



# GUIDE TO GARNISHMENTS IN TEXAS

Produced and distributed as a public service by  
the Texas Young Lawyers Association and the State Bar of Texas

# **GUIDE TO GARNISHMENTS IN TEXAS**

**Chloe A. Daniels, The University of Texas School of Law  
Marlei E. Thames, SMU Dedman School of Law  
Noorulanne H. Jan, The University of Texas School of Law  
David C. Courreges, J.D. – Attorney Supervisor**

This guide is intended to provide general information only and is not a substitute for legal counsel.  
If you have a specific legal problem, you are strongly advised to consult an attorney.  
The laws discussed in this guide may be subject to change.

# TABLE OF CONTENTS

INTRODUCTION.....	1
What Is Garnishment?.....	1
What Are My Rights? .....	3
What Options Are Available to Me? .....	3
1. FIGHT THE GARNISHMENT IN COURT.....	4
Insufficient Documents.....	4
Defective or Improper Service on Debtor .....	4
2. NEGOTIATE WITH THE CREDITOR .....	5
3. DO NOTHING.....	6
4. CLAIM EXEMPTION.....	6
5. FILE FOR BANKRUPTCY .....	8
Chapter 7 .....	8
Chapter 13 .....	8
How Bankruptcy Stops Garnishments .....	9
HOW TO FIND LEGAL REPRESENTATION .....	10
GENERAL TIPS & INFORMATION .....	11
HELPFUL RESOURCES .....	11
GLOSSARY.....	12
SAMPLE DOCUMENTS	
Motion to Dissolve Writ of Garnishment .....	14
Prayer.....	15
Certificate of Service.....	16
ENDNOTES.....	17

# INTRODUCTION

The purpose of this *Guide to Garnishments in Texas* is to assist individuals who may be experiencing a garnishment of their wages, bank accounts, or other personal property by providing information and some frequently asked questions. You will find information to help answer the following questions:

- What is a garnishment?
- What are my rights?
- What options are available to me?

## WHAT IS GARNISHMENT?<sup>1</sup>

Garnishment occurs when a court of law has determined that:

- an individual (a “debtor”)
- owes money (a “debt”) to
- another (a “creditor”),
- and the creditor has taken additional legal action to collect that debt (a “garnishment”)

Garnishment is the term for the actual legal action that a creditor takes. In more technical terms, a garnishment is a court order directing that money or property of a third party be seized to satisfy a debt owed by a debtor to a creditor.

For example, if a creditor garnishes the debtor’s bank account, any money deposited into that bank account immediately belongs to the creditor until the debt is fully paid off.

Why do garnishments matter?

A garnishment is a way for creditors to obtain payment for a debt by accessing and seizing the debtor’s property, usually the debtor’s bank account. More specifically, the creditor is given court authorization to freeze the debtor’s bank account and seize money in it or that is deposited in it until the debt is paid in full.

There are exceptions to what can be garnished, and these exceptions will be discussed later in this guide in the *Exemptions* subsection. Because of the power that garnishments afford creditors, they are important to understand. It is equally important to know why and how you should act if your property is garnished.

There are generally three parties to a garnishment:

- the judgment-debtor (“debtor”),
- the judgment-creditor (“creditor” or “garnishor”),
- and the custodian (“garnishee”).<sup>2</sup>

The debtor is the individual who owes money. The creditor is who initially loaned the money or a third party debt collection agency who has purchased the right to collect

the debt from the original lender. The garnishee is the custodian of the property being garnished—usually the debtor’s bank, credit union, or another financial institution with possession of the debtor’s money.

In order to garnish your property, the creditor must first file a lawsuit and obtain a judgment against you. Before the lawsuit can proceed, you must be served or provided a copy of the creditor’s complaint against you (also known as a “petition”). This is called “service of process.”

