

# IN THE SUPREME COURT OF THE STATE OF NEVADA

## INDICATE FULL CAPTION:

PLATTE RIVER INSURANCE COMPANY

V.

SUSAN JACKSON AND LANCE JACKSON

No. 81974

Electronically Filed  
Oct 29 2020 11:58 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

DOCKETING STATEMENT  
CIVIL APPEAL

## GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

## WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Ninth Department II  
County Douglas Judge Thomas W. Gregory  
District Ct. Case No. 19-CV-0197

**2. Attorney filing this docketing statement:**

Attorney Peter Dubowsky, Esq. Telephone 702-360-3500  
Firm Dubowsky Law Office, Chtd.  
Address 300 South Fourth Street; Suite 1020; Las Vegas, Nevada 89101

Client(s) Platte River Insurance Company

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

**3. Attorney(s) representing respondents(s):**

Attorney Michael G. Millward Telephone 775-600-2776  
Firm Millward Law, Ltd.  
Address 1591 Mono Avenue; Minden, Nevada 89423

Client(s) Lance Jackson and Susan Jackson

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_

Client(s) \_\_\_\_\_

(List additional counsel on separate sheet if necessary)

**4. Nature of disposition below (check all that apply):**

- |   |  |
|---|--|
| <input type="checkbox"/> Judgment after bench trial         | <input type="checkbox"/> Dismissal:  |
| <input type="checkbox"/> Judgment after jury verdict        | <input type="checkbox"/> Lack of jurisdiction  |
| <input checked="" type="checkbox"/> Summary judgment        | <input type="checkbox"/> Failure to state a claim  |
| <input type="checkbox"/> Default judgment                   | <input type="checkbox"/> Failure to prosecute  |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief  | <input type="checkbox"/> Other (specify): _____  |
| <input type="checkbox"/> Grant/Denial of injunction         | <input type="checkbox"/> Divorce Decree:   |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification                    |
| <input type="checkbox"/> Review of agency determination     | <input checked="" type="checkbox"/> Other disposition (specify): <u>claim of exemption</u> |

**5. Does this appeal raise issues concerning any of the following?**

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

**6. Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

n/a

**7. Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

n/a

**8. Nature of the action.** Briefly describe the nature of the action and the result below:

Appellant/Judgment Creditor levied on the wages of Respondent/Judgment Debtor Susan Jackson

**9. Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Was it error for the District Court to apply "wildcard" exemption (N.R.S. 21.090(1)(z)) on top of the existing wage exemption (N.R.S. 21.090(1)(g)), despite that the District Court's interpretation renders a part of the subsection meaningless, and despite that District Court's interpretation produces an absurd and unreasonable result?

**10. Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

n/a

**11. Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☐ N/A

☐ Yes

☒ No

If not, explain:

**12. Other issues.** Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☒ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

**13. Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

The matter involves a substantial issue of first interpretation of the judgment exemption statute (NRAP 17(a)(11)), presumptively retained by the Supreme Court. However, it could also be assigned to Court of Appeals under NRAP 17(b)(7) (Appeals from postjudgment orders in civil cases).

**14. Trial.** If this action proceeded to trial, how many days did the trial last? n/a

Was it a bench or jury trial? \_\_\_\_\_

**15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

n/a

## TIMELINESS OF NOTICE OF APPEAL

**16. Date of entry of written judgment or order appealed from** September 29, 2020

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

**17. Date written notice of entry of judgment or order was served** October 6, 2020

Was service by:

☐ Delivery

☒ Mail/electronic/fax

**18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)**

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b)      Date of filing \_\_\_\_\_

☐ NRCP 52(b)      Date of filing \_\_\_\_\_

☐ NRCP 59      Date of filing \_\_\_\_\_

**NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. \_\_\_, 245 P.3d 1190 (2010).**

(b) Date of entry of written order resolving tolling motion \_\_\_\_\_

(c) Date written notice of entry of order resolving tolling motion was served \_\_\_\_\_

Was service by:

☐ Delivery

☐ Mail

**19. Date notice of appeal filed** October 15, 2020

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

**20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other**

NRAP 4(a)

### **SUBSTANTIVE APPEALABILITY**

**21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:**

(a)

☐ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☐ NRS 233B.150

☐ NRAP 3A(b)(3)

☐ NRS 703.376

☒ Other (specify) NRAP 3A(b)(8)(special order entered after final judgment)

(b) Explain how each authority provides a basis for appeal from the judgment or order:

Hardy & Hardy v. Wills, 114 Nev. 585 (1998)(Appeal from granting Motion to Determine Claim of Exemption); see also Herndon v. Grilz, 112 Nev. 873 (1996)

Settelmeyer & Sons v. Smith & Harmer, 124 Nev. 1206 (2008)(Garnishment and execution actions are appealable.)

