

**IN THE MAGISTRATE COURT OF GRADY 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 Grady County. A copy of the judgment (FIFA) **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 \$95.00. 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
1 copy of the Georgia Garnishment Exemptions
1 copy of the judgment (FIFA)
Return of Service Upon the Defendant
Attachment for Summons of Garnishment

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). Please speak with a Deputy 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 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, Defendant's Claim Form and Georgia Garnishment Exemptions. 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 Grady County and you want the Deputy 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. 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. Please file a Plaintiff's Application for Disbursement of Funds. If the Court receives funds from the Garnishee, the funds will be disbursed according to the law in a timely manner. The **Court will not disburse any funds until the Disbursement of Funds is received.** 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: Grady County Magistrate Court, 250 N. Broad St. Cairo, GA 39828. You may contact the Clerk's office at (229) 377-4132 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.

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

Plaintiff:

Name

Civil Action File No. _____

Street Address

City State ZIP Code

Phone Number

v.

Defendant:

Name

Street Address

City State ZIP Code

Garnishee:

Name

Street Address

City State ZIP Code

AFFIDAVIT OF GARNISHMENT

- Check this box if the Garnishee is a financial institution.
- Check this box if garnishment is for the collection of child support or alimony. See O.C.G.A. § 18-4-50, et seq.

Personally appeared _____, who on oath says:
(Print name)

I am the (Plaintiff) (Attorney at Law 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 the 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., pre judgment 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.

This _____ day of _____, 20__.

Sworn to and subscribed before me
this _____ day of _____, 20__.

Affiant

Notary Public or Deputy Clerk of Court

Print name of Affiant

Approved this _____ day of _____, 20__.

Judge/Clerk Magistrate Court of Grady County

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

Plaintiff:

Name

Civil Action File No. _____

Street Address

City State ZIP Code

Phone Number

v.

Defendant:

Name

Street Address

City State ZIP Code

Garnishee:

Name

Street Address

City State ZIP Code

SUMMONS OF GARNISHMENT ON A FINANCIAL INSTITUTION

**DO NOT USE THIS FORM IF THIS IS A CONTINUING GARNISHMENT
(SEE O.C.G.A. §§ 18-4-72 and 18-4-78) OR CONTINUING GARNISHMENT FOR
CHILD SUPPORT OR ALIMONY (SEE O.C.G.A. §§ 18-4-73 and 18-4-80).**

Check this box if other allegations are made against a nonjudgment
Defendant pursuant to O.C.G.A. § 18-4-23.

Check this box if this is a garnishment for child support or alimony.

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, including property in safe-deposit boxes or similar property that you hold, belonging to the Defendant named above beginning on the day of service of this summons and including the next five days. You are **FURTHER COMMANDED** to file your answer, in writing, not sooner than five days and not later than 15 days after 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 you hold beginning on the day of service of this summons and including the next five days. Money, including wages, or other property admitted in an answer to be subject to garnishment must be paid or delivered to the Court concurrently with your answer.

If, in answering this summons, you state that the property of the Defendant includes property in a safe-deposit box or similar property, you shall answer to the Court issuing this summons as to the existence of such safe-deposit box or similar property and shall restrict access to any contents of such safe-deposit box or similar property until further order of such Court regarding the disposition of such contents or 120 days from the date of filing your answer to this summons unless such time has been extended by the Court, whichever is sooner.

Should you fail to file a Garnishee Answer as required by this summons, a judgment by default will be rendered against you for the amount remaining due on the judgment as shown in the Plaintiff's Affidavit of Garnishment.

WITNESS, the Honorable **Anthony "Pat" Pollock**, Judge of said Court.

This ____ day of _____, 20__.

By: _____
Deputy Clerk, Grady County Magistrate Court

IN THE MAGISTRATE COURT OF GRADY COUNTY
STATE OF GEORGIA

Plaintiff

v.

Civil Action File No. _____

Defendant

Garnishee

ATTACHMENT FOR SUMMONS OF GARNISHMENT
ON A FINANCIAL INSTITUTION

Other known names of the Defendant:

Current and past addresses of the Defendant:

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

Account or identification numbers of accounts of the Defendant used by the Garnishee:

Other allegations pursuant to O.C.G.A. § 18-4-23:

THIS PLEADING SHALL NOT BE FILED WITH THE COURT

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

Plaintiff:

Name

Civil Action File No. _____

Street Address

City State ZIP Code

Phone Number

v.

Defendant:

Name

Street Address

City State ZIP Code

Garnishee:

Name

Street Address

City State ZIP Code

**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 Grady County Magistrate Court's office located at 250 N. Broad Street Box 2, First Floor, Cairo, Georgia 39828, 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 Grady County Magistrate Court's office located at 250 N. Broad Street Box 2, First Floor, Cairo, Georgia 39828.

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.



