

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

THE CRACKED EGG, LLC,

CIVIL DIVISION

Plaintiff,

2:20-cv-01434

v.

COUNTY OF ALLEGHENY, a political  
subdivision of the Commonwealth of  
Pennsylvania and the ALLEGHENY  
COUNTY HEALTH DEPARTMENT,

Defendants.

**DEFENDANTS' BRIEF IN SUPPORT OF MOTION TO DISMISS**

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), Defendants Allegheny County and Allegheny County Health Department ("ACHD"), by and through their undersigned legal counsel, file this BRIEF IN SUPPORT OF MOTION TO DISMISS:

**I. PROCEDURAL BACKGROUND**

**A. State Court Proceeding**

On September 16, 2020, Allegheny County, acting by and through the ACHD filed a Complaint and Emergency Motion for Preliminary Injunction against The Cracked Egg, LLC ("TCE") in The Court of Common Pleas of Allegheny County at No. GD-20-9809. (Ex. A: *The State Court Complaint*.) The State Court Complaint alleges two counts:

- I.) Violation of Commonwealth of Pennsylvania Covid-19 Control Measure Orders: Universal Face Covering and Other Mitigation Measures
- II.) Violation of Article III §337.1 of Allegheny County Code of Ordinances Chapter 830: Permit Suspension

On September 18, 2020 TCE sought to remove the State Court Complaint to Federal Court asserting that the claims arise under the Constitution of the United States, including, among other things, the First Amendment and the Fourteenth Amendment.” (Ex. B: *Notice of Removal* at ¶3b.) On September 21, 2020 TCE and the ACHD participated in a status conference held in State Court during which Judge McVay held that because the case was removed to Federal Court he had no jurisdiction over the matter unless it was remanded. (Ex. C – *Order of State Court*.) The Notice of Removal filed by TCE was denied by the Federal Court and the case was remanded back to State Court on October 7, 2020. (20-cv-01418, ECF #15.) On October 9, 2020, TCE filed a Suggestion of Bankruptcy in State Court. (Ex. D-*Suggestion of Bankruptcy*.) On October 15, 2020 TCE filed a notice of removal of the State Court matter to Bankruptcy Court. (Ex. E – *State Court Notice of Removal*.) There has been no final ruling on the request to remove the State Court matter to Bankruptcy Court. The ACHD has opposed the removal and there is currently a status conference scheduled for December 15, 2020, to discuss the removal, lifting the stay, and remanding the matter to State Court. (Ex. F – *Status Conference Order*.)

### **B. Federal Court Proceeding**

Plaintiff TCE filed the instant matter with this Honorable Court on September 23, 2020. (Compl. ECF #1.) On October 23, 2020 TCE filed a Motion to Refer this matter to Bankruptcy Court (ECF #16.) There has been no final order on the Motion.

## **II. FACTUAL BACKGROUND**

The Plaintiff is the Cracked Egg, LLC, a limited Liability Company that operates a restaurant in the Brentwood neighborhood of the City of Pittsburgh. (Compl. at ¶¶1,6.)

On March 6, 2020, Pennsylvania Governor Tom Wolf issued a Proclamation of Disaster Emergency in response to the COVID-19 pandemic. (Compl. at ¶9.) The Governor has extended the Disaster Proclamation two times -on June 3, 2020 and on August 31, 2020. (Compl. at fn1.) In Connection with the Governor’s Disaster Proclamation, on July 1, 2020, and in order to protect the public from the spread of COVID-19, the Secretary of the Pennsylvania Department of Health issued an Order “requiring universal face coverings.” (Compl. at ¶12.) Section 2 of the Universal Face Coverings Order requires the use of face coverings at indoor locations where the public is generally admitted and while engaged in work, including at restaurants. (Compl. at Ex. D.)

On July 16, 2020 Governor Wolf Issued an Order Directing Targeted Mitigation Measures. Section 1.B.i of the Targeted Mitigation Order requires, inter alia, restaurants to limit occupancy to 25% of stated fire code maximum occupancy for indoor dining and to limit occupancy at discrete indoor events or gatherings to 25 persons including staff. (Compl. at ¶¶14,15.) Section 7 of the Targeted Mitigation Order states, "Enforcement of this Order will begin on the effective date. All Commonwealth agencies involved in the licensing or inspection of any of the above-described facilities are directed to increase their enforcement efforts to ensure compliance with these critical mitigation measures. All local officials currently involved or able to be involved in the Commonwealth's enforcement efforts are called upon to enforce these critical mitigation measures. (Compl. at Ex. E.)

In accordance with the COVID-19 universal face coverings Order, TCE must require all employees and patrons to wear face coverings when on the premises of the facility. On or about June 19, 2020, the ACHD began receiving complaints from the public regarding TCE’s

failure to comply with the COVID-19 Control Measure Orders. (State Court Compl. at ¶16.)<sup>1</sup> In response to these citizen complaints, the ACHD sent representatives to investigate the compliance status of TCE on July 1, 2020. (State Court Compl. at ¶28.) During this visit the ACHD representatives provided TCE with guidance on control measure order compliance. (State Court Compl. at ¶ 28) After repeated civilian complaints following the first cite visit, the ACHD again sent representative to investigate compliance status of TCE on July 28<sup>th</sup>, August 5<sup>th</sup>, and August 7<sup>th</sup>. (State Court Compl. at ¶¶30-35.) During each of these visits the ACHD representatives observed public facing employees working without wearing facemasks and patrons admitted to the facility without facemasks. (State Court Compl. at ¶¶30-35.) The ACHD representatives, again, on each visit provided guidance on control measure order compliance. (State Court Compl. at ¶¶30-35.) On August 11, 2020, ACHD representatives conducted a partial onsite reinspection to assess COVID-19 compliance. During this onsite inspection, ACHD representatives observed public-facing employees working without wearing face masks and a patron admitted into the facility without a face mask. (State Court Compl. at ¶36.) It was only after this fifth visit that the ACHD issued a Permit Suspension Order to TCE a due to continued non-compliance and imminent danger to public health. (State Court Compl. at ¶37.) TCE does not contest that its employees and patrons were not wearing masks during these visits. (*See Compl. generally.*) The Permit Suspension Order was based solely on TCE's continuous failure to comply with the Secretary's Order of July 1, 2020 "requiring universal face coverings." (Compl. at ¶¶19,20.)

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<sup>1</sup> Plaintiff in ¶24 of its Complaint has incorporated the averments of the [State Court] Complaint as if set forth in their entirety. The State Court Complaint filed by the Allegheny County Health Department is attached to this brief at Exhibit A.

The Permit Suspension Order would be lifted when TCE corrected all emergency violations. i.e. wear proper face coverings. (Compl. at Ex. F, G.) The Permit Suspension Order also provides for a process to appeal the suspension. (Compl. at Ex. F, G.) Plaintiff TCE never availed itself of the established appeal process. (*See Compl, Generally; State Court Compl. at ¶47.*) Even though it is illegal to operate a food facility in Allegheny County without a health permit, during on-site observations conducted on August 24, 2020 through August 28, 2020, inclusive, August 31, 2020 through September 4, 2020, inclusive, and September 10, 2020, ACHD representatives observed continued operations at TCE in violation of the Permit Suspension Order. (Compl. at Ex. G; State Court Compl. at ¶43) During those on-site visits, ACHD representatives also observed continued violations of the COVID-19 Control Measure Orders. (State Court Compl. at ¶43) It was also observed during this time that TCE had both concealed and removed the closure placard placed by the ACHD on its facility. (State Court Compl. at ¶¶ 44,45). The restaurant's deliberate disregard of the Permit Suspension Order and continued operation without a health permit necessitated the commencement of the enforcement action filed by the ACHD in State Court. (State Court Compl. at ¶48.)

### **III. ARGUMENT**

#### **A. Younger Abstention Precludes Federal Intervention in This Matter**

Plaintiff is attempting to have this Honorable Court intervene in an ongoing State Court proceeding. This Court should decline to do so pursuant to the doctrine of abstention established in [\*Younger v. Harris\*, 401 U.S. 37 \(1971\)](#). Under the Younger abstention doctrine, “federal courts *must* abstain in certain circumstances from exercising jurisdiction over a claim where resolution of that claim would interfere with an ongoing state proceeding.” [\*Miller v. Mitchell\*, 598 F.3d 139, 145 \(3d Cir. 2010\)](#) (*emphasis added*). While [\*Younger\*](#) itself

involved a criminal case, its mandates have been applied in "civil proceedings involving certain orders that are uniquely in furtherance of the state courts' ability to perform their judicial functions." [Judice v. Vail](#), 430 U.S. 327, 336, n. 12 (1977) (civil contempt order). The Younger abstention doctrine "reflects a strong federal policy against federal-court interference with pending state judicial proceedings absent extraordinary circumstances." [Hill v. Barnacle](#), 523 Fed. Appx. 856, 857 (3d Cir. 2013) (quoting [Gwynedd Properties, Inc. v. Lower Gwynedd Twp.](#), 970 F.2d 1195, 1199 (3d Cir.1992)). A federal court must abstain when the following requirements are met:

- 1) the state proceedings are judicial in nature,
- 2) the proceedings implicate important state interests, and
- 3) the federal plaintiff has an adequate opportunity in the state proceedings to raise constitutional challenges.

[Middlesex County Ethnics Comm. v. Garden State Bar Assoc.](#), 457 U.S. 423, 432 (1982); [FOCUS v. Allegheny Cnty. Ct. Com. Pl.](#), 75 F.3d 834, 843 (3d Cir. 1996). Plaintiff TCE has been actively litigating this matter in State Court at GD-20-00-9809. If this Court allowed TCE to proceed past this stage, it would be intervening in an active matter in State Court.

The second requirement of this test is also met. The proceedings implicate the health and welfare of the citizens of Pennsylvania. The protection of public health by attempting to stop the spread of COVID-19 is a compelling state interest. "States traditionally have had great latitude under their police powers to legislate as to the protection of the lives, limbs, health, comfort, and quiet of all persons." [Zahl v. Harper](#), 282 F.3d 204 (3rd Cir. 2002), quoting [Medtronic, Inc. v. Lohr](#), 518 U.S. 470, 475, 116 S.Ct. 2240, 135 L.Ed.2d 700 (1996). power to establish and enforce health standards "is a vital part of a state's police power." [Zahl v. Harper](#), 282 F.3d 204 (3rd Cir. 2002), quoting [Brodie v. State Bd. of Med. Exam'rs](#), 177 N.J.Super. 523, 427 A.2d 104, 108 (1981). Our Constitution principally entrusts "[t]he safety

and the health of the people” to the politically accountable officials of the States “to guard and protect.” [\*Jacobson v. Massachusetts\*, 197 U. S. 11, 38 \(1905\)](#). When those officials “undertake to act in areas fraught with medical and scientific uncertainties,” their latitude “must be especially broad.” [\*Marshall v. United States\*, 414 U. S. 417, 427 \(1974\)](#). Where those broad limits are not exceeded, they should not be subject to second-guessing by an “unelected federal judiciary,” which lacks the background, competence, and expertise to assess public health and is not accountable to the people. [\*Philadelphia Restaurant Owners Against Lockdown, LLC v. Kenney\*, 2020 WL 6866560 at 1 \(E.D. Pa. November 20, 2020\)](#) citing [\*Garcia v. San Antonio Metropolitan Transit Authority\*, 469 U.S. 528, 545 \(1985\)](#).

Third, the state proceedings must afford an adequate opportunity to raise federal claims. The state court proceedings here are able to do just that. TCE in its motion to attempt to remove the State Court case to Federal Court acknowledged that “the claims arise under the Constitution of the United States, including, among other things...the Fourteenth Amendment.” ([2:20-cv-01418, ECF #1](#).) Additionally, TCE goes on to say in its request to remove the State Court matter to Bankruptcy Court that it “expects to prove not only that it has complied with all properly enacted laws, rules and regulations, and that ACHD lacks a basis to take such action, but that [TCE] has counterclaims against ACHD for violations of its civil rights, for which the [TCE] intends to seek monetary damages....”(Ex. E - *Notice of Removal*.) Furthermore, in its Motion to Refer this matter to Bankruptcy Court, Plaintiff TCE admits that the instant matter “was brought to seek redress of Defendants’ violation of Plaintiff’s civil rights, including the filing of state court litigation.” ([ECF #16](#).)

