6-31/140.00 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)