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COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

No. 281698

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

BONNIE ANTHIS, individually, and as Personal Representative of the
Estate of HARVEY ALLEN ANTHIS, Respondent,

v.

WALTER WILLIAM COPLAND, Appellant

BRIEF OF APPELLANT

Michael G. Malaier
GEIERSBACH & KRAFT, P.S.C.
Attorneys for Appellant

Michael Malaier, WSBA #34729
8910 Main St. East, Suite F
Bonney Lake, WA 98391
(253) 863-3366

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- RCW 6.27.230, at p. 10;
- RCW 41.26.053(1), at p. 2, 3, 4, 6, 7, 8, 10, 11;
- RCW 41.26.100, at p. 5, 6;
- ORS 23.170(2), at p. 8, 9; See also Appendix A
- ORS 23.170(3)(b), at p. 9; See also Appendix A
- 42 USC 407, at p. 8; See also Appendix B
- 42 USC 659(a), at p. 8; See also Appendix C

I. STATEMENT OF THE CASE

On September 29, 2008, this Court issued a Mandate under cause number 26625-7-III terminating review of the judgment entered against Mr. Copland by the Benton County Superior Court, cause number 06-2-02157-3. On December 4, 2008, Ms. Anthis commenced collection efforts by filing her Motion for Supplemental Proceeding by Interrogatory. C.P. 00001-00002. Accompanying said Motion was Ms. Anthis's Memorandum in Support wherein she requested, *inter alia*, a ruling that Mr. Copland's LEOFF-1 pension assets were not exempt from execution. C.P. 00003-00030. Mr. Copland filed his response thereto on January 2, 2009, and the matter proceeded to argument on January 9, 2009. C.P. 00031-00040.

At the hearing on January 9, 2009, the court, Honorable Robert Swisher, granted Ms. Anthis's request to commence supplemental proceedings via interrogatory, declining to enter any order concerning the nature and disposition of Mr. Copland's LEOFF-1 pension assets. C.P. 00041-00042. On April 24, 2009, Ms. Anthis filed her Motion for Final Determination Concerning Claim of Exemption, followed by her Supplemental Memorandum in Support thereof on May 1, 2009. C.P. 00043-00106. Mr. Copland responded on May 6, 2009, and the matter

proceeded to argument on May 8, 2009 before the Honorable Bruce Spanner. C.P. 00107-00115.

At the hearing, Judge Spanner ruled in favor of Ms. Anthis, concluding that Mr. Copland's LEOFF-1 pension assets lost their exempt status upon deposit in his bank account. R.P. 23: 15-17. Moreover, the court found that there existed no statutory authority to exempt any portion of Mr. Copland's deposited pension assets. R.P. 22: 8-23: 1. On May 26, 2009, the Honorable Carrie Runge signed the Final Order on Pension Assets containing the legal conclusions announced in open court by Judge Spanner. C.P. 00116-00118.

Mr. Copland now appeals, respectfully requesting that this Court reverse Judge Spanner's Order by holding, as a matter of law, that RCW 41.26.053(1) exempts from execution his LEOFF-1 pension assets. Additionally, Mr. Copland requests attorney fees in an amount to be determined later.

II. ARGUMENT

II.A. Standard of Review

In matters of statutory interpretation, this Court engages in *de novo* review. *State v. Alvarado*, 164 Wn.2d 556, 561 (2008). In so doing, appellate courts endeavor to discern and enforce the intent of the legislature. *Alvarado* at 561-2. Where the meaning of statutory language

is plain on its face, the court must give effect to that plain meaning as an expression of legislative intent; in determining the plain meaning of a provision, our courts consider the entire statute in which the provision is found, as well as related statutes or other provisions in the same act that disclose legislative intent. *Alvarado* at 562.

Because Mr. Copland maintains that Judge Spanner erroneously construed the plain meaning of RCW 41.26.053(1), he respectfully urges this Court to employ the *Alvarado* analysis and review the matter *de novo*. Moreover, any issue regarding the application thereof rightfully falls under the same *de novo* standard. *Sunnyside Valley Irrigation District v. Dickie*, 149 Wn.2d 873, 879-880 (2003).

