

COLLECTING ON JUDGMENTS

**MATTHEW S. SLAZINSKI
ATTORNEY AT LAW
THE SLAZINSKI LAW FIRM, P.C.
512 E. 11 MILE RD.
3RD FLOOR
ROYAL OAK, MI 48067**

(248) 544-2640

APPENDIX TABLE

1. Judgment
2. Periodic Writ of Garnishment
3. Non-Periodic Writ of Garnishment
4. Statute Tax Refund Garnishment
5. Garnishee Disclosure
6. Writ of Execution/Request and Order to Seize Property
7. Court Officers
8. Subpoena (Discovery)
9. Creditor's Exam Questions for Individual
10. Creditor's Exam Questions for Corporation

COLLECTING ON JUDGMENTS

- ▶ What is a Judgment? See Appendix 1.
- ▶ Two main ways to collect on a judgment are 1) Writ of Garnishment and 2) Execution.
- ▶ A Writ of Garnishment is an order from the court which allows you to obtain money from those who owe money to your debtor (people who owe money to him, employers, banks, IRS tax refunds, etc.)
- ▶ A Writ of Execution is an order of the court that allows you to seize property owned by the Defendant.

I. GARNISHMENTS

- ▶ A garnishment is an attachment of property held by third-parties. (Money/personal property.)
- ▶ “Garnishment” is a court procedure allowing you to collect your judgment directly from the Defendant’s wages, bank account or other source such as income tax refunds. You can get the forms from the clerk. Instructions are included with the form.
- ▶ There is a \$6.00 disclosure fee payable to the garnishee Defendant. A garnishee disclosure form must also be provided. There is no \$6.00 fee for Non-Periodic Garnishment.
- ▶ The three types of garnishments are 1) periodic; 2) non-periodic and 3) State tax refund garnishment. See Appendices 2, 3 and 4.
- ▶ You must wait 21 days after your judgment was signed before you can get a garnishment issued.
- ▶ A PERIODIC Writ of Garnishment is used to garnish the Defendant’s wages, rent payments, land contract payments or other debt which is paid to the Defendant on a periodic basis. A periodic writ is valid for up to ninety-one (91) days or until the judgment, interest and costs are paid off, whichever occurs first. After the expiration of the periodic judgment, you can file and serve another.
 - ▶ Employer/Wages (Social Security Number)
- ▶ “A NON-PERIODIC Writ of Garnishment is used to garnish the Defendant’s bank account or other property. Once money has been garnished under the non-periodic writ, the writ is no longer valid. If there is a remaining balance on the judgment, you must get another writ to collect more money.”

- ▶ Garnish every bank you can think of if you are unsure where the Defendant does his banking. (Serve any branch).
 - ▶ Michigan Lottery.
 - ▶ Bank accounts, accounts receivable, people and projects who owe money to your Defendant (General/owner).
- ▶ STATE TAX REFUNDS are subject to garnishment. These garnishments have a separate form. (A Social Security number is required.)

GETTING GARNISHMENT IN PLACE

- ▶ You fill out the form and submit it to the clerk. The court will issue the writ and you must serve it on the garnishee along with garnishee disclosure form. See **Appendix 5**.
- ▶ The garnishee is the person or business who has control or possession of the Defendant's money.
- ▶ The garnishee has fourteen (14) days after the Writ is served to let you know if any money is available. (**Garnishee Disclosure**)
- ▶ If money is available, it will be held for twenty-eight (28) days to allow the Defendant time to object. If no objections are filed, the money will automatically be sent to you.
- ▶ Objections must be based on legal defects in the proceedings and cannot claim that the judgment is invalid or the debt is not owed.
- ▶ If it is a periodic Writ, money will continue to be sent to you as payments become due to the Defendant until the Writ expires. (Ninety-one (91) days).
- ▶ If a garnishee fails to disclose or otherwise respond to the garnishment, you should file a Default Application and take a default against the garnishee. (Court clerk can supply this.)
- ▶ Information furnished by Plaintiff must be adequate to identify the garnishee. Address, Social Security number, employee identification number, federal tax identification number, employer number or account should be provided in the writ if known. (Simply provide as much information as you have.)

