6-32/700.00 Payment of Established Labor Liens

• 6-32/710.00 Time and Amount of Payment

The Sheriff must pay a preferred labor claim from proceeds of the writ in his possession immediately upon establishment of such labor claim, whether upon expiration of the time to dispute the claim or when a court order allowing the claim becomes final. If any claim is allowed by the court, the claimant's costs of suit must be included in such payment. The payments are required whether the proceeds are collected from a writ of execution or writ of attachment. (CCP 1206(e))

In all cases, the Sheriff must first deduct the costs incurred in the action by the attaching creditor before paying labor claims. (CCP 1208; Legg and Shaw v. Worthington, 157 CA 488) Such costs include not only the costs of the levy, but also other costs in the action such as the fees of the clerk of the court.

Internal Revenue tax liens have priority over preferred labor claims where there has been no bankruptcy. (United States v. Labor Law Enforcement, 201 F.2d 857) The Bankruptcy Act governs where the debtor has gone into bankruptcy. (In re Knox-Powell-Stockton, 100 F .2d 979 – cite not available)

• 6-32/720.00 Apportioning Between Labor Claimants

The method of distribution when the proceeds of the levy are less than the amount of the claims is as follows (CCP 1208):

1. Claims exceed the proceeds received after levy, whether undisputed, or disputed but judgment was established - among claimants in proportion to the amount of their claim after costs to plaintiff (or judgment creditor) have been satisfied.
2. Sufficient funds established but not received by the levying officer - any claimants, or their assignees, have the right to proceed directly against the money or other property levied on in individual or joint actions by themselves or their assignees against the debtor. Such action will set the levy aside in order for the claimants to get their own writs. Any funds collected thereof shall be shared with any other claimants in 1.

• 6-32/730.00 Request for Release of Writ of Attachment or Execution

If the plaintiff or judgment creditor requests a release of his or her attachment or execution, preferred labor claims received are not released. The levying officer may:

1. continue collecting under the writ attachment or execution until all preferred labor claims are satisfied and the release the levy, or
2. The levying officer must mail notices of the request of the attaching creditor to release to each of the labor claimants or their attorneys, notifying them that the property will be released unless they bring actions of their own and levy on the property within five days of the mailing. Once the five days has expired, the levy may be released.

The five-day period is extended if service is by mail (CCP 1013):

- 5 days if within the state
- 10 days if outside of California
- 20 days if outside of the United States

The levy may also be released if at any time the levying officer's costs, keeper fees, or storage fees have not been immediately taken care of by some of the parties involved. (CCP 1208)

• 6-32/740.00 Claims are filed through the California Labor Commissioner

Many claims are filed through the State of California Department of Labor Relations which lists the claims of numerous laborers in one claim. Payment of all claims filed by that division should be made by one county warrant payable to the division at the address given on the claim, and it will distribute the proceeds of such warrant among the claimants it represents.

• 6-32/750.00 Separate Suit by Labor Claimant

If the creditor's levy is insufficient to pay all preferred labor claims upon expiration of the time for their dispute, any labor claimant may file a separate action of his own and levy upon the property being held under the creditor's levy. In that event the claimant's levy takes priority over the prior attachment. However, any money collected by the new levy shall be shared in by the other established labor claimants in proportion to the amount of their respective claims, deducting only the costs in the action brought by the said labor claimant, or his assignee, and the costs in the original action brought by the senior attaching plaintiff or judgment creditor. (CCP 1208)