

# COOK

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TO: ALL BANKS, AND TO THEIR OPERATIONS OFFICERS  
RE: ASSIGNMENT ORDERS

Dear Bank Operations Officer:

You have received correspondence from our office in which we have advised you that our client, a Judgment Creditor, has obtained an assignment order against a Judgment Debtor, your customer. We have enclosed a copy of the order as part of the correspondence.

By this letter, we wish to take the time to explain this process. California law gives the Judgment Creditor the right to obtain a broad-based assignment order under California Code of Civil Procedure Section 708.510, which provides as follows:

**§ 708.510.**

(a) Except as otherwise provided by law, upon application of the judgment creditor on noticed motion, the court may order the judgment debtor to assign to the judgment creditor or to a receiver appointed pursuant to Article 7 (commencing with Section 708.610) all or part of a right to payment due or to become due, whether or not the right is conditioned on future developments, including but not limited to the following types of payments:

- (1) Wages due from the federal government that are not subject to withholding under an earnings withholding order.
- (2) Rents.
- (3) Commissions.
- (4) Royalties.
- (5) Payments due from a patent or copyright.
- (6) Insurance policy loan value.

(b) The notice of the motion shall be served on the judgment debtor. Service shall be made personally or by mail.

© Subject to subdivisions (d), (e), and (f), in determining whether to order an assignment or the amount of an assignment pursuant to subdivision (a), the court may take into consideration all relevant factors, including the following:

- (1) The reasonable requirements of a judgment debtor who is a natural person and of persons supported in whole or in part by the judgment debtor.
- (2) Payments the judgment debtor is required to make or that are deducted in satisfaction of other judgments and wage assignments, including earnings assignment orders for support.
- (3) The amount remaining due on the money judgment.
- (4) The amount being or to be received in satisfaction of the right to payment that may be assigned.

(d) A right to payment may be assigned pursuant to this article only to the extent necessary to satisfy the money judgment.

(e) When earnings or periodic payments pursuant to a pension or retirement plan are assigned pursuant to subdivision (a), the amount of the earnings or the periodic payments assigned shall

not exceed the amount that may be withheld from a like amount of earnings under Chapter 5 (commencing with Section 706.010) (Wage Garnishment Law).

(f) Where a specific amount of the payment or payments to be assigned is exempt by another statutory provision, the amount of the payment or payments to be assigned pursuant to subdivision (a) shall not exceed the amount by which the payment or payments exceed the exempt amount.

In this case, the court, upon our duly noticed motion has granted us relief providing for such an assignment which is evidenced by way of the order. For your general background, we have provided the Judgment Debtor with the statutorily required time of notice.

The effect of the order is to create a judicial assignment of all deposits and deposit accounts in the name of the Judgment Debtor to the Judgment Creditor. The relationship between a bank and its customer is one of debtor/creditor in which the bank is the debtor and the customer is the creditor. Therefore, instead of paying the customer, the bank would be paying the Judgment Creditor based upon any funds held by the bank. Stated simplistically, if you are holding money for the Judgment Debtor, your customer, pay us instead of him/her.

The legal effect of an assignment order is found under California Code of Civil Procedure Sections 708.530 and 708.540 which provide as follows:

**§ 708.530.**

(a) Except as provided in subdivision (b), the effect and priority of an assignment ordered pursuant to this article is governed by Section 955.1 of the Civil Code. For the purpose of priority, an assignee of a right to payment pursuant to this article shall be deemed to be a bona fide assignee for value under the terms of Section 955.1 of the Civil Code.

(b) An assignment of the right to future rent ordered under this article is recordable as an instrument affecting real property and the priority of such an assignment is governed by Section 1214 of the Civil Code.

**§ 708.540.**

The rights of an obligor are not affected by an order assigning the right to payment until notice of the order is received by the obligor. For the purpose of this section, "obligor" means the person who is obligated to make payments to the judgment debtor or who may become obligated to make payments to the judgment debtor depending upon future developments.

The court has also granted us a restraining order pursuant to Section 708.520(a) which provides as follows:

**§ 708.520.**

(a) When an application is made pursuant to Section 708.510 or thereafter, the judgment creditor may apply to the court for an order restraining the judgment debtor from assigning or otherwise disposing of the right to payment that is sought to be assigned. The application shall be made on noticed motion if the court so directs or a court rule so requires. Otherwise, it may be made ex parte.

This order prohibits the Judgment Debtor, your customer, from the using the funds.

To avoid any miscommunication, this assignment order is self-executing and in which we will not be serving any type of a writ or garnishment. Upon your receipt of the order and accompanying letter, the execution process is completed.

DAVID J. COOK