

**IN THE MAGISTRATE COURT OF WALKER COUNTY
PROCEDURES FOR FILING GARNISHMENTS**

1. You **must** have a judgment not to exceed \$15,000.00 against an individual or an entity before you file an Affidavit of Garnishment **and** the Garnishee **must** be located in Walker County. If the judgment was issued outside the Magistrate Court of Walker County, a copy of the judgment **must** be attached to the Affidavit of Garnishment.

2. Once you have obtained a judgment against the defendant, you must decide which type of garnishment to file:
Affidavit of Continuing Garnishment for wages: may be filed only where an Employer/Employee relationship exists between the garnishee and the defendant.
Affidavit of Garnishment
Affidavit of Garnishment on a Financial Institution
Affidavit of Continuing Garnishment for Support

Please choose the correct affidavit and summons pursuant to O.C.G.A. § 18-4-7(d). If the Plaintiff chooses the incorrect form of summons of garnishment of any type, the garnishment shall be invalid and the garnishee shall be released of all liability.

3. The costs of filing a garnishment in this Court is \$94.00. This includes all filing fees and service of the garnishment on the Garnishee.

4. You will need the following forms to file with the Court:
An original and 1 service copy of the Affidavit of Garnishment
An original and 1 service copy of the Summons of Garnishment
1 copy of the Notice to Defendant of Right Against Garnishment of Money, Including Wages and Other Property and Defendant's Claim Form

The Court will retain all originals and serve the garnishee with the service copy. You will need to make a copy of all forms to serve on the Defendant as required in O.C.G.A. § 18-4-8(b).

5. The total amount of the garnishment can include the amounts that you were awarded in your judgment, any interest and court costs you may be entitled to. This amount cannot exceed \$15,000.00. The Affidavit of Garnishment must be notarized.

6. Pursuant to O.C.G.A. 18-4-8(b), the Plaintiff **must** serve the Defendant with a copy of the Affidavit of Garnishment, the Summons of Garnishment, and the Notice to Defendant of Right Against Garnishment of Money, Including Wages and Other Property and Defendant's Claim Form. The Defendant must be served within the time of filing the affidavit and three (3) business days after the service of the garnishment on the Garnishee. If the Defendant is not served within this time period the garnishment may be dismissed. If the Defendant is a resident of Walker County and you want the Walker County Sheriff's Department to serve him/her with his/her copy of the garnishment, please add an additional \$50.00 to the cost.

7. Please file a Certificate of Service with appropriate service checked, along with all required documents with the Court. The **Court will not disburse and funds until the Certificate of Service is received.** Plaintiff's obligation to provide notice of the garnishment to the Defendant is governed by O.C.G.A. § 18-4-8. Please read this code section if you are unfamiliar with garnishment law regarding notice to the Defendant.

8. If the Court receives funds from the Garnishee, the funds will be disbursed according to the law in a timely manner. The Court must receive documentation that the Defendant has been served with the garnishment before any funds will be disbursed.

9. All correspondence should be addressed to: Walker County Magistrate Court, 102 Napier Street, LaFayette, Georgia 30728. You may contact the Clerk's office at (706) 638-1217 for general information about a case. Our website is www.walkermagistrate.us

Please be advised that the clerks of the Magistrate Court are not lawyers and are prohibited by law from giving you legal advice.

MAGISTRATE COURT OF WALKER COUNTY, GEORGIA
102 Napier St., LaFayette, Georgia 30728 - 706-638-1217

Plaintiff (name, address, phone # & email)
vs.

Civil Action File

No. _____

Defendant (name & address)

Plaintiff's Attorney Name, Address
& Bar Number

Garnishee Name

Address

AFFIDAVIT OF CONTINUING GARNISHMENT

DO NOT USE THIS FORM FOR A CONTINUING GARNISHMENT FOR CHILD SUPPORT OR ALIMONY.

SEE O.C.G.A §18-4-73.

Personally appeared (Print Name) _____ who on oath says:

1. I am the (Plaintiff) (Attorney for Plaintiff) (Agent for Plaintiff. [Circle One])
2. The Plaintiff obtained a judgment against the Defendant in Case Number _____, in the _____ Court of _____ County, _____ State, and no agreement requires forbearance from garnishment which is applied for currently.
3. \$ _____ is the balance due, which consists of the sum of \$ _____ Principal, \$ _____ Post Judgment interest, and \$ _____ Other (e.g., prejudgment interest, attorney fees, costs (exclusive of the cost of this action)).
4. Upon the Affiant's personal knowledge or belief, the sum stated herein is unpaid.
5. The Affiant believes that the Garnishee is an employer of or under periodic obligations for payment of funds to the Defendant.

