



# CALSP<sup>ro</sup> PRESS

California Association of Legal Support Professionals

**Volume 14 / Issue 1 / Winter 2021**



LEGISLATION

## **Legislation:**

Highlights of Our History



MEMBERSHIP

## **Membership:**

Member Benefits and Value



EDUCATION

## **Education:**

A Worthwhile Investment



CONFERENCE

## **Conference:**

October 8-10, 2021

The Omni Rancho Las Palmas Resort





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# PRESIDENT'S MESSAGE

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KEN HASTINGS

2021 CALSPRO PRESIDENT

**F**irst and foremost, as some of you may or may not know, a few of our CALSPRO family members have contracted COVID-19 over the past weeks. I would encourage you to wish these individuals well or keep them in your thoughts and prayers.

We are in the middle of a time in history that will be remembered forever. A time when our physical health is under attack and our world has become divided and volatile at times.

I can't help but want to help each and every member, given the position I am in. Most likely, I won't be able to do that. But what I can do is try to help inspire you, to help motivate you, to help you keep your chin up and moving forward. Here are a few quotes that I hope you read and put into practice:

*"We must accept finite disappointment, but we must never lose infinite hope."* – Dr. Martin Luther King

*"Things turn out the best for the people who make the best of the way things turn out."* – John Wooden

*"If you don't like something change it; if you can't change it, change the way you think about it."* – Mary Engelbreit

*"Tough times never last, but tough people do."* – Rev. Robert Schuller

I could go on and on listing quotes. However, at the end of the day it is all about perspective, perseverance and love.

*"In times of great stress or adversity, it's always best to keep busy, to plow your anger and your energy into something positive."* – Lee Iacocca

Okay, I promise, that was the last one. Now, really take a look at these quotes and see what they all have in common; they each refer to one's mindset. If you have the right mindset, even in the most challenging of circumstances, you will ultimately succeed.

CALSPRO will continue to succeed. Because there are people who genuinely care about CALSPRO and the industries that it represents, CALSPRO will persevere. We have an overwhelming majority of positive, driven and focused individuals looking out for our collective best interests every day. Your directors, committee chairs and members are doing an outstanding job to that end.

In this newsletter you will hear from Chad Barger, Legislative Chair, who will cover topics such as the eviction

moratoriums, the current state of affairs at the capital and the newest round of PPP assistance. You'll hear from Mark Manchester, Conference Chair, regarding our planned in-person conference including some amazing possibilities for guest speakers. Kristian Pujol, Vice President and Membership Chair will provide a message regarding our membership drive.

Hopefully by now you have seen our CALSPRO Vlog Series video and received your membership renewal. Even better, hopefully you have already returned it or completed the process online. The membership committee works extremely hard during the beginning of the year. In large part due to the slow return of these renewals. Any assistance to help them make this year smoother would be greatly appreciated. I appreciate your continued support of CALSPRO.

As you can see, the wheels are still turning at CALSPRO and there is always work to be done. As always, if there is anything that the leadership or I can do for you, please do not hesitate to reach out.

Stay safe and stay healthy my friends,  
*Kenneth Hastings – CALSPRO President*



# CAPITOL REPORT

MICHAEL D. BELOTE, ESQ.  
CALIFORNIA ADVOCATES, INC.

## ***Not Again!***

**R**aise your hands if you thought in March, 2020 that the state/country/world would still be effectively locked down by the COVID-19 pandemic into at least the early months of 2021. Tell the truth! As this column is written, yesterday ironically was both Inauguration Day and the one-year anniversary of the first-known COVID case in the United States. One year later, there have been more than 24.5 *million*.

Obviously, all elements of society have been upended by the virus, and the California legislature is certainly no exception. For 2020, the number of bills passed and signed into law by Governor Newsom declined dramatically. In most years approximately 1000 new laws are chaptered into the California Codes, and the total last year was less than 400. That is still a lot of law, but nothing like usual, as legislators were urged to focus on COVID and other urgent matters.

To absolutely no one's satisfaction, the new 2021-2022 two-year session in Sacramento is beginning the same way. The Capitol remains effectively if not officially closed, with each legislator limited to one staff member in the office each day. All lobbying must be performed by, let's see: Zoom, Teams, Google Meets, Blue Jeans, webinars, and the rest. It turns out that lobbying is not only more effectively done in person (it is much easier to say "NO" electronically than in person!), but more efficiently as well. There are only so many 15-30 minute blocks in the day.

