

NOTICE OF COMMENT PERIOD

The University of Nebraska College of Law Civil Clinical Law Program submitted proposed changes to the Affidavit and Praecipe for Summons in Garnishment [In Aid of Execution] Form No. CC 3:6, Rev. 6/15. The proposed changes require specific facts from the judgment creditor to support the allegation that the judgment debtor/garnishee is not the head of a family as defined by Neb. Rev. Stat. § 25-1558(4)(d) (Reissue 2008).

The Nebraska Supreme Court invites interested persons to comment on the proposed changes to the form. Anyone desiring to comment on these proposed changes should do so in writing to the office of the Clerk of the Supreme Court and Court of Appeals, P.O. Box 98910, Lincoln, Nebraska 68509-8910, or via e-mail to jill.machacek@nebraska.gov, no later than June 15, 2016. A hard copy may be reviewed in the office of the Clerk of the Supreme Court and Court of Appeals upon request.

AFFIDAVIT AND PRAECIPE FOR SUMMONS IN GARNISHMENT [IN AID OF EXECUTION]

IN THE _____ COURT OF _____ COUNTY, NEBRASKA

CASE NUMBER _____

Plaintiff

vs.

Defendant

AFFIDAVIT AND PRAECIPE FOR SUMMONS IN GARNISHMENT [IN AID OF EXECUTION]

_____, being duly sworn says: the creditor in this action,
_____, recovered a judgment against the debtor,
_____, on _____; that
the debtor's last known address is _____; that
there is now due on the judgment the sum of \$_____, plus \$_____ interest, and \$_____ costs, for a
total of \$_____. I have good reason to and do believe that this sum is based upon a judgment that: (Check one.)

- A. **is not for** the support of a person, and the judgment debtor **is** the head of a family.*
- B. **is not for** the support of a person, and the judgment debtor **is not** the head of a family.*
- If you select this line, you must set forth specific factual allegations in the section provided on the opposite side of this Affidavit, which section is incorporated herein by reference.**
- C. **is for** the support of a person, the judgment debtor **is** supporting a spouse or dependent child, and this support order **is not for** payments more than 12 weeks in arrears.**
- D. **is for** the support of a person, the judgment debtor **is** supporting a spouse or dependent child, and this support order **is for** payments more than 12 weeks in arrears.**
- E. **is for** the support of a person, the judgment debtor **is not** supporting any other spouse or dependent child, and this support order **is not** for payments more than 12 weeks in arrears.**
- F. **is for** the support of a person, the judgment debtor **is not** supporting any other spouse or dependent child, and this support order **is for** payments more than 12 weeks in arrears.**

I further say that I have good reason to and do believe that the garnishee, _____, has property of and is indebted to the judgment debtor. Further Affiant says not.

Signature Date _____

Name (Judgment Creditor/Attorney) Street Address/P.O. Box

Bar Number and Firm Name (attorneys only) City/State/ZIP Code

Phone E-mail Address

Signed and sworn to before me on _____.

Notary Public: _____

(Seal) (Over)

PRAECIPE

To the Clerk of Court:

Please issue Summons in Garnishment upon the following garnishee: _____
_____, at _____

in the aforementioned entitled case.

Judgment Creditor/Attorney

Phone Number

Address

_____ Service by certified mail.

_____ Service by sheriff, constable, or authorized person.

Specific factual allegations in support of Affiant’s contention on line B that the Judgment Debtor is not the head of a family: _____

* Section 25-1558(4)(d), N.R.S.: **Head of a family** shall mean an individual who actually supports and maintains one or more individuals who are closely connected with him [or her] by blood relationship, relationship by marriage, by adoption, or by guardianship, and whose right to exercise family control and provide for the dependent individuals is based upon some moral or legal obligation.

Restrictions defined in 15 U.S.C., Section 1673(a). See Instructions.

** Restrictions defined in 15 U.S.C., Section 1673(b). See Instructions.

This form is provided as a public service but should be reviewed by your attorney. Effective January 1, 1994.