

1 Jared Keenan (Bar No. 027068)
Casey Arellano (Bar No. 031242)
2 **ACLU FOUNDATION OF ARIZONA**
3707 North 7th Street, Suite 235
3 Phoenix, Arizona 85013
Telephone: (602) 650-1854
4 Email: jkeenanacluaz.org
carellanoacluaz.org

5 *Attorneys for Plaintiffs Shawn Jensen, Stephen Swartz,*
6 *Sonia Rodriguez, Christina Verduzco, Jackie Thomas,*
7 *Jeremy Smith, Robert Gamez, Maryanne Chisholm,*
8 *Desiree Licci, Joseph Hefner, Joshua Polson, and*
Charlotte Wells, on behalf of themselves and all others
similarly situated

9 **[ADDITIONAL COUNSEL LISTED ON**
SIGNATURE PAGE]

10 Asim Dietrich (Bar No. 027927)
ARIZONA CENTER FOR DISABILITY LAW
11 5025 East Washington Street, Suite 202
Phoenix, Arizona 85034
12 Telephone: (602) 274-6287
Email: adietrich@azdisabilitylaw.org

13 *Attorneys for Plaintiff Arizona Center for Disability Law*

14 **[ADDITIONAL COUNSEL LISTED ON**
SIGNATURE PAGE]

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,
Plaintiffs,

22 v.

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

No. CV 12-00601-PHX-ROS

DECLARATION OF
MAYA S. ABELA

27
28

1 I, Maya S. Abela, declare:

2 1. I am an attorney licensed to practice before the courts of the State of
3 Arizona. I am a Supervisory Attorney at the Arizona Center for Disability Law
4 (“ACDL”), and an attorney of record for the plaintiff ACDL 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. I interviewed 33 class members in the South and North Units at ASPC-
8 Florence during the course of the monitoring tour and every class member I asked
9 reported that there had been no announcements and no information or patient education
10 whatsoever provided to them regarding COVID-19 from ADC or Centurion healthcare
11 staff.

12 4. In the morning of March 11, I visited ASPC-Florence South Unit with Rita
13 Lomio, an attorney with the Prison Law Office (“PLO”), and Gosia Zawislak, an attorney
14 from ACDL. We visited the Health Unit there and observed that there were COVID-19
15 signs from Centurion and the Centers for Disease Control and Prevention posted on the
16 window outside the dental clinic. Inside the Health Unit we met and spoke with Assistant
17 Director of Nursing (“ADON”) Diaz, who reported that she had received the COVID-19
18 signs to post via email on March 4, 2020, with a direction to post them in the Health Unit.
19 ADON Diaz also reported that healthcare staff had not yet received any other instructions
20 concerning COVID-19, but that she had recently been sent a COVID-19 health screening
21 tool, which was supposed to go into effect on March 16, 2020. She reported that no formal
22 training or education on the COVID-19 health screening tool had yet been rolled out.
23 ADON Diaz reported that no widespread general education concerning COVID-19 had
24 yet been provided to class members by healthcare staff as of March 12, 2020.

25 5. ADON Diaz also reported that currently the single-person cells used for
26 medical isolation are located at Central Unit, and were all already occupied as of March
27 12, 2020, housing immunocompromised class members, and class members in protective
28 custody.

1 6. In the afternoon of March 11, 2020, I visited ASPC-Florence South Unit
2 with Ms. Lomio and Tania Amarillas, an investigator with PLO. We visited multiple
3 housing units, including buildings 1, 2, 7 and 8. All of these buildings contain dormitory
4 style housing. I did not observe any soap dispensers or bar soap in the bathrooms of any of
5 the housing units we visited. I directed ADC staff escorting us on the tour to take
6 photographs documenting the lack of soap in the bathroom of the C run in building 1.
7 Defendants have not yet produced those photographs to Plaintiffs' counsel. The class
8 members I interviewed in these housing units all reported that everyone is required to
9 purchase and bring their own soap. I also did not observe any hand sanitizer dispensers
10 anywhere in the housing units. One class member asked that we request that ADC offer
11 hand sanitizer on the commissary list, as it is currently not available.