Here are some things we know for the new session: first, Democrats now hold at least a 75% supermajority in both houses of the legislature, well above the 2/3 threshold necessary to raise taxes, place initiatives

on the ballot, and override gubernatorial vetoes. Whether you are a Democrat or Republican, such strong supermajorities do not facilitate compromise like a more balanced system does. The Assembly has a new Majority Leader, a very fine Assembly Member and lawyer from San Bernardino County, Eloise Gomez Reyes. The Senate has a new Judiciary Committee chair, an equally fine person and lawyer in the person of Senator Tom Umberg from Santa Ana. Assembly Member Shirley Weber from San Diego has been appointed as Secretary of State, to replace Alex Padilla, who moved to the U.S. Senate, and someone will need to replace Xavier Becerra as California Attorney General, since he has been nominated as U.S. Secretary of Health and Human Services. Musical chairs, indeed!

We are now hearing that the Assembly and Senate will not reduce bill limits on members for 2021; the usual two-year limit of 50 bills in the Assembly will apply, for example. However, members are being admonished not to expect to move more than 12 bills to the other house for enactment. Clearly the legislature is attempting to focus legislative output on COVID-critical and other urgent issues. To no one's surprise, the critical issues include housing and homelessness, evictions and foreclosures, wildfires and homeowner's insurance availability, racial justice and police misconduct, and taxation.

With respect to taxes, California is in the odd position of actually being *ahead* of income tax projections, due to the remarkable strength of the stock markets, but expected very stormy times in the future due to the virus. From a current budget surplus of approximately \$26

billion, which could actually require a rebate back to taxpayers (don't be excited, the rebate was calculated by one source to be approximately \$1.70 per capita), the Department of Finance is projecting deficits in the relatively near term.

Some are pushing for income tax rate increases, taxes on accumulated wealth, or "head taxes" based on the number of employees in California in large businesses. But the Governor, already facing the real possibility of a recall, has expressed opposition to income tax hikes, and we are already dangerously dependent on rich people to pay taxes on their capital gains.

Because California voters rejected commercial property tax increases on the November ballot, that really leaves only sales taxes in terms of major revenue sources. The big potential item in the sales tax area is to broaden the tax base to services. We have talked about this for years with CALSPro and although the concept has been included in bills, it has not happened. A broad-based tax on services could instantly make all of us sales tax payors for the multiplicity of services we consume, and sales tax remitters for the taxes we impose and collect. This would be an incredibly complicated administrative issue, but also a big risk for businesses moving out of state to perform services.

February 19 is the deadline for introduction of new bills for 2021. If history is any guide, expect dozens to be of potential interest to CALSPro. We are ready!





# CALSPRO Legislative Update

By Chad Barger, Legislative Chair

**A**t the beginning of last year, I was asked by a colleague how I thought the year might be for our industry? My answer was one of optimism and hope, but with a caveat that with it being an election year, anything could happen. As I look back on my answer, I could not have imagined what the words “anything could happen” would mean. With the introduction of COVID-19, stay-at-home orders, business shutdowns, and a wild election, who could have predicted our current situation.

Even with everything that has happened, I am still “the glass is half full” kind of guy. Do not get me wrong, this past year shook me to the core. With the passing of my grandfather, my mother-in-law having a massive heart attack, close friends, and family members suffering from COVID-19 and the steep decline in business, it has been difficult. I refuse to let circumstances get me down and I chose to hold close to my faith, family, and friends. Their strength, joy and hope make things a little

brighter and keep me moving forward.

With a focus on moving forward, the board of directors approved several items for the legislative committee to work on this year. The first item is “Commercial Building Access”. We will continue to explore this idea and present solutions to the board to accomplish this goal. Second is to amend CCP 411.20.5 in partnership with CICA. Our goal would be to remove and replace wording to urge courts to work with EFSP’s to collect unpaid filing fees. Third is to amend the process server registration act to include the registrants email address. This would allow groups like CALSPRO to obtain the electronic address of process servers to offer training, news, and membership information.