**How can I be served?** Usually the debtor will be served by a sheriff or constable; either by having it physically handed to you or by receiving it through certified mail. You may also be served by a private process server employed directly by the creditor, or other person authorized by law.<sup>3</sup>

Sometimes a creditor may find that it is not possible to serve you directly. For instance, they may not have your current address, or you may simply be avoiding being served. In such cases, the creditor may opt to file what is known as a “106(b) motion” which, when granted by a judge, allows the creditor to serve the debtor by “alternative means” such as posting a copy of the citation and petition on the door of the most recent address known to the creditor, publishing a notice in a local newspaper, or even by social media or e-mail. In order for a creditor to obtain a 106(b) motion, an affidavit must be given to the court stating where the defendant can probably be found, such as their job or an address assigned to them, as well as specific facts of the attempts at service that have been made.

When the creditor serves a debtor in this way, it becomes more likely that you will not learn of the lawsuit until after judgment is final, or even until the garnishee notifies you that your property is garnished. In some cases, predatory creditors and debt collectors might even attempt to have the debtor served at an old address in order to avoid actually notifying the debtor of the lawsuit. Often, this old address is the one connected to the debt.

If you never learn of the lawsuit, you will definitely not know that you need to file an answer by a certain time. When the deadline to answer comes and goes without an answer, the creditor most often seeks and receives a “default judgment” from the court. This means that the debt the creditor alleged you owed in the original lawsuit is legally confirmed. The creditor is now given additional tools under the law to collect the debt, including the potential of garnishment.

## WHAT ARE MY RIGHTS?<sup>4</sup>

When a debtor's property is garnished, the garnishee freezes all of the debtor's non-exempt property and gives that property to the creditor. All money that is deposited into a garnished bank account after it is frozen also goes to the creditor. This process continues until the debt is paid off or the garnishment is ended in some other way.

Example: A debtor's bank (garnishee) receives a garnishment order to freeze the debtor's bank account. Relying on the order, the bank gives all the money to the creditor, but not enough to cover the full amount of the debt. Later, the debtor's employer deposits a paycheck into the account. This paycheck goes directly to the creditor. All paychecks and other deposits into the frozen bank account continue to go directly to the creditor until the debt is paid off.

The garnishment only entitles the creditor to the amount of the debt owed. If a debtor's bank account contains more than what is owed, the full bank account should not be frozen.

Example: Same as above, but the garnishment is for \$1,000 and the debtor's bank account contains \$1,500. The bank will hold \$1,000 and keep the remaining balance, and any future deposits, available for use by the debtor.

Money from certain sources can be exempt from seizure by creditors, but only if it is held completely separate from non-exempt money. For more information, see the *Exemptions* subsection below.

## WHAT OPTIONS ARE AVAILABLE TO ME?

### Answer the Garnishment

Before deciding which option to pursue in response to a garnishment or potential garnishment, you need to file an answer to the lawsuit.

An answer is a physical acknowledgment that you are aware of the lawsuit. TexasLawHelp.org, a website dedicated to providing free legal information to low-income Texans, has information as well as forms to help with debt collection and garnishment issues. Learn more at [texaslawhelp.org](http://texaslawhelp.org). Court clerks also may have generic forms available.

Each jurisdiction has its own rules on how to file an answer. Be sure to ask the clerk what is required in your jurisdiction.

### Remedies

The following remedies or options for relief are available to an individual without legal help. However, you may determine you need legal counsel, please read the *How to Find Legal Representation* subsection below.

# 1. FIGHT THE GARNISHMENT IN COURT

If you believe that the creditor has improperly garnished your property, you may have a legal case to have your property returned. The following subsections contain reasons a garnishment may be improper.

## A. INSUFFICIENT DOCUMENTS

In order for a creditor to successfully garnish your property, the creditor must be able to prove:

- (1) that you actually owe the debt; and
- (2) the creditor owns the rights to collecting that debt.

If you believe you do not owe a debt, that you do not owe the alleged debt to the creditor attempting to collect, that you owe a different amount than is being alleged, or some other alleged fact is incorrect, you should pursue this remedy.

### *How to Proceed*

If your property is garnished you may seek to vacate or dissolve a writ of garnishment.<sup>5</sup>

When filing a motion to vacate or dissolve with the court, directly address the exact reason(s) you believe the garnishment should be vacated or dissolved. TexasLawHelp provides an example of a Motion to Vacate form. Go to **[texaslawhelp.org](http://texaslawhelp.org)** and search for Motion to Vacate.