II. EXECUTION

- ▶ Writ of Execution (Now called “Request and Order to Seize Property”) is an order directing a sheriff, bailiff or other court officer to seize property of the Defendant, to sell it at an execution sale and then pay the proceeds to Plaintiff.
- ▶ You must wait twenty-one (21) days after your judgment was signed before you can get an execution against property. **See Appendix 6.**
- ▶ The court will issue the execution by signing the form and it will be executed by a sheriff or court officer.
- ▶ Any property that is seized will be sold and the money given to you. The sheriff or court office is entitled to fees which will be deducted from the sale of the property.
- ▶ Personal property, real estate, vehicles, etc.
- ▶ Assets are subject to pre-existing valid liens/mortgages on the property.
- ▶ If you settle a case with the Defendant, it is best to contact the court officer to determine if it is a good settlement and to get the court officer’s fees worked into the deal.
- ▶ Determining ownership of land - - check Register of Deeds or have title search done.
- ▶ List of Court Officers attached. **See Appendix 7.**

III. DISCOVERY SUBPOENA

- ▶ A discovery subpoena is an order by the court that orders the Defendant appear at court and answer questions that are posed to him by the Plaintiff.
- ▶ You must wait 21 days after your judgment was signed before you can file a discovery subpoena. **See Appendix 8.**
- ▶ The court will give you a date for the court appearance. The judge must sign the subpoena for it to be effective. Once the subpoena is signed, you must serve it on the Defendant.
- ▶ All costs incurred are recoverable.

- ▶ A creditor's exam is a good way to obtain information regarding the Defendant's assets. This will provide you with sources for garnishments and executions. Social Security Number, Drivers license number, assets.
- ▶ A series of questions which can be used at an individual's discovery hearing/creditors exam is attached. **See Appendix 9**
- ▶ A series of questions which can be used at a partnership/corporation's discovery hearing/creditors exam is attached. **See Appendix 10**

APPENDIX 1

STATE OF MICHIGAN
JUDICIAL DISTRICT
JUDICIAL CIRCUIT

JUDGMENT
Civil

CASE NO.

Court address

Court telephone no.

Plaintiff(s)

Defendant(s)

v

Plaintiff/Attorney

Defendant/Attorney

JUDGMENT

For: _____

Against: _____

Trial Consent
 Summary Disposition Default

DISMISSAL

Without prejudice With prejudice

ORDER OF JUDGMENT

Damages \$ _____
Interest \$ _____
Costs \$ _____
Other (specify) \$ _____
Judgment \$ _____

Other conditions, if any:

This judgment will earn interest at current statutory rates.

A note or other written evidence of indebtedness has been filed with the clerk for cancellation.

Approved as to form, notice of entry waived.

IT IS ORDERED that this judgment is granted.

Judgment date

Judge/Court clerk

Bar no.

Plaintiff/Attorney

Defendant/Attorney

Judgment has been entered and will be final unless within 21 days of judgment date a motion for new trial or an appeal is filed.

CERTIFICATE OF MAILING

certify that a copy of this judgment was served upon the other party(ies) or their attorney(s) by ordinary mail at the above address(es).

Date

Signature

APPENDIX 2

Approved, SCAO

STATE OF MICHIGAN
JUDICIAL DISTRICT
JUDICIAL CIRCUIT

REQUEST AND WRIT FOR GARNISHMENT
(PERIODIC)

CASE NO.

Court address

Zip code

Court telephone no.

Plaintiff name and address
Plaintiff's attorney, bar no., and address
Telephone no.

v

Defendant name and address	
Social security no.	Employee ID or account no.
Garnishee name and address	

REQUEST

1. Plaintiff received judgment against defendant for \$ _____ on _____
2. The amount of the unsatisfied judgment now due (including interest and costs) is • \$ _____
3. Plaintiff knows or with good reason believes that the garnishee is indebted or obligated to the defendant for periodic payments.
4. Plaintiff requests a writ of periodic garnishment.

I declare that the statements above are true to the best of my information, knowledge, and belief.

Date

Plaintiff/Agent/Attorney signature

WRIT OF GARNISHMENT

To be completed by the court. See other side for additional information and instructions.

TO THE PLAINTIFF: You must provide a disclosure form (MC 14), 2 copies of this writ, and a \$6.00 disclosure fee for serving on the garnishee. You are responsible for having these documents served on the garnishee within 91 days.

TO THE DEFENDANT:

1. You have **14 days** after this writ is mailed or delivered to you to file objections with the court. If you do not take this action within this time, without further notice, periodic payments due to you may be withheld for as long as 91 days after this writ is issued and paid directly to the plaintiff.

TO THE GARNISHEE:

1. Within **7 days** after you are served with this writ, you must deliver a copy of this writ to the defendant in person or mail a copy to his or her last known address by first class mail.
2. Within **14 days** after you are served with this writ, you must deliver or mail copies of your verified disclosure (form MC 14) to the court, plaintiff/attorney, and defendant. A default may be entered against you for failure to comply with this order.
3. Do not pay any obligations to the defendant unless allowed by statute or court rule.
4. If indebted, withholding must begin according to court rule (see instructions on the Garnishee Disclosure form). Unless notified that an objection has been filed, **28 days** after you are served with this writ you must begin forwarding withheld payments.

