

PROCEDURE FOR ATTACHING WAGES (LANDLORD/TENANT JUDGMENT)

The holder of a judgment awarded for amounts arising out of a residential lease must first file that judgment in common pleas court (if it was entered in MDJ court), by doing the following:

File a Certified copy (certified by MDJ) of the judgment from the MDJ for each debtor and a Rule 236 Notice of Entry form (fill in caption only) and a notarized affidavit of validity. Also include page 3 of the MDJ form that contains the current names and addresses of all parties. File an original and copy for all debtors to be served with addressed envelopes (for each debtor) large enough to hold documents filed and apply the correct postage. If you are the filing party and want a copy returned, you must include an additional copy and a self-addressed stamped envelope. No cover sheet is required. There is a filing fee (as of 11/2020 it is \$25.75).

You can then file a Praecipe for Notice of Intent to Attach Wages. You must also include a Notice of Intent to Attach Wages (fill in caption only), a blank Claim for Exemption form (fill in caption only) and a copy of the current federal poverty guidelines. You can find the current guidelines here:

<http://www.pacourts.us/courts/supreme-court/committees/rules-committees/civil-procedural-rules-committee/>

There is no filing fee to file the Praecipe but there is a \$200 deposit for service by the Sheriff. You need to provide one copy of these four documents for each defendant and one for yourself, if you want it.

The Prothonotary will issue the Notice of Intent to Attach Wages and provide the paperwork to the Sheriff. The sheriff will serve the Notice and related paperwork and then file a return of service.

If the defendant does not file a Claim for Exemption within thirty (30) days after being served, you can then file a Praecipe for Writ of Attachment of Wages. You must also include a blank Writ of Attachment of Wages (fill in caption only). You must provide copies of these two documents for each defendant and each garnishee (and one for yourself if you want it), along with stamped addressed envelopes for each. There is a filing fee (as of 11/2020 it is \$45.00 plus \$.50 per garnishee).

The Prothonotary will issue the Writ by mailing a copy to each Defendant and to each garnishee (employer).

If the Defendant files a Claim for Exemption before the Writ of Attachment is issued, the Prothonotary will send you Notice of the Claim, along with a copy of the Claim. If you wish to challenge the claim of exemption, you may file a motion requesting the court to direct the Prothonotary to issue the writ for the attachment of wages. You must set forth in the motion facts which establish you are entitled to attach

wages (that you are a landlord, defendant is/was your tenant, and the judgment sought to be enforced arose out of a residential lease, for unpaid rent or for damages to the property) and facts which show that the defendant's net income is not below the poverty income guidelines or that the attachment will not cause the defendant's net income to fall below those guidelines. You must include a Verification at the end of the motion and include a Motion Cover Sheet on the front of the motion. The court will schedule a hearing and you will receive notice of that hearing date and time in the mail.

These are the PA Rules of Civil Procedure that govern this process:

Rule 3302. Commencement. Notice

(a) The plaintiff shall commence an execution to attach wages by filing a praecipe with the prothonotary of a county in which judgment has been entered and in which the defendant resides, the defendant works or the residential real property which is the subject of the action is located. The praecipe shall be filed within five years of the date of the original judgment. The praecipe shall be in the form prescribed by Rule 3311.

(b) Upon the filing of the praecipe, the prothonotary shall issue a Notice of Intent to Attach Wages in the form prescribed by Rule 3312(a). The prothonotary shall attach to the notice a copy of both (1) the praecipe filed with the prothonotary for issuance of the Notice of Intent to Attach Wages and (2) the most recent poverty income guidelines issued by the Federal Department of Health and Human Services as they appear on the web site of the Civil Procedural Rules Committee.

Note: The web site of the Civil Procedural Rules Committee is part of the home page of the Administrative Office of Pennsylvania Courts at www.pacourts.us.

The poverty income guidelines set forth on the Committee web site which are to be attached to the Notice of Intent to Attach Wages are stated in monthly amounts.

