

INSTRUCTIONS FOR A WAGE DEDUCTION PROCEEDING

If you already have a money judgment against someone, you can try to garnish that person's wages if they are employed.

These are the steps you need to follow to get a wage deduction:

1. Complete and mail the Wage Deduction Notice to the Respondent (the person who owes you money). **YOU MUST MAIL THE WAGE DEDUCTION NOTICE BY FIRST CLASS MAIL TO THE RESPONDENT AT THEIR LAST KNOWN ADDRESS BEFORE YOU DO THE REMAINING STEPS.**

You will need four copies of this Notice:

- a. Original for the Circuit Clerk's office
- b. Your copy
- c. Copy for the Respondent
- d. Copy for the Respondent's employer

2. Prepare Wage Deduction Affidavit and Interrogatories for the Employer of the Respondent.

You will need six copies of the Affidavit and Interrogatories:

- a. Original for the Circuit Clerk's office
 - b. Your copy
 - c. Four copies for the Respondent's employer
3. Prepare Wage Deduction Summons (the Service Page must accompany the summons)
 4. File the Wage Deduction Affidavit and Notice with the Circuit Clerk's Office.
 5. Four copies of the Affidavit/Interrogatories, and one copy of the Summons and Wage Deduction Notice, as well as a copy of the judgment or certification of the judgment balance, must be served on the employer by the Sheriff, Private Process Server, or by Certified Mail/Return Receipt requested.

Court Proceedings after the Wage Deduction Steps:

1. After the Employer has filed an answer to the Wage Deduction Summons which indicates they can garnish the Respondent's wages for the judgment, you can prepare a Wage Deduction Order to be filed with the Court.
2. If the Employer has filed an answer to the Wage Deduction Summons which indicates they are unable to garnish the Respondent's wages for the judgment because (a) The Respondent doesn't work for the employer; (b) The Respondent has prior child support deduction orders; (c) The Respondent doesn't have enough income to garnish; (d) the Respondent has filed for

bankruptcy, then you must prepare an order discharging the Employer, or continue the case to a later date to allow the Employer to detail what the prior in time deductions are.

3. If the Employer fails to answer the Wage Deduction Summons within a reasonable time after service, then you can file an order for conditional judgment against the employer for the full amount due to you.

4. If the Employer files a late answer to the Wage Deduction Summons after the return date, you should make a motion for entry of a deduction order with notice given to both the Employer and the Respondent. If a conditional judgment has been entered pursuant to (3) above, you will need to ask the Court to vacate the wage deduction order at the same time that you have the wage deduction order entered.

5. If the Employer fails to appear in response to a Summons after conditional judgment, the Court may enter an order of final judgment against the Employer for the original balance due on the conditional judgment, plus additional court costs. No additional interest accrues on the conditional judgment, only on the final judgment against the Employer.

After Entry of Deduction Order:

1. You must send a copy of the deduction order to the Employer.

2. You must send a Certification of Judgment Balance to the Employer at the beginning of each calendar quarter. The mailing of certifications should start at the end of the first full quarter following service of the Wage Deduction Summons.

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
CHAMPAIGN COUNTY, ILLINOIS

_____,)
Petitioner,)
vs.) Case Number _____
_____,)
Respondent.)

AFFIDAVIT FOR WAGE DEDUCTION ORDER
(NOTE: 4 copies of this Affidavit must be served on the Employer)

I, _____ (name), the Petitioner, certify that the following information is true and correct pursuant to Section 1-109 of the Illinois Code of Civil Procedure:

1. Judgment was entered in this case on _____, 20____, in favor of me and against the Respondent, _____ (name), in the amount of \$_____ plus costs.
2. The Respondent has paid \$_____ toward the Judgment plus costs.
3. The remaining unpaid Judgment is:
\$_____ principal \$_____ Interest
\$_____ costs TOTAL: \$_____
4. I believe the Respondent's Employer, _____ (name), is or will be indebted to the Respondent for wages due or to become due.
5. The Respondent's last known address is: _____

(Address, City, State, Zip Code).

