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STRICT COMPLIANCE WITH STATUTORY CONDITIONS: ANOTHER CHALLENGE FOR CALIFORNIA LANDLORDS IN THE EVICTION PROCESS

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The long moratorium on most evictions due to the COVID-19 pandemic, as well as the de facto shutdown of the court system for civil matters, caused most California landlords to defer unlawful detainer and related landlord-tenant litigation over the past two-and-a-half years. Landlords are now resuming efforts to pursue their legal and contractual rights to enforce payment of rent and other tenant responsibilities, as well as to terminate leases and recover possession from nonperforming tenants. This resumption of eviction proceedings is occurring in the midst of a still-developing body of caselaw that holds landlords and their counsel to "strict compliance" with a number of procedural and substantive requirements imposed by the Legislature, some of which no doubt are still to be discovered by unsuspecting litigants. While not directly attributable to COVID-19, this body of law has the potential to delay and obstruct recovery of premises, and also to limit and potentially deny recovery of substantial rental arrearages, even where the tenant has clearly defaulted and is contractually liable to perform lease covenants for payment of rent and other charges.

This article summarizes some of the case law in this area, and also identifies some of the potential areas in which an expansion of "strict compliance" requirements might potentially trip up the unsuspecting or negligent landlord in the eviction process. More than anything, it is a reminder for property managers and other fiduciaries of the extraordinary care required in compliance with a shifting and expanding spectrum of statutory regulation concerning the contents of lease-related documentation and the notices and communications required of landlords in the course of landlord-tenant relationships and in the unlawful detainer process itself.

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A. Strict compliance with the three-day notice and the unlawful detainer statutes.

The usual process for evicting a tenant in default, an unlawful detainer proceeding, is a special statutory proceeding governed by Civ. Proc. Code, § 1161 (for residential tenants) or section 1161.1 (for commercial tenants). Both of these sections in turn require specific notices to quit in compliance with Civ. Proc. Code, § 1162 in order to terminate the tenancy. For residential properties, the latter section provides three methods of serving notices terminating the tenancy—(1) personal delivery to the tenant, (2) substituted service at the tenant's residence or place of business when the tenant is absent by leaving a copy with some person "of suitable age and discretion" at either location as well as sending a copy by mail addressed to the tenant's residence address, or (3) substituted service by posting and mailing when the tenant's residence and business addresses cannot be ascertained.[1] Similar provisions, omitting the residence address and replacing it with the premises address, apply to commercial properties.[2] In commercial leases, the landlord and a commercial tenant also may lawfully agree to notice procedures that differ from those provided in the statutory provisions governing unlawful detainer.[3] Thus, if a commercial lease contains service requirements for the notice to quit at variance with the requirements in the unlawful detainer statutes, the lease provisions control.[4] In either case, numerous reported decisions, including the Supreme Court's decision in the 1962 case of *Jordan v. Talbot*,[5] and many other appellate court decisions, all hold that all of the statutory conditions must be strictly complied with in the unlawful detainer process, or the landlord will be denied relief and compelled to re-initiate proceedings to evict a defaulting tenant and regain possession of the premises.[6] Even for commercial leases where the parties have contractually agreed on alternative notice provisions, the landlord must strictly comply with the lease provisions for service of notices, or else relief will be denied under the unlawful detainer statutes as well.[7]

Two leading examples of this case law are *Kwok v. Bergren*,[8] and *Liebovich v. Shahrokhkhany.*[9] In *Kwok,* a judgement of unlawful detainer in favor of a commercial landlord was reversed on appeal because, rather than serve the actual tenants in possession to whom the landlord knew the lessee's interest had been assigned, the landlord served a purported "manager" on the premises with a notice to pay rent or quit, which was addressed to the original signatories of the lease but not the assignees. The court of appeal reversed the judgement in these circumstances because "there was no evidence before the trial court to support

its finding that appellants [the assignees in possession] were properly served with the three-day notice to pay rent or quit."[10] Similarly, *Liebovich* involved the claim by a landlord that sending the notice by certified mail delivery alone, without personal or substitute service by delivery or posting in the specific manner prescribed in section 1162, was effective service for purposes of section 1161 absent a direct acknowledgement of receipt by the tenant. This argument was rejected in light of the failure of section 1162 to include delivery solely by mail, certified or otherwise, as the means of serving the tenant in possession. Since "there was no evidence of compliance with any of the three methods of service of a three-day notice to pay rent or quit provided in section 1162," said the court, the judgment of unlawful detainer must be reversed.[11]

The well-established body of case law requiring "strict compliance" under the unlawful detainer statutes is hardly a new development, nor is it a secret among landlord-tenant law practitioners. However, the notion of "strict compliance" has expanded into other related areas of landlord-tenant notification requirements which are not so well known, as discussed in the following sections.