With COVID-19 still front stage in California, the state legislature remains in crisis mode. Again, this year, emergency and/or COVID related bills are taking priority in Sacramento. CALSPRO has decided not to introduce our bill this year,

as it does not rise to the level of emergency or COVID related. Our bill would allow for personal service upon an inmate, by serving a Sheriff or jailer on the inmate’s behalf. We feel strongly that this is a good bill and will keep it prepped and ready to present when the timing is right.

On Monday, January 18, 2021, the California Supreme Court declared its decision in *Dynamex Operations West, Inc. v. Superior Court*, creating an “ABC” test as to whether a worker is an employee or an independent contractor, applies retroactively to cases that were not yet final as of April 30, 2018, the date of the opinion in that case. Chief Justice Tani Cantil-Sakauye wrote the opinion in *Dynamex*, and authored yesterday’s opinion, which comes in response to a question certified to it by the Ninth U.S. Circuit Court of Appeals.

In response to the Ninth Circuit, Cantil-Sakauye wrote: “In concluding that the standard set forth in *Dynamex* applies retroactively—

*Continued on page 14*



## **CALSPRO Membership Update**

**by Kristian Pujol, Membership Chair**

### **New Year, New Friends, New Opportunities**

**I**t is finally here...yes, it is 2021! And with the new year, multiple vaccines for COVID-19 are already being administered and in the works for the benefit of mankind. Whether you are a Democrat or Republican or Independent, you have to feel good about the end of 2020 and the hope that 2021 brings to us all for a return to normalcy, social healing, and economic recovery. For CALSPRO, it is so important that everyone renew their membership this year as soon as possible to help us ensure we meet our annual budget for the retention of professional services and benefits we all depend on from our venerable association. If you are a member, you are well aware of the tremendous incentives and safeguards CALSPRO provides such as legislative advocacy and industry protection (against emergency orders, adverse regulations and anti-business bills); formulation, submission and passage of new industry bills (and forms) to help advance our interests in California

and set precedence across the United States (through our advocate, legislative committee and CICA); continuing education and legal support training (including MCLE courses, CCPS seminars and free online webinars); continuous communication of industry news, court updates, and important legal and economic relief information pertaining to COVID-19 and other pertinent issues facing our livelihood; as well, of course, as more practical shared utilities such as the website, company listings, courier services, area governors, mobile app, blogs, e-newsletters, publications, dispute resolutions and much more. Please reach out to [membership@calspro.org](mailto:membership@calspro.org) with any questions you may have about your membership benefits and opportunities available.

Last year, at this time we had very high hopes to continue to build on the membership momentum from the two previous years when we had 200+ new members join

CALSPRO! With merely less than half of our renewals having paid their memberships by February (which we need to avoid this year), we were in for a difficult challenge as COVID was surfacing in many areas and gaining strength. By the end of the following month and into April, many courts and law firms shut down and business for many of our members came to an abrupt halt. By mid-May we had only about 60 percent of our membership intact, yet our committee and the Board of Directors graciously decided to "re-instate" all non-paying members (including vendors) during the crisis to help them receive many important emergency notifications as well as keep their company listings on the website to help advertise their businesses. We also had numerous free "webinars" to keep our members engaged along with our publications, e-newsletters, and weekly blogs. By the time July came

*Continued on page 6*



and all CA courts had reopened along with many businesses, the majority of our membership was better poised to service their customers, pay their dues and membership rose by about 10 percent. In August, our committee made a final push and was successful in bridging the gap from about 67% to 80% of our membership count from the previous year.

Our 2020 financial miracle was a tremendous feat considering the circumstances and I would like to give thanks to our committee members who sacrificed and worked hard for our association during times of hardship, especially past President Robert Porambo who kept us all in the know. I'd also like to thank Mr. Belote, our dedicated lobbyist, who saved service of process jobs once again for our industry during the Judicial Council's rollout of new Emergency Orders. I am proud to also report that throughout the year we accumulated over one dozen new members before our online annual conference in the fall. Many thanks to the entire team at CAMS for all their support during 2020, and tremendous heartfelt gratitude to Mr. Steve Janney, the Rosenthal Committee and all the emergency fund contributors who kept us afloat financially on our final descent into what would have been a Red October. Thank you all! It took a village to survive 2020.

