

AFFIDAVIT, ORDER AND NOTICE OF GARNISHMENT AND ANSWER OF EMPLOYER

(PERSONAL EARNINGS)

(O.R.C. 2716.02, .03, .04, .05, .06)

THE STATE OF OHIO

COUNTY OF _____, SS

In the _____ Court

_____, Ohio

Judgment Creditor

vs.

Docket No. _____ Page _____

Case No. _____

Judgment Debtor

AFFIDAVIT

The undersigned, being first duly cautioned and sworn, or affirmed, according to law, says that I am the attorney/judgment creditor herein who heretofore recovered, or certified, a judgment in the _____ Court against the judgment debtor named above, that I have good reason to believe and do believe that the garnishee named in Section A below has personal earnings owing to the judgment debtor that are not exempt under Section 2329.66 Ohio Revised Code; That the written demand on 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; 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; 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.

ATTORNEY FOR JUDGMENT CREDITOR

Sworn to and subscribed before me

this _____ day of _____, 20____

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 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 judgement debtor's personal disposable earnings during each pay period, as determined in accordance with the "INTERIM REPORT AND ANSWER OF EMPLOYER (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 judgement debtor's personal disposable earnings for any pay period of the judgement 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 judgement debtor for which an amount from the judgement 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 judgement 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 judgement creditor or the judgement 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 judgement creditor or the judgement 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 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. 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 _____, 20____

Judge

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.

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 _____ (1) _____, 20____
- 2. (A) The judgment debtor is in my/our employ..... (2) A Yes No
 (B) If answer is "No," give date of last employment..... (2) B _____, 20____
- 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? (3) A 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 it to the court.

(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 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 Yes No

(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 the sequence of their receipt by you? (3) C Yes No
 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.

I certify that the statements above are true.

Dated this _____ day of _____, 20____

Completed copy, 2 copies of the Notice and Hearing Request form delivered to judgment debtor _____, 20____

 (Print Name of Employer)

 (Print Name and Title of Person Who Completed Form on Behalf of Employer)
 Signed _____
 (Signature of Employer or Employer's Agent) (Sign all copies)

SECTION A OF THE FORM DESCRIBED IN THIS SECTION SHALL BE COMPLETED BEFORE SERVICE. SECTION B OF THE FORM SHALL BE COMPLETED BY THE GARNISHEE, AND THE GARNISHEE SHALL FILE ONE COMPLETED AND SIGNED COPY OF THE FORM WITH THE CLERK OF THE COURT AS THE GARNISHEE'S ANSWER. THE GARNISHEE MAY KEEP ONE COMPLETED AND SIGNED COPY OF THE FORM AND SHALL DELIVER THE OTHER COMPLETED AND SIGNED COPY OF THE FORM TO THE JUDGMENT DEBTOR NOT LATER THAN THE TIME THAT THE GARNISHEE OTHERWISE WOULD PAY THE JUDGMENT DEBTOR THE PERSONAL EARNINGS THAT THE GARNISHEE INSTEAD IS PAYING TO THE COURT. THE GARNISHEE ALSO SHALL DELIVER AT THAT TIME THE TWO COPIES OF THE NOTICE TO THE JUDGMENT DEBTOR FORM AND OF THE REQUEST FOR HEARING FORM DESCRIBED IN SECTION 2716.06 OF THE REVISED CODE THAT WERE SERVED ON THE GARNISHEE.

NO EMPLOYER SHALL DISCHARGE AN EMPLOYEE SOLELY BECAUSE OF THE SUCCESSFUL GARNISHMENT OF THE EMPLOYEE'S PERSONAL EARNINGS BY ONLY ONE JUDGMENT CREDITOR IN ANY TWELVE-MONTH PERIOD.