Sworn to and subscribed before me this

_____ day of _____, 20 _____

Affiant

Notary Public

Approved, this _____ day of _____, 20 _____ Judge

SUMMONS OF CONTINUING GARNISHMENT

To: _____ Garnishee

Amount Claimed due by plaintiff

\$ _____

Court of Judgment _____

Plus Court Costs due on this Summons

Judgement Case Number _____

\$ _____

Total Amount Due on Garnishment

\$ _____

YOU ARE HEREBY COMMANDED to immediately hold all money, including wages, and other property, except what is known to be exempt, belonging to the Defendant or obligations owed to the Defendant named above beginning on the day of service of this summons and including the next 1095 days. You are **FURTHER COMMANDED** to file your answer, in writing, not later than 45 days from the date you were served with this summons, with the Clerk of this Court and serve a copy of your answer upon the Plaintiff or Plaintiff's Attorney named above and the Defendant named above, or the Defendant's Attorney, if known, at the time of making such answer. Your answer shall state what money, including wages, or other property, except what is known to be exempt, belonging to the Defendant or obligations owed to the Defendant you hold or owe beginning on the day of service of this summons and between the time of such service and the time of making your first answer. Thereafter, you are required to file further answers no later than 45 days after your last answer. Every further answer shall state what money, including wages, and other property except what is known to be exempt, belonging to the Defendant or obligations owe to the Defendant you hold or owe at and from the time of the last **answer to the time of the current answer. You must file additional answers until the sooner of: the payment of the balance shown on the Summons of Garnishment, the expiration of 1,095 days, or the termination of any relationship between garnishee and defendant which includes periodic payment obligations from Garnishee to Defendant.** Money, including wages, or other property admitted in an answer to be subject to continuing garnishment must be sent or delivered to the Court concurrently with each answer. Should you fail to file Garnishee Answers as required by this summons, a judgment by default will be rendered against you for the amount remaining due on a judgment as shown in the Plaintiff's Affidavit of Continuing Garnishment.

Witness the honorable _____, Judge of said Court

This _____ day of _____, 20 _____.

Clerk, Magistrate Court

**MAGISTRATE COURT OF WALKER COUNTY, GEORGIA
102 Napier St., LaFayette, Georgia**

Civil Action File

Plaintiff (name & address)

No. _____

vs.

Defendant (name and address)

Garnishee Name & Address

ATTACHMENT FOR SUMMONS OF CONTINUING GARNISHMENT

Other known names of the Defendant:

Current and past addresses of the Defendant:

Social security number or federal tax identification number of the Defendant:

THIS PLEADING SHALL NOT BE FILED WITH THE COURT

MAGISTRATE COURT OF WALKER COUNTY, GEORGIA

Date Filed _____

Civil Action No. _____

Plaintiff
Plaintiff's Contact Information

Name

Street Address

City State Zip Code

Email Address

Phone Number

Bar Number

VS

GARNISHMENT

Defendant(s) Name, Address

Garnishee Name, Address

NOTICE TO DEFENDANT OF RIGHT AGAINST GARNISHMENT OF MONEY, INCLUDING WAGES, AND OTHER PROPERTY

You received this notice because money, including wages, and other property belonging to you have been garnished to pay a court judgment against you. HOWEVER, YOU MAY BE ABLE TO KEEP YOUR MONEY, INCLUDING WAGES, OR OTHER PROPERTY. READ THIS NOTICE CAREFULLY.

State and federal law protects some money, including wages, from garnishment even if it is in a bank. Some common exemptions are benefits from social security, supplemental security income, unemployment, workers' compensation, the Veterans' Administration, state pension, retirement funds, and disability income. This list of exemptions does not include all possible exemptions. A more detailed list of exemptions is available at the Clerk of Court's office located at Walker County Magistrate Court, 102 Napier Street, LaFayette, Georgia 30728 and on the website for the Attorney General (www.law.ga.gov).

Garnishment of your earnings from your employment is limited to the lesser of 25 percent of your disposable earnings for a week or the amount by which your disposable earnings for a week exceed \$217.00. More than 25 percent of your disposable earnings may be taken from your earnings for the payment of child support or alimony or if a Chapter 13 bankruptcy allows a higher amount.

TO PROTECT YOUR MONEY, INCLUDING WAGES, AND OTHER PROPERTY FROM BEING GARNISHED, YOU MUST:

- 1. Complete the Defendant's Claim Form as set forth below; and
- 2. File this completed claim form with the Clerk of Court's office located at **Walker County Magistrate Court, 102 Napier Street, LaFayette, GA 30728.**

FILE YOUR COMPLETED FORM AS SOON AS POSSIBLE. You may lose your right to claim an exemption if you do not file your claim form within 20 days after the Garnishee's Answer is filled or if you do not mail or deliver a copy of your completed claim form to the Plaintiff and the Garnishee at the addresses listed on this notice. The Court will schedule a hearing within ten days from when it receives your claim form. The Court will mail you the time and date of the hearing at the address that you provide on your claim form. You may go to the hearing with or without an attorney. You will need to give the Court documents or other proof that your money is exempt. The Clerk of Court cannot give you legal advice. IF YOU NEED LEGAL ASSISTANCE, YOU SHOULD SEE AN ATTORNEY. If you cannot afford a private attorney, legal services is available.