You are ordered to make all payments withheld under this writ payable to:

- | | | | |
|-------------------|--|---|------------------------------------|
| and mail them to: | <input type="checkbox"/> the plaintiff | <input type="checkbox"/> the plaintiff's attorney | <input type="checkbox"/> the court |
| | <input type="checkbox"/> the plaintiff | <input type="checkbox"/> the plaintiff's attorney | <input type="checkbox"/> the court |

5. This periodic garnishment is effective until: a) the amount withheld equals the amount of the unpaid judgment as stated in item 2. of the request; b) the expiration of 91 days after the issue date of this writ; or c) the amount withheld exceeds the remaining unpaid judgment as stated in item 2. of the request.
6. Within **14 days** after this writ expires, you must file a final statement of the total amount paid on this writ.

Date of issue

Expiration date

Deputy court clerk

PROOF OF SERVICE

REQUEST AND WRIT FOR GARNISHMENT (PERIODIC)
Case No. _____

TO PROCESS SERVER: You must serve the garnishee with 2 copies of the request and writ of garnishment, a disclosure form, and the applicable fee and file proof of service with the court clerk as directed by the plaintiff. If you are unable to complete service, you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NON-SERVICE

OFFICER CERTIFICATE OR **AFFIDAVIT OF PROCESS SERVER**

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party [MCR 2.104(A)(2)], and that: (notary not required)

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notary required)

- I served 2 copies of the request and writ of garnishment, a disclosure form, and the applicable fee by:
- personal service registered or certified mail (copy of return receipt attached) on:

Garnishee name	Complete address of service	Day, date, time

- After diligent search and inquiry, I have been unable to find and serve the garnishee. I have made the following efforts in attempting to serve process: _____

- I have personally attempted to serve 2 copies of the request and writ of garnishment, a disclosure form, and the applicable fee on _____

at _____

and have been unable to complete service because the address was incorrect at the time of filing.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

Signature _____

Title _____

Subscribed and sworn to before me on _____ Date _____ County, Michigan.

My commission expires: _____ Date _____ Signature: _____ Deputy court clerk/Notary public

APPENDIX 3

STATE OF MICHIGAN
____ JUDICIAL DISTRICT
____ JUDICIAL CIRCUIT

REQUEST AND WRIT FOR GARNISHMENT
(NON-PERIODIC)

CASE NO.

Court address

Zip code

Court telephone no.

Plaintiff name and address

Defendant name and address

v

Plaintiff's attorney, bar no., and address

Social security no. Account no.

Telephone no.

Garnishee name and address

REQUEST

1. Plaintiff received judgment against defendant for \$ _____ on _____.
2. The amount of the unsatisfied judgment now due (including interest and costs) is \$ _____.
3. Plaintiff knows or with good reason believes that the garnishee is indebted to or possesses or controls property belonging to the defendant.

4. Plaintiff requests a writ of non-periodic garnishment.

I declare that the statements above are true to the best of my information, knowledge, and belief.

Date

Plaintiff/Agent/Attorney signature

WRIT OF GARNISHMENT

To be completed by the court. See other side for additional information and instructions.

TO THE PLAINTIFF: You must provide all copies of the disclosure form (MC 14), 2 copies of this writ for serving on the garnishee, and any applicable disclosure fee. You are responsible for having these documents served on the garnishee within 91 days. If the disclosure states that the garnishee holds property other than money belonging to the defendant, you must motion the court within 56 days after the disclosure is filed for an order to apply the property toward the judgment.

TO THE DEFENDANT:

1. Do not dispose of any negotiable instrument representing a debt of the garnishee or any negotiable instrument of title representing property in which you claim an interest held in the possession or control of the garnishee.
2. You have **14 days** after this writ is mailed or delivered to you to file objections with the court. If you do not take this action within this time, without further notice, the property or debt held under this writ may be applied to the judgment **28 days** after this writ was mailed or delivered to the garnishee.

TO THE GARNISHEE:

1. Within **7 days** after you are served with this writ, you must deliver a copy of this writ to the defendant in person or mail a copy to his or her last known address by first class mail.
2. Deliver no tangible or intangible property and pay no obligation to the defendant unless allowed by statute or court rule.
3. Within **14 days** after you are served with this writ, you must deliver or mail copies of your verified disclosure (form MC 14) to the court, plaintiff/attorney, and defendant. A default may be entered against you for failure to comply with this order.
4. If indebted to the defendant, you must withhold an amount not to exceed the amount of the judgment stated in item 2. of the request. Payment of withheld funds must be made **28 days** after you are served with this writ unless notified that an objection has been filed.