A Motion to Dissolve form is attached at the end of this guide.

Once you have written your motion you will want to have at least three copies of it. One for the court clerk, one for you, and one for the creditor. The judge should address your motion promptly and make a decision no later than 10 days after the motion is filed.

Your motion to dissolve or motion to vacate should be granted if the creditor is not able to prove that you owe the debt, that it owns the debt, that you owe the amount it is claiming, or that some other alleged fact is true.

## B. DEFECTIVE OR IMPROPER SERVICE ON DEBTOR

When the creditor files a lawsuit against you, the creditor must properly serve you, as explained above.

If you can prove that the creditor should have been able to easily, serve you properly, you can get the creditor's default judgment against you vacated.<sup>6</sup> Vacating a judgment cancels it as if it never happened.

Example: If your current address is easily accessible and you can prove that it is, but the creditor still attempted to serve you at an old address.

### ***How to Proceed***

File a motion to vacate or dissolve the writ of garnishment as listed above.

Once you prove that the creditor should have been able to find your address, and your motion to vacate is granted, the creditor no longer has legal authority to garnish your property. You should then have your property returned to you by the creditor.

## **2. NEGOTIATE WITH THE CREDITOR**

Often, the entire reason the creditor has filed a lawsuit against you is because it wants to be paid. Sometimes your creditor will be willing to settle your debt outside of court. This can be a less costly and time-consuming option for both you and the creditor.

If you do some research before contacting your creditor to negotiate, you may be able to successfully negotiate without professional help.

Here are some factors to consider before attempting to negotiate:

- Some creditors will not consider settling until your debt is at least 90 days late.
- Some will want a lump-sum payment of the full amount owed.
- Some will accept a payment plan, but only if you can provide a down payment that secures your promise to follow the plan.

### ***How to Proceed***

Evaluate your finances and create a plan that is feasible for you and also realistic for the creditor.

- Have this plan ready to propose when attempting to negotiate and set boundaries of how far you are willing to alter your plan so that you are prepared when the creditor replies with a different proposal.
- When negotiating you will need to discuss how much you can pay and how a potential settlement will be reported to credit agencies. Being able to explain your financial situation and why you can only pay a certain amount may make your proposed plan more acceptable to the creditor. Negotiating credit reporting is important because this debt likely currently hurts your credit report. You do not want to settle with your creditor and still have your credit report suffer because you did not agree on this specific detail. It is recommended that you avoid the creditor reporting this debt as “settled” or “paid settled,” and instead ask for something along the lines of “paid as agreed.”



You will have to pay taxes on the portion of the debt that is forgiven in a settlement.

Example: If you owe \$2,000 and the creditor agrees to let you pay \$1,000 in a lump sum payment and forgives the other \$1,000, you will have to pay taxes on that forgiven \$1,000.

Once you have agreed on a settlement, be sure to get the terms of the settlement in writing. Be sure to follow through with the agreement. If you miss a payment or do not properly follow the terms of the settlement, the creditor may revoke the settlement and expect you to pay back the full amount of the debt or take the issue to court.

### **3. DO NOTHING**

There is always the option to do nothing. For some this may be the best option available if all of the following circumstances apply:

- The garnishment paid the debt in full;
- the debt is one that you actually owe the creditor that you have neglected to pay; and
- you can afford the sudden loss of money.

Most often this is not the best option because many individuals struggle with losing a large, unanticipated amount of money. It is recommended that you consider the other options first if you suspect something about the garnishment is incorrect.

If you cannot choose any of the other remedies and are forced to accept the garnishment, once the debt is paid in full be sure to close the subject account.

If the garnishment only pays part of the debt, the garnishment may remain until the debt is paid in full. The creditor also may attempt to levy some other assets belonging to you. This means that the creditor may use a legal process to seize your physical property such as a vehicle.

