

IN THE SUPREME COURT OF ALABAMA  
May 6, 2015

ORDER

IT IS ORDERED that Rule 64B, Alabama Rules of Civil Procedure, be amended to read in accordance with Appendix A to this order;

IT IS FURTHER ORDERED that the Committee Comments to Amendment to Rule 64B Effective May 6, 2015, are adopted to read in accordance with Appendix B to this order;

IT IS FURTHER ORDERED the amendment and the adoption of the Committee Comments are effective immediately;

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 64B:

"Note from the reporter of decisions: The order amending Rule 64B, effective May 6, 2015, and adopting the Committee Comments to Amendment to Rule 64B Effective May 6, 2015, is published in that volume of Alabama Reporter that contains Alabama cases from \_\_\_ So. 3d."

Moore, C.J., and Stuart, Bolin, Parker, Murdock, Shaw, Main, Wise, and Bryan, JJ., concur.

I, Julia Jordan Weller, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 6<sup>th</sup> day of May, 2015

  
Clerk, Supreme Court of Alabama

## APPENDIX A

### Rule 64B. Contest of Claim of Exemption--Garnishment of Money, Choses in Action, or Personal Property

When money, choses in action, or personal property are garnished and the defendant claims the same, or any part thereof, as exempt, the defendant shall file a claim thereto in writing, verified by oath, in the court in which such proceedings are pending, accompanied by a statement setting forth the personal property, choses in action, and money and the location and value thereof as required in the statement to be filed under the provisions of § 6-10-29, Code of Alabama 1975. The plaintiff, in person or by agent or attorney, may contest such claim as in contest after declaration filed, and such contest shall be tried and determined as other contests of claims of exemption are tried and determined. If the plaintiff fails to make timely contest after notice of the defendant's claim of exemption, after fifteen (15) calendar days from the filing of such claim, the process of garnishment and any writ of garnishment issued therein shall be dismissed or, where appropriate, modified to the extent necessary to give effect to the claimed exemptions. If a timely contest of a claim of exemption is filed, the hearing to determine said contest must be initially scheduled within seven (7) calendar days (or on the next business day thereafter if the court is not open on the seventh day) after the contest is filed. If the defendant has notice of the garnishment, the claim of exemption must be interposed before judgment of condemnation, but, if not, such judgment shall not operate to impair or affect the defendant's claim of exemption.

(dc) District Court Rule. Rule 64B applies in the district courts.

APPENDIX B

Committee Comments to Amendment to Rule 64B  
Effective May 6, 2015

This amendment deletes what was the last sentence of Rule 64B, which read: "Notice of the garnishment must be in writing and may be given by the plaintiff or garnishee, but must be served by the sheriff contemporaneously with the service of process of garnishment on the garnishee." The requirement of service of notice of garnishment by the sheriff made it difficult to implement electronic filing of garnishments. The sentence was out of place in Rule 64B, which pertains to claiming exemptions, so its deletion does not leave a void. Service of notice of garnishment is covered elsewhere: When the defendant has not appeared, Rule 64A provides for service; when the defendant has appeared, Rule 5 provides for service.