

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

HASSAN CHUNN; NEHEMIAH McBRIDE;
AYMAN RABADI, by his Next Friend
MIGDALIZ QUINONES; JUSTIN RODRIGUEZ,
by his Next Friend JACKLYN ROMANOFF;
ELODIA LOPEZ; and JAMES HAIR,

No. 20 Civ. 1590

individually and on behalf of all others similarly
situated,

Petitioners,

-against-

WARDEN DEREK EDGE,

Respondent.

NOTICE OF MOTION

PLEASE TAKE NOTICE that upon the accompanying:

- (a) Memorandum of Law in Support of Petitioners' Motion for a Preliminary Injunction, dated April 30, 2020;
- (b) Declaration of Ayman Rabadi, dated April 29, 2020;
- (c) Declaration of Elodia Lopez, dated April 28, 2020;
- (d) Declaration of James Hair, dated April 30, 2020;
- (e) Declaration of Hassan Chunn, dated April 30, 2020;
- (f) Facility Evaluation: Report of Metropolitan Detention Center by Dr. Homer Venters dated April 30, 2020;
- (g) Declaration of Katherine R. Rosenfeld, dated April 30, 2020, with exhibits;
- (h) Declaration of Katherine R. Rosenfeld re: class counsel, dated April 30, 2020;
- (i) Declaration of Betsy Ginsberg, dated April 30, 2020;

- (j) Declaration of Alex A. Reinert, dated April 30, 2020;
- (k) Declaration of Yeugenia (Jane) Shvets, dated April 30, 2020; and
- (l) All pleadings and proceedings relevant to this action,

Petitioners, by their counsel, will move this Court on May 12, 2020, at 10:00 a.m., at the United States Courthouse for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, NY 11201, before the Honorable Rachel P. Kovner, United States District Judge, for an Order, pursuant to Federal Rule of Civil Procedure 65 preliminarily enjoining Respondent as follows:

1. Ordering immediate release of vulnerable persons, with appropriate precautionary public health measures, including Petitioner Rabadi (scheduled to be released on 7/19/2020); Petitioner Elodia Lopez (scheduled to be released on July 28, 2020), Petitioner James Hair (scheduled to be released on August 15, 2026), and all others confined at the Metropolitan Detention Center (“MDC”) who Respondent has identified as medically vulnerable due to underlying health conditions or age (“Vulnerable Persons”)—and therefore at higher risk of developing serious COVID-19 illness;
2. Conditionally certifying the class or awarding class-wide relief under the Court’s general equity powers;
3. Ordering screening of all detainees for multiple COVID-19 signs and symptoms, even when individual temperatures are within normal limits;
4. Ordering screening for all detainees who arrive at the MDC consistent with CDC guidelines, including for those returning from hospital admissions, and those who are transferred from other correctional settings;
5. Ordering adoption of a standardized COVID-19 surveillance tool which includes COVID-19 symptoms and signs, including temperature checks, to be administrated twice daily by nursing staff to all incarcerated persons who possess high-risk factors, patients in quarantine, and patients in isolation;
6. Ordering all patients who are suspected or confirmed to have COVID-19 to receive a standardized clinical evaluation at least daily by nursing staff in a clinical setting and not cell-side;
7. Ordering same-day review of every sick-call slip and electronic submission that will (i) trigger immediate (same day or next morning)

assessment for COVID-19; and (ii) provide data that creates a facility wide symptom tracking dashboard that health care staff will use;

8. Ordering the identifying, cohorting and testing of all detainees who possess risk factors for serious illness or death from COVID-19;
9. Ordering the quarantine of all high-risk detainees into units with routine checks for COVID-19 signs and symptoms, including temperature;
10. Ordering that all quarantine units follow CDC guidelines for management of COVID-19 including the use of appropriate personal protective equipment (“PPE”), cleaning of common surfaces, and exclusion of individuals not suspected to or confirmed to have COVID-19; including twice daily sign and symptom surveillance, including temperature;
11. Ordering testing of patients who possess more than one sign and/or symptom of COVID-19;
12. Ordering testing of staff who possess (i) risk factors for serious illness or death from COVID-19; or (ii) more than one sign and/or symptom of COVID-19;
13. Ordering that all staff wear PPE, including masks, when interacting with any person or when touching surfaces in cells or common areas;
14. Ordering that sufficient disinfecting supplies are provided, free of charge, so incarcerated people can clean high-touch areas or items (including, but not limited to, phones and computers) between each use;
15. Ordering the repair of emergency call-buttons in cells in which those do not work; in the interim, conduct frequent medical rounds in those units where there are malfunctioning call buttons;
16. Ordering training for all staff and orderlies on the importance of reporting health-related problems among detainees to medical staff;
17. Ordering rotation of Spanish-speaking health staff, so that access to medical staff is maximized;
18. Ordering that each incarcerated person receives, free of charge, adequate personal hygiene supplies for hand washing, disinfectant products effective against the virus that causes COVID-19 for daily cleanings; and access to daily showers and daily access to clean laundry;

19. Ordering adequate spacing of six feet or more between people incarcerated, to the maximum extent possible at the MDC's current population level, so that social distancing can be accomplished;
20. Ordering appropriate facility staff to orient other staff and detained people on proper use of masks and gloves and other PPE and detained people to be provided with adequate access to masks and gloves at no cost to them and the facility to provide replacements when those masks become damaged;
21. Ordering weekly COVID-19 information sessions for detainees and correctional staff by a member of the MDC health team, that include the status of the outbreak, efforts to mitigate the spread of COVID-19, opportunities for questions, and distribution of written materials; and
22. Appointing a Special Master or Court-appointed expert to oversee implementation of the Court's ameliorative injunctive relief, to make recommendations to the Court regarding the release of members of the Medically Vulnerable Subclass who the Court has not already ordered released, and to make additional recommendations for ameliorative action at the MDC.

PLEASE TAKE FURTHER NOTICE that pursuant to the Court's schedule, opposition papers, if any, shall be served no later than May 7, 2020, and Petitioners' reply papers, if any, shall be served no later than May 11, 2020.