I petition the Court for a Wage Deduction Summons be issued and directed to the Respondent's Employer: _____ (name).

DATED: _____

Petitioner's Signature

CERTIFICATE OF PETITIONER OR PETITIONER'S ATTORNEY

I certify that Judgment was entered as stated in paragraph 1 above, and the Wage Deduction Notice has been mailed to the respondent by first class mail at the Respondent's last known address.

Signature of Petitioner or Petitioner's Attorney

Name and Address of Petitioner's Attorney or Petitioner, if not represented by an attorney:

Name: _____
ARDC#: _____
Address: _____
City/State/Zip Code: _____
Phone Number: _____
E-Mail: _____

Susan W. McGrath, Champaign County Circuit Clerk
101 E. Main St.
Urbana, IL 61801

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
CHAMPAIGN COUNTY, ILLINOIS

_____,)
 Petitioner,)
 vs.) Case Number _____)
 _____)
 Respondent.)

INTERROGATORIES TO EMPLOYER – WAGE DEDUCTION

I, _____ (Name), on behalf of _____ (Employer Name), certify that the following answers are true and correct to the best of my knowledge and belief pursuant to Section 1-109 of the Illinois Code of Civil Procedure:

IS THE RESPONDENT BEING PAID WAGES BY THE EMPLOYER? ____ Yes ____ No
 (If the Respondent is no longer employed, termination date was _____)

The following funds are paid by the Employer to the Respondent for disability, retirement, or are in any other way exempt or subject to another court order (child support, federal government lien, judgment):

_____.

The Employer's Payroll equals: ____ days ____ weeks ____ bi-monthly ____ month ____ other

You are required by law to withhold the lesser of (1) 15% per week of the gross amount paid the Respondent for any work week; or (2) the amount by which disposable earnings of Respondent for a week exceed forty-five times the minimum hourly wage in effect at the time the amounts are payable. In addition, the Employer is entitled to deduct a one time fee of \$12, or a fee equal 2% of the sums withheld.

NOTICE TO EMPLOYER: You must complete and return these Interrogatories, with the original to be sent to the Champaign County Circuit Clerk; a copy to be mailed to the Petitioner or the Petitioner's attorney; a copy to be given to the Respondent; and keeping a copy for yourself. **YOU MUST FILE YOUR ANSWER EVEN IF THE RESPONDENT IS NO LONGER EMPLOYED BY YOU. THE ANSWER MUST BE FILED ON OR BEFORE THE DATE ON THE SUMMONS.**

UPON RECEIPT OF THE WITHHOLDING ORDER, YOU ARE TO SEND TO THE PETITIONER OR THE PETITIONER'S ATTORNEY ANY MONEY YOU WITHHODLING. DO NOT SEND ANY OF THE WITHHODLING MONEY TO THE CHAMPAIGN COUNTY CIRCUIT CLERK.

HOW TO CALCULATE THE AMOUNT OF WAGES TO WITHHOLD:

- | | | |
|---|---|----------|
| A | Gross Wages Minus Mandatory Pension or Retirement Contributions | \$ _____ |
| B | Total Deductions for FICA, Medicare, Federal and State Taxes | \$ _____ |
| C | Subtract Line B from Line A (This is Net Pay) | \$ _____ |
| D | Enter Amount of Exempt Wages:
(Weekly, Biweekly, Bi-Monthly, Monthly)
(This is based on formula 45 x Minimum Hourly Wage) | \$ _____ |
| E | Subtract Line D from Line C | \$ _____ |
| F | 15% of Line A | \$ _____ |

G	Enter the LESSER of Line E or Line F	\$ _____
H	Enter amount of Child Support or other Court Ordered Deduction	\$ _____
I	Subtract Line H from Line G	\$ _____
J	Employer's Statutory Fee: Greater of \$12,00 or 2% of Line I	\$ _____
K	Subtract Line J from Line I: Amount to be applied to Judgment	\$ _____

Line I is the amount to be withheld from the Respondent's paycheck as of the date the Summons is served on you. This calculation should be done for each pay period. Do not disburse that amount until further order of the Court.

