

**FAIRFAX CIRCUIT COURT
GARNISHMENT PROCEEDINGS
GUIDELINES & INSTRUCTIONS**

GARNISHMENT – CIVIL

A garnishment is a post-judgment collection process whereby a judgment creditor may levy against a portion of a judgment debtor’s wages or bank accounts. Circuit Courts may not issue executions or summons in garnishment on judgments of the general district courts until the district courts papers have been returned to the clerk of the circuit court for filing and preserving the record under Virginia Code §16.1-116.

REFERENCE VIRGINIA CODE:

§8.01-466
§8.01-511 et seq,
§8.01-296
§16.1-69.55(4)
§20-78.1

DOCUMENT TYPES:

- SUGGESTION IN GARNISHMENT
- GARNISHMENT SUMMONS
- GARNISHMENT EXEMPTION CLAIM

1. **Filing Requirements**

Prior to any post-docketing collection of a Judgment, the Judgment must be duly docketed in the Fairfax Circuit Court Land Records Section. Once Judgment has been entered in the Fairfax Circuit Court or recorded in the Clerk's Office of the Circuit Court of Fairfax from a different court, a Judgment number will be designated to identify the judgment.

Garnishments cannot be issued unless the Judgment has been docketed for at least 21 days. For Judgments rendered by the Fairfax Circuit Court a garnishment cannot be issued until 21 days after the entry of the Final Order. Any request to proceed with post-docketing collection where the 21 days has not passed, will require leave of court to proceed.

The following information, required on the Garnishment Summons and Suggestion, must match the information on the Courts Public Access Network (CPAN). Names of the Judgment Creditor and Debtor must match identically to the names on the Judgment. Computers are available in the Land Records research area from 7:00 a.m. – 4:30 p.m. Monday through Friday to access this information.

Required information:

- Judgment Number
- Date of Judgment
- Place of Judgment (This is where Judgment was initiated)
- Judgment Principal
- The name of the Plaintiff/Creditor and Defendant/Debtor must match the judgment exactly as it was docketed in this court.

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A. Filing Fees:

Judgment Amounts under \$500.00

\$15.00	Clerks Fee	§17.1-275A(7)
\$ 1.50	Clerk's Execution fee	§17.1-275A(44)
\$ 4.00	Law Library Tax	§42.1-70
\$10.00	Legal Aid Fee	§17.1-278
\$ 5.00	Tech Trust Fund	§17.1-279
\$ 2.00	Courthouse Maintenance	§17.1-281
<u>\$12.00</u>	Sheriff's Execution fee	§17.1-272

49.50 plus a service fee of \$12.00 for each garnishee and any additional debtors

Judgment Amounts over \$500.00

\$25.00	Clerks Fee	§17.1-275A(7)
\$ 1.50	Clerk's Execution fee	§17.1-275A(44)
\$ 4.00	Law Library Tax	§42.1-70
\$10.00	Legal Aid Fee	§17.1-278
\$ 5.00	Tech Trust Fund	§17.1-279
\$ 2.00	Courthouse Maintenance	§17.1-281
<u>\$12.00</u>	Sheriff's Execution fee	§17.1-272

\$59.50 plus a service fee of \$12.00 for each garnishee and any additional debtors

Private Process Service:

Sheriff's Execution fee is ***not*** collected for private process service.

- Total fee for Judgments not exceeding \$500.00 \$37.50
- Total fee for Judgments over \$500.00 \$47.50

Sheriff Service Fees:

Service fee for Debtor and Garnishee is \$12.00 for each service.
Please advise the Clerk as to what jurisdiction service is to be effected.

Filing fees & applicable Service Fees are payable to:

**Clerk of the Circuit Court
4110 Chain Bridge Road
Fairfax, Virginia 22030
Attn: Civil Intake Garnishment Clerk**

B. Required Documents

- A fully completed Original Suggestion in Garnishment Form
- A fully completed Original Garnishment Summons Form plus six (6) copies.
- A fully completed Original Garnishment Exemption Claim Form plus six (6) copies.
- A stamped envelope addressed to the Defendant/Debtor at Defendant's last known address.

NOTE: A fully completed set of the above documents including the additional copies requires both the front and back of the said forms to be submitted at the time of filing.

