

**KINGS COUNTY SUPERIOR COURT**

**EMERGENCY LOCAL RULE 409**

On or about April 6, 2020, the Judicial Council of California adopted Emergency Rule 1, subdivision (b) of the California Rules of Court which states: “A court may not issue a summons on a complaint for unlawful detainer unless the court finds, in its discretion and on the record, that the action is necessary to protect public health and safety.” (“Emergency Rule 1(b)”.) Emergency Rule 1, subdivision (c) of the California Rules of Court provides: “A court may not enter a default or a default judgment for restitution in an unlawful detainer action for failure of defendant to appear unless the court finds both of the following: (1) The action is necessary to protect public health and safety; and (2) The defendant has not appeared in the action within the time provided by law, including by any applicable executive order.” (“Emergency Rule 1(c)”.)

In response to the Judicial Council’s adoption of Emergency Rule 1(b) and (c), the Kings County Superior Court has adopted Kings County Superior Court Emergency Local Rule 409 (effective immediately), as follows:

**EMERGENCY LOCAL RULE 409 – Summons and Defaults in Unlawful Detainer Actions**

1. Any Plaintiff seeking to have the court issue a Summons or enter a default or default judgment in accord with the provisions California Rules of Court, Emergency Rule 1(b) or (c), **must file** an application and declaration which clearly state their request that court make the findings required by Emergency Rule 1(b) or (c) and the factual basis for the same. (*Local Form UD-ER1 is available on the court’s website for optional use.*)
2. Any Complaint for unlawful detainer that does not include the required application and declaration will **not** be forwarded to a judicial officer for consideration of the exceptions set forth in Emergency Rule 1(b) for issuance of a Summons.
3. Any request for entry of default or default judgment that does not include the required application and declaration will be rejected by the Clerk of the Court until Emergency Rule 1(c) is repealed or expires.
4. Any application and declaration for issuance of a Summons under Emergency Rule 1(b) filed with the court which sets forth a *prima facie* basis for relief will be set for hearing by the court. All parties appearing at such hearing shall appear telephonically, by video, or by other available means of remote appearance. If the application and declaration for issuance of Summons under Emergency Rule 1(b) fails to set forth a *prima facie* basis for relief, it will be denied by the court without a hearing.

5. Any application and declaration for entry of default or default judgment in accord with the exception set forth in Emergency Rule 1(c), will be determined ex-parte by the court simultaneously with the relevant request for entry of default or default judgment. If no basis for relief is found to exist, the request for entry of default or default judgment will be denied by the court, without prejudice. A new request for entry of default or default judgment may be submitted upon the repeal or expiration of Emergency Rule 1(c).

6. Any Unlawful Detainer Complaint filed after April 6, 2020 which does not include the application and declaration required for issuance of a Summons under Emergency Rule 1(b) will be filed, but no Summons will issue. The proposed Summons should be submitted for issuance at the same time as the Unlawful Detainer Complaint. However, where the findings set forth in Emergency Rule 1(b) are not found to exist, the Clerk of the Court will maintain possession of the proposed Summons until Emergency Rule 1(b) has expired or been repealed. Upon expiration or repeal of Emergency Rule 1(b), the Clerk of the Court will issue the proposed Summons. A separate self-addressed envelope with adequate postage thereon should be provided by the Plaintiff at the time of submission of the proposed Summons so that the Summons can be mailed to him/her once issued.

7. The procedures set forth herein will be valid only until the repeal or expiration of Emergency Rule 1, subdivisions (b) and (c) of the California Rules of Court.