

Memorandum

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Re: Proposed garnishment and turnover rules, notices, and forms in compliance with H.B. 3774

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Introduction

Debt claim cases filed in Texas have been on the rise in recent years. Increases are most pronounced in justice courts, where new cases increased by 162% over the 5-year period ending in 2019.² County and district courts saw a lower, but still meaningful increase of 88% over the same period.³ Though court closures and temporary stays on default judgment and garnishment proceedings during 2020 paralleled a 4% decrease in debt claim cases filed in justice courts, the Office of Court Administration still noted a trend of increasing debt claim caseloads in its 2020 annual report.⁴ The report stated, “Despite a 27% decline in county court filings and a drop of

¹ Institutional affiliation for identification purposes only.

² *Annual Statistical Report for the Texas Judiciary, Fiscal Year 2019*, Texas Office of Court Administration (2020) at B4.

³ *Id.*

⁴ In response to hardships created by the stay at home orders, starting in March of 2020, the Texas Supreme Court adopted the Tenth Supreme Court Order Regarding the COVID State of Disaster, which went into effect on April 9, 2020 and continued through May 7 placed a hold on the issuance of default judgments and writs of garnishment in debt claim cases. The order was renewed on April 29 through the Fourteenth Supreme Court Order Regarding the COVID State of Disaster and extended through May 18, 2020.

15% in district court filings, the level of new debt cases filed in 2020 still exceeded the number filed in 2018.”⁵

Another notable trend for 2020 debt claim cases in justice court is that default judgments continued to increase despite court closures and other pandemic-related impacts on courts. Default judgments made up 65% of all debt collection judgments in Texas justice courts in 2020.⁶ This high rate of default judgments indicates that just 35% of the judgments received full judicial scrutiny. Default judgments also often result in a subsequent writ of garnishment or appointment of a turnover receiver to collect the judgments. Based on practitioner experiences, including feedback from legal aid providers, there is a growing problem of Texans losing exempt income to garnishment and turnover receivers.

Current rules make it extremely difficult for pro se defendants and judgment debtors to assert their rights in the collections process, including rights to protect exempt income from seizure. For recipients of certain government benefits, such as Social Security and Veterans Benefits, a rule from the U.S. Department of Treasury establishes a self-executing exemption with a two payment look back period.⁷ When the Treasury issues these payments, it puts an “XX” and the number 2 in particular positions related to the electronic transfer to enable a financial institution to identify those payments as exempt.⁸ This system has worked well but unfortunately, does not apply to a wide range of exempt funds. For example, it only protects two months of Social Security payments, even though all Social Security payments are exempt, meaning that savings generated by Social Security payments could be frozen or seized and the impacted person would have to engage with the court to release or retrieve the funds. Spousal support, child support, and unemployment benefits are other common categories of exempt funds that are not marked and could be frozen or seized, causing great financial hardship.

The Civil Justice Committee of the Texas Judicial Council examined these trends and data and adopted a series of recommendations in August 2020 to address access to justice concerns related to debt claim cases in Texas.⁹ Items number 5, 6, and 7 in the report recommend new rules to ensure that defendants and judgment debtors have an accessible mechanism to assert exemptions from the seizure of personal property in debt collection proceedings.¹⁰

The Civil Justice Committee recommendations were presented to the full Texas Judicial Council on September 24, 2020 and adopted as resolutions. They are included in Civil Justice Resolutions

⁵ *Annual Statistical Report for the Texas Judiciary, Fiscal Year 2020*, Texas Office of Court Administration (2020) at i.

⁶ Ann Baddour and Ellen Stone, [*Debt, Access to Justice and Racial Equity: An Analysis of Consumer Debt Collection Lawsuits in Texas and Recommended Reforms*](#), Texas Appleseed (April 2021) at i.

⁷ 31 C.F.R. § 212.

⁸ 31 C.F.R. § 212.3.

⁹ Texas Judicial Council Civil Justice Committee, [*Report and Recommendations*](#),” (Sept. 2020).

¹⁰ *Id.* at 4.

for the 87th Legislative Session, items 7, 8, and 9.¹¹ The recommendations led to the drafting of language that became Section 15 of H.B. 3774.

H.B. 3774, which was passed in the 87th Texas Legislative Session, adds Tex. Gov't Code § 22.0042. The new section requires the adoption of rules by May 2022 to provide a clear, expedited, and user-friendly procedure for asserting exemptions from seizure of personal property by a judgment creditor or turnover receiver.

The following sections detail a proposal for changes to garnishment rules and for adding new rules related to turnover receivers to comply with the newly enacted law.

I. Proposed Changes to Garnishment Rules

A. Background

Rule changes are needed to address the inadequacies of the current garnishment procedures. The current process for judgment debtors to raise exemptions is cumbersome, not user-friendly for the unrepresented judgment debtor, and rarely used without the benefit of counsel. For example, current Rule 663a only provides that judgment debtors are entitled to a post-execution notice that they may file a bond or a motion to dissolve, concepts that make no sense to anyone other than lawyers.

Rule 663a also makes no explicit mention of exemptions, an important substantive right that might be raised to protect judgment debtors from seizure. In fact, exemptions cannot practically be raised at this time without the assistance of an attorney who drafts and files a motion to dissolve the writ of garnishment under Rule 664a, hardly a procedure that could be navigated by a pro se judgment debtor. The failure to give explicit notice of the right to assert exemptions in post-judgment garnishment proceedings and provide a simple pro se friendly procedure for asserting such exemptions has been found to violate fundamental tenets of due process. See *Strickland v. Alexander*, 772 F.3d 876 (11th Cir. 2014); 2015 WL 5256836 (N.D. Ga. 2015) (entry of judgment on remand); 2015 WL 5916003 (N.D. Ga. 2015) (amending judgment); 2015 WL 103221498 (N.D. Ga. 2015)(amending judgment again). In short, current garnishment rules are subject to constitutional attack unless they are amended to address these deficiencies.

Partly in response to *Strickland*, a subcommittee of the Supreme Court Advisory Committee considered garnishment rule changes back in 2016, but no amended rules were issued at that time. HB 3774 requires rules to be issued no later than May 1, 2022, highlighting the urgent need to amend Texas rules.

¹¹ Texas Judicial Council, "[Civil Justice Resolutions](#)," (Sept. 24, 2020).

B. Proposed Rule Changes to Rules 661, 662, 663a, and 664a

The proposed changes to Rules 661, 662, 663a and 664a are attached to this memo. Recognizing that the garnishment rules are well established, these amendments only revise the rules to the extent necessary to address the mandate of H.B. 3774. Otherwise, the proposal retains the current language of the rules.

1. Revised notice of rights to be given to judgment debtors (Rule 663a)

Rule 663a is substantially changed to comply with Tex. Gov't. Code §22.0042(b). First, the amended language requires that notice of garnishment be given to a defendant or a judgment debtor. The reference to a notice given to a “defendant” relates to pre-judgment garnishment, while the reference to a notice given to a “judgment debtor” relates to post-judgment garnishment.

