

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
Hon. Elihu M. Berle, Chair
Case Management Subcommittee, Hon. Robert B. Freedman, Chair
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DATE: September 28, 2005

SUBJECT: Claim and Delivery Actions (revise forms CD-100, CD-110, CD-120, CD-130, AT-160/CD-140, CD-160, CD-170, CD-180, CD-190, and CD-200; and revoke form CD-150) (Action Required)

Issue Statement

The claim and delivery forms were approved by the Judicial Council in 1974 to implement legislation. These forms are out-of-date. They were designed for use in municipal and justice courts, which no longer exist. The format no longer complies with the contemporary format for Judicial Council forms.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council revise the forms for use in claim and delivery actions to contain appropriate captions and other current style and format features. Specifically, the Judicial Council should revise the following forms, effective January 1, 2006:

1. *Application for Writ of Possession* (form CD-100);
2. *Notice of Application for Writ of Possession and Hearing* (form CD-110);
3. *Order for Writ of Possession* (form CD-120);
4. *Writ of Possession* (form CD-130);

5. *Undertaking by Personal Sureties* (form AT-160/CD-140);
6. *Application and Notice of Application and Hearing for Order to Quash Ex Parte Writ of Possession* (form CD-160);
7. *Order for Release and Redelivery of Property* (form CD-170);
8. *Declaration for Ex Parte Writ of Possession* (form CD-180);
9. *Application for Temporary Restraining Order* (form CD-190); and
10. *Temporary Restraining Order* (form CD-200).

In addition, the *Notice of Exception to Sureties and Hearing on Justification of Sureties* (form CD-150) should be revoked.

The revised and revoked forms are attached at pages 4–19.

Rationale for Recommendation

In 1973, the Legislature enacted statutes relating to claim and delivery, which became effective July 1, 1974. At the same time, a set of eleven Judicial Council forms concerning claim and delivery were approved. These were developed to implement Code of Civil Procedure section 516.020, which provides: “The Judicial Council shall prescribe the form of the applications, notices, orders, and other documents required by this chapter.”

The 1974 claim and delivery forms are not current.¹ The captions of all the forms refer to “Name of Municipal or Justice Court District or of Branch Court, if any,” which is obsolete as a result of trial court unification. The forms are also not in the current caption format, which includes spaces for the attorney’s State Bar number and other relevant information.

Other features of the forms are inconsistent with contemporary forms style. For example, references are made to the “reverse side,” which is no longer used on council forms; instead, the page number at the bottom right of each form indicates whether there are additional pages. These and other outdated format features would be revised. Also, the text of some of the forms has been revised or reorganized to improve clarity. The revised forms would be mandatory. This would be consistent with the legislative intent indicated in section 516.020 of the Code of Civil Procedure.

¹ Although form CD-140 was revised effective July 1, 1983, it is now outdated.

Finally, it should be noted that the revision of all the claims and delivery forms are proposed, except for the *Notice of Exception to Sureties and Hearing on Justification of Sureties* (form CD-150). Because the law has changed significantly and requires a more extensive procedure for objecting to sureties than when this form was adopted in 1974, this form would be revoked instead of being revised. The Civil and Small Claims Advisory Committee intends in the future to develop a new form consistent with current law that can be used for objecting to sureties.

Alternative Actions Considered

Because the format of the claim and delivery forms is significantly out-of-date and prevents their effective use, there is no alternative to revising them.

Comments From Interested Parties

The revised forms were circulated for public comment in the spring of 2005. Five comments were received on this proposal. The commentators included court administrators and a local bar association. The commentators were favorable, although several of them suggested improvements. A chart summarizing the comments and the committee's responses is attached at pages 20–21.

The committee agreed with a commentator who suggested a technical correction to form CD-100 and with a commentator who thought that several items on form CD-110 could be phrased and organized more clearly. On form CD-110, items 2–5 have been modified to make it clearer.

Implementation Requirements and Costs

Some costs will be incurred in making the revised forms available. But insofar as the existing forms are not in the correct format, the provision of the revised forms is needed.

Attachments

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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5. A showing that the claimed property is wrongfully detained by defendant, of how the defendant came into possession of the claimed property, and, according to Plaintiff's best knowledge, information, and belief, of the reason for the defendant's detention of the claimed property, is made in the verified complaint. in the attached declaration. as follows (*specify*):

6. To Plaintiff's best knowledge, information, and belief the claimed property or some part of it is located as stated in the verified complaint. in the attached declaration. as follows (*specify*):
(Include in this statement whether any part of the claimed property is within a private place that may have to be entered to take possession. If so, complete item 7.)

