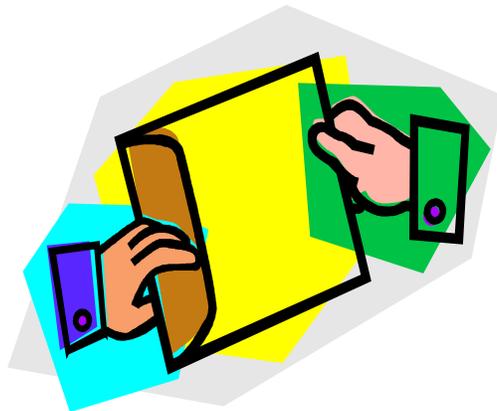


CLEVELAND HEIGHTS MUNICIPAL COURT

COLLECTING

YOUR

SMALL



CLAIMS

JUDGMENT

JAMES J. COSTELLO, JUDGE
40 Severance Circle, Cleveland Heights, OH 44118

JUDGMENT

What is a judgment?

A judgment is the final appealable order of the court. After the magistrate's decision is filed, a judge will review this decision and if appropriate, approve it and enter a judgment. A copy of the judgment will be mailed to you as well as to all of the other parties involved in the case, or to their attorneys, if represented. Once you have obtained your judgment, you can commence any of the several procedures described in this booklet to enforce it.

What rights do I have as a judgment creditor?

As a judgment creditor you now have the authority to issue an order to attach and seize any non-exempt property or income belonging to the judgment debtor in order to satisfy your judgment if the debtor will not voluntarily pay you the amount due.

It is up to YOU to initiate the enforcement procedures-the court will not automatically do this to obtain your money for you.

If the judgment debtor has sufficient resources from which to pay you, there is an excellent chance that you will recover the full amount of your judgment. If necessary, you may use one or more of the methods outlined in this booklet to enforce the judgment.

If the judgment debtor is without adequate income or other property to pay the amount due, you may find it difficult to collect now or in the near future. A judgment remains in an *active* status for at least five (5) years, and may be revived during the next twenty-one (21) year period. Even if it is impossible to collect now, you may be able to do so eventually.

What is my first step?

Although it is not required by law, consider writing a short letter to the judgment debtor asking for payment. Remind the judgment debtor of the amount of the judgment including court costs and interest rate which is established based at the time of the judgment. If there are any particular settlement terms you might want to offer (e.g., a payment plan, or payment in property or services), be sure to include them in your letter. Ask the debtor to respond to you in a reasonable time (10-14 days, for example).

Hopefully you will get a favorable response. If you can work out a solution with the debtor for payment, it is almost always quicker and easier for everyone. However, if the response you get is negative, or if the judgment debtor ignores your letter, you may attempt to enforce payment through any of the means explained in this section.

What measures can I take to enforce my judgment?

Possible options:

- ◆ Bank Account Attachment
- ◆ Garnishment of Wages
- ◆ Judgment Liens on Real Estate

YOU must decide what method(s) are most appropriate in your case. If you have difficulty completing any of the forms, you may obtain assistance from a small claims deputy clerk. *However, court personnel CANNOT give you legal advice, act as your attorney, or investigate to determine the existence and location of the judgment debtor's property.*

If you find that you cannot collect your judgment utilizing any of these options, you may wish to turn your case over to an attorney. Possibly there may be other avenues of enforcement which an attorney might pursue.

JURISDICTIONAL CONSIDERATIONS

The court has jurisdiction to enforce its judgment so long as it has jurisdiction over the person who holds money or property belonging to the judgment debtor. This person is known as the *garnishee*. Usually the garnishee is an employer or bank.

If the garnishee is located in Cuyahoga County, Ohio, you may proceed with any of the procedures in which this court has jurisdiction.

If the garnishee is located in Ohio, but outside of Cuyahoga County, then some of the proceedings may be filed in this court. You may file bank attachments and wage garnishments and they will be served to any employer within Ohio.

If the garnishee is located outside of Ohio, you may not enforce your judgment through this court as it would have no jurisdiction over the garnishee. You must contact the appropriate court outside of Ohio to determine how to proceed.

Revocation of a debtor's driver's license may be accomplished in this court if the debtor possesses an OHIO driver's license if the judgment stems from a traffic accident.

Judgment debtor examinations may be ordered only if the debtor is served within Cuyahoga County with an order to appear by a bailiff of this court.

CORPORATIONS MUST BE REPRESENTED BY AN ATTORNEY AT LAW

Corporations are artificial entities whose appearance in a court of law must be made through a legal representative. Generally, an attorney at law is the only person who may lawfully represent a corporation. A *narrow* exception to this rule is made under section

1925.17 of the Ohio Revised Code which authorizes an officer or salaried employee to appear in *trial* only in a case pending in the Small Claims Division to present the corporation's claim of defense. The statute, however, **forbids** such officer or salaried employee from engaging in what might be construed as "any further act of advocacy." This has been interpreted to include procedures to enforce judgments.

THUS, A CORPORATION MUST BE REPRESENTED BY AN ATTORNEY AT LAW TO FILE ANY OF THE PROCEEDINGS IN AID OF EXECUTION OUTLINED IN THIS BOOKLET.



PROCEDURE TO DISCOVER JUDGMENT DEBTOR'S ASSETS

As a judgment creditor, perhaps you have been unable to discover enough information on your own to allow you to utilize any of the procedures described to enforce your judgment.

The law provides you with two methods of questioning the debtor about his/her property. The most common procedure is the oral examination. It is generally more effective since the debtor must appear personally and answer your questions under oath in open court. The questionnaire may be somewhat more convenient but you may be limited in the scope of information you might obtain. You may use either procedure to help you obtain the information needed and they are both explained herein.

Because the jurisdiction of the court is Cuyahoga County, be sure that the debtor can be served with the judgment debtor order in this county before initiating these procedures;. If the debtor is outside this county, it would be necessary to certify (transfer) the judgment to the county in which the debtor resides and then conduct the examination in that county.