Second, the form of the notice given to defendants in pre-judgment garnishments and to judgment debtors in post-judgment garnishment is totally redone and placed in new subsections (a) and (b). The current notice (placed on the face of the writ of garnishment to be delivered to defendants) only advises defendants or judgment debtors that they can regain possession of their garnished property by filing a replevy bond or by filing a motion to dissolve the writ of garnishment. This notice is difficult for lawyers to understand, let alone a pro se litigant. It also does not tell defendants and judgment debtors about their exemption rights, which is now required under the new law.

In accordance with the standards set forth in Tex. Gov't Code §22.0042(b), the proposed rules provide that a notice of garnishment includes the giving of the writ of garnishment, the application for the writ, and three Supreme Court-approved forms (one explaining exemption rights, an exemption claim form, and instructions on how to fill out that form). This change ensures that defendants, and particularly judgment debtors, will have notice about exemption rights and a form for asserting such rights. This approach addresses what H.B. 3774 and *Strickland* require.

Third, a new subsection (d) requires that notice be given by the plaintiff or judgment creditor to the defendant or judgment debtor within one day after service of the writ of garnishment (usually on a financial institution). The current rule requires such notice to be given “as soon as practicable” which has been construed to mean within 14 days. *Arriaga v. Jess Enterprises*, 2014 WL 1875917, *2 (N.D. Tex. 2014)(applying Texas law); *Lease Finance Group, LLC v. Childers*, 310 S.W.3d 120, 127 (Tex. App. – Fort Worth 2010, no pet.); *Requena v. Salomon Smith Barney, Inc.*, 2002 WL 356696, *3-4 (Tex. App. – Houston [1st Dist.] 2002, no pet.). However, 14 days is an unconscionably long time, given that judgment debtors often learn about the garnishment when they are refused access to their accounts (as service of the writ of garnishment freezes accounts at financial institutions) – for example, when they’re attempting to pay for groceries. Because the information being provided is all form-based, it is not difficult for plaintiffs and judgment creditors to give more prompt notice. By giving faster notice, defendants and

judgment debtors will then be given notice of how to exercise their exemption rights more quickly.

When a judgment debtor lives on exempt income, such as social security, and the entire amount on deposit is frozen by a writ of garnishment, those parties are entitled to prompt notice of how they can quickly seek access to their exempt funds. The exemptions have no real meaning if parties cannot exercise them promptly, which turns on giving prompt notice. This faster notice standard complies with Tex. Gov't Code §22.0042(a)(1), which requires the Court to adopt rules that, "establish a simple and expedited procedure," for a judgment debtor to assert exemptions in the garnishment process.

Fourth, a new subsection (d) prescribes the order of documents to be sent to a defendant or judgment debtor to make sure the garnishment notice is on top, promptly followed by an exemption claim form. That way, notice of exemption rights is prioritized. This approach aligns with the current rule that requires essential information for the judgment debtor to be included, "on the face of the copy of the writ served on the defendant." (TCRP Rule 663a). It also comports with the requirement in statute for a simple procedure and one that provides information in plain language. (Tex. Gov't Code §§22.0042(a)(1) and (b))

The manner of service, i.e. either by service or notice under Rule 21a, is set out in a new subsection (c), and the language is unchanged from the current rule.

2. Changes to Rules 661 and 662

Rule 661 sets out the form of the notice of the writ of garnishment, and Rule 662 requires the writ to be served on the garnishee. The proposed changes to these rules are modest.

First, the language about the form of the writ of garnishment in Rule 661 is unchanged and placed in a new subsection (a).

Second, a new subsection (b) to Rule 661 requires that the attachments provided by Rule 663a be attached to the writ. The changes to Rule 661 enable compliance with the notice provision and requirements under Tex. Gov't Code § 22.0042(b). This subsection requires that the judgment debtor be provided with a plain language notice that includes a form to assert exemptions, along with required instructions. The language of the required notice, instructions, and form are included with this memo and described in detail under Section C below. The notice, instructions, and form are presented in English in this proposal. A Spanish translation is required to comply with the statute.

Third, the minor change to Rule 662 states that the documents required to be attached to the writ be served on the garnishee (usually a financial institution). The idea here is to take advantage of the fact that many financial institutions, as a courtesy and not as requirement of law, provide copies of the writ to their customers whose account(s) was frozen

by a writ. It also facilitates compliance with federal rules, where applicable.¹² Often judgment debtors receive notice about the garnishment from their financial institution well before any notice arrives in the mail from the judgment creditor under Rule 663a. This proposed change aligns with the requirement under Tex. Gov't Code § 22.0042(a) for an expedited process, by creating an additional avenue to share information about the garnishment with the judgment debtor.

By making these minor changes to Rules 661 and 662, the rules are assuring a second means by which defendants (in pre-judgment garnishments) and judgment debtors (in post-judgment garnishments) learn of their exemption rights, all without imposing any duties upon financial institutions.

3. Simpler procedure for raising exemption claims

Current Rule 664a provides for the procedures associated with motions to dissolve writs of garnishment. Like Rule 663a, this rule is substantially changed to comply with the provisions in H.B. 3774. First, the language of the rule applicable only to pre-judgment garnishment¹³ has been placed in subsection (a) and been labeled as “General Rule for Pre-Judgment Garnishment.” The first two sentences of the current rule are the source of the language for this subsection.

Second, a new subsection (b) sets forth a “General Rule for Post-Judgment Garnishment” and it provides that a judgment debtor and interested third parties can file a motion to dissolve writ of garnishment or an exemption claim form (or its substantial equivalent). This new subsection retains the current language on who can file a challenge to a garnishment writ, but it provides basically two ways in which to challenge a garnishment writ – through either an exemption claim form or a motion to dissolve or modify the writ. The exemption claim form is intended as a pro se friendly way to challenge the garnishment, unlike the motion which would likely need a lawyer to be effectively drafted and filed.

Third, the current language on when to conduct the hearing was placed in a new subsection (b). The only change was a reference to the hearing being on a motion under subsection (a) or a motion or claim under subsection (b).

Fourth, a new subsection (d) entitled “Motion for Dissolution of the Writ” is created to contain mostly the existing language about how the hearing should be conducted. On the

¹² 31 CFR §§ 212.6 and 212.7 requires a financial institution to send a notice to the account holder named in the garnishment order when funds from the Social Security Administration, the Department of Veterans Affairs, the Office of Personnel Management, or the Rail Road Retirement Board are protected in an account. These are common categories of protected funds.

¹³ The second sentence of the current rule has been held to be only applicable to pre-judgment garnishments. *Simulis, L.L.C. v. G.E. Capital Corporation*, 276 S.W.3d 10, 115-116 (Tex. App. – Houston [1st Dist.] 2008, no pet.).

need for an affidavit, this subsection offers a declaration as an alternative as permitted by CPRC § 132.001.

