

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 37
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17
18 State of Emergency - Spring 2020
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20 On March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency in
21 California as a result of COVID-19. On March 13, 2020, President Trump declared a
22 national emergency in the United States due to COVID-19. Since declaring the state of
23 emergency, Governor Newsom and state and county public health officials have issued
24 additional guidelines targeted at limiting the spread of COVID-19.

25 On March 19, 2020, Governor Newsom issued an Executive Order, and the state
26 Public Health Officer issued a Public Health Order, instructing all individuals living in the
27 state to stay home or at their place of residence, except as needed to facilitate
28 authorized, necessary activities or to maintain the continuity of operations of critical

1 infrastructure sectors. Governor Newsom and state public health officials also
2 prohibited most types of mass gatherings, and federal, state, and local public health
3 officials mandated that persons gathered with individuals who were not members of the
4 same residence implement social distancing of at least 6 feet between individuals. They
5 also determined that people over 65 years old, smokers, people with compromised
6 immune systems, and people who have serious chronic medical conditions are at
7 higher risk of contracting COVID-19. Therefore, they recommended that people at
8 higher risk avoid leaving their homes.

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

24 Regional Stay Home Order
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26 Unfortunately, after the state permitted many counties to resume business
27 operations, the number of confirmed COVID-19 cases and hospitalizations in the state
28 increased significantly. Initially, the state attempted to address the rapidly escalating

1 number of COVID-19 cases on a county-by- county basis. On June 28, 2020, the
2 California Department of Public Health (CDPH) issued guidance setting forth the need
3 to close bars and similar establishments in counties that had been on the County
4 Monitoring List, which included counties that show concerning levels of disease
5 transmission, hospitalizations, insufficient testing, or other critical epidemiological
6 markers, for 14 days. San Bernardino County was included on that list.

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

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

27 The Public Health Officer rescinded the Regional Stay Home Order on January
28 25, 2021, after projected ICU bed capacity statewide increased to more than 15%.

1 However, counties are still subject to the tier-based restrictions set forth in the state's
2 Blueprint for a Safer Economy and San Bernardino County was still included in the
3 Widespread tier of the Blueprint for a Safer Economy.

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5 Court Operations Still Constrained Notwithstanding Available Vaccines

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7 The State received its first doses of COVID-19 vaccines in mid-December 2020.
8 The rate of COVID-19 infections and COVID-19-related deaths diminished in the spring
9 and part of the summer months before increasing starting in July 2021. The CDC
10 attributes the dramatic increase in COVID-19 infections and deaths to the Delta variant
11 of COVID-19. The court has maintained enhanced sanitization of court facilities since
12 April 2020, but in accordance with Cal/OSHA'S most recent emergency temporary
13 standards, on July 6, 2021, the court eliminated physical distancing and face covering
14 requirements for vaccinated persons. However, less than three weeks later, due to a
15 rapid increase in COVID-19 infections in San Bernardino County and among court staff,
16 the court reinstated mandatory face coverings for all persons while onsite at the court
17 districts.

18 Just over half (58%) of San Bernardino County's residents are fully vaccinated
19 but the number of confirmed COVID-19 cases and COVID-19-related deaths continues
20 to grow, and the vaccination rate has remained flat for the past several weeks.
21 Consequently, San Bernardino County residents are still contracting COVID-19, and
22 unfortunately, for some residents, the disease has been fatal. The County has
23 experienced several spikes in COVID-19 infections and COVID-19-related deaths since
24 early July 2021. As of October 20, 2021, there are 350,317 confirmed COVID-19 cases
25 and 5,330 deaths attributable to COVID-19 in San Bernardino County.

26 The court must balance access to justice with protecting the health and safety of
27 the public, judicial officers, staff, vendors, Sheriff's department staff, and inmates. This
28 effort is made more complicated by the fact that the court is operating with a reduced

1 budget and fewer staff and judicial officers due to COVID-related absences. Based on
2 the burdensome circumstances associated with conducting court operations during this
3 pandemic, Chief Justice Tani G. Cantil-Sakauye has issued several emergency orders
4 permitting the court to extend the original or extended dates for criminal trials by no
5 more than 30 days, and during this timeframe the court has implemented every
6 reasonable measure to bring criminal cases to trial.

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

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17 1. Effective immediately, and in accordance with the Chief Justice's October 21,
18 2021, Order, the time for conducting criminal trials under Penal Code section
19 1382 is extended up to an additional 30 days, applicable only to cases in
20 which the original or previously extended statutory deadline otherwise would
21 expire from October 22, 2021, through November 21, 2021, inclusive. The
22 court may conduct a trial at an earlier date, upon a finding of good cause
23 shown, or through the uses of remote technology, when appropriate, and if
24 feasible.

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26 2. Effective immediately, and in accordance with the Chief Justice's March 30,
27 2020, statewide Order, the time period provided in section 859b of the Penal
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1 Code for the holding of a preliminary examination is extended from 10 court
2 days to not more than 30 court days.

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4 Dated: October 21, 2021

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Michael A. Sachs
Presiding Judge

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