You are ordered to make the payment withheld under this writ payable to

- the plaintiff
- the plaintiff's attorney
- the court

- and mail it to: the plaintiff. the plaintiff's attorney. the court.
5. If you hold property other than money belonging to the defendant, do not transfer it until further order of the court.

Date of issue Expiration date Deputy court clerk

PROOF OF SERVICE

REQUEST AND WRIT FOR GARNISHMENT (NON-PERIODIC)
Case No. _____

TO PROCESS SERVER: You must serve the garnishee with 2 copies of the request and writ of garnishment, a disclosure form and any applicable fee and file proof of service with the court clerk as directed by the plaintiff. If you are unable to complete service you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NON-SERVICE

<input type="checkbox"/> OFFICER CERTIFICATE I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party [MCR 2.104(A)(2)], and that: (notary not required)	OR	<input type="checkbox"/> AFFIDAVIT OF PROCESS SERVER Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notary required)
--	----	---

I served 2 copies of the request and writ of garnishment, a disclosure form, and any applicable fee by:
 personal service registered or certified mail (copy of return receipt attached) on:

Garnishee name	Complete address of service	Day, date, time
----------------	-----------------------------	-----------------

After diligent search and inquiry, I have been unable to find and serve the garnishee. I have made the following efforts in attempting to serve process: _____

I have personally attempted to serve 2 copies of the request and writ of garnishment, a disclosure form, and any applicable fee on _____
 Name _____
 at _____
 Address _____

and have been unable to complete service because the address was incorrect at the time of filing.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

Signature _____
 Title _____

Subscribed and sworn to before me on _____ Date _____ County, Michigan.

My commission expires: _____ Date _____ Signature: _____
 Deputy court clerk/Notary public

APPENDIX 4

Form 6.16a
Request and Writ for Garnishment
(Tax Refund/Credit) (MC 52)
[See comment §6.11 when using this form.]

Approved, SCAO	Original - Court 1st copy - State Treasurer 2nd copy - Defendant	3rd copy - Return (proof of service) 4th copy - Plaintiff/Attorney (proof)
• STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT	REQUEST AND WRIT FOR GARNISHMENT (INCOME TAX REFUND/CREDIT)	• CASE NO.
Court address	• Zip code	Court telephone no.

This portion to be completed by the court only. **TO THE GARNISHEE: Make the amount intercepted under this writ payable to and mailed to:** the plaintiff. the plaintiff's attorney. the court.

Plaintiff name and address
Plaintiff social security or FE no.
Plaintiff's attorney, address
Plaintiff attorney FE no.
Plaintiff attorney telephone no.

v

Defendant name and address
Social security no. (primary)
Social security no. (secondary)
Garnishee Financial Operations Division Michigan State Department of Treasury PO Box 15128 Lansing, Michigan 48901

REQUEST

1. Plaintiff received judgment against defendant for \$ _____ on _____.
2. The amount of the unsatisfied judgment now due (including interest and costs) is •\$ _____.
3. Plaintiff knows or with good reason believes the state treasurer is indebted to or controls property belonging to the defendant.
4. Plaintiff requests a writ of garnishment to intercept income tax.

I declare that the statements above are true to the best of my information, knowledge, and belief.

Date _____ Plaintiff/Agent/Attorney signature _____

WRIT OF GARNISHMENT To be completed by the court.

TO THE PLAINTIFF:

1. You must serve this writ on the state treasurer along with a \$6.00 fee and any discovery request for information related to this garnishment.
2. You must serve a copy of this writ on the defendant within 7 days after serving the writ on the state treasurer.
3. You are responsible for paying to the state treasurer any reasonable costs incurred by the state treasurer in providing information in response to your discovery request.
4. If a state tax refund or credit is not intercepted before October 31 of the year during which this writ of garnishment is to be processed, you will not receive a disclosure unless you file a written request for one with the state treasurer. This request must be filed between November 1 and December 31 of the tax year following the tax year for which this writ was filed.

TO THE DEFENDANT:

1. If a state tax refund or credit is intercepted under this writ, the state treasurer will notify you on a disclosure form.
2. You have 14 days after being notified of an intercept to file objections to the writ of garnishment with the court. If you do not object within this time, the intercepted tax refund or credit held under this writ will be applied to the judgment 28 days after the disclosure was filed with the court.

