6-28/520.00 Writ Recalled and/or Quashed

When a writ of execution is quashed, any property levied on pursuant to the writ is normally required to be released. The effect of the quashal of an execution or a levy made thereunder is to return the parties to the status they occupied prior to the issuance of the execution or a levy thereunder. Thus, even though it is true that an attachment lien terminates when an execution levy is made in the same case, if the execution levy is subsequently quashed, the officer should continue to hold the property under the authority of the prior attachment levy. (Durkin v. Durkin, 133 CA 2d 283)

A writ of execution may be recalled and quashed where the issuance was improperly or inadvertently made. (Meyer v. Meyer, 115 CA 2d 48)

A court may recall and quash a writ of execution where the trial court has vacated the judgment. (Stegge v. Wilkerson, 189 CA 2d 1)

When an execution is quashed, any levy made pursuantly thereto falls with it and any title to the property vested in the levying officer by the levy is defeated. If the levying officer, in violation of the court order, continues in possession of the property, it is done unlawfully and without right in the absence of some other process in the levying officer's hands which would justify the action. (Hulse v. Davis, 200 C 316)

If the order recalls the writ but does not also order it quashed and there is no order for release of property under levy, then the writ should be returned to court and no further levies executed pursuant to the writ, but levies already executed would remain in effect.