

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF ANOKA

TENTH JUDICIAL DISTRICT

Case Type: Civil

State of Minnesota, by its Attorney General,  
Keith Ellison,

Court File No. 02-CV-20-4488

Plaintiff,

vs.

**CONSENT JUDGMENT**

Ricci Enterprises, LLC, d/b/a Cork,

Defendant.

WHEREAS, on March 13, 2020, as a result of the ongoing COVID-19 pandemic, Minnesota Governor Tim Walz declared a peacetime emergency, which was most recently extended until at least through January 13, 2021, pursuant to Executive Order 20-100. From March 2020 through November 2020, the governor attempted to slowly and safely reopen the Minnesota economy, placing restrictions on businesses to slow the community spread of COVID-19. By November 18, 2020, however, Minnesota reported over 240,000 confirmed cases of COVID-19 in the state, with 100,000 of those cases being added in only 41 days. Thus, on November 18, 2020, Governor Walz issued Executive Order 20-99, “implementing a four week dial back on certain activities to slow the spread of COVID-19”;

WHEREAS, in relevant part, Executive Order 20-99 prohibits restaurants and bars from offering inside on-premises consumption of food or beverages and from allowing ingress, egress, use, and occupancy by members of the public except to allow up to five members of the public on the premises for the purpose of picking up food or beverages for off-site consumption. On

December 16, 2020, Governor Walz issued Executive Order 20-103, which, beginning at 11:59 p.m. on December 18, 2020, extended the restaurant restrictions of Executive Order 20-99 to January 10, 2021, but modifies the restrictions to allow for outdoor service of on-premises consumption;

WHEREAS, Plaintiff, State of Minnesota, by its Attorney General Keith Ellison (“State” or “Attorney General’s Office”) filed a Complaint against Ricci Enterprises, LLC, doing business as Cork (collectively “Cork”) on December 18, 2020, alleging Cork served customers food and beverages inside in violation of Governor Walz’s Emergency Executive Order 20-99;

WHEREAS, Plaintiff, State of Minnesota, filed a Motion for Temporary Restraining Order and Temporary Injunction on December 21, 2020, seeking to enjoin Cork from continuing to violate Governor Walz’s Emergency Executive Orders 20-99 and 20-103;

WHEREAS, the Court granted the State’s Motion and entered a Temporary Restraining Order prohibiting Cork from opening to inside on-premises dining in violation of any Executive Orders and set the matter for hearing on the State’s request for a Temporary Injunction for December 24, 2020 at 9:00 a.m.;

WHEREAS, the State and Cork have agreed to resolve the State’s claims raised in the Complaint by entering into this Consent Judgment.

NOW, THEREFORE, in the interest of resolving the State’s Complaint against Cork, the Parties hereby stipulate and consent to entry of this Consent Judgment and Order as set forth below:

### **INJUNCTIVE RELIEF**

1. Cork, including its principals, employees, agents, independent contractors, affiliates, and other persons in active concert or participation with Cork who receive actual notice of this Order are prevented, restrained, and enjoined from taking any action violating Executive

Orders 20-99 and 20-103, including, but not limited to, offering indoor on-premises consumption of food or beverages or allowing more than five members of the public inside its restaurant at one time from December 18, 2020, at 11:59 p.m. through January 10, 2020 at 11:59 p.m.

2. Cork, including its principals, employees, agents, independent contractors, affiliates, and other persons in active concert or participation with Cork who receive actual notice of this Order shall fully comply with Executive Orders 20-99 and 20-103 and any future Executive Orders issued by the Governor, approved by the Executive Council, and filed in the Office of the Secretary of State in accordance with Minnesota Statutes Chapter 12 that apply to restaurants and/or bars while those Executive Orders are effective.

#### **STAYED CIVIL PENALTY**

3. Upon application to the Court and a showing by the Attorney General that Cork has violated any of the terms of this Consent Judgment and Order Cork shall pay a stayed civil penalty of \$25,000 to the State. The Court shall decide whether the stayed civil penalty shall be imposed and may hold an evidentiary hearing if it deems such hearing necessary. The release in Paragraph 9 does not prevent the Attorney General from moving for, or collecting, the stayed civil penalty described in this Paragraph.