Fifth, a new subsection (e) entitled “Claim to Exemption” is added to set forth what should occur at a hearing on an exemption claim raised by an exemption claim form or its substantial equivalent. In essence, the trial court is supposed to decide whether any of the personal property, including funds, are exempt and if so, order its return within 3 days. In short, this subsection provides for a simple and expedited procedure that a pro se judgment debtor could navigate.

4. Proposed Notice, Instructions, and Form

HB 3774 requires three plain language items to be sent out with the writ to defendants in pre-judgment garnishment and to judgment debtors in post-judgment garnishment. One is a notice of garnishment generally describing the recipient’s rights. According to Tex. Gov’t Code § 22.0042(b)1-5, the notice must be in plain language, in English with an integrated Spanish translation that can be easily read and understood by the public, list all exemptions under state and federal law, and provide information for accessing free and low-cost legal assistance. The proposed notice form includes all of the requirements, with the exception that it must still be translated into Spanish. The list of exempt personal property that is included in the notice is the same as the list included in the proposed exemption claim form. The statutory basis for each included exemption is presented in the form discussion.

In addition to the notice, the packet served on the defendant or judgment debtor must also include an exemption claim form, which list exemptions, and instructions to fill out the form. The proposed form and instructions are designed to be easy to use and understand. The proposed form allows the recipient to mark a box for each applicable exemption and to file the form (and serve the plaintiff or judgment creditor) to start the process of challenging the writ of garnishment.

H.B. 3774 requires the form to include all existing exemptions. The proposed form provides a full list of exemptions and the statutory citation that covers most personal property exemptions under state law. The legal source for each exemption included is set forth below:

1. Social Security Retirement income --- 42 U.S.C. § 407(a) and *Philpot v. Essex County Welfare Board*, 409 U.S. 413, 417 (1973);
2. Social Security Disability income --- 42 U.S.C. § 407(a); *Philpot v. Essex County Welfare Board*, 409 U.S. 413, 417 (1973);
3. SSI or Supplemental Security Income --- 42 U.S.C. § 407(a); *Philpot v. Essex County Welfare Board*, 409 U.S. 413, 417 (1973);
4. Alimony, child or spousal support --- Tex. Prop. Code 42.001(b)(3);
5. Veterans’ benefits --- 38 U.S.C. § 5301(a) and *Ruby v. Ryan*, 2016 WL 11448151, *8 (S.D. Calif. 2016);
6. Unemployment compensation --- Tex. Labor Code § 207.079(c);

7. Workers' compensation --- Tex. Labor Code § 408.201;
8. FEMA benefits --- 44 C.F.R. § 206.110(g);
9. Railroad retirement benefits --- 45 U.S.C. § 231m(a);
10. Pension and retirement benefits --- 29 U.S.C. § 1056(d) and Tex. Prop. Code § 42.0021(a) and (g);
11. Money belonging to a joint account holder --- Tex. Estates Code § 113.004(2), *Bechem v. Reliant Energy Retail Services, LLC*, 441 S.W.3d 839, 845 (Tex. App. – Houston [14th Dist.] 2014, no pet.) and *In re Marriage of McNelly*, 2014 WL 2039855, *7 (Tex. App. – Houston [14th Dist.] 2014, pet. denied);
12. Money from the sale of a homestead for a period of six --- months after the sale --- Tex. Prop. Code § 41.001(5)(c);
13. Tax-deferred accounts like a 401(k) or an IRA account --- 29 U.S.C. § 1056(d) and Tex. Prop. Code § 42.0021(a) and (g);
14. Education and health savings accounts such as 529 accounts or other qualified accounts -- 29 U.S.C. § 1056(d) and Tex. Prop. Code § 42.0021(a) and (g); and
15. Proceeds of a life, health or accident insurance policy, including related annuities --- Tex. Ins. Code § 1108.051 and *Rotella v. Cutting*, 2011 WL 3836456, *2-3 (Tex. App. – Fort Worth 2011, no pet.).
16. Temporary Assistance for Needy Families (TANF)--- Tex. Human Res. Code § 31.040.

Item number 11 is not technically an exemption, but it is an important category of funds that are legally protected from garnishment, which is why it is included. It is important to note that money in joint accounts does not always belong to all of the account holders. A “joint account” as defined by Tex. Estates Code § 113.004(2) is one that is “payable on request to one or more of two or more parties, regardless of whether there is a right of survivorship.” *Id.* As such, if all of the account holders are currently alive, the funds in the joint account belong to the parties in proportion to the net contributions by each party to sums on deposit, absent clear and convincing contrary evidence. Tex. Estates Code § 113.102. If the judgment debtor made no contribution to the funds in the joint account subject to garnishment, she actually owns none of the money in the joint account. *Bechem v. Reliant Energy Retail Services, LLC*, 441 S.W.3d 839, 845 (Tex. App. – Houston [14th Dist.] 2014, no pet.); *In re Marriage of McNelly*, 2014 WL 2039855, *7 (Tex. App. – Houston [14th Dist.] 2014, pet. denied). This is true, even though she had the right to withdraw funds from that account. *Id.* Under these circumstances, the garnishor/judgment creditor is not entitled to garnish any of the funds in the joint account. *Republic Bank Dallas v. National Bank of Daingerfield*, 705 S.W.2d 310, 311-312 (Tex. App. – Texarkana 1986, no writ) (applying the predecessor statute, Tex. Probate Code § 438). See *Enright v. Lehmann*, 735 N.W.2d 326, 330-336 and n. 5 (Minn. 2007) (applying similar Minn. statute, court held that funds in joint account not deposited by judgment debtor were not subject to garnishment) (Note: *Enright* is cited affirmatively in *Bechem*). In fact, a bank that allows money belonging to other joint account holders may be liable for breach of contract for failing to use ordinary care in allowing disbursements from the account. *Strobach v. WesTex Community Credit Union*, 621 S.W.3d 856, 870-877 (Tex. App. – El Paso 2021, pet. pending).

Wrongful garnishment of the funds of a joint account holder occurs most often with older and younger individuals. In the case of older individuals, adult children may be joint account holders for the purpose of assisting a parent with the management of funds, though all of the funds are deposited by the parent. For minors, a parent is required as a joint account holder even when all the funds deposited are provided by the minor, often through a job. Wrongful freezing or seizure of such funds can lead to substantial financial hardship causing seniors or young people to lose necessary income for a debt that is not theirs.

II. Proposed Turnover Rules and Forms

A. Background

Unlike garnishment proceedings that are heavily regulated by statutes and rules, turnover proceedings are far less regulated, largely because there are no procedural rules governing how they are conducted. Currently, there is no recognized procedure in turnover proceedings for asserting exemption rights. Some attorneys have filed motions to return exempt funds in those proceedings, but there is no procedure for giving judgment debtors notice of their exemption rights in turnover proceedings and there are no directions by which they could easily assert such rights.