Dated: New York, New York
April 30, 2020

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

HASSAN CHUNN; NEHEMIAH McBRIDE;
AYMAN RABADI, by his Next Friend
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No. 20 Civ. 01590

**DECLARATION OF AYMAN
RABADI**

Ayman Rabadi declares the following under penalty of perjury and pursuant to 28 U.S.C. § 1746:

1. My name is Ayman Rabadi. I am 59 years old and I will turn 60 on May 29, 2020. I have been incarcerated at the Metropolitan Detention Center for approximately 4 months.
2. I have served approximately 18 months of a 24-month sentence. I am scheduled to be released on July 19, 2020.
3. When I am released, I can return to my family home of the past thirty years, where I will live with my adult daughter and her family. I will be able to isolate myself and take precautionary measures against COVID-19. I will also be able to resume medical care from my primary care and cardiac doctors, both of whom are located in in Yonkers, New York.
4. I have a number of serious medical conditions including a diagnosed heart condition, anxiety, asthma, and diabetes. I suffered a heart attack approximately six years ago, and thereafter I had several stents placed in my heart. I have a tumor in one of my kidneys which is being monitored via ultrasound. I also suffer from severe anxiety and depression.

5. In 2019, while I was incarcerated, I suffered a stroke and I was in the intensive care unit for four days at Westchester County Medical Center.

6. I take medication for high blood pressure, cholesterol, diabetes, and blood thinners. I currently take more than a dozen medications a day. I ran out of seizure medication last month, and when I told an officer, he said “too bad.”

7. I also have an anal fistula that is bleeding constantly and very painful. I can’t adequately clean it every day because I have little access to the showers. I am concerned about getting an infection. A few months ago, the MDC gave me pampers to deal with the bleeding from the fistula. Right now, I am just using regular napkins to stop the bleeding.

8. My glasses broke about a month ago. I can’t see without my glasses. I asked for help and an officer said: “We don’t fix glasses.”

9. Over the past several months, I have put in many sick call requests. No one has responded to them. I have made requests on the computer and by writing them down. I have also asked the guards to request medical for me. I have asked many times for someone to check my blood sugar because I am diabetic, but these requests are ignored.

10. In the last few weeks, the medical staff started taking everyone’s temperatures in the housing unit. At first, it was two times a day. Then, the nurse came by once a day. If I asked her anything, she didn’t want to hear it. She never asked me any questions about my health. For the last week, no one has taken my temperature.

11. I am currently housed on Unit 82. I have been here for about two months. I share a small cell with another person. My cellmate and I share a toilet and a sink. My cellmate has high blood pressure and he takes medication for that.

12. I am locked in my cell 24 hours a day except for three days a week when I can leave for about 30 minutes. I can't exercise or walk, even though my doctor has advised me that I need to walk around for my health. It's only one step from my toilet to my bed. We are fed meals through a hole in the door. The tight quarters are causing people to get on each other's nerves; there is a lot of tension on the unit.

13. A few weeks ago, I asked an officer for more soap and I was told, "No, we ran out." I tried to buy soap from commissary and a guard told me that the commissary doesn't have any soap I can buy.

14. I don't have anything to clean my cell with. We had a bottle of cleaning solution for the last two months but it is now used up and we were told that there is no more. For a long time, no one was cleaning the common areas but now they started to clean them. I was putting a sock over the phone when I called my wife because the phone was so dirty.

15. I first received a face mask on about April 15th. I then got a second mask in the last few days. I have no gloves. People in the unit are not wearing their masks when they leave their cells, and no one is telling them to wear them.

16. The officers on this unit started wearing masks and gloves about five days before my lawyers came for an inspection.

17. About a month ago, one guy on our unit disappeared after he developed a bad cough. Then he came back to the unit, wearing a mask. He was the only person on the unit with a mask, out of 90 people. Later, they locked everyone down for 14 days. They came back and said "we're locking you until May 18th." When people are coughing, the guards tell them: "Stay away."

18. About two weeks ago, a person on the unit had a kidney stone, and he was on the floor in great pain. Nobody responded for an hour, and when medical came, the staff member said: "Get up," but the man couldn't get up.

19. When I leave my cell to go out to the shower, I hear guys coughing, saying they have fevers. Everyone is coughing and sneezing and sick.

20. In the last week, two new people moved onto our unit. They said they had been transferred from Allenwood, Pennsylvania.

21. Because of my age, heart condition, anxiety, diabetes, and other medical conditions, I am at high risk for complications from COVID-19 infection. I am scared that I will die here. I worry that if I get it, I will not walk out here.

Executed on: April 29, 2020
Brooklyn, New York

As reported by Ayman Rabadi to
Katherine Rosenfeld of Emery Celli
Brinckerhoff & Abady LLP

/s/ _____
Katherine Rosenfeld

Counsel to Ayman Rabadi

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

HASSAN CHUNN; NEHEMIAH McBRIDE;
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individually and on behalf of all others similarly
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Petitioners,

-against-

WARDEN DEREK EDGE,

Respondent.

No. 20 Civ. 01590

**DECLARATION OF ELODIA
LOPEZ**

Elodia Lopez declares the following under penalty of perjury and pursuant to 28 U.S.C. § 1746:

1. My name is Elodia Lopez. I am 55 years old. I am currently incarcerated at the Metropolitan Detention Center where I am serving a 15-month sentence. I arrived here in January 2020. I am scheduled to be released on July 28, 2020.
2. I have a number of medical conditions. I suffer from high blood pressure, high cholesterol, a pituitary condition, and Type II diabetes for which I take insulin. I also take medications for my high blood pressure and cholesterol every day.
3. On many occasions, I have asked the person who comes around to give me insulin if she can check my blood pressure. When I was home, I had my blood pressure checked frequently at a clinic, sometimes every three days. Here, my blood pressure is not checked regularly.
4. I recently had a serious lung infection that was discovered in approximately November 2019, which makes it difficult for me to breathe, causes my throat to close,

and causes me to experience high fever and chills. When I asked for medical care at the MDC, I was given Vitamin D and told to buy medicine to manage the pain. I am supposed to be taking medication for the infection, but I have not received the medicine since I arrived at the MDC four months ago.

5. Recently, I have experienced problems breathing, a stuffy nose, and headache. I also feel depressed and scared.

6. Since the pandemic started, no one has come to my housing unit to take my temperature. No one has asked me if I have any symptoms. The only thing the jail told us about the coronavirus is “keep your distance” from other inmates.

