6-22/500.00 Third Party Claim

• 6-22/510.00 Persons Who May Claim

A person, not a party to an action, who claims ownership or the right to possession of real or personal property, or claims a security interest or lien in personal property or fixtures, may file a third party claim. The lien, security or other interest claimed must be superior to the creditor's lien on the property. (CCP 720.110, 720.210)

A third party claim may not be made by a person who is a party to the action. The legislature has provided that the third party claim procedure be available to third persons whose property has been attached so that an immediate determination respecting title to the property can be made. In such a case, the plaintiff has no claim against the third person which would support attachment of the third person's property, and in such circumstances the attachment itself is improper if the third person's claim is proven. (Commercial and Farmers National Bank v Hetrick (Paris Jet, Inc., third party), 64 CA 3d 158 – case available through CMB Operations)

For Third Party Claim procedures, see 6-31/000.00 Third Party Claims.

• 6-22/520.00 Claim of Ownership or Right to Possession

A third person may claim real property levied on under a writ of attachment or a writ of execution and personal property levied on under a writ of attachment, a writ of execution, a prejudgment or postjudgment writ of possession, or a writ of sale. (CCP 720.110)

• 6-22/530.00 Claim of Security Interest or Lien

A third person may claim personal property, including fixtures, levied on under a writ of attachment, a writ of execution, a prejudgment or post-judgment writ of possession or a writ of sale. (CCP 720.210)