Like garnishment procedures, the failure to give explicit notice of the right to assert exemptions in post-judgment turnover proceedings and provide a simple pro se friendly procedure for asserting such exemptions could well be found to violate fundamental tenets of due process. See *Strickland v. Alexander*, 772 F.3d 876 (11th Cir. 2014); 2015 WL 5256836 (N.D. Ga. 2015) (entry of judgment on remand); 2015 WL 5916003 (N.D. Ga. 2015)(amending judgment); 2015 WL 103221498 (N.D. Ga. 2015)(amending judgment again). In short, the absence of any rules makes turnover proceedings ripe for constitutional attack. H.B. 3774 now requires that rules be adopted to address these concerns.

B. Proposed New Rules

Given that the issues relating to the procedure for raising exemption rights is similar in garnishment and turnover proceedings, the proposed new turnover procedural rules mimic the revised rules that are proposed for garnishment proceedings. (Note: Rule 660 is used as the rule number in this proposal, because the prior rule using that number was repealed, leaving that number available. Using 660 as the rule number is also helpful, as it would put these rules in the vicinity of the garnishment rules.)

1. New Rule 660

Rule 660 provides that all funds seized by a turnover receiver are kept for 60 days before distribution to the judgment creditor and the turnover receiver for her fees.¹⁴ It also

¹⁴ Turnover receivers typically take a fee equal to 25% of the amount collected for the judgment creditor.

provides that such funds should be remain in escrow if a claim to exemption or motion for return exempt funds is filed until such time as the claim or motion is decided. By holding the funds in escrow, they can be more easily refunded promptly to a judgment debtor if a court finds any of the seized funds are exempt.

This proposal for Rule 660 is consistent with Tex. Gov't Code § 22.0042(a)(1), which requires "a simple and expedited procedure to assert an exemption to the seizure of personal property by a judgment creditor." Once the seized funds have been distributed, it likely would be difficult to retrieve exempt funds as they could be in the hands of multiple parties. In addition, it is unclear if funds taken as fees for the turnover receiver could be retrieved. Therefore, holding the funds in escrow for a period of time is necessary for an expedited process. Sixty days was selected to ensure enough time for the judgment debtor to receive service of the notice and forms, to engage with the legal process, and to complete a hearing.

2. New Rule 660a

When a turnover receiver makes a demand for funds under CPRC § 31.002(g) to a financial institution, Rule 660a provides that copies of approved forms explaining exemption rights and an exemption claim form should be provided to the financial institution as well as the underlying turnover order. Like amended Rules 661 and 662, this gives financial institutions information about exemption rights. Since some financial institutions commonly provide courtesy copies of what they receive from turnover receivers, this provision establishes another method by which judgment debtors can be informed about their exemption rights shortly after the seizure. The proposed rule does not impose a duty on financial institutions to pass on this information, but it enables financial institutions to provide such information as a courtesy.

Similar to the garnishment process, this provision could also assist financial institutions in complying with federal notice requirements if the turnover impacts certain federal government benefits.¹⁵ It also support the legislative requirement for a simple and expedited process.

3. New Rule 660b

Rule 660b provides for the same type of notice that is required by the revised Rule 663a that is being proposed, except that turnover receivers are required to give the notice (whereas judgment creditors are required to do so in post-judgment garnishment proceedings). Like the proposal for revised Rule 663a, this new rule provides for 3 forms to be approved by the Texas Supreme Court: (a) a turnover notice, (b) a turnover exemption claim form, and (c) directions on how to fill out and file the claim form. See subsections (a) and (b) of both Rule 660b and revised

¹⁵ 31 CFR §§ 212.6 and 212.7 requires a financial institution to send a notice to the account holder named in the garnishment order when funds from the Social Security Administration, the Department of Veterans Affairs, the Office of Personnel Management, or the Rail Road Retirement Board are protected in an account. These are common categories of protected funds. Under federal law, a garnishment order is broadly defined to include a seizing of funds by a turnover receiver. See 31 CFR § 212.3.

Rule 663a. Rule 660b also adopts the same language as revised Rule 663a on the manner and timing of service as well as the order of documents.

This reference to court-approved forms is similar to Rule 145(b) which calls for the use of Supreme Court-approved statements of inability to afford court costs or their equivalent.

4. New Rule 660c

This new rule is substantially similar to revised Rule 664a. Like revised Rule 664a, it establishes a process for the judgment debtor to raise exemption claims, provides for an expedited hearing process, specifies the nature of the hearing for motions to return exempt funds, and details the basis of the court determination.

Subsection (f) is new. It makes any ruling on a claim form or a motion for return exempt funds a final order so that it can be appealed. Since most of these cases arise in justice court, there may be no mechanism short of mandamus for challenging a justice of the peace who rules against a party on an exemption issue unless this provision is provided. Some justice courts have refused to treat their denial of motions for return of exempt funds as final orders entitled to be appealed, so counsel representing judgment debtors have had to seek review either by writ of certiorari or mandamus, a difficult and clumsy methods of review. The proposal establishes that rulings on exemption issues should be treated as final orders, so that they can be easily reviewed by higher courts.

5. New Rule 660d

This new rule simply requires strict compliance with these rules and finds that non-compliance requires the return of seized funds.

This rule mirrors the standard in garnishment proceedings. More specifically, Texas Supreme Court has held that garnishment proceedings “cannot be sustained unless they are in strict compliance with statutory requirements.” *Beggs v. Fite*, 106 S.W.2d 1039, 1042 (Tex. 1937). The Texas Rules of Civil Procedure have the same force and effect as statutes. *In re City of Georgetown*, 53 S.W.3d 328, 332 (Tex. 2001). Thus, the courts have found that failing to comply with the garnishment statutes or rules provide a basis for dissolving the writ of garnishment. *Strobach v. WesTex Community Credit Union*, 621 S.W.3d 856, 870 (Tex. App. – El Paso 2021, pet. pending); *BBX Operating, LLC v. American Fluorite, Inc.*, 2021 WL 3196513, *2 (Tex. App. – Beaumont 2021, no pet. history); *Aycock v. EECU*, 510 S.W.3d 636, 638 (Tex. App. – El Paso 2016, no pet.); *Pallida, LLC v. Uballo*, 2018 WL 6816680, *1 (Tex. App. – Austin 2018, no pet.); *In re Tasty Moments, LLC*, 2011 Tex. App. LEXIS 2377, *13-20 (Tex. App. – Corpus Christi 2011, orig. proc.); *Lease Finance Group, LLC v. Childers*, 310 S.W.3d 120, 124-128 (Tex. App. – Fort Worth 2010, no pet.); *Zeecon Wireless Internet, LLC v. American Bank of Texas, N.A.*, 305 S.W.3d 813, 816-820 (Tex. App. – Austin 2010, no pet.); *Abdullah v. State of Texas*, 211 S.W.3d 938, 942-943 (Tex. App. – Texarkana 2007, no pet.); *Requena v. Salomon Smith Barney, Inc.*, 2002 WL 356696, *3 (Tex. App. – Houston [1st Dist.] 2002, no pet.); *Mendoza v. Fruia Investments, Inc.*, 962

S.W.2d 650, 651-652 (Tex. App. – Corpus Christi 1998, no pet.); *Walnut Equipment Leasing v. J-V Dirt & Loam*, 907 S.W.2d 912, 915 (Tex. App. – Austin 1995, writ denied).