From its own filings, it is quite clear that TCE will be raising the same federal claims asserted in this matter as defenses to the ongoing State Court matter. This is not a situation

in which a state court is “incapable of fairly and fully adjudicating the federal issues before it” sufficient to create “an extraordinarily pressing need for immediate federal equitable relief.” [Kugler v. Helfant](#), 421 U.S. 117 (1975); *see also* [Gonzalez v. Waterfront Comm'n of N.Y. Harbor](#), 755 F.3d 176, 184 (3d Cir. 2014) (holding that state law must “clearly bar” the chance to raise federal claims); [Pennzoil Co. v. Texaco, Inc.](#), 481 U.S. 1, 15 (1987) (holding that a federal court should assume that state court appellate proceedings will afford an adequate remedy for federal claims).

For these reasons, this Court must abstain from hearing this case.

#### **B. ELEVENTH AMENDMENT IMMUNITY: COUNTS 1-3**

Counts one through three of Plaintiff’s complaint amount to nothing more than strained state law challenges to the *State’s* COVID-19 regulations. Plaintiff has failed to plead a viable cause of action against Defendants. Neither Allegheny County nor the ACHD are mentioned once throughout the three counts. It is not discernable from the Complaint how Allegheny County or the ACHD could be held liable for anything under these counts.

The Eleventh Amendment has been interpreted to make states generally immune from suit by private parties in federal court. [Board of Tr. of Univ. of Alabama v. Garrett](#), 531 U.S. 356 (2001); [College Sav. Bank v. Florida Prepaid Postsecondary Educ. Expense Bd.](#), 527 U.S. 666, 669–70 (1999); [Idaho v. Coeur d’Alene Tribe of Idaho](#), 521 U.S. 261, 267 (1997); [Seminole Tribe of Florida v. Florida](#), 517 U.S. 44, 54 (1996) This immunity extends to state agencies and departments. [C.H., ex rel. Z.H. v. Oliva](#), 226 F.3d 198, 201 (3d Cir.2000) (en banc). Eleventh Amendment immunity is subject to three exceptions: 1) congressional abrogation, 2) state waiver, and 3) suits against individual state officers for prospective relief



to end an ongoing violation of federal law. [MCI Telecomm. Corp. v. Bell Atl. Pa., 271 F.3d 491, 503 \(3d Cir. 2001\)](#).

None of these exceptions are present in Counts one through three. Counts one, two, and three of Plaintiff's complaint include causes of action arising only under Pennsylvania law.<sup>2</sup> (Commonwealth Documents Law 45 P.S. 1102 et seq.; Regulatory Review Act 71 P.S. 745.1 et seq.; 35 Pa.C.s. 7301(c) General Authority of the Governor; Commonwealth Attorneys Act 71 P.S. 745.1 et seq.; Separation of Powers Claim PA CONST Art. 3, § 9<sup>3</sup>.) Counts one through three are in substance an attack on the State's public health orders. The adopted regulations apply statewide, and its regulations do not provide counties with the authority to relax the State restrictions. Accordingly, the causes of action against the County Defendants are barred by the Eleventh Amendment. The Supreme Court explains: "[A] federal suit against state officials on the basis of state law contravenes the Eleventh Amendment when ... the relief sought and ordered has an impact directly on the State itself." [Pennhurst State Sch. & Hosp. v. Halderman, 465 U.S. 89, 117 \(1984\)](#). Plaintiff is asking to have the State's Emergency Orders invalidated. This relief clearly has an impact directly on the State of Pennsylvania.

For these reasons counts one, two, and three should be dismissed with prejudice.

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<sup>2</sup> To the extent TCE is attempting to assert a § 1983 action against Allegheny County and ACHD under Counts 1-3, it must also fail for this reason. Section 1983 "is a **vehicle for** imposing liability against anyone who, under color of state law, deprives a person of rights, privileges, or immunities secured by the Constitution and laws." [Grammer v. John J. Kane Reg'l Ctrs., 570 F.3d 520, 525 \(3d Cir. 2009\)](#). To succeed on a § 1983 claim, "a plaintiff must show that the defendants, acting under color of law, violated the plaintiff's federal constitutional or statutory rights, and thereby caused the complained of injury." [Elmore v. Cleary, 399 F.3d 279, 281 \(3d Cir. 2005\)](#). Plaintiff has alleged no Constitutional violations in Counts 1-3.

<sup>3</sup> This Issue has already been decided by the Pennsylvania Supreme Court in [Wolf v. Scarnati, 233 A.3d 679 \(Pa. 2020\)](#).

### C. PROCEDURAL DUE PROCESS CLAIMS – NO VIOLATION

To survive a motion to dismiss a procedural due process claim, a plaintiff is required to plead facts supporting allegations that “(1) he was deprived of an individual interest that is encompassed within the Fourteenth Amendment's protection of ‘life, liberty, or property,’ and (2) the procedures available to him did not provide ‘due process of law.’” [Hill v. Borough of Kutztown, 455 F.3d 225, 233-34 \(3d Cir. 2006\)](#) quoting [Alvin v. Suzuki, 227 F.3d 107, 116 \(3d Cir.2000\)](#)). A due process violation “is not complete when the deprivation occurs; it is not complete unless and until the State fails to provide due process.” [Zinermon v. Burch, 494 U.S. 113, 126, 110 S.Ct. 975, 108 L.Ed.2d 100 \(1990\)](#). If there is a process on the books that appears to provide due process, the plaintiff cannot skip that process and use the federal courts as a means to get back what he wants. [McDaniels v. Flick, 59 F.3d 446, 460 \(3d Cir. 1995\)](#). The Third Circuit has held that a plaintiff may not maintain a federal due process lawsuit when he or she could have taken advantage of an adequate state post deprivation remedy but did not. [Elsmere Park Club, L.P. v. Town of Elsmere, 542 F.3d 412, 420 \(3d Cir. 2008\)](#).

#### *i. Suspension and Closure Notice*

TCE has plead no facts to support its contention that ACHD suspended its health permit without prior notice and opportunity to be heard. Alternatively, the facts included within the complaint support the opposite. The ACHD visited TCE five times before suspending its health permit. Each time alerting TCE of its violations and providing guidance on how to come into compliance. TCE chose to ignore the multiple notices provided by the ACHD as well as the mandatory orders issued by the State. Furthermore, as per the Permit Suspension Notice issued by the ACHD to TCE, Plaintiff had an opportunity to schedule a

hearing and or appeal the suspension and chose not to do so. The Allegheny County Code provides that:

If the Director finds there is imminent danger to the public health the permit shall immediately be suspended. Any person whose permit has been suspended under this section shall upon written request be entitled to a hearing pursuant to Article XI, Hearings and Appeals, of the Allegheny County Rules and Regulations.

Allegheny County Code § 830-38(A). The Allegheny County Code sets forth full and complete appeal and hearing processes for anybody aggrieved by a decision of the ACHD. (Allegheny County Code §§ 805-4,5.)

As a matter of due process, “summary administrative action may be justified in emergency situations.” [\*Elsmere Park Club, L.P. v. Town of Elsmere\*, 542 F.3d 412, 417 \(3d Cir. 2008\)](#) In [\*Elsmere Park\*](#), the Third Circuit affirmed a grant of summary judgment against a [Section 1983](#) plaintiff when the town summarily condemned an apartment due to a severe mold problem. [Id. at 417-20](#). The Third Circuit concluded that due process was satisfied because the town provided the plaintiff with “adequate means of appealing the condemnations at issue.” [Id. at 423](#). The [\*Elsmere Park\*](#) court looked to the local code, noting that the plaintiff had an avenue to challenge the condemnations through the town's Board of Adjustment – an appellate forum established as part of the town's zoning code. [Id. at 422](#). Like the town in [\*Elsmere Park\*](#), the Allegheny County Code at section 805 states, “Any person aggrieved by an action of the Department and who has a direct interest in such action may file a notice of appeal.” Furthermore, any party who is aggrieved by any decision of the Director rendered pursuant to § 805 of the Allegheny County Code may appeal therefrom to the Court of Common Pleas of Allegheny County as provided by law. (Allegheny County Code

§ 805-10.) Consequently, Plaintiff TCE's failure to "take advantage" of the appeals process "means that [it] cannot claim a constitutional injury." [Elsmere Park, 542 F.3d at 423](#).

ii. *Service of State Court Complaint and Emergency Motion*

Plaintiff's Due Process claim with respect to service of the State Court Complaint and Emergency Motion must fail as well. The Pennsylvania Rules of Civil Procedure require original process within the Commonwealth to be served within 30 days after the issuance of the writ or the filing of the complaint. [Pa. R. Civ. P. 401\(a\)](#). In compliance with this rule, TCE was properly served with process by the Sheriff on October 1, 2020. <sup>4</sup> (Ex. G - *Sheriff's Return*.)<sup>5</sup> Furthermore, On September 18<sup>th</sup>, two days after the State Court Complaint and Motion were filed and two days before the emergency hearing was to be held, Plaintiff TCE filed a Notice of Removal to Federal Court. Solely based on its own actions, it is quite clear that TCE had adequate notice of the Complaint and Motion. TCE has been actively engaged and participating in the State Court matter the entire time. Furthermore, as of the date of this filing, no emergency hearing has been held in State Court and there has been no decision rendered in the matter. There has been no deprivation. Plaintiff TCE has not and cannot plead facts necessary to support its allegation that an alleged failure to properly serve the

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<sup>4</sup> In addition to properly serving the Complaint, ACHD emailed courtesy copies of the Complaint and Emergency Motion to TCE on September 17, 2020, one day after it was filed, and again on September 18, 2020. (Compl. at ¶¶29,30.)

<sup>5</sup> While a court typically does not consider matters outside the pleadings, it may consider documents that are "integral to or explicitly relied upon in the complaint" or any "undisputedly authentic document that a defendant attaches as an exhibit to a motion to dismiss if the plaintiff's claims are based on the document[.]" [In re Rockefeller Ctr. Props., Inc. Sec. Litig.](#), 184 F.3d 280, 287 (3d Cir. 1999) (emphasis and citations omitted); *see also* [In re Asbestos Prods. Liab. Litig. \(No. VI\)](#), 822 F.3d 125, 133 n.7 (3d Cir. 2016); [Schmidt v. Skolas](#), 770 F.3d 241, 249 (3d Cir. 2014), [Arcand v. Brother Int'l Corp.](#), 673 F. Supp. 2d 282, 292 (D.N.J. 2009) (court may consider documents referenced in complaint that are essential to plaintiff's claim).

State Court Complaint (1) deprived it of an individual interest that is encompassed within the Fourteenth Amendment's protection of 'life, liberty, or property,' or (2) the procedures available to him did not provide 'due process of law.' " [Hill, 455 F.3d at 233–34](#).

For the foregoing reasons TCE's due process claims must be dismissed with prejudice.

#### **D. Substantive Due Process – No Violation**

The Fourteenth Amendment provides that no state shall "deprive any person of life, liberty, or property, without due process of law...." [U.S. Const. Amend. XIV](#). "Substantive due process is a 'component of the [Fourteenth Amendment] that protects individual liberty against certain government actions regardless of the fairness of the procedures used to implement them.' " [Wrench Transp. Sys., Inc. v. Bradley, 340 F. App'x 812, 815 \(3d Cir. 2009\)](#) (internal quotations omitted) (quoting [Collins v. City of Harker Heights, 503 U.S. 115, 125, 112 S.Ct. 1061, 117 L.Ed.2d 261 \(1992\)](#)). "Substantive due process refers to and protects federal rights." [Ransom v. Marazzo, 848 F.2d 398, 411 \(3d Cir. 1988\)](#) That being so, the analysis of any substantive due process claim "must begin with a careful description of the asserted right[.]" [Reno v. Flores, 507 U.S. 292, 302 \(1993\)](#). To be protected, the "asserted right" must be "fundamental"—arising from the Constitution itself, and not from state law. [Id.](#)

Here, TCE is basing its substantive due process claim premised on "[t]he Owners' right to earn a living." The owners of TCE, however, are not parties to this action. TCE does not have an absolute right to engage in economic activity as it sees fit. This is not the law. Nor does such a claim provide viable support for a violation of substantive due process. Moreover, a Third Circuit panel in an unpublished opinion explicitly rejected the argument that there is any fundamental right to earn a living. [Wrench Transp. Sys., Inc. v. Bradley, 340](#)

[F. App'x. 812, 815 \(3d Cir. 2009\)](#) (“[T]he right to ‘engage in business’” is “more similar to the type of intangible employment rights that this Court has rejected as not protected by substantive due process than the real property interests which can be protected by substantive due process”). More recent decisions by and within the Third Circuit have cited to this holding approvingly. *See, e.g., Joey's Auto Repair & Body Shop v. Fayette Cnty.*, 785 F. App'x 46, 50 (3d Cir. 2019) (noting that “a substantive due process right to conduct business without zoning interference extends beyond our precedent”); *Saucon Valley Manor, Inc. v. Miller*, 392 F. Supp. 3d 554, 571-72 (E.D. Pa. 2019) (holding that “neither the right to operate a business nor the property interest in a business license are ‘fundamental’ rights or property interests protected by substantive due process”).

