

March 23, 2020

Governor Gavin Newsom  
1303 10th Street, Suite 1173  
Sacramento, CA 95814

Dear Governor Newsom,

We, the undersigned legal services organizations, write to request that California take immediate steps to mitigate irreparable harm being done to communities throughout the state by placing a moratorium on consumer debt collection.

Our organizations provide direct legal assistance to low-income consumers who, even before the COVID-19 pandemic, struggled to pay for housing, food and healthcare. Our clients have not been able to afford to set aside savings for times of financial stress and have sometimes needed to borrow—often at egregious interest rates—to pay their monthly bills. And when they haven't been able to repay their debts, they have faced lawsuits by financial institutions, debt collectors, and debt buyers, along with wage garnishments and bank levies, that make it even harder to make ends meet. Our legal services are often necessary to prevent judgment by default, and to defend against debt collection suits that may be legally flawed, plagued by insufficient documentation, or brought against an innocent party. The situation now, with so many out of work, has become dire.

On March 4, 2020, you declared a state of emergency in California, followed on March 19 by an order for the state's 40 million residents to shelter in place. Though this unprecedented action is necessary, it has put enormous financial and emotional strain on our communities--causing household incomes to plummet, requiring families to forgo employment so they can take care of their children, and further isolating our most vulnerable residents. People are struggling to meet their basic needs. Now, of all times, they should not be forced to deplete scant resources in order to pay debt collectors.

During this critical period, the attempted collection of consumer debts through our State courts puts even more strain on families already teetering on the edge. For example, one Bay Area Legal Aid consumer client was served with a student loan debt collection lawsuit on her doorstep on March 17, *after* area shelter-in-place orders became effective. That same day Oportun, Inc., a high-cost small dollar lender, alone filed 22 new collection lawsuits in San Francisco Superior Court. A day later, 32 new collection lawsuits were filed in that Court by financial institutions and debt buyers.

Needless to say, the pandemic has made it more difficult for consumers to get help or to defend themselves when they are sued in court or are facing wage garnishment or a bank levy on a prior consumer debt judgment. Closed court clerks' offices, self-help centers, and law libraries, along with shelter-in-place orders, make it impossible for low-income consumers to meet court deadlines. Our organizations are making every effort to continue to provide legal assistance to consumers facing debt collection consistent with the shelter-in-place orders. Since

we can only offer help remotely, we cannot reach vulnerable consumers with limited or no access to technology.

Other states have already taken significant measures in this area. This past week the governor of Nevada, Steve Sisolak, ordered non-essential businesses to close; in response, the state Department of Business and Industry called on debt collection agencies to close for 30 days<sup>1</sup> and the Las Vegas Justice Court suspended court-based collection activities.<sup>2</sup> In addition, the Colorado Attorney General has urged student loan servicers and other creditors to suspend their collection efforts.<sup>3</sup> Even the federal government has suspended payments on student loans.<sup>4</sup>

The Emergency Order by the Chief Justice of California dated March 17, 2020 stays court filing deadlines for specified courts until April 3.<sup>5</sup> Though it provides some relief, this order effectively makes many consumers' responses due the first day that courts reopen, putting them at risk of missing critical court deadlines, overtaxing available legal aid resources, and providing an opening to debt collectors to obtain default judgments.

Furthermore, litigation activity on existing debt collection court cases continues unabated. Two East Bay Community Law Center consumer clients, both monolingual Spanish-speakers, were served with Requests for Admissions last week in Alameda County Superior Court cases. They now have 30 days to prepare responses and have them served. This deadline is unaffected by the emergency orders but could result in extreme prejudice for these clients if the requests are deemed admitted.

Experts expect that the COVID-19 crisis will last for many months. As you have emphasized, "the economic disruptions caused by this public health crisis will have immediate and devastating effects on our entire country, including too many families in California."<sup>6</sup> Our

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<sup>1</sup> Letter from Mary Young, Deputy Commissioner, Financial Institutions Division, Nevada Department of Business and Industry, March 18, 2020. Available at: <https://www.acainternational.org/assets/nevada-recommenda-temporary-closure-of-collection-agencies/nrs-649-covid-19.pdf>.

