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Paperwork for Filing a Garnishment on Personal Earnings and Wages

The following forms are included in this packet:

- Notice of Court Proceedings to Collect Debt with Certificate of Mailing Attached
- Affidavit of the Judgment Creditor as it Relates to the Current Balance Due on Garnishment Order
- Affidavit, Order and Notice of Garnishment and Answer of Garnishment for Personal Earnings
- Notice to Judgment Debtor
- Request for Hearing
- Instructions for Service
- Interim Report and Answer of Garnishee
- Final Report and Answer of Garnishee
- Employers Guide to Processing Continuous Orders of Garnishment

NOTICE OF COURT PROCEEDINGS TO COLLECT DEBT

Date of Mailing or Date of Service by the Court _____

TO: _____
Name of Judgment Debtor

Last Known Residence Address of Judgment Debtor

You owe the undersigned _____
Name of Judgment Creditor

\$ _____

Including interest and court costs, for which a judgment was obtained against you or certified in the _____ Court on _____, payment of which is hereby demanded.

If you do not do one of the three things listed below within fifteen days of the date of the mailing of this notice or if its service by the Court, we will go to Court, unless we are otherwise precluded by law from doing so, and ask that your employer be ordered to withhold money from your earnings until the judgment is paid in full or if applicable is paid to a certain extent and to pay the withheld money to the Court in satisfaction of your debt. This is called garnishment of personal earning. It is to your advantage to avoid garnishment of personal earnings because the placing of the extra burden on your employer possible could cause you to lose your job.

YOU CAN AVOID THE GARNISHMENT BY DOING ONE OF THESE THREE THINGS WITHIN THE FIFTEEN-DAY PERIOD:

- (1) Pay to us the amount due;
- (2) Complete the attached form entitled "Payment to Avoid Garnishment" and return it to us with the payment, if any, shown due on it; or
- (3) Apply to your local municipal or county court or, if you are not a resident of Ohio to the municipal or county court in whose jurisdiction your place of employment is located, for the appointment of a trustee to receive the part of your earnings that is not exempt from garnishment and notify us that you have applied for the appointment of a trustee. You will be required to list your creditors, the amount of their claims, and the amounts due on their claims, and the amount you then will pay to your trustee each payday will be divided among them until the debts are paid off. This can be to your advantage because in the meantime none of those creditors can garnish your wages.

You also may contact a budget and debt counseling service described in division (D) of Section 2716.03 of the Ohio Revised Code for the purpose of entering into an agreement of debt scheduling. There may not be enough time to set up an agreement for debt scheduling in order to avoid a garnishment of your wages based upon this demand for payment, but entering into such an agreement for debt scheduling might protect you from future garnishment of your wages. Under an agreement for debt scheduling you will have to regularly pay a portion of your income to the service until the debts subject to the agreement are paid off. This portion of your income will be paid by the service to your creditors who are owed debts subject to the agreement. This can be to your advantage because these creditors cannot garnish your wages while you make your payments to the service on time.

Address of Judgment Creditor

Name of Judgment Creditor

(Cut Along Dotted Line)

PAYMENT TO AVOID GARNISHMENT

TO: _____
(Name of Judgment Creditor)

(Address of Judgment Creditor)

To avoid the garnishment of personal earnings of which you have given me notice, I enclose \$ _____

To apply toward my indebtedness to you. The amount of the payment was computed as follows:

- 1. Total amount of indebtedness demanded: (1) \$ _____
- 2. Enter the amount of your personal earnings after deductions required by law, earned by you During the current pay period, (that is, the pay period in which this demand is received by you) (2) \$ _____
- 3. (A) enter your pay period (weekly, bi-weekly, semi-monthly, monthly): (3) \$ _____
(B) Enter the date when your present pay period ends _____.
- 4. Enter an amount equal to 25% of the amount on line 2: (4) \$ _____
- 5. (A) the current federal minimum hourly wage is \$ _____ (to be filled in by the judgment creditor).
You should use the above figure to complete this portion of the form. If you are paid weekly, enter thirty times the current federal minimum hourly wage; if paid bi-weekly, enter sixty times the current federal minimum hourly wage; if paid semi-monthly, enter sixty-five times the current federal minimum hourly wage; if paid Monthly, enter one hundred thirty times the current federal minimum hourly wage: (5A) \$ _____
(B) Enter the amount by which the amount on line 2 exceeds the amount on line 5(A): (5B) \$ _____
- 6. Enter the smallest of the amounts on lines 1, 4, or 5(B). Send this amount to the judgment creditor along With this form after you have signed it: (6) \$ _____