7. Facts showing probable cause for belief that the claimed property or some part of it is located in the private place referred to in item 6 are specified in the verified complaint. in the attached declaration. as follows:

8. The claimed property has not been taken for a tax, assessment, or fine, pursuant to statute, and (*check one*):
 a. has not been seized under an execution against the plaintiff's property.
 b. has been seized under an execution against the plaintiff's property, but is exempt from such seizure under (*code section*):

9. This action is subject to the Unruh Retail Installment Sales Act (Civ. Code, §§ 1801-1812.10);
 Rees-Levering Motor Vehicle Sales and Finance Act (Civ. Code, §§ 2981-2984.4).
 Facts showing that this is the proper court are specified in the verified complaint. attached declaration.

10. Total number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated:

 (TYPE OR PRINT NAME)

 _____
 (PLAINTIFF'S SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> <hr style="width: 20%; margin-left: 0;"/> TELEPHONE NO.: _____ FAX NO. <i>(Optional)</i> : _____ E-MAIL ADDRESS <i>(Optional)</i> : _____ ATTORNEY FOR <i>(Name)</i> : _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF: _____ DEFENDANT: _____	
NOTICE OF APPLICATION FOR WRIT OF POSSESSION AND HEARING	CASE NUMBER: _____

TO DEFENDANT* *(name)*:

1. A hearing on the plaintiff's application for a writ of possession for levy on personal property described in the application, including attachments, claimed to be wrongfully detained by you, will held be in this court, as follows:

a. Date: _____ Time: _____ <input type="checkbox"/> Dept.: _____ <input type="checkbox"/> Rm.: _____
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b. Address of court: same as noted above is *(specify)*: _____

2. The writ of possession will be issued if the court finds that the plaintiff's claim is probably valid and the other requirements for issuing the writ are established. This hearing is not for the purpose of determining whether the claim is actually valid. The determination of the actual validity of the claim will be made in later proceedings in the action and will not be affected by the decision at the hearing on the application for the writ.
3. If you wish to oppose the issuance of the writ, you must file with this court and serve on the plaintiff's attorney, or on the plaintiff if the plaintiff has no attorney, one or more declarations providing evidence sufficient to defeat the plaintiff's right to issuance of the writ.
4. If you fail to oppose the issuance of the writ, the court at the hearing may do the following:
 - a. Order that a writ of possession be issued.
 - b. Order that you or anyone in possession transfer possession of the claimed property to the plaintiff (Code Civ. Proc., § 512.070).
 - c. Grant injunctive or other relief.
5. If a writ of possession is issued, you may stay the delivery of the property or regain possession of property taken under the writ by filing an undertaking with the court in accordance with Code of Civil Procedure section 515.020.
6. **IF YOU BELIEVE THE PLAINTIFF MAY NOT BE ENTITLED TO POSSESSION OF THE PROPERTY CLAIMED, YOU MAY WISH TO SEEK THE ADVICE OF AN ATTORNEY. SUCH ATTORNEY SHOULD BE CONSULTED PROMPTLY SO THAT HE OR SHE MAY ASSIST YOU BEFORE THE TIME SET FOR THE HEARING.**

Dated:

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

* "Plaintiff" includes cross-complainant, and "defendant" includes cross-defendant.

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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ADDITIONAL FINDINGS FOR EX PARTE ISSUANCE OF WRIT OF POSSESSION

4. **The court also finds:**
- a. Defendant gained possession of the property described in item 3c, which was not entrusted to the defendant, by feloniously taking such property from the plaintiff by means other than by false or fraudulent representation, pretense, or embezzlement.
 - b. The property is a credit card.
 - c. Defendant acquired possession of this property in the ordinary course of the defendant's trade or business for commercial purposes, and (1) the property is not necessary for the support of the defendant or the defendant's family; (2) there is an immediate danger that the property will become unavailable to levy by reason of being transferred, concealed or removed from the state, or will become substantially impaired in value by acts of destruction, or by failure to take care of the property in a reasonable manner; and (3) the ex parte issuance of a writ of possession is necessary to protect the property.
 - d. Total number of boxes checked in item 4: _____

ORDERS

5. **IT IS ORDERED**
- a. The clerk of this court is directed to issue a writ of possession as provided in Code of Civil Procedure section 512.020, directing the sheriff or marshal within whose jurisdiction the property described in item 3c, or some part of it, is located, to seize such property and retain custody of it as provided in Code of Civil Procedure sections 514.010–514.050.
 - b. The clerk is directed to issue the writ of possession immediately.
 - c. The clerk is directed to issue the writ of possession upon the plaintiff's filling of a written undertaking, as required by Code of Civil Procedure section 515.010, in the amount of: \$
 - d. The written undertaking required by the defendant for redelivery or to stay delivery is in the amount of: \$
 - e. The clerk of this court is directed to attach a copy of this order and a copy of the plaintiff's undertaking to the writ of possession.
 - f. The sheriff or marshal may enter the following private place(s) to take possession of the property or some part of it:

Continued on Attachment 5f.

