

IN THE MAGISTRATE COURT OF MITCHELL 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 Mitchell 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 and 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,
Sheriff's Entry of Service

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. 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 Mitchell 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: Mitchell County Magistrate Court, 22 N. Court Ave Camilla, GA 31730. You may contact the Clerk's office at (229) 336-2077 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 MITCHELL COUNTY, GEORGIA

Date Filed _____

Case No. _____

Plaintiff:

GARNISHMENT

Name

Garnishment Court Information:
MAGISTRATE COURT OF MITCHELL COUNTY
ADDRESS: 22 N. Court Avenue
Camilla, GA 31730
Phone Number: 229-336-2077

Street

City State Zip Code

E-Mail Address

Phone Number

Bar Number

vs.

Defendant(s) Name, Address

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'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 the Defendant.

This _____ day of _____ 20__.

Affiant

Print Name of Affiant

Sworn to and subscribed before me

This _____ day of _____ 20__.

Approved: This _____ day of _____, 20__.

Notary Public/Deputy Clerk of Court

Judge, Clerk or Deputy Clerk

MAGISTRATE COURT OF MITCHELL COUNTY, GEORGIA

Date Filed _____

Case No. _____

Plaintiff:

SUMMONS OF CONTINUING GARNISHMENT

Name

Garnishment Court Information:
MITCHELL County Magistrate Court
Address: 22 N. Court Avenue
Camilla, GA 31730
Phone Number: 229-336-2077

Street

City State Zip Code

E-Mail Address

COURT OF JUDGMENT _____
JUDGMENT CASE NO. _____

Phone Number

Bar Number

vs.

Defendant(s) Name, Address

Garnishee Name, Address

TO THE ABOVE-NAMED GARNISHEE:

Total amount claimed due by Plaintiff \$ _____

Plus court costs due on this summons \$ _____

Total garnishment claim \$ _____

SUMMONS OF CONTINUING GARNISHMENT

To: _____, Garnishee

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 one hundred seventy-ninth 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, 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. The last answer required by this summons shall be filed no later than the 195th day after you receive this summons. Money, including wages, or other property admitted in an answer to be subject to continuing garnishment must be paid 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 the _____ day of _____, _____.

Clerk of said Court

IMPORTANT INSTRUCTIONS

GARNISHEE

1. If the Defendant listed on the reverse side of this summons is not presently employed by the Garnishee or said Defendant's employment is terminated after service of this summons, then designate the same under the section "Garnishee Further States" on the answer form.
2. File your Answer at: **MAGISTRATE COURT OF MITCHELL COUNTY, 22 N. Court Ave., Camilla, GA 31730**
3. If you are not familiar with the Georgia Law applying in garnishment cases consult your attorney, or otherwise obtain correct information before paying the Defendant any sum you have been served with this Summons of Garnishment.
4. **A Letter is insufficient** even though the Defendant is not employed with you.
5. Plaintiff, or their counsel, is the only one **who** can authorize the Court to issue a release and relieve you of filing Answer to this Summons.
6. Failure to file answer may result in a default judgment being entered against Garnishee for the amount claimed by Plaintiff against Defendant, plus court cost.
7. Other Instructions:

DEFENDANT

1. Defendant may file a traverse or bond to dissolve the garnishment.
2. If you are unfamiliar with the Georgia Law applying to garnishments consult an attorney or otherwise obtain correct information before proceeding in this matter.
3. File your traverse at: **MAGISTRATE COURT OF MITCHELL COUNTY, 22 N. COURT AVE., CAMILLA, GA 31730**
4. Failure to file a traverse of Summons will result on a conclusive presumption that the garnishment was properly issued.
5. A garnishment against the property and credits of the Defendant has been or will be served on the Garnishee.

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

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

Date Filed : _____

CASE # : _____

Plaintiff: _____

Address: _____

VS

GARNISHMENT

Defendant: _____

Address: _____

Garnishee: _____

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

Mitchell County Magistrate Court 22 N. Court Ave. Camilla GA 31730

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.

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.

Court's office located at:

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
Mitchell County Magistrate Court 22 N. Court Ave. Camilla GA 31730

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

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.

DEFENDANT'S CLAIM FORM

Case No. _____

I CLAIM EXEMPTION from garnishment. Some of my money or property held by the garnishee is exempt because it is: (check all that apply)

- 1. Social security benefits.
- 2. Supplemental security income benefits.
- 3. Unemployment benefits.
- 4. Workers' compensation.
- 5. Veterans' benefits.
- 6. State pension benefits.
- 7. Disability income benefits.
- 8. Money that belongs to a joint account holder.
- 9. Child support or alimony.
- 10. Exempt wages, retirement, or pension benefits.
- 11. Other exemptions as provided by law.

