NOTICE TO THE BAR (Revised)

CLARIFICATION OF FILING PROCESS FOR WAGE EXECUTIONS AND GARNISHMENTS AFTER A JUDGMENT IS DOCKETED WITH THE SUPERIOR COURT CLERK'S OFFICE AS A STATEWIDE JUDGMENT LIEN

This Notice provides additional clarification regarding the filing of wage garnishments. This notice replaces and supersedes all prior notices clarifying the wage garnishment process and fee collection (including the notice dated May 2, 2016).

Nomenclature and Docketing Judgments as Statewide Liens

In order to clarify the nomenclature utilized by the courts, this notice further clarifies the meaning of certain designations commonly used when referencing judgments. A vicinage judgment (VJ) exists where a judgment was issued in the Superior Court and no other action has been taken to create a lien on real property in New Jersey. These judgments may be issued from the Chancery Division (Family and General Equity Parts) and the Law Division (Criminal and Civil Parts).

Where a party seeks to have a judgment levied as a lien against real property, a request must be made to the Superior Court Clerk's Office to docket that judgment in the lien index. Where a matter originated from the Special Civil Part, more commonly referred to as "DC", the Clerk's Office in docketing the judgment will issue a docket judgment ("DJ") number. Where a matter originated from the Chancery Division (Family and General Equity Parts) or the Law Division (Criminal and Civil Parts), the Clerk's Office in docketing the judgment will issue a judgment ("J") number. Each type of number – docket judgment ("DJ") number or judgment ("J") number – represents a statewide judgment lien against real property.

In addition to Superior Court judgments, there are other types of judgments that may be docketed as statewide judgment liens – foreign judgments, state agency certificates of debt/judgments, and Motor Vehicle Commission judgments.

Wage Garnishment Applications/Motions on Docketed Judgments

Wage garnishments must be by application/motion to the court. Applications/ motions for wage execution orders on existing New Jersey Superior Court docketed judgments (including judgments that were subsequently docketed in the Civil Judgment & Order Docket (CJOD) as a statewide judgment lien) must be filed in the county where the original judgment was issued. A Superior Court judge will act on the application/motion based on the documents submitted and, if determined appropriate, will issue an order that permits the wage execution. The filing party is required to remit a separate fee for filing the application/motion (if applicable) and for issuance of the wage execution (writ).

Where a judgment has been docketed as a statewide judgment lien, the filing party must follow a two-step process for the issuance of a wage garnishment.

Step 1:

Where a judgment has been docketed as a "DJ" or "J", the filing party must file an application/motion for wage garnishment (writ) in the county where the judgment was issued or where venue is designated by court rule or statute. That request must include the following:

(1) Application/motion for Wage Garnishment (including certification in support);

(2) Proposed form of order; and

(3) Filing fee pursuant to Rule 1:43, if required.

The party must remit payment for the application/motion, if a fee is required. There is no fee payable for a wage garnishment at the time the motion is filed, so long as the filing party indicates the statewide lien index number (designated by a "J" or "DJ" prefix) on the initial request. Failure to include the lien index number will result in the application/motion being processed against the vicinage judgment rather than against the statewide docketed judgment.

Step 2:

Once the Superior Court judge issues an order permitting the wage garnishment, the filing party must file the following with the Superior Court Clerk's Office:

(1) Wage execution order signed by a Superior Court judge;

(2) Proposed form of writ; and

(3) Filing fee in the amount of $50 payable to the "Treasurer, State of New Jersey."

These documents submitted to the Superior Court Clerk's office must contain the statewide lien index number. Failure to include the lien index number on the documents will result in a letter to the filing party requesting correction of the documents before the wage execution can be issued. Upon receipt of conforming documents and the required filing fee for the wage execution, the Superior Court Clerk's Office will endorse the writ in the name of the Clerk and return it to the filer for service in accordance with Rule 4:59-1.

Process for Seeking Wage Garnishment Against Other Types of Statewide Liens

As noted above, in addition to Superior Court judgments, there are other types of judgments that may be docketed as statewide judgment liens – foreign judgments, state agency

certificates of debt/judgments, and Motor Vehicle Commission judgments. The processes for filing for wage garnishment against these various types of judgments as statewide liens are as follows:

1. Applications/motions for wage garnishments for matters involving the enforcement of foreign judgments must be filed in the county in which the judgment debtor resides, or, if the judgment debtor is a non-New Jersey resident, the county in which the property is located. If neither condition is met, the matter must be filed in Mercer County;
2. Applications/motions for wage garnishments for matters involving the enforcement of State agency certificates of debt/judgments may be filed either in the county where the judgment debtor resides or in Mercer County ; and
3. Applications/motions for wage garnishments for matters involving the enforcement of Motor Vehicle Commission judgments must be filed in the county where the judgment debtor resides.

Wage Garnishment Applications/Motions on Judgments That Have Not Been Docketed

Where a judgment has not been docketed as a statewide judgment lien, the filing party seeking a wage garnishment must file an application/motion in accordance with Rule 4:59-1 (Civil Part actions) and 6:7-3 (Special Civil Part actions) and submit the following:

(1) Motion or Application for Wage Garnishment (including certification in support);

(2) Proof of Service on the Debtor (Civil Part actions);

(3) Proposed form of Order; and

(4) Proposed form of Writ of Execution;

For Law Division, Civil Part matters, the filing party at the time the application/motion is filed must remit separate payments for the motion and for the writ, each payable to the Treasurer, State of New Jersey. Both fees are non-refundable, even where the application is denied. For Special Civil Part matters, Directive #07-14 instead provides that the fee for issuance of a wage garnishment is "to be collected at the time of the receipt for wage garnishment instead of upon issuance of the wage execution." In those Special Civil Part matters there is no separate fee for the application.

If the application/motion for wage garnishments does not contain a docketed judgment lien index number (even if there is a docketed judgment), it will be processed as a vicinage judgment (rather than as a statewide docketed judgment). In such situations the writ of execution will only be levied against the vicinage judgment.

Where there was a statewide docketed judgment lien index number that the filing party failed to include and the filing party wants the already issued wage execution (writ) to be levied not just against the vicinage judgment but against the statewide docketed judgment, the filing party must file a new application/motion in the county where the judgment was issued, referencing the previously omitted docketed judgment lien index number and following the process set forth below. Note that once a filing fee has been remitted, there are no refunds for incorrectly filed documents or denied applications.

For questions about this notice, please contact Michelle M. Smith, Clerk of the Superior Court, by email at michelle.smith@njcourts.gov or by telephone at (609) 421-6100.

Glenn A Grant by SDB

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

Dated: May 6, 2016