TO THE GARNISHEE:

1. Upon intercepting a state tax refund or credit, calculate the amount available to satisfy all or part of the garnishment.
2. Within 90 days after establishing any other liability for which the state tax refund or credit may be applied under MCL 205.30a file with the court a verified disclosure identifying the intercepted amount, less any setoff, counterclaim, or other demand of the state against the defendant.
3. Unless notified by the court that objections to the writ of garnishment have been filed, payment of the intercepted amount must be made not less than 28 days after filing the disclosure.
4. You are ordered to pay the amount intercepted under this writ as stated at the top of this form.

Date of issue _____ Deputy court clerk _____
 MC 52 (6a-95) REQUEST AND WRIT FOR GARNISHMENT (INCOME TAX REFUND/CREDIT) MCL 600.4061a ; MSA 27A.4061a

APPENDIX 5

STATE OF MICHIGAN
JUDICIAL DISTRICT
JUDICIAL CIRCUIT

GARNISHEE DISCLOSURE

CASE NO.

Court address

Court telephone no.

Plaintiff's name and address

Defendant's name, address, soc. sec. no. or employee ID no.

v

Plaintiff's attorney, bar no., address, and telephone no.

Garnishee's name and address

SEE INSTRUCTIONS ON OTHER SIDE

- 1. This disclosure is for a writ of garnishment issued on _____ and received by garnishee on _____
 - a. The garnishee mailed or delivered a copy of the writ of garnishment to the defendant on _____
 - b. The garnishee was unable to mail or deliver a copy of the writ of garnishment to the defendant.
- 2. At the time of service of the writ, garnishee:

Non-Periodic Garnishments

- a. is not indebted to defendant for any amount and does not possess or control defendant's property, money, etc.
Reason: _____
- b. is indebted to defendant for non-periodic payments as follows: _____

Description of property, money, negotiable instruments, etc. under garnishee's control _____ Type of account and account number if applicable _____
 The amount to be withheld is \$ _____ and does not exceed the amount stated in item 2. of the writ.

Periodic Garnishments

- c. is not obligated to make periodic payments to the defendant during the 91 day period.
Reason: not employed. other _____
- d. is obligated to make periodic payments to the defendant during the 91 day period as follows:
 Payments are for earnings non-earnings _____
specify nature of payment (see instructions on back)
 Payments are made weekly. bi-weekly. semi-monthly. monthly. other: _____
frequency of payment
 A higher priority writ/order is is not currently in effect. (If a higher priority writ/order is in effect, complete the following)

Name of court that issued higher priority writ/order _____ Case number _____ Date issued _____ Date served _____

Withholding under this writ

- will begin immediately if sufficient funds are available.
- will not begin immediately because defendant is laid off. sick. on leave. other: _____
specify

I declare that the statements above are true to the best of my information, knowledge, and belief.

Date _____

Garnishee/Agent/Attorney signature _____

I certify that:

- on _____ I mailed or personally delivered a copy of this disclosure with the court.
- on _____ I mailed or personally delivered a copy of this disclosure to the plaintiff/attorney.
- on _____ I mailed or personally delivered a copy of this disclosure to the defendant.

Date _____

Garnishee/Agent/Attorney signature _____

DO NOT include Your Payment With This Disclosure. See item 3. of the instructions for details.

APPENDIX 6

STATE OF MICHIGAN
JUDICIAL DISTRICT
JUDICIAL CIRCUIT

REQUEST AND ORDER TO
SEIZE PROPERTY

CASE NO.

Court address

Court telephone no.

Plaintiff name(s) and address(es)

v

Defendant name(s) and address(es)

REQUEST AND VERIFICATION

1. On _____ a judgment was granted in this case upon which the following is now due:
Date

Amount of judgment \$ _____
Interest to this date \$ _____
Post judgment costs \$ _____
Total \$ _____ Less credits received \$ _____ *Balance due to date \$ _____

*Additional interest, officer/sheriff fees, and expenses will be added to the unpaid balance until the balance is paid in full.

2. The plaintiff requests the court issue an order to seize the property of the following defendant(s):

Name Date of birth (if available) SSN (if available)

Name Date of birth (if available) SSN (if available)

I declare that the statements above are true to the best of my information, knowledge, and belief.

Date _____ Plaintiff/Attorney signature _____ Bar no. _____

Address _____ City _____ State _____ Zip _____ Telephone no. _____

ORDER

TO ANY SHERIFF, DEPUTY SHERIFF, OR COURT OFFICER:
YOU ARE ORDERED TO:

- 1. Seize and sell, according to law, any of the personal property (as determined by the officer) of defendant(s) named above in the Request and Verification that is not exempt from seizure, as will be sufficient to satisfy plaintiff's demand, costs, and any statutory fees and expenses. Personal property may include, but is not limited to motor vehicles or money, wherever located.
- 2. If sufficient personal property of defendant(s) cannot be found within your jurisdiction, seize and sell any of the real property of defendant(s) not exempt from seizure, as will be sufficient to satisfy plaintiff's demand, costs, and any statutory fees and expenses.
- 3. Collect from the sale of the property enough money to pay all of your charges and fees to which you are entitled.
- 4. Claim and Delivery Only: Seize the property described in the attached judgment for claim and delivery and deliver to the plaintiff(s); or if the property is not found in the possession of the defendant(s), levy the value of it.

