

The Community Foundation of Greater Chattanooga

The Impact of Debt Collection Lawsuits in Hamilton County, TN

Findings



Dear friends,

Over the last several years, the Board and staff of the Community Foundation of Greater Chattanooga have increased our focus on addressing the root causes of persistent poverty and creating new pathways for upward economic mobility.

This work was prompted by a variety of troubling reports that indicated how sharply upward mobility was being limited, as well as the first-hand feedback we were receiving from our many valued nonprofit partners. Simply put, we found that for many families in the communities we serve, there simply were no viable mobility pathways – no way to get ahead. If you are a Chattanoogaan born into poverty, there is a high degree of probability that you will live in poverty for your entire life.

The burden of household debt – where it comes from and how it is managed – became especially interesting to us once we began to realize exactly how much debt was being carried by so many local families who are already economically fragile. Could debt collection itself be creating additional harms and complications for Chattanoogaans? What might be done within the bounds of the law to change these outcomes?

Last year, the Community Foundation of Greater Chattanooga entered into a partnership with The Pew Charitable Trusts and our local General Sessions Court to have a look at the civil court debt collection process and its impact on our community. The results of our research are contained in this report.

We entered into this work because we believe in helping people in our community who work hard but still struggle to get ahead. People like Pam (her name has been changed to protect her identity).

Pam has a good job where she makes \$15.50 per hour. Years ago, however, she incurred some medical debt that she has never been able to pay. A debt buyer acquired the debt from the original creditor and sued Pam. Because of her work schedule, she could not make her court appearance, and the judge had no choice but to side with the collector. Now her employer is garnishing 25% of every paycheck.

Pam filed a motion with the court to pay the debt in installments. Fewer than 5% of consumers file to pay their debt in installments like Pam and get the protections that Tennessee's law provides. When the creditor failed to show up in court, the judge granted her motion, and Pam immediately went to the clerk's office to have her garnishment released.

Unfortunately, the garnishment could not be released until Pam's outstanding court costs were paid. While her employer had been garnishing her wages, they hadn't yet turned over those wages to the court. The court costs can only be satisfied once the court has gotten that money – and only then will the garnishments stop.

On top of that, the garnishment department at her workplace does not have phones. She can only contact them by email or fax machine.

Pam is committed to paying her debts and willing to work hard to get it done. Even so, she's spending enormous amounts of time getting referred from one office to the next, unable to explain her situation to her employer or find out what has happened to the money that has already been taken out of her paycheck. She's trying to do the right thing but she can't get help anywhere.

As a result, she's stuck with only bad options. Forgo her rent to pay court costs? Go into debt with someone else to cover her rent? Risk eviction? Give up entirely?

What would you do?

We are dedicated to removing barriers to economic mobility and creating opportunities for every family's stability and well-being. Court-enforced debt is an invisible but crushing weight for many families; in many cases, a family's biggest expense. Pam's story is true and all too common. She represents hundreds and hundreds of Hamilton County residents who are struggling in similar predicaments.

Over a year, we had the opportunity to speak with dozens of community members whose work intersects with this issue. One local pastor told us, "We see this every day. I probably get more calls about [evictions and garnishment] than spiritual questions." While many people will of course turn to their faith leaders in times of crisis, it is revealing that often people will do so because they have no idea where else to turn or what resources may be available to them.

The burden that the current system places on our local businesses is enormous as well. During this research, we spoke to numerous employers. They all shared that garnishing their workers' wages or clients' bank accounts cost them a great deal in time and effort, to say nothing of the legal exposure that they incur or the damage done to their relationships with their employees or clients.

While this document represents the end of one phase of our work, we believe that it is only the beginning of a dialogue that will take many shapes and lead to positive outcomes in the years ahead. Hamilton County's court system has a track record of innovation, collaboration, and problem-solving. We hope our work on debt collections follows in that tradition.

As one local pastor reminded us: "Hope is in the court." Indeed, so long as our state and local policies are aligned with our promise to the families we serve, we can keep building a community that is fair, just, and strong.

On their behalf and ours, thank you.

Maeghan Jones
President and CEO

Dallas Joseph
Chairman, Board of Directors

Executive Summary

- 1 General Sessions Court Dockets Are Dominated by Consumer Debt Collection Cases
- 2 Debt Buyers Are Increasingly Using Hamilton County General Sessions Court to Collect Debt
- 3 Debt Collection Impacts People Across the Income Spectrum
- 4 The Court Receives Limited Information to Verify Service is Proper
- 5 Consumers Receive Limited Information About the Lawsuit
- 6 Consumers Have Limited Assistance to Help Them Engage in Their Debt Collection Lawsuit
- 7 Most Consumer Debt Collection Cases Result in a Default Judgment Against the Consumer, and Very Few Go to Trial
- 8 Going to Court Can Add a Sizeable Amount to the Judgment
- 9 Debt Collectors Utilize General Sessions Court to Gain Access to Powerful Collection Tools
- 10 Slow Pay Motions Can Reduce Financial Strain on Consumers But Are Rarely Used
- 11 Businesses Are Harmed by Consumer Debt Collection Litigation



Table Contents

1	Welcome Letter
3	Executive Summary
5	Introduction
6	Data Reviewed & Methodology
7	How Debt Becomes a Garnishment
9	Findings
27	Appendices
28	Glossary
29	Methodology
31	Acknowledgements
32	Court Forms
36	End Notes

Introduction

Debt—and the legal system that governs how debt is collected—deeply impacts the Hamilton County community. Each year, thousands of debt collection lawsuits are filed in General Sessions Court, with three cases filed for every hundred adults living in Hamilton County. According to the Urban Institute, in 2022 alone, over 85,000 individuals had at least one debt in collection, and many of these debts ultimately became a debt collection lawsuit.

These lawsuits are brought by a vast array of debt collectors, including credit card companies, hospitals, auto lenders, and payday lenders. A growing number of lawsuits are brought by third-party debt buyers from out of state who typically purchase consumer debt for pennies on the dollar.

From the perspective of the debt collector, each case generally seeks to recover relatively low amounts of money; the median amount in controversy is \$2,000. Consumers, however, may find that repaying these debts is almost impossible on top of their monthly expenses. A single unexpected medical bill or car repair paid with a credit card can quickly double in size with added interest, late fees, court costs, and post-judgment interest.

These lawsuits are especially difficult for consumers because debt collectors are almost always represented by an attorney, and consumers are almost never represented. The majority of these cases end up with default judgments entered against consumers because they did not appear in court to advocate on their own behalf. Once a judgment is entered, the debt collector has a host of court-sanctioned collection tools at their disposal, including the ability to garnish wages and seize bank accounts.

These collection tools can lead to devastating consequences for individuals and entire communities. When a debt collector has a judgment, up to 25 percent of a consumer's paycheck may be garnished until their debt is fully repaid. A debt collector may also garnish someone's entire savings account. These garnishment tools can leave people unable to cover their basic needs, including mortgage, rent, food, utilities, and medical expenses, even if they are gainfully employed.

Garnishments hurt businesses in our community as well. Processing garnishments is administratively burdensome, especially for small businesses with hourly employees whose wages may fluctuate from week to week. A mistake in implementing a garnishment can lead to an employer being financially responsible for its employee's debt. Additionally, wage garnishments may drive employees to switch jobs, leaving an employer with the additional costs of recruiting and training new staff.

Lastly, the sheer volume of debt collection cases that must be adjudicated every week fills court dockets and strains every aspect of our civil justice system. The consumer debt collection processes in Hamilton County can be improved in ways that reduce the economic harm to local families and businesses, while improving the efficiency and enhancing the integrity of our courts.



Data Reviewed & Methodology

This report used publicly-available court data and stakeholder interviews to understand the impact of debt collection lawsuits in Hamilton County. The report primarily relied on docket data from Tennessee Case Finder for case-level information on civil cases filed between 2016–2022 in Hamilton County, including case filing dates, case types, party names, defendant addresses, judgment amounts, and detailed information about service and garnishments. The Legal Services Corporation scraped and cleaned this data.

To analyze case outcomes, the research team reviewed data provided by Hamilton County Court Clerk’s Office for cases filed between 2020–2022. For other information not included in the court data—including the original claim amount, requests for attorney’s fees and post-judgment interest, and the identity of the original creditor in debt buyer cases—the research team hand-reviewed court documents from a statistically random sample of 500 debt collection cases filed between 2018–2022. The research team also accessed data from the Hamilton County Register of Deeds for lien judgments filed from 2016–2022. To estimate income-level information, the research team utilized court data and data from the 2015–2019 American Community Survey and the Consumer Financial Protection Bureau’s 2017 Financial Well-Being Survey.

The research also included interviews with various stakeholders, including General Sessions Court judicial officers, creditors and creditor’s attorneys, bankruptcy trustees, legal aid attorneys, banks and employers who process garnishment, and people who have experienced a consumer debt.

For more information, see the full methodology, which is included as an appendix.

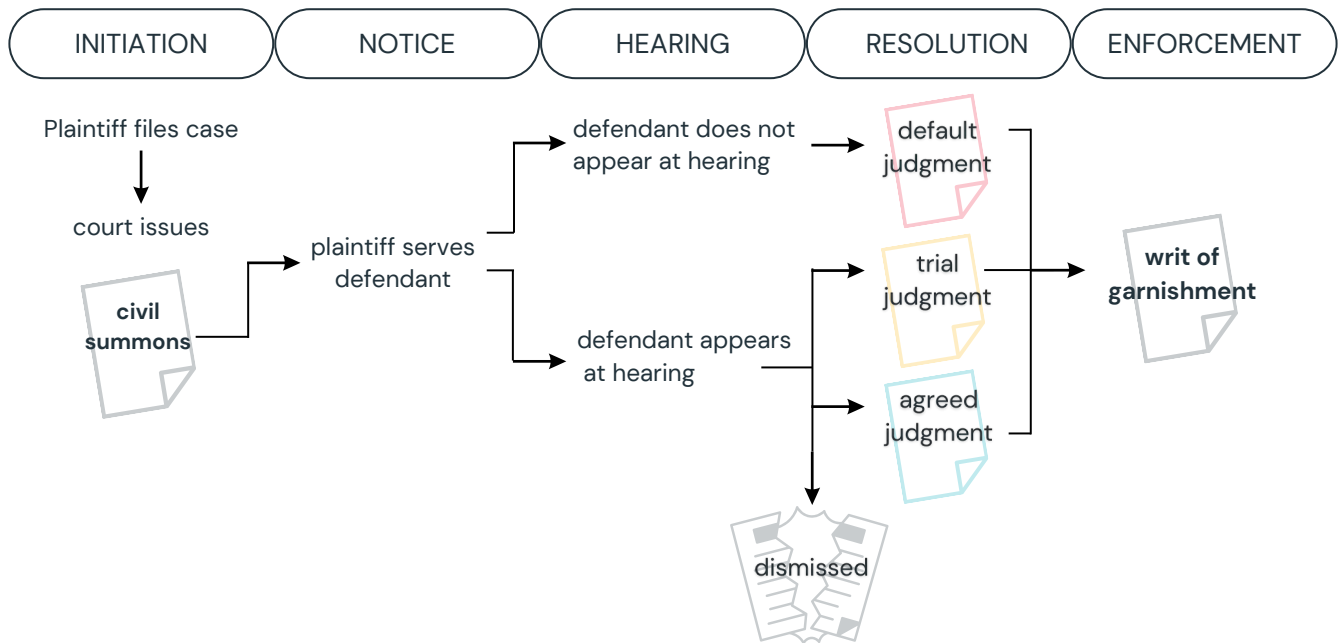
How A Debt Becomes A Garnishment

Consumer debt cases are those in which a business sues a consumer to collect a debt. The business is referred to as a “debt collector,” and once the business has filed a lawsuit, it is also referred to as a “plaintiff.”

