

ORANGE COUNTY REALTORS MANAGING THROUGH THE CRISIS AND BEYOND

BY: JENNIFER FELTEN, ESQ.

04-24-20

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WHAT WE ARE GOING TO COVER TODAY



- I. Business Continuity Planning & Virtual Work Best Practices
- 2. Tax Delays & Stimulus Payments
- 3. Governmental Benefit Programs & Business Funding Options
- 4. Real Estate Market Impacts
- 5. Additional Resources & Areas of Concern

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BUSINESS CONTINUITY PLANNING & VIRTUAL WORK BEST PRACTICES

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CALIFORNIA STAY AT HOME ORDER

EXECUTIVE DEPARTMENT STATE OF CALIFORNIA

EXECUTIVE ORDER N-33-20

WHEREAS an March 4, 2020, I proclaimed a State of Emergency to exist i California as a result of the threat of COVID-19; and

WHEREAS III a short period of time, COVID-19 has rapidly spread troughout California, necessitating updated and more stringent guidance tro sderal, state, and local public health officials; and

entire State of California, I find it necessary for all Californians to heed the State sublic health directives from the Department of Public Health.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections

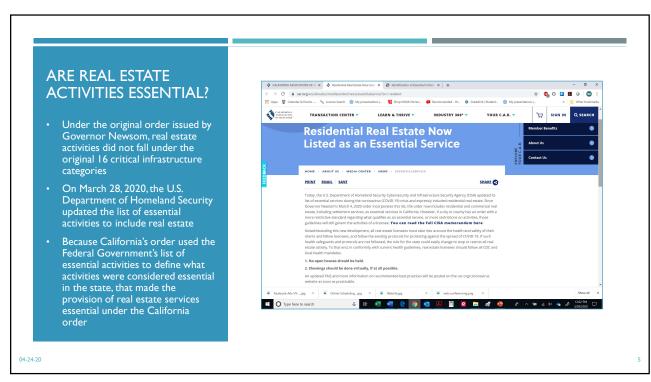
IT IS HEREBY ORDERED THAT

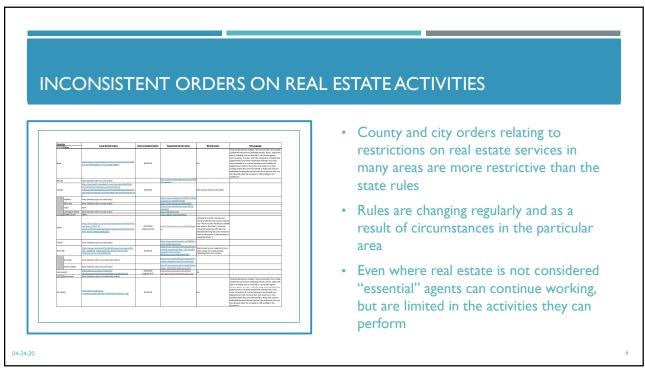
1) To preserve the public health and sofely, and to ensure the healthcodelevery system is capable of serving all, and printingly have all the lightest risk and vulnerability, all residents are discussed to immediately, head the current Stole public health discussed, and cordered the Department of habits health to develop for the current statewise attention of COMPD. Those describes are consistent with the Match 19, and the state of COMPD. If these describes are consistent with the Match 19, and the state of COMPD. The control of the state of COMPD and the state of the state of COMPD and the state of th

DER OF THE STATE PUBLIC HEALTH OFFICER

- Order Issued March 19, 2020
- Requires Californians to Stay at Home except as needed to maintain continuity of operations of the federal critical infrastructure sectors
- When people need to leave their homes to obtain or perform critical functions, or to otherwise facilitate authorized necessary activities, they should at all times practice social distancing
- No end date indicated in Order or provided by Governor to date

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ORANGE COUNTY GUIDANCE



- Orange County Health Officer issued Order on March 17, 2020
- The March 17, 2020, was declared no longer effective on March 18, 2020, and County residents were encouraged to follow State issued orders and guidelines
- April 9, 2020, Orange County Health Officer issues face covering recommendation for essential businesses and stated that all essential businesses should maintain a healthy work environment as recommended by CDC Guidance

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COPING WITH LIVING THROUGH THE LOCKDOWN

Ideas for Staying Calm and Maintaining Composure While Under the Governmental Orders



Exercise

Find Your "One Thing"