Gumm v. Mainor, 118 Nev. 912 (2002) (Any special order, or an order affecting the rights of some party to the action, growing out of the judgment previously entered, made after final judgment is appealable.)



**22. List all parties involved in the action or consolidated actions in the district court:**

(a) Parties:

Platte River Insurance Company

Eureka Builders, Inc.

Susan Jackson

Lance Jackson

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

**23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.**

Judgment Creditor Appellant was awarded summary judgment on an indemnity agreement signed by the Judgment Debtors. The Judgment Creditor levied on the wages of Susan Jackson, who claimed both the wages exemption and "wildcard" exemption on her wages.

**24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?**

☒ Yes

☐ No

**25. If you answered "No" to question 24, complete the following:**

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☒ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☒ No

**26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):**

Order is independently appealable under NRAP 3A(b).

**27. Attach file-stamped copies of the following documents:**

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

## VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Platte River Insurance Company  
Name of appellant

October 28, 2020  
Date

Clark County, Nevada  
State and county where signed

Peter Dubowsky, Esq.  
Name of counsel of record

  
Signature of counsel of record

## CERTIFICATE OF SERVICE

I certify that on the 29 day of October, 2020, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Michael G. Millward  
Millward Law, Ltd.  
1591 Mono Avenue  
Minden, Nevada 89423

Dated this 29 day of October, 2020

  
Signature

Case No: 19-CV-0197

Dept. II

The undersigned affirms that this document does not  
contain personal information, pursuant to NRS 603A.040

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF DOUGLAS

\* \* \* \* \*

PLATTE RIVER INSURANCE COMPANY,

Plaintiff,

vs.

EUREKA BUILDERS, INC., a revoked  
Nevada corporation; Lance Jackson and  
Susan Jackson, each individually as  
personal indemnitors; and DOES I-X and  
ROE CORPORATIONS I-X, inclusive

Defendants.

**NOTICE OF ENTRY OF ORDER**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September 29, 2020, the Court entered the  
attached *Order Upon Claim of Exemptions*.

Dated this 6th day of October, 2020

**Millward Law, Ltd.**

by:

  
Michael G. Millward, Esq.  
Millward Law, Ltd.  
1591 Mono Ave.  
Minden, NV 89423  
(775) 600-2776

NOTICE OF ENTRY OF ORDER

PAGE 1 OF 2

**CERTIFICATE OF SERVICE**

Pursuant NRCP5(b), I hereby certify that service of the *Notice of Entry of Order* were made on October \_\_\_\_\_, 2020, by depositing the original above mentioned documents for mailing via US Postal mail, addressed to the following:

Carson City Sheriff  
911 East Musser Street  
Carson City, NV 89701

Peter Dubowsky, Esq.  
300 South Fourth Street  
Suite 1020  
Las Vegas, Nevada 89101

Douglas County Sheriff  
PO Box 208  
Minden, NV 89423

State of Nevada  
Office of the State Controller  
101 N. Carson Street  
Carson City, NV 89701-4786

Ashley Voss Legal Assistant



RECEIVED

SEP 11 2020

Douglas County  
District Court Clerk

FILED

2020 SEP 29 AM 11:27

CLERK OF DISTRICT COURT

D. GOELZ

BY MAIL DISTRICT CLERK

Case No. 19-CV-0197

Dept.: II

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF DOUGLAS

\* \* \* \* \*

PLATTE RIVER INSURANCE COMPANY )

Plaintiff, )

vs. )

EUREKA BUILDERS, INC. a revoked  
Nevada corporation; and LANCE  
JACKSON and SUSAN JACKSON each  
individually as personal indemnitators;  
and DOES I-X and ROE  
CORPORATIONS I-X inclusive )

Defendants. )

**ORDER UPON  
CLAIM OF EXEMPTIONS**

THIS MATTER came before the Court at the time set for hearing upon the *Motion to Determine the Issue of Exemption*, filed by Plaintiff Platte River Insurance Company on August 27, 2020, therein objecting in part to the *Affidavit of Claim of Exemption*, filed by Defendant Susan Jackson on August 20, 2020. On September 1, 2020, pursuant to NRS 21.112(6) the Court entered its *Order Setting Hearing*, therein setting a hearing upon Platte River Insurance Company's motion to be heard by the Court at 8:30 a.m. on Friday September 4, 2020.

