

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO
FLORIDA FAMILY LAW RULES
OF PROCEDURE-FORMS 12.995(a),
12.995(b), and 12.995(c)

CASE NO: SC08-2358

FLORIDA FAMILY LAW RULES COMMITTEE'S RESPONSE TO
COMMENTS OF DIANE M. MATOUSEK, CLERK OF THE CIRCUIT COURT
IN AND FOR VOLUSIA COUNTY, AND THE FLORIDA DEPARTMENT OF
REVENUE IN RESPONSE TO THE OUT-OF-CYCLE REPORT OF THE
FAMILY LAW RULES COMMITTEE

The Florida Family Law Rules Committee (Committee) respectfully submits this response to the comments of Diane M. Matousek, Clerk of the Circuit Court in and for Volusia County (Clerk) and the Florida Department of Revenue (DOR), in response to the out-of-cycle report of the Family Law Rules Committee. The Committee appreciates the time and effort both the Clerk and DOR put into their comments in response to the out-of-cycle report. A reply to each comment is separately delineated below. The response to comments has been approved by the full Committee by a vote of 27-0-0.

RESPONSE TO CLERK'S COMMENTS

The Clerk perceived that the form may lead one to conclude that a fee is not required with each payment of support pursuant to an income deduction order, and the Clerk suggested re-ordering the formatting within paragraph 2 of the Income

Deduction Order to avoid the perceived potential for confusion. The Committee appreciates the Clerk's concern and her Comment; however, upon examining the form, the Committee does not agree that the potential for confusion exists.

The Committee did, however, consider relocating the section of paragraph 2 addressing the mandatory fee, but concluded that 1) the Clerk's recommended placement (in the midst of support, arrearage, and attorneys' fees and costs terms) would be more confusing than the current format; and 2) placement elsewhere within the Income Deduction Order document would create more, not less, confusion.

The current proposed instructions, as well as the Florida Statutes, make it clear that a fee must accompany any payment made to the State Disbursement Unit. Additionally, the consensus of the Committee is that virtually all support court orders contain language mandating the particulars of how to pay the support and that the Clerk's fee must accompany each payment.

However, if this Court believes that the current format is confusing on this point, a simple cure would be to insert a "+" sign at the beginning of each line under paragraph 2, except for the last line ("Total") which should be preceded by an "=" sign. This change, along with the current proposed instructions and the Florida Statutes, would further reinforce that a fee must accompany each payment

made to the State Disbursement Unit. The Committee does not believe that oral argument is necessary to augment the Court's understanding of this matter.

RESPONSE TO DOR'S COMMENTS

DOR's comments fall into two categories, one relating to formatting and technical issues and the others a more substantive concern regarding whether the federal government can mandate the content and format of this state's proposed Income Deduction Order. Although the Committee rejects DOR's assertion that a uniform format is mandated by the federal government as further explained below, the Committee does accept the remainder of the technical changes proposed by DOR in its Comment with respect to both the Income Deduction Order and the Notice to Payor, with the exception of the insertion of the social security number on the Notice to Payor which is addressed below.¹ The changes are indicated by shading on the attached Income Deduction Order and Notice to Payor.

Recent amendments to Chapter 61, Florida Statutes, as well as this Court's own well-known concerns with privacy, mandate that the Obligor's social security number not be a matter of public record. The Committee agrees that it would be helpful to a payor to have the social security number of the Obligor and proposes

¹ DOR recommended, and the Committee accepts, changing the Instructions to Form 12.995a to clarify that use of the Income Deduction Order is restricted to non-Title IV-D cases and provide a definition of a non-Title IV-D case; correcting the reference to the website for electronic payment information; changing a reference to an amount to \$20,000 (from \$30,000) due to 2008 legislative changes; including remittance information provided in DOR's response on page 3 as it relates to both paragraphs 15 and 16 of the form; and deleting an invalid DOR webpage address. (See attached appendix for revised Income Deduction Order, Notice to Payor, and related instruction sheets.)

that it be included only on the copy of the Notice to Payor that is mailed to the Payor. The copy of the Notice to Payor filed with the Court should not include the social security number and therefore that line should be left blank. The Committee will accept this accommodation and modification of the instructions.