#### **GENERAL TERMS**

8. Nothing in this Consent Judgment shall relieve Cork of its obligation to comply with all applicable Minnesota and federal laws and regulations.

9. In consideration of the stipulated relief and contingent upon the Court's entry of this Consent Judgment and Order, the Attorney General, by execution of this Consent Judgment, hereby fully and completely releases Cork of any and all claims of the Attorney General under Executive Orders 20-99 and 20-103, connected with or arising out of the allegations contained in

the State's Complaint. The Attorney General through this Consent Judgment does not settle, release, or resolve any claim against Cork or any other person or entity involving any private causes of action, claims, and remedies, including, but not limited to, private causes of action, claims, or remedies provided for under Minn. Stat. § 8.31. This release does not apply in any way to claims of any other Minnesota state agency, department, official, or division, including but not limited to the Minnesota Department of Health or the Minnesota Department of Public Safety.

10. This Consent Judgment may be executed in counterparts, each of which constitutes an original, and all of which shall constitute one and the same agreement. This Consent Judgment may be executed by facsimile or electronic copy in any image format.

11. The person signing this Consent Judgment for Cork warrants that he is an owner of Ricci Enterprises, LLC, doing business as Cork, and he executes this Consent Judgment in an official capacity that binds the company and its successors.

12. This Consent Judgment constitutes the full and complete terms of the agreement entered into by Cork and the Attorney General.

13. The Parties agree that this Consent Judgment, including any issues related to interpretation or enforcement, shall be governed by the laws of the State of Minnesota.

14. The Anoka County District Court shall retain jurisdiction of this matter for purposes of enforcing this Consent Judgment and Order. The Attorney General may make such application as appropriate to enforce or interpret the provisions of this Consent Judgment and Order or, in the alternative, maintain any action within his legal authority for such other and further relief as he determines is proper and necessary for the enforcement of this Order. The parties agree that, in any action brought by the Attorney General to enforce the terms of this Consent Judgment and Order, the Court shall have the authority to award equitable relief, including specific performance.

15. The failure of a party to exercise any rights under this Consent Judgment and Order shall not be deemed to be a waiver of any right or any future rights.

16. Nothing in this Consent Judgment and Order shall be construed to limit the power or authority of the State of Minnesota or the Attorney General except as expressly set forth herein.

17. Cork understands that if a Court of competent jurisdiction holds that Cork has committed a violation of this Consent Judgment and Order, that such violation may subject Cork to sanctions for contempt pursuant to Minn. Stat. § 8.31, subdivision 2b, and that the Attorney General may thereafter, in his sole discretion, initiate legal proceedings against Cork for any and all violations of this Consent Judgment and Order.

18. Each party shall perform such further acts and execute and deliver such further documents as may reasonably be necessary to carry out this Consent Judgment and Order.

19. Cork shall not state or imply, directly or indirectly, that the State of Minnesota or the Attorney General have approved of, condoned, or agree with any conduct or actions by Cork.

20. Service of notices required by this Consent Judgment and Order shall be served on the following persons, or any person subsequently designated by the parties to receive such notices:

Katherine Kelly, Assistant Attorney General  
Office of the Minnesota Attorney General  
445 Minnesota Street, Suite 1200  
St. Paul, Minnesota 55101

Robert Martin  
4116 Austin Street, NE  
Circle Pines, Minnesota, 55014

21. The Parties consent to entry of the foregoing judgment, which shall constitute a final judgment. The judgment shall take effect immediately upon entry by the clerk of this Court.

KEITH ELLISON  
Attorney General  
State of Minnesota

Date: 12/23/2020

By: /s/ Katherine Kelly  
Katherine Kelly  
Assistant Attorney General

Date: 12/22/20

By: *Robert Martin*  
Robert Martin, Owner  
Ricci Enterprises, LLC, dba Cork

**ORDER**

Based upon the foregoing Consent Judgment, it is SO ORDERED.

Date: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF DISTRICT COURT

THERE BEING NO CAUSE FOR FURTHER DELAY, LET JUDGMENT BE ENTERED IMMEDIATELY.