

AFFIDAVIT IN SUPPORT OF GARNISHMENT OF PERSONAL EARNINGS

**BUTLER COUNTY COURT OF COMMON PLEAS
315 HIGH STREET, HAMILTON, OHIO 45011**

Judgment Creditor

CASE NO. _____

vs.

**THIS COMMUNICATION IS FROM
A DEBT COLLECTOR**

Judgment Debtor

STATE OF _____, COUNTY OF _____, SS:

The undersigned, being first duly cautioned, sworn or affirmed according to law, says that I am attorney/judgment creditor who recovered or certified a judgment in this court against above named judgment debtor. The garnishee named below may be an employer of the judgment debtor and may have personal earnings owing to the judgment debtor. Written demand on judgment debtor, per 2716.02 ORC, has been made at least 15 and not more than 45 days before this date. Payment demanded in the written demand has not been made, nor has a sufficient portion been made to prevent the garnishment of personal earnings described in such section. Affiant has no knowledge if the judgment debtor has applied for trusteeship or is the subject of a debt scheduling agreement, either of which precludes the garnishment of judgment debtor's personal earnings.

Atty I.D. _____
Judgment Creditor/Attorney

Signature of Judgment Creditor/Attorney

Address

City, State, Zip Code Phone Number

Sworn to and subscribed before me on _____.

Notary Public

**ANSWER OF EMPLOYER (GARNISHEE)
SECTION B**

Case No. _____

Judgment Creditor

vs.

**BUTLER COUNTY COURT OF COMMON PLEAS
ATTN: CLERK OF COURTS
315 HIGH STREET, 5TH FLOOR
HAMILTON, OH 45011**

Judgment Debtor

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. Complete and return a signed copy of this page to the above listed address.

Now comes the employer herein who says:

1. This garnishment order of personal earnings was received on _____.

2. The judgment debtor is in my employ: Yes _____ No _____

(IF "YES" COMPLETE REMAINDER OF SECTION B AND THE INTERIM/FINAL REPORT FORM)

If the answer is "NO" give date of last employment _____

3. (A) Is the debt to which this garnishment order 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 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.

(B) Were you, on the date that you received this garnishment order of personal earnings, withholding moneys from the judgment debtor's personal disposable earnings pursuant to another garnishment order of personal earnings that Ohio or federal law provides with a higher priority than this garnishment order of personal earnings (such as a support order, or Internal Revenue Service levy)? Yes _____ No _____

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.

(C) Did you receive prior to the date that you received this garnishment order of personal earnings one or more other garnishment orders of personal earnings 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 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.

Print Name and Title of Person Who Completed Form

Date

Signature of Person Who Completed Form

I CERTIFY THAT THE STATEMENTS ABOVE ARE TRUE, AND THAT A COMPLETED AND SIGNED COPY OF THIS FORM, ALONG WITH TWO COPIES OF THE NOTICE TO THE JUDGMENT DEBTOR FORM, AND A REQUEST FOR HEARING FORM, HAVE BEEN DELIVERED TO THE JUDGMENT DEBTOR. EACH DEDUCTION FROM THE EMPLOYEE'S PAY WILL BE THE RESULT OF A CONTINUOUS GARNISHMENT.

NOTICE TO THE JUDGMENT DEBTOR OF GARNISHMENT OF PERSONAL EARNINGS

**BUTLER COUNTY COURT OF COMMON PLEAS
315 HIGH STREET, HAMILTON, OHIO 45011**

Judgment Creditor

CASE NO. _____

vs.

**THIS COMMUNICATION IS FROM
A DEBT COLLECTOR**

Judgment Debtor

You are hereby notified that this court has issued an order in the above case in favor of the above named judgement creditor in this proceeding, directing that some of your personal earnings be used in satisfaction of your debt to the judgment creditor instead of being paid to you. This order was issued on the basis of the judgment creditor’s judgment against you that was obtained in, or certified to this court in the above case number on _____.

Ohio law provides that you are entitled 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 the claims of creditors. The documents entitled **Order and Notice of Garnishment and Answer of Employer** that is enclosed with this notice shows 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 reason, you may request a hearing before this court by disputing the claim in the Request for Hearing form, below, or in a substantially similar form, and delivering the Request for Hearing to this court at the above address, at the clerk of courts office, no later than the end of the 5th business day after you receive this notice. You may state your reason for disputing the judgment creditor’s right to garnish 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. If you do not state your reasons, the court will not hold it against you, and you can state your reasons at the hearing. **No objections to the judgment itself will be heard or considered at the hearing.** The hearing will be limited to a consideration of the amount of your personal earnings, if any, that can be used in satisfaction of the judgment you owe to the judgment creditor. If you request a hearing by delivering your request for hearing no later than the end of the 5th business day after you receive this notice, it will be conducted no later than 12 days after your request is received by the court. The clerk will notify you of the date, time and place of the hearing. You may indicate in the form that you believe 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 the clerk will send you notice of the date, time and place of the hearing. **If you do not request a hearing by delivering your request for hearing no later than the end of the 5th 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 clerk of courts office. If you want legal representation, you should contact your lawyer immediately. If you need the name of a lawyer, contact the local bar association or the legal aid office. The judges and clerks cannot give legal advice or act as your attorney.

REQUEST FOR HEARING ON GARNISHMENT

BUTLER COUNTY COURT OF COMMON PLEAS

Judgment Creditor

CASE NO. _____

vs.