It is DOR's position that Florida is required to follow a uniform format prescribed by the federal government for withholding child support. That form combines an Income Deduction Order and Notice to Payor in one document. The Committee disagrees that adherence to the federal format is required.

The United States Supreme Court has repeatedly held that domestic relations law is reserved to the states. In 1890, the Supreme Court said, "the whole subject of the domestic relations of husband and wife, parent and child, belongs to the laws of the States, and not to the laws of the United States." *In re Burrus*, 136 U.S. 586, 593–594 (1890). Years later, the U.S Supreme Court again held the area of "family law and direct regulation of education" are matters for state rather than federal law. *United States v. Lopez*, 514 U.S. 549 (1995). Federal regulation cannot directly usurp states' authority "in areas of traditional governmental functions." *Hodel v. Virginia Surface Mining & Reclamation Assn.*, 452 U.S. 264, 288 (1981).

Under the Supremacy Clause of the United States Constitution, a federal law or rule of court preempts the state substantive right when the two conflict. See *Garan, Inc. v. M/V Aivik*, 907 F. Supp. 397, 400 (S.D. Fla. 1995). In the present

case, both the federal Welfare Reform Act and section 61.1301, Florida Statutes, relating to Income Deduction Orders, require a Notice to Employer and an Order. However, section 61.1301(1)(a)4., Florida Statutes states, in “non-Title IV-D cases, the income deduction notice must be accompanied by a copy of the support order upon which the notice is based.” By contrast, “[i]n Title IV-D cases, upon request of a payor, the Title IV-D agency shall furnish the payor a copy of the income deduction order.” Thus, at least facially, the Florida statute advocates the use of an order and a separate income deduction notice. This is what occurs in practice throughout the state. The federal form, on the other hand, combines both the Order and the Notice in one document. Despite this difference of semantics and practical application, there is no conflict on the face of the laws.

In absence of an express statement by Congress (express preemption), “implied” preemption could occur either when Congress intended that federal law occupy the field (field preemption) or when there is actual conflict between state and federal law such that compliance with both federal and state law is impossible, or state law stands as an obstacle to accomplishment and execution of the full purposes and objectives of Congress. *Hughes v. State*, 943 So. 2d 176 (Fla. 3d DCA 2006). There is a long-standing presumption against federal preemption of exercise of power of states. Thus, the party claiming preemption bears the burden of proof and must establish that Congress has clearly and unmistakably manifested

its intent to supersede state law. *Hernandez v. Coopervision, Inc.*, 661 So. 2d 33 (Fla. 2d DCA 1995). Under the Supremacy Clause, the state cannot assert jurisdiction where Congress clearly intended to preempt a field of law. However, Congress can preempt portions of a field of law without preempting a field of law in its entirety, thereby leaving states free to act when in so doing the state does not impede the objectives of Congress. Preemption thus does not preclude all relief, but merely limits relief available to the extent that Congress intended to preclude application of state law. *Jacobs Wind Electric Co. v. Dept. of Transportation*, 626 So. 2d 1333 (Fla. 1993).

For example, federal law provides that if the basis of the claim sued on is a federal substantive right, federal law may or may not preempt the limitations period provided by the Florida Probate Code. *See Witco Corp. v. Beekhuis*, 38 F. 3d 682 (3d Cir. 1994). While the federal right of receiving child support payments can be viewed as substantive, the form used to accomplish the income withholding is procedural, and does not conflict, at least facially, with the federal law. While several states use the federal income withholding order form exactly as it was proposed, several others have chosen to expand the federal form in individualized ways so as to address the intent to have uniformity but also to address the unique

needs of each individual state.² If the federal and state laws do not conflict, they can co-exist. For example, in the area of wages and working conditions, federal law establishes minimum wages and overtime rights for most workers in the private and public sectors. State and local laws may provide more expansive rights. Similarly, federal law provides minimum workplace safety standards, but allows the states to take over those responsibilities and to prove more stringent standards. Thus, the federal income withholding order in the present case can be viewed as setting forth a minimum standard or guidelines for states to follow. The forms proposed by the Committee contain those minimum standards or guidelines, but are also better crafted to encompass Florida's statutory scheme to implement income withholding.

