

IN THE DELAWARE MUNICIPAL COURT, DELAWARE COUNTY, OHIO

70 North Union Street, Delaware, Ohio 43015 • Voice: 740.203.1560 • Facsimile: 740.203.1599 • www.municipalcourt.org

Case No: *
Garnishment of Personal Earnings
p. 1
Affidavit for Garnishment Order and Notice
Defendant - Judgment Debtor (JD)
Debtor DOB [if known] Jmt. Debtor SS#

Affidavit for Garnishment - R.C. §§ 2716.03 & 2716.04.

Duly sworn/affirmed to tell the truth, the undersigned judgment creditor, or attorney therefore says that following final judgment herein, the attached notice required by R.C. § 2716.02 (with proof of service) was timely served on Judgment Debtor (JD) who failed to timely make payment to avoid garnishment.

Clerk: Serve 3 copies hereof on Garnishee (Employer) by [X] certified mail, return receipt requested.

[] bailiff delivery

*X Date Judgment Creditor / Attorney for Judgment Creditor

* Print Name S.Ct. No.

* Attorney Address (only if affidavit filed by attorney)

* Voice Email

State of Ohio, County of * } ss

Sworn to/affirmed & signed in my presence on date above shown.

*X Notary Public / Deputy Clerk

[notary seal]

Instructions to Affiant-Applicant.

- [1]. Revive judgment if dormant (inactive 5+yrs.). R.C. § 2329.07(B).
[2]. Send to Judgment Debtor (JD) Notice of Court Proceeding to Collect Debt 15-45 days prior to filing affidavit. R.C. § 2716.02-.04. Attach copy of Notice and USPS certificate of mailing to affidavit.
[3]. Fill in all mandatory fields on pp. 1-4 marked “*”.
[4]. Affidavit must be sworn and signed in presence of notary public or clerk of court who must also sign where shown.
[5]. For SSN and DOB use confidential identifier sheet, p. 4. Employer may be unable to satisfy order without one, or more, identifiers.
[6]. File original with sufficient copies for service (pp. 1&2 - original + 3 copies; pp. 3, 4 & 5 - orig + 1 copy). Submit additional copy of all pages to be file-stamped and returned to applicant. Submit postage-paid envelop addressed to court clerk. If submitting documents by mail, submit self-addressed, postage-paid return envelop.
[7]. Tender sufficient advance for court costs (\$100 as of 9-2017).

Notice to Garnishee (Employer).

No employer may discharge an employee solely due to successful garnishment of personal earnings by one judgment creditor in a 12 month period. R.C. § 2716.05. If you are required to withhold payroll taxes from personal earnings of JD, then you are an employer subject to this order.

§ A. Order & Notice - R.C. §§ 2716.041, 2716.05, 2716.06, & 2716.13.

To: Garnishee (Employer),

Judgment Creditor avers that you employ Judgment Debtor (JD). Within 5 business days of receipt hereof, complete §B (at p. 2), return a signed, completed copy to the court; deliver a signed, completed copy to JD with one copy hereof and of the “Notice to Judgment Debtor” and “Request for Hearing;” with envelop addressed to clerk, and retain a copy for your files. The sum due is as follows:

Table with 2 columns: Description and Amount. Rows include: Original judgment amount, Accrued judgment interest at %/yr, Court costs to date, Post judgment payments (if any), Total Probable Amount Due.

This order is continuous. Generally, each pay period effective the first full pay period that begins after your receipt hereof and until the judgment including court costs plus pre and post judgment interest are fully paid, you must withhold from JD’s disposable earnings the sum calculated that period according to the “Interim Report & Answer of Garnishee” (Interim Report), p. 3. You must remit said amount to the court clerk within 30 days of the end of each pay period with an Interim Report form as attached or substantially as shown in R.C. § 2716.07. You may make blank copies of the Interim Report form for future use. You may deduct a processing fee up to \$3 (not part of court costs) from JD’s disposable earnings for any pay period that you must withhold funds per this order. You need not submit an Interim Report for any pay period for which you are not required hereunder to withhold funds.

Generally, this order is effective until:

- (1) The Total Probable Amount Due is paid in full as a result of your withholdings above described; or
(2) Judgment Creditor or attorney files a notice that the Total Probable Amount Due has been satisfied; or
(3) A municipal/county court appoints a trustee and stays this order; or
(4) A federal bankruptcy court stays this order; or
(5) - (6) A municipal, county, or common-pleas court issues to you an order to garnish JD’s personal earnings for a different creditor, and Ohio/federal law provides the other order with a higher priority than this order; or
(7) Judgment Creditor (or attorney) files a request to terminate and release you from this order of garnishment.

