his attorney, and one copy to the defendant within twenty days after the service of the writ upon you.

1987
SESSION LAWS
OF THE
STATE OF WASHINGTON

REGULAR SESSION
FIFTIETH LEGISLATURE
Convened January 12, 1987. Adjourned April 26, 1987.

1st EXTRAORDINARY SESSION
FIFTIETH LEGISLATURE
Convened April 27, 1987. Adjourned May 21, 1987.



Published at Olympia by the Statute Law Committee pursuant to Chapter 6, Laws of 1969.

DENNIS W. COOPER
Code Reviser

~~((justice))~~ district courts, in the same manner and with the same effect, as provided in the case of other garnishees.

The venue of any such garnishment proceeding shall be the same as for the original action, and the writ shall be issued by the clerk of the court having jurisdiction of such original action.

The writ of garnishment shall be served in the same manner and upon the same officer as is required for service of summons upon the commencement of a civil action against the state, county, city, town, school district, or other municipal corporation, as the case may be.

Sec. 1005. Section 19, page 43, Laws of 1886 as amended by section 1, chapter 101, Laws of 1927 and RCW 7.12.180 are each amended to read as follows:

A sheriff~~((; constable or any))~~ or other peace officer ~~((may be garnished for))~~ who holds money of the defendant ~~((in his hands but nothing herein shall be construed as permitting the garnishment of a sheriff, constable or other peace officer))~~ is subject to garnishment, excepting only for money or property taken from a person arrested by such officer, at the time of the arrest. A judgment debtor of the defendant ~~((may be garnished))~~ is subject to garnishment when the judgment has not been previously assigned on the record or by writing filed in the office of the clerk ~~((; and by him))~~ of the court that entered the judgment and minuted by the clerk as an assignment ~~((on the margin of))~~ in the execution docket ~~((; and also))~~. An executor or administrator ~~((may be garnished))~~ is subject to garnishment for money due from the decedent to the defendant.

Sec. 1006. Section 4, chapter 264, Laws of 1969 ex. sess. as last amended by section 3, chapter 193, Laws of 1981 and RCW 7.33.040 are each amended to read as follows:

~~((Before the issuance of the writ of garnishment))~~ The judgment creditor as the plaintiff or someone in ~~((his))~~ the judgment creditor's behalf shall ~~((make application therefor))~~ apply for a writ of garnishment by affidavit, stating the following facts ~~((authorizing the issuance of the writ, including))~~: (1) The plaintiff has a judgment wholly or partially unsatisfied in the court from which the writ is sought; (2) the amount alleged to be due ~~((; and that))~~ under that judgment; (3) the plaintiff has reason to believe, and does believe ~~((; (a)))~~ that the garnishee, stating ~~((his))~~ the garnishee's name and residence or place of business, is indebted to the defendant in amounts exceeding those exempted from garnishment by any state or federal law, or ~~((b))~~ that ~~((he))~~ the garnishee has ~~((in his))~~ possession ~~((;))~~ or ~~((under his))~~ control ~~((;))~~ of personal property or effects belonging to the defendant which are not exempted from garnishment by any state or federal law ~~((;))~~; and (4) whether or not the garnishee is the employer of the judgment debtor.

The judgment creditor shall pay to the clerk of the superior court the fee provided by RCW 36.18.020, or to the clerk of the ~~((justice))~~ district

court the fee of two dollars. (~~The party applying for this writ shall state in such affidavit whether or not the party who is to be the garnishee is the employer of the defendant.~~)

Sec. 1007. Section 1, chapter 61, Laws of 1970 ex. sess. and RCW 7.33.050 are each amended to read as follows:

When application for a writ of garnishment is made by a judgment creditor and the ((foregoing requisites)) requirements of RCW 7.33.040 have been complied with, the clerk shall docket the case in the names of the ((plaintiff)) judgment creditor as plaintiff, the judgment debtor as defendant, and ((of)) the garnishee as garnishee defendant, and shall immediately issue and deliver a writ of garnishment ((;)) to the judgment creditor in ((such)) the form ((as provided)) prescribed in RCW 7.33.110, directed to the garnishee, commanding ((him)) the garnishee to answer said writ on forms served with the writ and complying with RCW 7.33.150 within twenty days after the service of the writ upon ((him)) the garnishee.

The writ of garnishment shall be dated and attested as in the form prescribed in RCW 7.33.110. The name and office address of the plaintiff's attorney shall be indorsed thereon or, in case the plaintiff has no attorney, the name and address of the plaintiff shall be indorsed thereon. The address of the clerk's office shall appear at the bottom of the writ.

NEW SECTION. Sec. 1008. A writ of garnishment directed to a bank, banking association, mutual savings bank, savings and loan association, or credit union that maintains branch offices may identify a particular branch or the financial institution as the garnishee defendant, and the statement required by RCW 7.33.130(2) may be incorporated in the writ or served separately. Service shall be as required by RCW 7.33.130 except that, if the financial institution is named as garnishee defendant, service shall be on the head office or on any other office designated by the financial institution for receipt of service of process. If the branch is named as garnishee defendant, service shall be as required by RCW 7.33.130 and shall be effective only to attach the accounts, credits, or other personal property of the defendant in the particular branch to which the writ is directed and on which service is made.

