

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 ¹

The undersigned _____

the _____, 2, being first duly sworn, state that

1. The name of the Judgment Debtor whose personal earnings the Judgment Creditor seeks to garnish is _____
2. The affiant has good reason to believe and does believe that _____ the Garnishee, is an employer of the Judgment Debtor who has personal earnings of the Judgment Debtor that are not exempt under Section 2329.66 of the Revised Code
3. The demand in writing as required by Section 2716.02 of the Ohio Revised Code has been made
4. The payment demanded in the notice required by Section 2716.02 of the Ohio Revised Code has not been made, nor has a sufficient portion been made, to prevent the garnishment of personal earnings as described in Section 2716.02 of the Ohio Revised Code
5. Affiant has no knowledge of any application by the Judgment Debtor for the appointment of a trustee so as to preclude the garnishment of the Judgment Debtor's personal earnings
6. The affiant has no knowledge that the debt to which the affidavit pertains is the subject of a debt scheduling agreement of such a nature that it precludes the garnishment of the personal earnings of the Judgment Debtor under division (B) of Section 2716.03 of the Ohio Revised Code
7. The Judgment Creditor has obtained judgment against the Judgment Debtor which remains unsatisfied

Signed at _____, Ohio on _____, 19_____, 3 4

STATE OF OHIO
COUNTY OF _____

ss:

Affiant's Signature

Sworn to before me and subscribed in my presence this _____ day of _____, 19_____

Notary Public - State of Ohio

1. Garnishment commenced by filing affidavit. ORC § 2716.03. Judgment and its journalization required. ORC § 2716.02 and Civ. R. 58.
2. Judgment Creditor, Judgment Creditor's agent or attorney. ORC § 2716.03.
3. File with Motion for Order of Garnishment of Personal Earnings CivR.7 and 5(A). File no sooner than 15 days and no later than 45 days after demand letter. ORC § 2716.02. File not sooner than 30 days after last successful garnishment filing nor sooner than 45 days after default in debt scheduling arrangement. ORC § 2716.03(B).
4. Accompanied by either copy of return receipt of certified demand letter or unclaimed demand letter, or process server's return or all of these - stamped completed certificate of mailing a copy of the demand letter, and a sworn statement that it was sent by regular mail. ORC § 2716.04. Must be accompanied also by garnishment fee. ORC § 2706.04.

SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT ^{1, 2}

To _____, Garnishee

The Judgment Creditor in the above case has filed an affidavit satisfactory to the undersigned in the _____ 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 together with the amount determined in accordance with the "ANSWER OF EMPLOYER (GARNISHEE)." 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, as determined in accordance with the "ANSWER OF EMPLOYER (GARNISHEE)," from the judgment debtor's personal earnings during each pay period of the judgment debtor following your receipt of 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 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 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.

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 from the judgment debtor's personal earnings during each pay period of the judgment debtor following your receipt of the order.
- (2) The judgment creditor files with this court a written notice that the total probable amount due on the judgment as described above has been satisfied.
- (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.

INSTRUCTIONS To complete the back of this form: (1) tear stub off top, (2) reverse carbons, (3) continue typing or writing on the reverse side.

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 one hundred eighty-two (182) days after you began processing it.

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 section 2716.041 of the Ohio Revised Code. 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 _____.
2. The judgment debtor is in my/our employ.
If 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. _____
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 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. _____
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 182-day period or holding one or more of those orders for processing for a 182-day period in the 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. _____
3(C) _____
4. (A) State whether the pay period of the judgment debtor is weekly, biweekly, semimonthly, or monthly (do not enter a pay period of more than one month): _____
4(A) _____
- (B) Enter the disposable earnings of the judgment debtor earned during the judgment debtor's present pay period.
("Disposable earnings" means earnings after deductions required by law. "Present pay period" means the pay period in which you receive this order of garnishment of personal earnings.) _____
4(B) \$ _____
- (C) If the judgment debtor's pay period is weekly, enter on line 4(C) an amount equal to six and one-quarter per cent (6.25%) of the judgment debtor's disposable earnings set forth on line 4(B). If the judgment debtor's pay period is biweekly or semimonthly, enter on line 4(C) an amount equal to twelve and one-half per cent (12.5%) of the judgment debtor's disposable earnings set forth on line 4(B). If the judgment debtor's pay period is monthly, enter on line 4(C) an amount equal to twenty-five per cent (25%) of the judgment debtor's disposable earnings set forth on line 4(B). _____
4(C) _____
5. (A) If the judgment debtor is paid weekly, enter thirty times the current federal minimum hourly wage; if paid biweekly, enter sixty times the current federal minimum hourly wage; if paid semimonthly, enter sixty-five times the current federal minimum hourly wage; if paid monthly, enter one hundred thirty times the current federal minimum hourly wage: _____
5(A) \$ _____
- (B) Enter the amount by which the amount on line 4(B) exceeds the amount on line 5(A): _____
5(B) \$ _____
6. Enter on line 6 the smallest of the amount entered on line 4(C); or the amount entered on line 5(B); or the total probable amount now due on the judgment, including interest and costs, as indicated in section A of this form. Pay the amount entered on line 6 into this court when returning this form: _____
6 \$ _____

I certify that the statements above are true.

Print Name of Employer _____

Print Name and Title of Person Who Completed Form _____

Signed _____ Dated this _____ day of _____
(Signature of Person Completing Form)

- 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.

THE FOLLOWING FOR COURT USE ONLY

I CERTIFY THIS TO BE A TRUE COPY OF THE ORIGINAL WITH ALL ENDORSEMENTS THEREON.

Title _____

By _____
Signature of Person Serving Order

RECEIVED THIS WRIT ON THE _____ DAY OF _____, 19____.