Judgment Debtor

I dispute the judgment creditor’s right to garnish my personal earnings in the above case and request that a hearing in the matter be held no later than 12 business 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):

I UNDERSTAND THAT NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE CONSIDERED AT THE HEARING

Name of Judgment Debtor

Current Address

Signature

City, State, Zip Code

Date

Telephone Number

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST FOR HEARING IN A SUBSTANTIALLY SIMILAR FORM TO THE CLERK OF COURTS OFFICE WITHIN 5 BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU WILL WAIVE YOUR RIGHT TO A HEARING AND SOME OF YOUR PERSONAL EARNINGS NOW IN POSSESSION OF YOUR EMPLOYER WILL BE PAID TO THE JUDGMENT CREDITOR IN SATISFACTION OF YOUR DEBT TO THE JUDGMENT CREDITOR.

NOTICE OF COURT PROCEEDINGS TO COLLECT DEBT

(ORC §2716.02)

TO: _____
Name of Judgment Debtor Last known residence address of the Judgment Debtor

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

If you do not do one of the three things listed below within fifteen 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 has been 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-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 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/Attorney Atty I.D. _____
Address of Judgment Creditor/Attorney

Signature of Judgment Creditor/Attorney

PAYMENT TO AVOID GARNISHMENT

TO: _____
Name of Judgment Creditor/Attorney
_____ Address of Judgment Creditor/Attorney

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 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 hourly minimum wage is \$ _____ (to be filled in by the
judgment creditor) (You should use the above figure to complete this portion of the form.)
If you are paid weekly, enter thirty times the current federal minimum hourly wage;
if paid biweekly, enter sixty times the current federal minimum 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 (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. (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.)

Signature of Judgment Debtor

Print Name and Residence Address

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 pay periods immediately prior to my receiving this notice

Signature of Judgment Debtor

BUTLER COUNTY COURT OF COMMON PLEAS
INTERIM/FINAL REPORT AND ANSWER OF GARNISHEE
(THIS FORM IS INTENDED FOR USE AS EITHER AN INTERIM OR A FINAL REPORT AS NEEDED)
(ORC §§2716.07, 08)

Case No. _____

Judgment Creditor

vs.

Judgment Debtor

Please note: Make multiple copies of this form, as a newly completed copy must be sent with each payment at least once every 30 days. Please make checks payable to the Clerk of Courts

The Garnishee, _____, in the above case states as follows:

INTERIM REPORT

1. The date that the garnishee received the garnishment order 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 either section A of the garnishment order of the judgment debtor's personal earnings or in the Affidavit of Current Balance Due of the Garnishment Order if that affidavit has been received subsequent to the garnishment order, is \$_____.
3. The pay period of the judgment debtor is (enter weekly, biweekly, semimonthly, or monthly. Do not enter a pay period of more than one month) _____.
4. The disposable earnings of the judgment debtor earned during the judgment debtor's present pay period is ("Disposable Earnings" means earnings after deductions required by law. "Present Pay Period" means the pay period for which you are completing this Interim/Final Report & Answer of Garnishee). \$_____.
5. The amount equal to 25% of the judgment debtor's disposable earnings set forth in section 4 of this form is \$_____.
6. _____ times the current federal minimum hourly wage is (if the judgment debtor is paid weekly, enter 30, if paid biweekly, enter 60, if paid semimonthly, enter 65, if paid monthly, enter 130, then calculate the amount). \$_____.
7. The amount by which the amount in section 4 of this form exceeds the amount in section 6 of this form is \$_____.
8. The smallest of either the amount entered in section 5 of this form, the amount entered in section 7, or the amount entered in section 2 is, \$_____.
9. The amount entered in section 8 of this form, plus or minus, as appropriate, the garnishee's processing fee is \$_____ (if the amount entered in section 8 equals the amount entered in section 2, then add up to \$3.00; otherwise subtract up to \$3.00)
10. Other deductions \$_____.

11. The calculated amount that has been withheld from the judgment debtor's personal earnings during the judgment debtor's present pay period and that is submitted with this Interim/Final report and Answer of Garnishee is \$_____.

FINAL REPORT

(in addition to questions 1 & 2, answer the following questions when filing a Final Report)

3. The total probable amount that has been withheld from the judgment debtor's disposable earnings and paid to the court while the garnishment order of the judgment debtor's personal earnings remained in effect is \$_____.

4. (When applicable) the total probable amount due on the judgment (stated in 2 above) is not equal to the total amount that has been withheld (stated in 3 above), and the reason for that difference is that the garnishment order 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 garnishment order of the debtor's personal earnings.

(B) ___ A federal bankruptcy court issued an order that stays the garnishment order of the judgment debtor's personal earnings.

(C) ___ A municipal, county, or common pleas court issued another garnishment order of personal earnings that related to the debtor and a different creditor, and Ohio or federal law provides the other order a higher priority. Set forth the name of the court that issued the higher priority order, the associated case number, the date that the higher priority order was received, and the balance due to the relevant judgment creditor under that order: _____

(D) ___ A municipal, county, or common pleas court issued another garnishment order of personal earnings that relates to the debtor and a different creditor and that is not described in 4(C) above. Set forth the name of the court that issued the subsequently received order, the associated case number, the date that the subsequent order was received, and the balance due to the relevant judgment creditor under that order: _____

(E) ___ The creditor or creditor's attorney has issued a request that the garnishment order be terminated and the garnishee released from mandates of the garnishment order.

(F) ___ Judgment debtor's employment terminated on _____.

(G) ___ Other: _____

I CERTIFY THAT THE STATEMENTS ABOVE ARE TRUE

Atty I.D. _____
Judgment Creditor/Attorney

Employer

Address

Name and Title of Person Completing Form

City, State, Zip Code

Phone Number

Phone Number

Date