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TIMOTHY W. FITZGERALD
SPOKANE COUNTY CLERK

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Superior Court of Washington,
County of Spokane

TIMOTHY W. FITZGERALD
SPOKANE COUNTY CLERK

In re: Surina v Surina

Petitioner:

Sirinya Surina

v.

Respondent:

Aaron Surina

No. 17-3-01817-0

Motion for Judgement
against employer for non
compliance of an income
withholding order

RCW 26.18.110 (6)(a)
(MT)

Aaron Surina
PO BOX 30123
Spokane, WA 99223
ams@surina.org
707.200.4372

Date: August 2, 2023

Honorable Judge
WA State Superior Court for Spokane County
1116 W. Broadway Ave
Spokane, WA 99201

**RE: Motion for judgement payable to Petitioner for non compliance of
income withholding under RCW 26.18.110 approx. \$8,000.00 (2020 – 2022)**

Case 17-3-01817-0 [Spokane Co Superior Court]

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in re: Surina v. Surina

Case No. 17-3-01817-0

Aaron Surina ams@surina.org 707.200.4372

August 3, 2023

1
2 I, Aaron Surina, the Respondent in the above-captioned case, respectfully
3 submit this Motion for Recovery of arrears unjustly levied against me for two years of
4 my previous employer acting in a manner non compliant with the income withholding
5 order sent by WA DCS. This back support arrears is massive and as I maintain that I
6 was silently convicted of abandonment without ever denying any financial obligation
7 for my children yet I am living out the sentence of the prosecution that was had in
8 2017, 2019 and potentially shortly again.
9

10
11 Nobody and no system or process is setup for notifying or bring any of it to my
12 attention even with correspondence between employer and DCS – Never advised me
13 of any issue or problem and allowed 8,000 dollars to accrue while I was garnished
14 working for 1 company and thinking all of it was automated and support enforcement
15 was in charge of this. But that wasn't the case and this situation continued and it
16 continued without notice. The law states the employer is responsible for 100% of the
17 money owed to the petitioner.
18
19

20 I submit this Motion to Order **Judgment Payable to the Petitioner** for Non-
21 Compliance with the Income Withholding Order by my employer and to my employer.
22 If this is not a legal form to request the judgement, I make my request known to
23 opposing counsel to pursue this money as the petitioner has a right to it, they are
24 obligated by law to pay the back support and this should be pursued in whatever
25 legal manner counsel knows is necessary if this is not the manner to do that.
26
27

1 **Background and Relevant Facts:**

2 In this family law matter, the Petitioner is the custodial parent of our children,
3
4 and I am the Respondent. The court previously issued an Income Withholding Order,
5 as per RCW 26.18.110(6)(a), obligating my employer to withhold a specific amount
6 from my wages for child support payments and remit it to the wa state support
7 registry.

8
9 Regrettably, my employer has failed to comply with the Income Withholding
10 Order by not remitting the full amount as required by law. As a result of this non-
11 compliance, I have been unjustly deprived of my legal obligation to provide financial
12 support to the Petitioner and our children.
13

14 **Employer's Responsibility and Non-Compliance:**

15
16 RCW 26.18.110(6)(a) clearly outlines that the employer is 100% responsible to
17 the obligee (currently the Petitioner) for the money accrued but not withheld as stated
18 in the Income Withholding Order. My employer's non-compliance has resulted in the
19 accrual of arrears due to not withholding of funds that were intended to provide
20 support to the Petitioner and our children.
21
22

23 **Request for Judgment Payable to the Petitioner:**

24
25 In light of my employer's non-compliance with the Income Withholding Order
26 and their responsibility for the duty of the income withholding order which they
27 agreed to comply with and they failed with some withheld funds, I respectfully request

1 this Honorable Court to order judgment payable to the Petitioner for the amount not
2 remitted as required by law.

3
4 **Impact on Child Support Obligations:**

5 As a direct consequence of my employer's failure to comply with the Income
6 Withholding Order, I have been wrongfully deprived of the opportunity to fulfill my
7 child support obligations and provide necessary financial support to my children. This
8 has caused significant financial hardship and emotional distress for both the
9 Petitioner and myself. I have attached a copy of the RCW statute to this motion.
10

11 *SEE EXHIBIT A*
12

13
14 **Prayer for Relief:**

15
16 I, Aaron Surina, respectfully request the following relief from this Honorable
17 Court:

18
19 **A.** Order judgment on my employer to make the arrears immediately payable to
20 the Petitioner for the full amount that my employer failed to remit as required by the
21 Income Withholding Order, pursuant to RCW 26.18.110(6)(a). *EXHIBIT A*
22

23 **B.** Order my previous employer to comply with the Income Withholding Order
24 henceforth, ensuring timely and accurate remittance of child support payments to the
25 state support registry.
26

27 **C.** Any further relief that this Honorable Court deems just and equitable.

1 **Conclusion:**

2 I, Aaron Surina, sincerely hope that this Honorable Court will intervene to
3
4 address my employer's non-compliance and uphold the principles of justice and
5 fairness in this matter. Your prompt attention to this motion is genuinely appreciated.

