**IN THESMALL CLAIMS DIVISION OF THE \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ COURT**

*(Justice Court, Justice Court of Record)*

**COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, STATE OF MONTANA**

*(County)*

|  |  |
| --- | --- |
| (1)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Plaintiff.  vs.  (2)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Defendant. | **Case No:** (3)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **NOTICE OF SEIZURE** |

A Writ of Execution has been issued by the above-entitled Court. The Sheriff, Constable, or Process Server has been instructed to levy that execution upon your property, not exempt by law, to satisfy the Judgment upon which the Writ of Execution is based.

Pursuant to that Writ of Execution, the following wages, monies, or property was seized:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**NOTICE OF PROPERTY EXEMPT FROM CREDITORS**

Under the law, **SOME PROPERTY IS EXEMPT FROM SEIZURE.** Below are listed many common types of exempt property to help YOU decide whether the property is exempt. NOTE: The lists below do NOT contain all possible exemptions. The exemptions listed below do NOT apply to property used as collateral under a note or security interest. Further information may be obtained by examining Title 25, Chapter 13, Part 6, Montana Code Annotated.

* Wages and Support Payment – Under federal and state law, your wages are exempt up to the larger of the following:
  1. 75% of your net wages; or
  2. 30 times the federal minimum hourly wage for each work week.

NOTE: If you are required to pay maintenance or support for any person, only 50% to 65% of your wages may be exempt, depending on the circumstances.

* Cash Assistance from the Government – General cash assistance from the government is entirely exempt (for example, Social Security, veterans’ pensions, AFDC, and disability payments are entirely exempt). Child support payments may be entirely exempt. The money from any of these sources may be exempt even if it is deposited into a bank account.
* Motor Vehicle – A truck or car is exempt up to a value of $2,500.
* Necessary Personal and Household Property – Personal property such as clothing, household furnishings, animals and crops are exempt up to a $4,500. total value. (Each item must be worth less than $600.)
* Tools of Trade – Tools or trade are exempt up to $3,000. total value.
* Homestead – Your family home may be exempt up to $100,000. However, to claim this exemption, you must file a form called a Declaration of Homestead with the County Clerk and Recorder.

NOTE REGARDING BANKRUPTCY: If you currently have a case in bankruptcy court, the only valid writ is one issued by the bankruptcy court.

**NOTICE OF RIGHT TO HEARING AND PROCEDURE FOR RETURN OF PROPERTY**

If you believe the Sheriff, Constable, or Process Server has taken exempt property, you may request a hearing to determine whether the property is exempt. YOU MUST REQUEST A HEARING WITHIN TEN (10) DAYS (EXCLUDING HOLIDAYS AND WEEKENDS) FROM THE DATE OF SERVICE OF THIS NOTICE AND MUST COMPLY WITH § 25-13-212, MCA. At the hearing you may explain why you believe the property taken is exempt. The judgment creditor may also present evidence. The judge will then decide if the property should be returned to you.

This is an attempt to collect a debt. Any information obtained will be used for that purpose.

**CERTIFICATE OF MAILING**

The undersigned certifies that on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_, a true and correct copy of the foregoing notice was ( ) personally served ( ) mailed to the Defendant by depositing a copy thereof in the U.S. Mail, postage prepaid, addressed as follows:

(Plaintiff to provide fully addressed envelope with postage prepaid).

(4) Defendant’s Address:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(ZIP)\_\_\_\_\_

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Sheriff/Constable/Process Server