There is a presumptive legitimacy to the Committee's proposed Income Deduction Order because the orders will be signed by judges. The Florida Income Deduction Order is more expansive than the format under the federal scheme because it encompasses more than just child support (*e.g.*, alimony, undifferentiated family support, attorneys' fees and costs) whereas the Welfare Reform Act is more limited in its scope (*e.g.*, child support and spousal support only when accompanied by a concurrent child support obligation).

² For example, both Iowa and Texas distinguish between an Order/Notice and a Notice only, which is more in line with Florida's statutory scheme.

While the Welfare Reform Act “requires the Secretary to promulgate uniform support forms,”³ an analysis by the National Conference of State Legislatures provides under the heading, “Other Effective Dates,” that the Secretary, after consulting with state IV-D directors, “must issue forms for states to use for collecting child support through income withholding, imposing liens, and issuing administrative subpoenas by Oct. 1, 1996; states must begin using the forms by March 1, 1997.”⁴ The Committee is not aware of the DOR ever fulfilling this goal in this state. In fact, the genesis for the creation of a uniform income withholding mechanism in this state arose from the various Florida Bar committees as a result of the practitioners’ recognition of the need for a uniform format, with the result being the work product this court accepted for comment. The internal letter, dated September 2, 2008, from the U.S. Department of Health and Human Services, Administration for Children and Families, which was part of DOR’s comment, underscores the fact that it was intended that the income withholding order was for child support only. Finally, the Committee deems it significant that these documents interpreting the language of the Welfare Reform Act as requiring the use of “uniform formats” are issued as policy briefs, and have not been determined by a court of law.

³ Pub. L. No. 104-193, §§341, 343 and 346; 42 U.S.C 652(g).

⁴ National Conference of State Legislatures, Analysis of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, p. 21. Retrieved from <http://www.ncsl.org/statefed/hr3734.htm>

The federal scheme confuses an order of the court with the instructional aspect of how to implement it by incorporating both into one document. However, the Committee's proposed forms are intended to effectuate Florida's three-step statutory scheme. The first step is entry of an underlying order establishing or modifying support. The second step is the entry of an Income Withholding Order titled under Florida's statutory scheme as an Income Deduction Order. The third and final step is the issuance of a Notice to Payor which accompanies the Income Deduction Order and explains to an employer, in very simple terms, how to effectuate income withholding to pay the support.

The use of a combined Income Deduction Order and Notice to Payor in one document as proposed by the federal government is not feasible in today's economic climate. Every time an Obligor changes employment, the Obligee would be required to come to court to obtain a new combined Income Deduction Order and Notice to Payor that is signed by a judge. This would further tax an already overburdened judiciary, clerk of court, and support staff. It would delay the effectuation of the income withholding because of the time necessary to obtain access to the court. The federal form may be much more difficult to navigate for the average pro se litigant. The forms proposed by the Committee along with the proposed instruction sheets are much more user friendly. Finally, Florida's

transient society, the downsizing of companies, and layoffs, will increase the demand for renewed income withholding from successor employers. By separating the Income Deduction Order from the Notice to Payor, the proposed Committee forms enable the Obligee to easily and quickly effectuate income withholding by attaching a copy of the existing Income Deduction Order to the new Notice to Payor. This should enable an Obligee to collect court-ordered support more expeditiously than under the federal scheme. Florida's statutory scheme is more responsive to the needs of its citizens by effectuating the collection and payment of court-ordered support in a timely fashion.

