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NOV 25 2020
CLERK OF THE SUPERIOR COURT
COUNTY OF STANISLAUS
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS

GENERAL ORDER REGARDING LIMITED
PUBLIC ACCESS

GENERAL ORDER
2020-023

CR-20-999999

THE COURT HEREBY FINDS AND ORDERS AS FOLLOWS:

On March 4, 2020, Governor Gavin Newsom declared a State of Emergency as a result of the threat of COVID-19. In the months since then, the Chief Justice of the Supreme Court of California, the Judicial Council and this Court have issued numerous emergency orders, rules and directives with one primary goal - maintaining the safe operation of the courts while attempting to avoid our constituency's exposure to the virus.

1 Several of the orders, rules and directives issued in the past nine (9) months emphasize
2 the importance of doing two things to avoid transmission of the virus: wearing a facial covering
3 and maintaining six (6) feet of physical distance from others.
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5 On June 22, 2020, the Court adopted Emergency Local Rule 1.02 “Face Coverings and
6 Social Distancing Requirements”. Emergency Local Rule 1.02 requires all persons entering any
7 courthouse in Stanislaus County to wear a face covering. It also requires that individuals in the
8 courthouse maintain at least (6) six feet of physical distance from all persons (except those
9 within their household) and comply with the social distancing signage posted throughout the
10 courthouse at all times.
11

12 Unfortunately, despite implementation of such practices both inside and outside the
13 courthouse, cases of COVID-19 in Stanislaus County and the State of California are surging. As
14 a result, on November 16, 2020, the California Department of Public Health (CDPH) issued
15 additional guidance requiring face coverings be worn at all times when outside of the home, with
16 some limited exceptions.
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18 Further, on November 16, 2020, the CDPH moved Stanislaus County back into Tier One
19 (Purple) of California's Blueprint for a Safer Economy. Tier One is the most restrictive tier of
20 the State’s blueprint – and is indicative of widespread infection. As of November 24, 2020, the
21 positivity test rate in Stanislaus County is 8.7% and the county is experiencing 17.8 new
22 COVID-19 cases per 100,000 residents. (<https://covid19.ca.gov/safer-economy/#county-status>.)
23 As of November 23, 2020, the 14-day rolling average in Stanislaus County was 129 new
24 cases/day. Over the last 14 days, there has been a 9.89% increase in new cases, when compared
25 to the previous 14-day period. ([https://public.tableau.com/views/COVID-
26 19CasesDashboard_15931020425010/Cases?:embed=y&:showVizHome=no](https://public.tableau.com/views/COVID-19CasesDashboard_15931020425010/Cases?:embed=y&:showVizHome=no)).
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1 As a further result of the current surge of COVID-19 cases in California, on November
2 19, 2020, Dr. Erica S. Pan, MD, MPH, Acting Public Health Officer for the State of California,
3 issued a Limited Stay at Home order, effective in all counties in Tier One, including Stanislaus
4 County, beginning at 10:00 p.m. on November 21, 2020. The order requires that all gatherings
5 with members of other households and all activities conducted outside the residence, lodging or
6 temporary accommodation, with members of other households, cease between 10:00 p.m. (PST)
7 and 5:00 a.m. (PST), except for those associated with the operation, maintenance or usage of
8 critical infrastructure.
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11 In June 2020, in an attempt to assist persons located in the courthouse to maintain social
12 distancing, the Court adopted a policy to limit the number of persons present in the main
13 courthouse located at 800 11th St., Modesto (Modesto Main) at any given time. Court operations
14 at the Modesto Main facility include all 10 criminal departments, four (4) family law courtrooms,
15 one (1) child support department, the clerk's offices for criminal and family law¹, and court
16 administration. Based on social distancing of at least six (6) feet in the courtrooms and public
17 areas of the courthouse, maximum occupancy for Modesto Main was set at 250 persons,
18 exclusive of attorneys, court staff and court security personnel. In addition, the Court established
19 an access policy, which gave priority access to attorneys, parties and witnesses. Over the last
20 several weeks the maximum capacity has been exceeded on several occasions. When this
21 occurs, no one is allowed to enter the building until someone else leaves.
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27 ¹ The entrance to Family Law Clerk's Office is located at 1100 I Street,
28 Modesto. However, the Family Law Clerk's Office is in the Modesto Main
facility. This order applies to all public areas of the Modesto Main
facility, including the Family Law Clerk's Office.

1 Modesto Main is an older facility with no public lobby area. The hallways outside the
2 courtrooms are narrow and become congested quickly as the result of the social distancing
3 protocols within the courtrooms. Parties, witnesses (including law enforcement), and members
4 of the public have few areas to sit or stand while waiting for their case to be called. The
5 congestion is compounded by court personnel who must use the hallways to perform their job
6 duties.
7

8 On November 23, 2020, the Stanislaus County Sheriff's Office, informed the Court that
9 at least 17 of the 153 inmates housed in the Minimum Housing Unit (MHU) at the Stanislaus
10 County Jail tested positive for COVID-19. The MHU is a pretrial detention unit and inmates in
11 the unit were scheduled to appear in-person for court hearings during the period November 20,
12 2020 to December 4, 2020. The Sheriff's Office informed the Court that all inmates housed in
13 the MHU will be quarantined and will not be transported to court for their hearings while
14 quarantined.
15

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17 The Court provides an essential service and cannot simply close. It must continue to
18 operate despite the current surge in cases and the increasing restrictions being placed on all
19 members of the public as we work together to combat this pandemic.
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21 Unfortunately, criminal filings have increased during the period March to August 2020,
22 when compared to the same period in 2019. These increased filings, combined with measures
23 the Court and its justice partners have implemented to reduce the number of pretrial detainees,
24 have resulted in heavy out of custody calendars in the criminal departments. For example, on
25 November 23, 2020, there were 135 cases set for 8:30 a.m., on the misdemeanor arraignment
26 calendar. The arraignment courtroom, using social distancing protocols, has a maximum
27 occupancy capacity of approximately 18 out of custody defendants. Unfortunately, over the last
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1 ten (10) days, due to these heavy calendars, the Court received complaints from the public and
2 attorneys about the lack of social distancing within the Modesto Main facility.