I certify that the statements contained above are true to the best of my knowledge and belief.

(Print Name and Residence Address of Judgment Debtor)

(Signature of Judgment Debtor)

(To verify that the amount shown on line (2) is a true statement of your earnings, you must either have your employer certify below that the amount shown on line (2) is a true statement of your earnings or you may submit copies of your pay stubs for the two pay periods immediately prior to your receiving this notice.)

I certify that the amount shown on line (2) is a true statement of the judgment debtor's earnings
(Print name of Employer) (Signature of Employer or Agent)

I certify that I have attached copies of my pay stubs for the two pay periods immediately prior to my receiving this notice.

**IN THE COURT OF COMMON PLEAS
GEAUGA COUNTY, OHIO**

Judgment Creditor(s)

AGAINST

Case No. _____
(This number must be used on all references)

Judgment Debtor(s)

AFFIDAVIT OF THE JUDGMENT CREDITOR

AS IT RELATES TO THE CURRENT BALANCE DUE ON GARNISHMENT ORDER

THE ORIGINAL JUDGMENT AMOUNT \$ _____

ACCRUED INTEREST TO DATE \$ _____

COURT COST ASSESSED TO DATE \$ _____

AMOUNT PAID BY THE JUDGMENT DEBTOR TO THE JUDGMENT CREDITOR FOR THIS

JUDGMENT TO DATE \$ _____

CURRENT BALANCE DUE \$ _____

DATE OF THIS AFFIDAVIT _____

STATE OF OHIO, DELAWARE COUNTY, SS:

The undersigned being first duly cautioned and sworn, or affirmed, according to law says that I am the attorney/judgment creditor and that the information provided herein is an accurate representation of the status of the judgment owed by this debtor to this creditor for this judgment as of the date indicated above, and that I have served a copy of this affidavit, "Notice to the Judgment Debtor" and "Request For Hearing" upon the debtor in accordance with the provisions of O.R.C. Section 2716.031 as evidenced by the attached certificate of service.

ATTORNEY OR CREDITOR'S NAME (Print or Type)

ATTORNEY REGISTRATION NO.

AFFIANTS SIGNATURE

SWORN TO AND SUBSCRIBED BY ME ON THIS DAY ____ OF _____, 20__

NOTARY PUBLIC

*****ATTACH THE CREDITOR'S CERTIFICATE OF SERVICE TO THIS AFFIDAVIT*****

AFFIDAVIT, ORDER AND NOTICE OF GARNISHMENT AND ANSWER OF GARNISHMENT

(PERSONAL EARNINGS)

REVISED 9/30/08

THE STATE OF OHIO

COUNTY OF _____, SS _____

Court _____, Ohio

Judgment Creditor

VS.

Docket No. _____ **Page** _____

Case No. _____

Last Four Digits of Debtor's SS #: _____ Optional

(The debt collector is attempting to collect a debt and any information obtained will be used for that purpose).

AFFIDAVIT

The undersigned, first duly cautioned and sworn, deposes that I am _____, the Judgment Creditor herein, and that said Judgment Creditor on the _____ day of _____, 20____, duly recovered a judgment in the _____ Court against the Judgment Debtor named above. I state that the Garnishee named _____ at the address of _____

_____ may be an employer of the judgment debtor and who may have personal earnings of the same. I state that the written demand required by R.C. 2716.02 has been made, that the payment demanded has not been made and a sufficient portion of the payment demanded has not been made to prevent the garnishment of personal earnings as described in R.C. 2716.02. I further have no knowledge of any application by Judgment Debtor for the appointment of a trustee so as to preclude garnishment, not knowledge that the debt is the subject of a debt scheduling agreement of a nature precluding garnishment.

