

Bankruptcy & Garnishment – Stopping Garnishment of Your Wages and Bank Accounts Through Bankruptcy

By Arizona Bankruptcy Attorney John Skiba

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Many of the bankruptcy clients I have been meeting with lately are experiencing some type of garnishment. Garnishment of wages or bank accounts is an indicator to me that you have been dealing with debt issues for some time. Contrary to what many believe, a creditor cannot garnish your wages in Arizona unless they sue you and get a judgment against you first.

Garnishment Laws in Arizona

Under Arizona law a creditor that has obtained a judgment against you can take 25% of each of your paychecks and further can garnish your bank accounts, taking all but \$300. Either of these scenarios is devastating to a family's finances. And in fact, a wage garnishment is usually the last event that pushes someone from thinking of filing bankruptcy to making that appointment with a bankruptcy attorney to discuss when to file the bankruptcy case.

Garnishment of Wages

The typical process when it comes to a wage garnishment is that your employer will be served with a legal document known as a "Writ of Garnishment." This document instructs your employer that they need to submit a response to let your creditor know if you work there and how much your pay is. Further, your employer is told that they need to start withholding 25% of each of your paychecks to pay to the creditor.

You should also be provided a copy of the Writ of Garnishment and you do have a short period of time where you can submit a written response to the court as to why you feel the garnishment is not valid. You can also ask for a hearing before the court to get the amount of each check reduced. It is my experience that by simply asking most judges will reduce the garnishment from 25% down to 15%.

If you are looking to file bankruptcy to stop the garnishment then as soon as you receive notice of the garnishment you should meet with an Arizona bankruptcy attorney to discuss your options. I frequently work with clients to quickly put together their bankruptcy case so that we can get it filed with the bankruptcy court prior to the first garnishing of a paycheck occurs.

Immediately upon the filing of your bankruptcy case the bankruptcy court issues an order called the "Automatic Stay." This order stops all collection efforts against you and will stop the garnishment immediately.

Garnishment of Bank Accounts

When we think of garnishment we often think only of wages being garnished. However, if the creditor who has a judgment against you knows where you bank, they can obtain a Writ of Garnishment to take the money out of your checking account. How would they know where you bank? Well, most of us pay

our bills with checks, and your creditors keep track of information like the bank, checking account number, routing numbers, and all other information that is right there on your check.

It is important to note that your creditor only needs to know what bank you do your banking at (i.e. Wells Fargo, Chase, Bank of America, etc.), not what your account number is or what particular branch you go to. They can serve the Writ of Garnishment on your bank and if you are single they can take all but \$150 and if you are married they can take all of your money but \$300.

One quick note, if you receive social security into your banking account and it gets garnished, it is important to object to the garnishment as social security funds are exempt (or protected) funds.

Like with the wage garnishment above, a bankruptcy filing will stop the garnishment of your bank accounts immediately.

I offer a free consultation where we can discuss your specific situation and put a plan together to stop any garnishment you may be experiencing.

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