

**IN THE MAGISTRATE COURT OF TOOMBS COUNTY
LYONS, GEORGIA
PROCEDURES FOR FILING GARNISHMENTS
{For all garnishment filings on or after January 1, 2021}**

1. You **must** have a judgment against an individual or an entity before you file an Affidavit of Garnishment, **and** the Garnishee **must** be located in Toombs County. If the judgment was issued outside of Toombs 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 as 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 from all liability.

3. The Cost of filing a garnishment in this Court is \$109.00. This includes all filing fees and service of the garnishment on the Garnishee.

4. The Court will retain all originals and serve the garnishee with the service copy. You will need to provide a copy of all forms to serve the Defendant as required in O.C.G.A. 18-4-8(b). Please visit or contact our office to speak with a clerk to obtain forms.

5. The total amount of the garnishment can include the amounts that you were awarded in your judgment, any interest and court costs to which you may be entitled. 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, the garnishment may be dismissed. If the Defendant is a resident of Toombs County and you want us 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 any 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: Toombs County Magistrate Court 100 Courthouse Square, Suite 255, Lyons, Ga. 30436. You may contact the Clerk's office at 912-526-8984 for general information about a case.

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 _____ COUNTY, GEORGIA

Date Filed _____

Case No. _____

Plaintiff:

Name
Plaintiff's Contact Information:

Name

Street

City State Zip Code

E-Mail Address

Phone Number Bar Number
vs.

Defendant(s) Name, Address

Garnishee Name, Address

GARNISHMENT

Garnishment Court Information:

Street Address

_____, Georgia _____
City Zip Code

Phone Number

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's 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.

This _____ day of _____ 20__.

Sworn to and subscribed before me

Affiant _____

This _____ day of _____ 20__.

Print Name of Affiant

Notary Public/Deputy Clerk of Court

MAGISTRATE COURT OF _____ COUNTY, GEORGIA

Date Filed _____

Case No: _____

Plaintiff:

Name

Plaintiff's Contact Information:

Name

Street

City State Zip Code

E-Mail Address

Phone Number Bar Number

vs.

Defendant(s) Name, Address

Garnishee Name, Address

GARNISHMENT

Garnishment Court information:

Street Address

_____, Georgia _____

City, Zip Code

Phone Number

SUMMONS OF CONTINUING GARNISHMENT

TO THE ABOVE-NAMED GARNISHEE:

Total amount claimed due by the Plaintiff \$ _____

Plus court costs due on this summons \$ _____

Total garnishment claim \$ _____

COURT OF JUDGMENT _____

JUDGMENT CASE NO. _____

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 1,095 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 owed 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 of Court

By: _____

Deputy Clerk, _____ Court

**IN THE MAGISTRATE COURT OF TOOMBS COUNTY
STATE OF GEORGIA**

Date Filed _____

Case No. _____

(Plaintiff's Name)

(Address)

(City, State, Zip)

GARNISHMENT

(Defendant Name)

(Address)

(City, State, Zip)

(Garnishee Name)

(Address)

(City, State, Zip)

PLAINTIFF'S APPLICATION FOR DISBURSEMENT OF FUNDS

Now comes the Plaintiff in the above-styled case and files this Application for payment of all funds due plaintiff paid by Garnishee so long as no claim is filed and no traverse is filed within twenty (20) days after Garnishee's Answer is filed, and so long as Garnishee and Defendant are properly served with the Garnishment pursuant to O.C.G.A. §18-4-8 and that proof of such service is filed with this Court.

This ____ day of _____, 20__.

Plaintiff or Plaintiff's Attorney

CERTIFICATE OF SERVICE

This is to certify that I have this day served the Defendant in this 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 _____, 20__.

Plaintiff or Plaintiff's Attorney

MAGISTRATE COURT OF _____ COUNTY, GEORGIA

Date Filed _____

Case No: _____

Plaintiff:

Plaintiff's Contact Information:

Name

Street Address

City State Zip Code

E-mail 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 _____ (Name of Court), _____ (Address), _____ (City), Georgia _____ (ZIP Code), 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 \$217.50. 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 _____ (Name of Court), _____ (Address), _____ (City), Georgia _____ (ZIP Code).

FILE YOUR COMPLETED CLAIM 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 filed 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 may be available.

**IN THE MAGISTRATE COURT OF TOOMBS COUNTY
STATE OF GEORGIA**

_____,
Plaintiff

v.

_____,
Defendant

v.

_____,
Garnishee

Civil Action No. _____

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 documents to the Defendant's last known address of _____ by certified mail or statutory overnight delivery.

A certificate of service or any other proof of the sending of the above documents to the defendant, which may include but is not limited to copies of the envelope bearing the official notification from the United States Postal Service of the attempted or actual delivery of such registered or certified mail, the envelope bearing the official notification from a commercial firm of the attempted or actual delivery of such statutory overnight delivery, or a written notice from the United States Postal Service or a commercial firm, including but not limited to printings or reproductions from the website of the United States Postal Service or such commercial firm, of the attempted or actual delivery of such registered or certified mail or statutory overnight delivery, **shall** be filed with the clerk of the court in which the garnishment is pending.

The defendant's actual timely notice of the garnishment or defendant's refusal to accept or failure to claim such registered or certified mail or statutory overnight delivery addressed to such defendant shall satisfy all other requirements for service of notice.

_____ 2. On _____ said documents were delivered personally to the defendant by:

Please attach proof of service by the person making the delivery.

This _____ day of _____, 20__.

Signature

Print Name and Title