

IN THE STATE COURT OF CLAYTON COUNTY

SEP 18 2015

STATE OF GEORGIA

  
CLERK STATE COURT  
CLAYTON COUNTYSTANDING ORDER WITH RESPECT TO GARNISHMENTS

On September 8, 2015 the United States District Court for the Northern District of Georgia found Georgia's post-judgment garnishment statute, O.C.G.A. §18-4-60, *et. seq.*, unconstitutional as applied to exempt funds. Strickland v. Alexander, No. 1:12-CV-2735-MHS. The procedures outlined herein are designed to comply with the requirements established by the District Court pending appellant review or further order of the Court.

Upon filing a garnishment, a Plaintiff will be provided a "Notice of Garnishment to Debtor", a "Notice of Garnishment to Garnishee," and a Return Service Form. The Notice of Garnishment to the Garnishee must be served along with the Summons of Garnishment. The Notice of Garnishment to the Debtor must be served along with the notice required by O.C.G.A. §18-4-64. These Notices inform both garnishees and debtors of exemptions to garnishment that may apply.

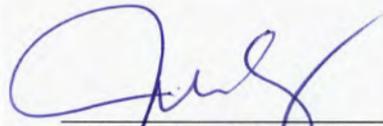
The Return of Service form, along with the required supporting documentation, must be filed with the Clerk following service on the debtor. The Plaintiff or counsel certifies on this form the manner of service on the debtor and that the Notice of Garnishment to Debtor has been served along with notice of the garnishment. If this form is not properly filed, no funds will be disbursed to the Plaintiff.

In Philpott v. Essex County Welfare Board, 409 U.S. 413, 416 (1973), the Supreme Court held federal benefits remained exempt upon deposit. In 2011, the federal government established rules for electronic deposits of exempt federal benefits requiring such funds not be paid into court. 76 Fed. Reg. 9939 (Feb. 23, 2011), 31 C.F.R. 212.1 to 212.12. Consequently, this Court has endeavored to avoid long delays when there has been a claim of exempt funds subject to garnishment.

The District Court's decision makes clear a debtor need not wait until the Garnishee answers to file a clam under O.C.G.A. §18-4-95 followed by a traverse under O.G.G.A. §18-4-86. If a debtor

contests a garnishment by claiming exempt funds are being withheld, a hearing will be set within ten (10) business days before the presiding judge. While the Clerk's Office will make its best efforts to accommodate all parties, Plaintiffs should understand this hearing is of constitutional dimension and conflicts may not be honored. When filing a garnishment, Plaintiffs should provide the Clerk's Office all possible contact information. If the Court finds funds sought in garnishment are exempt, an appropriate order will be entered releasing such funds from the garnishment process immediately.

**SO ORDERED** this 18 day of Sept, 2015.



Chief Judge John E. Carbo, III.  
Clayton County State Court