Prioritize Treats with Healthier Food Choices

Share Information Freely

Limit Your Social Media & Other News Create Household/Fami ly Rituals

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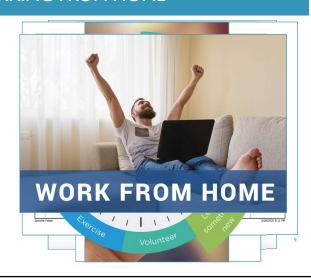
Source: Jeremy S. Lurey, Ph.D., ChiefExec Coach

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PROVISORS TOP 10 TIPS FOR WORKING FROM HOME

- I. Setup your workspace
- 2. Keep your morning routine
- 3. Have clear boundaries
- 4. Stick to a schedule
- 5. Check your Wi-Fi connection
- 6. Coordinate forwarding of calls
- 7. Make a task list and track your progress
- 8. Stay connected with co-workers
- 9. Embrace the extra time
- 10. Celebrate your wins

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WHERE TO START ON BUSINESS CONTINUITY PLANNING

Companies need to think and act across five horizons.

The five horizons



Resolve

Address the immediate challenges that COVID-19 represents to institution's workforce, customers, technology, and business partners

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Resilience

Address near-term cash-management challenges and broader resiliency issues during virus-related shutdowns and economic knock-on effects



Return

Create detailed plan to return business to scale quickly as COVID-19 situation evolves and knock-on effects become clearer



Reimagination

Reimagine the next normal: what a discontinuous shift looks like and implications for how institutions should reinvent



Reform

Be clear about how regulatory and competitive environments in industry may shift

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Source: McKinsey & Company

INITIAL ASSESSMENT

- Though designed for law firms, the baseline concepts of this risk assessment allow any business to determine the threats to their business posed by COVID-19 and the resulting governmental orders
- The more "High Risk Factors" a company faces the more action that will need to be done to continue operations and stay viable

Risk Factors

| Practice Type | Linguistic firms heavily degendent on advertising, high-volume, in-person intake. Immigration firms serving high-risk groups.
| Renote Access | Firms with no prior experience in operating virtually.
| Type of Clients | The addity income. The addity income with control of the addity income. The addity income with control of the additional properties of the additional properties of the additional properties of the additional properties of the additional properties. The addity income with additional properties of the additional properties. The additional properties of the additional properties of the additional properties of the additional properties. The additional properties of the additional properties of the additional properties. The additional properties of the additional properties

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MANAGING CASH FLOW

Assess essential and non-essential expenses, start reducing non-essential expenses now

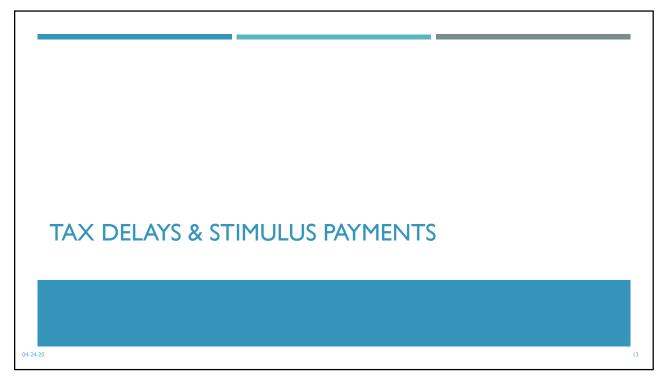
Preserve cash - consider drawing down lines of credit and putting money in separate bank

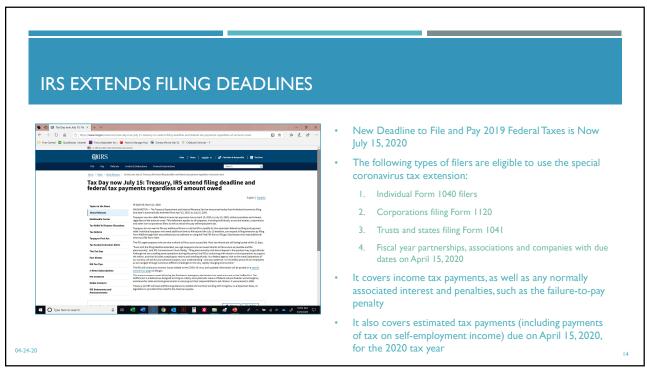
Prepare an austerity plan in the event of a long term slow down