- g. Defendant (*name*): _____
is ordered to transfer possession of the property described in item 3c to the plaintiff. (Code Civ. Proc., § 512.070.)

NOTICE TO DEFENDANT: Failure to comply with an order of the court to turn over possession of such property to the plaintiff may subject you to being held in contempt of court.

6. Number of pages attached: _____

Dated:

(JUDICIAL OFFICER)

Signature follows last attachment.

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> <hr style="width: 20px; margin-left: 0;"/> TELEPHONE NO.: _____ FAX NO. <i>(Optional)</i> : _____ E-MAIL ADDRESS <i>(Optional)</i> : _____ ATTORNEY FOR <i>(Name)</i> : _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
WRIT OF POSSESSION <input type="checkbox"/> AFTER HEARING <input type="checkbox"/> EX PARTE	CASE NUMBER:

TO THE SHERIFF OR ANY MARSHAL OF THE COUNTY OF
 YOU ARE DIRECTED:

1. To levy upon and retain in your custody, until released or sold (Code Civ. Proc., § 514.030), the following property or any part of it *(specify)*:

2. To enter the following private place or places to take possession of the above-described property or some part of it *(specify exact locations)*:

3. To return this writ and the certificate of your proceedings within 30 days after levy and service, but in no event later than 60 days after issuance of this writ.

Dated: _____ Clerk, by _____, Deputy

(SEAL)	<p>NOTICE TO DEFENDANT: The plaintiff has filed with the court a written undertaking, a copy of which is attached. You have the right to object to the plaintiff's undertaking on a ground specified in Code of Civil Procedure section 995.920 and in the manner provided in Code of Civil Procedure section 515.030 or to obtain redelivery of the property by filing a written undertaking of your own, in an amount equal to the plaintiff's undertaking or as determined by the court under Code of Civil Procedure sections 515.010 and 515.020. You also have other rights under Code of Civil Procedure sections 512.020–512.120.</p> <p>If your property has been taken under an ex parte writ of possession, you may apply under Code of Civil Procedure section 512.020(b) for an order that the writ be quashed, any property levied on be released, and for other relief as provided in that section, including an award of damages for any loss sustained by you as a proximate result of the levy.</p>
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ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
<input type="checkbox"/> Plaintiff's UNDERTAKING BY PERSONAL SURETIES <input type="checkbox"/> Defendant's <input type="checkbox"/> Attachment <input type="checkbox"/> Claim and Delivery	CASE NUMBER:

1. Plaintiff *(name):*
2. Defendant *(name):*
3. Amount of undertaking: \$
4. ***(Claim and delivery only)*** Address to which notice of objection to sureties may be sent *(specify):*
5. This undertaking is for attachment. claim and delivery.
6. We, the undersigned sureties, hereby submit to the jurisdiction of the court in all matters affecting our liability on this undertaking and obligate ourselves, jointly and severally, to and including the amount specified in item 3,

ATTACHMENT

- a. **to pay the defendant named in item 2** any amount the defendant may recover for any wrongful attachment by the plaintiff named in item 1 in the action under Code of Civil Procedure section 489.210.
- b. **to pay the plaintiff named in item 1** the value of the property released not exceeding the amount of any judgment which may be recovered by the plaintiff in an action against the defendant named in item 2 (Code Civ. Proc., § 489.310).
- c. **to pay the plaintiff named in item 1** the amount of any judgment that may be recovered by the plaintiff in the action against the defendant named in item 2 under Code of Civil Procedure section 489.320.

CLAIM AND DELIVERY

- d. **to the plaintiff named in item 1**, if the plaintiff recover judgment in the action, the defendant named in item 2 will pay all costs awarded to the plaintiff and all damages that the plaintiff may sustain by reason of the loss of the property, not exceeding the amount of this undertaking under Code of Civil Procedure section 515.020.
- e. **to the defendant named in item 1**, for the return of the property to the defendant if a return is ordered, and for the payment of any sum the defendant may recover against the plaintiff, not exceeding the amount of this undertaking under Code of Civil Procedure section 515.010.

