

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF MERCED

3
4 GENERAL ORDER RE: IMPLEMENTATION OF EMERGENCY RELIEF
5 AUTHORIZED PURSUANT TO GOVERNMENT CODE SECTION 68115 BY
6 CHAIR OF JUDICIAL COUNCIL

7 #2020-12 Amended

8 This Court has previously issued Standing Order #2020-04 and General
9 Orders #2020-01, #2020-02, #2020-03, #2020-04, #2020-05, #2020-06, #2020-07
10 amended, #2020-09, #2020-10, and #2020-11 pursuant to Government Code
11 section 68115 limiting the services provided by this court during the State of
12 Emergency declared by the Governor in response to the COVID-19 pandemic. On
13 May 11, 2020, this Court issued General Order #2020-10 authorizing a limited
14 resumption of services and clarifying the status of the previously issued orders in
15 light of the limited resumption of services.

16 Effective June 1, 2020, this court will authorize an additional resumption of
17 services. Accordingly, this order authorizes the nature of the services being
18 resumed, the rules in effect for court facilities during this period of additional
19 resumption of services, and clarifying the status of the previously issued orders in
20 light of this additional resumption of services.

21 Effective June 1, 2020, this court will resume regular court operations.
22 Remote appearances are strongly encouraged, and may be required by some
23 judicial officers. The court has established video and/or telephone conferencing in
24 all courtrooms and will limit physical access to all courthouse buildings. Jury trials
25 will not commence until June 15, 2020, and rules affecting the conduct of jurors
26 will be the subject of a separate general order.

1 **Entrance to Courthouse Building:**

- 2 1. Only parties, their attorneys and witnesses, will be admitted to any
3 courthouse. Spectators and friends of parties will not be admitted to any
4 courthouse. Public access to court proceedings is provided online and can
5 be accessed via www.mercedcourt.org. In Los Banos, parties, witnesses
6 and attorneys may only be admitted to the public area of the courthouse
7 where they will have access to terminals enabling them to participate in
8 remote hearings.
- 9 2. Every courthouse will designate Screeners to determine which
10 individuals will be admitted to the court.
- 11 3. Individuals who advise the Screeners that they are ill or have been ill
12 with flu like symptoms or have suffered a fever or cough or shortness of
13 breath, will not be admitted to the courthouse. Individuals who are not
14 permitted to enter must contact their attorney or the clerk’s office to
15 arrange for their matters to be continued.
- 16 4. Prior to admission to the courthouse, each person shall submit to a non-
17 invasive temperature screening process and/or declaration. Any
18 individual showing a temperature of 100.4 degrees or greater will not be
19 admitted to the courthouse. Individuals who are not permitted to enter
20 must contact their attorney or the clerk’s office to arrange for their
21 matters to be continued.
- 22 5. All persons entering the court facilities shall wear a face covering or face
23 mask while in any of the public areas of any Merced Court Facility and in
24 the courtrooms unless advised by the judicial officer that a mask may be
25 removed while in the courtroom. Individuals entering the courthouse are
26 strongly encouraged to bring their own masks.
- 27 6. Individuals scheduled to appear in a given courtroom will not be
28 admitted to the courthouse until that courtroom is open. Once the

1 courtroom is opened, individuals proceeding through security will be
2 directed to go directly to that courtroom and take a seat marked with an x
3 or as instructed by the deputy. Individuals admitted to the courthouse
4 shall not congregate in hallways.

- 5 7. Individuals admitted to the courthouse shall observe social distancing and
6 avoid contact with other individuals and avoid standing, walking or
7 sitting within six feet of another individual.
- 8 8. When an individual's hearing is completed, the individual will exit the
9 courthouse promptly.
- 10 9. Screeners shall have the discretion to refuse to admit any person to the
11 courthouse if in their judgment, the person is ill or otherwise poses a
12 potential danger. Individuals who are denied entrance must contact their
13 attorney or the clerk's office to arrange for their matters to be continued.

14
15 **Entrance to Specific Courtrooms:**

16 **2260 N. St., Merced, CA Courthouse:**

17 **Courtroom 1:**

- 18 1. Courtroom seating is limited to allow for social distancing. Courtroom
19 Deputies shall designate seating by "X"s or other means.
- 20 2. Courtroom 1 will resume its normal felony calendars and will no longer
21 handle combined calendars.