### **4. CLAIM EXEMPTION<sup>7</sup>**

Funds from certain sources are considered exempt from garnishment. This means that if you are able to prove the exemption, the creditor cannot take the amount of funds that falls under the exemption. However, if funds that qualify as exempt are in the same account as non-exempt funds the exemption will no longer apply.

Example: You have \$1,000 in your bank account and \$500 of it comes from Social Security benefits, which are exempt, and the other \$500 is from a deposited paycheck, which is not exempt. To avoid disqualification of the exemption it is recommended that exempt funds be kept in a separate bank account from non-exempt funds.

Here are the most common exemptions:

- Proceeds of a voluntary sale of a homestead up to six months after the sale
- Wages to be paid to employees (unless the garnishment is for court-ordered, child-support payments)
- Worker's compensation
- Government employees retirement benefits
- Welfare and Social Security benefits
- Insurance benefits (certain life, health, and accident insurance benefits)
- Trust or other funds in debtor's name belonging to a third party
- Certain retirement plans
- Money due to original contractors and subcontractors
- Present value of any life insurance policy

### ***How to Proceed***

When your property is garnished you should receive notice and instructions on how to file a claim of exemption. If your property falls under any of the available exemptions, you should promptly request a "claim of exemption hearing."

A claim of exemption hearing is where you would argue that it will be a financial hardship on you (such as you need the money to pay bills and feed your family) or that your property is exempt under state law.

Once you complete your claim of exemption, send a copy to the creditor and anyone else to whom you are instructed to send a copy. The creditor will then either file a challenge to your claim or abandon (release) the garnishment on the exempt funds. If the creditor abandons the garnishment on your exempt funds, and has already seized them, they should be returned to you. If the creditor challenges your claim, the creditor will schedule a hearing before the judge, which you will need to attend.

At the hearing, you will need to convincingly explain why your property is exempt or why you need it to support yourself or your family. You can bring evidence or witnesses to support your claims. For example, bring receipts showing that you received the funds in question from an exempt source.

After the judge has listened to both sides, he or she will make a ruling. After this, you may either request a second hearing due to a change in circumstance or accept the ruling and comply with the court's instructions.

## 5. FILE FOR BANKRUPTCY<sup>8</sup>

Bankruptcy is another way to avoid garnishment. It is not for everyone and should only be considered when your financial struggles are dire. Bankruptcy is an extremely complicated and time-consuming process. If you do decide to file for bankruptcy it is highly recommended that you acquire an attorney. Still, this option, like the others, is possible to do on your own.

### *How to Proceed*

If you choose to pursue bankruptcy without an attorney's help, there are a number of books and credible sources that can walk you through filing for bankruptcy. **Texaslawhelp.org** has toolkits and articles that can assist you.

Chapter 7 bankruptcy and Chapter 13 bankruptcy are the primary options for individuals. The following is a basic overview of what is important for you to know if considering filing for bankruptcy.

### CHAPTER 7

This is the best option for low-income debtors with little or no assets.

“Assets” are essentially different forms of property worth money such as land, vehicles, and stocks.

Filing under this chapter means you will be liquidating all your non-exempt assets and using the proceeds to pay off debts that are not erasable. Most of your general, unsecured debts such as credit card and medical bills will be erased. To qualify for Chapter 7, you must meet specified income requirements, meaning you receive an income that is below a certain amount.

When you file for bankruptcy, an “automatic stay” occurs which immediately stops most creditors from attempting to collect from you. A bankruptcy trustee is appointed to your case and is in charge of selling your non-exempt property and distributing it to your creditors according to the law.

### CHAPTER 13

This is the more common choice for debtors looking to prevent garnishment. This is the best option for debtors with regular income who have enough left over each month to pay back at least a portion of their debts through an agreed-upon repayment plan. The amount that the repayment plan is created to pay back depends on your income, expenses, and types of debt.

Filing under this chapter means that you will be participating in a reorganization of your finances and debts. Benefits to Chapter 13 include keeping all of your property, including non-exempt property with stipulations; having the opportunity to catch up on missed mortgage

payments; and being able to remove wholly unsecured junior liens from your house.

If you do not qualify for Chapter 7 because of the income requirement, you can still file for Chapter 13.