THE ORAL JUDGMENT DEBTOR EXAMINATION

Any time after judgment, you may apply for an order summoning the judgment debtor to court to answer your questions under oath concerning his/her property and/or earnings. Procedures and forms to file can be found in appendix A. The debtor is served by personal service (hand delivery to the debtor by a bailiff of the court). One advantage of personal service is that should the debtor fail to appear at the examination, you may apply to the court to have debtor charged with contempt of court, and a warrant may then be authorized and issued for his/her arrest.

At the examination, since you will be representing yourself, you will be asking the questions of the judgment debtor who will be compelled to answer under oath. You are

free to ask the debtor any questions that is relevant to his/her income or property. It is good idea to make a list, in advance of the hearing.

Here are some basic questions you might ask:

- ◆ What is your legal name? Your residence address? Your social security number? Your date of birth?
- ◆ Are you employed?
 - If yes:
 - What is the name and address of your employer?
 - What is your rate of pay?
 - When did you receive your last paycheck?
 - How often are you paid?
 - When was your pay last garnished?
 - If no:
 - When were you last employed?
 - By whom?
 - What was your last rate of pay?
 - What was the reason for your termination?
 - From what income are you paying your current living expenses?
- ◆ Do you have money on deposit in a checking account, a savings account, credit union account, a money market account, or with a financial broker?
- ◆ Do you own a motor vehicle?
 - If yes:
 - Is title in your name?
 - What is the year, make and model?
 - Is this vehicle being financed
 - By whom?
 - What is the balance due?
- ◆ Do you own your own home?
 - If yes:
 - Is the deed in your name only or with others?
 - What is the address of this property?
 - Is your home being financed? By whom?
 - What is the balance due on your mortgage(s)?
 - Are there any liens against this property?
- ◆ Do you own any other real estate? If yes: Please give details—ask for information that would apply to the debtor’s home.

- ◆ Do you own any stock, stock options, bonds or certificates of deposit? If yes: Please give details.
- ◆ Are you a creditor who is due payment on a loan or other receivable, or on a judgment? If yes: Please give details.
- ◆ Do you have an interest in a partnership, or proprietorship?
 - If yes:
 - What is the nature of the business?
 - What is your interest in it?
 - What is the address of the business?
 - Do you maintain an inventory?
 - Could you describe the inventory?
 - As a business proprietor do you keep cash on the premises?

Remember, the purpose of the hearing is to get the information you need about the debtor's property. It is no longer necessary to prove your case—you already have a judgment! Concentrate on getting information you need to satisfy the judgment. This may be a good time to try to work out a payment plan (see form in Appendix F).

If the debtor appears and answers your questions, you should consult the section in this booklet for the procedures to enforce your judgment.

If the judgment debtor has personally served with the judgment debtor order by a bailiff of the court and does not appear, you may then ask the court to issue a "Show Cause Order" for the judgment debtor under the charge of contempt of court. The magistrate will authorize you to complete and pay for the proper form at the clerk's office and that form will be submitted to the judge. The judge will make the decision whether or not to issue a warrant order. The debtor will be ordered into custody and when apprehended, may be required to post bail to secure his/her release from custody. The court may, in its discretion, permit you to examine the debtor before he/she is released.

You will be advised when the debtor has been apprehended and/or posted bond. When debtor has been apprehended, you may be able to make an attachment of the bail on deposit with the Clerk using the forms and procedures followed in the bank attachment.

EXECUTION UPON BANK ACCOUNT

If you know that the debtor has a checking or savings account at a financial institution, you may seek to attach funds that are in the account. Bank account attachments may be effected through this court upon any bank in Ohio. If the bank is located outside of Cuyahoga County, be sure to ask the clerk to mail the attachment to the bank by certified mail (see appendix B for form).

GARNISHMENT OF WAGES

If you know where the judgment debtor is employed, you may garnish his/her non-exempt wages. Garnishments may be filed through this court if the debtor's employer is located in the state of Ohio.

Once the garnishment is served upon the debtor's employer, it will remain in effect until the amount of the judgment is paid, or for at least six months. The debtor's employer shall make regular deductions from the debtor's wages and send the non-exempt portion (up to 25%) to the Clerk of Court. The clerk will then distribute the proceedings to you at the end of every month.

If another creditor has a pending garnishment against the same debtor when you file, you may be required to wait up to six months for yours to begin. If there are two creditors ahead of you, the wait may be much longer. Likewise, if another creditor files a garnishment while yours is in effect, your garnishment will remain in effect for at least six months ahead of the others as well. You may file again at a later time if needed. (see appendix C)

JUDGMENT LIENS ON REAL ESTATE

If the judgment debtor owns a home or parcel of land you can obtain a judgment lien on his/her real estate. Although obtaining such a lien may not bring about an immediate payment, it will ensure that the debtor's real estate cannot be transferred or refinanced within the next five (5) years without dealing with your lien. It's a simple, yet effective device for obtaining assurance that your judgment will eventually be paid.

You may renew you lien every five (5) years, if necessary.

REVOCAION OF DEBTOR'S DRIVER'S LICENSE

If your judgment is due to negligent operation of a motor vehicle and it has been at least 30 days since you obtained your judgment you can certify the judgment to the Ohio Bureau of Motor Vehicles. The BMV will then revoke the defendant's driver's license for a period of seven (7) years or until debtor satisfies the judgment or enters into an agreement with you to do so.

ATTACHMENT OF PROPERTY OTHER THAN CASH

It is possible to attach personal property other than cash, however, the procedures are not included due to the substantial cost and complexities involved. You should consult with an attorney for this type of attachment.

CAN I FILE BY MAIL?

