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similarly situated*

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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

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

Plaintiffs,

v.

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

Defendants.

No. CV 12-00601-PHX-ROS

**DECLARATION OF
RITA K. LOMIO**

1 I, Rita K. Lomio, 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, 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.

7 3. Class members on multiple yards at ASPC-Florence reported to me that they
8 had not received information from custody or medical staff about COVID-19. Class
9 members reported that what they knew about the disease came from watching television.
10 One class member told me that he had heard that COVID-19 is a “Chinese bioweapon.”
11 Another asked me if it was true that COVID-19 was “hoax,” as that is what he had heard
12 on television.

13
14 **South Unit**

15 4. On March 11, 2020, I visited South Unit. There, I spoke with at least 22
16 class members, including people with stage 4 cancer, hypertension, asthma, and chronic
17 obstructive pulmonary disease (“COPD”). Seven of the class members I spoke with were
18 at least 70 years old.

19 5. Class members reported that they have to purchase soap in order to wash
20 their hands and clean themselves in the shower, and that they can place an order once a
21 week. They reported that there is soap in the bathroom only if an incarcerated person
22 purchases and donates it. One class member showed me his commissary list. I directed
23 escort staff to take photographs of the page listing the types and prices of available soap.
24 Defendants have not yet produced those photographs to Plaintiffs’ counsel.

25 6. Class members housed on South Unit reported that there was no hand
26 sanitizer available in their housing units, the dining hall, or the recreational yard. I visited
27 Buildings 1, 2, 7, and 8 with Maya Abela, an attorney at the Arizona Center for Disability
28 Law, and Tania Amarillas, an investigator at the Prison Law Office. Those buildings all

1 have dorm-style housing, which are split into separate “runs,” each of which houses a
2 number of people in very close quarters. I did not see any hand sanitizer dispensers in
3 those buildings.

4 7. One class member reported that he works in the kitchen and that sometimes
5 the soap dispensers in his work area are empty and not filled for a couple days, even when
6 custody staff is told that they are empty.

7 8. I visited the medical clinic on South Unit with Ms. Abela and Gosia
8 Zawislak, an attorney at the Arizona Center for Disability Law. Ms. Abela and I spoke
9 with Michelle Diaz, who identified herself as the Assistant Director of Nursing
10 (“ADON”). ADON Diaz showed us a copy of the COVID-19 screening instrument that
11 she had received by email. She reported that she had not yet received training or
12 instruction on it, but that she had been informed it would go into effect on March 16,
13 2020. I requested a copy of the screening instrument from Katherine Hanna, the attorney
14 for the Arizona Department of Corrections (“ADC”) who was accompanying us on South
15 Unit. Defendants have not yet produced the screening instrument to Plaintiffs’ counsel.

16 9. ADON Diaz said that the isolation cells at ASPC-Florence are located in
17 Central Unit and are currently full.

18 10. ADON Diaz said that she received an email in early March 2020, attaching
19 informational sheets about COVID-19 created by the Centers for Disease Control and
20 Prevention. I saw such sheets posted on the outside of the clinic, by the door to the dental
21 clinic. I directed escort staff to take photographs of the sheets. Defendants have not yet
22 produced those photographs to Plaintiffs’ counsel. The medical clinic is a significant
23 distance away from many of the dorms on South Unit.

24
25 **North Unit**

26 11. On March 12, 2020, I visited North Unit with Ms. Abela and Ms. Zawislak.
27 There, I spoke with at least ten class members, including people with end-stage renal
28 disease, hypertension, hepatitis C, and diabetes. One class member I spoke with was 64

1 years old. Another was 77 years old. Class members again reported that they had not
2 been provided with information about COVID-19 from custody or medical staff and that
3 they had to purchase their own soap in order to wash their hands and clean themselves in
4 the shower.

5 12. I visited the medical clinic on North Unit with Ms. Abela and Ms. Zawislak.
6 We observed a hand sanitizer dispenser that had been marked “Out” with what appeared
7 to be a Post-It Note. At the clinic, Ms. Abela and I spoke with Ms. Fox, who identified
8 herself as the Assistant Director of Nursing. ADON Fox said that she thought that that
9 was the only dispenser in the clinic. I directed escort staff to take a photograph of the
10 dispenser. Defendants have not yet produced that photograph to Plaintiffs’ counsel.

11 13. ADON Fox stated that she did not think there were restrooms for
12 incarcerated people in the clinic. I directed escort staff to take photographs of the signs on
13 two restrooms pertaining to access by incarcerated people. Defendants have not yet
14 produced those photographs to Plaintiffs’ counsel.

15 14. I observed information about COVID-19 posted in a hallway in the clinic.
16 A patient was sitting in a chair beneath the posting. It would have been difficult for
17 people to read the posting; they would have to be allowed inside the medical clinic and to
18 stand in the hallway as they read through the posting. I directed escort staff to take a
19 photograph of the posted information. Defendants have not yet produced that photograph
20 to Plaintiffs’ counsel.

