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15
16 UNITED STATES DISTRICT COURT

17 DISTRICT OF ARIZONA

18 Victor Parsons; Shawn Jensen; Stephen Swartz;
Dustin Brislan; Sonia Rodriguez; Christina
19 Verduzco; Jackie Thomas; Jeremy Smith; Robert
Gamez; Maryanne Chisholm; Desiree Licci; Joseph
20 Hefner; Joshua Polson; and Charlotte Wells, on
behalf of themselves and all others similarly
21 situated; and
Arizona Center for Disability Law,

22 Plaintiffs,

23 v.

24 David Shinn, Director, Arizona Department of
Corrections; and Richard Pratt, Division Director,
25 Division of Health Services Contract Monitoring
Bureau, Arizona Department of Corrections, in their
26 official capacities,

27 Defendants.
28

No. CV 12-00601-PHX-ROS

DECLARATION OF
CORENE T. KENDRICK

1 I, Corene T. Kendrick, declare:

2 1. I am an attorney licensed to practice before the courts of the State of
3 California, and admitted to this Court *pro hac vice*. I am a staff attorney at the Prison Law
4 Office (“PLO”), and an attorney of record to the plaintiff class in this litigation.

5 2. On March 11-12, 2020, I participated in a monitoring tour of Arizona State
6 Prison Complex (“ASPC”)-Florence, along with other attorneys and investigators
7 employed by PLO, the Arizona Center for Disability Law (“ACDL”), the ACLU of
8 Arizona, and the ACLU National Prison Project. Since the Court’s 2015 approval of the
9 settlement of this case, I have participated in all but two of the Plaintiffs’ counsel
10 monitoring visits, and have visited eight of the ten Arizona state prisons. In my past
11 experience visiting Arizona prisons, visitors and staff may not bring in any alcohol based
12 hand sanitizers such as Purell. Once, early in the tour process, I had Purell with me during
13 a tour, and had it confiscated by prison staff. We are only permitted to bring non-alcohol
14 based sanitizer.

15 **Central Unit (March 11, 2020)**

16 3. On March 11, 2020, I first visited Central Unit’s Housing Unit-10, which is
17 an outpatient medical housing unit for people with special medical needs. There are
18 approximately 20 people who live in one giant room, dormitory style. I was joined by
19 PLO investigator Tania Amarillas and ACDL attorney Sey In. The building was very
20 stuffy, and staff had propped the doors at opposite sides of the room open to capture a
21 cross-breeze. Patients said that the doors were normally closed, and that they were being
22 opened for our benefit and for the benefit of the random Centurion and ADC staff who
23 were following around my team. The air was stale in the building, and in various
24 locations there was a strong smell of feces. Multiple patients reported to us that on the
25 evening of March 10, a sergeant and a team of custody officers went through the housing
26 unit and aggressively searched each patient’s personal property (which the incarcerated
27 people refer to as “tossing” their belongings), and confiscated any soap, towels, or
28 washcloths in excess of one per person. Several people said that they would be willing to

1 make declarations attesting to this search, and everyone I spoke with said that they viewed
2 this “tossing” as a threatening warning in anticipation of our visit. (Many of them knew
3 of our impending visit, because either my office had written and notified them, or their
4 private counsel had told them we were visiting). Several men seemed resigned that they
5 would probably be subjected to additional intrusive searches after speaking with us.

6 4. I spoke with one patient who is undergoing cancer treatment who had a
7 terrible case of pinkeye, which I asked custody staff to photograph. Defendants have not
8 yet provided these photos. He told me that the pinkeye developed the previous week, and
9 a nurse had given him a stack of washcloths, and instructed him to soak them in hot water
10 and to apply to his eye as a compress to relieve the pain and swelling. He said that all of
11 these washcloths were taken by the custody officers. I spoke with another man who
12 reported that he had more than one bar of soap, but he had purchased these bars from the
13 commissary, and they were taken from him as “excessive.” The people I spoke with all
14 denied having any sort of contraband or illegal materials in their living spaces. There
15 were at least six men in HU-10 who were bed-ridden, including one man who appeared to
16 be asleep or unconscious, and others said that he rarely if ever was awake. Another man
17 was in a bed that had a tent-like system above and around him that zipped shut; he was on
18 oxygen and IVs, and the men living on each side of him said that he was never awake and
19 unable to eat, speak, or move. I spoke with a bedridden man who told me that he could
20 not move in or out of bed by himself due to crippling arthritis, and that he is incontinent
21 with both his bowels and urine. He gave off a rank smell of feces and urine, and his face
22 did not appear to have been recently washed. Another patient Ms. Amarillas and I spoke
23 with was a young man with debilitating terminal multiple sclerosis for whom my office
24 has repeatedly contacted Counsel for Defendants in the past two years regarding
25 deficiencies in his care. His wrists were tied to the sides of his bed, apparently because
26 his involuntary tremors are so bad that he could injure himself, and he was unable to move
27 his hands or arms, let alone get up out of bed.

