

INFORMATION GUIDES

[Return to Fee Schedule Summary](#)

Title	Description
Court Document required	<p>Original After Hearing-Writ of Possession - Claim and Delivery (form CD-130) plus 3 copies; 3 copies of the Order for Writ of Possession (form CD-120); Undertaking per CCP §515.010 plus 3 copies or Undertaking by Personal Sureties (form AT-160 or CD-140) plus 3 copies. Please note, an undertaking is not required only if the court finds that the defendant has no interest in the property. If such a finding is made, the court shall expressly waive the requirement of the plaintiff's undertaking and shall include in the order for issuance of the writ the amount of the undertaking sufficient to satisfy the requirements of subdivision (b) of the CCP §515.020.</p> <p>OR</p> <p>Original Ex Parte-Writ of Possession - Claim and Delivery (form CD-130) plus 3 copies; 3 copies of the Order for Writ of Possession (form CD-120); Undertaking per CCP §515.010 plus 3 copies or Undertaking by Personal Sureties (form AT-160 or CD-140) plus 3 copies; 3 copies of the Notice of Application for Writ of Possession and Hearing (form CD-110); 3 copies of the Application for Writ of Possession (form CD-100); 3 copies of any affidavits in support; 3 copies of the summons and complaint (if not previously served). Please note, pursuant to CCP §515.020, an undertaking is not required only if the court finds that the defendant has no interest in the property. If such a finding is made, the court shall expressly waive the requirement of the plaintiff's undertaking and shall include in the order for issuance of the writ the amount of the undertaking sufficient to satisfy the requirements of subdivision (b) of the CCP §515.020.</p>
Purpose of Process	The Writ of Possession (Claim and Delivery) directs the Sheriff to seize and store the property for 10 days. If the defendant does not post a redelivery bond, the property is transferred to the plaintiff.
Sheriff's Instructions	<p>Provide a specific description of the property, to include make/model/serial number/license number if available. If there is no serial number, license number or other specific identifier, provide a photograph of the property and/or a contact person who can positively identify it and provide a written and signed verification to that effect. If no Summons and Complaint has been provided, the letter of instruction must specify that they have been served.</p> <p>If the property to be seized is in a private place (such as inside a residence or garage), the Sheriff cannot seize it without a private place court order issued pursuant to CCP §514.010.</p> <p>The plaintiff's attorney, or the plaintiff (if the plaintiff doesn't have an attorney) must sign and date the Sheriff's instructions.</p>
Time for Service	The writ expires 60 days after issuance (CCP §514.040)
Manner of Service	The method of levy is seizure in which the Sheriff refers to the writ to identify specifically described property and its physical location in order to seize it from the possession of the defendant and store it for 10 days. If the defendant does not post a redelivery bond, the property is released to the plaintiff.
Fee Deposit	\$205.00 or more.
Fee	\$100.00 plus moving and storage costs; \$140.00 if a keeper is used to facilitate the seizure.
Proof of Service	A proof of service is not issued. Instead, a return detailing the Sheriff's actions is prepared which accompanies the writ when it is returned to the court.

Information Guide

In a claim and delivery action the lawsuit is for ownership of personal property. A writ of possession (claim and delivery) directs the Sheriff to seize the property and store it for 10 days. Ordinarily, the defendant has the opportunity to attend a hearing to oppose the issuance of the writ. However, the court may issue a writ of attachment ex parte without notice to the defendant under certain circumstances. Usually, the court requires the plaintiff to post an undertaking to protect (indemnify) the defendant from a wrongful seizure. If the defendant does not post a

redelivery bond protecting (indemnifying) the plaintiff within the 10-day period, the Sheriff will deliver the property to the plaintiff, who must hold it until a judgment is rendered in the lawsuit.

Property that is not in the possession of the defendant cannot be seized if the Sheriff determines that the property is the possession of a third party and not in the possession of the defendant.

The Sheriff must serve copies of the writ and other court documents on the defendant. If the writ of attachment was issued ex parte and the defendant did not appear in the action, e.g., defendant did not file a response with the court, the service must be made in the same manner as a summons. Otherwise, service may be made by mail. Consequently, the instructions to the Sheriff must indicate whether the defendant appeared in the action if the writ was issued ex parte.

The plaintiff must make an advance deposit with the Sheriff to cover levy fees and moving and storage costs. The Sheriff's levy fees will vary depending on the need to utilize a keeper while the property is being removed. The plaintiff should call the Sheriff to determine the levy fee amount. The Sheriff's instructions must include an estimate for moving and 30 days storage and the name and telephone number of the moving company employee who provided the quote. The advanced fee deposit is the total of the Sheriff's levy fees plus the estimated costs for moving and storage.

Unless the property is readily identifiable, specify in the Sheriff's instructions the name and telephone number of a "spotter" who will meet the Sheriff at the location and identify the property.

If the Order for Issuance of the Writ includes an order directing transfer and the property is not at the location, the Sheriff will personally serve the order on the defendant. The Order directing transfer commands the defendant to surrender the property directly to the plaintiff and is used as an aid, not a substitute for seizure by the Sheriff.

Property that is not in the possession of the defendant cannot be seized if the Sheriff determines that the property is the possession of a third party and not in the possession of the defendant.

Sheriff's Instructions-General Civil Process

Checklist

- Fee deposit: \$205 or more, \$100 plus moving and storage costs and \$140 keeper fee (if applicable)
- Original After Hearing-Writ of Possession - Claim and Delivery (form CD-130) plus 3 copies
- 3 copies of the Order for Writ of Possession (form CD-120)
- Undertaking per CCP §515.010 plus 3 copies or Undertaking by Personal Sureties (form AT-160 or CD-140) plus 3 copies
- Sheriff's Instructions

OR

- Original Ex Parte-Writ of Possession-Claim and Delivery (form CD-130) plus 3 copies
- 3 copies of the Order for Writ of Possession (form CD-120)
- Undertaking per CCP §515.010 plus 3 copies or Undertaking by Personal Sureties (form AT-160 or CD-140) plus 3 copies
- 3 copies of the Notice of Application for Writ of Possession and Hearing (form CD-110)
- 3 copies of the Application for Writ of Possession (form CD-100) 3 copies of any affidavits in support
- 3 copies of the summons and complaint (if not previously served)
- Sheriff's Instructions.