21
22 **Central Unit**

23 15. On March 12, 2020, I also visited housing units within ASPC-Florence’s
24 Central Unit with Corene Kendrick, an attorney at the Prison Law Office. There, I spoke
25 with at least ten class members who were housed individually in cells, including people
26 with diabetes, hypertension, congestive heart failure, and COPD, one of whom was 66
27 years old. Class members again reported that they had not been provided with
28 information about COVID-19 from custody or medical staff and that they had to purchase

1 their own soap in order to wash their hands and clean themselves in the shower.

2 16. One class member reported that he had difficulty using his sink because
3 only the “extra hot water” worked (the sink has separate hot and cold water faucets), he
4 had to push the button for water to flow (the flow would stop when he stopped pressing
5 the button), and he has been unable to use his right hand following a stroke.

6
7 **Meeting with Facility Healthcare Staff**

8 17. The morning of March 12, 2020, Ms. Kendrick, Mr. In, and I met with
9 Defendant Richard Pratt; Spencer Sego, the Facility Health Administrator (“FHA”);
10 Dr. V. Gilreath, the Site Medical Director; Erin Abel, who identified herself as the
11 Program Manager of Kasson Mental Health Unit; and ADON Diaz, who identified herself
12 as the Senior ADON. Timothy Bojanowski, an attorney for the Arizona Department of
13 Corrections, and Sarah Barnes, an attorney for Centurion of Arizona, LLC, also were
14 present.

15 18. During the meeting, Ms. Kendrick and I asked about plans to prevent and
16 manage COVID-19 in the prison. We asked about the screening instrument ADON Diaz
17 had shown me in South Clinic. FHA Sego reported that he believed the instrument was
18 already being used on intake, and that there was a meeting that afternoon to discuss
19 whether it would be used when inmate workers returned to the prison. He said that the
20 “Department of Public Health” had not issued any recommendations about whether
21 temperatures should be taken of staff (as opposed to incarcerated people).

22 19. When we asked whether there was any planned education or outreach to
23 incarcerated people or staff regarding COVID-19, Mr. Pratt responded, “I haven’t seen
24 anything yet.” He said that it would be an “ongoing discussion with Public Health.”
25 Dr. Gilreath then added that “Maricopa County has put something out” and that he was
26 discussing inviting them into the prison to lecture on it. I asked whether anyone had
27 conducted public health education in a prison setting before. FHA Sego responded that
28 they could put something on the CCTV inmate television channel and that in the past they

1 had held town halls where “all inmates get together one time per month.”

2 20. Dr. Gilreath later commented, “I’m listening to things in French, Italian,
3 what have you. . . . They say this thing will die by itself.” He also observed, unprompted,
4 that there are people with dengue who do not receive treatment. When I asked if there
5 was anything that he thought people in prison should be doing now to prevent COVID-19,
6 he responded that it was important to “take a bath every day, shower, wash your hands.”
7 Ms. Barnes then said that there are “sanitizer” and “sani-wipes” “everywhere.”
8 Dr. Gilreath then offered: “The first case was not in China, it was in Germany. It’s
9 convoluted.”

10 21. Ms. Kendrick observed that, for years, Plaintiffs’ counsel in *Parsons* has
11 reported that our clients have limited access to cleaning supplies and that there are charges
12 for soap. Ms. Barnes responded: “That’s something ADC would have to address.”

13 22. Ms. Kendrick then detailed reports she had received the day before from
14 class members that custody staff had searched Housing Unit 10 on March 10, 2020, and
15 confiscated “extra” soap, towels, and wash clothes. Dr. Gilreath responded that
16 incarcerated people were hiding contraband in the ceiling and “I said we should get rid of
17 ceilings. I made them aware of it.” He continued that “DOC is responsible for our safety.
18 And if they go in there and confiscate stuff, there’s usually a reason for it.” FHA Sego
19 said that he talks to the warden every day and would raise the matter with him.

20 23. I asked what the plan was for isolation of people with confirmed or
21 suspected COVID-19 infections, including whether ASPC-Florence was coordinating
22 with other prisons. Centurion staff responded that there are only three isolation cells at
23 ASPC-Florence, and that they would need to discuss later “shifting guys around.”

24 24. I asked whether ADC or Centurion had reached out to community hospitals
25 to begin coordination, and raised a concern that if there is an outbreak in the prison, there
26 probably also will be one in the community, and hospital beds will be scarce and
27 potentially not available to incarcerated people. FHA Sego responded that they had begun
28 “some discussion” with the hospitals and agreed that if an outbreak occurs, the hospitals

1 will be crowded and the “community will take care of community first, and then us
2 second.” He said that the matter would be discussed later that afternoon with the warden,
3 Dr. Gilreath, and Northern Region Operations Director Kevin Curran.

4 25. The warden escorted Ms. Kendrick and me in the afternoon until we
5 concluded our tour around 4:30 pm.

6
7 I declare under penalty of perjury that the foregoing is true and correct.

8 Executed on March 16, 2020, in Berkeley, California.

9
10 s/ Rita K. Lomio

Rita K. Lomio

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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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