(c) The Notice of Intent to Attach Wages shall be served upon the defendant in the manner provided by Rule 400 et seq. for service of original process in a civil action.

Note: The notice shall be served

(1) by the sheriff in the manner prescribed by Rule 402(a) for the service of original process upon a defendant, or

(2) pursuant to special order of court as prescribed by Rule 430 if service cannot be made as provided in paragraph (1) of this note.

Rule 3303. Exemption from Attachment. Procedure

(a) A defendant claiming an exemption from attachment based upon the federal poverty income guidelines shall file the claim for exemption with the prothonotary within thirty days of service of the Notice of Intent to Attach Wages.

Note: For the form of the claim for exemption, see Rule 3312(b).

(b)(1) If the defendant files a claim for exemption of wages from attachment either within thirty days as required by subdivision (a) of this rule or prior to the issuance of the writ of attachment, the prothonotary shall not issue the writ of attachment and shall send a notice of the claim for exemption of wages from attachment to the plaintiff or, if represented, to the plaintiff's attorney. The prothonotary shall attach a copy of the claim to the notice.

Note: For the form of the notice for exemption, see Rule 3312(c).

(2) If the defendant files a claim for exemption after the writ of attachment has been issued, the attachment of the defendant's wages shall continue unless the defendant obtains a court order staying or vacating the attachment.

(c) A plaintiff who wishes to challenge the claim of exemption shall file a motion requesting the court to direct the prothonotary to issue a writ for the attachment of

wages. The motion shall set forth facts which establish that the plaintiff is entitled to attach wages pursuant to Section 8127(a)(3.1) of the Judicial Code. If the motion on its face sets forth such facts, the court shall set a hearing date or set forth another procedure provided by Rule 208.4 as may be appropriate.

Rule 3304. Writ for the Attachment of Wages. Issuance. Service

- (a) The prothonotary shall issue a writ for the attachment of wages upon
 - (1) praecipe of the plaintiff where the defendant has not timely filed a claim for exemption of wages from attachment, or
 - (2) order of the court entered upon motion pursuant to Rule 3303(c).
- (b) The prothonotary shall by ordinary mail send the writ to the garnishee and to the defendant.
- (c) The writ of attachment of wages shall be substantially in the form provided by Rule 3313.

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA
CIVIL DIVISION

Plaintiff(s) :
vs. :
Defendant(s) :

File No. _____

NOTICE OF FILING JUDGMENT

() Notice is hereby given that a _____
in the above-captioned matter has been entered against you in the amount of
_____ on _____.

() A copy of all documents filed with the Prothonotary in support of the within
judgment is / are enclosed.

Prothonotary/Clerk, Civil Division
by: _____
Deputy

If you have any questions regarding this Notice, please contact the filing party:

Name: _____
Attorney for Party: _____
Supreme Court ID No.: _____
Address: _____

Telephone No. _____

(This Notice is given in accordance with Pa.R.C.P. No. 236.)

CIVIL DIVISION

VS
Plaintiff
Defendant

File No. _____

PRAECIPE FOR NOTICE OF INTENT TO ATTACH WAGES

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue a Notice of Intent to Attach Wages in the above matter

- (1) against _____, defendant,
- (2) against _____, employer of the defendant.

Date: _____

Signature of Attorney for Judgment Creditor-Landlord
Print Name: _____

OR

Signature of Judgment Creditor-Landlord if unrepresented
Print Name: _____
Address: _____

Telephone: _____

CERTIFICATION BY JUDGMENT CREDITOR-LANDLORD

I certify that

1. The Plaintiff Judgment-creditor is _____

Name and Address

2. The defendant judgment-debtor is _____

Name and Address

3. The employer garnishee is _____

Name and Address

4. The judgment arises out of a residential lease for the premises at _____
_____ (address).

5. (a). The amount of the judgment is \$ _____.
(b). A security deposit in the amount of \$ _____ is being held by the judgment creditor-landlord. This security deposit
_____ has been applied
_____ has not been applied
to payment of rent due on the same premises for which the judgment has been entered. (Any security deposit that has not already been applied to rent will be deducted by the Prothonotary from the amount of the judgment in determining the amount to be attached.)
(c). The amount of \$ _____ has been paid toward satisfaction of the judgment. (Do not include the security deposit.)

