

NOTICE OF MOTION GARNISHEE ORDER

COURT DETAILS

Court Write 'Local Court'
#Division Write 'Small Claims Division'
#List Delete or leave blank
Registry Write court where statement of claim filed
Case number Write case number from statement of claim

TITLE OF PROCEEDINGS

This section should be completed with the same details as in the 'TITLE OF PROCEEDINGS' section of the statement of claim form.

[First] plaintiff **[name]**

#Second plaintiff #Number of
plaintiffs (if more than two)

[First] defendant **[name]**

#Second defendant #Number of
defendants (if more than two)

JUDGMENT DETAILS

Date of judgment to be enforced Write the date the court made the judgment

FILING DETAILS

Person seeking orders **[name]** Write your name and role [role of party eg plaintiff]
(**judgment creditor**)

#Filed in relation to [eg plaintiff's claim, (number) cross-claim]
[include only if form to be eFiled] Delete or leave blank

#Legal representative [solicitor on record] [firm] Delete or leave blank

#Legal representative reference [reference number] Delete or leave blank

Contact name and telephone [name] [telephone] Write your name and telephone number

Contact email [email address] Write your email address

PERSON AFFECTED BY ORDERS SOUGHT

[name] Write the judgment debtor's name [role of party eg defendant] (**judgment debtor**)

[name] Write the name of the judgment debtor's employer, bank or other garnishee (that is, the person or company who holds money that belongs to the judgment debtor) (**proposed garnishee**)

HEARING DETAILS

This motion is to be dealt with in the absence of the parties.

[on separate page]

ORDERS SOUGHT

- 1 A garnishee order against [name of proposed garnishee] write the name of the employer, bank or other garnishee (that is, the person or company who holds money that belongs to the judgment debtor) for [#wages/salary #rent #debts] delete "wages/salary" if you are seeking money from a bank account or other debt, delete "debts" if you are seeking money from wages/salary in the amount of \$[amount]. Write the judgment amount plus interest from date of judgment to date of signing this affidavit. You can also include service fees and court fees you have already paid for other types of enforcement action you have taken against the judgment debtor, such as the fee for filing a notice of motion examination order. If the judgment debtor has made any payments, you should take these off the total owed.

SIGNATURE

#Signature of legal representative Delete or leave blank

#Signature of or on behalf of party Sign in this space once you have completed the form if not legally represented

Capacity [eg solicitor, authorised officer, role of party] Write 'Plaintiff'

Date of signature Write the date you signed this form

DETAILS ABOUT PROPOSED GARNISHEE

Proposed garnishee

Name Write the name of the judgment debtor's employer, bank or other garnishee.

Address #[unit/level number] #[building name]
[street number] [street name] [street type]
[suburb/city] [state/territory] [postcode]
#[country (if not Australia)] Write the address of the employer if garnishee order is for wages/salary. Write the address of the branch of the bank or financial institution if the garnishee order is for debt. Most banks have a specific address for sending legal documents.

[on separate page]

AFFIDAVIT

Name Write your name
Address Write your address
Occupation Write your occupation
Date Write the date that you signed the affidavit

I [#say on oath #affirm]: Delete the word 'oath' or 'affirm', whichever does not apply

- 1 #I am the judgment creditor. Delete if judgment creditor is a company or association

#I am [give details of the capacity of the person making the affidavit and the facts that qualify the person to make the affidavit]. Delete if you are individual judgment creditor. If judgment creditor is a company give details of your role in the company e.g. 'I am the Director/Executive Officer/Public Officer of the judgment creditor'
- 2 [Name of person] Write the name of judgment debtor is a person liable to pay the judgment.
- 3 The amount payable under the judgment (including any prior enforcement costs but excluding interest after judgment under section 101 of the Civil Procedure Act 2005) as at the date of this affidavit is \$[amount]. Write the amount of the judgment debt plus the costs of any earlier attempts to enforce the debt, less any payments made by the judgment debtor.
- 4 Interest payable under section 101 of the Civil Procedure Act 2005 is \$[amount]. Write the amount of interest from the date of judgment to the date of signing this notice of motion.
- 5 The amounts claimed for costs for the issue of the order are:
Service fees \$ Write the amount for service if you paid a process server to serve this document. The maximum you can claim for service fees is what the Office of the Sheriff would charge. You can check the current amount on the [Local Courts](#) website.
Solicitors fees \$ Leave blank, unless you have a solicitor.
TOTAL \$ Write the total fees.
- 6 The proposed garnishee is identified in the notice of motion at DETAILS ABOUT PROPOSED GARNISHEE.
- 7 #The proposed garnishee order is in relation to wages/salary. OR

#The proposed garnishee order is in relation to rent for the land comprised in [title/folio numbers] being the land situated at and known as [address] ("the Property") held by a real estate agent in a trust account for the benefit of the judgment debtor. The

judgment creditor is the owners corporation in relation to the Property and the judgment debt relates to an unpaid contribution for the Property. [Delete this option unless you are the owners corporation.](#)

#The proposed garnishee order is in relation to the following debt: [give name of financial institution, branch number, account number or any other identifying information]. [Write the name of the bank or financial institution, branch and account number of the judgment debtor.](#)

[Delete whichever does not apply:](#)

8 Any debts are, or are reasonably likely to be owed by the garnishee to the judgment debtor because [state the grounds relied on in support of identifying the debt]. [Write the details you have to identify that the garnishee is holding money owed to the judgment debtor.](#)

9 #The judgment is not stayed by an order of the court, by an instalment order or by a suspension under sections 86 or 90 of the [Legal Profession Uniform Law Application Act 2014](#) that has not been ended. [Delete if there is a stay of enforcement or current instalment order.](#)

#The judgment debt was the subject of an instalment order that has ceased to have effect for the following reason:

[set out reason] [If relevant, explain what has happened since the instalment order was made. For example, the judgment debtor has failed to make any instalment payments since \(date\). Delete this option if no instalment order has been made.](#)

#SWORN #AFFIRMED at

Write town/suburb where affidavit signed

Delete 'sworn' or 'affirmed'
whichever does not apply

Signature of deponent

Sign in this space once you have completed the affidavit

Name of witness

Write the name of the person who witnessed you sign.

Address of witness

Write the address of witness

Capacity of witness

Your witness will need to fill out
these details and should know
what to include

[#Justice of the peace #Solicitor #Barrister
#Commissioner for affidavits #Notary public] Delete
whichever does not apply

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
 #I did not see the face of the deponent because the deponent was wearing a face covering, but I am
 satisfied that the deponent had a special justification for not removing the covering.*
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
 #I have confirmed the deponent's identity using the following identification document:

Your witness will fill in this section

Identification document relied on (may be original or certified copy)†

Signature of witness

Your witness needs to sign here

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

[* The only "special justification" for not removing a face covering is a legitimate medical reason (at April 2012).]

[† "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011.]

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.