IN THE COURT OF COMMON PLEAS FOR THE 39TH JUDICIAL DISTRICT Franklin County and Fulton County Branches

In Re: 39th Judicial District	:	Emergency Judicial Order
	:	AD 48-2020
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Fifth Supplemental Emergency Judicial Order confirming extension of Judicial Emergency through May 31, 2020, Amending Prior Orders to Permit Additional Essential Proceedings Before the Court, Implementing and Authorizing the Use of Videoconferencing Govern the Conduct of Counsel and Any Persons Entering the Courts and Appearing in a Courtroom

AND NOW this 27th day of April, 2020, in accordance with the Order of the Supreme Court of Pennsylvania dated March 18, 2020, directing that all Pennsylvania Courts are generally closed to the public, beginning at close of business on March 19, 2020 and lasting through, at least April 3, 2020, subject to General and Specific Directives and Exceptions set forth therein;

AND WHEREAS, the Chief Justice of the Pennsylvania Supreme Court Thomas Saylor, previously issued an order on March 16, 2020 authorizing this Court to declare a Judicial Emergency;

AND WHEREAS, the undersigned President Judge for the 39th Judicial District did declare a Judicial Emergency for the 39th Judicial District comprised of Franklin County, Pennsylvania and Fulton County, Pennsylvania by Order of Court dated and filed March 18, 2020;

AND WHEREAS, the Judicial Emergency Order for the 39th Judicial District dated March 18, 2020 implemented General and Specific Directives and Exceptions regarding access to the Courthouses and Court facilities within the Judicial District, the suspension or continuance of Court proceedings, the permission to conduct emergency proceedings in order to protect the interest of the disabled, victims of abuse, minors and juveniles and other rights guaranteed to criminal defendants constitutionally;

AND WHEREAS, the March 18, 2020 Judicial Emergency Order was filed with the Court Administrator for the Commonwealth of Pennsylvania, Geoff Moulton and distributed as required by Supreme Court Order and posted on all Courthouse doors;

APR 27 2020
ATTEST: A TRUE COPY
Clerk of Courts

AND WHEREAS, the Chief Justice of the Pennsylvania Supreme Court, Thomas Saylor has determined that "significant and material events have transpired since the prior orders were filed", including federal government guidance suggesting an immediate need for extraordinary nationwide measures and a letter request from the Pennsylvania Secretary of Health urging the Pennsylvania Supreme Court to consider statewide closure of the Courts, except for essential services, for a period of approximately fourteen days in order to further restrict the amount of person to person contact and mitigate the spread of COVID-19;

AND WHEREAS, the Chief Justice of the Pennsylvania Supreme Court in response to the reasons outlined above issued an order March 18, 2020 directing that all Pennsylvania Courts are generally closed to the pubic beginning at the close of business on March 19, 2020 and lasting through at least April 3, 2020, subject to the General and Specific Directives and Exceptions;

AND WHEREAS this Court issued a Supplemental Judicial Emergency Order dated March 19, 2020 which incorporated and adopted in full the Order of Court issued by Chief Justice Thomas Saylor, dated March 18, 2020 and confirmed that the Courts of the 39th Judicial District are generally closed to the public beginning at the close of business March 19, 2020 and lasting through at least April 3, 2020, subject to certain modifications, which are not inconsistent with the March 18, 2020 Order of Court issued by Chief Justice Thomas Saylor, but are consistent with the prior Emergency Judicial Order dated March 18, 2020 entered by this Court;

AND WHEREAS, this court issued a Second Supplemental Order identifying additional matters that could be heard by the court as part of essential court functions;

AND WHEREAS, this court issued a Third Supplemental Order Extending the Judicial Emergency to April 14, 2020;

AND WHEREAS, the Chief Justice of the Pennsylvania Supreme Court has issued an order extending the judicial emergency through April 30, 2020;

AND WHEREAS, as part of the Chief Justice's order dated April 1, 2020 also authorized President Judges of each judicial district to extend the judicial emergency for the district based upon local conditions; Specifically the order reads,

In addition, President Judges are AUTHORIZED to declare judicial emergencies in their judicial districts through May 31, 2020, or for part of that period, should they deem it appropriate based on local conditions for the protection of the health and safety of court personnel, court users, and others. Such declarations, as well as all local orders and directives, SHALL BE FILED with the Prothonotary for the Supreme Court in [531 & 532 Judicial Administration Docket - 3] the Eastern, Western, or Middle District Office, as appropriate for the particular local judicial district. For convenience, such materials may be transmitted via electronic mail to: Irene.Bizzoso@pacourts.us.