6. This praecipe is filed within five years of the date of the original judgment upon which execution is sought.

7. The judgment was entered (check one):
_____ in a civil action commenced in the court of common pleas.
_____ in an action brought before a magisterial district judge.
_____ in an action commenced in the Philadelphia Municipal Court.

8. Check the appropriate paragraph and attach the required documents:

- _____ (a). If the judgment was entered in a civil action (Pa.R.C.P.M.D.J. 301 et seq.) before a magisterial district judge, a copy of the complaint filed with the magisterial district judge is attached to this Notice, showing that the action arose from a residential lease.
- _____ (b). If the judgment was entered in an action for the recovery of possession of real property (Pa.R.C.P.M.D.J. 501 et seq.) before a magisterial district judge, copies of the appropriate magisterial district judge records are attached showing that the action arose from a residential lease and that the defendant appeared or filed papers in the action or that the complaint was served by handing a copy to the defendant.
- _____ (c). If the judgment was entered in an action in the Philadelphia Municipal Court in which the defendant was served pursuant to Phila.M.C.R.Civ.P. No. 111(A) or (C), a copy of the complaint filed with the Philadelphia Municipal Court is attached to this Notice, showing that the action arose from a residential lease.
- _____ (d). If the judgment was entered in an action in the Philadelphia Municipal Court in which the defendant was served pursuant to Phila.M.C.R.Civ.P. No. 111(B), copies of the appropriate Philadelphia Municipal Court records are attached showing that the action arose from a residential lease and that the defendant appeared or filed papers in the action.

I certify that the statements made in this Certification are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Judgment Creditor-Landlord

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

CIVIL DIVISION

VS

Plaintiff

Defendant

File No. _____

NOTICE OF INTENT TO ATTACH WAGES, SALARY OR COMMISSIONS

Date of service of this Notice: _____ (Date to be inserted by the Sheriff)

A judgment has been entered against you in court for nonpayment of rent for, or damage to, residential property that you rented. The judgment creditor-landlord has begun proceedings to attach 10% of your net wages, salary or commissions for each pay period until the judgment is satisfied.

The following exception will prevent your wages from being attached:

Poverty Guidelines -- Your wages may not be attached if your net income is below the poverty income guidelines as provided annually by the Federal Department of Health and Human Services or if the amount of the attachment would cause your net income to fall below the poverty income guidelines. A copy of the guidelines is attached to this notice.

If this exemption is applicable to you, you must return the claim for exemption of wages which is attached to the Prothonotary within 30 days of the date of service of this notice upon you. The date of service of this notice is set forth above. If you return the form claiming this exemption within 30 days, your wages will not be attached without subsequent court proceedings.

There may be other legal grounds for opposing the wage attachment that you may be able to raise by filing a motion with the court. For example, your wages may not be attached if you are an abused person or victim as set forth in Section 8127(f) of the Judicial Code when the attachment is to satisfy a judgment for physical damages to the leased premises.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

NORTH PENN LEGAL SERVICES

25 West Third Street, Suite 400

Williamsport, PA. 17701

TELEPHONE NO. (570)323-8741

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

CIVIL DIVISION

Plaintiff

VS

File No. _____

Defendant(s)

CLAIM FOR EXEMPTION FROM WAGE ATTACHMENT

NOTICE

(This Claim for Exemption must be filed with the Prothonotary of the Court within 30 days of service upon you of the Notice of Intent to Attach Wages.)

