



**California Rural
Legal Assistance
Foundation**



**WESTERN CENTER
ON LAW & POVERTY**

At its meeting on April 6, 2020, the Judicial Council adopted an emergency court 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90 days after the Governor lifts the state of emergency related to the COVID-19 pandemic, or until it is amended or repealed by the Judicial Council.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, most tenants will not need to respond until the emergency rule expires, ensuring that tenants do not lose their right to tell their side of the story in court due to the emergency.
 - The time for a tenant to respond to a new eviction case does not begin until the tenant is served with a court-issued summons, and in nearly all unlawful detainers cases, no summons will be issued during this emergency period.
 - If a court finds on the record that an eviction action is necessary to protect public health and safety, the court will issue a summons even during this emergency period. Only in these rare cases will a tenant be required to respond in court after being served with the summons and complaint.
- Prohibits a court from entering a default judgment against the tenant because the tenant failed to file a response, unless the court finds on the record:
 - 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, the Judicial Council adopted an emergency rule related to judicial foreclosures. This rule also applies until 90 days after the Governor lifts the COVID-19 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 judicial foreclosure cases.
- Extends the period for exercising any rights in a judicial foreclosure case, including any right of redemption from a foreclosure sale, or petitioning the court in relation to such a right.

Note that this rule does not impact non-judicial foreclosures, which comprise the vast majority of foreclosures in California. Non-judicial foreclosure sales are conducted by private parties outside the courthouse and are not affected by these new emergency rules.

While these emergency rules effectively put evictions and judicial 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.