



Garnishment and Execution Documents

Revised February 2016

Garnishment and executions are governed by state law. *See Federal Rules of Civil Procedure Title VIII Rule 69.* The judgment creditor is responsible for compliance with the applicable law. This document and the forms provided on the court's web site are for convenience only and the Clerk does not guarantee their accuracy.

There are several methods by which a party can recover on a judgment:

- (A) Garnishment
- (B) Continuing Garnishment
- (C) Execution
- (D) Garnishing a Third Party Holding Funds

Note to Judgment Creditors: It is the policy of this Clerk's Office to hold payments from judgment debtors for a period of 60 days before disbursement to the judgment creditor.

ELECTRONIC FILING All methods have to be filed electronically in the CM/ECF system, prepare your documents then:

Log into CM/ECF

- Under category OTHER FILINGS> Other Documents> Application for Writ.
- The Application for Writ will be the main document, each additional document will be an attachment.
- Be sure to enter the title of each document in the DESCRIPTION BOX when adding the attachments.

A. WRIT OF GARNISHMENT: Orders the garnishee to hold specified property (usually in the form of bank deposits) pending order of the court; limited to one "taking". The following forms are used for the Writ of Garnishment process.

FILING DOCUMENTS

- ✓ Application for Writ of Execution – FORM 1 (*Main document*)
- ✓ Writ of Execution – FORM 2
- ✓ Form USM-285 (*See United States Marshal website (www.usmarshals.gov/process/usm285.htm) for instructions re: completion and payment*)
- ✓ Certified copy of the Final Judgment (*Fees established by the U.S. Judicial Conference will be applied*)
- ✓ Summons and Notice to Garnishee – FORM 3
- ✓ Notice to Garnishee/Employer – FORM 4
- ✓ Answer of Garnishee/Employer for Wages & Salary – FORM 5
- ✓ Notice to Judgment Debtor – FORM 6

B. WRIT OF CONTINUING GARNISHMENT: Orders the garnishee to hold non-exempt portions of a debtor's wages throughout several pay cycles or until the judgment has been satisfied. The following forms are used for the Writ of Continuing Garnishment process.

FILING DOCUMENTS

- ✓ Application for Writ of Execution – FORM 1 (*Main document*)
- ✓ Writ of Execution – FORM 2
- ✓ Form USM-285 (*See United States Marshal website (www.usmarshals.gov/process/usm285.htm) for instructions re: completion and payment*)
- ✓ Certified copy of the Final Judgment (*Fees established by the U.S. Judicial Conference will be applied*)
- ✓ Summons and Notice to Garnishee – FORM 3
- ✓ Answer of Garnishee for Funds Other than Salaries, Wages or Earnings of Judgment Debtor – FORM 7
- ✓ Notice to Judgment Debtor – FORM 8

C. WRIT OF EXECUTION: Orders the United States Marshal to take possession of specified property, bring it to the court and arrange for sale, if necessary.

- ✓ Consult the U.S. Marshal's Office before filing your application for a writ of execution.
- ✓ Complete the Marshal's 285 Form with specificity, i.e. specifically describe the property involved and its location (provide any other information to assist the Marshal.

U.S. Marshal – Memphis, Tennessee 901-544-3304

U.S. Marshal - Jackson 731-427-4661

www.usmarshals.gov/district/tn-w/

D. GARNISHING A THIRD PARTY HOLDING FUNDS: A garnishee holding funds other than wages owed to the judgment debtor could be: 1) a bank (holding monies in an account); or 2) a contractor (holding payments owed to the judgment debtor); or 3) an attorney/ law firm (holding funds bequeathed to the judgment debtor). Basically any entity or person holding funds or goods with value which could be attached by the judgment creditor pursuant to the writ of execution.

- ✓ Summons and Notice to Garnishee – FORM 3
- ✓ Answer of Garnishee for Funds Other than Salaries, Wages or Earnings of Judgment Debtor – FORM 7
- ✓ Notice to Judgment Debtor – FORM 8

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

v.

