

AFFIDAVIT, ORDER AND NOTICE OF GARNISHMENT AND ANSWER OF EMPLOYER

(PERSONAL EARNINGS) (ORC 2716.02, 03, 04, 05, 06)

The State of Ohio
County of _____, SS
Court
Ohio

vs. Judgment Creditor

Case No. _____
Docket No. _____ Page _____

Judgment Debtor

AFFIDAVIT IN SUPPORT OF MOTION FOR ORDER OF GARNISHMENT OF PERSONAL EARNINGS

The undersigned, being first duly cautioned and sworn, or affirmed, according to law, says:

1. That I am the attorney/judgment creditor herein who heretofore recovered, or certified, a judgment in the _____ Court, against the judgment debtor named above;
2. **That I have good reason to believe and do believe that the garnishee:
Name of Garnishee: _____ Street Address: _____
City, State, Zip Code: _____
Or the garnishee named in Section A of the Court Order and Notice of Garnishment, may have personal earnings owing to the judgment debtor that are not exempt under Section 2929.66, Ohio Revised Code.
3. That the written demand on the judgment debtor required by Section 2716.02, Ohio Revised Code has been made at least 15 days and not more than 45 days before the date hereof;
4. That the payment demanded in such written demand has not been made, nor has a sufficient portion been made to prevent the garnishment of personal earnings as described in such section;
5. **The total probable amount now due on this judgment is \$ _____. The total probable amount now 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 relative to that judgment at the rate of _____% per annum payable until that judgment is satisfied in full; and court costs in the amount of \$ _____; and
6. That affiant has no knowledge of any application by the judgment debtor for the appointment of a trustee, nor that the debtor is the subject of a debt scheduling agreement, either of which would preclude the garnishment of judgment debtor's personal earnings.

Sworn to and subscribed before me on:

Signature of Judgment Creditor or Attorney

Date

Notary Public

**Completion of #2 and #5 will allow the Clerk's Office to generate the remaining forms: Court Order and Notice of Garnishment, Notice to the Judgment Debtor, Request for Hearing, Interim and Final Report(s) and Answer of Garnishee, and you will not be required to provide them at the time of filing.

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 owe the judgment debtor money for personal earnings and that some of that money may not be exempt from garnishment under the laws of the State of Ohio or the laws of the United States.

You are therefore ordered to complete the "ANSWER OF EMPLOYER (GARNISHEE)" in Section B of this form. Return one completed and signed copy of this form to the clerk of this court within five (5) business days after you receive this order of garnishment. Deliver 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 and signed copy of this form for your files.

The total probable amount now due on this judgment is \$ _____. The total probable amount now 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 relative to that judgment at the rate of _____% per annum payable until that judgment is satisfied in full; and court costs in the amount of \$ _____.

This order of garnishment 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 during each pay period, as determined in accordance with the "INTERIM REPORT AND ANSWER OF GARNISHEE," from the judgment debtor's personal disposable earnings during each pay period of the judgment debtor, 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, judgment interest, and, if applicable, prejudgment interest awarded to the judgment creditor as described above have been paid in full. You generally must pay that specified amount, calculated each pay period at the statutory percentage, to the clerk of this court within thirty (30) days after the end of each pay period of the judgment debtor and must include with that specified amount, calculated each pay period at the statutory percentage an "INTERIM REPORT AND ANSWER OF GARNISHEE" substantially in the form set forth in section 2716.07 of the Ohio Revised Code. A copy of the "INTERIM REPORT AND ANSWER OF GARNISHEE" is attached to this order of garnishment of personal earnings, and you may photocopy it to use each time you pay the specified amount to the clerk of this court. You are permitted to deduct a processing fee of up to three dollars from the judgment debtor's personal disposable earnings for any pay period of the judgment debtor that an amount was withheld for that order. (The processing fee is not a part of the court costs). 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 from the judgment debtor's personal disposable earnings during that pay period was not withheld for that order.

This order of garnishment of personal earnings generally will remain in effect until one of the following occurs:

- (1) The total probable amount due on the judgment as described above 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 during each pay period of the judgment debtor, that commenced 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 on the judgment as described above 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 the mandate of this order of garnishment.
- (3) A municipal or county court appoints a trustee for the judgment debtor and issues to you an order that stays this order of garnishment of personal earnings.
- (4) A federal bankruptcy court issues to you an order that stays this order of garnishment of personal earnings.
- (5) A municipal or county court or a court of common pleas 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 court of common pleas 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" substantially in the form set forth in Section 2716.08 of the Ohio Revised Code. A copy of the "FINAL REPORT AND ANSWER OF GARNISHEE" is attached to this order of garnishment of personal earnings. 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 (182) day after you began processing it falls.

Special ceasing, 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 section 2716.041 of the Ohio Revised Code. An employer guide to processing continuous orders of garnishment is included with this order of garnishment. You should become familiar with these rules.

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

Judge

SECTION B. ANSWER OF EMPLOYER (GARNISHEE)

(An employer is one who is required to withhold payroll taxes out of payments of personal earnings made to the judgment debtor.)
(Answer all pertinent questions)

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

1. This order of garnishment of personal earnings was received on _____

Yes No

2. The judgment debtor is in my/our employ:

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 counseling service, and has the judgment debtor made every payment that was due under the agreement for debt scheduling, no later than forty-five days after the date on which the payment was due?
If the answer to both parts of this question is "Yes," give all available details of the agreement, sign this form, and return it to the court.

Yes No

3(A)

(B) Were you, on the date that you received this order of garnishment of personal earnings, withholding moneys from the judgment debtor's personal disposable 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 of personal earnings (such as a support order or Internal Revenue Service levy)?
If the answer to this question is "Yes," give the name of the court that issued the higher priority order, the associated case number, the date upon which you received that order, and the balance due to the relevant judgment creditor under that order:

Yes No

3(B)

(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 for the statutorily required time period or holding one or more of those orders for processing for a statutorily required period in your sequence of their receipt by you?
If the answer to this 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.

Yes No

3(C)

I certify that the statements above are true, and that a completed and signed copy of this form, along with two copies of the Notice to Judgment Debtor form and Request for Hearing form, have been delivered to the judgment debtor.

Signed _____
(Signature of Person Who Completed Form)

(Print Name of Employer)

Dated this _____ day of _____

(Print Name and Title of Person Who Completed Form)

Telephone Number

- 1. Three copies required to be served on the garnishee ORC § 2716.05. Required to be served at the same time as this form are 2 copies of Notice to Judgment Debtor and Hearing Request. Service on the garnishee shall be in the same manner as for the service of a summons. ORC § 2716.05. Praecipe must be given to the Clerk unless Court sends out forms without praecipe.
- 2. Section A completed before service ORC § 2716.05.
- 3. Garnishee must answer in five business days. ORC § 2716.21. Garnishee delivers one copy of this form and two copies of Notice form and Hearing Request to Judgment Debtor.