

UNITED STATES DISTRICT COURT
[INSERT] DISTRICT OF ALABAMA
[INSERT] DIVISION

[INSERT],	)	
	)	
Plaintiff,	)	
	)	Case No. [Insert]
vs.	)	
	)	
[INSERT]	)	
	)	
Defendant.	)	

MOTION FOR CHARGING ORDER

Pursuant to Rule 69(a) of the Federal Rules of Civil Procedure and Ala. Code § 10A-5A-5.03, [Insert] (the "**Plaintiff**") moves for an order charging the membership interest of [Insert] (the "**Defendant**"), in the limited liability companies set out below with payment of the unsatisfied amount of the Plaintiff's judgment against the Defendant. In support of its motion, the Plaintiff states as follows:

Judgment

1. On [insert], the Court entered a \$[insert] judgment (the "**Judgment**") in favor of the Plaintiff and against the Defendant.
2. The Judgment has not been paid or satisfied. It remains owing by the Defendant and post-judgment interest has accrued on the Judgment through [insert] in the amount of \$[insert], for a total of \$[insert].

Membership Interest in Limited Liability Companies

3. The Defendant has a membership interest in the following Alabama limited liability companies (the "**LLCs**"):
 - a. [insert LLC name and address]
 - b. [insert LLC name and address]

Statutory Authority for Charging Order

4. Federal Rule of Civil Procedure 69(a)(1) provides that a "money judgment is enforced by a writ of execution, unless the court directs otherwise. The procedure on execution--and in proceedings supplementary to and in aid of judgment or execution--must accord with the procedure of the state where the court is located, but a federal statute governs to the extent it applies." The Court's subject-matter jurisdiction over this action is based on diversity under 28 U.S.C. § 1332. "[F]ederal common law determines the scope of judgments rendered by federal courts sitting in diversity. Under federal common law, an enforcing court should apply the law of the state courts in the state where the rendering federal court sits, unless the state's law conflicts with federal interests." *See Palmer & Cay, Inc. v. Marsh & McLennan Companies, Inc.*, 404 F.3d 1297, 1310 (11th Cir. 2005) (citing *Semtek Int'l Inc. v. Lockheed Martin Corp.*, 531 U.S. 497, 509 (2000)).

5. Under the Alabama Limited Liability Company Law, "[o]n application to a court of competent jurisdiction by any judgment creditor of a member or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged and after the limited liability company has been served with the charging order, the judgment creditor has only the right to receive any distribution or distributions to which the judgment debtor would otherwise be entitled in respect of the transferable interest. *See* Ala. Code § 10A-5A-5.03(a). Section 10A-5A-5.03(a) "provides the exclusive remedy by which a judgment creditor of a member or transferee may satisfy a judgment out of the judgment debtor's transferable interest and the judgment creditor shall have no right to foreclose, under this chapter or any other law, upon the charging order, the charging order lien, or the judgment debtor's transferable interest. *See* Ala. Code § 10A-5A-5.03(f).

Request for Relief

6. The Plaintiff requests that the Court enter an order charging the membership interest of the Defendant in the LLCs with the unsatisfied amount of the Judgment, which is \$[insert], plus post-judgment interest through [insert] in the amount of \$[insert], for a total of \$[insert].

WHEREFORE, the Plaintiff, [insert], requests that the Court enter an order charging the membership interest of the Defendant, [insert], in the LLCs in the amount of \$[insert]. A proposed order is attached hereto as **Exhibit "A."**

Respectfully submitted,

/s/ [insert] _____
[insert]
Attorney for [insert]

[insert firm name and contact information]

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the above and foregoing upon the parties listed below via the means indicated for each, on this the ___ day of [insert].

Via CM/ECF Notice:

[insert]

Via U.S. Mail:

[insert]

/s/ [insert] _____
[insert]

Exhibit "A"

Proposed Order

UNITED STATES DISTRICT COURT
[INSERT] DISTRICT OF ALABAMA
[INSERT] DIVISION

[INSERT],	)	
	)	
Plaintiff,	)	
	)	Case No. [Insert]
vs.	)	
	)	
[INSERT]	)	
	)	
Defendant.	)	

ORDER GRANTING MOTION FOR CHARGING ORDER

[Insert] (the "**Plaintiff**") filed a Motion for Charging Order (the "**Motion**") in this Court on the ____ day of [insert]. In its Motion, the Plaintiff requests that the Court enter an order pursuant to Rule 69(a) of the Federal Rules of Civil Procedure and Ala. Code § 10A-5A-5.03(a) charging the membership interest of [Insert] (the "**Defendant**"), in the following Alabama limited liability companies (hereinafter, the "**LLCs**") with the payment of the Plaintiff's \$[insert] judgment (the "**Judgment**"), plus post-judgment interest on the Judgment through [insert] in the amount of \$[insert], for a total of \$[insert]:

- a. [insert LLC name and address]
- b. [insert LLC name and address]

The Court finds that the Motion is due to be granted; therefore, **IT IS ORDERED** that the Motion for Charging Order filed by the Plaintiff is **GRANTED** and the membership interest of Defendant in the LLCs is **CHARGED** with payment of the unsatisfied amount of the Judgment, which is \$[insert], plus post-judgment interest through [insert] in the amount of \$[insert], for a total of \$[insert].