## HOW BANKRUPTCY STOPS GARNISHMENTS

Filing for bankruptcy creates an automatic stay or pause on garnishments. Most creditors are prohibited from taking or continuing actions to collect debts after an automatic stay is issued and that includes preventing or stopping a garnishment.

- However, the automatic stay does not provide 100% protection!
- If you filed for Chapter 7 and owe a debt for Domestic Support Obligations (referred to as “DSOs”) such as child support or alimony, you will still have to pay that debt without any break. DSOs are not forgiven in bankruptcy.
- Chapter 13 will stop all garnishments, including those for DSOs, but those DSOs will still be included as something to be paid in your final repayment plan. If you do not fulfill your repayment plan, your debts will not be discharged.

To stop the garnishment quickly, inform both the garnishee and the creditor that you have filed for bankruptcy and provide them with the bankruptcy case number, filing date, and court location. You will be provided all of this information when you file for bankruptcy. Once the creditor knows of the bankruptcy, it would be a violation of the automatic stay to continue with the garnishment.

Recovering property garnished before bankruptcy is not always worth the cost and effort.

- The garnishment is required to have occurred during the 90 days before the bankruptcy filing date, must exceed a particular amount (this amount changes periodically), and the property must be considered exempt from the bankruptcy estate.
- To recover cash, you will have to file a lawsuit in the bankruptcy court against your creditor, which will require payment of certain court fees.

After bankruptcy, your creditors cannot resume garnishments on discharged debts, such as credit card balances, personal loans, medical bills, payday lender loans, and more. If the court dismisses your case without a discharge, you will lose the benefit of the automatic stay and garnishments can resume.

## HOW TO FIND LEGAL REPRESENTATION

Legal proceedings can be complicated and time-consuming. Most proceedings are more easily handled by legal professionals with the knowledge and expertise to handle complex filings and hearings. If you cannot afford to hire an attorney, several Texas programs provide free or low-cost civil legal assistance to those in need. Here are some options to seek help:

**Texas Legal Services Center**.....800-622-2520 | [tlsc.org](http://tlsc.org)

**Volunteer Legal Services**.....512-476-5550 | [vlsoct.org](http://vlsoct.org)

**Legal Aid of NorthWest Texas**.....888-529-5277 | [lawnt.org](http://lawnt.org)

**Lone Star Legal Aid**.....800-733-8394 | [lonestarlegal.org](http://lonestarlegal.org)

**Texas RioGrande Legal Aid**.....888-988-9996 | [trla.org/help](http://trla.org/help)

**Referral Directory for Low-Income Texans**.....[texasbar.com/referraldirectory](http://texasbar.com/referraldirectory)

If you live in a city with a law school (Austin, Dallas, Fort Worth, Houston, Lubbock, San Antonio, or Waco) you may be able to find a pro bono clinic where law school students take cases for free under supervision of an experienced attorney.

### **Austin**

University of Texas School of Law Mithoff Pro Bono Program  
512-232-2990 | [law.utexas.edu/probono/for-the-public/](http://law.utexas.edu/probono/for-the-public/)

### **Dallas**

SMU Dedman School of Law Legal Clinics  
[smu.edu/law/clinics/resources-for-the-public](http://smu.edu/law/clinics/resources-for-the-public)

### **Forth Worth**

Texas A&M Legal Clinics  
817-212-4123 | [law.tamu.edu/current-students/experiential-education/clinics](http://law.tamu.edu/current-students/experiential-education/clinics)

### **Houston**

University of Houston Law Center Clinical Legal Education Program  
713-743-2094 | [law.uh.edu/clinic/](http://law.uh.edu/clinic/)

### **Lubbock**

Texas Tech University School of Law Civil Practice Clinic  
806-742-4312 |  
[www.depts.ttu.edu/law/clinics-and-externships/clinics/civil-prac/index.php](http://www.depts.ttu.edu/law/clinics-and-externships/clinics/civil-prac/index.php)

