

§3127-A. Order to 3rd parties to hold and answer

1. Order to hold and answer. Upon a disclosure hearing when it is shown that there is a reasonable likelihood that a 3rd party has possession or control of property in which the judgment debtor may have an interest or that the 3rd party may be indebted to the judgment debtor for other than earnings, the court, upon request of the judgment creditor, may approve the service on the 3rd party of an order to hold and answer. The order to hold and answer shall state the amount owed on the judgment debt and shall set forth the specific property of the judgment debtor alleged to be in the possession of the 3rd party, as well as any specific debt other than earnings, alleged to be owed to the judgment debtor. The order shall demand an answer under oath from the 3rd party listing all property in the possession of the 3rd party in which the judgment debtor has an interest and listing all debts, other than earnings, owed by the 3rd party to the judgment debtor, as of the date and time the order is served. The order to hold and answer shall state the consequences of the failure of the 3rd party to answer. An order to hold and answer shall be served on the 3rd party and the judgment debtor within 20 days of the date of the order. An answer form shall be supplied to the 3rd party with the order.
[PL 1987, c. 184, §10 (NEW).]

2. Answer. Within 20 days of service of the order, the 3rd party shall:

A. File with the court the answer required in the order; and [PL 1987, c. 184, §10 (NEW).]

B. Serve copies of the answer on the judgment debtor and the judgment creditor in the manner provided in the Maine Rules of Civil Procedure, Rule 5. [PL 1987, c. 184, §10 (NEW).]

[PL 1987, c. 184, §10 (NEW).]

3. Hold and answer. The 3rd party served with the order to hold and answer, upon receipt of the order, shall withhold and account for any property belonging to the judgment debtor and any debt due the judgment debtor, except earnings. Unless the judgment debtor or the judgment creditor requests a hearing within 20 days of the filing of the answer of the 3rd party, the property or debt listed shall be subject to any order permitted under section 3131 or 3132.

[PL 1987, c. 184, §10 (NEW).]

4. Hearing on motion. Within 20 days of the service of the answer of the 3rd party on the other parties, the judgment debtor or the judgment creditor may request by motion a hearing on the extent of the judgment debtor's interest in the property listed, the failure of the 3rd party to list property or money owed, the exempt status of property listed or any other issue concerning the judgment debtor's interest in property in the possession of the 3rd party. The motion shall be served on all parties. If after the hearing the court is satisfied as to the existence and extent of the nonexempt property of the debtor held by the 3rd party, or as to the existence and extent of any nonexempt money debt, other than earnings owed by the 3rd party to the judgment debtor, it shall make an order provided for under section 3131 or 3132.

[PL 1987, c. 184, §10 (NEW).]

5. Exception. This section does not apply to collection of amounts due on negotiable instruments or certificates of deposit unless the judgment creditor has previously obtained possession of the documents pursuant to section 3132 or otherwise.

[PL 1987, c. 184, §10 (NEW).]

6. Default. Failure of a 3rd party, duly served with an order to withhold and answer, to timely file an answer shall constitute a default as to questions of possession and ownership between the 3rd party and the judgment debtor of the specific property or debt set forth in the order. In addition, the 3rd party shall be subject to an order pursuant to section 3131 or 3132 and shall be subject to a contempt proceeding.

[PL 1987, c. 184, §10 (NEW).]

7. Enlargement of time limits. The time limits in this section may be enlarged as provided in the Maine Rules of Civil Procedure, Rule 6.
[PL 1987, c. 184, §10 (NEW).]

SECTION HISTORY

PL 1987, c. 184, §10 (NEW).

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