

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

KEMPER MORTGAGE, INC.,

Plaintiff,

:

Case No. 3:06-cv-0042

-vs-

Magistrate Judge Michael R. Merz

:

JEFFREY RUSSELL,

Defendant.

**DECISION AND ORDER DENYING WITHOUT PREJUDICE PLAINTIFF'S MOTION
FOR WRIT OF GARNISHMENT**

This case is before the Court on Plaintiff's Motion for Garnishment of Wages (Doc. No. 109).

The Court notes the following formal deficiencies with the Plaintiff's filing:

1. Rather than preparing the Court Order and Notice of Garnishment in the form required for orders of this Court (See S. D. Ohio Civ. R. 5.1¹), the document appears to have been copied from a form book. The same is true to a lesser extent of the attached Notice of Court Proceeding to Collect Debt, Payment to Avoid Garnishment, and Reports of the Garnishee.
2. Counsel submitting orders for court signature are required to provide the Court the document in WordPerfect or Word format so that the Court does not have to re-type a document before signing it if the Court decides to make changes. See Electronic Filing Policies and Procedures Manual § E(2)(d).
3. Fed. R. Civ. P. 64 specifically provides that parties to federal litigation have available to them the same remedies for seizure of property as are available under the law of the forum State.

¹While the Court has not yet adopted a rule specifying a minimum size for typeface, the size used in several of these documents argues that the day for such a rule may have arrived.

This does not mean, however, that the remedies will be implemented in the same way as in the state courts. Plaintiff's papers appear to contemplate service of the Court Order and Notice of Garnishment by "the bailiff or sheriff." This Court has no bailiff and the Sheriff of Montgomery County does not serve process issuing from this Court. Service of civil process by the United States Marshal is limited to process from the federal government and that issued on behalf of indigent litigants. See 28 U.S.C. § 1915. Consequently, some other method of service must be provided for by Plaintiff.

4. Finally, Plaintiff has not tendered the fee of one dollar as the garnishee's fee required by Ohio Rev. Code § 2716.12.

The Motion is DENIED without prejudice to its renewal upon correction of these deficiencies.

July 10, 2010.

s/ **Michael R. Merz**
United States Magistrate Judge