

1 DONALD SPECTER – 083925
RITA K. LOMIO – 254501
2 MARGOT MENDELSON – 268583
PRISON LAW OFFICE
3 1917 Fifth Street
Berkeley, California 94710-1916
4 Telephone: (510) 280-2621
Facsimile: (510) 280-2704
5

MICHAEL W. BIEN – 096891
6 GAY C. GRUNFELD – 121944
THOMAS NOLAN – 169692
7 PENNY GODBOLD – 226925
MICHAEL FREEDMAN – 262850
8 ROSEN BIEN
GALVAN & GRUNFELD LLP
9 101 Mission Street, Sixth Floor
San Francisco, California 94105-1738
10 Telephone: (415) 433-6830
Facsimile: (415) 433-7104
11

LINDA D. KILB – 136101
12 DISABILITY RIGHTS EDUCATION &
DEFENSE FUND, INC.
13 3075 Adeline Street, Suite 201
Berkeley, California 94703
14 Telephone: (510) 644-2555
Facsimile: (510) 841-8645
15

Attorneys for Plaintiffs

17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA

19 JOHN ARMSTRONG, et al.,

20 Plaintiffs,

21 v.

22 GAVIN NEWSOM, et al.,

23 Defendants.
24

Case No. C94 2307 CW

DECLARATION OF TANIA AMARILLAS DIAZ IN SUPPORT OF PLAINTIFFS' RESPONSE AND OBJECTIONS TO COURT EXPERT'S REPORT AND RECOMMENDATIONS REGARDING HOUSING OF ARMSTRONG CLASS MEMBERS DURING THE COVID-19 PANDEMIC

Judge: Claudia Wilken

1 I, Tania Amarillas Diaz, declare:

2 1. I am an investigator at the Prison Law Office, counsel of record for the
3 Plaintiff class in *Armstrong v. Newsom*. I have personal knowledge of the facts set forth
4 herein and, if called as a witness, I could competently so testify. I make this declaration in
5 support of Plaintiffs' Response and Objections to Court Expert's Report and
6 Recommendations Regarding Housing of *Armstrong* Class Members During the COVID-
7 19 Pandemic.

8 2. On July 30, 2020, Defendants designated Building E2 at the California
9 Substance Abuse Treatment Facility and State Prison, Corcoran ("SATF") for purposes of
10 isolation and quarantine.

11 3. On August 20, 2020, my colleague Rita Lomio and I participated in a virtual
12 tour of the Facility A gym at SATF. The ADA Coordinator at SATF used a cellphone
13 camera and Skype for Business to show various areas of the gym. At that time, the gym
14 was unoccupied, and the ADA Coordinator said that he had not been told if or how the
15 gym would be used to house people during the pandemic. Although beds and mattresses
16 had been placed in the gym, the gym still did not have CDCR 1824s, an appeals box, or a
17 television. The outlets were along the walls, and the ADA Coordinator did not know if
18 there was a plan to cover any electrical cords to make sure they did not pose a tripping
19 hazard.

20 4. Ms. Lomio and I directed that photographs be taken of various areas in the
21 gym during the virtual tour. Although Ms. Lomio and I have requested the photographs
22 from attorneys for Defendants several times, as of 8:00 p.m. on September 1, 2020,
23 Defendants have not produced them to us.

24 5. On August 26, 2020, Ms. Lomio and I interviewed the ADA Coordinator at
25 SATF. He reported that he had just learned that day that *Armstrong* class members were
26 housed in the Facility A gym.

27 6. According to the COVID-19 Registry, on August 27, 2020, at 8:43 p.m.,
28 there were 43 confirmed, active cases of COVID-19 in the incarcerated population at

1 SATF, including three people designated DPW, two people designated DPO, and seven
 2 people designated DPM. All but three had a “first positive test” date of August 25, 2020.
 3 Most were listed as being housed in Building B3, a dorm living area. *See* Doc. 2996-2 at
 4 200 (Defendants’ Bed Audit) (listing “Dorm” as “Type of Bed” for B3).

5 7. According to the COVID-19 Registry the following morning, on August 28,
 6 2020, the 43 people with confirmed, active cases at SATF were housed in Buildings E2,
 7 C3, and Z. Three *Armstrong* class members with DPW codes had confirmed, active cases.

8 8. According to Defendants’ “DPP-DDP Designated Bed Attributes Summary –
 9 by Bed Level,” which was produced to Plaintiffs on July 23, 2020, Building C3 has two
 10 DPW cells (cell numbers 113 and 122), Building E2 has two DPW cells (109 and 142),
 11 and Building Z has two DPW cells (148 and 149).

12 9. On August 28, 2020, I reviewed the electronic medical record for *Armstrong*
 13 class members, as well as the COVID-19 Registry and DPP SOMS Roster from that date
 14 produced by Defendants. According to my review, all DPW cells in Buildings C3 and E2
 15 were occupied with DPW class members:

- 16 a. **E2:** Two DPW class members were housed in the DPW cells in E2;
 17 neither had a confirmed, active case, and they instead appeared to be
 18 in quarantine.
- 19 b. **C3:** Two DPW class members were housed in the DPW cells in C3;
 20 both had confirmed, active cases of COVID-19.
- 21 c. **Z/STRH:** One DPW class member was housed in a DPW cell in
 22 Building Z (Short-Term Restrictive Housing (“STRH”)) (cell number
 23 148). The DPW class member was the only person with a confirmed,
 24 active case housed in Building Z; the night before, according to the
 25 COVID-19 Registry, he had been housed in B3. The other DPW cell
 26 in Building Z (cell number 149) also was occupied by a DPW class
 27 member. That class member did not appear on the COVID-19
 28 Registry as having a confirmed, active case.

1 10. On September 2, 2020, I spoke with the DPW class member who is housed
2 in the Building Z (STRH) at SATF. He has been housed in the STRH since August 27,
3 2020. According to this class member, he was moved to short-term restrictive housing
4 because there are not enough wheelchair accessible cells in the designated quarantine and
5 isolation building on Facility E. The class member reported that since he was moved to the
6 STRH, he has not received any of his personal property. He reported that he has not been
7 given access to a phone or recreational time in the time he has been in the STRH. As noted
8 above, the class member appears on the COVID registry as having a confirmed, active
9 case, but he reported during our call that he had not been informed of his positive COVID-
10 19 test result.


11 11. On September 1, 2020, I, along with my colleagues Skye Lovett and
12 Gabriela Pelsinger, interviewed class members at SATF, including those currently housed
13 in the gym on Facility A. Unfortunately, some class members feared retaliation and would
14 not let us raise their concerns or disclose their name to Defendants.

15 12. On September 1, 2020, I reviewed the SOMS DPP Roster produced by
16 Defendants on August 12, 2020. Based on my review, at least eleven *Armstrong* class
17 members at the California Institution for Men were being housed in areas not designated
18 for their DPP codes. It appears that Defendants produced CDCR 128-Bs for only one of
19 those class members.

20 I declare under penalty of perjury under the laws of the United States of America
21 that the foregoing is true and correct, and that this declaration is executed at San Rafael,
22 California, this 2nd day of September, 2020.

23
24
25
26
27
28

DATED: September 2, 2020



Tania Amarillas Diaz