

NOTICE TO THE BAR

WAGE EXECUTIONS AND THE JULY 24, 2009 INCREASE IN THE FEDERAL MINIMUM WAGE; AMENDMENTS TO RULES APPENDICES XI-I, XI-J, AND XII-E

Pursuant to 29 *USCA* § 206 (a)(1), effective July 24, 2009 the federal minimum wage increases from \$6.55 per hour to \$7.25 per hour. This change affects the base amount of disposable weekly earnings on a wage execution under which no amount of wages may be withheld. As of July 24, 2009, the base amount of disposable weekly earnings increases from \$196.50 to \$217.50; for earnings paid every two weeks, the base amount increases from \$393.25 to \$435.00; for earnings paid twice monthly, the increase is from \$425.75 to \$471.25; and for earnings paid monthly, the increase is from \$851.50 to \$942.50.

This increase in the federal minimum wage necessitated conforming revisions to three Appendices to the Rules Governing the Courts of the State of New Jersey – Appendices XI-I and XI-J (“Notice of Application for Wage Execution” and “Wage Execution – Order, Certification and Execution Against Earnings...”) as to the Special Civil Part and Appendix XII-E (“Writ of Wage Execution”) as to the Civil Part of the Law Division. Accordingly, attached are those three Rules Appendices as revised by the Supreme Court to reflect those conforming amendments. These three revised Rules Appendices become effective on July 24, 2009, the effective date of the increase in the federal minimum wage. The order adopting the revised Appendices also is appended to this notice.

/s/ Glenn A. Grant

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: July 9, 2009

SUPREME COURT OF NEW JERSEY

It is ORDERED that the attached revisions to Appendix XI-I (“Notice of Application for Wage Execution”), Appendix XI-J (“Wage Execution – Order, Certification and Execution Against Earnings...”), and Appendix XII-E (“Writ of Wage Execution”) of the Rules Governing the Courts of the State of New Jersey are adopted to be effective July 24, 2009; and

It is FURTHER ORDERED that when an order for wage execution has been signed by a judge on application to the Civil Part of the Superior Court, Law Division prior to July 24, 2009 for the maximum amount then permitted by federal and State law, but the writ is not issued until on or after July 24, 2009, the order shall be deemed amended so that the writ can be issued by the Clerk for the maximum amount permitted by federal and State law on or after that date.

For the Court,
/s/ Stuart Rabner
Chief Justice

Dated: July 9, 2009

APPENDIX XI-I. NOTICE OF APPLICATION FOR WAGE EXECUTION

Attorney(s): _____
Office Address & Tel. No. _____
Attorney for _____

Plaintiff(s)

v.

Defendant(s)

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SPECIAL CIVIL PART
_____ COUNTY
Docket No. _____

CIVIL ACTION

NOTICE OF APPLICATION
FOR WAGE EXECUTION

To: _____
Name of Judgment-Debtor

Address

TAKE NOTICE that an application is being made by the judgment-creditor to the above-named court, located at _____, New Jersey for a Wage Execution Order to issue against your salary, to be served on your employer, _____ (name and address of employer), for: (a) 10% of your gross salary when the same shall equal or exceed the amount of \$217.50 [\$196.50] per week; or (b) 25% of your disposable earnings for that week; or (c) the amount, if any, by which your disposable weekly earnings exceed \$217.50 [\$196.50], whichever shall be the least. Disposable earnings are defined as that portion of the earnings remaining after the deduction from the gross earnings of any amounts required by law to be withheld. In the event the disposable earnings so defined are \$217.50 [\$196.50] or less, no amount shall be withheld under this execution. In no event shall more than 10% of gross salary be withheld. Your employer may not discharge, discipline or discriminate against you because your earnings have been subjected to garnishment.

You may notify the Clerk of the Court and the attorneys for judgment-creditor, whose address appears above, in writing, within ten days after service of this notice upon you, why such an Order should not be issued, and thereafter the application for the Order will be set down for a hearing of which you will receive notice of the date, time and place.

If you do not notify the Clerk of the Court and judgment-creditor's attorney, or the judgment-creditor if there is no attorney, in writing of your objection, you will receive no further notice and the Order will be signed by the Judge as a matter of course.