At the time set for hearing Platte River Insurance Company appeared through its counsel, Peter Dubowsky, Esq., of Dubowsky Law Office, Chtd., and Defendants Lance Jackson and Susan Jackson appeared in person with their counsel Michael G. Millward, of Millward Law., Ltd.

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## PROCEDURAL BACKGROUND AND OVERVIEW

This matter was initiated by the *Complaint* filed by Platte River Insurance Company (hereinafter "Platte River") on July 15, 2019. Defendants, Lance Jackson and Susan Jackson (hereinafter together as the "Jacksons") filed their *Answer* on September 6, 2019. Thereafter, Platte River filed its *Motion for Summary Judgment*, and on May 1, 2020, the Court entered its *Order Granting Summary Judgment* in Platte River's favor. On June 2, 2020, the Court entered Judgment against Defendants Eureka Builders, Inc., and the Jacksons in the total sum of \$47,912.89.

On July 31, 2020, at Platte River's request, the Court Clerk issued a Writ of Execution, directing the Sheriff of Carson City to satisfy the judgment. Thereafter, on August 20, 2020, upon receipt of the notice of the Writ of Execution, Susan Jackson (hereinafter individually as "Susan") filed her *Affidavit of Claim of Exemption* (hereinafter "Affidavit") claiming an exemption of her earning pursuant to NRS 21.090(1)(g) and NRS 21.090(1)(z).<sup>1</sup>

On August 27, 2020, Platte River objected to Susan's Affidavit by filing its *Motion to Determine the Issue of Exemption* (hereinafter "Motion"). Susan filed her *Opposition to Platte River's Motion Regarding Exemption* (hereinafter "Opposition") on September 1, 2020.

In Platte River's Motion, Platte requests the Court determine that Susan is not entitled to exempt her wages levied upon pursuant to NRS 21.090(1)(z).<sup>2</sup> Platte River argues that Nevada's "wildcard exemption" under NRS 21.090(1)(z) "expressly does not apply to wages."<sup>3</sup> Platte River argued that because Susan's wages are exempt pursuant to NRS 21.090(1)(g), Susan is not entitled to claim her wages pursuant to NRS 21.090(1)(z) because her wages are "otherwise exempt."<sup>4</sup>

\\

<sup>1</sup> Susan Jackson's August 20, 2020 Affidavit of Claim of Exemption, p.2, Ins.17-21.

<sup>2</sup> Platte River Insurance Company's Motion to Determine the Issue of Exemption, p.1, Ins.18-21.

<sup>3</sup> *Id.* at p.2, Ins.16-19.

<sup>4</sup> *Id.* at pp.2-3.



1 In support of its argument, Platte River cites to the legislative history from the 74<sup>th</sup>  
2 Session of the Nevada Legislature, and also to the Dodge City Healthcare Group v.  
3 Chaudhry (D. Nev. June 9, 2010, Case No. 09-00091), a non-binding decision of the U.S.  
4 District Court for the District of Nevada.<sup>5</sup>

5 In Susan's Opposition, she argued that NRS 21.090(1)(g)(2) and NRS 21.090(1)(z)  
6 can be read together, and that NRS 21.090(1)(z) plainly and unambiguously cumulatively  
7 exempts any all personal property selected by a debtor up to the \$10,000 where a  
8 remainder of the property is not exempt under another claimed exemption.<sup>6</sup> Regarding the  
9 25% of her disposable earnings not exempt under NRS 21.090(1)(g), Susan argues that  
10 NRS 21.090(1)(z) may be claimed to exempt disposable earnings because the term  
11 "earnings" as defined under NRS 21.090(1)(g)(2) is applicable to financial accounts also  
12 specifically exempt under NRS 21.090(1)(z).<sup>7</sup>

