

EMERGENCY COURT RULE NO. 4

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BENITO

**ORDER MODIFYING EMERGENCY LOCAL COURT RULE
REGARDING COVID-19**

WHEREAS, the following has occurred:

On March 4, 2020, the Governor of the State of California declared a State of Emergency due to the introduction and spread of the international COVID-19 virus. On March 13, 2020, the President of the United States of America declared a National Emergency.

On March 6, 2020, the San Benito County Board of Supervisors declared a state of emergency existed in San Benito County.

As of March 17, 2020, the San Benito County Public Health Officer issued an Order applicable to all individuals in the County of San Benito to Shelter in Place and directing all businesses and governmental agencies to cease non-essential operations within the county, and to prohibit all non-essential gatherings of certain numbers of individuals or non-essential travel.

And on March 19, 2020, the Governor of the State of California issued Executive Order N-33-20 ordering all individuals living in the State of California to stay home or their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors.

Chief Justice Cantil-Sakauye recognized in her Statewide Order dated March 23, 2020, that the health restrictions implemented to combat the spread of COVID-19 prevent superior courts from operating normally and authorized deviations from normal practices.

On April 6, 2020, the Judicial Council of California took certain unprecedented actions in response to the COVID-19 crisis.

Subsequently, and notwithstanding the local state of emergency, San Benito County sought to reopen and, under the guidelines promulgated by the State of California, progressively reauthorized more activities and relaxed restrictions.

Following the relaxation of restrictions, the number of infections in San Benito County rapidly grew resulting in the Governor's Office ordering certain restrictions be reestablished.

Both the San Benito County Health Officer and Governor Newsom have issued orders requiring people in San Benito County to wear masks in most circumstances while in public as a further attempt to control the spread of infection.

The federal, state and local officials and agencies have taken these actions to reduce the transmission of the COVID-19 virus in order to protect public health and safety.

Despite all government proclamations, the public health crisis has continued and, in San Benito County, greater numbers of people are infected now than were during the period of time preceding the March 2020, lockdown.

The threat of the continuing COVID-19 virus is extremely serious, given the fact that it is a novel disease without current proven effective treatment or vaccines, and the infection continues to pose a risk of serious harm and death to a substantial portion of the population of the United States, the State of California and the County of San Benito.

The Centers for Disease Control states that scientific evidence indicates the most prevalent means of transmitting the virus is person-to-person transmission, in many cases, by persons without any demonstrable symptoms.

Scientific evidence also demonstrates that certain measures can reduce person-to-person transmissions. These measures include, without limitation, the following:

- social distancing of a minimum space of six (6) feet between people,
- reducing the number of people gathering in enclosed spaces,
- reducing the time a person indoors may be subject to potential exposure,
- use of facial coverings over the mouth and nose,
- social practices such as frequent hand washing for a minimum of 20 seconds and the avoidance of touching one's face,
- cough and sneeze etiquette, and
- use of hand sanitizers.

The above scientific evidence is why the Centers for Disease Control, the California Department of Public Health, and local county health departments have recommended policies to address the reality of the pandemic, specifying the stringent measures noted above.

The courts are clearly environments with high risks during this pandemic because they require gatherings of judicial officers, court staff, litigants, attorneys, witnesses, defendants, law enforcement, the public and jurors in excess of the numbers allowed for gatherings under current executive and health orders, indoors for long periods of time.

The provision of court services must incorporate the recommended practices specified herein or later identified in order to protect litigants, justice partners, court staff and members of the public at large since the health, safety and lives of the parties in civil and criminal proceedings, the public, court staff, judicial officers, attorneys, witnesses, jurors, and others present at these proceedings is of paramount importance.

Therefore, policies to reduce the transmission of COVID-19 are needed to bring the spread of disease under control and the Emergency Court Rules and Orders previously adopted and those proposed in this order are necessary now more than ever.

Accordingly the Superior Court of California, County of San Benito adopts the following orders and emergency rules.

Section One.

San Benito Emergency Court Rules Numbers 2 and 3 are repealed. To the extent that any Emergency Order addressing the COVID-19 pandemic is inconsistent with the Emergency Local Rule in Section Two, the inconsistent portion of the Emergency Order is superseded.

Section Two.

The following Emergency Local Court Rule is adopted.