ATTORNEY FOR JUDGMENT CREDITOR

Sworn to and subscribed before me

This _____ day of _____, _____

NOTARY PUBLIC

SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT

TO: _____ **GARNISHEE**

The Judgment Creditor in the above case has filed an Affidavit, satisfactory to the undersigned, in this Court stating that you may owe the Judgment Debtor money for personal earnings. **You are therefore ordered to complete the "Answer of Employer (Garnishee)"** in Section B on the back of this form. Return one completed and signed copy of this form and the accompanying documents entitled "Notice to the Judgment Debtor" and "Request for Hearing: to the Judgment Debtor. Keep the other completed copy of this form for your files.

The total probable amount now due on this judgment is \$ _____. (The total probable amount due includes the unpaid portion of the judgment in favor of the Judgment Creditor, which is \$ _____; interest on that judgment and, if applicable, prejudgment interest at the rate of _____ % per annum payable until that judgment is satisfied in full; and court costs in the amount of \$ _____.)

This garnishment order of personal earnings is a **continuous** order that generally requires you to withhold a specified amount, calculated each pay period at the statutory percentage, of the Judgment Debtor's personal disposable earnings, as determined in accordance with the Interim Report and Answer of Garnishee and commencing with the first full pay period beginning after you receive the order until the judgment in favor of the Judgment Creditor and the associated court costs, interest, and, if applicable, prejudgment interest have been paid in full. You must pay the specified amount, calculated each pay period at the statutory percentage, to the Clerk of Court within thirty (30) days after the end of each pay period of the Judgment Debtor and must include with the payment a completed photocopy of the enclosed "Interim Report and Answer of Garnishee" form. You are permitted to deduct a processing fee of up to three dollars (\$3) [which shall not be charged as court costs] from the Judgment Debtor's personal disposable earning for any pay period that an amount was withheld for the Garnishment Order. You are not required to file with the court the Interim Report and Answer of Garnishee for any pay period of the Judgment Debtor for which an amount was not withheld for the Garnishment Order.

This Garnishment Order will remain in effect until one of the following occurs:

- 1) The total probable amount due is paid in full as a result of your withholding of the specified amount, calculated each pay period at the statutory percentage, from the Judgment Debtor's personal disposable earnings, that commended with the first full pay period beginning after you received the order;
- 2) The Judgment Creditor or the Judgment Creditor's Attorney, files with this court a written notice that the total probable amount due has been satisfied or the Judgment Creditor or the Judgment Creditor's Attorney files a written request to terminate this Order of Garnishment and release you from it;
- 3) A municipal or county court appoints a trustee for the Judgment Debtor and issues to you an order staying this garnishment;
- 4) A federal bankruptcy court issues to you an order staying this order of garnishment;
- 5) A municipal or county court or a common pleas court issues to you another order of garnishment of personal earnings that relates to the Judgment Debtor and a different judgment creditor and Ohio or federal law provides the other order with a higher priority than this order;
- 6) A municipal or county court or a common pleas court issues to you another order of garnishment of personal earnings that relates to the Judgment Debtor and a different judgment creditor and that does not have a higher priority than this order;
- 7) The Judgment Creditor or the Judgment Creditor's Attorney files with this court a written request to terminate and release the Order of Garnishment, and as a result, the Order of Garnishment will cease to remain in effect.

Under any of the circumstances listed above, you are required to file with this court a "Final Report and Answer of Garnishee" form. A copy of the Final Report and Answer of Garnishee form is attached to this Order of Garnishment. Under the circumstances listed in (5) and (6) above, you must cease processing this Order of Garnishment after the expiration of the full pay period within which the one hundred eighty-second (182nd) day after you began processing it falls.

Special stacking, priority of payment, and manner of payment rules apply when a Garnishee receives multiple orders of garnishment with respect to the same Judgment Debtor. These rules are set forth in R.C. 2716.041 and you should become familiar with them. An Employer Guide to Processing Continuous Orders of Garnishment is included with the Order of Garnishment.