I SERVED THIS WRIT ON THE WITHIN NAMED GARNISHEE(S) _____

BY MAILING A TRUE COPY OF THIS ORDER OF GARNISHMENT ☐ BY CERTIFIED MAIL ☐ BY REGULAR MAIL

BY LEAVING A TRUE COPY OF THE ORDER OF GARNISHMENT

- ☐ AT USUAL PLACE OF RESIDENCE ☐ AT COMPANY OR CORPORATION
☐ WITH GARNISHEE PERSONALLY ☐ GARNISHEE - NOT FOUND

Title _____

By _____
Signature of Person Serving Order

*****IMPORTANT*****

The court requires that 4 copies of the above document “Affidavit, Order and Notice of Garnishment and Answer of Employer” be submitted to the court.



NOTICE TO THE JUDGMENT DEBTOR OF GARNISHMENT OF PERSONAL EARNINGS¹

_____	:	_____ Court
_____	:	_____ Ohio
_____	:	
_____ Judgment Creditor	:	
vs.	:	
_____	:	
_____	:	Case No. _____
_____ Judgment Debtor	:	

You are hereby notified that this Court has issued an order in the above case in favor of _____
_____², the Judgment Creditor in this proceeding, directing that some of your personal earnings, now in the
possession of your employer, be used to satisfy some of your debt to the Judgment Creditor instead of being paid to you. This order was issued on the basis of the Judg-
ment Creditor's judgment against you that was obtained in _____
_____ ³ in Case No. _____ ⁴ on _____, 19____ ⁵.

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 cer-
tain 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 other reason, you may request a hearing before this Court by disputing the claim in the Request for Hearing
form, appearing on the reverse side, 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 gar-
nish 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, and 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. If you request a hearing, the hearing will be limited to a consideration of the amount of your wages in the hands of your
employer, if any, that can be used to satisfy all or part of the judgment you owe to the Judgment Creditor. No objections to the judgment itself will be heard or considered
at that hearing. 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 con-
ducted no later than twelve days after your request is received by the Court and the Court will send you notice of the date, time, or place. You may indicate in the form
that you feel 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 this 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.

Clerk of the Court

Date

Court

Street Address

Ohio

Case No. _____ 19____

REQUEST FOR HEARING*

I dispute the Judgment Creditor's right to garnish my personal earnings in the above case and request that a hearing in this matter be held no later than twelve days after delivery of this request to the Court.

I _____ feel that the need for the hearing is an emergency.
Insert "do" or "do not"

I dispute the Judgment Creditor's right to garnish my personal earnings for the following reasons:

Optional

Name of Judgment Debtor

Signature

Date

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 WAIVE YOUR RIGHT TO A HEARING AND SOME OF YOUR PERSONAL EARNINGS NOW IN THE POSSESSION OF _____
WILL BE PAID TO _____
TO SATISFY SOME OF YOUR DEBT TO HIM.

¹ This Notice must be served on the Garnishee and delivered to the Judgment Debtor. ORC § 2716.06(A).

² Name and address of Judgment Creditor.

³ Name of Court.

⁴ Case Number.

⁵ Date.

⁶ An envelope, addressed to the Court, postage paid, must be attached. ORC § 2716.06(A)(2).

⁷ Employer's name

⁸ Judgment Creditor's name.

NOTE - Some Courts may themselves provide some of the required forms.

*****IMPORTANT*****

The court requires that 2 copies of the above document “Notice to the Judgment Debtor of Garnishment of Personal Earnings” be submitted to the court.

MOTION OF JUDGMENT CREDITOR FOR ORDER
OF GARNISHMENT OF PERSONAL EARNINGS_____

Judgment Creditor

vs.

Judgment Debtor_____

Court_____

Ohio

Case No. _____

The Judgment Creditor moves the Court to issue an Order of Garnishment of Personal Earnings against the Judgment Debtor naming _____ as the Garnishee.

Attorney for Judgment CreditorMEMORANDUM

The Judgment Creditor is entitled to the requested Order pursuant to Section 2716.01 et. seq. of the Ohio Revised Code because the Judgment Creditor has obtained judgment against the Judgment Debtor and the Garnishee holds personal earnings that belong to the Judgment Debtor and are not exempt from execution.

Attorney for Judgment Creditor

*****IMPORTANT*****

The court requires that only 1 copy of the above document “Motion of Judgment Creditor for Order of Garnishment of Personal Earnings” be submitted to the court.



INTERIM REPORT AND ANSWER OF GARNISHEE

Judgment Creditor
VS.

Judgment Debtor

.....

Court
Ohio
Case No. _____

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 due on the judgment, including court costs, judgment interest, and, if applicable, prejudgment interest, as stated in section A of the order of garnishment of the judgment debtor's personal earnings, is \$_____.
3. The amount that has been withheld from the judgment debtor's personal earnings during the judgment debtor's present pay period (which amount represents the amount specified on line 6 of the "ANSWER OF EMPLOYER (GARNISHEE)" unless otherwise stated) and that is submitted with this "INTERIM REPORT AND ANSWER OF GARNISHEE" is \$_____.

I certify that the statements above are true.

(Print Name of Employer)

(Print Name and Title of Person Who Completed Form)

Signed _____
(Signature of Person Completing Form)

Dated this _____ day of _____.

*****IMPORTANT*****

The court requires that 3 copies of the above document “Interim Report and Answer of Garnishee” be submitted to the court.

FINAL REPORT AND ANSWER OF GARNISHEE

VS.

Court

Ohio

Case No. _____

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 due on the judgment, including court costs, judgment interest, and, if applicable, prejudgment interest, as stated in section A of the order of garnishment of the judgment 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.

*****IMPORTANT*****

The court requires that 3 copies of the above document “Final Report and Answer of Garnishee” be submitted to the court.