These cases begin with a past due debt. A consumer may fall behind on a credit card, auto loan, medical bill, payday loan, or any other debt the consumer takes on to pay for household needs. These debts do not include federal student loans, mortgages, or foreclosures, which are subject to different rules.

Figure 1: General Sessions Court

A lawsuit to collect on a consumer debt follows the process illustrated here.



These are the key stages of a debt collection lawsuit:

1. Lawsuit Initiation. When the consumer fails to make the required payments on a debt, the debt collector can sue the consumer to recover the balance owed. To start the case, the debt collector completes the upper portion of the Civil Summons form with the consumer's name and address and basic information about their claim, such as the amount they seek to recover. They then file that document with the General Sessions Court. The court clerk sets a hearing and fills out the rest of the Civil Summons with the date and time of the hearing.

2. Notice. The debt collector is required to notify the consumer of the lawsuit by serving the consumer with the Civil Summons and any other documents the debt collector may have included when it filed its lawsuit. Service is typically done by the Sheriff's Office or a private process server hand-delivering the documents to the consumer. When consumers are sued for a debt, they are referred to as "defendants."

3. Hearing and Resolution. Consumer debt cases can be resolved in the following ways:

Dismissal: The case is closed without a judgment and, depending on the type of dismissal, may be re-filed later. Dismissals can happen if the debt collector is unable to serve the consumer, identifies a mistake or defense in the case, or reaches a settlement in the case with the consumer and agrees to dismiss the case.

Default Judgment: If the consumer does not attend a hearing for the case, then the debt collector automatically wins the case, and the court enters a judgment in the debt collector's favor. Prior to entering the default judgment, judges may review the documents to make sure that service was proper and the plaintiff is entitled to the attorney's fees and post-judgment interest requested.

Agreed Judgment: The parties reach an agreement to settle the case. This may happen at any point before a judgment is entered. When the parties negotiate a settlement at the hearing in the courtroom, this is done without any court supervision. Agreed judgments are sometimes referred to as "stipulated agreements."

Trial: If the consumer appears at the first hearing and wants to contest the case, then the court will schedule a second hearing where the judge will hear the case.

4. Enforcement. Once the plaintiff has a judgment, they gain access to powerful collection tools. The debt collector can garnish a consumer's bank account or a portion of the consumer's paycheck. The debt collector can also place a lien on the plaintiff's home or car to place an interest on the property until the debt is repaid.



FINDINGS

The Impact of Consumer Debt Collection Lawsuits in Hamilton County

Research conducted in 2023 by Community Foundation of Greater Chattanooga, in partnership with the Hamilton County General Sessions Court, and with support from The Pew Charitable Trusts and January Advisors, identified eleven specific and distinct findings that indicate how current policies and practices may be impairing the community's economic stability and creating undue burdens on our local court system.

1. General Sessions Court Dockets Are Dominated by Consumer Debt Collection Cases

Consumer debt collection lawsuits dominate Hamilton County General Sessions Court,¹ with approximately 8,500 cases filed each year during the 2016–2022 period studied. Almost one-third of adults in Hamilton County have at least one debt in collection. While not every delinquent debt transforms into a debt collection lawsuit, each year, debt collectors file three cases for every hundred adults living in Hamilton County.

These debt collection cases usually seek to recover a relatively low amount of money. Half of debt collection cases seek to recover under \$2,000. This amount of money may be relatively small from the perspective of the court and debt collectors; however, this amount can be seemingly impossible for most consumers to repay on top of their basic living expenses.

Hamilton County debt collection lawsuits by the numbers (2019)

- **85,000+** adults with any debt in collections
- **8,992** lawsuits filed in General Sessions Court
- **3** lawsuits filed in court per **100** adults
- **\$2,000**: median amount in controversy

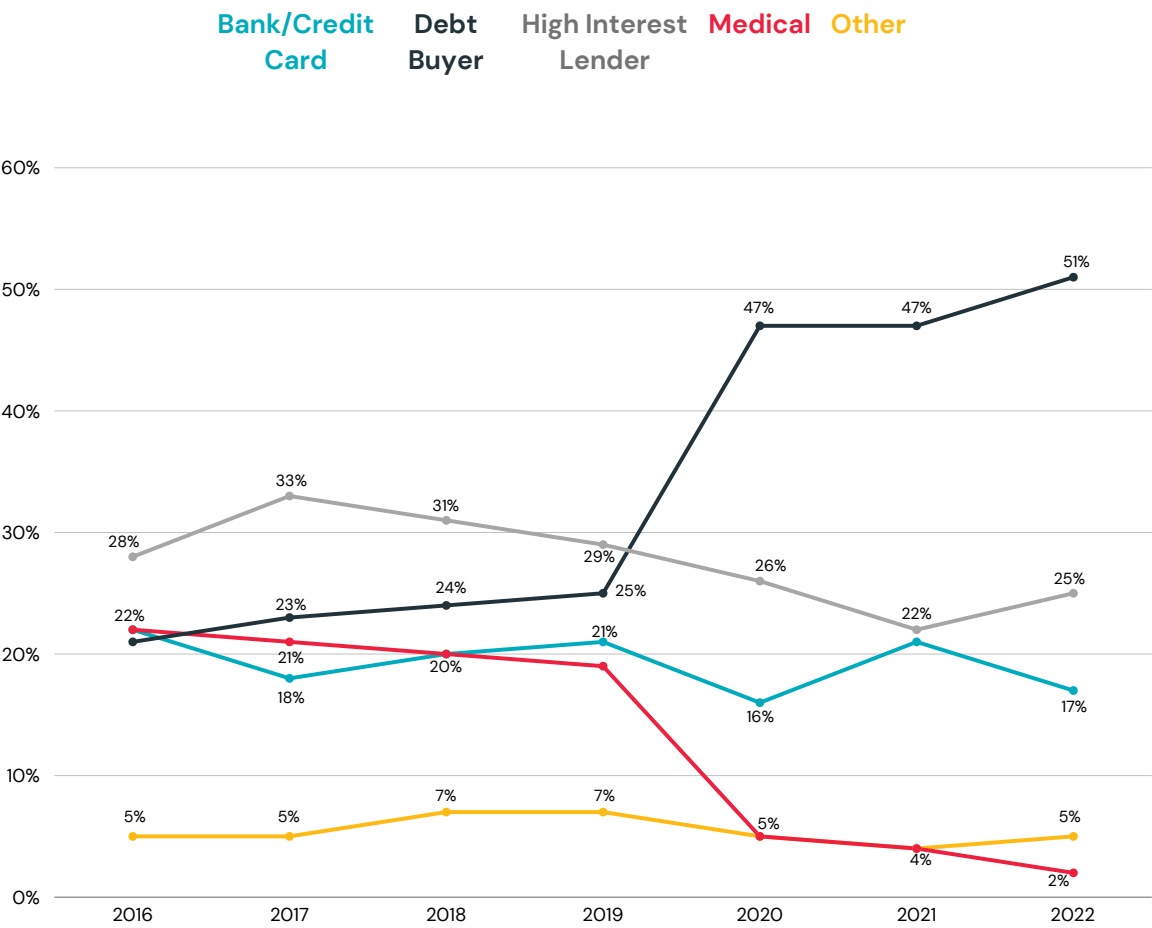
2. Debt Buyers Are Increasingly Using Hamilton County General Sessions Court to Collect Debt

Debt buyers purchase debt from creditors, typically for pennies on the dollar. While some debt buyers specialize in purchasing credit card debts, debt buyers can purchase any kind of consumer debt, including medical debt. Despite purchasing the debt at a discount, the debt buyer can collect the full amount of the debt from the consumer in court.²

The share of lawsuits filed by debt buyers in Hamilton County has markedly increased. In 2016, debt buyers filed 21 percent of cases in Hamilton County. By 2022, however, debt buyers' cases doubled to 51 percent. This aligns with research in other states showing that debt buyers are filing an increasingly larger share of lawsuits in state civil courts.³ Indeed, in 2022, the top four filers in Hamilton County were all debt buyers—some of which are also

top filers in other states—and these four debt buyers alone filed 35 percent of all debt collection cases in Hamilton County.

Figure 2: Debt buyers are filing a growing share of debt cases.
The share of cases brought by debt buyers increased from 21 percent of cases in 2016 to 51 percent of cases in 2022.



Source: Hamilton County General Sessions debt collection case extract from the Tennessee Case Finder, 2016–2022.

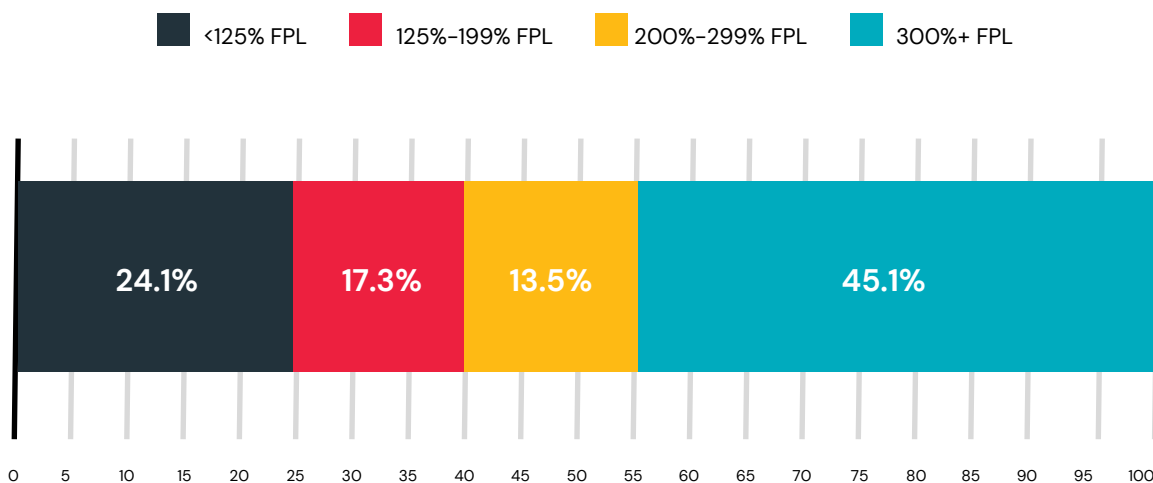
3. Debt Collection Impacts People Across the Income Spectrum

Based on an analysis using court clerk records and census data, the majority of debt collection cases are brought against working families in Hamilton County. Nearly half the defendants lived in households with incomes more than 300 percent of the federal poverty line, or \$90,000 for a family of four. Three-in-ten defendants (31 percent) lived in households making between 125 percent and 300 percent of the federal poverty line (between \$37,000 and \$90,000 for a family of four). Only a quarter of cases were brought against households living at or below 125 percent of the federal poverty line for a family of four (\$37,000 per year), which is the national financial threshold to qualify for most federally funded legal aid services, including those from Legal Aid of East Tennessee:

This means that the majority of consumers who are sued for debt collection cases in Hamilton County are working families above the financial threshold to qualify for legal aid, and they need to find a way to afford an attorney or navigate complex court processes on their own.