B. Expanding strict compliance to the informational requirements of the Civil Code in unlawful detainer proceedings.

The unlawful detainer "notice to quit" decisions in part rely on the special character of unlawful detainer proceedings and the direct statutory requirements set forth in the general unlawful detainer statute, section 1161, for proof of service of the three-day notice in compliance with section 1162. Recent case law has gone beyond the precedents requiring strict compliance with the three-day notice process, as such, and expanded the "strict compliance" notion into other statutory requirements for notification of tenants. Two decisions have applied the heightened standard of compliance to a separate notification process provided in Civ. Code, § 1962. That section requires the landlord to provide specified notices to each tenant of the identities of both the owner and manager of the rental property, including timely notification of any change of ownership of the property, the specific address at which personal service may be effected of each person who is authorized to manage the premises, as well as of the owner of the premises or the person authorized by the owner to receive service of process. It requires updating this information within 15 days of any change of management or ownership, as specified. It also requires notification of the specific person and the specific address at which the tenant may pay rent or

communicate with the landlord.[12] Importantly, it also provides that a successor owner or manager may not serve a three-day notice under Civ. Proc. Code, § 1161 or otherwise evict a tenant for nonpayment of rent that accrued during a period of noncompliance by a successor owner or manager with these specified notification requirements.[13]

These provisions have been carefully parsed by the courts in two cases involving alleged insufficient compliance by successor landlords to bar their pursuit of unlawful detainer proceedings. In *DLI Properties LLC v. Hill,*[14] the successor landlord had not merely assumed the existing lease but rather had executed a new lease with the tenant. The court concluded that while strict compliance with section 1962 is mandatory, the requirement for separate notification to tenants under subd. (c) of that section did not apply in this case, since there had been no assumption of the *existing* lease by the successor owner, which was required to trigger the requirements of section 1962, subd. (c), and the tenant still had the option to serve the landlord under a related provision, Civ. Code, § 1962.7, which allows service on a successor owner at the address specified in the lease for payment of rent. While *DLI Properties* would have applied a "strict compliance" standard, the court found that the new landlord in effect was not required to comply with section 1962 at all, and therefore was not "noncompliant" under any standard of compliance.[15]

More recently, however, in *Group XIII Properties LP v. Stockman,*[16] a successor owner failed to notify the tenant under an *oral lease* of a change in the designated manager and location for payment of rent in the manner required under section 1962, subd. (c). Here, there was no new lease, and the new owner thus had "succeeded" the prior owner by taking ownership while a tenant remained in possession under an oral rental agreement. In this context, the new landlord's failure to provide the updated information in writing in strict compliance with section 1962, subd. (c) made the three-day notice served on the tenant for nonpayment of rent ineffective, since section 1962 specifically prohibits eviction under the unlawful detainer statute for nonpayment of rent during a period of noncompliance.[17]

C. *2710 Sutter Ventures, LLC v. Millis*: Over-compliance with generic language of an ordinance requiring notice to occupants of "*the* right to payments" vs. "*their* right to payments."

The cases arising under Civ. Proc. Code, § 1161 and those arising under Civ.

Code, § 1962, discussed above, all involved a requirement that was directly imposed by the Legislature as a jurisdictional condition of a valid unlawful detainer proceeding, where the notion of "strict compliance" is considered fundamental to the landlord's right to invoke the special proceeding for summary eviction.[18] The next case arises under a completely different statutory scheme, and migrates a considerable distance from the narrow statutory provisions involved in the preceding decisions. It also imposes a seemingly impossible burden on the landlord, i.e., to decipher the significance of legislative intentions that are not expressed in the statutory language and arguably change the meaning of the language, if read only in the abstract.

