

PARTIES/ATTORNEYS

Plaintiff	Beneficial State Bank	Steven A Silver
Defendant	Maria Carmen Benitez	Pro Per

PROPOSED TENTATIVE

On August 3, 2017, plaintiff Beneficial State Bank filed a complaint against defendant Maria Carmen Benitez (hereafter debtor), and a default judgment was entered on December 12, 2017, for judgment of \$8,993.35 in favor of plaintiff. A writ of execution was issued on July 1, 2025, with accrued interest per Code of Civil Procedure¹ section 685.050(b) of \$6,795.52 and a fee for issuance of writ included, resulting in an outstanding debt of \$15,828.87.

Debtor, on November 3, 2025, filed a claim of exemption to any wage garnishment. Assignee creditor has filed opposition. The Santa Barbara County Sheriff's Office indicates that it is presently holding \$708.22 from past wage garnishments.

To claim an exemption, an individual judgment debtor must file a notice of motion and claim of exemption satisfying section 703.520(b) within 15 days after receiving notice of the deposit ordinarily 20 days if service was by mail. A copy of the exemption claim, notice of motion and notice of hearing must be served personally or by mail on the creditor's attorney. If the claim of exemption is not timely filed, the exemption is *waived*, section 708.770(b), (f).

Debtor did not file her claim until nearly four months after service of the writ of execution. Even without an objection to the timeliness of the filing of the claim of exemption from plaintiff, the court has grave concerns with this issue. This elongated and abject time frame, without any offer of a statement of good cause for such a delay, results in the court determining the claim of exemption shall be denied without prejudice based on this issue.

The court directs plaintiff as the creditor assignee, to submit to the court a proposed order for signature commensurate with this order.

It appears the assignee creditor will not appear at the hearing, as it has submitted the issues on the papers filed with the court. The court directs the clerk to enter this tentative into the court minutes as a final order, and to send the minute order to the parties.

¹ All future statutory references are to the Code of Civil Procedure unless otherwise indicated.

