

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.

A Writ of Garnishment is issued by the Clerk of Court. 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 their possession at the time of service of the writ or at any time between the service of the writ and the time of the garnishee’s answer until there is an order directing the garnishee to disburse the funds.

The Motion for Garnishment (law form 121) and proposed Writ of Garnishment (law form 132) are available on our website. A copy of the Notice to Defendant of Right Against Garnishment of Wages, Money, or Other Property (law form 815) must be attached to the proposed Writ of Garnishment.

- You may file your motion and proposed writ in person, by mail, or electronically through the Florida Court’s eFiling Portal (portal). Visit our website at www.brevardclerk.us for information on our office locations and mailing addresses.
- To file electronically through the portal, you must first create an account on the portal’s website by visiting www.myflcourtaccess.com.
- When the writ is issued, the Clerk will email it if an email address is associated to your portal account. The Clerk will mail the writ if no email address exists in the portal account.

A Continuing Writ of Garnishment must be issued by a judge. This type of writ is served on a person or other entity that owes the defendant salary or wages, usually the defendant’s employer. The garnishee will periodically withhold a portion of the defendant’s wages until the judgment is satisfied, the garnishee no longer employs the defendant, or there is an order from the judge.

The Motion for Continuing Writ of Garnishment (law form 121) and proposed Continuing Writ of Garnishment (law form 601) are available on our website. A copy of the Notice to Defendant of Right Against Garnishment of Wages,

Money, or Other Property (law form 815) must be attached to the proposed Continuing Writ of Garnishment.

- You may file your motion and proposed writ in person, by mail, or electronically through the Florida Court's eFiling Portal (portal). Visit our website at www.brevardclerk.us for information on our office locations and mailing addresses. If you file in person or by mail, we will forward the proposed writ to the judge.
- To file electronically through the portal, you must first create an account on the portal's website by visiting www.myflcourtaccess.com. If filing through the portal, you must file the proposed continuing writ directly to the judiciary.
- When the writ is issued, the clerk will email it if an email address is associated to your portal account. The Clerk will mail the writ if no email address exists in the portal account.

1. Filing fee

- The filing fee for a Motion for Writ of Garnishment or Motion for Continuing Writ of Garnishment is \$85.00. If paying in person or by mail, payment may be in cash, credit card, cashier's check, money order, or personal check payable to Brevard County Clerk of Court.
- If filing through the statewide ePortal, the filing fee will automatically generate when you select your document type of Motion for Garnishment or Motion for Continuing Garnishment.

2. Sheriff's service fee

- If you want your Writ of Garnishment or Continuing Writ of Garnishment forwarded to the sheriff for service, you must contact the applicable sheriff to determine their service fee. If the garnishee is in Brevard County, the fee is \$40.00, payable by cashier's check

or money order. The Brevard County Sheriff's Office will not accept personal checks or credit cards, and the clerk cannot accept cash on behalf of the sheriff. The payment must be made payable to the applicable sheriff's office.

- You may choose to use a private process server instead of service from the sheriff.

CLAIM OF EXEMPTION AND REQUEST FOR HEARING FILED BY DEFENDANT

If the defendant is an individual, the defendant has 20 days from receipt of the Notice to the 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 eight 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 business 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 five business 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) for 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) for the mailing.

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