Figure 3: Consumers in debt span the income spectrum.

Estimated share of debt collection lawsuits filed against adults living above and below the federal poverty line, 2019.



Source: Hamilton County Court Data 2019, American Community Survey 2015–2019.

4. The Court Receives Limited Information to Verify Service is Proper

After a debt collection lawsuit has been filed, the plaintiff is required to serve the consumer with the Civil Summons and any other documents it may have filed with the court. Proper service is an essential part of the litigation process because it provides people with notice of a lawsuit and the date, time, and location of their hearing. The United States Supreme Court has found that without service, a judgment is void.⁵

Tennessee requires a process server to personally deliver the court documents to the actual consumer. If the consumer evades service, then service may be made on another person who resides at the home and that person's name must appear on the proof of service.⁶ In Hamilton County, service is typically completed by a private process server or the Sheriff's Office.

The General Sessions Court is provided limited information to review whether service has been properly accomplished. Currently, the only information the Court can use to review service is contained on a small square on the Civil Summons.

Figure 4: Service of Process Information in the Civil Summons.

The sheriff, constable or private process server that serves the lawsuit upon the consumer must fill out and sign this section of the Civil Summons.

CIVIL SUMMONS
Court of General Sessions
(preprinted name), Clerk

By _____, Deputy Clerk

Issued _____, 20____

Set for _____ at _____

Reset for _____

Served Upon ☐ All Named Defendants
☐ All Defendants

Except: _____

Served _____, 20____

Please Print: Sheriff/Constable (Process Server)

Signature _____

Agency Address _____

Attorney for Plaintiff
Telephone _____

Attorney for Defendant
Telephone _____

Source: "Civil Summons (General Sessions Court)" Hamilton County Clerk.

While these lines provide some information about service, such as the name of the individual who was served and the date of service, they do not contain any details about the time or location of service, a description of the person served, or whether the consumer evaded service. This lack of information makes it difficult for the court to validate whether or not service was proper. Indeed, if service is not properly done—but recorded as successful—the first time a consumer in Hamilton County would ever learn of the case is when a garnishment is initiated or a lien is placed on his or her property.

In other states, like Virginia⁷, Georgia⁸, or South Carolina⁹ the person who completes the service of process is usually required to submit a one-page certificate of service that details how the service was completed, what method was used, and more detail if an alternative service method was used.

5. Consumers Receive Limited Information About the Lawsuit

When debt collectors file lawsuits in General Sessions Court, they are only required to provide basic information about their claim contained in the upper portion of the summons. Based on a review of a sample of court filings in Hamilton County, the information can be minimal. Some of the Civil Summons simply asked the consumer to appear in court “to answer in a civil action brought by [debt collector] for a debt of [amount].”

By providing such limited information at the outset of the case, consumers may struggle with understanding the basic facts underlying the case. For example, this information is not sufficient for consumers to identify where the debt comes from, whether they actually owe the debt, whether the amount sought to recover is correct, or whether the debt may be too old to sue on.

In addition, debt collection cases can be complex. For example, some credit cards are branded with a retailer’s name, but they are frequently issued by another credit provider.¹⁰ When a consumer is sued for a delinquent debt on a retail-branded card, the lawsuit is brought by the credit card issuer—not the retailer branded on the credit card. When the consumer is served the Civil Summons, the consumer may not recognize the plaintiff or be able to identify the debt at issue—making it more likely that the consumer thinks the lawsuit is a scam or meant for a different person.

Similarly, for debts purchased by a debt buyer, consumers are sued by plaintiffs with whom they have likely had no previous relationship. Consumers may not understand why the debt buyer is suing them or they may be able to identify the debt at issue. There may also be more mistakes, such as suing the wrong person or suing for old debt, since debt buyers are rebundling and reselling debt.

To help courts and consumers understand the underlying factual basis of a debt collector's claim, some states—including North Carolina¹¹ and Texas¹²—have implemented rules to require debt collectors, or in particular debt buyers, to submit proof and documentation of the validity of the debt to the court and consumer. This proof can include additional information about the basic elements of the claim, including proof that the consumer entered into a debt, that the consumer is being sued for the correct amount, and that the debt is not too old to bring a lawsuit (i.e., the statute of limitations has not expired). Additionally, debt buyers can be required to provide proof that they own the debt, because a single debt can be bought and sold several times over.

Federal law already requires debt collectors to have documentation to prove the debt before filing a lawsuit.¹³ Indeed, based on a review of Hamilton County court clerk records, some debt collectors already provide additional information, such as the last four digits of the account number, a breakdown of costs sought to be recovered, the charge-off date, and, in the case of debt buyers, the original creditor's name and information about the assignment of debt.

Some states have developed plain language forms to help debt collectors provide this information in a way that is easy for both courts and consumers to understand, including Illinois,¹⁴ Oregon,¹⁵ Indiana,¹⁶ and Maryland.¹⁷ To assist the court with reviewing these claims, some jurisdictions have required debt collectors to provide this additional information on a cover sheet and have developed internal checklists to help court staff efficiently review the case. Examples include Collin County, Texas;¹⁸ Maricopa County, Arizona;¹⁹ and La Crosse County, Wisconsin.²⁰

6. Consumers Have Limited Assistance to Help Them Engage in Their Debt Collection Lawsuits

Consumers face a number of barriers to engaging with their debt collection cases. The vast majority of defendants in these cases do not have an attorney, which means that they must navigate complex and unfamiliar court procedures by themselves, from understanding the information on the summons to negotiating with seasoned attorneys.

As part of the litigation process, consumers must read and understand complicated forms informing them of the case and court processes and allowing them to try to enforce their rights. For example, one of the first documents the consumer sees in the lawsuit is the Civil Summons.²¹ The Civil Summons contains vital information about the case, including the parties' name and contact information, the date and time of the hearing, and information about service of process. This information is typically hand-written in small boxes on the front of a single page and also serves to provide information throughout the life of the case, including the affidavit of service, the judgment, and the final order in the case.

Figure 5: Front of the Civil Summons

The front of the Civil Summons includes the parties' names and addresses, the complaint filled in by the plaintiff, the court case number and hearing information filled in by the court clerk, and the certificate of service filled in by the process server. On that same page the court will enter the final judgment order.

CIVIL SUMMONS	STATE OF TENNESSEE, COUNTY OF _____ To Any Lawful Officer To Execute and Return: Summon _____ To appear before the General Sessions Court of _____ _____, County, Tennessee. To be held in _____ _____ (Court Room) _____ (Address) on the _____ day of _____, 20____ at _____ p.m./a.m., then and there to answer in a civil action brought by _____ for _____ Under \$ _____ Judgment for _____ Against _____ For \$ _____ plus interest at the rate of _____ % and cost of suit, for which execution may issue. Judgment entered by: ☐ Default ☐ Agreement ☐ Trial Dismissed: ☐ Without Prejudice ☐ With Prejudice Costs taxed to: ☐ Plaintiff ☐ Defendant Defendant(s) _____ in court and admitted to jurisdiction of court. This the _____ day of _____, 20____. _____, Judge Division _____	Case No. _____ _____ Plaintiff _____ Address _____ Phone _____ vs. _____ Defendant _____ Address _____ Defendant _____ Address
JUDGMENT	CIVIL SUMMONS Court of General Sessions (preprinted name), Clerk By _____, Deputy Clerk Issued _____, 20____. Set for _____ at _____. Reset for _____ Served Upon ☐ All Named Defendants ☐ All Defendants Except: _____ Served _____, 20____. Please Print: Sheriff/Constable (Process Server) _____ Signature _____ Agency Address _____ Attorney for Plaintiff Telephone _____ Attorney for Defendant Telephone _____	
ORDER	_____ _____ _____ _____ _____ _____ This the _____ day of _____, 20____. _____, Judge	

Source: "Civil Summons (General Sessions Court)" Hamilton County Clerk.

The back of the summons contains an affidavit of military service, how to request an Americans with Disabilities Act (ADA) accommodation, and a long single paragraph about the assets that are protected if the plaintiff obtains a judgment against the defendant.

Figure 6: Back of the Civil Summons.

AFFIDAVIT	To the best of my information and belief, after investigation of Defendant's employment, I hereby make affidavit that the Defendant is/is not a member of a military service. _____ Attorney for Plaintiff or Plaintiff _____ Notary Public My Comm. Exp. _____	TO THE DEFENDANT(S): Failure to appear and answer this summons may result in judgment by default being rendered against you for the relief requested. Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption as well as a homestead exemption from execution or seizure to satisfy a judgment. The amount of the homestead exemption depends upon your age and the other factors which are listed in TCA § 26-2-301. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these items include items of necessary wearing apparel (clothing) for yourself and your family and trunks and other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized you would have the right to recover them. If you do not understand your exemption right or how to execute it, you may wish to seek the counsel of a lawyer.
	ADA: If you need assistance or accommodations because of a disability, please call _____, ADA Coordinator, at () _____	Legal Authority: TCA §20-2-101, TRCP 3 Rev. 8/10

Source: "Civil Summons (General Sessions Court)" Hamilton County Clerk.

The summons does not contain any information about where the consumer can find legal help or resources to understand the case, nor does it provide instructions on how to proceed with the case. In Tennessee, consumers can file a Sworn Denial form to deny any of the allegations in the Civil Summons. The Tennessee Administrative Office of the Courts has developed a user-friendly plain-language template to make it easier for consumers to respond.²² However, the Civil Summons does not mention the Sworn Denial Form or contain any instructions about what consumers should do if they want to raise a defense or do not agree with the allegations made in the Civil Summons. Thus, consumers rarely exercise this right; court data show that consumers filed a Sworn Denial in less than 1 percent of debt collection cases.

To assist the consumers in engaging with their cases, some states, like Alaska,²³ have developed their answer forms to include a checklist of possible defenses and a checkbox to request that the debt collector provide evidence that they own the debt.

7. Most Consumer Debt Collection Cases Result in a Default Judgment Against the Consumer, and Very Few Go to Trial

As discussed in more detail on pages 7–8, consumer debt collection lawsuits can be resolved in a number of ways, including a judgment after a trial, default judgment, agreed judgment, or dismissal.

a. Debt Collection Cases Rarely Go to Trial

Many people assume that when a case is filed in court it will be decided by a judge. This is not the case for consumer debt collection cases in Hamilton County. Based on court case closure reports from 2020–2022, fewer than 1 percent of cases were ever decided by a judge. This means that in over 99 percent of cases, the facts of the case were not tested by the court but rather were dismissed or entered as default or agreed judgments.

In order to have a trial on the merits, the consumer must navigate complex and unfamiliar court processes and identify potential defenses or arguments, as the court is not allowed to help consumers raise issues in their cases. To avoid a default judgment, the consumer must appear at the first hearing. The consumer will not see a judge at this hearing; rather, the debt collector's attorney will call consumers one-by-one to negotiate a settlement agreement. If a settlement is not reached, then the court will set a second hearing date, where a judge will hear the facts of the case and enter a judgment based on the merits of the case.

