

|   |                |                           |
|---|----------------|---------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name and Address)</i> :  | TELEPHONE NO.: | <b>FOR COURT USE ONLY</b> |
| ATTORNEY FOR (Name):  |                |                           |
| NAME OF COURT:<br>STREET ADDRESS:<br>MAILING ADDRESS:<br>CITY AND ZIP CODE:<br>BRANCH NAME:   |                |                           |
| PLAINTIFF:  |                |                           |
| DEFENDANT:  |                |                           |
| <b>ORDER</b><br><b>to Set Aside Right to Attach Order, Quash Writ of Attachment, and Release Property Levied Upon</b><br><b>to Release Attached Property Exceeding in Value the Amount to be Secured to Substitute Defendant's Undertaking for Property</b><br><b>to Increase Plaintiff's Undertaking</b><br><b>to Determine Sufficiency of Plaintiff's Sureties</b><br><b>to Discharge Attachment and Release Property Levied Upon (Ex Parte)</b><br><b>to Release Property Levied Upon Due to Filing of Undertaking on Appeal (Ex Parte)</b><br><b>to Reduce the Amount to be Secured by the Attachment</b> |                | CASE NUMBER:              |

1. a. The court has considered the application of defendant

*(name)*:

for an order

- (1) to set aside Right to Attach Order, quash Writ of Attachment, and release property levied upon.
- (2) to release attached property exceeding in value the amount to be secured.
- (3) to substitute defendant's undertaking for property.
- (4) to increase plaintiff's undertaking.
- (5) determining sufficiency of plaintiff's sureties.
- (6) to discharge attachment and release property levied upon.
- (7) to release property levied upon due to filing of undertaking on appeal.
- (8) to reduce the amount to be secured by the attachment.

b. On hearing as follows *(check boxes in items (3) and (4) below to indicate personal presence)*:

(1) Judge *(name)*:

(2) Hearing date: \_\_\_\_\_ time: \_\_\_\_\_ courtroom: \_\_\_\_\_

(3) Plaintiff *(name)*: \_\_\_\_\_ Attorney *(name)*: \_\_\_\_\_

(4) Defendant *(name)*: \_\_\_\_\_ Attorney *(name)*: \_\_\_\_\_

c. Ex parte.

**2. THE COURT FINDS**

- a. Plaintiff is not entitled to the Right to Attach Order issued on *(date)*:
- b. Nonresident defendant has filed a general appearance and plaintiff has not shown that the Right to Attach order is authorized by a provision other than CCP 492.010.
- c. The value of defendant's interest in property attached is \$ \_\_\_\_\_ which exceeds the amount necessary to satisfy the amount to be secured by the attachment by \$ \_\_\_\_\_
- d. The defendants named in item 1a are the only defendants who have an interest in the property described in item 2f.
- e. The following defendants, not named in item 1a, have an interest in the property described in item 2f *(names)*:

|              |              |
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| SHORT TITLE: | CASE NUMBER: |
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2. f. an undertaking in the amount of \$ \_\_\_\_\_ is a sufficient substitution for the following property which
- (1) has been attached (*describe*):
- (2) is subject to attachment (*describe*):
- g. The undertaking is insufficient as follows (*specify*):
- h. Defendant has recovered judgment against plaintiff and (1) no timely motion to vacate the judgment or for judgment notwithstanding the verdict or for a new trial has been filed and served and is pending and no appeal has been perfected; and (2) no undertaking has been executed and filed as required by CCP 921.
- i. Enforcement of plaintiff's judgment is stayed by the filing of an undertaking on appeal and justification of defendant's sureties
- has been made.
- has been waived in writing.
- has been waived by failure to timely object.
- j. The amount to be secured by the attachment may be reduced by the amount of \$ \_\_\_\_\_
- k. Other (*specify*):

**ORDER**

3. IT IS ORDERED

- a. The Right to Attach Order issued on (*date*): \_\_\_\_\_ is set aside.
- b. The Writ of Attachment issued on (*date*): \_\_\_\_\_ is quashed.
- c. The property levied upon pursuant to the Writ of Attachment issued on (*date*): \_\_\_\_\_ is released as follows:
- (1) all property.
- (2) property in the amount of \$ \_\_\_\_\_
- (3) the following property (*describe*):
- d. Defendant may substitute an undertaking for property which has been attached as follows:
- (1) amount of undertaking: \$ \_\_\_\_\_
- (2) property (*describe*):
- e. Defendant may file an undertaking to prevent the levy upon property as follows:
- (1) amount of undertaking: \$ \_\_\_\_\_
- (2) property (*describe*):
- f. An increase in the amount of plaintiff's undertaking is required to a total undertaking of \$ \_\_\_\_\_  
An undertaking in this amount shall be filed on or before (*date*):
- g. Plaintiff shall file an undertaking by (*date*): \_\_\_\_\_ with sufficient sureties.
- h. The amount to be secured by the attachment is reduced to \$ \_\_\_\_\_
- i. Other:
- j. Total number of boxes checked in item 3

Date:

.....  
(TYPE OR PRINT NAME)



\_\_\_\_\_  
(SIGNATURE OF JUDGE OR MAGISTRATE JUDGE)