This year we hope to rebound strongly in membership and will be looking forward to having our CALSPro Annual Conference at the stunning Omni Resort in Rancho Mirage once again at the perfect time of year (in October) when the desert weather is just beautiful,

along with the pool temperatures and golf course greens. We hope that by then, the peak of the pandemic will be far behind us and safe distancing will yield to having fun together once again under the sun while learning, networking, and seeing friends from close and afar. We encourage you to please attend, bring your family, and celebrate and support our cherished association as we traditionally do. There are numerous ways to immediately help CALSPro before then. If you have not already, please RENEW your membership! We currently have less than 100 renewals so far in January but have the usual late registrants (150 + members) still pending renewal. Please not only update your membership but also consider donating a little extra (if possible) this year since we had a higher-than-normal attrition rate of 20% in 2020 (how depressingly befitting). Consider purchasing a banner add or an enhanced website listing or providing a sponsorship showcasing your company's support for CALSPro. There are many options so please reach out to [advertising@calspro.org](mailto:advertising@calspro.org) for more information. Please consider also reaching out to affiliates you exchange work with (in California or outside of the state) and encourage them to join the association. You do not have to be in a committee to do this; just care enough about our industry and its perseverance. Associate out-of-state memberships are only \$100.00 per year and supporting memberships (attorney's paralegals, legal secretaries, etc) only \$50.00 per year. Please also take a moment to support our Vendor members listed on our website's Vendors page <https://calspro.org/vendors/> and be sure to tell them you are from

CALSPro to let them know their support is appreciated and will be reciprocated.

There are countless additional things you can do, as well, to help like volunteer for a committee (technology, advertising, membership, etc), write an article, help recruit members or advertisers, or run for the Board! We are excited to have two new board members this year to bring some fresh ideas and perspectives to the leadership table in 2021: Jackie Janney-Kilgore and Connie Bettencourt. Please reach out to them and introduce yourself. Tell them your concerns and ideas you would like the board to consider this new year of hope and restoration. Remember: participation and membership in CALSPro not only keeps our industry alive but also engaged by providing a platform of communication, education, and legislation for all of us. As membership chairman and legislative co-chair, I can attest to the high level of commitment we place on communicating with our membership the important rules and critical changes to the law affecting our legal support industry. Member benefits and opportunities constantly provided, year after year, by CALSPro help protect and grow our businesses (even during a pandemic), and ensure we remain embedded in the legal system as necessary and essential workers for the facilitation, advancement and preservation of due process rights.





# CALSPRO Conference Update

*By Mark Manchester, Conference Chair*

## Come Join Us in Rancho Mirage

It is that time of year again, we are starting to plan for this year's conference in Rancho Mirage. When we meet this year, it will be the first time we have all been together in over two years. Mark your calendars and plan on joining us in the Desert at this year's conference at The Omni Rancho Las Palmas Resort.

During the weekend of October 8th through the 10th you can expect your usual favorites such as the Jack C. Janney Memorial Golf

Tournament, Friday Night Cocktail Mixer, Awards Banquet, educational classes and Meet and Greet.

This year we want to bring in speakers about topics that cover recovery from the pandemic. Possibly a speaker from the California State Government, someone from the Courts to speak on the state of the courts, and a motivational speaker. If there are any topics you would be interested in having covered this year, please reach out to the

committee. We are always looking for fresh and new ideas.

We are looking into bringing back casino night, or something fun, where we can all relax and have a laugh or two while enjoying each other's company. We have a lot of hard work ahead of us.

I hope to see you all at this year's conference.



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# EDUCATION

## Continuing Education Report by Andrew Gowing, Education Chair

### A New Year

**W**e are excited for the new year and the opportunities to learn new things that will come with 2021. As the Continuing Education Committee, we will plan on putting on 5 CCPS Workshops throughout the year, leading up to our Annual Conference in October. All of our CCPS Workshops will be completely online and they will include a time afterward to take the exam if you are looking to earn your CCPS designation. Our first workshop will be on Saturday, February 27th from 9am to 12pm, with the exam taking place from 12:30pm to 2pm.