Under circumstances in ¶(1)-(7), file a “Final Report and Answer of Garnishee” a blank copy of which is attached to this order, p.3, or substantially as set forth in R.C. § 2716.08. Under circumstances listed in ¶(5) or (6), cease processing this order after the expiration of the last full pay period within which the 182d day after you began processing it falls.

Special stacking (payment-priority-and-manner) rules found in R.C, § 2716.041 apply for a garnishee in receipt of multiple garnishment orders respecting the same judgment debtor. An employer guide to processing continuous orders of garnishment is included with this order of garnishment, p. 5. You should become familiar with these rules.

X M agistrate/Judge

Clerk: Deliver 3 copies of p. 1 to Garnishee.

Garnishee: Deliver 1 copy of p. 1 to JD.

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IN THE DELAWARE MUNICIPAL COURT, DELAWARE COUNTY, OHIO

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* _____ Case No: * _____
 Plaintiff - Judgment Creditor
 vs.
 * _____ * _____
 Defendant - Judgment Debtor (JD) Garnishee (Employer)

Garnishment of Personal Earnings
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Answer of Garnishee
Notice to Judgment Debtor
Request for Hearing

§ B. Answer of Garnishee - R.C. § 2716.05. (Answer all pertinent questions)
 Now comes the Garnishee-Employer and says:

1. I/We received this order on _____, 20_____.

2. Do you employ JD? [] Yes. [] No - date of last work: _____.

3(A) Is debt in this case subject to an existing debt-scheduling agreement between JD and a budget-&-debt counseling service for which JD has made all payments due no later than 45 days of the due date?
 [] No. [] Do not know. [] Yes. (If "yes," in space provided give all available details of the agreement, sign this form, and return it to the court clerk.)

(B) On the date that you received this order, were you already withholding money from the Judgment Debtor's earnings pursuant to another garnishment order that Ohio or federal law provides with a higher priority than this order (such as a support order or Internal Revenue Service levy)?
 [] No [] Yes. If "yes," in space provided give the name of the court that issued the higher-priority order, the case number, the date upon which you received that order, and the balance due in that case.

(C) Prior to your receipt hereof, did you receive one or more other garnishment orders not covered by ¶3(B) above which you are currently processing for the statutorily required period, and/or which you are holding for processing in the order of receipt? [] No [] Yes. If "Yes," in space provided, give the name of the court(s) that issued the prior received order(s), associated case number(s), date(s) of receipt, and balance(s) due under each order. List first the prior received order that you are currently processing, and each other prior received order(s) in the sequence that you are required to process them.

Details _____

The undersigned certifies that the statements above are true.

X _____ Date: _____

Print Name & Title of Person Completing Form _____

Print Name of Garnishee (Employer) _____

Instructions to Garnishee-Employer.
 Within 5 business days of receipt of Order, complete §B, deliver one copy to the court clerk and one copy to JD with "Notice to the Judgment Debtor" & "Request for Hearing;" p. 2, retain one copy of all documents for your files.

Notice to Judgment Debtor (JD) - R.C. § 2716.06.

This court issued the "Order & Notice," p. 1, in favor of Judgment Creditor directing your employer to withhold some of your personal earnings to satisfy your debt to Judgment Creditor based on an earlier judgment herein.

Ohio law entitles you 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 creditors' claims. The "Order and Notice" shows the total amount to be withheld from your personal earnings.

If you dispute the garnishment order, believe your earnings are exempt from garnishment, or feel that the order is improper for any reason, you may request a hearing by submitting the request for hearing (or substantially similar) form to the

court clerk at the above address no later than the end of the 5th business day after your receipt hereof. You may state your reasons for disputing the garnishment; but you are not required to do so. Whether you state reason(s) on your request, the court will not hold it against you, and you can state other reasons at the hearing. **No objection/challenge to the judgment itself will be considered at the hearing.** The hearing will be limited to consideration of the amount of your personal earnings, if any, that can be used in satisfaction of the judgment. To challenge the judgment, you must submit a separate written request to the court stating the basis therefore and submit a copy thereof to the Judgment Creditor.

If you submit your hearing request by the end of the 5th business day after you receive this notice, the court will conduct a hearing no later than twelve days after the court clerk receives your request. The court will send you notice of the date, time, and place. You may indicate on your request that your need for the hearing is an emergency and merits priority; the court will schedule a hearing as soon as is practicable. If you fail to submit a request for hearing by the end of the fifth business day after you receive this notice, some of your personal earnings may be withheld and paid to Judgment Creditor.