CERTIFICATE OF EMPLOYER'S AGENT

I certify that the Interrogatories to Employer – Wage Deduction have been mailed to the Petitioner or the Petitioner's Attorney by first class mail, and provided to the Respondent at this place of employment, or to the Respondent at his/her last known address by first class mail.

Signature of Employer's Agent

Name and Address of Employer and Employer's Agent

Name: _____
 ARDC# if Agent is an Attorney: _____
 Address: _____
 City/State/Zip Code: _____
 Phone Number: _____
 E-Mail: _____

Susan W. McGrath, Champaign County Circuit Clerk
 101 E. Main St.
 Urbana, IL 61801

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
CHAMPAIGN COUNTY, ILLINOIS

_____,)
Petitioner,)
vs.) Case Number _____)
_____,)
Respondent.)

Name and Address of Petitioner's
Attorney or Petitioner if not
Represented by an attorney:

Respondent's Last Known Address:

Name: _____
Address: _____
City/State/Zip Code: _____
Phone: _____

Name: _____
Address: _____
City/State/Zip Code: _____
Phone: _____
Name of Employer: _____

Amount of Judgment: \$ _____

Balance Due on Judgment: \$ _____

WAGE DEDUCTION NOTICE

NOTICE: The Court has issued a Wage Deduction Summons against the Employer named above for wages due or about to become due to you. The Wage Deduction Summons was issued on the basis of a Judgment against you in favor of the Petitioner in the amount stated above. This Judgment is a lien on the Respondent's wages until the total amount due is paid. The amount of wages that may be deducted is limited by Federal and Illinois law:

- (1) Under Illinois law, the amount of wages that may be deducted is limited to the lesser of (i) 15% of gross weekly wages or (ii) the amount by which disposable earnings for a week exceed the total of 45 times the Illinois minimum hourly wage.
- (2) Under Federal law, the amount of wages that may be deducted is limited to the lesser of (i) 25% of disposable earnings for a week or (ii) the amount by which disposable earnings for a week exceed 30 times the federal minimum hourly wage.
- (3) Pension and retirement benefits and refunds may be claimed as exempt from wage deduction under Illinois law.

You have the right to request a hearing before the Champaign County Court to dispute the wage deduction because your wages are exempt. **To obtain a hearing you must notify the Champaign County Circuit Clerk in writing at 101 E. Main St., Urbana, IL 61801 on or before the return date specified above.** The Court will provide a hearing date and the necessary forms that must be prepared by you or your attorney and sent to the Petitioner and the Employer, or their attorney, regarding the time and location of the hearing. This Notice may be sent by regular first class mail.

Susan W. McGrath, Champaign County Circuit Clerk
101 E. Main St., Urbana, IL 61801

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
CHAMPAIGN COUNTY, ILLINOIS

_____,)
Petitioner,)
vs.) Case Number _____
_____,)
Respondent.)

WAGE DEDUCTION ORDER

THIS CAUSE having come before the Court on the return of a Wage Deduction Summons served upon the Respondent's Employer, and the answer filed by the Respondent's Employer, and a Wage Deduction Notice having been served upon the Respondent, and the Court having examined the evidence, and being fully advised in the premises, DOES HEREBY ORDER:

1. That a lien is hereby imposed upon the non-exempt wages of _____ (Name), the Respondent, as of the date of the service of the Wage Deduction Summons in the amount of \$ _____, which includes court costs, interest, and credit for payments to date.
2. That _____ (Name), Respondent's Employer, is ordered to deduct 15% of the Respondent's non-exempt gross wages after deductions for mandatory pension or retirement plans, or where the spousal/child support deduction orders, if any, leaves funds up to 15% of the non-exempt gross wages each pay period. Such deductions are to be remitted to the Petitioner's attorney, or the Petitioner if not represented by an attorney, at least monthly. No deductions are to be made if the Respondent's next check is less than 45 times the federal minimum wage.
3. That a Wage Deduction Judgment is hereby entered against the Employer, _____ (Name), in the periodic sum ordered above every pay period from the Respondent, _____ (Name), for the use of the Petitioner.
4. That the Respondent's employer turn over to the Petitioner's attorney, or the Petitioner if not represented by an attorney, the withheld wages for the date of service of the wage deduction proceedings to the date of this Order, pursuant to the calculations set forth herein.
5. A lien obtained hereunder shall have priority over any subsequent lien obtained hereunder, except that liens for spousal support or child support shall have priority over all other liens obtained hereunder. Respondent's Employer is further directed to file an Amended Answer with this Court and send a copy to the attorney for the Petitioner, or directly to the Petitioner if unrepresented by an attorney, informing the Court as to spousal/child support deductions received after the entry of this Order.
6. That this continuing Wage Deduction Order shall remain in full force and effect until the judgment of \$ _____ plus 9% simple interest and costs of \$ _____ are paid in full, the Respondent ceases to be employed by the Employer, the Respondent files for bankruptcy, or this Court enters an Order modifying this Order.
7. That any other liens or wage deduction proceedings filed after this one (other than spousal/child support) shall be held and stacked in the order received by the Employer, and take effect only upon the conclusion of this Order.
8. That this Court retains jurisdiction of the parties hereto and subject matter herein to amend this Order upon the showing of a substantial change of circumstances by the Respondent.

DATED: _____

ENTERED: _____
JUDGE

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
CHAMPAIGN COUNTY, ILLINOIS

_____,)
Petitioner,)
vs.) Case Number _____
_____,)
Respondent.)

WAGE DEDUCTION SUMMONS

TO THE EMPLOYER: _____

This Summons, together with 4 copies of the Interrogatories and one copy of the Judgment and/or Certification and one copy of the Wage Deduction Notice shall be served on the Employer.

E-filing is now mandatory for documents in civil cases with limited exemptions. To e-file, you must first create an account with an e-filing service provider. Visit <https://efile.illinoiscourts.gov/service-providers.htm> to learn more and to select a service provider. If you need additional help or have trouble e-filing, visit <http://www.illinoiscourts.gov/faq/gethelp.asp>, or talk to your local circuit clerk's office.

YOU ARE SUMMONED and required to file answers to the Petitioner's Interrogatories in the office of the Champaign County Circuit Clerk, 101 E. Main St., Urbana, Illinois 61801 on or before _____, 20___. (This date should be 21-40 days after issuance of Summons). However, if this Summons is served on you less than 3 days before the foregoing date, you must file answers to the Interrogatories on or before a new return date, to be set by the Court, not less than 21 days after you were served with this Summons.

This proceeding applies to non-exempt wages due at the time you were served with this Summons and to wages which become due thereafter until the balance due on the Judgment is paid.

IF YOU FAIL TO ANSWER, A CONDITIONAL JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE AMOUNT OF THE UNPAID JUDGMENT.

FEDERAL AGENCY EMPLOYERS: Effective upon service of this Summons you are to commence to pay over deducted wages to the attorney for the Petitioner, or the Petitioner if unrepresented by an attorney.

To the officer: This Summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this Summons shall be returned so endorsed.

This Summons may also be served, as provided by Supreme Court Rule, by Certified Mail or Registered Mail.

(Seal of Court)

_____, 20__

Champaign County Circuit Clerk

Name and Address of Petitioner's Attorney
or Petitioner, if not represented by an attorney:

Name: _____

ARDC#: _____

Address: _____

City/State/Zip Code: _____

Phone Number: _____

E-Mail: _____

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Susan W. McGrath, Champaign County Circuit Clerk
101 E. Main St.
Urbana, IL 61801

TITLE III OF THE FEDERAL CONSUMER CREDIT PROTECTION ACT
RESTRICTIONS ON GARNISHMENT

Sec. 301. (a) The Congress finds:

(1) The unrestricted garnishment of compensation due for personal service encourages the making of predatory extensions of credit. Such extensions of credit divert money into excessive credit payments and thereby hinder the production and flow of goods in interstate commerce.