7. I am housed in the women’s dormitory of the MDC. I sleep in an open dormitory in a bunk bed. About one week ago, the officers told us to sleep in the bunk beds alternating “one up, one down.” I share a bathroom, tables, and chairs with other women.

8. One older woman in my dorm, who sleeps only feet away from me, has recently been displaying COVID-19 symptoms. The medical staff took her out of the unit for 20 minutes, and then she returned.

9. I was recently given a mask. I also receive a small bar of soap once a week. I do not have gloves or hand sanitizer. The officers on the unit started to wear gloves and masks about three weeks ago, but they don’t always wear them

10. I heard from staff that a Lieutenant who worked on our unit tested positive for COVID-19. That scared me. But no one came and informed us of this formally or asked us if we had been in contact with him.

11. Inmates in my unit clean our bathroom, the same number of times a week as they did before the coronavirus. Last Friday, a man came into the unit with some very strong

cleaning liquid to clean the floors around the tables where we eat. It was such strong liquid that I coughed a lot.

12. Because of my lung condition, I am sensitive to strong cleaning products and smells. I can't use the product they provide on my locker or my bunk bed, it hurts my lungs too much. I use very hot water and soap to clean my locker and bed instead.

13. We eat our meals in a group around the tables. We pull the mask to our chin to take a bite and then put it back up to our face.

14. I hope to be released soon so I can go live with my daughter.

Executed on: April 28, 2020
Brooklyn, New York

As reported by Elodia Lopez to
Katherine Rosenfeld of Emery Celli
Brinckerhoff & Abady LLP

/s/ _____
Katherine Rosenfeld

Counsel to Elodia Lopez

Exhibit 1

INMATE REQUEST TO STAFF
(RESPONSE)

TO: LOPEZ, Elodia
Reg. No.: 05490-052

DISPOSITION:

This is in response to your email dated March 24, 2020, wherein you request to be considered for a compassionate release pursuant to 18 U.S.C. §3582 and Bureau of Prisons Program Statement 5050.50, Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§3582(c)(1)(A) and 4205(g). You state you have diabetes, high blood pressure, cholesterol, thyroid, and pulmonary conditions.

A review of Program Statement 5050.49, Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§3582(c)(1)(A) and 4205(g), indicates you do not meet any of the criteria established in this program statement. Your medical record does not identify any medical conditions to reflect a terminal or debilitated medical condition, as set forth in Program Statement 5050.50. Also, you have not provided any additional evidence or information in support of the request. Accordingly, the request for a compassionate release is denied at this time.

If you are not satisfied with this response, you may appeal through the Administrative Remedy Program.



D. Edge, Warden

4/19/2020
Date

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

HASSAN CHUNN; NEHEMIAH McBRIDE;
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Respondent.

No. 20 Civ. 01590

**DECLARATION OF JAMES
HAIR**

James Hair declares the following under penalty of perjury and pursuant to 28 U.S.C.

§ 1746:

1. My name is James Hair. I am 29 years old. I have been incarcerated at the Metropolitan Detention Center (“MDC”) since February 4, 2020.
2. I am a sentenced inmate in transit to my designated facility. My scheduled release date is August 15, 2026.
3. When I am released, I intend to live with my fiancé in Baltimore. She has an apartment near to the hospital where I can go for regular medical treatment.
4. I was diagnosed with multiple sclerosis in 2018. The disease causes me headaches, numbness, and tingling, and has caused me to have approximately 4 seizures in the past two years. Most recently, I had a seizure in March that caused me to chip my tooth. My cellmate saw this most recent seizure.

5. At the MDC, they are refusing to give me any medication for my MS because they claim it will place me at risk for COVID, because MS has immune system involvement. Without any medication, my MS is causing me to experience a lot of pain and numbness.

6. I also suffer from asthma and use an inhaler. In late 2019, I had an asthma attack and was taken to the hospital.

7. At my previous facility, Ft. Dix in Maryland, they did chest and kidney scans on me and told me that I needed follow up for lung issues and abnormal cells on my left kidney. Recently, I have been experiencing extreme pain in my lower left back, near where my left kidney is. I told a doctor at the MDC about the scan results from Ft. Dix that showed abnormal cells on my left kidney and was told not to worry about it.

8. I also had a colonoscopy done, which I am told showed a bacterial infection.

9. Several weeks ago, I began noticing blood in my stool; it is present about 90% of the time.

10. In late 2019, I began vomiting multiple times per week, on average, and frequently seeing blood in my vomit. I have shown the blood in my vomit to staff at the MDC.

11. I have also had a severe earache on and off three or four weeks.

12. I have put in numerous cop-outs since arriving at the MDC for trouble breathing (shortness of breath), blood in my stool and vomit, pain in my lower back/kidneys and a severe earache.

13. I finally saw a doctor, on April 9, 2020, after a judge in Brooklyn ordered that I be seen. I told the doctor I have asthma and I have been having breathing issues. The doctor gave me a new asthma inhaler that gave me hives. I now use only a rescue inhaler.

14. The doctor did not believe I had blood in my stool; he was trying to tell me it was constipation. So I showed him a tissue with blood on my stool. He gave me Imodium.

15. He did not give me anything for the blood in my vomit.

16. I have put in numerous sick calls over the last four weeks.

17. On April 3, 2020, I told the CO that I felt sick and had seen blood in my stool.

18. On April 4, 2020, I told the CO I felt sick and my ear was hurting acutely.

19. On April 5, 2020, I told the CO I still had a bad earache.

20. On April 6, 2020, I was coughing up blood and asked the CO three different times (at each mealtime) to please call medical, and I also showed the CO a cup of my vomit with blood in it.

21. On April 15, 2020, I asked the CO to call medical because I was short of breath and had used the asthma twist inhaler and broken out in hives. Later that same day I put in two more sick calls and begged the CO to get the nurse because I was having trouble breathing.

22. On April 16, 2020, I asked three times to see medical because I was short of breath and breaking out into hives.

23. On April 17, 2020, I again asked for medical care for my ear and my lower back/kidney.

24. On April 18, 2020, I asked to be seen by medical because of continuing back/kidney pain and more blood in my stool. The CO told me no medical staff is here on the weekend.

