

ATTACHMENT A

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 3 business days after the plaintiff or judgment debtor receives actual notice 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).

Commentary: The 2022 amendments to this rule are intended to give notice to individual judgment debtors of their exemption claims and to advise them that said claims may be made by filing a form. The additional notice about exemptions is required by Tex. Gov't Code § 22.0042, enacted as part of H.B. 3774 (§ 15.01) in the regular session of the 87th Legislature.

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.

Commentary: The 2022 amendments to this rule clarify what language applies to pre-judgment and post-judgment proceedings, keep the current motion and hearing procedure in place, and allow judgment debtors to raise exemption claims by filing a claim form. The additional procedure for asserting exemption rights through a claim form is required by Tex. Gov't Code § 22.0042, enacted as part of H.B. 3774 (§ 15.01) in the regular session of the 87th Legislature.