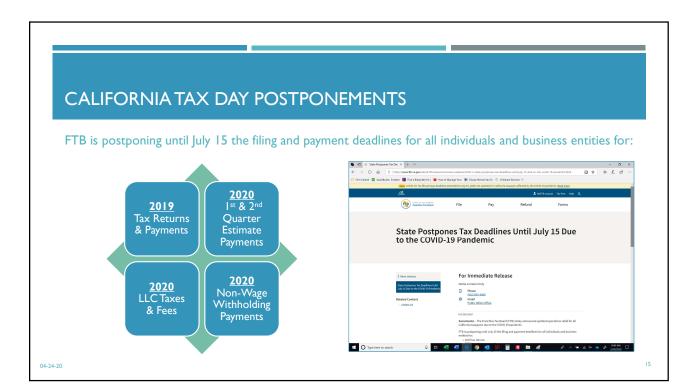
Establish a cash flow projection system and monitor weekly

Prioritize getting transactions closed expeditiously

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STIMULUS CHECKS

- Per IRS, they will start sending payments to most Americans in April
- Do not cal
- Most people won't need to take any action
- For security reasons, the IRS plans to mail a letter about the economic impact payment to the taxpayer's last known address within 15 days after the payment is paid
- The letter will provide information on how the payment was made and how to report any failure to receive the payment

STATUS*	QUALIFY?	HOW MUCH?
US Citizens	Yes	Adults (\$1,200)
Resident Aliens (w/SS#)	Yes	Adults (\$1,200)
Non-Resident Aliens	No	\$0
ITIN Users	No	\$0
Dependents Age 0-16	Yes	\$500
Dependents Age 17+	No	\$0
TAX STATUS	INCOME LEVEL	HOW MUCH?
Dependents Age 0-16	No Income Limitiations	\$500
Dependents Age 17+	No Income Limitiations	\$0
Individuals	\$0 - \$75,000	\$1,200
Individuals	\$75,001 - \$98,999	\$1,200 (minus reductions)
Individuals	\$99,000	\$0
Married Couples	\$0 - \$150,000	\$2,400
Married Couples	\$150,001 - \$197,999	\$2,400 (minus reductions)
Married Couples	\$198,000	\$0
Filing As Head of Household	\$0 - \$112,500	\$1,200
Filing As Head of Household	\$112,501+	\$1,200 (minus reductions)
	does not have a valid SS# and is pa , unless at least one spouse has a	

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ONLINE PORTAL TO GET STIMULUS CHECK



- Web tool launched Friday, April 11, 2020
- Allows non-filers ability to submit information to claim stimulus
- Designed for people who don't received government benefits and lower income households who don't file returns because their incomes were under the normal income limits for filing a return

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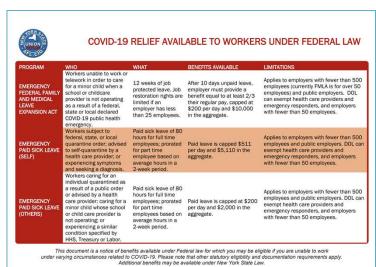
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GOVERNMENTAL BENEFIT PROGRAMS & BUSINESS FUNDING OPTIONS

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FAMILIES FIRST CORONAVIRUS RESPONSE ACT

- Effective April 1, 2020, the Family First Coronavirus Response Act (FFCRA) requires employers to provide paid leave for certain reasons
- Self-Employed individuals are also eligible for these benefits if they are directly impacted by COVID-19



Auditorial derients may be available from the State Law.

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REIMBURSEMENT UNDER THE PAID LEAVE PROGRAMS



- Employers that provide sick leave and expanded family and medical leave required by the FFCRA are eligible for reimbursement of costs of that leave through refundable tax credits
- The credit is effective for sick leave wages paid starting April 1, 2020, through Dec. 31, 2020
- The credit is generally available for up to \$511 in wages (for workers who are
 quarantined or self-quarantined or who have COVID-19) and wages of up to \$200
 for other workers for each day an employee receives qualified sick leave pay
- Credits are documented on a businesses' quarterly payroll tax returns (Form 941 series); advances can be requested as well (Form 7200)
- Equivalent childcare leave and sick leave credit amounts are available to selfemployed individuals under similar circumstances
- These credits will be claimed on an individual's income tax return and will reduce estimated tax payments

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UNEMPLOYMENT BENEFITS FOR SELF-EMPLOYED