You may file all these actions with completed paperwork and appropriate payment (see appendix D) by mail. Be sure that all forms are signed and notarized, if required. The court accepts cash, money order, credit cards, and personal checks with a copy of your Ohio Driver's License.

If you wish to receive forms by mail, please send your request with a stamped, self-addressed envelope to:

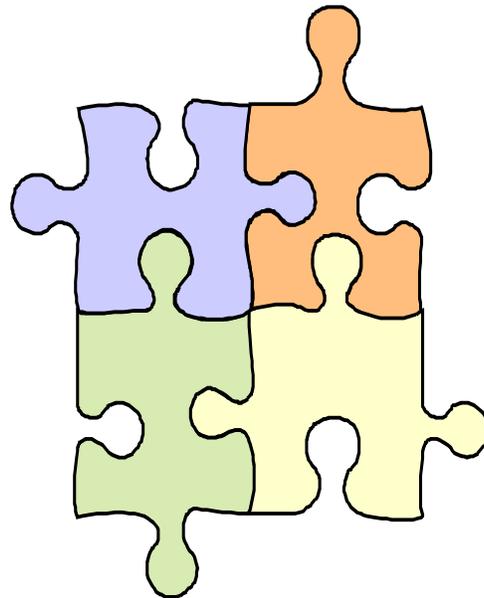
Cleveland Heights Municipal Court
Attention: Civil Division
40 Severance Circle
Cleveland Heights, Ohio 44118

SATISFACTION OF JUDGMENT

Once you have collected all of the money due to you on the judgment, you must file an entry with the Clerk of Courts acknowledging the fact that the judgment has been paid. (see appendix F). You may prepare your own entry or request a form from the small claims division of the court.

????????????????

APPENDICES



APPENDIX A

MOTION FOR JUDGMENT DEBTOR EXAM

1. Use the form on the following page.
2. Fill in all spaces that have a X.
3. You can use your judgment entry and complaint to complete name and address information.
4. Bring the completed forms to the Clerk of Courts office.
5. You will need three copies. If you have not signed the forms in front of a notary public you can sign before a deputy clerk at the Clerk of Courts counter.
6. You will need to pay the appropriate fee (see appendix D)
7. If service is made outside of Cleveland Heights you will be billed for mileage.
8. After the Judge signs the order, and a date is assigned for the exam you will be informed by mail.

**IN THE CLEVELAND HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO**

X _____
Plaintiff

V.

Case Number X _____

X _____
Defendant

X _____
Address

MOTION FOR JUDGMENT DEBTOR EXAM

Plaintiff moves the Court for an order requiring X _____ to appear to answer inquiry on oath concerning defendant's property, earnings and other assets.

X _____
Plaintiff

AFFIDAVIT

STATE OF OHIO)
CUYAHOGA COUNTY)SS

X _____ says that he/she is the plaintiff in the above-captioned case, that on _____, judgment was obtained in the sum of \$ _____, plus court costs, plus interest at the rate of ____ per annum therefrom, that said judgment is unsatisfied, there being due and owing a balance of \$ _____.

X _____
Plaintiff

X Sworn to before me and subscribed in my presence this _____ day of _____ 200__

() Notary Public () Deputy Clerk

ORDER OF EXAMINATION OF JUDGMENT DEBTOR

On motion of plaintiff in the above-captioned action, it is hereby ORDERED that the judgment debtor _____ appear for examination on _____

_____, 200__, at _____ AM/PM

Judge James J. Costello

IMPORTANT: THIS IS A COURT ORDER WHICH DEMANDS YOU COMPLIANCE. YOUR FAILURE TO APPEAR ON THE DATE ABOVE WILL BE AT RISK OF BEING BROUGHT BEFORE THE JUDGE BY A BAILIFF OR POLICE OFFICER AND BEING PUNISHED FOR CONTEMPT OF COURT.

RETURN OF SERVICE

Service fees: \$ _____ On the _____ day of _____, 200__
Miles () \$ _____ I served the within Order on the above-names defendant.
Total \$ _____

Deputy Bailiff _____

APPENDIX B

EXECUTION UPON BANK ACCOUNT

1. Determine the name of the judgment debtor's bank

You may have the information already. If you have at sometime been issued a check by the judgment debtor in the course of your dealings, you may recall the name of the debtor's bank. Or, if you ever issued a check to the debtor, you might inspect the back to determine where it was deposited. You may also be able to discover the identity of the bank through the judgment debtor examination section of booklet.

If possible, try to find out the account number. It is helpful to the bank, although usually not essential, in identifying the correct account .

2. Complete the form on the next page "Affidavit and Order of Garnishment of Property Other Than Wages". You must include the case number!

3. File with the Clerk of Court

Return the Affidavit and Order form to the Clerk of Courts office window. When you arrive, give the clerk the following items:

- ☞ Your attachment forms (you may have the deputy clerk notarize your signature if you have not already signed it in front of a notary).
- ☞ A check or money order for \$1.00 payable to the bank (this IS NOT recoverable as "court costs"), and
- ☞ The court fee that can be paid by cash, credit card, and check with proper identification (see appendix G).

4. The Court will deliver the order to the bank by regular mail, unless you request certified mail which is an additional certified fee charge (see appendix G)

5. If the judgment debtor challenges the validity of the attachment, a hearing will be scheduled and notice will be sent to you.

6. If the attachment is successful, the court will send you a copy of the returned bank attachment and will issue a check to you at the end of the month in which the court received the funds. You may access the court web site at www.clevelandheightscourt.com and choose "record search" to check the progress of your attachment.

7. You may file again if you don't receive all of the money due on the judgment from the first attachment. You may also file more than one attachment if the judgment debtor deals with more than one bank.

**AFFIDAVIT, ORDER AND NOTICE OF GARNISHMENT OF PROPERTY OTHER THAN
PERSONAL EARNINGS AND ANSWER OF GARNISHEE**

THE STATE OF OHIO
COUNTY OF CUYAHOGA

CLEVELAND HEIGHTS MUNICIPAL COURT
40 SEVERANCE CIRCLE
CLEVELAND HEIGHTS, OHIO 44118

Judgment Creditor
VS.

