

KERN COUNTY SUPERIOR COURT COVID-19 UPDATE  
FREQUENTLY ASKED QUESTIONS – CIVIL LITIGATION  
April 27, 2020

**1. What is happening with civil jury trials from now until June 1, 2020?**

All civil jury trials that were in session at the time the Chief Justice issued her order on March 23, 2020, were automatically “suspended and continued.” As of that date, there was one ongoing civil jury trial in Kern County, which has been continued to June 1, 2020.

All Kern County civil trials scheduled to begin from March 23, 2020 through May 29, 2020, have been continued by the Clerk’s Office, or by stipulation of the parties and counsel. Because civil jury and non-jury trials are not included in the enumerated time-sensitive essential functions, set out in these General Orders, they will be continued, or advanced and vacated and a trial setting conference will be scheduled. Alternatively, counsel may submit a stipulation for continuance or for vacation of the existing trial date and an agreed upon date for a trial setting conference. The parties will receive individual minute orders, issued by the trial judge to whom the case is assigned, continuing these trials to a date after June 1, 2020 or advancing and vacating the trial dates and scheduling a trial setting conference on or after June 1, 2020.

A number of factors will determine the length of the continuance. Most critically, the ongoing need to protect the public, potential jurors, attorneys, witnesses, court staff and judicial officers with social distancing. Many courtrooms, jury boxes, jury deliberation rooms, audience seating and size/location of counsel tables may not be well suited to maintain social distancing measures that we assume will continue even after our court moves into hearing non-emergency matters. Thus, our total available supply of jury trial-ready civil courtrooms may remain constrained for some period of time.

The length of the continuance will also be influenced by the ability of our criminal courts to summon and secure a sufficient number of jurors to enable them to meet all constitutional speedy trial requirements. Given that any pool of potential jurors must first be allocated to those criminal matters with constitutionally mandated trial dates, civil jury pools will be restricted for the foreseeable future.

Further limiting the ability of civil courts to resume civil jury trial immediately upon reopening of the courts to non-essential matters is the need to comply, to the greatest extent possible, with the statutory preference scheme articulated in Code of Civil Procedure section 36, and the statutory mandates for unlawful detainer trials. These trials, and their prioritization are discussed more fully below.

When a trial date is continued, the related final status conference date, and other pretrial deadlines that have been scheduled based on the trial date, also will be continued. For those cases where a discovery cut-off date was set before the emergency period, that date shall stand.

**2. When will I be notified of the continuance of my trial date?**

Your trial date has been or will be rescheduled by the judge of the court where the case is currently pending. The court may reset the trial date, or it may vacate the trial date and set a trial setting conference. The Clerk’s Office has issued minute orders continuing cases. Copies of minute orders continuing cases have been sent via U.S. Mail; for complex cases, notice may also be provided by

e-service where the court has entered an e-service order and the parties have initiated service. If you have not received notice of a continuance of your trial date, please contact the Clerk's Office. You can also search case information on our [website](#).

### **3. What about civil jury trials currently set to begin on or after June 1, 2020?**

The same considerations requiring the court to continue civil jury trials for the period from March 23, 2020 through May 29, 2020, apply to those trials currently scheduled to begin on or after June 1, 2020.

While the continuance order may not be immediately issued, counsel should be prepared for the possibility that courts will find good cause for further continuances of non-preferential civil jury trials, throughout the summer.

To the extent that there are concerns these continuances may impinge on the five years in which to bring a civil action to trial, that limitation has been continued by way of Emergency Rule 10, issued by the Chief Justice on April 6, 2020. Rule 10 provides for all civil actions filed on or before April 6, 2020, the time in which to bring the action to trial is extended by six months, for a total time of five years and six months. In addition, the Rule extended the three years in which to bring a new trial by six months, for all civil actions filed on or before April 6, 2020, if a new trial is granted in the action, for a total time of three years and six months.

The exact text of Rule 10 can be found on the [website of the Judicial Council](#).

### **4. What if stay-at-home orders have prevented me from completing discovery or law and motion briefs?**

Please contact your opposing counsel and try to jointly resolve issues. If you are unable to resolve issues with opposing counsel, you should anticipate addressing these issues with the judge to whom the case is assigned when the court resumes non-emergency operations. Judges have been instructed to afford parties the greatest latitude, in light of the pandemic.

### **5. Can attorneys stipulate to continue trial to a date after June 1, 2020?**

Yes. Counsel and parties are encouraged to enter stipulations regarding continuance of trial and related dates. However, your agreement may not be ultimately approved by the judge. Judges retain the discretion to approve or deny the stipulated date. That admonition is particularly true if the stipulated continuance is for a non-preference trial date in 2020.

### **6. Does the emergency period change the time in which a party has to exercise a challenge to a judge under CCP sections 170.1 or 170.6?**

No.

### **7. What happens if I have a preference case that has been set for trial during the March 23 to May 29, 2020 period? Will a preference case receive priority when the court starts holding trials again?**

The preference statute provides the court with authority to continue preference cases for 15 days (incrementally) for good cause and the pandemic meets the definition of good cause. When the court resumes non-emergency operations, preference cases will be given priority for trial dates on or after June 1, 2020.