Our goal will be to bring you a CCPS Workshop opportunity every other month, with those dates to come. Once we have solidified our CCPS schedule, we will send out an announcement and post it on the CALSPro website. In addition to the CCPS Workshops, we will be bringing many other learning opportunities on a smaller scale. If you took advantage of our mini-webinars last year, such as "Endorsing a Summons Properly" or "Introduction to Writs", you know they are a good opportunity for some great education.

Below is a snapshot of a piece of the curriculum we spend time on in our CCPS Workshop. It is important to keep up to date on the changes for the coming year. For example, the IRS Federal Mileage rate went down 1.5 cents for the year 2021. It is now 56 cents per mile, down from 57.5 cents in 2020. We hope you will join us at one of our CCPS Workshops in 2021. Not only to educate yourself, but to help support CALSPro in the process. Here is to 2021, we are looking forward to it.

### Witness Fees

1. **State Courts - \$35.00** per day and **20** cents per mile round trip from the person's residence to the location of the hearing.
2. **State Courts - Deposition Subpoena for Business Records**
  - Requires \$15.00 paid at the time of service.
3. **Federal Courts - \$40.00** per day plus **56** cents per mile round trip from the person's residence to the location of the hearing.
  - **Must be paid at the time of service**
  - Subpoenas served on behalf of the Federal Government or its agencies are exempt from paying witness fees; or if the Subpoena is for records only.
4. **Peace Officer or Other Government Employee - \$275.00** per day deposited (also known as posted or tendered) with the appropriate agency.  
(Handout I-1(back) & I-2)





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**CALIFORNIA ASSOCIATION OF LEGAL SUPPORT PROFESSIONALS**

**Board of Directors Meeting**

**October 8, 2020 Via Zoom**

**MINUTES OF THE MEETING - RECAP**

**PRESIDENT'S REPORT**

Robert Porambo thanked the board for all of their hard work during this challenging time, and he acknowledged Andrew Gowing and Jay Roll.

Robert Porambo is working with CFC, the pouch company, regarding reporting and royalty payments. The board discussed educating the members with respect to the value of CFC. The board also discussed the CFC reporting; and Robert Porambo will try to get more information from CFC with respect to the participants' list and royalty payments.

**SECRETARY-TREASURER'S REPORT**

Andrew Gowing presented the September 2020 financial statement. The balance sheet shows total current assets of \$71,849.10.

Jeff Karotkin discussed the income and expense line items for the Coalition for Improving Court Access and indicated that he does not expect any additional activity.

The list of the Bert Rosenthal Memorial Award Fund contributors was included in the agenda packet; total funds collected to date are \$30,415.00.

**COMMITTEES**

Legislative – Chad Barger turned the report over to Mike Belote.

Mike Belote discussed the following items:

- Legislature adjourned at midnight on August 31, 2020.
- The Governor had the month of September to sign or veto the 425 bills; 57 bills were vetoed; and 375 were signed. In a normal year, the Governor has over 1,000 bills to sign or veto, so the legislative output was down due to COVID-19.
- AB 5 – Webinar regarding AB 2257 went very well.
- AB 2165 – E-Filing was signed
- Bill on Remote Depositions and Service was signed.
- Expect to see a lot of activity relating to getting civil trials going again.
- AB 1399 – Work Comp dealing with presumptions.
- Supplemental sick pay for COVID.
- New legislature will be sworn in the first Monday in December, and they will start the session officially in January.
- Propositions – Mike is starting to see some clarity on Propositions and discussed some of the initiatives.
- Sales Tax on Services – Expect some activity next year.

Jeff Karotkin indicated that CICA has a report which he will send to the board which can be published to the membership with the annual report booklet. Jeff discussed the San Diego Superior Court and their expanded e-filing program, which as of October 1, 2020, expanded the number of EFSPs for electronic filing. The court is going to mandate civil and probate effective July 1, 2021 and family around the same time.



Bylaws – Tom Alkema indicated that the proposed bylaw amendments have been submitted to the membership, and will be presented during the virtual Annual Business Meeting on October 12, 2020.

Membership – Kristian Pujol noted that his report, which is included in the agenda packet, was written for the annual report to the membership. Kristian will provide the report verbally to the membership on Monday. The current membership count is 238, compared to 302 this time last year.