Date _____ Judge/Court clerk _____ Bar no. _____

Order to be served by: _____
Court officer/Deputy sheriff

ENDORSEMENT: I certify that I received this order on _____ at _____
Date Time

Court officer/Deputy sheriff

TO THE DEFENDANT: The person seizing property is required to provide you with a receipt of all money paid by you and an inventory of the property seized.

APPENDIX 7

COURT OFFICERS

Sam Agostino
Don Nash
P.O Box 762
Sterling Heights, MI 48311
(586) 924-6037

Sam Agostino's Pager (586) 954-6881
Don Nash's Pager (586) 924-6037

for Macomb County

Dennis Allen
Scott Hope
Dennis Allen Process Servers
3212 South Dye Road
Flint, MI 48507
(810) 239-7788

Also has office in Southfield

Paul Dank
Advanced Surveillance Group, Inc.
P.O. Box 380858
Clinton Township, MI 48038
(888) 677-9700
Mobile (248) 866-4420
Fax (810) 226-3044

Victor Lotycz
Tri-County Court Services, Inc.
P.O. Box 171
Owosso, MI 48667
(800) 269-5345

Victor Lotycz's cell (517) 490-4517

Also has offices in:

Detroit
Kalamazoo
Brighton
St. Johns
Southgate

APPENDIX 8

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE	SUBPOENA Order to Appear and/or Produce	CASE NO.
---	--	-----------------

Police Report No. (if applicable) _____ Court address _____ Court telephone no. _____

Plaintiff(s)/Petitioner(s) <input type="checkbox"/> People of the State of Michigan <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> Civil <input type="checkbox"/> Criminal <input type="checkbox"/> Probate In the matter of _____	v	Defendant(s)/Respondent(s) _____ Charge _____
---	---	---

In the Name of the People of the State of Michigan. TO:

If you require special accommodations to use the court because of disabilities, please contact the court immediately to make arrangements.
YOU ARE ORDERED:

1. to appear personally at the time and place stated below: . You may be required to appear from time to time and day to day until excused.

The court address above Other:

Day	Date	Time
-----	------	------

2. Testify at trial / examination / hearing.

3. Produce/permit inspection or copying of the following items: _____

4. Testify as to your assets, and bring with you the items listed in line 3 above.

5. Testify at deposition.

6. MCL 600.6104(2), 600.6116, or 600.6119 prohibition against transferring or disposing of property is attached.

7. Other: _____

8.

Person requesting subpoena	Telephone no.
Address	
City	State
Zip	



NOTE: If requesting a debtor's examination under MCL 600.6110, or an injunction under item 6, this subpoena must be issued by a judge. For a debtor examination, the affidavit of debtor examination on the other side of this form must also be completed. Debtor's assets can also be discovered through MCR 2.305 without the need for an affidavit of debtor examination or issuance of this subpoena by a judge.

FAILURE TO OBEY THE COMMANDS OF THE SUBPOENA OR APPEAR AT THE STATED TIME AND PLACE MAY SUBJECT YOU TO PENALTY FOR CONTEMPT OF COURT.

Court use only
<input type="checkbox"/> Served <input type="checkbox"/> Not served

Date _____ Judge/Clerk/Attorney _____

Bar no. _____

SUBPOENA

Case No. _____

PROOF OF SERVICE

TO PROCESS SERVER: You must make and file your return with the court clerk. If you are unable to complete service, you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NON-SERVICE

OFFICER CERTIFICATE

OR

AFFIDAVIT OF PROCESS SERVER

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party [MCR 2.104(A)(2)], and that: (notary not required)

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notary required)

I served a copy of the subpoena, together with _____ Attachment

- personally (including required fees, if any)
- by registered or certified mail (copy of return receipt attached) on:

Name(s)	Complete address(es) of service	Day, date, time

After diligent search and inquiry, I have been unable to find and serve the following person(s): _____

I have made the following efforts in attempting to serve process: _____

I have personally attempted to serve the subpoena and required fees, if any, together with _____ Attachment

_____ on _____ Name

at _____ and have been unable to complete service because the address was incorrect at the time of filing.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

Signature _____

Title _____

Subscribed and sworn to before me on _____ Date _____ County, Michigan.

