

1 MICHAEL COSENTINO State Bar No. 83253
 Attorney at Law
 2 P.O. Box 129
 Alameda, CA 94501
 3
 Telephone: (510) 523-4702
 4 Facsimile: (510) 747-1640
 5 Attorney for Plaintiff
 United States of America
 6

7 IN THE UNITED STATES DISTRICT COURT
 8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 9 SAN FRANCISCO DIVISION

| | | |
|--|---|---|
| 10 UNITED STATES OF AMERICA, |) | Case No. CV05-80160 MISC |
| 11 Plaintiff, |) | |
| 12 v. |) | |
| 13 Michael M. Nguyen aka Michael Nguyen) |) | WRIT OF CONTINUING GARNISHMENT |
| 14 aka Minh T. Nguyen, |) | |
| 15 and |) | |
| 16 Avis Budget Group, |) | |
| 17 Garnishee. |) | |

18
 19 TO: Payroll Department
 Avis Budget Group
 20 6 Sylvan Way
 Parsippany, NJ 07054
 21

22 YOU ARE HEREBY COMMANDED TO GARNISH FOR THE BENEFIT OF
 23 THE UNITED STATES OF AMERICA THE WAGES, SALARY, OR COMMISSION IN
 24 YOUR CUSTODY, CONTROL, OR POSSESSION IN WHICH THE DEFENDANT-
 25 JUDGMENT DEBTOR HAS AN OWNERSHIP INTEREST.

26 The name and last known address of the person who is the defendant-
 27 judgment debtor (hereinafter "debtor") in this action and whose property is subject to
 28 this Writ are as follows:

1 Michael M. Nguyen aka Michael Nguyen aka Minh T. Nguyen
2 1589 Diel Drive
3 Milpitas, CA 95035

4 This Writ has been issued at the request of the United States of America to
5 enforce the collection of a civil judgment entered in favor of the United States against
6 the debtor for a defaulted student loan in the amount of \$45,702.98. There is a
7 balance of \$75,371.75 due on the judgment, which amount includes costs and interest
8 computed through 08/16/2013.

9 The following are the steps that you must take to comply with this Writ. If you
10 have any questions, you should consult with your attorney.

11 1. Pursuant to 28 U.S.C. § 3205(c)(2)(F), if you have in your custody, control,
12 or possession any property of the debtor, including wages, salary, or commissions, in
13 which the debtor has a substantial nonexempt interest, or if you obtain custody,
14 control, or possession of such property while this Writ is in effect, you must
15 immediately withhold such property from the debtor and retain it in your possession
16 until you receive instructions from the Court which will tell you what to do with the
17 property. The United States has requested that the sum of 25% of the debtor's
18 disposable earnings, which under California law represents the nonexempt portion of
19 the debtor's earnings, be withheld from the defendant's earnings.

20 2. Pursuant to 28 U.S.C. § 3205(c)(2)(E), you are required to answer this Writ
21 within 10 days after service of this Writ upon you. You must answer the Writ even if
22 you do not have in your custody, control, or possession any property of the debtor.
23 Pursuant to 28 U.S.C. § 3205(c)(4), your answer must state, under oath, the following
24 information:

- 25 a. Whether or not you have in your custody, control, or possession, any
26 property owned by the debtor in which the debtor has a substantial
27 nonexempt interest, including nonexempt, disposable earnings;
28 b. a description of such property and the value of such property;

- 1 c. a description of any previous garnishments to which such property is
2 subject and the extent to which any remaining property is not exempt;
3 and
4 d. the amount of the funds you anticipate owing to the debtor in the future
5 and whether the period for payment will be weekly or another specified
6 period.

7 For your convenience, a form which addresses the above-requested information is
8 attached and may be used to Answer the Writ.

9 3. After you complete the answer under oath, pursuant to 28 U.S.C. §
10 3205(c)(2)(E) & (c)(4), within ten (10) days after service of this Writ upon you, you
11 must mail or deliver the original Answer bearing the original signature of the person
12 preparing the answer to the Court at the following address:

13 Civil Clerk, United States District Court
14 450 Golden Gate Avenue, 16th Floor
San Francisco, CA 94102

15 At the same time that you mail or deliver the original answer to the Court, you must
16 also mail or deliver a copy of the original Answer to both the debtor and attorney for
17 the United States at the following respective addresses:

18 Michael M. Nguyen aka Michael Nguyen aka Minh T. Nguyen
19 1589 Diel Drive
Milpitas, CA 95035

20 Michael Cosentino, Attorney at Law
21 P.O. Box 129
Alameda, CA 94501

22 Please note that the attached form Answer contains a certificate of service which
23 needs to be completed by the person mailing the copies of the answer to the debtor
24 and the attorney for the United States, and which needs to be filed along with the
25 Answer.

