



### GARNISHMENTS

Employers should pay careful attention when they are served with garnishment papers. Failure to respond properly may result in the employer being personally liable for the entire judgment the creditor holds against the employee. Under Louisiana law, an employer must (1) begin withholding pursuant to the garnishment papers **immediately** upon service of the garnishment, and (2) file answers to the garnishment interrogatories **within 15 days of service** of the garnishment papers. The employer's obligation to withhold under the garnishment attaches upon service of the garnishment papers and it continues until the garnishment is released. Obviously, if the person whose wages are sought to be garnished is not employed, or no longer employed, the employer cannot withhold anything. However, the employer still must file answers to garnishment interrogatories within 15 days of being served with the garnishment interrogatories.

If an employee whose wages are being garnished leaves his position with the employer, the garnishment ends. However, if he/she returns to work for that employer within 180 days, the employer must reinstate the garnishment. As a practical matter,

then, the employer should flag its records regarding any employee who had a garnishment in place at the time of his/her separation so that if that separated employee returns within 180 days, the employer can immediately begin withholding under the garnishment.

Under Louisiana law, an employer is prohibited from terminating an employee merely because of a single garnishment. However, the law allows an employer to terminate an employee if the employee's earnings are subjected to three or more garnishments for unrelated debts in a two-year period. Nonetheless, no garnishment resulting from an accident or illness causing a person to miss ten or more consecutive days at work can be considered for these purposes.



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# AMERICANS WITH DISABILITIES ACT DOES NOT APPLY TO FOREIGN-FLAGGED CRUISE SHIPS

In a case of first impression in the Federal Fifth Circuit Court of Appeal, the Court has held that Title III of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12182, *et seq.*, does not apply to foreign-flagged cruise ships. In *Spector v. Norwegian Cruise Line, Ltd.*, 2004 WL 49707, (5<sup>th</sup> Cir.), January 12, 2004, plaintiffs alleged that physical barriers on defendant's cruise ships denied them access to emergency evacuation equipment; facilities such as public restrooms, restaurants, swimming pools, and elevators; and cabins with a balcony or a window. Plaintiffs further alleged they were charged a premium for use of handicapped-accessible cabins and assistance of crew members. The alleged acts of discrimination occurred on cruise ships sailing from Houston, Texas to various foreign ports of call. Defendant's ships were sailing under the Bahamian flag.

The Court recognized that "a ship voluntarily entering the territorial limits of another country subjects itself to the laws and jurisdiction of that country." *Benz v. Compania Naviera Hildalgo, S.A.*, 353 U.S. 138, 142 (1957). The exercise of such jurisdiction, however, is discretionary rather than mandatory. To apply domestic law to foreign vessels entering United States waters, there must be the affirmative intention of Congress clearly expressed.

Applying this legal precept, the Court recognized the potential applicability of Title III of the ADA (42 U.S.C. § 12182(a) and § 12184(a)) to the dispute, but noted that Congress had failed to specifically address extraterritorial implications and conflicts with international law in the statutes. Without clearly expressed legislative intent, application of the ADA to foreign-flagged cruise ships presented conflicts with foreign laws and procedures and an impermissible intrusion touching on Bahamian sovereignty.

The Court noted that "when it desires to do so, Congress knows how to place the high seas within the jurisdictional reach of a statute." Finding such clear intent lacking in Title III of the ADA, the Court held application of Title III to foreign-flagged cruise ships is impermissible.



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