

DELIVERED BY E-MAIL

April 20, 2020

The Honorable Anne M. Burke
and Justices of the Illinois Supreme Court
Supreme Court Building
200 East Capitol Avenue
Springfield, IL 62701

Re: *Frozen Bank Accounts of Individual Judgment Debtors
Without Access to Court Due to COVID-19*

Dear Chief Justice Burke and Members of the Court:

We are representatives of legal aid and community organizations devoted to the elderly, disabled, and poorest and most vulnerable people in our State. We know that, in these emergency times, the Illinois Supreme Court has been extraordinarily responsive in addressing a number of critical situations in our courts, and we hope the Court will likewise address the urgent concerns that prompt this letter.

We write to bring to your attention an emergency situation that impacts our clients and many others across the State, and with the request that the Supreme Court enter an emergency order in the form of the attached Exhibit A, or in any other form deemed appropriate by the Court.

The problem is that in this time of health and economic crisis, many Illinoisans with consumer debt judgments against them have little or no recourse to our judicial system to address freezes that have recently been imposed on their bank accounts. This is a true emergency because, this week, CARES Act funds and tax refunds are being deposited in the checking accounts of hundreds of thousands of Illinoisans. These monies are critical to our clients' ability to care for themselves and their families, but many of our clients will not be able to access those monies because of freezes stemming from the service of garnishment summons or citations on their banks.

On April 14, 2020, Governor Pritzker addressed a portion of the problem by issuing Executive Order 2020-25, a copy of which is attached as Exhibit B. As you will observe, the Governor's order suspends, during the pendency of the declared emergency (currently through April 30, 2020), the service of, among other things, a garnishment summons or a citation to discover assets on a consumer garnishee. But, as you will also observe, the Executive Order is prospective only. Unfortunately, there are thousands of Illinoisans whose banks were served with garnishment summons or citations to discover assets before the date of the Executive Order for which the return date is scheduled during the pendency of the emergency. The mere service of a summons or citation freezes funds of the judgment debtor at the bank, but limited court operations during the pandemic have left judgment debtors without any means to assert exemptions or otherwise lift the freeze with respect to some or all of their funds. *See* 735 ILCS 5/12-707(a) (unpaid amount of

judgment “becomes a lien on the ... property held by the garnishee at the time of the service of garnishment summons”); 735 ILCS 5/2-1402(m) (unpaid amount of judgment “becomes a lien when a citation is served”).

The intent of the proposed order (Exhibit A) is to temporarily relieve debtors of the burden of asset freezes at a time when they have no recourse to the courts. Our proposal relates only to garnishment summons or citations to discover assets that either (1) were issued between the date on which the Governor declared an emergency (March 9, 2010) and before April 14, 2020 (the date of the Governor’s Executive Order), or (2) have return dates through the latter of April 30, 2020, or such date as this Court may subsequently determine. The proposed order effectuates the \$4,000 exemption for personal property by lifting the freeze for up to \$4,000 in property being held by the garnishee with respect to a judgment debtor who is a natural person. *See* 735 ILCS 5/12-705(a) (\$4,000 personal property exemption in garnishment proceeding); 735 ILCS 5/2-1402(b)(1) (\$4,000 personal property exemption in citation proceeding). Proceedings against garnishees holding less than \$4,000 of the judgment debtor’s property would be dismissed without prejudice. The freeze would continue, with respect to garnishees holding more than \$4,000 of the judgment debtor’s property, as to property in excess of \$4,000 until a hearing can be held.

There is no “magic” to our proposed language or to the format of the proposed order. But, we respectfully request that the Court review this matter and expeditiously grant relief to the many Illinoisans who will suffer great harm if they are unable to access their CARES Act checks or tax refund checks at a time when they cannot access the courts.

Thank you so much for your consideration of this important request.

Respectfully submitted,

CARPLS Legal Aid
Chicago Lawyers’ Committee for Civil Rights
Chicago Legal Aid Society of Metropolitan Family Services
Chicago Urban League
Chicago Volunteer Legal Services
Community Organizing and Family Issues (COFI)/Power-PAC IL
Heartland Alliance for Human Needs & Human Rights
Housing Action Illinois
Illinois Asset Building Group
Illinois Chapter of NACA
Illinois Legal Aid Online
Illinois PIRG
Land of Lincoln Legal Aid
Legal Aid Chicago
National Association of Consumer Advocates (NACA)
Mujeres Latinas en Accion

Chief Justice Anne M. Burke and
Justices of the Illinois Supreme Court
April 20, 2020
Page 3

National Consumer Law Center
Partners in Community Building
Prairie State Legal Services
Shriver Center on Poverty Law
Woodstock Institute
YWCA Metropolitan Chicago