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\_\_\_\_\_  
(NAME)  
\_\_\_\_\_  
(ADDRESS)  
\_\_\_\_\_  
(CITY, STATE, ZIP)  
\_\_\_\_\_  
(TELEPHONE)  
Defendant, *Pro Se*

**JUSTICE COURT,  
CLARK COUNTY, NEVADA**

Plaintiff, )  
vs. )  
Defendant. )  
Case No.: )  
Dept. No.: )

**AFFIDAVIT CLAIMING  
EXEMPTION FROM  
EXECUTION**

I, \_\_\_\_\_ (name), being duly sworn, state that:

I am the Defendant in the above-entitled action and have received a Notice of Execution regarding an attachment or garnishment of my wages, money, benefits, and/or property. These wages, money, benefits, and/or property are exempt by law from execution for the following reason(s):

(Check all that apply)

- Money or payments received pursuant to the federal Social Security Act (NRS 21.090(1)(y) and 42 U.S.C. § 407(a)).
- Money or payments for assistance received from the Division of Welfare and Supportive Services of the State of Nevada (NRS 422.291 and 422A.325);
- Money or payments received as unemployment insurance benefits (NRS 612.710).
- Money or compensation payable or paid under NRS Chapter 616A and 616D (worker's compensation/industrial insurance) (NRS 616C.205).

- 1        Money or payments received as Veteran’s Benefits (38 U.S.C. § 5301).
- 2        Money or payments received as retirements benefits under the Civil Service  
3       Retirement System (CSRS) or Federal Employee Retirement System (FERS) (5  
4       USC § 8346).
- 5        Seventy-five percent (75%) of my disposable earnings are exempt. “Disposable  
6       earnings” are defined as those earnings remaining “after the deduction . . . of any  
7       amounts required by law to be withheld.” NRS 21.090(g)(1). These “amounts  
8       required by law to be withheld” are federal income tax, Medicare, and Social  
9       Security taxes.
- 10        Check here if your disposable weekly earnings do not exceed \$327.50 or  
11       50 times the federal minimum wage (50 x \$6.55 = \$327.50), in which case  
12       ALL of your disposable earnings are exempt (NRS 21.090(1)(g)).
- 13        Non-exempt income cannot exceed 25% of your weekly disposable  
14       earnings under NRS 31.295. Check here if your disposable weekly  
15       earnings are between \$327.50 and \$436.65. In this case, your exempt  
16       income is always \$327.50 and your non-exempt income is your disposable  
17       earnings minus \$327.50. Put amount of non-exempt income  
18       here: \_\_\_\_\_.
- 19        Money or payments received pursuant to a court order for child support or  
20       alimony, including any arrearage (NRS 21.090(1)(s) and 21.090(1)(t)).
- 21        Money derived from the federal Earned Income Tax Credit (EITC) or similar  
22       Nevada program (NRS 21.090(1)(aa)).
- 23        \$1,000 or less of my money or other personal property, \_\_\_\_\_,  
24       which is not otherwise exempt under NRS 21.090 (NRS 21.090(1)(z)).
- 25        Money, \$500,000 or less, held in a retirement plan in accordance with Internal  
26       Revenue Codes, including, but not limited to, an IRA, 401k, 403b, or other  
27       qualified stock bonus, pension, or profit-sharing plan (NRS 21.090(1)(r)).
- 28        All money, payments, or benefits derived in any way from a life insurance policy,

1 if the annual premium does not exceed \$15,000. If the premium exceeds that  
2 amount, a similar exemption exists which bears the same proportion to the money,  
3 benefits, privileges and immunities so accruing or growing out of the insurance  
4 that the \$15,000 bears to the whole annual premium paid (NRS 21.090(1)(k)).