At issue in *2710 Sutter Ventures, LLC v. Millis*[19] was a landlord's effort to evict a residential tenant under the Ellis Act, a state law that allows a landlord to go out of business by withdrawing from the rental market and to evict existing residential tenants when doing so.[20] The Act provides that it neither "diminishes nor enhances" the ability of a local government to "mitigate adverse impacts" on tenants displaced by reason of such withdrawal,[21] and it expressly allows public entities in rent control jurisdictions to require the landlord to file a notice with the public entity of the intention to withdraw from the market and to require the tenants to be given notice of this filing.[22] The public entity also may enact legislation to set forth controls on re-letting the property after a notice of withdrawal has been filed, and may require notice to tenants of their rights with respect to the re-rental, as more particularly provided in the state-enacted statute.[23] In rent-controlled San Francisco, where this case arose, the local government has enacted a more extensive set of procedural and substantive requirements for tenants to receive notice of their rights to relocation assistance, which are also imposed on the landlord as a condition of withdrawing from the rental market. Among other things, the often-amended San Francisco ordinance provides for a specified relocation payment to "each authorized occupant" of the premises being withdrawn, with a requirement that this payment be made "on behalf of each authorized occupant of the rental unit regardless of the occupant's age ('Eligible Tenant')," [24] and requires that any notice to quit given pursuant to the terms of the ordinance must "notify *the tenant or tenants concerned* of the right to receive payment" under these provisions.[25]

As pertinent to the discussion in this article, the question in *2710 Sutter Ventures* was whether the landlord's notice complied with the relocation benefits notification provision; if not, the notice of termination of tenancy arguably

would be invalid under the terms of the ordinance. (There were other issues involving state law's preemptive effect on the ordinance and availability of defenses to eviction under state law, which are not discussed here.) The court of appeal, rejecting the landlord's argument that it had substantially complied with the ordinance, said it would not matter whether a "strict compliance" or "substantial compliance" test was used—"regardless of whether the strict compliance standard applies to the notice at issue, the trial court correctly found a lack of compliance."[26] In the course of so holding, however, the court of appeal seemed to argue that, in any event, a "strict compliance" test would be warranted, because the ordinance itself said the landlord could not withdraw rental units from the market unless it "complies in full . . . with respect to each such unit," which the court construed as "making clear" the local government's "intent that the Rent Ordinance's requirements be followed precisely."[27]

Regardless of which test applied, however, the court undertook a rather expansive view of the requirements of the ordinance, asserting that the landlord could not comply with the ordinance by simply notifying each tenant or occupant individually of their own respective personal rights to relocation payments; rather, the landlord was required include a generic notification to each occupant of the rights of all "Eligible Tenants" in the language of the ordinance.[28] Yet the court also held that the landlord's "personalized" summary of the specific relocation payments available to each recipient was deficient even though the landlord also attached as an exhibit a copy of the full text of the ordinance describing the relocation payment rights of each "Eligible Tenant." In other words, not only was the landlord required to notify each tenant of its particular rights under the ordinance, it was also required to explain to each tenant the implications of the ordinance for other "Eligible Tenants" in the abstract, whether or not there were such other "Eligible Tenants" in the premises. Merely attaching a copy of the ordinance was insufficient, because, according to the court, there was no reason to think a recipient of the notice would read the attached copy of the ordinance, when the notice itself informed the recipient of the specific benefits the landlord was describing, and the latter information was "incomplete" because it did not discuss the relocation payments all "Eligible Tenants" would be entitled to receive, whether or not there were any other "Eligible Tenants."[29]

For this conclusion, the court described the "notice requirement at issue" as serving "to protect against abusive evictions in that it acts as a partial deterrent