Witness my hand and the seal of this court this _____ day of _____, _____.

JUDGE

SECTION B. ANSWER OF EMPLOYER (GARNISHEE)

(Answer All Pertinent Questions)

(An employer is one who is required to withhold payroll taxes out of payments of personal earnings made to the Judgment Debtor).

Now comes _____, employer (garnishee) herein, who says:

1. This order of garnishment was received on _____ day of _____, _____.

2. The Judgment Debtor is in my / our employ. YES NO
 (If the answer is "No", give date of last employment: _____)

3. (A) Is the debt to which this order of garnishment of personal earnings pertains the subject of an existing agreement for debt scheduling between the Judgment Debtor and a budget and debt counselling service and has the Judgment Debtor made every payment that was due under the agreement for debt scheduling no later than forty-five (45) days after the date of which the payment was due ? YES NO
 (If the answer to both parts of this question is "Yes", give all available details of the agreement, sign this form, and return to the court.) 3(A) _____

3. (B) Were you, on the date that you received this order of garnishment of personal earnings, withholding moneys from the Judgment Debtor's personal earnings pursuant to another order of garnishment of personal earnings that Ohio or federal law provides with a higher priority than this order of garnishment order (such as a support order or Internal Revenue Service levy): YES NO
 (If the answer is "Yes", give the name of the court that issued the higher priority order, the case number, the date the order was Received, and the balance due to the relevant judgment creditor under that order.) 3(B) _____

3. (C) Did you receive prior to the date that you received this order of garnishment of personal earnings one or more other orders of garnishment of personal earnings that are not described in question 3 (B) and are you currently processing one or more of those orders of the statutorily required time period or holding one or more of those orders for processing for a statutorily required period in the sequence of their receipt by you ? YES NO
 (If the answer to question is "Yes" give the name of the court that issued each of those previously received orders, the associated case numbers, the date upon which you received each of those orders, and the balance due to the relevant judgment creditor under each of those orders. List first the previously received order(s) that you are currently processing, and list each of the other previously received orders in the sequence that you are required to process them.) 3(C) _____

I CERTIFY THAT THE STATEMENTS ABOVE ARE TRUE

DATED: _____ SIGNED: _____

Print Name of Employer

Print Title and Name

I served the above garnishment order by leaving three copies thereof, together two copies of the Notice to Judgment Debtor and Request for Hearing form and employers guide to processing continuous garnishments with _____, an officer of managing or general agent of the Garnishee. No service because _____,
Date of Return: _____ Bailiff/Process Server _____

NOTICE TO JUDGMENT DEBTOR

	}	Court
Judgment Creditor		, Ohio.
vs		Case No. _____
		PERSONAL EARNINGS
Judgment Debtor		

You are hereby notified that this court has issued an order in the above case in favor of _____

(Name and Address of Judgment Creditor)

the judgment creditor in this proceeding, directing that some of your personal earnings, be used in satisfaction of your debt to the judgment creditor instead of being paid to you. This order was issued on the basis of the judgment creditor's judgment against you that was obtained in _____
_____ Court in Case No. _____ on _____.

The law of Ohio provides that you are entitled to keep a certain amount of your personal earnings free from the claims of creditors. Additionally, wages under a certain amount may never be used to satisfy the claims of creditors. The documents entitled "ORDER AND NOTICE OF GARNISHMENT AND ANSWER OF EMPLOYER" that are enclosed with this notice show how the amount proposed to be taken out of your personal earnings was calculated by your employer.

If you dispute the judgment creditor's right to garnish your personal earnings and believe that you are entitled to possession of the personal earnings because they are exempt or if you feel that this order is improper for any reason, you may request a hearing before this court by disputing the claim in the request for hearing form, attached, or in a substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the Clerk of this Court, no later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the judgment creditor's right to garnish your personal earnings in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the judgment creditor's right, you are not prohibited from stating any other reason at the hearing. If you do not state your reasons, it will not be held against you by the court and you can state your reasons at the hearing. No objections to the judgment itself will be heard or considered at the hearing.

