

FILED
SAN MATEO COUNTY

AUG 24 2020

Clerk of the Superior Court
By *[Signature]*
DEPUTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

)
) ORDER #6 RELATED TO
) UNLAWFUL DETAINER
) PROCEEDINGS AND
) JUDGMENTS

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1 On March 4, 2020, Gavin Newsom, the Governor of California, issued a Proclamation of
2 a State of Emergency relating to COVID-19. The order directed that “all...heed the advice of
3 emergency officials with regard to this emergency in order to protect their safety.”

4 On March 19, Governor Newsom issued Executive Order N-33-20 directing all
5 Californians to shelter in place at their place of residence except as needed to maintain continuity
6 of essential operations.
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8 On March 18, the United States Congress enacted the Families First Coronavirus
9 Response Act, which requires employers like the San Mateo County Superior Court to provide
10 their employees with paid sick leave or expanded family and medical leave for specified reasons
11 related to COVID-19.
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13 The San Mateo County Public Health Department issued an Order on March 16 directing
14 all individuals living in the county to shelter in place at their residence to mitigate the spread of
15 COVID-19. Essential businesses and those who performed essential services were deemed
16 exempt from the shelter in place orders. The Court and its personnel are categorically exempt
17 from the shelter in place orders while performing Court functions. Although exempt from the
18 shelter in place orders, the health orders recommend that Court functions be performed in
19 compliance with Social Distancing Requirements to the greatest extent possible. The Social
20 Distancing Requirements include maintaining at least six feet of physical distance and wearing
21 face coverings. The Shelter in Place orders were extended on March 31 to May 31. Revised
22 shelter in place orders were issued on May 11, May 15, May 22, and June 4. These additional
23 orders, while concurrently extending the general shelter in place order, did allow for additional
24 businesses to open and for some activities to resume.
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1 On June 17, 2020, the San Mateo County Health Department rescinded all previously
2 issued shelter in place orders. The Public Health Department explained that its intent was to
3 continue the gradual re-opening of the county to match the maximum allowed by the State's
4 Resilience Roadmap. The order reiterated that a public health emergency still exists throughout
5 the County, citing evidence of continued significant community transmission not only in the
6 county but the Bay Area as a whole. The health order added that the spread of COVID-19 has
7 been made worse by those individuals who contract the virus but have no symptoms or mild
8 symptoms and transmit it to others and the fact that the virus lives on surfaces for a long time.
9 Current studies show that the virus is easily spread by both indirect and direct transmission to
10 others making it highly contagious. The Order continued the practice of Social Distancing and
11 Face Covering requirements.
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14 The total number of COVID-19 cases in the County increased from 44 on March 15
15 (when shelter in place orders first went into effect) to 7,670 as of August 24, 2020. In July of
16 2020, the total number of cases was 2,370. As of August 24, 2020, the total number of cases for
17 August is already 2,014. If the trend continues, August will see a record number of monthly
18 COVID-19 cases in San Mateo County. Moreover, as of August 24, 2020, there already have
19 been 128 deaths due to COVID-19. The current trajectory of the numbers reflect that our curve
20 has not yet flattened.
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22 Because of the COVID-19 epidemic, leading to health and safety concerns resulting in
23 the temporary cessation of jury services and substantial operational impediments, and the
24 proclamation of a state of emergency by federal, state, and local officials, the Chief Justice of the
25 California Supreme Court has determined that the conditions described in section 68115 of the
26 Government Code are met with regard to the Superior Court of San Mateo County on March 16,
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1 Aptil 1, April 10, May 14, June 11, July 13, and August 12, 2020. The San Mateo County
2 Superior Court intends to make additional requests to the Chief Justice in the near future that
3 emergency conditions continue to exist.

4 On March 16, 2020, the Court issued a "Second Amended Court's Emergency Response
5 to Novel Coronavirus Pandemic." The purpose of this Calendar Memo Order was to temporarily
6 discontinue all courtroom and public services that were deemed non-essential. The plan
7 substantially reduced the number of visits by the public to the courthouse and minimized
8 exposure to our court judicial officers and staff, who had to maintain our court services.

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10 Approximately 75% of judicial officers and court staff were sent home. On April 9, 2020 May
11 12, 2020, and June 12, 2020 and July 13, 2020, the Court issued subsequent Calendar Memo
12 Orders to extend the period for which non-essential courtroom and public services would be
13 temporarily discontinued through August 28, 2020. Another calendar memo is forthcoming
14 which will be substantially similar to the calendar memo of July 13, 2020, and will be in effect
15 through the October 2, 2020.

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17 On March 16, 2020, the County of San Mateo issued sweeping a Shelter in Place Order,
18 which was subsequently extended on March 30, 2020, April 29, 2020, and May 28, 2020. While
19 the Shelter in Place Order was rescinded on or about June 16, 2020, as indicated above, the
20 danger from the Coronavirus is still significant, remains in the population, and recently has been
21 steadily increasing. Therefore, it is a public health priority for residents to maintain housing.
22 Moreover, the recent fire in San Mateo County creates a potential health hazard from the smoke
23 if residents are evicted from their homes and are forced to remain outside. The Court will also
24 have limited functional operations, at least through October 2, with access prioritized to
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1 proceedings, not including unlawful detainers. The recent layoffs of more than 20 clerks caused
2 by the state budget crisis requires the court to prioritize proceedings as well.