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1 IF YOU FAIL TO ANSWER THIS WRIT OR FAIL TO WITHHOLD PROPERTY IN
2 ACCORDANCE WITH THIS WRIT, THE UNITED STATES MAY PETITION THE
3 COURT FOR AN ORDER REQUIRING YOU TO APPEAR BEFORE THE COURT TO
4 ANSWER THE WRIT AND TO WITHHOLD PROPERTY IN ACCORDANCE WITH
5 THE WRIT BEFORE THE APPEARANCE DATE. IF YOU FAIL TO APPEAR OR DO
6 APPEAR AND FAIL TO SHOW GOOD CAUSE WHY YOU FAILED TO COMPLY
7 WITH THIS WRIT, THE COURT WILL ENTER A JUDGMENT AGAINST YOU FOR
8 THE VALUE OF THE DEBTOR'S NONEXEMPT INTEREST IN SUCH PROPERTY
9 (INCLUDING NONEXEMPT DISPOSABLE EARNINGS). THE COURT MAY ALSO
10 AWARD A REASONABLE ATTORNEY'S FEE TO THE UNITED STATES AND
11 AGAINST YOU IF THE WRIT IS NOT ANSWERED WITHIN THE TIME SPECIFIED
12 HEREIN AND IF THE UNITED STATES FILES A PETITION REQUIRING YOU TO
13 APPEAR.

14 RICHARD W. WIEKING, Clerk
15 United States District Court
16 for the Northern District of California

17 Dated: 8/23/2013

By: 
Deputy Clerk
MARK ROMYN

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1 DO NOT WITHHOLD THE EXEMPT PORTION OF THE EMPLOYEE'S EARNINGS

2 1. Earnings include any money (whether called wages, salary, commissions,
 3 bonuses, or anything else) paid for personal services, pension, or retirement.
 4 Vacation or sick pay is earnings subject to withholding as it is *received* by the
 5 employee.

6 2. Disposable earnings are different from gross pay or take-home pay. They
 7 are the earnings left after deducting the part which state or federal law requires an
 8 employer to withhold as mandatory deductions. Generally, these mandatory
 9 deductions are federal income tax, social security (FICA) tax, state income tax, state
 10 disability insurance, and payments to public employee retirement systems.
 11 Disposable earnings can change from pay period to pay period, whenever gross pay
 12 or required deductions change.

13 To determine earnings that¹ are eligible for withholding, and therefore must be
 14 withheld, see the chart below.

15 USE THE CHART BELOW TO DETERMINE NONEXEMPT DISPOSABLE
 16 EARNINGS AND THE APPLICABLE WITHHOLDING AMOUNT¹ :

| 17 | 18 | 19 | 20 | 21 |
|-------------|---|----------------------|----------------------|------------------------|
| Pay Period: | Weekly or oftener | Every 2 weeks | Twice a month | Once a month |
| 22 | Disposable earnings: \$ 0 to \$217.50 | \$ 0 to \$435.00 | \$ 0 to \$471.25 | \$ 0 to \$942.50 |
| 23 | Withhold: Nothing (entire earnings are exempt) | | | |
| 24 | Disposable earnings: \$217.51 to \$290.00 | \$435.01 to \$580.00 | \$471.26 to \$628.33 | \$942.51 to \$1,256.67 |
| 25 | Withhold: Amt. over \$217.50 | Amt. over \$435.00 | Amt. over \$471.25 | Amt. over \$942.50 |
| 26 | Disposable earnings: \$290.01 or more | \$580.01 or more | \$628.34 or more | \$1,256.68 or more |
| 27 | Withhold: 25% of disposable earnings (balance is exempt) | | | |

28 ¹Based on the Federal Minimum Wage Earnings of \$7.25 an hour, effective 07/24/2009

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

| | | |
|---------------------------------------|---|----------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | Case No. CV05-80160 MISC |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| Michael M. Nguyen aka Michael Nguyen) |) | |
| aka Minh T. Nguyen, |) | |
| |) | |
| Defendant, |) | |
| |) | |
| and |) | |
| |) | |
| Avis Budget Group, |) | ANSWER OF GARNISHEE |
| |) | |
| Garnishee. |) | |
| _____ |) | |

I, _____, being first duly sworn, hereby state the following:

1. I am the _____ (Official Title) of the Garnishee named in the above caption. I am authorized to prepare this Answer on behalf of the Garnishee.