12 7. In the morning of March 12, I visited ASPC-Florence North Unit with Ms.
13 Lomio and Ms. Zawislak. We visited the Health Unit and spoke with ADON Fox. When
14 we asked ADON Fox about what preparations for COVID-19 had been taken by the
15 Health Unit, she indicated that Monday March 16, 2020, would be their "training day."
16 ADON Fox also later pointed out where there was information about COVID-19 posted in
17 the hallway of the Health Clinic. While in the Health Unit, I observed a hand sanitizer
18 pump hanging on the wall that had a Post-It note on it stating "Out!"

19 8. In the morning of March 12, we also conducted pull-out interviews in the
20 visitation area with class members living on North Unit. During those interviews I spoke
21 with several elderly class members, including one living with Hodgkin's lymphoma and
22 one with a history of lung cancer and active chronic obstructive pulmonary disease
23 ("COPD"). Both expressed extreme concern about COVID-19 given their age and
24 underlying health conditions.

25 9. Ms. Lomio, Ms. Zawislak, and myself also visited the A yard on North Unit
26 during the morning on March 12, 2020. I observed that no soap dispensers or bar soap
27 were present in any of the bathrooms in the housing units we visited on North Unit. I
28 directed ADC staff escorting us on the tour to take photographs documenting the lack of

1 soap in the A yard bathrooms. Defendants have not yet produced those photographs to
2 Plaintiffs' counsel. When I asked class members if soap was ever provided in their
3 bathrooms, they reported that every person has to bring their own soap to the bathroom for
4 their personal use.

5 10. Apart from "pod porters," whose job is to clean the housing units, class
6 members in North Unit A yard reported that they have no access to cleaning supplies to
7 individually clean their bed/living areas. Other class members also reported that if a
8 person other than a porter is found with cleaning supplies in their bed/living area, the
9 cleaning supplies are confiscated as contraband and they receive a disciplinary ticket.

10 11. The general living conditions in the A yard housing units were poor, and the
11 housing units are crowded and poorly ventilated to the outside. I spoke with a class
12 member on North Unit who described that any communicable illness, from colds to the
13 flu, traveled from person to person through the housing units "like wildfire." I also spoke
14 with a class member on the same yard who has terminal metastatic cancer in multiple
15 organs of his body.

16 12. In the afternoon of March 12, I visited several housing units on North Unit
17 along with Ms. Zawislak and Sey In, another attorney with ACDL. We visited the A yard,
18 and then went to the D and E yards on North unit. The class members living in the D and
19 E yards live in tents. Due to the nature and condition of the housing and bathroom
20 facilities, general living conditions in these yards can only be described as squalid, despite
21 class member attempts to keep their living spaces as clean as possible.

22 13. Many of the housing unit tents have leaking roofs. I directed ADC staff
23 escorting us on the tour to take numerous photographs documenting the leaking roof and
24 conditions in the D and E yard tents. Defendants have not yet produced those photographs
25 to Plaintiffs' counsel. It had rained the morning of March 12, and despite plastic sheeting
26 rigged up in an attempt to stop leaks, class members in these yards reported that they had
27 gotten wet while sleeping in their beds. The tent walls are also visibly insufficient to keep
28 out the elements, including a significant amount of dirt and dust, as well as insects such as

1 mosquitos, flies, and cockroaches.

2 14. The bathroom facilities on the North Unit D and E yards are the worst of
3 any I have personally observed in the Arizona prison system. Both yards have bathroom
4 facilities, including urinals, toilets, sinks, and showers, that are located in trailers on the
5 yard. The bathroom on the D yard smelled overpoweringly of urine, and had several non-
6 functional toilets and sinks. There was no functional lighting in the shower area, and the
7 stalls were cramped, filthy, and mostly without curtains. The floor had numerous locations
8 where the linoleum tiles were broken or missing. The conditions in the bathroom facilities
9 on E yard were similar to those on the D yard. I observed that neither bathroom had soap
10 dispensers or bar soap available for class members. The bathroom facilities were so dirty
11 overall that it would be difficult to imagine how they could be appropriately cleaned, let
12 alone properly disinfected. I directed ADC staff escorting us on the tour to take numerous
13 photographs documenting these conditions in the D and E yard bathroom facilities.
14 Defendants have not yet produced those photographs to Plaintiffs' counsel.