Case No. _____
(THIS NUMBER MUST BE ON ALL REFERENCES)

Judgment Debtor

AFFIDAVIT

The undersigned being first duly cautioned and sworn, affirmed according to law, says that I am the Judgment Creditor herein/Attorney for Judgment Creditor herein, and that said Judgment Creditor
(cross out one)
heretofore, to-wit, on the _____ day of _____, _____, duly recovered a judgment before this Court against said Judgment Debtor _____

AMOUNT NOW DUES \$ _____

The affiant has good reason to believe and does believe that _____ has property other than personal earnings of the Judgment Debtor that is not exempt under the laws of the State of Ohio or the United States.

DESCRIPTION OF PROPERTY: _____

ATTORNEY FOR JUDGMENT CREDITOR

Sworn to and subscribed before me
this _____ day of _____

CLERK/DEPUTY CLERK/NOTARY PUBLIC

SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT

To: _____, Garnishee
The Judgment Creditor in the above case has filed an affidavit, satisfactory to the undersigned, in this court stating that you may have money, property, or credits, other than personal earnings, in your hands or under your control that belong to the Judgment Debtor. You are therefore ordered to complete the "Answer of Garnishee" in Section (B). Return one completed and signed copy of this form to the clerk of this court, together with the amount determined in accordance with the "Answer of Garnishee" by the following date on which a hearing is tentatively scheduled relative to this Order of Garnishment.

Deliver one completed and signed copy of this form to the judgment debtor prior to that date. Keep the other completed and signed copy of this form for your files.

The Total Probable Amount now due on this judgment is \$ _____
The Total Probable Amount now due includes the unpaid portion of the Judgment in favor of the Judgment Creditor, which is \$ _____; Interest on that Judgment and, if applicable, prejudgment interest relative to that Judgment at the rate of _____% per annum payable until that Judgment is satisfied in full; and court cost in the amount of \$ _____
You also are ordered to hold safely anything of value that belongs to the Judgment Debtor and that has to be paid to the court, as determined under the "Answer of Garnishee" in Section (B) of this form, but that is of such a nature that it cannot be so delivered, until further order of the court.

Witness my hand and the seal of this court this _____ day of _____

Judge

SECTION B. ANSWER OF GARNISHEE

(Answer All Pertinent Questions)

Now comes _____ the garnishee herein who says:

1. That the Garnishee has more than \$400 in money, property, or credits other than personal earnings of the Judgment Debtor under the Garnishee's control and in the Garnishee's possession. YES NO

If yes Amount 1. _____

2. That property is described as: _____

3. If the answer to line 1 is "yes" and the amount is less than the probable amount owed now due on the judgment, as indicated in Section (A) of this form, sign and return this form and pay the amount of line 1 to the Clerk of this Court.

4. If the answer to line 1 is "yes" and the amount is greater than the probable amount now due on the Judgment, as indicated in Section (A) of this form, sign and return this form and pay that probable amount now due to the Clerk of this Court.

5. If the answer to line 1 is "yes" but the money, property, or credits are of such a nature that they cannot be delivered to the Clerk of the Court, indicate that by placing an "X" in this space . Do not dispose of that money, property, or credits or give them to anyone else until further order of the court.

6. If the answer to line 1 is "no", sign and return this form to the Clerk of this Court.

I certify that the statements above are true.

(Print Name of Garnishee)

(Print Name and Title of Person Who Completed Form)

Signed _____
(Signature of Person Completing Form)
(Sign all copies)

Copy delivered to Judgment Debtor this _____ day of _____, _____.

SECTION A SHALL BE FILLED IN BEFORE SERVICE. SECTION B SHALL BE FILLED IN BY THE GARNISHEE AND THE ORIGINAL FILED WITH THE COURT AS HIS ANSWER. THE GARNISHEE MAY KEEP ONE COMPLETED COPY AND SHALL DELIVER THE OTHER COMPLETED TO THE JUDGMENT DEBTOR.

TO: SHERIFF, CONSTABLE, BAILIFF

You are hereby directed to serve three (3) copies of this order of Garnishment of property other than personal earnings, together with the Garnishee's fee as provided for in O.R.C. 2716.12 with a written notice that the Garnishee answer as provided in O.R.C 2716.21 on the Garnishee named herein.

Clerk – Deputy Clerk

RETURN OF SERVICE

On the _____ day of _____, _____

Received _____, _____

I served this writ on the within named by

- personal service
- other (O.R.C. 2716.21) _____

(Sheriff – Bailiff – Constable)

FEES

Returned and filed _____, _____

Service and return _____

Mileage _____

I certify this to be a true copy of the original Order and Notice with all indorsements thereon.

(Sheriff – Bailiff – Constable)

By _____
Deputy

APPENDIX C

GARNISHMENT OF WAGES

1. Mail the Judgment Debtor a “Fifteen-Day-Demand” -You will need to complete and have two copies of the form entitled “Notice of Court Proceedings to Collect Debt” (see page 16).
2. You will need to include with form in step 1, for the debtor to complete, two copies of “Payment to Avoid Garnishment (see page 17).
3. Mail one copy of the forms to the judgment debtor at his/her last known address by U.S. Mail. However, you must be able to prove you mailed this notice by obtaining a “Certificate of Mailing” (this is a receipt you can get from the post office that you mailed the forms—DO NOT confuse this with *certified mail*. The certificate of mailing cost is approximately \$1.00 which is not a recoverable “court costs”.)
4. After mailing the “Notice of Court Proceedings to Collect Debt” YOU MUST WAIT AT LEAST 15 DAYS, BUT NOT MORE THAN 45 DAYS before filing the garnishment order.
5. File the Garnishment Affidavit with the Clerk of Courts (see forms in this appendix).

