6-14/200.00 Creditorâ€™s Suit

If a third person possesses or controls property in which the judgment debtor has an interest or is indebted to the judgment debtor, the judgment creditor may bring suit against the person to apply the property or debt to the money judgment. A creditor’s suit may be filed if: the third person fails to perform the duties of a garnishee; the court refuses to determine disputed ownership of property; or the third person is uncooperative. (CCP 491.170, 708.180)

The court may require the judgment creditor to provide an undertaking. The court may enter judgment against a third person who transfers property or pays a debt in violation of a restraining order. The third person may also be held in contempt. The judgment debtor may claim an exemption with the court for property that is the subject of a creditor’s suit. The court may order the property or debt applied to satisfy the creditor’s judgment against the judgment debtor. The court may also order the third person not to transfer the property in which the judgment debtor has an interest until it can be levied upon or otherwise applied to satisfy the judgment. Judgment will be entered against the third person if the third person transferred property subject to a lien in favor of the judgment creditor or contrary to a court. Judgment is in an amount equal to the lesser of the value of the judgment debtor’s interest in the transferred property or the amount of the repaid debt or the unsatisfied amount of the creditor’s judgment against the judgment debtor.