CONCLUSION

Admittedly, the language of the Welfare Reform Act refers to both "standardized" and "uniform" standards for implementing income withholding for the purposes of fulfilling child support obligations. However, what is more significant and dispositive of this issue is that the intent of the Welfare Reform Act is to secure immediate income withholding. This goal is the federally mandated *standard*, and not merely the form used to procure the income and effectuate that goal. The Committee's proposed forms do not place form over substance and instead meet the federally mandated standard and goal in a more efficient manner, while at the same time, meeting Florida's goal of support enforcement on a broader

scale in non-Title IV-D cases to encompass not only child support, but also alimony, undifferentiated support, and attorney's fees and costs as contemplated by Chapter 61, Florida Statutes.

Because domestic relations law has traditionally been the domain of the states, the federal standardized income withholding form can and should be viewed by this Court as a template only. The Committee's proposed forms satisfy the federal template. Under the doctrine of preemption, each state is a separate sovereign with its own state constitution and state government. As such, Florida retains plenary powers to make laws covering anything not preempted by the Federal Constitution, federal statutes, or international treaties ratified by the United States Senate. While Florida is required to adhere to the minimum federal standards for interstate cases, it is empowered to enact by its own methods forms to effect implementation of the federal standard for income withholding in intrastate, and non-Title IV-D cases. The Committee urges this Court to approve the forms and instructions it proposed with the friendly amendments accepted herein for use in non-Title IV-D cases.

On March 26, 2009, this Court issued its opinion in Case Number SC08-2058, creating, in part, *Fla. Sup. Ct. App. Fam. L. Forms* 12.995(a) and (b).

Accordingly, the proposed forms in this case have been renumbered as *Forms* 12.996(a), (b), and (c). Corrected forms are attached.

Respectfully submitted _____.

ROBYN L. VINES
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CERTIFICATE OF SERVICE

I certify that a copy of this response was provided by U.S. Mail on

_____ to:

Laura E. Roth
Attorney for Diane M. Matousek
Volusia County Courthouse
101 N. Alabama Avenue
DeLand, FL 32724

Joan K. Koch
Chief Counsel, Florida Dept. of Revenue
Child Support Enforcement Program
P. O. Box 8020
Tallahassee, FL 32314-8030

INSTRUCTIONS FOR FLORIDA FAMILY LAW RULES OF PROCEDURE FORM

12.9956(a)

INCOME DEDUCTION ORDER

When should this form be used?

This form should be used **in non-Title IV-D cases** when the court has ordered that support be paid by the **obligor's payor** through an income deduction order.

This form includes several blanks that must be filled in as applicable. The obligor is the person who is obligated to pay the support ordered by the court and the **obligee** is the person entitled to receive the support awarded by the court.

In Paragraph 1, one of the three lines must be checked off. The court order that establishes the support award and/or the settlement or mediation agreement entered into between the parties should state the effective date of the **Income Deduction Order**. The appropriate effective date should be checked off in Paragraph 1.

The blank lines in Paragraph 2 should be completed tracking the same terms of support as are in the court order that establishes the support award and/or the settlement or mediation agreement. The first blank in each line should state the amount of the support payment and the second blank in each line should state the time period that covers said support award. For example, if the child support is \$100 per month the first blank would say \$ "100" and the second blank in that line would say "month". Similarly, if the payments are to be payable weekly, then the second blank would say "week". If there are any arrearages owed at the time the **Income Deduction Order** is entered, they must be included in the line for arrears, along with the amount and frequency of the payments due for the arrears, which shall be no less than 20% of the current support obligation. If the payments are to be payable through the State Disbursement Unit, the actual dollar amount of the service fee for the support awarded in your case (4% of each payment not to exceed \$5.25 per payment) should be included on the appropriate line.

Paragraph 6 must be completed to show what percentage, if any, of a one time payment made to the obligor should be applied to any arrearage in support that may be due to the obligee.

What should I do next?