25. On April 19, 2020, I asked for medical twice, once at 1:38 p.m., and again at 6:38 p.m. The counselor told me he had put my cop-out in and would have to wait for medical to call me.

26. On April 20, 2020, I asked the CO about seeing medical. She said she called the medical officer, but no one came. Later that same day I asked my counselor about medical and he said all he could do was put the sick call into medical—it was up to them whether to come or not.

27. On April 21, 2020, I asked for medical because I was coughing up blood. My lawyer asked the judge to ensure I receive medical care. I saw a nurse that day.

28. On April 22, 2020, I saw a doctor for blood work that was supposed to have been done weeks earlier. The doctor told me he could hear me wheezing, and that I had an infection in my stomach.

29. On April 23, 2020, I told the woman who passes out medication that I was short of breath and my chest hurt. I asked her to check my vitals. She refused to do so and shut the door on me.

30. On April 24, 2020, I asked the CO to call medical because my back and stomach hurt. The CO came back two hours later and said there was no one available to see me. A physician's assistant on the pill line refused to help me because he said he was not licensed.

31. On April 26, 2020, I wrote a sick call because my MS was acting up and I was having trouble urinating. Previously, I've had to use a catheter because of issues related to my MS.

32. On April 27, 2020, I asked to go to medical because I couldn't breathe, my chest felt tight, and I was coughing. An orderly heard how much trouble I was having breathing, but finished rounds for about an hour before assisting me. I finally saw a nurse who gave me a nebulizer. I also told the nurse that I was having a bad reaction to the seven new medications

that I am now on. The nurse told me to stop taking the medications together. The nurse also listened to my chest with a stethoscope and told me he heard wheezing.

33. I continue to experience shortness of breath and tightness in my chest.

34. I asked a doctor to test me for coronavirus on April 22, 2020. The doctor refused to give me a test and discouraged me from even asking for one.

35. I am nervous that my efforts to get medical care are going to get me in trouble. COs warned me the other day that I could be put in the SHU. I took their threat to mean that I will be put in the SHU if I do not stop complaining.

36. I am currently housed on Unit 63. I have been here since I arrived at the MDC in February. I share a small cell with another person. My cellmate and I share a toilet and a sink.

37. As far as I am aware, no one on my unit is being systematically tested for COVID symptoms, and no one's temperature is being taken regularly.

38. I am locked in my cell 24 hours a day every other day. On alternate days, I can leave for about one hour.

39. Everyone on my unit shares tables, chairs, phones, computers, toilets, and showers. The showers are not being cleaned well; there is mold everywhere. Orderlies do not always wipe down the phones and computers. When they do, they often use the same rag to wipe the phones and computers that they use to wipe the tables and chairs, without cleaning the rag between uses.

40. We are not giving any materials to clean our cells with..

41. Approximately four or five new people have been brought to my unit since the lockdown began.

42. There are three or four people who I hear coughing over and over and asking for medical care. The officer tells them he is busy. The pill line lady says she only deals with pharmacy. The doctors don't come to the unit unless you get the judge to order them to come.

43. We get soap once a week, at most, but it is enough for only about two washings.

44. We are given one thin surgical mask once a week.

45. We do not receive any gloves.

46. Sometimes the guards on my unit wear gloves; sometimes they do not.

Sometimes the guards wear masks; sometimes they do not.

47. Because of my multiple sclerosis, my kidney issues, my asthma, and my other medical conditions, I am at high risk for complications from COVID-19 infection. I am very concerned that the jail's inadequate quarantine program, slow to nonexistent medical care, and inconsistent preventative measures have not meaningfully reduced the likelihood that I will get sick and suffer potentially catastrophically health outcomes. Indeed, I am afraid for my life.

Executed on: April 30, 2020
Brooklyn, New York

As reported by James Hair to Samuel
Shapiro of Emery Celli Brinckerhoff
& Abady LLP

/s/ Samuel Shapiro

Samuel Shapiro
Counsel to James Hair

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Respondent.

No. 20 Civ. 01590 (RPK)

DECLARATION OF HASSAN
CHUNN

Hassan Chunn declares the following under penalty of perjury and pursuant to 28 U.S.C. § 1746:

1. My name is Hassan Chunn. I am 46 years old.

2. I was incarcerated at the Metropolitan Detention Center (“MDC”) from September 10, 2019 until my release around April 8, 2020. I am now living with my mother in Brooklyn.

The Conditions at MDC as I Observed Them During my Incarceration

3. During my incarceration, I was housed in Unit K83 with around 120 inmates. For about 11 days at the beginning of March, our unit was quarantined, meaning we could not exit the unit. We could still, however, congregate with other prisoners in our unit. We were not issued masks during this time.

4. During this time, medical staff began taking our temperatures, at first twice a day, then once a day. However, they did not ask us any questions during the temperature checks.

5. Also, during this period, there was a prisoner, Joe, living in my unit who was coughing so much that it appeared he had bronchitis. He and his cellmate were removed from the unit. When they returned to the unit shortly before I left MDC, Joe told me he had not been tested – he had simply been returned to the unit after 14 days of isolation.

6. Around the end of March or beginning of April, we went on lockdown. That meant we could only be out of our cells three days a week for 30 minutes at a time. During those 30 minutes, we could use computers, phones, and the showers. We had to choose which task to do in those 30 minutes, and were also told to disinfect our cells during that time. It was impossible to do everything we needed to do in 30 minutes.

7. The prison did not enforce social distancing when they let us out of our cells. They would let us out 20 inmates at a time, but the staff did not care if inmates were within six feet of each other. We also could not keep six feet away if we were using the computers, which were placed close to each other.

8. There were no spray bottles provided to disinfect computers or phones. We also were not given any gloves to use with the computers or phones. I used to put a sock over the phone whenever I would make a call to separate my face from the dirty phone.

9. On April 5, I was given one mask that we had to reuse. I never received any other mask or other protective supplies.

10. When we went on lockdown, medical staff stopped coming to check our temperatures. There were emergency buzzers in our cells that we could have used to call for help, but they were deactivated and did not work.

11. To get our laundry done, we would drop our laundry bags outside of our cell doors whenever the food service came around. The laundry porter of the unit would take the bag and return the laundry later.