Plaintiff TCE's reliance on [County of Butler v. Wolf](#) is misplaced.<sup>6</sup> *County of Butler* dealt with a challenge to the State's order closing “non-life-sustaining” businesses. [County of Butler v. Wolf](#), 2020 WL 5510690 at 1 (W.D. Pa. Sept. 14, 2020). The court in *County of Butler* deemed the measure to be “a total shutdown of a business with no end-date....” [Id. at 26](#); (Compl. at ¶86). Here, TCE is challenging an order that limits a restaurant's capacity to 25% occupancy. TCE cannot maintain a substantive due process claim against Allegheny County or the ACHD when neither Defendant is responsible for enacting the mitigation orders at issue. For this reason alone, TCE's substantive due process claim must fail. Furthermore, this is not a “total shutdown of a business” and consequently does not amount to a deprivation of one's right to work.

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<sup>6</sup> On October 1, 2020, the Court of Appeals for the Third Circuit stayed the district court's order in *County of Butler* pending appeal. [Cnty. of Butler, et al. v. Governor of Pa.](#), 2020 WL 5868393 (3d Cir. Oct. 1, 2020).

TCE avers in its Complaint that the ACHD ordered the restaurant closed solely for its failure to comply with mask or facial covering guidelines. (Compl. at ¶¶19,20.) Plaintiff TCE has not plead facts to support a contention that wearing a facial covering interferes in any way with the “right to earn a living.” The ACHD was forced to suspend TCE’s health permit because of its deliberate and continuous failure to comply with the State’s facial coverings mandate. Moreover, unlike the total shutdown of non-essential business with “no end date,”<sup>7</sup> the health permit suspension is a temporary measure that is solely contingent upon TCE’s own actions. In order to have its permit reinstated, all TCE has to do is comply with the facial coverings mandate. Furthermore, TCE has not averred in its complaint that it has ever shut down the restaurant pursuant to the ACHD’s notice suspending its health permit. In fact, the complaint filed in State Court that TCE has incorporated into its Complaint in its entirety proves the opposite. Case law strongly suggests that Substantive Due Process only extends to situations in which there is some degree of permanence to the loss of liberty or property. [\*Paradise Concepts, Inc. v. Wolf\*, 2020 WL 5121345 at \\*4 \(E.D. Pa. Aug. 31, 2020\)](#) citing [\*Six v. Newsom\*, 462 F. Supp. 3d 1060, ----, No. 20-877, 2020 WL 2896543, at \\*7 \(C.D. Cal. May 22, 2020\)](#) (holding that the right to earn a living “protects against ‘a complete prohibition of the right to engage in a calling’ and not against brief interruptions to that pursuit” (quoting [\*Conn v. Gabbert\*, 526 U.S. 286, 292, 119 S.Ct. 1292, 143 L.Ed.2d 399 \(1999\)](#))).

Lastly, Plaintiff TCE has failed to plead facts to support a conscience-shocking deprivation of their constitutional rights by either Allegheny County or the ACHD. The Supreme Court has “emphasized time and again that ‘[t]he touchstone of due process is protection of the individual against arbitrary action of government.’” [\*County of Sacramento\*](#)

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<sup>7</sup> Quoting from [\*County of Butler v. Wolf\*, 2020 WL 5510690 at 1 \(W.D. Pa. Sept. 14, 2020\)](#).

[v. Lewis](#), 523 U.S. 833, 845 (1998) (quoting [Wolff v. McDonnell](#), 418 U.S. 539, 558 (1974)).

“[O]nly the most egregious official conduct can be said to be arbitrary in the constitutional sense.” [Id.](#) at 846. In other words, “the due process guarantee does not entail a body of constitutional law imposing liability whenever someone cloaked with state authority causes harm.” [Id.](#) at 848. With this backdrop, the Supreme Court held that state action violates due process only when it “shocks the conscience.” [Id.](#) at 846.

For all of these reasons, Plaintiff’s substantive due process claim fails as a matter of law and must be dismissed with prejudice.

#### **E. EQUAL PROTECTION – NO VIOLATION**

The 14th Amendment’s Equal-Protection Clause commands that, “no State shall ... deny to any person within its jurisdiction the equal protection of laws.” [U.S. Const. Amend. XIV](#), § 1. Equal protection does not mean all forms of differential treatment are forbidden. [Nordlinger v. Hahn](#), 505 U.S. 1, 10, 112 S.Ct. 2326, 120 L.Ed.2d 1 (1992) (“Of course, most laws differentiate in some fashion between classes of persons. The Equal Protection Clause does not forbid classifications.”). Instead, equal protection “simply keeps governmental decisionmakers from treating differently persons who are in all relevant respects alike.” [Id.](#) The Equal Protection Clause, “is essentially a direction that all person similarly situated should be treated alike.” [City of Cleburne, Tex. Cleburne Living Ctr.](#), 473 U.S. 432, 439, 105 S.Ct. 3249, 87 L.Ed. 2d 313 (1985). Plaintiff TCE has not plead how it has been treated differently from other *similarly situated* people. Plaintiff TCE has not plead any constitutional right that has been violated. Plaintiff TCE in this count focuses solely on the State’s restriction on occupancy limits. As TCE avers in its Complaint, the ACHD ordered the restaurant closed solely for its failure to comply with mask or facial covering guidelines. (Compl. at ¶¶ 19,20.)



Plaintiff TCE has not and cannot plead facts sufficient to sustain an equal protection violation solely based on the ACHD's suspension of TCE's health permit for its willful violation of the State's mask order.

For these reasons TCE's equal protection claim must be dismissed with prejudice.

#### IV. CONCLUSION

For the foregoing reasons, Defendants respectfully request that this honorable Court grant the present MOTION TO DISMISS PLAINTIFF'S COMPLAINT in its entirety with prejudice. Any attempt or request on the part of Plaintiff for leave to amend its Complaint must be denied as futile since it is clear that the underlying actions upon which it relies are simply insufficient to support the claims asserted.

Respectfully submitted,

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[Frances.Liebenguth@AlleghenyCounty.us](mailto:Frances.Liebenguth@AlleghenyCounty.us)

/s/ Vijyalakshmi Patel

Vijyalakshmi Patel, Esq.  
Attorney for the Plaintiff ACHD  
301 39th Street, Bldg. No. 7  
Pittsburgh, PA 15201-1891  
(412) 578-2653

[Vijya.Patel@AlleghenyCounty.US](mailto:Vijya.Patel@AlleghenyCounty.US)

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

COUNTY OF ALLEGHENY, a political  
subdivision of the Commonwealth of  
Pennsylvania,

CIVIL DIVISION - EQUITY

Plaintiff,

No. GD-20-9809

vs.

COMPLAINT IN CIVIL ACTION - EQUITY

THE CRACKED EGG, LLC,

Code 020

Defendant.

Filed on behalf of Plaintiff

Certificate of Location

Counsel of Record for Plaintiff:

This Equity Complaint affects a tract  
of real property located at 4131  
Brownsville Road, Brentwood,  
Allegheny County, Pennsylvania,  
designated as Parcel I.D. No. 0188-  
N-00133 in the Real Estate Office of  
Allegheny County.

Michael A. Parker, Esq.  
Pa. Id. No.: 90979  
Solicitor  
Allegheny County Health Department

Vijyalakshmi Patel, Esq.  
Pa. Id No.: 319945  
Assistant Solicitor  
Allegheny County Health Department

By: Vijyalakshmi Patel  
Counsel for Plaintiff,  
Allegheny Co. Health Dept.

301 39<sup>th</sup> Street, Bldg. #7  
Pittsburgh, PA 15201  
Tel.: 412-578-2653

2020 SEP 16 PM 3:47  
DEPT OF COMMON RECORDS  
CIVIL/FAMILY DIVISION  
ALLEGHENY COUNTY PA

FILED

T109666  
16 September  
15:47:44  
GD-20-009809

EXHIBIT B

Exhibit A

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

COUNTY OF ALLEGHENY, a political	)	
subdivision of the Commonwealth of	)	CIVIL DIVISION – EQUITY
Pennsylvania,	)	
	)	
Plaintiff,	)	No.: GD-20-
	)	
vs.	)	
	)	
THE CRACKED EGG, LLC,	)	
	)	
Defendant.	)	

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERRAL SERVICE,  
The Allegheny County Bar Association  
11th Floor Koppers Building, 436 Seventh Avenue  
Pittsburgh, Pennsylvania 15219  
Telephone: (412) 261-5555  
www.acbalrs.org



3. The property that The Crack'd Egg operates from is owned by Tri-River Associates II, LLC.

### **BACKGROUND**

4. The ACHD is a local health department organized under the Local Health Administration Law, 16 P.S. §§ 12001-12029 (hereinafter, "LHAL"), whose powers and duties include the enforcement of laws relating to public health within Allegheny County, including, but not limited to ACHD Article III, Food Safety.

5. The LHAL requires that whenever the ACHD's director finds a nuisance detrimental to the public health, the director must order that that nuisance be abated. 16 P.S. § 12012(d).

6. Pursuant to the Pennsylvania Disease Prevention and Control Law of 1955 (hereinafter "DPCL"), the ACHD has primary responsibility for the prevention and control of communicable and non-communicable diseases in Allegheny County. 35 P.S. § 521.3(a).

7. Section 5 of the DPCL states, "Upon receipt by a local board or department of health or by the department, as the case may be, of a report of a disease which is subject to isolation, quarantine, or any other control measure the local board or department of health or the department shall carry out the appropriate control measures in such a manner and in such a place as is provided by rule or regulation." 35 P.S. § 521.5.

8. The DPCL authorizes the State Advisory Health Board to promulgate rules and regulations concerning, "...the communicable diseases which are subject to isolation, quarantine, or other control measures..." 35 P.S. § 521.16(a)(3).

9. The ACHD is a "local health authority" as that term is defined by State Advisory Health Board promulgated regulations. See 28 Pa. Code § 27.1.

10. As a county department of health organized under the LHAL, the ACHD is a "local

morbidity reporting office” or “LMRO”, as that term is defined by the State Advisory Health Board at 28 Pa. Code § 27.1.

11. The State Advisory Health Board has issued a regulation regarding communicable disease control measures which states:

a. “The Department or local health authority shall direct isolation of a person or an animal with a communicable disease or infection; surveillance, segregation, quarantine or modified quarantine of contacts of a person or an animal with a communicable disease or infection; and any other disease control measure the Department or the local health authority considers to be appropriate for the surveillance of disease, when the disease control measure is necessary to protect the public from the spread of infectious agents.

b. The Department and local health authority will determine the appropriate disease control measure based upon the disease or infection, the patient's circumstances, the type of facility available and any other available information relating to the patient and the disease or infection.

c. If a local health authority is not an LMRO, it shall consult with and receive approval from the Department prior to taking any disease control measure.”

28 Pa. Code § 27.60.

12. COVID-19 is a highly infectious, communicable disease caused by a new coronavirus not previously seen in humans. It is a respiratory disease with symptoms including fever, cough, shortness of breath, and difficulty breathing.

13. On March 6, 2020, Pennsylvania Governor Tom Wolf, finding that threat from COVID-19 constitutes a threat of imminent disaster to the health of the citizens of the Commonwealth, made a statewide disaster declaration concerning the COVID-19 pandemic.