II.B. Washington statutory authority unambiguously exempts from execution LEOFF-1 pension and disability assets from execution of any kind

White v. Douglas, 6 Wn.2d 356 (1941), makes clear Washington's long-standing, well established principle that "Exemption laws are favored in the law and are to be liberally construed." More germane to the issue at hand, however, is the fact that Washington law protects from execution, garnishment, levy, etc., an individual's pension assets.

RCW 6.15.020 sets forth the state legislature's general policy behind exempting retirement accounts and pension income from garnishment. The introductory section of this provision reads: "It is the

policy of the state of Washington to ensure the well-being of its citizens by protecting retirement *income* to which they are or may become entitled.” Emphasis added.

As noted by Judge Spanner, however, RCW 6.15.020(4) sets apart certain types of pension assets created under myriad chapters of the revised code. R.P. 20: 11-17. And while the general policy stated *supra* certainly applies, Mr. Copland’s LEOFF-1 pension and disability assets fall squarely within the purview of RCW 41.26.053(1). As noted in Mr. Copland’s responsive pleadings, language of R.C.W 41.26.053(1) is unambiguous. C.P. 00107-00115.

A plain reading of said statute reveals a list of ten rights and / benefits which are exempt from execution. It is an exhaustive list: 1. the right to retirement allowance, 2. the right to disability insurance, 3. the right to death benefit, 4. the right to return of accumulated contributions, 5. the right to the retirement allowance itself, 6. the right to the disability allowance itself, 7. the right to the death allowance itself, 8. the right to any optional benefit itself, 9. the enjoyment of any other right accruing under the chapter, and 10. the moneys in the fund created under this chapter. See generally, RCW 41.26.053(1).

The issue, then, is what our legislature intended by the use of the word “itself” when used as set forth in the statute. Put more bluntly, what

is the difference between the “right to retirement/disability allowance” and the “right to the retirement/disability allowance itself” mean? This Court ought to begin this exercise in discernment by noting longstanding rules of statutory construction/interpretation. In construing a statute, courts should read it in its entirety, instead of reading only a single sentence or a single phrase. *State v. Keller*, 143 Wn.2d 267 at 277 (2001). Statutes must also be construed so that all the language is given effect and no portion is rendered meaningless or superfluous.

Thus, our legislature must be understood to have carefully and specifically differentiated between the “right to retirement/disability allowance” and the “allowance itself.” Given the clear meaning of the tenth listed exemption, namely the moneys in the fund created under the chapter, the “right to allowance” and the “allowance itself” cannot logically be construed as referring to the pre-distribution moneys in the fund.

Instead, Mr. Copland urges this Court to hold that the exempt “right to allowance” means that no creditor can force a retiree to assign his allowance prior to retirement, or even more simply, emphasizes the prohibition against assignment generally. Therefore, the “allowance itself” can only refer to the moneys distributed as part of that allowance. RCW 41.26.100 militates strongly in favor of this interpretation. It reads

in relevant part: "A member upon retirement for service shall receive a monthly retirement allowance computed according to his or her completed creditable service credit years of service." The term, "allowance," as used in RCW 41.26.100 clearly represents the money actually doled out by the Department of Retirement Systems. As such, Mr. Copland's LEOFF-1 assets ought to be exempt from Ms. Anthis's efforts to execute on them, even upon deposit in his bank account.

II.C. The trial court's reading of RCW 41.26.053(1) yields absurd results and offends public policy

Judge Spanner clearly felt that RCW 41.26.053(1) was not clear on its face, hence his detailed and extensive references to other statutes and principles. R.P. 17: 14-19, R.P. 19: 8-20. While Mr. Copland strenuously disagrees with this assessment, he notes that our Supreme Court holds that when a statute is ambiguous, the court must construe the statute in order to effectuate the intent of the Legislature and must strive to interpret statutes in such a manner as to avoid creating strained, unlikely, or absurd results. *Davis v. State ex rel. Dep't of Licensing*, 137 Wn.2d 957, (1999).

