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Lawyers

New Wage Deductions – Employers Beware!

By Bill McNutt

Major changes go into effect for the collection of money judgments on January 1. H.B. 3790, signed by the Governor last July, will significantly change the way employers must respond to collection actions against employees. Employers must be aware of the changes, or risk paying their employee's judgments themselves. This is a brief review of the new changes. Detailed questions should be addressed to your lawyer.

Under the old system in Illinois, an employer who received a wage deduction summons would withhold wages for a period of twelve (12) weeks. Then the employer would report the withholding on the interrogatory supplied by the creditor, and thereafter furnish a copy to the court and the lawyer for the creditor. At that point the garnishment was over. The employer would either pay the money over to the creditor or wait until it had received a pay over order from the court.

With the new law, however, the period of withholding is expanded until such time as the judgment is paid in full. The employer must pay particular attention to the new forms. Once a wage deduction summons and interrogatories are received by the creditor, it should be considered as a continuing wage deduction until the creditor's judgment debt is paid in full. If a copy of the judgment, or a certificate of the judgment, showing the amount, name of court, and case number is not included with the wage deduction summons, the creditor should be contacted to furnish one.

The answers to the interrogatories must be filled out carefully and properly executed. The original must be sent to the court, a copy delivered to the employee, and to the creditor's attorney. If the employee is employed, then the questions asked in the interrogatories are fairly straight forward. The employer answers the questions by setting forth the amounts that are responsive to each question. Most importantly the employer reports the gross wages minus certain mandatory contributions including federal taxes. The employer is entitled to a statutory fee of $12.00 or 2% of sums withheld whichever is greater. Note that as the $12.00 is allowable only once per proceeding (not per payroll), employers are probably better served using the 2% calculation.

Only one wage deduction order can be in effect at one time. That means that if the employee has been served with a prior wage deduction proceeding, and the employer is paying that prior deduction order, it must report this to the second creditor. Unfortunately, on some of the forms we have seen there does not appear to be a line for that response in the interrogatories. Therefore, the employer will have to write on the form that there is a prior deduction order and state the case number and the amount paid over pursuant to that prior wage deduction proceeding.

In all events, the employer should start immediately withholding monies from the employee's paycheck upon being served with a wage deduction summons . However, the employer should not pay over any amounts until it receives a copy of an order from the Circuit Court that specifies to whom, where and when to start paying over the money withheld from the employee.

Once the order is received from the court directing the payment of amounts from an employee's paycheck, the creditor will begin paying on a monthly basis. Quarterly, the judgment creditor must prepare and mail a certificate of the judgment balance. Therefore, good

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Y2K

By Marshall Susler

Y2K has become the problem of the century. It is caused by computer programs using two digits instead of four to represent the year, for example, "98" for "1998." Thus, on January 1, 2000, it is anticipated non-compliant computers will recognize the dates as January 1, 1900. The problem affects hardware, software, and imbedded microprocessors (chips). No one really knows how many chips will be affected. There are millions of chips in millions of products worldwide, and many of those are not capable of being inventoried for Y2K compliance. It is not known precisely which processes and which products will fail due to the Y2K problem.

We expect problems to appears in 1999 when planning is made for the year 2000, although the effects may not be apparent until something is needed for the year 2000. For example, a company orders goods June 1, 1999 to be delivered January 2, 2000. Will the order go through? Will the goods be delivered on time? Another question, will stock exchanges worldwide be able to process purchases and sales? Almost all businesses and governments may be affected. There have already been lawsuits filed concerning this problem.

United States companies seem to be aware of the problem and many have been trying to get their computers into compliance before 2000. Some started later than others and may not make the deadline. Some have not started yet. The United States, however, is only one country. Our information is that other countries in the world do not regard Y2K as a serious problem and are not making an effort to bring their computers into compliance even now. The world is linked by computers, however, and no one knows what havoc may result from Europe's inaction.

We can assure you, readers, that our firm will be in compliance. The last bit of software needed to bring all our programs into the 21st Century will be installed by April, 1999. We are ready. Let the chips fall where they may.