14. On March 12, 2020, Allegheny County made a county-wide emergency declaration due to the COVID-19 pandemic according to the ratification by county council.

15. Based on a determination that universal face coverings were an appropriate

control measure for COVID-19, the *Order of the Secretary of the Pennsylvania Department of Health Requiring Universal Face Coverings* (hereinafter, “Universal Face Coverings Order”), was issued by the Commonwealth of Pennsylvania on July 1, 2020.

16. Section 2 of the Universal Face Coverings Order requires the use of face coverings at indoor locations where the public is generally admitted and while engaged in work, including at restaurants.

17. Based on a determination that certain limitations on the occupancy of food service facilities were an appropriate control measure for COVID-19, the *Order of the Secretary of the Pennsylvania Department of Health Directing Targeted Mitigation Measures* (hereinafter, “Targeted Mitigation Order”) (the Universal Face Coverings Order and the Targeted Mitigation Order shall hereinafter collectively be referred to as the “COVID-19 Control Measure Orders”) was issued by the Commonwealth of Pennsylvania on July 15, 2020.

18. Section 1.B.i of the Targeted Mitigation Order requires, *inter alia*, restaurants to limit occupancy to 25% of stated fire code maximum occupancy for indoor dining and to limit occupancy at discrete indoor events or gatherings to 25 persons.

19. Section 1.B.ii of the Targeted Mitigation Order indicates that the occupancy limits imposed by Section 1.B.i include restaurant staff.

20. Section 1.B.iii of the Targeted Mitigation Order requires restaurants to employ social distancing, masking, and other mitigation measures to protect workers and patrons.

21. Section 7 of the Targeted Mitigation Order states, “Enforcement of this Order will begin on the effective date. All Commonwealth agencies involved in the licensing or inspection of any of the above-described facilities are directed to increase their enforcement efforts to ensure compliance with these critical mitigation measures. All local officials currently involved

or able to be involved in the Commonwealth's enforcement efforts are called upon to enforce these critical mitigation measures.

22. On October 5, 2015, the ACHD issued a permit to The Cracked Egg, LLC for the operation of The Crack'd Egg, client number 201510290005.

23. From July 1, 2020 through the present, The Cracked Egg, LLC has repeatedly violated orders issued by the Commonwealth of Pennsylvania and the ACHD's Article III at The Crack'd Egg.

24. The ACHD has initiated this suit to seek all remedies available under Article III and the ACHD's Rules and Regulations Article XVI, Environmental Health Civil Penalties, (hereinafter "Article XVI") regarding COVID-19 violations. Furthermore, ACHD seeks those remedies including injunctive relief and the imposition of civil penalties.

**COUNT 1:  
VIOLATION OF COMMONWEALTH OF PENNSYLVANIA COVID-19  
CONTROL MEASURE ORDERS:  
UNIVERSAL FACE COVERING AND OTHER MITIGATION MEASURES**

25. The averments set forth in Paragraphs 1-24 are incorporated by reference as though fully set forth below.

26. In accordance with the COVID-19 Control Measure Orders, The Crack'd Egg must require all employees and patrons to wear face coverings when on the premises of the facility, employ proper social distancing measures, and cease using the bar area for customer seating.

27. On or about June 19, 2020, the ACHD began receiving complaints from the public regarding failure to comply with the COVID-19 Control Measure Orders at The Crack'd Egg. To date, the ACHD has received 16 complaints concerning failure to comply with the COVID-19 Control Measure Orders at The Crack'd Egg.



28. In response to these citizen complaints, the ACHD sent representatives to investigate the compliance status of The Crack'd Egg on July 1, 2020. During that onsite visit, ACHD representatives observed public-facing employees not wearing masks when interacting with customers and multiple customers not wearing masks as they entered the facility. These observations were documented in an Inspection Report, dated July 1, 2020, and attached hereto as Exhibit "A".

29. During the July 1, 2020 onsite visit at The Crack'd Egg, the ACHD representatives provided guidance on control measure order compliance.

30. Despite the compliance guidance provided to The Crack'd Egg on July 1, 2020, the ACHD continued to receive citizen complaints about failure to comply with COVID-19 control measure orders issued by the Governor and the County at the The Crack'd Egg.

31. On July 28, 2020, due to the continued citizen complaints, ACHD representatives conducted another onsite inspection for COVID-19 assessment. During this onsite inspection, ACHD representatives observed employees and patrons not wearing face masks. These observations were documented in a COVID-19 Assessment Report, dated July 28, 2020, and attached hereto as Exhibit "B".

32. On August 5, 2020, due to continued citizen complaints, ACHD representatives conducted a third onsite inspection. During this onsite inspection, ACHD representatives observed food safety violations of Article III and COVID-19 violations, including public-facing employees working without wearing face masks, patrons admitted into facility without face masks, permitting the use of a bar area, and failure to sufficiently space apart outdoors seats. These observations were documented in an Inspection Report, dated August 5, 2020, and attached hereto as Exhibit "C".

33. During the August 5, 2020 onsite visit at The Crack'd Egg, the ACHD representatives

provided guidance on control measure order compliance and provided the facility with a COVID-19 Safety Procedures for Businesses poster to be posted at the facility.

34. On August 7, 2020, ACHD representatives conducted a follow-up onsite inspection. During this onsite inspection, ACHD representatives observed food safety violations of Article III and COVID-19 violations, including public-facing employees working without wearing face masks, patrons admitted into facility without face masks, and failure to sufficiently space apart outdoors seats. These observations were documented in an Inspection Report, dated August 7, 2020, and attached hereto as Exhibit "D".

35. During the August 7, 2020 onsite visit at The Crack'd Egg, the ACHD representatives provided guidance on control measure order compliance and corrective actions for the violations identified.

36. On August 11, 2020, ACHD representatives conducted a partial onsite reinspection to assess COVID-19 compliance. During this onsite inspection, ACHD representatives observed public-facing employees working without wearing face masks and a patron admitted into the facility without a face mask. These observations were documented in an Inspection Report, dated August 11, 2020, and attached hereto as Exhibit "E".

37. Due to continued non-compliance with the COVID-19 Control Measure Orders observed on the August 11<sup>th</sup> Inspection, the ACHD determined that The Crack'd Egg's failure to comply with the COVID-19 Control Measure Orders constituted an imminent danger to the public health and, on August 11, 2020, issued, pursuant to the authority granted by Article III § 337.1, an immediate permit suspension order to The Crack'd Egg (hereinafter "Permit Suspension Order"). The Permit Suspension Order is attached hereto as Exhibit "F".

38. These recorded instances during which The Crack'd Egg operated in violation of the

COVID-19 Control Measure Orders, as averred in Paragraphs 28-36, necessitated the commencement of this enforcement action.

**COUNT 2:  
VIOLATION OF ARTICLE III § 337.1:  
PERMIT SUSPENSION**

39. The averments set forth in Paragraphs 1-38 are incorporated by reference as though fully set forth below.

40. Article III § 337.1 states as follows:

If the Director finds there is imminent danger to the public health the permit shall immediately be suspended. Any person whose permit has been suspended under this section shall upon written request be entitled to a hearing pursuant to Article XI, "Hearings and Appeals", of the Allegheny County Rules and Regulations. Upon suspension or revocation of a permit, the Director shall immediately post a notice of permit suspension or revocation in plain view at all customer entrances to the premises. Such notice shall not be concealed or removed. Removal shall be only at the direction of the Department. A person whose permit has been suspended shall have the permit reinstated upon completion of the corrective action required by the Director and an inspection verifying such corrections. It shall be unlawful to operate a food facility with a suspended permit.

41. On August 13, 2020 and on subsequent dates, an organization entitled Entrepreneurs Against Tyranny posted on social media that The Crack'd Egg will host an event at its premises on August 24, 2020. The social media posts are attached hereto as Exhibit "G".

42. On August 21, 2020, the ACHD issued a warning letter to The Crack'd Egg that opening the facility will result in violations of the Department's Article III (hereinafter "Warning Letter"). The Warning Letter is attached here to as Exhibit "H".

43. During on-site observations conducted on August 24, 2020 through August 28, 2020, inclusive, August 31, 2020 through September 4, 2020, inclusive, and September 10, 2020, ACHD representatives observed continued operations at The Crack'd Egg in violation of the Permit

Suspension Order. During those on-site observations, ACHD representatives also observed continued violations of the COVID-19 Control Measure Orders. The observations were documented in a series of memorandums and photographs attached hereto as Exhibit "I".

44. On August 26, 2020, August 27, 2020, and August 28, 2020, The Crack'd Egg concealed the closure placard placed by the ACHD on its facility, in violation of Article III § 337.1.

45. On August 31, 2020, September 1, 2020, September 2, 2020, September 3, 2020, September 4, 2020, and September 10, 2020, the closure placard placed by the ACHD on The Crack'd Egg was not posted, in violation of Article III § 337.1.

46. The Crack'd Egg blatantly advertised its deliberate intention to operate and actual operation in spite of the Permit Suspension Order on Facebook. Those advertisements were posted to The Crack'd Egg's Facebook page on August 12, 2020, August 17, 2020, August 31, 2020, and September 1, 2020. PDF copies of those Facebook posts are collectively attached hereto as Exhibit "J".

47. To date, The Cracked Egg, LLC has not filed an appeal of the Permit Suspension Order with the ACHD.

48. These recorded instances during which The Crack'd Egg violated Article III § 337.1 by operating and either concealing or removing the closure placard, as averred in Paragraphs 43-45, necessitated the commencement of this enforcement action.

**WHEREFORE**, the ACHD respectfully requests this honorable Court to find in favor of Plaintiff Allegheny County and against Defendant The Cracked Egg, LLC on all Counts averred in this Complaint and grant the following relief:

- a. Enter judgment declaring The Cracked Egg, LLC failed to comply with the

Commonwealth of Pennsylvania's COVID-19 Control Measure Orders and Article III § 337.1.

b. Enjoin The Crack'd Egg from operating until a COVID-19 compliance plan is submitted to and approved by the ACHD.

c. Direct The Cracked Egg, LLC to pay to the ACHD Food Safety Fund civil penalties consistent with Article XVI §1605 and Article III §337.4(D) prior to re-opening for violations of its ACHD permit.

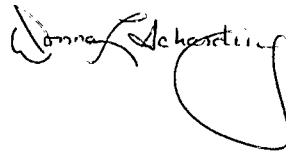
d. Grant any such other relief as the Court deems necessary and/or appropriate.

Date: 9/14/2020

By: Vijya Patel  
Vijyalakshmi Patel, Esq.  
Attorney for the Plaintiff Allegheny County  
301 39th Street, Bldg. No. 7  
Pittsburgh, PA 15201-1891  
Tel.: 412-578-2653  
Email: Vijya.Patel@AlleghenyCounty.US

VERIFICATION

I, Donna L. Scharding, certify that I am authorized to make this verification on Plaintiff's behalf. I hereby verify that the averments made in the foregoing COMPLAINT IN CIVIL ACTION – EQUITY are true and correct to the best of my knowledge, information, and belief. I understand that this verification is made subject to the penalties provided in 18 P.S. § 4904, relating to unsworn falsification to authorities.



