



## Muscogee County Marshal's Office

# GARNISHMENT

### **Definition:**

A Garnishment is a notice or warning to a person who holds money or property of a third-party defendant not to pay the money or deliver the property of the defendant to him, but to pay into the court to satisfy the plaintiff's claim against the defendant.

### **Purpose/Types/Constitutionality**

The purpose of Garnishment is to allow plaintiff-creditor to obtain satisfaction of a defendant-debtor obligation to him by reaching assets of the defendant whether debt or property, in the hands of a third-party. In Georgia the plaintiff-creditor can garnish the defendant's property only after he has obtained a judgment against the defendant-debtor. Prejudgment Garnishment provides for seizure of defendant's assets to satisfy the judgment that the creditor expects to be awarded in his primary action against the debtor.

Post judgment Garnishment is a means of enforcing an already existing judgment. Once judgment is obtained in a Suit by plaintiff-creditor against defendant-debtor, plaintiff can use the Garnishment procedures, as he might use attachment proceedings, to satisfy that judgment. No bond is required of the plaintiff in post judgment Garnishment.

Prior to 1975, the Georgia statutory scheme relating to Garnishment made no appreciable procedural distinction between prejudgment and post judgment Garnishment. Either remedy required pre-seizure notice or opportunity of hearing.

The United States Supreme Court dealt an initial blow to summary ex parte creditor remedies in the 1969 decision.

If the initial issuance of prejudgment process to seize an alleged debtor's property is judicially supervised and in the alleged debtor is given appropriate notice of proceedings against him and, in addition, an opportunity to be heard immediately after the deprivation of his property.

If however, the pertinent statute does not provide for adequate judicial supervision over proposed prejudgment seizure of the alleged debtor's property, then such alleged debtor's must, as a constitutional matter, be given prior notice of the proposed seizure and an opportunity to be heard before he is deprived of his property.

### **History**

The Georgia General Assembly first enacted a Garnishment Statute in 1822. Although the initial statutory scheme was amended and altered by succeeding acts, it remained relatively the same until 1975.

### **Answer to Summons**

The summons of Garnishment shall be directed to the garnishee, commanding him to file an answer stating what monies or other property is subject to Garnishment. In case

garnishee fails or refuses to file an answer by the 45th day, after service of the summons, garnishee shall automatically become in default.

Wages are subject to garnishment. The maximum part of individual aggregate disposable earnings subject to garnishment in any week is the lesser of: (1) Twenty-five percent of his disposable earnings for that week. (2) The amount by which is disposable earnings for that week exceed thirty times the federal minimum hourly wage.

These limitations apply even where the garnishee receives a summons of Garnishment in more than one garnishment case, naming the same defendant.

Garnishment may reach out-of-state wages, but not where defendant is a non-resident.

There is, however, one exception to the limitations aforementioned. Where the summons of Garnishment is based on a judgment for alimony or support of a dependent, the maximum part of the individual's aggregate disposable earnings subject to Garnishment goes up to fifty percent. A Garnishment based on a judgment for alimony or support must give clear notice of such in the summons.

Garnishment may also reach out-of-state wages. The wages of persons who reside out of the state of Georgia, whether such wages have been earned wholly within or without the state, are subject to Garnishment in Georgia.

#### Municipal Court Cost

Garnishment:

|                                       |                |
|---------------------------------------|----------------|
| <b>\$100 and under.....</b>           | <b>\$22.00</b> |
| <b>Above \$101 to \$500.....</b>      | <b>\$23.50</b> |
| <b>Above \$501 to \$1,000.....</b>    | <b>\$27.50</b> |
| <b>Above \$1,001 to \$5,000.....</b>  | <b>\$29.50</b> |
| <b>Above \$5,001 to \$7,500.....</b>  | <b>\$35.00</b> |
| <b>Above \$7,501 to \$15,000.....</b> | <b>\$45.00</b> |

This brochure is in effort to enlighten the citizens of Muscogee County of the services rendered through the Muscogee County Marshal's Department.

Greg Countryman, Marshal