Case No. _____

APPLICATION FOR WRIT OF EXECUTION

The Judgment Creditor, _____,
hereby makes application to the Clerk of the United States District Court to issue an
execution in the above case to satisfy a judgment against the judgment debtor(s)
herein, _____, for \$_____, plus
accrued interest in the amount of \$_____, through _____,
computed at the rate of _____%, plus costs formally taxed by the Clerk or
the Court in the amount of _____.* The total amount of payments
made by judgment debtor(s) on this judgment is _____. The
balance of the judgment that remains unsatisfied, as of _____,
including accrued interest and costs, if applicable, after payments from the judgment
debtor(s) have been credited, is \$_____.

Judgment Creditor/Attorney for Judgment Creditor

Address

Telephone Number

*If no costs have been formally taxed by the Clerk or the Court, enter "0".

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

WRIT OF EXECUTION

TO THE UNITED STATES MARSHAL for the Western District of Tennessee:

You are hereby commanded to take from the property of:

(Judgment Debtor)

Including the property listed below, the sum of:

(Enter Balance of Judgment corresponding to last line in Application for Writ of Execution)

to satisfy a judgment obtained by the judgment creditor in the United States District Court for the _____ District of _____, and also the costs that may accrue under this writ.

You are further commanded to pay such monies, when collected, into this Court and you shall make return as to how you have executed this writ within the time allowed by law.

Description of Property:

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
167 N. MAIN, STE 242
MEMPHIS, TN 38103

Deputy Clerk

Date Issued: _____

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

v.

Case No. _____

SUMMONS AND NOTICE TO THE GARNISHEE

NOTICE: Although you have a longer time in which to answer the court concerning this garnishment, you must do the following on the same day you receive the garnishment, or on the next working day:

- (1) Determine if you possess or control money or property of the judgment debtor.
- (2) If so, within the same time period, you shall furnish a copy of this garnishment summons, a copy of the Notice to Judgment Debtor (Form 6 if the garnishment is for wages; Form 8 if the garnishment is not for wages), and a copy of the Notice to Garnishee/Employer (Form 4), if the garnishment is for wages, by mailing them first class, postage prepaid, to the judgment debtor's last known address as shown by your records, or by actual delivery to the judgment debtor.
- (3) If the address shown by your records differs from that shown at the bottom of the Notice to Judgment Debtor, you shall also mail a copy of the summons and notice(s) to the latter address.

As required by law, T.C.A. § 26-2-204, you are summoned to mail an answer within ten (10) days after the date of service of this garnishment to Clerk, U.S. District Court, 167 N. Main, Ste 242, Memphis, TN 38103. If you are an employer, you must read Form 4 and complete Form 5. If you are holding funds belonging to the judgment debtor other than salaries, wages or earnings, you must complete Form 7.

FOR EMPLOYER GARNISHEE: This lien shall continue as to subsequent earnings until the total amount due is paid or satisfied, OR until the expiration of the employer's payroll period immediately prior to six (6) CALENDAR MONTHS after service of this garnishment, whichever occurs first. This lien shall have priority over any subsequent liens obtained. Subsequent execution shall be effective for the successive calendar month periods in the order in which they are served.

You are required to withhold the garnishment amount, or part thereof, from the employee's wages and to pay these monies not less than one time each calendar thirty (30) days to: Clerk, U.S. District Court, 167 N. Main, Ste 242, Memphis, TN 38103. You are liable for failure to withhold from the employee's wages and for failure to pay these monies to the Court.

FOR NON-WAGE GARNISHEE (e.g., financial institution): You are required to pay any garnished funds within your possession within thirty (30) days of service to Clerk, U.S. District Court, 167 N. Main, Ste 242, Memphis, TN 38103.

ISSUED this _____ day of _____, _____.

UNITED STATES DISTRICT COURT CLERK

By: _____
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

v.