This process is convenient for plaintiffs because they send their attorneys to the initial hearing to collect default judgments from consumers who do not show up to court and negotiate settlements with those who do. But this process can be costly for consumers, who are largely not represented by attorneys and have to take time off of work, arrange for childcare, and incur transportation and parking costs for two court dates.

Even if the consumer does show up, they are not provided with an attorney to help them, and the court does not provide them with any legal assistance or information at the court hearing, so the consumer is left to navigate an unfamiliar, complicated court process on their own. Further, the court is not allowed to ask the debt collector to provide more evidence to prove their claim unless the consumer raises the issue.

b. Over Half of Debt Collection Cases Result in Default Judgment

Most consumers in Hamilton County who are sued for debt collection do not show up for their hearing. Based on the case closure reports, 56 percent of consumer debt collection cases filed in General Sessions Court resulted in a default judgment against the consumer.²⁴ When a debt collector requests a default judgment, the General Sessions Judge may review the documentation to identify any issues with service and ensure that the plaintiff is entitled to the attorney's fees and interest requested, but the judge cannot proactively raise issues on behalf of the consumer and must enter the default judgment based on the limited information that the debt collector is required to provide the court.

The court does not mail or e-mail any notice of the default judgment to the consumer. The first time that a consumer may learn of a default judgment against them is when the debt collector attempts to collect on the judgment by initiating a garnishment on their bank account or wages or by placing a lien on their property.

c. Most of the Remaining Cases Settle with Little Court Oversight

The remaining cases are either dismissed or settled. If the consumer appears at the courthouse for their hearing, they will likely have the opportunity to negotiate with the debt collectors' attorney. The court is not involved in settlements, even for those negotiated inside the courthouse. A significant disparity of power exists between debt collectors and consumers during these settlement negotiations. Debt collectors are almost always represented by an attorney, while consumers rarely are and receive no resources from the court informing them of their rights.

In some cases, successful negotiations lead the debt collector to dismiss the lawsuit, meaning the case is closed without any judgment being entered. In most cases, however, debt collectors request that the settlement be entered as an "agreed judgment." If the consumer fails to follow the settlement terms of an agreed judgment, then the debt collector will have access to the same collection tools—including garnishment of wages and bank accounts—that would be available if the court entered a judgment on the merits of the case.

Case closure reports from 2020–2022 show that 24 percent of debt collection lawsuits were entered as agreed judgments. Another 16 percent were dismissed, though the court data does not specify how many of these dismissals were dismissed after successful negotiations and how many were dismissed for other reasons.²⁵

Interviews with court staff and debt collection attorneys indicated that even when parties are able to negotiate a payment plan or a discount, the debt collector often opts to enter the settlement agreement as the original lump sum claimed, instead of outlining the settlement terms in the court clerk record. This discrepancy puts parties at risk of not understanding the terms of the agreement, which is particularly risky for consumers because, if the debt collector believes—even mistakenly—that the consumer has failed to abide by the settlement terms, they can immediately seek to garnish the consumer's wages or bank account without filing anything with the court.

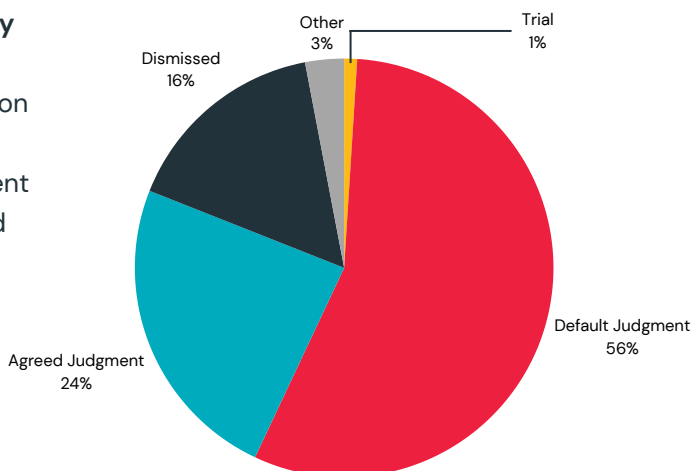


Source: The Pew Charitable Trusts.

Despite this possible discrepancy, most settlement agreements appear to be successful. Court data shows that for 84 percent of cases in which a settlement was entered by the court, no subsequent garnishments were attempted on the consumer.

Figure 7: Few cases in Hamilton County Are Decided by a Judge.

Only 1 percent of cases with a disposition were decided at trial. The majority are entered as default judgments, 24 percent were entered as agreed judgments, and 16 percent were dismissed.



Sources: Hamilton County General Sessions Court County Clerk Case Disposition Report, 2020–2022.

8. Going to Court Can Add a Sizeable Amount to the Judgment

Many consumer debt collection cases involve a relatively low amount of debt. In 75 percent of cases, the plaintiff seeks to recover less than \$4,500; in half of all cases, the plaintiff seeks to recover less than \$2,000. Once litigation is initiated, however, the amount owed can increase substantially through the addition of court costs, attorney fees, and interest.²⁶

For instance, if the consumer has a judgment entered against them, they are required to pay the plaintiff's court costs, which include filing and service fees, as well as any collection fees incurred after judgment. The filing and service fees are at least \$149, and the garnishment fee is \$107 for each writ of garnishment.²⁷ In addition, debt collectors may ask to recover attorney's fees, which are on average 30 percent of the amount in controversy. Debt collectors request these attorneys' fees in almost a quarter of all cases.

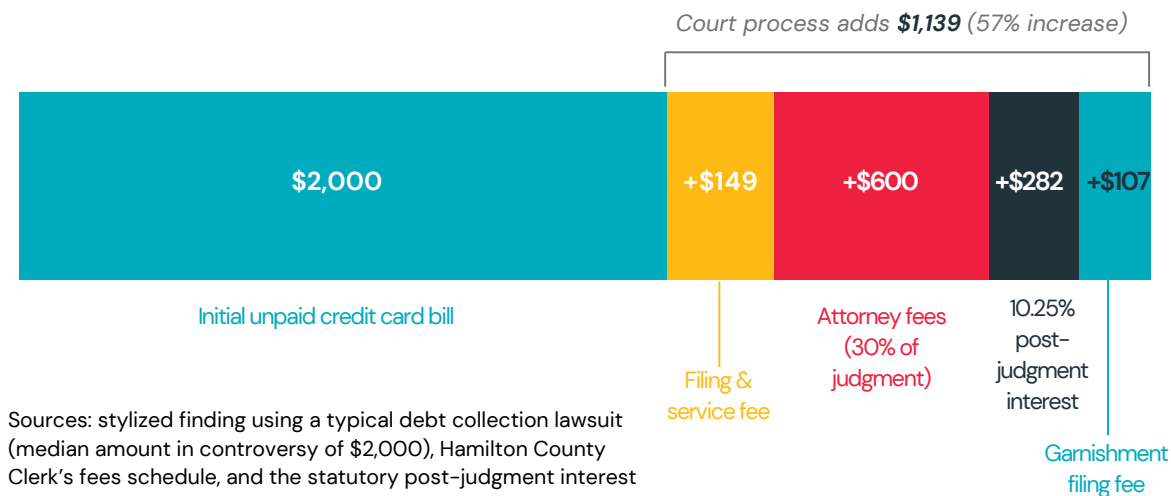
Debt collectors may also request interest on the amount of the judgment. This extra amount is called "post-judgment interest." A statute defines the post-judgment interest rate as a floating rate of 2 percent below the formula rate published by the Tennessee Department of Financial Institutions; as of the time of this report's publication, this interest rate is 10.25 percent.²⁸

According to court clerk records, medical providers such as hospitals most commonly requested this extra interest, doing so 57 percent of the time. High-interest lenders requested it in 49 percent of cases. Credit card companies and auto loan businesses asked for this interest in around one-quarter of cases, while debt buyers asked for it in 19 percent of cases.

Many debt collectors appear to request the statutory post-judgment interest rate, although some will request a higher interest rate based on the contract that they have with the consumer. Credit card companies appeared to seek a contractual interest rate most often, receiving a median post-judgment interest rate of 16.25 percent during a time period when the statutory post-judgment interest rate hovered between 5.25 percent and 7.5 percent. By contrast, other categories of debt collectors received median post-judgment interest rates below 7 percent.

Figure 8: How a \$2,000 unpaid credit card bill can turn into \$3,139 by the time of garnishment.

The debt collectors' court costs fees to file a case or request a garnishment writ, as well as their attorney fees, can all be added to the final judgment against the consumer.



9. Debt Collectors Utilize General Sessions Court to Gain Access to Powerful Collection Tools

A judgment against the defendant—even if it was based on a default judgment or an unsuccessful settlement agreement—enables debt collectors to gain access to powerful court-approved collection tools.

Debt collectors can garnish up to 25 percent of a consumer's paycheck or garnish their entire bank account. Court clerk records show that garnishment impacts workers employed by hospitals, non-profits, automakers, retail, food preparation, the City of Chattanooga, and many other large and small employers across the County.

To initiate a garnishment, the debt collector serves a Writ of Garnishment on the consumer's employer or bank, and then the employer or bank is required to withhold and release the appropriate portion of the consumer's wages or the entire amount in the consumer's bank account. In Hamilton County, debt collectors initiated at least one garnishment in 51 percent of cases with a judgment.

Debt collectors also can place judgment liens on a consumer's property.²⁹

While judgment liens can be used to force the sale of property, more often they are placed on a consumer's property and enforced when the consumer sells the property. Every year, approximately 1,300 judgment liens are filed against consumers in Hamilton County by creditors and debt buyers. Three out of the top five judgment lien filers are debt buyers; between 2016–2022, these three debt buyers filed 26% of all judgment liens in Hamilton County.

These collection tools can have devastating impacts on consumers, leaving them unable to pay for basic living needs. Indeed, in at least 8 percent of the cases with a garnishment, the consumer ultimately filed for bankruptcy. This number may in fact be larger, as, based on accounts from judges, not all bankruptcy filings are reported to General Sessions Courts.

Tennessee law protects certain property from being taken by garnishment. Some of these protections are automatic and others are not, meaning that the consumer needs to proactively claim the exemption in order for it to apply.

a. Tennessee Wage Garnishment Protections Can Leave Working Families Living Below the Federal Poverty Guidelines

For wage garnishments, Tennessee automatically protects the federally-mandated minimum amount of 75 percent of debtors' weekly earnings or 30 times the federal minimum wage (currently \$217.50 a week), whichever is greater. The minimum protected amount has not changed since 2009, when the federal minimum wage was last increased. In addition, Tennessee protects \$2.50 a week for each child under the age of 16.³⁰ These limited protections can leave working families struggling to survive below the federal poverty guidelines. For a full-time worker making \$15 per hour, double the minimum wage in Tennessee, wage garnishment can drive their weekly take-home pay from \$483 to \$362, putting them below the federal poverty guidelines for a family of three.³¹ These garnishments can leave working families unable to pay for basic needs, including mortgage, rent, utilities, food, and medical expenses.

