



## Ohio Revised Code

### Section 2716.031 Filing affidavit of current balance due on garnishment order.

Effective: August 29, 2000

Legislation: House Bill 294 - 123rd General Assembly

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(A) The judgment creditor or judgment creditor's attorney shall file with the court, the garnishee, and the judgment debtor an affidavit of current balance due on garnishment order that contains the current balance due on the order. The judgment creditor or attorney shall file the affidavit on an annual basis.

(B) At any time after the filing of the original affidavit of garnishment, the judgment creditor or the judgment creditor's attorney may file with the court, the garnishee, and the judgment debtor an affidavit of current balance due on garnishment order that contains the current balance due on the order.

(C) An affidavit of current balance due on garnishment order shall contain the name of the court issuing the order, the case number, the caption of the case, the original amount of the judgment that is the basis of the order, the accrued interest to date, the court costs assessed to date, all moneys paid to the judgment creditor and the judgment creditor's attorney on the judgment to date, the current balance due, the name and address of the judgment creditor and the judgment creditor's attorney, and the date of the affidavit. The judgment creditor or judgment creditor's attorney shall serve the affidavit upon the judgment debtor by personally delivering it to the judgment debtor by personal service, by sending it to the judgment debtor by certified mail, return receipt requested, or by sending it to the judgment debtor by regular mail evidenced by a properly completed and stamped certificate of mailing by regular mail, addressed to the judgment debtor's last known place of residence. A certificate of service upon the judgment debtor shall be attached to each affidavit of current balance due on garnishment order.

(D) Court costs shall not be assessed for filing the affidavit of current balance due on garnishment order with the court.

(E)(1) When a judgment creditor or a judgment creditor's attorney issues an affidavit of current balance due on garnishment order in accordance with division (A) of this section, the judgment



creditor or the judgment creditor's attorney shall comply with division (E) of this section and serve the notice and request for hearing upon the judgment debtor in accordance with division (E) of this section.

(2)(a) The notice to the judgment debtor that the judgment creditor or the judgment creditor's attorney is required to serve on and deliver to the judgment debtor shall be in substantially the following form:

"(Name and Address of the Court)

(Case Caption) Case No. \_\_\_\_\_

#### NOTICE TO THE JUDGMENT DEBTOR

You are hereby notified that the judgment creditor in this proceeding has issued an affidavit of current balance due on garnishment order in the above case. The document entitled "AFFIDAVIT OF CURRENT BALANCE DUE ON GARNISHMENT ORDER" that is enclosed with this notice shows the original amount of the judgment that was the basis of the garnishment order, the accrued interest to date, the court costs assessed to date, all moneys paid to the judgment creditor and the judgment creditor's attorney on the judgment to date, and the current balance due on the judgment.

If you dispute the judgment creditor's determination of these amounts or if you believe that this affidavit is improper for any other reason, you may request a hearing before this court by disputing the affidavit in the request for hearing form, appearing below, or in a substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the clerk of this court, no later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the judgment creditor's determination of the amounts shown in the "AFFIDAVIT OF CURRENT BALANCE DUE ON GARNISHMENT ORDER" in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the judgment creditor's determination, you are not prohibited from stating any other reason at the hearing. 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. **NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE HEARD OR CONSIDERED AT THE HEARING.** The hearing will be limited to a consideration of



the amount currently due on the judgment you owe to the judgment creditor.

If you request a hearing by delivering your request for hearing not later than the end of the fifth business day after you receive this notice, the court will conduct the hearing no later than twelve days after your request is received by the court, and the court will send you notice of the date, time, and place. You may indicate in the form that you believe that the need for the hearing is an emergency and that it should be given priority by the court. If you do so, the court will schedule the hearing as soon as practicable after your request is received and will send you notice of the date, time, and place. If you do not request a hearing by delivering your request for hearing not later than the end of the fifth business day after you receive this notice, some of your personal earnings will continue to be paid to the judgment creditor until the judgment is satisfied.

If you have any questions concerning this matter, you may contact the office of the clerk of this court. If you want legal representation, you should contact your lawyer immediately. If you need the name of a lawyer, you should contact the local bar association.

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Judgment Creditor or Judgment

Creditor's Attorney

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Date"

(b) The request for hearing form that the judgment creditor or the judgment creditor's attorney is required to serve on and deliver to the judgment debtor shall have attached to it a postage-paid, self-addressed envelope or shall be on a postage-paid, self-addressed postcard, and shall be in substantially the following form:

"(Name and Address of Court)



Case Number \_\_\_\_\_ Date \_\_\_\_\_

### REQUEST FOR HEARING

I dispute the judgment creditor's determination of current balance due on garnishment order in the above case and request that a hearing in this matter be held not later than twelve days after delivery of this request to the court.

I \_\_\_\_\_ believe that the need for

(Insert "do" or "do not")

the hearing is an emergency.

I dispute the judgment creditor's determination for the following reasons:

(Optional)

I UNDERSTAND THAT NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE  
CONSIDERED AT THE HEARING.

\_\_\_\_\_

(Name of Judgment Debtor)

\_\_\_\_\_

(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, AND SOME OF YOUR PERSONAL EARNINGS WILL CONTINUE TO BE PAID TO (JUDGMENT CREDITOR'S NAME) IN SATISFACTION OF YOUR DEBT TO THE JUDGMENT CREDITOR."

(F) The judgment debtor may receive a hearing in accordance with this division by delivering a written request for a hearing to the clerk of the court within five business days after receipt of the notice provided pursuant to division (E) of this section. The request may set forth the judgment debtor's reasons for disputing the judgment creditor's determination of the current balance due on garnishment order; however, neither the judgment debtor's inclusion of nor the judgment debtor's failure to include those reasons upon the request constitutes a waiver of any defense of the judgment debtor or affects the judgment debtor's right to produce evidence at the hearing. If the request is made by the judgment debtor within the prescribed time, the court shall schedule a hearing no later than twelve days after the request is made, unless the judgment debtor indicated that the judgment debtor believed the need for the hearing was an emergency, in which case the court shall schedule the hearing as soon as practicable after the request is made. The court shall send notice of the date, time, and place of the hearing to the parties in accordance with division (H) of this section. The hearing shall be limited to a consideration of the amount of the current balance due on the garnishment order, if any.

(G) If the judgment debtor does not request a hearing within the prescribed time pursuant to division (F) of this section, the garnishee shall continue to pay some of the judgment debtor's personal disposable earnings into court. If a hearing is conducted, the court shall determine at the hearing the amount owed by the judgment debtor to the judgment creditor and issue an order, accordingly, to the garnishee to pay that amount, calculated each pay period at the statutory percentage, of the personal disposable earnings into court. If the court determines that the judgment debtor has overpaid on the judgment, the court shall issue an order to the judgment creditor to pay that amount to the judgment debtor and issue an order terminating the garnishment. If the court determines that the judgment is satisfied, then the court shall issue an order terminating the garnishment.

(H) If the judgment debtor requests a hearing within the prescribed time pursuant to division (F) of



AUTHENTICATED,  
OHIO LEGISLATIVE SERVICE  
COMMISSION  
DOCUMENT #242639

this section, the clerk shall send a notice of the date, time, and place of the hearing by regular mail to the judgment creditor or the judgment creditor's attorney and the judgment debtor.