22 **Courtroom 2:**

- 23 1. Courtroom seating is limited to allow for social distancing. Courtroom
24 Deputies shall designate seating by "X"s or other means.
- 25 2. Courtroom 2 will resume its normal felony calendars and will no longer be
26 combined with other departments.

1 **Courtroom 3:**

- 2 1. Courtroom seating is limited to allow for social distancing. Courtroom
3 Deputies shall designate seating by “X”s or other means.
4 2. Courtroom 3 will resume its normal criminal specialty calendars and will no
5 longer be combined with other departments.

6 **Courtroom 4:**

- 7 1. Courtroom seating is limited to allow for social distancing. Courtroom
8 Deputies shall designate seating by “X”s or other means.
9 2. Courtroom 4 will resume its normal calendars by in person and remote
10 proceedings.

11 **Courtroom 5:**

- 12 1. Courtroom seating is limited to allow for social distancing. Courtroom
13 Deputies shall designate seating by “X”s or other means.
14 3. Courtroom 5 will resume its normal calendars by in person and remote
15 proceedings.

16 **Courtroom 6:**

- 17 1. Courtroom seating is limited to allow for social distancing. Courtroom
18 Deputies shall designate seating by “X”s or other means.
19 2. Courtroom 6 will resume its normal felony calendars and will no longer be
20 combined with other departments.

21 **Courtroom 7:**

- 22 1. Courtroom seating is limited to allow for social distancing. Courtroom
23 Deputies shall designate seating by “X”s or other means.
24 2. Courtroom 7 will continue its normal family law calendars and offers remote
25 appearances for all matters but will permit individuals to appear in person.
26
27
28

1 **627 W. 21st Street, Merced, CA Courthouse:**

2 **Courtroom 8:**

- 3 1. Courtroom 8 will be combined with Courtroom 10, with hearings held in
4 Department 10.

5 **Courtroom 9:**

- 6 1. Courtroom seating is limited to allow for social distancing. Courtroom
7 Deputies shall designate seating by “X”s or other means.
8 2. Courtroom 9 will continue its normal traffic, small claims and limited civil
9 matters and offers remote appearances for all matters but will permit
10 individuals to appear in the courtroom.

11 **Courtroom 10:**

- 12 1. Courtroom 10 will provide remote hearings only, although a limited number
13 of individuals who appear at the courthouse may by permitted use the
14 courthouse terminals to participate in the remote hearings. Nobody will be
15 allowed in the courtroom itself.
16 2. Courtroom 8 matters will also be heard in Courtroom 10 and will provide
17 remote hearings only, although a limited number of individuals who appear
18 at the courthouse may use the courthouse terminals to participate in the
19 remote hearings. Nobody will be allowed in the courtroom itself.

20 **2840 West Sandy Mush Road, Merced, CA Courthouse:**

21 **Courtroom 11:**

- 22 1. Courtroom 11 will provide remote hearings for all matters although a limited
23 number of individuals involved with the case may be permitted to appear in
24 the courtroom at the discretion of the hearing officer. Privacy requirements
25 dictate that only individuals involved in a given case may be present when
26 that case is proceeding.
27
28

1 **1159 G St. Los Banos CA Courthouse:**

2 **Courtroom 12:**

- 3 1. Courtroom 12 will provide remote hearings only, although a limited number
4 of individuals who appear at the courthouse may be permitted to use the
5 courthouse terminals to participate in the remote hearings. Nobody will be
6 allowed in the courtroom.

7 **Courtroom 13:**

- 8 1. Courtroom 13 will resume its family law matters and will provide remote
9 hearings only, although a limited number of individuals who appear at the
10 courthouse may be permitted to use the courthouse terminals to participate in
11 the remote hearings. Nobody will be allowed in the courtroom.