My commission expires: _____ Date _____ Signature: _____ Deputy court clerk/Notary public

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the subpoena and required fees, if any, together with _____ Attachment

_____ on _____ Day, date, time

_____ on behalf of _____

APPENDIX 9

**QUESTIONNAIRE
FOR CREDITOR'S EXAMINATION**

What is your full name?

What is the date of your birth?

What is your social security number?

Do you belong to any organizations, clubs, or unions? Give details.

MARRIAGE

Are you married?

a. What is your spouse's name?

b. What was [your/your wife's] maiden name?

Do you have any children?

a. What are their names?

I.

II.

III.

b. What are their ages?

I.

II.

III.

c. What are their addresses?

I.

II.

III.

Where does your spouse work? Give details.

Where do your children work? Give details.

Who supports the family. Give the amount of the contribution of each person who supports the family or contributes to it.

What are your average monthly expenses? How are they met?
[Use the attached sheet if necessary]

11. Have you ever been married before?

- a. State the name and address of your former spouse.
- b. State the date and the place of the marriage.
- c. State the date of the divorce and the court in which it was granted.
- d. Do you [pay/receive] any alimony?
- e. Give the details of the property settlement?

RESIDENCE

12. What is your telephone number?

13. What is your address?

14. Is that a private home? If so,

- a. who owns the home?
- b. is that person a relative?
- c. when was the house purchased?
- d. how much did it cost?
- e. whose money was used to purchase it?
- f. how many rooms do you occupy? and
- g. do you have any boarders or subtenants? and if so,
 - I. what are their names? and
 - II. how much rent do they pay?

15. Is that an apartment? If so,

- a. how many rooms do you occupy?
- b. do you have a lease?
- c. what is your landlord's name and address?
- d. how much rent is charged?
- e. who pays the rent?

- f. is it paid by check or in cash?
- g. are you behind on the rent? and
- h. do you have any boarders or subtenants? and if so,
 - I. What are their names? and
 - II. how much rent do they pay?

BUSINESS OR EMPLOYMENT

- 5. What is your usual occupation?
- 6. Do you have a part-time job?
- 7. What business have you conducted in the past five years?
- 8. What jobs and positions have you held in the past five years?
- 9. What is the name and address of your [business/employer]?
- 10. Give the particulars of any contract of employment:
 - a. Salary
 - b. Commissions
 - c. whether your employer is in arrears on these

Are you or any of your relatives proprietors, partial owners, stockholders, directors, or officers of your employer?

Are you or your spouse an officer, a director, or a stockholder of any corporation? Give details.

ACCOUNTS

Do you have any of the following types of accounts?

- a. checking
- b. Christmas club
- c. savings

- d. credit union
- e. mutual fund
- f. investment club

25. Where is it and what is the balance?

26. Where did you last have a bank account?

27. When did you make your last deposit?

28. When did you last draw a check on that account?

29. Do you have the power to draw on or sign checks on any bank account? Give details.

30. Does your spouse have a bank account?

- a. checking
- b. Christmas club
- c. savings
- d. credit union
- e. mutual fund
- f. investment club

Do you or your spouse have a safe-deposit box? Give details.

When and where did you last have a safe-deposit box?

Do you have the right of access to any safe-deposit box?

Do you or your spouse have any securities with a brokerage firm? Give details.

Do you or your spouse have an account with a stockbroker or commodity broker?

36. When did either of you last have such an account?
37. Do either of you have any power of attorney or authority over a stock, bond, commodity, or other security account?

INSURANCE

38. Do you have any accident, health, or life insurance?
39. For each, give
- the name of the company;
 - policy numbers;
 - the amount, type, and date of insurance for each life insurance policy;
 - the name and address of each beneficiary; and
 - the date and particulars of any changes of beneficiary.
40. Have you obtained any loans against any policies? What did you do with the money?
41. Have you claimed or are you receiving any disability payments? Give details.
42. Do you have any fire or other insurance on your home or its contents? Give details.
43. Where do you keep your policies?
44. Will you bring the policies with you at the adjourned date of this examination?
45. What are the names and addresses of your insurance agents?

PROPERTY

46. Do you have any hobbies?
47. Do you have a driver's license? What is the number?
48. What car do you drive?
 - a. Model
 - b. Year
49. Do you or your spouse own any
 - a. antiques;
 - b. boats or motors;
 - c. interests in any business enterprises or joint ventures;
 - d. coin collections;
 - e. stamp collections;
 - f. government bonds;
 - g. jewelry;
 - h. judgments;
 - i. land, including cottages, lots, mineral rights, reversions;
 - j. livestock or farm implements;
 - k. mortgages on land or personal property;
 - l. motor vehicles;
 - m. musical instruments [explain];
 - n. negotiable instruments [explain];
 - o. patents, inventions, trade names, trade secrets, trademarks, or copyrights;
 - p. stocks, bonds, or other securities;
 - q. warehouse receipts, bills of lading, or other documents of title;
 - r. any other property?

