

## Money Writs

### 12004.1 VEHICLE LEVIES, EXECUTION LEVY (ELC) & CHP 180

One of the most common ways to collect a civil judgment is to levy upon the debtor's vehicle. It is also one of the most potentially volatile situations that civil Deputies handle.

- (a) Execution Levy Car (ELC)
  - 1. The primary method of service a civil field Deputy will encounter is an "ELC", a levy on tangible personal property in possession of the defendant.
  - 2. The purpose of a vehicle levy under a writ of execution is to satisfy a money judgment out of the proceeds derived from the sale of the levied vehicle.
- (b) Guidelines for determining when/when not to Levy on a Vehicle:
  - 1. If the vehicle is registered to the defendant, perform the levy.
  - 2. If the vehicle is registered to another and the R/O is not present, but the defendant is present, perform the levy.
  - 3. If the vehicle is registered to another and the defendant is not present, do not perform the levy.
  - 4. Superior Court may issue a "Warrant" on a vehicle.
    - i. In this case, the R/O, location of the defendant, etc. is inconsequential, perform the levy.
  - 5. Registration is not the sole factor which determines if the vehicle is taken or not.
    - i. The levy is on "all rights, title, and interests" of the defendant in the vehicle.
    - ii. A vehicle registered to another person yet it is in the possession of the defendant can be construed to show the defendant has rights in/to the vehicle.
  - 6. If the subject vehicle is located, contact the defendant, serve a copy of the writ and seek a payoff.
    - i. If the defendant is unable to pay the judgment and costs, tow the car.
    - ii. Serve a copy of the writ on the person having custody of the vehicle if the defendant is not present.
  - 7. If no one is present, post a copy of the writ in a conspicuous place.
    - i. Complete a CHP 180 and notify Support Services/Teletype at [REDACTED] immediately so the impound information can be entered into the CLETS system and obtain a FCN number.
    - ii. The FCN number is written on the CHP 180 form adjacent to the REMARKS box.
    - iii. The CHP 180 form shall be used in conjunction with all civil vehicle levies.

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8. If a payoff is accepted in lieu of seizure, it should be in the form of cash, cashier's check or money order payable to the Sheriff, and a field receipt is issued. A personal check is never acceptable for a payoff on a vehicle levy.

#### Reference

POST ORDER 11-11

### **12004.2 SERVING EARNINGS WITHHOLDING ORDERS**

- (a) When serving EWO's it will be the Sheriff's Department policy per Code of Civil Procedure to Serve:
  1. The managing agent or person in charge, at the time of service, of the branch or office where the employee works. Or
  2. The office from which the employee is paid.
- (b) If a business refuses to accept service of an EWO, the Deputy serving the document will deliver the "Service of Earnings Withholdings Orders Notification" (See POST ORDER 06-30) to the person in charge along with the EWO.

#### Reference

POST ORDER 06-30

### **12004.3 MOVING AND STORAGE GUIDELINES FOR CIVIL BUREAU**

The Orange County Sheriff's Department has entered into formal contracts with moving companies to provide moving and storage services for civil levies. They have all agreed to the same hourly and storage rates.

- (a) Using authorized Moving and Storage Companies
  1. Civil enforcement Deputies will use the authorized Moving and Storage Companies listed in Post Order [11-17](#). No other companies are authorized for use.
  2. Field supervisors will ensure that moving and storage companies are being used on a rotational basis.
    - i. If a company cannot perform the job, the Deputy or Sergeant will document that they were offered the job and declined. The Deputy or Sergeant will then go to the next company on the list.
    - ii. If service problems arise with any of the listed companies that cannot be resolved, contact the Civil Committee for their review.
  3. When the plaintiff or their attorney requests us to use a different Moving and Storage Company, we will inform them that the company they choose must go through the County Vendor process. This could lead to a delay in their levy request.

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4. The plaintiff has two options when moving, storing, and selling defendant's property to satisfy a Writ.
    - i. The plaintiff can have us place a keeper in the business so that a complete inventory of the property to be seized can be taken beforehand. This also allows the Moving and Storage Company to visit the site and give an accurate moving and storage estimate.
    - ii. In this case the plaintiff must initially give us a deposit to cover the keeper fees and then deposit additional monies to cover the moving and storage costs.
  5. The plaintiff can have us immediately move and store the property to be levied. While this method is good for seizing one or two identifiable pieces of property, it is a poor method to seize property when the plaintiff requests us to "seize any and all property of the defendant."
    - i. A keeper will be placed to conduct the inventory.
- (b) Blind Estimates
1. If the plaintiff insists on immediately moving and storing the property, the Deputy will get as good of an estimate of property to be moved from the plaintiff.
  2. The Deputy will call the moving and storage facility and tell them we need a blind estimate on the seizure.
  3. Call the plaintiff back, give them the estimate and inform them that they must be immediately available to deposit additional funds if the costs go over the estimate.
    - i. Also inform them that if there is no break in order and that if the business is closed, they will be charged a dry-run fee by the moving company.
- (c) Insurance on Seized Property
1. The department must notify the plaintiff, or their attorney, that under state law, moving companies are only liable for lost or damaged goods in the amount of \$.60 per pound.
  2. If the plaintiff or their attorney want, or require, addition insurance they must purchase it from the moving company through us and include that amount in their deposit.
  3. The plaintiff or their attorney must check one of the boxes on the Levy/Garnishment Instruction Sheet either declining additional insurance or they must check the box requesting additional insurance.
    - i. If the plaintiff or their attorney mailed in the instructions we will notify them of the insurance valuation limits by faxing them our instruction sheet so they can formally decline or purchase additional insurance.
    - ii. If no fax number is available we will mail them an instruction sheet.