to a landlord's disingenuous use of the right to evict under the Act to evade the City's rent control law," which would only be supported if the ordinance were interpreted as if "the landlord must provide tenants with information regarding the full scope of the right to relocation payments."[30] In other words, said the court, "[b]ecause it did not fully and accurately apprise defendants of the entirety of 'the right to receive payment' encompassed within section 37.9A, subdivision (c)(3), plaintiffs' termination notice does not comply with this objective."[31] While the dissent argued that the tenants in this particular case had received all of the information that pertained to their particular circumstances, the majority found this to be beside the point—the landlord's calculation might theoretically be wrong (even if it was accurate on the facts in this case), and if it did happen to be wrong, the tenant "would have no way of knowing that the stated payment amount was deficient in a case where the notice of the right to a relocation benefit is, as here, tailored to that specific tenant."[32] The majority also concluded that because an earlier decision, *Johnson v. City and County of San Francisco*,[33] held that the Ellis Act preempted a city ordinance that required a landlord to calculate what the landlord "believed" to be the amount of the sum specific tenant's relocation payment, any such "personalized" amount calculated for a particular tenant could not be considered as compliance with the ordinance.[34] The majority also found significant that the ordinance required notification to each tenant of "*the* right" to relocation payments, not "*your* right" to relocation payments; under the majority's holding, the landlord was required to infer from use of the word "the" rather than "their" a meaning that the court said could only be satisfied by "the simple expedient of quoting the language of the relevant subsections, including the definition of 'Eligible Tenant,' " rather than directing the notice to the particular tenant with the particular information relevant to that tenant.[35]

To be clear, the San Francisco ordinance that was being applied in *2710 Sutter Ventures* does not specify the actual form of the notice nor prescribe any particular language, it merely describes what the notice should include, in a way that leaves much to interpretation. In light of this, the court's disclaimer that it was not applying a "strict compliance" standard to the landlord's conduct seems almost beside the point. The decision does not merely require compliance with the precise terms of the ordinance. Rather, it requires over-compliance in an effort to achieve the possible policy objectives and legislative rationale for the written terms of the ordinance and the re-interpretation of technical statutory language in light of those policy objectives. It requires the landlord to couch the

notice in terms that parrot arguably irrelevant language of the ordinance in order to address policy objectives that themselves are not clearly stated in the language of the ordinance, while rejecting the notion that attaching the entire ordinance is sufficient to allow such compliance. The consequence was both to invalidate the landlord's notice to quit and to delay the landlord's statutory right to terminate the tenancy and withdraw the unit from the rental market. This was based solely on the landlord's alleged failure to follow the allegedly literal terms of the ordinance, even if those terms could not readily be ascertained solely from the language of the ordinance, and even though the actual occupants to whom the notice was given had received an accurate description of their own individual rights to relocation payments and a full copy of the ordinance that they could read for themselves.

The principles of statutory interpretation and determinations of "compliance" articulated in the majority opinion in *2710 Sutter Ventures* were applied by the court in a geographically limited local jurisdiction under the very specific terms of a unique and specialized local ordinance. In that sense, they have little bearing on other questions of landlord "strict compliance" with legislative requirements that may arise in other jurisdictions or under other statutes or ordinances. However, they evidence a judicial mindset that could well lead to similar peculiar and harsh results for landlords under other provisions of law requiring notifications to tenants. In the words of the dissenting judge's opinion in this case, "[t]he majority's conclusion that [the landlord's notice] was not adequate, in my view, injects into the ordinance an interpretation not only unfair and unreasonable under the present circumstances, *but sure to cause mischief in the future*." (Emphasis added). The mischief it causes will not necessarily be confined to Ellis Act evictions in San Francisco.

D. Compliance with other landlord notification requirements imposed by law.

With increasing frequency, the California Legislature has demonstrated a penchant for imposing stringent notification requirements on landlords in a variety of contexts, many of which have yet to reach the level of a reported appellate decision. The following discussion indicates areas in which such notification requirements may, in the future, lead to "compliance" issues similar to those involved in the cases discussed earlier in this article. A short list is as follows:

Notifications required to claim the single-family dwelling exemption from

rent increase limitations and just cause eviction limitations of the Tenant Protection Act of 2019. The statewide residential rental increase limitation law enacted in 2019 (Civ. Code, § 1947.12) contains a limited "exemption" for certain separately alienable single family residences (which now includes mobilehomes as a result of 2021 amendments).[36] In order to qualify for the "exemption," however, the property not only cannot be owned by a corporation, a real estate investment trust, or a limited liability company of which no member is a corporation; the landlord also must also have provided the tenant a statement, in specifically prescribed statutory language, that the property is not subject to the law.[37] The statewide "just cause eviction" law enacted in the same legislation in 2019 (Civ. Code, § 1946.2), which prohibits a landlord from terminating a tenancy merely because the lease term has expired, contains the same "exemption" for the same properties, subject to the same notification requirements.[38] If the tenancy began prior to July 1, 2020, this notice could be a separate instrument, but if the tenancy began or was renewed after that date, the notice must appear in the rental agreement (for mobilehomes, the relevant date is July 1, 2022). If the landlord failed to provide the required provision in the appropriate manner on or before the relevant date, the exemption does not apply, and presumably the tenant is entitled to the protection of both the just cause eviction law and the rental increase cap, which in essence requires perpetual renewal of the lease at the capped rental limitation as long as the tenant wants to stay in the property. There are no provisions for curative notifications or notices if the landlord failed to provide the statutorily mandated notices, or used an incorrect form, or missed one of the deadlines for providing the notice. Both laws further render any tenant waiver of rights under the law "void as contrary to public policy."[39]