9-14-20  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Donna Scharding  
Food Safety Program Manager  
Allegheny County Health Department  
For the Plaintiff



ALLEGHENY COUNTY HEALTH DEPARTMENT

FOOD SAFETY PROGRAM  
 3901 PENN AVE,  
 PITTSBURGH, PA 15224  
 PHONE: 412-578-8044 FAX: 412-578-8190

FOOD SAFETY ASSESSMENT  
 REPORT

Client ID: 201510290005 Client Name: The Crack'd Egg  
 Address: 4131 Brownsville Road Inspection Date: 07/01/2020  
 City: Pittsburgh State: PA Zip: 15227 Purpose: Complaint  
 Municipality: Brentwood Inspector: Nakkeow, Varangkorn Permit Exp. Date: 10/31/2020  
 Category Code: 211-Restaurant without Liquor Priority Code: H  
 Re-Inspection: No - Inspector Re-Inspection Date:

Food Safety Assessment Categories	◆	Assessment Status				Violation Risk		
		S	NO	NA	V	High	Med.	Low
1 Food Source/Condition								
2 Cooking Temperatures #								
3 Consumer Advisory								
4 Reheating Temperatures #								
5 Cooling Food #								
6 Hot Holding Temperatures #								
7 Cold Holding Temperatures #								
8 Facilities to Maintain Temperature								
9 Date Marking of Food								
10 Probe-Type Thermometers								
11 Cross-Contamination Prevention #								
12 Employee Health #								
13 Employee Personal Hygiene #								
14 Cleaning and Sanitization #								
15 Water Supply								
16 Waste Water Disposal								
17 Plumbing								
18 Handwashing Facilities								
19 Pest Management #								
20 Toxic Items								
21 Certified Food Protection Manager								
22 Demonstration of Knowledge								
23 Contamination Prevention - Food, Utensils and Equipment								
24 Fabrication, Design, Installation and Maintenance								
25 Toilet Room								
	0	0	0	0	0	0	0	0

General Sanitation	◆	Assessment Status				Violation Risk		
		S	NO	NA	V	High	Med.	Low
26 Garbage and Refuse								
27 Floors								
28 Walls and ceilings								
29 Lighting								
30 Ventilation								
31 Dressing rooms and Locker rooms								
32 General Premises								
33 Administrative					x			
	0	0	0	0	1	0	0	0
# U.S. Centers for Disease Control and Prevention "high risk" for	0	0	0	0	1			

◆ - Diamond Exceptional  
 Client # 201510290005

S - Satisfactory NO - Not Observed NA - Not Applicable V - Violation





ALLEGHENY COUNTY HEALTH DEPARTMENT

FOOD SAFETY PROGRAM

3901 PENN AVE,  
PITTSBURGH, PA 15224

PHONE: 412-578-8044 FAX: 412-578-8190

FOOD SAFETY ASSESSMENT  
REPORT

INSPECTION DETAILS

<b>Inspector Name:</b> Nakkeow , Varangkorn	<b>Balance Amount:</b> \$0.00
<b>Placarding:</b> Inspected & Permitted	<b>Contact:</b> Kimberly & Don Waigar
<b>Start Time:</b> 09:50:00 AM <b>End Time:</b> 11:00:00 AM	<b>Phone:</b> (412) 881-3000

**Violation:** 33 Administrative

**Comments:**

- Facility is not complying with the mask usage guidelines. 3 - 4 public facing employees not wearing masks when interacting with customers.
- Multiple customers observed entering the facility with no mask on during inspection.

**Food Code Section(s):** 330

**Corrective Action:** Wear a mask or a facial covering.

**Other Assessment observations and comments:**

**Exceptional Observations:**

**General Comments:**

- Inspection conducted as a follow-up to multiple received complaints of no mask usage. Facility owner present at the time of inspection. Multiple employees observed without masks or facial covering. No enforcement of mask usage for customers entering the facility. Owner, as of today, will speak to her public-interfacing employees about wearing a mask. Owner will continue to provide disposable surgical masks. Signs are placed at the reception desk and on the sign board outside. Discussed mask usage guidelines, who and where a mask needs to be worn, and policy going forward. Owner feels it is a violation of personal rights to force employees to wear a mask. See attached files.

Update: 7/7/2020

Facility kitchen is large enough to accomodate three employees without crowding. Owner stated that there is no more than 2 cooks and a single dish washer present at any given time.





ALLEGHENY COUNTY HEALTH DEPARTMENT

FOOD SAFETY PROGRAM

COVID-19 ASSESSMENT REPORT

3901 PENN AVE,  
PITTSBURGH, PA 15224  
PHONE: 412-578-8044 FAX: 412-578-8190

Client ID: 201510290005 Client Name: The Crack'd Egg  
 Address: 4131 Brownsville Road Date: 07/28/2020  
 City: Pittsburgh State: PA Zip: 15227 Purpose: COVID-19 Assessment  
 Municipality: Brentwood Assessor: K012983  
 Category Code: 211-Restaurant without Liquor

Assessment Categories	Assessment	
	Satisfactory	Unsatisfactory
Indoor occupancy (25%)	x	
Tables 6 feet apart	x	
Closed bar seating	x	
Face coverings by staff		x
Table service only	x	
Zero tobacco usage	x	
Closed by 11:00 pm	x	
	6	1
	6	1

ASSESSMENT DETAILS

Assessor: K012983 Contact: Kimberly & Don Waigar  
 Start Time: 12:10:00 PM End Time: Phone: (412) 881-3000

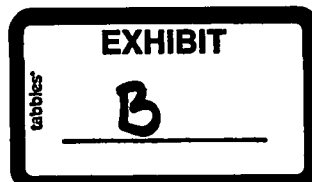
Unsatisfactory

Face coverings by staff

Comments: Masks not required for staff or patrons. Masks are made available though.

Other assessment observations and comments:

Tables 6 feet apart Satisfactory  
 Every other table sat.  
 Closed bar seating Satisfactory  
 N/A  
 Table service only Satisfactory  
 N/A





ALLEGHENY COUNTY HEALTH DEPARTMENT

FOOD SAFETY PROGRAM

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PHONE: 412-578-8044 FAX: 412-578-8190

FOOD SAFETY ASSESSMENT  
REPORT

Client ID: 201510290005 Client Name: The Crack'd Egg  
 Address: 4131 Brownsville Road Inspection Date: 08/05/2020  
 City: Pittsburgh State: PA Zip: 15227 Purpose: Initial, Compla  
 Municipality: Brentwood Inspector: Nakkeow, Varangkorn Permit Exp. Date: 10/31/2020  
 Category Code: 211-Restaurant without Liquor Priority Code: 1  
 Re-Inspection: Yes - Inspector Re-Inspection Date: 08/06/2020

Food Safety Assessment Categories	◆	Assessment Status				Violation Risk		
		S	NO	NA	V	High	Med.	Low
1 Food Source/Condition					x			x
2 Cooking Temperatures #		x						
3 Consumer Advisory		x						
4 Reheating Temperatures #			x					
5 Cooling Food #					x	x		x
6 Hot Holding Temperatures #		x						
7 Cold Holding Temperatures #					x	x		
8 Facilities to Maintain Temperature		x						
9 Date Marking of Food					x			x
10 Probe-Type Thermometers		x						
11 Cross-Contamination Prevention #		x						
12 Employee Health #		x						
13 Employee Personal Hygiene #		x						
14 Cleaning and Sanitization #					x	x		x
15 Water Supply		x						
16 Waste Water Disposal		x						
17 Plumbing		x						
18 Handwashing Facilities		x						
19 Pest Management #					x			x
20 Toxic Items					x		x	
21 Certified Food Protection Manager		x						
22 Demonstration of Knowledge					x		x	
23 Contamination Prevention - Food, Utensils and Equipment		x						
24 Fabrication, Design, Installation and Maintenance					x			x
25 Toilet Room		x						
	0	15	1	0	9	3	2	6

General Sanitation	◆	Assessment Status				Violation Risk		
		S	NO	NA	V	High	Med.	Low
26 Garbage and Refuse					x			x
27 Floors		x						
28 Walls and ceilings		x						
29 Lighting		x						
30 Ventilation					x			x
31 Dressing rooms and Locker rooms				x				
32 General Premises		x						
33 Administrative					x			
	0	4	0	1	3	0	0	2
# U.S. Centers for Disease Control and Prevention "high risk" for	0	19	1	1	12			

◆ - Diamond Exceptional S - Satisfactory NO - Not Observed NA - Not Applicable V- Violation

Client # 201510290005





ALLEGHENY COUNTY HEALTH DEPARTMENT

FOOD SAFETY PROGRAM

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PHONE: 412-578-8044 FAX: 412-578-8190

FOOD SAFETY ASSESSMENT  
REPORT

INSPECTION DETAILS

<b>Inspector Name:</b> Nakkeow , Varangkorn	<b>Balance Amount:</b> \$0.00
<b>Placarding:</b> Inspected & Permitted	<b>Contact:</b> Kimberly & Don Waigar
<b>Start Time:</b> 09:50:00 AM	<b>End Time:</b> 12:40:00 PM
	<b>Phone:</b> (412) 881-3000

**Violation:** 1 Food Source/Condition

**Comments:** \*LOW RISK\*  
- Bulk storage of dry ingredients such as a flour stored in a three-compartment plastic rolling bin in the basement preparation area.. No labels present for the bulk items.

**Food Code Section(s):** 303

**Corrective Action:** - Properly label.

**Violation:** 5 Cooling Food

**Comments:** \*HIGH RISK\*\*\*  
- Plastic gallon sized container of sausage gravy and a 2/3 insert pan of home fries found cooling improperly. Temperature of the home fries between 77-96°F after 3 hours. Sausage gravy, temperatures reported by the operator between 72-77°F after 3 hours, when taken by the inspector, temperatures found at 85°F. Products discarded during inspection.

\*LOW RISK\*

- Cooling charts incorrectly filled out and time/temperatures not met during monitoring.  
- Incorrect cooling procedures in place. Ice baths used do not meet the level of the food and the containers do not provide sufficient amounts of ice/water. Containers are almost equal in size.

**Food Code Section(s):** 304

**Corrective Action:** Use approved means such as blast chillers or adding ice to a condensed food.

**Corrective Action:** Cool cooked foods in uncovered metal containers 4 inches or less in depth or in pieces smaller than 4 pounds.

**Violation:** 7 Cold Holding Temperatures

**Comments:** \*HIGH RISK\*\*\*  
- Portions of sliced cheeses wrapped in plastic found stored at 53°F in the upper compartment of the preparation cooler across from the cook line of the kitchen. Product moved to the lower compartment of the preparation cooler.

**Food Code Section(s):** 303

**Corrective Action:** Food must be held at 41° F or below

**Violation:** 9 Date Marking of Food

**Comments:** \*LOW RISK\*  
- Prepared foods found stored and labeled with preparation dates and no discard dates throughout the facility.

**Food Code Section(s):** 304

**Corrective Action:** Properly label foods

**Corrective Action:** Discard date = Preparation date + 6 days.



ALLEGHENY COUNTY HEALTH DEPARTMENT

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PHONE: 412-578-8044 FAX: 412-578-8190

FOOD SAFETY ASSESSMENT  
REPORT

**Violation:**

**14 Cleaning and Sanitization**

**Comments:**

\*HIGH RISK\*\*\*

- Deli slicer in the basement preparation area found soiled with a layer of old food debris on the backside of the cutting blade. Operator cleaned the unit during inspection.

\*LOW RISK\*

- Facility lacks test strips for low temperature chlorine dish machine behind the breakfast bar.  
- Gaskets of the lower compartments of the preparation coolers found soiled with food debris present.

- Unidentifiable pink slime found present along the inside lip of the ice machine chute.

**Food Code Section(s):** 312

**Corrective Action:**

Clean and sanitize food-contact surfaces of equipment and utensils after each use and following any interruption of operations, during which time, contamination may have occurred utilizing the following procedure:

1. Wash- hot soapy water.
2. Rinse-clear water.
3. Sanitize-approved sanitizer and water.
4. Air-dry.

**Corrective Action:**

Clean and maintain non-food-contact surfaces of equipment

**Corrective Action:**

Provide appropriate test strips or monitoring equipment

**Violation:**

**19 Pest Management**

**Comments:**

\*LOW RISK\*

- Screen door in the basement that leads to the rear of the facility has multiple gaps present between the door and the frame. Visible light comes through around the door when closed. Seal.

**Food Code Section(s):** 319

**Corrective Action:**

Eliminate harborage area, food sources, and entry sites

**Violation:**

**20 Toxic Items**

**Comments:**

\*MEDIUM RISK\*\*

- Kitchen:

-- Stainless steel polish stored above the hand sink/preparation where eggs are being actively cooled under running water next to the dish machine.

-- Spray cleaner stored on top of the ice machine and food preparation table next to the pass.

-- Compressed gas canisters and torch stored above the preparation table next to the right side range burners where food is being actively cooled.

- Basement:

-- Chemical cleaning agents, such as Comet stored above the preparation area across from the walk-in.

**Food Code Section(s):** 325

**Corrective Action:**

Store chemicals below or separate from food and food contact surfaces

**Violation:**

**22 Demonstration of Knowledge**

**Comments:**

\*MEDIUM RISK\*\*

- Kitchen manager unaware of proper cooling procedures.