AND WHEREAS, Governor Wolf has declared that the stay at home order for Pennsylvania is extended until May 8, 2020, thus preventing most travel and limiting the operation of many businesses in the Commonwealth of Pennsylvania to minimize travel, face to face contact and reduce the opportunities for large gatherings so as to reduce the chance of the spread of infection of COVID-19;

AND WHEREAS, Governor Wolf and the Department of Health have developed a system for grading the intensity of the COVID-19 infections and possibility for continued infections on a regional basis with the goal of loosening restrictions on the operations of business, and gatherings of persons, but at this time Franklin County has seen a steady rise in the number of infections week after week since the judicial emergency was declared on March 17, 2020; Furthermore, there is no information available to this court to insure that the rate of infection will decrease or be of such a low level as of May 1, 2020 to permit the courts to resume normal operations; The court will also note that under the CDC guidelines, no gatherings of individuals should be occurring in which there are more than 10 persons; Social distancing which is defined as maintaining at least 6 feet between individuals, can only be accomplished in many of the courtrooms and common areas of the 39th Judicial District if the numbers of court staff, sheriff's deputies, attorneys and litigants are limited in numbers;

AND WHEREAS, the court realizes that unlike many activities in society which are voluntary, court appearances are mandatory; A failure to appear for a hearing can likely result in a loss of lawful rights and interests by litigants, thus processes must be established for the operation of the courts to try to assure the safety of the employees of the court, attorneys, staff of offices that support the court and citizens who are appearing before the court to minimize the chance of the transmission of COVID-19 which is an asymptomatic virus;

AND WHEREAS, the Chief Justice has required very few matters to be conducted in person in a courtroom, and has authorized the use of video or audio proceedings in support of the goals of minimizing large gatherings in court and face to face interaction; In response the court has directed Court Administration to develop options and secure the required technology to conduct as many proceedings as possible through the use of videoconferencing, provided each presiding judge can insure that the hearing process is fair, complies with all applicable evidentiary rules and that self-represented litigants have the same opportunity to appear before the court as represented litigants, while also practicing social distancing;

AND WHEREAS, the court has also concluded that there is no way to conduct jury selection in either May or June, 2020 and to comply with the current requirements to avoid gatherings of 10 persons and/or practice social distancing;

AND WHEREAS, the Court has received continued information from the District Attorney, Public Defender, defense counsel and attorneys of the Franklin County Bar Association and is of the opinion that cases can begin to be processed in all dockets using a combination of videoconferencing, limited in-person appearances, so as to continue social distancing and keep the numbers of persons entering the courthouse to a minimum and the number of persons in the courtrooms to a minimum as well;

AND WHEREAS, the court has received requests from counsel to be able to use a stamped attorney signature on pleadings in lieu of an original signature since many are working from home under the suspension of business order of the Governor and directing staff to compile and mail pleadings to the court, which prevent them from personally signing the documents they are filing with the court; The court has conferred with the Prothonotary, Clerk of Courts and Orphans' Court Clerks for both Franklin and Fulton Counties have been consulted and they have agreed to accept the filings which have an attorney's facsimile signature as long as whomever affixed the attorney's signature indicates they are doing so with the knowledge and approval of the attorney.

IT IS HEREBY ORDERED that

A. The Judicial emergency in the 39th Judicial District is hereby extended through **May 31, 2020.**

B. Until May 11, 2020, unless the matter has been deemed essential to be heard before the court in person, any and all court proceedings of any type or on any docket may be heard by the court, Magisterial District Judge or a hearing master/officer using video or audio technology. Video and audio technology shall be the preferred method of conducting hearings provided the presiding judge or hearing master/officer determines that the hearing can be conducted in a fair manner, that all rules of evidence can be followed and due process assured to the parties and counsel. Counsel shall cooperate with the court or hearing master in advance of any proceeding to insure that counsel, client and any witness or party wishing to observe has the technological capability to participate as ordered by the court or hearing master.

C. Beginning on May 11, 2020, any judge, Magisterial District Judge or hearing master/officer may proceed to hear any matter via an in-person hearing, provided that there shall never be more than a total of 10 persons in any courtroom or hearing room. There shall never be more than 10 persons admitted to a courtroom or court facility per hour so as to comply with the CDC directives and best practices to discourage gatherings of more than 10 persons. The presiding judge or hearing master, counsel and litigants are still encouraged to use videoconferencing or audio to conduct on the record proceedings when possible. Court Administration shall take reasonable steps

to provide self-represented parties shall have the same access to the courts as represented parties.

D. Jury selection is suspended for May and June 2020, as the court has no way to assemble sufficient jurors while permitting jurors to practice proper social distancing and to comply with the CDC protocols limiting the number of persons gathering together.

E. Attorneys may file pleadings, motions, petitions or briefs which contain the attorney's signature using a stamp or facsimile of the attorney's signature, provided that the individual who affixes the attorney's signature shall write their name and a statement that they are affixing the attorney's signature with the knowledge and approval of the attorney.

F. All prior restrictions outlined in the court's prior orders or setting forth the revised scheduling of matters is hereby affirmed, unless specifically modified by this order.

G. All prior directives governing the conduct of counsel and parties during court appearances is hereby re-affirmed. The trial court shall be empowered to limit the number of persons in their courtroom and the positioning of persons to make sure that social distancing can be practiced.

BY THE COURT
Signed: Shel Moyen
P.J.

Dated: April 27, 2020

Dist: CA

Hon. Angela Krom

Hon. Jeremiah Zook

Hon. Todd Sponseller

Hon. Mary Beth Shank