

FAIRBORN MUNICIPAL COURT

fairbornmunicipalcourt.us

HOW TO COLLECT AFTER YOU RECEIVE A JUDGMENT

Once you have obtained a judgment, the next step is to collect the money owed to you on your judgment. This instruction sheet indicates step by step the various procedures you may follow in collecting the money owed when the Judgment Debtor has refused to voluntarily pay you the amount of your judgment plus court costs.

The Small Claims Court office will not prepare the legal papers for you; however, personnel will be available if you need assistance in completing any of the forms described in this instruction sheet.

It is important that you keep your current address and phone number on file with the Court during the time you have an active Judgment.

NOTE: If the Judgment Debtor is in Bankruptcy, no collection actions shall be filed.

1. **BANK ATTACHMENT: SAVINGS OR CHECKING**

(Complete packet may be obtained at the Clerk's Office)

To execute on a savings and/or checking account of your judgment debtor, you must obtain the name, address and branch of the bank in which the account is deposited, along with the exact name and account number, if possible.

Having obtained the above information, you must complete the Bank Attachment forms (see samples attached hereto). The Affidavit needs to be signed in the presence of a Notary or Deputy Clerk. The Court fee for filing a Bank Attachment is \$60.00. A \$1.00 check made payable to the bank receiving the Attachment must also be included.

Response time vary from bank to bank, however, the Court should receive a response on the Attachment Order within two weeks. If money is paid in on the attachment, the Court will make distribution to the appropriate party within thirty (30) days.

2. **GARNISHMENT OF WAGES**

(Complete packet may be obtained at the Clerk's Office)

The first step is to complete the form called "Notice of Court Action to Collect Debt" (sample attached hereto). After completing the top portion of the form and making a copy for your records, mail this form by certified mail, return receipt requested or certificate of mailing to the judgment debtor at his/her usual place of residence.

At least fifteen (15) days, but no more than forty-five (45) days, after sending this form, you may file with the Small Claims Clerk the forms to complete the Garnishment proceedings (see samples attached hereto). After completing the forms, be sure to include a copy of the "Notice of Court Action to Collect Debt" and your return receive from certified mail or certificate of mailing or unclaimed letter. The Deputy Clerk will collect the \$140.00 filing fee for

the Garnishment. The Garnishment that the Clerk forwards to the employer is good for 182 days without re-filing the paperwork. If after the 182 days has expired and your judgment is unsatisfied, you may repeat this procedure.

3. REVOCATION OF THE JUDGMENT DEBTOR'S DRIVING PRIVILEGES

If your Judgment is for personal injury or damage caused through the negligent operation of a motor vehicle by the Judgment Debtor, you may send a certified copy of the Judgment to the Bureau of Motor Vehicles, requesting the revocation of the Judgment Debtor's driving privileges in the State of Ohio. The court costs for the certified copy of the Judgment is \$2.00. Mail the certified copy to:

Bureau of Motor Vehicles
Attn: MVOS
P.O. Box 16520
Columbus, OH 43216
Phone No: (614) 863-7526

The more information about the judgment debtor (date of birth, social security number, driver's license number, etc) you include, the less trouble you will have in getting the Bureau of Motor Vehicles to revoke the Judgment Debtor's driver's license.

4. JUDGMENT LIENS

If you know that the Judgment Debtor owns real estate in a particular county, you can easily obtain a Judgment Lien on his/her real estate by obtaining a Certificate of Judgment and filing same. Although obtaining such a lien will probably not cause the Judgment Debtor to immediately pay you on your judgment, it will guarantee that the Judgment Debtor's real estate cannot be transferred without dealing with your Judgment Lien. It is a simple, inexpensive, yet effective way of obtaining some assurance that your judgment will be paid.

To obtain a Certificate of Judgment (CJ), you must file a request to issue a CJ with the Clerk of the Court where you obtained your Judgment and pay the filing fee of \$20.00. After you have obtained the CJ, you must file it in the Common Pleas Court of the county in which the real estate owned by the Judgment Debtor is located. After you have filed your Judgment Lien, you should advise the Judgment Debtor that you have filed a lien on his/her real estate and that it will not be removed until he/she pays you the amount of your judgment. This may be enough to cause the Judgment Debtor to begin payment. You must be sure to cancel the CJ when the amount of Judgment has been paid in full.

