

**BROWN COUNTY SHERIFF'S OFFICE  
CIVIL PROCESS  
PO BOX 877  
15 WASHINGTON ST S  
NEW ULM, MN 56073  
(507) 233-6718**

**WRIT OF EXECUTION INSTRUCTIONS**

This handout is intended to answer some common questions often asked by people who have been awarded a judgment in Conciliation Court. Please review the following information carefully. If you still have questions, consult with your attorney. We are not attorneys and cannot give legal advice.

The judgment you have been awarded is good for ten years. You need do nothing immediately if you feel it is in your best interest to wait before attempting to collect on the judgment. When you wish to proceed, contact the Court Administrator's Office at the Courthouse for a "Writ of Execution."

The Writ of Execution is a document that is good for 180 days after the date issued. The Writ is directed to the Sheriff, which authorizes him to take action to attempt to collect the debt on your behalf. However, YOU must decide what that action will be. There are several options available.

**WAGE GARNISHMENT:**

In a garnishment action, the Deputy serves several documents to the debtor's employer ordering the employer to withhold a percentage of the debtor's wages each pay period. A garnishment is good for seventy (70) days from the date the employer is served. After that time, if payment is not made in full, you must contact the Court Administrator for another Writ. You do not need to return to Conciliation Court.

Before the Sheriff can garnish wages, YOU must mail the debtor a "10 Day Exemption Notice". This notice must be sent to the debtor's last known address, by First Class Mail. If after 10 days the debtor does not return the notice, claiming an exemption, you can then proceed. If the debtor claims an exemption, contact the Civil Deputy or your attorney to discuss the next step. A copy of the "10 Day Notice" is included with this handout (2 pages).

It is your responsibility to advise the Sheriff's Office of the name and address of the debtor's employer. A form for this information is included. The employer must be located in Brown County in order for the Brown County Sheriff's Office to assist you. If the employer is located outside Brown County, your Writ of Execution must be issued to the county where the employer is located. Contact the Court Administrator to have the Writ issued to the sheriff of the appropriate county.

The advance fees for a garnishment are \$100.00 and \$15.00 to the debtor's employer.

#### LEVY ON FINANCIAL INSTITUTION:

In this action a bank, or other institution, is served documents ordering that institution to turn deposits, owned by the debtor, over to the Sheriff's Office. You must supply the Sheriff with the name and address of the institution which you believe holds money owned by the debtor. As with an employer, the institution must be located in Brown County.

Advance fees for this action are \$100.00 and \$15.00 to the institution.

#### LEVY ON PROPERTY:

On your instruction, the Sheriff may levy on real estate or certain other types of property. You must advise the Sheriff what property is to be levied on, and where (in Brown County) it is located. In this action, the property is seized by the Sheriff, then sold at public auction. The proceeds of the sale, minus expenses, are turned over to you. This type of action can be very complicated, as certain types of property are subject to exemption. You are strongly advised to consult with an attorney if you are considering a levy on property. In the case of a levy on real estate, the judgment must be transcribed to the county it is located in (if other than Brown County).

The actions discussed above are the most common methods at your disposal. There may be other options available. Again, consult with an attorney about other options. Most reasonable expenses incurred by you to collect a debt, such as attorney fees, can be passed on to the debtor.

#### DEMAND:

In a demand action the Deputy serves the debtor (The person that owes you the money) a copy of the Writ of Execution, and attempts to collect immediately, or asks the debtor to agree to a payment schedule. The advance fee for this action is \$100.00. (Advanced fees are discussed later in this handout.) If the debtor refuses to cooperate, the Writ is returned to the Court Administrator as "Unsatisfied". Other legal options are then open to you. These other options are discussed below.

If none of the above options are workable, or if an attempt to collect has been made and failed, contact the Court Administrator to discuss the procedure for having the debtor ordered into court to divulge his/her assets.

The Brown County Sheriff's Office requires advance fees for all types of Civil Process. The fees, which are subject to change, are not negotiable or refundable. The fees paid to the Sheriff's Office are added to the amount collected from the debtor. If the Writ is paid in full, all advance fees are repaid to you. If the Writ is returned "unsatisfied", you are out the advance fees. However, the amount of fees previously paid by you can be added to a following Writ if you decide to make another attempt at collection.

Please call the Sheriff's Office (507) 233-6718 during business hours and ask to speak with the Sheriff's Secretary in regards to advance fees.

When you have decided on a course of action (garnishment, demand, levy, etc.) the Sheriff's Office will need the following:

1. The original and one copy of the Writ of Execution. **BE SURE THAT YOU OR YOUR ATTORNEY HAS SIGNED THE WRIT ON THE LINE MARKED "Creditor or Attorney."**
2. The enclosed form to provide information on the debtor, and his/her employer or bank. On this form is also a space to be signed by you, certifying the date you mailed the 10 day Exemption Notice to the debtor. (Wage garnishments only.)
3. A check of money order payable to the Sheriff of Brown County, for advance fees.
4. A check or money order payable to the debtor's bank or employer in the amount of \$15.00 (if levying on accounts or garnishing wages.)
5. A cover letter stating your request that the Sheriff execute the Writ, instructions as to how you want the Sheriff to proceed, and any other information you think may be of value.