For this order to be effective, it must be signed by the **judge**. This form should be typed or printed in black ink. After completing this form, you must first send a copy to the other **party** or his or her **attorney**, if he or she is represented by an attorney, for approval or objection to the form before you send it to the judge assigned to your case. If the opposing party or his or her attorney, if represented, approves the form order, you may send the original proposed order and two copies to the judge assigned to your case with a letter telling the judge that you have first sent a copy of this proposed order to the opposing counsel or party, if unrepresented, and that they have no objection to the judge signing this order. If the other party or his or her attorney, if represented, has an objection to the proposed order as completed by you, you must tell the judge that you have sent a copy of this proposed order to the opposing party or his or her counsel, if represented, and that they specifically object to the entry of the proposed form **Income Deduction Order**. You must also send stamped self-addressed envelopes to the judge addressed to you and the opposing party or his or her attorney, if represented. You should keep a copy for your own records. If the judge signs the **Income Deduction Order**, the judge will mail you and the opposing party (or his or her attorney) copies of the signed order in the envelopes you provide

to the court.

Where can I look for more information?

Before proceeding, you should read “General Information for Self-Represented Litigants” found at the beginning of these forms. The words that are in “bold underline” in these instructions are defined there. For further information see section 61.1301, Florida Statutes.

Special Instructions...

When the **Income Deduction Order** becomes effective (either immediately or delayed until arrearage), you must then also send a copy of the **Income Deduction Order** to the obligor’s employer along with a **Notice to Payor**, Florida Family Law Rules of Procedure Form 12.9956(b), for the **Income Deduction Order** to take effect.

It is your responsibility to determine what extra steps and/or forms, if any, must be taken, supplied, and/or filed to insure the **Income Deduction Order** is implemented.

Remember, a person who is NOT an attorney is called a nonlawyer. If a nonlawyer helps you fill out these forms, that person must give you a copy of a **Disclosure from Nonlawyer**, Florida Family Law Rules of Procedure Form 12.900(a), before he or she helps you. A nonlawyer helping you fill out these forms also **must** put his or her name, address, and telephone number on the bottom of the last page of every form he or she helps you complete.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____

Division: _____

Petitioner,

and

Respondent.

INCOME DEDUCTION ORDER (Non-Title IV-D Case)

TO: ANY PRESENT OR SUBSEQUENT EMPLOYERS/PAYORS OF OBLIGOR

{name}

YOU ARE HEREBY ORDERED to make regular deductions from all income due and payable to the above-named Obligor in accordance with the terms of this order as follows:

1. This Income Deduction Order shall be effective

[one only]

_____ immediately.

_____ upon a delinquency in the amount of \$ _____ but not to exceed one month's payment, pursuant to the order establishing, enforcing, or modifying the obligation.

_____ beginning {date} _____.

2. You shall deduct:

\$ _____ per _____ for child support

\$ _____ per _____ for permanent alimony

\$ _____ per _____ for rehabilitative alimony

\$ _____ per _____ for _____ arrears totaling \$ _____

The deduction for arrears shall be no less than 20% of the current support obligation. After the full amount of any arrears is paid, you shall deduct for attorneys' fees and costs owed until the full amount is paid.

\$ _____ per _____ for attorneys' fees and costs totaling \$ _____

\$ _____ per _____ for State of Florida Disbursement Unit fee
(4% of each payment not to exceed \$5.25 per payment)

\$ _____ Total amount of income to be deducted each pay period

3. You shall pay the deducted amount to the "State of Florida Disbursement Unit", and mail it to the State of Florida Disbursement Unit, P.O. Box 8500, Tallahassee, FL 32314-8500, (tel.) (877) 769-0251.

Florida Family Law Rules of Procedure Form 12.9956(a), Income Deduction Order (-/-/09)

All payments must include the obligor's name (last, middle, first), obligor's social security number, obligee's name (last, middle, first), name of county where court order originated, and case number. All payments must be made by check, money order, cashier's check, certified check, or through the Internet with access provided by the State of Florida Department of Revenue www.floridasdu.com. No credit will be given for any payments made directly to the Obligee without a court order permitting direct payments.

4. If a delinquency accrues after the order establishing, modifying, or enforcing the obligation has been entered and there is no order for repayment of the delinquency or a preexisting arrearage, a payor shall deduct an additional 20 percent of the current support obligation or other amount agreed to by the parties until the delinquency and any attorneys' fees and costs are paid in full. No deduction may be applied to attorneys' fees and costs until the delinquency is paid in full.