KAREN ROOT STAYS ON A FAST TRACK

Without precedent in this firm, Karen Root becomes a partner just two years and days after her admission to the Bar. On January 1, 1999, Dan Moore, Marshall Susler, Bill McNutt and Bob Wrigley proudly welcome Karen into partnership.

Of the momentous occasion here is what Karen's partners have to say:

From Marshall Susler: *We are delighted to welcome Karen to partnership standing. She helps us be aware of and (hopefully) able to cope with the new frontiers of law being ushered in and forecast by the 21st century.*

Bill McNutt declared: *Karen has made remarkable progress in developing her practice since being admitted to the Bar in 1996. Her years as a paralegal help build her lawyering skills quickly to that of a seasoned attorney, rather than one just out of law school. Plus her maturity and judgment, being a wife, mother, and new grandmother, makes her a valued source for sound decision making for both the firm and our clients.*

Partner Bob Wrigley says: *Karen is a very dynamic person. I look forward to working with her into what promises to be a very exciting new century.*

Dan Moore adds: *Never in the history of this law firm have we been privileged to walk with a partner through so many phases of her development: from secretary/pinch hitter to paralegal; watching her trek through an illustrious college career then being present when she received her Juris Doctor from the University of Illinois College of Law; sweating out the bar exam with her two years ago (although I had no real doubt about the outcome); and through the two years she has been our associate. I am certain all of the firm's departed partners, with most of whom I had the privilege of serving, would agree this new partnership with Karen is an important milestone in the firm's long journey.*

And, of course, as it's always been, Karen has the last word: *The attorneys in this firm are fortunate to have the benefit of each other's talents and experience. Dan, Marshall, Bill and Bob have been a source of motivation and, of course, revenue, to me for almost ten years and the success I have achieved would certainly have been diminished without their support. As this partnership moves into the new millenium, I hope we can work together to achieve the goals we have set for the firm.*

Washington, D.C. Conference Proves To Be Both Invigorating and Frustrating

By Karen Root

In mid-November, I attended a conference in our nation's capital hosted by the National Academy of Elder Law Attorneys (NAELA). The topic of the conference was how to redesign a law practice focusing on issues and legal problems facing both the elderly and the soon-to-be senior citizen (which includes all of us baby-boomers!). I came back from the week-long seminar excited about the prospective new services this firm could offer to both our existing and future clients.

Yet, I was also frustrated with the never-ending obstacles enacted by the legislature which stand in the way of crafting desirable estate plans for clients. For example, certain laws prohibit, or at least impede, an individual's ability to transfer assets before applying for Medicaid benefits. This has been a real problem for those people who have suddenly been forced into nursing home or extended care facilities. I was encouraged, though, to discover ways in which clients can overcome these obstacles without violating any laws, and I am eager to put that new knowledge to work.

In addition, I heard about great strides being made in cases of elder abuse and neglect. Upon returning from the conference, I have done some further investigation into this area and found the problem to be much greater locally than I had imagined. This is another area in which our firm plans to makes its presence known.

For those of you who are wondering, the trip was not all work and no play. This was my first trip to Washington and I, along with a group of new friends I met at the conference, was given a private tour of the Capitol. (No, it was not *that* kind of private tour and Bill was nowhere to be seen!) But that side-trip was the only sight I had time to see because of the frantic agenda of the conference.

The seminar provided me enough food for both thought and action to last a decade. And our goal, as a firm, is to translate these new ideas into real benefits for our clients.

New Wage Deduction

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communication between the employer and the judgment creditor is important.

Under certain circumstances, an employer can be held liable for the employee's debts. If the employer receives another summons with conditional judgment, this means that the employer did not respond to the original wage deduction summons. At that point the employer should immediately contact its attorney. If the employer fails to respond to a summons after conditional judgment, a final judgment may be entered against the employer. A final judgment means that the creditor can now go against the employer's bank accounts and other assets to collect the judgment in full.

The drafters of the new law hoped that these new wage deductions would be easier on employers. It was also intended to reduce the number of times a file had to be reviewed by clerks and judges. Until the new procedure is familiar to everyone involved, caution should be exercised. Careful adherence to the instructions and securing legal assistance when necessary is very important.

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