Many states have enacted laws to protect more than the federally-protected minimum. Thirty-one states protect more than 75 percent of the wage, including West Virginia (80 percent), Colorado (80 percent), Nebraska (85 percent), and Missouri (90 percent). Some states have also raised the minimum amount protected from \$217.50 a week, including Florida (\$750/week), Colorado (\$502/week), Virginia (\$440/week) and West Virginia (\$362.50/week). Texas, South Carolina, and North Carolina ban wage garnishment altogether.³²

b. Consumers Are Not Using All of the Garnishment Protections Available To Them

Unlike wages, bank accounts are not automatically protected from garnishment. Instead, Tennessee provides consumers with a \$10,000 exemption—sometimes referred to as a “wild card” exemption³³—to any personal property, including money held in a bank account.³⁴ To use this exemption, the consumer needs to file a “Protected Income and Assets (Affidavit of Claim Exemptions)” form.³⁵ However, most defendants are not claiming this protection. Based on Hamilton County court data, consumers claimed exemptions in fewer than 1 percent of cases with a judgment.

Many consumers may have their bank accounts garnished without even knowing that they are entitled to protect \$10,000 of personal property. The form is never provided to the consumer. Rather, at the beginning of the case, small print on the Civil Summons informs the consumer that “Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption as well as a homestead exemption from execution or seizure to satisfy a judgment.” The Civil Summons does not explain that amount includes money in a bank account, nor does it provide instructions on where to find the form or how to request the exemption.

In addition, the consumer receives a copy of the Writ of Garnishment only after the bank has withheld the funds in the account. This court form contains dense legal text on both sides, providing only a short notice to the debtor about potential exemptions. The form does not tell the consumer how to request any exemptions or where to find the “Protected Income and Assets (Affidavit of Claim Exemptions)” form.

Consumers who are aware of this \$10,000 protection need to navigate a complex process to properly complete the form. At the outset, they need to identify the correct form, which can be found at the courthouse or on the court’s website. They then need to read through detailed single-spaced instructions and obtain copies of all unpaid judgments entered against them. After the form is complete, the consumer needs to have it notarized by a notary or clerk, make copies, file the original with the clerk, and mail a copy to each creditor with a judgment against them.

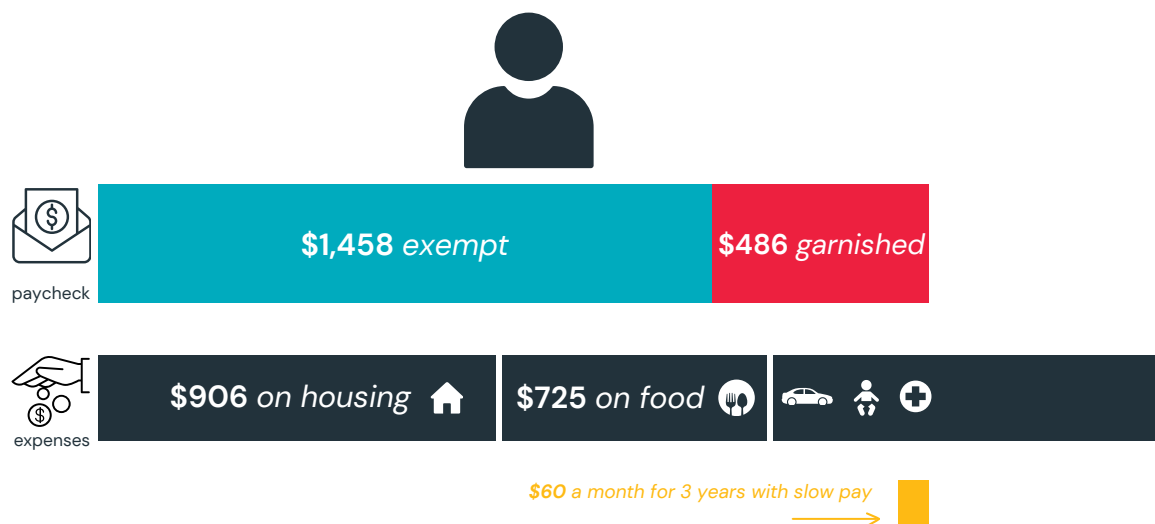
To help consumers safeguard property that they are legally entitled to protect, some states automatically protect a certain amount in the consumer’s bank account, including Wisconsin (\$5,000), Nevada (\$400), and Connecticut (\$1,000).³⁶

10. Slow Pay Motions Can Reduce Financial Strain on Consumers But Are Rarely Used

Tennessee allows consumers the ability to request installment payments by filing a Motion for Installment Payments (“Slow Pay Motion”) with the court. Slow pay allows a consumer to make more affordable monthly payments without their wages being garnished or bank account assets seized.

Figure 9: Impact of Garnishment on Monthly Expenses.

A person who works 40 hours a week at \$15 an hour could have \$468 garnished from their paycheck every month.



Source: stylized finding using statutory wage garnishment limits in Tennessee and typical monthly expenses for Hamilton County from the Living Wage Calculator.³⁷

Once a slow pay motion is granted, the debt collector cannot garnish the consumer's wages or bank accounts as long as the consumer continues to make timely installment payments.³⁸ If the consumer misses a payment, however, then the debt collector may return to using the court-sanctioned collection tools.³⁹

Most slow pay motions help defendants avoid garnishment. In six out of ten of cases in which a slow pay motion was granted, the debt collector did not seek a garnishment after the installment plan is in place, indicating that the consumer complied with the installment terms set by the court and successfully repaid the debt.

While slow pay motions could help consumers avoid having their wages and bank accounts garnished, based on a review of court data, consumers only used this option in 5 percent of cases in which a judgment has been entered. The Tennessee Administrative Office of the Courts has created a user-friendly form to request slow pays;⁴⁰ however, this form is never provided to the consumer. The Civil Summons and Writ of Garnishment forms do not contain any information about the availability of the slow pay motion.

11. Businesses Are Harmed by Consumer Debt Collection Litigation

Hamilton County businesses may be required to administer garnishments when a debt collector has a judgment against one of their employees (wage garnishment) or banking customers (bank account garnishment). Once a debt collector files a Writ of Garnishment, the business is required to administer the garnishment or respond if the employee no longer works at the business or no longer has an account at the bank.

Properly administering a wage garnishment can be a complicated task, particularly for small businesses that may not regularly deal with garnishments or may not have software to assist them. Figuring out the correct amount to withhold from an employee's paycheck can be especially difficult for those employees whose earnings are roughly equal to the minimum amount that may be protected from garnishment, especially if the number of hours the employee works changes from week to week.

Furthermore, if the employer, bank, or credit union makes a mistake in processing the garnishment, they can be held liable for the debt.⁴ Between 2016 and 2022, in Hamilton County alone, 458 businesses were brought to court by a debt collector trying to make them liable for their employees' judgments. Fifty-eight percent of the time, the debt collector was successful and got a court order to collect directly from the business.

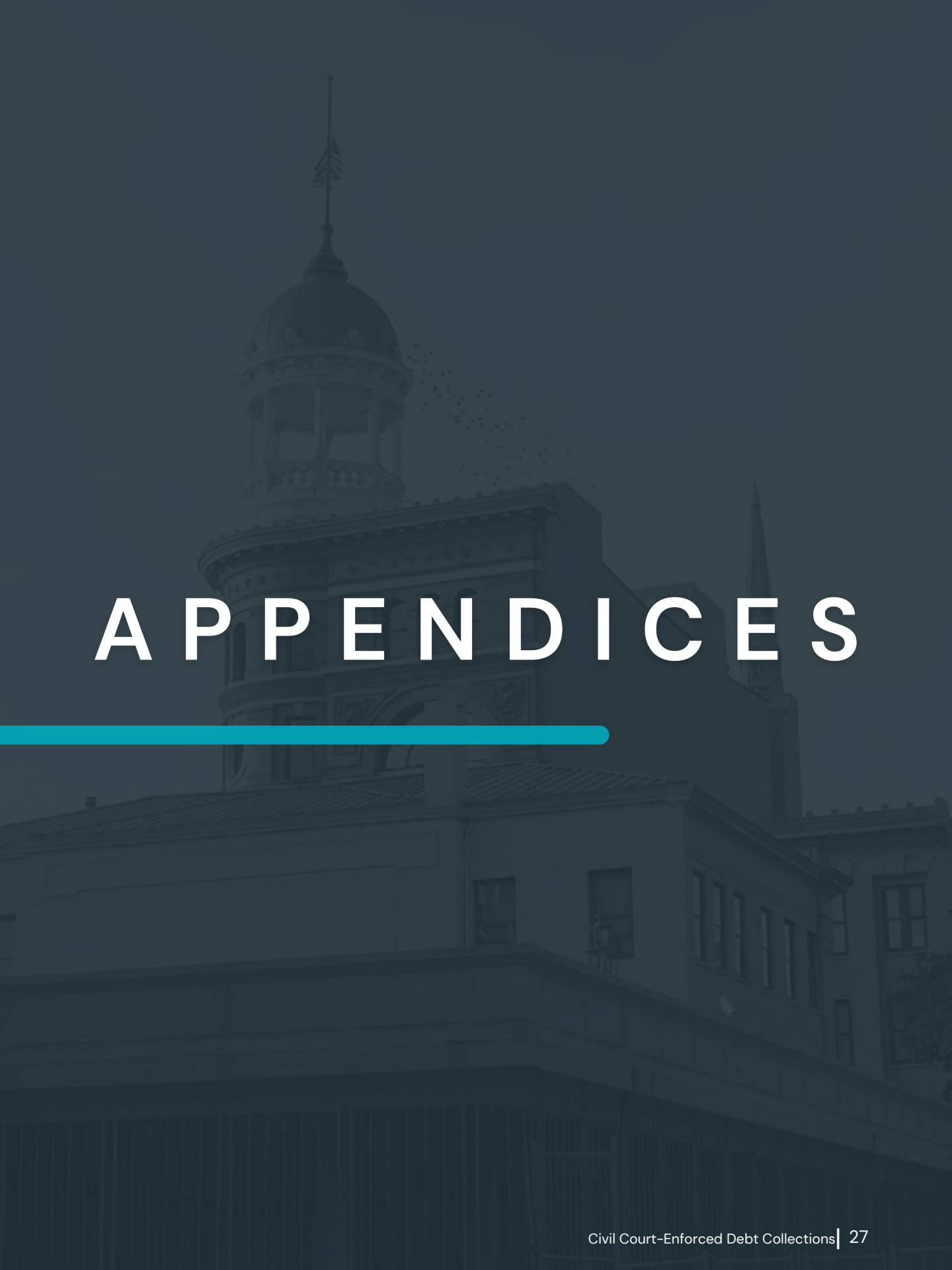
An analysis of local employers who have been legally compelled to administer garnishments of their workers reveals a long list that includes some of Chattanooga's most storied and well-respected family-owned businesses, nonprofit charitable organizations, and local government entities, including both the City of Chattanooga and Hamilton County Government. Interviews with these and other local employers indicated that wage garnishments can also drive workers away, simply because employees cannot afford to continue working with their wages reduced by any amount. If they choose to seek other jobs, employers must recruit and train their replacements at considerable expense.

In other words, garnishments create costly, long-term burdens for all parties, from the employers who are given no choice but to enact them to the workers who may suddenly and unexpectedly find their incomes dropping.



