

**IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT  
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

NEXTGEAR CAPITAL, INC.,

CASE NO.: 2023-016287-CA-01

Plaintiff,

vs.

EMANUEL CARS INC. and EMANUEL  
ABRAMOV,

Defendants.

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**NOTICE OF APPEAL**

NOTICE IS HEREBY GIVEN that EMANUEL ABRAMOV, Defendant/Appellant, appeals to the Fourth District Court of Appeal this Trial Court's Order on Defendant, Emanuel Abramov's Claim of Exemption and Request for Hearing, and Directing Garnishee to Turn Over Funds as rendered on February 14, 2024 and attached hereto as *Exhibit "A."*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via the Florida Courts E-Filing Portal on February 19, 2024 upon: Eric B. Zwiebel, Esq., counsel for Plaintiff, at Emanuel and Zwiebel, PLLC, 7900 Peters Road, Building B, Suite 100, Plantation, FL 33324, [eservice@emzwlaw.com](mailto:eservice@emzwlaw.com), [eric.zwiebel@emzwlaw.com](mailto:eric.zwiebel@emzwlaw.com).

**ZEIG LAW FIRM, PLLC**  
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By: /s/ Justin Zeig  
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STATE OF FLORIDA, COUNTY OF MIAMI-DADE  
I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE  
ORIGINAL ON FILE IN THIS OFFICE 2-20 AD 2024  
JUAN FERNANDEZ-BARQUIN, Clerk of the Court and Comptroller, Miami-Dade County  
Deputy Clerk [Signature]  
e208836



# **EXHIBIT "A"**

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL  
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2023-016287-CA-01

SECTION: CA24

JUDGE: Antonio Arzola

**NextGear Capital Inc**

Plaintiff(s)

vs.

**Abramov, Emanuel**

Defendant(s)

**ORDER ON DEFENDANT, EMANUEL ABRAMOV'S, CLAIM OF EXEMPTION AND  
REQUEST FOR HEARING, AND DIRECTING GARNISHEE TO TURN OVER FUNDS**

Docket Index Number: 19

THIS CAUSE having come before the Court on January 31, 2024, at 11:00 A.M., upon an evidentiary hearing on Defendant, EMANUEL ABRAMOV's, Claim of Exemption And Request For Hearing ("Claim of Exemption"); the Plaintiff, the Defendant, EMANUEL ABRAMOV ("Defendant"), and the Interested Party, Rut Abramov, having appeared by and through their Counsel of record; the Court having heard argument of counsel, having reviewed the file, and being otherwise fully advised in the premises, finds that

1. The only arguments raised in Defendant's, EMANUEL ABRAMOV, Claim of Exemption filed in this matter on July 12, 2023 ("Claim of Exemption"), were that the funds being held are Social Security benefits and that the remaining funds belong to his wife.
2. There is no indication in the said Claim of Exemption that Defendant raised the argument that the subject funds were protected as Tenancy by the Entireties.
3. Florida law holds that garnishment proceedings are statutory in nature and require strict adherence to the provisions of the garnishment statute. *Zivitz v. Zivitz*, 16 So. 3d 841 (Fla. 2<sup>nd</sup>

DCA 2009).

4. Accordingly, the Court finds that the Defendant waived the argument that the subject funds were held as Tenancy by the Entireties.
5. The Court further finds that the party seeking the exemption from garnishment has the burden of proving entitlement to the exemption. *Kane v. Stewart Tightman & Bianchi P.A.*, 197 So. 3d 137 (Fla. 4<sup>th</sup> DCA 2016).
6. The Court further finds that the Defendant failed to meet his burden to convince the Court that the \$16,750.00 (caused by the deposit of this amount on May 3, 2023 in account ending in 1964) belongs specifically to the Defendant's wife. The \$16,750.00 check (shown to the Court by Defendant) was made payable to both the Defendant, EMANUEL ABRAMOV, and his wife, Rut Abramov, and the Court finds no corroboration that the funds belonged solely to Defendant's wife, despite testimony by Defendant's wife.
7. The Court awards the Plaintiff the garnished funds in the amount of \$3,376.01, which was derived by reducing the amount of the legal order on the account ending in 1964, \$8,114.70, by the Interested Party, Rut Abramov's, wages in the amount of \$1,362.68, with the new total of \$6,752.02, which the Court divided in half.

Accordingly, it is

ORDERED AND ADJUDGED that the Plaintiff is entitled to the garnished funds being held in the account ending in 1964, in the amount of \$3,376.01, and Plaintiff is awarded this amount accordingly; it is further

ORDERED AN ADJUDGED that Garnishee, WELLS FARGO BANK, N.A., shall turn over to Plaintiff's attorneys, the funds in the amount of **\$3,376.01**, held pursuant to the Writ of Garnishment, from the account in the names of Emanuel Abramov and Rut Abramov, having an account number ending in 1964, made payable to EMANUEL & ZWIEBEL, PLLC, Trust Account,

and mail to 7900 Peters Road, Building B, Suite 100, Plantation, Florida 33324, within **ten (10)** days from the date of this Order; it is further

ORDERED AND ADJUDGED that, once said \$3,376.01 is delivered to the Plaintiff by the Garnishee, the remaining funds being held pursuant to the Writ of Garnishment shall be released.

**DONE** and **ORDERED** in Chambers at Miami-Dade County, Florida on this 14th day of February, 2024.



2023-016287-CA-01 02-14-2024 11:32 AM

Hon. Antonio Arzola

**CIRCUIT COURT JUDGE**

Electronically Signed

No Further Judicial Action Required on **THIS MOTION**

CLERK TO **RECLOSE** CASE IF POST JUDGMENT

**Electronically Served:**

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**Physically Served:**