2. The Garnishee was served with the Writ of Continuing Garnishment on _____ (date) in this action.

3. The Garnishee currently has custody, control, or possession of earnings of the Defendant. Yes ___ No ___

1 4. The Garnishee expects to obtain custody, control, or possession of earnings
2 of the Defendant in the foreseeable future. Yes ___ No ___

3 5. For the pay period in effect on the date of service of this Writ of Continuing
4 Garnishment, the Garnishee states as follows:

5 a. Defendant was in my/our employ. Yes ___ No ___

6 b. The Defendant's pay period is ___ weekly, ___ bi-weekly,
7 ___ semi-monthly, ___ monthly.

8 c. The Defendant's present pay period began on _____ (date).
9 ("Present" means the pay period in which the Writ of Continuing
Garnishment was served.)

10 d. The Defendant's present pay period ends on _____ (date).

11 e. The Defendant's net wages are as calculated below:

12 (1) Gross Pay \$ _____

13 (2) Federal income tax \$ _____

14 (3) F.I.C.A. tax \$ _____

15 (4) State income tax \$ _____

16 (5) SDI \$ _____

17 Total tax withholdings \$ _____

18 Net Wages \$ _____
19 (gross pay minus above withheld taxes)

20 6. Are there any other garnishments currently in effect? Yes ___ No ___

21 If the answers is yes, describe below and attach to this Answer a copy of each
22 garnishment:
23 _____
24 _____
25 _____

26 7. Will the Garnishee owe the Defendant money in the foreseeable future?

27 Yes ___ No ___ If the answer is yes, provide the reason why such money will be
28

1 owed, the amount of money that will be owed, and the date or dates on which each
 2 payment will be due:

| 3 4 <u>Type of Payment</u> | <u>Amount</u> | <u>Date Payment Will be Due</u> |
|-------------------------------|---------------|---------------------------------|
| 5 1. _____ | _____ | _____ |
| 6 2. _____ | _____ | _____ |
| 7 3. _____ | _____ | _____ |

8 8. Does the Garnishee currently have custody, control or possession of property
 9 (other than earnings) such as bank accounts, pensions, thrift plans, etc., in which the
 10 Defendant maintains an interest? Yes___ No___ If the answer is yes, then
 11 provide the following information for each item of such property:

| 12 13 <u>Description of Property</u> | <u>Approximate Value</u> | <u>Description of Defendant's Interest</u> |
|---|--------------------------|--|
| 14 1. _____ | _____ | _____ |
| 15 2. _____ | _____ | _____ |
| 16 3. _____ | _____ | _____ |
| 17 4. _____ | _____ | _____ |

18 9. Does the Garnishee expect to obtain in the foreseeable future custody,
 19 control or possession of property (other than earnings) such as bank accounts,
 20 pensions, thrift plans, etc., in which the Defendant maintains an interest? Yes___
 21 No___ If the answer is yes, then provide the following information for each item of
 22 such property:

| 23 24 <u>Description of Property</u> | <u>Approximate Value</u> | <u>Description of Defendant's Interest</u> | <u>Date Will Obtain Property</u> |
|---|--------------------------|--|----------------------------------|
| 25 1. _____ | _____ | _____ | _____ |
| 26 2. _____ | _____ | _____ | _____ |
| 27 3. _____ | _____ | _____ | _____ |
| 28 4. _____ | _____ | _____ | _____ |

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10. Does the Garnishee have any objections or defenses to the Writ of Continuing Garnishment? Yes ___ No ___ If the answer is yes, list the nature and basis of each objection and/or defense:

On behalf of Avis Budget Group, I hereby certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: _____

By: _____

(Sign above and type or print name below)

CERTIFICATE OF SERVICE

I, _____, declare:

That I am a citizen of the United States and employed in the County of

_____, California; that my business address is

_____ ; that I am

over the age of eighteen years; and that I am not a party to the above-entitled action;

That on _____ (date), I deposited in the United States mail, in envelopes bearing the requisite postage, a copy of:

ANSWER OF GARNISHEE

addressed to each of the following, at their last known addresses, at which place there is service by United States mail.

Michael M. Nguyen aka Michael Nguyen aka Minh T. Nguyen
1589 Diel Drive
Milpitas, CA 95035

Michael Cosentino
Attorney at Law
P.O. Box 129
Alameda, CA 94501

This Certificate was executed on _____ (date),
at _____ (city), California.

I certify under penalty of perjury that the foregoing is true and correct.

(sign above and type or print name below)

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