13 In support of the argument that NRS 21.090(1)(z) maybe cumulatively applied to  
14 property not otherwise fully exempt under other exemption, Susan directed the Court to its  
15 prior decision in *Victoria A. Stroud v. Professional Finance Company, Inc.*, Ninth Judicial  
16 District Court Case No. 18-CV-0136, concerning an appeal taken from an Order of the East  
17 Fork Justice Court in case no. 13-CV-104, in which this Court had held that earnings maybe  
18 cumulatively exempted under NRS 21.090(1)(g) and NRS 21.090(1)(z).<sup>8</sup> In response to  
19 Platte River's supporting authority, Susan also argued against the Court's consideration of  
20 the legislative history, or application of the U.S. District Court's decision in *Chaudhry*.<sup>9</sup>

21 At the September 4, 2020 hearing, the counsel for the respective parties made  
22 argument consistent with their arguments submitted in the Motion and Opposition. During  
23 Platte River's argument, its counsel took the position that NRS 21.090(1)(z) is  
24 unambiguous. Platte River's counsel also argued that the "not otherwise exempt" language  
25

26  
27 <sup>5</sup> Id. at pp.3-4.

<sup>6</sup> Susan Jackson's Opposition to Platte River's Motion Regarding Exemption, pp.3-9.

<sup>7</sup> Id. at. pp.5-6.

<sup>8</sup> Id. at pp.7-9.

<sup>9</sup> Id. at pp.7-11.



found in NRS 21.090(1)(z), is not applicable where any other exemption would apply under NRS 21.090(1).

Susan's Counsel argued that NRS 21.090(1)(z) exemption can be applied cumulatively with other exemptions and that NRS 21.090(1) limits a debtor's entitlement to exemptions only in instances where the limitation is specifically stated within the subsections of NRS 21.090(1).

### LEGAL STANDARD

Nevada court's review of a creditor's objection to a debtor's claim of exemption from execution of a judgment under NRS 21.112(6) which provides as follows in pertinent part:

Unless the court continues the hearing for good cause shown, the hearing on an objection to a claim of exemption to determine whether the property or money is exempt must be held within 7 judicial days after the objection to the claim and notice for a hearing is filed. The judgment debtor has the burden to prove that he or she is entitled to the claimed exemption at such a hearing. After determining whether the judgment debtor is entitled to an exemption, the court shall mail a copy of the order to the judgment debtor, the judgment creditor, any other named party, the sheriff and any garnishee.

Neither Platte River nor Susan have taken the position that the other party failed to meet their filing deadlines required under NRS 21.112. Based upon a review of the recent filings, the Court finds that the timing requirements set forth in NRS 21.112 have been satisfied, and that Susan's *Affidavit of Claim of Exemption* and Platte River's objection stated within its Motion are properly before the Court.

### ANALYSIS

The Court has been asked to decide whether Susan is entitled to claim an exemption of 75% of her disposable earnings under NRS 21.090(1)(g) cumulatively with her claim of exemption of the remaining 25% of her disposable earnings up to \$10,000 pursuant to NRS 21.090(1)(z).

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\\



1 The exemptions found under NRS 21.090 protect the rights of debtors provided by  
2 the Nevada Constitution.<sup>10</sup> The exemptions are "absolute and unqualified" and have the  
3 effect of removing property "beyond the reach of legal process."<sup>11</sup>

4 The Nevada Supreme Court has stated that "[w]e liberally and beneficially construe  
5 our state exemption statutes in favor of the debtor."<sup>12</sup> Further, "unless ambiguous, a  
6 statute's language is applied in accordance with its plain meaning."<sup>13</sup> The NRS 21.090(1)(z)  
7 exemption, referred to as the "wildcard exemption," allows a debtor to exempt "any  
8 personal property" up to the statutory amount.<sup>14</sup>

9 As is applicable here NRS 21.090(1) and subsections (1)(g) and (1)(z) provide as  
10 follows in pertinent part:

11 The following property is exempt from execution, except as  
12 otherwise specifically provided in this section or required by  
13 federal law:

14 (g) For any workweek, . . . 75 percent of the disposable earnings  
15 of a judgment debtor during that week if the gross weekly salary  
16 or wage of the judgment debtor on the date the most recent writ  
17 of garnishment was issued exceeded \$770 . . . Except as  
18 otherwise provided in paragraphs (c), (s) and (t), the exemption  
19 provided in this paragraph does not apply in the case of any order  
20 of a court of competent jurisdiction for the support of any person,  
21 any order of a court of bankruptcy or of any debt due for any state  
22 or federal tax. As used in this paragraph:

23 (1) "Disposable earnings" means that part of the earnings of a  
24 judgment debtor remaining after the deduction from those  
25 earnings of any amounts required by law to be withheld.