3 Additionally, there is a tremendous backlog of criminal jury trials where defendants
4 have not waived their constitutional and statutory speedy trial rights. It is anticipated that this
5 backlog will take months to clear, leaving no courtrooms available to hear unlawful detainer
6 trials.
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8 While the Judicial Council's Emergency Rule on Unlawful Detainer will sunset on
9 September 1, 2020, this Court has inherent authority to control unlawful detainer cases. Code of
10 Civil Procedure section 128(a)(8) states that every court shall have the power to "amend and
11 control its process and orders so as to make them conform to law and justice." Moreover, as
12 stated by *Cottle v. Superior Court*, (1992) 3 Cal.App.4th 1367:
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15 [C]ourts have inherent equity, supervisory and administrative powers (*Bauguess v.*
16 *Paine* (1978) 22 Cal.3d 626, 635 [150 Cal.Rptr. 461, 586 P.2d 942]) as well as
17 inherent power to control litigation before them. (*Western Steel & Ship Repair, Inc.*
18 *v. RMI, Inc.* (1986) 176 Cal.App.3d 1108, 1116-1117 [222 Cal.Rptr. 556].) Inherent
19 powers of the court are derived from the state Constitution and are not confined by
20 or dependent on statute. (*Walker v. Superior Court* (1991) 53 Cal.3d 257, 267 [279
21 Cal.Rptr. 576, 807 P.2d 418].)

22 In *Asbestos Claims Facility v. Berry & Berry* (1990) 219 Cal.App.3d 9, 19 (disapproved on other
23 grounds in *Kowis v. Howard* (1992) 3 Cal.4th 888), the Court stated:
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25 In addition to their inherent equitable power derived from the historic power of
26 equity courts, all courts have inherent supervisory or administrative powers which
27 enable them to carry out their duties, and which exist apart from any statutory
28 authority. 'It is beyond dispute that "Courts have inherent power ... to adopt any
suitable method of practice, both in ordinary actions and special proceedings, if the
procedure is not specified by statute or by rules adopted by the Judicial Council.' 'That inherent power entitles trial courts to exercise reasonable control over all
proceedings connected with pending litigation, including discovery matters, in
order to insure the orderly administration of justice. 'Courts are not powerless to
formulate rules of procedure where justice demands it.' The Legislature has also
recognized the authority of courts to manage their proceedings and to adopt suitable
methods of practice.'" (Citations omitted.)

1 Pursuant to the forthcoming Calendar Memo Order, which will temporarily discontinue
2 all non-essential courtroom and public services through the October 2, there will be no available
3 hearing procedure for determining on the record whether an unlawful detainer action is necessary
4 to protect public health and safety until the Court resumes conventional courtroom services.
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6 Therefore, the Court orders the following with respect to unlawful detainer proceedings
7 and judgments, effective immediately:

- 8 • During the period of August 20, 2020 through October 2, 2020, no default shall be
9 entered in any pending unlawful detainer matter;
- 10 • During the period of August 20, 2020 through October 2, 2020, no summons shall be
11 issued on a complaint for unlawful detainer;
- 12 • During the period of August 20, 2020 through October 2, 2020, no writ of possession for
13 real property shall be issued in any pending unlawful detainer matter;
- 14 • Execution of any previously issued writ of possession for real property is hereby stayed
15 through October 2, 2020, and no payment or undertaking for this period shall be owed by
16 any Defendant, consistent with the Court's discretion under Code of Civil Procedure 918;
- 17 • All Pretrial Conferences in currently pending unlawful detainer matters shall be
18 scheduled on or after October 5, 2020, and all unlawful detainer Pretrial Conferences
19 currently scheduled for September 3, 2020 are continued to October 8, 2020 for Pretrial
20 Conference and "to Set;"
- 21 • All unlawful detainer cases currently set for trial are hereby taken off calendar, and are to
22 be set for trial no sooner than October 12, 2020. Unlawful detainer trials in currently
23 pending cases for which a Request to Set for Trial was filed with the Court by April 6,
24 2020, and for which no trial date has yet been set, are to be assigned to trial courts no
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1 sooner than October 12, 2020. Future trial dates for all unlawful detainer matters shall be
2 set no sooner than 60 days after the date that a Request for Trial is filed, unless the Court
3 finds in its discretion and on the record that an earlier trial date is necessary to protect
4 public health and safety. In no event shall any unlawful detainer trial be set sooner than
5 October 12, 2020.

- 6 • The dates in this Order may be extended if public safety warrants it.

7 Dated: August 24, 2020.

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JONATHAN E. KARESH
PRESIDING JUDGE