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18 **UNITED STATES DISTRICT COURT**
19 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
20 **SOUTHERN DIVISION**

21 MELISSA AHLMAN, DANIEL KAUWE,
22 MICHAEL SEIF, JAVIER ESPARZA,
23 PEDRO BONILLA, CYNTHIA
24 CAMPBELL, MONIQUE CASTILLO,
25 MARK TRACE, CECIBEL CARIDAD
26 ORTIZ, and DON WAGNER, on behalf of
27 themselves and all others similarly situated,

28 Plaintiffs,

Case No.: 8:20-cv-835-JGB-SHK

**SUPPLEMENTAL DECLARATION
OF DR. JOE GOLDENSON IN
SUPPORT OF PLAINTIFFS' EX
PARTE APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND MOTION FOR
PRELIMINARY INJUNCTION**

1 v.

2 DON BARNES, in his official capacity as
3 Sheriff of Orange County, California; and
4 ORANGE COUNTY, CALIFORNIA

5 Defendant.

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7 page]

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***C.D. California admission application forthcoming*

DECLARATION OF DR. JOE GOLDENSON

I, Dr. Joe Goldenson, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I have reviewed Orange County Sheriff Department Commander Joseph Balicki's declaration, ECF No. 61. He reports that the Orange County Jail's current population is 2,799 and that this "means the jail is operating at 46% capacity of available beds." ECF No. 61. For multiple reasons, this calculation does not show that the Jail is operating consistent with CDC Guidance.
2. First, the calculation appears to use an inflated number of beds as its baseline. The rated capacity of a facility is the maximum number of incarcerated occupants for which a facility's cells or dormitories, except those dedicated for health care or disciplinary separation housing, were planned and designed in conformity to Title 15 regulations (maintained by BSCC) and Title 24 regulations (maintained by the California Building Standards Commission). The California Board of State and Community Corrections (BSCC) has rated the capacity of the four facilities at the Orange County Jail at 3,975 beds.¹ Thus, if the Jail's current population is 2,799, then it is operating at 70% of its rated capacity. The "available beds" calculation of 6,159 inmates is far larger than the rated capacity of the facility. For reasons that are not clear to me, it is also 181 beds larger than

¹ See State of California Board of State and Community Corrections 2016-2018 Biennial Inspection: Orange County's Type II and Court Holding Facilities, Penal Code Section 6031 (Sep. 26, 2018) at 26 (Intake Release Center: 406) & 37 (Central Men's Jail: 1219) & 44 (Women's Jail: 270) & 50 (Theo Lacy Facility: 2080).

1 the statistics attached to Commander Balicki's May 12, 2020 declaration,
2 which claimed a total of 5,978 beds. See ECF 44-11 (Ex. A-4 to Declaration
3 of Joseph Balicki).

- 4 3. Second, even if the calculation were based on the BSCC rated capacity,
5 BSCC ratings were not designed with a pandemic that requires social
6 distancing in mind. Even if the Jail did achieve fifty percent of its BSCC
7 rated capacity, which would require an inmate population of less than
8 2,000, it would not be operating consistent with CDC Guidance if, among
9 other things, inmates in dormitory housing remained unable to maintain
10 distance of six feet or more from each other at all times, including in
11 communal areas. The population must be reduced overall so that it is
12 possible for detained persons to be able to maintain six feet or more from
13 others at all times; there is no double or triple bunking; there are adequate
14 cells for individuals who are symptomatic or who have contracted COVID-
15 19; and proper screening, quarantining, and isolation procedures can be put
16 into place.
- 17 4. Third, relying only on jail-wide statistics is problematic because it does not
18 show how much crowding is taking place in individual housing units. For
19 example, in the large dormitories in Theo Lacy, there are 128 persons in the
20 G/East Barrack dormitory and 108 persons in the F/East Dormitory. *See*
21 ECF 44-11 (Ex. A-4 to Declaration of Joseph Balicki). These levels appear
22 to be below the listed capacities of 192 beds. But again, the bed capacity as
23 reported by the OCSD is higher than the rated capacity permitted by the
24 BSCC. The rated capacity for those dormitories is 104 beds per dormitory.
25 Cal. BSCC 2016-2018 Biennial Inspection, *supra* n.1, page 51. The current
26 population levels in those dormitories exceeds the rated capacity, which—
27 as noted above—is already excessive under the circumstances.
28

5. I declare under penalty of perjury of the laws of the State of California and the United States that the foregoing declaration is true and correct. Executed on May 19, 2020 in Alameda County, California.

DATED: May 19, 2020

By:


Dr. Joe Goldenson

Dr. Joe Goldenson

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of May 2020, I electronically transmitted the foregoing document to the Clerk of Court using the ECF system for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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