

**Electronically Filed
Supreme Court
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SCRU-11-0000051

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the
HAWAI‘I RULES OF CIVIL PROCEDURE

ORDER ADOPTING FORM 31 OF THE
HAWAI‘I RULES OF CIVIL PROCEDURE

(By: Recktenwald, C.J., Nakayama, Acoba, McKenna, and Pollack, JJ.)

IT IS HEREBY ORDERED that Form 31 is adopted, as attached hereto, and shall be appended to the Hawai‘i Rules of Civil Procedure, effective July 1, 2013.

IT IS FURTHER ORDERED that the trial courts are authorized to insert circuit and court identifiers, appearance information, addresses, and contact information in the form and to publish the form in print or electronic format for the respective courts and circuits.

DATED: Honolulu, Hawai‘i, April 12, 2013.

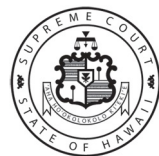
/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama


/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack



Form 31. Garnishee Summons and Order.

STATE OF HAWAII CIRCUIT COURT OF THE FIRST CIRCUIT	GARNISHEE SUMMONS AND ORDER <i>(For use in the First Circuit Only)</i>	CASE NUMBER
PLAINTIFF	DEFENDANT	
GARNISHEE (Name and Address)	PLAINTIFF'S ATTORNEY (Name and Address)	
		_____ JUDGMENT AMOUNT DUE
		_____ DATE OF JUDGMENT ORDER
<p>TO: ANY OFFICER IN HAWAII AUTHORIZED TO MAKE SERVICE You are COMMANDED to leave a true and attested copy of this Summons and Order with each garnishee named above.</p> <p>TO: GARNISHEE: You, as garnishee, are required EITHER to appear in court OR to file a disclosure with the court.</p> <p>Appearance: You must appear personally before the Judge presiding in the case designated above, at the location indicated immediately below:</p> <p style="text-align: center;"> <input type="checkbox"/> 777 Punchbowl Street or <input type="checkbox"/> 1111 Alakea Street, Honolulu, Hawai'i, 96813, at 9:00 a.m. You must appear at the court designated above on the first TUESDAY that occurs more than 20 days after the day you were served, provided the Tuesday is not a holiday. If it is a holiday, you must appear the next Tuesday that is not a holiday. </p> <p>Written Disclosure: You must file your written disclosure in the First Circuit, State of Hawai'i, and serve a copy of it on the plaintiff or the plaintiff's attorney, within 20 days counting from the day after you were served. Your disclosure must be made under Oath. It must state whether, at the time of service:</p> <p>(a) You had any goods or effects of the Defendant in your possession, and if so, their nature, amount, and value; OR (b) You were indebted to the Defendant, and if so, the nature and amount of the debt; OR (c) You had any monies of the Defendant in your possession for safekeeping and, if so, the amount thereof.</p> <p style="text-align: center;">* * * * *</p> <p>Regardless of whether you choose to appear or file a disclosure, you, as garnishee, are HEREBY ORDERED to hold and secure from the time of service of this summons, and until further ordered by the court, an amount of money equal to 120% of the amount of the judgment indicated above, including costs and interest. <i>See H.R.S. Chapters 652 & 653 as amended.</i></p> <p><i>*SEE REVERSE, REGARDING FEDERAL WAGE GARNISHMENT LAW, FOR APPLICABLE RESTRICTIONS. You may also wish to obtain "Garnishee Information" (Form IDC27) on the Judiciary's website or from a court clerk.</i></p>		
DATE ISSUED	CLERK	
<div style="display: flex; align-items: flex-start;"> <div style="flex: 1;">  </div> <div style="flex: 4; padding-left: 10px;"> <p>In accordance with the Americans with Disabilities Act and other applicable State and Federal laws, if you require a reasonable accommodation for a disability, please contact a disabilities accommodations coordinator at the relevant court or email adarequest@courts.hawaii.gov at least ten (10) working days prior to your hearing or appointment date.</p> </div> </div>		

H.R.S. Section 652-1, which governs the garnishee process, states the garnishee shall withhold, immediately upon the service of process, a portion of the salary, stipend, commissions, wages, annuity or net income under a trust (included under the term “wages” as provided by law) remaining after the deduction of any other amounts required by law to be withheld, as follows: five percent of the first \$100 per month, ten percent of the next \$100 per month, and twenty percent of all sums in excess of \$200 per month, or the equivalent portion of the above amount per week, whether then or thereafter to become owing.

H.R.S. Section 652-9 states the garnishee may be provided a hearing before a judge, if the plaintiff is given proper notice. Therefore, if a garnishee desires such a hearing, the garnishee may apply to the district judge or any judge of the court from which the summons issued, and the judge, having caused the plaintiff to be given reasonable notice, shall proceed to take the deposition of the garnishee, and shall then make any and all appropriate orders, at any time *before* the appointed time for the hearing on the garnishee summons and order. The completion of such a deposition by the garnishee shall fulfill the summons. If it appears there are conflicting claims to (1) any funds held for safekeeping, or (2) any debt or goods or effects in the garnishee's hands, then any time after the summons is served the garnishee may be permitted, upon order of the judge, to pay into the court any such funds held for safekeeping, debts, goods, or effects. The garnishee may deduct reasonable costs and attorney's fees allowed by the judge before depositing the funds or effects. The garnishee will thereupon be discharged. Regardless of whether the garnishee makes such payment into the court, any garnishee may, if there are conflicting claims to any such funds or effects, make application to the court for an interpleader order, and the judge shall thereupon make any and all just and reasonable orders.

NOTE: (1) “Wages” includes salary, stipend, commissions, wages, annuity or net income or portion of net income under a trust. (2) No pension to which any person is entitled from the State of Hawai‘i or any municipal subdivision thereof, shall be subject to taxes nor to garnishment, attachment, or execution upon or in any suit, action, or proceeding at law instituted by any person or by the State of Hawai‘i or by any municipal subdivision thereof. (H.R.S., Section 653-3).

IMPORTANT NOTICE REGARDING FEDERAL WAGE GARNISHMENT LAW.

The garnishment restrictions of Title III of the Consumer Credit Protection Act (15 U.S.C. 1673) provide that no court of the United States or of any State may make, execute, or enforce any order or process which provides for the garnishment of the aggregate disposable earnings of any individual for any pay period in an amount which is in excess of the following:

EFFECTIVE JULY 2009

Weekly	Bi-Weekly	Semi-Monthly	Monthly
\$217.50 or less:	\$435.00 or less:	\$471.25 or less:	\$942.50 or less:
None	None	None	None
More than \$217.50 but less than \$290.00:	More than \$435.00 but less than \$580.00:	More than \$471.25 but less than \$628.33:	More than \$ 942.50 but less than \$1,256.66:
Amount above \$217.50	Amount above \$435.00	Amount above \$471.25	Amount above \$942.50
\$290.00 or more:	\$580.00 or more:	\$628.33 or more:	\$1,256.66 or more:
Maximum 25%	Maximum 25%	Maximum 25%	Maximum 25%

NOTE: These restrictions do not apply in the case of (1) Court orders for the support of any person; (2) Court orders under Chapter XIII of the Bankruptcy Act; and (3) Any debt due for any State or Federal tax. The amount of disposable earnings exempt from garnishment must be paid to the employee or garnishee on the regular pay day for the pay period in which the wages were earned.

“Disposable earnings” means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld.

**The above language is for informational purposes only.
Please refer to the applicable Federal and Hawai‘i law for any changes or updates.**