It is anyone's guess whether case law will require "strict compliance" with the statutory timeframes, or whether a "mom and pop" landlord who belatedly learns that their so-called "exemption" is dependent on having given the tenant a notice that the property is exempt can achieve "substantial compliance" by giving the notice at the time of lease renewal and at least prospectively restore the property to its exempt status. Arguably, the lack of an express provision requiring "strict compliance" and the fact that, by definition, the types of exempt landlords required to provide these notices may be less sophisticated and will not have staff or legal counsel to provide the required notices, augers in favor of a less rigorous standard of compliance. However, a landlord who utterly fails to provide the notices at the required times may not receive a sympathetic

hearing in light of cases such as *2710 Sutter Ventures LLC v. Millis*, which involved a similarly tailored "small rental property" provision.

Other notifications under the "just cause eviction" provisions of the Tenant Protection Act of 2019. The Tenant Protection Act of 2019 includes other provisions that require notifications from landlords in order to exercise remedies, including termination of tenancies when permitted, all of which expressly require compliance as a condition of serving a three-day notice to quit. Civ. Code, § 1946.2 (the "just cause eviction" statute), includes a notion of "at fault just cause eviction" that allows for termination of a tenancy specifically in accordance with specific provisions of Civ. Proc. Code, § 1161,[40] but also requires a two-step "notice to quit with right to cure" and "notice to quit without right to cure" for those types of "cause" that are curable.[41] Section 1946.2 also includes a notion of "no fault just cause eviction," which in some cases will allow termination of a tenancy despite absence of breach or default, but only upon delivery of specific notices and a right to a period of free rent or significant relocation payments, as detailed in the statute.[42] Any "no fault just cause" termination requires delivery of specific notices of the right to payment of relocation assistance and/or of a rent waiver in the statutory amount.[43] The law expressly provides that "an owner's failure to strictly comply with this subdivision *shall render the notice of termination void.*"[44] While there is no case law under these provisions, the requirement of notices detailing the tenant's rights to payment, coupled with the express "strict compliance" requirement, will be seen by some tenant representatives, if not the courts, as an invitation for an after-the-fact dissection of the specific notices a landlord has given to "explain" the payment or free rent concessions, as occurred in *2710 Sutter Ventures.*

Notice of termination of tenancy under Civil Code, section 1946. A much older statute, Civ. Code, § 1946, applicable to the termination of periodic tenancies generally, prescribes the notification requirements for termination by non-renewal and the manner of service of such a notice on the tenant. A minimum of 30 days' notice of termination of tenancy is a necessary condition precedent of a valid notice to quit pursuant to Civ. Proc. Code, § 1161, and section 1946 specifically provides that the 30-day notice must be given or received in the same manner as a three-day notice under Civ. Proc. Code, § 1162, except section 1946 (unlike section 1162) specifically allows for service by certified or registered mail (as does the related provision for termination of a lease without a stated term, section 1946.1).[45] The little case law that exists under section 1946

holds generally that a notice of termination under section 1946, which in turn references section 1162, is valid and enforceable only if the lessor has strictly complied with the statutorily mandated requirements for service.[46] Because section 1946 directly implicates the notice provisions of the unlawful detainer law, as contained in section 1162, this conclusion is not surprising. In this regard it may differ from the provisions of the just cause eviction and rental increase cap statutes discussed above, as well as from most of the other Civil Code notification requirements discussed below.