**Food Code Section(s):** 336

**Corrective Action:**

Temperature Control - Cooling



## ALLEGHENY COUNTY HEALTH DEPARTMENT

FOOD SAFETY PROGRAM

3901 PENN AVE,  
PITTSBURGH, PA 15224

PHONE: 412-578-8044 FAX: 412-578-8190

FOOD SAFETY ASSESSMENT  
REPORT**Violation:****24 Fabrication, Design, Installation and Maintenance****Comments:**

\*LOW RISK\*

- Facility is using milk crates throughout the facility to elevate food items, such as cases of eggs and pancake batter from the floor in the walk-in cooler.
- Facility is using milk crates behind the breakfast bar to elevate utensils and single service articles from the floor.

**Food Code Section(s):** 309**Corrective Action:**

Repair / replace equipment

**Violation:****26 Garbage and Refuse****Comments:**

\*LOW RISK\*

- Dumpster stored on grass and dirt next to the paved parking lot behind the facility.

**Food Code Section(s):** 318**Corrective Action:**

Provide smooth, well-drained, easily cleaned surface

**Violation:****30 Ventilation****Comments:**

\*LOW RISK\*

- Cooking equipment not completely installed under the ventilation hood. Overhang not present along the left side of the ventilation hood over the range burners.

**Food Code Section(s):** 323**Corrective Action:**

Install equipment completely under hood / Provide sufficient overhang

**Violation:****33 Administrative****Comments:**

- Failure to comply with mandate requiring face coverings. Three employees working without masks or other face coverings.
- Failure to comply with requirement of patrons/guests entering into the facility with mask or face covering. Two guests observed entering the facility, not wearing a mask or face covering.
- Failure to comply with spacing and seating. Breakfast bar in-use and lack of spacing of outdoor seats. Breakfast bar accommodates five guests and seats are not spaced apart.

**Food Code Section(s):** 330**Corrective Action:**

Comply with government guidelines.

**Other Assessment observations and comments:****Exceptional Observations:****General Comments:**

Inspection conducted with Rachel Casteel, EHS I, in response to repeated complaints of no mask/facial covering usage. Facility does not require employees to wear a mask. No supply of masks observed during inspection. Public facing employees observed not wearing masks. Guests not wearing masks allowed into the facility without notice to have a mask or facial covering put on. Breakfast bar in-use for guest seating and dining. Bar accommodates five guests, but do not space out the seating. Facility does not have the COVID-19 Safety Procedures for Businesses poster posted. Discussed COVID-19 operating procedures and guidelines with the manager after report review. Facility given 24 hours for compliance, reinspection scheduled for 8/6/2020 to ensure compliance. Facility provided with the poster for COVID-19 Safety Procedures for Businesses to have filled out and displayed. In regards to the kitchen temperatures, ambient air temperature 88°F and spacing is available for distancing. Spacing of in-use tables is in adequate for the outdoor dining area. See uploaded images. Indoor dining and use of tables could not be identified due to decreased facility traffic.



ALLEGHENY COUNTY HEALTH DEPARTMENT

FOOD SAFETY PROGRAM

3901 PENN AVE,  
PITTSBURGH, PA 15224  
PHONE: 412-578-8044 FAX: 412-578-8190

FOOD SAFETY ASSESSMENT  
REPORT

Client ID: 201510290005 Client Name: The Crack'd Egg  
 Address: 4131 Brownsville Road Inspection Date: 08/07/2020  
 City: Pittsburgh State: PA Zip: 15227 Purpose: Reinspection  
 Municipality: Brentwood Inspector: Nakkeow, Varangkorn Permit Exp. Date: 10/31/2020  
 Category Code: 211-Restaurant without Liquor Priority Code: H  
 Re-Inspection: Yes - Inspector Re-Inspection Date: 08/10/2020

Food Safety Assessment Categories	Assessment Status	Violation Risk		
		High	Med.	Low
1 Food Source/Condition	◆ S NO NA V	x		
2 Cooking Temperatures #				
3 Consumer Advisory				
4 Reheating Temperatures #				
5 Cooling Food #			x	
6 Hot Holding Temperatures #				
7 Cold Holding Temperatures #			x	
8 Facilities to Maintain Temperature				
9 Date Marking of Food				x
10 Probe-Type Thermometers				
11 Cross-Contamination Prevention #				
12 Employee Health #				
13 Employee Personal Hygiene #				
14 Cleaning and Sanitization #		x		
15 Water Supply				
16 Waste Water Disposal				
17 Plumbing				
18 Handwashing Facilities				
19 Pest Management #				x
20 Toxic Items				x
21 Certified Food Protection Manager				
22 Demonstration of Knowledge				x
23 Contamination Prevention - Food, Utensils and Equipment				
24 Fabrication, Design, Installation and Maintenance				x
25 Toilet Room				
	0 1 0 0 8	2	3	3

General Sanitation	Assessment Status	Violation Risk		
		High	Med.	Low
26 Garbage and Refuse	◆ S NO NA V			x
27 Floors				
28 Walls and ceilings				
29 Lighting				
30 Ventilation				x
31 Dressing rooms and Locker rooms				
32 General Premises				
33 Administrative				x
	0 0 0 0 3	0	0	2

# U.S. Centers for Disease Control and Prevention "high risk" for

0	1	0	0	11
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◆ - Diamond Exceptional S - Satisfactory NO - Not Observed NA - Not Applicable V - Violation

Client # 201510290005





ALLEGHENY COUNTY HEALTH DEPARTMENT

FOOD SAFETY PROGRAM

3901 PENN AVE,  
PITTSBURGH, PA 15224

PHONE: 412-578-8044 FAX: 412-578-8190

FOOD SAFETY ASSESSMENT  
REPORT

INSPECTION DETAILS

Inspector Name: Nakkeow, Varangkorn      Balance Amount: \$0.00  
 Placarding: Inspected & Permitted      Contact: Kimberly & Don Waigar  
 Start Time: 10:00:00 AM      End Time: 01:00:00 PM      Phone: (412) 881-3000

**Violation:** 1 Food Source/Condition

**Comments:** \*HIGH RISK\*\*\*  
 - Manufactured vacuum packaged frozen beef found thawing in the middle compartment of the three-bowl sink located in the basement preparation area. Water temperature 55°F and the source of the water is the drain from the ice machine. Discontinue practice. Water from ice machine drain is considered waste water.  
 - Pooled eggs being served to highly susceptible populations.  
  
 -- Re-inspection comment:  
 - Bins labeled with common name of products.

**Food Code Section(s):** 301 ; 302

**Corrective Action:** Discard/remove food that is not in sound condition or not from an approved source.

**Violation:** 5 Cooling Food

**Comments:** \*MEDIUM RISK\*\*  
 - Falsified temperatures on cooling charts identified. Listed "homies" or home fries to be at 40°F, but when checked, the temperatures range between 52-55°F depending on location inside the insert pan. Pan found stored covered in the basement walk-in cooler.  
 - Improper cooling procedures in-place for cooling. Ice baths incorrectly setup. Ice and water do not reach the top level. Facility is placing ice in an equally sized pan under the product to be cooled and ice on top of the product container in an effort to cool. Discontinue practice.

**Food Code Section(s):** 304

**Corrective Action:** Monitor cooling temperatures of leftover food or foods prepared in advance

**Corrective Action:** Record cooling temperature on charts

**Corrective Action:** Retain cooling charts for at least 30 days

**Corrective Action:** Properly chart food temperatures.

**Violation:** 7 Cold Holding Temperatures

**Comments:** \*HIGH RISK\*\*\*  
 - Pooled eggs found at 45°F in the upper compartment of the preparation located across from the range burners at the end of the cook line.

**Food Code Section(s):** 303

**Corrective Action:** Food must be held at 41° F or below

**Violation:** 9 Date Marking of Food

**Comments:** \*LOW RISK\*  
 - Facility is date-marking with +7 days to the preparation date.

**Food Code Section(s):** 304

**Corrective Action:** Properly label foods

**Corrective Action:** Discard date = Preparation date + 6 days.



## ALLEGHENY COUNTY HEALTH DEPARTMENT

FOOD SAFETY PROGRAM

3901 PENN AVE,

PITTSBURGH, PA 15224

PHONE: 412-578-8044 FAX: 412-578-8190

FOOD SAFETY ASSESSMENT  
REPORT**Violation:****19 Pest Management****Comments:**

\*LOW RISK\*

- Screen door in the basement that leads to the rear of the facility has multiple gaps present between the door and the frame. Visible light comes through around the door when closed. Seal.

Food Code Section(s): 318

**Corrective Action:**

Eliminate harborage area, food sources, and entry sites

**Violation:****20 Toxic Items****Comments:**

\*MEDIUM RISK\*\*

- Stainless steel polish stored above the hand sink/preparation where eggs are being actively cooled under running water next to the dish machine.

Food Code Section(s): 325

**Corrective Action:**

Store chemicals below or separate from food and food contact surfaces

**Violation:****22 Demonstration of Knowledge****Comments:**

\*MEDIUM RISK\*\*

- Owner is unaware of proper cooling procedures. Owner is taking the servsafe course on Monday, 8/10/2020.

Food Code Section(s): 336

**Corrective Action:**

Temperature Control - Cooling.

**Violation:****24 Fabrication, Design, Installation and Maintenance****Comments:**

\*LOW RISK\*

- Facility is using milk crates throughout the facility to elevate food items, such as cases of eggs and pancake batter from the floor in the walk-in cooler.  
- Facility is using milk crates behind the breakfast bar to elevate utensils and single service articles from the floor.  
- Facility is using milk crates in the lower compartment of the preparation cooler across from the range burner at the end of the cook line.

Food Code Section(s): 309

**Corrective Action:**

Resurface / replace

**Corrective Action:**

Provide approved, NSF standard equipment

**Violation:****26 Garbage and Refuse****Comments:**

\*LOW RISK\*

- Dumpster stored on grass and dirt next to the paved parking lot behind the facility.

Food Code Section(s): 318

**Corrective Action:**

Provide smooth, well-drained, easily cleaned surface

**Violation:****30 Ventilation****Comments:**

\*LOW RISK\*

- Cooking equipment not completely installed under the ventilation hood. Overhang not present along the left side of the ventilation hood over the range burners. Kitchen temperature between 87-88°F.

Food Code Section(s): 323

**Corrective Action:**

Install equipment completely under hood / Provide sufficient overhang





ALLEGHENY COUNTY HEALTH DEPARTMENT

FOOD SAFETY PROGRAM  
3901 PENN AVE,  
PITTSBURGH, PA 15224  
PHONE: 412-578-8044 FAX: 412-578-8190

FOOD SAFETY ASSESSMENT  
REPORT

**Violation:**

**33 Administrative**

**Comments:**

- Failure to comply with mandate requiring face coverings. Five employees working without masks or other face coverings.
- Failure to comply with spacing and seating. Spacing of tables for outdoor seating are not adequately spaced apart. Guests observed grouped up in the patio dining area.
- Failure to comply with requirement of patrons/guests entering into the facility with mask or face covering. Two guests observed entering the facility, not wearing a mask or face covering.
- Tables stated to be not in-use are not marked with indicators. Owner stated that tables to be used are marked with welcome signs.

**Food Code Section(s):** 330

**Corrective Action:** Comply with government guidelines and mandates.

**Other Assessment observations and comments:**

**14 Cleaning and Sanitization Satisfactory**

- Deli slicer in the basement preparation area is clean.
- Test strips provided for the breakfast bar area.
- No pink slime identified inside the ice machine chute.

**Exceptional Observations:**

**General Comments:**

Administrative conference with the owner, Kim Waigand, regarding COVID-19 guidelines and policies. Discussed corrective actions to the violations identified. Inspection conducted with Rachel Casteel, EHS I, and Janet Russo, EH Supervisor in regards to complaints of no mask usage in the facility by public facing employees. Public facing employees observed not wearing masks. Guests not wearing masks allowed into the facility without notice to have a mask or facial covering put on.