The Plaintiff is **DIRECTED** to serve a copy of this order on each of the above listed LLCs. Each of the LLCs is **ORDERED** to remit to the Plaintiff, c/o [insert name and address of Plaintiff's attorney] any and all monetary or non-monetary distributions, dividends, bonuses, income, monies, or payments of any kind and other items that the Defendant may now or ever become entitled to receive pursuant to [his/her] membership interests in any of the LLCs.

DATED: _____

HONORABLE [INSERT]
U.S. DISTRICT COURT JUDGE

This order prepared by:

[Insert name, address, and contact information of Plaintiff's attorney]

IN THE CIRCUIT COURT OF [INSERT] COUNTY, ALABAMA

[INSERT],	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CV-[insert]
	)	
[INSERT]	)	
	)	
Defendant.	)	

MOTION FOR CHARGING ORDER

Pursuant to Ala. Code § 10A-5A-5.03, [insert] (the "**Plaintiff**"), moves for an order charging the membership interest of [insert] (the "**Defendant**") in the Alabama limited liability companies set out below with payment of the unsatisfied amount of the Plaintiff's judgment against the Defendant. In support of its motion, the Plaintiff states as follows:

Judgment

1. On [insert], the Court enter a judgment (the "**Judgment**") in favor of the Plaintiff and against the Defendant in the amount of \$[insert].
2. The Judgment has not been paid or satisfied. It remains owing by the Defendant and post-judgment interest has accrued on the Judgment through [insert] in the amount of \$[insert], for a total of \$[insert].

Membership Interest in Limited Liability Companies

3. The Defendant has a membership interest in the following Alabama limited liability companies (the "**LLCs**"):
 - a. [insert LLC name and address]
 - b. [insert LLC name and address]

Statutory Authority for Charging Order

4. Under the Alabama Limited Liability Company Law, "[o]n application to a court of competent jurisdiction by any judgment creditor of a member or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged and after the limited liability company has been served with the charging order, the judgment creditor has only the right to receive any distribution or distributions to which the judgment debtor would otherwise be entitled in respect of the transferable interest. See Ala. Code § 10A-5A-5.03(a). Section 10A-5A-5.03(a) "provides the exclusive remedy by which a judgment creditor of a member or transferee may satisfy a judgment out of the judgment debtor's transferable interest and the judgment creditor shall have no right to foreclose, under this chapter or any other law, upon the charging order, the charging order lien, or the judgment debtor's transferable interest. See Ala. Code § 10A-5A-5.03(f).

Request for Relief

5. The Plaintiff requests that the Court enter an order charging the membership interest of the Defendant in the LLCs with the unsatisfied amount of the Judgment, which is \$[insert], plus post-judgment interest through [insert] in the amount of \$[insert], for a total of \$[insert].

WHEREFORE, the Plaintiff, [insert], requests that the Court enter an order charging the membership interest of the Defendant, [insert], in the LLCs in the amount of \$[insert]. A proposed order is attached hereto as **Exhibit "A."**

Respectfully submitted,

/s/ [insert]
[insert]
Attorney for [insert]

[insert firm name and contact information]

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the above and foregoing upon the parties listed below via the means indicated for each, on this the _ day of [insert].

Via Alacourt Electronic Notice:

[insert]

Via U.S. Mail:

[insert]

/s/ [insert] _____
[insert]

Exhibit "A"

Proposed Order

IN THE CIRCUIT COURT OF [INSERT] COUNTY, ALABAMA

[INSERT],	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CV-[insert]
	)	
[INSERT]	)	
	)	
Defendant.	)	

ORDER GRANTING MOTION FOR CHARGING ORDER

[Insert] (the "**Plaintiff**"), filed a Motion for Charging Order (the "**Motion**") in this Court on the ____ day of [insert]. In its Motion, the Plaintiff requests that the Court enter an order pursuant to Ala. Code § 10A-5A-5.03(a) charging the membership interest of [insert] (the "**Defendant**") in the following Alabama limited liability companies (hereinafter, the "**LLCs**") with the payment of the Plaintiff's \$[insert] judgment (the "**Judgment**"), plus post-judgment interest on the Judgment through [insert] in the amount of \$[insert], for a total of \$[insert]:

- a. [insert LLC name and address]
- b. [insert LLC name and address]

The Court finds that the Motion is due to be granted; therefore, **IT IS ORDERED** that the Motion for Charging Order filed by the Plaintiff is **GRANTED** and the membership interest of Defendant in the LLCs is **CHARGED** with payment of the unsatisfied amount of the Judgment, which is \$[insert], plus post-judgment interest through [insert] in the amount of \$[insert], for a total of \$[insert].

The Plaintiff is **DIRECTED** to serve a copy of this order on each of the above listed LLCs. Each of the LLCs is **ORDERED** to remit to the Plaintiff, c/o [insert name and address of Plaintiff's

attorney] any and all monetary or non-monetary distributions, dividends, bonuses, income, monies, or payments of any kind and other items that the Defendant may now or ever become entitled to receive pursuant to [his/her] membership interests in any of the LLCs.

DATED: _____

CIRCUIT COURT JUDGE

This order prepared by:

[Insert name, address, and contact information of Plaintiff's attorney]