Complete the affidavit which must be signed before a notary public or deputy clerk at this court.

The filing should include:

- ☞ A copy of the “Notice of Court Proceedings to Collect Debt”
 - ☞ The certificate of mailing
 - ☞ The garnishment form
 - ☞ The court fee (see appendix G) which can be cash, money order, or credit card
6. The garnishment order will be served by the court by regular US Mail upon the debtor’s employer, unless you request certified mail which is additional certified mail fee.
 7. The employer will have five (5) days to answer the order by revealing if the debtor is in its employ, and the status of the order.
 8. You will be notified of the employer’s answer. You may check on the progress of the garnishment order through the court’s website at www.clevelandheightscourt.com and choose “record search”.
 9. If the debtor challenges the validity of the order, a hearing will be scheduled and notice will be sent to you.
 10. If the order of the garnishment is successful the court will issue a check to you at the end of every month in which funds were collected.

NOTICE OF COURT PROCEEDING TO COLLECT DEBT

Date of mailing or date of service _____

Name of the Judgment Debtor

Last known residence address of Judgment Debtor

You owe the undersigned _____ \$ _____

Name of Judgment Creditor

Including interest and court costs, for which a judgment was obtained against you or certified in the Cleveland Heights Municipal Court on _____ payment of which is hereby demanded.

If you do not do one of the three things listed below within fifteen (15) days of the date of the mailing of this notice or of its service by the court, we will go to court, unless we are otherwise precluded by law from doing so, and ask that your employer be ordered to withhold money from your earnings until the judgment has been paid in full, or if applicable, is paid to certain extent and to pay the withheld money to the court in satisfaction of your debt. This is called garnishment of personal earnings.

It is to your advantage to avoid garnishment of personal earnings because the placing of the extra burden on your employer possibly could cause you to lose your job.

YOU CAN AVOID THE GARNISHMENT BY DOING ONE OF THESE THREE THINGS WITHIN THE 15-DAY PERIOD:

1. Pay to us the amount due;
2. Complete the form on the next page entitled "Payment to Avoid Garnishment" and return it to us with the payment, if any, shown due on it; or
3. Apply to your local municipal or county court or, if you are not a resident of Ohio, to the municipal or county court in whose jurisdiction your place of employment is located, for the appointment of a trustee to receive the part of your earnings that is not exempt from garnishment, and notify us that you have applied for the appointment of a trustee. You will be required to list your creditors, the amounts of their claims, and the amounts due on their claims, and the amount you then will pay to your trustee each payday will be divided among them until the debts are paid off. This can be to your advantage because in the meantime none of those creditors can garnish your wages.

You also may contact a budget and debt counseling service described in division (D) of section 2716.03 of the Ohio Revised Code for the purpose of entering into an agreement for debt scheduling. There may not be enough time to set up and agreement for debt scheduling in order to avoid a garnishment of your wages based upon this demand for payment, but entering into an agreement for debt scheduling might protect you from future garnishment of you wages. Under an agreement for debt scheduling, you will have to regularly pay a portion of your income to the service until the debts subject to the agreement are paid off. This portion of your income will be paid by the service to your creditors who are owed debts subject to the agreement. This can be to your advantage because these creditors cannot garnish your wages while you make your payment to the service on time.

Name of Judgment Creditor/Attorney

Address of Judgment Creditor/Attorney

Signature of Judgment Creditor/Attorney

PAYMENT TO AVOID GARNISHMENT

TO _____
Name of Judgment Creditor/Attorney

Address of Judgment Creditor/Attorney

To avoid the garnishment of personal earnings, of which you have given me notice, I enclosed \$ _____
to apply toward my indebtedness to you. The amount of the payment was computed as follows:

1. Total amount of indebtedness demanded: (1) \$ _____
2. Enter the amount of your personal earnings, after deductions required by law, earned by you during the current pay period, that is the pay period in which this demand is received by you: (2) \$ _____
3. (A) Enter your pay period (weekly, biweekly, semimonthly, monthly): (3)(A) \$ _____
(B) Enter the date when your present pay period ends: (3)(B) \$ _____
4. Enter an amount equal to 25% of the amount on line (2): (4) \$ _____
5. (A) The current federal hourly minimum wage is _____ (to be filled in by the Judgment Creditor.) (You should use the above figure to complete this portion of the form.) If you are paid weekly, enter 30 times the current federal minimum hourly wage; if paid biweekly, enter 60 times the current federal minimum hourly wage; if paid semimonthly, enter 65 times the current federal minimum hourly wage; if paid monthly, enter 130 times the current federal minimum hourly wage; (5)(A) \$ _____
(B) Enter the amount by which the amount on line (2) exceeds the amount on line 5(A):5(B) (5)(B) \$ _____
6. Enter the smallest of the amounts on line (1), (4), or (5)(B). Send this amount to the judgment creditor along with this form after you have signed it:(6) (6) \$ _____

I certify that the statements contained above are true to the best of my knowledge and belief. (To verify that the amount shown on line (2) is a true statement of your earnings, you must either have your employer certify below that the amount shown on line (2) is a true statement or your earnings or you may submit copies of you pay stubs for the two pay periods immediately prior to you receiving this notice.)

Signature of Judgment Debtor

Residence Address

Print Name

Residence City, State, and Zip Code

I certify that the amount shown on line (2) is a true statement of the judgment debtor's earnings.

Print Name of Employer

Signature of Employer or Agent

I certify that I have attached copies of my pay stubs for the two pay periods immediately prior to my receiving this notice.

