

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

No. 42 of 2020

In re: Commerce Court Temporary Financial Monitor Program

ORDER

AND NOW, this 22nd day of June, 2020, consistent with the goals of the Commerce Court, which hears, *inter alia*, disputes between or among two or more business entities and handles dissolution and liquidation of business entities, the court takes judicial notice that the COVID-19 pandemic has caused significant economic harm to local for-profit businesses and non-profit institutions, many of which were forced to close for lengthy periods of time and have been unable to generate sufficient income to pay their debts or retain their staff, and it appears that the current economic climate threatens their ability to operate in the future, it is hereby **ORDERED** and **DECREED** that, in order to provide assistance to keep local enterprises operational, a *Commerce Court Temporary Financial Monitor Program* (hereinafter the “*Monitor Program*”) shall be created within the First Judicial District’s Commerce Court under the general supervision of the Commerce Court Supervising Judge as follows:

1. *Establishment and Eligibility of the Monitor Program.*

- A. The Commerce Court Supervising Judge, upon consultation with the Administrative Judge of the Trial Division, members of the bar, and other stakeholders, shall adopt appropriate case management orders and other protocols for the implementation of the *Monitor Program* in accordance with the Administrative Orders governing the Commerce Court and other applicable rules of court.
- B. Any for-profit or non-profit entity, including a sole proprietorship, is eligible to participate in the *Monitor Program* if its principal place of business is located in Philadelphia County and it ceased to conduct a substantial portion of its operations due to the Covid-19 pandemic, resulting in a loss of revenue and causing the entity to be unable to pay its usual and customary costs and expenses coming due in the ordinary course on and after March 1, 2020. Entities whose defaults or failure to pay costs and expenses occurred on or before February 29, 2020, are generally ineligible to participate, unless otherwise determined by the court upon Petition.

2. *Assignment to the Monitor Program.*

A case is commenced and will be assigned to the *Monitor Program* when an eligible entity files a *Petition to Enjoin Collection Activities and Appoint a Temporary Financial Monitor* (hereinafter the “*Petition*”).

3. *Information to be included in the Petition..*

The petitioning entity must include in, or as exhibits to, the *Petition* financial statement(s) identifying pre- and post- COVID assets, revenues, costs, and expenses, along with detailed information regarding the entity’s creditors and the amounts owed to each of them. Exhibits containing financial information may be filed under seal, but they will be available for viewing by creditors and the *Temporary Financial Monitor*. The *Petition* must be filed as a public document.

4. *Court Review and Assignment of Temporary Financial Monitor.*

The Petition shall be assigned to the Commerce Court Supervising Judge or his designee, who may issue one or more orders: directing the filing of Response(s) to the Petition by creditors and other interested parties; appointing a legal or accounting professional to act as a *Temporary Financial Monitor*; scheduling meetings or conferences with creditors; enjoining creditors from engaging in any collection activities against the petitioning entity and its assets; requiring the entity to post a nominal bond; and directing such other actions as the court, sitting in equity, deems appropriate.

5. *Duties and Obligations of Temporary Financial Monitor.*

The *Temporary Financial Monitor* shall be responsible for evaluating the financial information provided by the petitioning entity and, upon consultation with the entity and its creditors, shall prepare a proposed Operating Plan to enable the entity to resume and/or continue operations while paying off its accumulated debts. The Operating Plan will be shared with creditors and other interested parties and submitted to the court for approval. The *Temporary Financial Monitor* shall provide periodic reports, as well as any revised Operating Plans, as directed by the court.

6. *Termination or Conclusion of Assignment of Temporary Financial Monitor*

The *Temporary Financial Monitor* will be discharged within one year from the date of appointment, unless otherwise ordered by the court.

As required by Pa.R.J.A. 103(d), this Administrative Order and the proposed local rule were submitted to the Supreme Court of Pennsylvania Civil Procedural Rules Committee for review and written notification has been received from the Rules Committee certifying that the proposed local rule is not inconsistent with any general rule of the Supreme Court. This Administrative Order and the attached local rule shall be filed with the Office of Judicial Records (formerly the *Prothonotary, Clerk of Courts and Clerk of Quarter Sessions*) in a docket maintained for Administrative Orders issued by the First Judicial District of Pennsylvania. As required by Pa.R.J.A. 103(d)(5)(ii), two certified copies of this Administrative Order and the attached local rule, as well as one copy of the Administrative Order and local rule shall be distributed to the Legislative Reference Bureau on a computer diskette for publication in the *Pennsylvania Bulletin*. As required by Pa.R.J.A. 103(d)(6) one certified copy of this Administrative Order and local rule shall be filed with the Administrative Office of Pennsylvania Courts, shall be published on the website of the First Judicial District at <http://courts.phila.gov>, and shall be incorporated in the compiled set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*. Copies of the Administrative Order and local rules shall also be published in *The Legal Intelligencer* and will be submitted to *American Lawyer Media*, *Jenkins Memorial Law Library*, and the Law Library for the First Judicial District.

BY THE COURT:

/s/ *Idee C. Fox*

**Honorable Idee C. Fox
President Judge, Court of Common Pleas
Philadelphia County**

BY THE COURT:

/s/ *Jacqueline F. Allen*

**Honorable Jacqueline F. Allen
Administrative Judge, Trial Division
Court of Common Pleas, Philadelphia County**

BY THE COURT:

/s/ *Gary S. Glazer*

**Honorable Gary S. Glazer
Supervising Judge, Commerce Court
Court of Common Pleas, Philadelphia County**