The hearing will be limited to a consideration of the amount of your personal earnings, if any, that can be used in satisfaction of the judgment you owe to the judgment creditor.

If you request a hearing by delivering your "Request for Hearing" no later than the end of the fifth business day after you receive this notice, it will be conducted no later than twelve days after your request is received by the court and the court office will send you notice of the date, time, and a place. You may indicate on the form that you believe that the need for the hearing is an emergency and that it should be given priority by the court. If you do so, the court will schedule the hearing as soon as practicable after your request is received, and will send you notice of the date, time, and place. If you do not request a hearing by delivering your request for hearing, no later than the end of the fifth business day after you receive this notice, some of your personal earnings will be paid to the judgment creditor.

If you have any questions concerning this matter, you may contact the office of the Clerk of Court. If you want legal representation, you should contact your lawyer immediately. If you need the name of a lawyer, contact the local Bar Association.

_____, _____
Date

Clerk

by _____
Deputy Clerk

REQUEST FOR HEARING

(PERSONAL EARNINGS)

Case No. _____ Court,
_____ District
_____, Ohio.

I dispute the judgment creditor's determination of current balance due on garnishment order in the above case and request that a hearing in this matter be held not later than twelve days after delivery of this request to the court.

I _____ believe that the need for a hearing is an emergency.

(insert "Do" or "Do Not")

I dispute the judgment creditor's determination for the following reasons: (1)

I understand that no objections to the judgment itself will be considered at the hearing.

(Name of Judgment Debtor-Print)

Date _____

(Signature)

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU WAVE YOUR RIGHT TO A HEARING AND SOME OF YOUR PERSONAL EARNINGS WILL CONTINUE TO BE PAID TO _____

(Judgment Creditor's Name)

IN SATISFACTION OF YOUR DEBT TO THE JUDGMENT CREDITOR

(1) OPTIONAL

**IN THE COURT OF COMMON PLEAS
GEAUGA COUNTY, OHIO
INSTRUCTIONS FOR SERVICE**

PLAINTIFF(S)

Vs.

CASE NO.

DEFENDANT(S)

TO THE CLERK OF COURTS, YOU ARE INSTRUCTED TO MAKE:

CERTIFIED MAIL SERVICE ___ ORDINARY MAIL SERVICE ___

PERSONAL SERVICE BY THE SHERIFF OF _____ COUNTY

RESIDENCE SERVICE BY THE SHERIFF OF _____ COUNTY

PERSONAL SERVICE BY PROCESS SERVER _____

RESIDENCE SERVICE BY PROCESS SERVER _____

OF THE FOLLOWING DOCUMENTS: _____

UPON:

(NAME #1)

(NAME #2)

(ADDRESS)

(ADDRESS)

(CITY-STATE-ZIP CODE)

(CITY-STATE-ZIP CODE)

(NAME #3)

(NAME #4)

(ADDRESS)

(ADDRESS)

(CITY-STATE-ZIP CODE)

(CITY-STATE-ZIP CODE)

Attorney Name and Supreme Court I.D. No.

Address, City, State, Zip Code

Phone Number

GEAUGA COUNTY COMMON PLEAS COURT
INTERIM REPORT AND ANSWER OF GARNISHEE (2716.07 ORC)

JUDGMENT CREDITOR

vs.

CASE NUMBER
(THIS NUMBER MUST BE USED ON ALL REFERENCES)

JUDGMENT DEBTOR

GARNISHEE---PLEASE NOTE: YOU MUST MAKE MULTIPLE COPIES OF THIS FORM PRIOR TO COMPLETING, AS A NEWLY COMPLETED COPY WILL NEED TO BE SENT WITH EACH PAYMENT

The Garnishee _____, in the above case, states as follows:

1. The date that the garnishee received the order of garnishment of the judgment debtor's personal earnings was _____.
2. The total probable amount now due on the judgment, including court cost, judgment interest, and, if applicable, prejudgment interest, as stated in Section A of the order of garnishment of the debtor's personal earnings or in the affidavit of the current balance due on garnishment order if that affidavit has been received subsequent to the order of garnishment, is \$ _____.
3. The pay period of the judgment debtor is (enter *weekly*, *biweekly*, *semi-monthly* or *monthly*. Do not enter a pay period of more than one month.) _____.
4. The disposable earnings of the judgment debtor, earned during the judgment debtor's present pay period, is ("disposable earnings means earnings after deduction required by law. "Present pay period" means the pay period for which you are completing this *INTERIM REPORT AND ANSWER OF THE GARNISHEE*) \$ _____.
5. The amount equal to twenty-five percent (25%) of the judgment debtor's disposable earnings set forth in Section 4 of this form is \$ _____.
6. _____ times the current minimum hourly wage is (if the judgment debtor is paid weekly, enter *thirty* above; if paid bi-weekly, enter *sixty*; if paid semi-monthly, enter *sixty-five*; if paid monthly, enter *one hundred thirty*; then calculate the amount.) \$ _____.
7. The amount by which the amount in Section 4 of this form exceeds the amount in Section 6 of this form is \$ _____.
8. The smallest of either the amount entered in Section 5 of this form, the amount entered in Section 7 of this form, or the amount entered in Section 2 of this form: \$ _____.
9. The amount entered in Section 8 of this form, plus or minus (as appropriate) the garnishee's processing fee is \$ _____. [If the amount entered in Section 8 of this form equals the amount entered in Section 2 of this form, then add up to three dollars (\$3); otherwise, subtract up to three dollars (\$3).]
10. Other deductions \$ _____.
11. The calculated amount that has been withheld from the judgment debtor's present pay period and that is submitted with this *INTERIM REPORT AND ANSWER OF THE GARNISHEE* is \$ _____.

I CERTIFY THAT THE STATEMENTS ABOVE ARE TRUE:

(CLERK TIME STAMP AREA BELOW)

PRINT NAME OF EMPLOYER

PRINT NAME AND TITLE OF THE PERSON WHO COMPLETED FORM

SIGNED: _____
SIGNATURE OF PERSON WHO COMPLETED THIS FORM

DATE:

GEAUGA COUNTY COMMON PLEAS COURT
FINAL REPORT AND ANSWER OF GARNISHEE(2716.08 ORC)

JUDGMENT CREDITOR

AGAINST

CASE NUMBER _____

(THIS NUMBER MUST BE USED ON ALL REFERENCES)

JUDGMENT DEBTOR

The Garnishee _____, in the above case states as follows:

1. The date the garnishee received the order of garnishment of the judgment debtor's personal earnings was _____.

2. The total probable amount due on the judgment, including court cost, judgment interest, and if applicable, prejudgment interest, as stated in section A of the order of garnishment of the debtor's personal earnings, is

\$ _____.

3. The total amount that has been withheld from the judgment debtor's personal earnings and paid to the court while the order of garnishment of the judgment debtor's personal earnings remained in effect is \$ _____.

4. (When Applicable) The total probable amount due on the judgment (as stated in 2 above) is not equal to the total amount that has been withheld (as stated in 3 above), and the reason for that difference is that the order of garnishment of the judgment debtor's personal earnings ceased to be in effect for the following statutorily prescribed reason(s) (check whichever apply):

(A) A Municipal or County Court appointed a trustee for the judgment debtor and issued an order that stays the order of garnishment of the judgment debtor's personal earnings.

(B) A Federal Bankruptcy Court issued an order that stays the order of garnishment of the judgment debtor's personal earnings.

(C) A Municipal or County Court or a Court of Common Pleas issued another order of garnishment of personal earnings that relates to the judgment debtor and a different judgment creditor, and Ohio or federal law provides the other order with a higher priority. (Set forth the name of the court that issued the higher priority order, the associated case number, the date that the higher priority order was received, and the balance due to the relevant judgment creditor under that order): _____

(D) A Municipal or County Court or a Court of Common Pleas issued another order of garnishment of personal earnings that relates to the judgment debtor and a different judgment creditor and that is not described in 4(C) above. (Set forth the name of the court that issued the subsequently received order, the associated case number, the date that the subsequent order was received, and the balance due to the relevant judgment creditor under that order): _____

(E) The judgment creditor or judgment creditor's attorney has issued a request that the order of garnishment be terminated and the garnishee released from the mandates of the order of garnishment.

