6-28/420.00 Defendantâ€™s Undertaking

Any defendant who appeared in the action may, by noticed motion, file an application with the court for an order permitting the defendant to substitute an undertaking for any of the defendant's property that has been or could be attached. (CCP 489.310(a))

The amount of the undertaking shall be equal to the lesser of the value of the property that has been or could be attached or the amount specified by the writ. (CCP 489.310(c))

The filing of an undertaking by one defendant does not prevent the levying officer from attaching or releasing from attachment the property of any other defendant. (CCP 489.310(d))

• 6-28/420.10 Undertaking Filed with Court

The undertaking is filed with the court and not the levying officer. (CCP 995.340)

• 6-28/420.20 Service of Undertaking on Plaintiff

The principal filing an undertaking shall serve a copy on the beneficiary and an affidavit of service shall be filed with the undertaking. (CCP 995.370)

• 6-28/420.30 Objection to Undertaking

An objection to the sufficiency of the undertaking must be made within 10 days after service of the copy of the undertaking on the beneficiary. The time is extended by mail time pursuant to CCP 1013 if the beneficiary is served by mail.

If no objection to the sufficiency of the undertaking is made timely, or if an objection is made and the court makes an order determining the undertaking to be sufficient, the property shall be released.

(CCP 995.930)

• 6-28/420.40 Undertaking Not Required

Under the following circumstances, a bond or undertaking is not required and the property shall be immediately released as if a bond were filed upon receipt of a court order:

- The defendant is a government entity which is exempt from the requirements to give an undertaking (CCP 995.220)
- If the plaintiff waives the bond requirement (or consents to a lesser amount) (CCP 995.230)
- The defendant is indigent (CCP 995.240)

• 6-28/420.50 Deposit in Lieu of Undertaking

Unless otherwise precluded by statute, the defendant makes a deposit in lieu of an undertaking in an amount specified by the writ to be secured by the attachment, the property shall be released immediately upon receiving the order permitting an undertaking to be substituted for attached property. (CCP 995.710)