12. Many people in Unit K83 worked in the kitchen. So, even during lockdown, some inmates were cooking and serving food. They were not given gloves to use in the kitchen.

13. On April 7, my cellmate told me one of the cadre inmates had tested positive, and had been working in the kitchen area. That cadre inmate had interacted with many other inmates from other units, as well as with staff members.

14. While we were on lockdown, the prison was still moving new inmates into our unit. We did not know where the inmates came from – whether it was from the outside, or the SHU, or elsewhere.

15. During lockdown, the staff fed us and, if they were part of the AM shift, would take us to the showers. There were staff shortages, though – the food was always late, and some days we didn't get our mail.

16. I saw staff wearing surgical masks, but did not see anyone wearing N-95 masks. Some staff wore scarves instead of masks. Generally, however, staff seldom wore any face covering. Most staff members also did not have gloves. Only medical staff had face shields and gowns.

17. Even though the staff did not have proper PPE, they often moved between units during the course of their duties.

My Health Problems and Lack of Medical Care during my Incarceration

18. I have a number of serious medical conditions including Coronary Heart Disease, high blood pressure, diabetes, and asthma. I have two stents in my heart, have had episodes of chest pain and difficulty breathing, have had a heart attack, and have suffered from fever-induced seizures.

19. A number of these conditions are documented in my medical records from Jamaica Hospital, which indicate that I received care in 2017 for coronary artery disease, poorly controlled hypertension, and obesity.

20. While at MDC, I frequently had to wait weeks before receiving medical attention.

21. After the COVID-19 pandemic started, I filed an electronic sick call request identifying certain symptoms, including a dry cough and tightness in my chest. My cellmate had the same symptoms at the same time, and also filed a sick call request, also called a “cop-out.” No medical staff ever responded.

22. The medical staff came around sometimes to give me refills on medication. When they gave me my medication, I brought my symptoms to their attention. They told me that they could not see me, and that I needed to submit cop-out. I told them I had already done so. They responded that I just had to wait to be seen. I was never seen by medical staff after submitting my cop-out.

23. On the day of my release, I was taken directly from Unit K83 to the exit at MDC. The staff did not check my temperature or give me any medical supplies or masks – they just told me to call a relative to pick me up and leave.

24. Because of my conditions, I was at high risk for complications from COVID-19 infection. I am very concerned about MDC's inadequate protection of its prisoners and slow to nonexistent medical care.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct

Executed on: April 30, 2020
Brooklyn, New York

/s/ Hassan Chunn
Hassan Chunn

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

HASSAN CHUNN; NEHEMIAH McBRIDE;
AYMAN RABADI, by his Next Friend
MIGDALIZ QUINONES; JUSTIN RODRIGUEZ,
by his Next Friend JACKLYN ROMANOFF;
ELODIA LOPEZ; and JAMES HAIR,

individually and on behalf of all others similarly
situated,

Petitioners,

-against-

WARDEN DEREK EDGE,

Respondent.

No. 20 Civ. 1590

**DECLARATION OF
KATHERINE R. ROSENFELD**

KATHERINE R. ROSENFELD, an attorney duly admitted to practice in the Eastern District of New York, declares under penalty of perjury:

1. I am a partner in the firm of Emery Celli Brinckerhoff & Abady LLP (“ECBA”), attorneys for the Petitioners in this action.
2. I respectfully submit this declaration in support of Petitioners’ Motion for Preliminary Approval of the Class, and Appointment of Plaintiffs’ Counsel as Class Counsel.
3. ECBA possesses extensive experience handling class actions and complex litigation in federal courts. In a class action where ECBA served as lead counsel, one court described ECBA as “preeminent.” *Brown v. Kelly*, 244 F.R.D. 222, 233 (S.D.N.Y. 2007), *aff’d in part, vacated in part on other grounds*, 609 F.3d 467 (2d Cir. 2010). Courts have taken “judicial notice of ECBA’s high reputation, finding it to be one of the most competent, successful, and reputable civil rights firms practicing in this Court.” *Wise v. City of N.Y.*, 620 F. Supp. 2d 435, 445 (S.D.N.Y. 2008) (citation omitted); *see also id.* at 446 (noting that the Court

“has the highest regard for the abilities of the ECBA attorneys in this case”); *Vilkhu v. City of N.Y.*, No. 06 Civ. 2095, 2009 WL 1851019, at *3 (E.D.N.Y. June 26, 2009) (noting ECBA’s “collective experience [and] success rate”), *vacated on other grounds*, 372 F. App’x 222 (2d Cir. 2010); *Harvey v. Home Savers Consulting Corp.*, No. 07 Civ. 2645, 2011 WL 4377839, at *4 (E.D.N.Y. Aug. 12, 2011) (noting ECBA’s “excellent reputation”); *McBean v. City of N.Y.*, 260 F.R.D. 120, 132 n.17 (S.D.N.Y. 2009) (finding that “the services . . . provided by [ECBA] in this matter amply demonstrate counsel’s ability and determination to represent the class effectively”).

4. ECBA has served as class counsel in the following certified class actions, among others: *Nunez v. City of New York*, No. 11 Civ. 5845 (S.D.N.Y.) (certified class action alleging widespread use of excessive force by correction officers at Rikers Island); *Almendras, et al. v. Atelier Mériquet-Carrère, et al.*, No. 13 Civ. 8815 (S.D.N.Y.) (wage and hour class action settlement finally approved February 5, 2015, awarding substantial monetary relief to painters misclassified as independent contractors); *Sykes v. Mel Harris & Assocs., LLC*, 285 F.R.D. 279 (S.D.N.Y. 2012) (certifying Rule 23(b)(2) and (3) classes of persons injured by fraudulent scheme to obtain default judgments in violation of, *inter alia*, RICO and the New York Consumer Protection Act), *aff’d*, 780 F.3d 70 (2d Cir. 2015); *Dugan v. London Terrace Gardens, L.P.*, 986 N.Y.S.2d 740 (N.Y. Sup. Ct. 2013) (certifying, under state law, a class of tenants alleging that defendants charged excessive rents);¹ *Tyson v. City of N.Y.*, No. 97 Civ. 3762 (S.D.N.Y.) (class of 60,000 settled for \$50 million); *McBean*, 260 F.R.D. 120 (S.D.N.Y. 2009) (certifying Rule 23(b)(3) class of persons subjected to unlawful misdemeanor pre-trial strip search policy); *Casale v. Kelly*, 257 F.R.D. 396 (S.D.N.Y. 2009) (certifying Rule 23(b)(2) and (b)(3) classes of persons arrested for subsections of loitering statute declared unconstitutional);

¹ ECBA has also represented certified classes in several similar actions in state court. *E.g.*, *Gerard v. Clermont York Assocs. LLC*, No. 101150/2010 (N.Y. Sup. Ct.); *Casey v. Whitehouse Estates, Inc.*, No. 111723/11 (N.Y. Sup. Ct.); *Bleknep v. First New Amsterdam Realty LLC*, No. 113269/11 (N.Y. Sup. Ct.).

