

1 **SUPERIOR COURT**
2 **COUNTY OF SAN BERNARDINO**
247 West Third Street, Eleventh Floor
San Bernardino, CA 92415-0302

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5 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
6 **FOR THE COUNTY OF SAN BERNARDINO**

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8 **IN RE:**)
9) **GENERAL ORDER**
10 **EXTENDING DATES FOR CRIMINAL**)
11 **TRIALS AND PRELIMINARY**)
EXAMINATIONS)

12 On March 4, 2020, Governor Gavin Newsom proclaimed a state of
13 emergency in California as a result of COVID-19. On March 13, 2020, President Trump
14 declared a national emergency which continues unabated. Since declaring the state of
15 emergency, Governor Newsom and state and county public health officials have issued
16 additional guidelines targeted at limiting the spread of COVID-19.

17 On March 19, 2020, Governor Newsom issued an Executive Order, and the state
18 Public Health Officer issued a Public Health Order, instructing all individuals living in the
19 state to stay home or at their place of residence, except as needed to facilitate
20 authorized, necessary activities or to maintain the continuity of operations of critical
21 infrastructure sectors. Governor Newsom and state public health officials have also
22 prohibited most types of mass gatherings. Federal, state, and local public health
23 officials have mandated that persons gathered with individuals who are not members of
24 the same residence must implement social distancing of at least 6 feet between
25 individuals. They have also determined that people over 65 years old, smokers, people
26 with compromised immune systems, and people who have serious chronic medical
27 conditions are at higher risk of contracting COVID-19. Therefore, they recommend that
28 people at higher risk avoid leaving their homes.

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

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

20 On July 1, 2020, CDPH issued guidance specific to counties on the County
21 Monitoring List — including San Bernardino County— requiring closure of the indoor
22 operations of various sectors, including restaurants, wineries, and certain entertainment
23 venues. Despite the state's efforts to manage the continuing escalation of COVID-19
24 cases on a countywide basis, the numbers continued to rise causing the state Public
25 Health Officer to issue an order on July 13, 2020 mandating statewide closure of some
26 types of businesses, and/or imposing operational restrictions for other types of
27 businesses. On March 17, 2020, when the court restricted its operations due to the
28 pandemic, there were five confirmed COVID-19 cases in San Bernardino County. The

1 court resumed operations on May 29, 2020. However, as of November 13, 2020, there
2 have been 73,001 confirmed COVID-19 cases and 1,097 deaths attributed to COVID-
3 19 in San Bernardino County.

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

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

22 Now that the court has resumed operations, it is experiencing substantial
23 practical challenges associated with processing cases, scheduling and managing trials
24 and other proceedings, and performing other functions associated with court
25 operations. Despite the court's best planning efforts, due to social distancing and
26 enhanced sanitization requirements, there exists inadequate facility space to convene
27 jurors, and to conduct trials and other proceedings at the pre-pandemic rate of
28 operation. The court is also experiencing challenges with maintaining adequate staff to

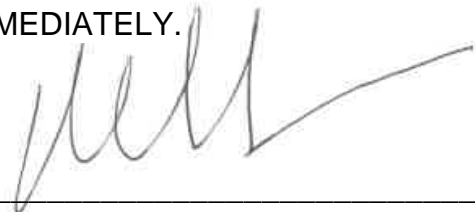
1 conduct court operations as staff are unavailable for work due to self-quarantine based
2 on membership in the group that has been identified as being at particularly high risk of
3 contracting COVID-19, caregiving needs for children who out of school, or other
4 reasons associated with this pandemic.

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

- 12 1. In accordance with the Chief Justice's November 13, 2020, Order, the time
13 for conducting criminal trials under Penal Code section 1382 is extended up
14 to an additional 30 days, applicable only to cases in which the original or
15 previously extended statutory deadline otherwise would expire from
16 November 14, 2020 through December 15, 2020, inclusive. The court may
17 conduct a trial at an earlier date, upon a finding of good cause shown, or
18 through the uses of remote technology, when appropriate, and if feasible.
- 19 2. In accordance with the Chief Justice's March 30, 2020 Statewide Order, the
20 time period provided in section 859b of the Penal Code for the holding of a
21 preliminary examination is extended from 10 court days to not more than 30
22 court days.

23 THIS ORDER IS EFFECTIVE IMMEDIATELY.

24 Dated: November 13, 2020

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MICHAEL A. SACHS
28 Presiding Judge of the Superior Court