

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 CIVIL JURY TRIALS
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GENERAL ORDER OF THE
PRESIDING JUDGE

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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 RE CIVIL JURY TRIALS

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 August 28, 2020, there
7 have been 46,892 confirmed COVID-19 cases and 716 deaths attributed to COVID-19
8 in San Bernardino County.

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

17 Now that the court has resumed operations, it is experiencing substantial
18 practical challenges associated with processing cases, scheduling and managing trials
19 and other proceedings, and performing other functions associated with court
20 operations. Despite the court's best planning efforts, due to social distancing and
21 enhanced sanitization requirements, there exists inadequate facility space to convene
22 jurors, and to conduct trials and other proceedings at the pre-pandemic rate of
23 operation.

24 Courthouses are not designed to facilitate social distancing given their fixed
25 configuration. Changing that configuration has security implications, affects the
26 presentation of evidence, limits public access, and requires financial and other
27 resources that the court lacks in light of reductions in its 2020-2021 and 2021-2022
28 fiscal year budgets. The court is also experiencing challenges with maintaining

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

Moreover, while the court accelerated its plans to implement technology to allow judicial officers to conduct proceedings remotely, for legal and equitable reasons, it cannot mandate remote appearances in every case. Specifically, the court cannot mandate remote appearances in criminal jury trials because California Rules of Court (CRC) emergency rules 3 and 5 authorize remote proceedings only with the consent of the defendant. The court cannot mandate remote appearances in civil jury trials due to logistical and social distancing concerns that would arise with respect to jury selection and jury deliberations. There are also evidentiary issues that prevent the court from imposing mandatory remote civil jury trials.

One of the most important principles of our constitutional democracy is the right of persons accused of a crime to have a speedy trial. Preserving that right while protecting the well-being of all participants in a trial during a pandemic involving a highly contagious respiratory virus is an unprecedented challenge for trial courts. There are currently a significant number of felony and misdemeanor cases for which the court must devote its resources in order to meet Constitutional and statutory timelines. While Chief Justice Tani G. Cantil-Sakauye has granted the court's requests for emergency orders extending time to conduct criminal trials, the court is still experiencing substantial difficulty in marshalling the human resources and facility space needed to bring those matters to trial, particularly as new cases are filed daily.

Therefore, pursuant to Penal Code section 1050, the court will give preference and priority for available jurors and jury trials to criminal cases. Jury trials will be limited to those cases requiring a disposition within specific periods of time. Those cases include all criminal cases, unlawful detainer jury trials, civil cases with statutory preference under the California Code of Civil Procedure sections 35-37, and civil cases

1 approaching the 5-year deadline under California Code of Civil Procedure sections
2 583.310 and 583.320.

3 Based on the foregoing, the court finds and concludes that conducting civil jury
4 trials could likely place prospective jurors, litigants, attorneys, and court personnel at
5 unnecessary risk and that risk outweighs the interests of the public and the parties in a
6 trial. Additionally, due to Constitutional and statutory time requirements, the court finds
7 and concludes that in most instances criminal trials have priority over civil trials.

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

14 All civil jury trials are continued until further notice. The parties are asked to meet
15 and confer to pick a tentative trial date some time in 2021, and to submit a stipulation to
16 the court. If no stipulation is submitted, new trial dates will be selected at the current
17 trial readiness conference. The court will not set any civil jury trials to commence before
18 January 2021.

19 Pursuant to Penal Code section 1050, the court will give preference and priority
20 for available jurors and jury trials to criminal cases. Civil jury trials will be limited to
21 those cases requiring a disposition within specific periods of time. Those cases include
22 all criminal cases, unlawful detainer jury trials, civil cases with statutory preference
23 under the California Code of Civil Procedure sections 35-37, and civil cases
24 approaching the 5-year deadline under California Code of Civil Procedure sections
25 583.310 and 583.320. The court may conduct a civil jury trial for cases that do not
26 require disposition within a specific period of time at an earlier date, upon a finding of
27 good cause shown, or through the uses of remote technology, when appropriate, and if
28 feasible.

1 This order is effective immediately and it supercedes the court's August 18, 2020
2 implementation order extending dates for trials and preliminary examinations only as it
3 relates to trial dates for civil jury trials. All other orders contained in the August 18, 2020
4 implementation order extending dates for trials and preliminary examinations remain
5 effective until they are rescinded, amended, superceded by subsequent orders, or
6 expire by the terms set forth in the order.

7 THIS ORDER IS EFFECTIVE IMMEDIATELY.
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10 Dated: September 9, 2020

A handwritten signature in black ink, appearing to read 'M. Sachs', is written over a horizontal line.

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13 MICHAEL A. SACHS
14 Presiding Judge of the Superior Court
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