In re Nassau Cnty. Strip Search Cases, 461 F.3d 219 (2d Cir. 2006) (reversing and certifying Rule 23(b)(3) class of persons subjected to unlawful misdemeanor pretrial strip search policy); *D.D. v. N.Y.C. Bd. of Educ.*, No. 03 Civ. 2489, 2004 WL 633222 (E.D.N.Y. Mar. 30, 2004) (certifying Rule 23(b)(2) class of New York City preschool children seeking to enforce the Individuals with Disabilities Education Act), *vacated in part on other grounds*, 456 F.3d 503 (2d Cir. 2006); *Ingles v. City of N.Y.*, No. 01 Civ. 8279, 2003 WL 402565 (S.D.N.Y. Feb. 20, 2003) (certifying Rule 23 (b)(1) and (2) class of tens of thousands of incarcerated persons in connection with allegations of inmate abuse at Rikers Island).

5. In addition, our firm, together with the Benjamin N. Cardozo School of Law's Civil Rights Clinic and Alexander A. Reinert, is counsel in *Scott et al. v. Quay*, 1:19-cv-01075 (E.D.N.Y.), a pending putative class action involving conditions of confinement at the Metropolitan Detention Center.

6. I and other ECBA attorneys, including those who are counsel of record in this matter (O. Andrew F. Wilson, Sam Shapiro, and Scout Katovich), have represented hundreds of persons incarcerated in city, state and federal prisons regarding claims of excessive force and unconstitutional prison conditions. The firm is well-equipped to represent the class here.

Dated: April 30, 2020
New York, New York

/s/ Katherine R. Rosenfeld
KATHERINE R. ROSENFELD

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

HASSAN CHUNN; NEHEMIAH McBRIDE;
AYMAN RABADI, by his Next Friend
MIGDALIZ QUINONES; JUSTIN RODRIGUEZ,
by his Next Friend JACKLYN ROMANOFF;
ELODIA LOPEZ; and JAMES HAIR,

individually and on behalf of all others similarly
situated,

Petitioners,

-against-

WARDEN DEREK EDGE,

Respondent.

No. 20 Civ. 1590

**DECLARATION OF BETSY
GINSBERG**

BETSY GINSBERG, a member of the bar of New York and of this Court, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury as follows:

1. I am an attorney at law and represent the Petitioners in this action, along with Emery Celli Brinckerhoff & Abady LLP, Debevoise & Plimpton LLP, and Alexander A. Reinert. I submit this declaration in support of Petitioners' Motion for Preliminary Injunction in this matter.

Adequacy of Class Counsel

2. Petitioners' counsel have extensive experience litigating civil rights cases involving the rights of incarcerated people, including in the class action context. I have been practicing law since 1999 with my primary area of practice being prisoner civil rights cases. I, along with my able co-counsel, meet the requirements under Fed. R. Civ. P. 23(a) as adequate representatives of the putative class.

3. I am the Director of Civil Rights Clinic ("The Civil Rights Clinic") at the Benjamin N. Cardozo School of Law where I serve on the faculty as a Clinical Professor of Law.

As the Director and founder of the Civil Rights Clinic at Cardozo, I teach and supervise second- and third-year law students in federal civil rights litigation primarily on behalf of incarcerated people seeking to enforce their constitutional rights in prisons and jails. I have been a clinical law professor at Cardozo since 2010. I have also taught in Cardozo's Immigration Justice Clinic, where I focused on cases involving both removal defense and immigration detention conditions. From 2007 until 2010, I taught full-time at New York University School of Law.

4. Before I began teaching, I was a Staff Attorney at the Prisoners' Rights Project of the Legal Aid Society of New York from 2001 until 2007. There, I litigated class action lawsuits in federal court seeking institutional reform of prisons and jails. I also litigated individual test cases seeking legal reform for incarcerated people. From 1999 until 2001, I was a Staff Attorney and Fellow at the Prison Law Office in Berkeley California, where I litigated system-wide class actions seeking injunctive relief on behalf individuals in California's prisons and on parole.

5. I have extensive experience litigating on behalf of incarcerated people in both class actions and individual cases. I have also represented people (and continue to represent people) incarcerated at the Metropolitan Detention Center ("MDC").

6. Together with Emery Celli Brinckerhoff and Abady LLC and Alexander A. Reinert, The Civil Rights Clinic is counsel in *Scott et al. v. Quay*, 1:19-cv-01075 (E.D.N.Y.), a pending putative class action involving conditions of confinement at the Metropolitan Detention Center. The Clinic has also litigated *McCarron v. United States*, et al, 18-CV-1903 (ENV)(RER) (E.D.N.Y.) (*Bivens* and FTCA action seeking damages and injunctive relief for individual denied medical care at MDC) and *Howard v. Hendrix* 15-cv-04549-NGG-LB (E.D.N.Y.) (RFRA and *Bivens* case involving MDC's failure to make religious accommodations).

