

California Governor Enacts Legislation to Codify Civil Procedure Emergency Rules

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Who Needs to Know

All attorneys litigating in California.

Why It Matters

Recently-signed California legislation SB 1146 immediately modifies the California Code of Civil Procedure on electronic service and remote depositions. Additionally, SB 1146 extends certain civil deadlines for the duration of the COVID-19 state of emergency, plus 180 days after the emergency ends.

As the COVID-19 pandemic enters its seventh month, California civil courts struggle to operate “as usual” and face extraordinary case backlogs. California Supreme Court Chief Justice Tani Cantil-Sakauye authorized the California superior courts to take action and combat the effects of COVID-19 on the courts using emergency rules. However, these [rules](#) are set to expire 90 days after the COVID-19 state of emergency is lifted.

On September 18, California Governor Gavin Newsom approved [SB 1146](#), which codifies parts of Emergency Rules 11 and 12. The bill amends certain sections of the California Code of Civil Procedure on electronic service and remote depositions. Additionally, SB 1146 extends certain civil deadlines for the duration of the COVID-19 state of emergency, plus 180 days after the end of the emergency. Counsel should note the following changes:

California Code of Civil Procedure § 599:

Section 599 states that a continuance or postponement of a trial date **automatically extends any future deadlines** after March 19, 2020. This extension applies to discovery, including the exchange of expert witness information; mandatory settlement conferences; and summary judgment motions. The deadlines extend for the same length of the continuance or postponement.

California Code of Civil Procedure § 1010.6:

Under section 1010.6, for cases filed after January 1, 2019, any party who is represented by counsel and has already appeared in an action may **elect to accept** service electronically or **elect to serve** other represented parties electronically. In other words, section 1010.6 now requires any represented party to accept electronic service of documents. Additionally, represented parties must serve documents electronically if the other party requests electronic service and provides notice of this rule.

This updated section also provides clarification that Section 68631 fee waivers apply to electronic filings. Further, section 1010.6 requires courts, electronic filing service providers, and electronic filing managers to send notices of receipt or rejection to parties filing electronic documents.

California Code of Civil Procedure § 2025.310:

Section 2025.310 provides that the noticing party or the deponent may elect to have the deposition officer attend the deposition remotely. While the deposition officer must still be licensed by the State of California, **the deponent is no longer required to be in the presence of deposition officer** when sworn in. Additionally, this section clarifies that subject to the court's protective orders under Section 2025.420, any party or attorney of record may be physically present at the location of the deponent. Importantly, the deponent still must appear as noticed, though not required to be in the same room as the deposition officer or even the deposing party.

These newly codified sections on civil trial deadlines, electronic service, and remote depositions will promote the use of technology in the courts and ease otherwise burdensome and inconsistent rules. With no known end date to the COVID-19 pandemic, these updates should give California litigants some sense of reliability moving forward in a remote world.

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