INSTRUCTIONS FOR WAGE DEDUCTION

A. BEGINNING A WAGE DEDUCTION PROCEEDING

(Read 735 ILCS 5/12-801 et seq of the Illinois State Statutes)

1. Prepare Wage Deduction Notice (*See Wage Deduction Notice form.*)

Copies required (4)	Defendant	Court File
	Employer	Your copy

2. Mail of copy of the Wage Deduction Notice to the Defendant

3. Prepare Wage Deduction Affidavit and Interrogatories **(***see Affidavit for Wage Deduction Order form; and Order form to see Interrogatories/Answer to Wage Deduction Proceedings.*)

Copies required (6):	Original for Court
	Four (4) copies for Employer
	Your copy

4. Prepare Wage Deduction Summons *(see Wage Deduction Summons form and Service Page, which must accompany the Wage Deduction Summons)***.**

Copies required (3):	Original for Sheriff/Process Server
	Employer
	Your copy

5. File the Wage Deduction Affidavit and Notice with the Circuit Clerk's Office.

6. The issued summons must be served on the employer by the Sheriff, Private Process Server, or by Certified Mail/return receipt requested. Serve four (4) copies of the Affidavit/Interrogatories and one copy of the Summons and Wage Deduction Notice. Also include a copy of the judgment or a certification of the judgment balance.

B. PROCEEDINGS IN COURT

1. Funds Answer - The employer has filed an Answer indicating that they are able to make deductions from the Defendant's wages. Prepare a Wage Deduction Order and file said order with the Court **(***See Wage Deduction Order form***).**

2. No Funds Answer - A No Funds Answer may be filed by the employer for one of several reasons:

a. The defendant is not employed.
b. Prior child support deduction orders.
c. Insufficient income.
d. Defendant filed bankruptcy.

If faced with one of the above responses, you must prepare an order either discharging the employer or continuing the proceedings to a date in the future which will allow sufficient time for an employer to complete prior deductions **(***scroll down for Non-Withholding Wage Deduction Order.)*

3. NO ANSWER FILED BY EMPLOYER

If the employer fails to Answer, you may file a proposed order for conditional judgment against the employer for the full amount due to the creditor. However, before issuing a Summons After Conditional Judgment, the creditor is advised to contact the employer and determine whether or not the employer intends to file a late Answer with the Court. If the employer is filing an Answer, do not request summons be issued unless the Answer is not, in fact, filed in a reasonable period of time.

4. LATE ANSWERS BY EMPLOYER

   If the employer files an Answer after the return date, a motion for entry of a deduction order should be made with notice given to both the employer and the employee. If a conditional judgment has been entered, that conditional judgment should be vacated at the same time the wage deduction order is entered.

5. SUMMONS AFTER CONDITIONAL JUDGMENT

   If the employer fails to appear in response to a Summons after Conditional Judgment, the Court may enter an order of final Judgment against the employer for the original balance due on the conditional judgment plus additional court costs. Additional interest does not accrue on the conditional judgment, only on the final judgment against the employer.

C. AFTER ENTRY OF DEDUCTION ORDER

1. Send a copy of the deduction order to the employer.

2. Send a Certification of Judgment Balance to the employer at the beginning of each calendar quarter. The mailing of certifications should be commenced at the end of the first full quarter following service of the Wage Deduction Summons. ***Example:*** Summons served April 6. September 30 is the end of the first full calendar quarter after service of summons. The Certification should then be mailed between October 1 and 15. *(See Certification of Judgment balance form)*

Affidavit for Wage Deduction Order
NOTE: FOUR (4) COPIES OF THIS AFFIDAVIT MUST BE SERVED ON THE EMPLOYER

STATE OF ILLINOIS
COUNTY OF ST CLAIR
IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT

_____ Plaintiff-Judgment Creditor	)	
vs.	)	**No.** _____
_____ Defendant-Judgment Debtor	)	**Answer Date**
	)	_____ (21 to 40 days after date of issuance of summons)

(File Stamp Above)

AFFIDAVIT FOR WAGE DEDUCTION ORDER

_____ on oath states:
1. I believe employer _____ is indebted to the judgment debtor _____ for wages due or to become due.
2. The last known address of the judgment debtor is _____ _____.

