

## **6-21/400.00 Remedies of Defendant**

The defendant may obtain the release of the property by objecting to the undertaking, posting a redelivery bond, or, in the case of an ex parte writ, make a motion to quash the writ.

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### **• 6-21/410.00 Objection to Undertaking**

The defendant may object to the plaintiff's undertaking by filing a notice of objection to undertaking with the court and mailing a copy to the levying officer within 10 days after levy. The plaintiff may object to an undertaking filed by the defendant for redelivery of the property by filing a notice of objection to undertaking with the court and mailing a copy to the levying officer within 10 days after the defendant filed the undertaking for redelivery with the court. ([CCP 515.030](#)(a), (b))

If the court determines that the defendant's undertaking is insufficient and a sufficient undertaking is not filed within the time required by statute, the court shall order the levying officer to deliver the property to the plaintiff, or, if the plaintiff has previously been given possession of the property, the plaintiff shall retain possession. If the court determines that the defendant's undertaking is sufficient, the court shall order the levying officer or the plaintiff to deliver the property to the defendant. ([CCP 515.030](#)(c))

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### **• 6-21/420.00 Motion to Quash Ex Parte Writ**

A defendant whose property has been taken pursuant to a writ issued ex parte may apply for an order that the writ be quashed and any property levied on pursuant to the writ be released. The application shall be made by noticed motion. ([CCP 512.020](#) (B)(3)(iii))

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### **• 6-21/430.00 Redelivery Bond**

Except as required by court order or pursuant to a third party claim, the levying officer shall only redeliver the property to the defendant after the levying officer has received a notice of the filing of an undertaking for redelivery by the defendant within 10 days after the levy, and the plaintiff does not file a timely objection thereto.

Since the plaintiff's objection must be filed with the court within 10 days of the date the defendant filed the undertaking with the court, and a copy of the objection is only required to be mailed to the levying officer within that time, the levying officer should allow for an additional time to receive a notice of objection that may have been timely filed and mailed. As a consequence, absent receipt of the notice of objection, the property should not be redelivered until 15 days have elapsed from the defendant's filing of an undertaking for redelivery, unless the officer has independent knowledge that the notice of objection was in fact not filed within the 10 days, in which case the property should be redelivered at the expiration of the 10 days.

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([CCP 514.030](#))

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