

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

.....
In the Matter of a Proceeding for Support
Under Article _____ of the Family Court Act

Docket No.

Petitioner

S.S.#

-against-

INCOME
EXECUTION
FOR SUPPORT
ENFORCEMENT
(Clerk of Court)

Respondent.

S.S.#

.....

TO: (employer) (income payor)

WHEREAS an order of support was entered in the _____ Court, County of _____, of the State of _____ on the _____ day of _____, directing that the amount of \$ _____ shall be paid weekly, every two weeks, monthly, twice per month, quarterly by [specify debtor]: _____ to [specify creditor]: _____; and

WHEREAS the above payments have not been made and there is due and owing to the creditor the amount of \$ _____ in arrears; and

WHEREAS, the debtor is employed by [specify]: _____, whose address is _____ currently is receiving or will receive income from [specify]: _____, whose address is _____;

NOW THEREFORE, YOU ARE DIRECTED to deduct from the amount payable to said debtor now and henceforth, until further notice, the sum of \$ _____ weekly, every two weeks, monthly, twice per month, quarterly to be applied to insure compliance with the direction in said order of support, and a further sum of \$ _____ to be applied to the reduction of arrears until the amount of \$ _____ in arrears is paid in full; and to remit the amount so deducted to the following address: _____ within ten days of the date that Respondent is paid; and

YOU ARE FURTHER DIRECTED TO notify the undersigned promptly if and when the debtor ceases to be in your employ is no longer the recipient of income and provide the debtor's address (and the name and address of the new employer, if known).

Attached to this Income Execution Order is a NOTICE TO EMPLOYER OR INCOME PAYOR which is incorporated by reference and enforceable as if it is a part of this Order.

Dated: _____,

Clerk of the Family Court
of the State of New York
County of _____

Office and P.O. Address

Telephone Number

NOTICE TO CREDITOR

A copy of this Income Execution must be served upon the debtor by regular mail at the last known residence of said debtor, or such other place as the debtor is likely to receive notice, or in the same manner as a summons may be served.

You are also responsible for serving a copy of this Income Execution upon the employer or income payor 15 days after the date of service upon the debtor unless the debtor has asserted a mistake of fact as defined in C.P.L.R.5241.

NOTICE TO DEBTOR

Service of a copy of this Income Execution must be made upon you by the creditor by regular mail at your last known residence, or such other place as you are likely to receive notice, or in the same manner as a summons may be served.

NOTICE TO EMPLOYER OR INCOME PAYOR

TIMING, AMOUNT AND REMITTING OF DEDUCTIONS: Pursuant to the Civil Practice Law and Rules 5241, deductions must commence no later than the first pay period that occurs 14 days following the service of the Income Execution upon the employer or income payor, and payment must be sent within 7 business days of the date the debtor is paid. Each payment shall include the identity and social security number of the debtor and the date and amount of each withholding of the debtor's income included in the payment. "Date of withholding" means the date on which the income would otherwise have been paid or made available to the debtor were it not withheld by the employer or income payor.

Deductions from income shall not exceed the following: Where a debtor IS currently supporting a spouse or dependent child other than the creditor, the amount of the deductions to be withheld shall not exceed fifty percent of the earnings of the debtor remaining after the deduction therefrom of any amounts required by law to be withheld ("disposable earnings"), except that if any part of such deduction is to be applied to the reduction of arrears which shall have accrued more than twelve weeks prior to the beginning of the week for which such earnings are payable, the amount of such deduction shall not exceed fifty-five percent of disposable earnings.

Where a debtor IS NOT currently supporting a spouse or dependent child other than the creditor, the amount of the deductions to be withheld shall not exceed sixty percent of the earnings of the debtor remaining after the deductions therefrom of any amounts required by law to be withheld (“disposable earnings”), except that if any part of such deduction is to be applied to the reduction of arrears which shall have accrued more than twelve weeks prior to the beginning of the week for which such earnings are payable, the amount of such deduction shall not exceed sixty-five percent of disposable earnings.

An employer who receives an income execution issued by another state shall apply the income withholding law of the state of the debtor's principal place of employment in determining the above specifications concerning timing, amount and remitting of deductions.

FAILURE TO DEDUCT OR REMIT PAYMENTS: An employer or income payor served with an income execution who fails to deduct the amount specified shall be liable to the creditor, who may commence a proceeding against the employer or income payor for any accrued deductions, together with interest and reasonable attorney's fees. Upon an employer's failure to remit any amounts deducted pursuant to this income execution, either the creditor or the debtor may commence a proceeding against the employer or income payor for accrued deductions, and reasonable attorney's fees.

Additionally, upon a finding by the Family Court that the employer or income payor failed to deduct or remit deductions as specified in the income execution, the court shall issue an order directing compliance, and may direct the employer or income payor to pay a fine, to be paid to the creditor, of up to \$500.00 for the first such failure and \$1,000.00 for each subsequent failure to deduct or remit.

DISCHARGE, LAYOFF, DISCIPLINING, REFUSAL TO PROMOTE OR REFUSAL TO HIRE BECAUSE OF THE EXISTENCE OF ONE OR MORE INCOME DEDUCTION ORDERS: Pursuant to Section 5252 of the Civil Practice Law and Rules, where an employer discharges, lays off, refuses to promote, or disciplines an employee, or refuses to hire a prospective employee, because of the existence of one or more income executions and/or income deduction orders, the court may direct the employer to pay a fine, to be paid to the creditor, of up to \$500.00 for the first and \$1,000.00 for each subsequent instance of employer or income payor discrimination.

FURTHER: An employer must notify the creditor and issuer promptly when the debtor terminates employment and must provide the debtor's last address and the name and address of the debtor's new employer, if known.

An employer who complies with an income withholding notice that is regular on its face shall not be subject to civil liability to any individual or agency for conduct in compliance with the notice.