(F) Judgment debtor's employment terminated on _____

(G) Other: _____

I CERTIFY THAT THE STATEMENTS ABOVE ARE TRUE.

(Print Name of Employer)

(Signature of Person Who Completed this Form)

(Print Name and Title of Person Who Completed Form)

Dated this _____ Day of _____,

Mail a completed copy of this form to the Geauga County Clerk of Court, 100 Short Court Street, STE 300, Chardon, OH 44024. Deliver one completed copy to the debtor (employee) and retain one copy for your files.

THE EMPLOYER'S GUIDE TO PROCESSING CONTINUOUS ORDERS OF GARNISHMENT

Developed by The Ohio Judicial Conference
(Based on Am. Sub. H.B. 294 - effective August 29, 2000)

WAGE

THE PROCESS

Step 1. What will I receive?

The employer, or “garnishee,” will be served, in the same manner as with a summons, with several forms:

1. Three copies of the *Order and Notice of Garnishment and Answer of Employer*.
2. Two copies of the *Notice to the Judgment Debtor*.
3. One copy of the *Request for Hearing*.
4. One copy of the *Interim Report and Answer of the Garnishee*. **(Make extra copies prior to completing)**
5. One copy of the *Employer Guide to Processing Continuous Orders of Garnishment*.
6. One copy of the *Final Report and Answer of Garnishee*.

Additionally, the employer will be served by the Court Clerk with a copy of the affidavit filed against the judgment debtor, the employee.

Step 2. How and when will I reply?

The employer has **FIVE** (5) business days from the date on which it receives the *Order and Notice of Garnishment and Answer of Employer* form to respond to the court. Of the three copies of this form received by the employer, only one completed and signed copy goes to the court. The employer may keep a signed and completed copy and shall deliver the other signed and completed copy to the employee.

The copy of the *Order and Notice of Garnishment and Answer of Employer* form shall be delivered to the employee no later than the time that the employer otherwise would have paid the employee the personal earnings that are now being paid to the court. At the time of this delivery to the employee, the employer shall also give the two copies of the *Notice to the Judgment Debtor* form and the one copy of the *Request for Hearing* form to the employee.

The *Interim Report and Answer of the Garnishee* **MUST** accompany the payment that the employer makes to the court. The payment and the *Interim Report and Answer of the Garnishee* shall be made to the court within 30 days after the end of each employee pay period. This begins with the first full pay period after the employer receives the *Order and Notice of Garnishment and Answer of Employer*. The amount sent to the court is a statutory percentage specified within the order (a maximum of 25%) and is to be calculated at each pay period.

The percentage remains the same regardless of whether the employee is paid weekly, bi-weekly or monthly. This is different from the law prior to H.B. 294. Garnishment orders issued under the old provisions are legally binding and still in effect.

The employer is not required to file an *Interim Report and Answer of the Garnishee* for any pay period in which no amount was withheld for that order. If the employer files this form with the court, then one completed and signed copy shall be kept for the employer's records and another copy shall be delivered to the employee. If permitted by the court, the employer may file the interim report and/or transfer the amount withheld by electronic means.

The employer shall file the *Final Report and Answer of Garnishee* with the court when the garnishment ceases to remain in effect. Two completed and signed copies of the *Final Report and Answer of Garnishee* shall be made. One shall be for the employer's records and another shall be delivered to the employee.

Step 3. How long must I withhold?

