

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**
455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
Hon. Lee Smalley Edmon, Chair
Case Management Subcommittee
Hon. Frank Roesch, Chair
Anne M. Ronan, Committee Counsel, 415-865-8933
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DATE: August 8, 2008

SUBJECT: Civil Forms: Claims of Exemption (revise forms EJ-160 and
WG-006) (Action Required)

Issue Statement

Claim of exemption forms, which are initially filed with the levying officer and only later, in some instances, filed with the court, do not include separate spaces for filing stamps by both the levying officer and the court. The revised *Claim of Exemption (Enforcement of Judgment)* (form EJ-160) and *Claim of Exemption (Wage Garnishment)* (form WG-006) provide individual blocks for each filing stamp.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2009, revise:

1. *Claim of Exemption (Enforcement of Judgment)* (form EJ-160); and
2. *Claim of Exemption (Wage Garnishment)* (form WG-006).

The revisions provide separate spaces on each form for a court and a levying officer to file-stamp the form. The revisions also provide that item 1 on each form will include a space to enter the name of the claimant.

The text of revised forms EJ-160 and WG-006 are attached at pages 3–4.

Rationale for Recommendation

Claims of exemption are filed by judgment debtors seeking relief from levies on property or bank accounts, or from wage garnishments. The judgment debtor returns the claim not to the court, but to the levying officer who served the *Notice of Levy or Earnings Withholding Order*. The levying officer stamps the documents as filed upon receipt, using the box at the top right of the current forms.

If a judgment creditor opposes the claim of exemption, the judgment creditor files a notice of opposition with the court and serves that document on the levying officer. Only at that point does the levying officer file the original claim of exemption with the court. The court must then file-stamp the document, in what little room remains in the box at the top right of the current forms. A request has been made by court administrators that an additional box be added to each form to assure that there is space for the court to add its own file stamp. The revised forms provide the requested boxes.

A new item 1 has been added to the *Claim of Exemption (Wage Garnishment)* (Form WG-006), in which to enter the name of the person making the claim. The subsequent items on the form have been renumbered accordingly. This item already exists in *Claim of Exemption (Enforcement of Judgment)* (Form EJ-160), but the text has been slightly revised on that form so that the item will be identical on both forms. The revised text of item 1 states “My name is: ____.”

In addition, the attorney and party information box (top left) and county and court address box (second box on left) have been revised to conform to current Judicial Council form standards. This includes providing spaces for an e-mail address and fax number.

Alternative Actions Considered

The committee considered deferring these requested changes to the forms, in light of the committee’s intent to consider all forms and rules regarding enforcement of judgments in the near future. However, these changes are simple and straightforward enough that the committee recommends they be made without further delay.

Comments From Interested Parties

The proposed revisions were circulated for comment in the spring 2008 comment cycle. Six individuals or organizations, including several courts, provided comments. All agreed with the proposal. A chart summarizing the comments and the committee’s responses is set forth at page 5.

Implementation and Costs

Courts may incur some minor costs in making the new forms available to the public.

Attachments

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

TELEPHONE NO.: _____ FAX NO. (Optional): _____

E-MAIL ADDRESS (Optional): _____

ATTORNEY FOR (Name): _____

FOR LEVYING OFFICER USE ONLY
(Levying Officer Name and Address)

Draft 5
08.08.08

Not Approved by
Judicial Council

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

STREET ADDRESS: _____

MAILING ADDRESS: _____

CITY AND ZIP CODE: _____

BRANCH NAME: _____

PLAINTIFF/PETITIONER: _____

DEFENDANT/RESPONDENT: _____

LEVYING OFFICER FILE NUMBER: _____

CLAIM OF EXEMPTION
(Enforcement of Judgment)

FOR COURT USE ONLY

CASE NUMBER: _____

Copy all the information required above (except the top left space) from the Notice of Levy. The top left space is for your name or your attorney's name and address. The original and one copy of this form must be filed with the levying officer. DO NOT FILE WITH THE COURT.