- | | |
|---|--|
| 7. a. (1) Surety <i>(name):</i>

(2) Occupation:
(3) Residence address:

(4) Business address:

(5) Address for service: | b. (1) Surety <i>(name):</i>

(2) Occupation:
(3) Residence address:

(4) Business address:

(5) Address for service: |
|---|--|

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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8. a. (1) I am neither an officer of the court nor a member of the State Bar of California, but I am a resident and householder owner of real property within California and I am worth the amount of the bond in real or personal property, or both, situated in this state, over and above all my debts and liabilities, exclusive of property exempt from enforcement of a money judgment.

(2) **(Complete if undertaking exceeds \$5,000.)**
 I rely on the following described property belonging to me and situated in this state as qualifying me on the undertaking *(describe property and nature of declarant's interest and specify best estimate of fair market value of each item of property)*:

Continued on Attachment 8a.

(3) The charges, liens, impediments, or clouds against any item of property known to me and the amounts are as follows *(specify)*:

Continued on Attachment 8a.

9. a. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

▶ _____
 (SIGNATURE OF SURETY)

 (TYPE OR PRINT NAME OF SURETY)

8. b. (1) I am neither an officer of the court nor a member of the State Bar of California, but I am a resident and householder owner of real property within California and I am worth the amount of the bond in real or personal property, or both, situated in this state, over and above all my debts and liabilities, exclusive of property exempt from enforcement of a money judgment.

(2) **(Complete if undertaking exceeds \$5,000.)**
 I rely on the following described property belonging to me and situated in this state as qualifying me on the undertaking *(describe property and nature of declarant's interest and specify best estimate of fair market value of each item of property)*:

Continued on Attachment 8b.

(3) The charges, liens, impediments, or clouds against any item of property known to me and the amounts are as follows *(specify)*:

Continued on Attachment 8b.

9. b. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

▶ _____
 (SIGNATURE OF SURETY)

 (TYPE OR PRINT NAME OF SURETY)

**COURT APPROVAL
 (Attachment only)**

The undertaking is approved.

Date:

 (JUDICIAL OFFICER)

Signature follows last attachment.

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
APPLICATION AND NOTICE OF APPLICATION AND HEARING FOR ORDER TO QUASH EX PARTE WRIT OF POSSESSION	CASE NUMBER: _____

TO PLAINTIFF* *(name):*

1. **You are notified** that defendant *(name):* applies for *(check all that apply):*

- a. An order to quash the ex parte writ of possession issued on *(date):* _____ and an order releasing any levied property.
- b. Damages sustained by the defendant proximately caused by the levy of the writ of possession and the loss of possession of the property caused by the levy under Code of Civil Procedure section 512.020(b)(3)(iii).
- c. An order staying delivery of the property pending the court hearing.

2. A hearing will be held in this court, as follows:

a. Date:	Time:	<input type="checkbox"/> Dept.:	<input type="checkbox"/> Rm.:
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b. Address of court: same as noted above is *(specify):* _____

3. This application is made on the ground that the plaintiff is not entitled to a writ of possession. This application is supported by the verified answer attached declaration or declarations and attached memorandum of points and authorities.

4. Number of pages attached: _____

Dated:

(TYPE OR PRINT NAME OF DEFENDANT OR ATTORNEY)

▶

(SIGNATURE OF DEFENDANT OR ATTORNEY)

* "Plaintiff" includes cross-complainant, and "defendant" includes cross-defendant.

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> <hr/> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
ORDER FOR RELEASE AND REDELIVERY OF PROPERTY	CASE NUMBER:

1. The application of defendant* *(name)*:
 for an order to quash the ex parte writ of possession came on for hearing as follows *(check boxes in 1c and 1d to indicate personal presence at the hearing)*:

- a. Judicial officer *(name)*:
- b. Hearing date: _____ Time: _____ Dept.: _____ Rm.:
- c. Plaintiff *(name)*: _____ Attorney *(name)*:
- d. Defendant *(name)*: _____ Attorney *(name)*:

2. The court finds

- a. The plaintiff* has been properly served as required by Code of Civil Procedure section 512.020.
- b. The plaintiff is not entitled to the ex parte writ of possession issued on *(date)*:
- c. The defendant named in item 1 has suffered damages, proximately caused by the levy of the ex parte writ of possession and the loss of possession of the property under such levy, in the amount of: \$ _____

