

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

EMER ORDER 35

16 State of Emergency - Spring 2020

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 in the United States due to COVID-19. Since declaring the state of  
20 emergency, Governor Newsom and state and county public health officials have issued  
21 additional 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 also  
27 prohibited most types of mass gatherings, and federal, state, and local public health  
28 officials mandated that persons gathered with individuals who were not members of the

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

#### 6 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 20 Regional Stay Home Order

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

1 transmission, hospitalizations, insufficient testing, or other critical epidemiological  
2 markers, for 14 days. San Bernardino county was included on that list.

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

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

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

1                    Court Operations Still Constrained Notwithstanding Available Vaccines

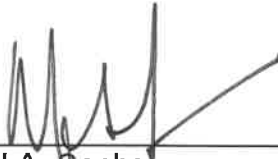
2                    The state received its first doses of COVID-19 vaccines in mid-December.  
3                    Approximately half (50.2%) of San Bernardino county's residents are vaccinated but the  
4                    number of confirmed COVID-19 cases and COVID-19-related deaths continues to  
5                    grow, and the vaccination rate has remained flat for the past several weeks.  
6                    Consequently, San Bernardino county residents are still contracting COVID-19, and  
7                    unfortunately, for some residents, the disease has been fatal. As of August 16, 2021,  
8                    there are 317,200 confirmed COVID-19 cases and 4,874 deaths attributable to COVID-  
9                    19 in San Bernardino County.

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

19                   Consequently, after careful deliberation, the Presiding Judge has concluded that  
20                   extending last-day deadlines for criminal trials and preliminary examinations is  
21                   necessary under the present circumstances. For the reasons stated herein, the court  
22                   finds good cause to implement the authority granted to it under California Rule of Court,  
23                   Rule 10.603; case authority recognizing the court's broad powers to ensure the orderly  
24                   administration of justice (*see e.g., Walker v Superior Court* (1991) 53 Cal.3d 257, 266-  
25                   267); Chief Justice Tani G. Cantil-Sakauye's March 30, 2020, and April 29, 2020,  
26                   Statewide Orders; the Chief Justice's August 18, 2021, Emergency Order; and  
27                   Government Code Section 68115, and **HEREBY ORDERS AS FOLLOWS:**

- 1 1. Effective immediately, and in accordance with the Chief Justice's August 18,  
2 2021, Order, the time for conducting criminal trials under Penal Code section  
3 1382 is extended up to an additional 30 days, applicable only to cases in  
4 which the original or previously extended statutory deadline otherwise would  
5 expire from August 21, 2021, through September 20, 2021, inclusive. The  
6 court may conduct a trial at an earlier date, upon a finding of good cause  
7 shown, or through the uses of remote technology, when appropriate, and if  
8 feasible.
- 9 2. Effective immediately, and in accordance with the Chief Justice's March 30,  
10 2020 Statewide Order, the time period provided in section 859b of the Penal  
11 Code for the holding of a preliminary examination is extended from 10 court  
12 days to not more than 30 court days.

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14 Dated: August 18, 2021

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18 Michael A. Sachs  
19 Presiding Judge  
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