Interpreting RCW 41.26.053(1) in such a way as to strip Mr. Copland's disability assets of their exempt status simply upon deposit into his bank account, yields a patently absurd result. Namely, he and all other

unemployed policeman or firefighter under the purview of LEOFF-1 would be left utterly penniless. For, given the terms thereof, none of these pensioners would have likely paid into Social Security, thereby leaving their only income in retirement open to execution. Even more absurd is the fact that Judge Spanner's reading of RCW 6.27.140 in conjunction with RCW 41.26.053(1) eliminates even the limited exemptions afforded wage earners. R.P. 22:8-23:17. Thus, any retired policeman with a LEOFF-1 pension would lose every cent upon execution or garnishment by an unsecured judgment holder. Certainly, our legislature could not have intended such a consequence.

Going further, such a reading offends public policy insofar as the generous benefits conferred on Washington's police and firefighters by the various incarnations of the LEOFF fund are designed to entice qualified candidates, as well as to honor and care for those who have devoted their life to service. Again, given this purpose, it seems unreasonable to assume that the legislature would abide an interpretation of RCW 41.26.053(1) that would leave such an individual in penury upon his having an unsecured judgment entered against him.

II.D. Mr. Copland's LEOFF-1 pension/disability assets are "income" subject to garnishment exemptions

It is longstanding Washington law that, "[p]ensions are deferred compensation for work performed." *Bakenhus v. City of Seattle*, 48

Wn.2d 695, 698 (1956). As such, Judge Spanner's ruling that RCW 41.26.053(1) read in conjunction with RCW 6.27.140 eliminates the limited exemptions afforded wage earners is erroneous. R.P. 22:8-23:17. At minimum, should this Court agree that Mr. Copland's LEOFF-1 pension/disability assets lose their exemption status upon deposit into a bank account, the typical offset exemptions listed in RCW 6.27.140 designed to accord a wage earner a modicum standard of living during garnishment must be available to Mr. Copland.

Persuasive authority also supports this interpretation. Federal law unambiguously shields Social Security payments from any attachment or execution, provided the creditor is not a claimant for child support or alimony. 42 USC 407, 659(a). The Oregon Court of Appeals, in *Hobson v. Hobson*, 136 Or. App. 516, 901 P.2d 914 (1995) addressed the issue of retirement income exemption status in light of the appellant's argument that Oregon law ought to shield his retirement income from a support obligation. Oregon Revised Statute 23.170(2) reads in relevant part: "[A] beneficiary's interest in a retirement plan shall be exempt, effective without necessity of claim thereof, from execution and all other process, mesne or final."

Mr. Hobson argued, *inter alia*, that his Social Security payments represented an interest in a "retirement plan" as contemplated in ORS

23.170(2) and, as such, were wholly exempt from execution, even from a garnishment arising out of a support obligation. The Oregon Court of Appeals rejected this argument on its face as contravening ORS 23.170(3)(b), which specifically removes support obligations from the general umbrella of exempt status.¹

Of particular importance, though, is the following policy statement rendered by the Oregon Court of Appeals:

“To hold otherwise would create a distinction between persons who depend on fixed incomes from private retirement programs and those who depend on fixed incomes from Social Security, providing protection to the former while denying protection to the latter. Particularly in view of the legislature's apparent purpose in enacting ORS 23.185, of ensuring that wage earners and retirees retain a sufficient percentage of their "earnings" to meet their basic needs, reading such a distinction into the exemption statute would be artificial and unwarranted.” *Hobson* at 523.

II.D. Mr. Copland is entitled to attorney fees for having to defend this action at the trial and appellate levels.

RCW 6.27.210 sets forth the procedure for a defendant to controvert the answer of a garnishee defendant. In the instant case before this Court, however, the parties agreed with the Honorable Robert Swisher's suggested approach to obtain a declaratory judgment on the question of exemption prior to obtaining the writ of garnishment. R.P. 5:17-6:4 The sole purpose of Ms. Anthi's motion was to determine,

¹ This Court should note that RCW 41.26.053(3), much as its federal and Oregon counterparts, also provides identical exceptions to the protections afforded in subsection (1).

prospectively, whether or not Mr. Copland's LEOFF-1 assets were exempt, as such RCW 6.27.230 ought to control.

RCW 6.27.230 specifically requires that attorney fees be awarded to the prevailing party. It reads in whole: "Where the answer is controverted, the costs of the proceeding, including a reasonable compensation for attorney's fees, shall be awarded to the prevailing party: PROVIDED, That no costs or attorney's fees in such contest shall be taxable to the defendant in the event of a controversion by the plaintiff."

