State of Emergency - Spring 2020

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

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

Pandemic Resilience Roadmap/Blueprint for a Safer Economy
In early May 2020, Governor Newsom and the state Public Health Officer
introduced a Pandemic Resilience Roadmap that consisted of four steps of statewide
reopening progress starting with Stage 1 (essential businesses only) to Stage 4 (all
businesses open). (These guidelines were later modified and reintroduced as the
Blueprint for a Safer Economy.) The Pandemic Resilience Roadmap outlined a process
where counties that met specific criteria could move more quickly through the various
stages if they met the applicable criteria. San Bernardino county availed itself of that
process, and on May 23, 2020, the state approved the county’s request to reopen
under Stage 2 of the Pandemic Resilience Roadmap. (Stage 2 allowed business
sectors that had been identified as having a lower risk of spreading COVID-19 to
reopen.)

Regional Stay Home Order
Unfortunately, after the state permitted many counties to resume business
operations, the number of confirmed COVID-19 cases and hospitalizations in the state
increased significantly. Initially, the state attempted to address the rapidly escalating
number of COVID-19 cases on a county-by-county basis. On June 28, 2020, the
California Department of Public Health (CDPH) issued guidance setting forth the need
to close bars and similar establishments in counties that had been on the County
Monitoring List, which included counties that show concerning levels of disease
transmission, hospitalizations, insufficient testing, or other critical epidemiological
markers, for 14 days. San Bernardino county was included on that list.
On July 1, 2020, CDPH issued guidance specific to counties on the County Monitoring List — including San Bernardino county— requiring closure of the indoor operations of various sectors, including restaurants, wineries, and certain entertainment venues. Despite the state’s efforts to manage the continuing escalation of COVID-19 cases on a countywide basis, the numbers continued to rise causing the state Public Health Officer to issue an order on July 13, 2020, mandating statewide closure of some types of businesses, and/or imposing operational restrictions for other types of businesses. Of the four levels of the risk established by the state, San Bernardino was included in the most concerning category – Widespread. Counties included in the Widespread category had the highest daily rates of new cases and positive tests.

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

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

Court Operations Still Constrained Notwithstanding Available Vaccines

The state received its first doses of COVID-19 vaccines in mid-December. In February 2021, the state modified the metrics for tier determinations under the Blueprint
for a Safer Economy to include the number of people who had been vaccinated. On March 14, 2021, the state moved San Bernardino county from the Purple tier, which represented Widespread COVID-19 spread, to the less restrictive Red tier, which represents Substantial COVID-19 spread. On April 7, 2021, the state moved San Bernardino county from the Red tier to the Orange tier. Orange represents a moderate level of COVID-19 infections and COVID-19-related deaths.

Although the rate of COVID-19 infections and COVID-19-related deaths have diminished, the impact of COVID-19 on court operations still remains substantial due to continuing social distance, masking, and enhanced sanitization requirements. While the number of vaccinated San Bernardino county residents is growing, the number of confirmed COVID-19 cases and COVID-19-related deaths also continues to grow. San Bernardino County residents are still contracting COVID-19, and unfortunately, for some residents, the disease has been fatal. As of May 19, 2021, there are 297,349 confirmed COVID-19 cases and 4,518 deaths attributable to COVID-19 in San Bernardino county. The court must balance access to justice with protecting the health and safety of the public, judicial officers, staff, vendors, Sheriff’s department staff, and inmates. The court is experiencing substantial practical challenges associated with scheduling and managing criminal jury trials and other criminal-related proceedings.

Courts Need Time to Transition to Pre-Pandemic Levels of Operation Amid Ever-Changing Public Health Guidance, Mandates, and Regulations

The court is aware of the Governor’s intention to fully “reopen” the State on June 15, 2021. However, neither the State nor the County has published reopening-related guidance, regulations, or mandates regarding vaccinations, social distancing, or face coverings. Consequently, while the court is actively developing plans consistent with a statewide reopening, the court is in a holding pattern with respect to several aspects of developing and implementing a plan to resume pre-pandemic levels of court operations. For example, significant differences exist for how the court would manage jurors and court facilities if social distance requirements are eliminated or reduced from
the current six feet requirement. These uncertainties adversely impact the court’s ability
to schedule and manage jury trials and to manage other court operations.

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

1. Effective immediately, and in accordance with the Chief Justice’s May 18,
   2021, Order, the time for conducting criminal trials under Penal Code section
   1382 is extended up to an additional 30 days, applicable only to cases in
   which the original or previously extended statutory deadline otherwise would
   expire from May 21, 2021, through June 20, 2021, inclusive. The court may
   conduct a trial at an earlier date, upon a finding of good cause shown, or
   through the uses of remote technology, when appropriate, and if feasible.

2. Effective immediately, and in accordance with the Chief Justice’s March 30,
   2020 Statewide Order, the time period provided in section 859b of the Penal
   Code for the holding of a preliminary examination is extended from 10 court
days to not more than 30 court days.

Dated: May 19, 2021

Michael A. Sachs
Presiding Judge of the Superior Court