5. EXECUTION OF PROPERTY

To attach property is costly, complicated, and knowledge of the law regarding this will be required. It is considered to be more practical in this case to consult an attorney.

6. DEBTOR'S EXAMINATION

When there is no knowledge of the Judgment Debtor's assets, the Clerk will provide you with forms for a Debtor's Examination (see sample attached hereto). The filing fee is \$30 and includes service by certified mail. If personal service is desired, you must prepare Instructions for Service. For Bailiff Service, if Judgment Debtor resides in our jurisdiction, the filing fee is \$40. For Sheriff Service, if Judgment Debtor resides outside our jurisdiction, a \$60 deposit is required and you must include the name and address of the Sheriff's Department in your Instructions for Service.

The Judgment Debtor is summoned to Court, put under oath and you ask questions regarding his/her assets. If the Judgment Debtor fails to appear, you may consider filing contempt charges.

7. MOTION TO SHOW CAUSE FOR CONTEMPT

When a Judgment Debtor failed to make an ORDERED Court appearance, they may be found in Contempt of Court for failure to appear (if they were personally served). These forms are available in the Civil/Small Claims Division of the Court and will be provided and explained as needed.

WHEN PAYMENT IN FULL IS RECEIVED, YOU ARE **REQUIRED** TO NOTIFY THE COURT **IMMEDIATELY** SO THAT A SATISFACTION OF JUDGMENT MAY BE PREPARED AND FILED.

SAMPLE: BANK ATTACHMENT PAPERWORK

You must include the following copies when filing your Bank Attachment:

Affidavit, Order and Notice (3 pages): Original + 5 Copies

Notice to Judgment Debtor (2 pages): Original + 3 Copies

Request for Hearing (1 page): Original + 2 Copies

AFFIDAVIT, ORDER AND NOTICE OF GARNISHMENT OF PROPERTY OTHER THAN PERSONAL EARNINGS AND ANSWER OF GARNISHEE

The State of Ohio
County of _____, SS

PLAINTIFF NAME & ADDRESS

Case No. _____

YOUR CASE NO

Judgment Creditor(s)

FAIRBORN MUNICIPAL COURT

vs.

1148 KAUFFMAN AVE

DEFENDANT NAME & ADDRESS

FAIRBORN, OH 45324

(937) 754-3044

Judgment Debtor(s)

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

AFFIDAVIT

The undersigned, being first duly cautioned and sworn, affirmed according to law, says that I am the Judgment Creditor herein/ Attorney for Judgment Creditor herein, and that said Judgment Creditor heretofore, to-wit, on the DATE OF JUDGMENT, duly recovered a judgment before this Court against said Judgment Debtor DEFENDANT NAME.

Amount Now Due: \$ TOTAL AMOUNT DUE

DESCRIPTION OF PROPERTY: PROPERTY TO BE ATTACHED (SAVINGS, CHECKING, ETC)

Name and address of Garnishee who may have in the garnishee's hands or control money, property, or credits, other than personal earnings of the judgment debtor: NAME AND ADDRESS OF BANK

ATTORNEY FOR JUDGMENT CREDITOR

SIGN BEFORE NOTARY PUBLIC OR DEPUTY CLERK

Sworn to and subscribed before me

Date: _____

Notary Public / Deputy Clerk

SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT

TO: NAME AND ADDRESS OF BANK GARNISHEE

The judgment creditor in the above case has filed an Affidavit, satisfactory to the undersigned, in this Court stating that you may have money, property, or credits, other than personal earnings, in your hands or under your control that belong to the Judgment Debtor. You are therefore ordered to complete the "ANSWER OF GARNISHEE" in section (B) of this form. Return one completed and signed copy of this form to the clerk of this court together with the amount determined in accordance with the "ANSWER OF GARNISHEE" by the following date on which a hearing is tentatively scheduled relative to this Order of Garnishment: _____, Deliver one completed and signed copy of this form to the Judgment Debtor prior to that date. Keep the other completed and signed copy of this form for your files.