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- iii. We will hold the case for one month and return the writ and fees if the plaintiff or their attorney does not respond to our request to return the instruction sheet.

#### Reference

POST ORDER 11-17

#### **12004.4 STORAGE OF SMALL LEVIED ITEMS**

Items that are levied and are smaller than a banker's box, will be booked into our property/evidence locker.

##### (a) Procedure for Handling Small Levied Property

1. After the levy, obtain a DR # for property safekeeping.
  - i. Complete a property report for safekeeping.
  - ii. Send the original report to support services, and put copies in the DR log book and civil case file.
  - iii. Book the property into the evidence booking room at 320 N. Flower. South Civil Deputies may book the property into the Aliso Viejo Substation.
  - iv. Follow the property booking procedures posted on the walls of the evidence rooms.
  - v. We must use the "Levied" booking procedure when booking the levied property.
  - vi. This ensures the defendant cannot retrieve the property before the sale or release from the civil office.

##### (b) Sale of Property

###### 1. Sale of Levied Property

- i. The day prior to the sale, the Bureau Sergeant will fax a Property Disposition Authorization form to Property/Evidence.
- ii. The Bureau Sergeant will sign as the Authorizing Case Investigator and name the levying Deputy who will pick up the items. On the sale date, the levying Deputy will go to the property/evidence room and retrieve the items for an office counter sale.
- iii. If the item is sold and released, the levying Deputy will fill out a property disposition form.
- iv. That form will be placed in the mail drop locker at either property room.
- v. If the property was not sold or was purchased with a credit bid, return the property to the evidence lockers.
- vi. If the sale is cancelled and the property is to be released, the Bureau Sergeant will fax a Property Disposition Authorization form to Property/Evidence.

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- A. The Bureau Sergeant will sign as the Authorizing Case Inv. and name the person who the property is to be released to.
- B. Instruct that person to pick up the item(s) at the Property/Evidence.

#### Reference

POST ORDER 10-04

### **12004.5 DTS TOWING GUIDELINES FOR COURT OPERATIONS CIVIL ENFORCEMENT BUREAU**

#### (a) Seizure of Vehicles

1. Civil Operations will use the Dispatch and Tracking Solutions (DTS) tow system to seize, manage, and release vehicles that we take into our possession to satisfy Court Writs.
  - i. Civil Enforcement Deputies will request a tow company through dispatch when conducting a vehicle seizure.
  - ii. The removal authority for a claim and delivery or money Writ will be "Civil."
  - iii. If a tow company is needed only for the removal of the vehicle from the defendant's property on a Personal Property Writ (Turnover Order), the removal authority will be "Civil-714."
2. The Deputy will obtain a DR number and fill out a CHP180 form on all seizures and turnovers.
  - i. The Deputy must obtain an FCN Number, this is done by calling [REDACTED]
  - ii. Teletype needs the removal authority to enter the FCN number, the removal authority for teletype is CCP 687.030 [1].
  - iii. After the Deputy gives teletype the vehicle information, teletype will assign a FCN number that the Deputy will include in the narrative section of the CHP 180 form.
  - iv. If the vehicle is seized, the Deputy will mark the "Impounded" and "Agency Hold" boxes.
  - v. If the vehicle is turned over to the plaintiff, the Deputy and the plaintiff will complete the release sections of the form.
  - vi. In both cases, "Civil Seizure" will be written boldly in the narrative section.

#### (b) Report Distribution

1. Report Distribution to be completed by the Deputy:
  - i. Original - Support Services
  - ii. Copy - Attached to Civil Worksheet to be placed in case file
  - iii. Copy - Placed in Detail's DR log book

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(c) Professional Staff

1. The professional staff member assigned to the case will query DTS to ensure the tow company entered all of the required fields when the Deputy returns the service ticket along with the CHP180 form.
  - i. The professional staff member will write the following in the "Hold" notes section: "Civil Seizure - Vehicle only to be release by Sheriff's Civil Office."

(d) Vehicle Turned over to Plaintiff

1. If the vehicle was turned over directly to the plaintiff and a tow company was used, the professional staff must do all of the data entry.
  - i. The DTS system should be periodically checked while the vehicle is in storage to ensure the plaintiff has enough fees to cover the storage costs.
  - ii. Prior to the sale, the assigned staff member will tally the storage costs to ensure the tow company is paid in full prior to the disbursements of sale funds to the plaintiff.
  - iii. After a sheriff sale has been completed and the buyer has met all obligations, the staff member will send a release through DTS authorizing the tow company to release the vehicle to the winning bidder.

(e) Additional Information

1. The seizure of boats and planes will also be tracked through DTS.
  - i. When these types of assets are seized, professional staff must manually enter all the data into the system since they will not be stored in a private tow yard.

### Reference

POST ORDER 10-11