

KEY LEGAL DEFINITIONS

Affidavit: A written statement that someone swears to under oath in front of someone that is legally authorized, like a judge or notary public.

Answer: A statement that a defendant writes to answer a civil complaint and say what defense they will use.

Calendar: A list, in alphabetical order, of all the cases in each courtroom every day.

Default Judgment: A court decision in favor of the plaintiff when the defendant doesn't answer or go to court when they're supposed to attend.

Dismiss WITH Prejudice: When a court dismisses a case and will not allow another suit to be filed on the same claim in the future.

Dismiss WITHOUT Prejudice: When a court dismisses a case but will allow other suits to be filed on the same claim.

Defendant: In a civil case, the person or organization sued by the plaintiff. In a criminal case, the person accused of the crime.

Evidence: Any proof legally presented at trial through witnesses, records, and/or exhibits.

Exhibit: A document or an object shown and identified in court as evidence in a case.

Hearsay: Statements by a witness that did not see or hear the incident in question but heard about it from someone else.

Judgment: The court's official decision resolving the dispute between the parties to a lawsuit.

Judgment Creditor: The party who won a money judgment.

Judgment Debtor: The party that the judgment has been entered against.

Litigants: The parties (sides) involved in a lawsuit.

Mediation: A process in which a neutral person helps people who have a dispute reach an agreement.

Motion: An oral or written request that a party makes to the court for a ruling or an order on a particular point.

Plaintiff: A person that brings an action; the party that complains or sues in a civil case.

Small Claim: A lawsuit brought by someone seeking to get back money, personal property for no more than \$15,000.

Statement of Claim: A form that tells the court who you are, who you're suing, why you are suing, how much you are suing for, and why you're suing in Fulton.

E-FILING

The court requires parties to file documents electronically (e-file) in the court's case management system. You can register for e-filing at www.odysseyfilega.com. Once you file, you can find your case online using the "Find My Case" link on the court's website.

BANKRUPTCY

- The Debtor/Defendant must notify the court of all bankruptcy filings.
- The garnishment will be halted until the bankruptcy proceedings are concluded.
- Any funds deposited in the court registry will be held until the bankruptcy court authorizes their release.

CONTACT US TODAY!

Monday - Thursday | 8:30 a.m. - 5:00 p.m.



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Disclaimer: The information in this pamphlet is not legal advice. It is intended to give a general description of the services available through the R.E.A.C.H. Clinic. Consult an attorney for legal advice about your case.



Thank You!

CHIEF MAGISTRATE JUDGE

Cassandra Kirk

Magistrate Court of Fulton County



GARNISHMENTS

WHAT IS A GARNISHMENT

Garnishment is a legal process that allows a creditor to collect money from a debtor's wages, money, or property that is held by someone else.

3 TYPES OF GARNISHMENTS

Wage Garnishment: A creditor gets a court order to require the debtor's employer to deduct a certain amount of money from each paycheck and send it to the creditor.

Bank Account Garnishment: A creditor gets a court order to require the debtor's bank to freeze the account and send a certain amount of money to the creditor.

Support Garnishment: A creditor gets a court order for a wage or bank garnishment to collect child support or alimony payments. These garnishments can be renewed indefinitely until the debt is paid in full.

WHEN TO FILE A GARNISHMENT

- **Default Judgment.** A creditor can file a garnishment immediately after getting a default judgment.
- **Regular Judgment.** A creditor must wait 10 days after getting a regular judgment before filing.

THE PROCESS

1. File Garnishment Affidavit
2. Creditor Serves Garnishee and Defendant
3. File Certificate of Service
- 4a. Garnishee Files an Answer
- 4b. Defendant Files a Claim
5. Court Review
6. Distributing Funds
7. What Happens After Debt is Paid

STEP 1: FILE A GARNISHMENT AFFIDAVIT

- Electronically file an affidavit. This is a sworn statement that says you have a judgment against the debtor.
- Include a copy of the judgment.
- Serve the garnishment papers on the debtor and the garnishee. The garnishee is the person or company that holds the debtor's money or property.

