6-20/120.00 Instructions

• 6-20/120.10 Information Required

The judgment creditor shall give the levying officer instructions in writing. The instructions shall be signed by the creditor's attorney of record or, if the creditor does not have an attorney of record, by the judgment creditor. The instructions shall contain the information needed or requested by the levying officer to comply with the statutory provisions of the levy. The instructions shall include, but not be limited to: an adequate description of the property to be levied upon; a statement whether the property is a dwelling and, if the property is a dwelling, whether it is real or personal property; name of judgment debtor; and, judgment debtor's legal entity if not a natural person. Unless the levying officer has actual knowledge that the information in the instructions is incorrect, the levying officer may rely on any information contained in the written instructions and shall act in accordance with them to the extent the actions taken conform to the statutory requirements. (CCP 687.010)

The levying officer may receive electronic instructions. (CCP 687.010(d))

If the levying officer is required to serve any writ, order, notice or other paper on any person, the judgment creditor shall use reasonable diligence to ascertain the correct name and address of the person and shall include the correct name and address in the instructions to the levying officer. Unless the levying officer has actual knowledge that the name and address given in the instructions is incorrect, the levying officer shall rely on the instructions in serving the writ, order, notice, or other paper on the person. (CCP 684.130)

• 6-20/120.20 Attorney of Record

Instructions to the levying officer may be taken only from the attorney of record. The attorney shall have authority to receive money claimed by a client in an action or proceeding during the pendency thereof, or after judgment, unless a revocation of the attorney's authority is filed, and upon the payment thereof, and not otherwise, to discharge the claim or acknowledge satisfaction of the judgment. An attorney in an action or special proceeding may be changed at any time before or after judgment or final determination either upon the consent of both client and attorney filed with the clerk, or entered upon the minutes; or upon the order of the court, upon the application of either client or attorney, after notice from one to the other. The former attorney must be recognized as the exclusive agent for the client until such time as written notice of the change and of the substitution of a new attorney or of the appearance of the party in person is given to the adverse party. (CCP 283, 284, 285)

• 6-20/120.30 Conditional Instructions

Instructions may be conditional. In the case of an execution vehicle levy, for example, the levy made be made whether or not the debtor is the registered owner. However, if the instructions state to levy on a vehicle registered to the debtor, the levy may not be made unless the vehicle is registered to the debtor.

Ex., “Levy and sell (described vehicle) in the possession (the judgment debtor). Registration is not a factor and if found, the vehicle should be seized. A DMV-Registration Inquiry through JDIC shall not be completed prior to seizure.

Ex., “Levy and sell (described vehicle) registered to (judgment debtor). In this example, a DMV-Registration Inquiry should be done prior to seizure as the instructions are void if the vehicle is not registered to the judgment debtor.

• 6-20/120.40 Liability

The direction or authority of a party or his or her attorney to a sheriff, in respect to the execution of process or return thereof, or to any related act or omission, is not available to discharge or excuse the sheriff from a liability for neglect or misconduct, unless it is contained in written instructions by the attorney of the party, including the signature and name of the attorney of the party, or by the party, if he or she has no attorney. (CCP 262)