At every procedural step along the way, Mr. Copland has requested attorney fees in his responsive pleadings. C.P. 00031: 23-25, 107: 23-25. In light of the clear directive contained in RCW 6.27.230, should this Court reverse the trial court order, Mr. Copland ought to receive attorney fees in an amount to be established in accordance with RAP 18.1(d).

III. CONCLUSION

In light of the foregoing, Mr. Copland respectfully urges this Court to give RCW 41.26.053(1) its plain meaning: that his LEOFF-1 retirement/disability income (i.e., "the allowance itself") is exempt from execution upon deposit in his bank account. For, to give the statute Ms. Anthis's meaning, is to give weight to only one prong, while ignoring completely the other nine. Moreover, to allow LEOFF-1 monies to be seized upon issuance from the Department of Retirement Systems only

serves to effect the absurd result that such pensioners be left utterly penniless.

Alternatively, however, should this Court affirm Judge Spanner's reading of RCW 41.26.053(1), Mr. Copland maintains that he be allowed the standard offset exemptions enumerated in RCW 6.15 *et seq*, as his LEOFF-1 pension monies constitute deferred compensation.

At the hearing underlying this ruling, counsel for Ms. Anthis made a specific point to say that Mr. Copland was unable to adduce any case from Washington that directly addresses the issue. He then boasts of having produced others from various jurisdictions ostensibly in support of his reading. R.P. 3: 3-13. While the underlying record suffices to distinguish these cases, Mr. Copland insists that the dearth of case law addressing the exemptions in RCW 41.26.053(1) buttresses his interpretation R.P. 9:4-10: 15. That is, the statute so obviously exempts a retired and disabled police officer's pension monies from execution by unsecured debtors that no litigant has yet to even attempt such an action. To that end, he respectfully requests a mandate from this Court reversing the order entered by the Benton County Superior Court and imposing reasonable attorney fees for having to defend his pension.

RESPECTFULLY SUBMITTED this 18th day of August 2009.

GEIERSBACH & KRAFT, P.S.C.



Michael Malaier, WSBA# 34729

Of Attorneys for Mr. Copland

APPENDIX A

Oregon Revised Statute 23.170, renumbered 18.358 in 2003

18.358

Certain retirement plans exempt from execution; exceptions

(1) As used in this section:

(a) "Beneficiary" means a person for whom retirement plan benefits are provided and their spouse.

(b) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on December 31, 1998.

(c) "Permitted contribution" means:

(A) A contribution that, at the time of the contribution, is not taxable income to the beneficiary and, if the sponsor is a taxable entity, is tax deductible to the sponsor;

(B) A nondeductible contribution by a beneficiary to a retirement plan to the extent that the contribution is permitted to be made under the Internal Revenue Code;

(C) A deductible or nondeductible contribution to an individual retirement account to the extent the contribution is not subject to federal excise tax as an excess contribution;

(D) A contribution, pursuant to a rollover or transfer, from one retirement plan to another, to the extent the federal tax deferred status is preserved at such time;

(E) A rollover from an individual retirement account described in section 408 of the Internal Revenue Code to an individual retirement account described in section 408A of the Internal Revenue Code; and

(F) Any earnings under a retirement plan which are attributable to a contribution described in subparagraphs (A) to (E) of this paragraph.

(d) "Retirement plan" means:

(A) A pension plan and trust, including a profit sharing plan, that is described in sections 401(a), 401(c), 401(k), 403 and 457 of the Internal Revenue Code, including that portion attributable to contributions made by or attributable to a beneficiary;

(B) An individual retirement account or annuity, including one that is pursuant to a simplified employee pension, as described in section 408 or 408A of the Internal Revenue Code; and

(C) Any pension not described in subparagraphs (A) and (B) of this paragraph granted to any person in recognition or by reason of a period of employment by or service for the Government of the United States or any state or political subdivision of any state, or any municipality, person, partnership, association or corporation.

(e) "Sponsor" means an individual or entity which establishes a retirement plan.