(2) The application of garnishment as a creditors' remedy frequently results in loss of employment by the debtor, and the resulting disruption of employment, production, and consumption constitutes a substantial burden on interstate commerce.

(3) The great disparities among the laws of the several States relating to garnishment have, in effect, destroyed the uniformity of the bankruptcy laws and frustrated the purposes thereof in many areas of the country.

(b) On the basis of the findings stated in subsection (a) of this section, the Congress determines that the provisions of this title are necessary and proper for the purpose of carrying into execution the powers of the Congress to regulate commerce and to establish uniform bankruptcy laws.

(82 Stat. 163; 15 U. S. C. 1671.)

Sec. 302. For the purpose of this title:

(a) The term "earnings" means compensation paid for personal services, whether denominated as wages, salary, commission bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

(b) The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld.

(c) The term "garnishment" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt.

(82 Stat. 163; 15 U. S. C. 1672.)

Sec. 303. (a) Except as provided in subsection (b) and in section 305, the maximum part of the aggregate disposable earnings of an individual for any work week which is subjected to garnishment may not exceed:

(1) 25 per centum of his disposable earnings for that week, or

(2) the amount by which his disposable earnings for that week exceed thirty times the Federal minimum hourly wage prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 in effect at the time the earnings are payable, whichever is less. In the case of earnings for any pay period other than a week, the Secretary of Labor shall by regulation prescribe a multiple of the Federal minimum hourly wage equivalent in effect to that set fourth in paragraph (2).

(b) The restrictions of subsection (a) do not apply in the case of:

(1) any order of any court for the support of any person.

(2) any order of any court of bankruptcy under chapter XIII of the Bankruptcy Act.

(3) any debt due for any State or Federal tax.

(c) No court of the United States or any State may make, execute, or enforce any order or process in violation of this section.

(82 Stat. 163; 15 U. S. C. 1673.)

Sec. 304. (a) No employer may discharge any employee by reason of the fact that his earnings have been subjected to garnishment for any one indebtedness.

(b) Whoever willfully violates subsection (a) of this section shall be fined not more than \$1,000, or imprisoned not more than one year, or both.

(82 Stat. 163; 15 U. S. C. 1674.)

Sec. 305. The Secretary of Labor may by regulation exempt from provisions of section 303 (a) garnishments issued under the laws of any State if he determines that the laws of the State provide restrictions on garnishment which are substantially similar to those provided in section 303 (a).

(82 Stat. 164; 15 U. S. C. 1675.)

Sec. 306. The Secretary of Labor, acting through the Wage and Hour Division of the Department of Labor, shall enforce the provisions of this title.

(82 Stat. 164; 15 U. S. C. 1676.)

Sec. 307. This title does not annul, alter or affect, or exempt any person from complying with, the laws of any State

(1) prohibiting garnishment or providing for more limited garnishments than are allowed under this title, or

(2) prohibiting the discharge of any employee by reason of the fact that his earnings have been subjected to garnishments for more than one indebtedness.

TITLE III OF THE FEDERAL CONSUMER CREDIT PROTECTION ACT
RESTRICTIONS ON GARNISHMENT

Sec. 301. (a) The Congress finds:

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(2) The application of garnishment as a creditors' remedy frequently results in loss of employment by the debtor, and the resulting disruption of employment, production, and consumption constitutes a substantial burden on interstate commerce.

(3) The great disparities among the laws of the several States relating to garnishment have, in effect, destroyed the uniformity of the bankruptcy laws and frustrated the purposes thereof in many areas of the country.

(b) On the basis of the findings stated in subsection (a) of this section, the Congress determines that the provisions of this title are necessary and proper for the purpose of carrying into execution the powers of the Congress to regulate commerce and to establish uniform bankruptcy laws.

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Susan W. McGrath

Clerk of the Sixth Judicial Circuit Court

101 E. Main Street