ALLEGHENY COUNTY HEALTH DEPARTMENT

FOOD SAFETY PROGRAM

3901 PENN AVE,  
PITTSBURGH, PA 15224

PHONE: 412-578-8044 FAX: 412-578-8190

FOOD SAFETY ASSESSMENT  
REPORT

**Client ID:** 201510290005  
**Address:** 4131 Brownsville Road  
**City:** Pittsburgh  
**Municipality:** Brentwood  
**Category Code:** 211-Restaurant without Liquor  
**Re-Inspection:** Pending - Inspector

**Client Name:** The Crack'd Egg  
**State:** PA **Zip:** 15227  
**Inspector:** Nakkeow, Varangkorn  
**Re-Inspection Date:**

**Inspection Date:** 08/11/2020  
**Purpose:** Partial ReInsp  
**Permit Exp. Date:** 10/31/2020  
**Priority Code:** H

Food Safety Assessment Categories	◆	Assessment Status				Violation Risk		
		S	NO	NA	V	High	Med.	Low
1 Food Source/Condition								
2 Cooking Temperatures #								
3 Consumer Advisory								
4 Reheating Temperatures #								
5 Cooling Food #								
6 Hot Holding Temperatures #								
7 Cold Holding Temperatures #								
8 Facilities to Maintain Temperature								
9 Date Marking of Food								
10 Probe-Type Thermometers								
11 Cross-Contamination Prevention #								
12 Employee Health #								
13 Employee Personal Hygiene #								
14 Cleaning and Sanitization #								
15 Water Supply								
16 Waste Water Disposal								
17 Plumbing								
18 Handwashing Facilities								
19 Pest Management #								
20 Toxic Items								
21 Certified Food Protection Manager								
22 Demonstration of Knowledge								
23 Contamination Prevention - Food, Utensils and Equipment								
24 Fabrication, Design, Installation and Maintenance								
25 Toilet Room								
	0	0	0	0	0	0	0	0

General Sanitation	◆	Assessment Status				Violation Risk		
		S	NO	NA	V	High	Med.	Low
26 Garbage and Refuse								
27 Floors								
28 Walls and ceilings								
29 Lighting								
30 Ventilation								
31 Dressing rooms and Locker rooms								
32 General Premises								
33 Administrative					x			
	0	0	0	0	1	0	0	0
# U.S. Centers for Disease Control and Prevention "high risk" for	0	0	0	0	1			

◆ - Diamond Exceptional  
Client # 201510290005

S - Satisfactory NO - Not Observed NA - Not Applicable V- Violation





ALLEGHENY COUNTY HEALTH DEPARTMENT

FOOD SAFETY PROGRAM  
 3901 PENN AVE,  
 PITTSBURGH, PA 15224  
 PHONE: 412-578-8044 FAX: 412-578-8190

FOOD SAFETY ASSESSMENT  
 REPORT

INSPECTION DETAILS

<b>Inspector Name:</b> Nakkeow , Varangkorn	<b>Balance Amount:</b> \$0.00
<b>Placarding:</b> Closure/Imminent Hazard	<b>Contact:</b> Kimberly & Don Waigar
<b>Start Time:</b> 12:30:00 PM	<b>End Time:</b> 01:45:00 PM
	<b>Phone:</b> (412) 881-3000

**Violation:** 33 Administrative

**Comments:** 330.1b  
 - Failure to comply with mask or facial covering guidelines. 4 employees who take orders and deliver food to guests observed not wearing facial coverings. Facility owner observed not wearing a facial covering. Observed one guest enter the facility without a mask or facial covering and proceeded to seat himself.  
 - Facility will remain closed for 7 days. Do not conceal or remove the closure placard. A reinspection must be requested and an inspection must be conducted prior to permit reinstatement.

337.1  
 - Summary Suspension/Imminent Hazard If the Director finds there is imminent danger to the public health the permit shall immediately be suspended.

PA Disease Prevention and Control Law, Section 521.5

Order of the Secretary of the Pennsylvania Department of Health for Universal Face Coverings, dated July 1, 2020

**Food Code Section(s):** 330

**Corrective Action:** Employees and patrons are to properly wear face covering as described in the Order of the Secretary of the Pennsylvania Department of Health for Universal Face Coverings, dated July 1, 2020.

The facility must provide a written copy of its COVID-19 prevention plan prior to reopening. The facility must provide information on how it will comply to all COVID-19 orders and guidance issued by the Commonwealth and the Allegheny County Health Department.

**Other Assesment observations and comments:**

**Exceptional Observations:**

**General Comments:**

Facility ordered closed per the Food Safety Program. Appeals can be sent to the address listed below. EH Supervisor, Janet Russo, and EH Specialist I, Zachery Prokocki-Loomis, present for the inspection.

Address:  
 Dr. Debra Bogen  
 542 Fourth Ave  
 Pittsburgh, PA 15219

Partial re-inspection conducted in response to violations pertaining to COVID-19 orders and guidance issued by the Commonwealth and the Allegheny County Health Department.

COUNTY OF



ALLEGHENY

RICH FITZGERALD  
COUNTY EXECUTIVE

August 11, 2020

The Crack'd Egg  
Kimberly & Don Waigand  
4131 Brownsville Road  
Pittsburgh, PA 15227

Re: Client# 201510290005  
The Crack'd Egg  
4131 Brownsville Road  
Brentwood, 15227

Dear Kimberly & Don Waigand,

An inspection of your facility on 08/11/2020 indicates an imminent hazard to the public health.

THEREFORE, IN ACCORDANCE WITH ARTICLE III, SECTION 337, YOUR HEALTH PERMIT IS SUSPENDED AND YOU ARE **ORDERED TO CLOSE** THE FACILITY IMMEDIATELY UPON RECEIPT OF THIS NOTICE. IT IS ILLEGAL TO OPERATE A FOOD FACILITY IN ALLEGHENY COUNTY WITHOUT A HEALTH PERMIT.

Failure to close will result in immediate initiation of an enforcement action. Notice of permit suspension shall be posted in plain view and shall not be removed or concealed except by direction of the Department.

In order to have the health permit reinstated, you must correct all emergency violations and submit to this office the attached form requesting an inspection and reinstatement of the health permit.

Article XI - "Hearings and Appeals" provides for your right for a hearing if aggrieved by this notice. Requests for a hearing must be made in writing and filed with the Department within thirty (30) days upon receipt of this notice.

Please Contact me at (412)578-7919 to resolve this matter.

Sincerely,

J Russo  
Environmental Health Supervisor

Food Safety Program  
3901 Penn Avenue, Building 1  
Pittsburgh, Pennsylvania 15224-1318  
Phone: (412) 578-8044  
Fax: (412) 578-8190  
www.achd.net



**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**COUNTY OF ALLEGHENY, a political  
subdivision of the Commonwealth of  
Pennsylvania,**

**No. 2:20-1418**

**Plaintiff,**

**v.**

**THE CRACKED EGG, LLC,**

**Defendant.**

**NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

The Defendant, The Cracked Egg, LLC, by and through its counsel, Robert O Lampl, James R. Cooney, Ryan J. Cooney, Sy O. Lampl and Alexander L. Holmquist, hereby gives notice of the removal of the above-captioned matter from the Court of Common Pleas of Allegheny County, Pennsylvania at Case No. GD-20-00-9809 to the United States District Court for the Western District of Pennsylvania, pursuant to *28 U.S.C. Sections 1331, 1441 and 1446*, and in support thereof avers the following:

1. The Cracked Egg, LLC is a Defendant in a civil action brought on September 16, 2020 in the Court of Common Pleas of Allegheny County, Pennsylvania at Case No. GD-20-00-9809. Pursuant to the provisions of Sections 1332, 1441 and 1446 of Title 28 of the United States Code, Defendant removes this action to the United States District Court for the Western District of Pennsylvania.

2. The Complaint was served upon the Defendant, The Cracked Egg, LLC, on September 16, 2020 by E-Mail.

3. The grounds for the removal of this Action are:

a. This is a civil action in which the District Court has original jurisdiction in that it arises under the laws of the United States within the meaning of *28 U.S.C. 1331*.

b. More specifically, the claims arise under the Constitution of the United States, including, among other things, the First Amendment and the Fourteenth Amendment.

4. This Notice of Removal is timely under Section *1446 (b) of Title 28* of the United States Code because the Notice of Removal is filed within thirty days of service of the Complaint.

5. Pursuant to *28 U.S.C. 1446 (a)*, true and correct copies of the Docket and all previous filings in the Court of Common Pleas of Allegheny County at No. GD-20-00-9809 are attached hereto as **EXHIBIT A** and **EXHIBIT B**.

6. A copy of this Notice of Removal has been served upon all parties to the state action as well as upon the Department of Court Records of Allegheny County, Pennsylvania.

WHEREFORE, the civil action filed in the Court of Common Pleas of Allegheny County at No. GD-20-00-9809 is hereby removed to the United States District Court for the Western District of Pennsylvania.

Respectfully Submitted,

/s/ James R. Cooney

James R. Cooney

PA I.D. #32706

Robert O Lampl

PA I.D. #19809

Ryan J. Cooney

PA I.D. #319213

Sy O. Lampl

PA I.D. #324741

Alexander L. Holmquist

PA I.D. #314159

Benedum Trees Building

223 Fourth Avenue

Fourth Floor

Pittsburgh, PA 15222

(412) 392-0330 (phone)

(412) 392-0335 (facsimile)

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

COUNTY OF ALLEGHENY, a political subdivision of the Commonwealth of Pennsylvania,

No.

Plaintiff,

v.

THE CRACKED EGG, LLC,

Defendant.

**CERTIFICATE OF SERVICE**

I, James R. Cooney, hereby certify that on the 18th day of September, 2020, I served true and correct copies of the within **NOTICE OF REMOVAL** upon the following parties by E-mail addressed as follows:

Vijya Patel  
Assistant Solicitor  
Allegheny County Health Department  
301 39<sup>th</sup> Street  
Building #7  
Pittsburgh, PA 15201  
[Vijya.patel@alleghenycounty.us](mailto:Vijya.patel@alleghenycounty.us)

Court of Common Pleas of Allegheny County  
Civil Motions  
[civilgenmotions@alleghenycourts.us](mailto:civilgenmotions@alleghenycourts.us)

/s/ James R. Cooney  
James R. Cooney



**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA**

**COUNTY OF ALLEGHENY, a political CIVIL DIVISION  
subdivision of the Commonwealth of  
Pennsylvania,**

**Plaintiff, No. GD-20-009809**  
v.

**THE CRACKED EGG, LLC,**

**Defendant.**

**ORDER OF COURT**

AND NOW, this 22nd day of September, 2020, after a status conference held September 21, 2020, the matter has been removed to the United States District Court for the Western District of Pennsylvania, and thus, pursuant to 28 U.S.C. § 1446(d), this Court has no jurisdiction to proceed unless and until the case is remanded.

BY THE COURT

*Judge John T. McVay Jr.*

**FILED**  
**2020 SEP 24 PM 2:06**  
**DEPT. OF COURT RECORDS**  
**CIVIL FAMILY DIVISION**  
**ALLEGHENY COUNTY**

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

COUNTY OF ALLEGHENY, a political  
subdivision of the Commonwealth of  
Pennsylvania,

Plaintiff,

v.

THE CRACKED EGG, LLC,

Defendant.

CIVIL DIVISION

No. GD-20-009809

SUGGESTION OF BANKRUPTCY

Filed on Behalf of Defendant,  
The Cracked Egg, LLC

Counsel of Record for this Party:

ROBERT O LAMPL  
PA I.D. #19809

JAMES R. COONEY  
PA I.D. #32706

RYAN J. COONEY  
PA I.D. #319213

SY O. LAMPL  
PA. I.D. #324741

ALEXANDER L. HOLMQUIST  
PA I.D. #314159

Benedum Trees Building  
223 Fourth Avenue, 4<sup>th</sup> Floor  
Pittsburgh, PA 15222  
(412) 392-0330 (phone)  
(412) 392-0335 (facsimile)

10/9/2020

Pawb LIVE Database Area G6 CM/ECF-BK V4.2.0

United States Bankruptcy Court  
WESTERN DISTRICT OF PENNSYLVANIA

### Notice of Bankruptcy Case Filing

A bankruptcy case concerning the debtor(s) listed below was filed under Chapter 11 of the United States Bankruptcy Code, entered on 10/09/2020 at 11:33 AM and filed on 10/09/2020.

The Cracked Egg LLC  
4131 Brownsville Road  
Pittsburgh, PA 15227  
Tax ID / EIN: 47-4179381



The case was filed by the debtor's attorney:

**Robert O Lampl**  
Robert O Lampl Law Office  
Benedum Trees Building  
223 Fourth Avenue, 4th Floor  
Pittsburgh, PA 15222  
412-392-0330

The case was assigned case number 20-22889.