To the Prothonotary/Clerk of Said Court:

I, the above-named defendant, claim exemption of my wages, salary or commissions from attachment on the following ground:

_____ My net monthly income is below the poverty income guidelines as provided by the Federal Department of Health and Human Services.

OR

_____ The amount of wages to be attached would place my net income below the poverty income guidelines as provided annually by the Federal Department of Health and Human Services.

I have _____ (number) dependents.

My net monthly income is \$ _____.
(Net monthly income is your total monthly wages less (1) any support payments made to the court, (2) federal, state and local income taxes, (3) F.I.C.A. payments and nonvoluntary retirement payments, (4) union dues and (5) health insurance premiums.)

I certify that the statements made in this Claim for Exemption are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Defendant

This claim shall be delivered or mailed to: Office of the Prothonotary/Clerk, Civil Division

Court of Common Pleas

Suzanne M. Fedele, Prothonotary

48 West Third Street, Williamsport, PA. 17701

Telephone: (570)327-2256

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA
CIVIL DIVISION

_____ Plaintiff

VS

FILE NUMBER: _____

_____ Defendant

PRAECIPE for WRIT OF ATTACHMENT of WAGES, SALARY or COMMISSIONS

To the Prothonotary:

Issue a Writ of Attach wages, salary or Commissions in the above matter

- 1) Against _____, Defendant

Defendants Address

- 2) Against _____, Garnishee,/ Employer of the Defendant

Employers Address

The amount of the judgment is \$ _____

A security deposit in the amount of \$ _____ is being held by the judgment creditor-
landlord. This security deposit

_____ has been applied _____ has not been applied
to payment of rent due on the same premises for which the judgment has been entered.

(Any security deposit that has not already been applied to rent will be deducted by the
Prothonotary from the amount of the judgment I determining the amount to be attached.)

The amount of \$ _____ has been paid toward satisfaction of the judgment. (Do not include
the security deposit.)

Date: _____

Attorney for Judgment Creditor-Landlord or
Landlord if unrepresented

Telephone Number

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

_____, : NO.
Plaintiff :
 :
vs. :
 :
_____, :
Defendant :

Motion to Challenge Claim for Exemption

1. Petitioner, _____ (name), is an adult individual residing at _____ (address).

Petitioner is the Plaintiff/Defendant (circle one) in the above-captioned action.

2. Respondent is _____ (name), the Plaintiff/Defendant (circle one) in the above-captioned action.

3. Petitioner owns certain residential property, which is or was leased by Respondent.

4. Petitioner obtained a judgment for unpaid rent and/or damages, arising out of that residential lease, and is now seeking to attach Respondent's wages to collect on that judgment. Petitioner has filed a Praecipe for Notice of Intent to Attach Wages.

5. Respondent filed a Claim for Exemption on _____ (date).

6. Petitioner seeks to challenge the Claim for Exemption on the following basis:

WHEREFORE, Petitioner requests this Court determine that Respondent is not entitled to make the claim of exemption and direct the Prothonotary to issue a Writ of Attachment of Wages.

Respectfully submitted,

(signature of Petitioner)

VERIFICATION

I, _____, state that I am the Petitioner in the foregoing matter and that the facts set forth in the foregoing Motion are true and correct to the best of my knowledge, information and belief. I further understand that false statements made herein are subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.

(signature of Petitioner)

INSTRUCTIONS FOR COMPLETING MOTION COVER SHEET

1. Write the Plaintiff's name on the line above the word "Plaintiff".
2. Write the Defendant's name on the line above the word "Defendant"
3. Write the case number of your case on the line after the words "Docket No."
4. Write your name on the line in Paragraph 1, "Name of Filing Party".
5. Write "pro se" on the line in Paragraph 2, "Filing Party's Attorney". (This means you are "for yourself".)
6. Write your name and address and the other party's name and address in the box numbered 6.

Leave the rest of the form blank.