- The CARES Act also includes a new Pandemic Unemployment Assistance (PUA) program expanding unemployment benefits eligibility to business owners, selfemployed workers and independent contractors
- The EDD will begin taking online PUA applications on April 28, 2020
- If you qualify for PUA, and depending on the effective date of your PUA claim, payments will be handled in phases

week for each week you were unemployed from February 2, 2020, through March 28, 2020, due to a COVID-19 related reason

S 167 plus \$600 per week for each week you were unemployed from March 29, 2020, through July 25, 2020, due to a COVID-19 related reason for each week, for each week from July 26, 2020, through December 26, 2020, that you are unemployed due to a COVID-19 related reason, up to a total of 39 weeks (exceptions apply)

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EIDLS Economic Injury Disaster Loans \$10B Available LOANS FPP Paycheck Protection Program \$3.49B Available ABOUT Eitic are ordivisities and approved by the US AS BA through local lenders. ABOUT Simple Seconomic (\$50 amployees) Solid-progration Solid-progration Solid-progration Solid-progration Solid-progration Maximum Loans \$3M Independent controctors Solid-progration Maximum Loans \$3M Independent controctors Solid-progration Solid-progration

Infographic from Mobile Area Chamber of Commerce

SBA LOANS

- Key feature of Payroll Protection Program Loan is the potential of forgiveness if the funds are used for the proper purposes
- Payroll Protection Program Loans are funded through local banks
- Based upon communications with multiple banks most are writing Payroll Protection Program Loans to existing customers
- Talk with your accountant regarding the impacts on your financials before applying for a loan
- Independent Contractors and Self Employed are eligible to apply, not just small business owners
- · Program funding an issue

SBA LENDERS ACCEPTING APPLICATIONS FROM NON-CLIENTS



https://sbacares.boefly.com/?utm_source=Fogel

https://gosbaloans.com/ppp/

https://www.lendio.com/ppp

https://getdivvy.com/covid-19-weave-sba-ppp-loans/

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401(K) HARDSHIP DISTRIBUTIONS & LOANS



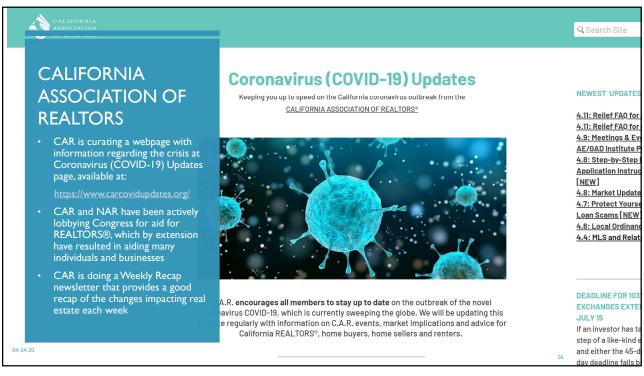
- Eligible individuals can withdraw up to \$100,000 from their retirement accounts, in total, without penalty as long as they pay back the distributions within three years
- Applies to an individual:
 - I. who is diagnosed with COVID-19;
 - 2. whose spouse or dependent is diagnosed with COVID-19;
 - who experiences adverse financial consequences as a result
 of being quarantined, furloughed, laid off, having work hours
 reduced, being unable to work due to lack of child care due
 to COVID-19, closing or reducing hours of a business
 owned or operated by the individual due to COVID-19; or,
 - 4. who meets other factors as determined by the Treasury Secretary
- The CARES Act doubles the current retirement plan loan limits to the lesser of \$100,000 or 100% of the participant's vested account balance in the plan

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REAL ESTATE MARKET IMPACTS

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FORCE MAJEURE, THE CAR RPA AND CALIFORNIA LAW



- A force majeure event refers to the occurrence of an event which is outside the reasonable control of a party and which prevents that party from performing its obligations under a contract
- Force majeure provisions are express terms and will not ordinarily be implied into contracts
- The CAR RPA does not have a Force Majeure clause
- California Civil Code Section 1511:

"The want of performance of an obligation \dots is excused \dots [w]hen it is prevented or delayed by an irresistible, superhuman cause"

- Case law interpreting Section 1511 supports the position that an event outside the control of the parties occurs and performance is made impossible as a result
- No case law specific to current pandemic and CAR RPA calls for mediation and in most cases arbitration so current disputes will not go to court

