

How to keep your paycheck from being garnished



Who can this booklet help?

Garnish means the money you owe comes out of your paycheck before you get it. The payment is sent to whoever you owe. Usually, your pay can be garnished only after you have been sued and you lost.

This booklet may help you if you were sued in General Sessions Court. Other courts may have rules that are a little different. You can find out from the Court Clerk what you should do. This pamphlet tells how to keep the person who sued you from taking (garnishing) your paycheck. You don't need a lawyer to do this.

There are 3 ways to keep your paycheck from being garnished:

- Pay the full amount you owe.
OR
- Make a written agreement with the person who sued you. The agreement says you will pay a certain amount each week or month. File this agreement with the Court Clerk.
OR
- File a Slow-Pay Motion with the Court.



Paying the full amount you owe

You can stop a garnishment **before it starts**. To do this, pay what you owe during the 10 days after your Court date. Pay the Clerk of the General Sessions Court what the Judge said you

owe. You will owe the debt plus court costs. The Clerk will give you a receipt.

What if you don't pay what you owe within 10 days after the Court date? Your paycheck may be garnished.

You can **STOP** the garnishment any time by paying the Clerk's Office what you owe. The Clerk will give you a receipt. Take the receipt to your employer right away. They should stop taking money from your pay as soon as they get the receipt.

Making an agreement with the person you owe money to



Will you agree to make regular payments? Then the person you owe may agree not to garnish your pay. Often, they (or their lawyer) will offer to do this when you are in Court. If you both agree on weekly or monthly payments, they will not garnish your paycheck.

Don't agree to pay more than you can afford. Also, a garnishment lets you keep at least \$217.50 each week. The \$217.50 is counted after taking out Social Security and income tax. You usually should not agree to payments that would leave you with less than that.

What if your check is already being garnished? You can often stop it with an agreement. Talk to the person you owe the

money to (or their lawyer). See if you both can agree on weekly or monthly payments. If so, they should tell the Clerk in writing to stop the garnishment.

How to File a Slow-Pay Motion

A Slow-Pay Motion is a paper that asks the Judge to let you make small payments. The payments leave you enough money to pay your other necessary bills. You can file a Slow-Pay Motion any time after the Judge decides you owe money. You don't need a lawyer to file a Slow-Pay Motion.

Slow-Pay Motion



You can stop a garnishment before it starts. To do this, file a Slow-Pay Motion **BEFORE** your pay is garnished. If the Judge OKs your Motion, your paycheck won't be garnished unless you don't pay. Has a garnishment already started? It will **STOP** when the Judge has heard your Slow-Pay Motion.

1. File in the Clerk's office

To file a Slow-Pay Motion, go to the Court Clerk's Office. The Clerk will give you a paper. It asks where you work, how much you make, and how often you are paid. It also asks:

- The name and address of the person who sued you
- The number of your case
- How much the Judge said you owe
- How much you have already paid.

If you don't have all these facts, the Clerk will help you get them. Then the Clerk will ask you to swear that what you say on the paper is true.

You will probably have to pay a small filing fee for your Slow-Pay Motion.

If they ask you to pay anything more than the filing fee, you should see a lawyer.

The Clerk will tell you when to come back to Court. The Clerk will also send the Court date to the person you owe money to.

2. Go to Court

You go to Court to ask the Judge to let you make payments you can afford.

Before the Court date, write down your monthly bills to show the Judge. List your rent, lights and heat, food and other necessary costs. Be ready to tell the Judge about your income and any other people you support.

What if an emergency keeps you from going to Court? Call the Clerk's Office before time for the hearing. Ask if the Judge can set a new Court date.

In Court, try to sit near the front so you will hear your name called. When your name is called, answer quickly and make sure the judge hears you.

The Judge will want to know:



- Why you can't pay the whole amount you owe.
- How much you think you can pay each week or month.

Don't offer to pay more than you are **SURE** you can pay.

The person you owe money to may ask the Judge to make you pay more.

The Judge may let you pay the amount you offered or may make you pay more.

3. Pay on time and keep proof

It is **very important** to pay what the Judge told you to pay. The Judge will tell you who you must pay. It may be the Court Clerk or it may be the person you owe.

Pay by check or money order. **Keep** your cancelled checks or money order receipts. If you must pay cash, be sure to get **receipts** and save them. Keep a record of how much you still owe after each payment. Then you will know when the debt is paid.

If you don't pay what the Judge ordered, your paycheck can be garnished. It will be very hard to stop this garnishment.

Protect your property and your savings, too!

This booklet is only about protecting your paycheck. You should also ask for our booklet about protecting your belongings after you are sued.

Legal Aid Society
of Middle Tennessee and the Cumberland

1-800-238-1443

It's a free call.

On the internet at **www.las.org**

This booklet can't take the place of legal advice. All cases are different and need individual attention. It was revised in July 2009. Changes in the law or in the court rules could make this information incorrect in the future.