I request that the Circuit Court Clerk issue summons to the employer. I certify that a copy of the wage deduction notice was mailed to the judgment debtor at the last known address prior to the filing of this wage deduction affidavit.

Name _____
Attorney No. _____ _____
Address _____
City _____
Phone _____ Date _____
Email Address _____

_____
Notary Public

CERTIFICATE OF ATTORNEY OR JUDGMENT CREDITOR

I, the undersigned certify under penalties as provided by law pursuant to section 1-109 of the Code of Civil Procedure that the statements set forth in this instrument are true and correct.

1. Judgment in the above captioned case was entered on _____
2. The amount of the judgment ..... $ _____
3. Allowable costs previously expended:
   a) Initial filing fee ..... $ _____
   b) Original and alias summons ..... $ _____
   c) Filing and summons cost of prior supplementary proceedings ..... $ _____
4. Filing and summons cost for this garnishment ..... $ _____
5. Interest due on judgment to date ..... $ _____

TOTAL $ _____

Deduct: Total amount paid by or on behalf of the judgment debtor prior to this garnishment ..... $ _____

BALANCE DUE JUDGMENT CREDITOR $ _____ _____
Judgment Creditor/Attorney

INTERROGATORIES/ANSWER TO WAGE DEDUCTION PROCEEDINGS

Return Date:_____ Case No. _____

Employer/Agent:_____, certifies under penalty of perjury that the following Answer is true and correct to the best of his/her knowledge and belief concerning the property of the judgment debtor.

Debtor Name:_____Social Security No_____xxx-xx-_____

Do you pay monies to the judgment debtor listed above? Yes_____ No _____

State whether any funds paid to the debtor are for disability, retirement or are in any other way exempt or subject to other Court Order:

_____

One pay period equals:_____day(s)_____week(s)_____month(s)

CALCULATION TO DETERMINE AMOUNT OF WITHHOLDING

(A) Gross Wages minus mandatory contributions to pension or retirement plan is (A)_____

(B) METHOD I – 15% OF (A) = (B)_____

METHOD II

(C) Enter Total FICA, State and Federal Tax and Medicare (C)_____

(D) Subtract (C) from (A) = (D)_____

(E) Enter Minimum wage per pay period (for each week in pay period, 45 times the federal minimum hourly wage or, under a wage deduction summons served on or after January 1, 2006, the minimum hourly wage prescribed by Section 4 of the Illinois Minimum Wage Law, whichever is greater) (E)_____

(F) Subtract (E) from (D) (F)_____

(G) Enter the lesser of Line (B) or (F) (G)_____

(H) Enter Child Support or other Court Ordered Deduction (H)_____

(I) Subtract (H) from (G) (I)_____

(J) Subtract Employer's Statutory Fee (§5/12 – 814) (J)_____

(K) Amount to be applied to judgment (K)_____

Line I is the amount to be withheld from employee's pay check as of the date of service of Summons and not disbursed until further order of the Court.

Signature of Employer _____

INSTRUCTIONS

1. Mail a copy of this Answer to the court and mail to attorney for Plaintiff and give a copy to the Defendant.
2. You will receive a copy of a Court Order by mail or email instructing you how to proceed and where to send deducted funds. DO NOT SEND THE MONIES WITHHELD TO THE CIRCUIT CLERK.

Employer/Agent:

Agent Name_____

Employer Name_____

Address_____

_____

Phone_____

Email _____

Clerk of the Circuit Court

St. Clair County Courthouse

10 Public Square

Belleville, IL 62220

NOTE: A copy of this Answer should be mailed to the Court, Attorney for Plaintiff or Judgment Creditor and to the Defendant.

THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT CLERK
ST. CLAIR COUNTY, ILLINOIS

_____
Plaintiff-Judgment Creditor

Vs. No. _____

_____
Defendant-Judgment Debtor

WAGE DEDUCTION NOTICE

Judgment Debtor's

Name_____

Address _____

City_____

Phone_____

Judgment in the amount of $_____

Employee

Name _____

Address _____

City_____

Phone_____

Return Date: _____
(Insert return date specified in summons)

NOTICE: The court shall be asked to issue a wage deduction summons against the employer named above for wages due or about to become due to you. The wage deduction summons may be issued on the basis of a judgment against you in favor of the judgment creditor in the amount stated above.

The amount of wages that may be deducted is limited by federal and Illinois law.

(1) Under Illinois law, the amount of wages that may be deducted is limited to the lesser of (i) 15% of gross weekly wages or (ii) the amount by which disposable earnings for a week exceed the total of 45 times the federal minimum hourly wage.

(2) Under federal law, the amount of wages that may be deducted is limited to the lesser of (i) 25% of disposable earnings for a week or (ii) the amount by which disposable earnings for a week exceed 30 times the federal minimum hourly wage.

(3) Pension and retirement benefits and refunds may be claimed as exempt from wage deduction under Illinois law.

You have the right to request a hearing before the court to dispute the wage deduction because the wages are exempt. To obtain a hearing, you must notify the Clerk of the Court in person and in writing at _____ _____ before the Return Date specified above. The Clerk of the Court will provide a hearing date and the necessary forms that must be prepared by you or your attorney and sent to the judgment creditor and the employer, or their attorney, regarding the time and location of the hearing. This notice may be sent by regular first-class mail.

Name _____

Attorney No. _____

Address _____

City _____

Phone _____

Email Address _____

_____
Signature of Judgment Creditor or Attorney

_____ *Original to Court*

_____ *Copy to Defendant*

IN THE CIRUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

Plaintiff	)	No. _____
vs.	)	
	)	
	)	
Defendant	)	Address of employer:
	)	
and	)	_____
	)	
Employer	)	_____

WAGE DEDUCTION SUMMONS

To the employer:

YOU ARE SUMMONED and required to file answers to the judgment creditor's interrogatories, in the office of the Clerk of this Court_____Illinois, on or before _____, 20___.
(21 to 40 days after issuance of summons)
However, if this summons is served on you less than 3 days before that date, you must file answers to the interrogatories on or before a new return date, to be set by the court, not less than 21 days after you were served with this summons.

This proceeding applies to non-exempt wages due at the time you were served with this summons and to wages which become due thereafter until the balance due on the judgment is paid.

IF YOU FAIL TO ANSWER, A CONDITIONAL JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE AMOUNT OF THE JUDGMENT UNPAID.

FEDERAL AGENCY EMPLOYERS: Effective upon service of this summons and pursuant to 5 USC 552(a), you are to commence to pay over deducted wages to the attorney for the judgment creditor in accordance with 732 ILCS 5/12-808.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so indorsed. This summons may not be served later than the above date.

Witness_____, 20____. _____
(Clerk of the Court)

(Seal of the court) By _____

(Plaintiff's attorney or plaintiff if not represented by an attorney)

Name_____

Attorney for _____

Address _____ _____ *Original to Court*

City _____ _____ *Copy to Employer*

Phone _____

Email Address _____

SERVICE PAGE (Return original to Court after Service)

SHERIFF'S FEES

(Service and return .....$_____
(
(Miles .....$_____
(
(Total .....$ _____

(a) ☐ I certify that I served this summons on defendants as follows:
(Individual defendants – personal):

(The officer or other person making service, shall (a) identify as to sex, race and approximate age of the defendant with whom the summons was left, and (b) state the place where (whenever possible, in terms of an exact street address) and the date and time of the day when the summons was left with the defendant.)

_____

_____

_____

_____

(b) (Individual defendants – abode):

By leaving a copy and a copy of the complaint at the usual place of abode of each individual defendant with a person of the family or a person residing there, of the age of 13 years or upwards, informing that person of the contents of the summons.

(the officer or other person making service, shall (a) identify as to sex, race and approximate age of the person, other than the defendant, with whom the summons was left; and (b) state the place where (whenever possible in terms of an exact street address) and the date and time of the day when the summons was left with such person.)

