

1 SUPERIOR COURT
2 COUNTY OF SAN BERNARDINO
247 West Third Street, Eleventh Floor
3 San Bernardino, CA 92415-0302
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8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN BERNARDINO**
10

11 IN RE:

12 EXTENDING DATES FOR CRIMINAL
13 TRIALS AND PRELIMINARY
14 EXAMINATIONS

} GENERAL ORDER OF THE
PRESIDING JUDGE

} EMER ORDER 36
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16 State of Emergency - Spring 2020

17 On March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency in
18 California as a result of COVID-19. On March 13, 2020, President Trump declared a
19 national emergency in the United States due to COVID-19. Since declaring the state of
20 emergency, Governor Newsom and state and county public health officials have issued
21 additional guidelines targeted at limiting the spread of COVID-19.

22 On March 19, 2020, Governor Newsom issued an Executive Order, and the state
23 Public Health Officer issued a Public Health Order, instructing all individuals living in the
24 state to stay home or at their place of residence, except as needed to facilitate
25 authorized, necessary activities or to maintain the continuity of operations of critical
26 infrastructure sectors. Governor Newsom and state public health officials also
27 prohibited most types of mass gatherings, and federal, state, and local public health
28 officials mandated that persons gathered with individuals who were not members of the

1 same residence implement social distancing of at least 6 feet between individuals. They
2 also determined that people over 65 years old, smokers, people with compromised
3 immune systems, and people who have serious chronic medical conditions are at
4 higher risk of contracting COVID-19. Therefore, they recommended that people at
5 higher risk avoid leaving their homes.

6 7 Pandemic Resilience Roadmap/Blueprint for a Safer Economy

8 In early May 2020, Governor Newsom and the state Public Health Officer
9 introduced a Pandemic Resilience Roadmap that consisted of four steps of statewide
10 reopening progress starting with Stage 1 (essential businesses only) to Stage 4 (all
11 businesses open). (These guidelines were later modified and reintroduced as the
12 Blueprint for a Safer Economy.) The Pandemic Resilience Roadmap outlined a process
13 where counties that met specific criteria could move more quickly through the various
14 stages if they met the applicable criteria. San Bernardino county availed itself of that
15 process, and on May 23, 2020, the state approved the county's request to reopen
16 under Stage 2 of the Pandemic Resilience Roadmap. (Stage 2 allowed business
17 sectors that had been identified as having a lower risk of spreading COVID-19 to
18 reopen.)

19 20 Regional Stay Home Order

21 Unfortunately, after the state permitted many counties to resume business
22 operations, the number of confirmed COVID-19 cases and hospitalizations in the state
23 increased significantly. Initially, the state attempted to address the rapidly escalating
24 number of COVID-19 cases on a county-by- county basis. On June 28, 2020, the
25 California Department of Public Health (CDPH) issued guidance setting forth the need
26 to close bars and similar establishments in counties that had been on the County
27 Monitoring List, which included counties that show concerning levels of disease

1 transmission, hospitalizations, insufficient testing, or other critical epidemiological
2 markers, for 14 days. San Bernardino county was included on that list.

3 On July 1, 2020, CDPH issued guidance specific to counties on the County
4 Monitoring List — including San Bernardino county— requiring closure of the indoor
5 operations of various sectors, including restaurants, wineries, and certain entertainment
6 venues. Despite the state's efforts to manage the continuing escalation of COVID-19
7 cases on a countywide basis, the numbers continued to rise causing the state Public
8 Health Officer to issue an order on July 13, 2020, mandating statewide closure of some
9 types of businesses, and/or imposing operational restrictions for other types of
10 businesses. Of the four levels of the risk established by the state, San Bernardino was
11 included in the most concerning category – Widespread. Counties included in the
12 Widespread category had the highest daily rates of new cases and positive tests.

13 After Thanksgiving, the state experienced another precipitous increase of
14 COVID-19 cases, hospitalizations, and positive test results statewide, prompting the
15 Public Health Officer to issue a Regional Stay Home Order on December 3, 2020, that
16 required counties located in regions with less than 15% ICU bed capacity to implement
17 varying forms of stay-at-home requirements and modified business operations for local
18 businesses, places of worship, and schools. The Southern California region, which
19 includes San Bernardino county, had less than 0% ICU bed capacity, and therefore San
20 Bernardino county was subject to the Regional Stay Home Order. At that time, the
21 number of confirmed COVID-19 cases had increased from 107,928 to 234,871,
22 representing an increase of more than 120% over approximately 30 days.

23 The Public Health Officer rescinded the Regional Stay Home Order on January
24 25, 2021, after projected ICU bed capacity statewide increased to more than 15%.
25 However, counties are still subject to the tier-based restrictions set forth in the state's
26 Blueprint for a Safer Economy and San Bernardino County was still included in the
27 Widespread tier of the Blueprint for a Safer Economy.

1 Court Operations Still Constrained Notwithstanding Available Vaccines

2 The state received its first doses of COVID-19 vaccines in mid-December. Just
3 over half (55.4%) of San Bernardino county's residents are fully vaccinated but the
4 number of confirmed COVID-19 cases and COVID-19-related deaths continues to
5 grow, and the vaccination rate has remained flat for the past several weeks.
6 Consequently, San Bernardino county residents are still contracting COVID-19, and
7 unfortunately, for some residents, the disease has been fatal. As of September 21,
8 2021, there are 340,989 confirmed COVID-19 cases and 5,040 deaths attributable to
9 COVID-19 in San Bernardino County.

10 The court must balance access to justice with protecting the health and safety of
11 the public, judicial officers, staff, vendors, Sheriff's department staff, and inmates. This
12 effort is made more complicated by the fact that the court is operating with a reduced
13 budget and fewer staff and judicial officers due to COVID-related absences. Based on
14 the burdensome circumstances associated with conducting court operations during this
15 pandemic, Chief Justice Tani G. Cantil-Sakauye has issued several emergency orders
16 permitting the court to extend the original or extended dates for criminal trials by no
17 more than 30 days, and during this timeframe the court has implemented every
18 reasonable measure to bring criminal cases to trial.

19 Consequently, after careful deliberation, the Presiding Judge has concluded that
20 extending last-day deadlines for criminal trials and preliminary examinations is
21 necessary under the present circumstances. For the reasons stated herein, the court
22 finds good cause to implement the authority granted to it under California Rule of Court,
23 Rule 10.603; case authority recognizing the court's broad powers to ensure the orderly
24 administration of justice (*see e.g., Walker v Superior Court* (1991) 53 Cal.3d 257, 266-
25 267); Chief Justice Tani G. Cantil-Sakauye's March 30, 2020, and April 29, 2020,
26 Statewide Orders; the Chief Justice's September 17, 2021, Emergency Order; and
27 Government Code Section 68115, and HEREBY ORDERS AS FOLLOWS:

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1. Effective immediately, and in accordance with the Chief Justice’s September 17, 2021, Order, the time for conducting criminal trials under Penal Code section 1382 is extended up to an additional 30 days, applicable only to cases in which the original or previously extended statutory deadline otherwise would expire from September 21, 2021, through October 21, 2021, inclusive. The court may conduct a trial at an earlier date, upon a finding of good cause shown, or through the uses of remote technology, when appropriate, and if feasible.
2. Effective immediately, and in accordance with the Chief Justice’s March 30, 2020 Statewide Order, the time period provided in section 859b of the Penal Code for the holding of a preliminary examination is extended from 10 court days to not more than 30 court days.

Dated: September 21, 2021



Michael A. Sachs
Presiding Judge