

IN THE SUPREME COURT OF ALABAMA
April 7, 2017

ORDER

IT IS ORDERED that Rule 64A and Form 92, Alabama Rules of Civil Procedure, be amended to read in accordance with Appendices A and B to this order;

IT IS FURTHER ORDERED that the Committee Comments to this amendment of Rule 64A and Form 92 are adopted to read in accordance with Appendix C to this order;

IT IS FURTHER ORDERED that these amendments and the adoption of the Committee Comments are effective immediately;

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 64A and Form 92:

"Note from the reporter of decisions: The order amending Rule 64A and Form 92, effective April 7, 2017, is published in that volume of Alabama Reporter that contains Alabama cases from ___ So. 3d."

Stuart, Bolin, Parker, Murdock, Shaw, Main, Wise, and Bryan, JJ., concur.

I, Julia Jordan Weller, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 7th day of April, 2017


Clerk, Supreme Court of Alabama

APPENDIX A

Rule 64A. Notice to Defendant of Right to Claim Exemption From Garnishment.

When a garnishment is issued on a judgment in which an appearance has not been entered for the defendant, the officer issuing the garnishment must issue notice to the defendant contemporaneously with the service of process of garnishment on the garnishee. The notice to the defendant must be served on the defendant at least five days before judgment is issued against the garnishee and shall identify the name of the parties, the court in which the action is pending, and the case number. In addition, except in proceedings to collect child or spousal support, the notice shall also contain the statement concerning rights of exemption set forth below:

RIGHT TO CLAIM EXEMPTION FROM GARNISHMENT

A process of garnishment has been delivered to you. This means that a Court may order your wages, money in a bank, sums owed to you, or other property belonging to you, to be paid into Court to satisfy a judgment against you.

Laws of the State of Alabama and of the United States provide that in some circumstances certain money and property may not be taken to pay certain types of court judgments, because certain money or property may be "exempt" from garnishment. For example, under State law, in some circumstances, up to \$7,500.00 in wages, personal property, including money, bank accounts, automobiles, appliances, etc., may be exempt from process of garnishment. Similarly, under Federal law, certain benefits and certain welfare payments may be exempt from garnishment. Benefits and payments ordinarily exempt from garnishment include, for example, Social Security payments, SSI payments, veteran's benefits, AFDC (welfare) payments, unemployment compensation payments, and workers' compensation payments.

THESE EXAMPLES ARE FOR PURPOSES OF ILLUSTRATION ONLY. WHETHER YOU WILL BE ENTITLED TO CLAIM ANY EXEMPTION FROM THE PROCESS OF GARNISHMENT AND, IF SO, WHAT PROPERTY MAY BE EXEMPT, WILL BE DETERMINED BY THE FACTS IN YOUR PARTICULAR CASE. IF YOU ARE UNCERTAIN AS TO YOUR POSSIBLE EXEMPTION RIGHTS, YOU SHOULD CONSULT A LAWYER FOR ADVICE.

TO CLAIM ANY EXEMPTION THAT MAY BE AVAILABLE TO YOU, YOU MUST PREPARE A "CLAIM OF EXEMPTION" FORM LISTING ON IT ALL YOUR WAGES AND PERSONAL PROPERTY; HAVE THE CLAIM OF EXEMPTION NOTARIZED; AND FILE IT IN THE CLERK'S OFFICE. ALSO, IT IS YOUR RESPONSIBILITY TO MAIL OR DELIVER A COPY OF THE CLAIM OF EXEMPTION TO THE PLAINTIFF WHO HAS A JUDGMENT AGAINST YOU. YOU MUST INDICATE ON THE CLAIM OF EXEMPTION THAT YOU FILE IN THE CLERK'S OFFICE WHETHER YOU MAILED OR DELIVERED THE COPY TO THE PLAINTIFF AND THE DATE ON WHICH YOU MAILED OR DELIVERED IT. THE CLERK CANNOT GIVE YOU LEGAL ADVICE. IF YOU NEED ASSISTANCE YOU SHOULD SEE A LAWYER.

