

**AFFIDAVIT, ORDER AND NOTICE OF GARNISHMENT AND ANSWER OF GARNISHEE
(PERSONAL EARNINGS)**

REVISED 8/00

THE STATE OF OHIO
COUNTY OF _____, SS

_____ Court
_____, Ohio

Judgment Creditor

VS.

Docket No. _____ Page _____
Case No. _____

Judgment Debtor

AFFIDAVIT

(The debt collector is attempting to collect a debt and any information obtained will be used for that purpose).

The undersigned, first duly cautioned and sworn, deposes that I am the _____ Judgment Creditor herein, and that said Judgment Creditor on the _____ day of _____, _____, duly recovered a judgment in the _____ Court against the Judgment Debtor named above. I, the affiant, have good reason to believe and do believe that _____ is an employer of the judgment debtor having personal earnings of the same, nonexempt under R.C. 2329.66, that the written demand required by R.C. 2716.02 has been made, that the payment demanded has not been made, nor has a sufficient portion been made to prevent the garnishment of personal earnings pursuant to R.C. 2716.02. I further have no knowledge of any application by Judgment Debtor for the appointment of a trustee so as to preclude garnishment, nor knowledge that the debt is the subject of a debt scheduling agreement of a nature precluding garnishment under R.C. 2716.03(B).

ATTORNEY FOR JUDGMENT CREDITOR

Sworn to and subscribed before me

this _____ day of _____, _____.

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 Ohio and 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 copy of this form for your files.

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

This garnishment order 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 have been paid in full. You must pay that specified amount calculated each pay period at the statutory percentage to the Clerk of Court within thirty (30) days after the end of each pay period of the Judgment Debtor and must include with that amount calculated each pay period at the statutory percentage a completed photocopy of the enclosed "Interim Report and Answer of Garnishee" form. 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 "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 garnishment order will generally remain in effect until one of the following occurs:

- 1) The total probable amount due is paid in full as a result of your withholding 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 staying this garnishment;
- 4) A federal bankruptcy court issues to you an order staying this order of garnishment;
- 5) A municipal or county court or a common pleas court 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 common pleas court 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", which is attached to this garnishment order. Under 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 R.C. 2716.041 an employer guide to processing continuous orders of garnishment is included with this order of Garnishment and you should become familiar with them.

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

JUDGE

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

SECTION B. ANSWER OF EMPLOYER (GARNISHEE)

(Answer All Pertinent Questions)

(An employer is one who is required to withhold payroll taxes out of payments of personal earnings made to the Judgment Debtor.)

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

1. This order of garnishment was received on _____ day of _____.

2. The Judgment Debtor is in my / our employ. YES NO
[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 (45) days after the date on which the payment was due? 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.] 3(A) _____

3 (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 garnishment order (such as a support order or internal revenue service levy)? YES NO
[If the answer is "Yes", give the name of the court that issued the higher priority order, the case number, the date the order was received, and the balance due to the relevant judgment creditor under that order.] 3(B) _____

3 (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 earning that are not described in question 3 (B) and are you currently processing one or more of those orders of 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? YES NO
[If the answer to the 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) _____

I CERTIFY THAT THE STATEMENTS ABOVE ARE TRUE.

DATED: _____ SIGNED _____

Print Name of Employer

Print Title and Name

I served the above garnishment order by leaving three copies thereof, together two copies of the Notice to Judgment Debtor and Request for Hearing form and employers guide to processing continuous garnishments with _____, an officer or managing or general agent of the Garnishee. No Service because _____
Date of Return: _____ Bailiff/Process Server _____