(2) Subject to the limitations set forth in subsection (3) of this section, a retirement plan shall be conclusively presumed to be a valid spendthrift trust under these statutes and the common law of this state, whether or not the retirement plan is self-settled, and a beneficiary's interest in a retirement plan shall be exempt, effective without necessity of claim thereof, from execution and all other process, mesne or final.

(3) Notwithstanding subsection (2) of this section:

(a) A contribution to a retirement plan, other than a permitted contribution, shall be subject to ORS 95.200 (Definitions for ORS 95.200 to 95.310) to 95.310 (Short title) concerning fraudulent transfers; and

(b) Unless otherwise ordered by a court under ORS 25.387 (Withholding more than amount authorized by law), 75 percent of a beneficiary's interest in a retirement plan shall be exempt from execution or other process arising out of a support obligation or an order or notice entered or issued under ORS chapter 25, 107, 108, 109, 110, 416, 419B or 419C.
[Formerly 23.170]

APPENDIX B

42 USC § 407. Assignment of benefits

SUBCHAPTER II - FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

(a) In general

The right of any person to any future payment under this subchapter shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

(b) Amendment of section

No other provision of law, enacted before, on, or after April 20, 1983, may be construed to limit, supersede, or otherwise modify the provisions of this section except to the extent that it does so by express reference to this section.

(c) Withholding of taxes

Nothing in this section shall be construed to prohibit withholding taxes from any benefit under this subchapter, if such withholding is done pursuant to a request made in accordance with section 3402(p)(1) of the Internal Revenue Code of 1986 by the person entitled to such benefit or such person's representative payee.

APPENDIX C

42 USC § 659. Consent by United States to income withholding, garnishment, and similar proceedings for enforcement of child support and alimony obligations

SUBCHAPTER IV - GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

Part D - Child Support and Establishment of Paternity

(a) Consent to support enforcement

Notwithstanding any other provision of law (including section 407 of this title and section 5301 of title 38), effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to any individual, including members of the Armed Forces of the United States, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to withholding in accordance with State law enacted pursuant to subsections (a)(1) and (b) of section 666 of this title and regulations of the Secretary under such subsections, and to any other legal process brought, by a State agency administering a program under a State plan approved under this part or by an individual obligee, to enforce the legal obligation of the individual to provide child support or alimony.

(b) Consent to requirements applicable to private person

With respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 666 of this title, or any other order or process to enforce support obligations against an individual (if the order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), each governmental entity specified in subsection (a) of this section shall be subject to the same requirements as would apply if the entity were a private person, except as otherwise provided in this section.

(c) Designation of agent; response to notice or process

(1) Designation of agent

The head of each agency subject to this section shall -

(A) designate an agent or agents to receive orders and accept service of process in matters relating to child support or alimony; and

(B) annually publish in the Federal Register the designation of the agent or agents, identified by title or position, mailing address, and telephone number.

(2) Response to notice or process

If an agent designated pursuant to paragraph (1) of this subsection receives notice pursuant to State procedures in effect pursuant to subsection (a)(1) or (b) of section 666 of this title, or is effectively served with any order, process, or interrogatory, with respect to an individual's child support or alimony payment obligations, the agent shall -

(A) as soon as possible (but not later than 15 days) thereafter, send written notice of the notice or service (together with a copy of the notice or service) to the individual at the duty station or last-known home address of the individual;

(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to such State procedures, comply with all applicable provisions of section 666 of this title; and

(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatory, withhold available sums in response to the order or process, or answer the interrogatory.

(d) Priority of claims

If a governmental entity specified in subsection (a) of this section receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than 1 person -

(1) support collection under section 666(b) of this title must be given priority over any other process, as provided in section 666(b)(7) of this title;

(2) allocation of moneys due or payable to an individual among claimants under section 666(b) of this title shall be governed by section 666(b) of this title and the regulations prescribed under such section; and

(3) such moneys as remain after compliance with paragraphs (1) and (2) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.

(e) No requirement to vary pay cycles

A governmental entity that is affected by legal process served for the enforcement of an individual's child support or alimony payment obligations shall not be required to vary its normal pay and disbursement cycle in order to comply with the legal process.

(f) Relief from liability

(1) Neither the United States, nor the government of the District of Columbia, nor any disbursing officer shall be liable with respect to any payment made from moneys due or payable from the United States to any individual pursuant to legal process regular on its face, if the payment is made in accordance with this section and the regulations issued to carry out this section.