IF SEVERAL AFFIDAVITS SEEKING ORDERS OF GARNISHMENT OF PERSONAL EARNINGS ARE FILED AGAINST THE SAME JUDGMENT DEBTOR IN ACCORDANCE WITH SECTION 2716.03 OF THE REVISED CODE, THE COURT INVOLVED SHALL ISSUE THE REQUESTED ORDERS IN THE SAME ORDER IN WHICH THE CLERK RECEIVED THE ASSOCIATED AFFIDAVITS.

THE GARNISHEE ALSO SHALL BE SERVED WITH A COPY OF THE EMPLOYER GUIDE TO PROCESSING CONTINUOUS ORDERS OF GARNISHMENT AT THE SAME TIME THAT THE FORMS AS PROVIDED IN THIS SECTION ARE SERVED UPON THE GARNISHEE.

TO: SHERIFF, CONSTABLE, BAILIFF

You are hereby directed to serve three (3) copies of the "Order and Notice", together with the Garnishee's fee as provided for in O.R.C. 2716.04, two (2) copies of the "Notice to Judgment Debtor" and "Request for Hearing" forms described in O.R.C. 2716.06, on the Garnishee named herein.

Clerk - Deputy Clerk

RETURN OF SERVICE

Received _____, 20____

(Sheriff - Bailiff - Constable)

Returned and filed _____, 20____

I certify this to be a true copy of the original Order and Notice with all indorsements thereon.

On the _____ day of _____, 20____
 I served this writ on the within named by
 personal service
 Other (O.R.C. 2716.05) _____

FEES

Service and return _____
 Mileage _____

(Sheriff - Bailiff - Constable)

By _____ Deputy

NOTICE OF COURT PROCEEDINGS TO COLLECT DEBT

Bellevue Municipal Court
165 Bellevue Way
Bellevue, Ohio 44811
419-483-5880



File stamp

To: _____
(Name of judgment debtor)

(Last known residence address of the judgment debtor)

(City) (State) (Zip Code)

Date of Mailing: _____
CASE NO. _____

You owe the undersigned _____ \$ _____
(Name of judgment creditor) (Amount)
including interest and court costs, for which a judgment was obtained against you or certified in the _____ Municipal Court on
_____, payment of which is hereby demanded.
(Judgment Entry Date)

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 possibly 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 which 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 §2716.03 of the Ohio 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 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.**

Name of Judgment Creditor (please print)

SIGNATURE of Judgment Creditor or Judgment Creditor's Attorney

Address of Judgment Creditor

City

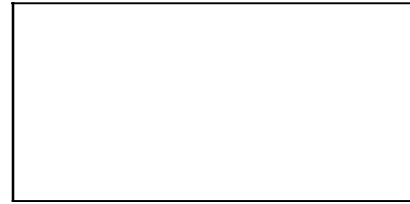
State

Zip Code

Note: Ohio Revised Code 2716.02 provides that the above demand shall be made after judgment is obtained, at least 15 days and not more than 45 days before the order is sought, by delivering it to the judgment debtor by personal service by the Court, by sending it to the judgment debtor by certified mail, return receipt requested, or by sending it to the judgment debtor by regular mail, which shall be evidenced by a properly completed and stamped certificate of mailing by regular mail, addressed to the judgment debtor's last known place of residence.

PAYMENT TO AVOID GARNISHMENT

**Bellevue Municipal Court
165 Bellevue Way
Bellevue, Ohio 44811
419-483-5880**



File stamp

To: _____
(Name of judgment debtor)

Date of Mailing: _____

(Last known residence address of the judgment debtor)

CASE NO. _____

(City) (State) (Zip Code)

To avoid 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, biweekly, semimonthly, monthly)..... 3.(A) _____
(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 \$ _____ (to be filled in by Judgment Creditor).
(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(A).. 5.(B) \$ _____
- 6. Enter the smallest of the amounts on line 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 and Residence Address of Judgment Debtor)

City State Zip Code

(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.

(Signature of Employer or Agent)

(Print name of employer)

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

(Signature of Judgment Debtor)