

AMERICAN PAYROLL ASSOCIATION

February 7, 2018

Administrative Office of the Illinois Courts
c/o Secretary – Supreme Court Rules Committee
222 North LaSalle Street, 13th Floor
Chicago, IL 60601
Email: RulesCommittee@illinoiscourts.gov

Re: Request for Rule Amendment to Article I, Rule 9 Electronic Filing of Documents (Order M.R. 18368) as to Employer Filing Requirements Pursuant to Wage Deduction Orders

Dear Rules Committee:

The American Payroll Association (APA) respectfully requests a rule amendment in accordance with Article I, Rule 3 Rulemaking Procedures, to temporarily waive electronic document filing requirements under Rule 9 specifically associated with Affidavit for Wage Deduction Orders, such that employers may continue to respond on paper pending appropriate notice of electronic filing requirements, time to work with the eFileIL system developer, and clear instructions and guidance on system requirements. The eFileIL structure was designed envisioning legal documents filed by attorneys and pro se parties and not employer and payroll management systems.

Established in 1982, the APA is a nonprofit professional association serving the interests of more than 20,000 payroll professionals in the United States. APA members process wage garnishment information and associated payments for their employers on behalf of orders received for employees subject to Illinois courts.

While APA commends the court for advancing electronic communications, some adjustments to the process are necessary and will take time to implement. For many employers, processing of wage garnishment orders is managed systematically without manual processing.

For example, the data required to answer interrogatories are electronically collected and populated onto the state form for purposes of submission. Completed forms are then printed and mailed through the United States Postal Service to the courts and other

required recipients. To change this final process to electronic filing would require an interface system between employers' systems and the court's eFileIL system.

More specifically, APA brings to your attention the following difficulties with the Illinois courts' e-filing system:

- The Illinois Affidavit for Wage Deduction Order sent to employers does not reflect the Rule 9 e-filing requirements nor were employers managing existing orders given notice of the changed requirement. In fact, employers are receiving these garnishment orders on paper from the courts. For example, an employer following the instructions in the order is given the option to mail or fax a copy of the answers and will not recognize how to respond to changed court procedures. The employer may be confused as to whether deviating from the instructions is permitted when no further written information as applied to the order was provided.
- The interface systems necessary for employers to communicate with the court's eFileIL system may take 6 months to a year to develop, test, and implement.
- To implement eFileIL immediately will require a complex exception process with the potential for delays and inaccuracies. Essentially, this means that employer management systems will not recognize eFileIL and refuse to process the information or process the information inaccurately. Corrections may require employers to use manual internal procedures with substantial monetary and operational harm to employers' businesses.
- A review of the E-Filing User Guides and Guidelines shows that the system selected by the court requires a user account and password to log on and only allows one upload at a time, which must be entered manually. This is not conducive for employers, and especially not for large employers with a high volume of Illinois cases. For employers to process one response at a time is a costly administrative burden that is hard to justify because employers are innocent third parties in the wage garnishment enforcement process.
- The eFileIL system requires a credit card to register even if no fee is charged. Many employers do not provide credit cards or will not allow employer-provided credit cards to be used for this type of registration. Even when a corporate credit card is issued to a payroll manager, the card may not be acceptable in the court's eFileIL system, e.g., an American Express card.

- Registration requires an attorney or pro se designation. Payroll professionals and other employees managing wage garnishments for their employers will not have these designations. For example, for a wage deduction order, the payroll professional would enter “Other” under the box for “Party Type” and then enter “Pro Se” under the box for “Lead Attorney.” This process will not be clear to employer garnishment managers. Most refer to themselves as a “garnishee” and not a pro se party. In reviewing the instructions on the eFileIL site, there is no guidance regarding employers as garnishees.

Some Illinois courts already are rejecting employer wage deduction document filings because they were not transmitted electronically. Like the court, APA members prefer electronic processes. However, employers must be provided with appropriate notice, sufficient time to work with the court’s e-file developer, and clear instructions to make e-filing feasible.

APA appreciates your consideration of our request for an amendment to Rule 9 to temporarily allow paper filing associated with wage deduction orders pending system adjustments. We would be pleased to discuss this further with you.

Sincerely,



Corrinne Flores
Chair, Child Support and Other Garnishments Subcommittee
American Payroll Association
corrinne.flores@adp.com



Alice P. Jacobsohn, Esq.
Senior Manager, Government Relations
American Payroll Association
ajacobsohn@americanpayroll.org

Cc: Chief Justice Lloyd A. Karmeier
Clerk of the Supreme Court Carolyn Taft Grosboll