6-31/200.00 Property Subject to Claim

Claim of Ownership or Right to Possession

A third person may claim real property levied on under a writ of attachment or a writ of execution and personal property levied on under a writ of attachment, a writ of execution, a prejudgment or postjudgment writ of possession, or a writ of sale. (CCP 720.110)

Claim of Security Interest or Lien

A third person may claim personal property, including fixtures, levied on under a writ of attachment, a writ of execution, a prejudgment or post-judgment writ of possession or a writ of sale. (CCP 720.210)

• 6-31/210.00 Creditorâ€™s Demand for Third Party Claim

The judgment creditor may make a demand for a third party claim by a secured party or lienholder. (CCP 720.510) The creditor must file the demand, along with a copy, with the levying officer after the levy on the personal property but before the property is sold or the proceeds are paid to the creditor. (CCP 720.520(a))

The demand shall contain all the following:

1. The name and address of the secured party or lienholder (CCP 720.530(a))
2. The name and address of the creditor (CCP 720.530(b))
3. A detailed description of the personal property levied upon and the date of levy (CCP 720.530(c))
4. A statement that if the secured party or lienholder does not file a third party claim within 30 days after service of the demand, the secured party or lienholder shall be deemed to have waived any priority the security interest or lien may have over the creditor's lien on the property levied upon unless the property levied upon is released from the creditor's lien (CCP 720.530(d))
5. A statement that if any priority of the security interest or lien is waived, the secured party or lienholder may have a right to share in any excess proceeds of an execution sale of the property as provided in CCP 701.810 (CCP 720.530(e))

Promptly after receiving the demand, and a copy thereof, the levying officer shall personally serve the original demand on the secured party or lienholder. If, because of the service address, the demand must be served by another levying officer, such levying officer's costs shall be paid out of the costs prepaid to the levying officer who levied on the property. The levying officer's certificate of service of the demand shall be promptly filed with the court after the service is completed.

Unless otherwise required to release or the third party claim is sooner filed, the levying officer may not sell or otherwise dispose of the personal property described in the demand before expiration of 30 days after service of the demand on the secured party or lienholder. (CCP 720.540)

• 6-31/220.00 Failure to File Third Party Claim After Demand

If the secured party or lienholder does not file a third party claim with the levying officer within 30 days after personal service of the demand, such person shall be deemed to have waived any priority the security interest or lien may have over the creditor's lien on the personal property levied upon and the property may be applied toward the satisfaction of the judgment free of the security interest or lien. If the creditor's lien on the property is subsequently released, the security interest or lien is restored to its former position of priority.