You also have a continuing right to object to the wage execution or apply for a reduction in the amount withheld even *after* it has been issued by the Court. To object or apply for a reduction, file a written statement of your objection or reasons for a reduction with the Clerk of the Court and send a copy to the creditor's attorney or directly to the creditor if there is no attorney. You will be entitled to a hearing within 7 days after you file your objection or application for a reduction.

CERTIFICATION OF SERVICE

I served the within Notice upon the judgment-debtor _____, on this date by sending it simultaneously by regular and certified mail, return receipt requested, to the judgment-debtor's last known address, set forth above. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to the punishment.

Date: _____, 20__

Attorney for Judgment-Creditor
or Judgment-Creditor Pro Se

[Adopted July 13, 1994, effective September 1, 1994; amended September 27, 1996, effective October 1, 1996; amended July 30, 1997, effective September 1, 1997; amended July 28, 2004, to be effective September 1, 2004; amended July 3, 2007, to be effective July 24, 2007; amended July 2, 2008, to be effective July 24, 2008; amended July 9, 2009 to be effective July 24, 2009.]

APPENDIX XI-J. WAGE EXECUTION

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SPECIAL CIVIL PART
_____ County

ORDER, CERTIFICATION AND
EXECUTION AGAINST EARNINGS
PURSUANT TO 15 U.S.C. 1673
and N.J.S.A. 2A:17-56

Street Address of Court
Town, NJ ZIP
Tel. No. of Court

Docket No. _____

Plaintiff

vs.

Designated Defendant
(Address)

Name and Address of Employer Ordered to Make Deductions

The employer is ordered to deduct from the earnings which the designated defendant receives and to pay over to the court officer named below, the lesser of the following: (a) 10% of the gross weekly pay; or (b) 25% of disposable earnings for that week; or (c) the amount, if any, by which the designated defendant's disposable weekly earnings exceed \$217.50 [\$196.50] per week, until the total amount due has been deducted or the complete termination of employment. Upon either of these events, an immediate accounting is to be made to the court officer. Disposable earnings are defined as that portion of the earnings remaining after the deduction from gross earnings of any amounts required by law to be withheld. In the event the disposable earnings so defined are \$217.50 [\$196.50] or less, no amount shall be withheld under this execution. In no event shall more than 10% of gross salary be withheld.

The employer shall immediately give the designated defendant a copy of this order. The designated defendant may object to the wage execution or apply for a reduction in the amount withheld at any time. To object or apply for a reduction, a written statement of the objection or reasons for a reduction must be filed with the Clerk of the Court and a copy must be sent to the creditor's attorney or directly to the creditor if there is no attorney. A hearing will be held within 7 days after filing the objection or application for a reduction. According to law, no employer may terminate an employee because of a garnishment.

Judgment Date _____
Judgment Amount \$ _____
Costs and Atty. Fees \$ _____
Subsequent Costs \$ _____
Total \$ _____
Credits, if any \$ _____
Subtotal A \$ _____
Interest \$ _____
Execution cost and
Mileage \$ _____
Costs of Application \$ _____
Subtotal B \$ _____
Court Officer Fee (10%).. \$ _____
Total due this date \$ _____

Date _____

Judge

Make payments at least monthly to
Court Officer as set forth:

Court Officer

I CERTIFY that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.
Date: _____

By: _____
(Typed name of signator)
Firm Name: _____
Address: _____

I RETURN this execution to the Court
() Unsatisfied
() Satisfied () Partly Satisfied
Amount Collected\$ _____
Fee Deducted\$ _____
Amount Due to Atty\$ _____
Date: _____