3 It is not possible or practicable for judicial officers to constantly monitor crowd size and
4 enforce social distancing in this facility. Due to social distancing requirements, only a limited
5 number of people are allowed into each courtroom at a time, and most people have to wait in the
6 hallway for their cases to be called. To ensure the health and welfare of court users and
7 employees who must pass through the lobby and hallways, the number of people permitted in
8 this facility must be responsibly controlled. In order to control the number of people in the
9 facility going forward, the Court has no choice but to further limit access.
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12 Given the importance of public trials to both the accused and the public, there is a
13 “presumption of openness” in the courtroom that “ ‘may be overcome only by an overriding
14 interest based on findings that closure is essential to preserve higher values and is narrowly
15 tailored to serve that interest.’ (*Waller v. Georgia* (1984) 467 U.S. 39, 45.)” If a “higher value”
16 is advanced, the trial court must balance the competing interests and allow a form of exclusion
17 no broader than needed to protect those interests. (*People v. Woodward* (1992) 4 Cal. 4th 376,
18 383-384.)
19

20 As a result of the current surge of COVID-19 cases in Stanislaus County, including the
21 cases discovered in the Stanislaus County jail, as well as the immutable physical characteristics
22 of the Modesto Main facility, the Court finds there exists an overriding interest in limiting in-
23 person access to court proceedings in some instances where necessary to comply with public
24 health social distancing requirements. The Court must employ all necessary emergency
25 protective measures to prevent, mitigate, respond to and recover from the COVID-19 pandemic
26 and court functions must be performed in compliance with public health requirements to the
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1 greatest extent feasible. These public health requirements include maintaining at least six (6) feet
2 of physical distance from others who are not members of your household and wearing facial
3 coverings. The Court finds the public health and safety would be prejudiced absent the Court
4 implementing and enforcing such precautions, which are narrowly tailored to permit the court to
5 perform its essential functions, consistent with the qualified right of access to judicial
6 proceedings. There are no less restrictive means of achieving this overriding public health
7 interest. (*NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178, 1181-
8 1182.)
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11 Therefore, in the interest of enforcing social distancing and to reduce the number of
12 people entering the facility, the Court hereby orders that effective November 30, 2020, in-person
13 access to the Modesto Main facility is limited at all times to: parties, attorneys, summoned jurors,
14 subpoenaed witnesses, court security personnel, court employees, law enforcement appearing in
15 court as part of their official duties, individuals filing documents or requesting assistance from
16 the clerk's office, one (1) support person pursuant to Family Code section 6303, approved
17 vendors, contractors and delivery persons, and any other individuals who have been permitted by
18 Court order.
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21 Attorneys, litigants, witnesses, and authorized persons are prohibited from gathering with
22 or speaking to anyone outside their household in courthouse hallways or other public areas of the
23 Court unless they can do so at least six feet apart from each other and while wearing a mask over
24 their nose and mouth.

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26 The maximum occupancy capacity for the Modesto Main Courthouse is 225 persons,
27 exclusive of attorneys, court staff and court security personnel. Once the maximum capacity is
28 reached, no one may enter the building until another person exits.

1 With the permission of the judge presiding over any given matter, individuals not listed
2 above may be allowed access to court proceedings. A fillable form, *Request to Attend Court*
3 *Hearing*, is available on the Court's website <https://www.stanct.org/>. Requests can be emailed
4 to public.access@stanct.org.
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6 To ensure that members of the public may still observe proceedings in this facility, all
7 non-confidential, Criminal proceedings in this facility will be livestreamed to the Court's
8 YouTube channel. The livestream can be accessed at <https://www.stanct.org/node/4199553>.
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10 Court users may find the date and time of a particular hearing by using the "Search
11 Hearings" feature on the Court's website <https://portal.stanct.org/portal>.

12 The Court notes that live streamed proceedings may not be recorded, broadcast or re-
13 broadcast by anyone without prior written judicial authorization consistent with California Rules
14 of Court, rule 1.150, and Stanislaus County Superior Court Local Rule 1.10. Each judge retains
15 the discretion and authority to refuse, limit or terminate live streaming, for portions of
16 proceedings, pursuant to the factors and prohibitions articulated in California Rules of Court,
17 rule 1.150 and in consideration of other statutory and constitutional provisions.
18

19 In summary, given the contagious nature of the virus and the exponential growth in cases,
20 COVID-19 presents a real and significant danger to the health and safety of the public, including
21 litigants, security and court personnel involved in court proceedings. The interest in preventing
22 the spread of COVID-19 and of preserving the health of all participants in court proceedings,
23 including the public, is a weighty and substantial interest that would likely be prejudiced if the
24 Court did not impose the emergency measures it imposes herein.
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This order is effective December 1, 2020, and shall remain in effect until amended or
revoked by further order of the Court.

IT IS SO ORDERED.

DATED: November 25, 2020



D. F. Reeves
DAWNA F. REEVES,
SUPERIOR COURT JUDGE