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CAR'S CORONAVIRUS ADDENDUM & OTHER NEW FORMS

CVA Coronavirus Addendum or Amendment¹²

NUCC Notice of Unforeseen Coronavirus Circumstances¹²

PEAD Coronavirus Property Entry Advisory and Declaration¹²

RPD Coronavirus Rent Payment Delay and Repayment Agreement

NTAP Notice to Tenant of Ability to Pay Rent During Coronavirus Pandemic

RLA-CAA Listing Agreement Coronavirus Addendum or Amendment¹

¹ These forms were updated in April, it is ok to still use the March version

 $^{\rm 2}$ Lease/Rental (LR) versions of these forms were added by CAR in March

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CALIFORNIA'S 90 DAY **EVICTION MORATORIUM**

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REAL ESTATE TRADE ASSOCIATION JOINT LOBBYING



- On March 18, 2020, several of the real estate trade associations authored a joint letter lobbying Governor Newsom to keep recorders office open throughout the state to allow real estate transaction closings to continue
- Other coalition letters have also been written to address challenges associated with notarization

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SOCIAL **DISTANCING IN CONFLICT WITH NOTARY LAWS REOUIRING PERSONAL** APPEARANCE

CALIFORNIA SECRETARY OF STATE



In correspondence with both the National Notary Association and a California State Senator, the California Secretary of State's office has issued the following guidance with respect to notarization in California during shelter-in-place orders associated with COVID-19:

"California Law does not currently provide the authority for California Notaries Public to perform a remote online notarization. The personal appearance of the document signer is required before the notary public. However, California citizens who wish to have their documents notarized remotely can obtain notarial services in another state that currently provides remote online notarization. California Civil Code 1189(b) provides that any certificate of acknowledgment taken in another place shall be sufficient in this state if it is taken in accordance with the law of the place where the acknowledgment is made.

Although the California Secretary of State's office cannot determine whether or not notarial services provided by a notary public are deemed essential during this pandemic, California notaries public are not prohibited from performing a notarial act during a shelter in place order. However, our office does recommend that California notaries public contact their respective county health officers for guidance."

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REMOTE ONLINE NOTARIZATION

- Remote Online Notarization (RON) is the use of audio/visual technology to complete a notarial act when the principal is not in the same physical location as the notary public
- Can be used to electronically or physically sign documents
- Only legal where notary is commissioned in state that allows online notarization



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OTHER STATES CHANGING NOTARY RULES

- As a result of COVID-19 several states have issued temporary Executive Orders authorizing RON
- These orders, like the laws and rules previously enacted relative to RON, are inconsistent
- Concerns over security of RON notarizations and the potential for fraud are even higher as a result of the new and incompletely vetted temporary orders



States in Session with Active RON Bills

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1031 EXCHANGE DEADLINES EXTENDED TO JULY 15, 2020



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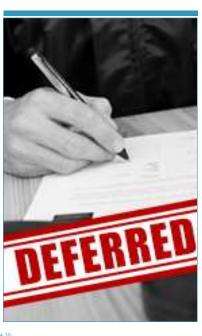
IBUYERS HALTING PURCHASES



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DEFERRED DEMAND

- For transactions that were in the pipeline before the shut down orders approximately 70% to 75% are closing
- For most agents, new listings have gone down and will continue to stay down until limitations on real estate marketing are lifted
- Much of the demand in the real estate market is still out there, it
 has just been deferred as a result of the limitations on real estate
 marketing and the uncertainty cause by COVID-19
- Reasonable to believe that new transactions will return to 75% of levels being received prior to shut down for most companies

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NOW IS THE TIME TO BE PROACTIVE

Don't Avoid Reality

Avoidance is the best short-term strategy to escape conflict, and the best long-term strategy to ensure suffering. —Brendon Burchard, author of The Charge

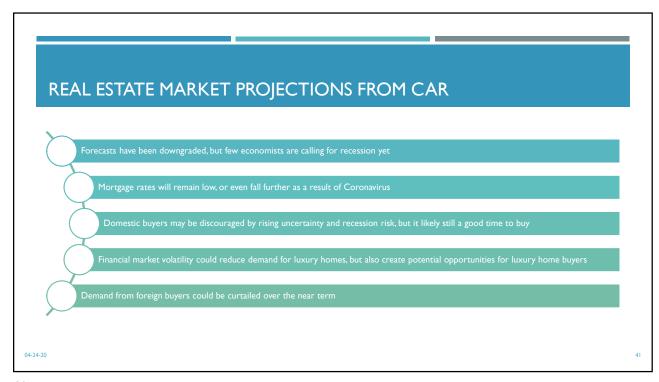
Take Control



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LAGRANDE MARKETING 8 ACTIONABLE MARKETING IDEAS Add a website banner New listings may be stabilizing? Send a news blast to clients, referral sources Average Daily New Listings & potential clients 3. Setup your technology Invest in improving your website 230 218 203 5. Offer virtual scheduling & services 6. Shift any advertising budget to social medial Mar 15 - 21 7. Host live webinar in lieu of in-person events Mar 22 - 28 *Mar 29 - Apr 3 **ORDER** Focus marketing on parts of market that are active 04-24-20