### **San Antonio**

St. Mary's University School of Law Center for Legal and Social Justice  
[law.stmarytx.edu/academics/special-programs/center-legal-social-justice/](http://law.stmarytx.edu/academics/special-programs/center-legal-social-justice/)

## GENERAL TIPS & INFORMATION

- Never ignore a lawsuit, even if you think it is incorrect.
- DON'T PROCRASTINATE! File everything as quickly as possible to avoid missing deadlines.
- Obtain written confirmations and receipts for everything.
- Check for exemptions that apply to you.
- Pay your domestic support obligations (DSOs).
- Attending a hearing similar to yours before your own hearing can help with:
  - Locating the courthouse
  - Learning the parking situation
  - Learning your judge's personality
  - Determine how security works
  - Lessening nervousness
  - Behave respectfully in court.
  - Dress for court as if you are going to a work interview.
- Check the Statute of Limitations for your situation; the creditor may have no right to bring a legal action against you or try to collect from you after a certain amount of time since the debt was incurred.
- If a debt collector's actions feel like harassment, check to see if he is violating the Fair Debt Collection Practices Act.

## HELPFUL RESOURCES

### **TexasLawHelp**

[texaslawhelp.org](http://texaslawhelp.org)

### **Texas Collection Laws Explained**

[bills.com/debt/texas-collection-laws?q=%2Ftexas-collection-laws](http://bills.com/debt/texas-collection-laws?q=%2Ftexas-collection-laws)

### **Texas Deceptive Trade Practices Act**

[statutes.capitol.texas.gov/docs/bc/htm/bc.17.htm](http://statutes.capitol.texas.gov/docs/bc/htm/bc.17.htm)

### **Department of Labor's Explanation of Garnishment**

[dol.gov/general/topic/wages/garnishments](http://dol.gov/general/topic/wages/garnishments)

### **How to Stop My Wages From Being Garnished**

[thelawdictionary.org/article/how-to-stop-my-wages-from-being-garnished/](http://thelawdictionary.org/article/how-to-stop-my-wages-from-being-garnished/)

### **How Much of Your Wages Can Be Garnished?**

[thelawdictionary.org/article/how-much-of-your-wages-can-be-garnished/](http://thelawdictionary.org/article/how-much-of-your-wages-can-be-garnished/)

### **Answering a Summons from a Credit Card Company**

[thelawdictionary.org/article/answering-a-summons-from-a-credit-card-company/](http://thelawdictionary.org/article/answering-a-summons-from-a-credit-card-company/)

### **Rights of Debtors in Texas**

[texaslawhelp.org/article/rights-debtors-texas](http://texaslawhelp.org/article/rights-debtors-texas)

## GLOSSARY

**Affidavit** – A written statement confirmed by oath or affirmation, for use as evidence in court.

**Answer** – The defendant’s reply to the plaintiff’s charges.

**Assets** – Property owned by a person or company, regarded as having value and available to meet debts, commitments, or legacies.

**Contempt of Court** – The offense of being disobedient to or disrespectful of a court of law and its officers.

**Court Order** – A direction issued by a court or a judge requiring a person to do or not do something.

**Creditor** – A person or company to whom money is owed.

**Debt Collector** – Any third party who attempts to collect debts owed or due or asserted to be owed or due. The creditor and anyone working under the creditor’s name is not considered a debt collector.

**Debtor** – A person or institution that owes a sum of money.

**Default** – Guilty of failing to repay a loan or appear in a court of law.

**Default Judgment** – A ruling granted by a court or judge when one party has failed to perform a court-ordered action and the issue is not presented before the court. The ruling is in favor of the party who did follow the court-ordered actions.

**Defendant** – An individual, company, or institution sued or accused in a court of law.

**Domestic Support Obligation (DSOs)** – A debt owed to a spouse, former spouse, or child of the debtor.

**Exemption** – An item or amount that a debtor does not have to forfeit in order to pay a debt.

**Final Judgment** – The last decision from a court that resolves all issues in dispute and settles the parties’ rights with respect to those issues.

**Freeze** – Prevent (assets) from being used for a period of time.

**Garnishment** – A court order directing that money or property of a third party (usually wages paid by an employer) be seized to satisfy a debt owed by a debtor to a plaintiff creditor.