5. You shall not deduct in excess of the amounts allowed under the Consumer Credit Protection Act, 15 U.S.C. §1673(b), as amended.

6. You shall deduct (one only) () the full amount, () _____%, or () none of the income which is payable to the obligor in the form of a bonus or other similar one-time payment, up to the amount of arrearage reported in the Income Deduction Order or the remaining balance thereof, and forward the payment to the State of Florida Disbursement Unit. For purposes of this subparagraph, "bonus" means a payment in addition to an obligor's usual compensation and which is in addition to any amounts contracted for or otherwise legally due and shall not include any commission payments due an obligor.

7. This Income Deduction Order shall remain in effect so long as the underlying order of support is effective or until further order of the court.

STATEMENT OF OBLIGOR'S RIGHTS, REMEDIES, AND DUTIES

8. The obligor is required to pay all amounts and fees specified within this Income Deduction Order.

9. The amounts deducted may not be in excess of that allowed under the Consumer Credit Protection Act, 15 U.S.C. §1673(b) as amended.

10. This income deduction order applies to all of the obligor's current and subsequent payors and periods of employment.

11. A copy of the Income Deduction Order will be served upon the obligor's payor or payors.

12. Enforcement of the Income Deduction Order may only be contested on the ground of mistake of fact regarding the amount owed pursuant to the order establishing, enforcing, or modifying the obligation, the arrearages, or the identity of the obligor, the payor, or the obligee.

13. The obligor is required to notify the obligee and, when the obligee is receiving IV-D services, the IV-D agency, within 7 days of any changes in the obligor's address, payors, and the addresses of the obligor's payors.

14. In a Title IV-D case, if an obligation to pay current support is reduced or terminated due to emancipation of a child and the Obligor owes an arrearage, retroactive support, delinquency, or costs, income deduction continues at the rate in effect immediately prior to emancipation until all arrearages,

retroactive support, delinquencies, and costs are paid in full or until the amount of withholding is modified.

ORDERED on _____.

CIRCUIT JUDGE

COPIES TO:

Obligee

Obligor

Other: _____

INSTRUCTIONS FOR FLORIDA FAMILY LAW RULES OF PROCEDURE
FORM 12.9956(b), NOTICE TO PAYOR

When should this form be used?

This form should be used for when an **Income Deduction Order** has been entered by the Court which is to take effect immediately.

This form should be typed or printed in black ink. After completing this form, the original of this form should be **filed** with the **clerk of the circuit court** in the county in which the action is pending. You should keep a copy for your own records.

What should I do next?

A copy of this form, and a copy of the Income Deduction Order, must be sent to the **obligor's** payor by certified mail, return receipt requested. The return receipt should be sent to the person that prepared this form so that it can be filed with the clerk along with Florida Family Law Rules of Procedure Form 12.9956(c), **Notice of Filing Return Receipt**.

A copy of this form must also be mailed or hand delivered to the other party or his or her attorney.

Where can I look for more information?

Before proceeding, you should read “General Information for Self-Represented Litigants” found at the beginning of these forms. The words that are in “**bold underline**” in these instructions are defined there. See section 61.1301, Florida Statutes.

Special Instructions...

The Obligor's social security number must be written on the copy of the Notice to Payor that is mailed to the Obligor's Payor. The social security number should not be written on the copy of the Notice to Payor filed with the court.

Remember, a person who is NOT an attorney is called a nonlawyer. If a nonlawyer helps you fill out these forms, that person must give you a copy of a **Disclosure from Nonlawyer**, Florida Family Law Rules of Procedure Form 12.900(a), before he or she helps you. A nonlawyer helping you fill out these forms also **must** put his or her name, address, and telephone number on the bottom of the last page of every form he or she helps you complete.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____

Division: _____

Petitioner,

and

Respondent.

