

FREQUENTLY ASKED QUESTIONS (PLAINTIFF/CREDITOR)

Q: How do I request service from the Sheriff and what do I need to submit?

A: Service of non-writ processes requires the following:

- Original instructions signed by the attorney of record or the plaintiff if there is no attorney;
- A complete and legible set of documents per person being served;
- One complete copy of all documents for the Sheriff's file;
- An extra copy of all documents per person if you are requesting/authorizing substitute service;
- The proper fee for service or a court issued fee waiver from a State of California court.

You can find many of our standard instruction forms online at www.kernsheriff.com on the Civil Section webpage.

Q: How much will it cost to serve my documents and what method of payment can I use?

A: Refer to the current year fee schedule for your particular document. We accept personal checks from within the state, money orders, and cashiers' checks (all payable to the Kern County Sheriff). We accept cash if you appear at the counter but please do not send cash through the mail. We do not accept debit or credit cards.

Q: Why do I have to submit original, written instructions and who can sign them?

A: The Sheriff requires written instructions signed by the attorney of record or the plaintiff if there is no attorney per California Code of Civil Procedure (CCP) 262. Substitute signatures are not acceptable. Facsimile signature stamps of **attorneys** are acceptable. We will not accept a photocopy. The instructions must state the following:

- The name of the person we are serving (the name must match the court documents);
- The physical address in Kern County where the service is to be made;
- The names or form numbers of all the documents you are submitting for service;
- The address where we are to return the proof of service and any other correspondence;
- Any other information that is necessary for your particular service;
- The printed name of the person signing the instructions.

Q: My writ was returned for correction. Why do I have to the court clerk correct and initial it if the court issued it that way?

A: The Sheriff is required to enforce the writ; however, it is the Sheriff's responsibility to ensure the writ meets all requirements. (Refer to CCP 699.520 and 712.010 for the requirements.) Per California Rules of Court (CRC) 2.116, "All additions, corrections, deletions and interlineations must be initialed by the issuing clerk."

Q: I live out of state, how do I go about having documents served on someone in Kern County?

A: Documents from out of state have the same instruction and fee requirements as in-state documents (see current year fee schedule). Generally, a notarized Certificate of Service is required by the out-of-state jurisdiction, which is an additional fee of \$10.00 per person being served. If notarization is not required by your state, write "No notary required" on your instructions. All fees must be paid in advance. We do not accept out-of-state fee waivers or out-of-state personal checks. There is no charge for domestic violence restraining orders. You may wish to call to verify the fee and requirements for your particular service. Please refer to the "Out of State Documents" under "Forms/Instructions" on our webpage for further instructions.

Q: I have a court date – when should I turn in my documents for service?

A: We recommend you submit your documents as soon as possible; however, we require your documents be received by our office **no less than 10 days** prior to the last day for service to allow us time to process, serve and return the Proof of Service to you by the court date. If there is not sufficient time to serve your documents, it will be necessary for you to obtain a new hearing date.

Q: How do I know the "last day for service?"

A: The last day for service varies by the type of process and can usually be found on your court documents. You can also get this information from the court clerk or legal assistance agency.

Q: How will the court get the Proof of Service? Does the Civil Section submit the proof for me?

A: It is your responsibility to submit the proof to the court. It is for this reason that we require a mailing address for the plaintiff/creditor and sufficient time to complete the service and mail you the proof.

Q: I have a writ of execution, how do I collect my judgment?

A: You may wish to consult an attorney or other legal assistance agency for answers to your legal questions. The Sheriff's Civil Section is not permitted to give legal advice.

Q: What is a levy?

A: A levy is the process of seizing or collecting property under a writ of execution. The Sheriff (levying officer) will seize/collect the property at the request of the plaintiff/creditor to satisfy a money judgment.

Q: What types of levy can I have the levying officer attempt for me?

A: Some of the types of levies you can attempt are an earnings withholding order, bank levy, personal property or real property levy. If you have a judgment against a business, you can attempt a till tap or keeper. We require the original writ of execution for all levies.

Q: What is an earnings withholding order and what do I need to submit?

A: An earnings withholding order garnishes the wages of the defendant/debtor. You will need to submit the following:

- 1 original and 1 copy of your writ
- The original Application for Earnings Withholding Order (Judicial Form #WG-001)
- Applicable service fee (see current year fee schedule)

Q: What is a bank levy?

A: A bank levy seized funds held in deposit accounts such as savings or checking accounts. You will need to submit the following:

- 1 original and 3 copies of your writ
- Original signed and dated instructions (form available on our webpage) to include:
 - The name and address of the financial institution
 - The name(s) of the defendant/debtor
 - The bank account number and/or social security number, if available
 - Any other specific instructions
 - Your name and address or payment instructions
 - Applicable service fee (see current year fee schedule)

Q: I already submitted my original writ and instructions to the Sheriff and I want to attempt another levy - what do I do?

A: If your writ has not expired, you need to submit new instructions, a writ declaration form, the appropriate number of copies of the writ for the levy you are attempting, and the appropriate fees.

Q: What is personal property or real property?

A: An example of personal property is a vehicle. Real property is a parcel of land with or without a dwelling.

Q: What is a till tap?

A: The deputy enters a going business and seizes all the funds in the cash register.

Q: What is a keeper?

A: The deputy "installs" a keeper in a going business for the purpose of taking custody of all proceeds from sales for a specified period of time.

Q: How will I know when my levy is served?

A: When your levy has been assigned and processed by the clerk, a receipt will be mailed to the address provided on the instructions for the amount of the fee. This is approximately the time the deputy will be attempting service. When we receive a written response from the employer or garnishee, a copy will be mailed to the address you provided on the instructions. We ask that you wait at least 30 days from the date of processing before requesting status on a levy.

All status requests must be submitted via fax at (661) 635-1320. Please provide the levying officer file number as it appears on the receipt.

Q: Can a Registered Process Server (RPS) serve a levy and if so, what are the requirements?

A: A RPS may serve a levy under a writ of execution on certain types of property (refer to CCP 699.080) for specific information). **Before** serving a levy, the RPS is required to submit the following to the Civil Section:

- **Original Writ of Execution**
- **Original Instructions (or Application for Earnings Withholding Order)**
- **The applicable fee (per current year fee schedule)**

Civil Section staff will review the documents and provide a levying officer file number. **You must have a levying officer file number prior to serving the documents.** (Allow up to two weeks to receive the file number.) Please refer to "Registered Process Server Requirements" under "Forms/Instructions" on our webpage for further instructions.