
PARTIES/ATTORNEYS

Plaintiff	Bank of America NA	Hunt & Henriques, LLP Donald Sherrill Nicholas Mortl
Defendant	Dalton Marks	No appearance

RECOMMENDATION

For all the reasons discussed below, the claim of exemption pursuant to §704.220 is granted as to the \$434.52, which is the amount reported to have been levied upon and is subject to an execution lien with Chase Bank. The court notes that if the amounts in defendant's savings account are currently levied upon or subject to an execution lien, or become levied upon later, he should give notice to the bank under §703.510 setting forth this court's order exempting \$434.52 pursuant to §704.220, and request release of \$1,809.48, which aggregated with this court order is the amount equal to the exemption.

The court presumes that since the plaintiff judgment creditor has not applied to the court for an order under §704.220 (e)(3), the defendant judgment debtor does not have multiple deposit accounts at multiple financial institutions for which a levy is sought.

Plaintiff is ordered to cooperate with the execution of this order and with the application of this exemption, to which defendant is entitled.

On September 9, 2022, Bank of America NA (plaintiff or judgment creditor) filed a complaint against Dalton Marks (defendant or judgment debtor) based on an unpaid credit card balance of \$19,821.09. A default judgment was entered against defendant on March 24, 2023, in the amount of \$20,259.59. A writ of execution in that same amount was issued on November 14, 2025, instructing the Sheriff or Marshal of the County of Santa Barbara to enforce the judgment.¹ It appears that a

¹ To levy upon a deposit account, the levying officer shall personally serve a copy of the writ of execution and a notice of levy on the financial institution with which the deposit account is maintained. (Code Civ. Proc., § 700.140, subd. (a).) The execution lien that arises upon service of a writ of execution and notice of levy reaches only amounts in a deposit account at the time of service on the financial institution. (*Id.*, subd. (b).) The financial institution shall not honor a withdrawal request or a check or other order for the payment of money from the deposit

notice of levy was served on Chase Bank, which now holds \$435.52 under an execution lien. On March 13, 2026, the levying officer filed defendant's claim of exemption. Plaintiff opposes the claim.

Pursuant to Code of Civil Procedure² §703.520 subdivision (a), “[t]he claimant may make a claim of exemption by filing with the levying officer, either in person or by mail, a claim of exemption together with a copy of the claim.” If the judgment creditor opposes the claim of exemption, it must “file with the court a notice of opposition to the claim of exemption and a notice of motion for an order determining the claim of exemption.” (§703.550, subd. (a).) “The claim of exemption and notice of opposition to the claim of exemption constitute the pleadings, subject to the power of the court to permit amendments in the interest of justice.” (§703.580, subd. (a).) The court may make a determination on the claim of exemption based on these pleadings “if satisfied that sufficient facts are shown” by them; “[i]f not satisfied, the court shall order the hearing continued for the production of other evidence, oral or documentary.” (§703.580, subd. (c).)

At the hearing, “the exemption claimant has the burden of proof.” (§703.580, subd. (b).) “At the conclusion of the hearing, the court shall determine by order whether or not the property is exempt in whole or in part. Subject to section 703.600 [providing that the claimant has a right to appeal], the order is determinative of the right of the judgment creditor to apply the property to the satisfaction of the judgment. No findings are required in a proceeding under this section.” (§703.580, subd. (d).) The order is then transmitted to the levying officer, who must comply with the order by either releasing the property or applying it to the satisfaction of the money judgment. (§703.580, subd. (e).)

Defendant claims an exemption under §704.220, which exempts from enforcement a specified amount of money in a judgment debtor's deposit account. This amount is tied to “the minimum basic standard of adequate care for a family of four for Region 1, established by Section 11452 of the Welfare and Institutions Code and as annually adjusted by the State Department of Social Services pursuant to Section 11453 of the Welfare and Institutions Code, is exempt without making a claim.” (§704.22, subd. (a).) That amount is currently \$2,244.00. (Judicial Council Form E JL-156 [Current Dollar Amounts of Exemptions from Enforcement of Judgments].)

It appears plaintiff has transposed the section number applicable to this exemption from 704.220 [exemption of amount from deposit account] to 704.020 [exemption based on household furnishings] and opposes that exemption, noting that it is irrelevant. This is unfortunate, as it leaves the court without guidance on

account if presentment of the withdrawal request or item to the financial institution occurs during the time the execution lien is in effect. (*Id.*, subd. (d).)

² All future statutory references are to the Code of Civil Procedure unless stated otherwise.

the exemption actually asserted. In any event, while there are monies to which the section 704.220 exemption does not apply, none appear to be present here.³ The funds being held under the execution lien should be released to defendant.