NOTICE TO PAYOR

TO:

Name of Obligor's Payor: _____

Payor's Address: _____

RE: Obligor _____ Obligee _____

Name: _____

Address: _____

Obligor's social security number: _____

NOTE: The Obligor's social security number should be placed on the copy of the Notice to Payor that is mailed to the Obligor's Payor. This line should be left blank on the original Notice to Payor filed with the court.

YOU, THE PAYOR, ARE HEREBY NOTIFIED that, under section 61.1301, Florida Statutes, you have the responsibilities and rights set forth below with regard to the accompanying Income Deduction Order and/or any attachment(s):

1. You are required to deduct from the obligor's income the amount specified in the income deduction order, and in the case of a delinquency the amount specified in the notice of delinquency, and to pay that amount to the obligee or the depository, as appropriate. The amount actually deducted plus all administrative charges shall not be excess of the amount allowed under **s. 303(b) of the** Consumer Credit Protection Act, 15 U.S.C. §1673(b), as amended.

2. You must implement income deduction no later than the first payment date which occurs more than 14 days after the date the income deduction order was served on you, and you shall conform the amount specified in the income deduction order or, in Title IV-D cases, income deduction notice to the obligor's pay cycle. The court should request at the time of the order that the payment cycle will reflect that of the obligor.

3. You must forward, within 2 days after each date the obligor is entitled to payment from you, to the obligee or to the depository, the amount deducted from the obligor's income, a statement as to whether the amount totally or partially satisfies the periodic amount specified in the income deduction order, or in Title IV-D cases, income deduction notice, and the specific date each deduction is made. If

the IV-D agency is enforcing the order, you shall make these notifications to the agency instead of the obligee.

4. If you fail to deduct the proper amount from the obligor's income, you are liable for the amount you should have deducted, plus costs, interest, and reasonable attorneys' fees.

5. You may collect up to \$5 against the obligor's income to reimburse you for administrative costs for the first income deduction and up to \$2 for each deduction thereafter.

6. The notice to payor, or, in Title IV-D cases, income deduction notice, and in the case of a delinquency, the notice of delinquency, are binding on you until further notice by the obligee, IV-D agency, or the court or until you no longer provide income to the obligor.

7. When you no longer provide income to the obligor, you shall notify the obligee and provide the obligor's last known address and the name and address of the obligor's new payor, if known. If you violate this provision, you are subject to a civil penalty not to exceed \$250 for the first violation or \$500 for any subsequent violation. If the IV-D agency is enforcing the order, you shall make these notifications to the agency instead of the obligee. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction order.

8. You shall not discharge, refuse to employ, or take disciplinary action against an obligor because of the requirement for income deduction. A violation of this provision subjects you to a civil penalty not to exceed \$250 for the first violation or \$500 for any subsequent violation. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction, if any alimony or child support obligation is owing. If no alimony or child support obligation is owing, the penalty shall be paid to the obligor.

9. The obligor may bring a civil action in the courts of this state against a payor who refuses to employ, discharges, or otherwise disciplines an obligor because of income deduction. The obligor is entitled to reinstatement of all wages and benefits lost, plus reasonable attorneys' fees and costs incurred.

10. The requirement for income deduction has priority over all other legal processes under state law pertaining to the same income and that payment, as required by the notice to payor or the income deduction notice, is a complete defense by the payor against any claims of the obligor or his or her creditors as to the sum paid.

11. When you receive notices to payor or income deduction notices requiring that the income of two or more obligors be deducted and sent to the same depository, the payor may combine the amounts that are to be paid to the depository in a single payment as long as the payments attributable to each obligor are clearly identified.

12. If you receive more than one notice to payor or income deduction notice against the same obligor, the payor shall contact the court or, in Title IV-D cases, the Title IV-D agency for further instructions.

13. In a Title IV-D case, if an obligation to pay current support is reduced or terminated due to the emancipation of a child and the obligor owes an arrearage, retroactive support, delinquency, or costs, income deduction continues at the rate in effect immediately prior to emancipation until all arrearages, retroactive support, delinquencies, and costs are paid in full or until the amount of withholding is modified.