Sec. 1009. Section 9, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.090 are each amended to read as follows:

The writ of garnishment shall set forth in the first paragraph the amount ((which)) that garnishee is required to hold, which shall be an amount determined as follows: (1) The amount of ((a)) the judgment remaining unsatisfied or ((b)) if before judgment, the amount prayed for in the complaint; (2) plus interest to the date of garnishment ((at the rate specified in the contractual document or the statutory rate, if there be no contractual document)), as provided in RCW 4.56.110; (3) plus whichever shall be greater of (a) fifty dollars ((or)), (b) statutory costs, or (c) ten

SESSION LAWS

OF THE

STATE OF WASHINGTON

SESSION OF 1893.

COMPILED IN CHAPTERS, WITH MARGINAL NOTES,
BY JAMES H. PRICE, SECRETARY OF STATE.

PUBLISHED BY AUTHORITY.

OLYMPIA, WASH.:
O. C. WHITE, . . . STATE PRINTER.
1893.

A-29

fore, declared that an emergency exists, and that this act shall take effect and be in force from and after the approval by the governor.

Approved March 8, 1893.

CHAPTER LVI.

[H. B. No. 114.]

RELATIVE TO GARNISHMENTS.

AN ACT in relation to garnishments.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. The clerks of the superior courts in the various counties in the state may issue writs of garnishment returnable to their respective courts in the following cases:

1. Where an original attachment has been issued in accordance with the statutes in relation to attachments.

2. Where the plaintiff sues for a debt and makes affidavit that such debt is just, due and unpaid, and that the garnishment applied for is not sued out to injure either the defendant or the garnishee.

3. Where the plaintiff has a judgment wholly or partially unsatisfied in the court from which he seeks to have a writ of garnishment issued.

SEC. 2. In the case mentioned in subdivision two of the preceding section the plaintiff shall execute a bond with two or more good and sufficient sureties, to be approved by the clerk issuing the writ, payable to the defendant in the suit, in double the amount of the debt claimed therein, conditioned that he will prosecute his suit and pay all damages and costs that may be adjudged against him for wrongfully suing out such garnishment.

SEC. 3. Before the issuance of the writ of garnishment the plaintiff or some one in his behalf shall make application therefor by affidavit, stating the facts authorizing the issuance of the writ, and that the plaintiff has reason to believe,

and does believe, that the garnishee, stating his name and residence, is indebted to the defendant, or that he has in his possession, or under his control, personal property or effects belonging to the defendant, or that the garnishee is an incorporated or joint stock company, and that the defendant is the owner of shares in such company or has an interest therein.

SEC. 4. When the foregoing requisites have been complied with the clerk shall docket the case in the name of the plaintiff as plaintiff and of the garnishee as defendant, and shall immediately issue a writ of garnishment directed to the garnishee, commanding him to appear before the court from which it is issued within twenty days after the service of the writ upon him, if the same be served upon him within the county in which the same is issued, or within thirty days if served in any other county in this state, and to answer on oath what, if anything, he is indebted to the defendant, and was when such writ was served, and what personal property or effects, if any, of the defendant he has in his possession or under his control, or had when such writ was served.

Joint stock
company.

SEC. 5. Where it appears from the plaintiff's affidavit that the garnishee is an incorporated or joint stock company, in which the defendant is the owner of shares, or is interested therein, the writ of garnishment shall further require the garnishee to answer upon oath what number of shares, if any, the defendant owns in such company, or owned when such writ was served.

SEC. 6. Said writ may be substantially in the following form:

STATE OF WASHINGTON.

To A B; greeting:

Form of writ of
garnishment.

Whereas, in the superior court of the State of Washington, in and for county, in a certain cause wherein C D is plaintiff and E F is defendant, the plaintiff claiming an indebtedness against the said E F of dollars, besides interest and cost of suit, has applied for a writ of garnishment against you:

Now, therefore, you are hereby commanded to be and appear before the said court within twenty days after the

OFFICE RECEPTIONIST, CLERK

To: relston@millerlawspokane.com
Cc: HASSON@DHLAW.BIZ; 'Kirk Miller'
Subject: RE: E-FILING: 92565-8

Received on 01-08-2016

Supreme Court Clerk's Office

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: relston@millerlawspokane.com [mailto:relston@millerlawspokane.com]
Sent: Thursday, January 07, 2016 4:02 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: HASSON@DHLAW.BIZ; 'Kirk Miller' <kmiller@millerlawspokane.com>
Subject: E-FILING: 92565-8

Case Name: Patricia M. Carter v. Peterson Enterprises, Inc.
Case No. 92565-8

Attorney filing document:
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