Conclusion

From case initiation to garnishment, consumer debt collection cases deeply impact Hamilton County's working families, General Sessions Court, and local businesses. These findings will allow decision makers and stakeholders across the community and state to identify common sense solutions to allow Tennesseans to responsibly repay their debts without spiraling into financial distress. Through local court rules, court forms, legislation, and community projects, the consumer debt litigation process can be made more fair for consumers, more efficient for our courts, and less burdensome on local businesses.



APPENDICES

Glossary

- **Debt Collector:** The business that claims the consumer owes it a debt. When the business files a lawsuit against the consumer, the debt collector is also referred to as a plaintiff.
- **Defendant:** The consumer whom the debt collector sues to recover a debt.
- **General Sessions courts:** County trial courts that hear civil cases where the amount the plaintiff seeks to recover is \$25,000 or less.⁴²
- **Civil Summons:** A court document served on the consumer at the beginning of the case that provides basic information about the case, including the name of the debt collector, the amount the debt collector seeks to recover, and the court hearing date. In Tennessee General Sessions Court, information about the claim, service, and the judgment in the case is also recorded on the Civil Summons.
- **Service:** Formal delivery of court papers, including the civil summons, to the consumer at the beginning of the case, which is typically done by the debt collector having the sheriff or a private process server physically hand the documents to the consumer.⁴³
- **Judgment:** The court decision in the case. A judgment in the debt collector's favor will decide the amount of money that the consumer owes the debt collector.
- **Default Judgment:** If a consumer fails to show up for a hearing, the debt collector automatically wins the case, and the court will enter a judgment in the debt collector's favor.
- **Agreed Judgment:** A settlement agreement negotiated between the debt collector and consumer outside of the court hearing that is signed by both parties and given to the clerk.
- **Dismissal:** The case is closed without a judgment or stipulated agreement being entered.
- **Sworn Denial:** A document the consumer may file with the court denying the allegations made by the debt collector in the Civil Summons.
- **Garnishment:** A legal tool to collect on a judgment that involves engaging a third party—such as an employer or bank—to withhold the consumers' wages or money in their bank account and release it to the court to pay off the judgment.
- **Garnishment Exemptions:** The portion of the consumer's assets that are legally protected from garnishment.
- **Motion for Installment Payments or 'Slow Pay' Motion:** After a judgment is entered, the consumer may ask the court to satisfy the judgment by making payments in installments, rather than having bank accounts or wages garnished.
- **Judgment Lien:** A legal tool that allows a debt collector to take an interest in a consumer's property, such as a house or car, to pay off a judgment.

Methodology

Data sources

This analysis primarily relies on docket data from Tennessee Case Finder⁴⁴ that was scraped and cleaned by Legal Services Corporation (LSC). The Hamilton County docket data is a comprehensive dataset containing case-level information on civil and eviction cases in Hamilton County, TN filed between 2016–2022. It includes details such as filing dates, case types, party names, defendant addresses, judgment amounts, and detailed information about service and garnishments.

Debt collection cases, unlike evictions, do not have their own unique case type. To identify debt collection cases within the Hamilton County General Sessions docket dataset, all Civil Warrants filed were filtered and plaintiff and defendant names were utilized to identify cases involving businesses filing against individuals or groups of individuals

Some case information was not available from Tennessee Case Finder and had to be gathered from other sources. For instance, to determine whether a case resulted in a default judgment, data provided by the Hamilton County Court Clerk's Office was used. Since 2020, the Clerk's Office has been recording case outcomes, separating defaults from other types of judgments. These data were merged with the docket data by case identification number to calculate case outcomes. These analyses, however, only cover cases filed in 2020–2022.

Other information was only available in the court documents and had to be reviewed by hand. A statistically random sample of 500 debt collection cases filed between 2018–2022 was pulled in the docket data and documents associated with those cases from the Court Clerk were requested. After receiving scanned copies of the documents from the Clerk, additional fields of interest were extracted, including the original amount claimed in the lawsuit, additional attorney's fees and post-judgment interest rates requested by the plaintiff, and the original creditor in debt buyer cases.

Data on liens was also from the Hamilton County Register of Deeds. We collected information on all lien judgments filed 2016–2022 (n=10,054) and extracted the plaintiff name and the judgment amount.

For analyses related to neighborhood demographics, such as race-ethnicity and income, we used data from the 2017–2021 American Community Survey. This five-year period provides valuable insights into the characteristics of neighborhoods associated with debt collection cases. Additionally, we used the Consumer Financial Protection Bureau's 2017 Financial Well-Being Survey to estimate the number of defendants who may have qualified for Legal Aid services.

Estimating the Legal Aid Gap

To qualify for most Legal Aid assistance in Tennessee, defendants must have household incomes that are below 125 percent of the federal poverty line. The amount of income it takes to qualify varies based on the number of people living in the household. Income and household size are not recorded by the courts and do not appear in the docket data or court documents. The share of defendants in debt collection cases who live above and below the Legal Aid threshold, therefore, has to be estimated. Our estimation strategy draws on two important pieces of information.

First, we took into account the share of households living at different levels of poverty in each defendant's census tract, according to the American Community Survey.⁴⁵ For instance, if a census tract has one hundred debt collection cases filed against its residents, and 20 percent of households in that tract live below 125 percent of the federal poverty line, one could reasonably assume that at least 20 percent of those debt cases are against defendants who qualify for Legal Aid.

Second, we accounted for differences in the likelihood of facing a debt case between people of different levels of poverty. Relying solely on neighborhood poverty levels to estimate defendant poverty levels may be inadequate, in that people with lower income tend to be more likely than higher-income residents of the same community to fall behind on debt payments and therefore face a debt collection lawsuit.

To generate estimates of the likelihood of facing a debt case by poverty levels, we used Consumer Financial Protection Bureau (CFPB) 2017 Financial Well-Being Survey.⁴⁶ These data indicate that adults living below the poverty line were 2.5 times more likely than those living about 200 percent above the poverty line to have been contacted by a debt collector in the past year. Adults living between 100 percent and 199 percent of the poverty line were 1.8 times more likely as those living above 200 percent the poverty line to have been contacted by a debt collector.

We then used these estimates to enhance the neighborhood estimates of the number of debt cases against defendants who qualify for Legal Aid. The example below illustrates the impact of taking into account the CFPB likelihood in a hypothetical census tract with one hundred debt cases and 16 percent of households living below 125 percent the federal poverty line. In effect, it doubles the number of cases that are estimated to be against defendants living below the Legal Aid eligibility from 17 percent to 32 percent.

	Number of households	% of households	CFPB debt likelihood	Estimated cases based on neighborhood characteristics only	Estimated number of debt cases with CFPB likelihood
<100% FPL	179	16%	2.5	16	30
100-125% FPL	10	1%	1.8	1	2
125-199% FPL	98	9%	1.8	9	12
200% FPL	840	75%	1	75	56
Total households	1127	---	---	100	100

Acknowledgements

This report would not have been possible without the hard work of many individuals and organizations over the course of more than a year. The Community Foundation of Greater Chattanooga owes a debt of gratitude to each of them.

The Foundation's entire Board of Directors, and particularly its Strategic Initiatives Committee, were early and ardent champions of this work. They provided unflagging support to our staff and partners in a number of ways over many months.

The staff of the Pew Charitable Trust, particularly Erika Rickard, Lester Bird, Giulia Duch Clerici, and Natasha Khwaja, were essential and inspiring collaborators at every stage of this work. We are honored to be included among the communities where Pew is working to bring greater fairness and transparency into the civil courts system, and it is a particular point of pride for us that this project marks their first direct collaboration with a local community foundation. Katie Hennessey and January Advisors, particularly David McClendon and Jeff Reichman, made invaluable contributions throughout the development of this report.

We engaged Emily O'Donnell as a consultant early in this process because we knew how much we would benefit from her expertise and deep understanding of the civil legal system, given her years of experience as a Legal Aid attorney practicing in General Sessions court. Her strategic thinking is evident on every page of this report.

Special thanks to Briana Gordley from Texas Appleseed and Gordon Bonnyman and Richard Stuart from the Tennessee Justice Center who served as thoughtful peer reviewers for this report. A special thanks to members of the Legal Services Corporation who supplied the data that helped make this research and report possible. Bob Pleasants was its copy editor, and A Medida Communications and Coeo Media assisted with writing, design, and layout.

Finally, the importance of the involvement of the Hamilton County General Sessions Court cannot be overstated, and we are grateful for the cooperation of their judges, officials, and staff. We must also thank the many defendants, employers, financial services professionals, attorneys, and community leaders who talked with us about their experiences with consumer debt cases in Hamilton County. Their candor and vulnerability was remarkable, and the insights they gave us will be the building blocks for a stronger, fairer, more productive system moving forward.

STATE OF TENNESSEE, COUNTY OF

To Any Lawful Officer To Execute and Return:

Summon

**CIVIL
SUMMONS**

To appear before the General Sessions Court of

County, Tennessee. To be held in

(Court Room) (Address)

on the day of , 20 at p.m./a.m., then and there

to answer in a civil action brought by

for

Under \$

Judgment for

Against

JUDGMENT

For \$ plus interest at the rate of % and cost of suit, for which execution may issue.

Judgment entered by: ☐ Default ☐ Agreement ☐ Trial

Dismissed: ☐ Without Prejudice ☐ With Prejudice

Costs taxed to: ☐ Plaintiff ☐ Defendant

Defendant(s) in court

and admitted to jurisdiction of court. This the day of , 20.

, Judge

ORDER

This the day of , 20.

, Judge

Case No.

Plaintiff

Address

Phone

vs.

Defendant

Address

Defendant

Address

CIVIL SUMMONS

Court of General Sessions

(preprinted name), Clerk

By , Deputy Clerk

Issued , 20.

Set for at .

Reset for

Served Upon ☐ All Named Defendants

☐ All Defendants

Except:

Served , 20.

Please Print: Sheriff/Constable (Process Server)

Signature

Agency Address

Attorney for Plaintiff

Telephone

Attorney for Defendant

Telephone

AFFIDAVIT

To the best of my information and belief, after investigation of Defendant's employment, I hereby make affidavit that the Defendant is/is not a member of a military service.

TO THE DEFENDANT(S):

Tennessee law provides a ten thousand dollar (\$10,000.00) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized you would have the right to recover them. If you do not understand your exemption right or how to execute it, you may wish to seek the counsel of a lawyer.

NOTICE

Attorney for Plaintiff or Plaintiff

Notary Public
My Commission Exp. _____

NOTICE

Unless you, within thirty days after receipt of this communication dispute the validity of the debt, or any portion thereof, the debt will be assumed to be valid by us. If you notify us in writing within that thirty-day period that the debt, or any portion thereof, is disputed, we will obtain verification of the debt or a copy of the judgment against you and a copy of such verification or judgment will be mailed to you by us. Upon your written request within the thirty-day period, we will provide you with the name and address of the original creditor, if different from the current creditor.

This communication is from a debt collector and is an attempt to collect a debt. Any information obtained will be used for that purpose.

CERTIFICATION

State of Tennessee:
County of Hamilton:
I, LARRY L. HENRY, Clerk of the General Sessions Court in and for the State and County aforesaid, hereby certify that the within and foregoing is a true and correct copy of the original CIVIL WARRANT issued in the case of: _____ vs. _____

No: _____ as it appears on file in my office
THIS COURT HAS NO SEAL
LARRY L. HENRY, CLERK
By _____ D.C.