The total probable amount now due on this judgment is \$ **TOTAL DUE**. The total probable amount now due includes the unpaid portion of the judgment in favor of the Judgment Creditor, which is \$ **JUDGMENT AMOUNT**; interest on that judgment and, if applicable, prejudgment interest relative to that Judgment at the rate of **percentage**% per annum payable until that judgment is satisfied in full; and court costs in the amount of \$ **court cost amount**.

You also are ordered to hold safely anything of value that belongs to the Judgment Debtor and that has to be paid to the court, as determined under the "ANSWER OF GARNISHEE" in section (B) of this form, but that is of such a nature that it cannot be so delivered, until further order of the court.

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

JUDGE

SECTION B. ANSWER OF GARNISHEE

Now comes _____ the GARNISHEE, who says:

1. That the Garnishee **has more than \$475.00** in money, property, or credits, other than personal earnings, of the judgment debtor under the Garnishee's control and in the Garnishee's possession.

_____ **NO** _____ **YES** IF YES, **AMOUNT OVER \$475.00: \$** _____

2. That property is described as: _____

3. If the answer to line 1 is "yes" and the amount is less than the probable amount now due on the judgment, as indicated in section (A) of this form, sign and return this form and pay the amount of line 1 to the Clerk of this Court.

4. If the answer to line 1 is "yes" and the amount is greater than that probable amount now due on the judgment, as indicated in section (A) of this form, sign and return this form and pay that probable amount now due to the Clerk of this Court.

5. If the answer to line 1 is "yes" but the money, property, or credits are of such a nature that they cannot be delivered to the Clerk of Court, indicate that by placing an "X" in this space _____. Do not dispose of that money, property, or credits or give them to anyone else until further order of the Court.

6. If the answer to line 1 is "no," sign and return this form to the Clerk of this Court.

I certify that the statements above are true.

(Print Name of Garnishee)

(Print Name and Title of Person Who Completed Form)

Signed

(Signature of Person Completing Form)

The State of Ohio
County of _____, SS

PLAINTIFF NAME & ADDRESS

Case No. **YOUR CASE NO**

FAIRBORN MUNICIPAL COURT

Judgment Creditor(s)

1148 KAUFFMAN AVE

vs.

FAIRBORN, OH 45324

DEFENDANT NAME & ADDRESS

NOTICE TO THE JUDGMENT DEBTOR OF

GARNISHMENT OF OTHER THAN

Judgment Debtor(s)

PERSONAL EARNINGS

You are hereby notified that this court has issued an order in the above case in favor of the Judgment Creditor, **PLAINTIFF NAME & ADDRESS**, in this proceeding, directing that some of your money **in excess of \$475**, property, or credits now in the possession of the Garnishee, **DEFENDANT NAME & ADDRESS** in this proceeding, be used to satisfy your debt to the Judgment Creditor. This order was issued on the basis of the Judgment Creditor's judgment against you obtained in or transferred to the FAIRBORN MUNICIPAL Court, in Case No. YOUR CASE NO on JUDGMENT DATE.

Upon your receipt of this Notice, you are prohibited from removing or attempting to remove the money, property, or credits until expressly permitted by the court. Any violation of this prohibition subjects you to punishment for contempt of court.

The law of Ohio and the United States provides that certain benefit payments cannot be taken from you to pay a debt. Typical among the benefits that cannot be attached or executed upon by a creditor are the following:

- (1) Workers' compensation benefits;
- (2) Unemployment compensation payments;
- (3) Cash assistance payments under the Ohio works first program;
- (4) Benefits and services under the prevention, retention, and contingency program;
- (5) Disability financial assistance by the Ohio department of job and family services;
- (6) Social security benefits;
- (7) Supplemental security benefits;
- (8) Veteran's benefits;
- (9) Black lung benefits;
- (10) Certain pensions.

There may be other benefits not included in the above list that apply in your case.