Case No. _____

NOTICE TO GARNISHEE/EMPLOYER

THE MAXIMUM PART OF THE AGGREGATE DISPOSABLE EARNINGS OF AN INDIVIDUAL FOR ANY WORK WEEK WHICH IS SUBJECTED TO GARNISHMENT MAY NOT EXCEED:

(A) Twenty-five percent (25%) of his/her disposable earnings for that week, minus \$2.50 for each of his/her dependent children under the age of sixteen (16) who resides in the state of Tennessee as provided in T.C.A. § 26-2-107; or

(B) The amount by which his/her disposable earnings for that week exceed thirty (30) times the federal minimum hourly wages at the time the earnings for any pay period become due and payable, minus \$2.50 for each of his/her dependent children under the age of sixteen (16) who resides in the state of Tennessee, whichever is less. "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amounts required by law to be withheld.

In the case of earnings for a pay period other than a week, the weekly formula must be changed to apply to that pay period so as to exempt an equivalent percentage of disposable earnings. For example, the calculation concerning the federal minimum wage in Section (B) should be computed as follows: WEEKLY: 30 times the federal minimum hourly wage at the time the earnings for any pay period become due and payable (FMW); BI-WEEKLY: 2 times 30 fmw; SEMI-MONTHLY: 2 and one-sixth (2-1/6) times 30 fmw; and MONTHLY: 4 and one-third (4-1/3) times 30 fmw equals the amount to be subtracted from disposable earnings for that pay period.

If the judgment is for state or federal taxes, no disposable earnings are exempt under 15 U.S.C. § 1673(b).

NOTE: The garnishee/employer is required to return the attached Form 5 (Answer of Garnishee/Employer for Wages & Salary) to the below address within ten (10) days after service of this garnishment. Form 5 will assist you in calculating the amount of wages to be withheld pursuant to this garnishment.

Clerk, U.S. District Court
167 N. Main
Suite 242
Memphis, TN 38103

FORM 4

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

v.

Case No. _____

ANSWER OF GARNISHEE/EMPLOYER FOR WAGES & SALARY

Comes the garnishee/employer, _____ and makes oath that, during the pay period from _____ to date of service of this garnishment:

A. The total gross pay before any deductions was: \$ _____

B. The Social Security & Federal Income Tax deductions were: \$ _____

C. Subtract "B" from "A" (disposable earnings): \$ _____

D. If wages are paid once a week, enter \$127.50; if every two weeks, enter \$255.00; if two times a month, enter \$276.25; if once a month, enter \$552.50. \$ _____

E. Subtract "D" from "C." If "E" is 0 or less, STOP! NO WAGES MAY BE WITHHELD! If "E" is more than \$0, go on to "F". \$ _____

F. Divide "C" by 4. \$ _____

G. Enter the lesser of "E" or "F". \$ _____

H. How many children does the debtor/employee have under the age of sixteen (16) living in Tennessee? \$ _____

I. Multiply "H" by \$2.50 if wages are paid weekly (\$5.00 if paid every two weeks; \$55.42 if paid twice a month; \$10.83 if paid monthly)\$ _____

J. Subtract "I" from "G". This is the amount of wages to withhold. If the amount is "0" or less, nothing should be withheld from wages. \$ _____

K. Check here if no wages are due the employee. _____

L. Check here if the employee is no longer employed. _____

Pursuant to T.C.A. § 26-2-204, by signing below, I certify under oath that the above information is true and correct.

Garnishee/Employer

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

v.

Case No. _____

NOTICE TO JUDGMENT DEBTOR (EMPLOYEE) (WAGE GARNISHMENT)

Your earnings have been subjected to a garnishment which has been served upon your employer. The garnishment creates a lien on a portion of your wages until the judgment is satisfied, or for three (3) months, whichever occurs first. You have the following rights:

Some of your wages are protected by state and federal law from garnishment. See Notice to your employer (Form 4) attached to find out how much of your wages are protected from garnishment.

IF YOUR EMPLOYER IS TAKING TOO MUCH MONEY FROM YOUR WAGES:

You may apply to the court at the clerk's office shown below within twenty (20) days from any improper withholding of your wages for a motion to stop the garnishment. The court clerk identified below shall provide you with a form for making such a motion. You may wish to seek the counsel of a lawyer. If you are unable to afford an attorney, you may be eligible for free legal services to assist you.

