

IMPORTANT INSTRUCTIONS -- CONTINUING GARNISHMENT

Garnishment

1. If the defendant is not presently employed by the Garnishee or, if the defendant's employment is terminated after service of this summons, then state this under the section "*Garnishee Further States*" on the answer form (MAG 35-16). A garnishment includes all property, money, & wages (except as exempted by law), all items within safety deposit boxes, all items belonging to the Defendant in your possession and all debts owed to the Defendant by you.
2. File your answers personally at Magistrate Court, _____ (*normal business hours*); by mail to _____. Reminder, you cannot fax documents to be filed with the Clerk. A default judgment may be entered against any garnishee failing to file a timely answer. (MAG 35-19)
3. If you are not familiar with the Georgia law concerning garnishment cases, consult an attorney. (www.gabar.org) The clerk's office cannot give you legal advice. The Official Code of Georgia (Annotated) (O.C.G.A.) §18-4-62; 18-4-80 et. seq. covers issues such as Answer by a Garnishee and subsequent proceedings. Copies of the Code are located in the Law Library during normal business hours.
4. A reply by letter is legally insufficient, even if the defendant is not employed by you. You must file an Answer as provided by law in substantial compliance with the documents required by statute. (MAG 35-16)
5. Plaintiff, or plaintiff's attorney, are the only persons who can authorize the court to issue a release and relieve you of the legal duty to file an Answer to this Summons. This release must be in writing and filed with the Clerk's office. (Mag 35-22, Dismissal of Garnishment.)
6. Your legal duty to begin withholding the wages, (less any exemption allowed by law), property, money or effects belonging to the defendant begins immediately upon date of service of the garnishment upon garnishee. Failure to file an answer within 45 days, or to file a written motion to open default within 15 days thereafter, or to file any required subsequent answers during the 179 day period, may result in a *Default Judgment* being entered against the Garnishee for the amount claimed due by the plaintiff against the defendant, PLUS court costs. O.C.G.A. 18-4-90; 18-4-91, 18-4-92, et. seq.. (MAG 35-19, Default Judgment Against Garnishee)
7. **Relief of garnishee from default judgment:** When a default judgment is rendered against a garnishee (MAG 35-19), on motion filed not later than 60 days from the date the garnishee receives actual notice of the entry of the judgment against garnishee, the garnishee may, upon payment of all accrued costs of court, have the judgment modified so that the amount of the judgment is reduced to an amount equal to the greater of \$50.00 or \$50.00 plus 100 percent of the amount by which the garnishee was indebted to the defendant from the time of service of the summons of garnishment through and including the last day on which a timely answer could have been made for all money, other property, or effects belonging to the defendant which came into the garnishee's hands from the time of service of the summons, less any wage exemption allowed the defendant by law. Notice sent by plaintiff to the garnishee by certified mail giving the garnishee notice of the default judgment is sufficient notice. See O.C.G.A. 18-5-91 & 18-4-92.

1. Defendant may file a *Traverse* or *Bond* to dissolve the garnishment (MAG 35-03, Garnishment Traverse). A traverse is a legal document filed with the Clerk of Court by which defendant contends that the facts contained in the affidavit of garnishment, amounts, underlying judgment, or the garnishment action itself, or other matters are incorrect. Defendant's may file a traverse in person at _____ (*normal business hours*); or by mail to _____. Reminder, state law does not permit faxed documents to be filed with the Clerk.
2. If you are not familiar with the Georgia law concerning garnishment cases, consult an attorney. (www.gabar.org) The Clerk's office cannot give you legal advice. The laws concerning filing of Answers by a Garnishee and subsequent proceedings by the Defendant can be found in the *Official Code of Georgia (Annotated) (O.C.G.A.)*, § 18-4-1 et seq. Copies of the Code are located in the Law Library during normal business hours.
3. Failure to timely file a *Traverse* will result in a conclusive presumption that the garnishment against the defendant was properly issued.
4. A garnishment is an action against the wages, money, property and all effects of the defendant which are purportedly held by another, the garnishee.