

RESOLUTION 02-06-2018

DIGEST

Appeal: Satisfaction of the Uncontested Portion of a Severable Money Judgment

Amends Code of Civil Procedure section 695.220 to facilitate payment of the uncontested portion of a severable judgment pending a partial appeal.

STATEMENT OF REASONS

The Problem: An appellant may take a *partial* appeal from a severable part of a judgment. However, under CCP section 695.220(c), an appellant who wants to pay the uncontested part of a severable money judgment is required to pay interest that has accrued on the *entire* judgment, and not only on the uncontested portion. This makes it less likely that appellant will be willing or able to pay the uncontested portion of a severable judgment pending appeal and harms both sides: plaintiff is forced to wait until the appeal is resolved (which can take years) to receive payment on the uncontested sum, and the defendant will continue to pay interest on the uncontested sum during this time.

For example, assume that a severable judgment is entered awarding \$1,000,000 in compensatory damages and \$100,000,000 in punitive damages. Interest on the punitive damages portion of the judgment accrues at \$833,000 per month at a yearly rate of 10%. A defendant wishing to pay the uncontested compensatory award and contest only the punitive damages award may be required to pay a substantial amount of accrued interest *on the entire judgment* before any payment is credited towards the uncontested compensatory damages under section 695.220(d).

The Solution: While parties usually attempt to reach an agreement on payment of uncontested sums pending appeal, this is not always possible and the appellant may need to rely on the process set forth in section 695.220 to satisfy an uncontested damage award. The proposed resolution amends this statute to explicitly allow a defendant/appellant to pay an uncontested, severable portion of a money judgment without paying accrued interest on the severable portion of the judgment that is being appealed. Payment for the uncontested portion of a severable judgment will be credited in the same order specified by the existing statute in subdivisions (a) to (d). This solution promotes efficient resolution of claims by allowing a plaintiff to quickly receive payment of an uncontested damage award without having to wait for the completion of an appeal, and also preserves a defendant's right to appeal the contested portion of the judgment after satisfying an uncontested severable damage award, without having to first pay accrued interest on the contested portion of the judgment.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Code of Civil Procedure section 695.220 to read as follows:

- 1 § 695.220
- 2 Money received in satisfaction of a money judgment, except a money judgment
- 3 for support, is to be credited as follows:
- 4 (a) The money is first to be credited against the amounts described in subdivision

5 (b) of Section 685.050 that are collected by the levying officer.
6 (b) Any remaining money is next to be credited against any fee due the court
7 pursuant to Section 6103.5 or 68511.3 of the Government Code, which are to be remitted
8 to the court by the levying officer.

9 (c) Any remaining money is next to be credited against the accrued interest that
10 remains unsatisfied.

11 (d) Any remaining money is to be credited against the principal amount of the
12 judgment remaining unsatisfied. If the judgment is payable in installments, the remaining
13 money is to be credited against the matured installments in the order in which they
14 matured.

15 (e) In the event a severable damage award in a money judgment is not contested
16 on appeal, the judgment debtor may satisfy the unchallenged damage award, without
17 waiving the right to appellate review of the challenged damage award, by paying, in this
18 order: (1) any amounts described in subdivision (b) of Section 685.050 that are collected
19 by the levying officer with respect to the award(s) being satisfied; (2) any fee due the
20 court pursuant to Section 6103.5 or 68511.3 of the Government Code with respect to the
21 award being satisfied, which are to be remitted to the court by the levying officer; (3) the
22 accrued interest that remains unsatisfied with respect to the award being satisfied; and (4)
23 satisfaction of the principal amount of the uncontested damage award.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Los Angeles County Bar Association

IMPACT STATEMENT

This resolution does not affect any other law, statute or rule other than those expressly identified.

CURRENT OR PRIOR RELATED LEGISLATION

None known.

AUTHOR AND/OR PERMANENT CONTACT: H. Thomas Watson, Horvitz & Levy LLP,
3601 West Olive Avenue, 8th Floor, Burbank, CA 91505, phone: 818-995-0800, e-mail:
htwatson@horvitzlevy.com

RESPONSIBLE FLOOR DELEGATE: Sarvenaz Bahar

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RESOLUTIONS COMMITTEE RECOMMENDATION
APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Code of Civil Procedure section 695.220 to facilitate payment of the uncontested portion of a severable judgment pending a partial appeal. This resolution should be approved in principle because it is reasonable to allow the judgement debtor to pay the uncontested portion of a judgment, without waiving the right to appeal, to avoid paying accrued interest on the entire judgement.

Current law allows an appellant to take a partial appeal from a severable part of a judgment (see e.g., *Satchmed Plaza Owners' Association v. UWMC Hosp. Corp.* (2008) 167 Cal.App.4th 1034, 1044), and provides a process for satisfaction of an uncontested damage award (Code Civ. Proc., § 695.220.) However, under Code of Civil Procedure section 695.220, subdivision (c), an appellant who wants to pay the uncontested part of a severable money judgment is required to pay interest that has accrued on the entire judgment, instead of only on the uncontested portion. This makes it less likely that an appellant will be willing and/or able to pay the uncontested portion of a severable judgment pending appeal. Because the plaintiff is forced to wait until the appeal is resolved (which can take years) to receive payment on the uncontested sum and the defendant will continue to accrue interest on the uncontested sum, this harms both sides.

The resolution specifically allows a defendant/appellant to pay an uncontested, severable portion of a money judgment without paying accrued interest on the severable portion of the judgment that is being appealed. This is beneficial to plaintiffs and defendants because a plaintiff will be able to receive payment of an uncontested damage award without having to wait for the completion of an appeal (which could take years). The defendant will have the right to appeal the contested portion of the judgment after satisfying the uncontested severable damage award, without having to first pay accrued interest on the contested portion of the judgment. Under these circumstances, if the defendant's partial appeal is not successful, the defendant will then have to pay all of the accrued interest on the contested portion of the judgment.