- 5  Money or payments received pursuant to NRS Chapter 286 (The Public  
6 Employees Retirement Act) (NRS 286.670).
- 7  A homestead filed pursuant to NRS 115.010 in a dwelling (house, condominium,  
8 townhome, and land) or mobile home where my equity does not exceed \$550,000  
9 (NRS 21.090(1)(l) and NRS 115.010).
- 10  My dwelling house and land where the amount of my equity does not exceed  
11 \$550,000 (NRS 21.090(m)).
- 12  Check here if the debt is based on a medical bill. Your primary dwelling  
13 and land, including a mobile or manufactured home, is exempt from  
14 execution regardless of the equity (NRS 21.095).
- 15  My vehicle where the amount of equity in my vehicle does not exceed \$15,000, or  
16 I will pay the judgment creditor any amount over \$15,000 in equity (NRS  
17 21.090(1)(f)).
- 18  Check here if your vehicle is specially equipped or modified to provide  
19 mobility for you or your dependent and either you or your dependent has a  
20 permanent disability. Your vehicle is exempt regardless of the equity  
21 (NRS 21.090(1)(p)).
- 22  A prosthesis or any equipment prescribed by a physician or dentist for me or my  
23 dependent (NRS 21.090(1)(q)).
- 24  My private library, works of art, musical instruments, jewelry, or keepsakes  
25 belonging to me or my dependent, chosen by me and not to exceed \$5,000 in  
26 value (21.090(1)(a)).
- 27  My necessary household goods, furnishings, electronics, clothes, personal effects,  
28 or yard equipment, belonging to me or my dependent, chosen by me and not to

1 exceed \$12,000 in value (21.090(1)(b)).

2 It is requested that these  wages,  bank account,  benefits,  other accounts/funds,  
3  personal or real property be returned or released to me within 5 days of receipt of this  
4 Affidavit in accordance with NRS 21.112.

5 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

6 Pursuant to NRS 53.045, I declare under penalty of  
7 perjury that the foregoing is true and correct.

8 \_\_\_\_\_ (signature)  
9 Defendant, *Pro Se*

10  
11 **CERTIFICATE OF MAILING**

12 I HEREBY CERTIFY that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, I  
13 placed a true and correct copy of the foregoing **AFFIDVIT CLAIMING EXEMPTION**  
14 **FROM EXECUTION** in the United States Mail, with first-class postage prepaid, addressed to  
15 the following:

16 Plaintiff/Judgment Creditor: \_\_\_\_\_  
17 \_\_\_\_\_  
18 \_\_\_\_\_  
19 \_\_\_\_\_

20 and to the following:

21  Sheriff or  Constable \_\_\_\_\_  
22 \_\_\_\_\_  
23 \_\_\_\_\_  
24 \_\_\_\_\_

25 Pursuant to NRS 53.045, I declare under penalty of  
26 perjury that the foregoing is true and correct.

27 \_\_\_\_\_ (signature)  
28 Defendant, *Pro Se*

# **INSTRUCTIONS FOR PREPARING, FILING, AND SERVING AN AFFIDAVIT CLAIMING EXEMPTION FROM EXECUTION IN JUSTICE COURT**

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If you've received a Notice of Attachment, Writ of Garnishment, or some other notification that your money or property has been taken (or "executed" against) to satisfy a judgment – and if you believe your property is "exempt" and has been taken in error – you must file an "Affidavit Claiming Exemption from Execution" within eight (8) days of the date the Notice of Attachment or Writ of Garnishment was postmarked in order to secure the return of your property.

A Notice of Attachment or Writ of Garnishment informs you that the plaintiff in your case is attempting to, or already has, claimed your money or property to satisfy a judgment that has been entered against you. If you lose a lawsuit, which can happen even if you don't appear in court, the court can enter a judgment in the plaintiff's favor, and the plaintiff becomes a "judgment creditor" who can legally take your money or property to pay the judgment.

A judgment creditor cannot take certain property that is made exempt from execution under the law. This property is called "exempt" property. The attached Affidavit contains a list of exempt property; however, not every possible exemption is listed. If you have questions regarding other exemptions or whether an exemption applies to your property, you should consult an attorney.

## **PART I - PREPARING YOUR AFFIDAVIT OF EXEMPTION**

The information you provide on the attached "Affidavit Claiming Exemption from Execution" form should be either typewritten or neatly handwritten in ink. The form is also available on the Self-Help Center's website, [www.clarkcountycourts.us/self-help.html](http://www.clarkcountycourts.us/self-help.html), and can be downloaded from the website and filled out and printed from a computer.

