



Cherokee County Justice Center
90 North Street, Suite G-170
Canton, Georgia 30114
678-493-6511

NOTICE FROM CLERK OF COURTS

Date: October 21, 2015

Subject: STATUS OF GARNISHMENT CASES-***1ST UPDATE***

From: Patty Baker, Clerk of Courts

With the ruling of the United States District Court in *Strickland v. Alexander*, 1:12-CV-02735-MHS (N.D.GA. Sep 8, 2015) read with the Order and the Amendment Judgement both issued October 5, 2015, the constitutionality of the procedure through which garnishment cases against financial institutions filled under O.C.G.A. § 18-4-60 et seq. (“bank garnishment cases”) are administered throughout the state remains in question. Until the constitutional question is resolved and the rights of the parties to the bank garnishment cases are clarified, the Office of The Clerk of Courts of Cherokee County will follow the protocol set out below:

1.

With the District Court’s October 5 decision that wage-based garnishment cases filed against a judgment debtor’s employer are unaffected by its September 8 ruling, wage-based garnishments will be processed in accordance with applicable law. The Clerk of Courts will continue to accept and file documents related to any bank garnishment cases, including all garnishee answers.

2.

However, effective as of the date of the previous Memo From Clerk of Court (September 10, 2015) and until further court order or legislative direction, the Clerk of Court will not be able to otherwise process any bank garnishment cases.

3.

As a result, no summons for any bank garnishment cases filed after September 8, 2015 will be issued until further court order or legislative direction.

4.

Any monies related to any bank garnishment cases that are submitted to the Clerk of Court after September 8, 2015 will be returned. The Clerk of Court will not remit any monetary deposits related to any bank garnishment cases into the Registry of the Court without court order or legislative direction.

5.

Any monies related to any bank garnishment cases that were received by the Clerk of Court before September 8, 2015 will remain in the Registry of the court. The Clerk of Court will not disburse any funds related to any bank garnishment cases from the Registry of the Court without court order or legislative direction. **This protocol is not intended to preclude Defendants whose monies are both held in the Registry of the Court AND who believe the monies are subject to exemption from setting out a written claim and seeking a hearing before the Court for return of exempt monies. Parties are advised to consult counsel to determine if the monies are subject to exemption from garnishment.**

6.

Any change in protocol will be made public in the form of an updated NOTICE FROM CLERK OF COURTS available through the website for the Clerk of Courts (clerk.cherokeega.com) and posted at the Office of the Clerk of Court.