7. I am putative class counsel in *Hamilton v. Vannoy*, No: 17-cv 00194-SDD-RLB (M.D. La) a class action challenge to conditions of confinement on Louisiana's death row at Angola prison. Among the other class actions in which I was lead or co-counsel are: *Ingles v. Toro*, No. 01 Civ. 8279 (DC) (S.D.N.Y.) (class action on behalf of New York City pre-trial detainees concerning a pattern and practice of excessive force); *Rosario v. Goord*, (class action on behalf of incarcerated people challenging disability-based discrimination); *Clarkson v. Coughlin*, 91-cv-01792-RWS (S.D.N.Y.) (class action on behalf of deaf and hard-of hearing people in state prison); *Messiah S. v. Alexander*, 07-cv-01327-MGC (S.D.N.Y.) (class action on behalf of people in prison and on parole with psychiatric disabilities seeking pre-release services); *Armstrong v. Davis*, No. C 94-2307 CW (N.D.Ca.) (class action on behalf of everyone incarcerated in California state prisons with mobility, hearing, vision and learning disabilities); *Valdivia v. Brown*, No. CIV. S-94-671 LKK/GGH (E.D.Ca.) (class action on behalf of California state parolees with mental illnesses regarding the right to counsel in parole hearings). I was also co-counsel in *Disability Advocates, Inc. v. New York State Office of Mental Health*, 02-cv-04002-GEL (S.D.N.Y) (group action on behalf of people in state prison with mental illnesses, challenging, among other things, their placement in solitary confinement).

8. In addition to the two MDC individual cases listed above, I have litigated numerous individual civil rights cases on behalf of prisoners and pre-trial detainees, including: *Burke v. City of New York*, 16-cv-04712-NGG-CLP (E.D.N.Y.) (case involving excessive force by jail officials); *Krieg v. Beyrodt*, 15-cv-03626-GBD-HBP (S.D.N.Y.) (case involving excessive force and disability-based discrimination); *Manning v. Griffin*, 15-cv-00003-KMK (S.D.N.Y.) (case involving failure to protect transgender woman in state prison); *Zapulla v. Annucci*, 15-903 (2d Cir.) (appeal in case involving Eighth Amendment right to medical treatment); *Pride v.*

Cange, 12-cv-04531-KMK-LMS (case involving deliberate indifference, failure to protect from harm).

9. I regularly provide continuing legal education trainings and seminars to attorneys in New York and beyond on issues related to civil rights and prisoners' rights litigation. I have conducted these trainings on behalf of several organizations, including, the Federal Bar Association, the Practicing Law Institute, the Legal Aid Society, the Federal Bar Council and Yale University. Among the presentations and panels of which I have been a part are: *Qualified Immunity and Plausibility Pleading 7 Years Post-Iqbal*, Federal Bar Association, United States District Court, Southern District of New York; *Ethical Issues in Prison Actions, Prison Law 2014*, Practicing Law Institute; *The Law of Prisoners' Rights: Prisoners' Civil Litigation in Federal Court*, Kelly, Drye & Warren, LLP, Training for New York Pro Bono Attorneys, April, 2014 (and yearly); *Mandatory Detention: Impact, Alternatives & Paths to Reform*, joint conference of Rutgers School of Law—Newark, Seton Hall Law School, Benjamin N. Cardozo School of Law, and New York University School of Law; *Fordham Urban Law Journal: Colloquium on Conditions of Confinement; Failures of Mass Incarceration: Can Alternatives to Incarceration Fulfill the Goals of Punishment?* NYU Review of Law and Social Change Colloquium: Alternatives to Mass Incarceration: Promises and Challenges, Moderator; *Prisoners' Rights Training and Pro Bono Program*, Federal Bar Council; and *Prisoner Lawsuits Under the ADA and Rehabilitation Act*, Prisoners' Rights Litigation: A Workshop for Experienced Plaintiffs' Attorneys, Yale University.

10. I am admitted to practice in New York State and the following federal courts: the Southern, Eastern, and Western Districts of New York; the United States Court of Appeals for the First, Second, and Fourth Circuits; and the United States Supreme Court.

11. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: Brooklyn, New York
April 30, 2020

/s/ Betsy Ginsberg
BETSY GINSBERG

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

HASSAN CHUNN; NEHEMIAH McBRIDE;
AYMAN RABADI, by his Next Friend
MIGDALIZ QUINONES; JUSTIN RODRIGUEZ,
by his Next Friend JACKLYN ROMANOFF;
ELODIA LOPEZ; and JAMES HAIR,

individually and on behalf of all others similarly
situated,

Petitioners,

-against-

WARDEN DEREK EDGE,

Respondent.

No. 20 Civ. 1590

**DECLARATION OF
ALEXANDER A. REINERT**

ALEXANDER A. REINERT, a member of the bar of New York and of this Court,
pursuant to 28 U.S.C. § 1746, declares under penalty of perjury as follows:

1. I am an attorney at law and represent the Petitioners in this action, along with Emery, Celli, Brinckerhoff & Abady LLP, Debevoise and Plimpton LLP, and the Benjamin N. Cardozo School of Law's Civil Rights Clinic. I submit this declaration in support of Petitioners' Motion for Preliminary Injunction in this matter.

Adequacy of Class Counsel

2. Petitioners' counsel have extensive experience litigating civil rights cases involving the rights of incarcerated people, including in the class action context.

3. I graduated *magna cum laude* from New York University School of Law in 1999, where I was a Root-Tilden-Kern Scholar. After graduating from law school, I clerked for two federal judges: Harry T. Edwards of the D.C. Circuit Court of Appeals and Stephen G. Breyer of the United States Supreme Court. After my clerkships, I worked as an associate at Koob & Magoolaghan until 2007, when I became a law professor at the Benjamin N. Cardozo School of

Law, where I teach, among other classes, Civil Procedure, Constitutional Law, Federal Courts, and a class on the rights of incarcerated people.

