6-05/400.00 Exceptions to Advanced Fee Deposit

This section delineates the cases wherein the levying officer may not demand and receive an advance fee deposit. In each case, however, there are provisions, under certain circumstances, for the fees to be collected at a later time. As a consequence, even though a fee is not in fact received, all returns of service should include the statutory fee amount.

In all cases where a levy is made against personal property and such property, whether money or otherwise, comes into the levying officer's possession, the officer should deduct the appropriate fees from money received or, in the case of other personal property, not release the property until the fees have been paid by the defendant/judgment debtor or other party to whom the property is otherwise required to be released. CCP 488.100 and 687.050 give the levying officer a special lien, dependent upon possession, on personal property levied upon in the amount of the levying officer's costs for which an advance has not been made.

In any case where the advance fee deposit is not required, it is only waived to the extent of the levying officer's fee for service. If other costs are going to necessarily be incurred by the levying officer, such as keeper fees, storage or drayage charges, etc., an advance fee deposit is required to cover such costs.

• 6-05/400.10 Juvenile Court Proceedings

WIC 212 There shall be no fee for filing a petition under this chapter nor shall any fees be charged by any public officer for his services in filing or serving papers or for the performance of any duty enjoined upon him by this chapter, except where the sheriff transports a person to a state institution. If the judge of the juvenile court orders that a ward or dependent child go to a state institution without being accompanied by an officer or that a ward or dependent child be taken to an institution by the probation officer of the county or parole officer of the institution or by some other suitable person, all expenses necessarily incurred therefor shall be allowed and paid in the same manner and from the same funds as such expenses would be allowed and paid were such transportation effected by the sheriff.

• 6-05/400.20 Labor Commissioner

The Labor Commissioner is the Chief, Division of Labor Standards Enforcement of the

Department of Industrial Relations. (LABOR 79, 82) (enacted 1976)

LAB 101 No court costs of any nature shall be payable by the division, in any civil action to which the division is a party. Any sheriff or marshal requested by the Labor Commissioner or a deputy or representative of the Labor Commissioner shall serve the summons in the action upon any person within the jurisdiction of the sheriff or marshal or levy under a writ of attachment or execution in the action upon the property of any defendant without cost to the division except for keeper's fees, service fees, and storage charges.

LAB 102 The sheriff or marshal shall specify when the summons or process is returned, what costs he or she would ordinarily have been entitled to for such service, and those costs and the other regular court costs that would have accrued if the action was not by the Labor Commissioner shall be made a part of any judgment recovered by the Labor Commissioner and shall be paid by the Labor Commissioner if sufficient money is collected over and above the wages, penalties, or demands actually due the claimants.

• 6-05/400.30 Local Child Support Agency/District Attorney in Child or Spousal Support

The district attorney shall be exempt from the payment of any fees or costs, including fees for service of process and filing fees, in any action or proceeding brought for the establishment or enforcement of a child or spousal support obligation.

Each county is now responsible for the service of process regarding support issues. However, Los Angeles County Sheriff's Department no longer handles this type of process as a fee cannot charged. Federal and state law may provide for funds for the service of support cases if the agency enters into a contract for such services. Refer any service requests regarding child support to the local county child support agency.

GC 6103.9 (a) Notwithstanding any other provision of law, except as provided in this section, the local child support agency and the district attorney shall be exempt from the payment of any fees, including fees for service of process and filing fees, in any action or proceeding brought for the establishment of a child support obligation or the enforcement of a child or spousal support obligation.

(b) A court or county may be reimbursed for those direct costs related to the establishment of a child support obligation or the enforcement of a child or spousal support obligation which have been agreed to pursuant to a plan of cooperation. Any reimbursement pursuant to a plan of cooperation shall not include any amount which is payable as a filing fee.

(c) For purposes of this section, a "plan of cooperation" includes an agreement entered into by a court and the Administrative Office of the Courts of the California Judicial Council which provides for reimbursement for the cost of providing clerical and administrative support furnished by the court.

• 6-05/400.40 Orders Restraining Violence and Stalking

A pre-paid fee deposit is not charged to serve the following orders:

a. Protective order, temporary restraining order or injunction issued in a civil harassment action based upon stalking

b. Protective order, temporary restraining order or injunction issued in a civil harassment action based upon a credible threat of violence resulting from a threat of sexual assault

c. Protective order, temporary restraining order or injunction issued in an action pursuant to the Domestic Violence Prevention Act

d. Notice of Hearing (no Temporary orders issued) alleging anything listed in a, b, or c. (Los Angeles Superior Court only)

CCP 527.6 (cited in part) (z) (1) Subject to paragraph (4) of subdivision (b) of Section 6103.2 of the Government Code, there shall not be a fee for the service of process by a sheriff or marshal of a protective or restraining order to be issued, if either of the following conditions apply:

(A)The protective or restraining order issued pursuant to this section is based upon stalking, as prohibited by Section 646.9 of the Penal Code.

(B)The protective or restraining order issued pursuant to this section is based upon unlawful violence or a credible threat of violence.

(2) The Judicial Council shall prepare and develop forms for persons who wish to avail themselves of the services described in this subdivision.

GC 6103.2 (cited in part) (4) The requirement for prepayment of a fee deposit does not apply to orders or injunctions described in paragraph (1) of subdivision (x) of Section 527.6, paragraph (1) of subdivision (w) of Section 527.8, or paragraph (1) of subdivision (w) of Section 527.85 of the Code of Civil Procedure, Division 10 (commencing with Section 6200) of the Family Code (Prevention of Domestic Violence), Division 3.2 (commencing with Section 18100) of Title 2 of Part 6 of the Penal Code (Gun Violence Restraining Orders), and Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of the Welfare and Institutions Code (Elder Abuse and Dependent Adult Civil Protection Act).

However, a sheriff or marshal may submit a billing to the superior court for payment of fees in the manner prescribed by the Judicial Council irrespective of the in fee waiver status of any party under Rules 3.50 to 3.58, inclusive, of the California Rules of Court. The fees for service, cancellation of service, and making a not found return may not exceed the amounts provided in GC 26721, 26736, and 26738, respectively, and are subject to the provisions of GC 26731.