6-19/120.00 Definitions

• 6-19/120.01 Interchangeable Terms

- “Amount required to satisfy the judgment” shall be deemed references to the amount required to satisfy the amount to be secured by the attachment.
- “Execution lien” or “lien” shall be deemed references to the attachment lien.
- “Judgment creditor” shall be deemed references to the plaintiff.
- “Judgment debtor” shall be deemed references to the defendant.
- “Levy” shall be deemed references to levy of attachment.
- “Notice of levy” shall be deemed references to notice of attachment.
- “Release” of property shall be deemed references to release of property pursuant to this title.
- “Satisfaction or discharge of the judgment” shall be deemed references to the satisfaction or termination of the attachment.
- “Writ” or “writ of execution” shall be deemed references to a writ of attachment.
- “Levy” shall be deemed references to levy of attachment.
- “Notice of the levy” shall be deemed references to notice of attachment.

(CCP 488.600)

• 6-19/120.02 Account Debtor

"Account debtor" means the person who is obligated on an account, chattel paper or general intangible. (CCP 481.020, COMM 9102(a)(3))

• 6-19/120.03 Account Receivable

"Account receivable" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance. All rights to payment earned or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are accounts. "Account" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance. (CCP 481.030, COMM 9102(a)(2))

• 6-19/120.04 Chattel Paper

"Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods, but a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper. (CCP 481.040, 680.140;COMM 9102(a)(11))

• 6-19/120.05 Complaint

"Complaint" includes a cross-complaint. (CCP 481.060)

• 6-19/120.06 Defendant

"Defendant" includes a cross-defendant. (CCP 481.070)

• 6-19/120.07 Deposit Account

"Deposit account" means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a negotiable certificate of deposit. (CCP 481.080, COMM 9102(a)(29))

• 6-19/120.08 Document of Title

"Document of title" includes a bill of lading, dock warrant, dock receipt, warehouse receipt, gin ticket, or compress receipt, and any other document that, in the regular course of business or financing, is treated as adequately evidencing that the person entitled under the document has the right to receive, hold, and dispose of the document and the goods it covers. To be a document of title, a document shall purport to be issued by a bailee and purport to cover goods in the bailee's possession that either are identified as or are fungible portions of an identified mass. Where goods including distilled spirits and agricultural commodities are stored under a statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature of warehouse receipts, a receipt issued for the goods has like effect as a warehouse receipt even though issued by a person who is the owner of the goods and is not a warehouseman. A document of title is negotiable if by its terms the goods are to be delivered to bearer or to the order of a named person; or where

recognized in overseas trade, if it runs to a named person or assigns. (COMM 1201(b)(16), 7104, 7201(b), 9102(a)(30), CCP 481.090)

• 6-19/120.09 Equipment

"Equipment" means tangible personal property in the possession of the defendant and used or bought for use primarily in the defendant's trade, business, or profession if it is not included in the definitions of inventory or farm products. (CCP 481.100)

• 6-19/120.10 Farm Products

"Farm products" means crops or livestock or supplies used or produced in farming operations or products of crops or livestock in their unmanufactured states (such as ginned cotton, wool clip, maple syrup, milk, and eggs), while in the possession of a defendant engaged in raising, fattening, grazing, or other fanning operations. If tangible personal property is a farm product, it is neither equipment nor inventory. (CCP 481.110)

• 6-19/120.11 Financial Institution

"Financial institution" means a state or national bank, state or federal savings and loan association or credit union, or like organization, and includes a corporation engaged in a safe deposit business. (CCP 481.113)

• 6-19/120.12 General Intangible

"General intangibles" consist of a right to payment and means any personal property (including things in action) other than goods, accounts, chattel paper, documents, instruments, investment property, rights to proceeds of written letters of credit, and money. All rights to payment earned or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are accounts. (COMM 9102(a)(42), CCP 481.115)

• 6-19/120.13 Instrument

"Instrument" means a negotiable instrument or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary endorsement or assignment. The term does not include investment property. (COMM 3104, 9102(a)(47), CCP 481.117)

• 6-19/120.14 Inventory

"Inventory" means tangible personal property in the possession of a defendant that (a) is held by the defendant for sale or lease or to be furnished under contracts of service or (b) is raw materials, work in process, or materials used or consumed in his trade, business, or profession. Inventory of a person is not to be classified as his equipment. (CCP 481.120)

• 6-19/120.15 Levying Officer

"Levying officer" means the sheriff or marshal who is directed to execute a writ or order issued under this title. (CCP 481.140)

• 6-19/120.16 Person

"Person" includes a natural person, a corporation, a partnership or other unincorporated association, a limited liability company, and a public entity. (CCP 481.170)

• 6-19/120.17 Personal Property

"Personal property" includes both tangible and intangible personal property. (CCP 481.175)

• 6-19/120.18 Plaintiff

"Plaintiff" means a person who files a complaint or cross-complaint. (CCP 481.180)

• 6-19/120.19 Probable validity

A claim has "probable validity" where it is more likely than not that the plaintiff will obtain a judgment against the defendant on that claim. (CCP 481.190)

• 6-19/120.20 Property

"Property" includes real and personal property and any interest therein. (CCP 481.195)

• 6-19/120.21 Public Entity

"Public entity" includes the state, the Regents of the University of California, a county, a city, district, public authority, public agency, and any other political subdivision or public corporation in the state. (CCP 481.200)

• 6-19/120.22 Real Property

"Real property" includes any right in real property, including, but not limited to, a leasehold interest in real property. The term "real property" includes land and permanent buildings. Things which are affixed to land, or incidental or appurtenant thereto, are generally considered as part of the real estate. Land also embraces all titles, legal or equitable, perfect or imperfect, including such rights as lie in contract whether executory or executed. (CCP 17(B),481.203; CC 14, 658, 659, 660, 662)

• 6-19/120.23 Secured party

"Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. If a security interest is in favor of a trustee, indenture trustee, agent, collateral agent, or other representative, the representative is the secured party. (CCP 481.207, COMM 9102(a)(72))

• 6-19/120.24 Security

"Security", except as otherwise provided in COMM 8103, means an obligation of an issuer or a share, participation, or other interest in an issuer or in property or an enterprise of an issuer that is all of the following:

a. It is represented by a security certificate in bearer or registered form, or the transfer of it may be registered upon books maintained for that purpose by or on behalf of the issuer.

b. It is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations.

c. It is either of the following:

(1) It is, or is of a type, dealt in or traded on securities exchanges or securities markets.

(2) It is a medium for investment and by its terms expressly provides that it is a security governed by this division. (COMM 8102, CCP 481.210)

• 6-19/120.25 Security Agreement

"Security agreement" means an agreement which creates or provides for a security interest.

(COMM 9102(a)(74); CCP 481.220)

• 6-19/120.26 Security Interest

"Security interest" means an interest in personal property or fixtures that secures payment or performance of an obligation. “Security interest” includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to COMM Division 9. “Security interest” does not include the special property interest of a buyer of goods on identification of those goods to a contract for sale under COMM 2401. (COMM 1201(35); CCP 481.223)