

Plaintiff	Financial Credit Network Inc	Brett T Abbott
Defendant	Taylor L English	Pro Per

PROPOSED TENTATIVE

On July 1, 2025, plaintiff Financial Credit Network Inc. filed a complaint against defendant Taylor English (hereafter debtor), and a default judgment was entered on August 18, 2025, for judgment of \$5,596.24 in favor of plaintiff. A writ of execution was issued on August 29, 2025, with a fee for issuance of writ included, resulting in an outstanding debt of \$5,636.24.

Debtor has filed a claim of exemption to any wage garnishment. Assignee creditor has filed opposition. Assignee creditor indicates in the Notice of Hearing on Claim of Exemption that it “will not appear at the hearing and submits the issue on the papers filed with the court.” The Santa Barbara County Sheriff’s Office indicates that it is presently holding \$0 from past wage garnishments.

Debtor, in her “Claim of Exemption,” asks the court to exempt all earnings. She is paid every two weeks (meaning she is paid 26 times a year). According to debtor’s financial statement, she has no spouse, and has two children living with her (two daughters aged 13 and 9). She claims her gross monthly pay is \$7,192.30.¹ Her federal and state withholdings (FICA and SDI) are \$840.94 per pay period. Debtor claims her monthly disposable income is reduced by necessary monthly expenses totaling \$8,525.00, as follows: 1) \$3500 for “rent or house payments and maintenance; 2) \$1000 for “food and household” supplies; 3) \$500 for clothing; 4) \$250 for medical and dental payments; 5) \$1000 for school, childcare; 6) \$175 for transportation and auto expenses; 7) \$1500 for installment payments; 8) \$300 for entertainment; and 9) \$300 for “sports for daughters”. Debtor claims a balance owed of \$5000 for a car and \$1500 for a credit card. Debtor also claims child support received in the amount of \$1000². No other assets are claimed. Debtor does not indicate any amount she is willing to have garnished.

Before addressing the merits, the court will identify the legal principles that frame the court’s inquiry. Pursuant to Code of Civil Procedure section 706.050, the maximum amount of disposable earnings of an individual judgment debtor for any workweek that is subject to garnishment/levy under an earnings withholding order shall not exceed the lesser of the following: (1) Twenty percent of the individual’s disposable earnings for that week; or (2) Forty percent of the amount by which the individual’s disposable earnings for that week exceed 48

¹ The opposition does not challenge this representation; as a result, the court will assume without deciding that this number is correct.

² This amount is not calculated into Debtor’s gross or net monthly income. Family Code section 4058(c).

times the state minimum hourly wage in effect at the time the earnings are payable. “Disposable earnings” are those earnings remaining after deduction of any amounts required by law to be withheld. (Code Civ. Proc. § 706.011, subd. (a).) These include deductions for social security, federal and state income taxes, state disability insurance and payments to public employee retirement systems, among other items. This exemption is automatic--i.e., no claim of exemption need be made. (Code Civ. Proc., § 706.050.)

Additionally, a judgment debtors’ earnings that are necessary for the support of the judgment debtor or his or her family are exempt from garnishment. (CCP § 706.051, sub. (a)(1).) This exemption is used to reduce the disposable income amount. To obtain this exemption, the judgment debtor must file a claim of exemption with the levying officer. (Code Civ. Proc. § 706.105, subd. (a).) A completed financial statement must be attached to the claim of exemption. The Financial Statement includes 13 discrete categories of monthly expenses. The reasonableness of the expenses reported in each category must be assessed. Although the burden of proof lies with the party claiming the exemption, exemption statutes are generally construed in favor of the debtor. (*Kono v. Meeker* (2011) 196 Cal.App.4th 81, 86.)

Here, as noted, the debtor’s financial declaration indicates that debtor, who has no spouse and two children, receives disposable monthly income of \$6351.36. Assignee creditor does not challenge this amount, and it will therefore act as the court’s starting point. Assignee creditor, however, does challenge the monthly household expenses claimed by debtor as “inflamed”, stating clothing and entertainment expenses are “not necessary”. Further Assignee creditor state the “\$1500 installment payments is [sic] not detailed.” Assignee credit does indicate they are willing to accept \$250 for garnishment per pay period.

While there is no precise definition of what “necessary” expenses for the support of a judgment debtor and her family are, they normally include housing costs, food, insurance, automobile costs, etc., The court is required to consider the circumstances in each case -- what is “necessary” in some circumstances may be a luxury in others. (See, e.g., *J.J. MacIntyre Co. v. Duren* (1981) 118 Cal.App.3d Supp. 16, 18 [decided under former Code Civ. Proc., § 723.05]; see *Diamond Bent* (1957) 157 Cal.App.2d Supp. 857, 859 [decided under former law, and concluding that monthly expenses to send judgment debtor’s daughters found to be reasonable and necessary]; see also *Sanker v. Humborg* (1941) 48 Cal.App.2d 205, 208 [miscellaneous expenses for recreation, music lessons, and insurance for debtor’s wife and family are necessary].) Therefore, on review of the listed expenses, the court will find that clothing is a necessary monthly expense but determines that \$500 for clothing under the circumstances seems unreasonable. The court will reduce this amount to \$200 per month. Further, the court finds that entertainment is necessary but determines that \$300 is unreasonable. The court will reduce this amount to \$100 per month. Further, the monthly listed expense of “sports for both daughters” appears to be unnecessary as the costs of school/childcare is listed at \$1000.

Assignee creditor's challenge to the \$1500 a month for installment payments on two separate accounts, car and credit card is also appropriate. A debtor cannot elevate one debt over another via installment payments when no judgment has been secured. These are not necessary expenses and are not included as part of the hardship exemption.

Accordingly, the court finds that the amount of \$8525.00, claimed as the total monthly expenses in the financial declaration, should be reduced by \$2300 reducing monthly expenses to \$6225 which leaves a disposable income of \$126.36.

Accordingly, the court finds that debtor's disposable monthly income is \$126.36 a month for purposes of determining garnishment ($\$6351.36 - \$6225 = 126.36$), which works out to be \$31.59 per week ($\126.36 divided by 4). The maximum amount of disposable earnings that is subject to garnishment for purposes of an earnings withholding order cannot exceed the lesser of the following: 1) twenty percent of the individual's disposable earnings *for that week*; or 2) forty percent of the amount by which the individual's disposable earnings *for that week* exceed 48 times the state minimum hourly wage in effect the earnings are payable.

The latter calculation is inapplicable, for the California state minimum wage at present is \$16 per hour, and the debtor's disposable earnings subject to garnishment per week do not exceed 48 times that amount. Accordingly, the court finds that \$126.36 per month is the maximum amount that can be garnished/levied from debtor's wages, utilizing the 20% calculation, as follows: $\$31.59$ per week $\times 20\% = \$6.32$ per week $\times 52$ weeks $= \$328.64$ (the total amount per year), divided by 12 months $= \$27.39$ per month.

The court directs plaintiff as the creditor assignee, to submit to the court a proposed order for signature commensurate with this order.

It appears the assignee creditor will not appear at the hearing, as it has submitted the issues on the papers filed with the court. The court directs the clerk to enter this tentative into the court minutes as a final order, and to send the minute order to the parties.