28 5. I asked every patient who I was able to communicate with in HU-10 what, if

1 anything, they had been told about COVID-19 by prison or health care staff, or if they had
2 been given educational information. They uniformly said that the only information they
3 had about the virus was from television, or word-of-mouth from other incarcerated people
4 or staff. One man said that a nurse told him last month to “stay away from everyone who
5 is sick.” A different man said he hoped that when COVID-19 came to the unit, that it
6 would kill him quickly because “I don’t want to live like this.”

7 6. I spoke to the porter who works in HU-10, and he said he had not received
8 any additional cleaning supplies or instructions on disinfecting this unit in response to
9 COVID-19. Patients who are somewhat mobile said that they are responsible for cleaning
10 hard surfaces around their beds and dressers, and that some staff will allow them to use
11 disinfectant products, but other staff would not unlock the cleaning supplies, and tell them
12 to use their soap and towels that they used for bathing to clean their living spaces.

13 7. After visiting HU-10, Ms. Amarillas, Mr. In, and I proceeded to the
14 infirmary, referred to as the IPC. Facility Health Administrator (“FHA”) Spencer Segó
15 escorted us to the gate behind which there were approximately eight to ten hospital beds
16 in one room. I asked if we needed to wear masks, because when I visited the ASPC-
17 Tucson IPC a few weeks prior, the Tucson site medical director and nursing staff insisted
18 that all visitors wear masks so that we did not transmit any illnesses to their infirmary
19 patients. FHA Segó instructed the nurse on duty to find masks for us, which took a couple
20 minutes. While we waited, I observed a half-full container of hand sanitizer in the nurses’
21 station, which I used, and I instructed Ms. Amarillas and Mr. In to use it to sanitize their
22 hands. I did not see any of the attorneys, custody, or health care staff, who were
23 following us use the sanitizer. As we waited for masks, FHA Segó asked me if I had
24 medical concerns that I might contract an illness from one of the patients in the infirmary.
25 While I felt it was inappropriate to share my medical history, or that of my loved ones
26 with him, I told him that while I am generally healthy, I was concerned that I or one of my
27 colleagues might inadvertently transmit an illness to one of the sick patients, and thus I
28 felt it was responsible for us to wear masks. Ms. Amarillas, Mr. In, and I put on

1 protective masks before going in the IPC. I did not see any of the facility staff, attorneys
2 for Centurion and ADC, or the other people following us put on a mask. Nor were any of
3 the health care staff in the IPC who I encountered while within it wearing a mask.

4 8. While in the infirmary, we were told that there were three cells designated
5 as “neutropenic” isolation rooms. I asked if these were negative pressure rooms, such as
6 those needed to isolate people with tuberculosis, and FHA Seago said they were not
7 negative pressure rooms. He indicated that these are the only medical isolation cells
8 within the infirmary and/or prison. I spoke to one class member in one of the three cells,
9 who has leukemia, just finished chemotherapy, and is profoundly immunocompromised.
10 He gave me permission to share his story with this Court, and is willing to provide a
11 sworn declaration, if necessary. He reported that no porters come into his isolation cell,
12 and he cleans his cell using warm/hot water from his sink, soap, and his bathing towels.
13 He has been housed in this cell for over a year due to his leukemia. The patient reported
14 that he was hospitalized in the community in January 2020 for cancer treatment, and when
15 he returned to the IPC, nursing staff told him that custody officers had isolated and housed
16 a person with suspected scabies in his cell. Despite his post-cancer treatment weakened
17 condition, he cleaned his cell on his own, and would not have done so but for the nurses
18 who warned him of the potential infectious disease. This patient also said that he has not
19 been provided any education from staff about COVID-19, that his only source of
20 information is television news and family. He expressed to me his concerns and fears that
21 after years of fighting cancer, he would be killed by this viral infection. He also expressed
22 concern that he would face retaliation for speaking with me or allowing me to use his
23 story, but decided that in the end it was worth it.

