

GRANT MALOY  
CLERK OF THE CIRCUIT AND COUNTY COURTS AND COMPTROLLER  
P.O. BOX 8099  
SANFORD, FL 32772-8099  
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**GARNISHMENTS**

Garnishments is the taking of property of a defendant that is in the hands of a third party, the garnishee, and applying the property to satisfy the judgment. The plaintiff secures by garnishment the right to have the debt owed by the garnishee to the defendant, paid by the garnishee to the plaintiff.

Perhaps the most familiar form of garnishment is the process by which the plaintiff attaches the wages of the defendant, compelling the employer (garnishee) to turn earnings over to the plaintiff. NOTE – Earnings subject to garnishment are limited to 25% of the defendant’s disposable earnings (earnings remaining after deduction of amounts required by law to be deducted for any pay period), OR the amount by which his/her disposable earnings for any pay period exceed 30 times the federal minimum hourly wage, whichever is less.

Garnishment is not limited to wages. Any money, chattels (articles of personal property) or effects of the defendant held by a third party may be subject to garnishment. Money in bank accounts may be garnished, as may household furnishings, automobiles or any type of personal property that is in possession of someone other than the defendant.

A defendant is entitled to certain exemptions that could affect a garnishment action, if this option is being considered. Please refer to the “Notice to Defendant of Right Against Garnishment of Wages, Money and other Property and Claim of Exemption and Request for Hearing” form.

**PROCEDURE**

To proceed with a garnishment action:

1. On or after the 16<sup>th</sup> day from the date of your Final Judgment (do not count the date the Judgment was signed), you may file a garnishment action in the Small Claims Division of the Seminole County Courthouse, 101 Eslinger Way, Sanford, Florida 32772.
2. Prepare and file the original Motion for Writ of Garnishment (After Judgment) or Motion for Continuing Writ of Garnishment for Salary or Wages\* (if wages are to be garnished). Your Motion must set forth the name, street address, city, and state of the garnishee.

\*When filing this Motion, you must provide an Order for the Court directing the Clerk to issue the Continuing Writ of Garnishment for Salary or Wages.

3. Pay the Clerk of the Court \$85.00

PROCEDURE (Continued)

4. Upon issuance of any Writ of Garnishment, the party applying for it shall pay \$100.00 to the garnishee on the garnishee's demand at any time after the service of the Writ for the payment or part payment of his or her attorney fee which the garnishee expends or agrees to expend in obtaining representation in response to the Writ.
5. Pay the sheriff of the county in which the garnishee is located their required fee for serving the Writ of Garnishment upon the garnishee. You should confirm the fee with the sheriff and verify the form of payment. The Clerk cannot send cash to the sheriff outside of Seminole County for serving the Writ.

**NOTE:** If a Garnishment Judgment is entered in favor of the plaintiff, the above stated fees (\$225.00) are recoverable from the defendant, i.e. the Court will order that amount added to the balance due you from the defendant.

Once the Motion for Garnishment is filed, an order signed, if applicable, and fees are paid:

1. The Clerk of the Court will issue a Writ of Garnishment to the appropriate sheriff for serving on the garnishee.
2. Five (5) business days after the writ is issued or three (3) business days after the writ is served on the garnishee (whichever is later), the plaintiff is required to mail a copy of the Writ of Garnishment, a copy of the Motion and the 'Notice to Defendant' (if the defendant is an individual), as set forth in Fla. Stat. 77.041, to the defendant's last known address. The plaintiff must file a certificate of such service with the Clerk of the Court.
3. When the plaintiff receives the answer from the garnishee, the plaintiff must serve on the defendant a copy of the garnishee's answer, if any, and a notice as set forth in the Fla. Stat. 77.055. This must be done within five (5) days of receiving the answer from the garnishee or after the time period for the garnishee's answer has expired. The plaintiff must file a certificate of such service with the Clerk of the Court.

It should be noted that since the plaintiff might recover only a portion of the money, the plaintiff may find it necessary to file several garnishment actions before the entire amount is recovered. The remedy of the collecting money due from a judgment by garnishment may not provide an immediate method of recovery.

**THIS INFORMATION IS PROVIDED A PUBLIC SERVICE AND IS VERY GENERAL IN NATURE. SHOULD YOU HAVE FURTHER QUESTIONS, YOU MAY WANT TO CONSULT AN ATTORNEY.**