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Properly and Promptly Responding to Wage Deduction Orders Under Illinois Law

Under Illinois law, one of the mechanisms available to creditors to recover amounts owed is to seek a wage deduction order that requires the debtor's employer to withhold a portion of his or her wages. While some employers are accustomed to occasionally receiving wage deduction orders, the current economic climate has resulted in many employers receiving such orders for the first time. For the uninitiated, an improper or untimely response to a wage deduction order can result in significant liabilities for the employer, including becoming responsible for the debt of the employee.

To avoid such a result, employers need to be aware of their obligations in a wage deduction proceeding:

1. An employer will first learn of a wage deduction proceeding when it receives a "Wage Deduction Summons." Immediately upon receiving the Summons, the employer should notify the employee and provide him or her with a copy of the Summons and any other documents that were received with it.
2. Along with the Wage Deduction Summons, the employer should receive a form entitled "Answer to Wage Deduction Proceedings." The Answer should be completed as soon as possible, and the employer should begin to withhold the amount indicated as of the date that the Summons was received. Although withholding needs to begin upon receipt of the Summons, the funds withheld should not be distributed until the employer receives a court order directing it to do so.
3. The completed Answer must then be filed with the Court by mailing it to the address listed on the Answer prior to the return date. The return date should be clearly indicated on the Summons. At the same time that the Answer is filed, a copy of it should be mailed to the creditor's attorney and a copy delivered to the employee.
4. Sometime after the Answer is filed, the employer will receive a copy of a court order directing it where to send the withheld funds.

Employers should be aware that it is unlawful to discharge or suspend an employee because he or she has been subject to a wage deduction order. Employees, however, may lose this protection in the event additional wage deduction orders are received on different debts.

If you have any questions regarding how to respond to a wage deduction proceeding, please contact your Katten Muchin Rosenman LLP attorney or any of the following members of the Employment Law and Litigation Practice.

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