

Rule 69-I. Attachment After Judgment

(a) **DISCOVERY IN GENERAL.** All discovery procedures authorized by Rules 26-37 are available to the judgment creditor in the manner prescribed by those rules, except that a subpoena ad testificandum addressed to a person other than the judgment debtor and a subpoena duces tecum may issue only on order of the court. The first subpoena ad testificandum or notice of deposition addressed to the judgment debtor may issue without court order, but any subsequent subpoena or notice so addressed may issue only on order of the court. This rule does not require that a party be paid a witness fee for attendance.

(b) **ORAL EXAMINATION IN COURT.** The plaintiff may summon the defendant and, on leave of court, any other person to appear in court on a date certain and submit to oral examination respecting execution of any judgment rendered. Any person so summoned may, on leave of court, be required to produce papers, records, or other documents at the examination. Any person summoned to appear for oral examination must appear first in the clerk's office. If the person summoned was personally served but fails to appear, the court may, on plaintiff's request, issue a bench warrant for the person's arrest. If the person summoned does appear, the clerk must present all pleadings and other documents in the case to the judge or magistrate judge assigned to preside at the examination.

(c) **OTHER CLAIMS TO PROPERTY.** Before the final disposition of the property attached or its proceeds—except where it is real property—any person may file a motion and affidavit setting forth a claim to, interest in, or lien on it. Without other pleadings, the court must try the issues raised by the claim and may make all orders necessary to protect any right of the claimant. Any party to the proceeding may demand a jury trial by filing a demand within 7 days of the filing of the motion and affidavit.

(d) **GARNISHEE'S ANSWER; APPLICANT'S RESPONSE.** Within 10 days after accepting service of the writ of attachment, a garnishee must file an answer to the interrogatories with the clerk and serve a copy of the answer on the defendant and the party for whom the garnishment was issued. If within 14 days after service of the answer, or at a later time if the court allows, the party for whom the garnishment was issued fails to contest the answer to the interrogatories under D.C. Code § 16-522 (2012 Repl.), the garnishee's obligations under the attachment will be limited by his answer.

(e) **JUDGMENT AGAINST GARNISHEE.** No judgment against a garnishee under D.C. Code § 16-556 or -575 (2012 Repl.) will be entered except by court order. Applications for a judgment must be filed:

- (1) within 4 weeks after answers to the interrogatories are due and not filed;
- (2) as to property other than "wages" as defined in D.C. Code § 16-571 (2012 Repl.), within 4 weeks after the garnishee has filed answers to the interrogatories;
- (3) as to such "wages," within 15 weeks of the date on which a garnishee fails to make a payment due under the writ; or
- (4) within a later time authorized by the court on a motion made within the applicable period.

(f) **DISMISSAL OF GARNISHMENT AND ATTACHMENT.** If no judgment of condemnation or of recovery has been applied for or entered within the time provided by this rule, the garnishment and attachment must be dismissed. On oral or written

request, the clerk must enter a dismissal of the garnishment and attachment and must furnish a certificate of the dismissal to the garnishee, the defendant, or any other person.

(g) CONTENT OF WRIT OF ATTACHMENT ON NON-WAGES. The writ must:

