

West's Annotated California Codes

Code of Civil Procedure (Refs & Annos)

Part 2. Of Civil Actions (Refs & Annos)

Title 6.5. Attachment (Refs & Annos)

Chapter 11. Attaching Plaintiff's Miscellaneous Remedies (Refs & Annos)

Article 3. Lien in Pending Action or Proceeding (Refs & Annos)

West's Ann.Cal.C.C.P. § 491.410

§ 491.410. Right to attach order; extent of lien; notice of lien; service on parties; pendency of appeal

Currentness

(a) If the defendant is a party to a pending action or special proceeding, the plaintiff may obtain a lien under this article, to the extent required to secure the amount to be secured by the attachment, on both of the following:

(1) Any cause of action of the defendant for money or property that is the subject of the other action or proceeding, if the money or property would be subject to attachment if the defendant prevails in the action or proceedings.

(2) The rights of the defendant to money or property under any judgment subsequently procured in the other action or proceeding, if the money or property would be subject to attachment.

(b) To obtain a lien under this article, the plaintiff shall file all of the following in the other pending action or special proceeding:

(1) A notice of lien.

(2) A copy of the right to attach order.

(3) A copy of an order permitting creation of a lien under this article made by the court that issued the right to attach order.

(c) At the time of the filing under subdivision (b) or promptly thereafter, the plaintiff shall serve on all parties who, prior thereto, have made an appearance in the other action or special proceeding a copy of the notice of lien and a statement of the date when the notice of lien was filed in the other action or special proceeding. Failure to serve all parties as required by this subdivision does not affect the lien created by the filing under subdivision (b), but the rights of a party are not affected by the lien until the party has notice of the lien.

(d) For the purpose of this article, an action or special proceeding is pending until the time for appeal from the judgment has expired or, if an appeal is filed, until the appeal has been finally determined.

Credits

(Added by Stats.1982, c. 1198, p. 4316, § 57, operative July 1, 1983. Amended by Stats.1984, c. 538, § 8.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

1982 Addition

Section 491.410 is new and is drawn from Section 708.410 (Enforcement of Judgments Law). See also Sections 482.070 (manner of service), 483.015 (amount to be secured by attachment) (16 Cal.L.Rev.Comm. Reports 701).

1984 Amendment

Subdivision (a) of Section 491.410 is amended to provide that a lien may not be created under this article if the money or property the defendant seeks would not be subject to attachment should the defendant prevail in the action or special proceeding. See, e.g., Section 487.010 (property subject to attachment). Subdivision (b) is amended to require the plaintiff to file a court order permitting creation of a lien under this article. [17 Cal.L.Rev.Comm.Reports 975 (1984)].

OFFICIAL FORMS

2011 Main Volume

<Mandatory and optional Forms adopted and approved by the Judicial Council are set out in West's California Judicial Council Forms Pamphlet.>

[Notes of Decisions \(4\)](#)

West's Ann. Cal. C.C.P. § 491.410, CA CIV PRO § 491.410

Current with urgency legislation through Ch. 1 of 2016 Reg.Sess. and Ch. 1 of 2015-2016 2nd Ex.Sess.

End of Document

© 2016 Thomson Reuters. No claim to original U.S. Government Works.