

# *Know Your Rights Wage Garnishment*



## **WHAT IS A WAGE GARNISHMENT?**

A garnishment is money taken out of your wages to pay a creditor. A creditor can ask for a garnishment when they have a judgment against you. A judgment is a document stating that the court found that you owe money to the creditor. Below are some definitions and tips to help you understand the process.

### **Notice of Wage Garnishment**

A notice that you will receive in the mail, informing you that the creditor is asking the court for a garnishment. If the court permits the creditor to garnish your wages, the court will sign an order. The order will include details about the amount of the garnishment and the name of your employer.

If you receive a notice of garnishment, you may oppose the garnishment. Opposition papers can be found at [www.njcourts.gov/forms/12322\\_obj\\_wage\\_garnish.pdf](http://www.njcourts.gov/forms/12322_obj_wage_garnish.pdf).

After you have filled out these papers, submit them to the court. You can mail them to the court, hand deliver them, or submit them online (upload them) through a system called JEDS – [www.njcourts.gov/selfhelp/jeds.html](http://www.njcourts.gov/selfhelp/jeds.html).

### **Income Exempt from Garnishment**

The following is a list of income sources that cannot be garnished – Social Security Benefits, cash assistance from welfare, such as General Assistance (GA) or Temporary Assistance for Needy Families (TANF), Temporary Disability from the State of New Jersey, Veteran's Benefits, and Unemployment Benefits.

### **Amount of Garnishment**

The amount of the garnishment is determined by the court by calculating 1) 10% of gross income; 2) 25% of take home pay; or 3) the difference between \$217.50 and your weekly income. The sum that is the smallest is the amount that the court will order be garnished. For example, if 10% of your gross income is \$100; and 25% of take home income is \$150; and the difference between \$217.50 (federal minimum wage) and your weekly income is \$50, the court will allow a garnishment of \$50 per week.

## **OPPOSING A WAGE GARNISHMENT**

### **Time to Oppose Garnishment**

You have 10 calendar days to respond to the notice of garnishment. If you received the notice by mail, add five days to respond. To determine when your opposition is due, start counting 15 days starting on the day after the papers were mailed to you. If you don't know the date of mailing, look at the postmark on the envelope. If there is no postmark, look at the plaintiff's cover letter. The court must receive your opposition on or before the fifteenth day. If the fifteenth day is a weekend or a holiday when the court is closed, your papers will be due the next day the court is open.

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## **Fee**

There is no fee to file an opposition to a levy in Special Civil Part.

## **Mail Copy of Opposition to Plaintiff**

When you file your papers with the court, you must mail the papers to the plaintiff too. You can mail by regular mail, certified mail, or return receipt requested, or you can personally deliver it to the plaintiff.

## **Getting the Garnishment Lowered**

The court has the discretion to lower the garnishment. However, the court will generally only do so in extraordinary circumstances. An example of an extraordinary circumstance that a court will consider is if you have expenses due to disabilities and medical expenses for a family member who is very ill. If you have extraordinary expenses you would like the court to consider, make a list so you are ready to discuss them at your hearing.

## **Hearing**

If you submit an opposition to the garnishment, the court will have a hearing. At that hearing, the court will consider whether to impose a garnishment and how much that garnishment will be. The court will not consider any disputes about the debt itself. At this point, there is a judgment against you and the court will presume that you owe the money. To ask the court to consider any defenses you have to the claim, you may file a “motion to vacate the judgment.”

## **Garnishment Order**

The garnishment order will be mailed to your employer. Your employer will begin deducting money from you pay each time you are paid. Your employer will send whatever money they deduct to the sheriff. The sheriff will then deduct their fees. Then the sheriff will send the remaining amount to the creditor. The creditor must credit any money deducted from your pay to the amount you owe.

## **Negotiating a Settlement**

If you would like to try to settle, contact the plaintiff or the plaintiff’s attorney. It is best not to agree to a payment that you cannot afford. Even if you are willing to settle, the plaintiff does not have to settle.

## **Bankruptcy**

If a garnishment poses a hardship, you may want to consider bankruptcy. Although filing a bankruptcy is not the right answer for everyone, your debt may be dischargeable in bankruptcy. This means that, if you filed the bankruptcy, you may not have to pay this debt and the garnishment would stop. Consider speaking to an attorney about whether you should file for bankruptcy.

## **GET HELP!**

Call the LSNJLAW<sup>SM</sup> Hotline at 1-888-LSNJ-LAW (1-888-576-5529)

Apply online at <https://lsnjlawhotline.org>

Contact your regional Legal Services program

[www.lsnjlaw.org/Pages/Legal-Services-Offices.aspx](http://www.lsnjlaw.org/Pages/Legal-Services-Offices.aspx)