These papers may be mailed to the Sheriff's Office, at the address at the top of the first page of this handout, or may be dropped off in person during business hours.

STATE OF MINNESOTA  
COUNTY OF BROWN

DISTRICT COURT

\_\_\_\_\_ Judgment Creditor      10 DAY EXEMPTION NOTICE

\_\_\_\_\_ Judgment Debtor

**EXECUTION EXEMPTION NOTICE/NOTICE TO LEVY ON EARNINGS WITHIN 10 DAYS**

**THE STATE OF MINNESOTA TO: THE ABOVE NAMED JUDGMENT DEBTOR:**

Please take notice that a levy may be served upon your employer or other third parties, without any further court proceedings or notice to you, ten days or more from the date hereof. Your earnings are completely exempt from execution levy if you are now a recipient of relief based on need, if you have been a recipient of such relief within the last six months, or if you have been an inmate of a correctional institution in the last six months.

Relief based on need includes Aid to Families with Dependent Children (AFDC), AFDC-Emergency Assistance (AFDC-EA), Medical Assistance (MA), General Assistance (GA), General Assistance Medical Care (GAMC), Emergency General Assistance (EGA), Work Readiness, Minnesota Supplemental Aid (MSA), MSA Emergency Assistance (MSA-EA), Supplemental Security Income (881), and Energy Assistance.

If you wish to claim such an exemption, you should fill out the appropriate form included, sign it, and send it to the judgment creditor, or his/her attorney.

You may wish to contact the judgment creditor (or attorney) in order to arrange for a settlement of the debt, or contact an attorney to advise you about exemptions, or other rights.

**PENALTIES**

1. Be advised that even if you claim an exemption, an execution levy may still be served on your employer. If your earnings are levied on after you claim an exemption, you may petition the court for a determination of your exemption. If the court finds that the judgment creditor disregarded your claim of exemption in bad faith, you will be entitled to costs, reasonable attorney fees, actual damages, and an amount not to exceed \$100.00.

2. **HOWEVER, BE WARNED** if you claim an exemption, the creditor can also petition the court for a determination of your exemption, and if the court finds that you claimed an exemption in bad faith, you will be assessed costs reasonable attorney's fees plus an amount not to exceed \$100.00.

3. If after receipt of this notice, you in bad faith take action to frustrate the execution levy, thus requiring the creditor to petition the court to resolve the problem, you will be liable to the judgment creditor for costs and reasonable attorney's fees plus an amount not to exceed \$100.00.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Attorney for) Judgment Creditor

Address/Phone \_\_\_\_\_

STATE OF MINNESOTA  
COUNTY OF BROWN

DISTRICT COURT

\_\_\_\_\_  
Judgment Creditor

EXEMPTION NOTICE

\_\_\_\_\_  
Judgment Debtor

I hereby claim that my earnings are exempt from execution because:

(1)\_\_\_I am presently a recipient of relief based on need. (Specify the program, case number, and the county from which relief is being received).

\_\_\_\_\_  
Program

\_\_\_\_\_  
Case Number

\_\_\_\_\_  
County

(2)\_\_\_I am not now receiving relief based on need, but have received relief based on need within the last six months. (Specify the program, case number and county from which relief has been received).

\_\_\_\_\_  
Program

\_\_\_\_\_  
Case Number

\_\_\_\_\_  
County

(3)\_\_\_I have been an inmate of a correctional institution within the last six months. (Specify the institution and location).

\_\_\_\_\_  
Institution

\_\_\_\_\_  
Location

I hereby authorize any agency that has distributed relief to me or any correctional institution in which I was an inmate to disclose to the above named judgment creditor or creditor's attorney only whether or not I am or have been a recipient of relief based on need or an inmate of a correctional institution within the last six months. I have mailed or delivered a copy of this form to the judgment creditor or his/her attorney.

\_\_\_\_\_  
Judgment Debtor

\_\_\_\_\_  
Address

BROWN COUNTY WRIT OF EXECUTION INFORMATION FORM

The following information is required:

JUDGMENT DEBTOR \_\_\_\_\_

DEBTOR'S HOME ADDRESS \_\_\_\_\_

FOR WAGE GARNISHMENT:

EMPLOYER OR COMPANY NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

FOR LEVY ON BANK ACCOUNT:

BANK NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

JUDGMENT CREDITOR OR ATTORNEY \_\_\_\_\_

ADDRESS \_\_\_\_\_

PHONE NUMBER (Days) \_\_\_\_\_ (Evenings) \_\_\_\_\_

Date: \_\_\_\_\_ Signature \_\_\_\_\_

THIS IS TO CERTIFY THAT THE 10 DAY NOTICE PURSUANT TO MS 571-41 SUBD 5  
HAS BEEN GIVEN ON \_\_\_\_\_ (Date).

\_\_\_\_\_  
Signature