

Lyndhurst Municipal Court

AFFIDAVIT PERSONAL EARNINGS

Case No. _____

The State of Ohio
County of Cuyahoga, ss

Judgment Creditor

vs.

Judgment Debtor

Before me, the undersigned Notary Public or Deputy Clerk of the Lyndhurst Municipal Court, personally appeared _____ who, being duly sworn according to law, says that they are the judgment creditor or attorney for the judgment creditor herein and that said judgment creditor heretofore, to-wit, on _____ (date) duly recovered or transferred a judgment to the Lyndhurst Municipal Court against judgment debtor which remains unsatisfied.

Further, garnishee may be an employer of the judgment debtor and may have personal earnings of the judgment debtor; demand required by Ohio Revised Code §2716.02 has been made, and a true copy of said demand is attached hereto; payment demanded in said demand has not been made, nor has a sufficient portion been made to prevent the garnishment of personal earnings as described in Ohio Revised Code §2716.02. The affiant has no knowledge of any application by the judgment debtor for the appointment of a trustee so as to preclude the garnishment of the judgment debtor's personal earnings and has no knowledge that the debt to which this affidavit pertains is the subject of a debt scheduling agreement of a nature that it precludes the garnishment of the personal earnings of the judgment debtor under Ohio Revised Code §2716.03(B).

Signed at _____, Ohio on _____, 20____

AFFIANT SIGNATURE

Sworn and subscribed before me this ____ day of _____, 20____

NOTARY PUBLIC/DEPUTY CLERK

Lyndhurst Municipal Court

ORDER AND NOTICE OF GARNISHMENT AND ANSWER OF EMPLOYER – SECTION A.

Case No. _____

The State of Ohio
County of Cuyahoga, ss

Judgment Creditor

vs.

Judgment Debtor

Identification for Judgment Debtor

SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT

To: _____
(Name and address of Garnishee)

The judgment creditor in the above case has filed an affidavit, satisfactory to the undersigned, in this Court stating that you *may* owe the judgment debtor money for personal earnings.

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 \$ _____; pre- and post-judgment interest, if applicable, 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 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 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 §2716.07 of the Ohio Revised Code. A copy of the "INTERIM REPORT AND ANSWER OF

GARNISHEE" is included with 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 (\$3) 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 the "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 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 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 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 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" substantially in the form set forth in §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 §2716.01 of the Ohio Revised Code. An employer guide to processing continuous orders of garnishment can be found on our website. You should become familiar with these rules.

Witness my hand and the seal of this Court on _____.

JUDGE DOMINIC J. COLETTA

Lyndhurst Municipal Court

ORDER AND NOTICE OF GARNISHMENT AND ANSWER OF EMPLOYER – SECTION B.

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.)

Case No. _____

The State of Ohio
County of Cuyahoga, ss

_____ vs. _____
Judgment Creditor 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 (date): 1. _____

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

If answer is "No," give date of last employment: _____. If never employed, check here _____.

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? 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.

Details of Agreement: _____

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 order of garnishment of personal earnings (such as a support order or Internal Revenue Service levy)? 3(B). 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.

Name of Court _____

Associated Case Number _____

Date Order Received _____ Balance Due \$ _____.

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 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 previously received order, the associated case number, the date upon which you received each order, and the balance due to the relevant judgment creditor under each order. List first the previously received order(s) that you are currently processing, and list each of the other previously received order in the sequence that you are required to process them.

Name of Court _____

Associated Case Number _____

Date Order Received _____ Balance Due \$ _____.

Name of Court _____

Associated Case Number _____

Date Order Received _____ Balance Due \$ _____.

I certify that the statements above are true.

(Signature of Employer or Employer's Agent)

(Print Name of Employer)

(Print Name and Title of Person Completing Form
on behalf of Employer)

(Phone Number)

(Date)

(Fax Number)

Lyndhurst Municipal Court

NOTICE TO JUDGMENT DEBTOR

Case No. _____

(Judgment Creditor) vs. _____
(Judgment Debtor)

You are hereby notified that this Court has issued an order in the above case in favor of the judgment creditor 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 transferred to, the Lyndhurst Municipal Court on _____ (judgment date) with the above case number.

The laws of Ohio provide 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 it you feel that this order is improper for any other reason, you may request a hearing before this Court by disputing the claim on the enclosed request for hearing 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 (5th) business day after you receive this notice, said hearing will be added to the Court docket and notification of the time and date will be sent to you. 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 and notification of the time and date will be sent to you. If you do not request a hearing by delivering your request no later than the end of the fifth (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 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

Clerk of Lyndhurst Municipal Court

Lyndhurst Municipal Court

REQUEST FOR HEARING

Case No. _____

Date: _____

I dispute the judgment creditor's right to garnish my personal earnings in the above case and request that a hearing in this matter be held and added to the court docket and notification of time and date be sent to me.

I (insert "do" or "do not") _____ believe that the need for the hearing is an emergency. 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 HEARD OR CONSIDERED AT THE HEARING.

Signature of Judgment Debtor

Print Name

Phone Number

Street Address

City, State and Zip

Date

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 BE PAID TO THE JUDGMENT CREDITOR IN SATISFACTION OF YOUR DEBT TO THE JUDGMENT CREDITOR.

Lyndhurst Municipal Court

INTERIM REPORT AND ANSWER OF GARNISHEE

Case No. _____

The State of Ohio
County of Cuyahoga, ss

_____ vs. _____
Judgment Creditor 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 A 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 (30), if paid biweekly, enter sixty (60), if paid semimonthly, enter sixty-five (65), if paid monthly, enter one hundred thirty (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 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 this 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 of Employer

Print Name and Title of Person Who Completed Form

Date

Signature of Person Who Completed Form

Lyndhurst Municipal Court

FINAL REPORT AND ANSWER OF GARNISHEE

Case No. _____

The State of Ohio
County of Cuyahoga, ss

_____ vs. _____
Judgment Creditor 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 A 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 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 stays 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):

Court Name _____

Associated Case Number _____

Date Order Received _____ Balance Due Creditor \$ _____

- (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):

Court Name _____

Associated Case Number _____

Date Order Received _____ Balance Due Creditor \$ _____

(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 of Employer

Print Name and Title of Person Who Completed
Form on behalf of Employer

Date

Signature of Employer or Employer's
Agent