1. My name is:
2. Papers should be sent to:
 - me.
 - my attorney (I have filed with the court and served on the judgment creditor a request that papers be sent to my attorney and my attorney has consented in writing on the request to receive these papers.)
 at the address shown above following (specify):
3. I am not the judgment debtor named in the notice of levy. The name and last known address of the judgment debtor is (specify):
4. The property I claim to be exempt is (describe):
5. The property is claimed to be exempt under the following code and section (specify):
6. The facts which support this claim are (describe):
7. The claim is made pursuant to a provision exempting property to the extent necessary for the support of the judgment debtor and the spouse and dependents of the judgment debtor. **A Financial Statement form is attached to this claim.**
8. The property claimed to be exempt is
 - a. a motor vehicle, the proceeds of an execution sale of a motor vehicle, or the proceeds of insurance or other indemnification for the loss, damage, or destruction of a motor vehicle.
 - b. tools, implements, materials, uniforms, furnishings, books, equipment, a commercial motor vehicle, a vessel, or other personal property used in the trade, business or profession of the judgment debtor or spouse.
 - c. all other property of the same type owned by the judgment debtor, either alone or in combination with others, is (describe):
9. The property claimed to be exempt consists of the loan value of unexpired life insurance policies (including endowment and annuity policies) or benefits from matured life insurance policies (including endowment and annuity policies). All other property of the same type owned by the judgment debtor or the spouse of the judgment debtor, either alone or in combination with others, is (describe):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

TELEPHONE NO.: _____ FAX NO. (Optional): _____

E-MAIL ADDRESS (Optional): _____

ATTORNEY FOR (Name): _____

FOR LEVYING OFFICER USE ONLY
(Levying Officer Name and Address)

Draft 4
08.08.08

Not Approved by
Judicial Council

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

STREET ADDRESS: _____

MAILING ADDRESS: _____

CITY AND ZIP CODE: _____

BRANCH NAME: _____

PLAINTIFF/PETITIONER: _____

DEFENDANT/RESPONDENT: _____

LEVYING OFFICER FILE NUMBER: _____

CLAIM OF EXEMPTION
(Wage Garnishment)

FOR COURT USE ONLY

**READ EMPLOYEE INSTRUCTIONS (FORM WG-003)
BEFORE COMPLETING THIS FORM**

Copy all the information required above (except the top left space) from the Earnings Withholding Order. The top left space is for your name or your attorney's name and address. The original and one copy of this form with the Financial Statement attached must be filed with the levying officer. DO NOT FILE WITH THE COURT.

CASE NUMBER: _____

1. My name is :

2. I need the following earnings to support myself or my family (check a or b):

- a. All earnings.
- b. \$ _____ each pay period.

3. Please send all papers to

- me.
- my attorney

at the address shown above following (specify):

4. I am willing for the following amount to be withheld from my earnings **each pay period** during the withholding period. **I understand that the judgment creditor can accept this offer by not opposing the Claim of Exemption, which will result in the following sum being withheld each pay period** (check a or b):

- a. None
- b. Withhold \$ _____ each pay period.

5. I am paid

- daily every two weeks monthly
- weekly twice a month other (specify): _____

NOTE: You must attach a properly completed Financial Statement form to this Claim of Exemption.

The Financial Statement form is available without charge from the levying officer.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME)


(SIGNATURE OF DECLARANT)

SPR08-23**Civil Forms: Claims of Exemption** (revise forms EJ-160 and WG-006)

Paraphrased comments are indicated by an asterisk; all other comments are verbatim.

	Commentator	Position	Comment	Committee Response
1.	Orange County Bar Association By Cathrine Castaldi, President	A	No specific comments.	Commentator's agreement is noted.
2.	Superior Court of Los Angeles County	A	Proposal eliminates the difficulty clerks have with superimposing their file stamp over the levying officer's stamp causing both to be difficult to read.	The committee agrees.
3.	Superior Court of Riverside County By David Gutknecht Supervising Management Analyst	A	The revised claim of exemption forms (EJ-160 and WG-006) should be revised to provide individual blocks for filing stamps as the forms may be filed by both the levying officer and the court.	The committee agrees.
4.	Superior Court of San Bernardino County By Debra Meyers, Director Staff Counsel Services and Self-Help Division	A	No specific comments.	Commentator's agreement is noted.
5.	Superior Court of San Diego County By Michael M. Roddy Executive Officer	A	No specific comments.	Commentator's agreement is noted.
6.	Superior Court of Ventura County Self-Help Legal Access Center By Tina Rasnow Senior Attorney/Coordinator	A	No specific comments.	Commentator's agreement is noted.

Positions: A = Agree; AM = Agree if modified; N = Do not agree.