12
13 **STATUS OF PRIOR ORDERS**

14 **STANDING ORDER #2020-04**

- 15 • All civil jury trials currently set between Tuesday, March 17, and Tuesday,
16 April 28, 2020, was previously continued on a rolling basis for 8 weeks from
17 the currently scheduled trial date. This order is extended to apply to all civil
18 jury trials set between Tuesday March 17 and Monday August 31, 2020.
- 19 • All time-waived misdemeanor jury trials currently set between Tuesday,
20 March 17, and Tuesday, April 28, 2020, were previously continued on a
21 rolling basis for 8 weeks from the currently scheduled trial date. This order
22 has concluded.
- 23 • All time-waived felony out-of-custody jury trials currently set between
24 Tuesday, March 17, and Tuesday, April 28, 2020, was previously continued
25 as determined by the judge hearing the case. This order has concluded.
- 26 • All traffic hearings currently set between Monday, March 23, and Tuesday,
27 April 28, 2020, was previously continued on a rolling basis for 60 days from
28 the currently scheduled hearing date. This order has concluded.

- 1 • All time-waived traffic trials currently set between Monday, March 23, and
2 Tuesday, April 28, 2020, was previously continued on a rolling basis for 60
3 days from the currently scheduled trial date, unless the judge assigned to the
4 matter decided otherwise. This order has concluded.
- 5 • Starting Tuesday, March 17, 2020, all traffic “walk in” appearances were
6 suspended through Tuesday, April 28, 2020. Traffic “walk in” appearances
7 will resume June 1, 2020 subject to limitations imposed by social distancing
8 requirements of the traffic department of the clerk’s office and the
9 courtroom. Parties in traffic matters may telephone the Clerk’s Office at
10 209-725-4107 for Merced or 209-725-4124 for Los Banos to schedule an
11 arraignment date.
- 12 • New citation appearance dates in traffic matters will be set 60 days from the
13 date listed on the citation unless a different date is set by the hearing officer.
14 Any requests to address matters that require immediate attention, including
15 requests to lift DMV driver’s license holds, may be mailed to the Court and
16 will be addressed remotely where possible.
- 17 • Family law bench officers were previously exercising their discretion in
18 continuing non-emergency Request for Order hearings and Status
19 Conferences currently set between Tuesday, March 17, and April 28, 2020.
20 Family law matters will now resume, emphasizing remote appearances.
- 21 • Family Court Services will suspend its in person mediation services,
22 effective Tuesday, March 17, 2020, but will schedule telephonic and remote
23 mediation opportunities for litigants. This policy will continue.
- 24 • The Order providing that the Court’s Self-Help Centers were closed is
25 modified to provide that effective May 13, 2020, remote assistance will be
26 provided. This policy will continue.
- 27 • The Court will extend its Self-Help telephone hours to 8:00 a.m. to 3:00
28 p.m., Monday through Friday, and will work to implement additional

1 opportunities for the public to interact with Self-Help staff. Members of the
2 public can reach the Self-Help office by emailing
3 selfhelp@mercedcourt.org. This policy will continue.

4 The court had previously ordered that No-time-waiver criminal matters, restraining
5 order hearings, emergency family law Requests for Order, and other case or
6 calendar types and hearings not specifically listed as essential. All categories will
7 resume.

8 **GENERAL ORDER #2020-01**

9 In cases in which the statutory deadline otherwise would expire from March
10 24, 2020 to May 31, 2020, inclusive, any judge of the Court may extend the time
11 periods provided in sections 583.310 and 583.320 of the Code of Civil Procedure
12 to bring an action to trial by not more than 30 days (Gov. Code § 68115(a)(10)).
13 This order is extended to apply to all cases set between Tuesday March 17 and
14 Tuesday, June 30, 2020, subject to the discretion of the hearing officer.

- 15 1. In cases in which the statutory deadline otherwise would expire from March
16 24, 2020 to May 31, 2020, inclusive, any judge of the Court may extend the
17 time period provided in section 1382 of the Penal Code for the holding of a
18 criminal trial by not more than 30 days (Gov. Code § 68115(a)(10)). This
19 order applies to cases through June 15 and is extended for a total extension
20 of 90 days for each impacted case. The total extension of 90 days shall be
21 calculated from the last date on which the trial initially could have been
22 conducted under Penal Code section 1382.”) The 90 day extension was
23 raised to a 120 day extension by General Order #2020-11 discussed below.

24 **GENERAL ORDER #2020-02**

25 General Order #2020-02 related to the computing of time for periods
26 including designated court holidays. General Order #2020-02 was superseded by
27 General Order #2020-06 which remains in effect for circumstances occurring prior
28 to May 12, 2020, but does not apply to future filings.

