6-19/700.00 Bankruptcy/Assignment for Benefit of Creditors

The filing of a petition commencing a voluntary or involuntary case under Bankruptcy terminates a lien of a temporary protective order or of attachment if the lien was created within 90 days prior to the filing of the petition. (CCP 493.030) The trustee, interim trustee, or the debtor in possession if there is no trustee or interim trustee, may secure the release of the attached property by filing with the levying officer a request for release of attachment stating the grounds for release and describing the property to be released, executed under oath, together with a certified copy of the bankruptcy petition. If the request is from an assignee (general assignment), two copies of the general assignment for the benefit of creditors shall be included.

If immediate release of the attachment is sought, the request shall be accompanied by an undertaking to pay the plaintiff any damages resulting from an improper release of the attachment, in the amount to be secured by the attachment, executed by an admitted surety insurer.

Within five days of receiving the request for release, the levying officer shall mail to the plaintiff:

- a copy of the request for release
- a copy of the undertaking and general assignment for the benefit of creditors
- if an undertaking is not provided, a notice that the attachment will be released pursuant to the request unless otherwise ordered by a court within 10 days after the date of mailing the notice
- If an undertaking has been given, a notice that the attachment has been released

Unless otherwise ordered by a court, the attachment shall be released:

- At the expiration of 10 days from mailing the request for release if an undertaking has not been filed
- Immediately if a request for release includes an undertaking

(CCP 493.040)