_____

_____

_____

_____

and also by sending a copy of the summons and of the complaint in a sealed envelope with postage fully prepaid, addressed to each individual defendant at his or her usual place of abode, as follows:

Name of defendant Mailing Address Date of mailing

_____

_____

(c) (Corporation defendants):

By leaving a copy and a copy of the complaint with the registered agent, office or agent of each defendant corporation, as follows:

Defendant corporation Registered agent, officer or agent Date of service

_____

_____

_____

(d) (Other service):

_____

_____

_____, Sheriff of _____County

By _____, Deputy

TITLE III OF THE FEDERAL CONSUMER PROTECTION ACT
RESTRICTIONS OF GARNISHMENT

Sec. 301. (a) The Congress finds:

(1) The unrestricted garnishment of compensation due for personal services encourages the making of predatory extensions of credit: Such extensions of credit divert money into excessive credit payments and thereby hinder the production and flow of goods in interstate commerce.

(2) The application of garnishment as a creditor's remedy frequently results in loss of employment by the debtor, and the resulting disruption of employment, production, and consumption constitutes a substantial burden on interstate commerce.

(3) The great disparities among the laws of the several States relating to garnishment have, in effect, destroyed the uniformity of the bankruptcy laws and frustrated the purposes thereof in many areas of the country.

(b) On the basis of findings stated in subsection (a) of this section, the Congress determines that the provisions of this title are necessary and proper for the purpose of carrying into execution the powers of the Congress to regulate commerce and to establish uniform bankruptcy laws.

(82 Stat. 163; 15 USC 1671.)

Sec. 302. For the purposes of this title:

(a) The term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

(b) The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld.

(c) The term "garnishment" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt.

(82 Stat. 163; 15 USC 1672)

Sec 303. (a) Except as provided in subsection (b) and in section 305, the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment may not exceed

(1) 25 per centum of his disposable earnings for that week, or

(2) the amount by which his disposable earnings for that week exceed thirty times the Federal minimum hourly wage prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 in effect at the time the earnings are payable, whichever is less. In the case of earnings for any pay period other than a week, the Secretary of Labor shall by regulation prescribe a multiple of the Federal minimum hourly wage equivalent in effect to that set forth in paragraph (2).

(b) The restrictions of subsection (a) do not apply in the case of

(1) any order of any court for the support of any person.

(2) any order of any court of bankruptcy under chapter XIII of the Bankruptcy Act.

(3) any debt due for any State or Federal tax

(c) No court of the United States or any State may make, execute, or enforce any order or process in violation of this section. (82 Stat. 163; 15 USC 1673)

Sec 304. (a) No employer may discharge any employee by reason of the fact that his earnings have been subjected to garnishment for any one indebtedness.

(b) Whoever willfully violates subsection (a) of this section shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(82 Stat. 163; 15 USC 1674)

Sec 305. The Secretary of Labor may by regulation exempt from the provisions of section 303 (a) garnishments issued under the laws of any State if he determines that the laws of the State provide restrictions on garnishments which are substantially similar to those provided in section 303 (a).

(82 Stat. 164; 15 USC 1675)

Sec 306. The Secretary of Labor, acting through the Wage and Hour Division of the Department of Labor, shall enforce the provisions of this Title.

(82 Stat. 164; 15 USC 1676)

Sec 307. This title does not annul, alter, or affect, or exempt any person from complying with, the laws of any State

(1) prohibiting garnishments or providing for more limited garnishments than are allowed under this title, or

(2) prohibiting the discharge of any employee by reason of the fact that his earnings have been subjected to garnishment for more than one indebtedness.

(82 Stat. 164; 15 USC 1677.)