Court Officer

HOW TO CALCULATE PROPER GARNISHMENT AMOUNT

- (1) Gross Salary per pay period _____
- (2) Less:
- Amounts Required by Law to be Withheld:
- (a) U.S. Income Tax _____
- (b) FICA (social security) _____
- (c) State Income Tax, ETT, etc..... _____
- (d) N.J. SUI _____
- (e) Other State or Municipal Withholding..... _____
- (f) TOTAL - _____
- (3) Equals "disposable earnings" = _____
- (4) If salary is paid:
- weekly, then subtract \$217.50 [\$196.50]
- every two weeks, then subtract \$435.00 [\$393.25]
- twice per month, then subtract \$471.25 [\$425.75]
- monthly, then subtract \$942.50 [\$851.50]
- (Federal law prohibits any garnishment when "disposable earnings" are smaller than the amount on line 4) - _____
- (5) Equals the amount potentially subject to garnishment (if less than zero, enter zero) = _____
- (6) Take "disposable earnings" (Line 3) and multiply by .25:
\$ _____ x .25 = \$ _____
- (7) Take the gross salary (Line 1) and multiply by .10:
\$ _____ x .10 = \$ _____
- (8) Compare lines 5, 6, and 7--the amount which may lawfully be deducted is the smallest amount on line 5, line 6, or line 7, i.e.,
..... _____

Source: 15 U.S.C. 1671 *et seq.*; 29 C.F.R. 870; N.J.S.A. 2A:17- 50 *et seq.*

[Note: Former Appendix XI-I adopted effective January 2, 1989; amended June 29, 1990, effective September 4, 1990; amended July 14, 1992, effective September 1, 1992; redesignated as Appendix XI-J and amended July 13, 1994, effective September 1, 1994; amended September 27, 1996, effective October 1, 1996; amended July 30, 1997, effective September 1, 1997; amended July 28, 2004 to be effective September 1, 2004; amended July 3, 2007, to be effective July 24, 2007; amended July 2, 2008, to be effective July 24, 2008; amended July 9, 2009 to be effective July 24, 2009.]

Appendix XII-E
WRIT OF WAGE EXECUTION

Attorneys for Plaintiff

SUPERIOR COURT OF NEW JERSEY
DIVISION, COUNTY

Plaintiff,

DOCKET NO:

vs.

WRIT OF WAGE EXECUTION

Defendant.

THE STATE OF NEW JERSEY

TO THE SHERIFF OF _____ COUNTY

YOU ARE HEREBY COMMANDED that of the weekly earnings which the Defendant _____ receives from employer _____ whose address is _____, you take the sum of 10% of the gross weekly pay or 25% of disposable earnings for that week or the amount by which the designated Defendant's disposable weekly earnings exceed \$217.50 [\$196.50] per week, pursuant to the Order for Wage Execution entered with this Court on _____, a copy of which is attached hereto and Certification of the Court entered in the sum of \$ _____ plus interest and fees until \$ _____ plus interest and fees is paid and satisfied, and that you pay weekly to the Plaintiff's duly authorized attorney said amount of reservation of salary.

YOU ARE FURTHER COMMANDED that the employer shall immediately give the designated defendant a copy of this order. The designated defendant may object to the wage execution or apply for a reduction in the amount withheld at any time. To object or apply for a reduction, a written statement of the objection or reasons for a reduction must be filed with the Clerk of the Court and a copy must be sent to the creditor's attorney or directly to the creditor if

there is no attorney. A hearing will be held within seven days after filing the objection or application for a reduction. According to law, no employer may terminate an employee because of a garnishment.

YOU ARE HEREBY FURTHER COMMANDED that upon satisfaction of Plaintiff's damages, costs and interests, plus subsequent costs, or upon termination of the Defendant's salary, you will immediately thereafter return this Writ to the Court with a statement as to the execution annexed.

WITNESS, the Honorable _____, Judge of the Superior Court, this _____ day of _____, 20 ____ .

_____, CLERK

ENDORSEMENT

Judgment Amount*.....	\$
Additional Costs.....	\$
Interest thereon.....	\$
Credits.....	\$
Sheriff's Fees.....	\$
Sheriff's Commissions.....	\$
TOTAL:	\$

* "Judgment Amount" includes amount of verdict or settlement, plus pre-judgment court costs, plus any applicable statutory attorney's fee.

Post-judgment interest applied pursuant to Rule 4:42-11 must be calculated as **simple interest**. As required by Rule 4:59-1, explain in detail the method by which interest has been calculated, taking into account all partial payments made by the defendant.

Attorney for Plaintiff

Dated: _____, 20 ____

[Note: Form adopted as Appendix XII-E July 27, 2006 to be effective September 1, 2006; amended September 11, 2006 to be effective immediately; amended July 3, 2007, to be effective July 24, 2007; amended July 2, 2008, to be effective July 24, 2008; amended July 9, 2009 to be effective July 24, 2009.]