Defendant concedes that Chase implemented an execution lien on \$434.52 but asserts that to the extent the lien also applies to the funds in his savings account (\$1,850), the full exemption amount should be allowed. There is no basis for finding that the execution lien at issue here extends to those funds. The levying officer has reported it is not holding any funds pursuant to the levy (Memo to Superior Court received 3/13/26) and plaintiff has reported that Chase is holding \$435.52. Defendant has submitted no evidence that any amount over \$435.52. has been suspended. (§ 703.580, subd. (b)—“the exemption claimant has the burden of proof.”)

But given the procedural status of this case, the court nevertheless finds it prudent to examine the exemption in detail. The exemption applies *per debtor*, not per account. (§704.220, subd. (e)(1).) It is largely intended to be a self-executing exemption. (See Judicial Council form EJ-157-INFO—“The exemption is automatically applied, and the judgment debtor does not need to do anything to have the exempted amount protected.”) Section 703.510 provides that property in a deposit account that is exempt without making a claim (such as the funds exempt by §704.220) shall be released by the financial institution holding the judgment debtor’s account within five business days of receiving written notice from the judgment debtor setting forth the facts supporting its exemption without making a claim.

However, the judgment debtor or the judgment creditor may nevertheless (and in some instances, must) bring a motion to the court to determine the application of the exemption in certain instances.

- If a judgment debtor holds an interest in multiple accounts at a *single financial institution*, either the judgment debtor or judgment creditor may apply for a court order deciding how to apply the exemption to those accounts. Absent a court order, the bank will choose the accounts to which the exemption applies.⁴

³ Section 704.220, subd. (c) provides: “Subdivision (a) does not apply to money levied upon to satisfy any of the following: (1) A levy to satisfy a judgment for wages owed, child support, or spousal support. For purposes of this paragraph, “wages owed” includes damages and penalties. [¶] (2) A provision of the Public Resources Code, Revenue and Taxation Code, or Unemployment Insurance Code. [¶] (3) A warrant or notice of levy issued by the state, or any department or agency thereof, for the collection of a liability.”

⁴ “ If a judgment debtor holds an interest in multiple accounts at a *single financial institution*, the judgment creditor or judgment debtor *may* file an ex parte application in the superior court in which the judgment was entered for a hearing to establish how and to which

- If the judgment debtor has *multiple deposit* accounts at *multiple financial institutions*, the judgment creditor is required to apply for a court order deciding how to apply the exemption to those accounts. The judgment debtor can also make an application.⁵

The Judicial Council has promulgated forms for optional use in obtaining the ex parte orders described. (EJ-157, EJ-157-INFO, EJ-158, EJ-159.) Defendant did not use these forms. Instead, he filed a traditional creditor's claim. This is not a reason to deny the claim, but it certainly resulted in a delay to the defendant in the exercise of this exemption.

On the present record, the court grants the claim of exemption as to the \$434.52 that has been levied upon and is subject to an execution lien with Chase Bank. The court notes that if the amounts in defendant's savings account are also levied upon, he should give notice to the bank under §703.510 setting forth the court's order as to the amount of this exemption and request release of \$1,809.48, which is the remaining amount available under this exemption. The court presumes that since the judgment creditor has not applied to the court for an order, the judgment debtor does not have multiple deposit accounts at multiple financial institutions for which a levy is sought. Plaintiff is ordered to cooperate with the execution of this order and the application of the exemption to which defendant is entitled.⁶

The parties are instructed to appear at the hearing for oral argument. Appearance by Zoom Videoconference is optional and does not require the filing of Judicial Council form RA-010, Notice of Remote Appearance. (See [Remote](#)

account the exemption should be applied. Subject to a service of an order issued in that hearing, if any, the financial institution may determine how and to which account the exemption should be applied." (§704.220, subd. (e)(2) [emphasis added].)

⁵ "If a judgment debtor holds an interest in *multiple accounts at two or more financial institutions*, the judgment creditor *shall*, and the judgment debtor *may*, file an ex parte application in the superior court in which the judgment was entered for a hearing to establish how and to which account the exemption should be applied. Subject to a service of an order issued in that hearing, if any, the financial institutions shall comply with the levy subject to the exemption." (§704.220, subd. (e)(3) [emphasis added].)

⁶ The court notes that defendant has also requested application of the exemption on §704.225, which allows the court to exempt funds to the extent necessary for the support of the judgment debtor and the spouse and dependents of the judgment debtor, to the remaining amount not protected under the automatic exemption (approximately \$41). While application of §704.220 does not preclude application of the other exemption (§704.220, subd. (a)), the current record presents enough doubt about the status of this enforcement and the court declines to make any findings as to these funds.

[Appearance \(Zoom\) Information | Superior Court of California | County of Santa Barbara.](#))