**CLEVELAND HEIGHTS MUNICIPAL COURT AND AFFIDAVIT AND ORDER AND NOTICE
OF GARNISHMENT OF PERSONAL EARNINGS AND ANSWER OF EMPLOYER**

CLEVELAND HEIGHTS MUNICIPAL COURT
40 SEVERANCE CIRCLE
CLEVELAND HEIGHTS, OHIO 44118

JUDGMENT CREDITOR

CASE NO. _____
(THIS NUMBER MUST BE ON ALL REFERENCES)

VS.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR

JUDGMENT CREDITOR IS RESPONSIBLE TO REMAIN AWARE OF GARNISHMENT STATUS

JUDGMENT DEBTOR SS# (OPTIONAL)

STATE OF OHIO CUYAHOGA COUNTY, SS:

THE UNDERSIGNED BEING FIRST DULY CAUTIONED AND SWORN OR AFFIRMED. ACCORDING TO LAW SAYS THAT I AM AN ATTORNEY/JUDGMENT CREDITOR HEREIN WHO HERETOFORE RECOVERED OR CERTIFIED A JUDGMENT IN THE CLEVELAND HEIGHTS MUNICIPAL COURT AGAINST THE JUDGMENT DEBTOR NAMED ABOVE. THAT I HAVE GOOD REASON TO BELIEVE AND DO BELIEVE THAT THE GARNISHEE NAMED IN SECTION A BELOW HAS PERSONAL EARNINGS OWING TO THE JUDGMENT DEBTOR THAT ARE NOT EXEMPT UNDER SECTION 2329.66 OF THE O.R.C.: THAT THE WRITTEN DEMAND REQUIRED BY SECTION 2716.02 OF THE O.R.C. HAS BEEN MADE AT LEAST 15 DAYS AND NOT MORE THAN 45 DAYS BEFORE THE DATE HEREOF. THAT THE PAYMENT DEMAND IN SUCH WRITTEN DEMAND HAS NOT BEEN MADE. NOR HAS SUFFICIENT PORTION BEEN MADE TO PREVENT THE GARNISHMENT OF PERSONAL EARNINGS AS DESCRIBED IN SUCH SECTION. THAT AFFIANT HAS NO KNOWLEDGE OF ANY APPLICATION BY THE JUDGMENT DEBTOR FOR THE APPOINTMENT OF A TRUSTEE NOR THAT THE DEBTOR IS THE SUBJECT OF A DEBT SCHEDULING AGREEMENT EITHER OF WHICH WOULD PRECLUDE THE GARNISHMENT OF JUDGMENT DEBTOR'S PERSONAL EARNINGS.

SWORN TO AND SUBSCRIBED BEFORE ME ON _____

SIGNATURE OF JUDGMENT CREDITOR OR ATTORNEY

DATE _____

CLERK/DEPUTY CLERK/NOTARY PUBLIC

ATTORNEY/CREDITOR _____

ADDRESS _____

CITY, STATE, ZIP CODE _____

GARNISHEE: _____

_____ } _____

SECTION A: COURT ORDER AND NOTICE OF GARNISHMENT

The judgment creditor in this case has filed an affidavit, satisfactory with this court, stating that you may owe the judgment debtor money for personal earnings. You are ordered to complete the Answer of Employer (Garnishee) in Section B of this form

Return a completed and signed copy of this form to the clerk of this court within 5 business days after receiving the garnishment order. Deliver a completed and signed copy, and accompany documents entitled Notice to the Judgment Debtor & Request for Hearing to the debtor. Keep a completed and signed copy for you files.

Total Probable Amount Now Due On Judgment Is \$ _____; Total Probable Amount Now Due includes the unpaid portion of the Judgment in favor of the judgment creditor, which is \$ _____; Judgment interest and, if applicable, pre-judgment interest relative to Judgment at _____ % per annum payable until judgment is satisfied; and court costs in the amount of \$ _____.

This order of garnishment of personal earnings is a continuous order that generally requires you to withhold a specified amount, calculated each pay period at the statutory percentage of the judgment debtor's personal disposable earnings during each pay period, as determined in accordance with the "Interim Report & Answer of Employer (Garnishee)", from the judgment debtors personal disposable earnings during each pay period of the judgment debtor commencing with the first full pay period beginning after you receive the order until the judgment in favor of the judgment creditor and the associated court costs, judgment interest, and, if applicable, pre-judgment interest awarded to the judgment creditor as described above have been paid in full. You generally must pay that specified amount, calculated each pay period at the statutory percentage to the clerk of this court within 30 days after the end of each pay period of the judgment debtor and must include with the specified amount calculated each pay period at the statutory percentage an "Interim Report & Answer of Garnishee" substantially in the form set forth in 2716.07 of the Ohio Revised Code. A copy of the "Interim Report & Answer of Garnishee" is attached to this order of garnishment of personal earnings, and you may photocopy it to use each time you pay the specified amount to the clerk of this court. You are permitted to deduct a processing fee of up to \$3.00 from the judgment debtor's personal disposable earnings for any pay period of the judgment debtor that an amount was withheld for the order (processing fee is not part of the court costs). You are not required to file with the court the "Interim Report & Answer of Garnishee" for any pay period of the judgment debtor for which an amount from the judgment debtor's personal earnings during that pay period was not withheld for that order.

This order of garnishment of personal earnings generally will remain in effect until one of the following occurs:

1. The total probable amount due on the judgment as described above is paid in full as a result of your withholding of the specified amount, calculated during each pay period at the statutory percentage from the judgment debtor's personal disposable earnings during each pay period of the judgment debtor that commenced with the first full pay period beginning after you received the order.
2. The judgment creditor, or judgment creditor's attorney's, files with this court a written notice that the total probable amount due on the judgment as described above has been satisfied, or the judgment creditor, or judgment creditor's attorney, files a written request to terminate this order of garnishment and release you from the mandate of this order of garnishment.
3. A municipal or county court appoints a trustee for the judgment debtor and issues to you an order that stays this order garnishment of personal earnings.
4. A federal bankruptcy court issues to you an order that stays this garnishment order of personal earnings.
5. A municipal, county, or a common pleas court issues to you another order of garnishment of personal earnings that relates to the judgment debtor and a different judgment creditor, and Ohio or federal law provides the other order with a higher priority than this order.
6. A municipal, county, or a common pleas court issues to you another order of garnishment of personal earnings that relates to the judgment debtor and a different judgment creditor that does not have a higher priority than this order.
7. The judgment creditor, or judgment creditor's attorney, files with this court a written request to terminate and release the order of garnishment, and as a result, the order of garnishment will cease to remain in effect.