GEORGIA GARNISHMENT EXEMPTIONS

RETIREMENT:

- (1) 42 U.S.C. § 407: Social security retirement benefits, social security disability insurance benefits, supplemental security income benefits, or social security survivor benefits;
- (2) 29 U.S.C. § 1002(2)(A) and O.C.G.A. § 18-4-22: Funds or benefits from a pension or retirement program as defined or funds or benefits from an individual retirement account as defined in Section 408 or 408A of the United States Internal Revenue Code of 1986;
- (3) O.C.G.A. § 47-2-332: State pension - state or local government employees under the Employees' Retirement System of Georgia;
- (4) O.C.G.A. § 47-3-28: State pension - Teachers Retirement System of Georgia;
- (5) O.C.G.A. § 47-4-120: State pension - public school employees;
- (6) O.C.G.A. § 47-5-71: State pension - municipal employees under the Georgia Municipal Employees Benefit System;
- (7) O.C.G.A. § 47-6-100: State pension - members of the Georgia Legislative Retirement System;
- (8) O.C.G.A. § 47-7-122: State pension - Georgia Firefighters' Pension Fund;
- (9) O.C.G.A. § 47-11-91: State pension - Judges of the Probate Courts Retirement Fund of Georgia;
- (10) O.C.G.A. § 47-12-101: State pension - District Attorneys Retirement Fund of Georgia;
- (11) O.C.G.A. § 47-14-91: pension - Superior Court Clerks' Retirement Fund of Georgia;
- (12) O.C.G.A. § 47-16-122: State pension - Sheriffs' Retirement Fund of Georgia as provided in Code Section 47-16-122;
- (13) O.C.G.A. § 47-17-103: State pension - Peace Officers' Annuity and Benefit Fund;
- (14) O.C.G.A. § 47-20-10.1: State pension - Other post-employment benefits;
- (15) O.C.G.A. § 47-23-121: State pension - Georgia Judicial Retirement System;
- (16) O.C.G.A. § 47-25-101: State pension - Magistrates Retirement Fund of Georgia.

MILITARY:

- (1) 38 U.S.C. § 5301: Veterans benefits, including military pensions, retirement pay, and disability payments;
- (2) 10 U.S.C. § 1450: Veterans survivor annuities;
- (3) 38 U.S.C. § 7297: Veterans Appeals Court Survivor Annuities;
- (4) O.C.G.A. § 16-17-9: Wages earned by members of the United States military or their spouses in connection with payday lenders.

WORKERS COMPENSATION:

- (1) 5 U.S.C. § 8130; O.C.G.A §§34-9-84 and 34-9-382: Workers' compensation benefits;

GOVERNMENT BENEFITS:

- (1) O.C.G.A. § 34-8-252: Unemployment benefits;
- (2) 42 U.S.C. § 407: Social security retirement benefits, social security disability insurance benefits, supplemental security income benefits, or social security survivor benefits;
- (3) O.C.G.A. § 49-4-147: Medicaid payments;
- (4) O.C.G.A. §49-4-35: Old-age assistance;
- (5) O.C.G.A. § 49-4-58: Aid to the blind;
- (6) O.C.G.A. § 49-4-84: Aid to the disabled;
- (7) 44 C.F.R. § 206.110(g): Federal Emergency Management Agency disaster assistance to individuals and households;

CERTAIN FINANCIAL ACCOUNTS:

- (1) O.C.G.A. § 7-1-812: Joint account holders, depending on the circumstances of such account;
- (2) 5 U.S.C. § 8437(e)(2): Federal Employee Thrift Savings Plan;
- (3) O.C.G.A. § 9-8-12: Money held by a receiver appointed by the court;
- (4) O.C.G.A. § 32-2-76: Certain escrow accounts held by the Department of Transportation;
- (5) O.C.G.A. § 43-40-20: Real estate brokerage escrow accounts.

FAMILY SUPPORT:

- (1) Child support payments *See Stewart v. Stewart*, 160 Ga. App. 463 (1981); *Richards v. Richards*, 281 Ga. 285, 286 (2006).

INSURANCE & ANNUITIES:

- (1) O.C.G.A. § 33-29-15: Accident, sickness, or disability insurance benefits, up to \$250.00 a month during such disability;
- (2) O.C.G.A. § 33-25-11: Cash value and benefits payable to a life insurance policy beneficiary;
- (3) 26 U.S.C. § 7448: Federal Judges Survivor Annuities;
- (4) 5 U.S.C. § 8346: Federal Civil Service Survivor Annuities;
- (5) O.C.G.A. § 34-7-4: Wages due to a deceased employee of the state, up to \$2,500.00;
- (6) O.C.G.A. § 33-28-7: Annuity, reversionary annuity, or pure endowment contracts;
- (7) O.C.G.A. § 33-37-56: An insurer's liquidation proceeding.

RAILROAD:

- (1) 45 U.S.C. § 231m: Railroad retirement, annuities, and disability benefits;
- (2) 45 U.S.C. § 1717: Railroad unemployment and sickness benefits.

MISCELLANEOUS:

- (1) O.C.G.A. § 17-15-8: Crime victim compensation funds;
- (2) O.C.G.A. § 33-15-62: Benefits, charity, relief, or aid from fraternal benefit societies;
- (3) 20 U.S.C. § 1095a : Federal student loans, grants, and work assistance;
- (4) 33 U.S.C. § 916: Longshore and Harbor Workers' Compensation Act benefits;
- (5) 46 U.S.C. § 11109: Merchant seamen wages and benefits;
- (6) 42 U.S.C. § 1717: Compensation for injury or death of United States contractor outside of the United States as provided in;
- (7) O.C.G.A. § 46-3-261: Property of members of electric membership corporations for the debt of an electric membership corporation.

IN THE MAGISTRATE COURT OF GRADY 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 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 resulting in 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 the court in which the garnishment is pending by the person mailing such notice.

This _____ day of _____, 20____.

Signature

Print Name and Title