How much cash do you have in your pocket?

If any of your property is mortgaged, pledged, encumbered, or bought on a sales contract, give details.

Have you or your spouse pawned any property?

SUITS

Are you a plaintiff or defendant in any lawsuits? Give details.

54. Have any judgments been taken against you? If so, please state for each:
- the date,
 - the amount,
 - the court, and
 - the names and addresses of the judgment creditors.
55. Have you made any payments on any judgments?
56. Have you ever been in bankruptcy court?
- Give the court dates?
 - What is the disposition?
57. Have you ever filed a wage earner's receivership or a wage earner's plan?
58. Have you ever been garnished?
59. Have you ever made an assignment for the benefit of your creditors? Give details.
60. Have you ever had a receiver appointed for you?

FINANCIAL STATEMENTS

- Have you applied for a loan in the last three years?
 - Where?
 - Did you get it?
 - What did you do with the money?
- In the last three years, have you been a comaker, endorser, or guarantor on a loan?
- Have you issued a financial statement in the last three years?
 - To whom?
 - Personal or business?
- Are you buying anything on an installment plan? Give details.

RECORDS

- What records do you keep?
- Where are they?

b. Will you bring them next time?

66. What is the name and address of your accountant?

67. Did you file federal or other income tax returns for the last three years?

a. Will you bring copies of those next time?

b. Are you expecting a tax refund?

MISCELLANEOUS

58. Are you or any party involved in the military service?

59. Have you ever used an assumed name?

60. Have you ever filed an assumed name certificate?

61. Have you ever obtained a license, a permit, a franchise, or an appointment from a governmental body?

62. Are you a party to any contracts?

63. Have you ever assigned

a. a cause of action,

b. a judgment.

c. your salary, or

d. income or disability payments?

64. Have you transferred any other property in the last six years?
Give details.

65. Have you made any gifts for more than \$100 to anyone in the last five years?

66. Does any governmental body have any money for you?

67. Does anyone owe you money?

78. Have you received any money in the past year other than that already mentioned?
 - a. From whom and how much?
 - b. What did you do with it?
79. What are your total liabilities?
80. List all your creditors, including the basis of each liability.
81. Are you making any payments to any creditors? Give details.
82. Are you willing to pay your debts?
83. Are you willing to be adjudged a bankrupt?

APPENDIX 10

QUESTIONS FOR CORPORATE DEFENDANT ON CE

Is the corporation in business?

Any Promissory Notes:

Any Accounts Receivable:

Any loans made to corporation from officers, directors, shareholders:

Any loans made from corporation to officers, directors, shareholders:

Stock subscriptions paid

Corporate Minutes:

Profit & Loss Statements:

Financial Statements/Balance Sheets:

Tax Returns:

TAX RETURNS:

Look at Schedule L (Balance Sheet)

If there is an entry on Line 7 entitled "Loans to Shareholders" in column entitled "Beginning of tax year" and "End of tax year" you want to ask the following questions:

1. Who were the shareholders during the same year of the tax return we are reviewing?

2. What percentage ownership did each shareholder hold?

(NOTE: Generally you will be looking at a sole shareholder who owns the whole corporation. However, you want to confirm this before you begin the following line of questions:)

"I notice on Line 7 that there are "Loans to Shareholders". Since you were the 100% shareholder, I can only assume that you were the one that borrowed the money from the corporation?"

Do you have a cancelled check or a cash receipt showing that these monies were repaid to the corporation?

(NOTE: Almost without exception the answer will be "NO")

Will you produce a copy of your cancelled check or cash receipt showing that you have repaid these loans?

Then, review each of the assets on the balance sheet asking the deponent to identify the asset, the value of the asset where the asset is currently located or, if the asset was disposed of, when it was disposed of, who purchased it, and what happened to the money. If Deponent also has his bank statements have him show you where the money was deposited into the corporate bank account. (NOTE: Chances are very good that he put the money in his own personal bank account).

Trademarks or patents:

Bank Loans:

Payments/Creditors: _

Name of CPA:

Own any real property:

Any lease agreements:
Rent per month:

Insurance - cash value:

ASSETS

Does corporation own any

Land:

Cars:

Trucks:

Inventory:

Equipment:

Bank Accounts:

Stocks & Bonds:

Contracts:

Judgments or pending lawsuits:

Tax Refunds: