

DAYTON MUNICIPAL COURT AFFIDAVIT, ORDER AND NOTICE OF GARNISHMENT
OF PERSONAL EARNINGS AND ANSWER OF EMPLOYER (R.C. 2716.05)

revised 11/08/04

DAYTON MUNICIPAL COURT, CIVIL DIVISION
P.O. BOX 10700
Dayton, OH 45402

JUDGMENT CREDITOR

-vs-

Case No. _____

Exec. No. _____

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

JUDGMENT DEBTOR

STATE OF OHIO, COUNTY OF MONTGOMERY, SS.:

The undersigned, first duly cautioned and sworn, deposes that I am _____, the Judgment Creditor herein, and that said Judgment Creditor on the _____ day of _____, 20____, 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 who may have 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

AFFIANT

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 the Dayton Municipal Court stating that you owe the Judgment Debtor money for personal earnings, which are nonexempt 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 on the back 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, as determined in accordance with the Interim Report and Answer of Garnishee and 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, interest, and, if applicable, prejudgment interest have been paid in full. You must pay the 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 your payment 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 (\$3) [which shall not be charged as court costs] from the Judgment Debtor's personal disposable earning for any pay period that an amount was withheld for the Garnishment Order. You are not required to file with the court the Interim Report and Answer of Garnishee for any pay period of the Judgment Debtor for which an amount was not withheld for the Garnishment Order.

This Garnishment Order will 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 of the specified amount, calculated each pay period at the statutory percentage, from the Judgment Debtor's personal disposable earnings, 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 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 it;
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" form. A copy of the Final Report and Answer of Garnishee form is attached to this Order of Garnishment. 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 (182nd) 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 and you should become familiar with them. An Employer Guide To Processing Continuous Orders Of Garnishment is included with this Order of Garnishment.

Witness my hand and the seal of this court this _____ day of _____, 200__.

JUDGE

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 _____, 20__ .

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.

 Print Name of Employer

 Print Name and Title of Person Who Completed Form on Behalf of the Employer

 Date Signed

SIGNED: _____
 Signature of Employer or Employer's Agent

 Phone number of Employer or Employer's Agent

Pursuant to R.C. 2716.05, I served the above Garnishment Order by leaving three copies thereof, two copies of the Notice to Judgment Debtor and Hearing Request card, and a copy of the Employer Guide To Processing Continuous Orders of Garnishment with _____,
 _____ an officer or managing or general agent of the Garnishee.

No Service because _____.

Date of Return: _____ Bailiff / Process Server _____