26 (2) "Earnings" means compensation paid or payable for  
27 personal services performed by a judgment debtor in the regular  
28 course of business, including, without limitation, compensation  
designated as income, wages, tips, a salary, a commission or a  
bonus. The term includes compensation received by a judgment  
debtor that is in the possession of the judgment debtor,  
compensation held in accounts maintained in a bank or any other  
financial institution or, in the case of a receivable, compensation  
that is due the judgment debtor.

<sup>10</sup> Nevada Constitution, Article 1, Section 14.

<sup>11</sup> *Savage v. Pierson*, 123 Nev. 86, 90 (2007) (quoting *Elder v. Williams*, 16 Nev. 416, 423 (1882)).

<sup>12</sup> *In re Christensen*, 122 Nev. 1309, 1314 (2006) (citing *Jackman v. Nance*, 109 Nev. 716 (1993)).

<sup>13</sup> *We the People Nevada v. Secretary of State*, 124 Nev. 874, 881 (2008).

<sup>14</sup> *Becker v. Becker*, 362 P.3d 641, 645 (2015).



(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed \$10,000 in total value, to be selected by the judgment debtor.<sup>15</sup>

NRS 21.090(1) leaves no room for dispute that an exemption thereunder claimed by a judgment debtor exempts the judgment debtor's specific property unless an exception to the exemptions application is "specifically provided" for under NRS 21.090(1) or as "required by federal law."<sup>16</sup>

In this regard it is notable that NRS 21.090(1)(g) does provide specific exceptions for the 75% or 82% exemption of disposable earnings which is determined upon the total earnings of the judgment debtor.<sup>17</sup> Additionally, the earnings exemption specifically provides that it is not applicable where the judgment or order sought to be enforced is from a federal bankruptcy court, where it is for the support of any person, or where the underlying debt is for state or federal taxes due.<sup>18</sup> NRS 21.090(1)(g) and its subsections do not mention or otherwise refer to NRS 21.090(1)(z).

The Wildcard Exemption under NRS 21.090(1)(z) does not include any limitations to its application and unambiguously applies up to \$10,000 of the debtor's interest in "any personal property . . . selected by the judgment debtor".<sup>19</sup> NRS 21.090(1)(z) dictates that all personal property "without limitation" may be selected by the judgment debtor.<sup>20</sup> The examples of "any personal property" includes "equity in any property, money, stocks, bonds or other funds on deposit with a financial institution . . ."<sup>21</sup>

Even though NRS 21.090(1)(z) does not specifically state that "earnings" are included as "personal property," Nevada law defines provides that Susan's earnings are, by

<sup>15</sup> NRS 21.090(1).

<sup>16</sup> NRS 21.090(1).

<sup>17</sup> See NRS 21.090(1)(g)(exempting 75% and 82% of the debtor's earnings based upon amount of earnings).

<sup>18</sup> *Id.*

<sup>19</sup> NRS 21.090(1)(z).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*



1 definition, her personal property.<sup>22</sup> Likewise, the definition of earnings under NRS  
2 21.090(1)(g)(2) establishes that there exists an overlap between the exemption of property  
3 that can be claimed under both statutes.<sup>23</sup> Both NRS 21.090(1)(g) and NRS 21.090(1)(z)  
4 are specifically applicable to the compensation of the debtor where debtor's interest is then  
5 held by financial institution.<sup>24</sup>

6 Based upon the unambiguous language of NRS 21.090(1), *et seq.*, the interplay  
7 between NRS 21.090(1)(z) and NRS 21.090(1)(g) is clear. The Wildcard Exemption applies  
8 not only to property selected by the debtor where no other exemption is applicable, but also  
9 to the portion of the personal property selected by the debtor where such portion of the  
10 property is not completely exempt under another applicable exemption.<sup>25</sup>

