

GARNISHMENT UPDATE: BREAKING NEWS!

In our recent GARNISHMENT UPDATE, which was circulated on March 30, 2010, we discussed the issues related to garnishments on joint accounts in light of the case of *Enright v. Lehman*. On April 22, 2010, the Minnesota Supreme Court issued a decision in the case of *Savig v. First National Bank of Omaha, et al.*, which clarified the unresolved issues caused by the *Enright* decision.

In *Savig*, the Minnesota Supreme Court held as follows:

1. A judgment creditor may serve a garnishment on a garnishee attaching funds in a joint account even though not all of the account holders are judgment debtors;
2. The burden of establishing contributions to a joint account is placed on the account holders; and
3. The judgment debtor is initially presumed to own all of the funds in the joint account, subject to the account holders' rebuttal by establishing the account holders' respective contributions to the joint account.

If the account holders fail to properly rebut the presumption that all of the funds in the joint account are owned by the judgment debtor, all of the funds are subject to the garnishment. In summation, banks no longer need be concerned with special procedures when served with a garnishment seeking to attach funds in joint accounts.