Under any of the circumstances listed above, you are required to file with this court a "Final Report & Answer of Garnishee" substantially in the form set forth in 2716.08 of the Ohio Revised Code. A copy of the "Final Report and Answer of Garnishee" is attached to this order of garnishment of personal earnings. Under the circumstances listed in 5 & 6 above, you must cease processing this order of garnishment after the expiration of the full pay period within which the 182 day after you began processing it falls.

Special stacking, priority of payment, and manner of payment rules apply when a garnishee receives multitude garnishment orders with respect to the same debtor. These rules are set forth in 2716.041 O.R.C.

WITNESS MY HAND & SEAL OF THIS COURT THIS _____ DAY OF _____.

Judge James J. Costello

SECTION B: ANSWER OF EMPLOYER (GARNISHEE) ANSWER ALL PERTINENT QUESTIONS

AN EMPLOYER IS ONE WHO IS REQUIRED TO WITHHOLD PAYROLL TAXES OUT OF PAYMENTS OF PERSONAL EARNINGS MADE TO THE JUDGMENT DEBTOR.
(ANSWER ALL PERTINENT QUESTIONS)

NOW COMES _____ THE EMPLOYER HEREIN WHO SAYS

1. THIS GARNISHMENT ORDER OF PERSONAL EARNINGS WAS RECEIVED ON _____

2. THE JUDGMENT DEBTOR IS IN MY/OUR EMPLOY: YES _____ NO _____

IF ANSWER IS "NO" GIVE DATE OF LAST EMPLOYMENT 2. _____

3. A. IS THE DEBT, TO WHICH THIS ORDER OF GARNISHMENT OF PERSONAL EARNINGS PERTAINS, THE SUBJECT OF AN EXISTING AGREEMENT FOR DEBT SCHEDULING BETWEEN THE JUDGMENT DEBTOR AND A BUDGET AND EBT COUNSELING SERVICE AND HAS THE JUDGMENT DEBTOR MADE EVERY PAYMENT THAT WAS DUE UNDER THE AGREEMENT FOR DEBT SCHEDULING NO LATER THAN FORTY FIVE (45) DAYS AFTER THE DATE ON WHICH THE PAYMENT WAS DUE?

IF THE ANSWER TO BOTH PARTS OF THIS QUESTION IS "YES," GIVE ALL AVAILABLE DETAILS OF THE AGREEMENT, SIGN THIS FORM, AND RETURN IT TO THE COURT. 3A _____
(YES - NO)

B. WERE YOU, ON THE DATE THAT YOU RECEIVED THIS ORDER OF GARNISHMENT OF PERSONAL EARNINGS, WITHHOLDING MONEYS FROM THE JUDGMENT DEBTOR'S PERSONAL DISPOSABLE EARNINGS PURSUANT TO ANOTHER ORDER OF GARNISHMENT OF PERSONAL EARNINGS THAT OHIO OR FEDERAL LAW PROVIDES WITH A HIGHER PRIORITY THAN THIS ORDER OF GARNISHMENT OF PERSONAL EARNINGS (SUCH AS A SUPPORT ORDER OR INTERNAL REVENUE SERVICE LEVY)?

3B _____
(YES - NO)

IF THE ANSWER TO THIS QUESTION IS "YES," GIVE THE NAME OF THE COURT THAT ISSUED THE HIGHER PRIORITY ORDER, THE ASSOCIATED CASE NUMBER, THE DATE UPON WHICH YOU RECEIVED THAT ORDER, AND THE BALANCE DUE TO THE RELEVANT JUDGMENT CREDITOR UNDER THAT ORDER.

C. DID YOU RECEIVE PRIOR TO THE DATE THAT YOU RECEIVED THIS ORDER OF GARNISHMENT OF PERSONAL EARNINGS ONE OR MORE OTHER ORDERS OF GARNISHMENT OF PERSONAL EARNINGS THAT ARE NOT DESCRIBED IN QUESTION 3B, AND ARE YOU CURRENTLY PROCESSING ONE OR MORE OF THOSE ORDERS FOR THE STATUTORILY REQUIRED TIME PERIOD OR HOLDING ONE OR MORE OF THOSE ORDERS FOR PROCESSING FOR A STATUTORILY REQUIRED TIME PERIOD IN THE SEQUENCE OF THEIR RECEIPT BY YOU?

3C _____
(YES - NO)

IF THE ANSWER TO THIS QUESTION IS "YES" GIVE THE NAME OF THE COURT THAT ISSUED EACH OF THOSE PREVIOUSLY RECEIVED ORDERS. THE ASSOCIATED CASE NUMBERS. THE DATE UPON WHICH YOU RECEIVED EACH OF THOSE ORDERS, AND THE BALANCE DUE TO THE RELEVANT JUDGMENT CREDITOR UNDER EACH OF THOSE ORDERS. LIST FIRST THE PREVIOUSLY RECEIVED ORDER(S) THAT YOU ARE CURRENTLY PROCESSING, AND LIST EACH OF THE OTHER PREVIOUSLY RECEIVED ORDERS IN THE SEQUENCE THAT YOU ARE REQUIRED TO PROCESS THEM.

I CERTIFY THAT THE ABOVE STATEMENTS ARE TRUE.