- **Account Garnishment** – The court order directs money in a personal, financial account to be used in payment of debt.

- **Wage Garnishment** – (also referred to as wage attachment) The court order directs money paid for work to be used in payment of debt.

**Garnishee** – A third party who is served notice by a court to surrender money in settlement of a debt or claim.

**Garnishor** – The creditor that brings a garnishment proceeding

**Homestead** – The home and adjoining land occupied by a family.

**Impound** – Seize and take legal custody of something such as a vehicle, goods, or documents because of an infringement of a law or regulation.

**Judgment** – A decision of a court or a judge.

**Levy** – Seize (property) to satisfy a legal judgment.

**Lien** – A right to keep possession of property belonging to another person until a debt owed by that person is discharged.

**Movant** – A person who applies to or petitions a court or judge for a ruling in his or her favor.

**Motion** – An application for a rule or order of court.

**Party** – A person or people forming one side in an agreement or dispute.

**Personal Property** – Things a person can have that are not land. Including, but not limited to, bank accounts, jewelry, extra vehicles, wages, etc.

**Plaintiff** – A person who brings a case against another in a court of law.

**Process** – A summons or writ requiring a person to appear in court.

**Remedies** – Solutions to a legal issue.

**Secured Debt** – Debt secured by property that the creditor can take and sell if the debtor does not pay his/her debt on time.

**Seize** – To take possession of something by warrant or legal right; confiscate; impound.

**Service (of process)** – The formal delivery of a document such as a writ or summons.

**Statute** – A written law passed by a legislative body.

**Statute of Limitations** – A statute prescribing a period of limitation for the bringing of certain kinds of legal action.

**Stay** – A suspension or postponement of judicial proceedings.

**Third Party** – A person or group besides the two primarily involved in a situation, especially a dispute.

**Unsecured Debt** – Debt that has no collateral backing it. Credit card debt is an example.

**Wage** – A fixed regular payment, typically paid on a daily or weekly basis, made by an employer to an employee, especially to a manual or unskilled worker.

**Writ** – A form of written command in the name of a court or other legal authority to act, or abstain from acting, in some way.



CAUSE NUMBER \_\_\_\_\_

[Name], IN THE [Type of Court]

COURT

PLAINTIFF

[Court number]

vs.

[Name], OF [NAME] COUNTY, TEXAS

DEFENDANT

MOTION TO DISSOLVE WRIT OF GARNISHMENT

[name of defendant,] Defendant moves the Court for an Order Dissolving Writ of Garnishment issued in this cause on [date], and as grounds for this motion shows the following:

1. Movant is [name], Defendant in Cause No. [Name], styled [Name].
2. The Writ of Garnishment previously issued in this cause was issued without prior notice or order of the court to [name of defendant], Defendant. That Writ was based solely upon the application of Plaintiff and supporting affidavits of [name], and Plaintiff's attorney, [name].
3. The Judgment in Cause No. \_\_\_\_\_ rendered on [date], is not a final judgment subject to garnishment.
4. Defendant filed [his or her] Motion for New Trial on [date], to set aside that Judgment.

The Motion for New Trial is supported by the affidavit of [name of Affiant], and has been filed within the time allowed by law.

5. [State the reasons why the garnishment should be dissolved].

PRAYER

Movant requests that Plaintiff be notified to appear and the Court to enter its Order Dissolving the above referenced Writ of Garnishment and directing the Garnishee to deliver any and all property and accounts impounded by such writ to [identify person] and granting Movant such other and further relief as to the Court seems fair and just.

Respectfully Submitted,

---

[Law Firm Name]

By \_\_\_\_\_

---

[Attorney's Name]

Attorney for Defendant  
[Attorney's Address]  
[Telephone Number]  
[Facsimile Number]  
[Bar Card Number]

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Motion to Dissolve Writ of Garnishment and Order Setting Hearing Date have been furnished to [name of attorney], attorney on record for Plaintiff, [name], Agent for Garnishee, and any parties who are not represented by an attorney on \_\_\_\_\_.

