

Judicial Council Revises Its Deadline for Tolling Civil Statutes of Limitations, Including for CEQA Actions

Key Points

- The Judicial Council amended Emergency Rule 9 to provide dates certain for tolling the statutes of limitations for civil actions, which are currently tolled due to the COVID-19 state of emergency.
- Pursuant to the amended Emergency Rule 9, the statutes of limitations applicable to CEQA actions are tolled from April 6, 2020, until August 3, 2020.

On April 6, 2020, the Judicial Council adopted Emergency Rule 9, which tolled all statutes of limitations for civil causes of action until 90 days after the Governor declared the COVID-19 state of emergency to be over. Now, recognizing that courts are reopening and will operate in some limited capacity prior to the end of the COVID-19 state of emergency, the Judicial Council of California has revisited the provisions of Emergency Rule 9. The new amendment provides certainty for when litigants must bring lawsuits, including for challenges under the California Environmental Quality Act (or CEQA). Emergency Rule 9 now tolls:

- From April 6, 2020, until October 1, 2020, the statutes of limitation and repose for civil causes of action that exceed 180 days; and
- From April 6, 2020, until August 3, 2020, the statutes of limitation and repose for civil causes of action that are 180 days or fewer.

The original, open-ended tolling period established by Emergency Rule 9 was a particularly large deviation for causes of action, such as CEQA claims, that are based on very short statutes of limitations. CEQA, for example, requires that litigants file lawsuits challenging projects approved by either an environmental impact report or negative declaration within 30 days; or within 35 days for challenging exemption determinations. These shortened periods serve important governmental interests in protecting projects from extended delay, uncertainty, and potential disruption caused by belated challenges to project approvals. Because the state of emergency could be in effect well into the future, the original tolling period exposed projects—including many desperately needed housing and affordable housing

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projects—to the risk of substantial delay and uncertainty.

The Judicial Council resolved this problem by creating a shorter tolling period for causes of action subject to statutes of limitations of 180 days or fewer and by establishing concrete dates for when the tolling periods will end. This amendment, the Judicial Council reasoned, balanced the competing interests of potential plaintiffs and defendants by providing “certainty and reasonable notice to litigants of the end of the tolling period, without overly impacting the construction industry and homebuilding or other areas in which the Legislature has mandated short statutes of limitation.”

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