(PRINT NAME OF EMPLOYER)

(PRINT NAME AND TITLE OF PERSON WHO COMPLETED FORM ON BEHALF OF THE EMPLOYER (PHONE NUMBER)

SIGNED _____ DATE THIS _____ DAY OF _____

RETURN THE COMPLETED ANSWER OF THIS FORM TO THE COURT WITHIN 5 BUSINESS DAYS.

I CERTIFY THAT THE STATEMENTS ABOVE ARE TRUE, AND THAT A COPY OF THE NOTICE TO THE JUDGMENT DEBTOR, TWO COPIES OF THE EMPLOYER'S ANSWER, AND A REQUEST FOR HEARING FORM, HAVE BEEN DELIVERED TO THE JUDGMENT DEBTOR. EACH DEDUCTION FROM THE EMPLOYEES' PAY WILL BE THE RESULT OF A (182 DAY) CONTINUOUS GARNISHMENT.

APPENDIX D

OBTAIN A “CERTIFICATE OF JUDGMENT”

1. Complete the Praecipe form that is on the next page,
2. You should file the form with the Clerk of the Common Pleas Court of the county where the debtor owns real estate. You will have to consult with the Common Pleas Court for the cost of filing with Common Pleas Court.
3. After you have filed your judgment lien, you should advise the debtor that you have a lien on his/her real estate and that it will not be removed until the amount of your judgment is paid.
4. If the judgment is not paid after filing the lien, there are several options open to you:
 - ☞ You may wait until the debtor sells or refinances the property. The lien should then be satisfied (paid).
 - ☞ You may wait until a foreclosure action is initiated by another lien holder. You will receive court notice of the foreclosure action and should respond. If the action progresses to a sheriff's sale, the money from the sale may satisfy your lien.
 - ☞ You could seek to foreclose yourself as a lien holder. You will need to consult with an attorney to determine your rights and to assess whether the costs of such an action would make it practical.
5. You may continue to pursue other avenues to collect your judgment while the lien is in effect.

IN THE CLEVELAND HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

_____ Plaintiff

Case Number _____

VS

_____ Defendant

PRAECIPE
O.R.C. 2703.02

TO THE CLERK: Please issue or prepare:

Appropriate fee must accompany this form

Alias Writ (\$30.00)

Exemplified Copy (\$30.00)

Certificate of Judgment for Lien (\$15.00)

Certified Copy of: (\$2.00 each page)

Certificate of Judgment for Transfer (\$15.00)

Alias Service (\$15.00)

Other:

Name _____

Address _____

City/State/Zip _____

Requested By _____

APPENDIX E

FINANCIAL RESPONSIBILITY LAW FINDING OF FACT

**IN THE CLEVELAND HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO**

-----,
Plaintiff,

CASE NUMBER _____

V.

**FINANCIAL RESPONSIBILITY LAW
FINDING OF FACT**

_____,
Defendant.

I, the undersigned Judge of the Cleveland Heights Municipal Court, for the purpose of the Driver's Financial Responsibility Law only make the following finding of fact in the above captioned action:

Last Known Address of Defendant: _____

Date and hour of accident or offense: _____

D.O.B. _____ SS# _____ Operator's license # _____

Kind of Operator's License _____ Issuing State _____

If defendant not owner of vehicle, status of defendant: _____

Name of Owner: _____

Address of Owner: _____

Automobile Plate # _____ Issuing State _____ Make _____ Year _____

Date of Judgment _____ Amount of Judgment\$ _____

Wrongful Death _____ Personal Injuries _____ Property Damage _____

Where the defendant has been permitted to pay in installments, state the particulars:

Other information and remarks: _____

Plaintiff/Attorney _____ Phone Number () _____

JUDGE

TO THE CLERK

Unless judgment is paid or execution stayed by _____ day of _____ 200__ forward a certified copy or transcript of this judgment, together with such other information as the Registrar may prescribe to the Ohio Bureau of Motor Vehicles, Columbus, OH

APPENDIX F

PAYMENT PLAN AGREEMENT

SATISFACTION OF JUDGMENT

CLEVELAND HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

PAYMENT PLAN

Plaintiff(s)

Vs.

CASE NO. CV _____

Defendant(s)

Whereas on _____ the judgment creditor obtained a judgment against the judgment debtor in the amount of _____ plus court costs plus ____ interest from the date of judgment.

The parties hereby entered into the following agreement.

- There shall be not execution on the judgment (*garnishment of wages or attachment of property*) during the judgment debtor's compliance with the following payment schedule:
- The judgment debtor will pay \$_____, on or before _____ in full settlement of all claims between the parties.
- Defendant(s) the judgment debtor will pay the judgment creditor \$_____ every (week, two weeks, month,) commencing _____, and continuing for like periods until the judgment is paid in full. _____

- No interest shall accrue if payments are made in accordance with this payment schedule.

Judgment Creditor

Judgment Debtor

Failure to comply with the terms of this agreement may result in execution of the judgment by attachment of wages, bank account, or other property in accordance with Ohio and Federal law.

The Judgment Creditor must file a "Satisfaction of Judgment" with the court upon receipt of the final payment.

**IN THE CLEVELAND HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO**

-----,

Plaintiff,

CASE NUMBER _____

V.

Defendant

SATISFACTION OF JUDGMENT

Plaintiff(s) state(s) that the judgment rendered herein on the _____ day of _____, 200____, has been fully satisfied.

Plaintiff

Certificate of Service

Plaintiff served a copy of the foregoing satisfaction of judgment upon the defendant at the defendant's last known address which is:

on the _____ day of _____, 200____, by regular US mail.

Plaintiff

APPENDIX G

COURT COST

Small Claims

Small Claims Complaint	
(Each Additional Defendant)	\$ 100.00
	15.00
Objection to Magistrate's Decision	\$ 30.00
Small Claims Counterclaim	\$ 40.00

Garnishments

Bank Attachment (per bank)	
(\$1 check payable to each bank)	\$ 60.00
Wage Garnishment	\$130.00
Certified Mail Service	\$ 15.00