If you file a claim of exemption, the plaintiff will have approximately ten (10) days to file a "contest" of your claim of exemption. If a contest is filed, a court hearing will be scheduled and you will be notified of the time and place of the hearing. If the plaintiff does not file a contest, the property claimed by you as exempt will be released from the garnishment.

If you do not file a claim of exemption, your property may be turned over to the court and paid to the plaintiff on the judgment against you.

TO PROTECT YOUR RIGHTS, IT IS IMPORTANT THAT YOU ACT PROMPTLY. IF YOU HAVE ANY QUESTIONS, YOU SHOULD CONSULT A LAWYER.

(dc) District Court Rule. Rule 64A applies in the district courts.

APPENDIX B

Form 92. Notice of Right to Claim Exemption From Execution

The writ of execution delivered to you along with this Notice means that certain property belonging to you may be taken from you and sold to collect a court judgment against you.

However, the law gives you the right, under certain circumstances, to claim your property as "exempt" to keep it from being sold to collect certain kinds of court judgments. For example, you may be able to claim your "homestead exemption" to keep your home from being sold, or at least to keep a certain portion of the money from the sale.

You may also be able to keep up to \$7,500.00 in personal property, including motor vehicles and household furniture and appliances, by claiming this property as exempt.

These examples are for purposes of illustration only. Whether you will be entitled to claim any exemption from the writ of execution, and if so, what property may be exempt, will be determined by the facts in your particular case. IF YOU ARE UNCERTAIN AS TO YOUR EXEMPTION RIGHTS, YOU SHOULD CONSULT A LAWYER FOR ADVICE.

TO CLAIM ANY EXEMPTION THAT MAY BE AVAILABLE TO YOU, YOU MUST PREPARE A "CLAIM OF EXEMPTION" FORM BEFORE YOUR PROPERTY IS SOLD, LISTING ON IT THE PROPERTY UNDER LEVY OR SEIZURE, OR ANY PART THEREOF YOU CLAIM AS EXEMPT, AND, IF OF A PART, DESCRIBING THE PART IN DETAIL. YOU MUST ALSO STATE APPROXIMATELY WHAT YOU THINK EACH ITEM IS WORTH, AND HOW MUCH (IF ANYTHING) YOU STILL OWE ON EACH SUCH ITEM. YOU MUST THEN HAVE THE CLAIM OF EXEMPTION NOTARIZED AND FILE IT IN THE SHERIFF'S OFFICE. YOU MUST ALSO FILE A COPY OF THE CLAIM OF EXEMPTION WITH THE CLERK OF THE COURT. THE CLERK CANNOT GIVE YOU LEGAL ADVICE. IF YOU NEED ASSISTANCE YOU SHOULD SEE A LAWYER.

If you file a claim of exemption, the party who has a judgment against you will have approximately 10 days from receipt of a copy thereof to file a "contest" of your claim of exemption. If a contest is filed, a court hearing will be scheduled and you will be notified of the time and place of the hearing. If the party who has a judgment against you does

not file a contest, the property claimed by you as exempt will be released from the execution.

If you do not file a claim of exemption, your property may be sold or turned over to the party who has a judgment against you to help satisfy a judgment against you.

TO PROTECT YOUR RIGHTS, IT IS IMPORTANT THAT YOU ACT PROMPTLY. IF YOU HAVE ANY QUESTIONS, YOU SHOULD CONSULT A LAWYER.

APPENDIX C

Committee Comments to Amendments to Rule 64A and Form 92
Effective April 7, 2017

In 2015, the Alabama Legislature amended § 6-10-6, Code of Alabama 1975, to increase the maximum dollar amount of personal property exempt from execution from \$3,000 to \$7,500. The amendments incorporate this change.