

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

OCT 14 2020

BY Suzanne Barri
DEPUTY

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

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11 IN RE:

12 EXTENDING DATES FOR TRIALS AND
13 PRELIMINARY EXAMINATIONS

14 } GENERAL ORDER AND
15 } IMPLEMENTATION ORDER OF THE
16 } PRESIDING JUDGE

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 which continues unabated. Since declaring the state of emergency,
20 Governor Newsom and state and county public health officials have issued additional
21 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 have also
27 prohibited most types of mass gatherings. Federal, state, and local public health
28 officials have mandated that persons gathered with individuals who are not members of

GENERAL ORDER: EXTENDING DATES FOR TRIALS AND PRELIMINARY EXAMINATIONS

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

6 In early May Governor Newsom and the state Public Health Officer introduced a
7 Pandemic Resilience Roadmap. On May 7, 2020, the State Public Health Officer
8 announced that statewide data supported the gradual movement of the entire state into
9 Stage 2 of the Pandemic Resilience Roadmap. On May 18, 2020, the Governor
10 outlined a process where counties that met specific criteria could move more quickly
11 than other parts of the state through Stage 2 of modifying the Stay-at-Home order. San
12 Bernardino County availed itself of that process, and on May 23, 2020, the state
13 approved the County's request to reopen businesses in accordance with the Pandemic
14 Resilience Roadmap.

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

25 On July 1, 2020, CDPH issued guidance specific to counties on the County
26 Monitoring List — including San Bernardino County— requiring closure of the indoor
27 operations of various sectors, including restaurants, wineries, and certain entertainment
28 venues. Despite the state's efforts to manage the continuing escalation of COVID-19

1 cases on a countywide basis, the numbers continued to rise causing the state Public
2 Health Officer to issue an order on July 13, 2020 mandating statewide closure of some
3 types of businesses, and/or imposing operational restrictions for other types of
4 businesses. On March 17, 2020, when the court restricted its operations due to the
5 pandemic, there were five confirmed COVID-19 cases in San Bernardino County. The
6 court resumed operations on May 29, 2020. However, as of October 13, 2020, there
7 have been 58,579 confirmed COVID-19 cases and 986 deaths attributed to COVID-19
8 in San Bernardino County.

9 The continuous rise in COVID-19 cases has adversely impacted the prison and
10 jail populations. Inmates who may have been exposed to COVID-19 are quarantined;
11 however, the time for conducting preliminary examinations for these in-custody
12 defendants is not tolled. Consequently, the court has experienced challenges in
13 attempting to conduct preliminary examinations for in-custody defendants while they are
14 under quarantine, or when they are released from quarantine near the deadline for the
15 court to conduct their preliminary examinations. Moreover, attempting to conduct
16 preliminary examinations for these inmates in the statutorily mandated timeframes
17 increases the probability of exposing members of the Sheriff's Department, court staff,
18 attorneys, judicial officers, and other inmates.

19 The continuing escalation in the number of COVID-19 cases in San Bernardino
20 County continues to impact the court's ability to provide adequate access to court
21 services and proceedings while it contemporaneously implements appropriate
22 measures to protect the health and safety of judicial officers, court staff, litigants,
23 defendants, and members of the public. The court has found that it continues to be
24 unsafe to conduct in-person proceedings that would require convening large groups of
25 people, including parties, judicial officers, court staff, law enforcement, attorneys,
26 witnesses, jurors, the public, and others.

27 Now that the court has resumed operations, it is experiencing substantial
28 practical challenges associated with processing cases, scheduling and managing trials

1 and other proceedings, and performing other functions associated with court
2 operations. Despite the court's best planning efforts, due to social distancing and
3 enhanced sanitization requirements, there exists inadequate facility space to convene
4 jurors, and to conduct trials and other proceedings at the pre-pandemic rate of
5 operation. The court is also experiencing challenges with maintaining adequate staff to
6 conduct court operations as staff are unavailable for work due to self-quarantine based
7 on membership in the group that has been identified as being at particularly high risk of
8 contracting COVID-19, caregiving needs for children who out of school, or other
9 reasons associated with this pandemic.

10 For these reasons, the court finds good cause to implement the authority granted
11 to it under California Rule of Court, Rule 10.603; case authority recognizing the court's
12 broad powers to insure the orderly administration of justice (*see e.g., Walker v Superior*
13 *Court* (1991) 53 Cal.3d 257, 266-267); Chief Justice Tani G. Cantil-Sakauye's March
14 30, 2020 and April 29, 2020 Statewide Orders; the Chief Justice's October 13, 2020
15 Emergency Order; and Government Code Section 68115, and HEREBY ORDERS AS
16 FOLLOWS:

- 17 1. In accordance with the Chief Justice's October 13, 2020, Order, the time for
18 conducting criminal trials under Penal Code section 1382 is extended up to
19 an additional 30 days, applicable only to cases in which the original or
20 previously extended statutory deadline otherwise would expire from October
21 14, 2020 through November 13, 2020, inclusive. The court may conduct a
22 trial at an earlier date, upon a finding of good cause shown, or through the
23 uses of remote technology, when appropriate, and if feasible.
- 24 2. In accordance with the Chief Justice's March 30, 2020 Statewide Order, the
25 time period provided in section 859b of the Penal Code for the holding of a
26 preliminary examination is extended from 10 court days to not more than 30
27 court days.

1 THIS ORDER IS EFFECTIVE IMMEDIATELY.

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3 Dated: October 14, 2020

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6 MICHAEL A. SACHS
7 Presiding Judge of the Superior Court

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