(2) No Federal employee whose duties include taking actions necessary to comply with the requirements of subsection (a) of this section with regard to any individual shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by the employee in connection with the carrying out of such actions.

(g) Regulations

Authority to promulgate regulations for the implementation of this section shall, insofar as this section applies to moneys due from (or payable by) -

(1) the United States (other than the legislative or judicial branches of the Federal Government) or the government of the District of Columbia, be vested in the President (or the designee of the President);

(2) the legislative branch of the Federal Government, be vested jointly in the President pro tempore of the Senate and the Speaker of the House of Representatives (or their designees), and

(3) the judicial branch of the Federal Government, be vested in the Chief Justice of the United States (or the designee of the Chief Justice).

(h) Moneys subject to process

(1) In general

Subject to paragraph (2), moneys payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section -

(A) consist of -

(i) compensation payable for personal services of the individual, whether the compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);

(ii) periodic benefits (including a periodic benefit as defined in section 428(h)(3) of this title) or other payments -

(I) under the insurance system established by subchapter II of this chapter;

(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

(III) as compensation for death under any Federal program;

(IV) under any Federal program established to provide "black lung" benefits; or

(V) by the Secretary of Veterans Affairs as compensation for a service-connected disability paid by the Secretary to a former member of the Armed Forces who is in receipt of retired or retainer pay if the former member has waived a portion of the retired or retainer pay in order to receive such compensation;

(iii) worker's compensation benefits paid or payable under Federal or State law;

(iv) benefits paid or payable under the Railroad Retirement System, and

(v) special benefits for certain World War II veterans payable under subchapter VIII of this chapter; but

(B) do not include any payment -

(i) by way of reimbursement or otherwise, to defray expenses incurred by the individual in carrying out duties associated with the employment of the individual;

(ii) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, as prescribed by the Secretaries concerned (defined by section 101(5) of title 37) as necessary for the efficient performance of duty; or

(iii) of periodic benefits under title 38, except as provided in subparagraph (A)(ii)(V).

(2) Certain amounts excluded

In determining the amount of any moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which -

(A) are owed by the individual to the United States;

(B) are required by law to be, and are, deducted from the remuneration or other payment involved, including Federal employment taxes, and fines and forfeitures ordered by court-martial;

(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1986 may be permitted only when the individual presents evidence of a tax obligation which supports the additional withholding);

(D) are deducted as health insurance premiums;

(E) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage); or

(F) are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).

(i) Definitions

For purposes of this section -

(1) United States

The term "United States" includes any department, agency, or instrumentality of the legislative, judicial, or executive branch of the Federal Government, the United States Postal Service, the Postal Regulatory Commission, any Federal corporation created by an Act of Congress that is wholly owned by the Federal Government, and the governments of the territories and possessions of the United States.

(2) Child support

The term "child support", when used in reference to the legal obligations of an individual to provide such support, means amounts required to be paid under a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative

agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages or reimbursement, and which may include other related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief.

(3) Alimony

(A) In general

The term "alimony", when used in reference to the legal obligations of an individual to provide the same, means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of the individual, and (subject to and in accordance with State law) includes separate maintenance, alimony pendente lite, maintenance, and spousal support, and includes attorney's fees, interest, and court costs when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.

(B) Exceptions

Such term does not include -

(i) any child support; or

(ii) any payment or transfer of property or its value by an individual to the spouse or a former spouse of the individual in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

(4) Private person

The term "private person" means a person who does not have sovereign or other special immunity or privilege which causes the person not to be subject to legal process.

(5) Legal process

The term "legal process" means any writ, order, summons, or other similar process in the nature of garnishment -

(A) which is issued by -

(i) a court or an administrative agency of competent jurisdiction in any State, territory, or possession of the United States;

(ii) a court or an administrative agency of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor the process; or

(iii) an authorized official pursuant to an order of such a court or an administrative agency of competent jurisdiction or pursuant to State or local law; and

(B) which is directed to, and the purpose of which is to compel, a governmental entity which holds moneys which are otherwise payable to an individual to make a payment from the moneys to another party in order to satisfy a legal obligation of the individual to provide child support or make alimony payments.