Kristian Pujol discussed the registered process server lists retained by the county recorder, and if it is possible to get the lists to include e-mail addresses. If, in the future, process servers can submit more forms such as the application to be a registered process server electronically, that would provide an opportunity to collect e-mail addresses. Mike Belote indicated that the challenge is that each county is different, and each county would need to be contacted. Mike reminded the board of the bill that was intended to move process server regulation under the State Bar of California, but the timing was not appropriate, and it may be approachable sometime in the future, but that a statewide system is needed to support more electronic manners.

Conference – Mark Manchester discussed the conference on Monday, and noted that there will be two webinars, available on-demand, as part of the conference. Jenny Blevins provided logistical information regarding the Zoom conference.

## **OLD BUSINESS**

MemberClicks – Stephanie Schoen reported that the contract has been signed, and she will start providing the data to MemberClicks, and that we are on pace to launch the new database and website by the end of the year.

## **GOOD OF THE ORDER**

- Tom Bowman acknowledged Stephanie Schoen and Jenny Blevins for their work on the virtual conference.
- Andy Estin indicated that he is having cataract surgery and may not be wearing glasses the next time we see him.
- Kristian Pujol recognized and thanked the members of the board who worked so hard this year.
- Ken Hastings extended his appreciation to Robert Porambo for two really good years under his leadership.
- Dan Mora thanked the board, and noted that CALSPro is a great organization, and has a great track record, and acknowledged the health of the organization.
- Jay Roll thanked those who helped get him involved in the association, and that he is taking a break but looks forward to coming back in some form.
- Mark Manchester thanked Andrew Gowing for an outstanding job in the continuing education area.

**CALIFORNIA ASSOCIATION OF LEGAL SUPPORT PROFESSIONALS**  
**Board of Directors Meeting**  
**October 12, 2020 Via Zoom**

**MINUTES OF THE MEETING**

**ELECTION OF THE CHAIRMAN OF THE BOARD**

Upon motion by Tom Bowman, seconded by Chad Barger, Larry Kirlin shall be elected as the Chairman of the Board. The motion carried unanimously.

**RATIFICATION OF 2021 MEMBERSHIP DUES**

A motion was made by Tom Bowman, seconded by Mark Manchester to maintain all four dues paying categories at the same level of dues, as follows:

Active Member - \$385.00  
Associate Member - \$100.00  
Supporting Member - \$50.00  
Vendor Member - \$350.00

The motion carried.

Upon motion by Kristian Pujol, seconded by Mark Manchester, to offer current and past, from 2017, Independent Contractor members a discount of \$135.00 off of the 2021 membership dues for total 2021 membership dues in the amount of \$250.00. The motion carried.

Upon motion by Tom Bowman, seconded by Ken Hastings, any new member or upgraded member shall receive a discount of \$50.00 off of the 2021 CALSPro Conference registration fee. The motion carried. It was clarified that this shall also apply to a former member who did not renew.

**NEXT BOARD MEETINGS**

The board set the next two meetings as follows:

November 11, 2020 – 4:00 p.m. – 6:00 p.m. Via Zoom  
December 3, 2020 – 4:00 p.m. – 6:00 p.m. Via Zoom

# Unlawful Detainer COVID-19 Update For Los Angeles Superior Court

By Rachel Chaples, Communications Coordinator at Tristar Software

TRISTAR

Hello, Becky efile Completed eFilings New Case Existing Cases Maintenance ▾ Draft Orders Exit eFilings

Premise Address For Unlawful Detainer

Premise Street:

Premise City:

Premise State:  Zip:

Is this an Action for Recovery of COVID-19 Related Debt as defined under Section 1179.02? ☐ Yes ☒ No

Filings going into Los Angeles Superior Court (LASC) for unlawful detainer cases will now have a checkbox for COVID-19 rental debt. This field will be mandatory for filings going into LASC beginning February 1, 2021. LASC and e-filing service providers (EFSP's) made this preparation for filings before our president and California state governor's most recent moratorium extensions. The question adjacent to the checkbox is as follows: **"Is this an Action of Recovery of COVID-19 Related Debt?"** EFSP's must add the new section to their e-filing platform by the deadline or users filing unlawful detainers could get their case rejected.

