



MAGISTRATE COURT OF COBB COUNTY

Joyette M. Holmes
Chief Judge

Public Safety Building
32 Waddell Street
Marietta, Georgia 30090
Clerk of Court - Accounting Division - Phone: (770) 528-6989

NOTICE FROM CLERK OF COURT

Date: October 7, 2015

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

From: Tahnicia Phillips, Clerk of Magistrate Court

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 Amended Judgment both issued October 5, 2015, the constitutionality of the procedure through which garnishment cases against financial institutions filed 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 the Magistrate Court of Cobb County ("Clerk of Court") 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 Court 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 Notice From Clerk of Court (September 22, 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 Magistrate 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 COURT available through the website for Magistrate Court of Cobb County (URL: <http://magistrate.cobbcountyga.gov>) and posted at the Office of the Clerk of Court at Window 5.