14. All notices to the obligee shall be sent to the address provided in this notice to payor, or anyplace thereafter the obligee requests in writing.

15. An employer who employed 10 or more employees in any quarter during the preceding state fiscal year or who was subject to and paid tax to the Department of Revenue in an amount of \$30,000 \$20,000 or more shall remit support payments deducted pursuant to an income deduction order or income deduction notice and provide associated case data to the State Disbursement Unit by electronic means approved by the department. Payors who are required to remit support payments electronically can find more information on how to do so by accessing the State Disbursement Unit's website at www.floridasdu.com and clicking on "Payments." Payment options include Expert Pay, Automated Clearing House (ACH) credit through your financial institution, www.myfloridacounty.com, or Western Union. Payors may contact the SDU Customer Service Employer telephone line at 1-888-833-0743.

16. Additional information regarding the implementation of this Notice to Payor may be found at <http://dor.myflorida.com/dor/childsupport/telephone.html> www.floridasdu.com.

I certify that a copy of this document was [one only] () mailed () faxed and mailed () hand delivered to the person(s) listed below on {date} _____.

Other party or his/her attorney:

Name: _____
Address: _____
City, State, Zip: _____
Fax Number: _____

Signature of Party or his/her attorney
Printed Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____

IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE BLANKS BELOW: [fill in all blanks]

I, {full legal name and trade name of nonlawyer} _____, a nonlawyer, located at {street} _____, {city} _____, {state} _____, {phone} _____, helped {name} _____ who is the [one only] _____ Petitioner or _____ Respondent, fill out this form.

INSTRUCTIONS FOR FLORIDA FAMILY LAW RULES OF PROCEDURE FORM 12.9956(c)
NOTICE OF FILING RETURN RECEIPT

When should this form be used?

This form should be used when an **Income Deduction Order**, Florida Family Law Rules of Procedure Form 12.9956(a), is entered by the court and a **Notice to Payor**, Florida Family Law Rules of Procedure Form 12.9956(b), has been sent by certified mail to the **obligor's payor**. When the post office returns the return receipt to you showing that the obligor's payor has received the **Notice to Payor**, you should type or print this form in black ink. After completing this form, you should sign it and attach the return receipt you received from the post office. The original of this form (and the attached return receipt) should be **filed** with the **clerk of the circuit court** in the county in which the action is pending. You should keep a copy for your own records.

What should I do next?

A copy of this form must be mailed or hand delivered to the other party or his or her attorney.

Where can I look for more information?

Before proceeding, you should read "General Information for Self-Represented Litigants" found at the beginning of these forms. The words that are in "**bold underline**" in these instructions are defined there. For further information, see section 61.1301, Florida Statutes.

Special notes...

Remember, a person who is NOT an attorney is called a nonlawyer. If a nonlawyer helps you fill out these forms, that person must give you a copy of a **Disclosure from Nonlawyer**, Florida Family Law Rules of Procedure Form 12.900(a), before he or she helps you. A nonlawyer helping you fill out these forms also **must** put his or her name, address, and telephone number on the bottom of the last page of every form he or she helps you complete.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____
Division: _____

Petitioner,

and

Respondent.

NOTICE OF FILING RETURN RECEIPT

{Name} _____, the [one only] () Petitioner () Respondent, files the attached Return Receipt in reference to the Notice to Payor sent by certified mail to *{Payor's name}* _____, the [one only] () Petitioner's () Respondent's employer.

I certify that a true copy of this Notice of Filing was: () mailed, () faxed and mailed or () hand delivered to the person(s) listed below on *{date}* _____.

Other party or his/her attorney:

Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____

Signature of Petitioner/Respondent
Printed Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____

IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE BLANKS BELOW: [fill in all blanks]

I, *{full legal name and trade name of nonlawyer}* _____, a nonlawyer, located at *{street}* _____, *{city}* _____, *{state}* _____, *{phone}* _____, helped *{name}* _____ who is the [one only] _____ Petitioner or _____ Respondent, fill out this form.