With any questions about the case file, you may contact the court clerk. For legal representation or advice, you must contact a lawyer immediately. If you need the name of a lawyer, contact the local bar association.

X _____ De p. Clerk of Court

<p>Request by Judgment Debtor for Hearing - R.C. § 2716.03.</p> <p>I dispute garnishment of personal earnings and request a hearing within 12 days of submission hereof to the court clerk.</p> <p>Is this request for hearing an emergency? [] No [] Yes</p> <p>I dispute garnishment of my personal earnings for the following reasons: <i>(Providing an explanation in this section is optional.)</i> _____</p>

<p>No objections to the judgment itself will be considered at the hearing.</p> <p>X _____ Date _____</p> <p>Judgment Debtor (JD)</p> <p>Print Name _____</p> <p>voice _____ email _____</p> <p>Warning: If you do not deliver this or a substantially similar request to the court clerk's office within 5 business days of your receipt hereof, you waive your right to a hearing and some of your personal earnings may be withheld and paid Judgment Creditor in satisfaction of the judgment.</p>
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Clerk: Deliver 3 copies of p. 2 to Garnishee. File Stamp 2
 Garnishee: Complete §B, deliver 1 copy to Clerk, 1 copy to JD.
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Garnishment of Personal Earnings

Plaintiff - Judgment Creditor Case No: * vs. Defendant - Judgment Debtor (JD)

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Interim Report & Answer of Garnishee Final Report & Answer of Garnishee

Interim Report & Answer of Garnishee (Employer) - R.C. § 2716.07.

[retain blank copy of this page]

Garnishee (Employer) herein states as follows:

- 1. On _____, 20____, Garnishee received the garnishment order, p 1.
2. The total probable amount due (including court costs & interest) stated in § A of the garnishment order or in the later affidavit of current balance due on garnishment is \$_____
3. Judgment Debtor (JD) is paid [] weekly. [] fortnightly (biweekly). [] twice monthly. [] monthly.
4. Disposable earnings (earnings after deductions required by law) earned by JD during the pay period of this report: \$_____
5. 25% of amount in ¶4 above: \$_____
6.(a) Fed. min. hourly wage: (\$7.25 in 2017) \$_____
(b) Exempt hrs. per pay period (weekly=30, biweekly=60, 2Xmthly=65, mthly=180) X
Exempt wages (¶6(a) times ¶6(b)) \$_____
7. Excess of amount entered in ¶4 over amount shown in ¶6(b) (subtract ¶6(b) from ¶4) \$_____
8. The lesser of amt. entered in ¶2, ¶5, or ¶7 \$_____
9. Garnishee processing fee ≤\$3: add & retain fee if ¶8 = ¶2, otherwise subtract & retain fee. \$_____
10. Other deductions, if any \$_____
11. Calculated withholding amount: \$_____
Garnishee (Employer) withheld the amount on ¶11 from Judgment Debtor's earnings during pay period ended _____, 20____ and submits said amount herewith subject to processing fee per ¶9.

I certify that the statements above are true.

X _____ Date

Print Name & Title of Person Completing Form

Print Name of Garnishee (Employer)

Garnishee (Employer) must submit Interim Report with garnishment proceeds to the court within 30 days of the end of pay period for which earnings are required to be withheld as ordered and calculated in report. No report is required for any pay period for which no earnings are required to be withheld.

These forms are available at www.municipalcourt.org on "Court Forms" page, under "Civil Forms" tab.

Final Report & Answer of Garnishee - R.C. §§ 2816.041 & 2716.08.

Garnishee (Employer) herein states as follows:

- 1. On _____, 20____, Garnishee received the garnishment order.
2. \$_____ is the total probable amount due on the judgment, (including court costs & judgment and prejudgment interest) per §A of the order of garnishment of the JD's personal earnings.
3. \$_____ has been withheld from the JD's personal disposable earnings and paid to the court while the order of garnishment was in effect.
4. [] (when applicable) The total probable amount due on the judgment shown above in ¶2 does not equal to the total amount that has been withheld as shown above in ¶3 because the order of garnishment ceased to be effective 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, county, or common pleas court issued another order of garnishment of personal earnings that relates to JD and a different judgment creditor, and Ohio or federal law provides the other order a higher priority. (Show below in ¶4(g) the name of the court that issued the higher priority order, the associated case number, the date that the you received the higher priority order, and the balance due to the judgment creditor in that order.)
[] (d) A municipal, county, or common pleas court issued another order of garnishment of personal earnings that relates to JD and a different judgment creditor that is not described above in ¶4(c). (Show below in ¶4(g) the name of the court that issued the higher priority order, the associated case number, the date that the you received the higher priority order, and the balance due to the judgment creditor in 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 (Employer) released from the mandates of the order of garnishment.
[] (f) JD's employment terminated on _____.
[] (g) Other: _____

