

Cherokee Nation Code Annotated
Title 12: Civil Procedure
Chapter 6: Garnishment
§ 1178. Affidavit required of garnishee
Cite as: 12 CNCA § 1178

A. For the purposes of this section, "**earnings**" means any form of payment to an individual including, but not limited to, salary, wages, commission, gaming winnings, or other compensation, but does not include reimbursement for travel expenses.

B. Where the garnishment summons is on earnings and is issued under 12 CNCA § 1173, the garnishee shall, within seven (7) days after the end of defendant's present pay period or where a payment of earnings is due, or thirty (30) days from the service of the summons, whichever is earlier, file an affidavit with the Clerk of the Court in which the action is pending and deliver or mail a copy thereof to the judgment creditor or the judgment creditor's attorney of record. The affidavit shall state:

1. Whether the garnishee was the employer of or indebted to or under any liability to the defendant named in the notice in any manner or upon any account for earnings or wages, specifying, as applicable, the beginning and ending dates of the pay period existing at the time of the service of the garnishee summons, the total amounts earned in the pay period, and all of the facts and circumstances necessary to a complete understanding of such indebtedness or liability. When the garnishee shall be in doubt respecting any such liability or indebtedness, the garnishee may set forth all of the facts and circumstances concerning the same, and submit the question to the Court;
2. If the garnishee shall claim any setoff, defense, other indebtedness, liability, lien, or claim to such property, the facts and circumstances in the affidavit;
3. At the garnishee's option, any claim of exemption from execution on the part of the defendant, or other objection known to the garnishee against the right of the judgment creditor to apply the indebtedness or property disclosed;
4. If the garnishee shall disclose any indebtedness or the possession of any property to which the defendant, or any other person, makes claim, at the garnishee's option, the names and addresses of such other claimants and, so far as known, the nature of the claims; and
5. The garnishee shall state that he has mailed or hand-delivered a copy of the notice of garnishment and exemptions, application for hearing, and the manner and date of compliance.

C. The garnishee's answer shall be on a form prescribed by the Judicial Branch of Cherokee Nation.

Historical Data

LA 10-07, eff. March 17, 2007.