1 **GENERAL ORDER #2020-03**

2 General Order #2020-03 provided for the extension of time periods in
3 criminal matters and has been superseded by General Order #2020-11 except with
4 respect to extension of time periods for arraignments and the time period for
5 preliminary hearings. Those provisions that remain in effect are provided as
6 follows:

7 The Chief Justice, incorporating the same herein, does HEREBY FIND AND
8 ORDER:

9 A. Extensions of Time Periods

- 10 1. That the time period provided in section 859b of the Penal Code for
11 the holding of a preliminary examination and the defendant's right to
12 release is extended from 10 court days to not more than 30 court days.
13 2. That the time period provided in section 825 of the Penal Code within
14 which a defendant charged with a felony offense must be taken before
15 a magistrate is extended from 48 hours to not more than 7 days.
16

17 **GENERAL ORDER #2020-04**

18 **JUVENILE DELINQUENCY ORDER**

- 19 1. Except for minors arrested for an offense listed in Welfare and Institutions
20 Code section 707(b) offenses, felony sex offenses, a felony domestic
21 violence offense, an offense involving personal use or possession of a
22 firearm, a felony assault with a gang enhancement, or a minor with a
23 placement order that has been issued by the Juvenile Delinquency Division,
24 arrested minors shall be cited and released by Probation. Probation has the
25 discretion to select a citation date that is not sooner than April 17, 2020.
26 This order is extended to May 12, 2020.
27 2. Except for minors who are serving commitments for Welfare and
28 Institutions Code section 707(b) offenses, felony sex offenses, a felony

1 domestic violence offense, an offense involving personal use or possession
2 of a firearm, a felony assault with a gang enhancement, all minors with a
3 tentative release date within sixty days of April 6, 2020, shall be released
4 forthwith to a parent or guardian on previously ordered Probation terms; the
5 balance of the custodial commitment is commuted. As to these released
6 youth, any commitment to the juvenile global positions system is vacated.
7 The judges jointly makes this order, with the following additional provision:
8 If any such youth are subject to Placement Orders, Probation is to release
9 such youth as soon as suitable placement can be arranged, or to a parent or
10 guardian, if appropriate. Probation is directed to ex parte on a placement
11 review, with such hearings to take place within ten judicial days of the
12 reopening of the court. This order is extended to May 12, 2020.

13
14 **GENERAL ORDER #2020-05**

15 General Order #2020-05 related extended the reduction of court services
16 during the ongoing COVID-19 emergency, and is superseded by this order and no
17 longer in effect.

18 **GENERAL ORDER #2020-06**

19 General Order #2020-06 provided that for purposes of computing time for
20 filing papers with the Court under Code of Civil Procedure sections 12 and 12a, the
21 period from March 23, 2020 to April 17, 2020 previously deemed a holiday is
22 extended to May 12, 2020 because the emergency conditions described in the
23 Order have substantially interfered with the public's ability to file papers in a court
24 facility on those dates (Gov. Code, § 68115(a)(4)). This order remains in effect.

25 General Order #2020-06 also addressed the extension of deadlines in
26 criminal and juvenile matters. Those rules have been superseded by General Order
27 #2020-11 and are no longer in effect.

1 **GENERAL ORDER #2020-07**

2 This General Order summarizes this Court’s findings concerning the quality
3 and effectiveness of the remote hearings conducted since March 23, 2020. Since
4 March 23, 2020, the Merced Superior Court has conducted 43 remote Juvenile
5 Hearings, 488 remote Criminal Hearings, 80 remote Family Law Hearings, a total
6 of 611 remote hearings. The Presiding Judge has conducted a number of remote
7 hearings himself and has consulted with each of the other Merced Superior Court
8 Judges conducting remote hearings and this Court HEREBY FINDS AND
9 ORDERS AS FOLLOWS:

- 10 1. The 611 remote hearings provided by the Merced Superior Court since
11 March 23, 2020 are the fully functional equivalent of live in-court
12 hearings. While they do not proceed as quickly as live in-court hearings,
13 the sound quality and video picture quality is as good as or better than
14 available to a person participating in a live in-court hearing. In all
15 hearings conducted, the Judicial Officer has been able to understand the
16 testimony and fully evaluate the demeanor of each speaker, unless the
17 speaker appears by telephone.
- 18 2. Just as in a live hearing, there are times where a participant fails to speak
19 into their microphone and must be prompted to repeat what they said,
20 there are occasions where participants forget to unmute their connection
21 or do not speak clearly and must be prompted to repeat their statements.
22 While a connection has occasionally failed during a hearing, such failure
23 usually comes to the immediate attention of the courtroom clerk
24 controlling the video conference and the hearing is paused until a new
25 and satisfactory connection can be made.
- 26 3. When an interpreter is required, the hearing proceeds more slowly
27 because the interpreter must proceed with sequential rather than
28 simultaneous interpretation, but the quality of interpretation is as good or

1 better than the use of simultaneous interpretation during a live in-court
2 hearing.

- 3 4. When a participant and their attorney need to conduct a private
4 conversation, the court has developed several processes for
5 accommodating that need.
- 6 5. Remote hearings also preserve the right of the public of observe court
7 proceedings as certain non-confidential remote hearings are being
8 streamed by the Merced Superior Court to the public via YouTube.
- 9 6. The remote hearings have been so successful, that there have been
10 inquiries from justice partners, including criminal defense counsel and
11 civil counsel, requesting that the option to provide remote hearings in lieu
12 of in-court hearings continue after the state of emergency is over.
- 13 7. This court concludes that the 611 remote hearings conducted by the
14 Merced Superior Court since March 23, 2020 have fully accommodated
15 the rights of all the participating parties and constitute the fully functional
16 equivalent of live in-court hearings.
- 17 8. This court finds that the threat of contagion is such that live in-court
18 criminal hearings would jeopardize the health of the Deputy District
19 Attorney participating in the hearing, the district attorney's office, and its
20 ability to function in other matters; would jeopardize the health of the
21 Deputy Sheriffs or other law enforcement participating in the hearing, the
22 Sheriff's office or other law enforcement agencies participating in the
23 hearing, their staff, and their ability to function in other matters; would
24 jeopardize the health of defense counsel and the ability of defense
25 counsel's firm or the public defender to function in other matters; would
26 jeopardize the health of the defendant himself, and would jeopardize the
27 health of the court staff and its ability to function in other matters.
28 Similarly, live in-court civil hearings would jeopardize the health of all

1 participants, including counsel, parties, and witnesses, in such civil
2 hearings. This court incorporates by this reference, the April 8, 2020
3 letter from Sheriff Vern Warnke discouraging the transportation of
4 prisoners in lieu of remote hearings, and the April 22, 2020 Letter from
5 the Merced County Department of Public Health, discouraging the use of
6 live hearings, copies of which are attached hereto as Exhibits A and B.

7 9. This court finds that remote hearings do not impinge on the rights of any
8 party in any material way, while adequately protecting the health and
9 safety of all participants. This court finds that increases in safety
10 presented by remote hearings far outweighs any potential advantages in-
11 person hearings might have over remote hearings while the State of
12 Emergency remains in effect.

13 10. This order remains in effect and is consistent with the court's experience
14 with remote hearings conducted after General Order #2020-07 Amended
15 was issued. Accordingly, General Order #2020-07 Amended remains in
16 effect, through the decision to conduct live verses remote hearings after
17 May 31, 2020 rests with the discretion of the hearing officer.

18 **GENERAL ORDER #2020-08**

19 This General Order addresses the filing of civil documents received by the
20 Merced Superior Court since Monday March 23, 2020, but which had not been
21 processed at the time General Order #3030-08 was issued. The clerk's office since
22 processed the backlog of documents pursuant to General Order #2020-08 and
23 therefore, General Order #2020-08 is no longer applicable. However, the following
24 rules continue to apply pursuant to emergency legislation:

25 1. When filing documents received by the Merced Superior Court since
26 March 23, 2020 and received subsequent to the date of this order, the
27 following procedures should apply:
28

