



Ohio Revised Code

Section 2715.041 Form for notice of filing motion for order of attachment.

Effective: June 26, 2003

Legislation: House Bill 95 - 125th General Assembly

(A) Upon the filing of a motion for an order of attachment pursuant to section 2715.03 of the Revised Code, the plaintiff shall file with the clerk of the court a praecipe instructing the clerk to issue to the defendant against whom the motion was filed a notice of the proceeding. Upon receipt of the praecipe, the clerk shall issue the notice which shall be in substantially the following form:

"(Name and Address of Court)

Case No _____

(Case Caption)

NOTICE

You are hereby notified that (name and address of plaintiff), the plaintiff in this proceeding, has applied to this court for the attachment of property in your possession. The basis for this application is indicated in the documents that are enclosed with this notice.

The law of Ohio and the United States provides that certain benefit payments cannot be taken from you to pay a debt. Typical among the benefits that cannot be attached or executed on by a creditor are:

- (1) Workers' compensation benefits;
- (2) Unemployment compensation payments;
- (3) Cash assistance payments under the Ohio works first program;
- (4) Benefits and services under the prevention, retention, and contingency program;



- (5) Disability financial assistance administered by the Ohio department of job and family services;
- (6) Social security benefits;
- (7) Supplemental security income (S.S.I.);
- (8) Veteran's benefits;
- (9) Black lung benefits;
- (10) Certain pensions.

Additionally, your wages never can be taken to pay a debt until a judgment has been obtained against you. There may be other benefits not included in this list that apply in your case.

If you dispute the plaintiff's claim and believe that you are entitled to retain possession of the property because it is exempt or for any other reason, you may request a hearing before this court by disputing the claim in the request for hearing form appearing below, or in a substantially similar form, and delivering the request for the hearing to this court, at the office of the clerk of this court, not later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the claim in the space provided on the form, but you are not required to do so. If you do state your reasons for disputing the claim in the space provided on the form, you are not prohibited from stating any other reasons at the hearing, and if you do not state your reasons, it will not be held against you by the court and you can state your reasons at the hearing.

If you request a hearing, it will be conducted in _____ courtroom _____,
(address of court), at _____ m. on _____, _____

You may avoid having a hearing but retain possession of the property until the entry of final judgment in the action by filing with the court, at the office of the clerk of this court, not later than the end of the fifth business day after you receive this notice, a bond executed by an acceptable surety in the amount of \$ _____



If you do not request a hearing or file a bond on or before the end of the fifth business day after you receive this notice, the court, without further notice to you, may order a law enforcement officer or bailiff to take possession of the property. Notice of the dates, times, places, and purposes of any subsequent hearings and of the date, time, and place of the trial of the action will be sent to you.

Clerk of Court

Date: _____ "

(B) Along with the notice required by division (A) of this section, the clerk of the court also shall deliver to the defendant, in accordance with division (C) of this section, a request for hearing form together with a postage-paid, self-addressed envelope or a request for hearing form on a postage-paid, self-addressed postcard. The request for hearing shall be in substantially the following form:

"(Name and Address of Court)

Case Number _____ Date _____

REQUEST FOR HEARING

I dispute the claim for the attachment of property in the above case and request that a hearing in this matter be held at the time and place set forth in the notice that I previously received.

I dispute the claim for the following reasons:

(Optional)



(Name of Defendant)

(Signature)

(Date)

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU WAIVE YOUR RIGHT TO A HEARING AT THIS TIME AND YOU MAY BE REQUIRED TO GIVE UP THE PROPERTY SOUGHT WITHOUT A HEARING."

(C) The notice required by division (A) of this section shall be served on the defendant in duplicate not less than seven business days prior to the date on which the hearing is scheduled, together with a copy of the complaint and summons, if not previously served, and a copy of the motion for the attachment of property and the affidavit attached to the motion, in the same manner as provided in the Rules of Civil Procedure for the service of process. Service may be effected by publication as provided in the Rules of Civil Procedure except that the number of weeks for publication may be reduced by the court to the extent appropriate.