X _____ Date

Print Name & Title of Person Completing Form

Print Name of Garnishee (Employer)

Clerk: Deliver 1 copy of p. 3 to Garnishee.
Garnishee: Complete required report and return to Clerk as directed.
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* _____ Case No: * _____
 Plaintiff - Judgment Creditor

Garnishment of Personal Earnings

vs.

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* _____ * _____
 Defendant - Judgment Debtor (JD) Garnishee (Employer)

Confidential Identifier Sheet

Sup. Ct. R. of Superintendence. 45(D)

	Complete Personal Identifier <i>Personal identifier for Judgment Debtor (JD) (if known)</i>	Alternate Reference <i>Reference or abbreviation substituted in place of redacted personal identifier</i>	Filed Document <i>Document(s) from which the personal identifier has been redacted</i>
1.	_____ social security number	affidavit, p. 1	affidavit for garnishment
2.	_____ date of birth	affidavit, p. 1	affidavit for garnishment
3.	_____ other: _____	affidavit, p. 1	affidavit for garnishment
4.			

*X _____
 Judgment Creditor / Attorney for Judgment Creditor

* _____
 Print name SCN (atty's only)

Clerk: Deliver 1 copy of p. 4 to Garnishee
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Supreme Court Rule of Superintendence 45(D). Court Records – Public Access. Omission of personal identifiers prior to submission or filing

- (1) When submitting a case document to a court or filing a case document with a clerk of court, a party to a judicial action or proceeding shall omit personal identifiers from the document.
- (2) When personal identifiers are omitted from a case document submitted to a court or filed with a clerk of court pursuant to division (D)(1) of this rule, the party shall submit or file that information on a separate form. The court or clerk may provide a standard form for parties to use. Redacted or omitted personal

identifiers shall be provided to the court or clerk upon request of a party to the judicial action or proceeding upon motion.

(3) The responsibility for omitting personal identifiers from a case document submitted to a court or filed with a clerk of court pursuant to division (D)(1) of this rule shall rest solely with the party. The court or clerk is not required to review the case document to confirm that the party has omitted personal identifiers, and shall not refuse to accept or file the document on that basis.

Employer Guide To Processing Garnishment Orders. Developed by the Ohio Judicial Conf.

The Process.

Step 1. What will I receive?

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

- 1) Three copies of the Order and Notice of Garnishment and Answer of Employer.
- 2) Two copies of 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.
- 5) One copy of the Employer Guide to Processing Continuous Orders of Garnishment.
- 6) One copy of the Final Report & Answer of Garnishee. Additionally, 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 pay?

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 Garnishee accompanies payments that the employer makes to the court. Each payment with Interim Report & Answer of Garnishee shall be sent 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 Garnishee for any pay period in which no amount was required to be withheld for that period. If the employer files this form with the court, then one completed, signed copy shall be kept for the employer’s records and another copy delivered to the employee. If permitted by the court, the employer may file the interim report and transfer money electronically.

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?

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) A court appoints a trustee and halts the order of garnishment.
- 4) A bankruptcy court issues an order of stay.
- 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 order.

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 in 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 for the same 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 said 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 re-start the process 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 based on a garnishment by only one creditor within any one-year period.

Background.

House Bill 294 of the 123rd Ohio General Assembly included a request to the Ohio Judicial Conference to create this guide to help employers processing continuous orders 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 prior procedures 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 acting or attempting to act in good faith according to Ohio Revised Code Chapter 2716 garnishment provisions is not liable for damages in any civil action for any action or omission taken pursuant to that chapter. However, intentional or knowing 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 is filed. If no money is withheld and/or no report is filed, then no fee may be deducted by the employer. The employer is not required to deduct this fee for processing.

Definition of Terms.

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

Garnishee – an employer with possession of personal earnings owed to a judgment debtor that have been claimed or ‘attached’ by a creditor. An employer is a person/company required to withhold taxes from payments of personal earnings.

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 judgment creditor.

Clerk: Deliver 1 copy of p. 5. to Garnishee.
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