If you dispute the Judgment Creditor's right to garnish your property and believe that the Judgment Creditor should not be given your money, property, or credits, other than personal earnings, now in the possession of the Garnishee because they are exempt or if you feel that this order is improper for any other reason, you may request a hearing before this court by disputing the claim in the enclosed Request for Hearing Form, enclosed herein, 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 property 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.**

If you request a hearing, the hearing will be limited to a consideration of the amount of your money, property, or credits, other than personal earnings, in the possession or control of the garnishee, if any, that can be used to satisfy all or part 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 received this notice, it will be conducted in COURTROOM 2, 1148 KAUFFMAN AVE, FAIRBORN, OH 45324, at _____m. on _____.

You may request the Court to conduct the hearing before this date indicating your request in the space provided on the form; the Court then will send you notice of any change in the date, time, or place of the hearing. 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 money, property, or credits, other than 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 court. If you want legal representation or need legal advice, you should contact your lawyer immediately. If you need the name of a lawyer, contact the local bar association.

DATE _____

Clerk of Court

By _____

**REQUEST FOR HEARING
(MONEY – PROPERTY – CREDITS)**

Case No. YOUR CASE NUMBER

I dispute the judgment Creditor’s right to garnish my money, property, or credits, or other than personal earnings, in the above case and request that a hearing be held _____ (Insert “on” or “earlier than”) the date and time set forth in the document entitled “NOTICE TO THE JUDGMENT DEBTOR” that I received with this request form.

I dispute the judgment creditor’s right to garnish my property for the following reasons: (1)

I UNDERSTAND THAT NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE HEARD OR 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 At This Time And You May Be Required To Give Up The Property Sought Without A Hearing.

SAMPLE: WAGE GARNISHMENT PAPERWORK

You must include the following copies when filing your Wage Garnishment:

Affidavit, Order and Notice (3 pages): Original + 4 Copies

Notice to Judgment Debtor (2 pages): Original + 2 Copies

Request for Hearing (1 page): Original + 2 Copies

Interim Report and Answer of Garnishee (1 page): Original + 2 Copies

Final Report and Answer of Garnishee (1 page): Original + 2 Copies

Notice of Court Proceeding to Collect Debt (1 page): 2 Copies with Proof of Service

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

THE STATE OF OHIO
COUNTY OF _____, SS

FAIRBORN MUNICIPAL COURT
1148 KAUFFMAN AVE,
FAIRBORN, OH 45324

(937) 754-3044

_____ **PLAINTIFF NAME & ADDRESS**

Case No. **YOUR CASE NUMBER**

Judgment Creditor

vs.

_____ **DEFENDANT NAME & ADDRESS**

**THIS COMMUNICATION IS
FROM A DEBT COLLECTOR**

Judgment Debtor

AFFIDAVIT

The undersigned, first duly cautioned and sworn, deposes that s/he is the Judgment Creditor herein/Attorney for Judgment Creditor herein, and that said judgment creditor heretofore, to-wit, on **JUDGMENT DATE** duly recovered or transferred a judgment to the **FAIRBORN MUNICIPAL COURT** against said judgment debtor which remains unsatisfied.

Amount of Judgment	\$	<u> JUDGMENT AMOUNT </u>
Plus Interest to day (Interest Rate _____%)	\$	<u> INTEREST AMOUNT </u>
Plus Court Costs to date, including the cost of this proceeding	\$	<u> COURT COSTS </u>
Minus amount received after Judgment	\$	<u> </u>
AMOUNT NOW DUE	\$	<u> TOTAL AMOUNT OWING </u>

The affiant states that the name and address of the garnishee who may be an employer of the judgment debtor and who may have personal earnings of the judgment debtor is **NAME & ADDRESS OF EMPLOYER** that the demand required by section 2716.02 of the Ohio Revised Code has been made and a true cop of said Demand of the payment demanded is attached hereto; that the 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 section 2716.02 of the Ohio Revised Code. The affiant has no knowledge of any application by the judgment debtor for the application of a trustee so s 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 section 2716.03(B) of the Ohio Revised Code.