Various other Civil Code notification requirements. The Legislature has imposed a number of mandatory disclosure obligations on all residential landlords with sometimes detailed contents and procedures. These include notices of intent to demolish the premises,[47] notices of pesticide applications without a licensed pest control operator,[48] disclosures regarding gas and electric meters where individual dwelling units are not separately metered,[49] allocation of water bills to tenants where individual dwelling units are not separately metered or for water supplied to common areas,[50] notices of intention to enter the property to make repairs or improvements, to provide services, or to exhibit the dwelling unit to prospective tenants, purchasers, mortgagees, contractors, and the like,[51] and notifications in connection with the disposition of personal property left on the property by a former tenant.[52] The form and content of such notices, and the time and manner they are required to be given, are identified with more or less specificity in each of these statutes. For the most part, unlike section 1946, they do not directly relate to the manner of providing a three-day notice under the unlawful detainer statutes, nor do they invoke the notice provisions of section 1162, and unlike section 1962, they do not expressly make compliance with the pre-default informational and notification requirements a condition of the landlord's right to file a three-day notice under section 1161 or 1161a. Nevertheless, if a tenant breach or default pertains to the subject matter of one of these other statutory provisions, a three-day notice premised on the violation and the ensuing eviction process are potentially subject to defenses based on landlord noncompliance with the specific disclosure or notification requirements they provide. Whether the landlord must be in "strict compliance" or "substantial compliance" with these statutes has not yet been the subject of reported case law.

E. Compliance by landlord's attorneys with ethical standards in unlawful detainer proceedings.

The notion of "strict compliance" is not confined to explicit statutory

requirements. One recent decision suggests the conventions and norms of ethical conduct required of legal counsel in litigation will be strictly enforced against the landlord itself, not solely the attorney, in the unlawful detainer context. This is exemplified by a recent decision by the Fourth District Court of Appeal in *Shapell Socal Rental Properties, LLC v. Chico's FAS, Inc.*[53] (see detailed summary of this case at page 183, below), where counsel for a commercial landlord took a default judgment against a national chain retail tenant that had been in breach for nonpayment of rent over many months. Landlord's counsel did so after serving the complaint and other moving papers on the tenant's employees at the leased premises without directly notifying the tenant at its corporate headquarters or its counsel of the landlord's intent to move for a default judgment, and without serving tenant's counsel with the complaint or moving papers filed in order to take the tenant's default. As stated by the court of appeal, the landlord's counsel never communicated with the tenant's counsel about an intent to seek a default judgment before requesting one from the trial court; they not only failed to notify the tenant's counsel directly of the complaint, but they also effected service of the complaint and the request for entry of default and default judgment "in a way intentionally and precisely calculated to create a strong possibility of a default."[54]

After learning the tenant's default had been taken, tenant's counsel promptly moved for relief from default under Civ. Proc. Code, § 473, but the trial court denied the motion on the grounds that such motions are sparingly granted, if at all, in unlawful detainer proceedings, and also that the motion for relief was moot because the tenant had relinquished possession and under case law could not be restored.[55] In a sharp rebuke of the landlord's counsel for its breach of ethical requirements, the court of appeal reversed the trial court and directed the tenant not only be granted relief but also restored to possession of the premises. The court found the lawyer's ethical and statutory breaches, coupled with other factors, required a finding for the tenant whose default had been taken based on the section 473 grounds of mistake, surprise, or excusable neglect, and found such relief could be granted despite the additional requirement for section 473 relief, i.e., absence of prejudice to the other party (the landlord).[56] Even though the tenant was no longer in possession when the motion for relief was filed, and under some authorities cannot be restored to possession once ousted, the court of appeal noted the tenant had only vacated when the deputy sheriff entered the premises and served the decree of immedi-

ate possession, so the tenant was hardly relinquishing possession "voluntarily" at that point.