4. I have been litigating civil rights cases involving the rights of incarcerated people for almost 20 years, first as an associate at Koob & Magoolaghan and then, after becoming a law professor, as co-counsel with law firms and non-governmental organizations. These cases include: (1) *Scott v. Quay*, 1:19-cv-01075 (E.D.N.Y.), in which I am co-counsel in a pending putative class action involving conditions of confinement at the Metropolitan Detention Center (“MDC”); (2) *Parker v. City of New York*, 15 Civ. 6733 (E.D.N.Y.), in which I am lead counsel, along with the law firm Cuti Hecker Wang LLP, in a class action relating to the treatment of incarcerated people held in New York City custody; (3) *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), in which I was lead counsel for plaintiffs from the initiation of the case in the Eastern District of New York to counsel of record in the United States Supreme Court; (4) *Peoples v. Annucci*, 180 F. Supp. 32 294 (S.D.N.Y. 2016), a class-action in which I am co-counsel for plaintiffs with the New York Civil Liberties Union and Morrison & Foerster; (5) *Ziglar v. Abbasi*, 137 S. Ct. 1843 (2017), in which I was co-counsel for plaintiffs in the United States Supreme Court with the Center for Constitutional Rights and Covington & Burling LLP, and in which I continue, with co-counsel, to represent the plaintiffs in the Eastern District of New York; (6) *Shariff v. Goord*, 235 F.R.D. 563 (W.D.N.Y. 2006), a class-action in which I was lead counsel for plaintiffs; (7) *McGowan v. United States*, 825 F.3d 118 (2d Cir. 2016), in which I was appellate counsel for plaintiff; and (8) *Hilton v. Wright*, 235 F.R.D. 40 (N.D.N.Y. 2006), a class action in which I was lead counsel for plaintiffs. In addition to the instant case, three of these cases (*Scott*, *Iqbal*, and *Abbasi*) involve challenges to conditions of confinement at the Metropolitan Detention Center.

5. I also frequently am invited to lecture and train lawyers, judges, and judicial law clerks on issues relating to civil rights litigation in the prison and jail context. Some examples

include: Federal Judicial Center-sponsored trainings on the law relating to prisons and jails (*Update on the Law of Incarcerated Persons*, Wm. Matthew Byrne, Jr., Judicial Clerkship Institute, Federal Judicial Center, Malibu, California (March 18, 2016); *The Law of Incarcerated Persons*, Federal Judicial Center Court Web Lecture, Washington, D.C. (May 20, 2015)); Federal Bar Council-sponsored trainings of Second Circuit law clerks regarding Section 1983 litigation (*The State of Mind Requirement in Section 1983 Cases*, Law Clerk Video Conference on Issues in 42 U.S.C. § 1983 Litigation, Federal Bar Council, New York, New York (November 28, 2018; November 28, 2017; November 16, 2016, December 2, 2015; November 19, 2014; January 15, 2014; November 29, 2013; November 29, 2011; November 30, 2010)); and training of judicial staff involved in management of *pro se* litigation (*Section 1983: Immunities, Remedies, and Defenses*, Second Circuit Staff Attorney Training, New York, New York (May 23, 2019; July 20, 2017); *Prisoner Litigation: Pleading Standards and Causes of Action*, 2015 Joint First, Second, and Third Circuit *Pro Se* Conference, New Paltz, New York (February 25, 2015); *Prisoners' Rights*, Second Circuit Pro Se Office Training Seminar, New York, New York (November 19, 2013; November 30, 2012; October 25, 2011; October 26, 2010)).

6. I am admitted to practice in New York State and the following federal courts: the Southern, Eastern, and Western Districts of New York; the United States Court of Appeals for the First, Second, and Fourth Circuits; and the United States Supreme Court.

7. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: Brooklyn, New York
April 30, 2020

s:/Alexander A. Reinert
Alexander A. Reinert

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

HASSAN CHUNN; NEHEMIAH McBRIDE;
AYMAN RABADI, by his Next Friend
MIGDALIZ QUINONES; JUSTIN RODRIGUEZ,
by his Next Friend JACKLYN ROMANOFF;
ELODIA LOPEZ; and JAMES HAIR,

individually and on behalf of all others similarly
situated,

Petitioners,

-against-

WARDEN DEREK EDGE,

Respondent.

No. 20 Civ. 1590

**DECLARATION IN SUPPORT
OF MOTION FOR
PRELIMINARY APPROVAL OF
THE CLASS**

YEUGENIA (JANE) SHVETS, an attorney duly admitted to practice in the
Eastern District of New York, declares under penalty of perjury:

1. I am a partner in the firm of Debevoise & Plimpton, LLP (“Debevoise”), *pro bono*
counsel for the Petitioners in this action.

2. I respectfully submit this declaration in support of Petitioners’ Motion for
Preliminary Approval of the Class, and Appointment of Plaintiffs’ Counsel as Class
Counsel.

3. Debevoise has broad experience in handling complex and class action litigation in
federal court. Debevoise has litigated numerous large-scale class actions and has
represented classes of inmates in actions that successfully obtained class relief.
Debevoise will zealously represent both named and absent class members.

4. Among other matters, Debevoise has served as class counsel in the following certified and putative class actions: *Amador v. Andrews*, No. 03 Civ. 0650 (S.D.N.Y. Oct. 14, 2003) (class action seeking injunctive and declaratory relief and money damages for women prisoners subjected to sexual harassment, abuse, and assault by Department of Correctional Services employees); *Daniels v. City of New York*, No. 99 Civ. 1695 (S.D.N.Y. Oct. 6, 2000) (class action alleging policy, practice, and/or widespread custom of the New York City Police Department of illegally stopping and/or frisking persons in the City of New York); *Alfaro v. Gali Service Industries, Inc.*, 8:18-cv-03705-TDC (D. Md. 2018) (putative class action seeking wrongfully withheld wages for janitorial services staff) (pending). Debevoise has also served as defense counsel in numerous class actions. *See, e.g., In re L'Oreal*, No. 12 Civ. 3571 (D.N.J. July 18, 2012); *In re Celexa and Lexapro*; *In re Global Crossing, Ltd. ERISA Litigation*, No. 02 Civ. 7453 (S.D.N.Y. Feb. 10, 2003); *In re Dollar General Corporation Securities Litigation*, 3:01-cv-00388 (M.D. Tenn. 2001); *In re Waste Management, Inc. Securities Litigation*, 4:99-CV-02183 (S.D. Tex. 1999).

5. Debevoise's efforts with regard to this litigation have so far included supporting extensive investigation, including interviews with government employees, current and former jail inmates, and healthcare experts. As a result, Debevoise has devoted time and resources to becoming intimately familiar with the Respondent's response to the COVID-19 pandemic and with all of the relevant laws and procedures that can and should govern it. Debevoise will continue to commit substantial time and resources to representing the class, and is well-equipped to represent the class here.

Dated: April 30, 2020
New York, New York

DEBEVOISE & PLIMPTON, LLP

By: /s/ Yeugenia (Jane) Shvets
Yeugenia (Jane) Shvets
919 Third Avenue
New York, NY 10022
(212) 909-6000

Attorney for Petitioners and Putative Class