



**California Rural
Legal Assistance
Foundation**



**Disability
Rights
California**



**WESTERN CENTER
ON LAW & POVERTY**

At its meeting on April 6, 2020, the Judicial Council adopted an emergency rule that effectively stops all evictions, other than those necessary to protect public health and safety, for the duration of the COVID-19 emergency. The rule is applicable to all courts and to all eviction cases, whether they are based on a tenant's missed rent payment or another reason. This new court rule will apply until 90 days after the Governor lifts the state of emergency related to the COVID-19 pandemic, or until it is amended or repealed by the Judicial Council. The rule:

- Prohibits a court from issuing a summons after a landlord files an eviction case, unless necessary to protect public health and safety. This means that, even if a landlord files an eviction case, the tenant will not be under the normal five-day deadline to respond. The time for the tenant to respond to a new eviction case will not begin until the rule is lifted, giving them time to seek out legal assistance and assuring that no tenant's right to tell their side of the story in court is denied due to the emergency.
- Prohibits a court from entering an automatic default judgment against the tenant because the tenant failed to file a response, unless the court finds:
 - The eviction is necessary to protect public health and safety; and
 - The tenant failed to respond in the time required by law, including any extension that may apply due to the Governor's Executive Order regarding evictions during the COVID-19 emergency.
- For eviction cases where the tenant has responded or appeared, prohibits a court from setting the case for trial earlier than 60 days after a trial is requested, unless necessary to protect public health and safety.
- Requires any trial in an eviction case that was already scheduled as of April to be postponed until at least 60 days after the initial trial date.

In addition, Judicial Council adopted an emergency rule related to foreclosures. This rule also applies until 90 days after the Governor lifts the state of emergency. The rule:

- Prohibits a court from taking any action or issuing any decisions or judgments unless necessary for public health and safety.
- Postpones any legal deadlines for filing foreclosure cases.
- Extends the period for exercising any rights in a foreclosure case, including any right of redemption from a foreclosure sale, or petitioning the court in relation to such a right.

While these emergency rules effectively put evictions and foreclosures on hold at least through the summer, they do not establish any new tenant rights or defenses to an eviction, address requirements for notifying landlords or providing documentation when tenants are unable to pay rent due to loss of income or other COVID-19 related reasons, or address how repayment will be handled. These are all issues that would be difficult for the courts to take on, or that they don't have the authority to address. We expect that the Legislature will address these issues with urgency when it returns in May.

We are extremely relieved that the Judicial Council has shown the type of leadership we need to make sure that basic, straightforward protections are in place, reducing any immediate risk to tenants and allowing them to focus on protecting their health and safety without worrying about losing their homes at a time when they are being told to shelter in place to avoid the spread of a highly contagious and deadly virus. This necessary action provides time for the Legislature to address critical issues such as financial assistance and rent repayment going forward.