As observed by one appellate court, “[i]t has long been the law of the State that if a judgment-creditor intends to avail himself of the State’s aid in effecting a deprivation of property, he must strictly comply with the pertinent rules.” *Hering v. Norbanco Austin I, Ltd.*, 735 S.W.2d 638, 641 (Tex. App. – Austin 1987, writ denied). Likewise, another court has found that a judgment of garnishment should be set aside if there was an absence of strict compliance with Rule 663a. *Childers*, 310 S.W.3d at 123-128.

This proposed rule assures compliance and ensures that the standard of compliance is the same in both garnishment and turnover proceedings.

C. Proposed Notice, Instructions, and Form

The notice, instructions, and form for turnover are almost identical to those proposed for garnishment with only a few major substantive differences. There are differences because there are more exemptions to turnover than to garnishment.

Specifically, CPRC § 31.002(f) provides an exemption from turnover of “the proceeds of, or the disbursement of, property exempt under any statute, including Section 42.0021, Property Code.” Through this provision, the Legislature “. . . intended to specifically exempt [from the turnover statute] paychecks, retirement checks, individual retirement accounts and other such property exempt under the bankruptcy code.” *Caulley v. Caulley*, 806 S.W.2d 795, 798 (Tex. 1991). Accord: *Goebel v. Brandley*, 174 S.W.3d 359, 364-365 (Tex. App. – Houston [14th Dist.] 2005, pet. denied); *Burns v. Miller, Hiersche, Martens & Hayward, P.C.*, 948 S.W.2d 317, 323 (Tex. App. – Dallas 1997, writ denied)(holding disbursements from spendthrift trusts to be exempt from turnover). In other words, once wages are paid to a judgment debtor, they become the proceeds of exempt property and thereby not subject to turnover. *Marrs v. Marrs*, 401 S.W.3d 122, 124-127 (Tex. App. – Houston [14th Dist.] 2011, no pet.). In addition, at least two courts of appeal have assumed that taking the proceeds of a paycheck from a judgment debtor’s bank account by way of a *turnover order* might violate section 31.002(f), but the more limited exemption for current wages did not preclude *garnishment* of those proceeds. *Guiberson v. Bohnefeld*, 1993 WL 175242, *1-2 (Tex. App. – Dallas 1993, no writ); *American Express Travel Related Services v. Harris*, 831 S.W.2d 531, 532-533 (Tex. App. – Houston [14th Dist.] 1992, no writ).

Normally, “current wages” in the hands of employers are exempt from seizure under Tex. Prop. Code § 42.001(b)(1) but are subject to garnishment once they are received by the judgment debtor. *American Express Travel Related Services v. Harris*, 831 S.W.2d 531, 532-533 (Tex. App. – Houston [14th Dist.] 1992, no writ). Likewise, spendthrift trust funds remaining in the trust are exempt from seizure under Tex. Trusts Code § 112.035. The use of the terms “proceeds” and “disbursements” in section 31.002(f) means the funds are distributed to a judgment debtor and they remain exempt from turnover even though they are subject to seizure by garnishment.

In short, wages and spendthrift trust proceeds are subject to garnishment after receipt by a judgment debtor, but not by turnover. This standard is established in statute, because turnover is a far more imposing remedy and one that is largely unregulated. As a result, wages and proceeds from spendthrift trusts are included as exemptions on the turnover forms.

Conclusion

Section 15 of H.B. 3774 was adopted in the 87th Texas Legislative Session to ensure that Texans have access to a simple and expedited process to protect exempt funds from seizure in debt collections. These proposed rules implement the provisions of the new law. We look forward to discussions about this proposal and working with the Supreme Court Advisory Committee on this important process.

EXHIBIT A

RULE 661. FORM OF WRIT; ATTACHMENTS

(a) *Form of Writ.* The following form of writ may be used: “The State of Texas. To E.F., Garnishee, greeting: Whereas, in the _____ Court of _____ County (if a justice court, state also the number of the precinct), in a certain cause wherein A.B. is plaintiff and C.D. is defendant, the plaintiff, claiming an indebtedness against the said C.D. of _____ dollars, besides interest and costs of suit, has applied for a writ of garnishment against you, E.F.; therefore you are hereby commanded to be and appear before said court at _____ in said county (if the writ is issued from the county or district court, here proceed: at 10 o'clock a.m. on the Monday next following the expiration of twenty days from the date of service hereof.' If the writ is issued from a justice of the peace court, here proceed: at or before 10 o'clock a.m. on the Monday next after the expiration of ten days from the date of service hereof.' In either event, proceed as follows:) then and there to answer upon oath what, if anything, you are indebted to the said C.D., and were when this writ was served upon you, and what effects, if any, of the said C.D. you have in your possession, and had when this writ was served, and what other persons, if any, within your knowledge, are indebted to the said C.D. or have effects belonging to him in their possession. You are further commanded NOT to pay to defendant any debt or to deliver to him any effects, pending further order of this court. Herein fail not, but make due answer as the law directs.”

(b) *Attachments.* The clerk shall attach to the writ the following documents approved by the Texas Supreme Court:

- (1) The Garnishment Notice in Plain Language;
- (2) Instructions to fill out the Garnishment Exemption Claim form;
- (3) Two copies of the Garnishment Exemption Claim Form;

RULE 662. DELIVERY OF WRIT

The writ of garnishment shall be dated and tested as other writs, and may be delivered, [with required attachments](#) to the sheriff or constable by the officer who issued it, or he may deliver it to the plaintiff or judgment creditor, his agent or attorney, for that purpose.

RULE 663a. NOTICE TO DEFENDANT OR JUDGMENT DEBTOR

(a) *General Rule.* The defendant or judgment debtor shall be served with the following documents by the plaintiff or judgment creditor:

- (1) The Garnishment Notice in Plain Language;
- (2) Instructions to fill out the garnishment exemption claim form;
- (3) Two copies of the Garnishment Exemption Claim Form;
- (4) The writ of garnishment;
- (5) The application for the writ of garnishment; and

(6) Accompanying affidavits and orders of the court.

(b) *Supreme Court Form; Clerk to Provide.* The plaintiff or judgment creditor must serve the Garnishment Notice in Plain Language form in at least eleven-point type, the Garnishment Exemption Claim Form, and the related instructions approved by the Supreme Court. In asserting an exemption or exemptions, the defendant or judgment debtor must use the Garnishment Exemption Claim Form approved by the Supreme Court, or any document claiming an exemption that substantially provides the information required by the Court-approved form. The clerk must make the Court-approved forms available to all persons without charge or request.