3. IT IS ORDERED

- a. The ex parte writ of possession issued on *(date)*: _____ is quashed.
- b. Plaintiff *(name)*: _____
 is ordered to deliver immediately the personal property described in the ex parte writ of possession to the defendant named in item 1 or designee *(name)*:
- c. The levying officer is directed to remove any keeper placed in charge of the property and immediately deliver the personal property levied on under the ex parte writ of possession to the defendant named in item 1 or to the defendant's designee *(name)*:
- d. Defendant *(name)*: _____
 is awarded damages against the plaintiff named in item 3b in the amount of: \$ _____

Date: _____

(JUDICIAL OFFICER)

* "Plaintiff" includes cross-complainant, and "defendant" includes cross-defendant.

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
APPLICATION FOR TEMPORARY RESTRAINING ORDER	CASE NUMBER: _____

1. Plaintiff* *(name):* _____ has filed an application for a writ of possession and

- a. a hearing has not been set.
- b. a hearing will be held on *(date):* _____ Time: Dept.: Rm.:

2. Plaintiff requests a temporary restraining order that will apply to *(check all that apply):*

- a. the farm products (Code Civ. Proc., § 511.040) held for sale or lease described in the application for writ of possession.
- b. the inventory (Code Civ. Proc., § 511.050) described in the application for writ of possession.
- c. the property (other than the above) described in the application for writ of possession.

3. Plaintiff requests that defendant *(name):* _____
be prohibited from *(check all that apply):*

- a. transferring any interest in the property referred to in items 2a or 2b by sale, pledge, or grant of security interest or otherwise disposing of or encumbering it, except in the ordinary course of business.
- b. transferring any interest in the property referred to in item 2c by sale, pledge, or grant of security interest or otherwise disposing of or encumbering it.
- c. concealing or otherwise removing the property in such a manner as to make it less available to seizure by the levying officer.
- d. impairing the value of the property either by acts of destruction or by failure to care for the property in a reasonable manner *(specify any needed precautions):* _____

* "Plaintiff" includes cross-complainant and "defendant" includes cross-defendant.

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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4. Plaintiff requests the following restrictions on the disposition of the proceeds of a transfer of the property described in items 2a or 2b in the ordinary course of business (*specify*):

5. Facts showing the probability that there is an immediate danger that the property referred to in item 2 may become unavailable to levy by reason of being transferred, concealed, or removed or may become substantially impaired in value are specified in the verified complaint. in the attached declaration. as follows:

6. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

 (TYPE OR PRINT PLAINTIFF'S NAME)

 _____
 (PLAINTIFF'S SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
TEMPORARY RESTRAINING ORDER	CASE NUMBER:

1. The application of plaintiff* (*name*):

for a temporary restraining order having been considered by the court, the court finds:

- a. Plaintiff has filed an undertaking as required by Code Civ. Proc., § 515.010, in the amount of: \$
- b. Plaintiff has established the probable validity of plaintiff's claim to possession of the following property (*describe*):

Continued on Attachment 1b.

- c. Plaintiff has established the probability that there is an immediate danger that the above-described property

may become unavailable to levy. may become substantially impaired in value.

IT IS ORDERED

2. Defendant (*name*):

is restrained from doing the following:

- a. Transferring any interest by sale, pledge, or grant of security interest, or otherwise disposing of, or encumbering

(1) the following property (*specify*):

Continued on Attachment 2a.

(2) except in the ordinary course of business, the following farm products held for sale or lease:

Continued on Attachment 2a.

(3) except in the ordinary course of business, the following inventory:

Continued on Attachment 2a.

* "Plaintiff" includes cross-complainant, and "defendant" includes cross-defendant.

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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2. b. Concealing or otherwise removing the following property in such manner as to make it less available to seizure by the levying officer (*describe*):

Continued on Attachment 2b.

c. Impairing the value of
 (1) the following property (*describe*):

Continued on Attachment 2c.

(2) either by acts of destruction or by failure to care for the property in a reasonable manner, including the following acts:

Continued on Attachment 2c.

d. Disposing of the proceeds from the transfer of any interest in
 (1) the following farm products held for sale or lease (*describe*):

Continued on Attachment 2d.

(2) the following inventory (*describe*):

Continued on Attachment 2d.

e. Number of boxes checked in item 2: _____

3. The clerk of this court is directed to attach a copy of plaintiff's undertaking to this order.

4. This order will have no force or effect after (*date*): _____ (Code Civ. Proc., §§ 513.010(c), 527.)

5. Number of pages attached: _____

Date:

 (JUDICIAL OFFICER)

Signature follows last attachment.