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

If you would like to view the bankruptcy petition and other documents filed by the debtor, they are available at our *Internet* home page <https://ecf.pawb.uscourts.gov> or at the Clerk's Office, U.S. Bankruptcy Court, 5414 U.S. Steel Tower, 600 Grant Street, Pittsburgh, PA 15219.

You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.

**Michael R. Rhodes**  
Clerk, U.S. Bankruptcy Court

<b>PACER Service Center</b>
<b>Transaction Receipt</b>
10/09/2020 11:42:57

**CERTIFICATE OF SERVICE**

I, James R. Cooney, hereby certify that on the 9<sup>th</sup> day of October, 2020, I served true and correct copies of the within **Suggestion of Bankruptcy** upon Counsel for the Plaintiff, by E-mail addressed as follows:

Vijya Patel, Asst. Solicitor  
Michael Parker  
Allegheny County Health Department  
301 39<sup>th</sup> Street, Bldg. #7  
Pittsburgh, PA 15201  
[Vijya.patel@alleghenycounty.us](mailto:Vijya.patel@alleghenycounty.us)  
[Michael.parker@alleghenycounty.us](mailto:Michael.parker@alleghenycounty.us)

Frances M. Liebenguth  
Allegheny County  
445 Fort Pitts Blvd., Suite 300  
Pittsburgh, PA 15219  
[Frances.liebenguth@alleghenycounty.us](mailto:Frances.liebenguth@alleghenycounty.us)

Virginia Spencer Scott  
Allegheny County Department of Law  
300 Fort Pitt Commons  
445 Fort Pitt Blvd.  
Pittsburgh, PA 15219  
[Virginia.scott@alleghenycounty.us](mailto:Virginia.scott@alleghenycounty.us)

*/s/ James R. Cooney*  
James R. Cooney

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA**

**COUNTY OF ALLEGHENY, a political  
subdivision of the Commonwealth of  
Pennsylvania,**

**Plaintiff,**

**v.**

**THE CRACKED EGG, LLC,**

**Defendant.**

**CIVIL DIVISION**

**No. GD-20-009809**

**NOTICE OF FILING OF NOTICE OF  
REMOVAL**

**Filed on Behalf of Defendant,  
The Cracked Egg, LLC**

Counsel of Record for this Party:

ROBERT O LAMPL  
PA I.D. #19809

JAMES R. COONEY  
PA I.D. #32706

RYAN J. COONEY  
PA I.D. #319213

SY O. LAMPL  
PA. I.D. #324741

ALEXANDER L. HOLMQUIST  
PA I.D. #314159

Benedum Trees Building  
223 Fourth Avenue, 4<sup>th</sup> Floor  
Pittsburgh, PA 15222  
(412) 392-0330 (phone)  
(412) 392-0335 (facsimile)

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA**

**COUNTY OF ALLEGHENY, a political CIVIL DIVISION  
subdivision of the Commonwealth of  
Pennsylvania,**

**Plaintiff,**

**No. GD-20-009809**

**v.**

**THE CRACKED EGG, LLC,**

**Defendant.**

**NOTICE OF FILING OF NOTICE OF REMOVAL**

**TO THE DEPARTMENT OF COURT RECORDS**

Please take notice that on October 15, 2020, The Cracked Egg, LLC, the Defendant herein, removed this action to the United States Bankruptcy Court for the Western District of Pennsylvania, by filing a Notice of Removal with that Court. A copy of the Notice of Removal and all supporting papers is attached hereto as Exhibit "A." Accordingly, and pursuant to Federal Rule of Bankruptcy Procedure 9027, this Court may proceed no further unless and until the case is remanded to it.

Respectfully Submitted,

/s/ James R. Cooney  
James R. Cooney  
PA I.D. #32706

Robert O Lampl  
PA I.D. #19809

Ryan J. Cooney  
PA I.D. #319213

Sy O. Lampl  
PA I.D. #324741

Alexander L. Holmquist  
PA I.D. #314159

Benedum Trees Building  
223 Fourth Avenue  
Fourth Floor  
Pittsburgh, PA 15222  
(412) 392-0330 (phone)  
(412) 392-0335 (facsimile)

**CERTIFICATE OF SERVICE**

I, James R. Cooney, hereby certify that on the 15th day of October, 2020, I served true and correct copies of the within **NOTICE** upon the following parties by E-mail addressed as follows:

Vijya Patel  
Assistant Solicitor  
Allegheny County Health Department  
301 39<sup>th</sup> Street  
Building #7  
Pittsburgh, PA 15201  
[Vijya.patel@alleghenycounty.us](mailto:Vijya.patel@alleghenycounty.us)

/s/ James R. Cooney  
James R. Cooney



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:

THE CRACKED EGG LLC,  
Debtor.

Bankruptcy No. 20-22889-JAD  
Chapter 11

---

COUNTY OF ALLEGHENY, a political  
subdivision of the Commonwealth of  
Pennsylvania,

Adversary Proc. No. 20-02166-JAD

Plaintiff,

v.

THE CRACKED EGG, LLC,  
Defendant.

NOTICE OF REMOVAL

AND NOW comes The Cracked Egg LLC, by and through its Counsel, Robert O Lampl, John P. Lacher, Ryan J. Cooney, Sy O. Lampl, James R. Cooney and Alexander L. Holmquist, and files the following NOTICE OF REMOVAL:

1. Cracked Egg, LLC, the Debtor in this Chapter 11 Case, removes to this Honorable Court the case of COUNTY OF ALLEGHENY, a political subdivision of the Commonwealth of Pennsylvania, vs. THE CRACKED EGG, LLC pending before the Court of Common Pleas of Allegheny County, PA at docket No. GD-20-9809 ("the Case").

 **EXHIBIT A**

Exhibit E

2. The Debtor is entitled to remove the Case pursuant to 28 U.S.C. §1452, 28 U.S.C. §1334 and F.B.R.P. 9027 and is doing so in a timely manner in accordance with F.R.P.B. 9027(a)(2).

3. The Case is a core proceeding which involves, inter alia, the enforcement of the County of Allegheny Health Department's ("ACHD") attempts to enjoin the Debtor from operating its business operations. While the Complaint alleges that the Debtor is in violation of the rules and regulations it enforces, the Debtor expects to prove not only that it has complied with all properly enacted laws, rules and regulations, and that ACHD lacks a basis to take such action, but that the Debtor has counterclaims against ACHD for violations of its civil rights, for which the Debtor intends to seek monetary damages for the diminution of the estate via ACHD's unlawful actions. Additionally, the Debtor has filed a separate Complaint against ACHD in the United States District Court for the Western District of Pennsylvania, at Case No. 2:20-cv-01434-RJC, which it intends to refer to this Honorable Court.

Thus, the Case involves property of the estate, the administration of the estate, allowance or disallowance of claims against the estate, counterclaims by the estate against persons filing claims against the estate and affects the debtor-creditor relationship. See 28 U.S.C. §157(b)(2) and 11 U.S.C. §541. Additionally, the Health Department is seeking relief which will impact the direction of the Case and property of the estate.

4. "Under 28 U.S.C. §1334 a proceeding is 'related to' a Chapter 11 proceeding if the 'outcome of the proceeding could conceivably have any effect on the estate being administered in bankruptcy.'" *Nuveen Mun. Trust ex rel. Nuveen High Yield*

*Mun. Bond Fund v. WithumSmith Brown P.C.*, 692 F.3d 283, 293-94 (3d Cir. 2012) (quoting *Pacor Inc. v. Higgins*, 743 F.2d 984, 994 (3d Cir, 1984))

5. At the very least, the Case is related to the pending bankruptcy for the reasons set forth in Paragraph 4.

6. In compliance with F.R.B.P. Rule 9027(a)(1), a docket sheet for the Case is attached hereto as **EXHIBIT A** and all docketed pleadings filed in the Case are numbered and attached hereto as **EXHIBIT B**.

7. The Debtor consents to the entry of final orders or judgments by the Bankruptcy Court.

Respectfully Submitted,

/s/ Robert O Lampl

James R. Cooney

PA I.D. #32706

John P. Lacher

PA I.D. #62297

Robert O Lampl

PA I.D. #19809

Ryan J. Cooney

PA I.D. #319213

Sy O. Lampl

PA I.D. #324741

Alexander L. Holmquist

PA I.D. #314159

Benedum Trees Building

223 Fourth Avenue

Fourth Floor

Pittsburgh, PA 15222

(412) 392-0330 (phone)

(412) 392-0335 (facsimile)

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:

THE CRACKED EGG LLC,  
  
Debtor.

Bankruptcy No. 20-22889-JAD  
  
Chapter 11

---

COUNTY OF ALLEGHENY, a political  
subdivision of the Commonwealth of  
Pennsylvania,

Adversary Proc. No.

Plaintiff,

v.

THE CRACKED EGG, LLC,  
  
Defendant.

CERTIFICATE OF SERVICE

I, Robert O. Lampl, hereby certify that on the 15th day of October, 2020, I served true and correct copies of the within NOTICE OF REMOVAL upon the following parties by E-mail addressed as follows:

Vijya Patel  
Assistant Solicitor  
Allegheny County Health Department  
301 39<sup>th</sup> Street  
Building #7  
Pittsburgh, PA 15201  
[Vijya.patel@alleghenycounty.us](mailto:Vijya.patel@alleghenycounty.us)

Court of Common Pleas of Allegheny County  
Civil Motions  
[civilgenmotions@alleghencourts.us](mailto:civilgenmotions@alleghencourts.us)

/s/ Robert O Lampl  
Robert O. Lampl

FILED  
11/20/20 11:33 am  
CLERK  
U.S. BANKRUPTCY  
COURT - WDPA

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:	)	Bankruptcy No. 20-22889-JAD
	)	
THE CRACKED EGG, LLC,	)	Chapter 11
	)	
Debtor,	)	
_____	)	
COUNTY OF ALLEGHENY, a political	)	Adversary No. 20-02166-JAD
subdivision of the Commonwealth of	)	
Pennsylvania,	)	Related To Doc. Nos. 12, 9
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
THE CRACKED EGG, LLC,	)	
	)	
Defendant.	)	

**CONSENT ORDER OF COURT**

AND NOW, this 20th day of November, 2020, it is hereby ORDERED, ADJUDGED, and DECREED that the status conference on the Notice of Removal of the Complaint in Civil Action – Equity pending before the Court of Common Pleas of Allegheny County, PA at No. GD-20-9809 filed by debtor, The Cracked Egg, LLC, currently scheduled for Tuesday, November 24, 2020 shall be CONTINUED to **December 15, 2020** at **10:00 AM** at **tcjad – Telephone Conference – Deller.**

BY THE COURT:



The Honorable Jeffery A. Deller  
United States Bankruptcy Judge

CASE ADMINISTRATOR SHALL SERVE:  
Vijyalakshmi Patel, Esquire  
Robert O Lampl, Esquire  
Office of United States Trustee

### Notice Recipients

District/Off: 0315-2  
Case: 20-02166-JAD

User: lfin  
Form ID: pdf900

Date Created: 11/20/2020  
Total: 3

**Recipients of Notice of Electronic Filing:**

aty	Robert O Lampl	rol@lampllaw.com
aty	Vijyalakshmi Patel	vijya.patel@alleghenycounty.us

TOTAL: 2

**Recipients submitted to the BNC (Bankruptcy Noticing Center):**

ust	Office of the United States Trustee	Liberty Center.	1001 Liberty Avenue, Suite 970	Pittsburgh, PA
	15222			

TOTAL: 1

## Sheriff Return

**Case No:** *GD-20-009809*

**Case Description:** *Allegheny County vs Cracked Egg LLC*

**Defendant:** *Cracked Egg LLC*

**Service Address:** *4131 Brownsville Road Pittsburgh, PA 15227 Allegheny*

**Writ Description:** *Complaint*

**Issue Date:** *09/16/2020 03:46 PM*

**Service Status:** *Served - Other - see comments*

**Served Upon:** *Cracked Egg LLC*

**Served By:** *T103441*

**Served On:** *10/01/2020 02:03 PM*

**Service Method:** *Person In Charge*

**Exhibit G**



Exhibit G