While based on common litigation rules and analogous statutory requirements, *Shapell Socal Rental Properties* serves as a reminder that landlords and their counsel must meet a high bar of fairness and compliance with all applicable procedural and substantive standards, and failure to meet that bar will be held against the landlord even in a clear case of prolonged default and nonperformance by the tenant that precipitated the default proceedings. The case ultimately turns on counsel's compliance with ethical standards imposed by case law, and not with any particular statutory requirement. On rehearing it was pointed out that a statute that specifically imposes a duty to warn opposing counsel of intent to take a default judgment, Civ. Proc. Code, § 583.130, applies only to general civil actions and not to unlawful detainer actions, which are a special proceeding implicitly excluded from the statute, but the court nevertheless found its decision grounded in case law and ethical duties rather than section 583.130, and did not change the ultimate ruling against the landlord.[57]

F. Conclusion.

The cases discussed in this article, regardless of the terminology used, can be read as holding landlords to a higher standard of conduct in their communications with tenants than many other litigants. Tenants often receive a sympathetic hearing with regard to claims that a landlord has failed to comply with statutory requirements, particularly in jurisdictions with rent control laws and just cause eviction requirements. This may now include all jurisdictions throughout the State of California as a result of the Tenant Protection Act of 2019, which limits rent increases and prohibits most residential lease nonrenewals or terminations "without cause" throughout the state. As a result, initiating any lease termination, particularly including but not limited to one that involves a residential dwelling, requires close attention to detail in any notifications given by a landlord to a tenant as well as a close review of the landlord's compliance with known statutory requirements. A landlord that has failed to meet a "strict compliance" standard in this regard will risk potentially many months of delay and expense in "do-overs." In extreme cases it might lead to a complete inability to evict a resistant tenant who claims the landlord failed to meet its statutory notification and disclosure obligations, if that failure is not deemed curable by a later notification or correction, because the delayed or corrective notice would not be "strict compliance" with the notification requirement.

ENDNOTES:

[1]Civ. Proc. Code, § 1162, subd. (a).

[2]Civ. Proc. Code, § 1162, subd. (b).

[3]*Folberg v. Clara G. R. Kinney Co.*, 104 Cal. App. 3d 136, 141, 163 Cal. Rptr. 426 (1st Dist. 1980) (parties to commercial lease may lawfully agree to notice provisions different from those provided in §§ 1161 and 1162).

[4]*250 L.L.C. v. PhotoPoint Corp.*, 131 Cal. App. 4th 703, 718, 32 Cal. Rptr. 3d 296 (1st Dist. 2005) (parties to commercial leases may waive rights under Civ. Code).

[5]*Jordan v. Talbot*, 55 Cal. 2d 597, 12 Cal. Rptr. 488, 361 P.2d 20 (1961).

[6]E.g., *Jordan v. Talbot*, 55 Cal. 2d 597, 608-609, 12 Cal. Rptr. 488, 361 P.2d 20 (1961); *Liebovich v. Shahrokhkhany*, 56 Cal. App. 4th 511, 65 Cal. Rptr. 2d 457 (2d Dist. 1997); *Kwok v. Bergren*, 130 Cal. App. 3d 596, 181 Cal. Rptr. 795 (1st Dist. 1982); *Lamey v. Masciotra*, 273 Cal. App. 2d 709, 713, 78 Cal. Rptr. 344 (2d Dist. 1969). See also *Borsuk v. Appellate Division of Superior Court*, 242 Cal. App. 4th 607, 611, 195 Cal. Rptr. 3d 581 (2d Dist. 2015) (stating the rule).

[7]*Culver Center Partners East #1, L.P. v. Baja Fresh Westlake Village, Inc.*, 185 Cal. App. 4th 744, 750, 110 Cal. Rptr. 3d 833 (2d Dist. 2010).

[8]*Kwok v. Bergren*, 130 Cal. App. 3d 596, 181 Cal. Rptr. 795 (1st Dist. 1982).

[9]*Liebovich v. Shahrokhkhany*, 56 Cal. App. 4th 511, 65 Cal. Rptr. 2d 457 (2d Dist. 1997).

[10]*Kwok v. Bergren*, supra, 130 Cal. App. 3d at 600.

[11]*Liebovich v. Shahrokhkhany*, supra, 56 Cal. App. 4th at 518.

[12]Civ. Code, § 1962, subds. (a), (b).

[13]Civ. Code, § 1962, subd. (c).

[14]*DLI Properties LLC v. Hill*, 29 Cal. App. 5th Supp. 1, 240 Cal. Rptr. 3d 306 (Cal. App. Dep't Super. Ct. 2018).

[15]*Id.* at 4.

[16]*Group XIII Properties LP v. Stockman*, 85 Cal. App. 5th Supp. 1, 300 Cal. Rptr. 3d 913 (Cal. App. Dep't Super. Ct. 2022).