COURT OF CALIFORNIA, COUNTY OF

NAME OF MUNICIPAL OR JUSTICE COURT DISTRICT OR OF BRANCH COURT, IF ANY		FOR COURT USE ONLY
TITLE OF CASE (ABBREVIATED)		
ATTORNEY(S) NAME AND ADDRESS		
ATTORNEY(S) FOR:	TELEPHONE	CASE NUMBER

NOTICE OF EXCEPTION TO SURETIES AND HEARING ON JUSTIFICATION OF SURETIES

1. TO (See footnote * before completing)

Plaintiff (Name): **TO BE REVOKED** (Attorney)
 Defendant (Name): (Attorney):
 Levying officer (Title):

2. NOTICE IS HEREBY GIVEN that plaintiff defendant excepts to the sufficiency of the sureties on (Check applicable box)

- a. Undertaking for writ of possession filed on (Date):
(CCP 512.060; 513.010; 515.010.)
- b. Undertaking given by defendant to stay the delivery of the property filed on (Date):
(CCP 512.040; 515.020.)
- c. Undertaking on redelivery of property filed on (Date):
(CCP 515.020.)

3. The hearing on justification of the sureties will be held in this court, as follows

- a. Date: _____ Time: _____ Dept. Div. Rm. No.:
- b. Address of court:

Dated

.....
(Type or print name)

(Attorney for) Plaintiff Defendant

* The word "plaintiff" includes cross-complainant, "defendant" includes cross-defendant, and singular includes the plural. The original of this notice, together with a proof of service by mail, must be filed with the court and copies mailed to the levying officer and plaintiff or defendant (CCP 515.020(b) and 515.030)

SPR05-16

Claim and Delivery Actions (revise forms CD-100, CD-110, CD-120, CD-130, AT-160/CD-140, CD-160, CD-170, CD-180, CD-190, and CD-200; revoke form CD-150)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Ms. Janet Davis Court Manager Superior Court of California, County of Amador Jackson	AM	N	<p><u>Form CD-100</u> (<i>Application for Writ of Possession</i>):</p> <p>In item 2c, change language in parenthesis to: (<i>File Application for Temporary Restraining Order, form CD-190</i>), instead of (<i>File Declaration for Temporary Restraining Order, form CD-190</i>).</p>	The committee agreed. The proposed change has been made.
2.	Superior Court of California, County of Los Angeles Los Angeles	A	Y	<p><u>Form CD-110</u> (<i>Notice of Application for Writ of Possession and Hearing</i>)</p> <p>The old form split the concepts now found in item 3 into two different sections (old items 4 and 5), which we believe made the form more intelligible.</p> <p>Because so many defendants are pro per in these proceedings, it is important not to cause confusion by discussing separate concepts within the same section or sentence. Item 3 could be misconstrued to say that a defendant can oppose issuance of a writ of possession by filing an undertaking to stay delivery of the property. In fact, such an undertaking assumes that a writ has already been issued, at which point the defendant may defeat execution by posting a redelivery bond.</p> <p>This problem can be remedied by maintaining the separation of these concepts in two different sections. As an alternative, a separate sentence might be used to describe the undertaking process, explaining that such an option exists only after the</p>	The committee generally agreed. It has reordered and rewritten items 3–6 on the existing form as items 2–5. To make the form clearer, the statement concerning undertakings has been placed in a separate item (item 5) at the end of the four items, which is a more logical place.

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Claim and Delivery Actions (revise forms CD-100, CD-110, CD-120, CD-130, AT-160/CD-140, CD-160, CD-170, CD-180, CD-190, and CD-200; revoke form CD-150)

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				issuance of the writ. As an example, the section could read: "If you wish to oppose the issuance of the writ, you must file with this court and serve on the plaintiff's attorney or on the plaintiff if the plaintiff has no attorney, one or more declarations providing evidence sufficient to defeat the plaintiff's right to issuance of the writ. If a writ is issued, you may stay the delivery of the property by providing an undertaking in accordance with Code of Civil Procedure section 515.020."	
3.	Mr. Stephen V. Love Executive Officer Superior Court of California, County of San Diego	A	N	No specific comment.	No response required.
4.	Ms. Pam Moraida Court Program Manager Superior Court of California, County of Solano Fairfield	A	N	No specific comment.	No response required.
5.	Mr. Dean Zipser President Orange County Bar Association Irvine	A	Y	No specific comment.	No response required.