24 9. I also visited HU-8 with Ms. Amarillas and Mr. In. Similar to HU-10, this
25 is another outpatient medical housing unit for seriously ill patients. This unit is best
26 compared to a temporary portable building one might see at an elementary school, with a
27 main entrance in the middle, and to the left and the right is a large room, each one housing
28 about 14 to 16 patients, with a bathroom and showers beyond the living space. Again, I

1 spoke to multiple medically fragile people, and similar to HU-10, observed profoundly ill
2 and elderly people confined to their beds. I spoke with several immunocompromised
3 people undergoing cancer treatment who stated that they were resigned to dying from
4 COVID-19. One patient with stage IV liver cirrhosis due to untreated Hepatitis C that he
5 contracted in 1989 while in custody, told me, “If the coronavirus comes in here, we’re all
6 dead.” Another class member with uncontrolled diabetes who relies upon an oxygen tank
7 told me he was more worried about his neighbor living in an adjacent bed, who is blind
8 and 99-years-old, has advanced dementia, and according to the class member “is allowed
9 to sit in his poop and is cranky so they don’t make him shower.” I was unable to
10 communicate with the elderly man, and counsel for Defendants Timothy Bojanowski
11 came over to warn Mr. In within my hearing that we needed to “stay away” from this class
12 member, because he was so senile that he lashed out at people who approached him. I
13 then observed his deaf neighbor -- who was also wearing a diaper -- escort the 99-year-
14 old man to the toilets after there was a smell of feces in the air. None of the men I spoke
15 to in this housing unit knew anything about COVID-19, other than to express their
16 resignation, and in some cases, hope, that they would be dead soon.

17 10. The afternoon of March 11, 2020, I visited Central Unit’s Housing Unit 5,
18 the Death Row unit that houses most of the men condemned to execution. While this unit
19 is relatively clean and the class members have more free movement, again, I heard from
20 multiple class members that they had not received any education or screening about
21 COVID-19, and that the only way to clean their cells was using their own hygiene
22 products such as shampoo and soap.

23 **Meeting With Facility Health Staff**

24 11. The morning of March 12, 2020, I met with facility health staff and counsel
25 for Defendants and Centurion. Rita Lomio, another PLO attorney, and Mr. In were
26 present with me at this meeting. We met with Defendant Richard Pratt; FHA Segó; Dr.
27 V. Gilreath, D.O., the site medical director; Erin Abel, the mental health program lead at
28 the ASPC-Florence Kasson Unit’s Behavior Management Unit, and Michelle Diaz, the

1 Senior Assistant Director of Nursing. Also present were Timothy Bojanowski, counsel
2 for ADC, and Sarah Barnes, Counsel for Centurion. Ms. Lomio, Mr. In, and I all took
3 contemporaneous notes during this meeting. I had met FHA Sego and Ms. Abel during
4 past visits to other prisons, but had never met Dr. Gilreath. He stated that he had come to
5 the institution as the site medical director in December 2019, and when I asked if he had
6 ever worked for Centurion or a prison before, he said, “Never,” and explained that he
7 previously was running a drug treatment / methadone clinic in the community. At the
8 meeting, I reviewed a January 3, 2020 staffing report with Mr. Sego and Ms. Diaz. Mr.
9 Sego stated that currently there was a shortage of ten (10) full-time equivalent (“FTE”)
10 Registered Nurses, and 11 FTE Licensed Practical Nurse positions.

11 12. During this meeting, we discussed at length the COVID-19 outbreak, and
12 what steps ASPC-Florence and ADC were taking to address the pandemic. I had brought
13 with me a draft of a memo that Dr. Marc Stern had sent to Washington jail administrators
14 the week before, along with other correctional medical care guidelines for addressing
15 COVID-19.¹ These documents included, among other things, recommendations that
16 COVID-19 plans focus on staff and prisoner education; health care and custody staffing
17 plans; staffing plans for services performed by incarcerated people; provision of hygiene
18 and disinfectant cleaning supplies; screening, testing, treatment, and housing of people
19 exposed to or positive for the virus; interfacing with community hospitals; and precautions
20 for vulnerable populations such as older people and people with chronic medical
21 conditions. Ms. Lomio and I asked about these components of a COVID-19 plan, and it
22 was clear that there was very little, if any of this, in place at the prison. When I asked
23 flatly whether there was *any* operational COVID-19 plan in place, FHA Sego stated that
24 he would be meeting later that day with the ASPC-Florence warden and deputy wardens
25 to develop an institutional plan to respond to COVID-19, and regarding how Florence
26 would interface with other ADC prisons and community hospitals. (It should be noted that

27
28 ¹ An updated version of Dr. Stern’s memo was attached to a letter that I sent to
Defendants on March 14, 2020; that letter is attached as Exhibit 1 to this declaration.

1 ASPC-Florence warden Jeff VanWinkle accompanied me everywhere I went the rest of
2 the day, from approximately 9:00 am until 4:30 pm).