- On page 1 of the Affidavit, start by completing your name (line 1), address (lines 2 and 3), and telephone number (line 4).
- On page 1, line 7, select the Justice Court in which your case is pending. You can determine the appropriate Justice Court by looking at the Writ of Execution or other legal documents that you received.
- On page 1, lines 9 to 14, complete the caption as it appears on the Writ of Execution or other legal documents in the case: plaintiff's name, defendant's name, case number, and department number.
- On page 1, line 15, fill in the blank with your name.
- Pages 1 to 4 of the Affidavit contain a list of various exemptions that might apply to your

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*This document has been prepared as a courtesy and to assist you with completing your Affidavit. It is not to be construed as providing legal advice or representation on how to prepare your case or defense.*

property. Review the exemptions carefully, and check every exemption that applies to you. You should attach documentation to your Affidavit that supports the exemption(s) that you've claimed – for example, your Social Security Benefit Statement – but be sure to black-out your social security number on any attached documents! The creditor may be more likely to release your property or not challenge your exemption if you attach proof that an exemption applies.

Note that the Affidavit form may not contain a complete list of exemptions. You must consult with an attorney to determine if you qualify for any other exemptions.

For a current list of property exempt under Nevada law, see NRS 21.090, and for the procedure on a claim of exemption, see NRS 21.112. These statutes can be found at your local law library or on the Internet at <http://www.leg.state.nv.us>. Additional exemptions can be found in the following statutes: For money in a trust fund for funeral or burial services, see NRS 689.700; for industrial insurance compensation, see NRS 616C.205; for public employees' retirement benefits, see NRS 286.670; for unemployment compensation benefits, see NRS 612.710; for vocational rehabilitation maintenance, see NRS 615.270; for welfare assistance, see NRS 422.291 and 432.036; and for debts relating to medical bills, see NRS 21.095.

- You must date and sign your Affidavit on page 4, lines 5 to 9.
- The bottom of page 4 of your Affidavit contains the Certificate of Mailing. Provide the name and address for the opposing party's attorney (or the opposing party if he does not have an attorney) on lines 16 to 19. On lines 21 to 24, provide the address of the sheriff or constable that is handling your attachment or garnishment. You should be able to determine these addresses from the documentation you received.
- Before filing your Affidavit with the court, make at least four (4) copies.

## **PART II - SERVING & FILING YOUR AFFIDAVIT**

Next, take your original Affidavit and the remaining copies to the clerk of the Justice Court in which the case is pending. If you've already filed some other document in the case, there will be no filing fee. If your Affidavit is the first paper that you've filed in the case, the clerk will charge you a \$33.00 filing fee. The clerk will file-stamp your Affidavit and all of the copies.

After filing your Affidavit, you must serve the opposing party's attorney (or opposing party directly if he has no attorney) and the sheriff or constable (depending on which office is handling your attachment or garnishment) with a copy of your Affidavit by mail. You should find these addresses on the documents you received relating to the execution. You must mail a copy on the same date that you filled in on the Certificate of Mailing on page 4, line 12, of your Affidavit.

If your bank account has been garnished, you should also serve a copy of your affidavit

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on your bank. If your wages have been garnished, you should provide a copy of your Affidavit to your employer.

### **PART III - WHAT HAPPENS AFTER I FILE MY AFFIDAVIT?**

After your Affidavit is filed and served, the sheriff/constable must send written demand to the plaintiff's attorney. The plaintiff must then file a motion for a hearing to have the judge determine whether the money taken is exempt. The plaintiff must send notice to you that he has filed for a hearing. If the plaintiff fails to file a motion within five (5) days of the sheriff/constable's notice, then the property must be released by the sheriff/constable and returned to you. If the plaintiff files a motion for a hearing regarding your claimed exemption, follow the instruction for "What Do I Do If Plaintiff Has Filed a Motion for Hearing?" included in this packet.

#### **AFFIDAVIT CHECKLIST**

- Filled out Affidavit**
- Attached documentation to Affidavit to support claimed exemption(s), if appropriate**
- Made 4 copies of Affidavit and exhibits**
- Filed Affidavit with court**
- Mailed copy of Affidavit to opposing party's attorney (on the date filled out on the Certificate of Mailing)**
- Mailed copy of Affidavit to sheriff or constable (on the date filled out on the Certificate of Mailing)**
- Delivered copy of Affidavit to bank and/or employer**

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