

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

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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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12 IN RE:

13 SUSPENDING CRIMINAL JURY TRIALS )  
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**GENERAL ORDER OF THE  
PRESIDING JUDGE**

**EMER ORDER 42**

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

24 The state received its first doses of COVID-19 vaccines in mid-December 2020 and the  
25 rate of COVID-19 infections and COVID-19-related deaths diminished in the spring and part of  
26 the summer months before increasing starting in July 2021. The Centers for Disease Control  
27 and Prevention (CDC) attributed the dramatic increase in COVID-19 infections and deaths to  
28 the Delta variant of COVID-19. The court has maintained enhanced sanitization of court

GENERAL ORDER: SUSPENDING CRIMINAL JURY TRIALS

1 facilities since April 2020, but on July 6, 2021, in accordance with Cal/OSHA'S emergency  
2 temporary standards, the court eliminated physical distancing and face covering requirements  
3 for vaccinated persons. However, less than three weeks later, due to a rapid increase in  
4 COVID-19 infections in San Bernardino County and among court staff, the court reinstated  
5 mandatory face coverings for all persons while onsite at the court districts.

6 In November 2021, a new variant of COVID-19, Omicron, was identified in Botswana  
7 and South Africa. This new variant, which the CDC has described as more resistant to existing  
8 vaccines and significantly more transmissible than the Delta variant, was detected in the  
9 United States in December 2021, and like last year, there has been a nationwide spike in  
10 COVID-19 infections since Thanksgiving and Christmas, resulting in high transmission rates  
11 and increased hospitalizations. State public health data related to COVID reveals that as of  
12 January 4, 2022, the State has averaged 50,308 new cases during the past week, an increase  
13 of 524% compared to two weeks ago. There has also been a 110.5% increase in the number  
14 of COVID-related hospitalizations over the past two weeks. On December 13, 2021, the State  
15 reinstated a mandate requiring masks to be worn in all indoor public settings, regardless of  
16 vaccination status, from December 14, 2021, through January 15, 2022. On January 5, 2022,  
17 the State extended the indoor mask mandate through February 15, 2022.

18 Approximately 55% of San Bernardino County's residents are fully vaccinated but the  
19 vaccination rate has remained flat for the past several months. The County has experienced  
20 several spikes in COVID-19 infections and COVID-19-related deaths since early July 2021 with  
21 the most recent increase occurring right after Thanksgiving and continuing presently. As of  
22 December 14, 2021, there were 371,323 confirmed COVID-19 cases and 5,982 deaths  
23 attributable to COVID-19 in San Bernardino County. As of January 4, 2022, there are 400,972  
24 confirmed COVID-19 cases in San Bernardino County representing a 9% increase in  
25 confirmed COVID-19 cases over a three-week time period.

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1           The court is experiencing an adverse impact on the number of potential jurors willing to  
2 appear for jury service and on the number of employees who are absent from work for reasons  
3 associated with COVID-19. The court must still balance access to justice with protecting the  
4 health and safety of the public, judicial officers, staff, vendors, Sheriff's department staff, and  
5 inmates. This effort is made more complicated by the fact that the court is operating with fewer  
6 staff and judicial officers due to COVID-related absences, judicial vacancies, and staffing  
7 vacancies. Further, the court is experiencing substantial practical challenges associated with  
8 scheduling and managing criminal jury trials and other criminal-related proceedings due to  
9 extreme shortages of court reporters and Sheriff's deputies. The continuing escalation in the  
10 number of COVID-19 cases in San Bernardino County continues to impact the court's ability to  
11 provide adequate access to court services and proceedings while it contemporaneously  
12 implements appropriate measures to protect the health and safety of judicial officers, court  
13 staff, litigants, defendants, and members of the public. The court has found that it is presently  
14 unsafe to conduct in-person proceedings that would require convening large groups of people,  
15 including parties, judicial officers, court staff, law enforcement, attorneys, witnesses, jurors, the  
16 public, and others.

17           Based on the foregoing, the court finds and concludes that conducting criminal jury  
18 trials could likely place prospective jurors, litigants, attorneys, and court personnel at  
19 unnecessary risk and that risk outweighs the interests of the public and the parties in a trial.  
20 Therefore, the court finds good cause to implement the authority granted to it under California  
21 Rule of Court, Rule 10.603; case authority recognizing the court's broad powers to insure the  
22 orderly administration of justice (see e.g., *Walker v Superior Court* (1991) 53 Cal.3d 257, 266-  
23 267); Chief Justice Tani G. Cantil-Sakauye's March 30, 2020 and April 29, 2020 Statewide  
24 Orders; the Chief Justice's December 17, 2021, Emergency Order; and Government Code  
25 Section 68115, and **HEREBY ORDERS AS FOLLOWS:**

26           The court suspends criminal trials by extending the time period provided in section  
27 1382 of the Penal Code by not more than 30 days for all criminal trials with original or  
28 previously extended statutory last day trial deadlines that would otherwise expire from

1 December 26, 20021, through January 27, 2022. The court will not set any criminal jury trials  
2 to commence before January 27, 2022.

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4 THIS ORDER IS EFFECTIVE IMMEDIATELY.

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6 Dated: January 6, 2022

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11 R. Glenn Yabuno  
12 Presiding Judge of the Superior Court  
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