

6-19/188.00 Service of Writ of Attachment

• 6-19/188.10 Service on Other than Defendant

All of the following shall be provided at the time of service:

Where the writ was issued after hearing:

- Writ of Attachment (AT-135)
- Right to Attach Order and Order for Issuance of Writ of Attachment After Hearing (AT-120)
- Notice of Attachment (AT-165)

Where the writ was issued ex parte:

- Writ of Attachment (AT-135)
- *Ex Parte Right to Attach Order and Order for Issuance of Writ of Attachment (Resident) (AT-125),
or
- *Ex Parte Right to Attach Order and Order for Issuance of Writ of Attachment (NonResident) (AT-130)
- Notice of Attachment (AT-165)

Service is made in the same manner as a summons. (CCP 684.110)

*Resident/nonresident refers to the court finding that the defendant is or is not a resident of California.

• 6-19/188.20 Service on the Defendant

At the time of levy or promptly thereafter (CCP 488.305), the defendant must be served personally, in the manner of a summons, unless the defendant has "appeared in the action", which is not the same as having appeared at a hearing. If the defendant has an attorney of record, the process must be served on the defendant's attorney, not the defendant. In order to determine whom to serve (the defendant or the attorney) and how to serve (personally or by mail), the plaintiff's instructions must include that information.

In addition to the documents listed in 6-19/188.10, a summons and complaint must also be served on the defendant if he has not previously been served. (CCP 488.020(c)) It is the duty of the attorney to instruct the levying officer to make the service, rather than the duty of the levying officer to refuse to

make the levy absent instructions to serve the summons and complaint. Consequently, if an ex parte writ is received, the requirement should be brought to the attention of the plaintiff's attorney. If the attorney does not issue instructions for the service, that fact should be noted in the file, but the levy should be performed. (CCP 488.020, 488.030, 488.040)