_____*Employer's Copy*

In the Circuit Court
for the Twentieth Judicial Circuit
St. Clair County, Illinois

_____
Plaintiff
vs.

_____ Case # _____
Defendant's Name & last 4 digits of Social Security Number

_____
Employer

WAGE DEDUCTION ORDER

This cause coming to be heard upon the return of a Wage Deduction Summons served upon the employer and the answer filed by the employer, a Wage Deduction Notice having been served upon the employee and the Court fully advised;

IT IS HEREBY ORDERED:

1. That a lien is hereby imposed upon the non-exempt wages of_____, as of the date of the service of the Wage Deduction summons in the amount of $_____including court costs, interest to date and credit for payments to date.

2. That_____is ordered to deduct 15% of the defendant's non-exempt gross wages after deduction for mandatory pension or retirement plans or where the spouse/child support deduction order, if any, leaves funds up to 15% of the non-exempt gross wages, each pay period to be remitted to Plaintiff's attorney (or *Pro Se* creditor) at least monthly. No deductions may occur if Defendant's net check is less than 45 times the federal minimum wage.

3. That a Wage Deduction judgment is hereby entered against Employer, _____ in the periodic sum ordered above each pay period in favor of Defendant _____, for use of the Plaintiff,_____.

4. That employer turn over to Plaintiff the withheld wages from the date of service of the wage deduction proceedings to the date of this order, pursuant to the calculations set forth herein.

5. A lien obtained hereunder shall have priority over any subsequent lien obtained hereunder, except that liens for the support of a spouse or dependent children shall have priority over all other liens obtained hereunder. Employer is further directed to file an amended Answer with this Court and send a copy to the attorney for Plaintiff, informing the Court as to spouse/child support deductions received after the entry of this order.

6. That this continuing Wage Deduction Order shall remain in effect until the judgment of $_____plus 9% simple interest and costs of $_____are paid in full, the Defendant ceases to be employed by the employer, the employee files bankruptcy, or this Court enters an order modifying this order.

7. That any other liens or wage deduction proceedings (other than spouse/child support) shall be held and stacked in the order received by the employer and take effect only upon conclusion of the Order.

8. That this Court retains jurisdiction of the parties hereto and subject matter hereof to amend this order upon any change in circumstances.

DATE: _____

_____
JUDGE

NAME: _____

ATTORNEY FOR: _____

ADDRESS: _____

CITY: _____

PHONE: _____

EMAIL ADDRESS: _____

IN THE CIRCUIT COURT
FOR THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

_____
Plaintiff
vs.

_____ Case # _____
Defendant's Name & last 4 digits of Social Security Number

_____
Employer

NON-WITHHOLDING WAGE DEDUCTION ORDER

This cause coming to be heard on the return of a Wage Deduction Summons, the Court finding:

☐ The employer has failed to file an Answer after service of the Wage Deduction Summons

☐ The employer has filed an Answer showing no funds available to the judgment creditor due to non-employment or bankruptcy of the judgment debtor

☐ The employer has filed an Answer of no funds due to the employee's insufficient income or prior support or Wage Deduction Orders

IT IS HEREBY ORDERED:

☐ That a Conditional Judgment is entered against the employer,_____ in favor of defendant,_____, for us by plaintiff_____, in the sum of $_____.

☐ That these Wage Deduction proceedings are hereby continued to_____ ___ for further hearing as to:

- ☐ Status of current deduction orders.
- ☐ OTHER_____.
- ☐ That this Wage Deduction proceeding shall continue in full force and effect even though it may be subordinate to prior proceedings and no funds are being held at this time.

DATE: _____

_____
JUDGE

IN THE CIRCUIT COURT
FOR THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

CERTIFICATION OF JUDGMENT BALANCE

Employer Name: _____

Address: _____

City, State: _____

RE: Creditor: _____

Defendant: _____

Case No. _____

Balance Due at End of Last Quarter: _____

Pursuant to the Illinois Code of Civil Procedure, Section 12/808.5, the undersigned hereby certifies that the above-stated amount is the balance due on the judgment as of the last day of the last calendar quarter.

Please note that the law requires the employer to hand deliver or mail by first-class mail, a copy of this certification to the judgment debtor at the judgment debtor's last known address.

_____
Attorney for Judgment Creditor or *Pro Se* Creditor

_____*Employer copy*