Emergency (COVID-19) Local Rule
Number 4

1.0 Courthouse.

- (a) Hours and Access to Courthouse. The courthouse is open Monday through Friday, 8:00 am to 5:00 pm to any person who is not experiencing symptoms of illness and who complies with the mask, temperature screening, social distancing (six feet) and other requirements as specified in Order #2020-10.
- (b) Clerks' Windows. Clerks' windows are open for the transaction of business 8:00 am to 4:00 pm, every day the courthouse is open.
- (c) Drop Box. A drop box shall be located in the lobby which is available for use by the public from 8:00 am to 5:00 pm. The drop box may be used to drop off payments and documents for filing with the court. Those using the drop box shall include a self-addressed stamped envelope for documents that they want returned via mail. Any check or money order submitted for payment shall include a party's name and case number. No cash shall be deposited in the drop box. Any document or payment deposited in the drop box up to and including 4:00 p.m. on a court day will be deemed filed that day. Any document or payment deposited in the drop box after 4:00 pm will be deemed filed the following court day.

2.0 Access to Courtrooms and Proceedings

- (a) In Person Access. Courtrooms and proceedings are open to all litigants, attorneys, court staff, security, witnesses, probation officers, CASA representatives, child protective services staff, and victims who meet the courthouse screening requirements specified in Order #2020-10. Other necessary persons, including without limitation, members of the public may be admitted at the discretion of the judge presiding over the matter. Absent such approval, no other persons shall be present in the courtroom.

- (b) Remote access. Any appearance in a civil, criminal and juvenile case, excluding jury trials, may be conducted by remote internet-facilitated proceedings (via ZOOM or otherwise) or telephonically conducted, consistent with and except as otherwise required by California Rules of Court, Emergency Rule 3 and 5, as adopted by the Judicial Council of California on April 6, 2020. Remote access for criminal and juvenile matters shall be allowed only if the request is based on COVID considerations. All litigants and counsel in any court proceeding shall provide to the clerk of the appropriate department (civil, criminal or juvenile) notice of such person's email address or telephone number no less than two (2) court days before such proceeding along with the reason such person desires to remotely appear. For any proceeding conducted remotely, the litigant (or counsel for such litigant, if represented) is responsible for arranging for the remote appearance of any out-of-custody party or witness. Until further order of the court, all persons in custody shall appear remotely. The San Benito County Jail shall facilitate the remote appearance of, and confidential communication with counsel of, any person incarcerated therein.

- (c) Restricted Access. Due the size and configuration of the courtrooms, environmental restraints and the threat of transmission of disease resulting in the declarations of national, state and local emergencies, access to the courtrooms remains restricted as specified herein. Admitting more persons to the courtrooms, except as authorized by this emergency local rule, would subject the entire community to a serious risk to public health and safety. Therefore, access to court proceedings in

the physical courtrooms is restricted as specified herein.

- (d) Live Audio Streaming Public Access. The court is implementing live audio streaming. Once the live audio system is operational, non-confidential proceedings shall be live streamed by audio if members of the public are prohibited from accessing a proceeding held in a courtroom.
- (e) Members of the Press. Members of the press shall have access to any non-confidential proceeding by way of audio live stream, or, at the discretion of the judge presiding over the matter, in person or as a non-participating member of a remote internet-conducted proceeding.

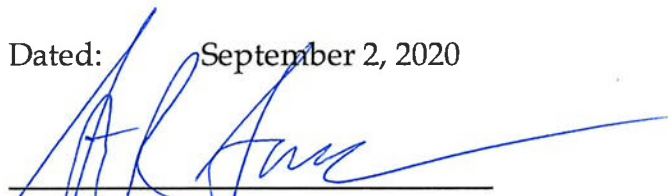
2.2 Preliminary Hearing Time Period. The time period provided in section 859b of the Penal Code for the holding of a preliminary examination and the defendant's right to release is extended from 10 court days to 30 court days.

2.3 Court schedule. The court schedule adopted as Attachment A to Order # 2020-10 remains in effect. The court schedule may be modified from time to time by order of the Presiding Judge.

Section Three.

- A. This order may be deemed part of the record in affected cases without the need to file the order in each case.
- B. This order shall be in effect until ninety (90) days after the COVID-19 state of emergency in the State of California ends, or until this rule otherwise is repealed or amended.

Dated: September 2, 2020



Steven R. Sanders
Presiding Judge



J. Omar Rodriguez
Judge