6-27/960.00 Failure to Distribute Proceeds Timely

If the levying officer fails to distribute proceeds or deposit with the court timely, a person entitled to the proceeds may file a written demand for the payment with the levying officer. The demand may be filed in person or by certified mail. (CCP 701.820(e)(2)

If the levying officer does not pay the process within 10 days after the demand is filed, the judgment creditor may file an ex parte application for an order directing the levying officer to show cause (OSC) why relief should not be granted.

The OSC shall set a date and time for the levying officer to appear not less than 20 and not more than 30 days after filing of the application. If the levying officer pays all proceeds to the judgment creditor no later than 10 days prior to the hearing, the judgment creditor shall notify the court of full payment no later than three days prior to the hearing and the court shall withdraw the order and vacate the hearing. (CCP 701.820(f))

Relief may be the officer is liable for the amount the person is entitled to plus 25 percent damages and interest at the rate of 10 percent a month from the time of demand, plus costs and reasonable attorney's fees. (GC 26680)

If the court finds that the OSC was filed was knowingly false, or made in bad faith, the court may award costs and reasonable attorney fees to the levying officer. (CCP 701.820(f))