



## TRIAL COURT STATUTORY FILING DEADLINES DURING THE PANDEMIC

April 22, 2020

Page 1 of 3

There is no “business as usual” these days. Many California courts are open only for emergency functions, creating confusion if you have a statutory filing deadline. The stakes are high for jurisdictional deadlines, such as a notice of appeal or notice of intent to move for new trial. If you blow a jurisdictional deadline, courts cannot remedy non-compliance. So be careful.

If your case is pending in a **California federal district court**, assume that all normal deadlines apply. Although the four district court systems have limited their court operations, each currently specifies that all filing deadlines remain intact unless otherwise ordered by the presiding judge or the judge handling your case. Some district orders require electronic filing.

If your case is pending in a **California superior court**, the situation is less simple. If you have a superior court filing deadline during this pandemic, consider the following:

► **Statewide Emergency Rules:** The Judicial Council of California has issued, and will continue to issue, emergency rules that apply to all superior courts. You can find the latest rules through the Corona Virus updates at <https://www.courts.ca.gov/>. The most recent addition requires all parties represented by counsel to accept, and provide, electronic service for all documents.

► **County Rules:** Each county is setting its own superior court pandemic rules. Check the orders on the county court system’s website. **(See, e.g., links on page 3.)** Be vigilant: New orders are issued frequently. Most counties have specified that, for purposes of computing the time for filing papers under Code of Civil Procedure sections 12 and 12a, any days falling within a delineated period are deemed holidays. Under those statutes, if the last day to file a document lands on a holiday, the deadline extends to the next day that is not a holiday. But the start and end dates for these “holiday” periods vary. Some counties have implemented only short holiday periods; for example, Los Angeles (March 17 through March 19 only) and Imperial (March 23 through March 30 only). Future orders could expand those periods, but there’s no guarantee. File in such counties as if their courts are fully open and make a record that you tried to do so. Other counties have declared much longer holiday periods; for example, Orange and Riverside (March 17 through April 24), Santa Barbara (March 17 through April 23), San Bernardino (March 17 through April 30), and Ventura (March 19 through May 12, except for certain filings related to emergency operations). Expect new orders in late April/May. Read the county orders carefully. Always attempt to file on or before the original deadline if there’s any doubt as to whether your filing period has been extended. Create a record of any filing problems or processing delays, such as receipts regarding attempted electronic filing or notes regarding the use of drop-boxes in case you need to submit an explanatory declaration later.

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April 22, 2020

Page 2 of 3

- ▶ **Caution re Secondary Sources:** Be careful about relying on non-judicial summaries of emergency rules, such as attorney service listings. They can miss subtle differences in county orders. For example, multiple internet sources describe Kern County as declaring March 18 through April 30 as holidays, but the County's orders are less clear. Although the County's March order unambiguously designated March 18 through March 30 as holidays, its April order specifies April 1 through April 30 as holidays "if the above-described emergency [pandemic] conditions substantially interfere with the public's ability to file papers in a court facility on those dates." A week after this April order issued, Kern County's presiding judge announced that all clerk's windows are closed to the public but that the county's electronic filing system and courthouse drop boxes are available for filings. It is unclear whether substantial interference for "holiday" purposes exists if electronic filing system and drop boxes are available. The bottom line: Analyze the emergency orders conservatively, and go to the source – the county website.
- ▶ **Don't Delay:** Don't wait until the last day of a statutory filing deadline to sort out filing issues. In the pre-pandemic days, filing-related questions often were resolvable by a quick phone call to the clerk's office. Today, that phone call may never get answered if you wait too long. Some clerks' offices are still open for limited hours on certain days, with limited staff. It varies from courthouse. Some courts are accepting submittals through electronic-filing services. Some will accept electronic submittals for some documents but not others. Some will accept filings through the court's dropbox. Some would prefer you not bother the court with paper filings until the holiday period ends. Some will allow the submission of documents, but won't process them until the holiday period ends. Again, establish a record of any attempted filing in case anything does not go according to plan.
- ▶ **"Holiday" Designations Differ From Tolling:** Holiday designations merely extend the due date for a filing to the next non-holiday date. If a "holiday" order went into effect five days before your original deadline, you don't get five more days to file your document after the holiday period expires. Instead, your document is due the day after the holiday period ends. Keep track of that date. If you submitted your filing earlier, confirm whether the court processed your submittal already, and if necessary, confirm the court will process your submittal with a timely filing date. Keep in mind that courts will be besieged with filings the day after the holiday period ends.
- ▶ **"Holiday" Periods' Effect On Jurisdictional Deadlines:** The "holiday" language in Code of Civil Procedure sections 12 and 12a applies to the time for performing any act provided or required by law. Presumably, this applies to contexts where a motion is deemed denied by operation of law because of a trial court's failure to rule by a certain date, such as failing to determine a new trial motion within the 75-day period specified by Code of Civil Procedure section 660. But these circumstances are unprecedented. The risk of a wrong call is too great, because the failure to timely rule triggers a jurisdictional period for filing a notice of appeal. Parties facing this predicament for a new trial motion should consider filing a notice of conditional and protective appeal, to apply only if the court's "holiday" order does not suspend the time for the trial court to rule. As always, when faced with jurisdictional deadlines in these strange times, the best approach is to play it safe.



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April 22, 2020

Page 3 of 3

**Los Angeles County Superior Court** <https://www.lacourt.org/>

COVID-19 Information: <http://www.lacourt.org/newsmedia/ui/covid19NewsCenter.aspx>

**Orange County Superior Court** <https://www.occourts.org/>

COVID-19 Information: <https://www.occourts.org/media-relations/CoronaVirusUpdate.html>

**San Diego County Superior Court** <https://www.sdcourt.ca.gov/>

COVID-19 Information: <http://www.sdcourt.ca.gov/pls/portal/url/page/sdcourt/generalinformation/COVID-19INFO>

**Imperial County Superior Court** <http://www.imperial.courts.ca.gov/>

COVID-19 Information: <http://www.imperial.courts.ca.gov/PressRelease.htm>

**Riverside County Superior Court** <https://www.riverside.courts.ca.gov/>

COVID-19 Information: <https://www.riverside.courts.ca.gov/PublicNotices/COVID-19-Court-Operations.php>

**San Bernardino County Superior Court** <https://www.sb-court.org/>

COVID-19 Information: <https://www.sb-court.org/general-information/covid-19-courthouse-closure-and-hearing-information>

**Kern County Superior Court** <https://www.kern.courts.ca.gov/>

**Ventura County Superior Court** <http://www.ventura.courts.ca.gov/>

**Santa Barbara County Superior Court** <https://www.sbcourts.org/>

COVID-19 Information: <https://www.sbcourts.org/gi/covid19.shtm>

**San Luis Obispo County Superior Court** <https://www.slo.courts.ca.gov/>

COVID-19 Information: <https://www.slo.courts.ca.gov/4802.htm>

**Santa Clara County Superior Court** <http://www.scscourt.org/>

COVID-19 Information: [http://www.scscourt.org/general\\_info/news\\_media/covid19.shtml](http://www.scscourt.org/general_info/news_media/covid19.shtml)

**San Francisco County Superior Court** <https://www.sfsuperiorcourt.org/>

COVID-19 Information: <https://www.sfsuperiorcourt.org/general-info/Information-Regarding-Coronavirus-And-Court-Operations>

**Alameda County Superior Court** <http://www.alameda.courts.ca.gov/>

COVID-19 Information: <http://www.alameda.courts.ca.gov/Pages.aspx/COVID-19>