

6-19/160.00 Noticed Hearing Procedure

- **6-19/160.10 Service on Defendant**

The defendant is usually given the opportunity to appear at a hearing to determine whether the court should issue a writ of attachment. The defendant must be served with a copy of the summons and complaint, a notice of application and hearing, and a copy of the application and of any affidavit in support of the application at least 16 court days before the hearing. (CCP 484.040, 1005)

A defendant shall be served all of the following:

Summons and Complaint

Notice of Application and Hearing

Application for Attachment and any affidavits in support of the application

- **6-19/160.20 Application for Writ**

The application shall be executed under oath and shall include statement why the attachment is sought, the amount to be attached, a statement the attachment is not for another purpose, a statement the property is not under bankruptcy protections, a description of the property to be attached. (CCP 484.020)

- **6-19/160.30 Affidavit in Support of Application**

The application shall be supported by an affidavit showing that the plaintiff on the facts presented would be entitled to a judgment on the claim upon which the attachment is based. (CCP 484.030)

- **6-19/160.40 Notice of Application and Hearing**

The notice of application and hearing shall inform the defendant of the hearing place, date, and time, and all other requirements stated in CCP 484.050.

- **6-19/160.50 Opposition to Issuance of Writ**

The defendant may oppose the issuance of the writ of attachment and/or claim an exemption by filing and serving a notice of opposition no later than five court days before the right to attach hearing. (CCP 484.060)

- **6-19/160.60 Claim of Exemption**

If the defendant claims that the personal property described in the plaintiffs application, or a portion of such property, is exempt from attachment, the defendant shall claim the exemption. (CCP 484.070)

The claim of exemption shall:

Describe the property claimed to be exempt.

List the statute section(s) supporting the claim.

Include an affidavit and points and authorities supporting any legal issues.

The claim of exemption shall be filed (with the court) and served on the plaintiff not less than five court days before the date set for the hearing. If the plaintiff desires to oppose the claim of exemption, the plaintiff shall file (with the court) and serve on the defendant, not less than two days before the date set for the hearing, a notice of opposition and an affidavit with points and authorities in support thereof.

- **6-19/160.70 Right to Attach Order**

At the hearing, the court shall consider the showing made by the parties appearing and shall issue a right to attach order, which shall state the amount to be secured by the attachment determined by the court. (CCP 484.090)