3 13. Dr. Gilreath made several statements during this discussion of COVID-19
4 that I found to be contrary to everything that I had heard to date from public health and
5 correctional health experts. When we asked about a one-page document that Ms. Lomio
6 reviewed the previous day that was going to be used to screen incoming transfers from
7 other prisons or jails, she and I noted that one of the questions was if the person had been
8 in China in the previous 21 days, and that we thought this question didn't seem relevant to
9 incarcerated people in Arizona. Dr. Gilreath didn't say anything at the time, but minutes
10 later, apropos of nothing when we were still talking about COVID-19, he said "the first
11 case was not in China, it was in Germany." When we discussed the treatment modalities
12 of people who test positive for COVID-19, he responded, "We have people here with
13 dengue and we don't treat that." Later in our discussion, he piped up, unprompted, that
14 "They say this thing will die by itself." He did not elucidate who "they" might be.

15 14. I relayed to the Centurion and ADC staff (and attorneys) that the previous
16 day, class members reported that they had been the subject of an intrusive search
17 "tossing" their personal property and confiscating soap, towels, and washcloths, and that I
18 viewed this as incredibly unproductive and shortsighted, given the need to mitigate the
19 spread of infectious disease. [See ¶¶ 3-4 above]² Dr. Gilreath said that this search was
20 done at his direction, stating that the patients in HU-10 were hiding contraband in the
21 ceilings of the medical unit, and that in his opinion, "we should get rid of ceilings. I made
22 them [ADC] aware of it." I found this justification to strain credulity, given the number of
23 people who were bedridden, very sick, or seriously disabled and could barely walk, let
24 alone climb up and hide contraband in ceiling tiles eight feet off the ground.

25 15. We asked Mr. Pratt what instructions or guidance ADC had received from
26

27 ² I also reminded Counsel of the past actions by ADC staff that had been
28 interpreted by class members as retaliatory, and the Court's past orders regarding
retaliatory behavior.

1 the Arizona Department of Health Services regarding COVID-19. He said, “I haven’t seen
2 anything yet.”

3 **East Unit**

4 16. After my meeting described above, I toured ASPC-Florence East Unit with
5 Mr. In from ACDL, and again with several ADC staff and Mr. Bojanowski. The East unit
6 consists of numerous World War II-era Quonset huts that have been modified to house
7 about 12 people per hut. These huts were uniformly stuffy, dimly lit, and numerous
8 elderly men who have serious medical concerns or physical disabilities, are incarcerated
9 in these units. Mr. In and I visited at least nine of these Quonset huts, and again, the class
10 members housed within them reported that they had to use their personal supplies of soap
11 and shampoo to attempt to disinfect their living areas. Again, they had received no
12 education or information about COVID-19, including the symptoms or how to prevent
13 transmission of the disease. Several men asked me, “isn’t this all a big hoax?”

14 **Central Unit (March 12, 2020)**

15 17. That afternoon, I visited several close custody cell blocks in Central Unit
16 with Ms. Lomio. Again, class members reported that they only could clean their cells
17 using soap and shampoo. I spoke to at least three people who said they had been feeling
18 sick, having fevers, or coughing, but they had not filed an HNR because they could not
19 afford the \$4 co-pay. Again, one man confidently informed me that “coronavirus is a
20 hoax.” None of the men who I spoke with reported that they had been provided any
21 educational information by ADC or Centurion about COVID-19, how to reduce the
22 probability of transmitting the virus, or the symptoms of the virus.

23 **Exhibits**

24 18. Attached as **Exhibit 1** is a true and correct copy of a letter that I emailed to
25 Counsel for Defendants on March 14, 2020 at 12:01 pm Arizona Standard Time / Pacific
26 Daylight Time regarding COVID-19, and information that we had learned during the
27 ASPC-Florence tour. As of the time of the filing this declaration, we have not received a
28 response to this letter, nor even an acknowledgment that it was received.

1 19. Attached as **Exhibit 2** is a true and correct copy of a health care staffing
 2 report provided by Defendants that purported to show all contracted and filled positions as
 3 of January 3, 2020, and that Defendants’ counsel Bates-stamped as ADCM1600190-
 4 1600200. We have a recurrent monthly request for the staffing report, but this is the most
 5 current version that Defendants’ counsel has provided to Plaintiffs’ counsel.

6 20. Attached as **Exhibit 3** is at true and correct copy of a letter that I sent to
 7 Defendants’ counsel on February 13, 2020, regarding the compromised water supply at
 8 ASPC-Douglas. Attached as **Exhibit 4** is a true and correct copy of a letter that
 9 Defendants’ counsel Timothy Bojanowski sent me on March 9, 2020 regarding the water
 10 supply at ASPC-Douglas.

11 I declare under penalty of perjury that the foregoing is true and correct.

12 Executed March 16, 2020, in San Francisco, California.

13 _____
 14 /s/ Corene T. Kendrick
 15 Corene T. Kendrick

1
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CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2020, I electronically transmitted the above document to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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