

## Small Claims Checklist for Beginning Garnishment of Personal Earnings

Once you have obtained a money judgment against a debtor, the law allows several procedures to collect on that judgment. One of the most common procedures is the garnishment of personal earnings. Once you have learned the name and address of the debtor's employer, you may proceed with a garnishment of the debtor's personal earnings as follows:

1. Serve a written demand upon the debtor at least twenty (20) days but not more than forty-five (45) days before you apply to the court for the garnishment order. The two (2) most commonly used methods of service are:

A. certified mail, return receipt requested, addressed to the debtor's last known place of residence;

B. regular mail, evidenced by a certificate of mailing, addressed to the debtor's last known place of residence.

Most creditors use ordinary mail, evidenced by a certificate of mailing. If you use either type of mail service, three (3) days must be added to the above mentioned time limits (in other words, the demand must be mailed at least twenty (20) days but not more than forty-five (45) days before you apply to the court for the garnishment order). The written demand must be made on a form established by the statute. You may obtain a copy of this form from the Small Claims Court Administrator.

2. At least twenty (20) days but not more than forty-five (45) days after the demand is made, file with the court an affidavit setting forth:

1. the name of the judgment debtor;

2. that you believe and have good reason to believe that the garnishee is the debtor's employer and has personal earnings which are not exempt;

3. that the proper demand has been made and served by regular mail, if so;

4. that payment has not been made;

5. that you have no knowledge of a trusteeship established by the debtor;

6. that you have no knowledge of a debt scheduling agreement established by the debtor.

You may obtain a copy of an affidavit form which satisfies these requirements from the Small Claims Court Administrator.

3. Along with the above affidavit, you must file with the court a copy of the demand you previously made upon the debtor and proof of how you served that demand. If you used certified mail, the proof will be the return receipt, a copy of the return receipt or the unclaimed letter. If you used regular mail, the proof will be a properly completed and stamped certificate of mailing and a sworn statement that it was sent by regular mail (the sworn statement is already included in the above affidavit form). Most creditors use regular mail, evidenced by a certificate of mailing.

4. Pay the required deposit of \$30.00

If the garnishment lasts longer than one year, you must file with the court an affidavit stating the current balance due on an annual basis. You must serve a copy of this affidavit upon the garnishee (employer) and the debtor. When the judgment is completely paid, you must file a satisfaction of judgment form with the court. You may obtain a copy of that form from the Small Claims Court Administrator.

NOTICE OF COURT PROCEEDING 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 \_\_\_\_\_  
\$ \_\_\_\_\_, including interest and court costs, for which a judgment was obtained against you or certified in the Tiffin Municipal Court on \_\_\_\_\_, payment of which is hereby demanded.

If you do not do one of the three things listed below within fifteen (15) days of the date of the mailing of this notice or of 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 earnings.

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 (15) 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 amounts 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 Revised Code for the purpose of entering into an agreement for 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 an agreement for debt scheduling might protect you from future garnishments 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 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.

\_\_\_\_\_  
(Name of Judgment Creditor)

\_\_\_\_\_  
(Signature of Judgment Creditor or  
Judgment Creditor's Attorney)

\_\_\_\_\_  
(Address of Judgment Creditor)

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 you pay period (weekly, biweekly, semimonthly, monthly): 3. (A) \_\_\_\_\_
- 3. (B) Enter the date when your present pay period ends: 3. (B) \_\_\_\_\_
- 4. Enter an amount equal to 25% of the amount on line 2: 4. \$ \_\_\_\_\_
- 5. (A) The current federal minimum hourly wage is \$ \_\_\_\_\_. (You should use the above figure to complete this portion of the form.) If you are paid weekly, enter thirty (30) times the current federal minimum hourly wage; if paid biweekly, enter sixty (60) times the current federal minimum hourly wage; if paid semimonthly, enter sixty-five (65) times the current federal minimum hourly wage; if paid monthly, enter one hundred thirty (130) times the current federal minimum hourly wage. 5. (A) \$ \_\_\_\_\_
- 5. (B) Enter the amount by which the amount on line 2 exceeds the amount on line 5. (B) \$ \_\_\_\_\_
- 6. Enter the smallest of the amounts on the 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.

\_\_\_\_\_  
(Signature of Judgment Debtor)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Print Name & Residence Address 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 (2) 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 (2) pay periods immediately prior to my receiving this notice.

\_\_\_\_\_  
(Signature of Judgment Debtor)

**IN THE TIFFIN MUNICIPAL COURT**

Plaintiff	)	
	)	Case No. _____
	)	
Vs.	)	AFFIDAVIT FOR GARNISHMENT
	)	OF PERSONAL EARNINGS
	)	
Defendant	)	

The Judgment creditor swears that:

1. The name of the judgment debtor whose personal earnings I seek to garnish is

\_\_\_\_\_  
(Name & Address of Debtor)

2. I have good reason to believe and I do believe that

\_\_\_\_\_  
(Name & Address of Employer)

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 Revised Code has been made and was served by ordinary mail (cross out if not true).

4. The payment demanded in the notice required by section 2716.02 of the Revised Code 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 section 2716.02 of the Revised Code.

5. I have 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. I have no knowledge that the debt to which this affidavit pertains is the subject of a debt scheduling agreement of a nature that precludes the garnishment of personal earnings of the judgment debtor under section 2716.03(B) of the Revised Code.

\_\_\_\_\_  
JUDGMENT CREDITOR OR ATTORNEY

State of Ohio )  
County of Seneca ) ss:

Sworn to in my presence by \_\_\_\_\_  
on \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, Deputy Clerk, Clerk

Judgment Amount:	_____
Interest Rate:	_____
Court Costs:	_____
Total Probable Amount Due:	_____
Judgment Date:	_____