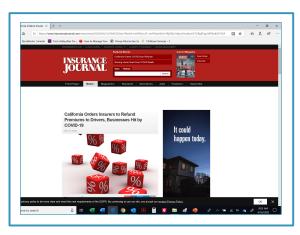
ADDITIONAL RESOURCES & AREAS OF CONCERN

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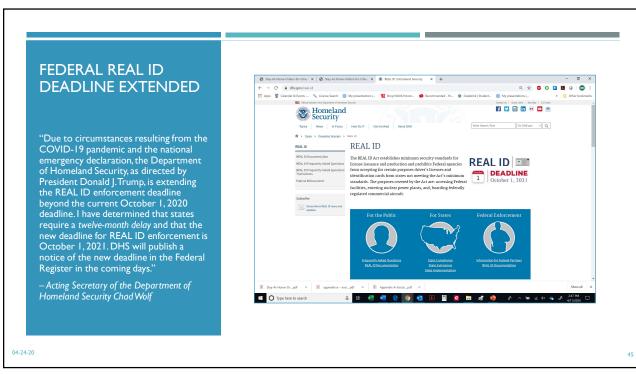
INSURANCE PREMIUM REFUNDS



- Six lines of insurance coverage:
 - I. Private passenger automobile
 - 2. Commercial automobile
 - 3. Worker's compensation
 - 4. Commercial multiple peril
 - 5. Commercial liability
 - 6. Medical malpractice
- In addition to these six divisions they have outlined any other coverage where the measures of risk have become substantially overstated as a result of COVID-19

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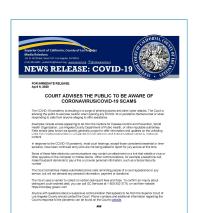


ACCESS TO THE COURTS

- A March 23, 2020, order by Chief Justice suspended jury trials in all superior courts for 60 days
- On April 6, 2020, the Judicial Council approved sweeping emergency rules governing trial court operations, including changes to civil trial deadliness and bail schedules
- Los Angeles County Superior Court: On April 2, 2020, Presiding Judge Kevin Brazile issued a new order extending many of the filing and procedural deadlines outlined in the chief justice's March 30 order
- Los Angeles Courthouse access remains restricted to only those people with business before the court on a particular day
- On a Zoom webinar hosted by the Los Angeles County Bar Association on April 10, 2010, Judge Brazile indicated that the Los Angeles County Superior Court has set a ramp-up-date of June 22 to begin the process of resuming normal operations at the court



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LOS ANGELES SUPERIOR COURT FRAUD ALERT

- Advises caution when opening any COVID-19 or pandemic themed emails
- · Specific examples listed of spoofed emails are:
 - I. Centers for Disease Control and Prevention
 - 2. World Health Organization
 - 3. Los Angeles County Department of Public Health

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JOINT ADVISORY FROM U.K.AND U.S. GOVERNMENTS



- Reveals list of 2,500 coronavirus-themed threats they're tracking
- Warns of red flags people should look for in communications regarding COVID-19:
 - I. Authority
 - 2. Urgency
 - 3. Emotion
 - 4. Scarcity

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TECHNOLOGY & SECURITY

Keeping Your Home Technology Healthy

- Make sure to update all home devices such as computers, mobile devices, or routers
- Ensure any software downloads to your laptop or corporate device are vetted
- Turn on Multifactor Authentication

Balancing Work & Home Life

- Keep personal and work separated
- Utilize company-approved cloud applications

Working Outside Your Home (Post COVID-19)

- Don't surpass security warnings when visiting websites
- Watch out for shoulder surfers
- · Be cautious of USB devices

Source: Gerry Beuchelt, LogMeln

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https://www.youtube.com/channel/UC N9_KVB7w4T6QVaJhpAuE-A

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