STEP 2: CREDITOR SERVES ALL PARTIES

How to Serve the Garnishee:

- Personal Service. Personally give the garnishment papers to the garnishee in person.
- Court-Approved Process Server: You can have either the Marshal's Department or a court-approved process server give the garnishment papers to the garnishee.

How to Serve the Defendant:

- Mail. Send the garnishment papers to the defendant by regular mail, registered mail, certified mail, or statutory overnight delivery, return receipt requested.
- Timing. Mail the garnishment papers to the defendant within 3 business days of serving the garnishee.

NOTE: If the debtor is not served properly, the garnishment action will be dismissed.

WHAT TO SERVE ON DEFENDANT & GARNISHEE

1. Garnishment Affidavit
2. Summons of Garnishment (filled out by the Clerk)
3. A copy of the judgment
4. Notice to Debtor of Right Against Garnishment
5. Defendant's Claim Form

STEP 3: FILE CERTIFICATE OF SERVICE

The creditor must file a proof of service with the Clerk.

STEP 4A: GARNISHEE FILES AN "ANSWER"

- **Respond on Time**. Garnishees must respond with the garnished money or property **within 30-45 days** of service.
- **Late Responses**. If a garnishee doesn't respond **within 45 days**, they are in default and may have to pay the full debt.
- **Default Status**. Garnishees can get out of default by paying court costs **within 15 days**. If they don't do this **within 60 days** of service, the plaintiff can get a judgment against them.

JUDGMENT AGAINST THE GARNISHEE

Cases in Default.

- The plaintiff must file a Motion for Default Judgment and serve it on the garnishee and the defendant.
- If the Garnishee fails to appear for the court hearing, the court may grant the default judgment.
- If a default judgment is granted, then plaintiff must notify the garnishee by certified mail, overnight delivery, Marshal's service, or hand delivery.

STEP 4B: DEFENDANT FILES A "CLAIM"

Challenging a Garnishment. Defendants and third parties can file a claim at any time if:

1. The creditor doesn't have a judgment against you.
2. The creditor's garnishment affidavit is wrong or incomplete.
3. Your money is protected by law.

Defendant claims are heard **within 10 days** of being filed.

Examples of legally protected funds:

- Social Security benefits
- Supplemental Security Income benefits
- Unemployment benefits
- Veterans' benefits
- Workers' compensation benefits
- State pension benefits
- Disability income benefits
- Money that belongs to a joint account holder
- Child support or alimony
- Exempt wages, retirement, or pension benefits
- Other exemptions as provided by law

NOTE: This isn't a complete list of ALL available exemptions.

REMEMBER!

- If you challenge the garnishment, you must prove your case at the hearing.
- Plaintiffs can challenge a garnishee's incomplete or inaccurate answer **within 20 days** of receiving it.

STEP 5: COURT REVIEW

If the Court reviews the submitted garnishment papers and issues arise during the review, it will identify the problem and give the party an opportunity to fix it.

STEP 6: DISTRIBUTING FUNDS

To get the funds, the Plaintiff must file an "[Application for Disbursement of Funds](#)" and ensure:

- Twenty (20) or more days have passed since Garnishee filed its last Answer;
- File proof with the Court that Garnishee and Defendant were properly served as required by law;
- No claims or traverses have been filed; and
- A copy of the request to disburse funds has been mailed to Defendant and Garnishee.

The Clerk will release the funds to the plaintiff if the Court grants the disbursement request.

DO NOT FORGET

- You can't file a claim to challenge the underlying judgment or to ask for help with money problems.
- To challenge the underlying judgment, defendants must file an appeal with the court that issued the judgment.
 - If done before the garnishment, the court may stop or dismiss the garnishment action.

STEP 7: WHAT HAPPENS AFTER DEBT IS PAID

Creditor/Plaintiff Responsibilities: Inform the court clerk to cancel the writ of fi. fa. and dismiss garnishment upon debt payment. Failure to do so may result in legal action.

MULTIPLE GARNISHMENTS

- The clerk will prioritize payments based on seniority, with the oldest garnishment receiving the first disbursements.
- Creditors can request a change in payment order by demonstrating the seniority of their judgment.