<sup>2</sup> Administrative Order #20-03, Justice Court, Las Vegas Township, Clark Co., Nev., March 18, 2020. Available at: <https://ewscripps.brightspotcdn.com/d1/63/99e6c11e43aba0b2a3e052d352be/admin-order-20-03.pdf>

<sup>3</sup> "Attorney General Phil Weiser Urges Student Loan Servicers and Other Creditors to Exercise Restraint and Hold Off Debt Collection Efforts," March 18, 2020. Available at: <https://coag.gov/press-releases/3-18-20/>

<sup>4</sup> Press release, U.S. Department of Education, March 18, 2020. Available at: <https://www.ed.gov/news/press-releases/delivering-president-trumps-promise-secretary-devos-suspends-federal-student-loan-payments-waives-interest-during-national-emergency>

<sup>5</sup> Order of Hon. Tani G. Cantil-Sakauye, authorizing the Superior Court of Alameda County to extend deadlines, available at: <http://www.alameda.courts.ca.gov/Resources/Documents/JCC%20Emergency%20Order%20March%2017%202020.pdf>.

<sup>6</sup> Governor Gavin Newsom, Letter to Congress, March 19, 2020. Available at: <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-Letter.pdf>

agencies are already receiving numerous calls from consumers who are concerned about their ability to pay car payments and other debts after having their hours cut or being laid off.

Without substantial intervention from every level of government, middle-class households will fall into poverty, and low-income households will be unable to afford rent, food, and other life necessities. We are aware of proposed federal initiatives to keep our economy afloat by putting desperately needed cash in the pockets of struggling families. These measures will be significantly undermined if financial support intended for families is immediately diverted to debt collectors through garnishment and levy. It is critical that there be a collection moratorium that extends for the length of the Governor's March 4, 2020 order declaring a state of emergency and for an additional 30 days so that low-income consumers with defaulted accounts can have time after shelter-in-place restrictions have been lifted to access federal and state relief programs, resolve defaulted accounts without court-ordered collections, and get legal assistance on pending legal actions before collection activities resume.

For the reasons stated above, we request that California enact a moratorium on all consumer debt collection activities, including the following:

- A suspension, during the state of emergency and 30 days thereafter, of consumer debt collection activity by financial institutions, debt collectors, and debt buyers, including telephone calls, letters, electronic communications, and other forms of collection-focused contact;
- A suspension, during the state of emergency and 30 days thereafter, of the filing of new consumer debt collection lawsuits by financial institutions, debt collectors, debt buyers and any assignees;
- A suspension, during the state of emergency and 30 days thereafter, of pending consumer debt collection lawsuits, including any filing or other responsive deadlines and barring the issuance of any default or filing of a request for default judgment;
- A suspension, during the state of emergency and 30 days thereafter, on enforcement of civil judgments by levy, lien or garnishment, and the cancellation of any existing writs of execution of civil judgment, where the judgment creditor is a financial institution, debt collector or debt buyer, or an assignee thereof;
- A moratorium on the non-judicial enforcement of secured consumer debt through repossession or foreclosure.

Thank you for your attention and for the work you are doing on behalf of the millions of Californians who will immediately benefit from these measures. If you have questions regarding this letter, please contact Noah Zinner, Regional Managing Attorney-Consumer, Bay Area Legal Aid at [nzinner@baylegal.org](mailto:nzinner@baylegal.org).

Sincerely,

Bay Area Legal Aid

Housing and Economic Rights Advocates

California Low-Income Consumer Coalition

East Bay Community Law Center

Public Counsel (Los Angeles)

Bet Tzedek Legal Services (Los Angeles)

Watsonville Law Center

Legal Aid Society of San Bernardino

Riverside Legal Aid

Elder Law & Advocacy (San Diego)

Centro Legal de la Raza (Oakland)

Legal Aid of Marin

Alexander Law Clinic (Santa Clara)

UC Irvine Consumer Law Clinic

Public Law Center (Santa Ana)

Justice & Diversity Center (SF)

cc: Hon. Tani G. Cantil-Sakauye  
Chief Justice of California and  
Chair of the Judicial Council

Xavier Becerra  
Attorney General  
California Department of Justice

Manuel P. Alvarez  
Commissioner  
California Department of Business Oversight