Part A. Single Garnishment Orders: If an *Order and Notice of Garnishment and Answer of Employer* has been served upon an employer, then it must be processed continuously until paid in full or until the court issues an order that changes or ends the garnishment. The employer must withhold funds until one of the following events occurs, ending the garnishment:

- 1) The total amount due is paid in full.
- 2) The creditor files a written notice of termination with the court.
- 3) The court appoints a trustee and halts the order of garnishment.
- 4) A bankruptcy court issues an order of stay to the employer.
- 5) Another creditor obtains a garnishment order, which has a higher priority (e.g. child support order or an IRS lien) and the maximum amount is already being withheld pursuant to the higher priority order. However, if a high priority order does not take the maximum amount that can be withheld per each pay period, then the remainder can be used to satisfy other existing and subsequent orders.

6) Another creditor obtains a garnishment order, and 182 days have passed since the employer began withholding funds pursuant to the first garnishment order.

Part B. Multiple Garnishment Orders: Employers receiving more than one garnishment order on an employee are required to stack the garnishments in the sequence in which they are received. If an employer is currently garnishing wages of an employee and receives a garnishment order from a different creditor, the employer is required to place the new garnishment in its proper order of the stack. One of four things will occur:

- 1) If the first garnishment is paid in full before 182 days expire, the employer should begin processing the next garnishment from the stack.
- 2) If the first garnishment is not paid in full and 182 days have passed since the employer began withholding funds pursuant to the first garnishment order, the garnishment ceases to be in effect and the employer is required to take the next garnishment from the stack.
- 3) If no additional garnishments have been filed, the employer will continue withholding on the second garnishment as in Part 1.
- 4) If one or more other garnishment orders have been received on the employee, and if the second garnishment is not paid in full and 182 days have passed since the employer began withholding funds pursuant to the second garnishment order, the garnishment ceases to be in effect and the employer is required to take the next garnishment from the stack. This process continues for each succeeding garnishment order on the employee received by the employer in the sequence in which they are received.

If a garnishment order ceases to be in effect and the debt has not been fully paid off, then the creditor must start the process over again from the beginning. The creditor may not re-file a garnishment on a specific judgment while its garnishment is either being processed or is being held in the stacking procedure.

An Employer may not discharge an employee solely because of a garnishment by only one creditor within any one-year.

BACKGROUND

In House Bill 294 of the 123rd Ohio General Assembly, the Ohio Judicial Conference was requested to create a guide to help employers with the processing of continuous order of garnishment.

In 1999, the Ohio General Assembly created the continuous order of garnishment of personal earnings. This revised order enabled a garnishment to continue until either the total amount due was paid in full, or the order was no longer in effect. A “stacking” mechanism was created that allows garnishment orders to be stacked in order of when they were filed, or by priority, as determined by statute. Also, the fee paid to the employer was increased to compensate for complying with the new continuous orders. These changes replaced proceedings that were inefficient and costly.

However, H.B. 294 contains further revisions, improving the continuous order of garnishment. This simple guide describes the process for employers and should help answer questions regarding the operation of the new law.

WAIVER OF LIABILITY

An employer who acts, or attempts to act, in accordance with Chapter 2716 of the Ohio Revised Code, the provisions for garnishment, is not liable for damages in any civil action for any action taken pursuant to that chapter in good faith or any omission made in good faith. However, failure to comply could be grounds for contempt proceedings.

EMPLOYER PROCESSING FEE

The employer **may** deduct a \$3 dollar fee for processing from the amount withheld from the judgment debtor’s personal disposable earnings for each pay period that an amount of earnings was withheld for that order **and** for which an *Interim Report and Answer of the Garnishee* was filed. If no money is withheld and/or a report is not filed, then no fee may be deducted out by the employer. The employer is never required to deduct this fee for processing.

TERMS

Garnishment - a legal proceeding where a creditor seeks to satisfy a debt by claiming money owed to a debtor, usually in the possession of the debtor’s employer.

Garnishee - the person whom has possession of money owed to a debtor, which has been claimed or attached by a creditor. The garnishee is the employer. An employer is defined as a person who is required to withhold taxes out of payments of personal earnings made to a judgment debtor.

Garnishor - the person who initiates or begins a garnishment proceeding in order to reach the debtor’s money held by another person, usually the debtor’s employer. The Garnishor is the creditor.