

78A-2-216 Fees for writ of garnishment -- Single or continuing.

- (1) Any creditor who serves or causes to be served a writ of garnishment upon the garnishee shall pay to the garnishee:
 - (a) \$10 for a single garnishment; and
 - (b) \$25 for a continuing garnishment.
- (2) The creditor shall pay the fee directly to the garnishee.
- (3) If a plaintiff attempts to garnish the property of a person other than the defendant by serving a garnishment on a garnishee, that person may recover from the plaintiff an amount not to exceed \$1,000 if the person demonstrates to the court that the plaintiff failed to exercise reasonable diligence in determining that the person and defendant were the same individual.
- (4) The following factors may be taken into consideration by the court in determining whether the plaintiff exercised reasonable diligence in determining whether the person garnished and the defendant were the same individual:
 - (a) similarities between the person and the actual judgment debtor, including:
 - (i) the spelling of each person's name;
 - (ii) addresses;
 - (iii) physical descriptions;
 - (iv) identifying information, including Social Security number or driver license number; and
 - (v) family status;
 - (b) whether previous contact was made to determine whether the person was the judgment debtor;
 - (c) how the determination of who the judgment debtor was, was made; and
 - (d) what information the plaintiff had access to or was provided with regarding the actual judgment debtor from all available sources.
- (5) An employer who receives a written request for verification of employment, which includes a copy of the judgment and judgment information statement, shall provide verification within 10 days. The response shall indicate whether or not the defendant identified in the documentation is a current employee.
- (6) A plaintiff is not liable for a violation of Subsection (3) regarding a wage garnishment if the plaintiff transmitted a written request for verification of employment, including a copy of the judgment and judgment information statement, to an employer and the employer did not respond.

Renumbered and Amended by Chapter 3, 2008 General Session
Amended by Chapter 149, 2008 General Session