

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
15

} GENERAL ORDER OF THE
PRESIDING JUDGE

16
17 State of Emergency - Spring 2020

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

23 On March 19, 2020, Governor Newsom issued an Executive Order, and the state
24 Public Health Officer issued a Public Health Order, instructing all individuals living in the
25 state to stay home or at their place of residence, except as needed to facilitate
26 authorized, necessary activities or to maintain the continuity of operations of critical
27 infrastructure sectors. Governor Newsom and state public health officials also
28 prohibited most types of mass gatherings, and federal, state, and local public health

1 officials mandated that persons gathered with individuals who were not members of the
2 same residence implement social distancing of at least 6 feet between individuals. They
3 also determined that people over 65 years old, smokers, people with compromised
4 immune systems, and people who have serious chronic medical conditions are at
5 higher risk of contracting COVID-19. Therefore, they recommended that people at
6 higher risk avoid leaving their homes.

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 Regional Stay Home Order

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

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

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

21 The Public Health Officer rescinded the Regional Stay Home Order on January
22 25, 2021, after projected ICU bed capacity statewide increased to more than 15%.
23 However, counties are still subject to the tier-based restrictions set forth in the state’s
24 Blueprint for a Safer Economy and San Bernardino county was still included in the
25 Widespread tier of the Blueprint for a Safer Economy.

26 Court Operations Still Constrained Notwithstanding Available Vaccines

27 The state received its first doses of COVID-19 vaccines in mid-December. In
28 February 2021, the state modified the metrics for tier determinations under the Blueprint

1 for a Safer Economy to include the number of people who had been vaccinated. On
2 March 14, 2021, the state moved San Bernardino county from the Purple tier, which
3 represented Widespread COVID-19 spread, to the less restrictive Red tier, which
4 represents Substantial COVID-19 spread. On April 7, 2021, the state moved San
5 Bernardino county from the Red tier to the Orange tier. Orange represents a moderate
6 level of COVID-19 infections and COVID-19-related deaths.

7 Although the rate of COVID-19 infections and COVID-19-related deaths have
8 diminished, the impact of COVID-19 on court operations still remains substantial due to
9 continuing social distance, masking, and enhanced sanitization requirements. While the
10 number of vaccinated San Bernardino county residents is growing, the number of
11 confirmed COVID-19 cases and COVID-19-related deaths also continues to grow. San
12 Bernardino County residents are still contracting COVID-19, and unfortunately, for
13 some residents, the disease has been fatal. As of June 17, 2021, there are 299,151
14 confirmed COVID-19 cases and 4,615 deaths attributable to COVID-19 in San
15 Bernardino county. The court must balance access to justice with protecting the health
16 and safety of the public, judicial officers, staff, vendors, Sheriff's department staff, and
17 inmates. The court is experiencing substantial practical challenges associated with
18 scheduling and managing criminal jury trials and other criminal-related proceedings.

19 Courts Need Time to Transition to Pre-Pandemic Levels of Operation

20 Amid Ever-Changing Public Health Guidance, Mandates, and Regulations


21 The State declared itself "reopened" as of June 15, 2021. It retired its Blueprint
22 for a Safer Economy, and most business are permitted to operate with no capacity
23 limits or physical distancing requirements for customers. Employers, however, are
24 subject to a different set of standards and restrictions as determined by the Division of
25 Occupational Safety and Health (Cal/OSHA). In May 2021, Cal/OSHA drafted
26 amendments to its Emergency Temporary Standards related to COVID-19. On June 9,
27 2021, after two hearings where the public was permitted to offer feedback and
28 comments, Cal/OSHA withdrew its proposed revisions. On June 11, 2021, Cal/OSHA

1 circulated new revisions that purport to align with current public health guidance.
2 Cal/OSHA adopted those revisions on June 17, 2021. Now that the workplace
3 standards for preventing the spread of COVID-19 have finally been settled and
4 adopted, the court needs time to implement the requirements.

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

- 14 1. Effective immediately, and in accordance with the Chief Justice's June 17,
15 2021, Order, the time for conducting criminal trials under Penal Code section
16 1382 is extended up to an additional 30 days, applicable only to cases in
17 which the original or previously extended statutory deadline otherwise would
18 expire from June 21, 2021, through July 21, 2021, inclusive. The court may
19 conduct a trial at an earlier date, upon a finding of good cause shown, or
20 through the uses of remote technology, when appropriate, and if feasible.
- 21 2. Effective immediately, and in accordance with the Chief Justice's March 30,
22 2020 Statewide Order, the time period provided in section 859b of the Penal
23 Code for the holding of a preliminary examination is extended from 10 court
24 days to not more than 30 court days.

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26 Dated: June 18, 2021

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Michael A. Sachs
Presiding Judge of the Superior Court