

1 **SUPERIOR COURT**  
2 **COUNTY OF SAN BERNARDINO**  
247 West Third Street, Eleventh Floor  
San Bernardino, CA 92415

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7 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
8 **FOR THE COUNTY OF SAN BERNARDINO**  
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10  
11 **IN RE:** )

12 **SUSPENDING CRIMINAL JURY TRIALS** )

**GENERAL ORDER OF THE**  
**PRESIDING JUDGE**

**EMER ORDER 43**

13 )  
14 )  
15 )  
16 )  
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, former President Trump**  
19 **declared a national emergency in the United States due to COVID-19. Since the states**  
20 **of emergency were declared, State and County public health officials have issued**  
21 **guidelines and mandates targeted at limiting the spread of COVID-19 and its variants.**

22 **The State received its first doses of COVID-19 vaccines in mid-December 2020**  
23 **and the rate of COVID-19 infections and COVID-19-related deaths diminished in the**  
24 **spring and part of the summer months before increasing starting in July 2021. The**  
25 **Centers for Disease Control and Prevention (CDC) attributed the dramatic increase in**  
26 **COVID-19 infections and deaths to the Delta variant of COVID-19. The court has**  
27 **maintained enhanced sanitization of court facilities since April 2020, but on July 6,**  
28 **2021, in accordance with Cal/OSHA'S emergency temporary standards, the court**

1 eliminated physical distancing and face covering requirements for vaccinated persons.  
2 However, less than three weeks later, due to a rapid increase in COVID-19 infections in  
3 San Bernardino County and among court staff, the court reinstated mandatory face  
4 coverings for all persons while onsite at the court districts.

5 In November 2021, a new variant of COVID-19, Omicron, was identified in  
6 Botswana and South Africa. This new variant, which the CDC has described as more  
7 resistant to existing vaccines and significantly more transmissible than the Delta variant,  
8 was detected in the United States in December 2021, and like last year, there has been  
9 a nationwide spike in COVID-19 infections since Thanksgiving and Christmas, resulting  
10 in high transmission rates and increased hospitalizations. State public health data  
11 related to COVID reveals that as of January 18, 2022, the State has averaged 103,828  
12 new cases during the past week, an increase of 88.3% compared to two weeks ago.  
13 There has also been a 97.7% increase in the number of COVID-related hospitalizations  
14 over the past two weeks. On December 13, 2021, the State reinstated a mandate  
15 requiring masks to be worn in all indoor public settings, regardless of vaccination status,  
16 from December 14, 2021, through January 15, 2022. On January 5, 2022, due to  
17 rampantly increasing COVID cases and hospitalizations, the State extended the indoor  
18 mask mandate to February 15, 2022.

19 Approximately 56% of San Bernardino County's residents are fully vaccinated  
20 but the vaccination rate has remained flat for the past several months. The County has  
21 experienced several spikes in COVID-19 infections and COVID-19-related deaths since  
22 early July 2021 with the most recent increase occurring right after Thanksgiving and  
23 continuing presently. As of January 26, 2022, there were 513,418 confirmed COVID-19  
24 cases and 6,250 deaths attributable to COVID-19 in San Bernardino County. The  
25 recent surge in COVID exposures and confirmed cases has adversely impacted court  
26 operations. Since January 3, 2022, the court has experienced a fluctuating reduction in  
27 judges and staff who are unable to perform their duties due to being quarantined.  
28 Further, the court is experiencing substantial practical challenges associated with

1 scheduling and managing criminal jury trials and other criminal-related proceedings due  
2 to extreme shortages of court reporters and Sheriff's deputies.

3 The court is experiencing an adverse impact on the number of potential jurors  
4 willing to appear for jury service and on the number of employees who are absent from  
5 work for reasons associated with COVID-19. The court must still balance access to  
6 justice with protecting the health and safety of the public, judicial officers, staff, vendors,  
7 Sheriff's department staff, and inmates. This effort is made more complicated by the  
8 fact that the court is operating with fewer staff and judicial officers due to COVID-related  
9 absences, judicial vacancies, and staffing vacancies. Further, the court is experiencing  
10 substantial practical challenges associated with scheduling and managing criminal jury  
11 trials and other criminal-related proceedings due to extreme shortages of court  
12 reporters and Sheriff's deputies. The continuing escalation in the number of COVID-19  
13 cases in San Bernardino County continues to impact the court's ability to provide  
14 adequate access to court services and proceedings while it contemporaneously  
15 implements appropriate measures to protect the health and safety of judicial officers,  
16 court staff, litigants, defendants, and members of the public. The court has found that it  
17 is presently unsafe to conduct in-person proceedings that would require convening  
18 large groups of people, including parties, judicial officers, court staff, law enforcement,  
19 attorneys, witnesses, jurors, the public, and others.


20 Based on the foregoing, the court finds and concludes that conducting criminal  
21 jury trials could likely place prospective jurors, litigants, attorneys, and court personnel  
22 at unnecessary risk and that risk outweighs the interests of the public and the parties in  
23 a trial. Therefore, the court finds good cause to implement the authority granted to it  
24 under California Rule of Court, Rule 10.603; case authority recognizing the court's  
25 broad powers to insure the orderly administration of justice (*see e.g., Walker v Superior*  
26 *Court* (1991) 53 Cal.3d 257, 266-267); Chief Justice Tani G. Cantil-Sakauye's March  
27 30, 2020 and April 29, 2020 Statewide Orders; the Chief Justice's January 24, 2022,  
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1 Emergency Order; and Government Code Section 68115, and HEREBY ORDERS AS  
2 FOLLOWS:

3 The court suspends criminal trials by extending the time period provided in  
4 section 1382 of the Penal Code by not more than 30 days for all criminal trials with  
5 original or previously extended statutory last day trial deadlines that would otherwise  
6 expire from January 28, 2022, through February 28, 2022. The court will not set any  
7 criminal jury trials to commence before February 10, 2022.

8 THIS ORDER IS EFFECTIVE IMMEDIATELY.

9  
10 Dated: January 26, 2022

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14 R. Glenn Yabuno  
15 Presiding Judge of the Superior Court  
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