(c) *Manner of Service.* The documents referenced in subsection (a) shall be served by service of citation or as provided in Rule 21a.

(d) *Timing of Service.* Service under Subsection (a) by the plaintiff or judgment creditor must occur not later than one day after the date of service of the writ of garnishment on the garnishee.

(e) *Order of Required Documents.* Any service of the documents in Subsection (a) shall be in the specific order designated in Subsection (a).

RULE 664a. CLAIM TO EXEMPTION; DISSOLUTION OF WRIT

(a) *General Rule for Pre-Judgment Garnishment.* A defendant whose property or account has been garnished pre-judgment or any intervening party who claims an interest in such property or account, may by sworn written motion, seek to vacate, dissolve or modify the writ of garnishment, and the order directing its issuance, for any grounds or cause, extrinsic or intrinsic. Such motion shall admit or deny each finding of the order directing the issuance of the writ except where the movant is unable to admit or deny the finding, in which case movant shall set forth the reasons why he cannot admit or deny.

(b) *General Rule for Post-Judgment Garnishment.* A judgment debtor whose property or account has been frozen under a writ of garnishment after judgment or any intervening party who claims an interest in such property or account may seek to vacate, dissolve or modify the writ of garnishment, and the order directing its issuance, for any grounds or cause, extrinsic or intrinsic by filing one or more of the following documents:

- (1) The Garnishment Exemption Claim Form;
- (2) A substantial equivalent to the Garnishment Exemption Claim form; or
- (3) A sworn motion to dissolve or modify the writ of garnishment.

(c) *Hearing.* Unless the parties agree to an extension of time, a hearing on the motion under Subsection (a) or on the motion and/or claim to exemption filed under Subsection (b) shall be

heard promptly, after reasonable notice to the plaintiff or judgment creditor (which may be less than three days), and a hearing shall be scheduled and the issue determined not later than ten days after the motion [or exemption claim](#) is filed. The filing of the motion [or exemption claim](#) shall stay any further proceedings under the writ, except for any orders concerning the care, preservation or sale of any perishable property, until a hearing is had, and the issue is determined.

[\(d\) *Motion for Dissolution of the Writ.*](#)

(1) The writ shall be dissolved unless, at such hearing, the plaintiff or judgment creditor shall prove the grounds relied upon for its issuance and that all required procedures have been followed, but the court may modify its previous order granting the writ and the writ issued pursuant thereto.

(2) The movant shall, however, have the burden to prove that:

- [\(i\) All or part of the value of the personal property is exempt;](#)
- [\(ii\) The reasonable value of the property garnished exceeds the amount necessary to secure the debt, interest for one year, and probable costs; and/or](#)
- [\(iii\) Justification for the substitution of property.](#)

(3) The court's determination may be made upon the basis of affidavits or declarations, if uncontroverted, setting forth such facts as would be admissible in evidence; otherwise, the parties shall submit evidence. The court may make all such orders including orders concerning the care, preservation or disposition of the property (or the proceeds therefrom if the same has been sold), as justice may require. If the movant has given a replevy bond, an order to vacate or dissolve the writ shall vacate the replevy bond and discharge the sureties thereon, and if the court modifies its order or the writ issued pursuant thereto, it shall make such further orders with respect to the bond as may be consistent with its modification.

[\(e\) *Claim to Exemption.* On a hearing of a claim to exemption or a claim by an intervening party, the court shall determine whether the defendant or judgment debtor has an applicable exemption to all or part of the personal property being garnished. Any personal property found to be exempt shall be ordered to be returned to the defendant or judgment debtor within no more than three business days. In addition, the court may determine that certain garnished personal property belongs to a third party or third parties and order its return within no more than three business days.](#)

EXHIBIT B

NOTICE REGARDING: [Case Number]

[Name of Garnishor]	§	Name of court
Garnishor	§	Address
Address	§	City, State, Zip Code
City, State, Zip Code	§	
email	§	
v.	§	
[Name of Garnishee]	§	
Garnishee	§	
Address	§	
City, State, Zip Code	§	
email	§	
	§	
[Name of Defendant or Judgment Debtor]	§	
Defendant or Judgment Debtor	§	Name of County, Texas

NOTICE TO _____, DEFENDANT OR JUDGMENT DEBTOR, OF YOUR RIGHTS TO GET MONEY BACK THAT HAS BEEN FROZEN

You are receiving this notice because money you have in an account at [name of garnishee] has been frozen by [name of garnishor] and may be seized to pay a debt judgment against you. This means that you cannot use the money in this account right now and it could be used to pay the debt judgment. **HOWEVER, YOU MAY BE ABLE TO KEEP YOUR MONEY, SO READ THIS NOTICE CAREFULLY.**

State and federal law protects certain money and property from garnishment. **If the money in your account at [name of garnishee] was any of the following, it is protected and you can get this money back:**

1. Social Security Retirement income
2. Social Security Disability Income (SSDI),
3. Supplemental Security Income (SSI),
4. Alimony, child support, or spousal support,
5. Veterans benefits,
6. Unemployment compensation benefits,
7. Workers' compensation benefits,
8. FEMA disaster benefits,
9. Railroad Retirement benefits,
10. Pension and retirement benefits,
11. Money that belongs to a joint account holder,
12. Proceeds from the sale of a homestead (but only for six months after the sale),
13. Tax-deferred retirement accounts, like a 401(k) or an IRA account,

14. Education and health savings accounts, such as 529 accounts, an education savings account (ESA), or other qualified accounts,
15. Proceeds of a life, health, or accidental death insurance policy, including related annuities,
16. Temporary Assistance for Needy Families (TANF), or
17. Other funds and property that are exempt under Chapter 42 of the Texas Property Code or other state or federal laws.

Your money may also be protected if there is a problem with the judgment against you. For example, if you were not notified in writing about the original lawsuit that was filed against you to collect the debt, you can contest this garnishment (the freezing and seizing of your money).

TO GET THE PROTECTED MONEY BACK MONEY, YOU MUST:

- Fill out the exemption claim form that is included with this notice, and
- File the form immediately with the court at the address listed on the first page of this notice, and
- Mail the form (and email it, if the email address is listed) to the garnishor, and the garnishee listed in the heading of this notice as soon as possible.

If you would like to talk with a lawyer, here is information on free and low-cost services:

<https://www.txcourts.gov/programs-services/legal-aid>. Legal Aid offices in Texas include Texas RioGrande Legal Aid at (800) 369-0574, Lone Star Legal Aid at (800) 733-8394, and Legal Aid of Northwest Texas at (800) 955-3959.

REMEMBER: FILE YOUR COMPLETED EXEMPTION CLAIM FORM IMMEDIATELY.