 ADA COORDINATOR, FOR ASSISTANCE CALL (209-7500)

APPEAL

From the judgement on the reverse hereof, the _____ prayed an appeal to the Circuit Court which is granted upon Pauper's Oath or Appeal Bond.

Cost of Appeal _____

Paid by Plaintiff _____

JUDGE _____

DIVISION NO. _____

**NOTICE TO JUDGMENT DEBTOR
(NON-WAGE GARNISHMENT)**

To collect a judgment against you in this lawsuit, your money or other property has been seized by execution or garnishment. An execution allows the sheriff to sell the property levied upon. A garnishment requires your bank (or other person holding your money or property) to transfer your property to the court or to hold it to satisfy the judgment.

READ THIS CAREFULLY. YOU MAY BE ABLE TO KEEP YOUR MONEY OR PROPERTY OR GET IT BACK.

State and federal laws prevent certain types of money or property from being used to pay a judgment. Such money or property is "exempt." Examples of exempt money are: Social Security benefits, SSI, unemployment benefits, Veterans & benefits, AFDC, and most government pensions. Examples of exempt property are certain health care aids and "tools of trade." These examples of exempt money and property constitute only a partial list, and you may have other exemptions.

If you think you have exempt money or property that has been seized, you have the right to file a motion with the court clerk's office identified below claiming your exemption and asking for the release or return of your money or property.

You can get a form for filing this motion at the clerk's office below, or the clerk may have supplied such a form on the back of this notice. **YOU SHOULD ACT QUICKLY.** If you file a motion within twenty (20) days from the date this notice was mailed to you or was given to you, the court must hear and decide your motion promptly, and in no event later than fourteen (14) days from filing. The clerk will notify you of the time, date, and place of the hearing.

IF YOU DO NOT UNDERSTAND YOUR RIGHTS OR HOW TO EXERCISE THEM, YOU MAY WISH TO CONSULT WITH A LAWYER. IF YOU CANNOT AFFORD A LAWYER, YOU MAY BE ELIGIBLE FOR FREE LEGAL ASSISTANCE.

The court clerk's office can provide you with forms and with information about legal services in your area, but the clerk cannot give you legal advice.

**NOTICE TO JUDGMENT DEBTOR
(WAGE GARNISHMENT ONLY)**

NOTICE TO THE DEBTOR (EMPLOYEE): Your earnings have been subjected to a garnishment which has been served upon your employer. The garnishment creates a lien on a portion of your wages until the judgment is satisfied, or for six (6) months, whichever occurs first. You have the following rights:

Some of your wages are protected by state and federal law from garnishment. See the notice below to the employer to find out how much of your wages are protected from garnishment.

IF YOUR EMPLOYER IS TAKING TOO MUCH MONEY FROM YOUR WAGES:

You may apply to the court at the clerk's office shown below within twenty (20) days from any improper withholding of your wages for a motion to stop the garnishment. The court clerk identified below shall provide you with a form for making such a motion, or may have supplied a form motion on the back of this notice. You may wish to seek the counsel of a lawyer. If you are unable to afford an attorney, you may be eligible for free legal services to assist you.

PLEASE NOTE: If you file a motion, the court must hear and decide your motion promptly, and in no event later than fourteen (14) days from filing. The clerk will notify you of the time, date, and place of hearing. The court clerk's office can provide you with forms and with information about legal services in your area, but the clerk cannot give you legal advice.

IF THE RIGHT AMOUNT OF MONEY IS BEING TAKEN FROM YOUR WAGES BUT YOU WANT TO GET THE GARNISHMENT STOPPED THROUGH A PAYMENT PLAN:

You may apply to the court for an order suspending further garnishments by the same creditor upon your paying a certain sum of money weekly, biweekly, or monthly, to pay the judgment. If you file this motion, the garnishment of your wages will stop for as long as you make the payments ordered by the court.

The court clerk shall provide you with the necessary forms to make this application, or you may seek the counsel of a lawyer. If you are unable to afford an attorney, you may be eligible for free legal services to assist you.

NAME: **LARRY L. HENRY, Clerk**

GENERAL SESSIONS COURT - CIVIL DIVISION
ROOM 111 - COURTS BUILDING

ADDRESS: 600 MARKET STREET

CHATTANOOGA, TN 37402-1911

TELEPHONE: (423) 209-7630

SHERIFF'S RETURN

I acknowledge receipt of the garnishment summons on the

above-mentioned employee on _____, 20____.

Executed by serving _____

on _____, 20____.

Hamilton County Sheriff

Employer or Employer's Agent

Deputy Sheriff

AFFIDAVIT FOR SHERIFF

I, _____, Deputy Sheriff
after being sworn, make oath that:

☐ A garnishment summons was served on _____, garnishee, on _____, 20____, and that

the garnishee refused to sign a receipt acknowledging service of said summons.

☐ A copy of the execution by levy was mailed or delivered in person to the judgment debtor at the address provided by _____ the judgment creditor.

Hamilton County Sheriff

D.S.

Notary

My commission expires: _____

**STATEMENT OF ADDRESSES FOR
MAILING NOTICES
(as required by TCA 26-2-402)**

JUDGMENT CREDITOR'S ADDRESS:

JUDGMENT DEBTOR'S LAST KNOWN
ADDRESS:

BY: _____

Judgment Creditor/Agent

EXECUTION and GARNISHMENT

COURT OF GENERAL SESSIONS

CASE No. _____

To: _____
Garnishee

PLAINTIFF

VS.

DEFENDANT

Social Security No. _____

Judgment \$ _____

Less Credit \$ _____

Bill of Costs \$ _____

Garnishment Costs \$ _____

Interest \$ _____

Commissions \$ _____

Total \$ _____

Date of Judgment _____

Issued this _____

LARRY L. HENRY, Clerk

By _____

D.C.

Plaintiff's Atty.

**EACH GARNISHMENT MUST
BE PAID BY SEPARATE CHECK
TO COURT.**

EXECUTION and GARNISHMENT

STATE OF TENNESSEE
COUNTY OF HAMILTON
WRIT OF EXECUTION
TO ANY LAWFUL OFFICER
OF HAMILTON

You are commanded to take from the defendant's property the balance of the Judgment on reverse, herof, plus costs and interest thereon and thereby satisfy a judgment by this court in favor of plaintiff.
Have you said monies, together with this writ, ready to render before this court 30 days from the date hereof, or within.

GARNISHMENT:

To Employer or Other Garnishee:
By virtue of the above command (or an attachment in my hands), any funds or property in your hands owing to defendant are hereby sequestered.
You are summoned to answer, in person or by mail, within 10 business days after the date of service of this garnishment:
(1) Whether you are, or were, at the time of the service of this garnishment indebted to the defendant; if so, how and in what amount;
(2) Whether you had in your possession, or under your control, any property, debts, or effects belonging to the defendant at the time of service of this notice, or at any time between the date of service and the time of answering; if so, the kind and amount.
(3) Whether there are, to your knowledge and belief, any and what property, debts, and effects in the possession of under the control of any other, and what person;
(4) Such other questions appearing on or attached to the original execution put to you by the Court or the judgment creditor as may tend to elicit the information sought.
YOU ARE FURTHER NOTIFIED AND REQUIRED to pay no debt due by you, or to become due, to said defendant, and to retain possession of all property of the defendant, EXCEPT as to earnings in excess of the amount to be retained by this garnishment. This lien shall continue as to subsequent earnings until the total amount due upon the judgment and cost is paid or satisfied. OR until the expiration of the employer's payroll period immediately prior to SIX (6) CALENDAR MONTHS after service of the execution, whichever occurs first. A lien obtained hereunder shall have priority over any subsequent liens obtained hereunder. Subsequent execution shall be effective for the successive calendar month periods in the order in which they are served.

YOU ARE REQUIRED TO WITHHOLD THE GARNISHMENT AMOUNT, OR PART THEREOF, FROM THE EMPLOYEE'S WAGES AND TO PAY THESE MONIES TO THE COURT NOT LESS THAN ONE TIME EACH CALENDAR THIRTY (30) DAYS YOU ARE LIABLE FOR FAILURE TO WITHHOLD FROM THE EMPLOYEE'S WAGES AND FOR FAILURE TO PAY THESE MONIES TO THE COURT, TO ENSURE PROPER CREDIT, INCLUDE THE DEFENDANT'S NAME AND THE DOCKET NUMBER ON THE PAYMENT AND MAIL TO:

LARRY L. HENRY, Clerk
GENERAL SESSIONS COURT - CIVIL DIVISION
ROOM 111 - COURTS BUILDING
800 MARKET STREET
CHATTANOOGA, TN 37402-1911
(423) 209-7630

NOTICE: Although you have a longer time, in which to answer the court concerning this garnishment, you must do the following on the same day you receive the garnishment or on the next working day. Determine if you possess or control money or property of the judgment debtor. If so, within that same time period, you shall furnish a copy of the garnishment summons and Notice to Judgment Debtor by mailing them first class, postage prepaid, to the judgment debtors last known address as shown by your records, or by the actual delivery to the judgment debtor. If the address shown by your records differs from that shown at the bottom of the Notice to Judgment Debtor, you shall also mail a copy of the garnishment and notice to the latter address.

ANSWER OF GARNISHEE FOR DEBTS OTHER THAN SALARIES, WAGES OR EARNINGS

As of the _____ day of _____, 20____, _____, Garnishee is holding the sum of \$ _____.

TO ALL BANKS:
THESE FUNDS ARE CONDEMNED AND SHALL BE
PAID INTO COURT WITHOUT FURTHER ORDER.

LARRY L. HENRY, CLERK
General Sessions Court

Revised 8/2014

NOTICE TO THE GARNISHEE (Employer):

THE MAXIMUM PART OF THE AGGREGATE DISPOSABLE EARNINGS OF AN INDIVIDUAL FOR ANY WORK WEEK WHICH IS SUBJECT TO GARNISHMENT MAY NOT EXCEED:

- (a) Twenty-five percent (25%) of his/her disposable earnings for that week, minus \$2.50 for each of his/her dependent children under the age of sixteen (16) who resides in the state of Tennessee as provided in Tennessee Code Annotated, Section 26-2-107; or
- (b) The amount by which his/her disposable earnings for that week exceed thirty (30) times the federal minimum hourly wage at the time the earnings for any pay period become due and payable, minus \$2.50 for each of his/her dependent children under the age of sixteen (16) who reside in the state of Tennessee, as provided in T.C.A. section 26-2-107, whichever is less. "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amounts required by law to be withheld.

In the case of earnings for a pay period other than a week, the weekly formula must be changed to apply to that pay period so as to exempt an equivalent percentage of disposable earnings. For example, the calculation concerning the federal minimum wage in subsection (b) should be computed as follows: WEEKLY: 30 times the federal minimum hourly wage at the time the earnings for any pay period become due and payable (FMW); BI-WEEKLY: 2 times 30 fmw; SEMI-MONTHLY: 2 and one-sixth (2 1/6) times 30 fmw; and MONTHLY: 4 and one-third (4 1/3) times 30 fmw equals the amount to be subtracted from disposable earnings for that pay period.

