6-31/320.00 Service of the Third Party Claim and/or Undertaking on the Creditor and Debtor

The copies of the third-party claim and undertaking shall be served, either personally or by mail, by the levying officer on the creditor and debtor. If copies of the third party claim have not already been served on the creditor and debtor, the service of the undertaking shall be made at the time of service of those documents. (CCP 720.140(a), 720.240(a), 720.640(b))

• 6-31/320.10 Duty to Serve Third Party Claim

The levying officer may serve the copy of the third-party claim and the statement and notice pursuant to this section notwithstanding any defect, informality, or insufficiency of the claim. (CCP 720.140(d), 720.240(d)) These provisions extend to the levying officer "…, the same benefit given him by the statute…in case a good and sufficient claim is made." (Cory v. Cooper, 117 CA 495, 502)

• 6-31/320.20 Claim of Ownership or Right to Possession

Within five days after the third-party claim is filed with the levying officer, the levying officer shall provide the creditor (CCP 720.140(a)):

1. A copy of the third-party claim (CCP 720.140(a)(1))
2. A statement whether the third person has filed an undertaking to release the property pursuant to Chapter 6 (CCP 720.140(a)(2))
3. If the third person has filed an undertaking to release the property, a notice that the property will be released unless, within the time allowed as specified in the notice, the creditor objects to the undertaking (CCP 720.140(a)(3))
    a. The levying officer shall provide a copy of the undertaking (CCP 720.640(a))
4. If the third person has not filed an undertaking to release the property, a notice that the property will be released unless, within the time allowed as specified in the notice, the creditor files with the levying officer an undertaking under CCP 720.160 (CCP 720.140(a)(4))

The time allowed the creditor for objecting to the third person's undertaking to release the property or for filing an undertaking is 10 days after notice is served. (CCP 720.140(b)) If the notice is served by mail, the appropriate time is extended:

- Five days if the place of address is within the State of California (CCP 684.120(b)(1))
- Ten days if the place of address is outside the State of California but within the United States (CCP 684.120(b)(2))
- Twenty days if the place of address is outside the United States (CCP 684.120(b)(3))

Within the time allowed for service on the creditor, the levying officer shall provide all of the above to the debtor. (CCP 720.140(c))

• 6-31/320.30 Claim of Security Interest or Lien

Within five days after the third-party claim is filed with the levying officer, the levying officer shall provide the creditor (CCP 720.240(a)):

1. A copy of the third-party claim (CCP 720.240(a)(1)
2. A statement whether the third person has filed an undertaking to release the property pursuant to Chapter 6 (CCP 720.240(a)(2))
3. If the third person has filed an undertaking to release the property, a notice that the property will be released unless, within the time allowed as specified in the notice, the creditor objects to the undertaking (CCP 720.240(a)(3))
    a. The levying officer shall provide a copy of the undertaking (CCP 720.640(a))
4. If the third person has not filed an undertaking to release the property, a notice that the property will be released unless, within the time allowed as specified in the notice, the creditor does one of the following: (CCP 720.240(a)(4))
    a. Files with the levying officer an undertaking that satisfies the requirements of Section 720.260 (CCP 720.240(a)(4)(A))and shall:
        i. File with the levying officer a statement executed under oath that the security interest is invalid, that the security interest is not entitled to priority over the creditor's lien, or that the amount demanded in the claim exceeds the amount to which the secured party is entitled, for the reasons specified therein (CCP 720.280(a))
        ii. Serve a copy of the statement on the secured party. Service shall be made personally or by mail (CCP 720.280(b))
        iii. Serve a copy of the statement on the debtor. Service shall be made personally or by mail (CCP 720.280(c))
    b. Deposits with the levying officer the amount claimed plus interest at the applicable rate to the estimated date of tender to the secured party or lienholder (CCP 720.240(a)(4)(B))

The time allowed the creditor for objecting to the third person's undertaking to release the property or for filing an undertaking is 10 days after notice is served. (CCP 720.240(b)) If the notice is served by mail, the appropriate time is extended:

- Five days if the place of address is within the State of California (CCP 684.120(b)(1))
- Ten days if the place of address is outside the State of California but within the United States (CCP 684.120(b)(2))
- Twenty days if the place of address is outside the United States (CCP 684.120(b)(3))

Within the time allowed for service on the creditor, the levying officer shall provide all of the above to the debtor. (CCP 720.240(c))