PLEASE NOTE: If you file a motion, the court must hear and decide your motion promptly, and in no event later than fourteen (14) days from filing. The clerk will notify you of the time, date and place of hearing. The court clerk's office can provide you with forms and with information about legal services in your area, but the clerk cannot give you legal advice.

IF THE RIGHT AMOUNT OF MONEY IS BEING TAKEN FROM YOUR WAGES BUT YOU WANT TO GET THE GARNISHMENT STOPPED THROUGH A PAYMENT PLAN:

You may apply to the court for an order suspending further garnishments by the same creditor upon your paying a certain sum of money, weekly, biweekly, or monthly, to pay the judgment. If you file this motion, the garnishment of your wages will stop for as long as you make the payments ordered by the court. The court clerk shall provide you with the necessary forms to make this application, or you may seek the counsel of a lawyer. If you are unable to afford an attorney, you may be eligible for free legal services to assist you.

Clerk, U.S. District court
167 N. Main
Suite 242
Memphis, TN 38103
(901) 495-1200

To be provided by Judgment Creditor:

Judgment Debtor

Judgment Debtor's Last Known Street Address

Judgment Debtor's Last Known City, State & Zip Code

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

v.

Case No. _____

**ANSWER OF GARNISHEE FOR FUNDS OTHER THAN SALARIES,
WAGES OR EARNINGS OF JUDGMENT DEBTOR**

Comes the garnishee, _____, and makes oath as follows:

1. That, at the time of service of this garnishment, the garnishee was indebted to the judgment debtor in the amount of \$_____ as a result of

2. That the garnishee had the following property, debts, or effects belonging to the judgment debtor in his possession or under his control: (If the garnishee is holding a sum of money, list the exact amount; if the property is not money, specify the type of property, debt(s) or effects.)

a. At the time of service of the garnishment: _____

b. At the time the garnishee answered the garnishment: _____

c. Between the time of service of the garnishment and the time the garnishee answered the garnishment: _____

3. That, to the knowledge and belief of the garnishee, the following other person(s) have in his/their possession or control the following property, debts, or effects belonging to the judgment debtor: (List the name and address of any such person and describe the property, debts or effects.)

Pursuant to T.C.A. § 26-2-204, by signed below, I certify under oath that the above information is true and correct.

Garnishee

FORM 7

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

v.

Case No. _____

NOTICE TO JUDGMENT DEBTOR (NON-WAGE GARNISHMENT)

To collect a judgment against you in this lawsuit, your money or other property has been seized by execution or garnishment. An execution allows the United States Marshal to sell the property levied upon.

READ THIS CAREFULLY. YOU MAY BE ABLE TO KEEP YOUR MONEY OR PROPERTY OR GET IT BACK. State and federal laws prevent certain types of money or property from being used to pay a judgment. Such money or property is “exempt.” Examples of exempt money are: Social Security benefits, SSI, unemployment benefits, veterans’ benefits, AFDC, and most government pensions. Examples of exempt property are certain health care aids and “tools of trade.” These examples of exempt money and property constitute only a partial list, and you may have other exemptions.

If you think you have exempt money or property that has been seized you have the right to file a motion with the court clerk’s office identified below claiming your exemption and asking for release or return of your money or property.

You can get a form for filing this motion at the clerk’s office below. YOU SHOULD ACT QUICKLY. If you file a motion within twenty (20) days from the date this notice was mailed to you or was given to you, the court must hear and decide your motion promptly, and in no event later than fourteen (14) days from filing. The clerk will notify you of the time, date, and place of the hearing.

IF YOU DO NOT UNDERSTAND YOUR RIGHTS OR HOW TO EXERCISE THEM, YOU MAY WISH TO CONSULT WITH A LAWYER. IF YOU CANNOT AFFORD A LAWYER, YOU MAY BE ELIGIBLE FOR FREE LEGAL ASSISTANCE. The court clerk’s office can provide you with forms and information about legal services in your area, but the clerk cannot give you legal advice.