Attorney for: [Other attorney's client's name]  
Attorney's name: [Other attorney's name]  
Attorney's address: [Other attorney's address]

Type of Service:

- U.S. Mail, Certified Return Receipt Request No. \_\_\_\_\_.
- U.S. Mail, First Class.
- Hand delivery by [name of delivery service]: \_\_\_\_\_.
- Facsimile transmission to \_\_\_\_\_ [fax number] before 5 p.m.

\_\_\_\_\_  
[Attorney's signature]<sup>9</sup>.

## ENDNOTES

---

1. See generally *Fact Sheet #30: The Federal Wage Garnishment Law, Consumer Credit Protection Act's Title III* (CCPA), U.S. DEP'T OF LABOR (Revised Oct. 2020), <https://www.dol.gov/agencies/whd/fact-sheets/30-cppa>; Debt Collection, TEXAS STATE LAW LIBRARY, <https://guides.sll.texas.gov/debt-collection/collecting-the-debt#:~:text=In%20Texas%2C%20wage%20garnishment%20is,your%20wages%20for%20ordinary%20debts> (last visited Dec. 29, 2020).
2. See *Garnishment*, LEGAL INFORMATION INSTITUTE, <https://www.law.cornell.edu/wex/garnishment#> (last visited Dec. 29, 2020).
3. See *Service of Process*, LEGAL INFORMATION INSTITUTE, [https://www.law.cornell.edu/wex/service\\_of\\_process](https://www.law.cornell.edu/wex/service_of_process) (last visited Dec. 29, 2020).
4. See *Fact Sheet #30*, supra note 1.
5. TEX. R. CIV. P. 329b.
6. *Id.*
7. See generally *What does it mean to be "judgment proof"?*, TEXASLAWHELP.ORG, [https://texaslawhelp.org/article/what-does-it-mean-be-judgment-proof#:~:text=Exempt%20property%20includes%20most%20of,and%20200%20acres%20\(family\)](https://texaslawhelp.org/article/what-does-it-mean-be-judgment-proof#:~:text=Exempt%20property%20includes%20most%20of,and%20200%20acres%20(family)). (last visited Dec. 29, 2020) (summarizing available Texas exemptions); see also Cara O'Neill, *Texas Bankruptcy Exemptions*, NOLO (Sept. 25, 2017), <https://www.nolo.com/legal-encyclopedia/texas-bankruptcy-exemptions.html> (provides citations to statutes addressing Texas exemptions).
8. See generally 11 U.S.C. §§ 101–12, 701–84, 1301–30; *Bankruptcy: An Overview*, TEXASLAWHELP.ORG, <https://www.texaslawhelp.org/article/bankruptcy-overview> (last visited Dec. 29, 2020) (summarizing Texas bankruptcy).
9. See generally LEXICO, [lexico.com](http://lexico.com) (last visited Dec. 29, 2020); INVESTOPEDIA, [investopedia.com](http://investopedia.com) (last visited Dec. 29, 2020); 15 U.S.C. § 1692a(6)(a)-(d) (2010); TEX. FAMILY CODE ANN. § 2.501 (West 1997); 11 U.S.C. § 101(14)(C) (2020); TEXASLAWHELP.ORG, <https://texaslawhelp.org> (last visited Dec. 29, 2020); LEGAL INFORMATION INSTITUTE, <https://law.cornell.edu/wex> (last visited Dec. 29, 2020); MERRIAM-WEBSTER, [merriam-webster.com](http://merriam-webster.com) (last visited Dec. 29, 2020). Definitions can be found on these websites through a general search using the search bar provided on the website's homepage.

Prepared as a public service by the  
Texas Young Lawyers Association  
and distributed by the State Bar of Texas



This pamphlet and other free legal resources  
can be found online at [texasbar.com/resources](https://texasbar.com/resources).

For additional printed copies please contact:  
The State Bar of Texas' Public Information Department via email at  
**[pamphlets@texasbar.com](mailto:pamphlets@texasbar.com)**  
or by calling (800) 204-2222, ext. 1800

