

1 SUPERIOR COURT  
2 COUNTY OF SAN BERNARDINO  
247 West Third Street, Eleventh Floor  
3 San Bernardino, CA 92415-0302  
4

5 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
6 **FOR THE COUNTY OF SAN BERNARDINO**  
7

8 IN RE:

9 EXTENDING DATES FOR CRIMINAL  
10 TRIALS AND PRELIMINARY  
11 EXAMINATIONS  
12

} GENERAL ORDER OF THE  
PRESIDING JUDGE

} EMER ORDER 38  
13

14 State of Emergency - Spring 2020

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

20 On March 19, 2020, Governor Newsom issued an Executive Order, and the  
21 State Public Health Officer issued a Public Health Order, instructing all individuals living  
22 in the State to stay home or at their place of residence, except as needed to facilitate  
23 authorized, necessary activities or to maintain the continuity of operations of critical  
24 infrastructure sectors. Governor Newsom and State public health officials also  
25 prohibited most types of mass gatherings, and federal, state, and local public health  
26 officials mandated that persons gathered with individuals who were not members of the  
27 same residence implement social distancing of at least 6 feet between individuals. They  
28 also determined that people over 65 years old, smokers, people with compromised

1 immune systems, and people who have serious chronic medical conditions are at  
2 higher risk of contracting COVID-19. Therefore, they recommended that people at  
3 higher risk avoid leaving their homes.

#### 4 Pandemic Resilience Roadmap/Blueprint for a Safer Economy

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

#### 16 Regional Stay Home Order

17 Unfortunately, after the State permitted many counties to resume business  
18 operations, the number of confirmed COVID-19 cases and hospitalizations in the State  
19 increased significantly. Initially, the State attempted to address the rapidly escalating  
20 number of COVID-19 cases on a county-by-county basis. On June 28, 2020, the  
21 California Department of Public Health (CDPH) issued guidance setting forth the need  
22 to close bars and similar establishments in counties that had been on the County  
23 Monitoring List, which included counties that show concerning levels of disease  
24 transmission, hospitalizations, insufficient testing, or other critical epidemiological  
25 markers, for 14 days. San Bernardino County was included on that list.

26 On July 1, 2020, CDPH issued guidance specific to counties on the County  
27 Monitoring List — including San Bernardino County— requiring closure of the indoor  
28 operations of various sectors, including restaurants, wineries, and certain entertainment

1 venues. Despite the State's efforts to manage the continuing escalation of COVID-19  
2 cases on a countywide basis, the numbers continued to rise causing the State Public  
3 Health Officer to issue an order on July 13, 2020, mandating statewide closure of some  
4 types of businesses, and/or imposing operational restrictions for other types of  
5 businesses. Of the four levels of the risk established by the State, San Bernardino was  
6 included in the most concerning category – Widespread. Counties included in the  
7 Widespread category had the highest daily rates of new cases and positive tests.

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

18 The Public Health Officer rescinded the Regional Stay Home Order on January  
19 25, 2021, after projected ICU bed capacity statewide increased to more than 15%.  
20 However, counties were still subject to the tier-based restrictions set forth in the State's  
21 Blueprint for a Safer Economy and San Bernardino County was still included in the  
22 Widespread tier of the Blueprint for a Safer Economy. As of June 15, 2021, the Public  
23 Health Officer terminated the executive orders that put into place the Stay Home Order  
24 and the Blueprint for a Safer Economy. He also phased out the vast majority of  
25 executive actions put in place since March 2020.

#### 26 Court Operations Still Constrained Notwithstanding Available Vaccines

27 The State received its first doses of COVID-19 vaccines in mid-December 2020.  
28 The rate of COVID-19 infections and COVID-19-related deaths diminished in the spring

1 and part of the summer months before increasing starting in July 2021. The CDC  
2 attributes the dramatic increase in COVID-19 infections and deaths to the Delta variant  
3 of COVID-19. The court has maintained enhanced sanitization of court facilities since  
4 April 2020, but in accordance with Cal/OSHA'S most recent emergency temporary  
5 standards, on July 6, 2021, the court eliminated physical distancing and face covering  
6 requirements for vaccinated persons. However, less than three weeks later, due to a  
7 rapid increase in COVID-19 infections in San Bernardino County and among court staff,  
8 the court reinstated mandatory face coverings for all persons while onsite at the court  
9 districts.

10 Just over half (58%) of San Bernardino County's residents are fully vaccinated  
11 but the number of confirmed COVID-19 cases and COVID-19-related deaths continues  
12 to grow, and the vaccination rate has remained flat for the past several weeks.  
13 Consequently, San Bernardino County residents are still contracting COVID-19, and  
14 unfortunately, for some residents, the disease has been fatal. The County has  
15 experienced several spikes in COVID-19 infections and COVID-19-related deaths since  
16 early July 2021. As of November 16, 2021, there are 358,849 confirmed COVID-19  
17 cases and 5,862 deaths attributable to COVID-19 in San Bernardino County.

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

27 Consequently, after careful deliberation, the Presiding Judge has concluded that  
28 extending last-day deadlines for criminal trials and preliminary examinations is

1 necessary under the present circumstances. For the reasons stated herein, the court  
2 finds good cause to implement the authority granted to it under California Rule of Court,  
3 Rule 10.603; case authority recognizing the court's broad powers to ensure the orderly  
4 administration of justice (*see e.g.*; *Walker v Superior Court* (1991) 53 Cal.3d 257, 266-  
5 267); Chief Justice Tani G. Cantil-Sakauye's March 30, 2020, and April 29, 2020,  
6 statewide Orders; the Chief Justice's November October 21, 2021, Emergency Order;  
7 and Government Code Section 68115, and HEREBY ORDERS AS FOLLOWS:

- 8 1. Effective immediately, and in accordance with the Chief Justice's November  
9 19, 2021, Order, the time for conducting criminal trials under Penal Code  
10 section 1382 is extended up to an additional 30 days, applicable only to  
11 cases in which the original or previously extended statutory deadline  
12 otherwise would expire from November 22, 2021, through December 23,  
13 2021, inclusive. The court may conduct a trial at an earlier date, upon a  
14 finding of good cause shown, or through the uses of remote technology,  
15 when appropriate, and if feasible.
- 16 2. Effective immediately, and in accordance with the Chief Justice's March 30,  
17 2020, statewide Order, the time period provided in section 859b of the Penal  
18 Code for the holding of a preliminary examination is extended from 10 court  
19 days to not more than 30 court days.

20 Dated: November 22, 2021

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Michael A. Sachs  
Presiding Judge

R. GLENN YARBUNO