If the judgment orders alimony and the person in whose favor the judgment was rendered has remarried, the above exemption applies. If the judgment orders the debtor to pay support for his/her minor child or children, or alimony and the person in whose favor the judgment was rendered has not remarried, different standards apply under 15 U.S.C., Section 1673(b). If the debtor is supporting a spouse or dependent child other than those for whom the order was entered, then fifty percent (50%) of his/her disposable earnings may be garnished. If the debtor is not supporting such additional dependents, a maximum of sixty percent (60%) may be garnished. These figures rise to fifty-five (55%) and sixty-five percent (65%), respectively, if the support order is for a period more than twelve (12) weeks before the pay period to be garnished.

If the judgment is for state or federal taxes, no disposable earnings are exempt under 15 U.S.C., Section 1673 (b).

Nothing due employee ☐
No longer employed ☐

Other _____

I certify under penalty of perjury that this information is true and correct.

Garnishee/Employer

ANSWER OF GARNISHEE FOR
WAGES & SALARY

Pay period from _____, 20____
to _____, 20____

1. Gross Earnings \$ _____
2. Less Fed. W/H tax \$ _____
Less So. Sec. Tax \$ _____
Subtract Total Deductions \$ _____
3. Net Disposable Earnings \$ _____
a. 25% of #3 \$ _____
b. Subtract 30 x min. hr. wage set by Fed. FLSA from (3) \$ _____
4. Enter lesser amount (a or b) \$ _____
5. Less \$2.50 for each child under 16 who resides in the State of Tennessee \$ _____
6. Amount due Court \$ _____

This garnishee certifies that this employee has children under the age of 16 years who reside in the State of Tennessee.

IF GARNISHMENT IS FOR CHILD SUPPORT OR ALIMONY, SEE "NOTICE TO GARNISHEE"

IMPORTANT NOTICE TO EMPLOYER:

IF YOU ARE PAYING CHILD

SUPPORT ON AN INCOME

ASSIGNMENT, PLEASE SEND A

SEPARATE CHECK

ON GARNISHMENT.

End Notes

1 General Sessions Courts are county trial courts that hear civil cases where the amount the plaintiff seeks to recover is \$25,000 or less. Tenn. Code Ann. § 16-15-501(d) (2021).

2 P. Kiel and J. Ernsthausen, "Debt Collectors Have Made a Fortune This Year. Now They're Coming for More," ProPublica, Oct. 5, 2020, <https://www.propublica.org/article/debt-collectors-have-made-a-fortune-this-year-now-theyre-coming-for-more>.

3 Minnesota State Bar Association, "Minnesota Consumer Debt Litigation: A Statewide Access to Justice Report" (2023), <https://www.mnbar.org/docs/default-source/atj/2023-minnesota-consumer-debt-litigation-report.pdf>.

Michigan Justice for All Commission, "Advancing Access for All in Debt Collection Lawsuits" (2022), https://www.courts.michigan.gov/4ac33d/siteassets/reports/special-initiatives/justice-for-all/jfa_advancing_justice_for_all_in_debt_collection_lawsuits.pdf.

Utah Bar Foundation, "Utah Bar Foundation Report on Debt Collection and Utah's Courts" (2022),

<https://www.utahbarfoundation.org/static/media/UBF2022.912d30c10e5681bf5f8c.pdf>.

Oklahoma Access to Justice Foundation, "The Downward Debt Spiral" (2023), <https://bit.ly/OKDebtReport>.

4 Legal Services Corporation, "Tennessee State Profile," accessed Oct. 25, 2023, <https://www.lsc.gov/grants/our-grantees/tennessee-state-profile>.

5 Peralta v. Heights Medical Center, Inc., 485 U.S. 80, 86-87; 108 S. Ct. 896, 900 (1988) (holding failure to properly serve defendant violated due process clause, finding that "[w]here a person has been deprived of property in a manner contrary to the most basic tenets of due process, 'it is no answer to say that in his particular case due process of law would have led to the same result because he had no adequate defense upon the merits.'" (quoting Coe v. Armour Fertilizer Works, 237 U.S. 413, 424 (1915))).
<https://supreme.justia.com/cases/federal/us/485/80/>.

6 Tenn. Code Ann. § 16-15-903 (2021).

7 Virginia Judicial System, "General District Court Form DC-411: Service Other Than by Virginia Sheriff," accessed Nov. 22, 2023, <https://www.vacourts.gov/forms/district/dc411.pdf>.

8 Magistrate Court of Cobb County, Georgia, "Sheriff Service Sheet," accessed Nov. 29, 2023, <https://s3.amazonaws.com/cobbcounty.org/if-us-east-1/s3fs-public/2018-08/Sheriff-Service-Sheet.pdf>.

9 Magistrate Court of South Carolina, "Affidavit of Service," accessed Nov. 29, 2023, <https://www.sccourts.org/forms/pdf/SCCA748.pdf>.

10 Barclays and Synchrony are two examples of companies that issue credit for store branded cards. A list of Barclays credit cards is available here: "Find the Card That Fits Your Life," accessed Oct. 9, 2023, <https://cards.barclaycardus.com/banking/cards.list/#///>.

A list of Synchrony credit cards is available here: "Full List of 113 Synchrony Store Credit Cards [Includes the Best Cards]," accessed Oct. 9, 2023, <https://upgradedpoints.com/credit-cards/synchrony-bank-store-credit-cards/>.

11 N.C. Gen. Stat. § 58-70-155 (2022).

12 Tex. R. Civ. P. 508.2 (2023), <https://www.txcourts.gov/media/1456651/texas-rules-of-civil-procedure.pdf>

13 12 CFR § 1006.34 (2021) <https://www.consumerfinance.gov/rules-policy/regulations/1006/34/#e-2>

14 Illinois Courts, “Rule 280.2. Complaint in Credit Card or Debt Buyer Collection Actions,” accessed Nov. 27, 2023, <https://www.illinoiscourts.gov/Resources/4a602d48-5dac-4de3-b675-f864f1eb4dab/280.2.pdf>.

15 Oregon Judicial Branch, “Consumer Debt Collection Disclosure (UTCR 5.180(2)),” accessed Nov. 27, 2023, <https://www.courts.oregon.gov/forms/Documents/DebtBuyerDisclosure-Fillable.pdf>.

16 Indiana Judicial Branch, “Affidavit of Debt,” accessed Nov. 27, 2023, https://www.in.gov/courts/publications/forms/#Civil_Criminal_Juvenile.

17 Maryland Courts, “Complaint – Assigned Consumer Debt DC-CV-106,” accessed Nov. 27, 2023, <https://www.mdcourts.gov/sites/default/files/court-forms/dccv106f.pdf>.

18 Collin County, TX, “469th Default Checklist,” accessed Nov. 20, 2023, <https://www.collincountytx.gov/Courts/District-Courts/Documents/469th%20Default%20Checklist.pdf>.

19 Maricopa County Judicial Branch of Arizona, “Civil Default Checklist for Default Judgment Packets,” accessed Nov. 20, 2023, <https://superiorcourt.maricopa.gov/media/4130/cvc50fz.pdf>.

20 La Crosse County, WI, “Sufficiency of Consumer Credit Complaint Checklist,” accessed Nov. 20, 2023, https://lacrossecounty.org/docs/default-source/clerk-of-courts/consumercreditcomplaintchecklist.pdf?sfvrsn=c6fb101d_2.

21 Tennessee Courts, “Civil Summons (General Sessions Court),” accessed Nov. 20, 2023, https://www.tncourts.gov/sites/default/files/docs/gs_civil_summons.pdf.

22 Tennessee Courts, “Sworn Denial (Sworn Denial on Account),” accessed Nov. 20, 2023, https://www.tncourts.gov/sites/default/files/docs/sworn_denial_-_dec_2012.pdf.

23 Alaska Court System Self Help, “CIV-481: Answer and Counterclaim To Complaint To Collect A Debt,” accessed on Nov. 27, 2023, <https://public.courts.alaska.gov/web/forms/docs/civ-481.pdf>.

24 This is based on the number of cases in which service was recorded as successful, based on data from 2020–2020 case closure reports.

25 A subset of cases that are entered as dismissals may include cases in which the consumer successfully raised a defense, such as the debt collector sued the wrong person, the debt collector cannot establish that they own the debt, or the debt is too old. This subset of dismissed cases may be very small, however, given the barriers that consumers face in effectively navigating their cases (discussed in Finding 5). Additionally, debt collectors may choose to dismiss a case before a hearing for other reasons related to their business process.

26 Data discussed in this section is based on a sampled review of 500 court records filed from 2018–2022.

27 Hamilton County General Sessions Court – Civil Division, “Filing Fees Effective July 1, 2016,” accessed on Nov. 27, 2023, <https://www.hamiltontn.gov/pdf/courts/circuit/civilfilingfees.pdf>.

28 Tenn. Code Ann. § 47-14-121 (2021). The statutory interest rate is adjusted every six months based on the formula rate set forth by the Tennessee Department of Financial Institutions and can be found on the Tennessee State Courts website: Tennessee State Courts, “Tennessee Judgment Interest Rates,” <https://www.tncourts.gov/node/1232344>.

29 Tenn. R. Civ. P. 69, <https://www.tncourts.gov/rules/rules-civil-procedure/6907>.

30 Tenn. Code Ann. § 26-2-106 (2021) and Tenn. Code Ann. § 26-2-107 (2021).

31 Office of the Assistant Secretary for Planning and Evaluation, “Poverty Guidelines 2023,” accessed Nov. 20, 2023, <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.

32 National Consumer Law Center, “No Fresh Start: 2022: Will States Let Debt Collectors Push Families Into Poverty as the Cost of Necessities Soars?” (2023) <https://www.nclc.org/resources/no-fresh-start-2022-will-states-let-debt-collectors-push-families-into-poverty/>.

33 Ibid.

34 Tenn. Code Ann. § 26-2-103 (2021).

35 Tenn. Code Ann. § 26-2-114 (2021).

36 National Consumer Law Center, “No Fresh Start: 2022: Will States Let Debt Collectors Push Families Into Poverty as the Cost of Necessities Soars?”

37 Massachusetts Institute of Technology, “Living Wage Calculator” (2023), <https://livingwage.mit.edu>.

38 Tenn. Code Ann. § 26-2-216 (2021).

39 Tenn. Code Ann. § 26-2-219 (2021).

40 Tennessee Courts, “Slow Pay (Motion for Installment Payments),” accessed Nov. 20, 2023, https://www.tncourts.gov/sites/default/files/motion_for_installment_pymts.pdf.

41 Tenn. Code Ann. § 26-2-209 (2021).

42 Tenn. Code Ann. § 16-15-501(d) (2021).

43 Tenn. Code Ann. § 16-15-903(1) (2021).

44 Tennessee Case Finder, <https://www.tennesseeecasefinder.com/>.

45 United States Census Bureau, American Community Survey (ACS), <https://www.census.gov/programs-surveys/acs>.

46 Consumer Financial Protection Bureau, Financial Well-being Survey Data, <https://www.consumerfinance.gov/data-research/financial-well-being-survey-data/>.



The Community Foundation of Greater Chattanooga

1400 Williams Street, Chattanooga, TN 37408

(423) 265-0586 | www.cfgc.org