- 1 a. Pursuant to Emergency Rule 1 of the Emergency Amendments to
2 the California Rules of Court regarding unlawful detainer filings,
3 any summons issued in connection with an unlawful detainer
4 complaint shall be rejected, absent a formal order by a Judge of
5 this Court finding that the action is necessary to protect public
6 health and safety.
- 7 b. Pursuant to Emergency Rule 1 of the Emergency Amendments to
8 the California Rules of Court regarding unlawful detainer filings,
9 any request for entry of default in an unlawful detainer action shall
10 be completed by the clerk to reflect “Default NOT entered as
11 requested” and the box entitled “state reason” shall state “Rule of
12 Court #1” and filed bearing the date received. No default in an
13 unlawful detainer action shall be entered absent a formal order by a
14 Judge of this Court finding that the action is necessary to protect
15 public health and safety.
- 16 c. Pursuant to Emergency Rule 2 of the Emergency Amendments to
17 the California Rules of Court regarding Judicial foreclosures, all
18 documents relating to Judicial foreclosures shall be filed, but no
19 hearing shall be set other than a status hearing absent a formal
20 order by a Judge of this Court finding that the action is necessary
21 to protect public health and safety.
- 22 d. Pursuant to Emergency Rule 8 of the Emergency Amendments to
23 the California Rules of Court regarding temporary restraining or
24 protective orders shall be set for hearing on or after June 1, 2020.
- 25 2. All documents filed between March 23, 2020 and May 12, 2020 shall be
26 deemed filed on May 13, 2020.
27
28

1 **GENERAL ORDER #2020-09**

2 The provisions of General Order #2020-09 pertaining to trial extensions
3 have been superseded by General Order #11 and are no longer in effect.

4 **GENERAL ORDER #2020-10**

5 General Order #2020-10 has been superseded by this General Order #2020-
6 12 and is no longer in effect. The provisions of General Order #2020-10 providing
7 that the Clerk's Offices will remain closed to the public except for filings on
8 essential matters such as restraining orders, and emergency ex parte requests and
9 that Non-essential documents can be filed using the Drop Boxes and/or E-filing
10 remain in effect. The Self Help Center and Family Court services will continue to
11 be available using remote service only.

12 **GENERAL ORDER #2020-11**

- 13 1. The authority to hold sessions anywhere in the county, including in
14 correctional and juvenile detention facilities, is granted from May 13, 2020
15 through June 10, 2020. This order remains in effect.
- 16 2. The declaration that March 23, 2020 through May 12, 2020, inclusive be
17 deemed holidays for purposes of computing time under Welfare and
18 Institutions Code section 313, 315, 334, 631, 632, 637, and 657, is extended
19 the period May 13, 2020 through June 10, 2020. This order remains in
20 effect.
- 21 3. The time period provided in section 1382 of the Penal Code within which a
22 trial must be held an additional 30 days to not more than 120 days in cases
23 were the initial statutory deadline would otherwise expire from March 16,
24 2020 to June 15, 2020, inclusive. This order remains in effect.
- 25 4. The period provided in section 313 of the Welfare and Institutions Code
26 within which a minor taken into custody pending dependency proceedings
27 must be released from custody to not more than seven (7) days in cases
28

1 where the statutory deadline would otherwise expire from March 23, 2020 to
2 June 10, 2020. This order remains in effect.

3 5. The period provided in section 315 of the Welfare and Institutions Code
4 within which a minor taken into custody pending dependency proceedings
5 must be given a detention hearing to not more than seven (7) days in cases
6 where the statutory deadline would otherwise expire from March 23, 2020 to
7 June 10, 2020. This order remains in effect.

8 6. The period provided in section 632 and 637 of the Welfare and Institutions
9 Code within which a minor taken into custody pending wardship
10 proceedings and charged with a felony must be given a detention hearing to
11 not more than seven (7) days in cases where the statutory deadline would
12 otherwise expire from March 23, 2020 to June 10, 2020. This order remains
13 in effect.

14 7. The period provided in section 334 of the Welfare and Institutions Code
15 within which a hearing on a juvenile dependency petition must be held by
16 not more that fifteen (15) days in cases where the statutory deadline would
17 otherwise expire from March 23, 2020 to June 10, 2020. This order remains
18 in effect.

19 8. The period provided in section 667 of the Welfare and Institutions Code
20 within which a hearing on a wardship petition for a minor charged with a
21 felony offense must be held by not more the fifteen (15) days in cases where
22 the statutory deadline would otherwise expire from March 23, 2020 to June
23 10, 2020. This order remains in effect.

24
25 THIS ORDER IS EFFECTIVE IMMEDIATELY.

26 Dated: June 1, 2020

27
28 *Donald J. Proietti*

Hon. Donald J. Proietti, Presiding Judge