MAGISTRATE COURT OF WALKER COUNTY, GEORGIA

Plaintiff

CIVIL ACTION NO. _____

VS

Defendant(s) Name, Address

Garnishee Name, Address

GARNISHEE ANSWER TO CONTINUING GARNISHMENT

1. From the time of service of the Summons of Continuing Garnishment, if this is the first Garnishee Answer to such summons, otherwise from the time of the last Garnishee Answer to the Summons of Continuing Garnishment until the time of this Garnishee Answer, the Garnishee had in the Garnishee's possession the following described property of the Defendant:

2. From the time of service of the Summons of Continuing Garnishment, if this is the first Garnishee Answer to such summons, otherwise from the time of the last Garnishee Answer to the Summons of Continuing Garnishment until the time of this Garnishee Answer, all obligations accruing from the Garnishee to the Defendant are in the amount of \$ _____

3. \$ _____ of the amount named in paragraph 2 were wages earned at the rate of \$ _____ per _____ for the period beginning _____, (Date), through the time of making this Garnishee Answer. The amount of wages which is subject to this garnishment is computed as follows:

- \$ _____ Gross earnings
- \$ _____ Total social security and withholding tax and other mandatory deductions required by law.
- \$ _____ Total disposable earnings.
- \$ _____ Amount of wages subject to garnishment.

- 4. \$ _____ is the amount herewith paid into court.
- 5. () Check if the Defendant is not presently employed by or owed periodic payments by the Garnishee.
- 6. () Check if the Defendant was employed by or owed periodic payments by the Garnishee on or after service of the Summons of Continuing Garnishment but was terminated as of _____, 20____.
- 7. () Check if this is the last Garnishee Answer this Garnishee is required to file to the presently pending Summons of Garnishment in the above-styled case.
- 8. The Garnishee further states: _____

Garnishee/Garnishee's Attorney/
Officer or Employee of Garnishee

CERTIFICATE OF SERVICE

This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney and the Defendant or Defendant's Attorney in the foregoing matter with a copy of this pleading by depositing it in the United States Mail in a properly addressed envelope with adequate postage thereon.

This ____ day of _____, _____.

Garnishee/Garnishee's Attorney/
Officer or Employee of Garnishee

MAGISTRATE COURT OF WALKER COUNTY, GEORGIA
102 Napier Street, LaFayette, Georgia 30728 - 706-638-1217

Plaintiff

CIVIL ACTION NO. _____

VS

Defendant(s) Name, Address

Garnishee Name, Address

CERTIFICATE OF SERVICE UPON THE DEFENDANT

Pursuant to OCGA 18-4-8, I, the Plaintiff, hereby certify that not more than **three business days after service of the summons of garnishment** on the garnishee, I did cause a copy of the affidavit of garnishment, a copy of the summons of garnishment, a copy of the Notice to Defendant of Right Against Garnishment of Money, Including Wages, and Other Property, and a copy of the Defendant's Claim Form to be served upon the defendant by the following method:

_____ 1. On _____ I sent said document to the Defendant's last known address of _____ by regular mail; ***AND*** Registered or Certified Mail or statutory overnight delivery, return receipt requested.

The return receipt indicating receipt by the defendant, the envelope bearing the official notification from the United States Postal Service of the defendant's refusal to accept delivery of such registered or certified mail, the envelope bearing the official notification from a commercial firm of the defendant's refusal to accept such statutory overnight delivery, or an official written notice from the United States Postal Service of the defendant's refusal to accept delivery of such registered or certified mail **shall** be filed with the clerk of the court in which the garnishment is pending.

_____ 2. On _____ said documents were delivered personally to the defendant by: _____
Please attach proof of service by the person making the delivery.

_____ 3. On _____ I sent said documents to the defendant by regular mail at the address at which the defendant was served as shown on the return of service in the action resultin gin the judgment when it shall appear by affidavit to the satisfaction of the clerk of the court that the defendant resides out of this state, has departed this state, cannot, after due diligence, be found within this state, or has concealed his or her place of residence from the plaintiff. A certificate of such mailing shall be filed with the clerk of court in which the garnishment is pending by the person mailing such notice.

This _____ day of _____, _____.

Plaintiff/Agent of plaintiff/Attorney for Plaintiff

Print name and title