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- C. All garnishment transactions must include the Defendant's social security number. Otherwise, a certification by the judgment creditor, his agent or attorney, that he/she has made a diligent good faith effort to secure the social security number of the judgment debtor and has been unable to do so must be stated on the Suggestion for Summons in Garnishment.
- D. Only one Garnishee can be named in any one wage garnishment action.
2. **Service of Garnishment Summons and Exemption Claim Forms on Out-of-State Principal Defendants**

Section §8.01-511 of the Code of Virginia requires that a sheriff of this state or any authorized officer attempt service or serve the Principal Defendant with the Summons and Exemption Claim Forms before an Order for Payment can be entered.

If the Principal Defendant is not subject to service in the State of Virginia, the amount required by statute for service of such pleadings must be filed along with these pleadings with the filing fees payable to the Clerk of the Circuit Court. When the sheriff's return is filed along with proof of the sheriff's mailing as set out in §8.01-511 of the Code of Virginia, service on the Principal Defendant will be proper. There is no requirement that these pleadings must also be forwarded to out-of-state Principal Defendants by certified mail or through the Secretary of the Commonwealth.

3. **Return Date**

- Non-wage Garnishments - no less than 30 days or no more than 90 days
- Wage Garnishments - no less than 30 days or no more than 180 days

The summons in garnishment shall be returnable no less than thirty (30) days or no more than ninety (90) days after the date of filing, except that in the instance of a wage garnishment, the summons shall be returnable not more than one hundred eighty (180) days after the date of filing on a Friday at 9:00 a.m. (this includes federal agencies).

The case will not be placed on the Court's docket for that date and no appearance by the plaintiff or counsel is necessary. (**Except in garnishment actions arising from support orders, Orders for Payment may not be submitted in advance of the return date.**)

4. **Garnishment Praecept Form**

On the return date or within 21 days thereafter (or in the case of a request to dismiss the garnishment at anytime up to or within 21 days after the return date) the Court's Garnishment Praecept Form must be completed and filed by the plaintiff or plaintiff's counsel. If request is made for entry of an Order for Payment or a Rule to Show Cause, the original of that pleading should be filed with the Praecept Form. Prior to requesting the entry of a Rule to Show Cause against a Garnishee, parties are encouraged to contact the Co-Defendant to determine why an Answer has not been filed. Proposed Order for Payment and Rule to Show Cause forms are available in the clerk's office in the Garnishment packet or can be accessed on the court's website at:

<https://www.fairfaxcounty.gov/circuit/civil-case-information/debtors>

Counsel and pro se parties are encouraged to use these forms. Orders for Payment and Rules to Show Cause will be forwarded by the clerk's office to chambers within forty-eight hours of filing in the clerk's office.

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5. **Service of Orders for Payment and Rules to Show Cause**

It is the responsibility of the plaintiff or plaintiff's counsel to see to it that these pleadings are properly served on the Garnishee. The clerk of the court will mail a copy of the Order for Payment to the Garnishee if the clerk is supplied with an extra copy of the proposed Order and a stamped envelope addressed to the garnishee. Rules to Show Cause should be served pursuant to §8.01-296 of the Code of Virginia. Any questions regarding the Praecipe Notice, Rule to Show Cause and Order of Payments should contact Court Services Section at 703-691-7320 press 3, 1, 0.

6. **Garnishment Review Date**

The Garnishment Review Date will be set by the Court at least four weeks from the Return Date. It will be set on the Garnishment Review Docket which is on the 2nd Friday of each month at 9:00 a.m. At least one week prior to the Review Date, counsel for Plaintiff should file a Garnishment Praecipe, along with a proposed Order for Payment if the Garnishee has filed an Answer. If the Garnishee has not filed an Answer and was properly served, then a proposed Rule to Show Cause against the Garnishee should be submitted to the Court prior to the Review Date.

If the Plaintiff has not filed either of these proposed orders and fails to appear in court for the Review Date Hearing, then the Garnishment will be dismissed by the Court. Any funds held by the Court will be returned to the Garnishee.

7. **Conclusion**

As a result of the above procedures it is the expectation of the Court that virtually all garnishment actions will be concluded within forty-five days of the return date.

Note: Garnishments issued pursuant to §20-78.1 shall continue until modified by the issuing court, or in the case of an arrearage, until the sum or sums of money found to be in arrears are paid in full.