

Frequently Asked Questions Concerning Garnishments

Q1. How do I file a garnishment?

A1. Garnishment proceedings may be filed immediately if the judgment issued is a default judgment. Otherwise, a period of ten days must lapse before a garnishment is filed. The correct forms for filing a garnishment can be obtained via the forms section of this web site (forms) or received from the Clerk's Office.

Q2. What forms do I need?

A2. A copy of the judgment should accompany all garnishments upon filing and:

Continuing (Wage) Garnishment:

1. Affidavit for Continuing Garnishment
2. Sheriff's Entry of Service

Regular (Bank) Garnishment:

1. Affidavit for Bank Garnishment
2. Summons of Bank Garnishment
3. Information sheet
4. Sheriff's Entry of Service

Q3. How long does a garnishment last?

A3. Wage garnishments last for 195 days after date of service from the Office of the Sheriff.

Bank garnishments are an immediate action, but one time service. Once the bank is served, the account is frozen. More than one bank garnishment may be filed until the judgment amount is collected.

Q4. How long is the Garnishee given to file an answer with the court?

A4. A garnishee must answer no later than 45 days, but no sooner than 30 days after the date of service by the Office of the Sheriff.

Q5. What happens if the Garnishee does not answer?

A5. If the garnishee does not file an answer before the 45th day, they have an additional 15 days in which they may file an answer. However, the garnishee must pay the original court cost to open default. If the garnishee does not file an answer within the 15 extra days, a default judgment may be obtained against the garnishee. In turn, the judgment would now be collected from the garnishee instead of the defendant.

Q6. Is the defendant served with the Garnishment?

A6, The plaintiff is instructed to send the Notice and Summons, given by the court, to the defendant by certified mail. This must be sent to the defendant no later than three (3) days after service of the garnishee. The plaintiff will send the court the green card showing service or the unclaimed envelope showing service was attempted. A condemning letter will accompany the green card or unclaimed envelope. This letter simply states the plaintiff requests all present and future funds be paid to them.

Q7. What is a traverse?

A7. Plaintiff's traverse states that the garnishee's answer is untrue or legally insufficient. The plaintiff may file a traverse no later than 15 days after the answer of the garnishee is filed in the court. Defendant's traverse states that the affidavit of garnishment is untrue or legally insufficient. The defendant may file a traverse at any time before a judgment is entered on the garnishee's answer. The garnishee must withhold funds until the judge rules on the traverse. The funds are held in the registry of the court until the traverse is ruled upon. A traverse must be on a calendar within 10 days of the filing of the traverse.

Q8. What amount can I file for?

A8. The principal amount on the judgment may not exceed \$15,000.00 when filing a garnishment in Magistrate Court. If the principal amount of your judgment is over \$15,000, the garnishment must be filed in a higher court. The court cost awarded for the civil filing, as well as, the cost for filing the garnishment may be included. As long as there is a balance on the awarded judgment, a garnishment may be filed.

Q9. What is a release?

A9. A release is a notification to the garnishee stating that they are no longer liable for answering the pending summons. Therefore, the clerk signs a release when the garnishment becomes expired or has been paid in full. A garnishment will expire after 195 days from date of service by the Office of the Sheriff. The defendant may pay in full in cash to the clerk's office to have a release signed immediately. In addition, a release may be signed if a judge has vacated the judgment.

Q10. Can the defendant pay off the garnishment?

A10. Yes - the defendant may pay the full amount of the Summons to the clerk's office in cash.

Q11. How do you get a default Judgment against the garnishee?

A11. If the garnishee does not answer within 45 days of service by the Sheriff, an additional 15 days is given to open default. If the answer is filed within the 15-day period, the garnishee must pay the amount of court cost paid at the time of the initial filing. If the garnishee does not file an answer within the 60-day period, the plaintiff may request for a default judgment against the garnishee. The judge will issue a judgment against the garnishee for the amount claimed on the affidavit of garnishment.