ATTORNEY FOR JUDGMENT CREDITOR

SIGN BEFORE NOTARY PUBLIC OR DEPUTY CLERK

Sworn to and subscribed before me

this _____ day of _____, 20_____

Notary Public/Deputy Clerk

SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT

TO: **NAME & ADDRESS OF EMPLOYER** , **GARNISHEE**
(name and address of Employer)

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 copy of this form for your files. The total probable amount now due on this judgment is \$ **TOTAL OWING** (The total probable amount due includes the unpaid portion of the judgment in favor of the Judgment Creditor, which is \$ **JUDGMENT AMOUNT** interest on that judgment and, if applicable, prejudgment interest relative to that judgment at the rate of **INTEREST PERCENTAGE**% per annum payable until that judgment is satisfied in full; and court costs in the amount of \$ **COURT COSTS**)

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 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 section 2716.07 of the Ohio Revised Code. A copy of the "Interim Report and Answer of Garnishee" is attached to 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 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 on the judgment as described above 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 that stays this order of garnishment of personal earnings.
- 4) A federal bankruptcy court issues to you an order staying this order of garnishment of personal earnings.
- 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" 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 section 2716.041 of the Ohio Revised Code. 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 _____, 20_____.

Judge

SECTION B. ANSWER OF EMPLOYER (GARNISHEE) (Answer All Pertinent Questions)

FAIRBORN MUNICIPAL COURT

1148 KAUFFMAN AVE,
FAIRBORN, OH 45324

(937) 754-3044

PLAINTIFF NAME & ADDRESS

Case No. **YOUR CASE NUMBER**

Judgment Creditor

vs.

DEFENDANT NAME & ADDRESS

**THIS COMMUNICATION IS
FROM A DEBT COLLECTOR**

Judgment Debtor

(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: _____

2. The Judgment Debtor is in my/our employ YES NO

If the 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? 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 earning 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)? 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 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 is "Yes" give the name of the court that issued each of those previously received order, 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

NOTICE TO JUDGMENT DEBTOR OF GRANISHMENT OF PERSONAL EARNINGS

FAIRBORN MUNICIPAL COURT

PLAINTIFF NAME

1148 KAUFFMAN AVE,
FAIRBORN, OH 45324

(937) 754-3044

Judgment Creditor

vs.

DEFENDANT NAME

Case No. _____ **YOUR CASE NUMBER**

**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 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 FAIRBORN MUNICIPAL COURT in the above case no. on JUDGMENT DATE.

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 garnishee 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, accompanying this notice, 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 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

Clerk

By: _____

Deputy Clerk

**REQUEST FOR HEARING
PERSONAL EARNINGS**

FAIRBORN MUNICIPAL COURT

1148 KAUFFMAN AVE,
FARIBORN, OH 45324

(937) 754-3044

PLAINTIFF NAME

Judgment Creditor

vs.

DEFENDANT NAME

Judgment Debtor

Case No. **YOUR CASE NUMBER**

**THIS COMMUNICATION IS
FROM A DEBT COLLECTOR**

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 no later than twelve days after delivery of this request to the court.

I **do / do not** feel 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.

Date: _____

(Name of Judgment Debtor-Print)

(Signature)

INTERIM REPORT AND ANSWER OF GARNISHEE

PLAINTIFF NAME

FAIRBORN MUNICIPAL COURT

1148 KAUFFMAN AVE,

FARIBORN, OH 45324

Judgment Creditor

(937) 754-3044

vs.

DEFENDANT NAME

Case No. **YOUR CASE NUMBER**

Judgment Debtor

**THIS COMMUNICATION IS
FROM A DEBT COLLECTOR**

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 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 (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 in which you are completing this Interim Report and Answer of Garnishee.) _____

5) The amount equal to twenty-five percent (25%) of the judgment debtor's disposable earnings set forth in _____

section 4 of this form is

6) _____ times current federal minimum hourly wage is: _____

If the judgment debtor is paid weekly, enter thirty (30) above; if paid biweekly, enter sixty (60) above; if paid semimonthly, enter sixty-five (65) above; if paid monthly, enter one hundred thirty (130) above; 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 in section 2, 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.

Signed: X

(signature of person completing form)

(print name of employer)

Date

(date this form was completed)

(print name of person completing form)

Telephone Number

(Area Code)

(Phone Number)

(Print title of person completing this form)

FINAL REPORT AND ANSWER OF GARNISHEE

PLAINTIFF NAME

FAIRBORN MUNICIPAL COURT
1148 KAUFFMAN AVE,

FARIBORN, OH 45324

(937) 754-3044

Judgment Creditor

vs.

