6-23/150.00 Issuance of Earnings Withholding Orders

The term “issue” means that the officer completes the earnings withholding order forms in preparation for service. To do this, the original earnings withholding order and a copy is completed, using the information provided in the application and the writ. The officer must also complete the upper portion of the front side of the Employer’s Return (everything above “Employer: Complete this form”) except the space provided for the employer to indicate the name of the person to whom notices should be sent.

The levying officer in the county where the judgment debtor’s employer is to be served must receive an original writ of execution, and a completed and signed application for earnings withholding order for each earnings withholding order to be served. The application shall be operative as the written and signed instructions to the levying officer and contains all the information required for service of the earnings withholding order. The application must be signed by declaration under the penalty of perjury. In all cases a signature must appear on the line for declarant’s signature. The declarant, however, need not be the attorney or party whether with or without an attorney. The signature of the attorney or party without an attorney is necessary to give the levying officer the protection from liability afforded by CCP 262, 687.010, and 687.040. Therefore, if the attorney or party without an attorney signs the application as the declarant under the penalty of perjury, the one signature is sufficient. If, however, the declarant’s signature is not of the attorney or party without an attorney, then, in addition to the declarant’s signature, the signature of the attorney or party without an attorney must appear in the space provided therefor above the declaration.

• 6-23/151.00 The State of California Employment Development Department

The State of California Employment Development Department (EDD) may issue an earnings withholding order directly, without the use of a levying officer, to collect overpayments of unemployment compensation or disability benefits. An earnings withholding order issued by EDD shall be served by registered or certified mail, postage prepaid, with return receipt requested. If EDD does not receive a return receipt within 15 days from the date of deposit in the mail of the withholding order, EDD shall refer the earnings withholding order to a levying officer for service. Although authorized to issue and serve an earnings withholding order, EDD is not a levying officer and lacks the authority to process claims of exemption and receive and disburse monies pursuant to an earnings withholding order. (CCP 706.101(c))

Consequently, The Sheriff is not involved and lacks authority until such time EDD provides the Sheriff with the following:

$35 Fee (GOV 26750)

Application for Earnings Withholding Order

EDD’s Proof of Service of the earnings withholding order (EDD’s proof of service shall be attached to the Sheriff’s return when the writ is returned to court.)

Writ of Execution for Money Judgment

If EDD refers the issuance and service of an earnings withholding order to the Sheriff, the standard procedures for processing an earnings withholding order shall be followed.