11 Thus, according to the plain and unambiguous provisions of NRS 21.090(1), this  
12 Court concludes that the NRS 21.090(1)(z) "Wildcard Exemption" applies to that portion of  
13 Susan's disposable earnings that "are not otherwise exempt from execution" up to  
14 \$10,000.<sup>26</sup> Seventy-five percent of Susan's earnings are absolutely exempt without  
15 qualification pursuant to NRS 21.090(1)(g).<sup>27</sup> The portion of Susan's earnings that are not  
16 exempt by NRS 21.090(1)(g), are absolutely exempt without qualification up to \$10,000.<sup>28</sup>

17 The Court finds that the application of the unambiguous wildcard exemption as  
18 claimed by Susan is consistent with the purposes of exemptions, and it does not render the  
19 earnings exemption superfluous or create an absurd result. Because it is undisputed that  
20 no ambiguity in the statutes in question exists, the Court does not delve into intent or policy  
21 of the Nevada Legislature.

22 \ \

23 \ \

24  
25 <sup>22</sup> NRS 10.045 (defining "personal property"); NRS 21.090 (1) (g) (2) (defining "earnings"); See also NRS 10.065; NRS  
26 10.075; NRS 28.050; NRS 28.080; NRS 28.070; NRS 17.500 (defining "money"); *U.S. v. Austin*, 462 F. 2d 724, 736  
(10th Cir. 1972) (defining "evidence of indebtedness"); and Black's Law Dictionary 1617 (9th ed. 2009) (defining "thing  
in action.")

27 <sup>23</sup> Cf. NRS 21.090(1)(g)(2); NRS 21.090(1)(z).

28 <sup>24</sup> *Id.*

<sup>25</sup> See NRS 21.090(1)(z); *Becker v. Becker*, 362 P.3d 641, 645 (2015).

<sup>26</sup> *Id.*

<sup>27</sup> NRS 21.090(1)(g).

<sup>28</sup> NRS 21.090(1)(z).

1 NOW THEREFORE, GOOD CAUSE APPEARING, the Court hereby ORDERS as follows:

2 1. That Seventy-Five percent (75%) of Susan Jackson's earnings are determined  
3 to be exempt pursuant to the NRS 21.090(1)(g) from levy and execution.

4 2. That the remaining Twenty-Five percent (25%) of Susan Jackson's earnings  
5 not otherwise exempt pursuant to NRS 21.090(1)(g) are determined to be exempt from  
6 levy and execution up to the total sum of \$10,000 pursuant to NRS 21.090(1)(z).

7 3. That the Carson City Sherriff is directed to deliver to Susan Jackson all exempt  
8 earnings it has received by the Garnishee State of Nevada, Office of the State Controller,  
9 101 N. Carson Street, Carson City, Nevada 89701-4786 (hereinafter "Garnishee"), where  
10 the Garnishee has not provided a calculation establishing that said leviable earnings are in  
11 in excess \$10,000.

12 4. That during the pendency of the garnishment (180 days from the date of the  
13 issuance of the Writ of Garnishment), at the time of each intervening pay period the  
14 Garnishee shall determine the total sum of Susan Jackson's leviable earnings, which shall  
15 constitute 25% of Susan Jackson's disposable earnings pursuant to NRS 21.090(1)(g), from  
16 the date of Issuance of the Writ of Garnishment to the present date.

17 5. That the Garnishee shall not provide to the Carson City Sheriff with the  
18 leviable earnings of Susan Jackson pursuant to NRS 21.090(1)(g), until the total sum of  
19 Susan Jackson's leviable earnings earned during the pendency of the garnishment exceeds  
20 \$10,000.

21 6. That once Susan Jackson's leviable earnings exceed \$10,000, the Garnishee  
22 shall provide the Carson City Sheriff evidence of its calculation of total leviable earnings and  
23 Susan Jackson's leviable earnings which are then in excess of the \$10,000.

24 Dated this 29<sup>th</sup> day of September, 2020.

25  
26 

27 THOMAS W. GREGORY  
28 DISTRICT JUDGE



**AFFIRMATION**

The undersigned hereby affirms pursuant to NRS 239B.03 that the foregoing does not contain the social security number of any person, or other personal information as defined by NRS 603A.040.

Submitted this 11<sup>th</sup> day of September, 2020

By: 

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