**8. Will unlawful detainer trials be prioritized as is statutorily required?**

Yes. Subject to the existing Emergency Rules and General Orders. Pursuant to Emergency Rule 1(d), if a defendant in an unlawful detainer action has appeared, the court may not set a trial date earlier than 60 days after a request for trial is made, unless the court finds that an earlier trial date is necessary to protect public health and safety. Any trial set in an unlawful detainer proceeding as of April 6, 2020, must be continued at least 60 days from the initial date of trial. Beginning June 1, 2020, trials falling within the Emergency Rule 1(d) will be prioritized for scheduling trial dates.

Due to flooding damage to Department 12 at the 1415 Truxtun Avenue courthouse, once unlawful detainer trials resume, those trials will be heard at the courthouse located at 311 Lincoln Street in Taft, until repairs have been completed.

**9. How are law and motion matters and other calendar events being set for the period of March 23, 2020 to May 28, 2020, inclusive, being continued?**

The trial judge to which your case is assigned will select continuance dates for law and motion matters, and other calendar events. Staff is working to issue minute orders continuing calendar events. If you have not already receive notice of the continued date, which will be no earlier than June 1, 2020 and dates thereafter, you will receive notice in the next several weeks.

Because our courtrooms and courthouses are very likely still to be operating under social distancing requirements when we resume operations, counsel is strongly encouraged to appear telephonically for all calendar matters. In fact, our ability to resume calendars of any substantial size, is wholly dependent on counsel's willingness to appear telephonically.

**10. Is it possible to file a motion during the emergency period?**

Yes. The [electronic filing system](#) for non-complex civil matters continues to accept filings. You must include the appropriate filing fee when filing your motion.

The Court Reservation System is not available to schedule hearings on these motions at this time. The court will not require that you have a reservation number in order to electronically file a motion.

You will receive notice of your hearing date at some later time.

**11. For motions newly-filed during the emergency period for which no hearing date was provided, when is the opposition and reply due?**

You will eventually receive notice of your hearing date. Unless otherwise set by the court, deadlines for filing moving papers, opposition and reply are governed by the hearing date pursuant to Code of Civil Procedure section 1005. The general rule is that these deadlines will be determined by the new hearing date, which will be sometime after June 1, 2020.

**12. If a motion was filed before the emergency period and it was set for hearing during the emergency period, should the opposition and reply papers be filed based on the hearing date that was originally set?**

You will receive notice of the continuance of your hearing date. Unless otherwise set by the court, the deadlines for filing opposition and reply papers are governed by the new hearing date pursuant to Code

of Civil Procedure section 1005. The general rule is that these deadlines will be determined by the new hearing date.

**13. I have a petition for approval of a minor or adult with disability compromise scheduled for hearing during the emergency period. Will the petition be heard?**

It depends. General Order No. 9 includes as enumerated time-sensitive essential functions for handling, "Expedited petitions for court approval or a compromise and settlement of a pending action or proceeding to which a minor or person with disability is a party brought pursuant to California Rule of Court 7.950.5."

These petitions do not require a hearing and are required by that rule to be determined by the court not more than 35 days after the expedited petition is filed, unless a hearing is requested, required, or scheduled, or the time is extended for good cause by the court.

With regard to petitions submitted as ex parte matters, please keep in mind, if you are seeking approval of a compromise petition that involves a Special Needs Trust, you must give the court more time than a normal ex parte because these petitions must first be reviewed by the Probate Department. Additionally, if your petition requires notice to a government entity such as Medi-Cal, at this time, there is no Order from the Judicial Council that will allow the shortening of the notice period. Therefore, such a petition cannot be heard on an ex part basis.

**14. Why can't the civil courts hear and handle law and motion matters during the emergency period?**

Civil law and motion matters are not enumerated as time-sensitive essential proceedings, under the court's existing orders. The court, at this time, directed its resources to ensuring the constitutionally and statutorily mandated time-sensitive essential matters in criminal, dependency, delinquency, mental health, probate and family law can be timely heard and decided. Please keep in mind, much of the court's staff is away from the courthouse during this emergency period.

**15. What types of ex parte matters are being decided during this emergency period?**

Only emergencies are being handled by way of ex part application.

**16. What departments are handling ex parte matter during this emergency period?**

Department 10 is covering ex parte civil matters during the emergency period.

**17. What if a statute of limitations will expire during the emergency period?**

By an Order from the Chief Justice issued on April 6, 2020, Emergency Rule 9 tolls the statutes of limitations for civil causes of action, notwithstanding any other law, from April 6, 2020 until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted.

**18. Is the court conducting mandatory settlement conferences?**

The court is not currently conducting settlement conferences. We anticipate resuming in person settlement conferences on or after June 1, 2020.

Commencing on and after May 4, 2020, retired Judge Gary Friedman will be available to conduct video settlement conferences on a “per request” basis. Please contact Judge Friedman’s assistant, Raquel Sanchez, at (661) 868-1926 for more information.