

Lake County Common Pleas Court

Painesville, Ohio 44077

Judgment Creditor

VS.

Judgment Debtor

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Case No. _____

JUDGE _____

MOTION OF JUDGMENT CREDITOR FOR ORDER
OF GARNISHMENT OF PERSONAL EARNINGS¹

The Judgment Creditor moves the Court to issue an Order of Garnishment of Personal Earnings against the Judgment Debtor naming _____ as the Garnishee.

Attorney Name

Attorney Address

Attorney Phone Number

Supreme Court I.D.

MEMORANDUM

The Judgment Creditor is entitled to the requested Order pursuant to Section 2716.01 et.seq of the Ohio Revised Code because the Judgment Creditor has obtained judgment against the Judgment Debtor and the Garnishee holds personal earnings that belong to the Judgment Debtor and are not exempt from execution.

Attorney for Judgment Creditor

¹Ex parte motion. Civ.R 5(A). File with Affidavit (Apco Form No. 411), Order and Notice of Garnishment (Apco Form No. 412), Notice to The Judgment Debtor and Request for Hearing (Apco Form No. 413). (Note-some courts may themselves provide some of the required forms.) Motion required by Civ.R. 7(B).

NOTICE AND AFFIDAVIT TO THE JUDGMENT DEBTOR OF CURRENT BALANCE DUE ON GARNISHMENT ORDER

_____, OHIO

Judgment Creditor

CASE NO. _____
(Must be on all References)

VS.

DOCKET NO _____ PAGE _____

THIS COMMUNICATION IS FROM A DEBT COLLECTION

Judgment Debtor (SS# last four digits optional) _____

You are hereby notified that the judgment creditor in this proceeding has issued an affidavit of current balance due on garnishment order in the above case. The **Affidavit of Current Balance Due on Garnishment Order**, below, shows the original amount of the judgment that was the basis of the garnishment order, the accrued interest to date, the court costs assessed to date, all moneys paid to the judgment creditor and the judgment creditor's attorney on the judgment balance to date, and the current balance due on the judgment. If you dispute the judgment creditor's determination of these amounts or if you believe that this affidavit is improper for any other reason, you may request a hearing before this court disputing the affidavit in the request for hearing form, attached or in a substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the clerk of court, no later than the end of the 5th business day after you receive this notice. You may state your reasons for disputing the judgment creditor's determination of the amounts shown in the Affidavit of Current Balance Due on Garnishment Order in the space provided on the form; however, you are not required to do so. If you state your reasons for disputing the judgment creditor's determination, 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, 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 currently due on the judgment you owe to the judgment creditor. If you request a hearing by delivering your request for hearing not later than the end of the 5th business day after you receive this notice, the court will conduct the hearing no later than 12 days after your request is received by the court, and the court will send you notice of the date, time and place. 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 will send you notice of the date, time, and place. If you do not request a hearing by delivering your request for hearing not later than the end of the 5th business day after you receive this notice, some of your personal earnings will continue to be paid to the judgment creditor until the judgment is satisfied. If you have any questions concerning this matter, you may contact the office of the clerk of this court. If you want legal representation, you should contact your lawyer immediately. If you need the name of a lawyer, you should contact the local bar association.

State of Ohio, _____ County: ss Now comes the judgment creditor/attorney and states:
The original amount of the judgment that is the bases of the garnishment order is: \$ _____

The accrued interest to date is: \$ _____; The court costs assessed to date are: \$ _____

All moneys paid to the judgment creditor/attorney on the judgment to date are: \$ _____

Current Balance Due is: \$ _____

Judgment Creditor/Attorney Supreme Court I.D. Number

Address, City, State, Zip Code

Phone Number

Judgment Creditor / Attorney

Sworn to & subscribed before me on _____

Notary Public

NOTICE OF COURT PROCEEDING TO COLLECT DEBT

NOTICE OF COURT PROCEEDING TO COLLECT DEBT¹

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 _____
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 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-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 amount 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 of 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 such 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.

Address of Judgment Creditor

Name of Judgment Creditor

Signature of Judgment Creditor or Agent

(cut along dotted line)

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 your pay period (weekly, bi-weekly, semi-monthly, monthly); (3) \$ _____
- 3. (B) Enter the date when your present pay period ends _____.
- 4. Enter an amount equal to 25% of the amount on line 2: (4) \$ _____
- 5. (A) The current federal minimum hourly wage; if paid bi-weekly, enter sixty times the current federal minimum hourly wage; if paid semi-monthly, enter sixty-five times the current federal minimum hourly wage; if paid monthly, enter one hundred thirty times the current federal minimum hourly wage: (5A) \$ _____
- (B) Enter the amount by which the amount on line 2 exceeds the amount on line 5(A): (5B) \$ _____
- 6. Enter the smallest of the amounts on lines 1, 4 or 5(B). Send this amount to the judgment creditor along with this form after you have signed it:

I certify that the statements contained above are true to the best of my knowledge and belief.

(Print Name and Residence Address of Judgment Debtor)

(Signature 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 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 pay periods immediately prior to my receiving this notice.

NOTICE TO JUDGMENT DEBTOR
(Signed by Clerk of Court)

COMMON PLEAS COURT
LAKE COUNTY

Painesville, Ohio

JUDGMENT CREDITOR
VS

CASE NO. _____

JUDGE _____

JUDGMENT DEBTOR

PERSONAL EARNINGS

You are hereby notified that this court has issued an order in the above case in favor of

(Name and Address of Judgment Creditor)

the judgment 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 _____ Court in Case No. _____ on _____

The law of Ohio 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 are enclosed with this notice show 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, attached, or in a substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the Clerk of this Court, no later than the end of the fifth business day after you receive this notice. You may state your reasons 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, it will not be held against you by the court 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 fifth business day after you receive this notice, it will be conducted no later than twelve days after your request is received by the court and the Court office will send you notice of the date, time and a place. You may indicate on 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 will send you notice of the date, time and place. If you do not request a hearing by delivering your request for hearing, no later than the end of the fifth 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 office of the Clerk of this Court. If you want legal representation you should contact your lawyer immediately. If you need the name of a lawyer, contact the local Bar Association.

Date

Carl DiFranco

Clerk of Courts

by _____
Deputy Clerk

*Defendant – Two Copies

CASE NO. _____

SECTION B. ANSWER OF EMPLOYEE (GARNISHEE)

(Answer All 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 the 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 continuance garnishments with _____, an officer or managing or general agent of the Garnishee. No service because _____

Date of Return : _____ Bailiff/Process Server _____

INTERIM REPORT AND ANSWER OF GARNISHEE

COMMON PLEAS COURT,

PAINESVILLE, OHIO.

JUDGMENT CREDITOR

vs

Case No. _____

JUDGMENT DEBTOR

THE GARNISHEE, _____, IN THE ABOVE CASE STATES AS FOLLOWS:

1. THE DATE THAT THE GARNISHEE RECEIVED THE ORDER OF GARNISHMENT 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 OF THE ORDER OF GARNISHMENT OF THE JUDGMENT DEBTOR'S PERSONAL EARNINGS OR IN THE AFFIDAVIT OF CURRENT BALANCE DUE ON GARNISHMENT ORDER IF THAT AFFIDAVIT HAS BEEN RECEIVED SUBSEQUENT TO THE ORDER OF GARNISHMENT, 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 REPORT AND ANSWER OF GARNISHEE.) \$ _____.
5. THE AMOUNT EQUAL TO TWENTY-FIVE PER CENT (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 THIRTY ABOVE, IF PAID BIWEEKLY, ENTER SIXTY, IF PAID SEMIMONTHLY ENTER SIXTY-FIVE, IF PAID MONTHLY, ENTER ONE HUNDRED THIRTY, 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 OF THIS FORM, OR THE AMOUNT ENTERED IN SECTION 2 OF THIS FORM 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 OF THE FORM EQUALS THE AMOUNT ENTERED IN SECTION 2 OF THIS FORM, THEN ADD UP TO THREE DOLLARS (\$3); OTHERWISE SUBTRACT UP TO THREE DOLLARS (\$3)).
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 REPORT AND ANSWER OF GARNISHEE" IS \$ _____.

I CERTIFY THAT THE STATEMENTS ABOVE ARE TRUE

(PRINT NAME AND TITLE OF EMPLOYER)

(PRINT NAME AND TITLE OF
PERSON WHO COMPLETED FORM)

SIGNED _____
(SIGNATURE OF PERSON WHO COMPLETED FORM)

DATE THIS _____ day of _____, _____

FINAL REPORT AND ANSWER OF GARNISHEE

JUDGMENT CREDITOR

Common Pleas Court, Painesville, Ohio

VS

Case No. _____

JUDGMENT DEBTOR

THE GARNISHEE, _____, IN THE ABOVE CASE STATES AS FOLLOWS:

1. THE DATE THAT THE GARNISHEE RECEIVED THE ORDER OF GARNISHMENT 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 SECTION A OF THE ORDER OF GARNISHMENT OF THE JUDGMENT DEBTOR'S PERSONAL EARNINGS IS \$ _____.
3. THE TOTAL AMOUNT THAT HAS BEEN WITHHELD FROM THE JUDGMENT DEBTOR'S PERSONAL DISPOSABLE EARNINGS AND PAID TO THE COURT WHILE THE ORDER OF GARNISHMENT OF THE JUDGMENT DEBTOR'S PERSONAL EARNINGS REMAINED IN EFFECT IS \$ _____.
4. (WHEN APPLICABLE) THE TOTAL PROBABLE AMOUNT DUE ON THE JUDGMENT (AS STATED IN 2 ABOVE) IS NOT EQUAL TO THE TOTAL AMOUNT THAT HAS BEEN WITHHELD (AS STATED IN 3 ABOVE), AND THE REASON FOR THAT DIFFERENCE IS THAT THE ORDER OF GARNISHMENT 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 ORDER OF GARNISHMENT OF THE JUDGMENT DEBTOR'S PERSONAL EARNINGS

(B) _____ A FEDERAL BANKRUPTCY COURT ISSUED AN ORDER THAT SAYS THE ORDER OF GARNISHMENT OF THE JUDGMENT DEBTOR'S PERSONAL EARNINGS

(C) _____ A MUNICIPAL OR COUNTY COURT OR A COURT OF COMMON PLEAS ISSUED 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 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 OR COUNTY COURT OR A COURT OF COMMON PLEAS ISSUED ANOTHER ORDER OF GARNISHMENT OF PERSONAL EARNINGS THAT RELATES TO THE JUDGMENT DEBTOR AND A DIFFERENT JUDGMENT 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 JUDGMENT CREDITOR OR JUDGMENT CREDITOR'S ATTORNEY HAS ISSUED A REQUEST THAT THE ORDER OF GARNISHMENT BE TERMINATED AND THE GARNISHEE RELEASED FROM THE MANDATES OF THE ORDER OF GARNISHMENT.

(F) _____ JUDGMENT DEBTOR'S EMPLOYMENT TERMINATED ON: _____

(G) _____ OTHER: _____

I CERTIFY THAT THE STATEMENTS ABOVE ARE TRUE

(PRINT NAME AND TITLE OF EMPLOYER)

(PRINT NAME AND TITLE OF PERSON WHO COMPLETED FORM ON BEHALF OF EMPLOYER)

SIGNED _____
(SIGNATURE OF PERSON WHO COMPLETED FORM)

DATE THIS _____ day of _____, _____

REQUEST FOR HEARING (PERSONAL EARNINGS)

Case No. _____ Court,
_____ District,
Judge _____, Ohio.

I dispute the judgment creditor's determination of current balance due on garnishment order in the above case and request that a hearing in this matter be held not later than twelve days after delivery of this request to the court. I

I _____ believe that the need for the hearing is an emergency.
(insert "Do" or "Do Not")

I dispute the judgment creditor's determination for the following reasons: (1)

I understand that no objections to the judgment itself will be considered at the hearing.

Date: _____

(Name of Judgment Debtor-Print)

(Signature)

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU WAIVE YOUR RIGHT TO A HEARING AND SOME OF YOUR PERSONAL EARNINGS, WILL CONTINUE TO BE PAID TO _____

(Judgment Creditor's Name)

IN SATISFACTION OF YOUR DEBT TO THE JUDGMENT CREDITOR

(1) OPTION

CARL DiFRANCO
Lake County Clerk of Courts
In the Court of Common Pleas
General Division

Case No.: _____

_____ vs. _____

Instructions for Service

You are hereby instructed to serve the following party(ies) by

Party Name	Party Full Address

- | | | |
|-------------------|-----------|----------|
| Regular Mail | | |
| Certified Mail | | |
| Sheriff of County | Residence | Personal |
| Process Server | | |
| FedEx | | |

With the following paper(s):

- Summons (28 days)
- Other:

With Journal Entry

Without Journal Entry

Name of pleading(s):

Prepared by: _____

Address: _____

Telephone: _____

Email: _____