DEFENDANT NAME

Case No. **YOUR CASE NUMBER**

THIS COMMUNICATION IS

FROM A DEBT COLLECTOR

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 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):

- (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 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.

Signed: X

(signature of person completing form)

(print name of employer)

Date

(date this form was completed)

(print name of person completing form)

Telephone Number

(Area Code)

(Phone Number)

(Print title of person completing this form)

NOTICE OF COURT PROCEEDING TO COLLECT DEBT

Date of Mailing or Service by the Court: _____

TO: _____ (Name of Judgment Debtor) _____ (Last Known Address of Judgment Debtor)

You owe the undersigned _____ the sum of \$ _____, including interest and court costs, for which a judgment in Case No. _____ CV _____ was obtained against you or certified in the Franklin County Municipal Court on _____, payment of which is hereby demanded. (Judgment Entry Date)

If you do not do one of the four things listed below within fifteen (15) 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 extra burden on your employer possibly could cause you to lose your job.

YOU CAN AVOID THE GARNISHMENT BY DOING ONE OF THESE FOUR 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.
(4) 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 such an agreement in order to avoid a garnishment of your wages based upon this demand for payment, but entering into such an agreement 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.

X _____

(Name of Judgment Creditor or Attorney)

(Signature of Judgment Creditor or Attorney)

(Address of Judgment Creditor)

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 present pay period (weekly, bi-weekly, semi-monthly, monthly): (3) (A) \$ _____
(B) Enter the date when your pay period ends: (3) (B) \$ _____
4. Enter an amount equal to 25% of the amount on line 2: (4) \$ _____
5. (A) The current federal minimum hourly wage is \$ 7.25. (You should use the above figure to complete this portion of the form.) If you are paid weekly, enter thirty (30) times the current federal minimum hourly wage; if paid bi-weekly, enter sixty (60) times the current federal minimum hourly wage; if paid semi-monthly, enter sixty-five (65) times the current federal minimum hourly wage; if paid monthly, enter one hundred thirty (130) times the current federal minimum hourly wage: (5A) \$ _____
(B) Enter the amount by which the amount on line 2 exceeds the amount on line 5A: (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: (6) \$ _____

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

X _____ (signature of judgment debtor)

(Print name and residence address of judgment debtor)

(To verify that the amount shown on line (2) is 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 of 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)

**SAMPLE:
EXAMINATION OF JUDGMENT
DEBTOR PAPERWORK**

You must include the following copies when filing your paperwork:

Motion and Affidavit (2 pages): Original + 3 Copies

**IN THE MUNICIPAL COURT OF FAIRBORN, OHIO
CIVIL DIVISION**

PLAINTIFF NAME

Case No. YOUR CASE NUMBER.

Plaintiff(s)

vs.

**MOTION AND AFFIDAVIT FOR
EXAMINATION OF JUDGMENT DEBTOR**

DEFENDANT NAME

Defendant(s)

MOTION

Plaintiff moves the court for an order requiring DEFENDANT NAME to appear to answer questions under oath concerning defendant's property, earnings, and other assets.

Plaintiff / Attorney for Plaintiff

AFFIDAVIT

YOUR NAME says that s/he is the plaintiff or attorney for the plaintiff in this case. On JUDGMENT DATE judgment was obtained in the sum of \$ JUDGMENT AMOUNT plus court costs and interest. This judgment has not been satisfied; there is a balance due and owing of \$ AMOUNT OWING plus costs and interest.

SIGN BEFORE NOTARY/DEPUTY CLERK

Plaintiff / Attorney for Plaintiff

Sworn before me and subscribed in my presence this _____ day of _____, 20____.

Notary Public / Deputy Clerk

REQUEST FOR SERVICE

Please issue service to **DEFENDANTS NAME** at **DEFENDANT'S ADDRESS**

_____ as indicated below:

Certified Mail Service - \$0.00

Bailiff Service –\$30

Sheriff Service –\$40 deposit (additional charges may apply)

Sheriff Name and Address:

Plaintiff / Attorney for Plaintiff