Garnishment Exemption Claim Form Instructions

The Garnishment Exemption Claim Form is a form that you can fill out and deliver to the court to get back protected money in your account that has been frozen. It is best to take the form to the court to make sure it is filed quickly and doesn't get lost in the mail. If you mail it to the court, it is best to send it certified mail with return receipt requested. **You are called the "Defendant or Judgment Debtor" on the form.**

To fill out the Garnishment Exemption Claim Form:

1. If the top of the form it is not already filled out, copy the information from the top of the notice you received that told you of your rights to get back any protected money that was frozen and might be taken from you.
2. Check all the boxes of protected income that apply to you. If you check the "other" box, write your explanation down in the space provided.
3. Write your address (address, city, state, and zip code), your phone number, and your email address in the space provided.
4. Sign the form in the space marked "Your Signature," and print your name and the date in the spaces provided. **Keep a copy of the form.**
5. Fill out the **Certificate of Service** at the end of the form.
6. **Take the original form to the clerk of the court** at address listed at the top of the notice that you received with this form.
7. Mail copies of the form by first class mail (or email, if an email address is provided on the notice) to the garnishor and garnishee. Their addresses are also at the top of the notice that you received with this form.
8. You can call the clerk of the court for more information at [insert phone number of court clerk].

The court will hold a hearing within 10 days from the date it receives your claim form to decide if the money in your account is protected. The court will mail you the time and date of the hearing at the address that you provide on your claim form. Make sure to attend the hearing. If you do not attend, the court is likely to rule against you. You can attend with or without an attorney.

At the hearing, tell the court why your money is protected. Bring any supporting documents to the hearing, such as:

- A copy of pay stubs and account statements showing deposits of protected money,
- A letter from a government agency awarding benefits such as social security or other protected benefit,
- A divorce decree for alimony, child support, or spousal support, or
- Any other information or document(s) that shows that your money is protected.

EXHIBIT C

CASE NUMBER: [Case Number]

[Name of Garnishor]	§	Name of court
Garnishor	§	Address
Address	§	City, State, Zip Code
City, State, Zip Code	§	
email	§	
v.	§	
[Name of Garnishee]	§	
Garnishee	§	
Address	§	
City, State, Zip Code	§	
email	§	
	§	
[Name of Defendant or Judgment Debtor]	§	
Defendant or Judgment Debtor	§	Name of County, Texas

**GARNISHMENT EXEMPTION CLAIM FORM FOR
DEFENDANT OR JUDGMENT DEBTOR**

I CLAIM PROTECTION from garnishment. Some of my money or property held by the garnishee should be returned to be, because it is: (check all that apply)

- Social Security Retirement income
- Social Security Disability income (SSDI)
- Supplemental Security Income (SSI)
- Alimony, child support, or spousal support
- Veterans' benefits
- Unemployment compensation benefits
- Workers' compensation
- FEMA disaster benefits
- Railroad Retirement benefits
- Pension and retirement benefits
- Money that belongs to a joint account holder
- Money from the sale of a homestead less than six months ago
- Tax-deferred retirement accounts, like a 401(k) or an IRA account
- Education and health savings accounts, such as 529 accounts, educational savings accounts (ESA), or other qualified accounts
- Proceeds of a life, health, or accident insurance policy, including related annuities
- Temporary Assistance for Needy Families (TANF)
- Other (explain below)

I also state: (check if it applies)

- There is a problem with the judgment against me that the garnishor is using to collect money from me. *For example: I never got notice of the lawsuit to collect this debt.*

Explain, if needed: *(attach extra sheets if needed)*

Send the notice of the hearing on my claim to me at:

Address: _____

Phone Number: _____

E-mail Address: _____

The statements made in this claim form are true to the best of my knowledge and belief.

Your Signature

Print Your Name

Date

CERTIFICATE OF SERVICE

I certify that on this day, I have: (check all that apply)

- ☐ mailed
- ☐ emailed

the garnishor and the garnishee with a copy of this form.

Your Signature

Today's Date

Part VI, Section 4. Garnishment and Turnover

RULE 660. FUNDS SEIZED BY TURNOVER RECEIVER

After a turnover receiver seizes funds belonging to a judgment debtor, such funds shall be held in escrow and not disbursed for a period of 60 days after service of notice to judgment debtor under Rule 660b. If a judgment debtor files a Turnover Exemption Claim Form, similar instrument, or a motion to return exempt funds, the funds shall remain in escrow until such time as the court has ruled on the judgment debtor's claim of exemption.

RULE 660a. DELIVERY OR SERVICE OF TURNOVER CLAIM TO A FINANCIAL INSTITUTION

Delivery or service of a turnover claim to a financial institution must include the following attachments in addition to the documents so required by Civil Practices and Remedies Code § 31.002(g):

- (1) The Turnover Notice in Plain Language;
- (2) Instructions to fill out the Turnover Exemption Claim Form;
- (3) Two copies of the Turnover Exemption Claim Form;
- (4) An additional copy of any letter, with accompanying attachments, sent by the turnover receiver to the financial institution.

RULE 660b. NOTICE TO JUDGMENT DEBTOR

(a) *General Rule.* The judgment debtor shall be served with the following documents by the turnover receiver:

- (1) The Turnover Notice in Plain Language;
- (2) Instructions to fill out the Turnover Exemption Claim Form;
- (3) Two copies of the Turnover Exemption Claim Form;
- (4) A copy of any letter, with accompanying attachments, sent by the turnover receiver to the financial institution.

(b) *Supreme Court Form; Clerk to Provide.* The turnover receiver must serve the Turnover Notice in Plain Language form in at least eleven-point type, the Turnover Exemption Claim Form, and the related instructions approved by the Supreme Court. In asserting an exemption or exemptions, the judgment debtor must use the Turnover Exemption Claim Form approved by the Supreme Court, or any document claiming an exemption that substantially provides the information required by the Court-approved form. The clerk must make the Court-approved forms available to all persons without charge or request.

(c) *Manner of Service.* The documents referenced in Subsection (a) shall be served by service of citation or as provided in Rule 21a.

(d) *Timing of Service.* Service under Subsection (a) by the turnover receiver must occur within one business day after receipt of any amount seized from a judgment debtor's funds at a financial institution.

(e) *Order of Required Documents.* Any service of the documents in Subsection (a) shall be in the specific order designated in Subsection (a).

RULE 660c. CLAIM TO EXEMPTION; RETURN OF EXEMPT FUNDS

(a) *General Rule for Post-Judgment Turnover Receivership.* A judgment debtor whose property or account has been seized post-judgment or any intervening party who claims an interest in such property or account may file one or more of the following documents:

- (1) The Turnover Exemption Claim Form;
- (2) A substantial equivalent to the Turnover Exemption Claim form; or
- (3) A motion to return exempt funds or funds owned by a third party.

