

INFORMATION GUIDES

[Return to Fee Schedule Summary](#)

Title	Description
<p>Court Document required</p>	<p>Our office requires that real property levies be served by a Registered Process Server (RPS) per Code of Civil Procedure §699.080 & 700.015.</p> <p>Prior to the levy, the RPS must open a file with our office and deposit with the Sheriff:</p> <ul style="list-style-type: none"> • Original letter of instruction signed and dated by the judgment creditor's attorney or the judgment creditor if the judgment creditor does not have an attorney. • \$1500.00 deposit • A copy of the Writ of Execution (form EJ-130) • A copy of the Notice of Levy (form EJ-150) for all services to be performed: e.g. Recorders Office, posting of the property, service to debtors, legal owners, third parties, etc. <p>The RPS must have in his/her possession the levy packet upon opening a file with our office that consists of the following:</p> <ul style="list-style-type: none"> • Original Writ of Execution-Money Judgment (form EJ-130) • Notice of Levy (form EJ-150) for all services to be performed: e.g. Recorders Office, posting of the property, service to debtors, legal owners, third parties, etc. • Legal description and common street address of the property. • List of exemptions-for debtor if applicable
<p>Purpose of Process</p>	<p>The writ authorizes the Sheriff to levy on specific real property and initiates the process for the Sheriff to sell the property at auction. The proceeds would be credited toward the satisfaction of the money judgment.</p>
<p>Sheriff's Instructions</p>	<p>The letter of instruction must specify the type of levy requested, if the real property contains a dwelling as defined by Code of Civil Procedure §704.710, a legal description of the property and common street address, and whether the property stands in the name of third persons (recorded owners other than the judgment debtor) as indicated by the county records. If yes, list the names and addresses of all third parties as well as all AKA's of the debtor. Specify whether the real property is a leasehold estate. If yes, provide the date the lease expires.</p> <p>The judgment creditor's attorney or the judgment creditor if the judgment creditor does not have an attorney must sign and date the instructions.</p>
<p>Time for Service</p>	<p>The writ expires 180 days after issuance.</p>
<p>Manner of Service</p>	<p>The method of levy is the creation of a lien against the property. This is accomplished by filing the Writ of Execution, Notice of Levy and other documents with the County Recorder of the county in which the real property is located. The lien includes a description of the property levied upon and states that the judgment debtor's interest in the described property has been levied upon. The recording of the levy creates a judicial lien that initiates the process of selling the real property in a Sheriff's sale. Proceeds from the Sheriff's Sale are credited towards satisfying the money judgment against the judgment debtor. Real Property levies in Napa County must be served by a Registered Process Server (RPS) per Code of Civil Procedure §699.080 & 700.015. Prior to the levy, the RPS must open a file with our office with required fees. Within 5 days after the levy the RPS must file with our office the following:</p> <ul style="list-style-type: none"> • Original Writ of Execution (form EJ-130) • Proof of service for the Notice of Levy (form EJ-150) for all services performed: e.g. Recorders Office, posting of the property, service to debtors, legal owners, third parties, etc. • A certified copy of the recording (must indicate recording number) <p>If the required fees have been recieved by the Sheriff, the Sheriff will perform all other duties under the Writ of Execution and return the writ to the court with an accounting of action taken.</p>

Fee Deposit	\$1500.00
Fee	\$40.00 if served, \$40.00 for Not Found or Cancellation
Proof of Service	A return detailing the Sheriff's action is prepared that accompanies the writ when it is returned to the court.

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Your writ will be rejected by the Sheriff if the interest on line 19(a) exceeds 10% (CCP §685.010). To properly calculate interest on your writ, take line 15 and multiply it by 0.10 then divide by 365. Do not set your calculator to round numbers up. Your writ of execution is a two sided form. If you have only one side to your writ it is invalid.

Initially the RPS, records the levy, serves the debtor(s), serves the occupant of the real property or posts notice on the real property, and serves third parties and legal owners. The Sheriff will then mail a letter to the attorney or creditor without an attorney requesting additional information.

When levying on real property that contains a dwelling as defined by CCP §704.710, the attorney for the judgment creditor must file an Application for Order for Sale of Dwelling with the Sheriff. **Failure to file the application in the proper format and within the time allowed will result in the Sheriff releasing the real property levy.** For real property that does not contain a dwelling there is no requirement to obtain a court order to sell the property. The following 3 steps apply only if the real property contains a dwelling:

- Within 25 days after the levy the creditor must file a copy of the Application for Order for Sale of Dwelling with the court and the Sheriff. the court date for the hearing on the application must not be more than 45 days after the application is filed (CCP §704.750).
- The creditor must arrange for the Application for Order for Sale of Dwelling to be served on the debtor and occupant no later than 30 prior to the hearing (CCP §704.770).
- If the judgment debtor does not show up to the hearing on the application, a second chance notice must be served on the debtor (CCP §704.790).

Lien Holders: The sheriff requires a list of all lien holders that were of record the day the levy was recorded. The lien holder list may not be determined until 30 days after the date of levy (CCP §701.540(h)). The Sheriff does not actually require the lien holder list until it is time to prepare a Notice of Sale.

The Sheriff cannot prepare a sale notice until 125 days after the Notice of Levy was served on the debtor (CCP §701.545).

- Postpone Sale: The Sheriff requires a signed stipulation between the judgment creditor and the judgment debtor to postpone the sale. the judgment debtor's signature must be notarized. The creditor may cancel the sale at any time.
- Sale: the judgment creditor may credit his or her judgment as a bid for the real property (CCP 701.590).

For real property sales, bids over \$5000 may be treated as credit bids by depositing \$5000.00 or 10% of the amount bid, whichever is greater, with the Sheriff. Real property can be viewed at anytime from the street. Real property Sales notices are also published in the legal section of the newspaper in the city where the property is located on three consecutive Wednesdays prior to the sale. If the Court determines that the real property contains a homestead, the minimum the Sheriff can sell the real property for is 90% of the fair market value. Due to code requirements, the Sheriff may not sell the real property until 5 months after the levy.

Checklist

- Fee deposit: \$1500
- Original Writ of Execution and Notice of Levy plus 5 copies
- Sheriff's instructions-[Levy Upon The Debtors Real Property](#)
- Legal description and common street address
- List of exemptions-if the defendant is a natural person
- Service packets for :
 - Recorders Office
 - Debtor(s)
 - Posting of the property
 - Occupants of the property
 - Third parties