- (1) contain:
 - (A) the caption of the action;
 - (B) the name and last known address of the judgment debtor;
 - (C) the name and address of the judgment creditor; and
 - (D) the date of issuance;
- (2) list the amount of the total balance due under the judgment;
- (3) direct the garnishee to hold, subject to further proceedings, the non-exempt property of the judgment debtor up to the amount of the total balance due at the time of the issuance of the writ and which is in the possession or charge of the garnishee at the time of service of the writ;
- (4) direct the garnishee not to hold, and to make available to the account holder, all funds from an account that consists solely of direct deposited benefits that are exempt:
 - (A) under federal law, including:
 - (i) Social Security benefits;
 - (ii) Supplemental Security Income;
 - (iii) Social Security disability benefits;
 - (iv) veterans' benefits;
 - (v) Civil Service Retirement System benefits;
 - (vi) Federal Employee Retirement System benefits;
 - (vii) Black Lung or Railroad Retirement benefits; or
 - (B) under District of Columbia law, including:
 - (i) disability or unemployment benefits;
 - (ii) public assistance/Temporary Assistance for Needy Families benefits; or
 - (iii) workers' compensation benefits;
- (5) direct the garnishee, in any account that consists in part of benefits that are exempt under federal law, not to hold, and to make available to the account holder, an amount equal to the total amount of exempt funds deposited into the account in the two months prior to the service of a writ of attachment; and
- (6) contain interrogatories to be answered by the garnishee regarding the nature of the property in possession of the garnishee and indebtedness of the garnishee to the judgment debtor.

(h) NOTICE TO THE JUDGMENT DEBTOR. The judgment creditor must mail to the judgment debtor at his or her last known address, by certified and first-class mail, a copy of the writ and the Notice to Debtor of Non-Wage Garnishment and Exemptions on the form available in the clerk's office, no more than 3 days after service of the writ on the garnishee.

(i) FUNDS EXEMPT FROM ATTACHMENT.

(1) *Motion Claiming Exemption.* A party may raise a claim that funds are exempt from a writ of attachment by filing a motion with the Presiding Judge, or his or her designee, claiming an exemption and requesting a hearing.

(2) *Hearing on Motion.* On the filing of a motion, the clerk must set a hearing before the Presiding Judge of the Civil Division, or his or her designee, as soon as practicable, but no later than 7 days after the motion is filed unless:

(A) the moving party requests a later date; or

(B) the parties otherwise agree.

(3) *Effect of Filing Motion.* On the filing of a motion, any further action on the writ of attachment, including any condemnation of funds, must be stayed until a decision is made by the Presiding Judge, or his or her designee, on the merits of the motion.

COMMENT TO 2017 AMENDMENTS

Stylistic changes were made to this rule to conform with the 2007 amendments to the Federal Rules of Civil Procedure. Also, some time periods were adjusted to reflect the new time computation method in Rule 6. However, the garnishee's time for filing answers to the interrogatories was not increased because it is statutory. Additionally, the rule now specifies the contents of the writ of attachment on non-wages, which includes a list of funds that are exempt from attachment. Finally, new section (i) establishes procedures for filing a motion claiming that funds are exempt from a writ of attachment.

COMMENT

[Moved from the comment to Rule 69-II.] Rule 69-I states the local attachment procedures available in the Superior Court and comprehended by the Rule 69 phrase "shall be in accordance with the practice and procedure of the District of Columbia". Section 69-I(a) modifies the broad authorization of unlimited discovery by providing that a subpoena duces tecum, a subpoena ad testificandum ad-dressed to a person other than the judgment debtor, or more than 1 subpoena ad testificandum or deposition notice ad-dressed to the judgment debtor may issue only upon order of the Court. This provision was based on extensive experience in the Court of General Sessions with execution proceedings and the desire to provide a safeguard against harassment of the judgment debtor and other persons, especially the judgment debtor's employer. Section (e) has been amended in order to conform to *Household Finance Corporation v. Training Research and Development, Inc.*, 316 A. 2d 850 (D.C. App. 1973) which held that the time period within which a judgment of recovery must be applied for should not be measured from any act or requirement relating to the answering of interrogatories when the attachment is an attachment on wages, salary or commissions and the judgment of recovery is being sought for failure to remit a payment due under the writ. The section now provides that in such cases the time period should begin from the time that a payment is due and not paid. The length of the time period in such cases was made far longer than for other cases because of the Advisory Committee's recognition that in attachments on wages, salary and commissions, there are frequently uncertain intervals during which the debtor is temporarily laid off or does not appear for work. See *D.C. Code § 16-576* (1973 Ed.).