6
7 DATED this 3rd day of August, 2023 and signed in Spokane County, Washington

8
9 
10 Aaron Surina

11
12 I swear under penalty of
13 perjury that the foregoing is
14 true and correct to the best
15 of my knowledge and belief.!!
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1
2 **CERTIFICATE OF SERVICE**
3

4 I certify that on August 3rd, 2023, a copy of this pleading of loss, and motion to
5 move the court was served on the counsel of the petitioner, by email.
6

7
8 Respectfully,

9
10 
11 _____

12 Aaron Surina

13 /s/ _____

14 Location: Spokane County, Washington
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in re: Surina v. Surina

Case No. 17-3-01817-0

Aaron Surina ams@surina.org 707.200.4372

August 3, 2023

RCW 26.18.110 Wage assignment order or income withholding order—Employer's answer, duties, and liability—Priorities. (1) An employer upon whom service of a wage assignment order or income withholding order has been made shall answer the order by sworn affidavit within twenty days after the date of service. The answer shall state whether the obligor is employed by or receives earnings or other remuneration from the employer, whether the employer will honor the wage assignment order or income withholding order, and whether there are either multiple child support or maintenance attachments, or both, against the obligor.

(2) If the employer possesses any earnings or remuneration due and owing to the obligor, the earnings subject to the wage assignment order or income withholding order shall be withheld immediately upon receipt of the wage assignment order or income withholding order. The withheld earnings shall be delivered to the Washington state support registry or, if the wage assignment order is to satisfy a duty of maintenance, to the addressee specified in the assignment within five working days of each regular pay interval.

(3) The employer shall continue to withhold the ordered amounts from nonexempt earnings or remuneration of the obligor until notified by:

(a) The court that the wage assignment has been modified or terminated; or

(b) In the case of an income withholding order, the Washington state support registry that the accrued child support or maintenance debt has been paid. The employer shall promptly notify the addressee specified in the assignment when the employee is no longer employed. If the employer no longer employs the employee, the wage assignment order shall remain in effect for one year after the employee has left the employment or the employer has been in possession of any earnings or remuneration owed to the employee, whichever is later. The employer shall continue to hold the wage assignment order during that period. If the employee returns to the employer's employment during the one-year period the employer shall immediately begin to withhold the employee's earnings or remuneration according to the terms of the wage assignment order. If the employee has not returned within one year, the wage assignment shall cease to have effect at the expiration of the one-year period, unless the employer continues to owe remuneration for employment to the obligor.

(4) The employer may deduct a processing fee from the remainder of the employee's earnings after withholding under the wage assignment order or income withholding order, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed (a) ten dollars for the first disbursement made by the employer to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the clerk.

(5) An income withholding order for support for a dependent child entered under this chapter shall have priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support, or order to withhold and deliver under chapter 74.20A RCW. An order for wage assignment for spousal maintenance entered under this chapter shall have priority over any other wage assignment or garnishment, except for a wage assignment, garnishment, or order to withhold and deliver under chapter 74.20A RCW for support of a dependent child, and except for another wage assignment or garnishment for maintenance.

EXHIBIT A

~~X~~ (6) An employer who fails to withhold earnings as required by a wage assignment order or income withholding order issued under this chapter may be held liable to the obligee for one hundred percent of the support or maintenance debt, or the amount of support or maintenance moneys that should have been withheld from the employee's earnings whichever is the lesser amount, if the employer:

~~→~~ (a) Fails or refuses, after being served with a wage assignment order or income withholding order, to deduct and promptly remit from the unpaid earnings the amounts of money required in the order;

(b) Fails or refuses to submit an answer to the notice of wage assignment or income withholding after being served; or

(c) Is unwilling to comply with the other requirements of this section.

→ Liability may be established in superior court. Awards in superior court shall include costs, interest under RCW 19.52.020 and 4.56.110, and reasonable attorneys' fees.

(7) No employer who complies with a wage assignment order or income withholding order issued under this chapter may be liable to the employee for wrongful withholding.

(8) No employer may discharge, discipline, or refuse to hire an employee because of the entry or service of a wage assignment or income withholding order issued and executed under this chapter. If an employer discharges, disciplines, or refuses to hire an employee in violation of this section, the employee or person shall have a cause of action against the employer. The employer shall be liable for double the amount of damages suffered as a result of the violation and for costs and reasonable attorneys' fees, and shall be subject to a civil penalty of not more than two thousand five hundred dollars for each violation. The employer may also be ordered to hire, rehire, or reinstate the aggrieved individual.

(9) For wage assignments or income withholding payable to the Washington state support registry, an employer may combine amounts withheld from various employees into a single payment to the Washington state support registry, if the payment includes a listing of the amounts attributable to each employee and other information as required by the registry.

(10) An employer shall deliver a copy of the wage assignment order or income withholding order to the obligor as soon as is reasonably possible. [2021 c 35 § 9; 2008 c 6 § 1034; 1998 c 77 § 2; 1994 c 230 § 5; 1993 c 426 § 9; 1991 c 367 § 21; 1989 c 416 § 11; 1987 c 435 § 21; 1984 c 260 § 11.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Severability—Effective date—Captions not law—1991 c 367: See notes following RCW 26.09.015.

Effective date—1987 c 435: See RCW 26.23.900.