

## **WRIT OF GARNISHMENT - PLAINTIFF'S INSTRUCTIONS (Pro Se)**

There are two types of Garnishment: Writ of Garnishment and Continuing Writ of Garnishment Against Salary or Wages.

Writ of Garnishment: This type of Writ is served on a person or other entity that holds assets on behalf of the Defendant - usually the Defendant's bank. Upon service of the Writ of Garnishment, the Garnishee will "hold" those assets in the Garnishee's possession at the time of service of the Writ or at any item between the service of the Writ of Garnishment and Garnishee's Answer until there is an Order directing the Garnishee to disburse the funds.

Continuing Writ of Garnishment Against Salary or Wages: This type of Writ is served on a person or other entity that owes the Defendant Salary or Wages - the Defendant's employer. The Garnishee will periodically withhold a portion of the Defendant's wages until the Judgment is satisfied, the Defendant is no longer employed by the Garnishee, or there is another Court Order.

### **FILING**

To initiate the garnishment process:

1. Original Motion for Writ of Garnishment or Motion for Continuing Writ of Garnishment Against Salary or Wages (Law 121)
2. Filing Fee  
\$85.00  
Payment may be in cash, credit card, cashier's check, money order, or personal check payable to: Brevard County Clerk of Court
3. Sheriff's Service Fee  
You must contact the applicable Sheriff to determine the service fee. If the Garnishee is in Brevard County, the fee is \$40.00 payable in cashier's check or money order - the Brevard County Sheriff will not accept personal checks or credit cards and the Clerk cannot accept cash on behalf of the Sheriff.  
Instead of service by the Sheriff, you may contact a private process server.
4. Writ of Garnishment: Proposed Writ of Garnishment (Law 132)  
Continuing Writ of Garnishment Against Salary or Wages: Proposed Order for Continuing Writ of Garnishment (Law 654) AND Proposed Continuing Writ of Garnishment Against Salary or Wages (Law 601)

Writ of Garnishment: The Clerk will issue the Writ of Garnishment and forward the Writ and the Service fee to the applicable Sheriff.

Continuing Writ of Garnishment: The Clerk will deliver the Proposed Order for Continuing Writ of Garnishment to the assigned Judge. Upon receipt of the signed Order, the Clerk will issue the Continuing Writ of Garnishment Against Salary or Wages and forward the Writ and Service fee to the applicable Sheriff.

5. You must mail a copy of the Writ of Garnishment or Continuing Writ of Garnishment Against Salary or Wages and, if the Defendant is an individual, a Notice to Defendant of Right Against Garnishment of Wages, Money and Other Property (Law 815) to the Defendant at the Defendant's last known address within 5 business days after the Writ is issued or 3 business days after the Writ is served on the Garnishee. You must also file a certificate of such service (Certificate of Service on Defendant Pursuant to Section 77.041(2), F.S., - Law 817)

## **CLAIM OF EXEMPTION AND REQUEST FOR HEARING FILED BY DEFENDANT**

If the Defendant is an individual, the Defendant has 20 days from the date of receipt of the Notice to Defendant of Right Against Garnishment of Wages, Money and Other Property to file a Claim of Exemption and Request for Hearing.

If you object to the Defendant's Claim of Exemption, you must file an objection (Notice of Contest of Defendant's Claim of Exemption - Law 819). If the Claim of Exemption was served on you by hand delivery, you must file your objection within 8 business days of receipt of the Claim of Exemption. If the Claim of Exemption was served on you by mail, you must file your objection within 14 consecutive days of the Certificate of Service of the Claim of Exemption. **IF YOU FAIL TO FILE AN OBJECTION TIMELY, A HEARING WILL NOT BE SCHEDULED AND THE WRIT WILL BE DISSOLVED AUTOMATICALLY.**

If you file an objection, the Clerk will schedule a hearing and send notice of the hearing to you, the Defendant and the Garnishee.

### **ANSWER FILED BY GARNISHEE**

The Writ of Garnishment and the Continuing Writ of Garnishment Against Salary or Wages directs the Garnishee to file an Answer within 20 days of service of the Writ.

Within 5 days after the Certificate of Service of the Answer on the Plaintiff, you must serve, by mail the following:

1. a copy of the Garnishee's Answer
2. a Notice advising the Defendant that a Motion to Dissolve the Writ of Garnishment must be filed within 20 days after these documents were served on the Defendant

You must file a Certificate of Service (Law 820) of the mailing.

If you are not satisfied with the Garnishee's Answer, you must file a reply within 20 days and contact the assigned Judge if you wish to schedule a hearing.

If you are satisfied with the Garnishee's Answer and a Claim of Exemption and Request for Hearing has not been filed, you must submit a proposed Garnishment Judgment (Law 118).

### **ANSWER NOT FILED BY GARNISHEE**

The Writ of Garnishment and the Continuing Writ of Garnishment Against Salary or Wages directs the Garnishee to file an Answer within 20 days of service of the Writ.

If the Garnishee fails to file an Answer within 20 days, you must serve, by mail a Notice advising the Defendant that a Motion to Dissolve the Writ of Garnishment must be filed within 20 days after the Notice was served on the Defendant.

You must file a Certificate of Service (Law 820) of the mailing.

If a Claim of Exemption and Request for Hearing has not been filed, you must submit a proposed Garnishment Judgment (Law 118).