Clerk, U.S. District court
167 N. Main
Suite 242
Memphis, TN 38103
(901) 495-1200

To be provided by Judgment Creditor:

Judgment Debtor

Judgment Debtor’s Last Known Street Address

Judgment Debtor’s Last Known City, State & Zip Code

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

v.

Case No. _____

MOTION TO QUASH GARNISHMENT/EXECUTE & CLAIM EXEMPTION RIGHTS

The Judgment Debtor moves the Court to quash the execution or garnishment of the Judgment Debtor's money/ property and to order that the money/ property of the Judgment Debtor be released or returned. As grounds for the release/ return of the money/ property, the Judgment Debtor would show that the property is exempt under federal or state law because it is one or more of the following (check each applicable item):

- | | |
|--------------------------------|---|
| -----Social Security Benefits | -----Exempt health care aids |
| -----SSI Benefits | -----Exempt insurance benefits |
| -----AFDC Benefits | -----Exempt "tools of trade" |
| -----Veterans' Benefits | -----Wages garnished exceed allowable amounts |
| -----Exempt government pension | under law |
| -----Other - specify | |

The Judgment Debtor further states that the above money or property was garnished from the following bank (or other third party):

(Insert name of bank or other garnishee, if applicable)

Judgment Debtor's Signature _____
Address: _____
Telephone: _____

CERTIFICATE OF SERVICE

I, Judgment Debtor, hereby certify that a true and correct copy of this document has been mailed by first class mail, postage prepaid or personally delivered to the Judgment Creditor or Judgment Creditor's Attorney * (CIRCLE ONE) on this _____ day of _____, _____.

Judgment Debtor's Signature

*You may obtain the address of the Judgment Creditor or this attorney from the Clerk of Court.

NOTICE OF HEARING (TO BE COMPLETED BY CLERK)

Pursuant to T.C.A. § 26-216, a hearing (within 14 days of the filing of the motion) is scheduled at _____ .m. on the _____ day of _____, _____, before Judge _____, Courtroom _____, U.S. Courthouse, 167 N. Main, Suite 242, Memphis, TN 38103.

Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

v.

Case No. _____

MOTION TO PAY JUDGMENT BY INSTALLMENTS

Pursuant to T.C.A. § 26-2-216, the Judgment Debtor moves the court to be permitted to pay the Clerk (every week/every other week/ every month) (CIRCLE ONE) the sum of \$_____ to begin on _____, _____, and to continue thereafter until the judgment of \$_____ entered against the Judgment Debtor has been paid. The Judgment Debtor also requests that all further garnishments by the same judgment creditor against wages or salary be stayed, contingent upon compliance with such payments. The filing of this motion will stop the garnishment of wages for as long as the judgment debtor makes payments ordered by the Court (T.C.A. § 26-2-216).

Address & Phone #: _____
Judgment Debtor's Signature _____

AFFIDAVIT

STATE OF _____

COUNTY OF _____

I, Judgment Debtor, make oath that I am unable to pay the judgment rendered against me in this case with funds other than those earned by me as wages or salary. I am now employed by (list employer and address): _____
I earn the sum of \$_____ (gross/net), which is paid _____
(describe your pay schedule, e.g., every Friday, on the 1st & 15th, etc.). My other sources of income are _____ which total \$_____ each month (enter N/A if none).

Notary Public

CERTIFICATE OF SERVICE

I, Judgment Debtor, hereby certify that a true and correct copy of this document has been mailed by first class mail, postage prepaid or personally delivered to the Judgment Creditor or Judgment Creditor's Attorney * (CIRCLE ONE) on this _____ day of _____, _____.

Judgment Debtor's Signature

*You may obtain the address of the Judgment Creditor or this attorney from the Clerk of Court.

NOTICE OF HEARING (TO BE COMPLETED BY CLERK)

Pursuant to T.C.A. § 26-2-216, a hearing (within 14 days of the filing of the motion) is scheduled at _____ .m. on the _____ day of _____, _____, before Judge _____, Courtroom _____, U.S. Courthouse, 167 N. Main, Suite 242, Memphis, TN 38103.

Deputy Clerk