[17]*Group XIII Properties LP v. Stockman,* supra, 300 Cal. Rptr. 3d at 926.

[18]See cases cited in note 6, supra.

[19]*2710 Sutter Ventures, LLC v. Millis*, 82 Cal. App. 5th 842, 298 Cal. Rptr. 3d 842 (1st Dist. 2022), review filed, (Oct. 10, 2022).

[20]Gov. Code, §§ 7060 et seq.; *Drouet v. Superior Court*, 31 Cal. 4th 583, 587, 3 Cal. Rptr. 3d 205, 73 P.3d 1185 (2003).

[21]Gov. Code, § 7060.1, subd. (c).

[22]Gov. Code, § 7060.4, subd. (a).

[23]Gov. Code, § 7060.2, subds. (a), (b).

[24]San Francisco Municipal Code, § 37.9A, subd. (e)(3)(A), as quoted in *2710 Sutter Ventures, LLC v. Millis*, supra, 82 Cal. App. 5th at 853.

[25]San Francisco Municipal Code, § 37.9(c)(4), as quoted in *2710 Sutter Ventures, LLC v. Millis*, supra, 82 Cal. App. 5th at 853.

[26]*2710 Sutter Ventures, LLC v. Millis*, supra, 82 Cal. App. 5th at 857.

[27]*Id*. at 858.

[28]*Id* at 859.

[29]*Id*. at 860.

[30]*Id*. at 861.

[31]*Id*.

[32]*Id*. at 861-862.

[33]*Johnson v. City and County of San Francisco*, 137 Cal. App. 4th 7, 15, 40 Cal. Rptr. 3d 8 (1st Dist. 2006).

[34]*2710 Sutter Ventures, LLC v. Millis*, *supra*, 82 Cal. App. 5th at 865.

[35]*Id*. at 862.

[36]Civ. Code, § 1947.12, subd. (d)(5). See Geier, California's New Statewide "Just Cause Eviction" and "Anti-Rent Gouging" Law, Miller & Starr Real Estate Newsalert, Vol.30, No. 3, at 181 (January 2020).

[37]Civ. Code, § 1947.2, subd. (d)(5).

[38]Civ. Code, § 1946.2, subd. (e)(8).

[39]Civ. Code, §§ 1946.2, subd. (g), 1947.12, subd. (k).

[40]See Civ. Code, § 1946.2, subd. (b)(1).

[41]Civ. Code, § 1946.2, subd. (c).

[42]See Civ. Code, § 1946.2, subd. (b)(2).

[43]Civ. Code, § 1946.2, subds. (d)(1)-(d)(3).

[44]Civ. Code, § 1946.2, subd. (d)(4) (emphasis added).

[45]Civ. Code, §§ 1946, 1946.1, subd. (f).

[46]*Losornio v. Motta*, 67 Cal. App. 4th 110, 113, 78 Cal. Rptr. 2d 799 (4th Dist. 1998). See also *Highland Plastics, Inc. v. Enders*, 109 Cal. App. 3d Supp. 1, 7-8, 167 Cal. Rptr. 353 (App. Dep't Super. Ct. 1980).

[47]Civ. Code, § 1940.6.

[48]Civ. Code, § 1940.8.5.

[49]Civ. Code, § 1940.9.

[50]Civ. Code, § 1954.204.

[51]Civ. Code, § 1954.

[52]Civ. Code, § 1984.

[53]*Shapell Socal Rental Properties, LLC v. Chico's FAS, Inc.*, 85 Cal. App. 5th 198, 300 Cal. Rptr. 3d 209 (4th Dist. 2022), as modified, (Oct. 31, 2022).

[54]*Shapell Socal Rental Properties, LLC v. Chico's FAS*, supra, 300 Cal. Rptr. 3d at 213, citing *LaSalle v. Vogel*, 36 Cal. App. 5th 127, 135, 248 Cal. Rptr. 3d 263 (4th Dist. 2019).

[55]*Id.* at 218, citing *Munoz v. MacMillan*, 195 Cal. App. 4th 648, 653, 124 Cal. Rptr. 3d 664 (4th Dist. 2011).

[56]*Shapell Socal Rental Properties, LLC v. Chico's FAS*, supra, 300 Cal. Rptr. 3d at 219.

[57]*Id.* at 220.