Explain:

I further state: (check all that apply)

- 1. The Plaintiff does not have a judgment against me.
- 2. The amount shown due on the Plaintiff's Affidavit of Garnishment is incorrect.
- 3. The Plaintiff's Affidavit of Garnishment is untrue or legally insufficient.

Send the notice of the hearing on my claim to me at:

Address: _____

Phone Number: _____

E-mail Address: _____

The statements made in this claim form are true to the best of my knowledge and belief.

_____, 20____
 Defendant's signature Date

 Print name of Defendant

CERTIFICATE OF SERVICE

This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney and the Garnishee 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 _____, 20____.

 Defendant or Defendant's 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 MITCHELL COUNTY
STATE OF GEORGIA

INSTRUCTIONS TO GARNISHEE FOR ANSWERING A CONTINUING GARNISHMENT

Please review the revised law governing garnishments in O.C.G.A. 18-4—et.al. effective May 12, 2016 as there are new requirements of the garnishee. Please consult with an attorney if you need legal advice. The court is prohibited by law from providing legal advice to any party.

O.C.G.A. 18-4-4 provides the methods in which to determine the amount of money to deduct from the defendant's wages. These methods should be used on all Continuing Garnishments except Garnishments for alimony and child support. The law requires that the lesser of the two amounts be deducted from the Defendant's wages and sent to the Court, along with a completed garnishee answer form.

Method 1: 25% of the net disposable earnings for the period.

Method 2: The amount of disposable earnings which exceeds the 30 times the minimum wage. (Minimum Wage of \$7.50 X 30)

Example for the wages paid per week.

\$290.00 Employees gross pay for the period
- \$41.19 Taxes withheld
\$248.81 Net Disposable Earnings

Method 1: $\$248.81 \times 25\% = \62.20

Method 2: $\$248.81 - \$217.00 = \$31.81$

Since \$31.81 is the lesser of the two figures, this is the amount that should be sent to the Court.

Please remit a completed garnishee answer to the Court along with the check each time you file an answer. Please send a copy of the garnishee answer to the Plaintiff and Defendant. Please complete a certificate of service indicating you have provided a copy of the garnishee answer to both parties and file it with the Court.

Pursuant to O.C.G.A. 18-4-13 the garnishee shall provide the Defendant with the Notice to Defendant of Right Against Garnishment Money, including wages and other property, Defendant's claim form, and Georgia Garnishment Exemptions as provided by Plaintiff in the service copy.

*****Any funds sent to the Court without a completed Answer of Garnishment form will be returned to the Garnishee. All answers and funds shall be mailed to the Mitchell County Magistrate Court at 22 N. Court Ave. Camilla, GA 31730 *****

MAGISTRATE COURT OF MITCHELL COUNTY, GEORGIA

Date Filed _____

Case No: _____

Plaintiff(s) Name, Address
vs

GARNISHMENT

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 _____, 20____ (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 the Garnishee.
6. () Check if the Defendant was employed 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, or
 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 _____, 20__.

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

IN THE MAGISTRATE COURT OF MITCHELL COUNTY

STATE OF GEORIGIA

Garnishment No _____

Plaintiff

VS

Defendant

Garnishee

RETURN OF SERVICE UPON THE DEFENDANT

This is to certify that on behalf of the Plaintiff in this action, I have served upon the Defendant a copy of the notice of filing of this summons of garnishment as required by O.C.G.A §18-4-64 along with a copy of the Court's Notice to Debtors Subject to Garnishment containing a list of exempt funds as follows:

- _____ (1) Service pursuant to O.C.G.A §9-11-4 where the deputy serves the Defendant. \$50.00 service fee made payable to the Mitchell County Sheriff's Dept must be provided. [Service form attached.]
- _____ (2) Service upon the Defendant at the Defendant's last known address by registered or certified mail or statutory overnight delivery, return receipt requested, not more than three business days after service of the summons of garnishment on the Garnishee. [Attach a copy of the green card, certified mail receipt, or unclaimed envelope.]
- _____ (3) Service upon the Defendant by ordinary mail not more than three business days after service of the summons of garnishment on the Garnishee at the address at which the Defendant was served in the action resulting in the judgment on which the garnishment proceeding is based as long as the garnishment has been commenced within 60 days after the judgment upon which the garnishment proceeding is based was obtained. [Attached the copy of the underlying judgment.]

This _____ day of _____, _____

Sign Name

Printed Name and Title