This language was added in response to the thousands of California tenants who were unable to meet their financial obligations to landlords during the government-

mandated eviction moratorium. The moratorium provides home security for tenants unable to make rental payments from March 1, 2020 to June 30, 2021. When the moratorium ends, landlords will be able to evict tenants and seek compensation for outstanding rent accrued during the pandemic.

The Tenant Relief Act of 2020 was put into place by the State of California to save tenants from eviction while suffering economic hardship related to COVID-19. From March 1, 2020 to August 31, 2020 tenants were only required to sign and return a Declaration of COVID-19 Related Financial Distress to their landlord within 15 days of receiving a Notice to Pay Rent or Quit. In September 2020, the act was expanded to require rental payments of at least 25% of each past due bill and 25% of all future bills as they became due until June

30, 2021. If a tenant fails to pay 25% of what is owed, then a property owner can file an unlawful detainer before the moratorium is lifted.

It is important to look at case law if COVID-19 is deemed the reason for non-payment as leases are huge financial assets. Either party could manipulate the system to justify evicting a struggling tenant or to remain on a rental property without paying. This upcoming July, LASC and courts nationwide expect to see a vast influx of unlawful detainer cases. Please review CHAPTER 5. COVID-19 Tenant Relief Act of 2020 [1179.01 - 1179.07] for more information.

## Sources:

"Governor Newsom, Legislative Leaders Issue Statement on Eviction Moratorium Extension." State of California,

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"Frequently Asked Questions." Homeowner-Protection Guidelines. State of California, 2021. <https://landlordtenant.dre.ca.gov/faqs.html>.

"FAQs on Tenant Rights and Paying Rent During the Coronavirus Crisis." www.nolo.com. Nolo, 2021. <https://www.nolo.com/legal-encyclopedia/faqs-on-tenant-rights-and-paying-rent-during-the-coronavirus-crisis#:~:text=Even%20if%20you%20are%20not,payment%20of%20everything%20you%20owe>.



that is, to all cases not yet final as of the date our decision in *Dynamex* became final—we rely primarily on the fact that *Dynamex* addressed an issue of first impression. It did not change a settled rule on which the parties below had relied. No decision of this court prior to *Dynamex* had determined how the ‘suffer or permit to work’ definition in California’s wage orders should be applied in distinguishing employees from independent contractors. Particularly because we had not previously issued a definitive ruling on the issue addressed in *Dynamex*, we see no reason to depart from the general rule that judicial decisions are given retroactive effect.”

The defendant in the federal case, Jan Pro, a franchisor of janitorial cleaning outfits, argued that retroactive application of *Dynamex* would be unfair because businesses, in classifying workers as independent contractors or employees, could not have anticipated the new test. Cantil-Sakauye responded: “[D]efendant’s argument carries little weight when, as here, the underlying decision changes no settled rule. Moreover, public policy and fairness concerns, such as protecting workers and benefitting businesses that comply with the wage order obligations, favor retroactive application of *Dynamex*. Thus, we do not view the retroactive application of the ABC test to cases pending at the time *Dynamex* became final as improper or unfair.” (<http://www.metnews.com/articles/2021/Vazquez01152021.htm>)

Another major issue happening in California is the eviction moratorium. Governor Newsom

and state lawmakers are trying to reach an agreement by January 31, 2021, when the current moratorium expires. Without an extension, thousands of vulnerable renters could be thrown out of their homes during a pandemic and potentially exacerbate the state’s homeless crisis. The University of California, Berkeley, estimates 240,000 to 700,000 California households are at risk of eviction for failing to pay rent.

So far, landlord groups feel pushed aside by the negotiations and worry about their clients being left holding the bill while legislators discuss how far to push the moratorium deadline. The most discussed date for an end to the moratorium is June 30, 2021. Although landlords are fighting to lift the moratorium by April 1, 2021, for those who have not paid any rent during the pandemic.

Finally, I want to thank the committee members for agreeing to serve the membership this term. The committee members are Kristian Pujol – Co-Chairman, Andy Estin, Tony Klein, Tom Bowman, Jeff Karotkin, and Ken Hastings, as President. I am so privileged to work alongside such brilliant and hard-working professionals. Together, I know we can make a difference in our industry and continue the long tradition of protecting and preserving the legal support profession.



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