15 15. During our visit to the D and E yards on North Unit, several class members
16 asked me what the symptoms were for COVID-19 because they did not know and were
17 afraid because they had received no information on what to look out for or what to expect.

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

19 Executed March 16, 2020, in Tucson, Arizona.

20 /s/ Maya Abela
21 Maya Abela

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ADDITIONAL COUNSEL OF RECORD:

By: s/ Corene T. Kendrick

Donald Specter (Cal. 83925)*
Alison Hardy (Cal. 135966)*
Sara Norman (Cal. 189536)*
Corene T. Kendrick (Cal. 226642)*
Rita K. Lomio (Cal. 254501)*
PRISON LAW OFFICE
1917 Fifth Street
Berkeley, California 94710
Telephone: (510) 280-2621
Email: dspecter@prisonlaw.com
ahardy@prisonlaw.com
snorman@prisonlaw.com
ckendrick@prisonlaw.com
rlomio@prisonlaw.com

*Admitted *pro hac vice*

David C. Fathi (Wash. 24893)*
Amy Fettig (D.C. 484883)**
Eunice Hyunhye Cho (Wash. 53711)*
ACLU NATIONAL PRISON PROJECT
915 15th Street N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 548-6603
Email: dfathi@aclu.org
afettig@aclu.org
echo@aclu.org

*Admitted *pro hac vice*. Not admitted in DC; practice limited to federal courts.

**Admitted *pro hac vice*

Jared Keenan (Bar No. 027068)
Casey Arellano (Bar No. 031242)
ACLU FOUNDATION OF ARIZONA
3707 North 7th Street, Suite 235
Phoenix, Arizona 85013
Telephone: (602) 650-1854
Email: jkeenan@acluaz.org
carellano@acluaz.org

Daniel C. Barr (Bar No. 010149)
Amelia M. Gerlicher (Bar No. 023966)
John H. Gray (Bar No. 028107)
PERKINS COIE LLP
2901 N. Central Avenue, Suite 2000
Phoenix, Arizona 85012
Telephone: (602) 351-8000
Email: dbarr@perkinscoie.com
agerlicher@perkinscoie.com
jhgray@perkinscoie.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Attorneys for Plaintiffs Shawn Jensen; Stephen Swartz; 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

ARIZONA CENTER FOR DISABILITY LAW

By: s/ Maya Abela

Rose A. Daly-Rooney (Bar No. 015690)

J.J. Rico (Bar No. 021292)

Maya Abela (Bar No. 027232)

ARIZONA CENTER FOR DISABILITY LAW

177 North Church Avenue, Suite 800

Tucson, Arizona 85701

Telephone: (520) 327-9547

Email: rdalyrooney@azdisabilitylaw.org

jrico@azdisabilitylaw.org

mabela@azdisabilitylaw.org

Asim Dietrich (Bar No. 027927)

5025 East Washington St., Ste. 202

Phoenix, Arizona 85034

Telephone: (602) 274-6287

Email: adietrich@azdisabilitylaw.com

Attorneys for Arizona Center for Disability Law

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:

Michael E. Gottfried
Lucy M. Rand
Assistant Arizona Attorneys General
Michael.Gottfried@azag.gov
Lucy.Rand@azag.gov

Daniel P. Struck
Rachel Love
Timothy J. Bojanowski
Nicholas D. Acedo
Ashlee B. Hesman
Jacob B. Lee
Timothy M. Ray
Richard M. Valenti
STRUCK LOVE BOJANOWSKI & ACEDO, PLC
dstruck@strucklove.com
rlove@strucklove.com
tbojanowski@strucklove.com
nacedo@strucklove.com
ahesman@strucklove.com
jlee@strucklove.com
tray@strucklove.com
rvalenti@strucklove.com

Attorneys for Defendants

s/ C. Kendrick