(b) *Hearing.* Unless the parties agree to an extension of time, a hearing on the motion and/or claim to exemption filed under Subsection (a) shall be heard promptly, after reasonable notice to the judgment creditor and the turnover receiver (which may be less than three days), and a hearing shall be scheduled and the issue determined not later than ten days after the motion or exemption claim is filed. The filing of the motion or exemption claim shall stay any disbursement of seized funds until a hearing is held and the issue is determined.

(c) *Motion for Return of Exempt Funds or Funds Owned by a Third Party.*

- (1) Any funds seized by a turnover receiver shall be returned to the judgment debtor unless, at such hearing, the turnover receiver shall prove that all required procedures have been followed.
- (2) The movant shall, however, have the burden to prove that all or part of the value of the personal property is exempt.
- (3) The court's determination may be made upon the basis of affidavits or declarations, if uncontroverted, setting forth such facts as would be admissible in evidence; otherwise, the parties shall submit evidence.

(e) *Claim to Exemption.* On a hearing of a claim to exemption, the court shall determine whether the judgment debtor has an applicable exemption to all or part of the personal property being seized by the turnover receiver. Any personal property found to be exempt shall be ordered to be returned to the judgment debtor within no more than three business days. In addition, the court

may determine that certain personal property seized by a turnover receiver belongs to a third party or third parties and order its return within no more than three business days.

(f) *Finality.* A decision on an exemption claim or a motion to return exempt funds is a final order that can be appealed.

RULE 660d. STRICT COMPLIANCE REQUIRED

Before disbursing any funds seized from a judgment debtor, turnover receivers shall strictly comply with all of the procedures imposed by Rules 660, 660a, 660b, and 660c, as well as any other applicable rules or statutes. Upon a finding that a turnover receiver failed to strictly comply with all procedures and applicable statutes, the court which appointed the turnover receiver shall order the return of all seized personal property, including seized funds.

EXHIBIT D

NOTICE REGARDING: [Case Number]

Name of County, Texas

NOTICE TO _____, JUDGMENT DEBTOR, OF YOUR RIGHTS TO GET YOUR MONEY BACK THAT WAS TAKEN BY A TURNOVER RECEIVER

You are receiving this notice because the money you had in an account at [name of financial institution or other holder of the account] has been taken by [name of turnover receiver] to pay a debt judgment against you. The court appointed [name of turnover receiver] to help [name of judgment creditor] collect this debt judgment. **YOU MAY BE ABLE TO GET YOUR MONEY BACK, SO READ THIS NOTICE CAREFULLY.**

State and federal law protects certain money and property from being taken by a turnover receiver. **If the money in your account at [name of financial institution or other holder of the account] was any of the following, it is protected and you can get this money back:**

1. Wages deposited into an account by an employer,
2. Social Security Retirement income,
3. Social Security Disability Income (SSDI),
4. Supplemental Security Income (SSI),
5. Alimony, child support, or spousal support,
6. Veterans benefits,
7. Unemployment compensation benefits,
8. Workers' compensation benefits,
9. FEMA disaster benefits,
10. Railroad Retirement benefits,
11. Pension and retirement benefits,
12. Money that belongs to a joint account holder,
13. Proceeds from the sale of a homestead (but only for six months after the sale).

14. Tax-deferred retirement accounts, like a 401(k) or an IRA account,
15. Education and health savings accounts, such as 529 accounts, an education savings account (ESA), or other qualified accounts,
16. Proceeds of a life, health, or accidental death insurance policy, including related annuities,
17. Temporary Assistance for Needy Families (TANF)
18. Proceeds from a spendthrift trust, or
19. Other funds and property that are exempt under Chapter 42 of the Texas Property Code or other state or federal laws.

Your money may also be protected if there is a problem with the judgment against you. For example, if you were not notified in writing about the original lawsuit that was filed against you to collect the debt, you can contest the turnover (the seizing of your money).

TO GET THE PROTECTED MONEY BACK, YOU MUST:

- Fill out the exemption claim form that is included with this notice, and
- File the form immediately with the court at the address listed on the first page of this notice, and
- Mail the form (and email it, if the email address is listed) to the turnover receiver and the plaintiff listed in the heading of this notice as soon as possible.

If you would like to talk with a lawyer, you can find free and low-cost legal information here: <https://www.txcourts.gov/programs-services/legal-aid>. Legal Aid offices in Texas include Texas RioGrande Legal Aid at (800) 369-0574, Lone Star Legal Aid at (800) 733-8394, and Legal Aid of Northwest Texas at (800) 955-3959.

REMEMBER: FILE YOUR COMPLETED EXEMPTION CLAIM FORM IMMEDIATELY.

Turnover Exemption Claim Form Instructions

The Turnover Exemption Claim Form is a form that you can fill out and deliver to the court to get back the protected money that has been taken from you. It is best to take the form to the court to make sure it is filed quickly and doesn't get lost in the mail. If you mail it to the court, it is best to send it certified mail with return receipt requested. **You are called the "Judgment Debtor" on the form.**

To fill out the Turnover Exemption Claim Form:

1. If the top of the form it is not already filled out, copy the information from the top of the notice you received that told you of your rights to get back any protected money that was taken from you.
2. Check all the boxes of protected income that apply to you. If you check the "other" box, write your explanation down in the space provided.
3. Write your address (address, city, state, and zip code), your phone number, and your email address in the space provided.
4. Sign the form in the space marked "Your Signature," and print your name and the date in the spaces provided. **Keep a copy of the form.**
5. Fill out the **Certificate of Service** at the end of the form.
6. **Take the original form to the clerk of the court** at address listed at the top of the notice that you received with this form.
7. Mail copies of the form by first class mail (or email, if an email address is provided on the notice) to the turnover receiver and the judgment creditor. Their addresses are at the top of the notice that you received with this form.
8. You can call the clerk of the court for more information at [insert phone number of court clerk].

The court will hold a hearing within 10 days from the date it receives your claim form to decide if the money in your account is protected. The court will mail you the time and date of the hearing at the address that you provide on your claim form. Make sure to attend the hearing. If you do not attend, the court is likely to rule against you. You can attend with or without an attorney.

At the hearing, tell the court why your money is protected. Bring any supporting documents to the hearing, such as:

- A copy of pay stubs and account statements showing deposits of protected money,
- A letter from a government agency awarding benefits, such as social security or other protected benefit,
- A divorce decree for alimony, child support, or spousal support, or
- Any other information or document(s) that shows that your money is protected.

CASE NUMBER: [Case Number]

Send the notice of the hearing on my claim to me at:

Address: _____

Phone Number: _____

E-mail Address: _____

The statements I made in this claim form are true to the best of my knowledge and belief.

Your Signature

Print Your Name

Date

CERTIFICATE OF SERVICE

I certify that on this day, I have: (check all that apply)

- ☐ mailed
- ☐ emailed

the turnover receiver and the judgment creditor a copy of this form.

Your Signature

Today's Date